



Woollahra Local Planning Panel Public Meeting

Thursday, 21 April 2022
1.00pm

Agenda

Meeting to be held using conferencing
technology

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

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

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

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

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

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

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

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

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

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

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

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

Outline of Meeting Protocol & Procedure (COVID-19):

- The Chair will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chair will commence the Order of Business as shown in the Index to the Agenda.
- To listen to the meeting, please register by sending your name, phone number, email address and item you are interested in to records@woollahra.nsw.gov.au by **12 noon on the day before the meeting**.
- To register to speak at the meeting, you should register using the appropriate 'Register to address the Panel Application Form' as available on Council's website at: www.woollahra.nsw.gov.au by **12 noon on the day before the meeting**.
- Members of the Public who have pre-registered to listen or speak at a meeting will be sent an email with the audio-visual link prior to the meeting. Please **do not** share the audio-visual link with any third party/ies.
- Members of the Public who have pre-registered to speak will be allowed three (3) minutes in which to address the Panel, one (1) warning bell will be rung at the conclusion of two (2) minutes and two (2) warning bells rung at the conclusion of three (3) minutes. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated three (3) minutes, the speaker takes no further part in the debate unless specifically called to do so by the Chair.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chair will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Panel will debate the matter (if necessary) in closed session, and arrive at a resolution.
- Minutes of the Woollahra Local Planning Panel (Public Meeting) will be posted to Council's website once finalised.

Disclaimer:

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

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

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

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

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

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

14 April 2022

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 21 April 2022

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Public)** meeting to be held via teleconference, **on Thursday 21 April 2022 at 1.00pm.**

Panel Members, members of the public and staff are advised that we will be holding Woollahra Local Planning Panel meetings remotely using conferencing technology (until further notice).

Members of the public may:

- Register to address the meeting by **no later than 12 noon on the day before the meeting** using the following Register to Speak Form
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_register_to_speak.
- Submit late correspondence for consideration by Councillors by emailing records@woollahra.nsw.gov.au by **12noon on the day of the meeting.**
- Watch and listen to the meeting live via Council's website **from 1.00pm on the day of the meeting:**
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_agendas_audio_recordings_and_minutes

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

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

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

Regards,

Craig Swift-McNair
General Manager

Meeting Agenda

Item	Subject	Page
1.	Opening	
2.	Acknowledgement of Country (Gadigal People and Birrabirrigal People)	
3.	Leave of Absence and Apologies	
4.	Late Correspondence	
5.	Declarations of Interest	

Items to be Decided by the Panel

D1	DA468/2018/4 - 1 St Mervyns Avenue Point Piper - 22/693457 *See Recommendation Page 36	
D2	DA26/2021/1 - 16 Gilliver Avenue, Vaucluse - 22/72498.....63 *See Recommendation Page 105	
D3	DA408/2021/1 - 41 Etham Avenue, Darling Point - 22/72090.....217 *See Recommendation Page 248	
D4	DA554/2021/1 432-440 Oxford Street Paddington - 22/72982305 *See Recommendation Page 345	

LOCAL PLANNING PANEL SECTION 4.55 APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA468/2018/4
ADDRESS	1 St Mervyns Avenue POINT PIPER
COUNCIL WARD	Double Bay
SITE AREA	828.3m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Internal and external modifications to the approved residential flat building including a visitor parking space
TYPE OF CONSENT	Local development
COST OF WORKS	\$0.00
DATE LODGED	24/08/2021
APPLICANT	MHN Design Union Pty Ltd
OWNER	Mr A E Koundouris & Sodnoc Pty Ltd
AUTHOR	Mr W Perdigao
TEAM LEADER	Mr T Wong
SUBMISSIONS	16
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 categories of:

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

AND

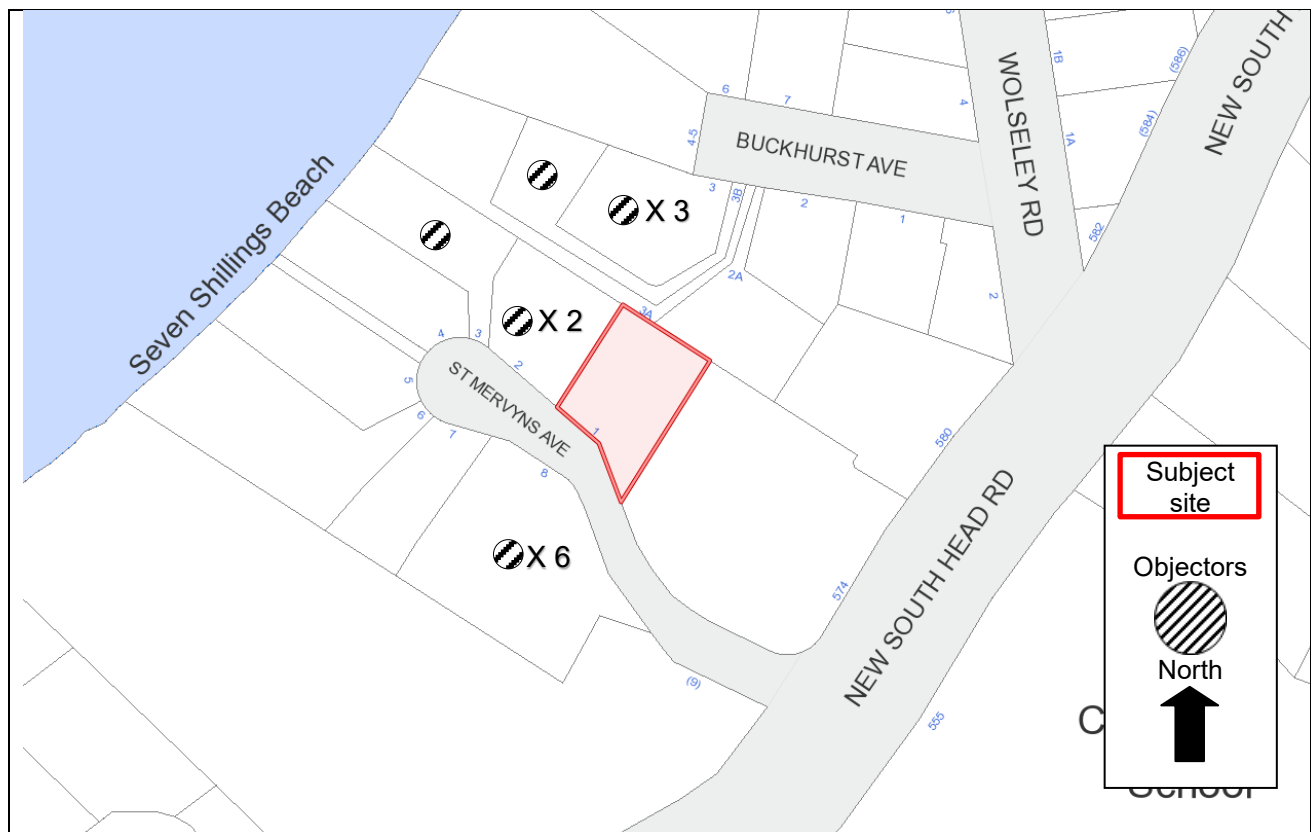
- The application is to be determined by the Woollahra Local Planning Panel as the proposal seeks to modify **Condition C.1(c)(iv)** and delete **Condition C.1(b)(iii)** which was imposed or altered by Woollahra Local Planning Panel (WLPP) at its meeting on 6 June 2019.

2. REASONS FOR RECOMMENDATION

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

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

3. LOCALITY PLAN



Note: A total of 16 submissions/objections have been received (3 objections have been received outside of the visual catchment of the image above or from unknown addresses, refer to Section 12.1 of this report.

4. SUMMARY OF APPROVED DEVELOPMENT

DA 468/2018/1 was approved by the Woollahra Local Planning Panel (WLPP) on 06/06/2019. The approved development involved:

- Demolition of the existing building, which contains two dwellings;
- Construction of a three-storey residential flat building comprising 3 x 4-bedroom units with a basement level incorporating car parking for 7 cars (including 1 visitor space), 1 motorcycle space, storage, plant rooms and vehicle turning area;
- Landscaping and site works, including a new swimming pool.

The approved development was also subject to the following relevant conditions:

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

a) Non-solid Fuel Fireplaces

All fireplaces are to be operated with non-solid fuel only (i.e. gas or electricity).

b) Balconies on the first and second floors

- (i) The extent of the balconies off the living rooms on the first and second floors shall be reduced by setting back the northern balustrade towards the south in line with the northern glazed wall/door of the respective living room.
- (ii) The extent of the balconies off Bedrooms 1, 2 and 3 on the first and second floors shall be reduced by extending the length of the western balustrade towards the south meeting the northern glazed wall/door of the respective living room.
- (iii) All balustrades to the west-facing balconies on the first and second floors are to be obscure-glazed for their entire length and height.
- (iv) The northern end of the balconies off the living room on the first and second floors shall incorporate a 600mm wide x 500mm deep planter box.
- (v) The roof over the balcony off the living room on the second floor shall be reduced to extend a maximum of 1.2m from the glazing line.

c) An amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for assessment and approval. The amended landscape plan must include the following:

- i. Show deletion of the tree species *Corymbia citriodora* (Lemon-scented Gum) from the Planting Schedule shown on Elke Landscape Plan L 102. This species of tree is too large at maturity for this location with a potential height of 25 metres, not 14 metres as indicated in the schedule.
- ii. Show the planting of a minimum of one individual specimen native tree in the deep soil area at the front south west corner of the site. This tree is to be a species that will attain a minimum height of 8 metres at maturity.
- iii. No plant species which has maturity height greater than 3.0m above existing ground level shall be planted within the front setback area so as to ensure no view loss to the building at 574 New South Head, Point Piper. All existing and proposed plant species shall be pruned at all times to a height no greater than 3.0m above existing ground level.
- iv. All proposed landscaping along the western boundary to the north of the front setback area shall be planted with a species which attains a maximum height of 7m at maturity and be maintained to a minimum height of 5m. At the time of planting the species shall be at a minimum height of 3m.

d) Works not permitted

The following works are not permitted:

- i. All proposed works on the proposed roof shown on the attached drawings marked "Revision D" shall be limited to the heights shown on the attached drawings.
- ii. There shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works projecting above the nominated levels on the attached drawings marked "Revision D".
- iii. No projections, structures, eaves, overhangs, plant, equipment, furniture or any other works other than that shown on the attached drawings marked "Revision D", shall project southward of the proposed Building line shown on the attached drawings marked "Revision D".
- iv. There shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works extending beyond the outer walls or roof of the Building, other than indicated on the attached drawings marked "Revision D".

e) Solar Panels and Skylights

The proposed solar panels and/or skylights shown on the attached drawings marked "Revision D" must be placed or put upon or affixed to the roof of the Building so that they are orientated in such a way that any reflection is not directly towards 574 New South Head Road, known as "Buckhurst".

f) Colour and Reflectivity

All proposed walls and any other building elements shall also be of a dull, non-reflective colour.

The proposed roof of the Building and any work on the roof, including but not limited to, solar panels or skylight, must reflect away from the building at 574 New South Head Road Point Piper known as "Buckhurst". All works on the proposed roof of the Building or rising above the roof of the Building, including, but not limited to, any part of a lift or elevator installation must be of a dull, non-reflective colour.

g) Eastern facade

Any vents, apertures, or openings within the building on the eastern facade adjoining 574 New South Head Road, shall be integrated with window openings or screened off.

I.10 Roof

- (i) At all times, there shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works on the proposed roof.
- (ii) No person, at any time, shall access or go or be upon the roof of the Building except to carry out repairs and maintenance of the Building.

I.11 Landscaping in the front setback area and the western boundary

No plant species which has a maturity height greater than 3.0m above existing ground level shall be planted within the front setback area so as to ensure no view loss to the building at 574 New South Head Road, Point Piper. All existing and proposed plant species shall be pruned at all times to a height no greater than 3.0m above existing ground level.

All proposed landscaping along the western boundary to the north of the front setback area shall be planted with a species which attains a maximum height of 7m at maturity and be maintained to a minimum height of 5m. At the time of planting, the species shall be at a minimum height of 3m.

I.12 Common boundary wall with No. 574 New South Head Road

The height of the existing common boundary wall between 1st Mervyns Avenue and 574 New South Head Road shall remain unless there is agreement between the owners of 1st Mervyns Avenue and the Owners Corporation of 574 New South Head Road.

It should be noted that **Condition C.1** was modified from the originally recommended version by the WLPP in the following ways:

- Replacement of Part (b) [shown underlined].
- Addition of new Points (iii) and (iv) to Parts (c) [shown underlined].
- Addition of new Parts (d), (e), (f) and (g) [shown underlined].

In addition, **Conditions I.10, I.11 and I.12** were imposed by the WLPP.

The reasons of the Panel's decision for the above changes are outlined in the minutes of the Panel's meeting of 6/6/2019 as follows:

"The Panel visited the subject site and adjoining properties, considered Council's assessment report and submissions including late correspondence and verbal representation at the meeting. The Late correspondence included amended plans (Revision D) which further set back the building to address the concerns of 574 New South Head Road in relation to impact on their views. The Panel also noted:

- *Unit No's. 3 and 6 of 574 New South Head Road requested a minor reduction to the overall height that the Panel does not support as being necessary to achieve reasonable view sharing;*
- *The request from Unit 3 to defer the matter and considered that this was not necessary as the issues raised in their correspondence were addressed in the planning assessment report, subsequent site inspection and discussions; and*
- *The concerns of No. 2 St Mervyn's Avenue that they had not been provided adequate time to assess the (Revision D) plans and Draft Conditions. The Panel considered that the (Revision D) plans would not materially change the impacts of the proposal on their property and has incorporated further conditions to address their concerns.*

The Panel has accordingly amended Condition A.3 (to include Revision D) plans, Condition C.1 (to amend the west facing balconies and require an amended Landscape Plan to address privacy issues with No. 2 St Mervyn's and view loss concerns for 574 New South Head Road).

The Panel also amended operational conditions to manage and maintain height of landscaping and to recycle significant building fabric.

The Panel considered the front setback of the building from the street to maintain a reasonable view corridor to be fundamental to its decision to support the application."

5. SUMMARY OF PREVIOUS SECTION 4.55 MODIFICATIONS

- DA 468/2018/2 was approved by Woollahra Council on 20/02/2020 and involved the following modifications:
 1. Deletion of **Condition C.5(b)** relating to on-going waste management and bin storage; and
 2. Inclusion of strata subdivision to the approval documentation including additional Conditions:
 - **Condition F.9** - Street Numbering, relating to provision of street and sole occupancy unit numbers to be determined by Council;
 - **Condition G.1** - Strata Title Subdivision Certificate (Part 4 *Strata Schemes Development Act 2015*) relating to limiting the transferring of strata unit entitlements including transfer of parking spaces to units not within the strata plan.
- DA 468/2018/3 was approved by the WLPP on 22 July 2021 and involved internal and external modifications to the approved residential flat building (refer to **Annexure 2** for stamped approved plans) including the following:
 1. Modification of **Condition C.1** to read as follows:

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

a) Non-solid Fuel Fireplaces

All fireplaces are to be operated with non-solid fuel only (i.e. gas or electricity).

b) Balconies on the first and second floors

(i) Deleted

(ii) Deleted

(iii) *All balustrades to the west-facing balconies on the first and second floors are to be obscure-glazed for their entire length and height.*

(iv) Deleted

(v) Deleted

c) An amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for assessment and approval. The amended landscape plan must include the following:

- i. Show deletion of the tree species *Corymbia citriodora* (Lemon-scented Gum) from the Planting Schedule shown on Elke Landscape Plan L 102. This species of tree is too large at maturity for this location with a potential height of 25 metres, not 14 metres as indicated in the schedule.*
- ii. Show the planting of a minimum of one individual specimen native tree in the deep soil area at the front south west corner of the site. This tree is to be a species that will attain a minimum height of 8 metres at maturity.*
- iii. No plant species which has maturity height greater than 3.0m above existing ground level shall be planted within the front setback area so as to ensure no view loss to the building at 574 New South Head, Point Piper. All existing and proposed plant species shall be pruned at all times to a height no greater than 3.0m above existing ground level.*
- iv. All proposed landscaping along the western boundary to the north of the front setback area shall be planted with a species which attains a maximum height of 7m at maturity and be maintained to a minimum height of 5m. At the time of planting the species shall be at a minimum height of 3m.*

d) Works not permitted

The following works are not permitted:

- i. All proposed works on the proposed roof shown on the attached drawings marked "**Revision G**" shall be limited to the heights shown on the attached drawings.*
- ii. There shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works projecting above the nominated levels on the attached drawings marked "**Revision G**".*
- iii. No projections, structures, eaves, overhangs, plant, equipment, furniture or any other works other than that shown on the attached drawings marked "**Revision G**", shall project southward of the proposed Building line shown on the attached drawings marked "**Revision G**".*

- iv. *There shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works extending beyond the outer walls or roof of the Building, other than indicated on the attached drawings marked **"Revision G"**.*

e) Solar Panels and Skylights

*The proposed solar panels and/or skylights shown on the attached drawings marked **"Revision G"** must be placed or put upon or affixed to the roof of the Building so that they are orientated in such a way that any reflection is not directly towards **the properties at 574 New South Head Road, Point Piper (known as 'Buckhurst') and 3 Buckhurst Avenue, Point Piper.***

f) Colour and Reflectivity

All proposed walls and any other building elements shall also be of a dull, non-reflective colour.

The proposed roof of the Building and any work on the roof, including but not limited to, solar panels or skylight, must reflect away from the buildings at 574 New South Head Road, Point Piper (known as 'Buckhurst') and 3 Buckhurst Avenue, Point Piper.

All works on the proposed roof of the Building or rising above the roof of the Building, including, but not limited to, any part of a lift or elevator installation must be of a dull, non-reflective colour.

g) Eastern facade

Any vents, apertures, or openings within the building on the eastern facade adjoining 574 New South Head Road, shall be integrated with window openings or screened off.

2. Modification of **Conditions C.3, H.1, I.5** to update references to an updated BASIX Certificate No. **844143M_04**;
3. Modification of **Condition I.3** to include updated condition title reference to read:

"I.3 Noise from mechanical plant and equipment (Air Conditioning Plant, Swimming Pool Filtration Equipment, Mechanical Exhaust and the like)"

4. Modification of **Condition I.10 Roof** to read:

"I.10 Roof

- (i) *At all times there shall be no projections, structures, eaves, overhangs, plant equipment, furniture or any other works **extending beyond the outer walls or roof of the Building, other than indicated on the approved drawings listed in Condition A.3a.***
- (ii) *No person, at any time, shall access the roof of the Building (non-trafficable roof), except to carry out of repairs and maintenance of the Building."*

6. SUMMARY OF PROPOSED MODIFICATION

DA 468/2018/4 the subject Section 4.55 Modification Application involves internal and external modifications to the approved residential flat building including the following modifications:

Basement Level

- Delete the approved turning bay and provide a one (1) new visitor parking space;
- Convert an approved visitor parking space into an additional parking space for Unit 3 (no net loss of visitor parking spaces within the development);

DA Conditions

- Deletion of existing **Condition C.1(b)(iii)** to allow clear glazing to the balustrades of the west-facing balconies on the first and second floors.
- Modification of existing **Condition C.1(c)(iv)** to allow amendments to the approved landscape plan. It is proposed to modify **Condition C.1(c)(iv)** to read as follows:

“c) An amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for assessment and approval. The amended landscape plan must include the following:

...

- (iv) *All proposed landscaping along the western boundary ~~to the north of the front setback area~~ **directly adjacent to the dwelling at 2 St Mervyn's Avenue, Point Piper** shall be planted with a species which attains a maximum height of 7m at maturity and be maintained to a minimum height of 5m. At the time of planting, the species shall be at a minimum height of 3m. **All proposed landscaping along the western boundary between the front setback and front alignment and rear setback and rear alignment of No. 2 St Mervyns Avenue shall be maintained at a maximum height of 4.0m.***

7. ISSUES

7.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

7.2 Primary Issues and Summary of Submissions

Issue	Conclusion	Section
Loss of visual privacy, as a result of deletion of obscure glazing to balconies and landscaping as required by Condition C.1(b)(iii) and C.1(c)(iv)	Acceptable and/or does not warrant refusal or modification of the application.	Section 18.3 (B3.5.4: Acoustic and Visual Privacy)
Conditions C.1(b)(iii) and C.1(c)(iv) should not be modified as they are an essential and fundamental consideration of the original determination to approve the proposed development as they relate to the requirement for obscure glazing on balconies and landscaping requirements along the extent of the western boundary of No. 1 St Mervyns Avenue	Acceptable and/or does not warrant refusal of the modification application. It should be noted that Section 4.55 of the EP&A Act 1979 has the power to allow a consent authority to modify a development consent.	Section 11 (Section 4.55(2): Other Modifications)

Issue	Conclusion	Section
Loss of neighbourhood amenity	Acceptable and/or does not warrant refusal or modification of the application. There is no foreseeable loss of neighbourhood amenity as a result of the proposed modifications.	-
Adverse streetscape outcome arising due to the reduction in height of landscaping which will diminish the natural landscape and scenic value of St Mervyns Avenue	Acceptable there is no adverse impact on the streetscape character as a result of the modifications.	-
Unauthorised works and seeking of retrospective approval	The Section 4.55 Application is assessed on its merit under the relevant heads of consideration under Section 4.15(1) of the EP&A Act 1979. As the current application is recommended for approval no further action is required.	-
Modification Application should retain all current DA Conditions relating to non-trafficable roof, and mechanical plant equipment. Roof should remain non-trafficable	Acceptable, there are no proposed changes and/or modification to DA Conditions previously imposed relating to the roof and mechanical plant equipment.	-

PROPERTY DETAILS AND REFERRALS

8. SITE AND LOCALITY

Physical features
The site is located on the northern side of St Mervyns Avenue, Point Piper. The site has a dog legged frontage totalling 28 metres and an average depth of 34 metres. The site has an area of 828.3m ² .
Topography
The site prior to the commencement of construction had a fall from its eastern (RL 11.62 in the southeast corner) to western side (RL 9.89 in its southwest corner) and also slightly fell towards its rear (RL 10.02 in the northwest corner and RL 10.27 in the northeast corner).
Existing buildings and structures
The site is currently under construction for a new 3 storey residential flat building with basement car parking, swimming pool & landscaping approved under DA468/2018/1.
Surrounding Environment
Immediately to the southeast of the site is a multistorey RFB listed as a Heritage Item known as <i>Buckhurst</i> at No. 574 New South Head Road and to the northwest is a three-storey dwelling house at No. 2 St Mervyns Avenue. To the rear of the site are more RFBs and townhouse development on Buckhurst Avenue. Across the street, to the southwest of the site is a 7 storey RFB at No. 8 St Mervyns Avenue. St Mervyns Avenue is characterised by multi-storey RFBs to its south-eastern end and large scale dwelling houses to its northwest. The area is hilly with vistas of the harbour provided from both the private and public domains.

8.1 Images of Site and Locality



Figure 1 Aerial view of subject site (Source: WMC mapping system)



Figure 2 Subject Site, as viewed from St Mervyns Avenue (Source: WMC)



Figure 3 Subject Site, as viewed from St Mervyns Avenue (Source: WMC)



Figure 4 Ground Floor courtyard looking towards 2 St Mervyns Ave (Source: WMC)



Figure 5 Ground Floor courtyard looking towards 2 St Mervyns Ave & 3 Buckhurst Ave (Source: WMC)



Figure 6 Basement Level of Subject Site (Source: WMC)

9. RELEVANT PROPERTY HISTORY

Current use
Under construction for an approved residential flat building
Relevant Application History
Nil.
Relevant Compliance History
Clear glazing instead of obscure glazing to the west-facing balconies at first floor and second floor levels, which is contrary to the requirements prescribed in Condition C.1(b)(iii), has already been installed as balustrading to these balconies. These constitute unauthorised works.
Note: A CRM was lodged on 30/04/2021. Given the unauthorised works carried out on the site form part of the subject application, appropriate and/or further action to be taken is pending determination of the current application.
Pre-DA
Nil.
Requests for Additional Information and Replacement Applications
Nil.
Land and Environment Court Appeal(s)
Nil.

10. REFERRALS

Referral	Summary of Referral Response	Annexure
TS Traffic Engineer	Satisfactory, subject to amended Condition C.14 (Parking Facilities) and additional Condition I.13 (Provision of Off-street Parking)	3

ASSESSMENT UNDER SECTION 4.55

The application is assessed under Section 4.55 of the Environmental Planning and Assessment Act 1979.

11. SECTION 4.55(2): OTHER MODIFICATIONS

Section 4.55(2) relates to the modification of a development consent for all other modifications. The application involves internal and external modifications to the approved development, as detailed in Section 6 of the report.

The considerations in Section 4.55(2) require Council to address the following:

- a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)*

The proposed modifications are considered to be substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).

Therefore, the proposed modifications achieve consistency with sub-clause (a) in Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*

Not relevant.

- c) *It has notified the application in accordance with:*
 - i) *The regulations, if the regulations so require, or*
 - ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*
- d) *It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

The proposed modifications were advertised and notified in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019 and submissions made have been considered in the report.

Therefore, achieving consistency with sub-clauses (c) and (d) in Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

The proposed modifications are considered to be satisfactory in terms of an environmental planning assessment undertaken under the relevant matters for consideration in Section 4.15(1) of the EP&A Act 1979 and the reasons for granting of consent to DA 468/2018/1 and subsequent Modification Applications (DA 468/2018/2 & DA 468/2018/3).

Thereby achieving consistency with clause 4.55(3) of the Environmental Planning and Assessment Act 1979.

Conclusion

The proposed modifications are considered to be acceptable with regards to the relevant heads of consideration under Section 4.55(2) and (3) of the *Environmental Planning and Assessment Act 1979*.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 include the following:

- (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 Planning 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),*
- (v) *(Repealed)*

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.*

12. ADVERTISING AND NOTIFICATION

12.1 Submissions

The application was advertised and notified from 15 September 2021 to 30 September 2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Alison McCabe of SJB Planning on behalf of the owners of 2 St Mervyns Avenue, Point Piper;
2. Jeremy Samuel of 2 St Mervyns Avenue, Point Piper;
3. Louise & Mark Nelson of 3 St Mervyns Avenue, Point Piper;
4. Gregory George & Mary Reemst 3B Buckhurst Avenue, Point Piper;
5. Julian & Lisa Cappe of 11 Albemarle Avenue, Rose Bay;
6. Aviva Freilich of Unit 6B/8 St Mervyns Avenue, Point Piper;
7. Kay Flanagan Grasselli of Unit 4B/8 St Mervyns Avenue, Point Piper;
8. Jillian Segal of Unit 5B/8 St Mervyns Avenue, Point Piper;
9. Barbara Dougan of Unit 1B/ 8 St Mervyns Avenue, Point Piper;
10. Julie Spatt of 6A/8 St Mervyns Avenue, Point Piper;
11. Anonymous Objector of 8 St Mervyns Avenue, Point Piper.
12. Barbara & Jonathan Goodman of Unit 1/3 Buckhurst Avenue, Point Piper;
13. Nicky Locke of Unit 2/3 Buckhurst Avenue, Point Piper;
14. Michael Joel of Unit 3/3 Buckhurst Avenue, Point Piper;
15. Alex Gelman of unknown address;
16. Michelle & Col Samuel of unknown address;

The submissions raised the following issues:

- Loss of visual privacy, as a result of deletion of obscure glazing to balconies and landscaping as required by Condition C.1(b)(iii) and C.1(c)(iv);
- Conditions C.1(b)(iii) and C.1(c)(iv) should not be modified as they are an essential and fundamental consideration of the original determination to approve the proposed development as they relate to the requirement for obscure glazing on balconies and landscaping requirements along the extent of the western boundary of No. 1 St Mervyns Avenue;
- Loss of neighbourhood amenity;
- Adverse streetscape outcome arising due to the reduction in height of landscaping which will diminish the natural landscape and scenic value of St Mervyns Avenue;
- Unauthorised works and seeking of retrospective approval;
- Modification Application should retain all current DA Conditions relating to non-trafficable roof, and mechanical plant equipment. Roof should remain non-trafficable.

Comment: The issues above are assessed where necessary under the relevant heads of consideration in the body of the report that follows and summarised in Section 7.2 of this report.

12.2 Statutory Declaration

The applicant has completed the statutory declaration dated 13.10.2021 declaring that the site notice for DA468/2018/4 was erected and maintained during the notification period in accordance with the Woollahra Community Participation Plan of the Woollahra DCP 2015.

STATE ENVIRONMENTAL PLANNING POLICY (“SEPP”)

13. SEPP (BIODIVERSITY AND CONSERVATION) 2021

13.1. Chapter 10 – Sydney Harbour Catchment

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.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 10 – Sydney Harbour Catchment of the Biodiversity and Conservation SEPP 2021.

14. SEPP (RESILIENCE AND HAZARDS) 2021

14.1. Chapter 2 – Coastal Management

Chapter 2 (Coastal Management) gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject site is located within the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11).

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 Chapter 2 – Coastal Management of the Resilience and Hazards SEPP 2021.

14.2. Chapter 4 – Remediation Of Land

The Object of this Chapter aims to *promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*

- a) *By specifying when consent is required, and when it is not required, for a remediation work*
- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

Under Clause 4.6(a) of Chapter 4 – 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 Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021.

The proposal is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

15. STATE ENVIRONMENTAL PLANNING POLICY 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

SEPP 65 is not applicable as the proposed residential flat building will contain less than 4 dwellings.

16. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The original and modified development application was accompanied by amended BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed in previously recommended DA Conditions which remain applicable.

17. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

17.1 Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

17.2 Part 2.3: Zone Objectives and Land Use Table

The proposal is defined as a residential flat building which is permitted and is consistent with the objectives of the R3 Medium Density Residential zone.

17.3 Part 4: Principal Development Standards

17.3.1 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m. The original application approved a maximum height of 10.5m and the subject modification application does not alter the approved height.

The proposal remains in compliance the maximum building height and objectives prescribed by Part 4.3 of Woollahra LEP 2014.

17.3.2 Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 1:1 for a residential flat building development.

Site Area: 828.3m ²	Approved	Proposed	Control	Complies
Floor Space Ratio	1:1 (826m ²)	No change	1:1 (828.3m ²)	Yes

There is no change to the approved FSR. The proposal remains in compliance with the maximum floor space ratio and objectives prescribed by Part 4.4(2) of Woollahra LEP 2014.

17.4 Parts 5 & 6: Miscellaneous and Additional Local Provisions

17.4.1 Part 5.10: Heritage Conservation

The subject site is located in close proximity to a number of local heritage items, including “*Buckhurst*” residential flat building at No. 574 New South Head Road (Item No. 282) adjoining to the east, and Seven Shillings Beach at Nos. 3–6 St Mervyns Avenue and 10 and 14 Wolseley Road (Item No. 274) to the west, and a state heritage item identified as “*Fairwater*” at No. 560 New South Head Road (Item No. 281) to the south.

An assessment against the objectives in Parts 5.10 of the Woollahra LEP 2014 was undertaken as part of the original application and was founded to be satisfactory. Given the proposed modifications include minor internal and external works to the approved development, it is considered that the proposed modifications will not adversely impact the significance and character of the adjacent heritage items.

As such, the proposal is acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

17.4.2 Part 6.1: Acid Sulfate Soils

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

17.4.3 Part 6.2: Earthworks

The proposal does not alter the amount and/or the extent of excavation and earthworks.

18. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

18.1 Chapter B1: Point Piper Residential Precinct

The proposal satisfies the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015.

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Point Piper Residential precinct, as noted in Part B1.6.2 of the Woollahra DCP 2015.

18.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

The proposed modifications do not alter the approved boundary setbacks, height, bulk and scale of the approved building. The modification application is seeking changes related to the internal parking layout, glazing treatment of balustrades and heights landscape species.

The proposed modifications would not alter the overall approved building envelope. The proposal is therefore acceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015

Part B3.4: Excavation

18.3 Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

The proposed modifications result in no impact on the streetscape character. The proposed changes are considered to be compatible with the streetscape and the desired future character of the area. As such, the proposed modifications satisfies Part B3.5.1 of the Woollahra DCP 2015.

Part B3.5.2: Overshadowing

The proposed modifications involves internal reconfiguration and minor external modifications to the approved development, with no further impact on surrounding properties with regard to overshadowing.

Due to the nature of proposed modifications, the proposed modifications will not increase overshadowing to adjoining properties.

Part B3.5.3: Public and Private Views

The proposed modifications will not affect any existing significant views and vistas, given the overall height remain unaltered. A view loss assessment was conducted during original application, where the impacts of the proposal were considered acceptable. Given the nature and location of the proposed modification works, no further, consideration is required.

Part B3.5.4: Acoustic and Visual Privacy

Acoustic Privacy

The proposed modifications do not alter the approved separation distances of private open space including balconies, swimming pool or location of mechanical plant equipment thereby maintaining acoustic privacy to neighbouring residential uses. The proposed modifications achieves consistency with regard to the relevant Objective O1 in Part B3.5.4 of the Woollahra DCP 2015 subject to the originally recommended standard noise related **Conditions I.3-I.4** that remain applicable.

Visual Privacy

Part B3.5.4 of the WDCP 2015 provides the following visual privacy objectives:

- O2 *To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes*
- O3 *To minimise the impacts of private open space.*

A number of objections, from surrounding development, have been received raising concerns with the loss of privacy and amenity, due to the proposed:

- Deletion of **Condition C.1(b)(iii)** requiring the provision of obscure glazing to all the west-facing first and second floor level balcony balustrades; and
- Amendment to **Condition C.1(c)(iv)** for planting along the western boundary between the front setback and front alignment and rear setback and rear alignment of No. 2 St Mervyns Avenue to be maintained at a maximum height of 4m rather than 5m.

Apart from No 2 St Mervyns Avenue, which will be further discussed below, the majority of the properties that objected to the proposed modifications will not be impacted by the modifications to balustrades or landscaping given their location and separation from the subject site.

Notwithstanding the above, it is considered that the proposed modifications would achieve consistency with regard to the relevant Objectives O2, O3 in Part B3.5.4 of the Woollahra DCP 2015 for the following reasons:

- Control C4 states that new habitable room windows with a direct sightline to another dwelling's habitable room window or area private open space within 9.0m must be offset by a distance sufficient, have sill heights of at least 1.5m or have fixed obscure glazing above 1.5m or equivalent measures. Complies

The proposed modifications do not involve any new or modified window openings. Furthermore, the existing approved west-facing windows are located at a distance greater than any habitable room windows. Thereby raising no privacy concerns in this regard.

- Control C7 states that private open spaces (at or below the second storey) are to be suitably located and screened to prevent direct views to neighbouring a) habitable rooms and b) private open space, within 9m. Complies (on merit)

The approved western balconies at the first and second floors are located within 9m of neighbouring private open space and windows of No 2 St Mervyns Avenue.

The proposed deletion of **Condition C.1(b)(iii)** and amendment to **Condition C.1(c)(iv)** are supported for the following reasons:

- The approved balustrades are 1m in height. It is considered that requiring the provision of obscure-glazing to these balustrades is unreasonable and unnecessary as they would not provide significantly improved privacy or amenity for or from future occupants standing on the approved balconies to the current or future occupants of No 2 St Mervyns Avenue. This is due to the fact that a person standing at the western edge of the balcony would be able to look down towards No 2 St Mervyns Avenue whether or not the balustrades are obscurely glazed. Furthermore, once a person is standing further to the east of the approved balconies (and ultimately within the living areas/bedrooms of the approved development) the separation distances, difference in levels between sites and requirement for planting along the subject sites western (side) boundary would cumulatively block and restrict any direct sightlines to any windows and to the areas of private open space of No 2 St Mervyns Avenue within 9m and achieve compliance with Control C7.
- The proposed amendment to the landscaping along the western (side) boundary will result in no impact to maintaining the amenity of the subject site and adjoining development. In particular, it is noted that the height of landscaping is to be maintained at a minimum height of 5m to the areas adjacent to the windows of No.2 St Mervyns Avenue, thereby restricting any direct sightlines to these windows and will remain as approved in DA 2018/468/3. The proposed landscaping modification reduction is limited to the lengths, between the front setback and front alignment, and the rear setback and rear alignment of No. 2 St Mervyns Avenue. The proposed maintenance of landscaping along the front and rear alignment, at 4m (approved at 5m), will continue to ensure that sightlines from balconies of the subject site to the front and rear areas of private open space of No.2 St Mervyns Avenue are greater than 9m and achieve therefore compliance with Control C7.

- Refer to **Figure 7** and **Figures 8-17** which detail various vantage points at first and second floors from balconies and internal areas.
- The proposed modifications will ensure that reasonable levels of amenity is balanced, and provided, to both future occupants of the development and to current and future occupants of No 2 St Mervyns Avenue.
- Based on the above, it is concluded that the proposed modifications achieve consistency with Objective O2 which aims adequate visual privacy is met *“whilst balancing the need to provide for reasonable levels of environmental amenity, including ... good architectural outcomes”* and with Objective O3 which aims *“to minimise the impacts of private open space”*

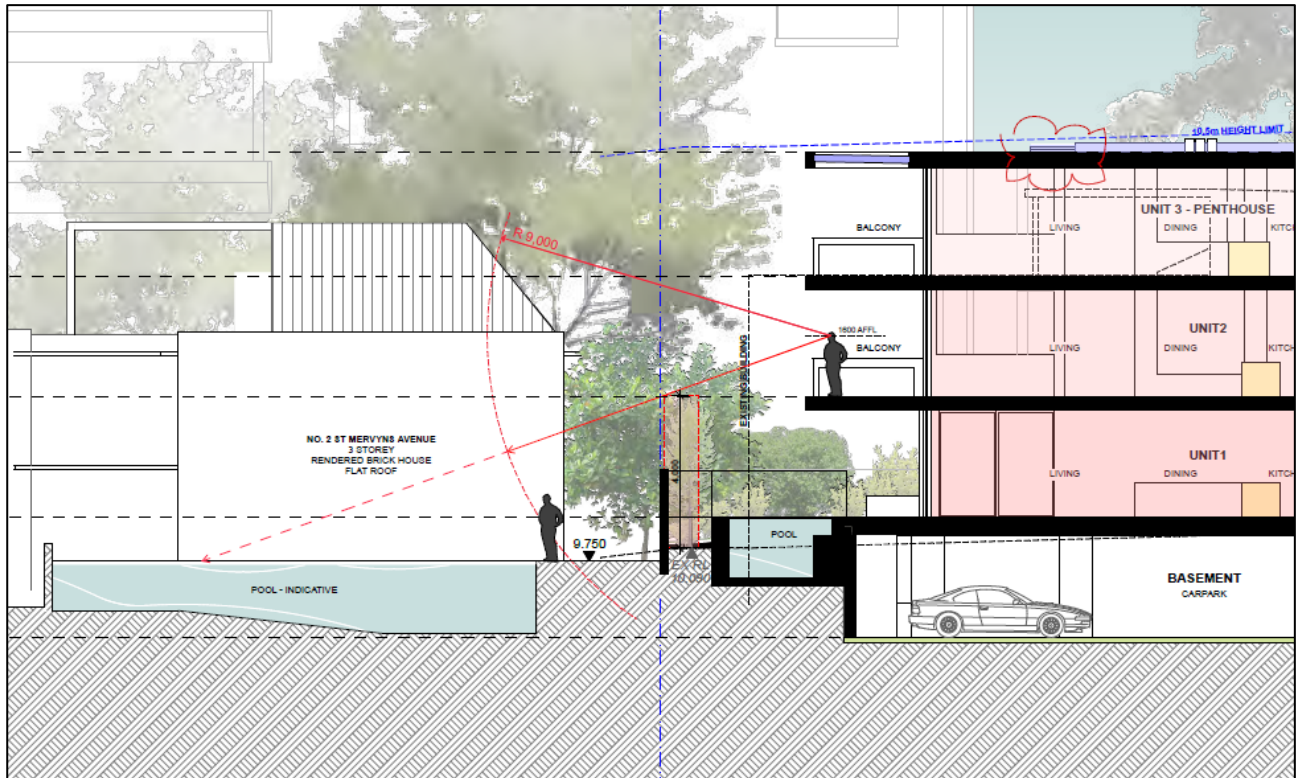


Figure 7 Sightline view analysis diagram (Source: MHNDUNION)



Figure 8 View from Unit 2 (first floor), standing on the west-facing balcony off a living area (Source: WMC)



Figure 9 View from Unit 2 (first floor), standing within living area (Source: WMC)



Figure 10 View from Unit 2 (first floor), standing on the west-facing balcony off a bedroom (Source: WMC)



Figure 11 View from Unit 2 (first floor), standing on the west-facing balcony off a bedroom (Source: WMC)



Figure 12 View from Unit 2 (first floor), standing within a bedroom (Source: WMC)



Figure 13 View from Unit 3 (second floor), standing on the west-facing balcony off a living area (Source: WMC)



Figure 14: Western view from Unit 3, standing at the south-western corner of the west-facing balcony off a living area (Source: WMC)



Figure 15: Western view from Unit 3, standing at the south-western corner of the west-facing balcony off a living area (Source: WMC)



Figure 16 View from Unit 3 (second floor), standing within living area (Source: WMC)



Figure 17 View from Unit 3 (second floor), standing within dining area (Source: WMC)

Part B3.5.5: Internal Amenity

The proposed modifications are considered to be acceptable with regards to the objectives and controls in Part B3.5.5 of the Woollahra DCP 2015 and/or is adequately addressed via the originally recommended DA standard **conditions C.20, C.23, D.1 and E.1**

18.4 Part B3.6: On-Site Parking

The proposed modifications have no impact with regards to on-site parking areas, apart from the conversion of an existing turning bay within the approved basement level into a visitor parking space. There are no changes to the location and extent of the approved vehicular access and basement parking area and therefore is acceptable with regard to the parking controls in Part B3.6 of the Woollahra DCP 2015.

18.5 Part B3.7: External Areas

The proposed modifications result in no impact with regards to the existing external areas in terms of the amount of amount of landscaping and private open space, fences, site facilities and swimming pool, as per the previously approved Development Application (DA 468/2018/1), and as modified by subsequent Section 4.55 Modification Application (DA 468/2018/2 & DA 468/2018/3).

The proposed modifications are acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

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

The proposed modifications are considered to be acceptable and consistent with Part B3.8.6 of the Woollahra DCP 2015.

18.7 Chapter E1: Parking and Access

18.7.1. Part E1.1.3: Objectives

The objectives of this chapter are:

- O1 *To minimise the amount and impact of vehicular traffic generated due to proposed development.*
- O2 *To ensure that development generating vehicular traffic makes adequate provision off street for the car parking and servicing needs of its occupants and users, including residents, employees, visitors and deliveries.*
- O3 *To ensure the safe and efficient movement of vehicles within, entering and leaving properties.*
- O4 *To minimise the environmental effects, particularly visual impact, of parked vehicles on the amenity of the municipality.*
- O5 *To ensure that access points to car parking areas are situated to minimise disruption of vehicle movement on the public road system.*

For the reasons discussed below, the proposed modifications satisfy objectives O1-O5.

18.7.2. Part E1.4: Residential parking

Parking for residential uses is calculated using the generation rates specified in E1.4.2.

Use	Rate	Control (Spaces Required)	Complies (Y/N) (Spaces Provided)
Residential Flat Building - Maximum Parking Rates	3+Bed – 1.5 spaces/unit Visitors – 0.25 spaces/unit	Max 7 (6.7) Spaces Max 6 (6) – residents Max 1 (0.75) – visitor	N – 8 Spaces (7 for residents, 1 for visitors)

*Units: 3 (3 x 3+ Bed units)

Council's Traffic Engineer supports the oversupply of one (1) residential parking space to be allocated to Unit 3, stating:

“The proposed provision of eight (8) parking spaces, including seven (7) for resident parking and one (1) for visitor parking, will result in an oversupply of one (1) space than DCP’s maximum requirement. The over-provision of parking also contradicts with Council’s overarching strategy to reduce use and reliance on private vehicles. It is however acknowledged that this area are provided with a relatively limited public transport and other alternative transport services. It is also acknowledged that the additional one (1) parking space is unlikely to create adverse traffic impact and is therefore considered acceptable.

It is understood that no change is proposed for bicycle and motorcycle parking, which is deemed satisfactory.”

Conditions I.13 and I.14 are recommended to be imposed which would ensure that on-site parking is maintained and that future residents/visitors of the site would not be eligible for on-street parking permits to ensure availability of on-street parking is maximised.

The proposed modifications are considered to achieve consistency with Part E1.4 of the Woollahra DCP 2015.

18.7.3. Part E1.6: Bicycle parking and Part E1.7: Motorcycle parking rates

No changes are proposed to bicycle and motorcycle parking.

18.7.4. Part E1.10: Parking and Access Design Standards

The proposed modifications are generally considered to be acceptable with regards to car parking layout aisle widths, access driveway, gradients and splays.

Council’s Traffic Engineers support the proposed modifications with regards to Parking and Access Design Standards and supports the deletion of a vehicle turning area and its conversion into a visitor space, stating:

“It is noted that no change is proposed to the width and gradient of previously approved access driveway.

Swept path analysis demonstrates restricted yet achievable manoeuvres accessing and egressing the parking space near the driveway. It is also noted that the visitor parking space can be used as a turning area, should it be unoccupied.

In the absent of a two-way driveway, a traffic signal system is proposed to control traffic flow. Signage and pavement marking should be provided to assist with the operation of traffic light system to give priority to traffic entering the car park.

Traffic Generation

Traffic generation rate provided by RMS Guideline is associated with number of dwellings. Whilst the proposal increases parking provision by one (1) space, traffic generated by the additional space is considered to be negligible and would not impose unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.”

Modified **Condition C.14** is recommended which requires provision of pavement marking to demonstrate the approved allocation of parking spaces and facilitate the operation of traffic light system.

The proposed modifications are considered to achieve consistency with Part E1.10 of the Woollahra DCP 2015.

18.7.5. Conclusion

The proposed modifications are considered to achieve consistency with regards to the objectives and controls in *Chapter E1: Parking and Access* of the Woollahra DCP 2015.

19. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant to the scope of the proposed modifications.

20. CONTRIBUTIONS AND FEES

Section 7.12 contributions were applied as part of the original development application.

21. APPLICABLE ACTS/REGULATIONS

21.1 Environmental Planning and Assessment Regulation 2000

21.1.1 Clause 115: Application for modification of development consent

Clause 115 of the regulation states:

- (1) ***An application for modification of a development consent under section 4.55 (1), (1A) or (2) or 4.56 (1) of the Act must contain the following information:***

...

- (d) ***a description of the proposed modification to the development consent,***
(f) ***a description of the expected impacts of the modification,***

The applicant has provided a statement of environmental effects containing the above-mentioned information.

22. 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.

23. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

24. THE PUBLIC INTEREST

The proposed modifications are considered to be in the public interest.

25. CONCLUSION

The proposed modifications are acceptable with regards to the relevant considerations under Section 4.15 and 4.55 of the EP&A Act 1979.

26. 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.

27. 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, modify development consent to Development Application No. 468/2018/1 for internal and external modifications to the approved residential flat building including a visitor parking space on land at 1 St Mervyns Avenue Point Piper, subject to the following:

Condition No. C.1(b)(iii) is deleted

AND

The following Conditions are added:

A.3b Approved Amended (section 4.55) Plans and Supporting Documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
DA-02 G	Basement Floor Plan	MHN Design Union	28/07/2021
18.497r04v02	Traffic Report	TRAFFIX	17/08/2021

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A6 (Autotext AA6)

I.13 Provision of Off-street Parking

The owner and occupier, in compliance with AS2890.3:2015 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces	Note
Resident Parking	7	Unit 1: 2 spaces Unit 2: 2 spaces Unit 3: 3 spaces
Visitor Parking	1	
Bicycle parking	3	
Motorbike parking	1	

This condition has been imposed to ensure adequate on-site parking is maintained.
Standard Condition: I21

I.14 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

AND

Condition Nos C.1 and C.14 are amended and replaced with the following:

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

a) Non-solid Fuel Fireplaces

All fireplaces are to be operated with non-solid fuel only (i.e. gas or electricity).

b) Balconies on the first and second floors

- (i) Deleted
- (ii) Deleted
- (iii) (DELETE)**
- (iv) Deleted.
- (v) Deleted.

c) An amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to Council's Tree Officer for assessment and approval. The amended landscape plan must include the following:

- i. Show deletion of the tree species *Corymbia citriodora* (Lemon-scented Gum) from the Planting Schedule shown on Elke Landscape Plan L 102. This species of tree is too large at maturity for this location with a potential height of 25 metres, not 14 metres as indicated in the schedule.
- ii. Show the planting of a minimum of one individual specimen native tree in the deep soil area at the front south west corner of the site. This tree is to be a species that will attain a minimum height of 8 metres at maturity.
- ii. No plant species which has maturity height greater than 3.0m above existing ground level shall be planted within the front setback area so as to ensure no view loss to the building at 574 New South Head, Point Piper. All existing and proposed plant species shall be pruned at all times to a height no greater than 3.0m above existing ground level.
- iv. **All proposed landscaping along the western boundary directly adjacent to the dwelling at 2 St Mervyn's Avenue, Point Piper shall be planted with a species which attains a maximum height of 7m at maturity and be maintained to a minimum height of 5m. At the time of planting, the species shall be at a minimum height of 3m. All proposed landscaping along the western boundary between the front setback and front alignment and rear setback and rear alignment of No. 2 St Mervyns Avenue shall be maintained at a maximum height of 4.0m.**

d) Works not permitted

The following works are not permitted:

- i. All proposed works on the proposed roof shown on the attached drawings marked "Revision G" shall be limited to the heights shown on the attached drawings.

- ii. There shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works projecting above the nominated levels on the attached drawings marked "Revision G".
- iii. No projections, structures, eaves, overhangs, plant, equipment, furniture or any other works other than that shown on the attached drawings marked "Revision G", shall project southward of the proposed Building line shown on the attached drawings marked "Revision G".
- iv. There shall be no projections, structures, eaves, overhangs, plant, equipment, furniture or any other works extending beyond the outer walls or roof of the Building, other than indicated on the attached drawings marked "Revision G".

e) Solar Panels

The proposed solar panels shown on the attached drawings marked "Revision G" must be placed or put upon or affixed to the roof of the Building so that they are orientated in such a way that any reflection is not directly towards the properties at 574 New South Head Road, Point Piper (known as 'Buckhurst') and 3 Buckhurst Avenue, Point Piper.

f) Colour and Reflectivity

All proposed walls and any other building elements shall also be of a dull, non-reflective colour.

The proposed roof of the Building and any work on the roof, including but not limited to, solar panels or skylight, must reflect away from the buildings at 574 New South Head Road, Point Piper (known as 'Buckhurst') and 3 Buckhurst Avenue, Point Piper.

All works on the proposed roof of the Building or rising above the roof of the Building, including, but not limited to, any part of a lift or elevator installation must be of a dull, non-reflective colour.

g) Eastern facade

Any vents, apertures, or openings within the building on the eastern facade adjoining 574 New South Head Road, shall be integrated with window openings or screened off.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C4 (Autotext CC4)

C.14 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:

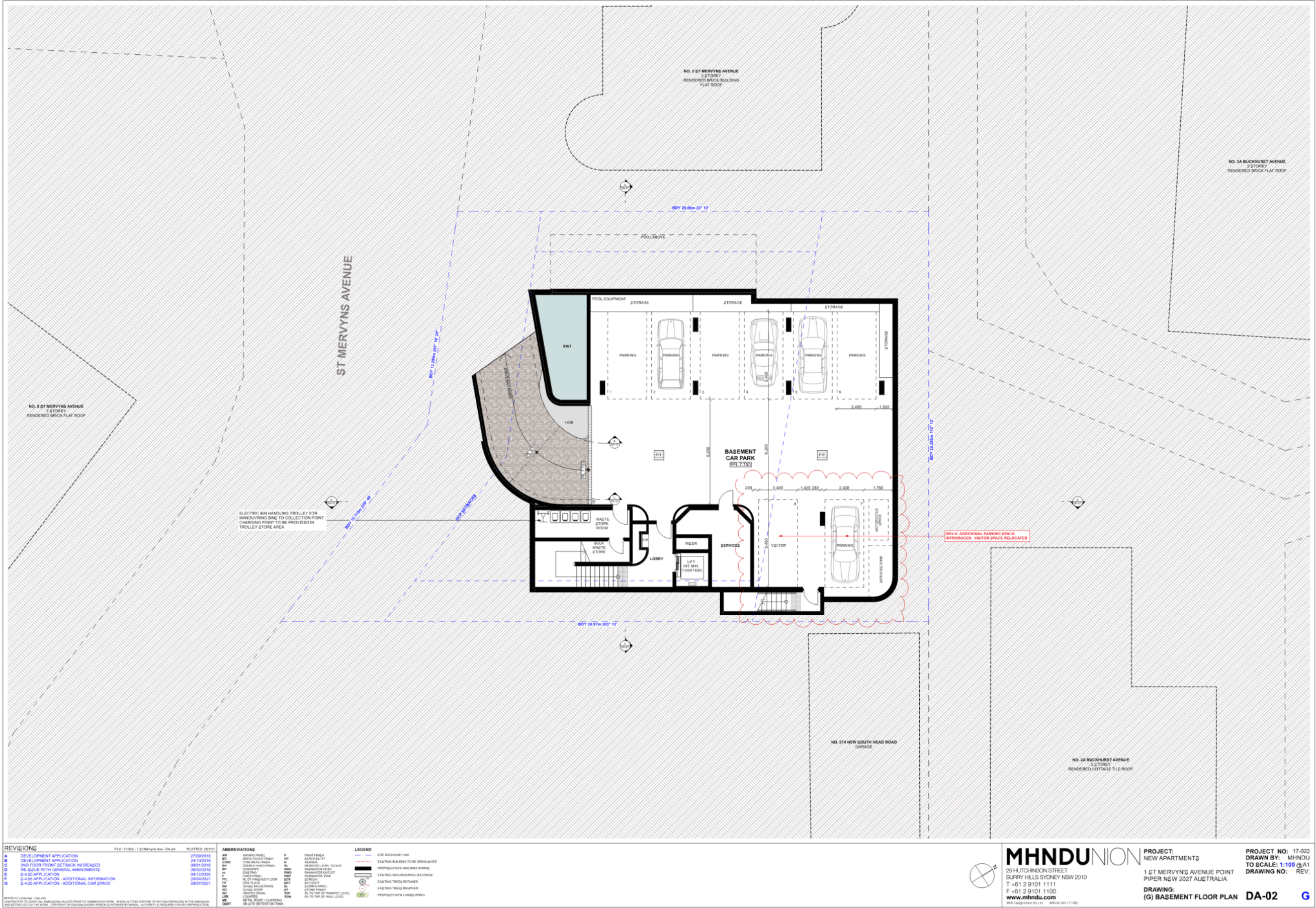
- a) A traffic light system shall be installed at both ends of the ramp to regulate traffic and ensure safe manoeuvring, in particular considering the steepness and the length of the ramp and the lack of sight lines at either end of the ramp. The traffic light system should give traffic entering basement level priority to minimise the disruption to vehicle and pedestrian flow along the street frontage.
- b) Any proposed intercom/ security access point for driveway entry to the car park shall be located a minimum of 6 metres within the boundary of the property, such that entering vehicles can be contained wholly within the boundary of the property.
- c) 2m x 2.5m driveway splays, clear of obstructions to visibility, shall be provided in accordance with Clause 3.2.4 of AS2890.1. These splay areas shall be clearly depicted on the drawings.
- d) Dimensions of each parking spaces shall be clearly depicted on the architectural drawings. All parking spaces must comply with AS2890.1.
- e) **Pavement marking be provided to demonstrate the allocation of car parking spaces, as indicated in General Arrangement Plan – Basement Floor, Rev M, Drawing A2001, prepared by MHN Design Union and dated 17 August 2021;**
- f) **Pavement marking be provided at basement level for stop line and 'Wait Here' marking to assist with the operation of traffic light system to ensure priority is given to traffic entering the car park;**
- g) **All vehicles must access and exit the site in a forward direction.**

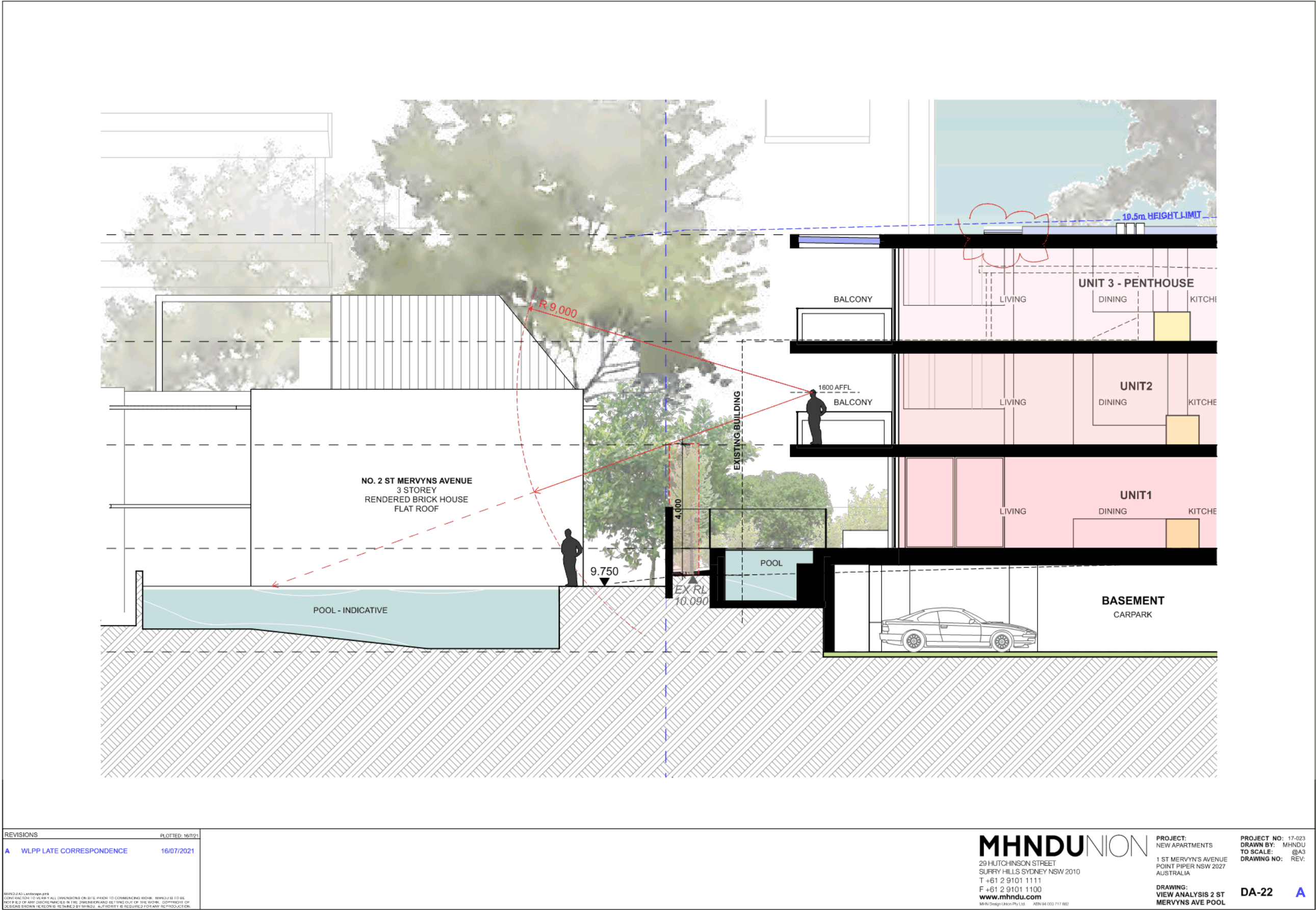
Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

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.

