

Woollahra Local Planning Panel



Agenda

Thursday 6 August 2020

1.00pm

Items D1 to D6

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:

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.

Members of the public are invited to listen to 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.

If you are experiencing any issues in joining the meeting please call (02) 9391 7001.

An 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
- If person(s) wish to address the Panel, 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
- Members of the Public who have pre-registered 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), and arrive at a resolution.

Disclaimer:

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

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

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

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

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

For further information please visit www.woollahra.nsw.gov.au

Woollahra Local Planning Panel Membership: 1 Chair, 2 Experts and 1 Community Representative

Quorum: 3 Panel members

Woollahra Municipal Council

Notice of Meeting

29 July 2020

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel – 6 August 2020

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel** meeting to be held remotely using conferencing technology, **on Thursday 6 August 2020 at 1.00pm.**

Councillors and members of the public are advised that we will be holding Council and Committee meetings remotely using conferencing technology (until further notice).

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

Item	Subject	Page
1.	Leave of Absence and Apologies	
2.	Late Correspondence	
3.	Declarations of Interest	

Items to be Decided by the Panel

D1	Planning Proposal - Heritage Listing of Trelawney Court, Including Interiors, at 3 Trelawney Street, Woollahra - 20/119631 7 *See Recommendation Page 7	
D2	DA11/2020/1 - 1 & 3/9 Annandale Street, Darling Point - 20/129635 167 *See Recommendation Page 188	
D3	DA142/2020/1 - 16 & 18 The Crescent, Vaucluse - 20/129687 277 *See Recommendation Page 295	
D4	DA344/2019/1 - 142, 142A & 142B Bellevue Road, Bellevue Hill - 20/129933 ... 315 *See Recommendation Page 376	
D5	DA133/2020/1 - 10 Spring Street, Double Bay - 20/129771 455 *See Recommendation Page 497	
D6	DA490/2019/1 - 4 Greycliffe Avenue Vaucluse - 20/129871 579 *See Recommendation Page 604	

Item No: D1
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF
TRELAWNEY COURT, INCLUDING INTERIORS, AT 3
TRELAWNEY STREET, WOOLLAHRA**
Author: Flavia Scardamaglia, Strategic Heritage Officer
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 20/119631
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to the preparation of a planning proposal to list 'Trelawney Court, including interiors', at 3 Trelawney Street, Woollahra as a local heritage item in Woollahra Local Environmental Plan 2014.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to:

- A. Proceed with the planning proposal to list the *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. Forward the planning proposal to the Department of Planning, Industry and Environment to list *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*, requesting a gateway determination to allow public exhibition.
- C. Request delegation from the Department of Planning, Industry and Environment in relation to the planning proposal, to carry out the plan-making functions of the Minister for Planning and Public Spaces under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

1. Reasons for report to the Woollahra Local Planning Panel

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the planning proposal to list *Trelawney Court, including interiors* at 3 Trelawney Street, Woollahra as a local heritage item in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). A copy of the planning proposal is attached as **Annexure 3**.

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 local planning 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 of the Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).*

Items (a) and (b) are not relevant to this planning proposal. Consideration under item (c) has been passed to the position of Director Planning and Development through the General Manager's delegations.

The Director Planning and Development formed a view that he cannot be completely satisfied that the matter being dealt with by the planning proposal will have no significant adverse impact on the environment or adjoining land. Therefore under the terms of the Direction, the planning proposal to list the *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra, as a local heritage item has been referred to the Woollahra LPP for advice.

2. Background

On 11 November 2019, Council adopted the following notice of motion (Item No.16.3):

That Council proceeds urgently to assess Trelawney Court at number 3 Trelawney Street, Woollahra with a view to a local heritage listing.

In response to Council's decision, heritage consultants Kieran McInerney Architects and Rebecca Hawcroft were engaged to undertake a heritage assessment in accordance with the NSW heritage criteria.

The consultants are a team of award winning heritage and architectural specialists with extensive experience researching the work of architects George Reves and Charles Hayes, who designed Trelawney Court. Rebecca Hawcroft has previously published a number of scholarly articles, curated an exhibition and edited a publication that focused on Reves and other émigré architects working in Sydney after the Second World War.

On 6 July 2020, a report on the assessment of heritage significance of *Trelawney Court* was presented to a meeting of the Environmental Planning Committee (EPC) (*Annexure I*). On 27 July 2020, Council resolved:

- THAT a planning proposal be prepared to list Trelawney Court, including interiors, at 3 Trelawney Street, Woollahra as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*

3. The Site

The subject building consists of a two storey post-war residential flat building located at 3 Trelawney Street, Woollahra (*Figure 1*). It was designed by George Robert Reves and Charles Hayes and built in 1946.

The site is legally described as Lot 1, DP 86213. It is a long thin block with street frontage to Trelawney Street of 16 metres tapering to 7.5 at the rear of the site. The site depth is 65 metres.

The building is listed as a contributory item in clause 2.7 of Woollahra Development Control Plan (DCP) 2015, Chapter C2 Woollahra Heritage Conservation Area (see *Figure 2*). It is identified as an ‘Inter-War Flat Building’ contributory to the Rosemont Precinct.



Figure 1: Trelawney Court from the footpath in front of 3 Trelawney Street, Woollahra (Source: Bradfield Cleary 2019)



Figure 2: Detail of Heritage Map Sheet HER_003A of the Woollahra LEP 2014. The red hatched area designates the Heritage Conservation Area C15 - Woollahra and the brown numbered sites are listed heritage items. No. 3 Trelawney Street is outlined in red (Source: Woollahra MAPS).

4. Assessment of heritage significance

The assessment of heritage significance was undertaken in accordance with the document *Assessing heritage significance*, published by the NSW Heritage Office in 2001. The assessment used the process and criteria set out in that document.

A copy of the assessment prepared by Rebecca Hawcroft and Kieran McInerney dated April 2020, which includes the assessment against all criteria, is attached as **Annexure 2**.

The heritage assessment concludes that *Trelawney Court, including interiors*, satisfies five criteria at local level (historical, aesthetic, research potential, rarity and representativeness criteria) but it does not satisfy any criteria at State level.

The assessment of heritage significance provides the following statement of significance for Trelawney Court:

Trelawney Court at 3 Trelawney Street, Woollahra, is a significant example of an Inter-war flat building designed in the immediate post war period with interiors and built-in furniture remaining intact. It has local historical significance for its ability to demonstrate the shift in the Woollahra area towards higher density and increased apartment development post war. It also has historical significance as a work of émigré architects for European clients and can be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.

Trelawney Court is also significant at a local level as a rare, intact example of the work of architect George Reves who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court demonstrates the evolution of his style as he adapted to the context of Sydney and has particular significance due to its intactness.

Trelawney Court has aesthetic significance at a local level as an intact example of a modernist Inter-war flat building. It retains a high level of original interior and exterior fabric and as an early work of émigré architects is able to demonstrate the transfer of European modernist architectural training to Australia. The building shares characteristics with other significant modernist 1930s and 1940s apartments, and is able to demonstrate the growing influence of International Style modernism on apartment design in Australia.

As an intact example of its type, Trelawney Court has research potential at a local level to demonstrate past ways of living and design and construction methods from the mid-20th century. It is also an important source of information about the work of its architects Reves and Hayes, of which little is known and many of their projects been altered or demolished. The building also has high levels of rarity values as an intact 1946 apartment design undertaken by émigré architects. Trelawney Court, including its interiors, is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes.

(Rebecca Hawcroft and Kieran McInerney: *Assessment of Heritage Significance for 3 Trelawney Street*, Woollahra, April 2000, pp.65-66)

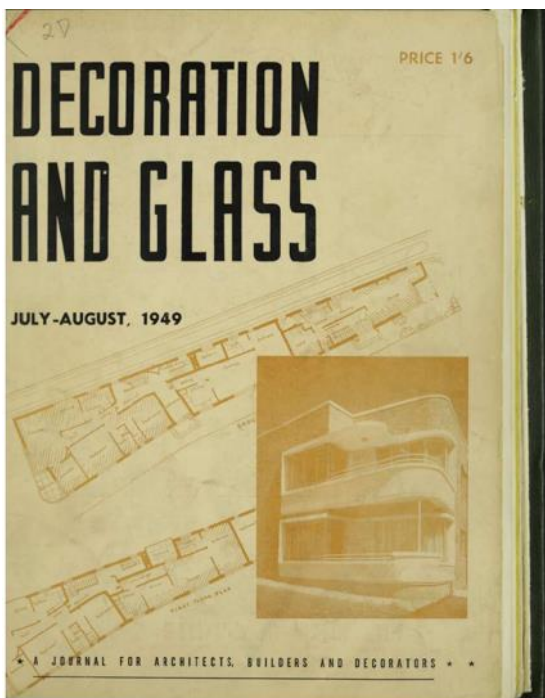


Figure 3 and 4: Cover and detail of article on 'Trelawney Court'. The interior image shows the maisonette and is captioned "The combination lounge, dining room gives a more spacious appearance." It also shows Reves and Hayes extensive use of built-in furniture. (Trelawney Court, *Decoration and Glass*, Volume 15, No.2, July-August 1949, Cover and pp.22-23.)

5. Consultation with land owners

On 5 December 2019, Council staff sent a letter to the owners informing them of the Council's adopted notice of motion and the engagement of a heritage consultant to undertake the heritage assessment. Internal access to the site was also requested. No answer was received. The property was subsequently sold at auction.

On 5 February 2020, Council staff sent a letter to the new owners of 3 Trelawney Street, Woollahra, to inform them of the Council's adopted notice of motion and engagement of heritage consultants to undertake the heritage significance assessment. This letter also requested internal site inspection, given that the heritage consultants had only been inside this property informally during an open house inspection. A phone conversation with the Manager – Strategic Planning followed in early February to explain the listing process and request internal access to the site.

A copy of the draft Assessment of Heritage Significance and draft heritage inventory sheet was sent to the owners on 28 April 2020, formally requesting comments or submissions in the timeframe between the 28 April 2020 and 26 June 2020.

The owners were informed of the EPC meeting on 6 July 2020 where the draft Assessment of Heritage Significance and draft heritage inventory sheet were considered. The owners did not attend the meeting and did not send any correspondence to be considered by the EPC.

At the time of writing this report no reply or submission has been received.

On 12 June 2020, a development application was lodged with Council for 'alterations and additions to the existing residential flat building, including a new level accommodating one additional unit' (DA 193/2020). Plans dated 27 May 2020 were drawn by Design Inter Alia. The proposal seeks consent to undertake substantial alterations and additions to the subject property, including:

- Refurbishment and upgrades of existing kitchens and bathrooms;
- Opening up of existing walls and new door openings;
- Demolition and reconstruction of some walls to reorganise internal layouts;
- Demolition of existing secondary staircase (tradesmen stairs) and addition of this space to Lots 2 and 4;
- A new three-bedroom second storey unit accessed through an extension of the existing main staircase.

6. Planning Proposal

A planning proposal has been prepared to list *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra as a local heritage item in the Woollahra LEP 2014 (see **Annexure 3**).

6.1 Planning proposal structure

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).

6.2. Objective of amendment to Woollahra LEP 2014

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra and provide it with a statutory heritage protection.

6.3. Explanation of provisions

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

- Insert a listing for *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra 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 3 Trelawney Street, Woollahra.

6.4. Relationship to strategic planning framework

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 and residential amenity, including significant architecture and the natural environment.

The planning proposal is also consistent with the *Woollahra Local Strategic Planning Statement* (approved by Council on 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 *Trelawney Court, including interiors*, at 3 Trelawney Street, Woollahra, 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.

Advice from the WLPP will be provided to Council.

Annexures

1. Report to Environmental Planning Committee (excluding Annexures) - item R2 - 6 July 2020 [↓](#) 
2. Assessment of Heritage Significance by Kieran McInerney and Rebecca Hawcroft - Final Draft April 2020 [↓](#) 
3. Planning Proposal - Trelawney Court - 3 Trelawney Street, Woollahra - 28 July 2020 [↓](#) 

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Item No:	R2 Recommendation to Council
Subject:	PLANNING PROPOSAL - HERITAGE LISTING OF TRELAWNEY COURT, INCLUDING INTERIORS, AT 3 TRELAWNEY STREET, WOOLLAHRA
Author:	Flavia Scardamaglia, Strategic Heritage Officer
Approvers:	Chris Bluett, Manager - Strategic Planning Allan Coker, Director - Planning & Development
File No:	20/108411
Reason for Report:	To respond to Council's resolution on 11 November 2019 to investigate the heritage significance of Trelawney Court at 3 Trelawney Street Woollahra. To obtain Council's approval to prepare a planning proposal to list Trelawney Court, including interiors, at 3 Trelawney Street Woollahra as a local heritage item. To obtain Council's approval for the planning proposal to be referred to the Woollahra Local Planning Panel for advice.

Recommendation:

- A. THAT a planning proposal be prepared to list Trelawney Court, including interiors, at 3 Trelawney Street, Woollahra as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.
- C. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.

1. Background

On 11 November 2019, Council adopted the following notice of motion (Item No.16.3):

That Council proceeds urgently to assess Trelawney Court at number 3 Trelawney Street, Woollahra with a view to a local heritage listing.

In response to Council's decision, heritage consultants Kieran McInerney Architects and Rebecca Hawcroft were engaged to undertake a heritage assessment in accordance with the NSW heritage criteria.

The consultants are a team of award winning heritage and architectural specialists with extensive experience researching the work of architects George Reves and Charles Hayes, who designed Trelawney Court. Rebecca Hawcroft has previously published a number of scholarly articles, curated an exhibition and edited a publication that focused on Reves and other émigré architects working in Sydney after the Second World War.

2. The Site

The subject building consists of a two storey post-war residential flat building located at 3 Trelawney Street, Woollahra (*Figure 1*). It was designed by George Robert Reves and Charles Hayes and built in 1946.

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The site is legally described as Lot 1, DP 86213, as shown on the cadastral map at *Figure 2*. It is a long thin block with street frontage to Trelawney Street of 16 metres tapering to 7.5 at the rear of the site. The site depth is 65 metres.

The site's boundaries are shared by a late twentieth century two storey residential flat building to the west, occupying most of the lot and to the east the rear boundaries of five properties facing Edgecliff Road. The largest is 388 Edgecliff Road, a large Federation Style house, now converted to flats, located on the corner of Edgecliff Road and Trelawney Street. The garage of 388 Edgecliff Road is directly adjacent on the Trelawney Street boundary (*Figure 3 and 5*).

The site and its neighbours are zoned R3 Medium Density Residential under Woollahra LEP 2014 and are situated in the Woollahra Heritage Conservation Area (*Figure 4*). The building is listed as a contributory item in clause 2.7 of *Woollahra Development Control Plan (DCP) 2015, Chapter C2 Woollahra Heritage Conservation Area*. It is identified as an 'Inter-War Flat Building' contributory to the Rosemont Precinct.



Figure 1: Trelawney Court from the footpath in front of 3 Trelawney Street, Woollahra (Source: Bradfield Cleary 2019)



Figure 2: Cadastral map of the subject site (bounded in red) and its surrounding lots (Source: Woollahra MAPS, 2020)



Figure 3: aerial photo of the subject site in 2018. The subject site is highlighted in blue (Source: Woollahra MAPS)



Figure 4: Detail of Heritage Map Sheet HER_003A of the Woollahra LEP 2014. The red hatched area designates the Heritage Conservation Area C15 - Woollahra and the brown numbered sites are listed heritage items. No. 3 Trelawney Street is outlined in red (Source: Woollahra MAPS).



Figure 5: The building in its setting on the northern side of Trelawney Street, Woollahra (Source: Bradfield Cleary 2019)

3. Assessment of heritage significance

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

Criterion (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).

Criterion (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).

Criterion (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).

Criterion (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.

Criterion (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).

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).

Criterion (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.)*

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 Rebecca Hawcroft and Kieran McInerney dated April 2020, 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 Trelawney Court, including interiors, 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	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).	√	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)	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 cultural or natural places, or cultural or natural environments.) 	√	x

Overall, Trelawney Court satisfies five criteria for local listing but it does not satisfy any criteria at State level.

The Assessment of Heritage Significance provides the following statement of significance for Trelawney Court:

Trelawney Court at 3 Trelawney Street, Woollahra, is a significant example of an Inter-war flat building designed in the immediate post war period with interiors and built-in furniture remaining intact. It has local historical significance for its ability to demonstrate the shift in the Woollahra area towards higher density and increased apartment development post war. It also has historical significance as a work of émigré architects for European clients and can be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.

Trelawney Court is also significant at a local level as a rare, intact example of the work of architect George Reves who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court demonstrates the evolution of

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his style as he adapted to the context of Sydney and has particular significance due to its intactness.

Trelawney Court has aesthetic significance at a local level as an intact example of a modernist Inter-war flat building. It retains a high level of original interior and exterior fabric and as an early work of émigré architects is able to demonstrate the transfer of European modernist architectural training to Australia. The building shares characteristics with other significant modernist 1930s and 1940s apartments, and is able to demonstrate the growing influence of International Style modernism on apartment design in Australia.

As an intact example of its type, Trelawney Court has research potential at a local level to demonstrate past ways of living and design and construction methods from the mid-20th century. It is also an important source of information about the work of its architects Reves and Hayes, of which little is known and many of their projects been altered or demolished. The building also has high levels of rarity values as an intact 1946 apartment design undertaken by émigré architects. Trelawney Court, including its interiors, is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes.

(Rebecca Hawcroft and Kieran McNerney: *Assessment of Heritage Significance for 3 Trelawney Street, Woollahra*, April 2000, pp.65-66)

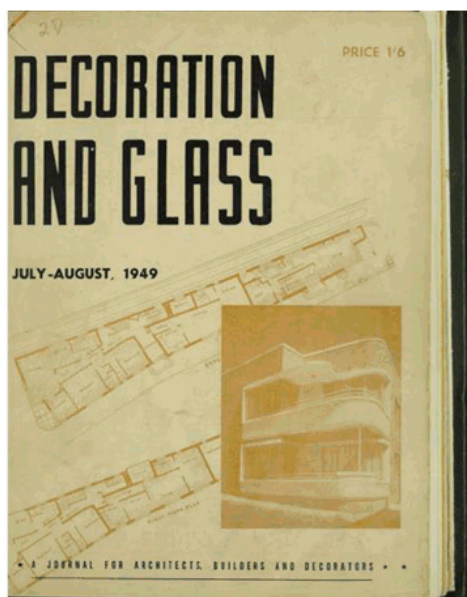


Figure 6 and 7: Cover and detail of article on 'Trelawney Court'. The interior image shows the maisonette and is captioned "The combination lounge, dining room gives a more spacious appearance." It also shows Reves and Hayes extensive use of built-in furniture. (Trelawney Court, *Decoration and Glass*, Volume 15, No.2, July-August 1949, Cover and pp.22-23.)



Figure 8: Max Dupain's photograph of the site around 1950. Comparisons with current site images show few changes (Source: State Library of NSW)

4. Consultation with land owners

On 5 December 2019, Council staff sent a letter to the owners informing them of the Council's adopted notice of motion and the engagement of a heritage consultant to undertake the heritage assessment. Internal access to the site was also requested. No answer was received. The property was subsequently sold at auction.

On 5 February 2020, Council staff sent a letter to the new owners of 3 Trelawney Street, Woollahra, to inform them of the Council's adopted notice of motion and engagement of heritage consultants to undertake the heritage significance assessment. This letter also requested internal site inspection, given that the heritage consultants had only been inside this property informally during an open

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house inspection. A phone conversation with the Manager – Strategic Planning followed in early February to explain the listing process and request internal access to the site.

A copy of the draft Assessment of Heritage Significance and draft heritage inventory sheet was sent to the owners on 28 April 2020, formally requesting comments or submissions in the timeframe between the 28 April 2020 and 26 June 2020. At the time of writing this report no reply or submission has been received.

5. Development application

On 12 June 2020, a development application was lodged with Council for ‘alterations and additions to the existing residential flat building, including a new level accommodating one additional unit’ (DA 193/2020).

Plans dated 27 May 2020 were drawn by Design Inter Alia. The proposal seeks consent to undertake substantial alterations and additions to the subject property, including:

- Refurbishment and upgrades of existing kitchens and bathrooms;
- Opening up of existing walls and new door openings;
- Demolition and reconstruction of some walls to reorganise internal layouts;
- Demolition of existing secondary staircase (tradesmen stairs) and addition of this space to Lots 2 and 4;
- New three-bedroom second storey unit accessed through an extension of the existing main staircase.

The proposed second storey would use the following materials and finishes:

- Face brickwork;
- Rendered white brickwork to the balcony;
- White aluminum-framed windows; and
- Reinforced concrete roof with steel profile eaves.

A heritage impact statement prepared by Weir Phillips Heritage and dated June 2020 accompanies the DA. It makes specific reference to the assessment report by Rebecca Hawcroft and Kieran McInerney in Section 1.2 Authorship and Acknowledgements. At Section 4.5 Contribution to the Conservation Area it states that:

No. 3 Trelawney Street postdates the key periods of interest for the Conservation Area, notwithstanding, it makes a positive contribution through its intact Modernist Style façade and principal building form. It retains a high level of internal and external integrity and helps demonstrate the shift towards higher density living in Woollahra in the Post-World War II Period.

The heritage impact statement does not include an assessment against all provisions of the Woollahra Development Control Plan 2015. While acknowledging the Assessment of Heritage Significance report prepared by the Council’s consultants, the Weir Phillips heritage impact statement does not provide any consideration of the subject building as a potential heritage item.

6. Recommendations of the Assessment of Heritage Significance report

The Assessment of Heritage Significance report contains the following recommendations:

Heritage Listing

- *Trelawney Court at 3 Trelawney Street, Woollahra, including its interiors, should 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 also recommended that Woollahra Council undertake a study of the work of émigré architects in the post war period, in the Council area to gain a fuller understanding of the rarity or representative value of the building and to identify other significant buildings.*

Ongoing management

- *It is recommended that the Trelawney Court be managed in line with the principles of the Burra Charter, particularly Article 3.1 which notes: "Conservation is based on a respect for the existing fabric, use, associations and meanings. It requires a cautious approach of changing as much as necessary but as little as possible."¹ Any future adaptations or upgrades should aim to retain as much original fabric as possible.*
- *It is considered sympathetic upgrades of kitchens and bathrooms would not impact the building's overall significance, but should aim to retain as much early or original fabric as possible.*
- *All other extant original and early fabric, including built-in furniture, should be retained and conserved.*
- *The external appearance of the site when viewed from Trelawney Street, which remains largely original, should also be retained and conserved. It should be noted that the garage and laundry room are not considered to be of heritage significance.*
- *Due to the limitations of this assessment, which did not include a full inspection of the building, a fabric assessment should be undertaken. The external and internal fabric should be rated for its significance in order to guide future works. This might be best achieved via the preparation of a conservation management document which assesses the significance of the fabric and includes policies for future changes.*
- *A detailed internal and external photographic record of the building should be made and lodged with Woollahra Council and the Local Historical Association.*

In accordance with these recommendations, the consultants have prepared:

- A Heritage Inventory Sheet for listing Trelawney Court, including interiors at 3 Trelawney Street on the Woollahra LEP 2014.

Both the Assessment of Heritage Significance report and the Heritage Inventory Sheet are available as ***Annexure 1***.

7. 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".

¹ The Burra Charter, Australia ICOMOS 2013.

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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.

The Direction states, in part:

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.*

Items (a) and (b) are not relevant to a planning proposal which would be prepared for the matter currently before the Committee. Consideration under item (c) has been passed to the position of Director Planning and Development through the General Manager's delegations.

The Director Planning and Development has formed a view that he cannot be completely satisfied that the matter being dealt with by this report will have no significant adverse impact on the environment or the adjoining land. Therefore under the terms of the Direction, the planning proposal to list Trelawney Court, including interiors at 3 Trelawney Street, Woollahra, as a local heritage item must be referred to the Woollahra Local Planning Panel (Woollahra LPP) for advice. This step will be undertaken at the next available meeting of the Woollahra LPP should the Council decide to prepare a planning proposal.

8. Next steps

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

- Prepare a planning proposal under section 3.33 of the Act to list Trelawney Court, including interiors, as an item of local heritage significance in the Woollahra LEP 2014,
- Refer to the draft planning proposal to the Woollahra LPP for advice,
- Report the advice received from the Woollahra LPP to the Environmental Planning Committee.

9. Conclusion

The heritage significance of Trelawney Court at 3 Trelawney Street, Woollahra, has been assessed by heritage consultants Rebecca Hawcroft and Kieran McInerney in accordance with the NSW Heritage guidelines. The assessment concludes that Trelawney Court, including interiors, has local heritage significance and it should be listed in Schedule 5 of the Woollahra LEP 2014.

It is therefore recommended that Trelawney Court, including interiors, at 3 Trelawney Street, Woollahra is listed as a local heritage item in Schedule 5 of the Woollahra LEP 2014.


To facilitate the listing, a planning proposal should be prepared to amend Schedule 5 of the Woollahra LEP 2014 by adding Trelawney Court, including interiors, at 3 Trelawney Street Woollahra to the list of heritage items. The planning proposal should be referred to the Woollahra LPP for advice.

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The other recommendations in the Assessment of Heritage Significance report listed under 'ongoing management' are to be implemented during the assessment of the development application.

Annexures

1. Assessment of Heritage Significance for 3 Trelawney Street, Woollahra, by Rebecca Hawcroft & Kieran McInerney [↓](#) 

**Assessment of Heritage Significance for 3 Trelawney Street,
Woollahra**



Final Draft Issue April 2020

Authors

**Rebecca Hawcroft &
Kieran McInerney**

For

Woollahra Municipal Council

Trelawney Court Heritage Assessment

Final Draft Issue 15 April 2020

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Section 1: Introduction

Overview

The authors have been engaged by Woollahra Council to provide a Heritage Significance Assessment (HAS) of the residential flat building “Trelawney Court” at 3 Trelawney Street, Woollahra, so that Council may consider the potential inclusion of the site as a local heritage item in Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) and/or its potential to be included as an item of State significance on the State Heritage Register (SHR) under the *NSW Heritage Act 1977*.

On 11 November 2019 at the Woollahra Council meeting, a Notice of Motion was considered (NOM 16.3) regarding the property and Council resolved without debate:

That Council proceeds urgently to assess Trelawney Court at number 3 Trelawney Street, Woollahra with a view to a local heritage listing.

The building is located in the Woollahra Heritage Conservation Area under Woollahra LEP 2014. The building is currently a contributory item as per Clause 2.7 of the *Woollahra Development Control Plan (DCP) 2015, Chapter C2 Woollahra Heritage Conservation Area*. It is not listed on the Institute of Architects Register of 20th century buildings or by the National Trust (NSW).

Project methodology

The following (HAS) has been prepared in accordance with the NSW Heritage Office Guidelines ‘Assessing Heritage Significance’ (2001). It is also consistent with the relevant principles and guidelines of the Australia ICOMOS Charter for Place of Cultural Significance 2013 (the Burra Charter).

Authors and acknowledgements

This report was prepared by Kieran McInerney (registered architect) and Rebecca Hawcroft (heritage specialist).

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The authors acknowledge the help of Ted Quinton and his previous research on George Reves, and former heritage officers at the Institute of Architects, Anne Higham and Dr. Noni Boyd, for their research assistance in uncovering archival material related to Reves and Hayes.

Limitations

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

The building has not been available for detailed inspection during this project, despite Council requesting it. The exterior of the building is visible from the street and documentation such as aerial photographs have provided further information. The authors visited the site when the property was being sold during open for inspections in October 2019 and have based their descriptions and assessment on this information and that visit.

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Section 2: Background

Site Identification

The subject building consists of a two storey post-war residential flat building located at 3 Trelawney Street, Woollahra. The site is located within the Woollahra Local Government Area (LGA) and is legally described as Lot 1, DP 86213, as shown on the cadastral map at *Figure 1*.

The lot consists of a long thin property with street frontage to Trelawney Street of 16 metres tapering to 7.5 at the rear of the site. The site depth is 65 metres.

Its boundaries are shared by a late twentieth century two storey residential flat building to the west, occupying most of the lot, and to the east the rear boundaries of five properties facing Edgecliff Road. The largest is 388 Edgecliff Road, a large Federation Style house, now converted to flats, located on the corner of Edgecliff Road and Trelawney Street. The garage of 388 Edgecliff Road is directly adjacent on the Trelawney Street boundary.



Figure 1. Site plan, with subject site highlighted. (Source: Woollahra Council GIS Maps)

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Figure 2. Site aerial, with subject site highlighted. (Source: Woollahra Council GIS Maps)



Figure 3. Aerial photograph with the subject site shown in the wider context of Woollahra and surrounding suburbs looking east. (Source: Bradfield Cleary

<https://www.realestate.com.au/sold/property-unitblock-nsw-woollahra-132139322>)

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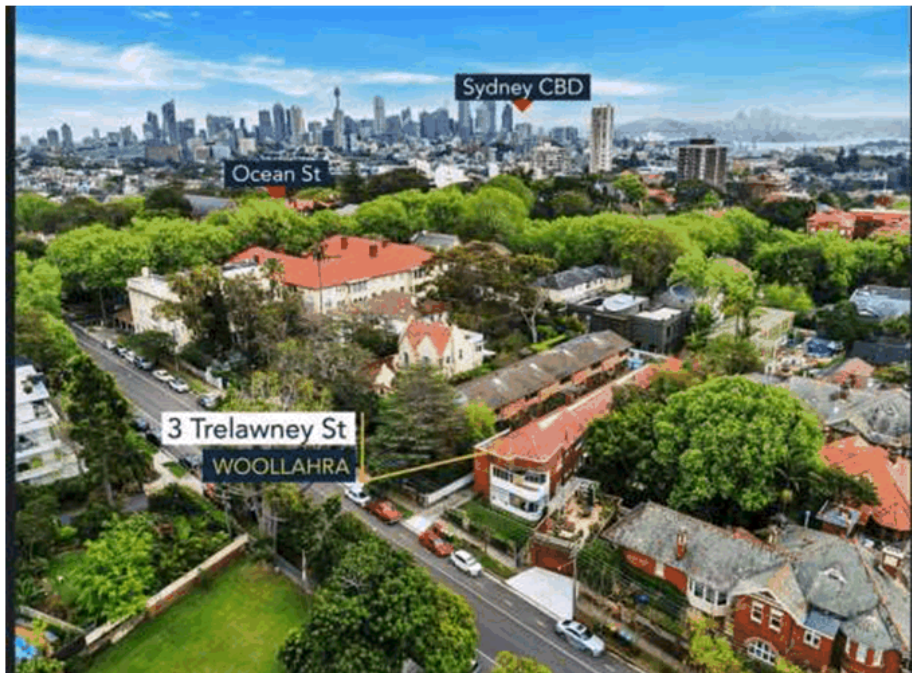


Figure 4. Aerial photograph with the subject site shown in the wider context of Woollahra and surrounding suburbs looking north west. (Source: Bradfield Cleary 2019
<https://www.realestate.com.au/sold/property-unitblock-nsw-woollahra-132139322>)

Site zoning and heritage listings

The site and its neighbours are zoned R3 Medium Density Residential under Woollahra LEP 2014 and are situated in the Woollahra Heritage Conservation Area (Figure 5). The building is listed as a contributory item as per Clause 2.7 of the *Woollahra Development Control Plan (DCP) 2015, Chapter C2 Woollahra Heritage Conservation Area*.

Surrounding heritage items listed on Schedule 5 Environmental Heritage of Woollahra LEP 2014 include:

- 388 Edgecliff Road; 'Building and interiors, street fencing' (Item 488)
- 7 Trelawney; 'Great Tree—house and interiors, street fencing' (Item 616)
- 2 Trelawney to the south; 'Kauri Pine' (Item 615)

plus a number of other listed properties in the vicinity.

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The building is not listed on the non-statutory registers maintained by the Institute of Architects NSW (Register of 20th century buildings of significance) or the National Trust (NSW).

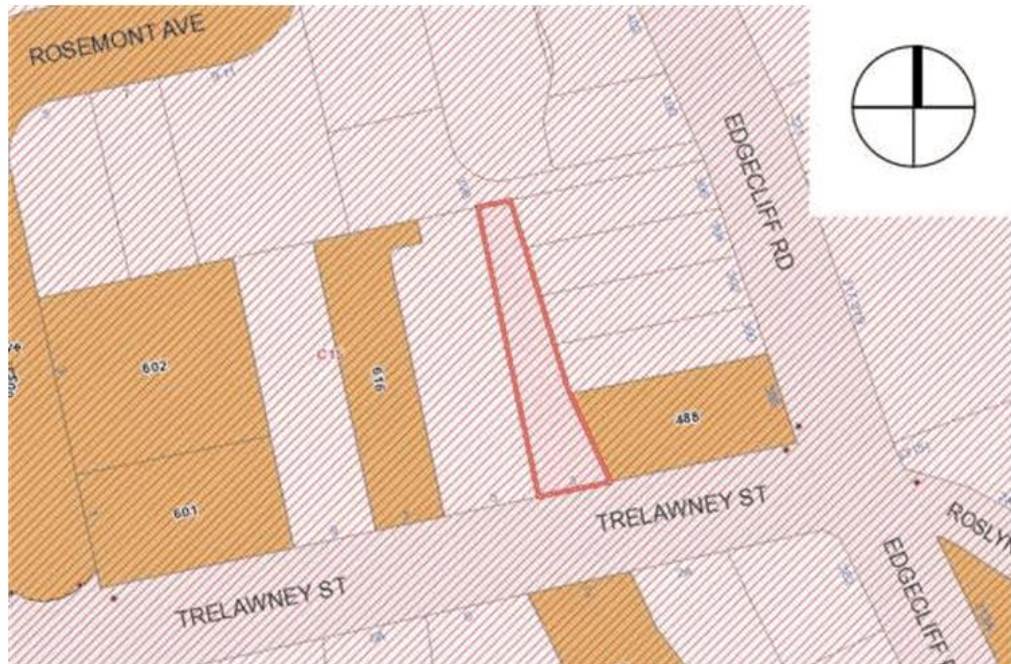


Figure 5. Detail of Heritage Map Sheet HER_003A of the Woollahra LEP 2014. The red hatched area designates the Heritage Conservation Area C15 - Woollahra and the brown numbered sites are listed heritage items. No. 3 Trelawney Street is outlined in red.

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Section 3: History

Introduction

This section provides a historical context to the development of the subject site. It briefly covers the development of Woollahra and Trelawney Street before focusing on the development of the current building at 3 Trelawney Street and its architects.

Woollahra

Woollahra is a suburb located between Paddington and Edgecliff in the eastern suburbs of Sydney.

Part of Eora Country

The coastal regions of Sydney between Port Jackson and Botany Bay are the ancestral territories of the Eora people. The traditional owners of the land now within the Woollahra Council area were the Cadigal (Gadigal) people, part of the Dharug language group. In common with other tribes living by Sydney Harbour, the Gadigal lived in harmony with the natural resources within their country, fishing from canoes or hunting the animals that lived in surroundings. The tribe appears to have moved within their territory in response to the seasons. Shell middens in the area provide material evidence of many centuries of sustained connection to the land that also sustained them. The arrival of white settlers caused the wholesale disruption of traditional life and the cultural practices of the Eora people generally. Despite enormous challenges, today many Indigenous people identify as Eora and maintain cultural practices and a connection to country.

Early European Settlement

Following the arrival of the first fleet in 1788, the land between Watsons Bay and Sydney was initially deemed either too swampy or sandy for agricultural development. It was a place where rushcutters gathered reed for thatch and timber was felled for firewood. Small-scale industries developed in the early 19th century and the firm of Cooper and Levey ran a tallow production works until the 1850s.

By 1803 South Head and Vaucluse were frequented by day-trippers who travelled along rough tracks in order to enjoy the harbour vistas. Bellevue Hill was opened by

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the construction of Old South Head Road in 1811, however, the topography of the municipality discouraged any other substantial road development rendering Woollahra one of the least developed parts of the east.

During the early years of Governor Macquarie's rule land grants were made to military men, the most prominent of these in the area was to the flamboyant naval officer, Captain John Piper, in 1815. Following Piper's financial demise, Daniel Cooper (1785- 1853) and Solomon Levey (1794-1833) acquired the land in 1827. Cooper and Levey were importers, exporters, wool-buyers, ship owners and builders, shipping agents, whalers, sealers and merchants who controlled a large share of the Colony's business.

The land on which 3 Trelawney Street stands was once part of a 1130 acre grant by Governor Darling on March 22, 1830 in fulfillment of a promise made by Macquarie to Piper. The grant states that it is a consolidation of several early grants for which no deeds were executed and included the whole 500 acres of the Piper Estate. Cooper and Levey also later acquired, by grant or purchase, large tracts of land in Waterloo, Alexandria, Redfern, Randwick and Neutral Bay.

New South Head road was surveyed in 1831-2 however, completion to an acceptable standard took many years. The completion of this road provided the first real incentive for more intense development as previous developments had relied on water access. Following Levey's death in 1833 and protracted legal proceedings Cooper bought out Solomon Levey's heir, John Levey. By 1842, the whole estate was effectively owned by the Cooper family.

History of the subdivision

The Cooper estate was plagued by legal problems from the 1830s, caused first by the will of Solomon Levey and later by that of Daniel Cooper, following his death in 1853. As a result little development occurred during this era. Cooper's Woollahra estate was willed not to his next of kin, his nephew Sir Daniel Cooper (1821-1902), but to Sir Daniels's son, Daniel. In 1844 Cooper had commissioned Surveyor General Thomas Livingstone Mitchell to prepare a trigonometrical survey of the estate that

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included its division into allotments. As the new owner was a minor in 1853, Trustees managed the estate until 1869. The trustees opened some areas of the estate on 99-year leases.

Elystan

For most of the early 20th century the subject site was part of the grounds of Elystan, a large house built in the 1860s. In 1874 it was listed for sale by then owners the Gilchrist family, and described as a 'first class' family residence on five acres of ground fronting Edgecliff Road, Ocean and Trelawney Streets.

The property originally occupied the entire block from Ocean Street to Edgecliff Road with Trelawney Street as its southern boundary. Sands directory listings from 1886 list Elystan as the only property on the northern side of Trelawney Street and is occupied by Samuel Grey. A year later it is occupied by James Marks. By 1910 the northern side of Trelawney Street has been subdivided to the west of Elystan, however Elvo, on the corner of Trelawney and Edgecliff Road, is the only property to its east. The map below from 1889 shows this development.

In 1912, the Elystan grounds were further subdivided with the creation of Rosemont Avenue to the west of the house and the land to the north opened of the house subdivided for development. See Plan of the Rosemont Estate below.

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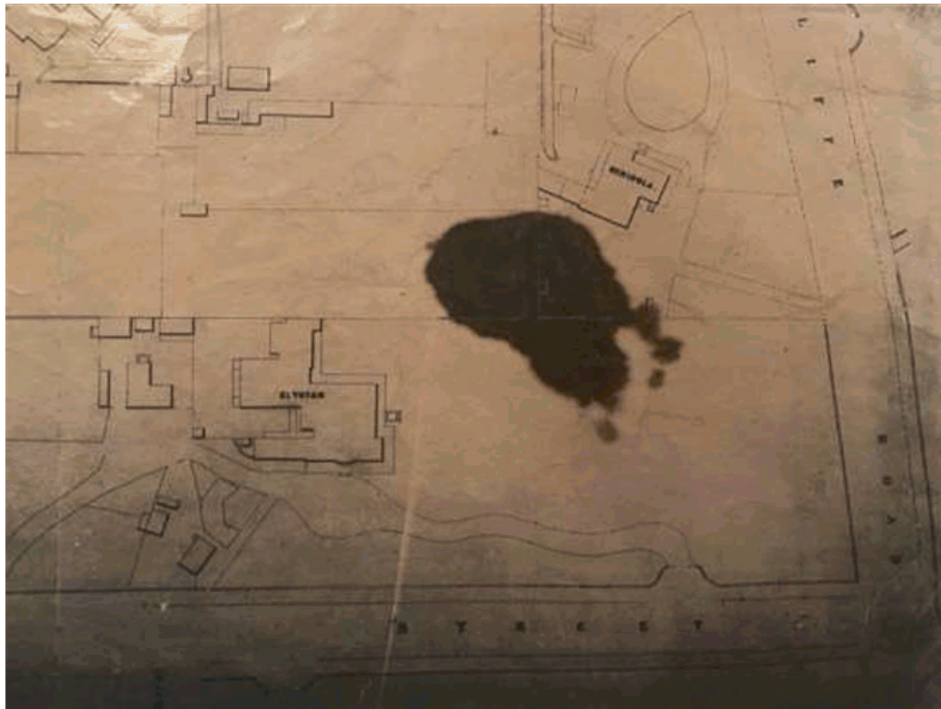


Figure 6. 1887 Plan of Woollahra showing Elystan occupying the northern side of Trelawney Avenue. The road to the right of the image is Edgecliff Road. (Sydney Metropolitan Detail series, MC2. No 114, MSER4 1887, Woollahra Library Local Studies collection)

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Figure 7 Detail of 'Map of the Municipality of Woollahra' published by Higinbotham and Robinson, c1889. "Elystan" is shown occupying the northern side of Trelawney Street all the way to Edgecliff Road. Elystan's entry gates are shown in the area of the subject site. Rosemont Street is yet to be created. (Woollahra Library Local Studies collection)

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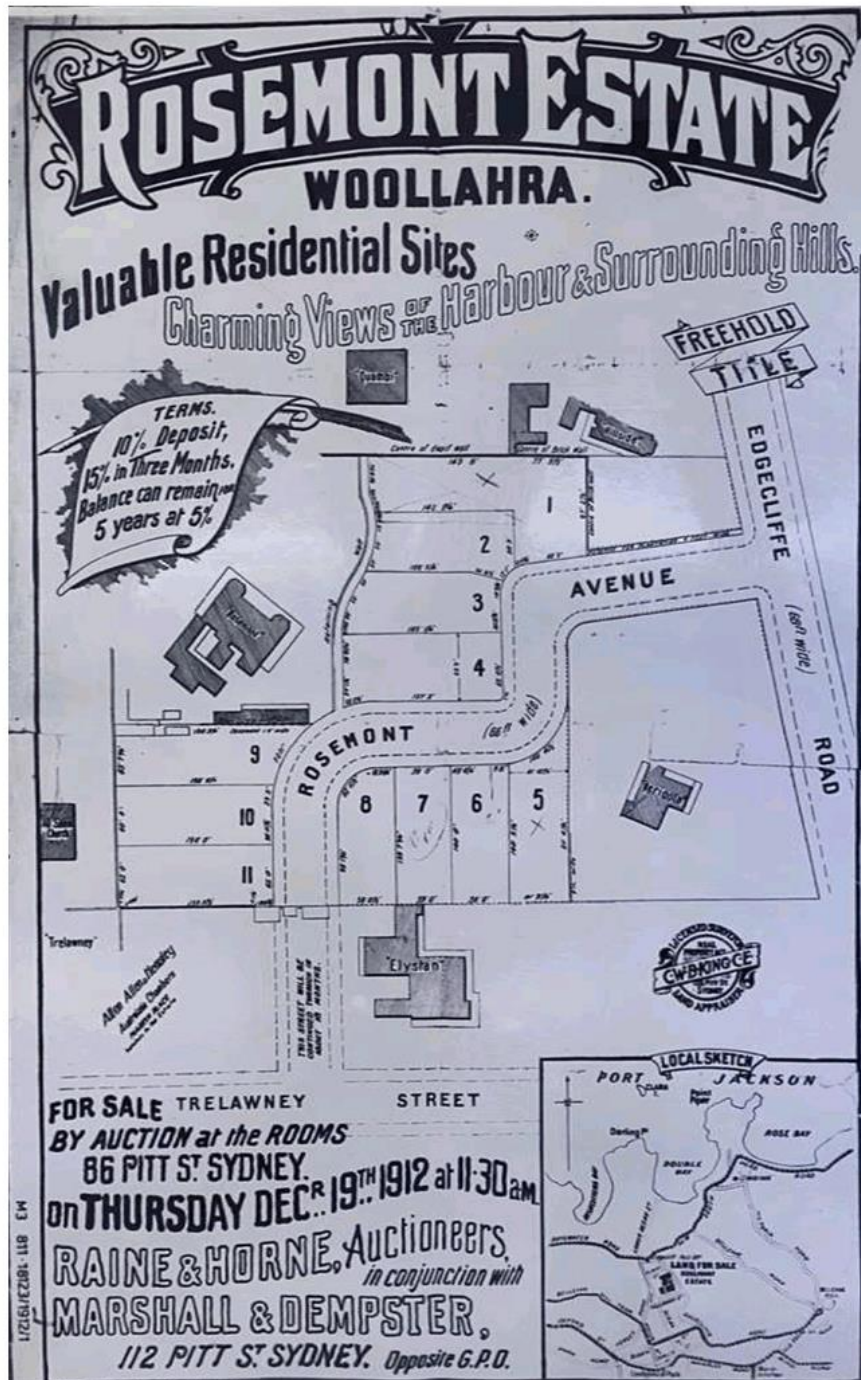


Figure 8 1912 Plan of Rosemont Estate to the north of Elystan. The rest of the land to the east of Elystan on Trelawney Street remains undeveloped. (Rosemont Estate Subdivision Plan, Woollahra Library Local Studies collection)

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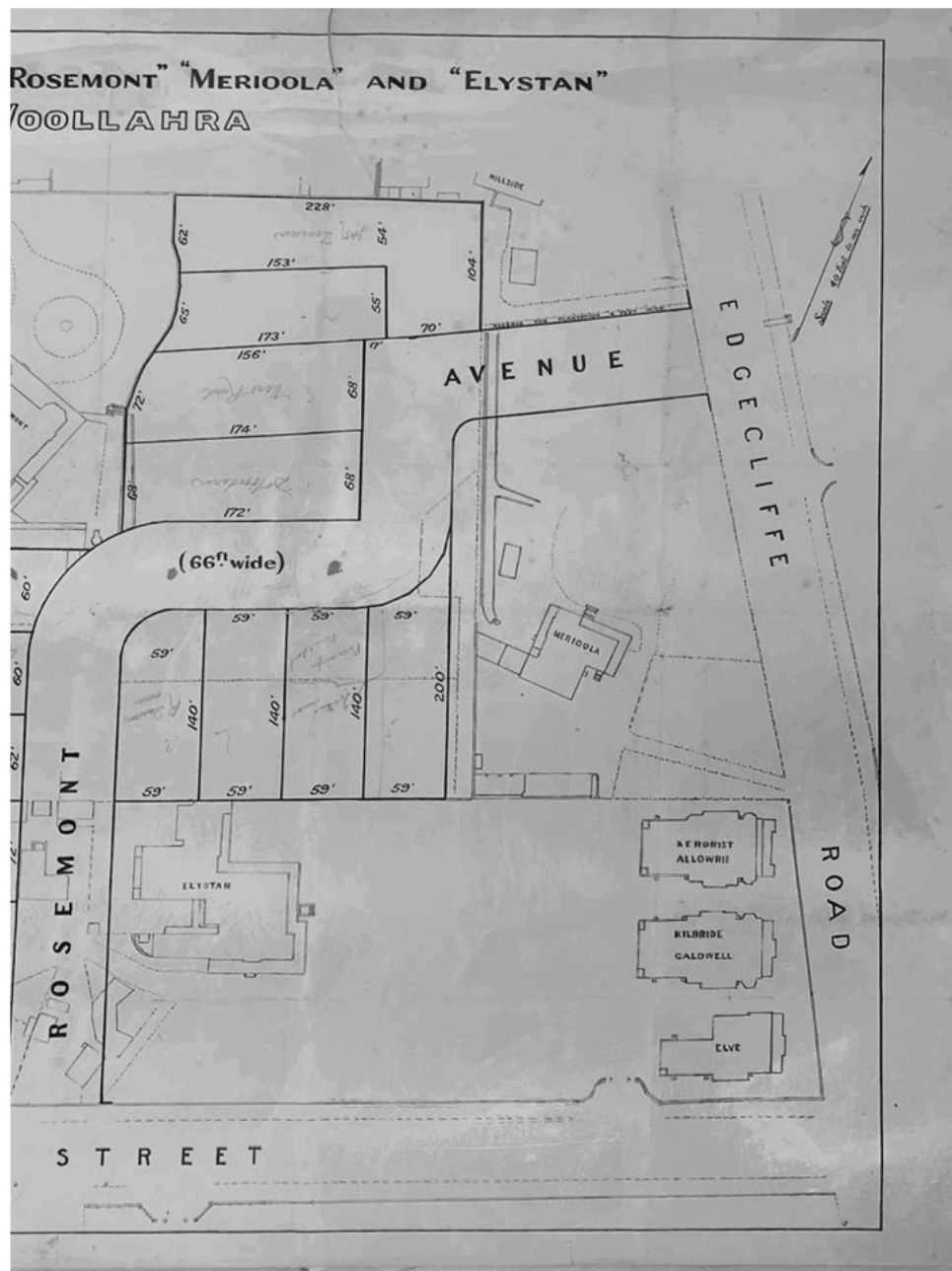


Figure 9. Plan of the Rosemont Estate subdivision c.1912, showing Elystan and the subject site, undeveloped, but lying to the west of Elve, one of three large houses facing Edgecliffe Road that remain today. (Proposed Subdivision of Rosemont, Merioola and Elystan, Woollahra, Woollahra Library Local Studies collection)

A detailed street map of a residential area in St. Louis, Missouri. The map shows a grid of streets including PIPER, TRELAWNEY, CAMPBELL, and ST. LOT numbers are prominently displayed on various lots, such as 35013, 38382, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3190, 3191, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200. Owner names are also present, including A. Campbell, Miss Moore, and App. 19226. The map is oriented with North at the top.

At some point the eastern sections of the property are subdivided. The Sands directory records that the subject site is owned by Arthur Wigram Allen from 1927. Allen was a prominent solicitor with extensive land holdings, most notably in Glebe. Council valuation cards indicate the subject site remains undeveloped with a fence its only built structure.

Progressively the large estates in the surrounding area are subdivided and many of the large houses are converted to apartments. An example being the property to the east of the subject site, on the southern side of Trelawney Avenue, Quiraing, which is subdivided and later demolished and replaced by a high rise apartment building.

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It is not known when Elystan house was demolished, but a 1930s apartment building at 3 Rosemont Avenue, now occupies its former location.

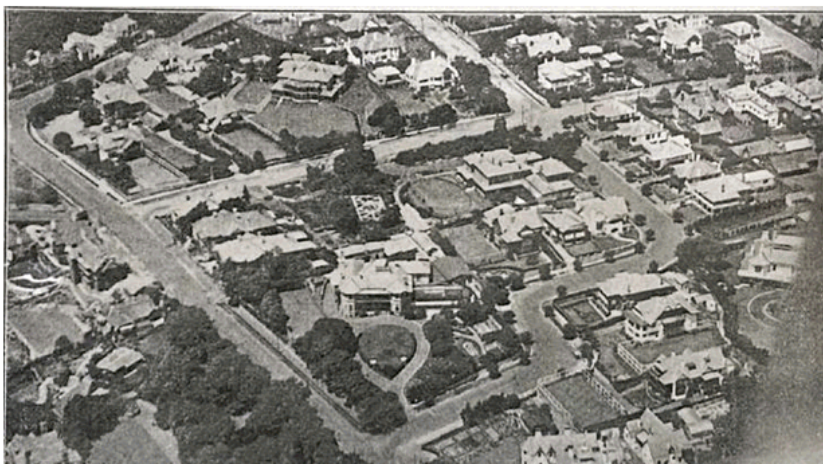


Figure 11. Trelawney Street in 1920. The curved street at the right and lower edge of the image is Rosemont. The street at the left Edgecliff Road. The subject site remains a narrow undeveloped lot to the rear of the large houses on Edgecliff Road. (1920 WMC Annual Report, p.27 Woollahra Library Local Studies collection)

3 Trelawney Street, Woollahra

The subject site remained undeveloped and in the ownership of Arthur Wigram Allen until its 1943 purchase by Tibor and Marta Danos. National Archives of Australia immigration records indicate the Danos' were Hungarian and arrived in Australia in 1940. On Council valuation records the Danos' gives their address as 'Styletex' in George Street Sydney, a textile company listed in Dun's Gazette as owned by Marta Danos.

A building application to erect the apartment block at 3 Trelawney Street was made in November 1946 by a Mr. T Danos. Council's building application file (BA1/47) shows that the initial proposal was for a main building of three stories with a two storey maisonette at the rear (drawing dated 20.11.1946). This was followed by a secondary scheme of two stories (drawing dated 1.4.1947).

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File BA1/47 shows that Council's 'Plans, Building and Health Committee' recommended on 21 January 1947 that the BA be disapproved for 11 reasons. Reasons 1 and 2 being:

1. The design is not in keeping with the buildings in this area.
2. The height of the building is not in keeping with the adjacent buildings.

On 27 January 1947 the Council adopted the Committee's recommendation. (BA.1/1947, Letter from Acting Town Clerk, 28.01.1947, See **Appendix A**).

Amended plans were lodged which reduced the proposal to two stories with four apartments and one two storey maisonette apartment at the rear. This revised scheme was approved by Council 15.4.1947. The specification was prepared by Reves and Hayes Architects for a concrete framed, brick structure with cavity walls. The roof is pitched behind a parapet and tiled with red Marseille tiles.

Although the initial proposal was considered as not in keeping with the character of the area, the final revised and approved building drew attention as a modern apartment providing light filled and well furnished, functional apartments. Trelawney Court was featured on the cover of Australian publication *Decoration and Glass* in July-August 1949.

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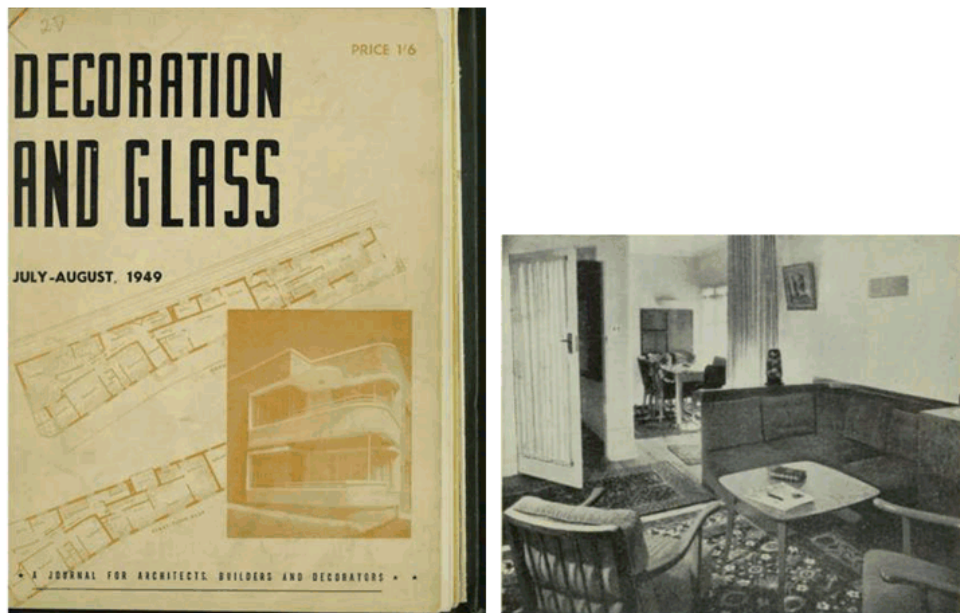


Figure 12 and 13. Cover and detail of article on 'Trelawney Court'. The interior image shows the maisonette and is captioned "The combination lounge, dining room gives a more spacious appearance." It also shows Reves and Hayes extensive use of built-in furniture. (*Trelawney Court*, *Decoration and Glass*, Volume 15, No.2, July-August 1949, Cover and pp.22-23.)

It appears Max Dupain took the published photos, as a search of the Max Dupain and Associates archive, now held in the State Library of NSW shows 13 photos of the building including those used in the article. Many of the interior images record the extensive built in furniture that was part of Reves and Hayes design and demonstrated a common European custom, no doubt familiar to both architect and client.

When travelling in 1960 and again in 1968 Marta and Tibor Danos give their address as 3 Trelawney Street indicating they lived in one of the apartments, probably the maisonette. Most of the Dupain interior photos are of the maisonette apartment possibly indicating the Danos' commissioned the furniture primarily for their own apartment. The property remained in their ownership until 2019 when Marta Danos bequeathed the building to St Luke's Care and the Garvan Institute. In October 2019 the building was put up for auction and sold for \$7.2 million.

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Reves and Hayes Architects

The building at 3 Trelawney Street was designed by the architectural partnership of Reves and Hayes. This appears to have been a short lived partnership formed after the war and dissolving in 1952 when Hayes moves to a larger firm and Reves establishes a solo practice.

Reves and Hayes were both Hungarians who emigrated as a result of World War II. Although neither is well known, their careers can be seen as representative of the significant numbers of European émigré architects, particularly Hungarians, who practiced in Sydney following WWII. Reves completed a number of residential projects in the eastern suburbs and had his work published in the architectural press during the 1950s, but the majority of his work is unknown and now difficult to identify. Hayes did not register with the Architect's Board of Registration until later in his career, remaining an employee in medium sized firms. Hence we know very little about his design work. This is typical of émigré architects many of whom had low profile careers and received little attention from the architectural community.

A recent focus on Australia's modernist architectural heritage and the diversity of its application has lead to the re-evaluation of the work of many émigré architects. The direct experience of European modernism and training from European Universities that European architects brought is now acknowledged as a factor for considering their work in a new light. Their work was often welcomed by European clients seeking the familiarity of a European lifestyle, including apartment living. Many of these émigré architects worked in the eastern suburbs where significant numbers of Europeans settled during and after World War II. The combination of Hungarian client and architect in the subject site represents the increasing influence of Europeans on the development of Sydney's suburbs after WWII.

This assessment provides a timely opportunity to consider the subject site and the work of its architects within the context of modernist architecture in the Woollahra Council area.

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George Reves

George Reves (nee Revesz) (1910–2004) was a Hungarian who migrated to Australia in 1939. Reves graduated with an architectural degree from the Royal Joseph Technical University, Budapest. He worked in Paris for modernist Auguste Perret before returning to Budapest in 1934 to begin his own practice, designing a number of houses and apartment buildings. Following the German annexation of Austria, Reves fled Europe, arriving in Australia.

Reves' wartime experience in Sydney included designing for James Hardie. He registered as an architect in 1945, and his small-scale, largely residential practice drew on his extensive contacts in Sydney's émigré community. Although he ran a small practice two of his houses, both located in the eastern suburbs, were featured in *Architecture in Australia*, in 1955 and 1956.

The National Archives of Australia passenger travel records show that Reves travelled to Los Angeles in 1955 and his work from this period onwards shows significant influence of American modernism, in particular the 1955 Spencer Residence by Richard O. Spencer which was published in *arts & architecture* in 1954.

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Figure 14. In 1955 a house Reves designed in Bellevue Hill, this time in partnership with another émigré Hungarian architect, Gabor Lucas, was featured on the cover of *Architecture in Australia* (July-September 1955). Further details of the project are unknown.

As was common practice in Europe many of Reves' projects included the design of furniture as part of the overall architectural design. An example is the Schwartz House he designed at 875 New South Head Road, Rose Bay (1957). This project and its furniture were featured in the 2017 exhibition [The Moderns: European Designers in Sydney](#) at the Museum of Sydney. A chapter about the house and the furniture makers, also émigrés, M Gerstl Cabinet Works is part of the 2017 publication *The Other Moderns*.

Ted Quinton, who interviewed Reves in 1997 for his Bachelor of Architecture dissertation, notes that in the 1960s Reves switched his practice from largely residential work to larger projects, designing and refurbishing factories, motels and hotels, including several interstate projects. This change seems to coincide with the relocation of his office from 45 Phillip Street, Sydney to 29 Berry Street, North Sydney where he remained until he retired in 1980 aged 70.

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Charles Hayes

Fellow Hungarian Charles Hayes (nee Hajos) (1911- 1995) also graduated from the Royal Joseph Technical University, Budapest with a second class Honors degree in architecture in 1934. From 1934 to 1940 he was employed as an architect in Budapest before emigrating to Australia in 1940.

In Australia Hayes found architectural work with established firm Lipson and Kaad, before joining the Australian Army from 1942 to 1946. Hayes applied for registration in 1946 when the Architects Registration Board had tightened its policies, and was no longer recognising overseas degrees without applicants passing the prescribed examinations. Reves, and a group of other graduates of the same university had applied the year prior and been accepted without the need for further examinations.

Deciding not to sit the examinations, unregistered, he worked in partnership with Reves from 1946 to 1952. This study has located three projects undertaken by the partnership including the flats at 3 Trelawney Street (see comparative analysis).

After leaving the partnership Hayes worked for another Hungarian, Francis Feledy as senior architectural draftsman, playing a major role in the firm's work which consisted primarily of large industrial structures in the newly developing areas of Zetland and Mascot. Hayes is finally registered in 1963 at the age of 54, after 19 years of architectural work in Australia. Emery Balint, another Hungarian and the former Associate Professor of Building at the University of NSW, witnessed Hayes registration papers, noting he had known Hayes for 33 years.

The later part of Hayes' career is unknown. He died in 1995.

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Section 4: Physical Analysis

Site Inspection

The building at 3 Trelawney Street was viewed by the authors during open for inspections in October 2019. This included access to all the flats and the exterior. The internal photographs included below were taken at that time. During this project the property has not been available for inspection. Kieran McInerney has since conducted a follow up site inspection of the general setting and building exterior in January 2020. An article about the building in *Decoration & Glass* (Vol. 15 No.2, July-August 1949) which included descriptions, a floor plan and internal images has provided valuable information about the building's fabric and later changes.

The site

The site is unusually sized and shaped, being 65 metres long and varying irregularly in width from 16 metres wide at the street boundary to 7.5 metres at its narrowest at the rear boundary.

The front fence is a traditional solid sandstone block wall with sandstone piers, typical of the area. The piers are shaped into curves, sympathetic to the building design and are linked by pipe railings. Photos taken immediately after construction show that the height of the wall has been raised while keeping the form the same.

A sandstone flagged path leads from Trelawney Street to a remarkable ashlar sandstone blade wall punctuated by 3 circular openings at the lobby entry and continues down the eastern boundary to the rear maisonette apartment.

A driveway runs along the western boundary leading to a two-car garage at the rear, northern, boundary of the site. The garage is shown as an existing structure in Building Application BA1 -1947. It is a utilitarian construction of single brick with engaged piers, concrete floor and a recently added metal "Panel-lift", and shares no design features with 3 Trelawney Street. It has been since increased in size with a short extension in timber construction in weatherboard cladding. The attached

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laundry structure, built at the same time as 3 Trelawney Street is also a nondescript utilitarian construction of single brick with engaged piers and tiled floor.

The building

The building is a two-storey inter-war Moderne/ Modernist/ Art Deco style apartment building built in light red face brick with rendered balcony balustrades and slab edges and curved ashlar sandstone feature panels.

The lobby and stair give access to four single level apartments; two on the ground and two on the first floor. Apartments 1 (ground floor) and 3 (first floor) are identical in plan, being small 3 bedroom apartments of approximately 90 m² NLA (net lettable area).

Apartment 2 (ground floor) is a small 1 bedroom apartment with ensuite bathroom approximately 47 m² NLA (net lettable area). Adjacent is a boiler room. Apartment 4 (first floor) has the same plan as Apartment 2 with additional space afforded by the omission of the boiler room. It is a 1 bedroom apartment with ensuite bathroom plus separate WC and a small balcony facing west. It is approximately 57 m² NLA (net lettable area) including the balcony. The ground and first floors are also linked by a trades stair.

The sandstone-flagged path continues to the entry door of apartment 5, a two-storey masonette apartment. This apartment has 3 bedrooms and a study. The ground floor comprises a rather splendid entry lobby, (a smaller version of the of the first lobby) a small awkwardly shaped bedroom, small kitchen with attendant porch, tiny dining nook and a living room which opens to a courtyard. A WC with a porthole window is tucked under the stair. The first floor has two bedrooms, a bathroom and a study as well as a balcony accessed from the main bedroom.

The building displays expensive construction methodologies, complex planning and non- standardized features with each unit individually detailed. This indicates it was designed for a more luxurious form of apartment living and that it was not simply

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developed as an investment to maximise lettable areas. The 1949 *Decoration & Glass* article notes that many of the building's features were adaptations to post war materials shortages. This included the rendered awnings and sills, in place of light bricks that were not available.

The article also notes a number of design features utilised to increase a feeling of space, despite the limited site area. This included terraces and large windows provided to increase the appearance of room sizes and to provide morning sun to all bedrooms. The generous entry stairs, curved and with varying widths, also added a sense of grandeur to the small building. The building also contained extensive amounts of built-in and recessed furniture, of which only some items remain.



Figure 15. Trelawney Court viewed from Trelawney Street east; note distinctive “S” shaped first floor concrete awning slab edge- and curved sandstone feature panels. Sandstone flagged path leads to lobby entry.
(Source: Bradfield Cleary 2019)

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Figure 16. Trelawney Court viewed from Trelawney Street west; plainer west elevation with extensive steel framed glazing. Concrete driveway leads to garage. (Source: Bradfield Cleary 2019)



Figure 17. Garage and communal laundry at rear of block. (Source: Bradfield Cleary 2019)

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Figure 18. Trelawney Court viewed from north, rear (garage); detailing of curved rendered balustrade panels has been repeated to compose a formal garden facade. Intrusive pool fence type balustrade has been added recently. (Source: Bradfield Cleary 2019)



Figure 19. Building entry on the eastern site boundary with sandstone blade wall at the lobby entry. (Source: Bradfield Cleary 2019)

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Figure 20. The sandstone path continues to the rear maisonette apartment which has a more modest entry porch. (Source: Bradfield Cleary 2019)



Figure 21. Extensive steel framed glazing to dining space of apartment 5 with cement rendered framed window surround. (Author photo)

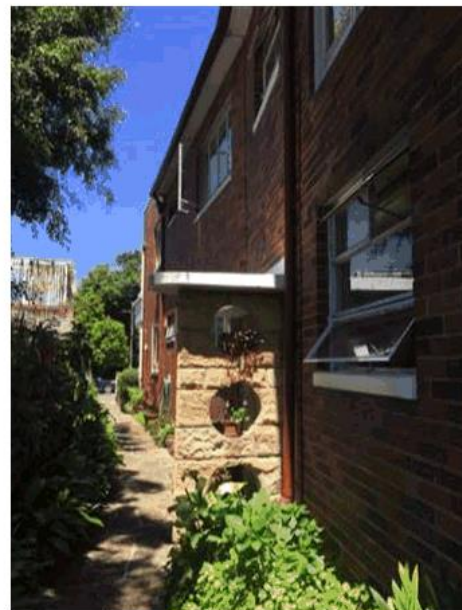


Figure 22. Curved concrete slab awning and ashlar sandstone blade wall punctuated by 3 circular openings at the lobby entry. (Author photo)

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Exterior

Building facade

The building exterior appears to be almost completely unaltered. The street facade presents as an asymmetrical, flat roofed corner building, even though there is a relatively straightforward apartment building behind. Stylistic elements added to the façade give a modern appearance to what is actually a building with the commonplace brick, timber and tile conventions of the 1940s.

The external walls are cavity brick; face brick externally, rendered internally. To Trelawney Street the external wall is a concrete capped face brick parapet extending north for approximately 10 metres; thus resembling a modernist flat roofed building. From there the wall roof junction is expressed as it is; i.e. a timber framed roof with Marseilles pattern terracotta tiled roof, with lined eaves and quad gutter and exposed downpipes. The brick wall is broken into two parts orthogonal to each adjacent boundary, thus inflecting to the best view and simulating a corner site view.

The floors of the building are timber framed generally with suspended concrete slabs for the bathrooms, showers, WCs and trade stairs; and the ground and first balconies and porches.

All four facades show a great deal of attention to detail. The Trelawney Street facade has a curvaceous S shaped concrete awning, above the typically 1930 Moderne curved rendered balustrades. The distinctive “S” shaped first floor concrete awning slab edge- and curved ashlar sandstone feature panels infill between delicate steel windows which have curved glazed corners. These elements are also found in George Reves’ later work, but here can be seen as typical of a streamlined 1930s P&O Moderne architectural style, which commonly referenced ocean liners.

The curved concrete slab awning and ashlar sandstone blade wall punctuated by 3 circular openings at the lobby entry also refer to P&O Moderne style. The lobby to apartment 5 has a similar treatment.

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The external walls are cavity brick; face brick externally, rendered internally. The floors of the building are timber framed generally with suspended concrete slabs for the bathrooms, showers, WCs and trade stairs; and the ground and first balconies and porches.

Circular bulkhead lights are an integral part of the design of each concrete awning, and this light type is repeated internally in stair lobbies.

The building is a well-built small scale luxury apartment block and had a generous budget for its building type, as shown by the complexity of the planning and detailing as well as the lack of standardization of apartment plans, windows and kitchens which is the hallmark of apartment design.

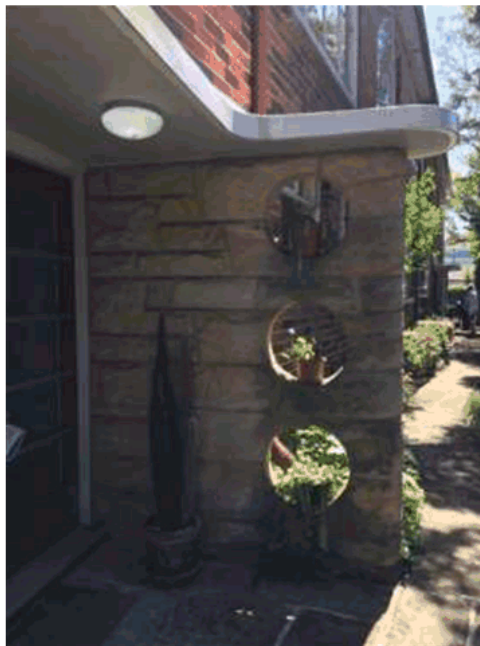


Figure 23. The flamboyant curved concrete slab awning of the main façade is reflected in the lobby entry.
(Author photo)



Figure 24. Curved concrete slab awning and curved and angular dressed ashlar sandstone wall with slender steel framed windows and curved handrails to front facade.
(Author photo)

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Figure 25. Trelawney Street façade detail: Note distinctive “S” shaped first floor concrete awning slab edge, curved sandstone feature panels and bulkhead light. (Source: Author photo)

Windows

The building has many types of steel windows; pivoted porthole windows to a WC, tall arch headed windows to the apartment 5 stair, large format window walls to dining areas and the main stairs, multiple leaf awning windows, casement windows and French doors. Bathroom windows are glazed with “Kosciusko” pattern obscure glass. Windows sills are typically cement rendered with a square edge and paint finish.

Windows are concentrated on the eastern elevation, many almost taking up the full wall, maximising sun into the apartments and providing a feeling of spaciousness.

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Figure 26. The building has many types of steel windows e.g. this pivoted porthole window to a WC.
(Author photo)

Figure 27. Steel casement windows glazed with "Kosciusko" pattern obscure glass to bathroom.
(Author photo)

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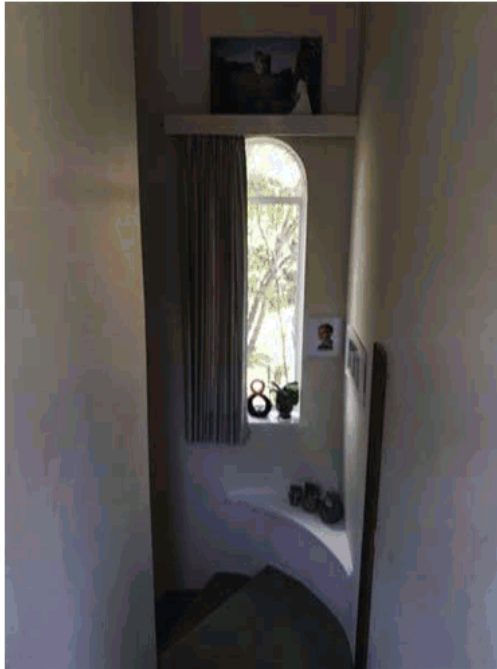


Figure 28. Tall steel framed glazing to maisonette stair with semi-circular operable window at head. (Author photo)



Figure 29. Broad steel awning windows to kitchen. (Author photo)

Interior

The interiors of the building appear to have been largely unaltered. Comparisons with the floor plan reproduced in the 1949 *Decoration & Glass* article indicate there have been no changes to the internal layouts. The typical internal wall finish is painted cement render, with patterned render being used in the ground floor walls of the lobby.

Ceilings of both the lobby and apartments are plastered with curved “streamlined” plasterwork to living areas. This appears to be intact in most of the apartments. The building retains many original light fixtures internally and externally.

Entry thresholds generally have a terrazzo sill. The entry lobby has an entry landing of 2 inch x 2 inch unglazed terracotta tiles while the remaining floor finishes are typically carpet. The main lobby walls have inset timber and glass notice and

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directory boards. The main stair has curved winders and a curved balustrade of welded steel flats typical of cinema buildings of the 1930s.

Inside the apartments kitchens appear to generally retain their original or early timber and laminate cabinetry. Bathrooms also retain their original or early unglazed patterned floor tiles and coloured glazed wall tiles, many with original period sanitary fixtures.

Reveals to the steel windows are cement rendered with no traditional timber architraves.

The *Decoration & Glass* article refers to an extensive use of built-in furniture and images show a combination of built-ins and loose furniture items, possibly designed by Reves and Hayes, as was typical of the work of European architects in the period. The built-in units provide storage and maximise usable space in the apartments. The limited internal inspections undertaken for this report indicate only a few built-in units remain. Built-in items such as the banquettes shown in the maisonette in the article appear to have been removed. The maisonette (Apartment 5) has retained more elements than other apartments. A large L - shaped cabinet of birds-eye maple veneer remains in the living room, with a built-in tiled mirror unit with integral shelf. It also retains a light timber veneer sliding door servery unit between the kitchen and the dining nook. The entry lobby retains a timber framed wall mirror with 'flower shelf' and early or original wall lights. These joinery units feature Reves signature layout of timber veneer and are typical of the work of the émigré joiners such as Paul Kaka, Gerstl Cabinet Works, Kafka, Zink and Davidovich (although the particular joiner used for this project is unknown).

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Figure 30. Early or original intact floor and wall times in bathroom. (Author photo)



Figure 31. Typical early or original kitchen fit-out as found in most of the apartments. (Author photo)



Figure 32. The entry lobby has an entry landing of 2 inch x 2 inch unglazed terracotta tiles and a threshold sill of honey coloured terrazzo. (Author photo)



Figure 33. Ceilings are plastered with curved 'streamlined' plasterwork to living areas (Author photo)

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Figure 34. The maisonette (apartment 5) has a built in tiled mirror unit with integral "flower shelf" as described Decoration and Glass Vol. 15 No. 2 (July - August 1949) article (Author photo)



Figure 35. The maisonette (apartment 5) has a light coloured timber veneer sliding door servery unit between the kitchen and the dining nook. (Author photo)



Figure 36. Top section of the L - shaped unit showing the drinks cabinet of birds-eye maple veneer in the living room, apartment 5. (Author photo)

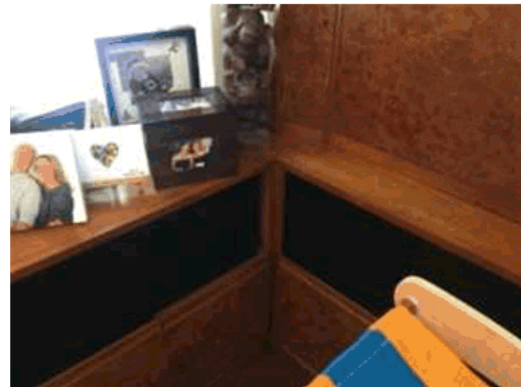


Figure 37. Large L - shaped cabinet of birds-eye maple veneer in the living room, apartment 5. (Author photo)

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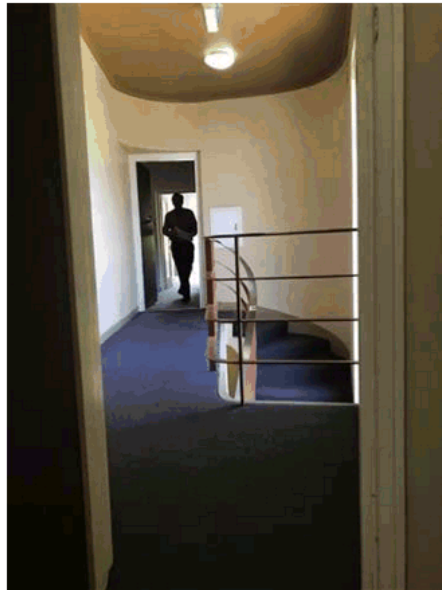


Figure 38. The main stair has curved winders and a curved balustrade of welded steel flats typical of cinema buildings of the 1930s. Ceilings are also curved. Blukhead light matches extrnal lights on street facade awning (Author photo)

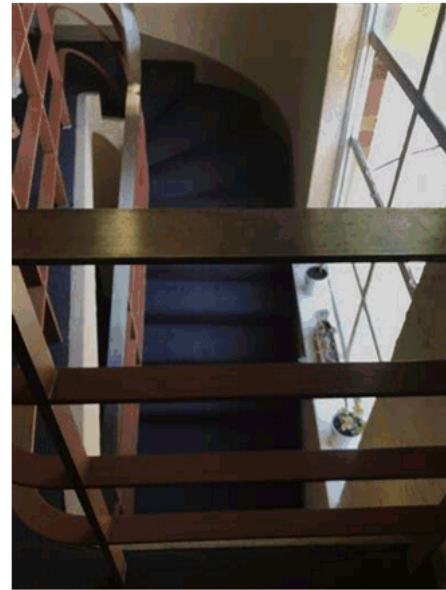


Figure 39. Main stair from above showing western window with rendered sills (Author photo)

Moveable heritage items

There does not appear to be any moveable heritage items associated with the site.

Setting

Trelawney Street runs east to west from Edgecliff Road to Jersey Road in Woollahra. The subject building is located on the northern side of the eastern most section, towards Edgecliff Road, before the land falls away steeply to the east.

The building is located within a mixed context of 19th and 20th century single residences, larger flat buildings and health facilities like the Wolper Hospital on the western side of Trelawney Street. Section 1 identifies the building's context and listed heritage items in the vicinity.

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Views of the building are available as one passes east and west along Trelawney Street, and as one turns into Trelawney Street from Edgecliff Road. The building presents as a crisp and well-maintained modernist building in a manicured garden setting.



Figure 40. The building in its setting on the northern side of Trelawney Street, Woollahra. (Source: Bradfield Cleary 2019)

Current condition

The building is in excellent condition. The face brickwork has gained a slight patina with some minor patches of blackening on the brick parapet at high level, which is to be expected. The detailing of the concrete awnings and balustrades and the drainage of the box gutter has been effective in reducing staining.

Balconies, windows, eaves and gutters all appear to be in very good condition and have been well maintained. The steel windows are all operable and appear to have been regularly maintained and painted.

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Alterations and additions

A search of Council records indicates that there has been only one building application or development application since its construction. A building application approved 14 April 1971 to alter the kitchen and cloakroom in apartment 5 was not carried out, and the apartment remains today as it was shown in the original BA drawings dated 28 March 1947.

Internally the building remains substantially intact including the internal layout of apartments, decorative curved plaster work at ceilings, bathroom tiles and fixtures, kitchen cabinetry and lighting. In addition some built-in furniture remains, particularly in apartment 5.

The front facade has not been altered. The boiler room chimney has been retained. Only the rear facade shows some alteration with the original 50mm diameter circular hollow section welded steel balustrade having been replaced by an unsympathetic pool fence type balustrade with opaque glass infill panels.

Early external photos taken by Max Dupain (see Figure 41) show the front sandstone block with steel pipe fence has been raised in height with three courses of matching sandstone blocks added to each post. This has retained the original form and materials.

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Figure 41. Max Dupain photographed the site around 1950. The images are now held in the State Library collection. Comparisons with current site images show few changes.

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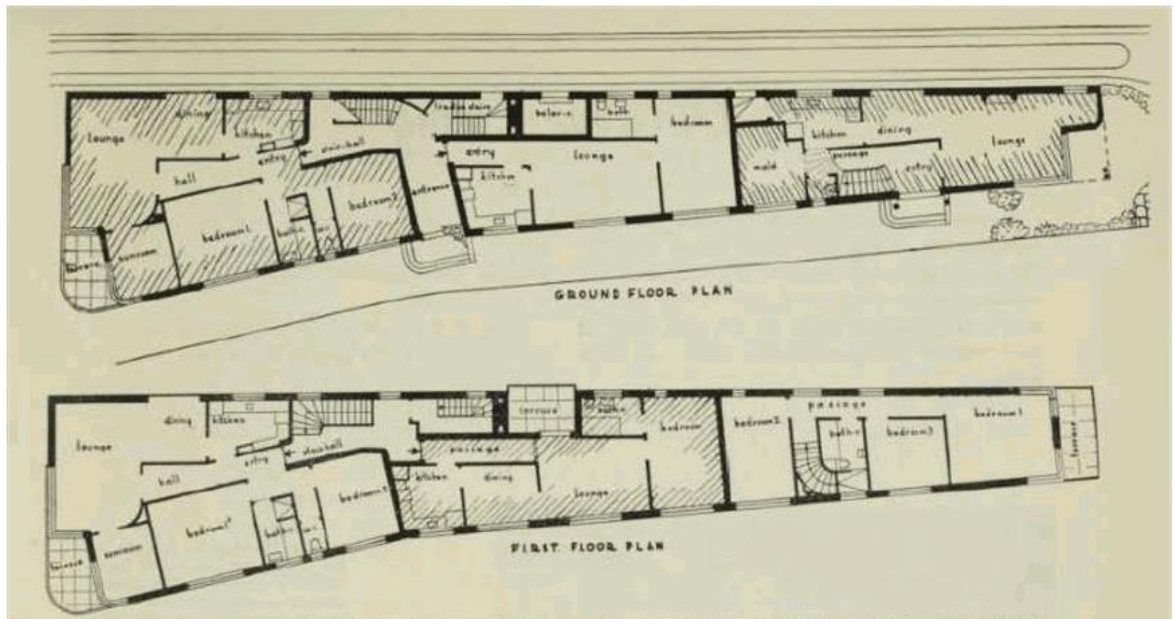


Figure 42. The building's floor plan shortly after completion as published in *Decoration and Glass*, Vol.15 No.2 (July-August 1949), p.25



Figure 43. The approved building floor plan as submitted to Council in 1947. (BA1-1947)

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Section 5: Comparative Analysis

Introduction

This section compares the subject building with both other works designed by Reves and Hayes or George Reves alone, and with other residential flat buildings designed and constructed in the immediate post war period in the Woollahra LGA and more generally.

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 because it is a good example of a common type of place. The two criteria are:

Criteria (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 the area's cultural or natural places or cultural or natural environments.

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

Appendix B contains a full list of the identified work of Reves, and of Reves and Hayes.

Works of Reves and Hayes

After researching Council records, publications and other available information only three projects undertaken by the Reves and Hayes partnership have been located.

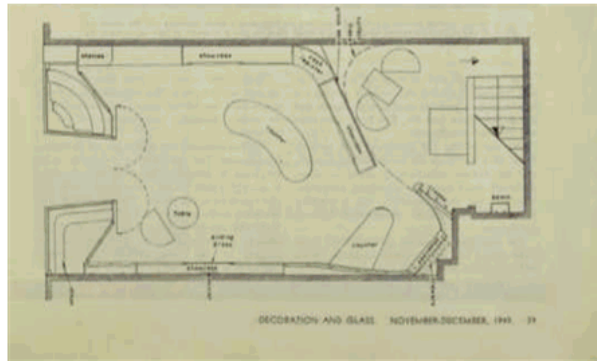
These are:

- Trelawney Court, 3 Trelawney Street, Woollahra, 1949
- City jewellery store, location unknown, published in *Decoration & Glass*, Nov-Dec, 1949.

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- Werner House, 85 Victoria Road Bellevue Hill, 1951

1949- Jewellery store, Sydney



Although this is a small interior retail fitout it shares design elements with 3 Trelawney Street in a willingness to employ curved geometry wherever possible within an orthogonal envelope and extensive use of timber veneered joinery. This can be seen in the curved wall cabinets and free standing cabinets which are in a free geometry (non-radial) similar to the balcony, awning, ceiling and stair elements in 3 Trelawney Street. This fitout is assumed to be now demolished.

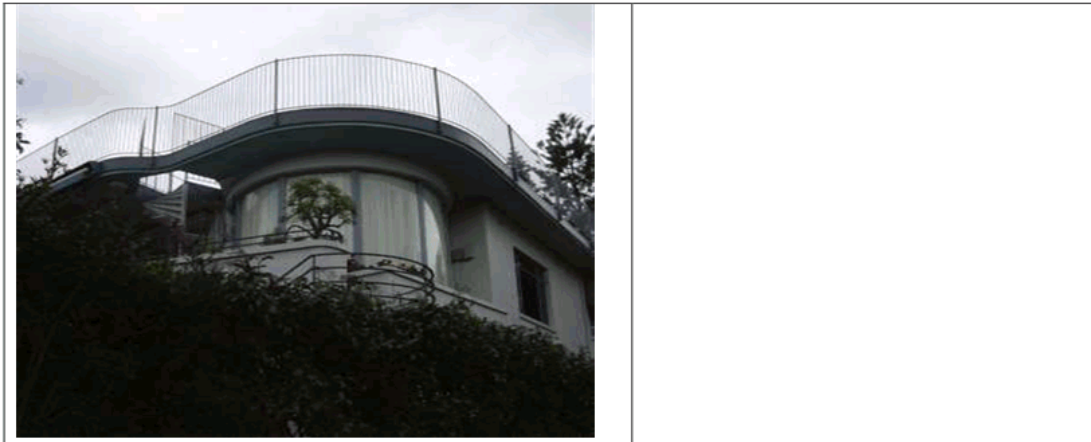
1951- Werner House, 85 Victoria Road, Bellevue Hill



This is the only known single house designed by Reves and Hayes. It was a very large and opulent house for its time, characterised by extensive circular and curved geometry. Stylistically, it owes much to the 1930s and 1940s. It has been extensively altered with a roof terrace and other alterations.

This house has no statutory heritage protection.

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Works of George Reves

After their partnership dissolved Charles Hayes appears to have worked for a number of larger architectural firms and so it is difficult to identify his stylistic contribution to 3 Trelawney Street and his significance as an architect. Consequently the following analysis looks at the work of George Reves, who despite a low profile career, completed a number of interesting modernist residential projects in the eastern suburbs in the 1950s and 1960s. A number of these projects display stylistic elements observable in 3 Trelawney Street.

The following comparative analysis examines a sample of houses designed by George Reves.

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1957- Schwartz House, 875 New South Head Road, Rose Bay (demolished 2016)



Built ten years after 3 Trelawney Street this small house shares design elements with it; including the curved decorative dressed ashlar sandstone wall panels as part of the front facade. The glazing bars of the facade, like 3 Trelawney Street, are aligned with the balustrade panels in a cohesive design arrangement.

875 New South Head Road was also fitted with built-in curved timber furniture of flamboyant design.



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Stein House, 86A Victoria Road, Bellevue Hill, 1962 (Renovated 2018 by Luigi Rosselli Architects)



Built 13 years after 3 Trelawney Street this large house shares design elements with it; including the sweeping curves of the steel balustrades and curved rendered balustrade upstands. It also shares with 3 Trelawney Street curved decorative ceilings as seen in the living rooms. The most important common element is the distinctive curved concrete awnings seen in the front facade of 3 Trelawney Street and at each of its two apartment entrances. In 86A Victoria Road Bellevue Hill this motif has become more three dimensional and expressive to the point of being reminiscent of South American modernists such as Oscar Niemeyer.

This house has no statutory heritage protection. An assessment of heritage significance should be undertaken.

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Horsky House, 861 New South Head Road, Rose Bay (also 10 Fernleigh Gardens), 1961 (altered c. 2011)



The Horsky House built 13 years after 3 Trelawney Street displays a lightweight, skillion roofed Californian inspired modernism. Masonry parapets are broken into individual panels reducing the mass and bulk of the building and making it more open. Cantilevered orthogonal balconies are used and no circular geometry is evident.

Little of the original house now remains. It has no statutory heritage protection. It appears that the recent renovations mean it no longer demonstrates Reves' design work and is not in a heritage conservation area.

Conclusion:

3 Trelawney Street is an early work of émigré architects Reves and Hayes, who had trained and practiced in central Europe before WWII. This influence is evident in a number of the building's features, including planes of unembellished face brickwork, curved rendered balconies and custom, lavish built in timber furniture and joinery. These features can be seen to have been further explored in Reves' later work as he designed larger residential projects during the 1950s and 1960s. The subject building can be seen to have a number of distinctive features evident in Reves' other projects and hence to be a representative example of his work.

It should be noted that Reves had a distinctive application of modernism, taking in both European influences and later elements of Californian modernism, and his work

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can be seen as stylistically individual in the context of the Woollahra Municipality and Sydney more generally. Only a handful of his projects have been identified during this and previous studies, and none of these projects are protected by individual heritage listing. In the last few years a number of Reves' known projects have been demolished or substantially altered making an intact example of his work, such as the subject building, rare.

Inter-war flat buildings in the Woollahra LGA

Although the subject building was designed in 1946, just after WWII, it is considered here to be comparable with Inter-war flat buildings. The disruption of WWII meant that building all but ceased in the 1940s and the wartime restrictions on building materials that continued into the late 1940s meant little architectural innovation occurred until the mid 1950s. The 1946 date of the subject building is significant as it represents the beginning of a shift from Inter-war flat building styles towards modernist International Style architectural works that became more common in Sydney in the late 1950s. The subject building shows elements of Inter-war flat buildings but also stylistic differences that mark the influence of European Modernism.

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20 Thornton Street, Darling Point, 1941, Lipson and Kaad



This low scale flat building shares a number of design elements with Trelawney Court. It was designed by the office of architect Samuel Lipson, a pioneer of European Modernism in Australia during from the late 1930's through to the 1960s.

It is a two storey building with a prominent curved bay window with curved glass in slender steel windows and a modern rendered brick parapet. However the parapet conceals a conventional pitched Marseille tile roof, which is very evident along the side facades. All the other windows are timber framed, including the uncharacteristic timber doors to a poorly designed and built balcony addition.

This building is not heritage listed and is not in a heritage conservation area.

Glamis, 206A Victoria Street, Bellevue Hill, 1930s, Lipson and Kaad



This four storey building is considered a departure from conventional residential flat design in its floor plan, characterised by an elegant employment of galley access on three levels. Bold coloured, banded brickwork facades are capped by a very low pitched roof, like a flattened pyramid, with minimal eaves. A glazed faceted bay window forms an awning over the entry link. The street entry is enlivened by a bold Art Deco name board. With the possible exception of the curved bay window on the street facade, Glamis shares few design elements with Trelawney Court.

Glamis is listed in the Woollahra Local Environmental Plan 2014 Schedule 5 Environmental Heritage as;

Residential flat building and interiors, front boundary wall, entry link and grounds

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Rutland Gate, 28-30 Fairfax Road, Bellevue Hill, 1935, Dudley Ward

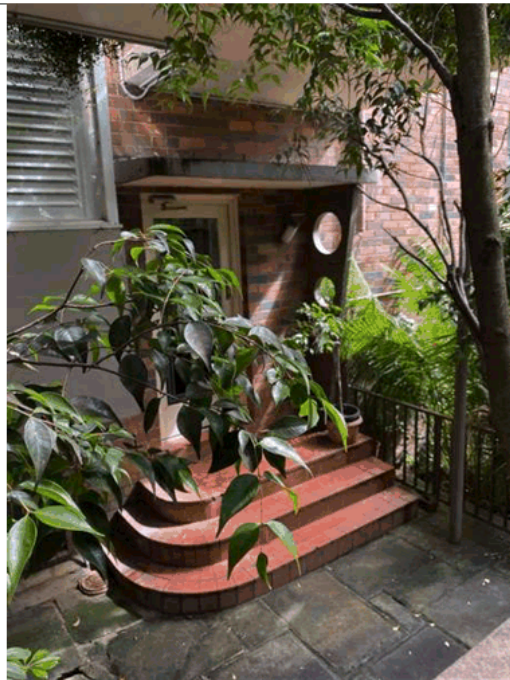


Rutland Gate at 28-30 Fairfax Road is a site with two buildings. No.30 was built in 1935 with No.28 following in 1936. Rutland Gate is a grand apartment building with large, standardised, well-planned identical apartments over four storeys.

The facades are austere for a building of this era, with a single colour of brick used and no patterning or corbelling employed except at the top of stairwell windows and at entries where an unusual hit and miss brickwork is employed. A limited use of 2 coloured banded brickwork is used to Fairfax Road, which is recessive behind a row of garages. Windows in curved walls are faceted rather than curved.

Rutland Gate shares few design elements with the much smaller Trelawney Court; Trelawney Court being much richer in material palette and detailing. These buildings are not heritage listed. They are not in a heritage conservation area.

42 Fairfax Road, Bellevue Hill, 1951, architect unknown



42 Fairfax Road is a four storey brick apartment building contemporaneous with Trelawney Court. It has a simple multi-coloured brick facade, sandstone flagged paths, porthole windows, curved rendered masonry balustrades and decorative angled blade walls with circular perforations at lobby entries.

These blade walls, like the building generally, are less rich and substantial than Trelawney Court, being made of thin painted concrete rather than elaborately coursed ashlar sandstone. This building does not have the rich materials and level of detail that is seen in Trelawney Court.

This building is not heritage listed. It is not in a heritage conservation area.

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Darjoa, 14 Longworth Avenue, Point Piper, 1938, Lipson & Kaad



"Darjoa" was designed by Samuel Lipson in the late 1930s. A three storey apartment building on the harbour in Point Piper, it is described in "Homes in the Sky" as "a typical product of the Sydney marriage of European Modernism and conspicuous wealth" (p.86). It was a high profile project with its interiors and extensive built-in furniture published in *Decoration and Glass* and *The Home*.

Its facade features a distinct horizontality formed by painted rendered projecting sills and parapet, and curved steel framed window bands. It is a typical example of European Modernism adapted to a Sydney setting.

The building does not have the rich materials, level of detail and individual flourishes that are evident at Trelawney Court.

This building is not heritage listed and not in a heritage conservation area.

Arundel House, 24 Yarranabbe Road, Darling Point, 1940, Pitt & Phillips



Arundel House was designed by architects Eric C. Pitt & C.C. Phillips just before WWII. It can be seen as a Moderne or P&O style building with Art Deco detailing to the garages.

Its main facade is dominated by curved projecting bay windows with faceted timber frames. It includes porthole feature windows on the side facades. The facades are simple, with a single colour of brick used. Brick patterning and corbelling are only used in the street front garages.

Trelawney Court presents as a more linear building with less focus on brick detailing. As such it represents a move away from the Moderne influences present in Arundel House towards incorporating aspects of European Modernism.

This building is not heritage listed and not in a heritage conservation area.

Trelawney Court Heritage Assessment

“Hillside” Apartments, 412 Edgecliff Road, Woollahra, 1938, Emil Sodersten Architect.



Large apartment building, finished immediately pre-war. Sodersten's work was influenced by American Art Deco architects Hugh Ferriss and Raymond Hood. “Hillside” is a highly styled formal Art Deco building with external walls being built almost entirely of variegated coloured face brickwork. The slender massing of the separate wings emphasises the verticality of the building and this is supported by the vertical arrangements of the window design, brickwork detailing and decorative elements.

“Hillside” is modelled and decorated to appear as vertical and massive as possible. Balconies are not differentiated from the building mass.

It differs from the plain brickwork and horizontal emphasis of Trelawney Court.

This building is heritage listed and is within a heritage conservation area.

Trelawney Court Heritage Assessment

Inter-war flat buildings outside Woollahra

A number of 1930s and 1940s apartment buildings in Melbourne demonstrate an early application of Modernist principles and provide a useful comparison with Trelawney Court. The 1940s work of Swiss trained Frederick Romberg and his partner Mary Turner Shaw is highly regarded and considered significant as early examples of International Style modernism in Australia. Similarly the 1930s Cairo Flats by Best Overend, an architect recently returned from working in the UK, is also recognised as an influential and early Modernist apartment project. Like Trelawney Court these projects emphasise the horizontal, often with rendered balconies, and have much simpler and less decorative brickwork than Art Deco examples. They also use steel window frames or glass bricks and other simplified window treatments and feature curved elements such as balconies and porthole features. The following are comparable examples of 1930s and 1940s flat buildings located outside the Woollahra Council area.

Cairo Flats, 98 Nicholson Street, Fitzroy, Victoria, 1935-36, Best Overend



Designed by architect Best Overend, who had just returned from working in London. The two storey complex of 28 bachelor flats was one of the first modernist flats in Melbourne. Termed a 'minimum flat' it sought to provide simple function spaces for urban living. Cairo is listed by Heritage Victoria as an important example of the International Modern style and as a building which established a major break with conventional maisonette flat design.

Trelawney Court Heritage Assessment

Glenunga, 2 Horsburgh Grove, Armadale, Victoria, 1940, Romberg and Shaw



Designed by Frederick Romberg and Mary Turner Shaw and completed in 1940. It is considered historically significant as an illustration of the influence of European Modernism upon flat design in Melbourne and in particular the trend toward more compact flat layouts and is listed for its International Style form, materials and detailing. It includes a number of features in common with Trelawney Court including large areas of glazing, feature stonework and repeated circular elements. Glenunga is a listed heritage item within the City of Stonnington, Melbourne.

Yarrabee Flats, 44 Walsh Street, South Yarra, Victoria, 1940, Romberg and Shaw



Designed by Frederick Romberg and Mary Turner Shaw and completed in 1940. Originally unpainted face brickwork with rendered and painted balconies and window surrounds. The building shares a number of characteristics with the subject site including the curved balconies and awnings, and pipe balustrades. Yarrabee is not heritage listed.

Conclusion

3 Trelawney Street can be seen as a filtering of the eclectic local Sydney architectural idiom to suit the taste and training of Reves and Hayes, who had trained and practiced in central Europe before WWII. In 3 Trelawney Street some of the following design decisions they made were;

- 3 Trelawney is not composed with a traditional base, shaft and cornice like the Art Deco examples above. Instead both floors are identical in their treatment.

Trelawney Court Heritage Assessment

- Brickwork is arranged in large plain walls without variegated colours or multiple brick shapes and textures.
- Sandstone is used as a landscape element or detailed as an applied finish rather than as a structural basement level or “plinth” as can be seen in the examples above.
- No purely decorative elements are applied. Expression is achieved through the design of required elements such as glazing bars and balustrades.
- Balconies are formed of solid rendered elements and a lightweight horizontal steel pipe balustrade rather than a solid mass of masonry.
- Pitched roofs are hidden behind a parapet – rather than being expressed with eaves- and therefore resembling the modernist flat roof.

Building application plans held by Council demonstrate that through the design process the building can be seen to have developed towards European modernism and away from an initially typical local Inter-war style. The architects have opted for the building and architectonic elements most congruent with their central European modernist training, while still producing a building that is sympathetic to its context. During the design and building process Reves also developed typical elements into idiosyncratic forms that appear in his later work i.e. the “S” shaped awning that re-appears in 86A Victoria Road Bellevue Hill as a more organic and expressive Niemeyer-esque element.

Comparative analysis

Trelawney Court is an intact example of an Inter-war residential flat building, despite having been completed immediately post war. It shares a number of characteristics with other heritage listed residential flat buildings in the WMC area making it a representative example but can also be seen as having unique qualities that make it rare.

Like many residential flat buildings in the WMC area it represents the growing demand for housing from the 1930s and the progressive subdivision of larger single residential sites and the construction of multi-unit projects on the new lots. Unlike

Trelawney Court Heritage Assessment

many of the examples above, Trelawney Court was developed on a narrow site and in a low rise context. As a result it is relatively rare as a smaller apartment development with only 4 flats and the rear maisonette.

As the work of European trained architects, Trelawney Court is comparable to the work of British trained Architect Samuel Lipson, a number of whose buildings are listed as heritage items in the Woollahra LEP 2014 and the Sydney LEP 2012. Lipson's work is acknowledged as significant because it reflects the impact European trained architects had on the direction of architecture in the years immediately preceding World War 2. However, Trelawney Court can be seen to have characteristics of more modernist buildings, such as those designed by another émigré, Swiss-trained Frederick Romberg, in Victoria in the 1940s which are considered significant as early examples of International Style modernism in Australia. Having been completed just post war, Trelawney Court is a significant example of the work of the numerous émigré architects, particularly Hungarians, who settled in Sydney and practised a unique application of central European modernism. Few examples of these buildings remain as intact as Trelawney Court, including its interiors and with examples of its built-in furniture, making it rare.

The building is also representative of the work of George Reves, a significant modernist architect who completed a number of projects in the eastern suburbs during the 1950s and 1960s. The building reflects key elements of other projects designed by Reves including the curved feature awning, use of ashlar stonework feature panels and suppression of the expression of pitched roofs. When compared to other buildings by Reves, only a handful of which have been identified and many of those demolished or altered, as an intact example of his work it is rare.

The subject building is an excellent example of a well-designed Inter-war flat building with a unique approach to site planning, generous detailing and thoughtful development of living spaces. It displays architectural details that are typical of Inter-war flat buildings but also many unique details that reflect the design approach of its architects, a need to adapt to post war building shortages and a response to the site.

Trelawney Court Heritage Assessment

The result is a compact building providing a thoughtful street presence and high quality apartments.

Despite numerous examples of Inter-war flat buildings being listed as local heritage items in the Woollahra LGA and other LGAs, these buildings tend to show a wide variety of stylistic differences. The subject building displays elements of European Modernism that make it a unique adaptation of a common architectural form. The subject building can be seen to be a rare example of an Inter-war flat building showing the influence of European Modernism within the context of the Woollahra Council area. That the building remains substantially intact, including interior and interior fittings, further increases its rarity.

Trelawney Court Heritage Assessment

Section 6: Heritage Significance Assessment

Introduction

The assessment of heritage significance is undertaken by utilising an assessment criteria based on the Burra Charter of Australia ICOMOS. The principles of the charter relate to the assessment, conservation and management of sites and relics. This has informed legislation in the NSW Heritage Act 1977 which is implemented through the NSW Heritage Manual.

The following assessment utilises the heritage significance criteria set out in the document *Assessing Heritage Significance*, published by the NSW Heritage Office.

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 related local themes.

3 Trelawney Street, Woollahra relates to the following NSW Historical Themes:

Australian Theme	NSW Theme	Relevance
Peopling Australia	Ethnic influences	The subject building represents the application of European modernism as practiced by migrant architects in Sydney in the immediate post war years.
Building settlements, towns and cities	Accommodation	The building is an example of the development of apartments in Sydney in Eastern Suburbs in the immediate post war years.
Developing Australia's cultural life	Creative endeavour	The subject building is an example of modernist architecture of the late 1940s drawing stylistic elements from both a Moderne and International Style architectural vocabulary. It is also a representative example of the work of European émigré architects.

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Heritage significance assessment

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 or 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, movable 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 table below outlines the seven heritage criteria contained in the NSW Heritage Assessment Guidelines:

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);

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Criteria	Description
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.)

The following section provides an assessment of the significance of the subject site against the above criteria.

Criterion a- Historical significance

Trelawney Court is a significant example of an Inter-war flat building designed in the immediate post war period. It displays a combination of Moderne and International Style architectural influences and demonstrates the shift in the Woollahra area towards higher density and increased apartment development post war.

Designed by émigré architects for European clients, Trelawney Court can also be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.

Trelawney Court is also significant as an example of the work of architect George Reves, who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court, his first project in Australia,

Trelawney Court Heritage Assessment

demonstrates the evolution of his style as he adapted to the context of Sydney and has particular significance due to its intactness.

Guidelines for inclusion		Guidelines for exclusion	
X	• shows evidence of a significant human activity	X	• has incidental or unsubstantiated connections with historically important activities or processes
✓	• is associated with a significant activity or historical phase	X	• provides evidence of activities or processes that are of dubious historical importance
X	• maintains or shows the continuity of a historical process or activity	X	• has been so altered that it can no longer provide evidence of a particular association

Trelawney Court is associated with a significant historical phase and as such is of local significance under this criterion. The building does not meet the threshold for State significance under this criterion.

Criterion b- Associative significance

Trelawney Court has significant associations with architect George Reves, as his first project in Australia, and as one that was published and remains intact. The site also has associations with former owner Arthur Wigram Allen but as Allen never occupied the site, and owned many properties in Sydney, this association is not considered significant.

Guidelines for inclusion		Guidelines for exclusion	
X	• shows evidence of a significant human occupation	✓	• has incidental or unsubstantiated connections with historically important people or events
X	• is associated with a significant event, person, or group of persons	X	• provides evidence of people or events that are of dubious historical importance
		X	• importance has been so altered that it can no longer provide evidence of a particular association

Trelawney Court can be seen to have only incidental connections with historically important people and strong associations with people that are not widely recognised as historically important, so does not meet the threshold for listing under this criterion at either State or local level.

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Criterion c- Aesthetic/technical significance

Trelawney Court is a significantly intact example of an Inter-war flat building showing elements of both the Moderne and International style. As the work of émigré architects it can be seen to illustrate the transfer of European modernist architectural training to Australia and its application, often for European clients, in a new context. The architects have opted for the building and architectonic elements most congruent with their central European modernist training, while still producing a building that is sympathetic to its context. During the design and building process, Reves also developed typical elements into idiosyncratic forms that appear in his later work i.e. the “S” shaped awning that re-appears in 86A Victoria Road Bellevue Hill as a more organic and expressive Niemeyer-esque element.

Trelawney Court can be compared with other significant examples of modernist flats of the 1930s and 1940s including Cairo Flats and Glenunga, in Melbourne, both of which are heritage listed as influential examples of International Style modernism.

The building displays modernist architectural characteristics including the curved feature awning, use of ashlar stonework feature panels, marked horizontality and suppression of the expression of the pitched roofs and is of aesthetic significance as an intact example of a modernist Inter-war flat building.

Guidelines for inclusion		Guidelines for exclusion	
✓	• shows or is associated with, creative or technical innovation or achievement	X	• is not a major work by an important designer or artist has lost its design or technical integrity
X	• is the inspiration for a creative or technical innovation or achievement	X	• its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded
✓	• is aesthetically distinctive has landmark qualities exemplifies a particular taste, style or technology	X	• has only a loose association with a creative or technical achievement

Trelawney Court is aesthetically distinctive and shows creative and technical innovation and achievement and hence meets the threshold for local listing under this criterion. The building does not meet the threshold for listing at a State level.

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Criterion d- Social significance

Trelawney Court does not appear to hold strong or special associations with a particular community or group.

Guidelines for inclusion		Guidelines for exclusion	
X	• is important for its associations with an identifiable group	X	• is only important to the community for amenity reasons
X	• is important to a community's sense of place	X	• is retained only in preference to a proposed alternative

The building does not meet the threshold for local or State listing under this criterion.

Criterion e- Research potential

Trelawney Court has some research value for demonstrating the architectural work of Reves and Hayes. Little is known about both architects and their projects, many have been altered or demolished. As the building is substantially intact, its fabric also provides opportunities to reveal information about past ways of living and design and construction methods from the mid 20th century.

Due to its high level of intactness, including its interiors, it provides evidence of past customs and ways of life from a historically important time when the influence of European migrants was leading to substantial changes across the eastern suburbs.

The site was formerly part of the Elystan estate which appears to have contained extensive gardens and outbuildings. The archaeological remains of these elements may be present on the site and provide research opportunities.

Guidelines for inclusion		Guidelines for exclusion	
✓	• has the potential to yield new or further substantial scientific and/or archaeological information	X	• the knowledge gained would be irrelevant to research on science, human history or culture
X	• is an important benchmark or reference site or type	✓	• has little archaeological or research potential
✓	• provides evidence of past human cultures that is unavailable elsewhere	X	• only contains information that is readily available from other resources or archaeological sites

Trelawney Court has moderate levels of research significance associated with building up a greater picture of the work of George Reves and is significant at a local level under this criterion. The building does not meet the threshold for State significance under this criterion.

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Criterion f- Rarity

Trelawney Court is rare as an example of the work of Reves and Hayes, and also more generally Reves, few of whose identified projects remain intact.

It is also rare as a 1946 design undertaken by émigré architects, both of whom were just returning to private practice post war, having relocated to Australia from Hungary. Although émigré architects were to have a profound influence on the Woollahra LGA during the second half of the twentieth century, Trelawney Court, including its interiors, can be seen as a rare example of an intact flat building designed by émigré architects in the 1940s in the Woollahra LGA.

Reves had a distinctive application of modernism, taking in both European influences and later elements of Californian modernism, and his work can be seen as stylistically individual in the context of the Woollahra Municipality and Sydney more generally. None of his projects are protected by individual heritage listing. An intact example of his work, including interiors and built-in furniture, such as the subject building is rare.

Guidelines for inclusion		Guidelines for exclusion	
✓	• provides evidence of a defunct custom, way of life or process	X	• is not rare
✓	• demonstrates a process, custom or other human activity that is in danger of being lost	X	• is numerous but under threat
✓	• shows unusually accurate evidence of a significant human activity		
X	• is the only example of its type		
X	• demonstrates designs or techniques of exceptional interest		
X	• shows rare evidence of a significant human activity important to a community		

As an intact and unusual example of an Inter-war flat building complete with original interiors and built-in furniture, Trelawney Court demonstrates past practices and shows increasingly rare evidence of significant design movements and social changes in the Woollahra area. It meets the threshold for listing at a local level under this criterion. The building does not meet the threshold for listing at a State level under this criterion.

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Criterion g- Representative

Trelawney Court, with its interiors, is a fine and intact example of an Inter-war flat building. It has numerous features typical of similar flat buildings of the period including the use of built-in furniture, moulded plaster ceilings, steel frame windows, red bricks, curved balconies and awnings, rendered window surrounds and sandstone feature elements. It draws many of its stylistic elements from a Moderne architectural vocabulary, which was a popular style of the period.

It also displays the influence of European modernism and can be seen as representative of the work of émigré architects, who had studied and practiced in central Europe. This became an increasingly important contribution to the development of modern architecture in Sydney after WWII when significant numbers of European architects took up practice in Sydney.

Trelawney Court is a good example of the work of architect George Reves. Reves designed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s, and Trelawney Court displays a number of architectural motifs that he would go on to develop further in his later work including the curved feature awning, use of ashlar stonework feature panels and suppression of the expression of pitched roofs.

Guidelines for inclusion		Guidelines for exclusion	
✓	• is a fine example of its type has the principal characteristics of an important class or group of items	X	• is a poor example of its type
✓	• has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity	X	• does not include or has lost the range of
✓	• is a significant variation to a class of items	X	• characteristics of a type
✓	• is part of a group which collectively illustrates a representative type		• does not represent well the characteristics that make up a significant variation of a type
✓	• is outstanding because of its setting, condition or size		
X	• is outstanding because of its integrity or the esteem in which it is held		

Trelawney Court Heritage Assessment

Trelawney Court is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes. It is significant under this criterion at a local level. The building does not meet the threshold for listing at a State level under this criterion.

Statement of Heritage Significance

Trelawney Court at 3 Trelawney Street, Woollahra is a significant example of an Inter-war flat building designed in the immediate post war period with interiors and built-in furniture remaining intact. It has local historical significance for its ability to demonstrate the shift in the Woollahra area towards higher density and increased apartment development post war. It also has historical significance as a work of émigré architects for European clients and can be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.

Trelawney Court is also significant at a local level as a rare, intact example of the work of architect George Reves who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court demonstrates the evolution of his style as he adapted to the context of Sydney and has particular significance due to its intactness.

Trelawney Court has aesthetic significance at a local level as an intact example of a modernist Inter-war flat building. It retains a high level of original interior and exterior fabric and as an early work of émigré architects is able to demonstrate the transfer of European modernist architectural training to Australia. The building shares characteristics with other significant modernist 1930s and 1940s apartments, and is able to demonstrate the growing influence of International Style modernism on apartment design in Australia.

As an intact example of its type, Trelawney Court has research potential at a local level to demonstrate past ways of living and design and construction methods from the mid 20th century. It is also an important source of information about the work of its architects Reves and Hayes, of which little is known and many of their projects been altered or demolished. The building also has high levels of rarity values as an

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intact 1946 apartment design undertaken by émigré architects. Trelawney Court, including its interiors, is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes.

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Section 7 Conclusions and Recommendations

Conclusions

This report has assessed the heritage significance of Trelawney Court at 3 Trelawney Street, Woollahra. It has concluded that the residential flat building including its interiors meets the threshold for local heritage significance. Trelawney Court is of local heritage significance under the criterion of historical, aesthetic, rarity and representative significance.

This report has concluded that the subject site does not meet the threshold for State heritage significance.

Recommendations

Heritage listing

- Trelawney Court at 3 Trelawney Street, Woollahra, including its interiors, should 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 also recommended that Woollahra Council undertake a study of the work of émigré architects in the post war period, in the Council area to gain a fuller understanding of the rarity or representative value of the building and to identify other significant buildings.

Ongoing management

- It is recommended that the Trelawney Court be managed in line with the principles of the Burra Charter, particularly Article 3.1 which notes: “*Conservation is based on a respect for the existing fabric, use, associations and meanings. It requires a cautious approach of changing as much as necessary but as little as possible.*”¹ Any future adaptations or upgrades should aim to retain as much original fabric as possible.

¹ The Burra Charter, Australia ICOMOS 2013.

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- It is considered sympathetic upgrades of kitchens and bathrooms would not impact the building's overall significance, but should aim to retain as much early or original fabric as possible.
- All other extant original and early fabric, including built-in furniture, should be retained and conserved.
- The external appearance of the site when viewed from Trelawney Street, which remains largely original, should also be retained and conserved. It should be noted that the garage and laundry room are not considered to be of heritage significance.
- Due to the limitations of this assessment, which did not include a full inspection of the building, a fabric assessment should be undertaken. The external and internal fabric should be rated for its significance in order to guide future works. This might be best achieved via the preparation of a conservation management document which assesses the significance of the fabric and includes policies for future changes.
- A detailed internal and external photographic record of the building should be made and lodged with Woollahra Council and the Local Historical Association.

Trelawney Court Heritage Assessment

Section 8 References

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Woollahra Council building files

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City Jewellery Store, Decoration and Glass, Volume 15, No.4, November-December 1949, pp.28-29

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Cover, Architecture in Australia, July-September, 1955

Duns Gazette for New South Wales, Sydney

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**Section 9 Appendix A: Excerpts from Woollahra Council file
BA/1947, noting the disapproval of the first three-storey
scheme submitted.**

Trelawney Court Heritage Assessment

Municipality of Woollahra

No. 1

APPLICATION FOR APPROVAL TO BUILD

To The Town Clerk,
Woollahra.

I hereby make application to the Council for permission to erect building as stated hereunder, as per accompanying plans and specifications and in accordance with the provisions of the Local Government Act, 1919, and Ordinances thereunder, and I undertake to build in conformity with such approval and Act and Ordinances.

<p>Prop. No. <u>Owner</u> <u>M. and T. Danos</u></p> <p>Address <u>1, Ocean St. Woollahra</u></p> <p>Builder or Architect <u>REVES & HAYES</u></p> <p>Address <u>38/1 Pitt St. Sydney</u></p>	<p>LOCATION OF PROPOSED BUILDING</p> <p>Street <u>Trelawney St.</u></p> <p>House No. <u>3</u></p> <p>Lot _____ Section _____ or Name _____</p> <p>Estate _____</p> <p>Block plan drawn to scale must accompany.</p>
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<p>NEW BUILDINGS</p> <p>No. of new buildings <u>1</u></p> <p>Estimated cost of each building \$ _____</p> <p style="text-align: right;">Total \$ <u>10,000</u></p> <p>Estimated cost of fencing \$ <u>60</u></p> <p>Estimated cost of allotment \$ <u>1800</u></p>	<p>ALTERATIONS OR ADDITIONS TO EXISTING BUILDING</p> <p>State full particulars: _____</p> <p>Estimated cost, \$ _____</p>
---	--

The following particulars relating to area are required only in respect of residential flat buildings:—

Area of allotment <u>7487</u> sq. ft.	Area proposed to be covered by buildings <u>2620</u> sq. ft.	Total area of site <u>7487</u> sq. ft.	Total floor plan area <u>7348</u> sq. ft.
---------------------------------------	--	--	---

State for what purpose (dwelling, flats, commercial building, hotel or hostel) flats

PARTICULARS OF NUMBER OF BUILDINGS, ROOMS, ETC.

<p>FLATS:</p> <p><u>4</u> flats of <u>5</u> rooms.</p> <p><u>1</u> " " <u>3</u> " "</p> <p><u>1</u> flats of <u>2</u> rooms.</p> <p>No. of bldgs. _____</p>	<p>DWELLINGS:</p> <p>No. of storeys <u>3</u></p> <p>No. of rooms in each bldg. <u>29</u></p>
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NOTE: "Rooms" means living rooms, bedrooms and kitchens. Domestic offices (laundry, bathroom, etc.) not to be included.

SUMMARY OF SPECIFICATION.

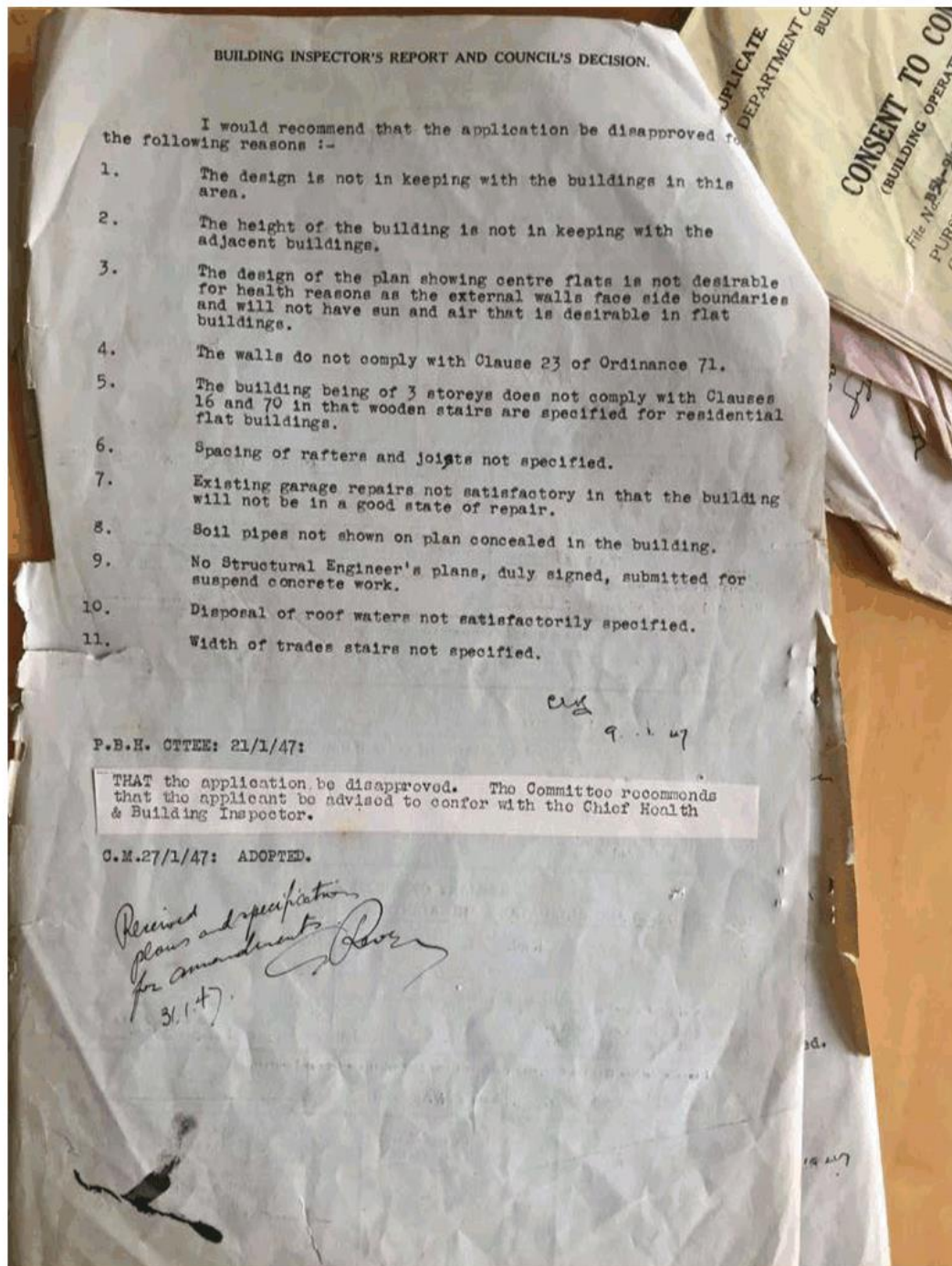
<p>NEW BUILDINGS AND ALTERATIONS AND ADDITIONS:</p> <p>Walls <u>Brick</u> Roof <u>tile (Forced)</u></p> <p>Dampcourse <u>2-4 lb. lead</u></p> <p>Drainage of roof water <u>down pipes into 4" earthenware pipes</u></p> <p>Distance from street alignment to nearest part of proposed building <u>20'-0"</u> feet</p>	<p>GARAGES:</p> <p>Number of garages <u>2 existing garage to be repaired.</u></p> <p>Walls _____</p> <p>Roof _____</p> <p>Distance from street alignment to nearest part of proposed bldg. _____ feet</p>
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I hereby declare that the foregoing statements and particulars are true and correct.

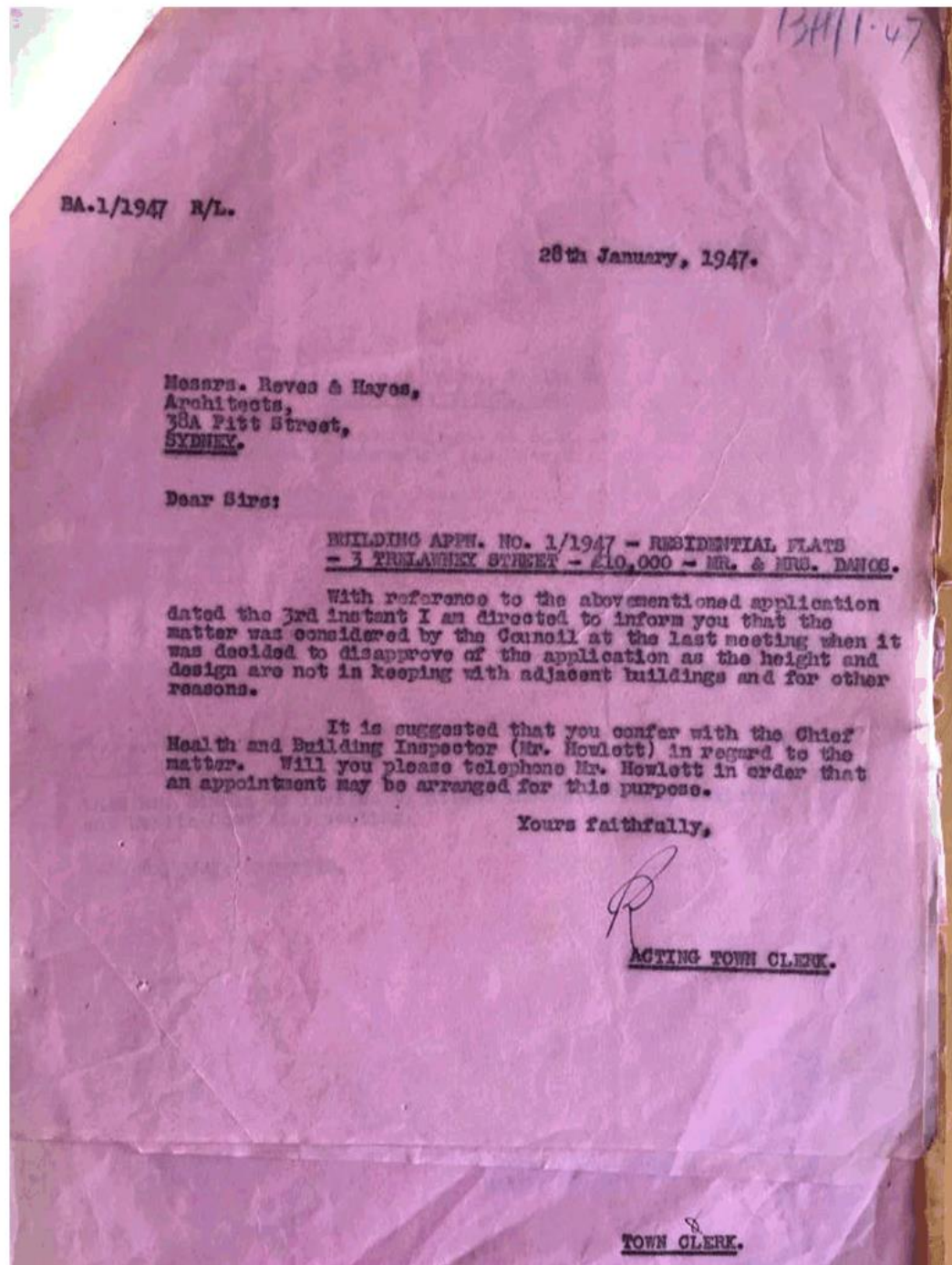
Date 3rd January 1946 (Signature of Applicant) Reves & Hayes

<p>Amount of fee:—</p> <p style="text-align: right;">\$ <u>2,100</u></p> <p>Receipt No. <u>6096</u></p>	<p>Date plans stamped with Council's approval. _____</p> <p>Initials _____</p>	<p>I hereby acknowledge receipt of the following:</p> <p>One copy of plan and specification; One Foundation card; One Dampcourse card; One Completion card; Notice to provide temporary closet accommodation.</p> <p>Signed _____ Date _____</p>
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Trelawney Court Heritage Assessment



Trelawney Court Heritage Assessment



Trelawney Court Heritage Assessment

Section 10 Appendix B: Work of Reves and Hayes

Trelawney Court Heritage Assessment

Identified projects by George Reves:

Reves and Hayes

- 1949- Trelawney Court, 3 Trelawney Street, Woollahra (Decoration & Glass, Jul-Aug, 1949, Max Dupain images SLNSW)
- 1949- City jewellery store (Decoration & Glass, Nov-Dec, 1949)
- 1951- Werner House, 85 Victoria Road Bellevue Hill

George Reves

- 1951 Werner House, 85 Victoria Road, Bellevue Hill
- 1955 22 Ida Avenue Beauty Point
- 1956 10 Wallangra Road, Dover Heights (demolished 1997) (see Architecture in Australia April-June 1956, also Max Dupain images SLNSW)
- 1956 House at Leura (Max Dupain images SLNSW)
- 1956 Bellevue Hill house (Architecture in Australia cover project with Gabor Lucas)
- 1957 Schwartz House, 875 New South Head Road, Rose Bay (demolished 2016)
- 1957 40/A Gordon Street, Clontarf
- 1957 58 Cutler Road, Clontarf
- 1961 Horsky House, 6 Fernleigh Gardens (or 861 New South Head Road Rose Bay, demolished or substantially altered)
- 1962 Jackson House, 40 Latimer Road Bellevue Hill
- 1962 Stein House, 86B Victoria Road, Bellevue Hill (recently renovated by Luigi Rosselli)
- 1968 Emil Binetter House, 887 New South Head Road, Rose Bay (intact)
- 1968 Ervin Binetter House, 883 New South Head Road, Rose Bay (demolished)

Projects dates unknown:

- 10 Fernleigh Gardens, Rose Bay (recently extensively renovated by De la Vega Architects)
- 5 Mildura Street, Killara
- 3 Tiptree Avenue, Strathfield

Trelawney Court Heritage Assessment

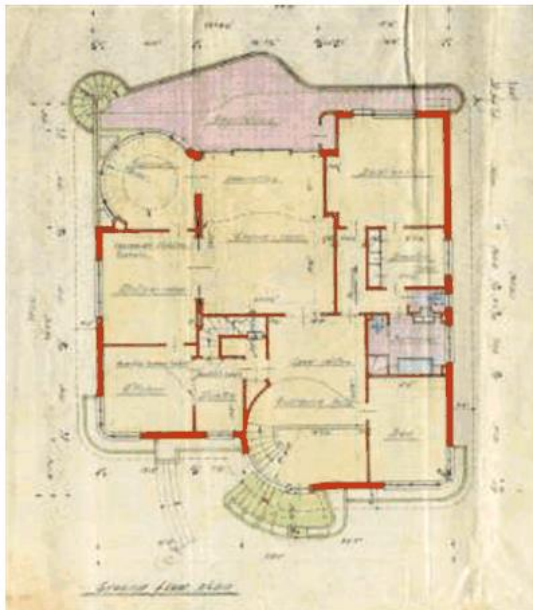
Select Projects:

Werner House, 85 Victoria Road, Bellevue Hill 1951

Reves' first major residential commission and one of the largest houses he designed.

Two storey masonry construction with concrete floor and roof slabs. External walls rendered. Window frames of galvanised steel.

Originally contained a considerable amount of built in furniture by Paul Kafka.



Detail 1951 proposed floor plan 85 Victoria Road Bellevue Hill, Woollahra Council files.

Trelawney Court Heritage Assessment

22 Ida Avenue, Beauty Point 1955

Single storey, one bedroom house timber floor on load bearing masonry walls with reinforced concrete slab roof. Cantilevered concrete slab making curved balcony extending over the front yard. Corner windows on front elevation curved glass. Exterior of bagged render painted white internal walls rendered and white.

10 Wallangra Road, Dover Heights 1956 (demolished)

Architecture Australia, v.44, pp.42-51 April- June 1956:

“The site is a narrow corner block. The main entrance divides the building into strictly separate sleeping and living areas with different roof levels. The rooms of the living area open onto each other and there is a complete wall of glass opening to the view. The front of the building is cantilevered to obtain a greater area of front garden. Photographed by Max Dupain 1956. Images now in SLNSW collection. Demolished in Jan. 1997.



Trelawney Court Heritage Assessment

875 New South Head Road, Rose Bay 1957 (demolished 2016)

Two storey, one bedroom house. Load bearing brick construction, rendered, front section timber floor, rear concrete slab. Roof of insulated built up timber structure. Main stair divides functional areas of house into sleeping and living. Extensive built in furniture by Gerstl Cabinet Works (see chapter in [The Other Moderns: Sydney's Forgotten European Design Legacy](#)). Internal white walls. External use of colours and natural stone feature wall and paving. Vertical weather boards on rear Maid's Quarters coloured.

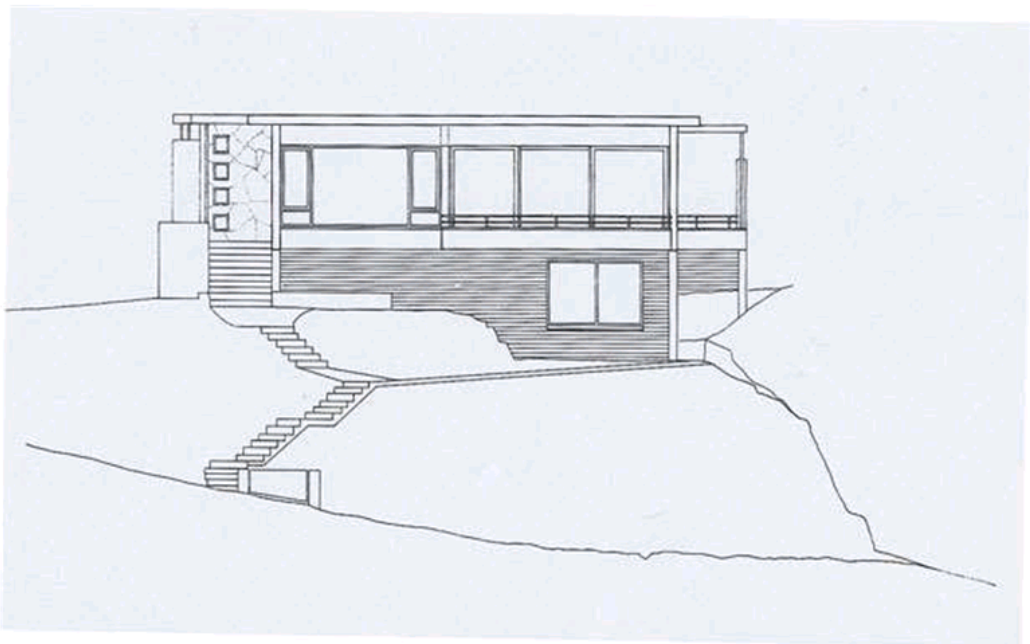


Trelawney Court Heritage Assessment

40/A Gordon Street, Clontarf 1957 (extended by Reves 1970)

Three bedroom spacious home on elevated block overlooking Middle Harbour.
Separate Maid's Quarters at lower level. Masonry load bearing walls, timber framed floor, insulated timber flat roof. Lower portion of house face brick at the front with remaining facades rendered and coloured 'apricot'.

Altered in 1970 by addition of another storey and swimming pool. Intact?



