

# Woollahra Local Planning Panel



# Agenda

Thursday 7 May 2020 1.00pm

Items D1 to D5

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

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

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 audiovisual 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.

A 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 April 2020

To: Woollahra Local Planning Panel Members

Chair Experts

Community Representative

Dear Panel Members.

# **Woollahra Local Planning Panel - 7 May 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 7 May 2020 at 1.00pm.** 

Members of the public are advised that we will be holding Woollahra Local Planning Panel meetings remotely using conferencing technology (until further notice). Information on how to register to listen to the meeting will be available on Council's website <a href="https://www.woollahra.nsw.gov.au/council/meetings">https://www.woollahra.nsw.gov.au/council/meetings</a> and committees/planning panels/woollahra local planning panel wlpp/wlpp agendas, audio recordings and minutes prior to the meeting.

A recording of the meeting will be uploaded to Council's website by 5pm on next business day.

The safety of our community, Panel members 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.

Gary James General Manager

# **Meeting Agenda**

Item	Subject	Page
1. 2. 3.	Leave of Absence and Apologies Late Correspondence Declarations of Interest	
	Items to be Decided by the Panel	
D1	Planning Proposal - Heritage Listing of Sydney Croquet Club, Rose Bay - 20/67933*  *See Recommendation Page 7	7
D2	DA54/2020/1 - Road Reserve adjoining 19 Paddington Street Paddington - 20/69134*  *See Recommendation Page 140	. 131
D3	DA13/2019/1 - 590 & 592 New South Head Road, Point Piper - 20/68585* *See Recommendation Page 192	. 159
D4	DA252/2019/1 - 30 Wyuna Road, Point Piper - 20/68382*See Recommendation Page 445	. 439
D5	DA289/2019/1 - 30-36 Bay Street, Double Bay - 20/69308*  *See Recommendation Page 750	. 719

Item No: D1

Subject: PLANNING PROPOSAL - HERITAGE LISTING OF SYDNEY

CROQUET CLUB, ROSE BAY

**Author:** Shona Lindsay, Heritage Officer **Approvers:** Chris Bluett, Manager - Strategic Planning

Allan Coker, Director - Planning & Development

**File No:** 20/67933

**Reason for Report:** To seek the advice of the Woollahra Local Planning Panel in relation to

the preparation of a planning proposal to list the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) at Woollahra Park, off O'Sullivan Road, Rose Bay 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 *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay 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 *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay 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. Reason for report to the Woollahra Local Planning Panel (Woollahra LPP)

This report seeks the advice of the Woollahra LPP on the planning proposal to list the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay as a heritage item in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). A copy of the planning proposal is attached as **Annexure 1**.

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).

In this case, the planning proposal is required to be referred to the local planning panel because the general manager or his delegate, the Director of Planning, has not made a determination in regard to items 1 (a), (b) or (c), above.

# 2. Background

On 23 April 2018 Woollahra Council resolved in part:

THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for each of:

- 1. The Sydney Croquet Club building and greens (having its address in Woollahra Park, O'Sullivan Road, Rose Bay); and
- 2. The Woollahra Golf Club clubhouse and George Grimley Pavilion (having its address in Woollahra Park at 50 O'Sullivan Road, Rose Bay)

to the relevant Council Committee to facilitate the Sydney Croquet Club building and greens and the Woollahra Golf Club clubhouse and George Grimley Pavilion (and their elements) being:

- 1. Included in the Woollahra Local Environmental Plan as a heritage item; and
- 2. Listed as a heritage item of State significance on the NSW State Heritage Register.

In response to Council's decision the heritage consultant firm Weir Phillips Heritage and Planning was engaged to prepare an assessment of heritage significance for the *Sydney Croquet Club*. A copy of the assessment is provided as **Annexure 2**.

On 17 February 2020 a report on the assessment of heritage significance for the *Sydney Croquet Club* was presented to a meeting of the Environmental Planning Committee (EPC) (**Annexure 3**).

At the EPC meeting representatives from the Club tabled late correspondence. That correspondence highlighted the club's future plans for the grounds and also asked questions about the heritage listing. Representatives from the Club also addressed the Committee.

The Committee recommended that the matter be deferred and subsequently the Council resolved on 24 February 2020, in part:

D. THAT consideration of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) as a heritage item in Woollahra Local Environmental Plan 2014, be deferred for a period of two weeks.

The purpose of the deferral was to enable discussion between the Club and Council staff about the potential heritage listing and matters relating to the operation of the Club.

Following discussions between the Club and Council staff, the report was presented on to the EPC meeting on 16 March 2020 (**Annexure 4**). On 6 April 2020 Council resolved, in part:

A. THAT a planning proposal be prepared to list the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) as a heritage item in 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.

D. THAT following the progress of the local heritage listing through the public exhibition process, a report be brought to the relevant Council committee addressing submissions received and also the nomination for State heritage listing.

#### 3. The site

The Sydney Croquet Club (Figure 1) is located within Woollahra Park, off O'Sullivan Road, Rose Bay. Figure 2 shows the location of Woollahra Park within the surrounding area. Figure 3 shows the location of the Croquet Club within the grounds of Woollahra Park. The Croquet Club stands on part of Lot 1319 D.P. 1222163.

The subject site is not listed on the NSW State Heritage Register (SHR), nor is it identified as a local heritage item or located in a heritage conservation area in Schedule 5 of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).



Figure 1: Sydney Croquet Club, southern elevation (WP Heritage and Planning)



Figure 2: Location of Woollahra Park within Woollahra (Woollahra Park Plan of Management)



Figure 3: Location of the Croquet Club within Woollahra Park with Croquet Club indicated with arrow (Woollahra Council GIS)



Figure 4: Aerial photograph over the clubhouse and lawns with club house indicated with arrow (SIX Maps)

# 4. Assessment of heritage significance

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

Table 1 below provides a summary of the assessment of heritage significance for the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* against the seven criteria, at the local and State levels.

Table 1: NSW Heritage assessment criteria summary – Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	*
(b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)	√ ×	
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	<b>√</b>
(d)	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons	✓	*
(e)	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	<b>✓</b>
(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)	<b>√</b>	<b>√</b>
(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.	<b>√</b>	*

Criteria		Meets criteria for heritage listing and grading of significance	
	Local	State	
or a class of the local area's			
• cultural or natural places; or			
• cultural or natural environments.			

The assessment of heritage significance provides the following statement of significance for the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)*:

The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales has local and State significance. Designed by Council's architect M.V.E. Woodforde and built in 1934, the building is substantially intact.

The Clubhouse has State significance as a rare example of a large Inter-War period split-log building. The Sydney Croquet Club, including the Clubhouse (exterior, interior), moveable heritage items and lawns, has local significance as a long standing recreational Club with an unbroken association with its premises. The Clubhouse and lawns were one of a number of facilities established by Woollahra Council during the Inter-War period in line with their growing interest in the provision of public recreational facilities, an interest that continues today. The Sydney Croquet Club is part of a wider pattern of croquet Clubs throughout New South Wales. The Clubhouse houses a significant collection of Club memorabilia.

The Clubhouse and lawns have aesthetic significance for the qualities of its setting. The Clubhouse and lawns are contained by trees which have matured over time, providing a distinct enclosed setting that has changed only as the trees have matured.

(October 2019: Weir Phillips Heritage and Planning: Heritage Assessment, Sydney Croquet Club, p. 46)

The assessment recommends the listing of the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* as a local heritage items in Schedule 5 of Woollahra LEP 2014. The assessment also recommends the listing of the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* on the State Heritage Register.

The planning proposal deals only with the local heritage listing under Woollahra LEP 2014. A nomination for listing on the SHR under the *Heritage Act 1977* will be prepared following the listing in Woollahra LEP 2014, should that occur.

### 5. Consultation with the land owner

All land owners and lease holders were consulted during the heritage assessment process.

Woollahra Council are the landowner of the site. The leaseholder, Sydney Croquet Club, were consulted during the project. The following table outlines the contact with the Club. Overall, the Sydney Croquet Club is in support of the potential heritage listing.

31 May 2019	Notice of the heritage assessment project and request for access to the
	building.
1 November 2019	Notice regarding completion of draft assessment of heritage
	significance. Provision of the electronic link to the draft document.
	Invitation to provide comments.
13 February 2020	Notice of the Environmental Planning Committee meeting on 17
	February 2020. Provision of the Woollahra website link to the report
	and the draft assessment of heritage significance.
27 February 2020	Notice requesting a meeting in response to Council's decision to defer
	consideration of matter. Provision of the electronic link to draft
	assessment of heritage significance.
12 March 2020	Notice of the Environmental Planning Committee meeting on 16
	March 2020. Provision of the Woollahra website link to the report and
	the draft assessment of heritage significance.

Should a planning proposal proceed to public exhibition, consultation with land owners and tenants will continue.

# 6. Planning proposal

A planning proposal has been prepared to list the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* as a heritage item in the Woollahra LEP 2014 (*Annexure 1*).

# **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 *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay 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 the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* 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\_006) to identify a heritage item on the site at Woollahra Park, off O'Sullivan Road, Rose Bay.

# 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 the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay as a 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. Planning Proposal for Sydney Croquet Club !
- 2. Heritage Significance Assessment for Sydney Croquet Club !
- 3. Environmental Planning Committee Agenda 17 February 2020 (Annexures removed) <u>U</u>
- 4. Environmental Planning Committee Agenda 16 March 2020 (Annexures removed) <u>J.</u>



# **Local Heritage Listing**

Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)
Woollahra Park, off O'Sullivan Road, Rose Bay

Prepared April 2020



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### Part 1 - Introduction

#### 1.1. Background

On 23 April 2018 Woollahra Council resolved, in part:

- A. THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for each of:
  - The Sydney Croquet Club building and greens (having its address in Woollahra Park, O'Sullivan Road, Rose Bay); and
  - 2. The Woollahra Golf Club clubhouse and George Grimley Pavilion (having its address in Woollahra Park at 50 O'Sullivan Road, Rose Bay)

to the relevant Council Committee to facilitate the Sydney Croquet Club building and greens and the Woollahra Golf Club clubhouse and George Grimley Pavilion (and their elements) being:

- 1. Included in the Woollahra Local Environmental Plan as a heritage item; and
- 2. Listed as a heritage item of State significance on the NSW State Heritage Register.

In response to Council's decision a heritage significance assessment of the *Sydney Croquet Club* was prepared by Weir Phillips Heritage and Planning.

On 17 February 2020 a report on the Heritage Listing of the *Sydney Croquet Club* (clubhouse, moveable heritage items and lawns) at Woollahra Park, off O'Sullivan Road, Rose Bay was presented to a meeting of the *Environmental Planning Committee*.

At the EPC meeting representatives from the Club tabled late correspondence in response. This correspondence highlighted the club's future plans for the grounds and also asked questions about the heritage listing. Representatives from the Club also addressed the Committee.

The Committee recommended that the matter be deferred and subsequently the Council resolved on 24 February 2020, in part:

D. THAT consideration of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) as a heritage item in Woollahra Local Environmental Plan 2014, be deferred for a period of two weeks.

The purpose of the deferral was to enable discussion between the Club and Council staff about the potential heritage listing and matters relating to the operation of the Club.

Following discussions between the Club and Council Staff the report was presented on 16 March 2020 to a meeting of the *Environmental Planning Committee*, and on 6 April 2020 Council resolved in part:

- A. THAT a planning proposal be prepared to list the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) as a heritage item in 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.

Planning Proposal - Local heritage listing Sydney Croquet Club, Rose Bay - Version April 2020

D. THAT following the progress of the local heritage listing through the public exhibition process, a report be brought to the relevant Council committee addressing submissions received and also the nomination for State heritage listing.

### 1.2. Description of this planning proposal

This planning proposal is made in relation to the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay. This planning proposal explains the intended effect of an amendment to Woollahra LEP 2014. The amendment to Woollahra LEP 2014 involves listing *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* as a heritage item. Heritage listing will provide ongoing protection and recognition of the heritage significance of the 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).

This planning proposal includes:

- 1. Existing site and surrounding context
- 2. Existing planning controls applying to the site
- 3. The objective of the amendment to Woollahra LEP 2014
- An explanation of provisions that are to be included in the amendment to Woollahra LEP 2014
- 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 the *Sydney Croquet Club* was prepared by Weir Phillips Heritage and Planning. The assessment was completed in October 2019 and is attached separately.

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

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

Table 1 below provides a summary of the assessment of the heritage significance of the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* against the seven criteria, at the local and State levels.

Planning Proposal - Local heritage listing Sydney Croquet Club, Rose Bay - Version April 2020

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Table 1: NSW Heritage assessment criteria summary – Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)	<b>√</b>	х
(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)	<b>√</b>	×
(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)	<b>√</b>	<b>√</b>
(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	<b>√</b>	×
(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)	<b>~</b>	<b>~</b>
(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)	<b>✓</b>	<b>√</b>
(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.	<b>✓</b>	ж
	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.

The heritage assessment concludes that Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) satisfies criteria (a), (b), (c), (d), (e), (f) and (g)

Planning Proposal - Local heritage listing Sydney Croquet Club, Rose Bay - Version April 2020

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at a local level. Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) satisfies criteria (c), (e) and (f) at a State level.

#### 1.4. Statement of heritage significance

The following statement of heritage significance is extracted from the Heritage Assessment report by Weir Phillips Heritage and Planning:

The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales has local and State significance. Designed by Council's architect M.V.E. Woodforde and built in 1934, the building is substantially intact.

The Clubhouse has State significance as a rare example of a large Inter-War period splitlog building.

The Sydney Croquet Club, including the Clubhouse (exterior, interior), moveable heritage items and lawns, has local significance as a long standing recreational club with an unbroken association with its premises. The Clubhouse and lawns were one of a number of facilities established by Woollahra Council during the Inter-War period in line with their growing interest in the provision of public recreational facilities, an interest that continues today. The Sydney Croquet Club is part of a wider pattern of croquet clubs throughout New South Wales. The Clubhouse houses a significant collection of Club memorabilia.

The Clubhouse and lawns have aesthetic significance for the qualities of its setting. The Clubhouse and lawns are contained by trees which have matured over time, providing a distinct enclosed setting that has changed only as the trees have matured.

(October 2019: Weir Phillips Heritage and Planning: Heritage Assessment, Sydney Croquet Club p.46)

The assessment recommends the listing of the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) as a local heritage item in Schedule 5 of Woollahra LEP 2014. The report concluded that the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) also meets the threshold for State heritage listing.

This planning proposal deals only with the local heritage listing under Woollahra LEP 2014. There is a separate process for nominating and listing at State level on the State Heritage Register under the *Heritage Act 1977*.

#### 1.5. Heritage significance assessment report

The heritage significance assessment report contains the following recommendations:

It is recommended that:

- The Sydney Croquet Club (clubhouse including interiors, moveable heritage and lawns) be listed as a heritage item by Schedule 5 Part 1 of the Woollahra LEP 2014.
   The site meets the threshold for listing Heritage NSW under criteria (a), (b), (c), (d), (e), (f) and (g).
- The Sydney Croquet Club (clubhouse including interiors, moveable heritage and lawns) is nominated for listing on the State Heritage Register. The site meets the threshold for listing under criteria (c), (e) and (f).
- The recommended curtilage for both listings is part of Lot 1319 D.P.1222163. The
  curtilage is for 5m to the east, west and south of the croquet lawns and Clubhouse
  (including the mature trees along the southern boundary) and 5m to the north of the
  Clubhouse.

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 That a Conservation Management Plan, including a schedule of conservation works, be prepared for the site to identify the elements of significance, provide guidelines for its conservation, ongoing maintenance and any future works.

# Part 2 – Existing site and context

#### 2.1. The site

The Sydney Croquet Club (Figure 1) is located within Woollahra Park, off O'Sullivan Road, Rose Bay. Figure 2 shows the location of Woollahra Park within the surrounding area. Figure 3 shows the location of the Croquet Club within the grounds of Woollahra Park. The Croquet Club stands on part of Lot 1319 D.P. 1222163.

The subject site is not listed on the NSW State Heritage Register (SHR), nor is it identified as a local heritage item or located in a heritage conservation area in Schedule 5 of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).



Figure 1: Sydney Croquet Club, southern elevation (WP Heritage and Planning)

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Figure 2: Location of Woollahra Park within Woollahra (Woollahra Park Plan of Management)



Figure 3: Location of the Croquet Club within Woollahra Park with Croquet Club indicated with arrow (Woollahra Council GIS)



Figure 4: Aerial photograph over the clubhouse and lawns with club house indicated with arrow (SIX Maps)

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# Part 3 - Existing planning controls

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

	Land Use Zone	Height of	Minimum Lot	Acid Sulfate
		Building	Size	Soils
Sydney	RE1 Public	Not applicable	Not applicable	Class 4
Croquet Club	Recreation			

The Objectives for RE1 Public Recreation in Woollahra LEP 2014 are:

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

The Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) is not currently listed as a State or local heritage item and Clause 5.10 (Heritage Conservation) of the Woollahra LEP 2014 does not currently apply.

# Part 4 – Objectives of amendment to Woollahra LEP 2014

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* at Woollahra Park, off O'Sullivan Road, Rose Bay and provide it with statutory heritage protection.

# Part 5 – Explanation of provisions

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

- Insert a listing for the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) 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\_006) to identify a heritage item on the site of the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) at Woollahra Park, off O'Sullivan Road, Rose Bay.

#### Part 6 - Justification

The planning proposal has strategic merit. The heritage significance of *Sydney Croquet Club* (clubhouse including interiors, moveable heritage items and lawns) has been established. 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.

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#### 6.1. Need for planning proposal

### 1. Is the planning proposal a result of any strategic study or report?

Yes. The planning proposal is the result of the recommendations of the heritage assessment/ inventory sheet, prepared by Weir Phillips Heritage and Planning. The report concluded that the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* meets the criteria for listing as a local heritage item. The report recommended that the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* be listed as a heritage item in Woollahra LEP 2014.

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

Yes. The objective is to recognise the heritage significance of *Sydney Croquet Club* (clubhouse including interiors, moveable heritage items and lawns) at Woollahra Park, off O'Sullivan Road, Rose Bay and provide it with statutory protection. The best, and only, means of achieving this objective is through the planning proposal process.

Other options, such as adding site-specific objectives and controls to *Woollahra Development Control Plan 2015*, or including heritage conservation conditions to a development consent for the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* will not provide the same level of heritage protection and recognition.

#### 6.2. Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional, subregional strategy or district plan or strategy (including exhibited draft plans or strategies)?

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant actions of 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 the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* will provide ongoing protection and recognition of the heritage significance of the item.

#### **Eastern City District Plan**

Yes. The planning proposal is generally consistent with the directions, priorities and objectives of the *Eastern City District Plan*, more specifically with:

- · 'A city of great places' direction
- 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:

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- o a. engaging with the community early to understand heritage values'
- Action 54 'Consider the following issues when preparing plans for tourism and visitation:
  - o e. protecting heritage and biodiversity to enhance cultural and eco-tourism'
- Action 63 'Identify and protect scenic and cultural landscapes'.

# 4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes. The planning proposal is consistent with the Council's Community Strategic Plan titled 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.

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

#### 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. Protection of the item, will be required when development is proposed for the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* or in the vicinity of the site. Protection measures are not likely to result in environmental harm and will be managed through the development assessment process.

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

Yes. The heritage assessment / inventory sheet measured the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) 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 the *Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)* is of heritage significance at the local level. Social significance is satisfied at local level.

#### 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 the *Sydney Croquet Club* (clubhouse including interiors, moveable heritage items and lawns). It does not involve amendments to the planning controls that will facilitate intensified development.

The Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) has access to adequate public infrastructure such as water, sewer, electricity and telephone services. The site is in proximity to regular and frequent public transport services.

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 and appropriate for the requirements of a local centre.

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

During the public exhibition, Heritage NSW, Department of Premier and Cabinet will be notified

Further consultation will take place with any other authorities identified by the gateway determination.

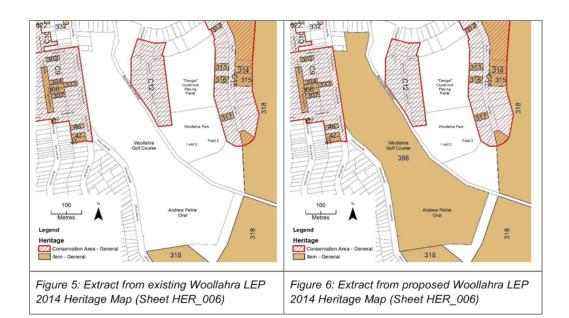
# Part 7 - Mapping

The planning proposal amends the Woollahra LEP 2014 Heritage Map (Sheet HER\_006) by applying an "Item – General" classification to the *Sydney Croquet Club* (clubhouse including interiors, moveable heritage items and lawns).

Extracts of the existing and proposed heritage maps are shown in Figure 5 and Figure 6.

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# Part 8 - Community consultation

#### 8.1. Consultation with landowner

Woollahra Council is the landowner of the site. The leaseholder, Sydney Croquet Club, was consulted during the project. The following table outlines the contact with the Club. Overall, the Sydney Croquet Club is in support of the potential heritage listing.

31 May 2019	Notice of the heritage assessment project and request for access to the building.
1 November 2019	Notice regarding completion of draft assessment of heritage significance. Provision of the electronic link to the draft document. Invitation to provide comments.
13 February 2020	Notice of the Environmental Planning Committee meeting on 17 February 2020. Provision of the Woollahra website link to the report and the draft assessment of heritage significance.
27 February 2020	Notice requesting a meeting in response to Council's decision to defer consideration of matter. Provision of the electronic link to draft assessment of heritage significance.
12 March 2020	Notice of the Environmental Planning Committee meeting on 16 March 2020. Provision of the Woollahra website link to the report and the draft assessment of heritage significance.

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#### 8.2. Public exhibition

Public exhibition will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* 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 to the land owner of the site.
- a letter to the current lessee.
- a letter to land owners in the vicinity of the site
- a letter to local community groups such as the Rose Bay Residents' Association and the Woollahra History and Heritage Society.

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

- the planning proposal, in the form approved by the gateway determination.
- the gateway determination.
- information relied upon by the planning proposal (such as relevant Council reports).

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# Part 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	23 April 2018
Environmental Planning Committee recommends proceeding	16 March 2020
Council resolution to proceed	6 April 2020
Woollahra Local Planning Panel provides advice	May 2020
Advice of WLPP to Environmental Planning Committee. Committee recommends proceeding	June 2020
Council resolution to proceed	July 2020
Gateway determination	August 2020
Completion of technical assessment	Usually none required
Government agency consultation	September 2020
Public exhibition period	September 2020
Submissions assessment	October 2020
Environmental Planning Committee considers assessment of planning proposal post exhibition	November 2020
Council decision to make the LEP amendment	November 2020
Council to liaise with Parliamentary Counsel to prepare LEP amendment	December 2020
Forwarding of LEP amendment to Department of Planning, Industry and Environment for notification	January 2021
Notification of the approved LEP	February 2021

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# **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	Applicable
Development	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	Applicable
Residential Apartment Development	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

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State environmental planning policy	Comment on consistency
SEPP No 70 Affordable Housing (Revised	Applicable
Schemes)	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Aboriginal Land) 2019	Not applicable.
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:	Applicable
BASIX) 2004	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
Office Facilities, 2017	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying	Applicable
Development Codes) 2008	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Gosford City Centre) 2018	Not applicable.
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable
	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

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State environmental planning policy	Comment on consistency	
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 (Mining, Petroleum Production and	Applicable	
Extractive Industries) 2007	Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.	
SEPP (Penrith Lakes Scheme) 1989	Not applicable	
SEPP (Primary Production and Rural Development) 2019	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.	
SEPP (State and Regional Development) 2011	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.	
SEPP (State Significant Precincts) 2005	Applicable	
	There are currently no identified state significant 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.	

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State environmental planning policy	Comment on consistency
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency	
SREP No 8 (Central Coast Plateau Areas)	Not applicable	
SREP No 9 - Extractive Industry (No 2 - 1995)	Not applicable	
SREP No 16 – Walsh Bay	Not applicable	
SREP No 20 - Hawkesbury- Nepean River (No 2 - 1997)	Not applicable	
SREP No 24 - Homebush Bay Area	Not applicable	
SREP No 26 – City West	Not applicable	
SREP No 30 - St Marys	Not applicable	
SREP No 33 - Cooks Cove	Not applicable	
SREP (Sydney Harbour Catchment) 2005	Not applicable	

### 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				
Directi	on	Applicable/comment			
1	Employment and resou	urces			
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 the Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns) will provide ongoing protection and recognition of the heritage significance of the item.			
2.4	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.			
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. The planning proposal does not apply to land in the Far North Coast.			
2.6	Remediation of contaminated land	Not applicable.			
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.			

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Planning proposal – Compliance with section 9.1 directions					
Directi	on	Applicable/comment			
3.3	Home occupations	Not applicable. The planning proposal does not affect home occupations in dwelling houses.			
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 licensed aerodromes	Not applicable. The planning proposal does not apply to land near a licensed aerodrome.			
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.			
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.			

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Planning proposal – Compliance with section 9.1 directions					
Direction		Applicable/comment			
5.10	Implementation of Regional Plans	Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities</i> , particularly Objective 13: Environmental heritage is identified, conserved and enhanced.  Heritage listing of the <i>Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)</i> will provide ongoing protection and recognition of the heritage significance of the item.  Refer to Section 6.2 of this report and direction 7.1 of this table.			
6	Local plan making				
6.1	Approval and referral requirements	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.			
6.2	Reserving land for public purposes	Not applicable. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.			
6.3	Site specific provisions	Not applicable. The planning proposal does not allow a particular development to be carried out.			
7	Metropolitan Planning				
7.1	Implementation of A Metropolis of Three Cities (March 2018)	Applicable. The planning proposal is consistent with the objectives of <i>A Metropolis of Three Cities</i> , particularly Objective 13: Environmental heritage is identified, conserved and enhanced.  Heritage listing of the <i>Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)</i> will provide ongoing protection and recognition of the heritage significance of the item.  Refer to section 6.2 of this report and direction 5.10 of this table.			
7.2	Implementation of Greater Macarthur Land Release Investigation	Not applicable.			

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Planning proposal – Compliance with section 9.1 directions				
Direction		Applicable/comment		
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not applicable.		
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.		
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.		
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.		
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.		
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Not applicable.		
7.9	Implementation of Bayside West Precincts 2036 Plan	Not applicable.		
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.		

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# Supplementary material (separately attached)

- Heritage Significance Assessment for the Sydney Croquet Club Weir Phillips Heritage and Planning – October 2019
- Environmental Planning Committee Report 17 February 2020 (Annexures removed)
- Environmental Planning Committee Report 16 March 2020 (Annexures removed)

# **Annexure 2**

# HERITAGE ASSESSMENT



**Sydney Croquet Club** 

Woollahra Park, off O'Sullivan Road, Rose Bay

October 2019 J3657



Level 19, 100 William Street, Woolloomooloo, NSW 2011 Phone: (02) 8076 5317

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WEIR PHILLIPS HERITAGE AND PLANNING

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#### 1.0 INTRODUCTION

#### 1.1 Preamble

This Heritage Assessment for the Sydney Croquet Club, Woollahra Park, off O'Sullivan Road, Rose Bay has been prepared at the request of Woollahra Council. On 23 April 2018 Woollahra Council made the following decision:

THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for each of:

- The Sydney Croquet Club building and greens (having its address in Woollahra Park, O'Sullivan Road, Rose Bay); and
- 2. The Woollahra Golf Club Clubhouse and George Grimley Pavilion (having its address in Woollahra Park at 50 O'Sullivan Road, Rose Bay)

to the relevant Council Committee to facilitate the Sydney Croquet Club building and greens and the Woollahra Golf Club Clubhouse and George Grimley Pavilion (and their elements) being:

- 1. Included in the Woollahra Local Environmental Plan as a heritage item; and
- 2. Listed as a heritage item of State significance on the NSW State Heritage Register.

On 18 June 2018 Woollahra Council made the following decision:

THAT Council:

- A. Request staff to undertake an assessment of heritage significance for the Rose Bay Scout Hall (former RAAF Officers' Canteen) located in Vickery Avenue, Rose Bay, and report to the Environmental Planning Committee on whether the property has sufficient heritage significance to be listed as:
- i) a local heritage item in the Woollahra Local Environmental Plan 2014(WLEP), and
   ii) an item on the State Heritage under the Heritage Act 1977.

## 1.2 The Brief

The brief is divided into two parts:

Stage One - Assessment of heritage significance

- Using the process and heritage assessment criteria contained in the New South Wales Heritage Manual (2001) carry out an assessment of heritage significance of the three sites.
- Make a recommendation as to whether the three sites should be individually listed as a local heritage item in Schedule 5 of Woollahra LEP 2014.
- 3. Make a recommendation as to whether the three sites should be individually listed as an item on the State Heritage Register under the Heritage Act 1977.

Note: The assessment of significance at local and State levels must be done separately and independently.

Stage Two

- 1. If the recommendation is for listing in Woollahra LEP 2014, prepare an inventory sheet for the relevant site. The inventory sheet will include a statement of significance.
- 2. If the recommendation is also for listing on the State Heritage Register, prepare an inventory sheet for the relevant site. The inventory sheet will include a statement of significance.

3. If the recommendation is for listing on the State Heritage Register, prepare a nomination form for the relevant site using the OEH Heritage Division standard template.

Note: All inventory sheets must use the Office of Environment and Heritage (Heritage Division) standard template. A Microsoft Word version of this template will be provided by Council.

#### 1.3 Authorship

This assessment was prepared by Alice Fuller, B.Appl.Sc.(CCM), M.Herit.Cons.(Hons.), and James Phillips, B.Sc.(Arch), B.Arch., M.Herit.Cons.(Hons.), of Weir Phillips Heritage and Planning.

#### 1.4 Limitations

An Aboriginal and historical archaeological assessment was not provided for. A survey of the site's users was not provided for to ascertain how/if they value the site.

#### 1.5 Methodology

This statement has been prepared with reference to the NSW Heritage Office's (Heritage NSW) publication *Assessing Heritage Significance* (2015).

A site visit was carried out in June 2019. Unless otherwise stated, the photographs in this assessment were taken on this occasion.

#### 1.6 Documentary Evidence

The following references were referred to in the preparation of this assessment.

#### 1.6.1 General References

- Boulton, E.H.B. (ed.), Timber Buildings for the Country, London, Country Life Ltd,
- Broomham, Rosemary, The Coopers of Woollahra: Land Dealings on the Point Piper Estate 1820-1920. Unpublished report prepared for Woollahra Municipal Council in June 2001.
- Hughes, Trueman and Ludlow, Heritage Study for the Municipality of Woollahra, Volume One, NSW, Woollahra Municipal Council, 1984.
- Morris, Miranda, An Architecture of the Depression: Vertical timber buildings in Launceston. Unpublished University Thesis, 1989.
- Russell, Eric, Woollahra: A History in Pictures, Sydney, John Ferguson in association with Woollahra Municipal Council, 1980.
- Sydney Croquet Club, Clubhouse Log Cabin- Woollahra Park, 50th Anniversary, Saturday, 27 April, 1985, NSW, The Club, 1985, n.p.

#### 1.6.2 Newspapers, Journal Articles etc.

- ('Advertisement for Hardie's Fibrolite'), Decoration and Glass, Volume 7 No. 12, 1 April, 1942, p.31.
- 'Croquet Lawns for Woollahra,' The Labor Daily, 14 November, 1933, p.6.
- 'Croquet Pavilion at Williamstown, Victoria,' Building, 12 March, 1930, p.57.
- 'Croquet Tournament,' The Daily Telegraph, 28 April 1936, p.18.
- "The Log Cabin," The Australasian, 25 October, 1924, p.13.
- 'Log Cabin at Grace Bros.,' The Sydney Morning Herald, 7 December, 1927, p.11.
- 'M.V.E. Woodforde, A.R.A.I.A, 'Decoration and Glass, Volume 5 No. 9, 1 February, 1940, pp.53-54.
- 'New Croquet Lawns: Opened at Woollahra Park,' The Sydney Morning Herald, 2 May, 1935, p.21.

- 'A New Name. Rushcutter's Bay Expands,' Sunday Times, 29 September, 1929, p.11.
- 'The Official Opening of the Rushcutters Bay Croquet Cub,' The Daily Telegraph, 31 January, 1927, p.12.
- 'Sydney's New Lawns,' The Daily Telegraph, 30 October, 1934, p.16.
- "Tenders Accepted or Received," Construction and Real Estate Journal, 6 February, 1935, p.10.
- Tenders Called, Construction of Real Estate Journal, 17 October, 1934, p.6.
- Willoughby Golf Club House, Building, 12 December, 1935, p.15.
- '(Woollahra Council has decided....),' The Sun, 7 January, 1934, p.9.
- Woollahra Croquet Lawns,' The Sun, 20 December, 1934, p.25.
- Woollahra Works Scheme,' The Sun, 13 December, 1934, p.11.

#### 1.6.3 Historic Plans, Images and Photographs

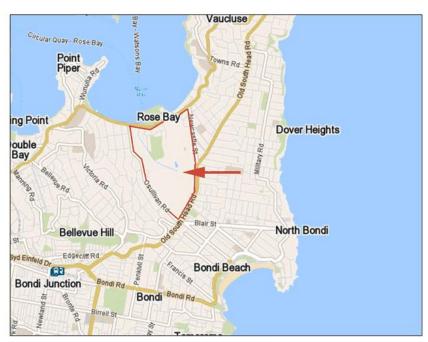
- (Croquet Lawn and Shelter, Sydney Croquet Club), undated. Framed photograph in the Clubhouse.
- 'Hotel Grande, Coolangatta,' Building, 13 March, 1933.
- Kent, Milton, Aerial View over Rose Bay, Rosebery, Sydney, Waterloo (Item No. 16), 194-. State Library of NSW.
- 'A Log Cabin,' Building 12 August, 1924.
- 'New Baby Health Centre and Day Nursery, Double Bay,' Building and Engineering, 24 October, 1951.
- 'New Residence, No. 151 Dover Road, Dover Heights,' Building 24 March, 1942.
- New South Wales Lands Department, (Aerial Photograph over Rose Bay), 1943.
   SIX Maps.
- 'North Bridge Golf Club House,' Building 24 November, 1937.
- 'Papyrus Pty Ltd, Burrows Road, Alexandria,' Building, 24 February, 1942.
- ('Rustic Shelter in the Garden, Caerleon'), Home, December 1922.
- (Sydney Croquet Club), undated. Framed photograph in the Clubhouse.
- (Sydney Croquet Club), 1977. Framed photograph in the Clubhouse.

#### 1.6.4 Other

- Conveyance, Book 1319 No. 958. Old Systems Records, NSW LPI.
- Woollahra Council Minutes, 1923- 1980. Woollahra Library.

#### 1.7 Site Location

The Sydney Croquet Club is located within Woollahra Park, off O'Sullivan Road, Rose Bay. Figure 1 shows the location of Woollahra Park within the surrounding area. Figure 2 shows the location of the Croquet Club within the grounds of Woollahra Park. The Croquet Club stands on part of Lot 1319 D.P. 1222163.



**Figure 1:** Location of Woollahra Park within Woollahra. Whereis; annotation in red by WP Heritage and Planning.



**Figure 2: Location of the Croquet Club within Woollahra Park.** Google Maps; annotation in red by WP Heritage and Planning.

#### 2.0 HISTORICAL DEVELOPMENT OF THE SITE

#### 2.1 The Site Prior to 1923

While an Aboriginal history has not been provided for, it is acknowledged that the present-day Woollahra Municipality is located within the traditional lands of the Cadigal people, part of the Dharug language group.

The Colony of New South Wales was established at Sydney Cove in January 1788. All land was declared to be Crown Land. Present-day Woollahra is located well outside the first official boundaries of Sydney Township. The colonists exploited the natural resources of the area but did little to permanently settle it beyond establishing a lookout on South Head and a pilot station at Watsons Bay. The word *Woo-la-ra* first appears in a 'List of Local Names, or of Places' prepared by David Southwell, the lieutenant later placed in charge of the lookout on South Head.¹

The first land grants in present-day Woollahra, made between 1793 and 1812, predominantly passed out of the hands of original grantees. During the early years of Macquarie's governorship (1810-1821), a number of grants were made to military men around Double and Rose Bays. The most notable of these was a grant made to the flamboyant Captain John Piper in 1815.

During the 1820s, the land north of Darling Point through Double Bay, Point Piper and Rose Bay and eastward to Old South Head Road, was consolidated into a single estate by the prominent business partnership of Daniel Cooper (1785-1853) and Solomon Levey (1794-1833). The partners had acquired several early land holdings, including John Piper's estate, which were re-issued as a single grant of 1,130 acres on 22 March, 1830. The subject property stands upon this grant. Old South Head Road (1811) and New South Head Road (1832) provided the principal means of access into the area at this time.

The Cooper-Levey estate was beset by legal complications from the 1830s. During the 1840s, Daniel Cooper became the sole owner of the estate, which generally became known as the Cooper Estate. In 1844, T.L. Mitchell prepared a subdivision plan for the Cooper Estate. Old and New South Head Roads, Point Piper (now Jersey Road), Ocean Street North, William and Cross Streets were already in existence, while Edgecliff, Bellevue, Victoria and Wolseley Road were passable bush tracks. While the Cooper Estate was not always developed along the lines envisaged by Mitchell in 1844, his subdivision did much to determine the basic street pattern seen today.<sup>2</sup>

The Cooper Estate was willed not to Daniel Cooper's next of kin, his nephew Sir Daniel Cooper (1821-1902), but to Sir Daniel's son, Daniel (later also Sir Daniel). As the new owner was a minor when he inherited the estate in 1853, Trustees managed the Cooper Estate until November 1869. Even after Daniel Cooper (junior) obtained his majority, the Trustees continued to be a dominant influence in managing the Estate and were thus a major force in the development of the area.<sup>3</sup> When the Municipality of Woollahra was created in 1860, it was named for Sir Daniel Cooper's (senior) planned residence, *Woollahra*.

Between 1853 and the mid 1880s, the Trustees offered 99 year leaseholds on parts of the Cooper Estate; there were few freehold sales. Substantial villa estates were developed on some of these leaseholds. Smaller lots in West Woollahra and along Old South Head Road attracted more modest housing and commercial development.<sup>4</sup> Lack

<sup>&</sup>lt;sup>1</sup> Letter dated 12 July, 1788, cited Eric Russell, *Woollahra: A History in Pictures*, Sydney, John Ferguson in association with Woollahra Municipal Council, 1980, p. 9-10.

<sup>&</sup>lt;sup>2</sup> See Figure 7, a tracing of Mitchell's plan, in Rosemary Broomham, *The Coopers of Woollahra:* Land Dealings on the Point Piper Estate 1820-1920. Unpublished report prepared for Woollahra Municipal Council in June 2001.

<sup>&</sup>lt;sup>3</sup> For further information see *ibid*.

<sup>&</sup>lt;sup>4</sup> Hughes, Trueman and Ludlow, *Heritage Study for the Municipality of Woollahra, Volume One*, NSW, Woollahra Municipal Council, 1984, p. 15.

of transport, however, limited widespread development in Woollahra before 1880. As transport was almost exclusively by private means, development away from the bays and wharves was particularly reliant on satisfactory road patterns.<sup>5</sup>

Sydney's population expanded sevenfold between 1850 and 1890. By the early 1880s, the areas closer to the City had been built out and the demand for land was pushing further outwards. The steady improvements made to the tramway system from the 1880s, together with the introduction of subsidised transport, did much to open up the Woollahra Municipality to small lot subdivision.

Freehold subdivisions of land on the Cooper Estate began in the early 1880s and continued until the 1920s. Land was purchased by individuals and companies, many of whom then carried out further subdivisions. One of the companies who purchased land was the Rose Bay Freehold Company. Woollahra Park stands on land that they purchased from the Cooper Estate in 1904.6

The dense suburban development that characterises much of Woollahra today is largely a product of the first decades of the twentieth century. As subdivision continued, the population rose from 1,023 people in 1881 to 13,503 people in 1900; and 25,300 people in 1920 to 37,770 people in 1927.7 Woollahra thus became an intensively developed area within a comparatively short time span.

While development proceeded apace in some areas, much of the land that now forms part of Woollahra Park appears to been under-utilised. Some of the area was leased to Chinese market gardeners. In 1901, it was recorded that the area now occupied by Woollahra Park was 'swampy and undrained.' Nearby Scots College developed a strong sporting association with the local area by the early 1900s, foreshadowing future land uses.

#### 2.2 Woollahra Park

Woollahra Council Minutes of the 1920s and 1930s reveal a keen awareness of the importance of public recreational spaces and publicly accessible recreational facilities. In 1923, Woollahra Council received permission from the Governor to borrow £20,000 for the 'acquisition of park and recreation areas and the improvement thereof.'9 On 15 September 1923 the Rose Bay Freehold Company (in liquidation) transferred 24 acres and 25 perches of land to the Council of the Municipality of Woollahra for 11,954 pounds, 13 shillings and 9 pence.¹¹ During late 1923 and 1924, Council gave the Chinese market gardeners occupying their new land purchase six months notice to quit.¹¹¹

In early 1924, Council launched a competition for the layout of a new park, later Woollahra Park. The Institute of Architects were involved in this process and appointed the prominent architect Mr. Ernest A. Scott to represent the Institute in an honorary capacity and to provide advice on the competition.  $^{\rm 12}$ 

The results of the competition for the layout of the park were announced by Council on 12 May 1924. First prize, a premium of £100, was award to Mr. H.M. Robinson.  $^{13}$  The improvements to the park officially commenced when the first sod of earth was

<sup>&</sup>lt;sup>5</sup> Refer to J. Atkins, *History Waverley, Volume 8: Fletcher's Foundry, Woollahra*, n.p. The street was originally known as Australia Street.

<sup>&</sup>lt;sup>6</sup> Sale referred to in Conveyance, Book 1319 No. 958. NSW LPI.

<sup>&</sup>lt;sup>7</sup> Census figures cited in Hughes, Trueman and Ludlow, op cit., 1984, p. 7.

<sup>&</sup>lt;sup>8</sup> Government Gazette 1901 cited in Woollahra Park Plan of Management, January 2013, p.8.

 $<sup>^{\</sup>rm 9}$  Woollahra Council Minutes, Ordinary Meeting, 2 July, 1923, p.526. Woollahra Library.

<sup>10</sup> Conveyance, Book 1319 No. 958. NSW LPI.

<sup>&</sup>lt;sup>11</sup> For example, see: Woollahra Council Minutes, Ordinary Meetings, 8 October, 1923, p.638; 25 August, 1924, p.265.

<sup>12</sup> Ibid, 28 April, 1924, p.134.

<sup>13</sup> Ibid, 12 May, 1924, pp.142 and 149.

turned by Alderman Grimley on 25 October 1924.<sup>14</sup> On 8 December 1924 the 'O'Sullivan Road Park Lands' were officially named Woollahra Park.<sup>15</sup> A pavilion named in honour of Alderman George Grimley was constructed in 1927 to service the adjacent oval and a golf course was opened in 1931.

#### 2.3 Rushcutters Bay Croquet Club and Sydney Croquet Club

#### 2.3.1 The Origins of the Club

The origins of the Sydney Croquet Club lie in the establishment of the Rushcutters Bay Croquet Club in the 1920s. 16 The Club's first home was on land within Rushcutters Bay Park that they leased from the City of Sydney Council. The club name was changed to the Sydney Croquet Club in September 1929, by which time the number of members had grown considerably. 17 The Club's handicap book of 1928-1929 lists 25 playing members, 23 of whom were 'A' grade players. The Club was, at this time, 1 of 19 clubs in the State, 12 of which were suburban clubs. 18 The sport was predominately a female one; the Rushcutters Bay Club were the only club in the State to have any male

According to a brief club history, the Rushcutters Bay Club first approached Woollahra Council about the creation of croquet lawns within the Woollahra Municipality in 1932-3.19 In November 1933, in response to a request from a 'number of ladies', Woollahra Council instructed Council's engineer to investigate a suitable location for the 'putting down' of croquet lawns. Woollahra Park and Cooper Park were put forward as possible locations.20 The site 'between the two ovals' at Woollahra Park, being the subject site, was ultimately put forward and Council resolved in December 1933:

'That two croquet lawns be constructed at an estimated cost of £445 provided the applicants agree to pay a rental of £100 per year, and that failing acceptance of this offer two tennis courts be constructed at a cost of approximately £600.'21

Figure 3 provides a photograph of Woollahra Park in the late 1920s/early 1930s. The arrow points to the approximate location of the Croquet Club, between the two ovals.

<sup>14</sup> Ibid, 27 October, 1924, p.331.

<sup>15</sup> Woollahra Council Minutes, Ordinary Meetings, 8 December, 1924, p.375.

<sup>&</sup>lt;sup>16</sup> A date of 1922 is given by a brief history of the Club in Sydney Croquet Club, Clubhouse Log Cabin- Woollahra Park, 50th Anniversary, Saturday, 27 April, 1985, NSW, The Club, 1985, n.p. Woollahra Library. A newspaper article, however, gives the date of 1927. See: 'The official opening of the Rushcutters Bay Croquet club,' The Daily Telegraph, 31 January, 1927, p.12.

<sup>&</sup>lt;sup>17</sup> 'A New Name. Rushcutter's Bay Expands,' *Sunday Times*, 29 September, 1929, p.11.

<sup>18</sup> Sydney Croquet Club, Clubhouse Log Cabin- Woollahra Park, 50th Anniversary, 1985, n.p.
19 Ibid.

<sup>&</sup>lt;sup>20</sup> 'Croquet Lawns for Woollahra,' The Labor Daily, 14 November, 1933, p.6.

<sup>&</sup>lt;sup>21</sup> Woollahra Council Minutes, Ordinary Meeting, 11 December, 1933, p.570.



Figure 3: Aerial View of Rose Bay Golf Course, Sydney, c.1920s.
Fairfax Archive, National Library of Australia; annotation by WP Heritage and Planning.

Initially, it would appear that the lawns in Woollahra Park were to be leased to a proposed new Eastern Suburbs women's club.<sup>22</sup> Ultimately, however, it was Mrs. F.E. Rogers, Hon. Secretary of the Sydney Croquet Club, who accepted the offer of the lawns and informed Council that the following Clubhouse accommodation would be required:

'Main room of such size that the Club members could sit in comfort for refreshments, and at one end of this room a kitchen for washing up etc. with power point for urn, and the other end of main room a toilet room with lavatory and basin; further stating that a verandah across the front of the Clubhouse would add to the pleasure and comfort of members who are watching matches, and requesting to be advised how long it will take to complete the construction of the lawns as it is desired to make arrangements for an opening day.'23

The NSW Croquet Association offered to stand guarantor for the payment of fees for the first twelve months lease of the playing lawns. In February 1934, the Association were informed that

'...plans and specifications and estimates are now being prepared in conjunction with the desired accommodation for Club members, and that the Club will be communicated with as soon as a decision is arrived at '24

The Sydney Croquet Club had made the decision to transfer to Woollahra for a number of reasons. The lease at Rushcutters Bay was due to expire; a large number of its members lived in Woollahra; and the Club had been battling unsuccessfully with the City of Sydney for a number of years for additional space at Rushcutters Bay. In 1928, the Club secretary wrote that they had been

'..compelled weekly to refuse applications for membership in our club, owing the lack of playing space.'25

The secretary had also complained about the poor state of the playing lawn at Rushcutters Bay. Arguments about high rents during the years of the Great Depression

<sup>&</sup>lt;sup>22</sup> '(Woollahra Council has decided....),' The Sun, 7 January, 1934, p.9.

<sup>&</sup>lt;sup>23</sup> Woollahra Council Minutes, Ordinary Meeting, 8 January, 1934, p.5.

<sup>&</sup>lt;sup>24</sup> Woollahra Council Minutes, Ordinary Meeting, 26 February, 1934, p.94.

<sup>&</sup>lt;sup>25</sup> Sydney Croquet Club, Clubhouse Log Cabin- Woollahra Park..., 1985, n.p.

further soured the relationship with the City of Sydney. The Club held a farewell party at their old premises in late October  $1934.^{26}$ 

#### 2.3.2 The Design of the Clubhouse

Council minutes of 1934 indicate that various schemes were put forward for the design of a Croquet Clubhouse, including proposals to combine the facilities with those for the users of Oval No.  $2.^{27}\,$  By March 1934, a separate building had been agreed upon. Options for building with walls of wire cut bricks with a green tile roof and rusticated weatherboard with a green tiled roof were initially considered followed by a scheme with walls of rendered common brick (float finish) and red tiles. As demonstrated by the extant building, these options were not proceeded with.

The location of the building between the croquet lawns and No. 2 Oval, in a position at the north-eastern corner of the lawn, was fixed upon in March 1934. By July, the original designs, priced at £1,080, had been modified to a more modest £695. In December 1934, Woollahra Council approved the expenditure of approximately £870 for the 'erection of a pavilion' for the Croquet Club at No. 2 Oval at Woollahra Park. This work was part of a much larger scheme of works planned by Council and funded with a special loan of £35,000. Other works included the 'Golf house at Woollahra golf links', a pavilion for the cricket players, the acquisition of lands to extend Woollahra and Cooper Parks and various road works.  $^{32}$ 

The Croquet Clubhouse eventually erected was designed by M.V.E. Woodforde, who designed numerous other projects for Council from 1933. The original plans have not been located. In October 1934, Woodforde was instructed by Council to advertise for tenders; tenders were advertised in the local press in October-November 1934.<sup>33</sup> Thirteen tenders were received. In December 1934, Council instructed that the lowest tenderer, Messrs. Stafford & Company of No. 4 Merchant Street, Stanmore for £870.7.6 be accepted, subject to satisfactory references being received.<sup>34</sup> The builder's references, however, proved 'entirely unsatisfactory'. Ultimately, the tender of the third lowest tender, G. Yates of No. 64 Villier Street, Rockdale for £972, was accepted.<sup>35</sup>

Council minutes over the following months record decisions to connect the building to the sewer and providing wire guards to the lawns. In March 1935, a recommendation to spend £30 on planting 'and other improvements' adjacent to the 'Croquet Pavilion' was approved.<sup>36</sup> In April 1935, a rental of £100 for the first year and £140 for the second year was agreed upon.<sup>37</sup> The building does not appear to have been reviewed in the architectural publications *Building* or *Decoration and Glass*.

#### 2.3.3 Opening of the Croquet Lawns and Clubhouse

The croquet lawns and Clubhouse were officially opened on Saturday 27 April, 1935. According to *The Sydney Morning Herald*:

'The lawns looked perfect in the brilliant sunshine, and the splendid weather conditions gave everybody a cheerful countenance and sense of well-being.

<sup>&</sup>lt;sup>26</sup> 'Sydney's New Lawns,' *The Daily Telegraph*, 30 October, 1934, p.16.

 $<sup>^{27}</sup>$  See for example, Woollahra Council Minutes, Ordinary Meeting, 26 February, 1934, p.107.

<sup>&</sup>lt;sup>28</sup> Woollahra Council Minutes, Ordinary Meeting, 12 March, 1934, p.122; 26 March, 1934, p.150.

<sup>&</sup>lt;sup>29</sup> *Ibid*, 9 April, 1934, p.168.

<sup>30</sup> Ibid, 23 July, 1934, p.361.

<sup>31 &#</sup>x27;Woollahra Croquet Lawns,' The Sun, 20 December, 1934, p.25.

 $<sup>^{\</sup>rm 32}$  'Woollahra Works Scheme,' The Sun, 13 December, 1934, p.11.

<sup>33 &#</sup>x27;Tenders Called,' Construction of Real Estate Journal,' 17 October, 1934, p.6.

<sup>&</sup>lt;sup>34</sup> Woollahra Council Minutes, Special Meeting, 18 December, 1934, p.637.

<sup>&</sup>lt;sup>35</sup> "Tenders Accepted or Received,' *Construction and Real Estate Journal*, 6 February, 1935, p.10; Woollahra Council Minutes, Ordinary Meeting, 14 January, 1935, p.19.

<sup>&</sup>lt;sup>36</sup> Woollahra Council Minutes, Ordinary Meeting, 25 March, 1935, p.193.

<sup>37</sup> Ibid, 8 April, 1935, p.206.

The Mayor of Woollahra, Alderman Hugh Latimer, M.L.C., officially opened the attractive log-cabin Clubhouse, which is something new in sporting accommodation....

To Mrs. Latimer fell the honour of firing the first ball on the new lawns, which was accomplished amid much enthusiasm from some 120 guests of the club....

Mr. Latimer remarked upon the fact that his Council had given the whole of the Woollahra Park area for sport, and in doing that it had not forgotten the croquet players....'38

The lawn was extended on the eastern side in November 1935. $^{39}$  Although the Croquet Club evidently prospered, a request for a third lawn was turned down by Council in November 1935 and would continue to be turned down over ensuring years. $^{40}$  A flag pole was donated to the club and erected at the eastern end of the Clubhouse in early 1936. $^{41}$  Lockers appear to have been installed in a portion of the store room in 1936- $^{7,42}$ 

The Croquet Club celebrated their first anniversary of their move to new premises with an all-day tournament in April 1936.43

In December 1937, it was reported that the rustic logs of the Clubhouse were showing signs of dryness and it was recommended that two coats of raw linseed oil and varnish should be applied.<sup>44</sup> There are references to the acceptance of a quote for painting the Clubhouse in April 1938.<sup>45</sup> The timber work appears to have been regularly treated.

Figures 4 provides an undated, but early, photograph of the Clubhouse, prior to the growth of the trees. Note: the roof is tiled and the timber work has a dark, oiled, finish.



**Figure 4: Sydney Croquet Club House, undated.** Framed photograph in the Clubhouse.

<sup>38 &#</sup>x27;New Croquet Lawns: Opened at Woollahra Park,' The Sydney Morning Herald, 2 May, 1935, p.21.

<sup>39</sup> Woollahra Council Minutes, Ordinary Meeting, 11 November, 1935, p.657.

<sup>40</sup> Ibid, 9 December, 1935, p.747.

<sup>41</sup> Ibid, 24 February, 1936, p.100.

<sup>42</sup> Ibid, 28 October, 1935, p.639; 24 February, 1936, p.110.

<sup>43 &#</sup>x27;Croquet Tournament,' The Daily Telegraph, 28 April 1936, p.18.

<sup>44</sup> Woollahra Council Minutes, Ordinary Meeting, 13 December, 1937, p.668.

<sup>45</sup> *Ibid,* 11 April 1938, p.214.

Investigations into the third croquet lawn were still being pursued in 1939, by which time, the Croquet Club had 36 members, 22 of whom lived locally.<sup>46</sup> By this time, the Club had erected a shelter constructed of 'fibro and trellis' which housed a concrete garden seat provided by Council. Two addition shelters were erected.<sup>47</sup> What appear to be small shelters are visible on the southern side of the croquet lawns in Figure 5, an aerial photograph dated 1943. These are not the extant shelter structures.





Figure 5: NSW Lands Department, (Aerial Photograph over Rose Bay), 1943. SIX Maps.

Photograph 6 provides a second aerial photograph over Woollahra Park from the 1940s. This photograph shows the building at a more oblique angle. It also show a different approach from O'Sullivan Road to that which now exists.

<sup>46</sup> Woollahra Council Minutes, Ordinary Meeting, 23 January, 1939, p.45; 27 February, 1939, p. 88.

<sup>47</sup> Ibid, 26 August, 1940, p.505.

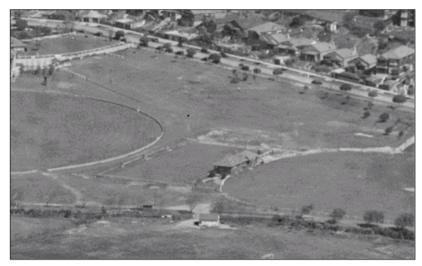


Figure 6: Milton Kent, Aerial View over Rose Bay, Rosebery, Sydney, Waterloo (Item No. 16), 194-

State Library of NSW.

Council Minutes over ensuing years reveal the day-to-day operation of the Croquet Club. For example: the Club rent was reduced during World War II. $^{48}$  By 1946, it was found necessary to regrade and re-level the lawns, due to shrinkage. $^{49}$ 

The Croquet Club do not appear to have been the only occupants of the Clubhouse. In 1953, plans were put forward to extend the Clubhouse building by the surrounding golf club, who were 'presently using 'part of the 'log cabin building' as a sports dressing room. <sup>50</sup> This scheme did not proceed. By 1956, part of the Clubhouse was being used by The Colleagues Football Club. <sup>51</sup>

Little mention is made of the Croquet Club in subsequent years in Council Minutes. In 1963, they requested improved signage as people were having trouble finding the Club within the centre of Woollahra Park; a sign on O'Sullivan Road was permitted. <sup>52</sup> In August 1963, Council were notified that three 'bush houses' at the Club required replacement after storm damage. <sup>53</sup> The matter was still being considered by Council in July 1964. The Council Minutes of 13 July, 1964 note:

The two small shelters which adjoined the lawns and were used by players and onlookers during hot or inclement weather, had deteriorated to such an extent that they were blown down during a recent storm.

They are beyond repair and the Club now requests that they be replaced.

A suitable shelter would be 9' x 5' weatherboard to sill height and trellis above with a corrugated fibro gabled roof and would cost approximately £100.

It is recommended that £200 be voted and two shelters erected.'54

<sup>48</sup> Woollahra Council Minutes, Ordinary Meeting, 28 July, 1941, p.388.

<sup>49</sup> *Ibid*, Special Meeting, 8 October, 1946, p.491.

Ibid, 14 September, 1953, p.583.
 Ibid, 18 July, 1956, p.401.

<sup>52</sup> Ibid, 22 July, 1923, p.571.

<sup>53</sup> Ibid, 14 October, 1963, p.830.

<sup>54</sup> Ibid, 13 July, 1964, p. 588.

The recommendation was adopted. These are likely to be the extant shelters. Refer to Figure 7. Note in Figure 7 the size of trees.



Figure 7: Undated photograph of one of the new shelters. Photograph in the Clubhouse.

The Clubhouse retained its dark oiled exterior and tiled roof until at least 1977. When it was first painted and when the roof covering was replaced is not known. Refer to Figure 8.



Figure 8: The Clubhouse in 1977. Photograph in the Clubhouse.

#### 2.4 The Architect, M.V. E. Woodforde, A.R.A.I.A

According to 'Who's Who' in *Decoration and Glass in February*, 1940, Marcus Victor Ernest Woodforde (Figure 9) served his articles with Herbert E. Ross of H.E. Ross and Rowe prior to enlisting with the Australian Imperial Services during World War I, where he served in France. He later returned to H.E. Ross and Rowe before working with Henry E. Budden and Greenwell, during which time he attended the Atelier at the University of Sydney studying design under Professor Leslie Wilkinson. After a third period with H.E. Ross and Rowe, during which time he worked on the Commonwealth Bank in Martin Place, he commenced private practice (1928), executing various commissions. In 1933, he was appointed as architect to the Municipality of Woollahra.<sup>55</sup> The examples of his work below indicate that he worked in a variety of styles.

<sup>55 &#</sup>x27;M.V.E. Woodforde, A.R.A.I.A, 'Decoration and Glass, Volume 5 No. 9, 1 February, 1940, pp.53-54.



Figure 9: M.E.V. Woodforde, Decoration and Glass, Volume 5 No. 9, 1 February, 1940.

Woodforde worked in a variety of styles. Examples of this work include:

- Hotel Grande, Coolangatta, 1933.
- Willoughby Golf Club House (winner of competition, 1935).
- Northbridge Golf Clubhouse, 1937.
- Cyclone Fence and Gate Co., Mentmore Avenue, Roseberry, 1937.
- House, No. 69 David Street, Launceston, 1938.
- Globe Worsted Mills, Sydenham.
- Lidcombe Textile Mills, Lidcombe.
- Administrative Offices for Lysaght Bros. and Co. Pty Ltd., 1939.
- Factory, Papyrus Pty Ltd, Burrows Road, Alexandria, 1940.56

Figures 10 to 14 illustrate a number of these buildings.



Figure 10: Hotel Grande, Coolangatta, 1933. Building, Volume 52, No. 307, 13 March, 1933.

<sup>&</sup>lt;sup>56</sup> 'M.V.E. Woodforde, A.R.A.I.A, ' Decoration and Glass, Volume 5 No. 9, 1 February, 1940, pp.53-54; 'Willoughby Golf Club House,' Building, 12 December, 1935, p.15. (Advertisement for Hardie's Fibrolite'), Decoration and Glass, Volume 7 No. 12, 1 April, 1942, p.31.



Figure 11: Northbridge Golf Club House, Sydney. Building, 24 November, 1937.



Figure 12: No. 69 David Street, Launceston Municipality, 1939. Miranda Morris, An Architecture of the Depression: Vertical timber buildings in Launceston, 1989.



Figure 13: Papyrus Pty Ltd, Burrows Road, Alexandria (c.1940). Building, 24 February, 1942.



Figure 14: New residence, No. 151 Dover Road, Dover Heights, 1942. Woodforde's own residence. Building, 24 March, 1942.

Other buildings he designed for Woollahra Council include:

- Woollahra Golf Clubhouse.
- New Baby Health Centre and Day Nursery, Double Bay (1951).

Woollahra Golf Clubhouse has undergone extensive alteration over time. Figure 15 below illustrates the New Baby Health Care Centre, which still stands on the corner of New South Head Road and Sherbrook Avenue. This is the largest of his known commissions for Council.



Figure 15: New Baby Health Centre and Day Nursery, Double Bay. Building and Engineering, 24 October, 1951.

#### 2.5 Split Log Construction

The Croquet Clubhouse is recognisably an Inter-War period building but is of no dominant architectural style. If of any style, it draws on the traditions of the Bungalow Style. During the Inter-War period, the popular press promoted full log or split log construction as an ideal form of recreational building. Figure 16 provides one example of an article from *Building*. Figures 17 to 19 provide three examples of an English publication entitled *Timber Buildings for the Country* published in 1938, which promoted timber framed and clad buildings from around the world.

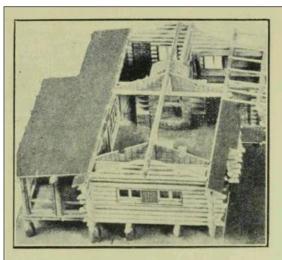
A search of newspapers reveals that Boy Scout and Girl Guide groups erected small cabins throughout the State. There are references to weekender log cabins in forests and lakes and to the sale of 'log cabin sites' in locations such as the Tuggerah Lakes and Blue Mountains.<sup>57</sup> In 1924, the Melbourne publication *Australasian* published detailed instructions on the construction of a modest, rough, log cabin.<sup>58</sup> The public interest in these buildings was such that, in 1927, Grace Brothers, under the supervision of Messrs. Morrow and Gordon, erected a 'backwoods log cabin' on the third floor of their George Street West furniture building:

'The object is to show the possibilities of artistically combining the rough exterior of a log cabin with the newest ideas in modern furniture and interior decoration. This is quite a new note in Australian architecture. The log cabin is certainly of great interest to the crowds who gather at this emporium.'<sup>59</sup>

<sup>57</sup> Search of TROVE.

<sup>58 &#</sup>x27;The Log Cabin,' The Australasian, 25 October, 1924, p.13.

<sup>&</sup>lt;sup>59</sup> 'Log Cabin at Grace Bros.,' *The Sydney Morning Herald*, 7 December, 1927, p.11.



## A LOG CABIN.

(From "House and Garden.")

The very name of log cabin is appealing to the average Australian who, for all his reputed love of pleasure, has a sneaking regard and preference for that variety that takes him nearest to nature; and since he is taught that "the architecture of a place should take its character from the surrounding country." his dream of an ideal cottage home is very probably a log cabin among the timber out back. Log cabins can be made cool in summer and warm in winter; their chief disadvantages are their liability to harbour vermin, and the difficulty in lining the interior. In America, this form of construction is common, the interstices between the logs being filled in with clay and mud, and the roof being ruberoid or malthoid, where available; otherwise turf makes a good substitute.



Figure 16: Building, 12 August, 1924.

#### Figure 17: Pavilion at the Canterbury Simon Langton School for Girls (England).

This building is of timber construction, the walls being covered with cedar weatherboarding. Accommodation; two changing rooms, a large tea-room, kitchen and stores. Timber Buildings for the Country, 1938.



Figure 18: All timber cricket pavilion at Radlett (England). Timber Buildings for the Country, 1938.



Figure 19: Sir William Talbot Sons of Rest Home, Reedswood, Walsall. Note the rustic timber

Note the rustic timber detailing to the verandah. Timber Buildings for the Country, 1938.

In addition to cabins, small rustic timber structures were also popular in private gardens. Figure 20 provides one example known to have stood in the gardens of *Caerleon*, Bellevue Hill. This example is not extant.



Figure 20: Rustic Shelter in the gardens of Caerleon. The Home, December, 1922.

#### 3.0 SITE ASSESSMENT

#### 3.1 The Site

For the following, refer to Figure 21, an aerial photograph over the site.



Figure 21: Aerial Photograph over the Clubhouse and bowling greens. SIXMaps; annotations by WP Heritage and Planning.

The site, for the purposes of this assessment includes the roughly rectangular area generally defined by the trees that surround the Clubhouse and croquet lawns.

As illustrated by Figure 21, the site is surrounded by mature planting. The planting is less dense on the eastern side. Wire fences of varying heights protect the lawns from stray golf balls. The main entrance into the site is via rough stone stairs at the end of a narrow pathway leading from the carpark onto the south-western corner of the croquet lawns.

The Croquet Clubhouse, described below, is located on the northern side of the croquet lawns.

There are two small free standing shelters, described below, on the southern side of the croquet lawn.

There are modern sheds and benches. These are not further described.

Figures 22 to 25 illustrate the general character of the site. Refer also to the photographs in the following sections.



Figure 22: View north across the lawn to the Clubhouse.



Figure 23: Stone stairs with metal pipe rail hand rail leading down onto the south-western corner of the croquet green. This is the principal entrance to the club grounds.



Figure 24: Looking towards the south-western corner of the green.



Figure 25: Looking towards the southeastern corner of the green.

#### 3.2 The Clubhouse

#### 3.2.1 Exterior

The Clubhouse is a timber framed painted spilt-log clad building with a hipped and gabled roof clad in green Colorbond (or equivalent). The building stands on a brick base. The centre of the southern and northern roof planes are interrupted by a wide gable, each with shaped log bargeboards supported by brackets constructed of log ends. The lower part of each gable is dressed with split logs; the apex is finished with terracotta shingle. There is a small arched vent set into the shingle. Behind the gables, and rising above the ridge of the roof, is a small timber cupula with gabled roof. The faces of the cupula are finished with two row of three small blind arches. The eaves of the building are wide and timber lined.

The principal elevation is the southern elevation, overlooking the croquet lawns. The elevation is asymmetrically arranged. The eastern-most end (extending partially under the gable) is inset and occupied by a verandah set beneath the main roof. The verandah has a timber board floor; roughly dressed timber columns with brackets; a rustic timber balustrade; and timber lined ceiling. There are free standing rustic style benches on the verandah. A timber panel door leads into the building from the verandah. There is a smaller similarly detailed verandah, also set under the main roof, at the western end. The verandah at the western end returns part way along the northern side.

Windows in the southern elevation vary in size and type. The windows are awning sash windows with six panes, set singly or in groups, or timber framed double hung windows with a single pane to the lower sash and eight panes to the upper sash. The double hung window beneath the gable is fitted with solid timber shutters.

Figures 26 to 33 illustrate the southern elevation.



Figure 26: Southern elevation.



Figure 27:
Detail of the south-facing gable,
showing terracotta shingles, vent and
split log.



Figure 28: Detail of the cupola on the roof.



Figure 29: Brick stairs with pipe rail balustrade leading up to the entrance at the eastern end.



Figure 30: One of the rustic benches.



Figure 31: Detail of the rustic balustrade.



Figure 32:
Detail of the opening plaque mounted on the wall beneath the verandah at the eastern end.



Figure 33: Detail of the rough timber posts supporting the roof.

Figure 34 illustrates the eastern elevation. There are two openings in this elevation: a timber framed double hung window detailed to match those described above and a small timber framed window with fixed glass louvres.



Figure 34: Detail of the rough timber posts supporting the roof.

Figure 35 illustrates the western elevation which, as noted above, lies under a return of the northern verandah. There are no openings in this elevation.



Figure 35:
Western elevation. Note the difference in detailing the balustrade. Note the detailing of the split logs at the corners.

Figures 36 to 41 illustrate the northern elevation. The western verandah returns for a short distance along this elevation and is detailed to match the southern verandah. The pattern of openings in the elevation beneath the verandah is irregular and includes a

timber framed double hung window (detailed to match those described above), which is partially blocked in and a timber panel door with toplight. Double timber doors open at the end of the verandah. As for the southern elevation, there is a timber framed double hung window (match those described above) beneath the gable. This window does not have shutters. There is one opening in the eastern end of the elevation, comprising three timber framed awning sash windows with six panes to each sash.



Figure 36: Eastern end of the northern elevation. Note the details of the brick base.



Figure 37: Centre part of the northern elevation.



Figure 38: Western end of the northern elevation.



Figure 39: Balustrade details at the western end of the northern elevation.



Figure 40: Looking west along the northern elevation towards the double doors.



Figure 41: Single door with top light into the main part of the building.

#### 3.2.2 Interior

The building is divided into two halves. The Croquet Club occupy the eastern end of the building as their Clubhouse; Council use the western end for staff rooms and storage.

The Clubhouse, accessed from the southern verandah, comprises a number of rooms. The largest room, and the central club space, has walls lined with timber panels to a high height, with fibre-cement lining (or equivalent) above. The ceiling is timber lined with exposed rafters. Door openings and windows have simply profiled timber architraves. Door panels have three vertical panels. All surfaces are painted. The floor is concealed by lino. There are honour boards mounted on the walls and other club memorabilia. Refer to Figures 42 to 44.

A large opening at the eastern end of the main club room opens directly into a kitchen with modern fit-out in the north-eastern corner of the building. There are, however, wall tiles which are likely to be original. There are bathrooms in the south-eastern corner of the building, adjoining the kitchen. The doors are three panel doors. Refer to Figures 45 to 47. There are two rooms in the western end of the club's part of the building (beneath the gables). There is timber panelling and timber lockers, with fitted benches in the southern room, above which the walls are lined with ripple iron. The timber work in this room is stained. The ceiling is lined with fibre-cement and battened. Refer to Figures 48 and 49. The room on the northern side is similarly finished, albeit without the timber lockers. The timber work in this room is stained. Double timber doors lead into the other part of the building. Refer to Figures 50 and 51.



Figure 42: Western end of the main club room showing timber panelling.



Figure 43: Detail of the window architraves.



Figure 44: Looking towards the north-eastern corner of the main club room.



Figure 45: Three panel door leading into the bathrooms.



Figure 46: Kitchen in the north-eastern corner of the building.



Figure 47: What may be original tiling in the kitchen.



Figure 48: Locker room in the southwestern corner of the building. Note the pennant collection.



Figure 49: Locker room in the south-western corner of the building. Note the pennant collection.



Figure 50: Room adjoining the locker room.



Figure 51: Room adjoining the locker room.

There are a number of rooms in the western end of the building. Not all these rooms were accessible at the time of the site visit. The largest of these rooms is finished in a similar manner to the main room within the Clubhouse, i.e. the walls are panelled to a high height and are lined with fibre-cement sheet (or equivalent) above; the ceiling is timber lined with exposed rafters. Internal doors are three panel doors. Doors and windows have profiled timber architraves. One of the smaller rooms inspected had fibro lined walls and ceiling, the latter with timber battening. Refer to Figures 52 and 53.



Figure 52: Main room within the western end of the building showing wall panelling; ceiling detail and architraves to openings.



Figure 53: One of the smaller rooms in the western end of the building showing original ceiling details and later tiling.

#### 3.3 The Shelters

There are two timber framed and clad shelters on the southern side of the croquet lawn. The rear wall of each shelter is clad in profiled timber weatherboards. The eastern and western walls are clad in timber weatherboard to the lower part and timber lattice to the upper part. The northern side is partially open to provide access to the interior. The roof is gabled and clad in Colorbond. Each shelter has a concrete floor; a fitted timber bench; the roof structure is exposed. Refer to Figures 54 to 57.



Figure 54: One of the two timber shelters (northern side).



Figure 55: One of the two timber shelters (southern and western sides).



Figure 56: Timber roof framing.



Figure 57: Timber benches and concrete floor.

### 3.4 The Setting

As demonstrated by Figure 2 above, the Croquet Club is located within Woollahra Park. To the north, east and west lie the fairways of the Woollahra Golf Course, all of which are screened by trees to varying degrees. To the south, separated by a line of trees and a bitumen path lies a fenced synthetic playing field. Refer to Figure 58 to 61.



Figure 58: Farways to the north, east and west of the site. This view is to the north of the Clubhouse.



Figure 59:
Mature trees on
the western side
of the croquet
lawn line the
faraway just
visible through
the trees. The
wire fence on the
right hand side
protects the
croquet lawns.



Figure 60: Pathway and trees on the southern side of the croquet lawn, separating it from the playing field (Figure 61).



Figure 61: Playing field to the south of the croquet lawn.

#### 4.0 ASSESSMENT OF SIGNIFICANCE

#### 4.1 Summary of Existing Statutory Heritage Listings for the Site

#### 4.1.1 Commonwealth Listings

The Sydney Croquet Club is <u>not</u> listed on the Commonwealth or National Heritage Lists under the auspices of the *Environment Protection and Biodiversity Conservation Act 1999*.

### 4.1.2 State Listings

The Sydney Croquet Club is  $\underline{not}$  listed on the State Heritage Register under the auspices of the NSW Heritage Act 1977.

### 4.1.3 Local Listings

The Sydney Croquet Club is:

- Not listed as a heritage item by Schedule 5 Part 1 of the Woollahra LEP 2012.
- <u>Is not</u> located within a Heritage Conservation Area as defined by Schedule 5 Part 2 of the Woollahra LEP 2012.

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#### 4.3 View Corridors

View corridors towards the Croquet Club from the surrounding Woollahra Golf Course and the wider public domain are limited by the vegetation that surrounds the Croquet Clubhouse and lawn. There are only glimpses of the lawn and Clubhouse from the immediately surrounding area. Within the confines of the Croquet Club, the views towards the southern elevation of the Clubhouse, across the lawns, are the most significant. Views out of the Croquet Club grounds are contained by the surrounding vegetation. Refer to Figures 62 to 64.



Figure 62: View towards the Sydney Croquet Club on approach from the carpark.



Figure 63: Typical tree lined view towards the croquet lawn and southern elevation of the Clubhouse from outside of the immediate Croquet Club grounds.



Figure 64: The Croquet Clubhouse, marked by the arrow, is concealed by vegetation O'Sullivan Road.

#### 4.4 Integrity

The Croquet Club was established in this location with two croquet lawns; these two lawns remain. The lawns have been regraded and replanted over time. Fencing has also been changed over time.

The way the Croquet Club is accessed has changed over time. As shown by Figure 6, the Club once had direct access to O'Sullivan Road from the western end of the Clubhouse, across the golf course. This road no longer exists and the Croquet Club is now accessed through the golf course car park.

The Clubhouse demonstrates high external integrity. There do not appear to have been any major additions to the building. The most notable changes are the painting of the once oiled split logs and timber work and the replacement of the tile roof with a corrugated metal roof. Note: The original plans have not been located.

The interior layout appears to be largely original. The fibro-lined walls; timber lined and fibro-lined ceilings; profiled timber architraves; and three panel doors are consistent with the original construction date. It is not known if the kitchen and bathrooms were originally more separated from the main club space than they are today. The ripple iron wall cladding may also be original or early in date. The tiling in the Clubhouse kitchen may similarly be original or early in date. There is some confusion as to when the lockers were installed; this appears, however, to have been soon after the Clubhouse was opened. The existing lockers are likely to be the same lockers installed in the 1930s. Also of note, is the Club's moveable heritage, including honour boards, photographs, pennants and trophies. There is a fixed plaque recording the opening of the Clubhouse on the exterior wall.

The two shelters on the southern side of the croquet lawns are likely those constructed in 1964.

It is noted the setting of the Croquet Clubhouse and lawns has changed significantly over time as the large trees that surround it have matured. In the historic photographs (Figures 5 and 6) the Club lies within a largely open landscape.

#### 4.5 Comparative Analysis

### 4.5.1 Croquet Clubs

As set out in Table 1 below, there are five croquet clubs listed on the State Heritage Inventory. None of these examples are listed on the State Heritage Register.

The listed clubhouses are all modest buildings; they are all smaller in size than the Sydney Croquet Clubhouse. Construction materials vary; the most common are weatherboard and other light-weight materials. The primary reasons for listing are their association with local recreation and, in some instances, the architectural merit of the building.

Council Minutes demonstrate Woollahra Council's interest in the provision of recreational facilities during the Inter-War period. The Sydney Croquet Club lawns were one of several recreational facilities constructed by Council during this period. Other examples include ovals, tennis courts, parks and the surrounding golf course. Within the immediate area, recreational facilities that date from a similar period to the Croquet Clubhouse include the Grimley Pavilion and the Woollahra Golf Clubhouse, both of which have undergone a greater degree of alteration than the subject building.

While a different type of building construction, the Croquet Clubhouse demonstrates a comparable or greater level of architectural merit to the listed examples.

Item/Date	Address	Reasons For Listing	Photograph
Wagga Wagga Croquet Club Date: c.1930s	No. 25 Fitzhardinge Street, Wagga Wagga	Modest example of an Art Deco Building; significant associations with provision of recreational facilities to Wagga Wagga.	Google Maps.  Masonry building.
Croquet Clubhouse, Alstonville  Date: Unknown. Club est. c.1930s	Pearches Creek Road (Lumley Park), Alstonville	Significant for the recreational history of the area.	No photograph or description found.

Item/Date	Address	Reasons For Listing	Photograph
Croquet Clubhouse, Marrickville  Date: Unknown. Club formed c.1927	Lawson Street, Marrickville	Social significance; rare building type (i.e. as a croquet club building)	SHI Listing Sheet. Weatherboard building.
Croquet Lawn and Pavilion, Epping  Date: c.1940s.	No. 43A and 47 Kent (Cnr) Street, Epping	Historic significance and ability to demonstrate Council's view of public recreation at time.	Google Maps. Fibro building.
Eastwood Park Pavilion Date: c.1935	No. 45 West Parade, Eastwood	Historic, social and aesthetic significance as highly intact croquet pavilion since in use for original purpose.	Google Images. Stone and weatherboard building.

Item/Date A	Address	Reasons For Listing	Photograph
including S	Macquarie Street, Faree	Important open space (the park) structured for active and passive recreation.	SHI Listing Sheet. Weatherboard building.

Table 1: Examples of Croquet Clubs listed on the State Heritage Inventory.

 $Identified\ Post\ World\ War\ II\ examples\ are\ generally\ simpler\ buildings,\ will\ little\ architectural\ pretension.\ Refer\ to\ Table\ 2.$ 

Item/Date	Address	Reasons For Listing	Photograph
Coogee Croquet Club Date: Post World War II	Smithfield Avenue, Coogee	Not listed	Google Maps. Weatherboard clad building with brick elements.

Item/Date	Address	Reasons For Listing	Photograph
Hunters Hill Croquet Club Date: Post World War II.	No. 1 Matthew Street, Hunters Hill	Not listed.	Google Maps.  Proprietory clad building.
Killara Croquet Club. Date: Post World War II.	Lorne Avenue, Killara	Not listed.	Google Maps.
			Weatherboard clad building.

 $Table\ 2: Examples\ of\ Croquet\ Clubs\ not\ listed\ on\ the\ State\ Heritage\ Inventory.$ 

Two Inter-War interstate examples are provided by Williamstown Croquet Club, an architect designed croquet club (Morsby and Coates), c.1930s (Figure) and Canberra Croquet Club.<sup>60</sup> Refer to Figures 62 and 53. The subject building demonstrates a comparable level of architectural merit to the Williamstown Croquet Club, which is the only other example known to have been architecturally designed.

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 $<sup>^{60}</sup>$  Architect and date of Williamstown Club building identified with reference to 'Croquet Pavilion at Williamstown, Victoria,' *Building*, 12 March, 1930, p.57.



Figure 65: Williamstown Croquet Club. Google Images. Weatherboard and roughcast.



Figure 66: Williamstown Croquet Club.

Google Images

Fibre-cement sheet and battening.

### 4.5.2 M.V. E. Woodforde

Two examples of Woodforde's work are listed on Council Local Environmental Plans in NSW:

- Former Cyclone Fence and Gate factory, No. 61 Mentmore Avenue, Rosebery.
- Northbridge Golf Club, Northbridge.

Woodforde may also have designed the State heritage listed Roxy Theatre and Peters Greek Café Complex in Bingara and the Gainsborough, in Woollahra, which are identified by its listing sheet as being designed by 'Mark' Woodforde. No architect of this name has been identified.

As set out in Section 2.5, the architect M.V.W. Woodforde worked in a variety of styles. It is difficult to identify distinct characteristics. Arguably, his most noteworthy buildings are the two listed examples. In terms of size and cost of commission, the Croquet Clubhouse is a modest example of his work. Two other examples of his work in Woollahra have been identified, being the Woollahra Golf club and the Baby Health Care Centre on the corner of New South Head Road and Sherbrook Avenue. Whilst the former has been significantly altered, the latter is substantially intact and was a significantly larger commission. The Sydney Croquet Clubhouse appears to have been a minor commission, as part of his work as Council's architect. It is not recognisable as an example of his work without reference to documentary evidence.

### 4.5.3 Split Log Buildings

No split log buildings dating from the Inter-War period are listed on the State Heritage Inventory and none are known to the authors of this statement. It is possible that split log buildings from this period may survive and are yet to be identified. It is not likely, however, that many buildings of a comparable size and level of sophistication survive. One other example, which is not heritage listed, is provided by a building at No. 364 The



Entrance Road, Long Jetty. Refer to Figure 67. The date of this building, originally a dwelling, is known. It appears, however, to be an Inter-War period building.

Figure 67: No. 364 The Entrance Road, Long Jetty. Google Maps.

#### 4.6 Significance

The Sydney Croquet Club is assessed for heritage significance under the following criterion of the New South Wales Heritage Office, now Heritage NSW, to determine if it meets the threshold for listing as a heritage item. The Guidelines for Inclusion/Exclusion are as provided by *Assessing Heritage Significance*, *NSW Heritage Manual Update*.

In order to be listed at a local level, a site must fulfil at least one of the following criteria. To be assessed for listing on the State Heritage Register an item will, in the opinion of the Heritage Council of NSW, meet more than one of the following criteria or if an item satisfies only one of the criteria, the item is of such particular significance that it should be listed.

### 4.6.1 Criterion (a)

An item is important in the course, or pattern, of New South Wales' cultural or natural history (or the cultural of natural history of the local area)

Guidelines for Inclusion	Guidelines for Exclusion
shows evidence of a significant human activity	<ul> <li>has incidental or unsubstantiated connections with historically important activities or processes</li> </ul>
is associated with a significant activity or historical phase	<ul> <li>provides evidence of activities or processes that are of dubious historical importance</li> </ul>
maintains or shows continuity of a historical process or activity	has been altered so that is can no longer provide evidence of a particular association

The Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:

 The Croquet Clubhouse and lawns were built by Woollahra Council in the early 1930s at time when Council was demonstrating a strong interest in the provision of recreational facilities. This interest continues today.

- The Sydney Croquet Club has continuously leased the lawns and Clubhouse from the Council since 1934. They are one of several well-established local recreational clubs. The Club is part of a larger pattern of croquet clubs that extends State wide.
- The Club premises, in particularly the Clubhouse, demonstrates a high degree of integrity.

#### 4.6.2 **Criterion (b)**

An item has strong or special association with the life or works of a person, or group of persons, of importance in New South Wales' cultural or natural history (or the cultural or natural history of the local area).

Guidelines for Inclusion	Guidelines for Exclusion
shows evidence of a significant human occupation	<ul> <li>has incidental or unsubstantiated connections with historically important people or events</li> </ul>
is associated with a significant event, person, or group of persons	provides evidence of people or events that are of dubious historical importance
maintains or shows continuity of a historical process or activity	has been altered so that is can no longer provide evidence of a particular association

The Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:

- For its association with Woollahra Council, who constructed the lawns and Clubhouse and continue to own the site. The building is part of a body of evidence of their long held interest in and provision of public recreational facilities.
- For its long association with the Sydney Croquet Club. The Club's moveable heritage, housed within the Clubhouse, is of note.
- For its association with Council's officially appointed architect during the 1930s, M.V.E. Woodforde. The building is substantially intact and clearly linked by documentary evidence to this architect.

### 4.6.3 Criterion (c)

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

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

The Sydney Croquet Club, Woollahra, has local and State significance under this criterion for the following reasons:

- The Clubhouse is a rare and intact example of an Inter-War period split-log building. Split log construction was promoted during the Inter-War period as a way of constructing cost effective recreational buildings. This is the only known example in Woollahra. Few examples of this construction technique of this size and integrity appear to survive in New South Wales.
- The Clubhouse is an example of the popular Inter-War Bungalow Style adapted to suit split-log construction.
- The Clubhouse and lawns have high visual and sensory appeal. The vegetation
  that surrounds them creates a unique, self-contained, setting that has only
  changed as the trees have matured.

#### 4.6.4 Criterion (d)

An item has strong or special association with a particular community or cultural group in New South Wales (or the local area) for social, cultural or spiritual reasons.

Guidelines for Inclusion	Guidelines for Exclusion
is important for its association with an identifiable group	is only important to the community for amenity reasons
is important to a community's sense of place	is retained only in preference to a proposed alternative

No formal assessment of the value in which the premises is held by the Club members has been carried out. It is apparent, however, from brief conservations held that the members take great pride in their Clubhouse and lawns. Significance under this criterion is at a local level only.

### 4.6.5 Criterion (e)

An item has potential to yield information that will contribute to an understanding of New South Wales' cultural or natural history (or the cultural or natural history of the local area)

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

The Sydney Croquet Club, Woollahra, has State significance under this criterion for the following reasons:

The Clubhouse is a rare example of a large Inter-War period split log building. This
type of construction is rare within Woollahra. Few examples of this construction
technique of this size and integrity appear to survive in New South Wales.

In addition to the above, the Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:

 As an example of a long running local club using facilities provided for by Council.

WEIR PHILLIPS HERITAGE AND PLANNING

#### 4.6.6 Criterion (f)

An item possesses uncommon, rare or endangered aspects of New South Wales' cultural or natural history (of the cultural or natural history of the local area)

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

The Sydney Croquet Club, Woollahra, has local and State significance under this criterion for the following reasons:

The Clubhouse is a rare example of an Inter-War period split log building. It is
the only known example in Woollahra. Few examples of this construction
technique of this size and integrity appear to survive in New South Wales.

### 4.6.7 Criterion (g)

An item is important in demonstrating the principal characteristics of a class of New South Wales (or a class of the local areas):

- Cultural or natural places; or
- · Cultural or natural environments

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

The Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:

- The site is a fine example of a long standing local recreational club with an unbroken association with is premises.
- The site demonstrates Council's growing interest in the Inter-War period in the provision of public recreational facilities, an interest that is sustained today.
- The site demonstrates high integrity.

#### 4.7 Statement of Significance

The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales has local and State significance. Designed by Council's architect M.V.E. Woodforde and built in 1934, the building is substantially intact.

The Clubhouse has State significance as a rare example of a large Inter-War period splitlog building.

The Sydney Croquet Club, including the Clubhouse (exterior, interior), moveable heritage items and lawns, has local significance as a long standing recreational club with an unbroken association with its premises. The Clubhouse and lawns were one of a number of facilities established by Woollahra Council during the Inter-War period in line with their growing interest in the provision of public recreational facilities, an interest that continues today. The Sydney Croquet Club is part of a wider pattern of croquet clubs throughout New South Wales. The Clubhouse houses a significant collection of Club memorabilia.

The Clubhouse and lawns have aesthetic significance for the qualities of its setting. The Clubhouse and lawns are contained by trees which have matured over time, providing a distinct enclosed setting that has changed only as the trees have matured.

#### 5.0 CONCLUSION

This assessment has outlined the history of the Sydney Croquet Club and established its significance. The Croquet Club, established in 1934, is one of a number of sporting clubs in Woollahra that have a long association with their premises. The Club facilities were built during a period when Council were showing a growing interested in providing public sporting facilities. The Clubhouse that Council erected for the Croquet Club is the only known example of a large split long building of this size within the municipality; it is rare in New South Wales.

#### 6.0 RECOMMENDATIONS

It is recommended that:

- The Sydney Croquet Club (clubhouse including interiors, moveable heritage and lawns) be listed as a heritage item by Schedule 5 Part 1 of the Woollahra LEP 2014. The site meets the threshold for listing Heritage NSW under criteria (a), (b), (c), (d), (e), (f) and (g).
- The Sydney Croquet Club (clubhouse including interiors, moveable heritage and lawns) is nominated for listing on the State Heritage Register. The site meets the threshold for listing undercriteria (c), (e) and (f).
- The recommended curtilage for both listings is part of Lot 1319 D.P.1222163.
   The curtilage is for 5m to the east, westand south of the croquet lawns and Clubhouse (including the mature trees along the southern boundary) and 5m to the north of the Clubhouse.
- That a Conservation Management Plan, including a schedule of conservation works, be prepared for the site to identify the elements of significance, provide guidelines for its conservation, ongoing maintenance and any future works.

WEIR PHILLIPS HERITAGE AND PLANNING

Name of Item	Sydney Cro	quet Club (c	ITEM DE		ors, moveable l	heritage item	ns and l	awns)
Other Name/s Former Name/s	-							
Item type (if known)								
Item group (if known)								
Item category (if known)								
Area, Group, or Collection Name								
Street number	-							
Street name		ark, off O'S	ullivan Road					
Suburb/town	Rose Bay					Pos	tcode	2029
Local Government Area/s	Woollahra							
Property description	Part of Lot 1	1319 D.P.12	22163					
Location - Lat/long	Latitude				Longitude			
Location - AMG (if no street address)	Zone		Easting			Northing		
Owner	Woollahra M	·						
Current use	Croquet Clu							
Former Use	Croquet Clu	b and lawns	<b>;</b>					
Statement of significance	significance. substantially	. Designed by intact.	ub, off O'Sullivar	nitect M.V.	E. Woodforde a	and built in 1	934, th	e building is
	The Sydney lawns, has le premises. The Council duri recreational	Croquet Clu ocal significa he Clubhous ng the Inter- facilities, an roquet Clubs	ub, including the ance as a long s se and lawns we War period in lin interest that co	Clubhous standing re are one of the with the ontinues too	se (exterior, inte- creational Club a number of fac ir growing inter day. The Sydne	erior), movea o with an unb cilities establi rest in the pro ey Croquet C	ble her roken a ished b ovision tlub is p	association with its y Woollahra of public
	and lawns a	re contained	ns have aesthet d by trees which is the trees have	have mate				The Clubhouse enclosed setting
Level of Significance		State	e 🖂			Local		

DESCRIPTION

1

Designer	Clubhouse: Marcus	Victor Ernest Wo	odforde			
Builder/ maker	Clubhouse: G. Yates					
Physical Description	are surrounded by r northern side of the building erected on (or equivalent). The each with shaped lo each gable is dress arched vent set into timber cupula with o	The Sydney Croquet Club lies within the Woollahra Golf Course. The Clubhouse and croquet lawns are surrounded by mature trees, creating a distinct, enclosed setting. The Clubhouse is located on the northern side of the croquet lawns. The Clubhouse is a free standing, timber framed, painted split-log building erected on a brick base. The building has a hipped and gabled roof clad in green Colorbond (or equivalent). The centre of the southern and northern roof planes are interrupted by a wide gable, each with shaped log bargeboards supported by brackets constructed of log ends. The lower part of each gable is dressed with split logs; the apex is finished with terracotta shingle. There is a small arched vent set into the shingle. Behind the gables, and rising above the ridge of the roof, is a small timber cupula with gabled roof. The faces of the cupula are finished with two rows of three small blind arches. The eaves of the building are wide and timber lined.				
	asymmetrically arra occupied by a verar dressed timber colu free standing rustic the verandah. There western end. The ve timber framed doub	The principal elevation is the southern elevation, overlooking the croquet lawns. The elevation is asymmetrically arranged. The eastern-most end (extending partially under the gable) is inset and occupied by a verandah set beneath the main roof. The verandah has a timber board floor; roughly dressed timber columns with brackets; a rustic timber balustrade; and timber lined ceiling. There are free standing rustic style benches on the verandah. A timber panel door leads into the building from the verandah. There is a smaller similarly detailed verandah, also set under the main roof, at the western end. The verandah at the western end returns part way along the northern side. Windows are timber framed double hung windows with multiple panes to each sash. The remaining elevations have similar characteristics.				
	western corner of th	The building appears substantially intact internally. Of particular note is the locker room in the south western corner of the Clubhouse, with its ripple iron walls, strapped ceiling, stained timber lockers and benches and Club pennant collection.				
			elters on the southern sid	e of the croquet law	ns.	
Physical condition and	Physical condition:	good.				
Archaeological potential	Archaeological potential: unknown. Note: no structures are known to have stood on this site prior to the construction of the Clubhouse.					
Construction years	Start year	1935	Finish year	1935	Circa	
Modifications and dates	Erection of two sma	all shelters on the soriginal tiled roof	e eastern side (November southern side of the lawns of the Clubhouse with Co as of the Clubhouse (after	s, replacing earlier s		
Further comments						

	HISTORY
Historical notes	The Clubhouse and lawns:
	Woollahra Council Minutes of the 1920s and 1930s reveal a keen awareness of the importance of public open space and publicly accessible recreational facilities. In 1923, Woollahra Council received permission from the Governor of NSW to borrow £20,000 for the 'acquisition of park and recreation areas and the improvement thereof.' Accordingly, Woollahra Park was created and the first sod of earth turned by Alderman Grimley on 25 October 1924.
	In 1933, Council began investigating the possibility of constructing croquet lawns in Woollahra Park. The Sydney Croquet Club, which had been established in Rushcutters Bay in the 1920s, took up the offer of the lease. During early 1934, Council Minutes show that various proposals were put forward for the design of a clubhouse. The Clubhouse that was eventually built was designed by M.V.E. Woodforde, who designed numerous other projects for Council from 1933. The original plans have not been located. The tender of G. Yates of Rockdale for £972, was accepted in late 1934.
	The Clubhouse and lawns were officially opened on 27 April 1935 by the Mayor of Woollahra. The Clubhouse has been shared with other sporting associations over time, including the Woollahra Golf Club and the Colleagues Football Club.
	Two small shelters were erected on the southern side of the croquet lawns (replacing earlier structures) in 1964.
	The Architect:
	According to "Who's Who' in <i>Decoration and Glass</i> in February, 1940, Marcus Victor Ernest Woodforde served his articles with Herbert E. Ross of H.E. Ross and Rowe prior to enlisting with the Australian Imperial Services during World War I, where he served in France. He later returned to H.E. Ross and Rowe before working with Henry E. Budden and Greenwell, during which time he attended the Atelier at the University of Sydney studying design under Professor Leslie Wilkinson. After a third period with H.E. Ross and Rowe, during which time he worked on the Commonwealth Bank in Martin Place, he commenced private practice (1928), executing various commissions. In 1933, he was appointed as architect to the Municipality of Woollahra. Woodforde worked on residential and commercial commissions and in a variety of architectural styles.

	THEMES				
National	8 Developing Australia's cultural life				
historical theme					
State	Creative Endeavour.				
historical theme	Leisure				
	Social institutions.				
	Sport				

	APPLICATION OF CRITERIA
Historical significance SHR criteria (a)	The Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:  The lawns and Clubhouse were built by Woollahra Council in the early 1930s at time when Council was demonstrating a strong interest in the provision of recreational facilities. This interest continues today.  The Sydney Croquet Club has continuously leased the lawns and Clubhouse from the Council since 1934. They are a well-established local recreational Club. The Club is part of a larger pattern of croquet clubs that extends state wide.  The Club premises, in particularly the Clubhouse, demonstrates a high degree of integrity.
Historical association significance SHR criteria (b)	<ul> <li>The Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:</li> <li>For its association with Woollahra Council, who constructed the lawns and Clubhouse and continue to own the site. The building is part of a body of evidence of their long held interest in and provision of public recreational facilities.</li> <li>For its long association with the Sydney Croquet Club. The Club's moveable heritage housed within the Clubhouse is of note.</li> <li>For its association with Council's officially appointed architect during the 1930s, M.V.E. Woodforde. The building is substantially intact and clearly linked by documentary evidence to this architect.</li> </ul>
Aesthetic significance SHR criteria (c)	The Sydney Croquet Club, Woollahra, has local and State significance under this criterion for the following reasons:  The Clubhouse is a rare and intact example of an Inter-War period split-log building. Split log construction was promoted during the Inter-War period as a way of constructing cost effective recreational buildings. This is the only known example in Woollahra. Few examples of this construction technique of this size and integrity appear to survive in New South Wales.  The Clubhouse is an example of the popular Inter-War Bungalow Style adapted to suit split-log construction.  The Clubhouse and lawns have high visual and sensory appeal. The vegetation that surrounds them creates a unique, self- contained, setting that has only changed as the trees have matured.
Social significance SHR criteria (d)	No formal assessment of the value in which the premises is held by the Club members has been carried out. It is apparent, however, from brief conservations that the members take great pride in their Clubhouse and lawns. Significance under this criterion is at a local level only.
Technical/Research significance SHR criteria (e)	The Sydney Croquet Club, Woollahra, has local and State significance under this criterion for the following reasons:  The Clubhouse is a rare example of a large Inter-War period split log building. This type of construction is rare within Woollahra. Few examples of this construction technique of this size and integrity appear to survive in New South Wales.
Rarity SHR criteria (f)	The Sydney Croquet Club, Woollahra, has local and state significance under this criterion for the following reasons:  The Clubhouse is a rare example of an Inter-War period split log building. It is the only known example in Woollahra. Few examples of this construction technique of this size and integrity appear to survive in New South Wales.

Representativeness SHR criteria (g)	The Sydney Croquet Club, Woollahra, has local significance under this criterion for the following reasons:  The site is a fine example of a long standing local recreational club with an unbroken association with is premises.  The site demonstrates Council's growing interest in the Inter-War period in the provision of public recreational facilities, an interest that is sustained today.  The site demonstrates high integrity.
Integrity	High. Note: The roofing material has been replaced; the once oiled split logs have been painted.

	HERITAGE LISTINGS				
Heritage listing/s					

		INFORMATION SOURCES					
	Include conservation and/or management plans and other heritage studies.						
Type	Author/Client	Title	Year	Repository			
Written	Weir Phillips Heritage and Planning	Sydney Croquet Club, Woollahra Park, off O'Sullivan Road, Rose Bay: Heritage Assessment	2019	Woollahra Council			
Written	-	Sydney Croquet Club, Clubhouse Log Cabin- Woollahra Park, 50 <sup>th</sup> Anniversary, Saturday, 27 April, 1985	1985	Woollahra Library			
Written	-	'New Croquet Lawns: Opened at Woollahra Park,' <i>The Sydney Morning Herald</i> , 2 May, 1935.	1935	TROVE			
Written	Woollahra Municipal Council	Woollahra Council Minutes	Variou s	Woollahra Library			
Photogra- phic		(Sydney Croquet Club), undated.	1930s (?)	Sydney Croquet Club			
Photogra- phic		(Sydney Croquet Club), 1977	1977	Sydney Croquet Club			

	RECOMMENDATIONS
Recommendations	It is recommended that the Sydney Croquet Club, Clubhouse (exterior and interior), moveable heritage items and lawns be listed as a heritage item on the <i>Woollahra Local Environmental Plan 2014</i> .  It is recommended that the item has a reduced lot boundary curtilage that includes the Clubhouse, lawns and the mature plantings that surround it.
	It is recommended that a Conservation Management Plan be prepared for the site.

SOURCE OF THIS INFORMATION					
Name of study or	Sydney Croquet Club, Woollahra Park, off O'Sullivan Road, Rose Bay:	Year of study	2019		
report	Heritage Assessment	or report			
Item number in study					
or report					
Author of study or	Weir Phillips Heritage and Planning				
report					
Inspected by	Alice Fuller				

NSW Heritage Manual	guidelines used?	Yes 🖂		No 🗌
This form completed by	Alice Fuller	Date	Septe 2019	ember

		IMAGE	ES - 1 per page		
Image caption	Aerial photograph	over the Sydney C	roquet Club		
Image year		Image by	SIX Maps	Image copyright holder	SIX Maps



Image caption	View north acro	View north across the croquet lawns towards the front elevation of the Clubhouse			
Image year	2019	Image by	Weir Phillips Heritage and Planning	Image copyright holder	WP Heritage and Planning



Image caption	Front, southern, elev	vation of the Clubhous	e.		
Image year	2019	Image year	2019	Image year	2019



Image caption	Western elevation of	f the Clubhouse.			
Image year	2019	Image year	2019	Image year	2019

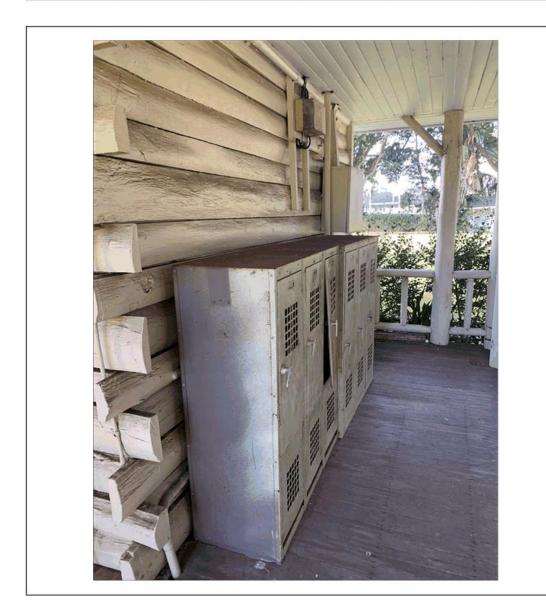


Image caption	Northern elevation of	f the Clubhouse			
Image year	2019	Image year	2019	Image year	2019

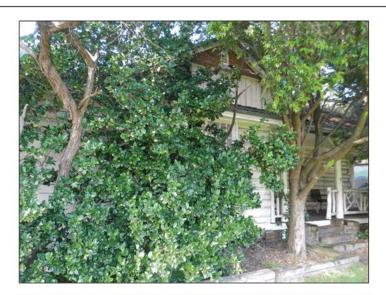




Image caption	Eastern elevation of	the Clubhouse			
Image year	2019	Image year	2019	Image year	2019

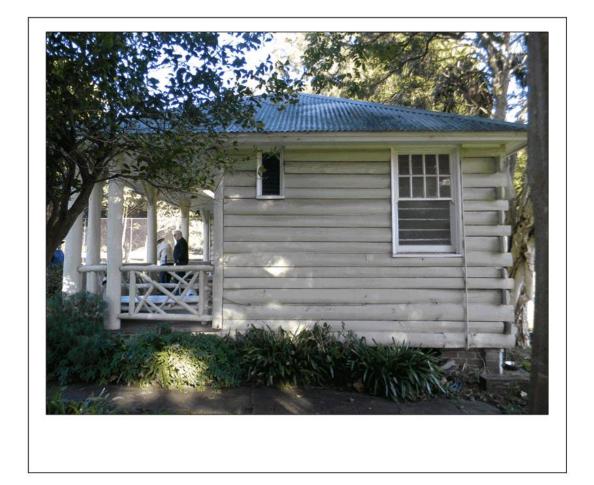


Image caption	Main Club room				
Image year	2019	Image year	2019	Image year	2019

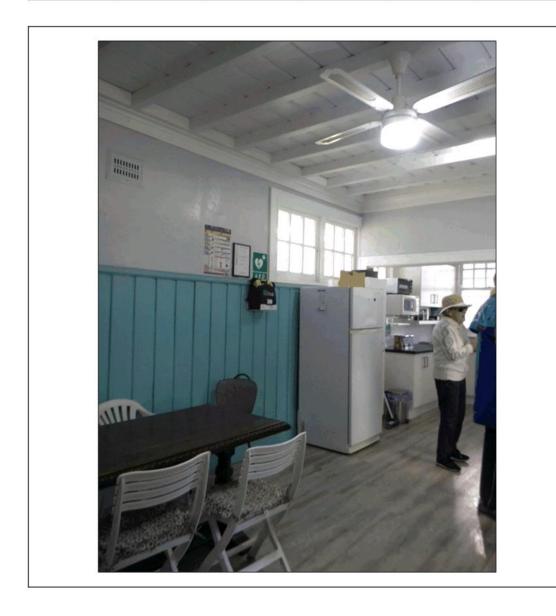
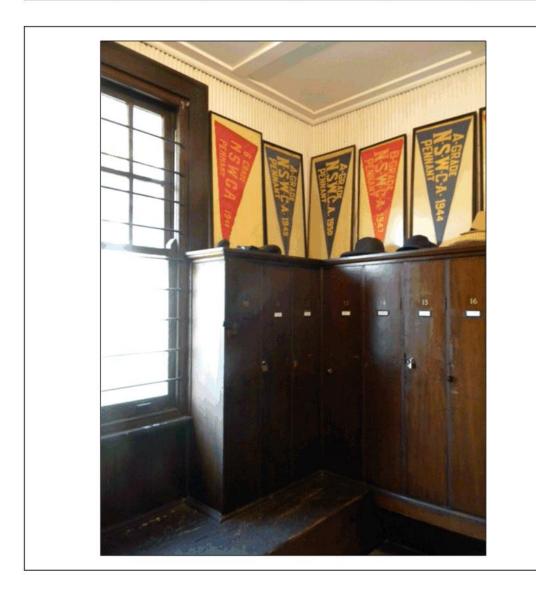


Image caption	Locker Room				
Image year	2019	Image by	Weir Phillips Heritage and Planning	Image copyright holder	WP Heritage and Planning



Sydney Croquet Club (clubhouse including interiors, moveable heritage items and lawns)						
-						
	Park, off O'Sullivan Road					
,				Posto	code	2029
Part of Lot 1	1319 D.P.1222163					
Latitude			Longitude			
Zone				Northing		
	'					
·						
The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales has State significance for its clubhouse, which is a rare example of a large Inter-War period split-log building. Designed by Council's architect M.V.E. Woodforde and built in 1934, the building is substantially intact.						
The Sydney Croquet Club has aesthetic significance for the qualities of its setting. The clubhouse and lawns are contained by trees which have matured over time, providing a distinct enclosed setting that has changed only as the trees have matured.						
	State ⊠			Local		
	- Woollahra F Rose Bay Woollahra Part of Lot 1 Latitude Zone Woollahra M Croquet clul The Sydney for its clubh Council's ar The Sydney and lawns a	- Woollahra Park, off O'Sullivan Road Rose Bay Woollahra Part of Lot 1319 D.P.1222163 Latitude Zone Easting Woollahra Municipal Council Croquet club and lawns Croquet club and lawns The Sydney Croquet Club, off O'Sulliva for its clubhouse, which is a rare examp Council's architect M.V.E. Woodforde at The Sydney Croquet Club has aesthetiand lawns are contained by trees which that has changed only as the trees have	- Woollahra Park, off O'Sullivan Road Rose Bay Woollahra Part of Lot 1319 D.P.1222163 Latitude Zone Easting Woollahra Municipal Council Croquet club and lawns Croquet club and lawns The Sydney Croquet Club, off O'Sullivan Road, W for its clubhouse, which is a rare example of a larg Council's architect M.V.E. Woodforde and built in The Sydney Croquet Club has aesthetic significan and lawns are contained by trees which have mat that has changed only as the trees have matured.	Sydney Croquet Club (clubhouse including interiors, moveable  - Woollahra Park, off O'Sullivan Road  Rose Bay  Woollahra  Part of Lot 1319 D.P.1222163  Latitude  Zone  Easting  Woollahra Municipal Council  Croquet club and lawns  Croquet club and lawns  The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New for its clubhouse, which is a rare example of a large Inter-War procouncil's architect M.V.E. Woodforde and built in 1934, the built The Sydney Croquet Club has aesthetic significance for the qual and lawns are contained by trees which have matured over time that has changed only as the trees have matured.	- Woollahra Park, off O'Sullivan Road  Rose Bay Post  Woollahra  Part of Lot 1319 D.P.1222163  Latitude Longitude  Zone Easting Northing  Woollahra Municipal Council  Croquet club and lawns  Croquet club and lawns  The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales for its clubhouse, which is a rare example of a large Inter-War period split-log Council's architect M.V.E. Woodforde and built in 1934, the building is substant lawns are contained by trees which have matured over time, providing a contained and the contained by trees which have matured over time, providing a contained to the contained by trees which have matured over time, providing a contained to the contained by trees which have matured over time, providing a contained to the contained by trees which have matured over time, providing a contained to the conta	Sydney Croquet Club (clubhouse including interiors, moveable heritage items and  - Woollahra Park, off O'Sullivan Road  Rose Bay Postcode  Woollahra  Part of Lot 1319 D.P.1222163  Latitude Longitude  Zone Easting Northing  Woollahra Municipal Council  Croquet club and lawns  Croquet club and lawns  The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales has 5 for its clubhouse, which is a rare example of a large Inter-War period split-log buildic Council's architect M.V.E. Woodforde and built in 1934, the building is substantially  The Sydney Croquet Club has aesthetic significance for the qualities of its setting, and lawns are contained by trees which have matured over time, providing a distinct that has changed only as the trees have matured.

		DESC	RIPTION			
Designer	Clubhouse: Marcus	Victor Ernest Wo	odforde			
Builder/ maker	Clubhouse: G. Yates					
Physical Description	The Sydney Croquet Club lies within the Woollahra Golf Course. The clubhouse and croquet lawns are surrounded by mature trees, creating a distinct, enclosed setting. The clubhouse is located on the northern side of the croquet lawns. The clubhouse is a free standing, timber framed, painted split-log building erected on a brick base. The building has a hipped and gabled roof clad in green Colorbond (or equivalent). The centre of the southern and northern roof planes are interrupted by a wide gable, each with shaped log bargeboards supported by brackets constructed of log ends. The lower part of each gable is dressed with split logs; the apex is finished with terracotta shingle. There is a small arched vent set into the shingle. Behind the gables, and rising above the ridge of the roof, is a small timber cupula with gabled roof. The faces of the cupula are finished with two row of three small blind arches. The eaves of the building are wide and timber lined.					
	The principal elevation is the southern elevation, overlooking the croquet lawns. The elevation is asymmetrically arranged. The eastern-most end (extending partially under the gable) is inset and occupied by a verandah set beneath the main roof. The verandah has a timber board floor; roughly dressed timber columns with brackets; a rustic timber balustrade; and timber lined ceiling. There are free standing rustic style benches on the verandah. A timber panel door leads into the building from the verandah. There is a smaller similarly detailed verandah, also set under the main roof, at the western end. The verandah at the western end returns part way along the northern side. Windows are timber framed double hung windows with multiple panes to each sash. The remaining elevations have similar characteristics.  The building appears substantially intact internally. Of particular note is the locker room in the south western corner of the clubhouse, with its ripple iron walls, strapped ceiling, stained timber lockers and benches and club pennant collection.					
Physical condition and Archaeological potential	Physical condition:	good. ntial: unknown. N	elters on the southern sidelters on the southern side	-		r to
Construction years	Start year	1935	Finish year	1935	Circa	
Modifications and dates	Extension of the croquet lawns on the eastern side (November 1935).  Erection of two small shelters on the southern side of the lawns, replacing earlier shelters (1964).  Replacement of the original tiled roof of the clubhouse with Colorbond (after 1977).  Painting of the originally oiled split logs of the clubhouse (after 1977).					
Further comments						

	HISTORY
Historical notes	The clubhouse and lawns:
	Woollahra Council Minutes of the 1920s and 1930s reveal a keen awareness of the importance of public open space and publicly accessible recreational facilities. In 1923, Woollahra Council received permission from the Governor of NSW to borrow £20,000 for the 'acquisition of park and recreation areas and the improvement thereof.' Accordingly, Woollahra Park was created and the first sod of earth turned by Alderman Grimley on 25 October, 1924.
	In 1933, Council began investigating the possibility of constructing croquet lawns in Woollahra Park. The Sydney Croquet Club, which had been established in Rushcutters Bay in the 1920s, took up the offer of the lease. During early 1934, Council Minutes show that various proposals were put forward for the design of a clubhouse. The clubhouse that was eventually built was designed by M.V.E. Woodforde, who designed numerous other projects for Council from 1933. The original plans have not been located. The tender of G. Yates of Rockdale for £972, was accepted in late 1934.
	The clubhouse and lawns were officially opened on 27 April, 1935 by the Mayor of Woollahra. The clubhouse has been shared with other sporting associations over time, including the Woollahra Golf Club and the Colleagues Football Club.
	Two small shelters were erected on the southern side of the croquet lawns (replacing earlier structures) in 1964.
	The Architect:
	According to 'Who's Who' in Decoration and Glass in February, 1940, Marcus Victor Ernest Woodforde served his articles with Herbert E. Ross of H.E. Ross and Rowe prior to enlisting with the Australian Imperial Services during World War I, where he served in France. He later returned to H.E. Ross and Rowe before working with Henry E. Budden and Greenwell, during which time he attended the Atelier at the University of Sydney studying design under Professor Leslie Wilkinson. After a third period with H.E. Ross and Rowe, during which time he worked on the Commonwealth Bank in Martin Place, he commenced private practice (1928), executing various commissions. In 1933, he was appointed as architect to the Municipality of Woollahra. Woodforde worked on residential and commercial commissions and in a variety of architectural styles.

	THEMES
National	8 Developing Australia's cultural life
historical theme	
State	Creative Endeavour.
historical theme	Leisure
	Social institutions.
	Sport

	APPLICATION OF CRITERIA
Historical significance SHR criteria (a)	Significance under this criteria is at a local level only.
Historical association significance SHR criteria (b)	Significance under this criteria is at a local level only.
Aesthetic significance SHR criteria (c)	The Sydney Croquet Club, Woollahra, has State significance under this criterion for the following reasons:  The clubhouse is a rare example of an Inter-War period split-log building. Split log construction was promoted during the Inter-War period as a way of constructing cost effective recreational buildings. Few examples of this size and integrity appear to survive in New South Wales.
Social significance SHR criteria (d)	Significance under this criteria is at a local level only.
Technical/Research significance SHR criteria (e)	The Sydney Croquet Club, Woollahra, has State significance under this criterion for the following reasons:  The clubhouse is a rare example of a large Inter-War period split log building. Few examples of this construction technique of this size and integrity appear to survive in New South Wales.
Rarity SHR criteria (f)	The Sydney Croquet Club, Woollahra, has State significance under this criterion for the following reasons:  • The clubhouse is a rare example of a large Inter-War period split log building. Few examples of this construction technique of this size and integrity appear to survive in New South Wales.
Representativeness SHR criteria (g)	Significance under this criteria is at a local level only.
Integrity	High. Note: The roofing material has been replaced; the once oiled split logs have been painted.

HERITAGE LISTINGS					
Heritage listing/s					

Туре	Author/Client	Title	Year	Repository
Written	Weir Phillips Heritage and Planning	Sydney Croquet Club, Woollahra Park, off O'Sullivan Road, Rose Bay: Heritage Assessment	2019	Woollahra Council
Written	-	Sydney Croquet Club, Clubhouse Log Cabin- Woollahra Park, 50 <sup>th</sup> Anniversary, Saturday, 27 April, 1985	1985	Woollahra Library
Written	-	'New Croquet Lawns: Opened at Woollahra Park,' The Sydney Morning Herald, 2 May, 1935.	1935	TROVE
Written	Woollahra Municipal Council	Woollahra Council Minutes	Variou s	Woollahra Library
Photogra- phic		(Sydney Croquet Club), undated.	1930s (?)	Sydney Croquet Club
Photogra- phic		(Sydney Croquet Club), 1977	1977	Sydney Croquet Club

RECOMMENDATIONS						
It is recommended that the Sydney Croquet Club, clubhouse, moveable heritage items and lawns be listed as a heritage item on the State Heritage Register on the basis that the clubhouse is a rare and substantially intact example of a large Inter-War period split log building.  It is recommended that the item has a reduced lot boundary curtilage that includes the clubhouse,						
lawns and the mature plantings that surround it.  It is recommended that a Conservation Management Plan be prepared for the site.						

SOURCE OF THIS INFORMATION								
Name of study or	Sydney Croquet Club, Woollahra Park, off O'Sullivan Road, Rose Bay:	Year of study		2019				
report	Heritage Assessment	or report						
Item number in study								
or report								
Author of study or	Weir Phillips Heritage and Planning							
report								
Inspected by	Alice Fuller							
NSW Heritage Manual guidelines used?				No 🗌				
This form completed	Alice Fuller	Date	Septe	mber				
by			2019					

		IMAGE	ES - 1 per page		
Image caption	Aerial photograp	h over the Sydney C	roquet Club		
Image year		Image by	SIX Maps	Image copyright holder	SIX Maps



Image caption	View north across the croquet lawns towards the front elevation of the clubhouse				
Image year	2019	Image by	Weir Phillips Heritage and Planning	Image copyright holder	WP Heritage and Planning



Image caption	Front, southern, elevation of the clubhouse.				
Image year	2019	Image year	2019	Image year	2019



Image caption	Western elevation of the clubhouse.				
Image year	2019	Image year	2019	Image year	2019

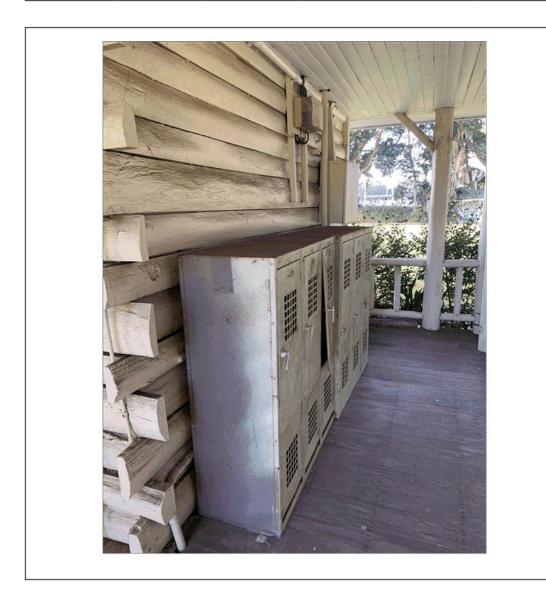


Image caption	Northern elev	Northern elevation of the clubhouse					
Image year	2019	Image year	2019	Image year	2019		





Image caption	Eastern elevation of the clubhouse				
Image year	2019	Image year	2019	Image year	2019

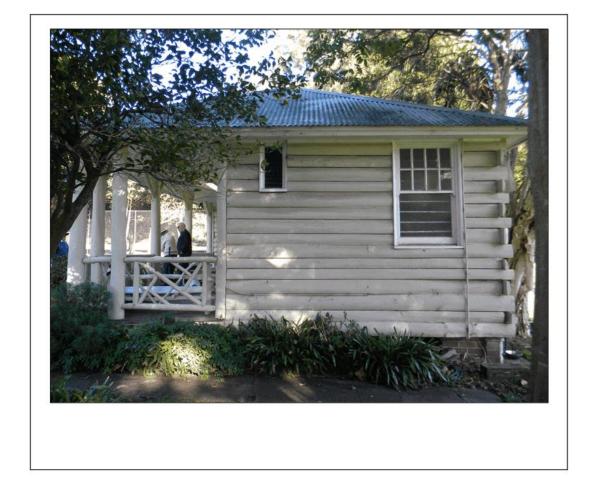


Image caption	Main club room				
Image year	2019	Image year	2019	Image year	2019

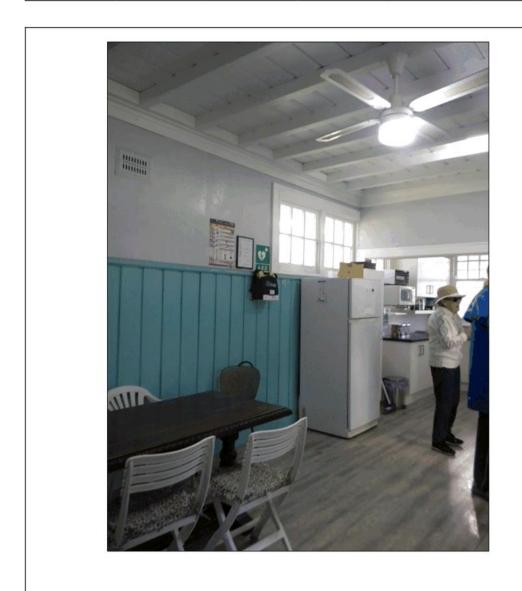
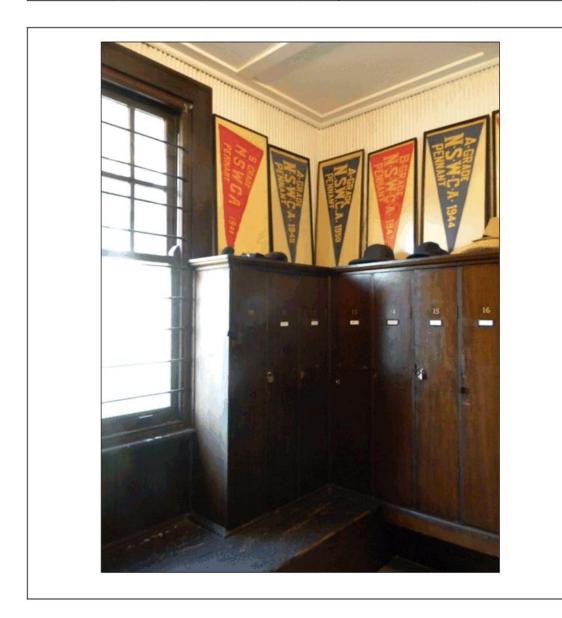


Image caption	Locker Room				
Image year	2019	Image by	Weir Phillips Heritage and Planning	Image copyright holder	WP Heritage and Planning



## **Annexure 3**

Woollahra Municipal Council Environmental Planning Committee Agenda

17 February 2020

Item No: R2 Recommendation to Council

Subject: PLANNING PROPOSAL - HERITAGE LISTING OF SYDNEY CROQUET CLUB AND ROSE BAY SCOUT HALL, ROSE BAY

Author: Shona Lindsay, Heritage Officer

Approvers: Chris Bluett, Manager - Strategic Planning

Allan Coker, Director - Planning & Development

**File No:** 20/3933

**Reason for Report:** To respond to Council's resolution of 23 April 2018 and 6 June 2018 to

investigate the heritage listing of the Sydney Croquet Club and Rose Bay

Scout Hall.

To obtain Council's approval to prepare a planning proposal to list the Sydney Croquet Club and Rose Bay Scout Hall as individual heritage

items in Woollahra Local Environmental Plan 2014.

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 the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* and *Rose Bay Scout Hall (including interiors)* as individual heritage items in *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 23 April 2018 Woollahra Council resolved in part:

THAT Council requests staff to prepare and submit a report including a heritage assessment and draft heritage inventory sheet for each of:

- 1. The Sydney Croquet Club building and greens (having its address in Woollahra Park, O'Sullivan Road, Rose Bay); and
- 2. The Woollahra Golf Club clubhouse and George Grimley Pavilion (having its address in Woollahra Park at 50 O'Sullivan Road, Rose Bay)

to the relevant Council Committee to facilitate the Sydney Croquet Club building and greens and the Woollahra Golf Club clubhouse and George Grimley Pavilion (and their elements) being:

- 1. Included in the Woollahra Local Environmental Plan as a heritage item; and
- 2. Listed as a heritage item of State significance on the NSW State Heritage Register.

On 18 June 2018 Woollahra Council resolved in part:

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#### THAT Council:

- A. Request staff to undertake an assessment of heritage significance for the Rose Bay Scout Hall (former RAAF Officers' Canteen) located in Vickery Avenue, Rose Bay, and report to the Environmental Planning Committee on whether the property has sufficient heritage significance to be listed as:
  - i) a local heritage item in the Woollahra Local Environmental Plan 2014(WLEP), and
  - ii) an item on the State Heritage under the Heritage Act 1977.

In response to Council's decision heritage significance assessments of the *Sydney Croquet Club* and *Rose Bay Scout Hall* were prepared by Weir Phillips Heritage and Planning.

A draft heritage significance assessment of the George Grimley Pavilion and Woollahra Golf Club Clubhouse has also been completed by Weir Phillips Heritage and Planning and is being reviewed. A report will be presented to a forthcoming meeting of the Environmental Planning Committee in the next quarter.

## 2. The sites

Sydney Croquet Club

The Sydney Croquet Club (Figure 1) is located within Woollahra Park, off O'Sullivan Road, Rose Bay. Figure 2 shows the location of Woollahra Park within the surrounding area. Figure 3 shows the location of the Croquet Club within the grounds of Woollahra Park. The Croquet Club stands on part of Lot 1319 D.P. 1222163.

The subject site is not listed on the NSW State Heritage Register (SHR), nor is it identified as a local heritage item or located in a heritage conservation area in Schedule 5 of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).



Figure 1: Sydney Croquet Club, southern elevation (WP Heritage and Planning)

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Figure 2: Location of Woollahra Park within Woollahra (Woollahra Park Plan of Management)



Figure 3: Location of the Croquet Club within Woollahra Park with Croquet Club indicated with arrow (Woollahra Council GIS)

17 February 2020



Figure 4: Aerial photograph over the clubhouse and lawns with club house indicated with arrow (SIX Maps)

Rose Bay Scout Hall

The Rose Bay Scout Hall (Figure 5) is located at No. 3 Vickery Avenue, Rose Bay (Figure 6). The site is identified as Lots 1536 and 1537 D.P. 40022 and Lot 1475 D.P. 752011.

The subject site is not listed on the NSW State Heritage Register (SHR), nor is it identified as a local heritage item or located in a heritage conservation area in Schedule 5 of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).



Figure 5: Rose Bay Scout Hall, front (north-eastern) elevation (WP Heritage and Planning)

17 February 2020

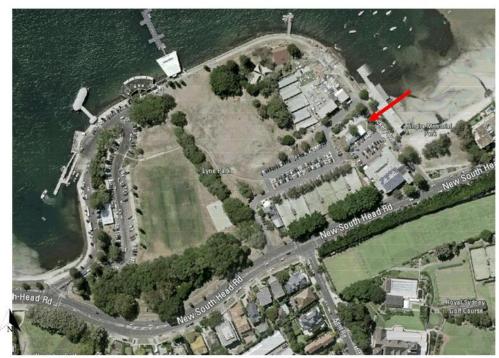


Figure 6: Site location. The arrow points to the site (Woollahra Council GIS)



Figure 7: Aerial photograph over the site with Scout Hall indicated by arrow (SIX Maps; annotation by WP Heritage and Planning)

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#### 3. Assessment of heritage significance

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

The assessments prepared by Weir Phillips Heritage and Planning, which include the assessment against all criteria, are attached as **Annexures 1 and 2**.

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#### Sydney Croquet Club

Table 1 below provides a summary of the assessment of the heritage significance of the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* against the seven criteria, at the local and State levels.

Table 1: NSW Heritage assessment criteria summary - Sydney Croquet Club (clubhouse, moveable heritage items and lawns)

	Criteria	Meets criteria for heritage listing and grading of significance		
		Local	State	
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	*	
(b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)	<b>✓</b>	×	
(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)	✓	<b>✓</b>	
(d)	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons	✓	×	
(e)	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)	✓	<b>✓</b>	
(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)	✓	<b>✓</b>	
(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.	<b>✓</b>	×	

The heritage significance assessment provides the following statement of significance for the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)*:

The Sydney Croquet Club, off O'Sullivan Road, Woollahra, New South Wales has local and State significance. Designed by Council's architect M.V.E. Woodforde and built in 1934, the building is substantially intact.

The Clubhouse has State significance as a rare example of a large Inter-War period split-log building. The Sydney Croquet Club, including the Clubhouse (exterior, interior), moveable heritage items and lawns, has local significance as a long standing recreational Club with an unbroken association with its premises. The Clubhouse and lawns were one of a number of facilities established by Woollahra Council during the Inter-War period in line with their growing interest in the provision of public recreational facilities, an interest that continues

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today. The Sydney Croquet Club is part of a wider pattern of croquet Clubs throughout New South Wales. The Clubhouse houses a significant collection of Club memorabilia.