Attachments

- 1. Architectural Plans
- 2. Stamped Approved Plans (DA2018 468 3)
- 3. Referral Response - TS Traffic Engineer







PROJECT:
NEW APARTMENTS

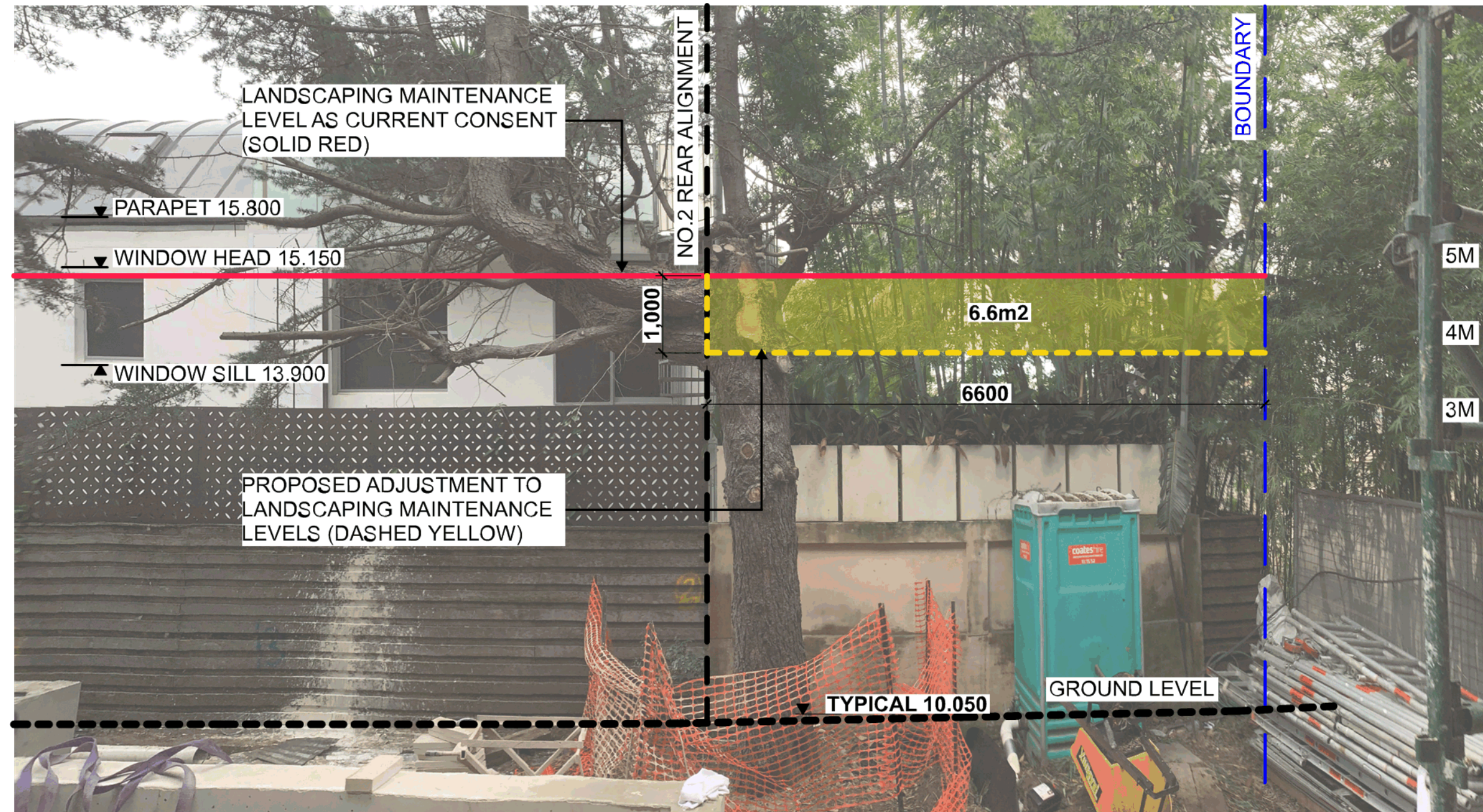
PROJECT NO: 17-023
DRAWN BY: MHNDU
TO SCALE: @A3
DRAWING NO: REV:

1 ST MERVYN'S AVENUE
POINT PIPER NSW 2027
AUSTRALIA

DRAWING:
2 ST MERVYNS AVE
PLANTING - FRONT

DA-23

A



REVIEWS	PLOTTED: 27/7/21
A S-4.55 APPLICATION	27/07/2021

MHNDUNION
29 HUTCHINSON STREET
SURRY HILLS SYDNEY NSW 2010
T +61 2 9101 1111
F +61 2 9101 1100
www.mhndu.com
MHn Design Union Pty Ltd AEN 94 003 717 662

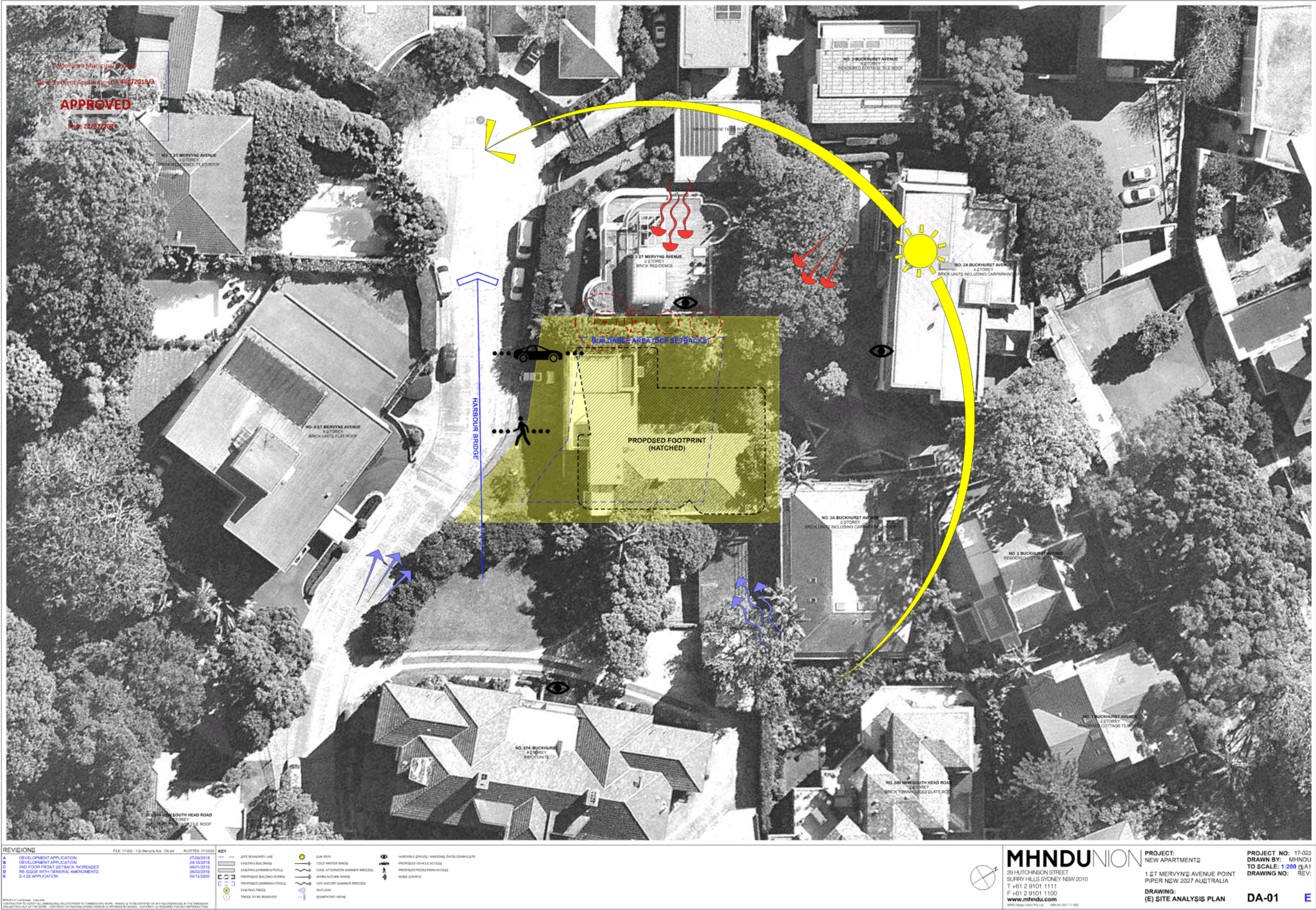
PROJECT:
NEW APARTMENTS

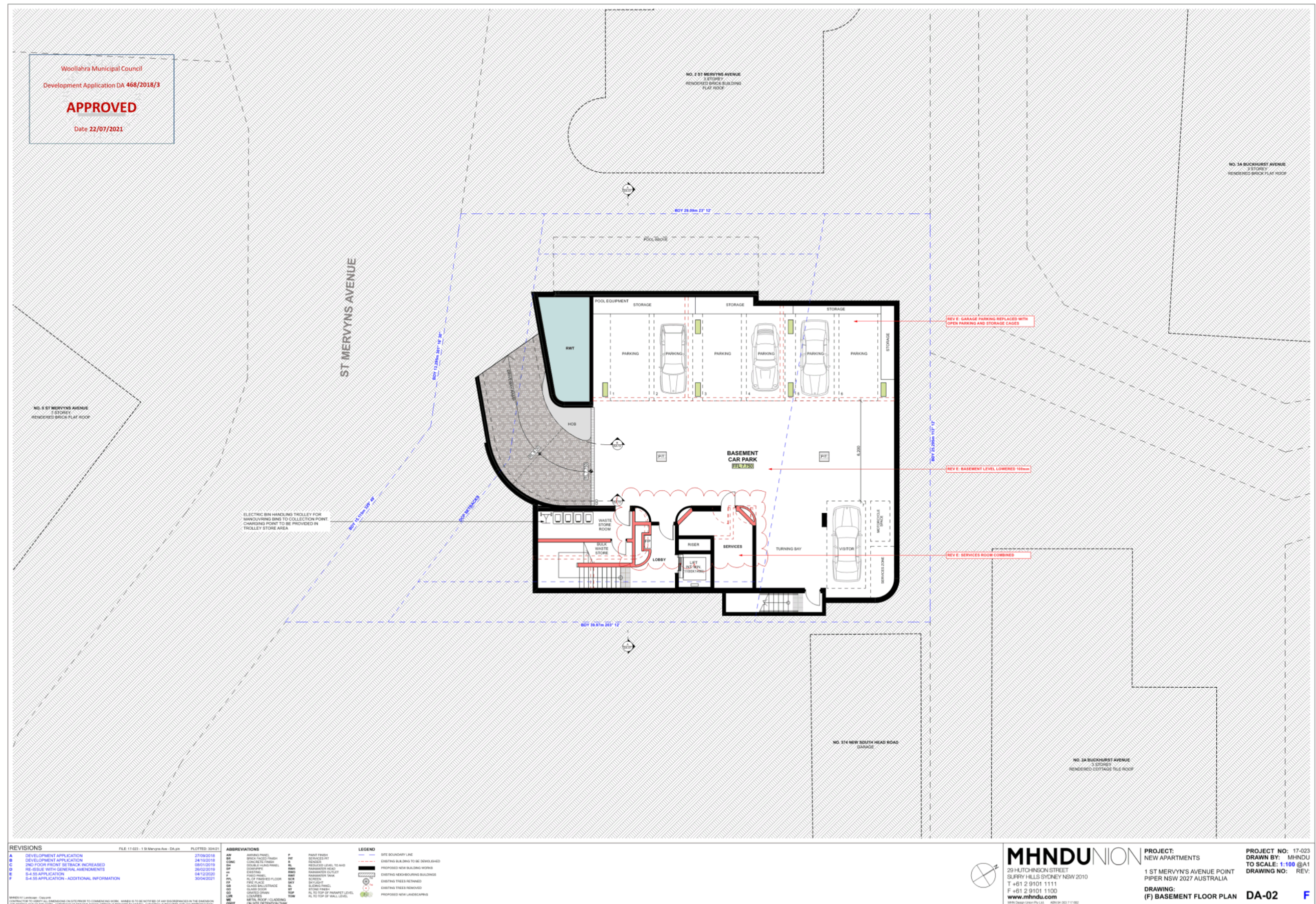
1 ST MERVYN'S AVENUE
POINT PIPER NSW 2027
AUSTRALIA

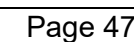
DRAWING:
2 ST MERVYNS AVE
PLANTING - REAR

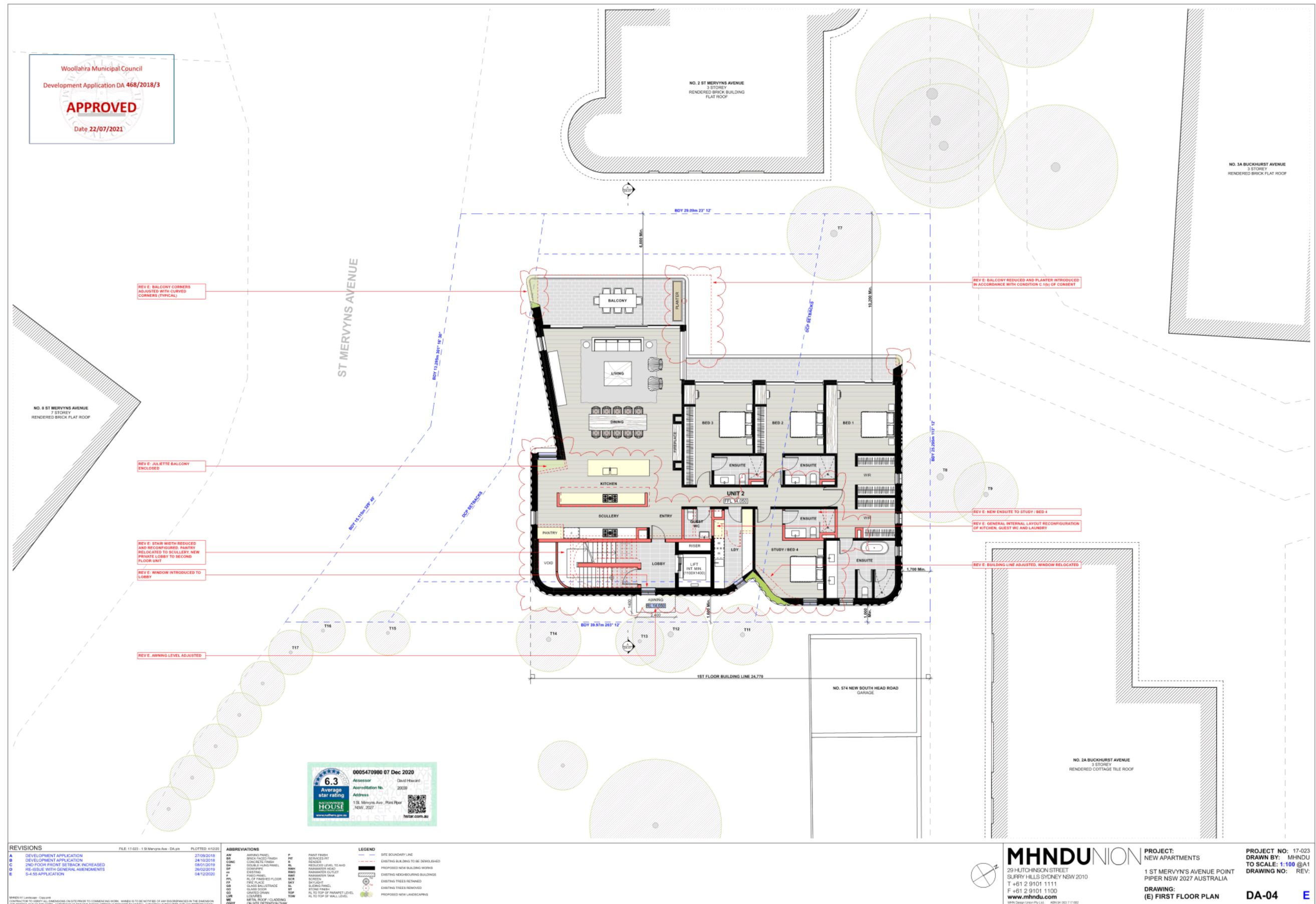
PROJECT NO: 17-023
DRAWN BY: MHNDU
TO SCALE: @A3
DRAWING NO: REV:

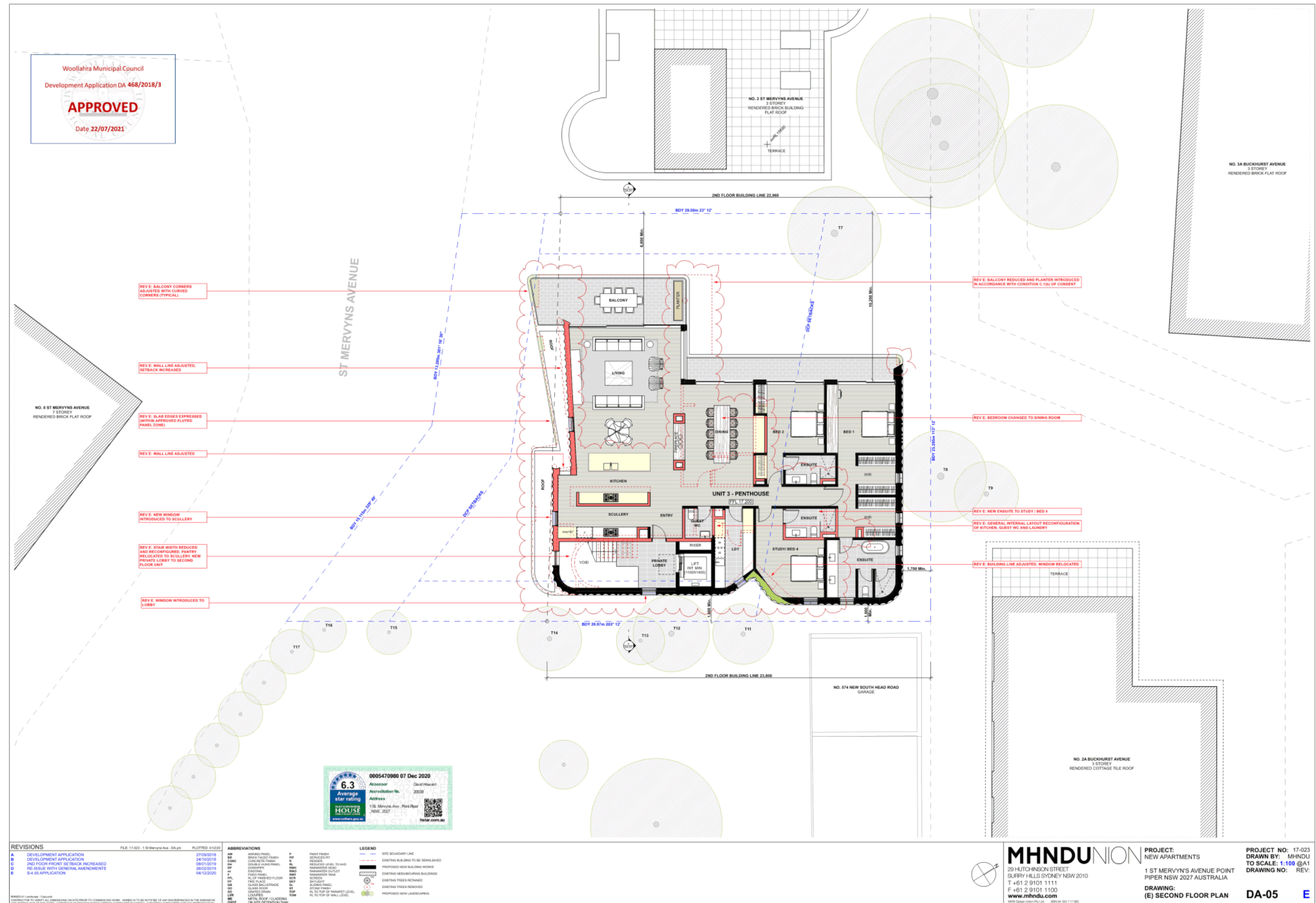
DA-24 **A**

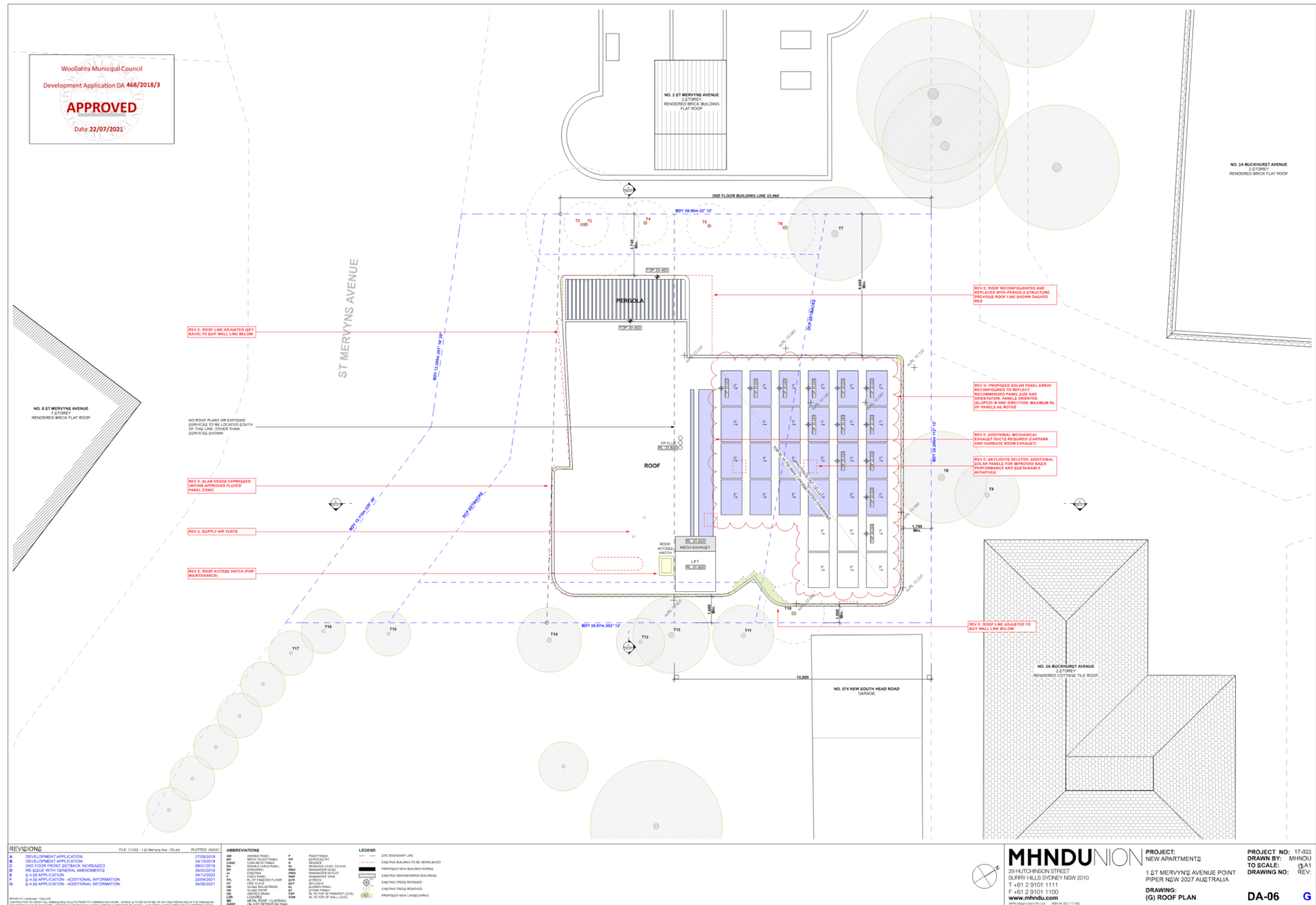


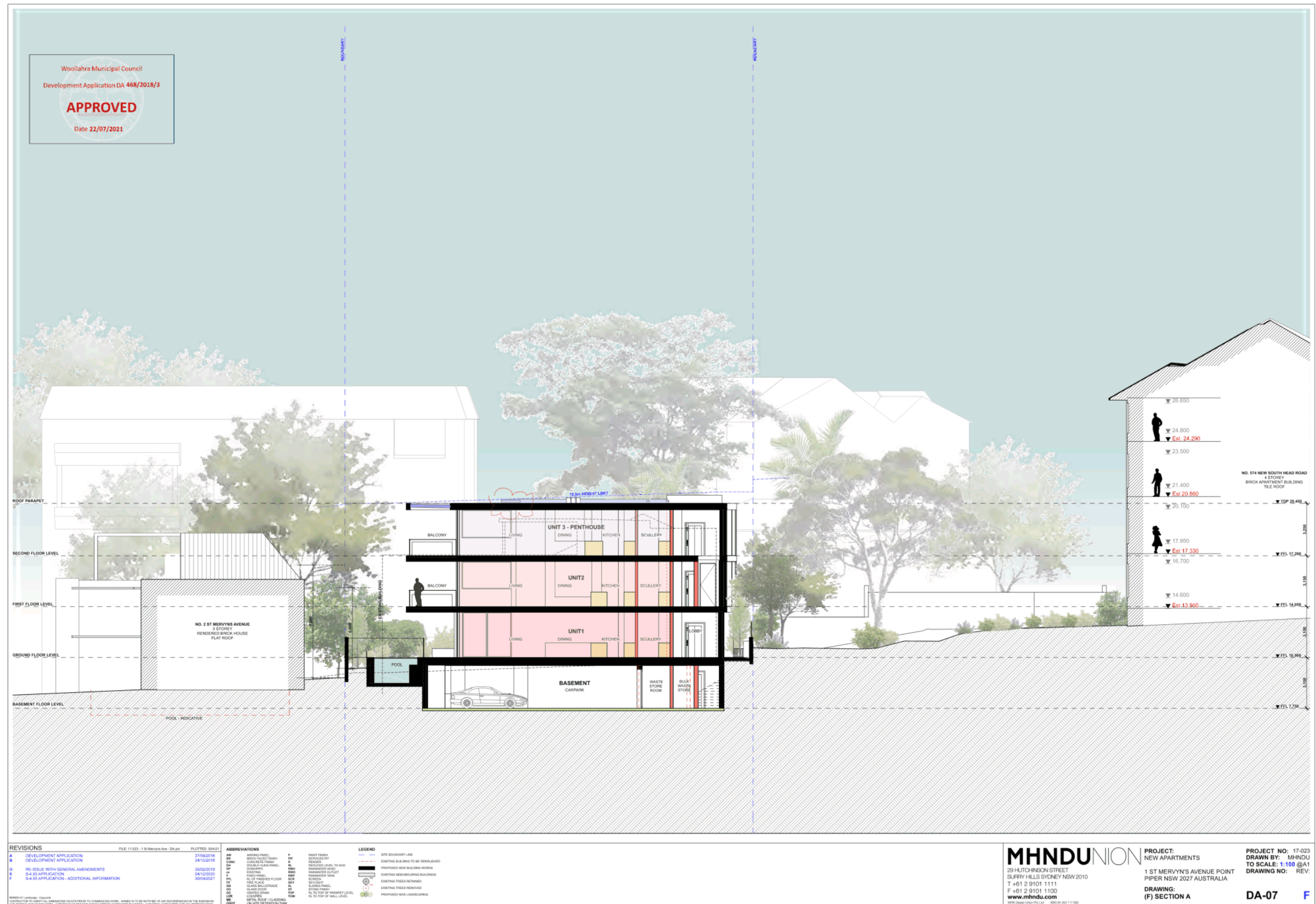


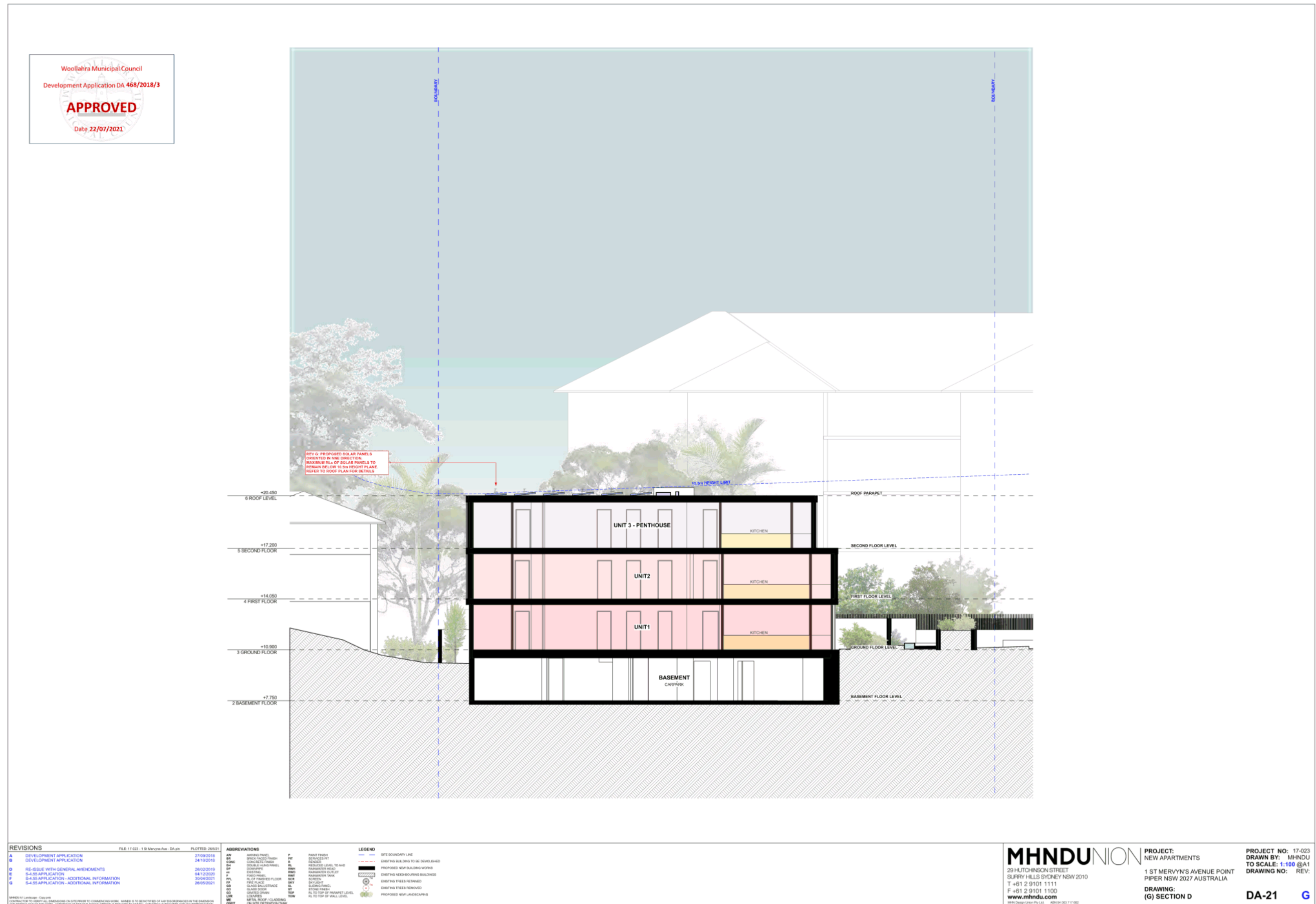




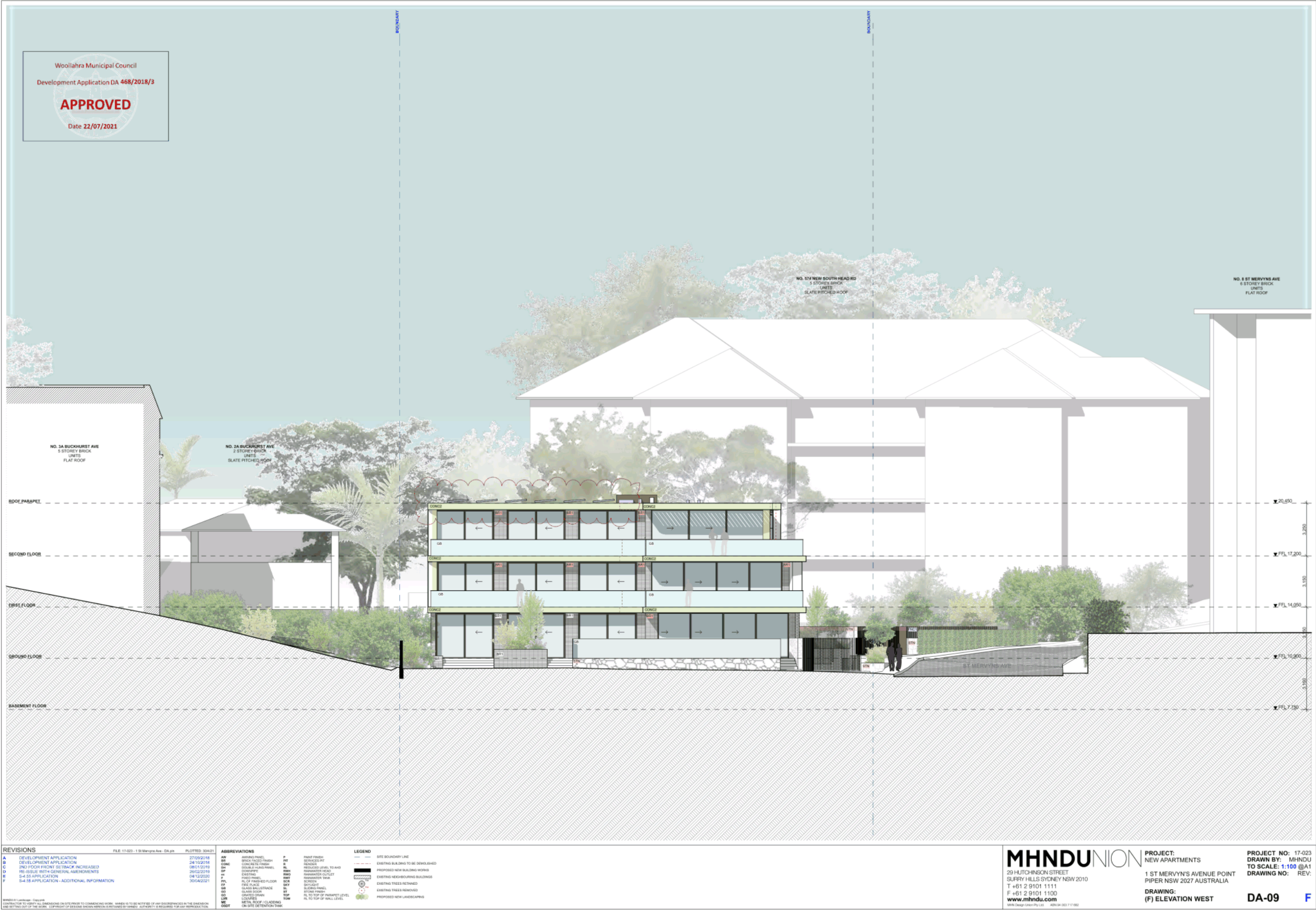






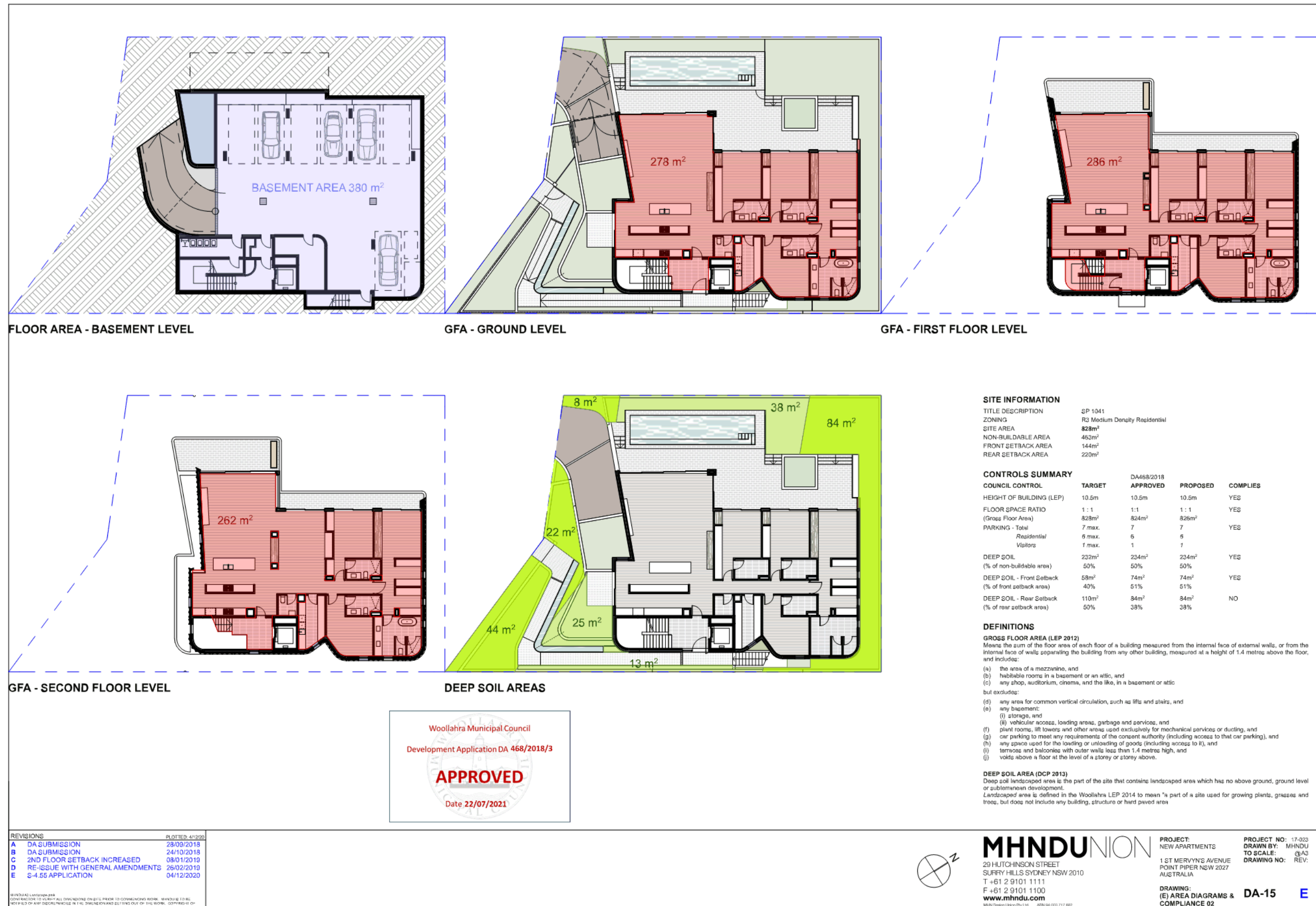








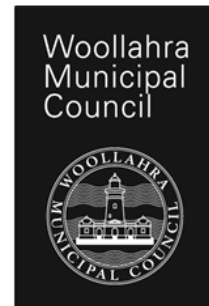






Memorandum – Traffic

Date 2 March, 2022
File No. Development Applications: 468/2018/4
To Mr W Perdigao
CC
From Ms E Fang
Address 1 ST MERVYNS AVENUE 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

Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 8 September 2021 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environment Effects, Referenced Job No. 17143 – S.45, prepared by GSA Planning, dated 17 August 2021;
2. Traffic Report, referenced 18.497r04v02, prepared by TRAFFIX, dated 17 August 2021;
3. Architectural Drawings, Rev G, Referenced Project No. 17-023, prepared by MHN Design Union, dated 28 July 2021.

Proposal

Internal and external modifications to the approved residential flat building including a visitor parking space

COMMENTS

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*:

3. Referral Response - TS Traffic Engineer

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
3 or more bedrooms	3	2	6
Visitors	3	0.25	0.75 (1)
Total permitted			7

The proposed provision of eight (8) parking spaces, including seven (7) for resident parking and one (1) for visitor parking, will result in an oversupply of one (1) space than DCP's maximum requirement. The over-provision of parking also contradicts with Council's overarching strategy to reduce use and reliance on private vehicles. It is however acknowledged that this area are provided with a relatively limited public transport and other alternative transport services. It is also acknowledged that the additional one (1) parking space is unlikely to create adverse traffic impact and is therefore considered acceptable.

It is understood that no change is proposed for bicycle and motorcycle parking, which is deemed satisfactory.

Traffic Generation

Traffic generation rate provided by RMS Guideline is associated with number of dwellings. Whilst the proposal increases parking provision by one (1) space, traffic generated by the additional space is considered to be negligible and would not impose unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.

Access Driveway & Traffic Signal

It is noted that no change is proposed to the width and gradient of previously approved access driveway.

Swept path analysis demonstrates restricted yet achievable manoeuvres accessing and egressing the parking space near the driveway. It is also noted that the visitor parking space can be used as a turning area, should it be unoccupied.

In the absent of a two-way driveway, a traffic signal system is proposed to control traffic flow. Signage and pavement marking should be provided to assist with the operation of traffic light system to give priority to traffic entering the car park.

RECOMMENDATION

Should this development be approved, it is recommended that the following modifications to the original conditions be included:

A. General Conditions

A.3 Approved Plans and supporting documents

3. Referral Response - TS Traffic Engineer

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)
18.497r04v02	Traffic Report	TRAFFIX	17 August 2021
Project No. 17-023, Drawing A2001	General Arrangement Plan – Basement Floor, Rev M	MHN Design Union	17 August 2021

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 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.14 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 **AS2890.3:2015** *Parking Facilities - Bicycle Parking Facilities* and AS/NZS 2890.1:2004: *Parking Facilities - Off-Street Car Parking* respectively.

The plans must satisfy the following requirement(s):

- a)
- b)
- c)
- d)
- e) Pavement marking be provided to demonstrate the allocation of car parking spaces, as indicated in General Arrangement Plan – Basement Floor, Rev M, Drawing A2001, prepared by MHN Design Union and dated 17 August 2021;
- f) Pavement marking be provided at basement level for stop line and 'Wait Here' marking to assist with the operation of traffic light system to ensure priority is given to traffic entering the car park;
- g) All vehicles must access and exit the site in a forward direction.

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.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act* 1993.

Standard Condition: C45 (Autotext: CC45)

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

I.13 Provision of Off-Street Parking

3. Referral Response - TS Traffic Engineer

The owner and occupier, in compliance with **AS2890.3:2015** Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces	Note
Resident parking	7	Unit 1: 2 spaces Unit 2: 2 spaces Unit 3: 3 spaces
Visitor parking	1	
Bicycle parking	3	
Motorbike parking	1	

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

3. Referral Response - TS Traffic Engineer

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA26/2021/1
ADDRESS	16 Gilliver Avenue VAUCLUSE
COUNCIL WARD	Vaucluse
SITE AREA	582.27m ²
ZONING	R2 Low Density Residential
PROPOSAL	Demolition of existing dwelling & construction of a new 3 storey dwelling including parking, swimming pool & landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,969,241.00
DATE LODGED	28/01/2021 - Original Submission 19/11/2021 - Replacement Application
APPLICANT	MHN Design Union Pty td
OWNER	J H Huynh & R Y Huynh
AUTHOR	Ms F Stano
TEAM LEADER	Mr G Fotis
SUBMISSIONS	10 (Ten)
RECOMMENDATION	Conditional Approval

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

The application is to be determined by the Woollahra Local Planning Panel as it falls under the categories of:

- Contentious development
Development that:
 - (a) is the subject of 10 or more unique submissions by way of objection; and
- Departure from development standards
 - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

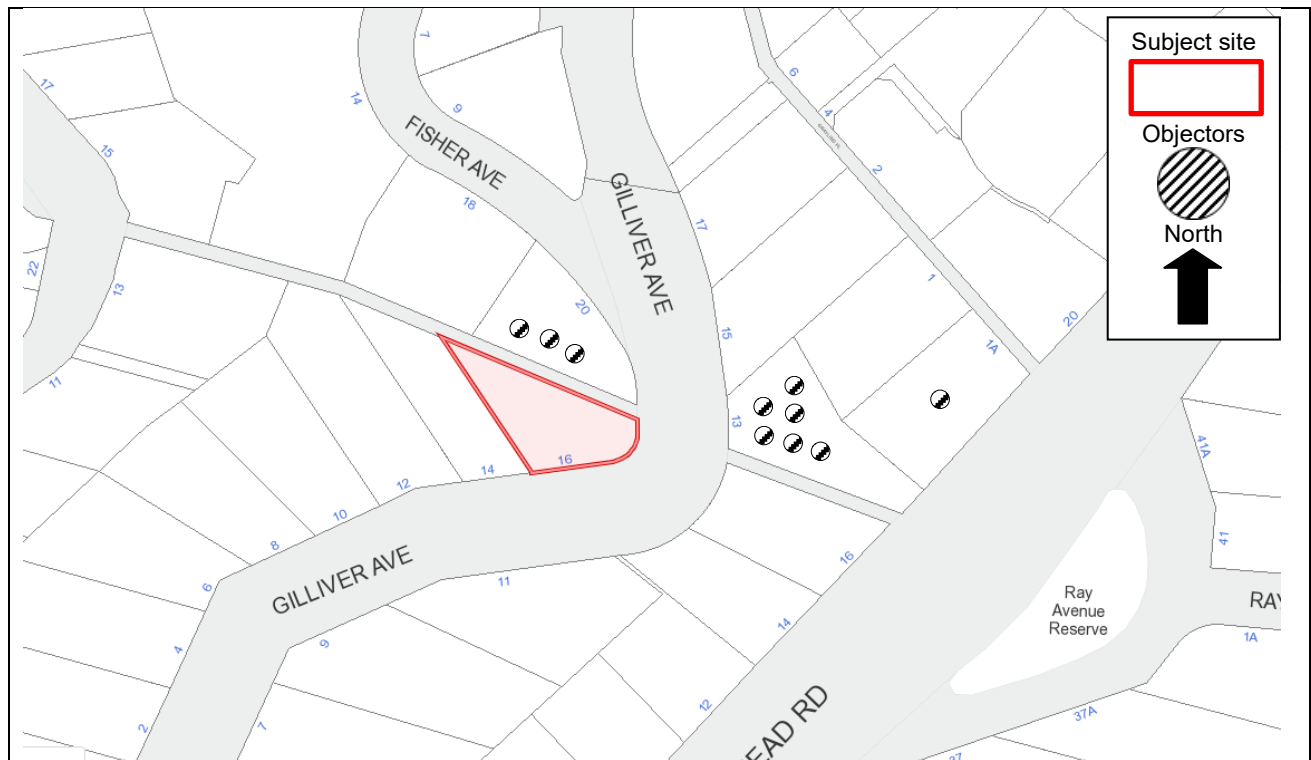
2. REASONS FOR RECOMMENDATION

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

- It is considered to be satisfactory, subject to recommended conditions, with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality

- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory. Specifically, the Clause 4.6 submission in relation to the non-compliance with the height standard is supported and the view impacts are satisfactory with regards to the case law established in *Tenacity Consulting v Warringah (2004) NSWLEC 140*, subject to **Condition C.1**.
- The site is suitable for the proposed development
- The proposal is in the public interest

3. LOCALITY PLAN



4. PROPOSAL

Refer to Section 7 of the report for application history, including relevant information on the replacement application.

The proposal, as amended, involves the demolition of the existing dwelling, detached garage and swimming pool and the construction of a new part 2 part 3 storey dwelling house; with associated car parking; new swimming pool and pool deck and landscaping works.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	4.8m or 50.5% departure from the 9.5m control	Satisfactory

5.2 Primary Issues

Issue	Conclusion	Section
Height of Building Development Standard (Woollahra LEP 2014 Part 4.3)	Satisfactory, subject to Condition C.1	12.3 12.4
Front Setback (Woollahra DCP 2015 Part B3.2.2)	Satisfactory, subject to Condition C.1	13.2
Side Setback	Satisfactory, on merit	13.2

Issue	Conclusion	Section
(Woollahra DCP 2015 Part B3.2.3)		
Wall Height and Inclined Plane (Woollahra DCP 2015 Part B3.2.5)	Satisfactory, on merit	13.2
Floorplate (Woollahra DCP 2015 Part B3.3)	Satisfactory, on merit	13.2
Swimming Pool Level Above Ground and Distance from Boundary (Woollahra DCP 2015 Part B3.7.4)	Satisfactory, on merit	13.2
Objectors' concerns, including view impact	Satisfactory, subject to Condition C.1	5.3

5.3 Summary of Submissions

Issue	Conclusion	Section
Streetscape and local character; Height, bulk and scale: <ul style="list-style-type: none"> Non-compliance with objectives O1 and O2, O6 of Part B1.10 (<i>desired future character</i>) and <i>chapeau</i> to Part B1.10.2 of the Woollahra DCP 2015; Non-compliance with the wall height, front setback, side setback, including objective O5 of Part B3.2.3 of the Woollahra DCP 2015; The proposed footprint will reduce the provision of private open space; The proposal is contrary to the 3rd and 4th objectives of the R2 zone Land Use; Non-compliance with height of building development standard, including non-compliance with Clause 4.3 objective d) of the WLEP; Building height non-compliance should not be on the basis of the existing non-compliance as the proposal is for a new dwelling; 	<p>The proposal is not considered to detract from the desired future character or key streetscape elements of the Vaucluse West precinct, and is acceptable with regards to the local character.</p> <p>The applicant has submitted a variation under Clause 4.6 to vary the height of buildings development standard. This variation is supported and the exceedance of the standard does not warrant the refusal of the application.</p> <p>The proposed building envelope was assessed against Part B3.2 of the Woollahra DCP and was considered to be satisfactory based on merit, as further detailed in the report.</p> <p>These objections do not warrant reason for refusal or for further modifications of the Development Application.</p>	12.4 13.2
Adverse impact on views: <ul style="list-style-type: none"> An objection received, in relation to the property at No.13 Gilliver Avenue, notes as follow: <i>the proposed rear portion of the building will have a substantial detrimental impact on our clients' view of Sydney Harbour and its interface with the iconic features of the Sydney CBD</i>; The height of the proposed garage is excessive and contributes to the overall height of the building and potential view impact from the adjoining properties; Potential impact on views from the approved dwelling at No.13 Gilliver Avenue, which has a Construction Certificate in force; Solar panels to the roof will increase the view impact; An objection received, in relation to the property at No.13 Gilliver Avenue, notes as follow: <i>the development will cause a loss of water views as well as the loss of Shark Island</i>. 	<p>The proposal was found to be acceptable with regard to the four step view sharing assessment planning principal established by <i>Tenacity Consulting v Warringah</i> (2004) NSWLEC 140.</p> <p>Furthermore, subject to recommended Condition C.1 the proposed landscaped roof garden and rear First Floor balcony awning are deleted which will minimise the view impact.</p> <p>Subject to recommended Condition C.1, the proposed solar panels to the roof must be parallel with the roof form.</p> <p>On balance the proposal would not compromise achievement of equitable view sharing between the surrounding properties and in the circumstances the loss of views when considered in its totality is reasonable.</p> <p>Property value is a market related consideration. This is not a relevant matter for consideration under the provisions of the <i>Environmental Planning and Assessment Act 1979</i>.</p>	13.2

Issue	Conclusion	Section
<ul style="list-style-type: none"> The proposed development is seeking to increasing monetary value of the site by impacting on neighbouring views; 	As such, these objections do not warrant reason for refusal or for further modifications of the Development Application.	
<p>Other amenity impacts:</p> <ul style="list-style-type: none"> Visual privacy and overlooking impacts of the proposed development to the use of outdoor private space and in-ground pool of the property at No.20 Fisher Avenue; Due to the extensive areas of the Lower Ground and First Floor balconies screening is required to address overlooking impact to No.20 Fisher Avenue; Materiality and reflectivity of the roof terrace, including the solar panels, potentially impacting the neighbouring amenities; 	<p>The proposed design is considered to adequately address visual privacy to neighbouring principal private open spaces and habitable areas as further assessed in the report.</p> <p>Subject to recommended Condition C.1, the proposed solar panels to the roof must be parallel with the roof form and the proposed roof materiality must be non-reflective and unobtrusive, as required by control C8 of Part B3.5.1 of the Woollahra DCP 2015.</p> <p>These objections do not warrant reason for refusal or for further modifications of the Development Application.</p>	13.2
<p>Proposed swimming pool:</p> <ul style="list-style-type: none"> Located within the side setback; The proposed retaining wall to the swimming pool may potentially have rubbles falling into the creek, similarly to the existing pool structure retaining wall; Acoustic privacy impacts due to people using the pool; Inappropriate glass fence; Inappropriate screening, 1.8m fences are proposed; 	<p>The proposed swimming pool is considered acceptable based on the merits of the application, as further detailed under the assessment of Part B3.7.4 of the Woollahra DCP 2015.</p> <p>The impacts of the proposed swimming pool, including amenity impacts, are considered satisfactory, subject to recommended conditions, as detailed in the relevant section of the report. Furthermore, the proposal was reviewed by Council's Development Engineer who has determined it to be acceptable on technical grounds, subject to recommended conditions.</p> <p>These objections do not warrant reason for refusal or for further modifications of the Development Application.</p>	13.2 Annexure 3
<p>Proposed roof garden and landscaping:</p> <ul style="list-style-type: none"> Potential lack of maintenance would create additional view loss; <p>Safety barriers might be required,</p> <ul style="list-style-type: none"> which would create additional view impacts; Removal of Pine tree to front of the site will have detrimental impacts to the Bellevue Hill Green Corridor; The proposed trees to the North-East corner will achieve a mature height that has potential adversely impact on adjoining properties' views; The removal of Trees 9 (Banana Plant) and 10 (Hoop Pine) will have an adverse amenity impact and loss of screening between the subject site and the neighbouring property; 	<p>Condition C.1 is recommended for the removal of the proposed landscaping to the roof.</p> <p>Following submission of the Replacement Application noted in the relevant Section of the report, the Pine tree is proposed to be retained.</p> <p>In relation to the North-East corner of the subject site, subject to Condition C.1, modifications to the landscape plan are recommended for the deletion of the proposed <i>Podocarpus elatus</i> trees and their replacement with an alternative tree species which attains a height of 4m at maturity. This condition is imposed to ensure an adequate level of view sharing and tree canopy is attained.</p>	13.2 Annexure 4

Issue	Conclusion	Section
<ul style="list-style-type: none"> Furthermore to the point above, issues were raised with regards to the clearance shown around Tree 10 in the replacement application (refer to Section 7 of the report); Removal of Tree 14 (Tree Fern) is objected; 	<p>The proposal was reviewed by Council's Tree and Landscape Officer who has determined it to be acceptable, subject to recommended conditions.</p> <p>The proposed design is considered to adequately address visual privacy to neighbouring principal private open spaces and habitable areas as further assessed in the relevant Section of the report. These objections do not warrant reason for refusal or for further modifications of the Development Application.</p>	
<p>Survey and other structural and geotechnical issues</p> <ul style="list-style-type: none"> A professional survey must be undertaken to ascertain the exact location of the boundaries; Potential impact of the proposed in-ground tanks below the Lower Ground level; Issues with regards to lack of information on the proposed structure First Floor balcony and awning above; 	<p>A survey by a registered was submitted with the DA.</p> <p>The proposal was reviewed by Council's Development Engineer who as considered the proposal to be satisfactory, subject to recommended conditions, which address impact of the proposal for as much as practicable.</p> <p>Details of proposed structures are normally addressed by standard conditions, which requires Structural details prepared by a qualified professional to be prepared prior to the submission of the Construction Certificate. However, it is noted that Condition C.1 is recommended for the deletion of the proposed awning above the First Floor rear balcony.</p> <p>These objections do not therefore warrant further modifications or refusal of the Development Application.</p>	Annexure 3
<p>Insufficient and/or inaccurate information provided with the Development Application:</p> <ul style="list-style-type: none"> Longitudinal section; View loss impact of the proposed development; Overall height miscalculated in the Clause 4.6; The proposed 3D views do not accurately depict the existing canopy cover between the property at No.20 Fisher Avenue and the subject site; One submission received reads as follow: The false and misleading nature of the amounts claimed to be the cost of works; The proposal should not be identified as alterations and additions but as new development; 	<p>The submitted plans and/or documentation is considered to be acceptable for the purposes of undertaking an assessment under the <i>Environmental Planning and Assessment Act 1979</i></p> <p>An independent view assessment has been undertaken by Council's Assessment Officer. The submitted SEE would not be approved in any determination granted, and any deficiencies in the document do not preclude the determination of the proposal.</p> <p>Furthermore, it is noted that the proposal is described as new dwelling and not as alterations and additions.</p> <p>These objections do not therefore form reason for further modifications or refusal of the Development Application.</p>	-

- **PROPERTY DETAILS AND REFERRALS**

6. SITE AND LOCALITY

Physical features
The subject site is located at the bend between Gilliver Avenue and Fisher Avenue and encompasses an area of 582.27m ² . The site is triangular in shape and has a Northern side boundary to the reserve of 47.28m, a South-West boundary of approximately 36.50m and a total street frontage along Gilliver Avenue of approximately 26.60m.
Topography
The site falls approximately 10.15m from the front boundary (RL+52.75) to the rear (RL+42.60).
Existing buildings and structures
The site is occupied by a three-storey dwelling-house with a pitched roof and detached garage. The rear of the site comprises of a densely vegetated area and the main area of private open space and swimming pool is located North-East of the site. Vehicular access is granted from Gilliver Avenue.
Surrounding Environment
The subject site is located within the Vaucluse West Residential Precinct under the provisions of the Woollahra DCP 2015. The adjoining sites to the lower side of the street, where the subject site is also located, comprise of multi-storey dwelling-houses with a one and two-storey presentation to Gilliver Avenue.



*Image 1 - Aerial view of the subject site
(Source: Woollahra Municipal Council GIS system)*



*Image 2 - Existing street presentation from Gilliver Avenue looking North-North West to the subject site
(Source: Google Street View)*



*Image 3 - View from the subject site's pool area looking South-West
towards the subject site's existing building
(Source: Assessment Officer Site Photo)*



*Image 4 - View from the subject site's garage level looking West to the subject site's pool area below
(Source: Assessment Officer Site Photo)*

7. RELEVANT PROPERTY HISTORY

Current use
Dwelling House
Relevant Application History
None relevant
Relevant Compliance History
None relevant
Pre-DA
Nil
Requests for Additional Information and Replacement Applications
<p><u>19/04/2021</u>: following on-going assessment of the Development Application, including review of the objection received, the Assessment Officer requested the installation on site of Survey Certified Height Poles to ascertain the impact of the proposed development</p> <p><u>29/04/2021</u>: the applicant has advised that given the height and site conditions, the rear poles would not be able to be safely erected and requested, as a suitable alternative, to have certified view montages prepared by a view sharing expert.</p> <p>Note: due to the COVID-19 lockdown, as well difficulties in organising the site visits to the neighbouring properties potentially affected by the proposed development, the view sharing expert was not able to take photographs to prepare the view loss assessment.</p>

25/08/2021: following on-going planning assessment of the Development Application, issues were raised to the applicant in relation to non-compliances with the DCP controls, including unsatisfactory Tree and Landscape referral response.

19/11/2021: a Replacement Application was lodged by the applicant, which included the following documentation:

- Replacement Application Form
- Addendum to Statement of Environmental Effects
- Amended Architectural Drawing Set
- Amended Landscape Plans
- Deep Soil Comparison Diagram
- Arborist Addendum Report
- View Sharing Report

14/03/2022: additional sections were submitted following request for clarifications.

Land and Environment Court Appeal(s)

None known

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to recommended conditions of consent	3
Trees and Landscaping	Satisfactory, subject to recommended conditions of consent	4
Heritage	Satisfactory	5

• ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 17/02/2021 to 04/03/2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Mr A Boskovitz from Boskovitz Lawyers on behalf of the owners of No.13 Gilliver Avenue, Vacluse;
2. Mr A Boskovitz from Boskovitz Lawyers on behalf of the owners of No.13 Gilliver Avenue, Vacluse – subsequent submission;

3. Mr A Calladine from Caladines Town Planning Pty Ltd on behalf of the owners of No.20 Fisher Avenue, Vaucluse;
4. Mrs M Paynter owner of No.20 Fisher Avenue, Vaucluse;
5. Mrs M Paynter owner of No.20 Fisher Avenue, Vaucluse – subsequent submission;
6. Dr F Sood of resident No.13 Gilliver Avenue;
7. Ms N Sood owner of No. 13 Gilliver Avenue, Vaucluse;
8. Mrs V and Mr I Goldberg owners of No.1a Graylind Place, Vaucluse;
9. Mr V Sood owner of No.13 Gilliver Avenue, Vaucluse;
10. Mr V Sood owner of No. 13 Gilliver Avenue, Vaucluse;

The submissions are summarised in Section 5.3 of this report.

9.2 Replacement Application

The replacement application noted in Section 7 was renotified to surrounding residents and previous objectors under Chapter 6 of the Woollahra Community Participation Plan 2019 from 01/12/2021 to 16/12/2021 as the proposed changes had the potential for additional impacts upon neighbours. Additional submissions have been considered in Section 5.3.

9.3 Statutory Declaration

The applicant has completed the statutory declarations dated 05/03/2021 (for the notification period noted in Section 9.1) and 17/12/2021 (for the notification period noted in Section 9.2) declaring that the site notices for DA26/2021/1 were erected and maintained during the notification period in accordance with the Woollahra Community Participation Plan.

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

10.1. Chapter 2 – Coastal Management

Chapter 2 of SEPP (Resilience and Hazards) 2021, gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject land is not located within the Coastal Environment Area and Foreshores and Waterways Area within the meaning of SREP (Sydney Harbour Catchment) 2005 and therefore there are no specific matters for consideration.

10.2. Chapter 4 – Remediation Of Land

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

As the site has a long history of residential use, it is considered that the land does not require further consideration. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by BASIX Certificate 1163255S demonstrating compliance with the SEPP. These requirements are imposed in **Conditions C.3, H.1** and **I.1**.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12.1 Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

12.2 Land Use Table

The proposal is defined as a new dwelling house and is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

12.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	11.8m	14.3m	9.5m	NO#

Clause 4.6 Written Request submitted

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Section 12.4 of the report. The proposal involves a maximum height of 14.3m above the existing ground level. As shown by the purple dashed line in *Image 5A* below, sections of the green roof terrace, roof slab and rear of the building are located above Council's 9.5m height plane. Furthermore, as shown in *Image 5B* below, a portion of the First Floor pop-up roof above the proposed garage is located above Council's 9.5m height plane for approximately 1.3m. The proposal represents a maximum non-compliance of 4.8m, located to the rear section of the building, where an awning above the First Floor rear balcony is proposed (refer to *Image 5A* below).

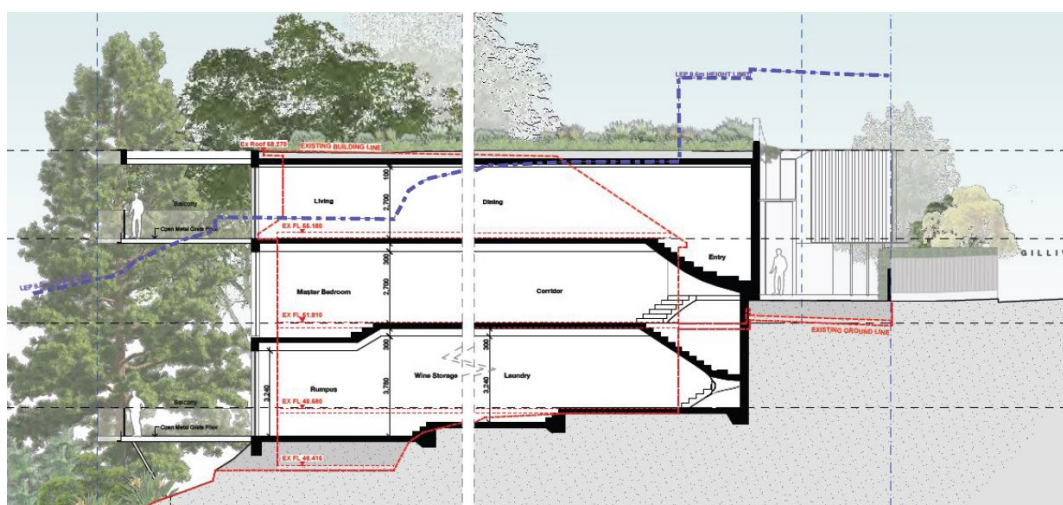


Image 5A – Section A, Extent of height non-compliance
Source: MHNDUnion

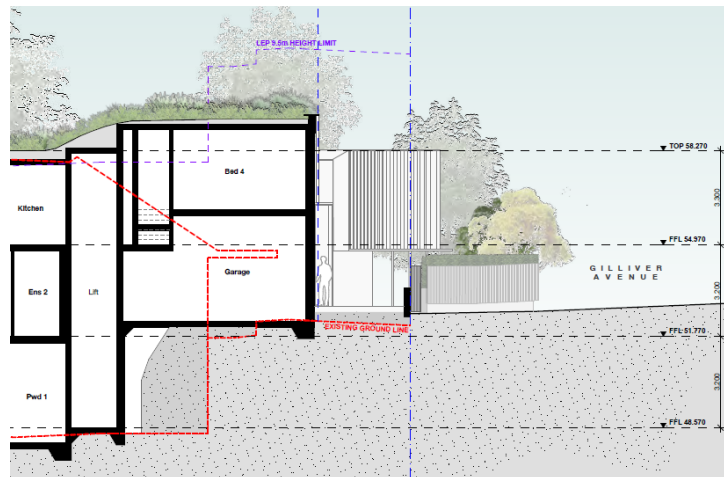


Image 5B – Section A.2, Extent of height non-compliance
Source: MHNDUnion

12.4 Part 4.6: Exceptions to Development Standards

Departure

The proposal involves the following non-compliance with the Woollahra LEP 2014:

- Non-compliance with the 9.5m maximum building height development standard under Part 4.3, as detailed in Section 12.3.

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

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 is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided a written request in relation to the departure to Clause 4.3 which is attached as **Annexure 2**.

Assessment

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

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

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

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

Despite the numerical non-compliance, the applicant's written request has adequately demonstrated that the objectives of the Height of buildings development standard are achieved.

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 Clause 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.*

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 states:

1.3 Objects of Act

The objects of this Act are as follows:

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

- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request, which supports the proposed non-compliance with the height of buildings standard, has adequately demonstrated that the proposed development satisfies the relevant objectives of the Environmental Planning and Assessment Act 1979 as copied above.

Therefore, it is considered that the applicant's written request has adequately demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

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

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

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 objectives of the subject R2 Low Density Residential zone. An assessment against these objectives is provided below:

The objectives underlying Clause 4.3 – Height of Buildings

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

Assessment:

The interpretation of height was considered by the Court in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070. There was discussion in *Bettar* concerning the interpretation of 'existing ground level' and 'basement' which are separately defined. The LEP definition of building height requires a measurement from existing ground level, rather than existing basement level.

In considering application of the height development standard, it was indicated by the Court that relying on existing basement levels (in this case, the existing lower ground floor level) would result in the height control artificially rising and falling across the site. In *Bettar* the Court took the approach of measuring height with the intent, in part, of relating the development proposal to its context in the streetscape.

The Court made the following relevant comments:

"It is relevant to consider the objectives of the building height development standard in considering how best to determine the maximum height of the building using the dictionary definitions in LEP 2012....As one of the purposes of the development standard is to relate the proposal to its context, it follows that the determination of the existing ground level should bear some relationship to the overall topography that includes the site..."

The definition of basement in LEP 2012 is the space of a building where the floor level of that space is predominantly below existing ground level and where the floor level of the storey immediately above is less than 1 metre above existing ground level [italics added]. From this definition, it does not follow that existing ground level becomes the level of the basement floor or the soil beneath the basement following the construction of a basement. A basement is, by definition, below ground level and so the level of the basement floor cannot be taken to be existing ground level.

For these reasons, I do not accept [the] approach of defining existing ground level as the ground floor level of the existing building and then dropping it down to the basement level in the north-eastern corner of the site where the existing basement is located. This... relates only to a building that is to be demolished and has no relationship to the context of the site...

I prefer [the alternate] approach to determining the existing ground level because the level of the footpath at the boundary bears a relationship to the context and the overall topography that includes the site and remains relevant once the existing building is demolished." (parenthesis added)."