Ted Quinton drawing

Trelawney Court Heritage Assessment

58 Cutler Road, Clontarf 1957

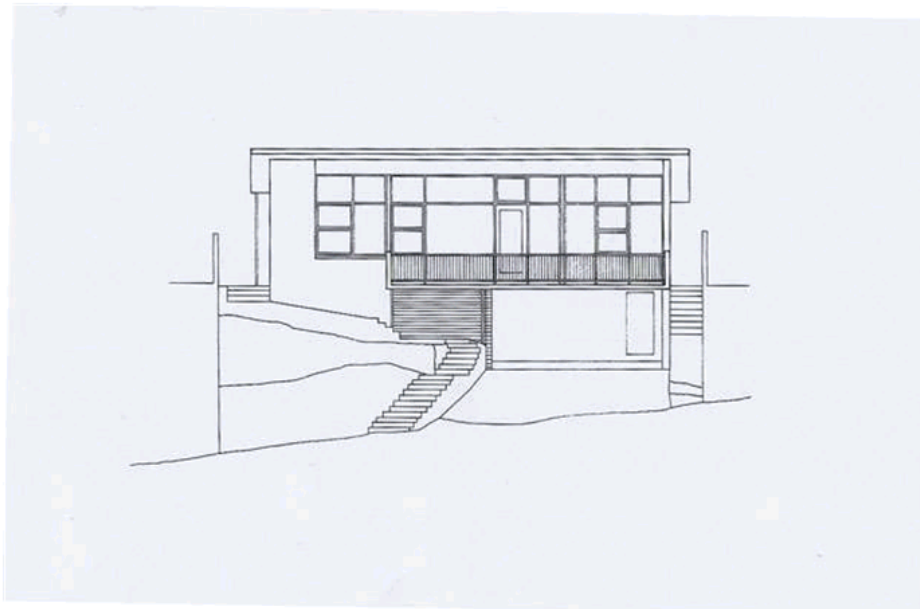
Single storey masonry construction with load bearing walls and timber framed floor and built up timber butterfly roof form with flat section to rear.

Balcony to front supported on steel columns. Small eating area with built in seating.

Butterfly roofed structure divided living and sleeping spaces. Rear of house contains three bedrooms with master bedroom elevated and accessed by timber steps.

Rendered walls painted white internally and externally.

Condition unknown



Ted Quinton drawing

Trelawney Court Heritage Assessment

887 New South Head Road, Rose Bay



(Author photo 2020)

883 New South Head Road, Rose Bay (now demolished)



(Author photo 2003)

Houses designed for the Binneter Brothers, shoe importers. Also with a Rawson Road address at rear.

Trelawney Court Heritage Assessment

10 Fernleigh Gardens, Rose Bay (now substantially altered)



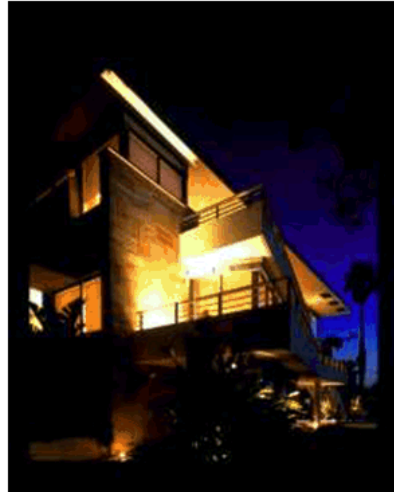
(Author photo 2003)



(Author photo 2020 showing substantial changes)

Trelawney Court Heritage Assessment

6 Fernleigh Gardens, Rose Bay (now substantially altered)



No information about the original design has been located during this study.
(images De La Vega Architects website 2020)

Trelawney Court Heritage Assessment

86A Victoria Road, Bellevue Hill

(Listed as 86B on Council plans)

Luigi Rosselli renovation describes the house as follows:

Influences from the work of legendary Brazilian architect, Oscar Niemeyer are evident throughout the house...(particularly the) voluptuous form of the concrete awning that covers the entry and provides the first impression one receives when approaching via the lushly planted drive. Once inside, those influences, and the broader design elements that anchor the home in the modernist era, continue in the form of carefully restored original features such as the single stringer and cantilevered switchback stair, and the sinuous curved ceiling bulkheads in the lounge, dining and kitchen spaces.



(Author photo 2003)

Trelawney Court Heritage Assessment



(Images Luigi Rosselli website)

Trelawney Court Heritage Assessment

JOURNALS

Trelawney Court, Decoration and Glass, Vol. 15 No. 2 (July - August 1949), (cover)

City Jewellery Store, Decoration and Glass, Vol. 15 No. 4 (November - December 1949),

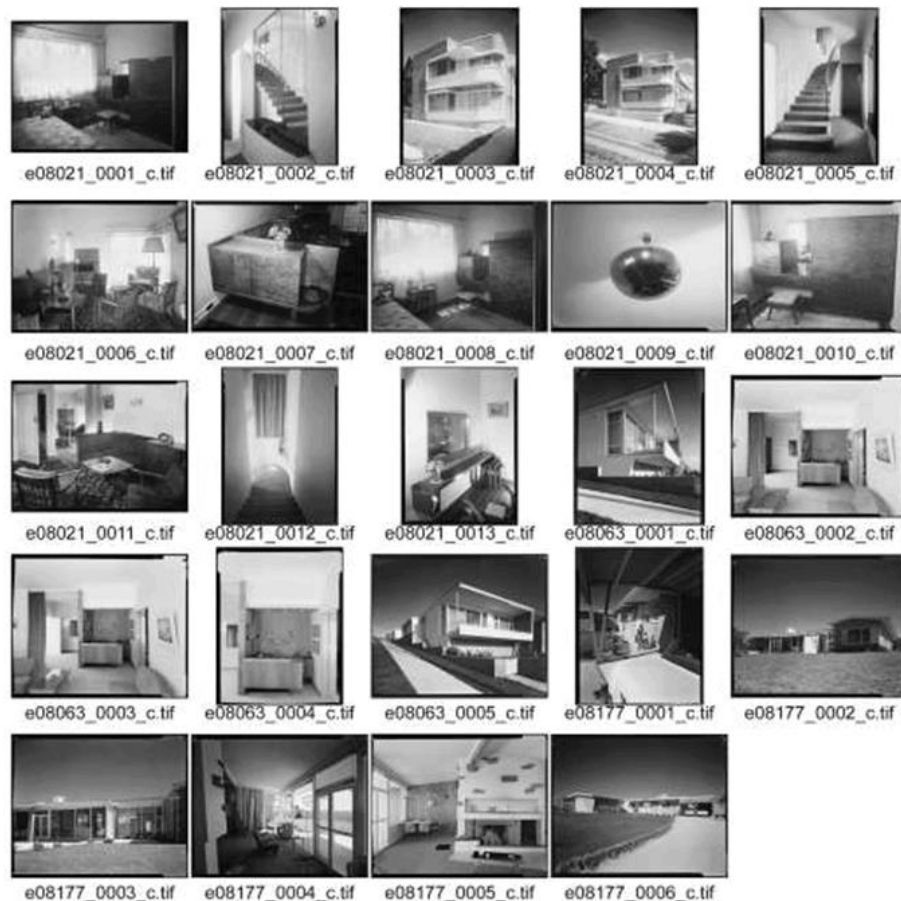
House at Bellevue Hill (Gabor Lukas in association with George Reves), Architecture in Australia, July- September, 1955 (Cover)

House, 10 Wallangra Road, Dover Heights, Architecture in Australia, v.44, pp.42-51, April-June 1956



Trelawney Court Heritage Assessment

**Max Dupain Archive, projects with client listed as 'George Reves', State Library
of NSW:**



Trelawney Court Heritage Assessment

Section 11 Appendix C: Heritage Inventory Sheet

Draft Woollahra 2015: Heritage inventory sheet

Based on the NSW Heritage Office State Heritage Inventory sheet

ITEM DETAILS			
Name of Item	Trelawney Court		
Former name	NA		
Item type	Building		
Address	Number 3	Street Trelawney Street	Suburb Woollahra
Property description	Lot Lot 1		DP DP 86213
Owner	Name		Address
Use	Current Residential flat building		Former NA
Statement of significance	<p>Trelawney Court at 3 Trelawney Street, Woollahra is a significant example of an Inter-war flat building designed in the immediate post war period with interiors and built-in furniture remaining intact. It has local historical significance for its ability to demonstrate the shift in the Woollahra area towards higher density and increased apartment development post war. It also has historical significance as a work of émigré architects for European clients and can be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.</p> <p>Trelawney Court is also significant at a local level as a rare, intact example of the work of architect George Reves who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court demonstrates the evolution of his style as he adapted to the context of Sydney and has particular significance due to its intactness.</p> <p>Trelawney Court has aesthetic significance at a local level as an intact example of a modernist Inter-war flat building. It retains a high level of original interior and exterior fabric and as an early work of émigré architects is able to demonstrate the transfer of European modernist architectural training to Australia. The building shares characteristics with other significant modernist 1930s and 1940s apartments, and is able to demonstrate the growing influence of International Style modernism on apartment design in Australia.</p> <p>As an intact example of its type Trelawney Court has research potential at a local level to demonstrate past ways of living and design and construction methods from the mid 20th century. It is also an important source of information about the work of its architects Reves and Hayes, of which little is known and many of their projects been altered or demolished. The building also has high levels of rarity values as an intact 1946 apartment design undertaken by émigré architects. Trelawney Court, including its interiors, is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes.</p>		
Level of significance	State: x		Local: ✓
Heritage listings	None		
DESCRIPTION			
Designer	George Reves (nee Revesz) and Charles Hayes (nee Hajos)		
Builder	Unknown		
Construction years	1947		

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Based on the NSW Heritage Office State Heritage Inventory sheet

Physical Description	<p>Trelawney Court is a two-storey inter-war Moderne/ Modernist/ Art Deco style apartment building built in light red face brick with rendered balcony balustrades and slab edges and curved ashlar sandstone feature panels.</p> <p>The lobby and stair give access to four single level apartments; two on the ground and two on the first floor. Apartments 1 (ground floor) and 3 (first floor) are identical in plan, being small 3 bedroom apartments of approximately 90 m² NLA (net lettable area).</p> <p>Apartment 2 (ground floor) is a small 1 bedroom apartment with ensuite bathroom approximately 47 m² NLA (net lettable area). Adjacent is a boiler room. Apartment 4 (first floor) has the same plan as Apartment 2 with additional space afforded by the omission of the boiler room. It is a 1 bedroom apartment with ensuite bathroom plus separate WC and a small balcony facing west. It is approximately 57 m² NLA (net lettable area) including the balcony. The ground and first floors are also linked by a trades stair.</p> <p>The sandstone-flagged path continues to the entry door of apartment 5, a two-storey masonette apartment. This apartment has 3 bedrooms and a study. The ground floor comprises a rather splendid entry lobby, (a smaller version of the of the first lobby) a small awkwardly shaped bedroom, small kitchen with attendant porch, tiny dining nook and a living room which opens to a courtyard. A WC with a porthole window is tucked under the stair. The first floor has two bedrooms, a bathroom and a study as well as a balcony accessed from the main bedroom.</p> <p>The building displays expensive construction methodologies, complex planning and non-standardized features with each unit individually detailed. This indicates it was designed for a more luxurious form of apartment living and that it was not simply developed as an investment to maximise lettable areas. The 1949 <i>Decoration & Glass</i> article notes that many of the building's features were adaptations to post war materials shortages. This included the rendered awnings and sills, in place of light bricks that were not available.</p> <p>The article also notes a number of design features utilised to increase a feeling of space, despite the limited site area. This included terraces and large windows provided to increase the appearance of room sizes and to provide morning sun to all bedrooms. The generous entry stairs, curved and with varying widths, also added a sense of grandeur to the small building. The building also contained extensive amounts of built-in and recessed furniture, of which only some items remain.</p> <p>Exterior: The building exterior appears to be almost completely unaltered. The street facade presents as an asymmetrical, flat roofed corner building, even though there is a relatively straightforward apartment building behind. Stylistic elements added to the façade give a modern appearance to what is actually a building with the commonplace brick, timber and tile conventions' of the 1940s.</p> <p>The external walls are cavity brick; face brick externally, rendered internally. To Trelawney Street the external wall is a concrete capped face brick parapet extending north for approximately 10 metres; thus resembling a modernist flat roofed building. From there the wall roof junction is expressed as it is; i.e. a timber framed roof with Marseilles pattern terracotta tiled roof, with lined eaves and quad gutter and exposed downpipes. The brick wall is broken into two parts orthogonal to each adjacent boundary, thus inflecting to the best view and simulating a corner site view.</p> <p>The floors of the building are timber framed generally with suspended concrete slabs for the bathrooms, showers, WCs and trade stairs; and the ground and first balconies and porches.</p>
Physical Description	<p>All four facades show a great deal of attention to detail. The Trelawney Street facade has a curvaceous S shaped concrete awning, above the typically 1930 Moderne curved rendered balustrades. The distinctive "S" shaped first floor concrete awning slab edge- and curved ashlar sandstone feature panels infill between delicate steel windows which have curved glazed corners. These elements are also found in George Reves' later work, but here can be seen as typical of a streamlined 1930s P&O Moderne architectural style,</p>

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Based on the NSW Heritage Office State Heritage Inventory sheet

	<p>which commonly referenced ocean liners.</p> <p>The curved concrete slab awning and ashlar sandstone blade wall punctuated by 3 circular openings at the lobby entry also refer to P&O Moderne style. The lobby to apartment 5 has a similar treatment.</p> <p>The external walls are cavity brick; face brick externally, rendered internally. The floors of the building are timber framed generally with suspended concrete slabs for the bathrooms, showers, WCs and trade stairs; and the ground and first balconies and porches.</p> <p>Circular bulkhead lights are an integral part of the design of each concrete awning, and this light type is repeated internally in stair lobbies.</p> <p>The building is a well-built small scale luxury apartment block and had a generous budget for its building type, as shown by the complexity of the planning and detailing as well as the lack of standardization of apartment plans, windows and kitchens which is the hallmark of apartment design.</p> <p>Interior</p> <p>The interiors of the building appear to have been largely unaltered. Comparisons with the floor plan reproduced in the 1949 <i>Decoration & Glass</i> article indicate there have been no changes to the internal layouts. The typical internal wall finish is painted cement render, with patterned render being used in the ground floor walls of the lobby.</p> <p>Ceilings of both the lobby and apartments are plastered with curved "streamlined" plasterwork to living areas. This appears to be intact in most of the apartments. The building retains many original light fixtures internally and externally.</p> <p>Entry thresholds generally have a terrazzo sill. The entry lobby has an entry landing of 2 inch x 2 inch unglazed terracotta tiles while the remaining floor finishes are typically carpet. The main lobby walls have inset timber and glass notice and directory boards. The main stair has curved winders and a curved balustrade of welded steel flats typical of cinema buildings of the 1930s.</p> <p>Inside the apartments kitchens appear to generally retain their original or early timber and laminate cabinetry. Bathrooms also retain their original or early unglazed patterned floor tiles and coloured glazed wall tiles, many with original period sanitary fixtures.</p> <p>Reveals to the steel windows are cement rendered with no traditional timber architraves.</p> <p>The <i>Decoration & Glass</i> article refers to an extensive use of built-in furniture and images show a combination of built-ins and loose furniture items, possibly designed by Reves and Hayes, as was typical of the work of European architects in the period. The built-in units provide storage and maximise usable space in the apartments. The limited internal inspections undertaken for this report indicate only a few built-in units remain. Built-in items such as the banquettes shown in the maisonette in the article appear to have been removed. The maisonette (Apartment 5) has retained more elements than other apartments. A large L - shaped cabinet of birds-eye maple veneer remains in the living room, with a built-in tiled mirror unit with integral shelf. It also retains a light timber veneer sliding door servery unit between the kitchen and the dining nook. The entry lobby retains a timber framed wall mirror with 'flower shelf' and early or original wall lights. These joinery units feature Reves signature layout of timber veneer and are typical of the work of the émigré joiners such as Paul Kaka, Gerstl Cabinet Works, Kafka, Zink and Davidovich (although the particular joiner used for this project is unknown).</p> <p>Interiors:</p> <p>The interiors of the building appear to have been largely unaltered. Comparisons with the floor plan reproduced in the 1949 <i>Decoration & Glass</i> article indicate there have been no changes to the internal layouts. The typical internal wall finish is painted cement render, with patterned render being used in the ground floor walls of the lobby.</p> <p>Ceilings of both the lobby and apartments are plastered with curved "streamlined"</p>
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Based on the NSW Heritage Office State Heritage Inventory sheet

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Physical condition	<p>The building is in excellent condition. The face brickwork has gained a slight patina with some minor patches of blackening on the brick parapet at high level, which is to be expected. The detailing of the concrete awnings and balustrades and the drainage of the box gutter has been effective in reducing staining.</p> <p>Balconies, windows, eaves and gutters all appear to be in very good condition and have been well maintained. The steel windows are all operable and appear to have been regularly maintained and painted.</p>
Modification and Dates	<p>A search of Council records indicates that there has been only one building application or development application since its construction. A building application approved 14 April 1971 to alter the kitchen and cloakroom in apartment 5 was not carried out, and the apartment remains today as it was shown in the original BA drawings dated 28 March 1947.</p> <p>Internally the building remains substantially intact including the internal layout of apartments, decorative curved plaster work at ceilings, bathroom tiles and fixtures, kitchen cabinetry and lighting. In addition some built-in furniture remains, particularly in apartment 5.</p> <p>The front facade has not been altered. The boiler room chimney has been retained. Only the rear facade shows some alteration with the original 50mm diameter circular hollow section welded steel balustrade having been replaced by an unsympathetic pool fence type balustrade with opaque glass infill panels.</p> <p>Early external photos taken by Max Dupain show the front sandstone block with steel pipe fence has been raised in height with three courses of matching sandstone blocks added to each post. This has retained the original form and materials.</p>
Archaeological potential	Not known.

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HISTORY

Historical notes

Part of Eora Country

The coastal regions of Sydney between Port Jackson and Botany Bay are the ancestral territories of the Eora people. The traditional owners of the land now within the Woollahra Council area were the Cadigal (Gadigal) people, part of the Dharug language group. In common with other tribes living by Sydney Harbour, the Gadigal lived in harmony with the natural resources within their country, fishing from canoes or hunting the animals that lived in surroundings. The tribe appears to have moved within their territory in response to the seasons. Shell middens in the area provide material evidence of many centuries of sustained connection to the land that also sustained them. The arrival of white settlers caused the wholesale disruption of traditional life and the cultural practices of the Eora people generally. Despite enormous challenges, today many Indigenous people identify as Eora and maintain cultural practices and a connection to country.

Early European Settlement

Following the arrival of the first fleet in 1788, the land between Watsons Bay and Sydney was initially deemed either too swampy or sandy for agricultural development. It was a place where rushcutters gathered reed for thatch and timber was felled for firewood. Small-scale industries developed in the early 19th century and the firm of Cooper and Levey ran a tallow production works until the 1850s.

By 1803 South Head and Vaucluse were frequented by day-trippers who travelled along rough tracks in order to enjoy the harbour vistas. Bellevue Hill was opened by the construction of Old South Head Road in 1811, however, the topography of the municipality discouraged any other substantial road development rendering Woollahra one of the least developed parts of the east.

During the early years of Governor Macquarie's rule land grants were made to military men, the most prominent of these in the area was to the flamboyant naval officer, Captain John Piper, in 1815. Following Piper's financial demise, Daniel Cooper (1785- 1853) and Solomon Levey (1794-1833) acquired the land in 1827. Cooper and Levey were importers, exporters, wool-buyers, ship owners and builders, shipping agents, whalers, sealers and merchants who controlled a large share of the Colony's business.

The land on which 3 Trelawney Street stands was once part of a 1130 acre grant by Governor Darling on March 22, 1830 in fulfillment of a promise made by Macquarie to Piper. The grant states that it is a consolidation of several early grants for which no deeds were executed and included the whole 500 acres of the Piper Estate. Cooper and Levey also later acquired, by grant or purchase, large tracts of land in Waterloo, Alexandria, Redfern, Randwick and Neutral Bay.

New South Head road was surveyed in 1831-2 however, completion to an acceptable standard took many years. The completion of this road provided the first real incentive for more intense development as previous developments had relied on water access. Following Levey's death in 1833 and protracted legal proceedings Cooper bought out Solomon Levey's heir, John Levey. By 1842, the whole estate was effectively owned by the Cooper family.

History of the subdivision

The Cooper estate was plagued by legal problems from the 1830s, caused first by the will of Solomon Levey and later by that of Daniel Cooper, following his death in 1853. As a result little development occurred during this era. Cooper's Woollahra estate was willed not to his next of kin, his nephew Sir Daniel Cooper (1821-1902), but to Sir Daniel's son, Daniel. In 1844 Cooper had commissioned Surveyor General Thomas Livingstone Mitchell to prepare a trigonometrical survey of the estate that included its division into allotments. As the new owner was a minor in 1853, Trustees managed the estate until 1869. The trustees opened some areas of the estate on 99-year leases.

Elystan

For most of the early 20th century the subject site was part of the grounds of Elystan, a large house built in the 1860s. In 1874 it was listed for sale by then owners the Gilchrist family, and described as a 'first class' family residence on five acres of ground fronting Edgecliff Road, Ocean and Trelawney Streets.

The property originally occupied the entire block from Ocean Street to Edgecliff Road with Trelawney Street as its southern boundary. Sands directory listings from 1886 list Elystan as the only property on the northern side of Trelawney Street and is occupied by Samuel Grey. A year later it is occupied by James Marks. By 1910 the northern side of Trelawney Street has been subdivided to the west of Elystan, however Elvo, on the corner of Trelawney and Edgecliff Road, is the only property to its east. The map below from 1889 shows this development.

In 1912 the Elystan grounds were further subdivided with the creation of Rosemont Avenue to the west of the house

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and the land to the north opened of the house subdivided for development. See Plan of the Rosemont Estate below.

At some point the eastern sections of the property are subdivided. The Sands directory records that the subject site is owned by Arthur Wigram Allen from 1927. Allen was a prominent solicitor with extensive land holdings, most notably in Glebe. Council valuation cards indicate the subject site remains undeveloped with a fence its only built structure.

During the early 20th century the surrounding area is becoming increasingly more densely developed. A house is built directly to the west of the subject site, The Rest, which is by 1946 converted to a duplex. It is later demolished and the current apartment complex constructed.

Progressively the large estates in the surrounding area are subdivided and many of the large houses are converted to apartments. An example being the property to the east of the subject site, on the southern side of Trelawney Avenue, Quiraing, which is subdivided and later demolished and replaced by a high rise apartment building.

It is not known when Elystan house is demolished but a 1930s apartment building, at 3 Rosemont Avenue, now occupies its former location.

3 Trelawney Street, Woollahra

The subject site remained undeveloped and in the ownership of Arthur Wigram Allen until its 1943 purchase by Tibor and Marta Danos. National Archives of Australia immigration records indicate the Danos' were Hungarian and arrived in Australia in 1940. On Council valuation records the Danos' gives their address as 'Styletex' in George Street Sydney, a textile company listed in Dun's Gazette as owned by Marta Danos.

A building application to erect the apartment block at 3 Trelawney Street was made in November 1946 under BA1/47 for a Mr. T Danos. Council's building application file shows that the initial proposal was for a main building of three stories with a two storey maisonette at the rear (drawing dated 20.11.1946). This was followed by a secondary scheme of two stories (drawing dated 1.4.1947).

File BA1/47 shows that Council's 'Plans, Building and Health Committee' recommended on 21 January 1947 that the BA be disapproved for 11 reasons. Reasons 1 and 2 being:

1. The design is not in keeping with the buildings in this area.
2. The height of the building is not in keeping with the adjacent buildings.

On 27 January 1947, the Council adopted the Committee's recommendation (BA1/1947, Letter from Acting Town Clerk, 28.01.1947).

Amended plans were lodged which reduced the proposal to two stories with four apartments and one two storey maisonette apartment at the rear. This revised scheme was approved by Council 15.4.1947. The specification was prepared by Reves and Hayes Architects for a concrete framed, brick structure with cavity walls. The roof is pitched behind a parapet and tiled with red Marseille tiles.

Although the initial proposal was considered as not in keeping with the character of the area the final revised and approved building drew attention as a modern apartment providing light filled and well furnished, functional apartments. Trelawney Court was featured on the cover of Australian publication *Decoration and Glass* in July-August 1949.

It appears Max Dupain took the published photos, as a search of the Max Dupain and Associates archive, now held in the State Library of NSW shows 13 photos of the building including those used in the article. Many of the interior images record the extensive built in furniture that was part of Reves and Hayes design and demonstrated a common European custom, no doubt familiar to both architect and client.

When travelling in 1960 and again in 1968 Marta and Tibor Danos give their address as 3 Trelawney Street indicating they lived in one of the apartments, probably the maisonette. Most of the Dupain interior photos are of the maisonette apartment possibly indicating the Danos' commissioned the furniture primarily for their own apartment. The property remained in their ownership until 2019 when Marta Danos bequeathed the building to St Luke's Care and the Garvan Institute. In October 2019 the building was put up for auction and sold for \$7.2 million.

Reves and Hayes Architects

The building at 3 Trelawney Street was designed by the architectural partnership of Reves and Hayes. This appears to have been a short lived partnership formed after the war and dissolving in 1952 when Hayes moves to a larger firm and Reves establishes a solo practice.

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Based on the NSW Heritage Office State Heritage Inventory sheet

Reves and Hayes were both Hungarians who emigrated as a result of World War II. Although neither is well known, their careers can be seen as representative of the significant numbers of European émigré architects, particularly Hungarians, who practiced in Sydney following WWII. Reves completed a number of residential projects in the eastern suburbs and had his work published in the architectural press during the 1950s, but the majority of his work is unknown and now difficult to identify. Hayes did not register with the Architect's Board of Registration until later in his career, remaining an employee in medium sized firms. Hence we know very little about his design work. This is typical of émigré architects many of whom had low profile careers and received little attention from the architectural community.

A recent focus on Australia's modernist architectural heritage and the diversity of its application has led to the re-evaluation of the work of many émigré architects. The direct experience of European modernism and training from European Universities that European architects brought is now acknowledged as a factor for considering their work in a new light. Their work was often welcomed by European clients seeking the familiarity of a European lifestyle, including apartment living. Many of these émigré architects worked in the eastern suburbs where significant numbers of Europeans settled during and after World War II. The combination of Hungarian client and architect in the subject site represents the increasing influence of Europeans on the development of Sydney's suburbs after WWII.

George Reves

George Reves (nee Revesz) (1910–2004) was a Hungarian who migrated to Australia in 1939. Reves graduated with an architectural degree from the Royal Joseph Technical University, Budapest. He worked in Paris for modernist Auguste Perret before returning to Budapest in 1934 to begin his own practice, designing a number of houses and apartment buildings. Following the German annexation of Austria, Reves fled Europe, arriving in Australia.

Reves' wartime experience in Sydney included designing for James Hardie. He registered as an architect in 1945, and his small-scale, largely residential practice drew on his extensive contacts in Sydney's émigré community. Although he ran a small practice two of his houses, both located in the eastern suburbs, were featured in *Architecture in Australia*, in 1955 and 1956.

The National Archives of Australia passenger travel records show that Reves travelled to Los Angeles in 1955 and his work from this period onwards shows significant influence of American modernism, in particular the 1955 Spencer Residence by Richard O. Spencer which was published in *arts & architecture* in 1954.

As was common practice in Europe many of Reves' projects included the design of furniture as part of the overall architectural design. An example is the Schwartz House he designed at 875 New South Head Road, Rose Bay (1957). This project and its furniture were featured in the 2017 exhibition *The Moderns: European Designers in Sydney* at the Museum of Sydney. A chapter about the house and the furniture makers, also émigrés, M Gerstl Cabinet Works is part of the 2017 publication *The Other Moderns*.

Ted Quinton, who interviewed Reves in 1997 for his Bachelor of Architecture dissertation, notes that in the 1960s Reves switched his practice from largely residential work to larger projects, designing and refurbishing factories, motels and hotels, including several interstate projects. This change seems to coincide with the relocation of his office from 45 Phillip Street, Sydney to 29 Berry Street, North Sydney where he remained until he retired in 1980 aged 70.

Charles Hayes

Fellow Hungarian Charles Hayes (nee Hajos) (1911- 1995) also graduated from the Royal Joseph Technical University, Budapest with a second class Honors degree in architecture in 1934. From 1934 to 1940 he was employed as an architect in Budapest before emigrating to Australia in 1940.

In Australia Hayes found architectural work with established firm Lipson and Kaad, before joining the Australian Army from 1942 to 1946. Hayes applied for registration in 1946 when the Architects Registration Board had tightened its policies, and was no longer recognising overseas degrees without applicants passing the prescribed examinations. Reves, and a group of other graduates of the same university had applied the year prior and been accepted without the need for further examinations.

Deciding not to sit the examinations, unregistered, he worked in partnership with Reves from 1946 to 1952. This study has located three projects undertaken by the partnership including the flats at 3 Trelawney Street (see comparative analysis).

After leaving the partnership Hayes worked for another Hungarian, Francis Feledy as senior architectural draftsman,

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playing a major role in the firm's work which consisted primarily of large industrial structures in the newly developing areas of Zetland and Mascot. Hayes is finally registered in 1963 at the age of 54, after 19 years of architectural work in Australia. Emery Balint, another Hungarian and the former Associate Professor of Building at the University of NSW, witnessed Hayes registration papers, noting he had known Hayes for 33 years.

The later part of Hayes' career is unknown. He died in 1995.

HISTORICAL THEMES		
Australian Theme	NSW Theme	Local Theme
Peopling Australia	Ethnic influences	The subject building represents the application of European modernism as practiced by migrant architects in Sydney in the immediate post war years.
Building settlements, towns and cities	Accommodation	The building is an example of the development of apartments in Sydney in Eastern Suburbs in the immediate post war years.
Developing Australia's cultural life	Creative endeavour	The subject building is an example of modernist architecture of the late 1940s drawing stylistic elements from both a Moderne and International Style architectural vocabulary. It is also a representative example of the work of European émigré architects.

HERITAGE SIGNIFICANCE ASSESSMENT	
Historical significance SHR criteria (a)	<p>Trelawney Court is a significant example of an Inter-war flat building designed in the immediate post war period. It displays a combination of Moderne and International Style architectural influences and demonstrates the shift in the Woollahra area towards higher density and increased apartment development post war.</p> <p>Designed by émigré architects for European clients Trelawney Court can also be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.</p> <p>Trelawney Court is also significant as an example of the work of architect George Reves who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court, his first project in Australia, demonstrates the evolution of his style as he adapted to the context of Sydney and has particular significance due to its intactness.</p> <p>Trelawney Court is associated with a significant historical phase and as such is of local significance under this criterion. The building does not meet the threshold for State significance under this criterion.</p>
Historical association significance SHR criteria (b)	<p>Trelawney Court has significant associations with architect George Reves, as his first project in Australia, and as one that was published and remains intact. The site also has associations with former owner Arthur Wigram Allen but as Allen never occupied the site, and owned many properties in Sydney this association is not considered significant. Trelawney Court can be seen to have only incidental connections with historically important people and strong associations with people that are not widely recognised as historically important, so does not meet the threshold for listing under this criterion at either State or local level.</p>

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<p>Aesthetic significance SHR criteria (c)</p>	<p>Trelawney Court is a significantly intact example of an Inter-war flat building showing elements of both the Moderne and International style. As the work of émigré architects it can be seen to illustrate the transfer of European modernist architectural training to Australia and its application, often for European clients, in a new context. The architects have opted for the building and architectonic elements most congruent with their central European modernist training, while still producing a building that is sympathetic to its context. During the design and building process Reves also developed typical elements into idiosyncratic forms that appear in his later work i.e. the "S" shaped awning that re-appears in 86A Victoria Road Bellevue Hill as a more organic and expressive Niemeyer-esque element.</p> <p>Trelawney Court can be compared with other significant examples of modernist flats of the 1930s and 1940s including Cairo Flats and Glenunga, in Melbourne, both of which are heritage listed as influential examples of International Style modernism.</p> <p>The building displays modernist architectural characteristics including the curved feature awning, use of ashlar stonework feature panels, marked horizontality and suppression of the expression of the pitched roofs and is of aesthetic significance as an intact example of a modernist Inter-war flat building.</p> <p>Trelawney Court is aesthetically distinctive and shows creative and technical innovation and achievement and hence meets the threshold for local listing under this criterion. The building does not meet the threshold for listing at a State level.</p>
<p>Social significance SHR criteria (d)</p>	<p>Trelawney Court does not appear to hold strong or special associations with a particular community or group.</p>
<p>Technical/Research significance SHR criteria (e)</p>	<p>Trelawney Court has some research value for demonstrating the architectural work of Reves and Hayes. Little is known about both architects and of their known projects, many have been altered or demolished. As the building is substantially intact its fabric also provides opportunities to reveal information about past ways of living and design and construction methods from the mid 20th century.</p> <p>Due to its high level of intactness, including its interiors, it provides evidence of past customs and ways of life from a historically important time when the influence of European migrants was leading to substantial changes across the eastern suburbs.</p> <p>The site was formerly part of the Elystan estate which appears to have contained extensive gardens and outbuildings. The archaeological remains of these elements may be present on the site and provide research opportunities.</p> <p>Trelawney Court has moderate levels of research significance associated with building up a greater picture of the work of George Reves and is significant at a local level under this criterion. The building does not meet the threshold for State significance under this criterion.</p>

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<p>Rarity SHR criteria (f)</p>	<p>Trelawney Court is rare as an example of the work of Reves and Hayes, and also more generally Reves, few of whose identified projects remain intact.</p> <p>It is also rare as a 1946 design undertaken by émigré architects, both of whom were just returning to private practice post war, having relocated to Australia from Hungary. Although émigré architects were to have a profound influence on the Woollahra LGA during the second half of the twentieth century, Trelawney Court, including its interiors, can be seen as a rare example of an intact flat building designed by émigré architects in the 1940s in the Woollahra LGA.</p> <p>Reves had a distinctive application of modernism, taking in both European influences and later elements of Californian modernism, and his work can be seen as stylistically individual in the context of the Woollahra Municipality and Sydney more generally. None of his projects are protected by individual heritage listing. An intact example of his work, including interiors and built-in furniture, such as the subject building is rare.</p> <p>As an intact and unusual example of an Inter-war flat building complete with original interiors and built-in furniture, Trelawney Court demonstrates past practices and shows increasingly rare evidence of significant design movements and social changes in the Woollahra area. It meets the threshold for listing at a local level under this criterion. The building does not meet the threshold for listing at a State level under this criterion.</p>
<p>Representativeness SHR criteria (g)</p>	<p>Trelawney Court, with its interiors, is a fine and intact example of an Inter-war flat building. It has numerous features typical of similar flat buildings of the period including the use of built-in furniture, moulded plaster ceilings, steel frame windows, red bricks, curved balconies and awnings, rendered window surrounds and sandstone feature elements. It draws many of its stylistic elements from a Moderne architectural vocabulary, which was a popular style of the period.</p> <p>It also displays the influence of European modernism and can be seen as representative of the work of émigré architects, who had studied and practiced in central Europe. This became an increasingly important contribution to the development of modern architecture in Sydney after WWII when significant numbers of European architects took up practice in Sydney.</p> <p>Trelawney Court is a good example of the work of architect George Reves. Reves designed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s, and Trelawney Court displays a number of architectural motifs that he would go on to develop further in his later work including the curved feature awning, use of ashlar stonework feature panels and suppression of the expression of pitched roofs.</p> <p>Trelawney Court is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes. It is significant under this criterion at a local level. The building does not meet the threshold for listing at a State level under this criterion.</p>
<p>Integrity</p>	<p>Substantially intact.</p>

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RECOMMENDATIONS				
Recommendations	Heritage listing <ul style="list-style-type: none">Trelawney Court at 3 Trelawney Street, Woollahra, including its interiors, should 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 also recommended that Woollahra Council undertake a study of the work of émigré architects in the post war period, in the Council area to gain a fuller understanding of the rarity or representative value of the building and to identify other significant buildings.			
	Ongoing management <ul style="list-style-type: none">It is recommended that the Trelawney Court be managed in line with the principles of the Burra Charter, particularly Article 3.1 which notes: “<i>Conservation is based on a respect for the existing fabric, use, associations and meanings. It requires a cautious approach of changing as much as necessary but as little as possible.</i>”¹ Any future adaptations or upgrades should aim to retain as much original fabric as possible.It is considered sympathetic upgrades of kitchens and bathrooms would not impact the building’s overall significance, but should aim to retain as much early or original fabric as possible.All other extant original and early fabric, including built-in furniture, should be retained and conserved.The external appearance of the site when viewed from Trelawney Street, which remains largely original, should also be retained and conserved. It should be noted that the garage and laundry room are not considered to be of heritage significance.Due to the limitations of this assessment, which did not include a full inspection of the building, a fabric assessment should be undertaken. The external and internal fabric should be rated for its significance in order to guide future works. This might be best achieved via the preparation of a conservation management document which assesses the significance of the fabric and includes policies for future changes.A detailed internal and external photographic record of the building should be made and lodged with Woollahra Council and the Local Historical Association.			
INFORMATION SOURCES				
Type	Author/Client	Title	Year	Repository
Report	Rebecca Hawcroft & Kieran McInerney	Trelawney Court, Heritage Assessment, 15 April 2020	2020	Woollahra Council
Dissertation UNSW	Ted Quinton	Post War Modernism in Sydney, George Reves and Hans Peter Oser	1997	UNSW
Book	ed Rebecca Hawcroft	The Other Moderns: Sydney’s Forgotten European Design Legacy	2017	SLNSW
Book	Caroline Butler-Bowdon and Charles Pickett	Homes in the Sky, Apartment Living in Australia	2007	SLNSW
Article	unknown	Trelawney Court, Decoration and Glass, Volume 15, No.2, July-August 1949, Cover and pp.22-23	1949	Trove (NLA)
Article	unknown	City Jewellery Store, Decoration and Glass, Volume 15, No.4, November-December 1949, pp.28-29	1949	Trove (NLA)

¹ The Burra Charter, Australia ICOMOS 2013.

3 Trelawney Street, Woollahra, Heritage Inventory Sheet, Final Draft 15 April 2020

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Based on the NSW Heritage Office State Heritage Inventory sheet

Article	unknown	Architecture in Australia, July-September, 1955, cover	1955	SLNSW
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IMAGES

Image Caption	Trelawney Court viewed from Trelawney Street east; note distinctive "S" shaped first floor concrete awning slab edge- and curved sandstone feature panels. Sandstone flagged path leads to lobby entry.
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Image Year	2019	Image author and Copyright Holder	Bradfield Cleary
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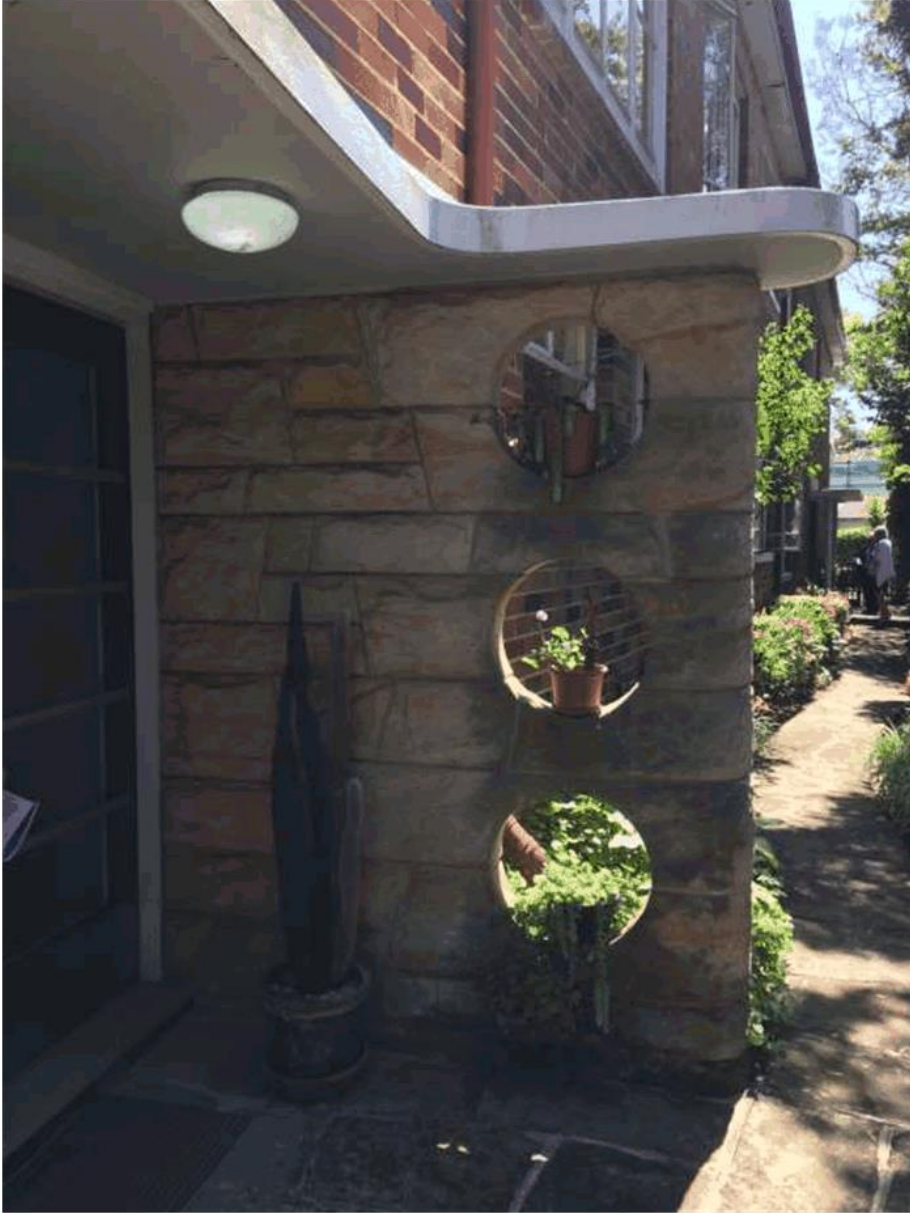
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IMAGES			
Image Caption	Trelawney Court viewed from Trelawney Street west; plainer west elevation with extensive steel framed glazing. Concrete driveway leads to garage.		
			
Image Year	2019	Image author and Copyright Holder	Bradfield Cleary


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Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
Image Caption	The flamboyant curved concrete slab awning of the main façade is reflected in the lobby entry.		
			
Image Year	2020	Image author and Copyright Holder	Kieran McInerney


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IMAGES			
Image Caption	Ceilings are plastered with curved "streamlined" plasterwork to living areas		
			
Image Year	2020	Image author and Copyright Holder	Kieran McInerney


Draft Woollahra 2015: Heritage inventory sheet

Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
Image Caption	The maisonette (apartment 5) has a built in tiled mirror unit with integral "flower shelf " as described Decoration and Glass Vol. 15 No. 2 (July - August 1949) article. A typical example of many original built-in features remaining intact in the building.		
			
Image Year	2020	Image author and Copyright Holder	Rebecca Hawcroft

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IMAGES			
Image Caption	Max Dupain photographed the site around 1950. The images are now held in the State Library collection. Comparisons with current site images show few changes.		
			
Image Year	c.1950	Image author and Copyright Holder	Max Dupain Archives, SLNSW
AUTHOR OF THIS REPORT			
Name			Date
Rebecca Hawcroft and Kieran McInerney			15 April 2020

Planning Proposal



Local Heritage Listing Trelawney Court 3 Trelawney Street, Woollahra



Version Date:	July 2020
Division/Department:	Strategic Planning
Responsible Officer:	Flavia Scardamaglia – Strategic Heritage Officer
HPE CM Record Number:	20/119662

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1. Introduction

1.1. Background

On 11 November 2019, Council considered a Notice of Motion (Item No. 16.3) and Council resolved:

That Council proceeds urgently to assess Trelawney Court at number 3 Trelawney Street, Woollahra with a view to a local heritage listing.

The following background information accompanied the notice of motion in the meeting agenda:

The reason for this Notice of Motion is to protect number 3 Trelawney Street, Woollahra. Even though the facade may be protected as the building sits within a heritage conservation area, the interiors are not protected. This is a rare building designed in 1948 by George Robert Reves in the Modernist style in very good original condition.

Council engaged heritage consultants Kieran McNerney and Rebecca Hawcroft to carry out an assessment of heritage significance for *Trelawney Court* at 3 Trelawney Street, Woollahra in accordance with the NSW Heritage guidelines.

The consultants are a team of award winning heritage and architectural specialists with extensive experience researching the work of architects George Reves and Charles Hayes, who designed *Trelawney Court*. Rebecca Hawcroft has previously published a number of scholarly articles, curated an exhibition and edited a publication that focused on Reves and other émigré architects working in Sydney after the Second World War.

On 1 July 2020, a report was presented to Council's Environmental Planning Committee (EPC) regarding heritage listing *Trelawney Court, including interiors* at 3 Trelawney Street, Woollahra.

On 27 July 2020, Council resolved:

A. THAT a planning proposal be prepared to list Trelawney Court, including interiors, at 3 Trelawney Street, Woollahra as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.

B. THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.

C. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.

1.2. Description of this planning proposal

This planning proposal is made in relation to *Trelawney Court* at 3 Trelawney Street, Woollahra (Lot 1 DP 86213) and explains the intended effect of an amendment to Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014).

The objective of the planning proposal is to amend the Woollahra LEP 2014 to list *Trelawney Court, including interiors* as a local heritage item in Schedule 5. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site, including its main building and interiors.

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).

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

1. A description of Trelawney Court and its context
2. Existing planning controls applying to *Trelawney Court*
3. The objective of the amendment to Woollahra LEP 2014
4. An explanation of provisions that are to be included in the amendment to Woollahra LEP 2014
5. Justification for the objective and provisions to be included in the amendment to Woollahra LEP 2014
6. Mapping for the heritage listing
7. Community consultation to be undertaken
8. Project timeline

1.3. Assessment of heritage significance

In response to Council's decision, an assessment of heritage significance of Trelawney Court was undertaken by heritage consultants Kieran McInerney and Rebecca Hawcroft. The draft assessment was completed in April 2020 and is attached as Appendix 2.

The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage in 2001.

There are seven criteria used in the process of assessing heritage significance. 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.

Table 1 below provides a summary of the assessment of the heritage significance of Trelawney Court against the seven criteria, at both 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	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).	√	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)	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 cultural or natural places, or cultural or natural environments.) 	√	x

The heritage assessment concludes that *Trelawney Court, including interiors* at 3 Trelawney Street, Woollahra satisfies five out of seven criteria at local level. None of the criteria are met at State level.

1.4. Statement of heritage significance

Trelawney Court at 3 Trelawney Street, Woollahra is a significant example of an Inter-war flat building designed in the immediate post war period with interiors and built-in furniture remaining intact. It has local historical significance for its ability to demonstrate the shift in the Woollahra area towards higher density and increased apartment development post war. It also has historical significance as a work of émigré architects for European clients and can be seen to represent the growing influence of European migrants on the development of Sydney's suburbs post war.

Trelawney Court is also significant at a local level as a rare, intact example of the work of architect George Reves who contributed a number of significant modernist houses in the eastern suburbs during the 1950s and 1960s. Trelawney Court demonstrates

the evolution of his style as he adapted to the context of Sydney and has particular significance due to its intactness.

Trelawney Court has aesthetic significance at a local level as an intact example of a modernist Inter-war flat building. It retains a high level of original interior and exterior fabric and as an early work of émigré architects is able to demonstrate the transfer of European modernist architectural training to Australia. The building shares characteristics with other significant modernist 1930s and 1940s apartments, and is able to demonstrate the growing influence of International Style modernism on apartment design in Australia.

As an intact example of its type, Trelawney Court has research potential at a local level to demonstrate past ways of living and design and construction methods from the mid 20th century. It is also an important source of information about the work of its architects Reves and Hayes, of which little is known and many of their projects been altered or demolished. The building also has high levels of rarity values as an intact 1946 apartment design undertaken by émigré architects. Trelawney Court, including its interiors, is a fine example of its type, displaying the principle characteristics of an important architectural development and is part of a group of buildings, the work of émigré architects, which collectively demonstrate significant historical and social changes.

(Source: Assessment of Heritage Significance for 3 Trelawney Street, Woollahra, Final Draft Issue April 2020, by Kieran McInerney and Rebecca Hawcroft, pp.65-66)

The assessment recommends listing *Trelawney Court and interiors* as a heritage item of local significance in Schedule 5 of the Woollahra LEP 2014.

1.5. Recommendations in the Assessment of Heritage Significance

1.5.1 Heritage Listing

- *Trelawney Court* at 3 Trelawney Street, Woollahra, including its interiors, should 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 heritage inventory sheet found in Appendix C of the assessment of heritage significance report.
- It is also recommended that Council undertake a study of the work of émigré architects in the post war period in the local government area to gain a fuller understanding of the rarity or representative value of the building and to identify other significant buildings.

1.5.2 Ongoing Management

- It is recommended that the *Trelawney Court* be managed in line with the principles of the *Burra Charter*, particularly Article 3.1 which notes: "Conservation is based on a respect for the existing fabric, use, associations and meanings. It requires a cautious approach of changing as much as necessary but as little as possible."¹ Any future adaptations or upgrades should aim to retain as much original fabric as possible.

¹ The Burra Charter, Australia ICOMOS 2013.

- It is considered that sympathetic upgrades of kitchens and bathrooms would not adversely impact the building's overall significance, but should aim to retain as much early or original fabric as possible.
- All other extant original and early fabric, including built-in furniture, should be retained and conserved.
- The external appearance of the site when viewed from Trelawney Street, which remains largely original, should be retained and conserved. It is noted that the garage and laundry room are not considered to be of heritage significance.
- The heritage significance assessment did not include a full inspection of the building. Consequently, a fabric assessment should be undertaken. The external and internal fabric should be rated for its significance in order to guide future works. This might be best achieved via the preparation of a conservation management document which assesses the significance of the fabric and includes policies for future changes.
- A detailed internal and external photographic record of the building should be made and lodged with Woollahra Council and the Local Historical Association.

The area recommended for local listing is shown with a solid red line in **Figure 1 and 2**. It affects Lot 1 of Deposited Plan **86213**.



Figure 1: The area recommended for local listing is identified with a solid red line (Source: Woollahra MAPS)

2. Existing site and context

2.1. The study area and its context

The subject building consists of a two storey post-war residential flat building located at 3 Trelawney Street, Woollahra (**Figure 1 and 2**). It was designed by George Robert Reves and Charles Hayes and built in 1946.

The site is a long thin block with a street frontage to Trelawney Street of 16 metres tapering to 7.5 metres at the rear of the site. The site depth is 65 metres. The site adjoins a late twentieth century two storey residential flat building to the west (see **Figure 2**). To the east the site adjoins the rear boundaries of five properties facing Edgecliff Road. The largest is 388 Edgecliff Road, a large Federation Style house, now converted to flats, located on the corner of Edgecliff Road and Trelawney Street. The garage of 388 Edgecliff Road is directly adjacent on the Trelawney Street boundary.

The site and its neighbours are zoned R3 Medium Density Residential under the Woollahra LEP 2014 and are located in the Woollahra Heritage Conservation Area.

The building is listed as a contributory item in clause 2.7 of Woollahra Development Control Plan (DCP) 2015, Chapter C2 Woollahra Heritage Conservation Area. It is identified as an 'Inter-War Flat Building' contributory to the Rosemont Precinct.



Figure 2: Aerial photograph of 3 Trelawney Street, Woollahra with the area proposed for local listing outlined in red (Source: Woollahra MAPS)



Figure 3: View of Trelawney Court from the street (Source: Bradfield, 2019)



Figure 4 and 5: Main entry door with a curved concrete slab awning over an ashlar sandstone blade wall and curved 'streamlined' plasterwork.

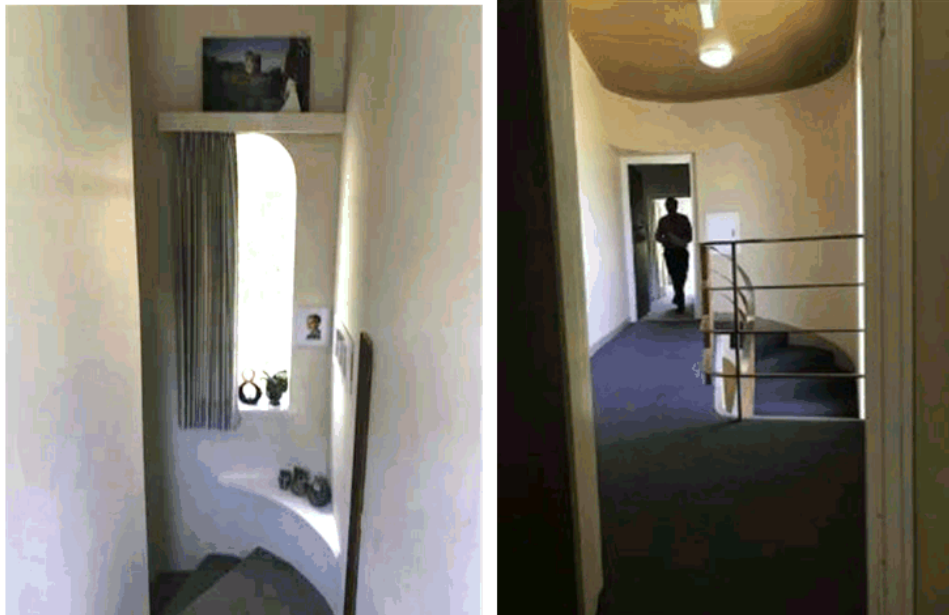


Figure 6: Curved walls, internal staircase with curve winders and curved balustrade.

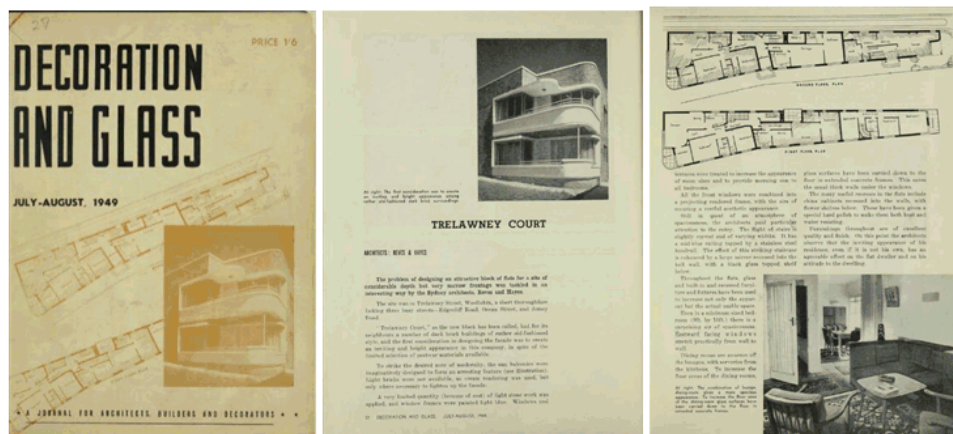


Figure 7: extract from *Decoration and Glass* magazine, July-August 1949, Vol.15 No.2 on Trelawney Court.

3. Existing planning controls

3.1. Woollahra Local Environmental Plan 2014

The site is subject to existing planning controls of the Woollahra LEP 2014, relating to land zoning, height of buildings, minimum lot size, FSR and acid sulfate soils.

Land Use Zone	Minimum Lot Size	Height of Building	Floor Space Ratio	Heritage Conservation	Acid Sulfate Solis
R3 Medium Density Residential	700 sqm	10.5m	0.75:1	Within the Woollahra Heritage Conservation Area (C15)	Class 5

The objectives for the R3 Medium Density Residential zone in the Woollahra LEP 2014 are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

As identified in the table above, *Trelawney Court* at 3 Trelawney Street is not currently listed as a local heritage item but it is within the Woollahra Heritage Conservation Area (C15) of the Woollahra LEP 2014. Whilst this ensures that the Clause 5.10 of the Woollahra LEP 2014 applies to the assessment of development on the site, it does not provide specific protection for the significant interiors. It is noted that development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* may be undertaken that has potential to impact on the significance of the interiors.

3.2. Woollahra Development Control Plan 2015

Trelawney Court at 3 Trelawney Street is identified as a 'contributory' item in Clause 2.7 of the Woollahra DCP 2015, Chapter C2 Woollahra Heritage Conservation Area, being an 'Inter-War Flat Building' in the Rosemont Precinct.

4. Objective of amendment to Woollahra LEP 2014

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of *Trelawney Court, including interiors* at 3 Trelawney Street, Woollahra and provide it with an additional statutory heritage protection.

5. Explanation of provisions

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

- Insert a local heritage listing for *Trelawney Court, including interiors* at 3 Trelawney Street, Woollahra in Part 1 (Heritage Items) of Schedule 5 Environmental Heritage.
- Amend the Heritage Maps (Sheet HER_003A) of the Woollahra LEP 2014 to identify *Trelawney Court, including interiors* as a heritage item.

6. Justification

The planning proposal has strategic merit. The heritage significance of *Trelawney Court, including interiors* at 3 Trelawney Street, Woollahra has been established by the assessment undertaken by Kieran McInerney and Rebecca Hawcroft. Heritage listing will provide ongoing protection and recognition of the heritage significance of the item.

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, any strategic study or report?

Yes. The planning proposal is the result of the recommendations of the Assessment of Heritage Significance report prepared by Kieran McInerney and Rebecca Hawcroft. The report concluded that *Trelawney Court, including interiors*, meets five criteria out of seven for listing as a local heritage item. The report recommended that:

Trelawney Court at 3 Trelawney Street, Woollahra, including its interiors, should be added to the heritage schedule of the Woollahra LEP 2014 as an item of local heritage significance.

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

Yes. The objective of this planning proposal is to list *Trelawney Court, including interiors* as a local heritage item in Schedule 5 of the Woollahra LEP 2014. 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 the Woollahra DCP 2015, or including heritage conservation conditions to a development consent, will not provide the same level of heritage protection and recognition.

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 any exhibited draft plans or strategies)?

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

Greater Sydney Regional 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 13 'Environmental heritage is identified, conserved and enhanced'.

Heritage listing of *Trelawney Court, including interiors*, will provide ongoing protection and recognition of the heritage significance of this item.

Eastern City District Plan

Yes. The planning proposal is generally consistent with the directions, priorities and objectives 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'

Objective 13 'environmental heritage is identified, conserved and enhanced'

Action 20 'Identifying, conserving and enhancing the environmental heritage of the local area' through:

- a. engaging with the community early to understand heritage values*
- 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'.*

Heritage listing of *Trelawney Court, including interiors*, will provide ongoing protection and recognition of the heritage significance of this item.

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 and Council's Community Strategic 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 – 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 and residential amenity, including protection of significant architecture and the natural environment.

Heritage listing of *Trelawney Court, including interiors*, will provide ongoing protection and recognition of the heritage significance of this item consistent with these local strategies.

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** below).

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** below).

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. Measures to conserve the heritage item 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?

Yes. The heritage assessment/inventory sheet measured *Trelawney Court*, including interiors at 3 Trelawney Street, Woollahra 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 *Trelawney Court*, including interiors at 3 Trelawney Street, Woollahra, meets the historic, aesthetic, research potential, rarity and representativeness criteria at local level.

Identifying the subject site as a heritage item will require a development application (DA) to be considered against *Clause 5.10 Heritage conservation* of the Woollahra LEP 2014.

To facilitate the assessment process, a DA must be accompanied by a heritage management document. Accordingly, there are some additional minor costs involved in preparing an application on a site which is listed as a heritage item.

It should be noted that an effect of a property being classified as a heritage item will prevent certain works being carried out as either exempt or complying development.

6.4. State and Commonwealth Interests

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

Yes. The planning proposal involves the local heritage listing of *Trelawney Court*, including interiors at 3 Trelawney Street, Woollahra and does not involve amendments to the planning controls that will facilitate intensified development.

Currently, the two-storey residential 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 Ocean Street.

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.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Should the planning proposal proceed to public exhibition, consultation with the relevant public authorities will be carried out. These authorities will include, but are not limited to:

- Heritage NSW, Department of Premier and Cabinet
- NSW Heritage Council
- The National Trust of NSW

Further consultation will take place with any other authorities identified by the Gateway Determination.

7. Mapping

The planning proposal amends the Woollahra LEP 2014 Heritage Maps (Sheet HER_003A)

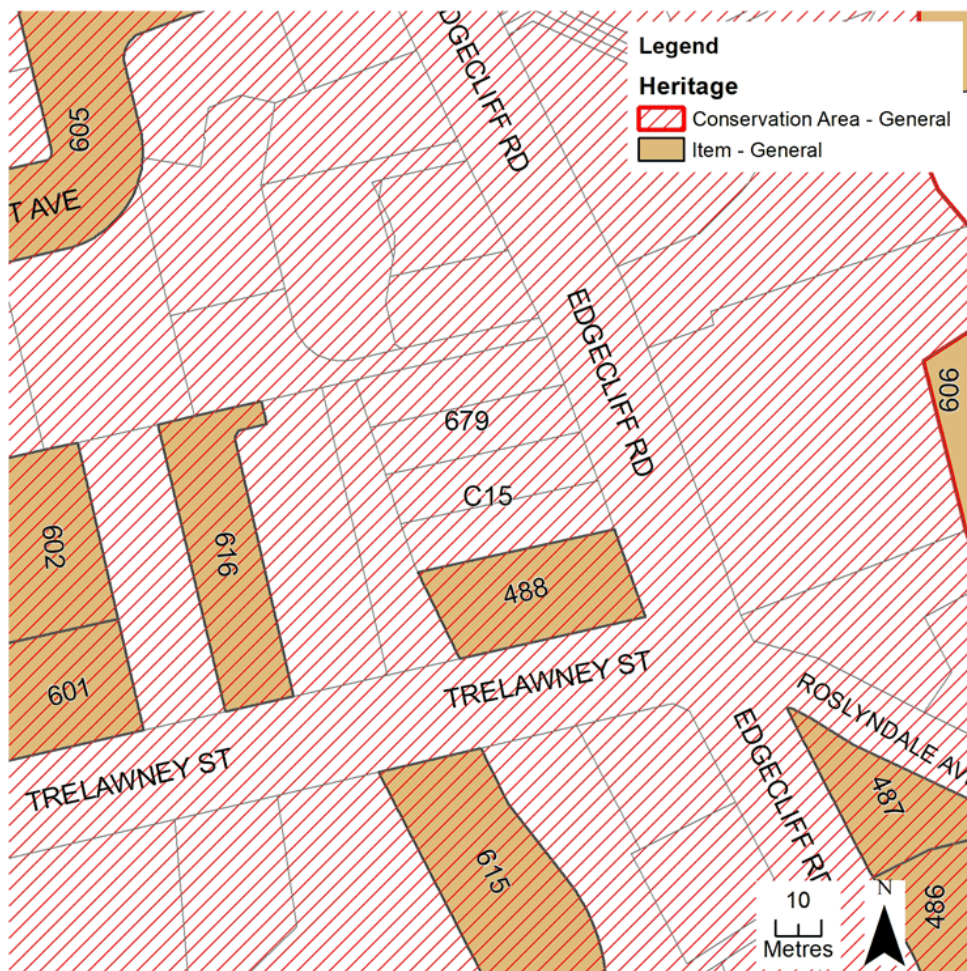


Figure 8: Extract from existing Woollahra LEP 2014 Heritage Map (Sheet HER_003A)

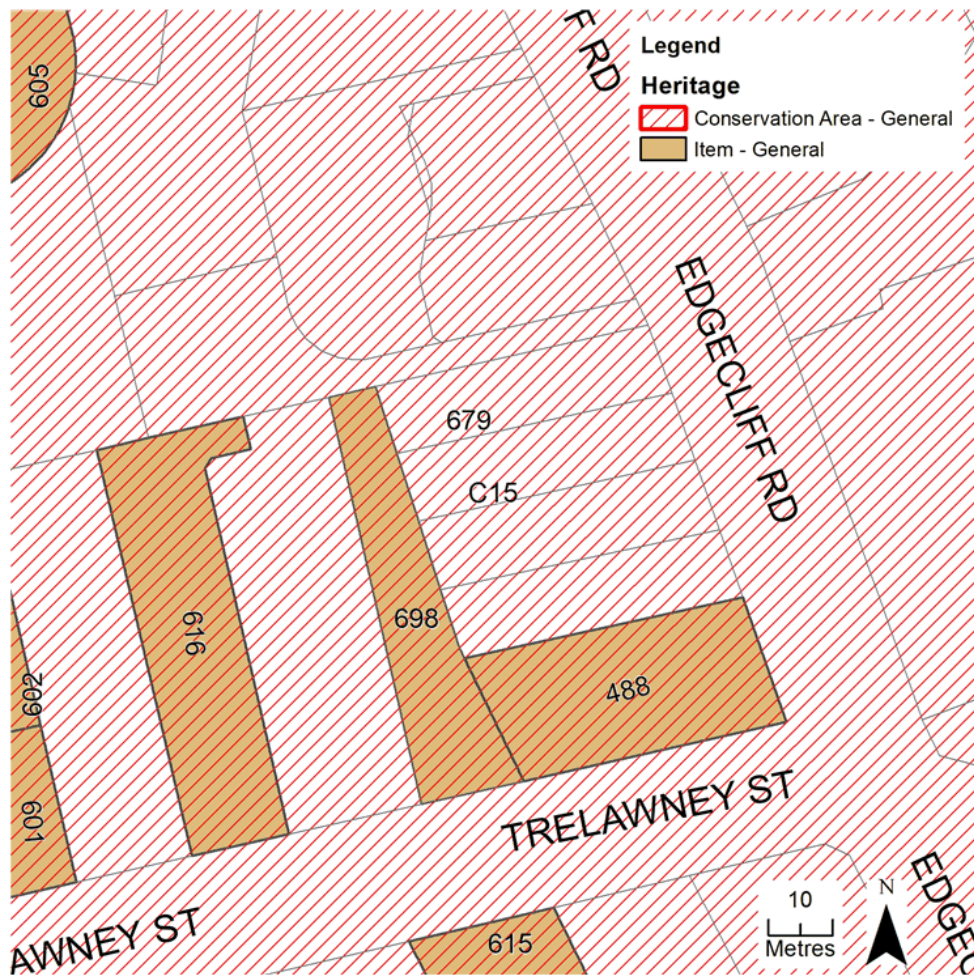


Figure 8: Extract from proposed Woollahra LEP 2014 Heritage Map (Sheet HER_003A)

8. Community Consultation

8.1. Consultation with landowner

On 5 December 2019, Council staff sent a letter to the owners informing them of Council's adopted notice of motion and the engagement of a heritage consultant to undertake the heritage assessment. Internal access to the site was also requested. No answer was received. The property was subsequently sold at auction in December 2019.

On 5 February 2020, Council staff sent a letter to the new owners of 3 Trelawney Street, Woollahra, to inform them of the Council's adopted notice of motion and engagement of heritage consultants to undertake the heritage significance assessment. This letter also requested internal site inspection, given that the heritage consultants had only been inside this property informally during an open house inspection. A phone conversation with the Manager – Strategic Planning followed in early February to explain the listing process and request internal access to the site.

A copy of the draft Assessment of Heritage Significance and draft heritage inventory sheet was sent to the owners on 28 April 2020, formally requesting comments or submissions in the timeframe between the 28 April 2020 and 26 June 2020. At the time of writing this report no reply or submission has been received.

On 12 June 2020, a development application was lodged with Council for 'alterations and additions to the existing residential flat building, including a new level accommodating one additional unit' (DA 193/2020).

Plans dated 27 May 2020 were drawn by Design Inter Alia. The proposal seeks consent to undertake substantial alterations and additions to the subject property, including:

- Refurbishment and upgrades of existing kitchens and bathrooms;
- Opening up of existing walls and new door openings;
- Demolition and reconstruction of some walls to reorganise internal layouts;
- Demolition of existing secondary staircase (tradesmen stairs) and addition of this space to Lots 2 and 4;
- New three-bedroom second storey unit accessed through an extension of the existing main staircase.

The proposed second storey would use the following materials and finishes:

- Face brickwork;
- Rendered white brickwork to the balcony;
- White aluminum-framed windows; and
- Reinforced concrete roof with steel profile eaves.

The owners were informed of the EPC meeting on 6 July 2020 where the Assessment of Heritage Significance was considered. The owners did not attend the meeting and did not send any correspondence to be considered by the panel members.

In progressing the planning proposal, 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 Exhibition

Public exhibition will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000*, the *Woollahra Community Participation Plan* and the conditions in the Gateway Determination.

We recommend that the planning proposal is exhibited for a minimum of 28 days.

Public notification of the exhibition will comprise:

- A notice on Council's website.
- A notice on local newspaper Wentworth Courier
- A letter to the land owners of the site.
- A letter to land owners in the vicinity of the site
- Notification of local community groups.

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

- The planning proposal, in the form approved by the gateway determination.
- The gateway determination.
- Information relied upon by the planning proposal, including the Assessment of Heritage Significance report and relevant Council reports.

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
Council Notice of Motion	11 November 2019
Environmental Planning Committee recommends proceeding	7 July 2020
Council resolution to proceed	27 July 2020
Local Planning Panel provides advice	6 August 2020
Environmental Planning Committee recommends proceeding	7 September 2020
Council resolution to proceed	28 September 2020
Gateway determination	November 2020
Completion of technical assessment	Usually none required
Government agency consultation	December 2020
Public exhibition period	December 2020 – February 2021
Submissions assessment	February 2021
Environmental Planning Committee considers assessment of planning proposal post exhibition	March 2021
Council decision to make the LEP amendment	March 2021
Council to liaise with Parliamentary Counsel to prepare LEP amendment	April 2021
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	May 2021
Notification of the approved LEP	June 2021

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 contain a 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. See section 6 of the planning proposal for more information.

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. There is no land in the Woollahra LGA currently identified on the Land Application Map of SEPP (Aboriginal Land) 2019.
SEPP (Activation Precincts) 2020	Not applicable. There are no activation precincts identified in the Woollahra LGA.
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. It should be noted that an effect of a property being classified as a heritage item will prevent certain works being carried out as either exempt or complying development.
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) 2019	Not applicable
SEPP (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable. The planning proposal does not apply to land within a future infrastructure corridor or the adjacent land.
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 sites located in the Woollahra Municipality.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable
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 Municipality 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 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

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
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 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

Note any inconsistencies that are considered to be minor here for DPE and in the introduction to the PP and 6.2 question 6.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Employment and resources	
1	Business and industrial zones	Not applicable. The land is not zoned for business or industry.
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 protection	Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3	Heritage conservation	Applicable. Consistent. Heritage listing of <i>Trelawney Court including interiors</i> will provide ongoing protection and recognition of the heritage significance of this 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 contain a provision which is contrary to the objective of this direction.
3	Housing, infrastructure and urban development	
3.1	Residential zones	Not applicable. The land is not zoned for residential purposes.
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	Not applicable. The planning proposal does not affect home occupations in dwelling houses.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
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	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. This direction applies to Byron Shire Council.
4	Hazard and risk	
4.1	Acid sulfate soils	Applicable and consistent. 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.
4.3	Flood prone land	Applicable. Consistent. Existing flood planning provisions will not be altered by the planning proposal.
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	<p>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.'</p> <p>Heritage listing of <i>Trelawney Court, including interiors</i> will provide ongoing protection and recognition of the heritage significance of the item.</p> <p>Refer to Section 6 and Schedule 1 of this planning proposal and direction 7.1 of this table.</p>

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
5.11	Development of Aboriginal Land Council land	Not applicable. The planning proposal does not apply to land shown 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 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 <i>Metropolis of Three Cities</i> (March 2018)	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.' Refer to Section 6 and Schedule 1 of this planning proposal and direction 5.10 of this table.
7.2 - &.10	Directions 7.2 to 7.19	Not applicable. These directions do not apply to the Woollahra LGA.

Supplementary material (separately attached)

Appendix 1 – Environmental Planning Committee Report (Annexures removed) (7 July 2020)

Appendix 2 – Assessment of Heritage Significance for Trelawney Court at 3 Trelawney Street, Woollahra by Kieran McLnerney and Rebecca Hawcroft – April 2020

Appendix 3 – Council Meeting Agenda (Annexures removed) (27 July 2020)

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA11/2020/1
ADDRESS	1 & 3/9 Annandale Street DARLING POINT 2027
COUNCIL WARD	Double Bay
SITE AREA	312.3m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Alterations and additions to amalgamate Units 1 and 3 into a single dwelling including a new stairwell along the northern side boundary
TYPE OF CONSENT	Local development
COST OF WORKS	\$584,500.00
DATE LODGED	20/01/2020 – Original submission – Issue A 12/02/2020 – Revised architectural plans Issue B submitted 29/04/2020 – Landscape plan submitted 27/05/2020 – Revised architectural plans Issue C submitted
APPLICANT	Dr J P Ledgard
OWNER	Ms K A Switajewski
AUTHOR	Mr M D'Alessio
TEAM LEADER	Mr G Fotis
SUBMISSIONS	0
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:

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

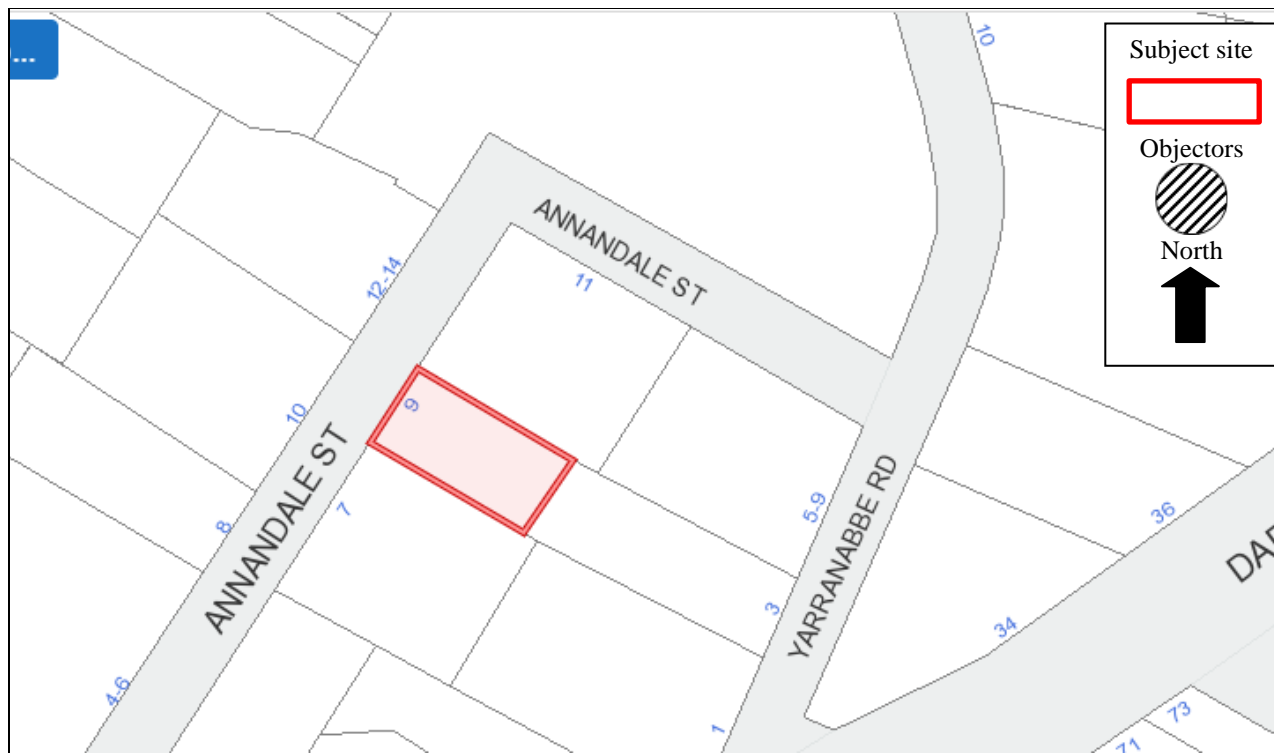
2. REASONS FOR RECOMMENDATION

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

- The non-compliance with the maximum Floor Space Ratio development standard is not considered to result in any significant cumulative impacts on the adjoining properties and locality, and is consistent with the desired future character of the Darling Point Precinct.

- 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 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



4. PROPOSAL

The proposed development involves alterations and additions to an existing residential flat building to facilitate the amalgamation of a ground floor level unit (Unit 1) with a first floor level unit (Unit 3) via the installation of a new stairwell to the northern elevation, the modification of the internal layout and the addition of landscaping to the northern side setback.

Basement garage level

- Increase in the height of the existing northern most garage door opening to match the adjacent garage door openings

Ground Floor level

- Reconfiguration of the internal layout of existing Unit 1 by removing and replacing internal walls to create an open plan kitchen and dining area, living room, bathroom and one bedroom
- Demolition of existing northern elevation wall and windows beside the new kitchen area to accommodate an access stairwell and construction of a new northern boundary elevation wall

- Construction of new living, bathroom and bedroom 1 windows to the northern elevation
- Replacement of the door/window to the western elevation front façade to Annandale Street with a pair of glazed doors and side panel windows extended to floor level
- Installation of a retractable fabric awning provided above the ground floor
- Existing external laundry to the rear demolished and replaced with new laundry located in the same location with same building footprint

First floor level

- Reconfiguration of the internal layout of existing Unit 3 by removing and replacing internal walls to create an open living room, bathroom and two bedrooms (bedroom 2 and 3)
- Demolition of existing northern elevation wall and windows beside the new living room to accommodate an access stairwell and construction of a new northern boundary elevation wall
- Replacement of a window to existing northern elevation of the living room
- Installation of a glass barrier to provide BCA compliance to the western elevation front façade to Annandale Street window opening

Revision B Plans

Revision B Plans were submitted on 12 February 2020, providing additional detailing in terms of:

- Dimensions, levels, room dimensions and detailing new works colored to differentiate from the existing building

Revision C plans

Revision C plans were submitted 27 May 2020, providing additional detailing in terms of:

- RL levels to AHD, material details and external finishes to elevations and the detailing of BASIX certificate requirements
- Provision of a roof plan and a long section detailing the proposed floor level modifications at the western end of both units eliminating the step down to the former open balconies (as contained in the initial issue A plan set – 1702-DA 211 A)

5. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4	Floor Space Ratio	62.51m ² or 18.2% departure from the 343.58m ² control	Satisfactory

5.2. Primary Issues

Issue	Conclusion	Section
FSR non-compliance Part 4.4 WLEP 2014	The proposed FSR non-compliance is a consequence of the proposed adaptation of the existing Inter War Period RFB to provide a separate enclosed stair access as part of the amalgamation of two existing units. The additional GFA maintains the architectural character of the RFB. The non-compliance will not unreasonably impact upon adjoining properties, and is adequately recessive to satisfy the desired future character of the area.	14.4, 14.5 & Annexure 2
Non-compliant northern side setback	The proposed side setback non-compliance is a consequence of the proposed adaptation of the existing Inter War Period RFB to provide a separate enclosed	16.2.1 & 16.2.4

Issue	Conclusion	Section
Part 3.2.3 WDCP 2015	stair access as part of the amalgamation of two existing units. The non-compliance is acceptable and upholds the underlying objectives of the control, non-compliance is not determinative to this assessment.	

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject is located at No. 9 Annandale Street, Darling Point and comprises Units 1 and 3, and have legal descriptions of Lots 5 and 7 in SP 61259. The sites allotment is slightly trapezoid in shape, with an average width of 12.455m and an average depth of 25.2m providing a site area of approximately 312.3m ² .
Topography
The sites topography is altered by development, sloping from the rear north eastern corner to the front northern western corner.
Existing buildings and structures
Existing on the site is a two storey residential flat building consisting of four dwellings, with garaging (three garages) to the lower level fronting the street. With the lower level garage, the building presents as three storey to Annandale Street. The building and garaging is rendered, of cream colouring, and features characteristic arched doorways and windows to the entrance and ground floor. The building on the site, 'Talmas Court', is an Inter-War Flat Building constructed circa 1929.
Surrounding Environment
<p>The area surrounding the site includes a variety of architectural styles and housing types including detached dwellings, multi dwelling housing and residential flat buildings, ranging in scale from two storey to the 11 storey 'Glenhurst Gardens' development at 11 Yarranabbe Road. Architectural styles incorporate both historic and contemporary development.</p> <p>The site is located in the Darling Point Precinct. Section B1.2.1 of the Woollahra Development Control Plan 2015 includes the following relevant precinct character statements:</p> <ul style="list-style-type: none"> <i>The Darling Point precinct is located on a highly prominent peninsula on Sydney Harbour sited between Rushcutters Bay and Double Bay. Darling Point provides spectacular views to the harbour from both private houses and public spaces. The street trees and trees in private yards provide the peninsula with a soft landscape quality.</i> <i>Significant landmarks within the precinct include: St Mark's church, Ascham School, the heritage properties of Babworth House and Bishops court, harbourside reserves at McKell Park and Yarranabbe Park, and the heritage listed Sir David Martin Reserve which contains the Drill Hall, former HMAS Rushcutter and HMAS Rushcutter slipway.</i> <i>The built environment is notable for the wide variety of architectural styles and housing types. The precinct also contains a significant number of heritage items (refer to Woollahra LEP 2014) and encompasses the heritage conservation areas at Etham Avenue, Darling Point Road, Mona Road and Loftus Road /Mona Road.</i>



Figure 1 Annandale Street streetscape - south western view of the sites residential flat building.



Figure 2 Annandale Street streetscape - south western view of the sites residential flat building.



Figure 3 Annandale Street streetscape - north western view of the sites residential flat building.



Figure 4 Annandale Street streetscape - view of the sites residential flat building existing northern setback.



Figure 5 Northern side elevation of the existing building, looking east towards the sites rear



Figure 6 Northern side elevation of the existing building, looking east towards the sites rear



Figure 7 Northern side elevation of the existing building, looking west towards the sites front



Figure 8 Existing rear courtyard and laundry structure

7. RELEVANT PROPERTY HISTORY

Current use
Residential.
Relevant Application History
None.
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> 22/01/2020 – WMC request for architectural plans and elevations to be prepared in accordance with Section 2.4 of Council's DA Guide, with dimensions, levels and room uses to be added to plans. New works should be differentiated from the existing building, and only new works should be shown in colour. 12/02/2020 – Revised architectural plans Issue B submitted 03/03/2020 – WMC advised that the submitted Revised architectural plans Issue B require amendments as follows: <ol style="list-style-type: none"> The Issue B plans remain unsatisfactory in terms of Council's request for: Revised architectural plans and elevations to be prepared in accordance with Section 2.4 of Council's DA Guide, with dimensions, levels and room uses to be added to plans. New works should be differentiated from the existing building, and only new works should be shown in colour, including: <ul style="list-style-type: none"> The architectural plan set remains insufficient in terms of dimensions and levels (RLs to AHD), A roof plan should also be provided The plan set should include a long section detailing the proposed floor level modifications at the western end of both units eliminating the step down to the former open balconies (as contained in the initial issue A plan set – 1702-DA 211 A) Material details and external finishes (e.g. wall, roof, window, door and fence materials, paint colours, etc need to be included on the elevations The architectural plan set will also need to detail those BASIX certificate requirements required to be detailed on the DA plans

2. Landscape plan - *In addition to the requested revised architectural plans we will also need a landscaped plan to be submitted detailing the external surface treatment of the land and proposed plant species (plant schedule) to form part of the approval documents.*
 3. BASIX certificate - *The BASIX certificate will need to be re-issued the submitted certificate A350238 dated 31/07/2019 is not a valid certificate for this DA which was lodged on 21/01/2020.*
- 29/04/2020 – Applicant submitted landscape plans
 - 27/05/2020 – Applicant submitted revised architectural plans Issue C including revised BASIX Certificate. The revised documents addressed all of the issues raised in the request for further information on 03/03/2020

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	As part the preliminary assessment of the proposal, Council's Development Assessment Engineer advised that subject standard conditions of development consent that the proposal was satisfactory and that a formal referral response was not required. Refer to B.3, C.1 (Access stairs to the property are not to encroach over Council's road reserve refer to Survey), C.3 (T115-\$16,139), C.5, C.6, C.7, C.8, D.3, F.3	N/A
Heritage	Council's Heritage Officer advised that the proposal is generally acceptable as it complies with the relevant statutory and policy documents and would have a satisfactory impact.	3
Fire Safety	Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to Conditions C.4 and F.2	4

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority
3. The provisions of any development control plan
4. The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4
5. The provisions of the regulations
6. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
7. The suitability of the site for the development
8. Any submissions made in accordance with this Act or the regulations
9. The public interest

9. ADVERTISING AND NOTIFICATION

9.1. Submissions

The application was advertised and notified from 29 January 2020 to 12 February 2020 in accordance with in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015 (now Woollahra Community Participation Plan). No submissions were received.

The amended plans were not re-notified as they had no additional impact.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 20 March 2020 declaring that the site notice for DA11/2020/1 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

An assessment of the Initial Site Evaluation provided by the applicant indicates 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 A350238_03 demonstrating compliance with the SEPP. These requirements are imposed in **Conditions C.3, 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 Clause 1.2(2) of the Woollahra LEP 2014.

14.2. Land Use Table

The proposal is defined as alterations and additions to a residential flat building 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 10.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	11.67m	8.8m	10.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. It is also acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014.

14.4. Part 4.4: Floor Space Ratio

Part 11 limits development to a maximum floor space ratio of 0:1 for a residential flat building/mixed use development.

Site Area: 312.3m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	1.06:1 330.44m ²	1.1:1 343.58m ²	0.9:1 (281.07m ²)	NO*

**A Clause 4.6 Written Request has been submitted by the applicant.*

The maximum permitted GFA for the site is 281.07m². The existing residential flat building has a GFA of 330.44m² (FSR of 1.06:1), which represents an exceedance of 49.37m².

The proposed development will result in a GFA of 343.58m² (FSR of 1.1:1) which is an additional 13.14m² over the existing GFA and a total exceedance of 62.51m² over the permitted GFA. The additional 13.14m² relates to the proposed stairwell linking amalgamated Units 1 and 3.

The non-compliance equates to an 18.2% departure from the development standard. Accordingly, the proposal does not comply with Part 4.4 of Woollahra LEP 2014 as detailed below and assessed in Part 14.5 of this report.

14.5. Part 4.6: Exceptions to Development Standards

Departure

The revised proposal involves a non-compliance with the 0.9:1 maximum floor space ratio statutory control under Part 4.4 of the Woollahra LEP 2014, as detailed in Section 14.4 of this report.

Clause 4.6 (1) & (2) Purpose

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

Clause 4.6 (3) Written Request

Subclause 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided a written request in relation to the departure, the complete document can be found in **Annexure 2**

Clause 4.6 (4) Assessment

Clause 4.6 (4) Consent must not be granted for development that contravenes a development standard unless:

- a) The consent authority is satisfied that:
 - i. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
- b) The concurrence of the Secretary has been obtained.*

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

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

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

Assessment: The applicant's written request has demonstrated that the objectives of the floor space ratio are achieved, notwithstanding the non-compliance.

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as required by subclause 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of subclause 4.6(4)(a)(ii).

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

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

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

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act
(cf previous s 5)
The objects of this Act are as follows:

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

Assessment: The Applicant's written submission has adequately demonstrated sufficient environmental planning grounds, with regard to the relevant objectives of the Act, to justify contravention of the development standard.

Clause 4.6(4)(a)(ii) - Assessment

Subclause 4.6(a)(a)(ii) requires the consent authority to be satisfied that:

- ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the floor space ratio development standard, and the objectives of the R3 Medium Density Residential land use zone. An assessment against these objectives is provided below:

Clause 4.4 – Floor Space Ratio

The proposal is assessed against the objective of the development standard prescribed by Clause 4.4 which specifies the following objective outcome:

- (a) for development in Zone R3 Medium Density Residential—*
 - (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and*
 - (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and*
 - (iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,*

Assessment: The proposed development is consistent with these objectives, as it is suitably designed and sympathetic to the existing Inter War Period RFB and the Darling Point Residential Precinct. The siting of the additional bulk is located within the side setback, retaining the existing facade and roofline. The stairwell will have no adverse impact on any public or private views, principally due to adjacent properties to the rear being elevated such that views are achieved over the roofline of the subject building. The proposal does not impact on existing and adequate provision on the land for deep soil planting and areas of private open space.

The proposal achieves consistency with objective (a).

Objectives of the R3 Medium Density Residential Zone

The proposal is also considered against the objectives applying to the R3 Medium Density Residential land use zone:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

Assessment: Satisfactory. The proposal does not hinder achievement of the zone objectives, including as follows:

- The proposed sympathetic adaptation of the sites Inter War Period RFB provides for the housing needs and variety of housing types of the Darling Point community within a building form appropriate to a medium density residential environment.
- The sensitive siting of the proposed alterations and additions maintains the overall height, bulk and scale of the sites Inter War Period RFB and is consistent with the streetscape character and desired future character objectives of the Darling Point Residential Precinct.

Clause 4.6(4)(a)(b) - Assessment

The Department issued Planning Circular No.PS18-003 (dated 21st February 2018) which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

In relation to this Part, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) establishes *Planning Principles* which are summarised and assessed as follows:

- Does the applicant’s written request demonstrate non-compliance with the development standard is unreasonable or unnecessary?*

Yes.

ii. *Are there sufficient environmental planning grounds to justify contravening the development standard?*

Yes.

iii. *The public interest and whether the proposal is consistent with the objectives of the development standard.*

For reasons outlined in the applicant's written requests, the proposal is considered to be in the public interest and is consistent with the objectives of the development standards.

Conclusion

The written submission from the applicant has adequately demonstrated that the variation of the development standard prescribed by Clause 4.4 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority may be satisfied that the applicant's written request has demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standards.

The consent authority may also be satisfied that the proposal the proposal is in the public interest as it is consistent with the objective of the development standard and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and consistent with the objectives of the 4.4 development standard. Departure from the controls is supported.

14.6. Part 5.10: Heritage Conservation

The subject site is not a heritage item or located in a heritage conservation area. The subject site is located in the vicinity of the following heritage items and heritage conservation area:

- 'Balgowan – house, interiors and grounds' at 8 Annandale Street (LEP Item No. 77)
- 'Former house, interiors and grounds' at 5-9 Yarranabbe Road (LEP Item No. 188)
- 'Residential flat building and interiors' at 1 Yarranabbe Road (LEP Item No. 187)
- Darling Point Heritage Conservation Area (LEP Item No. C3).

As set out in **Annexure 3** of this assessment report Council's Heritage Officer has advised that due to the localised nature of the proposed works and obscured visual connection towards the existing building on the subject property from the heritage items, it is not anticipated that the proposal would result in any adverse impact on heritage items in the vicinity.

Accordingly, the proposed development is acceptable with regard to the objectives in Clause 5.10 of the Woollahra LEP 2014.

14.7. Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Clause 6.1 of the Woollahra LEP 2014.

14.8. Part 6.2: Earthworks

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

14.9. Part 6.3: Flood Planning

The proposal is acceptable with regard to Part 6.3 of Woollahra LEP 2014.

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1. Chapter B1 Residential Precinct

15.1.1. Part B1.2 Darling Point Precinct

The precinct character statement for the Darling Point Residential Precinct includes:

- *The Darling Point precinct is located on a highly prominent peninsula on Sydney Harbour sited between Rushcutters Bay and Double Bay. Darling Point provides spectacular views to the harbour from both private houses and public spaces.*
- *The street trees and trees in private yards provide the peninsula with a soft landscape quality.*
- *The built environment is notable for the wide variety of architectural styles and housing types. The precinct also contains a significant number of heritage items (refer to Woollahra LEP 2014) and encompasses the heritage conservation areas at Etham Avenue, Darling Point Road, Mona Road and Loftus Road /Mona Road.*
- *In the post-war period, high rise residential towers of up to 20 storeys were developed along the ridgeline of Darling Point.*
- *Similarly other residential flat buildings that have not been designed to step down and follow the slope of the land, also present to the harbour as a sheer façade.*

The desired future character explanation includes:

- *Development adjoining a contributory item or heritage conservation area is to have regard to the architectural values of the building and establish a sympathetic interface.*
- *Attention must also be given to retaining views from the public domain and providing for view sharing from private properties; these can be achieved by providing suitable side boundary setbacks, roof forms and thoughtful distribution of building form across the site.*

The proposal meets the streetscape character and key elements of the precinct and achieves the desired future character objectives O1, O4, O6, O11, O12 and O13 of the Darling Point Residential Precinct, as noted in Part B1.2.2 as follows:

- In accordance with O1, the proposal is suitably designed in terms of the streetscape character and key elements of the Darling Point precinct.
- In accordance with O4, the proposal will not adversely impact on the heritage significance of heritage items and buildings in adjacent heritage conservation areas located in the vicinity of the subject site.
- In accordance with O6, the proposed alterations and additions are suitable referential in design and do not detract the character the character of the sites two-storey Inter War residential flat building and its contribution to the Annandale Street streetscape.
- In accordance with O11, the proposal maintains the landscape setting of the locality.
- In accordance with O12, the proposal maintains the streetscape presentation of existing period brick walling to the front of the sites Inter War Period RFB.
- In accordance with O13, the proposal is considered in terms of protecting important iconic and harbour views from public spaces and provision of additional important views from public spaces when possible.

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Darling Point Residential Precinct, as noted in Part B1.2.2 of the Woollahra DCP 2015.

Accordingly, the proposal is acceptable with regard to Chapter B1 of the Woollahra DCP 2015.

15.2. Chapter B3: General Development Controls

15.2.1. Part B3.2: Building Envelope

Site Area: 312.3m ²	Existing	Proposed	Control	Complies
Front Setback (No.11 – 3.4m, No. 7 – 5m, No. 3 – 1.2m and No.1 – 1.7m (No 1 excluded))	3-3.5m	5.3m (proposed works)	3.2m	Yes
Rear Setback	3.74m – 5.13m	No change	6.86m	No
Side Boundary Setbacks (northern)	0.92 – 0.99m	0m	1.5m	No
Side Boundary Setbacks (southern)	0.81 - 0.88m	No change	1.5m	No
Maximum Wall Height	5.6m	5.3m	7.2m	Yes
Maximum Unarticulated Wall Length (northern)	17mm	6.55m	12m	Yes
Protrusion of Roof Eaves	0.35mm	Nil	450mm	Yes

Part 3.2.2: Front Setback

The proposal complies with the relevant front setback objectives and controls of Part B3.2.2:

- O1, O2, O3 and C1 (general control)
- O4 and C2 (ensure that buildings are well articulated and positively contribute to the streetscape)

Part 3.2.3: Side Setbacks

The side setback control seeks to ensure that the distance of a building from its side boundaries protects the amenity of both the neighbours and the proposed development. C2 requires that with a lot width of less than 18m a minimum side setback of 1.5m is required for the subject site.

***Note.** The numerical controls contain a note that a reduced side setback may be considered where zero or significantly reduced setbacks are characteristic of the immediate streetscape. It specifies that these streets may be specifically identified in Chapter B1 Residential Precincts or Chapter B2 Neighbourhood HCAs.*

Part B1.2 Darling Point Precinct of Chapter B1 does not include a specific reference to the subject site's street or precinct.

The subject existing Inter War Period RFB contains variable numerical side setbacks between 0.81m and 0.99m and as existing is non-compliant.

The proposal includes provision of a new access stairwell to allow for improved/private access between the ground floor and first floor level as part of the amalgamation of the ground floor level unit (Unit 1) and first floor level unit (Unit 3) sited to the northern side boundary. This element of the proposal is non-complaint with C2.

The stairwell will occupy part of the side setback, with dimensions of 0.9m (width) and 6.5m (length). The stairwell will be set back 5.3m from the western (front) elevation. Considering the length of the northern boundary of 25.3m the stairwell occupies only 25% of the boundary length. The stairwell will be in alignment with the garage and front terrace.

Non-compliance with C2 acceptable in this instance as the proposal is consistent with the underlying objectives O1, O2, O3, O4, O5, O6 and O7 of the control, for the following reasons:

- The extent of non-compliance with the side setback control is limited to the new access stairwell. The siting of the stairway is a consequence of the narrow site width and constraints in terms of not detracting from the presentation of the existing Inter War Period RFB.
- The siting of the stairwell behind the front setback does not adversely impact streetscape presentation of the existing Inter War period residential flat building.
- In accordance with O1, numerical non-compliance does not result in an unreasonable sense of enclosure in terms of surrounding buildings. There is a substantial separation between the subject building and the adjacent building to the north at No. 1 Annandale Street, of approximately 7.5m, due to the setback of that building from its southern boundary.
- In accordance with O2, the non-compliant element is only 6.5m in length and represents 25% of the side elevation, the resultant northern side elevation is well articulated.
- In accordance with O3, to protect the acoustic and visual privacy of residents on adjoining properties the northern elevation stairway is solid. The proposal will reduce the number of existing windows orientated to the north towards the neighbouring property at No. 11 Annandale Street with the introduction of the stairwell. Proposed new windows oriented east and west are site behind a fin wall to prevent overlooking opportunities.
- In accordance with O4, the siting of the stairwell does not result in any adverse impacts on solar access to habitable windows of adjoining properties.

- In accordance with O5 and the desired future character of the Darling Point residential precinct in terms of retaining views from the public domain and providing for view sharing from private properties (*these can be achieved by providing suitable side boundary setbacks, roof forms and thoughtful distribution of building form across the site*):
 - The steep topography of the subject site is such that the proposed addition sited below the gutter height of the sites existing two storey Interwar Period building is suitably sited in terms of view sharing. The adjacent properties to the rear of the site are elevated such that views are achieved over the roofline of the subject building.
 - The subject site is not located in the path of any significant public domain significant views (Map 2 of B1.2 of the WDCP 2015) existing development (including heritage items and contributory HCA buildings) to Nos 5-9 and 3 Yarranabbe Road and No. 34 Darling Point Road the Darling Point preclude potential for the creation of a public domain view or vista to the harbour.
- In terms of O6, the steep topography of the subject site and the location of garaging to the front boundary precludes external access along the northern side boundary between the front and rear of the site.

Part 3.2.4: Rear Setback

The rear setback control seeks to ensure that the distance of a building from its rear boundary provides amenity to both the neighbouring sites and the proposed development.

C3 For development in the R3 Medium Density Residential Zone where an FSR applies, the building depth is 60 % of the site depth.

With a site depth of 25m (southern boundary) and 25.3m (northern boundary) and a front setback of 3.2m (in accordance with C1 of B3.2.2) and a variable building depth of 15m (southern boundary) and 15.18m (northern boundary), the required rear setback in accordance with C1 and C3 of B3.2.4 is 6.8m (southern boundary) and 6.92 (northern boundary).

The proposal does not seek to alter the existing rear setback of the existing Inter War Period RFB. The replacement of the existing laundry (as an outbuilding) located within the rear setback is allowed under Part B3.7.4.

The replacement of the external laundry to the rear is in the same location of the existing with the same footprint which is considered *under B3.7.4 .Ancillary development – swimming pools, tennis courts and outbuildings* in this report.

Part 3.2.5: Wall Height and Inclined Plane

The proposal complies with the relevant wall height and inclined plane objectives and controls in Part B3.2.5:

- O1, O2, O3, O4, O5 and C1 (general control)

Conclusion

The proposal is acceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015.

15.2.2. Part B3.4: Excavation

The proposal is acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

15.2.3. Part B3.5: Built Form and Context

Part B3.5.1 Streetscape and local character

The proposal is well considered in terms compatibility with the streetscape character of the Annandale Street streetscape and the Darling Point residential precinct. The proposal accords with the relevant objectives and controls:

- O1, O2, C1, C2, C3, C4, C4, C5 and C6 (general controls)
- O4, C7 and C8 (roof forms are consistent with the existing predominant roof forms in the street and minimise impacts to neighbouring properties)
- O5 and C9 (buildings improve the safety of the public domain)

Part B3.5.2: Overshadowing

The proposal accords with the relevant access to sunlight objectives and controls:

- O1 and C1 (general controls)

Part B3.5.3 Public and private views

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

As set out previously:

- The steep topography of the subject site is such that the proposed addition sited is below the gutter height of the existing two storey Interwar Period building and suitably sited in terms of view sharing. The adjacent properties to the rear of the site are elevated such that views are achieved over the roofline of the subject building.
- The subject site is not located in the path of any significant public domain significant views (Map 2 of B1.2 of the WDCP 2015) existing development (including heritage items and contributory HCA buildings) to Nos 5-9 and 3 Yarranabbe Road and No. 34 Darling Point Road the Darling Point preclude potential for the creation of a public domain view or vista to the harbour

The proposal would not give rise to any additional impacts in terms of public and private views or view sharing. The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, C1 and C2 (public views and vistas)
- O3, O4, C5, C6, C7 and C9 (private views – view sharing)

Part B3.5.4: Acoustic and Visual Privacy

As set out previously:

- To protect the acoustic and visual privacy of residents on adjoining properties, the northern elevation stairway is solid.
- The proposal will reduce the number of existing windows orientated to the north towards the neighbouring property at No. 11 Annandale Street with the introduction of the stairwell.
- Proposed new windows oriented east and west are sited behind a fin wall to present overlooking opportunities.

The proposal is compliant in terms of the applicable objectives and controls:

- O1 and C1 (adequate acoustic privacy)
- O2, C4 (adequate visual privacy)

Part B3.5.5 Internal amenity

The proposed modifications are compliant in terms of the applicable objectives and controls:

- O1, O2, C1, C2 and C3 (internal amenity)

Conclusion

The proposal satisfies the relevant controls and objectives and is therefore acceptable with regard to the built form and context controls in Part B3.5 of the Woollahra DCP 2015.

15.2.4. Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

The proposal is accordant with the relevant objectives and controls.

Part 3.7.2: Fences

The proposal maintains existing side and rear fencing. The proposal is accordant with the relevant objectives and controls.

Part 3.7.4: Ancillary Development – Swimming Pools, Tennis Courts and Outbuildings

As set out previously, the proposal includes the replacement of the existing external laundry with a new laundry of the same footprint and sited in the same location as the existing.

C1 and C2 require outbuildings to be outside the buildable area, in the rear yard and limited to a maximum height of 3.6m

Contrary to C2 the existing and proposed replacement outbuilding laundry are located to the northern side boundary and not setback 1.5m.

Non-compliance is existing and is supported in this instance as the proposal is consistent with the underlying objective O1 as follows:

- The outbuilding will not compromise the amenity of the occupants or the adjoining properties.

Conclusion

The proposal is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

15.2.5. Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Part B3.8.6 Residential Flat Buildings and Multi Dwelling Housing

The proposal is compliant in terms of the applicable objectives and controls:

- O1, C1, C2, C3, C4 and C5 (good amenity)
- O2, C7 and C8 (private open space)

Part 3.8.7 Inter-War Flat Buildings

As set out in Appendix 3 of this report, Council's Heritage Officer has provided a detailed assessment of the proposal against the Part 3.8.7 Inter-War Flat Buildings controls which includes:

- *While the Inter-War flat building contributes to the area, it is not a heritage item or located within a heritage conservation area. Therefore sympathetic alterations and additions to significant forms are permitted in this instance. (C2)*
- *The proposal would not be visually prominent from the public domain, and would not impact on the overall form and character of the Inter-War flat building by virtue of the setback distance, the height of the stair addition beneath the gutterline of the existing building, the limited view lines to the side (north) elevation of the existing building and the lightweight materiality of the proposed stair addition. The stair addition would not compete with the principal elevation of the Inter-War flat building fronting Annandale Street. The proposal is therefore supported from a heritage perspective in this instance on merit. (C13, C14 and C17)*
- *The proposal would remove a section of the external wall to the side (north) elevation along with several internal walls within the interior of the Inter-War flat building units in order to amalgamate Units 1 and 3 into a single dwelling. The proposal would not result in removal of significant internal character elements in internal common areas, which complies with Control C31, and would not result in any removal of significant fabric to the front principal elevation to Annandale Street. The proposed amalgamation of the units to form a single dwelling is therefore supported in this instance from a heritage perspective. (C31)*
- *The proposal includes replacement of the existing rear laundry with a new laundry in the same location and occupying the same footprint. The external laundry does not appear in the earliest available aerial photograph of the locality in 1943, and is therefore not considered to be original. The replacement laundry building would be smaller than the principal building, constructed in an appropriate style and form with compatible materials including painted brick, is single storey and sympathetic in scale, and is therefore supported in this instance on merit. (C47)*

- *Proposed alterations to the existing garage door to match adjoining door would be sympathetic to the original building and are supported on heritage grounds. (C12 and C48)*

The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, O3, C2 and C3 (streetscape and architectural character)
- O4, O5, C4, C5, C8 (roofscape)
- O7 and C12 (parking and streetscape character)
- O8, C13, C14, C15, C16, C17 (external alterations and additions)
- O9, C18, C19, C21 and C22 (external materials, details and finishes)
- O12 and C31 (internal additions)
- O15, C47 and C48 a), b), c), d) and e) (ancillary development does not detract from the style and character of Inter-War flat buildings and their settings)

Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.8 of the Woollahra DCP 2015.

15.3. Chapter E1: Parking and Access

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

15.4. Chapter E2: Stormwater and Flood Risk Management

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

15.5. Chapter E5: Waste Management

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

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

16. SECTION 7.12 CONTRIBUTION PLANS

16.1. 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.2**.

Cost of Works	Rate	Contribution Payable
\$584,500.00	1%	\$5845

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.1**.

Clause 94: Consent Authority May Require Buildings to be Upgraded

Clause 94 of the Environmental Planning and Assessment Regulation 2000 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development. Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Annexure 4** advising that:

- *The building is not submitting annual fire safety statements so it is likely to be deficient in fire safety measures and egress concerns. A good thing though is the building is only 2 storey's in height so the risk is not that substantial and it would not be a high priority building to put a Fire Safety Order on the premises and would be preferable to upgrade under clause 94 with DA submissions*

Building upgrade is specific and limited to the proposal as required in **Condition C.4** and **F.1**.

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 for the following reasons:

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.

22. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is of the opinion that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan to the maximum floor space ratio development standard under Clause 4.4 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 11/2020/1 for alterations and additions to amalgamate Units 1 and 3 into a single dwelling including a new stairwell along the northern side boundary on land at 1 & 3/9 Annandale Street, Darling Point, 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)
1702-DA 001 C 1702-DA 110 C 1702-DA 121 C 1702-DA 122 C 1702-DA 131 C 1702-DA 132 C 1702-DA 140 C 1702-DA 211 C 1702-DA 212 C 1702-DA 310 C 1702-DA 311 C 1702-DA 312 C 1702-DA 313 C	BASIX commitments Basement plan Ground floor plan demolition Ground floor plan First floor plan demolition First floor plan Roof plan Longitudinal section Detail through façade Front (west) elevation North elevation South elevation Rear (east) elevation	Shed Architects	--/05/2020
LS01 B LS02 B	Landscape plan, details and plant schedule	Mellisa Wilson Landscape Architects	07/04/2020
A350238_03	BASIX Certificate	NSW Department of Planning and Environment	25/05/2020
--	Site Waste Minimisation and Management Plan	Shed Architects	04/01/2020

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)

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 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.3 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 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) Access stairs to the property are not to encroach over Council's Annandale Street road reserve (refer to Survey)

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

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

Description	Amount	Indexed	Council Fee Code
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	\$16,139	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)	\$5845 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Administration Fee	\$190	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$22,174 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.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate A350238_03 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.4 Building upgrade (Clause 94 of the Regulation)

Council considers, pursuant to clause 94 of the *Regulation*, that it is appropriate to require the existing building to be brought into partial conformity with the BCA because the measures contained in the building are inadequate:

- (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
- (ii) to restrict the spread of fire from the building to other buildings nearby.

Accordingly, it is considered appropriate to require the existing building to be brought into partial conformity with the BCA and the Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

The Certifying Authority must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the Construction Certificate application:

- a) That apartment three (3) on the first floor shall be separated from the common areas and adjoining unit within the roof space in accordance with the requirements of Specification C1.1 of the BCA.
- b) That smoke alarms shall be installed throughout the new sole occupancy unit in accordance with the requirements of Specification E2.2a Clause 3 of the BCA.

Note: The Certifying Authority issuing the Construction Certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the BCA the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the *Act*.

Note: This condition does not set aside the Certifying Authority's responsibility to ensure compliance with clause 143 of the *Regulation* in relation to Fire Protection and Structural Adequacy.

Note: AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.

Standard Condition: C10 (Autotext CC10)

C.5 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35 (Autotext CC35)

C.6 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.7 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.

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.8 Stormwater Discharge to Existing Stormwater Drainage System

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

- a) the location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location,
- b) the state of repair of the existing Stormwater Drainage System,
- c) any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,
- d) any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- e) any new Stormwater Drainage System complying with the BCA,
- f) interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- g) any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- h) general compliance with the 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* (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. For more information go to the Sydney Water website www.sydneywater.com.au/SW/plumbing-building-developing/index.htm or call 1300 082 746.

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and the 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.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 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.

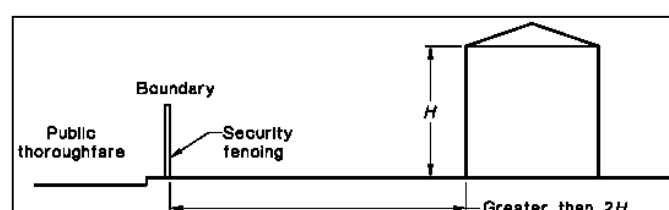
Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* 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.

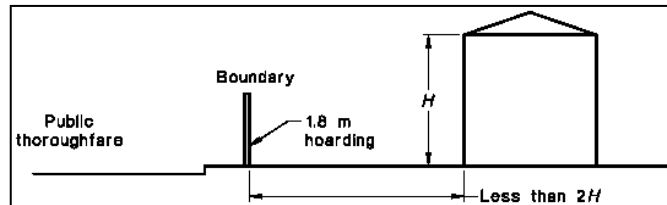
Standard Condition: D10 (Autotext DD10)

D.3 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.



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.

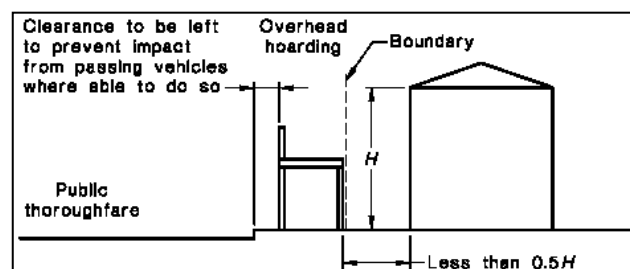


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- 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 pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

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

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.

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.

Standard Condition: D11 (Autotext DD11)

D.4 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.5 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or

- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.
Standard Condition: D13 (Autotext DD13)

D.6 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.7 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.8 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 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.9 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.10 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.11 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.12 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.13 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.14 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.15 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.16 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.17 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 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.18 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.19 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, 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.20 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.21 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 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

F.3 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)

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 (section 6.4 (c))

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate A350238_03.

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)

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 A350238_03.

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 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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 M D'Alessio, Assessment Officer, on (02) 9391 7000.

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 Pruning or Removing a Tree Growing on Private Property

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 (Autotext KK19)

Annexures

1. Plans and elevations [↓](#) 
2. Clause 4.6 by the applicant [↓](#) 
3. Heritage Officer Referral Response [↓](#) 
4. Fire Officer Referral Response [↓](#) 



1&3/ 9 ANNANDALE ST | DARLING POINT
DEVELOPMENT APPLICATION FOR ALTERATIONS AND ADDITIONS TO 2 APARTMENTS

MAY 2020

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727

SHED



ECOMODE Design ABN: 79 845 824 261
131a Gregory Road
Leppington NSW 2179
M: 0410 605 614 E: zoltan@ecomode.com.au

19th June 2019

BASIX Summary for 9 Annandale St, Darling Point

MINIMUM BASIX REQUIREMENTS

WATER

WELS Water Rating

- 3star rated (>7.5 but <= 9 L/min) showerheads to all new showers
- 3star rated toilets
- 3star rated taps

THERMAL PERFORMANCE

INSULATION

- R2.5 insulation to all new ceilings
- Foil to underside of new roofing

EXTERNAL COLOURS

- Medium (0.475<SA<0.70) roof colour to all new roofing

GLAZED WINDOWS & DOORS

- Timber with low-e glazing to all new windows;
 - U=3.99 & SHGC=0.4

ENERGY

HWS

- Connect to existing Hot Water System

FLUORESCENT OR LED LIGHTING

- The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.

Yours sincerely,

Zoltan Lipovski
Building Designer & Sustainability Assessor
ECOMODE design

Page 1 of 1

ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE



DRAWING TITLE

BASIX

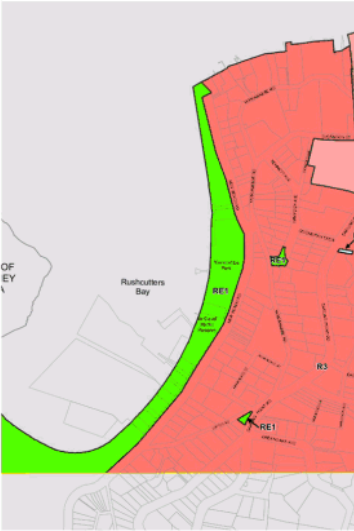
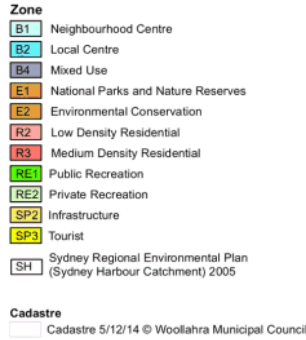
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1702-DA 001 C

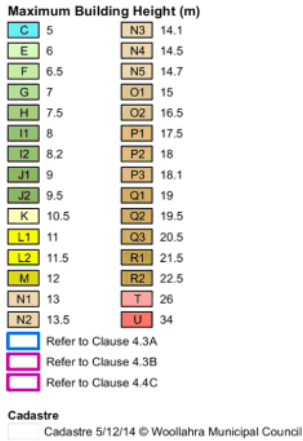
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NOM ARCH C:HAUGHTON NSW 6727



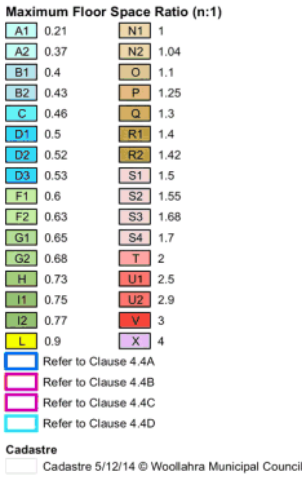
Land Zoning Map
Sheet LZN_002



Height of Buildings Map
Sheet HOB_002



Floor Space Ratio Map
Sheet FSR_002



WOOLLAHRA MUNICIPAL COUNCIL LEP 2014

ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA-001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE

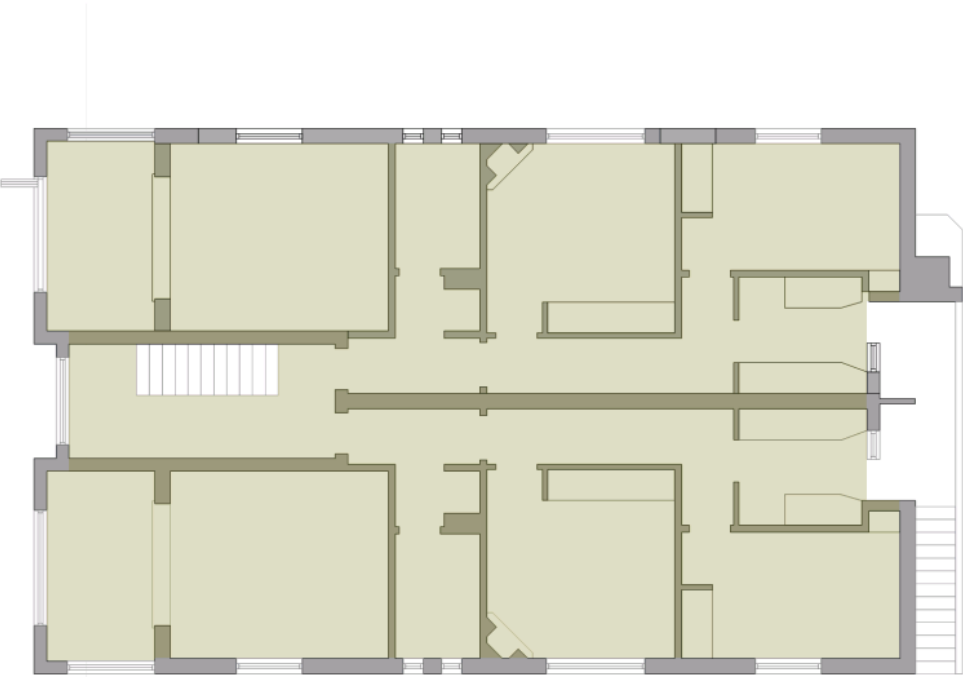
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DRAWING NO.	1702-DA 002 C

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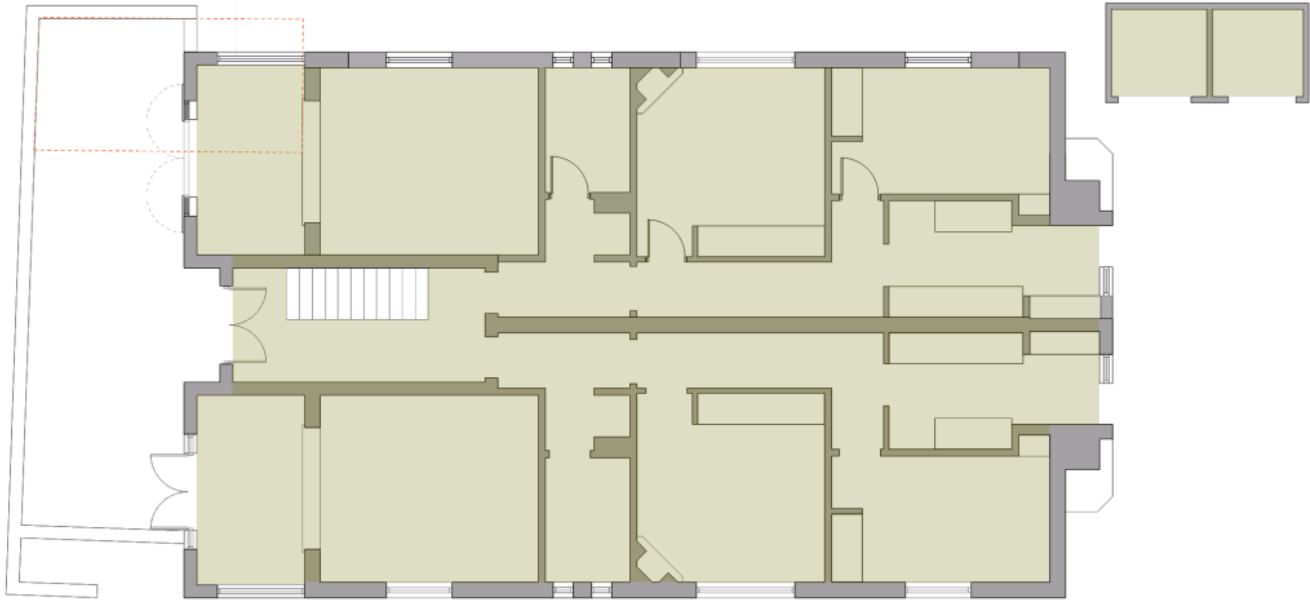
SHED

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS

	CONTROL	EXISTING	PROPOSAL
GFA GROUND FLOOR		171.11	176.4
GFA FIRST FLOOR		159.33	167.18
GFA TOTAL	281.07	330.44	343.58
SITE AREA	312.30	312.30	312.30
FSR	0.90	1.06	1.10



FIRST FLOOR



GROUND FLOOR

ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
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NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
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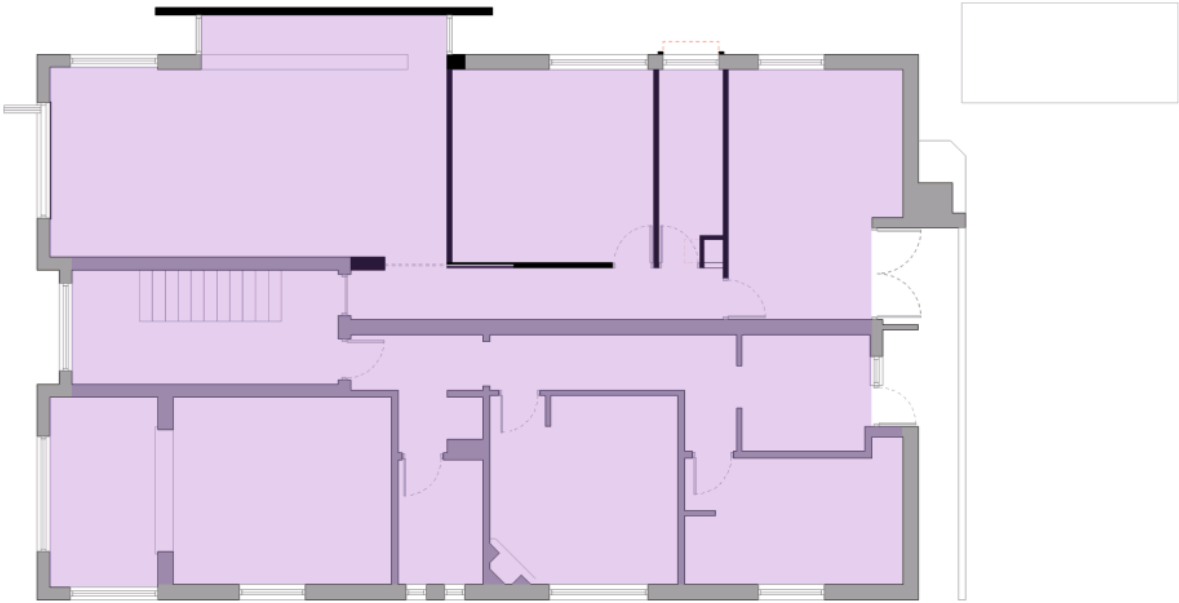
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GROSS FLOOR AREA | EXISTING

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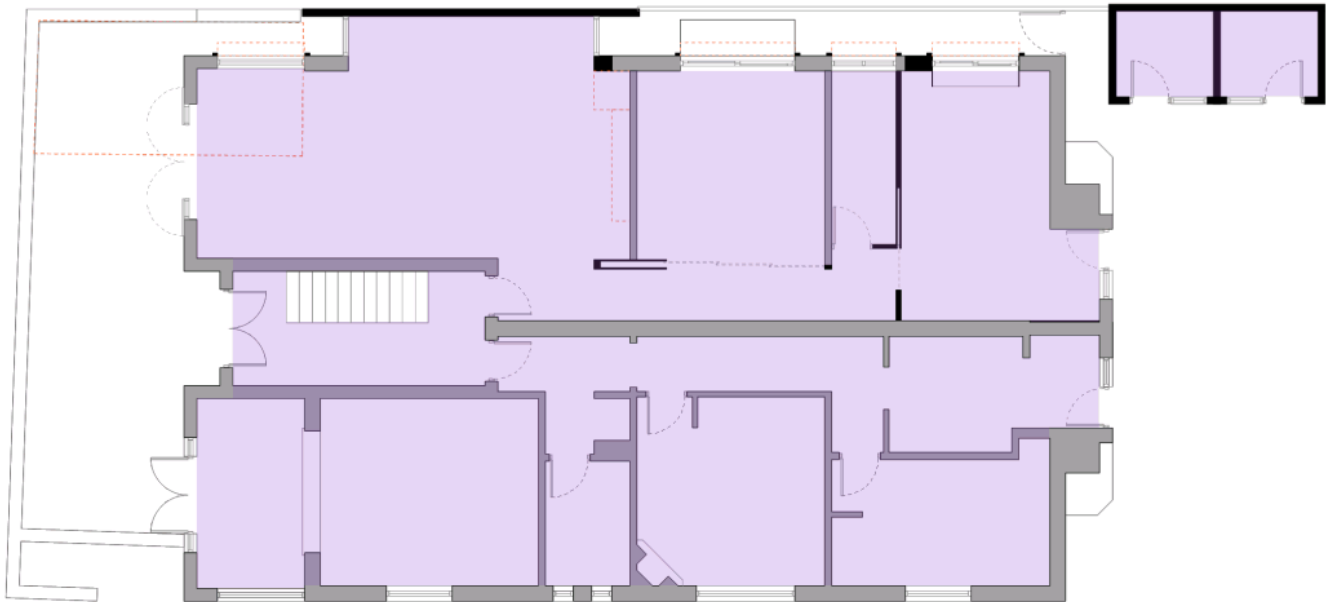
M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727

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GFA FIRST FLOOR		159.33	167.18
GFA TOTAL	281.07	330.44	343.58
SITE AREA	312.30	312.30	312.30
FSR	0.90	1.06	1.10



FIRST FLOOR



GROUND FLOOR

ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

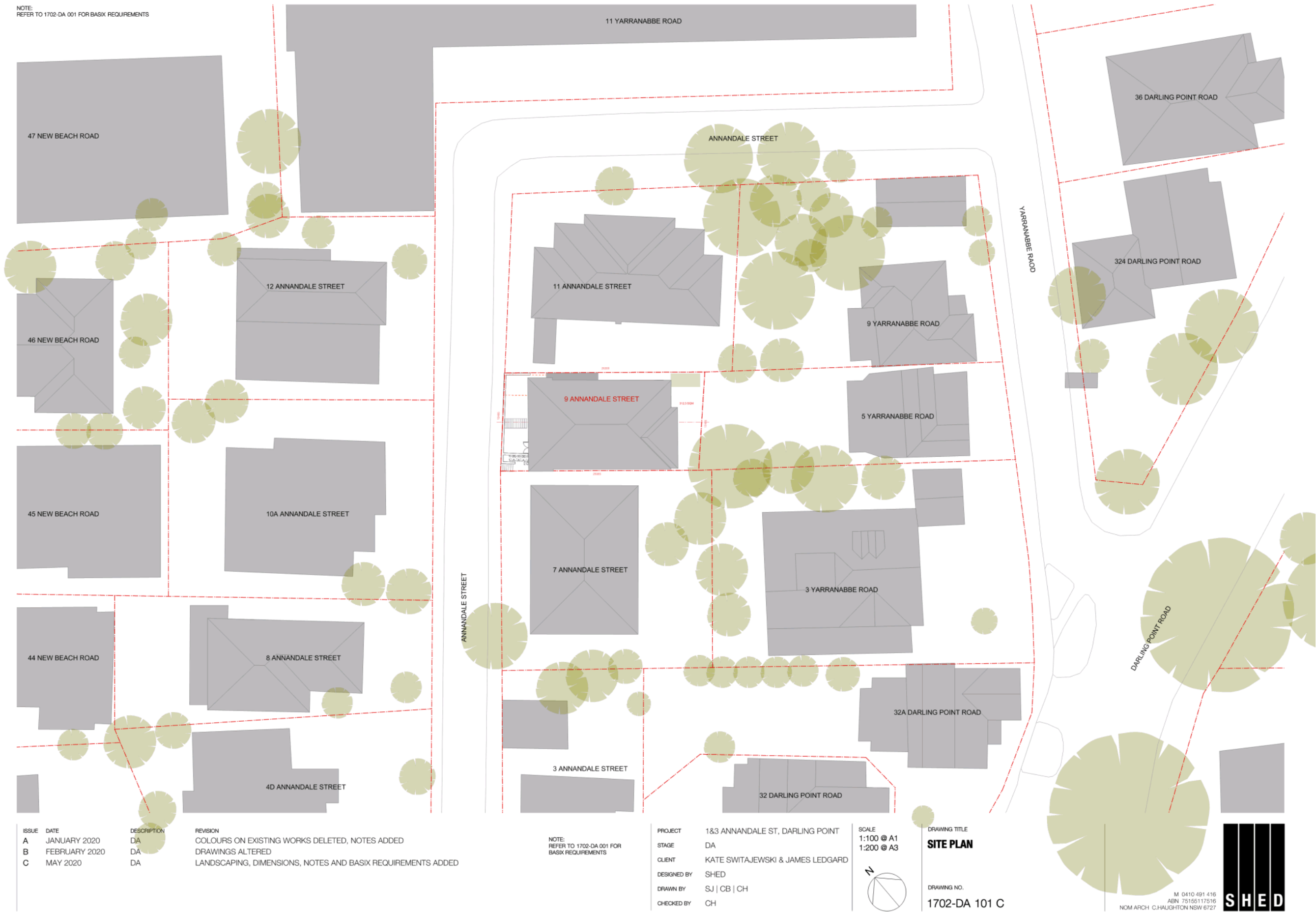
PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:100 @ A3

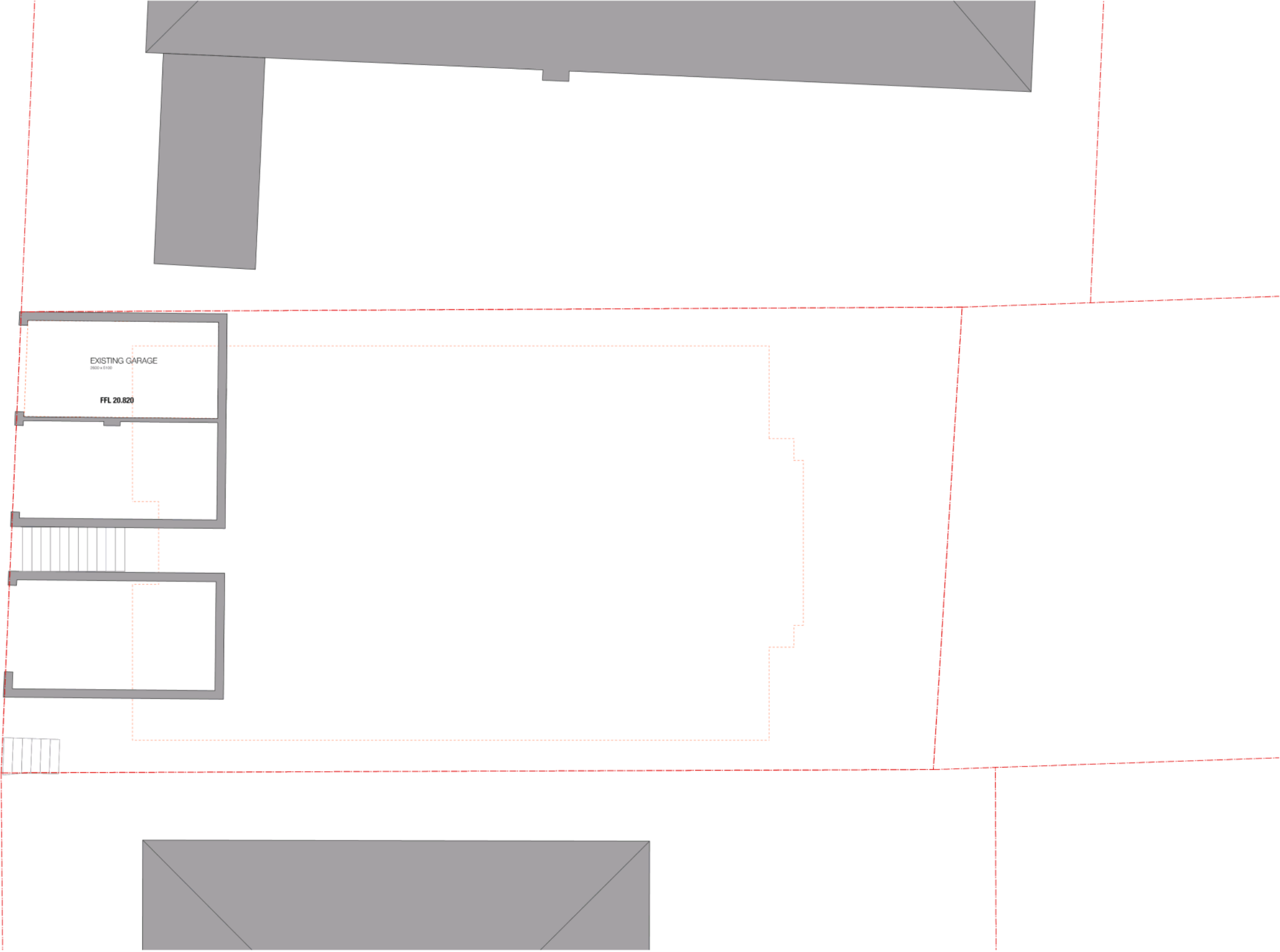
DRAWING TITLE
GROSS FLOOR AREA | PROPOSED

DRAWING NO.
1702-DA 006 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION
A	JANUARY 2020	DA
B	FEBRUARY 2020	DA
C	MAY 2020	DA

REVISION
COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
DRAWINGS ALTERED
LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



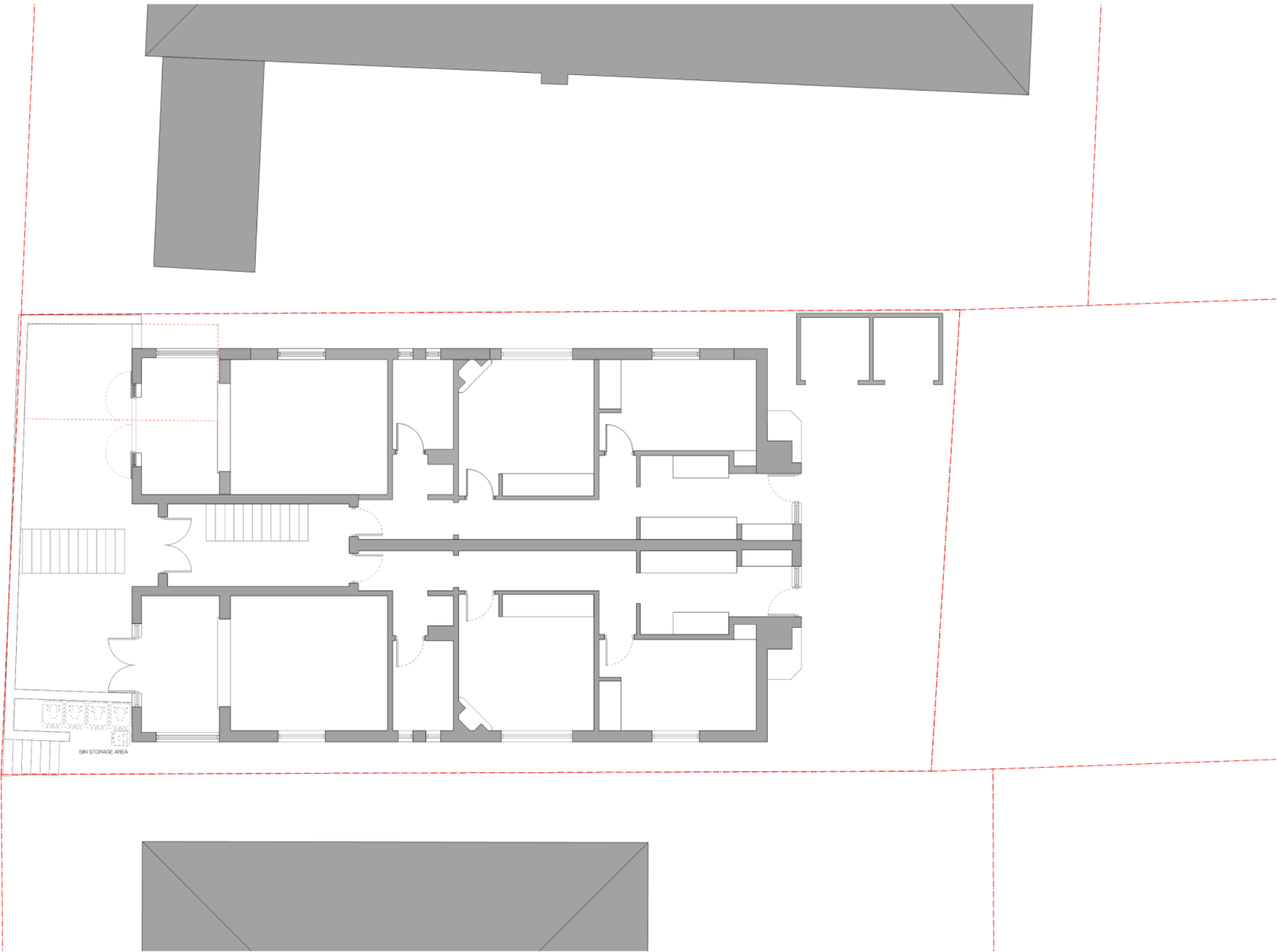
DRAWING TITLE
BASEMENT PLAN | EXISTING

DRAWING NO.
1702-DA 110 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION
A	JANUARY 2020	DA
B	FEBRUARY 2020	DA
C	MAY 2020	DA