The Clubhouse and lawns have aesthetic significance for the qualities of its setting. The Clubhouse and lawns are contained by trees which have matured over time, providing a distinct enclosed setting that has changed only as the trees have matured.

(October 2019: Weir Phillips Heritage and Planning: Heritage Assessment, Sydney Croquet Club, p. 46)

#### Rose Bay Scout Hall

Table 2 below provides a summary of the assessment of the heritage significance of the *Rose Bay Scout Hall (including interiors)* against the seven criteria, at the local and State levels.

Table 2: NSW Heritage assessment criteria summary – Rose Bay Scout Hall (including interiors)

Criteria	Meets criteria for heritage listing and grading of significance		
	Local	State	
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)	✓	×	
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)	<b>√</b>	×	
An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	×	
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	✓	*	
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)	×	×	
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)	✓	×	
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	<b>√</b>	×	
	cultural or natural history (or the cultural or natural history of the local area)  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)  An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)  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  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)  An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history of the local area)  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	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)  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)  An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)  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  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)  An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history of the local area)  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	

The heritage significance assessment provides the following statement of significance for the *Rose Bay Scout Hall (including interiors)*:

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The Rose Bay Scout Hall, Rose Bay, has historic and aesthetic significance at a local level. The hall was designed by architect Charles Mack Walker and built in 1940 for the Rose Bay Scouts and Rose Bay Sea Scouts and, except for a brief period during World War II, it has been used by the Scouts (and other community groups) since this time. The hall is one of two known examples of buildings purpose-built for the Scouts in Woollahra during the Inter-War period. The building is a good example of a Scout hall that takes into consideration its setting, in this instance through the inclusion of porthole windows and a roof top deck from which to view Rose Bay. While the interior of the building has undergone some alteration, the exterior of the building is substantially 'as built.'

The Rose Bay Scout Hall has significance for its association, albeit brief, with the adjoining Rose Bay Flying Boat Base. Between October 1942 and the end of World War II, the building was used by the RAAF. The Rose Bay Flying Boat Base played an important service role during World War II and was the sight of huge receptions for returning Prisoners of War after World War II.

(October 2019: Weir Phillips Heritage and Planning: Heritage Assessment, Rose Bay Scout Hall p. 48)

The assessment recommends the listing of the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* and *Rose Bay Scout Hall (including interiors)* as individual local heritage items in Schedule 5 of Woollahra LEP 2014. The report recommends the listing of the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* on the State Heritage Register. The report concluded that the *Rose Bay Scout Hall (including interiors)* does not meet the threshold for State heritage listing.

#### 4. Consultation with the land owner

All land owners and lease holders were consulted during the heritage assessment process.

All land owners and lease holders were provided a copy of the draft heritage significant assessment and draft heritage inventory sheet on 1 November 2019 for the relevant properties. The land owners and lease holders were given until the 2 December 2019 to make a submission. No comments were provided from the relevant land owners and lease holders.

Should a planning proposal proceed to public exhibition, consultation with land owners and tenants will continue.

#### 5. Woollahra Local Planning Panel advice

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

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

17 February 2020

Under the terms of the Direction, the planning proposal to list the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* and *Rose Bay Scout Hall (including interiors)* as individual local heritage items 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.

### 6. Next steps

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

- Prepare a planning proposal under section 3.33 of the Act to list the properties as heritage items in the Woollahra LEP 2014.
- Report a draft planning proposal to the Woollahra LPP for advice;
- Report the advice received from the Woollahra LPP to the Environmental Planning Committee.
- Prepare a State Heritage Register nomination form to be lodged with Heritage NSW for Sydney Croquet Club (clubhouse, moveable heritage items and lawns).
- Further steps will depend on advice from the Woollahra LPP and the decision of the Council following the Environmental Planning Committee meeting.

#### 7. Conclusion

The heritage significance of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) and Rose Bay Scout Hall (including interiors) have been assessed in accordance with the NSW heritage best practice guidelines. The assessments of heritage significance prepared by Weir Phillips Heritage and Planning identify that the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) is of local heritage significance for historical, associative, aesthetic, social, technical, rarity, and representative significance, and is of State heritage significance for aesthetic, technical, and rarity significance. Rose Bay Scout Hall (including interiors) is of local heritage significance for historical, associative, aesthetic, social, rarity, and representative significance.

We recommend the listing of the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* and *Rose Bay Scout Hall (including interiors)* as local heritage items in Schedule 5 of Woollahra LEP 2014.

We recommend the listing of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) on the State Heritage Register.

The Rose Bay Scout Hall (including interiors) does not meet the threshold for State heritage listing.

To facilitate a listing at the local level, a planning proposal should be prepared with the aim of amending Schedule 5 of Woollahra LEP 2014 by adding the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* and *Rose Bay Scout Hall (including interiors)* to the list of heritage items. The planning proposal should be referred to the Woollahra LPP for advice.

#### **Annexures**

- 1. Heritage Significance Assessment for Sydney Croquet Club, Rose Bay 🗓 ื
- 2. Heritage Significance Assessment for Rose Bay Scout Hall U

## **Annexure 4**

Woollahra Municipal Council Environmental Planning Committee Agenda

16 March 2020

Item No: R1 Recommendation to Council

Subject: PLANNING PROPOSAL HERITAGE LISTING OF SYDNEY

CROQUET CLUB, ROSE BAY

Author: Shona Lindsay, Heritage Officer

Approvers: Chris Bluett, Manager - Strategic Planning

Allan Coker, Director - Planning & Development

File No: 20/38625

**Reason for Report:** To respond to Council's resolution of 23 April 2018 to investigate the

heritage listing of the Sydney Croquet Club.

To obtain Council's approval to prepare a planning proposal to list the

Sydney Croquet Club as a heritage item in Woollahra Local

Environmental Plan 2014.

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 the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* as a heritage item in *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

A report presenting the assessment of heritage significance for the Sydney Croquet Club, Rose Bay, was considered by the Environmental Planning Committee (EPC) at its meeting on 17 February 2020 (Annexure 1).

The heritage significance assessment of the *Sydney Croquet Club* which was prepared by Weir Phillips Heritage and Planning is provided in **Annexure 2**.

At the EPC meeting representatives from the Club tabled late correspondence in response. This correspondence highlighted the club's future plans for the grounds and also asked questions about the heritage listing. Representatives from the Club also addressed the Committee.

The Committee recommended that the matter be deferred and subsequently the Council resolved on 24 February 2020, in part:

D. THAT consideration of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) as a heritage item in Woollahra Local Environmental Plan 2014, be deferred for a period of two weeks

The purpose of the deferral was to enable discussion between the Club and Council staff about the potential heritage listing and matters relating to the operation of the Club.

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#### 2. Meeting with Sydney Croquet Club

A meeting between representatives from the Club and relevant Council staff from the Strategic Planning and the Open Space and Trees departments was held on 5 March 2020. Matters discussed at the meeting included:

- The Club's plans to upgrade the grounds to meet standards for competitions.
- The Club's issues in regards to trees overshadowing the grounds, tree root problems, the
  fences, people walking dogs and playing golf on the grounds, a space in the Clubhouse being
  used by the Golf Club, the grounds not being level.
- The Club's intention to submit a grant application to receive funding for future works
- What heritage listing means for instance a statement of heritage impact would need to be submitted for DA works. Minor development might proceed under the heritage works without consent procedure. Heritage listing does not prevent upgrades that are sympathetic to the heritage item. Heritage listing also enables the potential to apply for heritage funding through grants.
- A brochure published by Heritage NSW which explains heritage listing was provided to the Club:

 $\underline{https://www.environment.nsw.gov.au/resources/heritagebranch/heritage/HeritageListing2010final.pdf}$ 

A copy of the draft assessment of heritage significance was provided to the Club's representatives. The meeting rectified and clarified the issues and questions raised by the Club. Overall, the Sydney Croquet Club is in support of the potential heritage listing.

The meeting with Club representatives supplements previous consultation regarding the assessment of heritage significance. In summary the previous consultation comprised:

31 May 2019	Notice of the heritage assessment project and request for access to the building.
1 2010	
1 November 2019	Notice regarding completion of draft assessment of heritage significance.
	Provision of the electronic link to the draft document.
	Invitation to provide comments.
13 February 2020	Notice of the Environmental Planning Committee meeting on 17 February
	2020.
	Provision of the Woollahra website link to the report and the draft
	assessment of heritage significance.
27 February 2020	Notice requesting a meeting in response to Council's decision to defer
	consideration of matter.
	Provision of the electronic link to draft assessment of heritage significance.

### 3. Conclusion

The heritage significance of the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* has been assessed in accordance with the NSW heritage best practice guidelines. The assessment of heritage significance prepared by Weir Phillips Heritage and Planning identify that the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* is of local heritage significance for historical, associative, aesthetic, social, technical, rarity, and representative significance, and is of State heritage significance for aesthetic, technical, and rarity significance.

We recommend the listing of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) as a local heritage item in Schedule 5 of Woollahra LEP 2014.

16 March 2020

We recommend the listing of the Sydney Croquet Club (clubhouse, moveable heritage items and lawns) on the State Heritage Register.

To facilitate a listing at the local level, a planning proposal should be prepared with the aim of amending Schedule 5 of Woollahra LEP 2014 by adding the *Sydney Croquet Club (clubhouse, moveable heritage items and lawns)* to the list of heritage items. The planning proposal should be referred to the Woollahra LPP for advice.

#### Annexures

1. Environmental Planning Committee Agenda 17 February 2020 (annexures removed) <u>J</u>

2. Heritage Significance Assessment for Sydney Croquet Club 🗓 🎏

# LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D2

**FILE No.** DA54/2020/1

ADDRESS Road Reserve adjoining 19 Paddington Street PADDINGTON

COUNCIL WARD Paddington
SITE AREA 28.5m<sup>2</sup>

**ZONING** R2 Low Density Residential

**PROPOSAL** Subdivision & closing of road reserve adjoining 19 Paddington

Street, Paddington

TYPE OF CONSENT Local development

COST OF WORKS \$0.00

**DATE LODGED** 05/03/2020

APPLICANT Woollahra Municipal Council

OWNER Woollahra Municipal Council

AUTHOR Mrs L Holbert
TEAM LEADER Mr G Fotis

SUBMISSIONS 1

**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:

• Conflict of interest

Development for which the applicant or land owner is:

a) the council

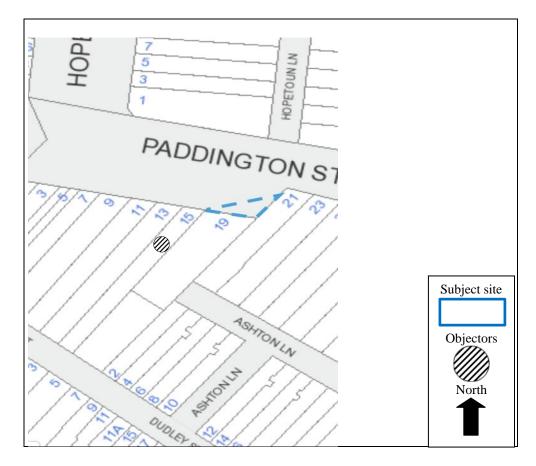
## 2. REASONS FOR RECOMMENDATION

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.
- No objection from Department of Industry-Crown Land or utility providers was received in relation to the proposal.
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality.
- The new allotment will generate additional rateable land for Council and will therefore be in the public interest.

- Council has received an application from the owner of No. 19 Paddington Street Paddington to purchase the proposed lot, which can proceed following the subdivision approval
- All likely impacts to adjoining properties including the one submission made has been addressed in the report and 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 proposal involves the subdivision of  $28.5m^2$  of the road reserve, directly adjoining the front boundary of No.19 Paddington Street, Paddington. This subdivision will facilitate the sale of this land to the owner of No.19 Paddington Street. This land is not required for road purposes. At Council's meeting of  $18^{th}$  February 2019, Council resolved to close the road. Subsequently it was resolved at Council's meeting of  $13^{th}$  May 2019 to sell this road reserve.

## 5. ISSUES

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

None.

## 5.2. Primary Issues

N/A

## **5.3.** Summary of Submissions

Issue	Conclusion	Section
Site sign	The site sign has been installed as close as possible to the site, the objector has since	
	advised they are satisfied and do not have any further concerns with the proposal.	

## PROPERTY DETAILS AND REFERRALS

#### 6. SITE AND LOCALITY

#### **Physical features**

The subject site adjoins the front boundary of No.19 Paddington Street. The subject site is a triangular shaped parcel of the land and has total area of 28.5m<sup>2</sup>.

#### **Topography**

The subject site is relatively flat and slopes to the rear, towards No.19 Paddington Street.

#### **Existing buildings and structures**

The subject site has a number of encroaching structures including a 1.8m masonry boundary fence, pedestrian gate, vehicular gates, planter box, retaining walls and planting, refer to **Photos 1**. Development consent (DA214/2016/1) granted on 23/10/2017 required the owner of No.19 Paddington to enter into a legal agreement with Council to formalise these encroachments and to demolish the existing masonry wall, gates, planters and retaining walls and replace with a new palisade fence and pedestrian gate with masonry piers and planting (DA214/2016/3). A copy of these approved plans are provide in **Annexures 2** and **3**.

## **Surrounding Environment**

To the north of the site is Council's footpath, street tree, garden bed, electrical substation and vehicular crossover. A large spotted Gum tree straddles the southern boundary of the subject site and the front boundary of No.19 Paddington Street, refer to **Photo 2.** To the south of the subject site is the front boundary of No.19 Paddington Street, which is occupied by a detached studio structure and concrete driveway. Consent has been granted to demolish this structure and to construct a new two storey infill building and for new planting to be installed (DA214/2016/1). These works are currently under construction.





Photo 1: Subject site



**Photo 2:** The trunk of the existing spotted gum tree located on the boundary of the site.

#### 7. RELEVANT PROPERTY HISTORY

#### **Current use**

Road Reserve

#### **Relevant Application History**

- DA214/2016- Extensive alterations and additions to the existing building including internal modifications; new infill development to Paddington Street; new garage to Dudley St with loft above and landscaping- Approved 23/10/2017.
- DA214/2016/2- Correction of wording of Condition C.12- Approved 31/01/2018.
- DA214/2016/3- Modification to the approved front fence- Approved 18/07/2019.

## **Relevant Compliance History**

N/A

## Pre-DA

N/A

## Requests for Additional Information and Replacement Applications

N/A

#### Land and Environment Court Appeal(s)

N/A

#### 8. REFERRALS

N/A

## **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 18/03/2020 to 01/04/2020 in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015. One Submission was received from:

1. Emma Hunt, 15 Paddington Street, Paddington

The submissions raised the following issues:

## • The site sign was not erected on the site.

**Comment:** The site sign was erected as close as possible to the site, refer to photo 4, given that the subject site is alienated from the street by an existing 1.8m fence. Ms Hunt was informed of this and she has advised that she no longer had any concerns relating to the proposal.



Photo 4: Site sign.

## 9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 03/04/2020 declaring that the site notice for DA54/2020/1 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. The proposal is therefore acceptable with regard to SEPP 55: Remediation of Land.

## 11. 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.

# 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. 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 subdivision is the subject of this application which includes an assessment against all relevant planning policies and legislation.

#### 13.3. Land Use Table

The proposal is defined as subdivision and is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

#### 13.4. Part 4.1: Minimum Subdivision Lot Size

The proposal is not subject to a minimum lot size, due to it being a portion of the road reserve. As such, the minimum lot sizes prescribed by Part 4.1 (3) are not applicable to the subject site.

#### 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 lot is not a heritage item however is located within the Paddington Heritage Conservation Area.

Under this application no physical works are proposed and there will be no impacts to the heritage conservation area. Accordingly, Council is satisfied that the proposal is acceptable with regard to the objectives in Parts 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 development is not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

## 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 14.1. Chapter C1: Paddington Heritage Conservation Area

The proposal satisfies the relevant objectives outlined in Part C1.1.4 of the Woollahra DCP 2015.

The proposed application does not involve any physical works and there will be no impacts to the heritage conservation area, and as such is acceptable in terms of Part C1 of the Woollahra DCP 2015.

# 15. SECTION 7.11 CONTRIBUTION PLANS & SECTION 7.12 FIXED DEVELOPMENT CONSENT LEVIES

#### 15.1. Contributions Plan 2011

No Section 7.11 or 7.12 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 for the following reasons:

- The proposal is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015.
- Council's property staff have completed the required statutory notification of the public and notifiable authorities with regard to the closure and sale of this parcel of road reserve.
- No impacts are envisaged to the local built and natural environment nor any adverse social and economic impacts in the locality.
- The parcel of land does not contain any Council infrastructure assets and is not required for any road widening.
- No submission relating to the merits of the proposal were received (only relating to the site sign, which has been resolved).

- No objection from Department of Industry-Crown Land or utility providers was received in relation to the proposal.
- The new allotment will generate additional rateable land for Council and will therefore be in the public interest.
- The application will formalise the approved encroaching structures including a new compliant palisade front fence and pedestrian gate with masonry piers with new planting and landscaping, approved by DA2016/214/1 and DA2016/214/3, refer to **Annexures 2** and **3**.
- The retention of the front fence to No.19 Paddington Street in the existing location will protect the health and stability of the existing spotted gum tree, refer to **Photo 2.** This is because this tree has roots growing on both sides of the boundary between the subject site and the front boundary of No.19 Paddington Street.
- Council has received an application from the owner of No.19 Paddington Street to purchase the proposed lot, which can proceed following the subdivision approval.

#### 18. THE PUBLIC INTEREST

The proposal will enable the formalisation of an existing encroachment and will increase Councils rateable land. The proposal is considered to be in the public interest.

## 19. CONCLUSION

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

#### 20. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 54/2020/1 for subdivision and closing of road reserve adjoining 19 Paddington Street, Paddington on land at 19 Paddington Street Paddington, 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 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)
18133-CL	Plan of subdivision	Ivan Victor Sterligov	21/12/2019
18133-CL Sheet 1-4	Certificate of subdivision	Ivan Victor Sterligov	21/12/2019

**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)

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

No Conditions

## C. Conditions which must be satisfied prior to the issue of any Construction Certificate

No Conditions

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

No Conditions

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

No Conditions

# 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)

No Conditions

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

## **G.1** Land Subdivision Certificate (section 6.15 of the *Act*)

A plan of subdivision cannot be registered under the <u>Conveyancing Act 1919</u> 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 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.

Standard Condition: G1 (Autotext GG1)

# H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (section 6.4 (c))

No Conditions

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

No Conditions

#### J. Miscellaneous Conditions

No Conditions

## 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 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Larissa Holbert Assessment Officer, on (02) 9391 7118.

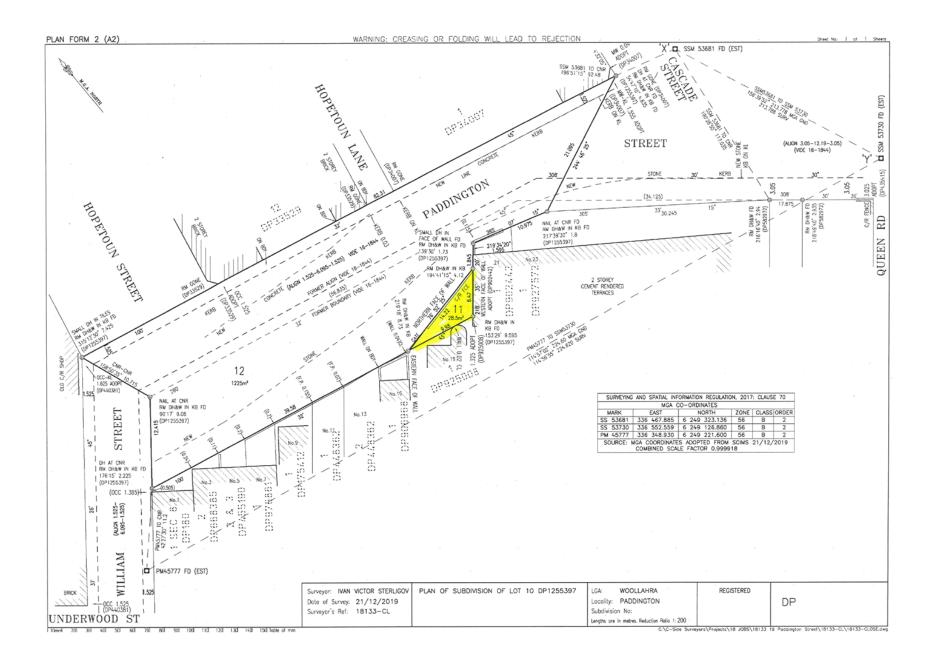
However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

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)

#### Annexures

- 1. Plan of subdivision  $\checkmark$
- 2. Certificate of subdivision  $\downarrow$
- 3. Department of Industry  $\checkmark$
- 4. Approved Plans (DA214/2016/1) <u>J</u>
- 5. Approved Plans (DA214/2019/3) J



Annexure 1 Plan of subdivision Page 144

PLAN FORM 6_E (2019) DEPOSITED PLAN AL	OMINISTRATION SHEET   Sheet 1 of 4 sheet(s)
Office Use Only	Office Use Only
Registered:	DP
Title System: TORRENS	DP
PLAN OF SUBDIVISION	LGA: WOOLLAHRA
OF LOT 10 DP1255397	Locality: PADDINGTON
	Parish: ALEXANDRIA
	County: CUMBERLAND
Survey Certificate	Crown Lands NSW/Western Lands Office Approval
I, IVAN STERLIGOV	I, (Authorised Officer) in
of C-SIDE SURVEYORS PTY LTD	approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.
a surveyor registered under the Surveying and Spatial Information Act	Signature:
2002, certify that:	Date:
(a) The land shown in the plan was surveyed in accordance with the Surveying and Spatial Information Regulation 2017, is	File Number:
accurate and the survey was completed on 21-Dec-2019	Office:
(b) Partial Survey	
	Subdivision Certificate
	I, certify that the provisions of s.109J of the
(c) Compilation	Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.
Datum Line: 'X'-'Y'	Signature:
Type: Urban 🗸 Rural 🗌	Accreditation number:
	Consent Authority:
Street at 2 and	Date of endorsement:
Signature: Dated: 21-Dec-2019	Subdivision Certificate number:
Surveyor Identification No: 7639 Surveyor registered under the Surveying and Spatial Information Act	File number:
2002	
Plans used in the preparation of survey.	Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.
DP 180 DP9022443	IT IS INTENDED TO DEDICATE LOT 12 TO PUBLIC AS PUBLIC ROAD
DP33529 DP925008 DP34007 DP1255397	
DP435415 CROWN PLAN 16-1844	
DP440381 DP582972	
Surveyor's Reference: 18133-CL	Signatures, Seals and Section 88B Statements should appear on
	PLAN FORM 6A

PLAN FORM 6_E (2019) DEPOSITED	PLAN ADMINISTRATION SHEET Sheet 2 of 4 sheet(s)
	e Use Only Office Use Only
Registered:	<u> </u>
PLAN OF SUBDIVISION	DP
OF LOT 10 DP1255397	
	This sheet is for the provision of the following information as required:  • A schedule of lots and addresses - See 60(c) SSI Regulation 2017
Subdivision Certificate number: Date of Endorsement:	Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919 Signatures and seals- see 195D Conveyancing Act 1919 Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.
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STREET ADDRESS FOR ALL LOTS ARE N	
Surveyor's Reference: 18133-CL	sufficient use additional annexure sheet

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LOT 10 DP1				DP			
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				<ul> <li>Any informati</li> </ul>	on which cannot fit in nistration sheets.	the appropriate panel	of sh
Lot Number	Sub-Address Number	Address Number	Road	Name	Road Type	Locality Nam	ne
11		N/A	PADDI	NGTON	STREET	PADDINGTO	N
12		N/A	PADDI	NGTON	STREET	PADDINGTO	N
					•		
					**		

PLAN FORM 6_E (2019)	DEPOSITED PLAN AT	OMINISTRATION SHEET	Sheet 4 of 4 sheet(s)
	Office Use Only	-	Office Use Only
Registered:			
PLAN OF SUBDIVISION		DP	
OF LOT 10 DP1255397			
		This sheet is for the provision of the fo	ollowing information as required: s - See 60(c) SSI Regulation 2017
Subdivision Certificate number:		Statements of intention to create accordance with section 88B Co.	and release affecting interests in
Date of Endorsement:		<ul> <li>Signatures and seals- see 195D</li> <li>Any information which cannot fit</li> </ul>	Conveyancing Act 1919 in the appropriate panel of sheet
		1 of the administration sheets.	
EXECUTED FOR AND ON (ABN 32 218 483 245)	BEHALF OF WOLLAF	HRA MUNICIPAL COUNCII	L
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	If space is insufficient use	additional annexure sheet	<u> </u>
Surveyor's Reference: 18133-CL		And the first property of the second	No. of the second second second second



PO Box 2215, DANGAR NSW 2309 Phone: 1300 886 235 (Option 2) Fax: (02) 4925 3517 roads.newcastle@crownland.nsw.gov.au www.crownland.nsw.gov.au

14/12/2018

Woollahra Municiapl Council 536 New South Head Road DOUBLE BAY NSW 2028

Attention Stephen Zancanaro

Via email: Stephen.zancanaro@woollahra.nsw.gov.au

Road: adjoining 19 Paddington Street at Paddington Council Ref: SC3776(AS) Ref Date: 11/12/2018 Crown Ref: 18/05832#12

#### RE: Woollahra Municipal Council - Notification of proposal to close council public road

Dear Mr Zancanaro

Thank you for notifying the NSW Department of Industry – Crown Lands (the department) of council's above mentioned road closure proposal.

The department has assessed council's proposal and has no objection to Council's proposal to:

- · close the council public road, and
- vest the land in council upon closure.

Enquiries regarding the above matter may be directed to the Crown Lands - Roads Team at <a href="mailto:council.roadclosures@crownland.nsw.gov.au">council.roadclosures@crownland.nsw.gov.au</a>.

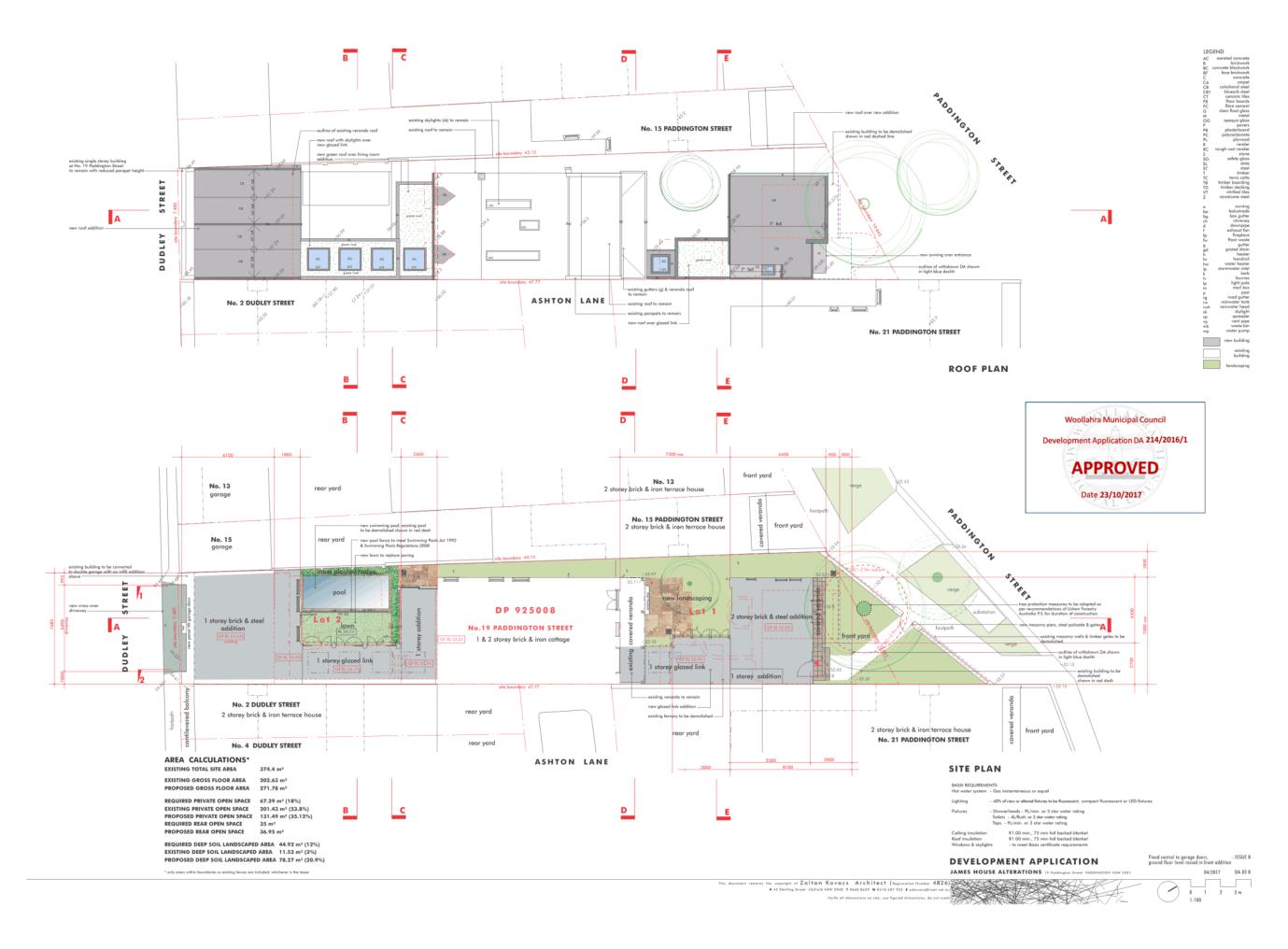
Kind regards

Carolyn Connell

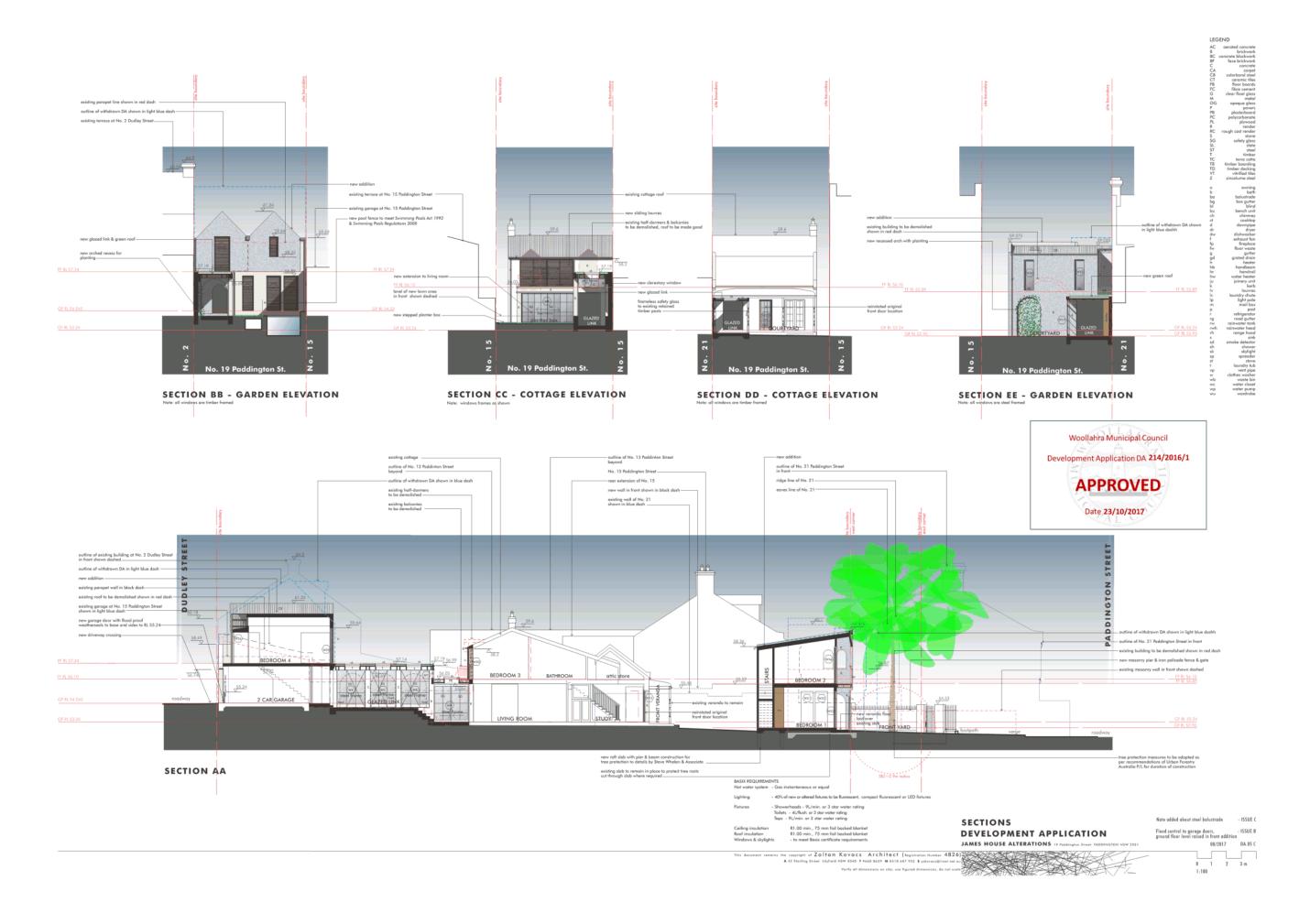
Senior Business Services Officer

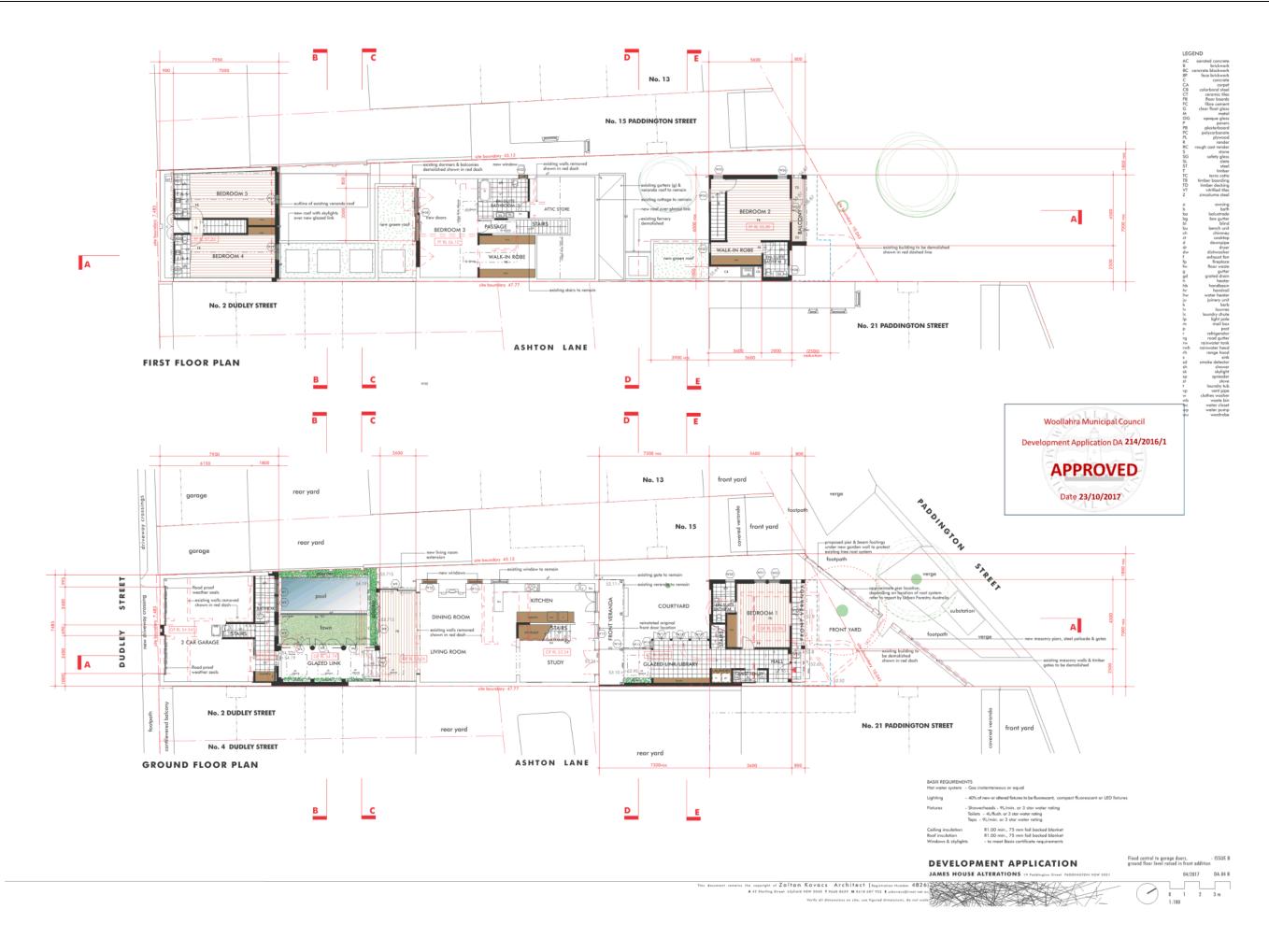
NSW Department of Industry - Crown Lands

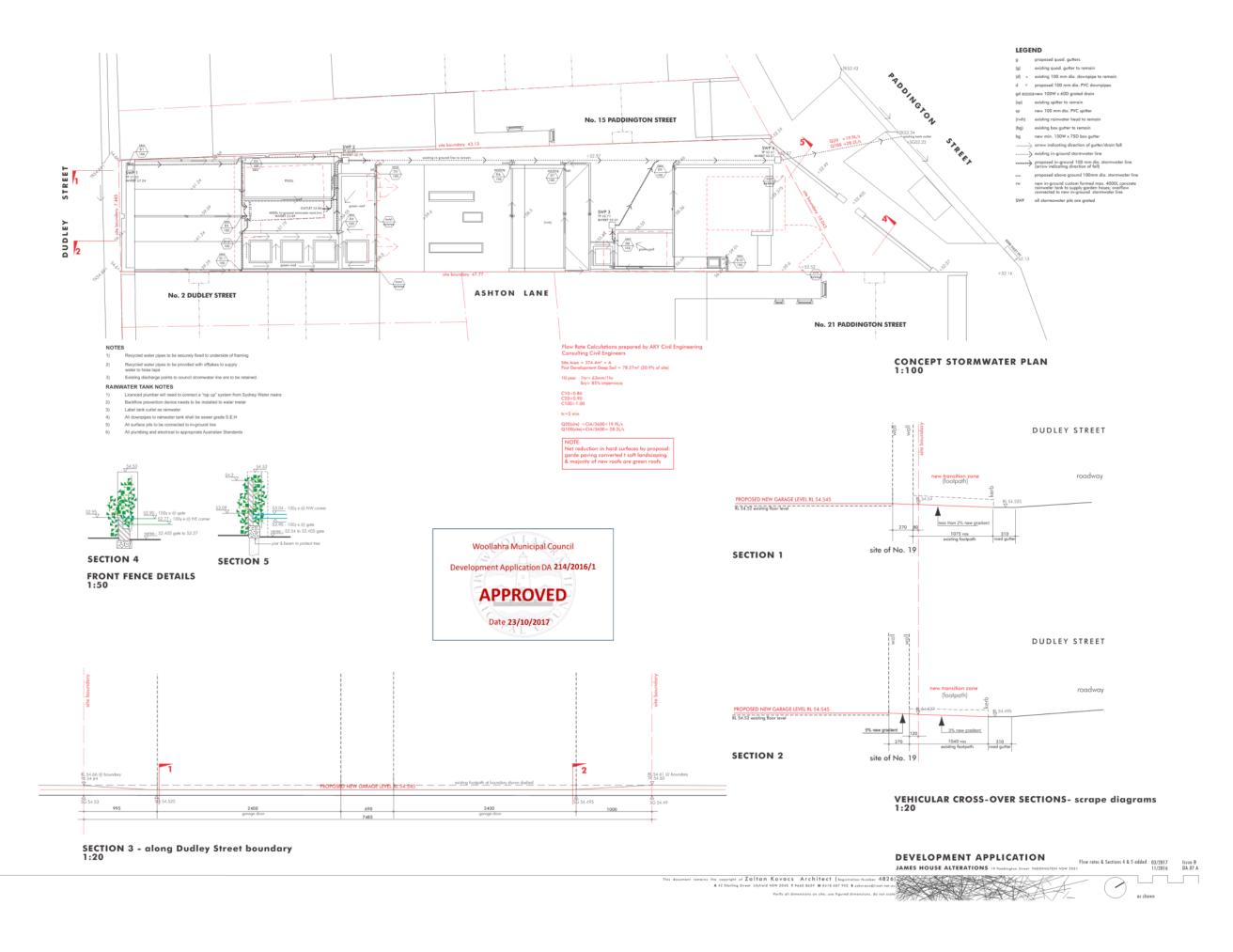
Newcastle













## **FINSIHES SCHEDULE**

ITEM	CODE	SPECIFICATION
METAL ROOF	СВ	Colorbond corrugated Customob steel roof in 'Shale Grey'
rainwater goods	g & d	Generally Colorbond steel gutters (g) in 'Shale Grey' Downpipes (d) painted to wall colour
VERANDA SOFFIT	РВ	Shadowline timber cladding panels, painted
WALLS	R	recycled commons, preferably cleaned and salvaged from demolition of existing rear extension, rendered and painted to match wall colour
	RC	roughcast render applied to masonry, painted same colour as other walls
EXTERNAL JOINERY	lv	screens in dressed WRC slats with clear satin oil finish, steel supports in Dulux 'Mid Grey' protective coating
	T	framing in painted dressed hardwood or treated clear pine
GLAZING	G & SG	clear float or Low-E glass by Viridian Glass (not shown)
	OSG	translucent glass - Viridian DecorPattern White (not shown)
front veranda	-	new tesselated tiling and slate edging
PAVING	Р	equal to 'Piles Creek Cream' sandstone pavers from Gosford Quarries













## **COLOUR SCHEME**

COLOOK 3CH	EIME			
ITEM	CODE	SPECIFICATION	NAME	COLOUR
WALLS	1	British Paints 4 Seasons Low Sheen	Green Silhouette	
MOULDINGS, SILLS & BASE	2	British Paints 4 Seasons Low Sheen	Green Silhouette	
SASHES & FRAMES	3	Dulux 'Aquanamel' Semi Gloss	Bread Crumb Quarter	
FRONT DOOR	4	Dulux 'Aquanamel' Gloss	Domino	
external joinery	5	Dulux 'Aquanamel' Semi Gloss	Domino	
veranda soffit	6	Dulux 'Light & Space Ceiling' Flat	Whisper White	
EAVES	7	Dulux 'Aquanamel' Semi Gloss	Simone Weil	



# **COLOURS & FINISHES SCHEDULE DEVELOPMENT APPLICATION**

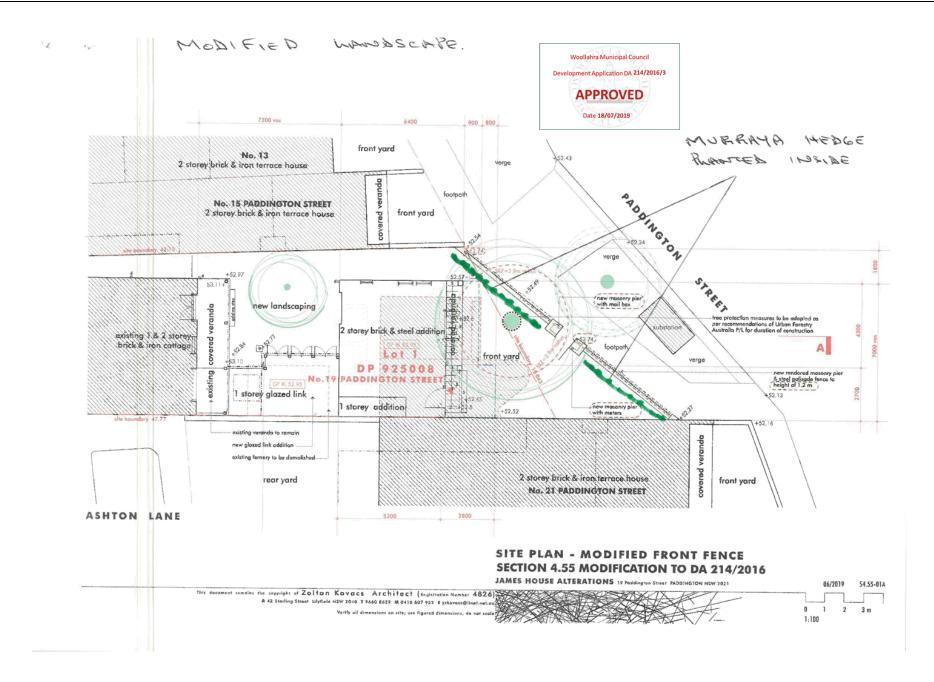
JAMES HOUSE ALTERATIONS 17-19 Paddington Street PADDINGTON NSW 2021

05/2016

DA.09 A

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A 42 Starling Street Lilyfield NSW 2040 T 9660 8629 M 0418 607 952 E yzkovacs@iinet.net.au





# LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D3

**FILE No.** DA13/2019/1

**ADDRESS** 590 and 592 New South Head Road POINT PIPER

COUNCIL WARD Double Bay SITE AREA 2,393m<sup>2</sup>

**ZONING** R2 Low Density Residential

**PROPOSAL** Construction of a new residential flat building with underground

parking, landscaping, strata subdivision and remediation of land

TYPE OF CONSENT Local development

**COST OF WORKS** \$23,000,000

**DATE LODGED** 22/01/2019 – Original Proposal

30/01/2020 – Replacement Application submitted to Council

APPLICANT Greenwall Property Developers Pty Ltd

OWNER Strata Plans SP 10763 & SP 17501

AUTHOR George Lloyd
TEAM LEADER Thomass Wong
SUBMISSIONS 12 – Original DA

8 (total), 2(new) – Replacement Application (Amended Proposal)

**RECOMMENDATION** Approval

#### 1. PREAMBLE

The original proposal was previously considered by the Woollahra Local Planning Panel (the Panel) on 7<sup>th</sup> November 2019. The DA was forwarded to the Panel with a staff recommendation for REFUSAL. The Panel resolved:

THAT the Woollahra Local Planning Panel, exercising the functions of Council, at the request of the applicant, defer Development Application No. 13/2019/1 for the construction of a new residential building with underground car parking, landscaping works, strata subdivision and remediation on land at 590-592 New South Head Road, Point Piper to enable the applicant to submit revised plans which incorporate the following key design (but not limited to) changes:

- 1. Increased modulation and separation to the building design so as to read as three distinct modules.
- 2. A reduction to the overall building bulk to ensure it is more compatible with the existing and desired future character context via:

- A reduction to its height and scale;
- Increased setbacks including the upper most level being setback (recessed) further than the levels below (at least 5m); and
- Incorporating a varied palette of materials to break up the full glass street frontage appearance.

The revised plans are to be submitted to the Council by 25 November 2019 otherwise the application will be determined on the information currently provided. Following receipt of this information, the application will be re-notified and [the] Panel (as constituted on 7 November 2019) will determine the application under Clause 26 of Schedule 2 of the EP&A Act (electronically), unless the Chair determines that a further public meeting is required.

On 20<sup>th</sup> November 2019, a meeting between the Applicant and Council staff took place to discuss potential amendments to the original proposal with respect to the Panel's resolution above.

On 25<sup>th</sup> November 2019, preliminary amended plans were submitted to Council in accordance with the date set out in the above resolution.

On 2<sup>nd</sup> December 2019, Council staff provided comments on the preliminary amended plans to the Applicant.

On 30<sup>th</sup> January 2020, a Replacement Application, including an amended proposal and relevant revised and additional documents, was submitted to Council. The amendments made to the original proposal are outlined in Section 5 below.

This Supplementary Report has been prepared assessing the Replacement Application, having consideration to all of the submissions which were subsequently received.

This Supplementary Report is also to be read in conjunction with the Original Assessment Report presented to the Panel on 7<sup>th</sup> November 2019, which is attached as **Annexure 1**.

## 2. 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
  - (a) Development that is the subject of 10 or more unique submissions by way of objection.
- Sensitive Development
  - (a) SEPP 65

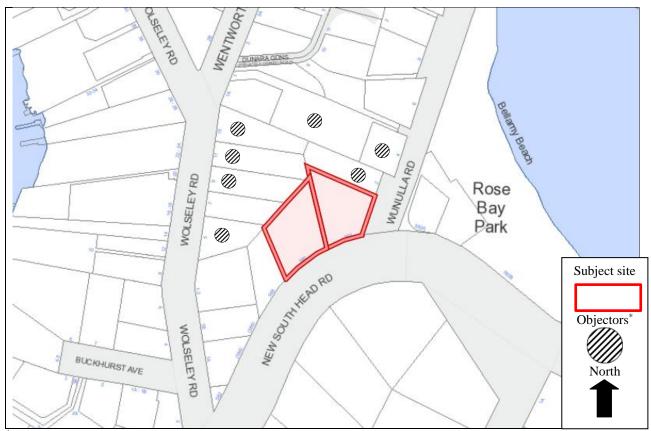
In addition, the application is referred back to the Panel for consideration and determination as per the Panel's resolution on 7<sup>th</sup> November 2019.

## 3. REASONS FOR RECOMMENDATION

The replacement 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 amended proposal is considered to be satisfactory with regard to the objectives of Woollahra LEP 2014 and Woollahra DCP 2015, and, all other applicable environmental planning instruments (including the existing use rights provisions under the EP&A Act and EP&A Regs);
- The amended proposal 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 on adjoining properties (including any submissions made) have been addressed in the report, or are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The amended proposal is in the public interest.

#### 4. LOCALITY PLAN



\*4 x objections were received from people located outside the above map (see section 10 below for details)

#### 5. PROPOSAL

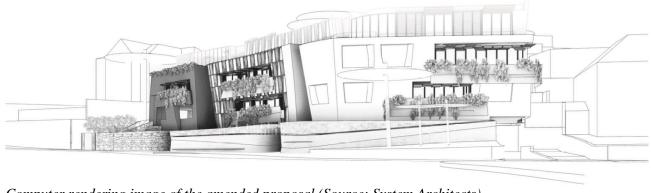
The proposal was amended on 30<sup>th</sup> January 2020 when a formal Replacement Application was lodged under Clause 55 of the Environmental Planning and Assessment Regulation 2000.

The amended proposal will maintain the general composition of the original proposal, i.e. for the construction of a new residential flat building comprising 17 residential units with basement parking (refer to Section 4 of the original assessment report in **Annexure 1**).

The changes made in response to the Panel's resolution focus on the re-design of the new building to achieve a more suitable planning outcome within the locality and the surrounding context. These include:

- Separation and articulation of the building, to form three distinct modules through two recessed entrances and a varied palette of materials;
- A reduction of FSR from 1.31:1 to 1.2:1 (0.97:1 above ground level);
- A reduction of height for part of the building from 15.34m to 12.4m;
- The upper most floor (Level 3) has been set back by 5m;
- A new colour palette of materials has been introduced to break up the glass street frontage; and
- Further specifications on landscaping, including additional retention of trees.

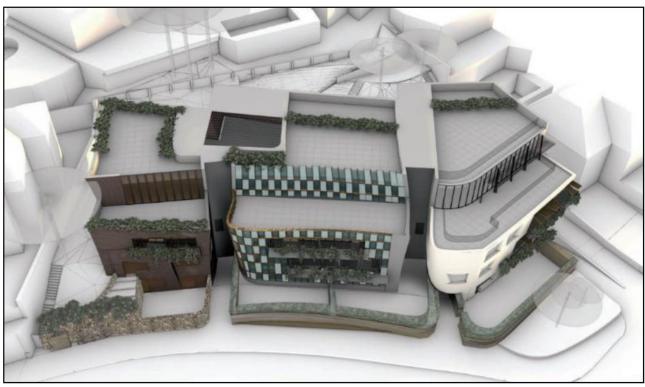
A series of computer rendering images have been provided by the applicant as follows:



Computer rendering image of the amended proposal (Source: System Architects)



Computer rendering images of the amended proposal (Source: System Architects)



Computer rendering image of the amended proposal (Source: System Architects)

## 6. ISSUES

## 6.1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	2.9m or 30.5% departure from the 9.5m control	Satisfactory

The applicant has provided a written request in relation to the reasons for the departure, which has been attached as **Annexure 6**.

The assessment of the submitted written request is carried out in Section 12.

## **6.2.** Summary of Submissions

Issue	Conclusion
Permissibility of proposal	A detailed assessment of the proposal against the relevant provisions pertaining to
under existing use rights.	'existing use rights' is provided in section 10 of this report.
	In addition, the Applicant has submitted legal advice confirming that existing use
	rights apply. That advice has been subsequently confirmed by Council's own
	independent legal advice.
Visual impact (potential	A detailed view loss assessment has been carried out (refer to Section 12). Although
cross-viewing and privacy)	the proposed 4 storey high development will result in additional height and bulk, it
and loss of harbour views	will only result in a relatively minor impact in terms of view loss towards Rose Bay
from No.5 Wolseley Road.	currently obtained from the rear verandah and areas of open space of the objector's
-	property.
Height, bulk and scale of the	From a streetscape perspective, the revised proposal is considered to be sympathetic
proposal is considered to be	with the bulk and scale of the surrounding area and is also considered to be a
excessive as compared with	consistent in terms of its bulk and finished built form with that of the buildings which
surrounding sites and that	currently occupy the 2 sites.
which exists over the 2 sites.	

Issue	Conclusion
The proposal will result in	An assessment of the suitability of the proposal and its relationship to the existing
an adverse impact upon the	streetscape is provided in Section 15 of this report.
existing streetscape and	
character of the surrounding	
area.	
Potential traffic impacts with	The initial proposal was referred to Council's Traffic Engineer who raised no
vehicles entering Wunulla	objection to the proposal or to the siting and location of the proposed driveway. The
Road from NSH Rd.	revised scheme has not altered the previous scheme in terms of vehicular access.
Flaws in the Statement of	A planning consultant acting on behalf of the owner/s of No.2 Wunulla Road has
Environmental Effects.	provided a detailed response to numerous sections of the Statement of Environmental
	Effects submitted with the DA. The submission is acknowledged.
	Notwithstanding this, sufficient information has been submitted with the application
	to enable a proper planning assessment to be undertaken.
Inadequate information.	It is considered that sufficient and adequate information has been submitted for
	Council's assessment of the DA.
Visual impact of proposed	The visual impact of the revised rooflines has been minimised when viewed from
roofline.	neighbouring properties.
The roof should not be used	Under the revised proposal only one of the upper floor units (at the northern end) has
as a rooftop terrace.	access to a restricted rooftop terrace, which having regard to the circumstances of the
	case and the resulting impact being minimal is considered to be reasonable.
Impact of excavation upon	The proposal was referred to Council's Trees Officer who raised no objection to the
local heritage item 285	proposal based upon potential impact to existing surrounding trees.
(Moreton Bay Fig).	
Lack of electricity	The siting and location of a substation which may be required on site is a matter
substation.	between the Applicant and the energy provider (Ausgrid). This is also addressed via a
	standard condition
Lack of community	Notification and advertising of the DA was undertaken in accordance with the EP&A
consultation.	Act and Woollahra DCP 2015.
Waste management and	Waste collection/management will be negotiated between the relevant Body
collection safety.	Corporate and Council.
Residential flat buildings are	The application for the use of the building as a residential flat building is being made
prohibited in the R2 zone.	on the basis that existing use rights apply. An assessment of the Applicants
	contention that existing use rights is applicable in this case is provided below in this
	report.
No modulation or	The replacement application has been submitted with revised plans which have been
separation.	assessed as providing suitable modulation and separation into 3 distinct modules.
Revised perspective	The accuracy of any perspectives is not what is being assessed. The plans and
diminishes true bulk and	sections provided with the architectural drawings (including detailed reduced levels)
scale of the proposal.	are considered to be an accurate visual description of the proposal.
Roof planters should not be	The bulk and scale of the revised proposal is considered to be suitable in the context
relied upon when	of the surrounding locality.
determining the impact of	
the bulk and scale of the	
proposal.	
The roof is still considered	The extent of the roofline has been significantly reduced in the revised proposal by
to be expansive resulting in	providing for a modulated form and a significant 5m setback from the buildings front
a greater visual impact than	façade.
the existing roofline.	

## PROPERTY DETAILS AND REFERRALS

## 7. SITE AND LOCALITY

#### Physical features

The site is an irregularly shaped parcel of land having a combined northern boundary of 93.35m, an eastern boundary of 24.715m, a combined southern boundary of 54.415m, and a western boundary of 34.19m. The subject sites have a combined site area of 2,393m<sup>2</sup>.

#### Topography

The terrain is steep, with a north to south fall of 10.7m through the centre of the site and a fall of almost 1m along New South Head Road.

#### **Existing buildings and structures**

The subject site is an amalgamation of two lots at Nos.590 and 592 New South Head Road, Point Piper (currently described as SP10763 and SP17501 respectively).

No.590 New South Head Road is occupied by two storey building comprising 2 units, being Unit 1 on the ground floor and Unit 2 on the first floor. There is a brick garage at the front boundary at New South Head Road which is accessed from street level and provides two car parking spaces. A sandstone retaining wall that is approximately 3m high surrounds the property boundary. Due to the steep topography, the building and grounds are located approximately five metres above street level.

No.592 New South Head Road is occupied by a part 2-3 storey residential flat building containing 5 units and is located at the corner of New South Head Road and Wunulla Road. A brick garage structure is accessed at the front boundary along New South Head Road which contains two double garages and two single garages, providing a total of 6 car parking spaces. There is a low stone wall (approx. 700mm high) at the front boundary facing Wunulla Road.

#### **Surrounding Environment**

The site is immediately adjoined and surrounded by 2-3 storey dwelling houses facing New South Head Road, Wolsely Road and Wunulla Road. Directly opposite the site facing Wunulla Road is Rose Bay Police Station and Rose Bay Park.



#### 8. RELEVANT PROPERTY HISTORY

#### Current use

No. 590 - a building with two units;

No. 592 – a residential flat building with five units.

## **Relevant Application History**

- <u>9/05/2018</u>: DA2018/29/1 was approved for the demolition of two (2) existing residential flat buildings and associated structures including removal of trees. The application was approved subject to deferred commencement **Condition A.1** which requires that:

Demolition of the existing buildings and removal of trees at Nos. 590 and 592 New South Head Road, Point Piper, shall not commence until a separate Development Consent(s) or Complying Development Certificate(s) for redevelopment/use is granted.

- <u>1/02/2019</u>: DA2018/29/2 was approved extending the time limit specified in **Condition A.1** from 365 days of the date of determination to 730 days (i.e. until 9/05/2020).
- <u>25/03/2020</u>: In accordance with Section 4.54 of the EP&A Act, DA2018/29/<u>1</u> was granted a total of 3 years to the deferred commencement period.

the deferred commencement period.
Relevant Compliance History
N/A
Pre-DA
Nil
Land and Environment Court Appeal(s)
$N/\Delta$

#### 9. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services (Traffic &	Satisfactory, subject to conditions.	3
Engineering)		
Tree and Landscape Officer	Satisfactory, subject to conditions.	4
Urban Design (Strategic	Satisfactory, subject to conditions.	5
Planner)		
Environmental Health Officer	Satisfactory, subject to conditions	1 *
Heritage Officer	Satisfactory, subject to recommended deferred commencement	1 *
	conditions pertaining to Aboriginal heritage.	
Fire Safety Officer	Satisfactory, subject to conditions	1 *
RMS Response	Satisfactory, subject to conditions	1 *

<sup>\*</sup> These referral responses are in the original assessment report in Annexure 1

#### **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

#### 10. ADVERTISING AND NOTIFICATION

#### 10.1 Submissions

In accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015, the original application was originally advertised and notified from 6/02/2019 to 20/02/2019 and then readvertised and re-notified to also include the remediation component of the proposal from 29/05/2019 to 12/06/2019. Twelve (12) submissions were received.

- 1. Danny Avidan 9 Wolseley Road, Point Piper
- 2. Ping Du 2 Wunulla Road, Point Piper
- 3. Tony Moody (Consultant Town Planner) on behalf of the owner/s of 2 Wunulla Road, Point Piper
- 4. Penny Broekhuizen 1 Wentworth Street, Point Piper
- 5. Ned O'Neil Point Piper Marina
- 6. Mun Choy Foong 5 Wolseley Road, Point Piper
- 7. Irene Liu 4 Wunulla Road, Point Piper
- 8. Bruce Liu 4 Wolseley Road, Point Piper
- 9. Grant Fuzi 11 Wolseley Road, Point Piper
- 10. Bruce Bland Vice President Rose Bay Residents Association
- 11. Ash Samadi 13-15 Wolseley Road, Point Piper
- 12. M Balkan PO Box 167, Double Bay

### 10.2 Replacement Application

The Replacement Application noted in Section 1 was renotified to surrounding residents and previous objectors for a period of 15 days from 12/02/2020 to 26/02/2020. As a result, a total of eight (8) further submissions were received. Six (6) of these submissions were from the same persons who had previously lodged their submissions. Two new submissions were received from:

- 13. Barry & Anne Raymond 4/38 Wunulla Road, Point Piper
- 14. Jeremy Hung 2 Wunulla Road, Point Piper

A summary of the issues raised in all of the submissions have been provided and responded to in Section 6.2 of this report.

#### **10.3 Statutory Declaration**

The applicant has completed the statutory declaration dated 27/02/2020 declaring that the site notice for the replacement application for DA13/2019/1 was erected and maintained during the notification period in accordance with Chapter 6 of the Woollahra Community Action Plan 2019.

#### 11. EXISTING USE RIGHTS

The use of the subject land for purposes of a residential flat building is prohibited under the R2 zone. The application therefore relies upon 'existing use rights' regulated under Sections 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979, and, Clauses 40-46 of the Environmental Planning and Assessment Regulation 2000.

Evidence for the establishment of 'existing use rights' was suitably provided for in accordance with Sections 4.65, 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979 and Clauses 41, 42 and 44 of the Environmental Planning and Assessment Regulations 2000 when the original DA was submitted to Council and previously considered by the LPP on 7<sup>th</sup> November 2019 (**Annexure 1**).

#### 12. ENVIRONMENTAL IMPACTS

The judgement in Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71, sets out the planning principles which should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights. The four principles adopted by the court in this case have general application in dealing with DAs that rely on existing use rights.

These principles were clarified in the Stromness case. In this regard, the following is a quote from the Chief Judge:

In Stromness Pty Ltd v Woollahra Municipal Council [2006] NSWLEC 587 the planning principles in Fodor were considered and confirmed by Pain J at pars 83-89. Principle 2 was specifically supported in paragraph 87 and principles 1, 3 and 4 were specifically supported in paragraph 89. Her Honour states in para 89 that care must be exercised in the application of the principles to ensure that there is not a de facto application of standards in environmental planning instruments as that is prohibited by s 108(3) of the Environmental Planning and Assessment Act.

Recent legal advice provided to Council qualifies the above stating:

In Saffioti v Kiama Municipal Council [2017] NSWLEC 65 the LEC considered the issue of whether the controls in a DCP could be considered in assessing the merits of an application for development consent for development with existing use rights. The LEC decided that the relevant controls in the DCP could be considered notwithstanding section 4.67(3) of the Environmental Planning and Assessment Act 1979. That section provides that any provisions of an environmental planning instrument which would derogate from the provisions in the Environmental Planning & Assessment Regulation 2000 regarding existing uses (the incorporated provisions), have no effect.

The LEC found that as a DCP is not an environmental planning instrument, s4.67(3) does not apply. DCP provisions can therefore continue to apply and be considered in assessing an application relying on existing use rights.

The LEC also considered provisions of the applicable local environmental plan (LEP) and found that a number of provisions, such as those dealing with biodiversity, applied to the development and did not derogate from the incorporated provisions. The LEC considered that only those provisions of the LEP which could have the effect of prohibiting the development derogated from the incorporated provisions and could not be taken into account.

Notwithstanding the above, a further judgement *Modog Pty Limited v North Sydney Council [2018] NSWLEC 120* DCP has established that any DCP objectives or controls that mirror controls of an environmental planning instrument, would not apply where they would derogate from the existing use right provisions. However, in the instance where the DCP controls do not derogate, they can factor into the merit assessment of the application under section 4.15.

The following environmental assessment of the proposal takes into consideration the abovementioned principles established under *Fodor* and all of the relevant provisions of relevant statutory planning policies which do have the effect of prohibiting the development and all of the provisions of the *Woollahra DCP 2015* that are relevant to the scope of the proposed development.

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

The following assessment is provided having regard to the surrounding context and the objectives and controls provided under Section B1.6 (Point Piper Residential Precinct) and Chapter B3 (General Development Controls) of Woollahra DCP 2015 which do not derogate from the existing use rights principles.

## Bulk and scale and visual impacts upon the streetscape

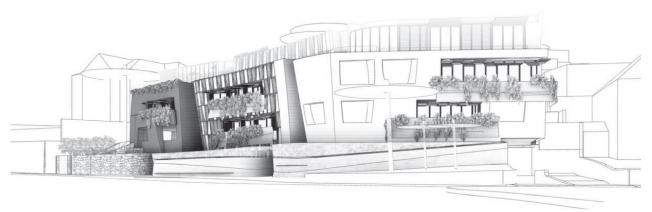
The current height of buildings and floor space ratio development standards of the LEP are not applicable in this case, therefore the relationship of what is being proposed to what is permissible on surrounding sites must be properly assessed. Consequently, the assessment of such a proposal to the non-prescriptive controls which determine the suitability of any proposal to the surrounding streetscape becomes imperative.

The images below are the existing buildings viewed from New South Head Road and the photomontages of the original proposal and the amended proposal provided by the applicant.





Original DA – Proposed Photomontage (source: GSA Planning – page 53)



**Replacement DA – Proposed Photomontage** (source: GSA Planning – page 53)

## **Desired Future Character**

The subject sites fall within the Point Piper Precinct which contains a range of housing types and styles including an excellent group of Inter-War flat buildings and more recent substantial harbourside houses on large allotments.

The desired future character for the Point Piper Precinct states:

#### Streetscape character and key elements of the precinct

Development respects and enhances the existing elements of the neighbourhood character that contribute to the precinct including:

- *a) the rich mixture of architectural styles and forms;*
- *views and glimpses of the harbour between buildings from public spaces;*
- c) the stepping of development down the hillside;
- *d)* well established private gardens and trees;
- e) mature street trees;
- f) stone and brick retaining walls on public and private land; and
- g) Inter-War flat buildings.

## Desired future character objectives

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.
- O3 To ensure that development on the low side of the street maintains a consistent front setback.
- O4 To design and site buildings to respond to the topography and minimise cut and fill.
- O5 To protect iconic and harbour views from the street and other public spaces in the precinct, including views between buildings and over or though front fences.
- O6 To ensure that development facilitates view sharing to adjoining and adjacent private properties.
- O7 To maintain the sense of the historic grand estates by retaining the garden settings and streetscape elements.
- O8 To encourage the retention of the Inter-War flat buildings, particularly significant and traditional building elements visible from the street.
- O9 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

The amended proposal has significantly reduced the overall bulk and scale presented to the existing streetscape. The introduction of modulation and separation to the building design with the further setback of the upper floors from the street frontage have significantly reduced the bulk and scale of the finished built form. The new building compares favourably with the staggered/broken built form of the existing 2-3 storey dwelling houses which currently occupy the adjoining and surrounding sites.

The setback of the upper floor level presents as predominantly three storeys to the street and has been determined as being consistent with the precinct and its desired future character objectives.

In addition to the above, Council's Strategic Planner has provided the following comments in relation to the context and neighbourhood character:

The proposed amended bulk and scale presents three different built form elements though breaks and different materials. This is a positive response to mitigate the perceived bulk and scale.

The existing vegetation on the southern frontage of the subject site contributes to the landscape character of New South Head Road (NSH Rd).

It is expected that the proposal maintains and enhances the existing landscaped character of the NSH Rd consistent with WDCP B1.6.2 (O1). Therefore, the provision of adequate deep soil area on the southern frontage, particularly the southwestern part (where Units 01 and 02 are located) has been discussed with the applicant.

The proposed landscaped plan has been amended to respond to the streetscape character of NSH Rd. This should satisfy Council's landscape officer that the proposed deep soil area allows for growing mature trees with an appropriate density.

The number of storeys, height, bulk and scale of the proposal is considered to be consistent with the desired future character objectives (O1, O2, and O4) of the Point Piper Precinct.

#### **Setbacks**

The current zoning of the site provides for development controls that envisage a dwelling house on an allotment of land. The current proposal amalgamates 2 significant sites to create an enlarged site of approximately 2,400m<sup>2</sup> to accommodate one new residential flat building with a substantial footprint generally sited within the middle of the site.

The front setback of 6m is generally consistent with the surrounding detached dwelling houses. Whilst the dominance of the enlarged finished built form has been reduced in its staggered design, reduced height and significant 5m front setback of the upper floor is deemed to be consistent with the objectives of the front setback controls as it reinforces the existing streetscape and character of the precinct (O1).

Side boundary setbacks are determined based on the width of the allotments along the front setback line in accordance with Figure 5B of Part B3.2.3 of the Woollahra DCP 2015. In this particular case, a minimum side boundary of 3.5m is required for RFB.

The redesign of the building together with adequate physical separation from the adjoining properties will assist in preventing overlooking and cross-viewing from the proposal on/into neighbouring properties. The revised proposal is therefore is considered to be consistent with Objectives O1 and O3.

Rear setbacks are usually determined in accordance with Part 3.2.4 of the Woollahra DCP 2015. The minimum rear setback provided for the proposal varies between 6.9m and 10.75m.

The reduced height and bulk of the amended proposal will ensure the views and the sense of openness to the residences at the rear of the subject site and which face Wolseley Road (ie. Nos. 5, 7 and 9 Wolseley Road). The proposal is therefore deemed to be consistent with Objective O2.

#### 2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

It is worth noting that the two existing buildings which comprise the subject sites were originally constructed as purpose built dwelling houses and not as residential flat buildings (see Section 8 of this report).

The following is of particular importance when considering this principle (as previously stated):

...where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

In this case, comparing the two existing buildings which currently comprise the sites as to that which is proposed (in prescriptive terms) will result in the following:

Control	Standard	Current Proposal		
		Approx. 10.5m		
Maximum	9.5m	(590 NSH Rd)	12.4m <sup>1</sup>	
Building Height		11.7m		
		(592 NSH Rd)		
Building height	7.2m wall height/ 45° inclined	Compliant for both sites	Non-compliant	
plane <sup>2</sup>	plane on 1.9m side setbacks	(not applicable for RFB)	(not applicable for RFB)	

<sup>1</sup> A cl 4.6 written request has been submitted

Although consent for the demolition of the existing buildings was granted on 9<sup>th</sup> May 2018, **Condition A.1** of the consent was imposed requiring the demolition to be deferred until a separate consent is granted for the redevelopment/use of the subject sites. In this circumstance, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

## **Exceptions to Development Standards**

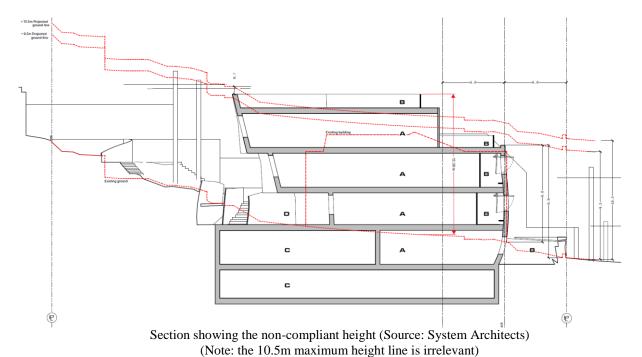
## **Compliance Table**

Development Standard	Existing	Replacement Application	Control	Departure	Complies
Height of buildings (Clause 4.3)	10.5m and 11.7m (Approx.) *	12.4m (Parapet, RL29) 11.2m (Roof FFL, RL27.8)	9.5m	2.9m or 30.5%	No

<sup>\*</sup> Development consent has already been granted for the demolition of the existing buildings (DA29/2018/1)

## **Departure**

The application proposes a new residential flat building. The height of the new building will result in a non-compliance of 2.9m or 30.5% with the 9.5m maximum height of buildings development standard prescribed by Part 4.3 of the WLEP 2014.



<sup>2</sup> The building envelope controls in Part B3.2 of the Woollahra DCP are applicable to 'residential developments'. However, the 7.2m wall height and 45° inclined plane controls are not applicable for RFB.

#### **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.

### **Written Request**

Part 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 reasons for the departure, which has been attached in Annexure 6.

#### **Assessment**

#### 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, 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

<u>Comment</u>: The applicant's written request has demonstrated that the objectives of the *Height of Buildings* development standards is achieved, notwithstanding the non-compliances.

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 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.

<u>Comment</u>: 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.

The applicant's written request, which supports the proposed non-compliance with the height of building development standard, has adequately demonstrated that the proposed development promotes the orderly and economic use and development of the land; and that the proposal promotes good design and local amenity, in accordance with the objects 1.3(c) and (g) of the EPA 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 requests have 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 *Height of Buildings* development standard, and the zone objectives of the R2 Low Density Residential Zone. An assessment against these objectives is provided below.

### Clause 4.3 – Height of Buildings

The proposal is consistent with the objectives applying to Part 4.3 (Height of Buildings) as follows:

a) To establish building heights that are consistent with the desired future character of the neighbourhood

Comment: Acceptable – The non-compliant height relates to the top level (Level 3) and the roof terrace of the building. This level has been significantly set back 5m from the front building line of the levels below. As a result, the perceivable bulk of the non-compliant component from New South Head Road will appear to be subservient rather than dominating the development. The contemporary design of the development is considered to be consistent with and sympathetic to the approved development for the Cranbrook School sports complex on the other side of New South Head Road [also refer to part (b) below]. In addition, the height of the proposed development, being four storeys from street level, is not dissimilar to other residential flat buildings in the vicinity.

The proposal satisfies sub-clause (1) objective (a) in Clause 4.3 of the Woollahra LEP 2014.

b) To establish a transition in scale between zones to protect local amenity

<u>Comment:</u> Acceptable – The subject site is located adjacent to a SP2 Education Establishment Zone, to the southern side of New South Head Road, which is occupied by Cranbrook School and its oval. The height non-compliant component will supplement the overall contemporary design of the development which will respond appropriately to the design of the approved sports complex of Cranbrook School (currently under construction) at this junction with Wunulla Road.

The proposal satisfies sub-clause (1) objective (b) in Clause 4.3 of the Woollahra LEP 2014.

c) To minimise the loss of solar access to existing buildings and open space

<u>Comment:</u> Acceptable – The proposed development will not result in unacceptable solar access to existing buildings and open space.

The proposal satisfies sub-clause (1) objective (c) in Clause 4.3 of the Woollahra LEP 2014.

d) To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion

<u>Comment:</u> Acceptable – The proposed development will not result in unacceptable adverse impacts on adjoining or nearby properties in terms of disruption of views, loss of privacy or overshadowing arising from the proposed development.

The proposal satisfies sub-clause (1) objective (dc) in Clause 4.3 of the Woollahra LEP 2014.

e) To protect the amenity of the public domain by providing public views of the harbour and surrounding areas

<u>Comment:</u> Acceptable – The proposal will not result in any loss of publicly available views of the harbour and of surrounding areas.

The proposal satisfies sub-clause (1) objective (e) in Clause 4.3 of the Woollahra LEP 2014.

The objectives applying to the R2 Low Density Residential zone are as follows:

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

The development is also consistent with the relevant objectives applying to the R2 Low Density Residential Zone as follows:

- The proposed development will provide a variety of different housing types responding to the housing needs of the community within the low density residential environment.
- The proposed development will have no impact on other land uses.
- The proposed new building, while non-compliant with the height of buildings development standard, will be compatible with the character and amenity of the surrounding neighbourhood.
- The proposed new building will achieve the height, bulk and scale that are consistent with other buildings (existing and future developments) surrounding the subject site, thereby achieving consistency with the desired future character of the neighbourhood.

The departure from the standard is considered to be in the public interest in the following manner:

- The objectives of Clause 4.3 Height of Buildings development standard have been satisfied;
- The objectives of the R2 Low Density Residential zone have been satisfied; and
- There are sufficient environmental planning grounds to justify contravening the development standard in this instance, as detailed in the applicant's submission.

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

The Department issued Planning Circular No.PS18-003 (dated 21<sup>st</sup> 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 exception to development standard, thus satisfying the terms of this clause.

#### **Conclusion**

The written submission from the applicant has adequately demonstrated that the variation of the development standard prescribed by *Clause 4.3* is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

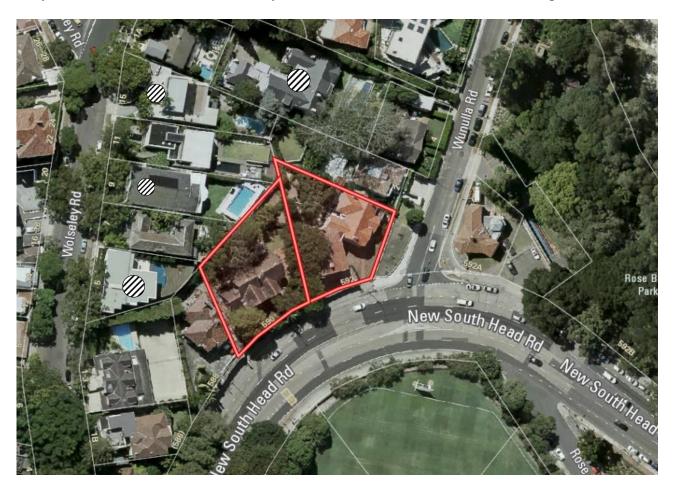
The consent authority is satisfied that the applicant's written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances in this case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention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

## 3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Potential impacts upon adjoining land regarding overshadowing, loss of privacy, visual impact, and view loss are discussed as follows:

Four of the neighbouring properties objected to the original proposal for potential loss of views. They were Nos. 5, 9 and 13-15 Wolseley Road and No.1 Wentworth Street (see map below).



As a result of the re-notification of the Replacement Application, further submissions were received from Nos. 5 and 9 Wolseley Road, maintaining their concerns with regard to view loss.

It should be noted that a detailed view assessment was undertaken for the original proposal which concluded that [direct quote from the original assessment report (**Annexure 1**)]:

Therefore, the view impact is considered to be negligible and acceptable satisfying the Tenacity planning principle pertaining to view loss.

The amended proposal essentially will maintain the parapet height (RL29) and roof level (RL27.8) unchanged. It is considered that there will be no further impact upon existing views from these neighbouring properties.

#### **Acoustic and Visual privacy**

Control C4 under Section B3.5.4 of WDCP requires that new windows be designed to prevent a sightline to the habitable room windows or private open space of an adjacent dwelling within 9m. Although there will be less than 9m separations distance from the neighbouring properties, having regard to the following design features, the amended proposal is not considered to result in an adverse impact on the visual privacy.

- Windows on the northern elevation are set in angle with the building façade to minimise direct sightlines to the adjoining properties
- Substantial level difference from the adjoining lots to the north (fronting Wolseley Road)
- Incorporation of external privacy frosted louvers to windows on the eastern and western elevations

The amended proposal is therefore considered to be consistent with the above control and Objective O2 (visual privacy) under Section B3.5.4 of WDCP.

## 4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Council's Strategic Planner has provided the following comments with regard to internal amenity:

The proposal provides residential units with a high level of internal amenity and private open spaces with appropriate size.

Majority of the units are naturally ventilated.

The placing of living spaces on the southern facade is compensated by large openings.

The proposal is considered to be satisfactory in terms of internal amenity.

#### 13. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

The following matters for consideration are based on the provisions of environmental planning instruments and policies that do not derogate (detract) from the existing use rights provisions.

#### 13.1 SEPP 55: Remediation of Land

This has been considered in the original assessment report (Annexure 1)

The submitted updated Detailed Site Investigation report has been reviewed by Council's Environmental Health Officer, who has determined that the proposal, from a remediation perspective, is satisfactory.

## 13.2 SEPP 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 case, the proposal is for the construction of a residential flat building consisting of 4 storeys (plus underground parking) and 17 self-contained units.

The provisions of this instrument therefore applies to the subject application in so far as they do not derogate from the existing use rights pertaining to the site.

#### 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 amended proposal is considered to be acceptable with regard to the above stated aims for the following reasons:

- The height, bulk, scale and form of the proposal are considered to be compatible with and sympathetic to the existing surrounding residential developments.
- The overall density of the proposal, is considered to be consistent with the existing buildings on the site, being strata buildings containing multiple residential dwellings, and is compatible with the surrounding residential density in this part of Point Piper.
- The proposed new RFB will not result in overlooking or cross-viewing upon the adjoining properties.

# **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, comments from Council's Assessment Officer have also been included.

# **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.

# **Strategic Planner's comments:**

The proposed development is in the R2 Zone. However, it is being made based on 'existing use right'.

The proposed amended bulk and scale presents three different built form elements though breaks and different materials. This is a positive response to mitigate the perceived bulk and scale.

The existing vegetation on the southern frontage of the subject site contributes to the landscape character of New South Head Road (NSH Rd).

*Under the DCP B1.6.2, 'well established private gardens and trees' are the 'Streetscape character and key elements of the precinct'.* 

It is expected that the proposal maintains and enhances the existing landscaped character of the NSH Rd consistent with WDCP B1.6.2 (O1). Therefore, the provision of adequate deep soil area on the southern frontage, particularly the south-western part (where Units 01 and 02 are located) has been discussed with the applicant.

The proposed landscaped plan has been amended to respond to the streetscape character of NSH Rd. This should satisfy Council's landscape officer that the proposed deep soil area allows for growing mature trees with an appropriate density.

<u>Compliance</u>: Yes, subject to the assessment of Council's landscape officer.

Assessment Officer's comments: Regarding the Strategic Planners' (Urban Design) comments in relation to the provision of adequate deep soil area along the southern frontage and particularly where Units 01 and 02 are located, this aspect has been considered by Council's Tree and Landscape Officer whose comments are provided under Principle 5 (Landscape) below.

Having regard to the Tree and Landscape Officers comments below, the incorporation of suitable conditions of consent (esp. **Condition C.1**) and as previously addressed in Section 12 above, the revised proposal is considered to be acceptable with regard to the desired future character of the area.

As such, the proposal is considered to satisfy this principle.

# **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.

# Strategic Planner's comments:

The proposed insets, upper-level setbacks and materials are positive responses in breaking the proposed building into smaller elements.

However, considering the existing surrounding context with a high level of landscaping and garden setting, the proposed bulk and scale still looks solid and impermeable.

An adequate deep soil landscape along the street frontage mitigates the perceived bulk and scale from the public domain. It also blends the proposed development with its surrounding. Please refer to my comments at Principle 1.

<u>Compliance</u>: Yes, subject to my comments in Principle 1.

<u>Assessment Officer's comments</u>: As addressed in Section 12, the proposed bulk, scale and level of articulation, as revised, is considered to be acceptable in relation to the desired future character and impacts on surrounding properties. The proposal is therefore considered to satisfy the principle.

# **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.

# Strategic Planner's comments:

The proposed residential density responds to the current high level of amenity and transport infrastructure in the local area.

Compliance: Yes.

<u>Assessment Officer's comments</u>: The proposed density is considered to be suitable in this well serviced location being close to transport connections and natural amenity.

# **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.

# Strategic Planner's comments:

Majority of the proposed units are naturally ventilated. The proposal also provides a range of communal and deep soil landscaping.

Due to the orientation of the site, topography and view, the proposed living areas are mainly south-facing. However, they include generous living areas with large openings.

Compliance: Yes.

<u>Assessment Officer's comments</u>: The planning of these units is constrained by the topography, the site orientation and the proximity to the road. The placing of living spaces on the South East frontage is compensated for by large south east facing windows.

#### **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.

# Strategic Planner's comments:

The proposed development provides a range of deep soil and communal landscaping on the northern and western boundaries, as well as private open spaces.

Regarding the landscape character of the streetscape, please refer to my comments in Principle 1.

Compliance: Yes.

# Tree and Landscape Officer's comments:

On 17<sup>th</sup> April 2020, the Applicant provided updated landscaping details which increased the extent of landscaping along the south-western New South Head Road frontage of the subject site, especially in front of No. 590 where there currently exists a retaining wall with thick vegetation (see image below) and which will be removed and replaced with a new planter bed as part of the development proposal.



Existing vegetation at No. 590 New South Head Road.

In response to the updated planter beds, Council's Tree and Landscape Officer made the following comments:

Referring to the Section drawing A-300.2 (North South Section 3 & 4) and the Floor Plan First Floor Level (drawing # A-102.1) I have considered the depth of soil, width of planter bed and length of planter bed depicted in relation to their suitability for supporting Eleocarpus reticulatus trees. Both planters have the same length (being 3.76 metres) and width (being 1.135) yet differ in depth. 1 x planter bed contains a sufficient depth of 1.75 metres and the other a shallower depth of no more than 700 mm. Despite section drawings showing the planters as being free draining into the subsoil profile there is no guarantee that the subsoil is friable and favourable to root growth. Therefore, to ensure both Elaeocarpus trees can be viable landscape features in the future the shallower planter bed shall be increased in depth to be a minimum of 1 metre. I have outlined the required changes in Condition C.2(e) of this referral response.

The recommended conditions of consent have been included as **Condition C.1** in the recommendation of this report.

<u>Assessment Officer's comments</u>: Despite there being a number of mature trees that the proposal removes from the subject sites, the landscape proposal provides good outdoor communal space. In addition to which 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 recommended conditions of consent (refer to comments dated 22<sup>nd</sup> April 2020 – **Annexure 4**).

# **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.

# Strategic Planner's comments:

The proposal provides residential units with a high level of internal amenity and private open spaces with appropriate size.

Majority of the units are naturally ventilated. The placing of living spaces on the southern facade is compensated by large openings.

Compliance: Yes.

Assessment Officer's comments: The apartments are deemed to be spacious and have living spaces facing the street which is unavoidable due to the site orientation. The bulk and height of the revised proposal has been reduced and the proposal will not result in adverse impacts in terms of overlooking or cross-viewing upon the adjoining properties. Internal and external amenity impacts for the adjoining and surrounding residents will be minimal.

# **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.

#### Strategic Planner's comments:

The proposal meets the requirements of this principle.

Compliance: Yes.

Assessment Officer's comments: There are no safety concerns with this proposal.

# 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.

# **Strategic Planner's comments:**

The development provides a range of apartment sizes and adequate private and communal outdoor spaces.

Compliance: Yes.

<u>Assessment Officer's comments</u>: The development provides a range of apartment sizes and adequate communal outdoor space.

# **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.

# **Strategic Planner's comments:**

The proposed distinctive design concept adds to the richness and architectural mix in the area. It responds to its highly visible location.

Compliance: Yes.

<u>Assessment Officer's comments</u>: The aesthetics of this proposal have been subdued in comparison to the expansive glazing of the original proposal. The building will add to the identity of this place and adds to the broad mix of dwelling types. The building suitably responds to the existing local context.

#### **Apartment Design Guide**

SEPP 65 Clause 28(2)(c) provides that the consent authority must take into account particular design criteria in the Apartment Design Guide. Eight topics are listed in SEPP 65 clause 6A and override any controls in the WDCP2015 when the development is being evaluated.

Below is the assessment which has been undertaken by Council's Strategic Planner. Compliance with the prescriptive requirements detailed below would not ordinarily determine whether a proposal which relies upon 'existing use rights' should be approved or not. They ae effectively irrelevant in the determination of this matter and are provided for information purposes only.

Topic Area	Subject	Compliance
3F Building separation	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	
	Building height Habitable rooms and balconies Non-habitable rooms	
	up to 12m (4 storeys) 6m 3m	No
	up to 25m (5-8 storeys) 9m 4.5m	
	over 25m (9+ storeys) 12m 6m	
4A Solar access	<ol> <li>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</li> <li>In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</li> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</li> </ol>	Yes
4F	The maximum number of apartments off a circulation core on a single level is eight	
Common circulation spaces	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Yes
4D	1.Apartments are required to have the following minimum internal areas:	
Apartment	Apartment type Minimum internal area Studio 35m² 1 bedroom 50m² 2 bedroom 70m² 3 bedroom 90m² 2.Habitable room depths are limited to a maximum of 2.5 x the ceiling height  3.In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window  1.Master bedrooms have a minimum area of 10m2 and other bedrooms 9m² (excluding wardrobe space)  2.Bedrooms have a minimum dimension of 3m (excluding wardrobe space)  1.Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments  4m for 2 and 3 bedroom apartments  2.The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Yes
4C Ceiling Height	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:  Minimum ceiling height for apartment and mixed use buildings  Habitable rooms 2.7m  Non-habitable 2.4m	Yes

	For 2 storey apartments	2.7m for main livi	ng area floor	
		2.4m for second flot the apartment area	oor, where its area does not exceed 50% of	
	Attic spaces 1.8m at edge of room with a 30 degree minimum ceiling slope			
	If located in mixed used areas	3.3m for ground a use	nd first floor to promote future flexibility of	
4E	1. All apartments are re	equired to have prin	aary balconies as follows:	
Private open space	Dwelling type	Minimum ared	n Minimum depth	
open space	Studio apartments	$4m^2$	-	
	1 bedroom apartments	$8m^2$	2m	No
	2 bedroom apartments	$10m^2$	2 <i>m</i>	
	3+ bedroom apartments	$12m^2$	2.4m	
4B Cross ventilation	of the building. Apart	ments at ten storeys enclosure of the bal	cross ventilated in the first nine storeys or greater are deemed to be cross conies at these levels allows adequate closed	Yes
	2. Overall depth of a cromeasured glass line to		rough apartment does not exceed 18m,	
4G Storage	In addition to storage in provided:	kitchens, bathrooms	s and bedrooms, the following storage is	
volumes	Dwelling type		Storage size volume	
	Studio apartments		$4m^3$	
	1 bedroom apartments		$6m^3$	Yes
	2 bedroom apartments		$8m^3$	
	3+ bedroom apartments		$10m^3$	
	At least 50% of the rec	uired storage is to	be located within the apartment	

# Council's Strategic Planner made the following conclusion and recommendation:

The proposed distinctive and contemporary architectural style responds to the highly visible location of the subject site and adds to the mixed character of the locality. However, the proposed bulk and scale requires to be appropriately integrated with its surrounding context through an adequate level of deep soil landscaping, particularly on the street frontage. In my opinion, an appropriate density of the deep soil landscaping is necessary on the southern frontage (along NSH Rd), particularly on its western portion. This to maintain and enhance the existing landscape character, mitigate the perceived bulk and scale from the public domain and reflect a garden setting. This is also to comply with the desired future character of the local context as per the WDCP B1.6.2.

Regarding this matter, I have reviewed the proposed amended landscape plans provided by the applicant. The plans would be acceptable subject to the assessment of Council's landscape officer that the proposed deep soil area on the southern frontage supports growing an adequate density of mature planting that maintains and enhances the existing landscape character of the streetscape. Alternatively, for Units 01 and 02, the idea of complimentary

planter boxes can be explored to be implemented in their private open spaces. This is to enhance the green character of the street further. The size and depth of the planter boxes are to be confirmed by Council's landscape officer.

The proposed vehicle ramp and the balcony of Unit 10 encroach into the side setback area. This reduces the chance for a continuous strip of screen planting at this location. I encourage that the applicant explores alternative solutions to provide a better screen planting at this boundary to mitigate the perceived bulk and scale from the public domain and follow the rhythm of the existing green corridors between surrounding buildings.

I recommend that the proposed habitable areas within less than 6m separation distance to the boundaries are appropriately screened to avoid any potential privacy impacts on the proposed internal spaces and the adjacent neighbours.

In general, I support the development concept, subject to further clarification on matters raised in this report.

# 13.3 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied with a BASIX Certificate committing to environmental sustainability measures. These requirements can be imposed by conditions as required by clause 97A of the *Environmental Planning & Assessment Regulation* 2000 were the application to be approved.

# 13.4 SEPP (Infrastructure) 2007

The following provisions of this SEPP are relevant to the subject application:

# 102 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:
  - (a) residential accommodation,
  - (b) a place of public worship,
  - (c) a hospital,
  - (d) an educational establishment or centre-based child care facility.
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
  - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,

- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- (4) In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993.

A formal response from Roads and Maritime (RMS) was received on 21<sup>st</sup> February 2019 wherein the RMS raised no objection to the proposal (subject to standard conditions). These condition have been included in the Recommendation.

# 13.5 Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005 and accompanying DCP

The land is within the Sydney Harbour Catchment. The proposal does not have any significant adverse visual impacts on the Harbour and adjoining foreshore areas or upon views to and from the harbour and foreshore areas and is therefore consistent with the objectives and relevant requirements of the SREP and accompanying DCP.

# 14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

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

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

#### 14.2 Land Use Table

The proposal is defined as a 'residential flat building' and is otherwise a prohibited form of development in the R2 Low Density Residential zone.

Notwithstanding that the 'existing use rights' provisions apply in this case, the amended proposal is considered to be satisfactory in terms of the aims (and objectives) in Part 2 of the Woollahra LEP 2014 for the following reasons:

- The amended proposal provides for a form of development that is consistent with the built form of the surrounding residential environment;
- The amended proposal is of a scale which will be compatible with the character and amenity of the surrounding neighbourhood; and
- The amended proposal is of a suitable height and scale that will achieve the desired future character of the neighbourhood.

#### 14.3 Other Provisions

The provisions of Woollahra LEP 2014 and DCP 2015 that do not derogate from the existing use rights applicable to the site, aim to mitigate adverse environmental impacts including traffic and parking impacts, landscaping impacts, excavation related impacts, stormwater drainage impacts, flood protection, potential acid sulphate affectation, heritage impacts, amenity impacts upon adjoining residential properties and the public domain. Additionally, issues of access for persons with disabilities and waste minimisation are required to be considered.

#### 15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

# 15.1 Chapter B1.6: Point Piper Residential Precinct

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

- The proposal reflects the desired future character of the precinct.
- The design of the proposal suitably responds to the surrounding built form.
- The proposal will not result in any adverse impact upon the amenity of adjoining and adjacent properties.
- The existing low density residential streetscape and scenic qualities of the streetscape will not be prejudiced.

The desired future character objectives as listed under Part B1.6.2 of the Point Piper precinct are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.
- O3 To ensure that development on the low side of the street maintains a consistent front setback.
- O4 To design and site buildings to respond to the topography and minimise cut and fill.
- O5 To protect iconic and harbour views from the street and other public spaces in the precinct, including views between buildings and over or though front fences.
- O6 To ensure that development facilitates view sharing to adjoining and adjacent private properties.
- O7 To maintain the sense of the historic grand estates by retaining the garden settings and streetscape elements.
- O8 To encourage the retention of the Inter-War flat buildings, particularly significant and traditional building elements visible from the street.
- O9 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

The amended proposal fulfils the relevant Objectives O1, O2, O6, O7 and O8 for the following reasons:

- The proposal reflects the desired future streetscape of the precinct.
- The design of the proposal suitably responds to the surrounding built form.
- The proposal will not result in any adverse impact in terms of view sharing to adjacent properties.
- The existing residential streetscape elements are being maintained.

#### 15.2 Section 7.11 Contributions Plan 2002

The Woollahra Section 94A Contributions Plan is applicable. In accordance with Schedule 1, a 1% levy (of the total cost of works) applies. With a cost of works of \$23,000,000, a payment of \$230,000 would be applicable were the application recommended for approval.

#### 16. APPLICABLE ACTS/REGULATIONS

### 15.3 Environmental Planning and Assessment Regulation 2000

# 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 the original assessment report in **Annexure 1**.

# 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 proposal, as recommended for approval by deferred commencement and appropriate conditions of consent, is considered suitable for the site.

#### 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 s4.15.

### 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, 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 2014 to the height of buildings development standard under Clause 4.3 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, grant development consent to Development Application No. 13/2019/1 for Construction of a new residential flat building with underground parking, new landscaping and strata subdivision, and remediation of land on land at 590-592 New South Head Road Point Piper, 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, piering, 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 Deferred Commencement - (s4.16(3) of the Act, cl.95 of the Regulation)

Development consent is granted subject that this consent is not to operate until the applicant satisfies the Council, in accordance with the *Regulations*, as to all matters specified in this condition:

# **Aboriginal Heritage:**

(a) The Proponent must seek approval from Heritage NSW via an Aboriginal Heritage Impact Permit (AHIP) issued under s.90 of the National Parks and Wildlife Act 1974 to allow a program of Aboriginal archaeological test excavation at 590-592 New South Head Road to be completed in order to establish the potential archaeological and cultural heritage significance of the site and to identify the potential need for further mitigation of impact upon that significance to be implemented prior to the commencement of future construction works on the site.

- (b) A full program of Aboriginal community consultation is to be undertaken that follows the OEH (2010) Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 in order to prepare a comprehensive Aboriginal archaeological and cultural heritage assessment for the proposed redevelopment and to support the AHIP.
- (c) An Archaeological Research Design and Excavation Methodology (ARDEM) is to be developed to guide a program of test excavation on the property that would build upon and the findings and conclusions reported in the Aboriginal due diligence report by DSCA dated April 2019.
- (d) Due to the potential archaeological (scientific) significance of the identified PADs (if they contain cultural materials), it is recommended the program of archaeological testing include a geoarchaeological and paleoenvironmental recording component to ascertain if possible the age and chronology of the subsurface deposits and nature of depositional processes and archaeological site formation processes involved.

# Period within which evidence must be produced

The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 95(4) of the *Regulation*:

"The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence **must be produced within that period**."

If the evidence is not produced with within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Construction Certificate can be issued. No development can lawfully occur under this consent unless it operates.

**Note**: Nothing in the *Act* prevents a person from doing such things as may be necessary to comply with this condition. (See section 4.16(3) of the *Act*)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

**Note:** Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No *Construction Certificate* can be issued until all conditions including this condition required to be satisfied prior to the issue of any *Construction Certificate* have been satisfied.

Standard Condition: A3 (Autotext AA3)

# A.4 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)
A-100, C	Basement Level Parking Plan	All by System Architects	All dated
A-101, C	Floor Plan Ground LVL		24/03/2020
A-102, C	Floor Plan First Floor LVL		
A-102.1, C	Floor Plan First Floor Level		
A-103, C	Floor Plan Second Floor LVL		
A-104, C	Floor Plan Third Floor LVL		
A-105, C	Roof Plan		
A-201, C	Elevations		
A-201.1, C	South Elevation		
A-202, C	Elevations		
A-300, C	Sections		
A-300.1, C	Sections		
A-300.2, C	Sections		
A-301	Sections		
L-101, B	Landscape Plan	All by Hoffman Brandt	All dated
L-102, B	Landscape – Communal Area,	Projects	06/01/2020
	Elevation, Section, Planting Key		
L-100, B	Landscape – Existing Condition		
	Analysis Plan		
-	Arboricultural Impact Assessment	Tree Wise Men	Jan 2019
	Report		
985966M_02	BASIX Certificate	Department of Planning, Industry and Environment	13/01/2020
4346R001.J.C.1 80906,	Acoustic Report	Acoustic Dynamics	17 Jan 2019
86477.01	Contaminated Land - Detailed Site	Douglas Partners	April 2019
80477.01	Investigation Report (Stage 2)	Douglas I artifels	April 2019
18184 Version	Traffic and Parking Impact	The Transport Planning	15/01/2019
Final	Assessment	Partnership	13/01/2019
86477.00	Geotechnical Report	Douglas Partners	Aug 2018
39781	Stormwater Plan	All by Wood & Grieve	All dated
Cl-520-01-B		Engineers	25/11/2019
C1-520-02-B			
Cl-520-03-B			
Cl-526-01-B			

**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.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	Species	Location	Dimension
Ref No.			(metres)
1	Persea	Front yard 590 New South Head Road. Refer to	10 x 8
	americana	drawing referenced L-100 Revision B	
	(Avocado)	(LANDSCAPE Existing Condition Analysis Plan.)	
13	Banksia	Rear yard 592 New South Head Road (LANDSCAPE	7 x 5
	integrifolia	Existing Condition Analysis Plan.)	metres
	(Coast Banksia)		
15	Persea	Rear yard 592 New South Head Road (LANDSCAPE	9x6
	americana	Existing Condition Analysis Plan.)	
	(Avocado)		

**Note**: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Current Location	Dimension (metres)
4	Archontophoenix	Front yard 590 New South Head Road. Refer to	9x3
	alexandrae	drawing referenced L-100 Revision B	
	(Alexandra Palm)	(LANDSCAPE Existing Condition Analysis Plan.)	

c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	Persea	Front yard 590 New South Head Road. Refer to	9x7
	americana	drawing referenced L-100 Revision B	
	(Avocado)	(LANDSCAPE Existing Condition Analysis Plan.)	
3	*Celtis sinensis	Front yard 590 New South Head Road. Refer to	9x6
	(Hackberry)	drawing referenced L-100 Revision B	
		(LANDSCAPE Existing Condition Analysis Plan.)	
4a	*Schefflera	Front yard 590 New South Head Road. Refer to	6x4
	actinophylla	drawing referenced L-100 Revision B	
	(Umbrella Tree)	(LANDSCAPE Existing Condition Analysis Plan.)	
5, 10	*Erythrina x	590 New South Head Road. Refer to drawing	10 x 10
	sykesii (Coral	referenced L-100 Revision B (LANDSCAPE	
	Tree)	Existing Condition Analysis Plan.)	
6, 7, 8	*Olea europea	Rear yard 590 New South Head Road. Refer to	6x4
	ssp. Africana	drawing referenced L-100 Revision B	
	(African Olive)	(LANDSCAPE Existing Condition Analysis Plan.)	
9	Celtis sinensis	Eastern boundary 590 New South Head Road. Refer	20x16
	(Hackberry)	to drawing referenced L-100 Revision B	
		(LANDSCAPE Existing Condition Analysis Plan.)	
14	*Cinnamomum	Rear yard 590 New South Head Road. Refer to	5x3
	camphora	drawing referenced L-100 Revision B	
	(Camphor	(LANDSCAPE Existing Condition Analysis Plan.)	
	Laurel)		
16	Lophostemon	Council verge on Wunulla Road. Refer to drawing	7 x 3
	confertus	referenced L-100 Revision B (LANDSCAPE	metres
	(Brushbox)	Existing Condition Analysis Plan.)	

**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.

d) 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	Persea	Front yard 590 New South Head	5% reduction pruning on
	americana	Road. Refer to drawing referenced L-	eastern side only for 2m
	(Avocado)	100 Revision B (LANDSCAPE	building clearance, removing
		Existing Condition Analysis Plan.)	max. 70mm diameter branches

**Note:** The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

# A.6 Ancillary Aspect of the Development (s4.17(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

#### A.7 Roads and Maritime Services Requirements

Any new buildings or structures, together with any improvements integral to the future use of the site are erected clear of the land required for road (unlimited in height or depth) and wholly within the freehold property (unlimited in height or depth), along the New South Head Road boundary.

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

#### **B.1** 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.2** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- c) Site construction access, temporary crossings and movement corridors on the site defined:
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

# **B.3** 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	Persea	Front yard 590 New South Head Road. Refer to	8mN
	americana	drawing referenced L-100 Revision B	8mS
	(Avocado)	(LANDSCAPE Existing Condition Analysis Plan.)	5mE
4	Archontophoenix	Front yard 590 New South Head Road. Refer to	2m
	alexandrae	drawing referenced L-100 Revision B	
	(Alexandra	(LANDSCAPE Existing Condition Analysis Plan.)	
	Palm)		
11	Cinnamomum	Rear boundary 7 Wolseley Road. Refer to drawing	4.8m
	camphora	referenced L-100 Revision B (LANDSCAPE	
	(Camphor	Existing Condition Analysis Plan.)	
	Laurel)		
11A	Erythrina x	Rear boundary 7 Wolseley Road. Refer to drawing	5.5m
	sykesii (Coral	referenced L-100 Revision B (LANDSCAPE	
	Tree)	Existing Condition Analysis Plan.)	
12	Cinnamomum	Rear boundary 7 Wolseley Road. Refer to drawing	5m
	camphora	referenced L-100 Revision B (LANDSCAPE	
	(Camphor	Existing Condition Analysis Plan.)	
	Laurel)		
13	Banksia	Rear yard 592 New South Head Road. Refer to	3.6m S & W
	integrifolia	drawing referenced L-100 Revision B	4.8m N & E
	(Coast Banksia)	(LANDSCAPE Existing Condition Analysis Plan.)	
15	Persea	Rear yard 592 New South Head Road. Refer to	6m
	americana	drawing referenced L-100 Revision B	
	(Avocado)	(LANDSCAPE Existing Condition Analysis Plan.)	

**Note**: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

**Note:** Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
1	Persea americana (Avocado)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) 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.
- e) 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 Condition B.2 of this consent.
- f) 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.
- g) 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.
- h) The project arborist shall provide written certification of compliance with the above condition.

#### **B.4** 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	Persea americana (Avocado)	5m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters; Incursion represented by the proposed Basement area.
13	Banksia integrifolia (Coast Banksia)	3.6m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
15	Persea americana (Avocado)	6m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
4	Archontophoenix alexandrae (Alexandra Palm)	4m	Transplant operation carried out by qualified tree transplanter

The project arborist shall provide written certification of compliance with the above condition.

# **B.5** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;

- c) Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

# **B.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	Action (Compliance documentation and photos shall be included).	
Installation of tree protection fencing	Compliance with tree protection measures	
Demolition of ground surfaces in TPZ areas	Condition of exposed roots	
Inspection of pier holes for landscape works	Piers positioned to avoid the severance of and damage to roots greater than 50mms	
Installation of piling	Condition of roots and soil	
Inspection of irrigation set out	Appropriate distribution of irrigation water	
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures	
Installation of tree protection fencing	Compliance with 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)

a) All skylights are to have a low profile and simple glass construction with metal framing to match the surrounding roof colour.

- b) The Landscape plan and any site drawings must delete reference to the transplanting of Tree 16. Instead the removal and replacement of the tree shall be referenced;
- c) The planting of 1 x 300 litre *Lophostemon confertus* tree must be illustrated on the Landscape drawings in the same location that was previously designated for the transplanting of Tree 16- that is in the Council verge area on Wunulla Road;
- d) The proposed planting of *Eucalyptus caesia* and *Eucryphia lucida* South of the proposed driveway and in the Wunulla Road verge area shall be deleted from the Landscape drawings. In this location the planting of a 100 litre container size tree of either of the following tree species shall be illustrated: 1 x *Angophora costata* (Sydney Red Gum) or 1 x *Corymbia eximia* (Yellow Bloodwood);
- e) The proposed planting of a *Wollemia nobilis* in the South Western deep soil area of the property shall be deleted from the Landscape drawings. In this location the planting of a 100 litre container size tree of either of the following tree species must be illustrated: 1 x *Araucaria heterophylla* (Norfolk Island Pine) or 1 x *Araucaria cunninghamiana* (Hoop Pine);
- f) To support the planting of *Elaeocarpus reticulatus* trees the proposed planter area depicted in Sections drawing A-300.2 (4) at the front Southern boundary to New South Head Road (and closest to the building's Western pedestrian entrance) must have a minimum soil depth of 1 metre between the soil surface to the inner boundary wall footing.
- g) Stormwater lines to be routed through the basement must not pass through Tree Protection Zones, as recommended in the Arboricultural Impact Assessment report (Tree Wise Men Pty Ltd, January 2019).

**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

# **C.2** 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.3 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code		
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986					
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other- information/levy-calculator	Contact LSL Corporation or use online calculator	No			
SECU: under section 4.17(6) of the <i>Environmen</i>		ment Act 1979			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$540,662	No	T115		
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$62,980	No	T113		
DEVELOPM under Woollahra Section 94A Deve This plan may be inspected at Woollahra Counci	elopment Contributions		w.gov.au		
<b>Development Levy</b> (section 7.12)	\$230,000 + Index Amount	Yes, quarterly	Т96		
	INSPECTION FEES under section 608 of the Local Government Act 1993				
Public Road/Footpath Infrastructure Inspection Fee	\$471	No			
Security Administration Fee	\$198	No	T16		
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$834,311 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 <a href="www.longservice.nsw.gov.au">www.longservice.nsw.gov.au</a> or the Long Service Corporation on 131 441.

#### How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other
  person who provided the guarantee and without regard to any dispute, controversy, issue or other matter
  relating to the development consent or the carrying out of development in accordance with the
  development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

#### How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

#### Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

# Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other
  person who provided the guarantee and without regard to any dispute, controversy, issue or other matter
  relating to the development consent or the carrying out of development in accordance with the
  development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.4 BASIX commitments

The *applicant* must submit to the *Certifying Authority* BASIX Certificate No.985966M\_02, dated 13 January 2020, 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 96 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 & Assessment Regulation* 2000 provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

Standard Condition: C7

#### C.5 Road and Public Domain Works

A separate application under section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council for infrastructure works prior to the issuing of any Construction Certificate. The application shall be accompanied by detailed engineering drawings prepared by a suitably qualified and experienced civil engineer.

The following infrastructure works must be carried out at the Applicant's expense:

# 1. Infrastructure Works

- a) The removal of all existing redundant vehicular crossings including layback and gutter on the New South Head Road boundary and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter shall be in accordance with TfNSW's requirements and specification. A copy of the approval issued by TfNSW must be submitted to Council.
- b) The construction of a new 5.5 metres wide vehicular crossings in accordance with Council's standard driveway drawing RF2\_D. The new crossing shall be constructed at right angle to the street kerb in plain concrete and be located at least 6 metres from the end of the tangent point to comply with Clause 3.2.3 of AS2890.1. Design longitudinal surface profiles along each edge of each proposed vehicular crossing must be submitted for assessment.
- c) The reconstruction of the existing full width concrete footpath for the full frontage of the site in New South Head Road and Wunulla Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works. Detailed long section and cross section at every 5m interval shall be prepared by a suitably qualified and experienced civil engineer.
- d) The proposed 375mm stormwater outlet pipe which connects to the TfNSW's underground drainage system. Approval issued by the TfNSW for such connection to the existing kerb inlet pit shall be submitted to Council.
- e) The removal/adjustment of existing retaining structures including landscape and trees and to ensure sight lines to comply with AS2890.1.
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

#### 2. Bonds

- a) A bond of \$62,980 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- b) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note**: See condition K24 in *Section K. Advisings* of this Consent titled *Roads Act Application*. Standard Condition: C13

# **C.6** Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local* native plants to screen the substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.

- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.
- Note: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.
- **Note:** This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.
- **Note:** Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.
- **Note**: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.

  Standard Condition: C21

# C.7 Soil and Water Management Plan – Submission & 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" published by the NSW Department of Housing 4th Edition" ('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 <a href="http://www.austieca.com.au/">http://www.austieca.com.au/</a> 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" publications can be down loaded free of charge from <a href="http://www.woollahra.nsw.gov.au/">http://www.woollahra.nsw.gov.au/</a>.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may satisfied as to this matter. Standard Condition: C25

# **C.8** Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

**Note:** This does not affect the right of the developer to seek staged Construction Certificates. Standard Condition: C36

# C.9 Geotechnical and Hydrogeological Design, Certification & 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 hydro-geological measures by the professional engineer; and;
  - Details a contingency plan. Standard Condition: C40 (Autotext: CC40)

#### C.10 Ground Anchors

This development consent does <u>NOT</u> 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*.

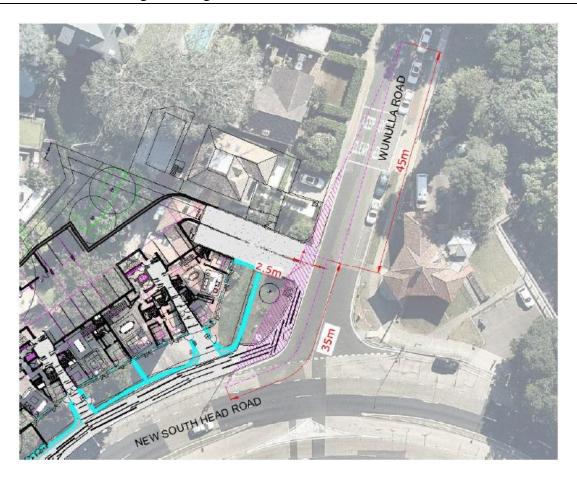
Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to 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.11 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.

The plans must satisfy the following requirements:

- a) A 2m x2.5m driveway sightline splay be provided along both sides of the driveway, as per AS/NZS 2890.1:2004 Clause 3.2.4 and Figure 3.3.
- b) The internal one-way ramp be clearly signposted and provided with pavement arrows to indicate the one-way only traffic flow, such signposting and pavement arrows be located within subject property.
- c) The area hatched in purple in the figure below be cleared from any obstructions, including any landscape and trees, to ensure sight lines.



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.12** Engineer Certification (Special Condition)

Prior to issue of any Construction Certificate, the applicant shall submit, for approval by the Certifying Authority, a certificate from a *professional engineer* (Civil/Traffic Engineer), certifying the following:

- 1) That all aspects of the carpark comply with AS2890.1. In particular, the proposed driveway for the first 6m from the property boundary is at a maximum grade of 5%. This grade may be increased to max. 12.5% provided that the grade is a downgrade for traffic leaving the property and entering the frontage road;
- 2) That all aspects of the bicycle parking and storage facilities comply with AS2890.3 and Chapter E1 of Woollahra Council's DCP;
- 3) The driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.

# **C.13 Roads and Maritime Services Requirements**

- (a) Sight distances from the proposed driveway to vehicles on Wunulla Road are to be in accordance with Austroads 'Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, Section 6.2 Sight Distance and AS 2890. Vegetation and proposed landscaping must not hinder sight lines to and from the vehicular crossings to pedestrians, cyclists, and general traffic.
- (b) The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (c) In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.

# **C.14 Stormwater Management Plan**

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater management plans, referenced 39781-Rev B, prepared by Wood and Grieve Engineers, dated 25/11/2019 except with the following amendments:
  - The invert level of the overflow pipe from the rainwater retention and reuse tank must be set at the top of kerb level where connection is made to the existing kerb inlet pit to prevent any backwater effect from the TfNSW's underground drainage system. Alternatively, the capacity of the existing TfNSW's stormwater drainage system at the proposed connection of the outlet shall be hydraulically evaluated using the Hydraulic Grade Line (HGL) method to demonstrate that no stormwater will be able to surcharge from TfNSW's system to the proposed filtration chamber and the rainwater retention and reuse system;
  - 2) The invert level of the outlet pipe from the proposed filtration chamber must be set above the top of kerb level where connection is made to the existing kerb inlet pit.
  - 3) Details of the required basement pumpout system including supporting calculations shall be provided. The pumpout system shall be provided in accordance with AS3500.3. Stormwater discharge from the basement pumpout system shall be directed to the proposed filtration chamber prior to discharging to the street drainage system.
- b) Compliance the objectives and performance requirements of the BCA;
- c) The installation of rainwater tank with minimum storage capacity of 70.65m³ which is to be connected for non-potable uses such as toilet flushings, laundry devices to all units and garden irrigations. Stormwater runoff from all roof areas shall be collected and directed to the proposed 70.65m³ rainwater retention and reuse tank via the installation of first flush device(s).
- d) Overflow from the proposed 70.65m³ rainwater retention and reuse tank shall be directed to the proposed stormwater filtration chamber by gravity prior to discharging to the TfNSW's underground drainage system by gravity;

- e) The installation of stormwater quality treatment system to satisfy the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP. This includes but not limited to the installation of 2 x 690 PSORB StormFilter Cartridges and 2 x Enviropod by Ocean Protect;
- f) General compliance with the Council's Woollahra DCP 2015 Chapter E2 Stormwater and Flood Risk Management.

The Stormwater Management Plan must also include the following specific requirements:

# Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Runoff, 1987* edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

# **Rainwater Reuse System details:**

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

**Note:** This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008* "Rainwater Tank Design and Installation Handbook".

Standard Condition: C.51 (Autotext CC51)

# **C.15 Non-Gravity Drainage Systems**

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Stormwater Management Plan for the site.

The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with section 6.2.4 – "Non-gravity drainage systems" of Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Note: The Woollahra DCP is available from Council's website <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>. Standard Condition: C.52 (Autotext CC52)

# **C.16 Light and Ventilation**

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of <u>AS 1668.1</u>, <u>AS 1668.2</u> and <u>AS/NZS 3666.1</u>.

If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*.

This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier*/Council is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of <u>AS 1668.2</u>.

Standard Condition C59

#### C.17 Sound Attenuation of the Mechanical Plant and Carpark Entrance Barrier

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the sound attenuation works required to *Mechanical Plant and Carpark Entrance Barrier* as recommended in the Acoustic Dynamics Report 4346R001.J.C.180906, dated 17<sup>th</sup> January 2019.

# C.18 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the  $L_{A90, 15 \text{ minute}}$  level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. Australian Acoustical Society—professional society of noise-related professionals (<a href="www.acoustics.asn.au/index.php">www.acoustics.asn.au/index.php</a>).

**2. Association of Australian Acoustical Consultants**—professional society of noise related professionals (<a href="https://www.aaac.org.au">www.aaac.org.au</a>). Standard Condition: C62

# C.19 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.20 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

# D.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia.
- b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation* 2004, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

**Note**: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia. Standard Condition: D1

# D.2 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to):

- a) No. 588 New South Head Road,
- b) Nos. 5, 7, 9 and 11 Wolseley Road, and
- c) No. 2 Wunulla Road.

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

**Note:** Also refer to the Dilapidation Report Advising for more information regarding this condition Standard Condition: D4

#### D.3 Adjoining buildings founded on loose foundation materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

**Note**: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

Standard Condition: D6

## **D.4** Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must be provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

# **D.5** Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.

- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

**Note:** A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

Standard Condition: D9 (Autotext: DD9)

## D.6 Works (Construction) Zone – Approval & Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

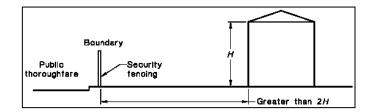
**Note**: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

**Note:** The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

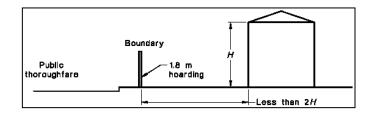
Standard Condition: D10

## D.7 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.

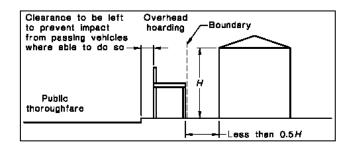


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must 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

#### **D.8** Site Signs

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

Clause 98A of the Regulation provides:

#### Erection of signs

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

Clause 227A of the Regulation provides:

#### Signs on development sites

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

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

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.
 Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.
 Standard Condition: D12

#### **D.9** 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 Workcover NSW requirements. Standard Condition: D13

#### **D.10** Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls to prevent all run off from entering Cooper Park during works to the property. Water pollution, erosion and sediment controls must be installed and maintained 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 (<a href="www.austieca.com.au/">www.austieca.com.au/</a>) 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and *The Blue Book* is available at <a href="www.environment.nsw.gov.au/stormwater/publications.htm">www.environment.nsw.gov.au/stormwater/publications.htm</a>

**Note**: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

**Note**: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

**Warning**: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Standard Condition: D14

# D.11 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement

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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

**Note:** It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

Standard Condition: D15

## D.12 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 <u>Home Building Act 1989</u> 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

#### **D.13 Roads and Maritime Services Requirements**

(a) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

(b) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Please send all documentation to: development.sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

(c) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on New South Head Road during construction activities.

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

# E.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 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 <u>Home Building Act 1989</u> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia. Standard Condition: E1

#### **E.2** Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2004: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

Standard Condition: E2

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

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

**Note**: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

Standard Condition: E3 (Autotext EE3)

## **E.4** Roads and Maritime Services Requirements

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New South Head Road.

# E.5 Requirement to notify about new evidence

- a) 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 Certifying Authority.
- b) In the event of any unexpected archaeological assets/relics being found during excavation works, work is to cease immediately and the NSW Office of Environment & Heritage contacted.

Standard Condition: E4

# **E.6** Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* or *owner builder* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA 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 109E(3)(d) of the *Act* or as required by the *PCA* and any PCA Service Agreement.

**Note**: The PCA may require inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

**Note**: The PCA may, in addition to inspections, require the submission of Com*pliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5

#### E.7 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 <u>operation of any equipment</u> 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 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* 2000.

Note: EPA Guidelines can be down loaded from http://www.epa.nsw.gov.au/noise/nglg.htm .

Note: see <a href="http://www.epa.nsw.gov.au/resources/ci\_build\_sheet7.pdf">http://www.epa.nsw.gov.au/resources/ci\_build\_sheet7.pdf</a>
Standard Condition: E6

## E.8 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

#### **E.9** Tree Preservation

All persons must comply with the Woollahra DCP 2015, Chapter E3–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 unless exempted by specific provisions. Works to be carried out within a 5 metre radius of any tree subject to the DCP require the prior written consent of Council.

# **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 – 2007: Pruning of Amenity Trees and SafeWork NSW Code of Practice: Amenity Tree Industry 1998.

Standard Condition: E8 (Autotext EE8)

## E.10 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/	Minimum
		Size of Tree (at	Dimensions at
		planting)	Maturity (metres)
1 x Lophostemon confertus	Within Council verge on Wunulla	300 litre	10 x 6 metres
(Brushbox)	Road (*Same proposed location as		
	previously plotted and transplanted		
	Tree 16)		
1 x Corymbia eximia	Within Council verge on Wunulla	100 litre	10 x 6 metres
(Yellow Bloodwood) or 1 x	Road – South West of proposed		
Angophora costata (Sydney	driveway.		
Red Gum)			
1x Araucaria heterophylla	South West deep soil area of the	100 litre	20 x 7 metres
(Norfolk Island Pine) or 1 x	site (in location of previously		
Araucaria cunninghamiana	proposed Wollemi Pine).		
(Hoop Pine)			
6 x Elaeocarpus reticulatus	Within planter areas behind the	50 litre	8 x 4 metres
	New South Head Road boundary		
	wall – between the proposed		
	Western entrance of the property		
	and the existing staircase on the		
	Western boundary of 590 New		
	South Head Road.		

The project arborist shall document compliance with the above condition.

# E.11 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	Persea americana (Avocado)	Front yard 590 New South Head Road	8.4
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	4.8
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	7.2

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

# E.12 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	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
11	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	4.8m
11A	Erythrina x sykesii (Coral Tree)	Rear boundary 7 Wolseley Road	5.5m
12	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	5m
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	бт

The project arborist shall document compliance with the above condition.

#### E.13 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	Persea americana (Avocado)	Front yard 590 New South Head	8mN
		Road	8mS
			5mE
13	Banksia integrifolia (Coast	Rear yard 592 New South Head	3.6m S & W
	Banksia)	Road	4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head	6m
		Road	

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.14** Footings in the vicinity of trees

Footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	Persea americana (Avocado)	Front yard 590 New South Head	8mN
		Road	8mS
			5mE
13	Banksia integrifolia (Coast	Rear yard 592 New South Head Road	3.6m S & W
	Banksia)		4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m

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.15** 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.16 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

**Note**: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12

## E.17 Support of adjoining land and buildings

A person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

**Note**: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the Access to Neighbouring Land Act 2000, or
- c. an easement under section 88K of the Conveyancing Act 1919, or
- d. an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.

**Note:** Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

**Note:** Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary)) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

**Note**: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13

#### **E.18 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 subcontractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

**Note**: professional engineer has the same mean as in clause A1.1 of the BCA.

**Note**: building has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and any structure or part of a structure..."

**Note:** *supported land* has the same meaning as in the *Conveyancing Act 1919*. Standard Condition: E14

#### E.19 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) "Managing Urban Stormwater Soils and Construction" 2004 published by the NSW Government (The Blue Book).

Where there is any conflict *The Blue Book* takes precedence.



**Note**: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

**Note**: Section 257 of the *Protection of the Environment Operations Act 1997* provides that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution".

**Warning**: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15

## E.20 Disposal of site water during construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That water pollution, as defined by the Protection of the Environment Operations Act 1997, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

**Note**: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17

#### **E.21 Site Cranes**

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act* 1988 (Cth).

No illuminated sign(s) must be erected upon or displayed upon any site crane.

**Note**: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

**Note:** Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19 (Autotext EE19)

# E.22 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

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

**Note**: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours. Standard Condition: E20

#### E.23 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 94 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 to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation* 1999.

**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.

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Standard Condition: E21

## **E.24** Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) 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 (Control of Burning) Regulation* 2000 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22

#### **E.25 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> 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 <a href="www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> and <a href="www.workcover.nsw.gov.au">www.epa.nsw.gov.au</a>. 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.26 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>
Standard Condition: E24 (Autotext EE24)

## E.27 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
- 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 EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

**Note**: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31

## **E.28** 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. 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
- k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW Standard Condition: E32

#### E.29 Waste Disposal

All waste disposal activities should be undertaken in accordance with the Waste Classification Guidelines (NSW EPA, 2014), the Waste Avoidance and Resource Recovery Act 2001, the Protection of the Environment Operations Act 1997 and other relevant legislation.

# 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

#### **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 6.1 of the *Act*. Standard Condition: F4

## F.3 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.

Standard Condition: F6 (Autotext FF6)

## F.4 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) Plumber certification that stormwater runoff from all roof areas has been collected which have been connected for non-potable uses such as toilet flushings and laundry devices to all units with the provision of first flush devices;
- c) All flood protection measures;
- d) All basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*. In particular, the following requirement must be certified by a traffic engineer:
  - 1) The internal driveway for the first 6m from the property boundary has been constructed at a maximum grade of 5% to comply with AS2890.1. This grade may be increased to max. 12.5% provided that the grade is a downgrade for traffic leaving the property and entering the frontage road;
  - 2) Minimum headroom of 2.2m has been provided to comply with AS2890.1.
  - 3) 2m x 2.5m sight triangles, clear of obstructions to visibility, have been provided to comply with AS2890.1.
- e) All stormwater drainage and storage systems;
- f) All mechanical ventilation systems;
- g) All hydraulic systems;
- h) All structural work;
- i) All acoustic attenuation work;
- j) All waterproofing;
- k) 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

## F.5 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks*, *Drainage and Miscellaneous Works* (2012).

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9 (Autotext FF9)

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

#### G.1 Strata Title Subdivision Certificate (Part 4 Strata Schemes Development Act 2015)

In addition to the statutory requirements of the *Strata Schemes Development Act 2015* a strata certificate must not be issued which would have the effect of:

- a) transferring to any strata unit entitlement, any areas of common property shown upon the approved development application plans,
- b) transferring to any strata unit entitlement, any visitor parking spaces, or
- c) creating any unit entitlement to any car parking spaces not associated with an occupiable unit entitlement within the strata plan.

**Note**: This condition has been imposed to ensure that: (a) common property is not alienated from the strata scheme and assigned to any one or more strata lots, (b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking, (c) parking spaces are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space lot, reducing available parking to strata lots and visitors required to reduce demand for on-street public parking.

Standard Condition: G2 (Autotext GG2)

#### G.2 Electricity Substations – Dedication as Road and/or Easements for Access

If an electricity substation is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any statutory corporation requiring access to the electricity substation.

Standard Condition: G4 (Autotext GG4)

## H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate

## H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No.985966M\_02, dated 13 January 2020.

**Note**: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7

## **H.2** 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.

Standard Condition: H9 (Autotext HH9)

#### H.3 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions:
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

Standard Condition: H12

## **H.4** Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,

- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- i) 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or obtained from Council's customer service centre. Standard Condition: H13

## **H.5** Roads and Maritime Services Requirements

The redundant driveways on the New South Head Road boundary shall be removed and replaced with kerb and gutter to match the existing. The design and construction of the kerb and gutter on New South Head Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email to: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>.

#### H.6 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 on-site retention and reuse system,
- c) that the works have been constructed in accordance with the approved design and will provide the minimum retention storage volume of 70.65m<sup>3</sup> in accordance with the approved construction drawings,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

**Note**: The required wording of the Instrument can be downloaded from Council's website <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>. 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.1 Provision of Off-street Public and Visitor Parking

The owner and occupier, in compliance with AS 2890.1:2004 *Parking facilities - Off-street car parking*, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Resident parking	31
Vehicle parking (visitor)	4
Motorbike parking	4
Bicycle parking	17

This condition has been imposed to ensure adequate on-site parking is maintained. Standard Condition: 121

#### I.2 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.985966M\_02, dated 13 January 2020.

**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: 124

#### I.3 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.

## I.4 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 retained and reused by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- d) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.