In light of the above judgement, regard has been given to the height of the non-compliant aspect of the proposal above the pre-excavated ground level. In other words, the ground level that existed prior to the excavation works associated with the existing dwelling and the lower ground floor level.

The desired future character statement for the Vaucluse West Residential Precinct stipulates development should be designed to step down and follow the topography. Furthermore, to minimise building bulk and scale to the street, three storey development should generally present as a two storey form to the street. The height of the existing dwelling-house and the proposed roof form present as two storeys to Gilliver Avenue and three storeys to the rear which is compatible with development in the street. The proposed height of the building has a satisfactory streetscape presentation and would not result in any significant adverse amenity or visual impacts to neighbouring properties. The proposal provides a good contemporary building incorporating modulation and a varied palette of materials. As such, the height, bulk and scale of the proposed development is consistent with the Vaucluse West Residential Precinct.

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

Assessment: The objective is not considered relevant in this instance as the subject site is surrounded by R2 Low Density Residential zoned land.

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

Assessment: The proposal retains the required amount of sunlight to the area of private open space at the neighbouring properties and subject to recommended **Condition C.1**, the proposal is considered to minimise the impact on solar access to the neighbouring upper level habitable room windows. Accordingly, the proposal satisfies the overshadowing controls and objectives prescribed in Part B3.5.2 of the Woollahra DCP 2015, thereby upholding the 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.

Assessment: As discussed in Section 13.2, the proposal satisfies the objective due to the following:

1. Views: The proposal is considered to represent a skilful design which upholds Council's view sharing principals and the overall impact with regards to view loss is negligible-minor. The proposal, subject to recommended **Condition C.1** is considered to be satisfactory in this regard.

2. Privacy: The non-compliant portion of the proposal would not result in any significant adverse visual or acoustic privacy impacts.
3. Overshadowing: Satisfactory, subject to recommended **Condition C.1**, as addressed in the response to objective (c) above.
4. The proposal, as conditioned, will not result in any significant adverse visual impacts to the streetscape or neighbouring properties.

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

Assessment: There are no nearby significant public views or vistas that would be impacted by the proposal.

The objectives of the R2 Low Density Residential zone

- *To provide for the housing needs of the community within a low density residential environment*

Assessment: The proposal continues the use of the subject site as a dwelling-house.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Assessment: Not applicable.

- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*

Assessment: For the reasons set out within Section 13 of the report, it is considered that the proposal upholds this objective.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

Assessment: As discussed in Section 13 of the report, the proposal satisfies the desired future character objectives of the Vaucluse West Residential Precinct.

Conclusion: The proposal satisfies the objectives of Zone R2 Low Density Residential.

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

The Department issued Planning Circular No. PS20-002 (dated 05 May 2020) which notified Councils of arrangements "...where the Director General's concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...". Clause 64 of the EPA Regulations provides that Council may assume the Director-General's [Secretary's] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

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

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

Yes. For the reasons already outlined and discussed in this assessment, the proposal satisfies the objectives which underpin the development standard.

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

Yes. The submitted Clause 4.6 variation request has demonstrated that there are sufficient environmental grounds to justify contravening the development standard in this instance.

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

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

Conclusion

The written submission provided by 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 may be satisfied that the applicant's written request has demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

The consent authority may also be satisfied that the proposal is not contrary to the public interest as the non-compliance is consistent with the objectives of the development standard and those applicable to development within the subject R2 Low Density zone. Departure from the control is supported.

12.5 Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The proposed development was reviewed by Council's Heritage Officer, as detailed in **Annexure 5**. In accordance with Council's Heritage Officer's commentary, the proposal is considered satisfactory against Part 5.10 of the Woollahra LEP 2014.

12.6 Part 5.21: Flood Planning

Part 5.21 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The proposal was reviewed by Council's Development Engineer, as detailed in **Annexure 3**, and was found to be satisfactory, subject to recommended conditions, to Part 5.21 of Woollahra LEP 2014.

12.7 Part 6.1: Acid Sulfate Soils

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

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

12.8 Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal involves excavation and filling work to accommodate the proposed Lower Ground Level, located within the proposed building envelope.

The proposal was reviewed by Council's Development Engineer, as detailed in **Annexure 3** and it was considered satisfactory, subject to recommended conditions.

The proposal is therefore acceptable, subject to conditions, with regard to Part 6.2 of the Woollahra LEP 2014.

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter B1: Vaucluse West Residential Precinct

The objectives of the Vaucluse West Residential Precinct require development to respect and enhance the existing elements of the neighbourhood and contribute to the rich mixture of architectural styles and forms. The subject site is located on Gilliver Avenue which is characterised by a mixture of different architectural styles and roof forms. The existing character of the surrounding residential neighbourhood is typified by multi-storey dwelling-houses with a one-storey and two-storey presentation on the low side of the street. The proposal presents as a part one part two-storey presentation and is compatible with the streetscape context and does not result in adverse amenity impacts to adjoining and adjacent residential development.

It is considered that the proposed development represents a skilful design that is well-articulated within the atypical subject lot form and presents an adequately modulated contemporary design that incorporates adequate landscaping elements. Furthermore, the flat roof form minimises bulk and scale of the dwelling-house. Additionally, subject to recommended **Condition C.1**, the deletion of the roof garden is considered to further reduce potential amenity impacts caused by the proposed vegetation. Refer to Section 13.2, under the assessment of Part B3.5.3 for further details.

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vaucluse West Residential precinct, as noted in Part B1.10.2 of the Woollahra DCP 2015.

13.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

Site Area: 582.27m ²	Existing	Proposed	Control	Complies
<u>Part B3.2.2</u> C1 Front Setback	Nil (detached garage) 3.5m (Principal Building)	2.9m	6.2m	NO
<u>Part B3.2.2</u> C2 Maximum Unarticulated Length to Street	9.3m	5.2m	6.0m	YES
<u>Part B3.2.4</u> Rear Setback	22.7m (North) 19.5m (S-E)	18.3m (North) 13.5m (S-E)	15.08m (North) 10.2m (S-E)	YES
<u>Part B3.2.3</u> C1 Side Boundary Setbacks (South-West)	1.5m	1.5m	3.4m	NO

Site Area: 582.27m ²	Existing	Proposed	Control	Complies
Part B3.2.3 C1 Side Boundary Setbacks (North)	2m	1.5m	3.4m	NO
Part B3.2.3 C4 Maximum Unarticulated Wall Length	13.6m	11m	12m	YES
Part B3.2.5 C1 Maximum Wall Height and Inclined Plane	>7.2m	>7.2m	7.2m 45°	NO

Part 3.2.2: Front Setback

O1 To reinforce the existing streetscape and character of the location.

O2 To provide consistent front setbacks in each street.

O3 To provide for landscaped area and deep soil planting forward of the building.

The front setback for the subject property has been calculated by averaging the existing front setbacks of the adjacent neighbouring properties at No.14 (4.7m), No.10 (7.8m) and No.8 (6.3m).

The proposed development proposes a setback of 2.9m, resulting in a non-compliance with control C1. Notwithstanding the non-compliance, the proposed development is considered satisfactory, as it meets the relevant objectives O1, O2 and O3 in the following ways:

- The proposal does not adversely impact the existing streetscape and character of the location and is considered to present an appropriate architectural design that is consistent with similar properties in the locality. As such, objective O1 is considered achieved;
- The proposal is presented to the street as a 2 storey building and therefore consistent with the context;
- The subject site is located at the bend between Gilliver Avenue and Fisher Avenue. This results in the proposal not being perceived as inconsistent in terms of its sitting within the streetscape. Objective O2 is therefore considered achieved;
- Furthermore, it is noted that the proposed landscaping, including modifications recommended in **Condition C.1**, will soften the appearance and bulk from the streetscape. Refer to Section 13.4 for further details. Objective O3 is considered achieved;
- The proposed building front façade presents a maximum building unarticulated width of 5.2m, which satisfies Control C2;

The proposal is considered satisfactory, subject to conditions, with regards to Part B3.2.2 of the Woollahra DCP 2015.

Part 3.2.3: Side Setbacks

O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.

O2 To ensure the side elevation of buildings are well articulated.

O3 To protect the acoustic and visual privacy of residents on adjoining properties.

O4 To facilitate solar access to habitable windows of adjoining properties.

O5 To facilitate views between buildings.

O6 To provide opportunities for screen planting.

O7 To allow external access between the front and rear of the site.

The proposed building results in a non-compliance with control C1, with regards to the side setbacks to the South-West and to the North. Notwithstanding the non-compliances, the proposal is considered satisfactory on merit as it meets the relevant objectives of this part, as follows:

- The proposal is of quality architectural design and provides a well-articulated built form, complying with control C4 in terms of maximum unarticulated wall length;
- As further detailed under the assessment of Part B3.5.4 of the Woollahra DCP 2015, further below in this Section of the report, the proposal is not considered to adversely impact on acoustic or visual privacy of residents of the adjoining properties, achieving objective O3;
- The proposal is satisfactory, subject to recommended **Condition C.1**, against Part B3.5.2 of the Woollahra DCP in terms of solar access. Objective O4 is considered achieved;
- Access to the rear via exterior side pathways within the site will be provided. Objective O7 is achieved;
- The proposed building side setback to the South-West follows the outline of the existing building and therefore does not adversely impact the existing views between the buildings;
- Further to the point above, the proposal retain the existing building separation to the South-West;
- The proposed building steps back from the South-West side setback at the upper level, providing a 3.4m setback, which contributes positively to the building bulk and separation;
- Recommended **Condition C.1** requires the deletion of the rear balcony awning in order to address the side setback non-compliance, reduce the bulk of the proposed development and to minimise impact on solar access.

Furthermore, with regards to the North side setback, one objection raised concerns on the sense of enclosure caused by the proposed building. In this regard, the following notes are provided:

- To the North, the proposal is separated from the adjoining building at No. 20 Fisher Avenue by a 3m wide reserve, which provides a greater sense of privacy and separation;
- The proposal presents appropriate separation from the private open spaces and habitable windows of No. 20 Fisher Avenue, as detailed under the assessment of Part B3.5.4;
- The proposed development rear end, which is compliant with the rear setback, adjoins the private open space of No.20 Fisher Avenue. *Image 9A* and *9B* below illustrate the approximate visual impact of the proposal from the adjoining balcony. The visual impact and sense of enclosure is considered to be acceptable in the circumstances of the case given that the predominant view from No.20 Fisher Avenue is towards the West.
- It is furthermore noted that **Condition C.1** is recommended for the deletion of the rear First Floor balcony awning, as further detailed in this Section of the report under the assessment of Part B3.4.2. This is considered to further decrease the bulk and sense of enclosure from the property at No.20 Fisher Avenue.



Image 9A – Aerial view with overlaid of the proposed development highlighting the location of the view assessed and some significant trees
Source: Google Maps



Image 9B – View from the Ground Floor balcony of No.20 Fisher Avenue
In green (left-hand side) extent of proposed building bulk (approximate)
Source: Assessment Officer's site photo

As discussed above, the proposal is considered satisfactory with regards to Part B3.2.3 of the Woollahra DCP 2015.

Part 3.2.4: Rear Setback

The subject site has a triangular shape and requires 55% of building depth. The required rear setback in C1 is 15.08m to the North and 10.2m to the South East.

The proposed rear setback is 18.3m to the North and 13.5m to the South-East, which complies with the rear setback controls.

The proposal is considered satisfactory with regards to Part B3.2.4 of the Woollahra DCP 2015.

Part 3.2.5: Wall Height and Inclined Plane

C2 A variation to the wall height of 7.2m may be considered where the slope of the site within the building envelope is greater than 15 degrees.

O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.

O2 To limit overshadowing of adjoining properties across side boundaries.

O3 To limit overshadowing to south facing rear yards.

O4 To provide acoustic and visual privacy to adjoining and adjacent buildings.

O5 To facilitate views between buildings.

The proposed rear wall height and Northern side wall height do not comply with Control C1 with regards to wall height and inclined plane controls.

Notwithstanding the non-compliance, the proposal is considered satisfactory on merit, as it achieves the relevant objectives as follow:

- The proposal is not considered to have an adverse visual impact as viewed from the street and is not considered to have an adverse visual impact as viewed from the adjoining properties, as detailed further below in this Section of the report, under the assessment of Part B3.5.3;
- The proposal is considered satisfactory, subject to recommended **Condition C.1** against Part B3.5.2 of the Woollahra DCP 2015 in terms of overshadowing, as further detailed in this Section of the report;
- The proposal is considered satisfactory in terms of visual and acoustic privacy, subject to recommended conditions. Refer to the assessment of Part B3.5.4 below in this Section of the report for more details;
- The proposal is not considered to adversely impact on views between buildings;
- The proposed development is considered satisfactory against control C2, due to the topography of the site;
- Further to the point above, the proposal consistent with the existing non-compliance of the existing dwelling's wall height, and is consistent with other developments within the locality;

The proposal is considered satisfactory with regards to Part B3.2.5 of the Woollahra DCP 2015.

Conclusion

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

Part B3.3: Floorplates

Site Area: 582.27m ²	Existing	Proposed	Control	Complies
Part B3.3 C1 Maximum Floor Plate	195.9% (376.1m ²)*	217% (417m ²)	165% (316.8m ²)	NO**

* Existing floorplate (approximate) includes the detached garage

** Existing non-compliance

C1 The total floorplate of a development does not exceed 165% of the buildable area.

C2 New floorplate is to be wholly within the building envelope.

C3 The floorplates at each level are distributed to:

- a) respond to the predominant character of the immediate streetscape;*
- b) retain public views; and*
- c) provide for view sharing of private views.*

C4 The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.

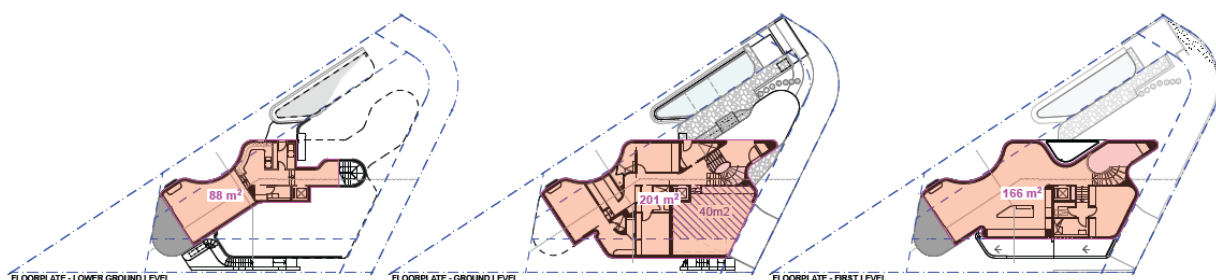
O1 To ensure the bulk and scale of buildings are consistent with the desired future character of the area.

O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.

The buildable area for the subject site is 192m², which allows for a total buildable floorplate of 316.8m². The proposed floorplate does not comply with control C1 and C2 of the Woollahra DCP 2015.

Notwithstanding the non-compliance, the proposed floorplate is considered satisfactory as it meets the relevant objectives as follows:

- The existing building already exceeds the maximum floorplate control. The proposal will seek to increase the floorplate by approximately 40.9m². The new proposed floorplate will present a built form that adopts the morphology of the subject site;
- Further to the point above, the bulk and scale of the building is consistent with the desired future character of the area, as detailed above in the report;
- The proposal complies with control C4 and objective O2 in terms of overshadowing and acoustic and visual privacy and view sharing. As further detailed below in this Section of the report, under the assessment of Part B3.5.2 and B3.5.3 and B3.5.4;
- The proposal is consistent with adjoining development and similar in scale to recently approved development in the locality;



*Image 6 - Floorplate calculation submitted with the Replacement Application
Source: MHNDUnion*

Conclusion

The proposal is therefore acceptable with regard to the floorplate controls in Part B3.3 of the Woollahra DCP 2015.

Part B3.4: Excavation

Site Area: 582.27m²	Existing	Proposed	Control	Complies
Part B3.4 C1 Maximum Volume of Excavation	N/A	66.8m ³	160m ³	YES
Part B3.4 C6 Excavation, Piling and Subsurface Wall Setback	N/A	Within Principal Building Form	Within Setback Controls	NO
Part B3.4 C9 Geotechnical Report	N/A	Provided	Required Where > 2.0m	YES

O1 To allow buildings to be designed and sited to relate to the topography.

O2 To minimise excavation.

O3 To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.

O4 To minimise structural risks to adjoining structures.

O5 To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.

The proposal complies with C1 in terms of excavation volume, however it is noted the non-compliance with control C6 is due to the location of the Lower Ground Floor stairs within the front setback. Notwithstanding the non-compliance, the proposal is considered to achieve the relevant objectives as follow:

- The proposal is considered to be sited appropriately in the existing topography and meets the desired future character of the locality, achieving objective O1;
- The proposal complies with the minimum excavation volume control, achieving objective O2;
- The proposal was reviewed by Council's Development Engineer, as detailed in **Annexure 3** and was considered to be acceptable on technical grounds. The recommended conditions of consent address issues related to land stabilisation, ground water flows, structural risks to adjoining structures, noise, vibration and dust for as much as practicable, achieving objectives O3, O4 and O5;
- The proposal is considered satisfactory with regards to the amenity impacts, as assessed in details further below in this Section of the report (refer to assessment of Part B3.5.2, B3.5.3 and B3.5.4)

Conclusion

The proposal, subject to recommended conditions, is therefore acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

Part B3.5: Built Form and Context

Site Area: 582.27m ²	Existing	Proposed	Control	Complies
Part B3.5.1 C1 Desired Future Character	Consistent	Consistent	Consistent with the precinct controls	YES
Part B3.5.1 C2 Vegetation of Landscape Value	-	Satisfactory	Retained	YES
Part B3.5.1 C4 Colour Scheme	Consistent	Consistent	Consistent	YES
Part B3.5.1 C9 Casual Surveillance – Windows Facing Street/Public Area	Minimum - One	Minimum - One	One	YES
Part B3.5.2 C1(a) Solar Access to Open Space of Adjacent Properties	Minimum 50% for 2 hours on 21 June	Minimum 50% for 2 hours on 21 June	50% for 2 hours on 21 June	YES
Part B3.5.2 C1(b) Solar Access to North Facing Living Areas of Adjacent Properties	Minimum 3 hours on 21 June	Minimum 3 hours on 21 June	3 hours on 21 June	YES
Part B3.5.3 C1 Public Views	Retained	Retained	Retained	Retained
Part B3.5.4 C4 Habitable Windows	N/A	Addressed	Prevent Direct Sightline to Adjoining Habitable Windows Within 9m.	YES
Part B3.5.4 C6 Screening devices	N/A	Integrated	Integrated in Architectural Design	YES

Part B3.5.1: Streetscape and Local Character

The proposal is consistent with the desired future character of the precinct and therefore complies with Control C1.

The proposed development was reviewed by Council's Trees and Landscape Officer, as detailed in **Annexure 4**, and determined the proposal to be satisfactory, subject to recommended conditions. Control C2 is considered achieved.

The proposed building generally responds to the topography of the site and limits the excavation to 66.8m³ as noted by the applicant on Drawing No. DA-11 *Compliance Diagrams – Control Summary*. As detailed in **Annexure 3**, the proposal was furthermore reviewed by Council's Development Engineer who has determined the proposal to be satisfactory on technical grounds, subject to recommended conditions. As such, the proposal satisfy Control C3.

The proposed materiality and finishes do not detract from the streetscape and therefore comply with Controls C4 and C6. Furthermore the proposal is considered a well-designed example of contemporary architecture that will contribute positively to the streetscape. It therefore complies with Objectives O1, O2 and O3.

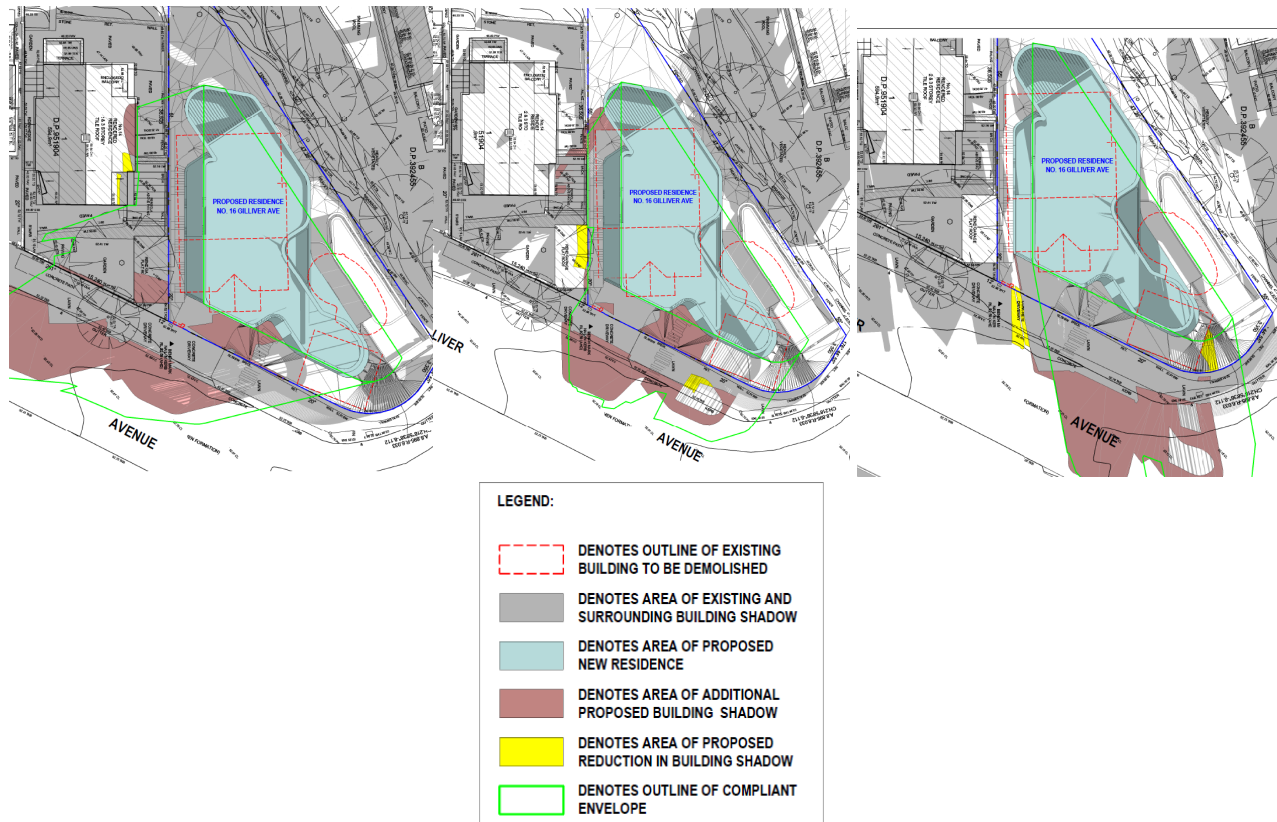
The proposal seeks approval for an articulated roof that would positively contribute to the streetscape. The roof form is of quality detailing and well integrated in the architecture of the building. It is however noted that subject to recommended **Condition C.1**, the proposed green roof is proposed to be deleted and replaced by non-reflective, unobtrusive material, in order to achieve compliance with Control C8.

The proposal adequately addresses the street and provides at least one window to a habitable room at the First Level; it therefore complies with Control C9.

The proposal, subject to recommended conditions, is considered satisfactory with regards to Part B3.5.1 of the Woollahra DCP 2015.

Part B3.5.2: Overshadowing

The proposal was accompanied by shadow diagrams that demonstrates the impact of the solar access to the adjacent properties, as shown in the images below, showing the solar access, from left to right, at 9am, 12pm and 3pm of 21 June.



*Image 7A – (From left to right) Shadow diagrams showing the overshadowing impact on 21 June at 9am, 12pm and 3pm and legend
Source: CAD draft*

The property at No.14 Gilliver Avenue's principal open private open space, which is located at the rear, is not impacted by the proposal, the relevant section of control C1 is considered satisfied.

As noted in Section 12.4 of the report, in order to minimise impact on solar access, particularly to the upper floor adjoining windows, **Control C.1** is recommended, for the deletion of the proposed awning over the rear First Floor balcony.

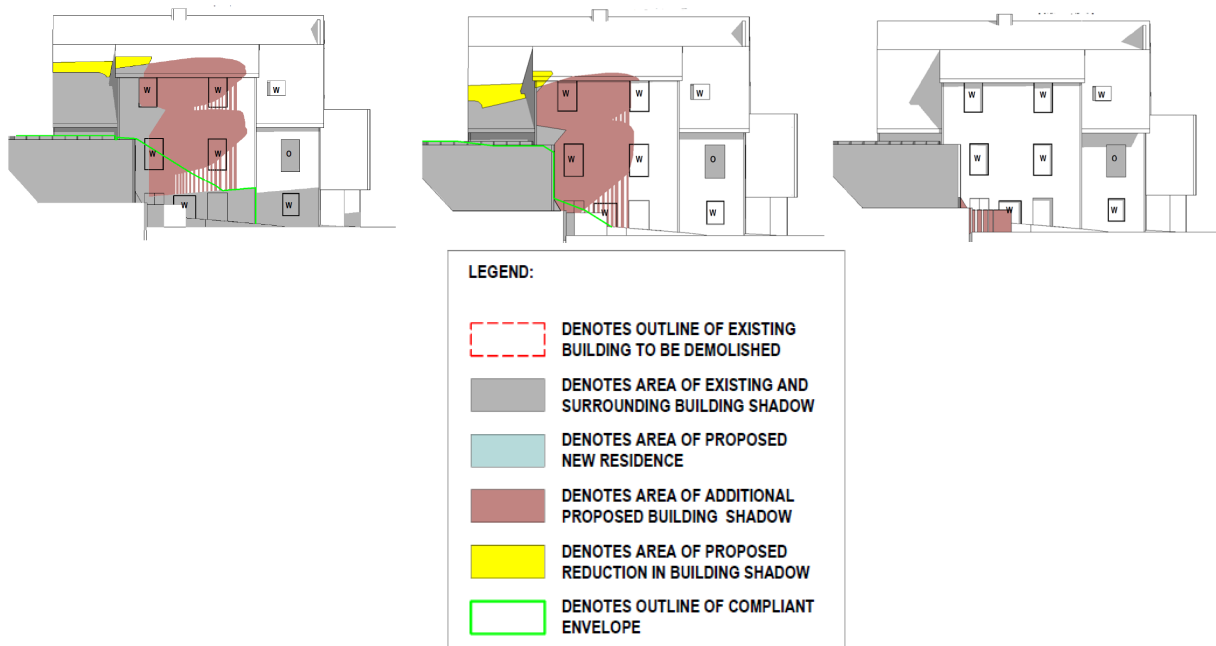


Image 7B – (from left to right) Shadow diagrams showing the overshadowing impact on 21 June at 9am, 12pm and 3pm over No.14 Gilliver Avenue and legend
Source: CAD draft

The proposal, subject to conditions, is considered satisfactory with regards to Part B3.5.2 of the Woollahra DCP 2015.

Part B3.5.3: Public and Private Views

C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms.

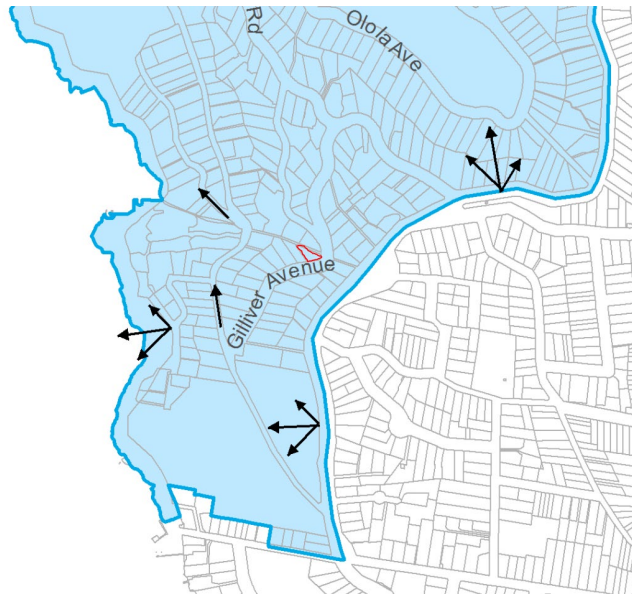
C7 The design of the roof form (including roof terraces, lifts, lift overruns, stairwells, access hatches, screens, and other like structures) provides for view sharing.

O3 To encourage view sharing as a means of ensuring equitable access to views from private property.

C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.

O4 To ensure that views are not compromised by landscaping.

With regards to public views, the proposal does not impact any significant public view and furthermore none of the significant views and vistas captured in Part B1.10 are in close proximity of the subject site.



The owners of No.13 Gilliver Avenue and No. 20 Fisher Avenue (properties to the North and East of the subject site) have objected to the proposed development on the basis of view loss and/or view impact.



*Image 8A – Existing aerial view highlighting the location of the views assessed.
Source: Google Maps*



Image 8B – Aerial view showing the overlay of the proposed development and the approved development at No.13 Gilliver Avenue (DA338/2010– 82 Review and Section 96 Part 2) highlighting the location of the views assessed.

Source: Google Maps

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah* (2004) NSWLEC 140 which has established a four step assessment of view sharing. The steps are as follows:

1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

- **13 Gilliver Avenue, Vacluse:** The views that the objector notes to be impacted by the proposal are of the Sydney Harbour land and water interface, Sydney Opera House and Harbour Bridge. The assessment has taken into account the views currently enjoyed by the existing building as well as the approved building (**DA338/2010 – 82 Review and Section 96 Part 2**). This DA has been acted upon via the issuing of Construction Certificate and a Notice of Commencement.
- **20 Fisher Avenue, Vacluse:** The views that the objector notes to be impacted by the proposal are the outlook to the reserve and existing vegetated area within the subject site. The water interface currently enjoyed by No.20 Fisher Avenue is not considered to be affected by the proposed development. Accordingly, further assessment against the case law established by *Tenacity Consulting v Warringah* (2004) NSWLEC 140 is not required for this view. More details regarding the visual bulk and sense of enclosure from the adjoining property at No.20 Fisher Avenue is assessed under the assessment of the side setback controls (Part B3.2.3 further above in this Section of the report).

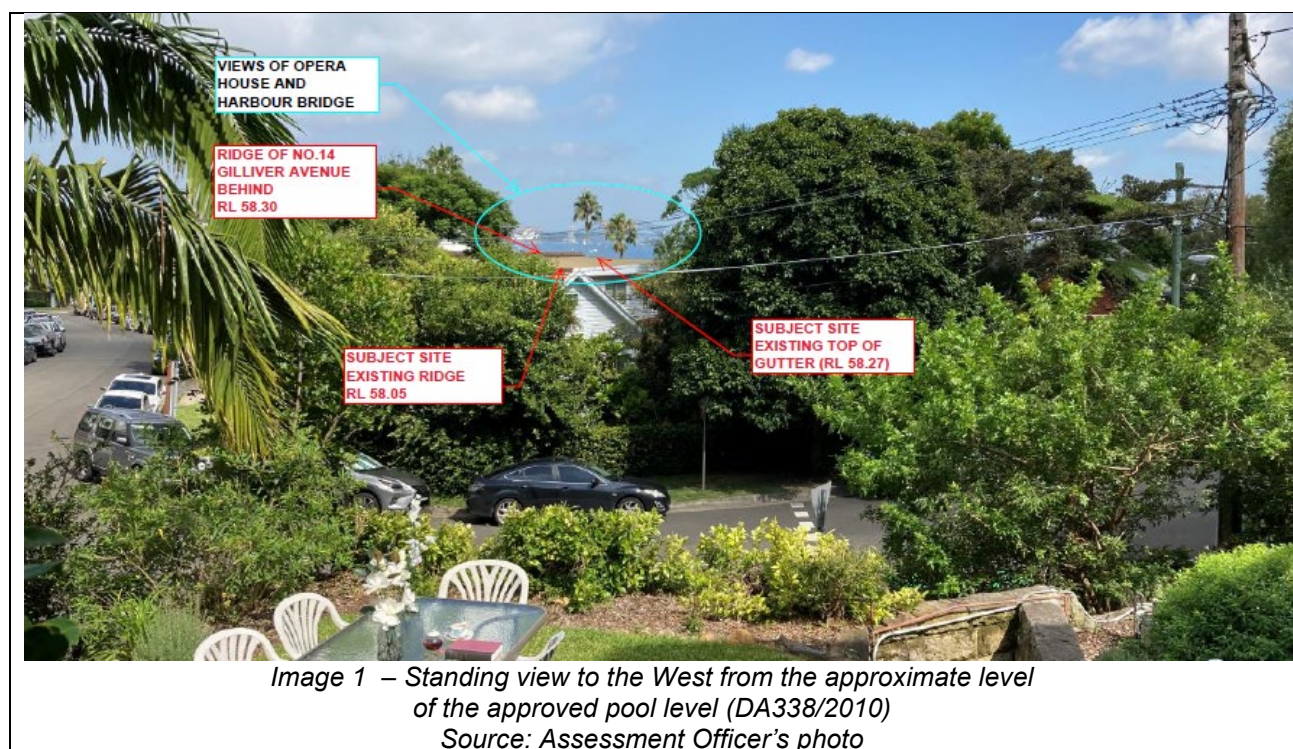
No. 13 Gilliver Avenue

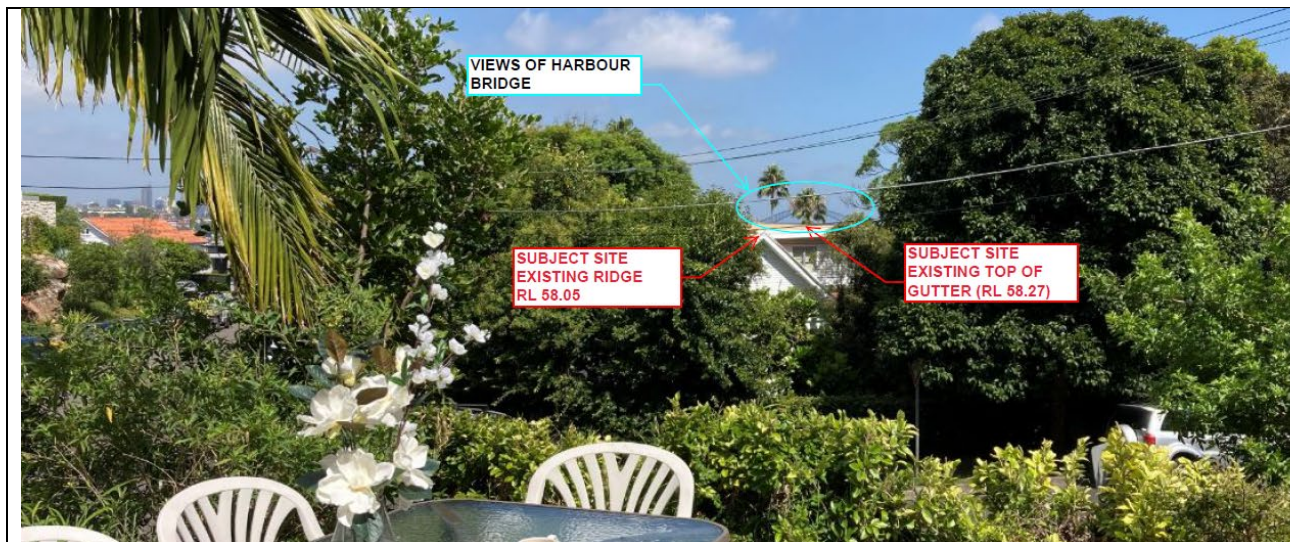
The objection from No.13 Gilliver Avenue relates to the interruption of iconic views towards the Sydney Opera House, Harbour Bridge, and harbour. As seen in the *Images 3 and 4* contained in *Table 1*, No.13 Gilliver Avenue currently benefits from expansive views towards the West, enjoyed from the Ground Floor level. These uninterrupted views are considered to be highly valuable as they include the land-water interface and a complete vista of the Harbour Bridge, Opera House and city skyline.

Note: During the Assessment Officer's site visit, access to the First Floor level was not obtained from the owner of No.13 Gilliver Avenue, as no concerns on view impact from this level had been raised. For completeness of the assessment, the applicant's View Loss Analysis images from the First Floor level have been added to the report. Refer to *Images 5 and 6* of *Table 2* below. It is noted that these uninterrupted views obtained from the First Floor level are also considered to be highly valuable as they include the land-water interface and a complete vista of the Harbour Bridge, Opera House and city skyline.

From the lawn area to the front of No.13 Gilliver Avenue, harbour views are partly obscured by rooftops and distant landscaping (refer to *Images 1 and 2* in *Table 1*).

Table 1 – Views currently obtained from 13 Gilliver Avenue towards subject site

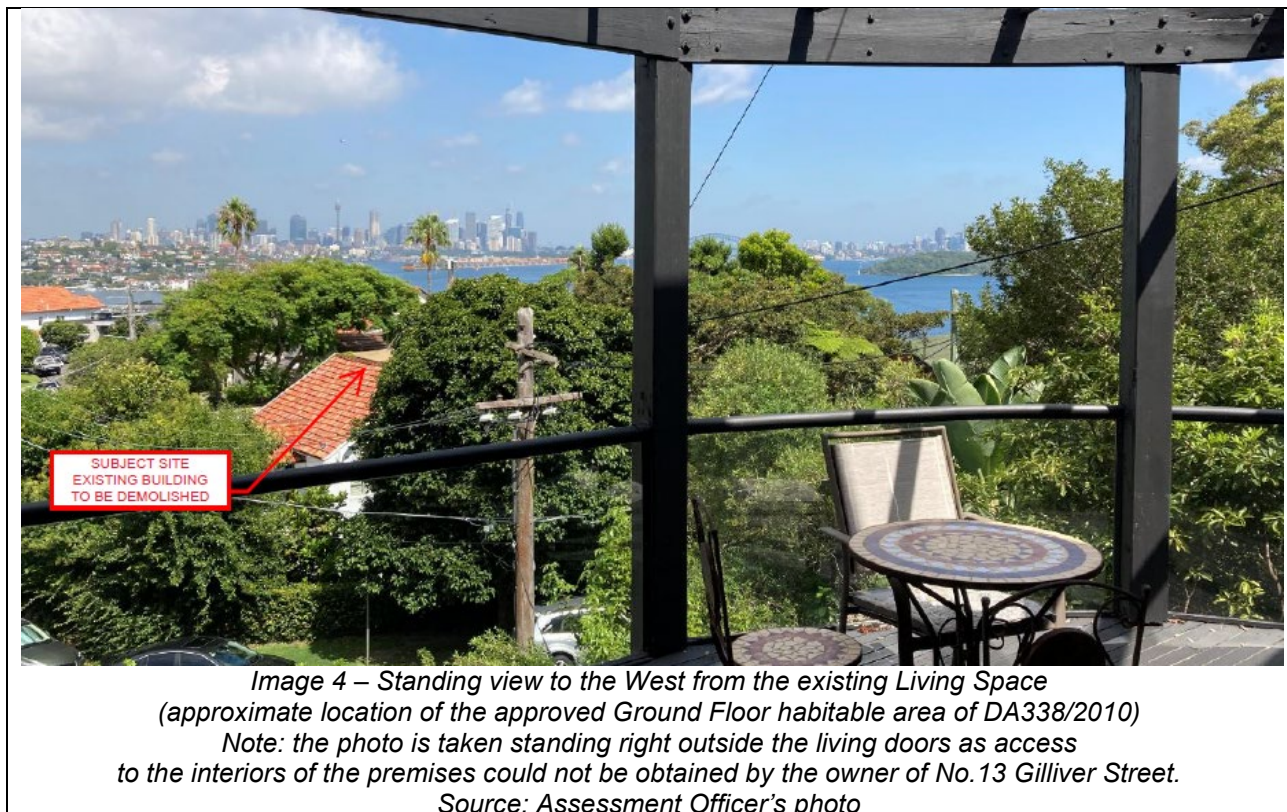




*Image 2 – Standing view to the West from the existing lawn area
at the front of No.13 Gilliver Avenue
Source: Assessment Officer's photo*



*Image 3 – Standing view to the West from the existing pool area
(approximate location of the approved Ground Floor living area of DA338/2010)
Source: Assessment Officer's photo*



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.

No. 13 Gilliver Avenue

The views identified at No.13 Gilliver Avenue, illustrated in *Table 1* above, include views as follow:

- View from the approximate location of the approved pool area (*Image 1*);
- View from the existing front lawn area (*Image 2*);
- View from the existing pool area, representing the approximate location of the approved Ground Floor living space of DA338/2010 (*Image 3*); and
- View from the existing living space, representing the approximate location of the view from the approved Ground Floor living space of DA338/2010 (*Image 4*).

All views from No.13 Gilliver Avenue are obtained looking West across the subject site.

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.

No.13 Gilliver Avenue

The views from the dwelling at No.13 Gilliver Avenue would have negligible to minor impact caused by the proposed development. A view loss assessment has been submitted by the applicant with the replacement application noted in Section 7. A site visit to the neighbouring property at No.13 Gilliver Avenue and a separate view loss assessment has been undertaken by the Assessment Officer, the author of this report.

It is noted that the uninterrupted views to the Sydney Harbour Bridge and Opera House currently enjoyed from the Ground Floor and First Floor levels will be retained and will be not obscured by the proposal. Furthermore, it is noted that the view towards the Sydney City skyline from the upper levels are retained. In addition to these points, it is noted that the upper level views are considered the most valuable and that the approved scheme of DA338/2010 retains the same Ground Floor and First Floor levels of the existing building. It is therefore anticipated that views from the two upper levels of the approved building will also be retained.

The objections received with regards to the views from No.13 Gilliver Avenue particularly raised concerns on the views taken from the existing front lawn area and from the approved pool level. The impact on the abovementioned views has been illustrated in *Images 1 and 2* in *Table 2* below. The proposal will result in some loss of water views (*Image 1*) due to the extension of the floorplate towards the rear corner of the site. In this regard, it is noted that **Condition C.1** has been recommended, as illustrated above in this Section of the report, for the deletion of the awning of the rear balcony and for the removal of the landscaped roof garden.

Notwithstanding the abovementioned conditions, which will contribute in reducing the extent of view impact, the overall extent of view impact to No.13 Gilliver Avenue is considered negligible for the following reasons:

- The impact on the views from the approximate level of the approved DA338/2010 pool level shown on *Image 1* of *Table 2* below, is considered negligible;
- The impacted views obtained from the front lawn area (*Image 2* of *Table 2* below) of the property at No.13 Gilliver Avenue, for both the existing and the approved (DA338/2010) building, are not considered the primary private open spaces of the abovementioned property. Moreover, it is noted that these views are obtained from the lowest levels which are difficult to protect and are likely to be impacted to some degree by adjoining developments.
- The highly valuable views, being iconic views of the Sydney Harbour Bridge and Opera House and City skyline to main levels of both the existing and the approved (DA338/2010) buildings to No.13 Gilliver Avenue will not be adversely impacted by the proposed development (*Images 3 to 6* of *Table 2* below);

Table 2 – Extent of View Loss from No.13 Gilliver Avenue

<p><i>Image 1 – Standing view to the West from the approximate level of the approved pool level (DA338/2010)</i> <i>Source: Assessment Officer's photo</i></p>
<p><i>Image 2 – Standing view to the West from the existing lawn area at the front of No.13 Gilliver Avenue</i> <i>Source: Assessment Officer's photo</i></p>



*Image 3 – Standing view to the West from the existing pool area
(approximate location of the approved Ground Floor habitable area of DA338/2010)
Existing views will have a negligible impact due to the proposed development
Source: Assessment Officer's photo*



*Image 4 – Standing view to the West from the existing Living Space
(approximate location of the approved Ground Floor habitable area of DA338/2010)
Note: the photo is taken standing right outside the living doors as access
to the interiors of the premises could not be obtained
Existing views will have a negligible impact due to the proposed development
Source: Assessment Officer's photo*



*Image 5 – Photomontage showing uninterrupted views from the First Floor bedroom of the existing dwelling and proposed building overlay to the left-hand side bottom corner, indicated by the red arrow
Source: Richard Lamb & Associates, using realestate.com images*



*Image 6 – Photomontage showing uninterrupted views from the First Floor bedroom of the existing dwelling and proposed building overlay to the bottom of the image, indicated by the red arrows
Source: Richard Lamb & Associates, using realestate.com images*

4. The reasonableness of the proposal that is causing the impact

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The Court poses two questions in *Tenacity Consulting vs Warringah* (2004) NSWLEC 140. The first step is to determine whether a non-compliance with one or more planning controls results in view loss.

In response to this, the impact on views has been considered against any non-compliances with the key planning controls within the Woollahra DCP 2015 and Woollahra LEP 2014 and the following are noted:

- The proposal sits above the 9.5m height of buildings development standard, specifically being the rear balcony awning, portions of the roof slab (and consequently the roof garden) and at the First Floor roof pop-up, as further discussed in Section 12.4 of the report;
- **Condition C.1** is recommended for the deletion of the rear balcony awning, which will reduce the loss of water views as illustrated in *Table 2* above;
- **Condition C.1** is also recommended for the deletion of the roof garden, which will satisfy control C9 and will achieve objective O4 of Part B3.5.3 of the Woollahra DCP 2015;
- As the extent of views loss can be qualitatively described as negligible, the proposed development is considered to remain satisfactory on merit with all relevant building envelope controls as discussed in Section 13.2 of the report;

The second consideration is the more skilful design test under *Tenacity*. On this regard, the following consideration are noted:

- The impact on the views from the property at No.13 Gilliver Avenue has been considered negligible;
- The proposed development is considered skilfully designed and responds to the streetscape and desired future character;
- Some design modifications have been recommended via **Condition C.1** for the deletion of the roof garden and the deletion of the awning above the First Floor rear balcony;
- Notwithstanding some portions of the proposed First Floor pop-up roof, being above the 9.5m height limit, the views obtained from the front lawn area are not considered the principal usable private open space of the neighbouring property at No.13 Gilliver Avenue, as extensive private open spaces are available to the Ground Floor (refer to *Image 3* of *Table 2* above). As such, further modification to reduce the overall height or the pop-up roof is not considered reasonable in this circumstance and would affect the design intent;

As such, the proposed development, subject to recommended conditions, is considered to satisfy the more skilful design test under *Tenacity*.

C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.

The proposed works include the removal of the existing trees to the North-East corner of the site (noted in the Landscaped Plan and the Arborist reports as trees T1, T2, T3 and T4). The abovementioned trees are proposed to be replaced with new planting, including *Podocarpus elatus* trees (Plum Pines), which, according to the submitted Landscape plan (LP01-D11120 and LP03-D11120) would reach a mature height of 8m, which is considered inconsistent with the existing canopy and would have the potential of affecting adjoining properties' views.

As such, **Condition C.1** is recommended for the deletion of the proposed *Podocarpus elatus* trees from the landscape plan and their replacement with an alternative tree species which attains a height of 4m at maturity. Furthermore, the Tree Officer's recommended conditions relating to replacement trees to the front of the site (front boundary) have modified to a reduced height in order to protect significant views. This change is imposed to ensure an adequate level of view sharing and tree canopy is attained.

Conclusion

The proposal, subject to conditions, is considered satisfactory with regards to Part B3.5.3 of the Woollahra DCP 2015.

Part B3.5.4: Acoustic and Visual Privacy

To the South-West elevation, the proposed windows include a non-habitable room window to the proposed garage and a habitable room window to bedroom 2. The proposed windows to the South-West are not considered to impact on privacy as they face a pergola structure to the adjacent property at No.14 Gilliver Avenue and do not directly overlook the neighbour's private open spaces and habitable room windows. Furthermore, the top level is proposed to have external screens, which will provide adequate privacy. As such, the proposal demonstrates to be satisfactory with regards to Controls C4, C6 and Objective O2.

The subject site to the North adjoins a 3m Drainage Reserve, separating the subject site from the neighbour at No.20 Fisher Avenue. The proposed windows to habitable rooms are situated approximately 9.5m away from the edge of No.20 Fisher Avenue's pool deck and therefore are considered satisfactory with regards to Controls C4.

The proposed balcony to the First Level main living area is located within 9m from the neighbouring windows, however privacy blades are proposed to address privacy. The proposal is therefore satisfactory with regards to Control C7.

With regards to acoustic privacy, the proposal seeks to locate the air-conditioning units to a dedicated area located to the North-West side of the building and is accessed via a side pathway and steps within the side setback area. Subject to recommended standard conditions, this comply with Control C3 and Objective O1.

Moreover, the proposal seeks approval for a pool plant enclosure located within the Front Setback. This, subject to recommended standard conditions will be acceptable against Control C3 and Objective O1.

The proposal, subject to recommended conditions, is considered satisfactory with regards to Part B3.5.4 of the Woollahra DCP 2015.

Part B3.5.5: Internal Amenities

The proposal is considered satisfactory with regards to Part B3.5.5 of the Woollahra DCP 2015.

Conclusion

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

Part B3.6: On-Site Parking

Site Frontage: 18.2m	Existing	Proposed	Control	Complies
C1 Location of Parking	Outside the Buildable Area	Within the Buildable Area	Within the Buildable Area	YES
C11 Width of Driveway	4.45m	5.6m	3.0m	NO

The proposed garage sits within the building envelope. Due to the configuration of the site, access from the rear of the site is not permitted and therefore the proposed driveway location to Gilliver Avenue, which is also consistent with the existing scheme, is supported and satisfy control C1 and objectives O2 and O4.

The proposed driveway has a width of 5.6m and therefore does not comply with control C11. Council's Technical Services Engineer has reviewed the proposal, as detailed in **Annexure 3**, and has determined the proposal to be satisfactory, subject to recommended conditions, including **Condition C.9**.

Conclusion

The proposal is acceptable, subject to recommended conditions, with regard to the parking controls in Part B3.6 of the Woollahra DCP 2015.

Part B3.7: External Areas

Site Area: 582.27m ²	Existing	Proposed	Control	Complies
Part B3.7.1 C1 Deep Soil Landscaping in R2 and R3	42.1% (164.4m ²)	46.1% (180.2m ²)	50% Outside Buildable Area (195.2m ²)	NO*
Part B3.7.1 C2 Deep Soil Landscaping – Front Setback	< 40%	46.4% (69.8m ²)	40% (60.1m ²)	YES
Part B3.7.1 C4 Deep Soil Landscaping – Rear Setback	100% (42.2m ²)	100% (42.2m ²)	50% (21.1m ²)	YES
Part B3.7.1 C6 Minimum Area of Private Open Space at Ground Level	> 35m ²	> 35m ²	35m ²	YES
Part B3.7.1 C12 Location of Private Open Space	North	North	To the North	YES
Part B3.7.1 C16 Existing Trees	N/A	Acceptable, as conditioned	Incorporated Into Landscaping	YES
Part B3.7.1 C17 Proportion of Native Species	Unknown	68.8%	Minimum 50%	YES
Part B3.7.2 C4 Maximum Height of Fencing	1.5m and 50% open	1.5m and 50% open	1.2m 1.5m and 50% open	YES
Part B3.7.3 C7 Air Conditioning Units	Not Visible from Public Domain	Not Visible from Public Domain	Not Visible from Public Domain	YES
Part B3.7.3 C10 Fire Places	N/A	Acceptable, subject to conditions	Non Solid Fuel Burning Only	YES

Site Area: 582.27m ²	Existing	Proposed	Control	Complies
Part B3.7.4 Swimming Pool C3 Swimming Pool Distance from Boundaries	>1.8m	1.1m	1.8m	NO
Part B3.7.4 Swimming Pool C4 Level of Swimming Pool Above or Below Ground Level	N/A	2.5m	Maximum 1.2m Change	NO
Part B3.7.4 Swimming Pool C5 Maximum Depth of Swimming Pool	N/A	Acceptable, subject to conditions	2.0m	YES

** Existing non-compliance reduced by the proposal.*

Part 3.7.1: Landscaped Areas and Private Open Space

O1 To ensure that the areas outside the floorplate contribute to the desired future character of the location.

O2 To provide sufficient deep soil landscaped area to support substantial vegetation.

O3 To provide for on-site stormwater absorption.

The proposed development does not comply with control C1. Notwithstanding the non-compliance, the proposal is considered satisfactory against control C2 and C4 and meets objectives O1, O2 and O3 as follow:

- The proposed deep soil landscaped area outside the buildable area results in a minor numerical non-compliance of 15m². However it is noted that the proposal seeks to increase the existing provision of landscaping outside the buildable area;
- The areas outside the floorplate contribute to the desired future character of the location, objective O1 is considered achieved;
- The proposal provides for substantial vegetation and it was furthermore reviewed by Council's Tree and Landscape Officer and Council's Development Engineer, as detailed in **Annexures 3 and 4**, who have determined the proposal to be acceptable, subject to recommended conditions. Objectives O2 and O3 are considered achieved;

The proposal is considered satisfactory with regards to Part B3.7.1 of the Woollahra DCP 2015.

Part 3.7.2: Fences

The proposed front fence is considered satisfactory against control C4.

The proposed 1.5m high timber fence to the South-East boundary is considered acceptable against control C9.

The proposal is considered satisfactory with regards to Part B3.7.2 of the Woollahra DCP 2015.

Part 3.7.3: Site Facilities

C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.

Subject to recommended **Condition C.1**, the proposal is considered satisfactory against control C10.

The proposed location of the air-conditioning condenser units is considered acceptable, subject to recommended standard conditions, against objective O4 and O8 and controls C8 and C12.

The proposal is considered satisfactory with regards to Part B3.7.3 of the Woollahra DCP 2015.

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

O1 To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties

O2 To limit excavation

O3 To retain trees and vegetation of landscape value

C3 The swimming pool (measured from the water edge) is at least 1.8m from property boundaries.

C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.

The proposed pool level is a maximum of 3.2m (approximately) above the existing ground level and is setback 1.1 from the side boundary, resulting in a non-compliance with controls C3 and C4.

Notwithstanding the non-compliance, the proposal is considered satisfactory on merit as it achieves the relevant objectives as follow:

- The proposed swimming pool level is at RL51.770, which is more than 1m below the existing kerb level of Gilliver Avenue along the North-East corner of the subject site. As such, it is considered to not adversely impact the streetscape or any adjoining proprieties.
- The proposed swimming pool provides for recreational opportunities and does not adversely impact on the amenities of the adjoining properties, as assessed under Part B3.5 above in this Section of the report. As such, the proposal achieves objective O1;
- The proposed swimming pool is considered appropriately separated due to the physical distance as well as the level difference. The proposed swimming pool is not considered to create overlooking impacts by neighbouring principal usable open spaces and habitable areas;
- The proposal was reviewed by Council's Development Engineer and it was considered to be acceptable on technical ground, subject to recommended conditions, as detailed in **Annexure 3**.
- Further to the point above, the proposed swimming pool is located above the existing ground level. As such, excavation is limited and objective O2 is achieved;
- The proposed works were reviewed by Council's Tree and Landscape Officer and were considered acceptable, subject to recommended conditions, as detailed in **Annexure 4**. The proposal does not adversely impact on tree and vegetation of landscape value;
- The proposal provides for accessible and useable private open space, accessible from the proposed Ground Floor.

Conclusion

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

13.3 Chapter E1: Parking and Access

The proposal was reviewed by Council's Development Engineer, as detailed in **Annexure 3**, and was considered satisfactory, subject to recommended conditions, with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

13.4 Chapter E3: Tree Management

The proposal was reviewed by Council's Tree and Landscaping Officer, as detailed in **Annexure 4**, and was considered satisfactory, subject to recommended conditions, including **Condition C.1**.

As such, the proposal is considered acceptable against the relevant objectives and controls in Chapter E3 of the Woollahra DCP 2015.

13.5 Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The applicant provided a SWMMP with the development application and it was found to be satisfactory, subject to recommended standard conditions, against Chapter E5 of the Woollahra DCP 2015.

14. SECTION 711 AND 7.12 CONTRIBUTION PLANS

14.1 Section 7.12 Contributions Plan 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2011. Refer to **Condition C.2**.

Cost of Works	Rate	Contribution Payable
\$1,969,241.00	1%	\$19,692.41

15. APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to **Condition E.2**.

15.2 Swimming Pools Act 1992

A swimming pool is at all times to be surrounded by a child-resistant barrier that separates the swimming pool from any residential building and that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations. Additional provisions relate to:

- The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992
- A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- Water recirculation and filtration systems
- Backwash must be discharged to the sewer

These form part of recommended standard conditions.

16. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

17. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979.

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, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the *Height of Buildings* development standard under Clause 4.3 of Woollahra LEP 2014. The Panel assumes the concurrence of the Secretary, Department of Planning 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. 26/2021/1 for demolition of existing dwelling & construction of new 3 storey dwelling including parking, swimming pool & landscaping on land at 16 Gilliver Avenue Vacluse, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2 (Autotext AA2)

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
20-051 - DA-01 – Rev D 20-051 - DA-02 – Rev F 20-051 - DA-03 – Rev F 20-051 - DA-04 – Rev F 20-051 - DA-05 – Rev F 20-051 - DA-06 – Rev D 20-051 - DA-07 – Rev E 20-051 - DA-08 – Rev C 20-051 - DA-09 – Rev C	Architectural Plans	All drawings by MHNDUnion	19/11/2021 11/03/2022 11/03/2022 11/03/2022 11/03/2022 11/03/2022 19/11/2021 19/11/2021 19/11/2021
20-051 – DA-12 – Rev C	External Finishes	MHNDUnion	19/11/2021
20-051 – DA-13 – Rev B	Photomontage	MHNDUnion	13/0/2021
1163255S	BASIX Certificate	NSW Department of Planning and Environment	17/12/2020
LP01- LP05 D11120 (Revision E)	Landscape Plan	Dangar Barin Smith	17/11/2021
	Arboricultural Impact Assessment Report (Addendum 1)	Earthscape Horticultural services	21 Oct 2021
	Arboricultural Impact Assessment Report	Earthscape Horticultural services	Jan 2021
2020-250	Geotechnical Report	Crozier Geotechnical Consultants	Dec 2020
201105 CP100-B SW100-B SW101-B SW102-B SW200-B SW201-B	Stormwater Management Plan	RTS Civil Consulting Engineers	15/01/2021 15/01/2021 15/01/2021 15/01/2021 15/01/2021 15/01/2021

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A5 (Autotext AA5)

A.4 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)
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	7 x 4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	9 x 4 metres

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	18 x 5 metres	

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	<i>Ligustrum lucidum</i> (Large-leaved Privet)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5 x 5 metres
2	<i>Ligustrum lucidum</i> (Large-leaved Privet)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5 x 5 metres
3	<i>Ligustrum lucidum</i> (Large-leaved Privet)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5 x 5 metres
4	<i>Ficus lyrata</i> (Fiddle-leaf Fig)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	6 x 5 metres
9	<i>Musa cavendishii</i> (Banana)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	8 x 5 metres
14	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	9 x 3 metres
17	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	7 x 3 metres

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

A.5 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Standard Condition: A8 (Autotext AA8)

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

B.1 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the *Act*.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Standard Condition: B1 (Autotext BB1)

B.2 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6

B.3 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

B.4 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970-2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	3 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	3 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2 metres

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	Location
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .
19	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .

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.5 Permissible works within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
10	<i>Araucaria cunninghamii</i> (Hoop pine)	Hand excavation to accommodate soft landscaping works
15	<i>Glochidion ferdinandii</i> (Cheese tree)	Hand excavation to accommodate soft landscaping works
16	<i>Cyathea cooperi</i> (Scaly tree fern)	Hand excavation to accommodate soft landscaping works

The project arborist shall provide written certification of compliance with the above condition.

B.6 Arborist 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	<ul style="list-style-type: none"> • Compliance with tree protection measures
Excavation for building footings within a 4.5 metre radius of Tree 10	<ul style="list-style-type: none"> • Undertaken in accordance with section 10.9 of the submitted Earthscape Horticultural services Arboricultural Impact Assessment
Installation of stormwater services within a 4.5 metre radius of Tree 10 and 7.8 metres of Tree 20.	<ul style="list-style-type: none"> • Undertaken in accordance with section 10.11 of the submitted Earthscape Horticultural services Arboricultural Impact Assessment
Demolition and excavation works within a 7.8 metre radius of Tree 20	<ul style="list-style-type: none"> • Undertaken in accordance with section 10.8 & 10.9 of the submitted Earthscape Horticultural services Arboricultural Impact Assessment
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

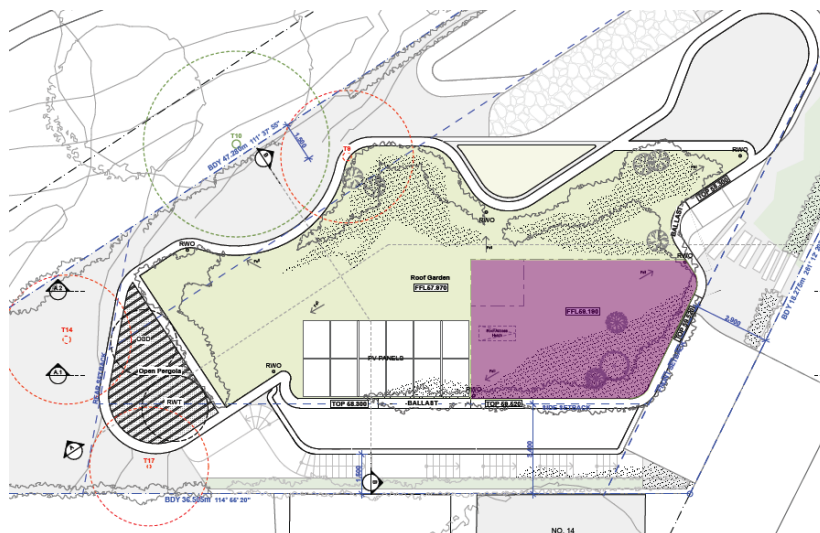
Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) To ensure adequate replenishment of tree canopy towards the western area of the site, the planting of one tree species (100 litre container size at the time of planting and to grow to maximum height at maturity of 4 metres (h) and 4 metres (w)), must be illustrated and specified to be planted on the submitted Landscape Plan in the vicinity of trees referenced 14 & 17 (in addition to the plants and trees already proposed).
- b) To minimise damage to the root system of Tree 10 the proposed stormwater line running along the Northern side of the dwelling must be redesigned to be setback at a minimum distance of 3.5 metres from Tree 10.
- c) To achieve compliance with Control C9 of Part B3.5.3 (views) of the Woollahra DCP 2015, the proposed *Podocarpus elatus* trees (Plum Pines) to the North-East corner of the site must be deleted from the landscape plans and replaced with an alternative tree species which attain a height of 4m at maturity. This condition is imposed to ensure an adequate level of view sharing and tree canopy.
- d) The proposed landscaped roof garden must be deleted and be made non-trafficable at all times, with the exception for maintenance work to the solar panels. The proposed top of roof level must be RL 57.970 to AHD, and the proposed top of the pop-up roof (which is shown in the below image as shaded in purple) must be RL 59.190 to AHD. Furthermore, the finish of all roofing structures must be non-reflective and of unobtrusive colour, in order to comply with control C8 of Part B3.5.1 of the Woollahra DCP 2015.



- e) The awning above the First Floor rear balcony must be deleted. The privacy screens to the South-West of the First Floor balcony must have a minimum height of 1.5m measured from the finished First Floor balcony level.
- f) The proposed fireplace is to burn non-solid fuels only, to achieve compliance with: Control C10 of Part B3.7.3 *Site facilities* of the Woollahra DCP 2015.
- g) The proposed solar panels must be parallel to the roof with a maximum height of RL 58.300.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C4 (Autotext CC4)

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$50,883	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$19,692.41 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$480	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$71,257.41 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,

- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.1163255S with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".
Standard Condition: C7

C.4 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.5 Swimming and Spa Pools – Child Resistant Barriers

The Construction Certificate plans and specifications required by clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act 1992* and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note: A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.
Standard Condition: C55 (Autotext CC55)

C.6 Swimming and Spa Pools – Backwash

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The plans must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.
Standard Condition: C56 (Autotext CC56)

C.7 Acoustic Certification of Mechanical Plant and 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

www.acoustics.asn.au

2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals www.aaac.org.au.