REVISION
COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
DRAWINGS ALTERED
LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



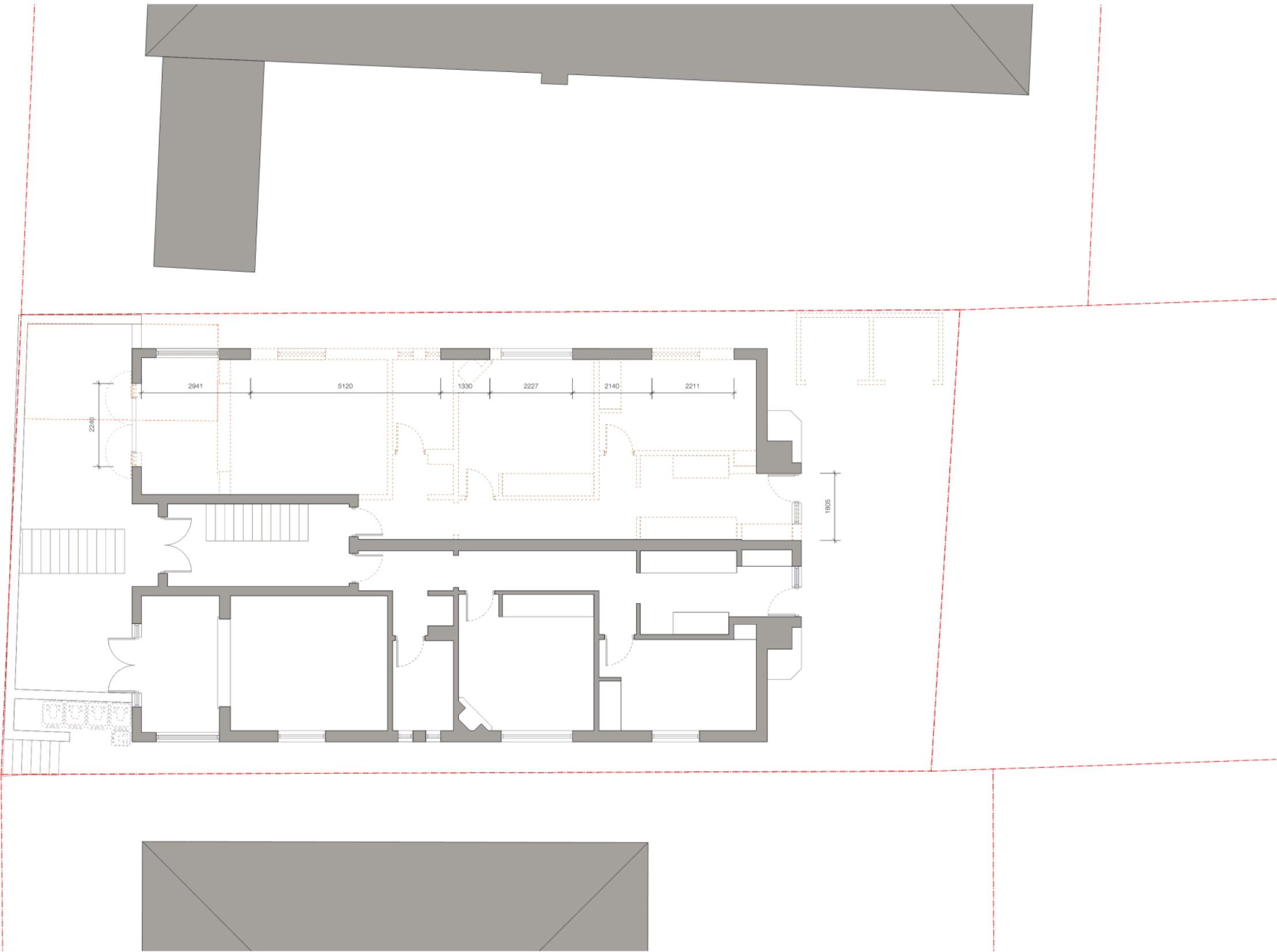
DRAWING TITLE
GROUND FLOOR PLAN | EXISTING

DRAWING NO.
1702-DA 120 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



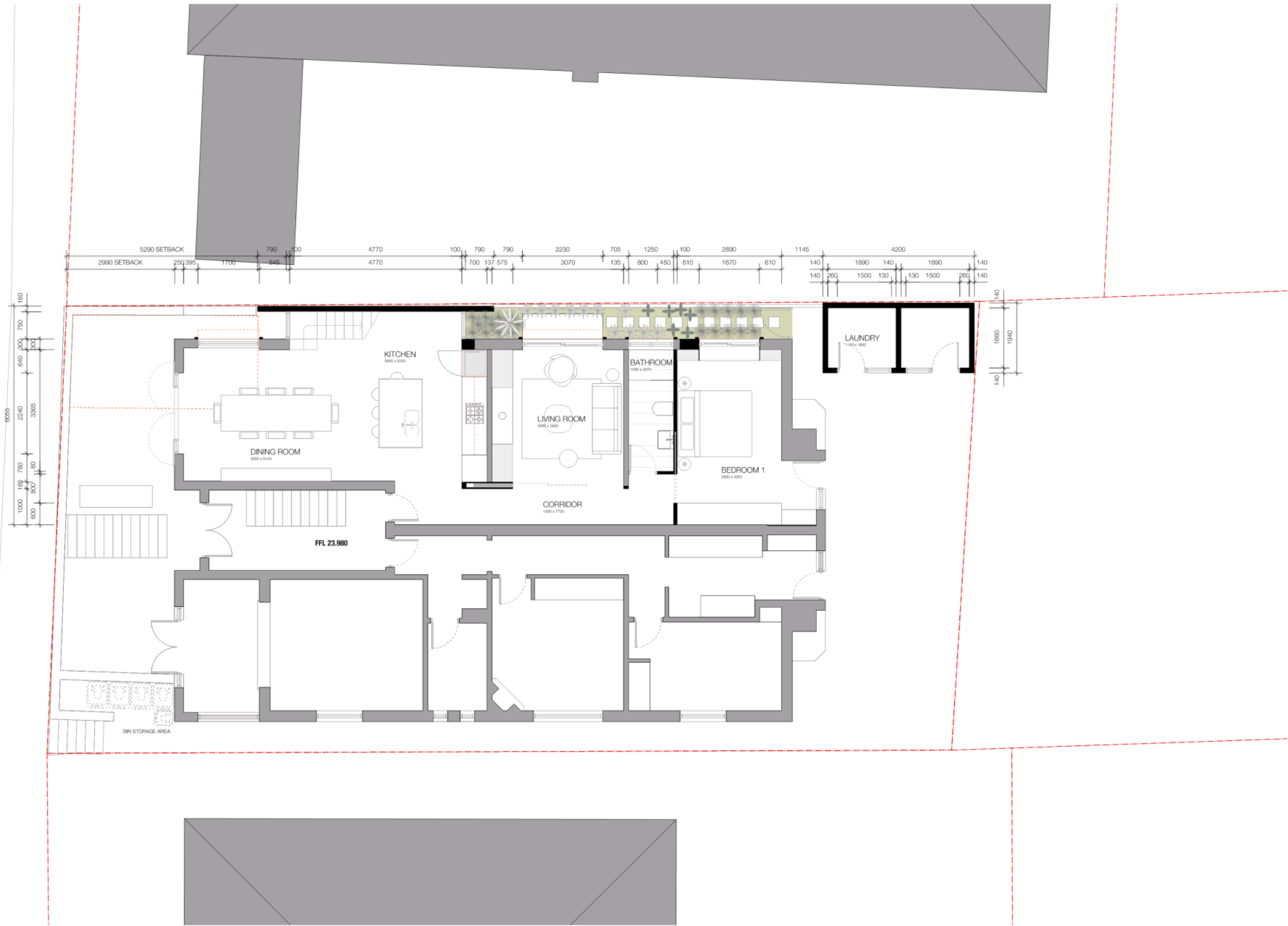
DRAWING TITLE
GROUND FLOOR PLAN | DEMOLITION

DRAWING NO.
1702-DA 121 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



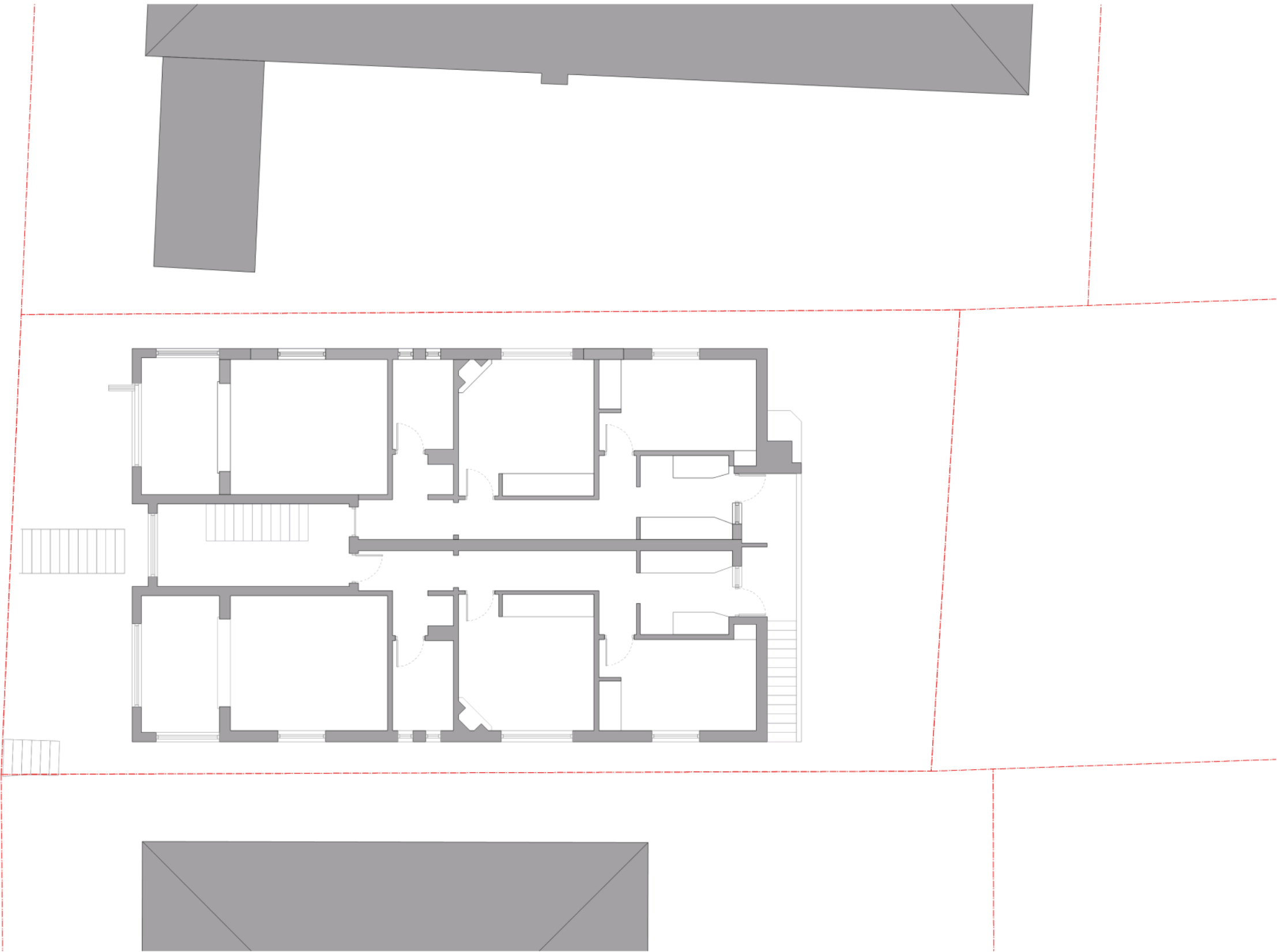
DRAWING TITLE
GROUND FLOOR PLAN

DRAWING NO.
1702-DA 122 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION
A	JANUARY 2020	DA
B	FEBRUARY 2020	DA
C	MAY 2020	DA

REVISION
COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
DRAWINGS ALTERED
LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



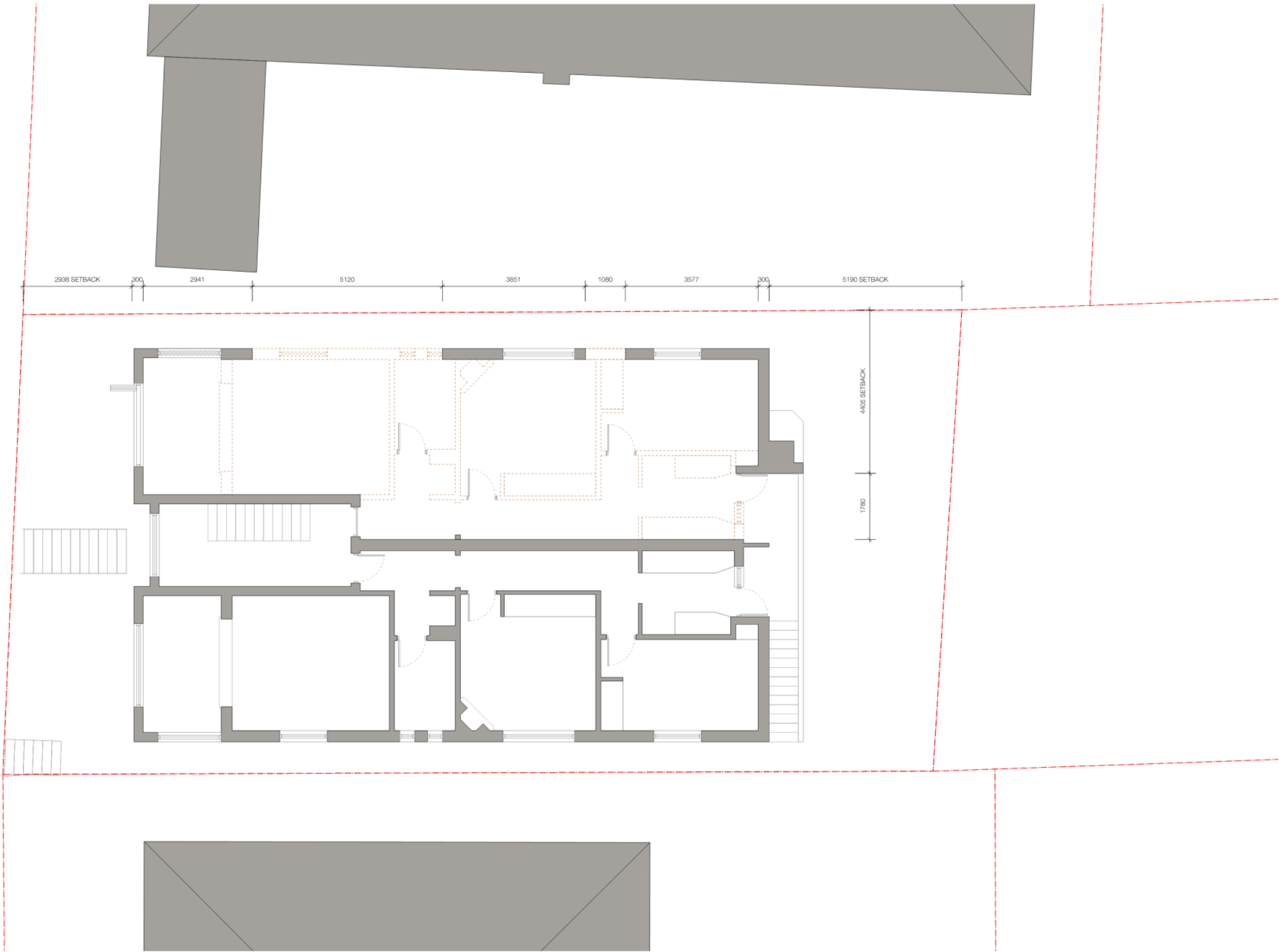
DRAWING TITLE
FIRST FLOOR PLAN | EXISTING

DRAWING NO.
1702-DA 130 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION
A	JANUARY 2020	DA
B	FEBRUARY 2020	DA
C	MAY 2020	DA

REVISION
COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
DRAWINGS ALTERED
LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



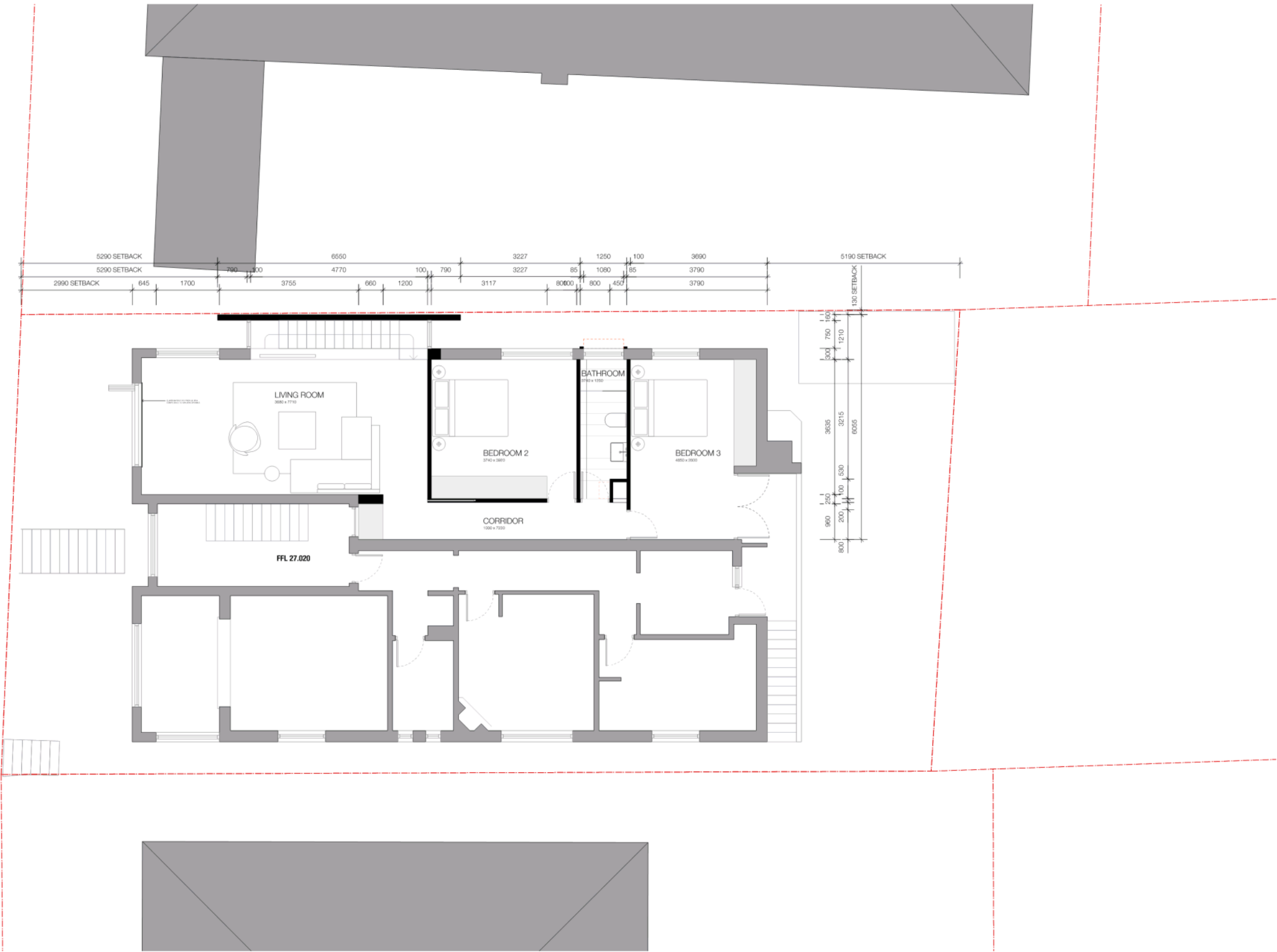
DRAWING TITLE
FIRST FLOOR PLAN | DEMOLITION

DRAWING NO.
1702-DA 131 C

M: 0410 491 416
ABN: 75155117516
NOM ARCH C: HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION
A	JANUARY 2020	DA
B	FEBRUARY 2020	DA
C	MAY 2020	DA

REVISION
COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
DRAWINGS ALTERED
LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



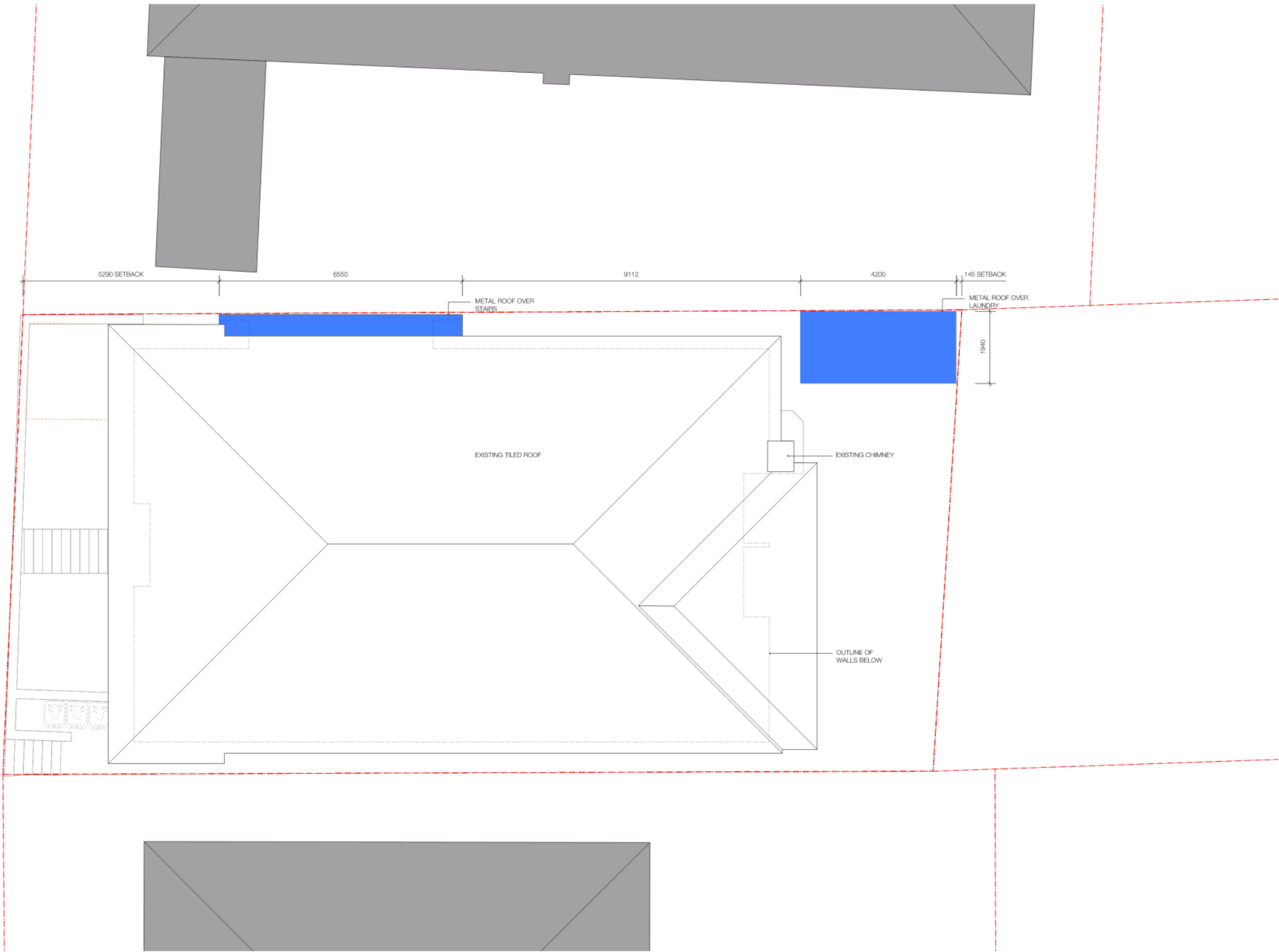
DRAWING TITLE
FIRST FLOOR PLAN

DRAWING NO.
1702-DA 132 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION
A	JANUARY 2020	DA
B	FEBRUARY 2020	DA
C	MAY 2020	DA

REVISION
COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
DRAWINGS ALTERED
LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3



DRAWING TITLE
**ROOF PLAN I
WITH COLOUR ON NEW WORKS**

DRAWING NO.
1702-DA 140 C

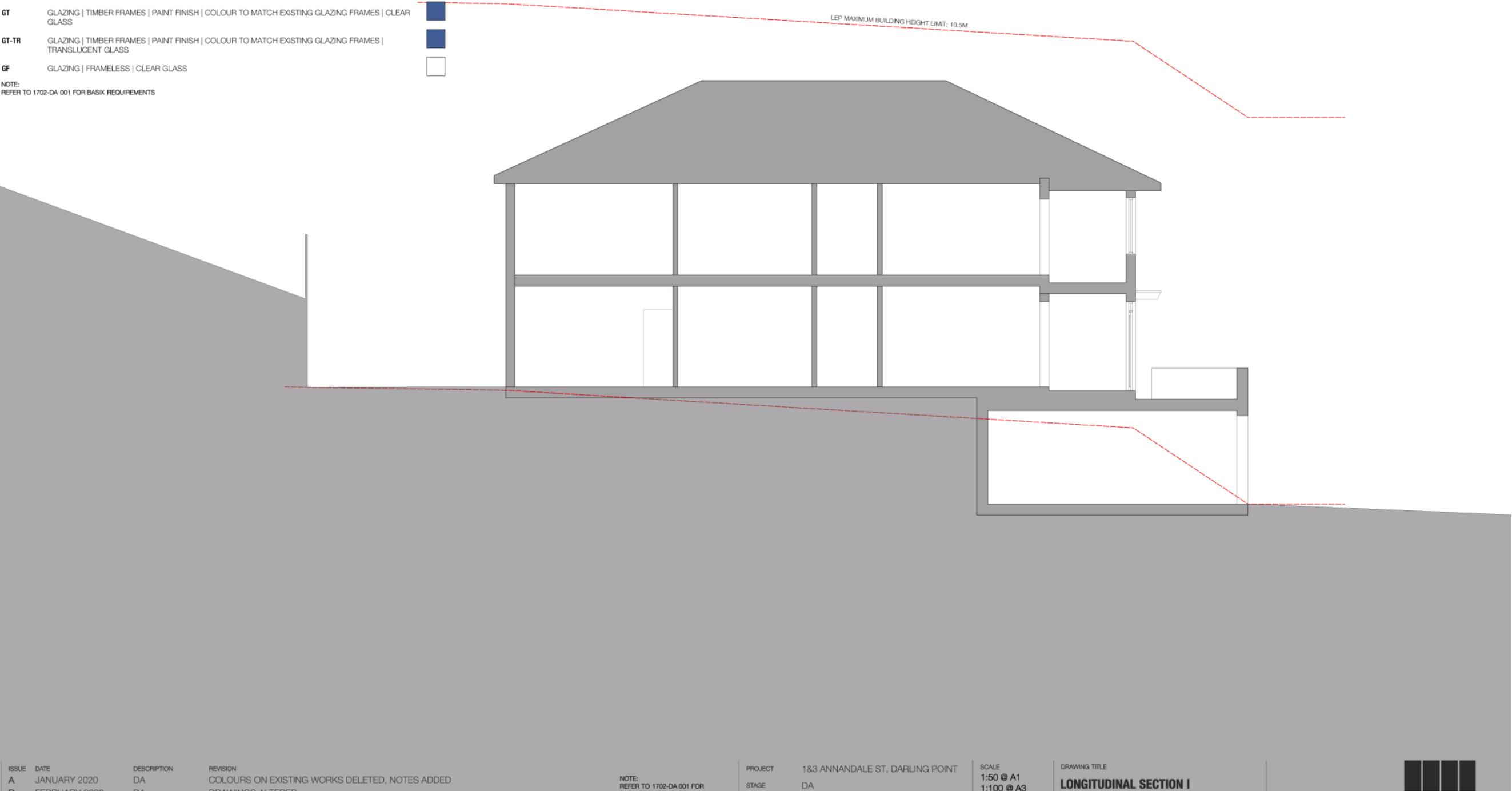
M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



LEGEND

AW	METAL AWNING COVER BOX COLOUR TO MATCH EXISTING WALL COLOUR	
BAL	METAL BALLUSTRADE HORIZONTAL RAILS AT MAX 125 CENTRES PAINT FINISH COLOUR TO MATCH EXISTING WINDOW FRAMES	
BR	BRICKWORK RENDER & PAINT FINISH COLOUR TO MATCH EXISTING	
EX-BR	EXISTING BRICKWORK RENDER & PAINT FINISH COLOUR: NO CHANGE	
FC	FIBRE CEMENT CLADDING PAINT FINISH COLOUR TO MATCH EXISTING WALL	
FS	FIRE SHUTTER COLOUR TO MATCH EXISTING WALLS	
GT	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES CLEAR GLASS	
GT-TR	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES TRANSLUCENT GLASS	
GF	GLAZING FRAMELESS CLEAR GLASS	

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3

DRAWING TITLE
**LONGITUDINAL SECTION I
EXISTING**

DRAWING NO.
1702-DA 210 C

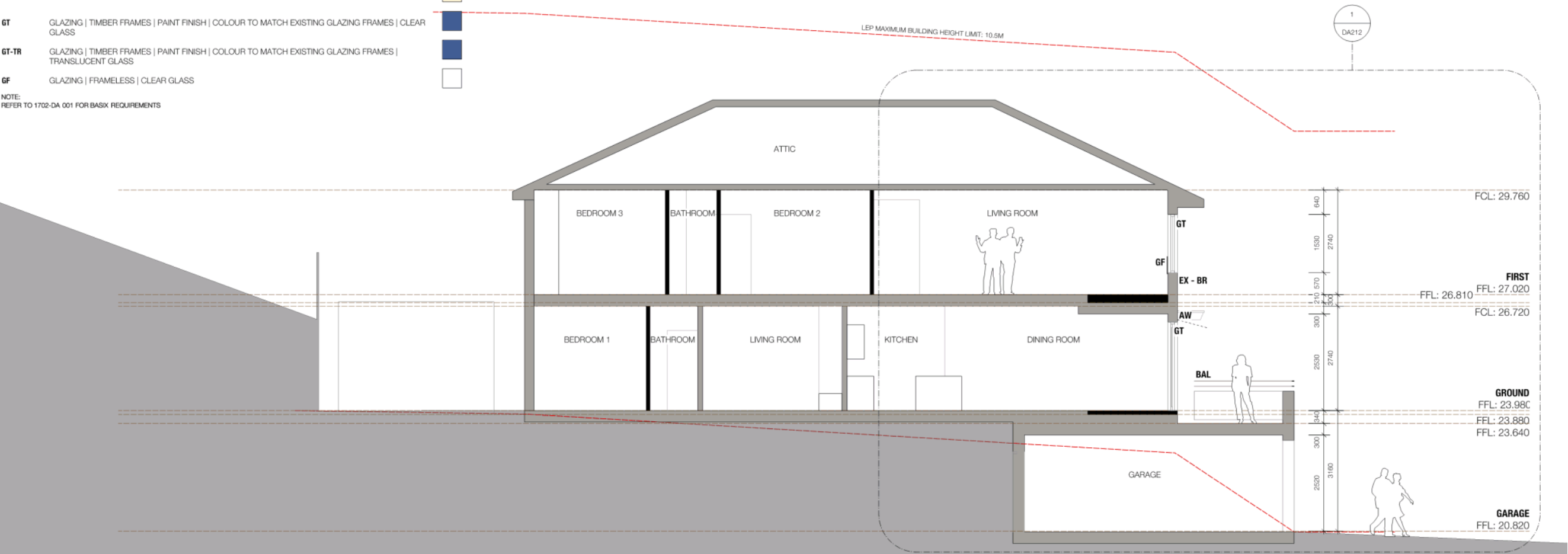
M 0410 491 416
ABN 75155117516
NOM ARCH C.HAUGHTON NSW 6727



LEGEND

AW	METAL AWNING COVER BOX COLOUR TO MATCH EXISTING WALL COLOUR	
BAL	METAL BALLUSTRADE HORIZONTAL RAILS AT MAX 125 CENTRES PAINT FINISH COLOUR TO MATCH EXISTING WINDOW FRAMES	
BR	BRICKWORK RENDER & PAINT FINISH COLOUR TO MATCH EXISTING	
EX-BR	EXISTING BRICKWORK RENDER & PAINT FINISH COLOUR: NO CHANGE	
FC	FIBRE CEMENT CLADDING PAINT FINISH COLOUR TO MATCH EXISTING WALL	
FS	FIRE SHUTTER COLOUR TO MATCH EXISTING WALLS	
GT	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES CLEAR GLASS	
GT-TR	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES TRANSLUCENT GLASS	
GF	GLAZING FRAMELESS CLEAR GLASS	

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

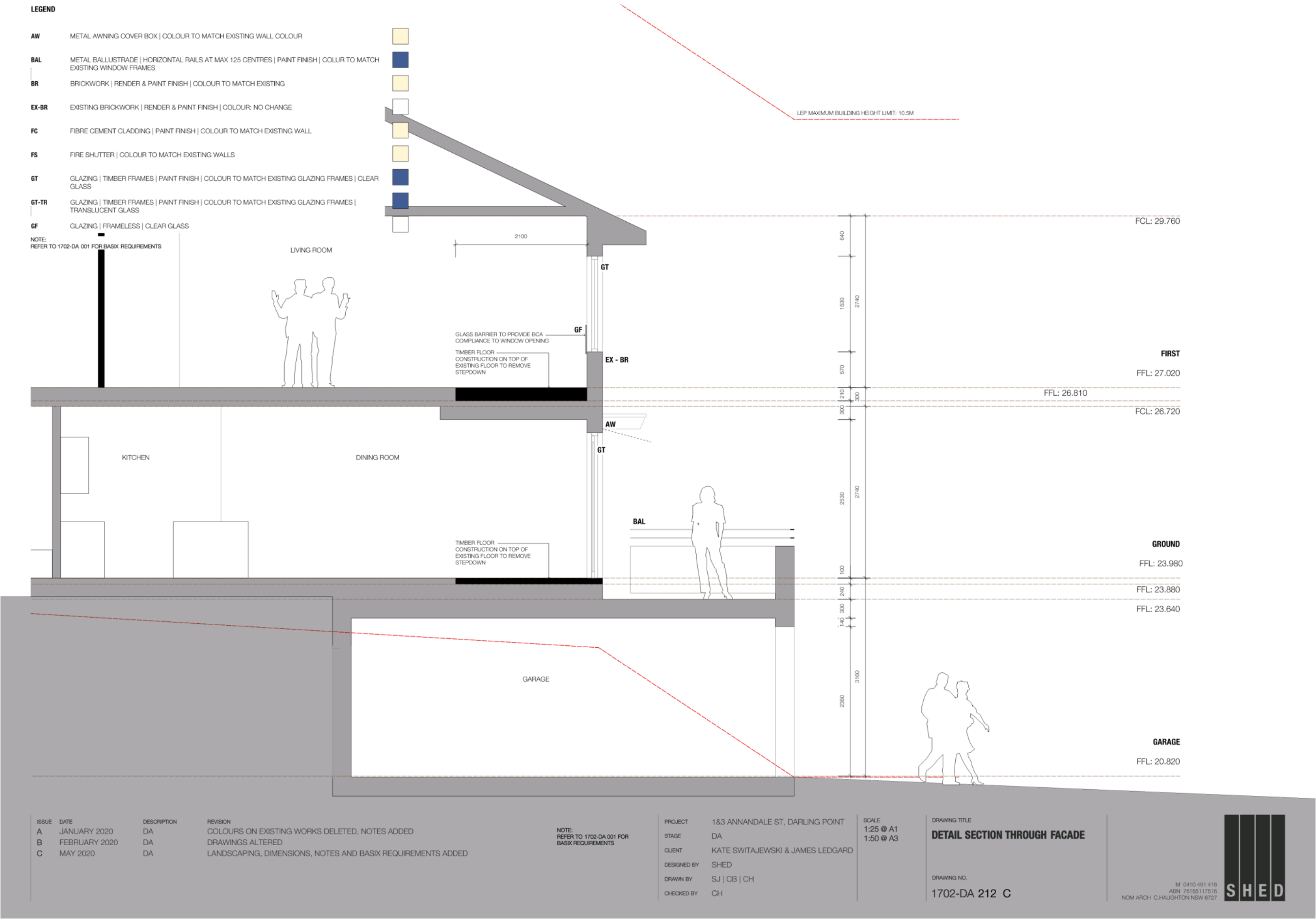
SCALE
1:50 @ A1
1:100 @ A3

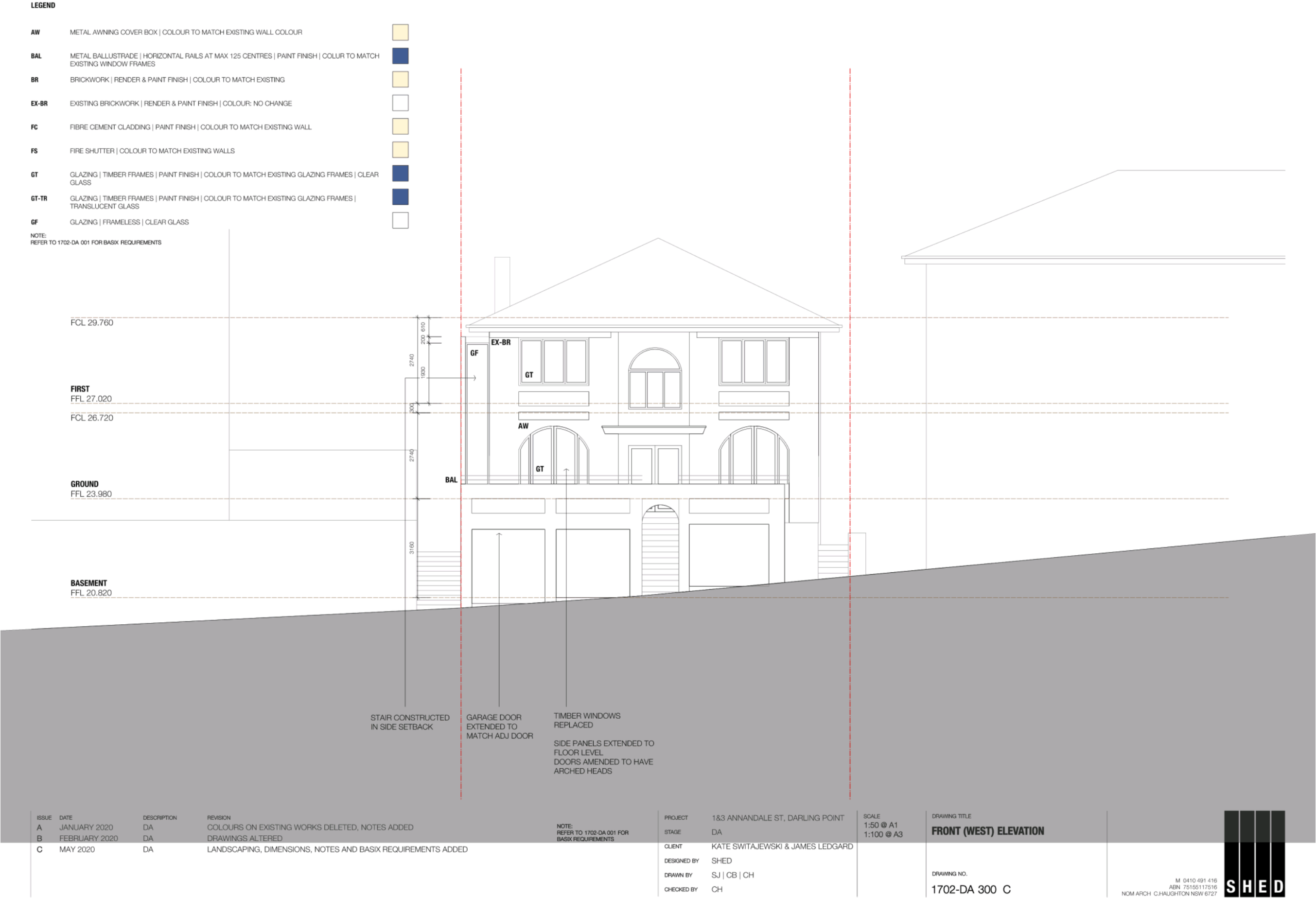
DRAWING TITLE
LONGITUDINAL SECTION

DRAWING NO.
1702-DA 211 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



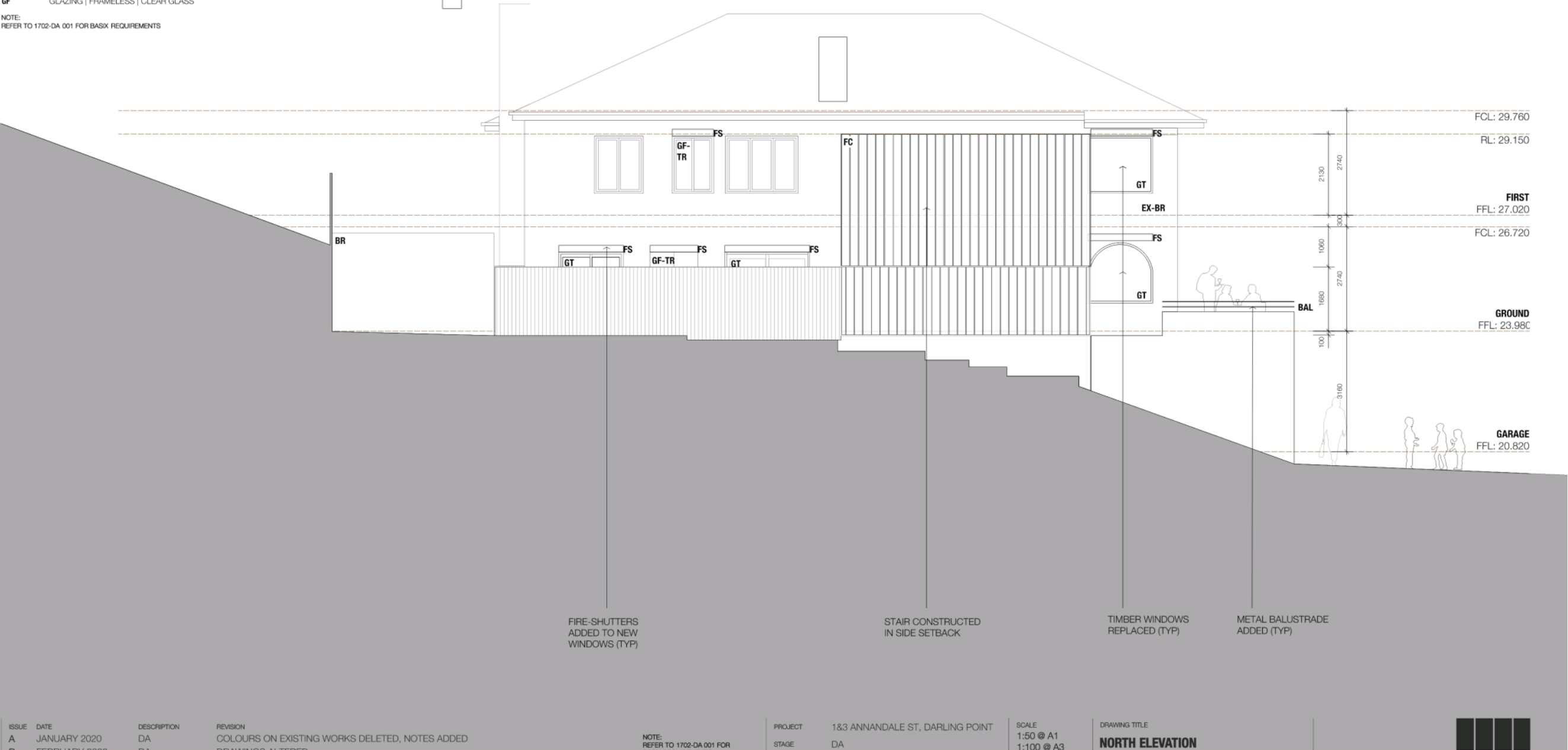




LEGEND

AW	METAL AWNING COVER BOX COLOUR TO MATCH EXISTING WALL COLOUR	
BAL	METAL BALUSTRADE HORIZONTAL RAILS AT MAX 125 CENTRES PAINT FINISH COLOUR TO MATCH EXISTING WINDOW FRAMES	
BR	BRICKWORK RENDER & PAINT FINISH COLOUR TO MATCH EXISTING	
EX-BR	EXISTING BRICKWORK RENDER & PAINT FINISH COLOUR: NO CHANGE	
FC	FIBRE CEMENT CLADDING PAINT FINISH COLOUR TO MATCH EXISTING WALL	
FS	FIRE SHUTTER COLOUR TO MATCH EXISTING WALLS	
GT	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES CLEAR GLASS	
GT-TR	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES TRANSLUCENT GLASS	
GF	GLAZING FRAMELESS CLEAR GLASS	

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3

DRAWING TITLE
NORTH ELEVATION

DRAWING NO.
1702-DA 302 C

M 0410 491 416
ABN 75155117516
NOM ARCH C.HAUGHTON NSW 6727



LEGEND

AW	METAL AWNING COVER BOX COLOUR TO MATCH EXISTING WALL COLOUR	
BAL	METAL BALLUSTRADE HORIZONTAL RAILS AT MAX 125 CENTRES PAINT FINISH COLOUR TO MATCH EXISTING WINDOW FRAMES	
BR	BRICKWORK RENDER & PAINT FINISH COLOUR TO MATCH EXISTING	
EX-BR	EXISTING BRICKWORK RENDER & PAINT FINISH COLOUR: NO CHANGE	
FC	FIBRE CEMENT CLADDING PAINT FINISH COLOUR TO MATCH EXISTING WALL	
FS	FIRE SHUTTER COLOUR TO MATCH EXISTING WALLS	
GT	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES CLEAR GLASS	
GT-TR	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES TRANSLUCENT GLASS	
GF	GLAZING FRAMELESS CLEAR GLASS	

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS

FIRST
FFL 27.020

GROUND
FFL 23.980

BASEMENT



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

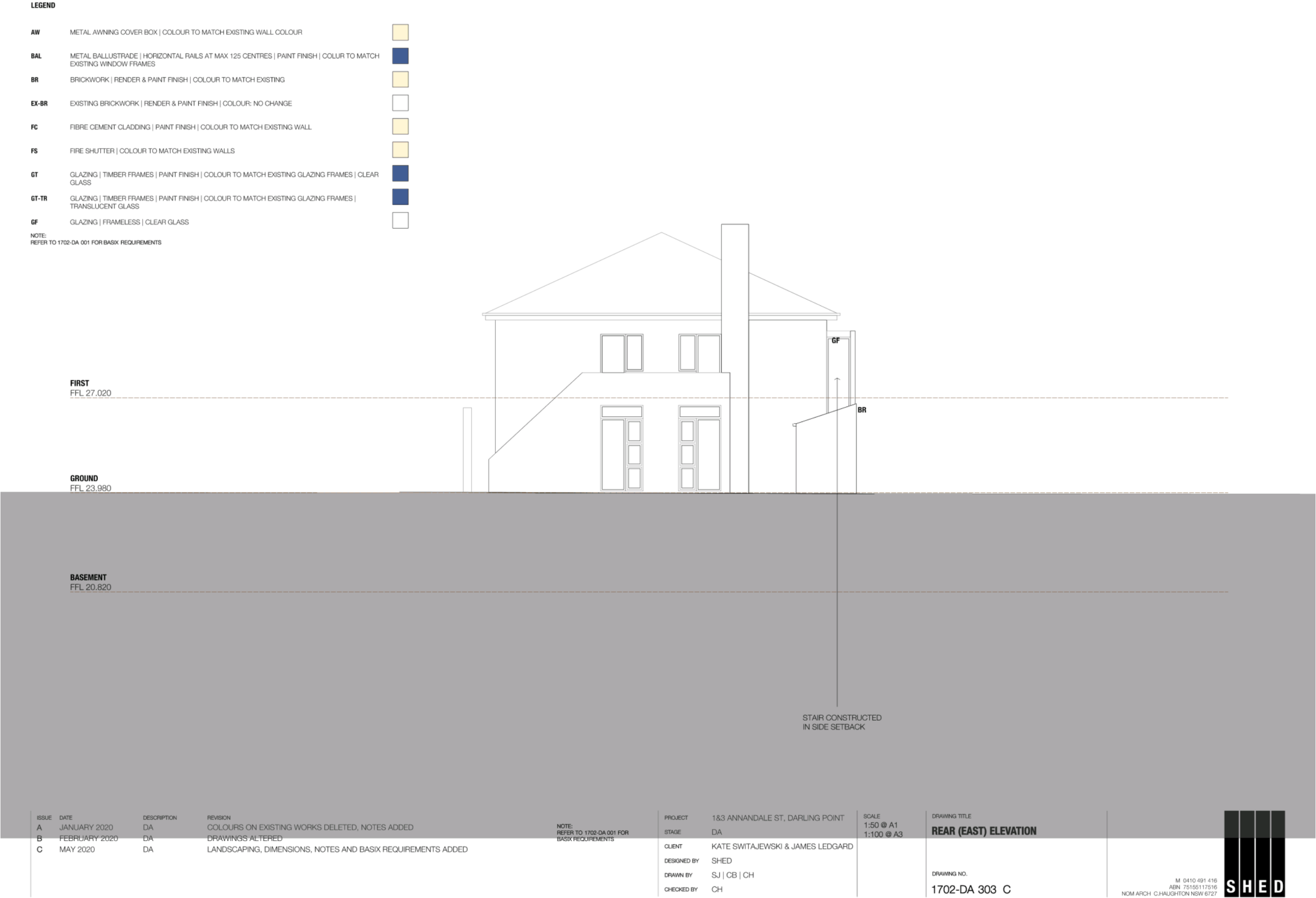
SCALE
1:50 @ A1
1:100 @ A3

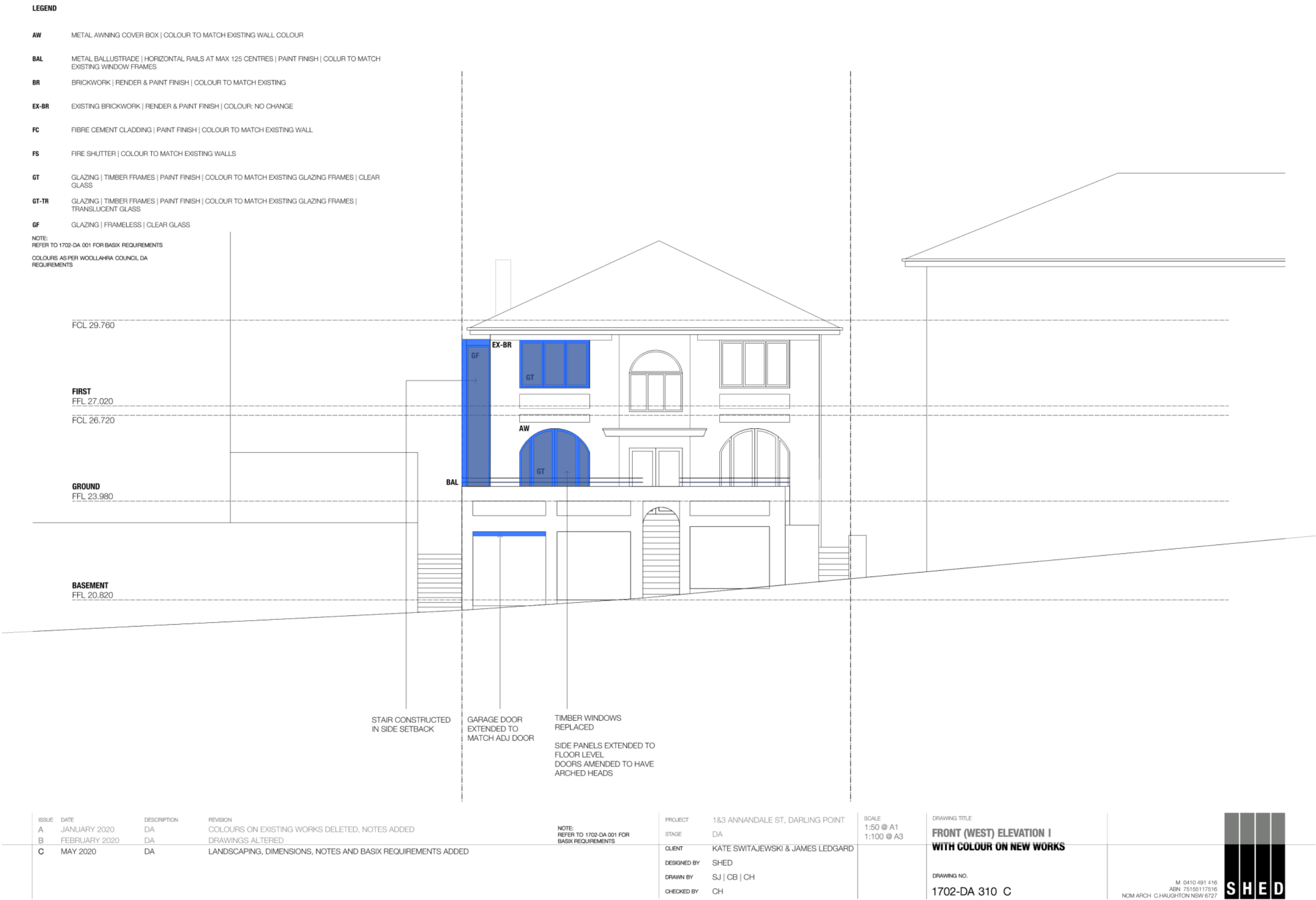
DRAWING TITLE
SOUTH ELEVATION

DRAWING NO.
1702-DA 301 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



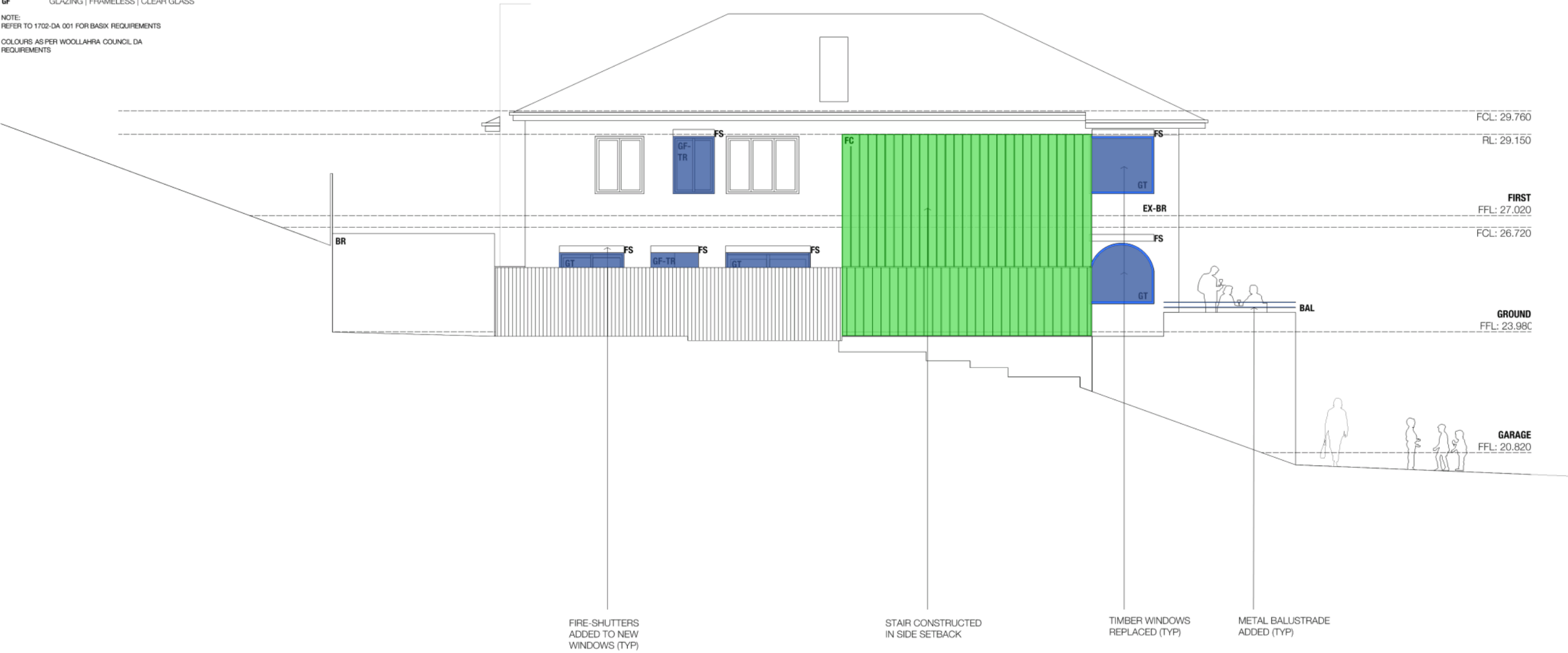




LEGEND

AW	METAL AWNING COVER BOX COLOUR TO MATCH EXISTING WALL COLOUR
BAL	METAL BALUSTRADE HORIZONTAL RAILS AT MAX 125 CENTRES PAINT FINISH COLOUR TO MATCH EXISTING WINDOW FRAMES
BR	BRICKWORK RENDER & PAINT FINISH COLOUR TO MATCH EXISTING
EX-BR	EXISTING BRICKWORK RENDER & PAINT FINISH COLOUR: NO CHANGE
FC	FIBRE CEMENT CLADDING PAINT FINISH COLOUR TO MATCH EXISTING WALL
FS	FIRE SHUTTER COLOUR TO MATCH EXISTING WALLS
GT	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES CLEAR GLASS
GT-TR	GLAZING TIMBER FRAMES PAINT FINISH COLOUR TO MATCH EXISTING GLAZING FRAMES TRANSLUCENT GLASS
GF	GLAZING FRAMELESS CLEAR GLASS

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS
COLOURS AS PER WOOLLAHRA COUNCIL DA
REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

SCALE
1:50 @ A1
1:100 @ A3

DRAWING TITLE
**NORTH ELEVATION I
WITH COLOUR ON NEW WORKS**

DRAWING NO.
1702-DA 311 C

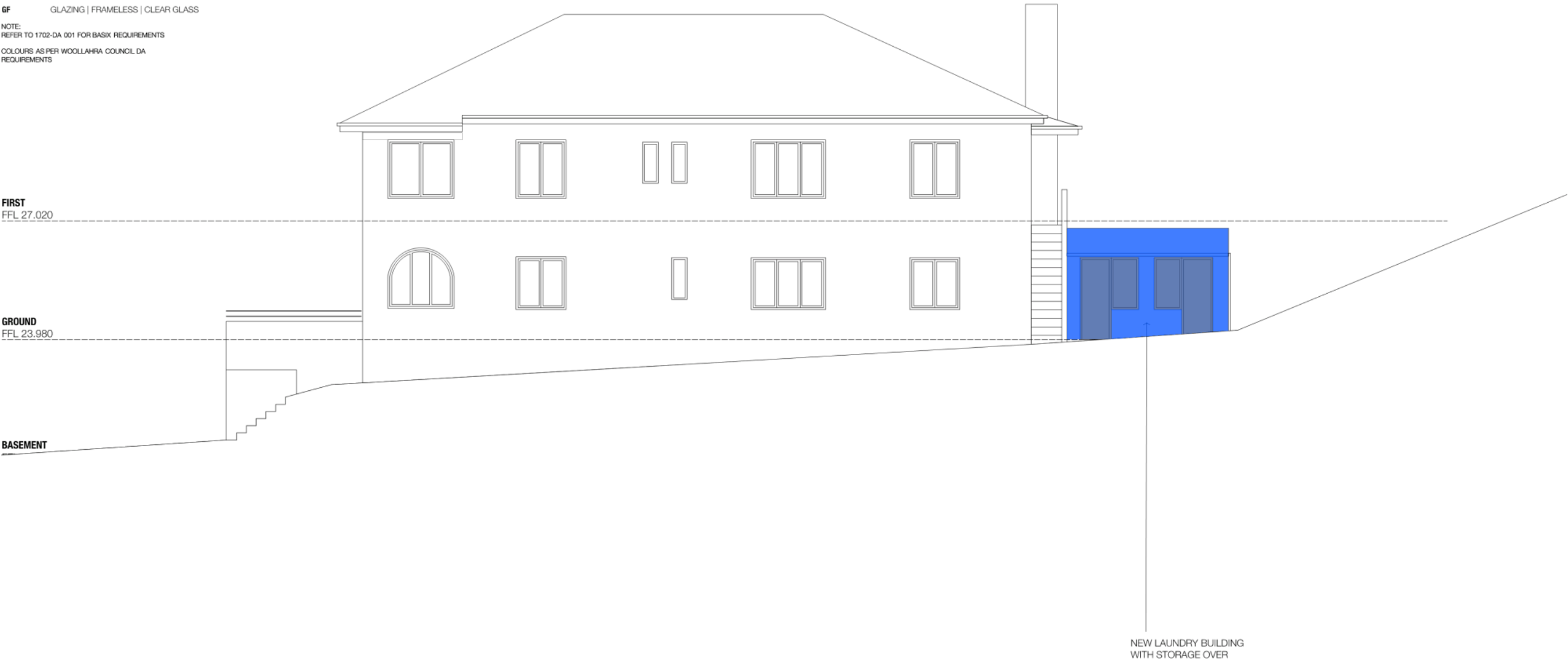
M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727



LEGEND

- AW** METAL AWNING COVER BOX | COLOUR TO MATCH EXISTING WALL COLOUR
- BAL** METAL BALLUSTRADE | HORIZONTAL RAILS AT MAX 125 CENTRES | PAINT FINISH | COLOUR TO MATCH EXISTING WINDOW FRAMES
- BR** BRICKWORK | RENDER & PAINT FINISH | COLOUR TO MATCH EXISTING
- EX-BR** EXISTING BRICKWORK | RENDER & PAINT FINISH | COLOUR: NO CHANGE
- FC** FIBRE CEMENT CLADDING | PAINT FINISH | COLOUR TO MATCH EXISTING WALL
- FS** FIRE SHUTTER | COLOUR TO MATCH EXISTING WALLS
- GT** GLAZING | TIMBER FRAMES | PAINT FINISH | COLOUR TO MATCH EXISTING GLAZING FRAMES | CLEAR GLASS
- GT-TR** GLAZING | TIMBER FRAMES | PAINT FINISH | COLOUR TO MATCH EXISTING GLAZING FRAMES | TRANSLUCENT GLASS
- GF** GLAZING | FRAMELESS | CLEAR GLASS

NOTE:
REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS
COLOURS AS PER WOOLLAHRA COUNCIL DA REQUIREMENTS



ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED
B	FEBRUARY 2020	DA	DRAWINGS ALTERED
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED

NOTE:
REFER TO 1702-DA 001 FOR
BASIX REQUIREMENTS

PROJECT	1&3 ANNANDALE ST, DARLING POINT
STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
CHECKED BY	CH

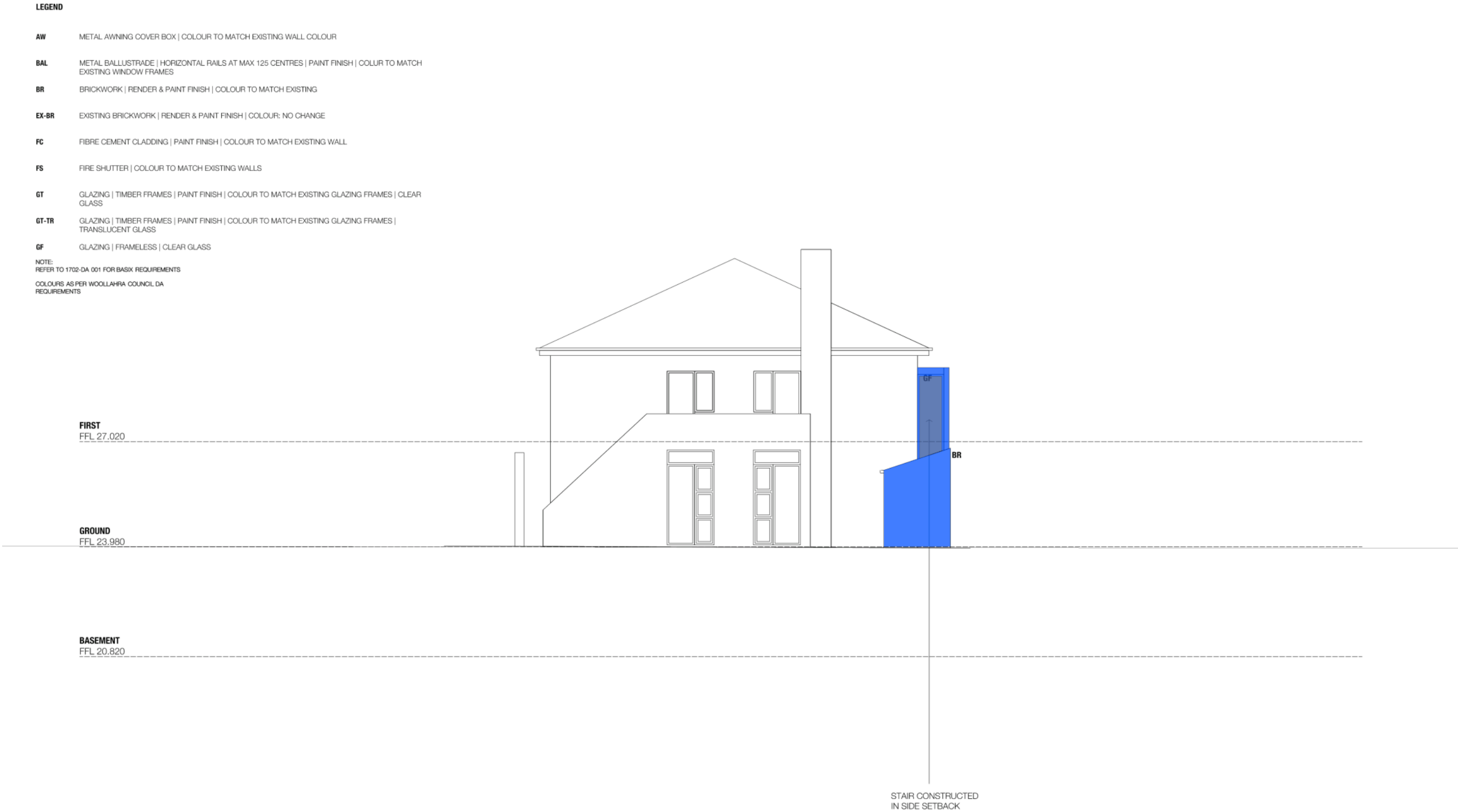
SCALE
1:50 @ A1
1:100 @ A3

DRAWING TITLE
**SOUTH ELEVATION I
WITH COLOUR ON NEW WORKS**

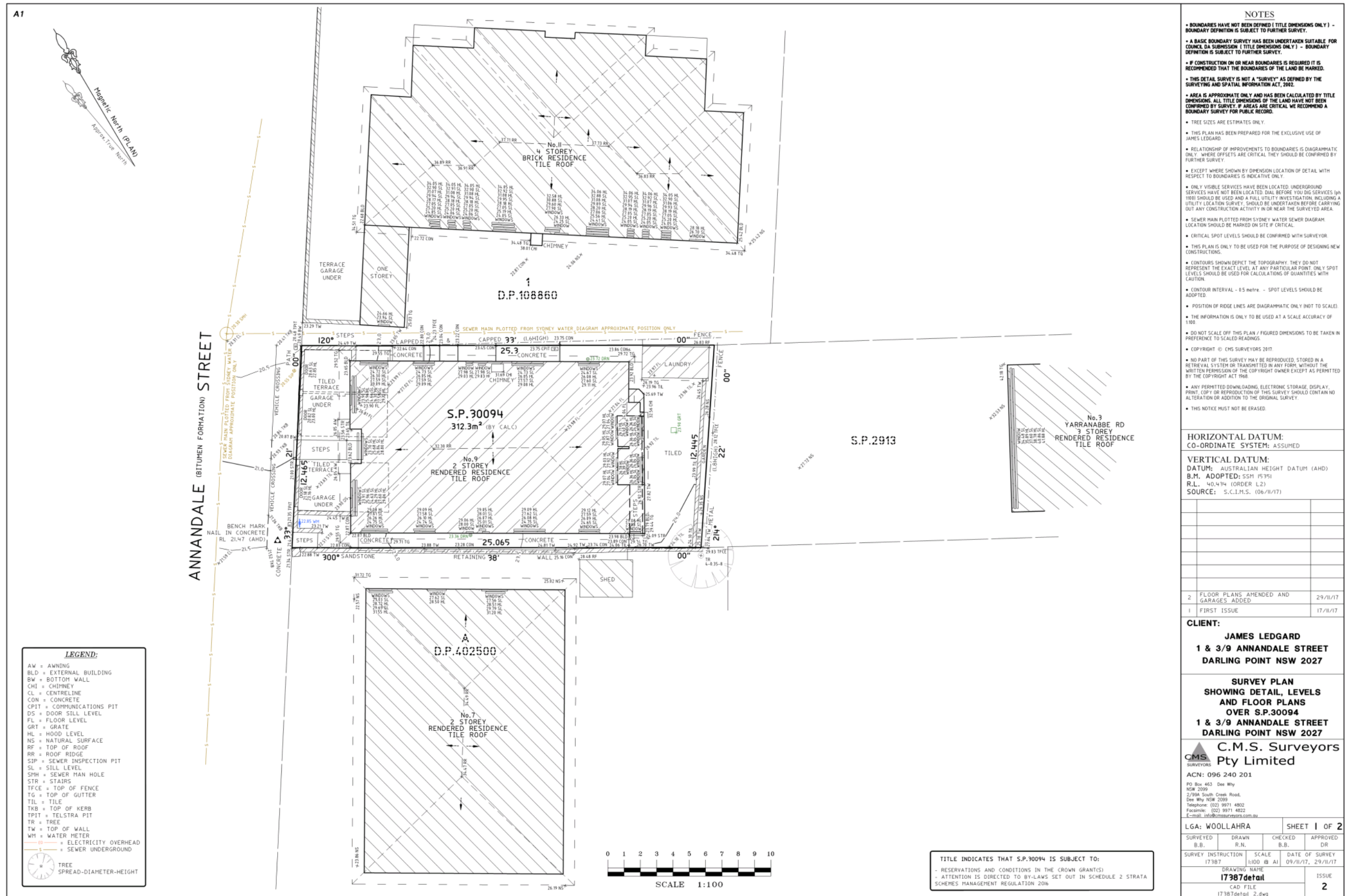
DRAWING NO.
1702-DA 312 C

M 0410 491 416
ABN 75155117516
NOM ARCH C-HAUGHTON NSW 6727

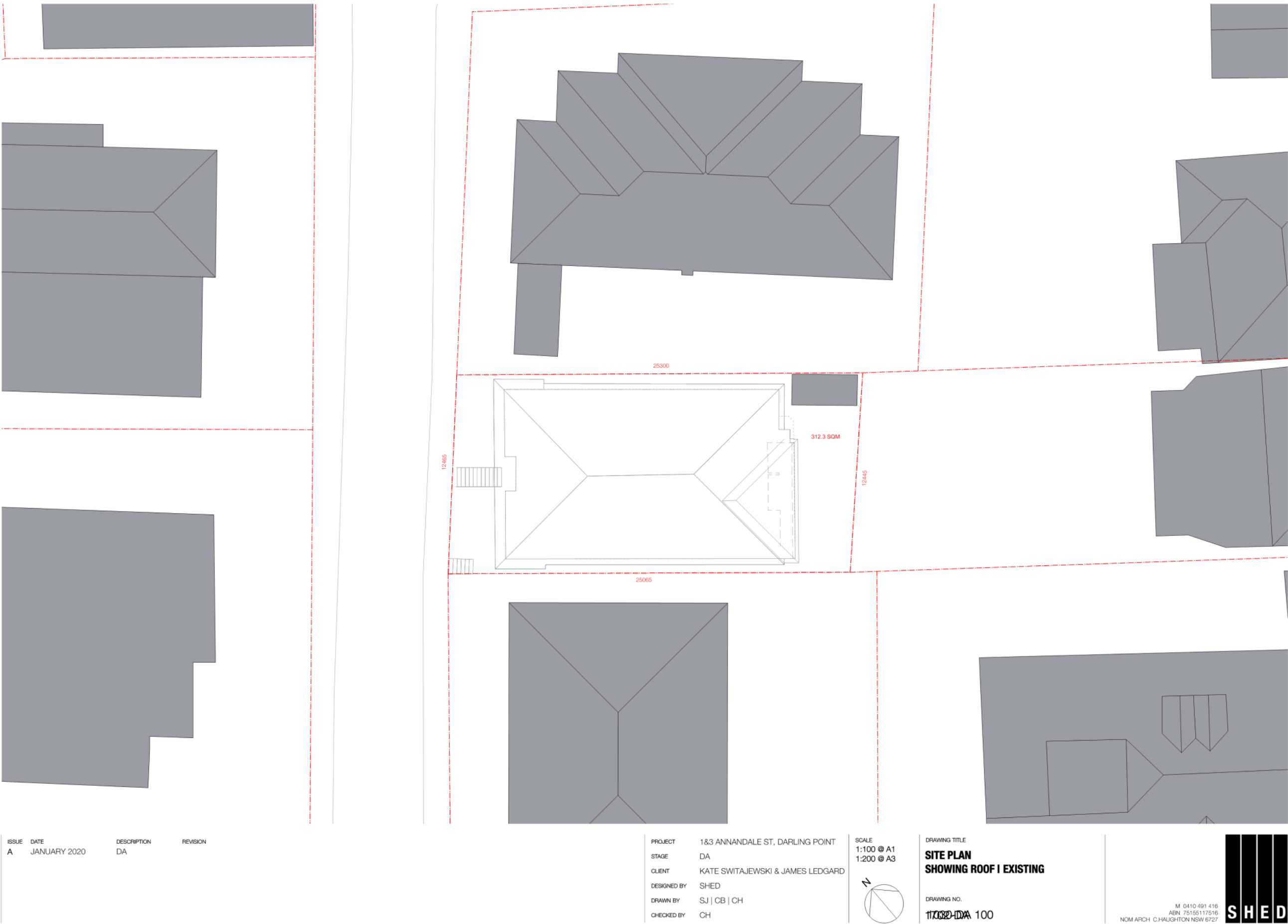


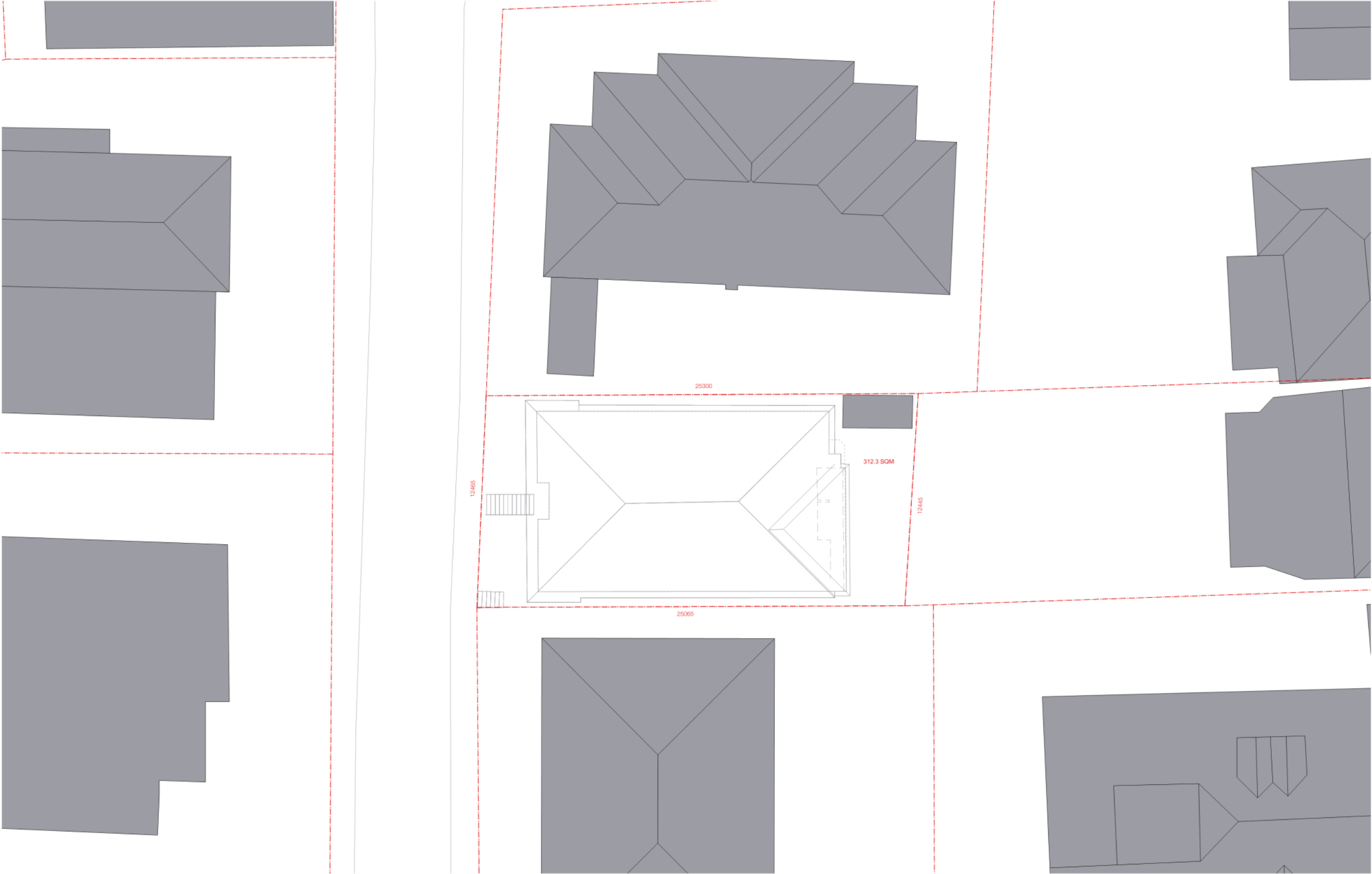


ISSUE	DATE	DESCRIPTION	REVISION	NOTE: REFER TO 1702-DA 001 FOR BASIX REQUIREMENTS	PROJECT	1&3 ANNANDALE ST, DARLING POINT	SCALE	1:50 @ A1 1:100 @ A3	DRAWING TITLE	<div>M 0410 491 416 ABN 75155117516 NOM ARCH C:HAUGHTON NSW 6727</div> <div>SHED</div>
A	JANUARY 2020	DA	COLOURS ON EXISTING WORKS DELETED, NOTES ADDED		STAGE	DA			REAR (EAST) ELEVATION I	
B	FEBRUARY 2020	DA	DRAWINGS ALTERED		CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD			WITH COLOUR ON NEW WORKS	
C	MAY 2020	DA	LANDSCAPING, DIMENSIONS, NOTES AND BASIX REQUIREMENTS ADDED		DESIGNED BY	SHED			DRAWING NO.	
					DRAWN BY	SJ CB CH			1702-DA 313 C	
					CHECKED BY	CH				









ISSUE	DATE	DESCRIPTION	REVISION
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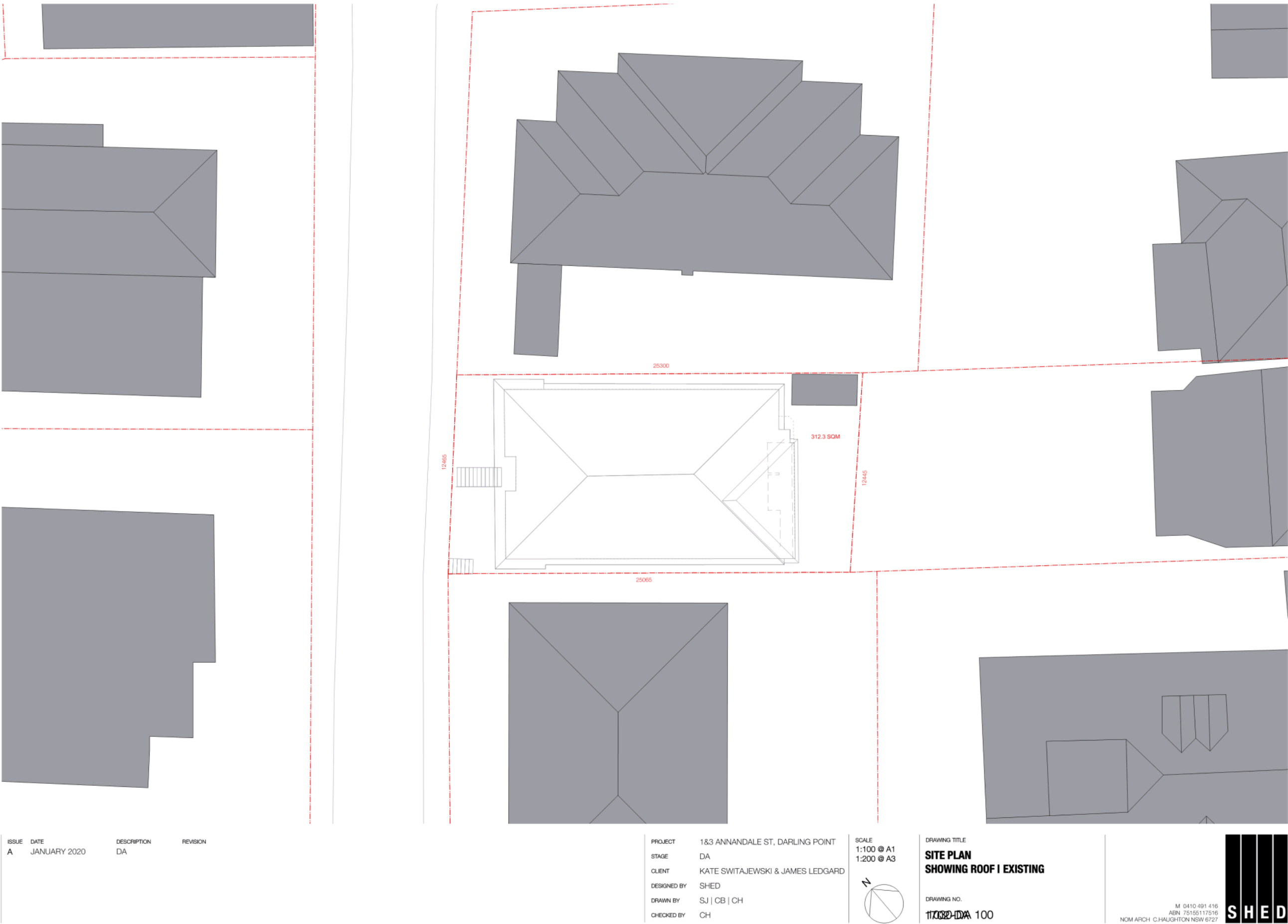
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STAGE	DA
CLIENT	KATE SWITAJEWSKI & JAMES LEDGARD
DESIGNED BY	SHED
DRAWN BY	SJ CB CH
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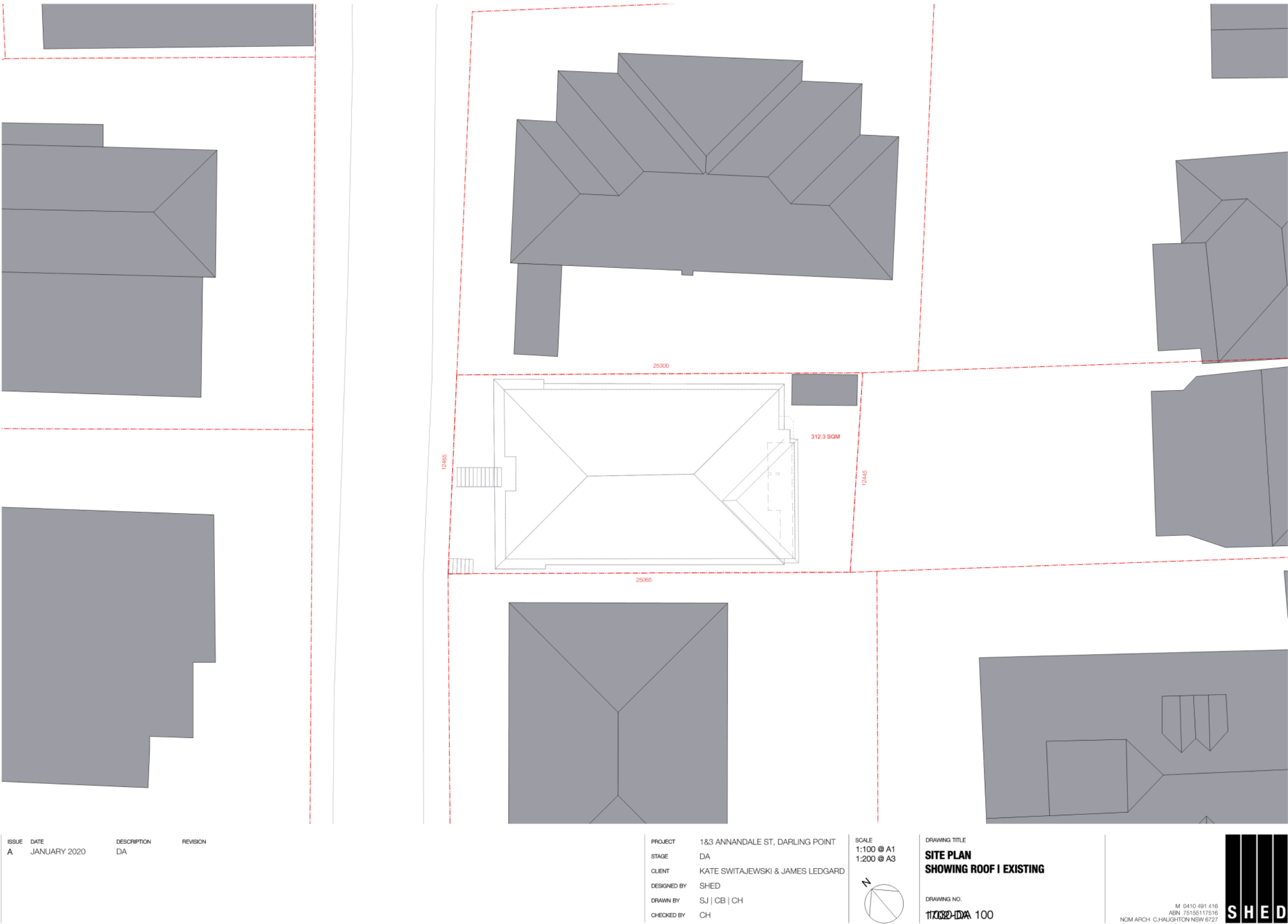
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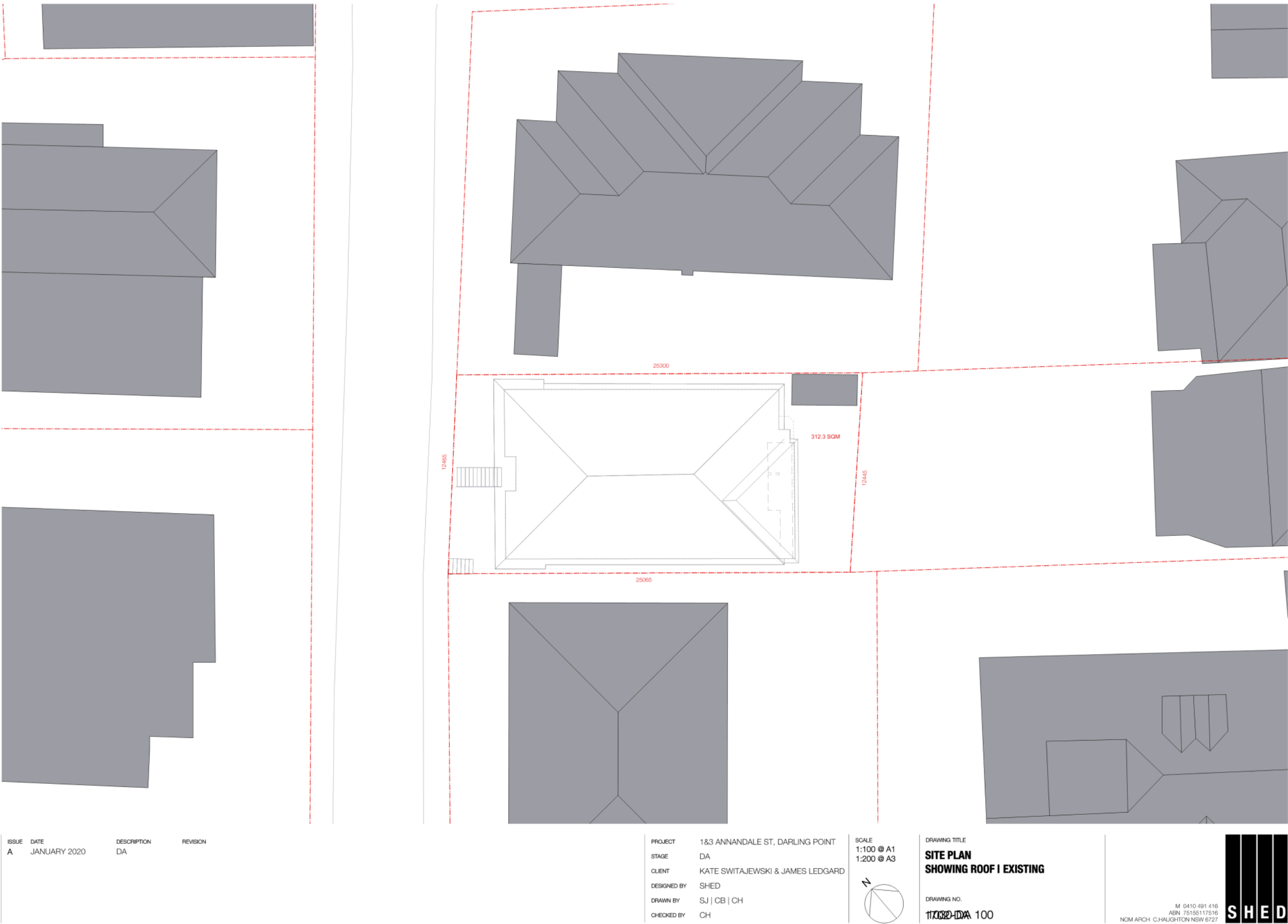
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SHOWING ROOF | EXISTING**

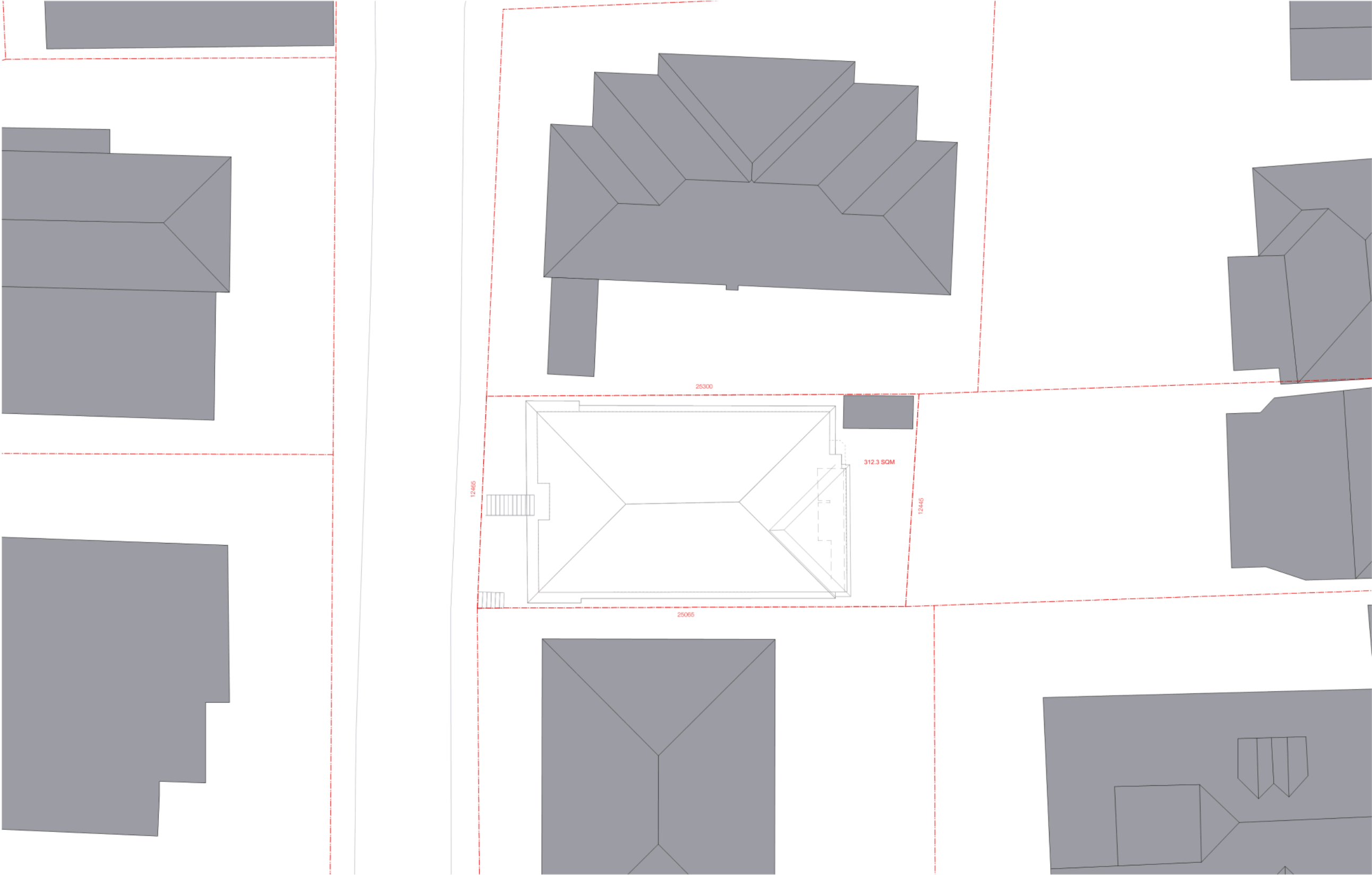
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ISSUE	DATE	DESCRIPTION	REVISION
A	JANUARY 2020	DA	

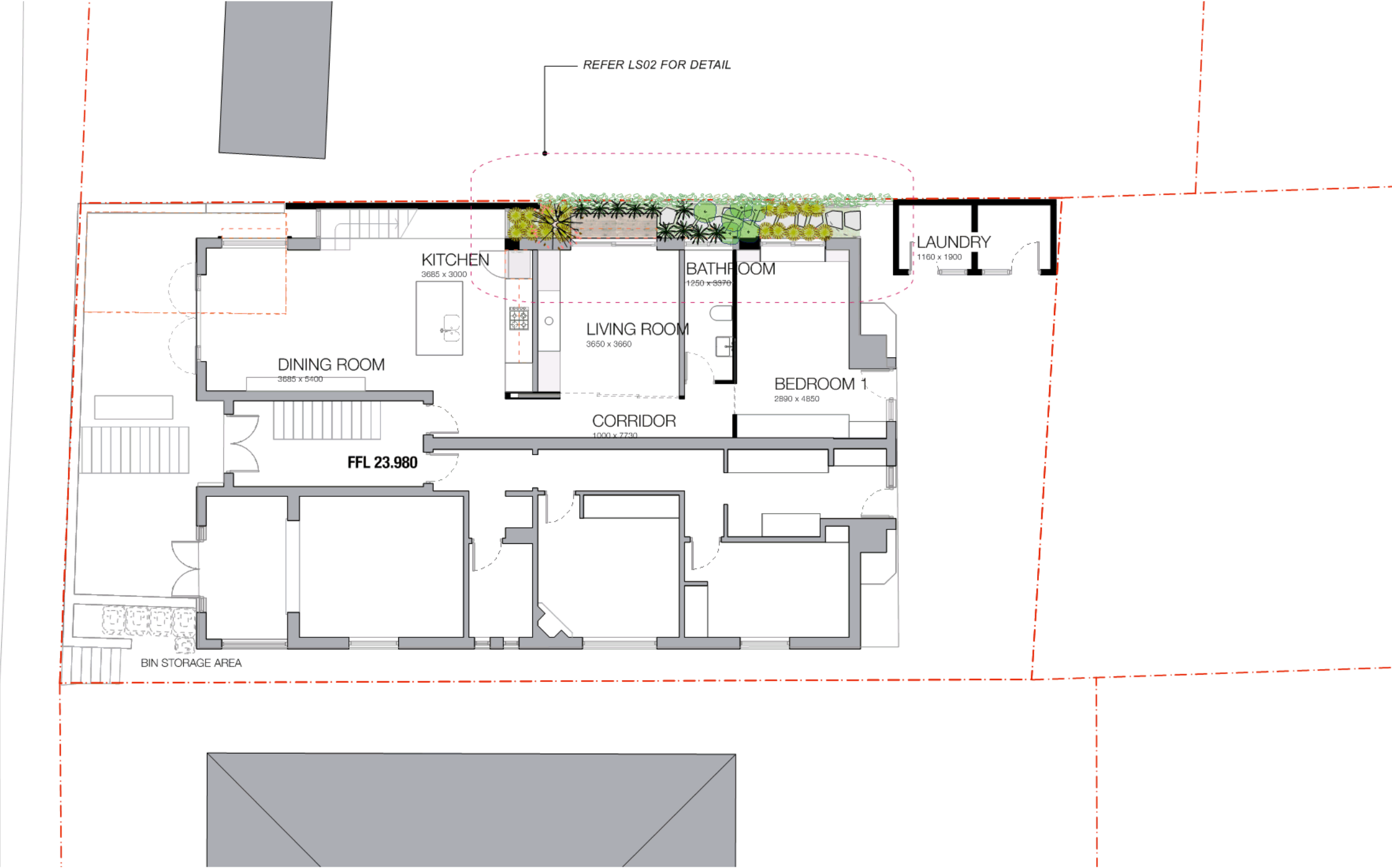
PROJECT	1&3 ANNANDALE ST, DARLING POINT
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SCALE
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ISSUE	AMENDMENT	DATE
A	FOR COMMENT/CO-ORD	27.03.20
B	FOR DA	07.04.20

SCALE: 1:100@A3

DRAWN: MW

CLIENT: KATE SWITAJEWSKI & JAMES LEDGARD

DRAWING TITLE
LANDSCAPE | GROUND FLOOR SITE PLAN

PROJECT
1&3 / 9 ANNANDALE STREET, DARLING POINT

DWG NO.
LS01

ISSUE
B

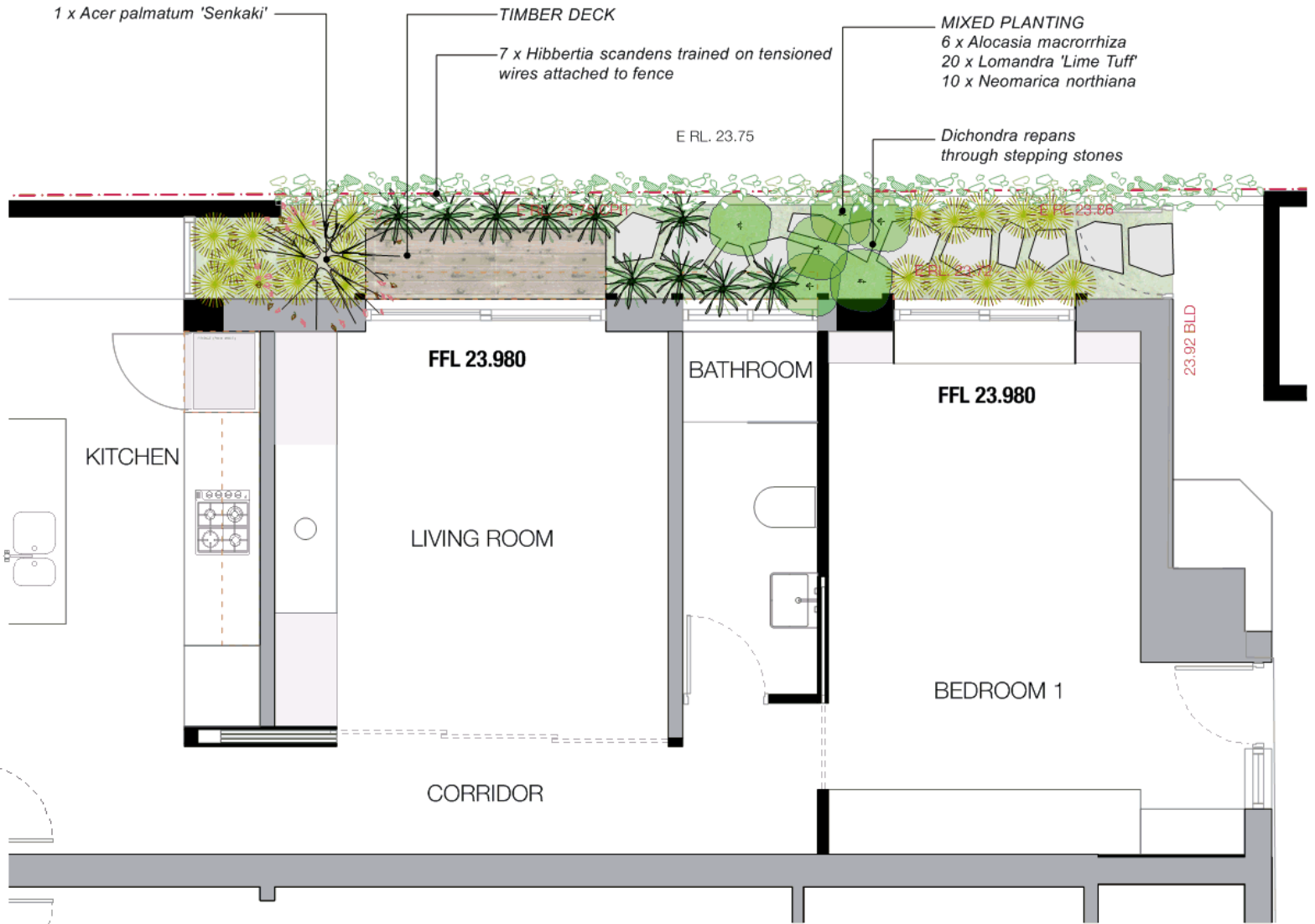


NOTES
REFER TO DETAIL SURVEY FOR SITE IDENTIFICATION, BOUNDARY
INFORMATION & LEVELS
ALL LEVELS AND DIMENSIONS TO BE CONFIRMED ON SITE. IF ANY
DISCREPANCIES OCCUR PLEASE NOTIFY THE LANDSCAPE ARCHITECT

INDICATIVE PLANT SCHEDULE					
SPECIES	COMMON NAME	HGHT	SPACING	QTY	POT SIZE
TREES					
<i>Acer palmatum 'Senkaki'</i>	Coral Barked Maple	6m	as shown	1	75Litre
SHRUBS/ GRASSES/ GROUNDCOVERS					
<i>Alocasia macrorrhiza</i>	Giant Taro	2m	3/m	6	5L
<i>Dichondra repens</i>	Kidney Weed	—	3/sq.m	35	150mm pot
<i>Hibbertia scandens</i>	Guinea Flower	climber	1/m	7	150mm pot
<i>Lomandra 'Lime Tuff'</i>	Lime Tuff	0.5m	4/m	20	150mm pot
<i>Neomarica northiana</i>	Walking Stick Iris	0.7m	3/m	10	5L



Acer palmatum 'Senkaki'



Alocasia macrorrhiza



Dichondra repens



Lomandra 'Lime Tuff'



Hibbertia scandens



Neomarica northiana

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ISSUE	AMENDMENT	DATE
A	FOR COMMENT/CO-ORD	27.03.20
B	FOR DA	07.04.20

SCALE: 1:50@A3
DRAWN: MW
CLIENT: KATE SWITAJEWSKI & JAMES LEDGARD

DRAWING TITLE
LANDSCAPE | GROUND FLOOR PLAN DETAIL

PROJECT
1&3 / 9 ANNANDALE STREET, DARLING POINT

DWG NO.
LS02

ISSUE
B

NOTES
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INFORMATION & LEVELS
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DISCREPANCIES OCCUR PLEASE NOTIFY THE LANDSCAPE ARCHITECT



ANNEXURE C

Clause 4.6 Variation Request – Floor Space Ratio



Clause 4.6 Variation Statement – Floor Space Ratio (Clause 4.4)

1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of *Woollahra Local Environmental Planning Plan 2014* (WLEP 2014) to accompany a development application which seeks consent for alterations and additions to an existing residential flat building at 9 Annandale Street, Darling Point ('the site').

2. PROPOSED VARIATION

Clause 4.4 of WLEP 2014 prescribes the maximum floor space ratio (FSR) for the site and refers to the *Floor Space Ratio Map*. The relevant map [sheet FSR_002] indicates that the maximum FSR permitted at the subject site is 0.9:1.

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. Gross floor area is defined to mean:

"...the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and*
 - (b) habitable rooms in a basement or an attic, and*
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
- but excludes:*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
 - (e) any basement:*

- (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and*
 - (j) voids above a floor at the level of a storey or storey above.*

The maximum permitted GFA for the site is 281.07m². The existing residential flat building has a GFA of 330.44m² and FSR of 1.06:1, which represents an exceedance of 49.37m². The proposed development will result in a GFA of 343.58m² and FSR of 1.1:1 which is an additional 13.14m² over the existing GFA and a total exceedance of 62.51m² over the permitted GFA. The additional 13.14m² relates to the proposed stairwell linking Units 1 and 3.

The maximum FSR under Clause 4.4 is a "development standard" to which exceptions can be granted pursuant to Clause 4.6 of the LEP.

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note. When this Plan was made it did not include all of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

It is noted that Clause 4.4 is not "expressly excluded" from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) and (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in Subclause 4.6(6).

4. COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ refers to *Wehbe* and states:

"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Compliance with the maximum FSR development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this Statement.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 6 below.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 24) states:

*The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson.

The following planning grounds are submitted to justify contravening the maximum FSR:

1. The proposal will provide access between the amalgamated units without compromising the internal fabric or common areas of the Inter-War Flat Building. The addition is unobtrusive and limited in size to minimise its impact. The proposal will facilitate a superior layout and amenity for the occupants and allow for much needed additional accommodation.
2. The proposal will have no adverse impact on the streetscape, retaining the appearance of the front façade, being located below the roofline and representing a small addition which is not readily visible from the street / public domain. The addition is deliberately contemporary in order to differentiate between the new and old fabric and allows the amalgamated units to be upgraded to modern standards.

3. The additional GFA does not result in any unreasonable environmental or amenity impacts on adjoining properties, as outlined by the following:
 - a. The proposal continues to allow for a substantial separation to No. 11 Annandale Street.
 - b. Being located on the northern façade of the building, the stairwell will not result in any additional overshadowing.
 - c. The proposal reduces the number of existing windows orientated to the north towards the neighbouring property with the introduction of the stairwell with windows oriented east and west behind the fin wall where there are no overlooking opportunities. The wall to the stairwell facing the adjacent building to the north provides for privacy to both properties. Therefore, the proposed development reduces the potential impact on the visual and aural privacy of adjoining properties.
 - d. There are no existing views achievable through the side of the building, primarily due to the elevation of the properties located to the rear whereby views are over the roof of the subject building. Regardless, the stairwell includes glazing to the east and west sides which would allow visibility through the structure.
4. While the subject site is not a listed heritage item or within a heritage conservation area, it involves works to an Inter-War Flat Building. The proposal is sympathetic to the building from a heritage perspective in terms of form, materials and design.
5. The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (as further detailed in Section 7 below).
6. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
 - a. It promotes the sustainable management of cultural heritage (albeit unlisted heritage) (1.3f);
 - b. The proposal promotes the orderly and economic use and development of land by providing an improved residential development (1.3c); and
 - c. The proposed development promotes good design and amenity of the built environment through a well considered design which is responsive to its setting and context (1.3g).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development. It is considered that there is an absence of any material impacts of the proposed non-compliance on the amenity or the environmental values of the locality, the amenity of future building occupants and the character of the area. The proposal allows for a high quality residential dwelling to be provided in a highly accessible location, within a site which can accommodate the minor increase in GFA without the creation of adverse impacts or any perception of additional density.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard

might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. THE APPLICANT'S WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3), (CLAUSE 4.6(4)(A)(I))

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(A)(II))

7a. Objectives of Development Standard

The objectives of Clause 4.4 are as follows:

"(a) for development in Zone R3 Medium Density Residential:

(i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and

(ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and

(iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space"

In order to address the requirements of Subclause 4.6(4)(a)(ii), the objectives of Clause 4.4 are addressed in turn below.

Objective (a)(i): "to ensure the bulk and scale of new development is compatible with the desired future character of the area"

It is noted that objective (d) refers to being "compatible" with adjoining development. It is considered that "compatible" does not promote "sameness" in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

"22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

The subject site is located within the Darling Point precinct under Woollahra DCP 2015. The desired future character of the area is detailed in Section B1.2 of the DCP with the following objectives:

O1 To respect and enhance the streetscape character and key elements of the precinct.

O2 To maintain the sense of the historic grand estates.

O3 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.

O4 To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.

O5 To ensure that development does not reproduce or match existing intrusive buildings.

O6 To ensure that alterations and additions to period buildings, such as semi-detached dwellings and attached dwellings, do not detract from the character of these buildings and their presentation to the street.

O7 To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.

O8 To design and site buildings to respond to the topography and minimise cut and fill.

O9 To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.

O10 To retain and reinforce the setting of mature street trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.

O11 To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.

O12 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

O13 To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible."

The proposed development is consistent with these objectives, as it has been designed to be sympathetic to the Inter-War Flat Building and the context of the surrounding area. The proposal represents a minor increase to the scale of the existing residential flat building but does not significantly impact on the presentation of the subject building to the street and retains the existing façade and roofline. The addition of the stairwell represents a minor element to the northern side of the building which is not readily visible from the street. Furthermore, the proposal will have no adverse impact on any public or private views, principally due to adjacent properties to the rear being elevated such that views are achieved over the roofline of the subject building.

The proposal provides a simple contemporary addition that differentiates the old and new fabric and offers a superior layout and amenity to the occupants.

The proposal is therefore considered to be compatible with the desired future character of the Darling Point Precinct and to satisfy Objective (a)(i).

Objective (a)(ii): "to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain"

The proposal has minimised adverse environmental impacts on the adjoining properties and the public domain.

In relation to solar access, the proposed FSR non-compliance does not result in any overshadowing to adjoining properties as it is located on the northern elevation of the existing building.

In relation to privacy, the proposal reduces the number of existing windows orientated to the north towards the neighbouring property with the introduction of the stairwell with windows oriented east and west behind the fin wall where there are no overlooking opportunities. The wall to the stairwell facing the adjacent building to the north provides for privacy to both properties. Therefore, the proposed development reduces the potential impact on the visual and aural privacy of adjoining properties.

In terms of views, the non-compliance will not result in any significant view loss as there are no existing views achievable through the side of the building. This is primarily due to the elevation of the properties located to the rear whereby views are over the roof of the subject building. Regardless, the stairwell includes glazing to the east and west sides which would allow some visibility through the structure.

Therefore, the proposal is considered to satisfy Objective (a)(ii) as it minimises adverse environmental effects on adjoining properties and the public domain.

Objective (a)(iii): "to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space"

The proposal does not impact upon existing areas of private open space, but provides an additional 7.4sqm of deep soil landscaped area which improves the landscaping outcome on the site by introducing soft landscaping to an area which is currently covered in concrete paving.

Therefore, the proposal is considered to be consistent with Objective (a)(iii).

7b. Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone R3, and a response as to how the proposal meets the objective is provided as follows:

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

The proposal will enhance the function of an existing residential flat building through alterations and additions. The proposal will provide better opportunities to meet the housing needs of the community within a building form appropriate to a medium density residential environment.

- *To provide a variety of housing types within a medium density residential environment.*

The proposal provides for variety of dwelling types by providing for a different size of apartment (three bedroom) within the residential flat building, and contributing to a variety of apartment size in the wider area.

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

Not applicable to the proposed development.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

The proposal does not impact on the height of the existing building, with the proposed stairwell being located below the roofline. As demonstrated above in Section 7a, the proposal is consistent with the desired future character of the Darling Point Precinct principally as it has insignificant or nil impacts on the streetscape and public or private views.

The proposed development is therefore considered to be consistent with the objectives of Zone R3 and the proposed variation is deemed to be acceptable.

8. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in Clause 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (Clause 4.6(4)(b)). Under Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice.

9. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the maximum FSR development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

10. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum FSR. As such, there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed building FSR exceeds the maximum permitted on the site, the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

11. CONCLUSION

Having regard to all of the above, it is our opinion that compliance with the maximum FSR development standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation is worthy of support.



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22 June 2020

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 11/2020/1

ADDRESS: 1/9 Annandale Street DARLING POINT 2027

PROPOSAL: Alterations and additions to amalgamate Units 1 and 3 into a single dwelling including new stairwell along the northern side boundary

FROM: Charlotte Simons - Heritage Officer

TO: Mr M D'Alessio

DOCUMENTATION

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

- Drawing set by SHED, dated May 2020, and numbered 1702-DA001 – 313(C)
- Heritage Impact Statement by Ruth Daniell, dated June 2019
- Statement of Environmental Effects by Planning Ingenuity Pty Ltd, dated 6 August 2019
- Survey plan by CMS Surveyors Pty Ltd, dated 29 November 2017.

SITE INSPECTION / RESEARCH

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

- The site was inspected on 30 January 2020, including the streetscape and 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 existing building on the subject property is a two-storey Inter War residential flat building of rendered brick construction beneath a hipped tiled roof. Constructed around 1929,

Referral Response – Heritage – DA 2020 11 1 – 1/9 Annandale Street DARLING POINT



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the building displays a combination of Art Deco elements including simple geometric forms, recessed panels and geometric stylised motifs like the centrally located leadlight window to the entry stair, along with stripped classical elements including engaged columns and arches. The building contains four units, with three parapeted garages and arched pedestrian entry to the street alignment. The building makes a positive contribution to the surrounding streetscape, and is considered a contributory item within the Darling Point Precinct.

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 not within a heritage conservation area.

Significance of items in the vicinity

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

- 'Balgowan – house, interiors and grounds' at 8 Annandale Street (LEP Item No. 77)
- 'Former house, interiors and grounds' at 5-9 Yarranabbe Road (LEP Item No. 188)
- 'Residential flat building and interiors' at 1 Yarranabbe Road (LEP Item No. 187)
- Darling Point Heritage Conservation Area (LEP Item No. C3).

Due to the localised nature of the proposed works and obscured visual connection towards the existing building on the subject property from the heritage items, it is not anticipated that the proposal would result in any adverse impact on heritage items in the vicinity.

Woollahra DCP 2015

The proposal has been assessed against the relevant objectives and controls for Inter-War flat buildings contained in B3.8.7 of the Woollahra DCP 2015. The following consideration against the Inter-War flat buildings objectives and controls is made:

B3 General Development

B3.8.7 Inter-War flat buildings

Streetscape

Objectives O1, O2, O3

Controls C2, C3

- While the Inter-War flat building contributes to the area, it is not a heritage item or located within a heritage conservation area. Therefore sympathetic alterations and additions to significant forms are permitted in this instance (Control C2).

Objective O8

Control C13, C14, C17

- The proposal would not be visually prominent from the public domain, and would not impact on the overall form and character of the Inter-War flat building by virtue of the setback distance, the height of the stair addition beneath the gutterline of the existing building, the limited view lines to the side (north) elevation of the existing building and the lightweight materiality of the proposed stair addition. The stair addition would not compete with the principal elevation of the Inter-War flat



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building fronting Annandale Street. The proposal is therefore supported from a heritage perspective in this instance on merit.

- The proposed timber framed windows and doors would match the style, materials and finishes of the original building, and are supported.
- The proposed metal balustrade to the parapet above the garages along the street alignment is a discrete and contemporary element that would not detract from the character of the Inter-War flat building, and is supported from a heritage perspective.
- The proposed retractable awnings to the principal façade are required to satisfy BASIX requirements, and are not considered to detract from the prominence and character of the Inter-War flat building.

Objective O9

Controls C18, C19, C21, C22

- The proposal includes materials that are similar in type and finish to the original building, including timber framed windows and doors to replace existing.
- While the proposed timber framed windows do not use glazing pane sizes to match original windows, it is noted that this would be limited at ground floor level towards the rear of the side elevation and would not be visible from the public domain. The arched windows at ground floor level are not original and were originally open arches to the verandah (since enclosed). The simplification of the window pane to the arched opening on the side (north) elevation is supported in this instance. The proposed new window opening at first floor level of the side (north) elevation would be matched in proportion and pane size to original windows and is timber framed, which is supported.
- While the use of fibrous cement cladding to the north elevation of the proposed stair addition is not traditional to the existing character of the building, it is noted that this elevation would not be readily visible from the public domain. The proposed painted fibrous cement cladding and glazing to the external stair would provide a lightweight contrast that would not dominate the existing character of the rendered brick Inter-War flat building. The proposal is therefore supported from a heritage perspective in this instance on merit.
- The original leadlight windows above the centrally located stair would be retained.

Objective O12

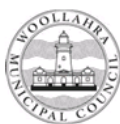
Control C31

- The proposal would remove a section of the external wall to the side (north) elevation along with several internal walls within the interior of the Inter-War flat building units in order to amalgamate Units 1 and 3 into a single dwelling. The proposal would not result in removal of significant internal character elements in internal common areas, which complies with Control C31, and would not result in any removal of significant fabric to the front principal elevation to Annandale Street. The proposed amalgamation of the units to form a single dwelling is therefore supported in this instance from a heritage perspective.

Objective O15

Controls C47, C48

- The proposal includes replacement of the existing rear laundry with a new laundry in the same location and occupying the same footprint. The external laundry does not



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appear in the earliest available aerial photograph of the locality in 1943, and is therefore not considered to be original. The replacement laundry building would be smaller than the principal building, constructed in an appropriate style and form with compatible materials including painted brick, is single storey and sympathetic in scale, and is therefore supported in this instance on merit.

- Proposed alterations to the existing garage door to match adjoining door would be sympathetic to the original building and are supported on heritage grounds.

CONCLUSION

Woollahra LEP, 2014 Part 5.10 Clauses 1(a), 1(b), 4

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area/heritage items in the vicinity will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal is generally acceptable, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent. No heritage conditions are required.

Charlotte Simons - Heritage Officer

Completion Date: 8 April 2020

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: DA 11/2020/1
ADDRESS: 1/9 Annandale Street DARLING POINT 2027
PROPOSAL: Alterations and additions to amalgamate Units 1 and 3 into a single dwelling including new stairwell along the northern side boundary
FROM: Richard Smith - Fire Safety Officer
TO: Mr M D'Alessio

1. ISSUES

- *The building is not submitting annual fire safety statements so it is likely to be deficient in fire safety measures and egress concerns. A good thing though is the building is only 2 storey's in height so the risk is not that substantial and it would not be a high priority building to put a Fire Safety Order on the premises and would be preferable to upgrade under clause 94 with DA submissions.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced amalgamation of ground floor unit 1 & first floor unit 3 prepared by Planning Ingenuity, dated 6 August 2019.
- Architectural Plans, referenced 1702-DA-101, 1702-DA-110, 1702-DA-120, 1702-DA-121, 1702-DA-130, 1702-DA-131A, 1702-DA-210, 1702-DA-211, 1702-DA-300, 1702-DA-301, 1702-DA-302A, 1702-DA-303, 1702-DA-310-313, prepared by SHED, dated January 2020,

3. RESEARCH

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

- A site inspection was carried out on the following date: *8 April 2020*

4. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2000*.

☒ Clause 94 – 'Consent authority may require buildings to be upgraded'

- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years

- Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings

5. BUILDING DESCRIPTION

Type of Construction: B

Class: 2

Number of Storeys: 2

Rise in Storeys: 2

Effective Height:

6. ASSESSMENT

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

6.1 Clauses of BCA referenced:

7. RECOMMENDATION

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

- A. General Conditions**
- B. Conditions which must be satisfied prior to the demolition of any building or construction**
- C. Conditions which must be satisfied prior to the issue of any construction certificate**

C.1 Building upgrade (Clause 94 of the Regulation)

Council considers, pursuant to clause 94 of the *Regulation*, that it is appropriate to require the existing building to be brought into partial conformity with the BCA because the measures contained in the building are inadequate:

- (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
- (ii) to restrict the spread of fire from the building to other buildings nearby.

Accordingly, it is considered appropriate to require the existing building to be brought into partial conformity with the BCA and the Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

The Certifying Authority must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the Construction Certificate application:

- a) That apartment three (3) on the first floor shall be separated from the common areas and adjoining unit within the roof space in accordance with the requirements of Specification C1.1 of the BCA.
- b) That smoke alarms shall be installed throughout the new sole occupancy unit in accordance with the requirements of Specification E2.2a Clause 3 of the BCA.

Note: The Certifying Authority issuing the Construction Certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the BCA the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the *Act*.

Note: This condition does not set aside the Certifying Authority's responsibility to ensure compliance with clause 143 of the *Regulation* in relation to Fire Protection and Structural Adequacy.

Note: AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.

Standard Condition: C10 (Autotext CC10)

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

E. Conditions which must be satisfied during any development work

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 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

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

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

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

J. Miscellaneous Conditions

K. Advisings

Richard Smith
Fire Safety Officer

Date: 8 April 2020

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA142/2020/1
ADDRESS	16 and 18 The Crescent, VAUCLUSE
COUNCIL WARD	Vaucluse
SITE AREA	680m ² – No.16 The Crescent
(EXISTING)	460m ² – No.18 The Crescent
ZONING	R2 Low Density Residential
PROPOSAL	Boundary adjustment between No's 16 and 18 The Crescent
TYPE OF CONSENT	Local development
COST OF WORKS	\$0.00
DATE LODGED	15/05/2020
APPLICANT	Bruce Stafford Architects
OWNER	Mr E & Mrs K V Alster
AUTHOR	George Lloyd
TEAM LEADER	Eleanor Smith
SUBMISSIONS	1 – in support of the proposal
RECOMMENDATION	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:

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

2. REASONS FOR RECOMMENDATION

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

- It is considered to be satisfactory with regard to the objectives of the Woollahra LEP 2014, Woollahra DCP 2015 and all other applicable environmental planning instruments;
- It will not have any significant adverse impacts on the local, built and natural environment nor any significant adverse social or economic impacts within the locality;
- Any likely impacts to the adjoining properties has been addressed in the report and are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The proposal is considered to be in the public interest.

A map of the study area. The subject site is highlighted in red. The site is located on the eastern side of The Crescent, between The Crescent Bay and The Crescent. The map shows the coastline of The Crescent Bay to the west and The Crescent to the east. The subject site is bounded by The Crescent to the north and The Crescent Bay to the south. The map also shows the location of The Crescent and The Crescent Bay. The subject site is located on the eastern side of The Crescent, between The Crescent Bay and The Crescent. The map shows the coastline of The Crescent Bay to the west and The Crescent to the east. The subject site is bounded by The Crescent to the north and The Crescent Bay to the south. The map also shows the location of The Crescent and The Crescent Bay.

The proposal involves excising an existing strip of land (approx. 126m²) currently used as an access handle to the foreshore, which forms part of No.18 to instead form part of No.16 The Crescent
“...in order to provide a more regular allotment and better use of the subject land.”

The map shows the following details:

- Parcel No. 16:** Located on the left side of the map. Its area is 803m². It is bounded by a line with a bearing of 181° and a distance of 13.33, and another line with a bearing of 0° and a distance of 12.70.
- Parcel No. 18:** Located on the right side of the map. Its area is 333.7m². It is bounded by a line with a bearing of 15° and a distance of 23.125, and another line with a bearing of 40° and a distance of 1.00.
- Area to be excised:** A red-shaded area located between Parcel No. 16 and Parcel No. 18. It is bounded by a line with a bearing of 270° and a distance of 27.93, and another line with a bearing of 15° and a distance of 13.115.
- Other features:** The map includes various boundary lines with bearings and distances, and a north arrow pointing towards the top left. The text "PARSLEY BAY RESERVE" is written at the bottom of the map.

5. ISSUES

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

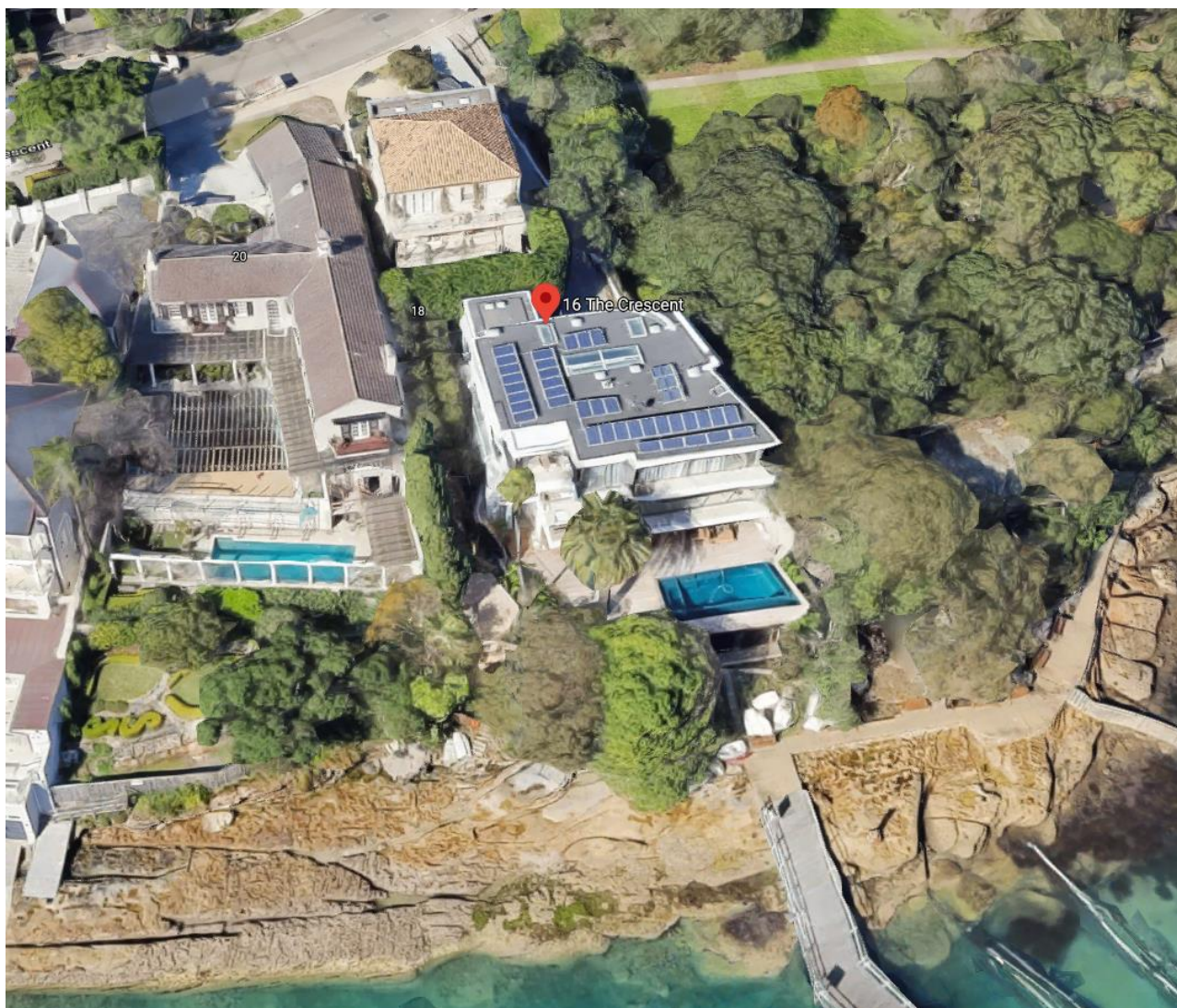
Clause	Development Standard	Existing Lot sizes	Proposed lot sizes & departure from control	Conclusion
Clause 4.1	675m ²	No.16: >680m ²	No.16: 809m ² (Complies)	The submitted cl 4.6 written request is considered to be well founded*.
Minimum subdivision lot size	(Area P)	No.18: 460m ² (incl. access handle)	No.18: 333.7m ² (or 50.6% departure from 675m ² control)	

* Contextually, the development responds appropriately to the constraints of the site including its topography and the existing limited site area of No.18. A cl.4.6 written request has been submitted which is considered to be well founded for the reasons set out under section 14.5.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

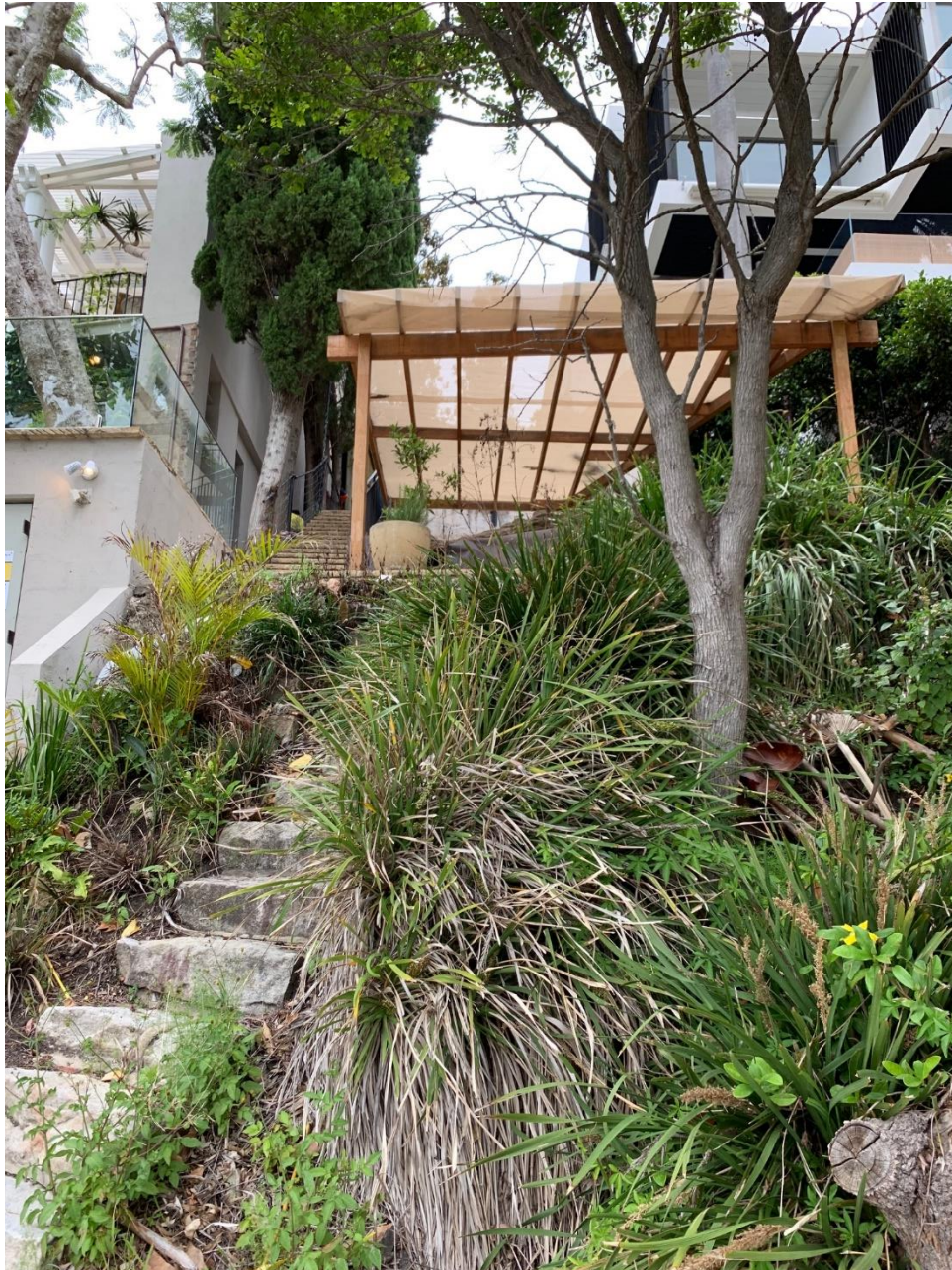
Allotment layout and existing buildings
The adjoining subject sites are located on the western side of The Crescent and are known as Nos.16 and 18 The Crescent, Vacluse.
No.16 The Crescent (Lot 1, DP 542188) is located behind No.18 and comprises a battle-axe allotment with an access handle and street frontage of 4.96m. It also has a frontage to the Parsley Bay Reserve and adjoining foreshore of 19.36m. The site comprises an area of approx. 682.7m ² and is occupied by a 2-3 storey dwelling house, double garage, swimming pool and landscaping.
No.18 The Crescent (Lot 2, DP 542188) is located in front (to the east) of No.16 and comprises a type of 'reverse' battle-axe allotment with a direct street frontage to The Crescent of 9.67m and a narrow strip of land (being an access handle) along its northern (rear) boundary that leads to the harbour foreshore. This strip is approximately 8m lower than the level where the main house is sited and fans out to a terraced area which has a frontage of 8.295m to the foreshore rockshelf. The site comprises an area of approx. 460m ² and is occupied by a 2-3 storey dwelling house, double garage and landscaping.
Topography
No.18 is located on a considerably higher level than No.16. The strip of land on the northern boundary, leading down to the stone paved area, comprises a fall of approximately 8m in height.
Surrounding Environment
The area surrounding the site comprises predominantly two and three storey single dwellings sited on a variety of allotment sizes and shapes.
To the north and east of the site are dwelling houses. To the immediate south is Parsley Bay Reserve while to the west is the rocky outcrop forming the harbour foreshore.