- f) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- h) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- i) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

**Note:** This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

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

Standard Condition: I29

## **I.5** Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

## I.6 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>. Standard Condition: 135

#### I.7 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

**Note:** This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.

#### **Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government www.cjc.nsw.gov.au.

NSW Environment Protection Authority—see "noise" section www.environment.nsw.gov.au/noise.

**NSW Government legislation-** access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

**Australian Acoustical Society**—professional society of noise related professionals <a href="www.acoustics.asn.au">www.acoustics.asn.au</a>. **Association of Australian Acoustical Consultants**—professional society of noise related professionals <a href="www.aaac.org.au">www.aaac.org.au</a>.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

Standard Condition: I56

## I.8 Outdoor Lighting – Roof Terraces

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.

**Note:** This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

**Note**: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Standard Condition: I51

#### I.9 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *Acoustic Report*. Standard Condition: 157

## I.10 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 0731327152, dated January 2000, and

*Noise Guide for Local Government* (<u>http://www.environment.nsw.gov.au/noise/nglg.htm</u>) ISBN 1741370671, dated December 2004.

Standard Condition: I59

#### I.11 Waste Management - Residential

Waste management must comply with the approved site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.

The occupier of the site must place waste and recycling bins/crates on the footpath for collection but not earlier than 12 hours prior to the designated collection time.

The occupier of the site must remove waste and recycling bins/crates from the footpath within 12 hours of being emptied by Council's waste service and they must be stored within the site in the approved waste storage area.

No commercial waste must be placed within residential waste and recycling bins/crates.

**Note:** This condition has been imposed to ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.

Note: For further residential wastes management policy information go to <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> Standard Condition: I52

#### 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. You can obtain further information from the following web sites:

<u>http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf</u> and the Attorney General's <u>www.agd.nsw.gov.au</u>.

Standard Advising: K1

## K.2 Dial before you dig



The *principal contractor*, *owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit <a href="www.dialbeforeyoudig.com.au">www.dialbeforeyoudig.com.au</a>.

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2

#### K.3 Builder's Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appointed a *principal contractor* for residential building work who must be the holder of a contractor licence.

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): http://www.dft.nsw.gov.au/building.html .

The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

Standard Condition: K5

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

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved.

The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.

The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0734760108. The guide can be obtained from the Office of Fair Trading by calling 1332 20 or by Fax: 96198618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124. The Guide can be down loaded from:

http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf

Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

Standard Condition: K6

## **K.5** Workcover requirements

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

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

<a href="http://www.workcover.nsw.gov.au/Industry/Construction/default.htm">http://www.workcover.nsw.gov.au/Industry/Construction/default.htm</a> or through their head office:

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7

## **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 Department of Lands:

http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm. 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. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <a href="http://www.cjc.nsw.gov.au/">http://www.cjc.nsw.gov.au/</a>. 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 George Lloyd, Consultant Town Planner, on (02) 9391 7059.

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14

## **K.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 80A of the *Act*.

The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from <a href="http://www.woollahra.nsw.gov.au/">http://www.woollahra.nsw.gov.au/</a> data/assets/pdf file/0004/76405/Refund of Security Form.pdf Standard Condition: K15

## 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 the Office of Fair Trading (see <a href="www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>.)

Standard Condition: K18

## K.11 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

## **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 PCA that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

  Standard Advising: K23

#### K.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.

<u>Note</u>: 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".

<u>Services</u>: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

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

**Note:** When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Standard Advising: K24

#### **Annexures**

- 1. Original Assessment Report to LPP on 7 Nov 2019 (Including Annexure) 🗓 🖺
- 2. Plans, Sections, Elevations and Landscape Plans (Amended Proposal) 🗓 🖫
- Referral Response Technical Services
- 4. Referral Response Trees & Landscaping 🗓 🖺
- 5. Referral Response Urban Design 🗓 🔁
- 6. Clause 4.6 Written Request Height of Buildings U

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

7 November 2019

# LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D3

FILE No. DA13/2019/1

ADDRESS 590 and 592 New South Head Road POINT PIPER

COUNCIL WARD Double Bay SITE AREA 2,393m<sup>2</sup>

**ZONING** R2 Low Density Residential

PROPOSAL Construction of a new residential flat building with underground

parking, landscaping, strata subdivision and remediation of land

TYPE OF CONSENT Local development

**COST OF WORKS** \$23,000,000 **DATE LODGED** 22/01/2019

APPLICANT Greenwall Property Developers Pty Ltd

OWNER The Owners - Strata Plan No. 10763

AUTHOR George Lloyd
TEAM LEADER Thomass Wong

SUBMISSIONS 12
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:

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

#### 2. REASONS FOR RECOMMENDATION

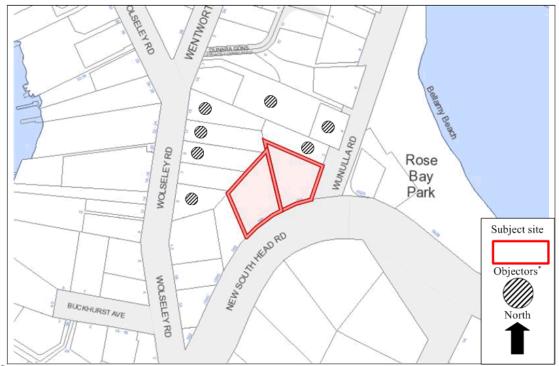
The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for refusal because:

- The proposal is unsatisfactory with regard to the existing use rights provisions under Sections 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979 and Clauses 40 to 46 of the Environmental Planning and Assessment Regulation 2000;
- The proposal is inconsistent with the existing use rights planning principle, as the height, bulk, form and scale are inconsistent with what is permissible on surrounding sites;
- The proposal will result in adverse effects upon the amenity of adjoining properties and the local built and natural environment such that refusal is justified;
- The site is not suitable for the proposed development in its current form; and
- The proposal is not in the public interest

Woollahra Municipal Council Woollahra Local Planning Panel Agenda

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#### 3. LOCALITY PLAN



\*3 x additional objections were received from people located outside the above map (see section 9 below for details)

#### 4. PROPOSAL

The proposal involves remediation of the site and construction of a new residential flat building above a podium level and with basement parking and which comprises the following:

#### Basement Level

- 27 underground parking spaces (including 1 disabled);
- 2 separate elevators (adjoining fire stairs); waste storage areas and entrance lobbies;
- 9 locker rooms (for units 6 to 14); and
- Plant/boiler room

<u>Ground Floor Level – RL 14 (Units 01, 02, 03 and 04)</u> – This level will provide for a total gross floor area of  $481\text{m}^2$  and will comprise the following:

- Two entrance lobbies facing NSH Rd;
- Unit 01 (117m²) adjacent to entrance lobby and comprises 2 bedrooms with access to a
  private courtyard and garden area facing NSH Rd. Driveway access to the lower level car
  park is provided behind and below Unit 1;
- Unit 02 (110m²) adjacent to entrance lobby and comprises 2 bedrooms with access to a
  private courtyard and garden area facing NSH Rd;
- Unit 03 (137m²) adjacent to second entrance lobby and comprises 2 bedrooms with access to a private courtyard and garden area facing NSH Rd;
- Unit 04 (117m²) adjacent to second entrance lobby and comprises 2 bedrooms with access to a private courtyard and garden area facing NSH Rd;

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- Externally, the main driveway is sited adjacent to Unit 4 along the eastern side of the site and provides access to the car parking/garage area behind and below;
- Behind these 4 units is sited 8 parking spaces (3 disabled); 4 x motorcycle spaces and multiple bicycle spaces in 3 different groups;
- 3 locker rooms (units 15 to 17);
- Bulk waste storage area; and
- Pedestrian access to lifts and stairs.

<u>First Floor Level – RL17.5 (Unit 05, 06, 07, 08, 09 and 10)</u> – This level will provide for a total gross floor area of 750m<sup>2</sup> and will comprise the following:

- Unit 05 (155m²) comprises 3 bedrooms with small recessed triangular balconies adjoining the western elevation rooms;
- Unit 06 (110m<sup>2</sup>) comprises 2 bedrooms with street facing balcony (13m<sup>2</sup>);
- Unit 07 (103m<sup>2</sup>) (behind unit 6) comprises 2 bedrooms with rear internal facing balcony (10m<sup>2</sup>);
- Unit 08 (137m<sup>2</sup>) comprises 3 bedrooms and a street facing balcony (13m<sup>2</sup>);
- Unit 09 (125m<sup>2</sup>) comprises 3 bedrooms and a street facing balcony (12.3m<sup>2</sup>); and
- Unit 10 (110m²) comprises 2 bedrooms with a cantilevered balcony (12.1m²) over the proposed driveway.

<u>Second Floor Level – RL20.8 (Unit 11, 12, 13 and 14)</u> – This level will provide for a total gross floor area of 874m<sup>2</sup> and will comprise the following:

- Unit 11 (175m²) comprises 3 bedrooms with small recessed triangular balconies adjoining the western elevation rooms;
- Unit 12 (215m²) comprises 2 bedrooms (+ study) with street facing balcony (12.5m²);
- Unit 13 (215m²) comprises 3 bedrooms with front and rear internal facing balconies (17m² in total); and
- Unit 14 (269m²) is an adaptable unit comprising 4 bedrooms and 2 street facing balconies (23m²).

<u>Third Floor Level – RL24.3 (Unit 15, 16 and 17)</u> – This level will provide for a total gross floor area of 925m<sup>2</sup> and will comprise the following:

- Unit 15 (257m²) comprises 2 bedrooms with small recessed triangular balconies adjoining the western elevation rooms and internal access to rooftop balcony/terrace area;
- Unit 16 (365m²) comprises 4 bedrooms and internal access to rooftop balcony/terrace area;
- Unit 17 (303m<sup>2</sup>) comprises 4 bedrooms and internal access to rooftop balcony/terrace area;

# 5. ISSUES

Below is a summarised list of issues raised in the objections received by Council.

Issue	Conclusion
Permissibility of proposal	A detailed assessment of the proposal against the relevant provisions pertaining to
under existing use rights.	'existing use rights' is provided in section 10 of this report.
	In addition, the Applicant has submitted legal advice confirming that existing use
	rights apply. That advice has been subsequently confirmed by Council's own
	independent legal advice.
Visual impact (potential	A detailed view loss assessment has been carried out (refer to Section 11). Although
cross-viewing and privacy)	the proposed 4 storey high development will result in additional height and bulk, it
and loss of harbour views	would only result in a relatively minor impact in terms of view loss towards Rose
from No.5 Wolseley Road.	Bay currently obtained from the rear verandah and areas of open space of the
	objector's property.

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Issue	Conclusion
Height, bulk and scale of the proposal is considered to be excessive as compared with surrounding sites and that which exists over the 2 sites.	From a streetscape perspective, the development proposal is considered to be inconsistent with the bulk and scale of the surrounding R2 zoned land and is also considered to be an excessive increase in the bulk and finished built form of the buildings which currently occupy the 2 sites.
The proposal will result in an adverse impact upon the existing streetscape and character of the surrounding area.	An assessment of the suitability of the proposal and its relationship to the existing streetscape is provided in Sections 12 and 14 of this report.
Potential traffic impacts with vehicles entering Wunulla Road from NSH Rd.	The proposal was referred to Council's Traffic Engineer who raised no objection to the proposal or to the siting and location of the proposed driveway.
Flaws in the Statement of Environmental Effects.	A planning consultant acting on behalf of the owner/s of No.2 Wunulla Road has provided a detailed response to numerous sections of the Statement of Environmental Effects submitted with the DA. The submission is acknowledged. The DA is recommended for refusal.
Inadequate information.	It is considered that sufficient and adequate information has been submitted for Council's assessment of the DA.
Visual impact of proposed roofline.	The visual impact of the current rooflines is minimised when viewed from neighbouring properties due to its pitched form and separated building footprints. The proposed development however has a flat roof and extends over the entire 2 sites which contributes to the increased bulk of the building.
The roof should not be used as a rooftop terrace.	The DA is recommended for refusal.
Impact of excavations upon local heritage item 285 (Moreton Bay Fig).	The proposal was referred to Council's Trees Officer who raised no objection to the proposal based upon potential impact to existing surrounding trees.
Lack of electricity substation.	The siting and location of a substation which may be required on site is a matter
Lack of community consultation.	between the Applicant and the energy provider (Ausgrid).  Notification and advertising of the DA was undertaken in accordance with the EP&A Act and the Woollahra DCP 2015.
Waste management and collection safety.	Were the proposal to be approved waste collection/management would likely be negotiated between the relevant Body Corporate and Council.
Residential flat buildings are prohibited in the R2 zone.	The application for the use of the building as a residential flat building is being made on the basis that existing use rights apply. An assessment of the Applicants contention that existing use rights is applicable in this case is provided below in this report.

# PROPERTY DETAILS AND REFERRALS

# 6. SITE AND LOCALITY

#### Physical features

The site is an irregularly shaped parcel of land having a combined northern boundary of 93.35m, an eastern boundary of 24.715m, a combined southern boundary of 54.415m, and a western boundary of 34.19m. The subject sites have a combined site area of  $2,393m^2$ .

# Topography

The terrain is steep, with a north to south fall of 10.7m through the centre of the site and a fall of almost 1m along New South Head Road.

#### Existing buildings and structures

The subject site is an amalgamation of two lots at Nos. 590 and 592 New South Head Road, Point Piper (currently described as SP10763 and SP17501 respectively).

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No. 590 New South Head Road is occupied by two storey building comprising 2 units, being Unit 1 on the ground floor and Unit 2 on the first floor. There is a brick garage at the front boundary at New South Head Road which is accessed from street level and provides two car parking spaces. A sandstone retaining wall that is approximately 3m high surrounds the property boundary. Due to the steep topography, the building and grounds are located approximately five metres above street level.

No. 592 New South Head Road is occupied by a part 2-3 storey residential flat building containing 5 units and is located at the corner of New South Head Road and Wunulla Road. A brick garage structure is accessed at the front boundary along New South Head Road which contains two double garages and two single garages, providing a total of 6 car parking spaces. There is a low stone wall (approx. 700mm high) at the front boundary facing Wunulla Road.

#### Surrounding Environment

The site is immediately adjoined and surrounded by 2-3 storey dwelling houses facing New South Head Road, Wolsely Road and Wunulla Road. Directly opposite the site facing Wunulla Road is Rose Bay Police Station and Rose Bay Park.



# 7. RELEVANT PROPERTY HISTORY

#### Current use

No. 590 – a building with two units;

No. 592 - a residential flat building with five units.

#### Relevant Application History

 9/05/2018: DA2018/29/1 was approved for the demolition of two (2) existing residential flat buildings and associated structures including removal of trees. The application was approved subject to deferred commencement Condition A.1 which requires that:

Demolition of the existing buildings and removal of trees at Nos. 590 and 592 New South Head Road, Point Piper, shall not commence until a separate Development Consent(s) or Complying Development Certificate(s) for redevelopment/use is granted.

 1/02/2019: DA2018/29/2 was approved extending the time limit specified in Condition A.1 from 365 days of the date of determination to 730 days (i.e. until 9/05/2020).

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Relevant Compliance History		
N/A		
Pre-DA		
Nil		
Requests for Additional Information and Replacement Applications		
Detailed environmental site assessment (requested on		
Land and Environment Court Appeal(s)		
N/A		

#### 8. REFERRALS

Referral	Summary of Referral Response	Annexure
Development Engineer	Satisfactory, subject to conditions	2
Traffic Engineer	Satisfactory, subject to conditions	3
Tree and Landscape Officer	Satisfactory, subject to conditions	4
Urban Design Officer	Refusal, based on the proposal not being compatible with the desired	5
	future character of the location.	
Environmental Health Officer	Satisfactory, subject to conditions	6
Heritage Officer	Significant design amendments would be required and recommended	7
	deferred commencement conditions pertaining to Aboriginal heritage.	
Fire Safety Officer	Satisfactory, subject to conditions	8
RMS Response	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

In accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015, the application was originally advertised and notified from 6/02/2019 to 20/02/2019 and then re-advertised and renotified to also include the remediation component of the proposal from 29/05/2019 to 12/06/2019.

Submissions were received from:

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- 1. Danny Avidan 9 Wolseley Road, Point Piper
- 2. Ping Du 2 Wunulla Road, Point Piper
- 3. Tony Moody (Consultant Town Planner) on behalf of the owner/s of 2 Wunulla Road, Point Piper
- 4. Penny Broekhuizen 1 Wentworth Street, Point Piper
- 5. Ned O'Neil Point Piper Marina
- 6. Mun Choy Foong 5 Wolseley Road, Point Piper
- 7. Irene Liu 4 Wunulla Road, Point Piper
- 8. Bruce Liu 4 Wolseley Road, Point Piper
- 9. Grant Fuzi 11 Wolseley Road, Point Piper
- 10. Bruce Bland Vice President Rose Bay Residents Association
- 11. Ash Samadi 13-15 Wolseley Road, Point Piper
- 12. M Balkan PO Box 167, Double Bay

A summary of the issues raised in the submissions have been provided and responded to in Section 5 of this report.

#### These issues form a reason for refusal:

- Excessive height, bulk and scale.
- Design, materials and form are inconsistent with the desired future character of the area.
- Privacy and amenity impacts.

#### These issues would not warrant refusal of the application:

- Impact on solar access or view loss.
- Excessive excavation.
- Increased density.
- The development will set a precedent for future development in the area.

# 9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 13/06/2019, declaring that the site notice for DA13/2019/1 was erected and maintained during the second re-notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

# EXISTING USE RIGHTS ASSESSMENT

# 10. SECTIONS 4.66 AND 4.67 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND CLAUSES 40-46 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

The use of the subject land for purposes of a residential flat building is prohibited under the R2 zone. The application therefore relies upon 'existing use rights' regulated under Sections 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979, and, Clauses 40-46 of the Environmental Planning and Assessment Regulation 2000.

# Does the existing use satisfy the definition of "existing use" under the Act?

Section 4.65 states:

# 4.65 Definition of "existing use

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In this Division, existing use means:

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and
- (b) the use of a building, work or land:
  - for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
  - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

#### Section 4.66 states:

#### 4.66 Continuance of and limitations on existing use

- (1) Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.
- (2) Nothing in subsection (1) authorises:
  - (a) any alteration or extension to or rebuilding of a building or work, or
  - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or
  - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or
  - (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or
  - (e) the continuance of the use therein mentioned where that use is abandoned.
- (3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.

This necessarily requires the following questions to be answered.

- 1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?
- 2. Was the use of the building, work or land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

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3. Has the use of the building, work or land been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

No. 590 New South Head Road was constructed as a dwelling house and was subsequently converted into 2 units on or about 1921. The strata subdivision of the building into 2 units was approved in 1975.

No. 592 New South Head Road was also originally constructed as a dwelling house. The conversion of this building into a residential flat building likely took place in the 1920's. Strata subdivision of the residential flat building was approved in 1981.

The existing residential flat building use of the site is currently prohibited on land zoned R2 Low Density Residential under Woollahra LEP 2014 which commenced on 23 May 2015.

In addition to the recent legal advice received from the Applicant and confirmed by Council, the documentation submitted with the subject development application and Council's own records adequately establishes that the subject site/s benefit from existing use rights as two separate residential flat buildings, and, there is no evidence that those existing use rights pertaining to the site/s have lapsed. Therefore, the following existing use rights assessment is provided.

#### 4.67 Regulations respecting existing use

- (1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:
  - (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and
  - (b) the change of an existing use to another use, and
  - (c) the enlargement or expansion or intensification of an existing use.
- (2) The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.
- (3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.

Clause 41 of the Environmental Planning and Assessment Regulation 2000 stipulates the following restrictions in relation to existing use rights applications:

# 41 Certain development allowed

- (1) An existing use may, subject to this Division:
  - (a) be enlarged, expanded or intensified, or
  - (b) be altered or extended, or
  - (c) be rebuilt, or

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- (d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or
- (e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or
- (f) if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).
- (2) However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:
  - (a) involves only alterations or additions that are minor in nature, and
  - (b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and
  - does not involve the rebuilding of the premises associated with the existing use, and
  - (d) does not involve a significant intensification of that existing use.

The proposed residential flat building is therefore permissible with consent.

Clause 42 of the Environmental Planning and Assessment Regulation 2000 stipulates the following in relation to existing use rights applications:

# 42 Development consent required for enlargement, expansion and intensification of existing uses

- (1) Development consent is required for any enlargement, expansion or intensification of an existing use.
- (2) The enlargement, expansion or intensification:
  - (a) must be for the existing use and for no other use, and
  - (b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

The proposal satisfies the abovementioned provisions.

Clause 44 of the Environmental Planning and Assessment Regulation 2000 stipulates the following in relation to existing use rights applications:

# 44 Development consent required for rebuilding of buildings and works

- (1) Development consent is required for any rebuilding of a building or work used for an existing use.
- (2) The rebuilding:
  - (a) must be for the existing use of the building or work and for no other use, and
  - (b) must be carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.

The proposal satisfies the abovementioned provisions.

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What is "the land on which the existing use was carried out/the building or work was erected or carried out" for the purposes of cl 42(2)(b) of the Environmental Planning and Assessment Regulation 2000 ("the EP&A Regulation")?

Meagher JA in Steedman v Baulkham Hills Shire Council [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Having regard to the above case law, it is considered that the residential flat buildings being the sole use of each of the subject sites, then existing use rights applies to the whole of the combined subject sites.

#### 11. ENVIRONMENTAL IMPACTS

The judgement in Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71, sets out the planning principles which should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights. The four principles adopted by the court in this case have general application in dealing with DAs that rely on existing use rights.

These principles were clarified in the Stromness case. In this regard, the following is a quote from the Chief Judge:

In Stromness Pty Ltd v Woollahra Municipal Council [2006] NSWLEC 587 the planning principles in Fodor were considered and confirmed by Pain J at pars 83-89. Principle 2 was specifically supported in paragraph 87 and principles 1, 3 and 4 were specifically supported in paragraph 89. Her Honour states in para 89 that care must be exercised in the application of the principles to ensure that there is not a de facto application of standards in environmental planning instruments as that is prohibited by s 108(3) of the Environmental Planning and Assessment Act.

Recent legal advice provided to Council qualifies the above stating:

In Saffioti v Kiama Municipal Council [2017] NSWLEC 65 the LEC considered the issue of whether the controls in a DCP could be considered in assessing the merits of an application for development consent for development with existing use rights. The LEC decided that the relevant controls in the DCP could be considered notwithstanding section 4.67(3) of the Environmental Planning and Assessment Act 1979. That section provides that any provisions of an environmental planning instrument which would derogate from the provisions in the Environmental Planning & Assessment Regulation 2000 regarding existing uses (the incorporated provisions), have no effect.

The LEC found that as a DCP is not an environmental planning instrument, s4.67(3) does not apply. DCP provisions can therefore continue to apply and be considered in assessing an application relying on existing use rights.

The LEC also considered provisions of the applicable local environmental plan (LEP) and found that a number of provisions, such as those dealing with biodiversity, applied to the development and did not derogate from the incorporated provisions. The LEC considered that only those provisions of the LEP which could have the effect of prohibiting the development derogated from the incorporated provisions and could not be taken into account.

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Notwithstanding the above, a further judgement *Modog Pty Limited v North Sydney Council [2018] NSWLEC 120* DCP has established that any DCP objectives or controls that mirror controls of an environmental planning instrument, would not apply where they would derogate from the existing use right provisions. However, in the instance where the DCP controls do not derogate, they can factor into the merit assessment of the application under section 4.15.

The following environmental assessment of the proposal takes into consideration the abovementioned principles established under *Fodor* and all of the relevant provisions of relevant statutory planning policies which do have the effect of prohibiting the development and all of the provisions of the *Woollahra DCP 2015* that are relevant to the scope of the proposed development.

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

The following assessment is provided having regard to the surrounding context and the objectives and controls provided under Section B1.6 (Point Piper Residential Precinct) and Chapter B3 (General Development Controls) of Woollahra DCP 2015 which do not derogate from the existing use rights principles.

#### Bulk and scale and visual impacts upon the streetscape

The current height of buildings and floor space ratio controls of the LEP are not applicable in this case, therefore the relationship of what is being proposed to what is permissible on surrounding sites must be properly assessed. Consequently, the assessment of such a proposal to the non-prescriptive controls which determine the suitability of any proposal to the surrounding streetscape becomes imperative.

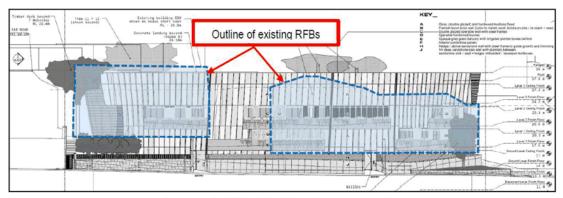
Below is an image taken from Google streetview.



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Below are images from the submitted plans and accompanying Statement of Environmental Effects.





Source: SoEE (GSA Planning - page19)

# **Inconsistent with the Desired Future Character**

The subject sites fall within the Point Piper Precinct which contains a range of housing types and styles including an excellent group of Inter-War flat buildings and more recent substantial harbourside houses on large allotments. The desired future character for the Point Piper Precinct states:

# Streetscape character and key elements of the precinct

Development respects and enhances the existing elements of the neighbourhood character that contribute to the precinct including:

- a) the rich mixture of architectural styles and forms;
- b) views and glimpses of the harbour between buildings from public spaces;
- c) the stepping of development down the hillside;
- d) well established private gardens and trees;
- e) mature street trees;
- f) stone and brick retaining walls on public and private land; and
- g) Inter-War flat buildings.

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# Desired future character objectives

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.
- O3 To ensure that development on the low side of the street maintains a consistent front setback.
- O4 To design and site buildings to respond to the topography and minimise cut and fill.
- O5 To protect iconic and harbour views from the street and other public spaces in the precinct, including views between buildings and over or though front fences.
- O6 To ensure that development facilitates view sharing to adjoining and adjacent private properties.
- O7 To maintain the sense of the historic grand estates by retaining the garden settings and streetscape elements.
- O8 To encourage the retention of the Inter-War flat buildings, particularly significant and traditional building elements visible from the street.
- O9 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

The proposed additional bulk and scale presented to the existing streetscape and the design of the heavily glazed south facing façade will add significantly to the overwhelming bulk and scale of the finished built form as compared with the staggered/broken built form of the two existing 2-3 storey dwelling houses which currently occupy the adjoining and surrounding sites.

The proposed development presents as four storeys to the street and the bulk and scale of the upper floor level (described as Level 3 in the accompanying plans) is considered to be excessive and entirely inconsistent with the precinct and desired future character objectives of the precinct.

In addition to the above, Council's Urban Design Officer has provided the following comments in relation to the context and neighbourhood character:

The glazed south facing wall of the proposal is a significant departure from the predominant built form character of the location. The proposal removes the trees from the street frontage and would significantly change the character of the location

The number of storeys, height, bulk and scale of the proposal is considered to be inconsistent with the desired future character objectives (O1, O2, O4 and O8) of the Point Piper Precinct.

#### Setbacks

The current zoning of the site provides for development controls that envisage a dwelling house on an allotment of land. The current proposal amalgamates 2 significant sites to create an enlarged site of approximately  $2,400m^2$  to accommodate one new residential flat building with a substantial footprint generally sited within the middle of the site.

The front setback of 6m is generally consistent with the surrounding detached dwelling houses. However, the dominance of the enlarged finished built form is not deemed to be consistent with the objectives of the front setback controls as it does not reinforce the existing streetscape and character of the precinct (Objective O1).

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Side boundary setbacks are determined based on the width of the allotments in accordance with Figures 5A and 5B of Part B3.2.3 of the Woollahra DCP 2015 (depending on the development typology). In this particular case, a minimum side boundary of 3.5m is required. A 3.5m side boundary setback for a dwelling house would seem an appropriate separation distance on average lot size. However, under the circumstances of this case the side setback will not prevent overlooking or cross-viewing from the proposal onto and into neighbouring properties. The proposal is therefore also deemed to be inconsistent with Objectives O1 and O3.

Rear setbacks are usually determined in accordance with Part 3.2.4 of the Woollahra DCP 2015. The minimum rear setback provided for the proposal varies between 6.9m and 10.75m. This is considered to be inadequate for an enlarged four-storey residential flat building. The excessive height and bulk of the proposal will result in an increased sense of enclosure especially for the residences at the rear of the subject site and which face Wolseley Road (ie. Nos. 5, 7 and 9 Wolseley Road). The proposal is therefore also deemed to be inconsistent with Objective O2.

#### 2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

It is worth noting that the two existing buildings which comprise the subject sites were originally constructed as purpose built dwelling houses and not as residential flat buildings (see Section 10 of this report).

The following is of particular importance when considering this principle (as previously stated):

...where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

In this case, comparing the two existing buildings which currently comprise the sites as to that which is proposed (in prescriptive terms) will result in the following:

Control	Standard	Current	Proposal
Maximum Building Height	9.5m	< <b>9.5m</b> (590 NSH Rd) <b>11.7m</b> (592 NSH Rd)	13m (approx.) (to parapet/elevator shaft
Building height plane*	7.2m wall height/ 45° inclined plane on 1.9m side setbacks	Compliant for both sites	Non-compliant

Due to the zoning of the site being R2 Low Density Residential, no FSR controls currently apply. The building envelope control in Part B3.2 of the Woollahra DCP are applicable to 'residential developments'.

Although consent for the demolition of the existing buildings was granted on 9/5/2018, **Condition A.1** of the consent was imposed requiring the demolition to be deferred until a separate consent is granted for the redevelopment/use of the subject sites. In this circumstance, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

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# 3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Potential impacts upon adjoining land regarding overshadowing, loss of privacy, visual impact, and view loss are discussed as follows:

Four of the neighbouring properties objected to a potential loss of views. They were Nos.5, 9 and 13-15 Wolseley Road and No.1 Wentworth Street (see map below).



An opportunity was offered to all of the above objectors for Council officers to undertake a detailed site inspection of their homes to determine the extent of view loss. Only the owner/s of No.5 Wolseley Road and No.1 Wentworth Street made themselves available for an independent site inspection.

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:

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# 1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

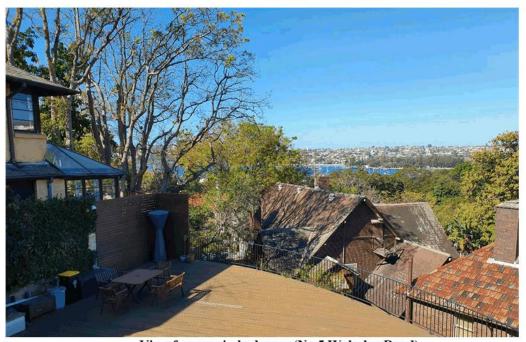
The views affected are towards Rose Bay from No. 5 Wolseley Road and towards Cranbrook Playing Fields from No. 1 Wentworth Street.

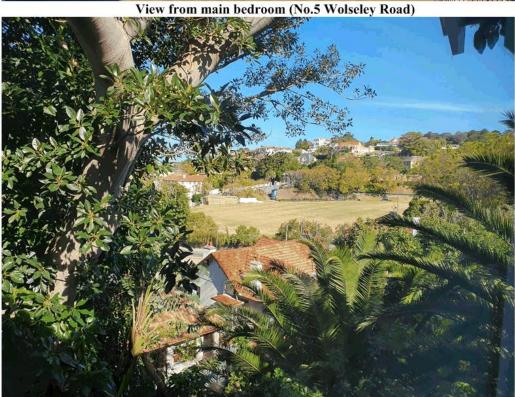
Images taken from each of these sites are provided below.



View from balcony (No.5 Wolseley Road)

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View from upper floor bedroom (No.1 Wentworth Street)

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#### 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.

Distant views of Rose Bay are available from No.5 Wolseley Road from the main living room and adjoining balcony from a standing position.

Views over Cranbrook Playing Field up towards Bellevue Hill are available from the upper floor main bedroom of No.1 Wentworth Street from a standing position and at an oblique angle.

# 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.

Views from the primary living areas and balcony on the first floor of the objector's property at No.5 Wolseley Road are not considered to be significantly affected by the proposal.

It should also be noted that the existing views afforded from this primary viewing area and balcony at No.5 Wolseley Road over the existing built form looking northwards is largely filtered through existing dense vegetation (see previous photos for details).

Views from the primary living areas of the objector's property at No.1 Wentworth Street are not affected at all by the proposal.

# 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.

Based on the assessment of the proposal undertaken in this report, the impact upon view loss is not considered to be significant or a determining factor to the extent that the DA should be refused on view loss alone.

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Therefore, the view impact is considered to be negligible and acceptable satisfying the Tenacity planning principle pertaining to view loss.

#### Acoustic and Visual privacy

Given there is a separation distance of less than 9m from the neighbouring properties, the proposed northern and eastern side elevation windows will have an impact on the visual privacy of 2 Wunulla Road.

The proposal is inconsistent with the following:

- a) Objective O2 (visual privacy) under Section B3.5.4 of WDCP.
- b) Control C4 under Section B3.5.4 of WDCP which requires that new windows be designed to prevent a sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.

# 4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Council's Urban Design Officer has provided the following comments with regard to internal amenity:

These apartments are spacious, but feature some inefficient room layout planning. 76% of the apartments get the subscribed amount of solar access, 76% receive good cross ventilation. Living spaces are generally facing the street rather than the north.

The proposal is considered to be reasonably satisfactory in terms of internal amenity.

#### 12. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

The following matters for consideration are based on the provisions of environmental planning instruments and policies that do not derogate (detract) from the existing use rights provisions.

#### 12.1 SEPP 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
- 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
- By requiring that a remediation work meet certain standards and notification requirements

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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.

The originally submitted DA was accompanied with a Preliminary Site Investigation report prepared by Douglas Partners, dated July 2018 and which recommended:

...further intrusive soil investigation including corresponding sampling and analysis to confirm their considered opinion that the risk of contamination at the site is generally quite low.

Following a review of that report, Council's Environmental Health Officer determined that insufficient information had been submitted to enable an assessment of the proposal from a land contamination viewpoint.

In accordance with the NSW EPA Contaminated Sites Guidelines, Council requested a detailed Environmental Site Assessment/Audit be undertaken. This Assessment/Audit shall certify that the site is suitable (or will be suitable after remediation) for the proposed use.

Following that request, an updated Detailed Site Investigation report was prepared and submitted by Douglas Partners (dated April 2019). As a result of this report, the description of the DA was amended to include "remediation of the site", following which the entire DA was re-advertised and re-notified.

The submitted updated Detailed Site Investigation report has been reviewed by Council's Environmental Health Officer, who has determined that the proposal, from a remediation perspective, is satisfactory.

# 12.2 SEPP 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 case, the proposal is for the construction of a residential flat building consisting of 4 storeys (plus underground parking) and 17 self-contained units.

The provisions of this instrument therefore applies to the subject application in so far as they do not derogate from the existing use rights pertaining to the site.

#### 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

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- 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 proposal is considered to be unacceptable with regard to the above stated aims for the following reasons:

- The height, bulk, scale and form of the proposal are considered to be incompatible with and
  unsympathetic to the existing surrounding residential developments which predominantly
  comprise single detached dwellings.
- The increase in overall density of the site, is considered to be entirely inconsistent with the surrounding residential density in this part of Point Piper which is characterised by large detached residences.
- The height and bulk of the proposal will result in overlooking and cross-viewing upon the adjoining properties.

#### **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, comments from Council's Assessment Officer have also been included.

# 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.

<u>Urban Design Planner's comments</u>: The subject site is zoned for R2 low density residential development. Currently there are residential flat buildings occupying both lots. The proposal is being made on the basis of 'existing use rights'.

The desired future character for the location emphasises the rich mixture of architectural styles and forms, the stepping of development down the hillside and mature trees. The location is not planned to undergo transition, however the development to the south side of New South Head Road by the Cranbrook School is going to alter the character of the site's immediate environs.

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The immediate visual context is dominated by large early 20<sup>th</sup> century houses with pitched roofs generally with white stucco wall finishes. The south western part of the frontage is currently heavily treed.

The glazed south facing wall of the proposal is a significant departure from the predominant built form character of the location. The proposal removes the trees from the street frontage and would significantly change the character of the location.

<u>Assessment Officer's comments</u>: The above comments are generally concurred with. For reasons previously mentioned, the proposal is considered to be entirely inconsistent with the desired future character objectives of the Point Piper Precinct.

#### 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.

<u>Urban Design Planner's comments</u>: The form of the proposal respects the frontage setbacks and the height of the adjacent buildings, but does not match the aesthetic or attempt to reflect the rhythm or the form of the adjacent houses.

Assessment Officer's comments: The above comments are generally concurred with.

# **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.

<u>Urban Design Planner's comments</u>: The proposed density is suitable in this well serviced location close to transport connections and natural amenity.

<u>Assessment Officer's comments</u>: The above comments are not concurred with. The increase in overall density of the site is considered to be entirely inconsistent with the surrounding residential density in this part of Point Piper which is otherwise characterised by large detached dwellings.

# Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes.

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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.

<u>Urban Design Planner's comments</u>: The planning of these units is constrained by the topography, the site orientation and the proximity to the road. The placing of living spaces on the South East frontage is compensated for by large south east facing windows. Outdoor clothes drying is provided.

# 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.

<u>Urban Design Planner's comments</u>: There are a significant number of mature trees that the proposal removes from the subject sites. The landscape proposal provides good outdoor communal space.

#### 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.

<u>Urban Design Planner's comments</u>: These apartments are spacious, but feature some inefficient room layout planning. 76% of the apartments get the subscribed amount of solar access, 76% receive good cross ventilation. Living spaces are generally facing the street rather than the north.

Assessment Officer's comments: Notwithstanding the internal amenity provided within the development, having regard to the bulk and height of the proposal and non-compliant setbacks, the impact of the proposal in terms of overlooking and cross-viewing upon the adjoining properties will result in adverse internal and external amenity impacts for the adjoining and surrounding residents.

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#### **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: There are no safety concerns with this proposal.

#### 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.

<u>Urban Design Planner's comments</u>: *The development provides a range of apartment sizes and adequate communal outdoor space.* 

# **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.

<u>Urban Design Planner's comments</u>: The aesthetics of this proposal will be controversial. Undoubtedly this building would add to the identity of this place and add richness to the mix of dwelling types. The building does not however attempt to respond or reinforce to the existing local context.

#### **Apartment Design Guide**

SEPP 65 Clause 28(2)(c) provides that the consent authority must take into account particular design criteria in the Apartment Design Guide. Eight topics are listed in SEPP 65 clause 6A and override any controls in the WDCP2015 when the development is being evaluated.

Below is the assessment which has been undertaken by Council's Urban Designer. Compliance with the prescriptive requirements detailed below would not ordinarily determine whether a proposal which relies upon 'existing use rights' should be approved or not. They are effectively irrelevant in the determination of this matter and are provided for information purposes only.

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Topic Area	Subject	Compliance
3F Building separation	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	
	Building height Habitable rooms and balconies Non-habitable rooms	
	up to 12m (4 storeys) 6m 3m	No
	up to 25m (5-8 storeys) 9m 4.5m	
	over 25m (9+ storeys) 12m 6m	
4A Solar access	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas  2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter  3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	Yes
4F Common circulation spaces	The maximum number of apartments off a circulation core on a single level is eight     For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Yes
Apartment size	1.Apartments are required to have the following minimum internal areas:  Apartment type Minimum internal area  Studio 35m² 1 bedroom 50m² 2 bedroom 70m² 3 bedroom 90m² 2.Habitable room depths are limited to a maximum of 2.5 x the ceiling height  3.In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window  1.Master bedrooms have a minimum area of 10m2 and other bedrooms 9m² (excluding wardrobe space)  2.Bedrooms have a minimum dimension of 3m (excluding wardrobe space)  1.Living rooms or combined living/dining rooms have a minimum width of:  3.6m for studio and 1 bedroom apartments  4m for 2 and 3 bedroom apartments  2.The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Yes
4C Ceiling Height	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:  Minimum ceiling height for apartment and mixed use buildings  Habitable rooms 2.7m  Non-habitable 2.4m  For 2 storey apartments 2.7m for main living area floor	Yes

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		2.4m for second floo the apartment area	or, where its area does not exceed 50% of	
	Attic spaces 1.8m at edge of room with a 30 degree minimum ceiling slope			
		3.3m for ground and first floor to promote future flexibility of use		
4E	1. All apartments are req	puired to have prima	ary balconies as follows:	
Private open space	Dwelling type	Minimum area	Minimum depth	
орен врисе	Studio apartments	$4m^2$	-	
	1 bedroom apartments	$8m^2$	2m	No
	2 bedroom apartments	$10m^{2}$	2m	
	3+ bedroom apartments	$12m^{2}$	2.4m	
4B Cross ventilation	<ol> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</li> <li>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</li> </ol>		Yes	
4G Storage	In addition to storage in k provided:	itchens, bathrooms	and bedrooms, the following storage is	
volumes	Dwelling type		Storage size volume	
	Studio apartments		$4m^3$	
	1 bedroom apartments		$6m^3$	Yes
	2 bedroom apartments		$8m^3$	
	3+ bedroom apartments		$10m^3$	
	At least 50% of the requ	uired storage is to	be located within the apartment	

Council's Urban Designer made the following conclusion and recommendation:

# SEPP 65 Summary

This is a difficult site to develop sensitively and the SEPP 65 assessment takes this into account. However the orientating of the 'open' side of the building to the south is contrary to the established sustainability criteria. This orientation seems to be driven by the potential aspect towards Rose Bay. The balconies do not comply with the ADG dimensional requirements. The proposal's assessment regarding SEPP 65 is not acceptable.

# Urban Design Review

This assessment is made on the basis of the contextual suitability of the proposed development rather than the proposal's compliance to the numerical controls that might apply to the site if it were permissible development.

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The subject site is a key component of what is perceived as the south eastern edge of Point Piper. The large dwelling houses set the character of the precinct. The buildings on the subject site, although both now flat buildings, were built originally as dwelling houses and then converted and added to, they read as dwelling houses. The result is that the presentation to the streetscape has a distinguishable identity. This identity could be classified as being early 20th century large dwelling houses with pitched roofs and rendered wall finishes.

The proposed development is a visually exciting use of architecturally form. However, the proposal does not respond to or reinforce this identifiable character. The fractured glazed curtain wall does not reference or compliment the masonry forms of the adjoining buildings. The continual frontage over two lots does not reflect rhythm of development that has resulted from the sub division pattern of the location and the removal of trees from the site does not reinforce the treed nature of the eastern part of the precinct.

This proposal would significantly change the visual character of the precinct.

#### Recommendation

Refusal, based on the proposal not being compatible with the desired future character of the location.

#### 12.3 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied with a BASIX Certificate committing to environmental sustainability measures. These requirements can be imposed by conditions as required by clause 97A of the *Environmental Planning & Assessment Regulation* 2000 were the application to be approved.

#### 12.4 SEPP (Infrastructure) 2007

The following provisions of this SEPP are relevant to the subject application:

# 102 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:
  - (a) residential accommodation,
  - (b) a place of public worship,
  - (c) a hospital,
  - (d) an educational establishment or centre-based child care facility.
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

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- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
  - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am.
  - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- (4) In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993.

A formal response from Roads and Maritime (RMS) was received on 21/02/2019 wherein the RMS raised no objection to the proposal (subject to standard conditions).

If the application was recommended for approval, suitable conditions would be imposed.

# 12.5 Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005 and accompanying DCP

The land is within the Sydney Harbour Catchment. The proposal does not have any significant adverse visual impacts on the Harbour and adjoining foreshore areas or upon views to and from the harbour and foreshore areas and is therefore consistent with the objectives and relevant requirements of the SREP and accompanying DCP.

#### 13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

#### Part 1.2: Aims of Plan

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

- The proposal fails to achieve aim (e) wherein the increased dwelling density proposed within the subject site is entirely inconsistent with the surrounding R2 Low Density Residential zoned land:
- The proposal fails to achieve aim (g) as it would have an unacceptable impact on the amenity
  of surrounding properties;
- The proposal fails to achieve aim (j) as it does not constitute a high standard of design within the private domain;
- The proposal fails to achieve aim (l) as the development is inconsistent with the desired future character of the area; and
- The proposal fails to achieve aim (m) as it does not minimise excavation.

#### Land Use Table

The proposal is defined as a 'residential flat building' and is otherwise a prohibited form of development in the R2 Low Density Residential zone.

Notwithstanding that the 'existing use rights' provisions apply in this case, the proposal is unsatisfactory in terms of the aims (and objectives) in Part 2 of the Woollahra LEP 2014 for the following reasons:

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- The proposal fails to provide for a form of development that is consistent with the built form of the surrounding low density residential environment;
- The proposal is of a scale which will be entirely incompatible with the character and amenity
  of the surrounding neighbourhood; and
- The development is of an excessive height and scale that will not achieve the desired future character of the neighbourhood.

#### Other Provisions

The provisions of Woollahra LEP 2014 and DCP 2015 that do not derogate from the existing use rights applicable to the site, aim to mitigate adverse environmental impacts including traffic and parking impacts, landscaping impacts, excavation related impacts, stormwater drainage impacts, flood protection, potential acid sulphate affectation, heritage impacts, amenity impacts upon adjoining residential properties and the public domain. Additionally, issues of access for persons with disabilities and waste minimisation are required to be considered.

A detailed assessment under the abovementioned provisions of the LEP and DCP has not been provided simply because the DA is being recommended for refusal.

#### 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

# 14.1 Chapter B1.6: Point Piper Residential Precinct

The proposal fails to satisfy the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015 for the following reasons:

- The proposal does not reflect the desired future character of the precinct.
- The design of the proposal does not suitably respond to the surrounding built form.
- The proposal will result in an adverse impact upon the amenity of adjoining and adjacent properties.
- The existing low density residential streetscape and scenic qualities of the streetscape are not being maintained.

The desired future character objectives as listed under Part B1.6.2 of the Point Piper precinct are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.
- O3 To ensure that development on the low side of the street maintains a consistent front setback.
- O4 To design and site buildings to respond to the topography and minimise cut and fill.
- O5 To protect iconic and harbour views from the street and other public spaces in the precinct, including views between buildings and over or though front fences.
- O6 To ensure that development facilitates view sharing to adjoining and adjacent private properties.
- O7 To maintain the sense of the historic grand estates by retaining the garden settings and streetscape elements.
- O8 To encourage the retention of the Inter-War flat buildings, particularly significant and traditional building elements visible from the street.
- O9 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

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The proposal also fails to meet Objectives O1, O2, O6, O7 and O8 for the following reasons:

- The proposal does not reflect the desired future streetscape of the precinct.
- The design of the proposal does not suitably respond to the surrounding built form.
- The proposal will result in an adverse impact in terms of view sharing to adjacent properties.
- The existing residential streetscape elements are not being maintained.

#### 14.2 Section 7.11 Contributions Plan 2002

The Woollahra Section 94A Contributions Plan is applicable. In accordance with Schedule 1, a 1% levy (of the total cost of works) applies. With a cost of works of \$23,000,000, a payment of \$230,000 would be applicable were the application recommended for approval.

#### 15. APPLICABLE ACTS/REGULATIONS

#### 15.1. Environmental Planning and Assessment Regulation 2000

#### 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 9**.

### 16. THE LIKELY IMPACTS OF THE PROPOSAL

The excessive height and bulk of the proposal will result in a finished built form that will have adverse impacts upon the streetscape and amenity of adjoining and surrounding residents as detailed in this report.

#### 17. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development and is recommended for refusal accordingly.

#### 18. THE PUBLIC INTEREST

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

#### 19. CONCLUSION

This assessment has considered the application in terms of the relevant matters under Section 4.15 of the Environmental Planning and Assessment Act, 1979, and other relevant considerations. The proposal is considered to be unsatisfactory in this regard and is recommended for refusal.

#### 20. DISCLOSURE STATEMENTS

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

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

THAT Council as the consent authority, refuse development consent to Development Application No. 13/2019/1 for construction of a new residential flat building with underground parking, new landscaping and strata subdivision, and remediation of land on land at 590-592 New South Head Road Point Piper, for the following reasons:

# 1. Unsatisfactory with regard to all relevant existing use rights provisions

The proposal is unsatisfactory with regard to the provisions under Sections 4.66 and 4.67 of the Environmental Planning and Assessment Act 1979 and Clause 40 - 46 of the Environmental Planning and Assessment Regulation 2000.

# 2. Excessive number of storeys, height, bulk and scale

The four storey presentation, height and gross floor area of the development is excessive with regard to the existing context, the desired future character, and the form of development that is permissible on surrounding sites in the R2 Low Density Residential zone.

#### 3. Acoustic and Visual privacy

The proposed northern and eastern side elevation windows will have an adverse impact on the visual privacy of No.5 Wunulla Road, Point Piper.

# 4. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The proposal is inconsistent with the Objective (b) and Design Quality Principles (1, 2, 6 and 9) prescribed in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

#### 5. Woollahra Local Environmental 2014 – 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:

- a) The proposal fails to achieve aim (e) wherein the development will inhibit the opportunity of adjoining properties to provide for an increased dwelling density;
- The proposal fails to achieve aim (g), wherein the proposal will result in a loss of amenity to the immediately adjoining and surrounding residents by cross-viewing and overlooking;
- c) The proposal fails to achieve aim (j) as it does not constitute a high standard of design within the private domain;
- d) The proposal fails to achieve aim (l), wherein the development is inconsistent with the desired future character of the area; and
- e) The proposal fails to achieve aim (m) as it does not minimise excavation.

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# 6. Woollahra Development Control Plan 2015 – Chapter B1: Residential Precinct, Part B1.6: Point Piper Precinct

The number of storeys, height, bulk and scale of the development is inconsistent with the desired future character and Objectives O1, and O2 prescribed in Part B1.6.2 of the Woollahra Development Control Plan 2015 for the following reason:

- The proposal fails to respect and enhance the streetscape character and key elements of the precinct; and
- b) The height, bulk and scale of the proposed new building is generally excessive and lacks appropriate modulation. The proposed new building is not a well-designed contemporary building that fits into the precinct.

# 7. Public Interest

The proposal is not in the public interest.

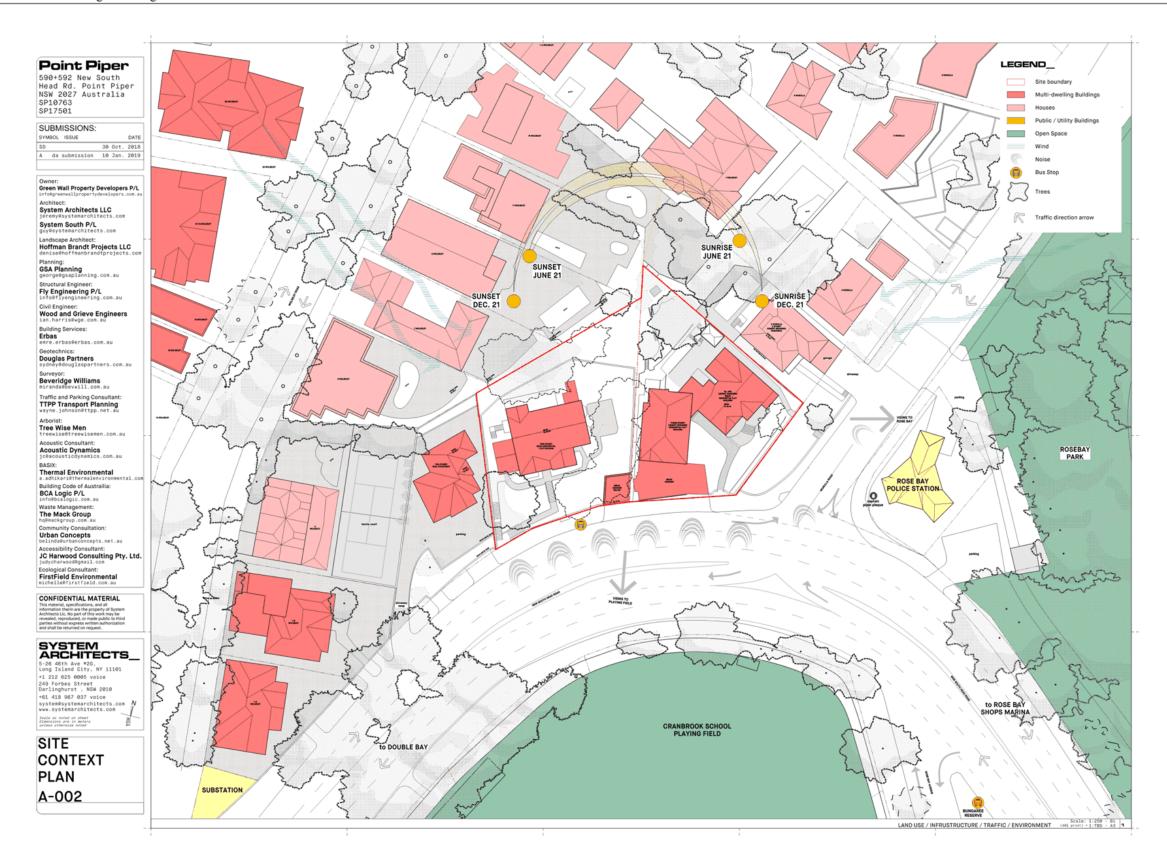
#### Annexures

- 1. Architectural Plans and Elevations J 🖺
- 2. Referral Response Development Engineer U
- 3. Referral Response Traffic U
- 4. Referral Response Landscaping U
- 5. Referral Response Urban Design 🗓 🎏
- 6. Referral Response Health U
- 7. Referral Response Heritage 🔱 🏗
- 8. Referral Response Fire Safety U
- 9. RMS Response U

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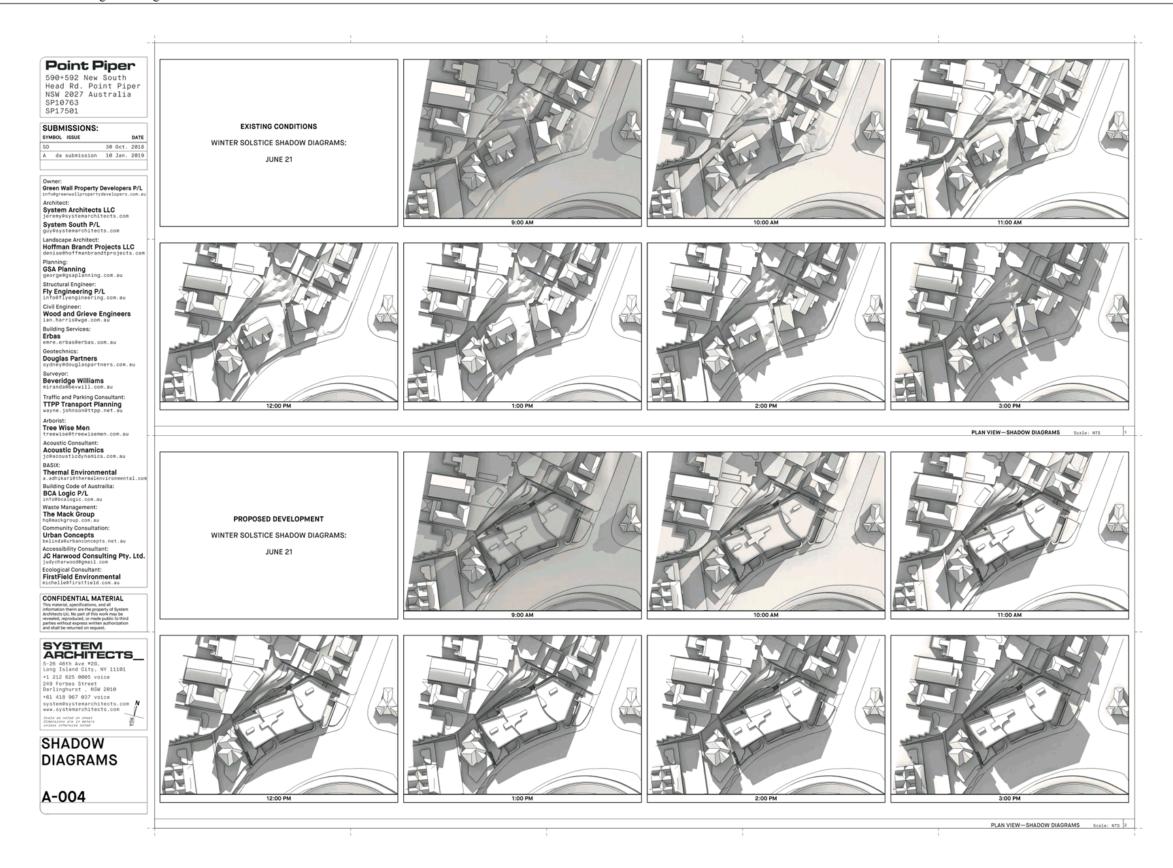
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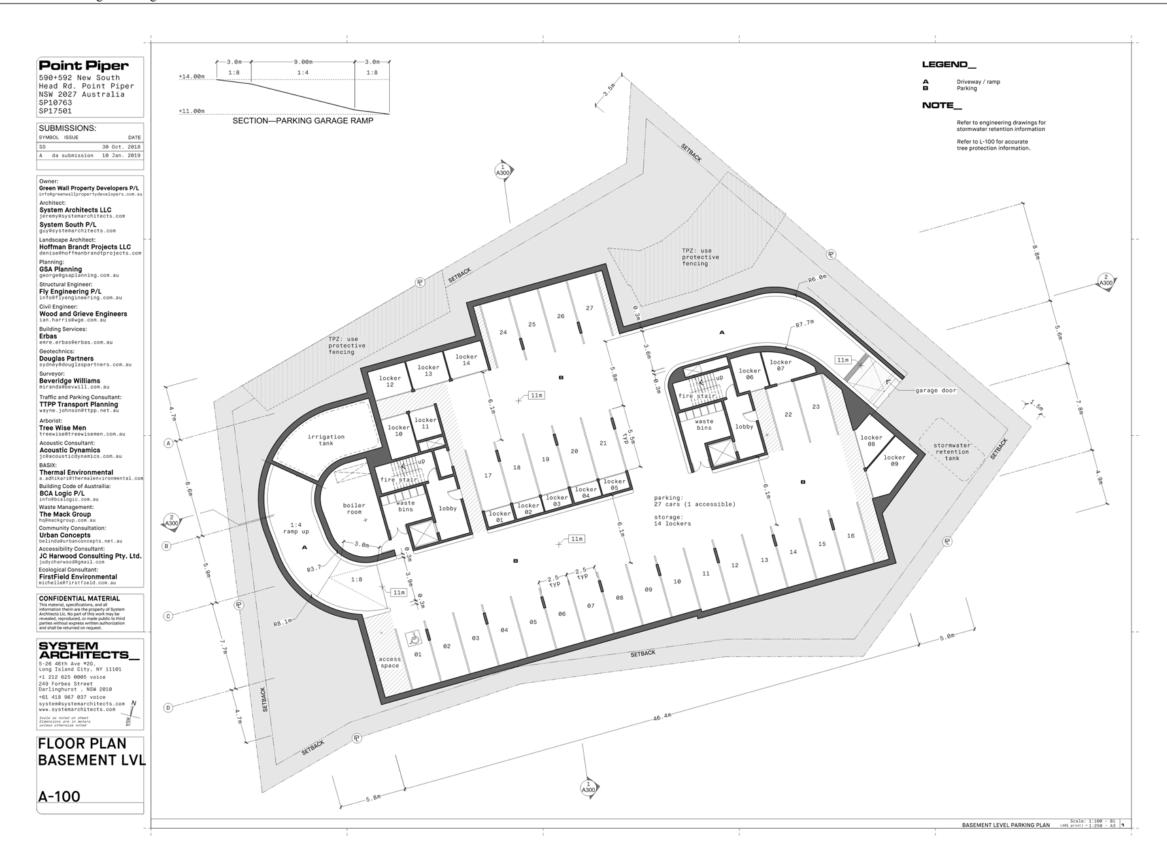
7 November 2019



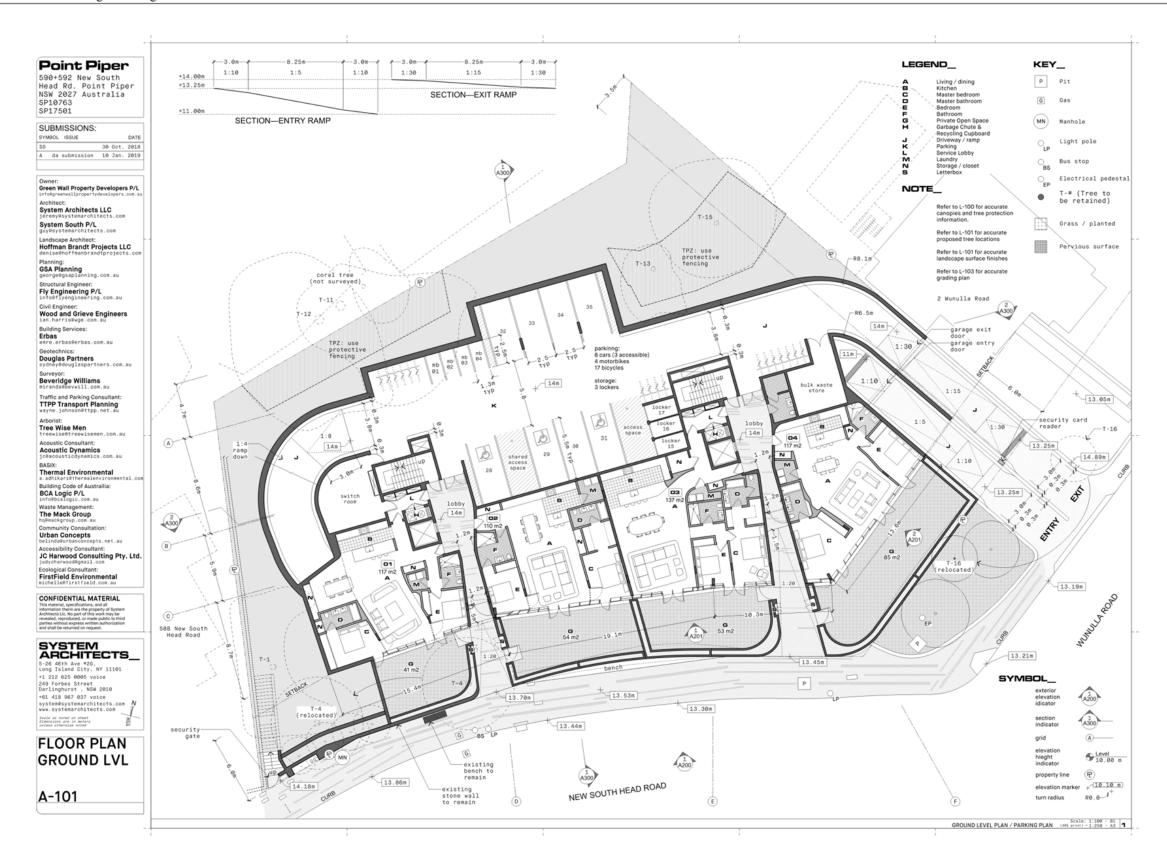
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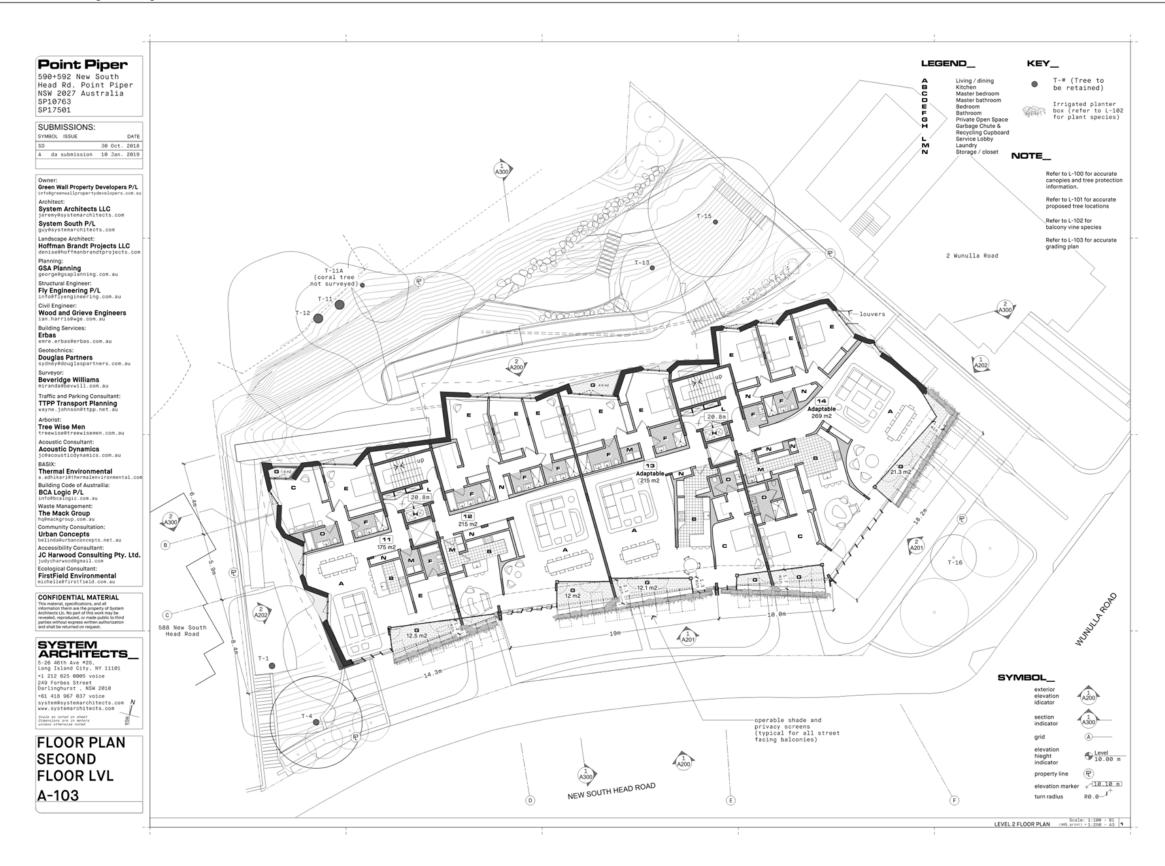
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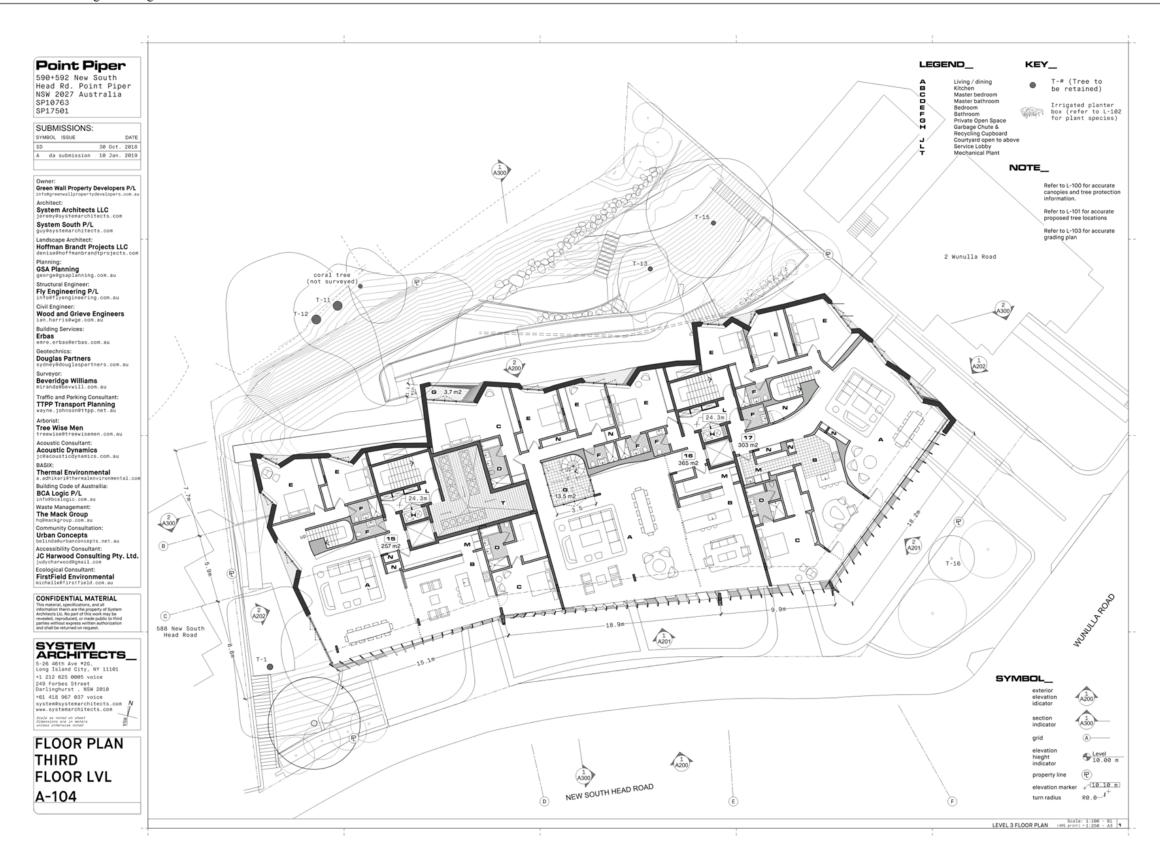
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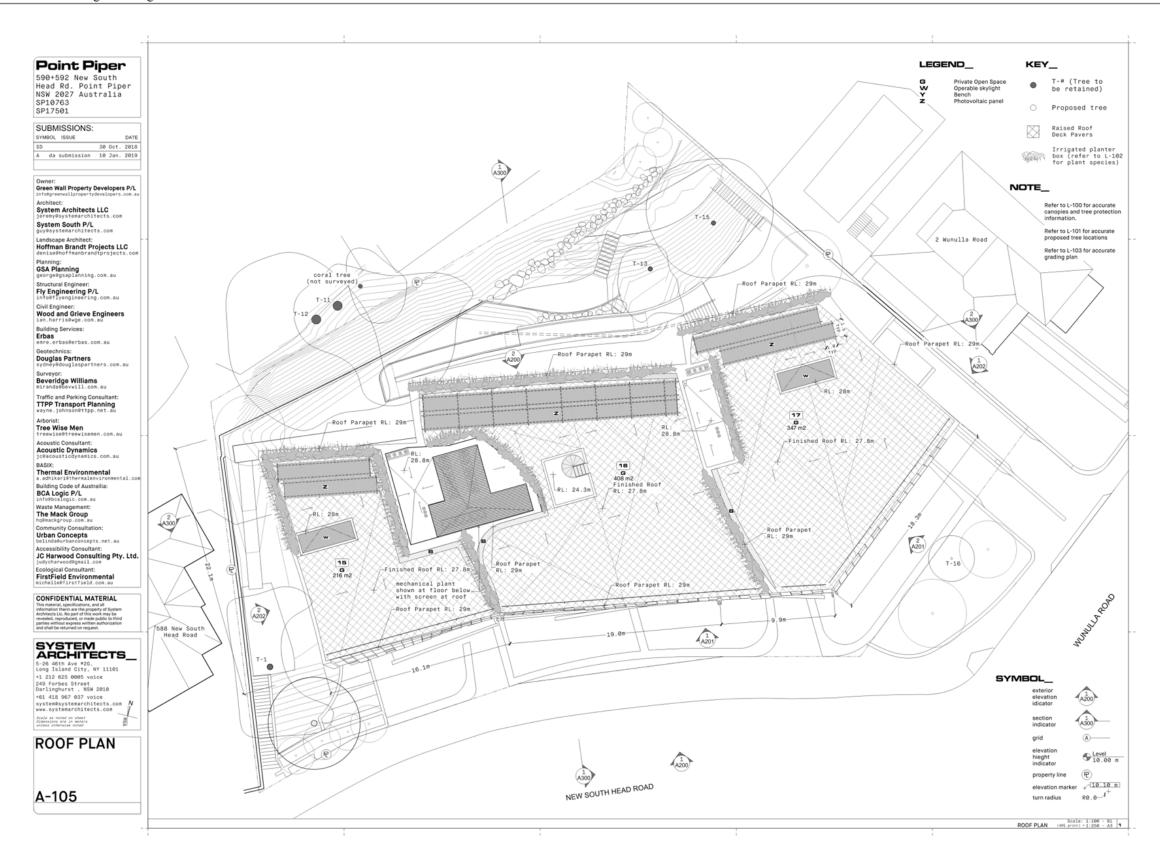
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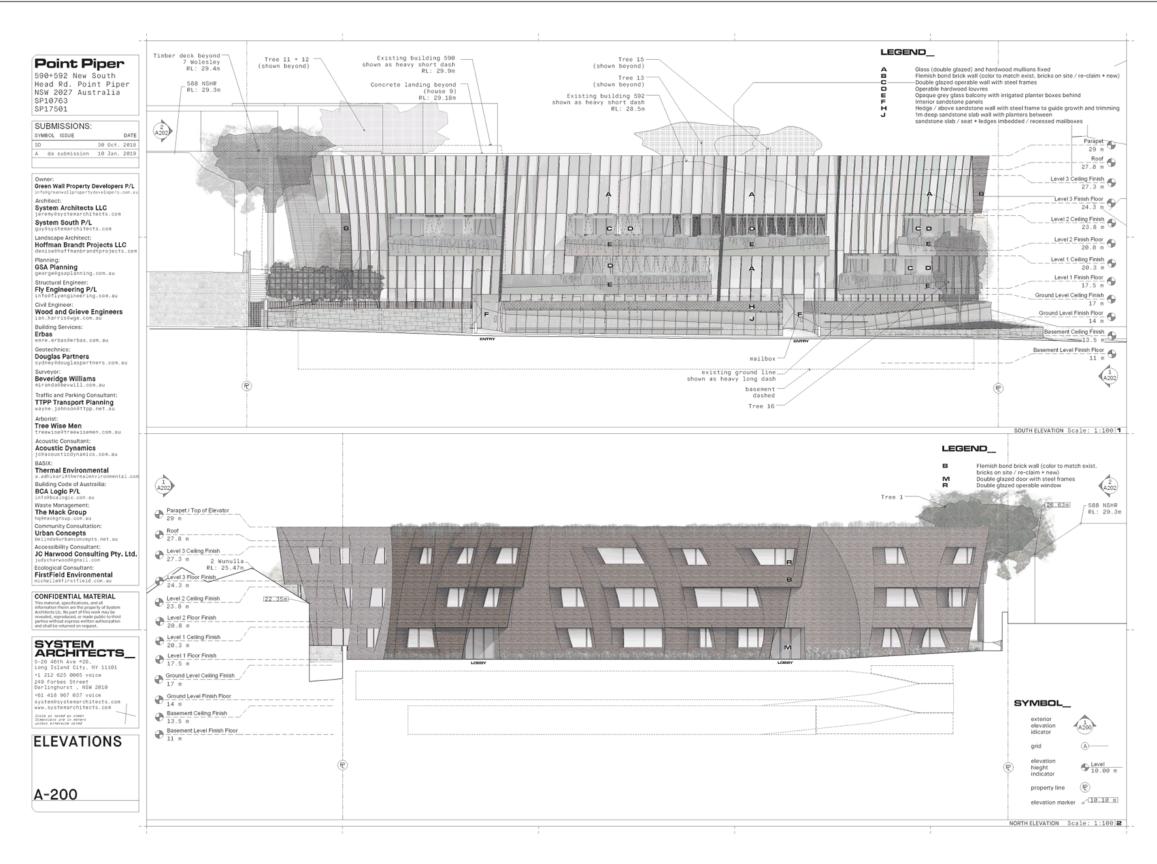
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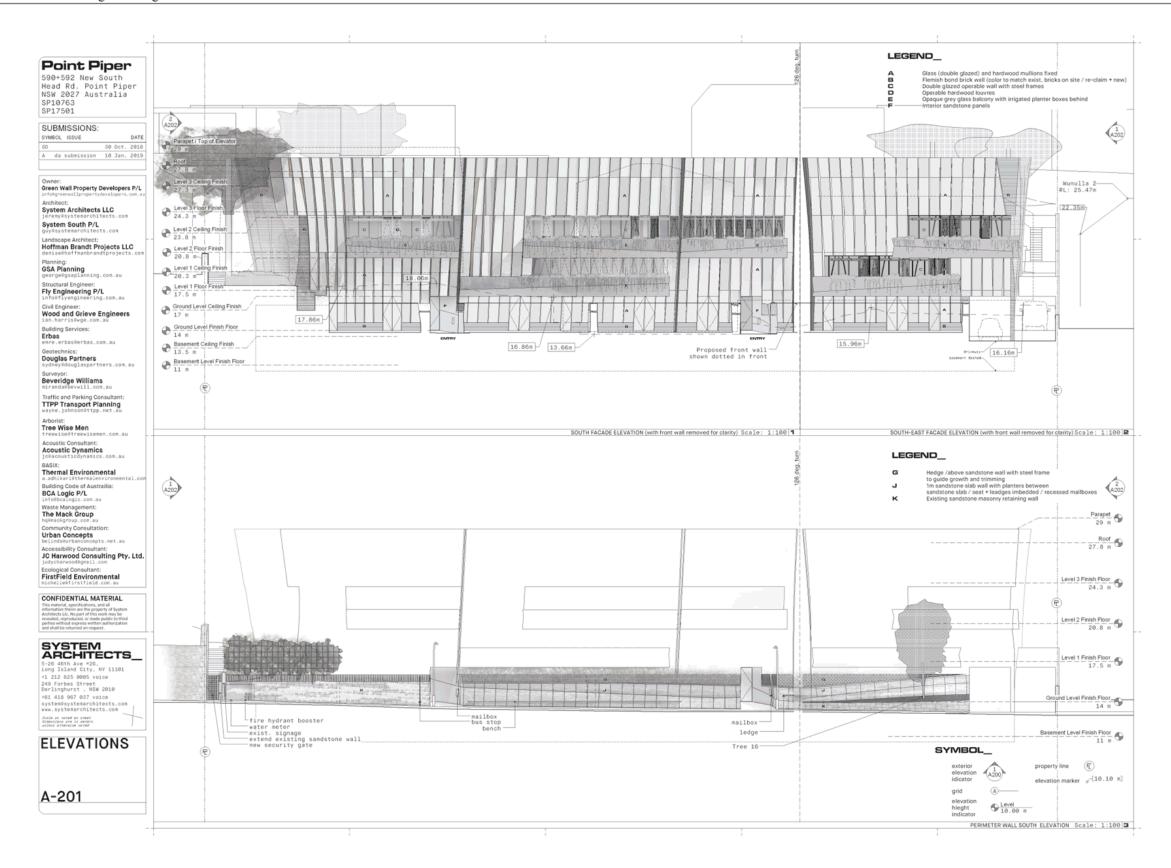
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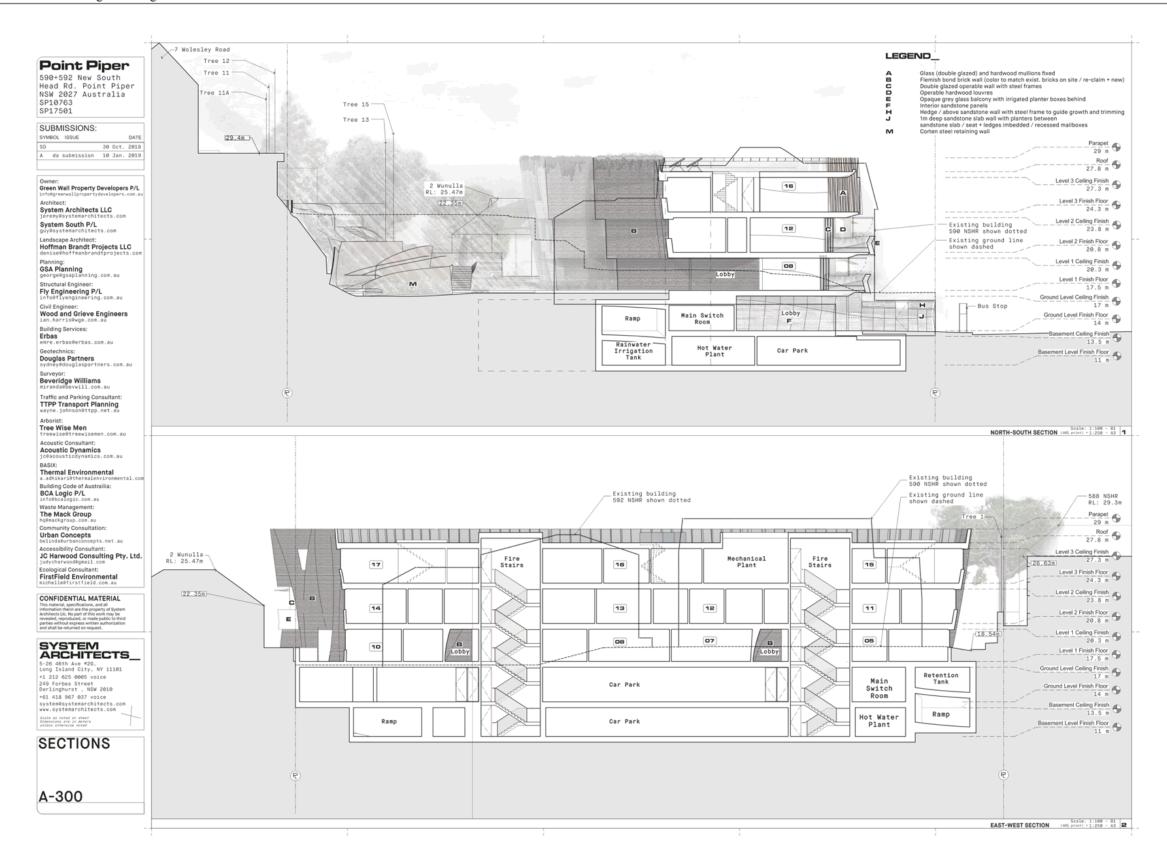
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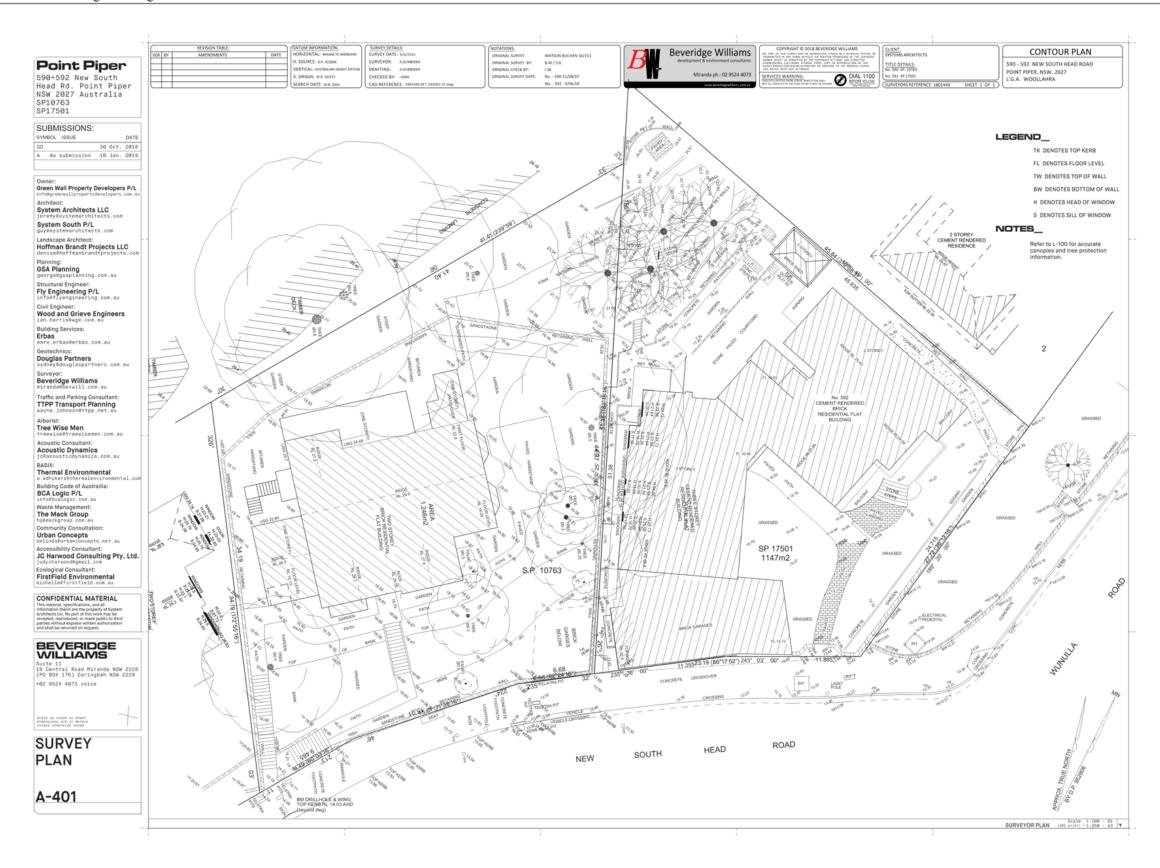
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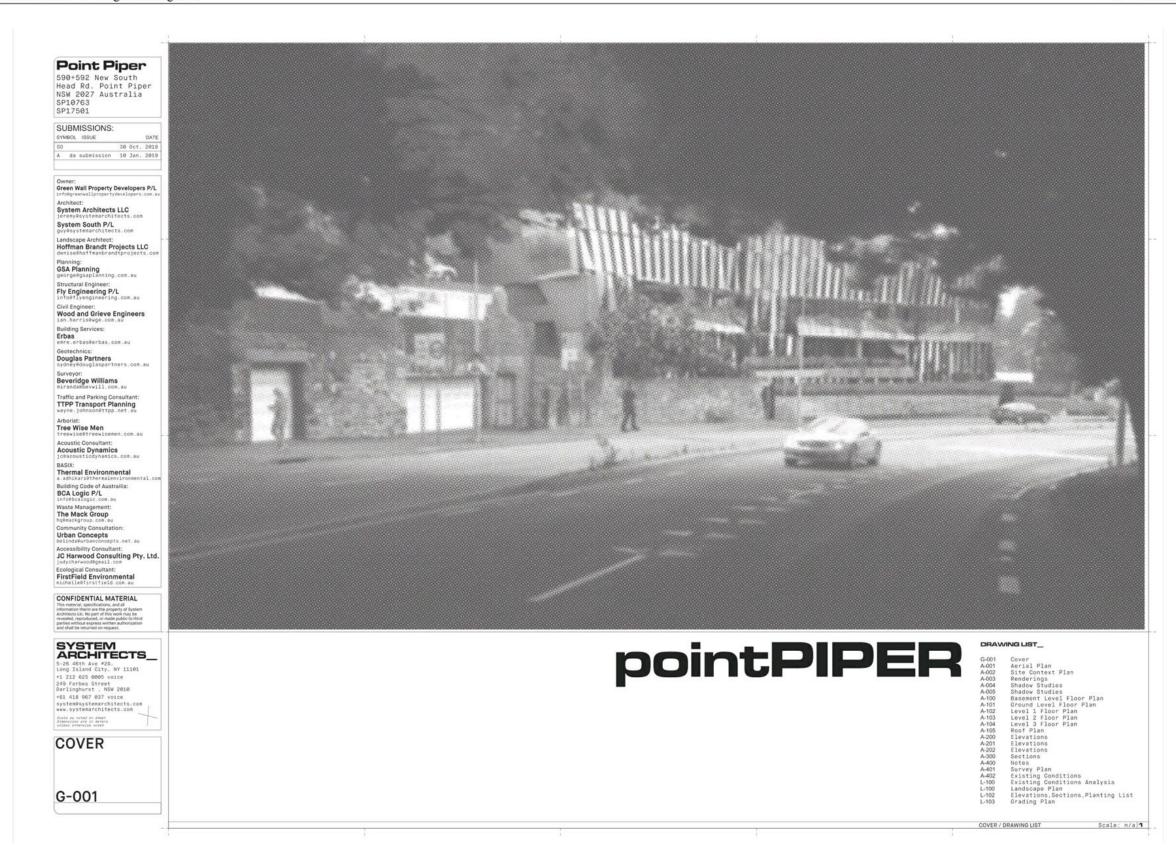
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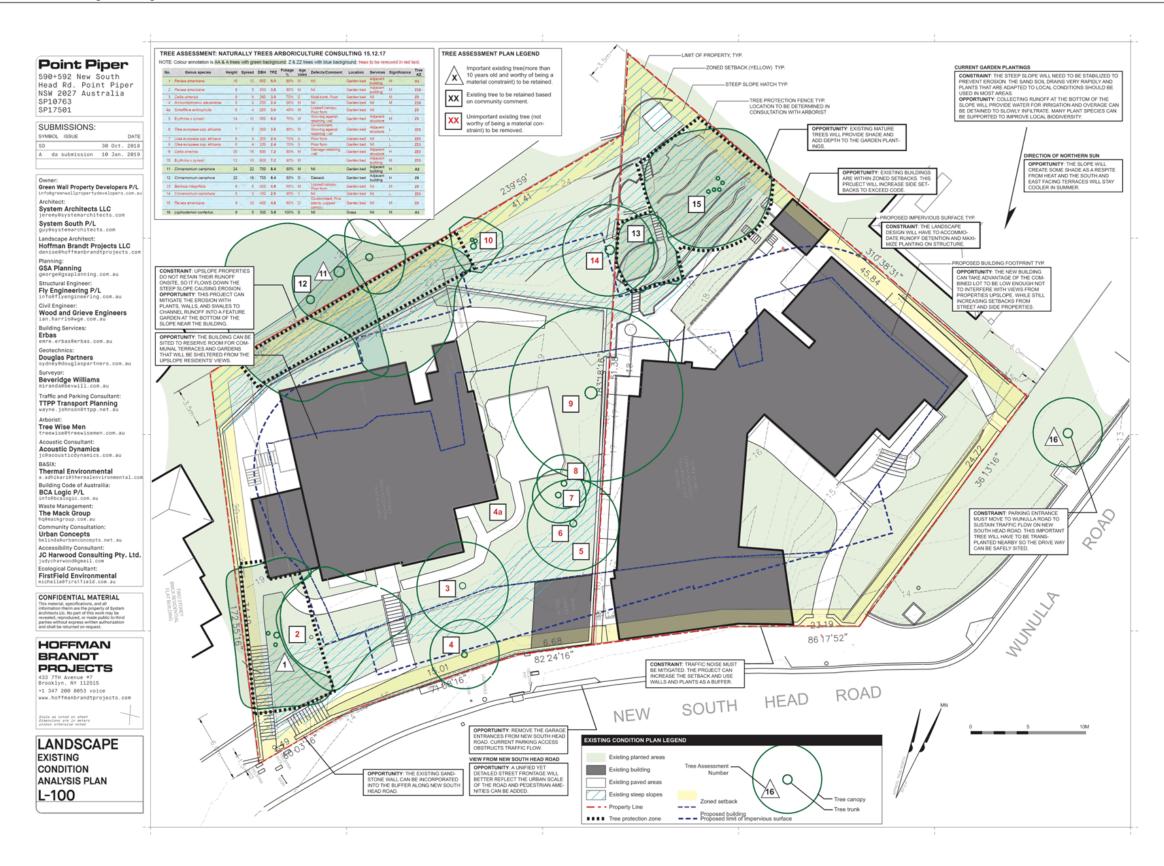
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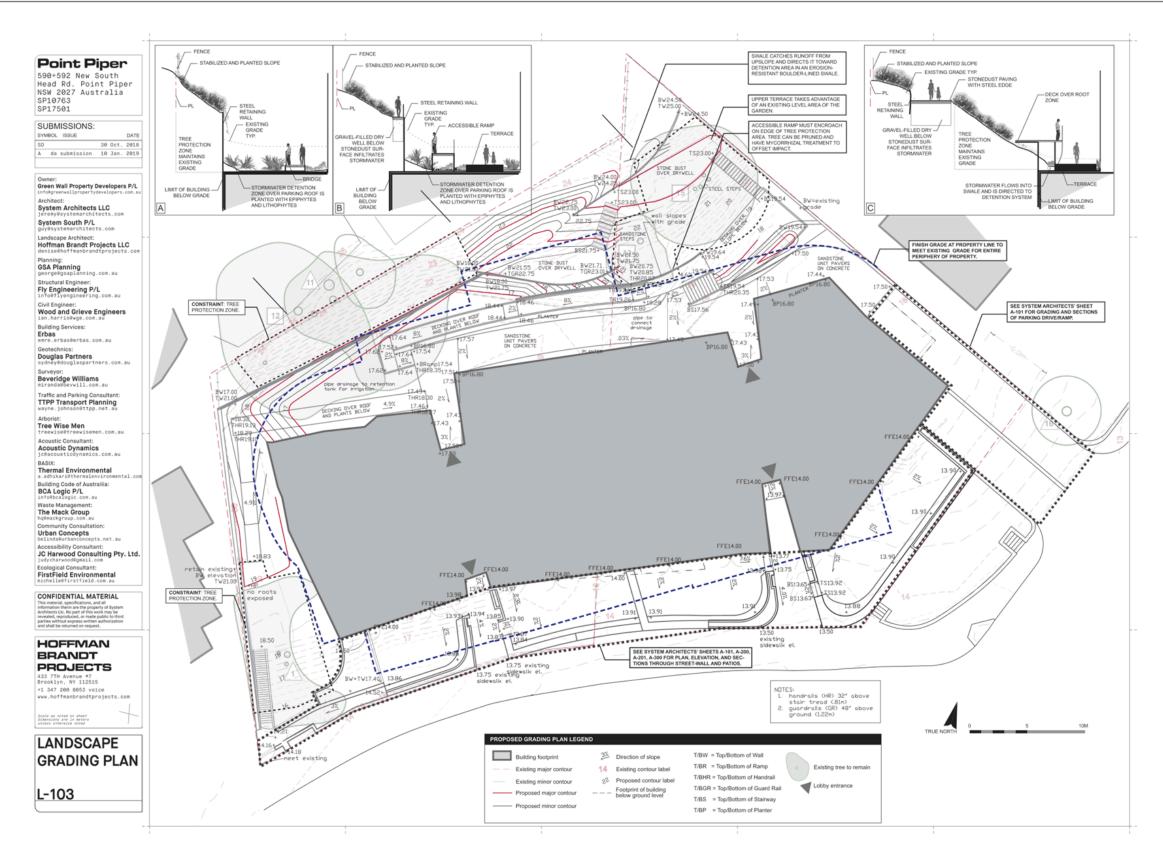
7 November 2019



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This checklist is to be completed by Administration Officer and Referral Officers and finalised by the Team Leader.

Property Address: 590 - 592 New South Head Road POINT PIPER

**DA Number:** DA 13/2019/1

Stop The Clock

Assessment Officer: George Lloyd

Tick all that apply	Internal Department	Refer To	Provide the following info before the referral is made:	List any Standard Conditions
	Development Assessment Engineer MJA	RLAM	1. Driveway Profile – Prevention of Vehicle Scraping	
			Australian Standard 2890.1 – 2004, Part 1 (Offstreet car parking) has a requirement to prevent vehicles scraping or bottoming. Changes in grade in excess of 12.5% algebraically (1 in 8) for summit changes or 15% algebraically (1 in 6.7) for sag grade changes require the introduction of a transition between the main grade lines. Before approval can be granted, it must be ascertained whether the proposed driveway in this development meets all the requirement of Australian Standard 2890.1 - 2004 "Off Street car-parking".	
			A longitudinal surface profile for the proposed driveway must be submitted for assessment. The driveway profile is to start from the road centreline and include the kerb and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3 of Australian Standard 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 design, grades, natural surface levels and distances.	
			The layback, crossing and street levels (where practicable) are to comply with Council's Standard Drawing RF2 "Standard Crossing & Layback"	
			The existing footpath levels are to be maintained wherever possible and cannot be altered without Council's approval	

Checksheet 1 - ReferralsStop the Clock - DA2019131 - 590 New South Head Road POINT PIPER

Annexure 2 Referral Response - Development Engineer

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# **Memorandum - Traffic**

Date 5 March, 2019

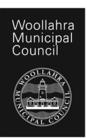
File No. Development Applications: 13/2019/1

Mr R Lam

To Mr G Lloyd

From Ms Q Liu

Address 590 NEW SOUTH HEAD ROAD POINT PIPER 2027



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
relephone (02) 9391 7000
Facsimile (02) 9391 7044

 $\overline{I}$  refer to the memo from the Planning Department dated 30 January 2019 requesting comments in relation to the above.

Traffic Engineering has reviewed:

- Traffic and Parking Impact Assessment (Ref 18184 Version Final) by the Transport Planning Partnership dated 15 January 2019;
- Architectural Plans (Drawing No. A-001 to 005, 402, 100 to 105, 200 to 202, 300, 400 to 401, G-001, L-100 to 103) by System Architects dated 10 January 2019.

#### Proposal

CC

Construction of a new residential flat building with underground parking, new landscaping and strata subdivision

#### COMMENTS

# Parking Provision

Council's DCP Clause E1.4.2.							
Component	Maximum parking generation rates (space per dwelling)	Quantity (dwelling)	Maximum parking requirement (spaces)				
Studio apartment	0.5	0	0				
1.1	1	0	0				

The car parking provision for the proposed development has been assessed in accordance with

19 34917 Referral Response - Traffic - 2019 13 - 590 New South Head Road POINT PIPER - Residential Flat Bldg 4 or more Storeys

Annexure 3 Referral Response - Traffic

7 November 2019

2 bedrooms	1.5	7	10.5
3 or more bedrooms	2	10	20
Visitors	0.25	17	4.25
Total			35

The bicycle parking provision for the proposed development has been assessed in accordance with Council's *DCP Clause E1.6.2*.

Component	Minimum bicycle parking rate (per dwelling)	Quantity (dwelling)	Minimum bicycle parking requirement (spaces)
Residents	1	17	17
Visitors	0.1	17	1.7
Total			19

The motorbike parking provision for the proposed development has been assessed in accordance with Council's *DCP Clause E1.7.1*.

Component	Minimum motorbike parking rate (per car space)	Quantity (dwelling)	Minimum motorbike parking requirement (spaces)
Car spaces	0.1	35	3.5
Total			4

The proposed on-site parking provision includes:

- 35 car spaces comprising 31 resident parking spaces and 4 visitor spaces
- 17 bicycle racks and 1 storage per unit
- 4 motorbike spaces.

The proposed parking provision complies with Council's DCP requirement.

### **Traffic Generation**

Traffic generation from the proposed development has been calculated in accordance with RMS Guide to Traffic Generating Developments 2002 and RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a.

Component	Quantity	Week peak vehicl rate (j dwelli	hour e trip per	Wed pea veh trip	k ho icle	our	ve tri (p	aily hicl ip ra er velli	ite	Dai veh trip	icle	
Post-development												
Medium density - smaller units and flats (up to two bedrooms)	7	0.4 ~	~ 0.5	2.8	~	3.5	4	~	5	28	~	35

 $19\,34917\ Referral\ Response - Traffic - 2019\ 13 - 590\ New\ South\ Head\ Road\ POINT\ PIPER\ - \ Residential\ Flat\ Bldg\ 4$  or more Storeys

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- 1	Medium density - larger units and town houses (three or more														
	bedrooms)	10	0.5	$\sim$	0.65	5	~	6.5	5	$\sim$	6.5	50	$\sim$	65	
	Total					7.8	~	10				78	~	100	

The traffic generation associated with the proposed development will have negligible impact on the road network, particularly given the frontage road being New South Head Road.

#### Parking Layout

The Traffic and Parking Impact Assessment has satisfactorily addressed the relevant design requirement stipulated in AS2890 series.

#### RECOMMENDATION

Should this development be approved, it is recommended that the following matters be addressed by the conditions of consent:

### A. General Conditions

### A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with 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)
Ref 18184	Traffic and Parking Impact	the Transport Planning	15 January 2019
Version	Assessment	Partnership	
Final			

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.)

# 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 requirements:

19 34917 Referral Response - Traffic - 2019 13 - 590 New South Head Road POINT PIPER - Residential Flat Bldg 4 or more Storeys

Annexure 3 Referral Response - Traffic

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- a) A 2m x2.5m driveway sightline splay be provided along the northern edge of the exit driveway, west of the frontage footpath, as per AS/NZS 2890.1:2004 Clause 3.2.4 and Figure 3.3.
- b) The internal one-way ramp be clearly signposted and provided with pavement arrows to indicate the one-way only traffic flow.
- c) The area hatched in purple in the figure below be cleared from any obstruction, including any landscape and trees, to ensure sight lines.



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 (Autorext: CC45)

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

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

19 34917 Referral Response - Traffic - 2019 13 - 590 New South Head Road POINT PIPER - Residential Flat Bldg 4 or more Storeys

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- 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:, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Resident parking	31
Vehicle parking (visitor)	4
Motorbike parking	4
Bicycle parking	17

This condition has been imposed to ensure adequate on-site parking is maintained.

 $19\,34917\,\,Referral\,\,Response - Traffic - 2019\,\,13 - 590\,\,New\,\,South\,\,Head\,\,Road\,\,POINT\,\,PIPER\,- \,Residential\,\,Flat\,\,Bldg\,\,4$  or more Storeys

Annexure 3 Referral Response - Traffic

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19 February 2019

# REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** DA 13/2019/1

ADDRESS: 590 - 592 New South Head Road POINT PIPER 2027

PROPOSAL: Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision

FROM: Jacki Brown External Consultant

TO: Mr G Lloyd x 7059

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

- Survey Plan No. A401 Beverage Williams, dated 30 October 2018
  - Architectural Drawing No's A001 005, A100 -105, A200- 02, A300, A400 02, G001, drawn by System Architects , dated 30 October 2018
- Stormwater Drainage Plan No's C1-520-1, 520-02, 520-03, drawn by Wood & Grieve, dated 16 January 2019
- Arboricultural Impact Assessment Report, written by Tree Wise Men Australia Pty Ltd , dated January 2019
- Landscape Plan No. s L -101-103, designed by Hoffman brand, dated 30 October 2018

A site inspection was carried out on 26 February 2019.

#### **Relevant Control:**

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

Annexure 4 Referral Response - Landscaping

7 November 2019

#### SUMMARY

The recommendations and tree protection specifications described in the Arboricultural Impact Assessment report (Tree Wise Men, Jan. 2019) will need to be complied with to protect existing trees. Additional replacement tree planting is required. The Construction Management Plan will need to locate parking and site amenities outside all TPZ areas.

#### **COMMENTS**

A large area of tree canopy will be removed by the proposed development, and additional tree planting is recommended where there is sufficient space in the landscaped areas. Species with open canopy and medium mature height have been recommended.

The arboricultural report adequately defines and specifies tree protection requirements.

#### 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

19 25524 Referral Response - Landscaping - DA2019 13 1 - 590 New South Head Road POINT PIPER

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Annexure 4 Referral Response - Landscaping

7 November 2019

#### 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)
1	Persea americana (Avocado)	Front yard 590 New South Head Road	16x12
11	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	24x14
11A	Erythrina x sykesii (Coral Tree)	Rear boundary 7 Wolseley Road	20x4
12	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	22x16
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	8x7
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	9x6

#### · Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
16	Lophostemon confertus (Brush Box)	Verge at corner of New South Head & Wunulla Roads	8x3	\$3100

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimension (metres)
4	Archontophoenix alexandrae (Alexandra Palm)	Alexandra Palm	9x3
16	Lophostemon confertus (Brush Box)	Verge at corner of New South Head & Wunulla Roads	8x3

**Note:** The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	Persea americana (Avocado)	Front yard 590 New South Head Road	9x7
3	*Celtis sinensis (Hackberry)	Front yard 590 New South Head Road	9x6

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Annexure 4 Referral Response - Landscaping

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<b>4</b> a	*Schefflera actinophylla (Umbrella Tree)	Front yard 590 New South Head Road	6x4
5, 10	*Erythrina x sykesii (Coral Tree)	Rear yard 590 New South Head Road	12x10
6, 7, 8	*Olea europea ssp. Africana (African Olive)	Rear yard 590 New South Head Road	6x4
9	Celtis sinensis (Hackberry)	Rear yard 590 New South Head Road	20x16
14	*Cinnamomum camphora (Camphor Laurel)	Rear yard 590 New South Head Road	5x3

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

d) 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	Persea americana (Avocado)	Front yard 590 New South Head Road	5% reduction pruning on eastern side only for 2m building clearance, removing max. 70mm diameter branches

Note: The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

### A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
L100-103	Landscape Plan	Hoffman Brandt	10 Jan.
L100-103	Landscape Plan	Projects	2019
2555AIARev	Arboricultural Impact Assessment	Tree Wise Men Pty	January
A	Report	Ltd	2019

#### 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	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE

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Annexure 4 Referral Response - Landscaping

<sup>\*</sup>This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

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4	Archontophoenix alexandrae	Front yard 590 New	2m	
	(Alexandra Palm)	South Head Road	2111	
11	Cinnamomum camphora	Rear boundary 7	4.8m	
11	(Camphor Laurel)	Wolseley Road	4.0111	
11A	Emuthaina v sukasii (Caral Trae)	Rear boundary 7	5.5	
IIA	Erythrina x sykesii (Coral Tree)	Wolseley Road	5.5m	
12	Cinnamomum camphora	Rear boundary 7	5	
12	(Camphor Laurel)	Wolseley Road	5m	
13	Banksia integrifolia (Coast	Rear yard 592 New	3.6m S & W	
13	Banksia)	South Head Road	4.8m N & E	
15	Persea americana (Avocado)	Rear yard 592 New	6	
13		South Head Road	6m	
16	Lophostemon confertus (Brush	Verge	3.6m	
10	Box)	verge	5.0111	

**Note:** Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

**Note:** Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species	
	1	Persea americana (Avocado)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) 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.
- e) 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 Condition B.2 of this consent.
- g) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- h) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site

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personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.

 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	Persea americana (Avocado)	5m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
13	Banksia integrifolia (Coast Banksia)	3.6m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
15	Persea americana (Avocado)	6m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
4	Archontophoenix alexandrae (Alexandra Palm)	4m	Transplant operation carried out by qualified tree transplanter
16	Lophostemon confertus (Brush Box)	3.6m	Transplant operation carried out by qualified tree transplanter

The project arborist shall provide written certification of compliance with the above condition.

### **B.3** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- Space for site sheds and other temporary structures such as toilets;

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Annexure 4 Referral Response - Landscaping

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- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

#### **B.4** Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of noncompliance; 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 ground surfaces in TPZ areas	Condition of exposed roots	
Inspection of pier holes for landscape works	Piers positioned to avoid the severance of and damage to roots greater than 50mms	
Installation of piling	Condition of roots and soil	
Inspection of irrigation set out	Appropriate distribution of irrigation water	
Prior to the issue of a Final Occupation	Supervise the dismantling of tree protection	
Certificate	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
- References to applicable tree management plan, arborists report or transplant method statement.

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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 L	ong Service Payments Ac	t 1986	
Tree Damage Security Deposit -			
Making good any damage caused to any	\$3100	No	T114
public tree as a consequence of the doing		NO	1114
of anything to which the consent relates.			
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 80A (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:

 Stormwater lines to be routed through the basement and not pass through Tree Protection Zones, as recommended in the Arboricultural Impact Assessment report (Tree Wise Men Pty Ltd, January 2019)

**Note:** The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

**Note:** Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the Regulation prohibits the issue of any Construction Certificate that is inconsistent with this consent.

### 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

 The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.

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- 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 2303:2015). 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)
3 x Angophora hispida (Dwarf Apple)	Front setback	75L	6x3

The project arborist shall document compliance with the above condition.

### E.3 Paving in the vicinity of trees

Paving works, including decking, within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	Persea americana (Avocado)	Front yard 590 New South Head Road	8.4
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	4.8
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	7.2

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

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### 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	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
11	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	4.8m
11A	Erythrina x sykesii (Coral Tree)	Rear boundary 7 Wolseley Road	5.5m
12	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	5m
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m
	Lophostemon confertus (Brush Box)	Verge	

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	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m

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

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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)
1	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m

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

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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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or you may contact Council on 9391-7000 for further advice.

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25 February 2019

# REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Applications/ 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

PROPOSAL: Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision

FROM: Tom Jones

TO: Mr G Lloyd

### Information

Architectural drawings: System Architects

A-001-5, A402, A-100-5, A-200-2, A-300, A-400-1,

L100-3

Statement of Environmental Effects:

Survey: A-401 Beveridge Williams 21/08/2007

Watson Ducken 16/211

GSA Planning Job #17457 January 2019

Watson Buchan 16/211

### **Background**

This DA is assessed and determined on the basis of the current controls. It is not open to Council to depart from our existing development standards unless an objection submitted under clause 4.6 of WLEP 2014 (see below) is upheld.

### Context

The subject building straddles two lots on the corner of Wunulla and New South Head Roads Rose Bay. The subject site is a very prominent location with broad exposure to the public realm. This junction at the west end of the Rose Bay beach is the location of the heritage item that is used as the Rose Bay police station. There is also a proposal for a sports facility associated with Cranbrook School that looks out over this location.

### **Proposal**

The proposal is to demolish the existing buildings on the site and replace them with a four level residential flat building accommodating 17 apartments and housing 35 cars in a basement level.

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#### **Controls**

- State Environmental Planning Policy # 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 the relevant controls above.

### **SEPP 65: 9 Design Principles**

SEPP 65 Clause 28(2)(b) provides that the consent authority must consider design quality when evaluating the development taking into account the following 9 design principles. The assessment against the principles has been made with reference to the relevant objectives of the Apartment Design Guide.

### 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.

The subject site is zoned for R2 low density residential development. Currently there are residential flat buildings occupying both lots. The proposal is being made on the basis of 'existing use rights'.

The desired future character for the location emphasises the rich mixture of architectural styles and forms, the stepping of development down the hillside and mature trees. The location is not planned to undergo transition, however the development to the south side of New South Head Road by the Cranbrook School is going to alter the character of the site's immediate environs.

The immediate visual context is dominated by large early 20<sup>th</sup> century houses with pitched roofs generally with white stucco wall finishes. The south western part of the frontage is currently heavily treed.

The glazed south facing wall of the proposal is a significant departure from the predominant built form character of the location. The proposal removes the trees from the street frontage and would significantly change the character of the location.

### 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

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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.

The form of the proposal respects the frontage setbacks and the height of the adjacent buildings, but does not match the aesthetic or attempt to reflect the rhythm or the form of the adjacent houses.

### 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.

The proposed density is suitable in this well serviced location close to transport connections and natural amenity.

### 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.

The planning of these units is constrained by the topography, the site orientation and the proximity to the road. The placing of living spaces on the South East frontage is compensated for by large south east facing windows. Outdoor clothes drying is provided.

### 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 usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

There are a significant number of mature trees that the proposal removes from the subject sites. The landscape proposal provides good outdoor communal space.

### 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.

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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.

These apartments are spacious, but feature some inefficient room layout planning. 76% of the apartments get the subscribed amount of solar access, 76% receive good cross ventilation. Living spaces are generally facing the street rather than the north.

### 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.

There are no safety concerns regarding this development.

#### 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, providing opportunities for social interaction amongst residents.

The development provides a range of apartment sizes and adequate communal outdoor space.

# 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 well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

The aesthetics of this proposal will be controversial. Undoubtedly this building would add to the identity of this place and add richness to the mix of dwelling types. The building does not however attempt to respond or reinforce to the existing local context.

## SEPP 65: 8 Topic Criteria

SEPP 65 Clause 28(2)(c) provides that the consent authority must take into account particular design criteria in the Apartment Design Guide. Eight topics are listed in SEPP 65 clause 6A and override any controls in the WDCP2015 when the

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### development is being evaluated.

Topic Area	Subject	Compliance
3F Building separation	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	
	Building height Habitable rooms and balconies Non-habitable rooms	No
	up to 12m (4 storeys) 6m 3m	No
	up to 25m (5-8 storeys) 9m 4.5m	
	over 25m (9+ storeys) 12m 6m	
4A Solar access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas      In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter      A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	Yes
4F Common circulation spaces	The maximum number of apartments off a circulation core on a single level is eight     For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Yes
4D Apartment size	1. Apartment type Minimum internal area Studio 35m2 1 bedroom 50m2 2 bedroom 70m2 3 bedroom 90m2  2. Habitable room depths are limited to a maximum of 2.5 x the ceiling height 3. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window  1. Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)  2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)  1. Living rooms or combined living/dining rooms have a minimum width of:  3.6m for studio and 1 bedroom apartments  4m for 2 and 3 bedroom apartments  2. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Yes
4C Ceiling	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Yes

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Height	Minimum ceiling height			
	Habitable rooms			
	Non-habitable	2.4m		
	For 2 storey apartments	2.7m for main livi	ing area floor	
		2.4m for second flo the apartment area	oor, where its area does not exceed 50% of	
	Attic spaces	1.8m at edge of ro slope	om with a 30 degree minimum ceiling	
	If located in mixed used areas	1 3.3m for ground ar of use	nd first floor to promote future flexibility	
4E	All apartments are re	equired to have prim	nary balconies as follows:	
Private open	Dwelling type	Minimum are	a Minimum depth	
space	Studio apartments	4m2		
	1 bedroom apartments	8m2	2m	No
	2 bedroom apartments	10m2	2m	
	3+ bedroom apartments	12m2	2.4m	
4B Cross ventilation	of the building. Apar ventilated only if any natural ventilation an	tments at ten storeys renclosure of the baid cannot be fully en oss-over or cross-thi	cross ventilated in the first nine storeys s or greater are deemed to be cross alconies at these levels allows adequate iclosed rough apartment does not exceed 18m,	Yes
4G Storage	In addition to storage in provided:			
volumes	Dwelling type		Storage size volume	
	Studio apartments		4m3	
	1 bedroom apartments		6m3	Yes
	2 bedroom apartments		8m3	
	3+ bedroom apartments		10m3	
	At least 50% of the re	quired storage is to	o be located within the apartment	

# **SEPP 65 Summary**

This is a difficult site to develop sensitively and the SEPP 6 assessment takes this into account. However the orientating of the 'open' side of the building to the south is contrary to the established sustainability criteria. This orientation seems to be driven by the potential aspect towards Rose Bay. The balconies do not comply with the

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ADG dimensional requirements. The proposal's assessment regarding SEPP 65 is not acceptable.

### Woollahra Local Environment Plan 2014 (WLEP2014)

The zone controls in this location do not permit a residential flat building.

### Woollahra Development Control Plan 2015 (WDCP2015)

The proposal generally complies with the controls in the WDCP2015 relating to residential flat buildings.

### **Urban Design Review**

This assessment is made on the basis of the contextual suitability of the proposed development rather than the proposal's compliance to the numerical controls that might apply to the site if it were permissible development.

The subject site is a key component of what is perceived as the south eastern edge of Point Piper. The large dwelling houses set the character of the precinct. The buildings on the subject site, although both now flat buildings, were built originally as dwelling houses and then converted and added to, they read as dwelling houses. The result is that the presentation to the streetscape has a distinguishable identity. This identity could be classified as being early 20<sup>th</sup> century large dwelling houses with pitched roofs and rendered wall finishes.

The proposed development is a visually exciting use of architecturally form. However, the proposal does not respond to or reinforce this identifiable character. The fractured glazed curtain wall does not reference or compliment the masonry forms of the adjoining buildings. The continual frontage over two lots does not reflect rhythm of development that has resulted from the sub division pattern of the location and the removal of trees from the site does not reinforce the treed nature of the eastern part of the precinct.

This proposal would significantly change the visual character of the precinct.

### Recommendation

Refusal, based on the proposal not being compatible with the desired future character of the location.

Tom Jones Urban Design

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Completion Date: 23rd April 2019

### REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications/ 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

**PROPOSAL:** Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision

FROM: Graeme Reilly Environmental Health Officer

TO: Mr G Lloyd

### 1. ISSUES

NIL

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced Job No 17457, prepared by gsa planning, dated January 2019.
- Architectural Plans, referenced A100, 101, 102, 103,104, prepared by System Architects, dated 10<sup>th</sup> January 2019,
- Acoustic Report, referenced 4346R001.J.C.180906, prepared by Acoustic Dynamics, dated 17<sup>th</sup> January 2019.
- Acid Sulphate Soil Report, referenced Project 86477.00, prepared by Douglas Partners,dated July 2018.
- Land Contamination Report (Preliminary Site Investigation) referenced Project 86477.00, prepared by Douglas Patrtners, dated July 2018.
- Detailed Site Investigation referenced Project 86477.01, prepared by Douglas Partners, dated April 2019.

### 3. RESEARCH

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

A site inspection was carried out on the following date: 04/02/2019

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Annexure 6 Referral Response - Health

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### 4. SUMMARY OF PROPOSAL

### 3.0 THE PROPOSAL

This section will describe the following: The Background to the Proposal; Built Form and Land Use; Height, Gross Floor Area and Floor Space Ratio; Landscaping, Private Open Space and Balconies; Access and Parking.

#### 3.1 Background to the Proposal

On 1 February 2018, a Development Application for the demolition of two existing residential flat buildings and associated structures including removal of trees was lodged with Council [DA29/2018].

On 9 May 2018 Council granted Deferred Commencement consent for the demolition of both existing residential flat buildings, subject to conditions of consent. Deferred Commencement consent Condition A.1 specified the following, inter alia:

#### A.1 Deferred Commencement - (\$80(3) of the Act, cl.95 of the Regulations)

Development consent is granted subject that this consent is not to operate until the applicant satisfies the Council, in accordance with the Regulations, as to all matters specified in this condition:

a) Demolition of the existing buildings and removal of trees at Nos. 590 and 592 New South Head Road, Point Piper, shall not commence until a separate Development Consent(s) or Complying Development Certificate(s) for redevelopment/ use is granted.

#### Period within which evidence must be produced

The applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 95(4) of the Regulation:

"The applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence must be produced within that period."

If the evidence is not produced within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate. No development can lawfully occur under this consent unless it operates.

The consent does not operate until Council has acknowledged compliance with this condition in writing.

A Section 4.55 Modification has recently been lodged at Woollahra Council. The Section 4.55 Modification seeks to extend the deferred commencement period, contained in A.1 of the development consent, from 1 year to 2 years.

On 22 November 2018, a Consultation Event was held to inform the neighbours and Woollahra Council about the proposed development. Presentations occurred several times during the day, and consultants were available to show neighbours and Council staff through the site. The Event was helpful in understanding potential issues, during the final stages of the Design process. For a detailed description, refer to the Consultation Report prepared by Urban Concepts (separately submitted).

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#### **Basement Floor Level**

The Basement Floor Level is at RL 11, comprising a parking garage that provides 27 car parking spaces, including 1 accessible space. Vehicular access is available via Wunulla Road from two separate driveways. The basement floor level also comprises a hot water plant, two waste storage rooms and 14 lockers providing general storage for the residential units. Two separate lobbies provide access to the assement floor level internally, each with direct access from a lifts and fire stars. A vehicular ramp provides access to the ground floor level where more parking spaces are provided (see Figure 8).

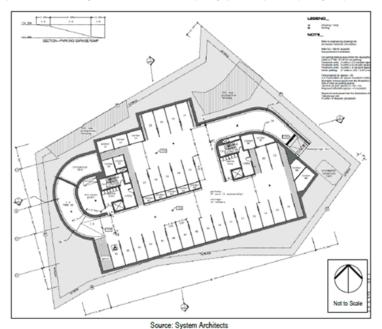


Figure 8: Basement Floor Plan

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### **Ground Floor Level**

The Ground Floor Level is at RL 14 and comprises 4 residential units and 8 car parking spaces, including 3 accessible spaces, 4 motorbike spaces and 17 bicycle spaces.

The ground floor level provides direct pedestrian access to the building from New South Head Road, via two separate entrances and lobbies. Each lobby leads to a lift, fire stair, service area (including a garage chute and recycling cupboard), car parking and two residential units.

The internal layout of all four residential units on the ground floor differs. However, each unit includes private open space in the form of a courtyard, a kitchen, living and dining area, a laundry, a master bedroom with an ensuite and second bedroom and separate bathroom.

Landscaping is provided in the setbacks surrounding the development and provides communal open space for the residents. Pedestrian access is available to this area via a gated entry and stairs on New South Head Road, along the western boundary (see Figure 9).

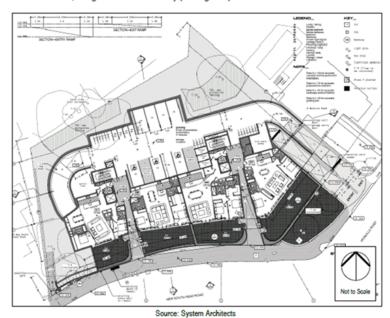


Figure 9: Ground Floor Plan

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#### First Floor Leve

The First Floor Level is at RL 17.5 and comprises 6 residential units and services. There are 3 three - bedroom units proposed, and three two-bedroom units proposed on this level. As provided on the ground floor below, each lobby provides access to a lift, fire stair, service area (including a garage chute and recycling cupboard) and three residential units.

Similar to the ground floor level, the internal layout of all four residential units on the first floor differ. Each unit includes private open space in the form of a balconies, a kitchen, living and dining area, a laundry, a master bedroom with an ensuite and second or third bedroom and separate bathroom depending on the bedroom configuration.

Some hanging landscaping is proposed to the southern edge of the structure (see Figure 10).

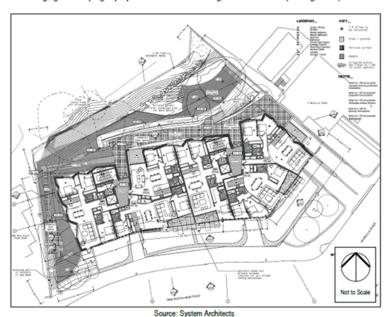


Figure 10: First Floor Plan

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### Second Floor Level

The Second Floor Level is at RL 20.8 and comprises 4 residential units and services. There are 3 three-bedroom units proposed, and 1 four-bedroom unit proposed on this level. Units 13 and 14 are adaptable units and meet the disability access standards. As provided on the ground floor below, each lobby provides access to a lift, fire stair, service area (including a garage chute and recycling cupboard) and two or three residential units respectively.

Similar to the ground and first floor levels, the internal layout of all four residential units on the second floor are unique. Each unit includes private open space in the form of a balconies, a kitchen, living and dining area, a laundry, a master bedroom with an ensuite and two or three bedroom and a separate bathroom depending on the bedroom configuration.

Also, landscaping is proposed to the southern edge of the structure (see Figure 11).

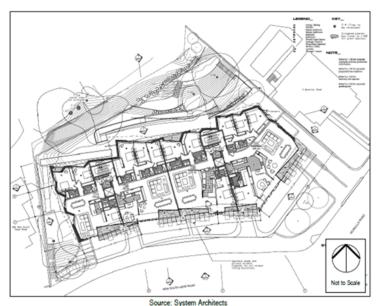


Figure 11: Second Floor Plan

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#### Third Floor Leve

The Third Floor Level is at RL 24.3 and comprises 3 residential units and services. There is 1 three -bedroom unit proposed and 2 four-bedroom unit proposed on this level. As provided on the second floor below, each lobby provides access to a lift, fire stair, service area (including a garage chute and recycling cupboard) and one or two residential units respectively.

Similar to the previous floor levels, the internal layout of all three residential units on the third floor are different. Each unit includes private open space in the form of a roof terrace and Unit No. 16 also provides a balcony as well. The units also provide a kitchen, living and dining area, a laundry, a master bedroom with an ensuite, two or three more bedrooms and a separate bathroom depending on the bedroom configuration (see Figure 12).

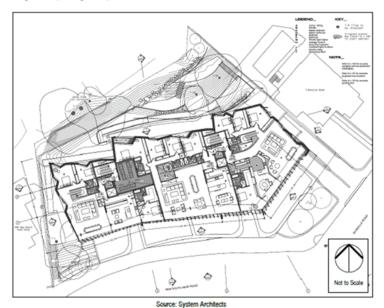


Figure 12: Third Floor Plan

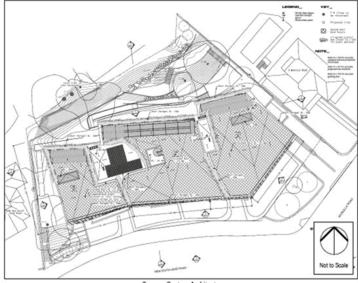
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#### Roof Plan

At the roof level, three roof terraces are provided. They are accessed via Units 15, 16 and 17 on the thirdfloor level below. Landscaping is proposed to the northern edge of the roof level (see Figure 13).



Source: System Architects
Figure 13: Roof Plan

#If appropriate provide a summary of the key aspects of the proposal

### 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

Acoustic Report undertaken by Acoustic Dynamics Document No  $4346R001.J.C.180906\ dated\ 17^{th}\ January\ 2019.$ 

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### 1.1 SUMMARY & BACKGROUND INFORMATION

Acoustic Dynamics has been engaged by Green Wall Property Developers Pty Ltd to assess noise emission at nearby receiver locations resulting from the use and operation of the carpark and mechanical plant, and road noise intrusion into the proposed residential development located at 590-592 New South Head Rd, Point Piper, NSW.

Acoustic Dynamics understands that carpark will able to be accessed by the residents 24 hours per day, 7 days per week, with associated mechanical plant also able to be operated at all times.

This document presents an acoustic assessment of the noise emission from the use and operation of the proposed resident's car park, including the ingress and egress of cars, operation of a mechanical garage door and a car park exhaust fan, and a technical assessment, as well as recommendations for construction materials and methods to reduce road noise intrusion into the subject development.

This document provides an assessment of the measured noise emission associated with the use and operation of the carpark when assessed at nearby receivers and is prepared in accordance with acoustic requirements of the Woollahra Municipal Council, the NSW Environment Protection Authority (EPA), and other relevant Australian Standards.

Acoustic Dynamics advises that for a noise to be inaudible within a habitable room, the subject noise must be at least 10 dB below the background noise level within the room. NSW POEO (Noise Control) Regulation 2008 specifies that a noise can be classified as offensive if it is audible within a habitable room with the windows open between the times of 10pm and 7am (10pm – 8am on Saturdays, Sundays and public holidays).

A summary of the established noise environment and internal noise emission criteria is presented in Table 2.2.

Table 2.2 – Summary of Background Noise Levels & Internal Noise Intrusion Criteria (15 minute) - POEO

Receiver Location	Time of Day	External Measured L <sub>A30</sub> Background Noise Level	Internal L <sub>Aeq</sub> Noise Intrusion Criterion
Nearest habitable room of residential receivers	Night-time	34 dB(A)	14 dB(A)1

Note: 1) Background noise level minus 10 dB for inaudibility and minus 10 dB for outdoor to indoor.

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Following the general procedures outlined in the EPA's NPfl, a summary of the established noise environment, and relevant environmental noise objectives is presented in Table 2.1.

Table 2.4.1 Measured & Calculated Noise Levels & Project Noise Objectives – External Residential Receivers

Location	Assessment Period	Laso Rating Background Noise Level (RBL) [dB]	Measured Lasq [dB]	Project Intrusiveness Noise Level [dB]	Project Amenity Noise Level L <sub>Aeq</sub> [dB] <sub>2,3</sub>	Project Noise Trigger Level Lass [dB]
Nearest	Daytime4 (7am – 6pm)	59	70	64	58	58
Residential Receivers (External)	Evening (6pm – 10pm)	58	70	63	48	48
	Night-time (10pm – 7am)	34	63	39	43	39

<sup>1) 8</sup>am to 6pm on Sundays and public holidays

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<sup>2)</sup> Amenity adjustment based on "Urban" receiver type due to the Day and evening RBL being greater than 45 dB(A) and 40

<sup>3)</sup> Amenty adjustment based on "Urban" receiver type. The noise emission objective has been modified in accordance with the recommendations detailed within the NPfl Section 2.2, for time period standardising of the intrusiveness and amenity noise levels (Lamptonia Will be taken to be equal to the Lamptonia + 3 decibels (dB).

4) Acoustic Dynamics advises that compliance during the quietest period of operation will assure compliance during the

daytime period.

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### 3 NOISE EMISSION ASSESSMENT

The following section provides an assessment of the maximum noise emission associated with the use of the proposed development, at the nearest residential receivers, against the various noise criteria and objectives outlined in **Section 2** above. We advise that achieving compliance at these residential receivers ensures compliance at all other sensitive receivers further away from the car park entrance.