Standard Condition: C62 (Autotext CC62)

C.8 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:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 4 metres wide vehicular crossing 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. The centreline of the new crossing shall be aligned with the centreline of the internal driveway at the property boundary. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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.9 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

Standard Condition: C25

C.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, if deemed necessary by the geotechnical engineer upon detailed investigation, 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, if deemed necessary by the geotechnical engineer upon detailed investigation, such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),

- will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
- will detect groundwater changes calibrated against natural groundwater variations,
- details the location and type of monitoring systems to be utilised,
- details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.11 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: Road has the same meaning as in the *Roads Act 1993*.

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Standard Condition: C41 (Autotext: CC41)

C.12 Stormwater Management Plan

Prior to issue of any Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which includes the following:

- a) Compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and generally in accordance with the submitted stormwater management plans, referenced 201105-Rev B, prepared by RTS Civil Consulting Engineers, dated 15/01/2021 except that the proposed modified rainwater tanks act as an on-site detention (OSD) tank is not supported. A single cast in-situ OSD tank where the discharge orifice must be provided within the tank shall be provided. Minimum two 900x900 access grate must be provided for the proposed OSD tank where one of the access grate shall be provided directly over the discharge orifice;

- b) the discharge of stormwater, by direct connection, to the open channel in the drainage reserve via the headwall with rip-rap structure;
- c) Compliance the objectives and performance requirements of the BCA;
- d) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management; and
- e) The installation of minimum 14.6m³ of on-site stormwater detention ("OSD") system.

OSD Requirements

The minimum (OSD) Site Storage Requirements ("SSR") for this development is 14.6m³ and total Permissible Site Discharge ("PSD") including all bypassed areas must not exceed 19.8 l/s. The applicant may offset the OSD system by installing rainwater tank (RWT) where the required storage volume for the RWT is to be 1.5 times of the OSD storage volume. In this instance, stormwater runoff from all roof areas must be connected for non-potable use such as all toilet flushing, laundry device and garden irrigation etc.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of On-Site Detention,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

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.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 the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry.

- b. All fences traversing the over land flow path are to be designed to be flow through.
- c. All habitable floors have to be above or protected from flooding to the flood planning level.
- d. Flood compatible materials shall be used for all flood exposed construction
- e. All flood exposed electrical wiring and equipment is to be waterproofed.
- f. A permanent informative sign is to be mounted adjacent to the overland flow path indicating that the area is an overland flow path and must be keep clear and unobstructed at all times.
- g. 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.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: *Off-street car parking*. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

C.14 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.15 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan of all off-street car parking spaces must be prepared by a suitably qualified person and it must include details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point. This plan must be submitted to the certifier, prior to the issue of the construction certificate.

Standard Condition: C58 (Autotext CC58)

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,

- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
b) to the erection of a temporary building.

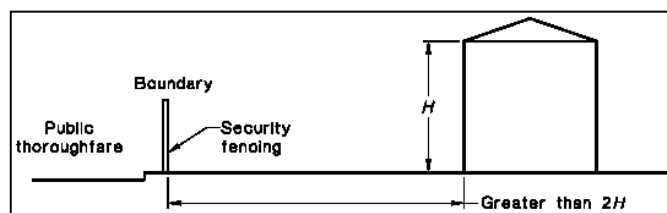
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

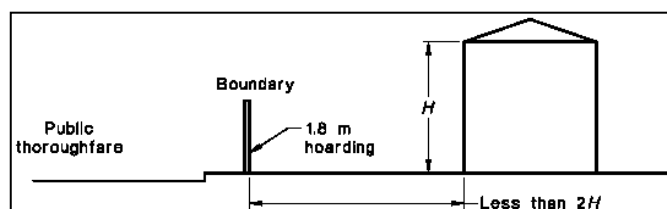
D.2 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Type A Hoarding

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.



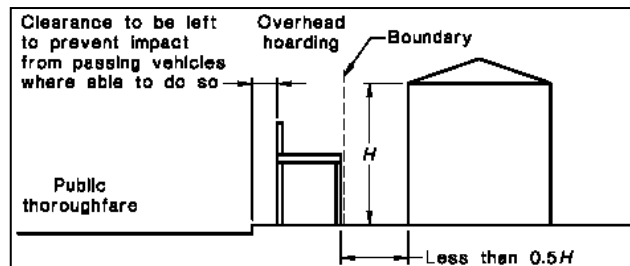
Type B Hoarding

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

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW "*Code of Practice - Overhead Protective Structures 1995*". This is code available at

www.safework.nsw.gov.au/data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Hoardings on Public Land including 'Creative Hoardings'

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council's Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:

- i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
- ii. the land is zoned R2 Low Density Residential
OR
- iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding".

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

D.3 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

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

Clause 227A of the *Regulation* provides:

Signs on development sites

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

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

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

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

Standard Condition: D12 (Autotext DD12)

D.4 Toilet Facilities

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

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

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

In this condition:

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

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

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

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

D.5 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

D.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.
Standard Condition: D15 (Autotext DD15)

D.7 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- b) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.
Standard Condition: D17 (Autotext DD17)

D.8 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. 14 Gilliver Avenue, Vacluse;
- No. 20 Fisher Avenue, Vacluse;

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.9 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

Standard Condition: D6 (Autotext DD6)

D.10 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

Standard Condition: D10 (Autotext DD10)

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.3 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.5 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.6 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

- b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.
Standard Condition: E7 (Autotext EE7)

E.7 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.8 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13 (Autotext EE13)

E.9 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.10 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.11 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

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

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

Standard Condition: E20 (Autotext EE20)

E.12 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21 (Autotext EE21)

E.13 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

E.14 Dust Mitigation

Dust mitigation must be implemented in accordance with "*Dust Control - Do it right on site*" published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.

- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “Dust Control - Do it right on site” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23 (Autotext EE23)

E.15 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly ‘signpost’ the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31 (Autotext EE31)

E.16 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.17 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

Standard Condition: E39

E.18 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

Standard Condition: E40

E.19 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.
Standard Condition: E41

E.20 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.21 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

E.22 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time.

Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.
Standard Condition: E26

E.23 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.
Standard Condition: E12 (Autotext EE12)

E.24 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.
Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. "*building* includes part of a building and any structure or part of a structure...."

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.

Standard Condition: E14 (Autotext EE14)

E.25 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.26 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Maximum Dimensions at Maturity (metres)
1 x Tree	Deep soil area in the vicinity of Tree 14 or 17	100 litre	4 x 4 metres
2 x Trees	As illustrated on the submitted Dangar Barin Smith Landscape Plan (dated 17/11/2021.)	100 litre	4 x 4 metres

The project arborist shall document compliance with the above condition.

E.27 Level changes in the vicinity of trees

Other than for the approved building footprint, 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)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	4.5 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5.4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2.5 metres

The project arborist shall document compliance with the above condition.

E.28 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	4.5 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5.4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2.5 metres

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.29 Footings in the vicinity of trees

Other than for the approved building, 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)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	4.5 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5.4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2.5 metres

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

F.2 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

Note: NSW Health guidelines and fact sheets are available at
www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx
Standard Condition: F13 (Autotext FF13)

F.3 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.
Standard Condition: F7 (Autotext FF7)

F.4 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

F.5 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by **Condition C16**.

Standard Condition: F22 (Autotext FF22)

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

Nil

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No.1163255S.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A *certifying authority* must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Standard Condition: H7 (Autotext HH7)

H.2 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.
Standard Condition: H12 (Autotext HH12)

H.3 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13 (Autotext HH13)

H.4 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site detention system (OSD),
- c) that the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations,

- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

H.5 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.1163255S.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

I.2 Outdoor Lighting – Residential

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.
Standard Condition: I49

I.3 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health "Public Swimming Pools and Spa Pools Advisory Document" in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,

- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

Note: Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx
Standard Condition: I30

I.4 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
Standard Condition: I59

I.5 Ongoing Maintenance of the On-Site-Detention System

The owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain.
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- e) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- g) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.

- i) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

I.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* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government
www.cjc.nsw.gov.au.

NSW Environment Protection Authority— see “noise” section
www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

Association of Australian Acoustical Consultants—professional society of noise related professionals
www.aaac.org.au.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
Standard Condition: I56

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website

www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating

Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.
Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.
Standard Condition: K7 (Autotext KK7)

K.6 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.
Standard Advising: K10 (Autotext KK10)

K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms F Stano, Assessment Officer, on (02) 9391 7000.

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

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.8 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from

www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

K.9 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.10 Owner-builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.

Standard Condition: K18 (Autotext KK18)

K.11 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions.

You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

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 request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.13 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

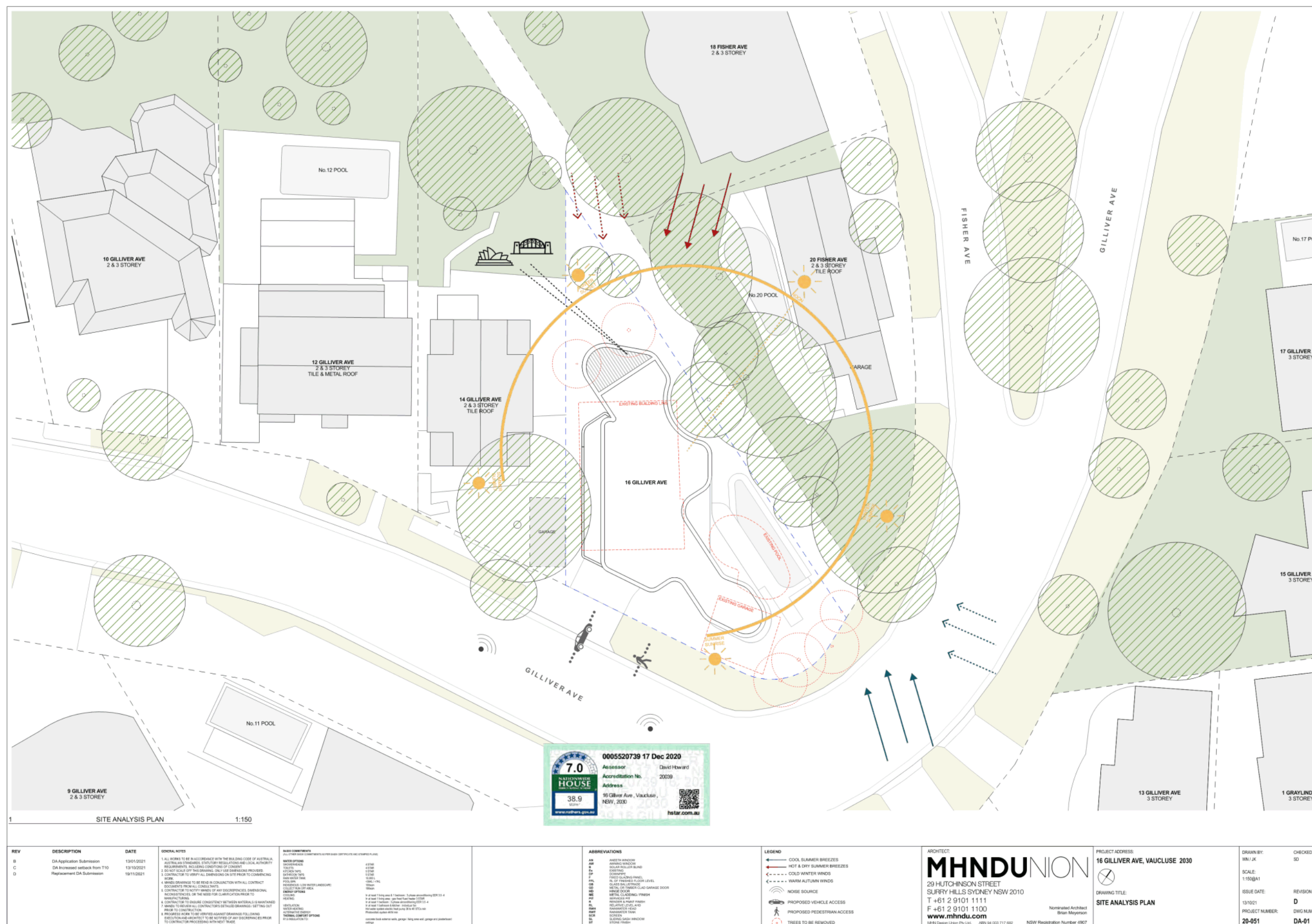
Note: *road* has the same meaning as in the *Roads Act 1993*.

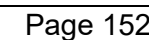
Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

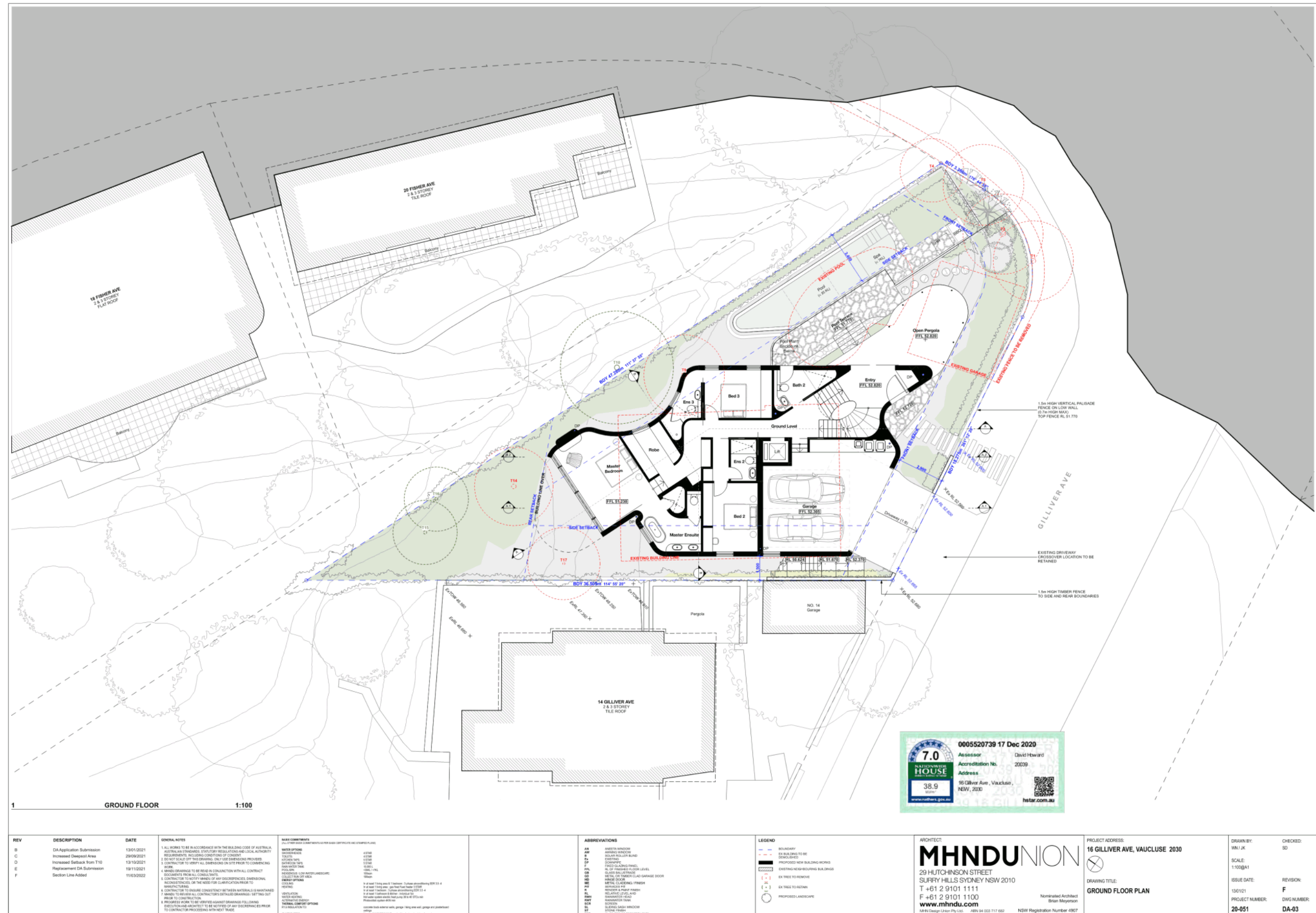
Standard Advising: K24 (Autotext KK24)

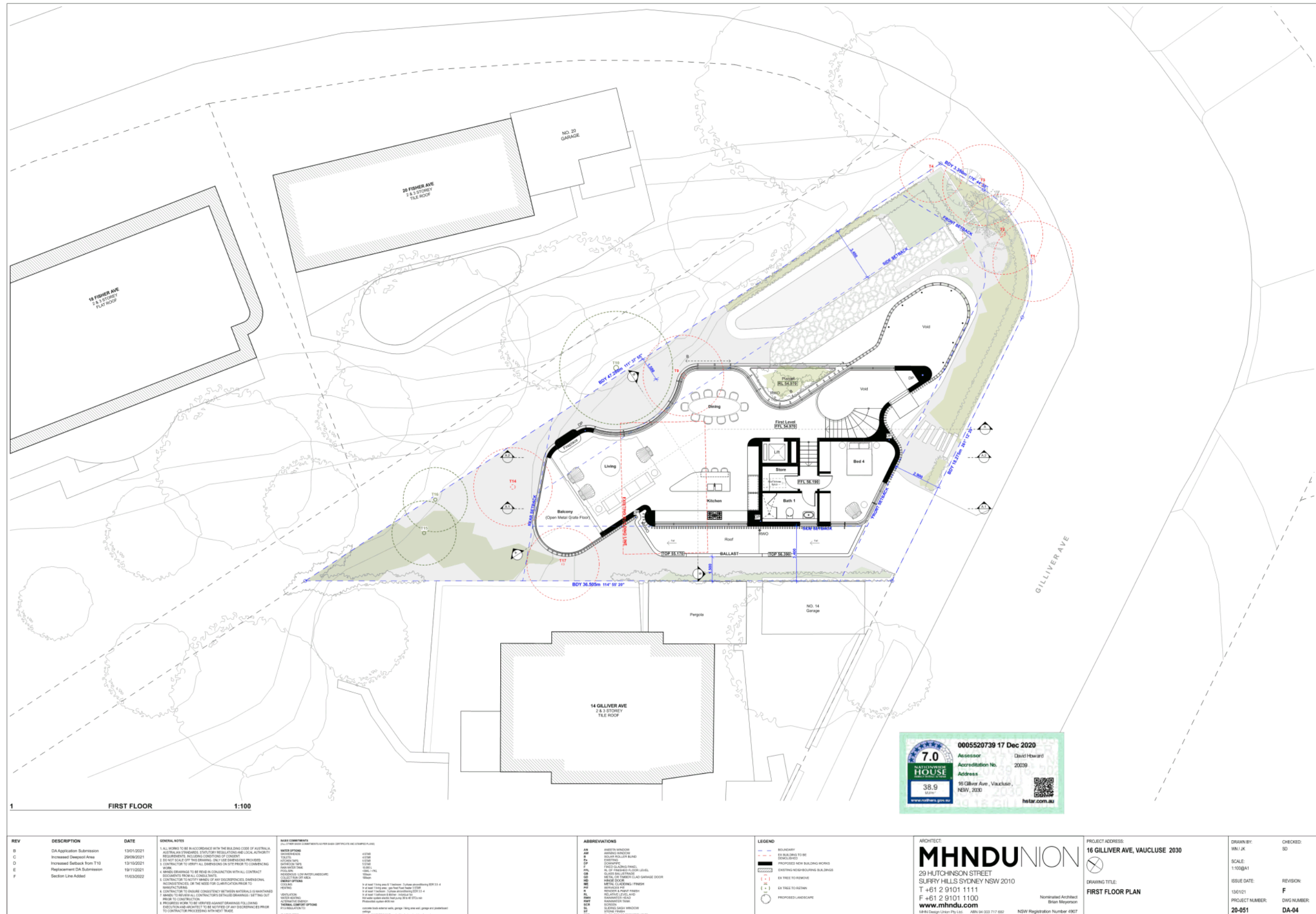
Attachments

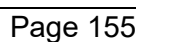
1. Plans and elevations
2. Clause 4.6 Written Request
3. Technical Services Referral Response
4. Trees and Landscaping Referral Response
5. Heritage Referral Response

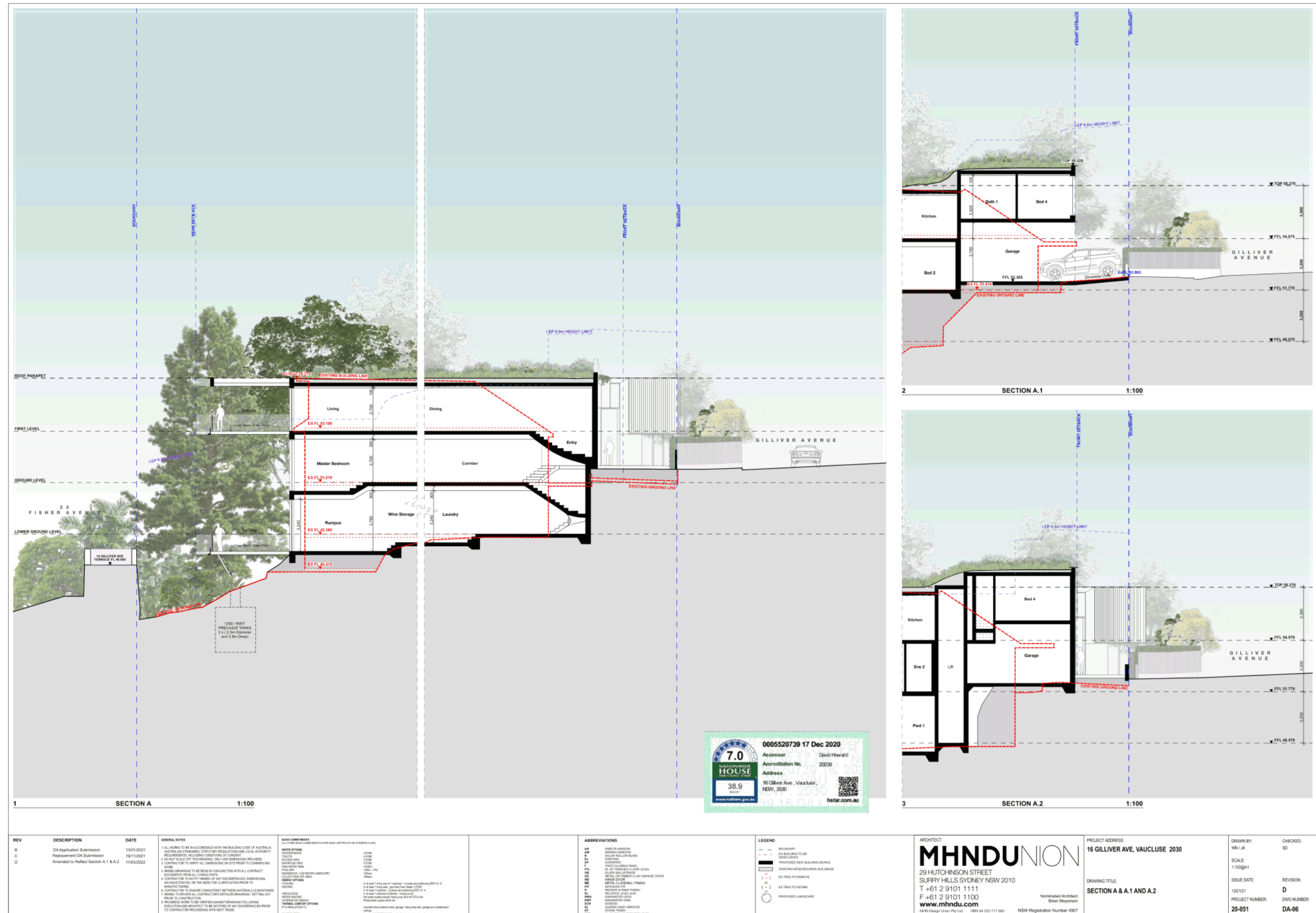


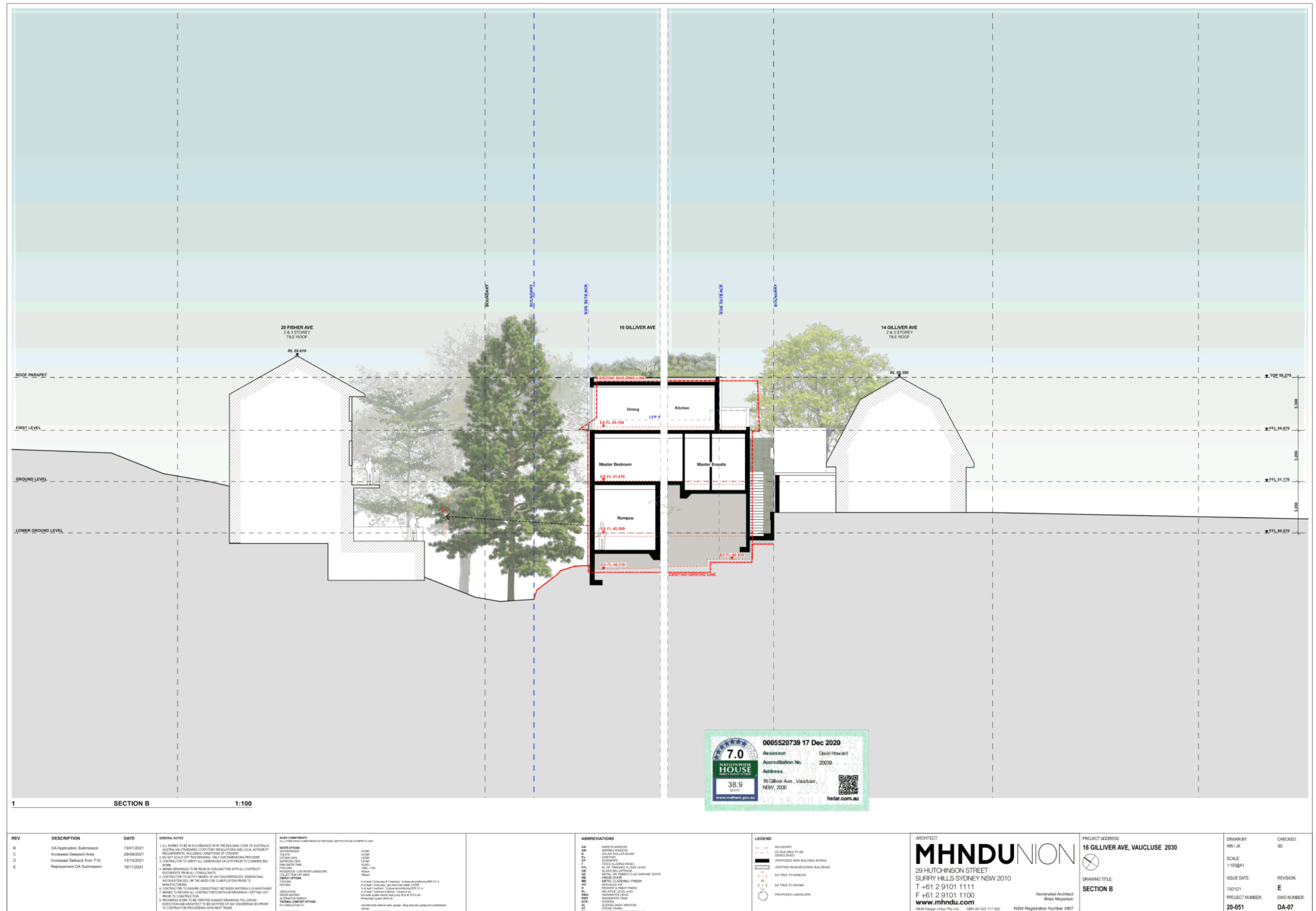


















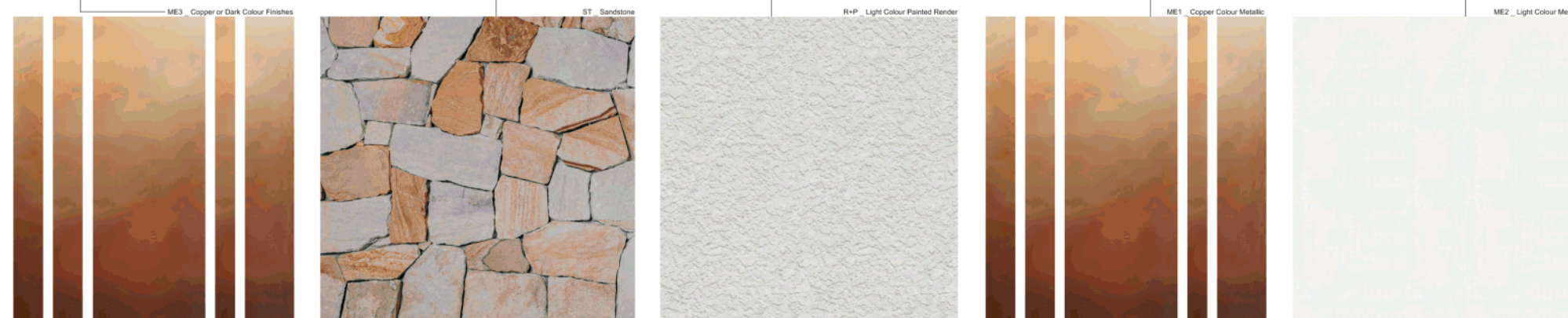
16 GILLIVER AV - EXISTING BUILDING FRONTAGE

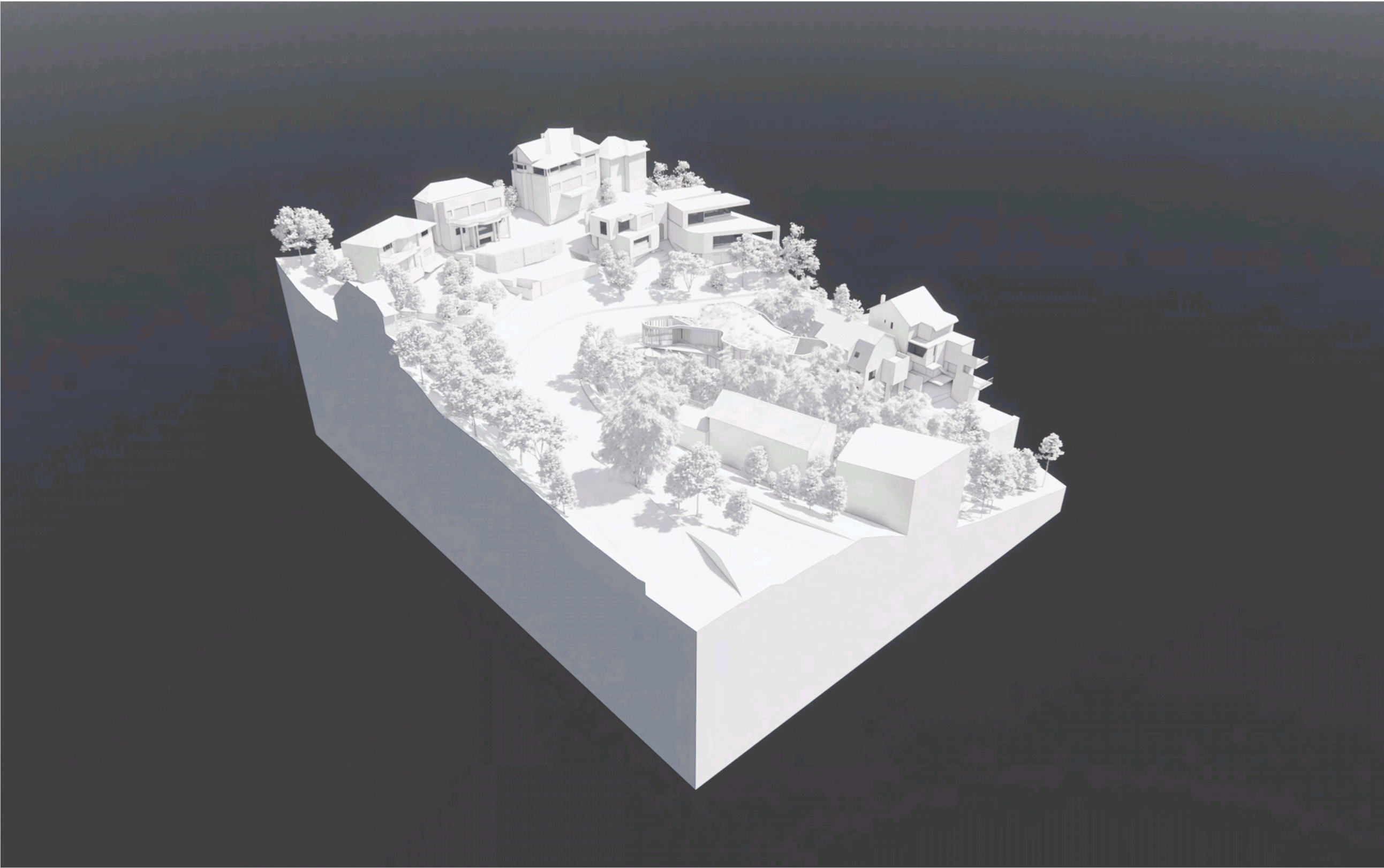


16 GILLIVER AV - PROPOSED BUILDING FRONTAGE

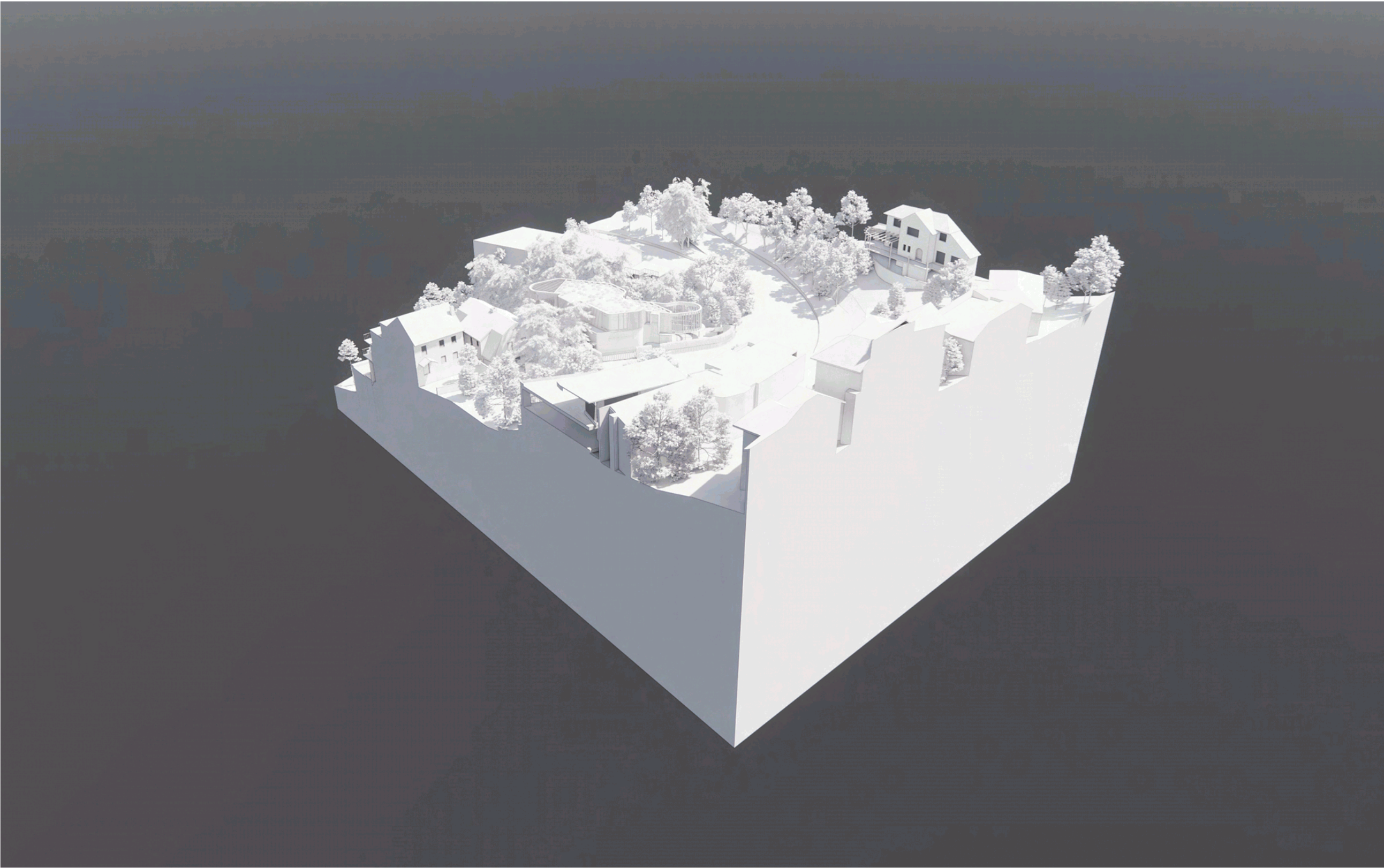


REV	DESCRIPTION	DATE	GENERAL NOTES	MAJOR COMMENTS	ABBREVIATIONS	LEGEND	ARCHITECT	PROJECT ADDRESS	DRAWN BY	CHECKED
9	DA Application Submission	13/01/2021	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, ALL OTHERS AND ENFORCEMENT OF LOCAL AUTHORITY REQUIREMENTS INCLUDING COMPLIANCE OF CONCEPT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. DIMENSIONS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY WRITER OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS AS MAINTAINED IN HAND TO REVIEW ALL CONTRACTORS' DETAILS DRAWINGS. 7. SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DIMENSIONS FOLLOWING EXISTING AND PROPOSED TO BE REVIEWED BY ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	MAJOR COMMENTS ALL DIMENSIONS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, ALL OTHERS AND ENFORCEMENT OF LOCAL AUTHORITY REQUIREMENTS INCLUDING COMPLIANCE OF CONCEPT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. DIMENSIONS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY WRITER OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS AS MAINTAINED IN HAND TO REVIEW ALL CONTRACTORS' DETAILS DRAWINGS. 7. SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DIMENSIONS FOLLOWING EXISTING AND PROPOSED TO BE REVIEWED BY ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	ABBREVIATIONS AN ANGLE WINDOW AW ANGLE WINDOW BR BRICK CA CEMENT CL CLAY GL GLASS GR GRANITE IR IRON M METAL P PAPER R RUBBER S STEEL T TILE V VENTILATION W WOOD Z ZINC ZP ZINC PLATE ZS ZINC STRIP ZT ZINC TIE ZV ZINC VENT ZW ZINC WIRE ZP ZINC PLATE ZS ZINC STRIP ZT ZINC TIE ZV ZINC VENT ZW ZINC WIRE	LEGEND --- BOUNDARY --- EXISTING TO BE DEMOLISHED --- PROPOSED NEW BUILDING WORK --- EXISTING NEIGHBOURING BUILDING --- EX TREE TO REMOVE --- EX TREE TO RETAIN --- PROPOSED LANDSCAPE	ARCHITECT MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com Nominated Architect Urban Mayerson NSW Registration Number 4007	PROJECT ADDRESS: 16 GILLIVER AVE, VAUCLUSE 2030	DRAWN BY: WV/JK SCALE: 1:100 ISSUE DATE: 13/01/21 PROJECT NUMBER: 20-051	CHECKED: SD REVISION: B DWS NUMBER: DA-13

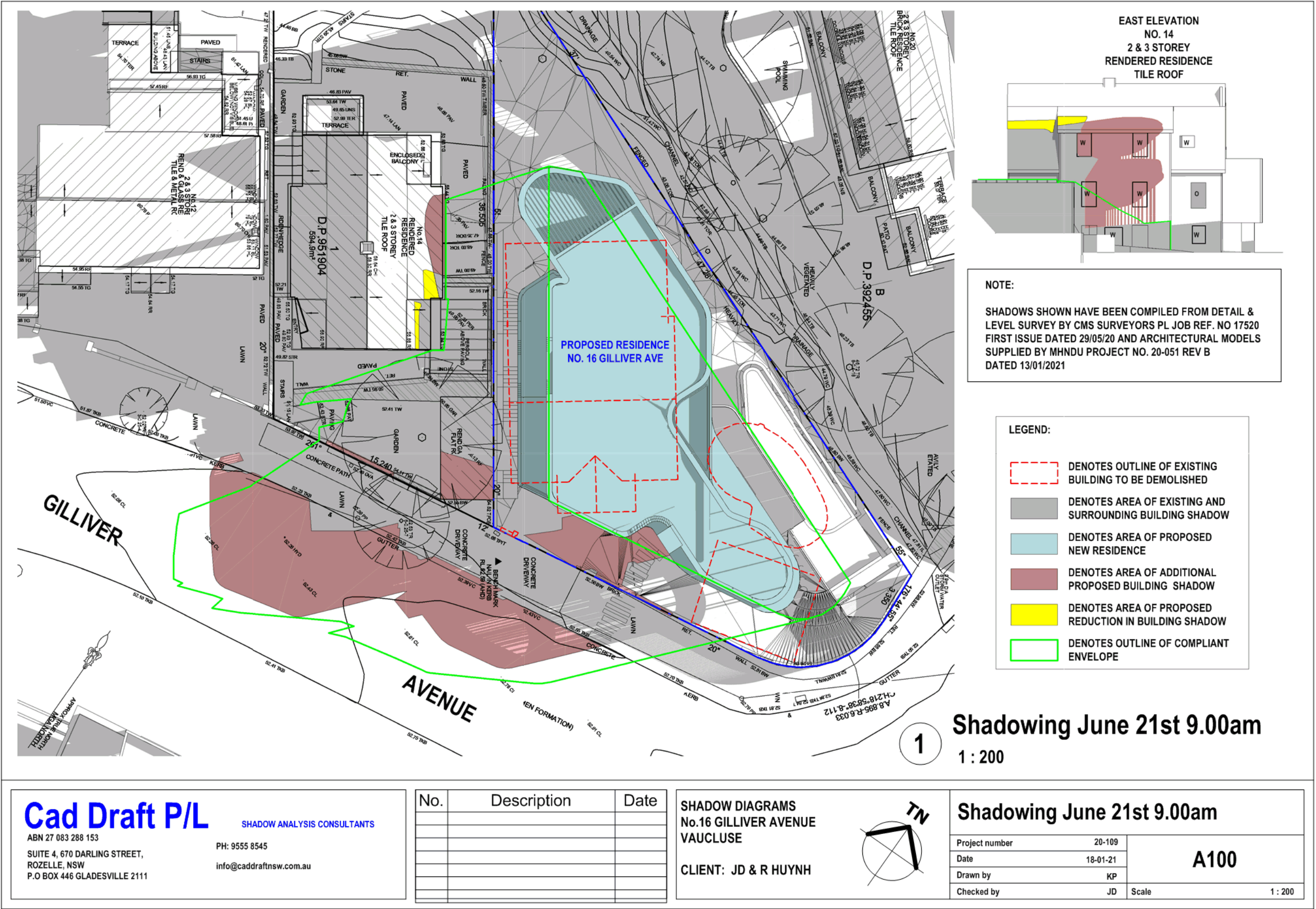
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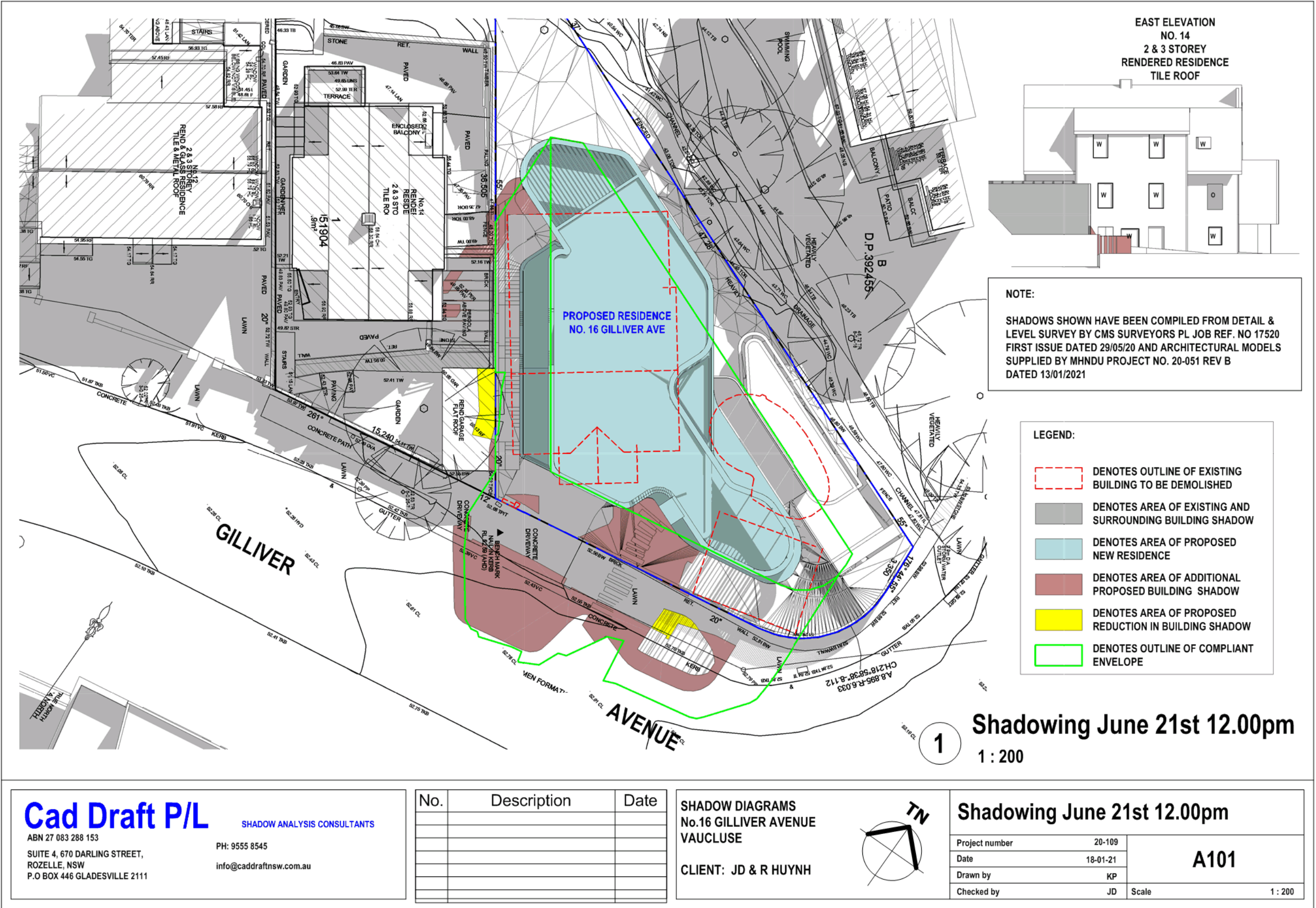


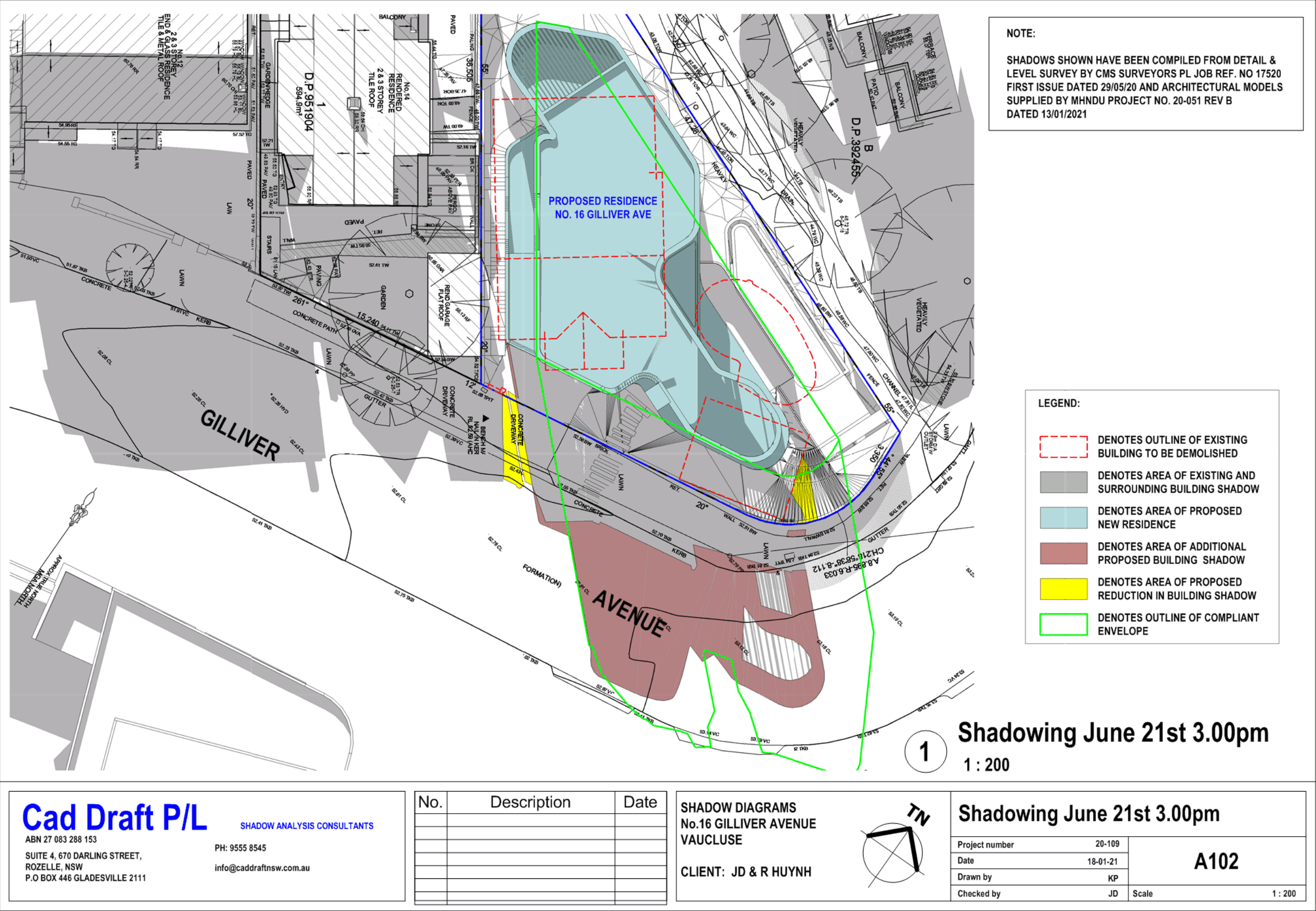
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B		13/01/21	DA Application Submission					<small>Not a registered Architect Brian Moyseman NSW Registration Number 4007</small>		DRAWN BY: WN / JK	

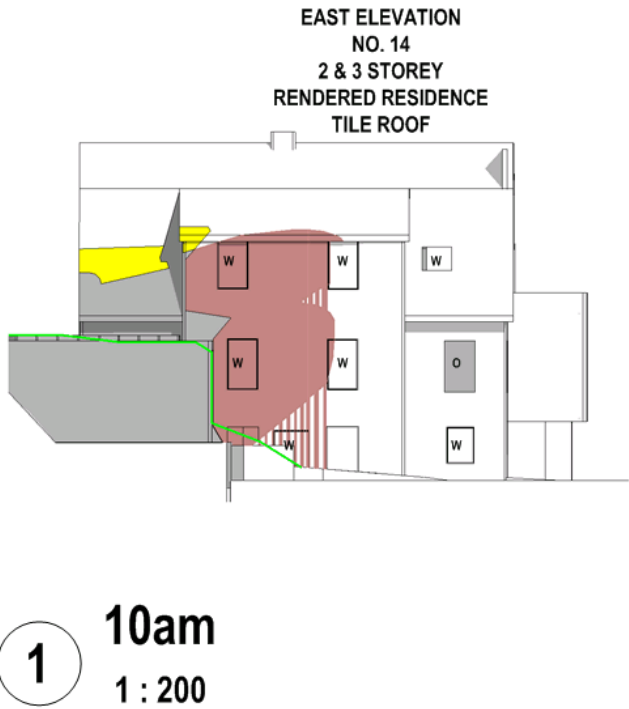


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Cad Draft P/L
ABN 27 083 288 153
SUITE 4, 670 DARLING STREET,
ROZELLE, NSW
P.O BOX 446 GLADESVILLE 2111

SHADOW ANALYSIS CONSULTANTS
PH: 9555 8545
info@caddraftnsw.com.au

No.	Description	Date

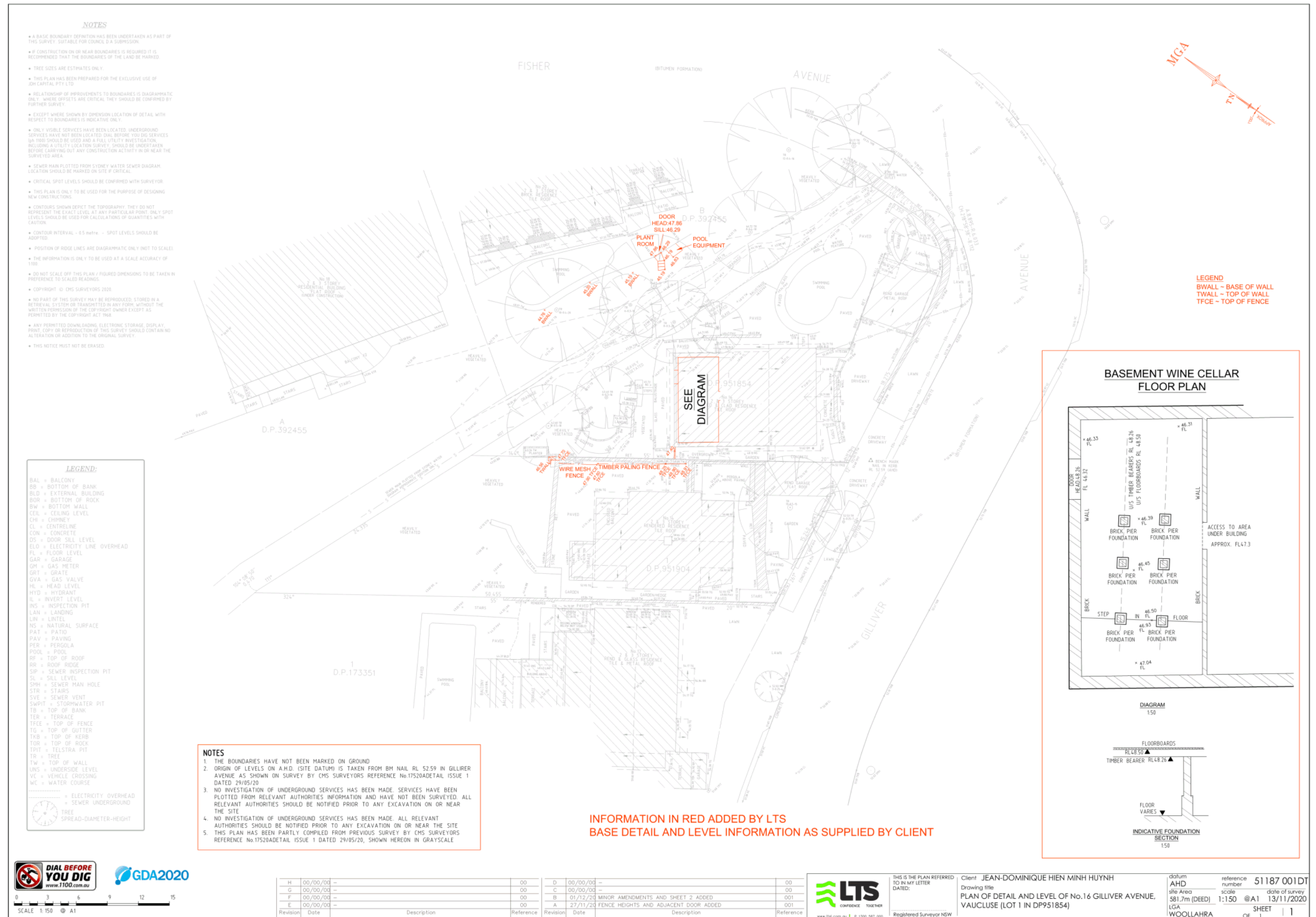
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No.16 GILLIVER AVENUE
VAUCLUSE

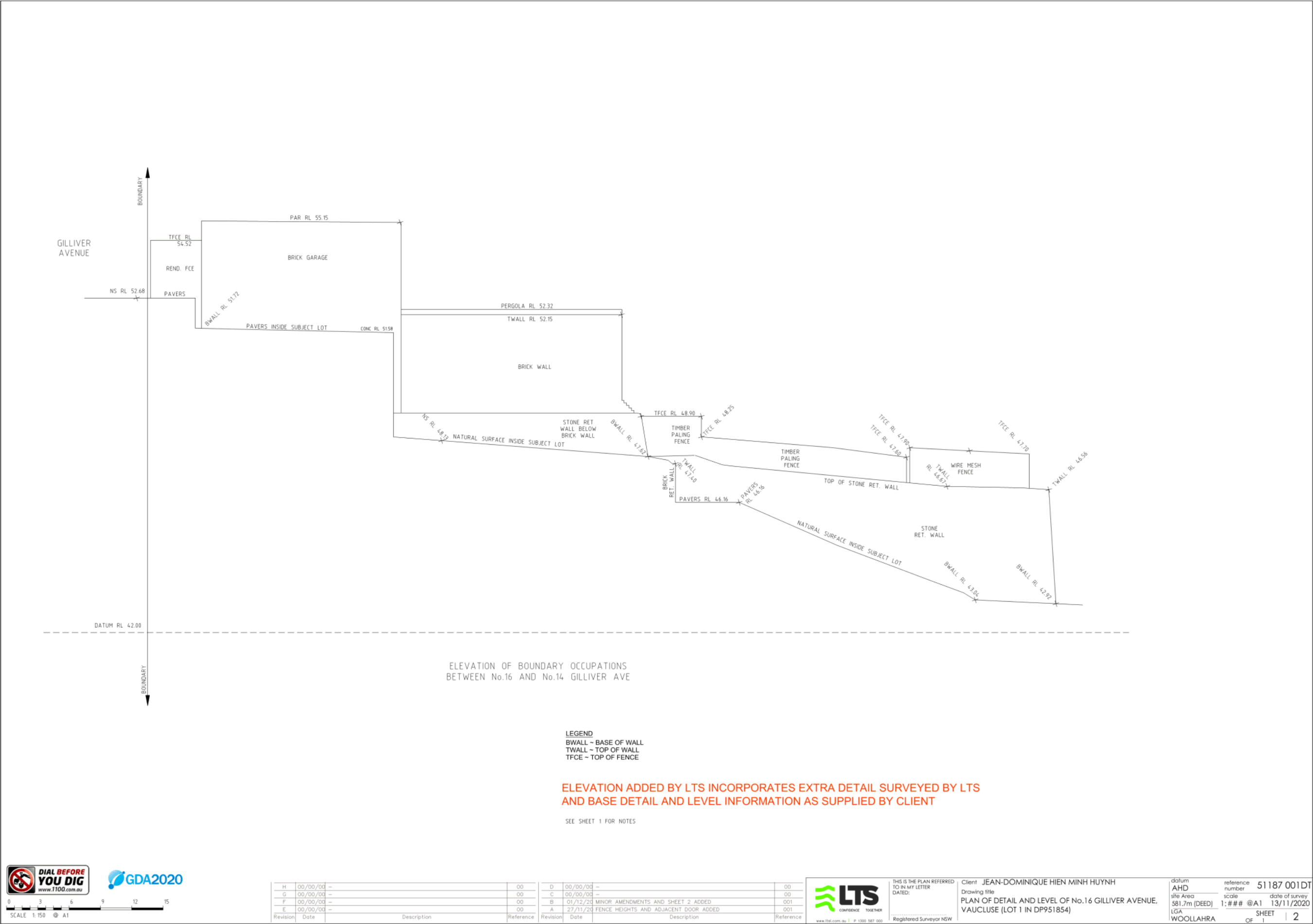
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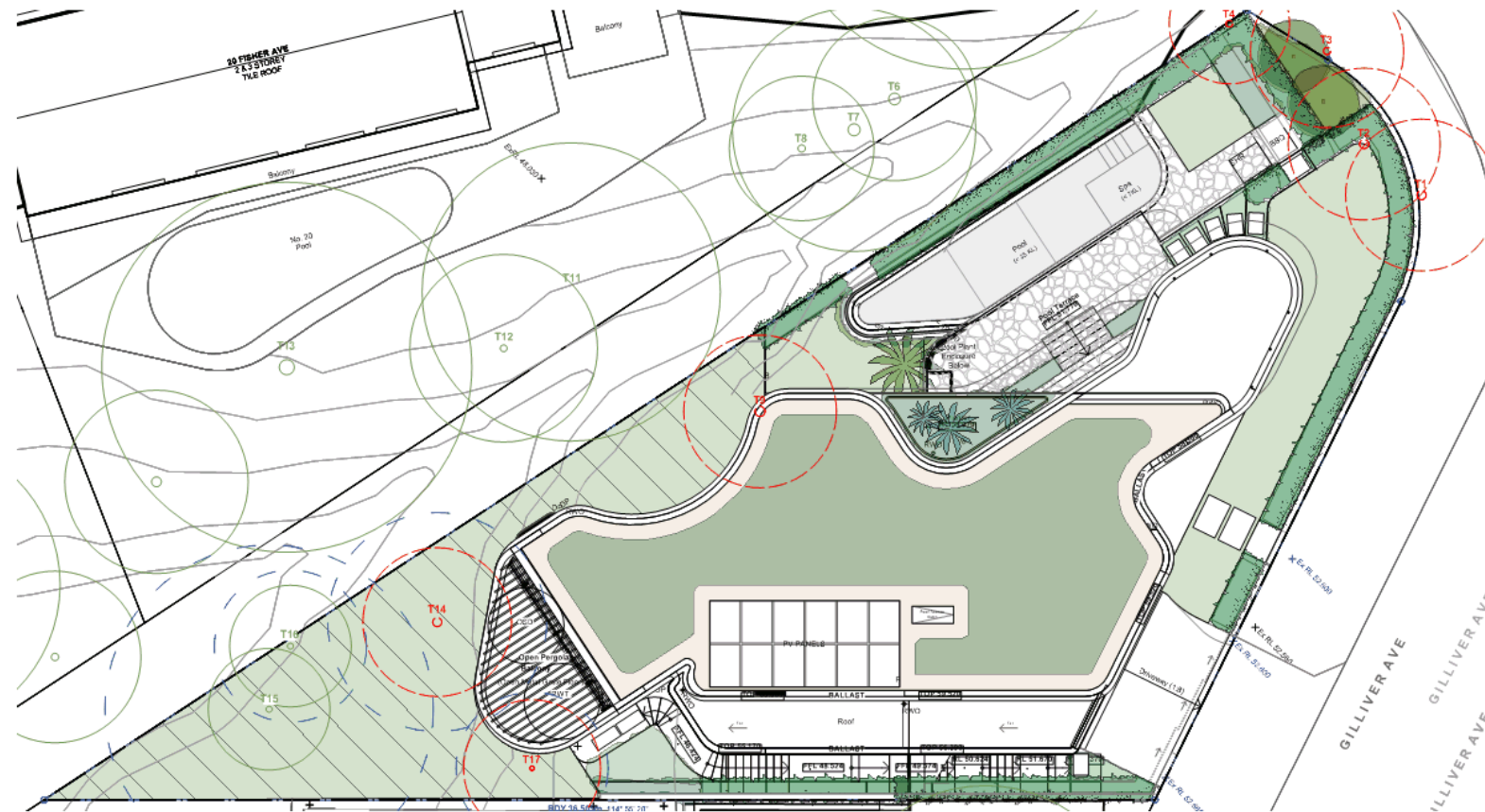
Elevation June 21st 10.00am

Project number	20-109	A103
Date	18-01-21	
Drawn by	KP	Scale 1 : 200
Checked by	JD	

18/01/2021 07:01:09







GENERAL NOTES:

GRAPHIC ILLUSTRATION

Please note that the plant graphics are indicative sizes only and not an accurate representation at time of purchase

SITE PREPARATION

All existing plants marked for retention shall be protected for the duration of works. Remove from site all perennial weeds and rubbish before commencing landscape works.