3D Aerial photograph of 16 The Crescent (foreground) and 18 The Crescent (background).



No. 16 The Crescent viewed from a foreshore jetty.



A photograph taken from Parsley Bay Reserve Foreshore to the rear of the battle-axe to No. 18 The Crescent (the area containing a timber pergola)

7. RELEVANT PROPERTY HISTORY

Current use
Residential.
Relevant Application History
No.16: DA15/2007 approved demolition and construction of a new dwelling. Numerous modifications have also been approved. DA517/2007 – approved a new swimming pool.
No.18: DA438/2000 approved 28/11/2000 internal alterations and additions to a balcony and attic. DA689/2002 – approved alterations and additions to the dwelling. DA386/2018 approved ancillary landscaping on the site.
Relevant Compliance History
N/A
Pre-DA
Nil

Requests for Additional Information and Replacement Applications
Nil
Land and Environment Court Appeal(s)
Nil

8. REFERRALS

Referral	Summary of Referral Response
Technical Services	No formal referral is required
Trees and Landscaping	No formal referral is required
Heritage	No formal referral is required

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 3/06/2020 to 17/06/2020 to in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

One submission in support of the proposed boundary adjustment was received from the immediately adjoining residents to the north of the site (at No.20 The Crescent).

No objections were received.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 18/06/2020 declaring that the site notice for DA142/2020/1 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.

11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

N/A – The proposal does not involve any new building works or alterations/additions to either of the existing residences on either of the sites.

12. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment and is within the Foreshores and Waterways Area.

The aims of the Plan are established in Clause 2 and include the following:

- (a) *To ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected and maintained;*
 - (i) *As an outstanding natural asset, and*
 - (ii) *As a public asset of national and heritage significance, for existing and future generations.*
- (b) *To ensure a healthy, sustainable environment on land and water*
- (c) *To achieve a high quality urban environment,*
- (d) *To ensure a prosperous working waterfront and an effective transport corridor,*
- (e) *To ensure accessibility to and along Sydney Harbour and its foreshores,*
- (f) *To provide a consolidated, simplified and updated legislative framework for future planning.*

The provisions of Clauses 13, 25 and 26 of the SREP and the accompanying DCP for the SREP requires Council to consider the visual impact that a development proposal will have upon Sydney Harbour and adjoining foreshore areas, and, the likely impact upon available views to and from the harbour.

Both sites currently have direct frontages to Sydney Harbour. Having regard to the proposal being for a boundary adjustment between 2 existing properties and does not involve any works to the existing buildings on either site, the extent of the proposed development (being a variation to the allotment layouts) will not be noticeable from the harbour.

Clause 25: Foreshore and Waterways Scenic Quality

The matters for consideration in Clause 25 relate to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways, and are as follows: -

- a) *The scale, form, design and siting of any building should be based on an analysis of:*
 - (i) *The land on which it is to be erected*
 - (ii) *The adjoining land*
 - (iii) *The likely future character of the locality*
- b) *Development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries*
- c) *The cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores*

The proposed works comprises a boundary adjustment between 2 existing properties. The proposed development generally satisfies the relevant matters for consideration under Clause 25 as it would not detract from the character of adjoining foreshore developments.

Clause 26: Maintenance, Protection and Enhancement of Views

The matters of consideration in Clause 26 relate to the maintenance, protection and enhancement of views, and are as follows: -

- a) *Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour*
- b) *Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items*
- c) *The cumulative impact of development on views should be minimised*

The proposed development satisfies the relevant matters for consideration under Clause 26 and will not impact upon existing views or view corridors.

13. DCP FOR SREP (SYDNEY HARBOUR CATCHMENT) 2005

The relevant parts of the SREP DCP which would ordinarily be considered for development on the sites are:

Part 2: Ecological Assessment

Part 3: Landscape Assessment – Grassland

Part 5: Design Guidelines for Land-Based Development

Except for the proposed boundary adjustment, the finished built form of the dwellings within each site will remain unvaried and will otherwise comply with the provisions of the SREP (Sydney Harbour Catchment) 2005 and accompanying DCP.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1. Part 1.2: Aims of Plan

The proposal has been assessed as being consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

14.2. Part 2.6: Subdivision – Consent Requirements

Part 2.6(1) states that land to which this Plan applies may be subdivided, *but only with development consent*. The proposed subdivision is the subject of this DA which includes an assessment against all relevant planning policies and legislation.

14.3. Land Use Table

The proposal would not alter the approved use of the land, which is land used in association with a dwellinghouse.

Notwithstanding the existing and proposed numerical non-compliance with clause 4.1 (described and addressed below), the proposal is deemed to be consistent with the objectives of the R2 Low Density Residential zone.

14.4. Part 4.1: Minimum Subdivision Lot Size

In accordance with Clause 4.1 of the Woollahra Local Environmental Plan 2014, Lot Size Map ‘P’ requires allotments to be a minimum area of 675m².

Clause	Development Standard	Existing Lot sizes	Proposed lot sizes & departure from control	Complies
Clause 4.1	Minimum subdivision lot size: 675m² (Area P)	No.16: >680m² No.18: 460m² (incl. access handle)	No.16: 809m² No.18: 333.7m² (or 50.6% departure from 675m ² control)	Yes No

As previously noted in section 5.1 of this report, No.18 The Crescent has a current site area of approximately 460m². This represents a shortfall of 215m² (or 32% variation) from the current prescriptive subdivision requirements.

The proposal results in a further reduction in site area of No.18 to 333.7m². This represents a total departure from clause 4.1 of 341.3m² (or 50.6% variation).

14.5. Part 4.6: Exceptions to Development Standards

14.5.1. Departure

The proposal involves the following non-compliances with the Woollahra LEP 2014:

- Non-compliance with the minimum subdivision lot size development standard under Part 4.1 as detailed in Section 14.4 above.

14.5.2. Purpose

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

14.5.3. Written Request

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

The applicant has provided the following written request (attached in full as **Annexure 2**) in relation to the departure from the minimum subdivision lot size requirements (Clause 4.1):

It is our opinion that the proposal satisfies a number of the five tests established in Wehbe and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant tests will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Clause 4.1 of Council's LEP contains the objectives of the minimum allotment size. The objectives of and a planning response to these objectives is stated below.

Objective 1: To establish a minimum subdivision lot size that is consistent with the desired future character of the neighbourhood;

Response: *While the minimum lot size is 675m², the allotments surrounding the subject site comprise allotments of varying sizes, some of which are below the minimum allotment size.*

*This is demonstrated in Figure 3 on the following page [refer to **Annexure 2**], which shows that the subject allotment of No.18 The Crescent, without the narrow strip of land which will be excised by the boundary adjustment, is of a similar size to many of these allotments within the immediate vicinity of the site.*

There are numerous other allotments further beyond (while still within the Vaucluse West Precinct) that are less than the minimum allotment size and of a similar size to the proposal.

The compliance of the proposal with the desire future character of the neighbourhood is discussed in the response to objective 5.

Objective 2: To ensure that lot sizes support development envisaged under this Plan;

Response: The proposal will maintain two allotments that are able to support residential development in character with the surrounding area, such as dwelling houses. The visual curtilage of the dwelling house at No. 18 The Crescent will not change as the portion of land to be excised merely relates to a narrow strip along No. 16 The Crescent. It can be argued that this strip of land relates more to No. 16 The Crescent than No. 18 The Crescent, thereby ensuring consistency with the objective.

Objective 3: To ensure that lots have a minimum size to retain or enhance amenity by providing useable areas for building and landscaping;

Response: The proposed lot size is able to provide useable building and landscape areas. The area to be excised from No. 18 The Crescent does not constitute usable area for three reasons. Firstly, the area to be excised is primarily a narrow strip of land that cannot be used for any recreational purpose. Secondly, the paved area on the foreshore is 8m below the level of the rear yard of the house, thereby being a deterrent for any frequent use of that space. Thirdly, the paved area at the foreshore lacks direct connectivity with the dwelling house by virtue of distance (and topography) which once again presents as a deterrent for frequent use.

Objective 4: To identify locations suitable for increased development density;

Response: The proposal does not seek any additional density. The proposed boundary adjustment will not result in any change to the development density.

Objective 5: To ensure that development complies with the desired future character of the area.

Response: The proposal is for a boundary adjustment and no building works are proposed. Notwithstanding this, an assessment has been made in respect of the objectives of the Vaucluse West Precinct which embodies the desired future character objectives. These objective are stated, inter alia:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*
- O3 To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

The desired future character objectives relate to streetscape, building styles, bulk and scale, topography, views and landscaping. The proposed boundary adjustment will have no impact on any of these desired future character elements and as such is consistent with the character of the area by virtue of the existing structures and landscaping on site.

For these reasons, and those set out in more detail within the previously submitted SEE, it is considered that the proposal meets the objectives of the Vauchuse West precinct. The proposal results in no change to the streetscape or amenity of the neighbours. The visual catchment of the dwelling will also be unaffected. In our opinion, the proposed allotment size is not dissimilar with numerous other lots in the locality and the proposal is consistent with the desired future character of the neighbourhood.

Test 4 - the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The standard has not been virtually abandoned or destroyed, however, there are numerous examples of dwellings in the Woollahra Local Government Area (LGA), which have been approved with non-compliances with the minimum lot size standard. Furthermore, there are numerous examples of existing allotments approved well before the current LEP that are below the minimum lot size, which form part of the context.

It is recognised that each DA is assessed on its own merits and each site has different characteristics however, the above DAs comprise breaches in minimum lot size which were supported by Council staff for similar arguments as those made in this Clause 4.6 Variation.

It is our opinion that there are sufficient environmental grounds to justify the contravention of the development standard.

Firstly, the proposal has a similar allotment size as many allotments in the locality and thus the proposal is consistent with the subdivision pattern of the area.

Secondly, the strip of land on the northern boundary to be excised, comprises a fall from RL13.73 down to RL 5.78, via a series of steps, which is close to an 8m level difference (see Photograph 1 below).



The subject strip of land (and associated paved area at the foreshore) is not usable for No. 18 The Crescent given the lack of direct connectivity to the dwelling house and the level difference. Adding this portion of land to No. 16 The Crescent is a more logical proposition as it has direct connectivity to this area both in terms of location and topography. Thirdly, excising the narrow portion of land from No. 18 The Crescent and adding it to No. 16 The Crescent would more favourably contribute to the visual catchment of No. 16 The Crescent. The strip of land does not currently add to the visual catchment of No. 18 The Crescent and thus the boundary adjustment will not disadvantage this site.

Fourthly, there is no change to the pedestrian access for either property onto and from The Crescent. While No. 18 The Crescent will no longer have a foreshore frontage, access to the Harbour is readily available via Parsley Bay Reserve immediately to the south of the site.

There are a number of further environmental planning grounds that justify the non-compliance in this instance. These include:

- a. The proposal will ensure that both dwellings have an appropriate curtilage ensuring consistency with the desired future character;*
- b. The proposal results in no impacts to the amenity of neighbours or the streetscape;*
- c. To decline the application would be to inhibit the orderly and economic use and development of the land in accordance with the objects of the EPA Act; and*
- d. The proposal will be consistent with the Vacluse West Precinct.*

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard, as required in Clause 4.6(3)(b).

14.5.4. Clause 4.6(4)

Clause 4.6(4) states: *Consent must not be granted for development that contravenes a development standard unless:*

- a) The consent authority is satisfied that:*
 - i. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) The concurrence of the Secretary has been obtained.*

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

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

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

Comment: The applicant's written request has demonstrated that the objectives of the minimum subdivision lot size development standard are achieved, notwithstanding the extent of the prescriptive non-compliance (existing and proposed).

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The objectives of the development standards are discussed further in the assessment of Clause 4.6(4)(a)(ii).

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

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

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

S1.3 of the EP&A Act reads as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

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

The applicant's written request supports the proposed non-compliance with the minimum subdivision lot size requirements, in relation to ensuring that the remaining lot sizes support existing and future residential development and does not adversely impact upon the desired future character of the area or upon the amenity of existing residents.

In this regard, the applicant's written request has adequately demonstrated that the proposed development promotes the orderly and economic use and development of the land; and that the proposal promotes local amenity, in accordance with the objects 1.3(c) and (g) of the EP&A Act.

The applicant's written request has therefore demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(ii) - Assessment

Clause 4.6(a)(a)(ii) requires the consent authority to be satisfied that:

- ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the minimum subdivision lot size development standard (cl.4.1) and the objectives of the R2 Zone. An assessment against these objectives is provided below:

Clause 4.1 – Minimum subdivision lot size

The proposal is assessed against the *Objective of the Development Standard* prescribed by Clause 4.1 which states:

- (a) to establish a minimum subdivision lot size that is consistent with the desired future character of the neighbourhood,*

Comment: The desired future character statement for the Vaucluse West precinct states that:

...the architectural styles and forms vary, these dwelling houses are generally located within a garden setting and have common street setbacks and side setbacks that allow for views between buildings. Recent development has tended to take the form of three storey dwelling houses with flat roof designs.

The landform, street trees, domestic gardens and substantial foreshore parklands create a dominant visual impression of a well treed landscape. The location adjacent to the harbour also provides for water and parkland views from the streets...

The proposed site area of No.18 will result in an area similar to existing allotments of land that also have battle-axe allotments behind them (eg. Nos.26 and 26A, 30, 36 and 38A The Crescent).

Considering the above, the proposed subdivision is effectively a minor boundary adjustment and is consistent with the desired future character of the area, notwithstanding the localised non-compliance with the prescriptive minimum allotment size requirement.

(b) to ensure that lot sizes support development envisaged under this Plan,

Comment: The subject site is located in the R2 Zone and is surrounded by land that is similarly zoned. It is considered that the proposed development is characteristic of the R2 Zone, as distinguished from other zonings. The visual appearance of the sites from the surrounding public and private domains will not vary. In addition, the applicant's argument that the strip of land relates more to No.16 than No.18 is also generally supported.

(c) to ensure that lots have a minimum size to retain or enhance amenity by providing useable areas for building and landscaping,

Comment: The proposed lot sizes are able to provide useable building and landscape areas to both sites, and a sufficient area of private open space is to be retained to the western side of No. 18 The Crescent. Furthermore, given the steeply sloping topography, the land to be excised from No.18 is not considered to be a highly usable area of recreational open space. Finally, the applicant's argument that the paved area at the foreshore lacks direct connectivity with the dwelling house by virtue of distance (and topography) is also generally supported.

(d) to identify locations suitable for increased development density,

Comment: N/A

(e) to ensure that development complies with the desired future character of the area.

Comment: The proposal is considered to suitably meet the objectives and desired future character of the Vaucluse West precinct for the reasons set out above, and as previously identified by the applicant in their clause 4.6 submission and their Statement of Environmental Effects.

Objectives of the R2 Zone

The proposal is also considered against the objectives applying to the R2 Zone as follows:

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

Comment: The proposal will maintain the existing dwelling houses (one on each allotment) with the satisfactory provision of useable open space. Residential amenity within each site is suitably maintained the housing needs of the community in a low density residential environment is also fulfilled.

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

Comment: N/A in this case.

- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*

Comment: The non-compliant minimum subdivision lot size does not result in a development that is contrary to the desired future character of the neighbourhood for the following reasons:

- The proposal retains its residential presentation at the street front
 - The proposal will not result in any adverse impacts upon the amenity of surrounding residences; and
 - The proposal will not hinder views towards the harbour.
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

Comment: The proposal will not comprise any building works nor will it adversely impact on the desired future character of the area. The visual catchment of the dwelling houses will not be affected given the location and configuration of the strip of land to be excised from this site.

For reasons provided above, the proposal is considered to satisfy the zoning and minimum subdivision lot size objectives of the Woollahra LEP 2014.

Clause 4.6(4)(a)(b)

The Department issued Planning Circular No.PS18-003 (dated 21st February 2018) which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...”

Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

14.5.5. Conclusion

The written submissions from the applicant have adequately demonstrated that the variation of the development standards prescribed by *Clause 4.1* is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority may be satisfied that the applicant’s written requests have demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning ground have been demonstrated to justify the contravention of the standards.

The consent authority may also be satisfied that the proposal the proposal is in the public interest as it is consistent with the objective of the development standards and those applicable to development within the zone.

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1 Chapter B1: Vacluse West Precinct

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

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vacluse West Residential precinct, as noted in Part B1.10.2 of the Woollahra DCP 2015.

Conclusion

The proposal is acceptable with regards to Chapter B1 of the Woollahra DCP 2015.

15.2 Contributions Plan 2011

No contribution is applicable to the development.

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 will increase Councils rateable land and is considered to be in the public interest.

19. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15 of the Act

20. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councilor 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, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the Development Application which contravenes the Minimum subdivision lot size development standard under Clauses 4.1 of Woollahra LEP 2014. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 142/2020/1 for a boundary adjustment between No's 16 & 18 The Crescent on land at 16 & 18 The Crescent, Vaucluse, subject to the following conditions:

A. General Conditions

A.1 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below 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)
11057P2 – Sheet 2 of 3	Plan of Proposed Subdivision	Byrne & Associates	11/04/20

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)

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

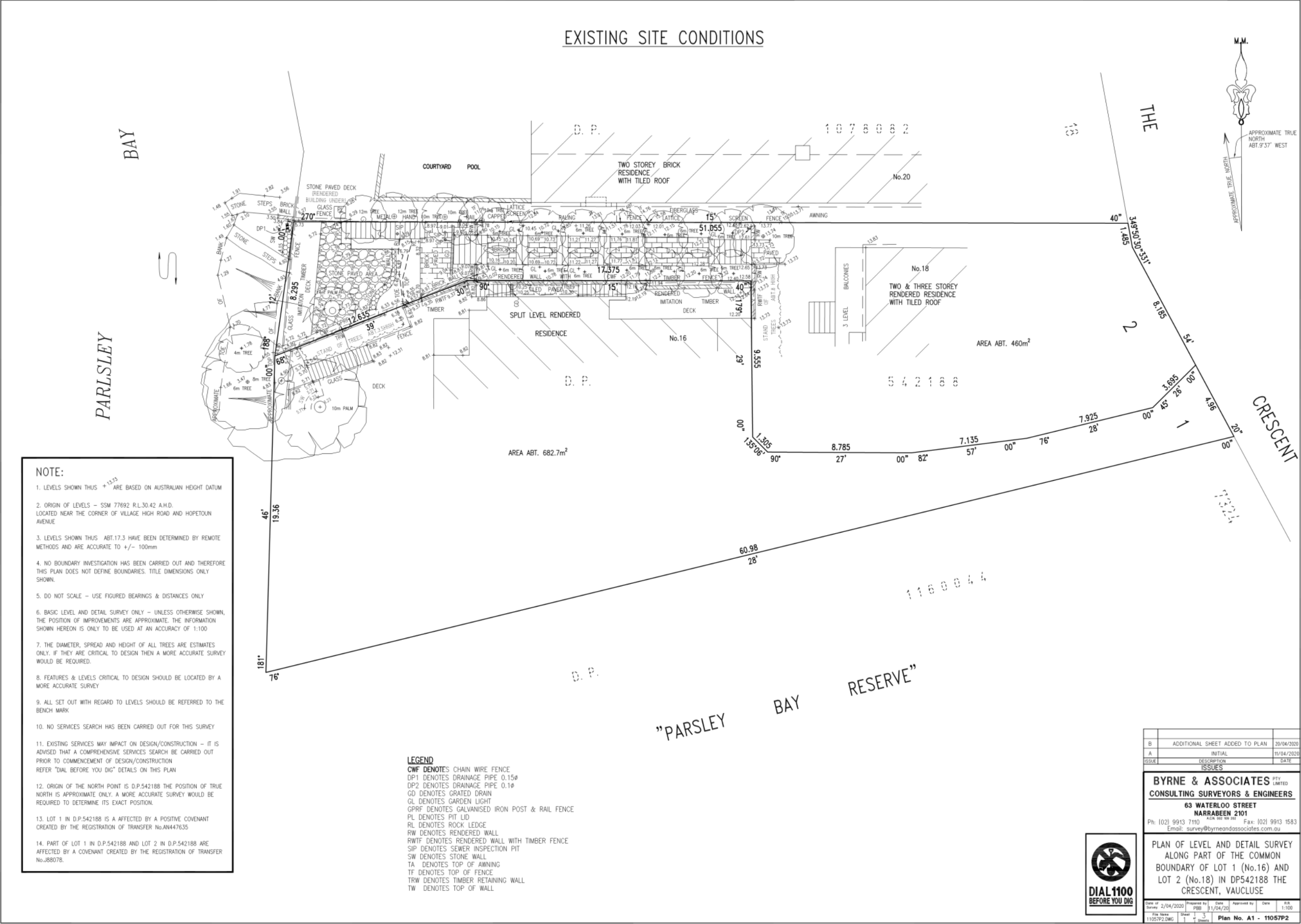
B.1 Land Subdivision Certificate (S6.15 of the Act)

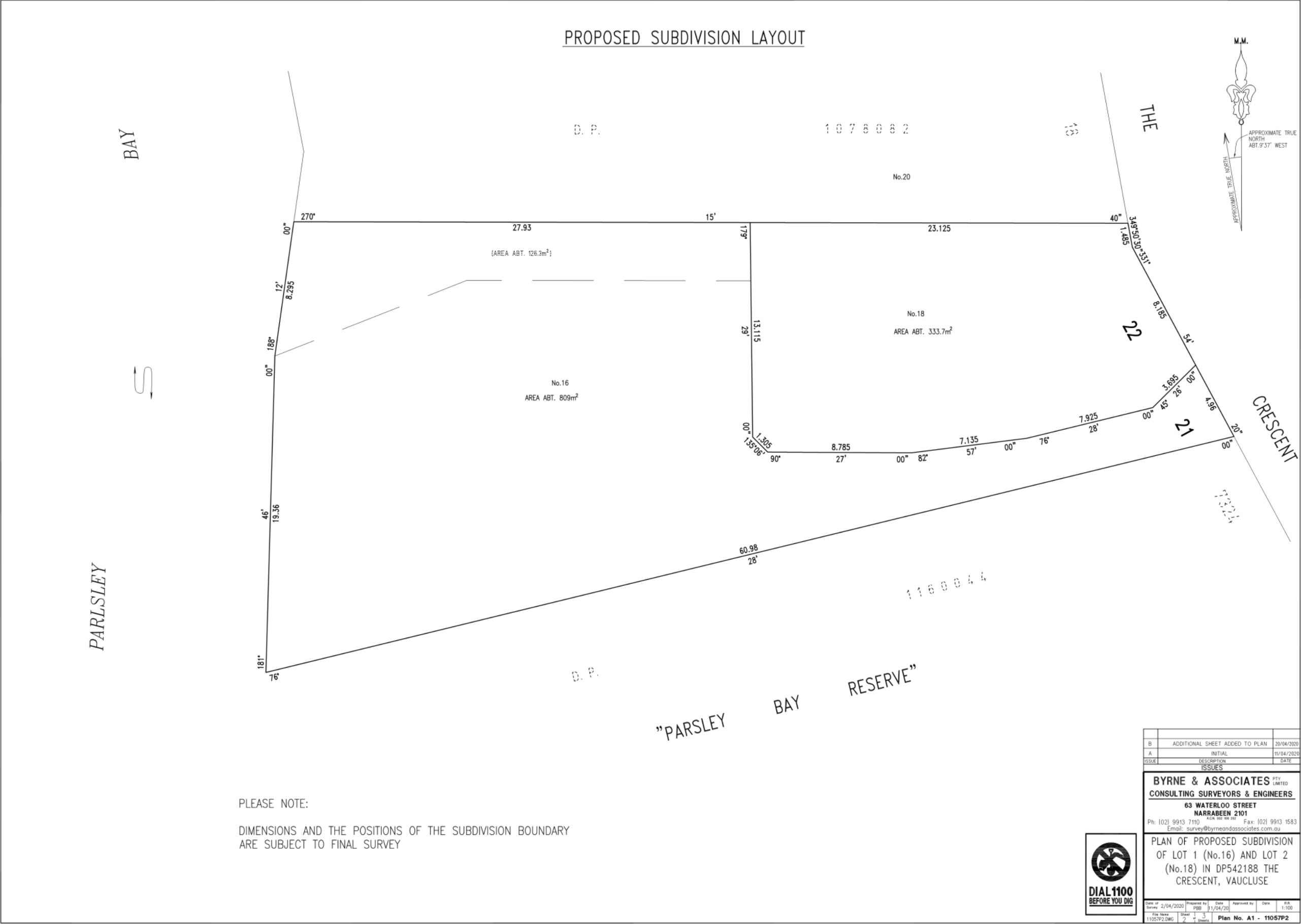
A plan of subdivision cannot be registered under the Conveyancing Act 1919 unless a subdivision certificate has been issued for the subdivision. The person with the benefit of this consent must submit to Council an application for a Subdivision Certificate demonstrating compliance with section 6.15 of the Act.

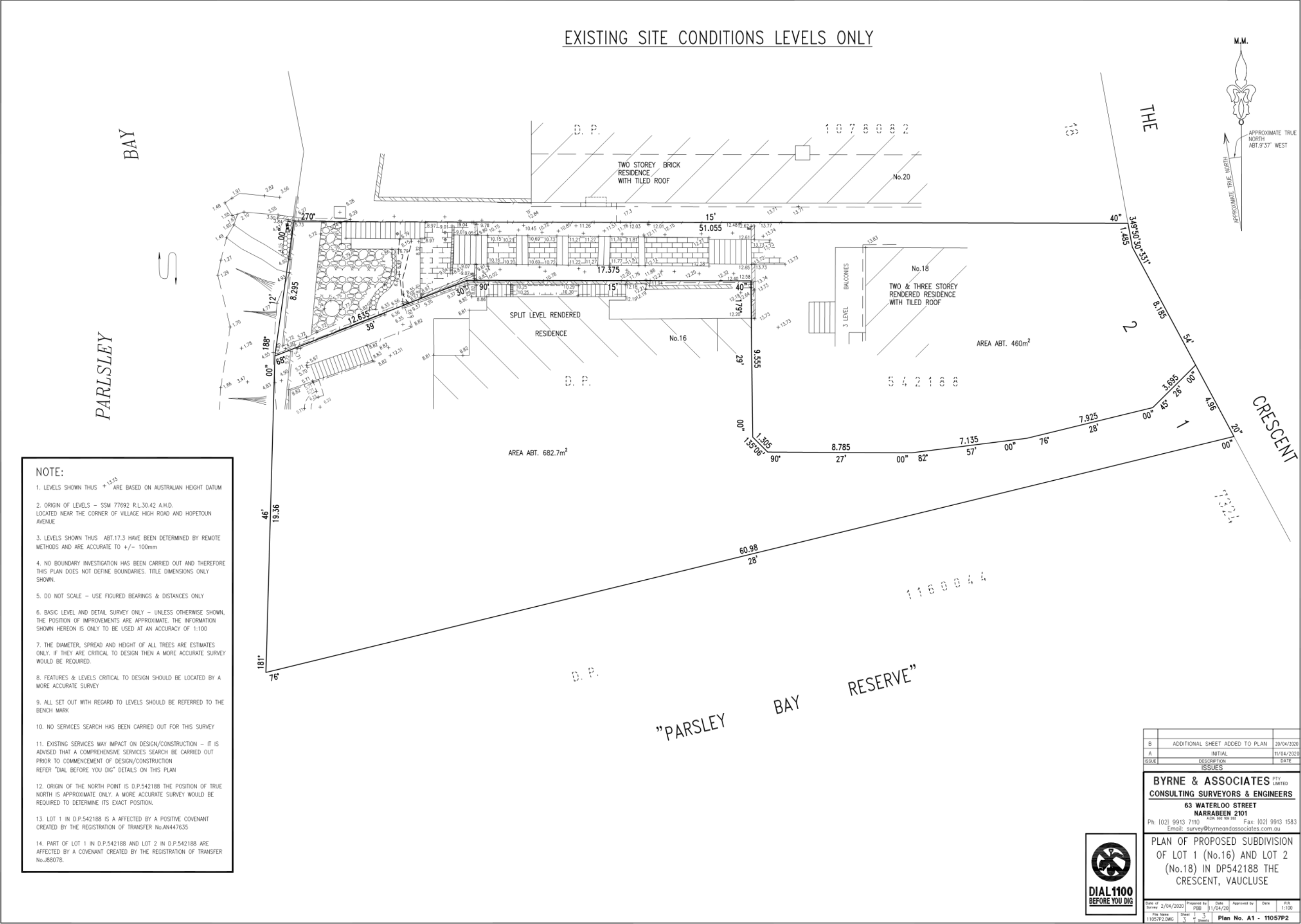
No Subdivision Certificate must be issued until the linen plan of subdivision detailing the provision of all required easements and right of ways or the like to be registered upon the title of each lot to be so benefited or burdened has been submitted to Council.

Annexures

1. Survey and Plan of Subdivision [!\[\]\(3d0946c14414af438def0008e8322b30_img.jpg\)](#) [!\[\]\(828aaf7b071d1ea02a45562329097457_img.jpg\)](#)
2. Clause 4.6 - Minimum Subdivision Lot Size [!\[\]\(56451d82e6dfba768ba6cc341b9dc91e_img.jpg\)](#) [!\[\]\(9db43902c778a6e0fd462229d6e5dc16_img.jpg\)](#)









WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Minimum Lot Size

Proposed Boundary Adjustment

**Nos. 16 and 18 The Crescent,
Vaucluse**

Prepared for:

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Rushcutters Bay NSW 2011

Prepared by:

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JOB NO. 19036
April 2020

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

APPLICANT'S NAME: Bruce Stafford Architects
SITE ADDRESS: Nos. 16 and 18 The Crescent, Vaucluse
PROPOSAL: Proposed Boundary Adjustment

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R2 – Low Density Residential. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

(iii) The number of the relevant clause therein:

- 4.1** *Minimum subdivision lot size*
- (1)** *The objectives of this clause are as follows—*
- (a) to establish a minimum subdivision lot size that is consistent with the desired future character of the neighbourhood,*
 - (b) to ensure that lot sizes support development envisaged under this Plan,*
 - (c) to ensure that lots have a minimum size to retain or enhance amenity by providing useable areas for building and landscaping,*
 - (d) to identify locations suitable for increased development density,*
 - (e) to ensure that development complies with the desired future character of the area.*
- (2)** *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*
- (3)** *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*
- (3A)** *If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.*
- (4)** *This clause does not apply in relation to the subdivision of any land—*
- (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or*
 - (b) by any kind of subdivision under the [Community Land Development Act 1989](#).*

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

2. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.1 of the LEP - Minimum Subdivision Lot size. The development standard specifies a minimum lot size of 675m² for the subject site.

No. 16 The Crescent has an existing area of 682.7m² and complies with the standard, while No. 18 The Crescent has an existing area of 460m² and does not comply with the standard (see Figure 1). The proposed boundary adjustment will result in No. 16 The Crescent having an area of 809m² and maintaining compliance with the standard, while No. 18 The Crescent will have an area of 333.7m² and maintain its non-compliance (see Figure 2).

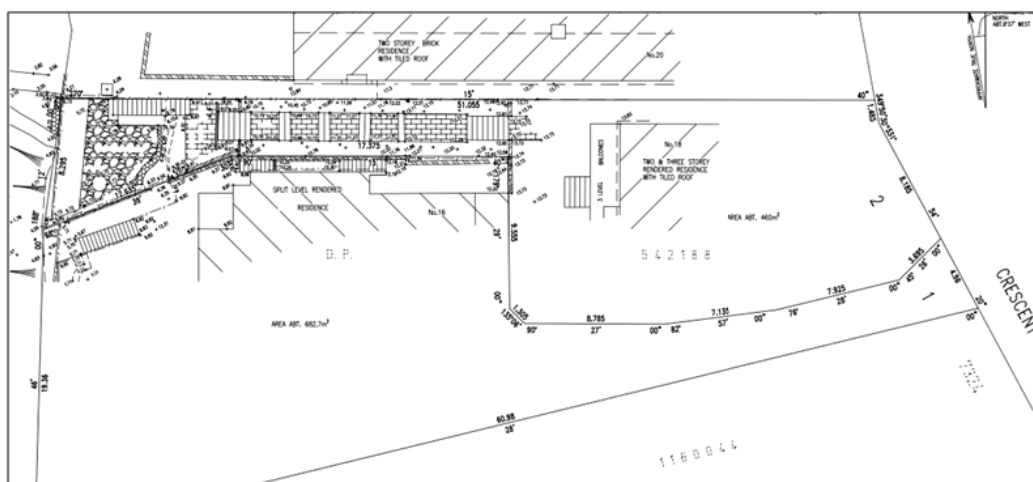


Figure 1: Existing Survey Plan

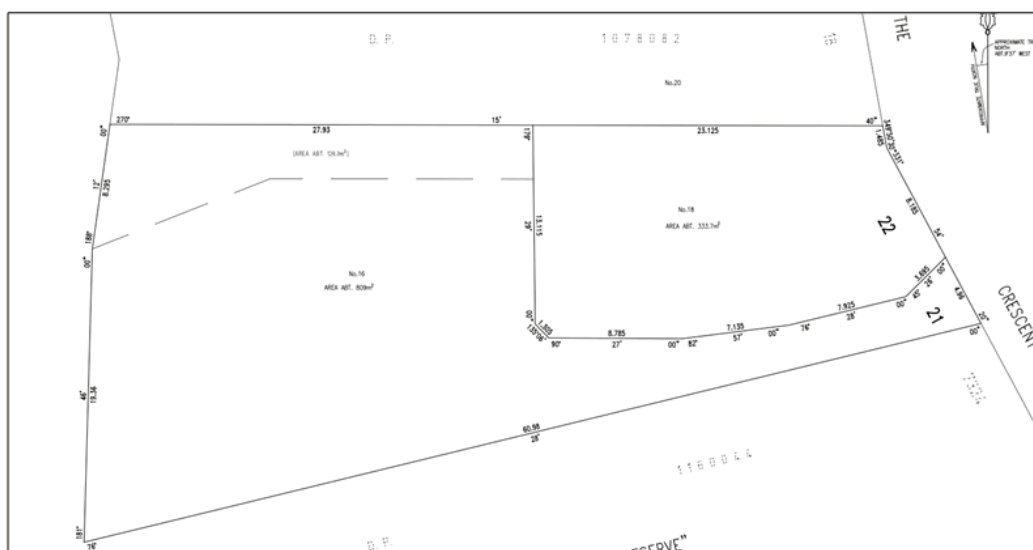


Figure 2: Proposed Boundary Adjustment Plan

3. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

- | | |
|---------------|--|
| Objective (a) | to provide an appropriate degree of flexibility in applying certain development standards to particular development, |
| Objective (b) | to achieve better outcomes for and from development by allowing flexibility in particular circumstances. |

The proposal seeks flexibility in the application of the minimum lot size development standard to the development. It is our opinion that the lot size is appropriate for a number of reasons including surrounding subdivision pattern, consistency with the desired character of the R2 Low Density Residential Zone and the lack of any amenity impacts.

In our opinion, the proposal represents a better planning outcome both for and from the development. The flexibility in these particular circumstances allows a better outcome for the development by providing a narrow strip of land adjacent to No. 16 The Crescent which will be better utilised by way of topography and location, resulting in a high level of amenity for occupants.

It is also a better planning outcome for the surrounding area as the allotment will continue to consistent with the desired low density character of the area. Excising the narrow strip of land from No. 18 The Crescent will not disadvantage this allotment as this portion of land is all but redundant given its steep nature and the lack of direct connectivity with the dwelling house. It will be far better utilised and will relate more favourably to No. 16 The Crescent.

These reasons will be discussed in detail throughout this report. Accordingly in our opinion, the proposal is consistent with the objectives of Clause 4.6 and the variation is appropriate in this instance.

4. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause is stated, inter alia:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in these circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

4.1 Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies a number of the five tests established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant tests will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Clause 4.1 of Council's LEP contains the objectives of the minimum allotment size. The objectives of and a planning response to these objectives is stated below.

Objective 1: *To establish a minimum subdivision lot size that is consistent with the desired future character of the neighbourhood;*

Response: While the minimum lot size is 675m², the allotments surrounding the subject site comprise allotments of varying sizes, some of which are below the minimum allotment size.

This is demonstrated in Figure 3 on the following page, which shows that the subject allotment of No. 18 The Crescent, without the narrow strip of land which will be excised by the boundary adjustment, is of a similar size to many of these allotments within the immediate vicinity of the site.

There are numerous other allotments further beyond (while still within the Vaucluse West Precinct) that are less than the minimum allotment size and of a similar size to the proposal.

The compliance of the proposal with the desire future character of the neighbourhood is discussed in the response to objective 5.



Figure 3: Allotments in the Immediate Vicinity of the Site with a Similar Allotment Size

Objective 2: To ensure that lot sizes support development envisaged under this Plan;

Response: The proposal will maintain two allotments that are able to support residential development in character with the surrounding area, such as dwelling houses. The visual curtilage of the dwelling house at No. 18 The Crescent will not change as the portion of land to be excised merely relates to a narrow strip along No. 16 The Crescent. It can be argued that this strip of land relates more to No. 16 The Crescent than No. 18 The Crescent, thereby ensuring consistency with the objective.

Objective 3: To ensure that lots have a minimum size to retain or enhance amenity by providing useable areas for building and landscaping;

Response: The proposed lot size is able to provide useable building and landscape areas. The area to be excised from No. 18 The Crescent does not constitute usable area for three reasons. Firstly, the area to be excised is primarily a narrow strip of land that cannot be used for any recreational purpose. Secondly, the paved area on the foreshore is 8m below the level of the rear yard of the house, thereby being a deterrent for any frequent use of that space. Thirdly, the paved area at the foreshore lacks direct connectivity with the dwelling house by virtue of distance (and topography) which once again presents as a deterrent for frequent use.

Objective 4: *To identify locations suitable for increased development density;*

Response: The proposal does not seek any additional density. The proposed boundary adjustment will not result in any change to the development density.

Objective 5: *To ensure that development complies with the desired future character of the area*

Response: The proposal is for a boundary adjustment and no building works are proposed. Notwithstanding this, an assessment has been made in respect of the objectives of the Vacluse West Precinct which embodies the desired future character objectives. These objective are stated, inter alia:

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*
- O3 *To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 *To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 *To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*
- O7 *To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 *To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

The desired future character objectives relate to streetscape, building styles, bulk and scale, topography, views and landscaping. The proposed boundary adjustment will have no impact on any of these desired future character elements and as such is consistent with the character of the area by virtue of the existing structures and landscaping on site.

For these reasons, and those set out in more detail within the previously submitted SEE, it is considered that the proposal meets the objectives of the Vacluse West precinct. The proposal results in no change to the streetscape or amenity of the neighbours. The visual catchment of the dwelling will also be unaffected. In our opinion, the proposed allotment size is not dissimilar with numerous other lots in the locality and the proposal is consistent with the desired future character of the neighbourhood.

Test 4 - the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The standard has not been virtually abandoned or destroyed, however, there are numerous examples of dwellings in the Woollahra Local Government Area (LGA), which have been approved with non-compliances with the minimum lot size standard. Furthermore, there are numerous examples of existing allotments approved well before the current LEP that are below the minimum lot size, which form part of the context.

It is recognised that each DA is assessed on its own merits and each site has different characteristics however, the above DAs comprise breaches in minimum lot size which were supported by Council staff for similar arguments as those made in this Clause 4.6 Variation.

4.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

It is our opinion that there are sufficient environmental grounds to justify the contravention of the development standard.

Firstly, the proposal has a similar allotment size as many allotments in the locality and thus the proposal is consistent with the subdivision pattern of the area.

Secondly, the strip of land on the northern boundary to be excised, comprises a fall from RL13.73 down to RL 5.78, via a series of steps, which is close to an 8m level difference (see Photograph 1 below).



The subject strip of land (and associated paved area at the foreshore) is not usable for No. 18 The Crescent given the lack of direct connectivity to the dwelling house and the level difference. Adding this portion of land to No. 16 The Crescent is a more logical proposition as it has direct connectivity to this area both in terms of location and topography.

Thirdly, excising the narrow portion of land from No. 18 The Crescent and adding it to No. 16 The Crescent would more favourably contribute to the visual catchment of No. 16 The Crescent. The strip of land does not currently add to the visual catchment of No. 18 The Crescent and thus the boundary adjustment will not disadvantage this site.

Fourthly, there is no change to the pedestrian access for either property onto and from The Crescent. While No. 18 The Crescent will no longer have a foreshore frontage, access to the Harbour is readily available via Parsley Bay Reserve immediately to the south of the site.

There are a number of further environmental planning grounds that justify the non-compliance in this instance. These include:

- The proposal will ensure that both dwellings have an appropriate curtilage ensuring consistency with the desired future character;
- The proposal results in no impacts to the amenity of neighbours or the streetscape;

- To decline the application would be to inhibit the orderly and economic use and development of the land in accordance with the objects of the EPA Act; and
- The proposal will be consistent with the Vacluse West Precinct.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard, as required in Clause 4.6(3)(b).

5. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can and should be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this request, and having regard to the site and locality.

In our opinion the proposal achieves the objective of the development standard, as already demonstrated; and the objectives for development within the R2 Low Density Residential Zone, as discussed below. From this, we consider the proposal is in the public interest and should be supported.

The R2 Low Density Residential Zone objectives are applicable to the site. The lot size will be consistent with planning objectives for the locality, and with the relevant zone objectives which are, inter alia:

- Objective 1 - To provide for the housing needs of the community within a low density residential environment.
- Response – The proposal will maintain two dwelling houses with improved amenity, which will positively provide for the needs of the community.
- Objective 2 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- Response - This objective is not relevant.
- Objective 3 - To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
- Response - As indicated throughout this submission, the proposed allotment size is consistent with many other allotments in the area and will result in a dwelling that maintains compatibility with the character of the neighbourhood. The proposal will not result in any adverse impacts on the surrounding neighbourhood.

Objective 4 - To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

Response - The proposal does not comprise any building works and will have no impact on the desired future character of the area. The visual catchment of the dwelling house will not be affected given the location and configuration of the strip of land to be excised from this site.

The proposal is considered to satisfy the objectives for the Woollahra LEP 2014.

6. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice.

On appeal, the Court has the power under Clause 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in Clause 4.6(4)(a), without obtaining or assuming the concurrence of the Secretary under Clause 4.6(4)(b), by reason of Section 39(6) of the Court Act. Nevertheless, the Court should still consider the matters in Clause 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]. In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or Regional environmental planning. Approval of the lot size non-compliance is considered to be in the public interest as it will allow the boundary adjustment in accordance with the desired future character of the area.

Given the nature of the proposal and the location, configuration and topography of the parcel of land to be excised from the site, there appears to be little public benefit in enforcing strict compliance with the numerical provisions of the control in this instance. The proposal will not affect the amenity of neighbours and the shortfall in minimum lot size is not likely to result in adverse environmental amenity impacts. In our opinion the proposal is consistent with the intent of Clause 4.6 and should be supported.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

7. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see Table 1 on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the development objectives of the R2 Low Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.1 should be upheld.

Table 1: Compliance Matrix

Para (Initial Action)	Requirement	Section	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Minimum Lot Size	
12	What is the control	1 & 2	675m ²	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	4	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	4.1	The proposal is consistent with Tests 1 and 4 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; and The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. 	4.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The existing allotment already comprises a non-compliant site area; The existing subdivision pattern is irregular by way of size and shape; The proposal is not inconsistent with the subdivision pattern of the area; The boundary adjustment will result in a better use of land for No. 16 The Crescent, as due to the lack of direct connectivity and topography, the narrow strip and foreshore paved area is not readily utilised by No. 18 The Crescent; The proposal is consistent with the desired future character of the area; and, The proposal will not result in any adverse impacts. 	YES
26-27	2nd Positive Opinion –	5	The proposed development is consistent with the objectives of the minimum lot	YES

Revised Clause 4.6 Exceptions to Development Standards – Minimum Lot Size
Nos. 16 and 18 The Crescent, Vaucluse - Job No. 19036

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	That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.		size standard as addressed under Test 1 of <i>Webb</i> . The proposal is also consistent with the objectives of the R2 Low Density Residential Zone.	
28-29	Second Precondition to Enlivening the Power – that the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.	6	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Court can grant development consent.	YES

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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA344/2019/1
ADDRESS	142, 142A & 142B Bellevue Road BELLEVUE HILL
COUNCIL WARD	Cooper
SITE AREA	142 Bellevue Road - 1369m ² (Lot 1 DP 506650) 142A Bellevue Road - 571.1m ² (Lot 2 DP 506650) 142B Bellevue Road - 672.6m ² (Lot C DP 411692) Total combined site area – 2,612.7m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and a swimming pool
TYPE OF CONSENT	Local development
COST OF WORKS	\$12,383,028.00
DATE LODGED	17/09/2019
APPLICANT	Bellevue Road Holdings Pty Ltd
OWNER	Bellevue Road Holdings Pty Ltd
AUTHOR	Mr B McIntyre
TEAM LEADER	Mr T Wong
SUBMISSIONS	Nine (9)
RECOMMENDATION	Refusal

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:

- Sensitive development
 - (a) Development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment* applies

2. REASONS FOR RECOMMENDATION

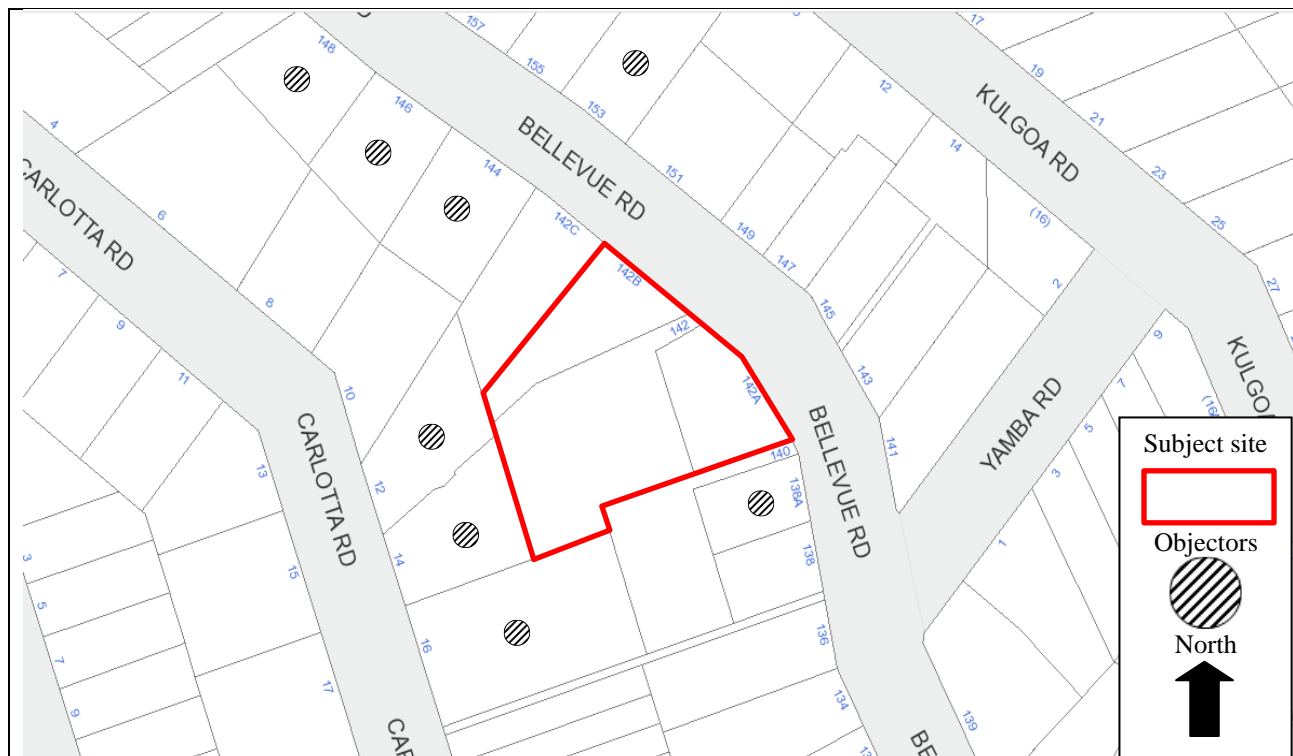
The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for refusal because:

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015

- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified
- The site is not suitable for the proposed development
- The proposal is not in the public interest

Note: A Class 1 Appeal (No. 2019/383250) was filed on 5 December 2019 with the Land and Environment Court (LEC) on the grounds of deemed refusal. The matter is set down for a s34 conciliation conference on 12 August 2020

3. LOCALITY PLAN



Notes: Not all objectors are shown on the map (A submission was also received from 135 Bellevue Road, Bellevue Hill)

4. PROPOSAL

The proposal involves the demolition of all of the existing structures (including tree removal) and the construction of a part three, part four-storey residential flat building over the three allotments comprising seventeen (17) units. The configuration of the new residential flat building is as follows:

Basement Level

- Excavation to accommodate the new basement level
- Eighteen (18) basement car spaces and ten (10) bicycle spaces
- Storage areas for individual units
- Three (3) lift cores and two (2) internal staircases
- Pool equipment and services and plant rooms
- Vehicle access ramp
- Communal Open Space area along eastern boundary
- Associated landscaping

Ground Floor Level

- Excavation to accommodate the new ground level
- 1 x three (3) bedroom unit and private open space areas
- Eleven (11) car spaces and ten (10) bicycle spaces
- Storage areas for individual units
- Three (3) lift cores and two (2) internal staircases
- Service equipment rooms
- Vehicle access ramp
- Communal Open Space area including a swimming pool
- Associated landscaping

Level 01

- Excavation to accommodate the new Level 01
- 1 x three (3) bedroom unit and 1 x two (2) bedroom unit, both with west-facing covered terraces
- Four (4) visitor car spaces and four (4) motorcycle spaces
- Three (3) lift cores and two (2) internal staircases
- Air-conditioning plant room, bulky waste and refuse areas
- Vehicle access ramp
- Communal Open Space area
- Associated landscaping

Level 02

- 1 x three (3) bedroom unit, 4 x two (2) bedroom units and 1 x one (1) bedroom unit
- Private open space garden areas or covered terraces to the units
- Pedestrian access from to Bellevue Road to north-western lift core
- Three (3) lift cores and three (3) internal staircases
- A new vehicular driveway crossover providing direct access from Bellevue Road
- Centrally located Atrium Communal Space area and pedestrian bridges
- Associated landscaping

Level 03

- 3 x three (3) bedroom unit, 2 x two (2) bedroom units and 1 x one (1) bedroom unit
- Private open space garden areas, covered or open terraces to the units
- Pedestrian access from Bellevue Road to south and south-western lift cores
- Three (3) lift cores and three (3) internal staircases
- Separate stair access to Level 04 roof terraces for the exclusive of Units 3.1 and 3.2

Level 04

- 2 x three (3) bedroom units and open terraces to both units
- Single lift core and internal staircase
- Separate stair access and roof terraces for the exclusive of Units 3.1 and 3.2

Roof level

- Three (3) skylights
- Photovoltaic Panels

External Areas

- Open palisade fence to front boundary
- Side and rear fences
- Associated landscaping

Amended plans were received on 19 June 2020 incorporating the following changes:

Basement Level

- Re-configuration of the basement level to accommodate twenty-one (21) car spaces, storage areas for individual units, pool equipment and services and plant rooms
- One (1) internal staircase
- Vehicle access ramp relocated and widened
- Volume of excavation reduced
- Additional landscaping

Ground Floor Level

- Re-configuration of the ground floor level to accommodate thirteen (13) car spaces, storage areas for individual units, bulky waste, refuse areas and services and plant rooms
- The swimming pool has been setback further away from the north-western boundary
- Two (2) internal staircases
- Vehicle access ramp relocated and widened
- Volume of excavation reduced

Level 01

- Re-configuration of the Level 01 to accommodate four (4) visitor car spaces, one (1) electric charging station, four (4) motorcycle spaces, nineteen (19) bicycle spaces and air-conditioning plant room
- The swimming pool has been set back further away from the north-western boundary
- Vehicle access ramp relocated
- Fire stairs re-located

Level 02

- Recessed landscaped area introduced to the front façade of the development fronting Bellevue Road
- Splay added to vehicle access ramp
- Minor reconfiguration of DWL 2.2 and screening included to living room
- Minor reconfiguration of DWL 2.4
- Central atrium courtyard landscaped

Level 03

- Recessed landscaped area introduced to the front façade of the development fronting Bellevue Road

Level 04

- Recessed landscaped area introduced to the front façade of the development fronting Bellevue Road

Roof level

- Recessed landscaped area introduced to the front façade of the development fronting Bellevue Road

External Areas

- Rear Communal Open Space area raised to reduce excavation
- Green wall added
- Associated landscaping

5. ISSUES

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

None.

5.2. Primary Issues

Issue	Conclusion	Section/s
SEPP 65 - Design Quality Principles	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 1.	11.2
Apartment Design Guide	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 2.	12
Excavation (LEP and DCP)	Unsatisfactory. The application is recommended for refusal. Refer to Reasons for Refusal 4 and 11.	15.8 & 16.2.3
Desired future character	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 5.	16.1.2
Side and rear setbacks	Satisfactory. The development application is however recommended for refusal.	12.2.6 & 16.2.1
Roof terraces	Unsatisfactory. The application is recommended for refusal. Refer to Reasons for Refusal 1, 2 and 6(c).	11.2.7, 12.2.6, 12.2.14, 12.2.17 & 16.2.4
Acoustic and visual privacy	Unsatisfactory. The application is recommended for refusal. Refer to Reason for Refusal 1, 2 and 6(c).	11.2.6, 12.2.6, 12.2.17 & 16.2.4
Tree removal	Unsatisfactory. The development application is recommended for refusal. Refer to Reasons for Refusal 1, 2, 3, 5, 6(d), 9 and 10.	11.2.5, 12.2.5, 16.1.2, 16.2.4, 16.2.6 & 16.5
Stormwater	Unsatisfactory. The development application is recommended for refusal. Refer to Reasons for Refusal 8 and 11.	16.4
Insufficient information	Unsatisfactory. The development application is recommended for refusal. Refer to Reason for Refusal 11	-

5.3. Summary of Submissions

Issue	Conclusion	Section
Height non-compliance	The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014.	15.4
Density	The proposal complies with Council's LEP and DCP in terms of the density and the built form. It is noted that the proposed development is being constructed over 3 existing residential allotments and the overall density of the proposal will be consistent with RFB developments in Bellevue Hill, which are zoned R3 Medium Density Residential.	11.2.3
Excessive excavation : <ul style="list-style-type: none"> Such a large development which will impact neighbouring properties with regards to with water, drainage and stability of the land with such a large development. Existing soil conditions may not be suitable for this scale of development Impacts of construction on adjoining properties and bulk services in the area. 	The Geotechnical Report submitted with the application and reviewed by Council's Development Engineer was found to be unsatisfactory. In this regard insufficient information has been provided and therefore it cannot be determined whether the cumulative impacts of excavation for the proposal will not adversely impact land stabilisation, ground water flow, structural risks to adjoining structures and the amenity of adjoining and adjacent properties. The application is recommended for refusal.	15.8 & 16.2.3
Not in keeping with the character of the area	The development provides for the housing needs of the community within a medium density zone and is of a height, bulk and scale that is consistent with development in this locality. The development is generally compliant with most of Council's controls and is not considered to be an overdevelopment.	16.1.2
Streetscape and desired future character – front sandstone retaining wall.	The proposed palisade fence to Bellevue Road is an acceptable response to the streetscape and is consistent with front boundary fences on the lower side of Bellevue Road in this locality..	-
Does not make a positive contribution to the surrounding neighbourhood	The proposal building is considered to provide a positive contribution to the neighbourhood and will achieve an outcome which is an improvement on the existing situation.	-
Rear setback non-compliance	Whilst non-compliant with the rear setback controls the proposal satisfies the relevant objectives outlined in Part B3.2.4 of the Woollahra DCP 2015. It is noted the proposal is compliant with the rear setback requirement under the ADG.	16.2.1
Overshadowing	Shadow diagrams for the proposed development were submitted with the application. The proposal satisfies the relevant objectives and controls of Part B3.5.2 of the Woollahra DCP 2015.	16.2.4
Visual and acoustic privacy impacts on adjoining properties	The concerns raised by the adjoining properties are acknowledged. The application is recommended for refusal.	11.2.6, 12.2.6, 12.2.14, 12.2.17 & 16.2.4
Excessive bulk and scale – precedent for future developments	The proposal is considered a skilful design, is of a height, bulk and scale which is comparable to properties in the immediate locality and is compatible with the streetscape. The proposal is considered to be satisfactory, achieving the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.	11.2.2, 16.1.2 & 16.2.4
Lack of provision of landscaping on site	The proposal has provided adequate landscaping on site which satisfies the relevant objectives of SEPP 65, the ADG and Woollahra DCP 2015.	11.2.5, 12.2.5, 16.1.2,

Issue	Conclusion	Section
	However, Council's Tree and Landscaping Officer has indicated that the information provided is insufficient to demonstrate that adequate provisions will be made to sustain the proposed landscaping. The proposal is recommended for refusal.	16.2.6 & 16.5
Removal of trees from subject site	The documentation submitted with the application and reviewed by Tree and Landscaping officer was found to be unsatisfactory. The application is recommended for refusal.	11.2.5, 12.2.5, 16.1.2, 16.2.6 & 16.5
Location of pool – privacy impacts	The proposed swimming pool, as amended, will provide adequate setbacks from the side and rear boundaries satisfying the relevant objectives and controls of Part B3.7.4 of the Woollahra DCP 2015.	16.2.6
Vehicle access, parking arrangements and traffic impacts: <ul style="list-style-type: none"> • Insufficient off-street parking • On-street parking already at capacity. • Traffic congestion • Turntable • Location of driveway crossover to blind corner • Future residents will obtain Woollahra Parking permits • The width of Bellevue Road has been reduced as a result of the introduction of a bicycle lane 	<p>The off-street parking proposed for the development complies with the ADG and Woollahra DCP 2015.</p> <p>The proposal, as amended, has removed the turntable and re-configured the basement parking layout, demonstrating compliance with Council's DCP.</p> <p>A Parking and Traffic Impact Assessment Report was submitted with the application which has been assessed by Council's Traffic Engineer and found to be satisfactory, subject to Conditions.</p> <p>Accessibility to the site and on-site parking are considered to be satisfactory.</p> <p>If the application were recommended for approval, relevant conditions of consent could be imposed where future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.</p> <p>Council's Traffic Engineer has not raised concern on any impact upon on-street parking or bicycle lane along Bellevue Road</p>	12.2.9, 16.2.5 & 16.3
Stormwater management and flood risk.	The documentation submitted with the application and reviewed by Council's Development Engineer was found to be unsatisfactory. The proposal is recommended for refusal.	16.4
Working hours, noise, dust mitigation and waste removal measures during construction	If the application were recommended for approval, any potential impacts from the development during construction with regards to noise, dust and waste removal could be appropriately mitigated by conditions of consent.	-
Development is not in the public interest	The submission is acknowledged. The proposal is recommended for refusal.	-
No lift overruns displayed in 3D model	It is acknowledged that the lift overrun is not incorporated into the 3D Model, however the architectural drawings submitted with the application provide details of the lift overrun. The proposed lift overrun does not exceed the Height of buildings development standard and has been skilfully integrated within the building envelope of the proposed development.	-
Pressure from Developer's real estate agents to sell	This is not a relevant issue pursuant to the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The proposed development comprises 3 allotments of land, namely 142 Bellevue Road (Lot 1 DP 506650), 142A Bellevue Road (Lot 2 DP 506650) and 142B Bellevue Road - 672.6m² (Lot C DP 411692). The subject site has a combined area of 2612.7m² in extent.</p> <p>The subject site is irregular in shape with a combined north-eastern boundary length of 59.549m to Bellevue Road, a side north-western boundary of 43.26m, a rear western boundary of 36.7m and a skewed side (southern) boundary of 69.6m.</p>
Topography
<p>The subject site slopes from Bellevue Road down towards the rear (western) boundary. It has a cross-fall of 15.23m measured from the eastern corner (RL 35.96) to the western corner (RL 20.73) of the site. The site levels out towards the central portion, where the existing house on 142 Bellevue Road used to be and the existing house at 142B Bellevue Road currently stands.</p>
Existing buildings and structures
<ul style="list-style-type: none">• 142 Bellevue Road – Vacant• 142A Bellevue Road – A two storey dwelling house, hard stand car parking area within the front setback area and a swimming pool at the rear.• 142B Bellevue Road – A two storey dwelling house with a garage and hard stand car parking area towards the rear of the site.
Surrounding Environment
<p>The area immediately to the north-west and north-east (the opposite side of Bellevue Road) of the subject site is predominantly characterised by enlarged single dwelling houses. Located to the south of the subject site is a Residential flat building (138A Bellevue Road) and single dwelling house (140 Bellevue Road). Properties to the west of the subject site comprises contemporary residential flat buildings, which are accessed off Carlotta Road.</p>



Aerial view of the subject site



View of the south-eastern corner of one of the properties which make up the subject site as viewed from Bellevue Road (No. 142A Bellevue Road)



View of the driveway access to the battle-axe lot at 140 Bellevue Road separating 138A and 142A Bellevue Road (RFB on the left hand side and the subject site to the right of the driveway)



View of the southern portion of the subject site and the existing trees along the southern boundary



View of one of the properties which make up the subject site as viewed from Bellevue Road (No. 142B Bellevue Road)



View of the subject site on the left, looking in a southerly direction up Bellevue Road



View of the subject site on the left, looking in a north-westerly direction down Bellevue Road



View of the properties which make up the subject site as viewed from Bellevue Road (Nos 142, 142A & 142B Bellevue Road)



The existing driveway access to 142 Bellevue Road (battle-axe lot) with the existing dwelling located at 142B Bellevue Road located on the right of the driveway



View of one of the properties which make up the subject site as viewed from Bellevue Road (No. 142B Bellevue Road)



View of the existing driveway and part of the dwelling of No. 142B Bellevue Road



A view of the rear of the existing dwelling located at 142A Bellevue Road, taken from the driveway of 140 Bellevue Road



A view of 142 Bellevue Road, looking in a south-westerly direction, as viewed from the elevated rear garden of 142A Bellevue Road with the RFB located at 14 Carlotta Road in the background



The rear of the existing dwelling located at 142A Bellevue Road as viewed from 142 Bellevue Road



A view of 142 Bellevue Road, looking in a south-westerly direction with the dwelling located at 140 Bellevue Road to the left and the RFB located at 16 Carlotta Road to the right



A view of 142 Bellevue Road, looking in a south-westerly direction with the dwelling located at 140 Bellevue Road to the left and the RFB located at 14 Carlotta Road to the right



The existing driveway access to 142 Bellevue Road (battle-axe lot) with the existing dwelling located at 142B Bellevue Road located on the left of the driveway and the existing dwelling located at 142A Bellevue Road located on the right of the driveway



The existing dwelling located at 142B Bellevue Road

7. RELEVANT PROPERTY HISTORY

Current use
<ul style="list-style-type: none"> • 142 Bellevue Road – Vacant • 142A Bellevue Road – Single dwelling house • 142B Bellevue Road – Single dwelling house.
Relevant Application History
<p>DA 412/2018/1 - Application for the demolition of existing structures and construction of a new residential flat building (comprising affordable housing) in two building modules with basement parking was withdrawn on 04/12/2018.</p> <p>CDC 2018/55 issued by 360 Certification (Ref. C2017011) dated 28/03/201 for the demolition of the existing dwelling located at 142 Bellevue Road.</p> <p>There is no other relevant compliance history pertaining to the proposed development.</p>
Pre-DA
Not applicable
Requests for Additional Information and Replacement Applications
<p>18/09/2019 – A Request for Additional Information (STC) Letter was sent to the applicant identifying the following deficiencies /lack of information:</p> <ol style="list-style-type: none"> 1. <i>Acquisition of Interallotment Drainage Easement</i> 2. <i>Revised Stormwater Management Plans</i> 3. <i>Flooding Risk Management Study – Protection of Property</i> 4. <i>Vehicular Access</i> 5. <i>Tree Management Report</i> 6. <i>Demolition Report</i>

7. *Model*
8. *Owner(s) Consent – Company/Owners Association*

A response to the Request for Additional Information Letter was received on the 19 September 2019 which included a Demolition Report, Flood Impact Report and updated plans with the 2 entry levels RL's as per the Flood Impact Report recommendations.

21/10/2019 – Email received from Boskovitz Lawyers advising that their client would not meet the deadline for the STC letter and on this basis would accept a deemed refusal of the matter.

The Planning Consultant for the Development Application subsequently advised Council that they would address the issues outlined in the STC letter and would submit the information/documentation requested.

A further response to the STC Letter was received on the 9 March 2020 which included an email and letter to/from neighbouring property regarding the request for an easement, Demolition Report, Flood Impact Report, amended Architectural Plans, draft proposed easement plan, 3D model drawings and Owners Consent.

25/03/2020 – An Unsatisfactory Development Proposal email was sent to the applicant identifying the following issues:

1. *Urban Design - SEPP 65 and the Apartment Design Guide*
2. *Flooding*
3. *Parking layout*

01/05/2020 – An Unsatisfactory Development Proposal email was sent to the applicant identifying other planning issues.

A response to the issues raised in the abovementioned letter and emails was received from Planning Ingenuity on 19 June 2020. The response included amended architectural drawings and the relevant reports/documentation attempting to address issues raised and/or enabling all relevant internal departments to undertake an assessment of the proposal.

Land and Environment Court Appeal(s)

05/12/2019 – A Class 1 (deemed refusal) Appeal was lodged with the Land and Environment Court (Case No.19/383250). A s34 conciliation conference is scheduled for 12 August 2020.

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Urban Design	Unsatisfactory, Amended plans were submitted addressing the issues raised.	2
Technical Services	Unsatisfactory.	3
Traffic	Satisfactory, subject to conditions.	4
Drainage	Satisfactory, subject to conditions.	5
Trees and Landscaping	Unsatisfactory.	6
Heritage	Satisfactory, subject to conditions.	7
Environmental Health	Satisfactory, subject to conditions.	8
Fire Safety	Satisfactory, subject to conditions.	9

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/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 **25 September 2019 to 9 October 2019** in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015. Submissions were received from:

1. **Leslie Burnett and Ruth Pojer**, Unit 5, 16 Carlotta Road Double Bay
2. **Danielle Shearman**, Unit 3, 12 Carlotta Road Double Bay
3. **David Green**, 153 Bellevue Road Bellevue Hill
4. **Fiona & Philip Austin**, 146 Bellevue Rd Bellevue Hill
5. **Christine Batley**, 144 Bellevue Rd Bellevue Hill
6. **Naomi Meyerson**, 138A Bellevue Road Bellevue Hill
7. **Ron G. Weinstock**, 148 Bellevue Road Bellevue Hill
8. **A. & G. Gollan**, 135 Bellevue Rd Bellevue Hill
9. **Robert & Helen Koo**, 14 Carlotta Road Double Bay

The submissions are acknowledged and have been summarized in Section 5.3 of this report. The application is recommended for refusal.

9.2. Statutory Declaration

As of the date of finalising this report, the applicant has not provided a statutory declaration declaring that the site notice was erected and maintained during the notification period.

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 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

SEPP 65: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings.

In this instance, the proposed residential flat building comprises four (4) storeys and includes seventeen (17) self-contained dwellings (comprising 8 x 3 bedroom units, 7 x 2 bedroom units and 2 x 1 bedroom units).

11.1 Clause 2: Aims and Objectives

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

- a) *To ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *By providing sustainable housing in social and environmental terms, and*
 - (ii) *By being a long-term asset to its neighbourhood, and*
 - (iii) *By achieving the urban planning policies for its regional and local contexts*
- b) *To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- c) *To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- d) *To maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- e) *To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions*
- f) *To contribute to the provision of a variety of dwelling types to meet population growth*
- g) *To support housing affordability*
- h) *To facilitate the timely and efficient assessment of applications for development to which this Policy applies*

The development is consistent with the aims by providing a well-designed development with a positive streetscape presentation to Bellevue Road.

Furthermore, the amended plans have addressed the issues raised by Council's Urban Design Officer in **Annexure 2**. The proposed residential flat building is considered to be a contextual fit and is consistent with development of the medium density zoning.

A Design Review Panel has not been established for the Woollahra area. However, a design verification statement has been submitted by the applicant and prepared by registered architects, Aleksandar Projects and the application has been reviewed by Council's Urban Design Officer.

11.2 Design Quality Principles

Clause 30(2) of SEPP 65 requires the assessment of the application against the design quality principles in Schedule 1. This assessment has been undertaken by Council's Urban Design Officer. Where relevant, comment from Council's Assessment Officer is also included.

11.2.1 Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Urban Design Planner's comments: *Residential flat buildings are permissible in the R3 zone and respond to the aims and objectives of the zone as well as the desired future character of the area. However, the proposed bulk and scale and its contribution to the streetscape character does not respond to or enhance the character of its surroundings.*

Assessment Officer's comments: *The proposal has been amended by incorporating additional private open space to DWL 2.1 and DWL 3.2 upon the street frontage. The reconfiguration of DWL 2.2 to the living room and balcony arrangement will also provide visual definition when viewed from Bellevue Road. In combination with the originally proposed non-traditional/contemporary roof form and front balcony configuration, the overall appearance of the proposed development upon Bellevue Road will be visually proportional to nearby developments and character of its surrounding. The proposal, as amended, is responsive to the surrounding context and neighbourhood character, which is dominated by large dwelling houses and residential flat buildings of varying types and styles.*

11.2.2 Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Urban Design Planner's comments: *The proposed development presents a continuous façade of approx. 50m along Bellevue Road. The existing street context consists of individual dwellings with an average frontage of 15 to 25m with a landscape strip between buildings. Also, the eastern side of the road is Zoned R2 so it will stay low scale with good landscape density. The proposed continuous frontage type of built form is more suitable for an intensified urban context than the low-density suburban context of Bellevue Hill. It disrupts and disconnects the flow of landscaping between buildings by introducing a more intense type of development facing the road. The proposed development does not respond to the predominant character of the street. The proposed bulk and scale extends beyond the permissible developable area by encroaching into the rear setback area. This increases the site coverage and reduces the chance for additional landscaping. The proposed central courtyard increases the overall bulk and scale of the proposal. It provides a communal open*

space with poor amenity and outlook. It is recommended that the communal open space is relocated to the area outside of the proposed built form and is better integrated with the rest of the landscape. This will also help to reduce the overall bulk and scale.

Assessment Officer's comments: As discussed above, additional private open space has been incorporated to DWL 2.1 and DWL 3.2 upon the street frontage. This recessed configuration has provided suitable area of landscaping which will complement articulation to the built form upon the streetscape along Bellevue Road.

The central communal open space area has also been amended to a landscaped courtyard (accessible for maintenance only) to improve its amenity.

The height, bulk, scale and form of the proposal is considered to be compatible with existing development in this location and makes a positive contribution to the precinct and streetscape.

11.2.3 Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Urban Design Planner's comments: The overall dwelling density responds to the desired future character of the area. However, the appropriateness of the overall density is dependent on the proposed bulk and scale.

Assessment Officer's comments: The proposal achieves a high level of amenity for the residents and results in a density which is appropriate to the site and its context. The proposal is considered to be sustainable given the proximity of the subject site to the major transportation hub at Bondi Junction and the existing commercial, retail and transport opportunities located in the Double Bay Centre. As discussed above, the proposal, as amended, will present appropriate bulk and scale which will be compatible with and sympathetic to the surrounding developments.

11.2.4 Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Urban Design Planner's comments: The proposal meets the required principles for solar access and cross ventilation.

Assessment Officer's comments: The comments provided by Council's Urban Design Planner are concurred with. The architectural plans submitted with the application demonstrate suitable cross ventilation and access to natural sunlight are achieved.

11.2.5 Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Urban Design Planner's comments: *The proposed private open spaces on the southern boundary appear to encroach into the side setback areas. There appear to be inconsistencies between the proposed landscape plan which shows soft landscaping and the 3D model which shows private courtyard with hard pavement. Also the proposed pool area encroaches into the required setback on the northern boundary. For such a large scale development in a predominantly low-scale area, landscape buffers on boundaries are crucial to mitigate the perceived bulk and scale from neighbouring sites and the overall street character. The applicant is to ensure that the deep soil landscaping on side boundaries is maximised.*

Assessment Officer's comments: The proposal, as amended, increases the deep soil landscaped areas within the side setbacks. The extent of landscaping within the site is compliant with Council's controls and optimises practicality, privacy and opportunities for social interaction for residents of the development.

This principle encourages the retention of positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate and tree canopy.

However, the proposal seeks the removal of all the existing trees on the subject site and therefore does not fully satisfy the principle prescribed by this part and is therefore listed as a reason for refusal.

In addition, Council's Tree and Landscaping Officer has indicated that the proposal is unsatisfactory and is discussed in further detail in Section 16.5 of this report.

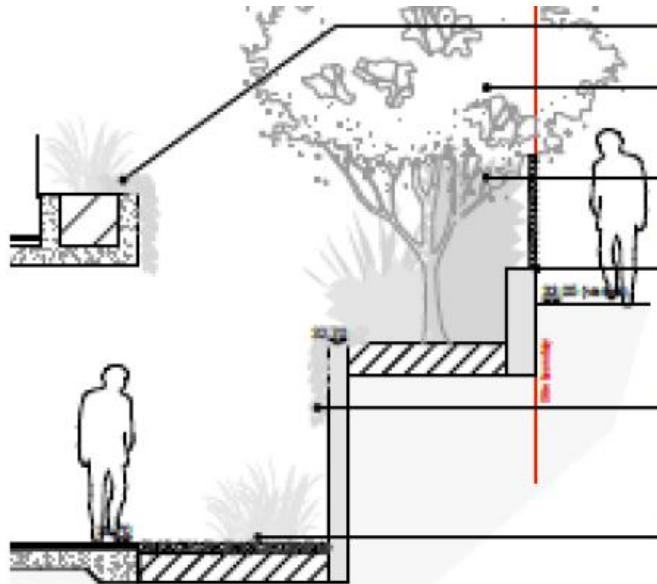
11.2.6 Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

Urban Design Planner's comments: *The proposed units on Level 2 facing Bellevue Road are sunken units approx. 3-4m below the street level. This compromises the amenity of the units and their outlook. It also results in privacy issues for the proposed habitable areas. The proposed communal open space in the central courtyard is highly enclosed with limited outlook and minimum passive surveillance. This is a poor outcome. .*

Assessment Officer's comments: Overall the individual units are well designed and achieve good amenity by the combination of open plan units, balanced internal and outdoor areas and suitable openings allowing solar access and natural ventilation.

Amended architectural plans were submitted which have reconfigured the internal layouts and orientation of the apartments on level 2, resulting in only two apartments (DWL 2.2 and 2.3) facing Bellevue Road at ground level. However, both the apartments will achieve acceptable levels of solar access and cross ventilation. The height of the front fence together the terraced landscaped areas will mitigate privacy impacts from the public domain as demonstrated in Figure 1 below.



Indicative Section through street front setback (Source: Response to Council issues by Planning Ingenuity)

The proposal includes trafficable roof top terraces to DWL 3.1 and 3.2 located towards the northern portion of the site, overlooking Bellevue Road, and terraces to DWL 3.6, 4.1 and 4.2 with a panoramic outlook towards to the North, West and South. The location of the proposed trafficable roof terraces will result in unacceptable acoustic and visual privacy impacts on adjoining properties, properties directly opposite the site in Bellevue Road and apartments within the development, given their excessive size, layout and open nature.

The proposal does not fully satisfy the principle prescribed by this part and is therefore listed as a reason for refusal.

11.2.7 Principle 7: Safety

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Urban Design Planner's comments: *The proposal meets the required principles for safety.*

Assessment Officer's comments: The comments provided by Council's Urban Design Planner are concurred with. The proposed development meets the required principle for safety.

11.2.8 Principle 8: Housing diversity and social interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Urban Design Planner's comments: *The proposal provides appropriate response to this principle.*

Assessment Officer's comments: The comments provided by Council's Urban Design Planner are concurred with. The proposed development provides a good mix of apartments ranging from one (1) bedroom units to three (3) bedroom units as well as communal spaces providing opportunities for social interaction among residents.

11.2.9 Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Urban Design Planner's comments: *The proposal provides appropriate response to this principle.*

Assessment Officer's comments: The proposal represents a well-designed development which achieves consistency with the desired future character of the Bellevue Hill North residential precinct.

12 Apartment Design Guide

12.2.1 Part 3A: Site Analysis

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

12.2.2 Part 3B: Orientation

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

12.2.3 Part 3C: Public Domain Interface

	Proposed	Control	Meets
Upper Level Balconies And Windows	Overlook the Street	Overlook the Street	Yes
Maximum Height of Solid Fences/Walls	Open palisade fence (max 1.5m in height)	1.0m 1.5m (open fencing)	Yes
Substations, Pump Rooms, Garbage Storage Areas Etc	Not Visible from the Public Domain	Not Visible from the Public Domain	Yes
Underground Parking Vents	Visual Prominence Minimised	Visual Prominence Minimised	Yes
Building Entry and Ground Floor for Accessibility Purposes	At Footpath Level	At Footpath Level	Yes

The applicant submitted amended plans which introduces a recessed landscaped area to the façade of the development fronting Bellevue Road, thereby further articulating the built form addressing Bellevue Road and increasing the landscaping along Bellevue Road.

The height, bulk, scale and form of the proposal is considered to be compatible with other existing development in this location and makes a positive contribution to the precinct and streetscape.

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

12.2.4 Part 3D: Communal and Public Open Space

Site Area: 2612.7m ²	Proposed	Control	Meets
Minimum Communal Open Space	25.3% of the Site (660m ²)	25% of the Site (653m ²)	Yes
Minimum Solar Access to the Principal Useable Portion of Communal Space	>50% for 2 Hours Between 9am and 3pm on June 21	50% for 2 Hours Between 9am and 3pm on June 21	Yes

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

12.2.5 Part 3E: Deep Soil Zones

Site Area: 2612.7m ²	Proposed	Control	Meets
Minimum Deep Soil Zone	25% of the Site (Approx. 640m ²)	7% of the Site (183m ²)	Yes
Existing Significant Trees	All existing trees proposed to be removed	Retained	No

The design criteria prescribed by this Part encourages the retention of existing significant trees to ensure tree canopies are maintained and to protect existing mature trees which assist with temperature reduction in urban environments.

Council's Tree and Landscaping Officer has indicated that the proposal is unsatisfactory. This will be discussed in further detail in Section 16.5 of this report. The proposal seeks the removal of all the existing trees on the subject site and therefore does not satisfy the design criteria prescribed by this part and is therefore listed as a reason for refusal.

12.2.6 Part 3F: Visual Privacy

	Proposed	Control	Meets
Minimum Separation for Buildings up to 12m – Habitable Rooms and Balconies	3.5m	6m	No
Non-Habitable Rooms	>3m	3m	Yes

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are overridden by controls in SEPP 65.

The objectives of this part primarily relate to visual amenity and read as follows:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.

The proposal fails to satisfy the controls prescribed by this part in that the development is located a distance of 3.5m from the north-western side boundary and 4.5m from the southern side boundary.

However, the following points are noted in this regard:

Southern boundary

- The proposal is compliant with the side setbacks outlined in the Woollahra DCP 2015.
- The driveway serving the battle axe lot at 140 Bellevue Road provides additional separation between the subject site and the Residential Flat Building located at 138A Bellevue Road.
- No window openings are proposed to the upper level apartments on the southern boundary.
- Window openings to the Level 02 apartment (DWL 2.4) living area are positioned 6m from the boundary with a privacy screen to the southern edge of the private open space extended therein.

North-western boundary

- The proposal is compliant with the side setbacks outlined in the Woollahra DCP 2015.
- There is only one window opening to the Level 03 apartment (DWL 3.1) living area, however the opening is positioned 6m from the boundary and the terrace to the living area is fitted with a privacy screen.
- No other window openings are proposed to the apartments on the north-western boundary.

The proposal includes a terrace to the south-west of DWL 3.1 which is located 3.5m from the north-western boundary and would result in unacceptable overlooking opportunities of the private open space area of the adjoining property at 142C Bellevue Road.

It is noted that roof terraces to other apartments are adequately set back from the site boundaries and will incorporate planter boxes or privacy screens to mitigate privacy impacts to adjoining properties.

Whilst non-compliant with the controls pertaining to visual privacy, mitigation measures could be incorporated to the terrace areas to ensure the proposal satisfies the relevant objectives outlined in this part.

The proposal in its current form fails to fully satisfy the relevant objectives prescribed by this Part and is therefore listed as a reason for refusal.

12.2.7 Part 3G: Pedestrian Access and Entries

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

12.2.8 Part 3H: Vehicle Access

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

12.2.9 Part 3J: Bicycle and Car Parking

	Proposed	Control	Meets
Motorcycle/Scooter Park	4 motorcycle parking spaces	Sufficient Provision	Yes
Bicycle Parking	19 undercover bicycle spaces provided (includes 2 visitor bicycle spaces)	Required, Undercover and Accessible	Yes
Electronic Charging Stations for Vehicles	1 charging bay provided	Recommended (where applicable)	Yes
Lobby Spaces within Basement	Provided	Provided	Yes

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

12.2.10 Part 4A: Solar and Daylight Access

	Proposed	Control	Meets
Sunlight to Living Rooms and Private Open Spaces of At Least 2 Hours Between 9am and 3pm on June 21	>70% of apartments receive at least 2 hours between 9am and 3pm on June 21	Minimum 70% of Apartments	Yes
No Sunlight to Apartments Between 9am and 3pm on June 21	All apartments received direct sunlight between 9am and 3pm on June 21	Maximum 15% of Apartments	Yes

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

12.2.11 Part 4B: Natural Ventilation

	Proposed	Control	Meets
Minimum Natural Cross Ventilation	>60% of Apartments	60% of Apartments	Yes
Maximum Depth of Cross-Over Apartment	<18m	18m	Yes

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

12.2.12 Part 4C: Ceiling Heights

	Proposed	Control	Meets
Minimum Ceiling Height – Habitable Rooms	2.7m	2.7m	Yes
Minimum Ceiling Height – Non-Habitable Rooms	2.7m	2.4m	Yes

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

12.2.13 Part 4D: Apartment Size and Layout

	Proposed	Control	Meets
Minimum Apartment Layout – 1 Bedroom	>50m ²	50m ²	Yes
Minimum Apartment Layout – 2 Bedroom	>70m ²	70m ²	Yes
Minimum Apartment Layout – 3 Bedroom	>95m ²	95m ²	Yes
Habitable Room – Minimum Window Surface	>10% of Floor Area and Not Borrowed	10% of Floor Area and Not Borrowed	Yes
Maximum Depth of Kitchen from a Window	<8m	8m	Yes
Minimum Bedroom Size (Excluding Wardrobes)	Equal to or >9m ² /10m ²	9m ² /10m ²	Yes
Minimum Bedroom Dimension (Excluding Wardrobes)	Equal to or >3m	3m	Yes
Minimum Width of Living Rooms	>3.6m/4.0m	3.6m/4.0m	Yes

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

12.2.14 Part 4E: Private Open Space and Balconies

	Proposed	Control	Meets
Private Open Space (Ground Floor Unit - GF1) Minimum Area	>15m ²	15m ²	Yes
Private Open Space (Ground Floor Unit -GF1) Minimum Dimension	>3m	3m	Yes
Minimum Balcony Area			
DWL - 3.4	>8m ²	8m ²	Yes
DWL - 1.1; 2.1; 2.4; 2.5; 3.3; 3.5	>10m ²	10m ²	Yes
DWL - 1.2; 2.6; 3.1; 3.2; 3.6; 4.1; 4.2	>12m ²	12m ²	Yes
DWL - 2.2 (No balcony – Private Open Space)	>10m ²	10m ²	Yes
DWL - 2.3 (No balcony – Private Open Space)	>8m ²	8m ²	Yes
Minimum Balcony Dimensions			
DWL- 3.4	>2m	2m	Yes
DWL 1.1; 2.1; 2.4; 2.5; 3.3; 3.5	>2m	2m	Yes
DWL 1.2; 2.6; 3.1; 3.2; 3.6; 4.1; 4.2	>2.4m	2.4m	Yes
DWL2.2 (No balcony – Private Open Space)	>2m	2m	Yes
DWL 2.3 (No balcony – Private Open Space)	>2m	2m	Yes
Location of Air Conditioning Units	Basement	On Roof, Basement or Integrated	Yes

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to private open space are overridden by controls in SEPP 65.

The proposal provides more than the required private open space to DWL 3.1, 3.2, 3.6, 4.1 and 4.2 in the form of trafficable roof terraces and balconies, as demonstrated in the table below.

Private Open Space Areas (Total)	Proposed	Control
• DWL - 3.1	86m ² (inclusive of 56m ² of roof terrace)	12m ²
• DWL – 3.2	54m ² (inclusive of a 20m ² roof terrace)	12m ²

Private Open Space Areas (Total)	Proposed	Control
• DLW – 3.6	110m (inclusive of 96m ² of roof terrace)	12m ²
• DWL - 4.1	52m ² (inclusive of 36m ² of roof terrace)	12m ²
• DWL – 4.2	59m ² (inclusive of 47m ² of roof terrace)	12m ²

Note: The areas provided in the table above have been calculated by the Assessment Officer based on the scales and plans submitted with this application as a result of inconsistencies in some of the dimensions and areas annotated on the plans

The Objectives relevant to the proposal are as follows:

Apartments provide appropriately sized private open space and balconies to enhance residential amenity.

Primary private open space and balconies are appropriately located to enhance liveability for residents.

The proposed trafficable roof terrace to DWL 3.1 and 3.2 are considered unreasonable and unnecessary for the following reasons:

- The roof terraces to DWL 3.1 and 3.2 are considered excessive when taking into consideration the private terrace areas available off the living areas of the apartments and the communal open space areas available for residents of the development.
- The proposed roof top terraces to DWL 3.1 and 3.2 are not appropriate in this instance and the necessity for the roof top terrace is not justified.

The proposed trafficable roof terrace to DWL 3.6, 4.1 and 4.2 are considered unreasonable, unnecessary and inappropriately sized for the following reasons:

- The terraces to DWL 3.6, 4.1 and 4.2 are considered excessive when taking into consideration the communal open space areas available for residents of the development.
- The proposed roof top terraces to DWL 3.1 and 3.2 are not appropriate in this instance and the necessity for the roof top terrace is not justified.

The proposal fails to fully satisfy the relevant objectives prescribed by this Part and is therefore listed as a reason for refusal.

12.2.15 Part 4F: Common Circulation and Spaces

	Proposed	Control	Meets
Maximum Number of Units in a Corridor	<Eight (8)	Eight (8)	Yes

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to circulation and spaces are overridden by controls in SEPP 65.

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

12.2.16 Part 4G: Storage

	Proposed	Control	Meets
Minimum Storage Area - DWL - 2.3; 3.4 DWL - 1.1; 2.1; 2.2; 2.4; 2.5; 3.3; 3.5 DWL - GF; 1.2; 2.6; 3.1; 3.2; 3.6; 4.1; 4.2 (Substantial storage area provided in basement)	>6m ³ >8m ³ >10m ³	6m ³ 8m ³ 10m ³	Yes

	Proposed	Control	Meets
Provision of Storage Within Apartment – DWL – 2.3; 3.4 DWL - 2.1; 2.2; 2.4; 2.5; 3.3; 3.5 DWL – 2.6; 3.1; 3.2; 3.6; 4.1; 4.2	50%	50%	Yes
Storage	Not Visible from Public Domain	Not Visible from Public Domain	Yes

Whilst DWL GF, 1.1 and 1.2 make no provision for storage within the units, their proximity to the substantial storage areas located within the parking area provides for easily accessible storage opportunities and is therefore considered acceptable in this instance.

Under Clause 6A(1) and (2), any controls in the Woollahra DCP 2015 relating to storage are overridden by controls in SEPP 65.

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

12.2.17 Part 4H: Acoustic Privacy

The proposal includes trafficable roof top terraces to DWL 3.1 and 3.2 located towards the northern portion of the site, overlooking Bellevue Road, and terraces to DWL 3.6, 4.1 and 4.2 with panoramic views towards the outlooks to the North, West and South. The location of the proposed trafficable roof terraces will result in unacceptable acoustic privacy impacts on adjoining properties and properties directly opposite the site in Bellevue Road, given their excessive size, layout and open nature.

The proposed roof top terraces are not appropriate in this instance and the necessity for the roof top terraces is not justified.

The proposal therefore fails to satisfy the relevant objectives and design criteria prescribed by this Part and is therefore listed as a reason for refusal.

12.2.18 Part 4J: Noise and Pollution

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

12.2.19 Part 4K: Apartment Mix

	Proposed	Control	Meets
Apartment Mix	8 x 3 Bedroom Units 7 x 2 Bedroom Units 2 x 1 Bedroom Units	Variety of Apartment Types	Yes
Location of Larger Apartments	Ground Level and Roof	Ground Level or Roof	Yes

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

12.2.20 Part 4L: Ground Floor Apartments

	Proposed	Control	Meets
Access to Ground Floor Apartments	No direct street access provided	Street Access Provided	No

The location of the ground floor apartments has to a large extent been dictated by the topography of the site resulting in direct street access to the ground floor apartments not being achieved. Amended architectural plans were submitted which have reconfigured the internal layouts and orientation of the apartments on level 2 resulting in an outcome whereby DWL 2.2 and 2.3 will achieve acceptable levels of solar access and cross ventilation. The height of the front fence together with the terraced landscaped areas will mitigate privacy impacts from the public domain and will deliver safety and amenity for the residents.

The proposal, as amended, satisfies the relevant objectives prescribed by this Part.

12.2.21 Part 4M: Facades

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

12.2.22 Part 4N: Roof Design

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

12.2.23 Part 4O: Landscape Design

Objective

Landscape design contributes to the streetscape and amenity.

Council's Tree and Landscaping Officer has indicated that the proposal is unsatisfactory and is discussed in further detail in Section 16.5 of this report.

The proposal seeks the removal of all the existing trees on the subject site and therefore does not satisfy the design criteria prescribed by this part and is therefore listed as a reason for refusal.

12.2.24 Part 4P: Planting on Structures

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

12.2.25 Part 4Q: Universal Design

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

12.2.26 Part 4T: Awnings and Signage

Not relevant to this development.

12.2.27 Part 4U: Energy Efficiency

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

12.2.28 Part 4V: Water Management and Conservation

The proposal was accompanied by a BASIX Certificate detailing the proposals compliance with the water savings requirements of the BASIX SEPP and generally satisfies the relevant objectives and design guidelines prescribed by this Part.

12.2.29 Part 4W: Waste Management

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

12. 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 with a BASIX Certificate No. 1041368M demonstrating compliance with the SEPP.

13. 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.

14. 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.

15. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

15.1. Part 1.2: Aims of Plan

The proposal is inconsistent with the aims in Part 1.2(2) of the Woollahra LEP 2014 in the following manner:

- It does not protect amenity and the natural environment, as required in sub-clause (g).
- It does not minimise and manage stormwater and flooding impacts, as required in sub-clause (h).
- It does not achieves the desired future character of the area, as required in sub-clause (l).

15.2. Land Use Table

The proposal is defined as a Residential Flat Building which is permissible and is consistent with the objectives of the R3 Medium Density Residential zone.

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

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

Site Area: 2612.7m ² (Consolidated Site Area)	Proposed	Control	Complies
Minimum Lot Size – Residential Flat Building	2612.7m ² (Consolidated Site Area)	700m ²	Yes

The proposal complies with 4.1A(2) of Woollahra LEP 2014.

15.4. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m.

	Proposed	Control	Complies
Maximum Building Height	10.5m	10.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014.

15.5. Part 4.4: Floor Space Ratio

Part 11 limits development to a maximum floor space ratio of 0.65:1 for a residential flat building.

Site Area: 2612.7m ²	Proposed	Control	Complies
Floor Space Ratio	0.65 (1698m ²)	0.65 (1698.25m ²)	Yes

The proposal complies with the maximum floor space ratio prescribed by Part 4.4(2) of Woollahra LEP 1995.

15.6. Part 5.10: Heritage Conservation

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

The proposed development is not a heritage item or located in a heritage conservation area.

Council's Heritage Officer has undertaken an assessment of the proposal and considers the proposal to be acceptable subject to imposition of relevant conditions in terms of potential unexpected archaeological finds on the site during excavation works and the appropriate procedures for dealing with unexpected archaeological finds.

15.7. Part 6.1: Acid Sulfate Soils

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

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

15.8. Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The closest excavations to any property boundary will be for minor elements of the basement level, ground floor level and Level 01 which will be setback 2.0m from the side (southern) boundary.

Overall, the proposal involves approximately 10,095m³ of excavations which would involve approximately between 1,000 and 1,260 truckloads of material (assuming 8-10m³ per truckload).

In deciding whether to grant consent for earthworks, the consent authority must consider the following matters:

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

A Geotechnical Report has been submitted in support of the application which has been reviewed by Council's Development Engineer who has provided the following comments:

"The Geotechnical Investigation Report, referenced P1444_03, prepared by Morrow, dated 19 September 2018 is unsatisfactory for the following reasons;

- *The above report has been prepared in 2018 for No. 142 and 142A Bellevue Road prior to the proposed development. As such the report shall be revised to relate directly to the proposed development and for all three properties being No. 142, 142A and 142B Bellevue Road.*
- *The Geotechnical and Hydrogeological Report shall be prepared in accordance with all aspects of Council's DCP requirements, Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.*
- *The Geotechnical Report shall provide specific comments in regards to the provision of an absorption system. The report shall be prepared in accordance with Chapter E2 "Stormwater and Flood Risk Management" DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties."*

In this regard insufficient information has been provided and therefore it cannot be determined whether the cumulative impacts of excavation for the proposal do not adversely impact land stabilisation, ground water flow, structural risks to adjoining structures and the amenity of adjoining and adjacent properties.

Conclusion:

Given the commentary provided by Council's Development Engineer, the proposal is considered unacceptable with regards to Part 6.2 of the Woollahra LEP 2014 and is listed as a reason for refusal.

15.9. 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 subject properties are identified as being flood affected and as such a Flood Study was submitted with the application.

Council's Drainage Engineer has undertaken an assessment of the proposal and considers the proposal to be acceptable, subject to conditions.

If the application were recommended for approval, relevant conditions of consent could be imposed in order to achieve the relevant objectives outlined in Part 6.3 of the Woollahra LEP 2014.

16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

16.1. Chapter B1: Bellevue Hill North Residential Precinct

16.1.1 Part B1.1.3: Objectives

The relevant objective of this chapter reads as follows:

O6 To retain and reinforce tree canopies and landscape qualities.

The proposal fails to achieve Objective O6 of the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015 in that the proposal includes the removal of all trees from the site and does not retain the tree canopies and landscape qualities.

16.1.2 Part B1.8.2: Desired future character

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill North Residential precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015, apart from Objectives O7 and O8 which read as follows:

O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.

O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.

In this regard, Council's Tree and Landscape Officer has provided the following commentary:

"The proposal does not retain any of the site's existing trees, including those that are considered suitable for retention, and is therefore not considered consistent with the desired future character objectives O7 & O8 for the Bellevue Hill North precinct outlined within Council's DCP. Those being:

O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.

O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.

Of note are several trees located towards the rear Western boundary referenced T25, T26, T27 T28, T29. These trees range in height from between 8 metres and 16 metres and are likely to be providing screening amenity between properties. The arborist report also notes that all of these trees were "in good health and condition at the time of the site inspection". The location of these trees closer to the boundary and away from the centre of the site should naturally render them easier to retain in a development context.

Other large trees proposed to be removed that are noted to be in good condition include T14 T15, T17, T19 and T40. While retaining trees 14, 15 & 17 may present challenges due to their central location and position of the basement car parking, T19 and T40 are located closer to boundaries and should be easier to retain with the implementation of modified setbacks and building design."

Conclusion:

The proposal is unacceptable with regard to the satisfying the relevant objectives outlined in Chapter B.1 of the Woollahra DCP 2015 and is listed as a reason for refusal.

16.2. Chapter B3: General Development Controls

16.2.1 Part B3.2: Building Envelope

Site Area: 2612.7m ²	Proposed	Control	Complies
Front Setback	3.8m	3.8m	Yes
Rear Setback	6m	13.4m (N)/21.8m (S) 6m (ADG)	No Yes
Side Boundary Setbacks (North-western)	3.5m	3.5m	Yes
Side Boundary Setbacks (Southern)	2.0m (basement level, ground floor level and Level 01)	3.5m	No

**Note: The rear and side setbacks are overridden by the separation design criteria in Part 3F of the ADG, as already discussed in the report. Nevertheless for comparative purposes the proposal is assessed against the DCP Controls below*

Part 3.2.2: Front Setback

The proposal satisfies the relevant objectives and controls of this part.

Part 3.2.3: Side Setbacks

With a lot width of 59.549m, Control C1 requires a minimum side setback of 3.5m.

The proposal results in a non-compliance with Controls C1 in that a small portions of the basement level, ground floor level and Level 01 are located 2m from the southern boundary.

Notwithstanding this, the proposal achieves consistency with the relevant objectives in the following manner:

- The proposal facilitates an outcome which achieves adequate separation between the subject site and the adjoining properties.
- The non-compliant elements are located below the finished ground level and are not visible from adjoining properties or the public domain.
- It is noted that the proposed Residential Flat Building (excluding the non-compliant portions of the basement level, ground floor level and Level 01) achieve the side setback compliance with the DCP.
- Overall, the proposal represents a development that is well articulated, skilfully designed and contributes positively to the streetscape.
- The proposal will ensure views between buildings are maintained.
- The non-compliances with the side (southern) setback control will not result in any unacceptable environmental or amenity impacts to the adjoining property and will achieve consistency with the relevant objectives.

Part 3.2.4: Rear Setback

Control C1 requires a rear setback of 13.4m (N) - 21.8m (S)

The majority of the building located to the north-eastern portion of the site is set back 18.5m from the rear boundary and complies with the control.

The extent of the non-compliance is limited to the a portion of the development located towards the south-western portion of the site, which is set back 6m from the rear (western) boundary.

The following points are noted:

- The subject site is irregular in shape with no established rear setbacks given the number of battle-axe and irregular shaped lots in this location.
- The separation requirements of the ADG override the setback requirements of the Woollahra DCP 2015. The proposed rear setback is compliant with the ADG.

Notwithstanding the non-compliances, the proposal satisfies the relevant objectives in the following manner:

- The proposal includes substantial landscaped areas and will achieve compliance with the deep soil landscaping controls within the rear setback of the property.
- The area of non-compliance will not result in an unreasonable sense of enclosure and will maintain adequate separation between the proposed development and existing buildings of adjoining properties.
- The proposal ensure adequate solar access to north-facing windows and private open space areas of adjoining properties is achieved.
- Overall, the proposal represents a development that is well articulated, skilfully designed and contributes positively to the streetscape.
- The proposal will ensure views between buildings are maintained.

- The non-compliances with the rear (western) setback control will not result in any unacceptable environmental or amenity impacts to the adjoining properties and will achieve consistency with the relevant objectives.

Conclusion

The proposal is acceptable with regard to Part B3.2 of the Woollahra DCP 2015.

16.2.2 Part B3.3: Floorplates

The floorplate controls do not apply to land or development where an FSR applies, such as Residential Flat Buildings on land zoned R3 Medium Density Residential.

16.2.3 Part B3.4: Excavation

Site Area: 2612.7m ²	Proposed	Control	Complies
Maximum Volume of Excavation	10,095m ³	2,700m ³	No
Excavation, Piling and Subsurface Wall Setback	2.0m (basement level, ground floor level and Level 01)	3.5m	No
Geotechnical Report	Provided	Required Where > 2.0m	Yes

The volume of excavation required for the proposed driveway ramps, basement parking, refuse areas, storage and service installations, is approximately 10,095m³. The volume and extent of excavation required to achieve the proposal has resulted in non-compliances with Controls C2 and C6, which restricts the volume of excavation to 2,700m³ and a minimum side setback of 3.5m from the boundary.

Control C4 reads as follows:

C4 A variation to the volume shown in Figure 14B will be considered, however the maximum volume of excavation permitted will only be the amount needed to accommodate: a) car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and b) storage at a rate of 20m³ (cubic metres) per dwelling if for a dwelling house, dual occupancy, semi-detached dwelling or attached housing; or c) storage at a rate of 8m³ (cubic metres) per dwelling if for a residential flat building or multi dwelling housing development.

Notwithstanding this, the proposal achieves consistency with some of the objectives in the following manner:

- The proposed residential flat building has been designed and sited to relate to the topography of the site.
- The volume and extent of the excavation will ensure compliance with the maximum rates outlined in Part E1 of the Woollahra DCP 2015 for car parking, are achieved.
- The proposed excavation will ensure all parking, storage areas, waste collection areas and service installation areas are integrated within the development, well below the footpath level, resulting in minimal visual impacts on the streetscape.

However, Council's Development Engineer has undertaken an assessment of the proposal and has provided the following commentary:

“The Geotechnical Investigation Report, referenced P1444_03, prepared by Morrow, dated 19 September 2018 is unsatisfactory for the following reasons:

- The above report has been prepared in 2018 for No. 142 and 142A Bellevue Road prior to the proposed development. As such the report shall be revised to relate directly to the proposed development and for all three properties being No. 142, 142A and 142B Bellevue Road.*
- The Geotechnical and Hydrogeological Report shall be prepared in accordance with all aspects of Council’s DCP requirements, Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.*
- The Geotechnical Report shall provide specific comments in regards to the provision of an absorption system. The report shall be prepared in accordance with Chapter E2 “Stormwater and Flood Risk Management” DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties.”*

The relevant objectives and controls applicable to the proposal in this regard, read as follows:

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.

C9 Excavation below 2m and/or within 1.5m of the boundary may be accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures. Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council’s guidelines. As a condition of a development consent, Council may also require the preparation and submission of a dilapidation report for properties neighbouring the development.

The proposal is unsatisfactory in terms of the above-mentioned objectives and controls outlined in Part B3.4 of the Woollahra DCP 2015. The Geotechnical Investigation Report submitted with the application is unsatisfactory and therefore it cannot be determined whether the cumulative impacts of excavation for the proposal will adversely impact land stabilisation, ground water flow, structural risks to adjoining structures and the amenity of adjoining and adjacent properties.

Conclusion:

Given the commentary provided by Council’s Development Engineer, the proposal is considered unacceptable with regards to Part B3.4 of the Woollahra DCP 2015 and is listed as a reason for refusal.

16.2.4 Part B3.5: Built Form and Context

Site Area: 2612.7m ²	Proposed	Control	Complies
Significant Trees	All existing trees to be removed	Retained	No
Siting of Development	Stepped Down with the Slope	Stepped Down with the Slope	Yes
Colour Scheme	Consistent	Consistent	Yes
Casual Surveillance – Windows Facing Street/Public Area	Multiple windows facing Bellevue Road	One	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 Living Areas of Adjacent Properties	3 hours (min) on 21 June	3 hours on 21 June	Yes (see Part 3.5.2 below)
Setback of Bedroom Windows from Streets/Parking of Other Dwellings	>3.0m	3.0m	Yes
Distance of Habitable Room Windows to Adjacent Dwellings	No habitable room windows with direct sight lines to adjacent dwellings within 9m	9.0m	Yes
Setback of Roof Terraces from Open Space/Habitable Room Windows of Adjoining Properties	Units 3.1, 3.6 and 4.2 <12.0m	12.0m	No

Part B3.5.1: Streetscape and Local Character



Photomontage illustrating the proposed development as viewed from Bellevue Road (Source: Statement of Environmental Effects prepared by Planning Ingenuity)

The relevant objectives of the built form and context in terms of streetscape character are as follows:

- O1 To ensure that the built form is compatible with the streetscape and the desired future character of the area.*
- O2 To ensure that development is of high visual quality and enhances the street.*

- O3 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings.*
- O4 To ensure that roof forms are consistent with the existing predominant roof forms in the street and minimise impacts to neighbouring properties.*
- O5 To ensure buildings improve the safety of the public domain.*

The subject site is located within the Bellevue Hill North precinct which is characterised by a mixture of one to three storey dwelling houses and residential flat buildings located on steep sites.

The proposal presents as a contemporary well-articulated double storey development to the street, which steps down the site and contributes positively to the area's character. The proposal complies with the FSR and height development standards and is consistent with the bulk, size and scale of existing developments within this locality.

The proposal comprises a use of varied materials and incorporates landscaped elements resulting in a development which is compatible with the character of the local built environment.

However, given the commentary by Council's Tree Officer and the assessment carried out in Section 16.1 of this report with regards to the desired future character of the area, the proposal fails to satisfy Objective O1 of this part.

The proposal is therefore unacceptable with regard to satisfying Objective O2 as outlined in Part B3.5.1 of the Woollahra DCP 2015 and is listed as a reason for refusal.

Part B3.5.2: Overshadowing

The relevant controls applicable read as follows:

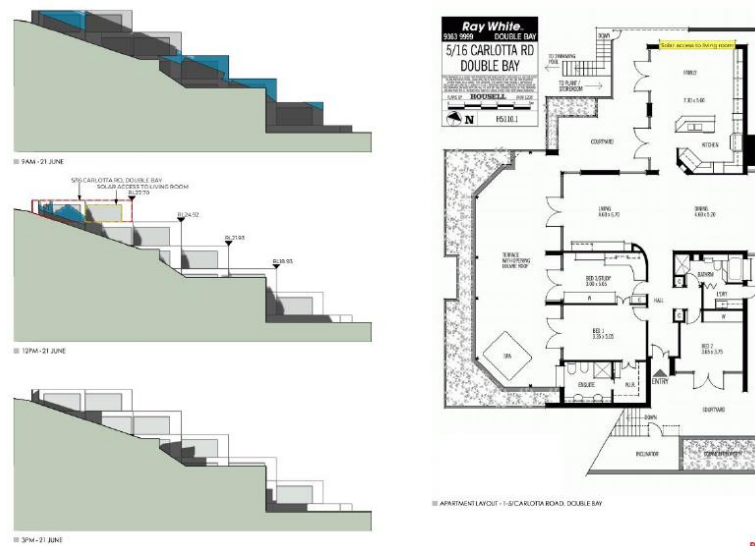
C1(a) stipulates that sunlight is provided to at least 50% of the main ground level private open space to adjoining properties for a minimum of 2 hours between 9am and 3pm on June 21. Where existing overshadowing is greater than this, sunlight is not to be further reduced.

C1(b) states that north-facing windows to upper-level habitable rooms of neighbouring dwellings have solar access maintained for at least 3 hours to a portion of their surface during the same period.

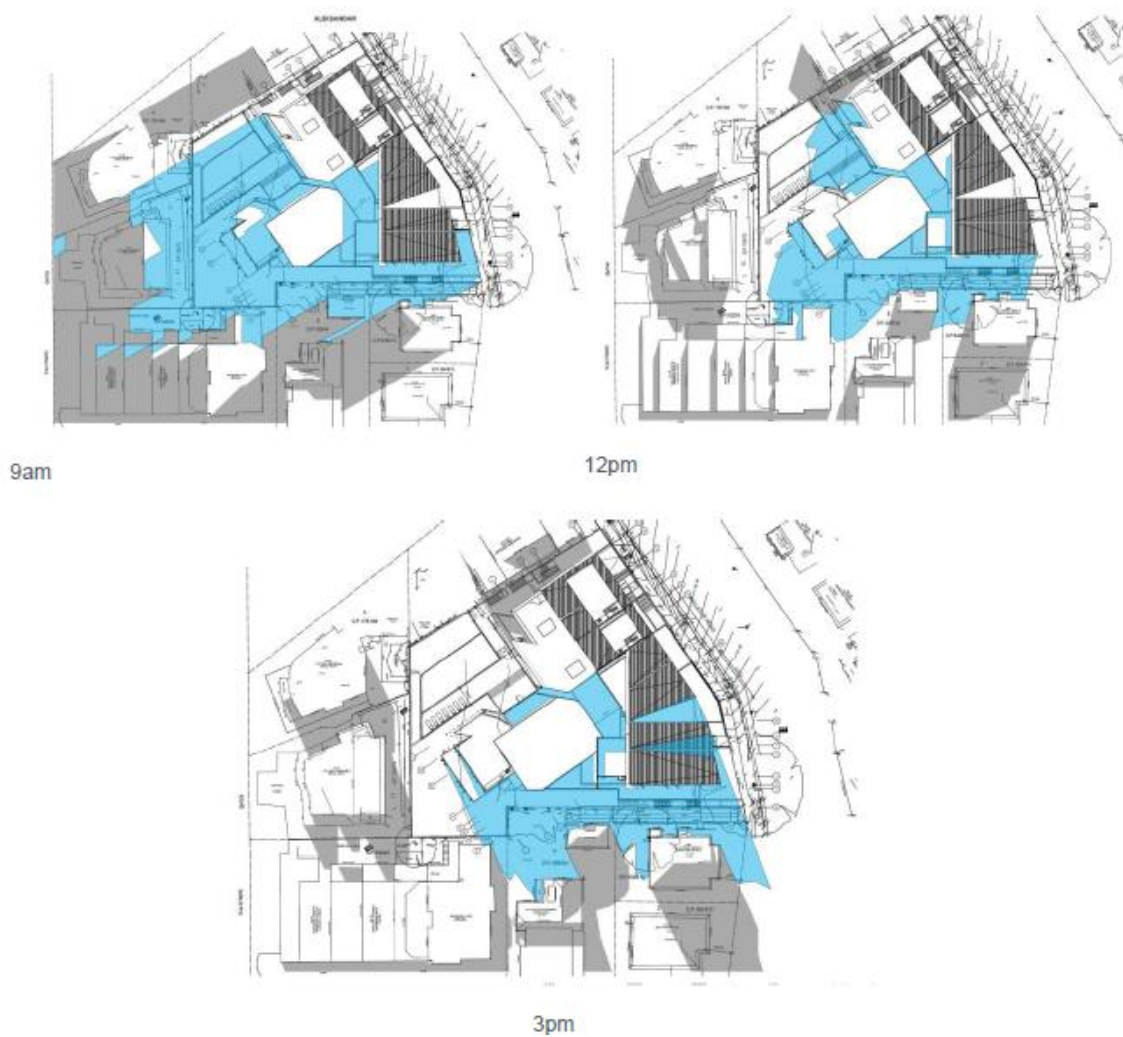
C2 acknowledges that a departure from C1 may be unavoidable, subject to the proposed development complying with all setback controls.

The properties most likely to be affected by additional overshadowing impacts are the properties located at 138A Bellevue Road, 140 Bellevue Road and 16 Carlotta Road.

Shadow diagrams have been submitted with the application which demonstrate the impacts of the proposal on the adjoining properties at 138A Bellevue Road, 140 Bellevue Road and 16 Carlotta Road. (see images below).



Shadow diagrams illustrating the impacts to the north-facing window openings of the upper level unit at 16 Carlotta Road (Source: Statement of Environmental Effects prepared by Planning Ingenuity)



Shadow diagrams illustrating the impacts to the private open space areas of adjoining properties (Source: Statement of Environmental Effects prepared by Planning Ingenuity)

Whilst it is acknowledged the proposal will result in additional overshadowing, it is also noted that existing established mature vegetation in the form of hedges and trees, located along the boundaries of adjoining properties, contribute to the overshadowing experienced by adjoining properties. Notwithstanding this, the proposal will ensure that the private open space areas and upper-level north-facing windows of adjoining properties will be afforded compliant levels of solar access.

The extent of the additional overshadowing otherwise complies with the prescriptive controls outlined in the Woollahra DCP 2015 and is therefore considered to be acceptable with Part B.3.5.2 of the Woollahra DCP 2015.

Part B3.5.3: Public and Private Views

There is envisaged to be no significant loss of existing views through the site from adjoining properties or from the public domain.

The proposal satisfies the relevant objectives of Part B.3.5.3 of the Woollahra DCP 2015.

Part B3.5.4: Acoustic and Visual Privacy

Acoustic privacy

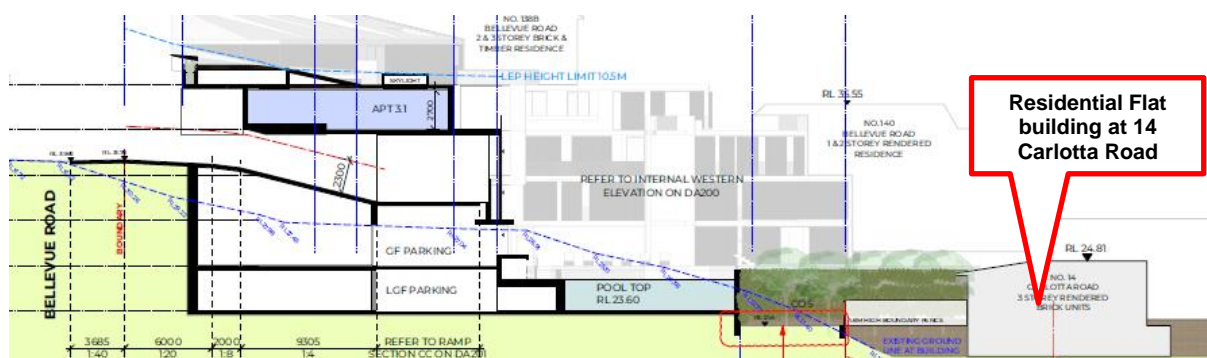
The relevant objective and controls applicable to the proposal are as follows:

O1 To ensure adequate acoustic privacy for occupants and neighbours.

C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.

The proposed trafficable roof top terraces to DWL 3.1 and 3.2 and substantial terraces off the living areas of DWL 3.6 and 4.1 are considered excessive and are proposed to be located within close proximity of habitable rooms and private open space areas of adjoining properties and other apartments within the development. The location of the proposed terraces will give rise to noise transmission from its usage due to its excessive size, layout and open nature, therefore failing to satisfy Objective O1 and Control C1 of this part.

Concerns were also raised by the adjoining property to the rear (14 Carlotta Road) regarding acoustic impacts generated by residents of the development using the swimming pool to upper level windows of the development at 14 Carlotta Road.



Long section showing the finished level of the communal area and top of the pool relative to the building at 14 Carlotta Road

From the long section above it can be seen that the finished floor level of the communal open space immediately surrounding the swimming pool sits only slightly below the eaves of the roof of the building located at 14 Carlotta Road.



View of the hedge along the western boundary of the subject site, separating the subject site from the development at 14 Carlotta Road

In addition, a significant established hedge exists along the western boundary of the subject site (see photo above). The proposal also incorporates trees and landscaping along the western boundary of the subject site which will further mitigate acoustic impacts. In this instance, the acoustic impacts to the adjoining property at 14 Carlotta Road are considered to be negligible and are likely to be mitigated by the level of the communal area in relation to the upper floor habitable rooms of the development at 4 Carlotta Road, the existing established hedge along the western boundary of the subject site and the proposed additional trees and landscaping proposed under this application.

It is acknowledged that landscaping as an acoustic mitigation measure depends on continued maintenance and good climatic conditions. However conditions of consent or amendments to the proposal could incorporate additional acoustic mitigating measures to ensure acoustic impacts on the adjoining property at 14 Carlotta Road are mitigated.

Visual Privacy

The objectives and controls relevant to the proposal are as follows:

O2 To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.

O3 To minimise the impacts of private open space.

C10 The trafficable area of a roof terrace (above the second storey) (refer to Figure 19) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to: neighbouring private open space within 12m; or windows of habitable rooms in neighbouring dwellings within 12m

The proposal includes a trafficable terrace to the south-west of DWL 3.1, which is located 3.5m from the north-western boundary and would result in unacceptable visual privacy impacts of the rear private open space area of the adjoining property at 142C Bellevue Road. In this regard, conditions of consent could be imposed, reducing the size of the terrace and the introducing planter boxes to the terrace to mitigate privacy impacts to the affected adjoining properties. However, fixed privacy screens or planter boxes to the terrace could be incorporated to mitigate privacy impacts on adjoining properties.

A substantial terrace to DWL 3.6, is located within 12m of private open space area and habitable room windows of the adjoining property at 14 Carlotta Road. It is acknowledged that visual privacy impacts to the adjoining property at 14 Carlotta Road are considered to be negligible and are likely to be mitigated by the existing established hedge along the western boundary of the subject site and the proposed additional trees and landscaping proposed under this application. However, landscaping as a visual privacy mitigation measure depends on continued maintenance and good climatic conditions. Again, conditions of consent could be imposed, reducing the size of the terrace and the introducing planter boxes to the terrace to mitigate privacy impacts to the affected adjoining properties.

The proposal, in its current form, fails to satisfy the relevant control and objective of this part.

Conclusion:

The proposal fails to fully satisfy the relevant controls and objectives of this part and is therefore listed as a reason for refusal.

16.2.5 Part B3.6: On-Site Parking

	Existing	Proposed	Control	Complies
Location of Parking	N/A	Within the Buildable Area	Within the Buildable Area	Yes
Basement Parking	N/A	17 dwellings	Required for 3 or More Dwellings	Yes
Maximum Number of Driveways	Three (1 per site)	One	One	Yes

The proposal satisfies the relevant objectives and controls of this part.

Conclusion

The proposal is therefore acceptable with regard to Part B3.6 of the Woollahra DCP 2015.

16.2.6 Part B3.7: External Areas

Site Area: 2612.7m ² Buildable Area: 1308m ²	Proposed	Control	Complies
Deep Soil Landscaping – Outside of building envelope -RFB	47% (620m ²)	50% of Buildable Area (855m ²)	No
Deep Soil Landscaping – Front Setback (230m ²)	63% (145m ²)	40% (92m ²)	Yes
Deep Soil Landscaping – Front Setback (Consolidated Area)	>20m ²	20m ²	Yes
Deep Soil Landscaping – Rear Setback (784m ²)	50% (393m ²)	50% or Rear Setback (392m ²)	Yes
Private Open Space at Ground Level – Maximum Gradient	1:10	1:10	Yes

Site Area: 2612.7m ² Buildable Area: 1308m ²	Proposed	Control	Complies
Private Open Space (Upper Floor Units) Total Area Minimum dimension	>8m ² Greater than or equal to 2m	8m ² 2m	Yes Yes
Existing Trees	All existing trees proposed to be removed	Incorporated Into Landscaping	No
Maximum Height of Fencing	Open palisade fencing (max 1.5m in height)	1.5m and 50% open	Yes
Vehicle Splay	45° splay 2.0m x 2.0m	45° splay 2.0m x 2.0m	Yes
Side and Rear Fence Height	1.8m	1.8m	Yes
Lockable Storage Spaces – RFB	>8m ³	8m ³ per Dwelling	Yes
Clothes Drying Facilities	Communal Drying facilities provided at Level 01 near the southern boundary (behind Unit 2.6)	At Least One per Dwelling	Yes
Air Conditioning Units	Not Visible from Public Domain	Not Visible from Public Domain	Yes
Swimming Pool Excavation, Piling and Subsurface Wall Setback	5.5m	1.5m	Yes
Level of Swimming Pool Above or Below Ground Level	<1.2m	Maximum 1.2m Change	Yes
Maximum Depth of Swimming Pool	2.0m	2.0m	Yes

Part 3.7.1: Landscaped Areas and Private Open Space

The relevant objectives and controls applicable to the proposal are as follows:

O1 To ensure that the areas outside the floorplate contribute to the desired future character of the location.

O2 To provide sufficient deep soil landscaped area to support substantial vegetation.

O7 To retain important existing mature trees, vegetation and other landscape features.

C1 For development in the R2 and R3 residential zones—at least 50% of the site area outside the buildable area is deep soil landscaped area.

C16 Existing trees and vegetation of landscape value are incorporated into the landscape area and treatment.

The proposal results in non-compliance with Control C1, however the non-compliance is considered acceptable in this instance because:

- The proposed non-compliance is considered minor as overall the deep soil landscaped areas provided on the site are considered acceptable.
- The proposal more than complies with the requirements of the ADG which override the deep soil landscaping requirements of the Woollahra DCP 2015.
- The proposal ensures that adequate accessible and useable communal and private open space areas are provided.
- The communal and private open space areas are well-designed and are an improvement on the existing situation.

The proposal seeks the removal of all trees on the subject site. Council's Tree and Landscape Officer has determined that the proposal is not satisfactory. The proposed removal of all trees from the site results in non-compliance with Control C16 and Objective O7 of this part. A detailed assessment is provided in Section 16.5 of this report.

The proposal fails to satisfy the relevant control and objective of this part and is therefore listed as a reason for refusal.

Part 3.7.3: Site Facilities

The proposal satisfies the relevant objectives and controls of this part.

Part 3.7.4: Ancillary Development – Swimming Pools

The proposal satisfies the relevant controls and objectives of this part.

Conclusion

The proposal fails to satisfy the relevant control and objective outlined in Part B3.7 of the Woollahra DCP 2015 and is therefore listed as a reason for refusal..

Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Site Area: 2612.7m²	Proposed	Control	Complies
Minimum Lot Width	59.549m	21m	Yes
RFB Ventilation – Maximum Depth for Single Aspect Units	<8m from a window	8.0m from a Window	Yes
RFB Ventilation – Kitchen in RFB	<8m from a window	Maximum 8.0m from a Window	Yes
Location of private open space	Minimises direct overlooking	To minimise overlooking	Yes
Enclosure of Verandahs	No verandahs enclosed	Not Permitted	Yes

Minimum Lot Width

The proposal complies with the minimum lot width for a Residential flat building containing four or more dwellings.

Residential Flat Buildings

The proposal satisfies the relevant controls and objectives of this part.

Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.8 of the Woollahra DCP 2015.

16.3 Chapter E1: Parking and Access

	Proposed	Control	Complies
Residential Flat Building –			
1 Bedroom	3 spaces	2 x 1 spaces = 2 spaces	Yes
2 Bedroom	12 spaces	7 x 1.5 spaces = 10.5 spaces	Yes
3+ Bedroom	20 spaces	8 x 2 spaces = 16 spaces	Yes
Visitor	4 spaces	17 x 0.25 spaces = 4.25 spaces	Yes
Total	39 spaces	33 spaces	Yes
Bicycle Parking	19 undercover bicycle spaces provided (includes 2 visitor bicycle spaces)	1 bicycle space/dwelling + 1 visitors bicycle space/10 dwellings	Yes
Motorcycle	4 motorcycle parking spaces (+2 visitor spaces)	Min 1 motorcycle space/ per 10 car spaces	Yes

Parking for residential uses is calculated using the generation rates specified in E1.4.2, E1.6.2 and E1.7.1.

In this instance, the development results in a generation rate of thirty-three (33) car spaces, nineteen (19) bicycle spaces and four (4) motorcycle spaces.

The proposed development will provide for thirty-nine (39) underground off-street parking spaces for the 17 units and includes 3 disabled spaces, 4 motor cycle spaces (+2 visitor motor cycle spaces) and 17 bicycle spaces. Whilst not required under this application, the proposal also includes an Electric Charging Station located within the basement parking Level 01.

The proposal satisfies the relevant objectives and controls outlined in Parts in E1.4.2, E1.6.2 and E1.7.1 of the Woollahra DCP 2015.

A Traffic and Parking Impacts Assessment Report (prepared by Hemanote Consultants) has been submitted with the application. Council's Traffic Engineer has undertaken an assessment of the proposal and determined that the proposed vehicular access and car parking layout is acceptable with regard to Chapter E1, subject to conditions. It is noted that Council's Development Engineer raised concerns with regards to the location of the waiting bays obstructing traffic movement and car manoeuvrability within the car parking area.

Council's Development Engineer has also undertaken an assessment of the proposal and has provided the following commentary with regards to the ramp grades:

*“The proposed development does not fall within the ‘domestic driveway’ profile. The ramp grades are shown to be 25% and shall be amended to be 20% maximum for ramps up to 20m long in accordance with Clause 2.5.3 of AS2890.1-2004.
Note: the changes of grades requirements shall also be complied with when addressing the above.”*

Part E1.10.4 Ramps and primary aisles of the Woollahra DCP 2015 reads as follows:

“The minimum dimensions for the design of ramps and primary aisles which do not have direct access to or from parking bays are shown in AS/NZS 2890.1 - Section 2.5 Design of Circulation Roadways and Ramps.

The ramp grading is to be designed to ensure that the breakover angle coming onto, or off, a ramp is not so severe as to cause scraping of a vehicle undercarriage. Design of ramps and gradients will be consistent with AS/NZS 2890.1."

Council's Development Engineer provided the following additional comments with regards to the proposed vehicular crossing:

"Vehicular crossing shall be 5m at property boundary and perpendicular to the road carriageway. Note: the crossing may be widened to 5.5m upon receipt of additional information and further assessment."

A clearance of minimum 1m shall be provided between the vehicular crossing and Telstra Pits and electric poles. As such approval from Telstra for the relocation of the Telstra pits over the proposed vehicular crossing shall be provided prior to DA approval."

Conclusion:

Given the commentary provided by Council's Development Engineer, the proposal is considered unacceptable with regards to achieving compliance with the relevant controls outlined in Chapter E1 of the Woollahra DCP 2015, and is listed as a reason for refusal.

16.4 Chapter E2: Stormwater and Flood Risk Management

The objectives of this chapter read as follows:

- O1 To encourage ecologically sustainable stormwater management and the use of water sensitive urban design.*
- O2 To maintain existing natural drainage patterns.*
- O3 To ensure that adequate provision has been made for the disposal of stormwater from land proposed to be developed.*
- O4 To ensure the controlled release of stormwater to public stormwater systems without adversely impacting on adjoining or downstream properties.*
- O5 To protect Sydney Harbour and its waterways from stormwater pollution.*
- O6 To minimise flood risk and damage to people and property by setting appropriate development controls.*
- O7 To ensure that flood levels are not increased by development.*

For the reasons discussed below, the proposal fails to achieve Objectives O3, O4 and O5 and are therefore listed as a reasons for refusal.

16.4.1 Part E2.2: Stormwater Drainage Management Controls

Council's Development Engineer has reviewed the revised architectural plans and all of the revised information pertaining to stormwater disposal and geotechnical information. Council's Development Engineer has determined the proposal to be unsatisfactory and has provided the following commentary:

“Site Drainage comments

Contrary to the statement provided within the Stormwater Management Report, referenced PCB190001, Revision 1, prepared by Barker Ryan Stewart, dated 9 September 2019, the Stormwater Management Plan, referenced PCB190001DA.dwg, Revision E, prepared by Barker Ryan Stewart, dated 15/06/2020 is unsatisfactory as it has not been prepared in accordance with Council requirements nor the information requested in Council’s STC Letter dated 18 September 2019. As such the following shall be addressed:

- *Whilst the easement refusal letter for No. 12 Carlotta Road from Marcello Pisto (Strata Management), dated 19 December 2019 is considered satisfactory, evidence of the acquisition of a drainage easement over No. 14 Carlotta Road has not been submitted. Please Note that formal approaches to all possible downstream properties shall be submitted.*
- *Stormwater treatment systems shall be provided for the proposed development with Water Quality Targets using MUSIC Model. A copy of which shall be attached. The specifications shall be in accordance with Council’s water quality targets detailed in Council’s Chapter E2 “Stormwater and Flood Risk Management” DCP – Water Quality Targets. The copy provided shall be a PDF document. Location and section details of the treatment systems shall be provided within the Stormwater Management Plan. The design within the MUSIC Model and the Stormwater Management Plan shall coincide.*
- *The proposed Rain Garden shall be removed. Unless the site can drain under gravity via an inter-allotment drainage easement, rain gardens cannot be utilised for low-level properties.*
- *Where the acquisition of a drainage easement cannot be obtained, the design shall include a rainwater tank with the minimum acceptable tank size of 60m³ per 1000m² of the total site area in accordance with Council’s Chapter E2 “Stormwater and Flood Risk Management” DCP – Low level properties and easement alternatives. A 20% extra storage volume shall be provided with utilising a pump-out system.*
- *An absorption system and pump-out system cannot be utilised together. Where the site is suitable for an absorption system, the entire site shall drain to the absorption system only. Reasonable attempt shall be made to provide an absorption system for the above development first where the provision of a Geotechnical Report is required. The report shall be prepared in accordance with Chapter E2 “Stormwater and Flood Risk Management” DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties.*

Where an absorption system is utilised, the system shall be designed in accordance with Council requirements and for a 20 year ARI storm and the rainwater tank is to be assumed to be full. This shall be demonstrated on plans.

- *Pump-out systems can only be utilised where the provision of an absorption system is not feasible with documentary evidence. Provision of any pump-out system shall connect to Council’s underground drainage system. Where this does not front the property, the underground drainage system shall be*

extended as part of the development. Alternatively demonstration such as notations shall be provided that all basement structures are tanked with zero ground seepage pumped out to Council's kerb and gutter and the rate of discharge to Council's kerb and gutter is less than 20l/s.

Should the applicant proposes to limit the permissible site discharge to 20 l/s, the additional site storage required volume must be determined by using a computer modelling such as DRAINS. In this regard, an electronic copy together with a hard copy of the Drains model with the revised stormwater plans shall be submitted to Council for further assessment.

A 20% extra storage volume shall be provided with utilising a pump-out system.

- *Unless connecting to an absorption system or Council's underground drainage system, subsoil drainage shall not drain to Council's kerb and gutter.*
- *Section details of all stormwater systems utilised within the site shall be provided with all levels and dimensions. All required volumes shall be calculated to the Top or Water Level only.*

Geotechnical, Hydrogeological and/or Structural comments

The Geotechnical Investigation Report, referenced P1444_03, prepared by Morrow, dated 19 September 2018 is unsatisfactory for the following reasons;

- *The above report has been prepared in 2018 for No. 142 and 142A Bellevue Road prior to the proposed development. As such the report shall be revised to relate directly to the proposed development and for all three properties being No. 142, 142A and 142B Bellevue Road.*
- *The Geotechnical and Hydrogeological Report shall be prepared in accordance with all aspects of Council's DCP requirements, Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.*
- *The Geotechnical Report shall provide specific comments in regards to the provision of an absorption system. The report shall be prepared in accordance with Chapter E2 "Stormwater and Flood Risk Management" DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties."*

16.4.2 Part E2.3: Flood Risk Management

Council's Drainage Engineer has reviewed the revised architectural plans and all of the revised information pertaining to Flood Risk Management. Council's Drainage Engineer has determined the proposal to be satisfactory subject to conditions.

The proposal is considered to be acceptable with regards to the objectives and controls in Part E2.3 of the Woollahra DCP 2015 and/or can be adequately addressed via standard conditions.

Conclusion

Given the commentary provided by Council's Development Engineer, the proposal does not achieve consistency with regards to the objectives and controls outlined in Chapter E2 of the Woollahra DCP 2015 and is therefore listed as a reason for refusal.

16.5 Chapter E3: Tree Management

The relevant objectives of this chapter are:

O2 To define the different circumstances under which a development consent or permit application is required for works to a prescribed tree.

O3 To promote, maintain and conserve the leafy character of the Woollahra Municipality.

O4 To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.

O5 To find a balance between maintaining Woollahra's canopy cover and providing for development on private land

The proposal seeks the removal of all the trees on the subject site.

Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form and provided the following commentary:

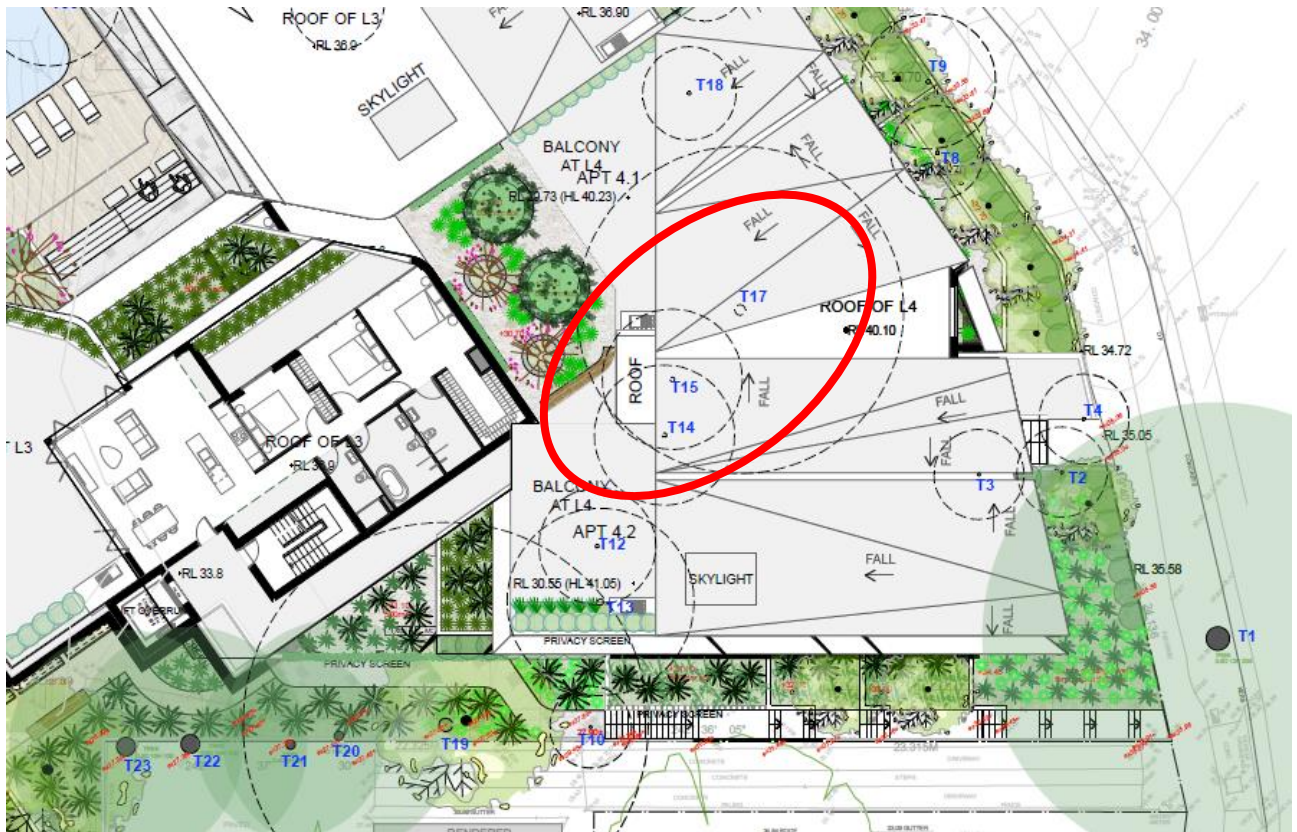
"1. The proposal does not retain any of the site's existing trees, including those that are considered suitable for retention, and is therefore not considered consistent with the desired future character objectives O7 & O8 for the Bellevue Hill North precinct outlined within Council's DCP. Those being:

O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.

O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.

Of note are several trees located towards the rear Western boundary referenced T25, T26, T27 T28, T29. These trees range in height from between 8 metres and 16 metres and are likely to be providing screening amenity between properties. The arborist report also notes that all of these trees were "in good health and condition at the time of the site inspection". The location of these trees closer to the boundary and away from the centre of the site should naturally render them easier to retain in a development context.

Other large trees proposed to be removed that are noted to be in good condition include T14 T15, T17, T19 and T40. While retaining trees 14, 15 & 17 may present challenges due to their central location and position of the basement car parking, T19 and T40 are located closer to boundaries and should be easier to retain with the implementation of modified setbacks and building design.



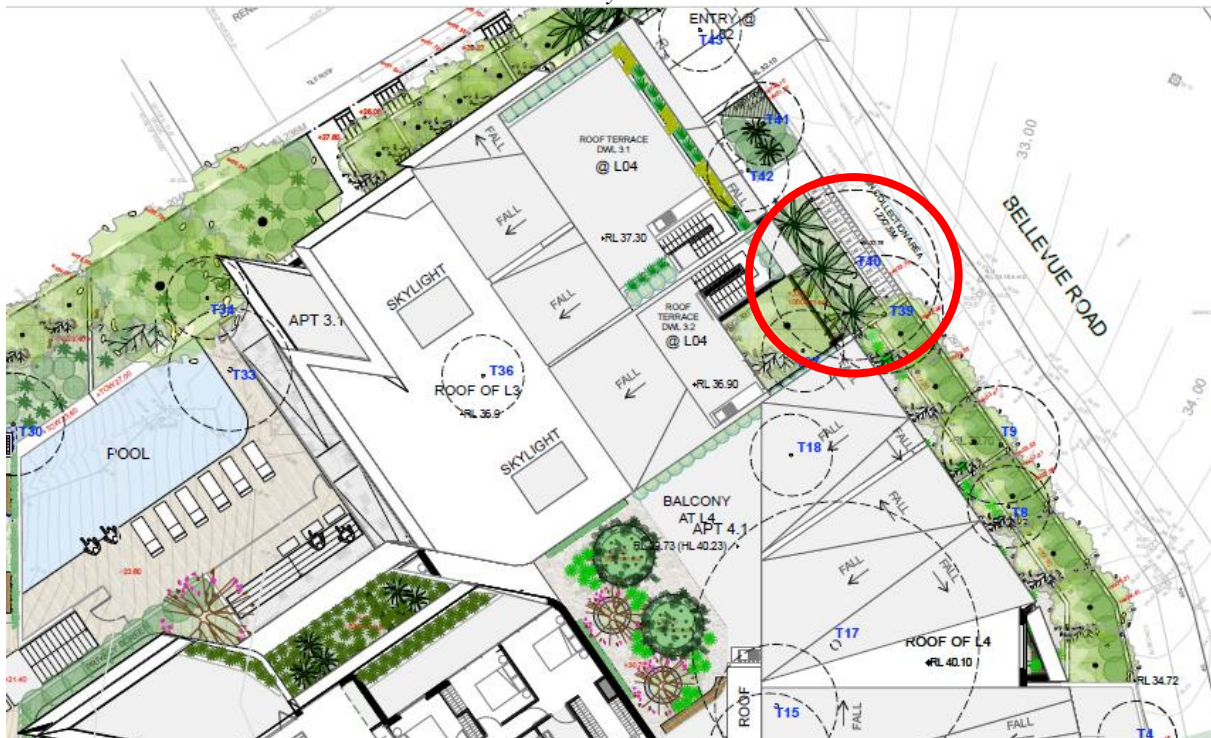
Extract from the Landscaping Plan identifying Trees T14, T15 and T17



Trees T14, T15 (right side) and T17 (left side) as viewed from the rear of 142A Bellevue Road looking in an easterly direction



Trees T14, T15 (right side) and T17 (left side) as viewed from the driveway of 142 Bellevue Road looking in a southerly direction



Extract from the Landscaping Plan identifying Tree T40



Tree T40 as viewed from Bellevue Road

2. The submitted arborist report does not provide a sufficiently detailed assessment of development impacts to trees located on the neighbouring property, at 140 Bellevue Road. For example, there is no information on the percentage of development incursion into the TPZ areas of neighbouring trees T20, T21, T22 & T23. Plans depict that incursions are proposed and may exceed what is considered acceptable under AS 4970-2009, potentially damaging these trees.



Extract from the Landscaping Plan identifying Trees T19-T23



Trees T19-T23 along the southern boundary of the subject site as viewed from the driveway of 140 Bellevue Road



Trees T19-T23 along the southern boundary of the subject site

Similarly, the submitted arborist report provides insufficient information on the percentage of development incursion into the root zones of Council street tree referenced T1. Plans however depict that incursions are proposed within the TPZ area of this tree, and may also exceed what is considered acceptable under AS 4970.

3. It is not known if the area designated for the proposed planting of 2 x Glochidion fernandii trees and other large trees on the submitted landscape plan is large enough to support the trees in the long term. Larger trees require a greater soil depth and volume to sustain future growth and to ensure their stability as they grow larger.

- **RECOMMENDATIONS**

Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form. The following information is required before further assessment of the application can be undertaken:

1. Arboricultural Impact Assessment & Tree Protection Plan

This document shall be prepared in accordance with Attachment 4 of Council's DA Guide.

In assessing the impact to trees on site the arborist shall use the Australian Standard for the Protection of Trees on Development sites (AS 4970-2009) to calculate the percentage of encroachment into the TPZ areas of all trees identified suitable for retention (as per Section 3.3 of the Standard), including Trees 19 & 40. A description of the type of incursion shall also be included.

Where major encroachments are calculated, that is greater than 10% of the TPZ area, then exploratory root investigation shall be undertaken to demonstrate the acceptability of the incursion.

Where major encroachments into a TPZ area are proposed but not supported through exploratory root excavation then the proposal shall be modified so that a greater setback is achieved.

2. Modified Plans

Trees referenced T19, T25, T26, T27, T28, T29 shall be incorporated into the proposal and retained.

Plans shall be modified accordingly so that where currently major encroachments (such as raingardens and basement car parking) in the TPZ areas of these trees are identified these are relocated or amended so that the viable retention of these trees is ensured.

3. Sufficient information regarding deep soil areas where trees are proposed to be planted.

An amended Landscape Plan which clearly illustrates garden beds and areas with adequate soil volume, size and depth to support the below ground elements of all trees proposed to be planted within the property. Consideration shall be given to the size of species at maturity with larger soil areas being designated for larger tree species such as the proposed Glochidion fernandii. In summary, it should be demonstrated that soil areas are suitably large enough to sustain the future growth of these trees."

Conclusion:

The proposal is unacceptable with regard to the satisfying the relevant objectives outlined in Chapter E3 of the Woollahra DCP 2015 and is therefore listed as a reason for refusal.

16.6 Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

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

16.6.1 Part E5.2: Demolition and Construction Phase

The proposal is considered to be acceptable with regards to the objectives and controls in Part E5.2 of the Woollahra DCP 2015 and/or can be adequately addressed via standard conditions of consent.

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

	Proposed	Control	Complies
Garbage and Recycling Areas	Separated	Separated	Yes
Location of Garbage and Recycling Areas	Located within a Non-Habitable Area (GF) Level Parking	Behind Building Line or Non-Habitable Areas	Yes

A dedicated area for the storage of on-site waste, recycling and disposal, has been provided within the development proposal.

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

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

	Proposed	Control	Complies
Garbage and Recycling Areas	Separate garbage and recycling provided	Required	Yes
Location of Waste Storage Area	Basement (GF) Level Parking	Basement Level	Yes
Bulky Waste Storage Area	Provided (GF) Level Parking	Required Where > 10 Dwellings	Yes
Maximum Distance from Waste Storage Area to Collection Point	<75m	75m	Yes

A dedicated area for the storage of household waste recycling and disposal has been provided within the development proposal.

The proposal is considered to be acceptable with regards to the objectives and controls in Part E5.5 of the Woollahra DCP 2015 and/or can be adequately addressed via standard conditions.

Conclusion:

The proposal is considered to be acceptable with regards to the objectives and controls in Chapter E5 of the Woollahra DCP 2015 and/or can be adequately addressed via standard conditions.

16.7 Chapter E6: Sustainability

16.7.1 Part E6.3: Solar Energy Systems

	Proposed	Control	Complies
Maximum Projection Above Roof Surface	No details provided	300mm	Cannot be determined
Location of Solar Energy System	Behind the Front Setback	Behind the Front Setback	Yes

The proposal includes five (5) PV Panels located on the roof above Unit 3.6.

Insufficient detail has been provided to enable an assessment with regards to Part E6.3 of the Woollahra Development Control Plan 2015.

However, if the application were recommended for approval, relevant conditions of consent could be imposed in order to achieve the relevant objectives and controls outlined in Part E6.3 of the Woollahra DCP 2015.

16.8 Chapter E8: Adaptable Housing

16.8.1 Part E8.2: Adaptable Housing

	Proposed	Control	Complies
Class A Certification Dwellings	23.5% of Dwellings (4 Dwelling Units - DWL No.s 2.3, 2.4, 3.4 and 3.5)	10% of Dwellings (2 Dwelling Units)	Yes

The proposal is acceptable with regard to the objectives and controls in Chapter E8 of the Woollahra DCP 2015.

17 OTHER MATTERS

Council's Development Engineer has reviewed the revised architectural plans and raised the following additional issues which would need to be addressed:

“Due to the likelihood of additional power usage as a result of the new development, Energy Australia has requested that the applicant contact them with regards to the possible provision of a new Electricity Substation on site.

All 3 lots shall be consolidated.”

The above can be addressed by way of condition(s) of consent should the DA be approved.

18 DRAFT SEPP (COASTAL MANAGEMENT) 2016

The provisions of this draft planning instrument that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

If the application were recommended for approval, relevant conditions of consent could be imposed in order to satisfy the relevant provisions of the draft planning instrument.

19 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.

Cost of Works	Rate	Contribution Payable
\$12,383,028.00	1%	\$123,830.28

The proposed development is recommended for refusal and accordingly Section 7.12 contributions and relevant fees are not applied. Notwithstanding this, should development consent be granted, a contribution pursuant to Section 7.12 would apply and can be enforced by condition.

20 APPLICABLE ACTS/REGULATIONS

19.1 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.

If the application were recommended for approval, relevant conditions of consent could be imposed in order to satisfy the relevant provisions of the regulations.

19.2 Swimming Pools Act 1992

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

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

If the application were to be approved, relevant conditions of consent could be imposed in order to satisfy the relevant provisions of the Act.

21 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.

22 THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development.

23 THE PUBLIC INTEREST

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

24 CONCLUSION

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

25 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.

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 344/2019/1 for the demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool on land at 142, 142A & 142B Bellevue Road Bellevue Hill, for the following reasons:

1. Non-compliance with SEPP 65 – Design Quality of Residential Apartment Development

The proposal is inconsistent with the following design quality principles of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development:

- a) Schedule 1, Principle 5: Landscape - The proposal seeks the removal of all the existing trees on the subject site which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate and tree canopy.
- b) Schedule 1, Principle 6: Amenity - The proposed roof terraces will result in adverse impacts on the amenity of adjoining neighbours and residents within the development with regard to visual and acoustic privacy impacts.

2. Apartment Design Guide

The proposal is inconsistent with the objectives outlined in following Parts of the Apartment Design Guide:

- 3E – Deep Soil Zones
- 3F – Visual Privacy
- 4E – Private Open Space and Balconies
- 4H – Acoustic Privacy
- 4O – Landscape Design

3. Woollahra Local Environmental Plan 2014, Part 1 Clause 1.2 Aims of Plan

The proposal is inconsistent with the aims in Part 1.2(2)(g), (h), and (l) because:

- a) it does not protect the amenity of and the natural environment;
- b) it does not minimise and manage stormwater and flooding impacts; and
- c) it does not achieve the desired future character of the Bellevue Hill North Precinct.

4. Woollahra Local Environmental Plan, Part 6, Clause 6.2(1)

Insufficient information has been provided to demonstrate whether the cumulative impacts of excavation for the proposal will adversely impact land stabilisation, ground water flow, structural risks to adjoining structures and the amenity of adjoining and adjacent properties. The proposed development does not achieve the objectives prescribed in Clause 6.2(1).

5. Woollahra Development Control Plan 2015, Chapter B1: Bellevue Hill North Residential Precinct

a) Part B1.1.3

The proposal fails to achieve consistency with Objective O6 of the precinct objectives outlined in Part B1.1.3 of the Woollahra Development Control Plan 2015 in that the proposal includes the removal of all trees from the site and does not retain the tree canopies and landscape qualities.

b) Part B1.8.2: Desired future character

The proposal fails to achieve consistency with Objectives O7 and O8 of the desired future character of the Bellevue Hill North Residential precinct outlined in Part B1.8.2 of the Woollahra Development Control Plan 2015, because:

- a) it does not reinforce the landscape setting and will remove all existing tree canopy on site; and
- b) it does not retain and reinforce the green setting of mature street trees on site.

6. Woollahra Development Control Plan 2015, Chapter B3: General Development Controls

a. Part B3.4: Excavation

Insufficient information has been provided to demonstrate whether the cumulative impacts of excavation for the proposal will adversely impact land stabilisation, ground water flow, structural risks to adjoining structures and the amenity of adjoining and adjacent properties. The proposed excavation will not achieve the relevant Objectives O3, O4 and O5 prescribed in Part B3.4 of Chapter B3 of Woollahra Development Control Plan 2015.

b. Part B3.5 Built Form and Context: Part B3.5.1: Streetscape and Local Character

The proposal fails to achieve consistency with Objective O2 outlined in Part B3.5.1 of the Woollahra Development Control Plan 2015 as the excessive removal of trees will result in poor visual quality which will not enhance a good visual appearance of the development upon the street.

c. Part B3.5 Built Form and Context: 3.5.4 Acoustic and Visual privacy

The proposal does not comply with controls C1 and C10 and will not achieve consistency with the relevant objectives O1, O2 and O3 prescribed in Part B3.5.4 of Chapter B3 of Woollahra Development Control Plan 2015 because the trafficable roof terraces will result in unacceptable privacy impacts.

d. Part B3.7 External Areas: 3.7.1 Landscaped Areas and Private Open Space

The proposal does not comply with control C16 and will not achieve consistency with the relevant objective O7 prescribed in Part B3.7.1 of Chapter B3 of Woollahra Development Control Plan 2015 because all existing trees, including those mature trees with high landscape value, will be removed.

7. Woollahra Development Control Plan 2015, Chapter E1 – Parking and Access

The proposal fails to achieve compliance with the controls for ramp grades outlined in Part E1.10.4 of the Woollahra Development Control Plan 2015.

8. Woollahra Development Control Plan 2015, Chapter E2.2 – Stormwater Drainage Management Controls

The proposal fails to achieve consistency with Objectives O3, O4 and O5 outlined in Chapter E2 of the Woollahra Development Control Plan 2015 because insufficient information is provided to demonstrate that adequate stormwater management can be established for the proposed development.

9. Woollahra Development Control Plan 2015, Chapter E3 – Tree Management

The proposal fails to achieve consistency with Objectives O3, O4 and O5 outlined in Chapter E3 of the Woollahra Development Control Plan 2015 because all existing trees, including those mature trees with high landscape value, will be removed.

10. Inadequate Information

Inadequate information has been submitted to enable full and accurate assessment of the proposal against the relevant considerations pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

Particulars










- a) *An Arboricultural Impact Assessment & Tree Protection Plan* is required to be prepared in accordance with Attachment 4 of Woollahra Council's DA Guide and to adequately address all concerns raised by Council's Tree Officer.

- b) *Modified architectural plans* are required to incorporate Trees referenced T19, T25, T26, T27, T28, T29 and T40 into the proposal and retained. Plans shall be modified accordingly so that where currently major encroachments (such as raingardens and basement car parking) in the TPZ areas of these trees are identified these are relocated or amended so that the viable retention of these trees is ensured.
- c) *Amended Landscape Plans* are required which clearly illustrate garden beds and areas with adequate soil volume, size and depth to support the below ground elements of all trees proposed to be planted within the property. Consideration shall be given to the size of species at maturity with larger soil areas being designated for larger tree species such as the proposed *Glochidion fernandii*. The Landscape plans should demonstrate that soil areas are suitably large enough to sustain the future growth of these trees.
- d) An amended *Stormwater Management Plan* shall be prepared to adequately address all concerns raised by Council's Development Engineer and Drainage Engineer.
- e) A *Geotechnical and Hydrogeological Report* shall be prepared in accordance with all aspects of Council's DCP requirements, Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports. The *Geotechnical Report* shall provide specific comments in regards to the provision of an absorption system. The report shall be prepared in accordance with Chapter E2 "Stormwater and Flood Risk Management" DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties.

11. Public Interest

The proposal is not in the public interest.

Annexures

1. Plans, Sections and Elevations Including Landscape Plans [↓](#) 
2. Referral Response - Urban Design Referral Response [↓](#) 
3. Referral Response - Technical Services [↓](#) 
4. Referral Response - Traffic [↓](#) 
5. Referral Response - Drainage [↓](#) 
6. Referral Response - Trees and Landscaping [↓](#) 
7. Referral Response - Heritage [↓](#) 
8. Referral Response - Environmental Health [↓](#) 
9. Referral Response - Fire Safety [↓](#) 

ALEKSANDAR
PROJECTS

Development Application

142, 142A+B BELLEVUE ROAD HILL, BELLEVUE HILL

DRAWING LIST

NO.	ISSUE	ISSUE DATE	SCALE @ A2	CONTENT
DA 000 D		24/5/20	1:1000	COVER PAGE + DRAWING LIST + LOCATION PLAN + BASIX COMMITMENTS
DA 001 A		6/9/19	1:500	SITE ANALYSIS
DA 100 D		28/5/20	1:200	SITE + ROOF PLAN + DEMOLITION PLAN
DA 101 C		28/5/20	1:200	BASEMENT PLAN
DA 102 C		28/5/20	1:200	GROUND FLOOR PLAN
DA 103 C		28/5/20	1:200	L01 FLOOR PLAN
DA 104 C		28/5/20	1:200	L02 FLOOR PLAN
DA 105 C		17/4/20	1:200	L03 FLOOR PLAN
DA 106 C		17/4/20	1:200	L04 FLOOR PLAN
DA 200 D		28/5/20	1:200	SECTION AA + BB
DA 201 C		28/5/20	1:200	RAMP 01 SECTION & INTERNAL ELEVATIONS
DA 202 D		28/5/20	1:200	NORTH + SOUTH ELEVATION
DA 203 D		28/5/20	1:200	EAST + WEST ELEVATION
DA 204 A		17/4/20	1:20	RAMP 01 DETAIL 01+02 - INSIDE EDGE
DA 205 A		17/4/20	1:20	RAMP 01 DETAIL 03 - INSIDE EDGE
DA 206 B		28/5/20	1:20	RAMP 01 DETAIL 04+05 - OUTSIDE EDGE
DA 207 B		28/5/20	1:20	RAMP 01 DETAIL 06 - OUTSIDE EDGE
DA 208 B		28/5/20	1:20	RAMP 01 DETAIL 07 - OUTSIDE EDGE
DA 300 A		6/9/19	1:250	9AM WINTER SOLSTICE SHADOWS
DA 301 A		6/9/19	1:250	12PM WINTER SOLSTICE SHADOWS
DA 302 A		6/9/19	1:250	3PM WINTER SOLSTICE SHADOWS
DA 303 B		17/4/20	NTS	VIEW FROM THE SUN 9AM - 12PM
DA 304 B		17/4/20	NTS	VIEW FROM THE SUN 1PM - 3PM
DA 305 A		6/9/19	NTS	SHADOW IMPACT TO NEIGHBOUR

NO.	ISSUE	ISSUE DATE	SCALE @ A2	CONTENT
DA 306 A		6/9/19	1:200	HEIGHT PLANE DIAGRAMS
DA 400 C		28/5/20	1:500	GFA CALCULATION
DA 401 B		17/4/20	NTS	EXTERNAL MATERIALS AND FINISHES
DA 402 A		6/9/19	1:150	POST ADAPTION & LIVABLE UNITS
DA 403 A		6/9/19	1:250 @ A3	SITE WASTE MINIMISATION & MANAGEMENT PLAN

LOCATION PLAN / CONTEXT PLAN 1:1000



Schedule of BASIX commitments

1. Commitments for Residential flat buildings - Building1 (a) Dwellings

(a) Dwellings

(i) Water

(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).

(c) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.

(d) The pool or spa must be located as specified in the table.

(e) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.

(ii) Energy

(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.

(c) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.

(iii) Thermal Comfort

(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.

(e) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.

(b) Common areas and central systems/facilities

(i) Water

(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.

(ii) Energy

(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.

Room/area	Indigenous species	Swimming pool or spa	Alternative water supply system	Hot water system	Natural lighting	Thermal Comfort
Living room	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Dining room	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Kitchen	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 1	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 2	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 3	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 4	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 5	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 6	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 7	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 8	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 9	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 10	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 11	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 12	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 13	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 14	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 15	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 16	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 17	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 18	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 19	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 20	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 21	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 22	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 23	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 24	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 25	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 26	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 27	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 28	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 29	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 30	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 31	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 32	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 33	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 34	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 35	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 36	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 37	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 38	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 39	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 40	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 41	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 42	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 43	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 44	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 45	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 46	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 47	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 48	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 49	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 50	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 51	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 52	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 53	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 54	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 55	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 56	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 57	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 58	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 59	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 60	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 61	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 62	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 63	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 64	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 65	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 66	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 67	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 68	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 69	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 70	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 71	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 72	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 73	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 74	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 75	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 76	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 77	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 78	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 79	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 80	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 81	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 82	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 83	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 84	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 85	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 86	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 87	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 88	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 89	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 90	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 91	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 92	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 93	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 94	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 95	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 96	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 97	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 98	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 99	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter
Bedroom 100	1 x 100mm diameter	None	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter	1 x 100mm diameter

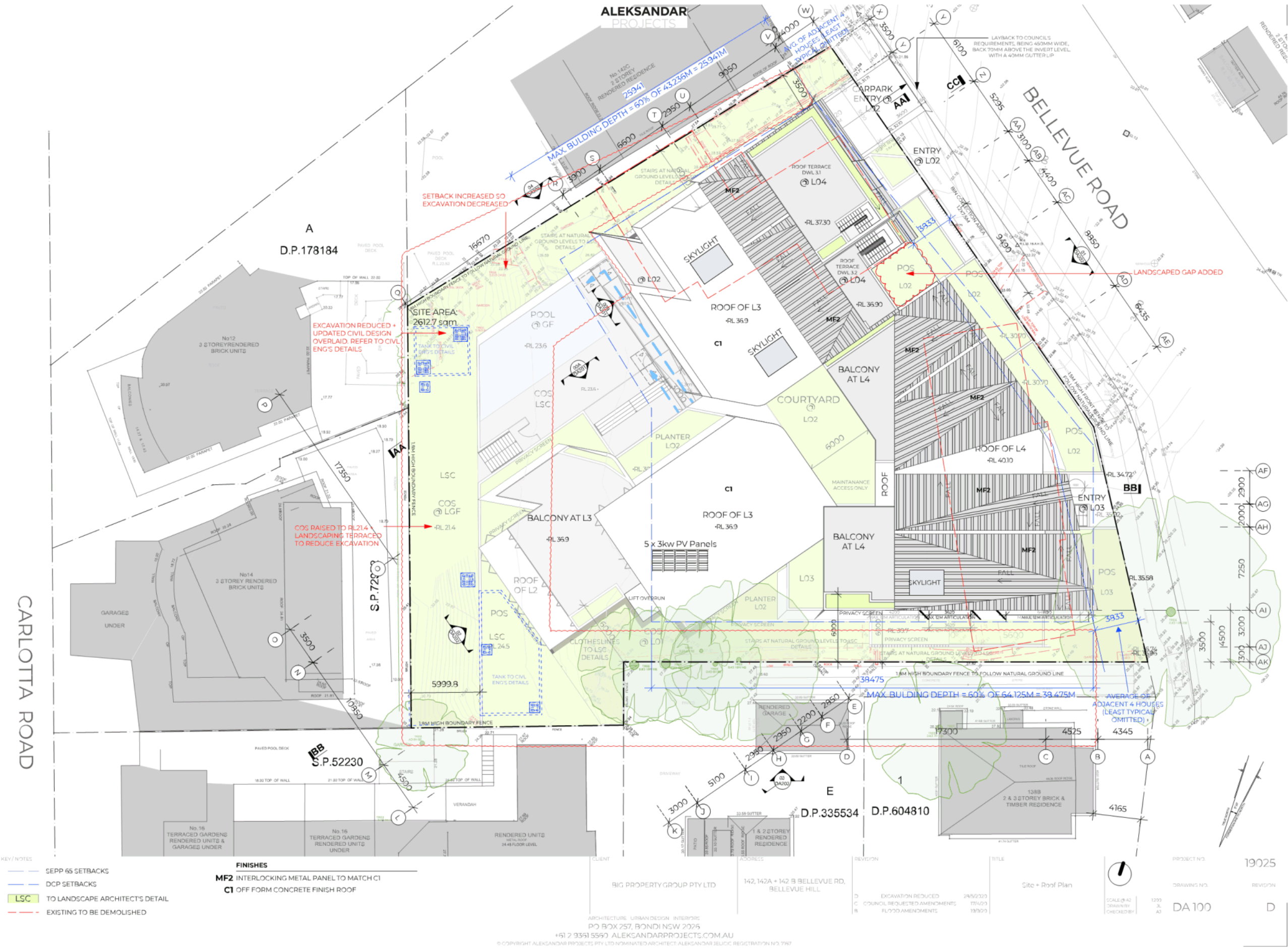
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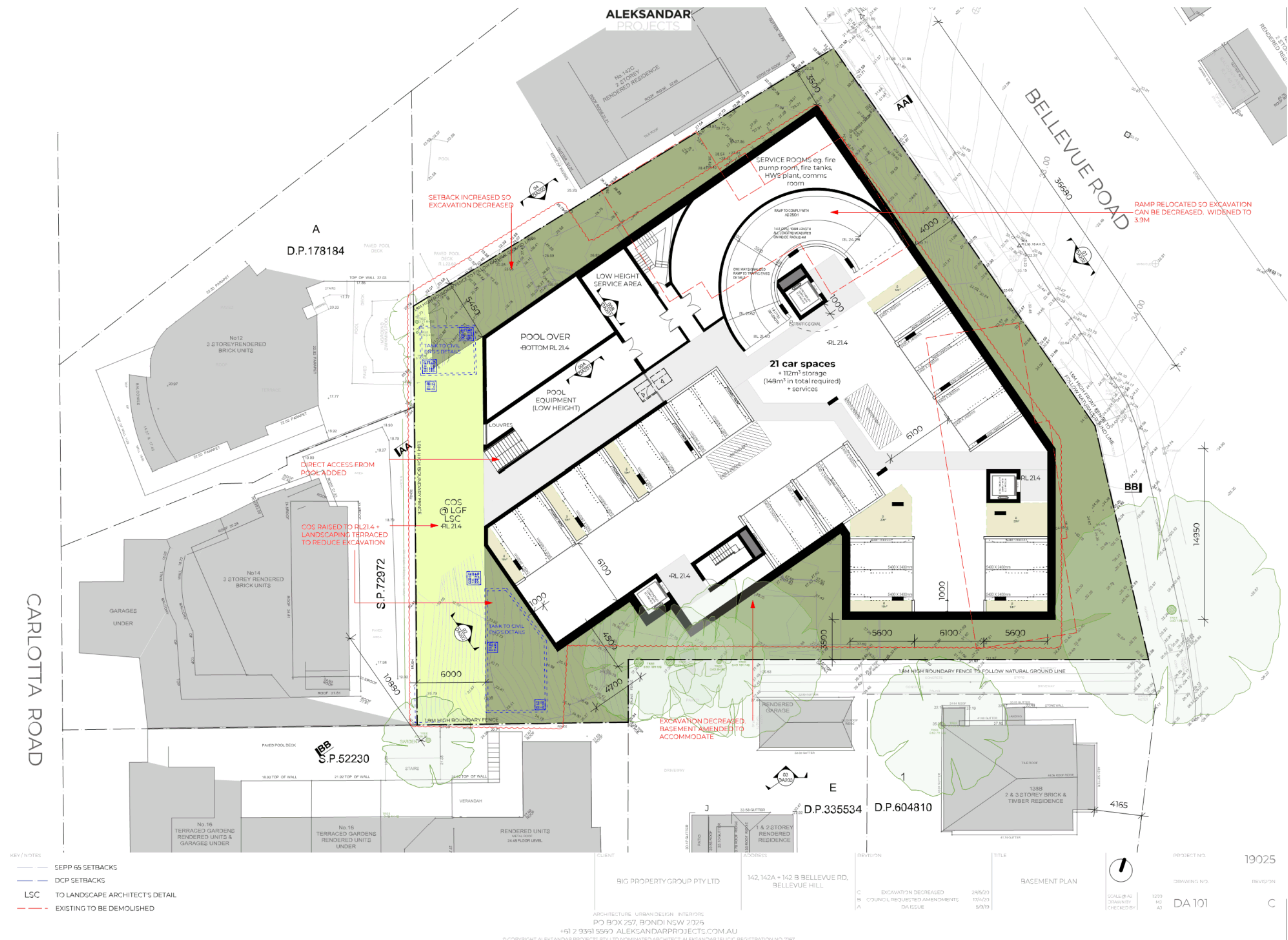
BIG PROPERTY GROUP PTY LTD

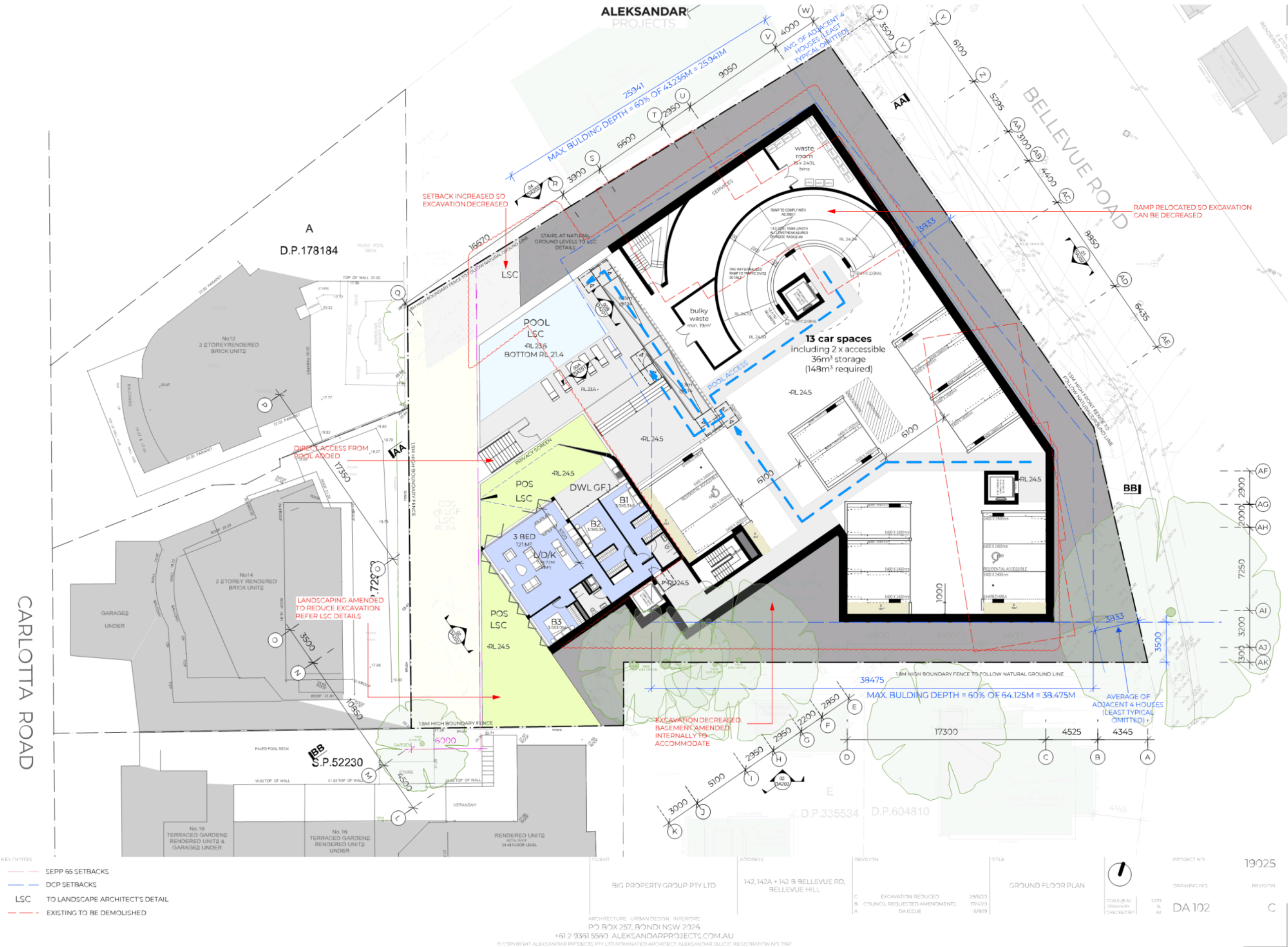
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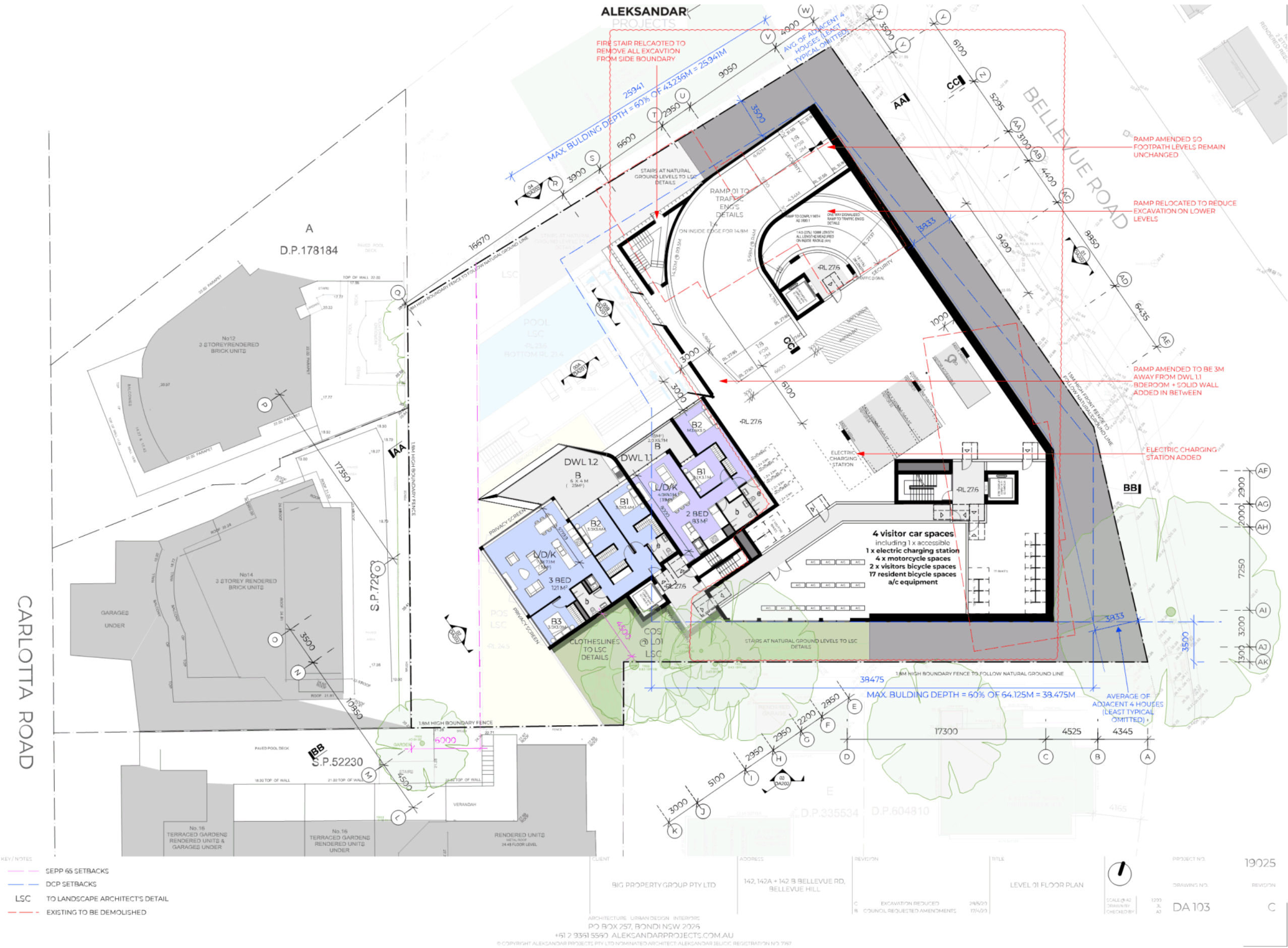
PO BOX 257, BONDI NSW 2025

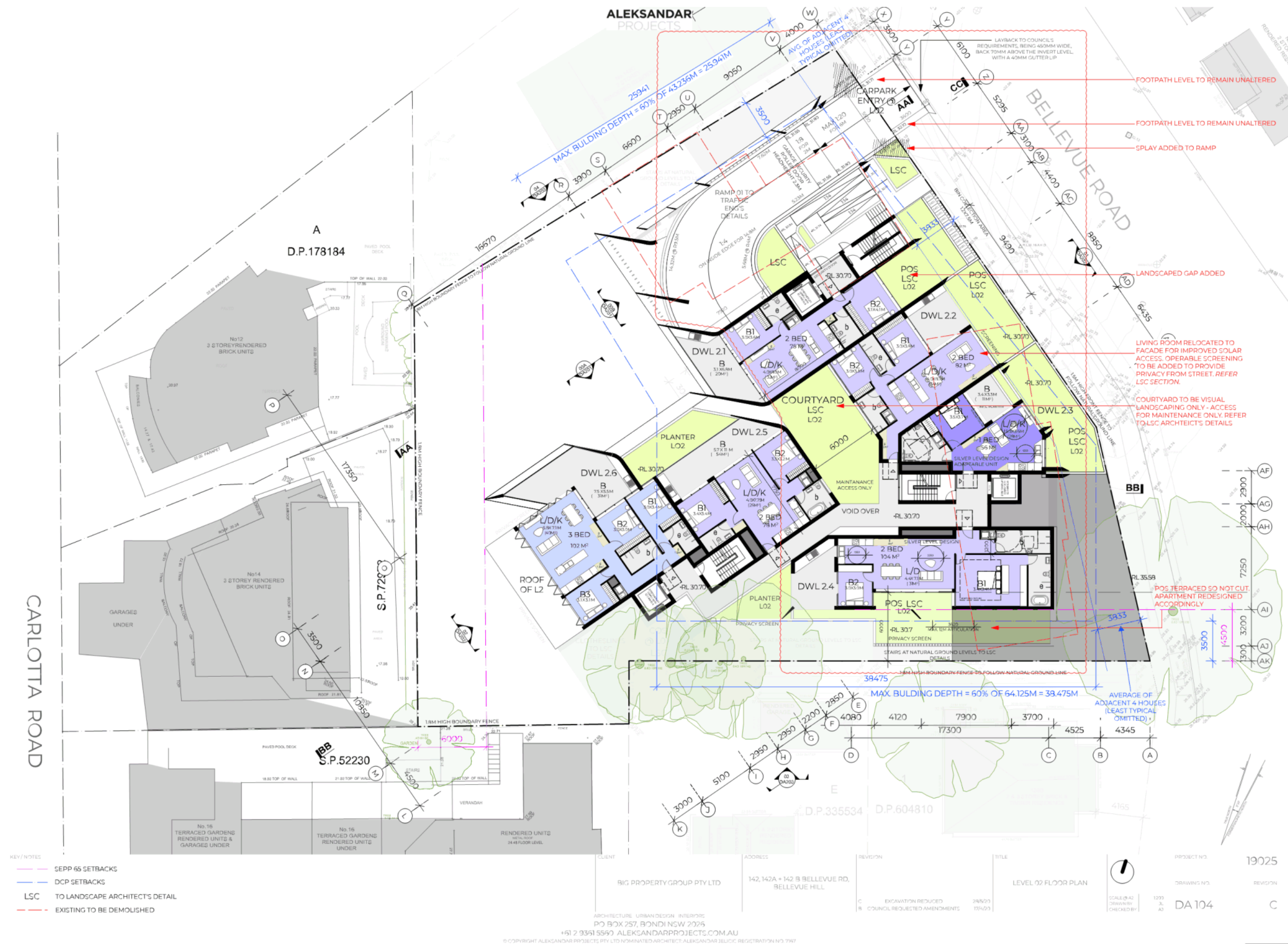
+61 2 9361 5552 ALEKSANDARPROJECTS.COM.AU

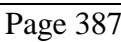


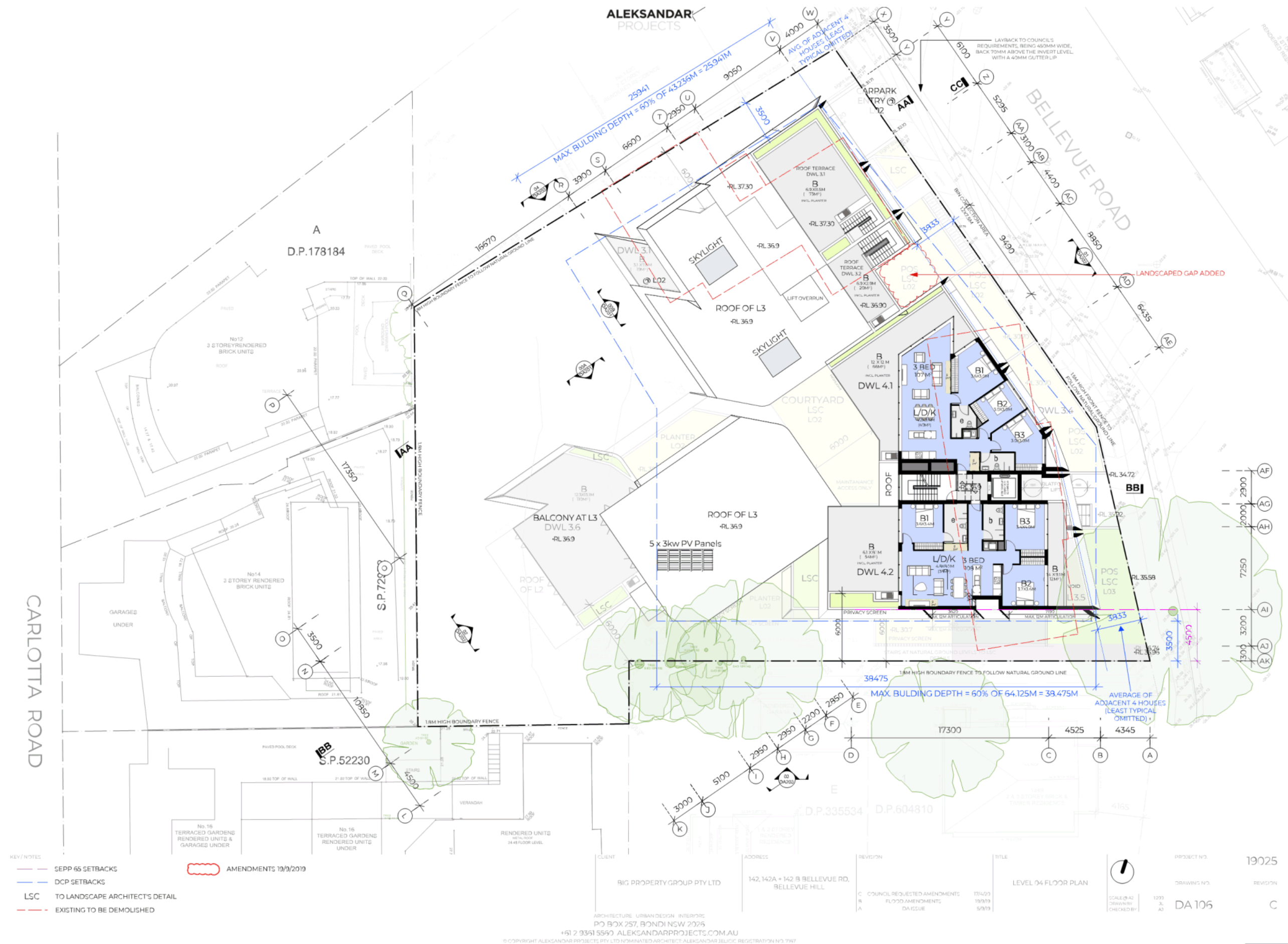


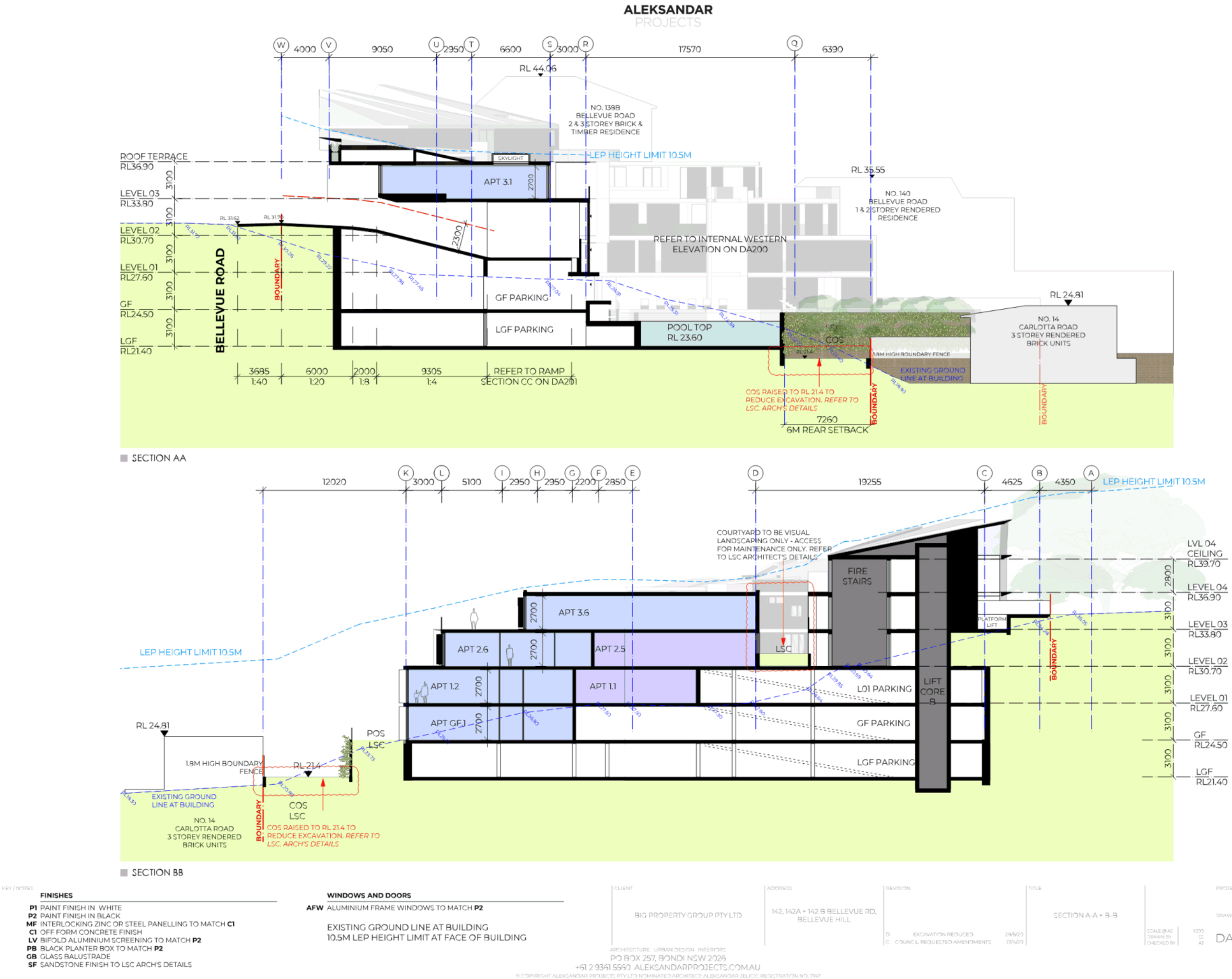


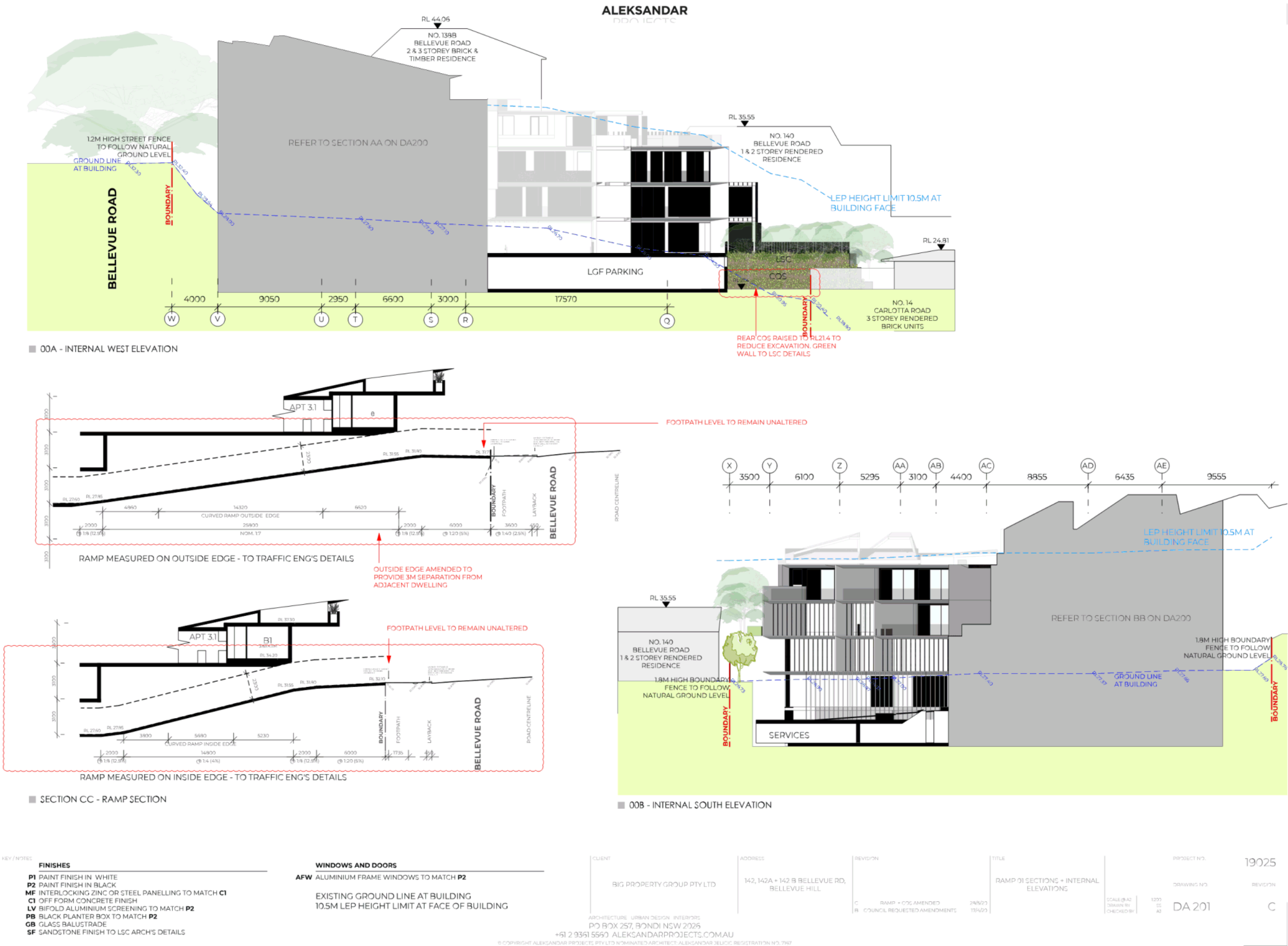


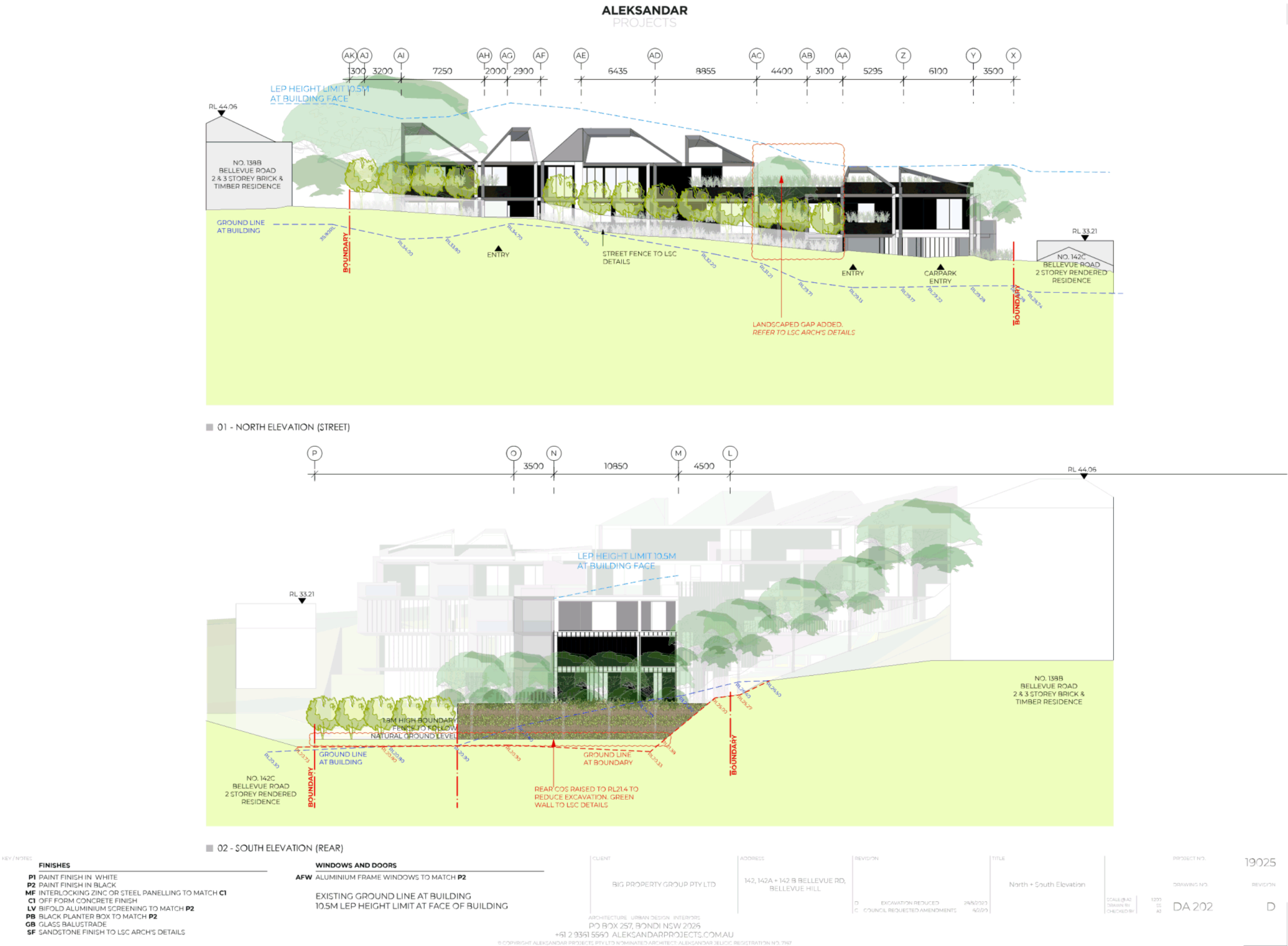


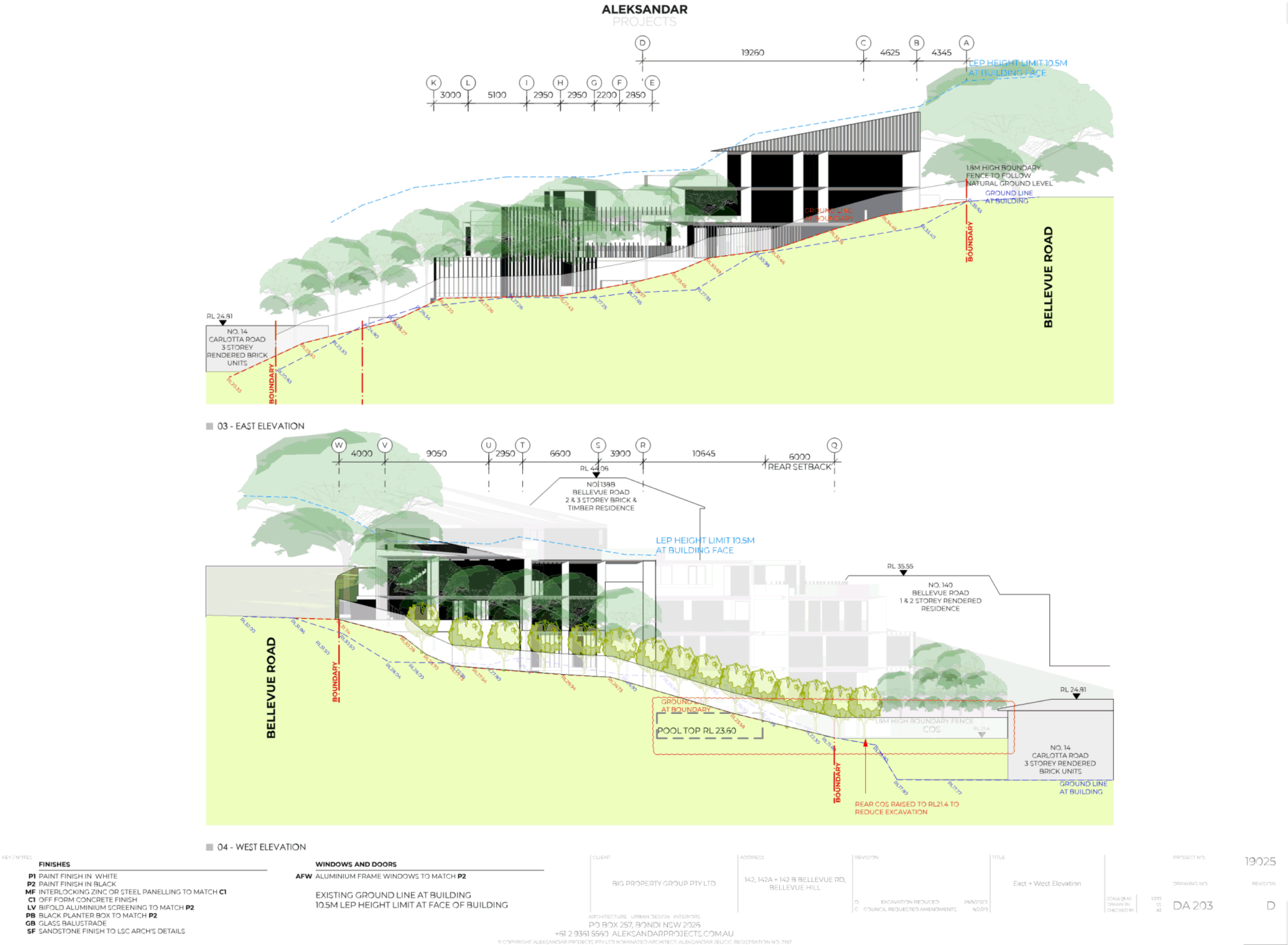


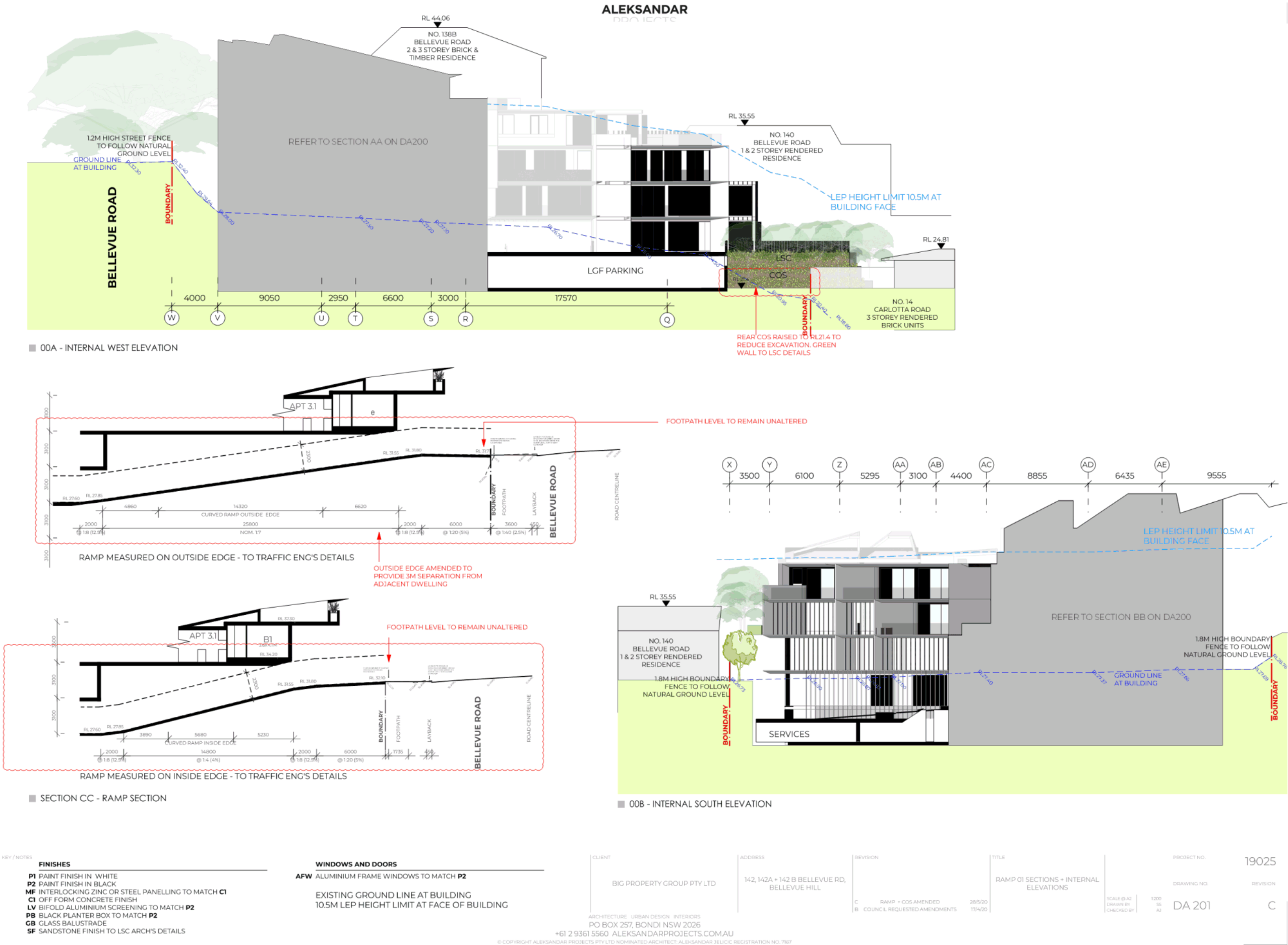


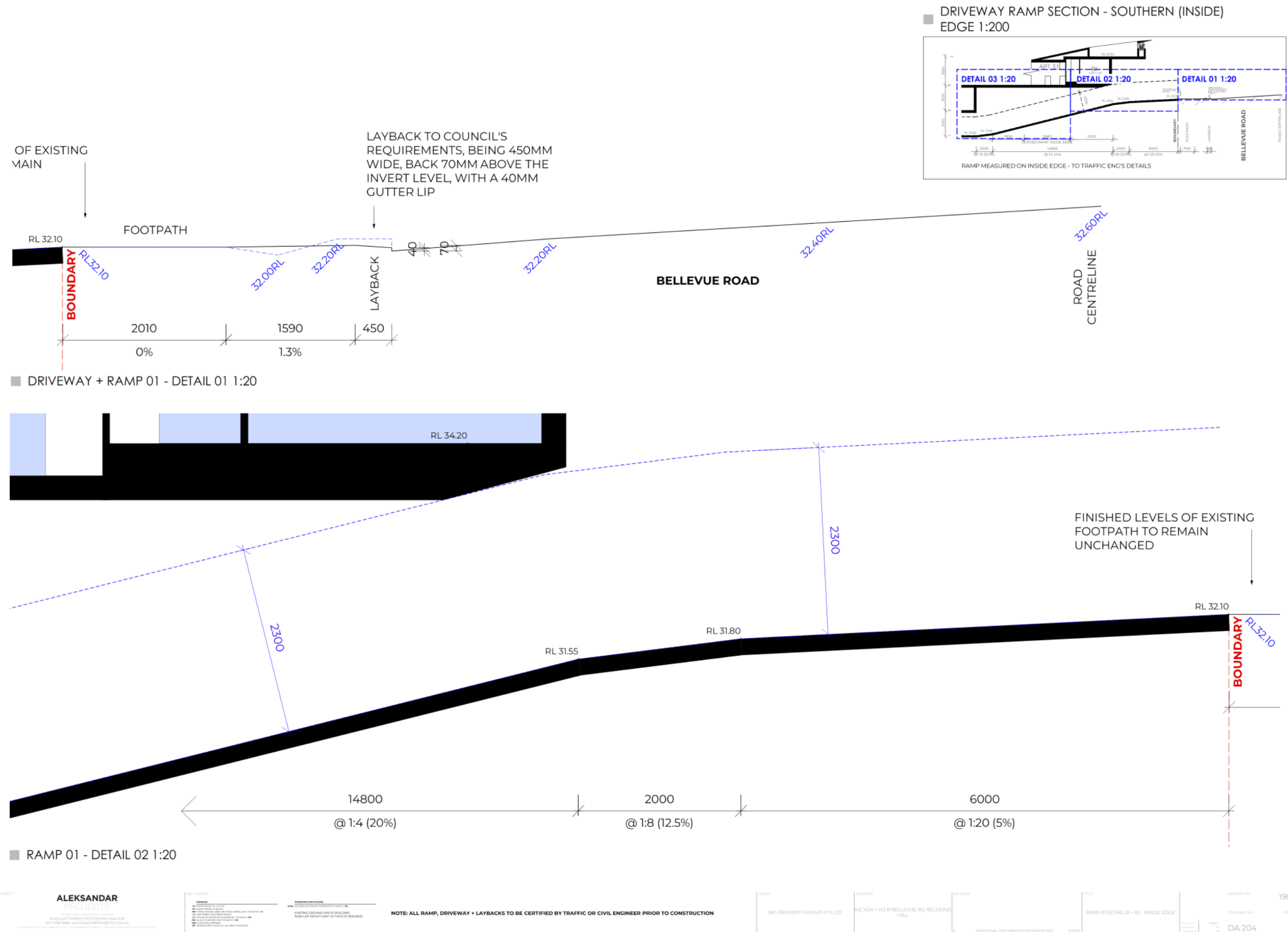


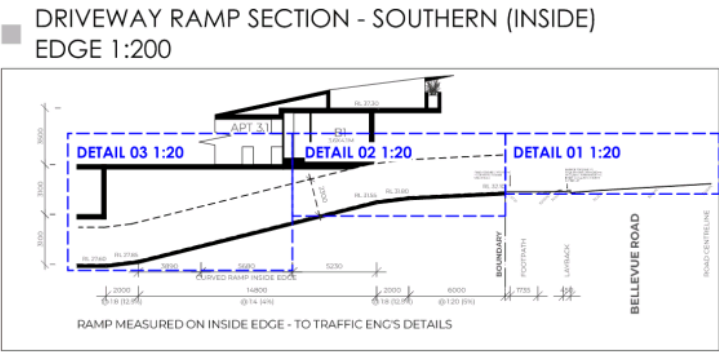
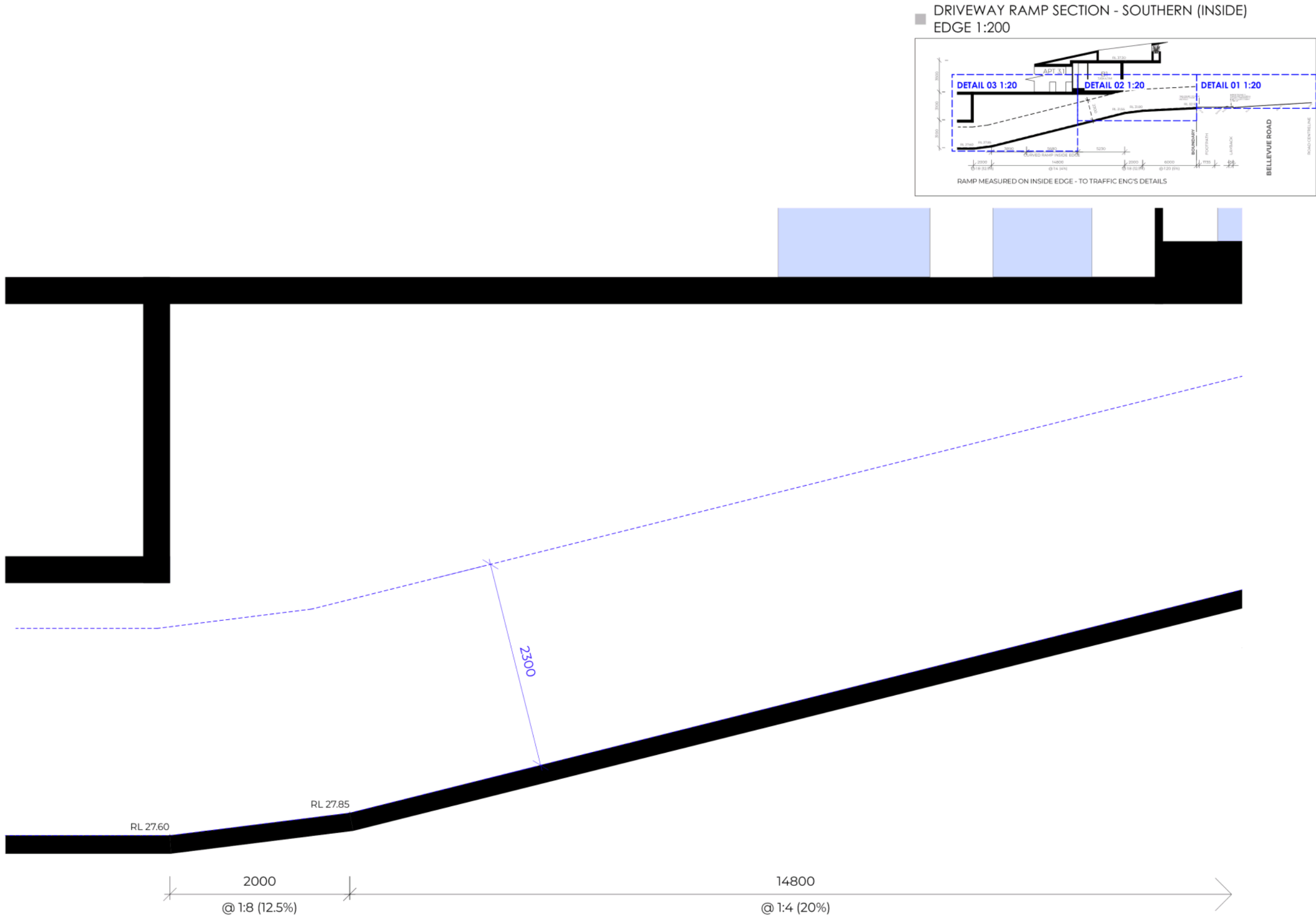






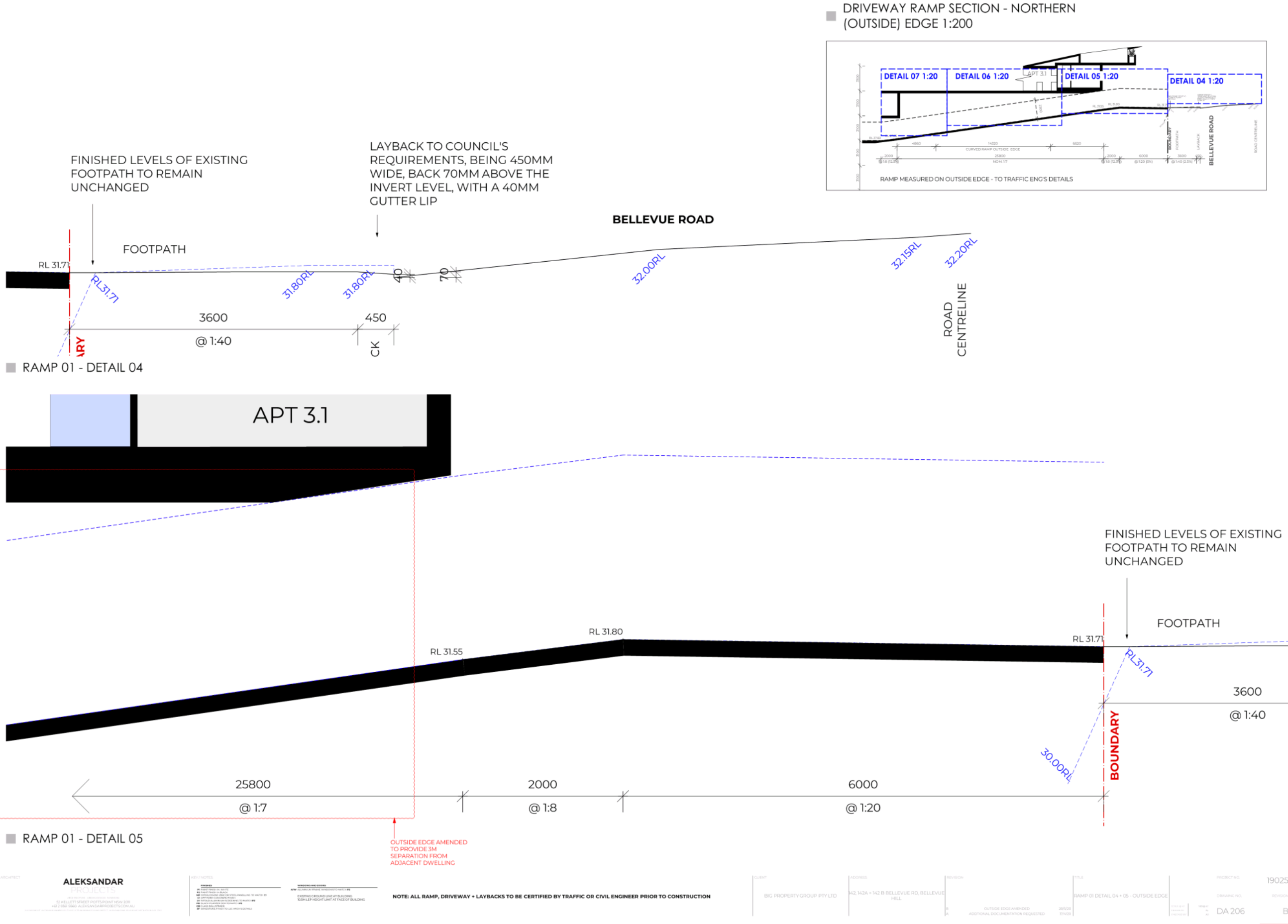


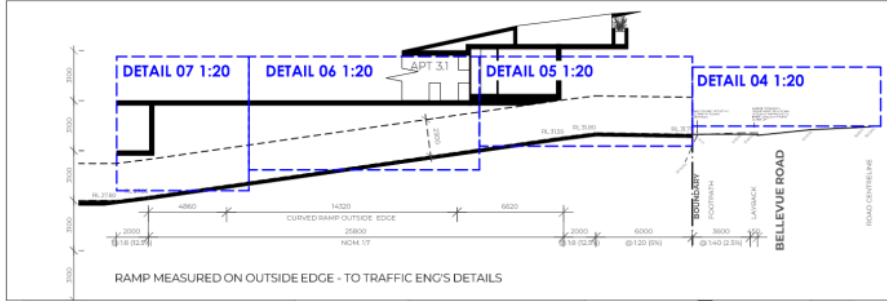
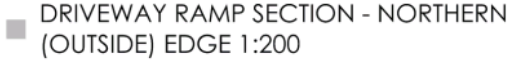




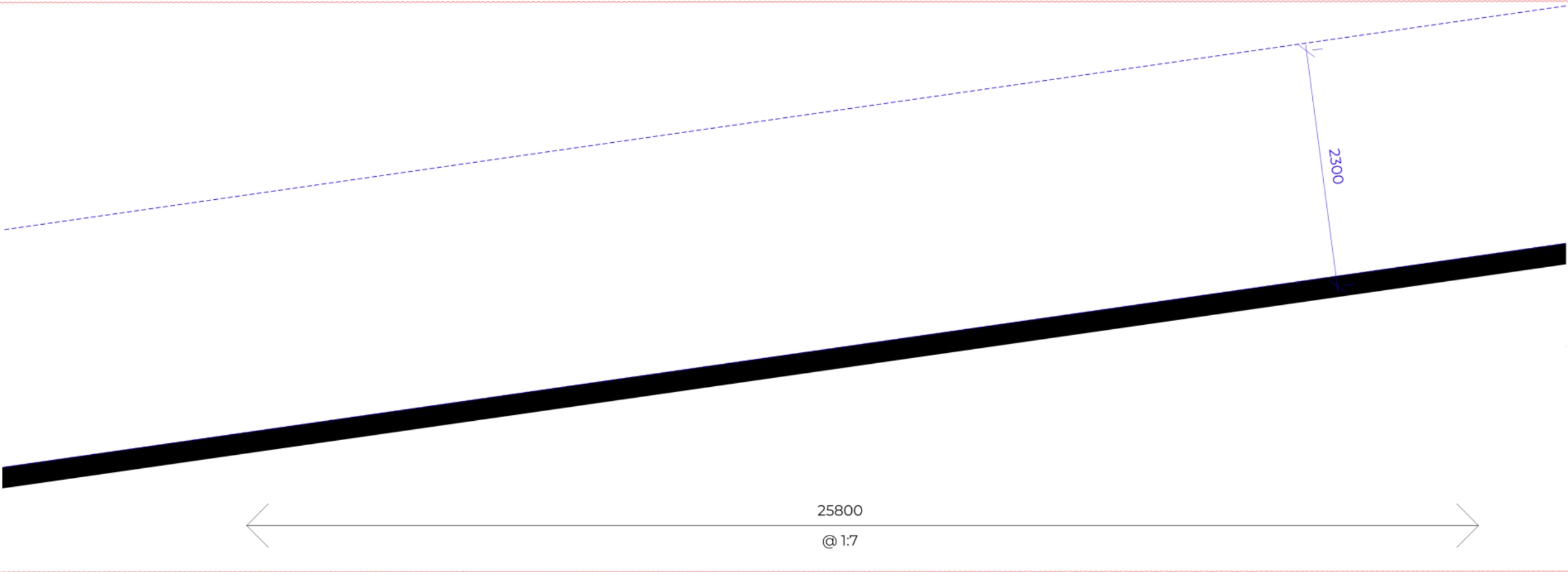
RAMP 01 - DETAIL 03 1:20

ARCHITECT	ALEKSANDAR PROJECTS 142 KILLET STREET, SYDNEY NSW 1585 402 2 190 5565, ALEKSANDARPROJECTS.COM.AU	REVISED NOTES	EXISTING AND PROPOSED	NOTE: ALL RAMP, DRIVEWAY + LAYBACKS TO BE CERTIFIED BY TRAFFIC OR CIVIL ENGINEER PRIOR TO CONSTRUCTION	CLIENT	ADDRESS	REVISION	TITLE	PROJECT NO.	DRAWING NO.	REVISION
					BIG PROPERTY GROUP PTY LTD	42, 42A + 42 B BELLEVUE RD, BELLEVUE HILL	A	RAMP 01 DETAIL 03 - INSIDE EDGE	19025	DA 205	A





APT 3.1



■ RAMP 01 - DETAIL 06

OUTSIDE EDGE AMENDED
TO PROVIDE 3M
SEPARATION FROM
ADJACENT DWELLING

25800
@ 1:7

2300

ALEKSANDAR
PROJECTS
ARCHITECTURE, INTERIOR DESIGN, INTERIORS
1 KELLY STREET POFFS POINT NSW 2112
02 9560 5560 ALEKSANDARPROJECTS.COM

[illegible]

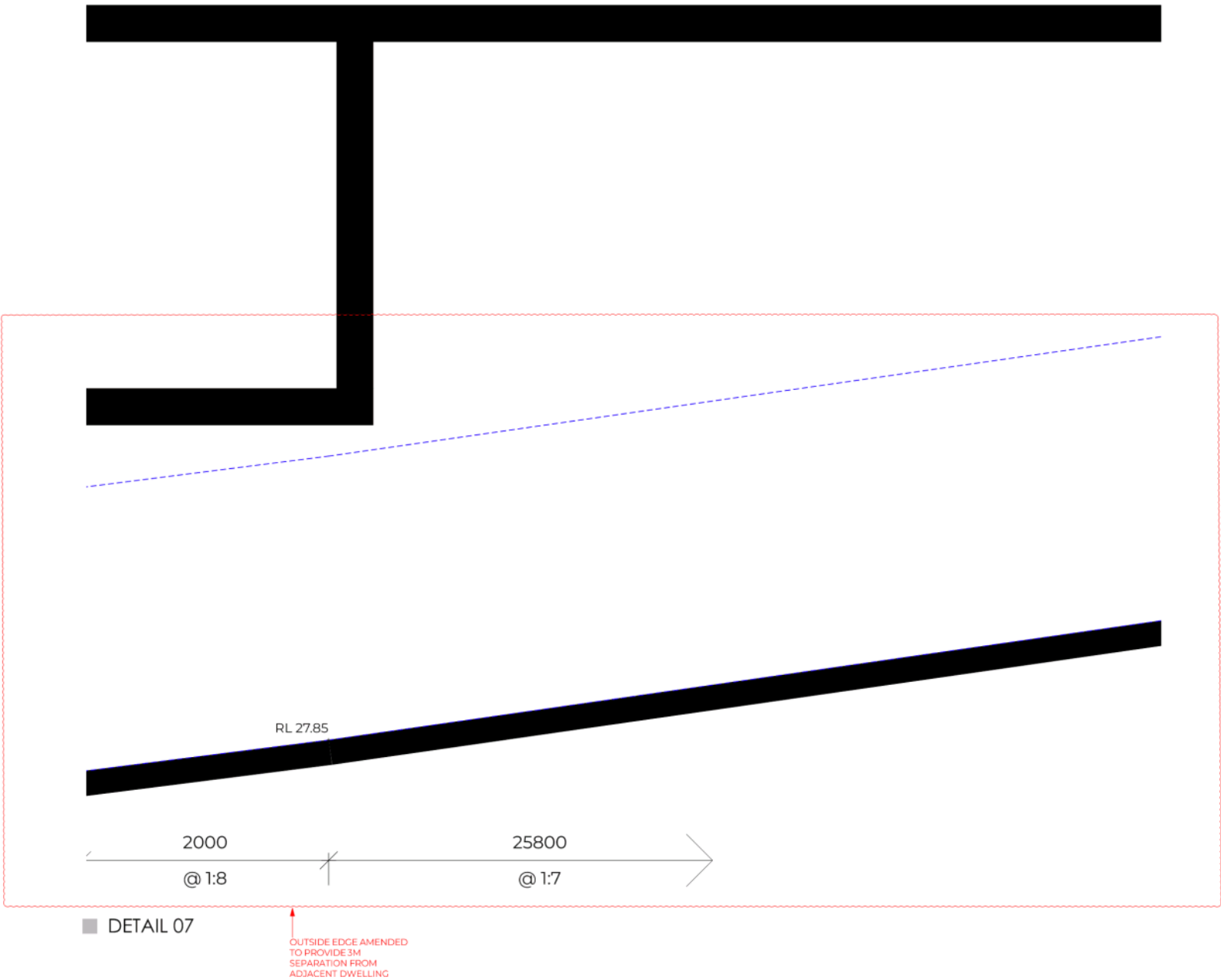
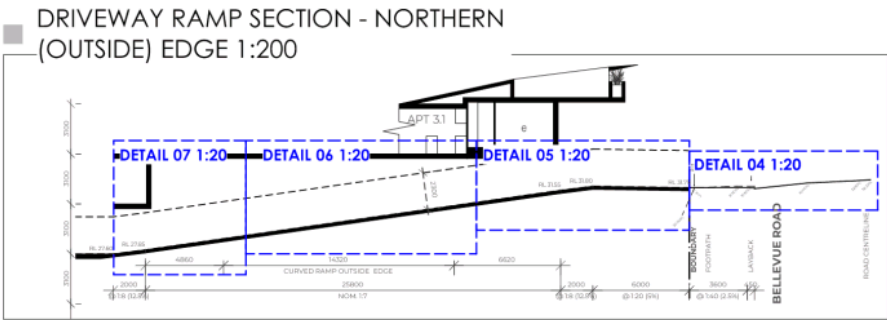
EXISTING GROUND LINE AT BUILDING
30.5M LEP HEIGHT LIMIT AT FACE OF BUILDING

NOTE: ALL RAMP, DRIVEWAY + LAYBACKS TO BE CERTIFIED BY TRAFFIC OR CIVIL ENGINEER PRIOR TO CONSTRUCTION

19025

23

B

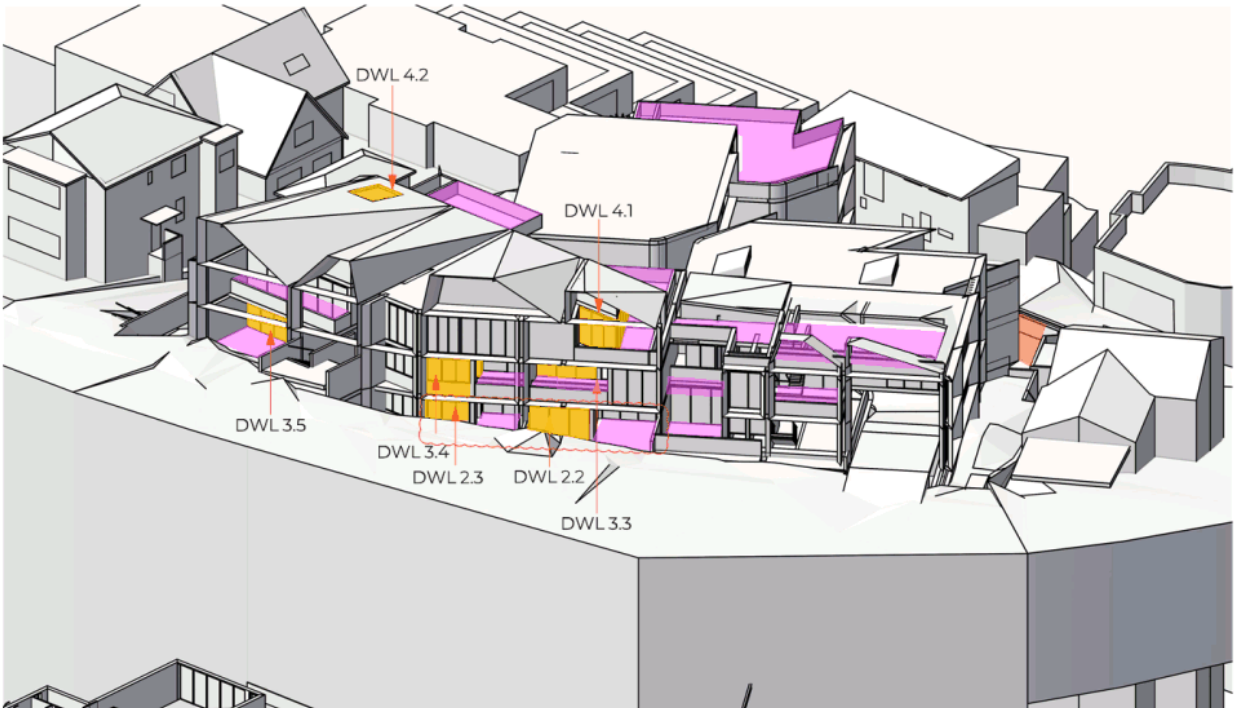


ARCHITECT	ALEKSANDAR PROJECTS 402/2 RING ROAD, ALEXANDRIA NSW 1500 402/2 RING ROAD, ALEXANDRIA NSW 1500 402/2 RING ROAD, ALEXANDRIA NSW 1500	REVISED NOTES	REVISIONS AND NOTES	NOTE: ALL RAMP, DRIVEWAY + LAYBACK DESIGNS TO BE CERTIFIED BY TRAFFIC OR CIVIL ENGINEER PRIOR TO CONSTRUCTION	CLIENT	ADDRESS	REVISION	TITLE	PROJECT NO.	DRAWING NO.	REVISION
					BIG PROPERTY GROUP PTY LTD	402/2 RING ROAD, ALEXANDRIA NSW 1500	A	RAMP 01 - DETAIL 07 OUTSIDE EDGE	19025	DA 208	B

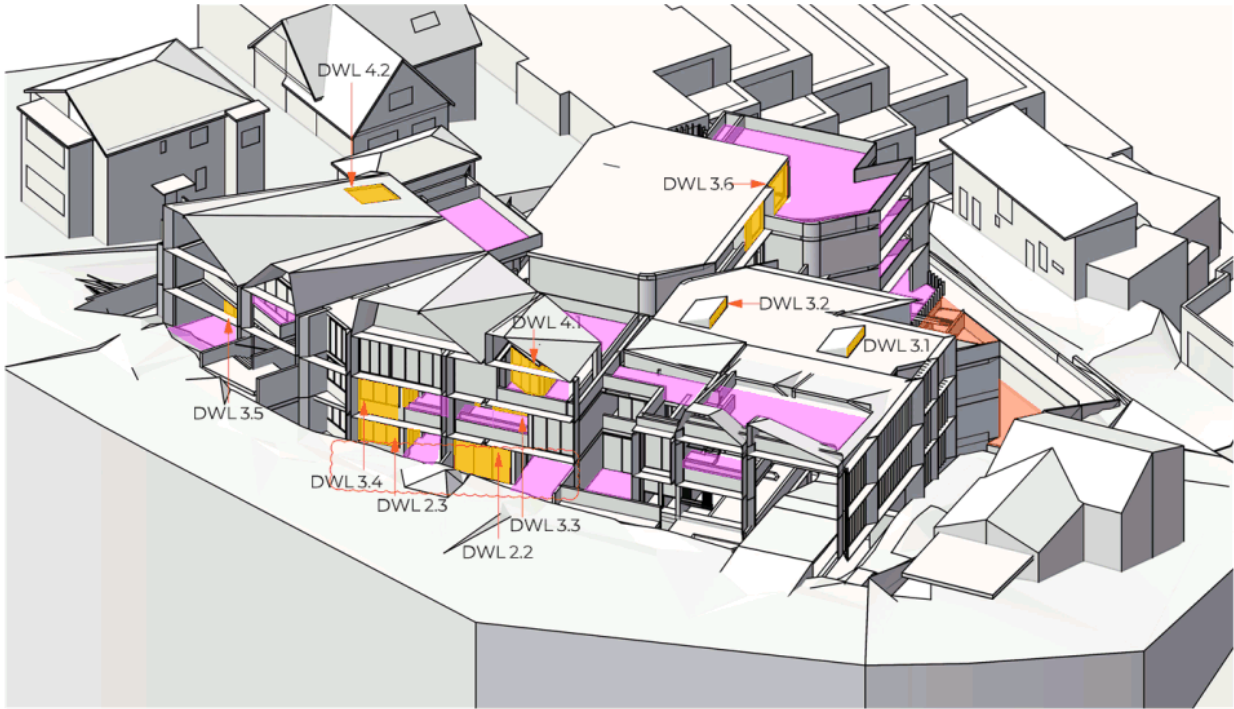
ALEKSANDAR
PROJECTS



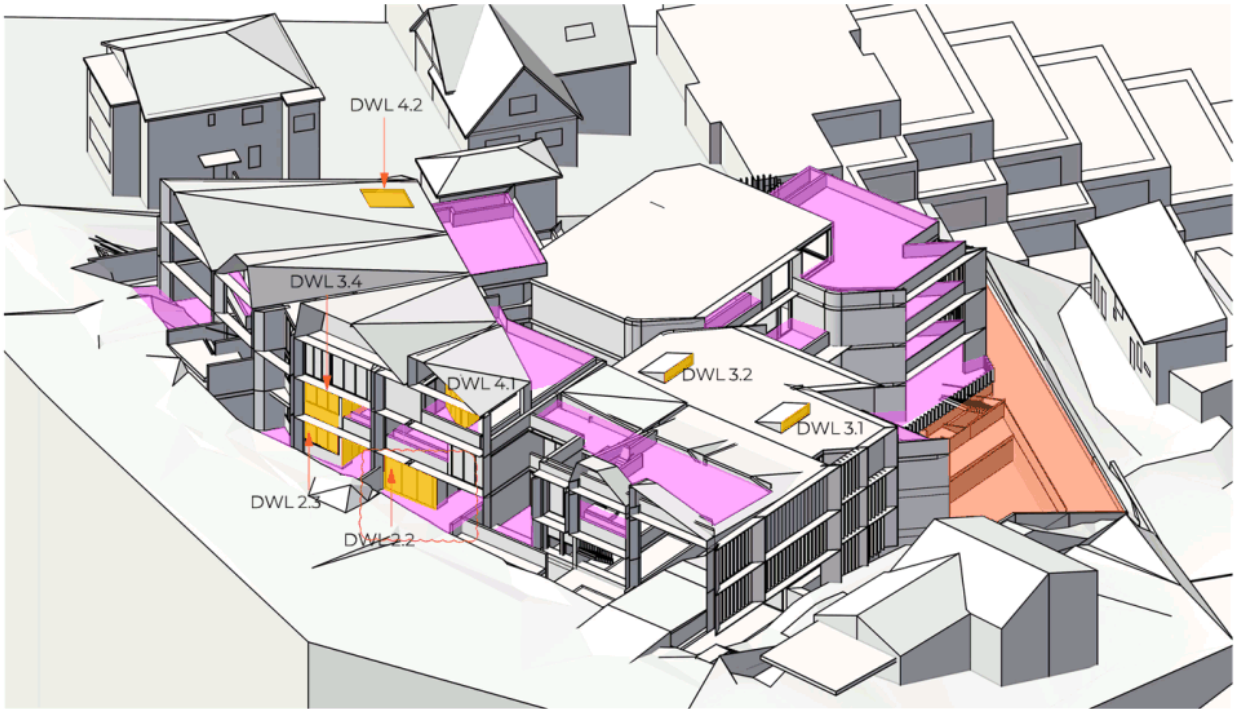
VIEW FROM SUN 9AM



VIEW FROM SUN 10AM



VIEW FROM SUN 11AM



VIEW FROM SUN 12PM

- KEY / NOTES
- SOLAR ACCESS TO LIVING AREAS
 - SOLAR ACCESS TO COMMUNAL OPEN SPACE
 - SOLAR ACCESS TO PRIVATE OPEN SPACE

CLIENT
BIG PROPERTY GROUP PTY LTD

ADDRESS
142, 142A + 142 B BELLEVUE RD,
BELLEVUE HILL

ARCHITECTURE, URBAN DESIGN, INTERIORS
PO BOX 257, BONDI NSW 2026
+61 2 9361 5560 ALEKSANDARPROJECTS.COM.AU
© COPYRIGHT ALEKSANDAR PROJECTS PTY LTD NOMINATED ARCHITECT ALEKSANDAR SELCIC REGISTRATION NO. 7967

REVISION
R DWL 2.2 AMENDED 19/03

TITLE
VIEW FROM THE SUN

PROJECT NO.
19025

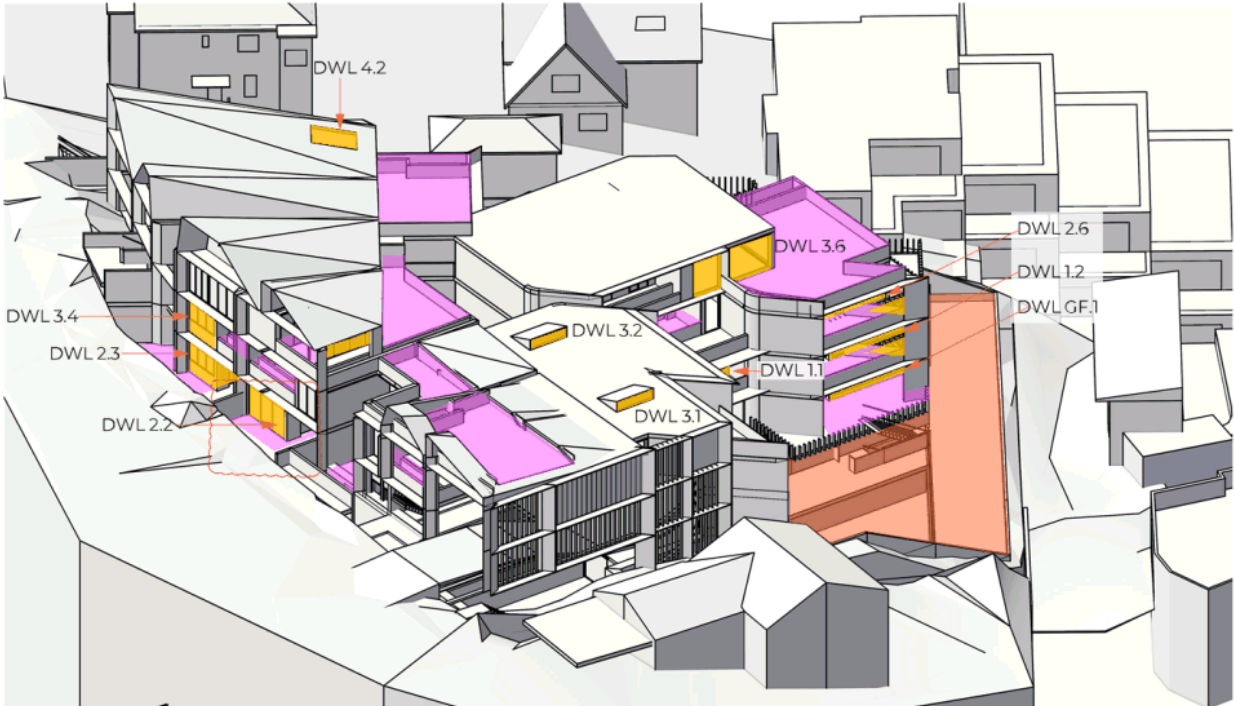
DRAWING NO.
DA 303

SCALE @ A2
DRAWN BY
CHECKED BY

1:200
M
A2

REVISION
B

ALEKSANDAR
PROJECTS



VIEW FROM SUN 1PM



VIEW FROM SUN 2PM



VIEW FROM SUN 3PM

	NO. OF DWELLINGS	MIN. 2 HRS SOLAR	NO SOLAR	SOME SOLAR	SOLAR TO POS
LGF					
GF	1	1			1
L01	2	1		1	1
L02	6	3	1	2	5
L03	6	6			6
L04	2	2			2
TOTAL	17	13	1	3	15
		76%	6%	18%	88%
	REQUIRED	70%	MIN 15%		

KEY / NOTES

- SOLAR ACCESS TO LIVING AREAS
- SOLAR ACCESS TO COMMUNAL OPEN SPACE
- SOLAR ACCESS TO PRIVATE OPEN SPACE

CLIENT

BIG PROPERTY GROUP PTY LTD

ADDRESS

142, 142A + 142 B BELLEVUE RD,
BELLEVUE HILL

REVISION

R DWL 2.2 AMENDED
19/02/20

TITLE

VIEW FROM THE SUN

PROJECT NO.

19025

DRAWING NO.

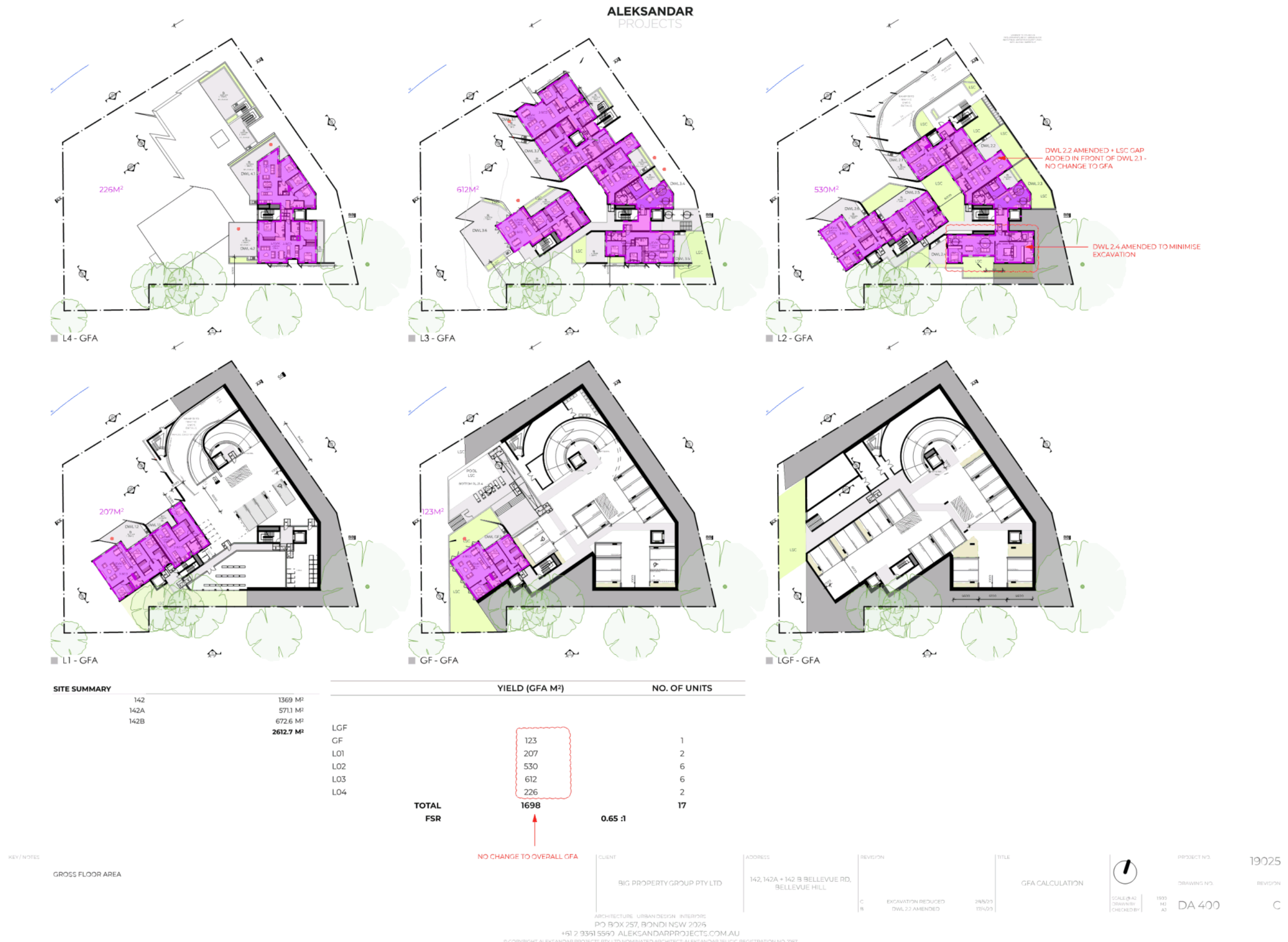
DA 304

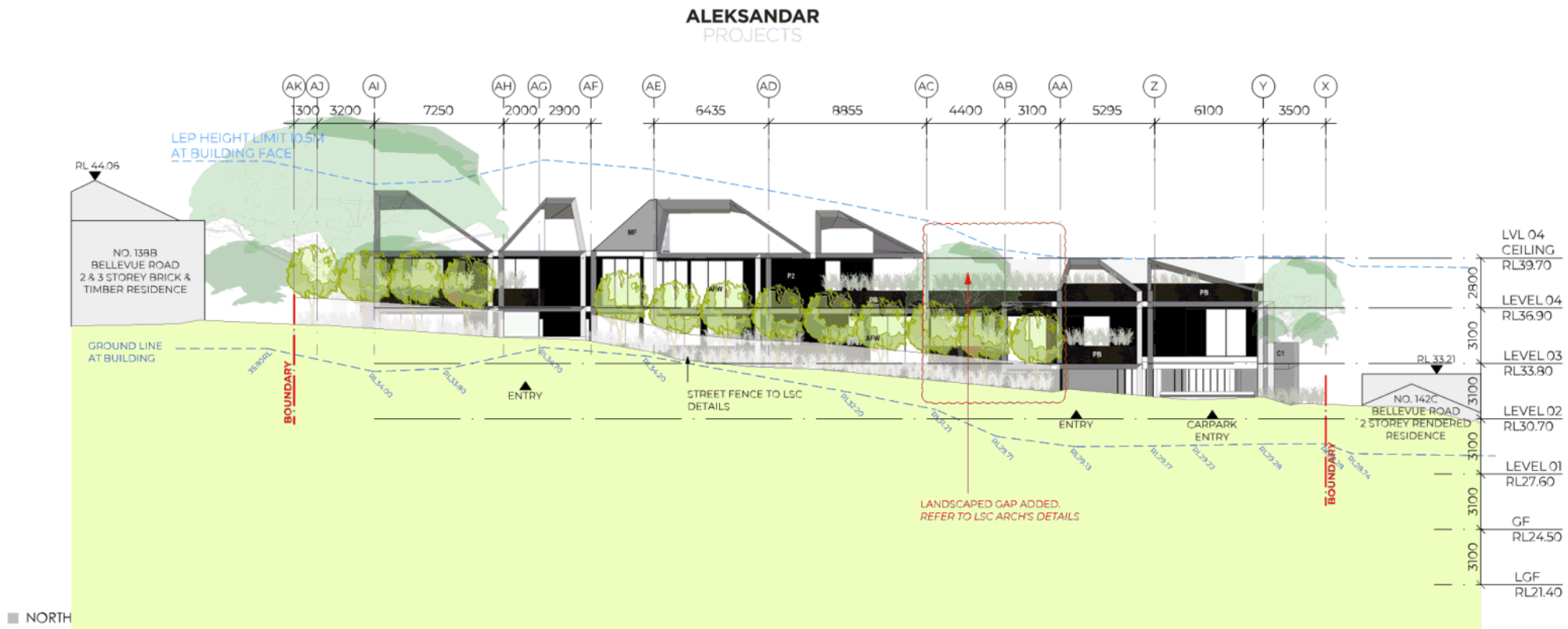
REVISION

B

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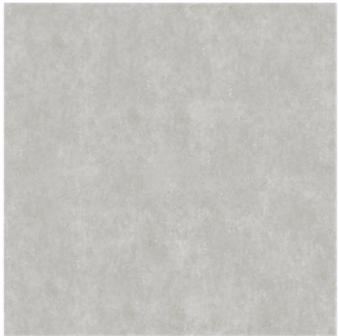


P1 ▶ PAINT FINISH IN WHITE TO SOFFIT



P2 ▶ PAINT FINISH IN BLACK

METAL CLADDING REMOVED TO ENSURE FIRE COMPLIANCE. NO CHANGE IN COLOUR.
LANDSCAPE FENCING DETAIL TO BELLEVUE ROAD AMENDED - REFER TO LSC DETAILS



C1 ▶ OFF FORM CONCRETE FINISH



AFW ▶ ALUMINIUM FRAME WINDOWS TO MATCH P2



MF ▶ INTERLOCKING ZINC OR STEEL PANELING TO MATCH C1



LV ▶ BIFOLD ALUMINIUM SCREENING TO MATCH P2



PB ▶ BLACK PLANTER BOX TO MATCH P2

KEY / NOTES

FINISHES

- P1 PAINT FINISH IN WHITE
- P2 PAINT FINISH IN BLACK
- MF INTERLOCKING ZINC OR STEEL PANELLING TO MATCH C1
- C1 OFF FORM CONCRETE FINISH
- LV BIFOLD ALUMINIUM SCREENING TO MATCH P2
- PB BLACK PLANTER BOX TO MATCH P2
- GB GLASS BALUSTRADE
- SF SANDSTONE FINISH TO LSC ARCH'S DETAILS

WINDOWS AND DOORS

- AFW ALUMINIUM FRAME WINDOWS TO MATCH P2
- EXISTING GROUND LINE AT BUILDING
- 10.5M LEP HEIGHT LIMIT AT FACE OF BUILDING

CLIENT

BIG PROPERTY GROUP PTY LTD

ARCHITECTURE, URBAN DESIGN, INTERIORS
PO BOX 257, BONDI NSW 2026
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ADDRESS

142, 142A + 142 B BELLEVUE RD,
BELLEVUE HILL

REVISION

R
A FENCE DETAILS AMENDED
DA ISSUE

TITLE

EXTERNAL FINISHES + MATERIALS

PROJECT NO.

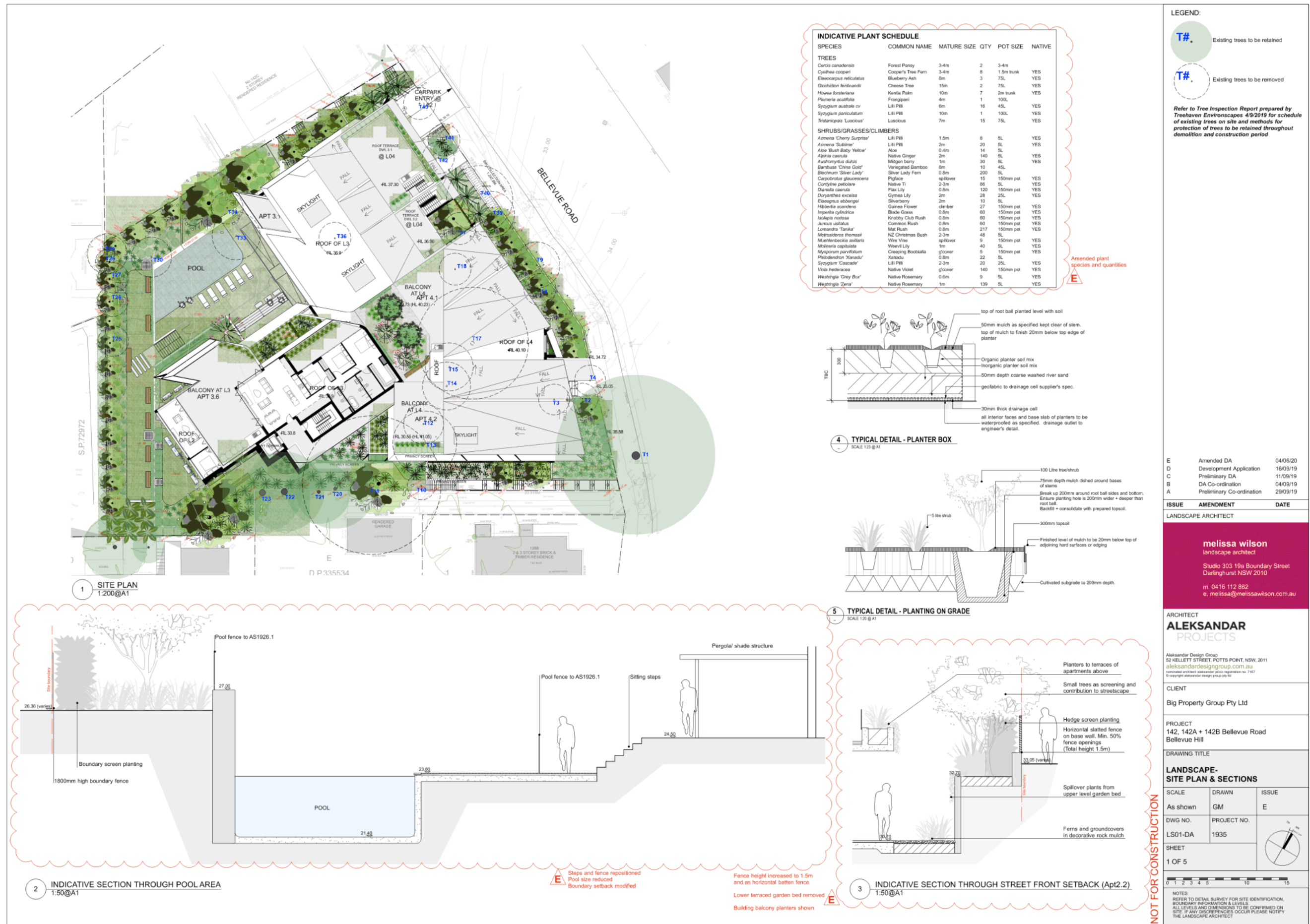
19025

DRAWING NO.

DA 401

REVISION

B











Completion Date: 8 October 2019

REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Applications/ 344/2019/1

ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023

PROPOSAL: Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool

FROM: N Vandchali

TO: Mr B McIntyre

Information

Architectural
drawings:

DRAWING LIST				
NO.	ISSUE	ISSUE DATE	SCALE @ A2	CONTENT
DA 000 B	19/09/19	NTS		COVER PAGE + DRAWING LIST + LOCATION PLAN + BASIC COMMITMENTS
DA 001 A	6/9/19	1:500		SITE ANALYSIS
DA 100 B	19/9/19	1:200		SITE + ROOF PLAN + DEMOLITION PLAN
DA 101 A	6/9/19	1:200		LOWER GROUND FLOOR PLAN
DA 102 A	6/9/19	1:200		GROUND FLOOR PLAN
DA 103 A	6/9/19	1:200		L01 FLOOR PLAN
DA 104 A	6/9/19	1:200		L02 FLOOR PLAN
DA 105 B	19/9/19	1:200		L03 FLOOR PLAN
DA 106 B	19/9/19	1:200		L04 FLOOR PLAN
DA 200 A	6/9/19	1:200		SECTION AA + BB
DA 201 A	6/9/19	1:200		DRIVEWAY SECTION & INTERNAL ELEVATIONS
DA 202 A	6/9/19	1:200		NORTH + SOUTH ELEVATION
DA 203 A	6/9/19	1:200		EAST + WEST ELEVATION
DA 300 A	6/9/19	1:250		9AM WINTER SOLSTICE SHADOWS
DA 301 A	6/9/19	1:250		12PM WINTER SOLSTICE SHADOWS
DA 302 A	6/9/19	1:250		3PM WINTER SOLSTICE SHADOWS
DA 303 A	6/9/19	NTS		VIEW FROM THE SUN 9AM - 12PM
DA 304 A	6/9/19	NTS		VIEW FROM THE SUN 1PM - 3PM
DA 305 A	6/9/19	NTS		SHADOW IMPACT TO NEIGHBOUR
DA 306 A	6/9/19	1:200		HEIGHT PLANE DIAGRAMS
DA 400 A	6/9/19	1:500		GFA CALCULATION
DA 401 A	6/9/19	NTS		EXTERNAL MATERIALS AND FINISHES
DA 402 A	6/9/19	1:150		POST ADAPTION & LIVABLE UNITS
DA 403 A	6/9/19	1:250@A3		SITE WASTE MINIMISATION & MANAGEMENT PLAN

Statement of PLANNING INGENUITY
Environmental
Effects:
Survey:

Proposal

The proposal involves the demolition of the existing dwellings at Nos. 142A and 142B Bellevue Road and the construction of a new three to four-storey residential flat building comprising of 17 apartments with basement level parking.

Controls

- State Environmental Planning Policy No 65 (SEPP 65): Apartment Design

Guide (ADG)

- Woollahra Local Environment Plan 2014 (WLEP2014)
- Woollahra Development Control Plan 2015 (WDCP2015)

Compliance

The following is an assessment of the proposal against SEPP 65 Principles.

Principle	Statement	Assessment	Complies
Principle 1: Context and Neighbourhood Character	<p><i>Good design responds and <u>contributes to its context</u>. Context is the key natural and built features of an area, <u>their relationship</u> and the <u>character</u> they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's <u>existing or future character</u>. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, <u>streetscape and neighbourhood</u>. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	Residential flat buildings are permissible in the R3 zone and respond to the aims and objectives of the zone as well as the desired future character of the area. However, the proposed bulk and scale and its contribution to the streetscape character does not respond to or enhance the character of its surroundings (See below).	Subject to Principle 2
Principle 2: Built Form and Scale	<p><i>Good design achieves a <u>scale, bulk and height appropriate</u> to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, <u>articulation</u> and the <u>manipulation of building elements</u>. Appropriate built form <u>defines the public domain</u>, contributes to the character of <u>streetscapes</u> and parks, including their <u>views and</u></i></p>	The proposed development presents a continuous bulk and scale of approx. 50m along Bellevue Road. The existing built form pattern along the street consists of individual dwellings with an average building length of 15 to 25m with a landscape strip/corridor between buildings. Also, the eastern side of the road is Zoned R2 so it will stay low scale with a fine grain bulk and scale divided by landscape.	No

	<i>vistas, and provides internal amenity and outlook.</i>	<p>The proposed continuous built form is a suitable typology for a more intensified urban context than the low-density suburban context of Bellevue Hill. It disrupts and disconnects the flow of landscaping between buildings by introducing a more intense type of development facing the road.</p> <p>The proposed bulk and scale extends beyond the permissible developable area by encroaching into the rear setback area. This increases the site coverage and reduces the chance for adequate landscaping.</p> <p>The proposed central courtyard increases the overall bulk and scale of the proposal. It provides a communal open space with poor amenity and outlook. I recommend that the communal open space is relocated to the area outside of the proposed built form and better integrated with the rest of the landscape. This assists in reducing the overall bulk and scale.</p>	
Principle 3: Density	<p><i>Good design achieves a <u>high level of amenity</u> for residents and each apartment, resulting in a density appropriate to the site and its <u>context</u>.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population.</i></p> <p><i>Appropriate densities can be sustained by existing or proposed infrastructure, <u>public transport</u>,</i></p>	The overall dwelling density responds to the desired future character of the area. However, the appropriateness of the overall density is dependent on the proposed bulk and scale.	YES

	<i>access to jobs, community facilities and the environment.</i>		
Principle 4: Sustainability	<i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of <u>natural cross ventilation and sunlight</u> for the amenity and liveability of residents and passive thermal design for <u>ventilation</u>, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and <u>deep soil zones</u> for groundwater recharge and vegetation.</i>	The proposal meets the required principles for solar access and cross ventilation.	YES
Principle 5: Landscape	<i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments <u>with good amenity</u>. A <u>positive image and contextual fit</u> of well-designed developments is achieved by contributing to the <u>landscape character of the streetscape and neighbourhood</u>.</i> <i>Good landscape design enhances the development's environmental performance by retaining positive natural features which <u>contribute to the local context</u>, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, <u>respect for neighbours' amenity</u>, provides for practical establishment and long term management.</i>	<p>It appears to be inconsistencies between the proposed landscape plan (which shows soft landscaping of the proposed private open spaces on the southern boundaries) and the 3D model which shows the private courtyard with hard pavement. It is encouraged to maximise deep soil landscape on side setback areas.</p> <p>Also the proposed pool area encroaches into the required setback on the northern boundary. For such a large scale development in a predominantly low-scale area, deep soil landscape buffers on boundaries are crucial to mitigate the perceived bulk and scale from neighbouring sites.</p>	Further clarification required
Principle	<i>Good design positively influences</i>	The proposed units on	No

6: Amenity	<p><i>internal and external <u>amenity</u> for <u>residents</u> and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>Good amenity combines appropriate room <u>dimensions</u> and <u>shapes</u>, access to <u>sunlight</u>, <u>natural ventilation</u>, <u>outlook</u>, <u>visual</u> and <u>acoustic</u> privacy, <u>storage</u>, indoor and outdoor space, efficient layouts and service areas, and ease of <u>access</u> for all age groups and degrees of mobility.</i></p>	<p>Level 2 facing Bellevue Road are sunken units approx. 3-4m below the street level. This compromises the amenity of the units and their outlook. It also results in privacy issues for the proposed habitable areas. The proposed communal open space in the central courtyard is highly enclosed with limited outlook and minimum passive surveillance. This is a poor outcome.</p>	
Principle 7: Safety	<p><i>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise <u>passive surveillance</u> of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and <u>visible areas</u> that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The proposal meets the required principles for safety.</p>	YES
Principle 8: Housing Diversity and Social Interaction	<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a <u>broad range of people</u>, providing</i></p>	<p>The proposal provides an appropriate response to this principle.</p>	YES

	<i>opportunities for social interaction amongst residents.</i>		
Principle 9: Aesthetics	<p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of <u>materials</u>, <u>colours</u> and <u>textures</u>.</i></p> <p><i>The <u>visual appearance</u> of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	The proposal provides an appropriate response to this principle.	YES

The apartment design guide (ADG)

Standard	Required	Proposed	Complie
Part 3: Siting the development			
3A - Site analysis	<i>Responsive to opportunities and constraints of site conditions and streetscape</i>	The proposal exceeds the maximum volume of excavation. It results in sunken units facing the street. It does not follow the existing rhythm of the built form and landscape along Bellevue Hill Road.	NO
3C – Public domain	<i>Transition between private and public domain is achieved without compromising safety and security Amenity of the public domain is retained and enhanced Length of solid walls should be limited along street frontages Terraces, balconies and courtyard apartments should have direct street entry, where appropriate</i>	Please refer to my comments in Principle 2.	NO
3D - Communal and public open space	<i>Minimum communal space area 25% of site area Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)</i>	The proposed central courtyard as a communal open space is a poor outcome due to its high level of enclosure, minimum outlook and passive surveillance.	NO

19 159718 Referral Response - Urban Design - DA2019 344 1 - 142 Bellevue Road BELLEVUE HILL(2)

	<i>Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions</i>	<p>The proposed deep soil area at the rear setback includes a blank wall of approx. 3.4m. The relationship between the parking/pool and the rear landscaping requires further design solutions to mitigate the proposed impacts of the blank wall. Terrace landscaping is recommended.</p> <p>The proposed pool and communal open spaces appear to be accessed only from the eastern boundary. I recommend that they are accessed internally from the main lobby and on-site circulation areas.</p> <p>The pool and communal open spaces should also be connected and easily accessible by residents.</p>	
<u>Configuration</u>			
4L – Ground floor apartments	<p><i>Street frontage activity is maximised where ground floor apartments are located</i></p> <p><i>Apartments deliver amenity and safety for residents</i></p> <p><i>Direct street access should be provided to ground floor apartments</i></p>	<p>The proposed units on the ground level are located approx. 3m below the natural street level and have no direct street access.</p>	No

Urban Design Review and Recommendations

The proposed continuous built form does not contribute to the existing built form and landscape pattern of its immediate surrounding context along Bellevue Hill Road. The proposed style is more appropriate for a denser urban context rather than the leafy character of Bellevue Hill Road. The proposed bulk and scale facing the street requires breaks to allocate more landscaping between buildings. This helps to soften the perceived bulk and scale and provide a more appropriate response to the streetscape.

The proposed building extends into the rear setback area and the proposed built form configuration including the central courtyard increases the perceived bulk and scale and (consequently) exacerbates the potential overshadowing impacts on the southern neighbours. It also reduces the chance for adequate landscaping along the boundaries which is considered crucial to buffer the proposed large bulk and scale from the smaller surrounding developments.

The proposed sunken units compromise the internal amenity and outlook as well as the streetscape activation.

The proposed pool and communal open space areas don't appear to be directly connected to each other. Also the main access to these facilities appears to be provided from an external entrance. It is recommended to connect them internally and provide access to these areas from the main building lobby/circulation corridor which enhances the resident's safety and comfort.

The proposed development requires further amendments to address the above comments, respond to the SEPP 65 Principles and the ADG requirements, and provide a better urban design outcome.

Completion Date: 20/07/2020

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 344/2019/1
ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023
PROPOSAL: Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool
FROM: Mehrnaz Jamali - Development Engineer
TO: Mr B McIntyre

1. ISSUES

- Unsatisfactory. Refer to Recommendations for issues.

Council's Development Planning to Note:

- The 3 properties No. 142, 142A and 142B Bellevue Road shall be consolidated to avoid the requirements of any drainage easements.
- Council's Traffic Engineer to provide comments in regards to the location of the waiting bays obstructing traffic movement and car manoeuvrability within the car parking area.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 0240/19, prepared by Planning Ingenuity, dated 16 September 2019.
- Architectural Plans, Project No. 19025, prepared by Big Property Group, dated 28/05/2020.
- Survey, referenced 72301, Rev F, prepared by Rygate & Company, dated 05/06/2019.
- Stormwater Management Plan, referenced PCB190001DA.dwg, Revision E, prepared by Barker Ryan Stewart, dated 15/06/2020.
- Stormwater Management Report, referenced PCB190001, Revision 1, prepared by Barker Ryan Stewart, dated 9 September 2019.
- Flood Impact Report, Project No. PCB190001, Revision 1, prepared by Barker Ryan Stewart, 16 September 2019.
- Geotechnical Investigation Report, referenced P1444_03, prepared by Morrow, dated 19 September 2018.
- Traffic & Parking Impact Assessment, unreferenced, prepared by Hemanote Consultants, dated September 2019.
- TS Drainage referral response, dated 16/07/2020.
- TS Traffic referral response, dated 8 July 2020.

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

Contrary to the statement provided within the Stormwater Management Report, referenced PCB190001, Revision 1, prepared by Barker Ryan Stewart, dated 9 September 2019, the Stormwater Management Plan, referenced PCB190001DA.dwg, Revision E, prepared by Barker Ryan Stewart, dated 15/06/2020 is unsatisfactory as it has not been prepared in accordance with Council requirements nor the information requested in Council's STC Letter dated 18 September 2019. As such the following shall be addressed:

- Whilst the easement refusal letter for No. 12 Carlotta Road from Marcello Pisto (Strata Management), dated 19 December 2019 is considered satisfactory, evidence of the acquisition of a drainage easement over No. 14 Carlotta Road has not been submitted. Please Note that formal approaches to all possible downstream properties shall be submitted.*
- Stormwater treatment systems shall be provided for the proposed development with Water Quality Targets using MUSIC Model. A copy of which shall be attached. The specifications shall be in accordance with Council's water quality targets detailed in Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Water Quality Targets. The copy provided shall be a PDF document. Location and section details of the treatment systems shall be provided within the Stormwater Management Plan. The design within the MUSIC Model and the Stormwater Management Plan shall coincide.*
- The proposed Rain Garden shall be removed. Unless the site can drain under gravity via an inter-allotment drainage easement, rain gardens cannot be utilised for low-level properties.*
- Where the acquisition of a drainage easement cannot be obtained, the design shall include a rainwater tank with the minimum acceptable tank size of 60m³ per 1000m² of the total site area in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Low level properties and easement alternatives. A 20% extra storage volume shall be provided with utilising a pump-out system.*
- An absorption system and pump-out system cannot be utilised together. Where the site is suitable for an absorption system, the entire site shall drain to the absorption system only. Reasonable attempt shall be made to provide an absorption system for the above development first where the provision of a Geotechnical Report is required. The report shall be prepared in accordance with Chapter E2 "Stormwater and Flood Risk Management" DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties.*

Where an absorption system is utilised, the system shall be designed in accordance with Council requirements and for a 20 year ARI storm and the rainwater tank is to be assumed to be full. This shall be demonstrated on plans.

- *Pump-out systems can only be utilised where the provision of an absorption system is not feasible with documentary evidence.
Provision of any pump-out system shall connect to Council's underground drainage system. Where this does not front the property, the underground drainage system shall be extended as part of the development. Alternatively demonstration such as notations shall be provided that all basement structures are tanked with zero ground seepage pumped out to Council's kerb and gutter and the rate of discharge to Council's kerb and gutter is less than 20l/s.
Should the applicant proposes to limit the permissible site discharge to 20 l/s, the additional site storage required volume must be determined by using a computer modelling such as DRAINS. In this regard, an electronic copy together with a hard copy of the Drains model with the revised stormwater plans shall be submitted to Council for further assessment.
A 20% extra storage volume shall be provided with utilising a pump-out system.*
- *Unless connecting to an absorption system or Council's underground drainage system, subsoil drainage shall not drain to Council's kerb and gutter.*
- *Section details of all stormwater systems utilised within the site shall be provided with all levels and dimensions. All required volumes shall be calculated to the Top or Water Level only.*
- *The Stormwater Management Plans shall also incorporate the following conditions imposed by Council's Drainage Engineer as per the Flooding & Overland Flow comments. Section details of the flood barriers shall also be provided.*
 - *The driveway entry is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 32.97m AHD.*
 - *Pedestrian entry 1 is to be protected by a physical threshold set at the flood planning level of 36.74 m AHD*
 - *Pedestrian entry 2 is to be protected by a physical threshold set at the flood planning level of 35.92 m AHD*
 - *Accessible Pedestrian entry 3 is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 33.16m AHD.*

b. Flooding & Overland Flow comments

Council's Drainage Engineer has provided the following 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. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b. A permanent flood risk management plans shall be installed in an areas frequented by the residents such as the laundries.
- c. The development is to be protected by a waterproof wall designed to protect the development to the flood planning level.
- d. All fences and walls are to be designed to be structurally stable during all flood events up to the probable maximum flood (PMF)
- e. The driveway entry is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 32.97m AHD.
- f. Permanent brass plaques are to be mounted adjacent to all mechanical flood barriers explaining their purpose and operation
- g. 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.
- h. Pedestrian entry 1 is to be protected by a physical threshold set at the flood planning level of 36.74 m AHD
- i. Pedestrian entry 2 is to be protected by a physical threshold set at the flood planning level of 35.92 m AHD
- j. Accessible Pedestrian entry 3 is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 33.16m AHD.
- k. Flood compatible materials shall be used for all flood exposed construction
- l. All flood exposed electrical wiring and equipment is to be waterproofed.
- m. All flood protection measures are to 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

- *Vehicular crossing shall be 5m at property boundary and perpendicular to the road carriageway. Note: the crossing may be widened to 5.5m upon receipt of additional information and further assessment.*
- *A clearance of minimum 1m shall be provided between the vehicular crossing and Telstra Pits and electric poles. As such approval from Telstra for the relocation of the Telstra pits over the proposed vehicular crossing shall be provided prior to DA approval.*
- *The boundary wall of all 3 properties (No. 142, 142A and 142B Bellevue Road), predominantly No. 142B Bellevue Road, encroaching onto Council’s road reserve, shall be completely removed and relocated to be inside property boundary*

d. Traffic comments

Council's Traffic Engineer has provided the following comments:

“Should this development be approved, it is recommended that the following engineering conditions be included as part of the DA consent:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
Unreferenced	Traffic and Parking Impact Assessment, Final Report	Hemanote Consultants	11 September 2019

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

C.45 Car and Commercial Parking Details

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.

The plans must satisfy the following requirement(s):

- The installed traffic light system give traffic entering basement level priority to minimise the disruption to vehicle and pedestrian flow along the frontage road. This arrangement shall be clearly depicted on the architectural plans;
- Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1-2004;
- Other conditions imposed by Development Engineer.