Accordingly, Acoustic Dynamics has undertaken calculations and modelling to assess the **maximum** noise emission levels from the following noise sources (operating 7 days a week) associated with the proposed development:

#### **Mechanical Plant**

- 2 x garage door openings and closings per 15 minutes (49 dBA SWL); and
- 3 x Daikin REYQ60 air conditioning condenser units within mechanical plant room (SWL = 90 dB(A));
- 1 x Exhaust fan for mechanical plant room (SWL = 70 dB(A)); and

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ACOUSTIC DYNAMICS - EXCELLENCE IN ACOUSTICS



• 1 x Carpark exhaust fan on rooftop (SWL = 73 dB(A)).

### Ingress & Egress

8 x cars arriving and leaving via Wunulla Rd per 15 minutes.

The following subsections provide an assessment of noise emission associated with the operation of the development.

### 3.1 OPERATIONAL NOISE EMISSION TO RECEIVERS

Based on previous experience and the drawings and information provided by the proponent, Acoustic Dynamics has undertaken modelling and calculations to predict the likely **maximum** noise emission levels at the nearest receiver locations during the appropriate background noise level period, resulting from the **worst-case scenario** operation of mechanical plant and the arrival and departure of vehicles into the subject building's carpark, and with the incorporation of recommendations located within **Section 6** below.

Acoustic Dynamics has calculated maximum noise emission levels at the nearest receiver locations at 588 New South Head Rd, 7 Wolseley Rd, 9 Wolseley Rd, 11 Wolseley Rd and 2 Wunulla Rd, with the relevant noise emission criteria presented below. It is advised that by achieving compliance with the nearest sensitive receiver locations, compliance will also be achieved at all other residential and commercial receiver locations further away.

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Table 3.1 Calculated L <sub>Aeq</sub> Noise Emission Levels & Project Noise Objectives – External (NPfl and Council)							
Receiver Location	Assessment Description & Period	Noise Source	Maximum Lang(15min) Noise Emission Level [dB]	Overall LAeq(15min) Noise Emission Level [dB]	Noise Emission Laeq(15min) NPfl Criterion [dB]	Complies	
Residential receivers at		Mechanical Plant	23				
588 New South Head Rd		Operation of Carpark	<10	23		Yes	
Residential receivers at		Mechanical Plant	25		39	25	Yes
7 Wolseley Rd		Operation of Carpark	<10	25		res	
Residential	Night-time	Mechanical Plant	24	24			
receivers at 9 Wolseley Rd	(10pm to 7am) <sup>2</sup>	Operation of Carpark	<10			39	Yes
Residential		Mechanical Plant	23				
receivers at 9 Wolseley Rd		Operation of Carpark	<10			Yes	
Residential		Mechanical Plant	18	30			
receivers at 2 Wunulla Rd		Operation of Carpark	30			Yes	

Acoustic Dynamics advises that compliance with the most stringent night-time period will ensure compliance with all other periods.

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<sup>2) 10</sup>pm to 8am on Sundays and public holidays

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Table 3.2 - Max Internal Mechanical Noise Emission & Objectives - POEO Act (windows open)

Receiver Location	Noise Source	Relevant Assessment Period	Calculated Maximum Lase Noise Level [dB] <sup>1</sup>	L <sub>AM</sub> Noise Emission Objective [dB] <sup>1</sup>	Complies with Applicable Criterion?
Internal Receivers <sup>2</sup>	Air Conditioning Compressor Units within Plant Room	Night-time (10pm to 7am)	15	14	Yes <sup>3</sup>
588 New South Head Rd			13		Yes
7 Wolseley Rd			15		Yes <sup>3</sup>
9 Wolseley Rd			14		Yes
11 Wolseley Rd			12		Yes
2 Wunulla Rd			8		Yes

Notes: 1) Internal noise emission objectives and noise levels take into account industry standard losses for noise attenuation from outside to inside an open window.

The measured and calculated noise emission levels presented above in **Table 3.1** and **Table 3.2** include allowances for relevant distance, direction and shielding losses. Acoustic Dynamics advises that the above calculated noise emission levels are conservatively based on the maximum source noise levels (i.e. worst-case scenario) at the proposed subject development. Acoustic Dynamics advises that such a scenario is unlikely to occur for the majority of the time.

Acoustic Dynamics advises that the noise emission level from the use and operation of music school, without appropriate mitigation measures, is predicted to comply with the relevant noise emission criteria of Woollahra Municipal Council and NSW EPA.

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<sup>2)</sup> Internal receivers within the subject development.

Acoustic Dynamics advises that marginal compliance is achieved as a noise level difference of 1 to 2 dB is generally considered acoustically insignificant

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### 5 RECOMMENDATIONS DESIGN - OPERATIONAL NOISE EMISSION

Acoustic Dynamics' analysis and prediction calculations indicate the following recommendations are required to be incorporated into the mechanical services for the proposed development, to ensure compliance with the relevant noise emission criteria and requirements.

#### 5.1 RECOMMENDATIONS FOR MECHANICAL PLANT

Acoustic Dynamics advises that the various air-conditioning condensing units proposed to be installed to service the subject development must be selected to meet the following acoustic requirements:

- The condenser units shall be isolated from the building structure by incorporating
  impact isolation mounts where feasible (spring mounts, seismic mounts or rubber
  mounts). A supplier of appropriate impact isolation mounts and impact isolation
  hangers is G P Embleton and Co Pty Ltd (Embleton) Ph: 1800 339 638. (For more
  information see <a href="https://www.vibrationisolation.com.au">www.vibrationisolation.com.au</a>);
- The rooftop outlets for the Carpark Exhaust Fan and Plant Room Exhaust Fan must be directed towards New South Head Rd, and be lined with minimum 50mm thick acoustic insulation for the entire length of ducting after the fan.

### 5.2 RECOMMENDATIONS FOR CARPARK ENTRANCE BARRIERS

Acoustic Dynamics provides the following recommendations to ensure compliance with the noise emission requirements of the POEO Noise Regulation:

- A barrier be built along the boundary shared with 2 Wunulla Rd, shielding the windows of 2 Wunulla Rd from the carpark entry of the subject site, should be built to a minimum of 2.2m above the level of the driveway, and be constructed to be:
  - A double layer Colorbond<sup>™</sup> (or equivalent) barrier(s); or
  - Masonry (brick or concrete) construction; or
  - A minimum 9mm thick compressed fibros-cement sheeting on a timber or steel stud; or
  - Other suitable material (minimum surface density of 15 kg/m²)

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### e) Acid Sulphate Soils

#### 4.2 Acid Sulfate Soil

Woollahra Local Environmental Plan 2014 (WLEP, 2014) maps the site as "Class 5", which is described as "works within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres AHD and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land, present an environmental risk".

It is noted that WLEP (2014) maps areas approximately 250 m south east of the site as "Class 3" land, described as "Works more than 1 metre below natural ground surface present an environmental risk; Works by which the watertable is likely to be lowered more than 1 metre below natural ground surface, present an environmental risk".

Data supplied by NSW Department of Environment and Climate Change (DECC) based on published 1:25,000 Acid Sulfate Soil Risk Mapping, 1994-1998 did not map a risk of acid sulfate soil (ASS) at the site. The area mapped as "Class 3" (WLEP, 2014) was mapped by DECC as having a "Low probability of occurrence", "Between 1 and 3 m below the ground surface" and comments that the area is "Generally not expected to contain ASS materials, although highly localised occurrences may occur especially near boundaries with environments with a high probability of ASS occurrence."

DECC mapped the bottom sediments in Sydney Harbour (including Rose Bay 100 m to the east of the site) as having a "High probability of occurrence" of ASS.

Reference to the CSIRO Atlas of Australian Acid Sulfate Soils indicates that the site lies in a "Class C" area, where there is an extremely low probability of occurrence of acid sulfate soils, with a 1 – 5% chance of occurrences in small localised areas. The area mapped as "Class 3" by WLEP (2014) is

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mapped by CSIRO as "Class B" with a "Low Probability of occurrence (6-70% chance of occurrence)." The bottom sediments in Rose Bay are mapped by CSIRO as "Class A" with a "High Probability of occurrence (>70% chance of occurrence)."

It is noted that the site is on an elevated topography, and is underlain by fill, natural sand and sandstone bedrock at around 7 mbgl. Overall the risk of ASS at the site is considered to be very low.

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### f) Land Contamination (SEPP 55)

Douglas Partners Preliminary Site Investigation Project No 86477.00 dated July 2018

### 9. Conclusions and Recommendations

Based on the site history review and the walkover, the following assessments are recommended prior to the any development of the site.

- Existing Structures: A hazardous building material survey in accordance with SafeWork NSW
  requirements if recommended to be conducted by an appropriately qualified occupation hygienist
  prior to the demolition of the existing structures. All demolition work should be undertaken by a
  licenced demolition contractor;
- Soil An intrusive soil investigation should be conducted to assess the potential for soil
  contamination; and
- Groundwater The current information indicates the risk of contamination to groundwater is very low. This should be reviewed following receipt of the results of the recommended soil assessment.

On the basis of the investigation findings, it is considered that the risk of contamination at the site is generally quite low, however intrusive soil investigation, including corresponding sampling and analysis is recommended to confirm this conclusion.

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Land Contamination- Douglas Partners Detailed Site Investigation Project No 86477.01 dated April 2019.

#### 10. Discussion

Based on the review of site history information and a site walkover, DP (2018) considered that the risk of contamination at the site was generally low; however intrusive soil investigation was recommended to confirm this conclusion.

The current investigation involved the drilling and sampling of six boreholes across accessible areas of the site. Two boreholes were previously drilled at the site as part of the DP (2018a) investigation, however no contamination sampling was undertaken from these original boreholes.

Filling was encountered in all boreholes and ash and clinker were encountered in the majority of locations. Large amounts of ash contaminated materials (clinker) were present throughout the fill profile at BH101, which is likely associated with the high PAH and TRH concentrations at this location and to a lesser extent elsewhere. Corresponding leachability testing indicated that these contaminants are non-leachable. The laboratory results also indicated the presence of potential contamination hotspots at the site.

Based on the initial information provide to DP, the proposed excavation profile may result in the impacted filling (in which the exceedances were detected) being excavated during construction activities and removed from the site. This will need to be confirmed when detailed site formation plans are available.

Due to the presence of existing buildings, paved areas and fieldwork limitations, parts of the site could not be sampled. These data gaps will need be addressed prior to re-development of the site.

### 11. Conclusions and Recommendations

Based on the review of DP (2018) and the current laboratory results, DP considers the site can be made suitable for the proposed development, subject to the following conditions:

- A hazardous materials survey should be conducted by a suitably qualified occupational hygienist
  prior to demolition of the existing buildings;
- Preparation of a remediation action plan (RAP) to include the following:
  - Data gap investigation including areas underneath the building footprints / concrete paved areas, and the northern portion of the site to be undertaken following demolition of the existing structures;
  - o Confirmation of the proposed excavation profile/footprint;
  - Determination of the extent of contamination to the north of the excavated area which may need to be delineated and chased out during remediation, particularly if limited excavation is proposed in this upgradient part of the site behind the retaining wall;
  - A detailed waste classification assessment and VENM assessment which should be undertaken during construction works to classify fill material and natural soils for off-site disposal or potential re-use.; and
  - Establishment of protocols to deal with additional/unexpected finds during construction works e.g. additional fill containing clinker, fragments of ACM, stains, odours.

DP considers it would be feasible for the RAP to be undertaken following demolition of the existing buildings and therefore following DA. DP notes that based on the proposed excavation profile (see architectural drawings provided in Appendix A), the filling in which the exceedances were detected will be excavated during construction activities. This process will effectively remediate the areas of the site where the exceedances were detected. Therefore, it is considered that specific remediation activities typically included in a RAP would not appear to be necessary.

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#### 6. RECOMMENDATION

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

### A. General Conditions

### A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with 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		
4346R001.J.C. 180906,	Acoustic Report	Acoustic Dynamics	17 <sup>th</sup> January 2019
	Noise Management Plan		
	Plan of Management		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
86477.01	Contaminated Land - Detailed Site Investigation Report (Stage 2)	Douglas Partners	April 2019
	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

- Conditions which must be satisfied prior to the demolition of any building or construction
- Conditions which must be satisfied prior to the issue of any construction certificate

### C.1 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

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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.2 Sound Attenuation of the Mechanical Plant and Carpark Entrance Barrier

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the sound attenuation works required to *Mechanical Plant and Carpark Entrance Barrier* as recommended in the Acoustic Dynamics Report 4346R001.J.C.180906, dated 17<sup>th</sup> January 2019.

# C.3 Acoustic Certification of Mechanical Plant & Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the Regulation must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the  $L_{A90,\ 15\ minute}$  level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:
 1. Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

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 Association of Australian Acoustical Consultants—professional society of noise related professionals (<u>www.aaac.org.au</u>).
 Standard Condition: C62

# C.4 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.5 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.

- 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

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- (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.
- All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- All loose materials being placed bags before placing into waste or skip bins.
- All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.

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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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> 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 <a href="https://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> and <a href="https://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. 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

- 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)
- 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.

- Conditions which must be satisfied during the ongoing use of the development
- I.1 Outdoor lighting Roof Terraces

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.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600 mm above the finished floor level of the roof terrace.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
Standard Condition: 151

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### I.2 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *Acoustic Report*.

Standard Condition: 157

### 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  $L_{A90,\ 15\ minute}$  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

### J. Miscellaneous Conditions

Nil.

### K. Advisings

Nil

Graeme Reilly Environmental Health Officer

Date:23rd April2019

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7 November 2019

4 July 2019

## REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

**PROPOSAL:** Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision, and remediation of

land

FROM: Flavia Scardamaglia - Strategic Heritage Officer

TO: Mr G Lloyd

### DOCUMENTATION

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

- Drawing set by System Architects, dated 10 January 2019, and numbered A-001 to L-103
- Archival Recordings for 590 and 592 New South Head Road by Heritage 21, dated July 2018
- Demolition Report for 590 and 592 New South Head Road by Heritage 21, dated January 2018
- Aboriginal Archeological Due Diligence Assessment by Dominic Steele, dated 8 April 2019

### SITE INSPECTION / 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.
- Pre-DA minutes and previous referral responses.
  - Referral Response relative to DA29/2018/1
- 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

### HERITAGE FRAMEWORK

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

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

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

This application does not include demolition of the existing buildings, it is only for remediation of land, new development and strata subdivision. A heritage assessment of the existing buildings on these sites have been reviewed as part of DA 29/2018 which was approved on 9 May 2018.

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7 November 2019

# 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) on 30 January 2019 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 2 recorded Aboriginal sites recorded within a 0m buffer in or near the above location (relative to 590 New South Head Road) and 3 recorded Aboriginal sites recorded within a 0m buffer in or near the above location (relative to 592 New South Head Road).

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

The subject site is not considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The Applicant has provided a Due Diligence Aboriginal Heritage Assessment prepared in accordance with the 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW' published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

Dominic Steel of DSCA is a properly qualified Aboriginal Archaeologist who has prepared the report.

Consultation with the Aboriginal community and the relevant Local Aboriginal Land Council was not undertaken as part of the due diligence process.

The Consultant has concluded the following:

The study area is located within a highly significant Aboriginal historic heritage landscape should be considered to be a potential Aboriginal archaeological site and to contain PAD of high significance until proven otherwise.

The proposed redevelopment needs to be managed with care because the archaeological and natural environmental record of the land that may potentially be contained within the subsurface soil profiles at the site will be extensively disturbed or destroyed by the proposed land redevelopment.

To mitigate potential impact of the proposal on the potential archaeological resources within the study area and relative to the proposed development, it is recommended that the site should be archaeologically tested prior to the commencement of development works to identify if Aboriginal objects and archaeological deposits are present and establish their extent and significance.

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#### 6.2 What needs to be done next and in what order

The potential archaeological sensitivity identified by this study requires test excavation to establish the nature, contents, and significance of the land. In order to direct the test excavations, an Archaeological Research Design & Excavation Methodology (ARDEM) needs to be prepared that details how, where and why the proposed test excavation at the site should be undertaken following the methods approved by an AHIP that would be sought for the test investigations.

#### 7.2 Recommendations

#### lt is recommended

- The Proponent should seek approval from the Office of Environment and Heritage (OEH) via an Aboriginal Heritage Impact Permit (AHIP) issued under s.90 of the National Parks and Wildlife Act 1974 to allow a program of Aboriginal archaeological test excavation at 590-592 New South Head Road to be completed in order to establish the potential archaeological and cultural heritage significance of the site and to identify the potential need for further mitigation of impact upon that significance to be implemented prior to the commencement of future construction works on the site.
- The Proponent should seek approval from the OEH for an AHIP and undertake the recommended Aboriginal archaeological test excavation following the approval of the DA and this archaeological investigation should be completed following the issuance of the AHIP as a condition of consent for construction that would be issued by Woollahra Council.
- Test excavation would a) identify the risk of future works destroying or extensively disturbing potentially
  high significance Aboriginal archaeological resources, and b) provide solid data to guide future
  archaeological mitigation (salvage) or statutory requirements and obligations that may arise on the basis
  of the results of the initial AHIP test investigation program.
- To secure an AHIP from the OEH, it will be required that a full program of Aboriginal community
  consultation be undertaken that follows the OEH (2010) Aboriginal Cultural Heritage Consultation
  Requirements for Proponents 2010 in order to prepare a comprehensive Aboriginal archaeological and
  cultural heritage assessment for the proposed redevelopment and to support the AHIP.
- An Archaeological Research Design and Excavation Methodology (ARDEM) should be developed to guide a
  program of test excavation on the property that should build upon and the findings and conclusions
  reported in this due diffigence impact assessment.
- Due to the potential archaeological (scientific) significance of the identified PADs (if they contain cultural materials) it is recommended the program of archaeological testing should include a geoarchaeological

and paleoenvironmental recording component to ascertain if possible the age and chronology of the subsurface deposits and nature of depositional processes and archaeological site formation processes involved.

An AHIP is proposed to be dealt as a condition of consent. Given its implications on the potential redevelopment of the site and the level of investigation of the site required, it is recommended that deferred commencement process is employed in this instance to ensure that the Applicant undertakes all the recommended steps prior start development.

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#### 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.

Any assessment on the demolition of the existing buildings has already been undertaken as part of DA 29/2018. 590 New South Head Road was built as 'Duncrevie' in 1921 (BA 16/1921) to the design of W.A. Farr and converted into two apartments in 1930. 592 New South Head Road was built around 1912 and converted into flats by E. Winkle (BA 396/1920).

While providing evidence of the early development of Point Piper, the subject sites did not meet the threshold for individual heritage listing and their demolition has already been given consent. A condition of consent for photographic archival recording has been imposed.

Significance of items in the vicinity

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

- · 'Cranbrook School' at 555 New South Head Road Bellevue Hill (No. 44);
- 'Police Station and interiors at 592A New South Head Road Rose Bay (No.283). This item is also listed on the S170 Heritage Register of the Department of Justice under the NSW Heritage Act;
- Cook Pine, Moreton Bay Fig at 1 Wentworth Street Point Piper (No.285).

The Statement of Significance of the Cranbrook School and Cook Pine, Moreton Fig are not available from the Office of Environment & Heritage website.

The Statement of Significance of the Police Station from the Office of Environment & Heritage website is:

The Rose Bay Police Station is significant for its historical associations with its former use as a Gate Lodge for Woollahra House. It is an unusual and attractive building, with fine classical detailing, a hexagonal plan, and with landmark qualities on a prominent corner location. This building is significant for its association with the provision of police services in the local area since the 1920s.

The main concern of the replacement building is the fact that it does not respond to the existing local context. It is in a very prominent location, with views to the Rose Bay Police Station being mostly affected when approaching New South Head Road from east and west (see Figures 1 and 2).

The scale of the building is not proportioned to the scale of the Rose Bay Police Station. The prevalent subdivision pattern of Point Piper is affected through the merging of two large lots and the design should be more skilled in articulating the new building as to appear of a more proportioned scale when viewed in conjunction with the Police Station (see Figures 1 to 4).

The use of a fractured glazed curtain wall does not reference or complement the local character of the area with proposing a strike contrast of design and very contemporary material. The character of the area is mostly made of pitched roofs and masonry walls with limited glazed areas, and the prominent corner location of the new development has potential to adversely impact this character. Overall this development does not appear recessive in views from new South Head Road when both the Police Station and the subject site are in the same visual catchment (see Figures 1 to 4).

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Figure 1: views to the subject site from New South Head Road looking west. Note how the Police Station is within the same visual catchment.



Figure 2: photomontage of the proposed development.



Figure 3: views to the subject site from New South Head Road looking north-east. Note how the Police Station is within the same visual catchment.

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Figure 4: photomontage of the proposed development

### Woollahra DCP 2015

The subject site is within the Point Piper precinct. It is not within a heritage conservation area and it is not listed as a heritage item.

### Clause B1.6.2 Desired future character

Objectives O1, O7

- Given the use of strikingly different materials in views from New South Head Road, and the large scale
  of the proposal, it is not considered to comply with O1.
- The scale of the development is not considered to maintain the sense of the historic grand estates by retaining their garden setting. While green elements are proposed throughout the design, it is questioned how these will maintained.

### CONCLUSION

## Woollahra LEP 2014 Part 5.10 Clauses 1(a), 1(b), 4

- Clause 1(a) The development does conserve the heritage of Woollahra, provided some changes are proposed to the design.
- Clause 1(b) The impact upon the heritage significance of the heritage item in close proximity will be adverse.
- Clause 4 This referral constitutes an assessment under this clause.

### RECOMMENDATION

- In order to be acceptable the application requires design amendment in accordance with the following:
  - New materials must be designed to be recessive in views from New South Head Road.
  - The new development should be broken up to appear as two built elements and so appear of a proportioned scale in views towards the Rose Bay Police Station. This is accordance with Clause 5.10 (1) (a) and (5)(c).

These changes will also ensure that the new development will relate to the character of the Point Piper precinct (Objectives O1, O7 of Clause B1.6.2).

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- Any approval should include the following Deferred Commencement Condition in relation to Aboriginal heritage to be imposed:
  - a. The Proponent should seek approval from the Office of Environment and Heritage (OEH) via an Aboriginal Heritage Impact Permit (AHIP) issued under s.90 of the National Parks and Wildlife Act 1974 to allow a program of Aboriginal archaeological test excavation at 590-592 New South Head Road to be completed in order to establish the potential archaeological and cultural heritage significance of the site and to identify the potential need for further mitigation of impact upon that significance to be implemented prior to the commencement of future construction works on the site.
  - b. A full program of Aboriginal community consultation be undertaken that follows the OEH (2010) Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 in order to prepare a comprehensive Aboriginal archaeological and cultural heritage assessment for the proposed redevelopment and to support the AHIP.
  - c. An Archaeological Research Design and Excavation Methodology (ARDEM) is to be developed to guide a program of test excavation on the property that would build upon and the findings and conclusions reported in the Aboriginal due diligence report by DSCA dated April 2019.
  - d. Due to the potential archaeological (scientific) significance of the identified PADs (if they contain cultural materials), it is recommended the program of archaeological testing should include a geoarchaeological and paleoenvironmental recording component to ascertain if possible the age and chronology of the subsurface deposits and nature of depositional processes and archaeological site formation processes involved.

Flavia Scardamaglia - Strategic Heritage Officer

19 102685 Referral Response - Heritage - DA2019 13 1 - 590 New South Head Road POINT PIPER

Annexure 7 Referral Response - Heritage

7 November 2019

Completion Date: 15 February 2019

### REFERRAL RESPONSE - FIRE SAFETY

**FILE NO:** DA 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

**PROPOSAL:** Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision

FROM: Richard Smith - Fire Safety Officer

TO: Mr G Lloyd

#### 1. ISSUES

As the proposal is for a new building upgrading the building under a clause 94
application is not applicable. The building will comply with the BCA during the
construction certificate period.

## 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced proposed new three (3) storey residential flat building prepared by GSA Planning, dated January 2019.
- Architectural Plans, referenced A-003, A-402, A-101, A-102, A-103, A-104, A-105, A-200 A-203, A-300, A-400, L-100 L-103, prepared by System Architects, dated January 2019.

## 3. RESEARCH

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

A site inspection was carried out on the following date: 15 February 2019

## 4. BUILDING DESCRIPTION

Type of Construction: A

Class: 2 & 7a

Number of Storeys: 5

Rise in Storeys: 3

Effective Height: 10.3 Metres

19 24128 Referral Response - Fire Safety - DA2019 13 1 - 590 New South Head Road POINT PIPER

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Annexure 8 Referral Response - Fire Safety

7 November 2019

#### 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
- Conditions which must be satisfied prior to the issue of any construction certificate
- 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.

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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))
- 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: 122

- J. Miscellaneous Conditions
- K. Advisings

Nil

Richard Smith Fire Safety Officer

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Date: 15 February 2019

Annexure 8 Referral Response - Fire Safety

7 November 2019



21 February 2019

Our Reference: SYD18/01803/02 Council Ref: DA13/2019/1

The General Manager Woollahra Municipal Council PO Box 61 Double Bay NSW 1360

Attention: G. Lloyd

Dear Sir/Madam,

## CONSTRUCTION OF A NEW RESIDENTIAL FLAT BUILDING 590-592 NEW SOUTH HEAD ROAD, POINT PIPER

Reference is made to Council's email dated 05 February 2019, regarding the abovementioned application which was referred to Roads and Maritime Services (Roads and Maritime) for concurrence in accordance with Section 138 of the *Roads Act, 1993* and the *State Environmental Planning Policy (Infrastructure) 2007.* 

Roads and Maritime has reviewed the submitted application and provides concurrence under Section 138 of the *Roads Act 1993* subject to the following conditions being included in any consent issued by Council:

- Any new buildings or structures, together with any improvements integral to the future use of the site are erected clear of the land required for road (unlimited in height or depth) and wholly within the freehold property (unlimited in height or depth), along the New South Head Road boundary.
- The redundant driveways on the New South Head Road boundary shall be removed and replaced with kerb and gutter to match the existing. The design and construction of the kerb and gutter on New South Head Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email to: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>
- The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>

#### Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 | PO BOX 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 13 22 13

Annexure 9 RMS Response

7 November 2019

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

4. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Please send all documentation to: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

- A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on New South Head Road during construction activities.
- All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New South Head Road.
- A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

Roads and Maritime has reviewed the development application and provides the following advisory comments to Council for consideration in its determination of the development application:

- Sight distances from the proposed driveway to vehicles on Wunulla Road are to be in accordance with Austroads 'Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, Section 6.2 – Sight Distance and AS 2890. Vegetation and proposed landscaping must not hinder sight lines to and from the vehicular crossings to pedestrians, cyclists, and general traffic.
- The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.

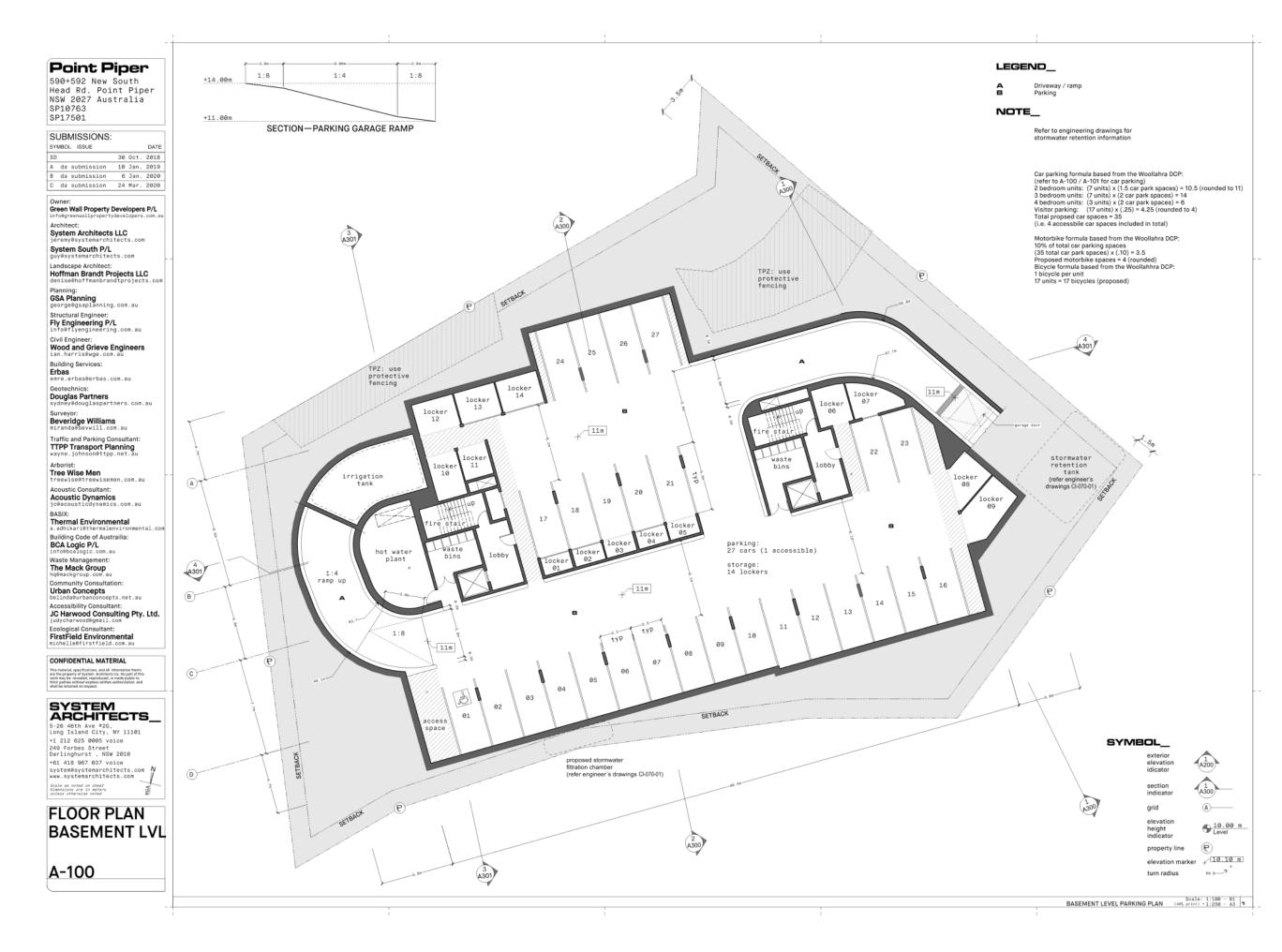
If you have any further inquiries in relation to this development application Charlie Seventekin would be pleased to take your call on 0448 101 480 or by email at: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>.

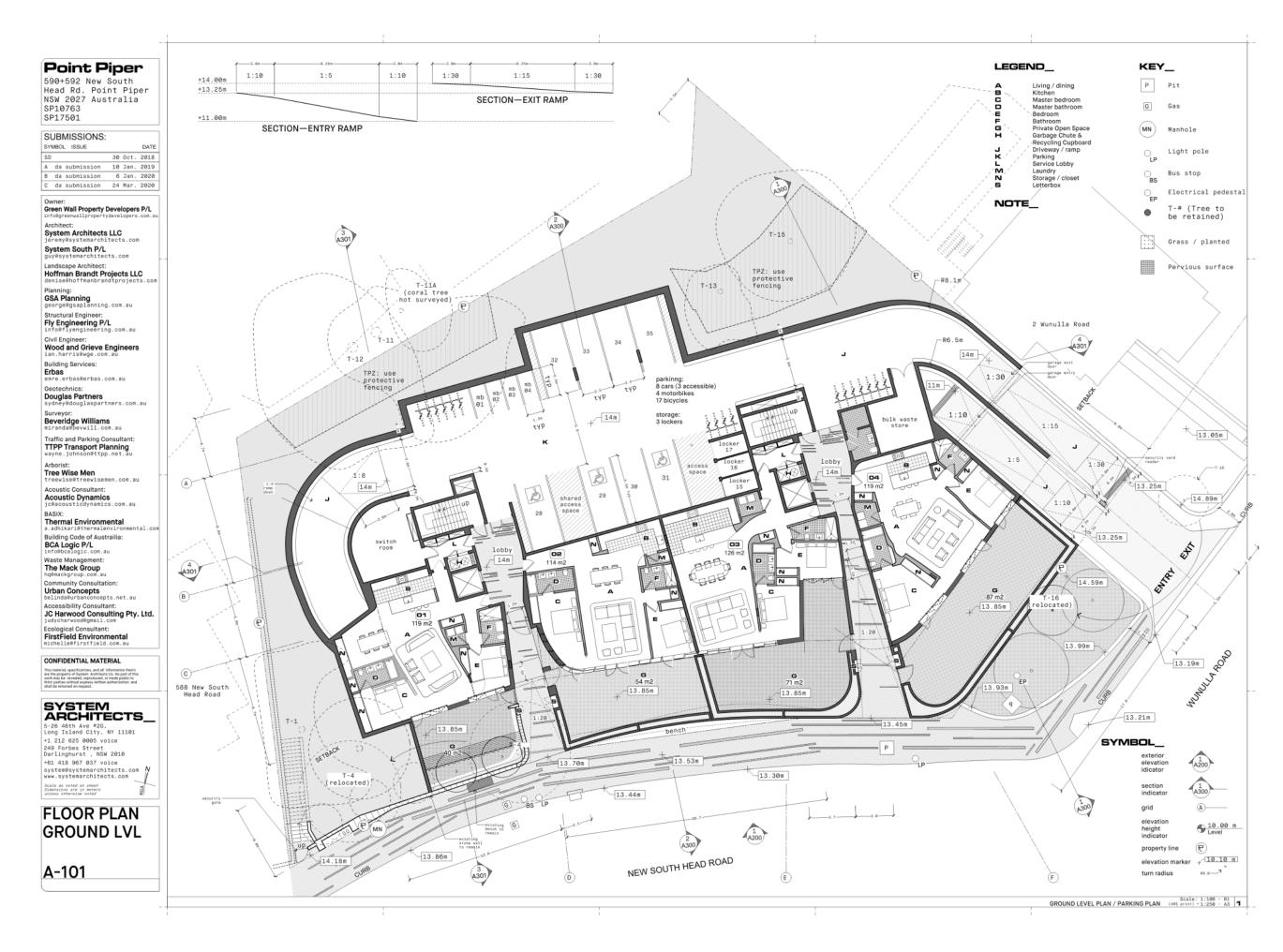
Yours sincerely,

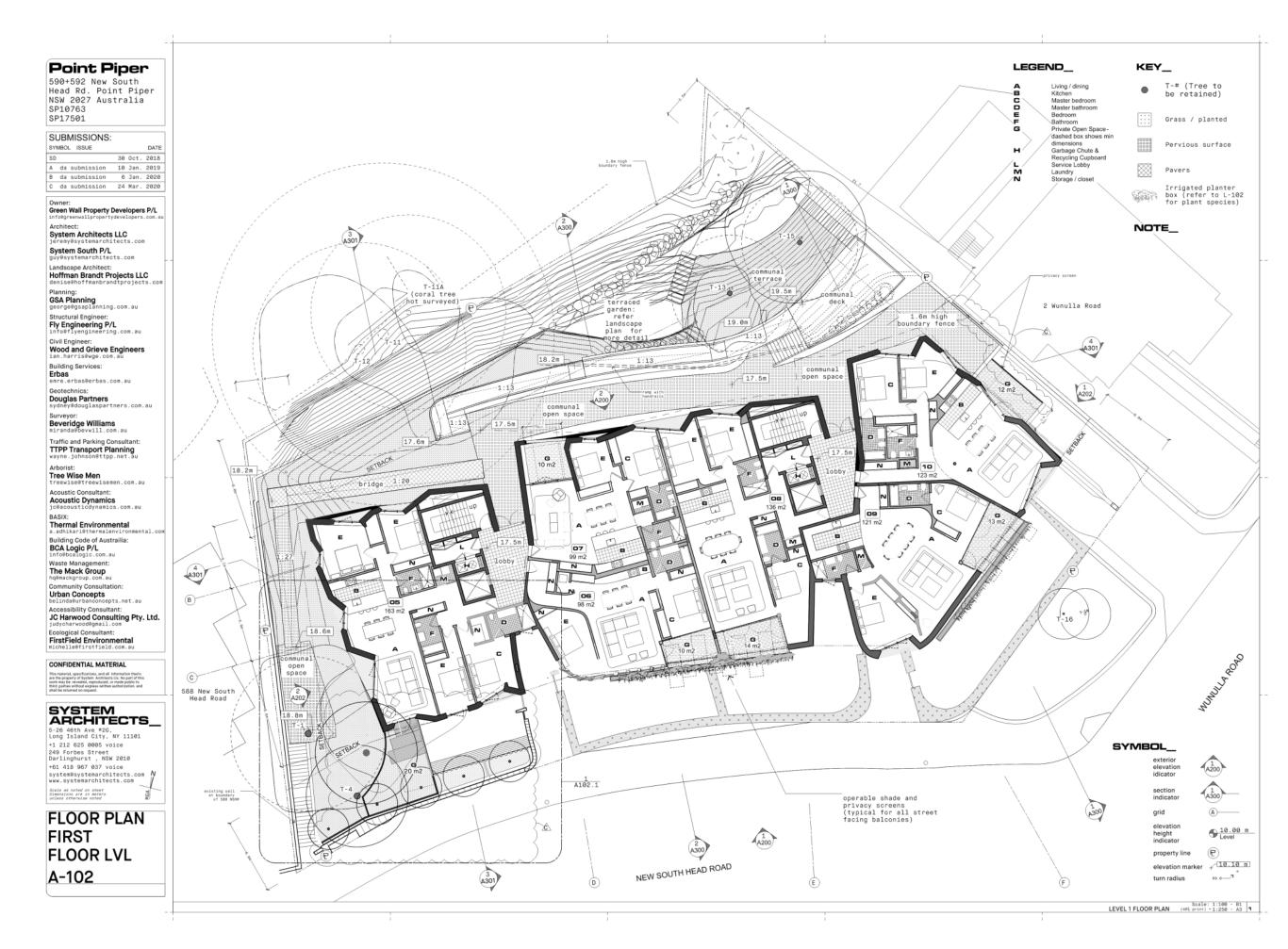
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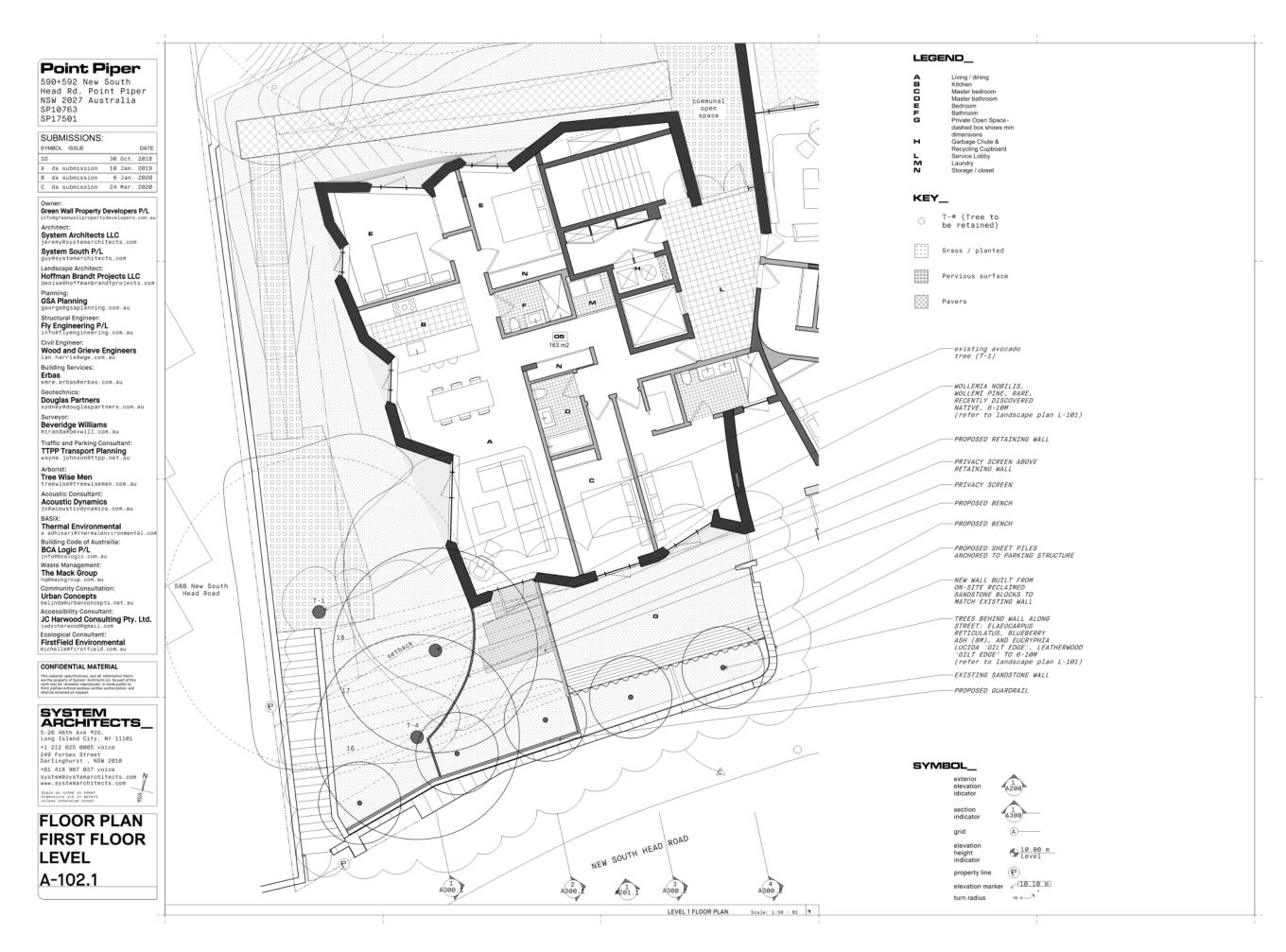
Brendan Pegg Senior Land Use Planner South East Precinct, Sydney Division

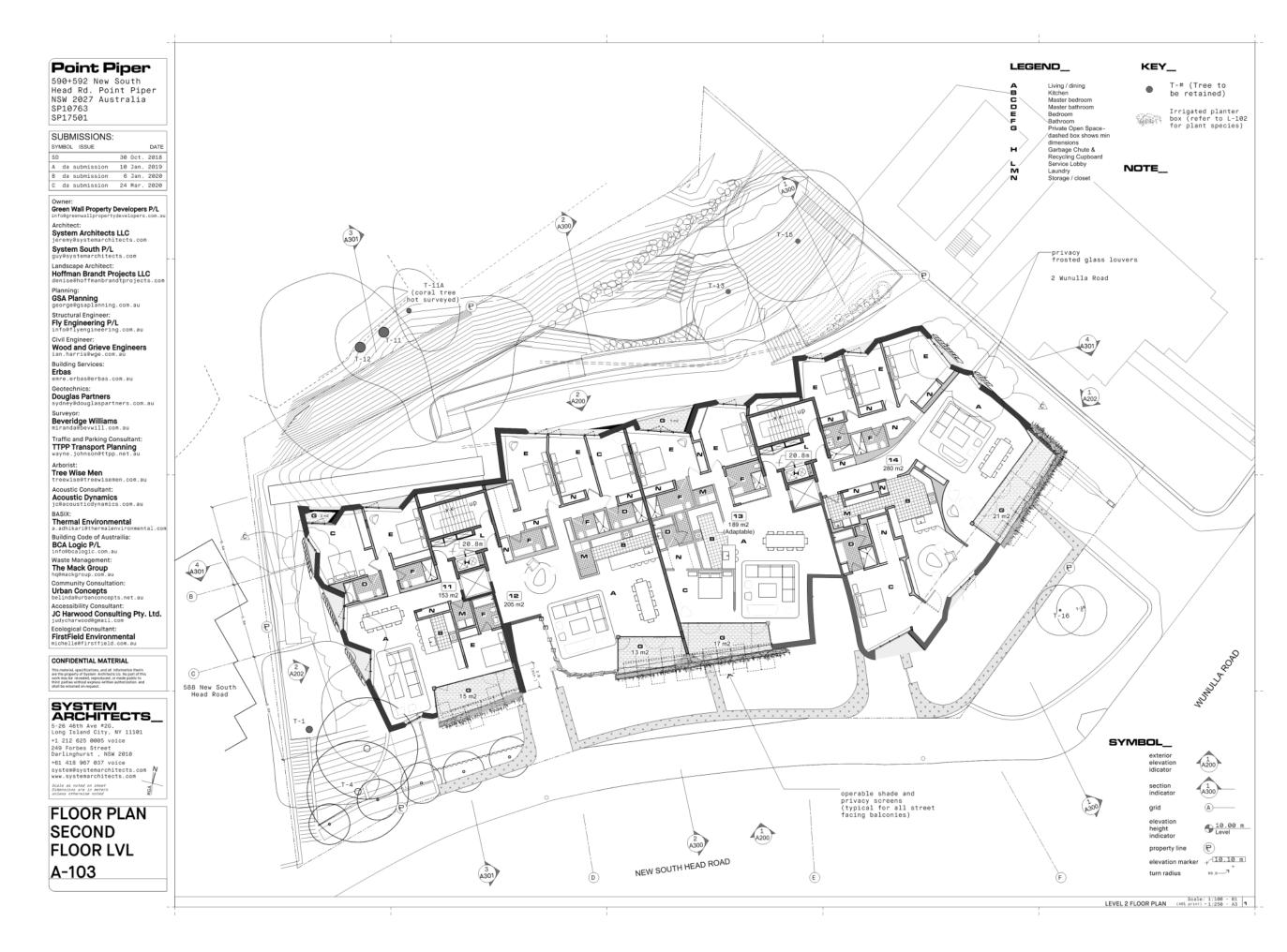
Annexure 9 RMS Response

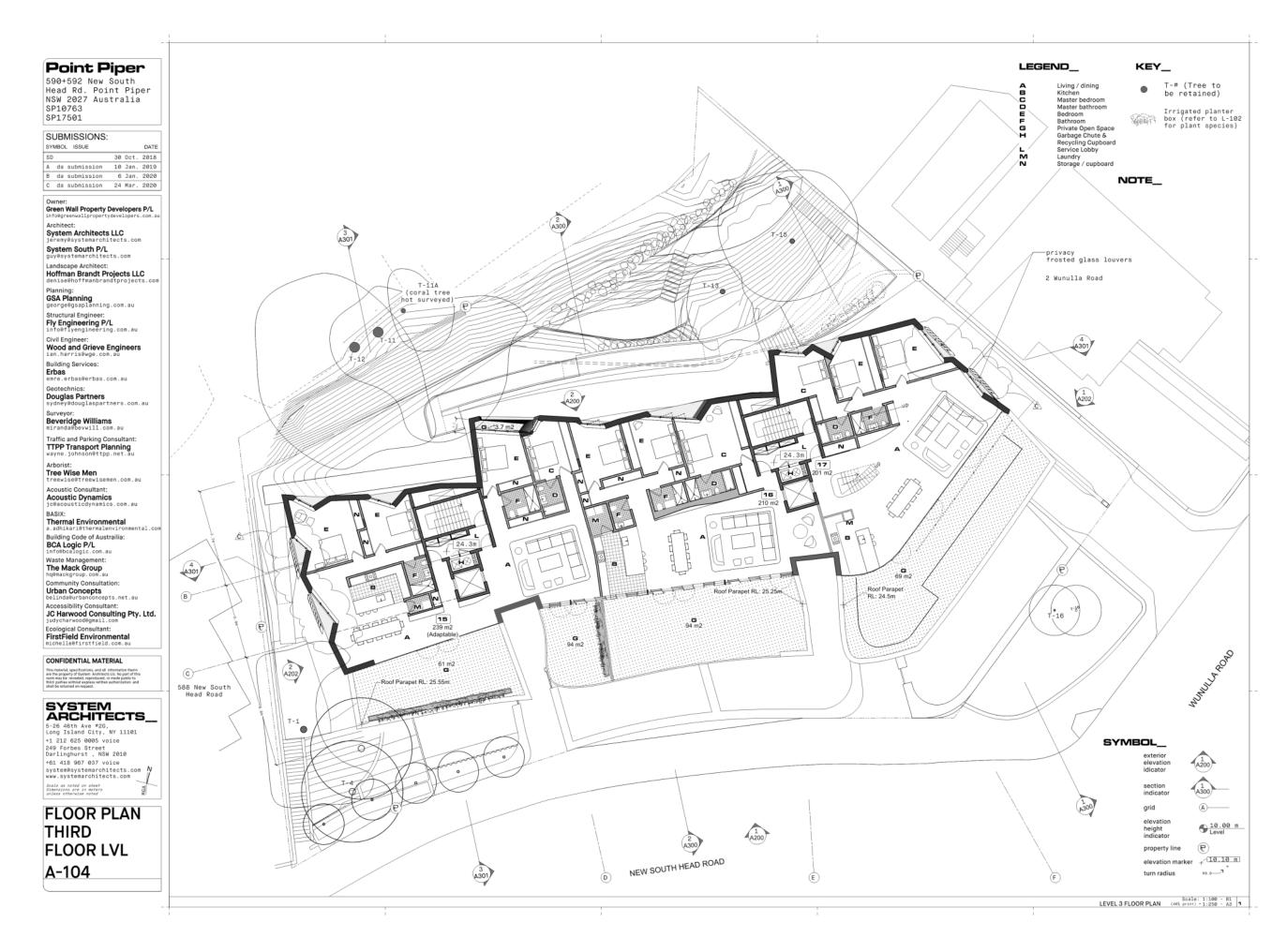


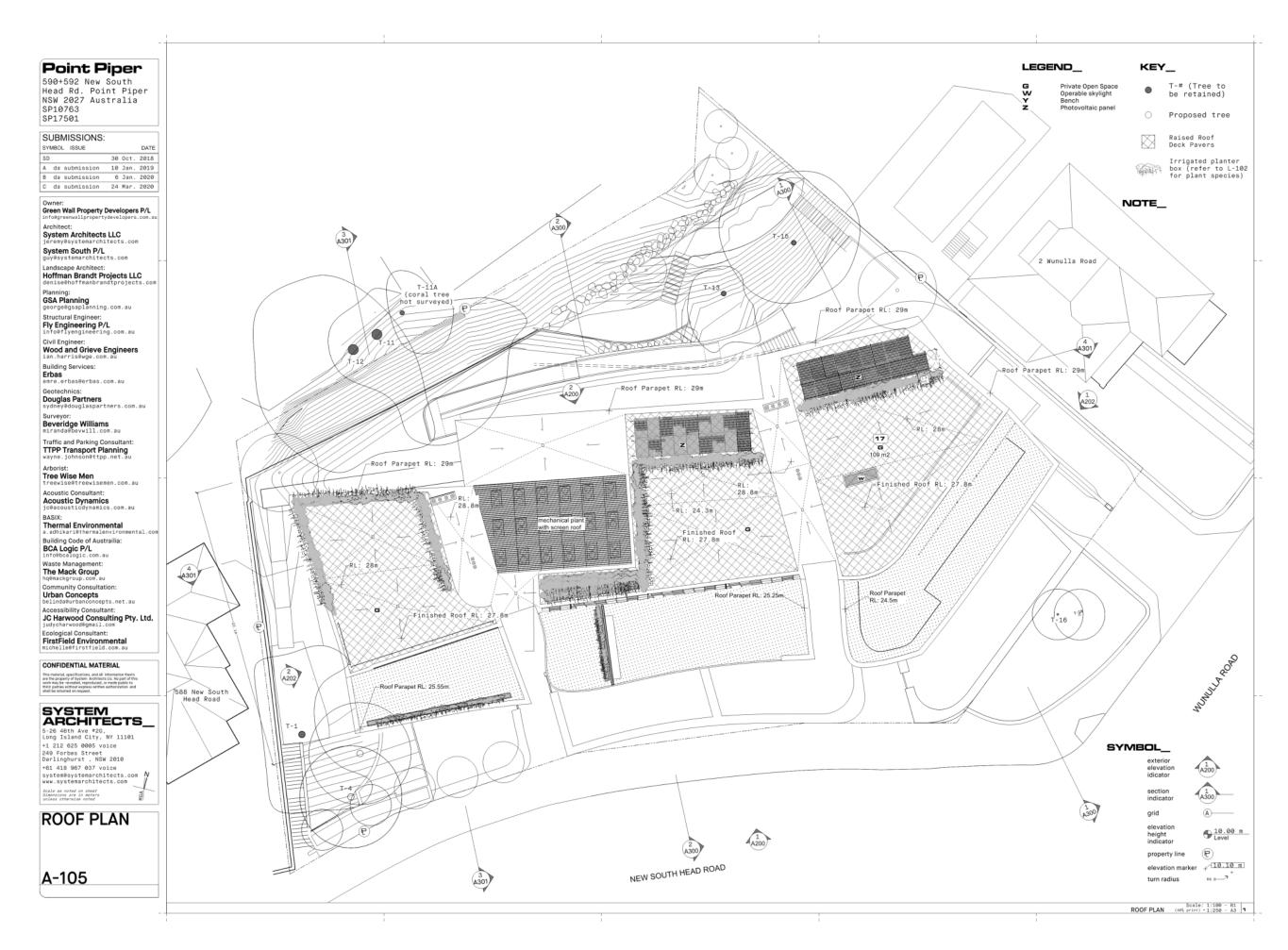


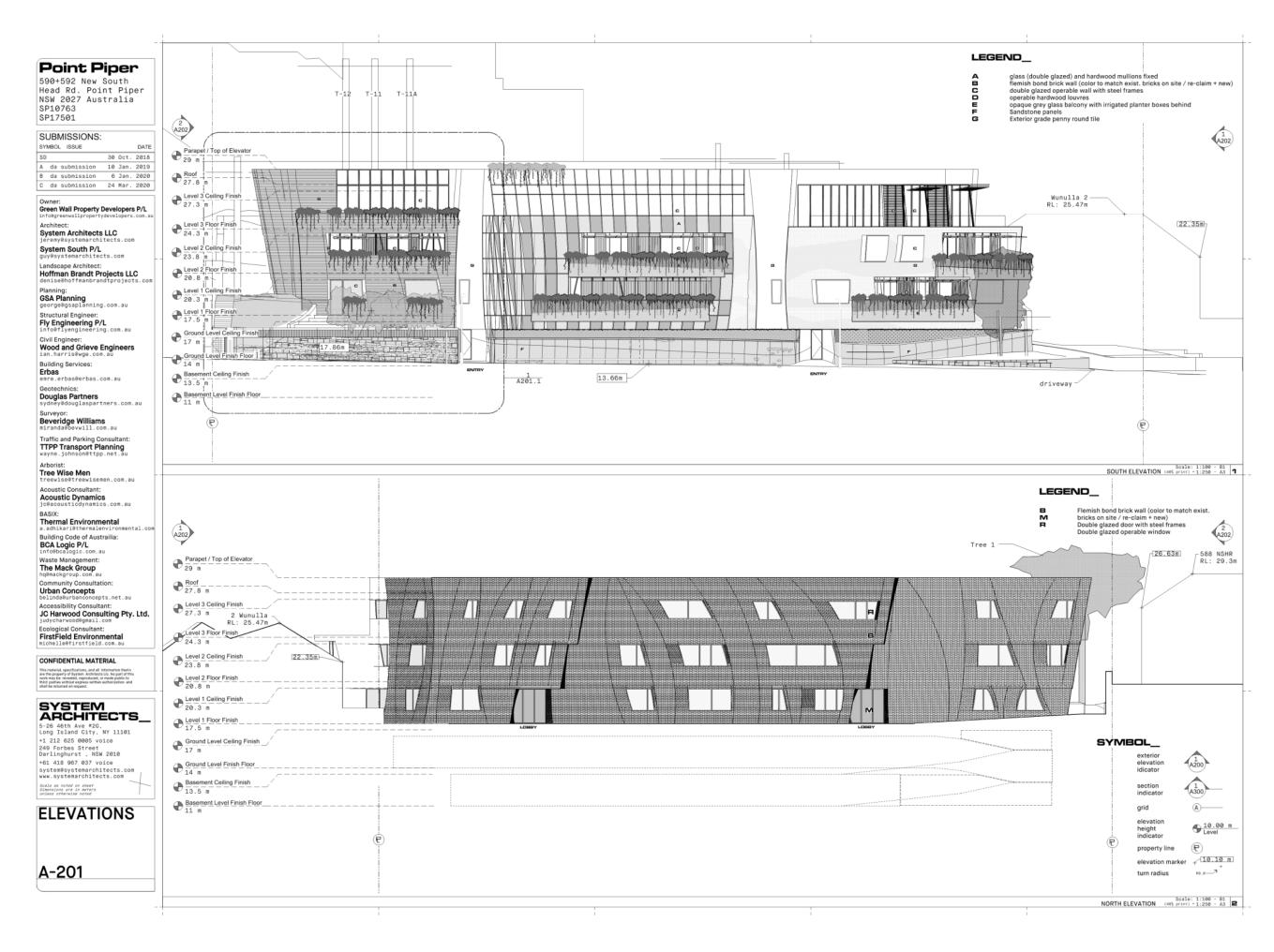


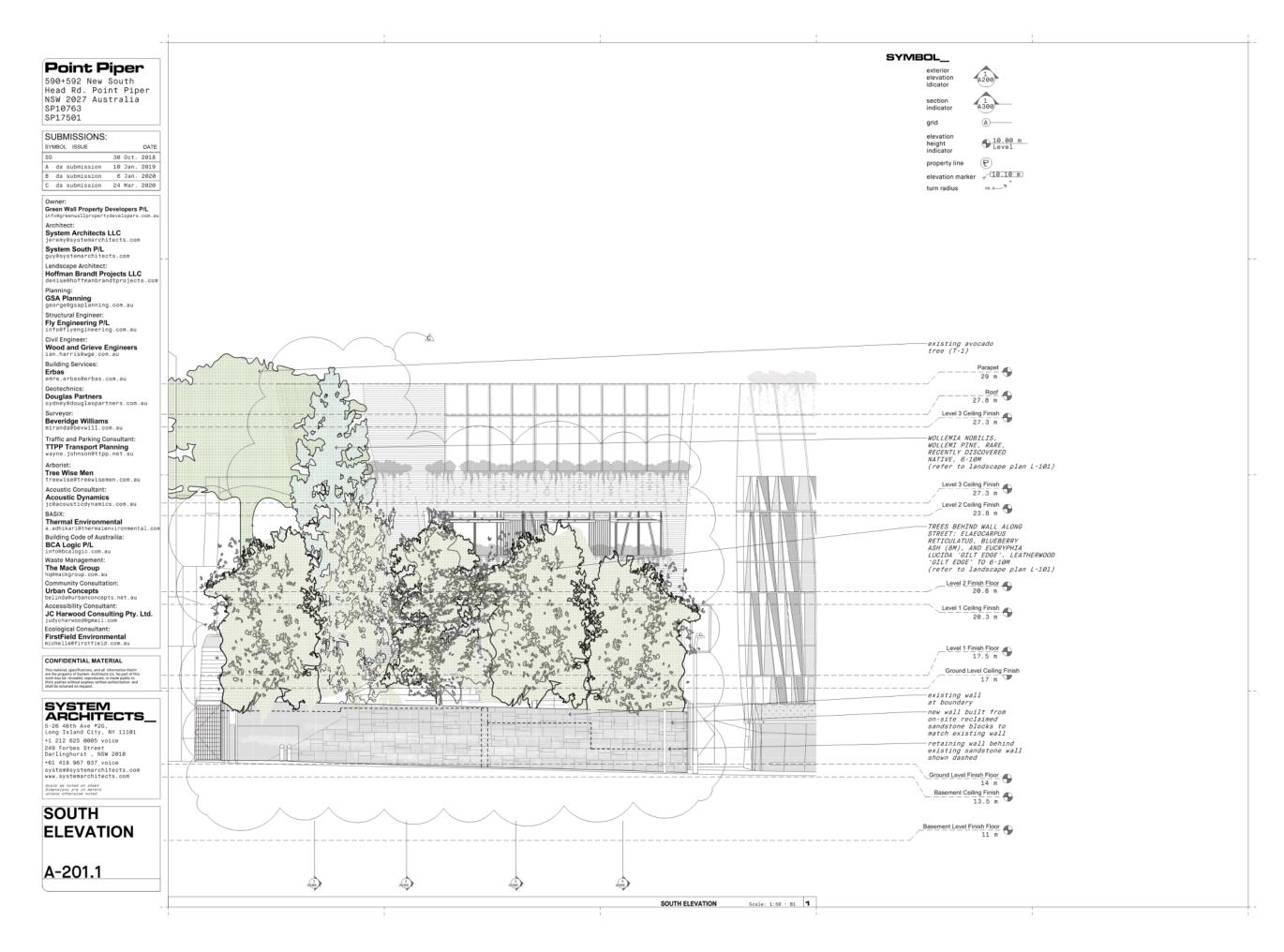


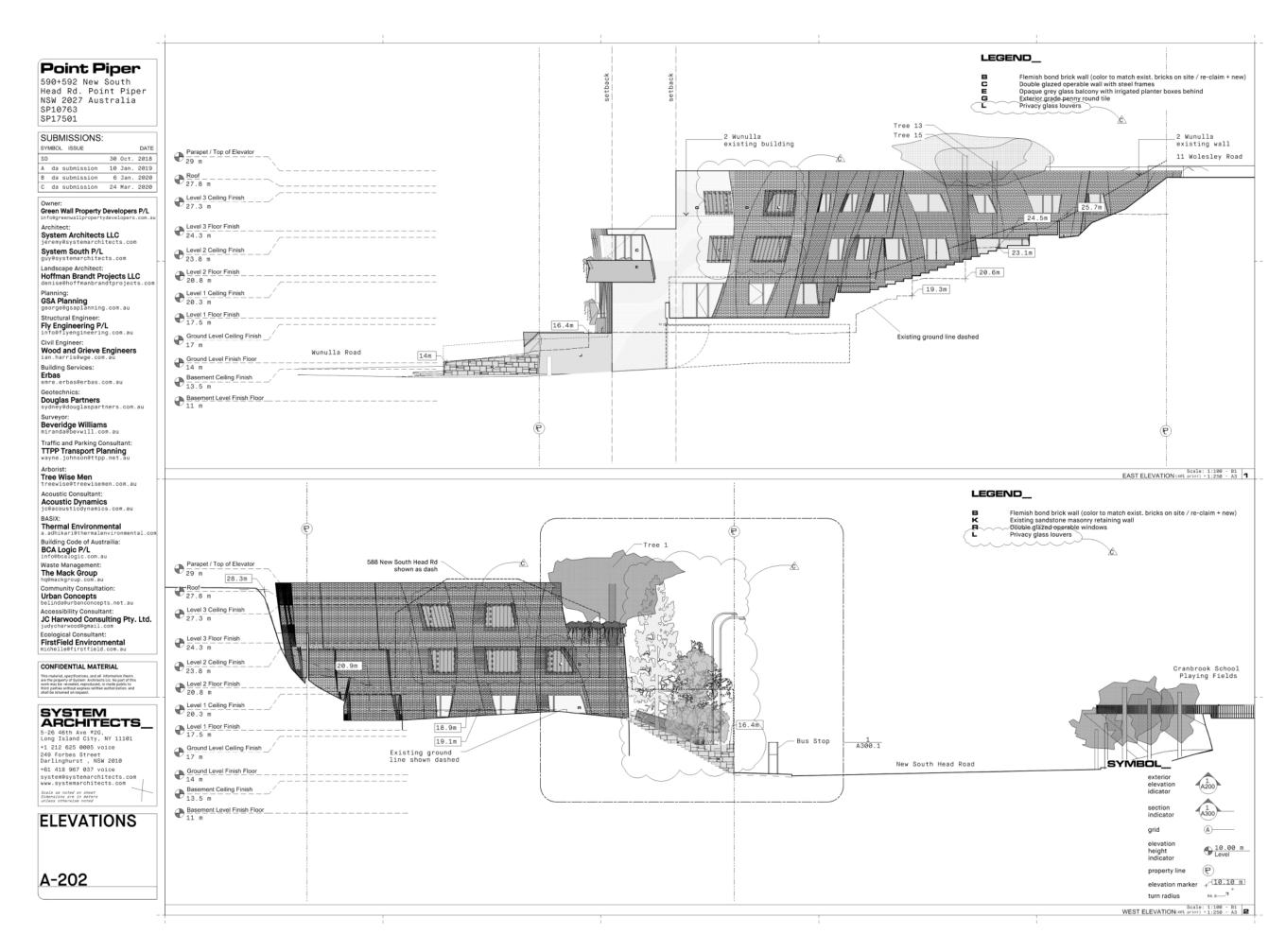






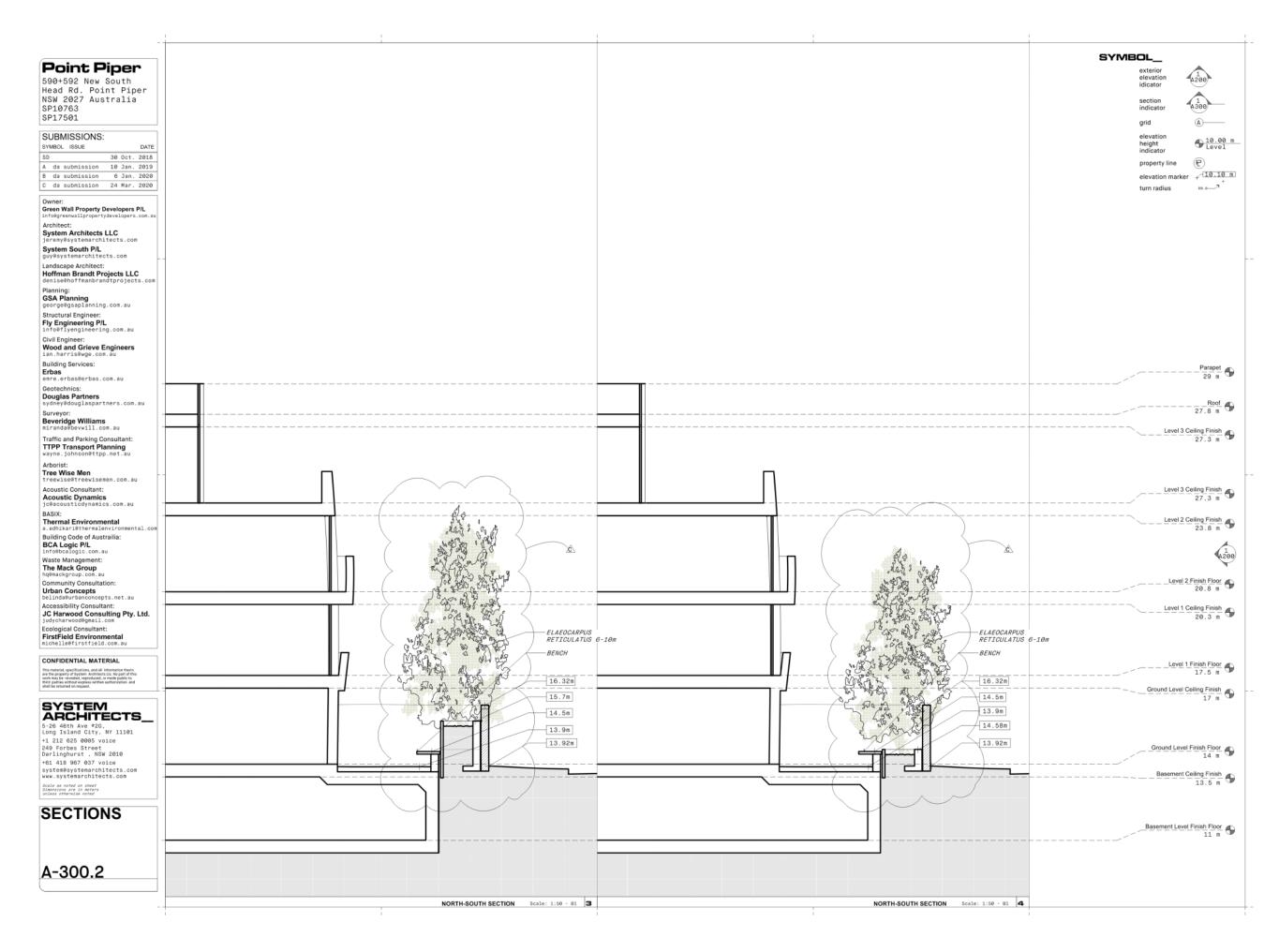


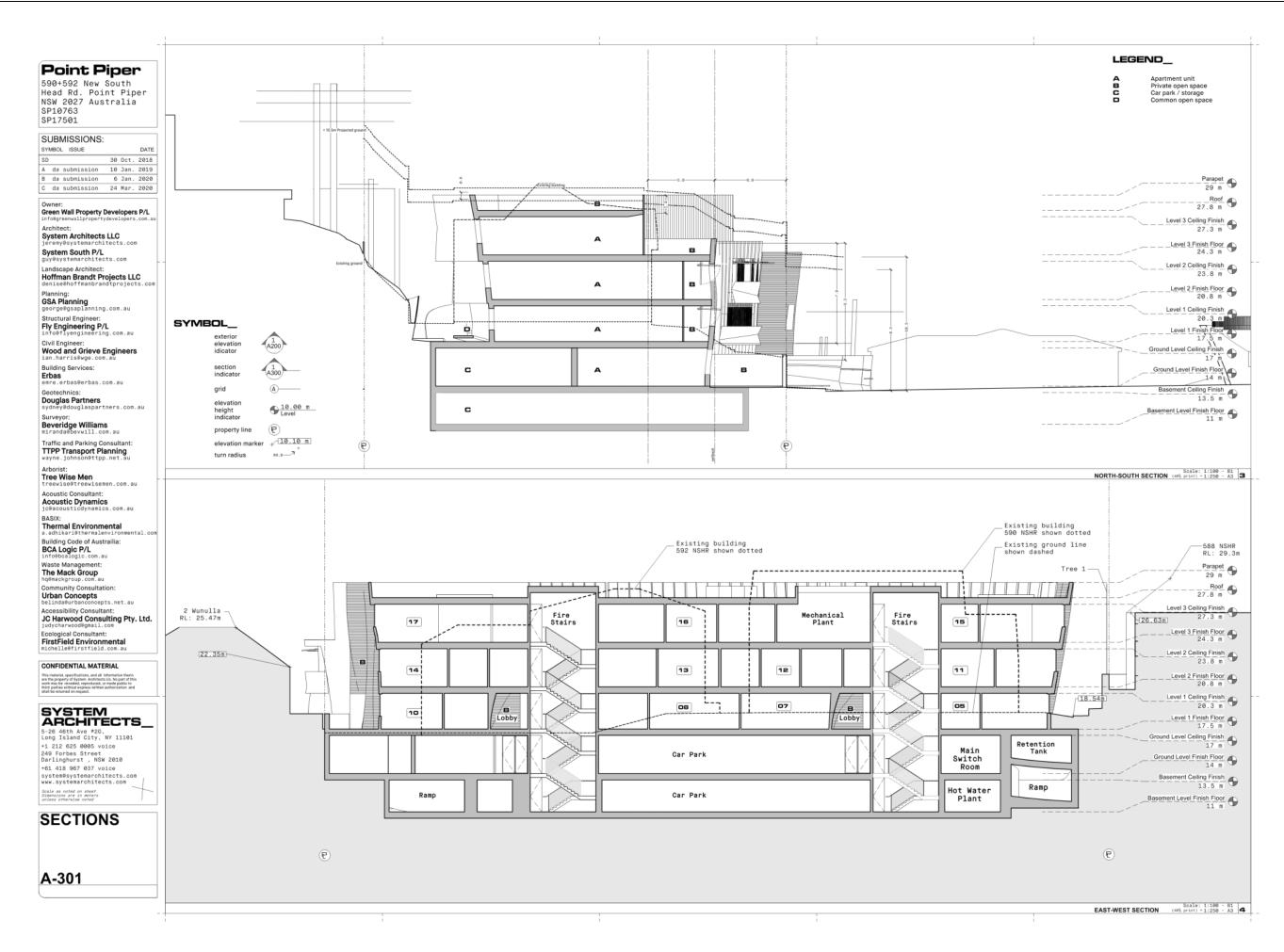


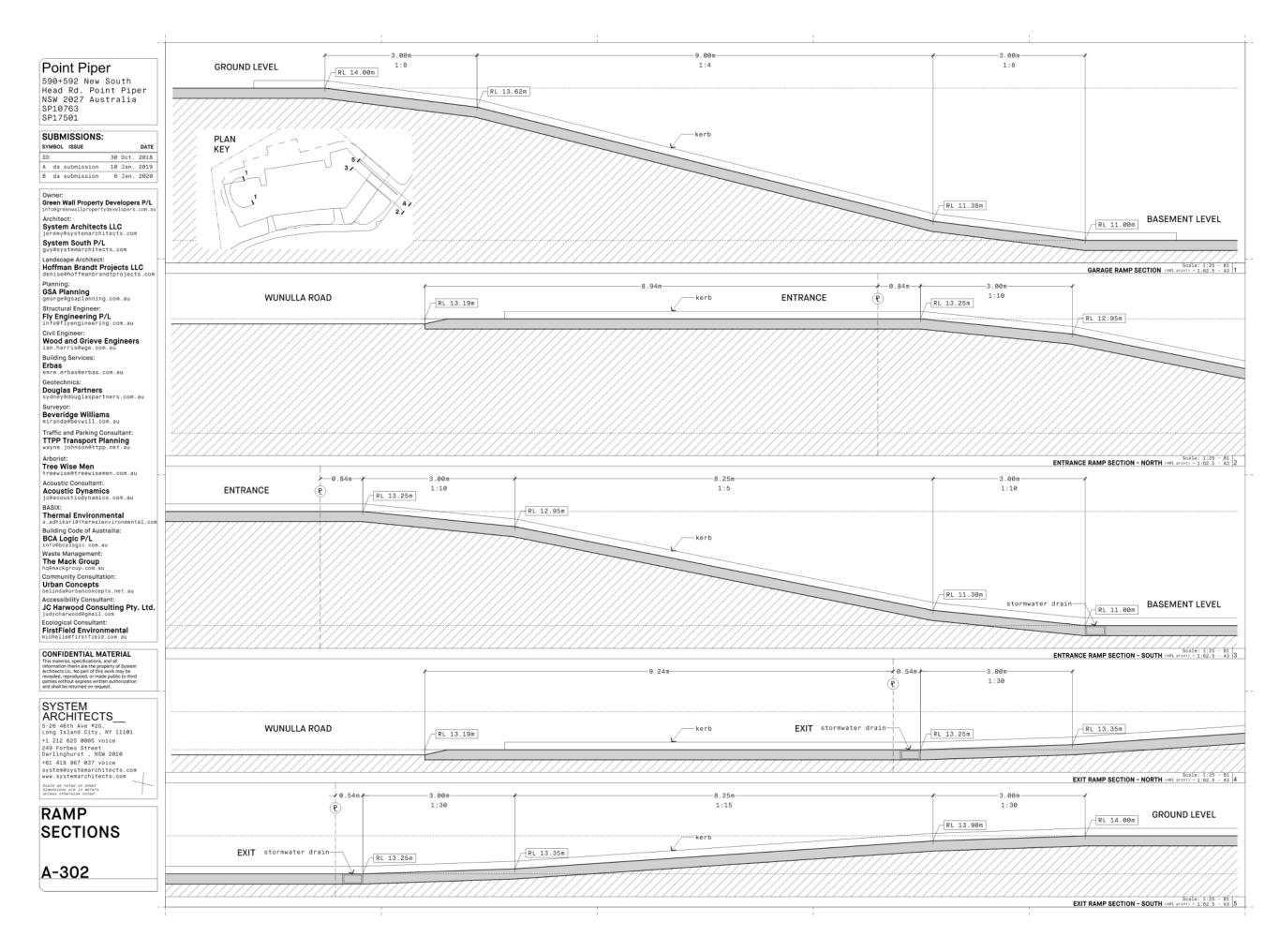




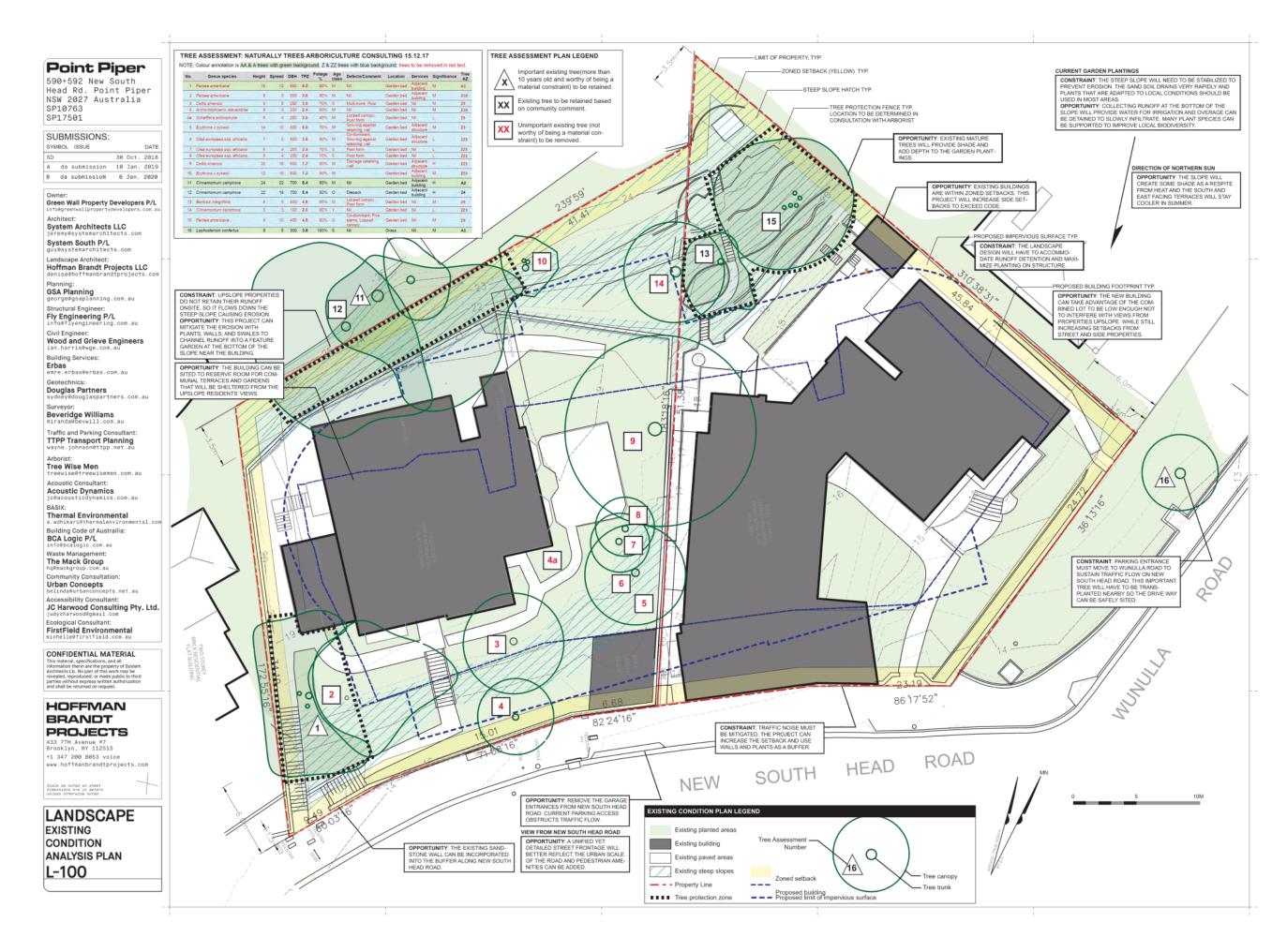






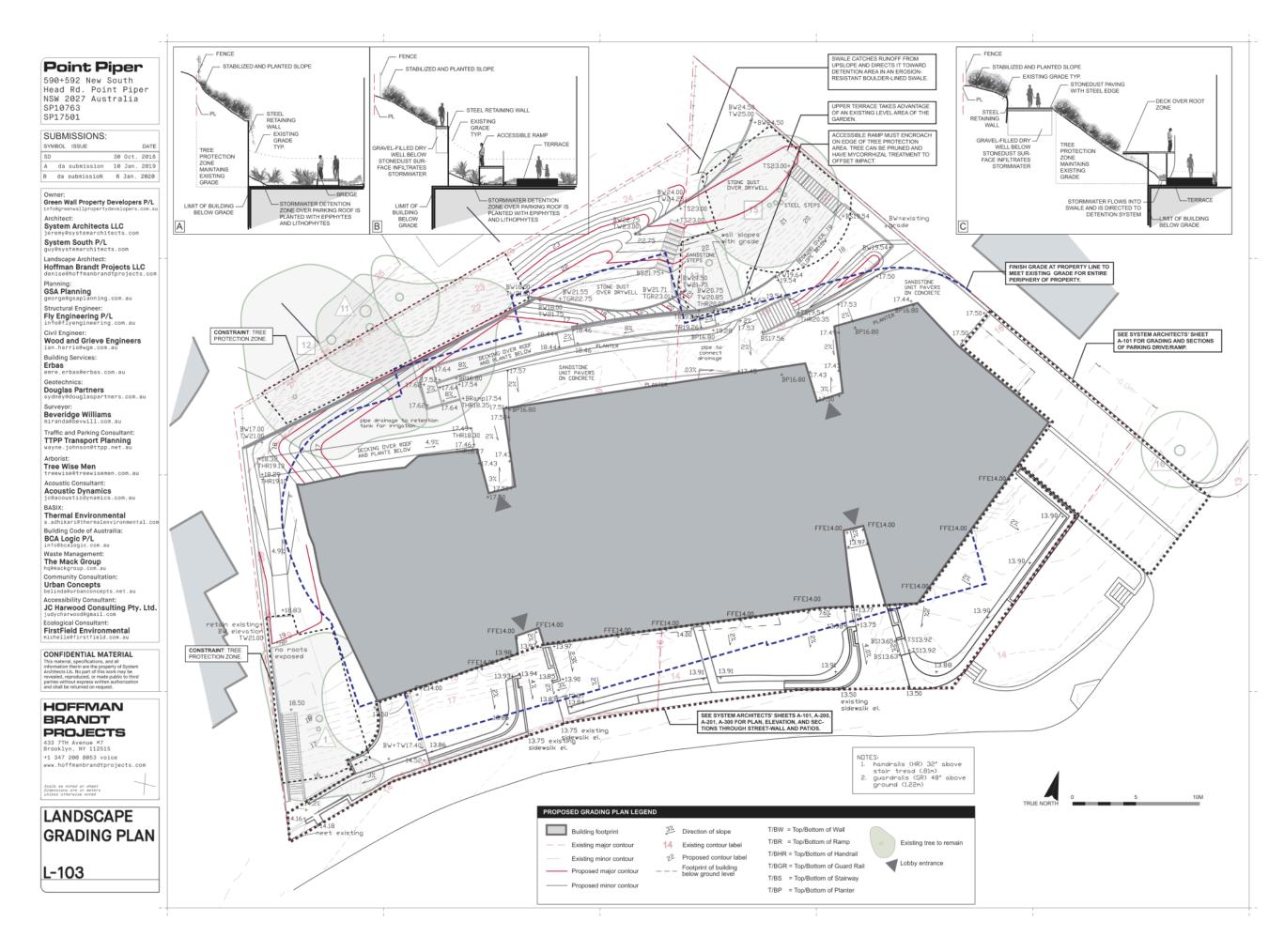












Completion Date: 1 April 2020

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

**PROPOSAL:** Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision, and remediation of

land

**FROM:** Mr R Lam **TO:** Mr G Lloyd

## 1. ISSUES

None

#### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Revised Statement of Environment Effects, referenced 17457, prepared by GSA Planning, dated January 2020.
- Revised Architectural Plans, referenced Rev B, prepared by System Architects, dated 6 January 2020.
- Survey, referenced 1801449-DET-181002-V1, prepared by Beveridge Williams, dated 09/06/2016.
- Revised Stormwater Management Report, referenced 39781-Cl-RE\_001, prepared by Wood & Grieve Engineers, dated 25 November 2019.
- Revised Stormwater Management Plan, referenced 39781-Cl-520-01-Rev B, Cl-520-02-Rev B, Cl-520-03-Rev B, Cl-526-01-Rev B prepared by Wood & Grieve Engineers, dated 25/11/2019.
- Geotechnical Report, referenced 86477.00, prepared by Douglas Partners, dated August 2018.
- Traffic and Parking Impact Assessment Report, referenced 18184-Final, prepared by TTPP, dated 15 January 2019.
- Driveway longitudinal profiles, referenced A-301-Rev A, prepared by System Architects, dated 10 January 2019.
- Construction Traffic Management Plans, referenced 18184-Final, prepared by TTPP, dated 16 January 2019.
- RMS referral responses, dated 21 February 2019.

#### 3. ASSESSMENT

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

## a. Site Drainage comments

The submitted revised stormwater plans are considered satisfactory in principle except that the invert level of the rainwater overflow must be raised so that it is above the top of kerb level to prevent the backwater effect from the RMS' underground drainage system which will be conditioned accordingly. It is noted from the submitted revised stormwater plans that the applicant has provided 1.5 times the on-site detention (OSD) storage volume to offset the OSD requirements which is permissible under Chapter E2.2.4 of Council's DCP. Stormwater treatment system have also been provided for this type of development to comply with Chapter E2.2.3 of Council's DCP. Stormwater runoff from the site will be discharged to the RMS' underground drainage system in New South Head Road.

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

## b. Flooding & Overland Flow comments

Not relevant

## c. Impacts on Council Infrastructure comments

The applicant seeks to provide basement parking as part of this development. Since the location of the proposed vehicular access is different to the existing, the applicant shall remove all existing vehicular crossing and layback and construct a new 5.5m wide crossing as part of this application to comply with Council's Crossing Specification. Besides, the applicant is required to reconstruct the existing footpath for the full frontage of the site as part of this application. These requirements will be conditioned accordingly.

## d. Traffic comments

Council's Traffic Engineer has determined that the development proposal is generally satisfactory subject to engineering conditions. A copy of the memo is in Trim # 20/42228. The conditions imposed by Council's Traffic Engineer will be incorporated into the conditions by Development Engineer.

## e. Vehicle Access & Accommodation comments

Vehicular access and car parking layout comply with AS2890.1. The applicant has addressed most of the issues which were previously raised by Council's Engineers except that provision of driveway sightlines splays shall be provided to comply with AS2890.1. It is considered that this outstanding requirement could be handled by way of conditions.

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

A Geotechnical Report by Douglas Partners, Ref: 86477.00, dated August 2018, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 8 metres at the northern end of the site for the proposed basement.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 1.1m.
- b) Depth of natural sand with various density to a termination depth beneath the fill of 7m.
- Sandstone bedrock was encountered beneath the natural sand.
- d) Groundwater was encountered during the field investigation.

The report made comments and recommendations on the following:

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

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

## 4. RECOMMENDATION

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

## A. General Conditions

## A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
86477.00	Geotechnical Report	Douglas Partners	August 2018
39781	Stormwater Plan	Wood & Grieve Engineers	
Cl-520-01-B			25/11/2019
Cl-520-02-B			25/11/2019
Cl-520-03-B			25/11/2019
Cl-526-01-B			25/11/2019
18184-Final	Traffic Report	TTPA	15/01/2019

## A.8 Ancillary Aspect of the Development (S80A(2) of the Act)

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

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

Referral Response - Technical Services - DA2019131 - 590 New South Head Road POINT PIPER

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

## C.5 Security Deposits

Property Damage Security Deposit (S138)	\$540,662	No	T115
Infrastructure Works bond (S138)	\$62,980	No	T113
Public Road and Footpath Infrastructure Inspection Fee (S138 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 be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

## 1. Infrastructure Works

- a) The removal of all existing redundant vehicular crossings including layback and gutter on the New South Head Road boundary and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter shall be in accordance with TfNSW's requirements and specification. A copy of the approval issued by TfNSW must be submitted to Council.
- b) The construction of a new 5.5 metres wide vehicular crossings in accordance with Council's standard driveway drawing RF2\_D. The new crossing shall be constructed at right angle to the street kerb in plain concrete and be located at least 6 metres from the end of the tangent point to comply with Clause 3.2.3 of AS2890.1. Design longitudinal surface profiles along each edge of each proposed vehicular crossing must be submitted for assessment.
- c) The reconstruction of the existing full width concrete footpath for the full frontage of the site in New South Head Road and Wunulla Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works. Detailed long section and cross section at every 5m interval shall be prepared by a suitably qualified and experienced civil engineer.
- d) The proposed 375mm stormwater outlet pipe which connects to the TfNSW's underground drainage system. Approval issued by the TfNSW for such connection to the existing kerb inlet pit shall be submitted to Council.
- e) The removal/adjustment of existing retaining structures including landscape and trees and to ensure sight lines to comply with AS2890.1.
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

#### 2. Bonds

- a) A bond of \$62,980 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- b) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

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

- C.21 Provision for Energy Supplies
- 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

## 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 showing the following:

The plans must satisfy the following requirements:

- a) A 2m x2.5m sight triangle, clear of any obstructions to visibility, must be provided on both sides of the driveway to comply with Clause 3.2.4 and Figure 3.3 of AS2890.1.
- b) The internal one-way ramp must be clearly signposted and provided with pavement arrows to indicate the one-way only traffic flow, such signposting and pavement arrows be located within subject property.
- c) The area hatched in purple in the figure below be cleared from any obstructions, including any landscape and trees, to ensure sight lines.



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.46 Engineer Certification (Special Condition)

Prior to issue of any Construction Certificate, the applicant shall submit, for approval by the Certifying Authority, a certificate from a *professional engineer* (Civil/Traffic Engineer), certifying the following:

- That all aspects of the carpark comply with AS2890.1. In particular, the proposed driveway for the first 6m from the property boundary is at a maximum grade of 5%. This grade may be increased to max. 12.5% provided that the grade is a downgrade for traffic leaving the property and entering the frontage road;
- 2) That all aspects of the bicycle parking and storage facilities comply with AS2890.3 and Chapter E1 of Woollahra Council's DCP;
- 3) The driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.

## C.51 Stormwater Management Plan

The Construction Certificate plans and specifications, required by Clause 139 of the Regulation, must include a Stormwater Management Plan for the site. The Stormwater Management Plan must detail:

- a) General design in accordance with stormwater management plans, referenced 39781-Rev B, prepared by Wood and Grieve Engineers, dated 25/11/2019 except with the following amendments:
  - 1) The invert level of the overflow pipe from the rainwater retention and reuse tank must be set at the top of kerb level where connection is made to the existing kerb inlet pit to prevent any backwater effect from the TfNSW's underground drainage system. Alternatively, the capacity of the existing TfNSW's stormwater drainage system at the proposed connection of the outlet shall be hydraulically evaluated using the Hydraulic Grade Line (HGL) method to demonstrate that no stormwater will be able to surcharge from TfNSW's system to the proposed filtration chamber and the rainwater retention and reuse system;
  - The invert level of the outlet pipe from the proposed filtration chamber must be set above the top of kerb level where connection is made to the existing kerb inlet pit.
  - 3) Details of the required basement pumpout system including supporting calculations shall be provided. The pumpout system shall be provided in accordance with AS3500.3. Stormwater discharge from the basement pumpout system shall be directed to the proposed filtration chamber prior to discharging to the street drainage system.
- b) Compliance the objectives and performance requirements of the BCA;
- c) The installation of rainwater tank with minimum storage capacity of 70.65m³ which is to be connected for non-potable uses such as toilet flushings, laundry devices to all units and garden irrigations. Stormwater runoff from all roof areas shall be collected and directed to the proposed 70.65m³ rainwater retention and reuse tank via the installation of first flush device(s).
- d) Overflow from the proposed 70.65m<sup>3</sup> rainwater retention and reuse tank shall be directed to the proposed stormwater filtration chamber by gravity prior to discharging to the TfNSW's underground drainage system by gravity;
- e) The installation of stormwater quality treatment system to satisfy the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP. This includes but not limited to the installation of 2 x 690 PSORB StormFilter Cartridges and 2 x Enviropod by Ocean Protect;
- f) General compliance with the Council's Woollahra DCP 2015 Chapter E2 Stormwater and Flood Risk Management.

The Stormwater Management Plan must also include the following specific requirements:

#### Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off, 1987* edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

## Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook". Standard Condition: C.51 (Autotext CC51)

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

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

## D.4 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 588 New South Head Road

No. 5, 7, 9 and 11 Wolseley Road

No. 2 Wunulla Road

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice* of commencement required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

Standard Condition: D4 (Autotext DD4)

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
   Also refer to the Dilapidation Report Advising for more information regarding this condition

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

## D.7 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must be provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer). Standard Condition: D7 (Autotext DD7)

- D.9 Construction Management Plan
- D.10 Works (Construction) Zone Approval & Implementation
- D.14 Erosion and Sediment Controls Installation
- E. Conditions which must be satisfied during any development work
- E.3 Compliance with Construction Management Plan
- E.7 Maintenance of Vehicular and Pedestrian Safety and Access
- E.11 Maintenance of Environmental Controls
- E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program
- E.13 Support of Adjoining Land Owners
- E.14 Vibration Monitoring

- E.15 Erosion and Sediment Controls Maintenance
- E.17 Disposal of Site Water during Construction
- E.19 Site Cranes
- E.20 Check Surveys boundary location, building location, building height, stormwater drainage system and flood protection measures relative to AHD
- E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway
- F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

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

Prior to issue of any occupation Certificate, the Principal Contractor or Owner-builder must submit, for approval by the Principal Certifying Authority, 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) Plumber certification that stormwater runoff from all roof areas has been collected which have been connected for non-potable uses such as toilet flushings and laundry devices to all units with the provision of first flush devices;
- c) All flood protection measures;
- d) All basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*. In particular, the following requirement must be certified by a traffic engineer:
  - The internal driveway for the first 6m from the property boundary has been constructed at a maximum grade of 5% to comply with AS2890.1. This grade may be increased to max. 12.5% provided that the grade is a downgrade for traffic leaving the property and entering the frontage road;
  - 2) Minimum headroom of 2.2m has been provided to comply with AS2890.1.
  - 3) 2m x 2.5m sight triangles, clear of obstructions to visibility, have been provided to comply with AS2890.1.
- e) All stormwater drainage and storage systems;
- f) All mechanical ventilation systems;
- g) All hydraulic systems;
- h) All structural work;
- i) All acoustic attenuation work;
- j) All waterproofing;
- k) Such further matters as the Principal Certifier may require.

- Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.
- **Note:** The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).
- Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans,
  Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA
  upon which the PC has relied in issuing any Occupation Certificate.
  Standard Condition: F7 (Autotext FF7)
- F.9 Commissioning and Certification of Public Infrastructure Works
- G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate
- G.4 Electricity Substations Dedication as Road and/or Easements for Access
- 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 Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site retention and reuse system,
- that the works have been constructed in accordance with the approved design and will provide the minimum retention storage volume of 70.65m<sup>3</sup> in accordance with the approved construction drawings,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-retention and reuse system, including any first flush device(s), pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website

www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.

Standard Condition: H20 (Autotext HH20)

#### 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, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Resident parking	31
Vehicle parking (visitor)	4
Motorbike parking	4
Bicycle parking	17

This condition has been imposed to ensure adequate on-site parking is maintained. Standard Condition: 121

#### I.29 Ongoing Maintenance of the On-Site-Retention and Reuse System

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

- a) Permit stormwater to be retained and reused by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- d) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- f) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- h) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the

- owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- 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: 129

#### I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

#### J. Miscellaneous Conditions

Nil

#### K. Advisings

K.23 Dilapidation report

**K.24 Roads Act Application** 

22 April 2020

#### REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** DA 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

**PROPOSAL:** Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision, and remediation of

land

**FROM:** Nick Williams- Tree and Landscape Officer

TO: Mr G Lloyd

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

- Survey Plan No.A-401, drafted by System Architects, dated 24<sup>th</sup> of March 2020.
- Architectural Drawings (Revision C) No's A 101, A 102.1, A-300.1 A-300.2, A 201.1 & L- 100 drawn by System Architects, dated 24<sup>th</sup> of March 2020.
- Arboricultural Impact Assessment Report, written by Tree Wise Men, dated January 2019.
- Landscape Plan No's L-101 & L-102, designed by Hoffman Brandt Projects, dated 6<sup>th</sup> of January 2020;
- Previous Landscape referral response by External Consultant Jackie Browne, dated 19 February 2019.

A site inspection was carried out on. 21 April 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**

- Several changes are required to the Landscape Plan and are outlined in Condition C.1 of this referral response. These changes relate mostly to the proposed use of certain species and the proposed retention of Tree 16 (see comments);
- ➤ Comments are made in relation to the proposed additional planter areas located behind the existing retaining wall that fronts New South Head Road, supporting the planting of *Elaeocarpus reticulatus*. To maximise the growth potential of the plantings a minor amendment to increase the soil depth of 1 of the planters is required prior to CC- Refer to Condition C.2 (e) of this referral response;
- Conditions relating to tree protection in this referral response are consistent with the recommendations and specifications outlined in the Arboricultural Impact Assessment report (Tree Wise Men, Jan. 2019) and the previous referral response by External consultant Jackie Browne (with the exception of the proposed transplanting of Tree 16);
- The majority of trees proposed to be removed from both 590 & 592 New South Head Road (including Trees referenced 3, 4A, 5, 6, 7, 8, 10 & 14) are considered undesirable weed species and exempt from Council's Tree Management DCP.

#### COMMENTS

#### 1. Changes required to the submitted landscape plan.

- a) It is unlikely that the transplanting of Tree 16, which is a semi mature Lophostemon confertus tree, could be achieved successfully. This element of the proposal is therefore not supported. Instead, the removal and replacement of the tree is deemed a better option. The specifications for a replacement tree, which include the required container size at the time of planting, are outlined in Condition C.2 (a) and (b) of this referral response.
- b) The proposed use of Wollemi Pine in the South Western area of the site is not supported. The species has not been observed to perform well in urban landscapes, outside of its limited natural area. As a substitution, the planting of an *Araucaria heterophylla* (Norfolk Island pine) or *Araucaria cunninghamiana* is required. Refer to Condition C.2 (d) of this referral response.
- c) Proposed plantings south of the proposed driveway area in the Council verge, which include *Eucyphia* and *Eucalyptus caesia*, should be deleted. Neither species is consistent with any street tree species used in the municipality and may not be reliable in the proposed location. Instead, the planting of either 1 x *Angophora costata* or 1x *Corymbia eximia* shall be used. Refer to Condition C.2 (c) of this referral response.

# 2. Additional planter bed areas located behind the New South Head Road footpath and boundary retaining wall.

Referring to the Section drawing A-300.2 (North South Section 3 & 4) and the Floor Plan First Floor Level (drawing # A-102.1) I have considered the depth of soil, width of planter bed and length of planter bed depicted in relation to their suitability for supporting *Eleocarpus reticulatus* trees. Both planters have the same length (being 3.76 metres) and width (being 1.135) yet differ in depth. 1 x planter bed contains a sufficient depth of 1.75 metres and the other a shallower depth of no more than 700 mm. Despite section drawings showing the planters as being free draining into the subsoil profile

there is no guarantee that the subsoil is friable and favourable to root growth. Therefore, to ensure both *Elaeocarpus* trees can be viable landscape features in the future the shallower planter bed shall be increased in depth to be a minimum of 1 metre. <u>I have</u> outlined the required changes in Condition C. 1 (e) of this referral response.

#### RECOMMENDATIONS

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

#### CONDITIONS OF CONSENT

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

#### A. General Conditions

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

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

- a) The following trees shall be retained
  - · Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
1	Persea americana (Avocado)	Front yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	10 x 8
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road (LANDSCAPE Existing Condition Analysis Plan.)	7 x 5 metres
15	Persea americana (Avocado)	Rear yard 592 New South Head Road (LANDSCAPE Existing Condition Analysis Plan.)	9x6

**Note**: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Current Location	Dimension (metres)
4	Archontophoenix alexandrae	Front yard 590 New South	9x3
	(Alexandra Palm)	Head Road. Refer to drawing	
		referenced L-100 Revision B	
		(LANDSCAPE Existing	
		Condition Analysis Plan.)	

Referral Response - Landscaping - DA2019131 - 590 New South Head Road POINT PIPER

c) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
2	Persea americana (Avocado)	Front yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	9x7
3	*Celtis sinensis (Hackberry)	Front yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	9x6
4a	*Schefflera actinophylla (Umbrella Tree)	Front yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	6x4
5, 10	*Erythrina x sykesii (Coral Tree)  590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)		10 x 10
6, 7, 8	*Olea europea ssp. Africana (African Olive)	Rear yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	6x4
9	Celtis sinensis (Hackberry)	Eastern boundary 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	20x16
14	*Cinnamomum camphora (Camphor Laurel)	Rear yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	5x3
16	Lophostemon confertus (Brushbox)	Council verge on Wunulla Road. Refer to drawing referenced L-100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	7 x 3 metres

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

d) 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	Persea americana (Avocado)	Front yard 590 New South Head Road. Refer to drawing referenced L-100 Revision B	5% reduction pruning on eastern side only
		(LANDSCAPE Existing	for 2m building

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 $<sup>{}^*\</sup>mathrm{This}$  species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

Condition Analysis Plan.)	clearance,
	removing max.
	70mm diameter
	branches

**Note:** The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

#### A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
L-101, L-102 (Revision B)	Landscape Plan (including communal area, elevation, section and planting key).	Hoffman Brandt Projects	6 January 2020
	Arboricultural Impact Assessment Report	Tree Wise Men	January 2019.

## 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	Persea americana (Avocado)	Front yard 590 New South Head Road. Refer to drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	8mN 8mS 5mE
4	Archontophoenix alexandrae (Alexandra Palm)	Front yard 590 New South Head Road. Refer to drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	2m
11	Cinnamomum camphora (Camphor Laurel)  Rear boundary 7 Wolseley Road. Refer to drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)		4.8m
11A	Erythrina x sykesii (Coral Tree)	Rear boundary 7 Wolseley Road. Refer to drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	5.5m
12	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road. Refer to	5m

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		drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road. Refer to drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road. Refer to drawing referenced L- 100 Revision B (LANDSCAPE Existing Condition Analysis Plan.)	6m

**Note**: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

**Note:** Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
1	Persea americana (Avocado)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) 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.
- e) 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 Condition B.2 of this consent.
- f) 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.

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- g) 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.
- 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
l	Persea americana (Avocado)	5m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters; Incursion represented by the proposed Basement area.
13	Banksia integrifolia (Coast Banksia)	3.6m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
15	Persea americana (Avocado)	6m	Landscape works without machine excavation or cultivation, no root damage of roots greater than 20mm diameters
4	Archontophoenix alexandrae (Alexandra Palm)	4m	Transplant operation carried out by qualified tree transplanter

The project arborist shall provide written certification of compliance with the above condition.

#### **B.3** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;

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- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

#### **B.4** Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of noncompliance; and
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection	Action (Compliance documentation
	and photos shall be included).
Installation of tree protection fencing	Compliance with tree protection measures
Demolition of ground surfaces in TPZ areas	Condition of exposed roots
Inspection of pier holes for landscape works	Piers positioned to avoid the severance of and
1 1	damage to roots greater than 50mms
Installation of piling	Condition of roots and soil
Inspection of irrigation set out	Appropriate distribution of irrigation water
Prior to the issue of a Final Occupation	Supervise the dismantling of tree protection
Certificate	measures
Installation of tree protection fencing	Compliance with 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

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 References to applicable tree management plan, arborists report or transplant method statement.

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

#### C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

- The Landscape plan and any site drawings must delete reference to the transplanting of Tree 16. Instead the removal and replacement of the tree shall be referenced;
- b) The planting of 1 x 300 litre *Lophostemon confertus* tree must be illustrated on the Landscape drawings in the same location that was previously designated for the transplanting of Tree 16- that is in the Council verge area on Wunulla Road;
- c) The proposed planting of Eucalyptus caesia and Eucryphia lucida South of the proposed driveway and in the Wunulla Road verge area shall be deleted from the Landscape drawings. In this location the planting of a 100 litre container size tree of either of the following tree species shall be illustrated: 1 x Angophora costata (Sydney Red Gum) or 1 x Corymbia eximia (Yellow Bloodwood);
- d) The proposed planting of a Wollemia nobilis in the South Western deep soil area of the property shall be deleted from the Landscape drawings. In this location the planting of a 100 litre container size tree of either of the following tree species must be illustrated: 1 x Araucaria heterophylla (Norfolk Island Pine) or 1 x Araucaria cunninghamiana (Hoop Pine);
- e) To support the planting of *Elaeocarpus reticulatus* trees the proposed planter area depicted in Sections drawing A-300.2 (4) at the front Southern boundary to New South Head Road (and closest to the building's Western pedestrian entrance) must have a minimum soil depth of 1 metre between the soil surface to the inner boundary wall footing.
- f) Stormwater lines to be routed through the basement must not pass through Tree Protection Zones, as recommended in the Arboricultural Impact Assessment report (Tree Wise Men Pty Ltd, January 2019).

**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.

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

Nil

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#### 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

- 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 Lophostemon confertus (Brushbox)	Within Council verge on Wunulla Road (*Same proposed location as previously plotted and transplanted Tree 16)	300 litre	10 x 6 metres
1 x Corymbia eximia (Yellow Bloodwood) or 1 x Angophora costata (Sydney Red Gum)	Within Council verge on Wunulla Road – South West of proposed driveway.	100 litre	10 x 6 metres
1x Araucaria heterophylla (Norfolk Island Pine) or 1 x Araucaria cunninghamiana (Hoop Pine)	South West deep soil area of the site (in location of previously proposed Wollemi Pine).	100 litre	20 x 7 metres
6 x Elaeocarpus reticulatus	Within planter areas behind the New South Head Road boundary wall – between the proposed Western entrance of the property and the	50 litre	8 x 4 metres

existing staircase on the	
Western boundary of 590	
New South Head Road.	

The project arborist shall document compliance with the above condition.

#### E.3 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	Persea americana (Avocado)	Front yard 590 New South Head Road	8.4
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	4.8
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	7.2

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

#### 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	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
11	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	4.8m
11A	Erythrina x sykesii (Coral Tree)	Rear boundary 7 Wolseley Road	5.5m
12	Cinnamomum camphora (Camphor Laurel)	Rear boundary 7 Wolseley Road	5m
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m

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	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m

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)
1	Persea americana (Avocado)	Front yard 590 New South Head Road	8mN 8mS 5mE
13	Banksia integrifolia (Coast Banksia)	Rear yard 592 New South Head Road	3.6m S & W 4.8m N & E
15	Persea americana (Avocado)	Rear yard 592 New South Head Road	6m

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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or you may contact Council on 9391-7000 for further advice.

Referral Response - Landscaping - DA2019131 - 590 New South Head Road POINT PIPER

#### Completion Date: 23 March 2020

#### REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Applications/ 13/2019/1

ADDRESS: 590 New South Head Road POINT PIPER 2027

PROPOSAL: Construction of a new residential flat building with underground

parking, new landscaping and strata subdivision, and remediation of

land

FROM: Neda Vandchali

TO: Mr G Lloyd

#### Information

Architectural drawings:

#### DRAWING LIST

```
G-001 Cover
A-001 Aerial Plan
A-002 Site Context Plan
A-003 Renderings
A-004 Shadow Studies
A-100 Basement Level Floor Plan
A-101 Ground Level Floor Plan
A-102 Level 1 Floor Plan
A-102 Level 2 Floor Plan
A-104 Level 3 Floor Plan
A-105 Roof Plan
A-201 Elevations
A-201 Elevations
A-201 Sections
A-301 Sections
A-301 Sections
A-301 Sections
A-301 Sections
A-400 Survey Plan
A-400 Existing Conditions
L-100 Existing Conditions Analysis
L-101 Landscape Plan
L-102 Elevations, Sections, Planting List
L-103 Grading Plan
```

Including the amended landscape plan dated

18 March 2020

Statement of Environmental Effects: GSA Planning - January 2020

Survey:

#### Background

This DA is assessed and determined on the basis of the current controls. It is not open to Council to depart from our existing development standards unless an objection property submitted under clause 4.6 of WLEP 2014 (see below) is upheld.

#### Proposal

The proposal is to demolish the existing buildings on the site and replace them with a four-level residential flat building accommodating 17 apartments and housing 35 cars in a basement level.

#### **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 the SEPP 65 Principles.

Principle	Statement	Assessment	Complies
Principle	Good design responds and	The proposed development is	Yes, subject
1: Context	contributes to its context.	in the R2 Zone. However, it is	to the
and	Context is the key natural	being made based on 'existing	assessment of
Neighbou	and built features of an	use right'.	Council's
rhood	area, <u>their relationship</u> and	The proposed amended bulk	landscape
Character	the <u>character</u> they create	and scale presents three	officer.
	when combined. It also	different built form elements	
	includes social, economic,	though breaks and different	
	health and environmental	materials. This is a positive	
	conditions.	response to mitigate the	
		perceived bulk and scale.	
	Responding to context		
	involves identifying the	The existing vegetation on the	
	desirable elements of an	southern frontage of the	
	area's <u>existing or future</u>	subject site contributes to the	
	<u>character</u> . Well-designed	landscape character of New	
	buildings respond to and	South Head Road (NSH Rd).	
	enhance the qualities and	Under the DCP B1.6.2, 'well	
	identity of the area	established private gardens	
	including the adjacent sites,	and trees' are the 'Streetscape	
	streetscape and neighbourhood.	character and key elements of the precinct'.	
	Consideration of local	the precinci .	
	context is important for all	It is expected that the proposal	
	sites, including sites in	maintains and enhances the	
	established areas, those	existing landscaped character	
	undergoing change or	of the NSH Rd consistent with	
	identified for change.	WDCP B1.6.2 (O1).	
	luching of change.	Therefore, the provision of	
		adequate deep soil area on the	
		southern frontage, particularly	
		the southwestern part (where	
		Units 01 and 02 are located)	
		has been discussed with the	
		applicant.	
		The proposed landscaped plan	
		has been amended to respond	
		to the streetscape character of	

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.	NSH Rd. This should satisfy Council's landscape officer that the proposed deep soil area allows for growing mature trees with an appropriate density.  The proposed insets, upper- level setbacks and materials are positive responses in breaking the proposed building into smaller elements. However, considering the existing surrounding context with a high level of landscaping and garden setting, the proposed bulk and scale still looks solid and impermeable.  An adequate deep soil landscape along the street frontage mitigates the perceived bulk and scale from the public domain. It also blends the proposed development with its surrounding. Please refer to my comments at Principle 1.	YES, subject to my comments in Principle 1.
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.	The proposed residential density responds to the current high level of amenity and transport infrastructure in the local area.	YES
Principle 4: Sustainabi	Good design combines positive environmental, social and economic	Majority of the proposed units are naturally ventilated. The proposal also provides a range	YES

lity	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.	of communal and deep soil landscaping.  Due to the orientation of the site, topography and view, the proposed living areas are mainly south-facing. However, they include generous living areas with large openings.	
Principle 5: Landscap e	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 usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical	The proposed development provides a range of deep soil and communal landscaping on the northern and western boundaries, as well as private open spaces.  Regarding the landscape character of the streetscape, please refer to my comments in Principle 1.	YES

	establishment and long term management.		
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 wellbeing.  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.	The proposal provides residential units with a high level of internal amenity and private open spaces with appropriate size.  Majority of the units are naturally ventilated.  The placing of living spaces on the southern facade is compensated by large openings.	YES
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.	The proposal meets the requirements of this principle.	YES
Principle 8: Housing	Good design achieves a mix of apartment sizes, providing housing choice	The development provides a range of apartment sizes and adequate private and	YES

Diversity and Social Interactio n	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, providing opportunities for social interaction amongst residents.	communal outdoor spaces.	
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 well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The proposed distinctive design concept adds to the richness and architectural mix in the area.  It responds to its highly visible location.	YES

The Apartment Design Guide (ADG)

Standard	Required	Proposed	Complies
Part 2: Developi	ing the controls		
2F – Building separation	Up to four storeys (approximately 12m):  12m between habitable rooms/balconies  9m between habitable and non-habitable rooms  6m between non-habitable rooms  Five to eight storeys (approximately 25m):  18m between habitable rooms/balconies  12m between habitable and non-habitable rooms  9m between non-habitable rooms  Nine storeys and above (over 25m):  24m between habitable rooms/balconies  18m between habitable and non-habitable rooms  12m between non-habitable rooms	The proposed habitable areas of Units 10, 14 and 17 are located within 3m separation distances to the site boundary. This is less than the minimum requirements (6m) under the ADG. The proposed balcony of Unit 10 encroaches into the side setback area. The proposed vehicle ramp encroaches into the side setback area. This is not consistent with the aims of Section 2F under the ADG.  This is also inconsistent with WDCP B3.2.3, O3 and O6.	NO
Part 3: Siting th	e development		
3B – Orientation	Responsive to streetscape character while optimising solar access within the development Overshadowing of neighbouring properties in minimised during mid-winter Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar	The proposed built form orientation is responsive to the street character and the alignment of the existing neighbouring properties. It responds to the site topography.	YES

	access to neighbouring properties		
3D - Communal and public open space	is not reduced by more than 20%  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) Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	According to the calculation on the SEE report Sec 3.5, the proposal provides approx. 733sqm of communal open spaces (30% of the site area). This satisfies the minimum requirements under the ADG. There is no figure available to show the solar achievement of the proposed communal open spaces. However, considering the location of the area on the northern side of the site, it appears that the proposed communal open spaces are able to achieve the minimum solar access required under the ADG.	YES
3E – Deep soil zones	Deep soil zones that allow for and support healthy plant and tree growth	According to the proposed design report Page 10, the proposed development provides an approx. 757sqm of deep soil area (54% of the site area). However, the proposed deep soil area requires a minimum depth of 6m under the ADG. Recalculation is required.	Additional information required.

<i>3G</i> –	Less than 650m² 650m² 650 m² – 1,500m² Greater than 1,500m² Greater than 1,500m2 with significant existing tree cover Building enti		Deep soil zone (% of the site area) 7%	The proposed	YES
Pedestrian access and entries	access conne the public do Access areas public doma Multiple enti communal be individual gr should be pr	ects to and omain c clearly vi in ries (inclu vilding en round floo	l addresses isible from ding tries and r entries)	development provides a positive response to this requirement.	TES
3H – Vehicle access	Vehicle acce and located a Car park acc integrated w overall facad The width an access points the minimum Designed to pedestrians of Create high	to achieve cess should ith the bui de. ad number s should b minimise o und vehicl	safety d be 'dding's of vehicle e limited to conflict with	The proposed parking entrance (ramp) is not fully integrated into the building's overall façade. It encroaches into the side setback area. This reduces the chance for an adequate landscape buffer on the eastern boundary.	NO
Part 4: Design	ing the Building	3			

4A – Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid -winter	According to the proposed design report, only 35% of the living areas receive the minimum required solar access under the ADG.  Approx. 23% of the units receive no direct sunlight.	NO
4B – Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first 9 storeys  Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		YES
4C – Ceiling heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:  Apartment Minimum ceiling height  Habitable 2.7m rooms  Non- 2.4m habitable Attic spaces 1.8m with 30° minimum ceiling slope  Minimum floor to floor height 3.1m (4C.5).		YES
4E – Private open space and balconies	All apartments are required to have primary balconies as follows:  Apartmen Minimum Minimum  t type width depth  1 bedroom 8m² 2m  2 bedroom 10m² 2m  3+ 12m² 2.4m  bedroom  For apartments at ground level, a private open space area shall be provided instead of a balcony with	I refer to the calculation provided in the design report Page 13.	YES

	minimum area of 15m² and minimum depth of 3m.		
4G – Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:  Dwelling Storage size type volume  1 bedroom 6m3 2 bedroom 8m3 3+ 10m3 bedrooms Studio 4m2  Note: At least 50% of the required storage is to be located within the apartment	I refer to the calculation provided in the design report Page 13.	YES
Configuration			
4K – Apartment mix	A range of apartment types and sizes is provided	The proposal provides a mix of 2, 3 and 4 bedroom units.	YES
4L – Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located Apartments deliver amenity and safety for residents Direct street access should be provided to ground floor apartments	Separate access has been provided to the ground level units.	YES

#### **Urban Design Review and Recommendations**

The proposed distinctive and contemporary architectural style responds to the highly visible location of the subject site and adds to the mixed character of the locality. However, the proposed bulk and scale requires to be appropriately integrated with its surrounding context through an adequate level of deep soil landscaping, particularly on the street frontage.

In my opinion, an appropriate density of the deepsoil landscaping is necessary on the southern frontage (along NSH Rd), particularly on its western portion. This to maintain and enhance the existing landscape character, mitigate the perceived bulk and scale from the public domain and reflect a garden setting. This is also to comply with the desired future character of the local context as per the WDCP B1.6.2. Regarding this matter, I have reviewed the proposed amended landscape plans provided by the applicant. The plans would be acceptable subject to the assessment of Council's landscape officer that the proposed deep soil area on the southern frontage supports growing an adequate density of mature planting that maintains and enhances the existing landscape character of the streetscape. Alternatively, for Units 01 and 02, the idea of complimentary planter boxes can be explored to be implemented in their private open spaces. This is to enhance the green character of the street further. The size and depth of the planter boxes are to be confirmed by Council's landscape officer.

The proposed vehicle ramp and the balcony of Unit 10 encroach into the side setback area. This reduces the chance for a continuous strip of screen planting at this location. I encourage that the applicant explores alternative solutions to provide a better screen planting at this boundary to mitigate the perceived bulk and scale from the public domain and follow the rhythm of the existing green corridors between surrounding buildings.

I recommend that the proposed habitable areas within less than 6m separation distance to the boundaries are appropriately screened to avoid any potential privacy impacts on the proposed internal spaces and the adjacent neighbours.

In general, I support the development concept, subject to further clarification on matters raised in this report.

# WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Height

Proposed New Residential Flat Building at

Nos. 590-592 New South Head Road, Point Piper

Prepared for:

**Green Wall Property Developers** 5/9 Railway Street CHATSWOOD NSW 2065

Prepared by:

#### **GSA PLANNING**

Urban Design, Environmental & Traffic Planners (A.B.N 18 003 667 963) 95 Paddington Street, Paddington NSW 2021 p: 02 9362 3364 e: info@gsaplanning.com.au

JOB NO. 17457

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January 2020



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

APPLICANT'S NAME: Green Wall Property Developers C/- System Architects

SITE ADDRESS: Nos. 590-592 New South Head, Point Piper

**PROPOSAL:** Proposed New Residential Flat Building

#### (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

#### (iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings

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 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the Height Map which indicates a maximum height of 9.5 metres applies to the subject site.

The proposed residential flat building will have a maximum building height of 11.2 metres, plus 1.2 metres of clear glass balustrading above. Overall, the building will have a height that ranges from 9.5 metres to a maximum building height of 12.4 metres (see Figure 1 on the following page).

As the subject site enjoys Existing Use Rights, the 9.5m development standard does not apply to the site. It should also be noted that the existing residential flat buildings on the subject site are 3 storeys in height and are non-compliant with the 9.5m height control for dwelling houses and 10.5m height control for residential flat buildings. Figure 1 shows both height lines and also shows that the existing buildings are non-compliant with the control.

The LEP Height Map indicates a 9.5m height applies to the subject site. The 9.5m development standard applies to dwelling houses which under the DCP, have a wall height of 7.2m. This does not apply to residential flat buildings. Most of the residential flat buildings in the vicinity have a height of 10.5m to 18.1m (see Figure 2 on the following page). Therefore, the planning controls do not apply as per planning principles Fodor v Stromness.

The majority of the development is close to compliant with the 9.5m maximum height line however, some areas are above this height, the maximum non-compliance being 1.9m. The majority of this non-compliance is a result of the sloping topography of the site. It should also be noted that the majority of the non-compliance is attributed to the clear glass balustrading, as explained above.

Also, it should be noted that the height has been lowered from 15 metres following a Panel Meeting deferral on 7 November 2019.

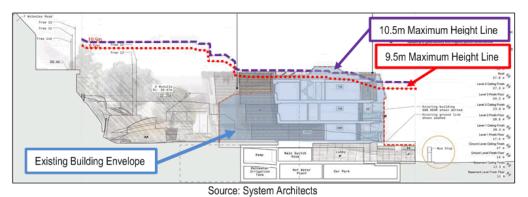


Figure 1: Proposed Height Non-Compliance

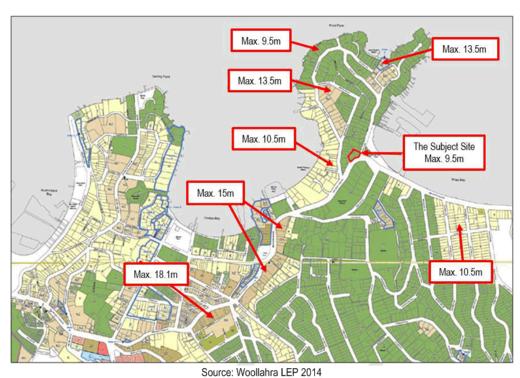


Figure 2: LEP Height Map

#### 3 Background

On 22 January 2019, a Development Application for the construction of a four-storey residential building with basement car parking, including new landscaping, strata subdivision and remediation was lodged with Council (DA No. 13/2019).

This application was presented to the Woollahra Local Planning Panel on 7 November 2019 and deferred at the request of the applicant. The panel has provided the applicant the opportunity to submit revised architectural plans which incorporate the following key design changes contained in the Minutes:

- Increased modulation and separation to the building design so as to read as three distinct modules.
- 2. A reduction to the overall building bulk to ensure it is more compatible with the existing and desired future character context via:
  - A reduction to its height and scale;
  - Increased setbacks including the upper most level being setback (recessed) further than the levels below (at least 5m); and
  - incorporating a varied palette of materials to break up the full glass street frontage appearance.

The proposal has been re-designed in accordance with Council's Assessment Report and the resolution of the panel. The revised proposed has reduced the overall height of the building from 15 metres to 12.4 metres, an overall reduction of 2.6 metres.

Also, the upper most floor level (Level 3) has been setback 5 metres from the front façade to reduce the height and the proposal's visual impact on the streetscape. This has reduced the proposed FSR by 270m<sup>2</sup>.

The appearance of the building has been altered to reflect three separate modules instead of one large building form by including two recesses. Various materials have been incorporated to further separate the form that previously presented as a large glass structure.

As requested by Council, a Clause 4.6 Exception for the non-compliance with the maximum building height has been prepared without prejudice.

#### 4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

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It should be noted again that the site enjoys existing use rights. This is confirmed in Council's Assessment Report which states the subject site has existing use rights. Further, on 26 September 2019 a legal opinion was prepared by Malcolm Craig QC which confirmed the existing use rights. 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 height development standard to the development in the circumstance of this particular case as the proposal will be compatible in the streetscape, meet the desired future character and will not unreasonably impact neighbouring sites.

The design of the proposed development has been revised to include Council's key design changes contained in the Woollahra Local Planning Panel minutes. The revised design has reduced the gross floor area by 270m² which results in an FSR of 1.2:1 and 0.97:1 above ground level. Level 3 has been setback 5 metres from the front façade. Also, the height of the front façade has been lowered by 3.5m. This significant reduction in bulk will have reduce the building's impact on the streetscape.

Flexibility in these particular circumstances will allow for a better planning outcome for the site. The proposal will make a positive contribution to the character of the area by replacing the existing aged residential flat buildings with a high-quality contemporary development. The proposed design is of a similar style and aesthetic to the recently approved contemporary development at Cranbrook School which will be located opposite the subject site on New South Head Road to create an urban gateway on the apex of New South Head Road's 90 degree turn at the entrance of Point Piper.

It should also be noted that the proposal removes all garages from the street and better activates the street front zone. The removal of the garages from the street will improve vehicular and pedestrian safety by not having vehicles reverse onto New South Head Road. The removal of the garages from the street will provide the opportunity for the Double Bay to Rose Bay cycleway envisaged for New South Head Road. While the proposal removes one street tree is provides two new trees. The removal of the garages can provide the opportunity for additional street trees which would further soften the building's appearance.

The site is not identified as a heritage item or located in a heritage conservation area, however, is located near other heritage items. The Heritage Impact Statement prepared by Heritage 21 is in support of the proposed development.

The redesigned proposal has a reduced FSR which results in an appropriate bulk and scale given the topography and context of the site.

The majority of the proposal complies with the 9.5 metre building height standard and has been designed to ensure minimal adverse impacts on the amenity of neighbouring properties. Additionally, Woollahra Council has previously approved a number of DAs with a non-compliant building in the locality.

#### 5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause 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:
  - 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.

# 5.1 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;

It is noted that under Clause 4.6(4)(a)ii, 'achieved' has been replaced by the lesser test of 'consistent'. Despite the non-compliance, the proposal is consistent with the desired character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Consistency with the objectives of the height standard will now be discussed.

# Objective (a) to establish building heights that are consistent with the desired future character of the neighbourhood,

The height of the proposed residential flat building has been reduced by 3.6m when compared to the previous proposal. Also, the upper most floor level has setback 5 metres from the front façade to further reduce the impact of the building on the streetscape. Also, by providing a flat roofed building, the proposal has minimised impacts on neighbour amenity, in terms of outlook and minimising bulk.

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The proposed building will be consistent with the approved development at Cranbrook School which will front New South Head Road. The proposal will be consistent with the design of other residential flat buildings in the local area and will be designed to respect the public domain along New South Head Road and Wunulla Road.

It should also be noted that the existing residential flat buildings on the subject site are 3 storeys in height and are non-compliant with the 9.5m height control for dwelling houses and 10.5m height control for residential flat buildings. Most of the residential flat buildings in the vicinity have a height of 10.5m to 18.1m.

As important, Council recently approved a 5m height non-compliance at No. 2 Wentworth Street on the following basis:

It is considered that despite its numerical non-compliance with the maximum Height of Building standard, the proposal will fundamentally reflect the use and character of the existing locality, in an area which is characterised by residential flat buildings of a similar height to the proposed development. The proposed development represents a contextual fit within the immediate locality in terms of height. In addition, the proposal achieves the desired future character objectives of the Point Piper Residential precinct, objectives of the maximum height standard and of the Medium Density R3 zone.

In our opinion, the proposed development is consistent with the desired future character of the area.

As indicated, the proposal has been re-designed to meet Council's key design changes contained in the Woollahra Local Planning Panel Minutes. The proposal includes a reduced height 12.4m in comparison to 15m. The upper most floor (Level 3) has been setback by 5m and a new colour palette of materials has been introduced to break up the glass street frontage. The proposal has been re-designed to increase articulation and separation of the building, to form three distinct modules. This has been done through the design of two recessed entrances and a varied palette of materials. Further, the proposal has a reduced FSR of 2.1:1 and 0.97:1 above ground level (a reduction of 270m²) in comparison to the previously proposed 3.1:1 (see Figures 3 and 4).

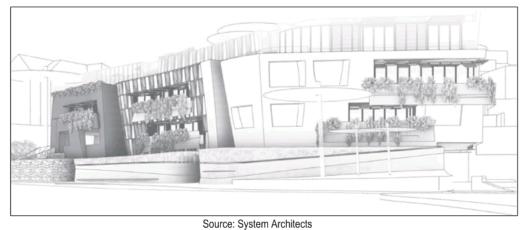


Figure 3: Proposed building, as viewed from New South Head Road

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Figure 4: Bird's eye view of the building showing Level 3 setback behind the front facade

Objective (b) to establish a transition in scale between zones to protect local amenity,

The proposal is a well-design contemporary building featuring varied materials and landscaping features. The building will present as three modules that will be a similar scale to the neighbouring developments. The building will feature a distinctive design that will be a landmark in the local area and presents as three separate modules. The building's scale and bulk has been significantly reduced by lowering the height, setting back Level 3 from the front façade and reducing the FSR by 270m<sup>2</sup>.

The proposed scale, setbacks and articulated form have been considered in relation to Cranbrook School's recent approval on the opposite side of New South Head Road. The proposal will create an urban gateway on the apex of New South Head Road's 90 degree turn at the entrance of Point Piper.

Objective (c) to minimise the loss of solar access to existing buildings and open space,

and

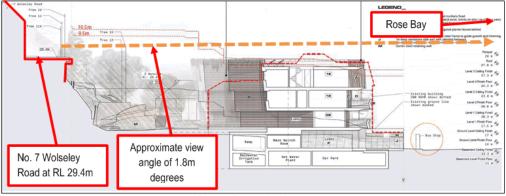
Objective (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

Council's Assessment Report was satisfied that the previous proposal was appropriate in regard to maintaining solar access, views and privacy for the neighbouring properties. The revised proposal has reduced the overall height by 3.6 metres and reduced the FSR to 2.1:1 which is a reduced of 270m<sup>2</sup> of gross floor area. It is therefore expected that the revised proposal will have less impact on the neighbouring developments than the previously proposed design.