SOILWORKS

Thoroughly cultivate the subsoil to a depth of 200mm. Supply and install to a depth of 300mm quality garden soil mix to all planting beds and 150mm turf underlay to lawn areas.

MULCH

Supply and install a 75mm layer of hardwood horticultural grade mulch to all planting beds set down 25mm from adjacent paving or garden edge.

MAINTENANCE

All failed or defective plant species to be replaced by landscaper for a 3 months period following completion of work. Further maintenance during and after this period should include watering, weeding, fertilising, pest and disease control, pruning and hedging, reinstatement of mulch and keeping the site neat and tidy.

GENERAL PLANTING NOTES:

NOTE: It is recommended that all plants used be subject to an establishment period. During this period maintenance work carried out will include; watering, mowing, weeding, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, top dressing and keeping the site neat and tidy.

NOTE: Plants shall be vigorous, well established, of good form consistent with species or variety, not soft or forced, free from disease and insect pests, with large healthy root systems and no evidence of having been restricted in growth or damaged. Root system shall be well balanced in relation to the size of the plant.

NOTE: install 'root barrier' or equivalent to manufacturers specifications to protect nearby structures and services.

NOTE: Install temporary drip irrigation system under mulch in tree protection zones and water on allotted days.

PLANT SCHEDULE				
Botanic Name	Common Name	Mature Height(m)	Pot Size	Qty
Agave weberi	Maguey Liso	1.5m	300mm	3
Dioscorea floribundum	Ice Plant	Groundcover	140mm	50
Howea forsteriana	Kentia Palm	15m	adv.	1
Lomandra 'Tanika'	Fine Matt Grass	0.7m	200mm	523
Monstera deliciosa	Fruit Salad Plant	Climber	200mm	35
Podocarpus elatus	Plum Pine	8m	200L	2
Syzygium 'Resilience'	Resilient Lilly Pilly	3-4m	45L	77
Thunbergia grandiflora	Blue Sky Flower	Climber	200mm	6
Trachelospermum asiaticum	Asiatic Jasmine	0.3m	140mm	175
Trachelospermum jasminoides	Star Jasmine	Climber	300mm	3



Native Species
NOTE: 68.69% of proposed plants are native



LOCATION MAP



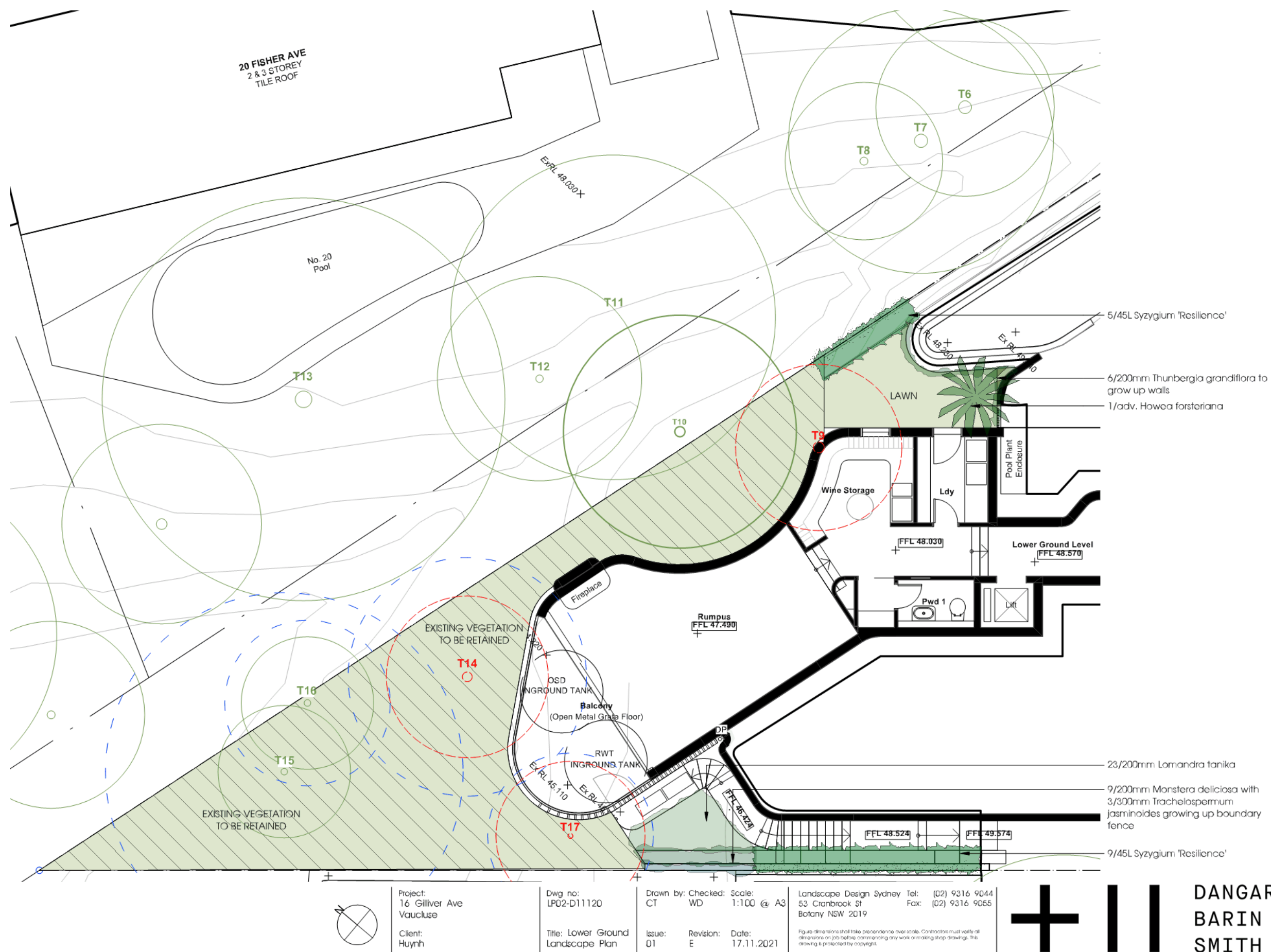
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16 Gilliver Ave
Vaucluse
Client:
Huynh

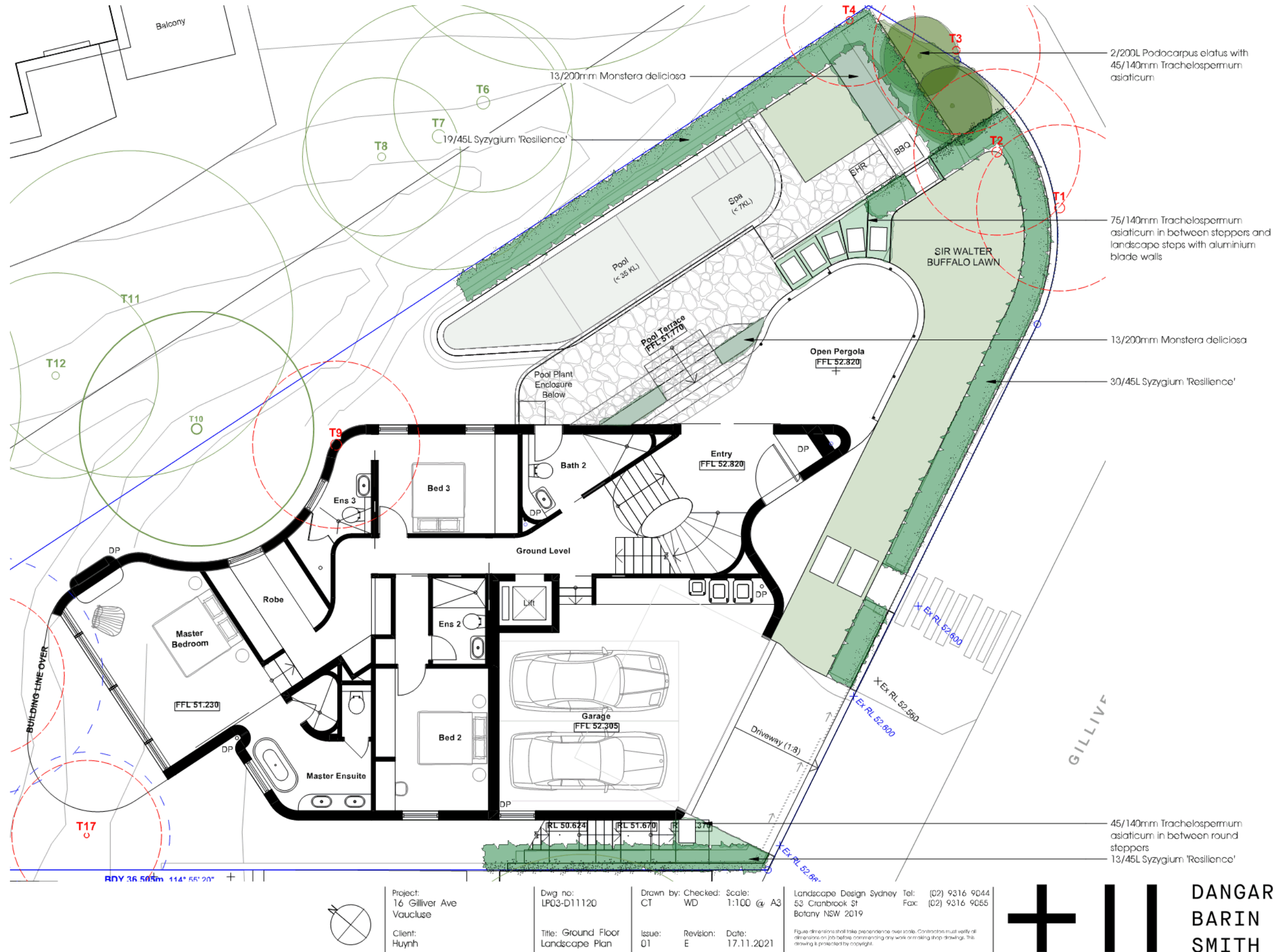
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LP01-D11120
Title:
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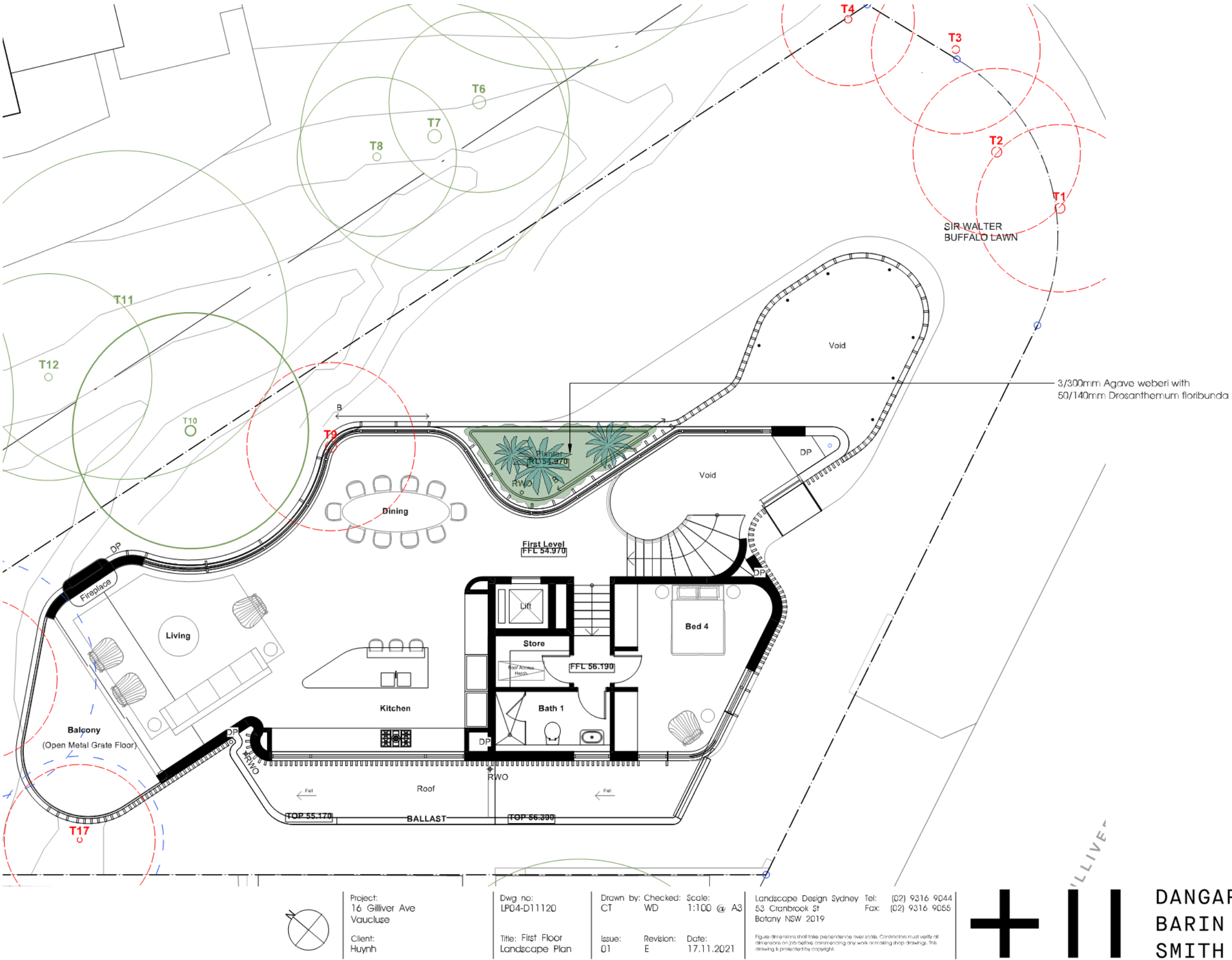
Drawn by: CT
Checked: WD
Scale: 1:100 @ A3
Issue: 01
Revision: E
Date: 17.11.2021

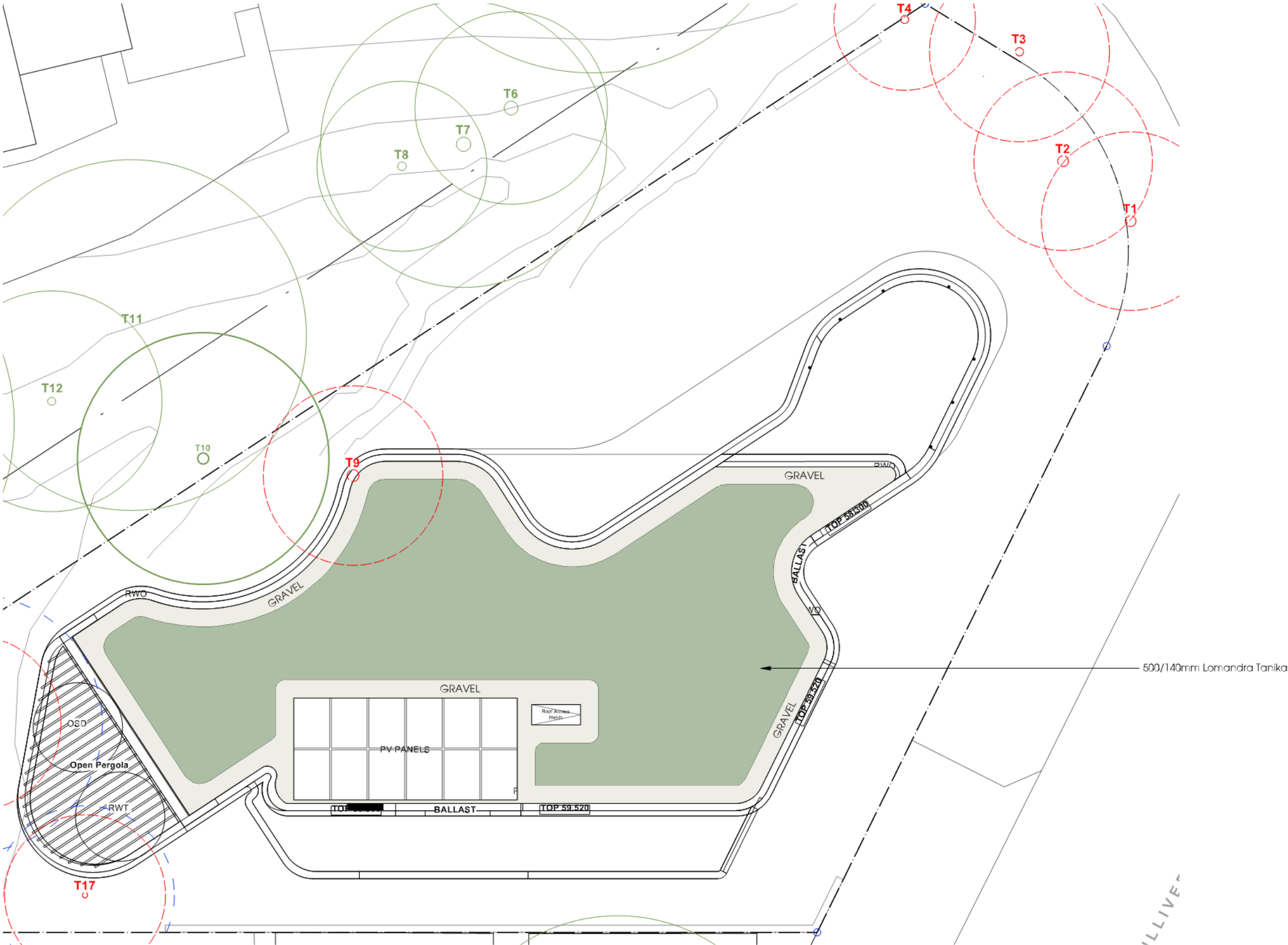
Landscape Design Sydney Tel: (02) 9316 9044
53 Cranbrook St Fax: (02) 9316 9055
Botany NSW 2019
Figure dimensions shall take precedence over scale. Contractors must verify all dimensions on job before commencing any work or making shop drawings. This drawing is protected by copyright.











Project:
16 Gilliver Ave
Vaucluse
Client:
Huynh

Dwg no:
LP05-D11120
Title: Roof
Landscape Plan

Drawn by: CT
Checked: WD
Scale: 1:100 @ A3
Issue: 01
Revision: E
Date: 17.11.2021

Landscape Design Sydney Tel: (02) 9316 9044
53 Cranbrook St Fax: (02) 9316 9055
Botany NSW 2019
Figure dimensions shall take precedence over scale. Contractors must verify all dimensions on job before commencing any work or making shop drawings. This drawing is protected by copyright.



DANGAR
BARIN
SMITH



WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Buildings

Demolition of Existing Dwelling and Construction of a New Dwelling, Swimming Pool and Landscaping at

No. 16 Gilliver Avenue, Vaucluse

Prepared for:

Mr Jean-Dominique Huynh

Email: jean-dominique.huynh@jdcapital.com

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners

(A.B.N. 89 643 660 628)

95 Paddington Street, Paddington NSW 2021

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e: info@gsaplanning.com.au

JOB NO. 20228

January 2021

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: Mr Jean-Dominique Huynh
SITE ADDRESS: No. 16 Gilliver Avenue, Vaucluse
PROPOSAL: Demolition of Existing Dwelling and Construction of a New Dwelling, Swimming Pool and Landscaping

1. (i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

R2 Low Density Residential. The zone's objectives are:

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

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings. The Clause states:

- (1) *The objectives of this clause are as follows—*
- (a) *to establish building heights that are consistent with the desired future character of the neighbourhood,*
 - (b) *to establish a transition in scale between zones to protect local amenity,*
 - (c) *to minimise the loss of solar access to existing buildings and open space,*
 - (d) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
 - (e) *to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*
- (2A) *Despite subclause (2) and clause 4.3A, the maximum height of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.*
- (2B) *Despite subclause (2) and clause 4.3A, the maximum height of a building on a battle-axe lot on land in Zone R3 Medium Density Residential is 9.5 metres.*

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

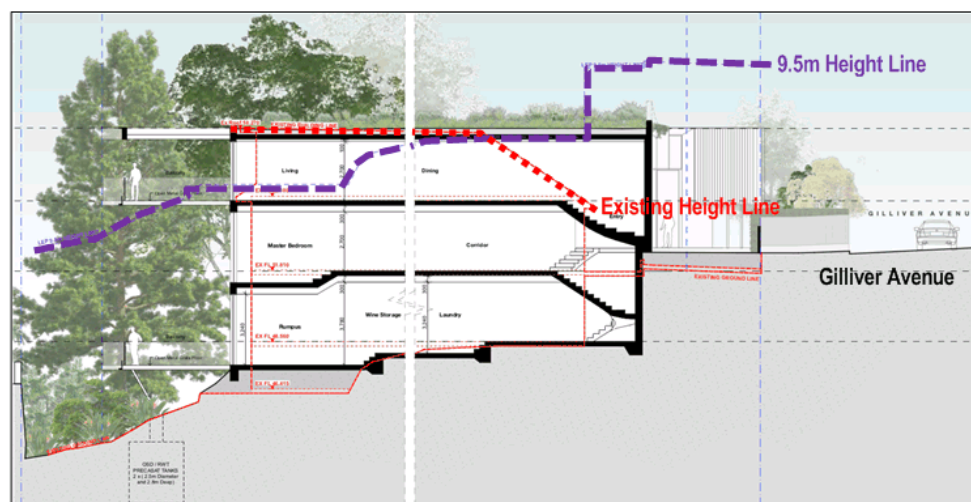
2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation is consistent with the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of buildings. This Clause operates in conjunction with the Height of Buildings Map which indicates a maximum 9.5m building height applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The existing building with a topmost RL of 58.27 AHD results in an approximately 12m height and a non-compliance of approximately 2.5m. The proposed building height varies between approximately 7m and a maximum of 14.3m. The non-complying element is at the rear only and is a function of the site's excavated, steep terrain, varying up to 4.8m (50.5%), while the street frontage is well below the height limit. It is also noted the existing roof already exceeds the standard (see **Figure 1**).



Source: MHNDU

Figure 1: Proposed Height at Section A

The proposal will have a two-storey street appearance, compatible with the neighbouring building heights, and will remain within the maximum RL of the existing rear roof. As the breach in the development standard relates to the steep topography, is similar to the existing situation and is at the rear only, it is unlikely to be easily discernible when viewed from the public or private domain.

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 and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

- | | |
|---------------|---|
| Objective (a) | <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> |
| Objective (b) | <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i> |

The proposal seeks flexibility in the application of the height standard to the development in the circumstance of this case, particularly as the proposal maintains the existing dwelling's maximum RL at the rear. It is our opinion that the proposed building height is appropriate irrespective of the interpretation of the extent of variation.

The proposal has been designed to ensure neighbours' amenity is maintained. The built form will positively contribute to the public domain when viewed from Gilliver Avenue, with an improved frontage, a sympathetic façade and a compatible height and form substantially below the maximum building height at the front. This is also achieved through the proposal's compliance with the floorplate, deep soil and amenity controls of the DCP. The height variation allows for a high-quality new dwelling to contribute to the eclectic mix of local developments. The proposed height is considered a desirable alternative to additional excavation or an elevated bulk at the street frontage.

Considering the existing height exceedance, the proposed works will offer an enhanced street presentation. The extent of variation will maintain neighbours' amenity, similar to the existing built form, and in many cases have similar or even less impact when compared with a compliant envelope. Therefore, in our opinion, the proposed height provides a better planning outcome for the site. As the proposal is consistent with the objectives of Clause 4.6, the variation is acceptable in this instance.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in 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 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 test established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered as follows.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

It is noted 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 area's desired low density character, as required in the LEP. The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls. The proposal is also consistent with the LEP building height development standard's objectives, which will now be discussed.

(a) to establish building heights that are consistent with the desired future character of the neighbourhood,

'Desired future character' is not defined in the LEP. The meaning of 'desired future character' is derived from the text and context of the provisions of the LEP in which it is used and the other provisions of the LEP that form the urban character and built form of the area.

The relevant clauses in the LEP which relate to urban character and built form are:

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and
- d. The development standards in Part 4:
 - i. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 9.5m.

The R2 Low Density Residential zoning permits a wide range of uses and built form on the site, which promotes the eclectic desired future character. The permissible uses are:

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Group homes; Home occupations (sex services); Information and education facilities; Office premises; Oyster aquaculture; Pond-based aquaculture; Public administration buildings; Recreation areas; Respite day care centres; Secondary dwellings; Semi-detached dwellings; Shops; Tank-based aquaculture

The proposal will contribute to the eclectic mix of permissible uses in the R2 zone.

As addressed in the LEP, the locality is characterised by a mix of two to three-storey dwellings in the R2 zone. Older dwellings are being refurbished or replaced as part of the emerging contemporary character. As the proposed area of height variation is at the rear within the maximum RL of the existing rear roof, it will not impact the streetscape. The proposal is also compatible with the desired future character for the following reasons.

The dwelling will present as two to three storeys including the integrated garage. This is consistent with the height, bulk and scale of the existing and recently approved local developments. Due to the excavated steep terrain, the variation occurs over the rear only, where there is an existing height exceedance. The area of non-compliance will not be discernible from Gilliver Avenue and is unlikely to add to the bulk and scale when viewed from neighbouring properties. The new dwelling remains significantly below the height limit towards the front (see **Figure 2**), partly offsetting the area of non-compliance.

The proposal provides a visual benefit through a high-quality, contemporary dwelling. This will enhance the site's street presentation, positively contribute to the locality's emerging character and provide an appropriate interface with the public domain and adjoining dwellings. A variety of materials such as sandstone, render and metal finishes as well as more than compliant deep soil landscaping, including 100% deep soil in the rear setback, will provide visual and environmental amenities. The non-trafficable roof garden will further soften the built form.



Source: MHNDU

Figure 2: Proposed Height Towards the Front

The proposed built form sympathetically responds to the adjacent developments' character. There are a number of examples of low density developments in the vicinity which have been approved under the current controls with building height non-compliances. It is recognised that each application is assessed on its own merits and each site has different characteristics. However, it is a relevant consideration to understand if Council has accepted breaches to the height standard in the past, under what circumstances these were supported and if indeed there are any comparable principles to the subject development application (DA). Based on Council's Clause 4.6 Register, these include, inter alia:

On **30 April 2020**, Council approved DA No. 131/2019 for the 'extensive alterations & additions to the existing dwelling (new dwelling) including new swimming pool' at No. 3 Gilliver Avenue, Vaucluse, with a 26% height exceedance. The main justification was the consistency with the relevant objectives.

On **3 October 2019**, Council approved DA No. 104/2019 for the 'demolition of dwelling and construction of new dwelling, swimming pool and landscaping' at No. 10 Parsley Road, Vaucluse, with a 12% height exceedance. The main justification was it demonstrated the height non-compliance was consistent with the objectives of the standard, compliance was unreasonable and unnecessary in the circumstances and there were sufficient environmental planning grounds to justify contravening the standard.

On **27 August 2019**, Council approved DA No. 464/2018 for the 'demolition of existing dwelling and pool and the construction of a new dwelling and pool' at No. 15 Vaucluse Road, Vaucluse, with a 10% height exceedance. The main justification was the proposal upheld the objectives of the height standard and there were sufficient environmental planning grounds to support the variation.

On **4 July 2019**, Council approved DA No. 383/2018 for the 'replacement dwelling, secondary dwelling, ancillary structures and site works' at No. 41 Fitzwilliam Road, Vaucluse, with an 11.6% height exceedance. The main justification was the proposal upheld the objectives of the height standard and zone, and sufficient environmental planning grounds had been provided to justify the departure.

On **16 May 2019**, Council approved DA No. 310/2018 for the 'demolition of the existing dwelling and the construction of a new four storey dwelling incorporating garaging, new pool and landscaping works' at No. 24 Olola Avenue, Vaucluse, with a 33% height exceedance. The main justification was the variation was supported due to the site topography.

On **18 April 2019**, Council approved DA No. 276/2018 for the 'demolition of existing dwelling-house, construction of a replacement dwelling-house, swimming pool, landscaping and siteworks' at No. 22 Carrara Road, Vaucluse, with a 22% height exceedance. The main justification was the proposal met the objectives of Clause 4.3 and there were sufficient environmental planning grounds to support the departure.

Accordingly, the above applications for new low density developments in the same R2 zone in Vaucluse had a comparable breach which was supported by Council staff and the Panel on similar arguments as those made in our submission (being due to the site topography, achieving the height standard's objectives and having sufficient environmental planning grounds).

As it is at the rear, the height variation will not noticeably add to the building's bulk and scale from the street, especially considering the existing dwelling already exceeds the height limit, and the new dwelling remains substantially below the maximum building height at the front and no higher than the existing maximum RL at the rear.

Additionally, the retained RL of the roof (58.27 AHD) will be 1.34m lower than that of the existing northern neighbouring dwelling at No. 20 Fisher Avenue (59.61 AHD), and also lower than that of the western neighbours at No. 14 Gilliver Avenue (58.30 AHD) and No. 12 Gilliver Avenue (60.76 AHD).

Vaucluse West Precinct Character

While the 'desired future character' is not based on the DCP interpretation, the proposal is consistent with the objectives relating to the Vaucluse West Precinct in Part B1 of Council's DCP. The relevant objectives of this area and our responses are as follows:

Objective: *To respect and enhance the streetscape character and key elements of the precinct.*

Response: The careful design with a compliant floorplate contributes to the mixed architectural styles and integrates with the landform, identified as the precinct's key elements. There have been numerous recently approved dwellings that shape the area's future character, which the proposal is consistent with as well. The area of non-compliance is at the rear only and therefore does not impact the streetscape character.

Objective: *To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*

Response: The proposed dwelling responds to the steep topography, and new landscaping will enhance the site's scenic quality.

Objective: *To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*

Response: The elegant, contemporary dwelling incorporates modulation and varied materials which provide texture, contrast and visual interest. The materials and finishes provide a sophisticated contribution to building styles along Gilliver Avenue.

Objective: *To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*

Response: The proposal presents as two storeys from the street and three storeys at the rear. This is in keeping with the adjacent developments and softened by landscaping.

Objective: *To design and site buildings to respond to the topography and minimise cut and fill.*

Response: Despite the sloping terrain, the proposed lower ground floor is generally sited at the existing ground level, with the main living area above, to minimise excavation, all within a compliant floorplate.

Objective: *To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*

Response: No significant public views are identified across the site. While no public view corridors appear available between the existing buildings due to established trees, the dwelling is substantially below the maximum building height at the front and complies with both the front and rear setbacks to facilitate view sharing.

Objective: *To reinforce the landscape setting and maintain the existing tree canopy.*

Response: Existing vegetation and new landscaping will form part of a green backdrop when viewed from the surrounding areas.

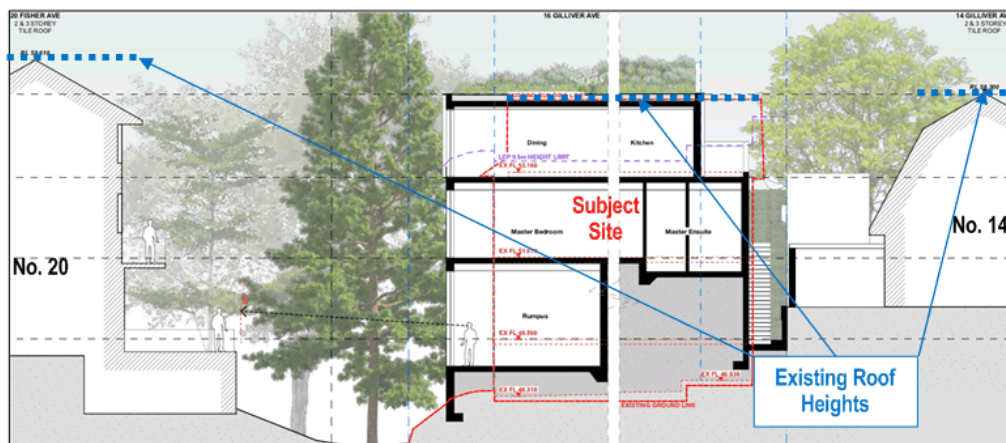
Objective: *To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

Response: More than compliant landscaping is proposed throughout the site, contributing to the established landscape setting.

Therefore, the proposed dwelling will not appear out of character when viewed in its context. The proposal remains significantly below the maximum building height at the front, retains the RL of the existing rear roof, is compatible with the neighbourhood's desired future character and will continue to provide an appropriate scale transition. This is further addressed as follows.

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

The site is amid an R2 zone and not near another zone or where a different maximum building height applies. Accordingly, this objective is considered less relevant. Nonetheless, when neighbouring developments are considered, the proposal will maintain a transition of RLs, similar to the existing dwelling. In fact, there will be no change to the existing maximum RL where the height non-compliance occurs at the rear, which will remain below that of neighbours on both sides (see **Figure 3**). The proposal will also maintain a drop in RLs towards the north-west.



Source: MHNDU
Figure 3: Short Section (Looking East)

As demonstrated previously, the proposal would also appear smaller in scale than a fully compliant envelope along the street. In fact, a building to a height of 9.5m at the front in compliance with the LEP would have a far greater impact in the streetscape. On this basis, local amenity will continue to be protected and this objective is satisfied.

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

The area of non-compliance will cast additional shadow over three upper-level eastern windows at No. 14 Gilliver Avenue at 9am, and this neighbour's eastern side setback at 12pm. However, the area of non-compliance will not overshadow any neighbouring main ground-level private open spaces or north-facing windows from 9am to 3pm, or any windows from 12pm to 3pm. In fact, a compliant envelope would have a far greater impact at 3pm.

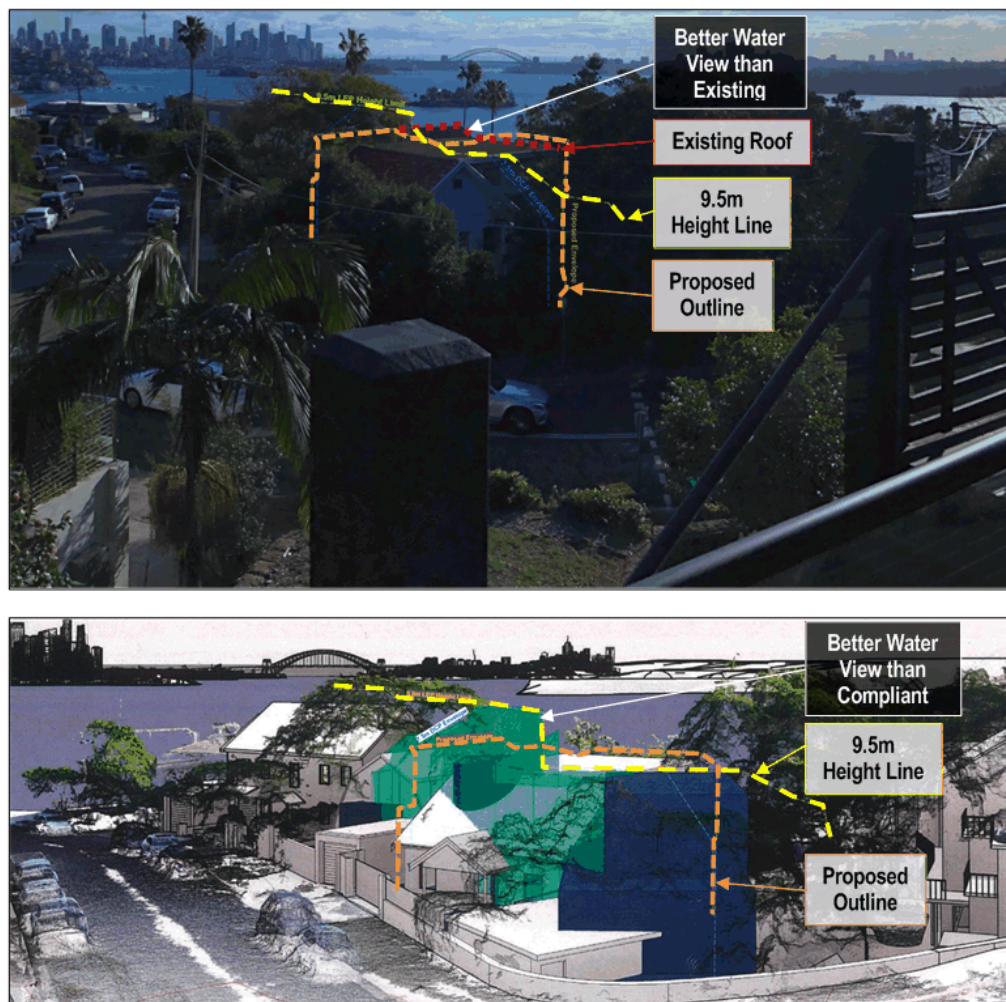
Regardless of the height exceedance, the shadow diagrams indicate the proposal is consistent with Council's requirements for three hours' sunlight to the adjoining properties' upper-level north-facing habitable room windows and main ground-level private open spaces.

The development is therefore more than compliant with the DCP requirement for solar access and consistent with Objective (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,

As outlined in the SEE, the variation is consistent with this objective as the sympathetic design generally maintains neighbours' environmental amenity, similar to or even better than a compliant building height.

Harbour and City views to the west are available across the steep site. The proposal has been carefully sited to maintain views for properties to the east at a much higher elevation, through the compliant front and rear setbacks. As discussed, at the front, the proposal is significantly below the maximum building height. At the rear, the new roof remains below the RLs of neighbouring roof ridges to both the north and west. Importantly, the area of non-compliance is unlikely to have additional view impact when compared to the existing or compliant envelope. In fact, a compliant envelope would create a greater impact on the water view for No. 13 Gilliver Avenue (see **Figure 4**).



Source: MHNDU

Figure 4: Views from No. 13 Gilliver Avenue

Accordingly, the proposal will facilitate equitable view sharing.

Privacy will also be maintained as the area of building height exceedances comprises part of the windows and balcony, which will have external privacy screens installed on the western side and be screened by the existing dense trees and vegetation on the northern side.

The contemporary dwelling will provide a more resolved design than the outdated development on the steep site that is mainly below the street level. Given the topographical constraints and the existing height exceedance, any new dwelling or roof changes would be likely to exceed the height standard. Requiring compliance with the height standard on the excavated terrain would necessitate reduction of the roof which is already lower than the adjoining developments, or reducing the minimum front setback, inconsistent with the adjacent developments. While pulling the dwelling closer to the front boundary could technically achieve numerical compliance with the height standard, it would result in additional excavation or a visually bulkier dwelling at a higher elevation, which would be more imposing on Gilliver Avenue. This scenario would have greater visual impact on the streetscape and additional amenity impact on neighbours. This is unreasonable and undesirable for a new dwelling consistent with the adjacent developments' height, bulk, scale and character.

For these reasons, the proposal has appropriately responded to views, privacy, solar access and visual impact. Accordingly, in our opinion, the proposal will preserve the neighbouring properties' environmental amenity and satisfy Objective (d).

(e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

No significant public views are identified across the site by the DCP. Given the site's location, the unchanged roof RL towards the west and the height variation's compliant rear setback, the proposal is unlikely to affect any public views. On this basis, the proposal is considered consistent with Objective (e).

Accordingly, despite the height exceedance, the proposal will maintain neighbours' amenity and complement the streetscape. The extent of variation is appropriate in this instance as the proposal provides a well-articulated dwelling that is compatible with local developments' height and character. Full compliance is likely to inhibit reasonable roof changes or result in increased visual bulk at a higher elevation along the street frontage.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

There are sufficient environmental planning grounds to justify the building height non-compliance, especially as a compliant floorplate is proposed, the existing envelope is largely similar, and the only additional elements are mostly lightweight structures including balconies with open pergolas, which will have no significant view impact.

The proposal is permissible in the R2 Low Density Residential zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established by the court in *Wehbe*. The non-compliance is due to replacing the existing dwelling, which is above the excavated level and consequently the 9.5m height limit, with a new dwelling. Compliance with the standard would result in a visually inconsistent roof that would detract from the streetscape.

The proposal replaces the existing dwelling with a new dwelling in this established R2 zone, maintains the character of the locality, and is of a similar scale to both the existing and desired future developments in the area. Importantly, the area of height non-compliance retains the RL of the existing rear roof.

The proposed area of exceedance will not be readily discernible from the street as it relates to the rear of the replacement dwelling which has the same roof RL as the existing roof, with an open pergola that contributes to the façade articulation at the rear. The existing roof is already above the height limit at the rear and the new dwelling continues to appear substantially below the maximum building height at the front. To ensure a fully compliant building height would require either further lowering the roof at the rear, which is already lower than the neighbouring dwellings on both sides, or pulling the bulk closer to the street, resulting in either substantial excavation or a more elevated dwelling. This would compromise a reasonable low-density residential upgrade. It would also not serve benefit to neighbours or pedestrians, and would have detrimental visual impact on the streetscape and amenity impacts on the occupants. The sympathetic new dwelling is a sensible design response to the challenging location.

Our assessment has demonstrated the proposal will maintain neighbours' privacy, solar access and views. Those aspects have been considered in detailed in the SEE. As the height variation is predominantly existing and integral to the architecturally designed new dwelling which will improve future occupants' amenity, we consider the proposal is in the public interest.

The proposal maintains the site's single dwelling use with an upgraded single dwelling of a similar scale to the area's existing, recently approved and desired high-quality dwellings. The proposal also complies with the floorplate and deep soil landscaping, harmonising with the area's eclectic character. The articulated street elevation and retained rear roof height will maintain the site's relationship with the surrounding developments and public domain. The incorporation of a variety of materials, more than required deep soil and additional soft landscaping will provide visual and amenity benefits.

In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

This report demonstrates the proposed dwelling will be compatible with nearby developments. The area of technical contravention for the additional height will not be easily discernible from the street and will not impact the streetscape amenity of Gilliver Avenue or existing characteristics of the precinct.

In our opinion, the proposal also maintains the desired future character of the Vaucluse West Precinct, and our response to the area's relevant objectives is in **Section 5.1**.

As detailed, strict compliance with the development standard would not result in a better outcome for development. It would unnecessarily complicate orderly and economic development of the land in accordance with the intentions of the zoning and objects of the EPA Act. The area of contravention is at the rear only and has a compliant rear setback. The height exceedance will not adversely impact the neighbouring residential amenity and will not be out of character with the surrounding properties in terms

height and scale, nor will it be incompatible with the area's desired future character. The exceedance is a result of the topography and relates to the existing situation, and the development has been designed to follow the excavated terrain and retain the existing roof RL.

In summary, the main grounds for contravening the standard are that a compliant floorplate is proposed, the existing dwellings on the subject and neighbouring sites have a large similar envelope as the proposed due to the steep terrain (see **Figure 5**), and the only additional elements are mostly lightweight structures including balconies with open pergolas, which will have no significant view impact.



Source: Apple Maps

Figure 5: Rear Elevations of Existing Developments

Accordingly, in our opinion, the non-compliance will not be inconsistent with the 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 variation to the development standard, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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

The applicant submits that the consent authority can and should be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this request, and having regard to the site and locality.

In our opinion, the proposal achieves the objectives of the development standard, as already demonstrated; and the R2 Low Density Residential zone, as discussed below:

Objective: *To provide for the housing needs of the community within a low density residential environment.*

Response: The proposal maintains the existing single dwelling use through a new dwelling with improved occupant amenity.

Objective: *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*

Response: The contemporary dwelling will positively contribute to the locality's varied built form character and protect neighbours' amenity. This is discussed in **Section 5.0** of the SEE.

Objective: *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

Response: The new dwelling presents as two storeys from the street and three storeys at the rear, which will be compatible with the adjacent developments.

From this, we consider the proposal is in the public interest and should be supported.

7. 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 variation will enhance the amenity and functionality of the proposed dwelling without significantly, unreasonably or unacceptably impacting neighbouring properties. This is because the height

exceedance maintains the RL of the existing roof, is at the rear only and will not be readily discernible from the street. The variation will protect amenity for both the subject site and neighbouring developments.

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 with an articulated facade partly concealed by deep soil and soft landscaping. In fact, strict compliance with the building height is likely to result in an awkward or substantially lower roof form, inconsistent with the adjoining built forms which already have a higher roof ridge.

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 consistent with the precinct's desired character and is, in our opinion, in the public interest.

8. 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 Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (see **Table 1** on the following pages).

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 R2 Low Density Residential zone. Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted, and the request to vary Clause 4.3 should be granted.

Table 1: Compliance Matrix				
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of buildings	
12	What is the control	1 & 2	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.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant test and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) - That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard. 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed height facilitates a high-quality dwelling to replace an ageing house, achieving consistency with the area's planning objectives; The RL of the existing roof is maintained at the rear roof; The proposal has a similar height to neighbouring dwellings; The variation is towards the rear only, as a result of the excavated, steep terrain; The area of non-compliance including the non-trafficable roof garden contributes to façade articulation and visual compatibility; The numerical exceedance is not readily discernible from the street as it is similar to the existing situation and the new dwelling remains substantially below the maximum building height at the front; To ensure full compliance would necessitate additional 	YES

			<p>excavation, increased bulk on the street frontage or lowering the rear roof, inconsistent with neighbours on both sides which already have higher roof ridges;</p> <ul style="list-style-type: none"> • The proposed area of height non-compliance generally maintains neighbours' privacy, solar access and views; • The proposed height is compatible with the adjacent developments to minimise visual and amenity impact; • The proposal harmonises with the area's character; and • The proposed height provides a better planning outcome than a compliant envelope in many instances. 	
26-27	<p>2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.</p>	6	<p>The proposed development is consistent with the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i>. The proposal is also consistent with the objectives of the R2 Low Density Residential zone, as addressed in Section 6.</p>	YES
28-29	<p>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.</p>	7	<p>As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, Council can grant development consent.</p>	YES

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Completion Date: 2 June 2021

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 26/2021/1
ADDRESS: 16 Gilliver Avenue VAUCLUSE 2030
PROPOSAL: Demolition of existing dwelling & construction of new 3 storey dwelling including parking ,swimming pool & landscaping
FROM: Mr R Lam
TO: Ms F Stano

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 20228, prepared by GSA Planning, dated January 2021.
- Architectural Plans, referenced 20-051-Rev B, prepared by MHNDUNION, dated 13/01/21.
- Survey, referenced 51187 001 DT, prepared by LTS, dated 1/12/2020.
- Stormwater Management Plan, referenced 201105-Rev B, prepared by RTS Civil Consulting Engineers, dated 15/01/2021.
- Flood Impact Assessment Report, referenced 201105-Issue B, prepared by RTS Civil Consulting Engineers, dated 18 January 2021.
- Geotechnical Report, referenced 2020-250, prepared by Crozier Geotechnical Consultants, dated December 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 comment

The submitted concept stormwater plans are considered satisfactory in principle except that the proposed modified rainwater tanks act as an on-site detention (OSD) tanks is not supported. It is considered that this outstanding issue can be handled by way of conditions. Stormwater from the site will be discharged to the open channel located in the drainage reserve via the headwall and rip-rap structure which is considered acceptable by Council's Assets Team Leader.

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 the objectives of Chapter E2 "Stormwater and Flood Risk Management" DCP subject to the imposition of suitable conditions.

b. Flooding & Overland Flow comments

Council's Drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following condition:

Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry.*
- b. All fences traversing the over land flow path are to be designed to be flow through.*
- c. All habitable floors have to be above or protected from flooding to the flood planning level.*
- d. Flood compatible materials shall be used for all flood exposed construction*
- e. All flood exposed electrical wiring and equipment is to be waterproofed.*
- f. A permanent informative sign is to be mounted adjacent to the overland flow path indicating that the area is an overland flow path and must be kept clear and unobstructed at all times.*
- g. All flood protection measures are to be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.*

c. Impacts on Council Infrastructure comments

As part of this application, the applicant is required to remove the existing vehicular crossing and construct a new 4m wide crossing as part of this application. This requirement will be conditioned accordingly.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

Parking layout complies with AS2890.1. Driveway gradients within the site also comply with AS2890.1.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Crozier Geotechnical Consultants, Ref: 2020-250, dated December 2020, has been submitted in support of the application. The proposal involves excavation with a depth of about 3.5 metres below the existing ground levels.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.4m in BH2.*
- b) Depth of natural sand beneath the fill to a termination depth of 2.55m in BH2.*
- c) Sandstone bedrock was encountered beneath the sand at refusal depth.*
- d) Groundwater was not found 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)
2020-250	Geotechnical Report	Crozier Geotechnical Consultants	December 2020
201105	Stormwater Management Plan	RTS Civil Consulting Engineers	
CP100-B			15/01/2021
SW100-B			15/01/2021
SW101-B			15/01/2021
SW102-B			15/01/2021
SW200-B			15/01/2021
SW201-B			15/01/2021

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

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.5 Security Deposits

Property Damage Security Deposit (S138)	\$50,883	No	T115
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$480	No	T45

C.13 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- The removal of the existing vehicular crossing including layback and gutter and the construction of a new 4 metres wide vehicular crossing 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. The centreline of the new crossing shall be aligned with the centreline of the internal driveway at the property boundary. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- The reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act* 1993.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advising* of this Consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.25 Soil and Water Management Plan – Submissions & Approval

C.36 Professional Engineering Details

C.40 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, if deemed necessary by the geotechnical engineer upon detailed investigation, 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, if deemed necessary by the geotechnical engineer upon detailed investigation, such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.41 Ground Anchors

C.51 Stormwater Management Plan

Prior to issue of any Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which includes the following:

- a) Compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and generally in accordance with the submitted stormwater management plans, referenced 201105-Rev B, prepared by RTS Civil Consulting Engineers, dated 15/01/2021 except that the proposed modified rainwater tanks act as an on-site detention (OSD) tank is not supported. A single cast in-situ OSD tank

- where the discharge orifice must be provided within the tank shall be provided.
Minimum two 900x900 access grate must be provided for the proposed OSD tank where one of the access grate shall be provided directly over the discharge orifice;
- b) the discharge of stormwater, by direct connection, to the open channel in the drainage reserve via the headwall with rip-rap structure;
 - c) Compliance the objectives and performance requirements of the BCA;
 - d) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management; and
 - e) The installation of minimum 14.6m³ of on-site stormwater detention ("OSD") system.

OSD Requirements

The minimum (OSD) Site Storage Requirements ("SSR") for this development is 14.6m³ and total Permissible Site Discharge ("PSD") including all bypassed areas must not exceed 19.8 l/s. The applicant may offset the OSD system by installing rainwater tank (RWT) where the required storage volume for the RWT is to be 1.5 times of the OSD storage volume. In this instance, stormwater runoff from all roof areas must be connected for non-potable use such as all toilet flushing, laundry device and garden irrigation etc.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of On-Site Detention,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

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.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry.
- b. All fences traversing the over land flow path are to be designed to be flow through.
- c. All habitable floors have to be above or protected from flooding to the flood planning level.
- d. Flood compatible materials shall be used for all flood exposed construction
- e. All flood exposed electrical wiring and equipment is to be waterproofed.
- f. A permanent informative sign is to be mounted adjacent to the overland flow path indicating that the area is an overland flow path and must be kept clear and unobstructed at all times.
- g. 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.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: *Off-street car parking*. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

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

D.4 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 14 Gilliver Avenue
No. 20 Fisher Avenue

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 Works (Construction) Zone – Approval & Implementation

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

E.13 Support of Adjoining Land Owners

E.14 Vibration Monitoring

E.15 Erosion and Sediment Controls – Maintenance

E.17 Disposal of Site Water during Construction

E.20 Check Surveys – boundary location, building location, building height, stormwater drainage system and flood protection measures relative to AHD

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

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

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

I.29 Ongoing Maintenance of the On-Site-Detention System

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation report

K.24 Roads Act Application

3 February 2022

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 26/2021/1
ADDRESS: 16 Gilliver Avenue VAUCLUSE 2030
PROPOSAL: Demolition of existing dwelling & construction of new 3 storey dwelling including parking, swimming pool & landscaping
FROM: Nick Williams- Tree & Landscape Officer
TO: Ms F Stano

I refer to the following documents received for this report:

- Addendum to Statement of Environmental Effects, prepared by GSA Planning, dated 19th of November 2021.
- Survey Plan No. 51187001DT, drafted by LTS, dated 1/12/2020.
- Replacement Architectural Drawing No's DA 01- DA09 (Revision E), drawn by MHNDU, dated 13/1/2020.
- Stormwater Drainage Plan No. SW100, SW101. SW102, SW200 & SW201 drawn by RTS, dated 11/12/202.
- Arboricultural Impact Assessment Report, written by Earthscape Horticultural, dated January 2021.
- Addendum to Arboricultural Impact Assessment Report written by Earthscape Horticultural, dated 21st of October 2021.
- Replacement Landscape Plan No's LP01-05 (D11120, Revision E), designed by Dangar Barin Smith, dated 17/11/2021.

A site inspection was carried out on.

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

The increased setback between the proposed building footprint and Tree 10 results in a minor and acceptable level of incursion (7 %) into the TPZ area of this tree. This satisfies the concerns raised in previous comments regarding the potential impacts on the tree.

Of the 7 trees proposed to be removed from the site, 3 are Privet which are considered weeds and 1 is a clump of Banana (*Musa cavendishii*) which is classed as an exempt species within Council's Tree Management DCP. Tree 4 is not significant.

I agree with the assessment made within the arboricultural impact assessment in regards to Trees 14 and 17 which is that while both trees are demonstrating good condition and health and make some contribution to the amenity of the site they are not considered significant. In addition to this both trees are located at a distance from the proposed development footprint where development impacts are likely to be high without additional modifications being made to the proposed building. The submitted Landscape plan shows the planting of 2 x *Podocarpus* trees towards the Eastern end of the property. To ensure adequate replacement planting throughout the site an additional tree planted in the vicinity of existing trees 14 and 17 is also recommended – refer to Condition C.2 of this referral response.

An amendment is also required to the submitted stormwater layout to ensure an increase in the setback from Tree 10 – Refer to Condition C.2 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)
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	7 x 4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	9 x 4 metres

- Trees on Council Land

Council	Species	Location	Dimension	Tree
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Ref No.			(metres)	Value
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	18 x 5 metres	

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	<i>Ligustrum lucidum</i> (Large-leaved Privet)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5 x 5 metres
2	<i>Ligustrum lucidum</i> (Large-leaved Privet)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5 x 5 metres
3	<i>Ligustrum lucidum</i> (Large-leaved Privet)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5 x 5 metres
4	<i>Ficus lyrata</i> (Fiddle-leaf Fig)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	6 x 5 metres
9	<i>Musa cavendishii</i> (Banana)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	8 x 5 metres
14	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	9 x 3 metres
17	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated	7 x 3 metres

		21/10/2021- <i>Tree Protection Plan.</i>	
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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)
LP01- LP05 D11120 (Revision E)	Landscape Plan	Dangar Barin Smith	17/11/20 21
	Arboricultural Impact Assessment Report (Addendum 1)	Earthscape Horticultural services	21 st of October 2021.
	Arboricultural Impact Assessment Report	Earthscape Horticultural services	January 2021.

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)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan.</i>	3 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan.</i>	3 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan.</i>	2 metres

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 brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species	Location
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .
19	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .

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.2 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
10	<i>Araucaria cunninghamii</i> (Hoop pine)	Hand excavation to accommodate soft landscaping works
15	<i>Glochidion ferdinandii</i> (Cheese tree)	Hand excavation to accommodate soft landscaping works
16	<i>Cyathea cooperi</i> (Scaly tree fern)	Hand excavation to accommodate soft landscaping works

The project arborist shall provide written certification of compliance with the above condition.

B.3 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	<ul style="list-style-type: none"> • Compliance with tree protection measures
Excavation for building footings within a 4.5 metre radius of Tree 10	<ul style="list-style-type: none"> • Undertaken in accordance with section 10.9 of the submitted Earthscape Horticultural services Arboricultural Impact Assessment
Installation of stormwater services within a 4.5 metre radius of Tree 10 and 7.8 metres of Tree 20.	<ul style="list-style-type: none"> • Undertaken in accordance with section 10.11 of the submitted Earthscape Horticultural services Arboricultural Impact Assessment
Demolition and excavation works within a 7.8 metre radius of Tree 20	<ul style="list-style-type: none"> • Undertaken in accordance with section 10.8 & 10.9 of the submitted Earthscape Horticultural services Arboricultural Impact Assessment
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) To ensure adequate replenishment of tree canopy towards the western area of the site, the planting of one of the following tree species must be illustrated and specified to be planted on the submitted Landscape Plan in the vicinity of trees referenced 14 & 17 (in addition to the plants and trees already proposed) :

1 x *Backhousia citriodora* (Lemon-scented Myrtle) or, 1 x *Elaeocarpus reticulatus* (Blueberry Ash) or, 1 x *Glochidion ferdinandii* (Cheese tree).

* Trees must be supplied in a 100 litre container size at the time of planting and grow to minimum dimensions at maturity of 8 metres (h) and 4 metres (w).

- b) To minimise damage to the root system of Tree 10 the proposed stormwater line running along the Northern side of the dwelling must be redesigned to be setback at a minimum distance of 3.5 metres from Tree 10.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP

Attachment to report 2272498 (Title Trees and Landscaping Referral Response).DOCX

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applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.2 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Backhousia citriodora</i> (Lemon scented Myrtle) or, 1 x <i>Elaeocarpus reticulatus</i> (Blueberry Ash) or , 1 x <i>Glochidion ferdinandii</i> (Cheese tree).	Deep soil area in the vicinity of Tree 14 or 17	100 litre	8 x 4 metres
2 x <i>Podocarpus elatus</i> (Plum pine)	As illustrated on the submitted Dangar Barin Smith Landscape Plan (dated 17/11/2021.)	200 litre	8 x 5 metres

The project arborist shall document compliance with the above condition.

E.3 Level changes in the vicinity of trees

Other than for the approved building footprint, no level changes shall occur within the specified radius from the trunks of the following trees.

Council	Species	Location	Radius
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Ref No.			from centre of trunk (metres)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	4.5 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5.4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2.5 metres

The project arborist shall document compliance with the above condition.

E.4 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)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	4.5 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated	5.4 metres

Attachment to report 2272498 (Title Trees and Landscaping Referral Response).DOCX

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		21/10/2021- <i>Tree Protection Plan</i> .	
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2.5 metres

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.5 Footings in the vicinity of trees

Other than for the approved building, 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)
10	<i>Araucaria cunninghamii</i> (Hoop pine)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	4.5 metres
15	<i>Glochidion ferdinandii</i> (Cheese tree)	As plotted on Appendix 6 of the Earthscape Horticultural Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	5.4 metres
16	<i>Cyathea cooperi</i> (Scaly tree fern)	As plotted on Appendix 6 of the Earthscape Horticultural	

		Services Drawing referenced T20-062402 (G), dated 21/10/2021- <i>Tree Protection Plan</i> .	2.5 metres
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Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

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

Nil

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

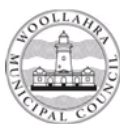
K.1 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions.
You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au
or you may contact Council on 9391-7000 for further advice.



Nick Williams
Tree & Landscape Officer



Woollahra
Municipal
Council

1 March 2021

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 26/2021/1

ADDRESS: 16 Gilliver Avenue VAUCLUSE 2030

PROPOSAL: Demolition of existing dwelling & construction of new 3 storey dwelling including parking, swimming pool & landscaping

FROM: Shona Lindsay - Heritage Officer

TO: Ms T Ward

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by MHND Union, dated 13 January 2021
- Demolition Report by Ruth Daniell, dated December 2020
- Statement of Environmental Effects by GSA Planning, dated January 2021
- Survey plan

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.
- Review of building and development applications for the subject site
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY

The property is not a listed heritage item and is not located within a Heritage Conservation Area. The demolition report provides the following statement of significance:

Attachment to report 2272498 (Title Heritage Referral Response).DOCX



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No. 16 Gilliver Avenue does not satisfy the heritage assessment criteria for heritage listing as it fails to demonstrate importantly an important historic pattern of development, significant historic associations, or social significance. It does not have aesthetic or technical attributes and is neither rare or representative.

The analysis both documentary and physical, and the assessment of significance using the NSW Heritage Office Criteria has not determined sufficient cultural significance to indicate that the property is worthy of heritage listing at a local level, which as a consequence would require its retention in full or in part.

This is confirmed by Council's research and heritage studies, which has not identified the house as a heritage item.

The demolition/heritage significance report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate.

Woollahra LEP 2014 Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

The dwelling has no heritage significance and does not make any contribution to the heritage significance of Vaucluse. The property is not heritage listed and is not located within a heritage conservation area.

A demolition/heritage significance report has been submitted with the development application and includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed demolition of the existing building.

The archival recording including in the demolition report meets the standard requirements for buildings of no significance.

There are no archaeological conditions of consent required.

Woollahra LEP 2014 Part 5.10 Heritage Conservation

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Significance of items in the vicinity

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

- 'Scribbly Gum, Sydney Pink Gum, Swamp Mahogany', Item No. 362

Attachment to report 2272498 (Title Heritage Referral Response).DOCX



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- 'House and Interiors', Item No. 359
- 'Scribbly Gum', Item No. 358

The proposed development will not adversely impact on the heritage items in the vicinity. The proposed development will not impact on the listed heritage trees nor on views towards them. The proposal will not impact on significant views towards 'House and Interiors', which are looking south east towards the heritage item.

CONCLUSION

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does conserve the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the heritage items in the vicinity will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory documents and would have a satisfactory impact.

Consent, no heritage conditions are required.

Shona Lindsay - Heritage Officer

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA408/2021/1
ADDRESS	41 Etham Avenue DARLING POINT
COUNCIL WARD	Double Bay
SITE AREA	639.7m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Alterations and additions to existing dwelling, including new swimming pool, cabana and loggia
TYPE OF CONSENT	Local development
COST OF WORKS	\$775,899.00
DATE LODGED	20/09/2021
	20/10/2021 (Amended plans addressing 'Stop the Clock' letter),
APPLICANT	Weir Phillips Architects
OWNER	J M Lidbetter
AUTHOR	Ms S Soliman
TEAM LEADER	Mr G Fotis
SUBMISSIONS	24
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:

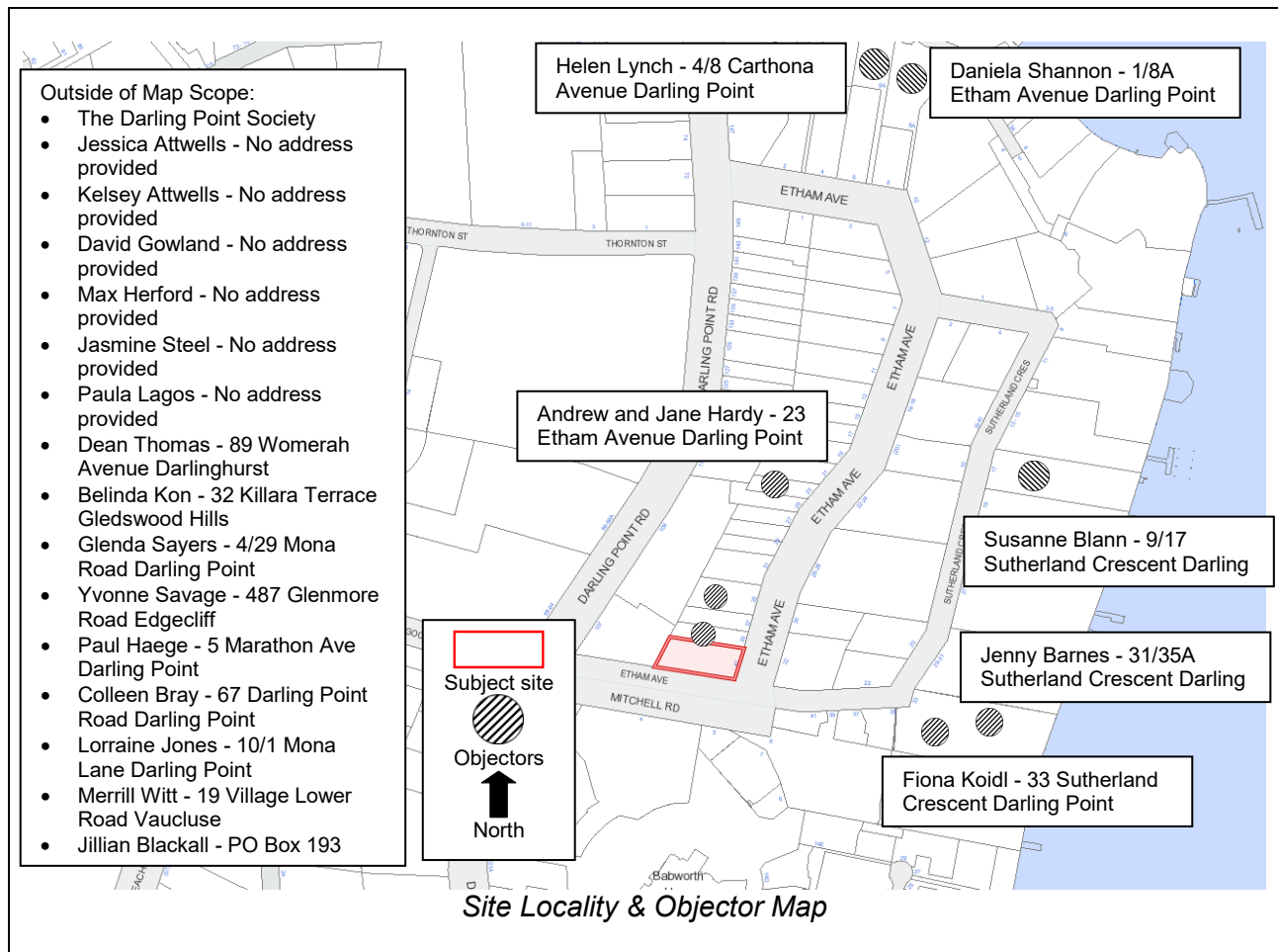
- Contentious development that is the subject of 10 or more unique submissions by way of objection.