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)

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

D.9 Construction Management Plan

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

E. Conditions which must be satisfied during any development work

E.3 Compliance with Construction Management Plan

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

I.21 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:1993 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004 : Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car Parking (Resident)	29
Car Parking (Visitor)	4
Bicycle Parking (Resident)	17
Bicycle Parking (Visitor)	2
Motorcycle Parking	4

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.”

e. Vehicle Access & Accommodation comments

- *The proposed development does not fall within the ‘domestic driveway’ profile. The ramp grades are shown to be 25% and shall be amended to be 20% maximum for ramps up to 20m long in accordance with Clause 2.5.3 of AS2890.1-2004. Note: the changes of grades requirements shall also be complied with when addressing the above.*

f. Geotechnical, Hydrogeological and/or Structural comments

The Geotechnical Investigation Report, referenced P1444_03, prepared by Morrow, dated 19 September 2018 is unsatisfactory for the following reasons;

- *The above report has been prepared in 2018 for No. 142 and 142A Bellevue Road prior to the proposed development. As such the report shall be revised to relate directly to the proposed development and for all three properties being No. 142, 142A and 142B Bellevue Road.*
- *The Geotechnical and Hydrogeological Report shall be prepared in accordance with all aspects of Council’s DCP requirements, Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.*

- *The Geotechnical Report shall provide specific comments in regards to the provision of an absorption system. The report shall be prepared in accordance with Chapter E2 “Stormwater and Flood Risk Management” DCP – Absorption Systems; the report shall nominate the absorption rate in l/m²/s, the depth of the water table and the impact of increased subsoil flow on properties downstream of the absorption trench. Approval will not be granted where the nominal absorption rate is less than 0.1l/m²/s, where the water table is lower 2m from the base of the pit, where the minimum soil depth to rock is less than 1.5m or where the system has an adverse impact on the downstream properties.*

g. Other matters

- *Due to the likelihood of additional power usage as a result of the new development, Energy Australia has requested that the applicant contact them with regards to the possible provision of a new Electricity Substation on site.*
- *All 3 lots shall be consolidated.*

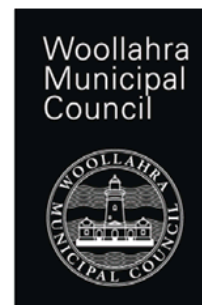
4. RECOMMENDATION

Council’s Development Engineer has determined that the proposal is unsatisfactory for the following reasons:

- Provision of additional information and an amended Stormwater Management Plan as detailed in Section a.
- Addressing all issues impacting Council’s road reserve detailed in Section c.
- Addressing vehicular access and accommodation matters detailed in Section e.
- Provision of a new Geotechnical Report as detailed in Section f.
- All other issues raised in Section g.
- Council’s Traffic Engineer to provide comments in regards to the location of the waiting bays obstructing traffic movement and car manoeuvrability within the car parking area.

Memorandum – Traffic

Date 8 July, 2020
File No. Development Applications: 344/2019/1
To Mr B McIntyre
CC Ms M Jamali
From Ms E Fang
Address **142 BELLEVUE ROAD BELLEVUE HILL 2023**



ABN 32 218 483 245

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Double Bay NSW 2028

Correspondence to
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Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 23 June 2020 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects, referenced M190240, prepared by Planning Ingenuity, dated 16 September 2019;
2. Assessment of Traffic and Parking Impacts, Final report, unreferenced, prepared by Hemanote Consultants, dated 11 September 2019;
3. Traffic Certification of Amendments, unreferenced, TRIM #20/107136, prepared by Hemanote Consultants, dated 23 April 2020;
4. Revised Architectural Plans, Rev D, referenced 19025, prepared by Aleksandar Projects, dated 20 April 2020, including:

■ DRAWING LIST

NO.	ISSUE	ISSUE DATE	SCALE @ A2	CONTENT
DA 000 D		24/5/20	1:1000	COVER PAGE + DRAWING LIST + LOCATION PLAN + BASIX COMMITMENTS
DA 001 A		6/9/19	1:500	SITE ANALYSIS
DA 100 D		28/5/20	1:200	SITE + ROOF PLAN + DEMOLITION PLAN
DA 101 C		28/5/20	1:200	BASEMENT PLAN
DA 102 C		28/5/20	1:200	GROUND FLOOR PLAN
DA 103 C		28/5/20	1:200	L01 FLOOR PLAN
DA 104 C		28/5/20	1:200	L02 FLOOR PLAN
DA 105 C		17/4/20	1:200	L03 FLOOR PLAN
DA 106 C		17/4/20	1:200	L04 FLOOR PLAN
DA 200 D		28/5/20	1:200	SECTION AA + BB
DA 201 C		28/5/20	1:200	RAMP 01 SECTION & INTERNAL ELEVATIONS
DA 202 D		28/5/20	1:200	NORTH + SOUTH ELEVATION
DA 203 D		28/5/20	1:200	EAST + WEST ELEVATION
DA 204 A		17/4/20	1:20	RAMP 01 DETAIL 01+02 - INSIDE EDGE
DA 205 A		17/4/20	1:20	RAMP 01 DETAIL 03 - INSIDE EDGE
DA 206 B		28/5/20	1:20	RAMP 01 DETAIL 04+05 - OUTSIDE EDGE
DA 207 B		28/5/20	1:20	RAMP 01 DETAIL 06 - OUTSIDE EDGE
DA 208 B		28/5/20	1:20	RAMP 01 DETAIL 07 - OUTSIDE EDGE
DA 300 A		6/9/19	1:250	9AM WINTER SOLSTICE SHADOWS
DA 301 A		6/9/19	1:250	12PM WINTER SOLSTICE SHADOWS
DA 302 A		6/9/19	1:250	3PM WINTER SOLSTICE SHADOWS
DA 303 B		17/4/20	NTS	VIEW FROM THE SUN 9AM - 12PM
DA 304 B		17/4/20	NTS	VIEW FROM THE SUN 1PM - 3PM
DA 305 A		6/9/19	NTS	SHADOW IMPACT TO NEIGHBOUR

20 118963 Referral Response - TS Traffic - DA2019 344 1 - 142 Bellevue Road BELLEVUE HILL(2)

Proposal

Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool

COMMENTS

Parking Provision & Traffic Generation

On-site parking provision and traffic generation have been previously assessed and were deemed satisfactory, refer to TRIM #19/198062.

Access Driveway

The proposed access driveway adopts a maximum gradient of 1 in 20 for the first 6m into the car park, which complies with Clause 3.3 of AS/NZS 2890.1:2004, and is deemed satisfactory.

Sight Splays

It is understood that a 2m x 2.5m driveway sightline splay is provided along both sides of the driveway, which complies with Clause 3.2.4 and Figure 3.3 of AS/NZS 2890.1:2004, and is therefore deemed satisfactory.

Traffic Signal

It is understood that the proposal includes a traffic signal management system at both ends of the ramps. Should the development be approved, the installed traffic light system should give traffic entering basement level priority to minimise the disruption to vehicle and pedestrian flow along the frontage road. This arrangement shall be clearly depicted on the architectural plans.

RECOMMENDATION

Should this development be approved, it is recommended that the following engineering conditions be included as part of the DA consent:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
Unreferenced	Traffic and Parking Impact Assessment, Final Report	Hemanote Consultants	11 September 2019

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

20 118963 Referral Response - TS Traffic - DA2019 344 1 - 142 Bellevue Road BELLEVUE HILL(2)

C.45 Car and Commercial Parking Details

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.

The plans must satisfy the following requirement(s):

- a) The installed traffic light system give traffic entering basement level priority to minimise the disruption to vehicle and pedestrian flow along the frontage road. This arrangement shall be clearly depicted on the architectural plans;
- b) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1-2004;
- c) Other conditions imposed by Development Engineer.

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)

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

D.9 Construction Management Plan

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

E. Conditions which must be satisfied during any development work

E.3 Compliance with Construction Management Plan

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

I.21 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, and AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking*, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car Parking (Resident)	29
Car Parking (Visitor)	4
Bicycle Parking (Resident)	17
Bicycle Parking (Visitor)	2
Motorcycle Parking	4

This condition has been imposed to ensure adequate on-site parking is maintained.
Standard Condition: I21

I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

Memorandum - Drainage



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Date 22/07/2020
File No. Development Applications: DA2019/344/1
To Mehrnaz Jamali
CC
From Michael Casteleyn
Address 142A & 142B Bellevue Road BELLEVUE HILL

I refer to the following documents received for this report:

20/40786 Document - Additional Information - Flood Impact Report - DA2019/344/1 - 142, 142A & 142B Bellevue Road BELLEVUE HILL

RECOMMENDATION

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. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.

- b. A permanent flood risk management plans shall be installed in an areas frequented by the residents such as the laundries.
- c. The development is to be protected by a waterproof wall designed to protect the development to the flood planning level.
- d. All fences and walls are to be designed to be structurally stable during all flood events up to the probable maximum flood (PMF)
- e. The driveway entry is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 32.97m AHD.
- f. Permanent brass plaques are to be mounted adjacent to all mechanical flood barriers explaining their purpose and operation
- g. 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.
- h. Pedestrian entry 1 is to be protected by a physical threshold set at the flood planning level of 36.74 m AHD
- i. Pedestrian entry 2 is to be protected by a physical threshold set at the flood planning level of 35.92 m AHD
- j. Accessible Pedestrian entry 3 is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 33.16m AHD.
- k. Flood compatible materials shall be used for all flood exposed construction
- l. All flood exposed electrical wiring and equipment is to be waterproofed.
- m. All flood protection measures are to be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.

16 July 2020

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 344/2019/1

ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023

PROPOSAL: Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool

FROM: Nick Williams- Tree & Landscape Officer

TO: Mr B McIntyre

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Planning Ingenuity, dated 16th of September 2019.
- Survey Plan No. 72301 (Revision F), drafted by Rygate Surveyors, dated 5/6/2019.
- Architectural Drawing No's DA100-DA106, DA200- DA203, drawn by Alaksandar Projects, dated 28/5/2020 & 17/4/2020.
- Stormwater Drainage Plan, drawn by Barker Ryan Stewart, dated 15/6/2020.
- Arboricultural Assessment Report, written by Treehaven Envirosapes, dated 13/9/2019.
- Amended Landscape Plan No. LS01-DA, designed by Melissa Wilson, dated 4/6/2020.

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

ISSUES

1. The proposed removal of all existing trees within the property is not consistent with the desired future character objectives O7 & O8 for the Bellevue Hill North precinct outlined within Council's DCP;
2. Plans illustrate incursions within the TPZ area of neighbouring trees referenced T20, T21, T22 & T23 and Council Street tree T1. There is an insufficient level of information regarding the proposed level (or percentage) and type of development incursion within these areas. Therefore, development works within the TPZ areas of these trees cannot be supported.
3. It is not known if there is sufficient available soil volume and space to support the proposed planting of larger replacement trees.

COMMENTS

Issue 1

The proposal does not retain any of the site's existing trees, including those that are considered suitable for retention, and is therefore not considered consistent with the desired future character objectives O7 & O8 for the Bellevue Hill North precinct outlined within Council's DCP. Those being:

O7 To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.

O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.

Of note are several trees located towards the rear Western boundary referenced T25, T26, T27 T28, T29. These trees range in height from between 8 metres and 16 metres and are likely to be providing screening amenity between properties. The arborist report also notes that all of these trees were "*in good health and condition at the time of the site inspection*". The location of these trees closer to the boundary and away from the centre of the site should naturally render them easier to retain in a development context.

Other large trees proposed to be removed that are noted to be in good condition include T14 T15, T17, T19 and T40. While retaining trees 14, 15 & 17 may present challenges due to their central location and position of the basement car parking, T19 and T40 are located closer to boundaries and should be easier to retain with the implementation of modified setbacks and building design.

Issue 2

The submitted arborist report does not provide a sufficiently detailed assessment of development impacts to trees located on the neighbouring property, at 140 Bellevue Road. For example, there is no information on the percentage of development incursion into the TPZ areas of neighbouring trees T20, T21, T22 & T23. Plans depict that incursions are proposed and may exceed what is considered acceptable under AS 4970-2009, potentially damaging these trees.

Similarly, the submitted arborist report provides insufficient information on the percentage of development incursion into the root zones of Council street tree referenced T1. Plans however

depict that incursions are proposed within the TPZ area of this tree, and may also exceed what is considered acceptable under AS 4970.

Issue 3.

It is not known if the area designated for the proposed planting of 2 x *Glochidion fernandii* trees and other large trees on the submitted landscape plan is large enough to support the trees in the long term. Larger trees require a greater soil depth and volume to sustain future growth and to ensure their stability as they grow larger.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form. The following information is required before further assessment of the application can be undertaken:

1. Arboricultural Impact Assessment & Tree Protection Plan

This document shall be prepared in accordance with Attachment 4 of Council's DA Guide.

In assessing the impact to trees on site the arborist shall use the Australian Standard for the Protection of Trees on Development sites (AS 4970-2009) to calculate the percentage of encroachment into the TPZ areas of all trees identified suitable for retention (as per Section 3.3 of the Standard), including Trees 19 & 40. A description of the type of incursion shall also be included.

Where major encroachments are calculated, that is greater than 10% of the TPZ area, then exploratory root investigation shall be undertaken to demonstrate the acceptability of the incursion.

Where major encroachments into a TPZ area are proposed but not supported through exploratory root excavation then the proposal shall be modified so that a greater setback is achieved.

2. Modified Plans

Trees referenced T19, T25, T26, T27, T28, T29 shall be incorporated into the proposal and retained.

Plans shall be modified accordingly so that where currently major encroachments (such as raingardens and basement car parking) in the TPZ areas of these trees are identified these are relocated or amended so that the viable retention of these trees is ensured.

3. Sufficient information regarding deep soil areas where trees are proposed to be planted.

An amended Landscape Plan which clearly illustrates garden beds and areas with adequate soil volume, size and depth to support the below ground elements of all trees proposed to be planted within the property. Consideration shall be given to the size of species at maturity with larger soil areas being designated for larger tree species such as the proposed *Glochidion fernandii*. In summary, it should be demonstrated that soil areas are suitably large enough to sustain the future growth of these trees.

8 October 2019

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 344/2019/1

ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023

PROPOSAL: Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool

FROM: Shona Lindsay - Heritage Officer

TO: Mr B McIntyre

ISSUES

- *There are no heritage concerns.*
-

DOCUMENTATION

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

- Drawing set by Aleksandar Projects, dated 5 September 2019, and numbered DA 000-403
- Demolition report by Zoltan Kovacs Architect, dated May 2019
- Statement of Environmental Effects by Planning Ingenuity, dated 16 September 2019
- Survey plan by Rygate Surveyors, ref 72301-Ref-F, dated 11 October 2006

RESEARCH

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

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.
- Previous referral responses. (DA 2018/412/1)
- 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:

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

HERITAGE FRAMEWORK

- The subject building is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP'.
- The subject building is not listed on the State Heritage Register.

19 162107 Referral Response - Heritage - DA2019 344 1 - 142 Bellevue Road BELLEVUE HILL

- The subject building is not in a heritage conservation area.
- The subject building is within the Bellevue Hill North precinct.

SIGNIFICANCE OF SUBJECT PROPERTY

No 142A and 142B were constructed during the early 1960s following the subdivision of the property known as “Tiare”, which was owned and constructed by Edward Knox Harkness c.1914 (since demolished). The Tiare estate was subdivided over time, with the final stage of subdivision occurring in 1960 which resulted in the creation of Nos. 142A, 142B and 142C Bellevue Road, Bellevue Hill.

No. 142

This house has been recently demolished via a Complying Development Certificate (55/2018) and only historic photographs of this property remain today.



Figure 4: 142 Bellevue Hill, formerly known as Tiare
Daily Telegraph 25 October 2016



Source: Photo by Weir Phillips Heritage Demolition Report for 142C Bellevue Road and real estate photograph of the house prior to its demolition available at

<https://www.realestate.com.au/sold/property-house-nsw-bellevue+hill-123777534>

No. 142A

The subject house at 142A Bellevue Road is occupied by a house developed in 1964 following a battle-axe subdivision from 142 Bellevue Road. It has a rather Modernist style, with flat roof and was extensively altered in 1984. No relevant entries for owners and occupants of the property have been found in the research undertaken by Zoltan Kovacs Demolition Report. It may have been designed by Cole & Rosier Architects, however it does not represent outstanding creative achievement and it is considered a modest example of Modernist architecture. It does not meet the Historical, Associative, Aesthetic, Social, Research potential, Rarity and Representative Criteria of the NSW Heritage Division.

No. 142B

The subject site at 142B Bellevue Road was developed in 1965. The original architect is unknown, although it does not show signs of outstanding creative achievement. A demolition/heritage significance report was submitted with the development application and included historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet any of the criteria for identification as a place of local significance. The findings of the report are considered to be accurate.

SIGNIFICANCE OF ITEMS IN THE VICINITY

There are no heritage items located within the vicinity of the site that would be affected by the proposal.

DESCRIPTION OF PROPOSAL

The following works are proposed:

- Demolition of existing dwellings
- Construction of new residential flat building at Nos 142, 142A and 142B

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

National Parks and Wildlife Act 1974

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites within 200m of the subject site.

Woollahra LEP 2014 Part 5.10 Clauses 1(a), 4

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 4 This referral constitutes an assessment under this clause.

Woollahra DCP 2015

Consideration

No. 142

This house has been recently demolished via a Complying Development Certificate (55/2018) and only historic photographs of this property remain today.

No. 142A and 142B

The dwellings have no heritage significance and do not make any contribution to the heritage significance of Bellevue Hill. The properties are not heritage listed and are not located within a heritage conservation area.

A demolition/heritage significance report has been submitted with the development application and includes historical research on the development of the properties over time. The construction of the dwellings is not associated with any known prominent architect and they have no distinctive landmark qualities or other features that would make them potentially significant or rare. The report has assessed the potential heritage significance of the existing dwellings and has concluded that they do not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the properties are not of heritage value and therefore no objection is raised to the proposed demolition of the existing buildings.

As the property is not listed as a heritage item and is not located within a heritage conservation area, the design of the proposed new development will not result in any adverse impacts on heritage items/areas of value. There are no heritage items located within the vicinity of the site that will be adversely impacted and the proposal will not affect any significant views. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

Given that the buildings that are proposed for demolition are not significant it is not considered that they should be archivally recorded.

The AHIMS basic search revealed 0 recorded Aboriginal sites within 200m of the subject site. As the site has been previously disturbed when the existing structures and landscaping were constructed, it is unlikely that any archaeological evidence will remain, therefore no further actions under the Due Diligence Code of Practice were required.

Although, it is noted that the geotechnical report specifies that the site is underlain with natural

sands. Therefore, the construction/demolition team are to be made aware of potential unexpected archaeological finds on the site during excavation works and the appropriate procedures for dealing with unexpected archaeological finds.

RECOMMENDATION

The application is acceptable on heritage grounds as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to the following condition being placed on the consent if approved:

1. Unexpected archaeological finds

If unexpected archaeological deposits or Aboriginal objects are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & 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.

Shona Lindsay - Heritage Officer

Completion Date: 24TH September 2019

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications/ 344/2019/1
ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023
PROPOSAL: Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement car parking and swimming pool
FROM: Graeme Reilly Environmental Health Officer
TO: Mr B McIntyre

1. ISSUES

- NIL

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 0240/19, prepared by Planning Ingenuity, dated 16th September 2019.
- Architectural Plans, referenced Project No 19025, prepared by Aleksandar Projects.
- Acoustic Report, referenced 19043, prepared by White Noise Acoustics, dated 06/09/2019.

3. RESEARCH

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

- A site inspection was carried out on the following date: 23rd September 2019

4. SUMMARY OF PROPOSAL

Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement car parking and swimming pool

3.1 THE PROPOSED DEVELOPMENT

The proposed development involves the demolition of the existing dwellings at Nos. 142A and 142B Bellevue Road and the construction of a new part three, part four storey residential flat building comprising of 17 apartments with basement level parking linking the three building modules. The proposal will provide a total of 2 x 1 bedroom apartments, 7 x 2 bedroom apartments and 8 x 3 bedroom apartments. The proposal is depicted in the architectural plans prepared by *Aleksandar Projects* and submitted with development application.

The development is described in further detail as follows:

Lower Ground Floor:

- Car parking for 18 vehicles (including 1 accessible space) and 10 bicycle spaces;
- Individual storage for units;
- Vehicle access ramp;
- Three (3) lift cores with stair access (2);
- Services and Plant room; and
- Pool equipment room.

Ground Floor:

- 1 x 3 bedroom apartment within Core C at ground level;
- Communal open space area with swimming pool;
- Three lift cores with stair access (2);
- Car parking for 11 vehicles (including 1 accessible space) and 10 bicycle spaces;
- Individual storage for units;
- Services room; and
- Vehicle access ramp.

Level One:

- 1 x 3 bedroom apartment and 1 x 2 bedroom apartment within Core C;
- Three lift cores with stair access (2);
- Car parking for 4 visitor vehicles (including 1 accessible space) and 4 motorcycle spaces;
- Vehicle access ramps;
- Hot water room; and
- Waste room, bulky waste and storage room.

Level Two:

- Pedestrian access (to Core A) and vehicular access from Bellevue Road;
- 1 x 2 bedroom apartment within Core A;
- 1 x 1 bedroom apartment and 2 x 2 bedroom apartment within Core B;
- 1 x 2 bedroom apartment and 1 x 3 bedroom apartment within Core C;



Planning Ingenuity Pty Ltd

Statement of environmental effects
REF: 0111/18 12



- Atrium communal open space with connecting bridges; and
- Three lift cores with stair access (3).

Level Three:

- Pedestrian access from Bellevue Road to Core B and C;
- 2 x 3 bedroom apartment within Core A;
- 1 x 1 bedroom apartment and 2 x 2 bedroom apartment within Core B;
- 1 x 3 bedroom apartment within Core C;
- Connecting bridges; and
- Three lift cores with stair access (3).

Level Four:

- 2 x 3 bedroom apartment within Core B;
- Singular lift and stair access to Core B; and
- Roof top terraces for Units 3.1 and 3.2 within Core A.

5. ASSESSMENT

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

a) Acoustics

1 Introduction

White Noise Acoustics has been engaged to undertake the Noise Impact Assessment of the proposed residential development located at 142 Bellevue Hill Road, Bellevue Hill.

The proposed project includes the following:

1. One level of in ground basement carparking.
2. A 4 story residential development including carparking on the lower ground floor, ground floor and 1st floor.

This assessment includes the acoustic investigation into the potential for noise impacts from the operation of the completed project as well as potential noise impacts from existing noise sources within the vicinity of the site which predominantly includes traffic noise from Bellevue Hill Road located to the east of the site.

1.1 Development Description

The 142 Bellevue Hill Road site is located on the western side of Bellevue Hill Road. The surrounding receivers to the site include residential receivers.

The site location is detailed in Figure 1 below.



Figure 1 – 142 Bellevue Hill Road Site Location

2 Proposed Development

The proposed project is located at 142 Bellevue Hill Road, Bellevue Hill and encompasses the 142, 142A and 142B properties. The site is located within the Woollahra Municipal Council areas.

The proposed development will include the following:

1. A 4 story residential development.
2. Carparking on 3 levels including a total of 42 car spaces.

The proposed development is detailed in Aleksandra Projects architectural drawings, which include the typical floor plan for level 2 which is included below.

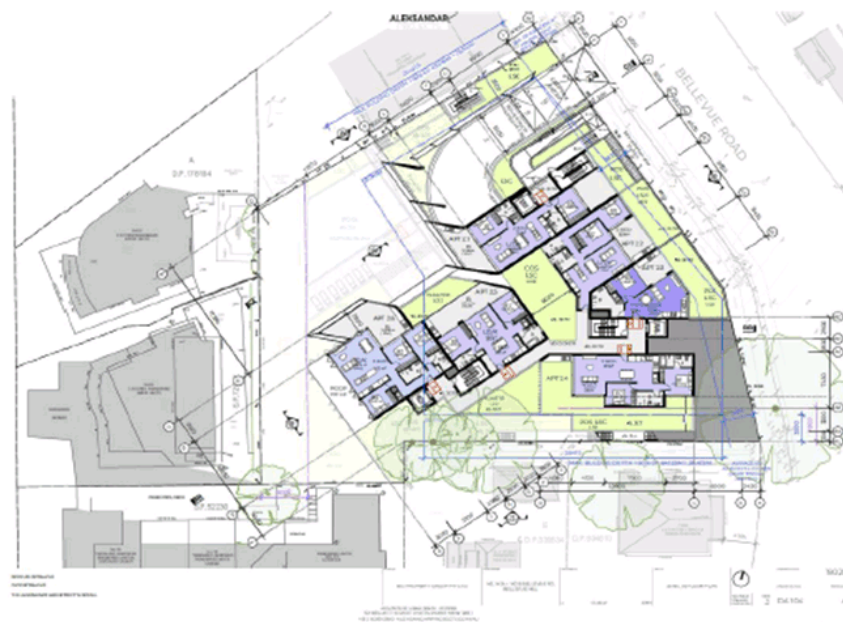


Figure 2 – Level 2 Floor layout

3.1 Noise Survey Results

The attended noise survey of the site was undertaken to characterise the acoustic environment within the vicinity of the site.

As part of this assessment an acoustic survey of the existing acoustic environment at the site was undertaken. The survey included attended noise level measurements at the site, during various times of the day on the 7th August, 2019 as well as long term unattended noise logging which was undertaken between the 7th and 16th of August, 2019.

Noise logging was undertaken using a ARL EL-215 type noise monitor with serial number 194662 and calibration with calibration number C18575. The noise logger was located to the front of the site as detailed in Figure 1 above. The logger was positioned such that it was in a free field location and façade corrects were not required to be applied.

Attended noise testing was conducted using a Bruel and Kjaer 2236C type meter. The meter was calibrated before and after testing and no significant drift was recorded.

The attended and unattended noise locations were selected to obtain suitable noise levels for the assessment of background noise levels ($L_{90(t)}$) as well as the impact from traffic movements ($Leq(t)$). The results of the acoustic survey are detailed in the tables below which have been used as the basis of this assessment.

Table 1 – Results of the Attended Noise Survey at the Site

Measurement Location	Time of Measurement	$L_{Aeq, 16min}$ dB(A)	$L_{A90, 16min}$ dB(A)	Comments
Attended noise measurement location, Bellevue Hill Road	3.30pm to 3.45pm	59	45	Noise level at the site dominated by vehicle movements on Bellevue Hill Road
Attended noise measurement location, Rear of the site	3.50pm to 4.05pm	52	43	

Table 2 – Results of the Noise Logging at the Site

Measurement Location	Time of Measurement	Maximum Repeatable $L_{Aeq, 16min}$ dB(A)	Representable Background noise Level (RBL) $L_{A90, 16min}$ dB(A)
Noise logger location, see figure 1 above	Day	67	50
	Evening	63	41
	Night	58	38

6.3 Noise Emissions Summary

Based on the requirements of the EPA and the Woollahra Municipal Council DCP the resulting noise emissions criteria from the operation of services on the site are detailed in the table below.

Table 5 – External Noise Level Criteria in Accordance with the NSW NPI

Location	Time of Day	Project Amenity Noise Level, LAeq, period ¹ (dBA)	Measured LA90, 15 min (RBL) ² (dBA)	Measured LAeq, period Noise Level (dBA)	Intrusive LAeq, 15 min Criterion for New Sources (dBA)	Woollahra Council DCP LAeq (16min)
Suburban residences	Day	53	50	67	55	50
	Evening	43	41	63	46	41
	Night ⁴	38	38	58	43	38
<p><i>Note 1: Project Amenity Noise Levels corresponding to "Sub Urban" areas, recommended noise levels.</i></p> <p><i>Note 2: LA90 Background Noise or Rating Background Level</i></p> <p><i>Note 3: Project Noise Trigger Levels are shown in bold</i></p> <p><i>Note 4: Noise from the operation of residential condensers are to be inaudible within a neighbouring residential premises</i></p>						

6.4 Noise Impact Assessment

An assessment of noise generated on the site has been undertaken on this section of the report. The assessment of noise levels generated on the site are summaries below:

1. Mechanical Services Equipment –Detailed selections of the proposed mechanical plant and equipment to be used on the site are not available at this time. All future plant and equipment are to be acoustically treated to ensure the noise levels at all surrounding receivers comply with noise emission criteria detailed within this report. Experience with similar projects indicated that it is both possible and practical to treat all mechanical equipment such that the relevant noise levels are achieved. Examples of the possible acoustic treatments to mechanical equipment includes the following:
 - a. Basement Supply and Exhaust Fans – location of fans within the building and treated using internally lined ductwork or acoustic silencers.
 - b. General supply and exhaust fans – general exhaust and supply fans such as toilet, kitchen, lobby and other small mechanical fans can be acoustically treated using acoustic flex ducting or internal lined ducting.

Details of the required mechanical services equipment and acoustic treatments to ensure the relevant noise level criteria is achieved will be provided as part of the CC submission of the project.

6. RECOMMENDATION

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

A. General Conditions

A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” 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)
	Acid Sulphate Soil Management Plan		
19043	Acoustic Report	White Noise Acoustics	06/09/2019
	Noise Management Plan		
	Plan of Management		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
	Contaminated Land - Remedial Action Plan (Stage 3)		

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 80A(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

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

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

C.1 Swimming and Spa Pools – Child Resistant Barriers

The *Construction Certificate* plans and specifications required by Clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act* 1992 and the Building Code of Australia.

Note: A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.

Standard Condition: C55

C.2 Swimming and Spa Pools – Backwash

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the Regulation must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.
Standard Condition: C56

C.3 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.4 Design sound levels for building interiors

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation*, must provide details showing how the recommendations of the Environmental Noise Impact Assessment, prepared by WHITE NOISE ACOUSTICS will be implemented.

Design sound levels for building interiors should not exceed those recommended maximum design sound levels, LAeq, dB(A) specified by AS 2107-2000, *Acoustics - Recommended design sound levels and reverberation times for building interiors*.

Note: The design sound levels given in AS 2107-2000 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107-2000 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the BCA is mandatory.
Standard Condition: C63

C.5 Noise Control - Swimming pool/spa pool pumps and associated equipment

The siting of the swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.

C.6 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The (*nominate enclosure*) 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 (*nominate enclosure*) 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 (*nominate enclosure*) and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the (*nominate enclosure*) shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.7 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 AS 1668 Parts 1 & 2.

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

E. Conditions which must be satisfied during any development work

E.1 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) Piering;
 - (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 separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side 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 2000.

Note: EPA Guidelines can be down loaded from

<http://www.epa.nsw.gov.au/noise/nglg.htm> .

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.2 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 down loaded free of charge from Council’s web site 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.workcover.nsw.gov.au and www.epa.nsw.gov.au . Other specific condition 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.3 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.

Standard Condition: E26

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 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act* 1992:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with Section 30B of the *Swimming Pools Act* 1992 on the NSW Government Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au.
- c) The *Principal Contractor* or *owner* must either obtain a 'Certificate of Compliance' issued pursuant to Section 22D of the *Swimming Pools Act* 1992 or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996:

- a) Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- b) Before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: F13

F.2 Swimming Pool Fencing

Swimming Pool Fencing is to be constructed in accordance with *AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools*.

Note: Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012

Standard Condition: F20 (Autotext FF20)

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))

Nil.

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

I.1 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- a) In compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs;
- b) In compliance with the NSW Health “*Public Swimming Pool and Spa Pool Guidelines*” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c) In compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d) With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - Before 8 am or after 8 pm on any Sunday or public holiday, or
 - Before 7 am or after 8 pm on any other day.

Note: Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: I30

I.2 Noise from mechanical plant and equipment

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

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For

assessment purposes the background noise level is the L_{A90}, 15 minute level measured by a sound level meter.

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

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government

(<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671 , dated December 2004.

Standard Condition: I59

I.3 Noise Control - Swimming pool/spa pool pumps and associated equipment

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2008 as follows:

- *Before 8am or after 8pm during Saturdays, Sundays and public holidays;*
- *Before 7am or after 8pm on any other day.*

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Graeme Reilly
Environmental Health Officer

Date: 24TH September 2019

Completion Date: 25 October 2019

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: DA 344/2019/1
ADDRESS: 142 Bellevue Road BELLEVUE HILL 2023
PROPOSAL: Demolition of the existing buildings and construction of a new residential flat building with 17 units, basement carparking and swimming pool
FROM: Richard Smith - Fire Safety Officer
TO: Mr B McIntyre

1. ISSUES

- *As the proposal is a new building it cannot be conditioned to a clause 94 upgrade and will comply with the BCA at Construction Certificate stage.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced demolitions of existing houses and the construction of an RFB with a rise in storeys of 6 with 2 levels of basement carparking prepared by PLANNING INGENUITY, dated 16 September 2019.
- Architectural Plans, referenced DA000 A, DA001, DA100A - DA106A, DA200A-DA203A, DA200-DA203A, DA300A-DA306A & DA400A-DA403A, prepared by ALEKSANDER PROJECTS, dated undated,
- Fire Safety Report, referenced BCA Assessment report, prepared by BCA Logic, dated 9 September 2019.

3. RESEARCH

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

- A site inspection was carried out on the following date: 25 October 2019

4. BUILDING DESCRIPTION

Type of Construction: A
Class: 2 & 7a
Number of Storeys: 8
Rise in Storeys: 6
Effective Height: 15.5 metres from BCA Logic report

5. ASSESSMENT

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

6. RECOMMENDATION

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

- A. General Conditions
- B. Conditions which must be satisfied prior to the demolition of any building or construction
- C. Conditions which must be satisfied prior to the issue of any construction certificate
- D. Conditions which must be satisfied prior to the commencement of any development work
- E. Conditions which must be satisfied during any development work
- 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 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
new building has the same meaning as it has in section 109H of the Act.
Standard Condition: F4

- G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**
- H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**
- I. Conditions which must be satisfied during the ongoing use of the development**
- I.1 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the Regulation.
Annual fire safety statement has the same meaning as in clause 175 of the Regulation.
Part 9 Division 5 of the Regulation applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety
www.woollahra.nsw.gov.au.
Standard Condition: I22

- J. Miscellaneous Conditions**
 - K. Advisings**
-

Richard Smith
Fire Safety Officer

Date: 25 October 2019

**LOCAL PLANNING PANEL
DEVELOPMENT APPLICATION ASSESSMENT REPORT**

ITEM No.	D5
FILE No.	DA133/2020/1
ADDRESS	10 Spring Street DOUBLE BAY
COUNCIL WARD	Double Bay
SITE AREA	500.6m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Construction of a new residential flat building with basement parking, swimming pool & strata subdivision
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,713,891.00
DATE LODGED	08/05/2020
APPLICANT	Mr R J Chapman
OWNER	Mr R J & A Chapman
AUTHOR	Mr S Kaposi
TEAM LEADER	Mr T Wong
SUBMISSIONS	30
RECOMMENDATION	Refusal

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 categories of:

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

AND

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

2. REASONS FOR RECOMMENDATION

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

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015

- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified
- The site is not suitable for the proposed development, in its current form
- The proposal is not in the public interest

Note: A Class 1 Appeal (No. 2020/193106) was filed on 30 June 2020 with the Land and Environment Court (LEC) on the grounds of deemed refusal.

3. LOCALITY PLAN



Note: One (1) objector is outside of the catchment of the above map. One (1) objector has no address provided - See Part 9.1 of this report for a list of all submissions received.



Aerial View of the subject site

4. PROPOSAL

The proposal involves the construction of a new four level residential flat building containing three units with basement parking, swimming pool and strata subdivision, as follows:

Basement level

- Two separate garages: one garage with two car spaces and one garage with four car spaces.
- An entry leading to a lobby with stairs and a lift.
- A separate storage area and plant room.

Ground floor

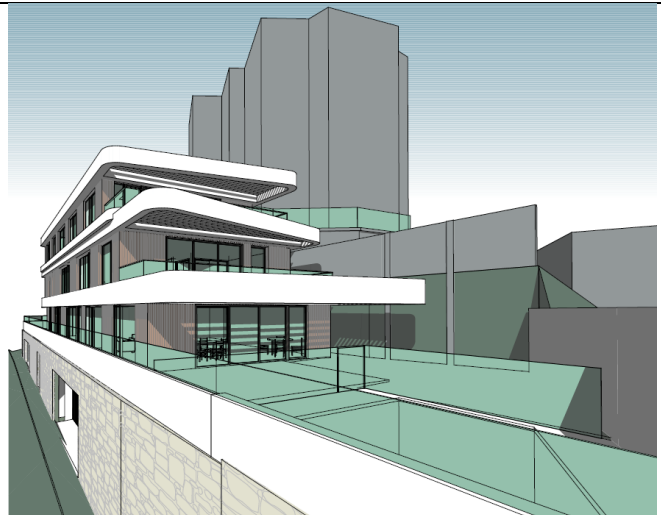
- One three bedroom unit
- Swimming pool, and landscaping

First and Second floors

- One three bedroom unit with balcony on each level



*Photomontage of the proposed development
(Source: Prescott Architects)*



*3D image of the proposed development (Source:
Prescott Architects)*



3D image of the proposed development (Source: Prescott Architects)

5. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
Part 4.1A	Minimum lot size for a residential flat building – 700m ²	199.4m ² or 28.5% departure from the 700m ² control	Unsatisfactory

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3A	Exceptions to building heights (Area B) – 4.0m	5.12m or 128% departure from the 4m control	Unsatisfactory

5.2. Primary Issues

Issue	Conclusion	Section
Non-compliance with the Minimum Lot Size development standard	Unsatisfactory	11.3 & 11.7
Non-compliance with the Height of Buildings development standard	Unsatisfactory	11.5 & 11.7
Acid sulfate soils (inadequate/incorrect information)	Unsatisfactory	11.9
Excavation (inadequate/incorrect information)	Unsatisfactory	11.10
Desired Future Character of the Darling Point residential precinct &	Unsatisfactory	12.2
Rear setbacks	Unsatisfactory	12.3.1
Streetscape & Local character	Unsatisfactory	12.3.3
Loss of privacy	Unsatisfactory	12.3.3
Loss of views	Unsatisfactory	12.3.3
On-site parking & access	Unsatisfactory	12.3.4
Minimum lot width	Unsatisfactory	12.3.6
Parking & access	Unsatisfactory	12.4
Stormwater management	Unsatisfactory	12.5

5.3. Summary of Submissions

Issues raised by way of submission have been grouped into the following three categories for easy reference:

- Category 1: Issues raised are sustained and will form reasons for refusal.
- Category 2: Issues raised are acknowledged but do not warrant refusal of the application. These issues could be addressed by way of conditions of consent and/or be addressed as a compliance matter by the Principal Certifying Authority during construction stage.
- Category 3: Issues raised are noted but are not necessarily agreed with.

Category 1 Issues:

Issue	Conclusion	Section
Non-compliance with the Minimum Lot Size and Height of Buildings development standards	The submitted Cl 4.6 written requests are not considered to be well found. These form the reasons for refusal.	11.2 (Land use table) 11.3 (Minimum lot size) 11.5 (Height of Buildings) 11.7 (Exceptions to development standards)
Breaches of DCP controls including minimum lot width, setbacks and excessive excavation	Various breaches of DCP controls have not been supported. These form reasons for refusal.	12.2 (Darling Point residential precinct) 12.3.1 (Rear setbacks) 12.3.2 (Excavation) 12.3.3 (Privacy & private views) 12.3.4 (On-site parking) 12.3.6 (Lot width) 12.4 (Parking & access) 12.5 (Stormwater management)
Cars reversing out of the proposed garages on Spring Street	This has been acknowledged by Council Traffic Engineer and is not considered to be acceptable. This forms the reasons for refusal.	12.4 (Parking & access)

Issue	Conclusion	Section
Over-development and over-crowding in terms of a new four storey residential flat building in an already congested and crowded area	The proposal is considered to be an over-development of the site due to the undersized site for a RFB. This forms the reasons for refusal.	11.7 & 12
Not consistent with the desired future character of the area & loss of the “village atmosphere” of the area	The proposal is deemed to be out of character with the desired future character of the area.	11.7 & 12.2
Excessive height, size, bulk and scale of the proposal is out of character with surrounding dwellings and has adverse impacts upon the amenity of the area	The proposal is deemed to be excessive in height, scale and bulk and is out of character with the surrounding neighbourhood.	11.7 & 12
Privacy impacts on adjoining properties	The proposal impacts upon privacy of the adjoining property of 8 Marathon Road.	12.3.3
Proposal is not sympathetic to the architecture of the area and loss of the existing sandstone retaining wall which is characteristic of the area	Whilst a contemporary design can be generally acceptable, the proposal does not retain the existing stone retaining wall which is one of the characteristics identified in the precinct.	12.2
<ul style="list-style-type: none"> Excavation and cut and fill is not minimised and exceeds Council controls Geotechnical report provided does not adequately address excavation works and potential impacts upon 8 Marathon Road Effects on rock anchors and supports for 8 Marathon Road 	The submitted Geotechnical report has not been found satisfactory and the excavation issues form reasons for refusal.	11.9 (Acid sulfate soils) 11.10 (Earthworks) 12.3.2 (Excavation)
Proposal does not step down with the slope of land	The proposal is deemed to be excessive in height, scale and bulk.	11.7 & 12

Category 2 Issues:

Issue	Conclusion	Section
Potential damage construction works and trucks will have on Marathon Road and Spring Street, parked cars and street trees	These issues must be controlled and regulated during construction works.	N/A
<ul style="list-style-type: none"> Difficulty of truck access to Marathon Road and Spring Street due to their narrowness and parked cars Danger to pedestrians using the narrow streets from construction works 	A detailed construction management plan must be submitted to Council for approval prior to construction works.	12.4 (Parking and access)
Noise impacts from excavation works	Noise impacts must be controlled and regulated during any construction works and are generally controlled by conditions of consent.	N/A

Category 3 Issues:

Issue	Conclusion	Section
Impacts on parking availability and on the narrow streets of Marathon Road and Spring Street where parking is at a premium	These issues are generally considered to be satisfactory.	See Traffic Engineer’s referral (Annexure 3)
Danger to pedestrians using the narrow streets from construction works and cars reversing out of the proposed garages on Spring Street	These issues are generally considered to be satisfactory.	N/A
Overshadowing impacts on adjoining properties	Overshadowing has been assessed as being generally satisfactory.	12.3.3

Issue	Conclusion	Section
Flooding, drainage and water table problems from excavation	These issues have been assessed to be generally satisfactory.	See Technical Services referral (Annexure 2) & Drainage Engineer's referral (Annexure 4)
Non-compliances proposal has with controls specified in SEPP 65 and the Apartment Design Code	SEPP 65 does not apply to the proposal.	10.3
Impact on views from Unit 1, 8 Marathon Road	It is acknowledged that views from Unit 1 will potentially be affected by the proposal. However, an assessment has determined that view loss will likely be satisfactory in regards to view sharing planning principles.	12.3.3
Impact upon the large Moreton Bay Fig in Marathon Road	The Moreton Bay Fig street tree will be impacted by way of pruning. However, Council's Tree Officer has assessed the pruning to be satisfactory.	12.6
Property values will be affected	The affect the proposal will have on property values has not been demonstrated and in any case, is not a relevant matter of consideration.	N/A
Impacts on nearby Heritage items	Council's Heritage Officer has assessed the proposal as being satisfactory.	11.8

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site has an area of 500.6m ² , a length of 36.18m and 42.035m, and a width of 12.81m and 14.265m. The subject site consists of a raised, level ground area above Spring Street at a level of approximately 6.98m AHD.
Topography
The majority of the site is relatively flat. Contextually, the land slopes steeply down from the north and west towards the subject site from a level of approximately 36m AHD along Eastbourne Road to approximately 4m AHD along Spring Street and Marathon Road. The land then slopes gently from Spring Street towards Ocean Avenue, where it then generally levels out onto the "valley floor" of Double Bay and Steyne Park.
Existing buildings and structures
Upon the subject site stands a two storey residential dwelling house with a garage and a swimming pool.
Surrounding Environment
The surrounding area and adjoining properties consists of residential flat buildings at 4, 7, 8 & 9 Marathon Road and 12 Wiston Gardens; a multi dwelling housing complex at 67 Ocean Avenue; and residential dwellings (10 Wiston Gardens, 12 Spring Street and 67 to 89 Ocean Avenue).



Photo 1: View of the subject site from Marathon Road



Photo 2: Closer view of the subject site (showing front entry)



Photo 3: View of the front of subject site along Spring Street



Photo 4: View showing built form along Spring Street



Photo 5: View southwards along Spring Street



Photo 6: View southwards from end of Spring Street



Photo 7: View of 7 & 9 Marathon Road



Photo 8: View from Spring Street along Marathon Road towards Ocean Avenue



Photo 9: View from Ocean Ave along Marathon Road towards the subject site

7. RELEVANT PROPERTY HISTORY

Current use
Residential
Relevant Application History
Complying Development CDC64/2020 approved demolition of the existing dwelling house (issued on 30/04/2020)
Relevant Compliance History
Nil
Pre-DA
Nil
Requests for Additional Information and Replacement Applications
<p>A “Stop the clock” letter dated 19 May 2020 was sent to the applicant requesting the following amended plans/additional information:</p> <ul style="list-style-type: none"> • Vehicular Access and Parking Arrangement - Dimensions of all parking spaces and parking aisle shall be clearly depicted on the drawings • Revised Stormwater Management Plans - <ul style="list-style-type: none"> - Stormwater discharge from the site must be connected to the Council’s underground system to comply with Chapter E2.2.5 of Council’s DCP; and - Pursuant to Chapter E2.2.3 of Council’s DCP, stormwater treatment system shall be provided to the proposed development. <p>The requested information was received by Council on 25/05/2020 and 28/05/2020 and referred to Council’s Development Engineer for assessment. The revised stormwater details received by Council on 28/05/2020 were subsequently found unsatisfactory by Council’s Development Engineer.</p>
Land and Environment Court Appeal(s)
The applicant lodged a deemed refusal Class 1 appeal to the Land and Environment Court on 30/6/2020 (Proceedings No. 2020/193106). As of the date of finalising this report, the date of s34 conciliation conference is not yet known.

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Unsatisfactory	2
Traffic	Unsatisfactory	3

Referral	Summary of Referral Response	Annexure
Drainage	Satisfactory, subject to conditions	4
Trees and Landscaping	Satisfactory, subject to conditions	5
Environmental Health	Satisfactory, subject to conditions	6

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 27 May 2020 to 10 June 2020 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. P. Ostolaza representing Strata Plan for 8 Marathon Road, Double Bay
2. L. Kleeman of Unit 1, 8 Marathon Road, Double Bay
3. P. Stokes of Unit 3, 8 Marathon Road, Double Bay
4. K & C Baldry of Unit 4, 8 Marathon Road, Double Bay
5. P & G McCredie of Unit 5, 8 Marathon Road, Double Bay
6. M. McCartney of Unit 7, 8 Marathon Road, Double Bay
7. R. James of Unit 8, 8 Marathon Road, Double Bay
8. C. Forbes of Unit 8, 7 Marathon Road, Double Bay
9. G & M Stewart of Unit 1, 67 Ocean Avenue, Double Bay
10. R. Horne of Unit 2, 67 Ocean Avenue, Double Bay
11. M. Simblis of Unit 3, 67 Ocean Avenue, Double Bay
12. E & R Nettleton of Unit 4, 67 Ocean Avenue, Double Bay
13. C & G Smith of Unit 4, 12 Wiston Gardens, Double Bay
14. M. Rappaport of Unit 5, 12 Wiston Gardens, Double Bay
15. D. Thompson of Unit 6, 12 Wiston Gardens, Double Bay
16. K. Smith of Unit 7, 12 Wiston Gardens, Double Bay
17. R. Yezerski of Unit 8, 12 Wiston Gardens, Double Bay
18. C. Middleton of Unit 10, 12 Wiston Garden, Double Bay
19. J. May of 69 Ocean Avenue, Double Bay
20. K. Smith of 12 Spring Street, Double Bay
21. R & R Grunstein of 91 Ocean Avenue, Double Bay

22. G & J Stone of 83 Ocean Avenue, Double Bay
23. M & S Lawrence of 9 Wiston Gardens, Double Bay
24. Peter Israel Architect on behalf of 71, 75, 77, 79, 81 & 85 Ocean Avenue
25. Hamptons Property Services on behalf of 71, 75, 77, 79, 81 & 85 Ocean Avenue
26. Georgina Wilson Architect on behalf of 75 Ocean Avenue, Double Bay
27. Double Bay Residents Association
28. The Darling Point Society Inc.
29. J. Ross of 11 Pickering Lane, Woollahra
30. M. Morrison-Smith (address unknown)

Refer to Part 5.3 of this report for a summary of the objection issues.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 12 June 2020 declaring that the site notice for DA133/2020/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

10. STATE ENVIRONMENTAL PLANNING POLICIES

10.1. 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.

10.2. 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 1100096M_02 demonstrating compliance with the SEPP.

10.3. State Environmental Planning Policy 65: Design Quality Of Residential Flat Development

SEPP 65: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings.

In this instance, the proposed residential flat building comprises four (4) storeys for three (3) self-contained dwellings. Therefore, SEPP 65 does not apply.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

11.1. Part 1.2: Aims of Plan

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

- The proposal does not ensure that growth occurs in a planned and co-ordinated way, as required by sub-clause (a).
- The proposal has not adequately demonstrated that the amenity of surrounding residents will be protected, as required by sub-clause (g).
- The proposal does not demonstrate that stormwater impacts have been minimised or managed, as required by sub-clause (h).
- The proposal has not adequately demonstrated that impacts on traffic and parking have been minimised, as required by sub-clause (k).
- The proposal, being a four level residential flat building, does not achieve the desired future character of the area, as required by sub-clause (l).
- The proposal, which involves excavation works in excess of Council controls, does not minimise excavation and has not demonstrated that potential impacts have been adequately managed, as required by sub-clause (m).

The aforementioned is therefore listed as reasons for refusal.

11.2. Land Use Table

The proposal is permissible but is not consistent with the following objectives of the R3 Medium Density Residential zone relating to:

- Bullet Point 2 – *To provide a variety of housing types within a medium density residential environment..*
- Bullet Point 4 – *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

For the following reasons:

- The subject site is undersized for a RFB. The approval of the proposed development will compromise the possibility for other suitable housing types, e.g. attached dual occupancy, whilst the size of the subject site is adequate to accommodate.
- The proposal, being a four level residential flat building with numerous breaches of controls as demonstrated in this report, is of a height and scale that is out of character with the residential dwellings in the immediate vicinity and thus does not achieve the desired future character of the neighbourhood and the Darling Point residential precinct.

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

Part 4.1A(2) specifies a minimum lot size of 700m² for a residential flat building.

Site Area: 500.6m ²	Proposed	Control	Complies
Minimum Lot Size – Residential Flat Building	500.6m ²	700m ²	NO

The proposal therefore represents a 199.4m² or 28.5% departure from the 700m² control.

The proposal does not comply with 4.1A(2) of Woollahra LEP 2014 as detailed and assessed in Part 11.7 of this report.

11.4. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	8.2m	9.27m	10.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014.

11.5. Part 4.3A: Exceptions to Building Heights (Areas B)

Despite clause 4.3, clause 4.3A limits development to a maximum height above the highest part of the land of 4.0m. In this case, the highest point of the land is approximately RL 6.98m, which equates to a height limit up to RL 10.98m.

	Existing	Proposed	Control	Complies
Maximum Building Height	8.36m (RL 15.34m)	9.12m (RL 16.1m)	4.0m (RL 10.98m)	NO

The proposal therefore represents a 5.12m or 128% departure from the 4m control.

The proposal does not comply with 4.3A of Woollahra LEP 2014 as detailed and assessed in Part 11.7 of this report.

11.6. Part 4.4: Floor Space Ratio

Part 11 limits development to a maximum floor space ratio of 1:1 for a residential flat building development.

Site Area: 500.6m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	N/A	1:1	1:1	Yes

The proposal complies with the maximum floor space ratio prescribed by Part 4.4(2) of Woollahra LEP 1995.

11.7. Part 4.6: Exceptions to Development Standards

11.7.1. Departure

The proposal involves the following non-compliances with the Woollahra LEP 2014, as detailed in Sections 11.3 and 11.5 of this report:

- Minimum lot size for residential flat buildings development standard under Part 4.1A of the Woollahra LEP 2014; and

-

Height control applicable on the subject site and its surrounding area (Source: Council Mapping System)

11.7.2. Clause 4.6(1) & (2) - Purpose

Clause 4.6(1) allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

11.7.3. Clause 4.6(3) - Written Request

Clause 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of development standards by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided written requests in relation to the departures – refer to **Annexures 7 & 8**.

11.7.4. Clause 4.6(4) - Assessment

Part 4.6(4) requires Council to be satisfied that the written request has adequately addressed the relevant matters, the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and zone and the concurrence of the Director-General has been obtained.

Clause 4.6(4)(a)(i) – Assessment

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

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

Comment: The applicant's written requests have not adequately demonstrated that the objectives of the *Minimum lot sizes* and the *Height of buildings* development standards are achieved, notwithstanding the numerical non-compliance.

The applicant's written requests have not adequately demonstrated that compliance with the development standards are unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of Clause 4.6(4)(a)(ii).

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

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

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

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

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

The applicant's written requests, which support the proposed non-compliances with the *height of buildings* and *minimum lot size* standards, have not adequately demonstrated that:

- the proposed development ensures that development occurs in a planned and co-ordinated way, in accordance with object 1.3(a);
- the proposed development promotes good design and local amenity of the built environment in accordance with object 1.3(g).

Clause 4.6(4)(a)(ii) – Assessment

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that:

- ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Minimum lot sizes* and the *Height of buildings* development standards, and the objectives of the R3 Medium Density Residential Zone. An assessment against these objectives is provided below:

Clause 4.1A – Minimum Lot Sizes for Residential Flat Buildings

The proposal is assessed against sub-clause (1) objective of Clause 4.1A which specifies the following objective:

The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.

Assessment: To assess whether the proposal meets the desired future character of the neighbourhood, it is reasonable to consider the desired future character objectives for the Darling Point Residential Precinct as specified in Part B1.2.2 of the Woollahra DCP 2015.

The proposal is not considered to be satisfactory in relation to the following relevant Desired Future Character Objectives:

Objective O1: *To respect and enhance the streetscape character and key elements of the precinct.*

The proposal, being a four storey residential flat building on a site which is substantially under-sized (deficient by 29%), with numerous breaches of controls as demonstrated in this report, is of a height and scale that is out of character with the adjacent residential dwellings and therefore does not respect and enhance the streetscape character and key elements of the precinct.

Objective O5: *To ensure that development does not reproduce or match existing intrusive buildings.*

The proposed new building seeks to reproduce/match nearby intrusive residential flat buildings and therefore does not comply with the objective.

Objective O8: *To design and site buildings to respond to the topography and minimise cut and fill.*

The proposed excavation exceeds relevant controls of the Woollahra DCP 2015 (refer to Section 12.3 of the report) and does not respond to the topography or minimise cut and fill.

Objective O10: *To retain and reinforce the setting of mature trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.*

The proposal will impact upon an existing mature street tree being a large Moreton Bay Fig tree adjacent to the site in Marathon Road. However, it is noted that Council's Tree Officer has stated that the pruning of this tree is acceptable (refer to Section 12.6 of this report).

Objective O12: *To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.*

The proposal does not retain the existing stone brick retaining wall and steps that runs along the length of the subject site along Spring Street, which is characteristic of the area.

Conclusion:

Whilst the surrounding “neighbourhood” has several existing residential flat buildings, they are either “intrusive buildings” (such as 8 Marathon Road) which should not be repeated, or are of a satisfactory bulk and scale due to being sited on relatively large allotments with ample setbacks (such as 7 and 9 Marathon Road). Similarly, the multi dwelling housing complex at 67 Ocean Avenue is also of satisfactory bulk and scale due to it being two storeys in height and set on a relatively large allotment.

It is considered that the “immediate locality” is mainly represented by the above described buildings of satisfactory bulk and scale and residential dwellings either adjacent to the north (12 Spring Street) or on the flat, lower area of land between Spring Street and Ocean Avenue (69 – 85 Ocean Avenue). The proposal, being a four storey residential flat building with several non-compliances, is of a height and scale that will be out of character and therefore not represent the desired future character of the area.

Clause 4.3A – Exceptions to Building Heights (Area B)

The proposal is assessed against sub-clause (1) objectives of Clause 4.3A which specifies the following objectives:

(a) To ensure new development is consistent with the desired future character of the neighbourhood

Assessment: The comments expressed above under the assessment against the objective of Clause 4.1A of the Woollahra LEP 2014 (“Minimum Lot Sizes for Residential Flat Buildings”) are relevant as to the proposal’s non-compliance with the desired future character of the area.

(b) To ensure new development is consistent with the surrounding buildings and the streetscape

Assessment: The comments above adequately demonstrate that the proposed four storey residential flat building is not consistent with the surrounding buildings and the streetscape.

(c) To protect views and vistas that are in the public domain

Assessment: It is acknowledged that no views in the public domain are affected by the proposed works which exceed the 4.0m height limit. The proposal does affect views enjoyed by Unit 1 in 8 Marathon Road. However, the view loss has been assessed as being generally satisfactory in regards to the view sharing planning principles (see Section 12.3.3 of this report for further discussion in relation to views).

R3 Medium Density Residential zone

The objectives of the zone are:

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

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

Assessment: The proposal is not considered to satisfy the following relevant objective of the R3 Medium Density Residential zone:

Relevant Objectives	Assessment
<u>Bullet Point 2</u> – <i>To provide a variety of housing types within a medium density residential environment.</i>	<ul style="list-style-type: none">• The size of the subject site, being 500m², is suitable for medium density housing of different type, e.g. dual occupancies. The undersized site, if approved for a RFB, would be contrary to this objective by removing the opportunity for development other suitable housing types.
<u>Bullet Point 4</u> – <i>To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.</i>	<ul style="list-style-type: none">• The proposal is of a height and scale that is out of character with the residential dwellings in the immediate vicinity and thus does not achieve the desired future character of the neighbourhood. The comments expressed above under the assessment against the objective of Clause 4.1A of the Woollahra LEP 2014 (“Minimum Lot Sizes for Residential Flat Buildings”) are also relevant as to the proposal’s non-compliance with the desired future character of the area.

Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ established potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary.

More recent cases (*Four2Five Pty Limited v Ashfield Council* [2013] NSWLEC and *Moskovitch v Waverley Council* [2016] NSWLEC1015) have indicated that under clause 4.6, in addition to compliance with the objectives of the development standard and the zone, the applicant must demonstrate sufficient environmental planning grounds for the variation.

Clause 4.6(3)(a) of the WLEP 2014 requires that the cl4.6 written request justify contravening the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

This can be done by outlining how the cl4.6 written request falls within one of the following five (5) tests, as raised in *Wehbe v Pittwater Council* [2007] NSWLEC 827, including:

- i) the objectives of the development standard are achieved notwithstanding noncompliance with the standard;
- ii) the underlying objective or purpose of the standard is not relevant to the development;
- iii) the underlying objective or purpose would be defeated or thwarted if compliance was required;
- iv) the standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard; and/or
- v) the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.

The submitted cl4.6 written requests for both the *Minimum Lot Sizes* and *Height of Buildings* development standards rely upon (i), (iii) and (iv) above. The following assessment has considered each of these three tests:

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard

For reasons already discussed, the proposal fails to achieve the objectives underpinning the development standards.

Test 3 - The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

Compliance with the standards would not defeat the objective of the standard. The proposed development disregards the relevant lot size and height controls providing an undersized site for a RFB development and building envelope that will be inconsistent and contextually inappropriate with the residential precinct that it forms a part of. The underlying *objective or purpose* of the development standards are to ensure that new development is consistent with the desired future character of the neighbourhood.

For reasons already discussed, compliance is reasonable in the circumstance.

Test 4 - The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard;

Council has concluded that it has not abandoned its Minimum Lot Sizes and Height of Buildings controls for the following reasons:

- Surrounding sites have been developed in accordance with the relevant lot size controls corresponding to the types of the development.
- The Height of Buildings development standard varies in the vicinity of the subject site by Areas B, C, D and E prescribed in Cl 4.3A of WLEP 2014 depending on the location and the topography of the areas. Surrounding developments appear to be largely within the respective height limits.
- There are no examples of recently approved developments which substantially exceed both the Minimum Lot Sizes and Height of Buildings development standards within the Darling Point and Double Bay residential precincts to a similar extent as the proposed development.

Environmental planning grounds which justify the contravention of the standard

In regard to this consideration, it is not sufficient to support a variation to a development standard by merely pointing to an absence of environment harm (*Hooker Corporation Pty Ltd v Hornsby Shire Council* [1986] 130 LGERA 438; *Memel Holdings Pty Ltd v Pittwater Council* [2000] NSWLEC 106; *Winten Property Group Ltd v North Sydney Council* [2001] NSW LEC 46). Therefore it is necessary to demonstrate that the public interest is satisfied in the circumstances of the case.

For reasons already discussed, there is insufficient environmental planning grounds to justify contravening the development standards in this instance and the development is not considered to be in the public interest.

Conclusion

Part 4.6(4) requires Council to be satisfied that the written requests have adequately addressed the relevant matters, and that the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and zone and the concurrence of the Director-General has been obtained. Furthermore, the Council must be satisfied the proposal is in the public interest because it is *consistent with the relevant objectives of the particular standard and the zone* where the development is located.

The applicant's written requests fail to adequately address the relevant matters. Specifically:

- The information provided has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- The applicant has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4)(b) – Concurrence of the Secretary

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

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

The Department issued a Planning Circular No.PS18-003 (dated 21 February 2018) which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

However, in this instance, the exception to the development standard is not supported.

11.7.5. Conclusion

The written submissions from the applicant have not adequately demonstrated that the contraventions of the *Minimum Lot Sizes for Residential Flat Buildings* and the *Exceptions to Building Heights (Area B)* development standards prescribed in Clause 4.1A and Clause 4.3A are justified pursuant to the relevant matters for consideration under Clause 4.6.

The consent authority is not satisfied that the written requests have demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standards.

The consent authority is not satisfied that the proposal is in the public interest, as it is inconsistent with the objectives of both development standards and the R3 Medium Density Residential zone.

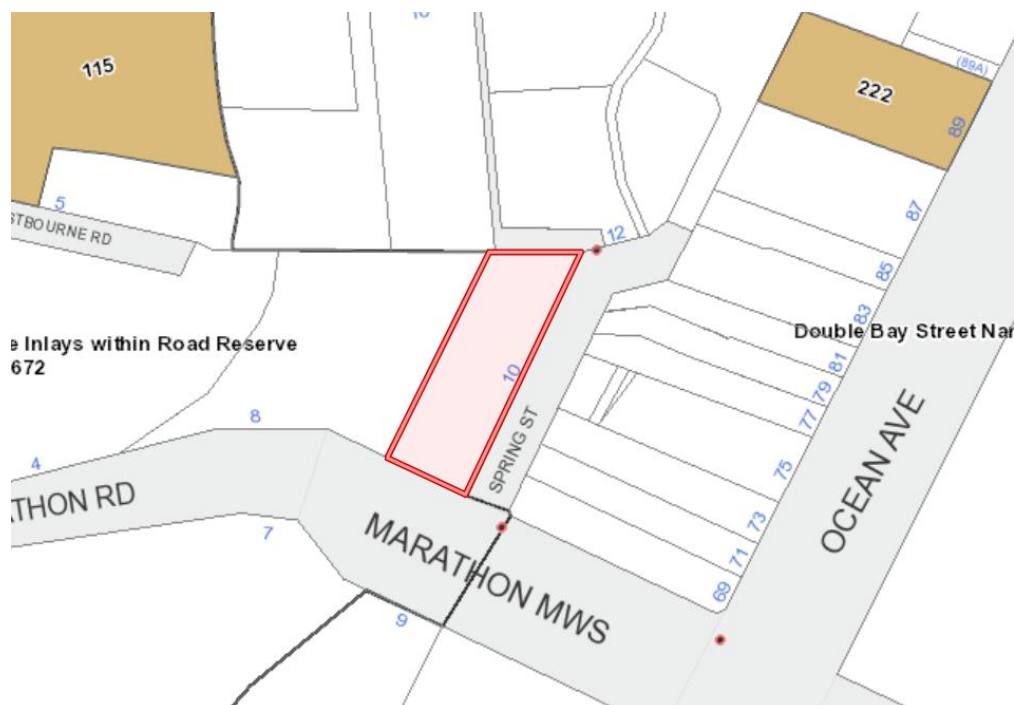
Departures from the development standards are therefore not supported.

11.8. Part 5.10: Heritage Conservation

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

The proposed development is not located in a Heritage Conservation Area, is not a Contributory item and is not a Heritage item. The site is located in the vicinity of the following listed heritage items listed in Schedule 5 Environmental heritage of the WLEP 2014:

Suburb	Item name	Address	Property description	Significance	Item no
Darling Point	House, interiors and grounds	7 Eastbourne Road	Lot 1, DP 88878	Local	115
Double Bay	House and interiors, excluding rear pavilion and garage	89 Ocean Avenue	Lot 61, DP 77657	Local	222



Map showing nearby Heritage Items

The application has been reviewed by Council's Heritage Officer who noted that a Complying Development Certificate (CDC64/2020 issued on 30/04/2020) has been issued for the demolition of the dwelling and that a Heritage referral was not required.

Having regard to the comments made by Council's Heritage Officer, the proposed development is acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

11.9. Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 2 area as specified in the Acid Sulfate Soils Map, which means that any works below the natural ground surface must be assessed for potential acid sulfate soils.

A Geotechnical Investigation report prepared by Epoch Geotechnical Services was submitted with the application. The report concluded that no acid sulfate soils were detected at the test borehole depths and that therefore, an acid sulfate soil management plan is not required.

However, the boreholes were dug from the raised “ground level” of between RL6.54 and RL6.7 (as shown on the submitted survey plan). Extrapolating from the borehole depths, it can be determined that three out of the four boreholes did not reach the expected excavation depths of the proposed basement garage levels.

Furthermore, the Geotechnical report anticipates that “deep footings will be designed” to transfer the loads to a competent layer, preferably weathered sandstone, the depth of which is unknown.

It is therefore considered that the submitted Geotechnical report has not adequately assessed the presence of potential acid sulfate soils at the expected excavation depth for the development.

11.10. Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal involves excavation to accommodate basement garages. It will occur to within 1.8m of the north-western boundary and extend to a maximum depth of approximately 2m. Overall, it involves approximately 200m² of area and 830m³ of excavation.

A Geotechnical Investigation report prepared by Epoch Geotechnical Services was submitted with the application. A review of the Geotech report raises a number of issues relating to the adequacy of the report, including the following issues:

- The report makes reference to “Proposed dwelling” on its title page and its introduction makes reference to “a new dwelling proposed at a site located at No.10 Spring Street” and “the proposed development consists of a double-storey dwelling” - The proposal is in fact for a four storey residential flat building.
- The report states that “Excavation works, if required for the project, have not been finalised at the time of writing this report” and that “minor excavations are expected...” - The actual excavations have been stated in the Statement of Environmental Effects as 830m³ of material, which exceeds Council controls (see Section 12.3.2 of this report).
- The report is very preliminary which states “*excavation works have not been finalised*” and calls for more investigations and inspections to “*confirm assumptions*”.
- The report makes no investigation or discussion regarding the substantial rock anchors located along the western boundary supporting the retaining wall adjacent to 8 Marathon Road.

Additionally, the submitted Geotechnical report has been assessed by Council’s Development Engineer who raised the following concerns with the report:

- a) *The submitted geotechnical report must be prepared by a Chartered Geotechnical Engineer with NER qualification. As such, a signature with printed name and qualification must be included in the report. This requirement is stipulated in Council’s DCP and Council’s document “Guidelines for Geotechnical and Hydrogeological Reports”.*

- b) *Some part of the submitted geotechnical report appear to be commenting on a different proposal which refers to “the proposed development consists of double-storey dwelling including a lower ground level. Excavation works, if required for the project, have not been finalised at the time of writing this report.” In this regard, it is required that a revised geotechnical report referring to the current proposal must be submitted to Council for further assessment.*

The geotechnical report must be updated in accordance with Council’s document “Guidelines for Preparation of Geotechnical and Hydrogeological Reports”. In particular, the report must include, but not limited to, site specific comments regarding support and retention, hydrogeology, vibration controls and construction methodology.

In terms of ESD principles, the extent of soil being removed from the site is considered to be unacceptable.

The extent and siting of excavation is discussed having regard to the following:

- (a) *The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development*

As noted above in Section 11.9 of this report, the depth of three of the four test boreholes was not sufficient to reach the level of the basement garage, which means that potential excavation works have not been adequately assessed. Additionally, the submitted Geotechnical report states that “groundwater was not observed during drilling of boreholes”.

Therefore, the submitted Geotechnical report may not have adequately assessed drainage patterns and soil stability in the locality of the development, especially at the depth of expected excavations.

- (b) *The effect of the development on the likely future use or redevelopment of the land*

No likely detrimental impacts.

- (c) *The quality of the fill or the soil to be excavated, or both*

No likely, or unknown, detrimental impacts. It is noted that the test boreholes found that approximately 2m of fill exists on the site and this fill does not appear to have been tested for contaminants (with the exception of acid sulfate soils).

- (d) *The effect of the development on the existing and likely amenity of adjoining properties*

No likely, or unknown, detrimental impacts.

- (e) *The source of any fill material and the destination of any excavated material*

No likely, or unknown, detrimental impacts.

- (f) *The likelihood of disturbing relics*

No likely, or unknown, detrimental impacts.

- (g) *The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*

No likely, or unknown, detrimental impacts.

- (h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development*

Adequate engineering design and supervision during any works must be implemented.

Conclusion

Based on the preliminary nature of the submitted Geotechnical report, the excessive excavation proposed and the comments provided by Council's Development Engineer, the proposed earthworks are unacceptable with regard to Part 6.2 of the Woollahra LEP 2014.

11.11. 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 subject site is located within an area identified as a flood planning area under the Woollahra LEP 2014. A flood study prepared by PL Civil Engineering was submitted to Council. This report was referred to Council's Drainage Engineer who found it generally satisfactory subject to a condition that was recommended to be placed on any consent.

The proposal is therefore acceptable with regard to Part 6.3 of Woollahra LEP 2014.

12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

12.1. About this DCP (A1.1)

12.1.1. Objectives of this Plan (A1.1.5)

As assessed above, the proposal fails to satisfy the relevant aims and objectives prescribed by the WLEP and accordingly fails to satisfy Objective O1 of this Plan which states: "*To give effect to the aims of Woollahra LEP 2014*" and Objective O3 which states: "*To achieve the objectives contained in Woollahra LEP 2014.*"

12.2. Chapter B1: Darling Point Residential Precinct

The proposal is not considered to satisfy the relevant precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015. An assessment of the proposal against the relative objectives has already been discussed in Section 11.7.4 of the report.

The proposal does not meet the streetscape character and key elements of the precinct and desired future character objectives of the Darling Point residential precinct, as noted in Part B1.2.2 of the Woollahra DCP 2015.

12.3. Chapter B3: General Development Controls

12.3.1. Part B3.2: Building Envelope

Site Area: 500.6m ²	Existing	Proposed	Control	% Breach	Complies
Front Setback ^a	1.5m	3.3m	3.3m	N/A	Yes
Side Boundary Setbacks					
• Basement parking structure	Nil	Nil (SE)-1.8m	1.5m (RFB)	100% (SE)	NO
• All other floors	1m-3.6m	1.5m-2.0m	1.5m (RFB)	0%	Yes
Rear Setback ^b – Ground floor: Building	-	NW = 7.4m SE = 11.7m	NW = 11.18m SE = 13.5m	33.8% 13.3%	NO
Rear Setback ^b – Ground floor: Roof	-	NW = 3.2m SE = 9.1m	NW = 11.18m SE = 13.5m	71.4% 32.6%	NO
Rear Setback ^b – First floor: Building	-	NW = 6.7m SE = 11.2m	NW = 11.18m SE = 13.5m	40% 17%	NO
Rear Setback ^b – First floor: Roof	-	NW = 7.7m SE = 10.2m	NW = 11.18m SE = 13.5m	31.1% 24.4%	NO
Rear Setback ^b – Second floor: Building	-	NW = 9m SE = 13.5m	NW = 11.18m SE = 13.5m	19.5% -	NO Yes
Rear Setback ^b – Second floor: Roof	-	NW = 9m SE = 14.5m	NW = 11.18m SE = 13.5m	19.5% -	NO Yes

Note:

a: On corner lot, the front setback is taken to be the shortest frontage to a street, in this case, the frontage on Marathon Mews

b: "NW" refers to the rear setback along the northwest boundary; "SE" refers to the rear setback along the southeast boundary

Part B3.2.2– Front setback

The proposed building will comply with the front setback control.

Part B3.2.3 – Side setback

The proposed building will comply with Control C2 in terms of the minimum side setback control for RFB except the basement parking. The Note for Control C2 states:

For controls C2 and C3, setbacks include any basement piling or similar structured forms

The proposed basement parking will have a nil setback to the sites south-eastern side boundary (Spring Street frontage) and is non-compliant. It is noted that the site is currently raised from the Spring Street level by approximately 3m. The frontage along Spring Street is a sandstone retaining wall which will be largely retained by the proposed development. Notwithstanding the numerical non-compliance, the relevant objectives of the side setback will be met.

Part B3.2.4 – Rear setback

Control C1 states that the rear setback is a consequence of the site depth, front setback and building depth. Control C3 states that for development in the R3 Medium Density Residential zone where an FSR applies, the building depth is 60% of the site depth. In this instance, the site depth is 21.7m along the Northwest boundary and 25.23m along the Southeast boundary. The required rear setbacks are therefore as follows:

- Along the northwest boundary: 36.18m – 21.7m - 3.3m (front setback) = 11.18m; and
- Along the southeast boundary: 42.035m – 25.23m - 3.3m (front setback) = 13.5m.

The proposed rear setbacks as specified in the above compliance table (with the exception of the second floor along the southeast boundary) represent breaches of the required rear setback control.

The following points are noted in relation to the proposed rear setbacks:

- It will be relatively difficult to make any proposal fully comply with rear setbacks due to the sloping nature of the rear (north) boundary line.
- The rear setback along the southeast boundary is the crucial consideration as it faces the public domain. The rear setback along the northwest boundary (where non-compliances are greater) is of less importance as it is not as readily apparent from the public domain.
- Some form of protruding roof areas at the rear of the building are required in order to prevent upper units from overlooking the private open space areas of lower units.

Notwithstanding the above points, it is considered that the non-compliances with the required rear setbacks are excessive when assessed against the objectives of the control as follows:

- **Objective O1:** The site provides adequate private open space. The proposed level of deep soil landscaped open space has been stated to comply with the numerical controls by the submitted application. However, it is not considered realistic due to a number of factors discussed below (see Section 12.3.5 of this report). Therefore, a greater rear setback on the ground floor would provide additional landscaped open space (both deep soil and non-deep soil areas).
- **Objective O2:** The proposal is not considered to adequately protect the privacy of adjoining properties due to the overall size of the building and decks, and the proximity of the decks to boundaries and adjacent properties.
- **Objective O3:** The proposal does not avoid an unreasonable sense of enclosure due to the overall size of the proposal and the reduced rear setbacks.
- **Objective O4:** The proposal is considered to be generally satisfactory in relation to overshadowing of adjoining properties.
- **Objective O5:** As discussed above under Objective O1, the proposed level deep soil planting, whilst stated as complying with controls, is not considered fully realistic or adequate.
- **Objective O6:** The proposal is generally satisfactory in relation to overall open space networks. However, as mentioned above, a greater rear setback allows for more opportunities to provide a more realistic private open space and landscaped open space areas.

The proposal is therefore unsatisfactory in regards to objectives O1, O2, O3, O5 and O6 and controls C1 and C3 of Part B3.2.4. It is noted that the proposal is recommended for refusal.

Conclusion

The proposal is unacceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015.

12.3.2. Part B3.4: Excavation

Site Area: 500.6m ²	Existing	Proposed	Control	Complies
Maximum Volume of Excavation	-	830m ³	500m ³	NO
Excavation, Piling and Subsurface Wall Setback	-	1.8m	1.5m	Yes
Geotechnical Report	N/A	Report provided: Assessed an inadequate	Required Where > 2.0m	NO

Control C2 limits the volume of excavation to 500m³. The application states that the amount of excavation will be 830m³ which represents a non-compliance.

It is noted that Control C4(a) allows a variation to the maximum excavation controls where car parking is provided to comply with Council's parking controls. Six car spaces is provided in the basement garages which complies with Council's parking controls.

However, considering the overall unacceptability of the proposal as demonstrated in this report, and the inadequacy of the Geotechnical report in documenting the suitability of the site and the proposed excavations, this non-compliance of the excavation controls is excessive and not supportable.

Control C7 requires a minimum setback of excavation for residential flat buildings of 1.5m. The proposed excavation is setback 1.8m from the north-western boundary and complies with the control. The nil setback from the Spring Street frontage is considered satisfactory (refer to Section 12.3.1 under "Part B3.2.3 – Side setback" for further comments).

Control C9 requires appropriate engineering reports to demonstrate that the works will not have any adverse effect on neighbouring structures. As detailed in Part 11.10 of this report, the submitted Geotechnical report does not adequately demonstrate the adequacy of excavation works and that adjoining properties or the environment will not be adversely affected.

Conclusion

Taking into account the inadequate Geotechnical report discussed in Part 11.10 of this report, the non-compliance with the excavation limits, and the unacceptability of the overall proposal, the proposed excavation is considered unacceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

12.3.3. Part B3.5: Built Form and Context

Site Area: 500.6m ²	Existing	Proposed	Control	Complies
Significant Trees	Large street tree	Retained; Requires pruning	Retained; Tree Officer assessed as satisfactory	Yes
Solar Access to Open Space of Adjacent Properties	>50% for 2 hours on 21 June	>50% for 2 hours on 21 June	50% for 2 hours on 21 June	Yes
Distance of Habitable Room Windows to Adjacent Dwellings	-	>9m	9m	Yes
Setback of Terraces from Open Space/Habitable Room Windows of Adjoining Properties	-	<9m to open space area of 8 Marathon Road	9m	NO

Part B3.5.1: Streetscape and Local Character

Control C1 requires the proposal to be consistent with the desired future character of the Darling Point precinct as specified in Part B1.2.2 of the Woollahra DCP 2015. As discussed in Section 12.2 of this report, the proposal is not considered to be consistent with the aforementioned residential precinct.

The proposal is therefore not satisfactory in regards to the streetscape and local character objectives and controls of Part B3.5.1.

Part B3.5.2: Overshadowing

The proposal is considered to be satisfactory in relation to overshadowing of surrounding properties. The majority of additional overshadowing falls onto the adjoining streets. The rear of those properties fronting Ocean Avenue may receive additional overshadowing in the late afternoon. However, these shadows will likely fall across garages located along Spring Street which already cast shadowing to their rear open space areas. These open space areas will continue to receive greater than 2 hours of solar access between 9am and 3pm. No north-facing windows will be affected by overshadowing from the proposal.

The proposal is therefore generally satisfactory in regards to the overshadowing objectives and controls of Part B3.5.2.

Part B3.5.3: Public and Private Views

Public Views and Vistas

No public views are affected by overshadowing from the proposal.

Private Views

A private view from Unit 1 in 8 Marathon Road (located on the lowest floor of the building) is potentially affected by the proposed new RFB.

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 (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Unit 1 currently enjoys the following views.

- Water view (north-easterly) in a distance towards the Double Bay water and the Point Piper Headland beyond (Photos 10 and 12). This view is considered to be the primary and main view and more valuable.
- District view (East and south-easterly) towards the Double Bay residential area over the existing roof of the dwelling houses and Bellevue Hill beyond (Photo 11). This view is considered to be secondary view.

There are no identified 'iconic views' available from this property.

Figure 1 shows the approximate locations and directions of each photo.

The ridge of the existing dwelling on the subject site has been labelled in the photos (RL 15.34) for easy reference. It should be noted that the highest point of the proposed development will reach RL16.1, which is 0.76m above the ridge of the existing dwelling on site. (i.e. approximately the height of the glass balustrade visible in the photos)

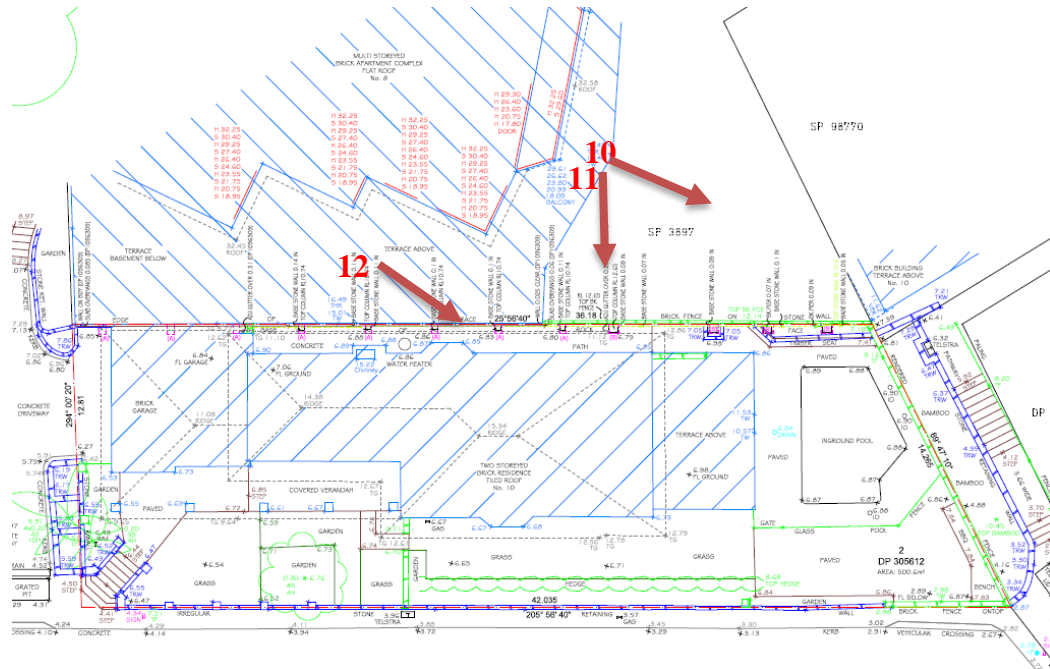


Figure 1: Image showing approximate location and direction of each photo



Photo 10: "Primary and main view" looking northeast from rear of deck



Photo 11: "Secondary view" looking eastwards over rear of subject site from rear of deck (the yellow dotted line and hatched area show the estimated outline of the proposed new RFB)

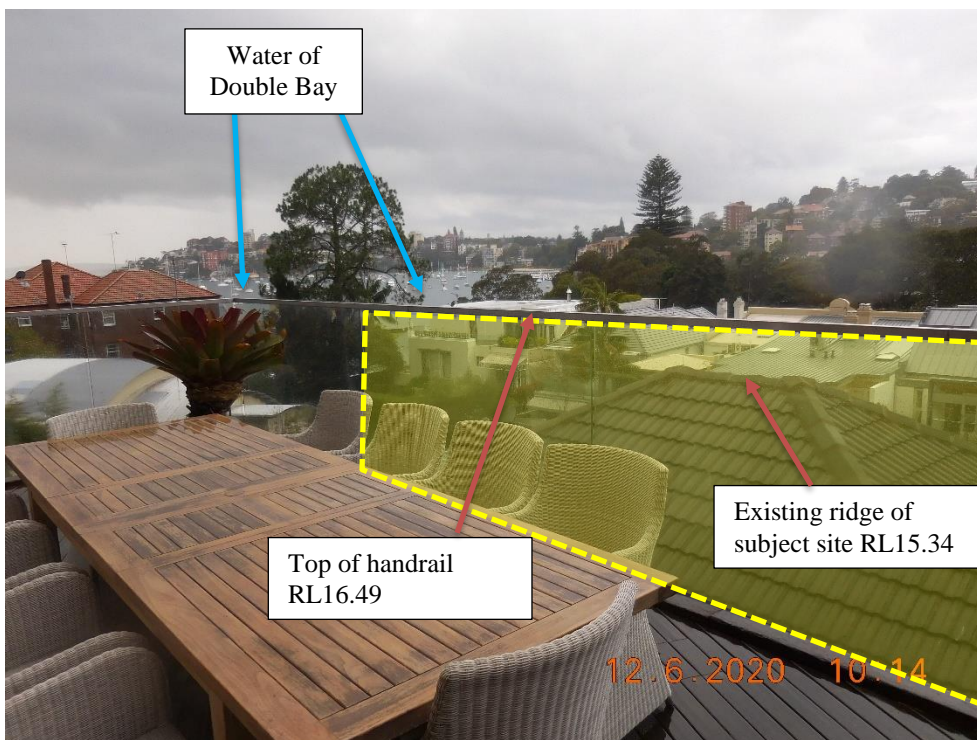


Photo 12: View looking northeast over subject site from side of deck (the yellow dotted line and hatched area show the estimated outline of the proposed new RFB)

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.

These views are obtained from the existing wrap-around side and rear deck of Unit 1 from both standing and sitting positions.

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.

The primary impact of the proposed development would be that to the north-east obtained from the side deck (Photo 12). A small portion of the water view will be obscured.

The proposed development will also obscure a portion of the “secondary view” looking eastwards and south-eastwards from the side deck. These are outlook towards the rear of the existing dwelling houses fronting Ocean Avenue. It is noted that the view impact will be worse at a sitting level. However, from a standing level and from the entire rear portion of the deck, the main portion of the most valuable views enjoyed from Unit 1, i.e. view towards the water of Double Bay, will not be affected by the proposal (Photo 10).

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.

According to the fourth step of the planning principle, a moderate impact may be considered unreasonable. In this circumstance, while the impacts to the existing views obtained from Unit 1 arise as a result of non-compliances with the height of buildings development standard and the rear setback control, these impacts are considered to be minor. As such, the impacts cannot be considered to be unreasonable.

Therefore, on balance, the view loss is considered to be reasonable when assessed against Council's controls and view sharing planning principles.

Part B3.5.4: Acoustic and Visual Privacy

Controls C4 and C7 require windows and decks to be suitably located and screened if they have a direct view of a neighbouring habitable room or private open space within 9m.

The distance between the proposal's windows and decks to adjoining dwellings and their private open space areas are all greater than 9m, which achieves compliance with the controls. The approximate separation distances from the proposal to adjoining properties are as follows:

- To boundary line of 12 Spring Street = 12m
- To private open space areas of dwellings facing Ocean Avenue = 15m
- To rear of dwelling houses facing Ocean Avenue = 22m

However, it is understood that there is still a perceived impact upon privacy and additional measures to prevent overlooking, such as privacy screens and obscured glazing, may still be warranted.

The terrace of the second floor unit is located within 9m of, and will directly overlooks, the swimming pool area of the adjoining property of 8 Marathon Road – refer to Photo 13. This is therefore considered to produce an unreasonable privacy impact and is not supported.



Photo 13: View from pool area of 8 Marathon Road towards subject site

The proposal is therefore not satisfactory in regards to the acoustic and visual privacy objectives and controls of Part B3.5.4.

Part B3.5.5: Internal Amenity

The proposal is therefore generally satisfactory in regards to the overshadowing objectives and controls of Part B3.5.2.

Conclusion

The proposal is unacceptable with regard to the following parts of the built form and context controls in Part B3.5 of the Woollahra DCP 2015:

- Part B3.5.1: Streetscape and Local Character, Objectives O1 and O2, and Control C1
- Part B3.5.4: Acoustic and Visual Privacy, Objective O3 and Control C7(b)

4.1.1. Part B3.6: On-Site Parking

Site Frontage: 42m	Existing	Proposed	Control	Complies
Location of Parking	-	Generally within Buildable Area	Within the Buildable Area	Yes
Width of Parking Structure	-	11m Total garage width	6m of Frontage	NO
Basement Parking	-	Basement parking	Required for 3 or More Dwellings	Yes
<u>Parking on the High Side of the Street</u>				
Gradient	-	>1:3m	1:3	Yes
Incorporated	-	Into Street Wall	Into Street Wall	Yes
Maximum Height	-	2.7m	2.7m	Yes
Total Width of Driveway	-	11m	3m	NO
Maximum Number of Driveways	-	Two	One	NO

The proposed basement parking is non-compliant with the following controls of Part B3.6:

- Control C1(a) – The control requires on-site parking to not dominate the street frontage. The proposal has two garage openings with a total width of 11m, or 26% of the total site width.
- Control C2 – The control requires parking structures to have a maximum width of 6m. As mentioned, the two proposed garage doors have a total width of 11m, or 26% of the total site width.
- Control C11 – The control requires the width of driveways to be minimised. The width of the proposed driveways are 11m, which is considered excessive (also see Control C2 above).
- Control C12 - The control requires one driveway entrance to be provided. Two driveway entrances are proposed.

These non-compliances demonstrate that the proposed basement parking, garage openings and driveways along Spring Street are excessive in width, have not been minimised and are considered to dominate the street frontage, and detracts from the streetscape character and the amenity of the neighbourhood.

The proposal is therefore not satisfactory in regards to the on-site parking objectives and controls of Part B3.6 of the Woollahra DCP 2015.

4.1.2. Part B3.7: External Areas

Site Area: 500.6m ²	Existing	Proposed	Control	Complies
Deep Soil Landscaping – Total site	-	50% of Buildable Area (135m ²)	50% of Buildable Area (135m ²)	Yes*
Deep Soil Landscaping – Front setback	-	>40% (16.9m ²)	40% (16.9m ²)	Yes
Deep Soil Landscaping – Consolidated area	-	>20m ²	20m ²	Yes
Deep Soil Landscaping – Rear setback	-	>50% of Rear Setback (78.5m ²)	50% of Rear Setback (78.5m ²)	Yes
Private Open Space (Residential Flat Buildings)				
Total Area	-	>8m ²	8m ²	Yes
Minimum dimension	-	>2m	2m	Yes
Location of Private Open Space	-	To the North	To the North	Yes
Swimming Pool Setback	-	1.1m	1.8m	NO

**Figures as presented on the submitted plans. See further notes below*

Part 3.7.1: Landscaped Areas and Private Open Space

Control C1 requires that 50% of the site area outside of the buildable area is to comprise deep soil landscaping. In this instance, the area outside the buildable area is 135m². The proposed level of deep soil landscaping is shown on the submitted plans to be 135m² which complies.

However, it is noted that a portion of the proposed deep soil landscaping is located under the roof projection at the rear of the ground floor unit. This means that the deep soil landscaping will be approximately 6.5m² less than the figure stated (135m²) which will represent a non-compliance.

Control C2 requires that 40% of the front setback area is to comprise deep soil landscaping, with 20m² being a consolidated area. The proposal provides for greater than 40% of the front setback area as deep soil landscaping with greater than 20m² being a single consolidated area.

Control C4 requires that 50% of the rear setback area comprises deep soil landscaping. The proposal provides for greater than 50% of the rear setback area as deep soil landscaping.

Control C10 stipulates that for residential flat buildings, each dwelling located above ground level is provided with private open space in the form of a balcony, verandah or uncovered roof terrace which has a minimum area of 8m² and a minimum dimension of 2m². Each unit has greater than 8m² of private open space, with the two upper level units providing the open space area in the form of terraces.

Control C12 requires that private open space should be located to the north of the development. The private open space areas all have a northerly orientation which is considered satisfactory.

Part 3.7.2: Fences

A new section of masonry wall is proposed along the south-western boundary in the location of the existing driveway access. This is located adjacent to the driveway access to the adjoining 8 Marathon Road and is generally satisfactory as it will not adversely impact upon the main streetscape and public domain located in Marathon Road and Spring Street.

A masonry wall with a glass balustrade is proposed along the perimeter of the property above the new street wall which is generally satisfactory. However, it is noted that the loss of the existing stone retaining wall is not considered satisfactory in relation to Objective O12 of the Darling Point residential precinct as specified in Part B1.2.2 of the Woollahra DCP 2015 – refer to the discussion on the Darling Point residential precinct in Section 11.7 of this report.

Part 3.7.3: Site Facilities

The proposal is satisfactory in regards to the objectives and controls of Part B3.7.3.

Part 3.7.4: Ancillary Development – Swimming Pools

Control C3 requires excavation for swimming pools to be setback 1.8m from property boundaries. The minimum setback of the swimming pool is 1.1m from the northern boundary which is considered generally satisfactory in the circumstances.

Conclusion

The proposal is generally acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

4.1.3. Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Site Area: 500.6m ²	Existing	Proposed	Control	Complies
Minimum Lot Width	12.81m	12.81m	15m	NO

Minimum Lot Width

Control C1(c) requires a minimum lot width of 15m for a residential flat building. The proposed lot width is 12.81m which represents a non-compliance with the control.

As has been demonstrated throughout this report, the proposal is not considered satisfactory due to its non-compliance with several Council development standards and development controls, and is considered out of character with the streetscape, existing built form of the surrounding environment and the desired future character of the neighbourhood.

The non-compliance with the minimum lot width, the Lot size and Height of buildings development standards, as well as the required rear setbacks, demonstrate that a four storey residential flat building is out of scale and an over-development for a lot of this size and width.

The proposal is unacceptable with regard to the minimum lot width objective and controls in Part B3.8.1 of the Woollahra DCP 2015.

Residential Flat Buildings and Multi Dwelling Housing

The proposal is generally satisfactory in relation to the following controls:

- Control C1 - Window and room layout to ensure good natural ventilation.
- Control C5 - Habitable windows to be orientated to the north.
- Control C6 - Lightwells not to be used as the main source of light and ventilation.
- Control C7 - Each dwelling has access to its own private open space.
- Control C8 - Private open space must not be overlooked by adjoining dwellings.

4.2. Chapter E1: Parking and Access

The proposal was referred to Council's Traffic Engineer who raised the following concerns in relation to the proposal (see Annexure 3 for the full referral response):

- Motorbike Parking Provision

MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	7	1 per 10 car spaces	0.7 (1)
Total required			1

The proposal provides five (5) bicycle parking spaces and no motorcycle parking spaces, which would result in a shortfall of one (1) space and therefore is non-compliant with the minimum requirement for motorcycle parking under Part E1.7.1, Control C1, of the Woollahra DCP 2015.

- Access Driveway & Queuing

Pursuant to Clause E1.10.6 of Council's DCP, the design of driveways and access points should allow vehicles to enter and exit from the site onto a public road in a forward direction, however the current design indicates that vehicles would either reverse when accessing or egressing the site in the "left" car park, which does not comply with Council's DCP.

Furthermore, the swept paths analysis involves vehicles travelling in a forward direction southbound of the frontage road to enter the site, or northbound to leave the site. It should however be noted that the starting/ending point of these manoeuvres would be somewhere north of the driveway access along the frontage road, which is a very narrow no-through road with barely a place for vehicles to make U-turns. Traffic section therefore queries the feasibility of vehicles accessing and egressing the site with the suggested manoeuvres. Should these restricted manoeuvres be achieved, traffic section also raise concerns on the potential disruption of each operation to traffic along the narrow frontage road, especially when the opposite side of the road accommodates a line of vehicular crossings.

Council's Traffic Engineer raises serious concerns on the feasibility and conflicts of traffic flow, should vehicles enter and leave the site through the proposed driveways. A more comprehensive and quantifiable traffic report should thus be submitted for further assessment, including a queuing analysis, to demonstrate post-development traffic impacts.

- Construction Management Plan

Given the physical constraints of the subject site, a Construction Management Plan (CMP) should be submitted to assess feasibility and potential traffic impacts of construction works on the surrounding road network. The CMP should provide information listed in Council's CMP application form, including, inter alia, the size, number and frequency of construction vehicles, travelling routes to and from the site, access to the site, parking arrangements, traffic control plans, and if any, location of works zone intended to propose.

Conclusion

Given the comments made by Council's Traffic Engineer, the proposal is not acceptable with regard to the parking objectives and controls of Chapter E1 of the Woollahra DCP 2015.

4.3. Chapter E2: Stormwater and Flood Risk Management

The proposal was referred to Council's Development Engineer who raised the following concerns in relation to the proposal (see Annexure 2 for the full referral response):

- a) The proposed 10m³ rainwater tank and the on-site detention (OSD) system must be located as closed as possible to the lowest point of the site so that a spillway to the street can be provided to cater for system failure or extreme storm events. The flow route must be designed to convey the 1 in 100 year ARI uncontrolled flows, assuming that the control outlet to the OSD device is fully blocked.
- b) Stormwater runoff from the site must be collected and directed to a min. 450mm x 450mm boundary junction pit which is to be provided within the site boundary prior to connecting to the proposed kerb inlet pit in Spring Street.
- c) The construction of the proposed 100mm uPVC with multiple stormwater connections over Council's property is not supported. Only one stormwater outlet pipe across Council's property will be permitted to comply with Chapter E2.2.5 of Council's DCP. As such, the proposed 100mm uPVC must be constructed wholly within the site and connected to the min. 450mm x 450mm boundary junction pit prior to connecting to the Council's underground system.
- d) Stormwater treatment system shall be provided for the proposed development to comply with Chapter E2.2.3 of Council's DCP. The provision of a rain garden is considered inadequate to address this requirement. In this regard, details of the proposed proprietary stormwater treatment system and demonstrate how it complies with Council's water quality targets must be provided. Results from the pollution modelling program such as MUSIC shall be submitted with the revised stormwater plans.

Given the comments made by Council's Development Engineer, the proposal is not acceptable with regard to the stormwater management objectives and controls of Chapter E2 of the Woollahra DCP 2015.

4.4. Chapter E3: Tree Management

The proposal was referred to Council's Tree Officer who advised that the proposal was satisfactory in regards to trees, subject to conditions. It is noted that the Tree Officer reported that pruning will be required to the large Moreton Bay Fig located adjacent to the site in Marathon Road. The level of pruning has been estimated to be less than 2% of the canopy which was stated to be acceptable.

Having regard to the Tree Officer's comments, the proposal is generally acceptable with regard to the objectives and controls in Chapter E3 of the Woollahra DCP 2015.

4.5. Chapter E5: Waste Management

The applicant provided a SWMMP with the development application.

Part E5.2: Demolition and Construction Phase

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

5. SECTION 94 CONTRIBUTION PLANS

5.1. Section 94 Contributions Plan 2002

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. However, it is noted that the application is recommended for refusal.

5.2. Application of Contributions

Section 3.5 of the Section 94A Contributions Plan 2005 states:

‘A condition under section 94 of the Act may be imposed on a development consent as an alternative to imposing a condition authorised by this Plan, depending on the nature of the development and the demand for public facilities.’

In this instance, given the increase in the density of the site, Section 94A contributions have been applied. Accordingly, Section 94 contributions are not applicable.

6. APPLICABLE ACTS/REGULATIONS

6.1. Environmental Planning and Assessment Regulation 2000

6.2. Swimming Pools Act 1992

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

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

Appropriate conditions relating to swimming pools can be imposed on any consent issued. It is noted that in this instance, the application is recommended for refusal.

7. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed throughout the report.

8. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development.

9. THE PUBLIC INTEREST

The proposal is not in the public interest.

10. CONCLUSION

The proposal is unacceptable against the relevant considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979.

11. 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.

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is not satisfied that the written requests from the applicant have adequately addressed the relevant matters to be addressed under Clause 4.6 of the Woollahra Local Environmental Plan 2014 and therefore consent cannot be granted to the development which contravenes the *Minimum lot sizes for residential flat buildings* under Clause 4.1A and the *Exceptions to building heights (Area B)* development standards under Clause 4.3A of the Woollahra Local Environmental Plan 2014.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 133/2020/1 for construction of a new residential flat building with basement parking, swimming pool and strata subdivision on land at 10 Spring Street Double Bay, for the following reasons:

1. Building height, bulk and scale

The proposed development is excessive in height, bulk and scale, and is inconsistent and incompatible with the existing built form, streetscape, the character of the neighbourhood and the desired future character of the area.

Particulars

1. The proposed height of the development, being 9.27m, fails to comply with the height of buildings development standard (4m).
2. The submitted written request does not adequately demonstrate that the contravention of the development standard is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6 of the WLEP.
3. The overall height of the development at approximately 12.4m above Spring Street will present as a four storey building which is excessive and out of character with the surrounding streetscape and locality, the existing built form of surrounding dwelling houses, and the desired future character of the neighbourhood and the Darling Point Residential Precinct.

4. The overall height of the development at approximately 12.4m above Spring Street is inconsistency with the intent of the height of buildings development standard prescribed by Clause 4.3 of the WLEP.
5. The proposed development breaches the required rear setback controls which adds to the size and bulk of the building.
6. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

- Part 1 – Clause 1.2, Sub-clauses (2)(a), (g), (k), (l) and (m)
- Part 2 – Land Use Table, Zone R3 Medium Density Residential, Objective No. 4 of the zone
- Part 4 – Clause 4.3A(1)(a) and (b) & (3)

Woollahra Development Control Plan 2015:

- Part A1.1.5 – Objectives O1 & O3
- Part B1.2.2 – Objectives O1, O5, O8 and O12
- Part B3.2.4 – Objectives O1, O2, O3, O5 and O6 and Controls C1 and C3
- Part B3.5.1 – Objectives O1 & O2 and Controls C1 and C3

2. Lot size and width

The subject site is undersized for the proposed residential flat building development resulting in an over-development of the site. It is inconsistent and incompatible with the existing built form, streetscape, the character of the neighbourhood and the desired future character of the area.

Particulars

1. The lot size of the subject site, being 500.6m², does not achieve the minimum lot size for residential flat buildings development standard (700m²).
2. The submitted written request does not adequately demonstrate that the contravention of the development standard is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6 of the WLEP.
3. The lot width of the subject site, being 12.8m, does not achieve the minimum lot width for residential flat buildings development control of 15m.
4. The proposal is excessive and is out of character with the surrounding streetscape and locality, the existing built form of surrounding dwelling houses, and the desired future character of the neighbourhood and the Darling Point Residential Precinct.
5. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

- Part 1 – Clause 1.2, Sub-clauses (2)(a), (g), (k), (l) and (m)
- Part 2 – Land Use Table, Zone R3 Medium Density Residential, Objectives in bullet points 2 and 4
- Part 4 – Clause 4.1A(1) and (2)

Woollahra Development Control Plan 2015:

- Part A1.1.5 – Objectives O1 & O3
- Part B1.2.2 – Objectives O1, O5, O8 and O12

- Part B3.5.1 – Objectives O1 & O2 and Controls C1 and C3
- Part B3.8.1 – Objective O1 and Control C1(c)

3. Clause 4.6 Variations

The submitted written requests to vary the *Minimum lot sizes for residential flat buildings* and *Exceptions to buildings heights (Area B)* development standards prescribed in Clauses 4.1A and 4.3A of WLEP 2014 have not adequately demonstrated that compliance with the development standards are unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental grounds to justify contravening the development standards.

4. Excavation and earthworks

The proposed excavation is excessive which does not comply with the maximum excavation controls. The submitted technical documentation is inadequate to allow Council for a proper assessment to determine the impacts of the proposed excavation.

Particulars

1. The proposed development fails to minimise excavation and manage impacts.
2. The proposed development and submitted documentation fails to adequately assess whether acid sulfate soils are present.
3. The proposed development and submitted documentation fails to adequately demonstrate that earthworks and excavations will not have a detrimental impact upon the surrounding environment, land uses and amenity of adjoining properties.
4. The proposed development fails to comply with the maximum excavation controls.
5. The proposed development fails to demonstrate that the works will not have any adverse effect on neighbouring structures.
6. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

- Part 1 – Clause 1.2, Sub-clauses (2)(g), (l) and (m)
- Part 6 – Clause 6.1 - Acid sulfate soils
- Part 6 – Clause 6.2 - Earthworks

Woollahra Development Control Plan 2015:

- Part B3.4 – Objectives O1, O2, O3, O4 and O5 and Controls C2 and C9

5. Privacy

The proposed terrace of the second floor unit, being located within 9m of the swimming pool area of the adjoining property of 8 Marathon Road, will result in unacceptable and unreasonable acoustic and visual privacy impacts.

Particulars

1. The proposal fails to protect the acoustic and visual privacy of private open space areas of the adjoining property of 8 Marathon Road due to direct overlooking and proximity.
2. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

- Part 1 – Clause 1.2, Sub-clause (2)(g)

Woollahra Development Control Plan 2015:

- Part B3.5.4 - Objective O3 and Control C7(b)

6. Parking structures and streetscape

The works proposed for the basement parking structure, including the removal of the existing stone retaining wall, the garage openings and driveways along Spring Street, are considered to be excessive which will dominate the street frontage, and detract from the streetscape character in the neighbourhood.

Particulars

1. The proposed on-site parking, due to its width and number of driveways, dominates the street frontage.
2. The proposed garage doors have a total width of 11m, or 26%, of the total site width, which is considered excessive.
3. The two driveways proposed are considered excessive and in excess of Council's controls.
4. The proposal does not minimise and manage traffic and parking impacts.
5. The proposal does not maintain the existing stone retaining wall.
6. The proposed parking structures are excessive and out of character with the surrounding streetscape and local character, and the desired future character of the neighbourhood and the Darling Point residential precinct.
7. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

Part 1 – Clause 1.2, Sub-clauses (2)(g), (k), (l) and (m)

Woollahra Development Control Plan 2015:

Part B1.2.2 – Objectives O1 and O12

Part B3.5.1 – Objectives O1 & O2 and Controls C1 and C3

Part B3.6 – Objectives O1, O2, O7 and O8 and Controls C1(a), C2, C11 and C12

7. On-site parking and traffic management

The proposed basement parking will result in unacceptable impacts, in terms of inadequate parking provisions, vehicular ingress and egress, and pedestrian and vehicular safety.

Particulars

1. The proposal fails to provide a motorcycle parking bay.
2. The proposal fails to provide for cars to enter or exit the site in a forward manner.
3. The proposal has not demonstrated the feasibility of the parking scheme in terms of conflicts with traffic flow by vehicles entering and leaving the site through the proposed driveways.

4. Given the physical constraints of the site, narrow streets and lack of parking, the application has not demonstrated the feasibility of the proposal in relation to potential traffic impacts of construction works on the surrounding road network.
5. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

- Part 1 – Clause 1.2, Sub-clauses (2)(a), (g), (k), (l) and (m)

Woollahra Development Control Plan 2015:

- Part E1.7.1 – Objective O1 and Control C1
- Part E1.10.6 – Driveways and access points

8. Stormwater management

The stormwater details submitted with the application are inadequate and fails to demonstrate compliance with Council's stormwater management controls.

Particulars

1. Inadequate stormwater details have been submitted with the application.
2. The stormwater details submitted fails to comply with Council's stormwater management objectives and controls.
3. The proposal fails to demonstrate that stormwater impacts have been satisfactorily minimised and managed.
4. The proposal fails to satisfy the following provisions:

Woollahra Local Environmental Plan 2014:

- Part 1 – Clause 1.2, Sub-clause (2)(g) and (h)









Woollahra Development Control Plan 2015:

- Chapter E2 – Stormwater and Flood Risk Management

9. Public interest

The proposal is not in the public interest.

Annexures

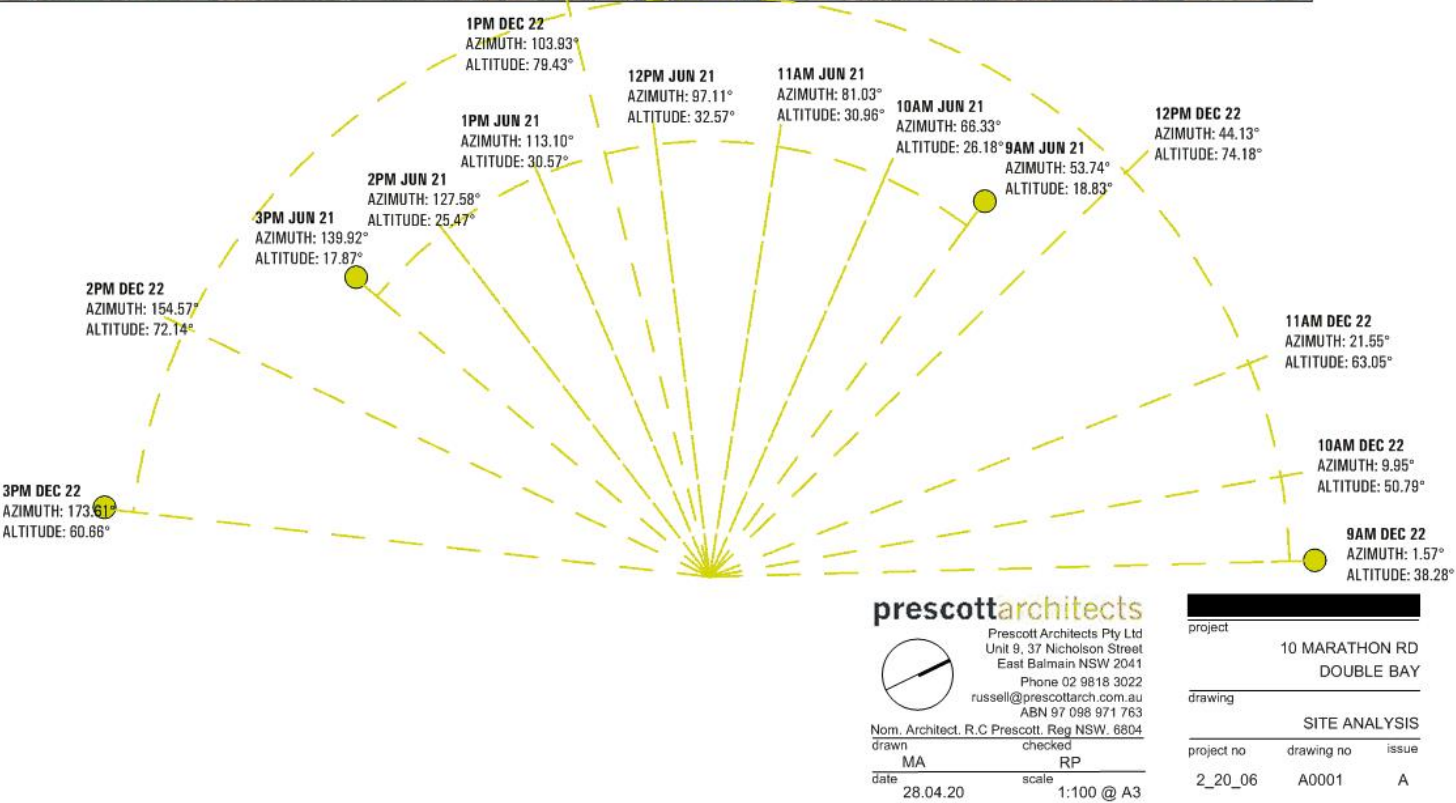
1. Plans, Sections and Elevations [↓](#) 
2. Referral Response - Technical Services [↓](#) 
3. Referral Response - Traffic [↓](#) 
4. Referral Response - Drainage [↓](#) 
5. Referral Response - Trees & Landscaping [↓](#) 
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SITE PLAN	A0001
SITE ANALYSIS	A0002
GENERAL ARRANGEMENT PLANS	
BASEMENT/GROUND FLOOR 1:125	A2100
BASEMENT FLOOR PLAN	A2101
GROUND FLOOR PLAN	A2102
FIRST FLOOR PLAN	A2103
SECOND FLOOR PLAN	A2104
ROOF PLAN	A2105
ELEVATIONS	
NORTH/SOUTH ELEVATION	A3100
EAST ELEVATION	A3101
WEST ELEVATION	A3102
SECTIONS	
SECTION AA/CC	A3200
SECTION BB	A3201
GENERAL ARRANGEMENT PLANS	
BASEMENT/GROUND FLOOR AREA PLAN	A4000
FIRST/SECOND FLOOR AREA PLAN	A4001
SHADOW DIAGRAMS	
SHADOWS	A5000
SHADOWS	A5001
PERSPECTIVES	
PERSPECTIVES	A9000
PERSPECTIVES	A9001
PERSPECTIVES	A9002

DEVELOPMENT SCHEDULE

SITE AREA	500.6m ²
GFA ALLOWABLE	500.6m ²
FSR ALLOWABLE	1:1
GFA PROPOSED	500.52m ²
FSR PROPOSED	1:1



SPRING ST STREETSCAPE

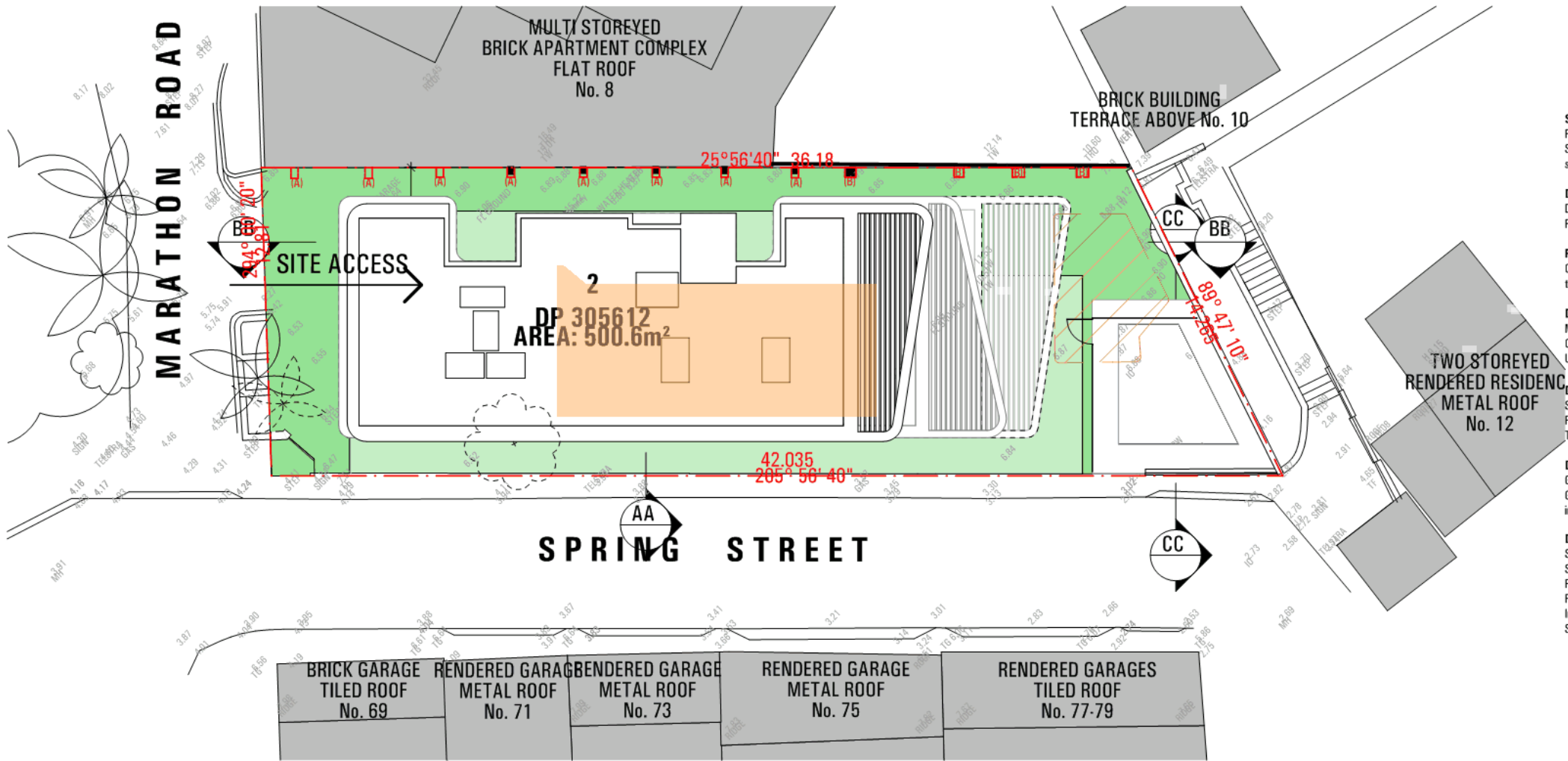
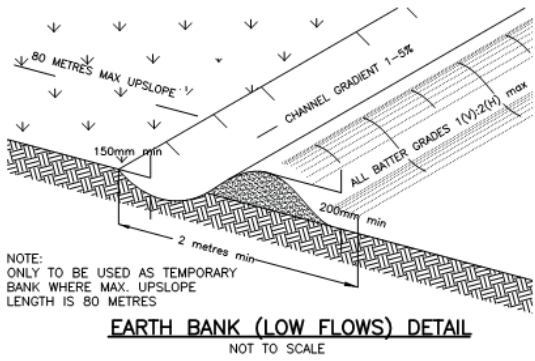
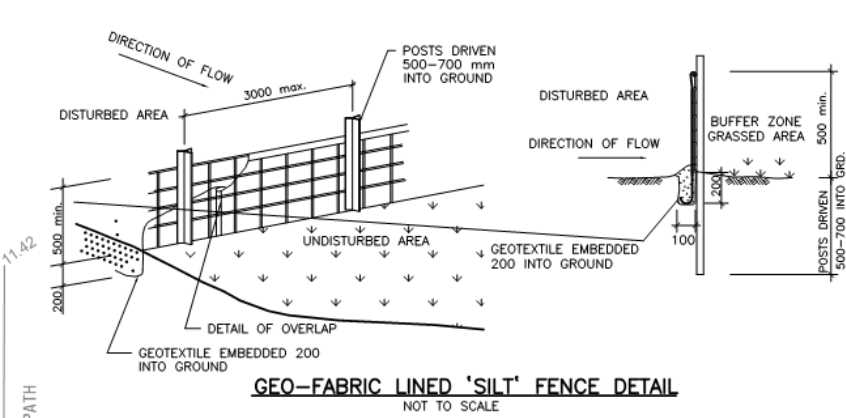
SUBJECT PROPERTY



EXAMPLE OF 1.8M STEEL MESH/CHAIN WIRE FENCE



EXAMPLE OF TREE PROTECTION SIGNAGE

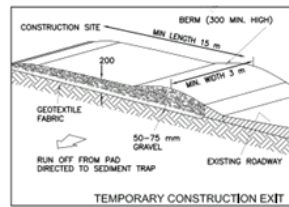
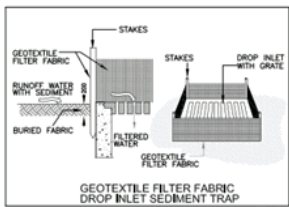
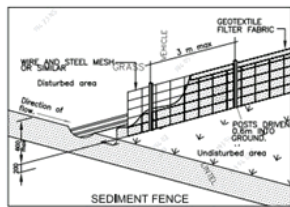
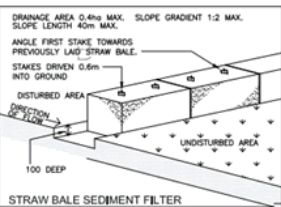


- Site Access**
Provide a single stabilised entry/exit point.
Sediment or building waste should be removed from the road by sweeping, shovelling or sponging; not washing.
- Diversion of Water**
Divert run off away from disturbed areas and stockpiles using banks and channels.
Run off should be treated (by sediment fence or the like) before leaving the site.
- Roof Water Drainage**
Connect temporary or permanent downpipes to the storm water system as soon as the roof is complete, to reduce site wetness.
- Dust Controls**
Minimise disturbances.
Cover stockpiles.
Use water when necessary, but control run off.
- DETAIL 1**
Sedimentation Fences
Fences should be installed down slope to treat site run-off.
To be effective, they need to be installed properly and maintained regularly.
- DETAIL 2**
Gutter Protection
Gravel Sausages, gravel bags or sand bags should be installed around storm water inlets to reduce the risk of untreated run off entering the waterways.
- DETAIL 3**
Stockpiles
Stockpiles should be located upslope away from drainage lines.
Run off should be diverted away from the stockpile.
Protect stockpiles with waterproof covering.
Install a sediment control device on the downslope side of the stockpile.
Stockpiles must not be stored on footpaths.

issue	amendment	date
A	DA ISSUE	28.04.20

issue	amendment	date

Do not scale drawings.
Verify all dimensions on site



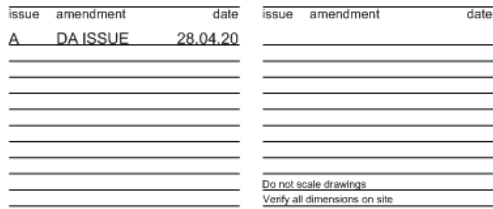
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russell@prescottarch.com.au
ABN 97 098 971 763

Nom. Architect, R.C Prescott, Reg NSW, 6804

drawn MA checked RP
date 28.04.20 scale 1:100 @ A3

project	10 MARATHON RD DOUBLE BAY
drawing	SITE PLAN/CMP/SCP
project no	2_20_06
drawing no	A0002
issue	A







issue	amendment	date	issue	amendment	date
A	DA ISSUE	28.04.20			

Do not scale drawings.
Verify all dimensions on site.

CONSTRUCTION TYPE LEGEND
FLOORS/ROOF - CONCRETE
EXTERNAL WALLS - CONCRETE VENEER
INTERNAL WALLS - BRICK

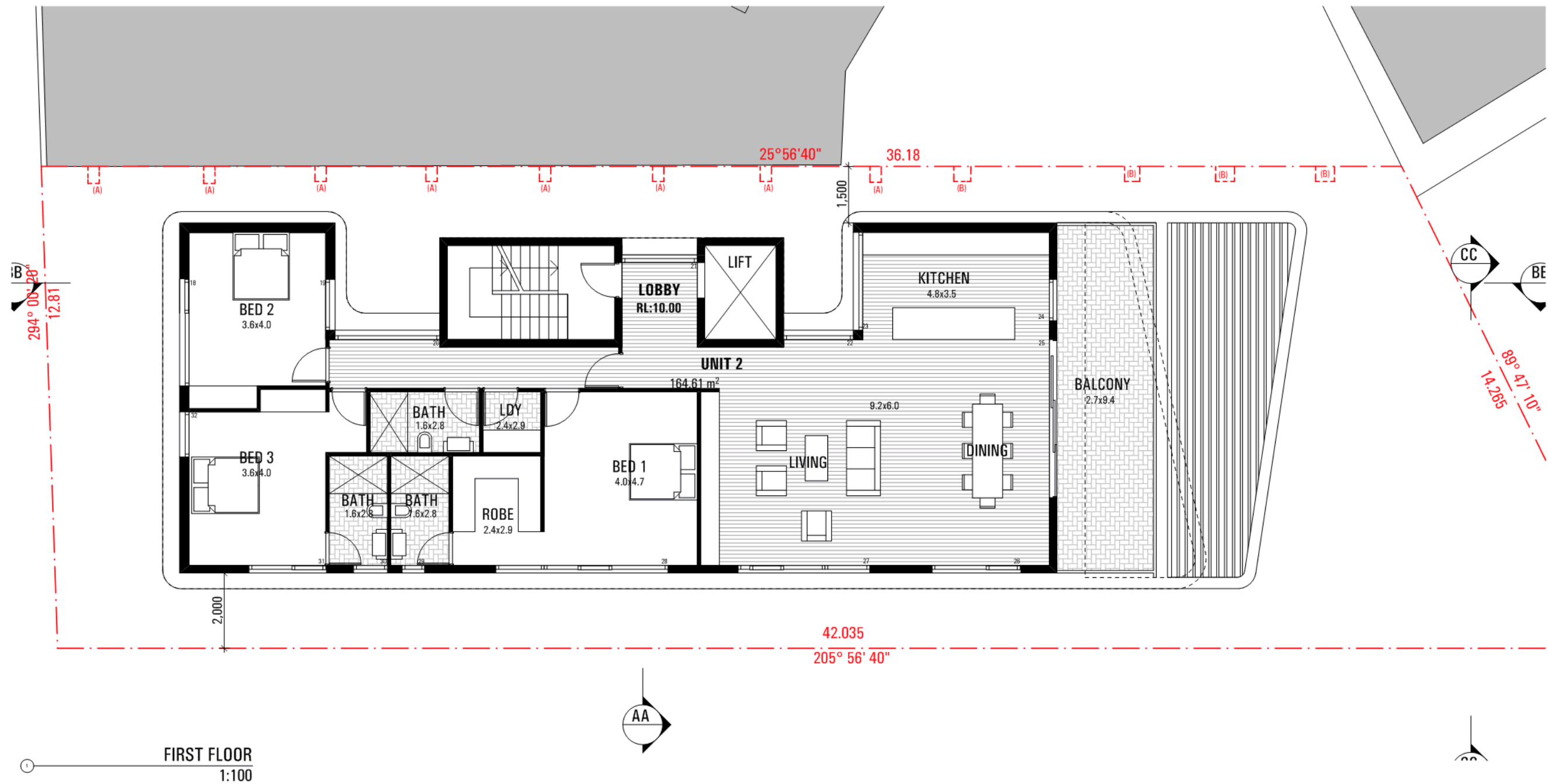
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Nom. Architect, R.C Prescott, Reg NSW, 6804
drawn MA checked RP
date 28.04.20 scale 1:100 @ A3

project10 MARATHON RD
DOUBLE BAY

drawingGROUND FLOOR PLAN

project no2_20_06drawing noA2102issueA



issue	amendment	date	issue	amendment	date
A	DA ISSUE	28.04.20			

Do not scale drawings.
Verify all dimensions on site.

CONSTRUCTION TYPE LEGEND	
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EXTERNAL WALLS	· CONCRETE VENEER
INTERNAL WALLS	· BRICK

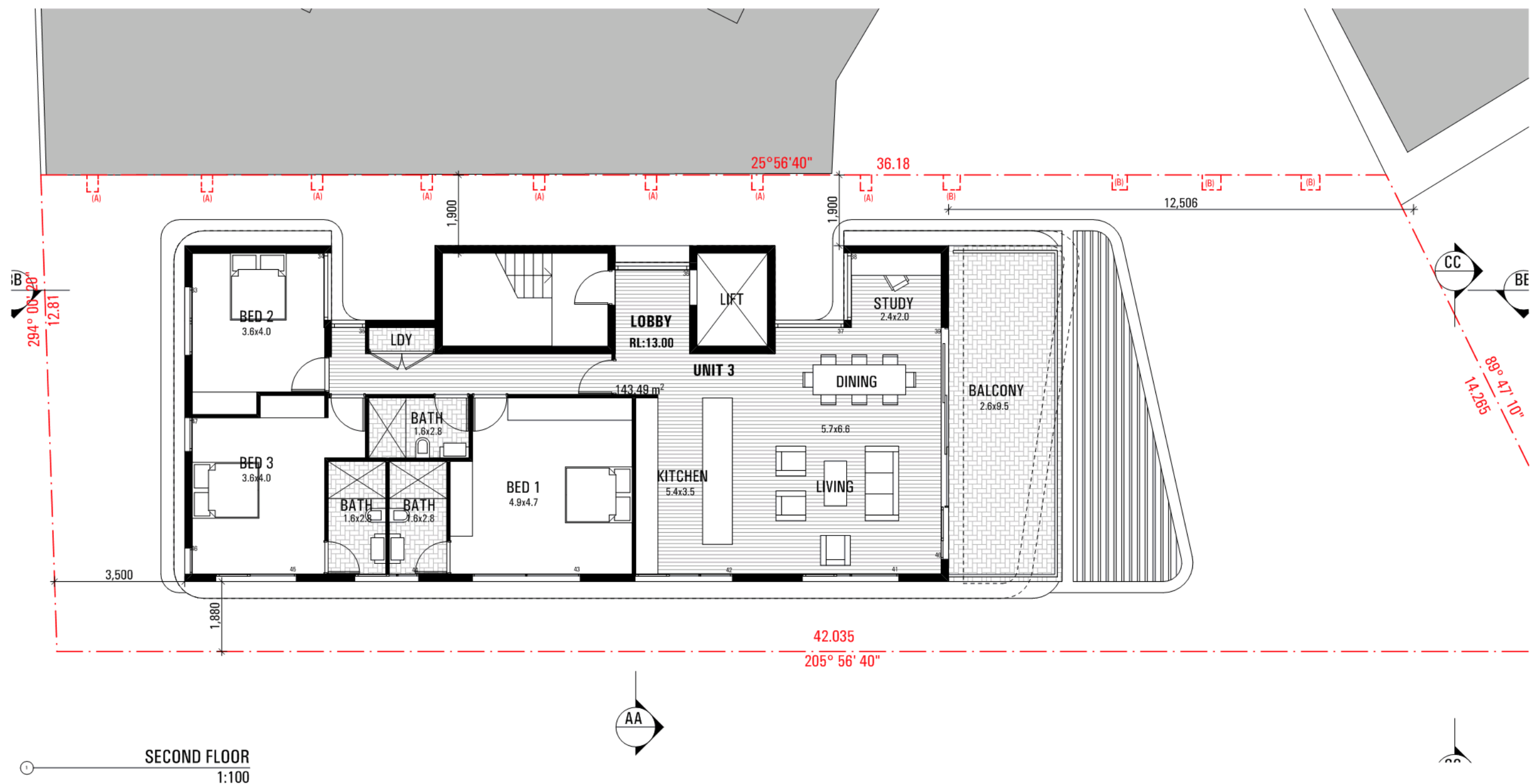
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Nom. Architect, R.C Prescott, Reg NSW, 6804

drawn	MA	checked	RP
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drawing	FIRST FLOOR PLAN		
project no	drawing no	issue	
2_20_06	A2103	A	



issue	amendment	date	issue	amendment	date
A	DA ISSUE	28.04.20			

Do not scale drawings.
Verify all dimensions on site.