## Objective (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

As indicated above, the Council's Assessment Report was satisfied that the previous proposal protected any public views. The revised proposal has lowered the building height by 3.6 metres. It is expected that any public views across the site have been maintained.

Accordingly, although the proposal will exceed the height control, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope (see Figure 5).



Source: System Architects

Figure 5: Section showing views from No. 7 Wolseley Road and the proposal, looking towards the east

## Test 3 - The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

In our opinion, the underlying purpose of the development standard is to present a building that is compatible with the height, context and character of the locality whilst preserving the amenity of adjoining properties.

As indicated, the proposed height remains compatible with the existing and desired future character of the area and does not unreasonably impact upon neighbours. Enforcing strict compliance would not readily improve the environmental amenity of the development. The existing development on the site is inconsistent with the bulk and height of the desired future character of the area.

The proposal provides 17 units of varying sizes which contribute to the amount and variety of housing stock in the area. This will contribute to meeting the demand within a highly accessible area. Enforcing strict compliance without the opportunity to relocate bulk above the heritage item would require the loss of an entire level, containing three three-bedroom units. This would be a lost opportunity to provide quality housing stock in accordance with Council's objectives for the area. The proposal is already below the allowable FSR and a further reduction would significantly impact the feasibility of redevelopment and the ability to refurbish the heritage site.

Accordingly, enforcing strict compliance would undermine the objective of promoting the heritage value of the significant site. It would also unreasonably restrict redevelopment and the provision of housing, without providing significant environmental benefits, thereby thwarting the objective.

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### 4.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

It is our opinion that the proposal responds positively to the steep topography of the site and is unlikely to result in adverse amenity impacts in terms of privacy, overshadowing or view loss.

Council's Assessment Report was satisfied that the previously proposed development did not unreasonably impact the neighbour's views and maintain adequate levels of solar access. The current proposal has been reduced by  $270m^2$  and lowered the overall height by 3.6 metres which has significantly reduced the bulk and scale of the development and therefore, would improve the amenity and views of the neighbouring developments.

The revised designed has been setback 5 metres from the front façade. This has reduced the visual appearance of the building from New South Head Road. The articulated and separated building form has reduced the appearance of bulk and the proposal's visual impact on the streetscape.

It should be considered that the revised proposal has responded to Council's concerns as contained within Council's Assessment Report and the Panel's resolution.

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).

## 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:
    - 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 objectives of the Development Standard, as already demonstrated; and the objectives for development within the R2 Low Density Residential Zone. From this, we consider the proposal is in the public interest and should be supported.

#### 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.

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## gsa planning

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.

While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck*\$ *v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed residential flat building without significantly impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

#### 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 4.3 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	Height of Buildings		
12	What is the control	1 & 2	9.5m		
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 Wehbe.	4.1	The proposal is consistent with Tests 1 and 3 of Wehbe:  The objectives of the standard are achieved notwithstanding the non-compliance with the standard;  The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is 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:  a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.  b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	4.2	Sufficient environmental planning grounds include, inter alia:  The proposal has been re-designed to be meet Council's concerns contained within Assessment Report and the resolutions of the Panel.  The proposed height has been reduced 3.6 metres in comparison to the previous development. The upper floor level has been setback 5 metres from the front façade to further reduce any impacts to the streetscape.  The majority of the building complies with the 10.5 metre height line. The building form is 11.2m and the additional height is due to the clear glass balustrade.	YES	
26-27	2 <sup>nd</sup> Positive Opinion –	5	The proposed development is consistent with the objectives of the height standard as addressed under Test 1 of Webhe. The proposal is also consistent with the objectives of the R2 Zone, as addressed in	YES	

Clause 4.6 Exceptions to Development Standards – Height of Buildings Nos. 590-592 New South Head Road, Point Piper - Job No. 17457

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	That the proposed development will be in the public interest because it is consistent with the		the SEE.		
	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.				
28-29	Second Precondition to Enlivening the Power –	6	As the relevant matters for consideration under Clause 4.6 have		1
	that the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the		been satisfied as outlined above, the Council can grant development	YES	ı
	Court has the power to grant development consent, subject to being satisfied of the relevant		consent.	TES	
	matters under Clause 4.6.				

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# LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D4

**FILE No.** DA252/2019/1

**ADDRESS** 30 Wyuna Road POINT PIPER

COUNCIL WARD Double Bay

**ZONING** R2 Low Density Residential

**PROPOSAL** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

TYPE OF CONSENT Local development

COST OF WORKS \$1,025,000.00 **DATE LODGED** 12/07/2019

**APPLICANT** Lawton Hurley Pty Ltd

**OWNER** Wyuna Developments Pty. Limited

**AUTHOR** Mr T Wong

MAMAGER Nick Economou

**SUBMISSIONS** 26 (from the original proposal)

5 (from the re-notification of the amended plans)

**RECOMMENDATION** Conditional Approval

## 1. PREAMBLE

The Woollahra Local Planning Panel, at its meeting on 19 December 2019, resolved:

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, defer Development Application No. 252/2019/1 for alterations and additions to the dwelling including widening of the existing garage and landscaping on land at 30 Wyuna Road Point Piper, for the following reasons:

- 1. To enable the applicant to undertake further geotechnical investigations including a response to the submission by JK Geotechnics dated 17 December 2019.
- 2. To submit revised architectural and landscape plans detailing the extent of works including any boundary fencing, level changes, privacy screening and planting to the lower, middle and upper terraces. These areas are to be designed having regard to maintaining an appropriate level of privacy between the subject site and adjacent properties, and the retention of a natural landscape environment.

This Supplementary Report is to be read in conjunction with the Original Assessment Report presented to the Panel on 19 December 2019, which is attached as **Annexure 1**.

In addition, a Land and Environment Court Class 1 Appeal was lodged on 10 September 2019 (Case No.19/281987). The matter is listed for hearing on 29 and 30 June 2020.

#### 2. ADDITIONAL INFORMATION

On 16 March 2020, the Applicant submitted a letter (**Annexure 2**) and the following revised and additional documents in response to the Panel's initial resolution:

- 1. Amended architectural drawings by Lawton Hurley (Annexure 3)
- 2. Amended landscape plans by Wyer & Co (Annexure 4)
- 3. Revised geotechnical report by Crozier Geotechnical Consultants (Annexure 5)
- 4. Amended structural methodology by D'Ambrosio Consulting (Annexure 6)

It is understood that the amendments to the architectural and landscape design were made following a meeting between the Applicant's architect and structural engineer and the representatives of TKD Architects and JK Geotechnics (on behalf of 91 Wolseley Road) on 9 March 2020 with an aim to addressing the updated construction methodology, retention of the existing Cheese tree, and privacy concerns.

#### 3. NOTIFICATION AND CONSIDERATION

#### 3.1 Submissions

The revised and additional documents were re-notified for a period of 15 days from 19 March 2020 to 2 April 2020. Further submissions were received from:

- 1. Lachlan Rowe of TKD Architects (with JK Geotechnics further submission) on behalf of 91 Wolseley Road, Point Piper
- 2. Vicky Steinman of 3/91 Wolseley Road, Point Piper
- 3. Residents for the Protection of McRae House (7 identical anonymous letters were received)
- 4. Bernard Grant of 3 Wentworth Place, Point Piper
- 5. Proforma letters signed by
  - Sean Porter of 3 Wentworth Place, Point Piper
  - Amanda Fenton of 3 Wentworth Place, Point Piper

The matter raised in the submissions are considered under the following headings.

## 3.2 Potential geotechnical impact/risk to 91 Wolseley Road

It is understood that JK Geotechnics (JK) has reviewed the revised geotechnical report prepared by the Applicant's consultant (Crozier) and agreed with Crozier that the risk assessment for this proposal is "unacceptable". However, JK does not agree that adequate risk mitigation has been proposed in the Crozier report. It is further noted that the Crozier report refers to rock bolt which is a common safeguard for potentially unstable rock. However, JK is in the opinion that the same rock bolts must anchor into the rock in No 91 Wolseley Road and such anchors or even a total rock panel removal would require works, including permanent anchors, within the boundaries of No 91 Wolseley Road.

In light of the above, Council requested the applicant to provide a response. The following additional documents were provided by the applicant and received by Council on 14/4/2020:

- 1. A Certificate of Adequacy *Structural Methodology Report*, signed by a Structural Engineer, Angelo D'Ambrosio, of D'Ambrosio Consulting Pty Ltd (**Annexure 7**) confirming the proposed work can be safely executed without adversely impacting the existing buildings and structures, and
- 2. A letter, titled: Geotechnical Response to Excavation Support Concern related to Proposed Excavation at No. 30 Wyuna Road, Point Piper, from Crozier Geotechnical Consultants (Annexure 8) responding to excavation and support concerns.

In summary, the Applicant provided the following response:

- The "unacceptable" risk assessment for this proposal that the objector's geotechnical consultant refer to is only true if the works are carried out without the recommendations of the geotechnical report being implemented. As per the March 2020 Geotechnical Report submitted, by adhering to the Crozier recommendations in carrying out the works the risk assessment is "acceptable" (pages 15 and 16).
- if the works are carried out as per the geotechnical recommendations, (including regular supervision by the structural engineer and geotechnical consultants) there will be **no adverse** structural impacts on the subject or neighbouring buildings
- if, during excavation, any rock mass requiring support is encountered then a mitigating support system such as bracing or shoring pops will be utilised wholly from within the subject site, thus removing the need for approval from adjoining property owners.

Council's Team Leader - Development Engineering reviewed the Applicant's response and the submitted additional technical documents in conjunction with the objector's geotechnical consultant's submission and provided the following comments (Refer to the full Referral Response in **Annexure 9**):

It is noted from the revised geotechnical report that the geotechnical engineer has provided the following conclusion: "The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented". The engineer has further advised that "the site is considered suitable for the proposed construction works provided that the recommendations outlined in this report are followed."

With regard to the concerns raised by the objector's geotechnical consultant for the possibility of installing rock bolts which may extend to the neighbouring property without appropriate owner's consent, it is noted from the response submitted by the applicant's consultants that "a support system consists of propping/bracing could be utilised to ensure that all support mechanisms remain wholly within the site. This will avoid rock bolting thus completely removing the need to rely on approval from neighbouring property owners."

In addition, the applicant has submitted construction methodology report and certification providing temporary shoring system to safeguard neighbouring structures from damages as a result of proposed excavation.

In light of the above, Council's Technical Services has raised no further objections to the proposed excavation on technical grounds.

It is also noted that, on Page 15 of the revised geotechnical report (Crozier), it states:

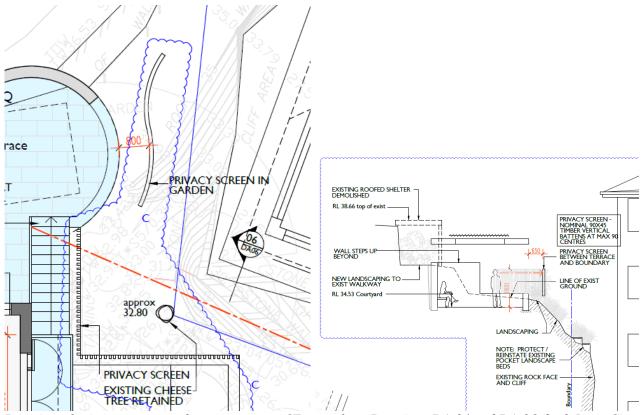
The proposed works are therefore considered suitable for the site and may be completed with negligible impact to existing structures within the site and adjacent properties provided the recommendations of this report are implemented in the design and construction phases.

In addition, the adjacent properties, including No. 3 Wentworth Place and No. 91 Wolseley Road, have been included in **Condition D.3** for the requirement of dilapidation reports.

In view of the above, it is considered that the additional information submitted by the applicant has adequately addressed Part 1 of the Panel's resolution.

## 3.3 Visual privacy

The submitted amended architectural plans show a 1.8m high curve shaped privacy screen to the north of the upper terrace area in order to minimise direct overlooking to the residential units at No. 91 Wolseley Road. It is noted that the further submission from No. 91 Wolseley Road suggested that the proposed screen should be extended 1m further to the east.



Location of privacy screen to the upper terrace [Extract from Drawings DA 04 and DA 06 (both Issue C), drawn by Lawton Hurley Architecture]

However, it is not considered to be necessary given the oblique angle of sightline from the upper terrace to any habitable room windows of No. 91 Wolseley Road. An extended length of privacy screen will also create unnecessary sense of enclosure to both properties and is not supported.

Additional privacy screens are also incorporated to the lower terrace (along the western edge) and to the external stairs (along the northern side) connecting the upper and the lower terraces. These screens are an effective privacy measure in maintaining mutual privacy between the two properties.

#### 3.4 Aural privacy

#### 3 Wentworth Place

The further submissions received from 3 Wentworth Place reiterate the aural privacy impacts associated with the location of the proposed mechanical lift. The location of the lift has not been changed in the amended plans. This issue was discussed in the original assessment report. Appropriate conditions of consent have been recommended in order to maintain an acceptable noise level generated by the mechanical lift.

## 91 Wolseley Road

The further submissions received from 91 Wolseley Road raised that the height of the proposed 1.8m high privacy curve shaped screen to the west of the upper terrace area should be extended to 3m in height. Given that the proposed development will maintain the use of the existing building as single dwelling, it is not anticipated that the use of the upper terrace will generate unacceptable noise level. In addition, a standard condition has been recommended restricting the noise level for the on-going use of the site. The sought increase in the height of the screen will also create an unnecessary sense of enclosure to both properties and is not supported.

## 3.5 A refused development application should not be considered again

The submission from the "Residents for the Protection of McRae House" raised that the subject DA was already refused by Council on 20 December 2019 as shown in the "*DA Tracking*" page on Council's Website; and therefore, Council should not consider the submitted amended plans.

It should be noted that Council's "DA Tracking" page comprises of four sections, namely:

- 1. Application Stages and Status showing the progress of the DA
- 2. Fees listing the relevant fees charged for the DA
- 3. *Notifications* listing Council's documents created under Council's Authority system (the public has no access to view the contents of any of these documents)
- 4. *Application Documents* listing the documents submitted by the applicant available for download by the public

It was noticed that there was a 'DA Refusal' document created on 20 December 2019 which appeared under the 'Notifications' section. This document was created in error but was unable to be removed from the list. Whilst it may have resulted in giving the public a wrong impression that the DA was refused, the fact is that the subject DA has not been determined. This is correctly reflected under the 'Application Stages and Status' on the "DA Tracking" page.

As there are contact details provided in the submission, the above cannot be clarified to the "Residents for the Protection of McRae House".

## 3.6 Heritage impact

The original proposal was considered to be satisfactory from a heritage conservation point of view. The proposed works were considered to be sympathetic to the character of the existing building by Council's Heritage Officer. The amended plans only incorporate minor changes and clarification in response to the Panel's resolution. The amended proposal is considered to be satisfactory in this regard.

## 3.7 Landscaping

The submitted amended landscape plans have incorporated and reflected the changes made in the architectural plans, including the new privacy screens. Amended and additional landscaping has also been provided to the area along the common boundaries between the subject site and No. 91 Wolseley Road.

The further submissions received from 91 Wolseley Road raised that:

- The proposed landscaping between the Upper Terrace and the boundary of 91 Wolseley Rd is highly unlikely to be achieved in this very steep.
- Access to this area for garden maintenance would be unsafe and therefore unlikely to occur.
- The proposed Tristaniopsis larunias (Water Gums) will not be able to be achieved due to the 50 degree slope and lack of soil able to sustain such a large pot size.
- The revised landscape plans suggest additional loading of these steep and potentially unstable upper areas above the cliff with greater soil volume, additional rock walls and large plants which would almost certainly pose a greater risk for the building and residents of Witherington and should not proceed in this form.

The submissions suggest the following requirements be imposed in **Condition C.1** to address the above concerns:

The area of the subject site to the north of the proposed, external stairs leading to the Upper Terrace and the area north of the Upper Terrace itself up to the property boundary is to be landscaped with careful consideration of the steep slope, lack of soil volume and potential instability of the ground in this area. There are to be no changes to existing ground levels within 1m of the boundary, shrubs should be small and of species with little requirement for soil volume or maintenance. The Tristaniopsis larunia proposed in this area are to be deleted.

It is noted that the submitted geotechnical report is silent on any potential impacts to the existing cliff wall along the common boundary between the subject site and No. 91 Wolseley Road associated with the new landscaping works. Therefore, the potential impacts raised by the objector, in this circumstance, are unknown as inadequate information is provided. As such, **Condition C.1(d)** has been recommended requiring the deletion of the new landscaping within this area.

The further submissions received from 91 Wolseley Road also raised that:

- The Owners of Witherington are supportive of the retention of the existing Cheese Tree
- To ensure the safe retention of this tree and its ongoing survival it is essential that adequate clearance around the structural root zone and tree protection zone is provided, regular arborist inspections are enforced and an appropriately substantial Council Security Bond is placed upon this tree.

Council's Tree Officer has reviewed the amended landscape plan and raised no objection subject to Conditions A.5, A.6, B.6-B.8, C.1(b) & (c), C.11, E.28-E.31, F.4 and H.4 (Refer to the full Referral Response in Annexure 10). These conditions, where relevant, incorporate the requirements of the retention of the Cheese tree (Tree 20) and Works Exclusion Area within the Tree Protection Zone. (Note: Council is not able to place a security bond related to trees on private land)

## 4. CONCLUSION

The amended plans and additional and amended technical documents have adequately responded to the Panel's resolution made on 19 December 2019. The amended proposal is acceptable, subject to conditions, against the relevant considerations under Section 4.15 of the EP&A Act.

## 5. 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, grant development consent to Development Application No. 252/2019/1 for alterations and additions to the dwelling including widening of the existing garage and landscaping on land at 30 Wyuna Road Point Piper, 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*.

#### 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, piering, cutting, boring, drilling, rock breaking, rock sawing or excavation of land.
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

**Note: Interpretation of conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

## A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

Reference	Description	Author/Drawn	Date(s)
DA 00 to DA 06	Architectural Plans	All by Lawton Hurley	All dated
inclusive (all Issue C)		Architecture Interiors Planning	Mar 2020
DA-01 (Rev 3)	Landscape Plan	All by Wyer & Co.	All dated
S01 (Rev 3)			10.03.2020
A351723	BASIX Certificates	NSW Department of Planning &	04.07.2019
		Environment	
S7649	Methodology Report	D'Ambrosio Consulting Pty Ltd	05.07.2019
S7649-P01	Construction Sequence Plan	D'Ambrosio Consulting P/L	11.03.2020
S7649	Certificate of Adequacy	D'Ambrosio Consulting P/L	14.04.2020
2019-069 Issue 1	Geotechnical Site Investigation	Crozier Geotechnical Consultants	08.07.2019
2019-069	Geotechnical Statement	Crozier Geotechnical Consultants	14.04.2020
63414: Ref: 2019-892	Arboricultural Impact Assessment	Dr Treegood	July 2019
Revision 1.9			
690-10 STW1	Stormwater Management Plan	All by PC Consulting Engineer	All dated
690-10 STW2		Pty Ltd	05.07.2019
690-10 STW3			
690-10 STW4			
690-10 STW5			
(all Rev A)			

**Note:** Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

## A.4 Ancillary Aspects of Development (section 4.17(2) of the *Act*)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

**Note**: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

## A.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 on Council land must be retained:

Council Ref No.	Species	Location	Dimension (motros)
Kei No.			(metres)
1	Cinnamomum camphora (Camphor laurel)		12 x 12
2	Olea europea var. africana (African Olive)		10 x 4
3	Glochidion ferdinandii (Cheese tree)		12 x 5
4	Ligustrum lucidum (Large-leaved Privet)		8 x 5
6	Camellia sasanqua (Camellia)		10 x 6
7	Glochidion ferdinandii (Cheese tree)		12 x 4
8	Acmena sp.	Council verge east of	8 x 1
10	Pittosporum undulatum (Native Daphne)	property	8 x 8
12	Ligustrum lucidum (Large-leaved Privet)		6 x 3
13	Ligustrum lucidum (Large-leaved Privet)		8 x 4
14	Ligustrum lucidum (Large-leaved Privet)		8 x 5
15	Grevillea robusta (Silky Oak)		14 x6
16	Tristaniopsis laurina (Water gum)		8 x 5
17	Melaleuca sp.		8 x 5

**Note**: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees on Private land must be retained:

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary	10 x 7
	(Cheese tree)	with No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary	7 x 10
	(Chinese Weeping Elm)	with 3 Wentworth Place	

**Note**: The tree/s required to be retained should appear coloured green on the construction certificate plans.

c) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimension (metres)
19	Cyathea cooperi (Scaly tree fern)	Northern garden	5 x 2

Note: The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

## A.6 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to pruning of any of the retained trees or to any new landscaping outside of the property boundaries.

Standard Condition: A9 (Autotext AA9)

## 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.

## **B.2** Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

A full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic	Woollahra Council
	report including images	Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- a) Coloured photographs of:
  - each elevation,
  - each structure and landscape feature,
  - internal images of each room and significant architectural detailing, and
  - views to the subject property from each street and laneway or public space.

**Note:** Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <a href="https://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

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

#### **B.3** Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

**Note**: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

## **B.4** Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

**Note:** If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

## **B.5** 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 (m)
20	Glochidion ferdinandii	Northwest of existing garage.	1.5
	(Cheese tree)	Boundary corner with No 91 Wolseley	
		Rd	

**Note**: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

**Note:** Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of 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.6** Works exclusion area within Tree Protection Zone (TPZ)

No works to be undertaken within the following areas:

Council Ref No.	Species	TPZ Radius from trunk (m)	Works exclusion area
20	Glochidion ferdinandii (Cheese tree)	6	Garden bed area defined by:  • Existing retaining wall 1.2m to the east  • Existing retaining wall 2.5m to the south  • 2.5m from the trunk to the west  • Boundary with No 91 Wolseley Rd to the north.

The project arborist shall provide written certification of compliance with the above condition.

## **B.7** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;

- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined:
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

## **B.8** Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of non-compliance
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Installation of tree protection fencing	Compliance with tree protection measures
Demolition of retaining wall east and south of Tree 20	Condition and maintenance of exposed roots
Excavation within the TPZ of trees to be retained	Condition and maintenance of exposed roots
Prior to the issue of a Final Occupation	Supervise the dismantling of tree protection measures
Certificate	and final condition of trees to be retained

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 80A(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) Heritage conservation

- (i) All original internal walls on the ground floor of the dining room and kitchen, and on the first floor between Bed 1 and the sleepout, and the internal wall between Bed 2 and the hall, including the arch, are to be interpreted via the use of portal frames, bulkheads or wall nibs to provide evidence of the original internal wall layout.
- (ii) The original dresser in Bed 1 on the first floor is to be salvaged and retained on site. The original light fitting above the dresser is to be retained.

#### (b) Tree retention (Trees Nos. 20 and 21) and the associated documentations

The following trees must be retained:

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary	10 x 7
	(Cheese tree)	with No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary	7 x 10
	(Chinese Weeping Elm)	with 3 Wentworth Place	

In order to retain Tree No. 20, the following amended documentations must be provided:

- i. <u>Architectural Plans</u> to fully represent the works exclusion area around Tree 20 which is defined as follows.
  - Existing retaining wall 1.2m to the east of the tree trunk (and the northern projection of this line to the northern boundary)
  - Existing retaining wall 2.2 m to the south of the tree trunk
  - Within 2.5m from the tree trunk to the west
  - The boundary lines with No 91 Wolseley Rd to the north.
- ii. <u>Landscape Plan</u> must include the retention of Tree No's 20 & 21 and the deletion of the three *Waterhousea floribunda* (Weeping Lili Pili) proposed for the northern half of the western boundary with No 3 Wentworth Place.
- iii. <u>Stormwater Plan</u> must be amended to locate pipes and pits outside of the Works Exclusion Area for Tree 20 defined in condition B.6.
- iv. <u>Structural Plans</u> must locate any pilings for the continuous wall outside of the Works Exclusion Area around Tree 20 defined in Condition B.6.
- v. An <u>Addendum to the Arboricultural Impact Assessment</u> must include a Tree Management Plan to guide tree protection during construction (as per *DA guide Attachment 4 Tree Reports*).

#### (c) Garage

In order to retain Tree No. 20 as required in Part (b) above, the proposed double garage shall incorporate the following:

(i) no excavation is permitted beyond the western (rear) wall of the existing garage.

## (d) Landscaping

As inadequate information is provided to ascertain the structural integrity of the existing cliff wall along and in close proximity with the common boundary (northern) between subject site at No 30 Wyuna Road and No 91 Wolseley Road, no new landscaping shall be planted within the area between the upper terrace and the northern boundary of the site. Amended landscape plan must be provided to reflect this requirement.

**Note**: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

**Note**: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

## C.2 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 Building and Construction Industry Long Service Payments Act 1986				
Long Service Levy www.longservice.nsw.gov.au	Contact LSL Corporation or use online calculator	No		
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979				
Property Damage Security Deposit (making good any damage caused to any property of the Council)	\$26,447.00	No	T115	
DEVELOPMENT LEVY  under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>				
<b>Development Levy</b> (section 7.12)	\$10,250.00 + Index Amount	Yes, quarterly	Т96	
INSPECTION FEES under section 608 of the Local Government Act 1993				
Public Road/Footpath Infrastructure Inspection Fee	\$471.00	No	T45	
Security Administration Fee	\$198.00	No	T16	

TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$37,266.00 plus any relevant indexed amounts and long service levy
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#### **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 <a href="www.longservice.nsw.gov.au">www.longservice.nsw.gov.au</a> 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.

#### **C.3 BASIX Commitments**

The Applicant must submit to the Certifying Authority BASIX Certificate No.A351723 with any application for a Construction Certificate.

**Note**: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

**Note**: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation* 2000 provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

### C.4 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing in accordance with Council's standard drawing RF2\_D. The new vehicular crossing shall be constructed in plain concrete to comply with Council's DCP and Crossing Specification. The centreline of the new crossing shall be aligned with the centreline of the proposed garage. Design longitudinal surface profiles for the proposed driveway must be submitted for assessment.
- b) Reinstatement of all damaged footpath, kerb and gutter to match existing.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note**: See *Section K - Advisings* of this Consent titled *Roads Act Application*.

## 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 <a href="www.austieca.com.au">www.austieca.com.au</a> 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>, and *The Blue Book* is available at <a href="www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>.

**Note**: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may satisfied as to this matter.

## C.6 Stormwater Discharge to Existing Stormwater Drainage System

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed stormwater management plans which detail:

- a) the outlet pipe to the street kerb must be made by using 125x75x6mm galvanised RHS. Only one outlet pipe across the nature strip per property will be permitted,
- b) location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location,
- c) the state of repair of the existing Stormwater Drainage System,
- d) any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,
- e) any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- f) any new Stormwater Drainage System complying with the BCA,
- g) interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- h) any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- i) 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 <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/index.htm">www.sydneywater.com.au/SW/plumbing-building-developing/index.htm</a> 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>
  Standard Condition: C49
- **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 <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/index.htm">www.sydneywater.com.au/SW/plumbing-building-developing/index.htm</a> 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

#### C.7 Structural Adequacy of Existing Supporting Structures

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

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

## **C.8** Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Note: This does not affect the right of the developer to seek staged Construction Certificates.

## C.9 Geotechnical and Hydrogeological Design, Certification & 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 hydro-geological measures by the professional engineer; and;
  - Details a contingency plan.

# C.10 Waste Storage - Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management in accordance with the approved SWMMP.

Waste Storage Areas must meet the following requirements:

a) Bins must be stored with lids down to prevent vermin from entering the waste containers.

- b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e) Odour problems must be minimised by good exhaust ventilation.
- f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/room or bin bay.

## **C.11 Tree Management Plan**

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must 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, transplant method statement or bush regeneration management plan.

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

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

## D.1 Heritage training of foremen, tradesmen/work related staff

All persons responsible for the management, maintenance and construction works to the site shall be advised of/made familiar with the heritage significance of the subject property.

# D.2 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 <u>Home Building Act 1989</u> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation* 2004, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

**Note**: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

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

## **D.3** 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. 91 Wolseley Road, Point Piper
- No. 3 Wentworth Place, Point Piper

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 section 6.6 of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition

## D.4 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

**Note**: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

## D.5 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

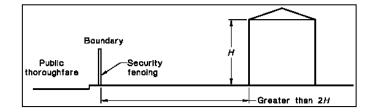
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

**Note:** The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

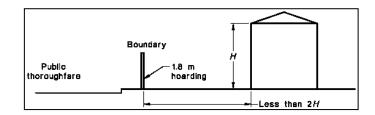
**Note:** The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

## D.6 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.

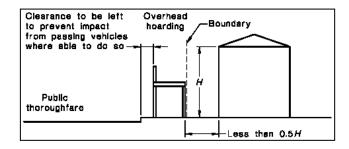


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must 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 <a href="https://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a>

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.

## **D.7** 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
    - . stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

#### Signs on development sites

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

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

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

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

#### **D.8** Toilet Facilities

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

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

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

In this condition:

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

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

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

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

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.

#### D.9 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 (<a href="www.austieca.com.au/">www.austieca.com.au/</a>) 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and *The Blue Book* is available at <a href="https://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

**Note**: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

**Note**: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

**Warning**: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

## D.10 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

**Note**: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

## D.11 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 <u>Home Building Act 1989</u> must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - In the case of work for which a Principal Contractor is required to be appointed:
    - the name and licence number of the Principal Contractor, and
    - the name of the insurer by which the work is insured under Part 6 of that Act.
  - In the case of work to be done by an Owner-builder:
    - the name of the Owner-builder, and

- if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

## D.12 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.

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

# E.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 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 <u>Home Building Act 1989</u> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

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

## **E.2** Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

## **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.

## **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.

## 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) 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 <u>any equipment</u> 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

## 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.

#### **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;

Note: See www.epa.nsw.gov.au for additional information.

## E.8 Support of adjoining land and buildings

A person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

**Note**: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the Access to Neighbouring Land Act 2000, or
- c. an easement under section 88K of the Conveyancing Act 1919, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

**Note**: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the

supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

**Note:** Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary)) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

**Note**: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

## E.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

**Note**: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

## **E.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 subcontractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

**Note**: professional engineer has the same mean as in clause A1.1 of the BCA.

Note: building has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and

any structure or part of a structure...."

**Note**: supported land has the same meaning as in the Conveyancing Act 1919.

#### **E.11 Erosion and Sediment Controls – Maintenance**

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- the Soil and Water Management Plan required under this consent, a)
- "Do it Right On Site, Soil and Water Management for the Construction Industry" b) published by the Southern Sydney Regional Organisation of Councils, 2001, and
- "Managing Urban Stormwater Soils and Construction" 2004 published by the NSW c) Government (The Blue Book).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution".

**Warning**: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

## E.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.

## E.13 Filling of site

To the extent that this consent permits filling of the site such fill must be *virgin excavated natural material* ("VENM").

**Note**: Under Schedule 1 of the *Protection of the Environment Operations Act 1997 "virgin excavated natural material means natural material (such as clay, gravel, sand, soil or rock fines):* 

- (a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and
- (b) that does not contain any sulfidic ores or soils or any other waste, and includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved for the time being pursuant to an EPA Gazettal notice."
- **Note**: Sulfidic ores and soils are commonly known as acid sulfate soils.
- **Note**: If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the *Protection of the Environment Operations Act 1997*.
- **Note**: A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the *Protection of the Environment Operations Act 1997*.
- **Note**: Additional information is available from the NSW Environment Protection Authority website: www.epa.nsw.gov.au

#### **E.14 Site Cranes**

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act* 1988 (Cth).

No illuminated sign(s) must be erected upon or displayed upon any site crane.

**Note**: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

**Note**: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

# E.15 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

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

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

## E.16 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

**Note**: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

## **E.17 Prohibition of Burning**

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

**Note**: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

## **E.18 Dust Mitigation**

Dust mitigation must be implemented in accordance with "Dust Control - Do it right on site" published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

**Note**: "Dust Control - Do it right on site" can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's office.

**Note:** Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.

**Note:** Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

## E.19 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

## **E.20** 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.

## **E.21 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.

## E.22 Shoring and Adequacy of Adjoining Property

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

**Note:** This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

#### E.23 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Condition B.3 of this consent, 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

## **E.24** Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014.* 

**Note:** This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

## E.25 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with Condition E.23 immediately above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

**Note:** This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

#### E.26 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

**Note:** This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

## E.27 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Condition B.3 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 WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- b) Be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "Code of Practice for the Safe Removal of Asbestos",
- 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

#### **E.28 Tree Preservation**

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 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 Safework NSW Code of Practice Amenity Tree Industry.

## **E.29** Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary with	6
	(Cheese tree)	No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary with 3	6
	(Chinese Weeping Elm)	Wentworth Place	

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

## E.30 Level changes in the vicinity of trees

No level changes shall occur within the specified areas around the trunks of the following trees.

Council Ref No.	Species	Location	Areas
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	<ul> <li>Garden bed area defined by:</li> <li>Existing retaining wall 1.2m to the east</li> <li>Existing retaining wall 2.5m to the south</li> <li>2.5m from the trunk to the west</li> <li>Boundary with No 91 Wolseley Rd to the north</li> </ul>
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	2.5m radius from the trunk of the tree

The project arborist shall document compliance with the above condition.

#### E.31 Hand excavation within tree root zones

Demolition of structures and excavation required within the specified radius from the trunks of the following trees must be carried out manually to avoid damage to structural roots.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii	Northwest of existing garage.	6
	(Cheese tree)	Boundary with No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary	6
	(Chinese Weeping Elm)	with 3 Wentworth Place	-

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.

# 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.

## F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.

- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

**Note**: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

**Note**: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

**Note**: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

#### F.3 Letter Box(es)

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

## **F.4** 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 Fulfillment of BASIX Commitments – clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A351723M.

**Note**: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A *certifying authority* must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

## H.2 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

**Note**: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

## H.3 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
- i) 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.

## H.4 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. A351723.

**Note:** This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

## I.2 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.

## 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.

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) and *Noise Guide for Local Government* (2013) (see: <a href="www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>)

## I.4 Maintenance of Landscaping

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

**Note**: This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Note: This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.

#### 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.

## **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 <a href="www.1100.com.au">www.1100.com.au</a>

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

## K.3 Commonwealth Disability Discrimination Act 1992

The *Disability Discrimination Act 1992* (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, the Woollahra Development Control Plan 2015 Chapter E8 – Adaptable Housing and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

**Note**: Further advice can be obtained from the Australian Human Rights Commission website www.humanrights.gov.au or call 9284 9600 or 1300 656 419.

#### **K.4** NSW Police Service and Road Closures

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

**Warning**: If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices

leading to prosecution.

Note: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on

eastsubtraffic@police.nsw.gov.au or ph 9369 9899.

#### K.5 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au

## K.6 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

**Note**: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website <a href="www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> or call 133 220.

## K.7 SafeWork NSW Requirements

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

**Note:** For more information go to the SafeWork NSW website <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> or call 131 050.

#### K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from SafeWork NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- a) Work Health and Safety Act 2011,
- b) Work Health and Safety Regulation 2017,
- c) SafeWork NSW "Code of Practice: How to Safely Remove Asbestos" (2016), and
- d) SafeWork NSW "Code of Practice: How to Manage and Control Asbestos in the Workplace" (2016).

**Note:** For more information go to the SafeWork NSW website on asbestos <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> or call 131 050.

#### K.9 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995: *Guide to Lead Paint Management—Industrial Applications*, or AS 4361.2–1998: *Guide to Lead Paint Management—Residential and Commercial Buildings*.

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

## **K.10 Dividing Fences**

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

**Note:** Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au

**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 <a href="www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a> or call 1800 990 777.

## K.11 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

## K.12 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.

## 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or call Council on 9391 7000 for further advice.

## **K.14 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.

## K.15 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 roadway
- Installation of soil/rock anchors under the roadway

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.

<u>Note</u>: 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".

<u>Services</u>: 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>.

**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.

#### K.16 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.

## **Annexures**

- 1. Original DA Report to LPP Meeting on 19 December 2019 🗓 🖺
- 2. Covering Letter from Lawton Hurley Dated 16 March 2020 U
- 3. Amended Plans, Section and Elevations J.
- 4. Amended Landscape Plan  $\mathbb{I}$
- 5. Geotech Report (Crozier) March 2020 J
- 6. Structural Methodology (D'Ambrosio) March 2020 I
- 7. Certificate of Adequacy Structural Methodology Report 🗓 🖺
- 8. Letter from Crozier Geotechnical Response to Excavation Support U
- 9. Referral Response Technical Services J
- 10. Referral Response Trees & Landscaping J

19 December 2019

## LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D2

FILE No. DA252/2019/1

ADDRESS 30 Wyuna Road POINT PIPER

COUNCIL WARD Double Bay

**ZONING** R2 Low Density Residential

PROPOSAL Alterations and additions to the dwelling including widening of the

existing garage and landscaping

TYPE OF CONSENT Local development COST OF WORKS \$1,025,000.00

**DATE LODGED** 12/07/2019 – Original submission

22/11/2019 - Replacement Application I

APPLICANT Lawton Hurley Pty Ltd

OWNER F Paterson & T B Yandall & Mr A N Aitken

ASSESSING OFFICER Mr D Lukas
TEAM LEADER Mr T Wong

SUBMISSIONS 26
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:

• **Contentious development** – Development that is the subject of 10 or more unique submissions by way of objection.

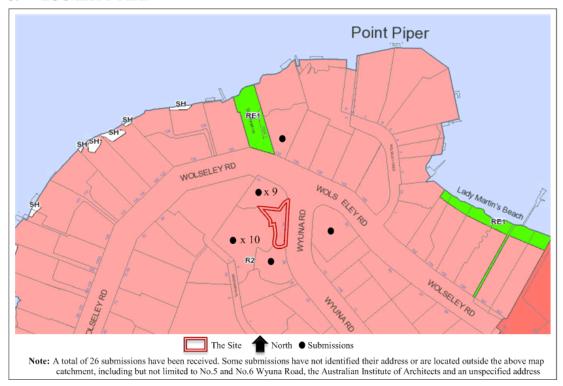
#### 2. REASONS FOR RECOMMENDATION

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

- The development is permissible within the zone
- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- The building is identified as a potential heritage item and the proposal is sympathetic to and does not detrimentally impact on its setting or curtilage or any significant building fabric;
- 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 and considered to be satisfactory;
- The site is suitable for the proposed development; and,
- The proposal is in the public interest.

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#### 3. LOCALITY PLAN



#### 4. PROPOSAL

The proposal is for alterations and additions to the existing dwelling and garage.

The works to the dwelling include refurbishment of the interior spaces, new fenestration, balconies and extension of the existing sub-floor area to create a new rumpus room. The existing single garage would be extended to create a double garage with ancillary area. The extended garage would be linked to the dwelling above via a new tunnel and lift. The balance of works proposed is for a new landscape scheme that includes refurbishment of the sites existing external open spaces.

Replacement Application I refines the detailing of the proposed works in line with discussion with Council's Heritage Officer. This application is the subject of this assessment report.

#### 5. ISSUES SUMMARY

The issues associated with the proposed development including those raised in the submissions are summarised and commented on as follows:

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Issue	Conclusion
Heritage	Council's Heritage Officer's comments state in part: "the proposal will not affect any significant views to or from the heritage item and will not have an adverse impact on the heritage significance of the heritage item or its setting
	The proposal has been amended to retain original significant fabric of the Inter-War Mediterranean dwelling The proposal has been amended to delete the proposed contemporary addition, and the proposal is now sympathetic to the character of the building"
Design	There is no significant change to the visible envelope of the existing dwelling. The proposed alterations and additions would improve the internal amenity of the dwelling and its grounds and do not detrimentally impact on the architectural significance of the building.
Height	The existing dwelling currently exceeds the maximum building height development standard. The proposed works to the existing dwelling do not extend above or exacerbate the height of the existing building but nevertheless remain non-compliant with the development standard.
	Notwithstanding, the proposed alterations and additions to the existing dwelling satisfy the relevant objectives underpinning the maximum building height development standard.
Views	The majority of submissions received are a prof-forma letter that raise view loss as a concern. The only likely view impact is to a residential flat building immediately behind and in particular, the ground floor unit and its open space. Views afforded to this adjoining unit are hindered by existing trees, the topography and existing built forms.
	The original application proposed a relatively minor increase in height to a small section of the roof on its northern side. The Replacement Application, the subject of this assessment, does not proposes any change to the building envelope or the roof of the existing building. There is no detrimental impact on existing views from this adjoining property or its grounds.
Non-compliances	The site has an unusual configuration and is hindered by the topography. The existing dwelling sited thereon was constructed in 1941. The changes sought to the existing dwelling are to improve the amenity for its occupants and enable reasonable and safe access to a site that is undoubtedly dangerous. In the circumstance, it is not reasonable to expect the existing dwelling and the proposed alterations and additions thereto to comply with Council's current controls.
	Though there are some numerical non-compliances with the relevant planning controls, the development subject to conditions, satisfies the objectives underpinning those controls and is an appropriate development for this unique site.
Privacy	There is no significant change to the visible envelope of the existing dwelling. The use of the dwelling and the layout and location of its primary living areas, existing areas of open space and bedrooms remain in situ. In this regard, any overlooking from existing and new upper level fenestration, terraces, balconies or areas of open space is not unreasonable in this hilly and built up urban environment.
	The proposed lift is located to the rear of the existing dwelling and is significantly setback from any adjoining habitable window. Standard conditions that form part of the recommendation have been applied to minimise any detrimental impact from all mechanical plant equipment including the new lift, and enable action should a nuisance arise.
Amenity	The assessment of the development against the relevant planning controls concludes that it satisfies those controls or their objectives and will not detrimentally impact on the amenity of adjoining residents.

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Issue	Conclusion
Excavation / Construction issues	A Geotechnical Engineers Report has been submitted and reviewed by Council's Development Engineer who raises "no objections to the proposed excavation on technical grounds."
	The conclusion of the submitted engineers report states:
	"The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented. As such the site is considered suitable for the proposed construction works provided that the recommendations outlined in this report are followed."
	There are no mitigating circumstances associated with the proposed excavation that will detrimentally impact the on the existing building, the amenity of adjoining residents, the environment, the water table or any adjoining structures. Council's standard conditions are applied to mitigate the expected impacts associated with the excavation and construction process including vibration monitoring, submission of dilapidation reports, dust control and the like.
Trees / Loss of green space	Council's Trees Officer has identified all existing significant trees on and surrounding the site that are required to be retained. Conditions forming part of the recommendations are imposed to ensure this is achieved. A Cheese tree (Tree Ref: T20) proposed to be removed to the north of the dwelling is not supported by Council's Trees Officer. A Chinese Elm tree (Council's Tree Ref: T21) which is worth retaining, has not been included on the submitted site survey nor in the submitted arborist report. <b>Condition C1(b)</b> requires the retention of both trees.
	The majority of the sites existing open space is hilly and difficult to access. It is overgrown with shrubbery. Any redevelopment of the site would result in the removal of some existing trees and overgrown shrubbery. The new landscape scheme including the consolidation and upgrade of the sites open spaces would enhance the amenity for its future residents as well as contribute to the landscape character of the locality.
Seepage	The Geotechncial Report indicates there is a relatively minor degree of seepage expected, particularly on the soil rock interface and along defects in the bedrock. There are measures that can be incorporated to mitigate the impacts associated from expected seepage (i.e. intercept trenches). Conditions applied.
Inaccurate / Misleading Documentation	An updated Survey has been provided that details the location of the boundary and the setback of the existing buildings and structures.
	The information submitted is sufficient for Council to determine the application pursuant to the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

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#### PROPERTY DETAILS AND REFERRALS

#### 6. SITE AND LOCALITY



3D Aerial View (Source: Google maps)







Front Entry

Street front view

Rear southern elevation

#### Physical features

The subject site is located on the southern side of Wyuna Road, Point Piper almost immediately adjacent to the Wolseley Road intersection. It is made up of 2 lots one of which is significantly larger than the other. The larger lot has a site area of 359.1 m² and the smaller lot has an area of 17.8 m² (i.e. a combined total of 376.9 m²). The combined sites have a frontage of 31.86m to Wyuna Road.

A relatively large road reserve fronts the site and is heavily landscaped and is inaccessible to pedestrians.

The shape of the site is highly irregular and is generally defined by its topography. The boundaries are made up of varying sandstone retaining walls/rock faces/landscaped embankments.

The following exert from the submitted survey best depicts and describes the site:

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Topography

As depicted above, the site has an unusual configuration and so has its topography.

To get a basic understanding of the site topography, the front entry door of the dwelling sits approximately 8 metres above the roadway immediately in front. The highest point of the site is its rear western end which is approximately 12m above the roadway.

The smaller lot, located to the far northern point, sits above existing garages designated to No.91 Wolseley Road. Above these garages is a landscaped garden roof that benefits the site with the grass level approximately 3m above the roadway.

The larger site is predominately occupied by the existing dwelling and garage. The entry to the garage is approximately 700mm above the roadway and is located behind a sandstone retaining wall that fronts the street. The dwelling sits on a base ground level elevated above the roadway. The base ground level slopes down towards its northern end (3m difference from southern to northern end of dwelling).

A series of winding stairs partially carved into the rock outcrops on the northern side of the dwelling provides access to the rear of the site that is heavily landscaped. Behind the dwelling is an existing rock face that defines the rear open space. The site continues to rise towards its rear and is heavily landscaped.

## Existing buildings and structures

A sandstone retaining wall defines the front boundary of the site. The grounds of the site are predominately made up of sandstone bedrock that is in its natural and carved state as well as a variety retaining walls that divides and defines the varying ground level.

On the larger site is a 2 storey dwelling house with a partial under croft area located to its northern end. There is a single garage located within the street front retaining wall and which sits below the existing dwelling and is cut into the bedrock.

There is an awning over a paved area to the rear central garden area.

Access to the existing dwelling is provided from the driveway to its southern end that also provides access to Nos.22 & 26 Wyuna Road.

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#### **Surrounding Environment**

The site is located within a residential precinct on the northern and higher end of the Point Piper peninsula.

The area is predominantly characterised by a mixture of large dwelling houses and multi-storey residential flat buildings within landscaped settings. The buildings in this locality are predominately orientated to respond to the contours of the topography and towards the views of the harbour. The area has a healthy tree canopy on both the public and private property. A variety of views are afforded from both the private and public domain towards Sydney Harbour, the city and further afield towards Manly.

#### 7. RELEVANT PROPERTY HISTORY

#### Current use

Dwelling house

#### Relevant Application History

A *Planning Proposal* for the heritage listing of the subject inter war Mediterranean dwelling was considered by the Woollahra Local Planning Panel (LPP) on 5 December 2019. At this meeting, the LPP recommended that Council support the listing of the House and interiors at 30 Wyuna Road, Point Piper as a heritage item and for Woollahra LEP 2014 to be amended accordingly.

There is no other history relevant to the works pertaining to the proposed development.

#### Relevant Compliance History

Nil.

#### Pre-DA

Nil.

#### Requests for Additional Information and Replacement Applications

- 22.07.2019 Request to provide Demolition Report, Schedule of finishes and Clause 4.6 Written Request (Height).
- 23.07.2019 Request to provide Arborists Report.
- $08.08.2019-Arborists\ Report\ submitted.$
- 08.08.2019 Applicants response to height non-compliance.
- 09.08.2019 Additional information submitted to satisfy Council's request.
- 05.09.2019 Revised Heritage Impact Statement submitted.
- 22.11.2019 Replacement Application I lodged following discussions with Council's Planning and Heritage staff.

#### Land and Environment Court Appeal(s)

10.09.2019 - Land and Environment Court Class 1 Appeal lodged (Case No.19/281987). Proceedings are listed for 5 and 6 May 2020.

#### Government Gazette

23.10.2019 - NSW Government Gazette No.124 is a Notice for Interim Heritage Order No.4 as follows:

Under section 25 of the Heritage Act 1977 Woollahra Municipal Council does by this order:

- make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule "A"; and
- (ii) declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule "B".

"This Interim Heritage Order will lapse after six months from the date it is made unless the local council has passed a resolution before that date; and

- in the case of an item which, in the Council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
- (ii) in the case of an item which in the Council's opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minster for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register."

Sydney 23 October 2019

Mr ALLAN COKER, Director Planning and Development, Woollahra Municipal Council

#### Schedule "A"

The property located at 30 Wyuna Road, Point Piper on land described in Schedule B.

#### Schedule "B"

All those pieces or parcels of land known as Lot 2, DP 567775 in Parish of Alexandria, County of Cumberland.

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#### 8. REFERRALS

Referral	Summary of Comment	Annexure
Heritage	Council's Heritage Officer's comments as stated in part earlier conclude as follows: " The application is generally acceptable as it complies with the relevant statutory and policy documents and would have a satisfactory impact. Consent, subject to conditions"	2
Engineering	The proposal is satisfactory subject to conditions.	3
Trees	Condition C.1(b) requires the retention of the Cheese tree (Tree No 20) and the Chinese Elm tree (Tree No 21)	4

#### **ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) The provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - (iii) any development control plan, and
  - (iiia) 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, and
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
  - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,
- (b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) The suitability of the site for the development,
- (d) Any submissions made in accordance with this Act or the regulations,
- (e) The public interest.

#### 9. ADVERTISING AND NOTIFICATION

#### 9.1 Submissions

The application was advertised and notified in accordance with Chapter A2 of the Woollahra DCP 2015. In response, the following submissions were received:

- 1. Bernard Grant from 8/3 Wentworth Place
- 2. TKD Architects on behalf of the owners of "Witherington", 91 Wolseley Road
- 3. Brett Daintry on behalf of the owners of "Witherington", 91 Wolseley Road
- 4. Jefferson Smith from 1/91 Wolseley Road
- 5. James Feldman from 2/91 Wolseley Road
- 6. Anna Challis from 2/91 Wolseley Road
- 7. Vicky Steinman from 3/91 Wolseley Road
- 8. Sandy Hone from 4/91 Wolseley Road
- 9. Xiao Bei Shi from 12/91 Wolseley Road
- 10. Xenia Forbes from 91 Wolseley Road
- Robert Hanning from 5/3 Wentworth Place

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- 12. Sean Porter from 7/3 Wentworth Place
- 13. Amy Porter from 7/3 Wentworth Place
- 14. Graham Chandler from 7/3 Wentworth Place
- 15. Ruth Chandler from 7/3 Wentworth Place
- 16. Ron & Jocelyn Murphy from 8/3 Wentworth Place
- 17. Sam Grant from 8/3 Wentworth Place
- 18. Amanda Fenton from 11/3 Wentworth Place
- 19. Angela Roth from 11/3 Wentworth Place
- 20. John & Sharon Cowin from 93 Wolseley Road
- 21. Sandra Banton from 132 Wolseley Road
- 22. Warwick Negus from 5 Wyuna Road
- 23. Malcolm Spry from 6 Wyuna Road
- 24. Donella Freeman from 26 Wyuna Road
- 25. Andrew Conlan (address not provided)
- 26. Australian Institute of Architects

One of the submissions received is from the owner of the property immediately adjoining to the south which is in support of the proposal.

The issues raised in the submissions have been summarised above (see Section 5) and where required, are further addressed in the body of the report.

#### 9.2 Statutory Declaration

The applicant has completed the statutory declaration declaring that the site notice was erected and maintained during the notification period in accordance with Chapter A2 of the Woollahra DCP 2015.

#### 9.3 Replacement Application

Replacement Application I as detailed above was not renotified to surrounding residents and objectors because, pursuant to Chapter A2 of the Woollahra DCP 2015, the amended design would have no greater cumulative environmental or amenity impact.

## 10. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The subject site is within the area to which the SREP applies.

In relation to Part 2 - Planning Principles and Part 3 - Division 2: Matters for Consideration, the proposed works have no detrimental impact on the watercourse, wetlands or significant vegetation and do not result in any adverse visual impact on the foreshore. The works blend into the urban landscape and have no detrimental impact on the harbour or any view to or from the waterways.

The proposal complies with the relevant criteria prescribed by the REP.

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## 11. STATE ENVIRONMENTAL PLANNING POLICY (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. The proposal will have no detrimental adverse environmental impact on this coastal locality.

The proposal complies with the relevant criteria prescribed by this SEPP.

## 12. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the development and relates to commitments in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by BASIX Certificate committing to environmental sustainability measures relating to thermal comfort, water savings and energy efficiency. The measures as prescribed by Clause 97A of the Environmental Planning and Assessment Regulation 2000 are imposed by Council's standard conditions.

#### 13. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND

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.

#### 14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

#### 14.1 Preliminary (Part 1)

#### 14.1.1 Aims of Plan (Part 1.2)

The proposal satisfies the relevant aims of this plan.

#### 14.2 Permitted or Prohibited Development (Part 2)

#### 14.2.1 Zone R2 - Low Density Residential

The proposal is a permissible form of development and is consistent with the objectives of the zone.

#### 14.3 Principal Development Standards (Part 4)

#### 14.3.1 Compliance Table

Development Standard	Existing	Proposed	Control	Complies
Height of buildings (m)	10.13	<9.5	9.5	Yes

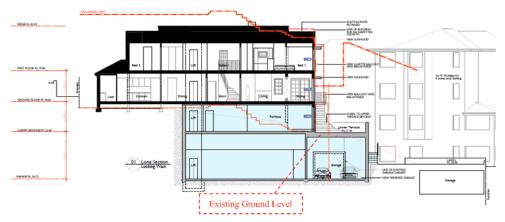
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#### 14.3.2 Height of buildings (Part 4.3)

The existing building currently exceeds the maximum height of buildings development standard in part.

The proposed alterations and additions do not alter the overall height of the existing building and are contained to that part of the building below the 9.5m maximum building height. The proposal complies with the maximum height of buildings development standard prescribed by this Part.

There is potential conjecture with the measurement of the maximum building height. The existing garage has been excavated into the rock face (tunnel like) and the dwelling is sited a few meters above the garage on the existing natural rock surface. Council's Planning Staff have measured the existing ground level from that part of the rock surface above the garage not from the base level of the garage immediately below. The following drawing extract from Lawton Hurley Architects depicts the measurement of the ground level:



For abundant certainty, the applicant was requested to and has provided a Clause 4.6 written submission to vary the development standard. Should the Panel not accept Council's Planning Staff interpretation of the existing ground level, the Clause 4.6 written submission and an assessment thereof has been undertaken and have been attached as **Annexure 5** and **6**.

#### 14.4 Miscellaneous Provisions (Part 5)

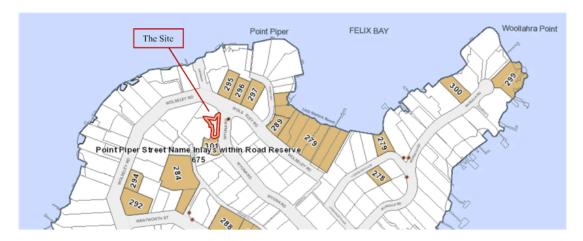
#### 14.4.1 Development within the Coastal Zone (Part 5.5)

The proposal satisfies the relevant criteria prescribed by this Part.

## 14.4.2 Heritage Conservation (Part 5.10)

An extract from Councils Mapping below depicts the location of the subject site and other nearby heritage items:

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The subject site and the building thereon are not listed on the State Heritage Register and have not been identified as a heritage item. As stated earlier, an Interim Heritage Order has been issued for the subject building which has been identified as a potential heritage item. The subject site also immediately adjoins a heritage item and is in close to proximity to other items as depicted in the above map the details of which are summarized in the following table:

Suburb	Item name	Address	Property description	Significance	Item no
Point Piper	Ravello—house and interiors	26 Wyuna Road	Lot D, DP 334247	Local	301
Point Piper	House and interiors	136 Wolseley Road	Lot A, DP 392215	Local	295
Point Piper	House and interiors	138 Wolseley Road	Lot 1, DP 1133137	Local	296
Point Piper	House and interiors	142 Wolseley Road	Lot 5, Section 11, DP 3556	Local	297
Point Piper	Uig Lodge—house and interiors, front gardens, sandstone walls, gateposts, gates	29 Wentworth Street (also known as 5 Wentworth Place)	Lots C and D, DP 30890	Local	284

The subject site is not located within or adjacent to a Heritage Conservation Area.

Council's Heritage Officer has undertaken a detailed assessment of the building. The assessment of the works to the existing building were undertaken on the basis that the building is a heritage item. The recommendation is for consent subject to conditions (see **Annexure 2**).

There is no significant change proposed to the visible envelope of the existing building or any of its significant fabric. Externally, excluding the new garage entry, the changes are primarily cosmetic to improve the internal amenity of the dwelling. The new rumpus room created within the existing undercroft area beneath the existing dwelling can be undertaken without detrimentally impacting on the existing dwelling above. All significant internal building fabric, including fenestration, is to be retained.

Having regard to Council's Heritage Officers advice, the proposal is unlikely to detrimentally impact on the existing building, its significant fabric or its curtilage or that of any other adjoining or nearby heritage item.

The proposal satisfies the relevant criteria prescribed by this Part.

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#### 14.5 Additional Local Provisions (Part 6)

#### 14.5.1 Acid sulphate soils (Part 6.1)

The proposal satisfies the relevant criteria prescribed by this part.

## 14.5.2 Earthworks (Part 6.2)

The site is predominately made up of sandstone bedrock. The application proposes significant excavation, the majority of which will be beneath the existing house and above and around the existing garage.

A Geotechnical Report has been submitted and is paraphrased as follows:

- "...Further geotechnical inspection following initial clearing of the bedrock surface is required to confirm site conditions along with inspection at regular depth intervals during excavation.
- ...Through selection of suitable excavation equipment, geotechnical inspection and mapping during the excavation works along with the installation of support measures as determined necessary by the inspections, the risk from the proposed works can be maintained within 'Acceptable' levels for all situations.
- ...The proposed works are therefore considered suitable for the site and may be completed with negligible impact to existing structures within the site and adjacent properties provided the recommendations of this report are implemented in the design and construction phases..."

The objective of this Part is: "...to ensure 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."

Prior to granting any consent for earthworks, sub-clause (3) of this Part provides the consent authority *matters for consideration* which are stated and assessed as follows:

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

Council's Development Engineer has reviewed the Geotechnical and Hydrogeological Investigation and stormwater drainage plans lodged with the application and recommends approval of the development.

The proposal is unlikely to have any detrimental effect on drainage patterns and soil stability in the locality.

(b) the effect of the development on the likely future use or redevelopment of the land,

The proposed development is an expected and permissible use of the land.

(c) the quality of the fill or the soil to be excavated, or both,

The Geotechnical Investigation field work confirms the presence of bedrock.

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(d) the effect of the development on the existing and likely amenity of adjoining properties,

Council's Development Engineer has reviewed the proposal, including the Geotechnical Engineers Report and raises no objection to the excavation on technical grounds. Based on the advice of the Geotechnical Engineers Report, there are no mitigating circumstances associated with the proposed excavation that will detrimentally impact the amenity of adjoining residents, the environment, the water table or any structures on or immediately adjoining the site.

Standard conditions are applied to regulate the excavation process including vibration monitoring to minimise any likely disturbance to the amenity of residents on neighbouring property. Conditions are also applied that regulate truck movements, security fencing, site signs and other mechanisms for the maintenance of vehicular and pedestrian safety and to mitigate potential impacts on the amenity of the neighbourhood.

(e) the source of any fill material and the destination of any excavated material,

Some of the excavated material is to be reused onsite.

(f) the likelihood of disturbing relics,

No relics have been identified on the site.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

The proposal is unlikely to detrimentally impact on any waterway or the harbor.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development."

Geological and Hydrogeological Reports have been provided including recommendations contained therein to minimise and mitigate the impacts associated with the development of the land.

The proposal satisfies the relevant criteria prescribed by this Part.

#### 14.5.3 Flood planning (Part 6.3)

The proposal satisfies the relevant criteria prescribed by this Part.

# 15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

# Part A - Introduction and Administration

# **15.1** About this DCP (A1.1)

# 15.1.1 Objectives of this Plan (A1.1.5)

The proposal satisfies the relevant objectives prescribed by this Plan.

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#### Part B - General Residential

#### 15.2 Residential Precincts (Chapter B1)

#### Point Piper Precinct (B1.6)

#### • Desired Future Character

The proposal satisfies the relevant objectives prescribed by this Part.

# 15.3 General Development Control (Chapter B3)

#### **15.3.1 Introduction (B3.1)**

# Objectives (B3.1.3)

The proposal satisfies the relevant objectives prescribed by this Part.

## 15.3.2 Building Envelope (B3.2)

#### • Controls (B3.2.2-3.2.4)

The existing building envelope will generally be retained. There is no significant change to the visible envelope of the existing building or its footprint.

The proposed changes to the existing building envelope are the inclusion of a new lift that is setback 0.415m from its rear boundary and a new cantilevered balcony added to the northern side, being setback 2.1m at its closest point.

These relatively minor protruding elements are non-compliant with the setback controls which require a rear setback of 3m and side setback of 3.4m.

The irregularities of the site boundaries, the topography and the siting of the existing building thereon are the primary reasons for non-compliance with these setback controls. It is unreasonable to strictly adhere to the prescribed setback controls in this circumstance.

The proposed works would improve the amenity for the future occupants of the building. They do not result in any detrimental impact to the amenity of adjoining residents with respect to privacy, scale, bulk, sense of enclosure and views. In this regard, the proposal satisfies the relevant objectives underpinning these controls.

## 15.3.3 Floorplates (B3.3)

Site Area (377m²)	Existing	Proposed	Control	Complies
Floor plate (m <sup>2</sup> )	265*	269	236	No

<sup>\*</sup>Existing non-compliance

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#### Controls

The irregularities of the site and its topography skews the calculation of the buildable area and thus the floor plate control. A strict interpretation of the floor plate control results in the existing building being non-compliant with this control as noted in the table above. The proposal seeks to exacerbate the existing non-compliance by  $4m^2$ .

There is no perceived change to the envelope of the existing building, particularly from the public domain. The relatively minor increase to the floor plate is a result of the new lift added to the rear of the existing building. The new lift would facilitate an improved access to the existing dwelling which is constrained by the irregularities of the sites boundaries and the topography. For these reasons, the proposal satisfies the key objective of the floor plate control which is to: "...allow development to respond to the topography and context."

#### 15.3.4 Excavation (B3.4)

Site Area (377m²)	Existing	Proposed	Control	Complies
Excavation				
- Maximum volume (m³)	-	494	140*	No
- Minimum sub-surface wall setback (m)	<1.5	<1.5	1.5	No

<sup>\*</sup> Control C4 permits a variation to the maximum volume control

#### Control

The maximum volume of excavation exceeds the terms of these controls. However, Control C.4 allows a variation to the maximum volume control in order to accommodate the required car parking, storage and enable reasonable access. The majority of the proposed excavation is required to facilitate off-street car parking and access to the dwelling on this site constrained by the irregularities of the sites boundaries and the topography.

The setback of the excavation from the boundaries also varies and is contrary to the terms of these controls. Once again, the volume and the setback of the proposed excavation is affected by the irregularities of the site boundaries, the topography as well as existing structures on and immediately adjoining.

It should be noted that the development proposes only relatively minor variation to the existing visible building envelope. The major contributor to the non-compliance with the excavation volume and its setback is to facilitate access to the dwelling from street level and car parking to comply with Council's minimum controls.

Based on expert engineering advice, there are no technical grounds that indicate the excavation of the site cannot proceed. For reasons already discussed above (LEP provisions), the variation to the maximum excavation volume control should be applied in this instance.

# 15.3.5 Built form and context (B3.5)

Site Area (377m²)	Existing	Proposed	Control	Complies
Hours of solar access provided between 9am- 3pm during mid-winter to adjoining property to:				
- Main ground level open space (m <sup>2</sup> )	>3 or (35)	>3 or (35)	3 or (35)	Yes
- Portion of North facing first floor window	>3	>3	3	Yes

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#### • Streetscape character (B3.5.1)

The proposal complies with this control.

# Overshadowing (B3.5.2)

The proposal complies with this control.

#### Public and Private Views (B3.5.3)

#### Public views

The proposal complies with this control.

#### Private views

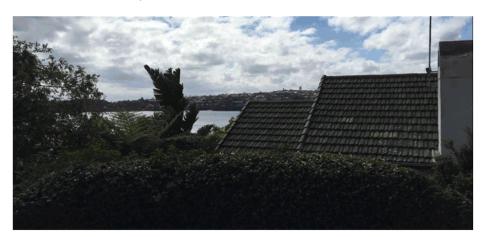
There is no significant change to the envelope of the existing building. Submissions received have raised concern regarding potential loss of views from the neighbouring open space of the ground floor unit at No.3 Wentworth Place.

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.

<u>Assessment</u>: The existing view is shown in the photo below. This is a partial water view which is substantially obscured by existing vegetation and by the existing building on the subject site. The view does not contain any iconic views.



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#### 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.

<u>Assessment:</u> The view is obtained from the private open space of the ground floor unit at No.3 Wentworth Place from a standing position.

#### 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.

<u>Assessment:</u> As demonstrated in the photo above, the proposed development will have no impact to the existing view.

## 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.

<u>Assessment:</u> As demonstrated in the photo above, the proposed development will have no impact to the existing view.

Given there is no proposed change to the roof of the existing building, there is no detrimental impact on existing views from this or any other adjoining property.

# Acoustic and Visual Privacy (B3.5.4)

The layout and orientation of the dwelling and its open space remains in situ. The existing site is precarious and dangerous and requires levelling in parts to facilitate safe access to its only useable ground and open space.

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The new windows and balconies to the existing building are provided to improve the internal amenity of the building and in particular, to enable additional solar access and views from its internal spaces towards the harbour. The new windows, balconies and terraces are suitably setback and orientated to minimise privacy impacts to residents immediately adjoining.

Any incidental overlooking between residential properties is mutual, expected and reasonable in this locality particularly from the upper levels of the dwelling and this hilly terrain.

Council's standard conditions are applied to all mechanical plant, including the lift equipment, to mitigate any potential noise issues and enable enforcement action should a nuisance arise.

The proposal nevertheless satisfies the objective of this part which states "...to ensure adequate visual privacy for occupants and neighbours while balancing the need to provide reasonable levels of environmental amenity..."

#### 15.3.6 On-site parking (B3.6)

Site Area (377m²)	Existing	Proposed	Control	Complies
Parking structures:				
- Maximum area (m²)	20	36	40	Yes
- Maximum height (m)	<2.7	3	2.7*	No
- Maximum width (m)	<6	6	6	Yes

<sup>\*</sup> Control C7 permits a variation to the maximum height control

#### Controls

Control C7 permits a variation to the maximum garage height control when the garage is incorporated into a street wall.

The existing garage and the proposed extension thereof, is incorporated into an existing rock shelf and presents as a stone wall to the street. The proposed garage is to be enlarged to facilitate 2 off-street parking spaces to comply with the minimum requirements prescribed by Part E of this DCP. The new stone wall would match the existing wall along this section of Wyuna Road. Notwithstanding, **Condition C.1(c)** has been recommended requiring modifications to the proposed garage in light of the retention of Tree No. 20 (see further discussion under Section 15.3.7).

The variation permitted under C.7 should be applied in this instance because the proposal satisfies the relevant objectives that underpin these controls and which state in part: "...to facilitate parking on sloping sites; ...minimise visual impact; ...not detract from streetscape character and amenity."

The balance of the proposal complies with these controls.

# 15.3.7 External areas (B3.7)

Site Area (377m²)	Existing	Proposed	Control	Complies
Primary open space area: - Total (m²) - Maximum Gradient	>8	>8	8	Yes
	>1:10	<1:10	1:10	Yes

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Deep soil landscaped area (m <sup>2</sup> )				
- Total	39% or (92)	41% or (97)	50% or (117)	No
- Front setback	12% or (13)	12% or (13)	40% or (25)	No
- Front consolidated area	<12	<12	12	No
- Rear setback	>50% or (>53)	60% or (56)	50% or (53)	Yes
Fence height:				
- Front on the high side (m)	1.2	1.2	1.2	Yes
- Side & Rear (m)	1.8	1.8	1.8	Yes

#### Landscape and private open space (B3.7.1)

The subject site is unusually configured, is hilly and is generally sited on a rock shelf. The existing dwelling and access thereto (paved pathways) hinders the ability to provide deep soil landscaping on the site. The topography also hinders safe and useable access to the sites private open spaces.

The subject site is currently deficient in complying with the deep soil landscaping area control. The proposal provides improved access to its open space and provides slightly more deep soil landscaped area than presently exists.

A landscape plan has been submitted with the application together with the arborists report which identifies significant trees on and around the site. A Cheese tree is proposed to be removed to the north of the dwelling. Council's Trees Officer considers this tree is of significance and high value in terms of biodiversity and habitat. In addition, a Chinese Elm tree (Tree No 20) located at the western top garden was not identified in the submitted arborist report. Council's Tree Officer has referred this tree as Tree No 21 and considered this to be a mature specimen of medium significance and should also be retained. **Condition C.1(b)** has been applied requiring the retention of both trees.

To avoid excavation disturbance to the required 'works exclusion zone' for the retention of Tree No. 20As a consequence, the proposed garage is recommended to be amended so that the western wall of the existing garage is to be retained. The area to the north of the proposed garage will remain as deep soil landscaped area. See **Condition C.1(c).** 

Fronting the site on Wyuna Road is a relatively wide escarpment that is densely landscaped and screens the majority of the site and existing dwelling from view from the street. The densely landscaped escarpment provides additional landscaped curtilage to the site.

Subject to **Condition C.1(b)** and **(c)**, the proposal satisfies the objective underpinning this control which states in part: "...contribute to the desired future character of the area."

The balance of the proposal complies with this control.

# • Fences (B3.7.2)

The proposal complies with this control.

# Site facilities (B3.7.3)

The proposal complies with this control.

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### Part E - General Controls for All Development

# 15.4 Parking and Access (Chapter E1)

Site Area (377m²)	Existing	Proposed	Control	Complies
Maximum parking generation rate	1	2	2	Yes

The proposal complies with the relevant criteria prescribed by this control and/or are addressed by Council's standard conditions.

## 15.5 Stormwater and Flood Risk Management (Chapter E2)

The proposal complies with the relevant criteria prescribed by this control and/or are addressed by Council's standard conditions.

#### 15.6 Tree Management (Chapter E3)

As discussed above in Section 15.3.7, subject to **Condition C.1(b)** and **(c)**, the proposal complies with the relevant criteria prescribed by this part and/or can be addressed by Council's standard conditions.

#### 15.7 Contaminated Land (Chapter E4)

The proposal complies with the relevant criteria prescribed by this part.

#### 15.8 Waste Management (Chapter E5)

The proposal complies with the relevant criteria prescribed by this part and/or can be addressed by Council's standard conditions.

# 16. DRAFT AMENDMENTS TO POLICIES AND PLANS

There are no draft amendments applicable to this development.

#### 17. SECTION 94A CONTRIBUTION PLANS

A Contribution pursuant to the terms of this Plan is required and has been applied as a condition that forms part of the recommendation.

#### 18. APPLICABLE ACTS/REGULATIONS

#### 18.1 Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the development to comply with Australian Standard AS 2601-2004: The demolition of structures. Compliance with this requirement can be enforced by condition.

# 18.2 Building Code of Australia

The proposal is required to comply with the relevant provisions of the Building Code of Australia. Compliance with these requirements can be enforced by condition.

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#### 19. THE LIKELY IMPACTS OF THE PROPOSAL

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

#### 20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

#### 21. THE PUBLIC INTEREST

The proposal is in the public interest.

#### 22. DISCLOSURE STATEMENTS

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

#### 23. CONCLUSION

The assessment of the development against the relevant considerations under Section 4.15 of the *Environmental Planning and Assessment Act* 1979 is an appropriate development of the site and is recommended for Approval.

# 24. RECOMMENDATION: Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 252/2019/1 for alterations and additions to the dwelling including widening of the existing garage and landscaping on land at 30 Wyuna Road Point Piper, 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*.

#### 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.

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**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:

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- 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, piering, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the site of any machine, article, material, or thing, or
- the occupation of the site by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

# A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

Reference	Description	Author/Drawn	Date(s)
DA 00 to DA 05	Architectural Plans	Lawton Hurley Architecture	Nov 2019
inclusive (all Issue B)		Interiors Planning	
A351723	BASIX Certificates	NSW Department of Planning &	04.07.2019
		Environment	
DA 06 Issue C	External Finishes	LawtonHurley Architecure	Nov 2019
		Interiors Planning	
S7649	Methodology Report	D'Ambrosio Consulting Pty Ltd	05.07.2019
2019-069 Issue 1	Geotechnical Site Investigation	Crozier Geotechnical Consultants	08.07.2019
A2 Revision 1	Landscape Plans	Wyer & Co.	05.07.2019
63414: Ref: 2019-892	Arboricultural Impact Assessment	Dr Treegood	July 2019
Revision 1.9			
STW: 1 to 6 inclusive	Stormwater Details	PC Consulting Engineer Pty Ltd	05.07.2019
all Revision A			

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

#### A.4 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.

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Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

#### A.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 on Council land must be retained:

Council Ref No.	Species	Location	Dimension (metres)
Rei ivo.			(metres)
1	Cinnamomum camphora (Camphor laurel)		12 x 12
2	Olea europea var. africana (African Olive)		10 x 4
3	Glochidion ferdinandii (Cheese tree)		12 x 5
4	Ligustrum lucidum (Large-leaved Privet)		8 x 5
6	Camellia sasanqua (Camellia)		10 x 6
7	Glochidion ferdinandii (Cheese tree)		12 x 4
8	Acmena sp.	Council verge east of	8 x 1
10	Pittosporum undulatum (Native Daphne)	property	8 x 8
12	Ligustrum lucidum (Large-leaved Privet)		6 x 3
13	Ligustrum lucidum (Large-leaved Privet)		8 x 4
14	Ligustrum lucidum (Large-leaved Privet)		8 x 5
15	Grevillea robusta (Silky Oak)		14 x6
16	Tristaniopsis laurina (Water gum)		8 x 5
17	Melaleuca sp.		8 x 5

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees on Private land must be retained:

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary	10 x 7
	(Cheese tree)	with No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary	7 x 10
	(Chinese Weeping Elm)	with 3 Wentworth Place	

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

c) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council	Species	Location	Dimension
Ref No.			(metres)
19	Cyathea cooperi (Scaly tree fern)	Northern garden	5 x 2

Note: The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

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#### 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.

# B.2 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

A full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic	Woollahra Council
	report including images	Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- a) Coloured photographs of:
  - each elevation,
  - each structure and landscape feature,
  - internal images of each room and significant architectural detailing, and
  - views to the subject property from each street and laneway or public space.

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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 <a href="https://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

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 <a href="https://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

#### **B.3** Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

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#### B.4 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

# B.5 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 (m)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary corner with No 91 Wolseley Rd	1.5

**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.

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- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of 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.
- The project arborist shall provide written certification of compliance with the above condition.

# B.6 Works exclusion area within Tree Protection Zone (TPZ)

No works to be undertaken within the following areas:

Council Ref No.	Species	TPZ Radius from trunk (m)	Works exclusion area
20	Glochidion ferdinandii (Cheese tree)	6	Garden bed area defined by:  Existing retaining wall 1.2m to the east  Existing retaining wall 2.5m to the south  2.5m from the trunk to the west  Boundary with No 91 Wolseley Rd to the north.

The project arborist shall provide written certification of compliance with the above condition.

# **B.7** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

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- Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

### B.8 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of non-compliance
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Installation of tree protection fencing	Compliance with tree protection measures
Demolition of retaining wall east and south of Tree 20	Condition and maintenance of exposed roots
Excavation within the TPZ of trees to be retained	Condition and maintenance of exposed roots
Prior to the issue of a Final Occupation	Supervise the dismantling of tree protection measures
Certificate	and final condition of trees to be retained

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.

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#### Conditions which must be satisfied prior to the issue of any construction certificate

#### C.1 Modification of details of the development (Section 80A(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) Heritage conservation

- (i) All original internal walls on the ground floor of the dining room and kitchen, and on the first floor between Bed 1 and the sleepout, and the internal wall between Bed 2 and the hall, including the arch, are to be interpreted via the use of portal frames, bulkheads or wall nibs to provide evidence of the original internal wall layout.
- (ii) The original dresser in Bed 1 on the first floor is to be salvaged and retained on site. The original light fitting above the dresser is to be retained.

# (b) Tree retention (Trees Nos. 20 and 21) and the associated documentations

The following trees must be retained:

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary	10 x 7
	(Cheese tree)	with No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary	7 x 10
	(Chinese Weeping Elm)	with 3 Wentworth Place	

In order to retain Tree No. 20, the following amended documentations must be provided:

- (i) Site survey which must be corrected to accurately plot the position of Tree No. 20 and to include Tree No. 21.
- (ii) <u>Architectural plans</u> including the Basement Garage Plan to fully represent the works exclusion area around Tree 20, which is defined as follows:
  - the existing retaining wall 1.2m to the east of the trunk;
  - the existing retaining wall 2.5m to the south of the trunk;
  - within 2.5m from the trunk to the west; and
  - the boundaries with No 91 Wolseley Road to the north.
- (iii) <u>Landscape plan</u> must include the retention of Tree Nos. 20 & 21.
- (iv) An addendum to the Arboricultural Impact Assessment must include a Tree Management Plan to guide tree protection during construction.
- (v) <u>Stormwater Plan</u> must be amended to locate pipes and pits outside of the Works Exclusion Area for Tree No.20 as per conditions of this consent.

## (c) Garage

In order to retain Tree No. 20 as required in Part (b) above, the proposed double garage shall incorporate the following:

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- no excavation is permitted beyond the western (rear) wall of the existing garage;
   and
- (ii) the proposed bin storage area must be deleted.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the Act.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

# C.2 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 Building and Construction Industry Long Service Payments Act 1986						
Long Service Levy www.longservice.nsw.gov.au	Contact LSL Corporation or use online calculator	No				
SECURITY under section 4.17(6) of the Environmental Planning and Assessment Act 1979						
Property Damage Security Deposit (making good any damage caused to any property of the Council)	\$26,447.00	No	T115			
DEVELOPMENT LEVY  under Woollahra Section 94A Development Contributions Plan 2011  This plan may be inspected at Woollahra Council or downloaded at <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>						
Development Levy (section 7.12)	\$10,250.00 + Index Amount	Yes, quarterly	Т96			
INSPECTION FEES under section 608 of the Local Government Act 1993						
Public Road/Footpath Infrastructure Inspection Fee	\$471.00	No	T45			
Security Administration Fee	\$198.00	No	T16			
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$37,266.00 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 <a href="www.longservice.nsw.gov.au">www.longservice.nsw.gov.au</a> or the Long Service Corporation on 131 441.

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#### 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.

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Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

#### C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.A351723 with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the Environmental Planning and Assessment Regulation 2000 provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

#### C.4 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

# Road & Footpath Works

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing in accordance with Council's standard drawing RF2\_D. The new vehicular crossing shall be constructed in plain concrete to comply with Council's DCP and Crossing Specification. The centreline of the new crossing shall be aligned with the centreline of the proposed garage. Design longitudinal surface profiles for the proposed driveway must be submitted for assessment.
- b) Reinstatement of footpath, kerb and gutter to match existing.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See Section K - Advisings of this Consent titled Roads Act Application.

# 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:

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- 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 <a href="www.austieca.com.au">www.austieca.com.au</a> 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.

Note: Pursuant to clause 161(1)(a)(5) of the Regulation an Accredited Certifier may satisfied as to this matter.

#### C.6 Stormwater Discharge to Existing Stormwater Drainage System

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

- 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,
- any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,
- 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".

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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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

# C.7 Structural Adequacy of Existing Supporting Structures

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

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

#### C.8 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Note: This does not affect the right of the developer to seek staged Construction Certificates.

#### C.9 Geotechnical and Hydrogeological Design, Certification & 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.

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- 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 hydro-geological measures by the professional engineer; and;
  - Details a contingency plan.

# C.10 Waste Storage - Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management in accordance with the approved SWMMP.

Waste Storage Areas must meet the following requirements:

- Bins must be stored with lids down to prevent vermin from entering the waste containers.
- b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e) Odour problems must be minimised by good exhaust ventilation.
- f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

# C.11 Tree Management Plan

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

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- shaded yellow where required to be transplanted
- shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

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

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

#### D.1 Heritage training of foremen, tradesmen/work related staff

All persons responsible for the management, maintenance and construction works to the site shall be advised of/made familiar with the heritage significance of the subject property.

# D.2 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 <u>Home Building Act 1989</u> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation* 2004, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

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

## D.3 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):

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- No.91 Wolseley Road Point Piper
- No.3 Wentworth Place Point Piper

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 section 6.6 of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- · To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk
  of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition

#### D.4 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

# D.5 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*.

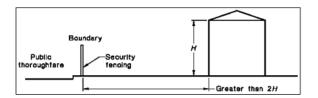
Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service.

The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

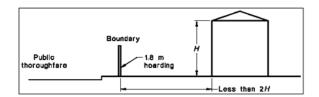
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#### D.6 Security Fencing, Hoarding and Overhead Protection

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.



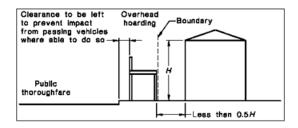
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.

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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

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.

#### D.7 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
  - showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.

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.

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Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

#### **D.8** Toilet Facilities

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

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

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

In this condition:

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

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

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

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

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.

#### D.9 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;
- "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).

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Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<a href="www.austieca.com.au/">www.austieca.com.au/</a>) 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="https://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

# D.10 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 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.

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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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

**Note:** It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

## D.11 Notification of *Home Building Act 1989* requirements

- 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 <u>Home Building Act 1989</u> must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - In the case of work for which a Principal Contractor is required to be appointed:
    - the name and licence number of the Principal Contractor, and
    - the name of the insurer by which the work is insured under Part 6 of that Act,
  - In the case of work to be done by an Owner-builder:
    - the name of the Owner-builder, and
    - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

## D.12 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.

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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.

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

# E.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 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 <u>Home Building Act 1989</u> 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:

- to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the Regulation, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

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

# E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

#### 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.

# 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*.

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Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

*Critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

**Note:** The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

#### E.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) 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 <u>any equipment</u> 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.

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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

### 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:

- 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:

- 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.

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#### E.7 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions;

Note: See www.epa.nsw.gov.au for additional information.

#### E.8 Support of adjoining land and buildings

A person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the Access to Neighbouring Land Act 2000, or
- c. an easement under section 88K of the Conveyancing Act 1919, or
- d. an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary)) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

### E.9 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:

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- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

#### E.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 subcontractor 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.

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#### 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
- "Managing Urban Stormwater Soils and Construction" 2004 published by the NSW Government (The Blue Book).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution".

**Warning**: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

# E.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;
- That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

#### E.13 Filling of site

To the extent that this consent permits filling of the site such fill must be *virgin excavated natural material* ("VENM").

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Note: Under Schedule 1 of the Protection of the Environment Operations Act 1997 "virgin excavated natural material means natural material (such as clay, gravel, sand, soil or rock fines):

(a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and

(b) that does not contain any sulfidic ores or soils or any other waste, and includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved for the time being pursuant to an EPA Gazettal notice."

Note: Sulfidic ores and soils are commonly known as acid sulfate soils.

Note: If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the *Protection of the Environment Operations Act 1997*.

Note: A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the Protection of the Environment Operations Act 1997.

Note: Additional information is available from the NSW Environment Protection Authority website: www.epa.nsw.gov.au

#### E.14 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act* 1988 (Cth).

No illuminated sign(s) must be erected upon or displayed upon any site crane.

**Note:** Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

# E.15 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.

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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.
- Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

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

## E.16 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local* Government Act 1993 to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

# E.17 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the Protection of the Environment Operations (Clean Air) Regulation 2010 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

## E.18 Dust Mitigation

Dust mitigation must be implemented in accordance with "Dust Control - Do it right on site" published by the Southern Sydney Regional Organisation of Councils.

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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 <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution.

The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

# E.19 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

## E.20 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,
- 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.

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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
- evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

## E.21 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,
- 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
- 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.

## E.22 Shoring and Adequacy of Adjoining Property

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person's own expense:

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- a) protect and support the adjoining premises from possible damage from the excavation,
   and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

**Note:** This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

#### E.23 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Condition B.3 of this consent, 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

#### E.24 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014.* 

**Note:** This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

## E.25 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with Condition E.23 immediately above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

#### E.26 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.

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#### E.27 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Condition B.3 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 WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- Be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "Code of Practice for the Safe Removal of Asbestos",
- 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

## **E.28 Tree Preservation**

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 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) There shall be no excavation or work within a Tree Protection Zone (TPZ). 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 30mm 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 Safework NSW Code of Practice Amenity Tree Industry.

# E.29 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary with	6
	(Cheese tree)	No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary with 3	6
	(Chinese Weeping Elm)	Wentworth Place	

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Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

# E.30 Level changes in the vicinity of trees

No level changes shall occur within the specified areas around the trunks of the following trees.

Council Ref No.	Species	Location	Areas
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	Garden bed area defined by:  Existing retaining wall 1.2m to the east Existing retaining wall 2.5m to the south 2.5m from the trunk to the west Boundary with No 91 Wolseley Rd to the north
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	2.5m radius from the trunk of the tree

The project arborist shall document compliance with the above condition.

# E.31 Hand excavation within tree root zones

Demolition of structures and excavation required within the specified radius from the trunks of the following trees must be carried out manually to avoid damage to structural roots.

Council Ref No.	Species	Location	Radius from centre of trunk (m)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary with	6
	(Cheese tree)	No 91 Wolseley Rd	

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.

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# 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.

# 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:

- 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.
- All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.
- Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.
- Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).
- Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

# F.3 Letter Box(es)

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

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## F.4 Amenity Landscaping

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

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

## 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 Fulfillment of BASIX Commitments - clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A351723M.

Note: Clause 154B(2) of the Environmental Planning and Assessment Regulation 2000 provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

## H.2 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

**Note**: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

# H.3 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,

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- 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or obtained from Council's customer service centre.

## H.4 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. A351723.

**Note:** This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

#### I.2 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.

# 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.

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The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) and *Noise Guide for Local Government* (2013) (see: <a href="www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>)

#### I.4 Maintenance of Landscaping

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

**Note:** This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Note: This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.

#### 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.

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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.

#### 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 <a href="www.1100.com.au">www.1100.com.au</a>

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

## K.3 Commonwealth Disability Discrimination Act 1992

The *Disability Discrimination Act 1992* (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, the Woollahra Development Control Plan 2015 Chapter E8 – Adaptable Housing and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Note: Further advice can be obtained from the Australian Human Rights Commission website <a href="www.humanrights.gov.au">www.humanrights.gov.au</a> or call 9284 9600 or 1300 656 419.

## K.4 NSW Police Service and Road Closures

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

Warning: If you partial or full close a road without compliance with Council and NSW Police requirements

Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices
leading to prosecution.

Note: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov.au or ph 9369 9899.

#### K.5 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

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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

# K.6 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the NSW Guide to Standards and Tolerances go to the NSW Fair Trading website <a href="https://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> or call 133 220.

## K.7 SafeWork NSW Requirements

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> or call 131 050.

## K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from SafeWork NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- a) Work Health and Safety Act 2011,
- b) Work Health and Safety Regulation 2017,
- c) SafeWork NSW "Code of Practice: How to Safely Remove Asbestos" (2016), and
- SafeWork NSW "Code of Practice: How to Manage and Control Asbestos in the Workplace" (2016).

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Note: For more information go to the SafeWork NSW website on asbestos <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> or call 131 050.

#### K.9 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995: *Guide to Lead Paint Management—Industrial Applications*, or AS 4361.2–1998: *Guide to Lead Paint Management—Residential and Commercial Buildings*.

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

## K.10 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal <a href="https://www.ncat.nsw.gov.au">www.ncat.nsw.gov.au</a>

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 <a href="www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a> or call 1800 990 777.

# K.11 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.

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Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au

## K.12 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.

# 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or call Council on 9391 7000 for further advice.

# K.14 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.

## K.15 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

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- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway

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.

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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.

#### K.16 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.

# K.17 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Dimitri Lukas, Senior Assessment Officer, on (02) 9391 7159.

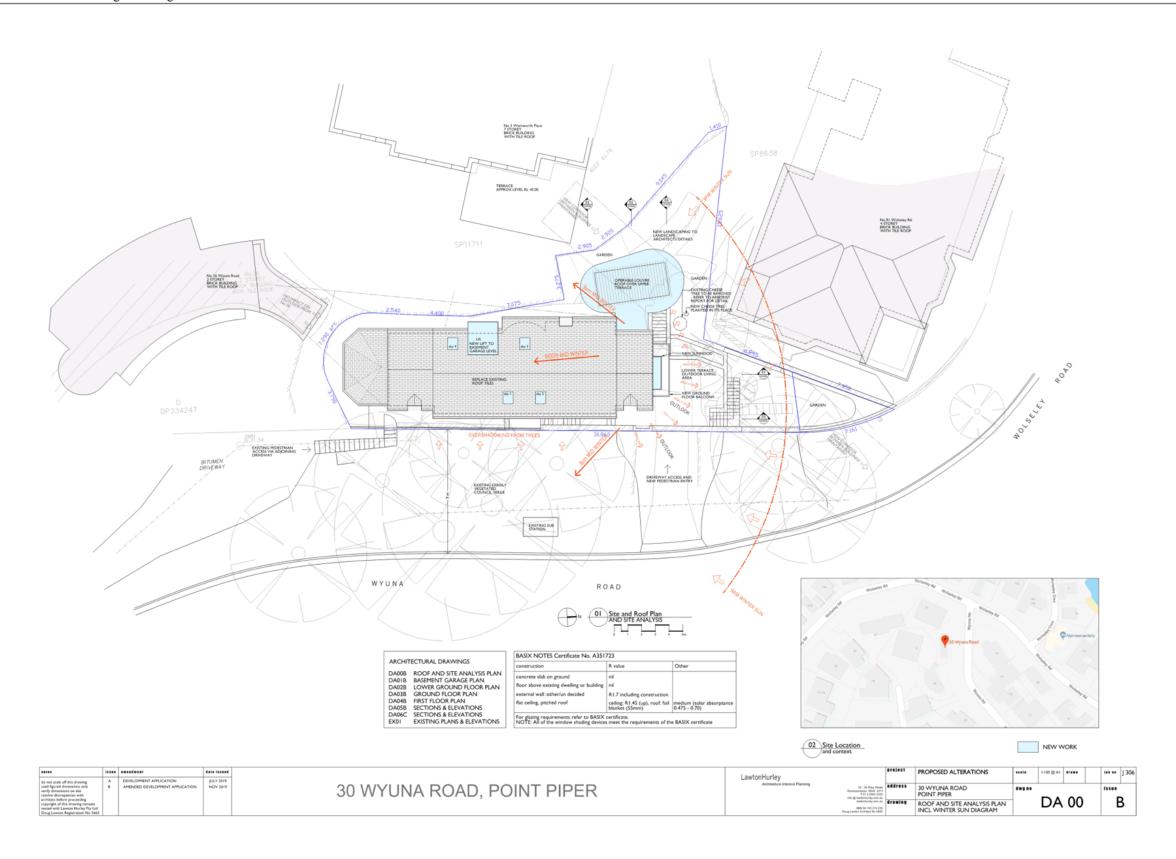
However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

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.

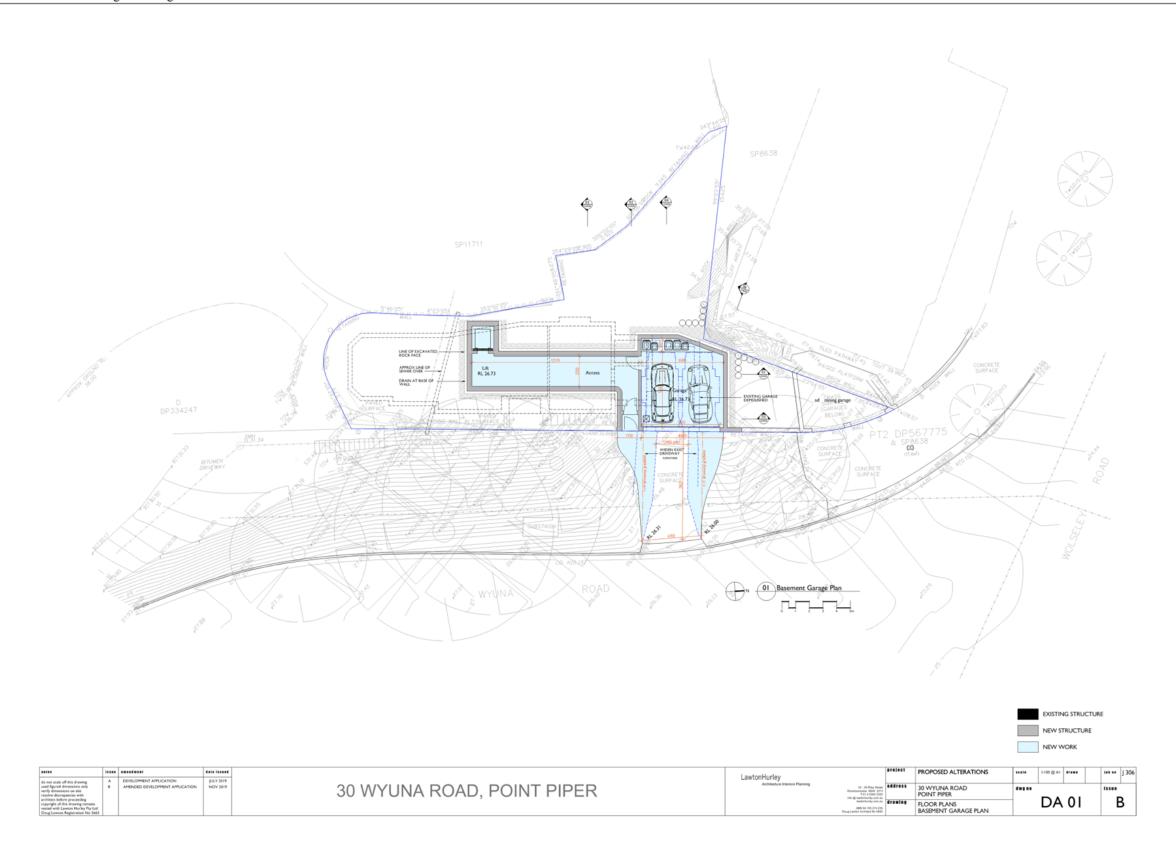
# Annexures

- 2. Referral Response Heritage U
- 3. Referral Response Technical Services U
- 4. Referral Response Trees & Landscaping U
- 5. Clause 4.6 Written Submission (GSA Planning) U
- 6. Clause 4.6 Assessment <u>U</u>

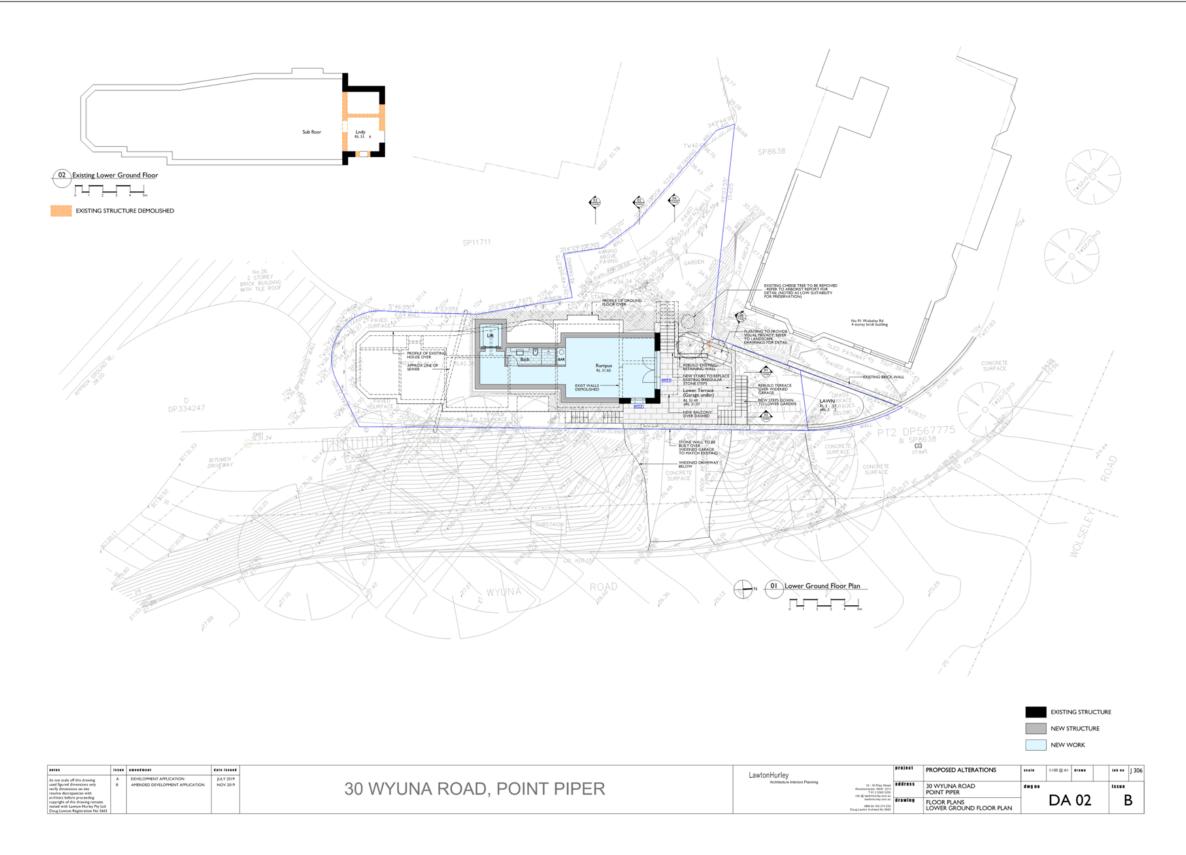
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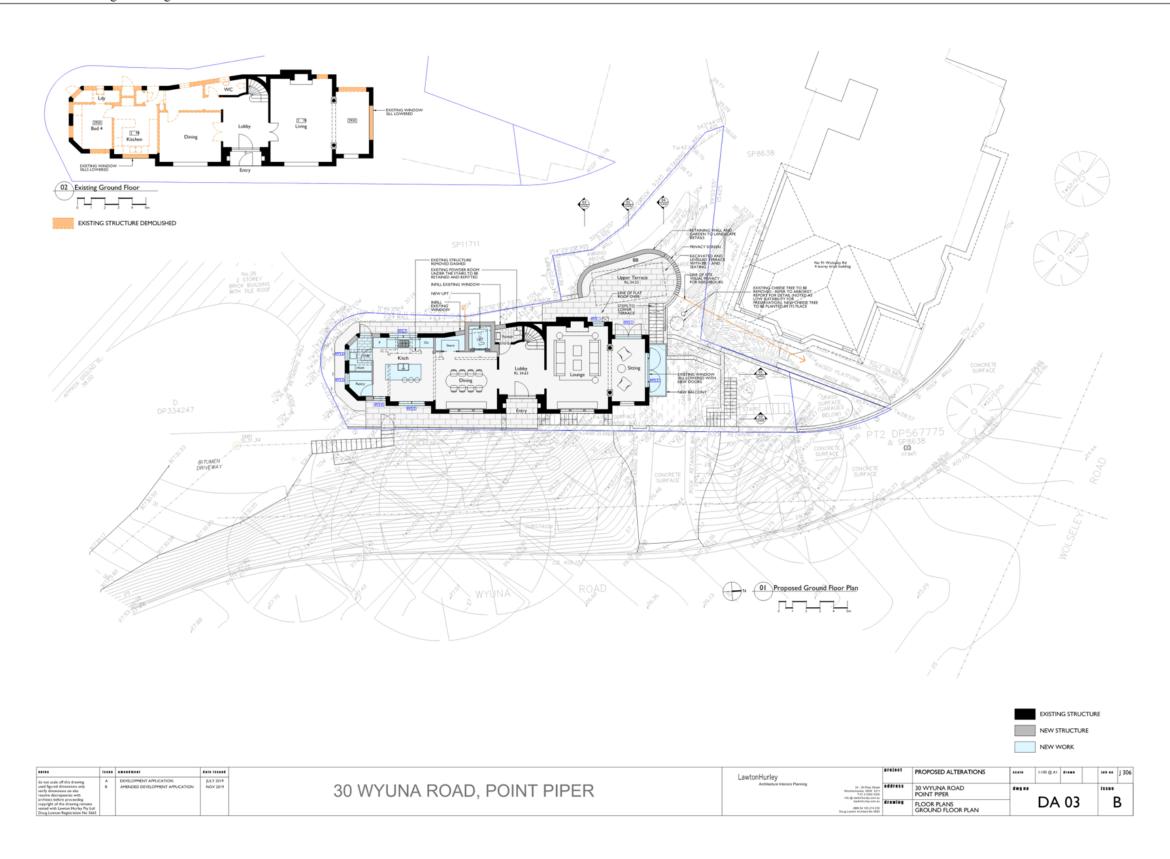
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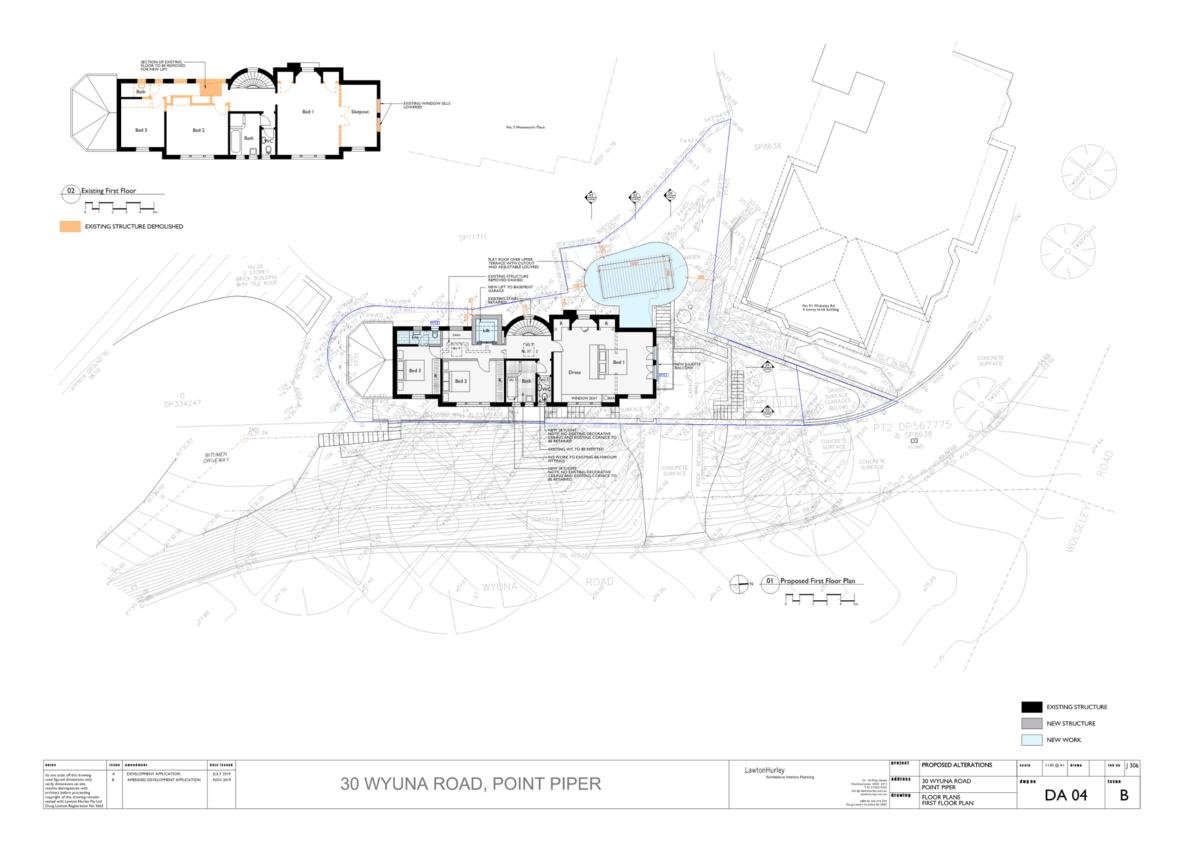
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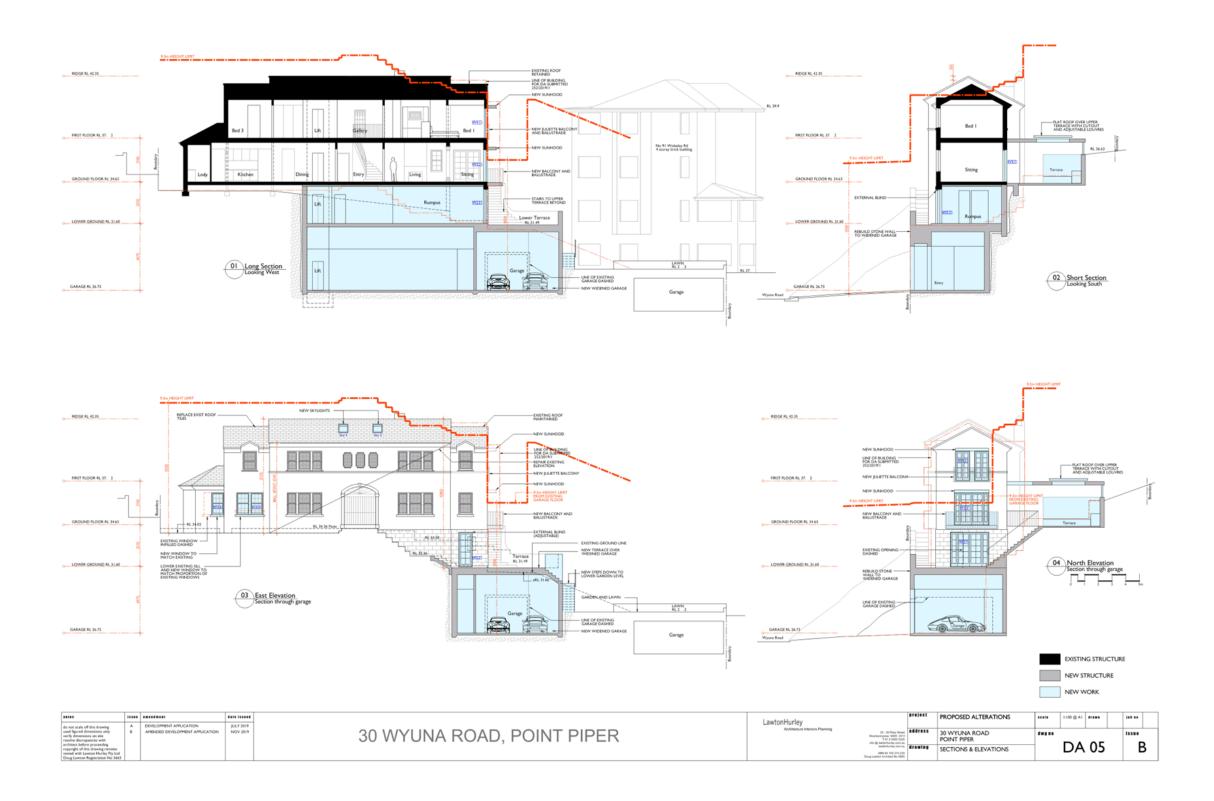
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NEW WORK



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25 November 2019

# **RE-REFERRAL RESPONSE - HERITAGE**

FILE NO: Development Applications/ 252/2019/1

ADDRESS: 30 Wyuna Road POINT PIPER 2027

**PROPOSAL:** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

FROM: Shona Lindsay - Heritage Officer

TO: Mr D Lukas

#### DOCUMENTATION

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

- Drawing set by Lawton Hurley, dated July 2019, and numbered DA 00-06, EX 01, AR 01-02 and amended plans dated November 2019
- Heritage Impact Statement by Urbis, dated 9 June 2019
- Comparative analysis by Urbis
- Statement of Environmental Effects by GSA Planning, dated July 2019
- Survey plan by StrataSurv, ref 4294DT, dated 23 May 2019 and amended survey dated 12 November 2019
- Demolition Plan by Lawton Hurley, numbered EX 02, dated August 2019
- Photomontage
- Materials Schedule by Lawton Hurley, dated August 2019

## SITE INSPECTION / RESEARCH

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

• The site was inspected on the 30 August 2019, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Draft Assessment of Heritage Significance for 30 Wyuna Road, Point Piper dated 29 October 2019 prepared by Kristy Wellfare, Strategic Heritage Officer, Woollahra Council
- EPC Minutes of 4 November 2019
- Council Minutes of 11 November 2019
- Interim Heritage Order No. 4 Government Gazette No 124 of Wednesday 23 October 2019
- Previous heritage referral response dated 30 October 2019
- 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:

Referral Response - Heritage

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- Heritage Act 1977 Interim Heritage Order
- Woollahra LEP 2014
- Woollahra DCP 2015

#### HERITAGE FRAMEWORK

- The subject building is currently subject to an Interim Heritage Order made under the Heritage Act 1977 – Interim Heritage Order No. 4
- The subject building is not currently a heritage item in Woollahra Local Environment Plan 2014 'the LEP', although a planning proposal to list the property as a local heritage item has been prepared.
- The subject building is not listed on the State Heritage Register.
- The subject building is not in a heritage conservation area.
- The subject building is within the Point Piper precinct.

#### BACKGROUND TO SUBJECT PROPERTY

#### DA Planning background

DA 2019/252/1 was submitted to Council on 12 July 2019.

A Class 1 Application was filed by the applicant in the Land and Environmental Court on 10 September 2019.

An advice of application for a Complying Development Certificate (CDC) for demolition of the existing dwelling house and associated structures and construction of a new dwelling house at 30 Wyuna Road, Point Piper was received from a private certifier by Council on 16 October 2019.

Council made an Interim Heritage Order under the Heritage Act 1977 on 23 October 2019.

Council's Heritage Officer, Shona Lindsay, completed a referral response for DA 2019/252/1 on 30 October 2019. This referral response concluded:

It is concluded that 30 Wyuna Road, Point Piper meets the threshold of local significance and it is recommended that a detailed heritage assessment be prepared and submitted to Council to recommend listing of 30 Wyuna Road, Point Piper as a heritage item of local significance on Schedule 5 of Woollahra LEP 2014.

The application is generally unacceptable as it does not comply with the relevant statutory and policy documents and would have an unsatisfactory impact on the heritage significance of the property.

Refusal, for the following reasons:

- The current proposal seeks to remove original significant fabric and alter the original layout
  of the Inter-War Mediterranean dwelling at 30 Wyuna Road, Point Piper. This will have an
  adverse impact on the building which is deemed to reach the threshold for local significance.
  Therefore the proposal does not comply with:
  - a. Woollahra LEP 2014 Part 5.10 Clauses 1(a).
  - b. Woollahra DCP 2015, Chapter B1, Clause B1.6.1 and B1.6.2.

A Meeting without Prejudice was held on 1 November 2019 with the applicant and Shona Lindsay (Heritage Officer), Dimitri Lukas (Senior Assessment Officer), Nick Economou (Manager, Development Control) and Allan Coker (Director, Planning and Development).

Following the meeting, amended plans were submitted by the applicant on 22 November 2019. This referral response assesses the amended plans.

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#### Strategic Planning background

On 26 August 2019 Council considered a Notice of Motion on the Heritage Protection of Two F. Glynn Gilling Properties and resolved:

- A. THAT Council write to the Minister, the Hon. (Don) Donald Harwin, MLC, Special Minister of State, Minister for Public Services and Employee Relations, Aboriginal Affairs and Arts, to ask him to make an Interim Heritage Order (IHO) under section 24(1) of the Heritage Act 1977 in respect of the properties at 30 Wyuna Road, Point Piper and 46 Vaucluse Road, Vaucluse.
- B. THAT Council request the Director Planning & Development to prepare an urgent report to the Environmental Planning Committee which assesses the heritage significance of the property at 30 Wyuna Road, Point Piper.
- C. THAT part A and part B of this resolution remain confidential along with the legal advice tabled via the late correspondence from the Director Planning & Development

On 4 November 2019, a report responding to Part B of this resolution regarding the heritage listing of the Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper was presented to the Environmental Planning Committee and on 11 November 2019, Council resolved the following:

- A. THAT a planning proposal be prepared to list the property at 30 Wyuna Road, Point Piper as a heritage item in 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.

A Planning Proposal to list the property has been prepared and will be presented to WLPP on 5 December 2019.

#### HISTORY OF SUBJECT PROPERTY

The existing building was constructed in 1941 under BA 9/41 by architect F. Glynn Gilling for Miss Jean McRae.

The report by Urbis prepared as part of the DA provides the following description of the building:

The building features rock façed sandstone foundations with brick walls finished with a smooth render. The building features a gable roof split into three distinct bays and a single storey addition off the southern portion of the building with hipped roof. The roofs are clad with green Spanish style roof tiles. The primary eastern facade features a central entrance, defined by an arched opening with wrought iron gates, timber double hung multi-pane windows, rendered string courses and cornice. Dormer windows are featured on the eastern elevation on the outside bays. The western elevation of the dwelling is irregular and mostly hidden due to being located in close proximity to the excavated natural rock face. The gable ends of the north and south two storey bays also features timber double hung multi-pane windows. This elevation too features timber double hung multi-pane windows and some leadlight glazed windows.

The interior of the dwelling features four bedrooms, three bathrooms/powder rooms, loungeroom, dining room, kitchen, foyer, pantry kitchen and laundry. The interior of the dwelling features many original elements which are modest in their style. The majority of rooms feature simple timber doors, skirting and architraves and decorative patterned plaster cornices. The most distinctive internal elements include the curved wrought iron staircase and brick fireplace with timber surrounds.

The bathrooms have had minor modifications, including new fixtures and fittings. The kitchen and pantry kitchen appear to have been replaced sometime during the late twentieth century, based on the style of the existing kitchen. The maids' quarters were once located within the southern single storey portion of the dwelling. This room has been minorly reconfigured to accommodate a new bedroom and laundry. Carpet is present throughout the dwellings, excluding bathrooms and kitchens which feature tiles and vinyl flooring.

The following description of the building has been adapted from the draft Assessment of Heritage

Referral Response - Heritage

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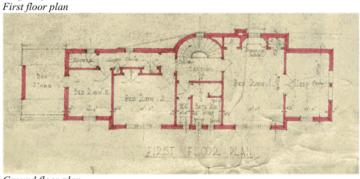
Significance for 30 Wyuna Road, Point Piper dated 29 October 2019 prepared by Kristy Wellfare, Strategic Heritage Officer, Woollahra Council

The building is a two-storey Inter-war Mediterranean style dwelling house with basement level store room constructed of light rendered brickwork on a rock faced sandstone base. The site features a single garage excavated into the site at street level, which is also made of rock-faced sandstone with an arched entry. The dwelling house is set on a small, irregular-shaped site, elevated approximately 10m above street level and includes sandstone stairs and pathways and established landscaping.

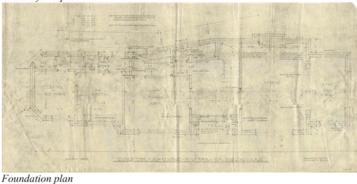
The ground floor consists of an entry hall, cloak room with w.c. located beneath the main curved stair with wrought iron balustrade, living room with attached sitting room (accommodated in the northern bay), dining room, kitchen, and former maid's quarters. The first floor consists of three bedrooms, main bathroom and separate w.c., and shower room to the southern end. The main bedroom located at the northern end of the first floor features doors leading out to a sunroom created from the enclosure of the original sleepout, a relatively common feature of dwellings of that era and of those dwellings designed by Gilling.

The lower ground floor consists of a small room that, based on the information available, appears to be used for laundry/storage.



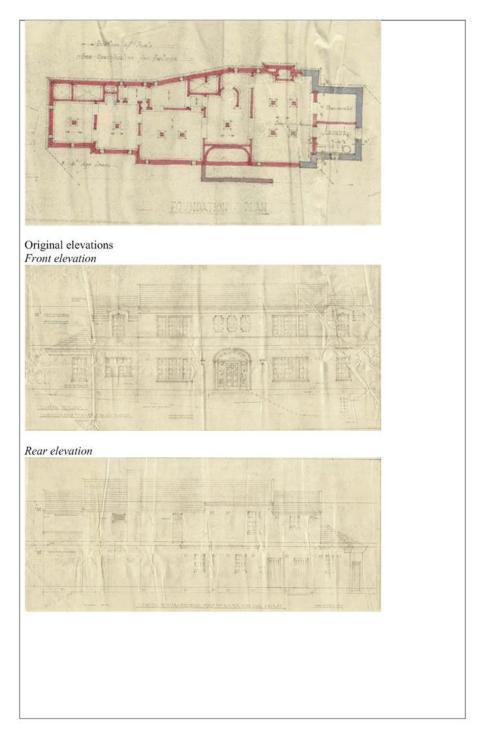


Ground floor plan



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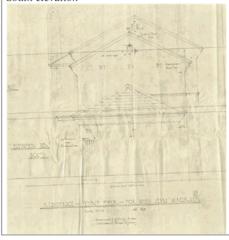
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South elevation



# SIGNIFICANCE OF SUBJECT PROPERTY

The following has been adapted from the draft Assessment of Heritage Significance for 30 Wyuna Road, Point Piper dated 29 October 2019 prepared by Kristy Wellfare, Strategic Heritage Officer, Woollahra Council. This draft report has been supported by EPC and Council.

#### Assessment of Significance

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 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.

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#### Criteria A - Historical significance

30 Wyuna Road Point Piper is a significant building as part of the body of residential work in the Inter-War Mediterranean style carried out by F. Glynn Gilling of Joseland & Gilling for Mrs D Macrae. F. Glynn Gilling was one of the most influential architects of Sydney's Eastern Suburbs, having been active from the 1910s to the 1950s and having designed many grand houses for clients in different styles. 30 Wyuna Road forms part of a suite of work of this prominent architect, showing the evolution of his style and his response to the Inter-war Mediterranean fashion of the time on a modest and largely inaccessible block.

The property is evidence of Point Piper's Inter-War residential development by prominent architects. It is located on part of Lots 8 and 9 of the 1899 subdivision of the Point Piper Estate. In 1941, the lot of the subject property was re-subdivided from the adjacent lot at 91 Wolseley Road. Overall the house shows evidence of the slow subdivision that occurred in the Point Piper Estate from a single property granted to John Piper and later owned by Daniel Cooper and William Cooper to many residential lots.

The dwelling house at 30 Wyuna Road Point Piper was constructed c. 1942 as a modestly proportioned Interwar Mediterranean style dwelling house on a small, irregular shaped elevated site. 30 Wyuna Road, Point Piper is representative of the Inter-war Mediterranean style and has particular significance due to its intactness, which demonstrates the hierarchy of internal arrangements for modest-sized dwelling houses in this period and relates to the NSW historical theme of domestic life.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is of local significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

#### Guidelines for inclusion

#### shows evidence of a significant human activity

- is associated with a significant activity or historical phase
- maintains or shows the continuity of a historical process or activity

#### **Guidelines for exclusion**

- has incidental or unsubstantiated connections with historically important activities or processes
- provides evidence of activities or processes that are of dubious historical importance
- has been so altered that it can no longer provide evidence of a particular association

## Criteria B - Associative significance

The Inter-War Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is significant as an intact example of the Inter-war Mediterranean style dwelling houses designed by F. (Frederick) Glynn Gilling, an English born and trained architect who is recognised as a key practitioner of this style of architecture. F. Glynn Gilling was a prominent architect, active in both the architectural community and wider community, who was one of a group of architects employing the Inter-war Mediterranean style for dwelling house design in the Woollahra Municipality in the interwar period that included Professor Leslie Wilkinson.

30 Wyuna Road, Point Piper is a key example of his work, as evidenced by its inclusion in the publication "Domestic architecture in New South Wales, Australia: illustrating the work of F. Glynn Gilling" by E. Lindsay Thompson. This publication includes works that are described as "the cream of F. Glynn Gilling's domestic work which, incidentally, comprises some of the finest houses in New South Wales".

The main body of the dwelling house appears not to have been significantly altered over time so that the original external form of the building, its informal massing and smooth rendered walls, layout and

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interiors, and the manner of detailing provides a high level of comparative value in evaluating the work of this designer.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is of local heritage significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

Guidelines for inclusion	Guidelines for exclusion		
<ul> <li>shows evidence of a significant human occupation</li> <li>is associated with a significant event, person, or group of persons</li> </ul>	has incidental or unsubstantiated connections with historically important activities or processes     provides evidence of activities or processes that are of dubious historical importance     has been so altered that it can no longer provide evidence of a particular association		

#### Criteria C - Aesthetic/technical significance

The Inter-War Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is a fine, mostly intact example of an Inter-war Mediterranean style dwelling house by F. Glynn Gilling who is identified as a key practitioner of this style. The dwelling displays architectural characteristics associated with the Inter-war Mediterranean style, including the use of smooth rendered brickwork, rounded arches, generously proportioned windows divided into small panes by slender glazing bars, Roman tiles, formal entrance treatment, classical motifs, window shutters, materials and textures to achieve the 'relaxed, cheerful character' of this style.65 The building is of aesthetic significance as an intact example of the Inter-War Mediterranean style of architecture practised by Joseland and Gilling.

The Inter-War Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is mostly intact, with the external arrangement of the building being as per the original design and the majority of the internal spaces extant. Many of the building's internal fittings, fixtures, joinery and finishes are as per the original specifications, and, with the exception of the enclosed sleep-out, the original window arrangements and treatments appear to remain. These intact elements demonstrate the taste and style of its time and are aesthetically distinctive. The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is aesthetically significant, with its original design of the building, including internal arrangements, mostly intact.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is of local heritage significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

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

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#### Criteria D - Social significance

Given its aesthetic contribution to the local area and the submissions received by Council in response to this DA lodged for the site, the Inter-War Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is likely to be held in some regard by the surrounding community, however no community survey has been undertaken at this time. Although the site may prove upon further investigation to have social significance, based on the information available at this time the Inter-War Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is not deemed to have social significance.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not reach the threshold for local significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

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

#### Criteria E - Research potential

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper has moderate technical significance as an example of Inter-war architecture and detailing which may yield further understanding of this dwelling type. The site also has research value in demonstrating the works of the architect F. Glynn Gilling. The dwelling has the potential to reveal information about Gilling's design approach in general and his response to a constrained site such as this. The site may also have research potential as an early example of subdivision relying on the establishment of a stratum to accommodate the encroachment of below ground structures on neighbouring properties, which in this instance involved the garages associated with the neighbouring residential flat building "Witherington" at 91 Wolseley Road, Point Piper. Further research is required to investigate this aspect of the site's significance.

The building was the first structure on the site and its construction involved substantial excavation and site levelling. The archaeological potential of the site is therefore low.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper may be of local heritage significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

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

#### Criteria F - Rarity

The dwelling at 30 Wyuna Road, Point Piper is a rare example of an Inter-War Mediterranean style dwelling house designed by F. Glynn Gilling in the Woollahra Municipality that is of modest

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proportions that are a direct and innovative response to the constrained and unusual nature of the site. Gilling designed many houses for wealthy clients in the eastern suburbs, often of a grand scale. Furthermore, 30 Wyuna Road is a rare example of an intact design by F. Glynn Gilling that retains much of its original layout, finishes and detailing that are consistent with the Inter-War Mediterranean style of which Gilling is acknowledged as a key practitioner.

The location on the site of Inter-War era garages associated with the neighbouring residential flat building "Witherington" below ground level may be rare in the Woollahra LGA as a precursor to stratum subdivision, and further research is recommended to investigate this aspect of the site's significance.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is of local heritage significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

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

#### Criteria G - Representative

30 Wyuna Road, Point Piper is a fine example of the Inter-War Mediterranean style dwelling houses designed by F. Glynn Gilling, who is recognised as a key practitioner of this style. The dwelling shares a design language consistent with other larger and grander examples of Gilling's work, and responds to the constraints of the small site while demonstrating the key design characteristics of the Inter-War Mediterranean style dwelling houses. The dwelling house features informal massing and smooth rendered walls, and includes typical elements such as: the coloured tile roof, formal entrance treatment including leadlight fan light and side lights, vertically-proportioned double-hung windows with sashes dived into small panes by slender wooden glazing bars, use of louvered shutters, sweeping main stair with wrought-iron detailing, use of decorative columns and inclusion of classical motifs. The house is set in a landscape setting.

30 Wyuna Road, Point Piper is a fine example of F. Glynn Gilling's architecture and demonstrates the principal characteristics of the Inter-War Mediterranean style executed within the confines of the site.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper is of local heritage significance under this criterion.

The Inter-war Mediterranean style dwelling house at 30 Wyuna Road, Point Piper would not meet the threshold for State significance under this criterion.

Guidelines for inclusion	Guidelines for exclusion
Guidennes for inclusion	Guidennes for exclusion

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- ✓ is a fine example of its type
- has the principal characteristics of an important class or group of items
- has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity
- is a significant variation to a class of items
- is part of a group which collectively illustrates are presentative type
- is outstanding because of its setting, condition or size
- is outstanding because of its integrity or the esteem in which it is held

- is a poor example of its type
- does not include or has lost the range of characteristics of a type
- does not represent well the characteristics that make up a significant variation of a type

#### Intactness/Integrity

The building in a very intact example of this style of building. The house retains the original bathrooms, door handles, detailing, windows, joinery, decorative light fittings, decorative plaster cornices, internal layout, and fireplaces. Only minor alterations have occurred to the building including minor reconfiguration of the maid's room, new kitchen joinery, and alterations to the windows of the sleep out on the first floor, both of which are minor works and the sleep out could be reinstated to original condition.

#### Statement of Significance

30 Wyuna Road is a rare, intact example of an Inter-war Mediterranean style dwelling house innovatively designed by prominent architect F. Glynn Gilling of Joseland & Gilling for a constrained suburban site within the former Point Piper Estate.

The dwelling house is a fine example of its type and includes original interior and exterior design detailing that is representative of the key elements of the Inter-war Mediterranean style. The informal massing of smooth rendered walls beneath a hipped tiled roof, formal entrance treatment, classical motifs and columns, sweeping main stair with wrought iron balustrades and window detailing are skilfully combined to create a light and restrained residence that is carefully situated within its landscape setting.

Demonstrative of its importance, 30 Wyuna Road is featured in the publication "Domestic architecture in New South Wales, Australia: illustrating the work of F. Glynn Gilling" by E. Lindsay Thompson. This book includes works by F. Glynn Gilling that are described as "the cream of F. Glynn Gilling's domestic work which, incidentally, comprises some of the finest houses in New South Wales". The property has a moderate degree of technical significance through the opportunity to research methods of Inter War detailing first hand. 30 Wyuna Road, Point Piper is of local heritage significance for historical, aesthetic, associative, rarity, and representative significance, and has research significance potential.

#### SIGNIFICANCE OF ITEMS IN THE VICINITY

The subject property is in the vicinity of the following locally significant listed heritage items:

- 'Ravello house and interiors', 26 Wyuna Road, Point Piper, LEP Item No. 301
- 'House and interiors', 136 Wolseley Road, Point Piper, LEP Item No. 295
- 'House and interiors', 138 Wolseley Road, Point Piper, LEP Item No. 296
- · 'House and interiors', 142 Wolseley Road, Point Piper, LEP Item No. 297

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#### DESCRIPTION OF PROPOSAL

The following works are proposed:

Alterations and additions including new lift, double garage, and rumpus room

#### ASSESSMENT OF HERITAGE IMPACT

#### Compliance with the relevant planning controls

The assessment is made using the following statutory and policy heritage conservation provisions:

#### 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.

#### Consideration

#### 30 Wyuna Road, Point Piper

Direct impacts

#### Roof

The proposal has been amended to retain the original dormers on the east elevation, which is original significant fabric, and is supported.

The proposed skylights would not be visible from the public domain and would have a minor impact on the significance of the building and are supported.

The proposed removal of a section of the roof for the new lift will alter the roof form in this section, which would have an adverse impact on the significance of the building. As this is the most suitable location on the site for a lift due to the sewer on the basement level, does not impact on the significant stairs and glass windows, and due to the confines of the site, the lift is supported as it allows accessible access to the site. Archival recording will mitigate the proposed changes.