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:

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

3. LOCALITY PLAN



4. PROPOSAL

The proposal, as amended on **20/10/2021** (addressing the 'Stop the Clock' letter), involves the following works:

- Demolition to the rear (western wing) of an existing dwelling house at ground and first floor to allow for the construction of a ground and first floor addition.
- The proposed ground floor addition will accommodate an open plan kitchen and living area, dining room and studio. The ground floor addition is to be constructed to the western (rear) boundary, set back between 890mm to 2.1m from the northern (side) boundary and set back between 3.6m to 11.75m from the southern (side) boundary to Etham Avenue
- The proposed first floor addition will accommodate a new Bedroom 3, a shared bathroom and new ensuite to the existing Master Bedroom. The first floor addition is to be sited 1.99m from the northern (side) boundary, 3.6m from the southern (side) boundary and between 18.4 to 21.8m from the western (rear) boundary.
- Construction of a double width garage, accessed via Etham Avenue (Side Street).
- Construction of a 1.7m deep, 3.1m wide and 6.2m long outdoor pool.
- Construction of a verandah to the rear, above an outdoor sitting area.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

5.2 Primary Issues

- Heritage impact concerns
- **PROPERTY DETAILS AND REFERRALS**

6. SITE AND LOCALITY

Physical features
The subject site is located on the corner of Etham Avenue and Sutherland Crescent. The site is a rectangular shaped lot with a 16.36m frontage to Etham Avenue, a maximum depth and frontage to the side street of 42.14m and an area of 639.7m ² .
Topography
The site has a relatively flat topography.
Existing buildings and structures
Occupying the site is a two-storey Federation era Queen Anne Style dwelling house with an existing rear addition. The front yard is enclosed by a brick pier with concrete capping and iron palisade fence. At the front yard there is a small ornamental garden with pavers and formal low scale plantings with a central path leading to the front entry. The rear yard is contained by a 1.8m timber panel fence. At the far western rear boundary is a garage and workshop. There are two established trees in the rear yard, a large Eucalyptus and an Ironbark.
Surrounding Environment
The site is located on the south-eastern side of Etham Avenue, at the intersection with Sutherland Crescent. Surrounding development comprises predominantly two storey Federation era dwelling houses, with some multi storey residential flat buildings to the west of the site.



View of subject site from Etham Avenue (street frontage)



View of subject site from side street



View of rear setback and garage, as viewed from side street



View from within the rear courtyard looking south, toward the side street



View from within the rear courtyard looking west, towards the rear boundary



Rear elevation of subject site

7. RELEVANT PROPERTY HISTORY

Current use
Dwelling house.
Relevant Application History
<ul style="list-style-type: none"> DA2001/749/1 issued on the 28 November 2001 to allow installation of mechanical ventilation. DA2001/267/1 issued on the 14 June 2001 to allow alterations & additions to existing dwelling. DA2000/398/1 sought approval for alterations and additions to an existing house, the construction of a new residence and a two lot subdivision. This application was refused on the 20/11/2000.
In response to Council's request for further information (' <i>Stop the Clock letter</i> '), Council received a revised Stormwater Management Plan, a Geotechnical Report and revised architectural plans to show minimum garage dimensions, additional detail pertaining to the proposed accessway arrangement and the removal of any encroachments beyond the title boundary. Revised documents were received on the 20/10/2021.

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to conditions.	3
Trees and Landscaping	Satisfactory, subject to conditions.	4
Heritage	Unsatisfactory, significant heritage concerns.	5

If this application were to be approved, conditions recommended by Council's Technical Services Officer could be addressed via **condition**.

• 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 13 October 2021 to 28 October 2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Virginia Rayner - 35 Etham Avenue Darling Point
2. The Darling Point Society
3. Laura Reid on behalf of Stella & Edward Curl - 39 Etham Avenue Darling Point
4. Dean Thomas - 89 Womerah Avenue Darlinghurst
5. Belinda Kon - 32 Killara Terrace Gledswood Hills
6. Helen Lynch - 4/8 Carthona Avenue Darling Point
7. Jessica Attwells - No address provided
8. Susanne Blann - 9/17 Sutherland Crescent Darling Point
9. Daniela Shannon - 1/8A Etham Avenue Darling Point
10. Fiona Koidl - 33 Sutherland Crescent Darling Point
11. Kelsey Attwells - No address provided
12. David Gowland - No address provided
13. Glenda Sayers - 4/29 Mona Road Darling Point
14. Yvonne Savage - 487 Glenmore Edgecliff
15. Paul Haege - 5 Marathon Avenue Darling Point
16. Colleen Bray - 67 Darling Point Road Darling Point
17. Lorraine Jones - 10/1 Mona Lane Darling Point
18. Max Herford - No address provided
19. Jasmine Steel - No address provided
20. Merrill Witt - 19 Village Lower Road Vaucluse
21. Paula Lagos - No address provided
22. Jillian Blackall - PO Box 193 Edgecliff
23. Jenny Barnes - 31/35A Sutherland Crescent Darling Point
24. Andrew and Jane Hardy - 23 Etham Avenue Darling Point

The submissions raised the following issues:

- The proposal is completely out of scale with the existing house, it will alter the character and appearance of this Edwardian villa, it will overwhelm the streetscape and the heritage place and it will result in the loss of its historical heritage value.

The heavy, solid-looking brick extensions the rear of the building at 41 is unimaginative. They tend to detract from the composition of the side elevation facing Sutherland Crescent. The windows do not defer to the existing fine heritage building with its very fine joinery; this can be seen on the balconies and window mullions and sills on the heritage facade.

Assessment:

The proposal is not in keeping with the desired future character of the area and will cause detriment to the significance of the heritage place. As such, this has been addressed within the **grounds of refusal**.

- This home is a Heritage Listing house and therefore is not entitled to alter any part of the façade to the building. There was no notification of intending to alter or extend the building (41) to the neighbours in no.39 Etham Ave and due to the alterations will impact on their privacy and subject to noise.

Assessment:

Alterations may be permitted to heritage buildings, however in this instance the proposed modifications are not sympathetic to the heritage place and cannot be supported by Council. Council records indicate that a DA notification was sent to 39 Etham Avenue.

- At the rear of 39 Etham Avenue is a huge Camphor Laurel tree with a diameter at the base of the trunk of around 10 metres and large gum trees. It is hidden from the nearby streets and can only be truly appreciated from the rear of 39. It provides shade and privacy for 35, 37 and 39 Etham as well as for 41. Excavation for the proposed pool would probably damage the root system of this tree. Expert advice should be sought to ascertain the likelihood of such damage. As is well known Darling Point has a very sandy soil so roots tend to travel horizontally to find water sources.

Assessment:

This has been addressed within the **grounds of refusal**. Refer to Section 14.6 of this report for further information.

- The proposal will not meet council requirements.

Assessment:

Refer to detailed assessment provided at Section 14 and 15 of this report.

- Whilst it is acknowledged that the design has sought to capitalise on the northern light, it will look like a train station from the neighbours' point of view.

Assessment:

The proposed works are not considered to be sympathetic to the heritage building.

- The location of swimming pool machinery appears to be located on the neighbours boundary

Assessment:

The location of pool equipment has not been identified on the plans, however if this application were to be approved, this could be addressed via **condition**.

- The proposed development will mean a loss of foliage in the immediate vicinity.

Assessment:

This has been addressed within the **grounds of refusal**. Refer to Section 14.6 of this report for further information.

- The proposed new extension will create a 'tunnel/ boxed in' effect for No.31 and the new roofline proposed by the DA will soar above the present roofline of 41 and will seriously invade the privacy of No.39.

Assessment:

An existing boundary wall constructed along the entire length of the rear boundary is proposed to be retained, forming part of the proposed garage/studio. It is also noted that the new garage/studio will replace existing structures sited within this location. As such, the proposal will not create a 'tunnel/boxed in' effect for No.31 Etham Avenue.

Whilst the proposed two storey extension is not supported from a heritage perspective, it is noted that the upper floor addition will not exceed the height of No.39 Etham Avenue. Privacy concerns have been addressed within the **grounds of refusal**.

- The proposal impacts negatively on neighbouring heritage properties and the neighbourhood. The alterations will deteriorate the heritage fabric of the area by failing to comply with current heritage regulations that should preserve the integrity of the built environment for the residents in this beautiful and historic area.

Assessment:

This has addressed within the **grounds of refusal**.

- The three properties together present a beautiful enclave of old Darling Point and a lovely representation of the original architecture of the area. The backyards are also a rare green pocket left amongst the huge blocks of flats that have replaced most houses in the area. It would be a mistake to let overdevelopment of a suburban home by a resident who will only live there for a moment in its history ruin the original vista.

Assessment:

The proposal will cause detriment to the heritage group, it will not provide adequate landscaping to the rear and it will result in the loss of valued vegetation. This has addressed within the **grounds of refusal**.

- An objector prepared and submitted an Arborist report to Council where it relates to the neighbouring tree at No.39 Etham Avenue.

Assessment:

The Arboricultural statement prepared by G Palmer (on behalf of the neighbouring owner) has identified the tree has a substantial section of its TPZ located within the subject property. As such, Council's Tree and Landscaping Officer requires an assessment of this tree and any impact the proposal may have upon its health and viability to be prepared and included as an addendum to the Arborist Report to be prepared by the Applicant. This report has not been submitted. As such, this has been addressed within the **grounds of refusal**.

- Careful consideration should be given about whether the complete demolition of the original rear wing of the house will impact the integrity of this heritage-listed house.

Assessment:

Council does not support the proposed demolition works.

- No. 37 - 39 and No 41 are a Heritage Item Group, having been constructed around 1902 and considered as quintessential examples of the Sydney Edwardian Federation Queen Anne Style. Integral to their heritage values are generous landscape settings with mature trees, affording a green leafy outlook across the properties and enhancing the appearance of the homes from the streetscape. Heritage architect Hugh Fraser, who assessed the items for heritage listing in 2000, emphasised the importance of the rear streetscape views to these buildings' heritage significance and to the Heritage Conservation Area (HCA) as a whole. The proposed rear extension for No 41 extends the building line right to the rear end of the property line, thus disrupting the proportions of the garden to the house and negatively impacting the ambience around the house and designer garden of No 39.

Assessment:

The proposed works will cause detriment to the existing group, it will limit significant views and it will result in the loss of deep soil planting the rear. This has been addressed within the **grounds of refusal**.

- The Council must ensure that the building complies with controls for height, bulk, setbacks, floor plate and deep soil landscaping.

Assessment:

Refer to detailed assessment provided at Sections 14 and 15 of this report.

- The proposed demolition of the western section of the main house and of the whole single storey original rear wing involves demolition of significant fabric and will have a highly negative impact on No 41 as a heritage item. It will also negatively impact on the adjacent heritage items at No 39 and 37 Etham Avenue, which were together the first houses erected when the Etham Estate was subdivided around 1900, and as such are historically significant as evidence of the earliest sub-division of this part of Darling Point.

Heritage architect, Hugh Fraser, a recognised expert on Federation period architecture and who was commissioned by Woollahra Municipal Council in 2000 to assess 37, 39 and 41 for heritage listing, recommended that they be listed and that Etham Avenue be scheduled as a HCA. He considered that it was rare for 41, a Federation period house of this nature, to retain its original service wing.

His report also identified the importance of the rear streetscape views of the houses at 37-41 Etham Avenue, which are gained from the south-western leg of Etham Avenue. He stated that the views of the side and rear elevations were, and still are, important. All three houses have original & intact fencing.

Assessment

This has been addressed within the **grounds of refusal**.

- An omission from the proposer's documents is any reference to DA398/2000 submitted in respect of earlier proposed structures in the grounds of No 41. This DA was refused because of its negative impact on 39 Etham and a claim that the rear of the house and particularly the single storey rear wing were not original was disproved and therefore the extent of original heritage fabric to be demolished was exposed. The current proposal involves more demolition than was proposed in the refused 2000 DA.

Assessment

Relevant development application history, including the refusal referenced above, formed part of Council's consideration.

- The proposal will leave the remaining areas of deep soil porosity well below the DCP requirement.

Assessment

The proposal is non-compliant with the relevant deep soil requirements. As such, this has been addressed within the **grounds of refusal**.

- The bulk and scale of this alteration work will have an outstanding adverse impact on 39 Etham for, as a heritage semi-detached building, almost its entire living and sleeping aspect is to the south - and facing this proposed overwhelmingly heightened and radically altered elevation of 41 Etham.

The proposal is non-compliant with the inclined plane described under Control 3.2.5 of the DCP due to the non-compliance with the rear setback and side setback control. The non-compliance results in unacceptable bulk and scale at the rear of the dwelling. It creates a sense of enclosure to the rear of No.39 and blocks daylight access to their main indoor and outdoor living areas.

Assessment

Due to the neighbour's location to the north, the proposed works will not cast any additional shadows to existing habitable room windows or courtyards. It is further noted that the proposal, where adjacent to the neighbouring windows, will be generally compliant with the northern side setback and wall height requirements. The non-compliant chimney is not expected to unreasonably compromise daylight to the north. It is acknowledged however that the non-compliant rear setback results in an unreasonable visual impact as viewed from the adjoining neighbour and the public realm. Overall, the proposal fails to respect the heritage group and will not achieve the desired future character of the precinct.

- The modernist garden that embraces 39 Etham was designed by surrealist Vladimir Sitta, an eminent landscape architect who also designed the garden of the National Museum of Australia in Canberra. This garden's aspect will be adversely affected by the proposed development at 41 Etham.

Assessment

The proposal will obstruct significant views towards No.39 Etham Avenue. As such, this has been addressed within the **grounds of refusal**.

- Non-compliance with the rear setback requirements. The proposed zero setback has given no consideration to the rear setbacks of No.39 & No.37, with both dwellings having a rear garden area.

Assessment

This has been addressed within the **grounds of refusal**.

- The proposal does not comply with northern side setback and will not comply with the relevant objectives of the control.

Assessment

Deemed to be acceptable. Refer Section 15.3.1 of this report for a detailed assessment.

- The proposed development does not comply with the permitted floorplate control. The non-compliance results in a proposal which is excessive in its bulk and scale and will create an unacceptable sense of enclosure to the rear living room, kitchen and master bedroom at No.39 Etham Ave. Accordingly, the proposal does not achieve the relevant objectives of this control.

Assessment

This has been addressed within the **grounds of refusal**.

- The dwelling is non-compliant with the Clause 4.3 Height of Building development standard. The Statement of Environmental Effects states that the maximum building height is 10.9m and the permitted maximum height on the site is 10.5m. It is acknowledged that this is an existing non-compliance but the accumulative impact of all the building-envelope non-compliances on this site is unacceptable and unnecessary.

Assessment

The new addition will be constructed to a maximum height of 9.1m (as measured to the ridge height of the proposed first floor), meeting the maximum 9.5m building height requirement. Accordingly, the proposal is compliant with regard to Part 4.3 of the Woollahra LEP 2014.

- The bulk and scale of the rear addition will have an adverse impact on the residential amenity enjoyed by the owners of No.39 Etham Avenue. Despite the applicant claiming to be undertaking a single storey rear addition, the proposal has a proposed height consistent with a two-storey addition. The upper level is supposedly designed to enable greater daylight access. Perhaps a skylight above a single storey roof form would be more affective and much less intrusive in terms of bulk and scale and would not result in a negative impact on No.39 Etham Avenue.

Assessment

This has been addressed within the **grounds of refusal**.

- The culmination of both the two storey addition, which extends well beyond the permitted rear building line, and the link building and studio which result in the built form extending all the way to the rear boundary, will result in an unacceptable sense of enclosure to No. 39 Etham Avenue. This will be further exacerbated by the unnecessary height of the chimney which seems totally unnecessary. No.39 is a semi-detached dwelling with its orientation to the south. The main living area, kitchen and master bedroom at No.39 are located to the rear and enjoy daylight access and an outlook over the rear yard of No.41 to distant trees and sky. From October to March the late afternoon and setting sun can be seen in the south-western skies when viewed from No.39 and provides much pleasure to the occupants. This outlook is even more important given one of the owners of NO.39 is largely housebound due to a health condition. We request that Council enforce the DCP's rear setback requirement and maintain the residential amenity currently enjoyed by No.39.

Assessment

The cumulative impact described above, forms part of a **refusal ground**.

- The upper level wall of windows proposed to the rear southern elevation, located above the main living areas, will result in unacceptable light-spill at night to the upper level bedrooms at No.39. Living rooms are the main rooms where lights are left on the longest and the clerestory windows will act as lanterns, projecting light to the upper level of No.39.

Assessment

The degree of light spillage is considered to be acceptable and reasonable having regard to the residential context.

- The location of the connecting corridor to the rear, with its full-length clear glazing, will enable overlooking into the rear garden of No.39. This corridor contributes to non-compliance with the rear setback, floor plate and deep soil planting control and should be deleted from the proposal.

Assessment

The proposed link/corridor is to be located within the rear courtyard at ground floor, adjacent to boundary fencing. As such, this aspect of the proposal will not result in any unreasonable overlooking impacts to No.39 Etham Avenue.

- The architectural plans fail to indicate where the air-conditioning unit, pool pump and water heating system will be located. We request this information be clarified prior to approval. We trust Council will ensure that it is in a location away from the northern boundary and with an appropriate, acoustic enclosure.

Assessment

Failure to indicate the location of the air conditioning unit indicates one is not being proposed. As discussed previously, the location of pool equipment has not been identified on the plans, however if this application were to be approved, this could be addressed via **condition**.

- The proposal is inconsistent with the aims and objectives of both the Woollahra LEP 2014 and Woollahra DCP 2015.

Assessment

This has been addressed within Council's **grounds of refusal**.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 04/11/2021 declaring that the site notice for DA408/2021/1 was erected and maintained during the notification period in accordance with the Woollahra Community Participation Plan 2019.

10. SEPP (BIODIVERSITY AND CONSERVATION) 2021

10.1. Chapter 10 – Sydney Harbour Catchment

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.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 10 – Sydney Harbour Catchment of the Biodiversity and Conservation SEPP 2021.

11. SEPP (RESILIENCE AND HAZARDS) 2021

11.1. Chapter 2 – Coastal Management

Chapter 2 (Coastal Management) gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject site is located wholly outside of the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11). Furthermore, sub-clauses 2.10(3) and 2.11(2) state:

This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

11.2. Chapter 4 – Remediation Of Land

The Object of this Chapter aims to *promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*

- a) *By specifying when consent is required, and when it is not required, for a remediation work*

- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

Under Clause 4.6(a) of Chapter 4 – 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 Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021.

The proposal is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

12. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The development application was accompanied by BASIX Certificate A429981_02, demonstrating compliance with the SEPP. If this application were to be approved, this requirement could be addressed via **condition**.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

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

- The proposal fails to conserve the built and natural environmental heritage (aim f)
- The proposal fails to protect amenity and the natural environment (aim g)
- The proposal fails to achieve the desired future character of the area (aim l)

13.2 Land Use Table

The proposal involves alterations and additions to an existing dwelling house, which is defined as a permissible use within the R3 Medium Density Residential Zone.

13.3 Part 4.3: Height of Buildings

Pursuant to Clause 2A of Part 4.3, the maximum height of a dwelling house on land in Zone R3 Medium Density Residential is 9.5 metres. The new addition will be constructed to a maximum height of 9.1m (as measured to the ridge height of the proposed first floor). Accordingly, the proposal is compliant with regard to Part 4.3 of the Woollahra LEP 2014.

13.4 Part 5.10: Heritage Conservation

The subject site is located within the Etham Avenue Heritage Conservation Area. The proposal is contrary to the following objectives of Clause 5.10:

- Clause 1(a) as the development does not conserve the heritage of Woollahra.
- Clause 1(b) as the impact upon the heritage significance of the conservation area will be adverse.

The proposed development is unacceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014. Refer to Annexure 5 for further information.

13.5 Part 5.21: Flood Planning

The subject site is not located within Council's Flood Planning Area. Accordingly, the proposal is considered acceptable with regard to Part 5.21 of Woollahra LEP 2014.

13.6 Part 6.1: Acid Sulfate Soils

Part 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage. The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

13.7 Part 6.2: Earthworks

The architectural plans indicate that no significant earthworks are proposed, beyond that in which is proposed for building footings and to accommodate for an outdoor swimming pool within the rear yard.

In determining whether to grant consent for the proposed earthworks Clause 6.2(3) requires Council to be satisfied that the extent and siting of excavation has had regard to the following relevant matters:

- (a) *The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development*
- (b) *The effect of the development on the likely future use or redevelopment of the land*
- (c) *The quality of the fill or the soil to be excavated, or both*
- (d) *The effect of the development on the existing and likely amenity of adjoining properties*
- (e) *The source of any fill material and the destination of any excavated material*
- (f) *The likelihood of disturbing relics*
- (g) *The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*
- (h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development*

The proposal is acceptable with regard to the relevant matters for consideration in Part 6.2(3) of the Woollahra LEP 2014 for the following reasons:

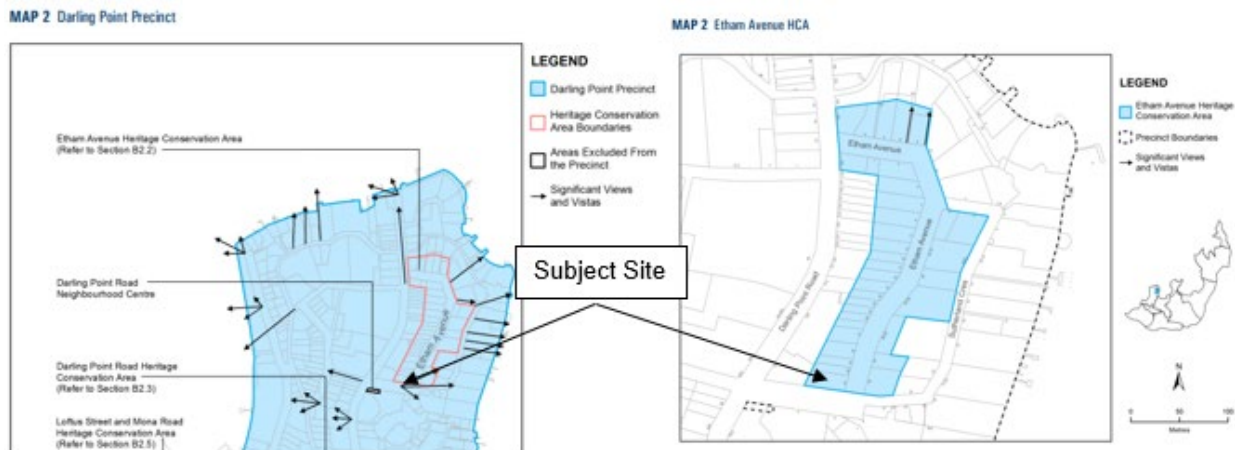
- In terms of ESD principles, the extent of soil being removed from the site is considered to be acceptable and not unreasonable for the purposes of the proposed development;
- The extent of excavation works will not compromise future land uses or redevelopment opportunities.
- Council's Engineer has not raised any concerns with the proposal subject to standard conditions.
- If this application were to be approved, standards **conditions** could be imposed to ensure the general amenity of the neighbourhood is maintain including, but not limited to, minimising noise, vibration and dust pollution. This includes requiring the preparation of site dilapidation reports, limiting hours of work, requiring dust mitigation measures and vibration monitoring.
- Notwithstanding the above, Council cannot confidently argue the proposed excavation works will not result in off-site amenity impacts due to a failure to provide an addendum to the Arborist Report that outlines an assessment of the large mature tree, located within the rear courtyard of No. 39 Etham Avenue.

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

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Darling Point Residential Precinct

As illustrated below, the subject site is located within the Etham Avenue Heritage Conservation Area which is sited within the Darling Point Residential Precinct.



The proposal fails to meet the streetscape character and key elements of the precinct and desired future character objectives of this precinct, as noted in Part B1.2.2 of the Woollahra DCP 2015 and as further evidenced within the assessment detailed below. More specifically, the proposal fails to maintain the heritage significance of the heritage buildings and it will detract from the heritage item and that of the group, contrary to Objectives O1, O4 and O6 of Part B1.2.2.

14.2 Chapter B2: Neighbourhood Heritage Conservation Area

As noted above, the subject site is located within the Etham Avenue Heritage Conservation Area (HCA). An assessment of the proposal against the relevant controls and objectives of Parts B2.1.3, B2.1.7 and B2.2 of the Woollahra DCP 2015 has yielded the following comments:

- Although slightly altered, the original two storey rear wing contributes to the overall significance of the heritage item in its current form and the existing single storey rear wing remains in its original U shape, with only minor alterations to fenestration and some additions added. The complete demolition of the existing single storey and original two storey rear wing will remove original fabric and alter the original form of the building. Therefore, the proposed demolition of the original rear wing will have an adverse impact on the heritage item and cannot be said to comply with Controls C1, C2 and C3 and Objectives O1 and O18 of Part B2.1.7.
- The proposed demolition of the original form of the rear wings and the new development does not retain the heritage significance of the heritage item nor the HCA, contrary to Objectives O1, O2, O3, O4 and O5 of Part B2.1.3.

- House, interiors and grounds—Etham Avenue heritage item group (see also 37, 41 Etham Avenue) (Item No. 125), located at 39 Etham Avenue, Darling Point, is the neighbour to No. 41 and forms part of the heritage listed group. Views towards the rear of No. 39 are afforded from Mitchell Road and Sutherland Crescent. The character of the rear of the group includes views of the original roof forms and rear elevations. This is clearly stated in the statement of significance which states: *Further appreciation of the houses is gained from the Etham Avenue approach, parallel to Mitchell Road, presenting an interesting juxtaposition of rear and side roofscape plus associated walls and landscape setting. This is an important streetscape quality of these sites.* The proposed new rear additions will obscure this significant view and also shared characteristic of the group. Therefore, the proposal will adversely impact the heritage item and the heritage listed group and cannot be supported.
- House, interiors and grounds—Etham Avenue heritage item group (see also 39, 41 Etham Avenue) (Item No. 124), located at 37 Etham Avenue, Darling Point forms part of the heritage listed group and is located to the north of the subject property. The proposed rear additions will partially obstruct views to the rear of the property from Mitchell Road and adversely impact the shared characteristic of the group. Therefore, the proposal will adversely impact the heritage item and the heritage listed group and cannot be supported.
- The proposal does not retain the contribution the building makes within the group of significant houses, contrary to Objective O3 and Control C8 of Part B2.1.7.
- The proposal will adversely impact the streetscape, and the original form of the building. It is not a sympathetic design and will compromise the architectural character of the building, contrary to Objectives O5, O6, O7, O8 and O9 and Controls C12, C13 and C14 of Part B2.1.7.
- The proposed works do not meet the desired future character of the Etham Avenue HCA as it does not retain the significant fabric and key values of the HCA, as outlined within Part B2.2.

Accordingly, the proposal is unacceptable with regard to Parts B2.1.7, B2.1.3 and B2.2 of the Woollahra DCP 2015.

14.3 Chapter B3: General Development Controls

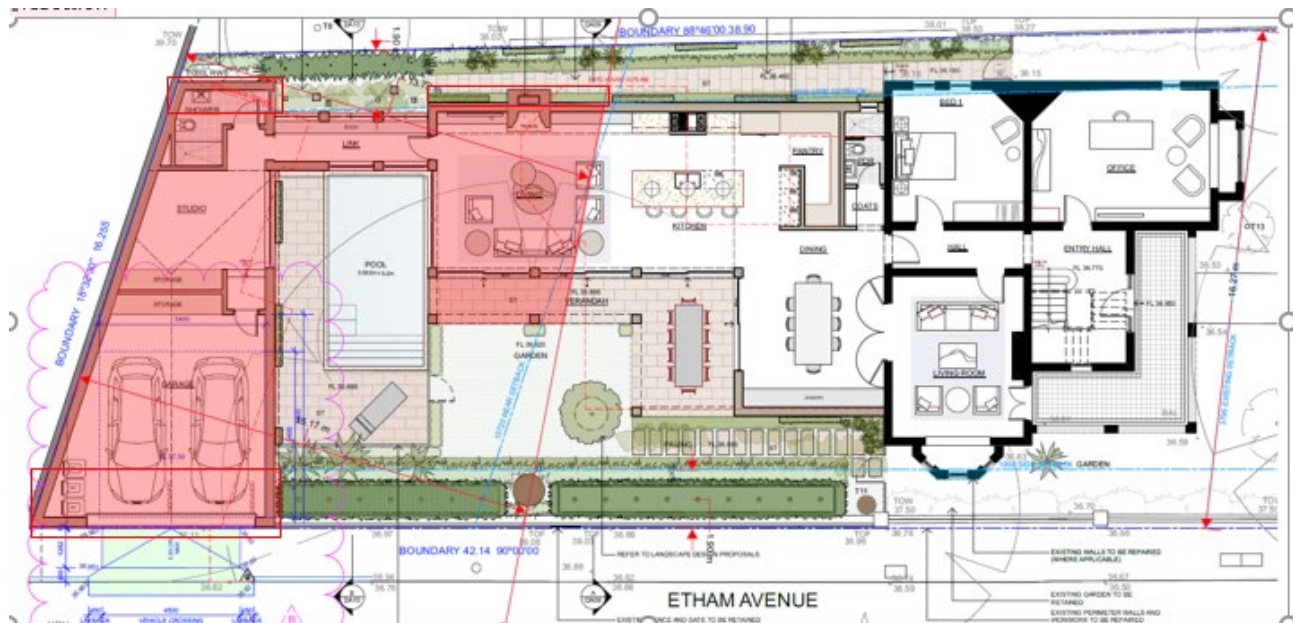
14.3.1 Part B3.2: Building Envelope

The proposal has sought to construct alterations and additions to the rear of an existing dwelling house including a ground floor extension, first floor addition and garage. As such, the front setback of the principal built form will remain unchanged.

Nevertheless, the proposal has been assessed against the requirements outlined within of Part B3.2.3 (Side Setback), Part B3.2.4 (Rear Setbacks) and Part B3.2.5 (Wall Height) of the *Woollahra DCP 2015*, yielding the following results:

Site Area: 639.7m ²	Proposed (Rear Addition)	Control	Complies
Side (Northern) Boundary Setback	Ground Floor: 890mm to 2.1m First Floor: 1.99m Existing non-compliances apply to the principal built form.	1.9m based on a site width of approximately 16.27m	No (refer below)

Site Area: 639.7m ²	Proposed (Rear Addition)	Control	Complies
Side (Southern) Boundary Setback – Side Street	Ground Floor: 3.6m to 11.75m Garage: Zero setback First Floor: 3.6m Existing non-compliances apply to the principal built form.	1.9m based on a site width of approximately 16.27m	No (refer below)
Rear (Western) Boundary Setback	Ground Floor: Zero setback First Floor: 18.4 to 21.8m Existing non-compliances apply to the principal built form.	Rear Setback = A – C – B - A (Site Depth) = 38.9 (north)/ 42.14 (south) - Building Depth Sliding Scale % = 55% - C (Building Depth) = 38.9 x 55% = 21.395 (north). 42.14 x 55% = 23.177 (south) - B (Front Setback) = 3.795m North = 38.9 - 21.395 - 3.795 = 13.71m South = 42.14 - 23.177 - 3.795 = 15.168m	No (refer below)
Maximum Wall Height Inclined Plane From Wall Height	The proposed chimney at ground floor will exceed a height of 7.2m and will not feature an incline above a height of 7.2m. All remaining walls have been designed in compliance. Existing non-compliances apply to the principal built form.	7.2m 45°	No (refer below)

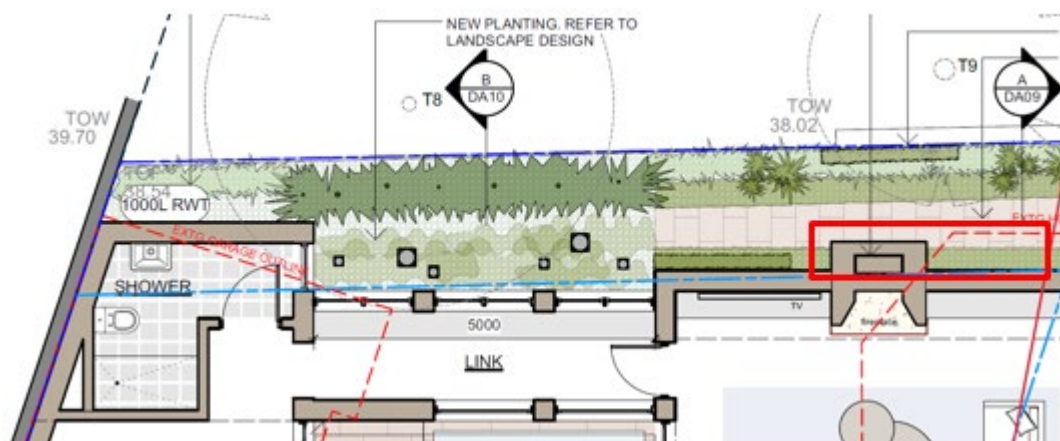


Built form proposed outside of the buildable area

Part B3.2.3 - Side Setback:

As illustrated above, the proposed ground floor addition has sought to vary the northern boundary side setback requirement. Encroachments into the setback relate to a new chimney servicing the new living area and a shower within the proposed studio. The proposed variation is considered to be appropriate given:

- As illustrated below, the proposed chimney will be set back slightly further away from the boundary as compared to the portion of the existing dwelling that is proposed to be demolished to make way for the proposed works. Whilst the chimney is deemed to be appropriate relative to its location from the northern boundary, its height and location within the rear setback is not.



- Whilst the shower will extend beyond the existing location of the existing structure/garage (proposed to be demolished), it will feature a low built form profile, reducing its visual impact as viewed from the adjoining courtyard to the north.
- The northern elevation is proposed to be well articulated in accordance with Objective O2.
- The proposal will not result any unreasonable acoustic or visual privacy concerns that could not otherwise be addressed via **condition** if this application were to be approved, achieving Objective O3.

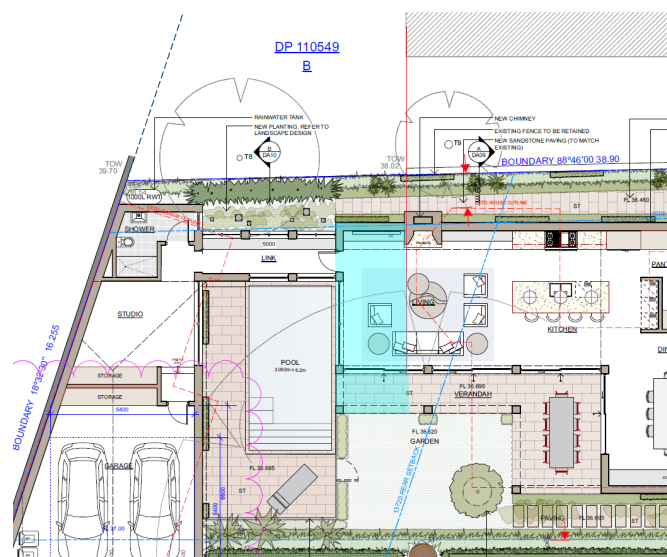
- Due to the orientation of existing neighbouring windows, the proposal will not affect solar access to said windows in accordance with Objective O4.
- Existing setbacks of the principal building will remain unchanged, ensuring views between buildings are maintained in accordance with Objective O5.
- Screen planting opportunities are available along the northern boundary in accordance with Objective O6.
- External access between the front and rear of the site is provided for on-site in accordance with Objective O7.

In light of the above, the proposal is acceptable having regard to the relevant the objectives and controls of Part B3.2.3 of the Woollahra DCP 2015.

Part 3.2.4 - Rear Setback:

As illustrated above, the proposed ground floor addition has sought to vary the rear setback requirement. Encroachments into the rear setback relate to a new living area, part of the verandah, a low level link and studio including amenities at ground floor and a garage. The following comments are made:

- Whilst private open space is to be provided to the rear and side of the building, the rear setback is proposed to be mostly paved, failing to achieve Objective O1.
- The proposal will not result in any unreasonable acoustic or visual privacy concerns that could not otherwise be addressed via **condition** if this application were to be approved, achieving Objective O2. Given this cannot be addressed at this time, the loss of privacy forms a **refusal ground**.
- The proposal will not affect solar access to existing open spaces in accordance with Objective O4.
- Whilst the proposal will comply with the deep soil planting requirements across the length of the site, an inadequate provision is made within the rear setback, failing to achieve Objective O5.
- The proposal will extend beyond the rear alignment of its adjoining neighbours to the north at No.39 & 37 Etham Avenue and the rear setback established by the existing dwelling currently occupying the subject site. The culmination of both the tall ground floor addition, the oversized chimney, which both extend beyond the permitted rear building line, and the linking structure and studio, results in an unacceptable sense of enclosure and visual impact to No. 39 Etham Avenue. As such, the proposal fails to achieve Objective O3.



Proposed encroachment beyond the rear alignment of the neighbour to the north

In light of the above, the proposal is unacceptable with regard to the relevant the objectives and controls of Part B3.2.4 of the Woollahra DCP 2015.

Part B3.2.5 - Wall Height:

In light of the relevant objective of this control, the following comments are made:

- The proposed variation is limited to a chimney, the bulk, scale and visual impact of which is considered to be unreasonable given its location beyond the permitted rear setback alignment and the resulting sense of enclosure and unreasonable visual impact it will have when viewed from No.39 Etham Avenue. As such, the proposal does not comply with Objective O1.
- The proposed variation will not result in any overshadowing impacts in accordance with Objective O2 and O3.
- The proposed variation will not yield acoustic or visual privacy concerns in accordance with Objective O4.



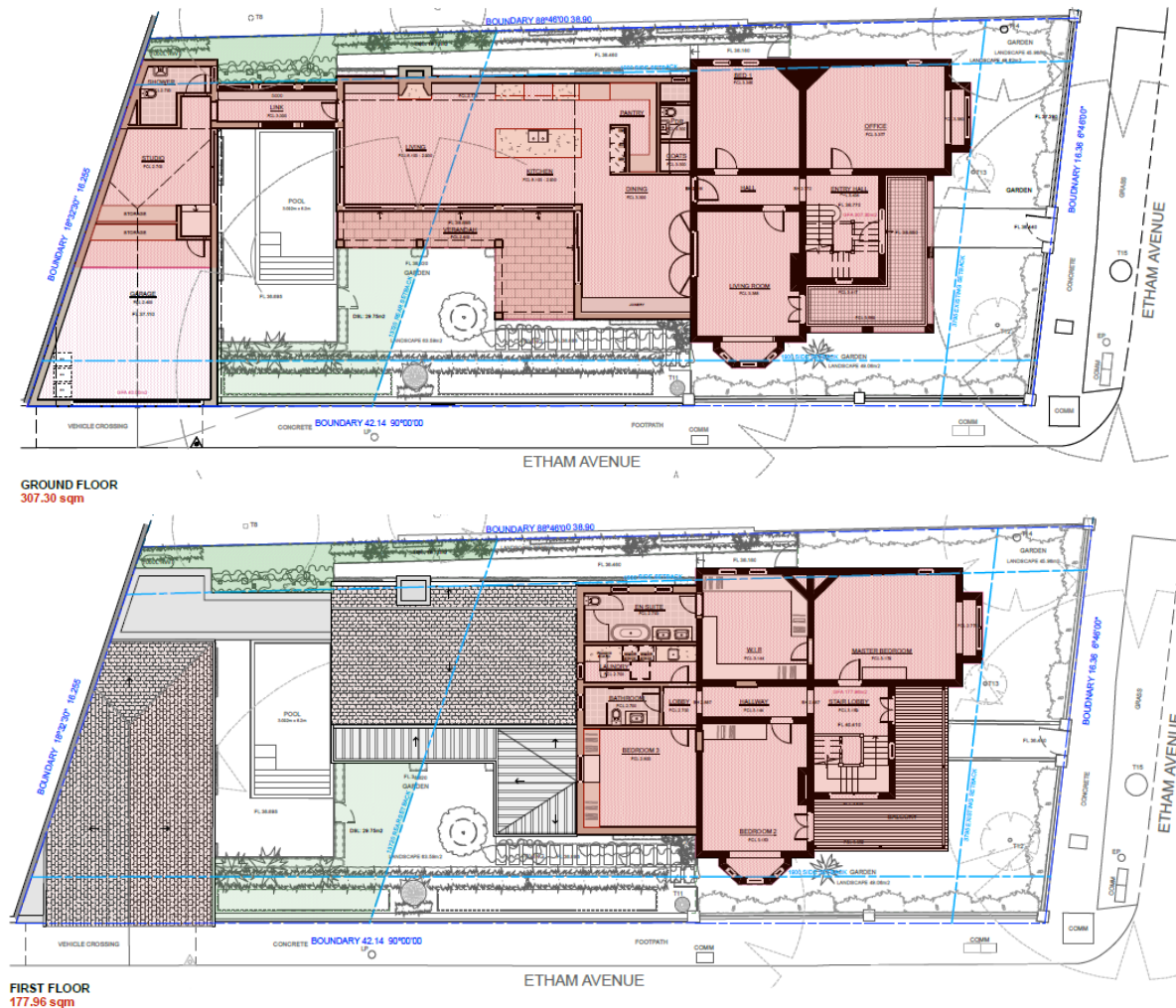
Area of Height Non-Compliance

In light of the above, the proposal is unacceptable having regard to the relevant the objectives and controls of Part B3.2.5 of the Woollahra DCP 2015.

14.3.2 Part B3.3: Floorplates

Floorplate controls apply to dwelling houses located within R3 Medium Density Residential zone. This is calculated as a percentage of the buildable area. The buildable area is the area of the site that is identified once the front, rear and side setbacks have been established. The maximum amount of development permitted on the site is determined by multiplying the buildable area by a factor of 1.65 (165%).

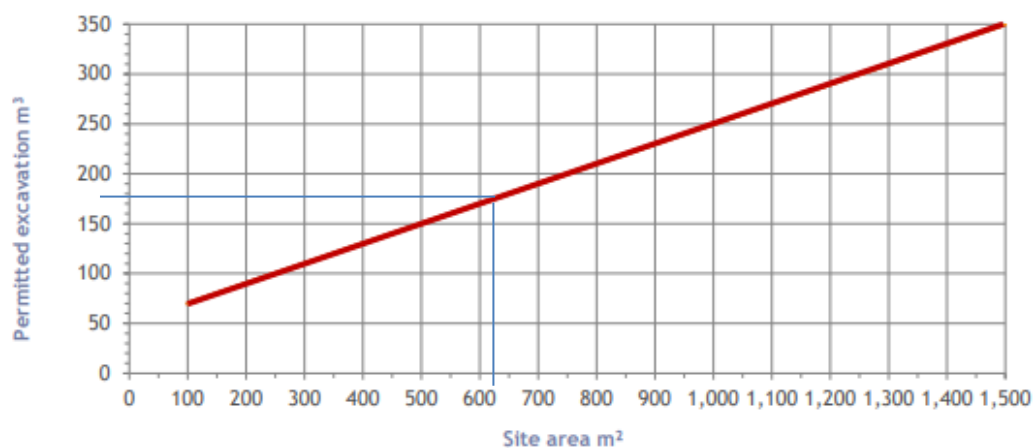
The buildable area in this instance equates to 265.82m², resulting in a maximum floorplate of 438.6m² (265.82 x 1.65). As illustrated below, the proposal results in a floorplate of 485.26m², exceeding the requirements of Part B3.3 of the Woollahra DCP 2015 by 46.66m². The resulting scale and bulk of the proposal is not considered to be in keeping with the desired future character of the precinct, failing to achieve Objective 1.



In light of the above, the proposal is unacceptable with regard to the relevant the objectives and controls of Part B3.3 of the Woollahra DCP 2015.

14.3.3 Part B3.4: Excavation

Control C1 requires dwelling houses to have a maximum volume of excavation to be no more than the volume specified within Figure 14A of Part B3.4 of the Woollahra DCP 2015. Based on Figure 14A and a site area of 639.7m², excavation works should not exceed 180m³.



The architectural plans indicate that no significant earthworks are proposed, beyond that in which is proposed for building footings and to accommodate for an outdoor swimming pool within the rear yard.

Control C5 states: The volume Controls in C1 and C2 do not apply to backyard swimming pools located outside the building envelope.

Separate controls apply, refer to Section 14.3.6 of this report for further information.

Excavation works associated with building footings will equate to less than 180m³, meeting the requirement of Control C1. Whilst the proposal complies with the numerical requirements of this control, Council cannot confidently argue the proposed excavation works will not result in off-site amenity impacts due to a failure to provide an addendum to the Arborist Report that outlines an assessment of the large mature tree located within the rear courtyard of No. 39 Etham Avenue. As such, Objectives O2, O3 and O5 have not been satisfied.

Accordingly, the proposal is unacceptable with regard to Part B3.4 of the Woollahra DCP 2015.

14.3.4 Part B3.5: Built Form and Context

Part B3.5.1: Streetscape Character

The proposal is inconsistent with the desired future character of the area set out in the precinct controls in Parts B1 and B2 of this DCP, failing to achieve Control C1. Refer to Section 14.2 of this report. Accordingly, the proposal is unacceptable with regard to Part B3.5.1 of the Woollahra DCP 2015.

Part B3.5.2: Overshadowing

Due to the orientation of the site, adjoining open spaces will not be affected by additional shadows cast by the proposed addition. Accordingly, the proposal is considered to acceptable with regard to Part B3.5.2 of the Woollahra DCP 2015.

Part B3.5.3: Public and Private Views

The proposed works will not obstruct any private or public views. Accordingly, the proposal is considered to acceptable with regard to Part 3.5.3 of the Woollahra DCP 2015.

Part B3.5.4: Acoustic and Visual Privacy

The proposal is not expected to result in any unreasonable noise emissions. Nevertheless, if this application were to be approved, standard amenity **conditions** could be imposed relating to operation hours during construction, general maintenance of environmental controls (including noise), the swimming pool and any mechanical plant and equipment in order to ensure noise emissions are maintained within acceptable limits.

New windows in habitable rooms have been designed to prevent a direct sightline to the habitable room windows or private open space of adjacent dwellings within 9m. More specifically, the western first floor window servicing Bedroom 3 will be located more than 9m from neighbouring open spaces or windows and northern windows servicing the open plan living and kitchen area are clerestory windows that will not enable views to the north.

Control C5 requires windows to bathrooms and toilet to have translucent glazing where these have a direct view to, and from, habitable rooms and private open space on adjoining and adjacent properties. Windows serving the new ensuite of the existing Master Bedroom (W15 and W16) will overlook existing windows at No.39 Etham Avenue. If this application were to be approved, this concern could be addressed via **condition**.

Accordingly, the proposal is unacceptable with regard to Part 3.5.4 of the Woollahra DCP 2015.

Part B3.5.5: Internal Amenity

All habitable rooms within the proposed addition will have at least one external wall above the existing ground level which provides an unobstructed window opening, achieving Control C1.

All habitable rooms and sanitary compartments within the proposed addition will have direct natural light and direct natural ventilation in accordance with Control C2. Control C3 requires the area of unobstructed window openings to equal to at least 20% of the room floor area for habitable rooms. Windows proposed along the southern elevation at ground floor (W3, W4 & W5) will exceed this requirement.

The window proposed along the western elevation at first floor (W10), servicing Bedroom 3 will not meet the 20% requirement, however it is not uncommon for windows of this size to service a bedroom. Further, the window will provide an adequate supply of daylight, air and ventilation in accordance with Objectives O1 and O2.

Rooms proposed within the rear addition will not be reliant on a light well as a primary source of air and daylight in accordance with Control C4.

No rooms are proposed to be partially or fully below existing ground floor (Control C5).

Accordingly, the proposal is acceptable with regard to Part 3.5.5 of the Woollahra DCP 2015.

14.3.5 Part B3.6: On-Site Parking

An assessment of the proposal against the requirements outlined within Part B3.6 of the Woollahra DCP 2015 is detailed as follows:

Control	Assessment	Complies
C1 On-site parking is designed and located so that it: a) does not dominate the street frontage; b) preserves trees and vegetation of landscape value; and c) is located within the building envelope.	On-site car parking will be visible from the street, however it will not dominate or detract from the appearance of the development and the local streetscape. Whilst the garage will not be located within the building envelope, it will replace an existing garage which is constructed within this location.	Yes on merit
C2 For car parking structures facing the street frontage— the maximum car parking structures width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.	The proposed garage fronts a side street.	N/A
C3 Where possible on-site parking is to be accessed from the rear. The width of parking structures can occupy 75% of the rear frontage or 6m (whichever is the lesser). The site area of the parking structure can be no greater than 40m ² and the height a maximum of 3.6m.	Access from the rear is not possible.	N/A
C4 Where there is no rear lane access, on-site parking is located within the building envelope.	The new garage is proposed to be located wholly outside of the building envelope. The proposed non-compliance in this instance is acceptable on the basis that the subject site is a corner allotment which benefits from existing vehicle access and the proposed parking structure is to replace an existing garage within the same location.	No

Control	Assessment	Complies
C9 For separate structures, the roof form, materials and detailing complement the principal building. C10 Garage doors are designed to complement the building design and any important character elements within the street.	The garage is considered to be acceptably unobtrusive from a planning perspective.	Yes
C11 The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).	The width of the driveway will align with the garage width opening. Further, Council's Engineer has raised no concerns regarding the proposed parking arrangement.	Yes
C12 Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.	Only one driveway is proposed to service the new garage.	Yes

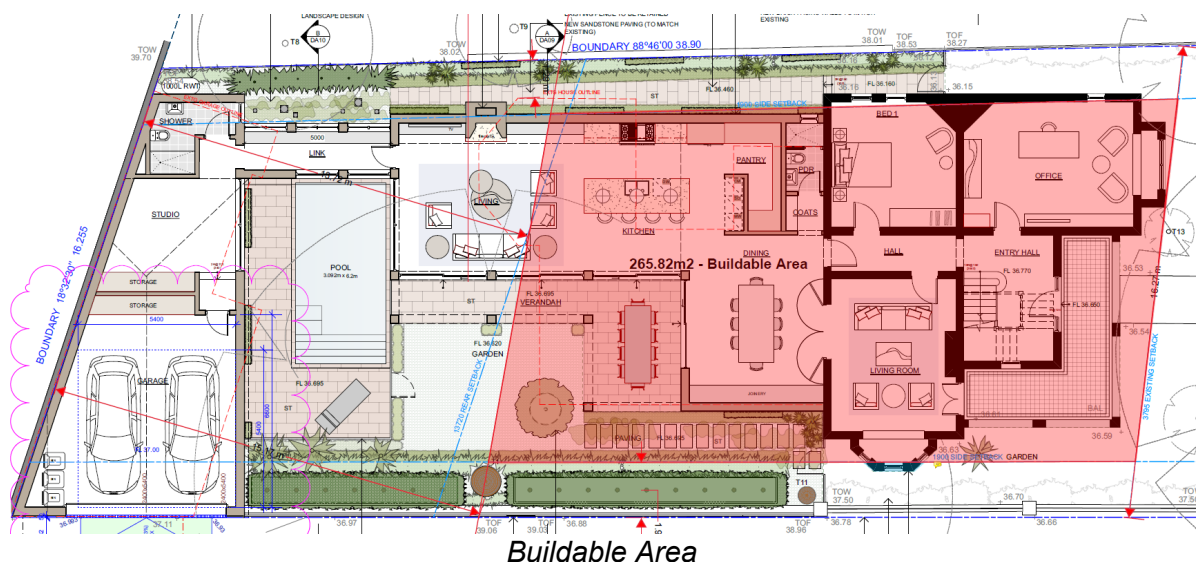
Accordingly, the proposal is considered to be acceptable with regard to the objectives of Part D3.9 of the Woollahra DCP 2015.

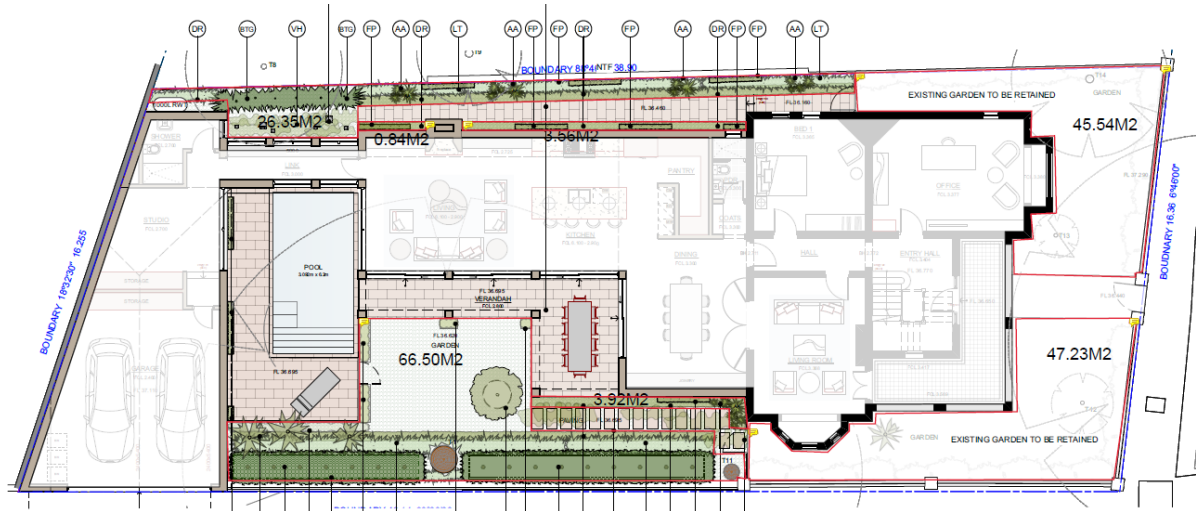
14.3.6 Part B3.7: External Areas

Section B3.7.1 - Landscaped Area and Private Open Space

The proposal has been assessed against the relevant controls and objectives of Section 3.7.1 of the Woollahra DCP 2015, yielding the following comments:

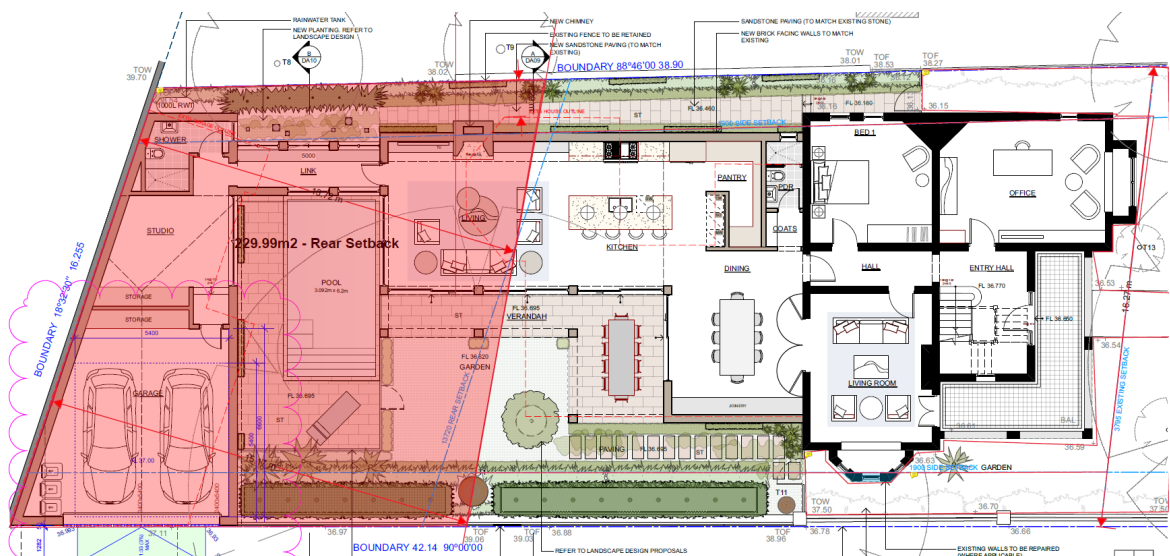
- Control C1 requires development in the R2 and R3 residential zones to dedicate at least 50% of the site area outside the buildable area as deep soil landscaped area. Based on a site area of 639.7m² and a buildable area of 265.82m², 50% of the area outside of the buildable area (373.88m²) equates to 186.94m². The application proposes to provide approximately 193.94m² of deep soil landscaping, meeting the requirements of Control C1.



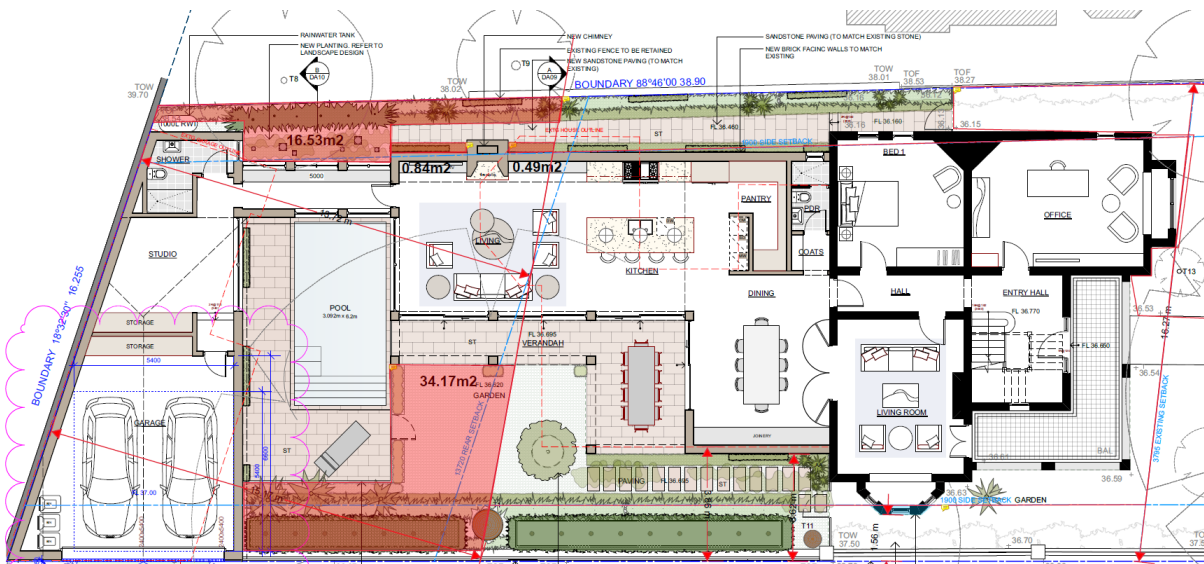


Deep Soil Landscaped Areas

- Control C2 requires at least 40% of the front setback to comprise of deep soil landscaped area. No works are proposed within the front setback, ensuring the existing area of deep soil planting in this location remains unchanged.
- Control C4 requires at least 50% of the rear setback to comprise of deep soil landscaped area. The rear setback equates to 229.99m², 50% of which equates to 114.995m². The application proposes to provide 52.03m² of deep soil planting within the rear setback, failing to comply with the requirements of Control C4. An inadequate provision is made within the rear setback to facilitate the provision of meaningful landscaping. It is further noted that the proposed works may compromise Tree 1 and Tree 11. As such, the extent of hard surfaces to the rear, south of the swimming pool, cannot be supported. Further modifications would be required to protect Tree 11. Refer to Section 14.6 of this report for further information.



Area within Rear Setback



Proposed Deep Soil Planting Areas

- The primary open space area will be directly accessible from a habitable room in accordance with Objective O10.

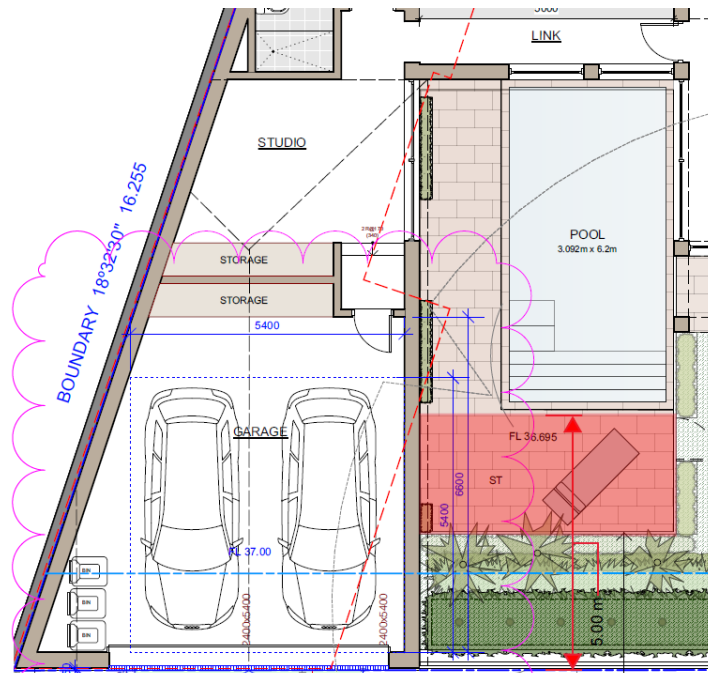
Accordingly, the proposal is unacceptable with regard to Part 3.7.1 of the Woollahra DCP 2015.

Section B3.7.4 - Ancillary Development – Swimming Pools

The proposal has been assessed against the relevant controls and objectives of Section 3.7.14 of the Woollahra DCP 2015, yielding the following comments:

- Control C2 states: Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope. The new swimming pool will be located outside of the building envelope.
- Control C3 requires swimming pools (measured from the water edge) to be located at least 1.8m from property boundaries. The new swimming pool will be located more than 1.8m from all boundaries.
- Control C4 requires swimming pool surrounds to be no more than 1.2m above or below the existing ground level. Pool surrounds have been designed in accordance with Control C4.
- Control C5 requires swimming pools to be no deeper than 2m from the pool surround level. The new swimming pool will not exceed a depth of 2.0m, meeting the requirements of Control C5.
- Control C6 requires the location and design of the swimming pool and associated works to not adversely impact on prescribed trees. Council's Tree and Landscaping Officer provided the following advice:

The proposed impervious pool slab and sandstone paving south of the pool is not supported as it will reduce the available deep soil area within the TPZ and has the potential to impact on the long term viability of Tree 1. Excavation for the pool must be offset from the southern boundary by a minimum of 5m. The Plans must be amended to show all impervious structures removed from the area between the proposed pool, garage to the west and the southern boundary, to reduce encroachment into the TPZ of tree 1.