CONSTRUCTION TYPE LEGEND
FLOORS/ROOF - CONCRETE
EXTERNAL WALLS - CONCRETE VENEER
INTERNAL WALLS - BRICK

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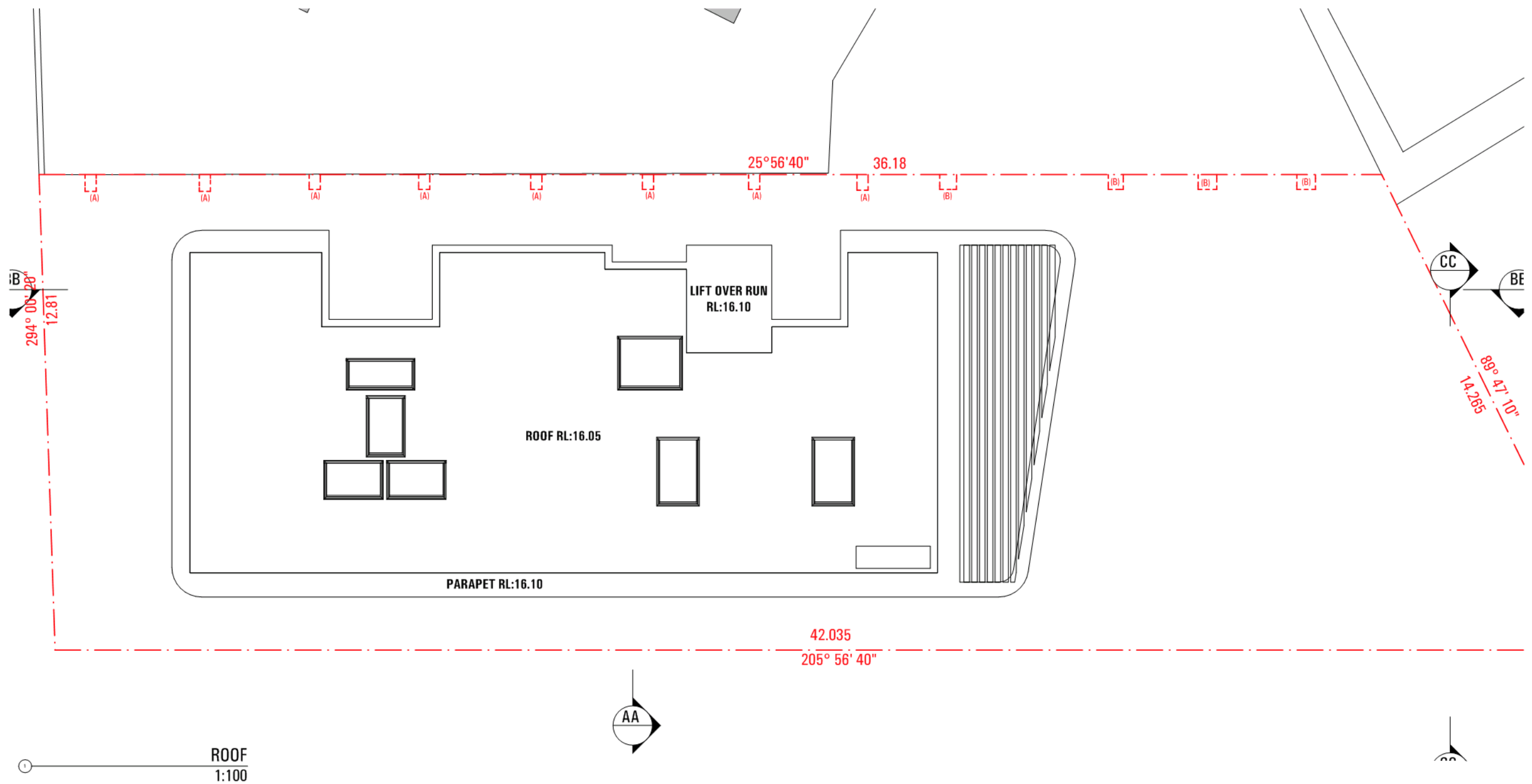
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project
10 MARATHON RD
DOUBLE BAY

drawing
SECOND FLOOR PLAN

project no	2_20_06	drawing no	A2104	issue	A
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CONSTRUCTION TYPE LEGEND
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EXTERNAL WALLS - CONCRETE VENEER
INTERNAL WALLS - BRICK

ROOF
1:100

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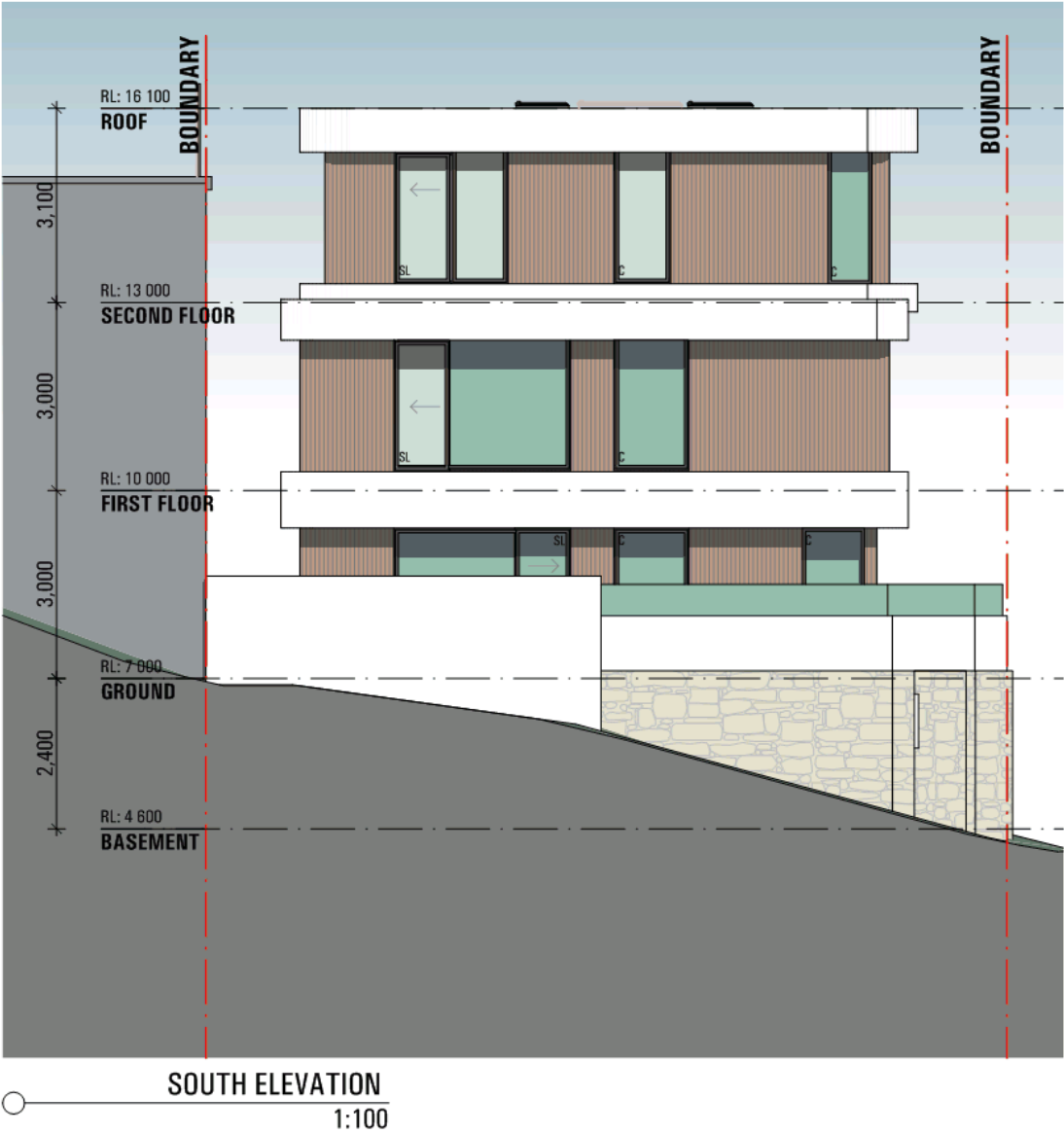
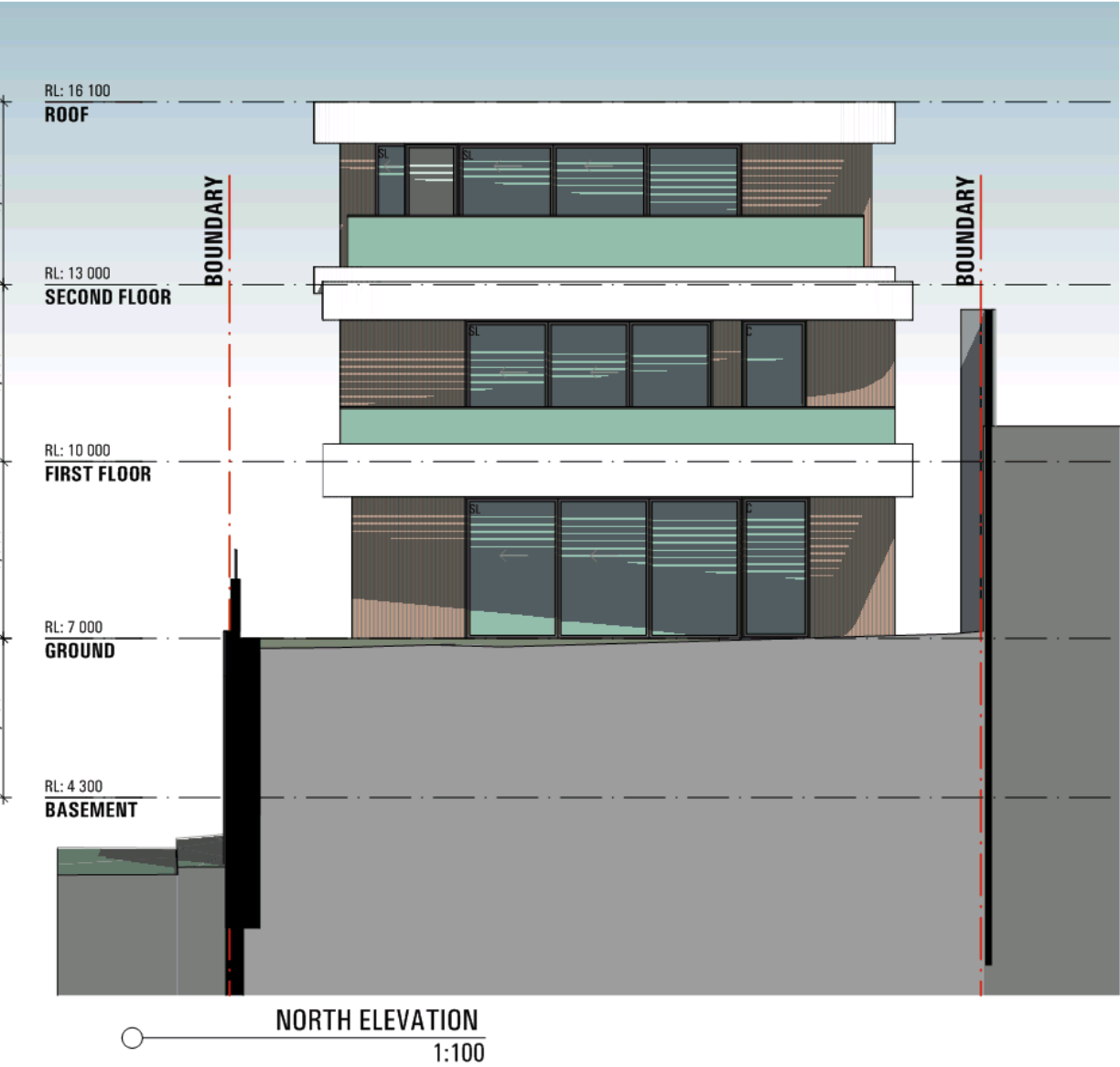
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drawn	checked
MA	RP
date	scale
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project
10 MARATHON RD
DOUBLE BAY
drawing
ROOF PLAN
project no drawing no issue
2_20_06 A2105 A



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Nom. Architect, R.C Prescott, Reg NSW, 6804
drawn MA checked RP
date 28.04.20 scale 1:100 @ A3

project 10 MARATHON RD
DOUBLE BAY

drawing NORTH/SOUTH ELEVATIONS
project no 2_20_06 drawing no A3100 issue A



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Nom. Architect, R.C Prescott, Reg NSW, 6804
drawn MA checked RP
date 28.04.20 scale 1:100 @ A3

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drawing		
EAST ELEVATION		
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2_20_06	A3101	A



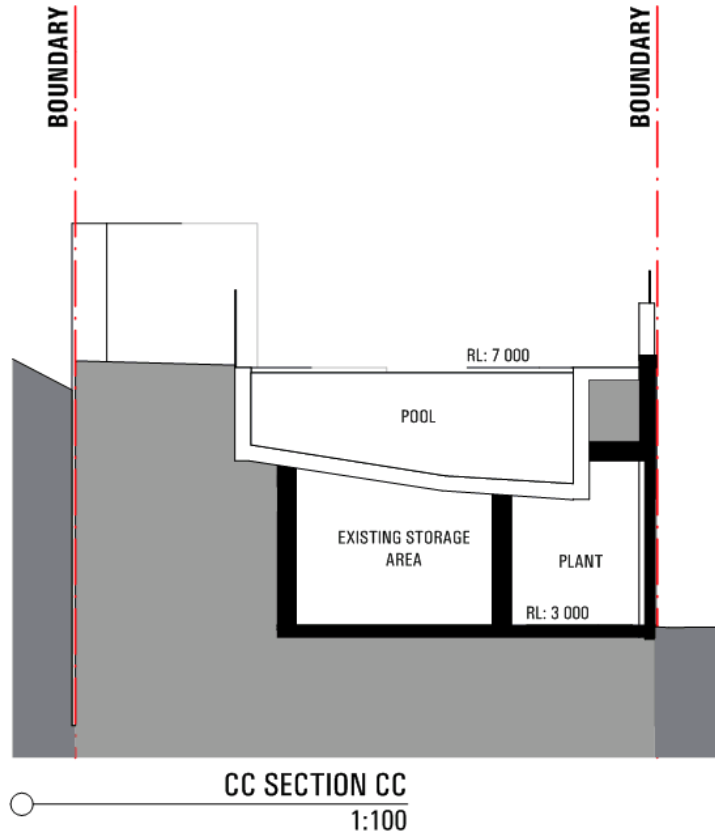
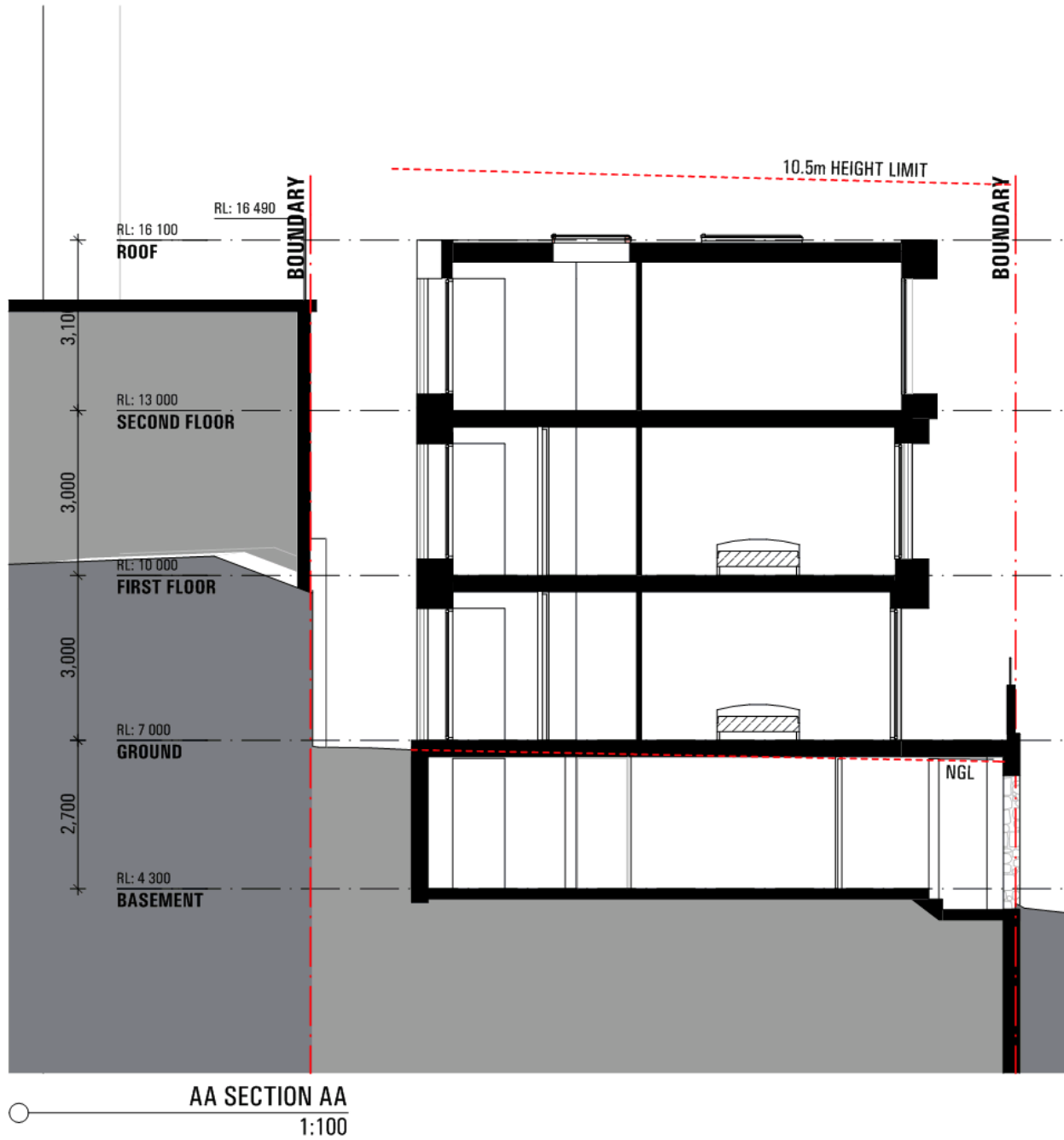
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drawn	checked
MA	RP
date	scale
28.04.20	1:100 @ A3

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drawing	WEST ELEVATION		
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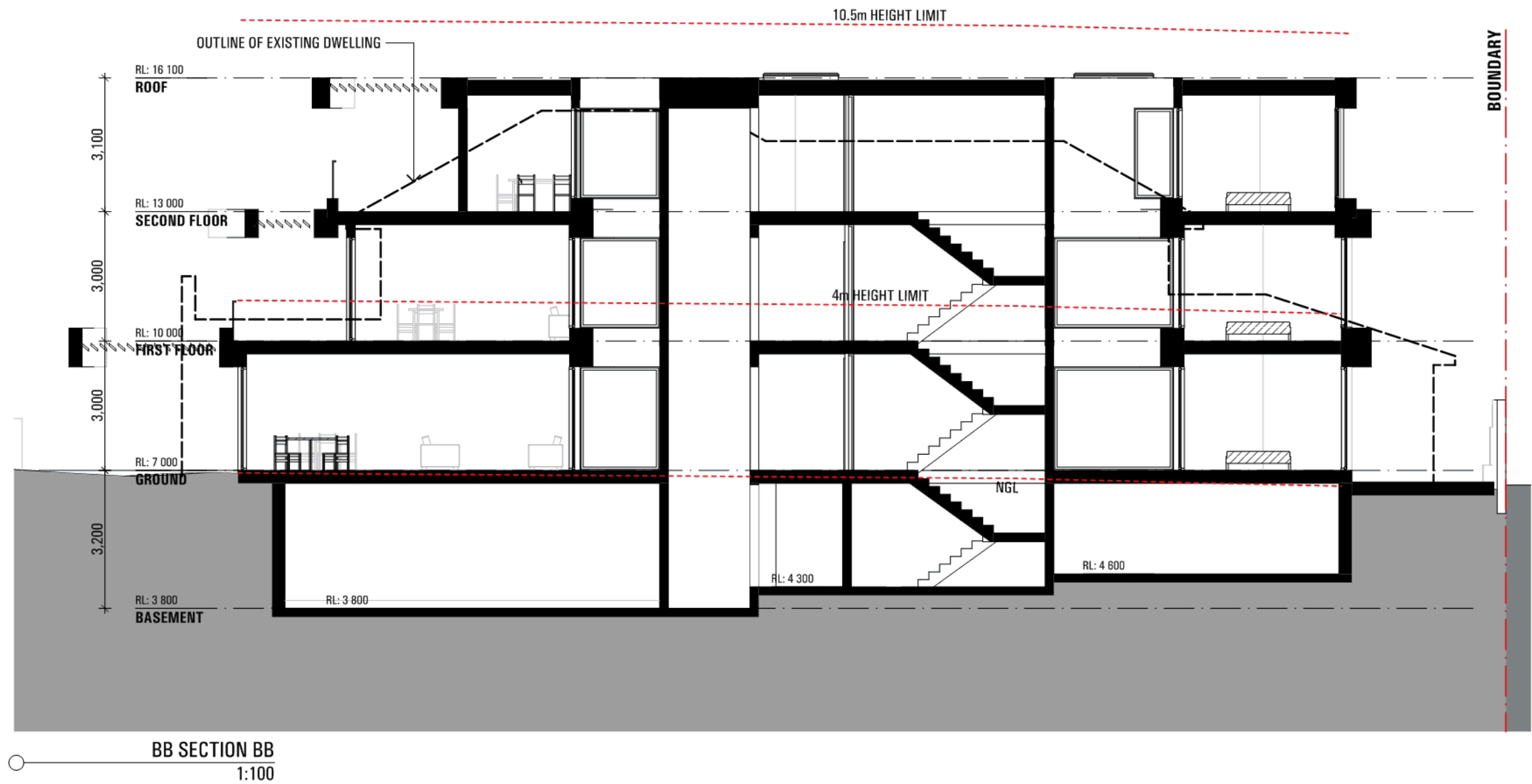
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Norm. Architect. R.C Prescott. Reg NSW. 6804

drawn	checked
MA	RP
date	scale
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project
10 MARATHON RD
DOUBLE BAY
drawing
SECTION AA/CC
project no drawing no issue
2_20_06 A3200 A



issue	amendment	date	issue	amendment	date
A	DA ISSUE	28.04.20			

Do not scale drawings.
Verify all dimensions on site.

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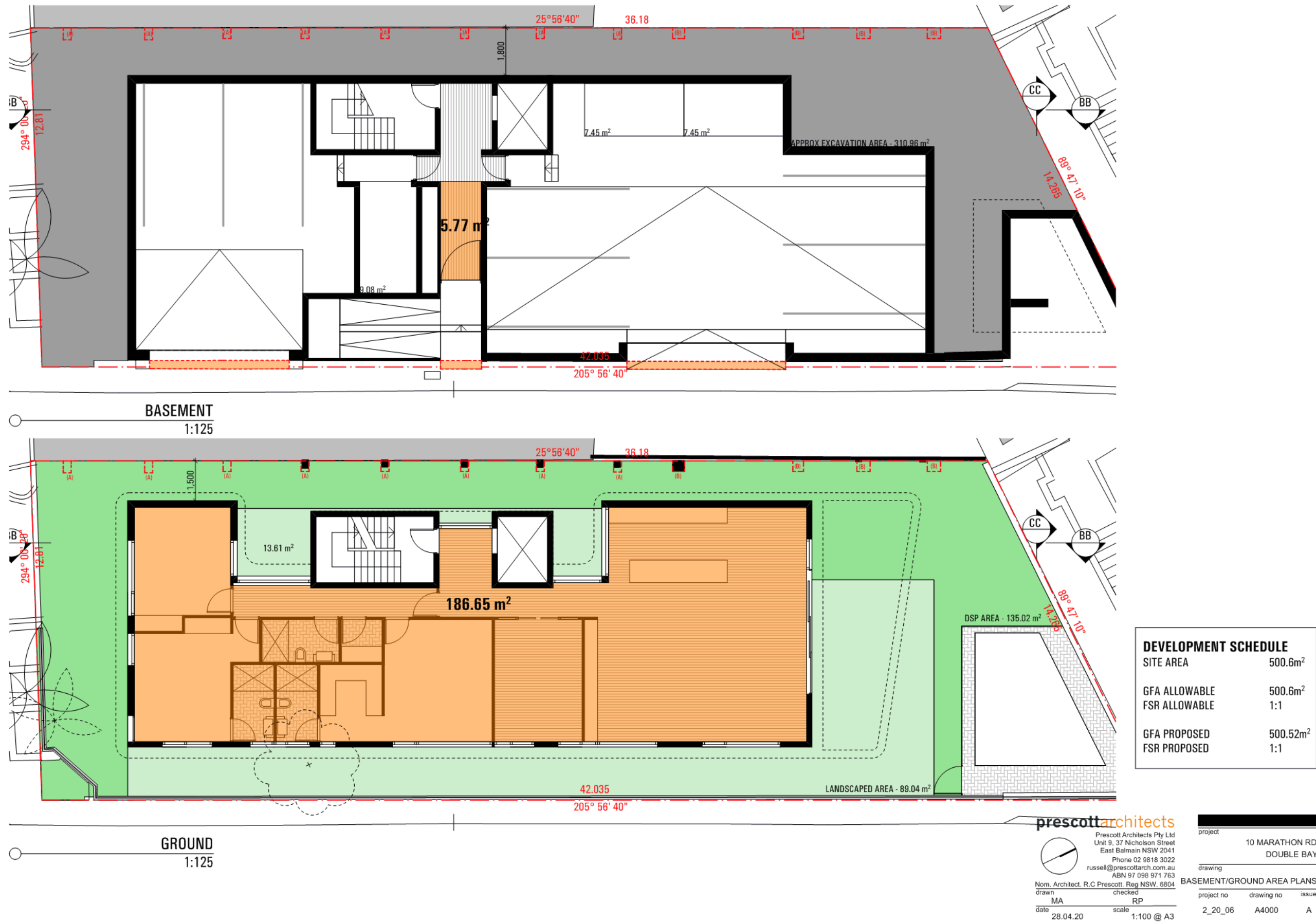
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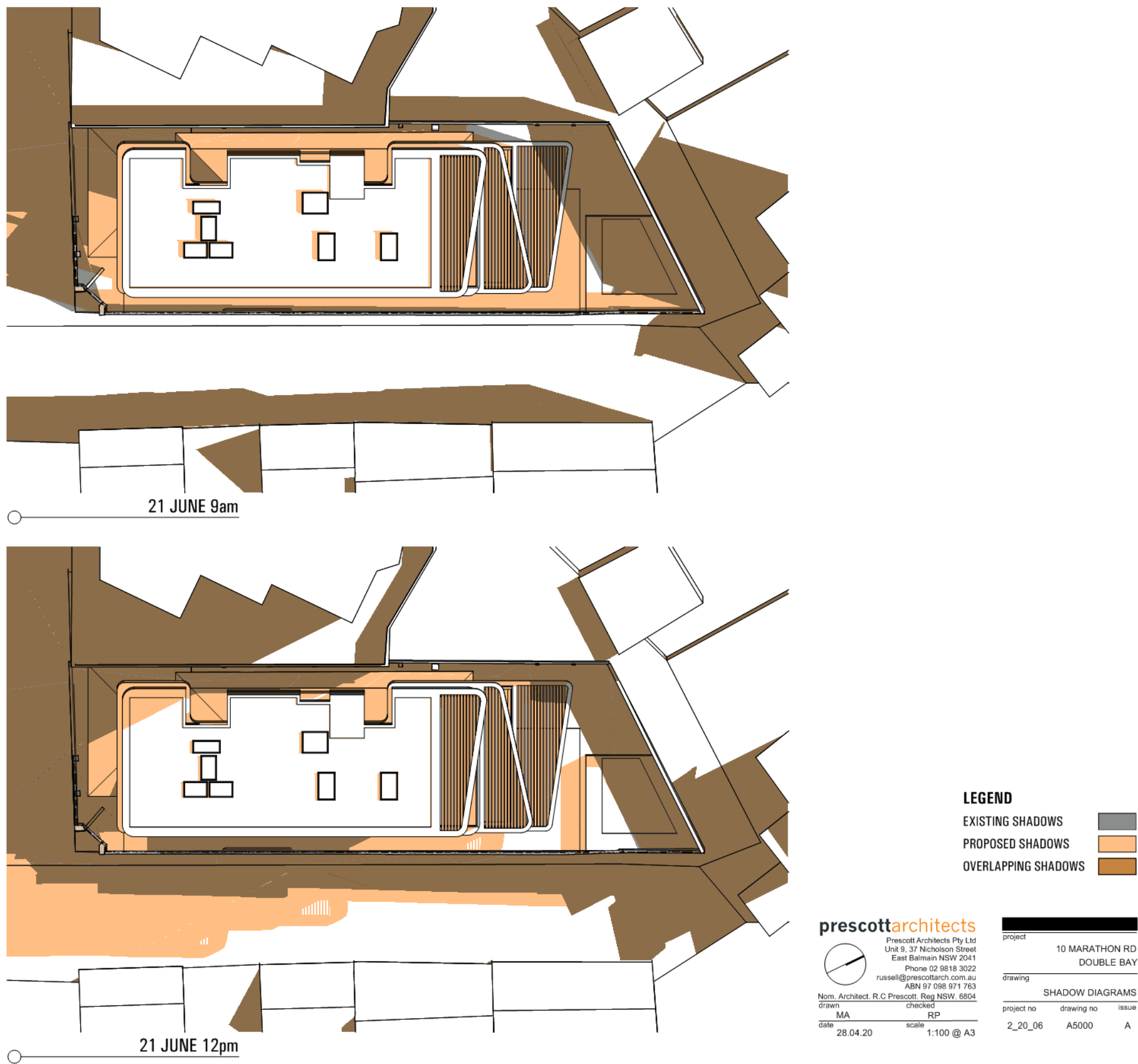
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DOUBLE BAY

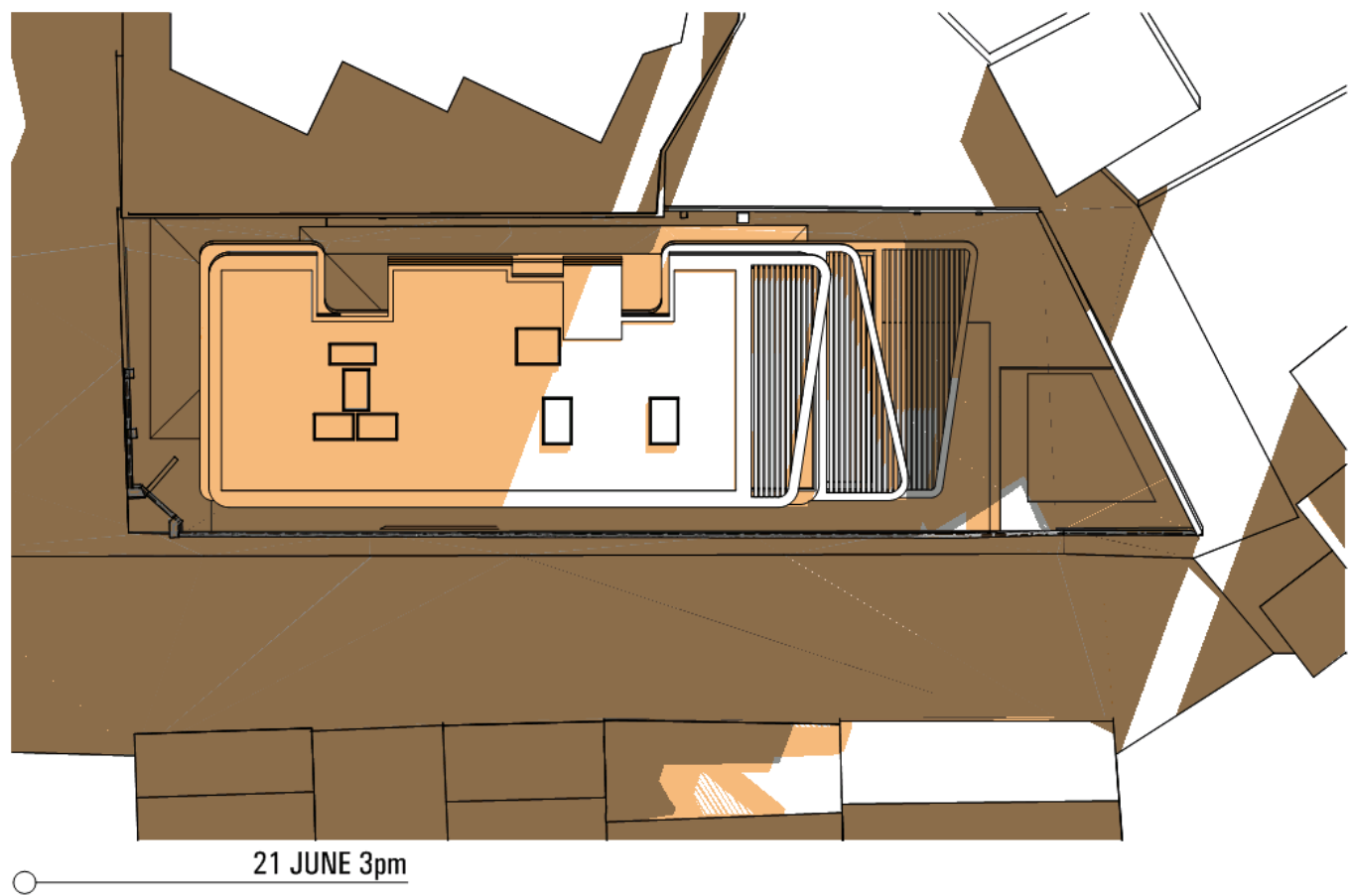
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project no	drawing no	issue
2_20_06	A3201	A












LEGEND

EXISTING SHADOWS 

PROPOSED SHADOWS 

OVERLAPPING SHADOWS 

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MA	RP
date	scale
28.04.20	1:100 @ A3

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DOUBLE BAY		
drawing		
SHADOW DIAGRAMS		
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2_20_06	A5001	A

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ABN 97 098 971 763

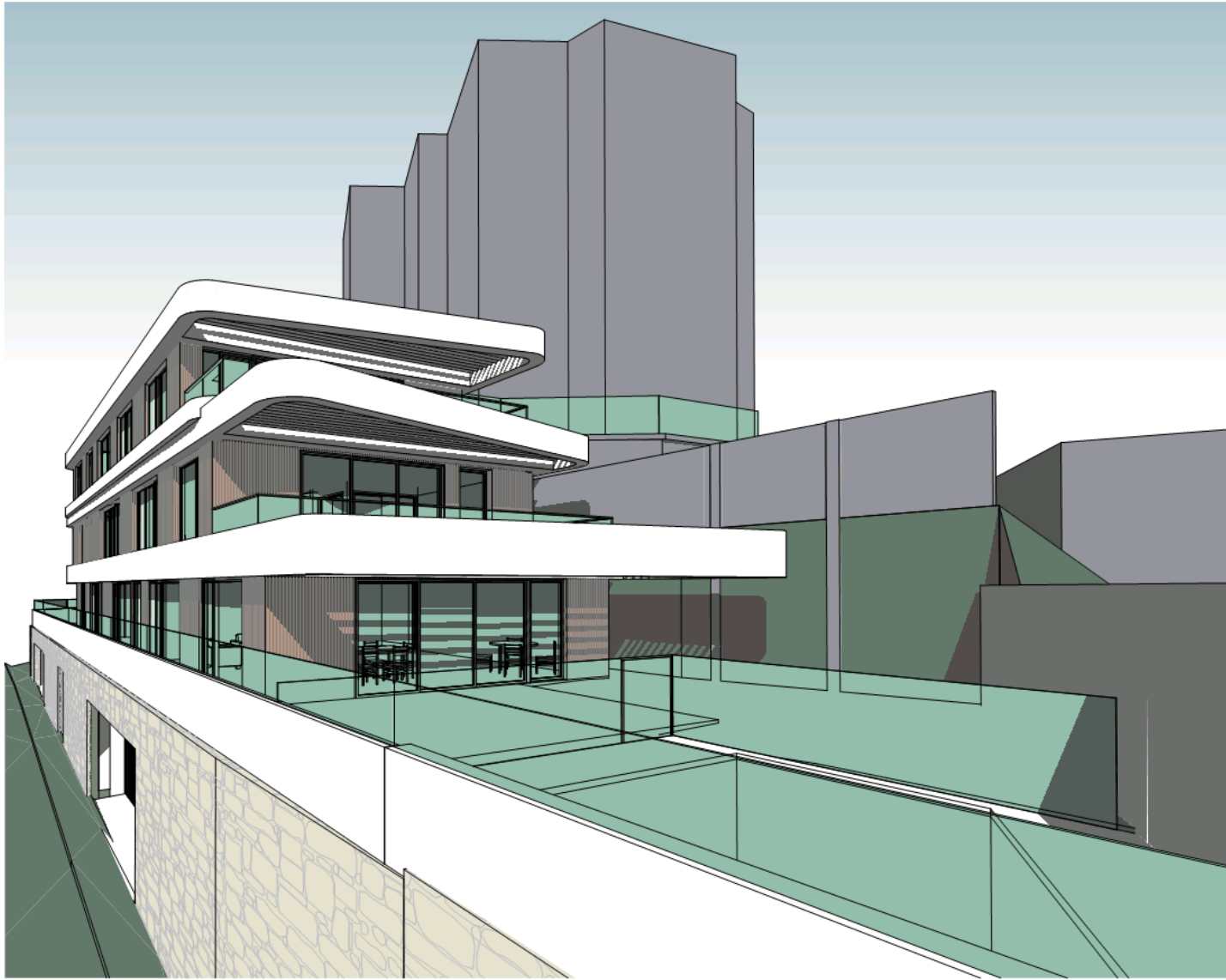
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drawn MA checked RP
date 28.04.20 scale 1:100 @ A3

project


10 MARATHON RD
DOUBLE BAY

drawing

PERSPECTIVES		
project no	drawing no	issue
2_20_06	A9000	A

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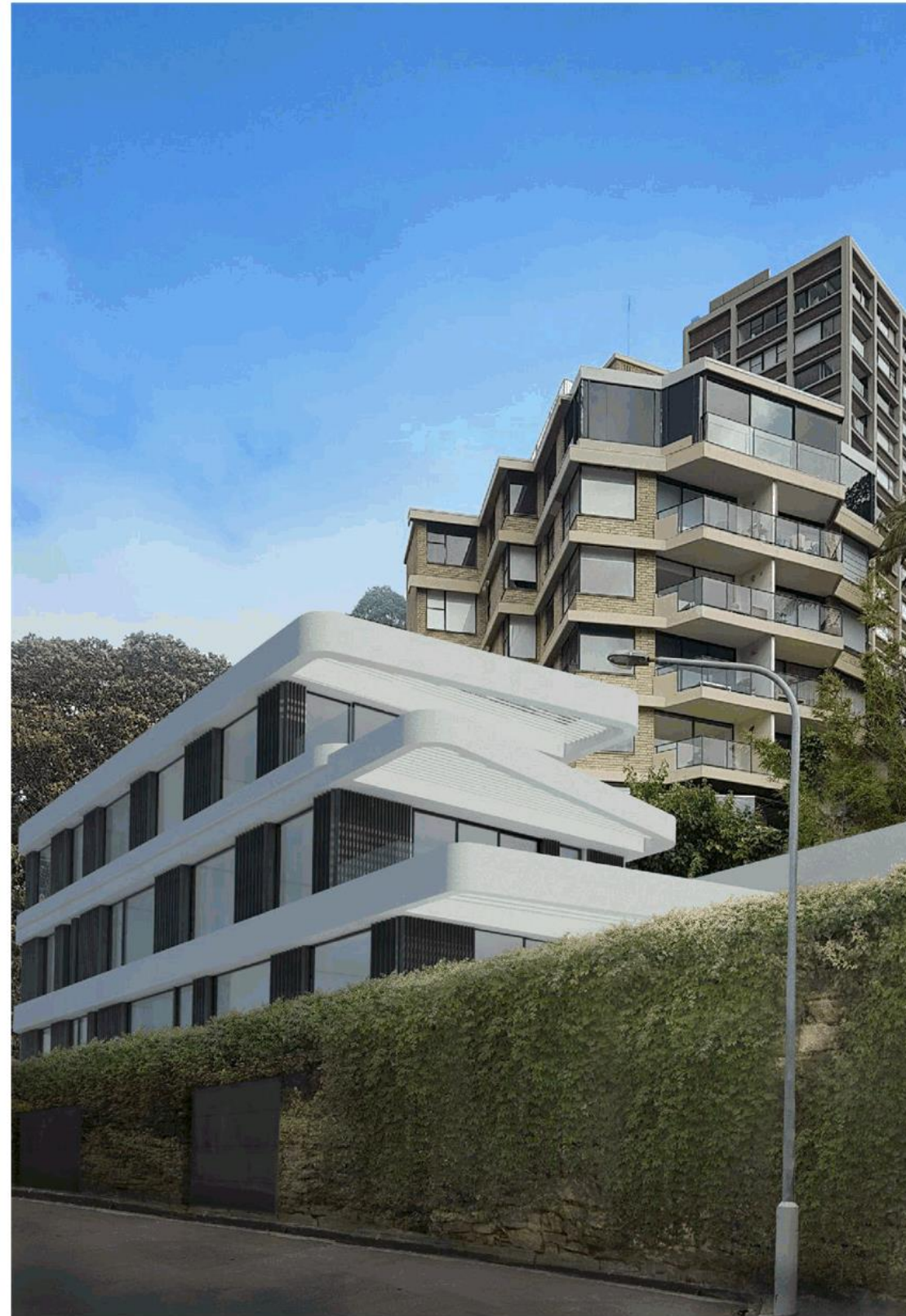
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drawing		
PERSPECTIVES		
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2_20_06	A9001	A

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 Nom. Architect. R.C Prescott. Reg NSW. 6804
 drawn checked
 MA RP
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Nom. Architect. R.C Prescott. Reg NSW. 6804

drawn	checked
MA	RP
date	scale
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project
10 MARATHON RD
DOUBLE BAY
drawing
PHOTOMONTAGE
project no drawing no issue
2_20_06 A9003 A

Completion Date: 13 July 2020

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 133/2020/1
ADDRESS: 10 Spring Street DOUBLE BAY 2028
PROPOSAL: Construction of a new residential flat building with basement parking, swimming pool & strata subdivision
FROM: Ms S Lin
TO: Mr S Kaposi

1. ISSUES

- Stormwater
- Geotechnical

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced M200067, prepared by Planning Ingenuity, dated 11/03/2020.
- Architectural Plans, referenced 2_20_06 Issue B, prepared by Prescott Architects, dated 20/05/2020.
- Survey, referenced 3902/19, prepared by ESA Survey, dated 19/07/2019.
- Stormwater Management Plan, referenced 200321 Rev 4, prepared by PL Civil Engineering, dated 25/05/2020.
- Geotechnical Report, referenced GEO532-01 Rev 0, prepared by Epoch Geotechnical Services, dated 14/04/2020.
- Structural Certification, unreferenced, prepared by Danmor Consulting Engineers, dated 40/03/2020.
- Flood Report, unreferenced, prepared by PL Civil Engineering, dated 05/05/2020.
- Traffic Report, referenced A2015887NM, prepared by ML Traffic Engineers, dated 28/05/2020.

3. ASSESSMENT

Comments have been prepared on the following.

a. Site Drainage comments

Preliminary assessment of the submitted revised stormwater concept plans has identified the following issues which shall be addressed by the applicant prior to further assessment:

- The proposed 10m³ rainwater tank and the on-site detention (OSD) system must be located as closed as possible to the lowest point of the site so that a spillway to the street can be provided to cater for system failure or extreme storm events. The flow route must be designed to convey the 1 in 100 year ARI uncontrolled flows, assuming that the control outlet to the OSD device is fully blocked.*

- b) Stormwater runoff from the site must be collected and directed to a min. 450mm x 450mm boundary junction pit which is to be provided within the site boundary prior to connecting to the proposed kerb inlet pit in Spring Street.
- c) The construction of the proposed 100mm uPVC with multiple stormwater connections over Council's property is not supported. Only one stormwater outlet pipe across Council's property will be permitted to comply with Chapter E2.2.5 of Council's DCP. As such, the proposed 100mm uPVC must be constructed wholly within the site and connected to the min. 450mm x 450mm boundary junction pit prior to connecting to the Council's underground system.
- d) Stormwater treatment system shall be provided for the proposed development to comply with Chapter E2.2.3 of Council's DCP. The provision of a rain garden is considered inadequate to address this requirement. In this regard, details of the proposed proprietary stormwater treatment system and demonstrate how it complies with Council's water quality targets must be provided. Results from the pollution modelling program such as MUSIC shall be submitted with the revised stormwater plans.

Revised stormwater plans addressing the above issues shall be submitted to Council for further assessment.

b. Flooding & Overland Flow comments

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

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. *A permanent flood risk management plans shall be installed in prominent areas of both garages.*
- b. *A permanent flood risk management plan shall be installed in each residence an area frequented by the residents such as the laundry.*
- c. *The proposed southern garage shall be protected by an internal physical threshold set at or above the flood planning level (FPL) of RL4.6m AHD.*
- d. *The proposed northern garage shall be protected by an internal physical threshold set at or above the flood planning level (FPL) of RL3.8m AHD.*
- e. *The proposed lobby floor level shall be at or above the flood planning level (FPL) of RL4.3m AHD.*
- f. *Flood compatible materials shall be used for all flood exposed construction.*
- g. *All flood exposed electrical wiring and equipment is to be waterproofed.*
- h. *All flood protection measures are to be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.*

c. Impacts on Council Infrastructure comments

The applicant seeks approval for the construction of two separate basement parking with two separate vehicular access point as part of this application. It is advised that Council's Engineers do not generally support the construction of two vehicular crossings on a single

allotment. However, given that the subject site is situated in a no through traffic laneway with no frontage footpath and the construction of two crossings will not result in the loss of any on-street parking due to current parking restrictions within the frontage of the site, Council's Engineers are in the opinion that the proposal, in this instance, is considered acceptable. Conditions will be applied accordingly.

d. Traffic comments

Council's Traffic Engineers will provide traffic comments separately.

e. Vehicle Access & Accommodation comments

The proposed carparking layout complies with AS2890.1. It is however noted from the submitted traffic report that two vehicles from the southern basement will egress the subject site in a reverse direction. It is advised that such reverse movements would generally not be supported for RFB developments. Further comments regarding this matter will be provided by Council's Traffic Engineers separately.

f. Geotechnical, Hydrogeological and/or Structural comments

Preliminary assessment of the submitted geotechnical report has identified following issues which shall be addressed by the applicant prior to further assessment:

- a) The submitted geotechnical report must be prepared by a Chartered Geotechnical Engineer with NER qualification. As such, a signature with printed name and qualification must be included in the report. This requirement is stipulated in Council's DCP and Council's document "Guidelines for Geotechnical and Hydrogeological Reports".*
- b) Some part of the submitted geotechnical report appear to be commenting on a different proposal which refers to "the proposed development consists of double-storey dwelling including a lower ground level. Excavation works, if required for the project, have not been finalised at the time of writing this report." In this regard, it is required that a revised geotechnical report referring to the current proposal must be submitted to Council for further assessment.*

The geotechnical report must be updated in accordance with Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". In particular, the report must include, but not limited to, site specific comments regarding support and retention, hydrogeology, vibration controls and construction methodology.

This documents are available from Councils Customer Service or Council's web site <http://www.woollahra.nsw.gov.au/>

4. RECOMMENDATION

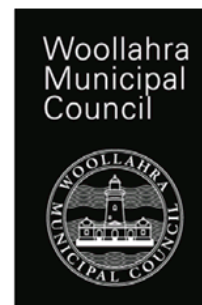
Council's Development Engineer has determined that insufficient information has been submitted to enable an assessment of the proposal. The following information is required before any further assessment of the application can be undertaken:

- The submission of revised stormwater plans.

- The submission of revised geotechnical report.

Memorandum – Traffic

Date 10 July, 2020
File No. Development Applications: 133/2020/1
To Mr S Kaposi
CC Ms S Lin
From Ms E Fang
Address 10 SPRING STREET DOUBLE BAY 2028



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 12 June 2020 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects, referenced M200067, prepared by Planning Ingenuity, dated 11 March 2020;
2. Vehicle Access Car Park Certification, referenced A2015887NM 1.3, prepared by ML Traffic Engineers, dated 6 May 2020;
3. Traffic Response regarding Council's Requirement for Parking Bay, referenced A2015887NM, prepared by ML Traffic Engineers, dated 20 May 2020;
4. Revised Traffic Report, referenced A2015887NM 1.4, prepared by ML Traffic Engineers, dated 28 May 2020;
5. Revised Basement & Ground Floor Plan, Issue B, referenced Project No. 2_20_06, prepared by Prescott Architects, dated 20 May 2020;
6. Architectural Plans, Issue A, referenced Project No. 2_20_06, prepared by Prescott Architects, dated 28 April 2020, including:

DRAWING INDEX

COVER SHEET	A0000	SECTIONS	
SITE PLAN	A0001	SECTION AA/CC	A3200
SITE ANALYSIS	A0002	SECTION BB	A3201
GENERAL ARRANGEMENT PLANS		GENERAL ARRANGEMENT PLANS	
BASEMENT/GROUND FLOOR 1:125	A2100	BASEMENT/GROUND FLOOR AREA PLAN	A4000
BASEMENT FLOOR PLAN	A2101	FIRST/SECOND FLOOR AREA PLAN	A4001
GROUND FLOOR PLAN	A2102		
FIRST FLOOR PLAN	A2103	SHADOW DIAGRAMS	
SECOND FLOOR PLAN	A2104	SHADOWS	A5000
ROOF PLAN	A2105	SHADOWS	A5001
ELEVATIONS		PERSPECTIVES	
NORTH/SOUTH ELEVATION	A3100	PERSPECTIVES	A9000
EAST ELEVATION	A3101	PERSPECTIVES	A9001
WEST ELEVATION	A3102	PERSPECTIVES	A9002

3 Referral Response - TS Traffic - DA 2020 133 1 - 10 Spring Street DOUBLE BAY

Proposal

Construction of a new residential flat building with basement parking, swimming pool & strata subdivision

COMMENTS

Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*:

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Apartment	DCP Maximum Required Parking
3 bedrooms	3	2	6
Visitor	3	0.25	0.75 (1)
Total allowed			7

The proposal includes six (6) resident car parking spaces at lower ground level, which complies with Council's DCP and is deemed satisfactory.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	3 dwellings	1 per dwelling	3
Residential Visitors	3 dwellings	1 per 10 dwellings	0.3 (0)
Total required			3
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	7	1 per 10 car spaces	0.7 (1)
Total required			1

In response, the proposal provides five (5) bicycle parking spaces and no motorcycle parking spaces, which would result in a shortfall of one (1) space than DCP's minimum requirement for motorcycle parking.

Traffic Generation

3 Referral Response - TS Traffic - DA 2020 133 1 - 10 Spring Street DOUBLE BAY

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Existing Development

Low Density Dwellings

- Weekday peak hour vehicle trips: 1 dwelling x 0.95-0.99 per dwelling = 0.95-0.99 trips
- Daily vehicle trips: 1 dwelling x 10.7 per dwelling = 10.7 trips

Proposed Development

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 3 dwellings x 0.5-0.65 per dwelling = 1.5-1.95 trips
- Daily vehicle trips: 3 dwelling x 5.0-6.5 per dwelling = 15-19.5 trips

Net Increase

- Weekday peak hour vehicle trips = 0.51-1 trips
- Daily vehicle trips = 4.3-8.8 trips

Based on the above calculation, the proposed development will not generate unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.

Access Driveway & Queuing

Pursuant to Clause E1.10.6 of Council's DCP, the design of driveways and access points should allow vehicles to enter and exit from the site onto a public road in a forward direction, however the current design indicates that vehicles would either reverse when accessing or egressing the site in the "left" car park, which does not comply with Council's DCP.

Furthermore, the swept paths analysis involves vehicles travelling in a forward direction southbound of the frontage road to enter the site, or northbound to leave the site as shown in Figure 1. It should however be noted that the starting/ending point of these manoeuvres would be somewhere north of the driveway access along the frontage road, which is a very narrow no-through road with barely a place for vehicles to make U-turns, as shown in Figure 2. Traffic section therefore queries the feasibility of vehicles accessing and egressing the site with the suggested manoeuvres. Should these restricted manoeuvres be achieved, traffic section also raise concerns on the potential disruption of each operation to traffic along the narrow frontage road, especially when the opposite side of the road accommodates a line of vehicular crossings.

As such, traffic section raises serious concerns on the feasibility and conflicts of traffic flow, should vehicles enter and leave the site through the proposed driveways. A more comprehensive and quantifiable traffic report should thus be submitted for further assessment, including a queuing analysis, to demonstrate post-development traffic impacts.

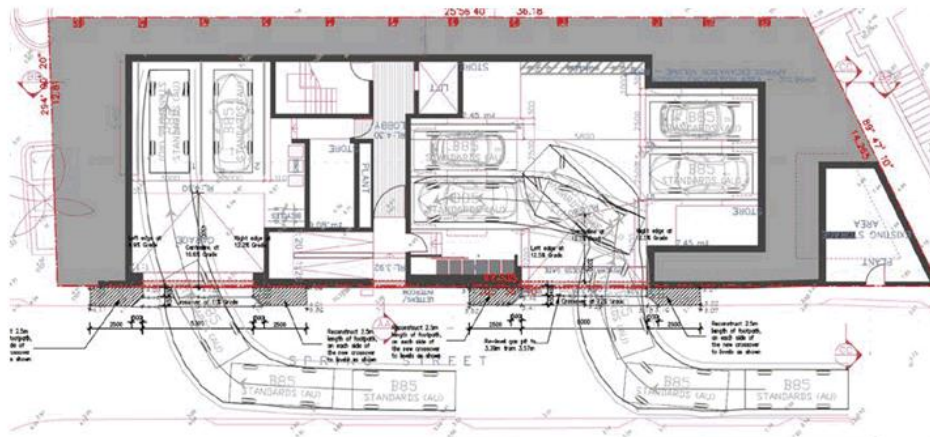


Fig. 1(a) Vehicles entering the site

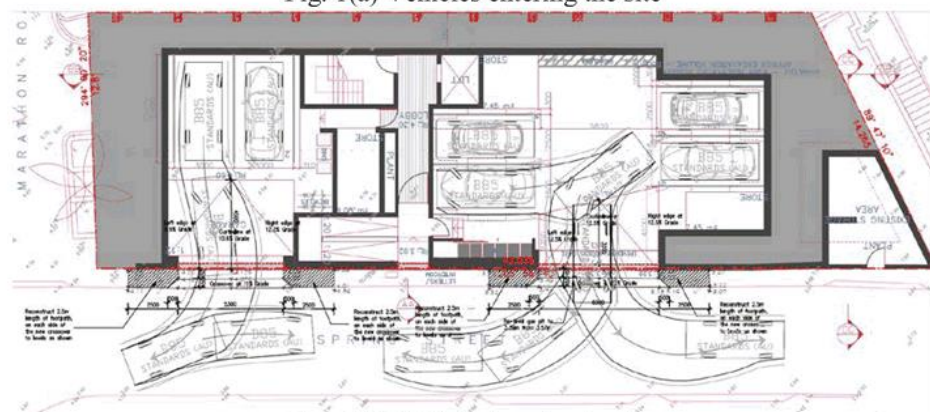


Fig. 1(b) Vehicles leaving the site



Fig. 2(a) Frontage road outside of the proposed driveway access



Fig. 2(b) Northern part of frontage road to the dead end

3 Referral Response - TS Traffic - DA 2020 133 1 - 10 Spring Street DOUBLE BAY

Construction Management Plan

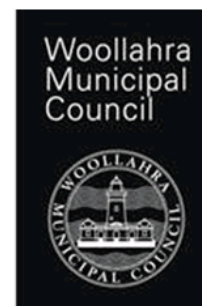
Given the physical constraints of the subject site as discussed above, a Construction Management Plan should be submitted to assess feasibility and potential traffic impacts of construction works on the surrounding road network. The CMP should provide information listed in Council's CMP application form, including, inter alia, the size, number and frequency of construction vehicles, travelling routes to and from the site, access to the site, parking arrangements, traffic control plans, and if any, location of works zone intended to propose.

RECOMMENDATION

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

1. Parking Provision – A shortfall of one (1) motorcycle parking space than the minimum requirement, as per Council's DCP;
2. Access Driveway & Queuing – A more comprehensive and quantifiable traffic report be submitted to respond to the issues discussed in the report, including a queuing analysis, to demonstrate post-development traffic impacts;
3. Construction Management Plan – A Construction Management Plan be submitted to assess feasibility and potential traffic impacts of construction works on the surrounding road network. The CMP should provide information listed in Council's CMP application form, including, inter alia, the size, number and frequency of construction vehicles, travelling routes to and from the site, access to the site, parking arrangements, traffic control plans, and if any, location of works zone intended to propose.

Memorandum - Drainage



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

Date 17/07/2020
File No. Development Applications: DA2020/133/1
To Mr Robert Lam
CC
From Michael Casteleyn

Address 10 Spring Street DOUBLE BAY

I refer to the following documents received for this report:

20/82099 Document - Flood Study - DA2020/133/1 - 10 Spring Street DOUBLE BAY
20/82111 Plan - Architectural Drawings - DA2020/133/1 - 10 Spring Street DOUBLE BAY

RECOMMENDATION

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. A permanent flood risk management plans shall be installed in prominent areas of both garages.

- b. A permanent flood risk management plan shall be installed in each residence an area frequented by the residents such as the laundry.
- c. The proposed southern garage shall be protected by a internal physical threshold set at or above the flood planning level of 4.6m AHD.
- d. The proposed northern garage shall be protected by a internal physical threshold set at or above the flood planning level of 3.8m AHD.
- e. The proposed lobby floor level shall be at or above the flood planning level of 4.3m AHD.
- f. Compatible materials shall be used for all flood exposed construction.
- g. All flood exposed electrical wiring and equipment is to be waterproofed.
- h. All flood protection measures are to be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.

15 July 2020

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 133/2020/1

ADDRESS: 10 Spring Street DOUBLE BAY 2028

PROPOSAL: Construction of a new residential flat building with basement parking, swimming pool & strata subdivision

FROM: Simone Woodman - Tree Management Officer

TO: Mr S Kaposi

I refer to the following documents received for this report:

- Survey Plan No. 3902/19 Sheet 1, drafted by ESA Survey, dated 19/07/2019
- Architectural Drawing No.s A002/A, A2100/A – A2105/A, A3100/A, - A3102/A, A3200/A, A3201/A, drawn by Prescott Architects, dated 28/04/2020
- Stormwater Drainage Plan No.s , drawn by , dated
- Arboricultural Impact Assessment Report, Reference No. 001501v1.0, written by Michael Todd – Arbor Logix, dated 08/04/2020
- Landscape Plan No. s L/01, L/02, designed by A Total Concept, dated 06/05/2020

A site inspection was carried out on 15 July 2020.

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

SUMMARY

- Minimal impacts to an existing *Ficus macrophylla* (Moreton Bay Fig) located in 7 Marathon Road, Darling Point. Minor pruning proposed.
- Replacement tree species on landscape plan unsuitable for location.
- One prescribed tree (Camellia) located within the subject property not included in the Arboricultural Impact Assessment.

COMMENTS

Located within the subject property along the eastern boundary is a Camellia with a canopy spread greater than 3 metres. Accordingly the Camellia should be regarded as a prescribed tree in accordance with Chapter E.3 – Tree management of Council's Development Control Plan (DCP). The Camellia has not been included in the submitted Arboricultural Impact Assessment Report as a prescribed tree for assessment. The Camellia is proposed for removal as part of the subject development application. Although the Camellia is a prescribed tree it is of moderate landscape value and could be replaced with suitable replacement planting. Accordingly the removal of the Camellia would be permissible.

The submitted landscape plan proposes hedge style replacement planting along the eastern, western and southern boundaries to a height of 3 metres. The landscape plan also proposes a tree planting comprising a Coastal Banksia to be installed in the south western corner of the subject property. To the south of the subject property is a mature Moreton Bay fig located on 7 Marathon Road, Darling Point that shades the southern end of the subject property. Accordingly any replacement/supplementary tree planted in the south western corner of the property should be a species that is shade tolerant. Accordingly the submitted landscape plan should be amended to propose a tree species that is shade tolerant.

The submitted Arboricultural Impact Assessment Report identifies two trees in relation to the subject development application. Tree No.1 *Ficus macrophylla* (Moreton Bay Fig) located in 7 Marathon Road, Darling Point and Tree No.2 *Archontophoenix cunninghamiana* (Bangalow palm) located on Council managed land. The report satisfactorily demonstrates minimal impacts should occur to the Moreton Bay Fig and that due to the distance the fig is away from the proposed development that tree protection measures such as fencing are not required. The report does identify that the fig may require minor pruning to provide clearance of the proposed residential flat building. The level of pruning has been estimated to be less than 2% of the canopy. Accordingly the proposed pruning would be permissible. Tree No.2 Bangalow palm has been assessed as low landscape significance. The palm is located in a confined sandstone garden bed and could be considered not to be in a sustainable location.

RECOMMENDATIONS

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

CONDITIONS OF CONSENT

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

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

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

- a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Council verge – Marathon Mews frontage	8 x 3
3	<i>Camellia japonica</i> (Camellia)	Eastern boundary	4 x 4

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

- b) The following trees shall be pruned in accordance with *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry*, to the minimum extent necessary to provide clearance to the new development:

Council Ref No.	Species	Location	Approved pruning (extent of pruning)
1	<i>Ficus macrophylla</i> (Moreton Bay Fig)	7 Marathon Road Darling Point	In accordance with pruning specified in Section 9 Recommendations of the Arboricultural Impact Assessment Report, Reference No. 001501v1.0, written by Michael Todd – Arbor Logix, dated 08/04/2020

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

- All pruning works must be supervised by the project arborist and works undertaken by a qualified arborist with a minimum AQF Level 3 in Arboriculture in compliance with *Australian Standard AS4373-2007 Pruning of Amenity Trees* and *WorkCover Code of Practice 'Amenity Tree Industry', 1998*.
- The issue of this consent does not permit the holder, or any other person or agent, to enter any property for the purpose of undertaking approved tree works, without the consent of the owner of the property.

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
Plan No. s L/01, L/02	Landscape Plan	A Total Concept	06/05/2020
Reference No. 001501v1.0	Arboricultural Impact Assessment Report	Michael Todd – Arbor Logix	08/04/2020

A.3 Approved Amended (s96) Plans and supporting documents

Nil

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

B.1 Establishment of Tree Protection Zone (TPZ) Fence

Nil

B.2 Permissible work within Tree Protection Zones

Nil

B.3 Demolition and Construction Management Plan

Nil

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 and supervision	Compliance documentation and photos shall be included
During any development work	<ul style="list-style-type: none">• No roots greater than 75mm diameter are to be pruned within the Tree Protection Zone radius (19 metres) of Tree No. 1 <i>Ficus macrophylla</i> (Moreton Bay Fig) without consulting the project arborist.• Supervise any pruning works consented to as part of this development consent.

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

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

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

C.1 Tree Management Plan

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

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

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

C.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

Nil

C.3 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) Amended landscape plan. The submitted landscape plan shall be amended to include a tree species to be planted in the south western corner that is shade tolerant. The tree species shall be *Elaeocarpus reticulatus* (Blueberry Ash) OR *Syzygium paniculatum* (Brush Cherry).

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) Excavation must cease where tree roots with a diameter exceeding 75mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

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

E.2 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Elaeocarpus reticulatus</i> (Blueberry Ash) OR <i>Syzygium paniculatum</i> (Brush Cherry).	South western area of subject property	75 litre	8 x 5

The project arborist shall document compliance with the above condition.

E.3 Paving in the vicinity of trees

Nil

E.4 Level changes in the vicinity of trees

Nil

E.5 Hand excavation within tree root zones

Nil

E.6 Footings in the vicinity of trees

Nil

**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.

Completion Date: 2/5/2020

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications/ 133/2020/1
ADDRESS: 10 Spring Street DOUBLE BAY 2028
PROPOSAL: Construction of a new residential flat building with basement parking, swimming pool & strata subdivision
FROM: K Pakhomova
TO: Mr S Kaposi

1. ISSUES

- Noise and dust during construction and excavation.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced M200067, prepared by Planning Ingenuity, dated 11/3/2020.
- Architectural Plans, referenced 2_20_06, prepared by Prescott Architects, dated 28 April 2020,
- Survey, referenced, prepared by, dated.
- Acoustic Report, referenced, prepared by Acoustic Report Prepared by>>, dated.
- Noise Management Plan, referenced, prepared by, dated.
- Acid Sulphate Soil Report, referenced GEO532-01 REV 0, prepared by EPOCH dated 14 April 2020.
- Land Contamination Report, referenced, prepared by, dated.
- Plan of Management, referenced, prepared by, dated

3. RESEARCH

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

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

The proposed development consists of the construction of a new three storey residential flat building with excavation for parking at lower ground level. The development will provide six car parking spaces in the lower ground parking area and 3x3 bedroom apartments (one per floor) are proposed, comprising of north

facing private open space and an open plan kitchen/living/dining area. Further, the ground floor apartment will benefit from an in-ground swimming pool.

5. ASSESSMENT

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

a) Acoustics

NSW Department of Environment & Climate Change: Construction Noise Guideline
NSW Industrial Noise Policy
Local Government Noise Guide

a.1. Description of existing acoustic environment

a.2 Description of acoustic environment post development

a.3 Acoustic Assessment

b) Food Premises

Food Act 2003

c) Hair Salons

d) Skin Penetration

Public Health Act 1991 No 10

e) Acid Sulphate Soils

- I refer to Acid Sulphate Soil Report, referenced GEO532-01 REV 0, prepared by EPOCH dated 14 April 2020 which states acid sulphate soils are not present at depths used for assessment .

f) Land Contamination (SEPP 55)

Contaminated Land Management Act 1997
SEPP 55-Remediation of Land

g) Child care

Children (Education and Care Services) Supplementary Provisions Regulation 2004

h) Swimming Pools

Swimming Pools Act 1992

i) Ventilation

#

j) Lighting

Relevant Australian Standard

k) Hours of operation

#

l) Waste management

#

m) Construction

#

n) Other matters

#

6. RECOMMENDATION

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

A. General Conditions

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

B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

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

C.1 Waste Storage – Mixed Developments (both commercial and residential)

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

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building,
- b) Two separate centralised waste and recycling rooms or areas, one for commercial waste and one for residential waste. They must be self-contained and have separate keys and locking systems.
- c) The path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8. The waste storage area must be as close as possible to the service road collection point.
- d) Bins to be stored with lids down to prevent vermin from entering the waste containers.
- e) Smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.

- f) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- g) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- h) Odour problems must be minimised by exhaust ventilation.
- i) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- j) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Standard Condition: C18

C.2 Swimming and Spa Pools – Child Resistant Barriers

The *Construction Certificate* plans and specifications required by Clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act* 1992 and the Building Code of Australia.

Note: A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.

Standard Condition: C55

C.3 Swimming and Spa Pools – Backwash

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act* 1997. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act* 1997.

Standard Condition: C56

C.4 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must

include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the Regulation prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the Regulation details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.5 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The (*nominate enclosure*) 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 (*nominate enclosure*) 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 (*nominate enclosure*) and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the (*nominate enclosure*) shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.6 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 AS 1668 Parts 1 & 2.

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

E. Conditions which must be satisfied during any development work

E.1 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) Piering;
 - (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 separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side 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 2000*.

Note: EPA Guidelines can be down loaded from
<http://www.epa.nsw.gov.au/noise/nglg.htm> .
Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.2 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 down loaded free of charge from Council’s web site 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.workcover.nsw.gov.au and www.epa.nsw.gov.au . Other specific condition 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.3 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.
Standard Condition: E26

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 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act* 1992:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with Section 30B of the *Swimming Pools Act* 1992 on the NSW Government Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au.
- c) The *Principal Contractor* or *owner* must either obtain a 'Certificate of Compliance' issued pursuant to Section 22D of the *Swimming Pools Act* 1992 or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996:

- a) Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- b) Before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: F13

F.2 Swimming Pool Fencing

Swimming Pool Fencing is to be constructed in accordance with *AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools*.

Note: Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012
Standard Condition: F20 (Autotext FF20)

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))

Nil.

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

I.1 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- a) In compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs;
- b) In compliance with the NSW Health “*Public Swimming Pool and Spa Pool Guidelines*” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c) In compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d) With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - Before 8 am or after 8 pm on any Sunday or public holiday, or
 - Before 7 am or after 8 pm on any other day.

Note: Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: I30

I.2 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.

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* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. 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).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: 156

I.3 Noise from mechanical plant and equipment

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

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

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

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government

(<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671, dated December 2004.

Standard Condition: 159

I.4 Noise Control - Swimming pool/spa pool pumps and associated equipment

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the *Protection of the Environment Operations (Noise Control) Regulation 2008* as follows:

- Before 8am or after 8pm during Saturdays, Sundays and public holidays;
- Before 7am or after 8pm on any other day.

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

K Pakhomova

Environmental Health Officer

Date: 2/6/2020

Clause 4.6 Variation Statement – Minimum Lot Size (Clause 4.1A)

1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of *Woollahra Local Environmental Plan 2014* (WLEP 2014) to accompany a development application which seeks consent for the construction of a new three storey residential flat building with associated car parking at lower ground level at 10 Spring Street, Double Bay ('the site').

2. PROPOSED VARIATION

Clause 4.1A of WLEP 2014 relates to the minimum lot size requirements for certain building typologies across the LGA and refers to a table contained within the Clause. The Clause states as follows:

4.1A(2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

Column 1	Column 2	Column 3
<i>Dual occupancy (attached)</i>	<i>Zone R2 Low Density Residential</i>	<i>460 square metres</i>
<i>Dual occupancy (detached)</i>	<i>Zone R2 Low Density Residential</i>	<i>930 square metres</i>
<i>Dual occupancy (attached)</i>	<i>Zone R3 Medium Density Residential</i>	<i>460 square metres</i>
<i>Dual occupancy (detached)</i>	<i>Zone R3 Medium Density Residential</i>	<i>460 square metres</i>
<i>Multi dwelling housing</i>	<i>Zone R3 Medium Density Residential</i>	<i>700 square metres</i>
<i>Residential flat building</i>	<i>Zone R3 Medium Density Residential</i>	<i>700 square metres</i>

The minimum allotment size for the subject site is 700sqm.

A land survey indicates that the subject site has an area of 500.6sqm and is therefore non-compliant. The extent of non-compliance is 199.4sqm or 28.5%.

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,



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- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note. When this Plan was made it did not include all of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

It is noted that Clause 4.1A is not "expressly excluded" from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) and (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in Subclause 4.6(6).

It is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit a minimum lot size of 500.6sqm which equates to a numerical variation of 199.4sqm and a percentage variation of 28.5%.

4. COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that

would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ refers to *Wehbe* and states:

"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Compliance with the minimum lot size development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this Statement.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 6 below.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 24) states:

*The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify contravening the minimum lot size:

1. The site is isolated, having street frontages to the south (Marathon Road) and east (Spring Street) with a pedestrian walkway to the north. The only site not public property that adjoins the site is No. 8 Marathon Road to the west. No. 8 Marathon Road contains a residential flat building that is strata titled and developed to its full potential. Therefore, there is no opportunity to amalgamate with adjoining properties to comply with the minimum lot size requirement.
2. The provision of a residential flat building on the site is entirely compatible with the scale and character of development within the Darling Point locality which can be described as eclectic. As detailed in Figure 1 below,



the subject site is an anomaly in on the Darling Point hillside comprising of a small rectilinear block that is perched above Spring Street. The provision of a residential flat building on the site will be entirely compatible with the subdivision pattern and built form of the immediate locality.

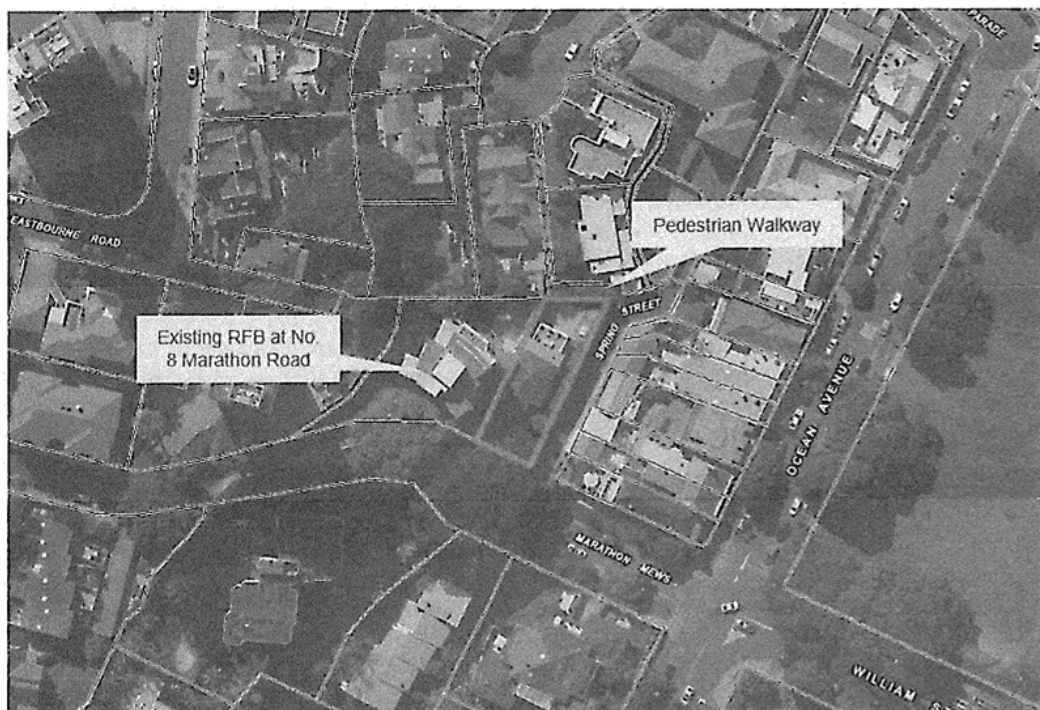


Figure 1 The subject site (red trim) is left isolated by adjoining residential flat development.

3. The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (as further detailed in Section 7 below). Insisting on compliance with the minimum lot size would serve no useful purpose and would lead to a reduction in the positive benefits of the development, including the net increase of two (2) dwellings on site. A reduced density on site within a highly accessible area that is within walking distance of a number of public transport options and the Double Bay centre would not meet the planned density for the Medium Density Residential (R3) zone.
4. The proposed development satisfies the only objective of Clause 4.1A which states that *"to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood"*. The provision of a residential flat building comprising of three apartments will achieve additional housing diversity and density without adversely impacting on the amenity of adjoining properties due to the site specific constraints. The proposed development will achieve the desired future character of the neighbourhood as discussed in Part 7 of the Clause 4.6 variation request below.
5. The massing of the building will not be incompatible with the character of the surrounding development. In this regard, the proposed building envelope is reasonably anticipated by WLEP 2014 and WDCP 2015 and will comfortably relate to the character of the locality. In fact, the proposal will incorporate superior planning

outcomes (particularly with regards to setbacks and privacy) to ensure the scale of development is considered to be appropriate in the locality.

6. It is considered that there is an absence of any significant material impacts of the proposed non-compliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on area character. Specifically, the extent of non-compliance with the minimum allotment size development standard:
 - a. The breach to the minimum allotment size creates no significant overshadowing when compared to a compliant building envelope. Given the topography and site location, the proposed development will not result in any adverse additional overshadowing of adjoining properties. The proposal will ensure compliance with Council's solar access requirements. When considered against the backdrop of the applicable planning controls, the extent of additional overshadowing created by the minimum allotment size breach is considered to be insignificant or nil;
 - b. The breach to the minimum allotment size does not result in any significant additional privacy impacts. The building has been designed to ensure all primary living areas are orientated away from neighbouring properties and overlooking is minimised as far as practicable. Given the topography and site location, the proposed development will not result in any adverse additional privacy impacts on adjoining properties. When considered against the backdrop of the applicable planning controls, the extent of privacy impacts created by the minimum allotment size breach is considered to be insignificant or nil; and
 - c. The breach to the minimum allotment size does not result in any significant additional view loss. Given the topography and site location, the proposed development will not result in any significant loss of views to or from adjoining properties. When considering the extent of view sharing against the backdrop of the applicable planning controls, the extent of view loss caused by the non-compliant element would be insignificant or nil.
7. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - a. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for residential uses (1.3(c)); and
 - b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).
8. The burden placed on the landowner and the wider community of the development (by requiring strict compliance with the minimum lot size) would be disproportionate to the (non-existent or negligible) adverse consequences attributable to the proposed non-compliant development (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development. It is considered that there is an absence of any material impacts of the proposed non-compliance on the amenity or the environmental values of the locality, the amenity of future building occupants and the character of the area. The proposal allows for a high quality residential flat building to be provided in a highly accessible location, within a density that is anticipated by the zoning and FSR applicable to the site.



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It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. *The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*

87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. THE APPLICANT'S WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3), (CLAUSE 4.6(4)(A)(I))

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(iii))

7a. Objectives of Development Standard

The Objective of Clause 4.1A is as follows:

(1) The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.

In order to address the requirements of subclause 4.6(4)(a)(iii), the objective of clause 4.1A is addressed below.

Objective (1): "to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood"

The proposed development involves the construction of a new residential flat building containing three (3) residential apartments that achieves the desired density as envisaged by the planning controls under WLEP and WDCP.

The subject site is zoned medium density residential (zone R3) which permits residential flat buildings with consent. As demonstrated in the SEE, the subject site is suitable for the construction of a residential flat building and sits comfortably in the streetscape which consists of large residential flat buildings, despite the non-compliance. The proposed development has been designed to maximise the amenity for future occupants without adversely affecting the amenity of the adjoining properties. Despite the non-compliance with the minimum lot size, the subject site is capable of accommodating the density of the proposed residential flat building as envisaged through the R3 zoning and applicable planning controls.

Insisting on compliance with the 700sqm minimum lot size for residential flat buildings will preclude the construction of a residential flat building on the site and permit, at most, the construction of a dual occupancy (as multi-dwelling housing shares the same 700sqm restriction under Clause 4.1A). Insisting on compliance with the minimum lot size would result in a maximum net increase of one (1) dwelling for the site which would not achieve the planned residential density in the zone in comparison to the character and scale of the surrounding residential flat buildings.

The provision of three (3) apartments on the subject site will result in a net increase of two (2) dwellings. It is submitted that the proposed density is more reflective of the planned residential density established by the character and scale of the surrounding residential flat buildings and achieves the planned residential density of the medium density residential (R3) zone.

The desired future character objectives of the Darling Point locality are as follows:

O1 To respect and enhance the streetscape character and key elements of the precinct.

O2 To maintain the sense of the historic grand estates.

O3 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.

O4 To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.

O5 To ensure that development does not reproduce or match existing intrusive buildings.

O6 To ensure that alterations and additions to period buildings, such as semi-detached dwellings and attached dwellings, do not detract from the character of these buildings and their presentation to the street.

O7 To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.

O8 To design and site buildings to respond to the topography and minimise cut and fill.

O9 To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.

O10 To retain and reinforce the setting of mature street trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.

O11 To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.

O12 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

O13 To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.

The proposal satisfies the above mentioned desired future character objectives for the following reasons:

- The proposed residential flat building will generally comply with the building envelope requirements under WLEP and WDCP. The proposal complies with the FSR development standard and satisfies the objectives and/or controls of the setback requirements under WDCP. The scale of the proposed development will be compatible with the scale of neighbouring residential flat buildings within the Darling Point locality and will sit comfortably in the streetscape in terms of its bulk and scale;
- The proposal involves the redevelopment of an underdeveloped dwelling-house and will permit the continuation of the evolution of the building stock within the Darling Point precinct, providing a high quality modern building within the locality;
- The proposed development is an appropriate and permissible form of residential accommodation and adopts a contemporary and aesthetically pleasing built form. External materials and finishes are compatible with those associated with the neighbouring buildings. The design and materials used will enhance the visual quality and character of the neighbourhood;
- The building will appropriately respond to the topography of the locality. Excavation will be limited to provide compliant levels of parking and storage at lower ground floor level. When constructed, the site topography will appear relatively unchanged, despite the extent of excavation proposed;
- The proposed development will not adversely impact mature street trees and will increase the amount of landscaping on site. This will include the provision of new canopy tree planting to increase the tree canopy cover on site;
- The proposed residential flat building will be situated within a landscaped setting, with dense planting provided within the front and rear setback areas, as is typical for the locality. The building form itself is a rectilinear flat building and achieves a density and scale that is compatible with similar development in the Darling Point Precinct;
- The sandstone retaining wall along the Spring Street frontage which is an important feature of the streetscape will be retained and repaired, with the proposed development carefully integrated into it; and

- Views and vistas from adjoining streets will not be obscured or otherwise compromised by the proposed development.

The proposal is consistent with the desired future character of the Darling Point locality and the proposal satisfies the only objective for Clause 4.1A of WLEP 2014.

7b. Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone R3, and a response as to how the proposal meets the objective is provided as follows:

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

The proposal will use an existing underdeveloped site and provide a net increase of two (2) dwellings through a permissible residential flat building that is consistent with the planned density for the R3 zone. The addition of new high quality dwellings will increase housing choice in an accessible location for the local community.

- *To provide a variety of housing types within a medium density residential environment.*

The proposal provides additional three bedroom apartments within the residential flat building, thus contributing to a variety of apartment sizes in the wider area.

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

Not applicable to the proposed development.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

The height and scale of the proposed development is consistent with the scale of other built form, including residential flat buildings in the immediate vicinity of the site. Therefore, the proposed building will sit comfortably within the streetscape. As demonstrated above in Section 7a, the proposal is consistent with the desired future character of the Darling Point Precinct.

The proposed development is therefore considered to be consistent with the objectives of Zone R3 and the proposed variation is deemed to be acceptable.

8. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in Clause 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (Clause 4.6(4)(b)). Under Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice.

9. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the minimum lot size development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.



Planning Ingenuity Pty Ltd

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10. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the minimum lot size. As such, there is no public benefit in maintaining strict compliance with the development standard. Whilst the size of the subject site does not meet the minimum lot size prescribed for residential flat buildings on the site, the subject site is isolated and not capable of consolidation. The proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

11. CONCLUSION

Having regard to all of the above, it is our opinion that compliance with the minimum lot size development standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation is worthy of support.

Clause 4.6 Variation Statement – Exceptions to Building Heights (Clause 4.3A)

1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of *Woollahra Local Environmental Plan 2014* (WLEP 2014) to accompany a development application which seeks consent for the construction of a new three storey residential flat building with associated car parking at lower ground level at 10 Spring Street, Double Bay ('the site').

2. PROPOSED VARIATION

Clause 4.3A of WLEP 2014 relates to the maximum building height requirements in certain areas across the LGA and refers to a table contained within the Clause. The Clause states as follows:

(2) *This clause applies to land identified as "Area A", "Area B", "Area C", "Area D", "Area E", "Area F", "Area G" and "Area H" on the Height of Buildings Map.*

(3) *Despite clause 4.3, the height of a building on land to which this clause applies, in an Area indicated in Column 1 of the table to this clause, at the highest part of the land (exclusive of any access handles), must not exceed the height shown opposite that Area in column 2.*

Column 1	Column 2
Area A	3.0 metres
Area B	4.0 metres
Area C	6.5 metres
Area D	7.5 metres
Area E	8.0 metres
Area F	10.5 metres
Area G	11 metres
Area H	14 metres

The subject site is identified as being in "Area B" and therefore, the maximum building height for the subject land is 4m.

The maximum height of the proposed development is 9.27m above the highest part of the subject land (RL 6.98) and is therefore non-compliant. Whilst it could be argued that the highest part of the land could be constructed as the retaining walls which are an easement of support for No. 8 Marathon Road, these are considered to be structures and

not land. As such, and for abundant caution, the highest point of the land is RL 6.98. Therefore, the extent of the variation is 5.27m or 131%.

It is important to note that had the subject site not been contained within Area B, the proposed development would achieve a height that complied with the 10.5m height of buildings development standard under Clause 4.3 of WLEP 2014. Figure 1 below details the 10.5m height line (red) and the approximately 4m height line (blue) with the existing building dotted for perspective.

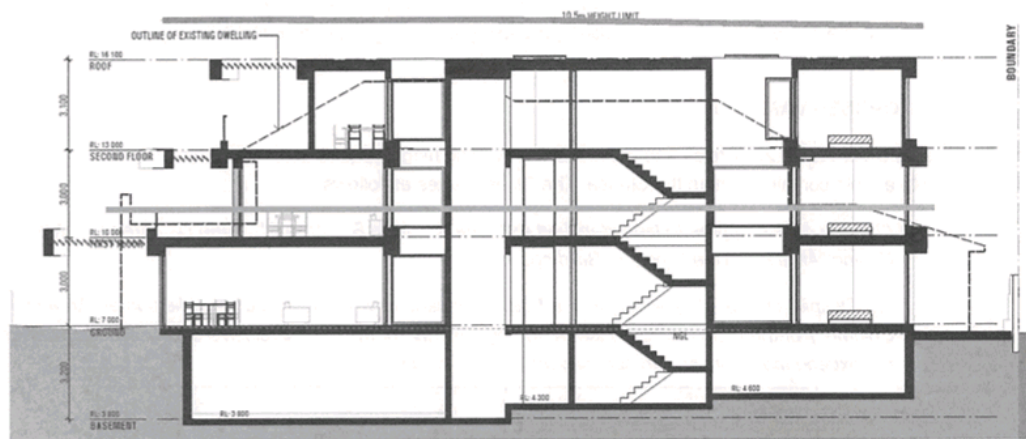


Figure 1: Section detailing the existing and proposed buildings with the two height limits

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4.

It is noted that Clause 4.3A is not "expressly excluded" from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) and (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in Subclause 4.6(6).

It is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum building height of 9.27 which equates to a numerical variation of 5.27m or 131%.



4. COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe v Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (if it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ refers to *Wehbe* and states:

"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Compliance with the minimum height of buildings development standard (Clause 4.3A) is considered to be unreasonable and unnecessary in terms of Test No. 3 that the "underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable". Clause 4.3A of WLEP 2014 specifically requires a height of 4m above the highest point of the land for the subject site, which may be an appropriate requirement for sloping land however, in this instance, the subject site is a predominantly flat allotment perched above a sandstone retaining wall. The effect of insisting on compliance with Clause 4.3A would only permit a single storey building to be constructed on the site which is unreasonable.

A single storey built form (which is the effect of a 4m height limit on this site) is significantly less than the existing, proposed and surrounding buildings, none of which are single storey dwellings. That is, the strict application of the control would ensure new development is completely inconsistent with the surrounding buildings and desired future character of the locality contrary to the objectives of the development standard.

Whilst it is acknowledged that a 4m height control may protect views and vistas, given the topography and site constraints with the large retaining wall for No. 8 Marathon Road adjacent the western boundary, a development of approximately double the 4m development standard (8m) would achieve the same effect to protect views and vistas. It is therefore considered that compliance with Clause 4.3A is unreasonable in this instance given the unique site constraints and character of surrounding development. To limit the maximum height to 4m above the highest point on a flat site in a medium density zone would defeat or thwart the underlying purpose of the development standard.

In addition, the subject Clause 4.6 relies upon Test No.1 which is discussed below. This is because, under Clause 4.6(4)(a)(ii) a consent authority must be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 6 below.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 24) states:

*The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify contravening the maximum building height:

1. Strict application of Clause 4.3A would result in a single storey building (4m) which is inconsistent with the scale of surrounding buildings and the anticipated desired future character of the locality.
2. The proposed development complies with the maximum height of 10.5m prescribed for the site by Clause 4.3 of WLEP 2014.
3. The existing building attains a height of 8.4m above the highest point which is more than double the 4m height of buildings development standard under Clause 4.3A. The height of the proposed building (RL16.1) will be 0.87m higher than the maximum height of the existing building and is considered to be entirely compatible with the scale of development anticipated by the applicable planning controls. Refer to Figure 2 below.



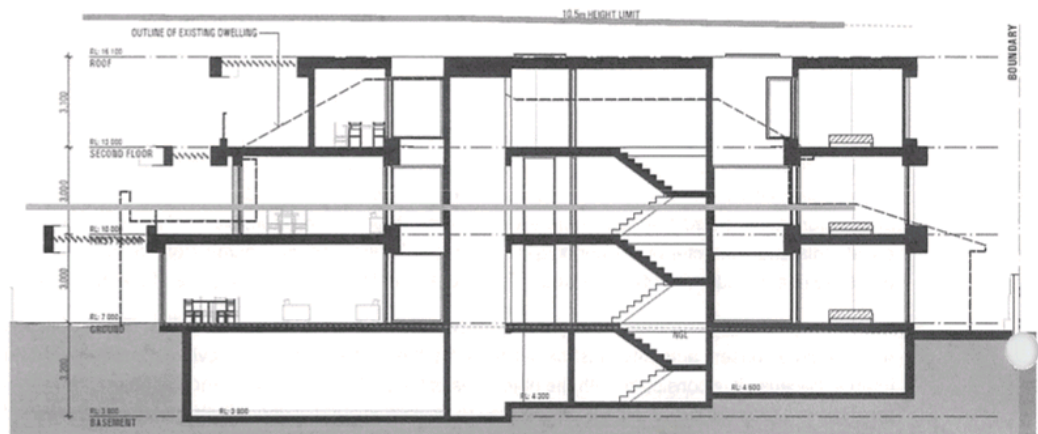


Figure 2: Section detailing the existing and proposed buildings with the two height limits

4. There is a disconnect between the height limit under Clause 4.3A (4m) and the FSR under Clause 4.4 (1:1). That is, in order to achieve the FSR reasonably permitted on the site, the height limit must be breached otherwise the permissible FSR would occupy the entire site and take away some of the positive aspects of the development such as the increased deep soil landscaping and the improvements to the landscaped character.
5. The immediate locality is eclectic with sites surrounding the sites varied in terms of scale and typology to reflect the subdivision pattern and topography. This includes residential flat building upwards of twelve (12) storeys in height (No. 4-6 Marathon Road to the west), while No. 8 Marathon Road (adjoining to the west) is a six (6) storey building which has a roof level at RL 32.25, some 16.15m higher than the proposed maximum height of the subject development (RL 16.1). Both of these buildings are significantly higher than the height of buildings development standard applicable to their respective sites.
6. In understanding whether the proposed development is consistent and compatible with the surrounding streetscape, regard has been given to comments made in *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [paras. 62-113].

The adjoining properties to the west (No. 8 Marathon Road and 4-6 Marathon Road) are 6 and 12 storey buildings respectively. Both buildings significantly exceed the applicable height limits under WLEP 2014 and are seen in the context of one another from various viewpoints along Spring Street and the surrounding roads. Specifically, the existing building in situ at No. 8 Marathon Road towers above the subject site, providing an abrupt increase in scale with no transition down to the lower scale of buildings on the eastern side of Spring Street. The proposed development will provide a building of scale that sits far more comfortably in this context and provides a stepped transition of building heights from the higher side of Marathon Street down to the lower side of Marathon Street at the intersection with Spring Street.

Therefore, despite the increase in height over the prescribed 4m, the proposed development will not appear excessively tall when viewed from the street as it will be seen in the immediate context of No. 8 Marathon Road adjoining site to the west. The proposed building will thus sit comfortably within the streetscape and will not be visually jarring or overly prominent, despite the height variation.

7. The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (as further detailed in Section 7 below). Insisting on compliance with the maximum building height under Clause 4.3A would serve no useful purpose and would lead to a reduction in the positive benefits of the development, including the net increase of two (2) dwellings on site. A reduced density on site within a highly accessible area that is within walking distance of a number of public transport options and the Double Bay centre would not meet the planned density for the Medium Density Residential (R3) zone.
8. As shown in **Figure 3**, the properties that are mapped as being in "Area B" are generally on the lower side of streets and where the land slopes down towards Sydney Harbour. Limiting the maximum height for these sites to 4m will provide protection of views for properties to the west and south. However, the development standard presumes a sloped site whereby a development can step down the slope of the land, thus providing for two or more storey development whilst still maintaining a maximum height of 4m and providing for view sharing over and across the site.

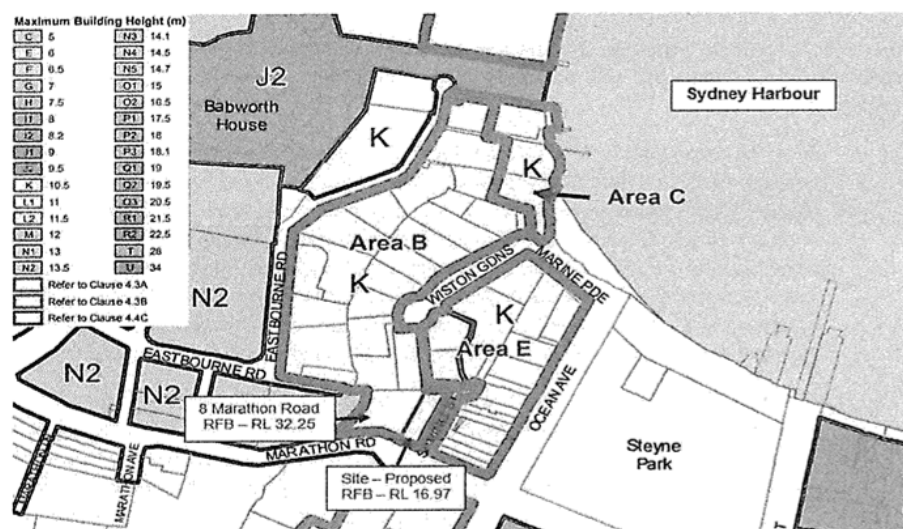


Figure 3 Extract from Height of Buildings Map HOB_002, annotated to show the site context.

The subject site is somewhat of an anomaly to other sites within "Area B". It sits on land that has been perched above Spring Street behind a sandstone retaining wall that the existing dwelling has been built on. A maximum height of 4m prescribed for the site is therefore incompatible with the existing situation on the site and that of the adjoining site to the west (No. 8 Marathon Road), neither of which are sloped.

9. The additional height does not result in any unreasonable environmental or amenity impacts on adjoining properties, as outlined by the following:
 - a. The development will not adversely impact on existing levels of visual or aural privacy, with satisfactory building separation maintained between the proposed residential flat building and neighbouring properties.
 - b. Solar diagrams accompanying the application demonstrate that the development will not adversely overshadow neighbouring properties or result in a non-compliance with the solar access controls.

- c. Private views over the site from the south and east will not be unreasonably impacted by the development, with increased setbacks at upper levels allowing for view sharing to be achieved.
10. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
- a. The proposal promotes the orderly and economic use and development of land by providing a medium density residential development on a currently underdeveloped site (1.3c); and
 - b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3g).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development. It is considered that there is an absence of any material impacts of the proposed non-compliance on the amenity or the environmental values of the locality, the amenity of future building occupants and the character of the area. The proposal allows for a high quality residential flat building to be provided in a highly accessible location, within a site which can accommodate the increase in height without the creation of significant adverse impacts.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. *The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*

87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. THE APPLICANT'S WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3), (CLAUSE 4.6(4)(A)(I))

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the



circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(ii))

7a. Objectives of Development Standard

The Objectives of Clause 4.3A are as follows:

- (a) to ensure new development is consistent with the desired future character of the neighbourhood,*
- (b) to ensure new development is consistent with the surrounding buildings and the streetscape,*
- (c) to protect views and vistas that are in the public domain.*

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.3A is addressed below.

Objective (a): "to ensure new development is consistent with the desired future character of the neighbourhood"

The desired future character objectives of the Darling Point locality are as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To maintain the sense of the historic grand estates.*
- O3 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.*
- O5 To ensure that development does not reproduce or match existing intrusive buildings.*
- O6 To ensure that alterations and additions to period buildings, such as semi-detached dwellings and attached dwellings, do not detract from the character of these buildings and their presentation to the street.*
- O7 To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.*
- O8 To design and site buildings to respond to the topography and minimise cut and fill.*



O9 To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.

O10 To retain and reinforce the setting of mature street trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.

O11 To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.

O12 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

O13 To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.

The proposal satisfies the above mentioned desired future character objectives for the following reasons:

- The proposed residential flat building will generally comply with the building envelope requirements under WLEP and WDCP. The proposal complies with the FSR development standard and satisfies the objectives and/or controls of the setback requirements under WDCP. The scale of the proposed development will be compatible with the scale of neighbouring residential flat buildings within the Darling Point locality and will sit comfortably in the streetscape in terms of its bulk and scale;
- The proposal involves the redevelopment of an underdeveloped dwelling-house and will permit the continuation of the evolution of the building stock within the Darling Point precinct, providing a high quality modern building within the locality;
- The proposed development is an appropriate and permissible form of residential accommodation and adopts a contemporary and aesthetically pleasing built form. External materials and finishes are compatible with those associated with the neighbouring buildings. The design and materials used will enhance the visual quality and character of the neighbourhood;
- The building will appropriately respond to the topography of the locality. Excavation will be limited to provide compliant levels of parking and storage at basement level. When constructed, the site topography will appear relatively unchanged, despite the extent of excavation proposed;
- The proposed development will not adversely impact mature street trees and will increase the amount of landscaping on site. This will include the provision of new canopy tree planting to increase the tree canopy cover on site;
- The proposed residential flat building will be situated within a landscaped setting, with dense planting provided within the front and rear setback areas, as is typical for the locality. The building form itself is a rectilinear flat building and achieves a density and scale that is compatible with similar development in the Darling Point Precinct;
- The brick retaining wall along the Spring Street frontage which is an important feature of the streetscape will be retained and repaired, with the proposed development carefully integrated into it; and
- Views and vistas from adjoining streets will not be obscured or otherwise compromised by the proposed development.

The proposal is consistent with the desired future character of the Darling Point locality as satisfies objective (a).



Planning Ingenuity Pty Ltd

Statement of Environmental Effects
REF. M200067 65



Objective (b): "to ensure new development is consistent with the surrounding buildings and the streetscape"

As set out in Section 5 of this variation request, the additional height proposed will in fact improve the compatibility of the proposed development with its immediate context. The site and the adjoining site to the east (No. 8 Marathon Road) are seen in the context of one another from various viewpoints along Spring Street and the surrounding roads. The existing building in situ at No. 8 Marathon Road towers above the subject site, providing an abrupt increase in scale with no transition down to the lower scale of buildings on the eastern side of Spring Street. The proposed development will provide a building of scale that sits far more comfortably in this context and provides a stepped transition of building heights from the higher side of Marathon Street down to the lower side of Marathon Street at the intersection with Spring Street.

The proposed development will be viewed in the context of the scale and height of No. 8 Marathon Road, and will thus not appear visually jarring or overdeveloped from surrounding streets and properties. The proposal is therefore considered to be consistent with surrounding development and satisfies objective (b).

Objective (c): "to protect views and vistas that are in the public domain"

There are no significant views or vistas over the site, as mapped in the WDCP 2015. As previously described, private views towards Sydney Harbour over the site will not be significantly prejudiced by the proposed development which will only be modestly taller than the existing building on site. Compliant front and side setbacks, and increased rear setbacks provided by the stepped massing of upper levels of the proposed development will ensure that any loss of views over the rear of the site will be reasonably minimised. The proposed development satisfies objective (c).

7b. Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone R3, and a response as to how the proposal meets the objective is provided as follows:

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

The proposal will use an existing underdeveloped site and provide a net increase of two (2) dwellings through a permissible residential flat building that is consistent with the planned density for the R3 zone. The addition of new high quality dwellings will increase housing choice in an accessible location for the local community.

- *To provide a variety of housing types within a medium density residential environment.*

The proposal provides additional three bedroom apartments within the residential flat building, thus contributing to a variety of apartment sizes in the wider area.

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

Not applicable to the proposed development.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

The height and scale of the proposed development is consistent with the scale of other built form, including residential flat buildings in the immediate vicinity of the site. Therefore, the proposed building will sit comfortably within the streetscape. As demonstrated above in Section 7a, the proposal is consistent with the desired future character of the Darling Point Precinct.

The proposed development is therefore considered to be consistent with the objectives of Zone R3 and the proposed variation is deemed to be acceptable.

8. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in Clause 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (Clause 4.6(4)(b)). Under Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice.

9. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the maximum building height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

10. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum building height. As such, there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed building height does not meet the maximum building height prescribed for the site, the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

11. CONCLUSION

Having regard to all of the above, it is our opinion that compliance with the maximum building height development standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation is worthy of support.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D6
FILE No.	DA490/2019/1
ADDRESS	4 Greycliffe Avenue VAUCLUSE
WARD	Vaucluse
SITE AREA	891.8m ²
ZONING	R2 Low Density Residential
PROPOSAL	Demolition of existing residential flat building and construction of a new attached dual occupancy
TYPE OF CONSENT	Local development
COST OF WORKS	\$2,271,835.00
DATE LODGED	13/12/2019
APPLICANT	Felton Constructions SYD Pty Ltd
OWNER	R J Macarthur-Onslow
AUTHOR	Ms T Ward
TEAM LEADER	Ms E Smith
SUBMISSIONS	Ten (10)
RECOMMENDATION	Approval, subject to Condition C.1

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

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

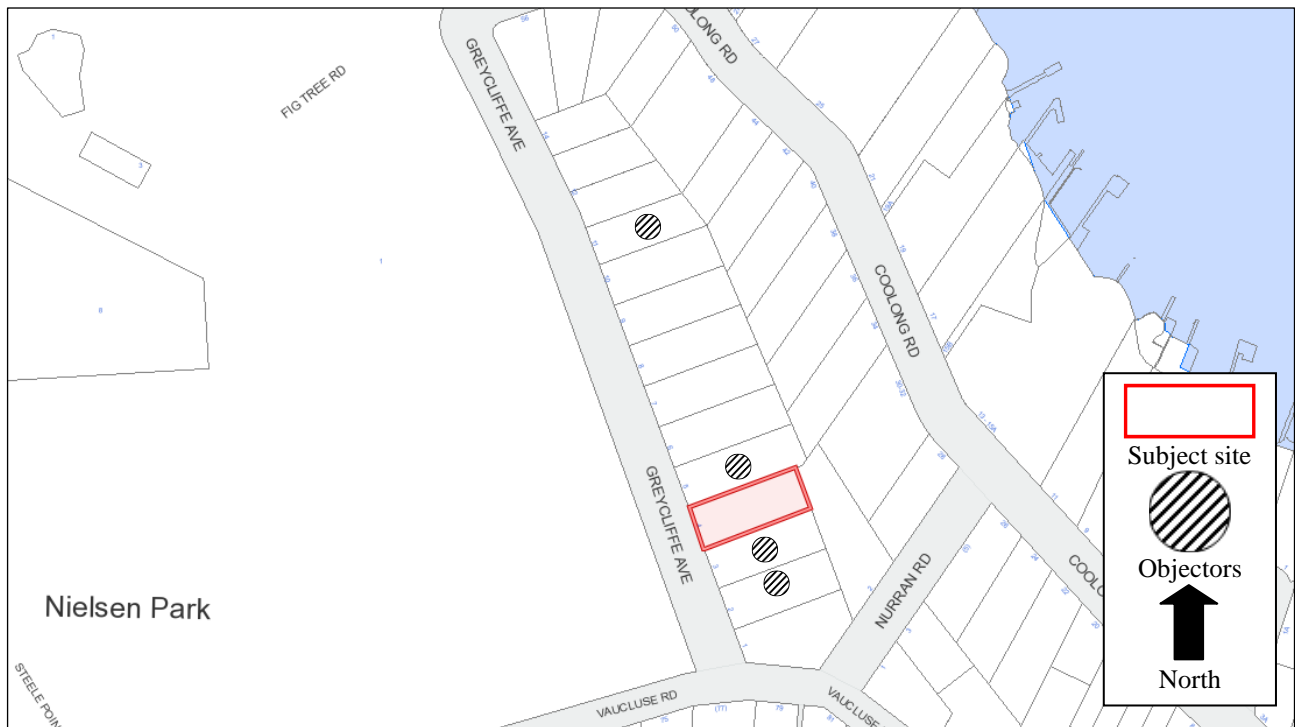
- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

2. REASONS FOR RECOMMENDATION

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

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

3. LOCALITY PLAN



Submissions not shown on map: 19 Village Lower Road, Vaucluse; 1104/180 Ocean Street, Edgecliff; 9 and 15 Boambillee Avenue, Vaucluse. It is noted that some properties lodged multiple submissions.

4. PROPOSAL

The proposal involves the demolition of existing residential flat building and construction of a new attached dual occupancy with basement car parking and landscaping.

PROPERTY DETAILS AND REFERRALS

5. SITE AND LOCALITY

Physical features
The site encompasses a total area of 891.8m ² and is located on the eastern side of Greycliffe Avenue. The site has a western boundary to Greycliffe Avenue and an eastern rear boundary of 18.29m, and a northern and southern side boundary of 48.77m.
Topography
The site is relatively flat with a minor cross fall of approximately 0.75m between the northern and southern side boundaries. The site slopes gently upwards to the rear by approximately 1m.
Existing buildings and structures
The subject site contains a two storey residential flat building, comprising four units. Vehicular driveway access is provided adjacent to the southern side boundary to the detached garage adjacent to the rear boundary.
Surrounding Environment
The site is located within the Vaucluse West Residential Precinct under the provisions of the Woollahra DCP 2015. The locality is characterised by dwelling houses that typically present as one-two storeys to Greycliffe Avenue. S8.2 review applications of DA 347/2018 and DA 348/2018 (each proposing an attached dual occupancy on the two lots at 12 Greycliffe Avenue) were approved on 12 September 2019. On the western side of Greycliffe Avenue is the state heritage listed, Nielsen Park.



Figure 1 – Google Maps 3D Aerial View



Figure 2 – Subject site as viewed from Greycliffe Avenue



Figure 3 – Proposed photomontage. It is noted that one of the two street trees depicted in figure 2 is to be retained, the other (in the location of the proposed driveway) is to be removed and replaced.

6. RELEVANT PROPERTY HISTORY

Current use
Residential flat building
Relevant Application History
DA2011/369/1 Development Application No. DA2011/369/1 was approved on 09/12/2011 for the demolition of an existing brick garage and carport structure; construction of a new double garage with an attached studio, garbage store, carport and car space; new driveway and paving works.
Requests for Additional Information and Replacement Applications
On 18/12/2019, Council requested an Affordable Housing Report, revised stormwater plans and a copy of the Drains file. This information was provided on 30/03/2020.
On 21/01/2020, Council requested additional information for the Technical Services Engineer. This information was provided on 29/04/2020.
On 18/06/2020, Council requested a front elevation as shown from Greycliffe Avenue, confirmation of the side boundary fences, location of a bin enclosure, and revised buildable area, excavation and deep soil landscaping calculations. This information was provided on 22/06/2020.
On 13/07/2020, Council requested an elevational shadow diagram to the neighbouring property at 3 Greycliffe Avenue. This information was provided on 14/07/2020.

7. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to conditions	1
Trees and Landscaping	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

8. ADVERTISING AND NOTIFICATION

8.1. Submissions

The application was advertised and notified from 15/01/2020 to 29/01/2020 in accordance with Chapter 6 of the Woollahra Community Action Plan 2019. Submissions were received from:

1. Bridget Fagan - 2 Greycliffe Avenue, Vacluse
2. Charlie Parsons of Bartier Perry Lawyers on behalf of Christopher Grubb – 3 Greycliffe Avenue, Vacluse
3. Christopher Grubb – 3 Greycliffe Avenue, Vacluse
4. Kate McGill of Glasson Gemmell McGill on behalf of Vivienne Alcaine – 5 Greycliffe Avenue, Vacluse
5. Vivienne Alcaine – 5 Greycliffe Avenue, Vacluse
6. Kim Foltz – 11 Greycliffe Avenue, Vacluse
7. Merrill Witt – 19 Village Lower Road, Vacluse
8. Janice Mahoney – 1104/180 Ocean Street, Edgecliff
9. Kyrenia Thomas – 9 Boambillee Avenue, Vacluse
10. Nick Bury – 15 Boambillee Avenue, Vacluse

The submissions raised the following issues:

- **Height, building envelope, bulk, design, amenity, character, streetscape and desired future character**
The height, scale, bulk and design of proposal is consistent with the desired future character objectives and would result in an appropriate visual impact and streetscape outcome in the Vacluse West Residential Precinct. Refer to Sections 13 and 4.
- **Privacy from windows**
As discussed in Section 14.2.4, the proposal is considered satisfactory, as conditioned, with regard to Council's visual privacy objectives and controls in Part B3.5.4 of the WDCP 2015.

- **Excavation non-compliance**
The proposed non-compliance with the excavation control is considered satisfactory on the basis that it upholds the relevant objectives and complies with Control C4 in Part B3.4 of the WDCP 2015. As discussed in Section 14.2.3, Control C4 stipulates a variation to the numeric requirement is permitted for the provision of parking, vehicular access thereto and storage.
- **Privacy, streetscape and amenity impacts from the removal of trees 8, 9 and 10 at southern side boundary. The removal of trees is contrary to the tree management objectives in Chapter E3 of the WDCP 2015.**
As discussed in Section 14.5, Council's Trees and Landscaping Officer has conditioned the retention of a number of trees proposed to be removed, and conditioned a number of replacement trees. The proposal, as conditioned, upholds the relevant objectives and controls in Parts B3 and E3 of the WDCP 2015.
- **Acoustic privacy from AC unit and basement parking**
As discussed in Section 14.2.4, the proposal is considered satisfactory, as conditioned, with regard to Council's acoustic privacy objectives and controls in Part B3.5.4 of the WDCP 2015. **Condition I.4** has been imposed to ensure the proposed development does not result in adverse acoustic impacts to the neighbouring properties.
- **No bin enclosure**
As discussed in Section 14.6, the proposed bin enclosure complies with the relevant provisions in Chapter E5 of the WDCP 2015.
- **Excavation, structural, geological and hydrogeological impacts to neighbouring properties**
Council's Technical Services Engineer has confirmed the proposal, as conditioned, is satisfactory with regards to excavation, structural, geological and hydrogeological impacts. Refer to Section 13.7.
- **Stormwater and drainage impacts**
Council's Technical Services Engineer has confirmed the proposal, as conditioned, is satisfactory with regards to stormwater and drainage. Refer to Section 14.4.
- **Roof height**
The proposal complies with Council's 9.5m height standard as prescribed by Part 4.3 of the WDCP 2015. Refer to Section 13.4.
- **Solar access and overshadowing**
As discussed in Section 14.2.4, the proposal complies with Council's overshadowing requirements to the neighbouring properties private open space and upper level habitable room windows.
- **Construction hours should be limited to 8am-3.30pm**
The construction hours are limited to the hours specified under Council's standard condition of consent (**Condition E.5**).
- **A pre-construction and post-construction dilapidation report should be undertaken**
Council's Technical Services Engineer requires a dilapidation report to be undertaken at the neighbouring properties at 3 and 5 Greycliffe Avenue, Vaucluse. Refer to **Condition D.2**.

- **Tall hoardings must be erected to protect neighbouring properties**
Condition D.5 of the consent outlines the requirements for security fencing, hoarding and overhead protection.
- **The DA must comply with all planning controls**
The proposal is considered satisfactory against the relevant provisions of the WLEP 2014 and WDCP 2015. Refer to Sections 13 and 13.
- **Inaccurate information**
Notwithstanding any inaccuracies in the documentation, sufficient information has been submitted to enable an assessment of the application.
- **Front setback**
As discussed in Section 14.2.1, the proposal complies with Council's numerical front setback control and the front setback objectives in Part B3.2.2 of the WDCP 2015.
- **Deep soil landscaping**
As discussed in Section 14.2.6, the proposal complies with Council's numerical requirements for deep soil landscaping within the front setback, rear setback and overall site area. As such, the proposal is acceptable with regards to the controls and objectives in Part B3.7.1 of the WDCP 2015.
- **Traffic and parking impacts**
Council's Technical Services Engineer has confirmed the proposal would not result in any adverse traffic impacts to the surrounding streets, and the number of car parking spaces satisfies the numerical requirements stipulated in Chapter E1 of the WDCP 2015.

8.2. Replacement Applications

The additional information noted in Section 7 was not renotified, as the proposed changes did not have the potential for additional impacts upon neighbours.

8.3. Statutory Declaration

The applicant has completed the statutory declaration dated 29/01/2020 declaring that the site notice for DA490/2019/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

9. 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:*

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

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.

10. 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 1053690M_02 demonstrating compliance with the SEPP. These requirements are imposed in **Conditions C.3, H.1 and I.1.**

11. STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

The application has been assessed against Part 3 of the SEPP (Affordable Rental Housing) 2009 (ARH SEPP) to determine if there is the potential for the proposal to result in a reduction of available affordable housing.

A low rental dwelling means ‘a dwelling that (at any time in the 24 month period prior to the lodgement of the development application) was let at a rental not exceeding the medium rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.’

Clause 49 of the ARH SEPP, provides that: “*This Part applies only to those buildings that were low-rental residential buildings as at 28 January 2000, and does not apply to any building that becomes a low residential building after that date.*”

In this instance a low rental dwelling is categorised as a dwelling that in the prior 24 months has been let at a median rental of \$720/week for a two bedroom unit.

The rentals applicable to the site are as follows:

Unit No.	Bedrooms	Rental \$/week
1	2	N/A (Owner Occupied)
2	2	N/A (Owner Occupied)
3	2	\$714
4	2	\$619

The Applicant has not provided evidence to determine whether any of the four units were low cost rental units as at 28 January 2000. However, as shown in the table above and the Applicant’s ARH SEPP Report, Units 3 and 4 have been let at a rental price that did not exceed the medium rental level in the 24 month period prior to the lodgment of the development application.

Clause 50(2): Reduction of Availability of Affordable Housing

Council is to take into account the guidelines and each of the following:

a) *Whether there is likely to be a reduction in affordable housing on the land to which the application relates*

The ARH SEPP Report submitted with the application states that Units 3 and 4 have been tenanted since 2008 at a discounted rental rate to the owner's family and friends. However, insufficient information has been provided to determine whether the subject site was a low-rental residential building on 28 January 2000 as required by Clause 49 of the ARH SEPP. Council has not pressed for further evidence, that the subject site was a low-rental residential building on 28 January 2000 as there is sufficient comparable rental accommodation available in the local area (refer to point b) below).

b) *Whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation*

The documentation provided by the applicant indicates that the vacancy rate for comparable accommodation within the Vaucluse area is 4.7% and therefore there would be sufficient comparable rental accommodation available in the local area.

c) *Whether the development is likely to cause adverse social and economic effects on the general community*

The ARH SEPP Report submitted with the application identifies that discounted tenancy arrangements have only been provided to the owner's family and friends. Therefore the proposal is unlikely to cause adverse social and economic effects on the general community.

d) *Whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation*

The ARH SEPP Report submitted with the application identifies that the applicant has not made arrangements to assist the tenants to find alternative comparable accommodation on the basis that the tenants are family and friends. Furthermore, the vacancy rate demonstrates there would be sufficient comparable rental accommodation in the local area.

e) *The extent to which the development contributes to any cumulative loss of affordable housing in the local government area*

As discussed above, the proposal would not result in a cumulative loss of affordable housing within the Woollahra LGA on the basis that there would be sufficient comparable rental accommodation available in the local area.

f) *The structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements*

Not applicable given the proposal is for demolition of the existing residential flat building.

g) *Whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development*

The responses above confirm the proposal does not meet the threshold for imposing affordable housing contributions.

The proposal is therefore acceptable with regard to the ARH SEPP.

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 and is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

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

Part 4.1A(2) specifies a minimum lot size of 460m².

	Proposed	Control	Complies
Minimum Lot Size – Attached Dual Occupancy in R2 Zone	696.7m ²	460m ²	YES

The proposal complies with 4.1A(2) of Woollahra LEP 2014.

13.4. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Proposed	Control	Complies
Maximum Building Height	9.4m	9.5m	YES

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014.

13.5. Part 5.10: Heritage Conservation

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

The proposed development is not a heritage item or located in a heritage conservation area. Council's Heritage Officer has confirmed the proposal is satisfactory, subject to conditions, and provided the following assessment:

“RESEARCH

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

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
- National Parks and Wildlife Act 1974

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY

The property is not a listed heritage item, is not located within a Heritage Conservation Area. The current building dates to c1927 and is a modified Inter War residential flat building.

The demolition report provides the following statement of significance:

The subject site has low heritage significance and does not reach the threshold for statutory heritage listing. Historical research shows that the dwelling dates from c1927, during Inter-War period boom construction in the area, but is not a high quality example of its style and retains very few architectural features. The building has been significantly modified over time, both externally and internally, with notable unsympathetic changes to its front elevation. In addition, there is minimal visibility of the dwelling from the street due to tree and vegetation coverage. The subject site makes a low contribution to the overall heritage significance of the area.

Whilst the site has some association with Hugh McCrae, a well-known Australian writer of the mid twentieth century, this association is very limited. McCrae is associated with a number of residential addresses throughout his lifetime (i.e. in Camden) and the building was not constructed for him (as his home); he was a later owner of the property. There is no particular significance associated with the other recorded early owners of the site.

The subject site has little aesthetic significance and was likely builder designed and constructed, which was not uncommon at the time, and is not attributed to an architect and is not a significant example of an architect’s work.

The dwelling cannot be considered a rarity in a suburb that has many other dwellings of this particular period and better examples of the style.

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 and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate.

National Parks and Wildlife Act 1974

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 6 January 2020 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 2 recorded Aboriginal sites recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 0m buffer in or near the above location.

The site is within 200m of water. The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18. As the site has been previously disturbed when the existing building and landscaping were constructed, it is unlikely that any archaeological evidence will remain. Accordingly no Due Diligence reports were required.

As the site is within proximity to known AHIMS sites and is located within 200m of water, the construction/demolition team are to be made aware of potential unexpected archaeological finds on the site during excavation works and the appropriate procedures for dealing with unexpected archaeological finds.

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 not within a heritage conservation area.

Significance of items in the vicinity

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

- 'Nielsen Park', SHR Item No. 01988
- 'Shark Beach promenade and Amenities', LEP Item No. 391

The dwelling has no heritage significance and does not make any contribution to the heritage significance of Vaucluse. The property is not heritage listed and is not located within a heritage conservation area.

A demolition/heritage significance report has been submitted with the development application and includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed partial demolition of the existing building.

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

- ‘Nielsen Park’, SHR Item No. 01988
- ‘Shark Beach promenade and Amenities’, LEP Item No. 391

‘Nielsen Park’ and ‘Shark Beach promenade and Amenities’ are located directly to the west of the subject property. Significant views of the heritage item are of the beach and of the landscaped setting of the park afforded whilst in the park. The subject site is located on the eastern side of Greycliffe Avenue, which contains residential housing. The proposed new development is in keeping with the residential character of this side of Greycliffe Street and the proposal would not have an adverse impact on the setting or heritage significance of the heritage item. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

As the building that is to be partially demolished retains some of the Inter War character it is requested that an archival recording is conducted of the building prior to works commencing.

CONCLUSION

National Parks & Wildlife Service Act, 1979

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

Woollahra LEP, 2014 Part 5.10 Clauses 1(a), 1(b), 4

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the heritage items in the vicinity 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.”

The proposal, as conditioned, is acceptable with regard to Part 5.10 of the 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. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

13.7. 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. An assessment of the proposed excavation against the relevant matters is provided below.

6.2 Earthworks

- (1) *The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*
- (2) *Development consent is required for earthworks unless:*
 - (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
 - (b) *the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*
- (3) *In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*
 - (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

In terms of geotechnical and hydrogeological related issues, Council's Technical Services Engineer has provided the following comments in relation to the proposed level of excavation:

"A Geotechnical Investigation, Report No. 19/3104A, Project No: 30072/3084D-G, prepared by STS Geotechnics, dated April 2020 has been submitted in support of the application. The proposal involves excavation for a basement level up to the depth of about 3m.

The report identified the subsurface conditions as:

- a) Fill – to depths of 0.2m and 0.7m.*
- b) Natural silty clayed sand – to depths of 0.4m to 1.4m.*
- c) Sandstone bedrock at depths of 0.5m to 1.5m.*
- d) Groundwater appeared not to be an issue.*
- e) Ground anchors may be utilised.*
- f) Underpinning will not be required.*

The report made comments and recommendations on the following:

- Site classification*
- Excavation conditions and support*
- Foundation design*

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."

Subject to the recommended conditions requiring the following, it is considered that potential adverse environmental impacts related to the proposed excavation will be minimised as much as is practically possible:

- Structural adequacy of existing supporting structures;
- Adequate dust mitigation;
- The appropriate disposal of excavated material;
- Limiting the times and duration of machine excavation;
- The implementation of a works (construction) zone;
- 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.

Accordingly, Clause 6.2(3)(a), (c), (f), (g) and (h) are satisfied.

It is considered that the proposal would not impede the existing or future use of the subject site which is located in the Low Density Residential (R2) zone. The proposed level of excavation allows for parking to be located within the building envelope which minimises impacts to the streetscape. As such, the proposal would not adversely impact upon the likely future use or redevelopment of the land and Clause 6.2(3)(b) is satisfied.

The proposal represents a skilful design that would not result in any significant adverse amenity impacts to adjoining properties in regards to bulk, scale, streetscape character, public/private views and acoustic/visual privacy. Accordingly, the level of excavation required by the proposal is acceptable with regards to the likely amenity impacts to adjoining properties. The conditions required by Council's Technical Services Engineer listed above mitigate the impact to neighbouring properties during the construction phase and thereby Clause 6.2(3)(d) is satisfied.

The excavated area at the basement floor level contributes to the excavation non-compliance with Council's numeric control. As discussed in Section 14.2.3, a variation to Council's numerical control is permitted for the provision of four car spaces at the basement level including vehicular access and storage. It is considered that the basement level does not incorporate any areas of excessive excavation including the storage volume for each dwelling. As discussed in Section 14.6, the SWMMP, as conditioned, is considered satisfactory with regard to the source of the excavated material. Accordingly, Clause 6.2(3)(e) is satisfied.

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

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1. Chapter B1: Vaucluse West Residential Precinct

The existing character of the surrounding residential neighbourhood in the Low Density (R2) zone is typified by two storey dwelling-houses and on-site parking provided within the building envelope.

The objectives of the Vaucluse West Residential Precinct require development to respect and enhance the existing elements of the neighbourhood and contribute to the rich mixture of architectural styles and forms. The proposed development is consistent with the predominant character of two storey development within the streetscape, reinforces the landscape setting and is a contemporary building incorporating modulation and a varied palette of materials. Accordingly, the proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vaucluse West Residential Precinct, as noted in Part B1.10.2 of the Woollahra DCP 2015.

14.2. Chapter B3: General Development Controls

14.2.1. Part B3.2: Building Envelope

Site Area: 891.8m ²	Proposed	Control	Complies
Front Setback (E)	5.9m	5.6m	YES
Side Setback (N)	2.6m	2.3m	YES
Side Setback (S)	2.6m	2.3m	YES
Rear Setback (W)	16.9m	16.4m	YES
External Wall Height	7.4m	7.2m	NO

Parts B3.2.2 Front Setback, B3.2.3 Side Setbacks and B3.2.4 Rear Setback

As shown in the table above, the proposal complies with Council's numerical requirements for the front, side and rear setback controls.

The proposal is acceptable with regard to Parts B3.2.2, B3.2.3 and B3.2.4 of the WDCP 2015.

Part B3.2.5 Wall Height and Inclined Plane

C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. Roof eaves can protrude 450mm from the setback of the inclined plane.

As shown in **Figure 4** below, the 0.2m non-compliance with the maximum external wall height control is limited to the front section of the building envelope at the northern side elevation.

The proposed non-compliance is considered satisfactory on the basis that the variation to the control is minor (0.2m) and the proposal upholds the objectives for the following reasons:

- The proposed bulk and scale of the building is consistent with the desired future character of the area, the Greycliffe Avenue streetscape and the adjoining properties.
- The proposal will not result in any adverse impacts upon the adjoining properties, including sense of enclosure, solar access, overshadowing, views and visual amenity.

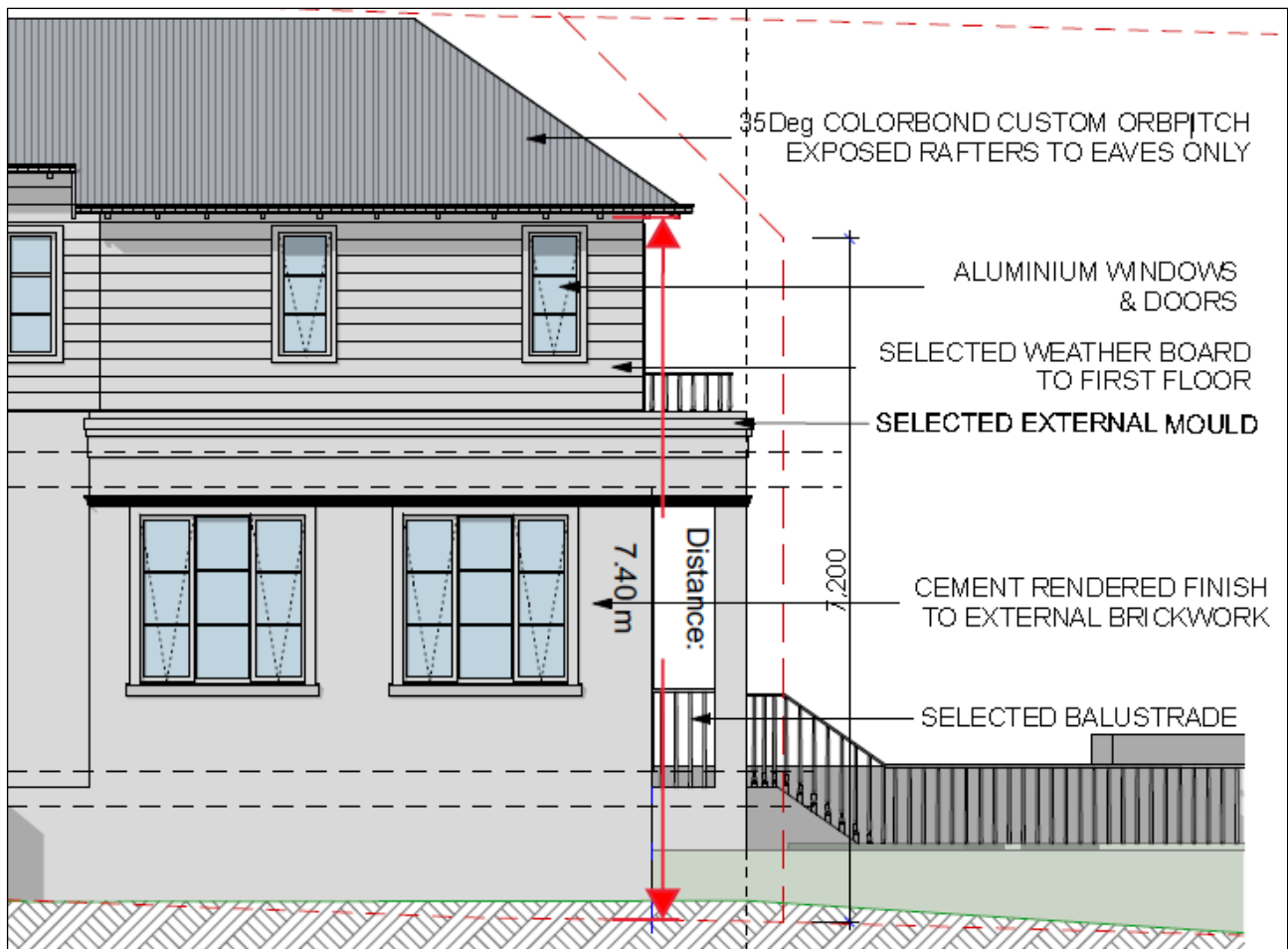


Figure 4 – Wall Height Non-Compliance at the Northern Side Elevation

The proposal upholds the objectives and is satisfactory with regard to Part B3.2.5 of the WDCP 2015.

14.2.2. Part B3.3: Floorplates

Site Area: 891.8m ²	Proposed	Control	Complies
Maximum Floor Plate	158% (624m ²)	165% (650m ²)	YES

The proposal satisfies the floorplate control and achieves a bulk and scale that is compatible with the desired future character of the area.

The proposed building envelope is acceptable with regard to the floorplate controls in Part B3.3 of the Woollahra DCP 2015.

14.2.3. Part B3.4: Excavation

Site Area: 891.8m ²	Proposed	Control	Complies
Maximum Volume of Excavation	329m ³	228.4m ³	NO

C1 limits the volume of excavation for a dual-occupancy (including attached and detached garaging) to 228.4m³.

C4 allows a variation to the maximum volume of excavation permitted, but only for four car parking spaces including any reasonable access thereto and 40m³ of storage.

An excavation control of 228.4m³ applies to development at the subject site.

The proposed construction of the basement level including the driveway and storage rooms is 329m³ which represents a 100.6m³ non-compliance with the numerical control.

The objectives of Part B3.4 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.

Notwithstanding the non-compliance with the excavation control, the proposal upholds the excavation objectives and is satisfactory for the following reasons:

O1 To allow buildings to be designed and sited to relate to the topography.

The subject site is relatively flat and as such, the ground floor level of the proposed dual occupancy is consistent with the topography of the subject site and the desired future character objectives of the Vaucluse West Residential Precinct. The basement level parking allows for on-site parking which complies with the relevant controls in Part B3.6 of the WDCP in that on-site parking does not dominate the street, is screened from the public domain and complies with the relevant building envelope objectives/controls for height, bulk and scale. Furthermore, the proposal includes deep soil landscaping within the front and rear setback areas which maintains the natural topography while providing level access and useable private open space. The proposal therefore satisfies Objective O1 in Part B3.4 of the WDCP 2015.

O2 To minimise excavation.

The proposed non-compliance is due to the provision of basement parking, vehicular access and storage within the building envelope, to comply with the requirements of the parking control. In accordance with C4, a variation to Council's numerical control is permitted to accommodate the basement level parking, vehicular access and storage within the building envelope. It is considered that the basement level does not incorporate any areas of excessive excavation including the storage volume for each dwelling. It is therefore considered that there are sufficient environmental planning grounds to support the numerical excavation non-compliance. The proposal therefore satisfies Objective O2 in Part B3.4 of the WDCP 2015.

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.

As discussed under Clause 6.2 of the WLEP 2014, Council's Technical Services Engineer has confirmed the proposal is acceptable in regards to geotechnical, structural and hydrogeological related issues. The proposal therefore satisfies Objectives O3-O5 in Part B3.4 of the WDCP 2015.

14.2.4. Part B3.5: Built Form and Context

Part B3.5.1 Streetscape Character

The desired future character of the Vacluse West Precinct is outlined in B1.10.2 of the Woollahra DCP 2015.

As discussed in Section 15.1, it is considered that the proposal is compatible with the prevailing characteristics of streetscape and does not adversely impact the streetscape character nor the amenity of neighbouring properties. In addition, the proposal contributes to the rich mixture of architectural styles and forms along Greycliffe Avenue and the wider Vacluse locality.

The proposal achieves the desired future character of the area and is acceptable with regard to the streetscape character controls in Part B3.5.1 of the Woollahra DCP 2015.

Part B3.5.2 Overshadowing

C1(a) stipulates that sunlight is provided to at least 50% of the main ground level private open space to adjoining properties for a minimum of two hours between 9am and 3pm on June 21.

C1(b) states north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface.

The proposal retains the required amount of sunlight to the area of private open space at the adjoining properties and C1(a) is satisfied.

The elevational shadow diagrams demonstrate that the proposal complies with C1(b) with regards to the north-facing upper level windows at the neighbouring property, 3 Greycliffe Avenue.

The proposal is acceptable with regard to Part B3.5.2 of the WDCP 2015.

Part B3.5.3 Public and Private Views

No objections were raised with regard to view loss. Public and private views to and from the property and the public domain are adequately preserved as a result of the proposal.

Part B3.5.4 Acoustic and Visual Privacy

C4 states new windows in habitable rooms are to be designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m. This can be achieved via window location, layout and separation, screens or translucent glazing to 1.5m sill height.

C5 states windows to bathrooms and toilet areas are to have translucent glazing where direct view to, and from, habitable rooms and private open space on adjoining and adjacent properties.

C7 states private open spaces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring habitable rooms (including bedrooms) and private open space within 9m.

The proposal is considered satisfactory for the following reasons:

- The ground floor level and first floor level front and rear facing windows and doors are considered acceptable as no adverse privacy impacts or overlooking into neighbouring properties are likely to occur due to the orientation towards the front or rear of the property.
- The ground floor level laundry door windows (D3) at units 1 and 2, and the first floor level stairwell window at units 1 are not located in habitable rooms and are therefore satisfactory with regards to C4.
- To ensure adequate visual privacy for occupants and neighbours, **Condition C.1(a)** requires the first floor level bathroom windows (W6 and W2) at units 1 and 2, and the bedroom 1 ensuite window (W6) at unit 1 to include translucent glazing. The proposal, as conditioned, is consistent with C5.
- The ground floor level rear facing terraces and private open space areas are not considered to result in any significant adverse acoustic privacy impacts beyond that associated with the existing private open space area at the subject site.
- To ensure adequate visual privacy for occupants and neighbours, **Condition C.1(b)** requires the first floor level bedroom 3 windows (W2) at units 1 and 2, bedroom 4 window (W7) at unit 1, bedroom 1 window (W7) at unit 1, bedroom 4 window (W8) at unit 2 and the bedroom 1 window (W10) at unit 2, to include translucent glazing to a height of 1.5m above the floor level. The proposal, as conditioned, is consistent with C4.
- The rear private open space at the ground floor level is adequately separated from the private open space of adjoining properties through the provision of deep soil landscaping adjacent to the side and rear boundaries. It is considered that the location of the rear private open space generally maintains the existing layout/situation and the configuration of the subject site.
- The first floor level balconies are considered satisfactory as no adverse privacy impacts or overlooking into neighbouring properties are likely to occur due to the orientation towards the front and rear of the property. The balconies at the rear including 1.6m high privacy screens to the side elevations. Furthermore, the balconies are accessed from bedrooms only and the size would not support a high intensity of use.
- The location of the air-conditioning units behind the building line is considered satisfactory, subject to **Condition I.4**.

The proposal, as conditioned, is acceptable with regards to the objectives and controls in Part B3.5.4 of the Woollahra DCP 2015.

Part B3.5.5 Internal Amenity

The proposal is considered to be satisfactory with regard to the provisions of Part B3.5.5 of Woollahra DCP 2015.

14.2.5. Part B3.6: On-Site Parking

C1 requires that parking does not dominate the street, preserves trees and vegetation and is located within the buildable area.

C4 requires parking to be located within the building envelope.

The proposal includes two (2) basement car parking spaces for each dwelling. As such, the parking complies with the relevant objectives and controls in that it is located within the building envelope and results in a satisfactory streetscape outcome.

The proposal is acceptable with the objectives and controls in Part B3.6 of the WDCP 2015.

14.2.6. Part B3.7: External Areas

Site Area: 891.8m ²	Proposed	Control	Complies
Deep Soil Landscaping – Overall	66% (348m ²)	50% (262.3m ²)	YES
Deep Soil Landscaping – Front Setback	55% (56m ²)	40% (41m ²)	YES
Deep Soil Landscaping – Rear Setback	65% (195m ²)	50% (149.5m ²)	YES

Part B3.7.1 Landscaped Area and Private Open Space

In accordance with Part B3.7.1 of the Woollahra DCP 2015, a minimum area of 50% of the site area outside the buildable area and 40% of the front setback area must be provided as deep soil landscaping.

The proposal complies with Council's numeric controls for deep soil landscaping at the subject site and therefore satisfied the relevant controls and objectives in Part B3.7.1 of the WDCP 2015.

Part B3.7.2 Fences

C4 states the height of front fences must not exceed 1.2m if solid and 1.5m if 50% transparent or open.

C9 states rear and side fences must not exceed 1.8m on level sites.

C11 states for sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.

It is proposed to construct a new front fence that is 1.3m-1.8m high. The proposed non-compliance with C4 is considered satisfactory on the basis that the fence is stepped to reflect the sloping topography of the street. Furthermore, the new front fence is over 50% transparent or open.

The 1.8m high timber fence at the side and rear boundary as stipulated on the landscape plan is considered satisfactory with regard to C9 above.

The proposal is acceptable with regard to Part B3.7.2 of the WDCP 2015.

Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Part B3.8.4 Dual Occupancy

The proposal complies with the objectives and controls in Part B3.8.4 of the WDCP 2015.

14.3. Chapter E1: Parking and Access

	Proposed	Control	Complies
Max Number of Car Parking Spaces – Dual Occupancy	4 spaces	2 spaces per dwelling	YES

Parking for residential uses is calculated using the generation rates specified in E1.4.2. Council's Technical Services Engineer has confirmed the proposal is satisfactory and provided the following comments:

“The access and parking layout is generally satisfactory subject to the following condition;

- Driveway splays (inside property boundary) shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1. Alternatively a fence to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area.*
- The expected traffic generation from the proposed development is typical for the zoning of the site.*
- Construction of a standard vehicular crossing having a width of 3m at property boundary and perpendicular to the road carriageway.*
- The redundant vehicular crossing to the south shall be removed.”*

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

14.4. Chapter E2: Stormwater and Flood Risk Management

Council's Technical Services Engineer has confirmed the proposal is satisfactory and provided the following comments in relation to stormwater:

“There are no objections to the Stormwater Management Plan, Job No. SW19220, Issue E, prepared by ALW Design, dated 27/04/2020 subject to the following conditions:

- Note: The permissible site discharge to kerb and gutter shall be limited to 20l/s. As such, the additional site storage required volume must be determined by using computer modelling such as DRAINS. In this regard, an electronic copy together with a hard copy of the Drains Model shall be included.*
- Additional access grates shall be provided to the OSD system for inspection and maintenance. Any grates within a garage area shall be sealed.*
- Whilst an emergency overflow pipe from the OSD system has been provided, during a blockage to the main pipe, the emergency overflows from the OSD system shall be in accordance with one of the following:*

- *Directed to a flow path through the development so that buildings are not inundated nor are flows concentrated on adjoining properties, OR;*
- *A 900mm x 900mm overflow pit shall be provided adjacent to the Discharge Control Pit.*
- *Drainage conduits, across footpath areas that are discharging to the kerb, must be 125mm x 75mm galvanised box or 65mm to 100mm sewer grade PVC pipes.*

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."

Subject to the recommended conditions, the proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

14.5. Chapter E3: Tree Management

Council's Trees and Landscaping Officer has confirmed the proposal is satisfactory and provided the following comments:

"Sixteen trees have been assessed as part of this development proposal, eight of which are located within the subject property. I have also identified two additional trees within the subject property at my site inspection, a total of eighteen trees. Of the ten trees within the subject property nine are proposed for removal. Of the nine trees proposed for removal I have identified three of the trees could be successfully retained without major modification to the proposed development. Four of the six trees (Tree No.s 6, 7, 16 and 16a) are located within the footprint of the proposed development, Tree No.10 would be impacted upon negatively by a major encroachment into its Tree Protection Zone and Tree No.9a is of low landscape significance.