## First floor

Original main bathroom

The plans have been amended to retain the original main bathroom. This is in relatively original condition and is a significant element of the property, as with the heritage listed Gilling building at 19 Gilliver Avenue, Vaucluse, 'Vue De Cote', the original bathroom contributes to the overall aesthetic significance of the property. The proposed amendments to retain the original main bathroom are supported.

#### wc

The proposed refitting of the existing WC on the first floor is supported as these fittings have been altered and any changes will be mitigated through archival recording.

#### Internal layout

The plans have been amended to retain the existing void over the stairs which is supported.

The plans have been amended to retain the original main bathroom room layout, which is supported.

The proposed removal of walls to the Bedroom 2 on the first floor will remove the arch in the hallway, remove original decorative plaster cornices, and alter the original layout, which would have a minor to moderate impact. As this is due to the construction of the lift in this location, which is deemed the most appropriate place, this is supported subject to archival recording and retaining an interpretation of the layout through the use of portal frames, bulkheads or wall nibs.

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#### Original joinery

The plans have been amended to retain the nook of the custom made dresser, which is supported. The original dresser is to be salvaged and retained on site. The original light fitting above the dresser is to be retained.

#### Sleep out

The proposal has been amended to retain the original sleep out on first floor, which is supported. The removal of the wall between Bed 1 and the sleep out is supported subject to archival recording and retaining an interpretation of the layout through the use of portal frames, bulkheads or wall nibs. The proposal has been amended to retain the significant eastern elevation in this section, which is supported.

The proposed new doors and Juliette balcony to the sleep out are supportive as this replaces the proposed contemporary addition with balcony and is a sympathetic approach. This part of the building has been altered since the original design, therefore the proposed changes will not adversely impact the building. The proposed new doors have been designed to retain take cues from the existing windows of the subject property, which is supported.

#### Lift

The proposed new lift will remove a section of the original rear wall of the building, but avoids the significant stairs and glass window in the stairwell. It will remove the arch in the hallway. As this is the most suitable location on the site for a lift due to the sewer on the basement level, does not impact on the significant stairs and glass windows, and due to the confines of the site, the lift is supported as it allows accessible access to the site. Archival recording will mitigate the proposed changes.

#### Windows

The new window on the west elevation (W4.2) is in keeping with the building and will enable light into this part of the building and will not impact the significant east elevation. This would have a minor impact to the building and is supported.

#### Ground floor

Sun room

The proposal has been amended to retain the original sun room on ground floor, including the original decorative columns and plaster cornices, which is supported. The proposal has been amended to retain the significant eastern elevation in this section, which is supported.

The proposed new doors and balcony to the sun room are supportive as this replaces the proposed contemporary addition with balcony and is a sympathetic approach. The proposed new doors have been designed to retain take cues from the existing windows of the subject property, which is supported.

#### Lift

The proposed new lift will remove a section of the original rear wall of the building, but avoids the significant stairs and glass window in the stairwell. It will remove the toilet under the stairs and the wall in the hallway. It will remove the arch in the hallway. As this is the most suitable location on the site for a lift due to the sewer on the basement level, does not impact on the significant stairs and glass windows, and due to the confines of the site, the lift is supported as it allows accessible access to the site. Archival recording will mitigate the proposed changes.

#### Windows

The proposed new windows (W3.5 and W3.6) on the south elevation of the ground floor are in keeping with the building and will enable light into this part of the building. This would have a minor impact to the building and is supported.

The new windows on the west elevation (W3.1, W3.7 and W3.8) are in keeping with the building and will enable light into this part of the building and will not impact the significant east elevation. This

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would have a minor impact to the building and is supported.

The proposal includes removal and replacement of the windows on the ground floor of the east elevation (new windows numbered W3.3 and W3.4). W3.3 will be lowered to match the other sill levels on this elevation and the new windows will be designed like for like to the other windows on this level, which is supported as the sill level does not relate to the current internal levels of the building, and this will not adversely impact the significance of the building. W3.4 will relocate the window slightly to the north and will be deigned to match existing. This is supported as this is not part of the principal building and will not adversely impact the subject property.

#### Internal layout

The proposed removal of walls to the new dining room and kitchen on the ground floor will remove original decorative plaster cornices and alter the original layout, which would have a minor to moderate impact. As this is due to the construction of the lift in this location, which is deemed the most appropriate place, this is supported subject to archival recording and retaining an interpretation of the layout through the use of portal frames, bulkheads or wall nibs.

#### Terrace

The proposed terrace will not impact significant fabric, is in keeping with the character of the building, and is supported.

#### Lower Ground Floor

The proposal will remove some sub floor walls for the new rumps and lift. This is supported pending potential engineering requirements as discussed under potential indirect impacts below.

The proposed new door (W2.1) on the northern elevation and eastern elevation (W2.2) are supported as this is in keeping with the character of the building and the design takes cues from the existing windows, which is supported.

## Basement and garage

The proposed new garage will be in keeping with the existing garage by using sandstone and will alter fabric of moderate significance. It will be slightly higher than the current sandstone garage wall. Existing vegetation minimises the impact of the current garage which is on Council land, and no proposed works are to remove this vegetation. The proposed new garage is supported.

#### Potential indirect impacts

Vibrations and impacts from extensive excavation

The proposed excavation for the basement level and garage has the potential to cause vibrational impacts to the retained building. This is only supported if no impacts to the retained building are caused by the proposed works. The Council's Engineer is supportive of the proposed excavation. Therefore, appropriate conditions of consent are recommended to mitigate potential indirect impacts to the subject property.

#### Views

Significant views of the building are from the corner of Wyuna Road and Wolseley Road looking south-east.

The proposal has been amended to retain the original sun room on the ground floor and the sleep out on the first floor, which is supported. The proposed contemporary addition has been deleted from the plans and the proposal is now sympathetic to the character of the building. Therefore views of the significant eastern elevation from the south-east are retained, and the proposed works to the northern elevation are sympathetic. Therefore, the proposal will not adversely impact views from the south-

There is public access to the rear of the property from a Council access road, although it is noted this road could be perceived as private therefore limiting access to views of the property from this section of the public domain.

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Significant views from the subject property are from the former sleep out on the first floor level. The views are towards the harbour to the north. The proposal will retain this view.





View of property from corner of Wyuna Road and Wolseley Road looking south-east

View of property from corner of Wyuna Road and Wolseley Road looking south-east







Views from former sleepout towards harbour to north

#### Setting

The building is set within a landscaped area, with most of the landscape setting being from the adjoining Council reserve between the property and Wyuna Street. The proposal will retain the landscaped area of the property and includes a garden, new landscaping works, and terrace, which will maintain the setting of 30 Wyuna Road, Point Piper, and is supported.

## Heritage Items in the Vicinity

- 'Ravello house and interiors', 26 Wyuna Road, Point Piper, LEP Item No. 301
- 'House and interiors', 136 Wolseley Road, Point Piper, LEP Item No. 295
- 'House and interiors', 138 Wolseley Road, Point Piper, LEP Item No. 296
- 'House and interiors', 142 Wolseley Road, Point Piper, LEP Item No. 297

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The proposal will not impact on significant views to and from 'Ravello – house and interiors'. The new lift will not adversely impact views from the heritage item looking north as it will be within the building envelope when viewed from this position. The new additions to the northern section of 30 Wyuna Road will not be perceived from 'Ravello – house and interiors'. Therefore, the proposal will not affect any significant views to or from the heritage item and will not have an adverse impact on the heritage significance of the heritage item or its setting.

The three listed 'House and interiors' are situated to the north at a distance that the proposal will not affect any significant views to or from the heritage items and will not have an adverse impact on the heritage significance of the heritage items or their setting.

## Woollahra DCP 2015

#### Consideration

Chapter B1 Residential Precincts Part B General residential B1.6 Point Piper Precinct

#### Clause B1.6.1 Precinct character statement

The Point Piper precinct is a prominent peninsula on Sydney Harbour between Double Bay and Rose Bay. The location provides extensive views across the harbour and surrounding harbourside suburbs. The precinct contains a range of housing types and styles including an excellent group of Inter-War flat buildings at Longworth Avenue (substantially retained in their garden settings), large post World War II apartment buildings at Wolseley Road, and more recent substantial harbourside houses on large lots (including battle-axe lots). However, the streetscapes within the precinct vary in quality, and often front fences, walls and garages fronting the street block harbour views from the footpath.

The proposal maintains views from the property towards the harbour. The proposal has been amended to retain original significant fabric of the Inter-War Mediterranean dwelling, which is supported. The proposal has been amended to delete the proposed contemporary addition, and the proposal is now sympathetic to the character of the building. Therefore, the proposed is supported under this clause.

#### Clause B1.6.2 Desired future character

The proposal has been amended to retain original significant fabric of the Inter-War Mediterranean dwelling, which is supported. The proposal has been amended to delete the proposed contemporary addition, and the proposal is now sympathetic to the character of the building. Therefore, the proposed is supported under this clause.

#### RECOMMENDATION

The application is generally acceptable as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions:

Original internal walls on the ground floor of the dining room and kitchen, and on the first
floor between Bed 1 and the sleepout, and the internal wall between Bed 2 and the hall,
including the arch, are to be interpreted via the use of portal frames, bulkheads or wall nibs
to provide evidence of the original internal wall layout.

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2. The original dresser in Bed 1 on the first floor is to be salvaged and retained on site. The original light fitting above the dresser is to be retained.

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

A full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic	Woollahra Council
	report including images	Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- a) Coloured photographs of:
  - each elevation,
  - each structure and landscape feature,
  - internal images of each room and significant architectural detailing, and
  - views to the subject property from each street and laneway or public space.

Note: Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <a href="https://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf">www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf</a>

## 4. Heritage training of foremen, tradesmen/work related staff

All persons responsible for the management, maintenance and construction works to the site shall be advised of/made familiar with the heritage significance of the subject property.

5. Structural Adequacy of Existing Supporting Structures

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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)

#### 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

Shona Lindsay - Heritage Officer

Referral Response - Heritage

19 December 2019

Completion Date: 23 July 2019

#### REFERRAL RESPONSE - DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 252/2019/1
ADDRESS: Development Applications/ 252/2019/1
30 Wyuna Road POINT PIPER 2027

**PROPOSAL:** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

FROM: Mr R Lam
TO: Mr D Lukas

#### 1. ISSUES

None

#### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 19090, prepared by GSA Planning, dated July 2019.
- Architectural Plans, referenced J306-Rev A, prepared by Lawton Hurley, dated July 2019.
- Survey, referenced 4294DT-Rev F, prepared by Strata Surv, dated 24/05/2019.
- Stormwater Management Plan, referenced 690-18-Rev A, prepared by PC Consulting Engineers P/L, dated 5/7/2019.
- Geotechnical Report, referenced 2019-069, prepared by Crozier Geotechnical Consultants, dated July 2019.
- Construction Methodology Report, referenced S7649, prepared by D'Ambrosio Consulting P/L, dated 5 July 2019.

## 3. ASSESSMENT

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

#### a. Site Drainage comments

The subject site is situated on the high side of the street where gravity drainage from the site to the Council's drainage system is feasible. The site has a total area of less than 500m<sup>2</sup>, in which case the installation of on-site detention (OSD) system is not required.

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Council's Technical Services Division is satisfied that adequate provision could be made for the disposal of storm water from the land it is proposed to develop and complies with Chapter E2 "Storm water and Flood Risk Management" DCP.

#### b. Flooding & Overland Flow comments

Not relevant

#### c. Impacts on Council Infrastructure comments

It is noted that the applicant proposes to widen the existing garage and the vehicular crossing. It is advised that the layout of the proposed crossing does not comply with Council's DCP and Crossing Specifications where crossing shall be constructed at right angle to the street kerb. Given the curved alignment of the existing road, the existing topography and the potential impacts to the existing street tree, Council's Engineers will accept a curved crossing. Details of such crossing shall be submitted to Council for consideration under S138 of the Roads Act approval. It is further advised that on-street parking will not be adversely affected by the proposal. This requirement which will be conditioned accordingly.

#### d. Traffic comments

Not relevant

#### e. Vehicle Access & Accommodation comments

Vehicular access and car parking layout shall comply with AS2890.1.

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

A Geotechnical Report prepared by Morrow, referenced No: P1623\_01, dated 12/02/2019, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 9.1 metres below the existing ground levels for the proposed basement and corridor to lift.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand up to a depth of 1m
- b) Sandstone bedrock was encountered beneath fill comprising silty sand.
- c) Groundwater was not encountered during field investigation.

The report made comments and recommendations on the following:

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

In addition, the applicant has submitted construction methodology report providing temporary shoring system to safeguard neighbouring structures from damages as a result of proposed excavation.

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It is further noted from the geotechnical report that the geotechnical engineer has provided the following conclusion: "The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented. As such the site is considered suitable for the proposed construction works provided that the recommendations outlined in this report are followed."

In light of the above, Council's Technical Services has no objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.

#### 4. RECOMMENDATION

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

#### A. General Conditions

### A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
2019-069	Geotechnical Report	Crozier Geotechnical Consultants	July 2019
S7649	Construction Methodology Report	Partridge	5 July 2019

- A8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)
- Conditions which must be satisfied prior to the demolition of any building or construction
- B.7 Public Road Assets prior to any work/demolition
- Conditions which must be satisfied prior to the issue of any construction certificate

## C.5 Security Deposits

Property Damage Security Deposit (S138)	\$26,447	No	T115
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$471	No	T45

Referral Response - Technical Services

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

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing in accordance with Council's standard drawing RF2\_D. The new vehicular crossing shall be constructed in plain concrete to comply with Council's DCP and Crossing Specification. The centreline of the new crossing shall be aligned with the centreline of the proposed garage. Design longitudinal surface profiles for the proposed driveway must be submitted for assessment.
- b) Reinstatement of footpath, kerb and gutter to match existing.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

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

- C.25 Soil and Water Management Plan Submissions & Approval
- C.35 Structural Adequacy of Existing Supporting Structures
- C.36 Professional Engineering Details
- C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring
- C.49 Stormwater Discharge to Existing Stormwater Drainage System

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

## D.4 Dilapidation Reports for existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 91 Wolseley Road No. 3 Wentworth Place

Referral Response - Technical Services

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Annexure 3 Referral Response - Technical Services

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The dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A (2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- . To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
   Also refer to the Dilapidation Report Advising for more information regarding this condition Standard Condition: D4 (Autotext DD4)
- D.6 Adjoining buildings founded on loose foundation materials
- D.10 Work (Construction) Zone Approval & Implementation
- D.14 Erosion and Sediment Controls Installation
- E. Conditions which must be satisfied during any development work
- E.7 Maintenance of Vehicular and Pedestrian Safety and Access
- E.11 Maintenance of Environmental Controls
- E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program
- E.13 Support of Adjoining Land Owners
- E.14 Vibration Monitoring
- E.15 Erosion and Sediment Controls Maintenance
- E.17 Disposal of Site Water during Construction
- E.19 Site Cranes
- E.20 Check Surveys Boundary location, building location, building height and storm water drainage system
- F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)
- F.7 Commissioning and Certification of Systems and Works
- G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

Referral Response - Technical Services

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Annexure 3 Referral Response - Technical Services

Woollahra	Municipal Council
Woollahra	Local Planning Panel Agenda

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

H.13 Road Works (including footpaths)

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report K.24 Roads Act Application

Referral Response - Technical Services

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19 December 2019

10/12/2019

## REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** DA 252/2019/1

ADDRESS: 30 Wyuna Road POINT PIPER 2027

**PROPOSAL:** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

FROM: Gorka Ojeda - Tree and Landscape Officer

TO: Mr D Lukas

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

- Statement of Environmental Effects, prepared by GSA Planning, Job No 19090, dated July 2019
- Survey Plan No. 4294DT, Rev F1, drafted by Strata Surv, dated 24/08/19
- Architectural Drawing No.s DA00-06, EX01, AR 01-02, prepared by Lawton Hurley, dated July 2019
- Stormwater Drainage Plan No.s 680-18 STW1-6, Rev A, drawn by PC Consulting engineers, dated 05/07/19
- Arboricultural Impact Assessment Report, prepared by William Home (Dr Treegood), dated July 2019
- Landscape Plan No. s DA-01, designed by Wyer & Co, dated 05/07/19
- Demolition Plan No EX02, prepared by Lawton Hurley, dated August 2019

A site inspection was carried out on 17th October 2019.

## Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks

19 December 2019

 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

- The proposal requires the removal of one mature Cheese Tree (Tree 20) which is not supported as the tree is of landscape significance and provides amenity in the form of screening to No. 91 Wolseley Rd, biodiversity and habitat.
   Design modifications are required in collaboration between the project arborist and other consultants to minimise soil excavation to retain this tree.
- The location of Tree 20 in the survey and plans is not accurate. Revised survey and plans should include the accurate position of this tree.
- One prescribed tree is not shown in the survey and plans (1 x Ulmus parvifolia Chinese Elm located at the western top garden). This tree should be retained. Revised
  survey and plans should include this tree.

#### COMMENTS

The proposed works will result in the removal of Tree 20 - *Glochidion ferdinandii* (Cheese tree). This tree is located adjacent to the property boundary in the northern corner of the site. Tree 20 is a mature, indigenous species of landscape significance that provides amenity in the form of privacy screening to No. 91 Wolseley Rd. There are several cavities within larger branches which may be of biodiversity value and providing wildlife habitat. Based on this, the removal of this tree is not supported.

The proposed works directly impacting this tree include the excavation for the enlarged underground garage and stormwater pipes. This tree could be retained with modification of the stormwater layout and minor changes to the design in the form of reduced excavation within the Tree Protection Zone. A project arborist should be engaged to guide the design adjacent to the tree to facilitate its viable retention.

It appears that the location of Tree 20 as indicated on the supplied survey and architectural drawings is not accurate. This should be investigated and the plans amended as necessary in order to accurately determine the impacts from the proposal.

One tree prescribed under WDCP is not included in the survey, landscape plan and arborist report. The tree is an *Ulmus parvifolia* -Chinese Elm located at the western top garden. The tree is a mature specimen of medium significance that provides privacy screening to southern units at No. 91 Wolseley Rd.

This tree should be included in the plans and shown as to be retained.

## RECOMMENDATIONS

- Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form.
- Revised plans should be prepared in consultation with the project arborist to retain Tree No. 20.

Referral Response - Trees Page 2

Annexure 4 Referral Response - Trees & Landscaping

19 December 2019

- An amended AIA and Tree Protection Plan during construction (as per DA guide Attachment 4 Tree Reports) should be prepared to measure and minimise the impacts on tree No. 20.
- All plans should include the accurate location of Tree No. 20 and include the *Ulmus parvifolia* (Chinese Elm) located at the western top garden.

Regards

GorkaOjeda Tree & Landscape Officer

Referral Response - Trees Page 3

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## REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 252/2019/1

ADDRESS: 30 Wyuna Road POINT PIPER 2027

**PROPOSAL:** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

FROM: Gorka Ojeda - Tree and Landscape Officer

TO: Mr D Lukas

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

- Statement of Environmental Effects, prepared by GSA Planning, Job No 19090, dated July 2019
- Survey Plan No. 4294DT, Rev G1, drafted by Strata Surv, dated 15/11/19
- Architectural Drawing No.s DA01-05 Issue B & DA06 Issue C, prepared by Lawton Hurley, dated November 2019
- Stormwater Drainage Plan No.s 680-18 STW1-6, Rev A, drawn by PC Consulting engineers, dated 05/07/19
- Arboricultural Impact Assessment Report, prepared by William Home (Dr Treegood), dated July 2019
- Landscape Plan No. s DA-01, designed by Wyer & Co, dated 05/07/19
- Demolition Plan No EX02, prepared by Lawton Hurley, dated August 2019

A site inspection was carried out on 17th October 2019.

## Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks

Annexure 4 Referral Response - Trees & Landscaping

19 December 2019

 The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

#### COMMENTS

Following previous landscaping referral response please find below Conditions Without Prejudice for this application.

Tree and landscape conditions have been prepared in conjunction with AS, TW and DL for inclusion in the IPP report. Those conditions are based on the conditions drafted below.

Referral Response - Trees & Landscaping

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Annexure 4 Referral Response - Trees & Landscaping

19 December 2019

#### 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 and tree management plan as applicable.

- a) The following trees shall be retained
  - · Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	10 x 7
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	7 x 10

#### · Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)
1	Cinnamomum camphora (Camphor laurel)	Council verge east of property	12 x 12
2	Olea europea var. africana (African Olive)	Council verge east of property	10 x 4
3	Glochidion ferdinandii (Cheese tree)	Council verge east of property	12 x 5
4	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	8 x 5
6	Camellia sasanqua (Camellia)	Council verge east of property	10 x 6
7	Glochidion ferdinandii (Cheese tree)	Council verge east of property	12 x 4
8	Acmena sp.	Council verge east of property	8 x 1
10	Pittosporum undulatum (Native Daphne)	Council verge east of property	8 x 8
12	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	6 x 3
13	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	8 x 4

Referral Response - Trees & Landscaping

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14	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	8 x 5
15	Grevillea robusta (Silky Oak)	Council verge east of property	14 x6
16	Tristaniopsis laurina (Water gum)	Council verge east of property	8 x 5
17	Melaleuca sp.	Council verge east of property	8 x 5

**Note**: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimension (metres)
19	Cyathea cooperi (Scaly tree fern)	Northern garden	5 x 2

**Note:** The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

#### A.2 Approved Plans and supporting documents

ı	Reference	Description	Author/Drawn	Date(s)
	19/114370	Landscape Plan	Wyer & Co	05/07/19
	19/124367	Arboricultural Impact Assessment Report	Dr Treegood	July 2019

#### 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)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary corner with No 91 Wolseley Rd	1.5

**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.

Referral Response - Trees & Landscaping

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- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- 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 Works exclusion area within Tree Protection Zone (TPZ)

No works to be undertaken within the following areas:

Council Ref No.	Species	TPZ Radius from trunk (metres)	Works exclusion area
20	Glochidion ferdinandii (Cheese tree)	6	Garden bed area defined by: Existing retaining wall 1.2m to the east Existing retaining wall 2.5m to the south 2.5m from the trunk to the west Boundary with No 91 Wolseley Rd to the north.

The project arborist shall provide written certification of compliance with the above condition.

## **B.3** Demolition and Construction Management Plan

The Demolition and Construction Management Plan must be reviewed and certified by the Project Arborist so that appropriate tree protection measures are accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

 Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;

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- The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

#### **B.4** Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of noncompliance; 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 retaining wall east and south of Tree 20	Condition and maintenance of exposed roots
Excavation within the TPZ of trees to be retained	Condition and maintenance of exposed roots
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures and final condition of trees to be retained

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:

Referral Response - Trees & Landscaping

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Annexure 4 Referral Response - Trees & Landscaping

19 December 2019

- 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
- References to applicable tree management plan, arborists report or transplant method statement.

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

#### C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

- The survey and all CC plans must be corrected to accurately plot the position of Tree No 20 and to include Tree No 21.
- Architectural Plans including the Basement Garage Plan to fully represent the works exclusion area around Tree 20 as per Condition B2.
- Landscape Plan must include the retention of Tree No's 20 & 21.
- d) An addendum to the Arboricultural Impact Assessment must include a Tree Management Plan to guide tree protection during construction.
- Stormwater Plan must be amended to locate pipes and pits outside of the Works Exclusion Area for Tree 20 as per condition B2.

**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.

#### 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

 The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.

Referral Response - Trees & Landscaping

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- 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 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	6
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	6

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

#### E.3 Level changes in the vicinity of trees

No level changes shall occur within the specified areas around the trunks of the following trees.

Council Ref No.	Species	Location	Areas
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	Garden bed area defined by:  Existing retaining wall 1.2m to the east Existing retaining wall 2.5m to the south 2.5m from the trunk to the west Boundary with No 91 Wolseley Rd to the

Referral Response - Trees & Landscaping

19 December 2019

			north.
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	2.5m radius from the trunk of the tree

The project arborist shall document compliance with the above condition.

#### E.4 Hand excavation within tree root zones

Demolition of structures and excavation required within the specified radius from the trunks of the following trees must be carried out manually to avoid damage to structural roots.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	6

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.

# 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

Referral Response - Trees & Landscaping

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### 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or you may contact Council on 9391-7000 for further advice.

Tree and landscape Office

Referral Response - Trees & Landscaping

19 December 2019

# gsa planning

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

Proposed alterations and additions to the existing dwelling at

## No. 30 Wyuna Road, Point Piper

Prepared for: Wyuna Developments Pty Ltd c/- Lawton Hurley 33-39 Riley Street Woolloomooloo NSW 2011

Prepared by:

#### **GSA PLANNING**

Urban Design, Environmental & Traffic Planners (A.B.N 18 003 667 963) 95 Paddington Street, Paddington NSW 2021 p: 02 9362 3364

e: info@gsaplanning.com.au

Job No. 19090 July 2019

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19 December 2019

gsa planning

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

APPLICANT'S NAME: Lawton Hurley Pty Ltd

SITE ADDRESS: No. 30 Wyuna Road, Point Piper

PROPOSAL: Proposed alterations and additions to the existing two-storey dwelling

house.

 (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

(iii) The number of the relevant clause therein:

Clause 4.3 - Height of Buildings

## 2. Specify the nature of Development Standard sought to be varied and details of variation:

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning (separately submitted).

The proposal is for alterations and additions to the existing one- and two-storey dwelling house at No. 30 Wyuna Road. The maximum roof height of the highest roof is at RL 42.35 AHD, which complies at the southern end, but exceeds the height standard at the northern end. As the garage is separate to the dwelling it is therefore not included in the height calculation. The proposed reconstructed lower roof will exceed the LEP building height development standard of 9.5m by 890mm (9.36%), however the existing roof already exceeds the current height limit by 613mm. Therefore, the increase is only 277mm (2.9%).

The Woollahra LEP defines 'height' in relation to buildings and states the following, inter alia:

"The vertical distance from the ground level (existing) to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues, and the like."

The existing non-compliance is a result of the site's topography, and the area of non-compliance is located within the existing footprint of the current dwelling. A proposed minor alteration to one of the roofs increases the height slightly at the ridge. However, the non-compliant area will not be readily visible from the public domain, has no amenity impacts on surrounding development, and will not contribute to the bulk and scale of the development (see Figure 1 on the following page).

Clause 4.6 Exceptions to Development Standards – Height of Buildings No. 30 Wyuna Road, Point Piper - Job No. 19090

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Annexure 5 Clause 4.6 Written Submission (GSA Planning)

19 December 2019

## gsa planning

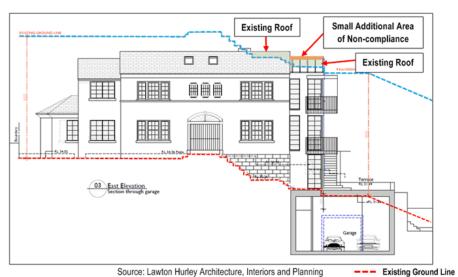


Figure 1: Existing and Proposed Building Height --- LEP Height Limit

#### Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 provide appropriate flexibility to the application of development standards, to achieve better planning outcomes both for the development, and from the development. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118 (*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 considered useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response is 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 height development standard in this particular case. A small area of non-compliance will occur which is a result of the site's steeply sloping topography and the significant fall in land. Flexibility is requested as the minor non-compliance allows a minor increase in the existing roof height to provide a consistent ceiling level throughout the first floor Master Bedroom. Currently the ceiling level is set down, beneath the lower roof section.

The building's appearance will continue to present as a part two and part three storey dwelling when viewed from Wyuna Road. Importantly, the existing building height is otherwise unchanged and is consistent with the Point Piper Precinct's desired future character (see Figure 2 on the following page).

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The Existing Dwelling



The Proposal

Source: Lawton Hurley Architecture, Interiors and Planning

Figure 2: The Dwelling in the Streetscape

Flexibility in this circumstance will allow for a better planning outcome for the development by improving internal amenity without significant alterations to the built form. The proposal will positively contribute to the character of the area by enhancing the existing dwelling and providing high-quality, sympathetic additions.

Although the altered roof exceeds the building height standard, as noted the existing roofs already exceed the height limit. The dwelling retains the existing bulk and scale.

Accordingly, in our opinion, the proposal achieves a better planning outcome both for and from the development.

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#### 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:
  - 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] NSWLEC 827 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. The number of tests to be satisfied 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.

In our opinion the proposal satisfies two 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:

It is noted that under Clause 4.6(4)(a)(ii), 'achieved' has been replaced by the lesser test of 'consistent'. Commissioner Brown has considered the question of consistency in *Abrams v The Council of the City of Sydney* [2017] NSWLEC 1371, and at [26] held:

In considering the question of consistency, I have adopted approach of the former Chief Judge, Justice Pearlman in Schaffer Corporation v Hawkesbury City Council (1992) 77 LGRA 21 where, Her Honour expresses the following opinion [at 27]:

The guiding principle, then, is that a development will be generally consistent with the objectives, if it is not antipathetic to them. It is not necessary to show that the development promotes or is ancillary to those objectives, nor even that it is compatible.

Similar reasoning was provided in *Initial Action*, however this has been challenged, but not overturned, by *AI Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 (*AI Maha*).

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Despite the non-compliance, the proposal is consistent with the desired low-density character of the area. The proposal continues to provide a height, bulk and scale that is generally consistent with that envisaged by Council's controls, and achieves the objectives of the height standard, which will now be discussed.

Clause 4.3 of the LEP states the objective for Height of Buildings are, inter alia:

# (a) To establish building heights that are consistent with the desired future character of the neighbourhood

The subject site is located within the R2 Low Density Residential Zone under the Woollahra LEP 2014 and is surrounded by a mix of developments including detached dwelling houses and residential flat buildings of varying heights. Development in the locality comprises large dwelling houses and residential flat buildings situated on irregularly shaped and steep sloping allotments. Given the steeply sloping topography of the area, it is difficult to determine the height of the surrounding buildings. However, it is likely that some also exceed the height standard.

The neighbouring four-storey residential flat building at No. 91 Wolseley Road is significantly taller than the existing dwelling at the subject site within the same height zone (see Photograph 2). Therefore, the minor amendments to the roof form will continue to be consistent with the desired future character of the neighbourhood.



Photograph 2: Residential flat building adjoining the subject site at No. 91 Wolseley Road

#### b) To establish a transition in scale between zones to protect local amenity

Not applicable, as the site is not near a zone border.

#### c) To minimise the loss of solar access to existing buildings and open space

To assess the impact of the proposed development in terms of overshadowing, a shadow diagram has been prepared for 9:00am for the winter solstice (June 21) and as outlined in the Statement of Environmental Effects (SEE) separately submitted.

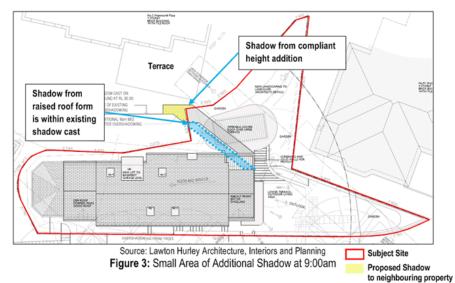
The diagram demonstrates no increase in shadow cast on the garden area of No. 2 Wentworth Place from the raised roof area, with solar access to a terrace area is maintained (see Figure 3).

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Accordingly, in our opinion, the proposed development satisfies Object (c).

# d) To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion

The proposal has been skilfully designed to generally retain the existing built form. The minor increase in roof height is unlikely to affect neighbouring properties and therefore, views, privacy, and solar access are expected to be maintained.

# e) To protect the amenity of the public domain by providing public views of the harbour and surrounding area

Not applicable, as harbour views from the public domain are not affected by the proposal.

# Test 3 - The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

The proposal satisfies the relevant objectives of the Height of Building development standard, as denoted in Test 1.

Compliance with the standard would result in lower or inconsistent floor to ceiling height to the Master Bedroom. Importantly, the proposal will retain the existing stepped roof line, consistent with the original architectural design. The dwelling retains the existing bulk and scale and original character in the Point Piper locality.

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#### 4.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The proposal is consistent with the relevant zone objectives and satisfies two of the 'unreasonable and unnecessary' tests established by the Court in *Wehbe*. In *Initial Action*, Preston CJ states at [23] – [24] that the environmental planning grounds must be 'sufficient' in two respects, inter alia:

- a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.
- b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.

The proposal will generally be within the existing building envelope, except for the minor height increase to the northern roof. As views and solar access for neighbours will be maintained; the additional height has no consequence.

Strict compliance with the LEP Height of Buildings control would not result in a better planning outcome for the development as the existing dwelling already exceeds the current height standard. The minor increase of 277mm (2.9%) will provide a consistent ceiling height to the first floor. The proposal is an elegant and sympathetically designed response to the architectural character and location. Therefore, we consider contravening the development standard to accommodate consistent floor to ceiling heights and the roof form is acceptable in this situation.

Importantly, the non-compliance will be consistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard, 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:
    - 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 satisfies both tests as outlined in *Initial Action* and *Al Maha*. It is consistent with both the objectives of the Development Standard, as already demonstrated; and the R2 Low Density Residential Zone, inter alia:

Objective: To provide for the housing needs of the community within a low-density residential

environment.

Response: The proposal will maintain the existing low-density residential use.

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Objective: 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 as the proposal will retain a residential use.

Objective: To provide for development that is compatible with the character and amenity of the

surrounding neighbourhood.

Response: The proposal will be in keeping with the surrounding streetscape as it will be compatible

with the residential character and amenity of surrounding development.

Objective: To ensure that development is of a height and scale that achieves the desired future

character of the neighbourhood.

Response: The proposal has a built form with a height and scale suitable for the site and that is

consistent with the desired future character of the area. In our opinion, the proposal satisfies the relevant zone objectives of the LEP and is consistent with the desired future

character of the neighbourhood.

For the reasons contained in this application, there are sufficient environmental planning grounds to justify varying the development standard as the proposal is consistent with the development standard objectives, the zone objectives, and the intent of Clause 4.6. From this, we consider the proposal is in the public interest and should be supported.

#### 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 and the 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.

The matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck*\$ *v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The building height non-compliance will enhance the amenity and functionality of the proposed dwelling and generally, retain the existing building envelope, while maintaining neighbouring properties' amenity.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent with the dwelling's original appearance and in the streetscape. When viewed from Wyuna Road, the proposed minor additional building height is unlikely to be discernible and could present as a similar form to the existing.

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Accordingly, the proposal is consistent with the matters to be considered. 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 view that the consent authority should be satisfied that the proposed alterations to the roof will be in the public interest because the proposal is consistent with the objectives of the standard and the objectives of the R2 Low Density Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 Height of Buildings should be upheld.

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	Table 1: Compliance Matrix							
Para ( <i>Initial</i> <i>Action</i> )	Requirement	Section	Summary	Satisfied				
10	Is it a development standard (s.1.4)	1	Yes	YES				
11	What is the development standard	1	Height of Buildings	YES				
12	What is the control	1 & 2	9.5m	YES				
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.  The consent authority does not have to directly form the opinion of satisfaction regarding the matters in Clause 4.6(3)(a)&(b), but only that the applicant's written request has adequately addressed the matters required. The applicant bears the onus to demonstrate that the matters in Clause 4.6(3) have been adequately addressed in order to enable the consent authority to form the requisite opinion of satisfaction.	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 Wehbe.	4.1	The proposal is consistent with Tests 1 and 3 of Wehbe: The objectives of the standard are achieved notwithstanding the non-compliance with the standard; and The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is 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 indirectly 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:  c) 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.	4.2	Sufficient environmental planning grounds include, inter alia:  The proposal will generally maintain the existing built form and will retain the existing views and vistas from the subject site and neighbouring properties; Solar access to neighbouring properties is maintained; The proposed height facilitates a low-density development consistent with the planning objectives of the area; The site's slope results in the additional area of noncompliance; The proposal is a skillfully designed and functional dwelling which responds to the sloping topography and existing built form;	YES				

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	d) 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.		The proposed proportions of the stepping relate to the built form in a satisfactory manner	
26-27	2 <sup>nd</sup> Positive Opinion —  That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.  This second opinion differs from the first opinion of satisfaction in that the consent authority must be directly satisfied about the matter in Clause 4.6(4)(a)(ii).	5	The proposed development is consistent with the objectives of the height standard as addressed under Test 1 of Webhe. The proposal is also consistent with the objectives of the R2 Low Density Residential Zone, as addressed in the SEE.	YES
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 Council can grant development consent.	YES

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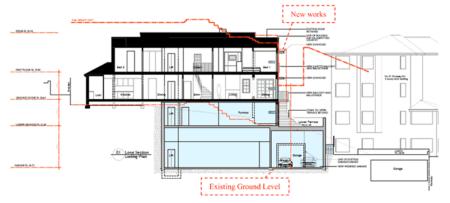
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## Clause 4.6 Assessment Exceptions to development standards

#### Compliance Table

Development Standard	Existing	Proposed	Control	Departure	Complies
Height of buildings (Clause 4.3)	10.13	13.4	9.5	3.9m or 41%	No

The proposal includes a new sunhood and fenestration to the northern side first floor of the existing dwelling. Following is a section of the proposal as annotated:



Source: LawtonHurley Architecture Interiors Planners

## Departure

The application proposes a new sunhood and fenestration to the northern side first floor of the dwelling. These elements, when measured from the base of the existing garage, result in a non-compliance of 3.9m or 41% with the 9.5m maximum height of buildings development standard prescribed by Part 4.3 of the WLEP 2014.

## Purpose

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

### Written Request

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

The applicant has provided a written request in relation to the reasons for the departure, which has been attached at the end of this annexure.

Annexure 6 Clause 4.6 Assessment

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#### Assessment

Clause 4.6(4) states that development consent must not be granted for a 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.
  - (b) the concurrence of the director general has been obtained"

Clause 4.6(4)(a)(i) as stated above requires the matters to be considered when reference is made to subclause (3) and these are *stated* and addressed as follows:

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

The applicant's written request has adequately demonstrated that the objectives of the development standards are achieved and that compliance with the development standards are unreasonable or unnecessary.

"...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 guidance 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. Paragraph 23 of the judgement states in part:

"...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..."

The objects of the EPA Act are stated as follows:

#### ...Objects of the Act (section 1.3)

- (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,

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- (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,
- 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 has adequately demonstrated that the proposed development promotes the orderly and economic use and development of the land. It also promotes good design and amenity of the local environment thereby satisfying objects 1.3(c) and (g) of the EPA Act. The applicant's written request has demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b). Furthermore, 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) as stated earlier indicates the consent authority must be satisfied the proposed development will be in the public interest because it is consistent with the underlying objectives of the standard and the zone to which it is located. The objectives of the development standard and the zone applicable to the subject site are stated as follows:

## ...Height of buildings (Part 4.3)

- (a) to establish building heights that are consistent with the desired future character of the neighbourhood.
- (b) to establish a transition in scale between zones to protect local amenity,
- (c) to minimise the loss of solar access to existing buildings and open space,
- (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
- (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

#### ...Objectives of the Zone (R2 Low Density Residential)

- 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.

With reference to the last objective stated immediately above, the *desired future character objectives* of the neighbourhood are stated in Woollahra Development Control Plan 2015 Chapter B1 Part B1.6 (Point Piper Precinct) as follows:

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## ...Desired future character objectives

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.
- O3 To ensure that development on the low side of the street maintains a consistent front setback.
- O4 To design and site buildings to respond to the topography and minimise cut and fill.
- O5 To protect iconic and harbour views from the street and other public spaces in the precinct, including views between buildings and over or though front fences.
- O6 To ensure that development facilitates view sharing to adjoining and adjacent private properties.
- O7 To maintain the sense of the historic grand estates by retaining the garden settings and streetscape elements.
- O8 To encourage the retention of the Inter-War flat buildings, particularly significant and traditional building elements visible from the street.
- O9 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

The overall height of the building is maintained with no change proposed to the existing roof. The new works are generally contained within and to the existing building envelope. The development preserves the existing significant and principal building form whilst enabling additions to the existing building envelope to improve the internal amenity for its future occupants. There is no resultant detrimental impact on the amenity of adjoining residents from the new elements added to the existing building envelope.

For these reasons, the proposal satisfies the intent of the stated objectives and there are sufficient environmental planning grounds to justify the contravention of the development standard. Furthermore, the departure from the development standard is in the public interest.

Clause 4.6(4)(b), as stated earlier, 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 exception to development standard, thus satisfying the terms of this clause.

#### Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the *maximum height of buildings* development standard prescribed by *Clause 4.3* is justified pursuant to the relevant matters for consideration prescribed by this clause.

Furthermore, the proposal is in the public interest and is consistent with the objectives of the development standard and those applicable to the development within the zone. Accordingly, departure from the development standard is justified in this instance and the applicant has demonstrated sufficient environmental grounds for the variation.

## LawtonHurley

Architecture Interiors Planning

Monday 16th March 2020

Woollahra Council PO Box 61 Double Bay NSW 1360

Attention: Mr Dimitri Lukas

## 30 WYUNA ROAD POINT PIPER NSW 2027 DA 252/2019/1

Dear Dimitri

We are pleased to submit revised documents for the above DA. These revised documents and design development address the issues raised following the Woollahra Local Planning Panel meeting in December 2019, which included:

- To enable the applicant to undertake further geotechnical investigations including a response to the submission by JK Geotechnics dated 17 December 2019.
- To submit revised architectural and landscape plans detailing the extent of works including any
  boundary fencing, level changes, privacy screening and planting to the lower, middle and upper
  terraces. These areas are to be designed having regard to maintaining an appropriate level of
  privacy between the subject site and adjacent properties, and the retention of a natural
  landscape environment.

The revised and additional documents resubmitted are as follows:

- 1. Revised geotechnical report by Crozier Geotechnical Consultants
- 2. Amended structural methodology by D'Ambrosio Consulting
- 3. Amended architectural drawings by Lawton Hurley
- 4. Amended landscape plans by Wyer & Co

We also advise that we invited representatives of the residents at No 91 Wolseley Rd to a meeting which was held at our office on Monday 9<sup>th</sup> March, at which we presented and discussed our proposed design changes. We also forwarded to them the revised geotechnical report for comment. Some further changes were made as a result of this meeting, including extending the upper terrace privacy screen, providing some taller planting to the lower terrace, and provision of some detail on how landscaping could be achieved on natural rock faces.

The amendments to the architectural and landscape design have been made to address the updated construction methodology, keep the cheese tree, and address privacy concerns. These changes are summarised as follows:

33-39 Riley Street Woolloomooloo NSW 2011 T 61 2 9360 5300 info @ lawtonhurley.com.au lawtonhurley.com.au

ABN 94 105 274 235 Doug Lawton Architect No 5665

LawtonHurley

Architecture Interiors Planning

## DA01 - BASEMENT GARAGE

- · Rear wall of existing garage is retained
- · Concrete piles located to enable retention of soil over for cheese tree and site stabilization

#### DA02 - LOWER FLOOR PLAN

- · Size of lower terrace paved area reduced
- · Recessed planter bed added to north side of terrace to allow for planting
- Stairs down to lower lawn area relocated adjacent eastern boundary (approximately follows existing path and stairs)
- · Garden levels between lower terrace and Lawn roughly follow existing profile
- Retaining wall along west side of lower terrace provided to support soil for the cheese tree and support additional planting
- Timber privacy screen on top of western retaining wall to minimize overlooking of No 91
   Wolseley Rd apartments

#### DA03- GROUND FLOOR PLAN

- · Cheese tree retained, more accurately located
- Timber privacy screen positioned north of upper terrace within landscaping to address privacy of overlooking of No 91 as well as providing landscaped amenity for the subject property
- Section 2 added to describe relationship between upper terrace and No 91 Wolseley Rd and show how the privacy screen works

#### DA04 - FIRST FLOOR PLAN

- Cheese tree retained
- Bath 2 amended

## DA05 - SECTIONS & ELEVATIONS

- Section 1 amended to show recessed planter bed, privacy screen and ground levels between terrace and lower lawn
- Section 3 amended to show new stair location down to lower lawn

Dylat.

 Section 4 through garage amended to show existing garage rear wall retained, lower terrace retaining wall for improved planting and cheese tree and privacy screen,

### DA06 - SECTIONS & ELEVATIONS

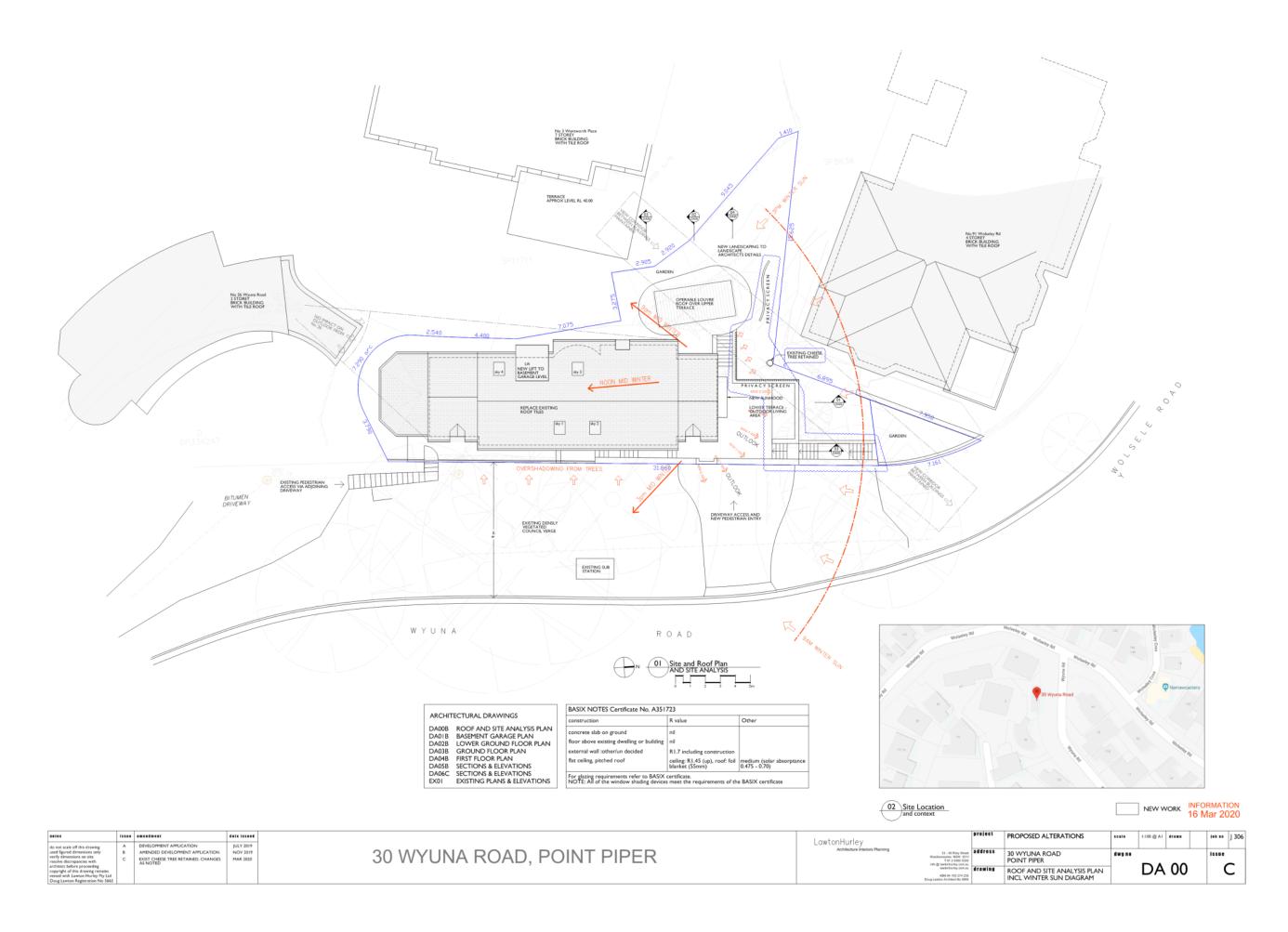
• Section 6 amended to show planter bed and relationship adjacent No 91 Wolseley Rd

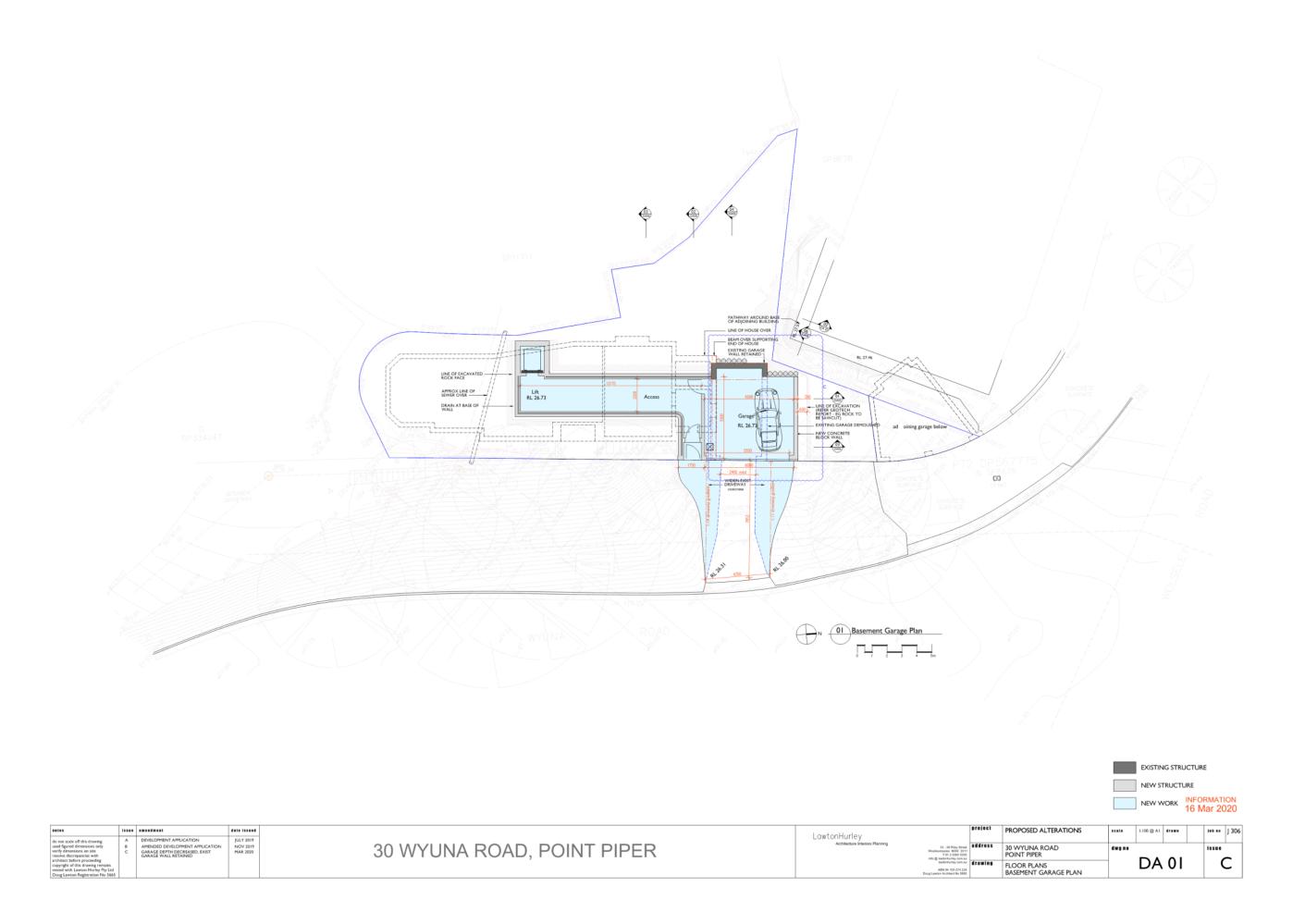
We trust these amendments and revised reports will satisfy Council's concerns about the application. Please don't hesitate to contact us if you need any additional information.

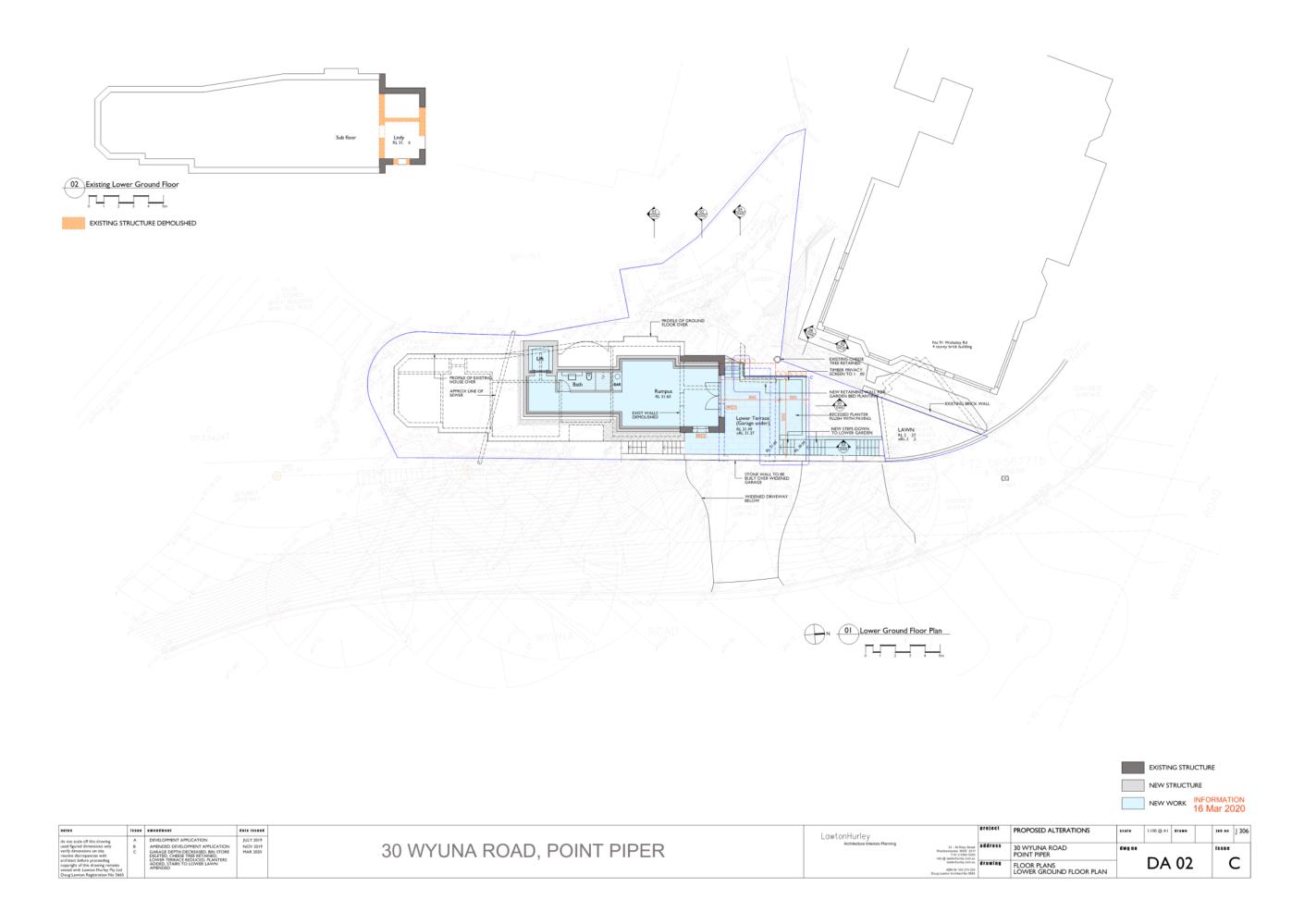
Regards

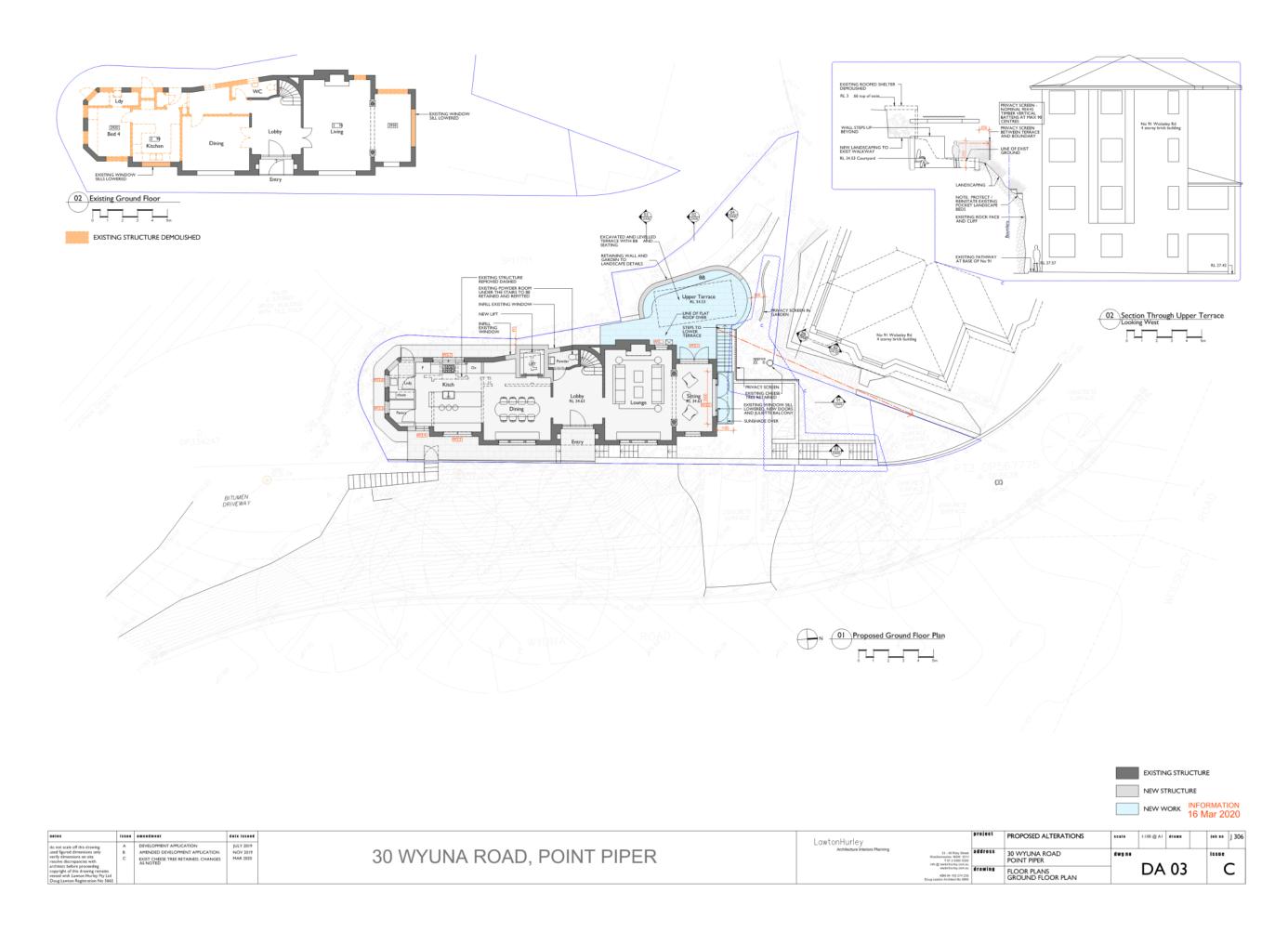
Doug Lawton Architect 5665

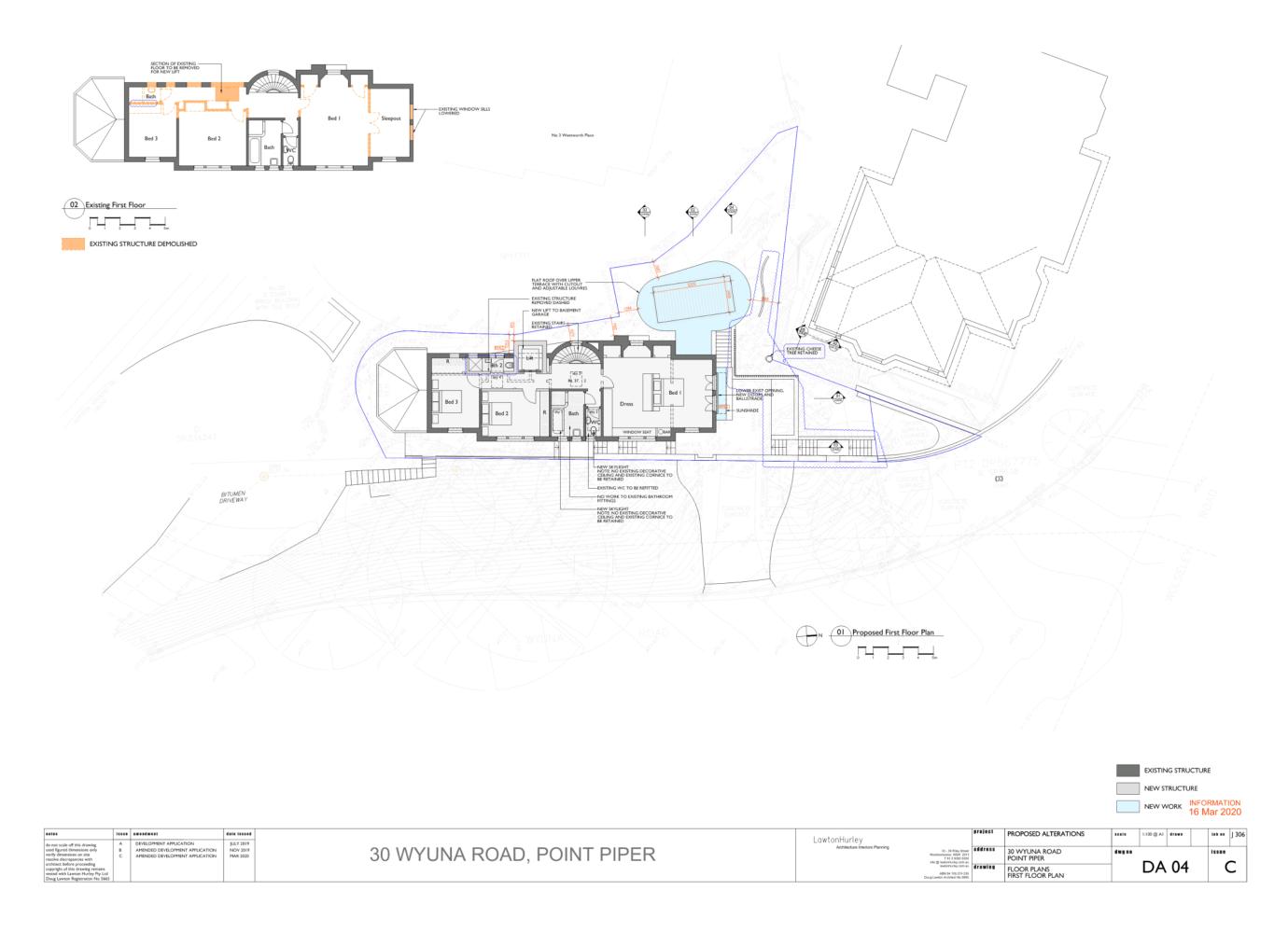
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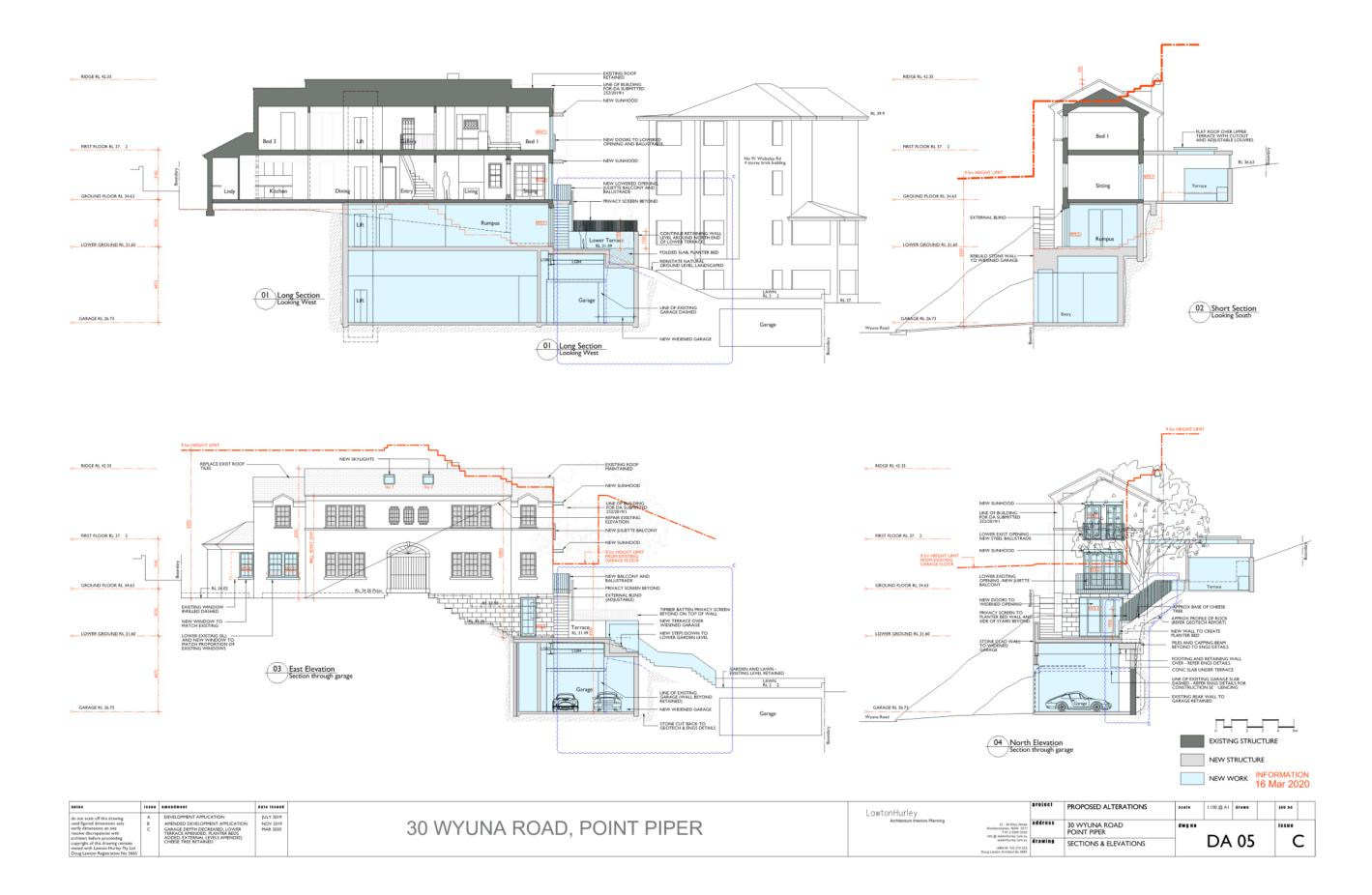


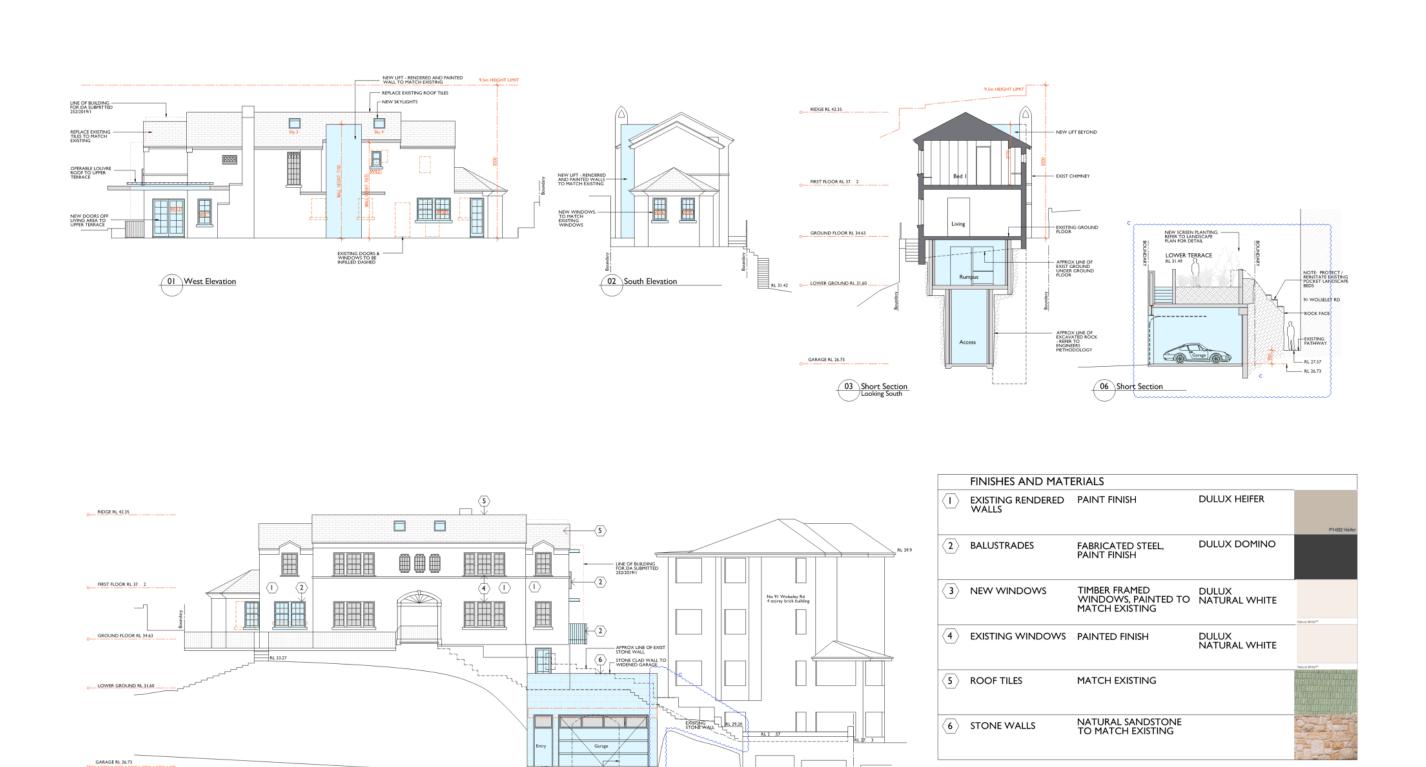








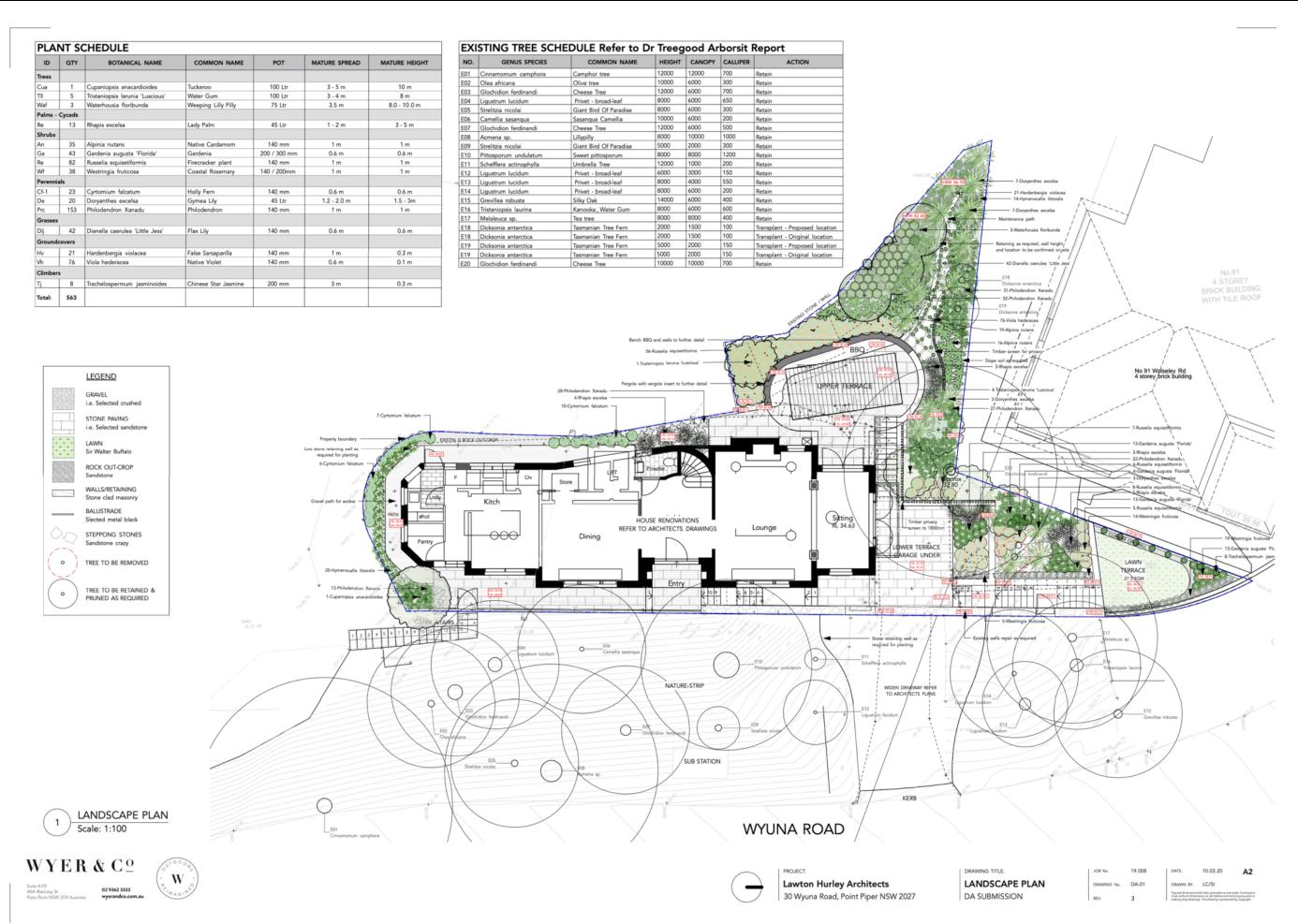




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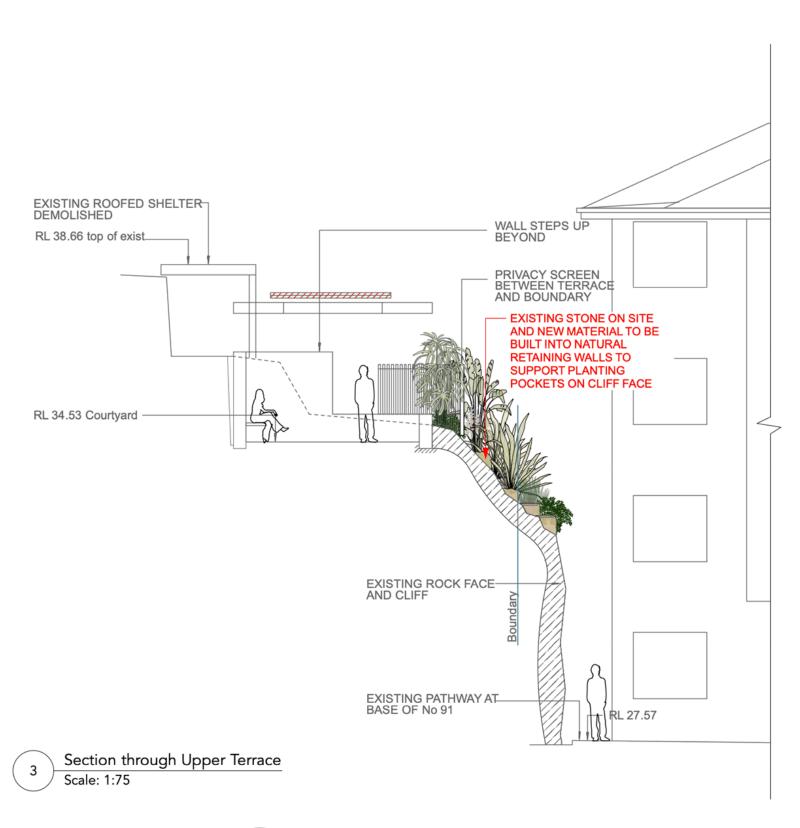
05 FINISHES SCHEDULE

East Elevation From Wyuna Road

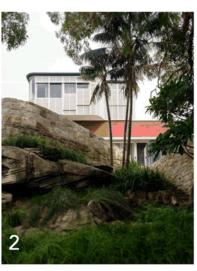


Annexure 4 Amended Landscape Plan

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- Indicative Image References
- 1. Existing Site image of cliff face
- 2. Planting in natural rock outcrop
- 3. Planting in sandstone walls
- 4. Planting in natural rockoutcrops and sandstone walls



WYER & Cº

02 9362 3333

**Lawton Hurley Architects** 

DRAWING TITLE.

LANDSCAPE DESIGN UPPER TERRACE SECTION

Α3

Page 631 Annexure 4 Amended Landscape Plan



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Crozier Geotechnical Consultants, a division of PJC Geo-Engineering Pty Ltd

## REPORT ON GEOTECHNICAL SITE INVESTIGATION

for

## PROPOSED ALTERATIONS AND ADDITIONS

at

## 30 WYUNA ROAD, POINT PIPER

## **Prepared For**

## Wyuna Developments

**Project No.: 2019-069** 

March, 2020

## **Document Revision Record**

Issue No Date		<b>Details of Revisions</b>			
0	8 <sup>th</sup> July 2019	Original submission			
1	9th March 2020	Design changes and further geotechnical investigation			

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Crozier Geotechnical Consultants 2020



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## APPENDICES

- Notes Relating to this Report
- Figure 1 Site Plan, Figure 2 and Figure 3 Interpreted Geological Model,
  Figure 4 Cross Section at Test Pits
  Borehole Log sheets and Dynamic Penetrometer Test Results and Core Log Sheets
- 3 Laboratory Testing
- 4 Risk Tables
- 5 AGS Terms and Descriptions

Crozier Geotechnical Consultants 2020



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Date: 9th March 2020 Project No: 2019-069

Page: 1 of 24

# GEOTECHNICAL REPORT FOR ALTERATIONS AND ADDITIONS 30 WYUNA ROAD, POINT PIPER

#### 1. INTRODUCTION:

This report details the results of a geotechnical and hydrogeological investigation carried out for proposed alterations and additions at 30 Wyuna Road, Point Piper, NSW. The investigation was undertaken by Crozier Geotechnical Consultants (CGC) at the request of Fortis Development Group on behalf of the clients Wyuna Developments Pty Ltd.

Woollahra Councils 'Guidelines for Preparation of Geotechnical and Hydrogeological Reports 'Annexure 3, September 2002 outlines the requirements for Development Application reporting where excavation to >1.0m depth is proposed. To provide the report for Council, an investigation is required that includes assessment of bedrock depths, soil strengths and groundwater levels.

Due to neighbouring owners and Council concerns over the stability of the neighbouring excavation/cliff, an additional investigation including the drilling of two boreholes was requested by the client to assess the bedrock quality at the rear of the proposed garage excavation, along with a mapping exercise across the relevant portion of the neighbouring excavation/cliff.

Therefore, this report includes a description of site and sub-surface conditions including groundwater, a geotechnical assessment of the development, site mapping/plan, geological sections, recommendations for construction and a risk assessment for both property and life as per AGS March 2007 publication.

The initial investigation and reporting were undertaken as per the Tender: P19-159, Dated: 30<sup>th</sup> April 2019. The investigation comprised:

- a) DBYD plan request and review.
- b) A detailed geotechnical inspection and mapping of the site and adjacent properties by a Geotechnical Engineer.



- c) Drilling of two boreholes using hand tools, along with Dynamic Cone Penetrometer (DCP) tests to investigate the sub-surface geology, depth to bedrock and identification of ground water conditions.
- d) Excavation of three test pits to expose the existing building footings and the foundation for assessment of excavation impacts.

The additional investigation was undertaken as per the Tender: P20-040.1, Dated: 30<sup>th</sup> January 2020. The investigation comprised:

- a) Detailed geotechnical mapping of the neighbouring cliff/excavation by a Principal Engineering Geologist.
- b) Drilling of three boreholes involving augering through soils and then core drilling of rock with core photography and sample collection in two boreholes.
- c) Rock core sampling and testing by NATA accredited laboratories for rock strength analysis.
- d) Installation of one groundwater well to assess groundwater seepage rate
- e) Infill boreholes with drilling spoil

This report was based on the following design drawings:

- Architectural Plans by Lawton Hurley, Job No.: J 306, Drawing No.: DA 00C to 06C, Issue:
   C, Dated: February 2020.
- Survey Plan by StrataSurv, Drawing No.: 4294DT, Rev.: G1, Dated: 12/11/2019.

## 2. PROPOSED DEVELOPMENT:

It is understood that the proposed works involve extensive alterations and additions to the existing house and site, including a widened driveway and new garage with corridor to lift, extension to the lower ground level to create a rumpus and bathroom and landscaping.

An excavation up to 9.10m depth is required to accommodate the lift shaft, its corridor and widening of the garage with a Finished Floor Level (FFL) of RL 26.73, while the extension of the lower ground level is also within this excavation with FFL 31.60. The works require excavation close (<2.0m) to the west boundary for the proposed terrace at FFL34.53 whilst the garage excavation will extend to within 0.50m of the northeast boundary to No. 91 Wolseley Road and the lift excavation will extend to within 0.50m of the west boundary to No. 3 Wentworth Place. The terrace and landscaping will require excavations up to 2.00m depth.



## 3. SITE FEATURES:

## 3.1. Description:

The site is an irregular shaped block with a front east boundary of approximately 40.0m in total and curved side and rear boundaries, with a total area of 376.9m², as referenced from the provided survey plan.

An aerial photograph of the site and its surrounds is provided below in Photograph 1, as sourced from NSW Government Six Map spatial data system.



Photograph 1: Aerial photo of site and surrounds

The site is currently occupied by a two storey brick and sandstone block house with a garage at the front of the property. General views of the site are shown in Photograph 2 and Photograph 3 below:



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Photograph 2: Side view of the site, facing north.



Photograph 3: Front view of the site, facing west.

## 3.2. Geology:

Reference to the Sydney 1: 100,000 Geological Series sheet (9130) indicates that the site is underlain by Hawkesbury Sandstone (Rh) which is of Triassic age. The rock unit typically comprises of medium to coarse grained quartz sandstone with minor lenses of shale and laminite. This rock unit was identified in surface exposures and existing excavations within and adjacent to the site.

Morphological features often associated with the weathering of Hawkesbury Sandstone are the formation of near flat ridge tops with steep angular side slopes. These slopes often consist of sandstone terraces and cliffs with steep colluvial slopes below. The terraced areas above these cliffs often contain thin sandy clay (low plasticity) soil profiles with intervening rock (ledge) outcrops. The outline of the cliff areas are often rectilinear in plan view, controlled by large bed thickness and wide spaced near vertical joint pattern, the dominant strike of which is northeast and southeast. Cliff areas are often undercut by differential weathering on bedding defects and shale/siltstone units. Slopes below cliffs are often steep 15° to 23° with a moderately thick sandy colluvial soil profile that is randomly covered by sandstone boulders.





Extract of Sydney Geological Series Sheet

## 4. FIELD WORK:

## 4.1. Methods:

The initial field investigation comprised a walk over inspection and mapping of the site and limited inspection of adjacent properties on the 15<sup>th</sup> May 2019 by a Geotechnical Engineer. It included a photographic record of site conditions as well as geological/geomorphological mapping of the site and adjacent land with examination of existing structures and neighbouring properties. It also included the drilling of two boreholes (BH1 to BH2) using a hand auger to investigate sub-surface geology. Three test pits (TP1 to TP3) were excavated adjacent to the northern, eastern and western walls of the existing house structure to determine the depth and founding conditions of existing house footings.

Dynamic Cone Penetrometer (DCP) testing was carried out from ground surface adjacent to the boreholes and within the test pits in accordance with AS1289.6.3.2 - 1997, "Determination of the penetration resistance of a soil - 9kg Dynamic Cone Penetrometer" to estimate near surface soil conditions and confirm depths to bedrock.

The additional investigation comprised a detailed geotechnical mapping of the neighbouring cliff/excavation on the 19<sup>th</sup> February 2020 by a Principal Engineering Geologist.



It also included the drilling of three boreholes (BH101 to BH103) on the 10<sup>th</sup> and 11<sup>th</sup> February 2020 by the contractor BG Drilling Pty Ltd under the supervision of a geotechnical engineer from CGC.

Access to the site is very limited by the existing structures. Therefore, BH101 to BH103 were drilled using a man-portable rock core drill rig. They were initially advanced using a bolt down diatube concrete coring rig in conjunction with hand excavation techniques. Plastic casing was then installed in the boreholes and they were continued using NMLC rock core drilling with water as a flush medium. Following completion, BH101 was bailed dry and groundwater conditions were assessed.

Strata identification was undertaken on material recovered from the boreholes with samples collected as per "AS1726: 2017 Geotechnical Site Investigation" for logging purposes and submission to NATA accredited laboratories.

Explanatory notes are included in Appendix: 1. Mapping information and test locations are shown on Figure: 1, along with detailed log sheets in Appendix: 2. Geological sections and cross sections at the test pits are provided as Figure: 2 to Figure 4, Appendix: 2.

## 4.2. Field Observations:

The site is located on the high west side of Wyuna Road at the crest of a northeast striking and gently to moderately northeast dipping ridge line. Wyuna Road is gently north dipping (-3°) and formed of asphalt pavement with concrete gutter and kerb. There were no signs of excessive cracking or deformation within the road pavement to suggest any movement or underlying geotechnical issues.

The garage of the property is accessed from Wyuna Road via a concrete driveway at approximately RL 26.60. The garage and driveway are cut into the hill and the sandstone bedrock underlying the site. There were no signs of significant cracking or deformation in the garage and driveway and the existing rock excavation appeared vertical and stable.

The site is accessed via a flight of stairs from a concrete driveway shared with the neighbouring property to the south (No. 26 Wyuna). The site has a ground surface level at approximately RL 34.20 within the southern portion whilst the northern half slopes down to the north-east. The internal areas of the property vary from a high of approximately RL 36.50m at the northwest corner to a low of approximately RL 28.30m at the northeast corner. The southern portion of the site cuts into the hill with previous excavation up to 1.80m depth along the southern portion of the west boundary evident.



From the rear of the house, a flight of stairs lead up to a paved terrace and pathway that are, retained by numerous sandstone rock walls up to 1.20m in height, in the northwest corner of the site. The northeast of the site dips down gently to the front east boundary of the site which is retained by sandstone block wall up to 2.00m height.

The site house is a two storey brick structure located broadly in the south of the property. The house is over 75 years old and appears to be in a reasonable condition with no sign of excessive cracking or settlement on its external walls. There is a laundry room at a lower ground level located at the northeast corner of the house. It was observed from the sub-floor access point in the southern wall of the room that the house is supported by brick piers on exposed sandstone bedrock internally.

The neighbouring property to the south (No. 26 Wyuna Road) contains a two storey brick house located broadly over the centre of the property. The building structure appears to be approximately 20 years old and is in a reasonable condition with no signs of settlement or cracking on its visible external walls. The property is up to 3.50m higher than the site along the common boundary, which is retained by sandstone block walls. The building structure is located within 1.60m of the common boundary.

The neighbouring property to the west (No. 3 Wentworth Place) contains a multilevel brick unit building located broadly in the middle of the property. The building structure appears to be a similar age to the site house. The property is up to 3.50m higher than the site along the southern portion of the common boundary and up to 7.00m higher along the northern portion. It is located above sandstone bedrock outcrops with sandstone block walls above. The building structure is located approximately 5.00m from the common boundary at its North East corner only. Access to the neighbouring was not available for further inspection.

The neighbouring property to the north-east (No. 91 Wolseley Road) contains a four level brick unit building located broadly in the middle of the property. The building structure appears to be a similar age to the site house (>75years) and is in a reasonable condition with no signs of settlement or cracking on its visible external wall. The ground surface level of the property is located at approximately RL 27.50 with a concrete pathway around the east and south sides of the building.

An existing cliff line, is located within the rear southern side of this neighbouring property, extending to within 1.0m of the common north-west boundaries with the site. It is understood from correspondence by the neighbour's geotechnical consultant, JK Geotechnics, to be an old quarry. The ground surface and expected bedrock cliff rises steeply up towards the south to south-west with bedrock exposed around part of the east side of the building and the entire south side. The eastern end of the cliff/ excavation exposes low to medium strength sandstone bedrock up to 2.20m above the ground level adjacent to the south-east



corner of the building. Within steps of the rock face and extending from its crest are numerous low mortared sandstone flagging garden walls and dry stacked sandstone rock and cut block retaining walls of up to 1.50m in height supporting terraced garden beds.





Photograph: 4 and 5 - Eastern end of excavation/cliff, No. 91

To the west, the exposed bedrock excavation/cliff increases in height up to approximately 9.0m at the western end of this property. Within the cliff face the bedrock generally comprises sandstone of medium strength with sub-horizontal to gently (<5°) north and north east dipping bedding defects. Discontinuous subvertical joint defects were mapped at various orientations whilst a significant, continuous north to north east (42°-68°/020-045°) (dip/dip azimuth) dipping joint defect was identified. This defect extends across the entire rock face rising to the west due to the orientation of the cliff/excavation and it dip direction and appears to have resulted in previous instability, with undermining of a sub-horizontal sandstone unit at the cliff crest in the western side of this property. A series of brick piers/columns have been used to support the upper/overlying and potentially destabilized rock units.





Photograph: 6 and 7 - Central to western ends of excavation/cliff, No. 91.



Other than the cliff at No. 91 the neighbouring buildings and properties were only inspected from within the site or from the road reserve. However, the visible aspects did not show any significant signs of large scale slope instability or other major geotechnical concerns which would impact the site.

#### 4.3. Field Testing:

The hand auger boreholes (BH1 and BH2) were drilled in garden beds with auger refusal encountered at depths of 0.70m (BH1) and 0.50m (BH2) on cobbles in fill.

DCP tests were carried out from the ground surface adjacent to boreholes and from the base of the test pits. Refusal was encountered on interpreted sandstone bedrock of at least very low strength at depths of 0.70m (DCP2) and 1.07m (DCP3) within the eastern front of the site. DCP1 was discontinued at a maximum investigation depth of 3.00m, whilst DCP4 encountered refusal at 2.03m depth on a possible concrete slab above the existing garage.

TP1 was excavated adjacent to the western external wall of the existing house. It identified that the external brick wall is founded directly on low to medium strength sandstone bedrock at 0.20m depth with no distinct footing.

TP2 was excavated adjacent to the eastern external wall. It identified that the external sandstone block wall extends to 0.80m depth below the existing ground surface level where it is founded directly on sandstone bedrock with no distinct footing.

TP3 was excavated adjacent to the northern external wall. It identified that the external sandstone block wall extends to > 1.00m depth below the existing ground surface level with site conditions preventing further exploratory investigation. A DCP test (DCP4) undertaken from the base of the test pit encountered refusal at 2.03m depth below the existing ground surface level on what is interpreted as the concrete slab above the existing garage. The DCP results were highly variable and indicate uncontrolled fill soils exist to the concrete slab level.

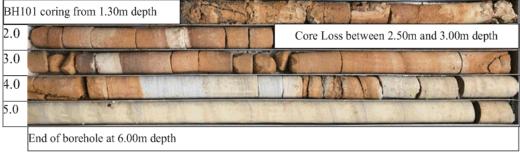
BH101 was drilled to the north of the existing garage to 6.00m depth (R.L.25.38), whilst BH102 and BH103 were drilled to the west of the garage with BH102 discontinued at 3.40m depth (R.L.29.45) in concrete and BH103 discontinued at 6.10m depth (R.L.26.75) due to intersecting the probable edge of the previous garage rock excavation.

Based on the borehole logs and DCP test results, the sub-surface conditions at the project site can be classified as follows:

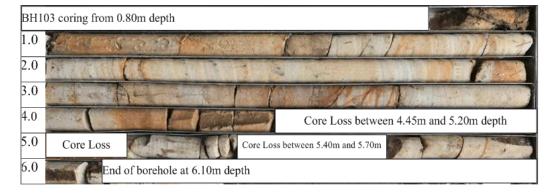


- TOPSOIL/FILL this layer was encountered in all boreholes and TP2 and TP3 to varying depths
  from 0.50m to 3.20. It is classified as fine to medium grained silty sand with gravels, cobbles and
  roots in BH1, BH2, BH101 to BH103, whilst it is classified as medium grained sand with gravels
  in TP2 and TP3.
- Sandy CLAY this layer was encountered in BH101 below the fill to 1.30m depth. It is classified
  as orange, medium plasticity, moist. This is considered to be a residual soil.
- SANDSTONE BEDROCK based on the DCP test results and the observation of outcrop and
  existing excavation, sandstone bedrock is generally of low to medium strength and is encountered
  from surface to a maximum depth of greater than 3.00m towards the North West corner of the
  existing house. This unit was encountered in BH101 and BH103 below the soils to the end of
  boreholes at 6.00m (BH101) and 6.10m(BH103), respectively and is exposed throughout the
  neighbouring excavation. It is classified as generally massive with occasional cross-bedded units,
  medium grained, yellow to grey, highly weathered to fresh, very low strength to medium strength.

Photographs of the recovered core are supplied below whilst detailed log sheets at each borehole location are supplied in Appendix: 2.



Core photograph - Borehole 101



Core photograph - Borehole 103



Groundwater inflow was not encountered during the augered portion of the drilling whilst water was used as a flush medium during coring negating groundwater inflow observation. Following completion of drilling, a well was installed in BH101 and was bailed dry. Groundwater inflow was allowed to develop for over 24 hours prior to measurement on the 11th February 2020. A groundwater table or significant seepage was not encountered within the depth of the boreholes. However, seepage across the surface of bedrock outcrops in the existing garage excavation and the neighbouring property and along defects in the bedrock was observed.

## 4.4. Laboratory Testing:

Directly following drilling, a series of samples were sealed and sent for testing at a NATA accredited laboratory (Macquarie Geotech) for confirmation of rock material strength via Point Load Strength Index (AS4133.4.1) method. The laboratory test reports are included in Appendix: 3.

The point load strength results ( $I_{s 50}$ ) are detailed in Table: 1 below and were utilised to correlate rock material strength at other locations down the boreholes. It should be noted that the axial strength results are mostly suitable for classification due to horizontal bedding of the mudstone/interbedded bedrock.

Table: 1 - Laboratory Test Results for Rock Core

Borehole	Depth	Rock Type	Moisture	Is 50 (MPa)	Is 50 (MPa)	Strength
Dorenoic	(m)	Kock Type	Content (%)	Diametral	Axial	(AS1726-2017)
BH101	2.13-2.22	Sandstone	6.6	0.18	0.31	MS
BH101	4.89-5.00	Sandstone	6.1	1.38	1.28	HS
BH103	1.50-1.58	Sandstone	5.0	0.77	0.62	MS
BH103	4.09-4.25	Sandstone	5.0	0.53	0.70	MS



## 5. COMMENTS:

#### 5.1. Geotechnical Assessment:

The site investigation identified the presence of granular topsoil/fill to varying depths from 0.20m to greater than 3.00m, overlying sandstone bedrock. The surface of the bedrock generally dips towards the northeast from a high of approximately RL 36.00m within the rear west of the property to approximately RL 26.00m at the northeast corner.

Based on the observation of the exposed rock outcrop and previous excavations, detached sections/boulders were noted near the upper surface of the bedrock whilst potentially destabilising joint defects were evident in the excavation to the north-west. However, there were no signs of previous or impending large scale landslip instability identified within the site. The existing garage at the north-east corner of the site was excavated into the bedrock to near street level prior to development and there is no evidence of ongoing stability problems.

No groundwater table or significant seepage was encountered during the investigation. However, minor seepage will be encountered at the soil rock interface and on rock defects.

Based on the excavation of test pits, it appears that the main building structure is founded off sandstone bedrock. However, the northern external wall appears to extend to the slab over the existing garage, which is excavated into the hill and bedrock.

Based on the cored borehole investigation results and visual inspection of outcrops, the sandstone bedrock is of very low strength near surface then of generally medium strength to below proposed excavation level. The bedrock BH101 to the north of the existing garage is highly fractured up to approximately 4.20m depth (RL27.00) with a zone of core loss between 2.50m and 3.00m depth (RL28.70 to RL28.20). This zone of low quality rock mass appears to extend to the eastern front of the garage where it is exposed in the previous rock excavation for the driveway. The boreholes (BH102, BH103) drilled to the west of the existing garage identified bedrock from shallow depth (RL32.00) that became medium strength from approximately 1.40m depth (RL31.40). It appeared that these boreholes encountered the edge of the previous rock excavation for the garage below 4.20m depth (RL28.60).

It is understood that the proposed works involve alterations and additions to the existing house and site, including a widened garage with corridor to lift, rebuild of the lower ground level and landscaping. The works will require excavations below existing ground levels up to approximately 9.10m depth for the lower ground level and garage and up to 2.00m depth for landscaping. These excavations will in part extend close to property boundaries.

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The slope stability of the sites proposed excavation and excavation/cliff within adjacent sites along with ground vibration impacts as a result of rock excavation equipment are considered to be the key geotechnical components of the proposed works.

Based on the investigation results, the proposed excavations are anticipated to encounter granular topsoil/fill to varying depths from 0.20m to greater than 3.00m, under which sandstone bedrock of at least very low strength, rapidly grading to low to medium strength will be encountered. It is expected that a great portion of the excavation will extend through medium strength sandstone bedrock, which will also be exposed from surface. Based on the cored boreholes drilled to the west of the existing garage, it appears that the amount of rock excavation within this area is very limited as it appears to have been removed to near the proposed development alignment as part of the existing development.

The exact strength of the bedrock that will be encountered during the entire excavation is unconfirmed and will only sensibly be determined by geotechnical inspection during excavation. Where exposed, low to medium strength bedrock can be excavated at steep (0.25H:1.0V) to vertical batter slopes, provided it is unfractured by the excavation works and does not contain unfavorable defects. Where these poor quality zones are encountered then support systems (i.e. rock bolts/shotcrete) can be implemented as excavation works progress.

Detached sections/boulders were observed within the excavation within the site and the neighbouring properties whilst significant defects and potential for instability were identified in the neighbouring excavation to the north-west (No. 91). There is also a potential for poorly oriented defects or localized zones of highly weathered bedrock (particularly near the upper surface) to result in localized rock slide/topple failure with potential impact to the site. Therefore, geotechnical inspection following initial clearing of the soils to expose the bedrock surface is required to confirm site conditions along with inspection at regular depth intervals during excavation.

The existing garage excavation indicates that negligible further rock excavation is required adjacent to the boundaries with No. 91 for the new garage. In general sandy soils are of shallow thickness over the bedrock adjacent to these boundaries and the recommended safe temporary batter slopes provided in Section 5.3.2 may be achievable, though there are some deeper zones behind the numerous low quality rock retaining walls that support garden beds in this area. Significant care will be required during demolition and initial clearing of the site to bedrock levels to ensure that rock walls and detached sections of bedrock within the site and neighbouring properties are not dislodged or undermined. Where safe batters cannot be constructed due to proximity to boundaries and the base level of existing structures to remain then support prior to excavation will be required.



As the adjacent excavation/cliff within No. 91 has been assessed by their geotechnical consultant and stabilizing measures installed as necessary to provide what must be interpreted as "Acceptable" risk levels to that property, it is the client's responsibility to ensure that these measures are not detrimentally impacted by the works within the site.

The excavation of low up to high strength rock requires the use of rock excavation equipment which can produce ground vibrations of a level which can potentially cause damage to structures and destabilise defect defined cliff exposures within the site and adjoining properties. Therefore, selection of suitable equipment and a sensible methodology are critical.

Crozier Geotechnical Consultants should be consulted for assessment of the proposed equipment prior to its use. A rock saw, rock grinder and small (≤250kg) rock hammers avoid the need for full time monitoring, however excavation progress will be significantly reduced.

The proposed excavation to the west of the garage is expected to be limited. As such it is recommended that soils and structures are removed with a geotechnical inspection of the exposed rock face and any temporary batters prior to rock excavation. A vibration monitoring plan with Maximum Peak Particle Velocity (PPV) ≤ 3mm should be set at the cliff corner/edge in No. 91, close to the site North West corner as this will ensure that vibrations reaching existing cliff stabilising measures will be negligible whilst providing a low potential for activation of movement along existing defects adjacent to the site. A rock grinder and man portable rock hammer could be implemented within this excavation to ensure the stability of cliff/excavation within the neighbouring property.

The proposed excavation for the garage and lower ground level will extend underneath the existing building structure. Therefore, it will require adequate support to the existing structure and appropriate construction methods. The proposed excavation for landscaping will be located within 1.00m of the western boundary which is formed with a cliff face and rock retaining wall up to approximately 7.00m in height. It is recommended that the founding condition of the retaining wall be investigated prior to excavation with geotechnical/ structural engineer inspection to determine support required to prevent instability and/or undermining the wall and neighbouring areas.

Through selection of suitable excavation equipment, geotechnical inspection and mapping during the excavation works along with the installation of support measures as determined necessary by the inspections, the risk from the proposed works can be maintained within 'Acceptable' levels for all situations.



The proposed works are therefore considered suitable for the site and may be completed with negligible impact to existing structures within the site and adjacent properties provided the recommendations of this report are implemented in the design and construction phases.

The recommendations and conclusions in this report are based on an investigation utilising only surface observations and hand tools. This test equipment provides limited data from small isolated test points across the entire site with limited penetration into rock, therefore some minor variation to the interpreted sub-surface conditions is possible, especially between test locations. However provided the recommendations of this report are implemented in the design and construction phases the proposed development is considered suitable for the site.

#### 5.2. Site Specific Risk Assessment:

Based on our site investigation and review of the proposed works we have identified the following credible geological/geotechnical hazards which need to be considered in relation to the existing site and the proposed works. The hazards are:

- A. Debris/soil slide (<3m³) of soil and rock garden retaining walls around perimeter of excavation
- B. Rock slide (<3m³) of bedrock around perimeter of excavation due to poorly oriented defects
- C. Rock slide (>10m³) of bedrock around perimeter of excavation due to poorly oriented defects

A qualitative assessment of risk to life and property related to this hazard is presented in Table A and B, Appendix: 4, and is based on methods outlined in Appendix: C of the Australian Geomechanics Society (AGS) Guidelines for Landslide Risk Management 2007. AGS terms and their descriptions are provided in Appendix: 5.

Hazard A was estimated to have a **Risk to Life** of up to  $3.13 \times 10^{-7}$  for a single person, whiles the **Risk to Property** was considered to be 'Moderate'.

Hazard B was estimated to have a **Risk to Life** of up to **1.88 x 10**-6 for a single person, whiles the **Risk to Property** was considered to be 'Moderate'.

Hazard C was estimated to have a **Risk to Life** of **8.33** x **10**<sup>-5</sup> for a single person, whiles the **Risk to Property** was considered to be 'High'.

The assessments which are considered to provide "Unacceptable" risk levels were made using ground conditions identified/anticipated and without the recommendations of this report being adhered to, including no geotechnical input during site works.



Provided the recommendations of this report are implemented including regular detailed geotechnical mapping of the excavation and installation of determined support systems in timely manner the likelihood of any failure becomes at least 'Unlikely' and as such the consequences reduce and risk becomes within 'Acceptable' levels when assessed against the criteria of the AGS. As such the project is considered suitable for the site provided the recommendations of this report are implemented.

## 5.3. Design & Construction Recommendations:

Design and the construction recommendations are tabulated below:

5.3.1. New Footings:	
Site Classification as per AS2870 – 2011 for	- Class 'A' for footings on bedrock in the base of
new footing design	excavation
Type of Footing	Strip/Pad or Slab at base of excavation, piers external to the
	excavation
Sub-grade material and Maximum	- Weathered, VLS Sandstone: 800kPa
Allowable Bearing Capacity	- Weathered LS Sandstone: 1000kPa
	- Weathered MS Sandstone: 2000kPa*
Site sub-soil classification as per Structural	B <sub>e</sub> – Rock site
design actions AS1170.4 - 2007, Part 4:	
Earthquake actions in Australia	

## Remarks:

\*Higher bearing pressures available through inspection and testing of individual footing locations.

All permanent structure footings should be founded off bedrock of similar strength to prevent differential settlement unless designed for by the structural engineer.

All new footings must be inspected by an experienced geotechnical professional before concrete or steel are placed to verify their bearing capacity and the in-situ nature of the founding strata. This is mandatory to allow them to be 'certified' at the end of the project.

Footings adjacent to excavations in Low strength bedrock or where defects exist in the bedrock below foundation level may require extension to Medium strength bedrock, the base of the excavation or alternative support methods.



5.3.2. Excavation:	
Depth of Excavation	Up to 9.10m depth for garage corridor lift and lower ground level, up
	to 2.00m depth for landscaping.
Distance of Excavation to	No. 3 Wentworth Place – 1.00m to boundary, building another 5.00m
Neighbouring	No. 91 Wolseley Road - within 0.50m of boundary, building another
Properties/structures	2.20m
	No. 26 Wyuna Road – up to 7.0m, on boundary
Type of Material to be Excavated	Sandy topsoil/fill to depths varying from 0.20m to >3.00m
	Sandstone bedrock (VLS-MS, potentially HS) from surface parts

Guidelines for batter slopes for general information are tabulated below:

	Safe Batter Slope (H:V)		
Material	Short Term/	Long Term/	
	Temporary	Permanent	
Sandy topsoil/fill	1.5:1	2:1	
Very low to low strength sandstone bedrock or fractured bedrock	0.5:1*	0.75:1*	
Medium strength sandstone bedrock, defect free	Vertical*	Vertical*	

<sup>\*</sup>Dependent on defects and assessment by geotechnical engineer.

#### Remarks:

Where safe batter slopes cannot be implemented due to the excavation's proximity to the boundaries, the stability of the excavation cannot be guaranteed until the installation of permanent support measures. This should also be considered with respect to safe working conditions.

Seepage at the bedrock surface or along defects in the soil/rock can also reduce the stability of batter slopes or rock cuts and invoke the need to implement additional support measures.

Equipment for Excavation	Fill and natural soils	Excavator with bucket
	VLS bedrock	Excavator with bucket and ripper
	LS – MS bedrock	Rock excavation equipment

ELS – extremely low strength, VLS – very low strength, LS – low strength, MS – medium strength

## Remarks:

Rock sawing of the hard rock excavation perimeters is recommended as it has several advantages. It often reduces the need for rock bolting as the cut faces generally remain more stable and require a lower level of rock support than hammer cut excavations, ground vibrations from rock saws are minimal and the saw cuts will provide a slight increase in buffer distance for use of rock hammers. It also reduces deflection across boundary of detached sections of bedrock near surface which is critical adjacent to the proposed garage excavation and No. 91.



Based on previous testing of ground vibrations created by various rock excavation equipment within medium strength Hawkesbury Sandstone bedrock, to maintain a 5mm/s PPV level of vibration the below hammer weights and buffer distances are required:

Maximum Hammer Weight	Required Buffer Distance from Structure
300kg	2.00m
400kg	3.00m
600kg	6.00m
≥1 tonne	20.00m

Onsite calibration of equipment will provide accurate vibration levels to the site specific conditions and will generally allow for larger excavation machinery or smaller buffers to be used. Inspection of proposed equipment and review of dilapidation surveys and excavation location will determine the needs for calibration and full time monitoring.

Recommended Vibration Limits	Existing site dwelling and neighbouring structures with 10m	
(Maximum Peak Particle Velocity (PPV))	of excavation perimeter = 5mm/s PPV. The excavation/cliff	
	within the neighbouring property = 3mm/s.	
Vibration Calibration Tests Required	Subject to proposed excavation machinery (if >250kg	
	hammer)	
Full time vibration Monitoring Required	Required at cliff face at north east corner of site, eastern end	
	of cliff at No. 91	
Geotechnical Inspection Requirement	Yes, recommended that these inspections be undertaken as	
	per below mentioned sequence:	
	<ul> <li>Upon demolition and initial clearing of soils</li> </ul>	
	• Upon installation of excavation support if	
	determined necessary	
	At 1.50m depth intervals of excavation	
	At completion of the excavation	
	Where ground conditions are exposed that differ to	
	those than expected	
Dilapidation Surveys Requirement	Recommended on neighbouring structures or parts thereof	
	within 10m of the excavation perimeter prior to site work to	
	allow assessment of the recommended vibration limit and	
	protect the client against spurious claims of damage.	
I .		

## Remarks:

Water ingress into exposed excavations can result in erosion and stability concerns in both soil and rock portions. Drainage measures will need to be in place during excavation works to divert any surface flow away from the excavation crest and any batter slope.

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5.3.3. Retaining Structures:		
Required	New retaining structures will be required as part of the proposed development.	
Types	Temporary support and/or steel reinforced concrete/concrete block walls post excavation, designed in accordance with Australian Standards AS4678-2002 Earth Retaining Structures.	

Parameters for calculating pressures acting on retaining walls for the materials likely to be retained:

	Unit	Long Term	Earth Pressure		Passive Earth
Material	Weight	(Drained)	Coefficients		Pressure
	(kN/m3)		Active (Ka)	At Rest (K <sub>0</sub> )	Coefficient *
Fill (sandy) (loose)	18	φ' = 28°	0.35	0.52	N/A
LS or fractured bedrock	23	φ' = 38°	0.10	0.15	300kPa
MS bedrock (defect free)	24	φ' = 40°	0.00	0.01	600kPa

## Remarks:

In suggesting these parameters it is assumed that the retaining walls will be fully drained. If this is not done, then the walls should be designed to support hydrostatic. Retaining walls should be back filled with free-draining granular material (preferably not recycled concrete) which is only lightly compacted in order to minimize horizontal stresses.

The surcharge loading of adjacent structures/pavements must be considered in the support design.

Retaining structures near site boundaries or existing structures should be designed with the use of at rest  $(K_0)$  earth pressure coefficients to reduce the risk of movement in the excavation support and resulting surface movement in adjoining areas. Backfilled retaining walls within the site, away from site boundaries or existing structures, that may deflect can utilize active earth pressure coefficients (Ka).

It is expected that the pool shell will provide permanent support to the pool excavation.

5.3.4. Drainage and Hydrogeology		
Groundwater Table or Seepage identified in		No
Investigation		
Excavation likely to intersect	Water Table	No
	Seepage	Minor (<0.50L/min), at bedrock surface or along
		defects in the bedrock
Site Location and Topography		High west side of the road, within gently to
		moderately northeast dipping topography
Impact of development on local hydrogeology		Negligible

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Onsite Stormwater Disposal	Subject to Hydraulic Engineer's assessment and
	design

#### Remarks:

As the excavation faces are expected to encounter some seepage, an excavation trench should be installed at the base of excavation cuts to below floor slab levels to reduce the risk of resulting dampness issues. Trenches, as well as all new building gutters, down pipes and stormwater intercept trenches should be connected to a stormwater system designed by a Hydraulic Engineer which discharges to the Council's stormwater system off site.

#### 5.4. Conditions Relating to Design and Construction Monitoring:

To allow certification at the completion of the project it will be necessary for Crozier Geotechnical Consultants to:

- Review and approve the structural design drawings, including the retaining structure design and construction methodology, for compliance with the recommendations of this report prior to construction,
- 2. Review excavation methodology and equipment prior to hard rock excavation,
- 3. Conduct inspections as per the recommendations of this report,
- Inspect all new footings to confirm compliance to design assumptions with respect to allowable bearing pressure, basal cleanness and stability prior to the placement of steel or concrete,
- Inspect completed works to ensure no new landslip hazards have been created by site works and that all required stabilisation and drainage measures are in place.

Crozier Geotechnical Consultants cannot provide certification for the Occupation Certificate if it has not been called to site to undertake the required inspections.



## 6. IMPLEMENTATION PLAN:

## 6.1 Monitoring Program:

#### 6.1.1 Settlement and Deflection:

To ensure wall movements are within anticipated design tolerances, an accurate survey monitoring program of the excavation boundary and structures within a 60 influence zone from the excavation base should be put in place for the duration of the excavation works. It is also recommended that survey points are installed on site structures and upper portions of the cliff in No. 91 to allow assessment and allow early detection of movement. These measurements should be completed/undertaken by a registered surveyor to ≤2mm accuracy directly prior to any works being undertaken on site.

Where sufficient space exists for the construction of batter slopes, designed in accordance with the recommendations provided in Section 5.3.2, off site settlement is not anticipated. However, it will be necessary to ensure that the excavation of soils within the zone of influence of any adjacent footings (e.g. boundary wall with No. 3 Wentworth Place) or rock walls above/in No. 91 does not occur.

Where monitoring is required, the locations should be re-measured following installation of excavation support and when the excavations extend to 3.00m depth intervals or at the direction of the supervising geotechnical engineer and at completion of the excavations. All re-measurement results should be assessed immediately by the surveyor and/or site foreman and referred to the geotechnical and structural engineers where any deflection/variation of ≥5mm from the original value is identified. The monitoring program should allow for early detection of any movements outside predicted limits (due to latent, adverse conditions) so that excavation face support can be modified/upgraded as required.

#### 6.1.2. Ground Vibrations:

Bulk excavation for the proposed development will intersect bedrock and the potential for ground vibration will need to be assessed initially through site and plant specific vibration calibration. Where the need for full time monitoring is considered by the geotechnical consultant, a vibration monitor should be installed on the closest neighbouring footing (or bedrock) to the excavation activity set to the recommended Allowable Limit (preliminary 3-5mm/s PPV-See Section 5.3.2). The monitor should be configured with an onsite warning light and/or an audible alarm to notify of exceedances of the pre determined limit whilst the system used should also have capability to send real time SMS notifications to the supervising builder and/or geotechnical specialist.

The monitoring system should be capable of recording Radial, Transverse and Vertical component ground vibration velocities (mm/s), along with frequency (Hz) and displacement (mm). The monitor should also provide a Vector Sum (mm/s) of the vibration velocities.



6.1.3. Ground Water:

The site is located at mid-slope level within gently to moderately sloping topography of a ridge crest therefore the ground water table will be located at significant depth and will not be intersected by the proposed works. Sections of the proposed development will be located below the bedrock surface and minor groundwater seepage flow is anticipated at the soil/rock interface and through rock defects. However it is considered the seepages will be sufficiently low that dewatering with any potential for impacting adjacent properties will not be required. As such there is no further requirement for groundwater assessment or monitoring.

## 6.2. Contingency Plan:

#### 6.2.1. Settlement and Deflection

Survey measurements of settlement and deflection should be assessed immediately by the site foreman and referred to the geotechnical engineer and structural engineer where any deflection/variation of ≥5mm from the original measured values is identified. If this occurs, excavation should cease and additional support/retention measures may need to be implemented to limit any further settlement/deflection or subsequent damage. The geotechnical engineer and structural engineer should be immediately contacted regarding advice for such measures.

#### 6.2.2. Ground Vibrations:

Where the alarm is triggered the site foreman should record the events/activities on site which could have caused the alarm and then inspect the structure being monitored for damage. Where no damage is identified then excavation may resume.

However, if the full-time vibration monitor alarm is triggered consecutively or on regular occasions then excavation works, or any other activity that may have resulted in the exceedance, should cease immediately and the geotechnical specialist contacted. A log of the vibration monitor results may then be checked to determine the magnitude of the exceedance. The geotechnical specialist may then determine that smaller equipment or different excavation methods will be required to complete the excavation.



#### 7. CONCLUSION:

The site investigation identified the presence of granular topsoil/fill to varying depth from 0.20m to greater than 3.00m, underlain by sandstone bedrock as observed in existing excavation visible along the northern and western boundaries as well as in front of the existing garage and in the neighbouring properties (No.91). The bedrock surface is dipping towards the northeast from a high of approximately RL 36.00m within rear west of the property to approximately RL 26.00m at the northeast corner. Detached sections/boulders were observed near the upper surface of the bedrock from excavation especially in No. 91 whilst the bedrock exposure/ excavation in No. 91 contains numerous defects and one significant, continuous and potentially hazardous joint defect.

Based on the additional cored boreholes, bedrock to the north of the existing garage is fractured to 4.20m depth however it is of good quality below this level. The boreholes to the west of the garage identified what appears to be the edge of the previous excavation, which is very close to the outline of the proposed works, therefore excavation in this location may be very limited. No groundwater table or significant seepage was encountered during the investigation. The existing house appears generally founded on sandstone bedrock except of the north end where it may be supported off the existing garage.

It is understood that the proposed works involve extensive alterations and additions to the existing house and site, including a widened garage with tunnel to lift, extension to the lower ground level and landscaping. The works will require excavations below existing ground levels up to approximately 9.10m depth for the garage and lower ground level and up to 2.00m depth for the landscaping. These excavations will extend to the north boundary and within 1.00m of the west boundary.

With regard to the neighbouring owners (No. 91) and Council concerns over the stability of the neighbouring excavation/cliff, it is recommended that ground vibrations be limited to ≤3mm/PPV at the excavation/cliff corner near the north west corner of the site whilst staged excavation support or support prior to excavation be implemented for the garage excavation. The excavation to the west of the garage is expected to be limited based on the existing excavation as determined by the cored borehole investigation. The stability of the excavation/cliff in all portions of the site exaction could be ensured by regular geotechnical inspection and mapping, selection of suitable excavation equipment and implementation of a vibration monitoring plan.

It is recommended that ongoing/ regular geotechnical inspection at 1.50m depth intervals during excavation be undertaken. This will provide an effective assessment to allow refinement of excavation conditions and potential support required.



The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented. As such the site is considered suitable for the proposed construction works provided that the recommendations outlined in this report are followed.

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## 8. REFERENCES:

- Australian Geomechanics Society 2007, "Landslide Risk Assessment and Management", Australian Geomechanics Journal Vol. 42, No 1, March 2007.
- Woollahra Municipal Council's 'Guidelines for Preparation of Geotechnical and Hydrogeological Reports' Annexure 3, September 2002.
- 3. Geological Society Engineering Group Working Party 1972, "The preparation of maps and plans in terms of engineering geology," Quarterly Journal Engineering Geology, Volume 5, Pages 295 382.
- C. W. Fetter 1995, "Applied Hydrology" by Prentice Hall. V. Gardiner & R. Dackombe 1983, "Geomorphological Field Manual" by George Allen & Unwin



## Appendix 1



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## NOTES RELATING TO THIS REPORT

#### Introduction

These notes have been provided to amplify the geotechnical report in regard to classification methods, specialist field procedures and certain matters relating to the Discussion and Comments section. Not all, of course, are necessarily relevant to all reports.

Geotechnical reports are based on information gained from limited subsurface test boring and sampling, supplemented by knowledge of local geology and experience. For this reason, they must be regarded as interpretive rather than factual documents, limited to some extent by the scope of information on which they rely.

#### **Description and classification Methods**

The methods of description and classification of soils and rocks used in this report are based on Australian Standard 1726, Geotechnical Site Investigation Code. In general, descriptions cover the following properties - strength or density, colour, structure, soil or rock type and inclusions.

Soil types are described according to the predominating particle size, qualified by the grading of other particles present (eg. Sandy clay) on the following bases:

Soil Classification	Particle Size
Clay	less than 0.002 mm
Silt	0.002 to 0.06 mm
Sand	0.06 to 2.00 mm
Gravel	2.00 to 60.00mm

Cohesive soils are classified on the basis of strength either by laboratory testing or engineering examination. The strength terms are defined as follows:

	Undrained
Classification	Shear Strength kPa
Very soft	Less than 12
Soft	12 - 25
Firm	25 – 50
Stiff	50 – 100
Very stiff	100 - 200
Hard	Greater than 200

Non-cohesive soils are classified on the basis of relative density, generally from the results of standard penetration tests (SPT) or Dutch cone penetrometer tests (CPT) as below:

Hardon Land

	<u>SPT</u>	<u>CPT</u>
Relative Density	"N" Value	Cone Value
	(blows/300mm)	(Qc – MPa)
Very loose	less than 5	less than 2
Loose	5 – 10	2 - 5
Medium dense	10 – 30	5 -15
Dense	30 - 50	15 – 25
Very dense	greater than 50	greater than 25

Rock types are classified by their geological names. Where relevant, further information regarding rock classification is given on the following sheet.



#### Sampling

Sampling is carried out during drilling to allow engineering examination (and laboratory testing where required) of the soil or rock

Disturbed samples taken during drilling to allow information on colour, type, inclusions and, depending upon the degree of disturbance, some information on strength and structure.

Undisturbed samples are taken by pushing a thin-walled sample tube into the soil and withdrawing a sample of the soil in a relatively undisturbed state. Such samples yield information on structure and strength, and are necessary for laboratory determination of shear strength and compressibility. Undisturbed sampling is generally effective only in cohesive soils.

## **Drilling Methods**

The following is a brief summary of drilling methods currently adopted by the company and some comments on their use and application.

**Test Pits** – these are excavated with a backhoe or a tracked excavator, allowing close examination of the insitu soils if it is safe to descent into the pit. The depth of penetration is limited to about 3m for a backhoe and up to 6m for an excavator. A potential disadvantage is the disturbance caused by the excavation.

Large Diameter Auger (eg. Pengo) – the hole is advanced by a rotating plate or short spiral auger, generally 300mm or larger in diameter. The cuttings are returned to the surface at intervals (generally of not more than 0.5m) and are disturbed but usually unchanged in moisture content. Identification of soil strata is generally much more reliable than with continuous spiral flight augers, and is usually supplemented by occasional undisturbed tube sampling.

**Continuous Sample Drilling** – the hole is advanced by pushing a 100mm diameter socket into the ground and withdrawing it at intervals to extrude the sample. This is the most reliable method of drilling soils, since moisture content is unchanged and soil structure, strength, etc. is only marginally affected.

Continuous Spiral Flight Augers – the hole is advanced using 90 – 115mm diameter continuous spiral flight augers which are withdrawn at intervals to allow sampling or insitu testing. This is a relatively economical means of drilling in clays and in sands above the water table. Samples are returned to the surface, or may be collected after withdrawal of the auger flights, but they are very disturbed and may be contaminated. Information from the drilling (as distinct from specific sampling by SPT's or undisturbed samples) is of relatively lower reliability, due to remoulding, contamination or softening of samples by ground water.

**Non-core Rotary Drilling** - the hole is advanced by a rotary bit, with water being pumped down the drill rods and returned up the annulus, carrying the drill cuttings. Only major changes in stratification can be determined from the cuttings, together with some information from 'feel' and rate of penetration.

**Rotary Mud Drilling** – similar to rotary drilling, but using drilling mud as a circulating fluid. The mud tends to mask the cuttings and reliable identification is again only possible from separate intact sampling (eg. From SPT).

**Continuous Core Drilling** – a continuous core sample is obtained using a diamond-tipped core barrel, usually 50mm internal diameter. Provided full core recovery is achieved (which is not always possible in very weak rocks and granular soils), this technique provides a very reliable (but relatively expensive) method of investigation.

## **Standard Penetration Tests**

Standard penetration tests (abbreviated as SPT) are used mainly in non-cohesive soils, but occasionally also in cohesive soils as a means of determining density or strength and also of obtaining a relatively undisturbed sample. The test procedures is described in Australian Standard 1289, "Methods of Testing Soils for Engineering Purposes" – Test 6.3.1.

The test is carried out in a borehole by driving a 50mm diameter split sample tube under the impact of a 63kg hammer with a free fall of 760mm. It is normal for the tube to be driven in three successive 150mm increments and the 'N' value is taken



as the number of blows for the last 300mm. In dense sands, very hard clays or weak rock, the full 450mm penetration may not be practicable and the test is discontinued.

The test results are reported in the following form.

- In the case where full penetration is obtained with successive blow counts for each 150mm of say 4, 6 and 7 as 4, 6, 7 then N = 13
- In the case where the test is discontinued short of full penetration, say after 15 blows for the first 150mm and 30 blows for the next 40mm then as 15, 30/40mm.

The results of the test can be related empirically to the engineering properties of the soil. Occasionally, the test method is used to obtain samples in 50mm diameter thin wall sample tubes in clay. In such circumstances, the test results are shown on the borelogs in brackets.

#### Cone Penetrometer Testing and Interpretation

Cone penetrometer testing (sometimes referred to as Dutch Cone – abbreviated as CPT) described in this report has been carried out using an electrical friction cone penetrometer. The test is described in Australia Standard 1289, Test 6.4.1.

In tests, a 35mm diameter rod with a cone-tipped end is pushed continually into the soil, the reaction being provided by a specially designed truck or rig which is fitted with an hydraulic ram system. Measurements are made of the end bearing resistance on the cone and the friction resistance on a separte 130mm long sleeve, immediately behind the cone. Transducers in the tip of the assembly are connected buy electrical wires passing through the centre of the push rods to an amplifier and recorder unit mounted on the control truck.

As penetration occurs (at a rate of approximately 20mm per second) their information is plotted on a computer screen and at the end of the test is stored on the computer for later plotting of the results.

The information provided on the plotted results comprises: -

- Cone resistance the actual end bearing force divided by the cross-sectional area of the cone expressed in MPa.
- Sleeve friction the frictional force on the sleeve divided by the surface area expressed in kPa.
- Friction ratio the ratio of sleeve friction to cone resistance, expressed in percent.

There are two scales available for measurement of cone resistance. The lower scale (0-5 MPa) is used in very soft soils where increased sensitivity is required and is shown in the graphs as a dotted line. The main scale (0-50 MPa) is less sensitive and is shown as a full line. The ratios of the sleeve friction to cone resistance will vary with the type of soil encountered, with higher relative friction in clays than in sands. Friction ratios 1% - 2% are commonly encountered in sands and very soft clays rising to 4% - 10% in stiff clays.

In sands, the relationship between cone resistance and SPT value is commonly in the range: -

Qc (MPa) = (0.4 to 0.6) N blows (blows per 300 mm)

In clays, the relationship between undrained shear strength and cone resistance is commonly in the range: -

Qc = (12 to 18) Cu

Interpretation of CPT values can also be made to allow estimation of modulus or compressibility values to allow calculations of foundation settlements.

Inferred stratification as shown on the attached reports is assessed from the cone and friction traces and from experience and information from nearby boreholes, etc. This information is presented for general guidance, but must be regarded as being to some extent interpretive. The test method provides a continuous profile of engineering properties, and where precise information on soil classification is required, direct drilling and sampling may be preferable.

## **Dynamic Penetrometers**

Dynamic penetrometer tests are carried out by driving a rod into the ground with a falling weight hammer and measuring the blows for successive 150mm increments of penetration. Normally, there is a depth limitation of 1.2m but this may be extended in certain conditions by the use of extension rods.



Two relatively similar tests are used.

- Perth sand penetrometer a 16mm diameter flattened rod is driven with a 9kg hammer, dropping 600mm (AS1289, Test 6.3.3). The test was developed for testing the density of sands (originating in Perth) and is mainly used in granular soils and filling.
- Cone penetrometer (sometimes known as Scala Penetrometer) a 16mm rod with a 20mm diameter cone end is driven with a 9kg hammer dropping 510mm (AS 1289, Test 6.3.2). The test was developed initially for pavement sub-grade investigations, and published correlations of the test results with California bearing ratio have been published by various Road Authorities.

## **Laboratory Testing**

Laboratory testing is generally carried out in accordance with Australian Standard 1289 "Methods of Testing Soil for Engineering Purposes". Details of the test procedure used are given on the individual report forms.

### **Borehole Logs**

The bore logs presented herein are an engineering and/or geological interpretation of the subsurface conditions, and their reliability will depend to some extent on frequency of sampling and the method of drilling. Ideally, continuous undisturbed sampling or core drilling will provide the most reliable assessment, but this is not always practicable, or possible to justify on economic grounds. In any case, the boreholes represent only a very small sample of the total subsurface profile.

Interpretation of the information and its application to design and construction should therefore take into account the spacing of boreholes, the frequency of sampling and the possibility of other than 'straight line' variations between the boreholes.