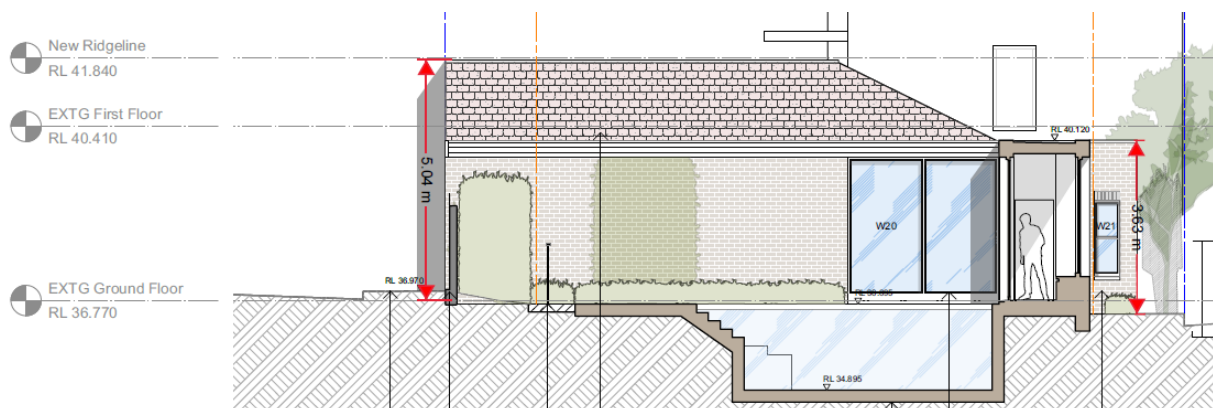
Impervious Area within the TPZ that is not supported by Council's Tree and Landscaping Officer

In light of the above, the proposal fails to achieve Control C6 and Objective O2 and cannot be supported by Council.

Section B3.7.4 - Ancillary Development – Outbuildings

As assessment of the proposal against the relevant controls and objectives of Part B3.7.4 is as follows:

- Control C1 requires outbuilding to be located within the building envelope or the rear setback. The outbuilding (garage/studio) is to be located outside of the building envelope, however it will be located to the rear, achieving Control C1.
- Control C2 requires the maximum height of the outbuilding to be 3.6m and the outbuilding is to be sited a minimum of 1.5m from the side and rear boundaries. As illustrated below, the height of the outbuilding will range from 3.6m to 5m and it will be 890mm from the northern side boundary and will be constructed to the rear boundary. Whilst the proposal does not comply with the dimension requirements of this control, it will replace an existing structure. As such, an outbuilding is supported within this location. The exceedance in height is also supported on the basis that the height steps down to the north and it features a pitched roof form, with reduced wall heights.



Height of Proposed Garage/Studio

- The outbuilding has reduced the deep soil landscaped area within the rear setback to below the requirements outlined within Section B3.7.1, contrary to Control C3 and Objective O2.
- The proposed works do not comply with Objective O3, which requires the retention of valued trees and vegetation.

In light of the above, the proposal is unacceptable with regard to the relevant objective of Part B3.7.4 of the Woollahra DCP 2015.

14.4 Chapter E1: Parking and Access

As illustrated below, the proposal provides two on-site parking spaces, not exceeding the maximum requirements of Chapter E1 of the Woollahra DCP 2015.

	Existing	Proposed	Control	Complies
Dwelling House	2 spaces	2 spaces	Maximum 2 spaces per dwelling	Yes

Further, to the above, Council Engineer has raised no concerns regarding the proposed parking arrangement. Accordingly, the proposal is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

14.5 Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

14.6 Chapter E3: Tree Management

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory, however some concerns have been raised, which cannot be addressed via condition(s). The following referral response was received:

COMMENTS

Tree in neighbouring property

A large mature tree located in neighbouring No 41 Etham Ave has not been included in the arborist report. The tree forms part of LEP Heritage Item 126 House, interiors and grounds—Etham Avenue heritage item group.

An Arboricultural statement by arborist G Palmer provided by the owners has identified the tree has a substantial section of its TPZ located within the subject property. Given the large size of the tree it appears that the proposed works may encroach into the TPZ and SRZ of the Tree.

*In order to progress with the review of the proposal, **an addendum to the Arborist report must be provided including an assessment of the tree and any impacts from the proposal.***

Trees on site

The proposal will also affect 2 highly significant trees (Trees 1 & 11) and several low significance vegetation at the rear of the property.

*The provided arborist report has calculated the encroachment from proposed construction into the TPZ of **Tree 1** at 37%.*

A large percentage of this area is occupied by the existing building footprint, where root activity is anticipated to be limited.

The additional encroachment from new elements has been calculated as 16% of the TPZ of T1.

This is considered a potentially significant impact, especially when taking into account the tree is only in fair condition with reduced foliage density and may not be in a good position to recover from construction damage.

This is acknowledged by the arborist in 4.1.4 of the report:.. Given the size of the encroachment, any major departures from the methods detailed in this report pose a significant risk to the long-term physiological viability of Tree 1.

*In the case of **Tree 11** the majority of the new TPZ encroachment is within the existing building footprint. The only new elements affecting this tree will be paving (permeable, proposed on existing levels) and raised steel planters which should not provide a high impact to the tree.*

Given the above, the following elements of the design will require modification to provide better conditions for the survival of Trees 1 & 11:

- *The proposed impervious pool slab and sandstone paving south of the pool is not supported as it will reduce the available deep soil area within the TPZ and has the potential to impact on the long term viability of Tree 1.*

Excavation for the pool must be offset from the southern boundary by a minimum of 5m. The Plans must be amended to show all impervious structures removed from the area between the proposed pool, garage to the west and the southern boundary, to reduce encroachment into the TPZ of tree 1.

- *Raised Steel Planters along the southern boundary should be offset by a minimum of 1m from the face of the trunks of Trees 1 & 11.*

Raised steel planters must be installed above existing levels supported on a pier/beam system without excavation (other than required for the piers).

- *New plantings to be of small size (tube stock) to reduce root disturbance to Trees 1 & 11.*
- *The metal possum guard girdling Tree 11 must be removed as per arborist recommendations.*
- *Drainage Layout Plan: all pits and lines should be located outside of the SRZ of trees to be retained. Any pipeline within the TPZ of the trees must be dug manually under arborist supervision to locate and retain important roots (50mm in diameter).*

Ensure the arborist report forms part of the approved documents as it provides a comprehensive guide to Tree Protection during Construction.

Trees 8 & 9 on neighbouring property to the north and 12, 13 & 14 in the front garden are sufficiently offset from works and should not be majorly impacted by the proposal.

Tree 15 is a mature street tree located in the Council verge at Etham Ave. The tree is sufficiently offset from proposed works however it will require protection during construction. A nominal amount of \$5,000 is recommended as Tree Damage Security for this tree.

The removal of Trees 2, 3, 4, 5, 6, 7 & 10 is supported as the trees are of low significance or exempt from protection and sufficient replacement is proposed in the landscape plan.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.

Whilst Council's Tree and Landscape Officer has indicated the proposal could be approved subject to conditions, concerns relating to a need for additional information, i.e. an addendum to the Arborist Report that outlines an assessment of the a large mature tree located within the rear courtyard of No.39 Etham Avenue, cannot be conditioned.

As such, the proposal is considered to be unacceptable with regard to Chapter E3 of the Woollahra DCP 2015.

14.7 Chapter E5: Waste Management

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

On-Site Waste and Recycling Controls for all Development

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

Further to the above, Control C3 of Part E5.4 requires: *a dwelling located in an area other than Paddington and West Woollahra Precincts should be provided with waste and recycling areas, which accommodate 1 x 120L general waste bin, 1 x 240L green waste bin and 1 x 120L or 240L recycling bin.* Three bin receptacles have been proposed within the garage.

Accordingly, the proposal is acceptable with regard to Part E5 of the *Woollahra DCP 2015*.

15. SECTION 7.11 & 7.12 CONTRIBUTION PLANS

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2011. If this application were to be approved, this requirement could be addressed via **condition**.

16. APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. If this application were to be approved, this requirement could be addressed via **condition**.

16.2 Swimming Pools Act 1992

- The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992.
- A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- Water recirculation and filtration systems.
- Backwash must be discharged to the sewer.

If this application were to be approved, this requirement could be addressed via **condition**.

17. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

18. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development in its current form.

19. THE PUBLIC INTEREST

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

20. CONCLUSION

The proposal is unacceptable when assessed against the relevant considerations of 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, refuse development consent to Development Application No. 408/2021/1 for alterations and additions to existing dwelling, including new swimming pool, cabana and loggia on land at 41 Etham Avenue Darling Point, for the following reasons:

1. Woollahra Local Environmental Plan 2015

a. Clause 1.2(2) Aims (f), (g) and (l)

The proposal does not comply with Aims (f), (g) and (l). More specifically, the proposed development:

- fails to conserve the built and natural environmental heritage (aim f).
- fails to protect amenity and the natural environment (aim g).
- fails to achieve the desired future character of the area (aim l).

b. Clause 5.10(1) Objective (a) and (b)

The proposal does not comply with Objectives (f) and (l). More specifically, the proposed development:

- does not conserve the heritage of Woollahra
- will have an adverse impact upon the heritage significance of the conservation area

c. Clause 6.2(3)(d)

The proposal will result in adverse amenity impacts to adjoining properties, failing to achieve Objective (d).

2. Woollahra Development Control Plan 2015, Chapter B1 – Residential Precincts

The proposal fails to meet the streetscape character and key elements of the precinct and the desired future character objectives including O1, O4 and O6 of Part B1.2.2 of the Woollahra Development Control Plan 2015.

3. Woollahra Development Control Plan 2015, Chapter B2 – Neighbourhood Heritage Conservation Areas

- a. The proposal does not comply with Objectives O1, O2, O3, O4 and O5 of Part B2.1.3 of the Woollahra Development Control Plan 2015.
- b. The proposal does not comply with Objectives O1, O3, O5, O6, O7, O8, O9 and O18 and Controls C1, C2, C3F, C8, C12, C13 and C14 of Part B2.1.7 of the Woollahra Development Control Plan 2015.
- c. The proposal does not meet the desired future character of the Etham Avenue Heritage Conservation Area, as outlined within Part B2.2 of the Woollahra Development Control Plan 2015.

4. Excessive Building Bulk

The proposal does not fully comply with Council's building envelope and floorplate controls.

The proposed building envelope and floorplate non-compliances result in an excessive built form that does not appropriately respond to the desired future character of the area, will not allow for an adequate provision of deep soil landscaping within the rear setback, will not protect vegetation of value, and will result in an unreasonable visual impact and sense of enclosure as viewed from adjoining courtyards.

As such, the proposal is contrary to the following provisions of the Woollahra DCP 2015:

- Part B3.2.4 - Rear Setback – Control C1, Objectives O1, O3 and O5.
- Part B3.2.5 - Wall Height – Control C1, Objective O1.
- Part B3.3 - Floorplate – Control C1, Objectives O1 and O5.
- Part B3.5.1 - Streetscape and local character – Control C1 and C2, Objective O1.
- Part B3.7.1 - Landscaped area and private open space – Control C4, Objective O2.
- Part B3.7.4 - Swimming Pools – Control C6, Objectives O2 and O3.
- Part B3.7.4 - Outbuildings – Control C3, Objective O2.

5. Privacy

Windows serving the new ensuite of the existing Master Bedroom (W15 and W16) have not been treated to limit overlooking to existing windows at No.39 Etham Avenue, failing to comply with Control C5 of Part 3.5.4 of the Woollahra DCP 2015.

6. Excavation

The proposal has not been designed to comply with Objectives O2, O3 and O5 of Part B3.4 of the Woollahra DCP 2015.

7. Tree Protection

a. Insufficient Information

An assessment has not been undertaken to ascertain the impact the proposed development may have on an existing large mature tree located at No. 39 Etham Avenue. Said tree forms part of LEP Heritage Item 126 House, interiors and grounds—Etham Avenue heritage item group. As such, an assessment of this tree and any impact the proposal may have upon its health and viability must be undertaken and included as an Addendum to the Arborist Report.

b. Design Modifications

The proposal will affect two highly significant trees (Trees 1 & 11) and some vegetation of low significance located to the rear of the subject site.

Additional encroachments proposed within the TPZ of Tree 1, beyond that in which is existing, poses a risk to the long-term physiological viability of Tree 1. As such, the proposed impervious pool slab and sandstone paving south of the pool is not supported. Excavation for the pool must also be offset from the southern boundary by a minimum of 5m, with no impervious structures located within this area.

New elements located within the TPZ of Tree 11, including paving (permeable, proposed on existing levels) and raised steel planters, have the potential to affect its health and viability.

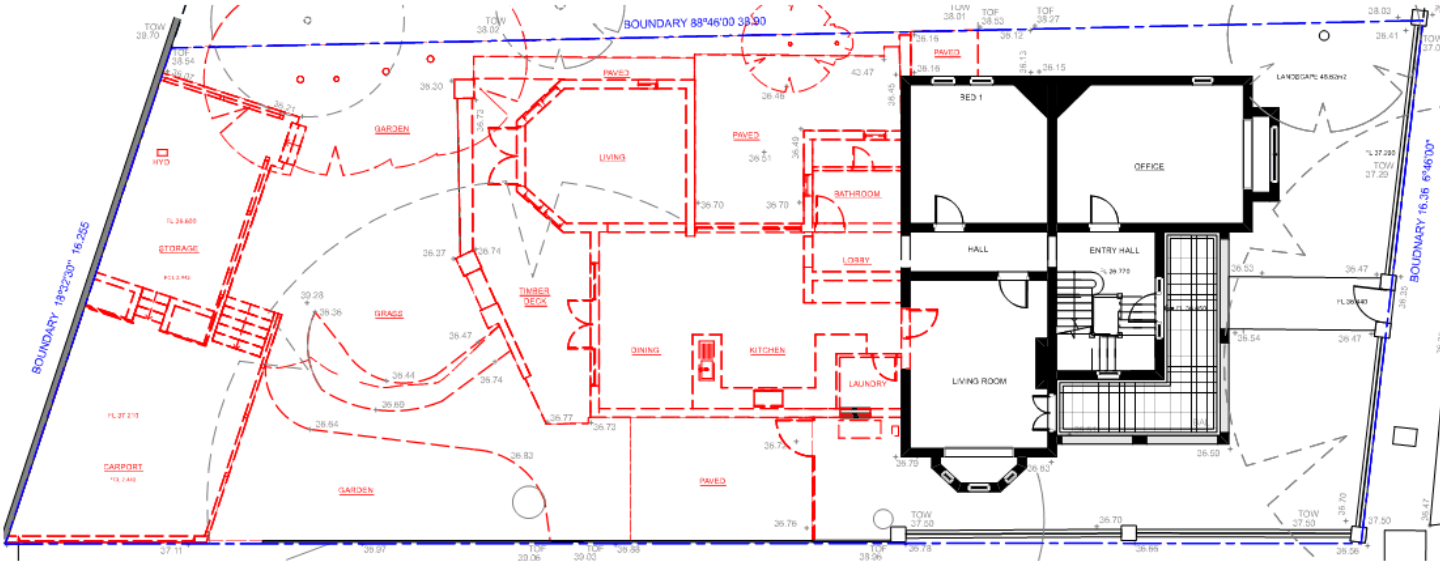
8. Public Interest

The proposal is not in the public interest.

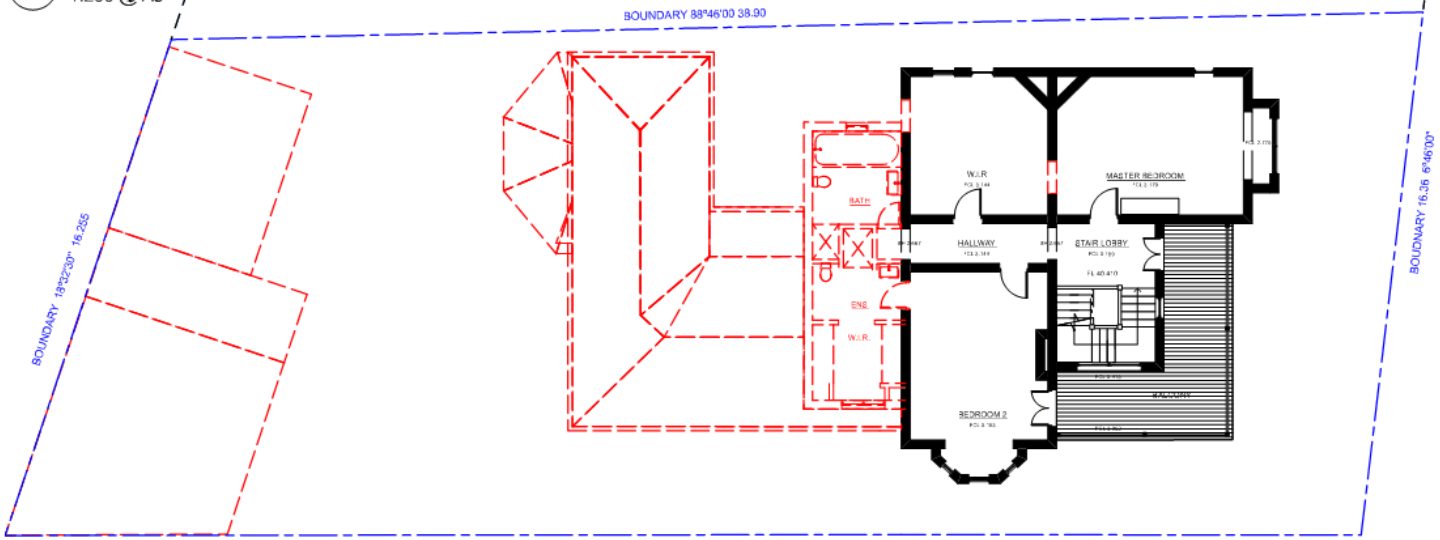
Attachments

1. Plans and elevations
2. Photomontage
3. Technical Services Referral Response
4. Heritage Referral Response
5. Tress and Landscaping Referral Response
6. Survey

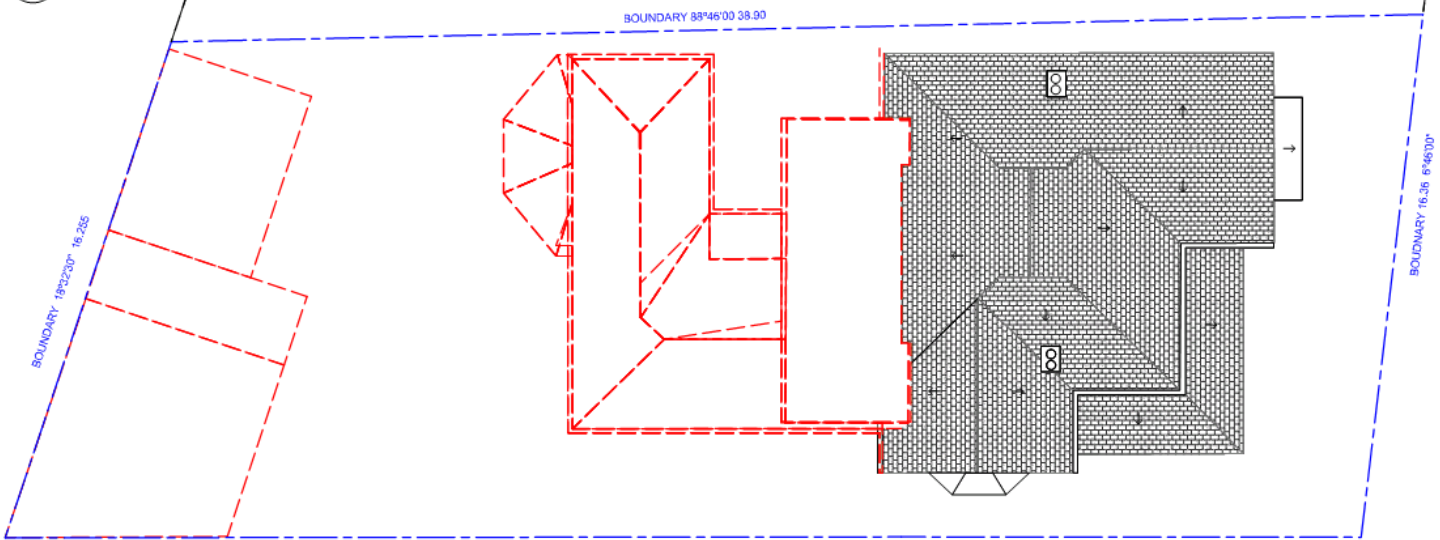
- KEY
- Existing
 - Proposed
 - Demolished
 - Site Boundary



01 Demolition - Existing Ground Floor Plan
1:200 @ A3



02 Demolition - Existing First Floor Plan
1:200 @ A3



03 Demolition - Existing Roof Plan
1:200 @ A3

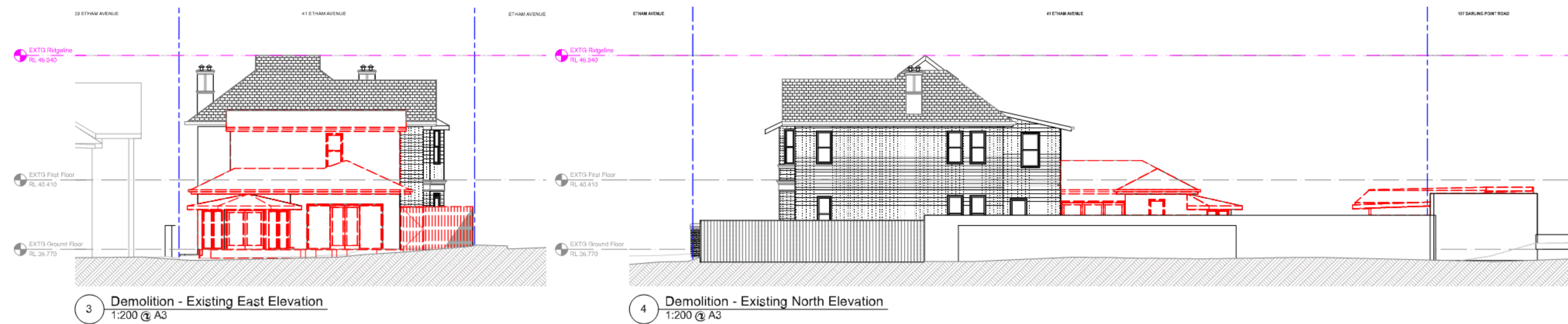
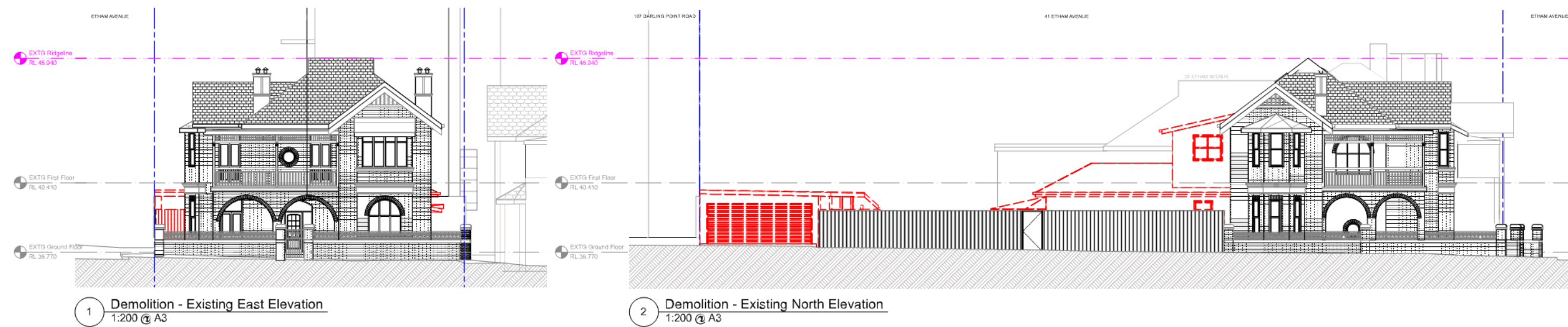
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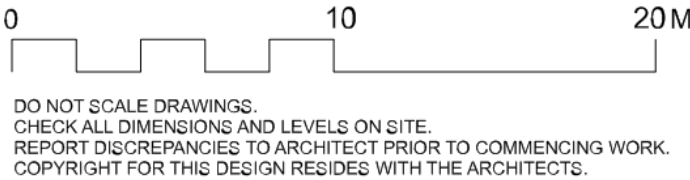
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NSW Registration Number 6385 Robert Weir

A	15/02/21	DA SUBMISSION		
ISSUE	DATE	REVISION		
PROJECT	41 Etham Avenue, Darling Point			PROJECT #
				LED
CLIENT	Jacinta & David Lidbetter			DATE #
				02/09/2021
SCALE	1:200 @ A3			DWG #
				DEM01
DRAWN	JM			DATE
				02/09/2021
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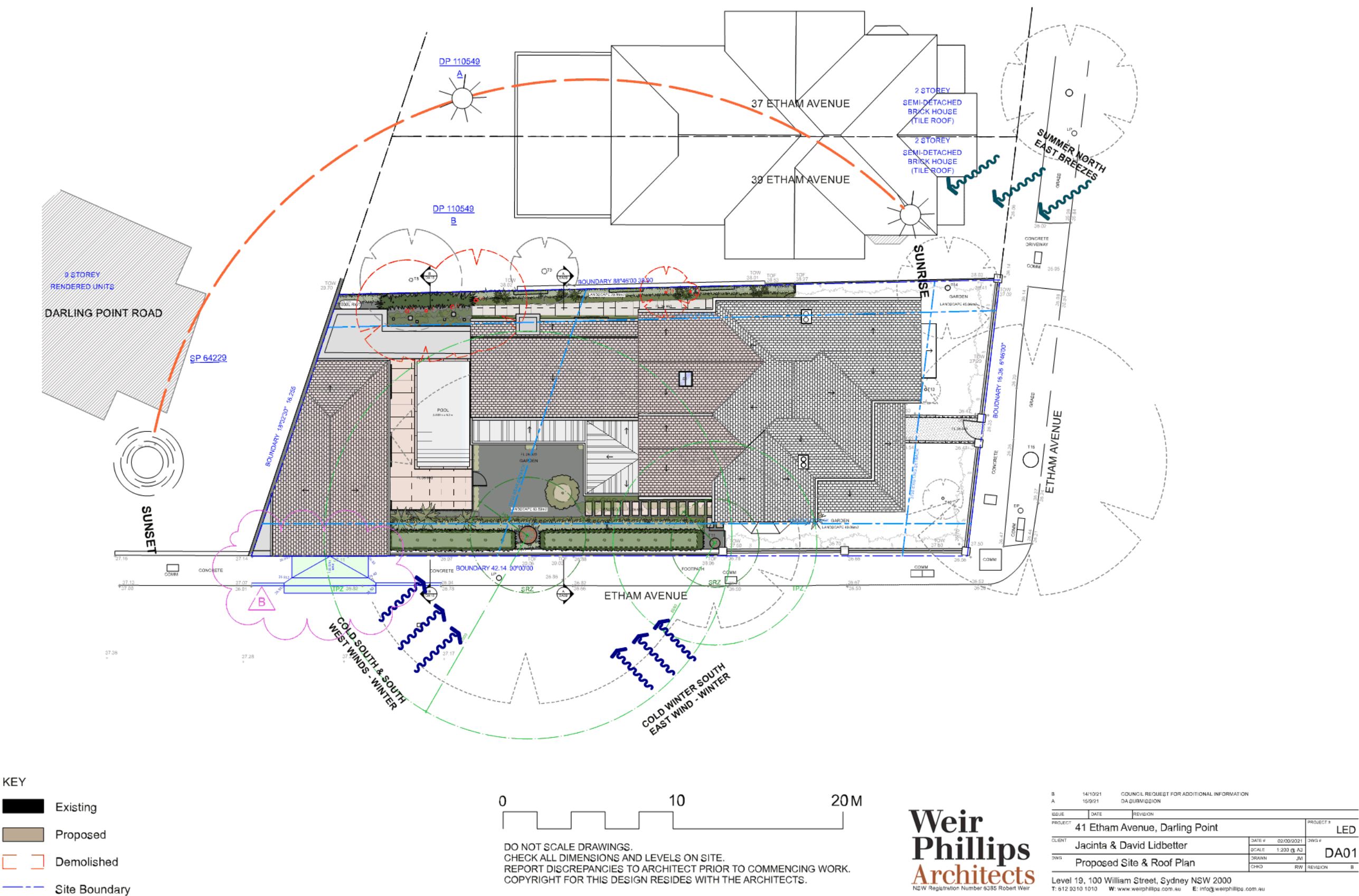


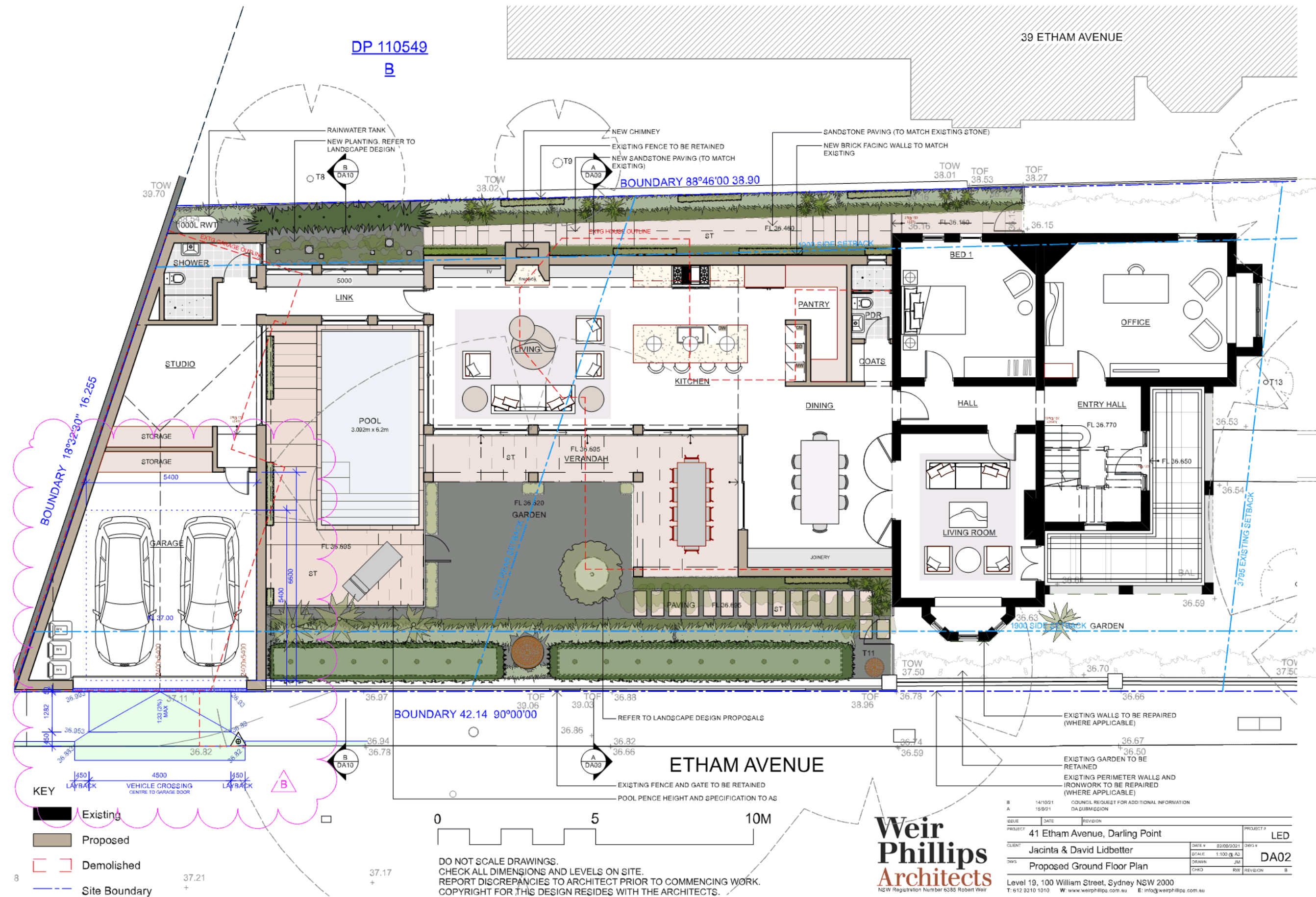
- KEY
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 - Proposed
 - Demolished
 - Site Boundary

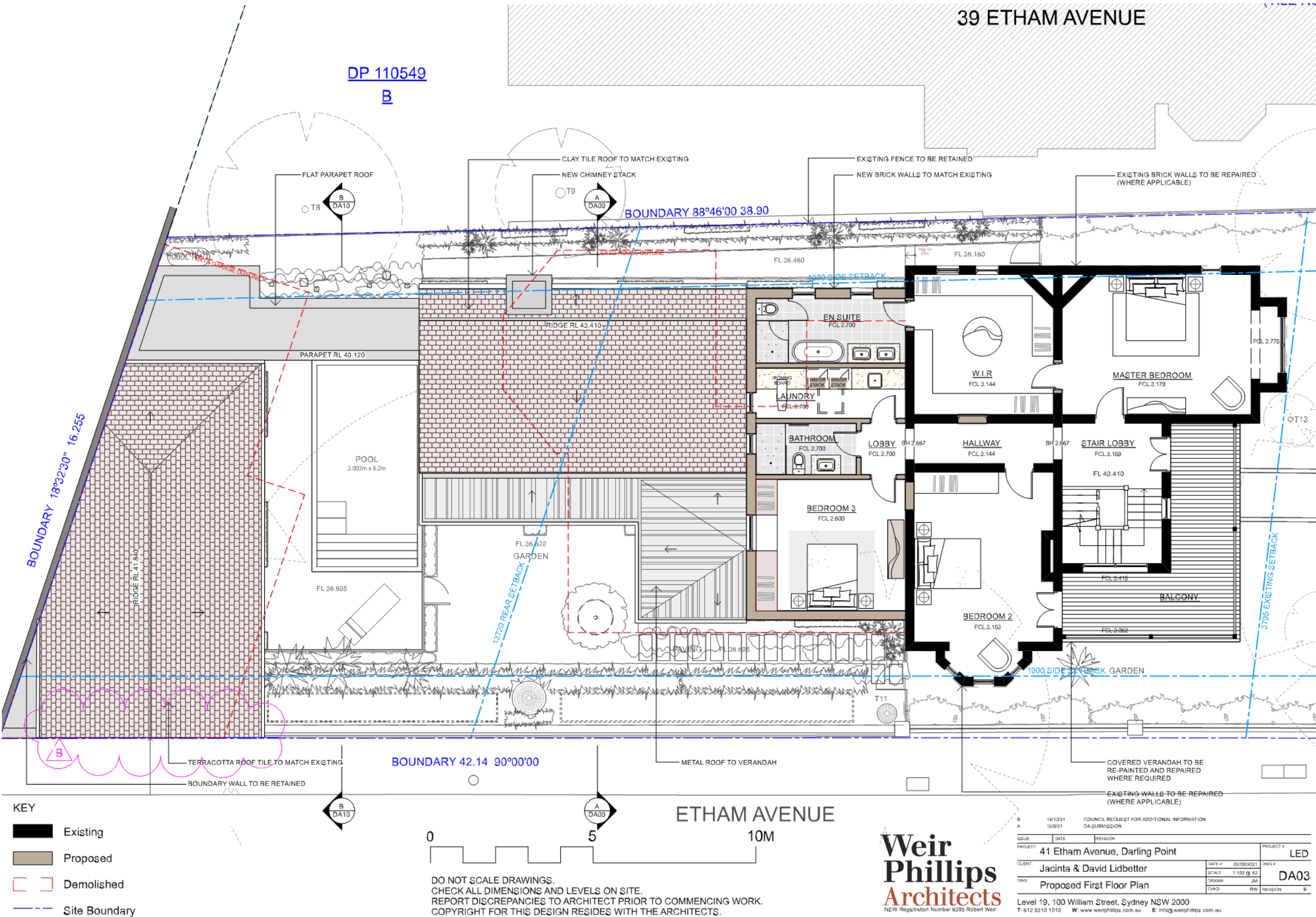


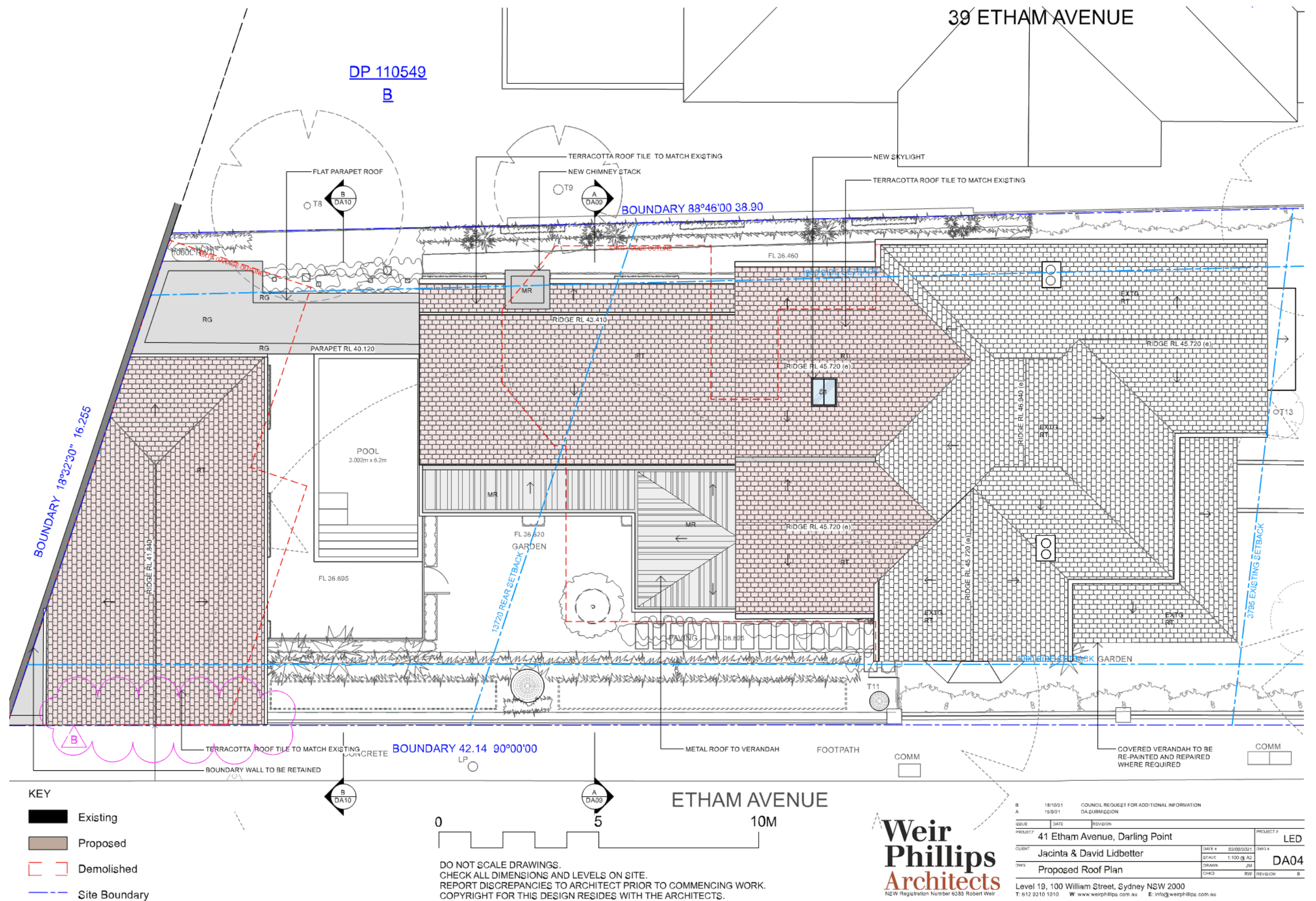
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ISSUE	DATE	REVISION	
PROJECT 41 Etham Avenue, Darling Point			PROJECT # LED
CLIENT	Jacinta & David Lidbetter	DATE # 02/09/2021	DWG # DEM02
DWG	Demolition Existing Elevations	DRAWN JM	CHD RW
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ISSUE	DATE	REVISION		PROJECT #	
PROJECT		Etham Avenue Residence			PROJECT # LED
CLIENT	Jacinta & David Lidbetter			DATE #	02/09/2021
		SCALE			1:100 @ A2
		DRAWN			JM
		CHECKED			RW
DWG	Proposed East Elevation			REVISION	A
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GLAZING REQUIREMENTS			Overshading		Shading Device	Frame and Glass type
Window N°	Orientation	Area of Glass Inc. frame (m2)	Height (m)	Distance (m)		
W1	S	4.4	0	0	none	Timber frame, single clear, (or U-value: 5.71, SHCG:0.66)
W2	S	4.4	0	0	none	Timber frame, single clear, (or U-value: 5.71, SHCG:0.66)
W3	S	9	0	0	eave/verandah/pergola/balc any >=900mm	standard aluminium, single clear, (or U-value: 5.71, SHCG:0.66)
W4	S	9	0	0	eave/verandah/pergola/balc any >=900mm	standard aluminium, single clear, (or U-value: 5.71, SHCG:0.66)
W5	S	9	0	0	eave/verandah/pergola/balc any >=900mm	standard aluminium, single clear, (or U-value: 5.71, SHCG:0.66)

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ISSUE		DATE		REVISION			
PROJECT		Etham Avenue Residence				PROJECT #	
CLIENT		Jacinta & David Lidbetter				LED	
DWG		Proposed South Elevation				DA06	
		DATE #		02/09/2021		DWG #	
		SCALE		1:100 @ A2			
		DRAWN		JW			
		CHKD		RW		REVISION	
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GLAZING REQUIREMENTS					
Window N°	Orientation	Area of Glass Inc. frame (m ²)	Overshading		Shading Device
			Height (m)	Distance (m)	
W5	W	8	3.45	5	eeave/verandah/pergola/balc any>=900 mm
W7	W	9	0	0	eeave/verandah/pergola/balc any>=900 mm
W8	W	0.6	22	26	eeave/verandah/pergola/balc any>=450 mm
W9	W	1.2	22	26	eeave/verandah/pergola/balc any>=450 mm
W10	W	2	22	26	eeave/verandah/pergola/balc any>=450 mm

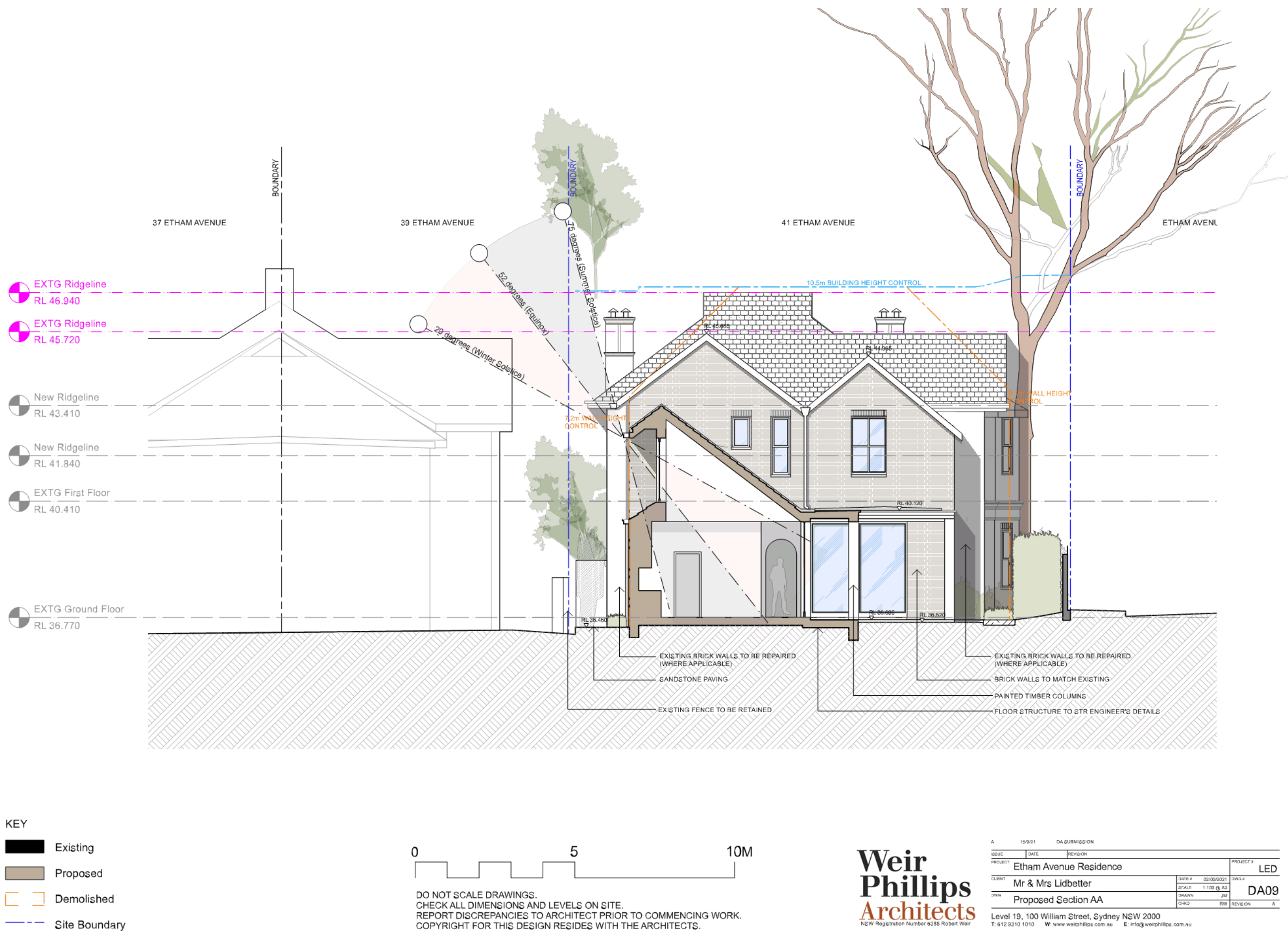
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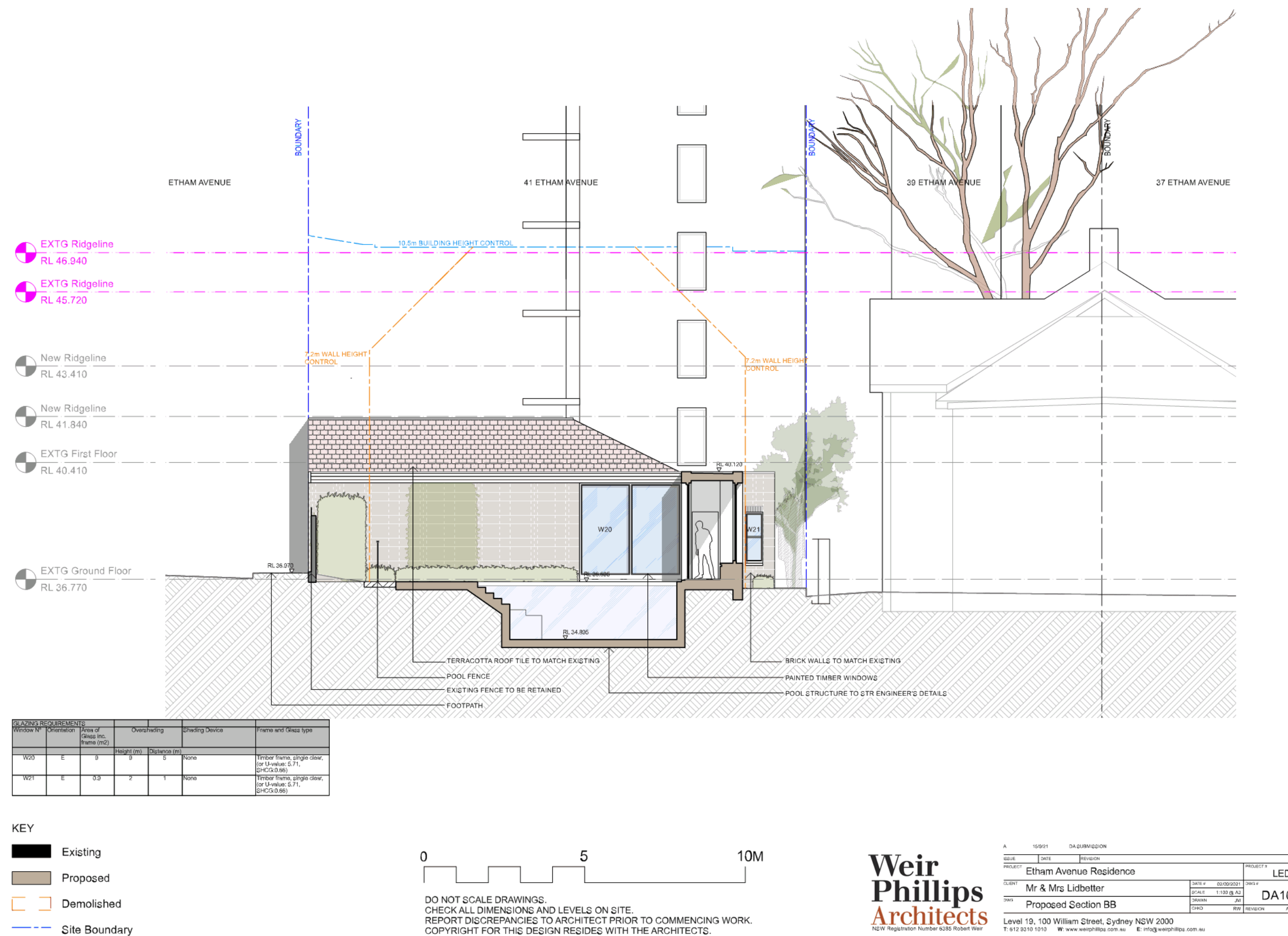
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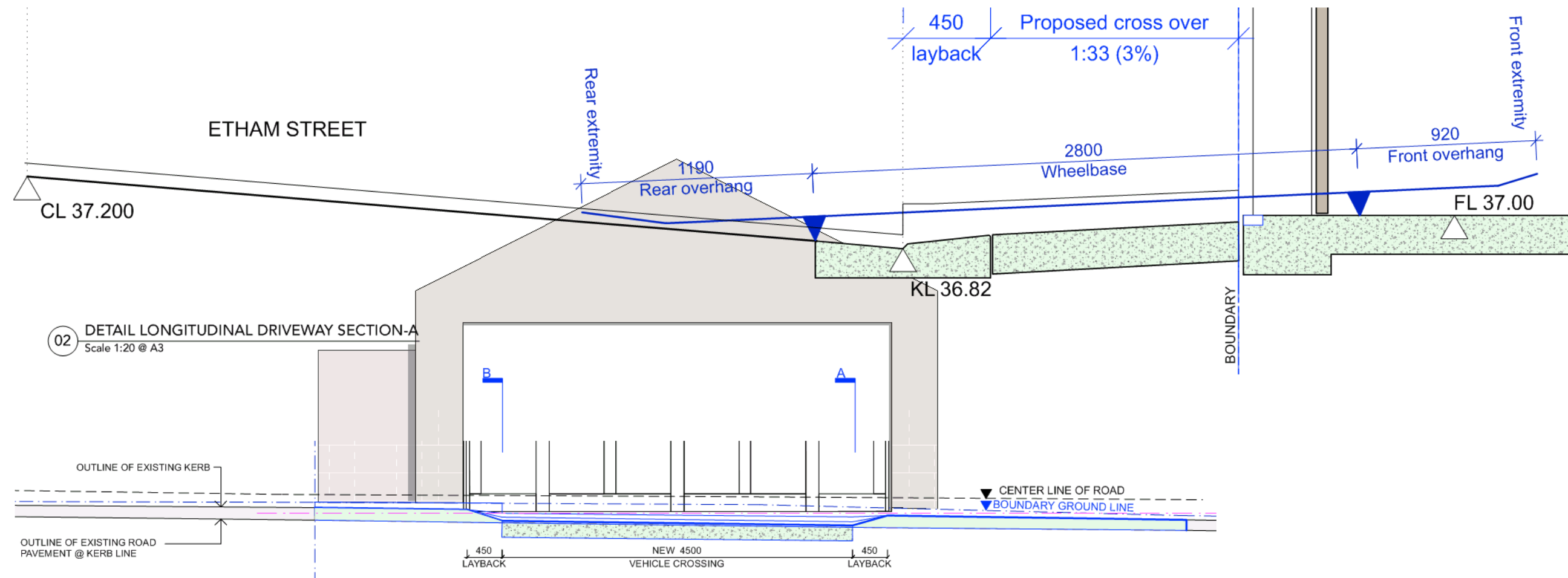
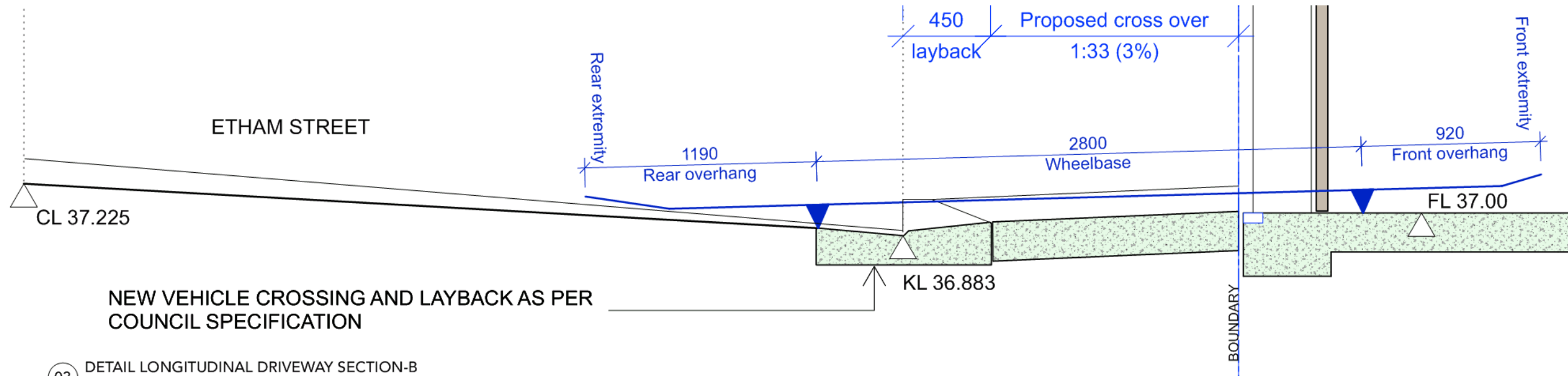
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ISSUE	DATE	REVISION	PROJECT #
Etham Avenue Residence			LED
CLIENT	Jacinta & David Lidbetter	DATE # 02/09/2021	DWG #
DWG	Proposed West Elevation	SCALE 1:100 @ A2	DA07
DWG		DRAWN JM	
		CHECK RW	REVISION A
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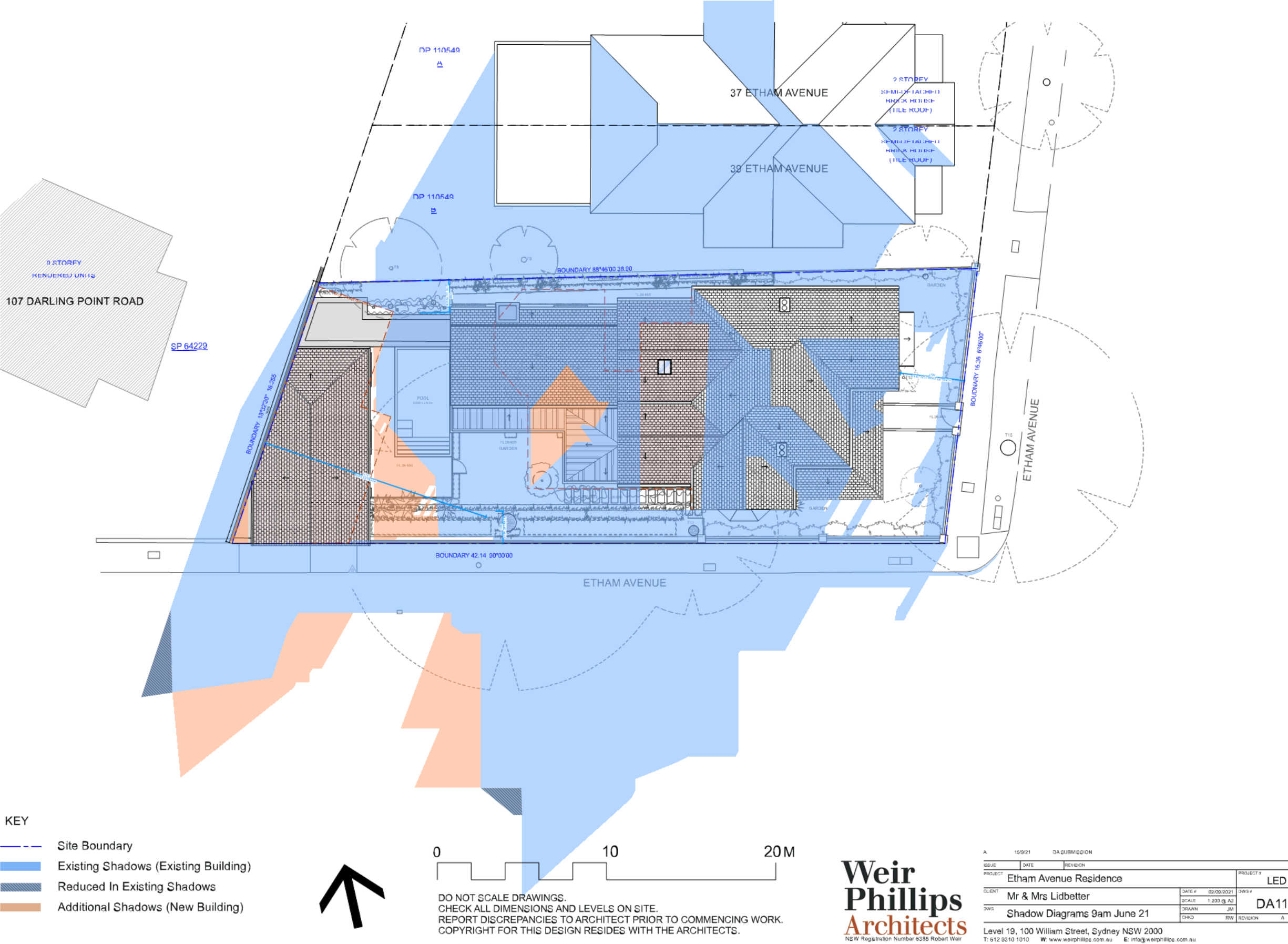


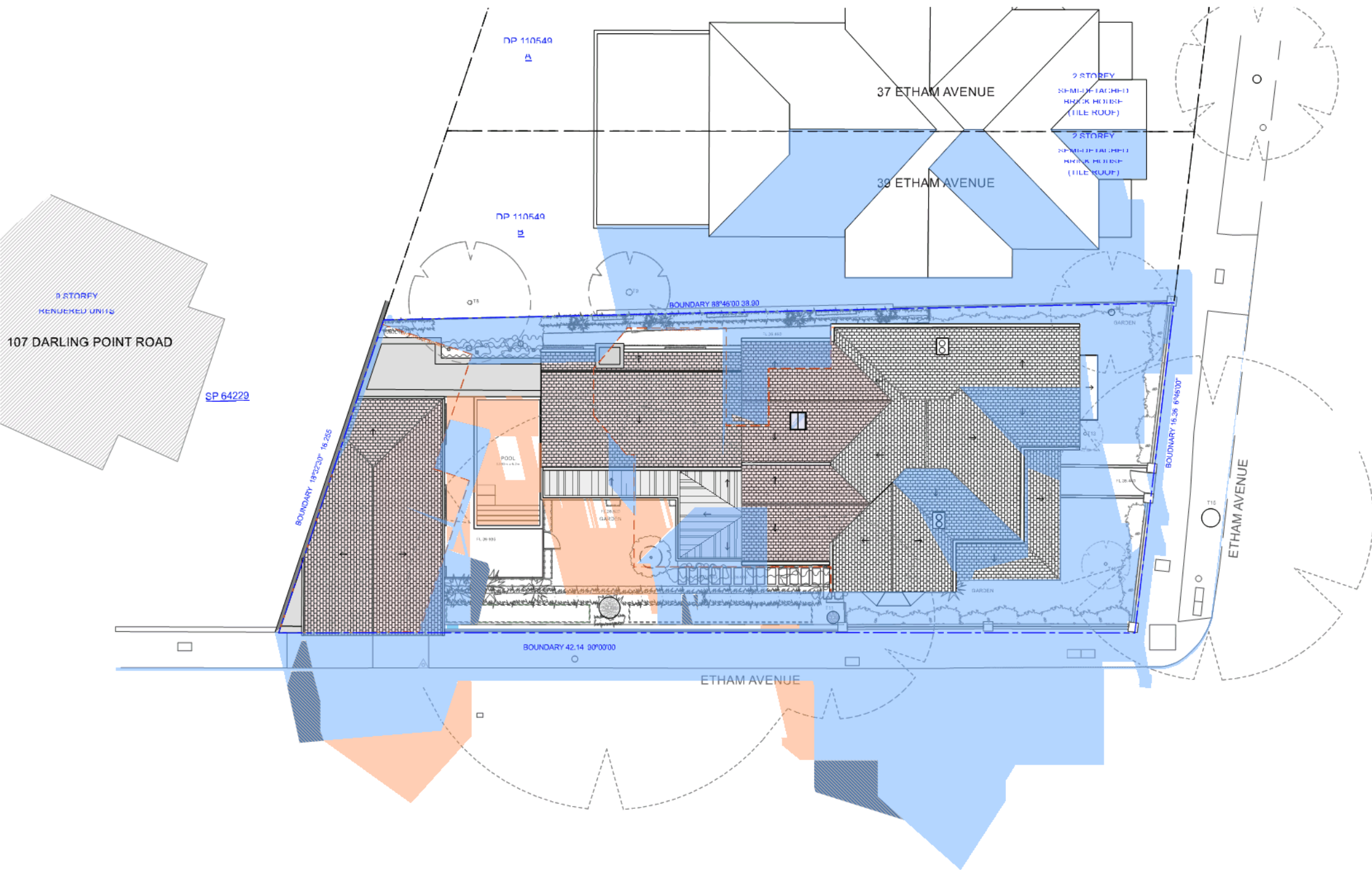


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Scale 1:50 @ A3

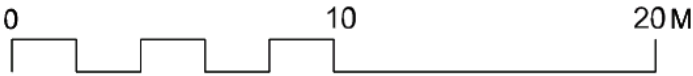
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ISSUE	DATE	REVISION			
PROJECT	41 Etham Avenue, Darling Point			PROJECT #	LED
CLIENT	Jacinta & David Lidbetter			DATE #	02/09/2021
DWG	Vehicle Crossing Sections Proposed			DWG #	DA16
	SCALE	PER DWG			
	DRAWN	JM			
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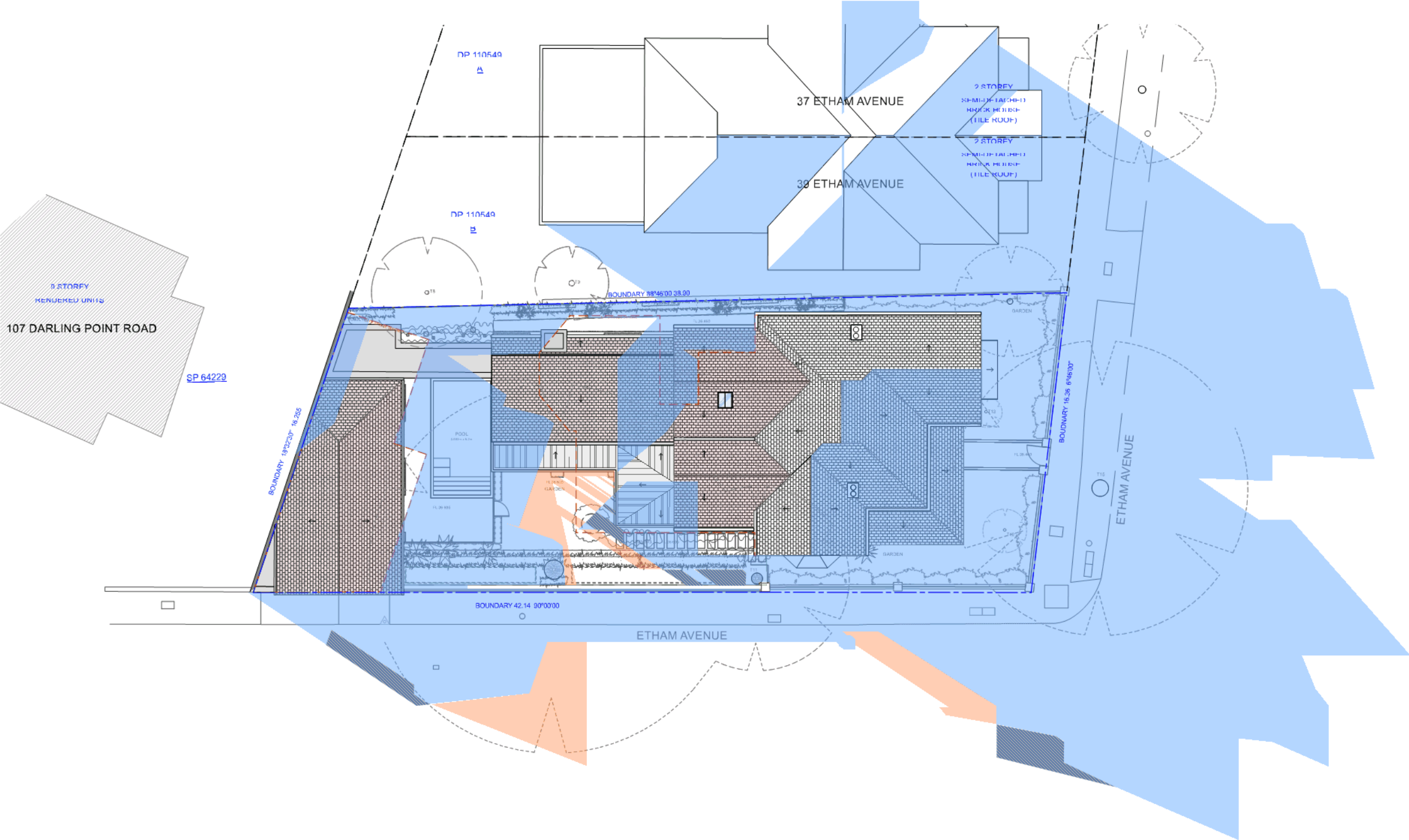
- KEY
- Site Boundary
 - Existing Shadows (Existing Building)
 - Reduced In Existing Shadows
 - Additional Shadows (New Building)