The submitted Arboricultural Impact Report recommends a replacement tree for each existing tree proposed for removal. This is not satisfactorily addressed in the submitted landscape plan. Additionally tree protection measures should be included to ensure the retention of Tree No.s 8 and 9 and 13 (identified for successful retention at my site inspection) located along the southern side boundary and rear boundary.

The proposed replacement tree planting on the submitted landscape plan is unsatisfactory and in part misleading. Under 'Trees' in the planting schedule included on the submitted landscape plan lists a quantity of eleven trees that are proposed to be topiaries to a height of 1.5 metres. In accordance with Chapter E.3 – Tree Management of Council's Development Control Plan a tree is defined as any tree or palm, whether of indigenous, endemic, exotic or introduced species with a diameter spread of branches greater than 3m or with a height greater than 5m, irrespective of the spread of branches. Accordingly eleven of the proposed trees listed in the planting schedule of the submitted landscape plan are not regarded as trees. The remaining three trees proposed listed in the planting schedule do not adequately

compensate for the removal of nine trees within the subject property (which could be reduced to six trees by retaining the trees I have identified). An amended landscape plan showing additional replacement tree planting should be submitted to Council for assessment prior to the issue of a construction certificate should the development application be approved.

The submitted stormwater management plan indicates proposed stormwater pipes and pits within the Tree Protection Zones of trees that could be retained. The proposed stormwater pipes and pits could be relocated with consultation with the project arborist to minimise impacts to existing trees. Accordingly the stormwater management plan should be amended to locate proposed stormwater pipes and pits for the least impact on existing trees to be retained.

In accordance with Council's Development Control Plan one of the features of the Vacluse West Precinct is dwelling houses located within garden settings.

The Desired future character objectives of the Vacluse West Precinct that support the retention of existing trees are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

Additionally in terms of existing trees the objectives of the Woollahra Development Control Plan 2015, Chapter E.3 – Tree Management are:

- O3 To promote, maintain and conserve the leafy character of the Woollahra Municipality.*
- O4 To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.*

RECOMMENDATIONS

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

Subject to the recommended conditions, the proposal 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 demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

The applicant provided a SWMMP with the development application and it was found to be satisfactory, subject to **Condition C.1(c)** which requires the excavation volume on page 5 to be updated from 200m³ to accurately reflect the proposed volume of excavation.

Part E5.2: Demolition and Construction Phase

C2 and C3 promote reuse of salvaged and excess construction materials. C4 promotes prefabricated or recycled materials where possible. C5 seeks to minimise site excavation and disturbance.

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

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

C2 requires waste storage areas to facilitate the separation of garbage and recycling.

C3 and C4 require waste storage areas to be behind the building line or in non-habitable spaces and integrated within the building design.

C5 states that access to waste and compost storage areas are to safe and convenient for occupants to access with a grade less than 1:8, secure and located to minimise noise or odour.

C6 requires manual maneuverability by one person for bulk bins.

C7 ensures that waste collection points should not interfere with traffic or pedestrian safety.

C8 and C9 require collection from the kerb or on site dependent upon safety concerns.

C10 states that access onto the site is to be in accordance with AS2890.2.

The proposal includes a separate bin enclosure for each dwelling that is located in a non-habitable space adjacent to the front boundary. As such, the proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

Part E5.4: Dwelling Houses, Semi-Detached Dwellings and Dual Occupancies

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

15. SECTION 94 CONTRIBUTION PLANS

15.1. 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.2**.

Cost of Works	Rate	Contribution Payable
\$2,271,835.00	1%	\$22,718.35

16. APPLICABLE ACTS/REGULATIONS

16.1. 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**.

17. 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.

18. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

20. CONCLUSION

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

21. 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.

22. 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. 428/2019/1 for the demolition of existing residential flat building and construction of a new attached dual occupancy on land at 4 Greycliffe Avenue Vaucluse, 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)
1053690M_02	BASIX Certificate	NSW Department of Planning and Infrastructure	
D01 (Issue A)	Demolition Plan	Milosevic + Milosevic Architects	04/11/2019
D04 (Issue A)	Construction Management Plan		04/11/2019
D07 (Issue B)	Basement Plan		27/04/2020
D05 (Issue A)	Ground Floor Plan		04/11/2019
D06 (Issue A)	First Floor Plan		04/11/2019
D08 (Issue A)	Roof Plan		04/11/2019
D10 (Issue A)	Elevations (Sheet 02)		04/11/2019
D09 (Issue A)	Elevations (Sheet 01)		04/11/2019
D18 (Issue C)	Proposed Front Fence		19/06/2020
D11 (Issue A)	Section X-X		04/11/2019
D12 (Issue A)	Section Y-Y		04/11/2019
D15 (Issue A)	External Finishes		04/11/2019
	Site Waste Minimisation and Management Plan	Felton Constructions	25/10/2019
Job No. SW19220, Issue E	Stormwater Management Plan	ALW Design	27/04/2020
Report No. 19/3104A	Geotechnical Investigation	STS Geotechnics	April 2020
Plan No. s LDA-00/B, LDA-01/B – LDA-04/B	Landscape Plan	Geoscapes	19/11/2019
	Arboricultural Impact Report	Guy Paroissien – Landscape Matrix Pty Ltd	20/11/2019

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 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	12 x 9
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	9 x 6
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	6 x 8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	18 x 4

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
4	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	Council verge	4 x 3	\$2000.00

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

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
3	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	Council verge	4 x 3
6	<i>Michelia figo</i> (Port-wine Magnolia)	Front boundary	5 x 4
7	<i>Rothmannia globosa</i> (Tree Gardenia)	Front boundary	5 x 5
9a	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary	4 x 3
10	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most eastern specimen	9 x 6
16	<i>Camellia sasanqua</i> (Camellia)	Northern side of property	4.5 x 4
16a	<i>Plumeria acutifolia</i> (Frangipani)	Front yard northern side	5 x 4

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 (Autotext BB1)

B.2 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.3 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.4 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970-2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	Front yard south western corner of 5 Greycliffe Avenue Vaucluse	4.5*
2	<i>Prunus</i> sp. (Flowering Peach or Cherry)	Council verge	2.2
4	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	Council verge	2
5	<i>Pyrus</i> spp. (Ornamental Pear)	Front yard south western corner of 5 Greycliffe Avenue Vaucluse	3
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vaucluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vaucluse	7.2
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vaucluse	12

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

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.
Distances marked * are to be installed excluding the footprint of the proposed dwelling or proposed driveway.

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

- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.5 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	4.5	Proposed landscaping.
5	<i>Pyrus</i> spp. (Ornamental Pear)	3	Proposed landscaping
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	5.6	Proposed landscaping. In consultation with the project arborist the stormwater pipes and pits are to be modified to accommodate successful retention of tree. Proposed dwelling.
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	4.3	Proposed landscaping. In consultation with the project arborist the stormwater pipes and pits are to be modified to accommodate successful retention of tree. Proposed dwelling.
11	<i>Alnus jorullensis</i> (Evergreen Alder)	4.4	Proposed landscaping
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	3.8	Proposed landscaping
13	<i>Cupressus sempervirens</i> (Italian Cypress)	4.9	In consultation with the project arborist the proposed landscaping that ensures the successful retention of the tree.
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	7.2	Proposed landscaping
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	12	Proposed landscaping

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

B.6 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	Compliance documentation and photos shall be included
Installation of tree protection fencing	Compliance with tree protection measures
Demolition of existing garage and dwelling within the Tree Protection Zone of Tree No.11 12 and 13	Condition of exposed roots. Protect any exposed roots immediately.
Excavation within the Tree Protection Zones of trees to be retained	Avoid the severance of and damage to roots greater than 25mm \varnothing
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 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) To ensure adequate visual privacy for occupants and neighbours, the first floor level bathroom windows (W6 and W2) at units 1 and 2, and the bedroom 1 ensuite window (W6) at unit 1 shall comprise of translucent glazing.
- b) In order to maintain visual privacy for occupants and neighbours, the first floor level bedroom 3 windows (W2) at units 1 and 2, bedroom 4 window (W7) at unit 1, bedroom 1 window (W7) at unit 1, bedroom 4 window (W8) at unit 2 and the bedroom 1 window (W10) at unit 2, shall be comprised of translucent glazing to a height of 1.5m above the floor level.
- c) The SWMMP shall be updated to reflect the accurate proposed excavation volume.
- d) Amended architectural plans. The notations on the architectural plans shall be amended to indicate the successful retention of Trees No.s 1, 2, 4, 5, 8, 9, 11, 12, 13, 14 and 15.
- e) Amended Landscape plan. In consultation with the project arborist the landscape plans shall be amended to show and demonstrate through minor modifications to the proposed landscape design the successful retention of Trees No. 1, 2, 4, 5, 8, 9, 11, 12, 13, 14 and 15. The landscape plan shall be submitted to Council's Tree Officer for assessment and approval. Additionally the amended landscape plan must include the following replacement trees:

Species/Type	Planting/Location	Container Size / Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Buckinghamia celsissima</i> (Ivory Curl Flower)	Council verge, 5 metres to the south of Tree No.3 <i>Cupaniopsis anacardioides</i> (Tuckeroo) on the Council verge	100 litre	6 x 5
1 x <i>Magnolia denudata</i> (Yulan Magnolia)	Front yard	100 litre	6 x 5
2 x <i>Lagerstroemia indica</i> (Crepe Myrtle)	Front yard	5 x 4 each	6 x 4 each
2 x <i>Pyrus calleryana</i> 'Capital' (Ornamental Pear)	Rear yard	100 litre each	10 x 4 each
1 x <i>Libidibia ferrea</i> (Leopard tree) OR <i>Calodendrum capense</i> (Cape Chestnut)	Rear yard	100 litre	8 x 5

- f) Amended Stormwater Management plan. In consultation with the project arborist the stormwater management plans shall locate any proposed stormwater pipes and pits the furthest distance from the trunk of an existing tree to be retained within the subject property and adjacent the subject property.

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

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

Description	Amount	Indexed	Council Fee Code
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	\$55,623	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$2000	No	T114

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)	\$22,718.35 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$200	No	T45
Public Road/Footpath Infrastructure Inspection Fee	\$471	No	
Security Administration Fee	\$198	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$81,210.35 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.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1053690M_02 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.4 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 stormwater discharge by direct connection to kerb and gutter.
- b) Full width vehicular crossing having a width of 3m at property boundary and perpendicular to the road carriageway in accordance with Council's standard driveway drawing RF2-D.
- c) A design longitudinal surface profile for the proposed driveway must be submitted for assessment.

- d) Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of all property in accordance with Council's standard drawing RF3.
- e) Removal of any driveway crossings and kerb laybacks which will be no longer required. As such, the crossing to the south of the property shall be removed.
- f) Reinstatement of footpath, kerb and gutter to match existing.
- g) 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.5 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.6 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.7 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.8 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.9 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) Full width vehicular crossing having a width of 3m at property boundary and perpendicular to the road carriageway in accordance with Council's standard driveway splays (inside property boundary) shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1. Alternatively a fence to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area.

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.10 Stormwater Management Plan (site greater than 500m²)

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 shall be in accordance with the Stormwater Management Plan, Job No. SW19220, Issue E, prepared by ALW Design, dated 27/04/2020, other than amended by this and other conditions;
 - a. Additional access grates shall be provided to the OSD system for inspection and maintenance. Any grates within a garage area shall be sealed.
 - b. Whilst an emergency overflow pipe from the OSD system has been provided, during a blockage to the main pipe, the emergency overflows from the OSD system shall be in accordance with one of the following:
 - i. Directed to a flowpath through the development so that buildings are not inundated nor are flows concentrated on adjoining properties, OR;
 - ii. A 900mm x 900mm overflow pit shall be provided adjacent to the Discharge Control Pit.
- b) The discharge of stormwater, by direct connection, to kerb and gutter on Greycliffe Avenue;
 - a. Drainage conduits, across footpath areas that are discharging to the kerb, must be 125mm x 75mm galvanised box or 65mm to 100mm sewer grade PVC pipes.
- c) Any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System,
- d) General compliance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and
- e) Provision of two (2) Onsite Stormwater Detention (OSD) systems having a volume of minimum 13.5m³ each (total of 27m³), two (2) rainwater tanks having a volume of minimum 3m³ each (total of 6m³) and a basement pump-out system having a volume of minimum 5.76m³.

Note: The pump-out systems shall be designed in accordance with AS3500.

OSD Requirements:

The minimum (OSD) Site Storage Requirements (“SSR”) and the Peak Site Discharge (“PSD”) from the site must be in accordance with the following minimum storage/discharge relationships based upon a 1000m² site area:

Average Recurrence Interval	PSD (L/s)	Minimum Site Storage Requirement (SSR) m ³
2 year	23.5 L/s	4m ³
100 year	34 L/s	25m ³ – Dwelling House

Note: All values based on per 1000m² site area (interpolate to site area).

Note: The permissible site discharge to kerb and gutter shall be limited to 20l/s. As such, the additional site storage required volume must be determined by using computer modelling such as DRAINS. In this regard, an electronic copy together with a hard copy of the Drains Model shall be included.

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.

The layout plan must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of Onsite Stormwater Detention (OSD) systems, rainwater tanks and basement pump-out system,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Council's drainage infrastructure, and
- f) Overland flow paths over impervious areas.

OSD Systems, Rainwater Tanks and Basement Pump-out System

The layout plan must include:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed OSD systems, rainwater tanks and basement pump-out system,
- c) Diameter of the outlet to the proposed OSD basins, rainwater tanks and basement pump-out system,
- d) Plans, elevations and sections showing the retention storage basin invert levels, centre-line levels of outlet, top water levels, finished surface levels and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the OSD systems, and
- h) Non-removable fixing details for orifice plates where used.

Subsoil drainage

The subsoil drainage is to address:

- a) Subsoil drainage details,
- b) Clean out points, and
- c) Discharge point.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*. Standard Condition: C.51 (Autotext CC51)

C.11 Non-Gravity Drainage Systems

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Stormwater Management Plan for the site.

The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with section 6.2.4 – “Non-gravity drainage systems” of Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Note: The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au.
Standard Condition: C.52 (Autotext CC52)

C.12 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.13 Recording of Buildings with Little or No Heritage Significance that are to be Demolished

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

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) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature, and
 - views to the subject property from each street and laneway or public space.

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.

One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

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

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 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)

- No. 3 Greycliffe Avenue
- No. 5 Greycliffe Avenue

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 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

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.

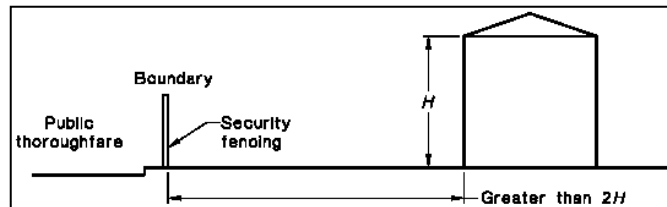
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are 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*.

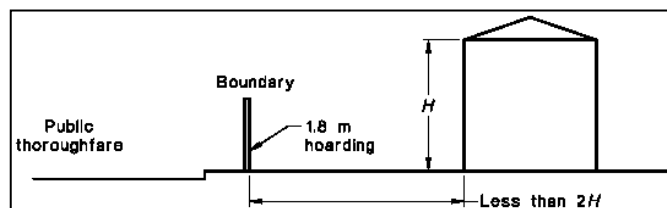
Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service. Standard Condition: D10 (Autotext DD10)

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.



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.

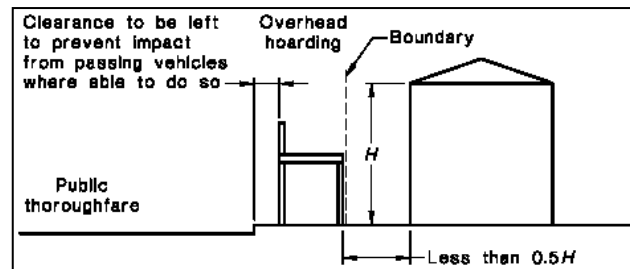


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- 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 pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

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

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.

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. 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 80A (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 certifying authority 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 certifying authority 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 116G of the Act, to comply with the technical provisions of the State's building laws.

Standard Condition: D17 (Autotext DD17)

D.11 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

- a) the boundaries of the site by permanent marks (including permanent recovery points),
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establishes a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and

- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the Principal Certifier.

Note: Where the Principal Contractor or Owner-builder notes any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the Principal Contractor or Owner-builder should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

Standard Condition: D18 (Autotext DD18)

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/nlg.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 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 (Autotext EE20)

E.14 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.15 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.16 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.17 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.18 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.19 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.20 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 B.2** 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.21 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.22 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with **Condition E.17** 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.23 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.24 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

E.25 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

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

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

E.26 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size /Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Buckinghamia celsissima</i> (Ivory Curl Flower)	Council verge, 5 metres to the south of Tree No.3 <i>Cupaniopsis anacardioides</i> (Tuckeroo) on the Council verge	100 litre	6 x 5
1 x <i>Magnolia denudata</i> (Yulan Magnolia)	Front yard	100 litre	6 x 5
2 x <i>Lagerstroemia indica</i> (Crepe Myrtle)	Front yard	5 x 4 each	6 x 4 each
2 x <i>Pyrus calleryana</i> 'Capital' (Ornamental Pear)	Rear yard	100 litre each	10 x 4 each
1 x <i>Libidibia ferrea</i> (Leopard tree) OR <i>Calodendrum capense</i> (Cape Chestnut)	Rear yard	100 litre	8 x 5

The project arborist shall document compliance with the above condition.

E.27 Level changes in the vicinity of trees

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)
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	Front yard south western corner of 5 Greycliffe Avenue Vacluse	4.5*
5	<i>Pyrus</i> spp. (Ornamental Pear)	Front yard south western corner of 5 Greycliffe Avenue Vacluse	3
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vacluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vacluse	7.2
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vacluse	12

Note: Distances marked * are to exclude the proposed dwelling or driveway.

The project arborist shall document compliance with the above condition.

E.28 Hand excavation within tree root zones

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	Front yard south western corner of 5 Greycliffe Avenue Vacluse	4.5*
5	<i>Pyrus</i> spp. (Ornamental Pear)	Front yard south western corner of 5 Greycliffe Avenue Vacluse	3
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vacluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vacluse	7.2
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vacluse	12

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.29 Footings in the vicinity of trees

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vacluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vacluse	7.2
15	<i>Ficus microcarpa</i> var. ‘Hillii’ (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vacluse	12

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.30 Unexpected Aboriginal archaeological deposits or objects

If unexpected archaeological deposits or Aboriginal objects are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & 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.

E.31 Reuse of building materials

Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for reuse.

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 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 executed is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate. Standard Condition: F7 (Autotext FF7)

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 (Section 6.4 (C))

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1053690M_02.

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)

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) The structural adequacy of the Onsite Stormwater Detention (OSD) systems, Rainwater Tanks and basement Pump-out System,
- c) That the works have been constructed in accordance with the approved design and will provide the retention storage volume and attenuation in accordance with the submitted calculations,
- d) Pipe invert levels and surface levels to Australian Height Datum, and
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the OSD systems, Rainwater Tanks and basement Pump-out System incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered 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)

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. 1053690M_02.

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 temporarily detained by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain.
- d) 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.
- e) Carry out the matters referred to in paragraphs (b) and (d) at the owner's expense.
- f) 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.
- g) 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.
- h) 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.
- i) 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.
- j) 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 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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 from Mechanical Plant and Equipment

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

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

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

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
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 (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 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.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms T Ward, Senior Assessment Officer, on (02) 9391 7016.

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.8 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.9 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.10 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.11 Pruning or Removing a Tree Growing on Private Property

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 (Autotext KK19)

K.12 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.13 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)

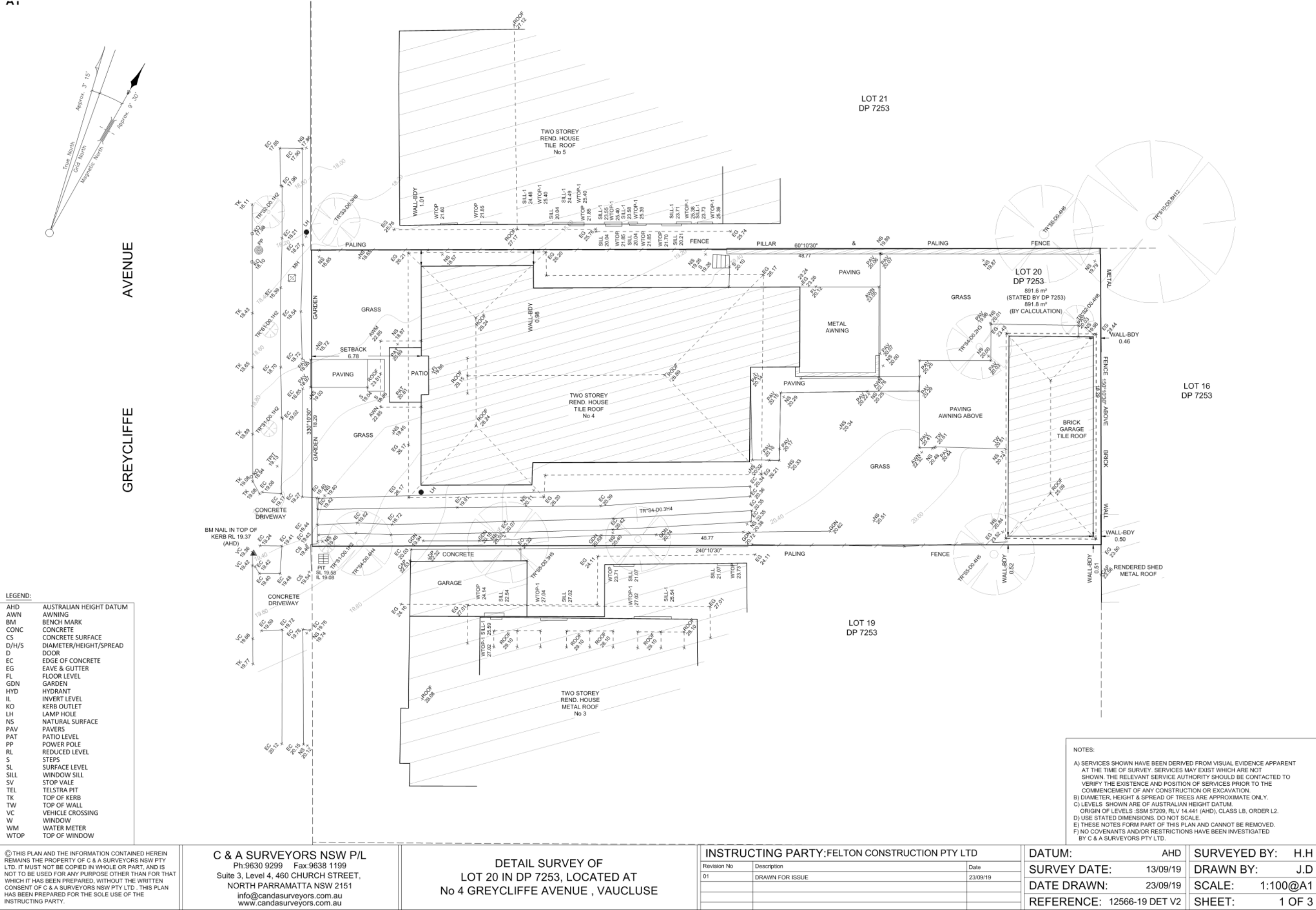
K.14 Mailboxes

Council has been alerted to an increase in mailbox theft, and as such, all new development, being new dwelling houses and residential flat buildings, are encouraged to have lockable mail boxes.

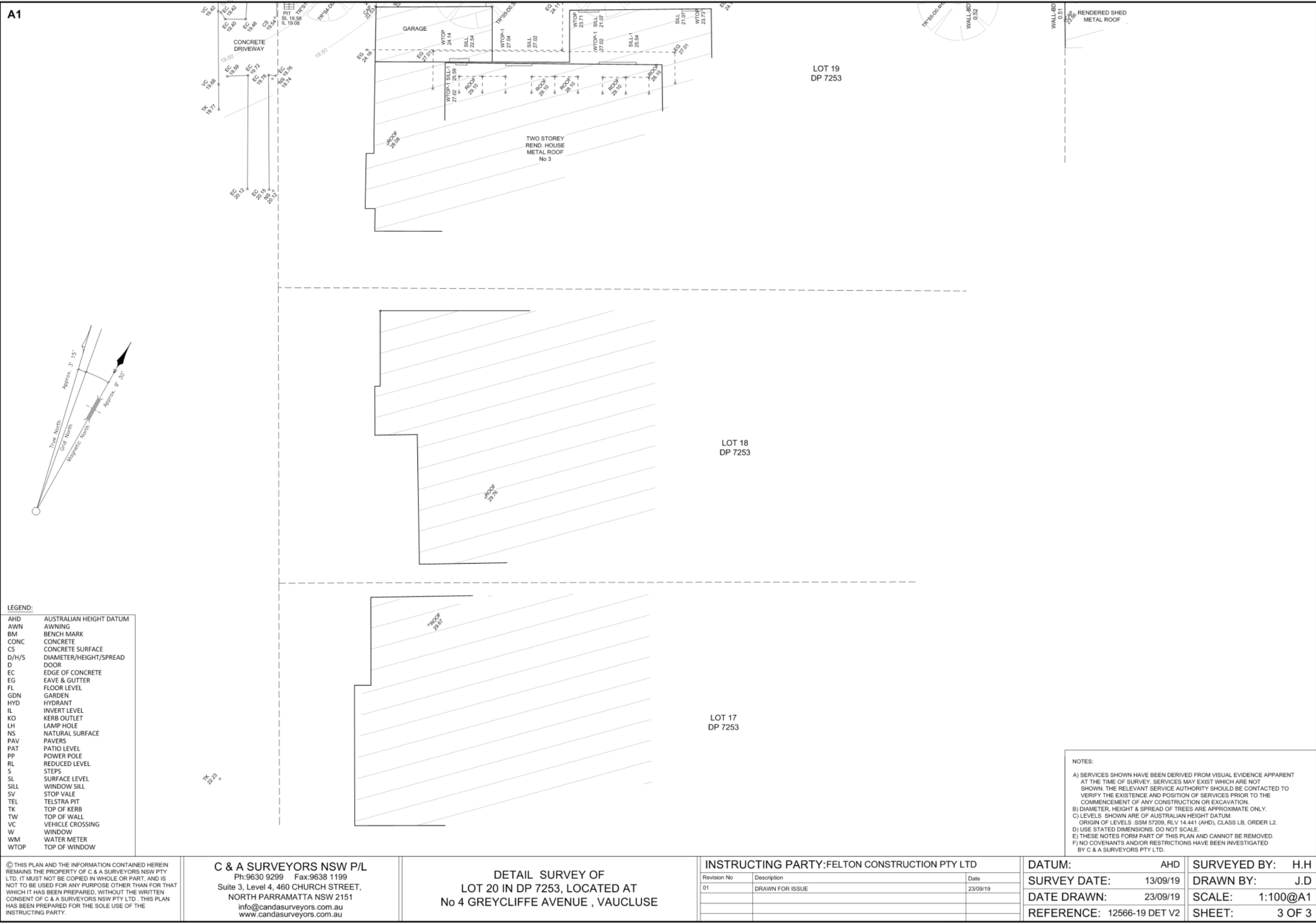
Standard Advising: K25 (Autotext KK25)

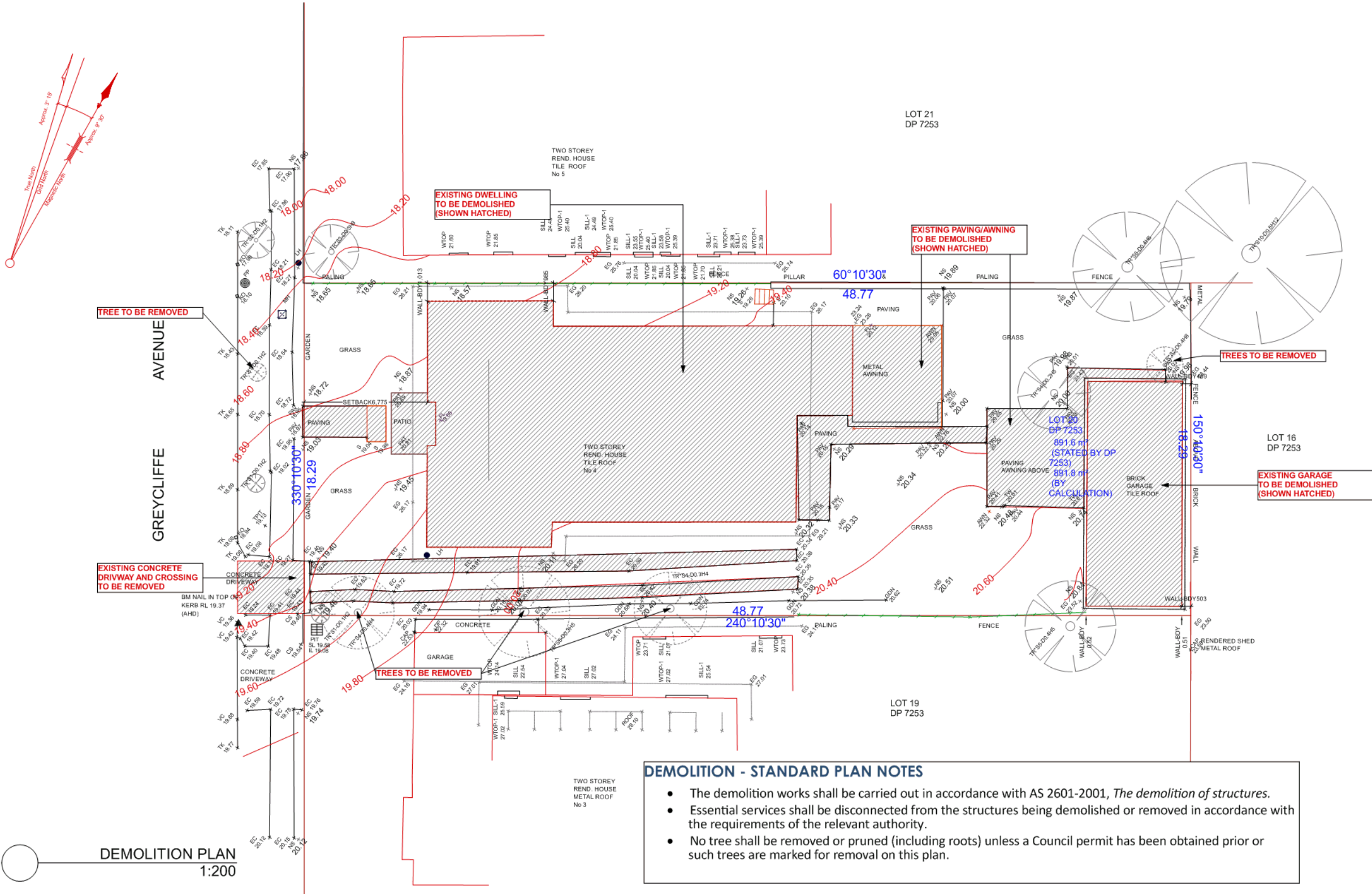
Annexures

1. Survey, Plans and Elevations  
2. Technical Services Referral Response  
3. Landscaping Referral Response  
4. Heritage Referral Response  





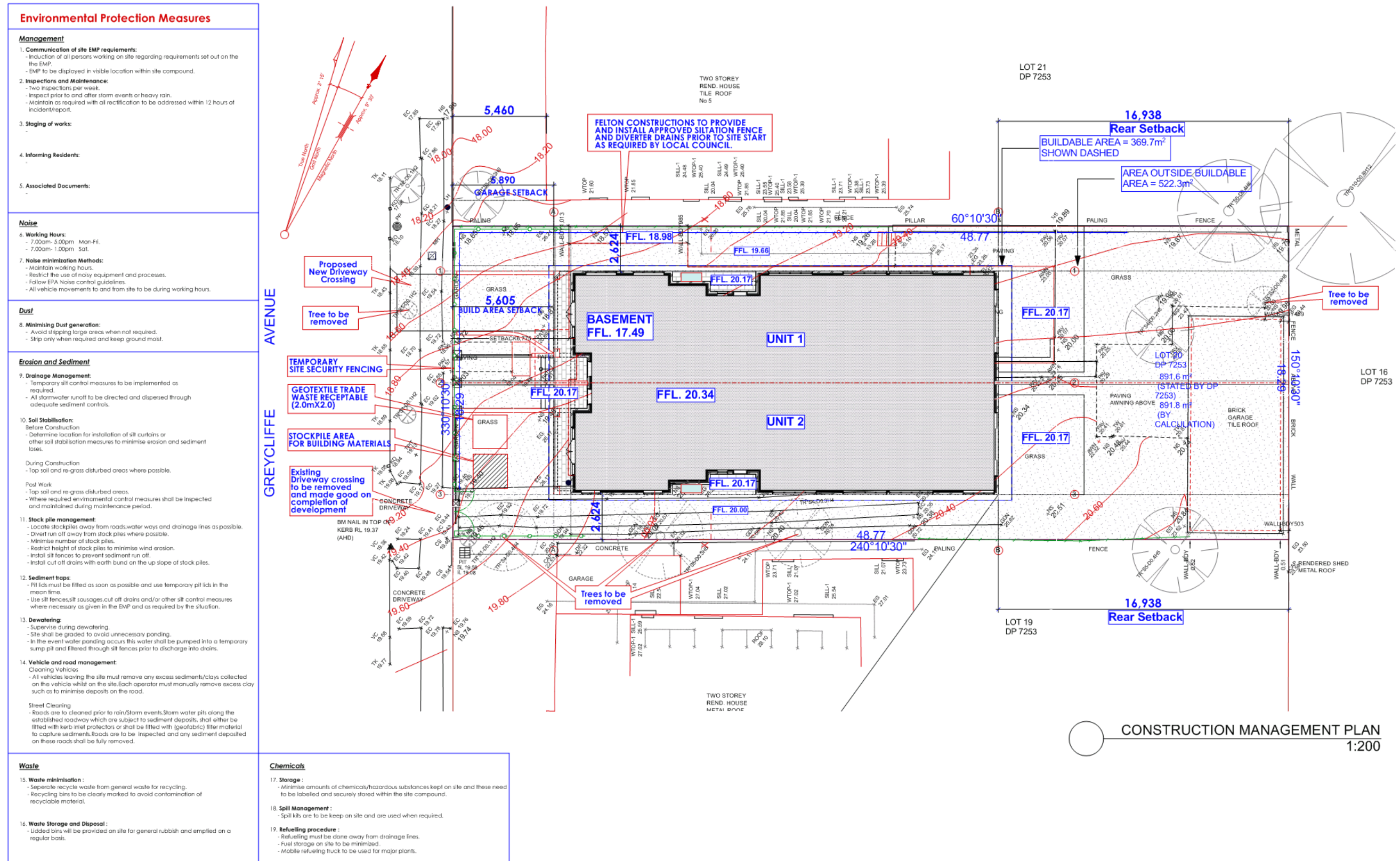




SSU:	DESCRIPTION	SY	DATE	GENERAL NOTES:
A	DA Lodgement to Council	DN	4/11/2019	<p>1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.</p> <p>2. Levels shown are approximate unless otherwise indicated by measured levels.</p> <p>3. All ground dimensions must be taken in place before building.</p> <p>4. All building work is to be done in accordance with the current Australian Standards.</p> <p>5. Where engineering drawings are required, such as structural drawings, a separate drawing is to be submitted.</p> <p>6. Structural drawings are to be submitted to the Council for approval under AS 2503-2000.</p> <p>7. All services to be installed and verified by the Builder with the relevant authorities before any building work commences.</p> <p>COPYRIGHT:</p> <p>This design and the associated documents is subject to copyright laws and may not be reproduced or further distributed without the written consent of FELTON CONSTRUCTION Pty Ltd.</p>

PROJECT	PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE	VLAUCUSE
CLIENT	Mr & Mrs MACARTHUR ONSLOW
TTT	DEMOLITION PLAN

COUNCIL	WOOLLAHRA COUNCIL	ISSUE	A
DWG NO	D01	JO3 NO	7241
PRINTED DATE	21/11/2019		
DRAWN	DN	SHEET	A3
DRAWN DATE	15/03/2019		



SSU:	DESCRIPTION	SY	DATE
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:

1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.

2. Levels shown are approximate and are not to be used for construction purposes.

3. All ground dimensions must be taken in place before building.

4. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

5. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

6. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

7. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

8. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

9. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

10. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

11. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

12. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

13. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

14. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

15. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

16. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

17. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

18. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

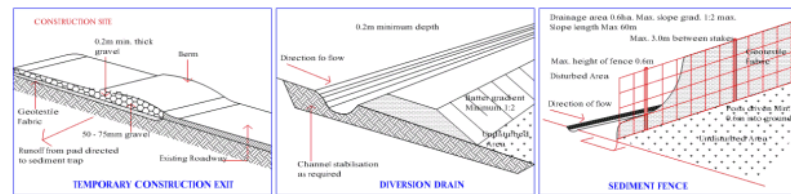
19. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

20. All building work is to be done in accordance with the Australian Standard AS 2503-2000.

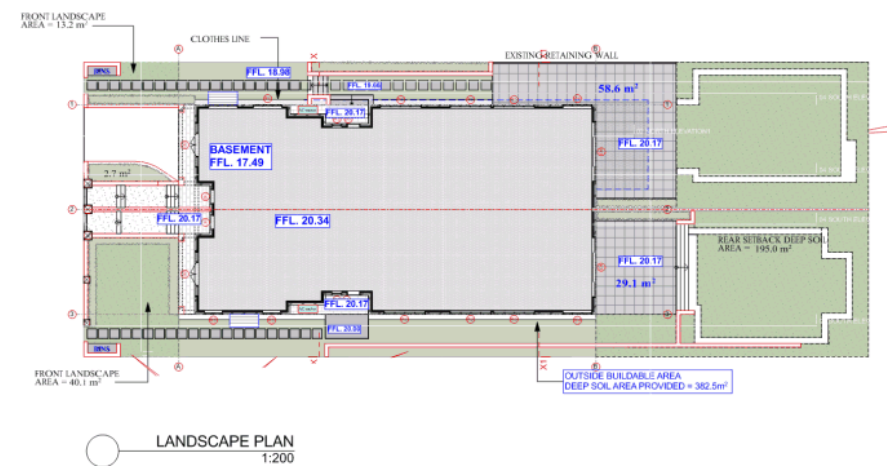


PROJECT	PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE
CLIENT	Mr & Mrs MACARTHUR ONSLOW
TITLE	CONSTRUCTION MANAGEMENT PLAN

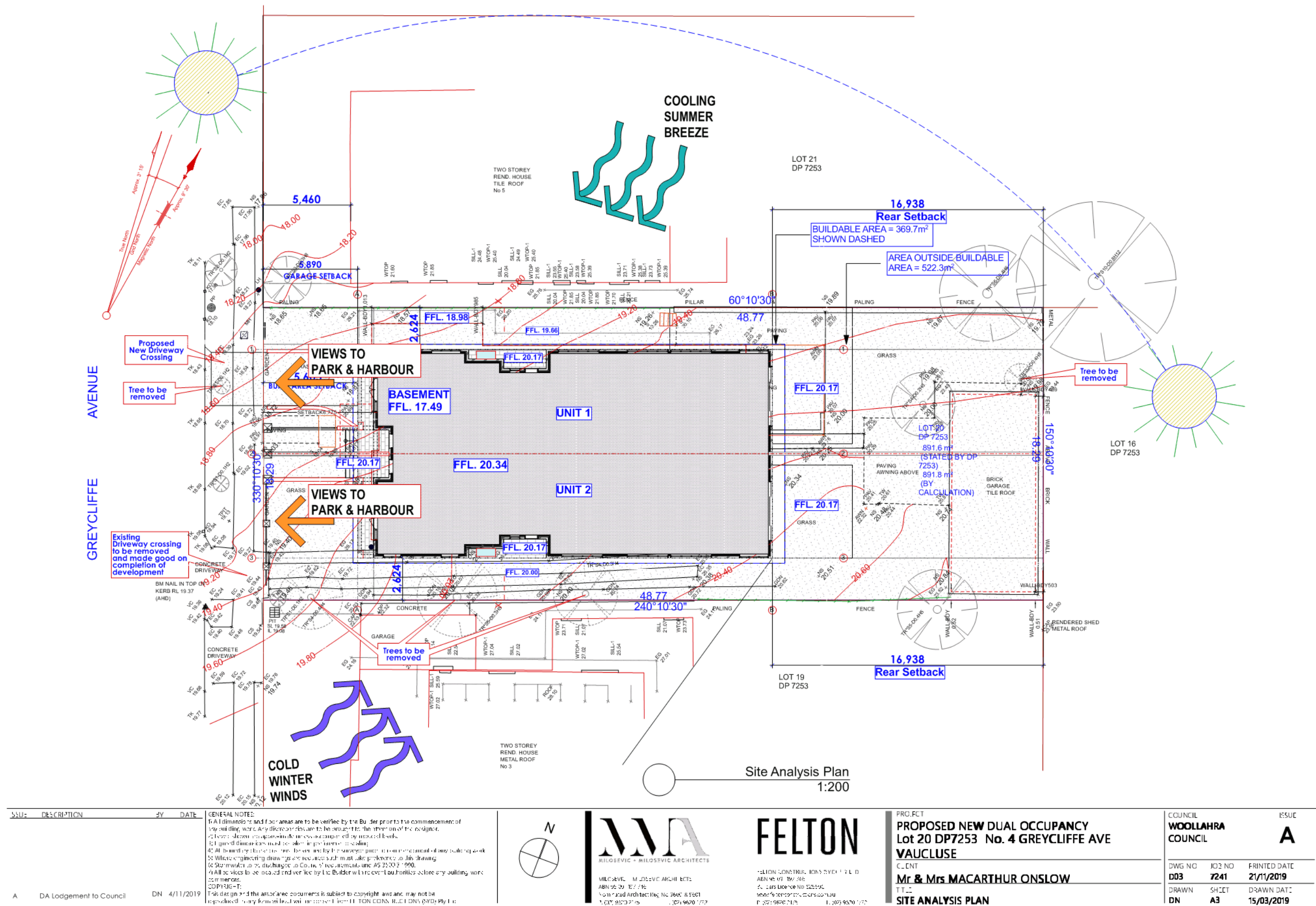
COUNCIL	WOOLLAHRA COUNCIL	ISSUE	A
DWG NO	D04	JO3 NO	7241
PRINTED DATE	21/11/2019		
DRAWN	DN	SHEET	A3
DRAWN DATE	15/03/2019		

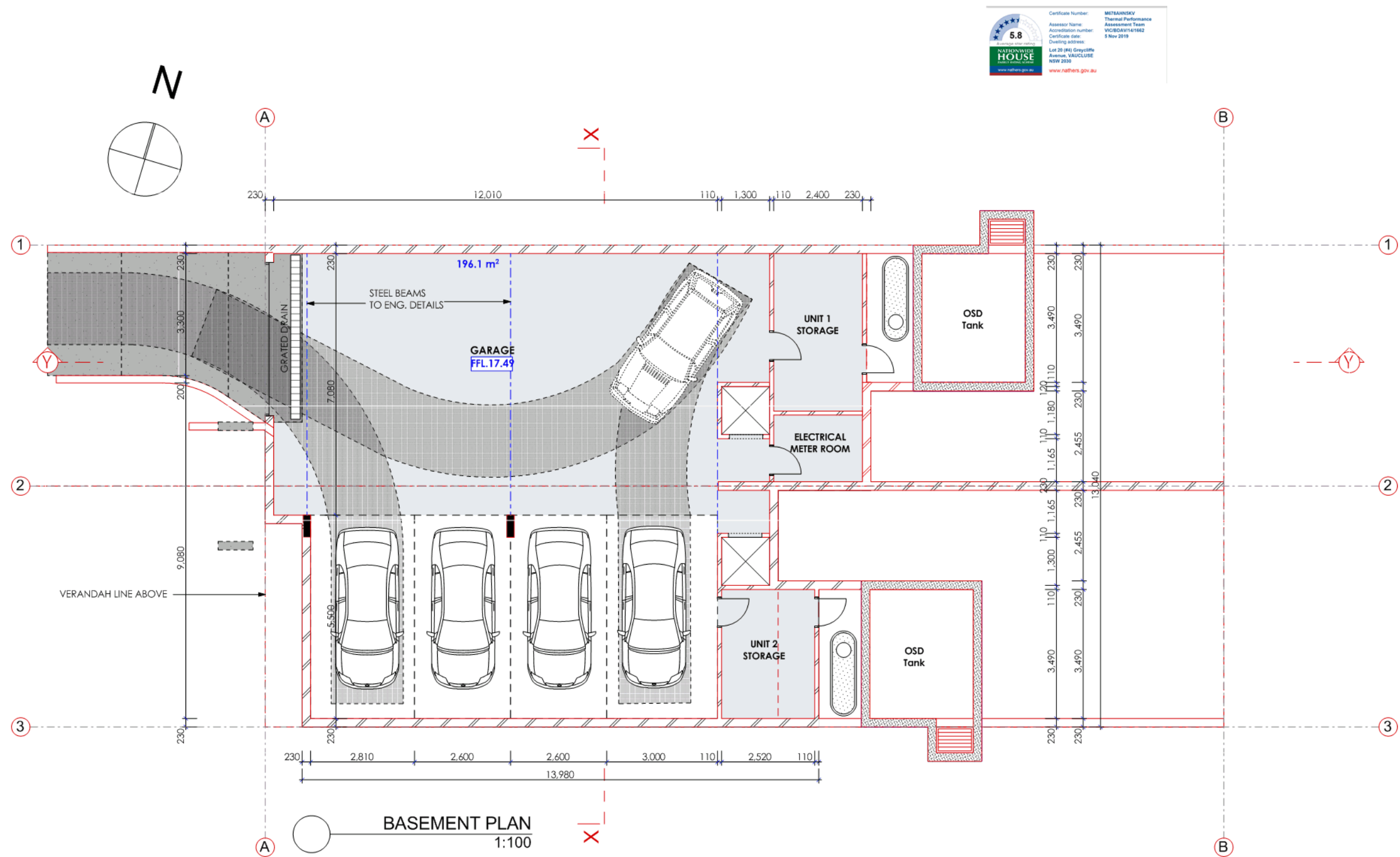


TOTAL: $= 440.0 \text{ m}^3$



COUNCIL		ISSUE
WOOLLAHRA COUNCIL		D
DWG NO	JOB NO.	PRINTED DATE
D02	7241	22/06/2020
DRAWN	SHEET	DRAWN DATE
DN	A1	15/03/2019





REV	DESCRIPTION	BY	DATE
B	Additional information for Council	DN	27/4/2020
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
2. Levels shown are approximate unless otherwise indicated by measured levels.
3. All ground dimensions must be taken in perpetuity.
4. All building work is to be done in accordance with the latest edition of the Building Code of Australia (BCA) and the latest edition of the Australian Standard AS 1552.2-2000.
5. All services to be installed and verified by the Builder prior to the commencement of any building work.
6. This design and the associated documents is subject to copyright laws and may not be reproduced or further distributed without the written consent of the designer.

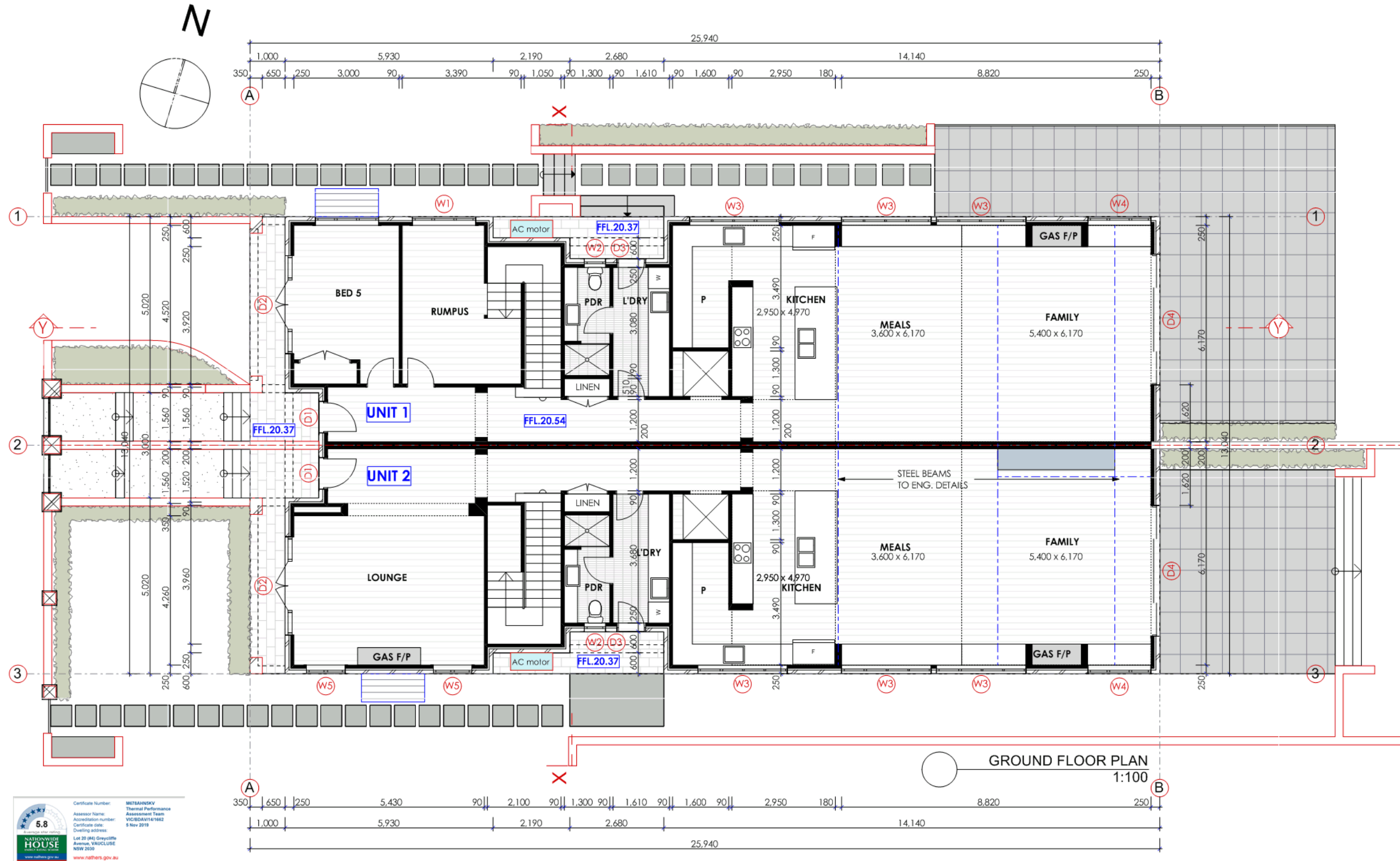


MMA
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Sydney based Architect Reg. No. 26001 & 5501
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FELTON
FELTON CONSTRUCTION SYDNEY P/LD
ABN 95 09 187 744
Sydney based Architect Reg. No. 26001 & 5501
T: 02 9550 7175 F: 02 9550 7172

PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE
VAUCLUSE
CLIENT
Mr & Mrs MACARTHUR ONSLOW
TITLE
BASEMENT PLAN

COUNCIL	ISSUE
WOOLLAHRA COUNCIL	B
DWG NO D07	JO3 NO 7241
DRAWN DN	PRINTED DATE 27/04/2020
	DRAWN DATE 15/03/2019



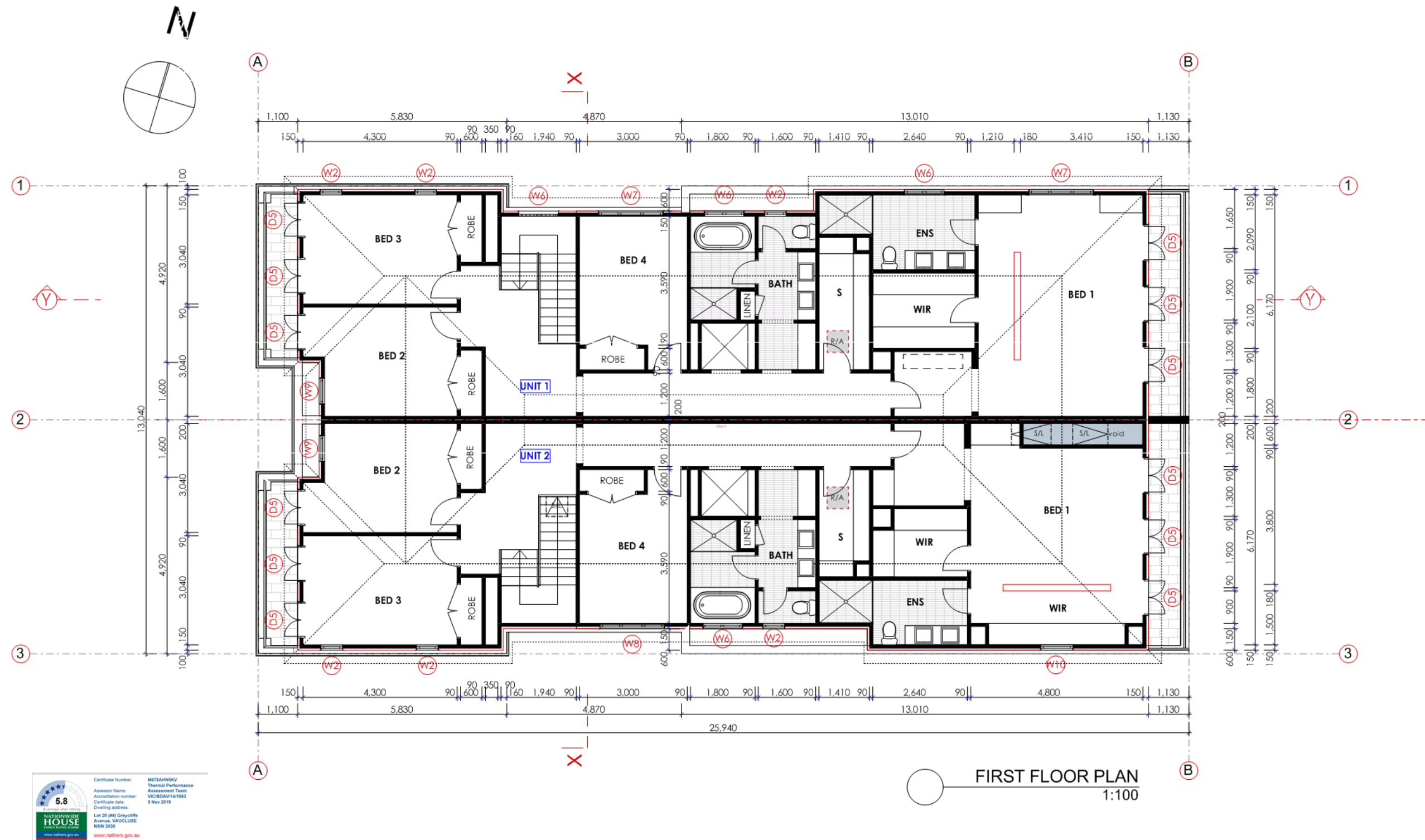
SSU:	DESCRIPTION	SY	DATE
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
2. Levels shown are approximate and are subject to change without notice.
3. All ground dimensions must be taken in accordance with the relevant standards.
4. All building work must be done in accordance with the relevant standards of any building work.
5. Where engineering drawings are required, such as structural drawings, shall be prepared by a registered structural engineer.
6. Stormwater to be discharged to Council's requirements, i.e. AS 2500.2-1990.
7. All services to be installed and verified by the Builder with the relevant authorities before any building work commences.
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PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE
VAICLOSE
CLIENT
Mr & Mrs MACARTHUR ONSLOW
TITLE
GROUND FLOOR PLAN

COUNCIL		ISSUE
WOOLLAHRA COUNCIL		A
DWG NO	JOB NO	PRINTED DATE
D05	7241	21/11/2019
DRAWN	SHEET	DRAWN DATE
DN	A3	15/03/2019



SSU:	DESCRIPTION	SY	DATE
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
2. Levels shown are approximate and may be subject to change by the builder.
3. All quoted dimensions must be taken in accordance with the drawing.
4. All dimensions are to be taken from the face of the wall unless otherwise indicated.
5. Where engineering drawings are required, such as for structural steel, the drawing must be approved by the Engineer.
6. Structural design is to be in accordance with AS 2503.2-1990.
7. All services to be installed and verified by the Builder with the relevant authorities before any building work commences.
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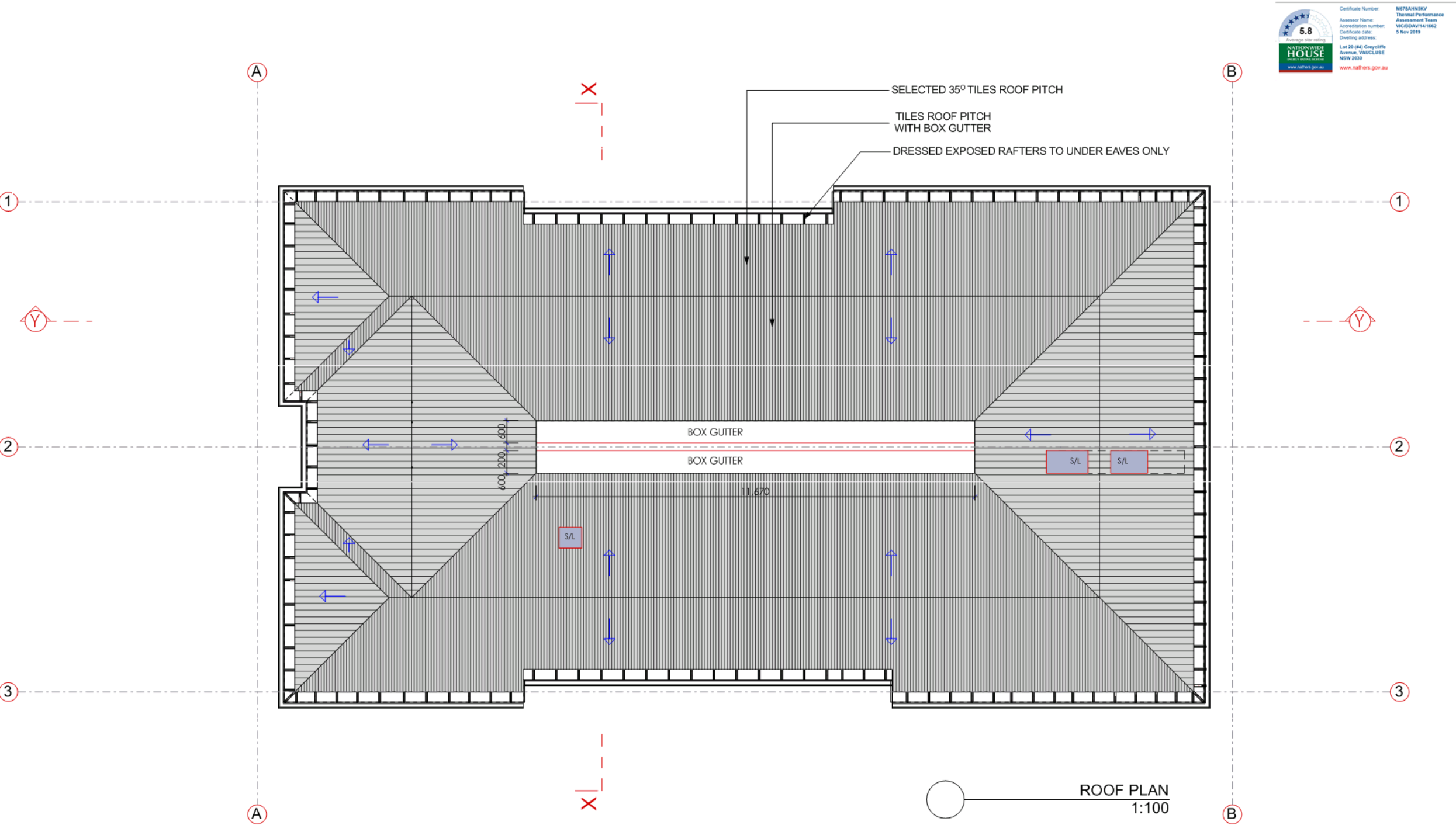


MA
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PL Class Licence No. 0221596
www.feltonconstruction.com.au
P. 02 9550 2125 F. 02 9550 1772

PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE
VAUCLUSE
CLIENT
Mr & Mrs MACARTHUR ONSLOW
TITLE
FIRST FLOOR PLAN

COUNCIL		ISSUE
WOOLLAHRA COUNCIL		A
DWG NO	JOB NO	PRINTED DATE
D06	7241	21/11/2019
DRAWN	SHEET	DRAWN DATE
DN	A3	15/03/2019



SY	DATE	DESCRIPTION
DN	4/11/2019	DA Lodgement to Council

GENERAL NOTES:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
2. Levels shown are approximate unless otherwise indicated by measured levels.
3. All ground dimensions must be taken in accordance with the following:
4. All buildings to be constructed in accordance with the latest requirements of the Building Code of Australia (BCA) and the relevant Australian Standards (AS) and New South Wales (NSW) Building Code.
5. Where engineering drawings are required, such as structural drawings, to be shown.
6. Structural design to be checked and verified by the Builder with the relevant authorities before any building work commences.
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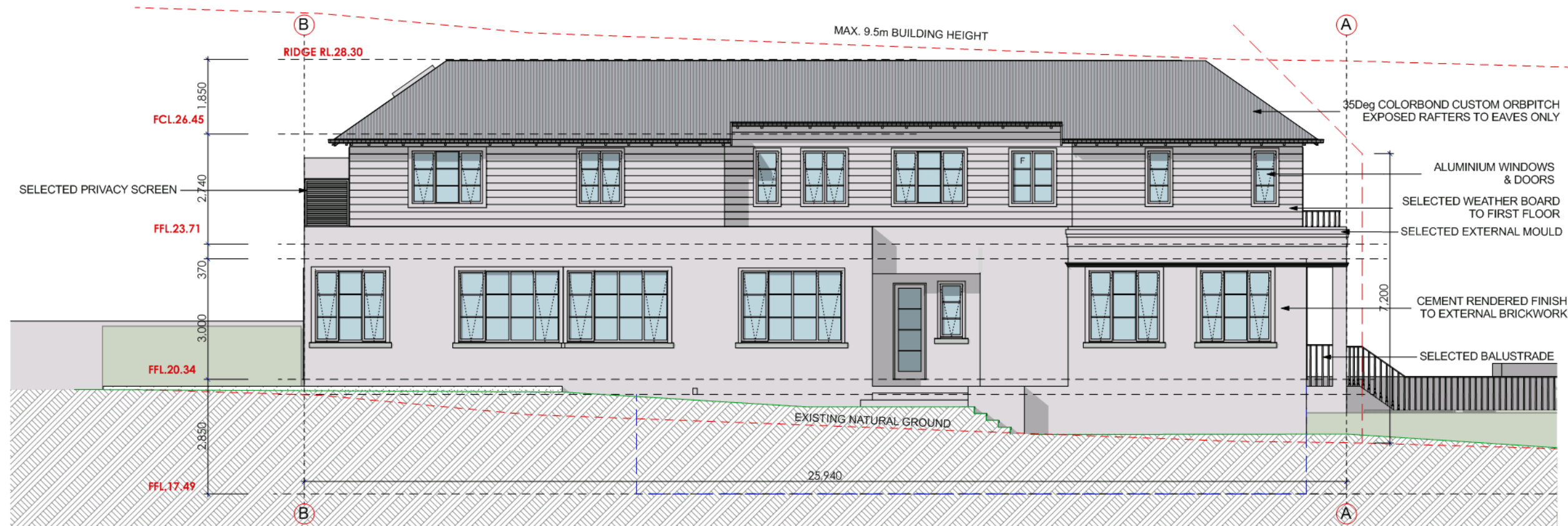


MMA
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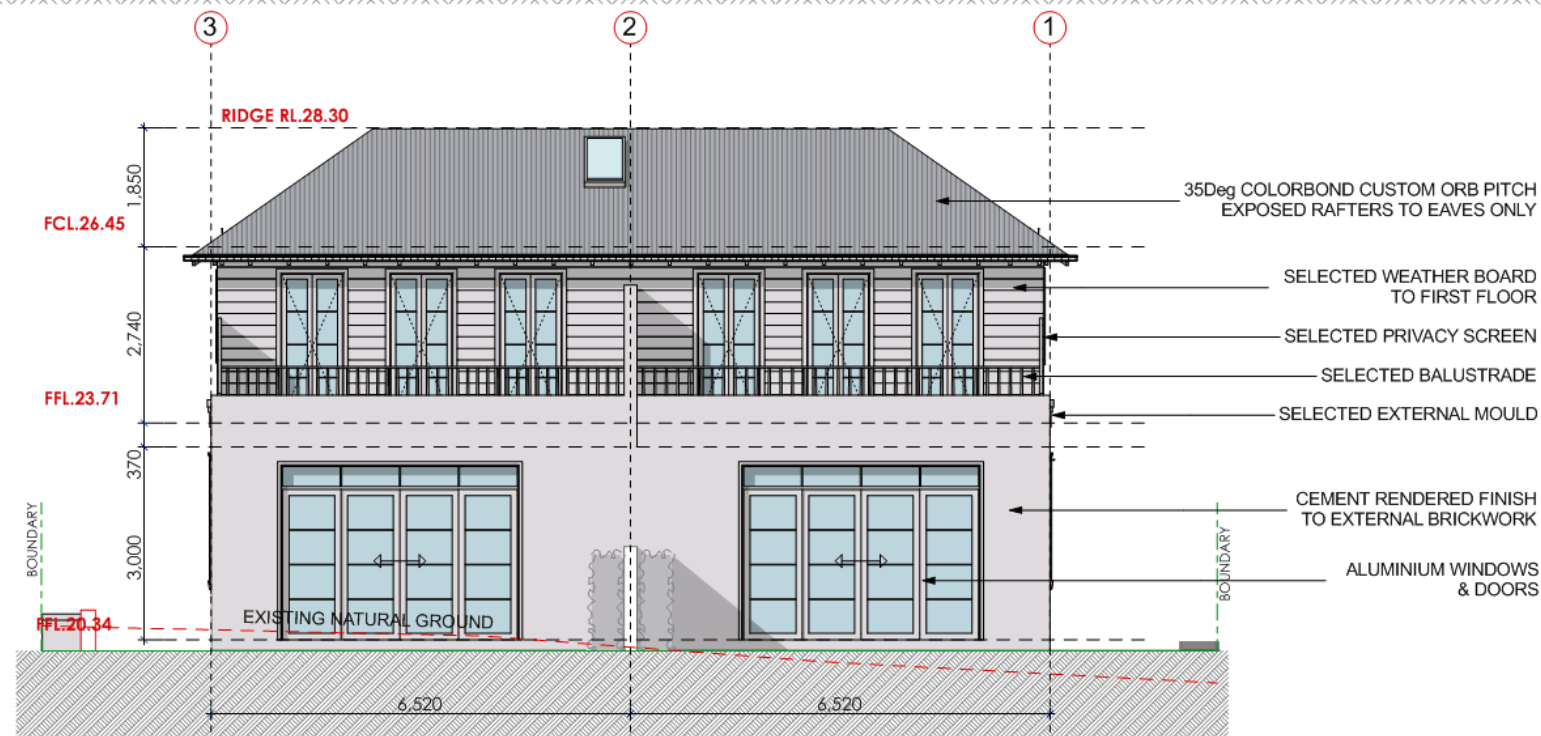
FELTON
FELTON CONSTRUCTIONS PTY LTD
ABN 95 03 199 248
PL 1285 Licence No. 525195C
www.feltonconstructions.com.au
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PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE
VAUCLUSE
CLIENT
Mr & Mrs MACARTHUR ONSLOW
TITLE
ROOF PLAN

COUNCIL		ISSUE
WOOLLAHRA COUNCIL		A
DWG NO	JOB NO	PRINTED DATE
D08	7241	21/11/2019
DRAWN	SHEET	DRAWN DATE
DN	A3	15/03/2019



NORTH ELEVATION
1:100



EAST ELEVATION
1:100



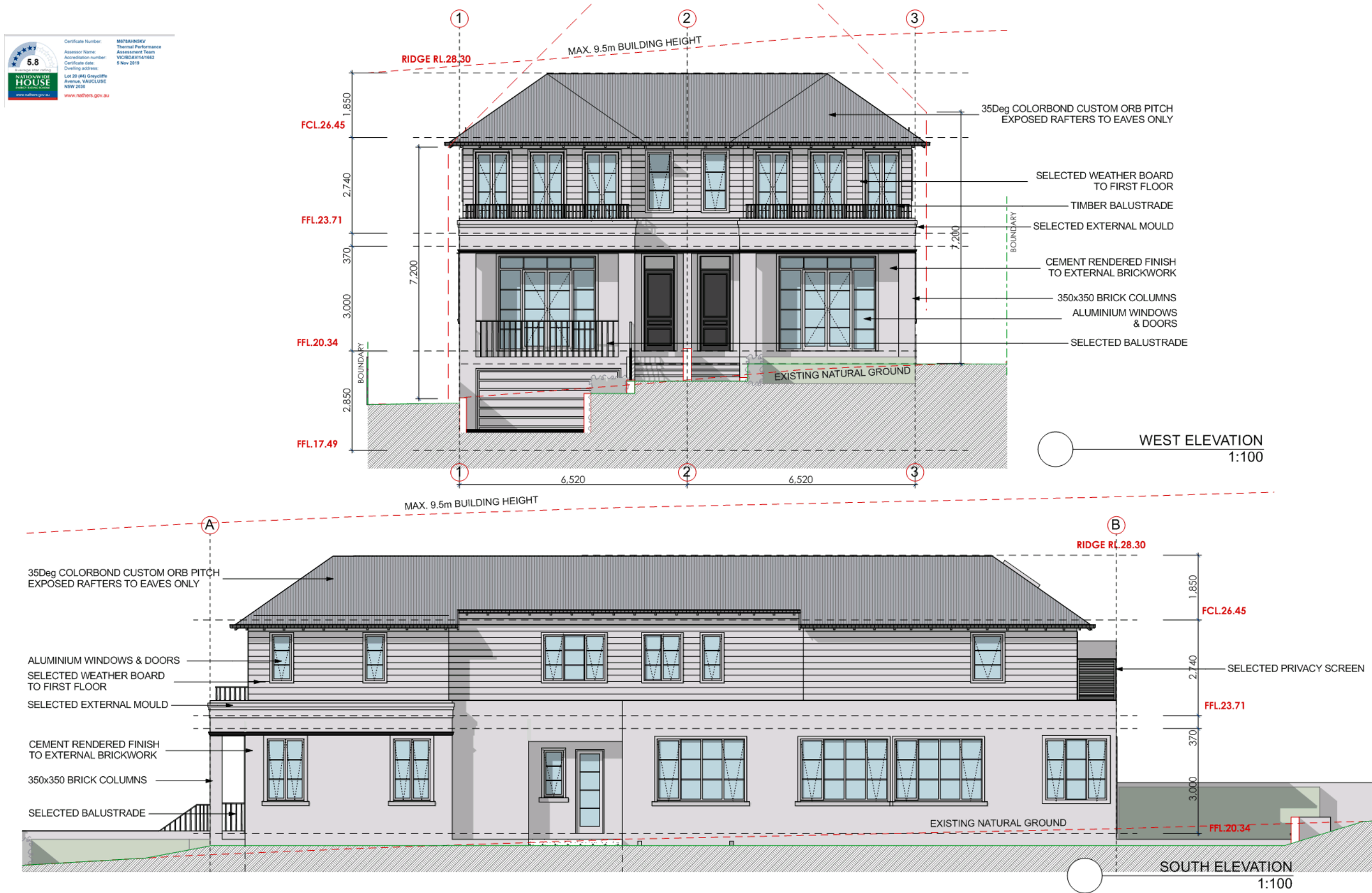
SLU	DESCRIPTION	SY	DATE
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
2. Levels shown are approximate unless otherwise indicated by measured levels.
3. All quoted dimensions must be taken in accordance with the drawing.
4. All work must be done in accordance with the drawing and by the appropriate person in the building industry.
5. Where engineering drawings are required such as structural drawings, etc.
6. Structural drawings to be checked by Council's requirements under AS 2503.2-1990.
7. All services to be located and verified by the Builder with relevant authorities before any building work commences.
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PROJECT	PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE
CLIENT	Mr & Mrs MACARTHUR ONSLOW
TITLE	ELEVATIONS (SHEET 02)

COUNCIL	WOOLLAHRA COUNCIL	ISSUE	A
DWG NO	D10	JOB NO	7241
PRINTED DATE	21/11/2019		
DRAWN	DN	SHEET	A3
DRAWN DATE	15/03/2019		





Proposed Front Fence

ISSUE	DESCRIPTION	BY	DATE	GENERAL NOTES	FELTON		PROJECT	COUNCIL	ISSUE	
				1) All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer. 2) Levels shown are approximate unless accompanied by reduced levels. 3) Figured dimensions must be taken in preference to scaling. 4) All boundary clearances must be verified by the surveyor prior to commencement of any building work. 5) Where engineering drawings are required such must take preference to this drawing. 6) Stormwater to be discharged to Council's requirements and AS 3500.3-1990. 7) All services to be located and verified by the Builder with relevant authorities before any building work commences. COPYRIGHT: This design and the associated documents is subject to copyright laws and may not be reproduced in any form without written consent from FELTON CONSTRUCTIONS (SYD) Pty Ltd.			PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE	WOOLLAHRA COUNCIL	C	
C	Additional information for Council	DN	19/6/2020			FELTON CONSTRUCTIONS (SYD) PTY LTD ABN 95 091 197 746 www.feltonconstructions.com.au P: (02) 9620 2175 F: (02) 9620 1792	CLIENT Mr & Mrs MACARTHUR ONSLOW	DWG NO D18	JOB NO. 7241	PRINTED DATE 19/06/2020
B	Additional information for Council	DN	27/4/2020			MILOSEVIC + MILOSEVIC ARCHITECTS Nominated Architect, Reg No 96000 & 96001 Builders Licence No 822599C	TITLE PROPOSED FRONT FENCE	DRAWN DN	SHEET A3	DRAWN DATE 15/03/2019
A	DA Lodgement to Council	DN	4/11/2019							



FELTON

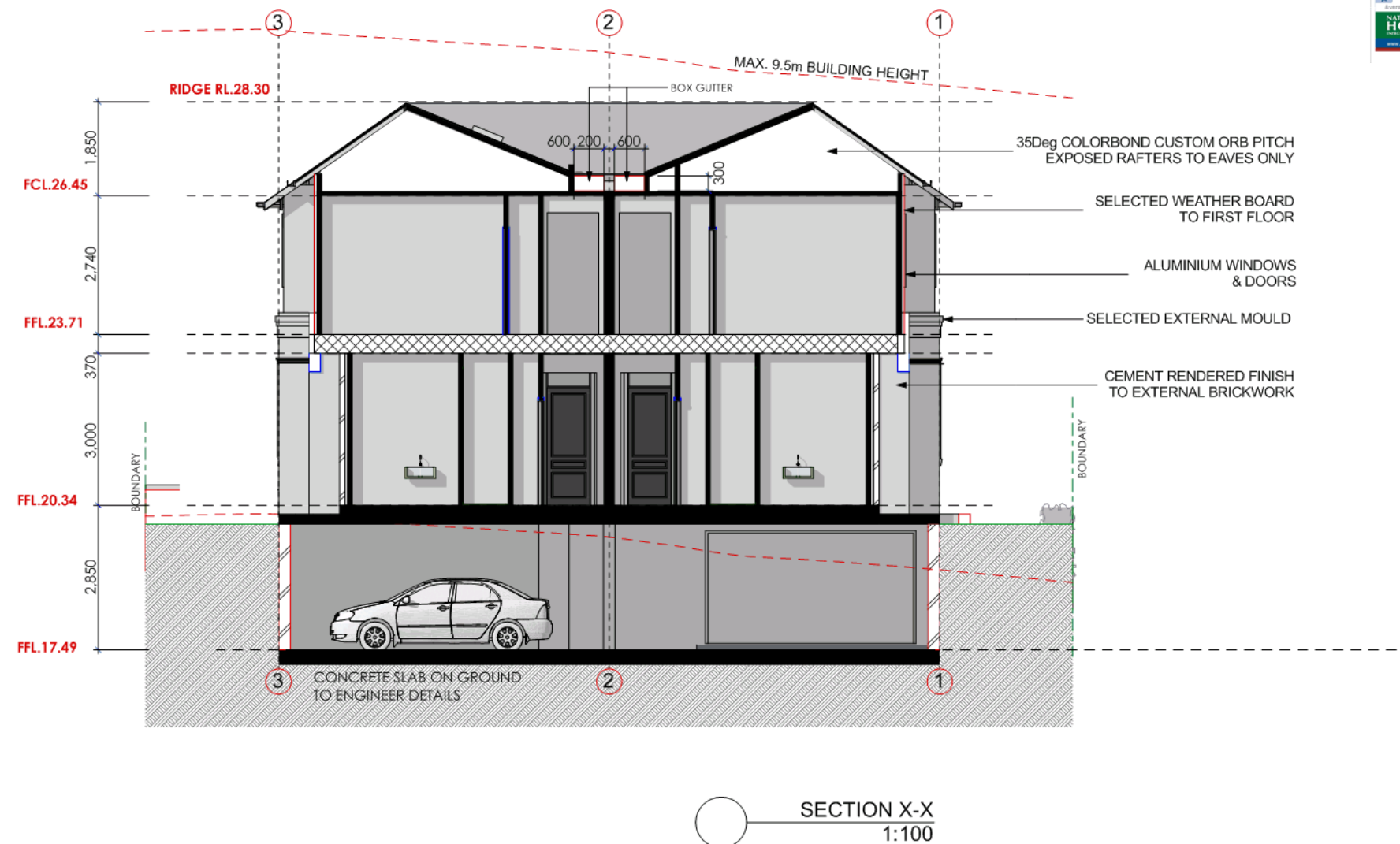
FELTON CONSTRUCTIONS (SYD) PTY LTD
ABN 95 091 197 746
www.feltonconstructions.com.au
P: (02) 9620 2175 F: (02) 9620 1792






MILOSEVIC • MILOSEVIC ARCHITECTS
Nominated Architect, Reg No 9600 & 9601
Builder's Licence No 82559C











PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE

CLIENT
Mr & Mrs MACARTHUR ONSLOW

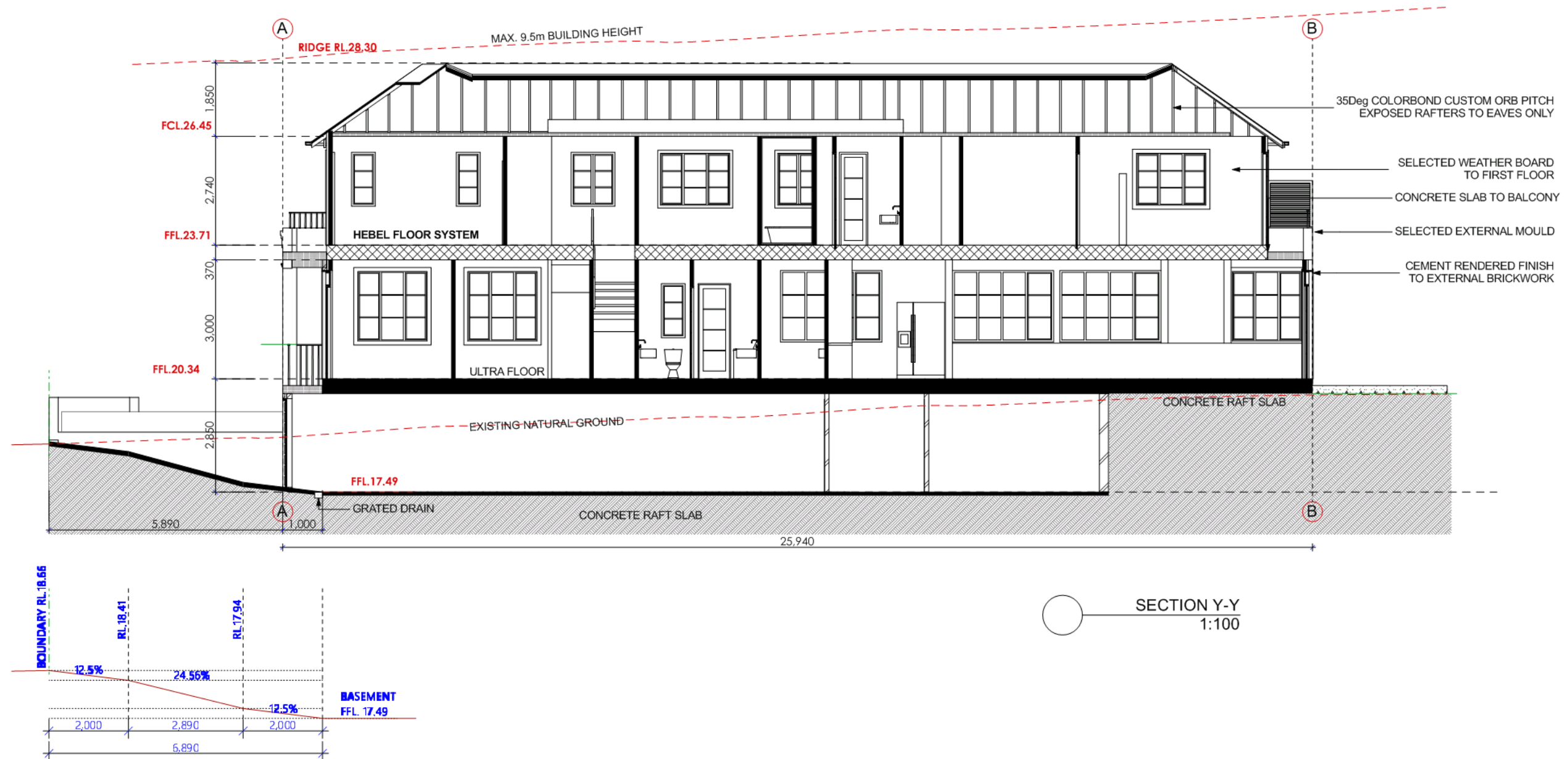
TITLE
PROPOSED FRONT FENCE



DOOR SCHEDULE					
NAME	D1	D2	D3	D4	D5
QUANTITY	2	2	2	2	12
HEIGHT	2,730	2,730	2,400	2,730	2,340
WIDTH	900	2,800	820	3,730	1,000
FRONT VIEW					

WINDOW SCHEDULE										
NAME	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10
QUANTITY	2	8	6	2	2	4	2	1	2	1
HEIGHT	1,800	1,360	1,800	1,800	1,800	1,360	1,360	1,360	1,710	1,360
WIDTH	1,800	600	2,550	1,800	1,100	1,100	1,800	1,800	720	900
FRONT VIEW										

SSU#	DESCRIPTION	BY	DATE	GENERAL NOTES:				PROJECT	COUNCIL	ISSUE		
				1) All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any dimensions that are to be subject to the discretion of the Engineer. 2) Erection of steelwork shall be in accordance with the structural steelwork. 3) All ground dimensions must be taken in accordance with the following: 4) All boundary dimensions must be taken in accordance with the following: 5) Where engineering drawings are required such must take precedence to this drawing. 6) Stormwater to be discharged to Council's requirements as per AS 2200.2-1990. 7) All services to be located and verified by the Builder with relevant authorities before any building work commences. COPYRIGHT: This design and the associated documents is subject to copyright laws and may not be reproduced in any form without the written consent from FELTON CONSTRUCTION Pty Ltd.		 MILOSEVIC - MILOSEVIC ARCHITECTS ABN 56 00 167 716 1/101 Macarthur Rd, No. 4 Greycliffe Ave Dandenong VIC 3175 1/101 Macarthur Rd, No. 4 Greycliffe Ave Dandenong VIC 3175	 FELTON CONSTRUCTION PTY LTD ABN 56 00 167 716 1/101 Macarthur Rd, No. 4 Greycliffe Ave Dandenong VIC 3175 1/101 Macarthur Rd, No. 4 Greycliffe Ave Dandenong VIC 3175	PROJ. CT PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE CLIENT Mr & Mrs MACARTHUR ONSLOW TITLE SECTION X-X	DWG NO D11	JOB NO 7241	PRINTED DATE 21/11/2019	
A	DA Lodgement to Council	DN	4/11/2019									
							</					



SECTION Y-Y
1:100



SSU:	DESCRIPTION	SY	DATE
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
2. Levels shown are approximate and are subject to change. All levels are to be verified by the Builder.
3. All ground dimensions must be taken in accordance with the relevant standards.
4. All dimensions are to be taken in accordance with the relevant standards.
5. Where engineering drawings are required, such as for the foundation, the relevant standards must be followed.
6. All dimensions are to be taken in accordance with the relevant standards.
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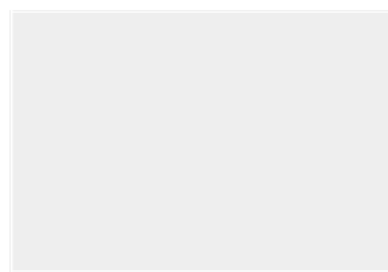


PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE
VAUCLUSE
CLIENT
Mr & Mrs MACARTHUR ONSLOW
TITLE
SECTION Y-Y

COUNCIL	ISSUE	
WOOLLAHRA COUNCIL	A	
DWG NO	JOB NO	PRINTED DATE
D12	7241	21/11/2019
DRAWN	SHEET	DRAWN DATE
DN	A3	15/03/2019



GUTTERS, COLORBOND 'Monument' FINISH (OR SIMILAR)



EXTERNAL WALLS DULUX 'Lexicon' FINISH (OR SIMILAR)



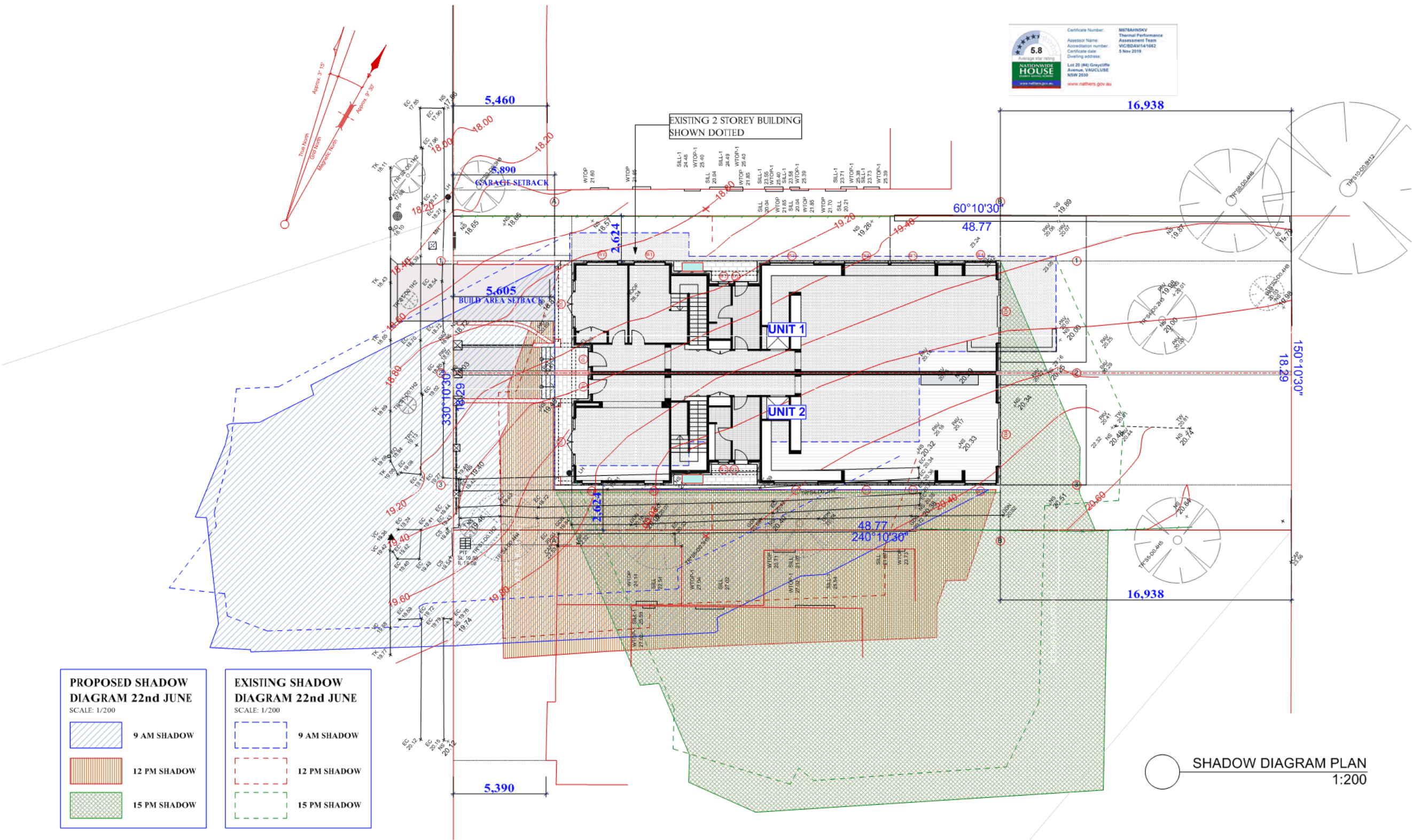
SELECTED COLOURBOND ROOF IN "Woodland Grey"



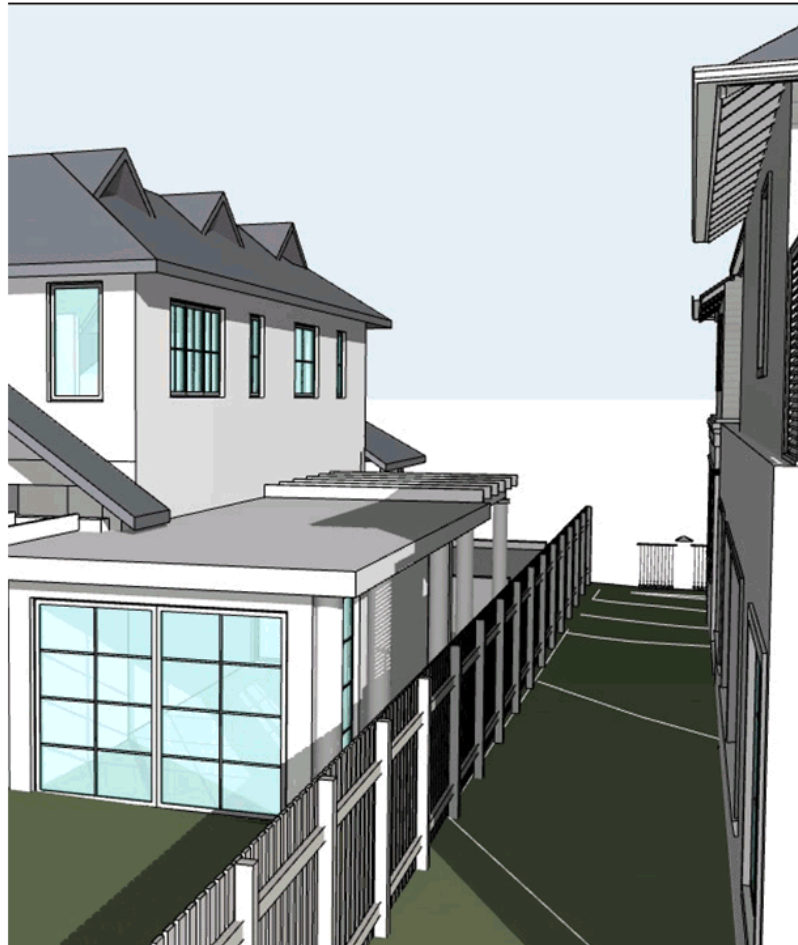
METAL POWDER COATED HAND RAIL

EXTERNAL COLOURS/ FINISHES SCHEDULE

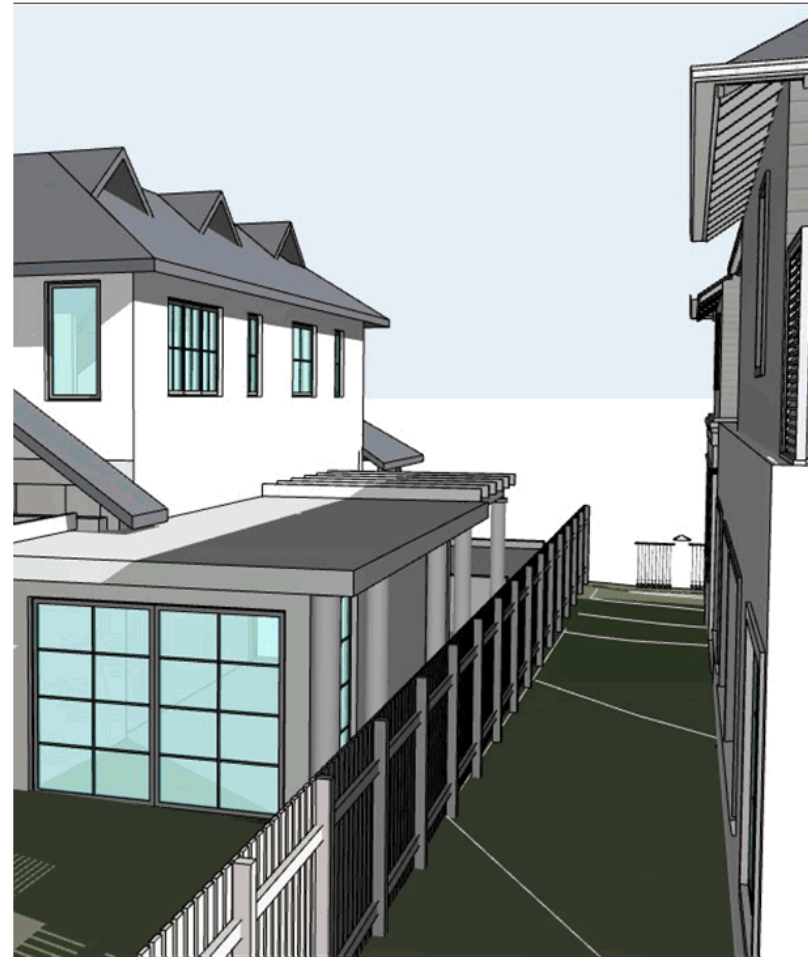
SSU#	DESCRIPTION	SY	DATE	GENERAL NOTES:			PROJECT	COUNCIL	ISSUE	
				1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer. 2. Levels shown are approximate and are to be confirmed by measured levels. 3. All ground dimensions must be taken in place before building. 4. All building work is to be done in accordance with the latest Australian Standards. 5. Where engineering drawings are required, such as for structural steel, to be shown in this drawing. 6. Structural work to be done in accordance with AS 2503-1990. 7. All services to be installed and verified by the Builder with the relevant authorities before any building work commences. COPYRIGHT: This design and the associated documents is subject to copyright laws and may not be reproduced or further distributed without the written consent of FELTON CONSTRUCTION PTY LTD.		 MILOSEVIC + MILOSEVIC ARCHITECTS MILOSEVIC + MILOSEVIC ARCHITECTS ABN 69 001 167 176 1/101 and 1/102 Archibald Rd, No. 8501 1/101 and 1/102 Archibald Rd, No. 8501 1/101 and 1/102 Archibald Rd, No. 8501	FELTON CONSTRUCTION PTY LTD ABN 69 001 167 176 1/101 and 1/102 Archibald Rd, No. 8501 1/101 and 1/102 Archibald Rd, No. 8501 1/101 and 1/102 Archibald Rd, No. 8501	PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE CLIENT Mr & Mrs MACARTHUR ONSLOW T.T.L. EXTERNAL FINISHES	WOOLLAHRA COUNCIL	A
A	DA Lodgement to Council	DN	4/11/2019					DWG NO D15	JOB NO 7241	PRINTED DATE 21/11/2019
								DRAWN DN	SHEET A3	DRAWN DATE 15/03/2019



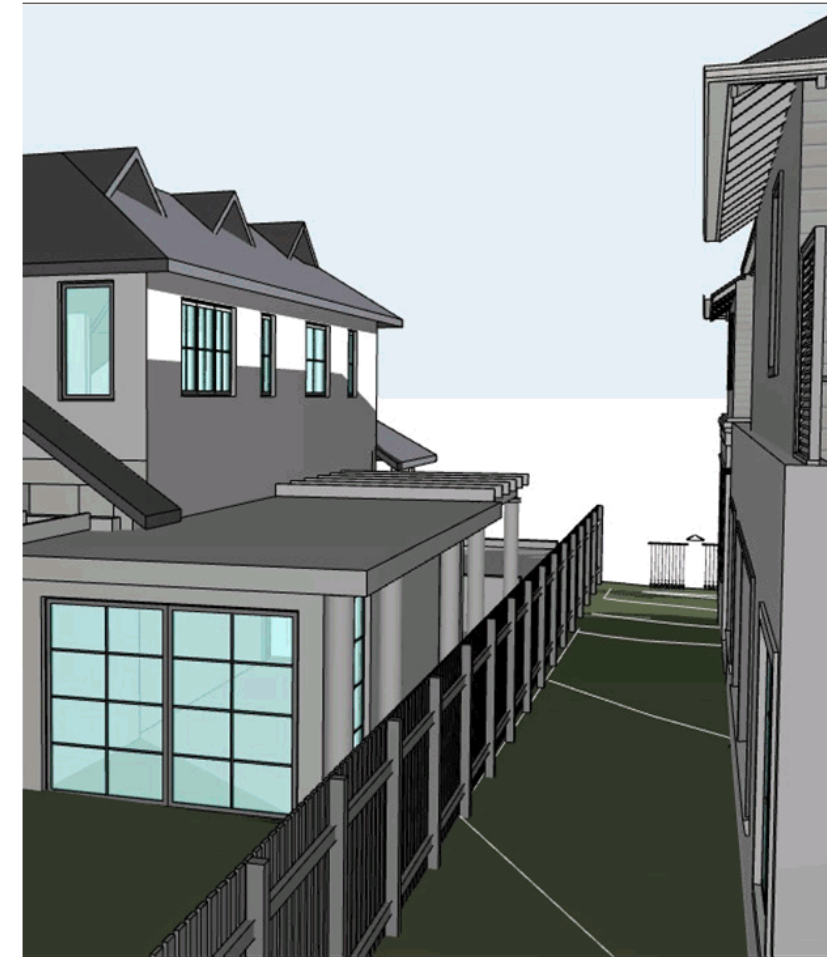
ISSUE	DESCRIPTION	BY	DATE	GENERAL NOTES:			PROJECT		COUNCIL	ISSUE	
				1) All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.				PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE	WOOLLAHRA COUNCIL		
			2) Levels shown are approximate unless accompanied by reduced levels.								
			3) Figured dimensions must be taken in preference to scaling.								
			4) All boundary clearances must be verified by the surveyor prior to commencement of any building work.								
			5) Where engineering drawings are required such must take preference to this drawing.								
			6) Stormwater to be discharged to Council's requirements and AS 3500.3-1990.								
			7) All services to be located and verified by the Builder with relevant authorities before any building work commences.								
			COPYRIGHT: This design and the associated documents are subject to copyright laws and may not be reproduced in any form without written consent from FELTON CONSTRUCTIONS (SYD) Pty Ltd.	MILOSEVIC • MILOSEVIC ARCHITECTS ABN 95 091 197 746 Nominated Architect Reg No 9600 & 9601 P: (02) 9620 2175 F: (02) 9620 1792		FELTON CONSTRUCTIONS (SYD) PTY LTD ABN 95 091 197 746 Builders Licence No 82559C www.feltonconstructions.com.au P: (02) 9620 2175 F: (02) 9620 1792		CLIENT Mr & Mrs MACARTHUR ONSLOW			
A	DA Lodgement to Council	DN	4/11/2019					TITLE SHADOW DIAGRAMS	DWG NO D13	JOB NO. 7241	PRINTED DATE 5/12/2019
									DRAWN DN	SHEET A3	DRAWN DATE 15/03/2019



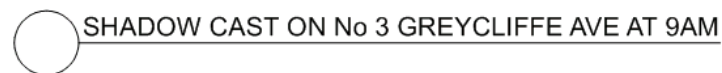
No. 3 GREYCLIFFE AVE, VAUCLUSE



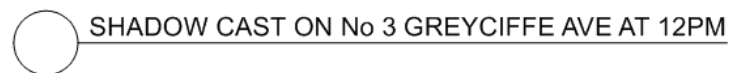
No. 3 GREYCLIFFE AVE, VAUCLUSE



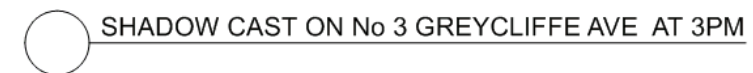
No. 3 GREYCLIFFE AVE, VAUCLUSE



SHADOW CAST ON No 3 GREYCLIFFE AVE AT 9AM



SHADOW CAST ON No 3 GREYCLIFFE AVE AT 12PM



SHADOW CAST ON No 3 GREYCLIFFE AVE AT 3PM

ISSUE	DESCRIPTION	BY	DATE	GENERAL NOTES
D	Additional information for Council	DN	14/7/2020	1) All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer.
C	Additional information for Council	DN	19/6/2020	2) Levels shown are approximate unless accompanied by reduced levels.
B	Additional information for Council	DN	27/4/2020	3) F gured dimensions must be taken in preference to scaling.
A	DA Lodgement to Council	DN	4/11/2019	4) All boundary clearances must be verified by the surveyor prior to commencement of any building work.
				5) Where engineering drawings are required such must take preference to this drawing.
				6) Stormwater to be discharged to Council's requirements and AS 3500.3-1990.
				7) All services to be located and verified by the Builder with relevant authorities before any building work commences.
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MILOSEVIC • MILOSEVIC ARCHITECTS
Nominated Architect, Reg No 9600 & 9601
Builder's Licence No 82559C

PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE

CLIENT
Mr & Mrs MACARTHUR ONSLOW

TITLE
SHADOW ON NEIGHBOUR HOUSE

COUNCIL
WOOLLAHRA
COUNCIL

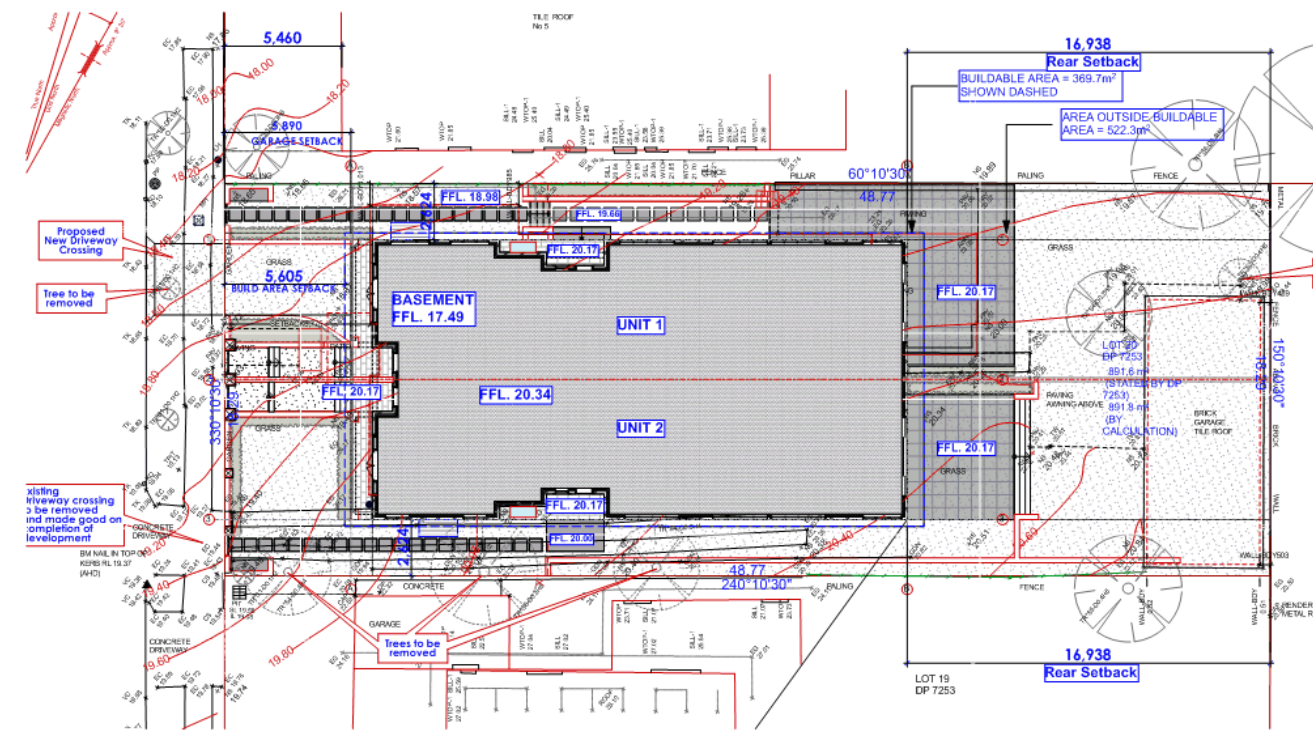
ISSUE
D

DWG NO	JOB NO.	PRINTED DATE
D21	7241	14/07/2020
DRAWN	SHEET	DRAWN DATE
DN	A3	15/03/2019



Photomontage

SSU:	DESCRIPTION	SY	DATE	GENERAL NOTES:			PROJECT			COUNCIL	ISSUE			
				1) All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the designer. 2) Levels shown are approximate unless otherwise indicated by measured levels. 3) Ground dimensions must be taken in perpetuity to existing. 4) All buildings to be constructed in accordance with the latest Australian Standards. 5) Where engineering drawings are required, such as for foundations, etc., this drawing is to be used in conjunction with the relevant engineering drawings. 6) All services to be installed and verified by the Builder with relevant authorities before any building work commences. COPYRIGHT: This design and the associated documents is subject to copyright laws and may not be reproduced or used in any form without the written consent of FELTON CONSTRUCTION Pty Ltd.			   <p>FELTON CONSTRUCTION PTY LTD ABN 55 01 157 716 1/10 Macarthur Arch Techno Rd, No. 2600, & 5501 P.O. BOX 9920, WILSON P.O. BOX 9920, WILSON P.O. BOX 9920, WILSON</p>			PROPOSED NEW DUAL OCCUPANCY Lot 20 DP7253 No. 4 GREYCLIFFE AVE VAUCLUSE CLIENT Mr & Mrs MACARTHUR ONSLOW TITLE STREET PHOTOMONTAGE			WOOLLAHRA COUNCIL	A
A	DA Lodgement to Council	DN	4/11/2019				DWG NO D14			JOB NO 7241	PRINTED DATE 21/11/2019			
							DRAWN DN			SHEET A3	DRAWN DATE 15/03/2019			



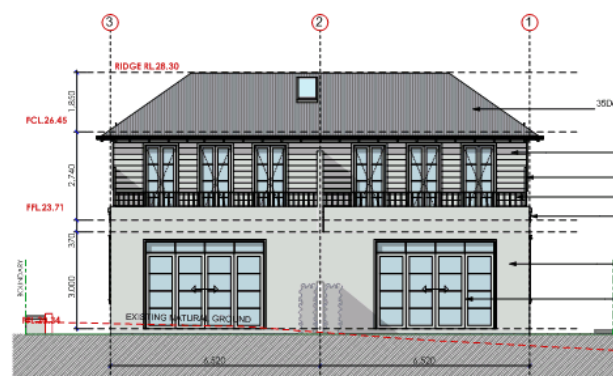
SITE PLAN



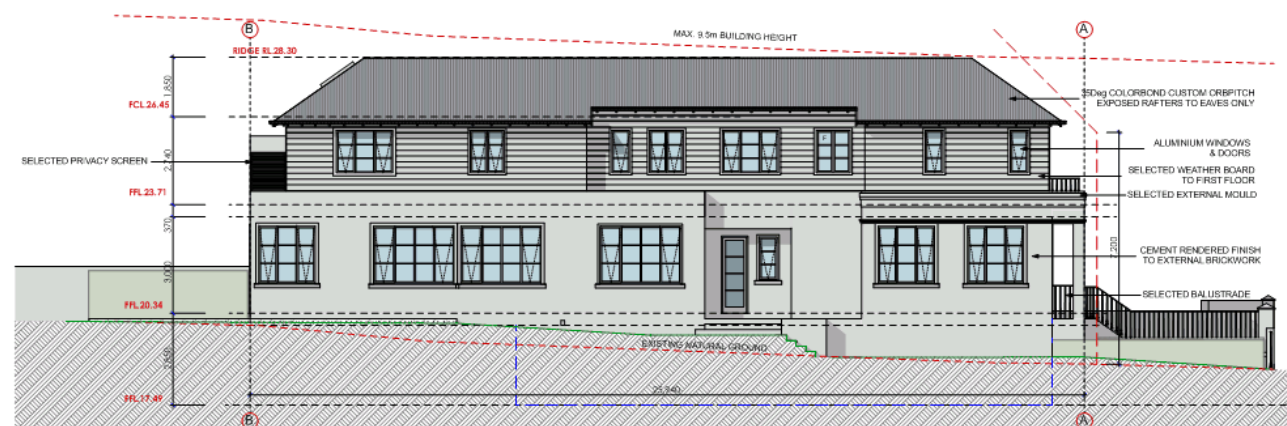
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION

SSU:	DESCRIPTION	SY	DATE
A	DA Lodgement to Council	DN	4/11/2019

GENERAL NOTE:
1. All dimensions and floor areas are to be verified by the Builder prior to the commencement of any building work. Any discrepancies are to be brought to the attention of the architect.
2. Levels shown are approximate and are not to be used for construction purposes.
3. All ground dimensions must be taken in place before building.
4. All building work must be done in accordance with the current edition of any building code.
5. Where engineering drawings are required, such as for structural steel, etc., the architect's drawings must be used.
6. Structural work must be done in accordance with the current edition of any building code.
7. All building work must be done in accordance with the current edition of any building code.
8. All building work must be done in accordance with the current edition of any building code.
9. All building work must be done in accordance with the current edition of any building code.
10. All building work must be done in accordance with the current edition of any building code.



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PROJECT
PROPOSED NEW DUAL OCCUPANCY
Lot 20 DP7253 No. 4 GREYCLIFFE AVE
VAUCLUSE
CLIENT
Mr & Mrs MACARTHUR ONSLOW
TITLE
NOTIFICATION PLAN

COUNCIL		ISSUE
WOOLLAHRA		A
COUNCIL		
DWG NO	JOB NO	PRINTED DATE
D18	7241	21/11/2019
DRAWN	SHEET	DRAWN DATE
DN	A3	15/03/2019

Completion Date: 16/06/2020

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 490/2019/1
ADDRESS: 4 Greycliffe Avenue VAUCLUSE 2030
PROPOSAL: Demolition of existing residential flat building and construction of a new attached dual occupancy
FROM: Mehrnaz Jamali - Development Engineer
TO: Ms T Ward

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. 19240, prepared by GSA Planning, dated December 2019.
- Architectural Plans, Job No. 7241, Issue A, prepared by Milosevic + Milosevic Architects, dated 04/11/2019.
- Survey, referenced 12566-19 DET V2, Rev 1, prepared by C&A Surveyors, dated 23/09/2019.
- Stormwater Management Plan, Job No. SW19220, Issue E, prepared by ALW Design, dated 27/04/2020.
- Geotechnical Investigation, Report No. 19/3104A, Project No: 30072/3084D-G, prepared by STS Geotechnics, dated April 2020.

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, Job No. SW19220, Issue E, prepared by ALW Design, dated 27/04/2020 subject to the following conditions:

- *Note: The permissible site discharge to kerb and gutter shall be limited to 20l/s. As such, the additional site storage required volume must be determined by using computer modelling such as DRAINS. In this regard, an electronic copy together with a hard copy of the Drains Model shall be included.*

- *Additional access grates shall be provided to the OSD system for inspection and maintenance. Any grates within a garage area shall be sealed.*
- *Whilst an emergency overflow pipe from the OSD system has been provided, during a blockage to the main pipe, the emergency overflows from the OSD system shall be in accordance with one of the following:*
 - *Directed to a flowpath through the development so that buildings are not inundated nor are flows concentrated on adjoining properties, OR;*
 - *A 900mm x 900mm overflow pit shall be provided adjacent to the Discharge Control Pit.*
- *Drainage conduits, across footpath areas that are discharging to the kerb, must be 125mm x 75mm galvanised box or 65mm to 100mm sewer grade PVC pipes.*

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

- *Construction of a standard vehicular crossing having a width of 3m at property boundary and perpendicular to the road carriageway.*
- *The redundant vehicular crossing to the south shall be removed.*

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 condition;

- *Driveway splays (inside property boundary) shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1. Alternatively a fence to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area.*

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Investigation, Report No. 19/3104A, Project No: 30072/3084D-G, prepared by STS Geotechnics, dated April 2020 has been submitted in support of the application. The proposal involves excavation for a basement level up to the depth of about 3m.

The report identified the subsurface conditions as:

- a) Fill – to depths of 0.2m and 0.7m.*
- b) Natural silty clayed sand – to depths of 0.4m to 1.4m.*
- c) Sandstone bedrock at depths of 0.5m to 1.5m.*
- d) Groundwater appeared not to be an issue.*
- e) Ground anchors may be utilised.*
- f) Underpinning will not be required.*

The report made comments and recommendations on the following:

- *Site classification*
- *Excavation conditions and support*
- *Foundation design*

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

None.

4. RECOMMENDATION

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

Conditions of Consent

Please note that the standard conditions of consent are generally modified by the 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)
Job No. SW19220, Issue E	Stormwater Management Plan	ALW Design	27/04/2020
Report No. 19/3104A	Geotechnical Investigation	STS Geotechnics	April 2020

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

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.5 Payment of Security, Levies and Fees

Property Damage Security Deposit - making good any damage caused to any property of the Council	\$55,623	No	T115
Public Road/Footpath Infrastructure Inspection Fee	\$471	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 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:

- The stormwater discharge by direct connection to kerb and gutter.
- Full width vehicular crossing having a width of 3m at property boundary and perpendicular to the road carriageway in accordance with Council's standard driveway drawing RF2-D.
- A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of all property in accordance with Council's standard drawing RF3.
- Removal of any driveway crossings and kerb laybacks which will be no longer required. As such, the crossing to the south of the property shall be removed.
- Reinstatement of footpath, kerb and gutter to match existing.
- 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. Advisings* of this Consent titled *Roads Act Application*.
Standard Condition: C13

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

C.36 Professional Engineering Details

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) Driveway splays (inside property boundary) shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1. Alternatively a fence to a maximum height of 0.9m is permitted in the splay area. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area.

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 (site greater than 500m²)

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 shall be in accordance with the Stormwater Management Plan, Job No. SW19220, Issue E, prepared by ALW Design, dated 27/04/2020, other than amended by this and other conditions;
 - a. Additional access grates shall be provided to the OSD system for inspection and maintenance. Any grates within a garage area shall be sealed.
 - b. Whilst an emergency overflow pipe from the OSD system has been provided, during a blockage to the main pipe, the emergency overflows from the OSD system shall be in accordance with one of the following:
 - i. Directed to a flowpath through the development so that buildings are not inundated nor are flows concentrated on adjoining properties, OR;
 - ii. A 900mm x 900mm overflow pit shall be provided adjacent to the Discharge Control Pit.
- b) The discharge of stormwater, by direct connection, to kerb and gutter on Greycliffe Avenue;
 - a. Drainage conduits, across footpath areas that are discharging to the kerb, must be 125mm x 75mm galvanised box or 65mm to 100mm sewer grade PVC pipes.

- c) Any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System,
- d) General compliance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and
- e) Provision of two (2) Onsite Stormwater Detention (OSD) systems having a volume of minimum 13.5m³ each (total of 27m³), two (2) rainwater tanks having a volume of minimum 3m³ each (total of 6m³) and a basement pump-out system having a volume of minimum 5.76m³.

Note: The pump-out systems shall be designed in accordance with AS3500.

OSD Requirements:

The minimum (OSD) Site Storage Requirements (“SSR”) and the Peak Site Discharge (“PSD”) from the site must be in accordance with the following minimum storage/discharge relationships based upon a 1000m² site area:

Average Recurrence Interval	PSD (L/s)	Minimum Site Storage Requirement (SSR) m ³
2 year	23.5 L/s	4m ³
100 year	34 L/s	25m ³ – Dwelling House

Note: All values based on per 1000m² site area (interpolate to site area).

Note: The permissible site discharge to kerb and gutter shall be limited to 20l/s. As such, the additional site storage required volume must be determined by using computer modelling such as DRAINS. In this regard, an electronic copy together with a hard copy of the Drains Model shall be included.

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.

The layout plan must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of Onsite Stormwater Detention (OSD) systems, rainwater tanks and basement pump-out system,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Council’s drainage infrastructure, and
- f) Overland flow paths over impervious areas.

OSD Systems, Rainwater Tanks and Basement Pump-out System

The layout plan must include:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed OSD systems, rainwater tanks and basement pump-out system,

- c) Diameter of the outlet to the proposed OSD basins, rainwater tanks and basement pump-out system,
- d) Plans, elevations and sections showing the retention storage basin invert levels, centre-line levels of outlet, top water levels, finished surface levels and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the OSD systems, and
- h) Non-removable fixing details for orifice plates where used.

Subsoil drainage

The subsoil drainage is to address:

- a) Subsoil drainage details,
- b) Clean out points, and
- c) Discharge point.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C.51 (Autotext CC51)

C.52 Non-gravity drainage systems

D. Conditions which must be satisfied PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT WORK

D.4 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)

- No. 3 Greycliffe Avenue
- No. 5 Greycliffe Avenue

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 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

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.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)

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) The structural adequacy of the Onsite Stormwater Detention (OSD) systems, Rainwater Tanks and basement Pump-out System,
- c) That the works have been constructed in accordance with the approved design and will provide the retention storage volume and attenuation in accordance with the submitted calculations,
- d) Pipe invert levels and surface levels to Australian Height Datum, and
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the OSD systems, Rainwater Tanks and basement Pump-out System incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered 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 OSD Systems, Rainwater Tanks and Basement Pump-out System

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

- a) Permit stormwater to be temporarily detained by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain.
- d) 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.

- e) Carry out the matters referred to in paragraphs (b) and (d) at the owner's expense.
- f) 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.
- g) 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.
- h) 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.
- i) 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.
- j) 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

K. Advisings

K.23 Dilapidation Report Condition

K.24 Roads Act Application

25 March 2020

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 490/2019/1
ADDRESS: 4 Greycliffe Avenue VAUCLUSE 2030
PROPOSAL: Demolition of existing residential flat building and construction of a new attached dual occupancy
FROM: Simone Woodman - Tree Management Officer
TO: Ms T Ward

I refer to the following documents received for this report:

- Survey Plan No. 12566-19 DETV2 Sheet 1/01, drafted by C & A Surveyors NSW P/L, dated 23/09/2019
- Architectural Drawing No.s D01/A – D12/A, drawn by Milosevic Architects, dated 04/11/2019
- Stormwater Drainage Plan No.s SW19220-S1/B, SW19220-S2/B, drawn by alw Design, dated 20/11/2019
- Arboricultural Impact Report, written by Guy Paroissien – Landscape Matrix Pty Ltd, dated 20/11/2019
- Landscape Plan No. s LDA-00/B, LDA-01/B – LDA-04/B, designed by Geoscapes, dated 19/11/2019

A site inspection was carried out on 29 January 2020.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- 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

SUMMARY

- Unsatisfactory landscape plan.
- Unsatisfactory tree retention.

COMMENTS

Sixteen trees have been assessed as part of this development proposal, eight of which are located within the subject property. I have also identified two additional trees within the subject property at my site inspection, a total of eighteen trees. Of the ten trees within the subject property nine are proposed for removal. Of the nine trees proposed for removal I have identified three of the trees could be successfully retained without major modification to the proposed development. Four of the six trees (Tree No.s 6, 7, 16 and 16a) are located within the footprint of the proposed development, Tree No.10 would be impacted upon negatively by a major encroachment into its Tree Protection Zone and Tree No.9a is of low landscape significance.

The submitted Arboricultural Impact Report recommends a replacement tree for each existing tree proposed for removal. This is not satisfactorily addressed in the submitted landscape plan. Additionally tree protection measures should be included to ensure the retention of Tree No.s 8 and 9 and 13 (identified for successful retention at my site inspection) located along the southern side boundary and rear boundary.

The proposed replacement tree planting on the submitted landscape plan is unsatisfactory and in part misleading. Under 'Trees' in the planting schedule included on the submitted landscape plan lists a quantity of eleven trees that are proposed to be topiaries to a height of 1.5 metres. In accordance with Chapter E.3 – Tree Management of Council's Development Control Plan a tree is defined as *any tree or palm, whether of indigenous, endemic, exotic or introduced species with a diameter spread of branches greater than 3m or with a height greater than 5m, irrespective of the spread of branches*. Accordingly eleven of the proposed trees listed in the planting schedule of the submitted landscape plan are not regarded as trees. The remaining three trees proposed listed in the planting schedule do not adequately compensate for the removal of nine trees within the subject property (which could be reduced to six trees by retaining the trees I have identified). An amended landscape plan showing additional replacement tree planting should be submitted to Council for assessment prior to the issue of a construction certificate should the development application be approved.

The submitted stormwater management plan indicates proposed stormwater pipes and pits within the Tree Protection Zones of trees that could be retained. The proposed stormwater pipes and pits could be relocated with consultation with the project arborist to minimise impacts to existing trees. Accordingly the stormwater management plan should be amended to locate proposed stormwater pipes and pits for the least impact on existing trees to be retained.

In accordance with Council's Development Control Plan one of the features of the Vacluse West Precinct is dwelling houses located within garden settings.

The Desired future character objectives of the Vacluse West Precinct that support the retention of existing trees are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O7 To reinforce the landscape setting and maintain the existing tree canopy.
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.

Additionally in terms of existing trees the objectives of the Woollahra Development Control Plan 2015, Chapter E.3 – Tree Management are:

O3 To promote, maintain and conserve the leafy character of the Woollahra Municipality.

O4 To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.

RECOMMENDATIONS

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

CONDITIONS OF CONSENT

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

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	12 x 9
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	9 x 6
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	6 x 8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	18 x 4

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
4	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	Council verge	4 x 3	\$2000.00

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

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
3	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	Council verge	4 x 3
6	<i>Michelia figo</i> (Port-wine Magnolia)	Front boundary	5 x 4
7	<i>Rothmannia globosa</i> (Tree Gardenia)	Front boundary	5 x 5
9a	<i>Camellia sasanqua</i> (Camellia)	Southern side boundary	4 x 3
10	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most eastern specimen	9 x 6
16	<i>Camellia sasanqua</i> (Camellia)	Northern side of property	4.5 x 4
16a	<i>Plumeria acutifolia</i> (Frangipani)	Front yard northern side	5 x 4

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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.

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
Plan No. s LDA-00/B, LDA-01/B – LDA-04/B	Landscape Plan	Geoscapes	19/11/2019
	Arboricultural Impact Report	Guy Paroissien – Landscape Matrix Pty Ltd	20/11/2019

A.3 Approved Amended (s4.55) Plans and supporting documents

Nil

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

B.1 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	Front yard south western corner of 5 Greycliffe Avenue Vacluse	4.5*
2	<i>Prunus</i> sp. (Flowering Peach or Cherry)	Council verge	2.2
4	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	Council verge	2
5	<i>Pyrus</i> spp. (Ornamental Pear)	Front yard south western corner of 5 Greycliffe Avenue Vacluse	3
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vacluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8

13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vacluse	7.2
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vacluse	12

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

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.
Distances marked * are to be installed excluding the footprint of the proposed dwelling or proposed driveway.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.2 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	4.5	Proposed landscaping.
5	<i>Pyrus</i> spp. (Ornamental Pear)	3	Proposed landscaping

8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	5.6	Proposed landscaping. In consultation with the project arborist the stormwater pipes and pits are to be modified to accommodate successful retention of tree. Proposed dwelling.
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	4.3	Proposed landscaping. In consultation with the project arborist the stormwater pipes and pits are to be modified to accommodate successful retention of tree. Proposed dwelling.
11	<i>Alnus jorullensis</i> (Evergreen Alder)	4.4	Proposed landscaping
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	3.8	Proposed landscaping
13	<i>Cupressus sempervirens</i> (Italian Cypress)	4.9	In consultation with the project arborist the proposed landscaping that ensures the successful retention of the tree.
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	7.2	Proposed landscaping
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	12	Proposed landscaping

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

B.3 Demolition and Construction Management Plan

Nil

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	Compliance documentation and photos shall be included
Installation of tree protection fencing	Compliance with tree protection measures

Demolition of existing garage and dwelling within the Tree Protection Zone of Tree No.11 12 and 13	Condition of exposed roots. Protect any exposed roots immediately.
Excavation within the Tree Protection Zones of trees to be retained	Avoid the severance of and damage to roots greater than 25mm
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 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Tree Damage Security Deposit – Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$2000.00	No	T114
INSPECTION FEES under section 608 of the Local Government Act 1993			
Tree Inspection Fee	\$200.00	No	T95

C.3 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) Amended architectural plans. The proposed architectural plans shall be amended to indicate the retention of Tree No. s1, 2, 4, 5, 8, 9, 11, 12, 13, 14, 15.

- b) Amended Landscape plan. In consultation with the project arborist the landscape plans shall be amended to show and demonstrate through minor modifications to the proposed landscape design the successful retention of Tree No. s1, 2, 4, 5, 8, 9, 11, 12, 13, 14, 15. The landscape plan shall be submitted to Council's Tree Officer for assessment and approval. Additionally the amended landscape plan must include the following replacement trees:

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Buckinghamia celsissima</i> (Ivory Curl Flower)	Council verge, 5 metres to the south of Tree No.3 <i>Cupaniopsis anacardioides</i> (Tuckeroo) on the Council verge	100 litre	6 x 5
1 x <i>Magnolia denudata</i> (Yulan Magnolia)	Front yard	100 litre	6 x 5
2 x <i>Lagerstroemia indica</i> (Crepe Myrtle)	Front yard	5 x 4 each	6 x 4 each
2 x <i>Pyrus calleryana</i> 'Capital' (Ornamental Pear)	Rear yard	100 litre each	10 x 4 each
1 x <i>Libidibia ferrea</i> (Leopard tree) OR <i>Calodendrum capense</i> (Cape Chestnut)	Rear yard	100 litre	8 x 5

- c) Amended Stormwater Management plan. In consultation with the project arborist the stormwater management plans shall locate any proposed stormwater pipes and pits the furthest distance from the trunk of an existing tree to be retained within the subject property and adjacent the subject property. Existing Tree No.s 8, 9, 12 and 13 within the subject property shall have proposed stormwater pipes and pits located as a minimum outside of their the Structural Root Zones.

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 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Buckinghamia celsissima</i> (Ivory Curl Flower)	Council verge, 5 metres to the south of Tree No.3 <i>Cupaniopsis anacardioides</i> (Tuckeroo) on the Council verge	100 litre	6 x 5
1 x <i>Magnolia denudata</i> (Yulan Magnolia)	Front yard	100 litre	6 x 5
2 x <i>Lagerstroemia indica</i> (Crepe Myrtle)	Front yard	5 x 4 each	6 x 4 each
2 x <i>Pyrus calleryana</i> 'Capital' (Ornamental Pear)	Rear yard	100 litre each	10 x 4 each
1 x <i>Libidibia ferrea</i> (Leopard tree) OR <i>Calodendrum capense</i> (Cape Chestnut)	Rear yard	100 litre	8 x 5

The project arborist shall document compliance with the above condition.

E.3 Paving in the vicinity of trees

Nil

E.4 Level changes in the vicinity of trees

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)
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	Front yard south western corner of 5 Greycliffe Avenue Vaucluse	4.5*
5	<i>Pyrus</i> spp. (Ornamental Pear)	Front yard south western corner of 5 Greycliffe Avenue Vaucluse	3
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vaucluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vaucluse	7.2
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vaucluse	12

Note: Distances marked * are to exclude the proposed dwelling or driveway.

The project arborist shall document compliance with the above condition.

E.5 Hand excavation within tree root zones

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Syagrus romanzoffianum</i> (Cocos palm)	Front yard south western corner of 5 Greycliffe Avenue Vaucluse	4.5*
5	<i>Pyrus</i> spp. (Ornamental Pear)	Front yard south western corner of 5 Greycliffe Avenue Vaucluse	3

8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vaucluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5 Greycliffe Avenue Vaucluse	7.2
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vaucluse	12

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.6 Footings in the vicinity of trees

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Sapium sebiferum</i> (Chinese Tallow tree)	Southern side boundary	5*
9	<i>Fraxinus griffithii</i> (Evergreen Ash)	Southern side boundary – most western specimen	4*
11	<i>Alnus jorullensis</i> (Evergreen Alder)	Rear yard northern side boundary of 3 Greycliffe Avenue Vaucluse	4.4
12	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Rear yard	3.8
13	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear boundary	4.9
14	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear yard southern boundary of 5	7.2

		Greycliffe Avenue Vaucluse	
15	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Rear yard of 5 Greycliffe Avenue Vaucluse	12

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.



Simone Woodman
Tree Management Officer



Woollahra
Municipal
Council

6 January 2020

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 490/2019/1

ADDRESS: 4 Greycliffe Avenue VAUCLUSE 2030

PROPOSAL: Demolition of existing residential flat building and construction of a new attached dual occupancy

FROM: Shona Lindsay - Heritage Officer

TO: Ms T Ward

DOCUMENTATION

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

- Drawing set by Milosevic and Milosevic Architects, dated 21 November 2019, and numbered D01-D18
- Demolition Report by Damian O'Toole, dated November 2019
- Statement of Environmental Effects by GSA Planning, dated December 2019
- Survey plan by C & A Surveyors, ref 12566-19, dated 23 September 2019

RESEARCH

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

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
- National Parks and Wildlife Act 1974

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls



Woollahra
Municipal
Council

SIGNIFICANCE OF SUBJECT PROPERTY

The property is not a listed heritage item, is not located within a Heritage Conservation Area, and is not in the vicinity of a heritage item. The current building dates to c1927 and is a modified Inter War residential flat building.

The demolition report provides the following statement of significance:

The subject site has low heritage significance and does not reach the threshold for statutory heritage listing. Historical research shows that the dwelling dates from c1927, during Inter-War period boom construction in the area, but is not a high quality example of its style and retains very few architectural features. The building has been significantly modified over time, both externally and internally, with notable unsympathetic changes to its front elevation. In addition, there is minimal visibility of the dwelling from the street due tree and vegetation coverage. The subject site makes a low contribution to the overall heritage significance of the area.

Whilst the site has some association with Hugh McCrae, a well-known Australian writer of the mid twentieth century, this association is very limited. McCrae is associated with a number of residential addresses throughout his lifetime (i.e. in Camden) and the building was not constructed for him (as his home); he was a later owner of the property. There is no particular significance associated with the other recorded early owners of the site.

The subject site has little aesthetic significance and was likely builder designed and constructed, which was not uncommon at the time, and is not attributed to an architect and is not a significant example of an architect's work.

The dwelling cannot be considered a rarity in a suburb that has many other dwellings of this particular period and better examples of the style.

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 and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate.

National Parks and Wildlife Act 1974

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 6 January 2020 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 2 recorded Aboriginal sites recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 0m buffer in or near the above location.

The site is within 200m of water. The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18. As the site has been previously disturbed when the existing building and landscaping were constructed, it is unlikely that any archaeological evidence will remain. Accordingly no Due Diligence reports were required.

As the site is within proximity to known AHIMS sites and is located within 200m of water, the construction/demolition team are to be made aware of potential unexpected archaeological finds on the site during excavation works and the appropriate procedures for dealing with unexpected archaeological finds.

Referral Response - Heritage - DA2019 490 1 - 4 Greycliffe Avenue VAUCLUSE



Woollahra
Municipal
Council

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 not within a heritage conservation area.

Significance of items in the vicinity

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

- 'Nielsen Park', SHR Item No. 01988
- 'Shark Beach promenade and Amenities', LEP Item No. 391

The dwelling has no heritage significance and does not make any contribution to the heritage significance of Vacluse. The property is not heritage listed and is not located within a heritage conservation area.

A demolition/heritage significance report has been submitted with the development application and includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed partial demolition of the existing building.

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

- 'Nielsen Park', SHR Item No. 01988
- 'Shark Beach promenade and Amenities', LEP Item No. 391

'Nielsen Park' and 'Shark Beach promenade and Amenities' are located directly to the west of the subject property. Significant views of the heritage item are of the beach and of the landscaped setting of the park afforded whilst in the park. The subject site is located on the eastern side of Greycliffe Avenue, which contains residential housing. The proposed new development is in keeping with the residential character of this side of Greycliffe Street and the proposal would not have an adverse impact on the setting or heritage significance of the heritage item. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

As the building that is to be partially demolished retains some of the Inter War character it is requested that an archival recording is conducted of the building prior to works commencing.

CONCLUSION

National Parks & Wildlife Service Act, 1979

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

Woollahra LEP, 2014 Part 5.10 Clauses 1(a), 1(b), 4

- Clause 1(a) The development does conserve the heritage of Woollahra.

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- Clause 1(b) The impact upon the heritage significance of the heritage items in the vicinity will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

1. The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions.

1. Recording of Buildings with Little or No Heritage Significance that are to be Demolished

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

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) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature, and
 - views to the subject property from each street and laneway or public space.

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.

One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

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: B3 (Autotext BB3)

2. 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



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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

Shona Lindsay - Heritage Officer