Details of the type and method of sampling are given in the report and the following sample codes are on the borehole logs where applicable:

D	Disturbed Sample	E	Environmental sample	DT	Diatube
В	Bulk Sample	PP	Pocket Penetrometer Test		
U50	50mm Undisturbed Tube Sample	SPT	Standard Penetration Test		
U63	63mm " " " "	C	Core		

## **Ground Water**

Where ground water levels are measured in boreholes there are several potential problems:

- In low permeability soils, ground water although present, may enter the hole slowly or perhaps not at all during the time it is left open.
- A localised perched water table may lead to an erroneous indication of the true water table.
- Water table levels will vary from time to time with seasons or recent weather changes. They may not be the same at the time of construction as are indicated in the report.
- The use of water or mud as a drilling fluid will mask any ground water inflow. Water has to be blown out of the hole and drilling mud must first be washed out of the hole if water observations are to be made. More reliable measurements can be made by installing standpipes which are read at intervals over several days, or perhaps weeks for low permeability soils. Piezometers, sealed in a particular stratum, may be interference from a perched water table.

### **Engineering Reports**

Engineering reports are prepared by qualified personnel and are based on the information obtained and on current engineering standards of interpretation and analysis. Where the report has been prepared for a specific design proposal (eg. A three-storey building), the information and interpretation may not be relevant if the design proposal is changed (eg. to a twenty-storey building). If this happens, the Company will be pleased to review the report and the sufficiency of the investigation work.



Every care is taken with the report as it relates to interpretation of subsurface condition, discussion of geotechnical aspects and recommendations or suggestions for design and construction. However, the Company cannot always anticipate or assume responsibility for:

- unexpected variations in ground conditions the potential for this will depend partly on bore spacing and sampling frequency,
- changes in policy or interpretation of policy by statutory authorities,
- · the actions of contractors responding to commercial pressures,

If these occur, the Company will be pleased to assist with investigation or advice to resolve the matter.

### Site Anomalies

In the event that conditions encountered on site during construction appear to vary from those which were expected from the information contained in the report, the Company requests that it immediately be notified. Most problems are much more readily resolved when conditions are exposed than at some later stage, well after the event.

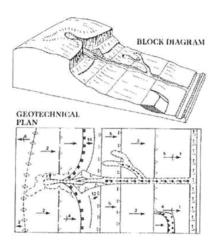
## Reproduction of Information for Contractual Purposes

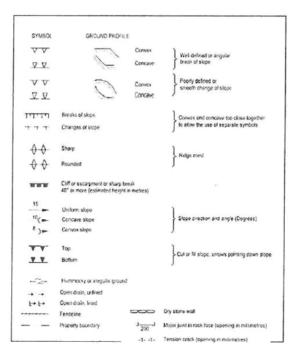
Attention is drawn to the document "Guidelines for the Provision of Geotechnical Information in Tender Documents", published by the Institution of Engineers Australia. Where information obtained from this investigation is provided for tendering purposes, it is recommended that all information, including the written report and discussion, be made available. In circumstances where the discussion or comments section is not relevant to the contractual situation, it may be appropriate to prepare a special ally edited document. The Company would be pleased to assist in this regard and/or to make additional report copies available for contract purposes at a nominal charge.

## Site Inspection

The Company will always be pleased to provide engineering inspection services for geotechnical aspects of work to which this report is related. This could range from a site visit to confirm that conditions exposed are as expected, to full time engineering presence on site.

## PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007



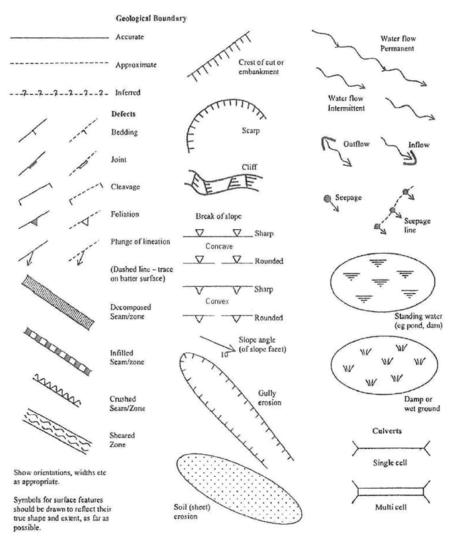


Example of Mapping Symbols (after V Gardiner & R V Dackombe (1983).Geomorphological Field Manual. George Allen & Unwin).

Australian Geomechanics Vol 42 No 1 March 2007

## PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007

APPENDIX E - GEOLOGICAL AND GEOMORPHOLOGICAL MAPPING SYMBOLS AND TERMINOLOGY

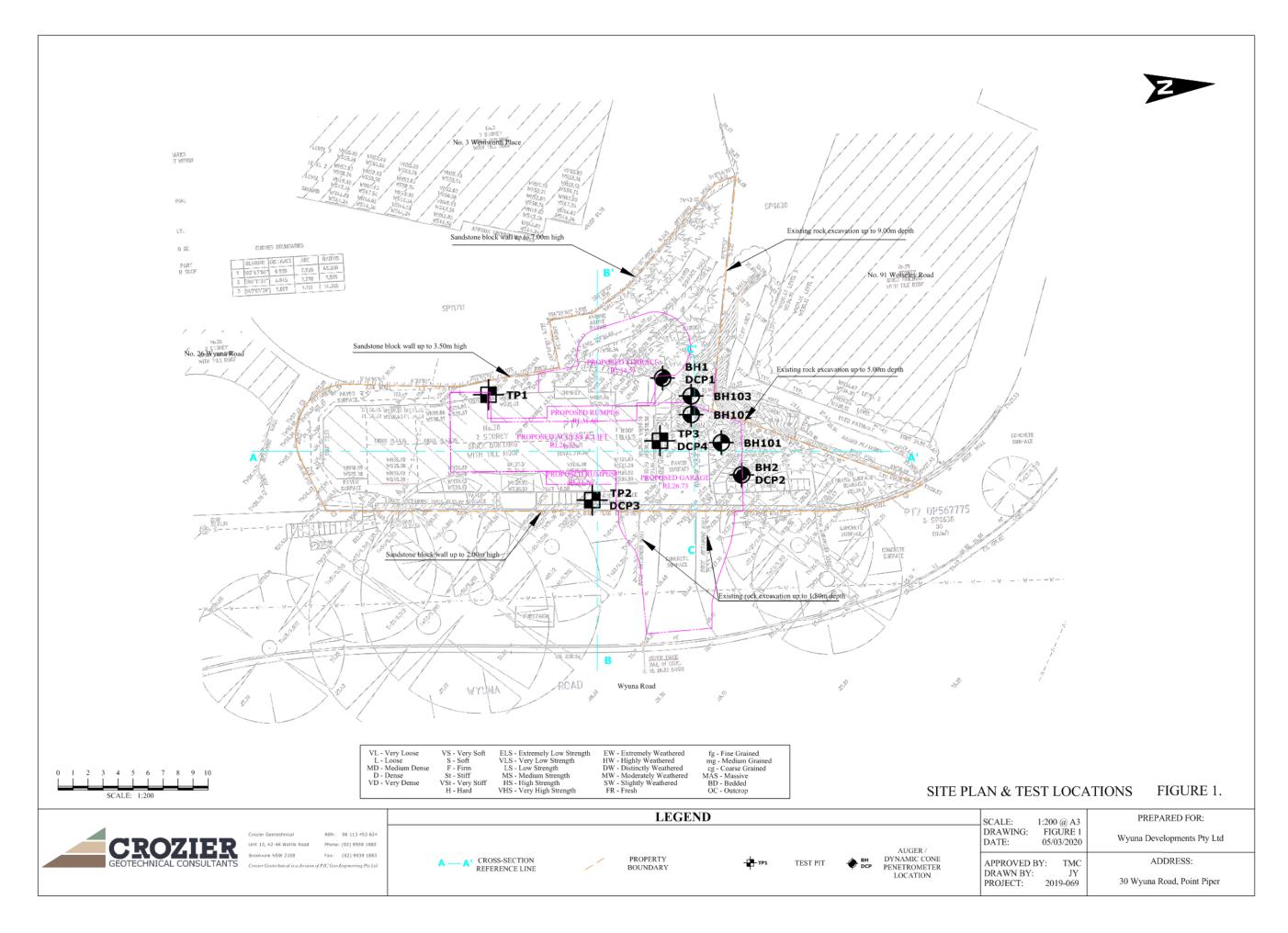


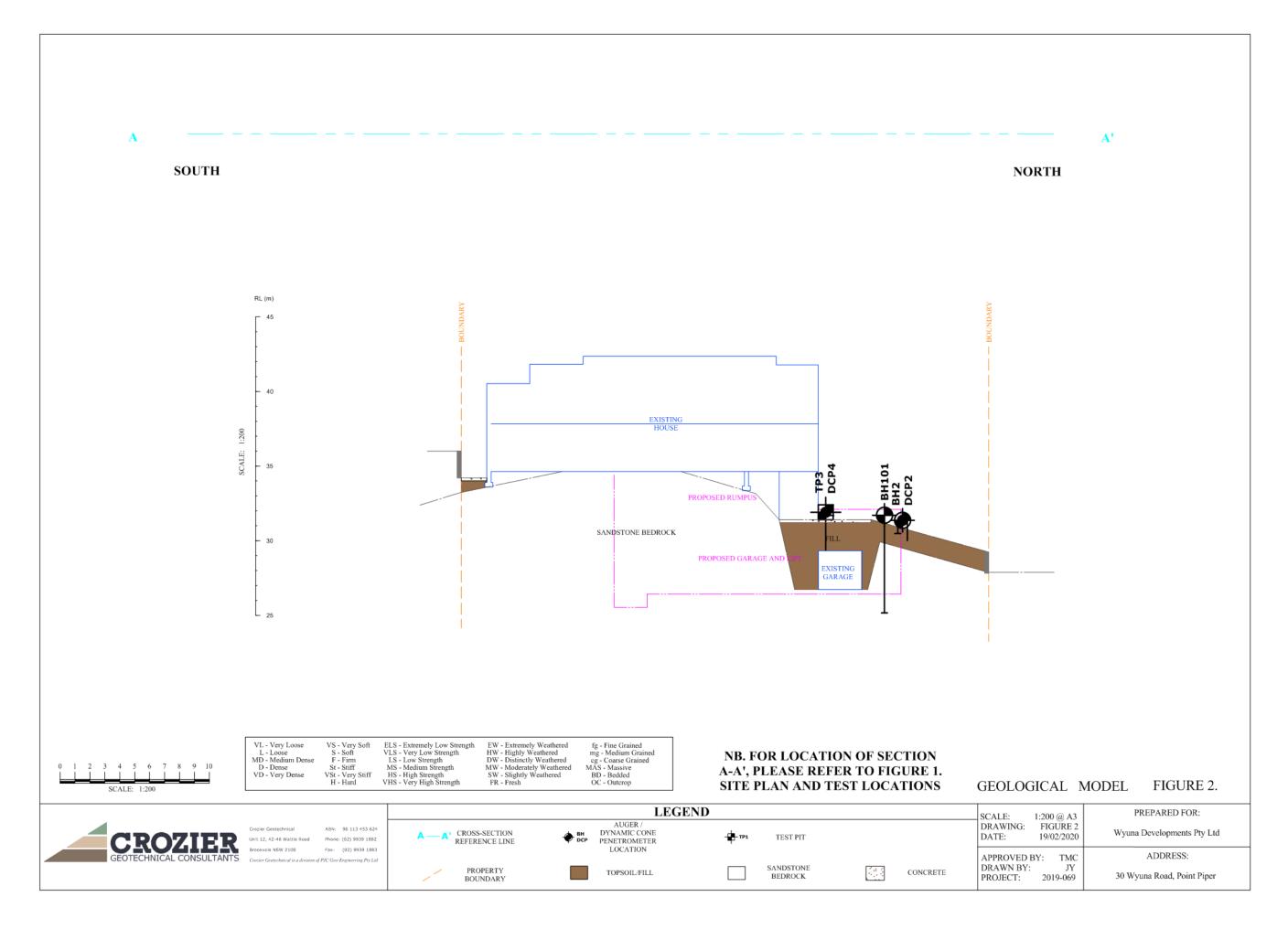
Examples of Mapping Symbols (after Guide to Slope Risk Analysis Version 3.1 November 2001, Roads and Traffic Authority of New South Wales).

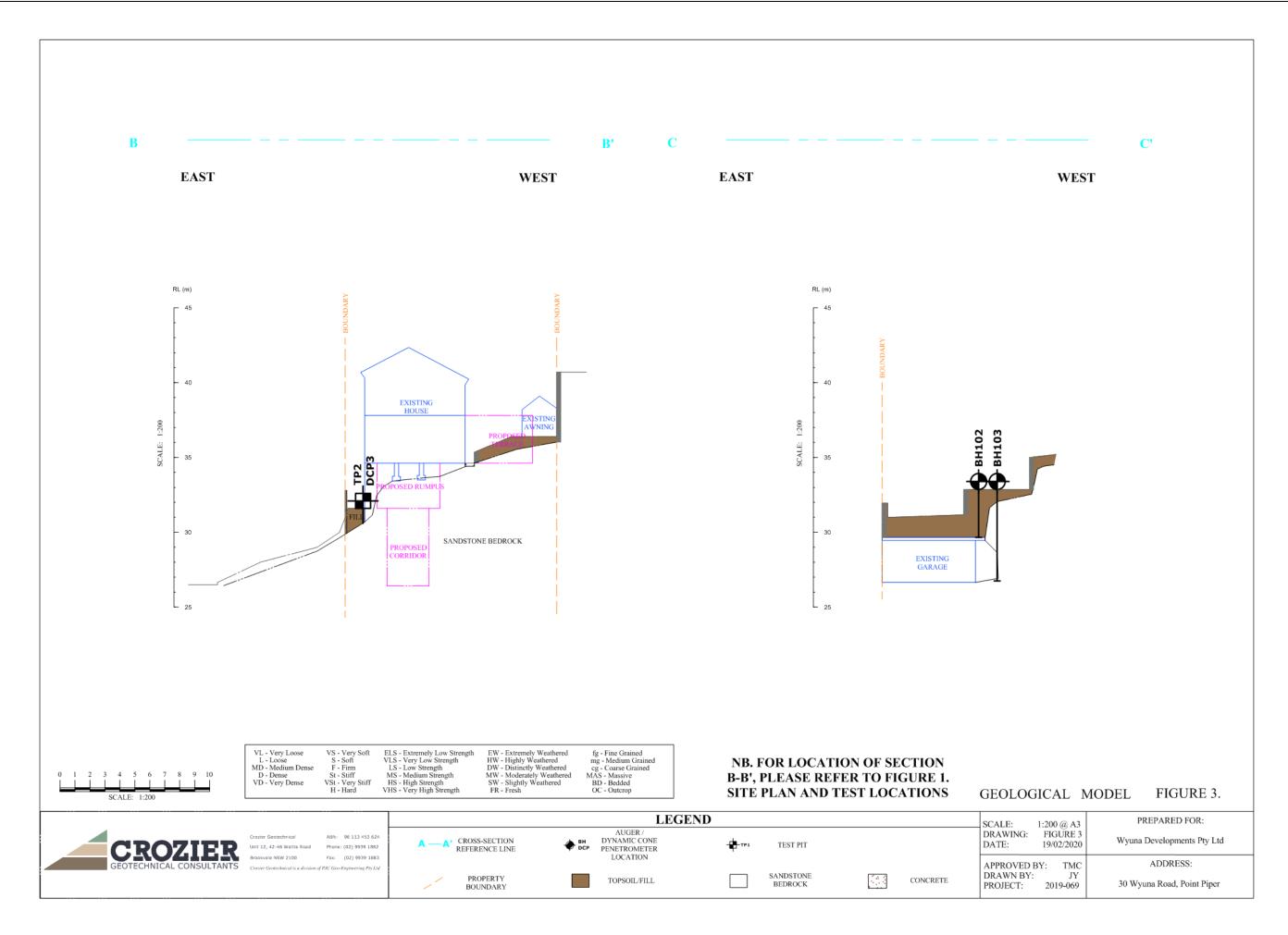
Australian Geomechanics Vol 42 No 1 March 2007

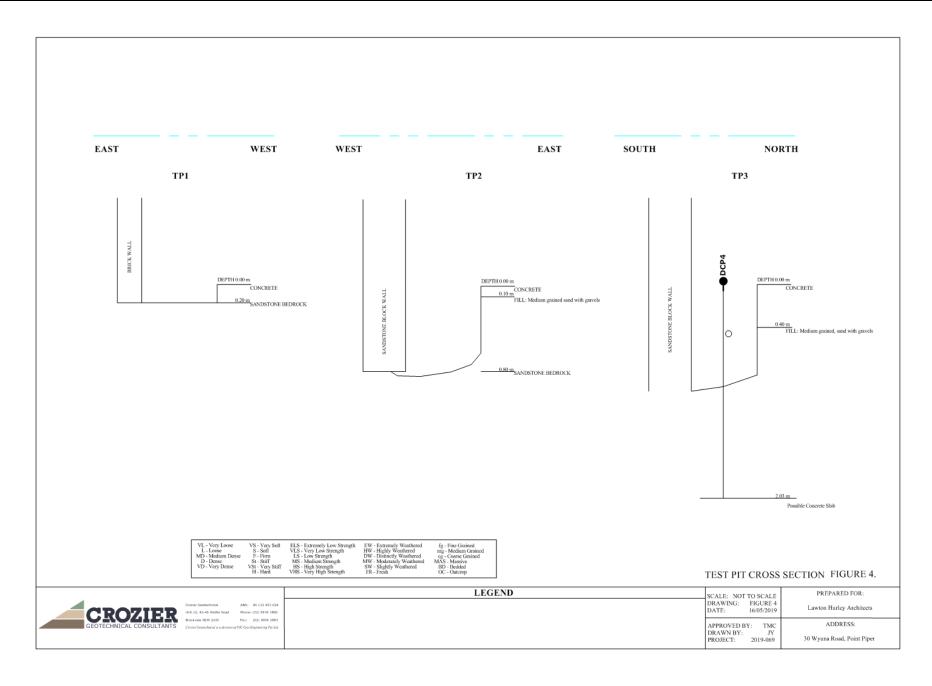


# Appendix 2









## **BOREHOLE LOG**

CLIENT: Lawton Hurley Architects DATE: 15/05/2019 BORE No.: 1

PROJECT: Alterations and Additions PROJECT No.: 2019-069 SHEET: 1 of 1

LOCATION: 30 Wyuna Road, Point Piper SURFACE LEVEL: RL32.90

Depth (m)	Description of Strata	San	npling	In S	In Situ Testing				
	PRIMARY SOIL - strength/density, colour, grainsize/plasticity, moisture, soil type incl. secondary constituents,		Depth (m)	Type	Resu	ılts			
.00	other remarks	Type	Doptii (iii)	.,,,,,	11000				
	TOPSOIL/FILL: Dark grey, fine to medium, silty sand with gravels and tiles	1							
0.45									
0.15	Gravelly SAND: Loose to medium dense, medium grained, moist gravelly	1							
	sand with roots, gravels and cobbles								
0.70		-							
	Auger refusal at 0.70m depth on cobbles								
.00									
			1						
00		l	1	l					
IG:	NA .		DRILLER:	۸.	LOGGED:	IV			
			DRILLER.	AC	LOGGED.	J 1			
	Hand Auger								
KOUND W	ATER OBSERVATIONS: No freestanding groundwater found								
EMARKS			OUFOKES						
EMARKS:			CHECKED:						

Crozier Geotechnical Consultants

## **BOREHOLE LOG**

CLIENT: Lawton Hurley Architects DATE: 15/05/2019 BORE No.: 2

PROJECT: Alterations and Additions PROJECT No.: 2019-069 SHEET: 1 of 1

LOCATION: 30 Wyuna Road, Point Piper SURFACE LEVEL: RL30.80

epth (m)	Description of Strata PRIMARY SOIL - strength/density, colour, grainsize/plasticity,	San	npling	In Situ Testing				
	moisture, soil type incl. secondary constituents,	Type	Depth (m)	Type	Results	_		
00	other remarks							
	TOPSOIL/FILL: Dark grey, fine to medium, silty sand with gravels and tiles							
0.15	Gravelly SAND: Loose to medium dense, medium grained, moist gravelly							
	sand with roots, gravels and cobbles							
0.50								
0.50	Auger refusal at 0.50m depth on cobbles					-		
0								
' ·						-		
						-		
						_		
G:	NA		DRILLER: /	AC	LOGGED: JY	_		
ETHOD:	Hand Auger							
ROUND W	ATER OBSERVATIONS: No freestanding groundwater found							
MARKS:			CHECKED:					

Crozier Geotechnical Consultants

## **DYNAMIC PENETROMETER TEST SHEET**

CLIENT:Lawton Hurley ArchitectsDATE: 15/05/2019PROJECT:Alterations and AdditionsPROJECT No.: 2019-069LOCATION:30 Wyuna Road, Point PiperSHEET: 1 of 1

				Test	Location	1	
Depth (m)	1	2	3	3a	4		
0.00 - 0.15	2	1					
0.15 - 0.30	4	4					
0.30 - 0.45	2	4					
0.45 - 0.60	5	5 (B) ref					
0.60 - 0.75	4	at 0.70m	8	8			
0.75 - 0.90	6		8	7	1		
0.90 - 1.05	6		7	3 (B) ref	2		
1.05 - 1.20	4		8 (B) ref at 1.07m	at 0.92m	3		
1.20 - 1.35	6		at 1.07m		16		
1.35 - 1.50	7				11		
1.50 - 1.65	7				5		
1.65 - 1.80	5				3		
1.80 - 1.95	7				6		
1.95 - 2.10	6				5 (B) ref at 2.03		
2.10 - 2.25	7				at 2.00		
2.25 - 2.40	20						
2.40 - 2.55	12						
2.55 - 2.70	7						
2.70 - 2.85	7						
2.85 - 3.00	8						
3.00 - 3.15							
3.15 - 3.30							
3.30 - 3.45							
3.45 - 3.60							
3.60 - 3.75							
3.75 - 3.90							
3.90 - 4.05							

TEST METHOD: AS 1289. F3.2, CONE PENETROMETER

REMARKS: (B) Test hammer bouncing upon refusal on solid object

-- No test undertaken at this level due to prior excavation of soils

1	CROZIER
	GEOTECHNICAL CONSULTANTS

Client: Wynua Developments Pty Ltd Date: 10/02/2020 Borehole: 101

Project: Alterations and Additions Project No.: 2019-069

Location: 30 Wyuna Avenue, Point Piper Surface Level: RL31.38

Rock Defect Weathering Sampling and In Situ Testing Depth (m) Spacing Strength **Description of Strata** Discontinuities Soil/rock name, grainsize, texture/fabric, colour Core Rec. % RQD % Type Test Results TOPSOIL/FILL: Dark grey, fine to medium, silty sand with gravels and tiles Sandy CLAY: Orange, medium plasticity, moist SANDSTONE: Medium grained, massive, yellow to grey .35-1.45m: J, 70°, PL, RO, Clean .66-1.70m: J, 80°, PL, RO, Clean 100% 71% series of bedding between 2.00m and 2.50m, o°-10°, PL, SO, Clean 2.13-2.22mm: I<sub>s(50)</sub> = 0.18MPa (Diametral), I<sub>s(50)</sub> = 0.31MPa (Axial), Moisture Content = 6.6% .30-2.33m:clay seam CORE LOSS BETWEEN 2.50m and 3.00m depth 66% series of bedding between 3.00m and 3.60m, 0°-10°, PL to IR, SO, Clean .70m: B, 0°, PL, SO, Clean 3.90m: B, 0°, PL, SO, Clean 100% 37% 4.60-4.70m: clay seam 1.89-5.00mm:  $_{5(50)} = 1.33$ MPa (Diametral),  $_{5(50)} = 1.28$ MPa (Axial), Moisture Content = 6.1% .90m: B, 0°, PL, SO, 3mm clay 100% 100% .90m: B, 0°, PL, SO, Clean End of borehole at 6.00m depth uinimi minimi

Rig: Man-portable	Driller: BG
Type of Boring: Auger to 1.30m, then NMCL coring	Logged By: JY
Water Observations: No groundwater observed	Casing: 1.30m depth
Comments:	

CROZIER	
GEOTECHNICAL CONSULTANTS	

Client:	Wynua Developments Pty Ltd	Date:	11/02/2020	Borehole:	102
	Tryinda Doronopinonto I ty Ltd			Doronoic.	

 Project:
 Alterations and Additions
 Project No.:
 2019-069

 Location:
 30 Wyuna Avenue, Point Piper
 Surface Level:
 RL32.85

Depth (m)	Description of Strata	Description of Strata Discontinuities St		Rock Strength			ion Details		Sampling and In Situ Testing				
Dep	Soil/rock name, grainsize, texture/fabric, colour	Discontinues	Extremely Highly Moderalely Signth	Fresh	Very Low High Indian	< 0.05m 0.05 to 0.20m	0.50 to 1.00m	Installaation	Type	Depth (m)	Core Rec. %	RQD %	Test Results
	TOPSOIL/FILL: Dark grey, fine to medium, silty sand with gravels and tiles		. u curri		ninmm			ТТ ТТ					
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Rig: Man-portable	Driller: BG
Type of Boring: Auger to 1.00m, then NMLC coring	Logged By: JY
Nater Observations: No groundwater observed	Casing: 1.00m depth
Comments:	

1 1 1 1 1	CROZIER	

\_\_\_103\_\_\_ Client: Date: Borehole: Wynua Developments Pty Ltd 11/02/2020

Project No.: Project: Alterations and Additions 2019-069 Location: 30 Wyuna Avenue, Point Piper Surface Level: RL32.85

Depth (m)	Description of Strata	Discontinuities	Weathering		Rock Strength	Defec Spacin	g 🛮 👸	Sampling and In Situ Testing			d In Situ Testing	
Dep	Soil/rock name, grainsize, texture/fabric, colour		Extremely Highly Moderately	Fresh -	Ex Low Very Low Medium High	<ul> <li>&lt; 0.05m</li> <li>&lt; 0.05m</li> <li>&lt; 0.05m</li> <li>&lt; 0.20m</li> <li>&lt; 0.50m</li> <li>&lt; 0.50m</li> </ul>	당 일	Type	Depth (m)	Core Rec. %	RQD %	Test Results
	TOPSOIL/FILL: Dark grey, fine to medium, silty sand with gravels and tiles		o contri		ninmm		1 T					
						-  -  -  -  -  -  -  -  -  -  -  -  -  -  -  -						
0.90				ccc								
.00	SANDSTONE: Medium grained, massive, yellow to grey	0.90-1.00m: J, 70°, PL, RO, 2mm clay		ΠÏ						100%	100%	
		1.55m: B, 20°, PL, RO, 1mm clay			nini mi	- = - ; -	1  T	1.60				1.50-1.58mm: I <sub>s/501</sub> = 0.77MPa (Diametral),
.00		series of bedding between 1.66m to 1.91m: 20°, PL, SO, Clean			HI H H H H H H H H H H H H H H H H H H							I <sub>s(50)</sub> = 0.62MPa (Axial), Moisture Content = 5.0%
.00		2.16m: B, 0°, PL, RO, 2mm clay	7 177 1				1 - + 1	 				
						-				100%	95%	
3.00		2.87m: J, 45°, PL, RO, 5mm clay			1010 <b>60</b> 70 1416 <b>63</b> 64 1416 <b>63</b> 64 1416 <b>64</b>					-		
		series of bedding between 3.40m to 3.73m: 10°, PL, SO, 1mm clay								-		
		3.60m: J, 45°, PL, RO, clean			. 11 11 11 11 11 11 11 11 11 11 11 11 11		1 - 4 1 1 - 4 1 1 - 4 1 1 - 4 1			97%	85%	
.00										1		4.09-4.25mm:
.25	CORE LOSS attributed between 4.25m and 5.20m depth, sign of previous excavation		-1 1-1-11		HIH <b>65</b> HI	-  - 🚍 -	1 41	4.30		-		$I_{s(50)} = 0.53MPa$ (Diametral), $I_{s(50)} = 0.70MPa$ (Axial), Moisture Content = 5.0%
								-				
.00			-1+ IH + IH -1 L III L I I -1 L I I I I I I	CEL LLL LLL		- I-I-I- - L I-I- - L I-I-	1 - 4 1 1 - 4 1 1 - 4 1			20%	0%	
	SANDSTONE					111	_		0			
	CORE LOSS - attributed between 5.40m and 5.70m depth, sign of previous excavation				нинин							
	SANDSTONE		J 00.00	LL.	.010 W W .010 W W .010 W W		되고	.		20%	0%	
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Rig: Man-portable	Driller: BG
Type of Boring: Auger to 0.80m, then NMLC coring	Logged By: JY
Nater Observations: No groundwater observed	Casing: 0.80m depth
Comments:	



## Appendix 3

	MOIST	URE CONT	ENT TE	ST REPORT	
Client:	Crozier Geotech		Job No:	S20072-1	
Address:	Unit 12/ 42-46 Wattle Street Brookvale NSW 2100  Report No: S580  30 Wyuna Road Point Piper (2019-069)  edure:  AS 1289 2.1.1 Soil moissure content tests - Determination of the moissure content of a company of the moissure content of the moissure content of the moissure content of the moissure content of aggregates (Standard method)  RMS T262 Determination of moisture content of aggregates (Standard method)  Source Sample Description  BH1 2.13-2.22m Sandstone  BH1 4.99-5.00m Sandstone  BH3 1.50-1.58m Sandstone  BH3 4.09-4.25m Sandstone  Accredited for compliance with ISO/IEC 17025 - Testing.  Accredited for compliance with ISO/IEC 17025 - Testing.	S58006-MC			
Project:	30 Wyuna Road Point Piper (2019	9-069)			
Test Proce	AS4133 1.1.1	Rock moisture content tests - Deterministure content of road construction mate	ation of the moisture cor rials (Standard method)	ntent of rack - Oven drying method (standard methor	
Sampling:		*** ** - * - * - * - *		Date Sampled	11/02/2020
Preparation Sample No.		vith the test method	Sample De	scription	Moisture Content %
S58006					
S58007					
S58008					
S58009	BH3 4.09-4.25m				
					<del>-  </del>
Notes:					
	Accredited for compliance with ISO/IEC	2 17025 - Testing		Authorised Signatory:	
NA.	The results of the tests, calibrations an document are traceable to Australian/	d/or measurements included in th	Sample Description Moisture Content Sandstone 6.6 Sandstone 5.0 Sandston	20/02/2020	
11.10	NATA Accredited Laboratory	y Number: 14874		Chris Lloyd	Date:
MAC	QUARIE OTECH				Macquarie Geotechnical U7/8 10 Bradford Street Alexandria NSW 2015

Issue 1 - 18/06/18 W80R - S58006-MC.xlsm Page 1 of 1

Client:	Crozier Geotech			INDEX REPORT  As received						
Address:	s: Unit 12/ 42-46 Wattle Street Brookvale NSW 2100 Storage History: Core boxes									
Project:	30 Wyuna Road Point	t Piper (2019-069)		Report No:	S58006-PI					
Job No:	S20072-1			Date Tested:	20/02/2020	)				
Test Proce	edure:	AS4133 4.1	Rock strength tests - Determin	ation of point load strength	index					
Sampling:	Sampled by	Client				Date	Sampled:	1	11/02/2020	
Preparatio	n: Prepared in	accordance with the t	est method							
Sample Number	Sample Source	Sample Description	Test Type	Average Width (mm)	Platen Separation (mm)	Failure Load (kN)	Point Load Index Is (MPa)	Point Load Index Is <sub>(50)</sub> (MPa)	Failure Mode	
			Diametral	-	48.0	0.43	0.19	0.18	1	
S58006	BH1 2.13-2.22m	Sandstone	Axial	50.1	35.0	0.70	0.31	0.31	1	
	BH1 4.89-5.00m		Diametral	-	49.0	3.23	1.35	1.33	1	
S58007		Sandstone	Axial	51.5	38.0	3.19	1.28	1.28	1	
			Diametral	-	49.0	1.87	0.78	0.77	1	
S58008	BH3 1.50-1.58m	Sandstone	Axial	51.7	38.0	1.56	0.62	0.62	1	
	BH3 4.09-4.25m	09-4.25m Sandstone	Diametral	-	49.0	1.28	0.53	0.53	1	
S58009			Axial	52.0	43.0	1.94	0.68	0.70	1	
Failure	2 - Fracture 3 - Fracture 4 - Chip or  Accredited for compliants of the testing and the second accredited for compliants of the testing accredited for compliants of the second accredited for compliants of the second accredited for compliants according to the second accredited for compliants accredited for compliants accredited for compliants according to the second accredited for compliants accredited for compliants accredited for compliants accredited for compliants according to the second according	e through fabric of e along bedding. e influenced by pre partial fracture. ance with ISO/IEC 17025 - 1st, calibrations and/or meas ble to Australian/national s ed, except in full.	-existing plane, mi	icrofracture, vei		al altera	ation.		20/02/2020	
		ed Laboratory Numb	er: 14874		Chri	s Lloyd			Date	
and the second name of the second	QUARIE TECH								Macquarie Ge U7/8 10 Bradf Street Alexandria NS	

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## Appendix 4

TABLE: A Landslide risk assessment for Risk to life

HAZARD	Description	Impacting	Likelihood of Slide	Spatial Impa	act of Slide	Occupancy	Evacuation	Vulnerability	Risk to Life
A	Debris or earth slide (-3m²) of soil and rock/garden retaining walls around perimeter of excavation	Sam') of soil and tetaining walls are formed cathway down slope, impact 10% of pathway b) F Cocklyarden retaining around site, including in north b) excavation close to boundarion case to bundarion another to west corner.		a) Person in pathway 0.5 htm/day avge b) Person in lover unit, SW comer 10 htm/day avge c) by Person in lover unit, SW comer 10 htm/day avge c) Vehicle in road reserve, no footpath 2htm/day avge d) Person in gardens, 1htm/day	c) Likely to not evacuate d) Possible to not evacuate	la) Person in open space, crushed b) Person in bidling, minor damage only c) Person in vehicle, damage only d) Person in open space, buried			
			Possible	Prob. of Impact	Impacted	-			
		a) pathway of No. 91	0.001	0.20	0.10	0.0208	0.75	1.00	3.13E-07
		b) unit of building of No. 91	0.001	0.20	0.01	0.4167	0.75	0.20	1.25E-07
		c) Wyuna Ave	0.001	0.90	0.01	0.0833	0.75	0.05	2.81E-08
		d) Driveway/gardens No. 3	0.001	0.90	0.05	0.0417	0.5	0.90	8.44E-07
В	Rockslide (<3m³) of bedrock around perimeter of excavation due to poorly oriented defects		Excavation up to approximately 9.00m depth, excends close to wast boundary for narrow zone, setands close to north-west corner. Numerous defects cleartified in existing excavations, most discontinuous, one larger/continuous.	from boundary, impact 10 b) excavation close to be impact 1% of structure c) excavation undermeath impact 10% of structure a) excavation close to be garden/driveway	% of pathway undary, building 3.0m, the existing site house,	(a) Person in pathway 0.5 hisriday avge b) Person in lover unit 10 hisriday avge (c) Person in house 10 hirlday avge (d) person in gardenidriveway 1 hisriday	c) Likely to not evacuate d) Likely to not evacuate	<ul> <li>a) Person in open space, crushed b) Person in building, impacl/crush c) Person in building, damage only d) Person in open space, burled/crushed</li> </ul>	
			Possible	Prob. of Impact	Impacted				
		a) pathway of No. 91	0.001	0.25	0.10	0.0208	0.5	1.00	2.60E-07
		b) building of No. 91	0.001	0.25	0.01	0.4167	0.5	0.90	4.69E-07
		c) existing site house	0.001	0.90	0.10	0.4167	0.5	0.10	1.88E-06
		d) Driveway/gardens No. 3	0.001	0.50	0.05	0.0417	0.5	0.90	4.69E-07
С	Rockslide (>10m²) of bedrock around perimeter of excavation due to large scale instability along defect	drock around No. 91, north to north-east of the building dipole, previously supported in b) excavation below existing house, impact 50% to large scale No. 91		person in building 10hrs/day     person in building 10hrs/day	Almost certain to not evacuate b) Likely to not evacuate	Person in buidling, buried/crushed     Person in buidling, buried/crushed			
			Possible	Prob. of Impact	Impacted	1			
		a) Building No. 91	0.001	1.00	0.20	0.4167	1	1.00	8.33E-05
		a) Site building	0.001	0.50	0.50	0.4167	0.75	1.00	7.81E-05

<sup>\*</sup> hazards considered in current condition and/or without remedial/stabilisation measures

<sup>\*</sup> likelihood of occurrence for design life of 100 years

\*Spatial Impact: - Probability of Impact referes to side impacting structure/area expressed as a % (1.00 = 100% probability of side impacting area if it occurs), Imageted refers to % of area/structure impacted if side occurrence.

<sup>\*</sup> neighbouring houses considered for bedroom impact unless specified

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<u>TABLE : B</u>

Landslide risk assessment for Risk to Property

IAZARD	Description	Impacting		Likelihood		Consequences	Risk to Property
A	Debris or earth slide (<3m³) of soil and rock/garden retaining walls around perimeter of excavation	a) pathway of No. 91	Likely	Event will probably occur under adverse circumstances over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
		b) unit of building of No. 91	Possible	The event could occur under adverse conditions over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
		c) Wyuna Ave	Unlikely	The event might occur under very adverse circumstances over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Low
		d) Driveway/gardens No. 3	Possible	The event could occur under adverse conditions over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
В	Rockslide (<3m³) of bedrock around perimeter of excavation due to poorly oriented defects	a) pathway of No. 91	Possible	The event could occur under adverse conditions over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
		b) building of No. 91	Possible	The event could occur under adverse conditions over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
		c) existing site house	Possible	The event could occur under adverse conditions over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
		d) Driveway/gardens No. 3	Possible	The event could occur under adverse conditions over the design life.	Minor	Limited Damage to part of structure or site requires some stabilisation or INSIGNIFICANT damage to neighbouring properties.	Moderate
С	Rockslide (>10m³) of bedrock around perimeter of excavation due to large scale instability along defect	a) Building No. 91	Possible	The event could occur under adverse conditions over the design life.	Major	Extensive damage to most of site/structures with significant stabilising to support site or MEDIUM damage to neighbouring properties.	High
		a) Site building	Unlikely	The event might occur under very adverse circumstances over the design life.	Major	Extensive damage to most of site/structures with significant stabilising to support site or MEDIUM damage to neighbouring properties.	Moderate

<sup>\*</sup> hazards considered in current condition, without remedial/stabilisation measures and during construction works

<sup>\*</sup> qualitative expression of likelihood incorporates both frequency analysis estimate and spatial impact probability estimate as per AGS guidelines.

<sup>\*</sup> qualitative measures of consequences to property assessed per Appendix C in AGS Guidelines for Landslide Risk Management.

<sup>\*</sup> Indicative cost of damage expressed as cost of site development with respect to consequence values: Catastrophic : 200%, Major: 60%, Medium: 20%, Minor: 5%, Insignificant: 0.5%.



# Appendix 5

#### LANDSLIDE RISK MANAGEMENT

#### **AGS SUB-COMMITTEE**

#### APPENDIX A

#### **DEFINITION OF TERMS**

# INTERNATIONAL UNION OF GEOLOGICAL SCIENCES WORKING GROUP ON LANDSLIDES, COMMITTEE ON RISK ASSESSMENT

- Risk A measure of the probability and severity of an adverse effect to health, property or the environment.
  Risk is often estimated by the product of probability x consequences. However, a more general interpretation of risk involves a comparison of the probability and consequences in a non-product form.
- Hazard A condition with the potential for causing an undesirable consequence (the landslide). The description of landslide hazard should include the location, volume (or area), classification and velocity of the potential landslides and any resultant detached material, and the likelihood of their occurrence within a given period of time.
- **Elements at Risk** Meaning the population, buildings and engineering works, economic activities, public services utilities, infrastructure and environmental features in the area potentially affected by landslides.
- Probability The likelihood of a specific outcome, measured by the ratio of specific outcomes to the total number of possible outcomes. Probability is expressed as a number between 0 and 1, with 0 indicating an impossible outcome, and 1 indicating that an outcome is certain.
- Frequency A measure of likelihood expressed as the number of occurrences of an event in a given time. See also Likelihood and Probability.
- **Likelihood** used as a qualitative description of probability or frequency.
- **Temporal Probability** The probability that the element at risk is in the area affected by the landsliding, at the time of the landslide.
- Vulnerability The degree of loss to a given element or set of elements within the area affected by the landslide hazard. It is expressed on a scale of 0 (no loss) to 1 (total loss). For property, the loss will be the value of the damage relative to the value of the property; for persons, it will be the probability that a particular life (the element at risk) will be lost, given the person(s) is affected by the landslide.
- Consequence The outcomes or potential outcomes arising from the occurrence of a landslide expressed qualitatively or quantitatively, in terms of loss, disadvantage or gain, damage, injury or loss of life.
- Risk Analysis The use of available information to estimate the risk to individuals or populations, property, or the environment, from hazards. Risk analyses generally contain the following steps: scope definition, hazard identification, and risk estimation.
- Risk Estimation The process used to produce a measure of the level of health, property, or environmental risks being analysed. Risk estimation contains the following steps: frequency analysis, consequence analysis, and their integration.
- Risk Evaluation The stage at which values and judgements enter the decision process, explicitly or implicitly, by including consideration of the importance of the estimated risks and the associated social, environmental, and economic consequences, in order to identify a range of alternatives for managing the risks.
- Risk Assessment The process of risk analysis and risk evaluation.
- Risk Control or Risk Treatment The process of decision making for managing risk, and the implementation, or enforcement of risk mitigation measures and the re-evaluation of its effectiveness from time to time, using the results of risk assessment as one input.
- Risk Management The complete process of risk assessment and risk control (or risk treatment).

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#### LANDSLIDE RISK MANAGEMENT

#### **AGS SUB-COMMITTEE**

- Individual Risk The risk of fatality or injury to any identifiable (named) individual who lives within the zone impacted by the landslide; or who follows a particular pattern of life that might subject him or her to the consequences of the landslide.
- Societal Risk The risk of multiple fatalities or injuries in society as a whole: one where society would have to carry the burden of a landslide causing a number of deaths, injuries, financial, environmental, and other losses.
- Acceptable Risk A risk for which, for the purposes of life or work, we are prepared to accept as it is with no regard to its management. Society does not generally consider expenditure in further reducing such risks justifiable.
- **Tolerable Risk** A risk that society is willing to live with so as to secure certain net benefits in the confidence that it is being properly controlled, kept under review and further reduced as and when possible.
  - In some situations risk may be tolerated because the individuals at risk cannot afford to reduce risk even though they recognise it is not properly controlled.
- Landslide Intensity A set of spatially distributed parameters related to the destructive power of a landslide. The parameters may be described quantitatively or qualitatively and may include maximum movement velocity, total displacement, differential displacement, depth of the moving mass, peak discharge per unit width, kinetic energy per unit area.
- Note: Reference should also be made to Figure 1 which shows the inter-relationship of many of these terms and the relevant portion of Landslide Risk Management.

# PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007 APPENDIX C: LANDSLIDE RISK ASSESSMENT QUALITATIVE TERMINOLOGY FOR USE IN ASSESSING RISK TO PROPERTY

#### QUALITATIVE MEASURES OF LIKELIHOOD

Approximate Andicative Value	nnual Probability Notional Boundary	Implied Indicati Recurrence		Description	Descriptor	Level
10-1	5x10 <sup>-2</sup>	10 years		The event is expected to occur over the design life.	ALMOST CERTAIN	A
10-2	5x10 <sup>-3</sup>	100 years	20 years 200 years	The event will probably occur under adverse conditions over the design life.	LIKELY	В
10 <sup>-3</sup>		1000 years	200 years 2000 years	The event could occur under adverse conditions over the design life.	POSSIBLE	C
10 <sup>-4</sup>	5x10 <sup>-4</sup> 5x10 <sup>-5</sup>	10,000 years	20,000 years	The event might occur under very adverse circumstances over the design life.	UNLIKELY	D
10 <sup>-5</sup>	5x10 <sup>-6</sup>	100,000 years		The event is conceivable but only under exceptional circumstances over the design life.	RARE	Е
10 <sup>-6</sup>	5810	1,000,000 years	200,000 years	The event is inconceivable or fanciful over the design life.	BARELY CREDIBLE	F

Note: (1) The table should be used from left to right; use Approximate Annual Probability or Description to assign Descriptor, not vice versa.

#### QUALITATIVE MEASURES OF CONSEQUENCES TO PROPERTY

Approximate	Cost of Damage	Description	Descriptor	Level
Indicative Value	Notional Boundary	Description	Descriptor	Level
200%	1000/	Structure(s) completely destroyed and/or large scale damage requiring major engineering works for stabilisation. Could cause at least one adjacent property major consequence damage.	CATASTROPHIC	1
60%	100%	Extensive damage to most of structure, and/or extending beyond site boundaries requiring significant stabilisation works. Could cause at least one adjacent property medium consequence damage.	MAJOR	2
20%	10%	Moderate damage to some of structure, and/or significant part of site requiring large stabilisation works.  Could cause at least one adjacent property minor consequence damage.	MEDIUM	3
5%	1%	Limited damage to part of structure, and/or part of site requiring some reinstatement stabilisation works.	MINOR	4
0.5%	170	Little damage. (Note for high probability event (Almost Certain), this category may be subdivided at a notional boundary of 0.1%. See Risk Matrix.)	INSIGNIFICANT	5

- Notes: (2) The Approximate Cost of Damage is expressed as a percentage of market value, being the cost of the improved value of the unaffected property which includes the land plus the unaffected structures.
  - (3) The Approximate Cost is to be an estimate of the direct cost of the damage, such as the cost of reinstatement of the damaged portion of the property (land plus structures), stabilisation works required to render the site to tolerable risk level for the landslide which has occurred and professional design fees, and consequential costs such as legal fees, temporary accommodation. It does not include additional stabilisation works to address other landslides which may affect the property.
  - (4) The table should be used from left to right; use Approximate Cost of Damage or Description to assign Descriptor, not vice versa

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# PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007 APPENDIX C: – QUALITATIVE TERMINOLOGY FOR USE IN ASSESSING RISK TO PROPERTY (CONTINUED)

#### QUALITATIVE RISK ANALYSIS MATRIX – LEVEL OF RISK TO PROPERTY

LIKELIHOOD		CONSEQUENCES TO PROPERTY (With Indicative Approximate Cost of Damage)				
	Indicative Value of Approximate Annual Probability	1: CATASTROPHIC 200%	2: MAJOR 60%	3: MEDIUM 20%	4: MINOR 5%	5: INSIGNIFICANT 0.5%
A - ALMOST CERTAIN	10 <sup>-1</sup>	VH	VH	VH	Н	M or L (5)
B - LIKELY	10-2	VH	VH	Н	M	L
C - POSSIBLE	10 <sup>-3</sup>	VH	Н	М	M	VL
D - UNLIKELY	10-4	Н	М	L	L	VL
E - RARE	10-5	M	L	L	VL	VL
F - BARELY CREDIBLE	10-6	L	VL	VL	VL	VL

Notes: (5) For Cell A5, may be subdivided such that a consequence of less than 0.1% is Low Risk.

#### RISK LEVEL IMPLICATIONS

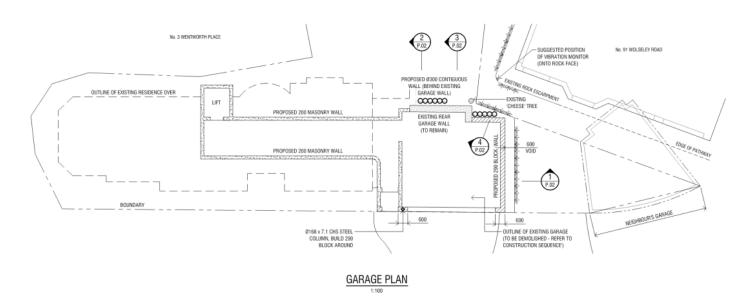
	Risk Level	Example Implications (7)	
VH	VERY HIGH RISK	Unacceptable without treatment. Extensive detailed investigation and research, planning and implementation of treatment options essential to reduce risk to Low; may be too expensive and not practical. Work likely to cost more than value of the property.	
Н	HIGH RISK	Unacceptable without treatment. Detailed investigation, planning and implementation of treatment options required to reduce risk to Low. Work would cost a substantial sum in relation to the value of the property.	
M	MODERATE RISK	May be tolerated in certain circumstances (subject to regulator's approval) but requires investigation, planning and implementation of treatment options to reduce the risk to Low. Treatment options to reduce to Low risk should be implemented as soon as practicable.	
L	LOW RISK	Usually acceptable to regulators. Where treatment has been required to reduce the risk to this level, ongoing maintenance is required.	
VL	VERY LOW RISK	Acceptable. Manage by normal slope maintenance procedures.	

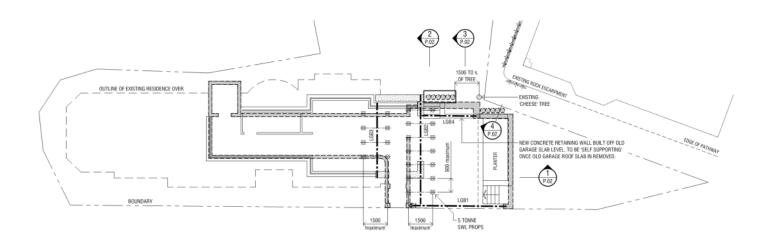
Note: (7) The implications for a particular situation are to be determined by all parties to the risk assessment and may depend on the nature of the property at risk; these are only given as a general guide.

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<sup>(6)</sup> When considering a risk assessment it must be clearly stated whether it is for existing conditions or with risk control measures which may not be implemented at the current time.







#### LOWER GROUND PLAN

MEMBER SCHEDULE TYPE STEEL BEAM 700 WB 150 + 200 x 100 x 6 RH NEEDLES AND 5 TONNE PROPS (EACH SIDE) AT 900 CTS. STEEL BEAM STEEL BEAM (EACH SIDE) AT 900 CTS. STEEL BEAM 250 UB 37 GALV.

#### CONSTRUCTION SEQUENCE

- CONSTRUCTION SEQUENCE

  1. INSTALL VIBRATION MONITORS AND ALARMS ONTO EXISTING FACE OF ROCK ESCARPMENT.
  2. EXISTING GARAGE WALLS AND ROOF TO BE MAINTAINED IN CURRENT POSITION INTIALLY. TOP SOIL REMOVED FROM OVER THE EXISTING GARAGE ROOF. EXISTING GARAGE ROOF. EXISTING GARAGE ROOF EXISTING GARAGE ROOF EXISTING GARAGE ROOF EXIST ON SEARCH ROOF SOIL AT WESTERN END OVER GARAGE TO RAKE AT ANGLE OF 1.5 TO 1.0 UP TO BASE OF CHEESE THEE.

  3. BRING IN DRILLING RIG TO CONSTRUCT CONTIQUOUS PILE WALLS WHERE SHOWN. MAINTAIN 1.5m CLEARANCE TO 1st PILE ON SOUTH SIDE OF CHEESE TREE. EXTEND PILES UP TO R. 13.00.

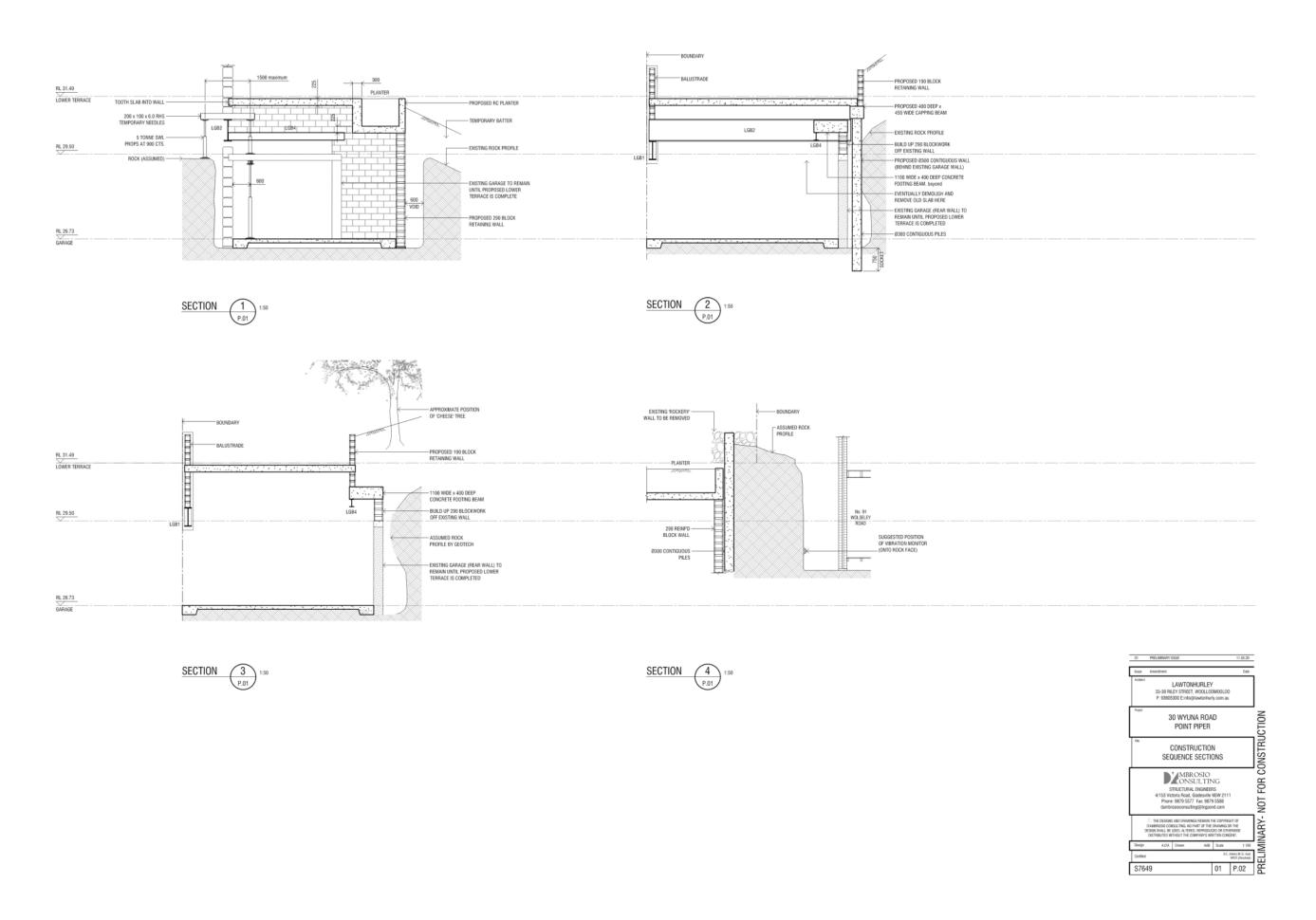
  4. ADJACENT TO NORTHERN END WALL OF HOUSE, EXCAVATE RESIDUAL SOIL OFF TOP OF OLD GARAGE SLAB UP TO FACE OF SOUTH WEST CONTIQUOUS PILE WALLS WHERE SHOWN. MONTAIN THE POSITION OF TEMPORARY WALL NEEDLES AND PROVIDE A LEVEL BEARING ONTO ROCK FOR THOSE NEEDLE BEAMS. INISTAL HEEDLE SHOWS THROUGH BASE OF EXISTING NORTH WALL OF HOUSE.

  6. COMMENCE EXCAVATION AND ROCK SAWING/GRINDING ALONG NORTHERN SIDE OF OLD GARAGE. MAINTAIN SOIL OVER OLD GARAGE ROOF TO SUPPORT CHEESE TREE (PROVIDE TEMPORARY SHORING AS REQUIRED).

  7. CONSTRUCT NEW 20 BERNORCES BLOCKWORK RETRAINING WALL (OFF ROCK) ALONG NEW MORTHERN SIDE OF GARAGE.

  8. AT SOUTH EAST BOUNDARY ALIGNMENT, INSTALL 1/ 0768 x 7.1 CHS GALV. STEEL COLUMN (WITHIN THE SIDE PIER OF GARAGE (PROVIDE) AND THE PROPERTY WALL HEIGHMENT, INSTALL 1/ 0768 x 7.1 CHS GALV. STEEL COLUMN (WITHIN THE SIDE PIER OF GARAGE OPENING) AND THE PROPERTY WALL OF EXARCE OF THE STEEL OF THE OFF AND THE SUPPORT OF THE STEEL OF THE OFF AND THE SUPPORT OF THE STEEL OF THE STEEL COLUMN (WITHIN THE SIDE PIER OF GARAGE OPENING) AND THE PROPERTY OF GARAGE OPENING AND AND THE STEEL STEEL COLUMN (WITHIN THE SIDE PIER OF GARAGE OPENING) AND THE STEEL S







D'Ambrosio Consulting Pty Ltd ACN 058 635 822 Structural Engineers Suite 4/153 Victoria Road Gladesville PO Box 251 Gladesville NSW 1675 Tel (02) 9879 5577 Fax (02) 9879 5588 Email: dambrosioconsulting@bigpond.com

Ref: S7649

14 April, 2020

The General Manager Lawton Hurley Architects P/L 33-39 Riley Street Woolloomooloo NSW 2011

Dear Sir / Madam,

Re: 30 Wyuna Rd, Point Piper - Certificate Of Adequacy - Structural Methodology Report - (Garage).

In response to Woollahra Council's request that an engineer's statement be provided to certify the adequacy of the proposed works "that there will be no adverse impacts onto the neighbouring buildings or structures", this certificate has been prepared to address various issues that have arisen during the consultation process with council and the adjoining building owners. We have reviewed the geotechnical engineers statement prepared by Crozier Geotechnical Consultants (dated 14<sup>th</sup> April, 2020) and have prepared the accompanying structural engineering "methodology plans S7649 - P.01 & P.02" which give a "step by step" sequence of how the new garage works are to be constructed. We have incorporated the recommendations outlined in the Crozier letter, and agree that the majority of the works are well removed from the exposed rock face which abuts the neighbouring apartment building. We are recommending the installation of a vibration monitor on the exposed face of the rock escarpment (immediately opposite the wall of the apartment building) and that any works in rock be completed using a combination of rock saws, grinders and small, low impact breakers to keep vibrations below damage threshold levels.

Provided the works are completed as per the recommendations noted above, and in conjunction with regular supervision by the geotechnical engineer and the structural engineer, we are satisfied that there will be no adverse impacts onto the structural integrity of the neighbouring buildings, and in particular, the apartment building at 91 Wolseley Rd, Point Piper. The area of potential risk is a very short section (some 2.5 to 3.0m in length) in the return corner of the common property boundaries between 30 Wyuna Rd and 91 Wolseley Rd. We have indicated that all loose topsoil be removed in this area, and that a series of contiguous piles be installed to support the ground and avoid any collapse of soil and/or rock into the proposed works. These piles will also provide stability to the 1.5m to 2.0m wide rock wedge which will result after the excavation works for the proposed new garage.

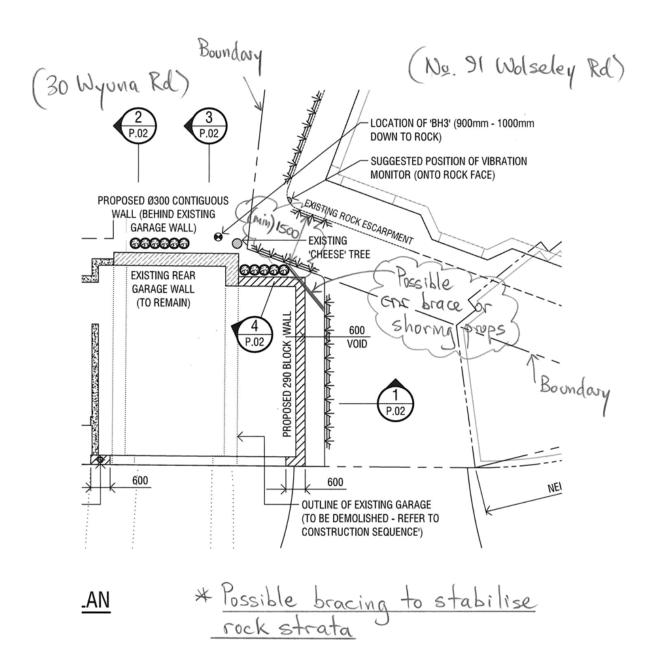
We have had a great deal of experience working with conditions such as being presented here, and we are confident that all works proposed can be completed safely without causing issues to neighbouring properties. Full engineering plans for the remainder of the proposed works will be provided once council approval is given for the works to proceed. Given the extent of works immediately adjoining the neighbouring building is minimal, we will be able to provide any additional temporary support works (should they be required during the works) without the need to rely on any rock bolting from within the neighbours land. Such method may include shoring props or bracing as necessary.

Yours faithfully

Angelo D'Ambrosio B.E.(Hons) MIEAust NPER3 (Structural)

D'AMBROSIO CONSULTING PTY LTD

30 Wyona Road, Point Piper -57649 14 April, 2020







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Date: 14th April 2020 No. Pages: 2 Project No.: 2019-069

Development Officer Woollahra Municipal Council.

Geotechnical response to excavation support concern related to proposed excavation at No. 30 Wyuna Road, Point Piper.

As part of the Development Application (DA) to Woollahra Council for proposed alterations and additions to result in a new house at the site, No. 30 Wyuna Road, Point Piper, it is understood that Council have reviewed the DA and responses from the neighbouring property owners' representatives including geotechnical consultant.

As a result, we have reviewed the following documents:

- 1. Letter by TKD Architects (TKD), Dated: 31st March 2020
- 2. Letter by JK Geotechnics (JK), Reference: 29310RPJlet15, Dated: 31st March 2020.
- Architectural Plans by Lawton Hurley, Job No.: J 306, Drawing No.: DA 00B to 06B, Issue: B, Dated: November 2019
- Survey Plan by StrataSurv, Drawing No.: 4294DT, Rev.: G1, Dated: 12/11/2019.
- 5. Geotechnical Report by Crozier Geotechnical Consultants (CGC), Dated: 9th March 2020

It is evident that the neighbour's representatives and Council have identified from the CGC geotechnical report that the risk levels related to the proposed works could be at "Unacceptable" levels. As is explained within the report, this is only true if the excavation works are undertaken without the recommendations of the geotechnical report being implemented.

However, the geotechnical report also identified that provided the recommendations of the report were implemented, which included vibration control, regular geotechnical inspection and installation of support mechanisms as proposed in the latest scheme and as determined by geotechnical inspections, the risk levels would be within "Acceptable" levels.

The JK letter response identifies that the existing buttress beams and rock support columns of the adjacent development (No. 91) are likely to have been in place since construction of that development, which is prior to 1943. The exposed cliff face within this property was created through quarrying works prior to that development's construction. It also identified that occasional rock falls have occurred from the exposed quarry face with at least one portion impacting the building. These comments highlight that there is an ongoing potential for instability within the quarry face, regardless of any works within the site. However, as there have been no more recent (<1943) stabilising measures implemented it also suggests that minimal instability has actually occurred over that period or is expected by the properties geotechnical consultants with the limited existing support systems in place.

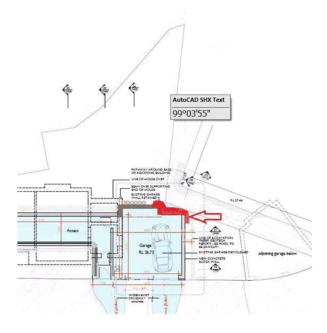
The majority of the proposed excavation within the site is located well away from the common boundary, with the majority of the garage excavation already in existence due to the existing garage structure, as was determined by the more recent detailed geotechnical investigation. As such the potential for invoking instability within the existing excavation face within No. 91 is limited, with the main mechanism for this being ground vibrations from rock excavation equipment. The updated geotechnical report addresses this issue by recommending stringent controls for the carrying out of the excavation works.

Crozier Geotechnical Consultants 2020



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A review of the outline of the proposed excavation with regard to the common boundary with No. 91 (see below) clearly shows that there is an extremely short section of the excavation (highlighted red) which will be close to the adjacent boundary with limited capacity to rock bolt/anchor within the site confines. Within this section, if a poor quality rock mass is encountered/exposed then a support system of propping/bracing could be utilised to ensure that all support mechanisms remain wholly within the site. This will avoid rock bolting thus completely removing the need to rely on approval from neighbouring property owners.



Hope the above comments meet Council's requirements, if we can be of further assistance in regard to this matter please don't hesitate to contact the undersigned.

Yours faithfully,

Troy Crozier

Principal

Dip. Civ. Eng.; BSc.; MEng.Sc.

Crozier Geotechnical Consultants 2020 2019-069 Point Piper

Completion Date: 15 April 2020

#### REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 252/2019/1 ADDRESS: 30 Wyuna Road POINT PIPER 2027

**PROPOSAL:** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

FROM: Mr R Lam
TO: Mr D Lukas

#### 1. ISSUES

None

#### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 19090, prepared by GSA Planning, dated July 2019.
- Revised Architectural Plans, referenced J306-Rev C, prepared by Lawton Hurley, dated March 2020.
- Survey, referenced 4294DT-Rev F, prepared by Strata Surv, dated 24/05/2019.
- Stormwater Management Plan, referenced 690-18-Rev A, prepared by PC Consulting Engineers P/L, dated 5/7/2019.
- Construction Methodology Report, referenced S7649, prepared by D'Ambrosio Consulting P/L, dated 5 July 2019.
- Construction Sequence Plan, referenced S7649-P01, prepared by D'Ambrosio Consulting P/L, dated 11 March 2020.
- Certificate of Adequacy, referenced S7649, prepared by D'Ambrosio Consulting P/L, dated 14 April 2020.
- Revised Geotechnical Report, referenced 2019-069-Issue 1, prepared by Crozier Geotechnical Consultants, dated March 2020.
- Geotechnical Opinion (consultant engaged by objector-No. 91 Wolseley Road), referenced 29310RPJlet15, prepared by JK Geotechnics, dated 31 March 2020.
- Geotechnical Statement, referenced 2019-069, prepared by Crozier Geotechnical Consultants, dated 14 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

The subject site is situated on the high side of the street where gravity drainage from the site to the Council's drainage system is feasible. The site has a total area of less than  $500m^2$ , in which case the installation of on-site detention (OSD) system is not required. The submitted stormwater plans are considered satisfactory in principle except with the size of the proposed stormwater outlet pipe which doesn't comply with Council's DCP. This outstanding matter should be addressed at the CC stage which could be handled by way of conditions.

Council's Technical Services Division is satisfied that adequate provision could be made for the disposal of storm water from the land it is proposed to develop and complies with Chapter E2 "Storm water and Flood Risk Management" DCP.

#### Flooding & Overland Flow comments

Not relevant

#### c. Impacts on Council Infrastructure comments

It is noted that the applicant proposes to widen the existing garage and the vehicular crossing. It is advised that the layout of the proposed crossing does not comply with Council's DCP and Crossing Specifications where crossing shall be constructed at right angle to the street kerb. Given the curved alignment of the existing road, the existing topography and the potential impacts to the existing street tree, Council's Engineers will accept a curved crossing. Details of such crossing shall be submitted to Council for consideration under \$138\$ of the Roads Act approval. It is further advised that on-street parking will not be adversely affected by the proposal. This requirement which will be conditioned accordingly.

#### d. Traffic comments

Not relevant

#### e. Vehicle Access & Accommodation comments

Vehicular access and car parking layout shall comply with AS2890.1.

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

A revised Geotechnical Report prepared by Crozier Geotechnical Consultants, referenced No: 2019-069-Issue 1, dated March 2020, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 9.1 metres below the existing ground levels for the proposed basement and corridor to lift.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand up to a depth of 1m
- b) Sandstone bedrock was encountered beneath fill comprising silty sand.
- c) Groundwater was not encountered during field investigation.

The report made comments and recommendations on the following:

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

It is noted from the revised geotechnical report that the geotechnical engineer has provided the following conclusion: "The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented". The engineer has further advised that "the site is considered suitable for the proposed construction works provided that the recommendations outlined in this report are followed."

With regard to the concerns raised by the objector's geotechnical consultant for the possibility of installing rock bolts which may extend to the neighbouring property without appropriate owner's consent, it is noted from the response submitted by the applicant's consultants that "a support system consists of propping/bracing could be utilised to ensure that all support mechanisms remain wholly within the site. This will avoid rock bolting thus completely removing the need to rely on approval from neighbouring property owners."

In addition, the applicant has submitted construction methodology report and certification providing temporary shoring system to safeguard neighbouring structures from damages as a result of proposed excavation.

In light of the above, Council's Technical Services has raised no further objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.

#### 4. RECOMMENDATION

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

#### A. General Conditions

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

Reference	Description	Author/Drawn	Date(s)
690-18	Stormwater Management Plan	PC Consulting Engineers P/L	
STW1-A			05/07/2019
STW2-A			05/07/2019
STW3-A			05/07/2019
STW4-A			05/07/2019
STW5-A			05/07/2019
2019-069- Issue 1	Geotechnical Report	Crozier Geotechnical Consultants	9 March 2020
2019-069	Geotechnical Statement	Crozier Geotechnical Consultants	14 April 2020
S7649	Construction Methodology Report	D'Ambrosio Consulting P/L	5 July 2019
S7649-P01	Construction Sequence Plan	D'Ambrosio Consulting P/L	11 March 2020
S7649	Certificate of Adequacy	D'Ambrosio Consulting P/L	14 April 2020

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- A8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)
- Conditions which must be satisfied prior to the demolition of any building or construction
- B.7 Public Road Assets prior to any work/demolition
- C. Conditions which must be satisfied prior to the issue of any construction certificate

#### C.5 Security Deposits

Property Damage Security Deposit (S138)	\$26,447	No	T115
Public Road and Footpath Infrastructure Inspection	\$471	No	T45
Fee (S138 Fee)	34/1	INO	143

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

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing in accordance with Council's standard drawing RF2\_D. The new vehicular crossing shall be constructed in plain concrete to comply with Council's DCP and Crossing Specification. The centreline of the new crossing shall be aligned with the centreline of the proposed garage. Design longitudinal surface profiles for the proposed driveway must be submitted for assessment.
- b) Reinstatement of all damaged footpath, kerb and gutter to match existing.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

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

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

C.35 Structural Adequacy of Existing Supporting Structures

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#### C.36 Professional Engineering Details

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

#### C.49 Stormwater Discharge to Existing Stormwater Drainage System

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed stormwater management plans which detail:

- a) the outlet pipe to the street kerb must be made by using 125x75x6mm galvanised RHS. Only one outlet pipe across the nature strip per property will be permitted,
- b) location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location,
- c) the state of repair of the existing Stormwater Drainage System,
- d) any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,
- e) any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- f) any new Stormwater Drainage System complying with the BCA,
- g) interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- h) any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- i) 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> Standard Condition: C49

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

#### D.4 Dilapidation Reports for existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 91 Wolseley Road

No. 3 Wentworth Place

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A (2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- . To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
   Also refer to the Dilapidation Report Advising for more information regarding this condition Standard Condition: D4 (Autotext DD4)
- D.6 Adjoining buildings founded on loose foundation materials
- D.10 Work (Construction) Zone Approval & Implementation
- D.14 Erosion and Sediment Controls Installation
- E. Conditions which must be satisfied during any development work
- E.7 Maintenance of Vehicular and Pedestrian Safety and Access
- E.11 Maintenance of Environmental Controls
- E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program
- E.13 Support of Adjoining Land Owners
- **E.14 Vibration Monitoring**
- E.15 Erosion and Sediment Controls Maintenance
- E.17 Disposal of Site Water during Construction
- E.20 Check Surveys Boundary location, building location, building height and storm water drainage system
- F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)
- F.7 Commissioning and Certification of Systems and Works

G.	Conditions which must be satisfied prior to the issue of any Subdivision Certificate
Nil	
Н.	Conditions which must be satisfied prior to the issue of a Final Occupation Certificate $(s109C(1)(c))$

H.13 Road Works (including footpaths)

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

16 April 2020

#### REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** DA 252/2019/1

ADDRESS: 30 Wyuna Road POINT PIPER 2027

**PROPOSAL:** Alterations and additions to the dwelling including widening of the

existing garage and landscaping

FROM: Gorka Ojeda - Tree & Landscape Officer

TO: Mr D Lukas

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

- Statement of Environmental Effects, prepared by GSA Planning, Job No 19090, dated July 2019
- Survey Plan No. 4294DT, Rev G1, drafted by Strata Surv, dated 15/11/19
- Architectural Drawing No.s DA00-06 Issue C, prepared by Lawton Hurley, dated March 2020
- Stormwater Drainage Plan No.s 680-18 STW1-6, Rev A, drawn by PC Consulting engineers, dated 05/07/19
- Construction Sequence Plans P01 & P02, Issue 1, prepared by Ambrosio Consulting Structural Engineers, dated 11/03/20
- Arboricultural Impact Assessment Report, prepared by William Home (Dr Treegood), dated July 2019
- Landscape Plan No. s DA-01 & S01, Rev 3, designed by Wyer & Co, dated 10/03/20

A site inspection was carried out on17<sup>th</sup> October 2019 & 30<sup>th</sup> March.

#### Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks

 The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

#### **SUMARY**

- Tree 20 is impacted by piling for contiguous wall within Works Exclusion Area.
   Conditions relating to the Works Exclusion Area have not been fully taken into consideration.
- Tree 21 is not included in any of the provided Plans as per recommended Conditions.
- No amended <u>Stormwater Plan</u> or <u>Addendum to the Arboricultural Impact Assessment</u> including a Tree Management Plan have been provided.

#### **COMMENTS**

The previous referral provided comments and recommended conditions for the retention of two trees (Trees 20 & 21) within the property. Both trees have been determined to be of significance and provide amenity to the surrounding area, specifically in the form of privacy screening and biodiversity. However, none of these two trees were recommended for retention in the AIA which provided no discussion on development impacts or options on tree management during construction.

Conditions A.5.b and C.1.b of the Assessment Report require the retention of these trees.

#### These trees are:

- Tree 20 which had not been accurately plotted in the survey and subsequent Architectural Plans and
- Tree 21 which was not included in any of the provided Plans or Arboricultural Impact Assessment Report.

**Tree 20** has now been accurately plotted in the Landscape and Architectural Plans. However, the previously recommended Works Exclusion Area has not been complied with.

The Assessment Report included Condition C.1.c specifying no excavation is permitted beyond the western (rear) wall of the existing garage; while Condition B.6 Works exclusion area within Tree Protection Zone (TPZ) defined the area where works are not permitted.

The provided Construction Sequence Plans by Ambrosio Consulting Structural Engineers, propose contiguous pile walls to the east (0.5m from the tree) and south (1.5m from the tree) within the Works Exclusion Area. These encroachments into the structural root zone would most likely provide an unsustainable impact to the tree and are not supported.

Condition C.2.iv of this referral has been drafted so that <u>Structural Plans locate any pilings for the contiguous wall outside of the Works Exclusion Area</u>, which has been <u>redefined</u> in Condition B2 of this referral as follows:

Garden bed area defined by:

- Existing retaining wall 1.2m to the east of the tree trunk (and the northern projection of this line to the northern boundary)
- Existing retaining wall 2.2 m to the south of the tree trunk
- Within 2.5m from the tree trunk to the west

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The boundary lines with No 91 Wolseley Rd to the north.

It is also anticipated that the construction of a continuous pile wall in this area with a drilling rig may require pruning of Tree 20. This is not supported.

Tree 21 remains excluded from the provided Landscape Plan.

Condition C.1.b.iii of the Assessment Report requested the inclusion of this tree as a retained tree in the Landscape Plan. This is again recommended in Condition C.2.ii of this referral. The retention of this tree will also require the deletion from the Landscape Plan of 3 x Waterhousea floribunda (Weeping Lili Pili) proposed for the northern half of the western boundary with No 3 Wentworth Place.

The following documentation was also requested as part of *Condition C.1.b* of the Assessment Report and is still required in *Condition C2* of this referral.

<u>An Addendum to the Arboricultural Impact Assessment</u> must include a Tree Management Plan to guide tree protection during construction.

<u>Stormwater Plan</u> must be amended to locate pipes and pits outside of the Works Exclusion Area for Tree No.20 as per conditions of this consent.

#### RECOMMENDATIONS

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

#### CONDITIONS OF CONSENT

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

#### A. General Conditions

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

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

#### a) The following trees shall be retained

#### · Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	10 x 7
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	7 x 10

#### · Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)
1	Cinnamomum camphora (Camphor laurel)	Council verge east of property	12 x 12
2	Olea europea var. africana (African Olive)	Council verge east of property	10 x 4
3	Glochidion ferdinandii (Cheese tree)	Council verge east of property	12 x 5
4	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	8 x 5
6	Camellia sasanqua (Camellia)	Council verge east of property	10 x 6
7	Glochidion ferdinandii (Cheese tree)	Council verge east of property	12 x 4
8	Acmena sp.	Council verge east of property	8 x 1
10	Pittosporum undulatum (Native Daphne)	Council verge east of property	8 x 8
12	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	6 x 3
13	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	8 x 4

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14	Ligustrum lucidum (Large-leaved Privet)	Council verge east of property	8 x 5
15	Grevillea robusta (Silky Oak)	Council verge east of property	14 x6
16	Tristaniopsis laurina (Water gum)	Council verge east of property	8 x 5
17	Melaleuca sp.	Council verge east of property	8 x 5

**Note**: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location	Dimension (metres)
19	Cyathea cooperi (Scaly tree fern)	Northern garden	5 x 2

**Note:** The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

#### **Development Consent is Not Granted in Relation to these Matters**

This approval does not give consent to pruning of any of the retained trees.

#### A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
DA-01 & S01, Rev 3	Landscape Plan	Wyer & Co	10/03/20
na	Arboricultural Impact Assessment Report	Dr Treegood	July 2019

# 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)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary corner with No 91 Wolseley Rd	1.5

**Note:** Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

**Note:** Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of 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** Works exclusion area within Tree Protection Zone (TPZ)

No works to be undertaken within the following areas:

Council Ref No.	Species	TPZ Radius from trunk (metres)	Works exclusion area
20	Glochidion ferdinandii (Cheese tree)	6	<ul> <li>Existing retaining wall 1.2m to the east of the tree trunk (and the northern projection of this line to the northern boundary)</li> <li>Existing retaining wall 2.2 m to the south of the tree trunk</li> <li>Within 2.5m from the tree trunk to the west</li> <li>The boundary lines with No 91 Wolseley Rd to the north.</li> </ul>

The project arborist shall provide written certification of compliance with the above condition.

#### **B.3** Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for.

The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

#### **B.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 noncompliance; 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 retaining wall east and south of Tree 20	Condition and maintenance of exposed roots
Excavation within the TPZ of trees to be retained	Condition and maintenance of exposed roots
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures and final condition of trees to be retained

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

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

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

#### C.1 Tree Management Plan

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

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

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

#### C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

A. Tree retention (Trees Nos. 20 and 21) and associated documentation

The following trees must be retained:

Council Ref No.	Species	Location	Dimension (metres)
20	Glochidion ferdinandii	Northwest of existing garage. Boundary	10 x 7
	(Cheese tree)	with No 91 Wolseley Rd	
21	Ulmus parvifolia	Top garden western corner. Boundary	7 x 10
	(Chinese Weeping Elm)	with 3 Wentworth Place	

In order to retain Tree No. 20, the following amended documentations must be provided:

- i. <u>Architectural Plans</u> to fully represent the works exclusion area around Tree 20 which is defined as follows.
  - Existing retaining wall 1.2m to the east of the tree trunk (and the northern projection of this line to the northern boundary)
  - Existing retaining wall 2.2 m to the south of the tree trunk
  - Within 2.5m from the tree trunk to the west
  - The boundary lines with No 91 Wolseley Rd to the north.
- ii. <u>Landscape Plan</u> must include the retention of Tree No's 20 & 21 and the deletion of the three *Waterhousea floribunda* (Weeping Lili Pili) proposed for the northern half of the western boundary with No 3 Wentworth Place.
- iii. Stormwater Plan must be amended to locate pipes and pits outside of the Works Exclusion Area for Tree 20 defined in condition B2.
- iv. <u>Structural Plans</u> must locate any pilings for the continuous wall outside of the Works Exclusion Area around Tree 20 defined in Condition B2.

v. An Addendum to the Arboricultural Impact Assessment must include a Tree Management Plan to guide tree protection during construction (as per *DA guide Attachment 4 Tree Reports*).

#### B. Garage

In order to retain Tree No. 20 as required in Part (A) above, the proposed double garage shall incorporate the following:

 No excavation is permitted beyond the western (rear) wall of the existing garage;

**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.

#### 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

- 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 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	6
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	6

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

#### E.3 Level changes in the vicinity of trees

No level changes shall occur within the specified areas around the trunks of the following trees.

Council Ref No.	Species	Location	Areas
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	Garden bed area defined by:  Existing retaining wall 1.2m to the east Existing retaining wall 2.5m to the south 2.5m from the trunk to the west Boundary with No 91 Wolseley Rd to the north.
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	2.5m radius from the trunk of the tree

The project arborist shall document compliance with the above condition.

#### E.4 Hand excavation within tree root zones

Demolition of structures and excavation required within the specified radius from the trunks of the following trees must be carried out manually to avoid damage to structural roots.

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Council Ref No.	Species	Location	Radius from centre of trunk (metres)
20	Glochidion ferdinandii (Cheese tree)	Northwest of existing garage. Boundary with No 91 Wolseley Rd	6
21	Ulmus parvifolia (Chinese Weeping Elm)	Top garden western corner. Boundary with 3 Wentworth Place	6

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.

# 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.

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#### 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or you may contact Council on 9391-7000 for further advice.

Gorka Ojeda

Tree and landscape Office

# LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D5

**FILE No.** DA289/2019/1

**ADDRESS** 30-36 Bay Street DOUBLE BAY

SITE AREA 767.2m<sup>2</sup>

**ZONING** B2 – Local Centre

COUNCIL WARD Double Bay

**PROPOSAL** Alterations and additions to the existing commercial building

including two additional levels and car parking

TYPE OF CONSENT Local development

**COST OF WORKS** \$5,738,000.00

**DATE LODGED** 08/08/2019- Original submission

22/10/2019 - Replacement Application I

**APPLICANT** Fortis Development Group **OWNER** Bay Street Jv Pty Limited

ASSESSING OFFICER Mr D Lukas
TEAM LEADER Mr T Wong

SUBMISSIONS 13

**RECOMMENDATION** Approval

#### **SUMMARY**

#### 1. REASONS FOR REPORT TO LOCAL PLANNING PANEL

The application is to be determined by the Local Planning Authority as it falls under the following two (2) categories:

- **Departure from development standard** Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%.
- **Contentious development** Development that is the subject of 10 or more unique submissions by way of objection.

#### 2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the relevant matters for consideration under Section 4.15 of the Environmental Planning & 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 considered to be satisfactory;
- The site is suitable for the proposed development; and,

• The proposal is in the public interest.

#### 3. LOCALITY PLAN



#### 4. PROPOSAL

The proposal is for alterations and additions to an existing 4 storey commercial building which currently contains retail on the ground floor and office suites above.

The proposal includes substantial refurbishment of the existing levels and an additional 2 storeys above, thereby creating a 6 storey development. Of note would be the addition of a new car lift providing access to the rear of an elevated ground floor and a new first floor car parking level.

A Replacement Application was submitted on 22 October 2019 which refined the alignment of the new upper levels to address concerns raised in Council's Urban Design comments.

The existing streetscape and a photomontage of the development are as follows:





**Note:** The photomontage is of the originally submitted scheme. The Replacement Application that is the subject of this report proposes subtle refinements of this design in-line with recommendations in Council's Urban Design comments.

### 5. ISSUES SUMMARY

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

<b>Development Standard</b> (Site Area 767.2m <sup>2</sup> )	Existing	Proposed	Control	Departure	Conclusion
Height of Buildings (Clause 4.3)	17.42m	19.96m (parapet) 21.26m (lift overrun)	18.1m	3.16m or 17%	Satisfactory

### 5.2 Summation of all Issues (including Objectors concerns)

Issue	Response
Overdevelopment / Non-compliances with the relevant planning controls	The proposal is a permissible and expected form of development on this site and locality. The development is contextually compatible and satisfies the objectives underpinning the relevant planning controls and is an appropriate development for this site.
Inadequate setbacks / Sense of enclosure/ bulk and scale	The setbacks of the development are contextually suited given the existing built forms immediately adjoining and surrounding. The proposed upper levels are sufficiently elevated and recessed so that they have no detrimental impact on the amenity of adjoining residents, the streetscape or Guilfoyle Park.
Height	The height of the building is consistent with the height of existing and expected development in and around the centre.
Clause 4.6 issues	A Clause 4.6 exception has been submitted for variation to the maximum building height development standard which is assessed in detail below. No Clause 4.6 is required for the floor space development standard as the LEP allows a bonus floor space for this subject site which is identified as a corner building. The proposed floor space complies with the maximum permissible under the bonus clause.
Floor space	The proposal complies with the maximum floor space ratio development standard permissible pursuant to the exemption provisions in the LEP.
Inappropriate transition	The design provides a satisfactory transition between the commercial centre it forms a part of and the residential precinct it is attached to.
Colonnade	The proposal is for alterations and additions to an existing commercial building not a new building. The street front alignment of the existing building, which does not have a colonnade, is maintained.
Views / outlook	There is no detrimental impact on existing views / outlook from either the private or public domain. The extent of view impacts from residential property in and around the centre is reasonable and expected in the circumstance.
Privacy	The redevelopment of the site is encouraged and permissible. The extent of overlooking between properties is expected and reasonable in the commercial centre.
Overshadowing	The overshadowing created is more a result of the subdivision pattern, the orientation of the sites and the permissible built forms thereon. The degree of overshadowing is reasonable in the circumstance.
Parking / Traffic	The existing development currently provides off-street parking. The additional parking proposed caters for the proposed additional floor space. Council's Traffic Engineer indicates that the additional parking provided, including bicycle and motorbike spaces, caters for the addition floor space and complies with Council's requirements. Furthermore, the comments state in part " The traffic generation associated with the proposed development will have negligible impact on the road network."  The Double Bay commercial centre provides essential infrastructure, including multiple transport/parking options, to cater for the development. The proposal is unlikely to detrimentally impact on the amenity of the neighbourhood with regard to parking or traffic.  The existing site is affected by Acid Sulfate Soils, is contaminated and is subject to flooding. Hence the necessity to minimise excavation of the site and provide parking on the first floor level, which in the circumstance is permissible pursuant to Councils controls.

	The car lift and tandem parking maximises off-street parking without hindering vehicular movements on and around this constricted site.
Design, compatibility, existing/future character	The development is contextually compatible and consistent with the desired future character of this locality.
Precedent	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. Each development is assessed on its merits.
Too much development	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.
Noise	The existing commercial and retail uses are maintained. An extension of the existing building to maximise its potential yield based on the permissible floor space is permissible.
	The extent of noise generated by the development including mechanical plant and equipment, is anticipated and will not detrimentally impact on the amenity of adjoining residents.
Light & Air	The amenity of adjoining property will not be detrimentally affected by the proposed development with regard to air flow and light.
Landscaping	The rear of the site is hindered and compromised by existing and expected development.  Maintaining a landscaped pocket to the rear of the site is not encouraged. The new landscaping scheme provides adequate landscape replacement in the circumstance.  Furthermore, Guilfoyle Park which is located immediately opposite the site provides ample landscaping curtilage for this building.
Potential future use of retail area for entertainment	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. Any future use for entertainment will be the subject of a separate application and assessed on its merits.
Ground floor amenities	The development enables flexibility on its design enabling future tenants to install suitable amenities (ie. toilets).
Light spill	The car parking on level 1, which is a permissible form of development, is designed to ensure there is no light spill from vehicles.  The office uses on the upper levels are permissible. Light spill from the office use is expected in the commercial centre. The extent of light spill from the development will not detrimentally impact on the amenity of adjoining residents.
Not in the public interest	Based on the assessment undertaken and that follows, the proposal is in the public interest.
Company liquidation	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.
Transitional principle	This issue is assessed below and the proposal satisfies the terms of the transitional principle.
Previous Court decision	This is not a relevant matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.
	The subject application is for a different form of development than that previously approved by the Court for the subject site. Any concern raised regarding the process in the determination of the previous application is not relevant to the assessment of this application.

### PROPERTY DETAILS AND REFERRALS

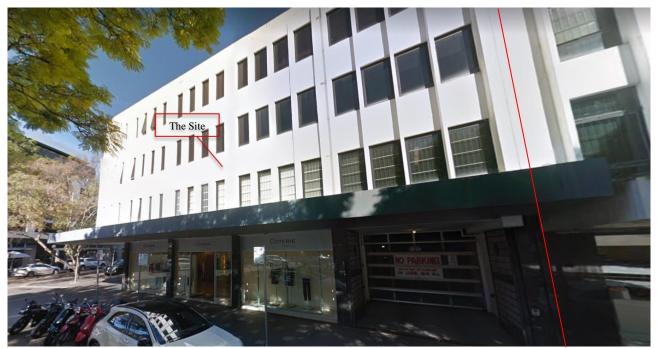
### 6. SITE AND LOCALITY



Aerial Photo



Photos from Google (Facing south towards the Knox Street, Bay Street & Guilfoyle Avenue intersection)



Photos from Google: (Guilfoyle Avenue existing garage entry)



Photos from Google: (Facing east - Guilfoyle Avenue)



Photos from Google (Facing south from Guilfoyle Park)



Photos from Google (Facing North from By Street)

### Physical features

The site is located on the south western corner of and has frontages to both Bay Street and Guilfoyle Avenue in Double Bay. The site is octagonal in shape with a staggered rear boundary to its south west end. It has boundary dimensions of 24.615m to Bay Street on its eastern side, 23.215m to Guilfoyle Avenue on its northern side and 22.53m and 25.045m on its southern and western side boundary respectively. The total site area is 767.2m<sup>2</sup>.

#### Topography

The site is relatively level.

#### **Existing buildings and structures**

On the site is a 4 storey contemporary commercial building with retail on the ground floor and commercial suites above. This building is highly visible from the public domain and is located on the western edge of the Double Bay Commercial Centre.

#### **Environment**

The subject site forms part of the central section of Bay Street which is focused on Guilfoyle Park which together with the surrounding streets, creates a generous area of open space to the western edge of the Commercial Centre. The open space is defined and contained by the subject and other buildings on Bay Street and Guilfoyle Avenue.

On the opposite and northern corner of Guilfoyle Avenue and Bay Street is a 5 storey shop-top housing development. On the eastern side of Bay Street, diagonally opposite the Park to the north east, is a 2-storey mixed retail/commercial building. Immediately to the east and opposite the Park is a 5 storey commercial building (Savoy Hotel). The Cosmopolitan Building, at 6 storeys, is immediately opposite the site to the east.

Immediately adjoining to the south of the site is the Royal Oak Hotel, being 2-storeys in height. Immediately adjoining to the west is a 4 storey commercial building that formed part of the previously approved development (No.2 Guilfoyle Ave). To the ear, are single storey buildings which form part of a low-density residential precinct.

Development that surrounds the site comprises a mixture of uses such as commercial, retail, hotel, office, residential and places of public entertainment.

# 7. RELEVANT PROPERTY HISTORY

# **Current uses**

Commercial/Retail

#### **Previous Relevant Applications**

There have been numerous applications for change of use and fitout for various retail and commercial suites within the existing building but none are relevant to the scope of works proposed.

Of relevance is **DA359/2017/1** which originally proposed the demolition of existing structures and construction of a new 7 storey shop top housing development at No.30-36 Bay Street and the adjoining building at No.2 Guilfoyle Avenue, Double Bay. The application was refused by the Sydney Eastern City Planning Panel on 14 June 2018. A Class 1 Appeal was lodged with the Land and Environment Court (Reference Case No.96696 of 2018). A conciliation conference under s34 of the Land and Environment Court Act 1979 was held on 2 October 2018 and the parties agreed that further amendments were required.

The amended scheme, as negotiated during the conciliation conference, proposed 6 storeys and was compliant with the maximum floor space development standard. The non-compliance with the height of buildings development standard (1.7m) was primarily a result of the need to raise the ground floor to address flooding issues. This amended design was presented to the Sydney Eastern City Planning Panel with a recommendation by Council's Planning department for approval. The Panel supported the amended scheme.

On 8 February 2019 the Court upheld the Appeal and granted consent to the amended design.

A photomontage of the approved design provided by the applicant (technically 6 storeys in height though appears as 5 storeys and with a 4 storey street wall height that is compliant with Council's DCP) is as follows:



Photomontage image of the currently approved development at No. 30-36 Bay Street & 2 Guilfoyle Avenue (Source: Group GSA)

# Pre-DA

Nil.

#### **Requests for Additional Information**

Nil

# **Amended Plans/Replacement Application**

22/10/2019 – Replacement Application I submitted which refines the upper levels as well as new supporting documentation.

# **Land and Environment Court Appeal**

Nil

#### 8. REFERRALS

Referral	Summary of Comment	Annexure
Urban Design	"The revised architectural drawings have addressed the main urban design concerns regarding the upper level setbacks, the ground level vehicle access and the height of awning in proportion to the main façadethere are no further comments from an urban design point of view."	2*
Engineering	The proposal is satisfactory subject to conditions.	3
Traffic	The proposal is satisfactory subject to conditions.	4
Trees	The proposal is satisfactory subject to conditions.	5
Health	The proposal is satisfactory subject to conditions.	6
Fire	The proposal is satisfactory subject to conditions.	n/a
Drainage	The proposal is satisfactory subject to conditions.	n/a
Heritage	Apply condition to record significant building prior to alteration.	n/a

<sup>\*</sup> The original Urban Design comments are also attached as part of the Annexure.

**Note:** All recommended conditions have been edited for clarity where required.

# **ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) The provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified

- the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) 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, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),
  - that apply to the land to which the development application relates,
- (b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) The suitability of the site for the development,
- (d) Any submissions made in accordance with this Act or the regulations,
- (e) The public interest.

#### 9. ADVERTISING AND NOTIFICATION

#### 9.1 Submissions

The application was advertised and notified in accordance with Chapter A2 of the Woollahra DCP 2015. In response, there was a total of thirteen (13) submissions received with the development.

The details of the submissions are attached as **Annexure 8.** 

The issues raised have been summarised above (Section 5.2) and where required, are addressed in the body of the report.

# 9.2 Statutory Declaration

The applicant has completed the statutory declaration declaring that the site notice was erected and maintained during the notification period in accordance with Chapter A2 of the Woollahra DCP 2015.

# 9.3 Replacement Application

The Replacement Application as referenced and detailed above was not renotified to surrounding residents and objectors because, pursuant to Woollahra DCP 2015, as it would have no greater cumulative environmental or amenity impact.

# 10. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The development is located on a relatively level and flat site that is partially obscured from the waterway and the foreshores by existing development and landscaping. The subject site is not a land/water interface development but notwithstanding, Division 2 of the SREP prescribes matters for consideration for interrelationship of waterway and foreshore uses as well as maintenance, protection and enhancement of views.

The proposal does not result in any detrimental impact on the wetlands or cause pollution or siltation of the waterway. It does not detrimentally impact on existing vegetation or drainage patterns and does not obstruct vistas of the waterway from the public domain.

The proposal therefore satisfies the relevant criteria prescribed by the SREP.

#### 11. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND

Due to existing buildings on the site that limits extensive ground testing, a Report on Preliminary Site Investigation for Contamination with Limited Sampling was undertaken by Douglas Partners (Report No 85575.01 dated April 2017).

This report concludes that the land will likely require further testing but can be made suitable for the proposed development. The recommended measures can be imposed by conditions.

The proposal, subject to appropriate conditions, satisfies the relevant considerations pursuant to this SEPP.

# 12. STATE ENVIRONMENTAL PLANNING POLICY 64: ADVERTISING AND SIGNAGE

There is no signage proposed under this application.

#### 13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

# **13.1 Preliminary (Part 1)**

# 13.1.1 Aims of Plan (Part 1.2)

The proposal satisfies the relevant aims of this plan.

#### 13.2 Permitted or Prohibited Development (Part 2)

#### 13.2.1 Zone B2 – Local Centre

The proposal is a permissible form of development in the zone.

A **Zone Interface** occurs between the subject site (Zone B2 Local Centre) and the properties immediately adjoining behind to the south (Zone R2 Low Density Residential). Consideration has been given to the planning principle set out in the *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSW LEC 117 (30 March 2004). This states that:

"...As a matter of principle, at a zone interface as exists here, any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone. In this case residents living in the 2(b) zone must accept that a higher density and larger scale residential development can happen in the adjoining 2(c) or 2(d) zones and whilst impacts must be within reason they can nevertheless occur. Such impacts may well be greater than might be the case if adjacent development were in and complied with the requirements of the same zone. Conversely any development of this site must take into account its relationship to the 2(b) zoned lands ...and the likely future character of those lands must be taken into account. Also in considering the likely future character of development on the other side of the interface it may be that the development of sites such as this may not be able to achieve the full potential otherwise indicated by applicable development standards and the like."

In accordance with the planning principle above, the residents immediately adjoining must accept that commercial uses are permissible on the subject site. Notwithstanding, the proposal must take into account the residential zoning immediately adjoining and any impacts must be reasonable.

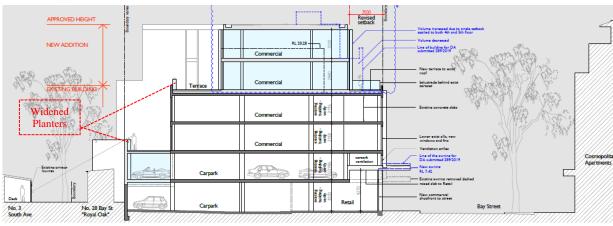
The residential property most affected by the proposal is No. 3 South Avenue immediately adjoining to the rear. This adjoining single storey dwelling has an unusual site configuration. It has limited useable private open space to its rear due to the staggered boundaries and the siting of the existing dwelling thereon. Its primary open space is located along its western side.

The rear of this adjoining dwelling is currently hemmed in by the existing commercial buildings, being the subject development to the north, No.2 Guilfoyle Avenue adjoining to the northwest and the Royal Oak Hotel on its eastern side. A gauge of the relative scale of these existing adjoining commercial buildings from the rear is best depicted in the following photo taken from the immediately adjoining courtyard of the Oak Hotel:



Based on the existing site conditions, the proposed infill of the rear ground and first floor levels would have little resultant detrimental impact on the amenity of the residents with regard to scale, bulk, overshadowing and privacy.

A new roof terrace is proposed to the rear first floor. The new roof terrace includes fixed planters along its perimeter. The elevation of the terrace and the fixed planters could restrict sightlines over and not down onto the adjoining residential property. However, these planters would need to be widened to a minimum of 1m (see **Condition C.2**) to effectively cut off any sightlines. Given the roof terrace is associated with the commercial use, it would likely have limited use during business hours and therefore would not be detrimental to the privacy of the adjoining residential properties. The following section through the building with notations best depicts the locality of the planters:



Source: LawtonHurley Architecture

The proposed new upper levels are sufficiently set back from the rear boundary and range from 5m and up to 8m. The proposed setback of the upper levels would mitigate any potential detrimental impacts on the adjoining residential property with regard to scale, bulk, sense of enclosure, overshadowing and privacy. The proposed setback of the new upper levels provides a satisfactory transition to the residential zone.

Based on the assessment undertaken and that follows, the proposal satisfies the key objectives of the zone and satisfies the planning principle stated above.

Further assessment follows.

# 13.3 Principal Development Standards (Part 4)

#### **13.3.1** Compliance Table

<b>Development Standard</b> (Site Area 767.2m <sup>2</sup> )	Existing	Approved Development under DA359/2017/1 ^ Proposed Development		Control	Complies
Height of Buildings (Clause 4.3)	17.42m	19.96m (parapet) 19.96m (parapet) 21.26m (lift overrun) 21.26m (lift overrun)		18.1m	No
Floor Space (Clause 4.4)*	<2.5:1 or (<1,918m²)	2.97:1 2,279m <sup>2</sup>	3:1 (2,301m <sup>2</sup> )	3:1 (2,301m <sup>2</sup> )	Yes*

<sup>\*</sup> Clause 4.4A allows exceptions for prominent corner buildings and permits a maximum floor space of 3:1 (Area 1 – Double Bay).

# 13.3.2 Height of Buildings (Part 4.3)

The proposal exceeds the maximum height of buildings development standard prescribed by this Part as detailed in the compliance table above. A Clause 4.6 variation has been submitted by the applicant which is assessed below and is attached to this report (see **Annexure 6**).

# 13.3.3 Floor Space Ratio (Part 4.4)

The proposal does not comply with the maximum floor space development standard prescribed by this Part as detailed in the compliance table above. Notwithstanding, Part 4.4A of this LEP allows exceptions to the floor space ratio as assessed immediately below.

<sup>^</sup> The approved development included No.2 Guilfoyle Avenue which provided 344.6m<sup>2</sup> of additional site area.

# 13.3.4 Exceptions to floor space ratio (Area 1 – Double Bay) (Part 4.4A)

The primary and only objective of this clause is "...to encourage the development of prominent corner buildings in Double Bay."

The subject site falls within 'Area 1' and accordingly this Part applies.



Extract of the FSR Map of the WLEP 2014 - The subject site falls within 'Area 1'

Pursuant to sub-clause (3) the Council can grant consent to development of the site provided the floor space does not exceed 3:1 and it is satisfied that "...the development will be compatible with the desired future character of the zone in terms of building bulk and scale."

Under this Part, a floor space ratio of 3:1 or 2301m<sup>2</sup> is permissible on this corner site. The proposal complies with the maximum floor space ratio pursuant to the bonus offered under this Part.

In relation to the *objectives of the B2 zone*, these are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To attract new business and commercial opportunities.
- To provide active ground floor uses to create vibrant centres.
- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

The last objective of the zone refers to the *desired future character of the neighbourhood* which is specified in Woollahra Development Control Plan 2015 Part D5.4.5 (Bay Street – Centre) and these are:

a) Lot amalgamations on blocks in proximity to Guilfoyle Park.

- b) Expand the public domain at street level and improve the civic character with street level building colonnades that face central Bay Street and Guilfoyle Park. Provide a built form that responds to the scale and civic importance of Guilfoyle Park.
- c) Higher buildings are permitted around the park to provide appropriate definition of the space.

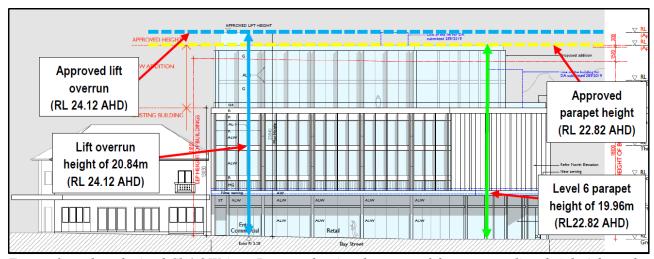
The proposed development satisfies the relevant objectives stated above because:

- Barring the uppermost level, the proposed side and rear setbacks and the street wall height of the development complies with the envelope controls prescribed by the WDCP 2015.
- The proposed height of the building as previously mentioned is primarily a result of the need to modify the floor levels to address flooding issues.
- The height and scale of the development remains compatible with existing development immediately surrounding Guilfoyle Park.
- For reasons already stated and based on the assessment that follows, the uppermost levels are setback between 5-8m from the adjoining residential boundaries and does not detrimentally impact on their amenity with regard to privacy, scale, bulk, sense of enclosure or solar access.
- The setback of the new upper levels provides a satisfactory transition to the adjoining residential zone.
- The development is contextually compatible and consistent in height with the residential development it is attached to and the commercial centre it forms a part of.

# 13.3.5 Exceptions to Development Standards (Part 4.6)

# **Departure**

The development results in a non-compliance of 3.16m or 17% with the 18.1m maximum height of buildings development standard prescribed by Part 4.3 of this LEP as noted in the table above in Section 13.3.1.



Extract from the submitted Cl 4.6 Written Request showing the extent of the non-compliant height (above the red dotted line) (Source: GSA Planning)

#### **Purpose**

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

# **Written Request**

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

The applicant has provided a written request in relation to the reasons for the departure, which has been attached (see **Annexure 7**).

### **Assessment**

# 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, 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

<u>Comment</u>: The applicant's written request has demonstrated that the objectives of the *Height of Buildings* development standards is achieved, notwithstanding the non-compliances.

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 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. '

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.

The applicant's written request, which supports the proposed non-compliance with the height of building development standard, has adequately demonstrated that the proposed development promotes the orderly and economic use and development of the land; and that the proposal promotes good design and local amenity, in accordance with the objects 1.3(c) and (g) of the EPA 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 requests have 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 *Height of Buildings* development standard, and the zone objectives of the B2 Local Centre Zone. An assessment against these objectives is provided below.

# Clause 4.3 – Height of Buildings

The proposal is consistent with the objectives applying to Part 4.3 (Height of Buildings) as follows:

a) To establish building heights that are consistent with the desired future character of the neighbourhood

<u>Comment:</u> Acceptable – The non-compliant height relates to the top level (the fifth floor) of the building. This level, together with the fourth floor underneath, has been significantly set back 3.5m from the two street frontages and the front building line of the levels below. As a result, the perceivable bulk of the non-compliant component from Bay Street and Guilfoyle Avenue will appear to be subservient rather than dominating the development. The contemporary design of the development is considered to be consistent with and sympathetic to other existing and approved developments within the Double Bay Commercial Centre. In addition, the height of the proposed development, being six storeys, is not dissimilar to other mixed developments in the vicinity.

The proposal satisfies sub-clause (1) objective (a) in Clause 4.3 of the Woollahra LEP 2014.

b) To establish a transition in scale between zones to protect local amenity

<u>Comment:</u> Acceptable – The subject site is located adjacent to a R2 Low Density Residential and RE1 Public Recreation zones. The nearest property and area within these adjoining zone are No. 3 South Avenue and Guilfoyle Park respectively. The height non-compliant component has been carefully designed to be set further back from the building alignment of the levels below (from the ground floor to the third floor) which will establish a stepping and transitional scale between these zones with an aim to protect amenity.

The proposal satisfies sub-clause (1) objective (b) in Clause 4.3 of the Woollahra LEP 2014.

c) To minimise the loss of solar access to existing buildings and open space

<u>Comment:</u> Acceptable – The proposed development will not result in unacceptable solar access to existing buildings and open space.

The proposal satisfies sub-clause (1) objective (c) in Clause 4.3 of the Woollahra LEP 2014.

d) To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion

<u>Comment:</u> Acceptable – The proposed development will not result in unacceptable adverse impacts on adjoining or nearby properties in terms of disruption of views, loss of privacy or overshadowing arising from the proposed development.

The proposal satisfies sub-clause (1) objective (d) in Clause 4.3 of the Woollahra LEP 2014.

e) To protect the amenity of the public domain by providing public views of the harbour and surrounding areas

<u>Comment:</u> Acceptable – The proposal will not result in any loss of publicly available views of the harbour and of surrounding areas.

The proposal satisfies sub-clause (1) objective (e) in Clause 4.3 of the Woollahra LEP 2014.

The objectives applying to the B2 Local Centre zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To attract new business and commercial opportunities.
- To provide active ground floor uses to create vibrant centres.
- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

The development is also consistent with the relevant objectives applying to the B2 Local Centre Zone as follows:

- The additional height of the development is less than 1 storey and is required to facilitate the permissible floor space for the site to reach its maximum potential yield and allow for the upgrade and redevelopment of the existing building.
- While non-compliant in height, the floor space proposed is compliant with Council's development standard.
- The height of the proposed development matches the height of the approved development that was previously negotiated via a section 34 conciliation conference between the Sydney East City Planning Panel and the Land and Environment Court.
- The height of the development is compatible within the context of the existing built environment immediately surrounding and achieves the desired future character of this locality as prescribed by Woollahra DCP 2015.
- The development provides a suitable transition to the residential zone immediately adjoining.
- There is no resultant detrimental impact on the amenity of adjoining residents with regard to privacy, views, solar access, sense of enclosure, scale or bulk.

The departure from the standard is considered to be in the public interest in the following manner:

- The objectives of Clause 4.3 Height of Buildings development standard have been satisfied;
- The objectives of the B2 Local Centre zone have been satisfied; and
- There are sufficient environmental planning grounds to justify contravening the development standard in this instance, as detailed in the applicant's submission.

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

The Department issued Planning Circular No.PS18-003 (dated 21<sup>st</sup> 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 exception to development standard, thus satisfying the terms of this clause.

# **Conclusion**

The written submission from the applicant has adequately demonstrated that the variation of the development standard prescribed by Clause 4.3 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

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

# **13.4** Miscellaneous Provisions (Part 5)

# 13.4.1 Development within the Coastal Zone (Part 5.5)

The proposal satisfies the relevant criteria prescribed by this part.

# 13.4.2 Heritage Conservation (Part 5.10)

The subject sites and buildings thereon are not listed on the State Heritage Register, have not been identified as a heritage item, are not a potential heritage item nor are they within or located adjacent to a Heritage Conservation Area.

The proposal satisfies the relevant criteria prescribed by this part.

# 13.5 Additional Local Provisions (Part 6)

# 13.5.1 Acid sulphate soils (Part 6.1)

The subject sites are located within Land Class 2 of the Acid Sulfate Soils Map which applies to any works below the natural ground level.

An Acid Sulfate Soils Management Plan (ASSMP) was undertaken by Douglas Partners (Report No 86857.00 dated August 2019). This report concludes in part:

"...This ASSMP describes the requirements to manage ASS during the proposed development works. If ASS is not detected in soils to be disturbed by the proposed development (from pretreatment testing), no further ASS management will be required. It is considered that implementation of this ASSMP will enable appropriate management of the potential risks associated with on-site ASS including risks to structures and surrounding surface water bodies and groundwater."

Based on the findings and conclusions in the submitted ASSMP report, the land can be made suitable for the proposed development. This report and the recommendations and measures contained therein are enforced by conditions.

In light of the above, the proposal satisfies the relevant criteria prescribed by this part.

# **13.5.2** Earthworks (Part 6.2)

There are no mitigating circumstances associated with the proposed excavation or limited extent thereof that will detrimentally impact the amenity of adjoining residents, the environment, the water table or any adjoining structures. Standard conditions are applied to mitigate any expected impacts associated with the excavation and construction process including vibration monitoring, submission of dilapidation reports, dust control and the like.

The proposal satisfies the relevant criteria prescribed by this part.

# 13.5.3 Flood planning (Part 6.3)

Council's Drainage Engineer has reviewed the proposal and indicates that the proposal can satisfy the terms of this part subject to conditions.

The proposal satisfies the relevant criteria prescribed by this part.

### 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

#### Part A - Introduction and Administration

# **14.1 About this DCP (A1.1)**

# 14.1.1 Objectives of this Plan (A1.1.5)

The proposal is a permissible form of development and for reasons already assessed and that follows, satisfies the relevant objectives prescribed by this Plan.

#### Part D – Business Centres

# 14.2 Double Bay Centre (Chapter D5)

#### **14.2.1 Introduction (D5.1)**

# • Objectives (D5.1.3)

The proposal is a permissible form of development and for reasons already assessed and that follows, satisfies the relevant objectives prescribed by this Part.

# 14.2.2 Urban structure (D5.3)

# • Key strategies for the Double Bay Centre

The proposal satisfies the relevant key strategies prescribed by this part.

# 14.2.3 Street character (D5.4)

An assessment of the desired future character prescribed by this part for Bay Street (Centre) has been undertaken above (see WLEP 2014). Based on the assessment undertaken, the proposal satisfies these objectives as previously stated.

# 14.2.4 Built form envelopes: Control drawings (D5.5)

# Compliance Table (Non-compliances are highlighted)

Site Area 767.2m <sup>2</sup>	Existing	Proposed	Control	Complies
Maximum Height – Storeys & (m)	4 & <14.7	6 & (24.11)	5 & (18.1) (Bay St) 4 & (14.7) (Guilfoyle Ave)	No
Occupiable Area (%)				
- Levels 1-5	100%	100%	100%	Yes
- Level 6	-	100%	n/a*	n/a*
Build-to-line				
- Levels 1 & 2	100%	100%	100%	Yes
- Levels 3 & 4	100%	100%	50-100%	Yes
- Level 5	100%	100%	50-100%	Yes
- Level 6	-	100%	n/a*	n/a*
Setback (Bay Street)				
- Level 1	0	0	2.4	No
- Level 2	0	0	0	Yes
- Level 3	0	0	0	Yes
- Level 4	0	0	0	Yes
- Level 5	-	3.5	2.4	Yes
- Level 6	-	3.5	n/a*	n/a*
Setback (Guilfoyle Avenue)				
- Level 1	0	0	2.4	No
- Level 2	0	0	0	Yes
- Level 3	0	0	0	Yes
- Level 4	0	0	0	Yes
- Level 5	_	3.5	2.4	Yes
- Level 6	-	3.5	n/a*	n/a*
Setback (Western Side boundary)				
- Ground floor	>1.2	0	_	No^
- Levels >1	>1.2	0	_	No^
Building Articulation (Bay Street)				
- Ground level (m)	100%	100%	100%	Yes
- Levels 2-5 (%)	<40%	<40%	Up to 40%	No
Landscaped Areas (m <sup>2</sup> )	0	0	-	No^
Minimum floor-to-floor heights (m)	-			
- Level 1	3	3	4	No
- Levels >2	2.7	2.7-3	3.1	No
Maximum building depth Levels 3-5 (m)	12 - 21	13 - 22.5	15.6	No
Colonnades (m)			10.0	110
- Width	Existing	Awning	2.4	No
- Soffit height	Awning	Maintained	3.6	110
Hours of Solar Access to habitable			3.0	
windows & private open space of				
adjoining properties between 9am and	<3 & < <u>2</u>	<3 & < <u>2</u>	3 & <u>2</u>	No
3pm on 22 June	_	_		
		3.7	6	Yes
Maximum driveway width (m)	<6	3.7	Ü	res

#### \* Proposed Level 6

This level of the development extends outside the permitted envelope controls.

# ^ Rear setback

There is no minimum requirement just a reference to provide an unspecified amount of landscaped open space (see Control Drawing 5).

# 14.2.5 Development Controls (D5.6)

# • Use (5.6.2)

The existing building contains retail on the ground floor and commercial suites above which are permissible, maintained and enhanced.

The proposal satisfies the relevant criteria prescribed by this control.

# • Building envelopes (5.6.3.1)

The existing building from Levels 1-4 is to be maintained but extended to the rear at ground and first floor levels. The existing building and the additions thereto do not comply with the envelope controls as noted in the table above.

The new uppermost levels (Level 5 & 6) also extend outside the prescribed envelope controls. For reasons already assessed, the proposed building form accentuates this highly visible and prominent street corner. In this regard, the proposal also satisfies the relevant objective underpinning this control which states: "...Development should contribute to the desired future character of streetscapes with appropriate and consistent building forms."

# • Height (5.6.3.2)

The height of the proposed development (excluding the lift over-run) fails to comply with the prescribed height control by 9.41m at its worst point on its western side as noted in the Compliance Table above.

For reasons already assessed, the proposal satisfies the relevant objective underpinning this control which is to: "... Encourage buildings to achieve the heights along street ... frontages..."

The existing building and the new additions thereto are also non-compliant with the minimum floor to floor heights prescribed by these controls. The height of the existing floor levels are maintained and the additions above maintain the non-compliance in order to provide consistent ceiling heights and a consistent visible external scale. Notwithstanding, the retail and commercial spaces are provided with wide frontages, are north facing and have an open outlook over Guilfoyle Park. For these reasons, the proposal satisfies the objective underpinning this control which is to "...provide amenity to building users..."

# • Building articulation (5.6.3.3)

The existing building is for commercial and retail use which is maintained and enhanced.

These articulation controls are primarily applied to residential uses on the upper levels in order to provide useable external spaces. As there is no change to the existing commercial use of the building, the proposed development, for reasons already assessed, satisfies the objective underpinning this control which is to "...promote buildings of articulated design and massing ...that contribute to the character of the street..."

# • Setbacks (5.6.3.4)

The existing street front alignment of the building from levels 1-4 are maintained. Level 5 complies with these controls. There are no controls for level 6. Notwithstanding, for reasons already assessed, the proposal satisfies the objective underpinning this control which is to "…encourage consistent building lines to provide coherent streetscapes…"

In relation to the rear setback, there is no prescribed measurement but rather a reference to provide a landscaped open space. Again, there is no minimum control for the size of this landscaped open space. Notwithstanding, for reasons already assessed, the proposal satisfies the intent of this control, which is to "...protect privacy and facilitate solar access to adjoining buildings and gardens."

# • Corner buildings (5.6.3.5)

This site is identified as a corner building and the relevant objective states: "... Encourage building massing and articulation that creates strong corner buildings."

In order to achieve the above stated principle, these corner buildings may be granted an additional 0.5:1 floor space.

For reasons already assessed, the proposal satisfies the above stated objective.

# • Architectural resolution (5.6.3.6)

The proposal satisfies the relevant criteria prescribed by this control.

# • Roof design (5.6.3.7)

The proposal satisfies the relevant criteria prescribed by this control.

# • Heritage items and character buildings (5.6.3.8)

The proposal satisfies the relevant criteria prescribed by this control.

# 14.2.6 Relationship to public domain (5.6.4)

# • Colonnades (5.6.4.2)

The existing building does not contain a colonnade. Given there is no change to the alignment of the existing building, it is not feasible to enforce a colonnade without demolition of the entire building. This is not within the scope of the proposed redevelopment of the existing building. The redevelopment of the building nevertheless provides an improved streetscape outcome than what currently exists.

The proposed alterations to the existing awning nevertheless satisfy the awning controls and objectives prescribed by Part 5.6.4.1.

# 14.2.7 Amenity (5.6.5)

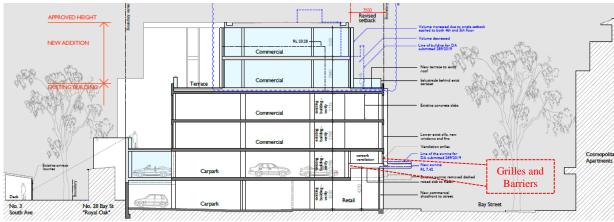
# • Visual privacy (5.6.5.1)

In addition to the assessment already undertaken, the developments new upper level additions are sufficiently set back from adjoining residential property. The outdoor terraces are suitably designed to limit overlooking of any private open space or habitable living areas of adjoining and nearby residential property (subject to Condition C.1 to widen the planters as assessed above).

The new fenestration to the existing building form is suitably designed and orientated to minimise overlooking of any private open space or habitable living areas of adjoining and nearby residential property.

The use of the building for commercial purposes is permitted within this commercial centre. In this regard, light spill from the windows is an expect consequence from this permissible and expected use.

The car park on level 1 has been designed to include a physical barrier and grilles that would limit light spill and noise associated with the movement of cars as depicted in the following annotated section exert:



Source: LawtonHurley Architecture

The garage and parking areas have been suitably designed to mitigate any detrimental impact on neighbouring amenity from light spill.

The proposal satisfies the relevant criteria prescribed by this control.

# • Acoustic privacy (5.6.5.2)

Further to the assessment already undertaken, the commercial use of the premises on the upper levels is primarily limited to business hours. In this regard, noise associated with the use of the upper level commercial spaces including the outdoor terraces would not have a detrimental impact on the acoustic privacy of adjoining and nearby residential property.

The parking areas have been suitably designed to mitigate any detrimental impact on neighbouring amenity from noise impacts. The grilles to the carpark can be treated should a noise nuisance arise. Condition applied.

All mechanical plant and equipment are located internally. In this regard, they are unlikely to be detrimental to the amenity of adjoining residents. Standard conditions forming part of the recommendation have been applied to mitigate the likely impacts from mechanical plant equipment and enable action should a nuisance arise.

The balance of the proposal satisfies the relevant criteria prescribed by this control.

#### • Landscaped areas (5.6.5.3)

The rear southern end of the site is required to be provided with an unspecified amount of landscaped open space in order to "...provide a transition between the commercial area and adjoining residential properties." However, the rear of the site is unsuitable for landscaping given it is to the south of the building, thus has limited solar access. It is also hemmed in by the existing and permissible building forms as evidenced in an earlier photo.

Notwithstanding, for reasons already assessed, the proposal satisfies the above stated objective.

The balance of the proposal satisfies the relevant criteria prescribed by this control.

# 14.2.8 Solar access and natural ventilation (5.6.6)

### • Solar access (5.6.6.1)

This control prescribes that where the development does not comply with the envelope controls it must maintain existing solar access to north facing windows and private open space of adjoining residential property.

The existing building form, which is a compliant building envelope, is the main contributing factor that causes overshadowing of the north facing habitable windows and private open space of adjoining residential property in South Avenue. Any additions to the existing building envelope does not exacerbate the shadow cast by the existing building form to these north facing windows or private open space. On this basis, and notwithstanding the terms of the control, the proposal satisfies the objective underpinning this control which is to "...minimise overshadowing of adjoining properties..."

The balance of the proposal satisfies the relevant criteria prescribed by this control.

# 14.2.9 Geotechnical and hydrogeology (5.6.7)

#### Objectives and Controls

The issue of Site Contamination and Acid Sulfate Soils have been assessed above under the relevant heads of consideration in this report

The balance of the proposal satisfies the relevant criteria prescribed by this control.

# **14.2.10** On-site parking (5.6.8)

# • On-site parking (5.6.8.1)

This control requires that parking must comply with the terms of Chapter E1 of this DCP.

See below for further assessment.

#### • Vehicular access (5.6.8.2)

The location of the existing carpark entry is maintained on Guilfoyle Avenue but is to be repositioned by a relatively minor amount to the east. The existing crossing will also be reduced in width to 3.5m. The repositioned driveway crossing would not result in the loss of any on-street parking as a new space would be created where the existing crossing is to be removed. Council's Development Engineer supports this modification to the driveway crossing.

The balance of the proposal satisfies the relevant criteria prescribed by this control.

# • First floor car parking (5.6.8.3)

The key control for this proposal states:

"C.5 Innovative approaches to car access and changing level, that minimise street impact and use space efficiently, such as car hoists, <u>are encouraged</u>." (Emphasis added)

The proposed reduction to the existing driveway crossing and garage entry and the proposed use of a car lift minimises impacts on the streetscape whilst maximising off-street car parking for this site.

The first floor car park has been integrated within the design and is hidden by the awning as depicted in the section above. A clever architectural solution that satisfies the intent of the design controls prescribed by the DCP.

The balance of the proposal satisfies the relevant criteria prescribed by this control.

#### • Site facilities (5.6.8.4)

The issue of waste storage facilities is assessed below.

The balance of the proposal satisfies the relevant criteria prescribed by this control.

# **Part E - General Controls for All Development**

# 14.3 Parking and Access (Chapter E1)

# **14.3.1 Introduction (E1.1)**

# • Objectives (E1.1.3)

The proposal satisfies the relevant objectives prescribed by this Part.

# 14.3.2 Non-residential parking (E1.5 to E1.7)

The existing building, which is to be maintained, is currently deficient in providing the minimum number of off-street car parking spaces based on the car parking generation rate prescribed by these controls.

This application proposes  $383m^2$  of additional floor area. The proposal complies with the maximum floor space development standard as assessed above.

Council's Traffic Engineer has provided comments on the proposal and in particular the impacts on parking and traffic associated with the additional floor space (see **Annexure 4**).

In relation to the parking and traffic associated with the proposal, the comments state in part:

"...The proposal provides an additional of 8 car spaces, 2 bicycle spaces and 1 motorbike space which comply with DCP requirement.

...The traffic generation associated with the proposed development will have negligible impact on the road network."

A variation to the required parking generation rate is nevertheless required because the existing building is currently deficient. This is discussed under the relevant heading immediately below.

# 14.3.3 Variations to the parking generation rates (E1.8)

This control enables the consent authority to support a variation to providing the maximum parking for this development.

A Transport Report ("TR") has been prepared by The Transport Planning Partnership addressing the deficiency in parking. The TR has been reviewed by Council's Traffic Engineer who concludes that a variation to the shortfall in reaching the maximum parking on the site may be considered favourable. The reasons for supporting the variation include:

- The existing land use and the building thereon already generates a parking deficiency and is to be maintained.
- The proposal is compliant with the maximum floor space ratio development standard prescribed by WLEP 2014.
- The additional parking provided caters for the new and compliant additional floor area.
- It is not feasible to provide all the required off-street parking on this site as it would require demolition of the existing building.
- The Edgecliff Bus/Rail Interchange is a main transportation hub that is less than 1km from the site.
- There are bus routes on New South Head Road and Manning Road all in close proximity to the site.
- The Double Bay Wharf with access to Sydney Ferries is less than 500m from the site.
- There are 4 public car parks in the Centre that could be utilised by customers and visitors of the development.
- The Double Bay Centre provides infrastructure to cater for the demands of local residents with regard to food, entertainment and other services.
- The parking demand created by the retail components of the development is highly likely to overlap with existing retail and commercial activity in the centre.
- The site is in close vicinity of existing car sharing services.

# 14.3.4 Off-street loading and servicing facilities (E1.10)

This control indicates 1 off-street loading and servicing space may be required. However, the existing loading zones in close proximity to the site are sufficient to cater for the development.

# 14.4 Stormwater and Flood Risk Management (Chapter E2)

The proposal satisfies the relevant criteria prescribed by this control and are addressed by conditions.

#### 14.5 Contaminated Land (Chapter E4)

This Chapter identifies requirements for applicants when proposing a development that it must be consistent with the provisions of SEPP 55 for managing contaminated land.

The provisions of SEPP 55 have been assessed above.

The proposal nevertheless satisfies the relevant considerations prescribed by this part and are addressed by condition.

# 14.6 Waste Management (Chapter E5)

The proposal satisfies the relevant criteria prescribed by this part and are addressed by Council's standard conditions.

# 14.7 Sustainability (Chapter E6)

The proposal satisfies the relevant criteria prescribed by this part and are addressed by Council's standard conditions.

# 15. DRAFT AMENDMENTS TO POLICIES AND PLANS

There are no draft amendments applicable to this development.

#### 16. SECTION 7.11 & 7.12 CONTRIBUTION PLANS

Contributions plans prepared under section 7.11 or 7.12 of the *Environmental Planning and Assessment Act 1979* (formerly section 94 and 94A) allow funds to be raised from approved development applications and complying development applications.

The s94 Contribution Plan was developed to fund an additional half level on top of the existing public car parking facility in Cross Street, Double Bay. Council is no longer pursuing this development option and therefore the contribution under this plan is no longer relevant. Section 94B(1) of the EPA Act 1979 states in part that: "...a consent authority may impose a condition under s94 only if it is ...in accordance with a contribution plan."

On this basis, a levy pursuant to Section 7.12 (94A) is recommended to be applied because it has a broader application including community facilities, environmental works, Council property, public infrastructure works, public open space and business centres and harbourside works.

The contribution under this plan is calculated as follows:

<b>Development Type</b>	Levy (percentage of proposed cost of development)	Cost of works + GST
All developments	1%	\$5,738,000.00

The total contribution under the provisions of this plan is \$57,380.00 and is enforced by condition.

#### 17. APPLICABLE ACTS/REGULATIONS

#### 17.1 Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the development to comply with Australian Standard AS 2601-2004: The demolition of structures. Compliance with this requirement can be enforced by condition.

# 17.2 Fire Safety

An annual fire safety schedule is required to be submitted and compliance with this requirement can be enforced by condition.

# 17.3 Building Code of Australia

The proposal is required to comply with the relevant provisions of the Building Code of Australia. Compliance with these requirements can be enforced by condition.

#### 18. THE LIKELY IMPACTS OF THE PROPOSAL

#### **18.1** Views

A number of submissions have indicated view loss as a concern. Some of these properties are located on the higher side of Double Bay on New South Head Road and further afield on Edgecliff Road that overlook the commercial centre. Concerns were also expressed about potential loss of district views from units within the Cosmopolitan Centre immediately opposite on Bay Street.

The WDCP has no control or criteria for consideration in relation to view loss except for a reference in the objectives which is "...to encourage view sharing". Notwithstanding, the impact on views is a relevant consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

In assessing the view impact, the Land & Environment Court, in Tenacity Consulting Pty Ltd v Warringah Council (2004) adopted *planning principles* for assessing view impacts. These steps and assessment are as follows:

# i. What is the value of the view?

The concerns expressed primarily relate to loss of Sydney Harbour and district views.

# ii. From what part of the properties are the views obtained?

From **No.337 New South Head Road**, the units are afforded views from windows and balconies with a gauge on the type of views best depicted as follows:



(Objectors photo from Level 4 balcony of No.337 NSH Rd)



(Objectors photo from Level 5 balcony of No.337 NSH Rd)

There is no photo from **No.343a Edgecliff Road**. This property is located further away and further uphill than the New South Head Road properties and has a broader view aspect than those depicted in the photos immediately above.

From **No.2-22 Knox Street**, the units are afforded views from windows and balconies to the west with a gauge on the type of views as follows:



#### (Objectors photo from west facing balcony 5A/2-22 Knox Street)

(Objectors photo from west facing balcony at 5B/2-22 Knox Street)

# iii. What is the extent of the impact?

In regard to the impacts from units at No.337 New South Head Road (Units 7 & 25), the development fits within the context of the commercial centre and becomes part of the district view. The development would slightly alter on foreground of the existing Sydney Harbour water views. The extent of impact, based on the totality of views afforded from these properties, would be negligible.

From **343a Edgecliff Road**, the development would form part of the commercial centre and part of the district views from this property. The extent of view loss is negligible.

In regard to the impacts from units at **No.2-22 Knox Street** (**Units 5B & 6B**), the proposed development would erode some of the existing district views. There is no loss of any iconic or water views. The extent of impact, based on the totality of views afforded from these properties, would be negligible.

# iv. What is the reasonableness of the proposal that is causing the impact?

The Court poses two questions, the first question relates to whether a non-compliance with one or more planning controls results in view loss.

The development would exceed the height control by 3.16m. This non-compliance is primarily required so that the site can accommodate a compliant floor space which facilitates the redevelopment of the site. Regardless of the height non-compliance, the proposal does not result in any detrimental impact on existing views from either the public or private domain.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views. The development has been designed to best fit within the context of its surrounds, compliant in part with the envelope controls prescribed by the DCP whilst minimising adverse impacts on the amenity of adjoining residential properties.

Having regard to the extent of view loss, the proposal satisfies the underlying objective of the height of buildings development standard which is to "... minimise the impacts on view loss on nearby properties from disruption of views."

On this basis, the degree of the view impact is reasonable and the proposal satisfies the principle established by the Court.

#### 18.2 General

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

# 19. THE PUBLIC INTEREST

The proposal is not in the public interest.

# 20. DISCLOSURE STATEMENTS

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

#### 21. CONCLUSION

The assessment of the development against the relevant considerations under s4.15 of the *Environmental Planning and Assessment Act* 1979, Woollahra Local Environmental Plan 2014 and the Woollahra Development Control Plan 2015 concludes that the proposal is in the public interest and is recommended for Approval.

# 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, 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 2014 to the height of buildings development standard under Clause 4.3 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. 289/2019/1 for alterations and additions to the existing commercial building including two additional levels and car parking on land at 30-36 Bay Street Double Bay, subject to the following conditions:

#### A. General Conditions

#### A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

#### 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, piering, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

**Note**: **Interpretation of conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

# A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
DA: 00B to 11B inclusive	Architectural Plans	LawtonHurley	Oct 2019
DA01 Revision 1	Landscape Plan	Wyer & Co.	16.07.2019
30-36/Bay/AIA/C	Arboricultural Impact Assessment & Tree Protection Specification	treeiQ	29.07.2019
DA 12B	Materials + Finishes	LawtonHurley	Oct 2019
C000, C100, C200 C300 & C301 all Revision2	Hydraulic design	Xavier Knight	24.07.2019
190401	Flood Planning Level Assessment Statement	Xavier Knight	24.07.2019
SO228 Revision D	Operational Waste Management Plan	Elephants Foot	06.08.2019
19234 Version V04	Traffic Impact Assessment Report	The Transport Planning Partnership	08.08.2019
190270 Revision 02	BCA Assessment Report	Concise Certification	29.07.2019
DB2 Bay Street: Revision 2	Preliminary Construction Management Plan	Reform Projects Pty Ltd	24.07.2019
190401	Structural Design Letter	Xavier Knight	23.07.2019
20190740.1	Acoustic Assessment	Acoustic Logic	05.07.2019
86857.00 Revision 1	Acid Sulfate Soils Management Plan	Douglas Partners	02.08.2019
85575.01 R.001.Rev1	Preliminary Site Investigation for	Douglas Partners	13.04.2017
	Contamination with Limited Sampling		
19138R1.1	Access Report	Code Performance Pty Ltd	25.07.2019

**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*.)

#### 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.

# 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 on Council land shall be retained

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
3	Ulmus parvifolia	Council verge	9 x 6	\$7000.00
	(Chinese Elm)	(most northern specimen)		
4	Ulmus parvifolia	Council verge	9 x 9	\$7000.00
	(Chinese Elm)	(most northern specimen)		

**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)
1	Corymbia citriodora	Rear boundary of 28 Bay Street, Double	17 x 11
	(Lemon scented Gum)	Bay	

**Note:** Tree/s to be removed shall appear coloured red on the construction certificate plans.

# 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.

# **B.2** Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

A full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic	Woollahra Council
	report including images	Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- a) Coloured photographs of:
  - each elevation,
  - each structure and landscape feature,
  - internal images of each room and significant architectural detailing, and
  - views to the subject property from each street and laneway or public space.

**Note:** Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <a href="https://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

#### **B.3** Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

**Note**: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

# **B.4** Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

**Note:** If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

# **B.5** Establishment of Tree Protection Zones (TPZ)

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).

a) Trunk protection shall be installed around the trunks of the following trees:

	Council Ref No.	Species	Location
ľ	3	Ulmus parvifolia (Chinese Elm)	Council verge (most northern specimen)
Ī	4	Ulmus parvifolia (Chinese Elm) Council verge (most northern specimen)	

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

b) A sign identifying the trunk protection shall be erected on the trunk protection installed on each tree. Signage must be visible from the Council verge area and within the development site.

- c) 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.
- d) 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
- 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 trunk protection	Compliance with tree protection measures
	Ensure works are undertaken in accordance with Section 1.6
Demolition of the existing awning	of Appendix 6 of the submitted Arboricultural Impact
within the vicinity of Trees 3 & 4.	Assessment Tree Protection Specification, written by Anna
	Hopwood and Martin Peacock – Tree iQ, dated 29/07/2019
Erection of hoarding and	Ensure contact between machinery and branches is avoided
construction of new awning within	Contact Woollahra Council's Technical Officer of
the vicinity of Trees 3 & 4.	Arboriculture for approval if pruning is deemed necessary
Prior to the issue of a Final	Supervise the diamentling of tree protection measures
Occupation Certificate	Supervise the dismantling of tree protection measures

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

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

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

# C.1 Surrender of Consent (section 4.17(1)(b) and section 4.17(5) of the *Act*)

A notice of surrender of development consent for DA359/2017/1 dated 8 February 2019 must be provided to Council in writing by the Owner of the land in compliance with clause 97 of the *Regulation*.

No Construction Certificate must be issued until Council has acknowledged in writing that this condition has been satisfied.

# C.2 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

# a) Planter troughs

The planter troughs located along the entire perimeter of the roof terraces to the rear of the building on all levels must have a minimum width of 1 metre.

**Note**: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

**Note**: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

**Note:** Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

# C.3 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code		
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986					
Long Service Levy www.longservice.nsw.gov.au	Contact LSL Corporation or use online calculator	No			
SI under section 4.17(6) of the Environ	ECURITY nmental Planning and A	ssessment Act	1979		
Property Damage Security Deposit (making good any damage caused to any property of the Council)	\$136,732.00	No	T115		
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)	\$14,000.00	No	T114		
Infrastructure Works Bond (completing any public work required in connection with the consent)	\$81,970.00	No	T113		
DEVELO under Woollahra Section 94A This plan may be inspected at Woollahra Co			a.nsw.gov.au		
<b>Development Levy</b> (section 7.12)	\$57,380.00 + Index Amount	Yes, quarterly	T96		
INSPECTION FEES under section 608 of the Local Government Act 1993					
Public Tree Inspection Fee	\$200.00	No	T95		
Public Road/Footpath Infrastructure Inspection Fee	\$471.00	No			

Security Administration Fee	\$198.00	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$290,951.00 plus any r long service levy	elevant indexe	d amounts and

#### **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 <a href="www.longservice.nsw.gov.au">www.longservice.nsw.gov.au</a> 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.

#### C.4 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council for infrastructure works prior to the issuing of any Construction Certificate. The following infrastructure works must be carried out at the applicant's expense:

#### **Civil Works**

- a) The removal of the existing redundant vehicular crossing including layback and gutter and reinstated into Council's standard kerb and gutter and footpath in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous works.
- b) The construction of a new 3.5 metres wide vehicular crossing including replacement of the existing gutter in accordance with Council's Crossing Specification. The new crossing shall be constructed at right angle to the street kerb in plain concrete. The centreline of the new crossing shall be aligned with the centreline of the proposed car lift. Design longitudinal surface profiles along each side/edge for the proposed vehicular crossing must be submitted for assessment.
- c) The reconstruction of full width footpath with Double Bay pavers for the full frontage of the site in Bay Street and Guilfoyle Street in accordance with Council's Specification. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted for assessment.
- d) Due to the new location of the vehicular crossing, the applicant is to liaise with Council's Traffic Section for the relocation of the existing street signs. This matter is required to be referred to Woollahra Traffic Committee seeking approval and the process can take up to 8 weeks. All works associated with the signage changes shall be carried out at no cost to Council. Contact for Council:

Team Leader – Traffic and Transport Phone: 9391 7174

e) The reconstruction of the existing kerb inlet pit with litter basket in Bay Street for the proposed stormwater discharge from the site. The access grates must be in Class D bicycle friendly grates. All drainage works must be designed in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous works.

#### **Bond**

- a) A bond of \$81,970 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- b) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note**: See *Section K - Advisings* of this Consent titled *Roads Act Application*.

## **C.5** Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

**Note**: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

**Note**: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

**Note**: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

#### **C.6** Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local* native plants to screen the substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

**Note**: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

**Note:** This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

**Note:** Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

**Note**: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land.* 

# C.7 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) "Managing Urban Stormwater Soils and Construction" 2004 published by the NSW Government (The Blue Book).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

**Note**: The International Erosion Control Association – Australasia <a href="www.austieca.com.au">www.austieca.com.au</a> 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>, and The Blue Book is available at <a href="www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>.

Note: Pursuant to clause 161(1)(a)(5) of the Regulation an Accredited Certifier may satisfied as to this matter.

#### C.8 Structural Adequacy of Existing Supporting Structures

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

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

## **C.9** Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.

# C.10 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.

# **C.11 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 and including the following:

In particular, the *Construction Certificate* plans shall be amended to incorporate the following:

- a) All car spaces must be clearly delineated to comply with the minimum dimensions, as per AS/NZS 2890.1:2004 Clause 2.4.1.
- b) In order to minimise the traffic queuing outside the property boundary due to the car lift, the applicant must provide waiting bays on each floor level of the carpark located within the aisle
- c) The waiting bays must be located to the left side for egress traffic and the dimensions of the waiting bays are to be 6m x 2.4m and must not exceed a maximum grade of 1 in 20 (5%).

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act* 1993.

The *Certifying Authority* has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

#### **C.12 Stormwater Management Plan**

The *Construction Certificate* plans and specifications, required by Clause 139 of the Regulation, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans referenced in Condition A.3 of this consent, other than amended by this and other conditions;
  - i) Stormwater drainage from the car lift shall be collected and discharged to the proposed on-site water quality chamber instead of discharging directly to the street kerb.
  - ii) A maximum of one stormwater outlet per property across the nature strip will be permitted to comply with Chapter E2.2.5 of Council's DCP.
  - iii) A minimum 450x450mm boundary junction pit shall be provided adjacent and within the property boundary prior to connecting to the Council's street drainage system;
  - iv) The proposed 150mm diameter outlet pipe shall have a minimum fall of 1% to comply with AS3500.3.
  - v) Provision of backflow prevention measures shall be incorporated into the stormwater drainage system in the event that the Council's underground system is in full capacity. In this regard, an emergency overflow path from the stormwater quality chamber to the street must be clearly depicted on the stormwater drawings.
- b) The installation of minimum 8x460mm PSORB stormwater filters to comply with the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP with regard to stormwater treatment system;

- c) The discharge of stormwater from the site shall be connected to the new kerb inlet pit in Bay Street in accordance with Council' specification and requirements.
- d) Compliance the objectives and performance requirements of the BCA;
- e) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- f) General compliance with the Council's Woollahra DCP 2015 Chapter E2 Stormwater and Flood Risk Management, and

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 Runoff, 1987* edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) All invert levels reduced to Australian Height Datum (AHD),
- c) Location and dimensions of all drainage pits,
- d) Point and method of connection to Councils drainage infrastructure, and
- e) Overland flow paths over impervious areas.

**Note:** This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

**Note:** The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008* "Rainwater Tank Design and Installation Handbook".

#### **C.13 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 a 1:100 year Flood Level of RL3.92 detailing:

- a) A permanent flood risk management plan shall be installed in a prominent area of the ground floor carpark.
- b) A permanent flood risk management plan shall be installed in the lift lobby area.
- c) Permanent brass plaques shall be fixed on the ground floor carpark indicating both the 1% flood level 3.59m AHD and the PMF level 4.5m AHD.
- d) Permanent brass plaques shall be fixed in each retail area indicating both the 1% flood level 3.59m AHD and the PMF level 4.5m AHD.
- e) All fences and walls are to be designed to be structurally stable during all flood events up to the probable maximum flood (PMF).
- f) The driveway entry is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 4.09m AHD.
- g) Permanent brass plaques are to be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- h) 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.
- i) The lobby entry is to be protected by a mechanical flood barrier with the threshold set to the flood planning level of 4.10m AHD.
- j) Flood compatible materials shall be used for all flood exposed construction.
- k) All flood exposed electrical wiring and equipment is to be waterproofed.

- 1) 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.
- m) The building shall be designed by a suitable qualified structural engineer to withstand the forces generated by floodwaters.

**Note:** The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1 (Off-street car parking). The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

### C.14 Tree Management Plan

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must 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, transplant method statement or bush regeneration management plan.

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

#### **C.15** Waste Storage

The *Construction Certificate* plans and specifications required by Clause 139 of the Regulation, must include detailed plans and specifications must make provision for:

- 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.

#### C.16 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 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 <u>AS 1668.2</u>.

## C.17 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the  $L_{A90,\ 15\ minute}$  level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

- **1. Australian Acoustical Society**—professional society of noise-related professionals (<a href="www.acoustics.asn.au">www.acoustics.asn.au</a>).
- **2. Association of Australian Acoustical Consultants**—professional society of noise related professionals (<a href="www.aaac.org.au">www.aaac.org.au</a>).

#### C.18 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 **Acoustic Logic** 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.

# C.19 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.20 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.

#### **C.21 Land Contamination**

Given the limited nature of the Preliminary Investigation due to site constraints, confirmation of the contamination status of the site in the form of a **Detailed Site Investigation** will need to be undertaken. The Detailed Investigation shall be undertaken in accordance with the *NSW EPA Sampling Guidelines (1995)*, the *DECCW's Guidelines for the NSW Site Auditor Scheme*, 2<sup>nd</sup> Edition, 2006.

If the land is contaminated then a remedial action plan sufficient for compatibility with the proposed use, supported by a Site Audit Statement must be provided to the Council's satisfaction.

After completion of any remedial works required by the remedial action plan, the applicant must provide a copy of a validation report, supported by a Site Audit Statement to Council's satisfaction before the issuing of any occupation certificate.

## C.22 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 total or partial conformity with the BCA because the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls. 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 total 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.

**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 conditions 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.

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

#### D.1 Compliance with Building Code of Australia

For the purposes of section 4.17(11) of the *Act*, the work must be carried out in accordance with the requirements of the Building Code of Australia.

This condition does not apply 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:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

## **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. 28 Bay Street, Double Bay
- No. 2 Guilfoyle Avenue, Double Bay
- No. 3 South Avenue, Double Bay

The dilapidation reports must be completed and submitted to Council with the Notice of Commencement prior to the commencement of any development work.

Where excavation of the site will extend below the level of any immediately adjoining building the Principal Contractor or Owner-builder must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the Notice of Commencement required by section 6.6 of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition

#### 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*.

#### **D.4** Piezometers for the monitoring of Ground Water Levels (GWL)

The *principal contractor* must be provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

# **D.5** Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- 1) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the

erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.

- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

**Note:** A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

## **D.6** Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

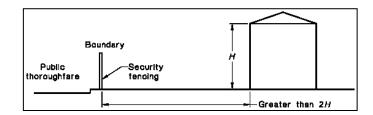
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

**Note**: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

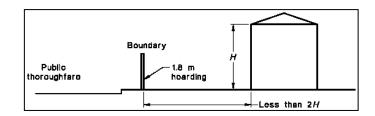
**Note:** The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

#### D.7 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.

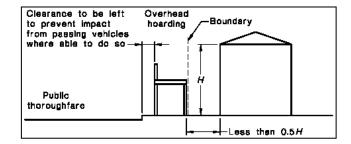


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must 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

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.

#### **D.8** Site Signs

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

Clause 98A of the Regulation provides:

## Erection of signs

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

Clause 227A of the Regulation provides:

#### Signs on development sites

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

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

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

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

#### **D.9** Toilet Facilities

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

Each toilet provided:

a) must be a standard flushing toilet, and

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

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

#### In this condition:

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

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

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

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

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.

#### **D.10 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 (<a href="www.austieca.com.au/">www.austieca.com.au/</a>) 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and *The Blue Book* is available at <a href="www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>

**Note**: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

**Note**: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

**Warning**: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

# D.11 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*.

#### D.12 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.

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

# E.1 Compliance with BCA

For the purposes of section 4.17(11) of the *Act*, the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

This condition does not to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

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

#### **E.2** Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

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

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

**Note**: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

#### **E.4** Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

## **E.5** Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

*Critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

**Note**: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

**Note**: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

#### E.6 Hours of Work - Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
  - (i) piling,
  - (ii) 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 <u>any equipment</u> 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

#### E.7 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

**Note**: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

**Note**: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

**Note**: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
  - a. For fee or reward, transport waste over or under a public place
  - b. Place waste in a public place
  - c. Place a waste storage container in a public place.
- Part E Public roads:
  - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
  - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

#### E.8 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;

Note: See www.epa.nsw.gov.au for additional information.

#### E.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

**Note**: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

#### **E.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 subcontractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

**Note**: professional engineer has the same mean as in clause A1.1 of the BCA.

Note: building has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and

any structure or part of a structure...."

**Note**: supported land has the same meaning as in the Conveyancing Act 1919.

# E.11 Support of adjoining land and buildings

A person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

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:

- 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
- an easement under section 88K of the Conveyancing Act 1919, or c.
- an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.

Note: Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary)) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

**Note**: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993.

#### E.12 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.

### E.13 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act* 1993;
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act* 1997, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

**Note**: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

# E.14 Filling of site

To the extent that this consent permits filling of the site such fill must be *virgin excavated natural material* ("VENM").

**Note**: Under Schedule 1 of the *Protection of the Environment Operations Act 1997 "virgin excavated natural material means natural material (such as clay, gravel, sand, soil or rock fines):* 

- (a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and
- (b) that does not contain any sulfidic ores or soils or any other waste, and includes excavated natural

material that meets such criteria for virgin excavated natural material as may be approved for the time being pursuant to an EPA Gazettal notice."

Note: Sulfidic ores and soils are commonly known as acid sulfate soils.

**Note**: If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the *Protection of the Environment Operations Act 1997*.

**Note**: A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the *Protection of the Environment Operations Act 1997*.

**Note**: Additional information is available from the NSW Environment Protection Authority website: <a href="https://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>

#### **E.15 Site Cranes**

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act* 1988 (Cth).

No illuminated sign(s) must be erected upon or displayed upon any site crane.

**Note**: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

# E.16 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.

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

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

### E.17 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

**Note**: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

#### **E.18 Prohibition of Burning**

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

**Note**: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

#### **E.19 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 <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.

**Note:** Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

# E.20 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 <a href="https://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

#### E.21 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.

#### **E.22** 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.

#### E.23 Shoring and Adequacy of Adjoining Property

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

**Note:** This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

#### **E.24** Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 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) There shall be no excavation or work within a Tree Protection Zone (TPZ). 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 30mm 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 Safework NSW Code of Practice Amenity Tree Industry.

#### E.25 No excavation within tree root zones

Excavation is prohibited within the specified radius from the trunks of the following trees:

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
3	Ulmus parvifolia (Chinese Elm)	Council verge (most northern specimen)	3.6
4	Ulmus parvifolia (Chinese Elm)	Council verge (most southern specimen)	4.9

The project arborist shall document compliance with the above condition.

#### E.26 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Condition B.3 of this consent, 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

#### **E.27** Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the* 

Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.

**Note:** This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

#### E.28 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with Condition E.27 immediately above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

**Note:** This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

#### E.29 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

**Note:** This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

# E.30 Compliance with Acid Sulfate Soils Management Plan

The Principal Contract/Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

**Note**: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

**Note**: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about
- plant roots being burnt by acid, reducing plant health and productivity
- acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
- plants and soil life can be poisoned by the available toxic metals
- loss of aquatic plants that can not survive acidic conditions
- loss of fish, crustaceans, birds and other animals
- damage to metal and concrete structures (such as bridge pylons and pipes)

# 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.

## F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

**Note**: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

**Note**: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

**Note**: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

#### F.3 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks*, *Drainage and Miscellaneous Works* (2012).

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

#### F.4 Letter Box(es)

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

#### F.5 Digital Model – 3D

Prior to the issue of an Occupation Certificate an accurate "as built" 3D digital model of the building must be submitted to Council for use in the Woollahra 3D digital model.

A 3D digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:

- a) a building envelope which includes all elements affecting shadow analysis,
- b) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external features, and
- c) a ground level terrain showing accurate RLs extending to site boundaries.

All models must be generated in accordance with Council's guidelines for submitting 3D digital models outlined in "Attachment 9 - 3D Digital Model Requirements" of the DA guide.

**Note:** This model will update previous version(s) submitted at Development Application stage. Any future modifications under section 4.55 of the *Act* that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

### F.6 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

#### G.1 Electricity Substations – Dedication as Road and/or Easements for Access

If an electricity substation is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any statutory corporation requiring access to the electricity substation.

# 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.

#### H.2 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

**Note**: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

### **H.3** 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
- i) 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.

#### 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 *PCA* detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the water quality chamber in the basement;
- c) That the works have been constructed in accordance with the approved design;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- 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.
- f) 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 all mechanical barriers, stormwater quality filters, pumps and sump systems incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land Titles Office.

**Note**: The required wording of the Instrument can be downloaded from Council's web site <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>. The PCA 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.

# H.5 Completion of remediation work

After completion of any remedial works required by the Remedial Action Plan, the applicant must provide a copy of the validation report supported by a Site Audit Statement to Council's satisfaction before the issuing of any occupation certificate.

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

#### I.1 Maintenance of Landscaping

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

**Note**: This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Note: This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.

# I.2 Waste Management - Commercial

The owner and/or occupier must comply with the approved site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.

All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than the close of business on the day before collection. Waste and recycling bins/crates must be removed from the road or footpath within 1 hour of collection or otherwise is accordance with the approved SWMMP.

Receptacles are not to be stored in any public place at any time. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

This condition does not apply to the extent that Activity Approval exists under the *Local Government Act 1993* or the *Roads Act 1993* and subject that all conditions of such approval(s) are complied with.

**Note:** This condition has been imposed to ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.

**Note**: No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.

#### I.3 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.

#### I.4 Outdoor Lighting – Commercial

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**: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

## **I.5** Outdoor Lighting – Roof Terraces

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.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.

**Note:** This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

**Note**: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

#### I.6 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

**Note:** This condition has been imposed to protect the amenity of the neighbourhood.

**Note**: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* and the *NSW Industrial Noise Policy* published by the NSW Environment Protection Authority (<a href="www.epa.nsw.gov">www.epa.nsw.gov</a>.) 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 <a href="www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a>. NSW Environment Protection Authority— see "noise" section <a href="www.environment.nsw.gov.au/noise">www.environment.nsw.gov.au/noise</a>. NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at <a href="www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a>.

Australian Acoustical Society—professional society of noise related professionals <a href="www.acoustics.asn.au">www.acoustics.asn.au</a>. Association of Australian Acoustical Consultants—professional society of noise related professionals <a href="www.aaac.org.au">www.aaac.org.au</a>.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

#### I.7 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.

**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) and *Noise Guide for Local Government* (2013) (see: <a href="www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>)

#### I.8 On-going maintenance of the Stormwater Treatment System

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

- a) Permit stormwater to be treated by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- d) Carry out the matters referred to in paragraphs (b) and (d) at the Owners expense;
- e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- i) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

**Note:** This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

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

# I.9 Parking Permits

Future tenants of the development will not be eligible for resident or visitor parking permits.

# I.10 Hours of operation

The new retail premises and commercial premises are restricted to the following hours of operation:

- 7.00 am to 10.00 pm Monday to Saturday and
- 7.00 am to 8.00 pm on a Sunday or a public holiday.

# 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.

# **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 <a href="www.1100.com.au">www.1100.com.au</a>

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

#### K.3 Commonwealth Disability Discrimination Act 1992

The *Disability Discrimination Act 1992* (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, the Woollahra Development Control Plan 2015 Chapter E8 – Adaptable Housing and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

**Note**: Further advice can be obtained from the Australian Human Rights Commission website www.humanrights.gov.au or call 9284 9600 or 1300 656 419.

#### K.4 NSW Police Service and Road Closures

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

**Warning**: If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

**Note**: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov.au or ph 9369 9899.

# K.5 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 <a href="www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> or call 133 220.

# K.6 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 <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> or call 131 050.

# K.7 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 <a href="www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> or call 131 050.

#### K.8 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.

# **K.9** 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 <a href="https://www.ncat.nsw.gov.au">www.ncat.nsw.gov.au</a>

**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.

# **K.10 Decommissioning of Fire Protection Systems**

Decommissioning of any halon extinguishers and fixed flooding systems must be carried out by a technician authorised under the *Ozone Protection Act 1989*.

Yellow portable fire extinguishers contain halon. From 31 December 1995, use or possession of these extinguishers without approval has been illegal.

# K.11 Decommissioning of Refrigeration or Air Conditioning Equipment

Decommissioning of any refrigeration or air conditioning equipment must be carried out by an authorised person under the *Ozone Protection Act 1989*, with any fluorocarbon refrigerant recovered in accordance with the requirements of the *Ozone Protection Regulation 1997*.

# **K.12** Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>

# K.13 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

# K.14 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or call Council on 9391 7000 for further advice.

# **K.15 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.

# K.16 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 roadway
- Installation of soil/rock anchors under the roadway

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.

<u>Note</u>: 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".

<u>Services</u>: 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.

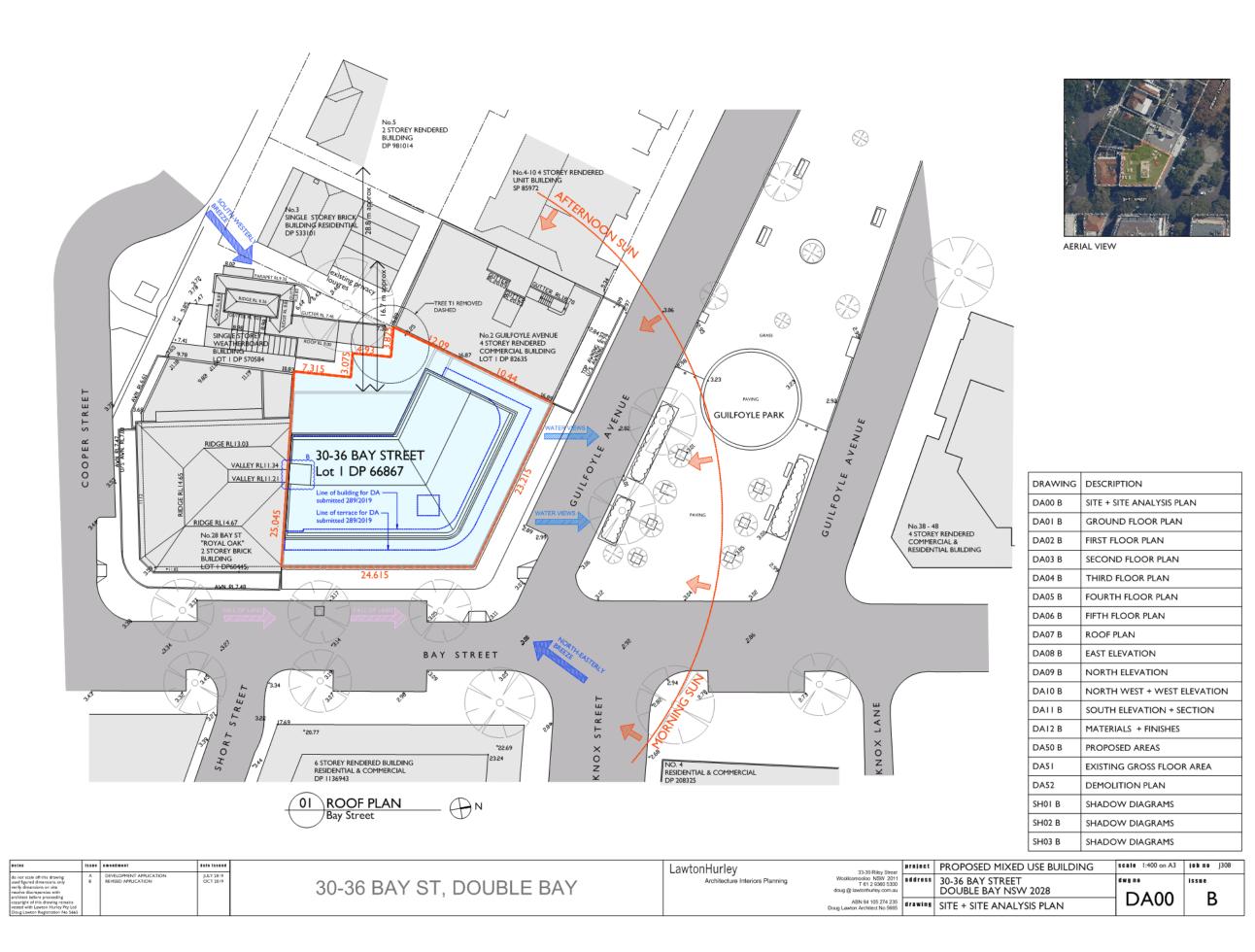
**Note:** When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

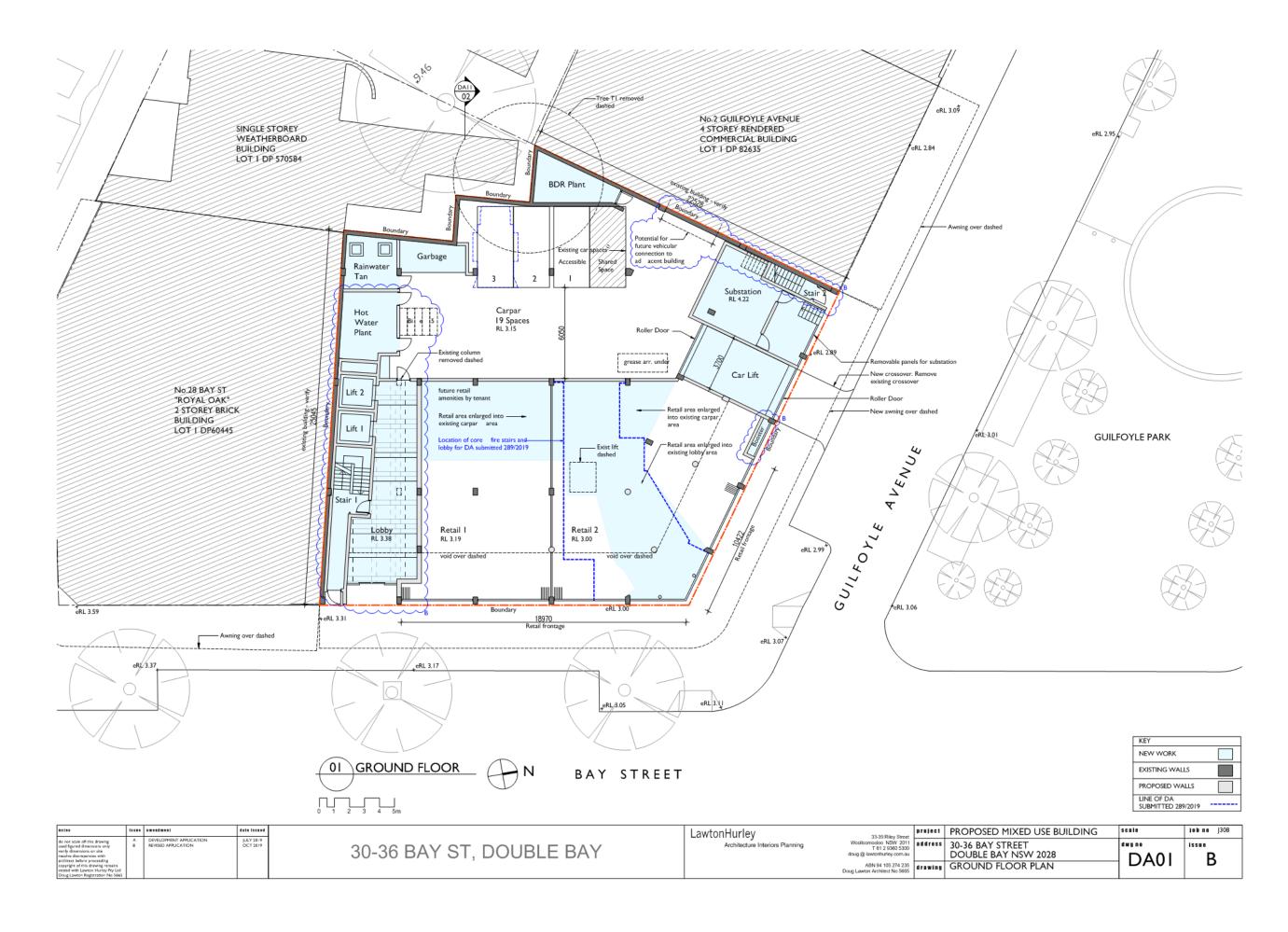
**Note**: road has the same meaning as in the Roads Act 1993.

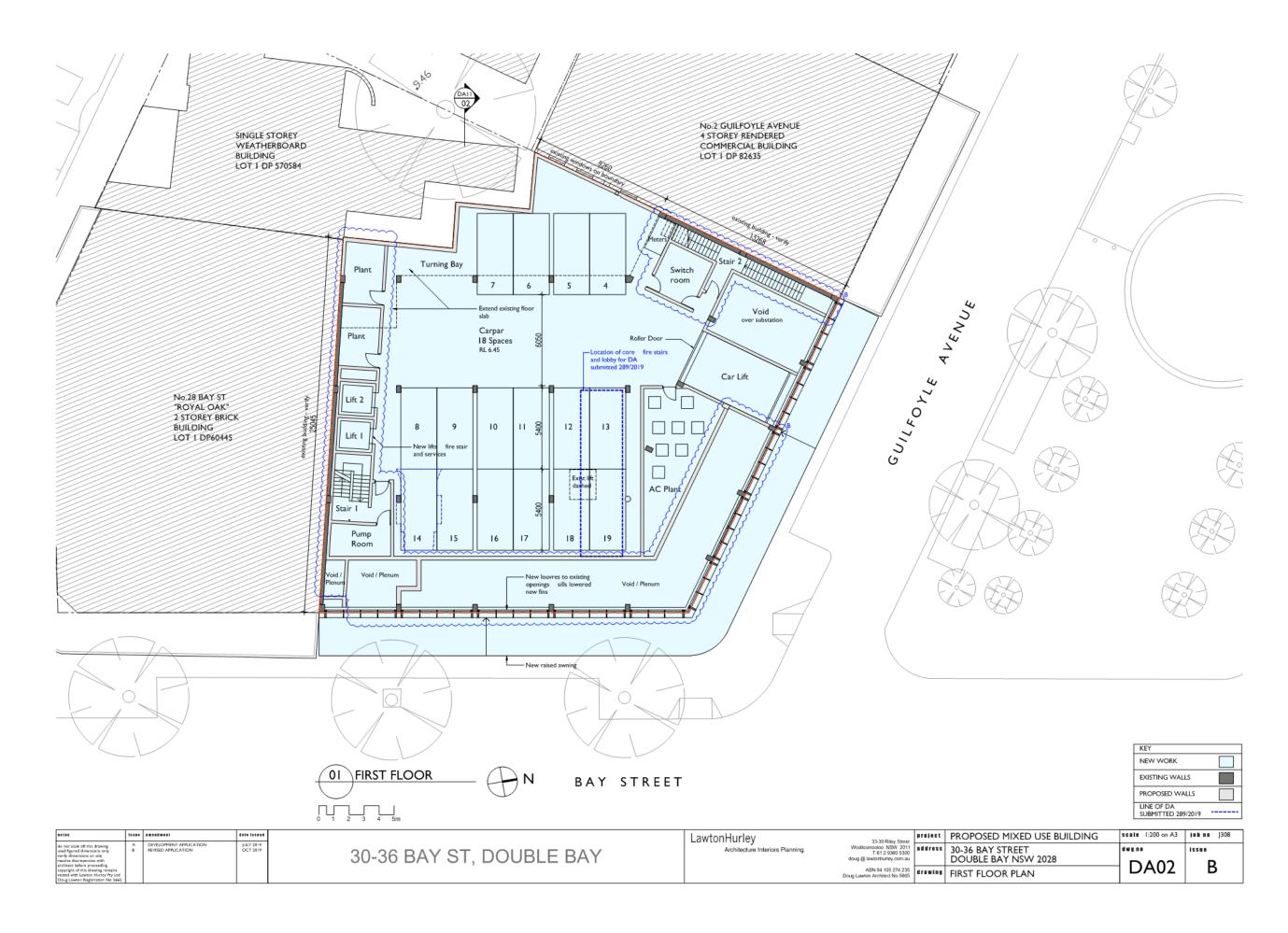
Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway 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.

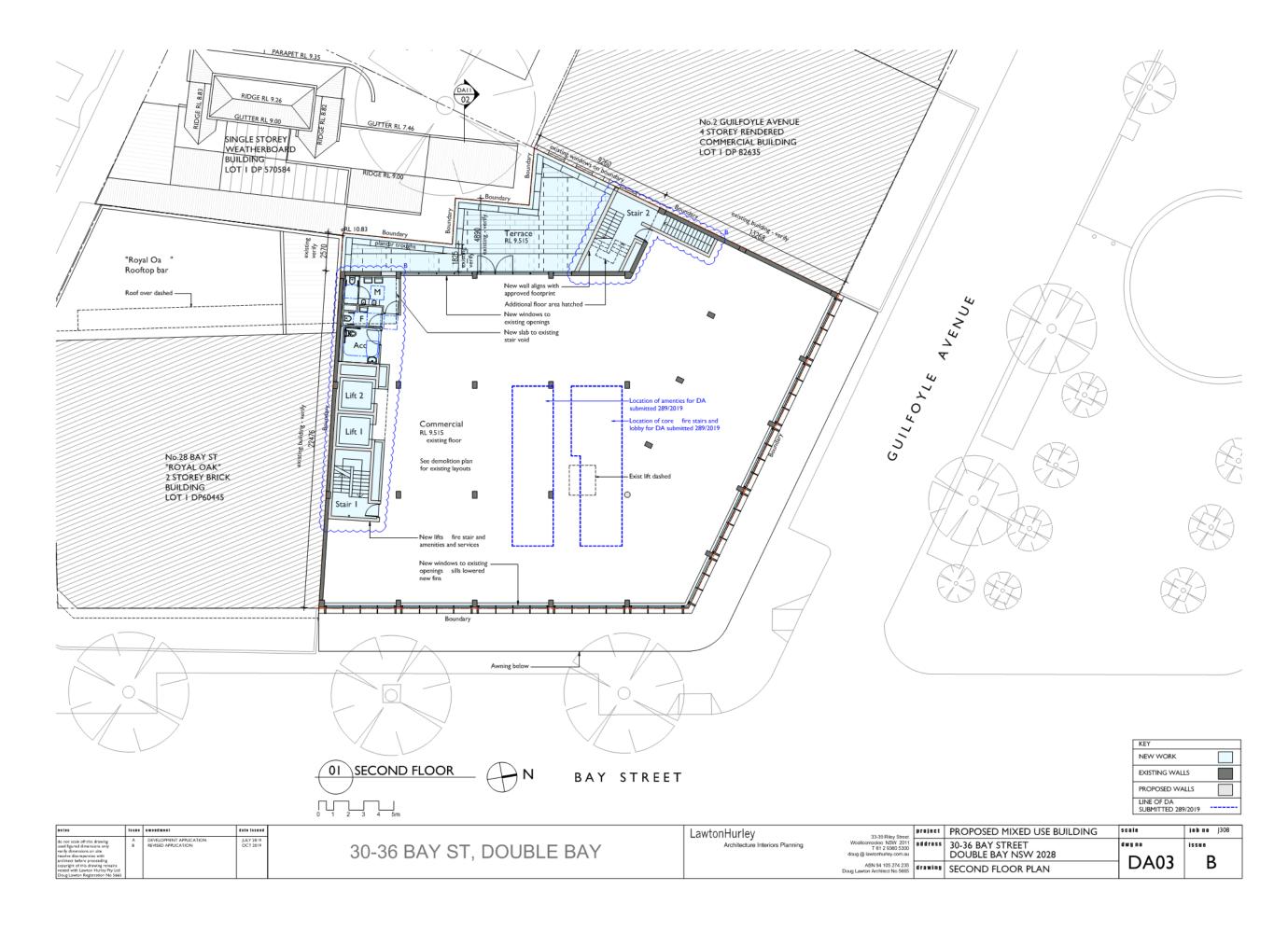
#### **Annexures**

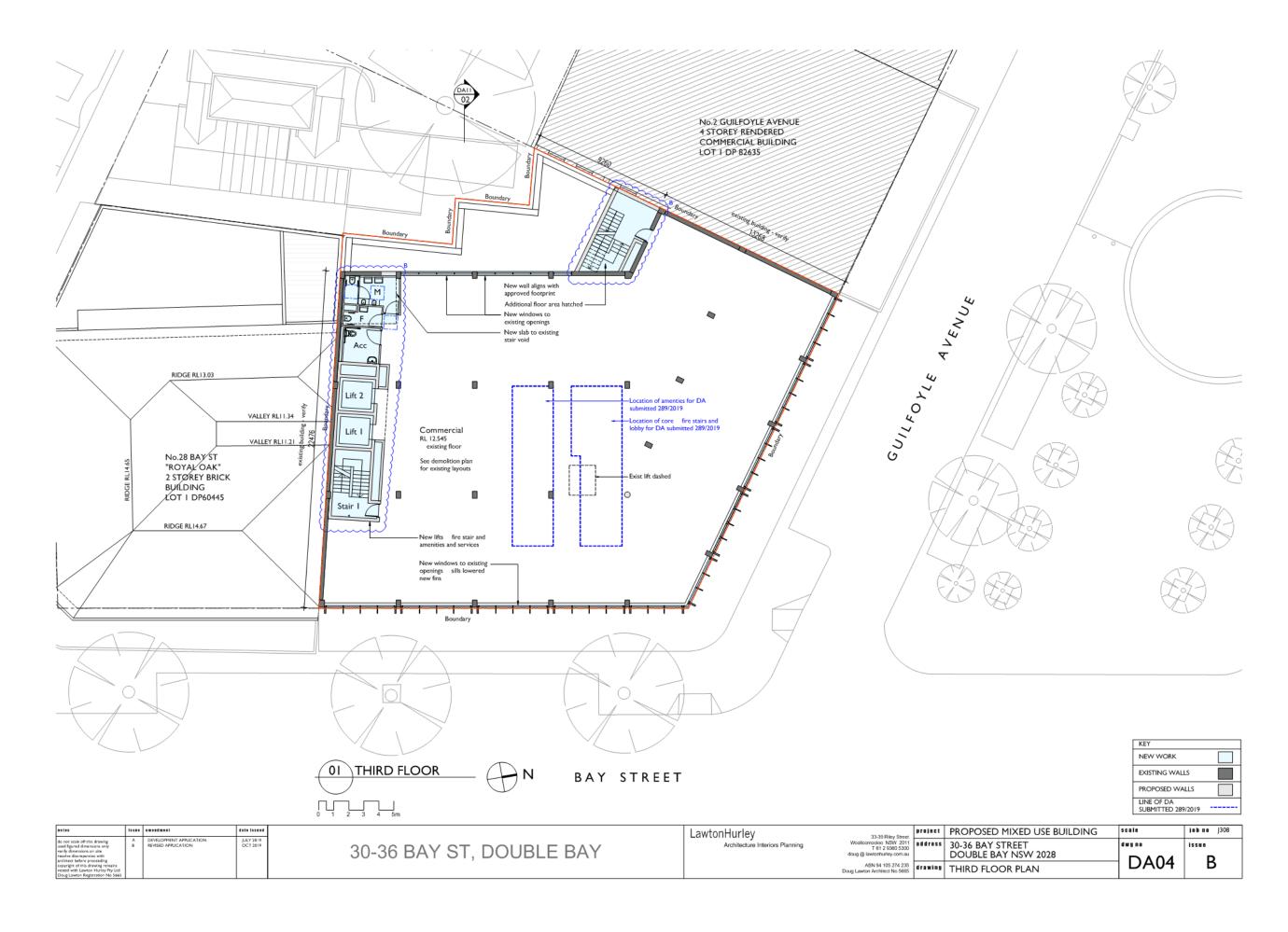
- 1. Plans, Sections and Elevations J
- 2. Referral Response Urban Design U
- 3. Referral Response Technical Services U
- 4. Referral Response Traffic 🗓 🖺
- 5. Referral Response Trees & Landscaping  $\downarrow$
- 6. Referral Response Environmental Health  $\downarrow$
- 7. Clause 4.6 Written Request Height of Buildings J.
- 8. Submission List  $\sqrt[4]{2}$

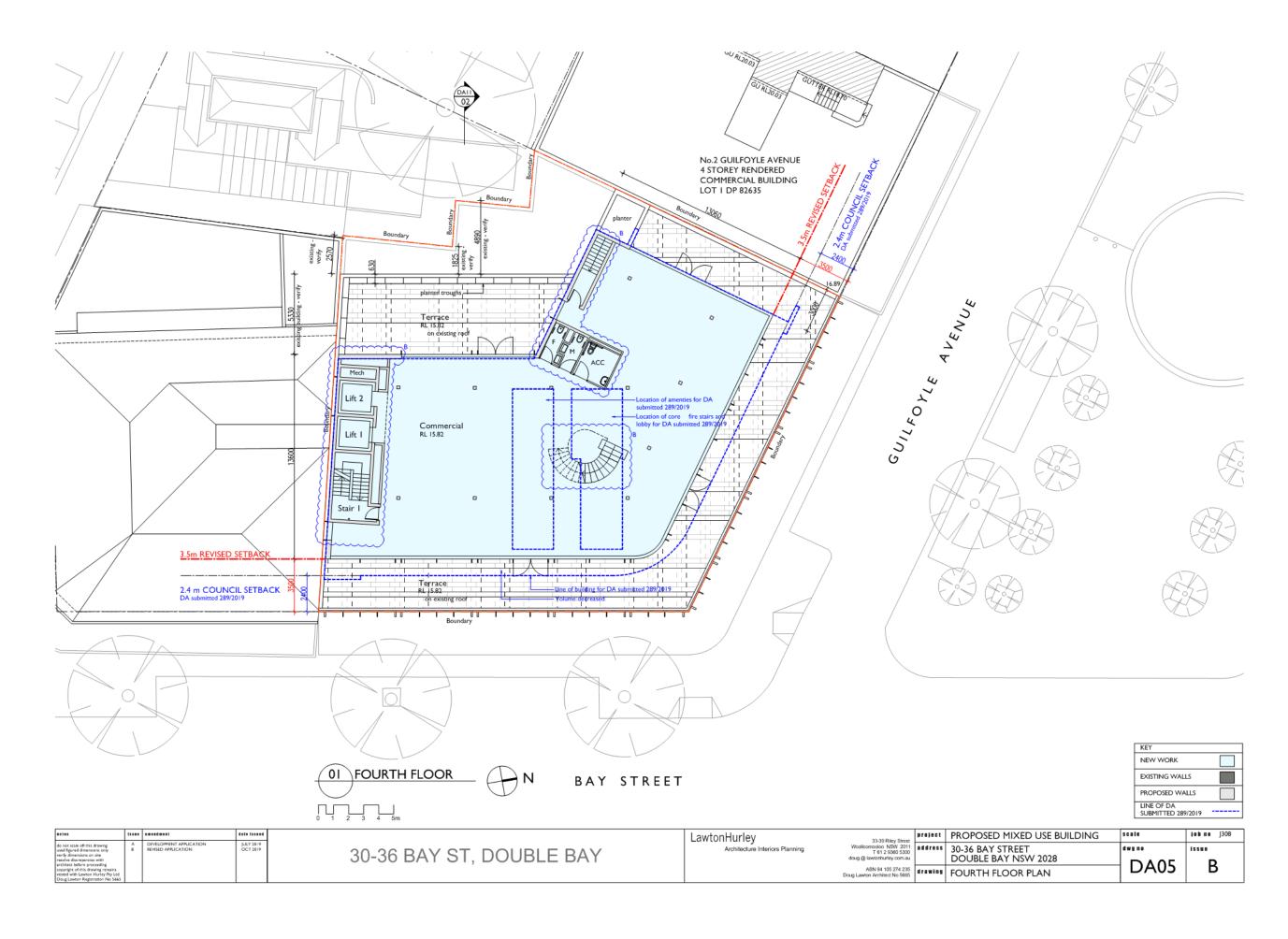


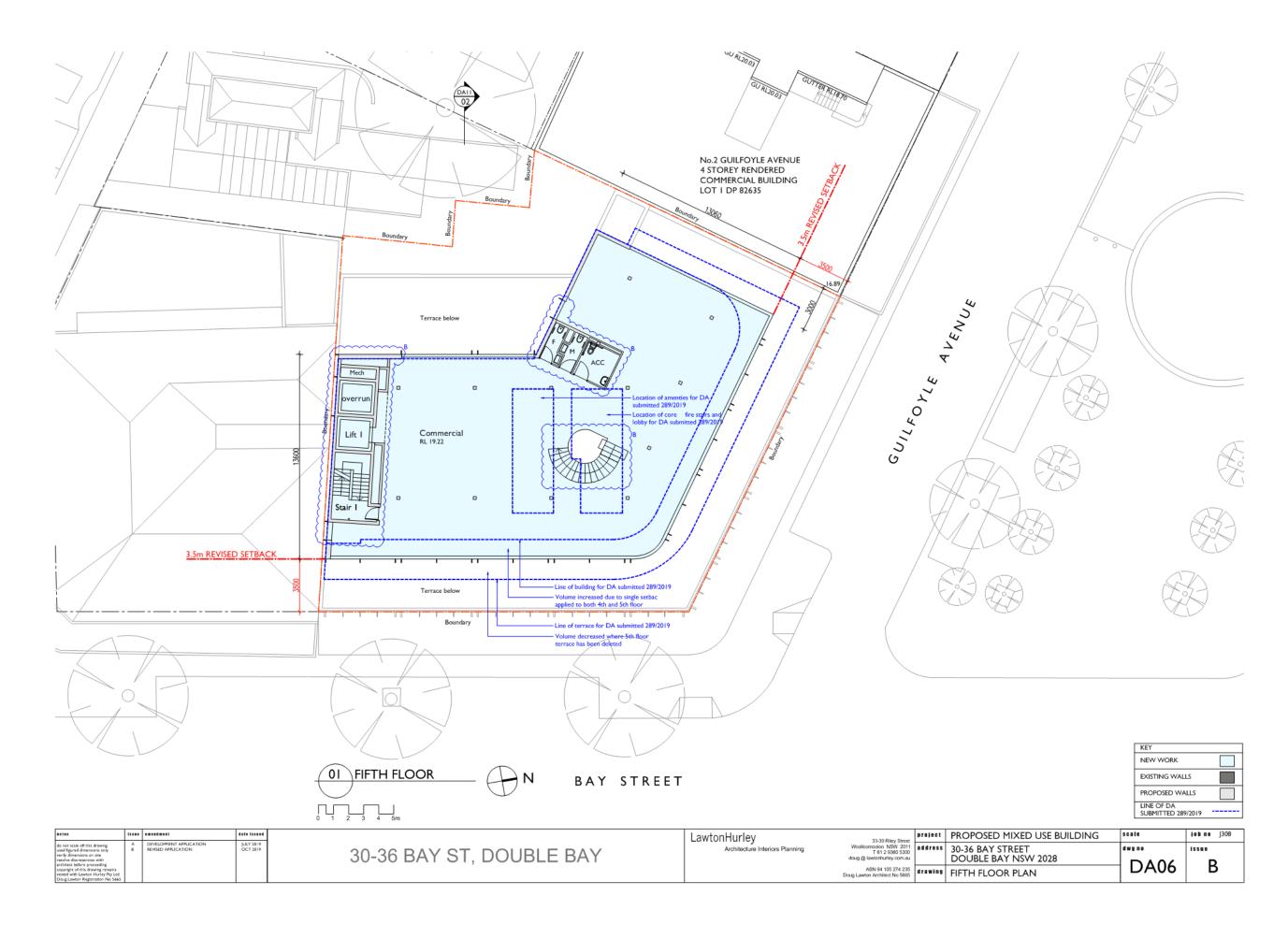


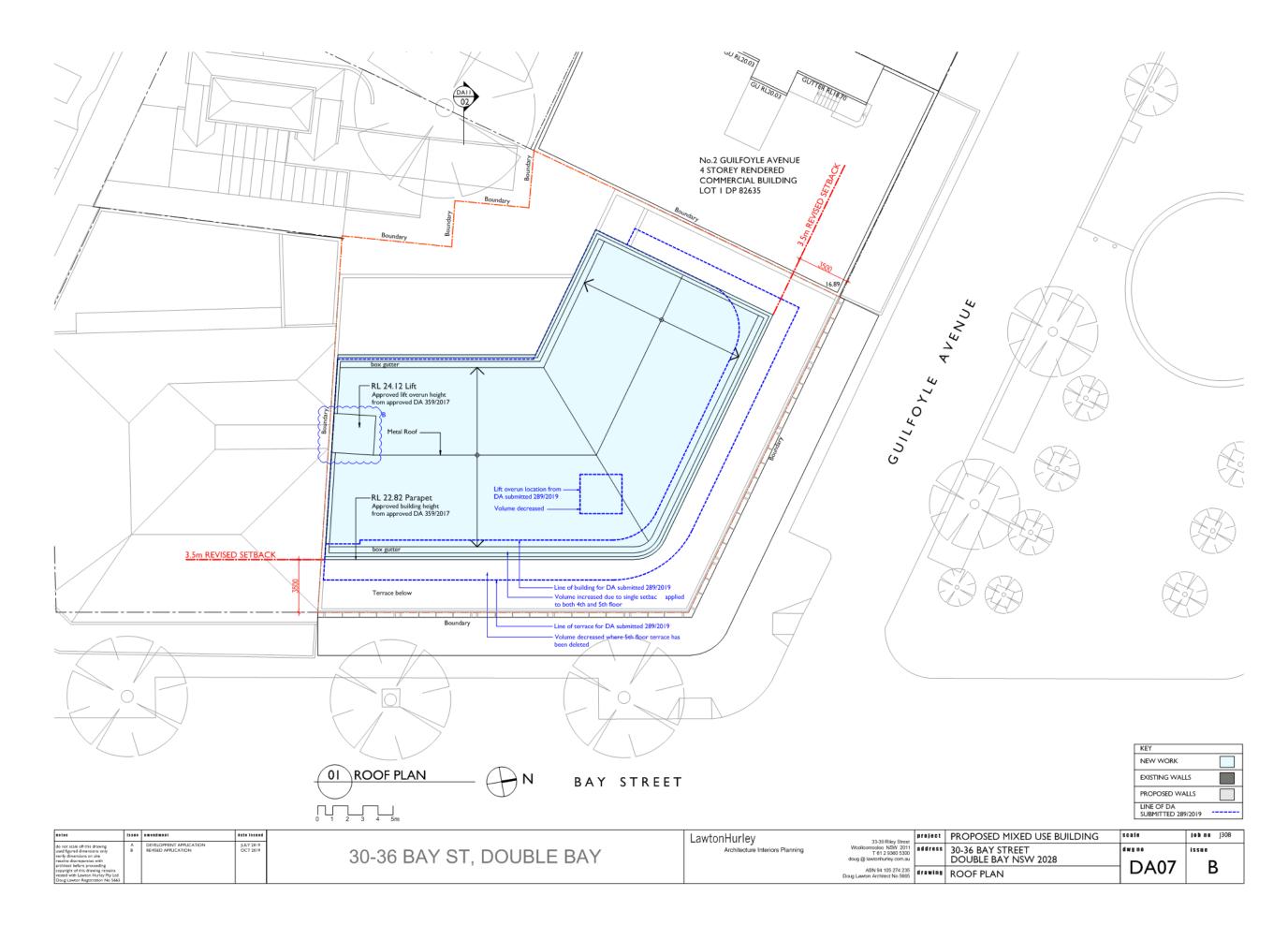


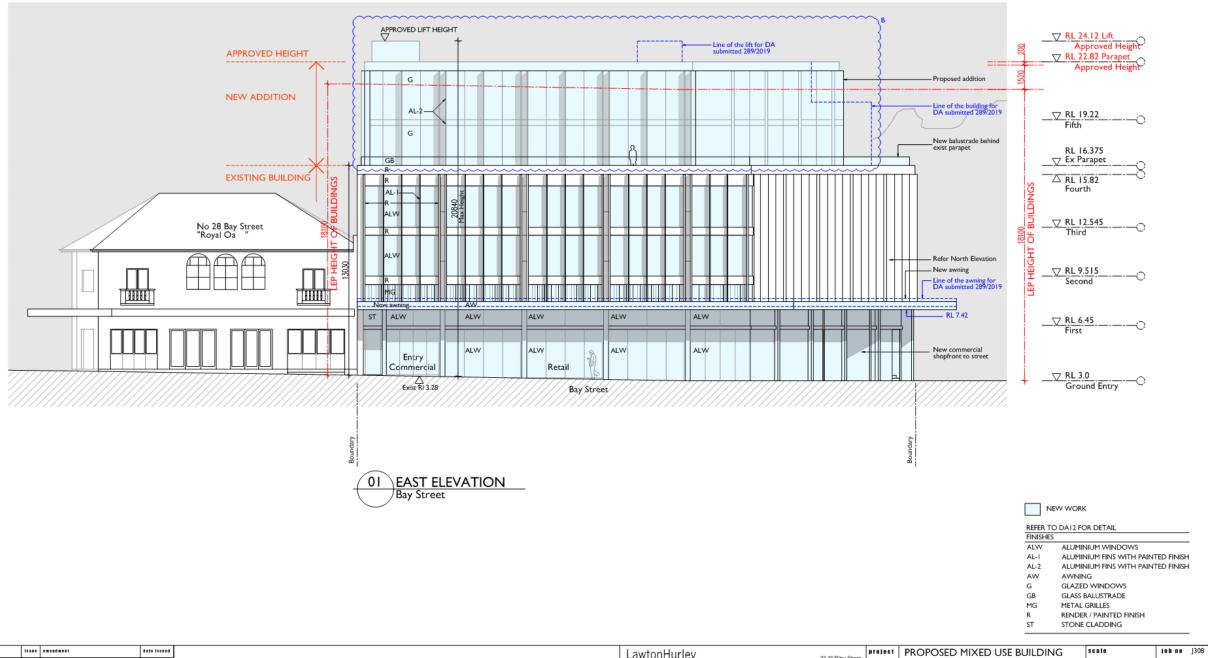




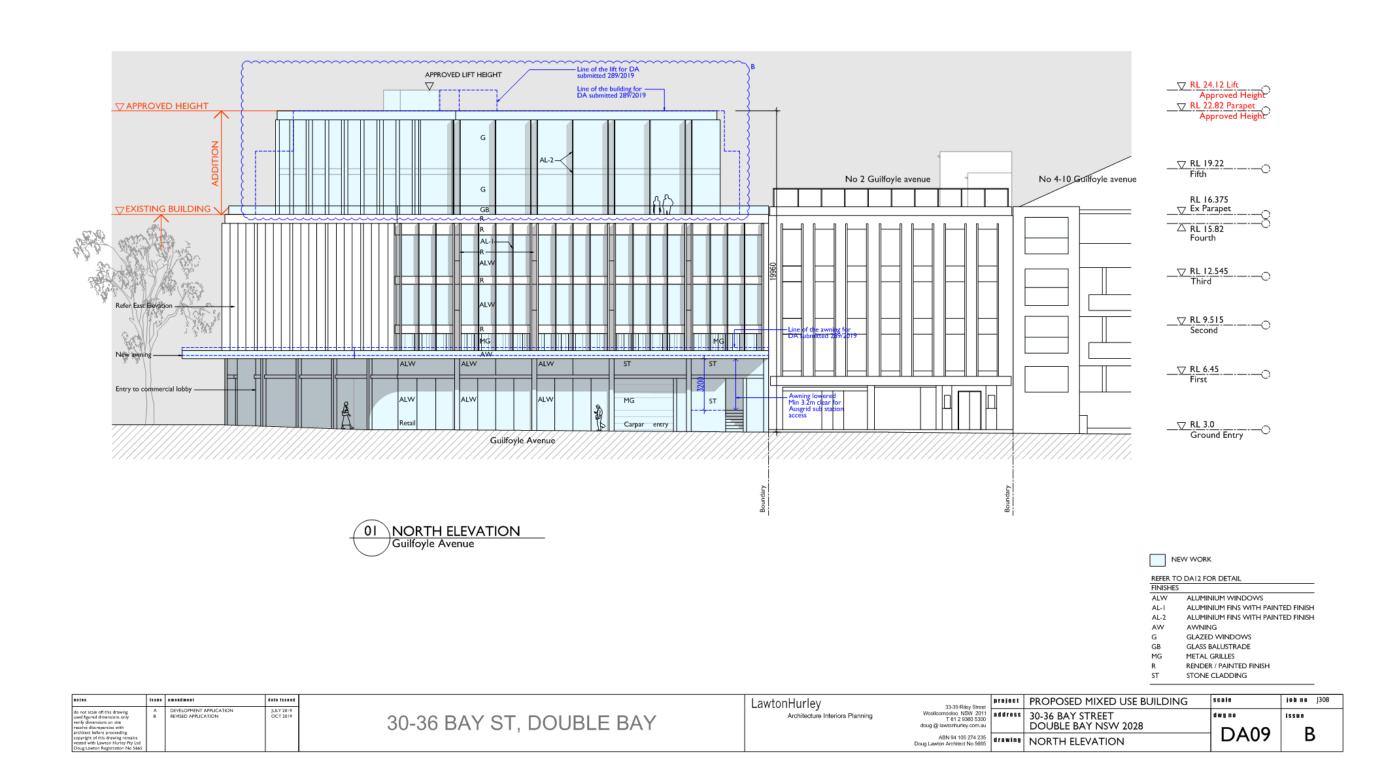


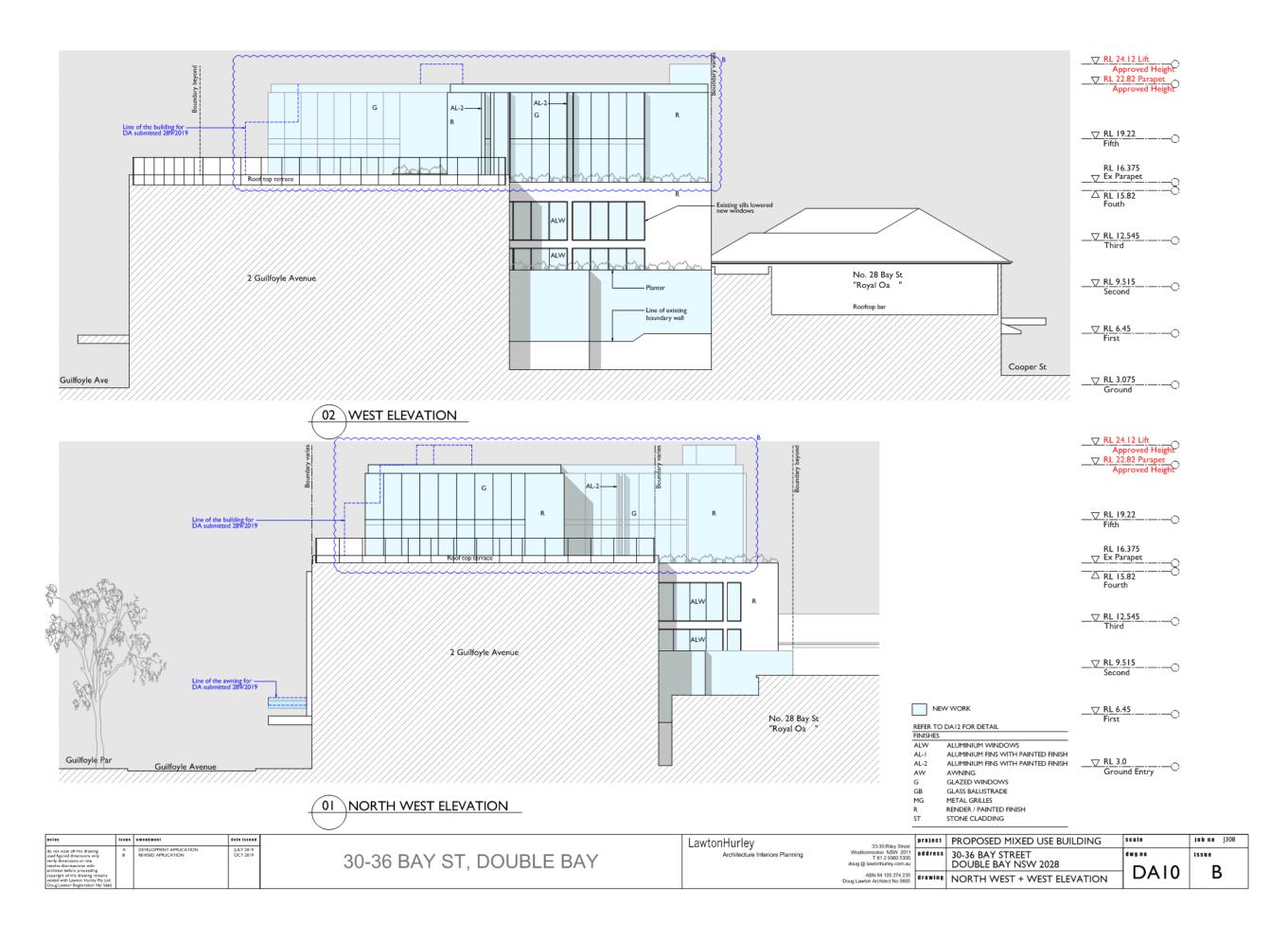


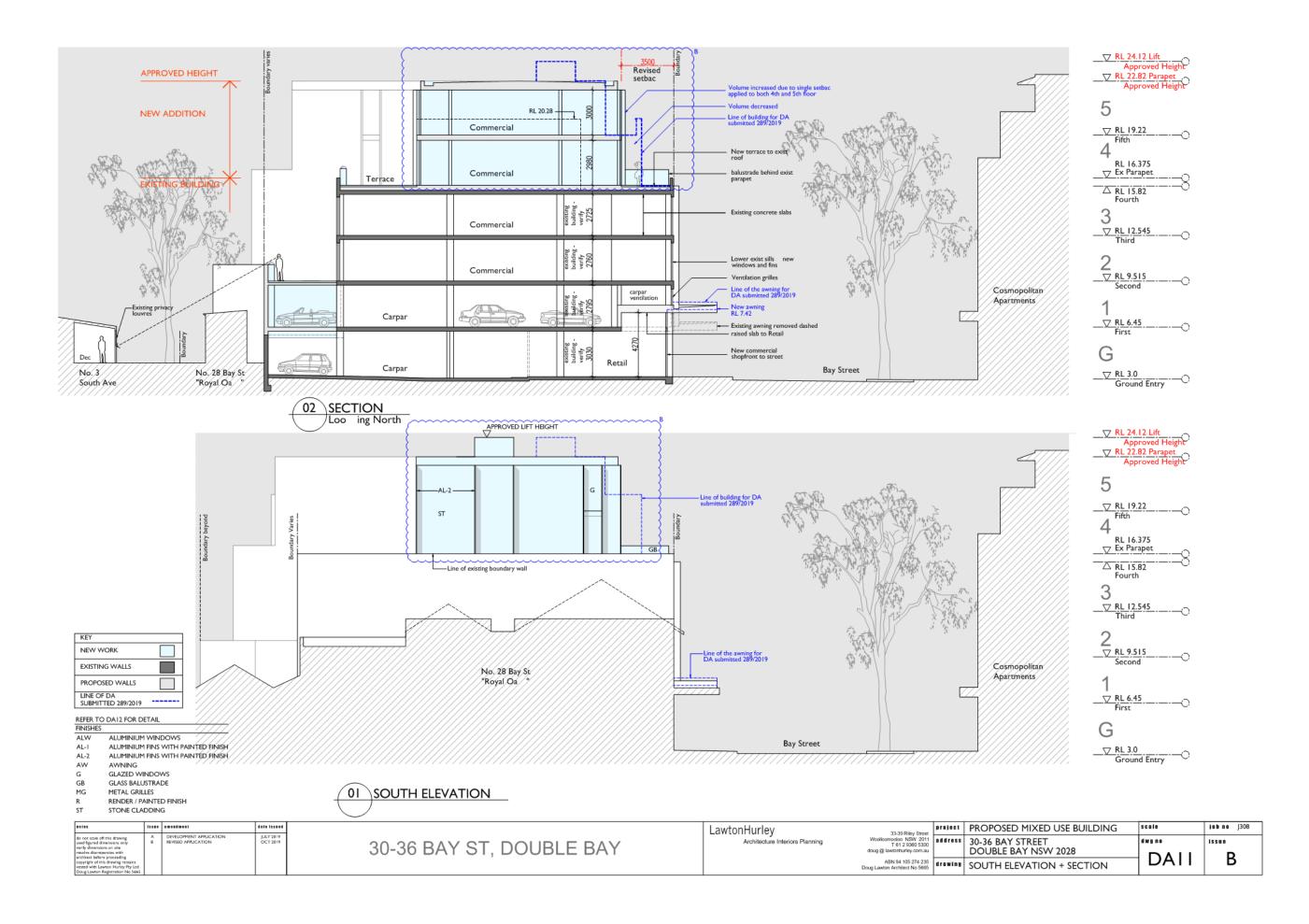




LawtonHurley
Architecture Interiors Planning
Architecture Inte







Completion Date: 31/10/2019

# REFERRAL RESPONSE **URBAN DESIGN**

FILE NO: Development Applications/ 289/2019/1

30-36 Bay Street DOUBLE BAY 2028 ADDRESS:

PROPOSAL: Alterations and additions to the existing commercial building

including two additional levels and car parking

FROM: N Vandchali

TO: Mr D Lukas

#### Information

Architectural drawings:

DRAWING	DESCRIPTION
DA00 B	SITE + SITE ANALYSIS PLAN
DA01 B	GROUND FLOOR PLAN
DA02 B	FIRST FLOOR PLAN
DA03 B	SECOND FLOOR PLAN
DA04 B	THIRD FLOOR PLAN
DA05 B	FOURTH FLOOR PLAN
DA06 B	FIFTH FLOOR PLAN
DA07 B	ROOF PLAN
DA08 B	EAST ELEVATION
DA09 B	NORTH ELEVATION
DAI0 B	NORTH WEST + WEST ELEVATION
DAII B	SOUTH ELEVATION + SECTION
DAI2B	MATERIALS + FINISHES
DAS0 B	PROPOSED AREAS
DASI	EXISTING GROSS FLOOR AREA
DA52	DEMOLITION PLAN
SH01 B	SHADOW DIAGRAMS
SH02 B	SHADOW DIAGRAMS
SH03 B	SHADOW DIAGRAMS

Statement of Environmental Effects: GSA Planning

Survey:

Referral Response - Urban Design - DA20192891 - 30-36 Bay Street DOUBLE BAY

# **Proposal**

The proposal comprises alterations and additions to the existing commercial building including erecting two additional levels and car parking.

# **Urban Design Review**

I have reviewed the revised architectural drawings Version B Dated October 2019 that were submitted in response to Council staff comments and matters discussed at a meeting on the 10 October 2019.

The revised architectural drawings have addressed the main urban design concerns regarding the upper level setbacks, the ground level vehicle access and the height of awning in proportion to the main façade.

Therefore, at this stage there are no further comments from an urban design point of view.

N Vandchali Urban Design

Referral Response - Urban Design - DA20192891 - 30-36 Bay Street DOUBLE BAY

Completion Date: 24 October 2019

#### REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 289/2019/1 ADDRESS: 30-36 Bay Street DOUBLE BAY 2028

**PROPOSAL:** Alterations and additions to the existing commercial building

including two additional levels and car parking

**FROM:** Mr R Lam **TO:** Mr D Lukas

#### 1. ISSUES

• Traffic – waiting bay

#### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 19138, prepared by GSA Planning, dated August 2019.
- Architectural Plans, referenced J308-Rev B, prepared by Lawton Hurley, dated October 2019.
- Survey, referenced 41414, prepared by Norton Survey Partners, dated 13/05/16.
- Stormwater Management Plan, referenced 190401-Issue 2, prepared by Xavier Knight, dated 24/07/2019.
- Flood Planning Assessment Statement, referenced 190401, prepared by Xavier Knight, dated 24/07/2019.
- Geotechnical Report, referenced 86857.00, prepared by Douglas Partners, dated August 2019.
- Structural Letter, referenced 190401, prepared by Xavier Knight, dated 23/07/2019.
- Traffic Report, referenced 19234-v04, prepared by TTPP, dated 8 August 2019.

#### 3. ASSESSMENT

Comments have been prepared on the following.

#### a. Traffic comments

Council's traffic Engineer has provided the following comments:

"Council's Traffic Engineer has determined that the following modifications are required before any further assessment of the application can be undertaken:

• Pursuant to WDCP Clause E1.15.7, an on-site waiting bay is required to accommodate the 98th percentile queue at peak traffic levels."

#### 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:

1) The submission of revised architectural plans and traffic report.

# **Memorandum - Traffic**

Date 16 April 2020

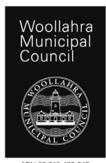
File No. Development Applications: 289/2019/1

To Mr D Lukas

CC

From Mr E Andari

Address 30-36 BAY 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

Telephone (02) 9391 7000 Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 14 August 2019 requesting comments in relation to the above.

Traffic Engineering has reviewed:

- Traffic Impact Assessment (Ref 192344 v04) by TTPP Transport Planning dated 8 August 2019:
- Architectural Plans (Issue B) by Lawton Hurley Architecture Interiors Planning dated October 2019.

#### Proposal

Alterations and additions to the existing commercial building including two additional levels and car parking

#### **COMMENTS**

## **Parking Provision**

The proposed alterations and additions result in an increased GFA of commercial land use of 383m<sup>2</sup>. The additional on-site parking requirement is hence calculated as:

- Car parking  $383\text{m}^2 \times 2.5 \text{ spaces per } 100\text{m}^2 \times 0.6 \text{ multiplier} = 6 \text{ spaces}$
- Bicycle parking  $383\text{m}^2 \times 1$  space per  $150\text{m}^2 = 2$  spaces
- Motorbike parking 8 additional car spaces x 1 per 10 car spaces = 1 space

The proposal provides an additional of 8 car spaces, 2 bicycle spaces and 1 motorbike space which comply with DCP requirement.

Referral Response - Traffic (Updated) - 2019289 - 30-36 Bay Street DOUBLE BAY - Commercial

# Traffic generation

The proposed alterations and additions result in an increased GFA of commercial land use of 383m<sup>2</sup>. The additional traffic generation is hence calculated as:

- Daily vehicle trips  $383\text{m}^2 \times 10 \text{ per } 100\text{m}^2 \text{ GFA} = 38.3 \text{ trips}$
- Evening peak hour vehicle trips  $383\text{m}^2 \times 2 \text{ per } 100\text{m}^2 \text{ GFA} = 7.7 \text{ trips}$

The traffic generation associated with the proposed development will have negligible impact on the road network.

# Parking Layout

The queuing analysis indicates a possibility of 87% car lift being available. This result does not conform to DCP Clause E1.15.7 which stipulates the requirement for accommodating the 98<sup>th</sup> percentile queue at peak traffic levels. Therefore, it is recommended that a waiting bay must be clearly line marked and provided on each floor level of the carpark. The waiting bays are to be located within the aisle and must be positioned to the left side for motorists exiting the building. The dimensions of the waiting bays are to be 6m x 2.4m and be located on a grade that must not exceed a maximum grade of 1 in 20 (5%).

#### RECOMMENDATION

Should this development be approved, it is recommended that the following matters be addressed by the conditions of consent:

#### A. General Conditions

#### A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with 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)
Issue B	Revised Architectural Plans	Lawton Hurley	October 2019
19234-v04	Traffic Report	TTPP	8 August 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 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*.)

Referral Response - Traffic (Updated) - 2019289 - 30-36 Bay Street DOUBLE BAY - Commercial

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

# C.45 Bicycle, 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 and including the following:

- a) All car spaces must be clearly delineated to comply with the minimum dimensions, as per AS/NZS 2890.1:2004 Clause 2.4.1.
- b) In order to minimise the traffic queuing outside the property boundary due to the car lift, the applicant must provide waiting bays on each floor level of the carpark located within the aisle.
- c) The waiting bays must be located to the left side for egress traffic and the dimensions of the waiting bays are to be 6m x 2.4m and on a grade that must not exceed a maximum grade of 1 in 20 (5%).

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.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

Referral Response - Traffic (Updated) - 2019289 - 30-36 Bay Street DOUBLE BAY - Commercial

26 February 2020

# REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** DA 289/2019/1

ADDRESS: 30-36 Bay Street DOUBLE BAY 2028

**PROPOSAL:** Alterations and additions to the existing commercial building

including two additional levels and car parking

FROM: Simone Woodman - Tree Management Officer

TO: Mr D Lukas

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

- Survey Plan No. 41414, Sheet 1/C, drafted by Norton Survey Partners, dated 03/05/2017
- Architectural Drawing No.s DA00/B, DA01/B DA11/B, drawn by Lawton Hurley, dated October 2019
- Stormwater Management Plan No.s C100/2, C300/2, C200/1, drawn by Xavier Knight, dated 24/07/2019
- Arboricultural Impact Assessment Tree Protection Specification, written by Anna Hopwood and Martin Peacock – Tree iQ, dated 29/07/2019
- Landscape Plan No. DA01/1, designed by Wyer & CO, dated 16/07/2019
- Correspondence titled Attention: Planning Department, written by Edward Malouf Director of Puruse Pty Ltd, ABN 59963045683, dated 25/02/2020

## **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

#### COMMENTS

My previous Tree and Landscaping Referral Response dated 12/12/2019 raised concerns regarding the requirement of an appropriate letter of consent for the removal of a *Corymbia citriodora* (Lemon-scented Gum) located on the rear northern boundary of 28 Bay Street Double Bay from the owner of the property in which the tree stands. I refer to submitted correspondence titled Attention: Planning Department, written by Edward Malouf – Director of Puruse Pty Ltd, ABN 59963045683, dated 25/02/2020 where consent to remove 'the tree' located at the rear northern end of 28 Bay Street Double Bay, The Royal Oak Hotel' has been supplied. Considering the Lemon-scented Gum is the only 'tree' located at the rear northern end of 28 Bay Street Double Bay the submitted letter of consent is viewed satisfactory.

The subject development application proposes the removal of a *Corymbia citriodora* (Lemonscented Gum) located on the rear northern boundary of 28 Bay Street Double Bay. The submitted Arboricultural Impact Assessment Tree Protection Specification considers this tree as not viable for retention as part of the proposed development.

Located on the Council verge (Bay Street) are two *Ulmus parvifolia* (Chinese Elm). The proposed development should not impact significantly on these trees. Tree protection measures have been recommended in the submitted Arboricultural Impact Assessment Tree Protection Specification. Additionally to ensure Council's tree assets are protected a tree damage security deposit is recommended

#### RECOMMENDATIONS

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

#### CONDITIONS OF CONSENT

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

#### A. General Conditions

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

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

#### a) The following trees shall be retained

#### · Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
3	Ulmus parvifolia (Chinese Elm)	Council verge – most northern specimen	9 x 6	\$7000.00
4	Ulmus parvifolia (Chinese Elm)	Council verge – most southern specimen	9 x 9	\$7000.00

**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)
1	Corymbia citriodora (Lemon- scented Gum)	Rear boundary of 28 Bay Street, Double Bay	17 x 11

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

# A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
Plan No. DA01/1	Landscane Plan		16/07/2019
	Arboricultural Impact Assessment Tree Protection Specification	Anna Hopwood and Martin Peacock – Tree iQ	29/07/2019

# 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

Trunk protection shall be established around all trees tabled below to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009).

a) Trunk protection shall be installed around the trunks of the following trees:

Council Species	Tree Location
-----------------	---------------

Referral Response - Landscaping - DA20192891 - 30-36 Bay Street DOUBLE BAY

Ref No.		
3	Ulmus parvifolia (Chinese Elm)	Council verge – most northern specimen
4	Ulmus parvifolia (Chinese Elm)	Council verge – most southern specimen

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- b) A sign identifying the trunk protection shall be erected on the trunk protection installed on each tree. Signage must be visible from the Council verge area and within the development site.
- c) 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.
- The project arborist shall provide written certification of compliance with the above condition.

#### **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 noncompliance; 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 trunk protection	Compliance with tree protection measures		
Demolition of the existing awning within the vicinity of Trees 3 & 4.	Ensure works are undertaken in accordance with Section 1.6 of Appendix 6 of the submitted Arboricultural Impact Assessment		

Referral Response - Landscaping - DA20192891 - 30-36 Bay Street DOUBLE BAY

Tree Protection Specification, written by Hopwood and Martin Peacock – Tree iQ 29/07/2019	
Erection of hoarding and construction of new awning within the vicinity of Trees 3 & 4.	Ensure contact between machinery and branches is avoided Contact Woollahra Council's Technical Officer of Arboriculture for approval if pruning is deemed necessary
Prior to the issue of a Final Occupation Supervise the dismantling of tree prote	
Certificate	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
- 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 L	ong Service Payments Ac	t 1986	
Tree Damage Security Deposit -			
Making good any damage caused to any	\$14000.00	No	T114
public tree as a consequence of the doing		NO	1114
of anything to which the consent relates.			
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)

Nil

Referral Response - Landscaping - DA20192891 - 30-36 Bay Street DOUBLE BAY

# 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

- 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

Nil

# E.3 Paving in the vicinity of trees

Nil

# E.4 Level changes in the vicinity of trees

Nil

#### E.5 No excavation within tree root zones

Excavation is prohibited within the specified radius from the trunks of the following trees:

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
3	Ulmus parvifolia (Chinese Elm)	Council verge – most northern specimen	3.6

Referral Response - Landscaping - DA20192891 - 30-36 Bay Street DOUBLE BAY

4	Ulmus parvifolia (Chinese Elm)	Council verge – most southern	4.9
		specimen	

The project arborist shall document compliance with the above condition.

#### 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.

#### 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.

Referral Response - Landscaping - DA20192891 - 30-36 Bay Street DOUBLE BAY

You can obtain a copy of the DCP from Council's website <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or you may contact Council on 9391-7000 for further advice.



Simone Woodman
Tree Management Officer

Completion Date:3<sup>rd</sup> September 2019

#### REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications/ 289/2019/1 ADDRESS: 30-36 Bay Street DOUBLE BAY 2028

**PROPOSAL:** Alterations and additions to the existing commercial building

including two additional levels and car parking

FROM: Graeme Reilly Environmental Health Officer

TO: Mr D Lukas

#### 1. ISSUES

Contamination

#### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced Job No 19138, prepared by gsa planning, dated August 2019.
- Architectural Plans, referenced DA 00-11, prepared by Lawton Hurley, dated July 2019.
- Acoustic Report, referenced 20190740.1/0507A/RO/HC, prepared by Acoustic Logic, dated 5<sup>th</sup> July 2019.
- Acid Sulphate Soil Management Plan, referenced 86857.00, prepared by Douglas Partners, dated August 2019.
  - Douglas Partners Preliminary Site Investigation for Contamination Report No 85575.01 dated April 2017.

#### 3. RESEARCH

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

A site inspection was carried out on the following date: 21st August 2019

#### 4. SUMMARY OF PROPOSAL

Alterations and additions to the existing commercial building including two additional levels and car parking.

Referral Response - Health - DA20192891 - 30-36 Bay Street DOUBLE BAY

#### **Ground Floor Level**

The Ground Floor Level is at RL 3.009 - 3.15 AHD for the retail spaces, lobby and carpark, and is accessed via a driveway from Guilfoyle Avenue (see Figure 6). The proposal involves alterations to accommodate two retail spaces, a substation, hot water plant, switch room, rainwater tank, garbage store, and BDR plant room. Four car spaces, five bicycle spaces and a car lift are located to the rear of the building. A drive-through car lift provides vehicle access to the first floor. Lifts and staircases provide access to the upper levels.



Source: Lawton Hurley
Figure 6: Ground Floor Plan

#### First Floor Level

The First Floor Level is at RL 6.45 AHD and involves the demolition of the existing internal structures, extension of the rear external wall; extension of the rear external wall; and repurposing the existing structure to accommodate fifteen car spaces, including one accessible space; an AC plant; pump room, turning bay; and two plenum voids. The car lift provides vehicle access to this level. Lift and stairs provide pedestrian access to other levels (see Figure 7).



Figure 7: First Floor Plan

#### Second Floor Level

The Second Floor Level is at RL 9.52 AHD and involves the demolition of the existing internal layouts for a future commercial tenancy space, including male and female WCs; shower facilities; and accessible bathroom. Minor adjustments are proposed to the rear external wall to increase the floor area. A rear rooftop terrace is proposed on top of the first floor extension, along the western elevation (see Figure 8). Access is provided via a staircase and two lifts.



Figure 8: Second Floor Plan

#### Third Floor Level

The Third Floor Level is at RL 12.55 AHD and has a similar floor plan to the floor below. The proposed works involve the demolition of the existing internal layouts for a future tenancy space, including male and female WCs; shower facilities; and accessible bathroom. Minor adjustments are proposed to the rear external wall to provide an area of additional floor space (see Figure 9). Access is provided via a staircase and two lifts.



Figure 9: Third Floor Plan

#### Fourth Floor Level

The Fourth Floor Level is at RL 15.82 AHD. The proposal includes the construction of a new recessed upper level. The internal areas relate to an open plan office for a future commercial tenancy, male and female WCs; shower facilities; and accessible bathroom (see Figure 10). A wrap around front terrace and rear terrace is proposed. Access is provided via a staircase and a lift.

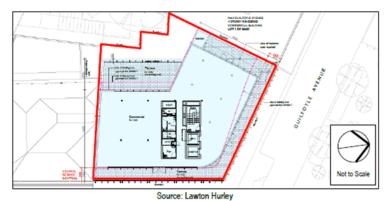


Figure 10: New Fourth Floor Plan

#### Fifth Floor Level

The Fifth Floor Level is at RL 15.82 AHD and has a similar floor plan to the floor below. The proposal includes the construction of a recessed upper level. The internal areas relate to an open plan office for a future commercial tenancy, two gendered bathrooms, shower, and accessible bathroom (see Figure 11). A wrap around terrace is proposed towards the front boundary Access is provided via a staircase and a lift.



Figure 11: New Fifth Floor Plan

#### 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

#### 2 SITE DESCRIPTION

Onsite acoustic investigation has been carried out by this office regarding the surrounding acoustic environment around the proposed development, which has been detailed below:

- Existing commercial / mixed-used buildings located at East of the site, along Bay Street.
- Existing commercial buildings located adjacent to the western boundary of the site;
- Existing licensed cafes/restaurants located at the south boundary of the site; and
- Existing residential dwellings located at the south-western boundary of the site.

Bay Street and Guilfoyle Avenue carry a medium to low volume of traffic, mostly light passenger traffic.

The nearest noise receivers around the project site include:

- Receiver 1 Multi-storey commercial buildings located at 2 Guilfoyle Avenue, Double bay, situated along the western boundary of the site;
- Receiver 2 Multi-storey and mix-used buildings located at 2-22 Knox Street, Double Bay, situated along the Eastern boundary of the site, along Bay Street;
- Receiver 3 licensed cafes/restaurants Royal Oak Hotel located at 28 Bay Street, Double bay, situated along the southern boundary of the site;
- Receiver 4 Residential dwellings located at 3 South Avenue, Double bay, situated at the South-western boundary of the site;

This office has been advised that operating hours of the proposed commercial tenancy at Level 4 and Level 5 is 9am to 5pm, Monday to Sunday.

A site map, measurement description and surrounding receivers are presented in Figure below.



Figure 1 – Site Map from SIX Maps



Table 1 - Measured Background Noise Levels

Location	Time of day	Rating Background Noise Level dB(A)L <sub>90</sub>
	Day 7am to 6pm	43
2 Guilfoyle Avenue, Double bay	Evening 6pm to 10pm	42
	Night 10pm to 7am	40

#### 4.1.3.2 Attended Noise Measurements

An attended noise measurement was carried out and Rating Background Noise Levels (lowest 10th percentile noise levels during operation time period) are presented in Tables below.

Table 2 - Measured Background Noise Levels

Location	Time of day	Day Noise Level (dB(A)) L <sub>90,15min</sub>
Ground level, 2 Guilfoyle Avenue, Double bay	4:00pm Wednesday, 27 <sup>th</sup> June 2019	48

Table 4 - Recommended Design Sound Level

Space /Activity Type	Recommended Maximum Design Sound Level dB(A)L <sub>eq</sub>
Open plan office	40-45dB(A)L <sub>eq(when in use)</sub>
Corridors and lobbies	45-50dB(A)L <sub>eq(when in use)</sub>
Rest rooms and break-out spaces	40-45dB(A)Leq(when in use)

#### 5.4 RECOMMENDED CONSTRUCTIONS

#### 5.4.1 Glazed Windows and Doors

The following constructions are recommended to comply with the project noise objectives. Aluminium framed/sliding glass doors and windows will be satisfactory provided they meet the following criteria. All external windows and doors listed are required to be fitted with Q-lon type acoustic seals. (Mohair Seals are unacceptable).

Thicker glazing may be required for structural, safety or other purposes. Where it is required to use thicker glazing than scheduled, this will also be acoustically acceptable.

The recommended constructions are listed in the table below.

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12

Table 7 - Recommended Glazing Construction

Façade (All Levels)	Space	Recommended Construction	Acoustic Seals
Level 4 & Level 5	Any	6.38mm laminated	Yes

It is recommended that only window systems having test results indicating compliance with the required ratings obtained in a certified laboratory be used where windows with acoustic seals have been recommended.

In addition to complying with the minimum scheduled glazing thickness, the  $R_w$  rating of the glazing fitted into open-able frames and fixed into the building opening will require the use of acoustic seals around the full perimeter of open-able frames and the frame will need to be sealed into the building opening using a flexible sealant.

Table 8 - Minimum R<sub>w</sub> of Glazing (with Acoustic Seals)

Glazing Assembly	Minimum R <sub>w</sub> of Installed Window
6.38mm Laminated	31

#### 5.4.2 External Roof/Ceiling

The proposed concrete roof will not require upgrading to achieve acoustic requirements

The proposed external roof of level 5 is a metal roofing construction, this will require further acoustic upgrading to ensure compliance with project criteria. All penetrations in all area ceilings (such as for light fittings etc.) must be acoustically treated and sealed gap free with a flexible sealant. For recommended construction please see the table below.

#### 6 NOISE EMISSION ASSESSMENT

The noise emissions from the project site shall comply with the requirements of the following;

- Woollahra Municipal Council Development Control Plans (DCPs) 2015 and;
- NSW EPA Industrial Noise Policy for Industry 2017.

#### 6.1 NOISE CRITERIA

#### 6.1.1 Woollahra Municipal Council Development Control Plans (DCPs) 2015

#### **B3.7 External Areas**

#### Controls:

C9. "Mechanical plant equipment are suitably enclosed or screened to minimise noise impacts to adjoining properties."

"Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply."

#### 6.1.2 NSW EPA Industrial Noise Policy for Industry 2017

The NSW EPA Noise Policy for Industry 2017 has two criteria which need to be satisfied; namely the Intrusiveness noise level criteria and the Project amenity noise level criteria. The project noise trigger level is then established based on the lower of the intrusiveness and project amenity levels.

Noise levels are to be assessed at the property boundary or nearby dwelling, or at the balcony or façade of a development.

#### 6.1.2.1 Intrusiveness Noise Level Criteria

The guideline is intended to limit the audibility of noise emissions at residential receivers and requires that noise emissions measured using the  $L_{eq}$  descriptor do not exceed the background noise level by more than 5dB(A). Where applicable, the intrusive noise level should be penalised (increased) to account for any annoying characteristics such as tonality.

Background noise levels adopted are presented in Section 4.1.6. Noise emissions from the site should comply with the noise levels presented below when measured at nearby property boundary.

Table 10 - Intrusiveness Noise Level Criteria

Location	Period/Time	Intrusiveness Noise Level Criteria dB(A) L <sub>eq(15min)</sub>
	Day (7am-брm)	48
Nearby Residences	Evening (6pm-10pm)	47
	Night (10pm-7am)	45

#### 6.1.2.2 Project Amenity Noise Level Criteria

The guideline is intended to limit the absolute noise level from all noise sources to a level that is consistent with the general environment.

The NSW EPA Industrial noise policy sets out acceptable noise levels for various localities. Table 2.2 on page 11 of the policy indicates 3 categories to distinguish different residential areas. They are rural, suburban, urban. This site is categorised by suburban receivers.

For the purposes of this condition:

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays;
- Evening is defined as the period from 6pm to 10pm.
- Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sunday and public holidays.

The project amenity noise level is calculated by taking the recommended amenity noise level (as presented in table 2.2 of the policy), subtracting 5dB(A) and then adding 3dB(A) to convert from  $L_{Aeq,\,period}$  to a  $L_{Aeq,\,15\,minute}$  descriptor. The project amenity noise level criteria are presented in the table below.

Location	Period/Time	Project Amenity Noise Level Criteria dB(A) L <sub>eq(15min)</sub>
	Day (7am-6pm)	58
Nearby Residences – Urban Receiver	Evening(6pm-10pm)	48
nece//ei	Night(10pm-7am)	43
Commercial	When in use	63

Table 11 - Project Amenity Noise Level Criteria

#### 6.1.3 Resultant Project Noise Emission Criteria

Based on the requirements stated in the sections above, table 11 provides a summary of the assessment criteria applicable to the future residential development at the project site. The assessment criteria are also based on the background noise monitoring data conducted at the proposed development location.

Location	Time Period	Assessment Background Noise Level dB(A)L <sub>90</sub>	Project Amenity Criteria dB(A) L <sub>eq</sub>	Intrusiveness Criteria Background + 5 dB(A) Leg(15min)	Woollahra City Council DCP Criteria Background + 0 dB(A) Leq (15min)	Project Noise Trigger Level
	Day	43	58	48	43	43
Nearby Residences	Evening	42	48	47	42	42
Residences	Night	40	43	45	40	40
Commercial	When	N/A	63	N/A	N/A	63

Table 12 - Environmental Noise Emission Criteria

#### 7 NOISE EMISSION ASSESSMENT

#### 7.1 MECHANICAL PLANT NOISE

Detailed plant selection has not been undertaken at this stage, as plant selections have not been determined. Detailed acoustic review should be undertaken at CC stage to determine acoustic treatments to control noise emissions to satisfactory levels. Satisfactory levels will be achievable through appropriate plant selection and location and, if necessary, standard acoustic treatments such as duct lining, acoustic silencers and enclosures.

Noise emissions from all mechanical services to the closest residential receivers should comply with the requirements of section 6.

#### 7.1.1 Supply / Exhaust fans

Supply and exhaust fans may be located within the plant rooms or in rooftop plant areas. These units typically emit high noise levels and require acoustic treatment such as silencers and internal lined ductwork. Silencer requirements would be determined once fan selections have been completed.

#### 7.1.2 Minor Plant

Other minor plant items, such as bathroom or kitchen exhaust fans, may also be required. These items typically emit relatively low noise levels and may require minimal acoustic treatment of a standard nature, such as internally lining of ductwork.

#### 7.1.3 Condenser, Heating and Reverse Cycling Air Conditioners

It is at the construction design stage that consideration should be given to the placement of external air conditioning/ heating/ reverse cycle air conditioning units.

The location of heating/cooling units is the most important factor to ensure noise is not going to be intrusive. The location and selection of the proposed units associated with the development will be conducted such that noise impact to both the future residential tenancies and existing receivers will comply with the relevant EPA criteria of the noise standard less 5dB(A) and compliance with this standard inside any other unit in the same complex.

#### 7.2 RETAIL TENANCIES / RESTAURANT

There is currently no operator or fit out plan available at this stage. A separate DA report is recommended once the detailed operation/floor plans are ready.

#### 8 CONCLUSION

This report presents an acoustic assessment of noise impacts associated with the proposed commercial development to be constructed at Level 4 and Level 5 of 30-36 Bay Street, Double Bay.

Provided that the treatments set out in section 5 of this report are employed, internal noise levels shall comply with the requirements below:

- Woollahra Municipal Council Development Control Plans (DCPs) 2015;
- Australian and New Zealand AS/NZS 2107:2016 'Recommended design sound levels and reverberation times for building interiors'.

External noise emissions criteria have been setup in this report to satisfy the requirements from the following documents:

- Woollahra Municipal Council Development Control Plans (DCPs) 2015;
- NSW Environmental Protection Authority (EPA) document 'Noise Policy for Industry (NPfI) 2017'.

Detailed acoustic control measures for the plant servicing the proposed development will be determined at CC stage.

#### e) Acid Sulphate Soils

#### 4.1.3 Acid Sulfate Soils (ASS)

An Acid Sulfate Soil Management Plan prepared by Douglas Partners recorded a pH range of 8.1 to 3.2 for samples taken from the site. The report concluded, inter alia:

Excavations are expected to be relatively minor, at isolated locations and of limited depth (i.e. less than 2 m below the proposed floor level). It is therefore considered unlikely that ASS will be disturbed.)

An Acid Sulfate Soil Management Plan (ASSMP) has been prepared by Douglas Partners (separately submitted). As the proposed alterations and additions require limited excavation, the proposal is unlikely to disturb acid sulfate soils.

	ımen	

Project No.	86857.00	Document No.	R.004.Rev1	
Document title	Acid Sulfate Soil	Acid Sulfate Soil Management Plan		
	Proposed Mixed	Use Development		
Site address	30-36 Bay Street	t, Double Bay		
Report prepared for	Reform Projects	Pty Ltd		
File name	86857.00.R.004.	Rev1		

#### 1. Introduction

This report comprises and acid sulfate soil management plan (ASSMP) for the proposed mixed use development at 30 – 36 Bay Street, Double Bay, NSW. The ASSMP was commissioned in 2016 by ANKA Double Bay Pty Ltd (ANKA) and was carried out in general accordance with Douglas Partners Pty Ltd (DP) proposal SYD160532 dated 20 May 2016. The original ASSMP was reported as DP projects 85575.01.R.001.Rev0 dated 21 July 2017 (Acid Sulfate Soil Management Plan).

ANKA has since passed ownership of the site to Fortis Development Group (FDG), and granted the use of the geotechnical information obtained from that investigation to them. As such, this report was commissioned by Reform Projects on behalf of FDG in an email dated 7 June 2019 and was undertaken in accordance with Douglas Partners Pty Ltd (DP) proposal SYD190578 dated 6 June 2019.

Acid sulfate soils (ASS) comprise naturally occurring soils that produce sulphuric acid when they react with oxygen (which can also mobilise metals in soils). Sulphuric acid and metals can have negative impacts on ecosystems and construction materials. The purpose of the ASSMP is to detail the strategies to be implemented to manage the potential negative impacts, the presence of ASS at the site

This ASSMP describes the proposed development, previous acid sulfate souls (ASS) assessment results, potential impacts, responsibilities, and management requirements such as groundwater and surface water protection.

#### 2. Site Description and proposed Development

The site is located at the (southern) corner of Bay Street and Guilfoyle Avenue, Double Bay. The street address is 30-36 Bay Street, Double Bay, NSW.

The site is described as Lot 1 DP 66867 which is an irregular shape. The site is approximately 767  $m^2$  (0.6ha) in size. Drawing 1, Appendix A shows a locality plan for the site.

The site and surrounding ground surface is relatively flat and lies at an approximate reduced level of RL 2.8, relative to AHD. The ground surface rises slightly towards the south along Bay Street to an approximate level of RL 3.3 m AHD. The ground surface within the retail and foyer areas of the site is covered with concrete floor slabs, although the car park is asphaltsurfaced.

The site currently comprises a four storey commercial building with one small ground level car park. The site is located within the local shopping hub and is bounded by commercial and residential properties. The building covers the entire lot.

The car park is completely asphalt covered and the external areas are paved or concrete covered. The first level of the building is occupied by shops and the upper floors are offices. The surrounding areas are commercial and residential in nature.

It is understood that the proposed development includes the alterations and additions to an existing commercial building that was built in 1965. The current building comprises an existing four storey commercial and retail building and it is proposed to redevelop the site into a six storey commercial and retail building. Current development proposal plans indicates ground floor retail space and car parking with a car lift providing to access to further car parking on Level 1. The four overlying floor levels will all be commercial office suits, with a roof top terrace also proposed.

#### 3. Previous Assessment

An ASS assessment was conducted as part of intrusive investigations conducted by DP at the site in July 2016. Assessment results relevant to the proposed development have been reported in:

- Douglas Partners Pty Ltd (DP), Report on Preliminary Site Investigation for Contamination with Limited Sampling (Project 86857.00.R.002.Rev0) dated July 2019 (DP 2019); and
- Douglas Partners Pty Ltd (DP) Groundwater Investigation, Proposed Mixed-Use development, 30-36 Bay Street, Double Bay, (Project 86857.00.R.003.Rev0) dated July 2019 (DP 2019a).

Pertinent information from the above reports is included in relevant sections of this report.

A report entitled; Douglas Partners Pty Ltd (DP) Report on Geotechnical and Hydrogeological Investigation (Project 86857.00.R.001.Rev0), dated July 2019, for the site was also undertaken.

#### 6. Proposed Development and Potential for disturbance of ASS

A summary of the proposed works that have the potential to disturb or impact upon ASS are summarised in Table 3.

Table 3: Works that have the Potential to Impact Acid Sulphate Soil

Nature of Works	Potential Impact
_	Excavations are expected to be relatively minor, at isolated locations and of limited depth (i.e. less than 2 m below the proposed floor level). It is therefore considered unlikely that ASS will be disturbed.
Piles for construction	Spoil returns (if any) from piling are likely to contain a mixture of (identified) ASS and non-ASS soils.

#### 7. ASS Management Options

Proposed works that have the potential to disturb or impact upon ASS are outlined in Table 3 and also include:

 Excavation into natural soils close to or below the groundwater table including for the drilling of piles (depending on the piling method adopted), or isolated detailed excavations for shallow footings and lift wells.

Stone Y et al (1998) recommends assessment and management of ASS where works involving the disturbance of more than one tonne of soil is proposed in an area identified to potentially be impacted by ASS. The applicable management options are discussed below. Whichever option is adopted, care must be taken to minimise impacts on the local environment.

#### 14. Conclusion

This ASSMP describes the requirements to manage ASS during the proposed development works. If ASS is not detected in soils to be disturbed by the proposed development (from pre-treatment testing), no further ASS management will be required.

It is considered that implementation of this ASSMP will enable appropriate management of the potential risks associated with on-site ASS including risks to structures and surrounding surface water bodies and groundwater.

#### f) Land Contamination (SEPP 55)

SEPP No. 55 – Remediation of Land was gazetted on 28 August 2005 and applies to the whole of the State. Clause 7(1) requires the consent authority to consider whether land is contaminated prior to the consent of development on that land. A preliminary site investigation for contamination with limited soil sampling was prepared by Douglas Partners (separately submitted). The report concludes, inter alia:

Based on results and findings of the investigation, it is considered that the site can be made suitable for the proposed mixed use development, subject to further assessment and any remedial activity found necessary as a result of the following:

Statement of Environmental Effects for Alterations and Additions at Nos. 30-36 Bay Street, Double Bay - Job No. 19138 20

#### gsa planning

- Further investigation from a contamination standpoint to characterise the filling and achieve a suitable sampling density for the site area. At present access at the site limits the ability to carry out a detailed contamination investigation and assessment;
- The proposed works are likely to encounter ASS or PASS. Further testing of the soils may be
  required to better characterise the site for ASS potential. A groundwater investigation may also be
  required to confirm that no impacts are present and that no dewatering issues will arise. Note that
  an ASSMP has been developed and is required to be implemented for this site; and
- Due to the age of the buildings, a pre-demolition hazardous building materials assessment will
  potentially be required to allow management of any potential hazardous building materials present
  within the buildings prior to demolition.

Accordingly, the report stated the site is considered suitable for the proposal.

#### f) Land Contamination (SEPP 55)

Douglas Partners Preliminary Site Investigation for Contamination Report No 85575.01 dated April 2017.

This report presents the results of a Preliminary Site Investigation with Limited Sampling (PSI) for contamination undertaken for the proposed mixed use development at 30-36 Bay Street and 2 Guilfoyle Avenue, Double Bay. The investigation was commissioned by Dennis Meyer of Anka Property Group Pty Ltd and was undertaken in accordance with Douglas Partners Pty Ltd's (DP's) proposal dated 20 May 2016 (reference: SYD160573).

It is understood that a mixed development land use is proposed, with the demolition of the existing 4storey structure on site, and the construction of a new seven storey building with one level of underground car parking.

The objectives of this PSI were to:

- Identify potential sources of site contamination and the potential contaminants of concern from historical information;
- Identify potential human and ecological receptors;
- Determine the (preliminary) contamination status of soils at the site from limited sampling; and
- Provide an opinion on the suitability of the site for the proposed redevelopment (from a contamination perspective).

A report entitled, Report on Geotechnical and Hydrogeological Investigation (DP reference 85575.00, Rev1, dated April 2017) for the site was undertaken concurrently with the contamination assessment and has been issued separately.

Referral Response - Health - DA20192891 - 30-36 Bay Street DOUBLE BAY

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#### 2□ Scope of □ or □s

The scope of works for the PSI included:

- A review of topography, geology and soil maps;
- A review of NSW Environmental Protection Authority (EPA) registers published under the Contaminated Land Management Act 1997 (CLM Act) and the Protection of the Environment Operations Act 1997 (POEO Act);
- · A review of registered groundwater bore information held by the NSW Office of Water;
- A review of the planning certificates and Council records (provided by Council) applicable to 30-36 Bay Street;

Report on Preliminary Site Investigation for Contamination with Limited Sampling 30-36 Bay Street & 2 Guilfoyle Avenue, Double Bay

85575.01.R.001.Rev1 April 2017



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- A review of historical title deeds applicable to 30-36 Bay Street and selected historical aerial photographs for the site;
- A site walkover to observe current site features and assess potential contamination sources and receptors;
- Excavation of three test bores for the collection of soil samples;
- Screening samples for volatile organic compounds using a photo-ionisation detector (PID);
- Laboratory analysis of selected samples for the following:
  - Heavy metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc);
  - Total recoverable hydrocarbons (TRH);
  - Benzene, toluene, ethylbenzene and xylene (BTEX);
  - Polycyclic aromatic hydrocarbons (PAH);
  - Polychlorinated biphenyls (PCB);
  - Organochlorine pesticides (OCP);
  - Organophosphorus pesticides (OPP);
  - Asbestos;
  - Cation exchange capacity (CEC);
  - pH; and
- Provision of this PSI report.

#### □ Potential Contamination Sources

Based on current and previous site uses and DP's site observations, the potential sources of contamination and associated contaminants are summarised in Table 2. A discussion of previous site uses based on historical findings is discussed in Section 10.1.

Ta ☐le 2 ☐ Potential Sources of Contamination

Potential Source of Contamination S1	Contaminants of Concern
Imported contaminated filling used to form/ level the site/ disturbed terrain	Various potential contaminants are possible, such as metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc); total petroleum hydrocarbons; BTEX, PAH, OCP, OPP, PCB and asbestos.
Hazardous building materials	Due to the age of the building, and previous inspections by DP, there is likelihood that hazardous building materials may be present in the building. Potential contaminants include: Asbestos, PCB and lead.

#### □2 Potential □eceptors

Potential receptors of contamination have been identified to include:

- R1 Future site users (primarily residential occupants);
- R2 Future construction workers and maintenance workers;
- R3 Adjacent land users (primarily residential occupants and pedestrians);
- R4 Surface waters (beyond site boundary);
- R5 Groundwater;

Report on Preliminary Site Investigation for Contamination with Limited Sampling 30-36 Bay Street & 2 Guilfoyle Avenue, Double Bay

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- R6 Terrestrial ecology; and
- R7 In ground building structures.

#### 1 □ 2 Analytical □esults for Soil

Concentrations of metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc) were within the respective HIL. Lead was recorded in the 3 bores at levels ranging from 2 mg/kg to 670 mg/kg the latter being relatively elevated. All lead levels were, however, below the relevant guideline limits.

PAH (including benzo(a)pyrene) was detected in samples BH1/0.5 and BH3/0.6 although again the reported concentrations were below the relevant guideline limits.

Concentrations of TRH, OCP, OPP, Phenols and PCB were below the laboratory's practical quantitation limits and, hence, were within the respective HIL, HSL, EIL, ESL and Management Limits.

Despite the presence of evidence of building rubble in filling at some test locations, asbestos was not detected at the laboratory's limit of reporting (0.1 g/kg) and was not observed during the site walkover or whilst sampling.

#### 11□ Conclusion

Based on results and findings of the investigation, it is considered that the site can be made suitable for the proposed mixed use development, subject to further assessment and any remedial activity found necessary as a result of the following:

- Further investigation from a contamination standpoint to characterise the filling and achieve a suitable sampling density for the site area. At present access at the site limits the ability to carry out a detailed contamination investigation and assessment;
- The proposed works are likely to encounter ASS or PASS. Further testing of the soils may be
  required to better characterise the site for ASS potential. A groundwater investigation may also
  be required to confirm that no impacts are present and that no dewatering issues will arise. Note
  that an ASSMP has been developed and is required to be implemented for this site; and
- Due to the age of the buildings, a pre-demolition hazardous building materials assessment will
  potentially be required to allow management of any potential hazardous building materials
  present within the buildings prior to demolition.

#### 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)
86857.00	Acid Sulphate Soil Management	Douglas Partners	August 2019
	Plan		
20190740.1/0507	Acoustic Report	eport Acoustic Logic	
A/RO/HC			
	Noise Management Plan		
	Plan of Management		
85575.01	Contaminated Land - Initial Site	Douglas Partners	April 2017
	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 Land Contamination

- Given the limited nature of the Preliminary Investigation due to site
  constraints, confirmation of the contamination status of the site in the form of
  a Detailed Investigation will need to be undertaken. The Detailed Investigation
  shall be undertaken in accordance with the NSW EPA Sampling Guidelines
  (1995), the DECCW's Guidelines for the NSW Site Auditor Scheme, 2<sup>nd</sup>
  Edition, 2006.
- If the land is contaminated then a remedial action plan sufficient for compatibility with the proposed use, supported by a Site Audit Statement must be provided to the Council's satisfaction, and
- After completion of any remedial works required by the remedial action plan, that the applicant provide a copy of a validation report, supported by a Site Audit Statement to Council's satisfaction before the issuing of any occupation certificate.

#### C.2 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) Regulation2000 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.3 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level

measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the  $L_{A90,\ 15\ minute}$  level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

2. Association of Australian Acoustical Consultants—professional society of noise related professionals (<a href="www.aaac.org.au">www.aaac.org.au</a>). Standard Condition: C62

#### 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 Acoustic Logic 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 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 <a href="http://www.epa.nsw.gov.au/resources/ci\_build\_sheet7.pdf">http://www.epa.nsw.gov.au/resources/ci\_build\_sheet7.pdf</a>

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.
- 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.
- 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 <a href="www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> 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 <a href="https://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> and <a href="https://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. 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 Compliance with Acid Sulfate Soils Management Plan

The Principal Contract / Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

Note: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

Note: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about
- plant roots being burnt by acid, reducing plant health and productivity
- acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
- plants and soil life can be poisoned by the available toxic metals
- loss of aquatic plants that can not survive acidic conditions
- · loss of fish, crustaceans, birds and other animals
- damage to metal and concrete structures (such as bridge pylons and pipes)
   Standard Condition: E28
- 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)
- 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.

 Conditions which must be satisfied during the ongoing use of the development

#### I.1 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) publish 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.2 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *Acoustic Report*.

Standard Condition: 157

#### 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  $L_{A90,\ 15\ minute}$  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

#### J. Miscellaneous Conditions

Nil.

#### K. Advisings

Nil

# WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Building Height

Proposed alterations and additions to an existing mixed use building at

# Nos. 30-36 Bay Street, Double Bay

Prepared for:

#### **Fortis Development Group**

33-39 Riley Street,

Woolloomooloo, NSW 2011

Prepared by:

#### **GSA PLANNING**

Urban Design, Environmental & Traffic Planners

(A.B.N 18 003 667 963)

95 Paddington Street, Paddington NSW 2021

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JOB NO. 19138 October 2019

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

APPLICANT'S NAME: Fortis Development Company

SITE ADDRESS: Nos. 30-36 Bay Street, Double Bay

**PROPOSAL:** Proposed alterations and additions to an existing mixed-use building

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

B2 - Local Centre

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

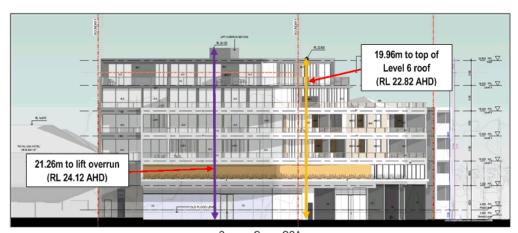
#### 2. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the Height Map which indicates a maximum 18.1m applies to the subject site.

A previous development application (DA359/2017) across the subject site and neighbouring property No. 2 Guilfoyle Avenue, for a six-storey mixed use development with basement car park was approved with a building height of 21.26m (RL 24.12 AHD). This application relates only to Nos. 30-36 Bay Street.

The current proposal also includes the construction of two new upper levels to the existing commercial building, with a maximum building at the top of the lift overrun of 20.84m, measured to the existing ground line immediately below at RL 3.82 AHD, which is lower than the previously approved development. Additionally, the proposed roof parapet height of 19.96m (RL 22.82 AHD) maintains the same parapet height of the previous approval (see Figure 1 on the following page).

The proposed additional floors have been designed to maintain a substantially similar building envelope of the previous approval. Alterations to the external elevations will rejuvenate the existing building while contributing to the eclectic architectural styles within the locality. Accordingly, the building will be of a bulk and scale which was considered appropriate by the consent authority.



Source: Group GSA
Approved Building Height (DA359/2017)

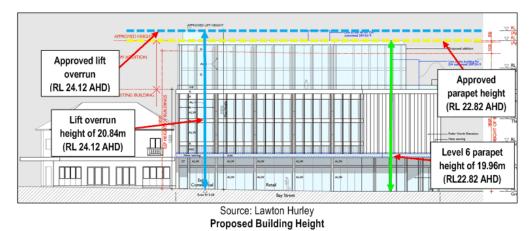


Figure 1: Approved and Proposed Building Height

#### 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] NSWLEC118 (*Initial Action*), Preston CJ notes at [87,90]:

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,

to achieve better outcomes for and from development by allowing flexibility in particular

circumstances.

Clause 4.6 Exceptions to Development Standards – Height of Buildings Nos. 30-36 Bay Street, Double Bay - Job No. 19138

Objective (b)

The proposal seeks flexibility in the application of the Height development standard in the circumstance of this particular case. The consent authority has previously been satisfied at the extent of the additional building height.

Accordingly, the proposed upper levels are consistent with the bulk, scale and height of the previously approved development application (see Figure 2) and are compliant with the 3:1 FSR standard of the LEP. Large rear setbacks to the upper levels will ensure the bulk, scale and building height is massed towards the higher density land uses along Bay Street. Notwithstanding this, construction of the upper levels will allow for additional commercial areas in a local centre with a recognised demand for office space.

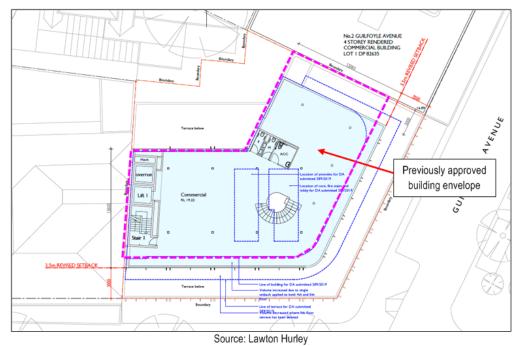


Figure 2: Previously approved building envelope

#### 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:
  - 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.

Clause 4.6 Exceptions to Development Standards – Height of Buildings Nos. 30-36 Bay Street, Double Bay - Job No. 19138

# 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] NSWLEC 827 (*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;

It is noted that under Clause 4.6(4)(a)ii, 'achieved' has been replaced by the lesser test of 'consistent'. Despite the non-compliance, the proposal is consistent with the desired medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. The proposal achieves the objectives of the height standard which will now be discussed.

# (a) To establish building heights that are consistent with the desired future character of the neighbourhood,

The proposal's height is consistent with the built form in the Double Bay Centre area. Neighbouring properties are an eclectic mix of residential flat buildings and mixed use developments that vary between four to six storeys. The additional area of building height will establish a spatial definition between the site and adjoining civic public domain, reinforcing the prominent corner allotment. Articulation and massing of the upper levels provides contemporary additions that create visual interest and contribute to the desired future character of the area. Terraces with planter boxes and balustrade planting will provide additional vegetation on a site with no opportunity for deep soil landscaping.

Notwithstanding this, the consent authority has previously been satisfied with a building envelope very similar to the proposal. As the proposal reduces the building height, increases setbacks and maintains the curved design as the previous approval, the proposal is considered to be consistent with the desired future character of the area.

#### (b) to establish a transition in scale between zones to protect local amenity,

The subject site adjoins a four storey building to the west, and 2 two storey buildings to the rear. The proposal features a substantial rear setback which masses the bulk of the proposal towards the higher density uses along Bay Street and the public domain. This results in a building design that steps down to the lower density land uses along South Avenue.

Clause 4.6 Exceptions to Development Standards – Height of Buildings Nos. 30-36 Bay Street, Double Bay - Job No. 19138

#### (c) to minimise the loss of solar access to existing buildings and open space,

To assess the impact of the proposed development in terms of solar access, shadow diagrams have been prepared for the winter solstice (June 21). The extent of overshadowing to adjoining developments will be similar than the previously approved development application. Shadows cast by the additional building height primarily fall onto the rooftop of the Royal Oak Hotel and Bay Street. The proposal will therefore have minimal impact on solar access to neighbouring windows and private open space.

Additionally, due to the existing building orientation shadows will not be cast on the adjoining Guilfoyle Park.

(d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

As the proposed alterations and additions maintain the existing building, the proposal is unlikely to generate an unreasonable additional impact on neighbouring amenity. Due to the location of the subject site, lot orientation and scale of surrounding buildings, there do not appear to be any significant views available across the site. Solid balustrades are provided to the new terrace areas which will provide screening to adjoining properties, and force users to look up and over the rooftops of neighbouring sites instead of down into habitable room windows and private open space. The prominent vertical privacy screens along the street frontage will continue to provide screening out the proposed commercial tenancies.

Importantly, as the new upper levels will be used by commercial tenancies, there are unlikely to be occupied beyond the standard working hours of 9.00am to 6.00pm Monday to Saturday. Accordingly, the proposal is unlikely to generate any privacy impacts in the early morning, evening or over the weekend. This is an improvement of the existing residential accommodation.

(e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

N/A – No public views of the harbour are identified from the site

Accordingly, although the proposal will exceed the height standard, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

# Test 3 - The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

In our opinion, the underlying purpose of the development standard is to present a building that is compatible with the height, context and character of the locality whilst preserving the amenity of adjoining properties.

Refusing the proposal would be inconsistent with the desired future character of the Double Bay Centre Precinct. The relevant Precinct objectives and our responses include, inter alia:

Objective: To provide a range of retail, business, entertainment and community uses that serve the needs of

people who live in, work in and visit the local area.

**Response:** The ground floor level has retail/business tenancies along the street frontage which

will enhance the range of services in the area, consistent with the previously approved

application.

Objective: To encourage employment opportunities in accessible locations.

Response: The proposed commercial premises will provide additional employment space in an

area with a recognised demand for office space in an area very accessible by public

transport or private vehicle.

Objective: To maximise public transport patronage and encourage walking and cycling.

Response: The proposal is in a highly accessible location, facing both Bay Street and Guilfoyle

Avenue, close to public transport routes including bus, train and ferry services.

Objective: To attract new business and commercial opportunities.

**Response:** The busy corner location will be highly attractive for businesses and shops. The new

commercial tenancies will provide substantial amounts of office space in a sought-

after area close to the City.

Objective: To provide active ground floor uses to create vibrant centres.

**Response:** Retail tenancies within the renovated contemporary mixed-use building will provide

active frontages to both streets at the ground floor level.

Objective: To provide for development of a scale and type that is compatible with the amenity of the surrounding

residential area.

**Response:** The proposal maintains the existing building envelope from the ground to third floor,

when viewed from the street. Massing of new levels to the upper floors are setback from the building line to be compatible with surrounding development and maintain

amenity.

Objective: To ensure that development is of a height and scale that achieves the desired future character of the

neighbourhood.

**Response:** The proposal has a lower height and greater upper level setbacks than the previous

approval, for a development application which applied to the subject site and No. 2

Guilfoyle Avenue (DA359/2017).

Accordingly, in our opinion, the proposal is consistent with the objectives of the precinct and the desired future character of the locality.

# 4.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The proposal is consistent with the relevant zone objectives and satisfies three of the 'unreasonable and unnecessary' tests established by the Court in Wehbe.

The proposal responds to a recognised demand for commercial floor space within the Woollahra Local Government Area (LGA). The contemporary alterations and additions utilise the prominent corner building to create a transition in scale from the B2 Local Centre Zoning along Bay Street to the lower-density uses along South Avenue. Upper level massing and building articulation ensure the building steps down accordingly to the rear adjoining dwelling houses.

The consent authority has previously been satisfied with the 21.26m building height in DA359/2017, with Commissioner Gray of the Land and Environment Court stated in her comments, inter alia:

I am satisfied that the written request, lodged pursuant to cl 4.6 of the WLEP 2014, adequately establishes sufficient environmental planning grounds that justify the breach in the height development standard by demonstrating that the breach allows the proposal to provide a similar built form to the 6-storey development to the east (the subject site, Nos. 30-36 Bay Street) so that it can firstly achieve the objectives of the WLEP 2014 for corner sites and secondly provide adequate definition for the space around Guilfoyle Park.

I am also satisfied that the written request demonstrates that compliance with the standard is unreasonable and unnecessary given that the proposal is consistent with the objectives of the standard notwithstanding the non-compliance, and as there is no impact caused by the breach of the standard. Further, I am satisfied, for the reasons outlined in the written request, that the proposal is in the public interest because it is consistent with the objectives of the zone and of the standard.

As previously discussed, the proposal provides a building envelope that is substantially similar to the previously approved development application (DA359/2017). This includes providing compliant setbacks to the upper levels and maintaining the curved design which addresses from Guilfoyle Avenue and Bay Street. Additionally, the height exceedance helps establish the prominent corner allotment, creating a consistent built form with nearby properties and a gateway to the Double Bay Centre precinct.

The proposed height exceedance also facilitates the orderly and economic use of the existing building by facilitating improvements to the layout, access and responding to market demand. The contemporary infill development improves the site in accordance with Object (c) of the EPA Act, to "promote the orderly and economic use and development of land".

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).

#### 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:
    - 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 objectives of the Development Standard, as already demonstrated; and the B2 Local Centre Zone, as discussed in the SEE. From this, we consider the proposal is in the public interest and should be supported.

#### 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. While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck*\$ *v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed alterations and additions without significantly impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

#### 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 objectives of the B2 Local Centre Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix					
Para (Initial Action)	Requirement	Section	Summary	Satisfied	
10	Is it a development standard (s.1.4)	1	Yes		
11	What is the development standard	1	Height of Buildings		
12	What is the control	1 & 2	18.1m		
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. The consent authority does not have to directly form the opinion of satisfaction regarding the matters in Clause 4.6(3)(a)&(b), but only that the applicant's written request has adequately addressed the matters required. The applicant bears the onus to demonstrate that the matters in Clause 4.6(3) have been adequately addressed in order to enable the consent authority to form the requisite opinion of satisfaction.	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 Wehbe.	4.1	The proposal is consistent with Tests 1 and 3 of Wehbe: The objectives of the standard are achieved notwithstanding the non-compliance with the standard; The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is 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 indirectly satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects:  a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.  b) The environmental planning grounds advanced in the written request must justify	4.2	Sufficient environmental planning grounds include, inter alia:  The proposed bulk, scale and height is reduced from the previously approved development application.  The new levels are massed towards the higher density uses along Bay Street and away from the lower density uses along South Avenue  The height exceedance helps establish the prominent corner allotment, creating a consistent built form with nearby properties.	YES	

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	the contravention of the development standard, not simply promote the benefits of			
	carrying out the development as a whole.			
26-27	2 <sup>nd</sup> Positive Opinion –	5	The proposed development is consistent with the objectives of the	
	That the proposed development will be in the public interest because it is consistent with		height standard as addressed under Test 1 of Webhe. The proposal	
	the objectives of the particular development standard that is contravened and the		is also consistent with the objectives of the B2 Local Centre Zone, as	
	objectives for development for the zone in which the development is proposed to be		addressed in the SEE.	YES
	carried out.			
	This second opinion differs from the first opinion of satisfaction in that the consent			
	authority must be directly satisfied about the matter in Clause 4.6(4)(a)(ii).			
28-29	Second Precondition to Enlivening the Power –	6	As the relevant matters for consideration under Clause 4.6 have	
	that the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the		been satisfied as outlined above, the Council can grant development	YES
	Court has the power to grant development consent, subject to being satisfied of the relevant		consent.	123
	matters under Clause 4.6.			

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Clause 4.6 Exceptions to Development Standards – Height of Buildings Address - Job No. 19138



# Checksheet 3 – Submissions List

Property Address: 30-36 Bay Street DOUBLE BAY

DA Number: DA289/2019/1

Salutation	FirstLastName	Company	Address	SuburbStatePCode
Sir/Madam		Fortis Development Group	33-39 Riley St	WOOLLOOMOOLOO NSW 2011
Sir/Madam	Anka Double Bay Pty Ltd	C/- Ray White Commercial Eastern Suburbs	PO Box 39	DOUBLE BAY NSW 1360
Sir	Clive Davies		8/17 Guilfoyle Avenue	DOUBLE BAY NSW 2028
Sir	Geoffrey C Frumar		frulaw@outlook.com	
Sir	Malcolm Young	Double Bay Residents' Association Inc	P.O. Box 168	DOUBLE BAY NSW 1360
Sir	Greg Ockenden		gregoryockenden@gmail.com	
Madam	Merrill Witt		19 Village Lower Road	VAUCLUSE NSW 2030
Sir/Madam	Michael & Barby Fischer		25/337 New South Head Road	DOUBLE BAY NSW 2028
Sir	Timothy Rohl		11/337 New South Head Rd	DOUBLE BAY NSW 2028
Sir/Madam	David & Leanne Harrington		5B, 2-22 Knox Street	DOUBLE BAY NSW 2028
Sir/Madam	Kevin Purdy & Amanda Stewart		343a Edgecliff Road	EDGECLIFF NSW 2027
Sir	Brian O'Dowd		bodowddesigns@outlook.com	
Sir/Madam	Anthony & Anna Kwok		7/337 New South Head Road	DOUBLE BAY NSW 2028
Madam	Maria Finlay		6B, 2-22 Knox Street	DOUBLE BAY NSW 2028
Sir	Tony Moody		tonymoody@tonymoody.com.au	

Submission List