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ISSUE	DATE	REVISION		PROJECT #		
PROJECT		Etham Avenue Residence		LED		
CLIENT	Mr & Mrs Lidbetter		DATE #	DWG #		
		02/09/2021		DA12		
DWG	Shadow Diagrams 12pm June 21		SCALE			
		1:200 @ A2				
DWG	DRAWN	JM	CHKD	RW		
		REVISION		A		
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- KEY
- Site Boundary
 - Existing Shadows (Existing Building)
 - Reduced In Existing Shadows
 - Additional Shadows (New Building)

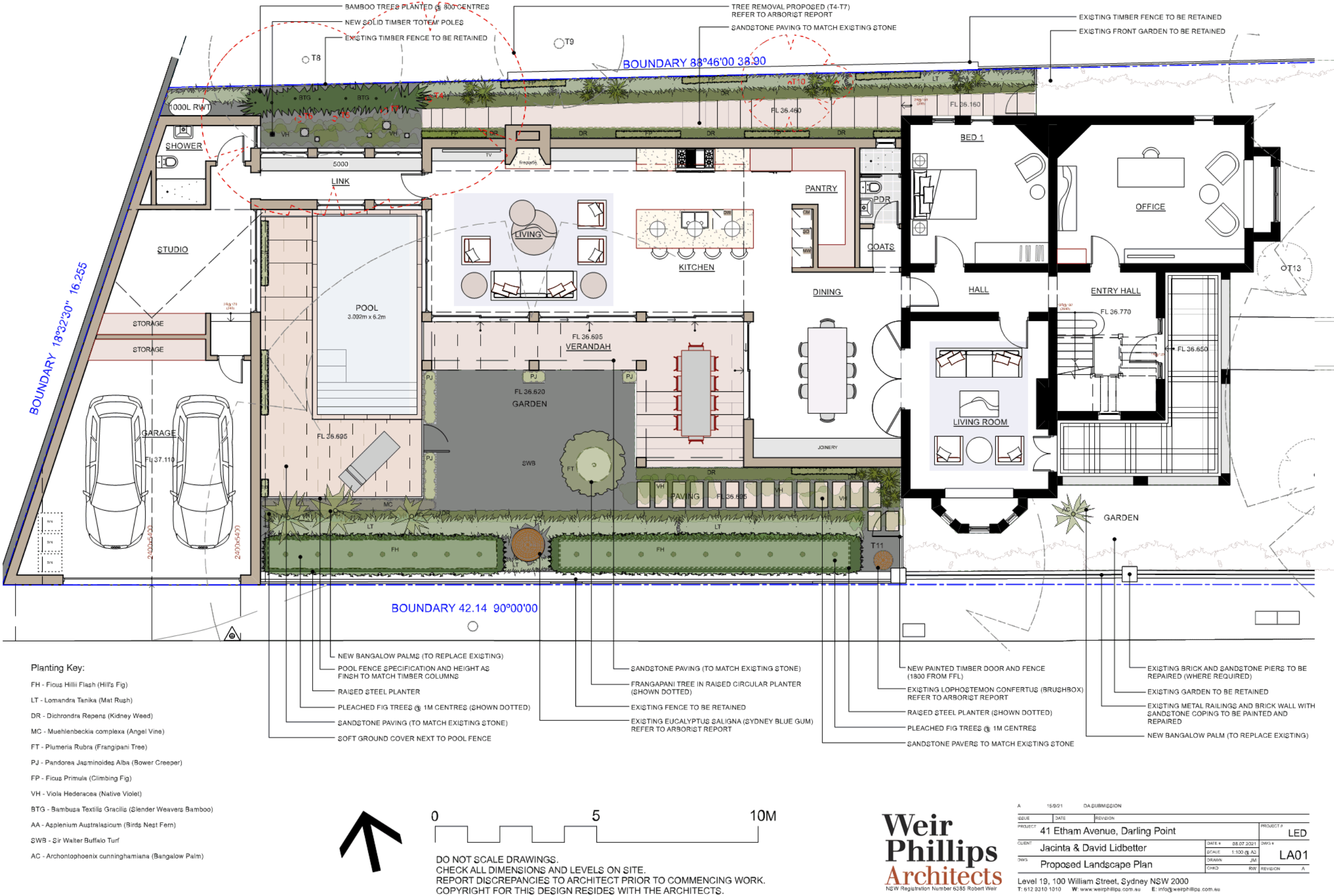


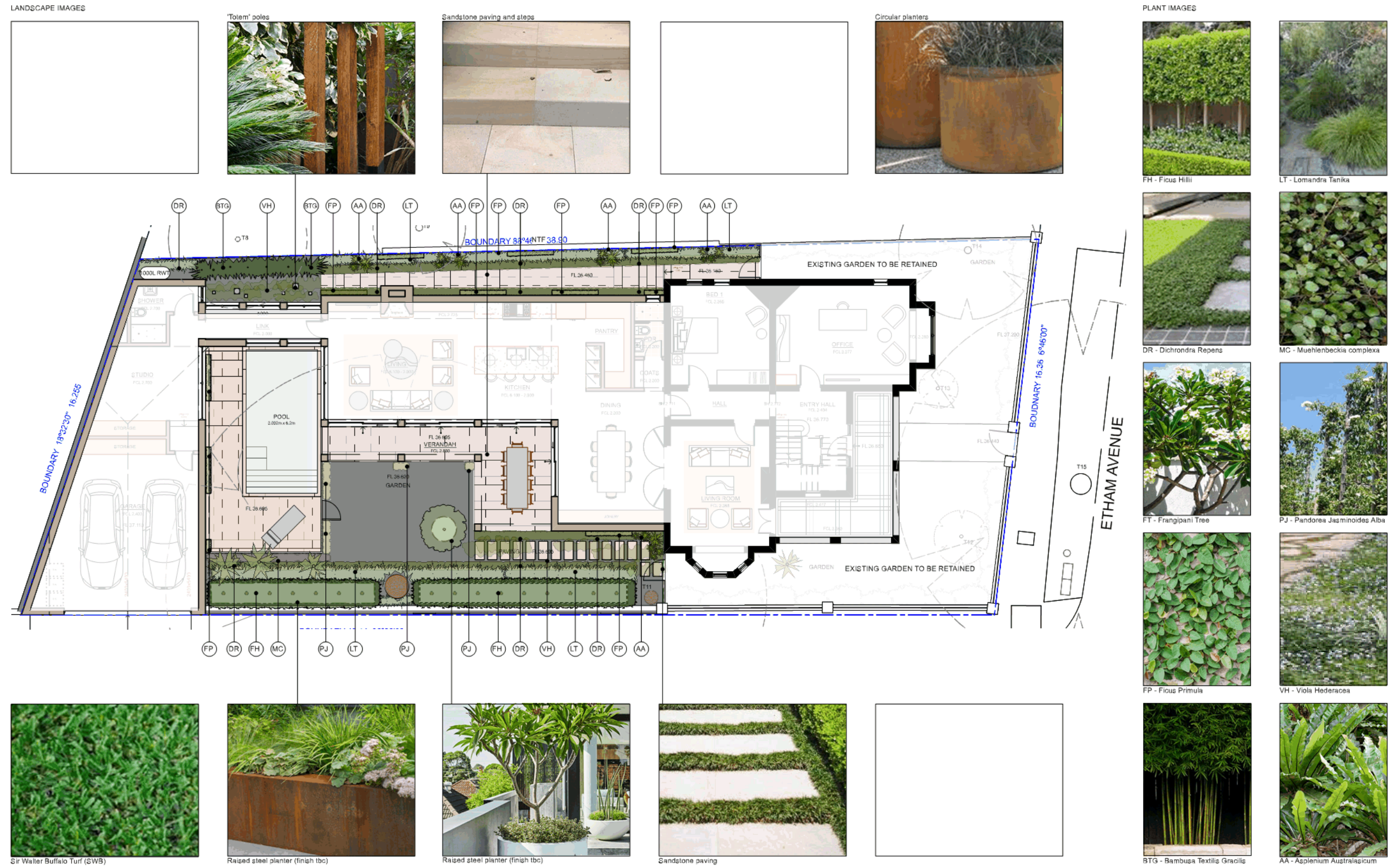
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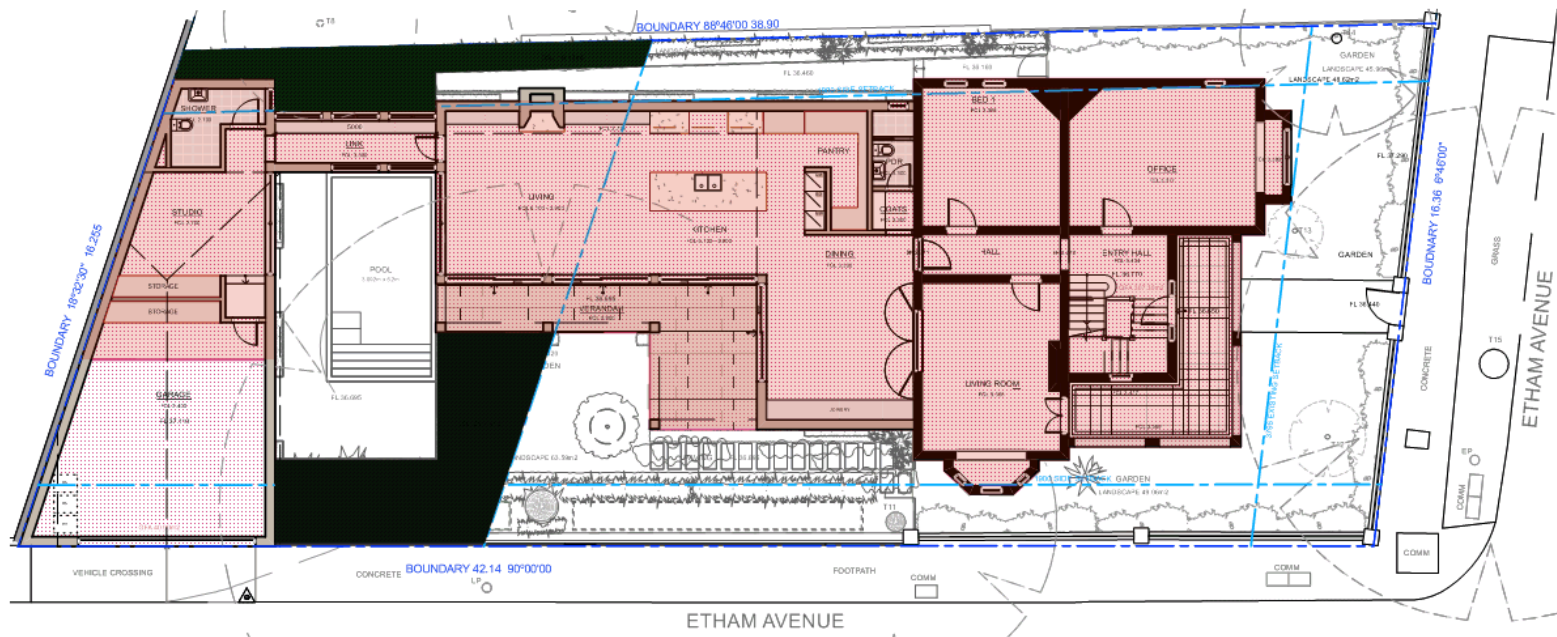
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Weir Phillips Architects
NSW Registration Number 6385 Robert Weir

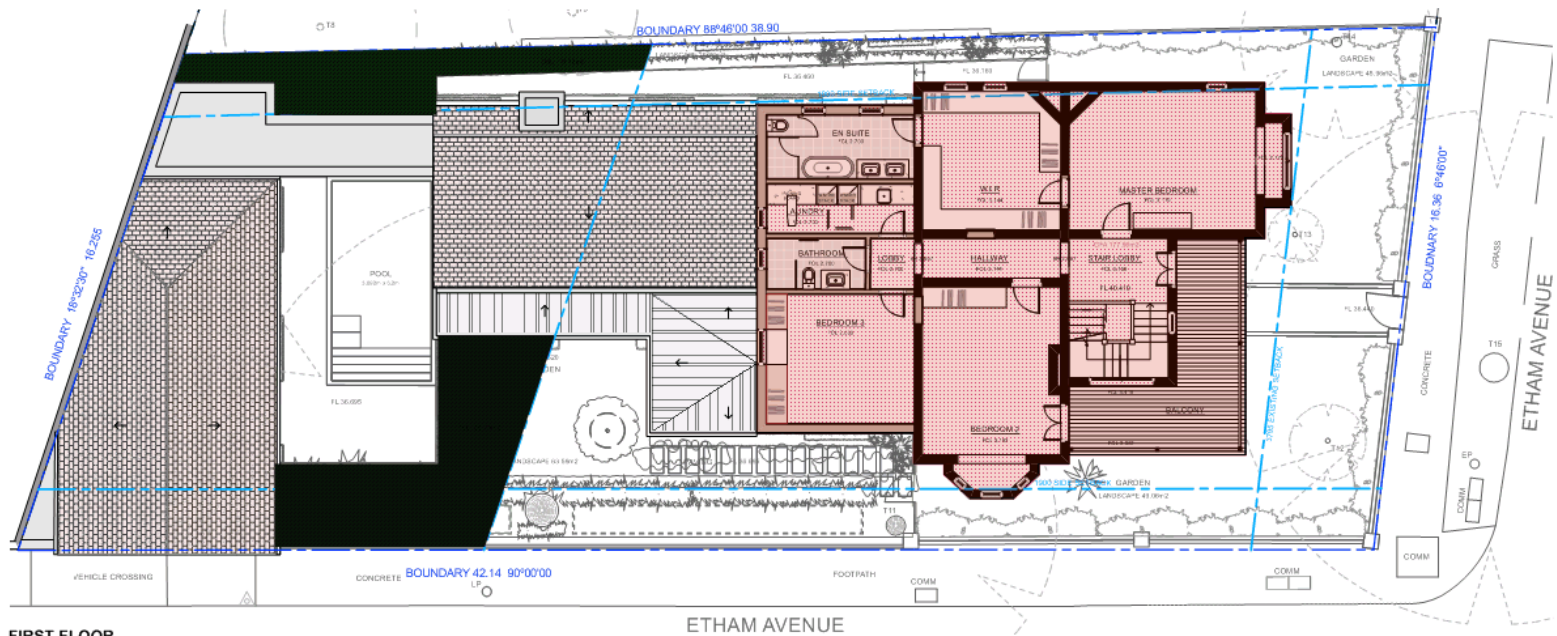
A		15/9/21	DA SUBMISSION	
ISSUE	DATE	REVISION		PROJECT #
PROJECT		Etham Avenue Residence		LED
CLIENT	Mr & Mrs Lidbetter		DATE #	DWG #
DATE		Shadow Diagrams 3pm June 21	SCALE	DA13
			DRAWN	
			CHECKED	
			REVISED	
Level 19, 100 William Street, Sydney NSW 2000				
T: 612 9310 1010 W: www.weirphillips.com.au E: info@weirphillips.com.au				







GROUND FLOOR
307.30 sqm



FIRST FLOOR
177.96 sqm

LEGEND		
Site Area:	639.7sqm	Lot 1 / D.P.165386
Zone:	R3 Medium Density Residential	
	Council Controls	Proposed
Buildable Area:	269.70sqm	485.26sqm
Floorplate Control:	445.00sqm	Ground Floor 307.30sqm First Floor 177.96sqm Garage 40.00sqm (not inc)
Building Height:	10.5m	6.53m (existing)
Landscape:	185sqm (DSL)	205.77sqm (DSL)



0 10 20M

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A 15/9/21 DA SUBMISSION

ISSUE	DATE	REVISION
PROJECT	Etham Avenue Residence	
CLIENT	Mr & Mrs Lidbetter	DATE # 15/9/21
DWG #	DA14	DWG #
DRAWN	JM	SCALE 1:200 @ A3
CHECKED	RW	REVISION A

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Architects**
NSW Registration Number 6385 Robert Weir

A		15/9/21		DA SUBMISSION	
ISSUE	DATE	REVISION		PROJECT #	
PROJECT				41 Etham Avenue, Darling Point	
CLIENT				LED	
Jacinta & David Lidbetter		DATE #	02/09/2021	DWG #	
		SCALE	1:200 @ A2	P01	
DWG		View - Southern Elevation		DRAWN	JM
		CHKD	RW	REVISION	A
Level 19, 100 William Street, Sydney NSW 2000					
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A		15/09/21		DA BURMIDDON	
ISSUE		DATE		REVISION	
PROJECT				PROJECT #	
41 Etham Avenue, Darling Point				LED	
CLIENT		Jacinta & David Libbeter		DWG #	
		DATE: 02/06/2021		P02	
		SCALE: 1:200 (A2)			
		DRAWN: JML			
DWG		View - Western Elevation			
CHD		RW		REVISION A	

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**Weir
Phillips
Architects**
NSW Registration Number 6385 Robert Weir

A		15/9/21		DA SUBMISSION	
ISSUE	DATE	REVISION		PROJECT #	
PROJECT				41 Etham Avenue, Darling Point	
CLIENT				Jacinta & David Lidbetter	
DATE #				02/09/2021	
SCALE				1:200 @ A2	
DRAWN				JM	
CHECK				RW	
REVISION				A	
Level 19, 100 William Street, Sydney NSW 2000					
T: 612 9310 1010 W: www.weirphillips.com.au E: info@weirphillips.com.au					

Completion Date: 9 February 2022

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 408/2021/1
ADDRESS: 41 Etham Avenue DARLING POINT 2027
PROPOSAL: Alterations and additions to existing dwelling, including new swimming pool, cabana and loggia
FROM: Mr R Lam
TO: Ms S Soliman

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced P434, prepared by PCN Urban, dated 10 September 2021.
- Revised Architectural Plans, referenced Rev B, prepared by Weir Phillips Architects, dated 14/10/2021.
- Survey, referenced 62210-Issue A, prepared by Hill & Blume, dated 09/06/2020.
- Concept Drainage Diagram, referenced DA17-Rev A, prepared by Weir Phillips Architects, dated 14/10/2021.
- Geotechnical Report, referenced P2108553JR01V01, prepared by Martens, dated 25/10/2021.
- Driveway Plans and Longitudinal Sections, referenced DA16-Rev A, prepared by Weir Phillips Architects, dated 14/09/2021.

3. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

a. Site Drainage comments

The proposal has an increase in impervious area of less than 40m², in which case the installation of OSD system is not required as per Chapter E2 of Council's DCP. Stormwater runoff from the proposal will be discharged to the street kerb by gravity.

Council's Infrastructure & Sustainability 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

The property is not subject to flood related development control

c. Impacts on Council Infrastructure comments

The applicant seeks approval for the construction of a new double garage as part of this application. Hence, conditions will be imposed for the applicant to construct a new vehicular crossing. All works must comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

Vehicular access and parking arrangement are considered satisfactory. It is noted from the submitted revised architectural plans that dimensions for the proposed garage comply with AS2890.1.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Martens & Associates, Ref: P2108553JR01V01, dated 25/10/2021, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 2 metres from the existing ground surface.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.8m in BH103.*
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 1.3m in BH103.*
- c) Low strength Sandstone bedrock was encountered beneath the natural sand from the DCP testing results.*
- d) Groundwater seepage was not observed during investigation.*

The report made comments and recommendations on the following:

- Shoring and support,*
- Vibration Monitoring,*
- Excavation method,*
- Further Geotechnical input.*

Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.

4. RECOMMENDATION

Council's Development Engineer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
P2108553JR01V01	Geotechnical Report	Martens & Associates	25/10/2021

A.8 Ancillary Aspect of the Development (S80A(2) of the Act)

A.31 No Underpinning works

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

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

B.7 Public Road Assets prior to any work/demolition

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.5 Security Deposits

Property Damage Security Deposit (S138)	\$22,960	No	T115
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$494	No	T45

C.13 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council for infrastructure works prior to issue of any Construction Certificate. The following infrastructure works must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 4.5 metres wide vehicular crossing in accordance with Council's Crossing Specification and to the satisfaction of Council's Assets Engineer. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall be aligned with the centreline of the double garage. Design longitudinal surface profiles along each side/edge for the proposed vehicular path must be submitted for assessment.

- b) The reinstatement of all damaged kerb and gutter, footpath and road pavement within the frontage of the site 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. Advising* 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.37 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

Pursuant to Clause 139 of the *Regulation*, the Construction Certificate plans and specification required to be submitted for approval by the Certifying Authority must be accompanied by a Geotechnical Report which includes the 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, if deemed necessary by the geotechnical engineer upon detailed investigation, 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, if deemed necessary by the geotechnical engineer upon detailed investigation, to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.49 Stormwater Drainage System

Prior to issue of any Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans [prepared by a suitably qualified and experienced civil engineer](#), which detail the following:

- a) Compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- b) No subsoil drainage/seepage water is to be collected and directed to kerb and gutter;
- c) The stormwater outlet pipe across the Council's nature strip must be drained by gravity with minimum 1% grade.
- d) The location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location,
- e) The state of repair of the existing Stormwater Drainage System,
- f) Any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,
- g) Any new Stormwater Drainage System complying with the BCA,
- h) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- i) Any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System,

For any Stormwater Drainage works on Council's property, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

Note: Clause F1.1 of Volume 1 and Part 3.1.2 of Volume 2 of the BCA provide that stormwater drainage complying with AS/NZS 3500.3 Plumbing and drainage - Part 3: Stormwater drainage is deemed-to-satisfy the BCA. Council's specifications apply in relation to any works with any road or public place.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. For more information go to the Sydney Water website www.sydneywater.com.au/SW/plumbing-building-developing/index.htm or call 1300 082 746.

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management can be downloaded from Council's website www.woollahra.nsw.gov.au
Standard Condition: C49

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

D.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. 39 Etham Avenue
No. 107 Darling Point 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:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

- D.6 Adjoining buildings founded on loose foundation materials**
- D.10 Works (Construction) Zone – approval & Implementation**
- D.14 Erosion and Sediment Controls – Installation**

E. Conditions which must be satisfied during any development work

- E.7 Maintenance of Vehicular and Pedestrian Safety and Access**
- E.11 Maintenance of Environmental Controls**
- E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**
- E.13 Support of Adjoining Land Owners**
- E.14 Vibration Monitoring**
- E.15 Erosion and Sediment Controls – Maintenance**
- E.17 Disposal of Site Water during Construction**
- E.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

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

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 Works-As-Executed and Certification of Stormwater Systems

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted for approval by the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) that the works have been constructed in accordance with the approved construction drawings,
- c) pipe invert levels and surface levels to Australian Height Datum, and
- d) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. 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.
Standard Condition: H20 (Autotext HH20)

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

Nil

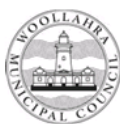
J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation report

K.24 Roads Act Application



Woollahra
Municipal
Council

6 January 2022

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 408/2021/1

ADDRESS: 41 Etham Avenue DARLING POINT

PROPOSAL:

FROM: Shona Lindsay - Heritage Officer

TO: Ms S Soliman

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Weir Phillips, dated 2 September 2021
- Heritage Impact Statement by Weir Phillips, dated September 2021
- Statement of Environmental Effects by Weir Phillips, dated 10 September 2021
- Survey plan

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.
- Heritage Assessment Report by Hugh Fraser dated 19 September 2000
- Review of building and development applications for the subject site
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY

The sites of 37, 39 & 41 have historical associations with the Etham Estate which was a principal landholding of Darling Point until its subdivision in 1879. The dwellings at 37-39 & 41 are the

Attachment to report 2272090 (Title Heritage Referral Response).DOCX



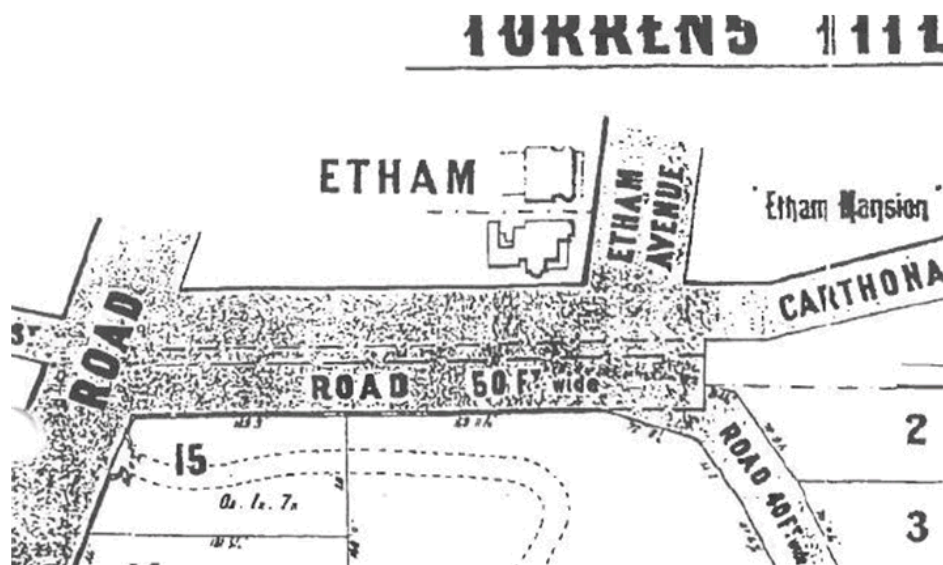
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earliest houses in the Avenue providing physical evidence of the consolidation of suburban development on Darling Point in the first three decades of the twentieth century.

"Rhianva", No. 41 Etham Avenue is a highly intact and refined example of a two storey Queen Anne style residence of the Federation era which has retained its original external fabric and detailing. Its prominence is enhanced by its corner siting which combines with "Craicievar" opposite to form the southern gateway to Etham Avenue.

The highly intact houses of 37-39 & 41 have retained their original designs and are enhanced by original front fences, gates and garden setting of their original sites. Further appreciation of the houses is gained from the Etham Avenue approach, parallel to Mitchell Road, presenting an interesting juxtaposition of rear and side roofscape plus associated walls and landscape setting. This is an important streetscape quality of these sites.

The fabric of these near century old buildings reflect a high standard of materials and quality of workmanship which combined with the overall "picturesque" composition and refinement of detailing reflect a talented designer, strongly indicative of an architect.



1904 subdivision plan showing No. 41 already built, including U shaped rear wing



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Image showing original two-storey rear wing attached to the principal building form. Although some fenestration has been altered, the form is original. The original L shaped single-storey rear wing is also evident.



Image of original rear wings. Note chimney which has been removed.

Attachment to report 2272090 (Title Heritage Referral Response).DOCX



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SIGNIFICANCE OF HCA

The Etham Avenue Heritage Conservation Area (HCA) is located within the Darling Point residential precinct and is characterised by high quality Federation residences and Inter-War flat buildings of varying styles.

The Etham Avenue HCA provides a physical record of a significant historical phase in the urban subdivision of Darling Point. The historical subdivision pattern reflects the staged subdivision of the Etham Estate dating from 1900 and a subsequent re-subdivision after the demolition of the Etham Mansion circa 1920. There are distinct groups of buildings that provide physical evidence of the evolutionary development of the area when more compact residences were being designed with distinctly less accommodation for servants.

The Etham Avenue HCA has the distinctive character and layout of a compact early 20th century 'Garden Suburb', a movement based on the urban planning principles of Sir Ebenezer Howard. The streetscape has a high aesthetic value which is enhanced by the serpentine layout of the road along the contour, which creates closed vistas that focus on small cohesive groups of houses. The winding road provides a more complex view of the housing and is typical of the movement. The constant width of the road with its grass nature strip and avenue plantings contributes to the quality of streetscape.

The circa 1900 suburban subdivision pattern is largely intact and most of the housing derives from this period with characteristic stylistic details that make an important contribution to the HCA.

The housing displays the quality and distinction of a wide range of Federation styles from the excellent highly intact Federation Queen Anne housing at the southern end, to the English Arts and Craft styles and the American-influenced Federation Bungalow style at the northern end.

The consistency of the dominant roof forms and stylistic elements such as verandahs, porches, bay windows, chimneys, low front fencing and front gardens without terracing contributes to the strong streetscape qualities and create an aesthetically pleasing character.

Woollahra LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

And

Part 5.10 Heritage Conservation

The subject site is a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within a heritage conservation area.

Heritage Item

The SHI notes the following description of the heritage item:

The houses of Nos. 41 to 37, together with the 1920's three storey flat of "Craicievar" define the southern entry to Etham Avenue with further prominence being achieved when viewed from the elevated position of Mitchell Road.

This large two storey residence with its 'L' shaped verandah and gabled wings addresses both streets of Etham Avenue and Sutherland Crescent.



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The house has a number of elements and matching materials in common with the neighbouring semi-detached houses and they have obviously been designed to relate harmoniously with each other but present distinct variations.

These take the form of an asymmetrical composition plus the selection of detailing in the bay window, stucco work, verandah balustrade, timber brackets and frieze, arch headed leadlight, casement and bull eye windows, full height verandah columns and tessellated floor tiles.

The SHI for the heritage item notes that:

Sympathetic rear additions, roofed in Marseilles tiles, have been undertaken to No. 41, which complements the existing building.

Consideration

Demolition of original two storey rear wing

Although slightly altered with some original fenestration bricked up and an ensuite, bathroom, and walk in wardrobe added, the original two storey rear wing still contributes to the overall significance of the heritage item in its form. This is directly expressed in the statement of significance which states: *Further appreciation of the houses is gained from the Etham Avenue approach, parallel to Mitchell Road, presenting an interesting juxtaposition of rear and side roofscape plus associated walls and landscape setting. This is an important streetscape quality of these sites.* The proposed demolition will remove original fabric and alter the original form of the building. Therefore, the proposed demolition of the original rear wing will have an adverse impact on the heritage item and cannot be supported.

Demolition of single storey rear wing

The existing single storey rear wing is still within its original U shape with some minor alterations to fenestration and some additions added. The complete demolition of this element, including elements of the original form cannot be supported. The proposed works do not respect the heritage item and will have an adverse impact on significant views of the heritage item, which includes its prominent corner site views. Therefore, the proposed demolition of the single storey rear wing cannot be supported.

New rear additions

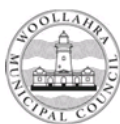
The proposed new rear additions require the demolition of the original form of the rear wings, as discussed above, and will impact significant views, as discussed below. The new rear additions are not subservient to the heritage item, nor the principal building form. It alters the original U layout of the rear wings. The proposed new rear additions will adversely impact the heritage item and cannot be supported.

Views and setting

The proposed new rear additions will impact significant views of the heritage item, which include views towards the rear and side elevation due to its prominent corner location. Due to Mitchell Road being at a higher elevation, there are more views towards the rear and side elevation. The new development will obscure and adversely impact these views. It will also impact views towards the rear of the heritage group which is further discussed below. Therefore the proposed new additions will adversely impact significant views of the heritage item and cannot be supported.

Etham Avenue HCA

The proposed demolition works and new rear additions will have an adverse impact on the streetscape, and the corner presentation the heritage item makes to the HCA. This is further discussed under the DCP consideration below. Overall, the current proposal will have an adverse impact on the Etham Avenue HCA and cannot be supported.



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Significance of items in the vicinity

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

Item no.	Item Name	Address	Significance
125	House, interiors and grounds— Etham Avenue heritage item group (see also 37, 41 Etham Avenue)	39 Etham Avenue, Darling Point	Local
124	House, interiors and grounds— Etham Avenue heritage item group (see also 39, 41 Etham Avenue)	37 Etham Avenue, Darling Point	Local
123	Residential flat building, interiors and grounds	32 Etham Avenue, Darling Point	Local
147	Retaining wall on north road boundary	Mitchell Road	Local
104	Sandstone, brick and iron fencing to part of former grounds of Babworth House estate	105A Darling Point Road, Darling Point	Local
146	Sandstone and brick fencing, formerly part of Babworth House estate	4 Mitchell Road, Darling Point	Local
117 and 92	Grounds of Babworth House estate	14A–D, 27 and 29 Eastbourne Road (also known as 5–7 Mitchell Road), Darling Point	State
103 and 92	Babworth House—building including interiors, grounds, gardens, gateposts to Darling Point Road, Small-Leaved Fig	103 Darling Point Road (also known as Mount Adelaide Street)	State
97	2 Washington Palms	58–64 Darling Point Road, Darling Point	Local
93	“Cleveland”—house, including interior, grounds, garden, street stone fencing, Hoop Pine, Bunya Pine, 5 Bangalow Palms, 2 Washington Palms	56 Darling Point Road, Darling Point	Local

House, interiors and grounds—Etham Avenue heritage item group (see also 37, 41 Etham Avenue) (Item No. 125), located at 39 Etham Avenue, Darling Point, is the neighbour to No. 41 and forms part of the heritage listed group. Views towards the rear of No. 39 are afforded from Mitchell Road and Sutherland Crescent. The character of the rear of the group includes views of the original roof forms and rear elevations. This is clearly stated in the statement of significance which states: *Further appreciation of the houses is gained from the Etham Avenue approach, parallel to Mitchell Road, presenting an interesting juxtaposition of rear and side roofscape plus associated walls and landscape setting. This is an important streetscape quality of these sites.*

The proposed new rear additions will obscure this significant view and also shared characteristic of the group. Therefore, the proposal will adversely impact the heritage item and the heritage listed group and cannot be supported.

House, interiors and grounds—Etham Avenue heritage item group (see also 39, 41 Etham Avenue) (Item No. 124), located at 37 Etham Avenue, Darling Point forms part of the heritage listed group and is located to the north of the subject property. The proposed rear additions will partially obstruct views to the rear of



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the property from Mitchell Road and adversely impact the shared characteristic of the group. Therefore, the proposal will adversely impact the heritage item and the heritage listed group and cannot be supported.



View towards the rear of the heritage group showing original rear forms and elevations.

‘Residential flat building, interiors and grounds’, Item No. 123, located at 32 Etham Avenue, Darling Point is located directly to the east of the subject property on the adjacent side of Etham Avenue. Significant views of the heritage item are from Etham Avenue looking east and from Sutherland Crescent looking north. The proposed works are located at the rear of No. 41 and will therefore not impact significant views of ‘Residential flat building, interiors and grounds’.

‘Retaining wall on north road boundary’, Item No. 147 is located directly to the south of the subject property. Significant views of the heritage item will not be adversely impacted and the retaining wall will still be able to be appreciated.

The following heritage items are located at a distance or are sufficiently separated that there will be no adverse impact on them: ‘Sandstone, brick and iron fencing to part of former grounds of Babworth House estate’, ‘Sandstone and brick fencing, formerly part of Babworth House estate’, ‘Grounds of Babworth House estate’, ‘Babworth House—building including interiors, grounds, gardens, gateposts to Darling Point Road, Small-Leaved Fig’, ‘2 Washington Palms’, ‘Cleveland’—house, including interior, grounds, garden, street stone fencing, Hoop Pine, Bunya Pine, 5 Bangalow Palms, 2 Washington Palms’.

Woollahra DCP 2015

Consideration

Chapter B1 – Residential Precincts
Clause 1.2 Darling Point Precinct
Clause 1.2.2 Desired future character
Objectives O1, O2, O4, O5, O6, O7,

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- The proposal does not respect the streetscape character of the Darling Point Precinct and will have an adverse impact on the heritage significance of Etham Avenue HCA (Objective O1, O4).
- The proposed alterations and additions will detract from the character of the building and its presentation to the street (Objective O6).

Chapter B2 Neighbourhood HCAs

B2.1.3 Objectives

Objectives O1, O2, O3, O4, O5

- The proposed demolition of the original form of the rear wings and the new development does not retain the heritage significance of the heritage item nor the HCA. It does not comply with Objectives O1, O2, O3, O4, O5.

B2.1.7 General Development Controls

Objectives O1, O2, O3, O4, O5, O6, O7, O8, O9, O10, O11, O12, O13, O14, O17, O18, O19

Controls C1, C2, C3, C6, C7, C8, C9, C11, C12, C13, C14, C15, C24, C31

- The proposal does not retain original significant fabric as it seeks to demolish original forms of the rear wings (Objective O1, O18, Control C1, C2).
- The proposal does not retain the contribution the building makes within the group of significant houses (Objective O3, Control C8).
- The proposal will adversely impact the streetscape, and the original form of the building. It is not a sympathetic design and will compromise the architectural character of the building (Objective O5, O6, O7, O8, O9, Control C12, C13, C14).

B2.2 Etham Avenue, Darling Point

- The proposed works do not meet the desired future character of the Etham Avenue HCA as it does not retain the significant fabric and key values of the HCA.

CONCLUSION

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not conserve the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does not conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the heritage item, the heritage listed group, and the HCA will be adverse.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The application is generally unacceptable as it does not comply with the relevant statutory and policy documents and would have an unsatisfactory impact.

Refusal for the following reasons:

1. The current proposal will have an adverse impact on the LEP item “House, interiors and grounds—Etham Avenue heritage item group”, the heritage listed group (No’s 37-41 Etham Avenue), and on the Etham Avenue HCA. Therefore the proposal does not comply with:

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- a. Woollahra LEP 2014 Clause 1.2 (2) (f).
- b. Woollahra LEP 2014 Part 5.10 Clauses 1(a), (b).
- c. Woollahra DCP 2015, Chapter B1, Residential Precincts, Clause B1.2.2, Objective O1, O4, O6.
- d. Woollahra DCP 2015, Chapter B2, Neighbourhood HCAs, Clause B2.1.3, Objective O1, O2, O3, O4, O5.
- e. Woollahra DCP 2015, Chapter B2, Neighbourhood HCAs, Clause B2.1.7, Objective O1, O3, O5, O6, O7, O8, O9, O18, Control C1, C2, C8, C12, C13, C14.
- f. Woollahra DCP 2015, Chapter B2, Neighbourhood HCAs, Clause B2.2.

Shona Lindsay - Heritage Officer

24 February 2022

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 408/2021/1
ADDRESS: 41 Etham Avenue DARLING POINT 2027
PROPOSAL: Alterations and additions to existing dwelling, including new swimming pool, cabana and loggia
FROM: Gorka Ojeda - Trees & Landscape Officer
TO: Ms S Soliman

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced P434, prepared by PCN Urban, dated 10 September 2021.
- Survey, referenced 62210-Issue A, prepared by Hill & Blume, dated 09/06/2020.
- Revised Architectural Plans, referenced Rev B, prepared by Weir Phillips Architects, dated 14/10/2021.
- Concept Drainage Diagram, referenced DA17-Rev A, prepared by Weir Phillips Architects, dated 14/10/2021.
- Driveway Plans and Longitudinal Sections, referenced DA16-Rev A, prepared by Weir Phillips Architects, dated 14/09/2021.
- Arboricultural Impact Assessment & Tree Protection Specification, Ref L&Co22009 written by M. Lawrence (L&Co), dated 16 September 2021
- Landscape Plan No. s LA01 & LA02, Rev A, designed by Weir Phillips Architects , dated 15/9/21

A site inspection was carried out on 3/11/2021

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

SUMMARY

One tree in neighbouring property to the north must be included in Arboricultural Impact Assessment report.

Minor changes to design required to protect high significance Trees 1 & 11.

COMMENTS

Tree in neighbouring property

A large mature tree located in neighbouring No 41 Etham Ave has not been included in the arborist report. The tree forms part of LEP Heritage Item 126 *House, interiors and grounds—Etham Avenue heritage item group*.

An arboricultural statement by arborist G Palmer provided by the owners has identified the tree has a substantial section of its TPZ located within the subject property. Given the large size of the tree it appears that the proposed works may encroach into the TPZ and SRZ of the Tree.

In order to progress with the review of the proposal, **an addendum to the Arborist report must be provided including an assessment of the tree and any impacts from the proposal.**

Trees on site

The proposal will also affect 2 highly significant trees (Trees 1 & 11) and several low significance vegetation at the rear of the property.

The provided arborist report has calculated the encroachment from proposed construction into the TPZ of **Tree 1** at 37%.

A large percentage of this area is occupied by the existing building footprint, where root activity is anticipated to be limited.

The additional encroachment from new elements has been calculated as 16% of the TPZ of T1.

This is considered a potentially significant impact, especially when taking into account the tree is only in fair condition with reduced foliage density and may not be in a good position to recover from construction damage.

This is acknowledged by the arborist in 4.1.4 of the report: *Given the size of the encroachment, any major departures from the methods detailed in this report pose a significant risk to the long-term physiological viability of Tree 1.*

In the case of **Tree 11** the majority of the new TPZ encroachment is within the existing building footprint.

The only new elements affecting this tree will be paving (permeable, proposed on existing levels) and raised steel planters which should not provide a high impact to the tree.

Given the above, the following elements of the design will require modification to provide better conditions for the survival of Trees 1 & 11:

- The proposed impervious pool slab and sandstone paving south of the pool is not supported as it will reduce the available deep soil area within the TPZ and has the potential to impact on the long term viability of Tree 1.

Excavation for the pool must be offset from the southern boundary by a minimum of 5m.

The Plans must be amended to show all impervious structures removed from the area between the proposed pool, garage to the west and the southern boundary, to reduce encroachment into the TPZ of tree 1.

- Raised Steel Planters along the southern boundary should be offset by a minimum of 1m from the face of the trunks of Trees 1 & 11.

Raised steel planters must be installed above existing levels supported on a pier/beam system without excavation (other than required for the piers).

- New plantings to be of small size (tube stock) to reduce root disturbance to Trees 1 & 11.
- The metal possum guard girdling Tree 11 must be removed as per arborist recommendations.
- Drainage Layout Plan: all pits and lines should be located outside of the SRZ of trees to be retained. Any pipeline within the TPZ of the trees must be dug manually under arborist supervision to locate and retain important roots (50mm in diameter).

Ensure the arborist report forms part of the approved documents as it provides a comprehensive guide to Tree Protection During Construction.

Trees 8 & 9 on neighbouring property to the north and 12, 13 & 14 in the front garden are sufficiently offset from works and should not be majorly impacted by the proposal.

Tree 15 is a mature street tree located in the Council verge at Etham Ave. The tree is sufficiently offset from proposed works however it will require protection during construction. A nominal amount of \$5.000 is recommended as Tree Damage Security for this tree.

The removal of **Trees 2, 3, 4, 5, 6, 7 & 10** is supported as the trees are of low significance or exempt from protection and sufficient replacement is proposed in the landscape plan.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.

CONDITIONS OF CONSENT

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)
Tree 1	<i>Eucalyptus saligna</i> (Sydney Blue Gum)	Rear south boundary	25 x 10
Tree 11	<i>Eucalyptus microcorys</i> (Tallowwood)	Rear south boundary	19 x 8
Tree 12	<i>Magnolia denudata</i> (Yulan Magnolia)	Front garden	5 x 3

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
Tree 15	<i>Lophostemon confertus</i> (Brush Box)	Etham Ave public verge	10 x 6	\$5000

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)
Tree 2	<i>Fraxinus excelsior</i> (European Ash)*	Rear south boundary	3 x 2
Tree 3	<i>Camellia sasanqua</i> (Camellia)*	Rear south boundary	3 x 1
Tree 4	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	Rear north boundary	8 x 4
Tree 5	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	Rear north boundary	8 x 4
Tree 6	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	Rear north boundary	8 x 4
Tree 7	<i>Syagrus romanzoffianum</i> (Cocos Palm)*	Rear north boundary	7 x 4
Tree 10	<i>Cupressus sempervirens</i> (Italian Cypress)	Rear north boundary	8 x 2

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
No. s LA01 & LA02, Rev A	Landscape Plan	Weir Phillips Architects	15/9/2021
L&Co22009	Arboricultural Impact Assessment & Tree Protection Specification	Dr M. Lawrence (L&Co)	16/9/2021

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)
Tree 1	<i>Eucalyptus</i>	Rear south boundary	As indicated

	<i>saligna</i> (Sydney Blue Gum)		in Arborist report (M. Lawrence 16/9/2021)
Tree 8	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	No 41 Etham Ave	
Tree 11	<i>Eucalyptus microcorys</i> (Tallowwood)	Rear south boundary	
Tree 12	<i>Magnolia denudata</i> (Yulan Magnolia)	Front garden	
Tree 15	<i>Lophostemon confertus</i> (Brush Box)	Etham Ave public verge	2.5

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 brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Establishment of Ground protection
Ground protection shall be established within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Tree Location	Radius from Centre of Trunk (Metres)
9	<i>Persea americana</i> (Avocado)	No 41 Etham Ave	As indicated in Arborist report (M. Lawrence 16/9/2021)

Ground protection shall consist of geotech fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface.

- 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.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 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of non-compliance; and
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Installation of tree protection fencing	Compliance with tree protection measures
Demolition of structures within TPZ	Condition of exposed roots
Inspection of pier holes	Piers positioned to avoid the severance of and damage to roots greater than 50mm
Installation of raised planters	Above existing levels. Piers positioned to avoid the severance of and damage to roots greater than 50mm
Inspection of irrigation set out	Appropriate distribution of irrigation water
Bimonthly inspections	Maintenance of tree protection and monitoring tree condition
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

C.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Tree Damage Security Deposit – Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$5,000	No	T114
INSPECTION FEES under section 608 of the Local Government Act 1993			
Tree Inspection Fee	\$200.00	No	T95

C.3 Modification of details of the development (section 4.17 (1) (g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

Trees 1 & 11. The plans will require the following design amendments to provide better conditions for the protection of these trees:

- a) Excavation for the pool must be offset from the southern boundary by a minimum of 5m.
The Architectural & Landscape Plans must be amended to show all impervious structures removed from the area between the proposed pool, garage to the west and the southern boundary, to reduce encroachment into the TPZ of tree 1.
- b) The plans must show the *Raised Steel Planters* along the southern boundary with a minimum offset of 1m from the face of the trunks of Trees 1 & 11.

The plans must also indicate the *Raised Steel Planters* to be installed above existing levels supported on a pier/beam system without requiring excavation (other than the required for the piers).

- c) The Landscape Plan must indicate new plantings within the TPZ's to be of small size (tube stock) to reduce root disturbance to Trees 1 & 11.
- d) The metal possum guard girdling Tree 11 must be removed as per arborist recommendations.
- e) The Drainage Layout Plan must locate all pits and lines outside of the SRZ of trees to be retained (unless existing). Any pipeline within the TPZ of the trees must be dug manually under arborist supervision to locate and retain important roots (50mm in diameter).

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.2 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Plumeria Rubra</i> (Frangipani Tree)	As per Landscape Plan	25L	5 x 3
3 x <i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	As per Landscape Plan	25L	6 x 4

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)
Tree 1	<i>Eucalyptus saligna</i> (Sydney Blue Gum)	Rear south boundary	Area south of pool
Tree 11	<i>Eucalyptus microcorys</i> (Tallowwood)	Rear south boundary	Path along southern boundary

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)
Tree 1	<i>Eucalyptus saligna</i> (Sydney Blue Gum)	Rear south boundary	9
Tree 11	<i>Eucalyptus microcorys</i> (Tallowwood)	Rear south boundary	6

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	Species	Location	Radius from
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Ref No.			centre of trunk (metres)
Tree 1	<i>Eucalyptus saligna</i> (Sydney Blue Gum)	Rear south boundary	9
Tree 9	<i>Persea americana</i> (Avocado)	No 41 Etham Ave	2
Tree 11	<i>Eucalyptus microcorys</i> (Tallowwood)	Rear south boundary	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.

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)
Tree 1	<i>Eucalyptus saligna</i> (Sydney Blue Gum)	Rear south boundary	9
Tree 11	<i>Eucalyptus microcorys</i> (Tallowwood)	Rear south boundary	6

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Amenity Landscaping

The owner or principal contractor must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

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

Nil

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

Gorka Ojeda
Tree & Landscape Officer



LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA554/2021/1
ADDRESS	432–440 Oxford Street PADDINGTON
COUNCIL WARD	Paddington
SITE AREA	1636.7m ² (1,527.9m ² Excludes ROW)
ZONING	B4 Mixed Use
PROPOSAL	Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,086,061.00
DATE LODGED	25/11/2021
APPLICANT	MHN Design Union Pty Ltd
OWNER	Crooked River Land Holdings Pty Ltd
AUTHOR	Mr S Grevler-Sacks
TEAM LEADER	Mr G Fotis
SUBMISSIONS	18
RECOMMENDATION	Conditional Approval

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

The application is to be determined by the Woollahra Local Planning Panel as it falls under the categories of:

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

AND

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

AND

- Sensitive development
 - Development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment* applies

2. REASONS FOR RECOMMENDATION

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

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015
- The departure from the *Height of Buildings* (9.5m) development standard is supported by a Clause 4.6 written request which is considered to be well founded.

- The departure from the *Floor Space Ratio* (1:1m) development standard is supported by a Clause 4.6 written request which is considered to be well founded
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory.
- The site is suitable for the proposed development
- The proposal is in the public interest

3. LOCALITY PLAN



Note: submissions (outside of the above catchment) were also received from:

- The Paddington Society
- Nina Mistilis obo Woollahra Municipal Council Floodplain Risk Management Committee
- Petra O'Neill, 49 William Street, Paddington

4. PROPOSAL

The proposal is to amend the existing DA 274/2020 approved by the Land and Environment Court on 25 June 2021 (Amending DA).

The proposed amendments to the approved DA are as follows:

Basement Level

- Enlargement of approved basement by 3.86m to the south, and at the north-eastern corner to create an additional basement floor area of 125.7 m²;
- Relocation of fire egress stairs, bin storage, services and bike storage;
- Requirement for tanked basement from DA 274/2020 amended to drain basement;

Ground Floor Level

- Addition of air conditioning condensers at the north-eastern and north-western corners of the site;
- Reconfiguration of Block B, to allow for floor area increase to Tenancy 1 from 71 m² to 126.1 m², and to Tenancy 2 from 123m² to 151.6m²;
- Enlargement of Tenancy 5 from 17.4m² to 24.4 m²;
- Reconfiguration of courtyard area;
- Relocation of bin storage, services and bike storage;
- Entry from Elizabeth Place deleted and replaced with egress door to rear only; main entry and street address to be from Oxford Street only;
- Addition of rainwater tank as per DA 274/2020 conditions, with sizes of rainwater and OSD tanks changed from DA conditions. Rainwater tank to service landscape irrigation and publicly accessible toilets only;

First Floor Level

- Addition of air conditioning condensers to Block B residential balconies;
- Tenancy 5 roof altered from skillion to flat roof to accommodate addition of air conditioning condensers;
- Raising of parapet height above Tenancy 5 by 0.11m to screen proposed condensers;
- Reconfiguration of Lobby 1 for fire hydrant boosters, services cupboards and removal of gate to Unit A5 entry door;
- Relocation of planter from Ground Floor to First Floor within Block B;

Second Floor Level

- New planters within Lobby 4 in Block B;

Roof Level

- 0.1m height increase to lift overrun (RL 74.40 to 74.50);
- Addition of photovoltaic cells to roof of Block A;
- New mechanical riser flues to Block B roofs.

A Stop the Clock letter was issued to the applicant on 7 December 2021 requesting the provision of a Stormwater Management Plan and a Draft Strata Plan. These documents were provided to Council on 7 December 2021.

An amended Demolition Plan was then received on 14 February 2022, and an Operational Waste Management Plan was received on 23 February 2022.

5. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	0.91m or 9.6% departure from the 9.5m control	Satisfactory
Part 4.4	Floor Space Ratio	307.1m ² or 20% departure from the 1,527.9m ² control	Satisfactory

5.2. Primary Issues

Issue	Conclusion	Section
Height increase	Satisfactory.	14.4
Additional excavation	Satisfactory, subject to conditions.	15.1.10
Rooftop Solar Panels	Satisfactory, subject to conditions.	15.6
Air conditioning condensers	Unsatisfactory. Air conditioning condensers proposed for the Block B residential balconies and over Tenancy 5 are required to be deleted from the plans.	15.1.17

5.3. Summary of Submissions

Issue	Conclusion	Section
Traffic Impacts to Elizabeth Place during construction	Council's Traffic & Transport Engineer has advised that the proposed amendments to the approved DA 274/2020 are acceptable with regard to traffic impacts during the construction phase, subject to conditions.	15.2
Traffic Impacts to Elizabeth Place during operation	Council's Traffic & Transport Engineer has advised that the proposed amendments to the approved DA 274/2020 are acceptable with regard to traffic impacts during the operation phase of the development, subject to conditions.	15.2
Outdated Construction Traffic Management Plan	Condition D.6 from the Court-approved DA 274/2020 requires the amendment and submission of the Construction Traffic Management Plan prepared by Varga Traffic Planning (07/06/2021). This condition remains in place and continues to pertain to the approved development.	Condition E.3
Loss of parking spaces during construction	Council's Traffic & Transport Engineer has acknowledged the loss of Oxford Street parking spaces during the construction phase and considers the proposal to be acceptable, subject to conditions.	15.2
Pedestrian safety in Elizabeth Place – lack of pedestrian infrastructure	Council's Traffic & Transport Engineer has advised that the proposed amendments to the approved DA 274/2020 are acceptable with regard to traffic impacts during the construction and operation phases, subject to conditions.	15.2
Car lift and turntable	No amendments to the approved car lift and turntable scheme are proposed, and the approved scheme remains acceptable.	N/A
Inadequate bicycle parking	Council's Traffic & Transport Engineer has advised that the proposed quantity of bicycle parking is consistent with the DCP and is acceptable. Conditions of Consent have been imposed to ensure compliant provision of bicycle parking consistent with the proposal.	15.2
Rear laneway requires widening and conversion to public road as per Council resolution 25/11/2019	It is understood that the Right-of-Way alignment is to be retained as approved under DA 274/2020. Council's Traffic & Transport Engineer has assessed the proposal and advised that since no amendments are proposed associated with traffic accessing the rear of the site the arrangement is considered acceptable.	15.2
Allocation of parking spaces	The 12 car parking spaces are to be clearly marked and designated for residential uses on the Architectural Plans and Construction Certificate Plans, as per the Conditions of Consent.	Condition C.15
Restricted access to Elizabeth Place residences	The existing Right of Way access for Elizabeth Place residents will remain.	15.2

Issue	Conclusion	Section
Emergency service vehicle access to Block B units and neighbouring dwellings through Elizabeth Place	No amendments to the approved DA 274/2020 are proposed that would inhibit emergency service vehicle access to Block B units or Elizabeth Place dwellings. Council's Traffic & Transport Engineer has reviewed the proposal and advised that it is acceptable, subject to conditions.	15.2
Excessive height of Block B	The proposal to increase the height of the Block B lift overrun by 0.1m is considered acceptable.	14.4
Block B roof gable RLs 833mm higher than approved ridge heights	No amendments to the approved Block B roof form are proposed, aside from the height increase to the lift overrun.	14.4
Inappropriate roof form to Block B	No amendments to the approved Block B roof form are proposed.	N/A
Exceedance of FSR control	The proposal will retain the same gross floor area as approved under DA 274/2020, and hence the same floor space ratio, which is considered acceptable.	14.5
Inconsistency with FSR calculations between approved and proposed DA	The proposed amendments to the approved DA 274/2020 will retain the approved level of gross floor area, and hence the floor space ratio, for the development, which is considered acceptable.	14.5
Inclusion of the rear laneway in the site area calculation	The rear lane Right of Way has been included in the applicant's site area calculation, and the calculation is therefore incorrect. Notwithstanding, the proposal retains the approved quantity of gross floor area as approved under DA 274/2020 which is considered acceptable.	14.5
Exceedance of commercial tenancy floor area	The increase in floor area of the commercial tenancies is considered to be acceptable.	14.5
Inadequacy of Clause 4.6 Variation Requests	The Clause 4.6 Variation Requests submitted as part of this application are considered acceptable.	Attachments 2 & 3
Increase in the provision of residential apartments	No increase to the quantity of residential apartments has been proposed. The provision of residential apartments is proposed to remain at 17 as approved.	N/A
Increase in provision of commercial spaces	No increase to the quantity of commercial tenancies has been proposed. The provision of commercial tenancies is proposed to remain at six (6) as approved.	N/A
Proposal is inappropriate adjacent to Elizabeth Place	The proposed amendments to the approved DA 274/2020 would result in a development that is considered acceptable and appropriate for the location.	N/A
Extent of excavation	Council's Technical Services Team has reviewed the application and raised no concerns with regard to the additional proposed excavation. The proposed additional excavation within the approved basement garage is considered acceptable, subject to conditions.	15.1.10
Excavation controls in Chapter B3 are explicitly applicable to the site	The excavation controls in Chapter B3 are not applicable to the site.	N/A

Issue	Conclusion	Section
Inconsistency of excavation details, including depth and quantity	Council's Technical Services Team has reviewed the application and raised no concerns with regard to the additional proposed excavation. The proposed additional excavation within the approved basement garage is considered acceptable, subject to conditions.	15.1.10
Flooding and groundwater impacts	Council's Technical Services Team has reviewed the application and considers that the proposal is acceptable with regard to flooding and groundwater impacts, subject to conditions.	15.3
Impact on the flow path, groundwater and streams impacting on properties downstream of the development	Council's Technical Services Team has reviewed the application and considers that the proposal is acceptable with regard to flooding and groundwater impacts, subject to conditions.	15.3
Diversion of Sydney Water sewer line	Council's Technical Services Team has reviewed the application and considers that the proposal is acceptable with regard to stormwater and drainage impacts, subject to conditions.	15.3
No plan for remediation of the area behind nos. 21 & 23 Elizabeth Street with regard to flooding	Council's Technical Services Team have reviewed the proposal and advised that the proposal is acceptable with regard to flooding, subject to conditions.	15.3
Risk of overloading stormwater system due to ongoing pumping into drainage system	Council's Technical Services Department has reviewed the application and considers that the proposed amendments to the approved DA 274/2020 are acceptable with regard to stormwater, subject to conditions.	15.3
Waste Management impacts on Elizabeth Place residences	Proposed waste storage is fully contained within the site or in the basement. The proposed waste collection area adjacent to the Right of Way is considered appropriate.	15.5
Excessive bulk and scale	No significant changes to the overall bulk and scale of the development are proposed as part of the amendments to the approved DA 274/2020.	15.1.9
Overdevelopment of the site	The proposed amendments to the approved DA 274/2020 will retain the approved gross floor area and overall bulk and scale of the development, which is acceptable.	14.5
Visual domination of the development	The proposed amendments to the approved DA 274/2020 will retain the approved gross floor area and overall bulk and scale of the development, which is acceptable.	15.1.9
Western wall height of development will dominate neighbouring properties. Wall should be articulated.	The proposed new air conditioning condensers over Tenancy 5 and the height increase to the parapet wall are required to be deleted from the plans.	15.1.7
Overshadowing to neighbouring properties	Amendments to the approved DA 274/2020 will result in an increase to overshadowing to the neighbouring properties at nos. 442 and 444 Oxford Street between 9am–3pm on 21 st June. The additional overshadowing is considered to be acceptable.	15.1.9
Overshadowing of communal courtyard	Solar access to the communal courtyard will be improved as a result of the proposed amendments to the approved DA 274/2020.	15.1.9

Issue	Conclusion	Section
Visual privacy impacts on neighbouring properties	No amendments to the approved DA 274/2020 are proposed that would impact on visual privacy to neighbouring dwellings.	15.1.12
Visual privacy impacts during construction	No adverse visual privacy impacts are anticipated during the construction phase of the development.	15.1.12
Block B exterior appearance not in keeping with locality	Minor amendments to the approved Block B exterior are proposed. Council Heritage Officer has advised that the proposed façade is acceptable and the development will remain consistent with regard to the desired future character of the Paddington Heritage Conservation Area.	15.1.2
Block B development incorrectly characterised as “terrace-style”	The characterisation of the development as “terrace-style” is acceptable. No changes to the external appearance of the approved Block B rear-facing terrace facades are proposed.	15.1.2
Acoustic impacts of new air conditioning condenser units	New air conditioning condensers proposed to the Block B apartment balconies and Tenancy 5 rooftop are inappropriate and are required to be deleted from the plans.	15.1.13
Insufficient acoustic details provided	Council's Environmental Health Officer has reviewed the application, including the acoustic report, and considers the proposal to be acceptable, subject to conditions.	N/A
Insufficient communal and private open space provided	The provision of communal open space within the development will decrease marginally as a result of the proposed amendments. The proposal remains acceptable. The provision private open space within the development is not proposed to be changed from the approved development DA 274/2020.	12.3
Overprovision of studio and one-bedroom apartments in the development	No change to the approved mix of residential apartment types is proposed.	N/A
Non-compliance with Apartment Design Guide	The proposed amendments to the approved DA 274/2020 are considered to be acceptable with regard to the Apartment Design Guide.	12.3
Natural amenity to apartments	No amendments to the approved DA 274/2020 are proposed that would alter the natural amenity of the approved residential apartments.	N/A
Proposal for small apartments is inconsistent with the surrounding context	No changes to the size of the approved residential apartments are proposed.	N/A
Misleading and incomplete Management Plans	The Conditions of Consent require the applicant to submit a Plan of Management prior to the issue of a Construction Certificate, to include details regarding, but not limited to, waste management and collection, access to communal open space, operation and maintenance of the vehicle area and vehicular access to the site, deliveries, and flood management. Furthermore, additional management plans are required to be submitted to Council for review, including but not limited to details regarding construction, traffic, stormwater, flood protection, and soil and water.	Condition C.5
No Plan of Management provided	A Condition of Consent has been imposed requiring the applicant to provide a Plan of Management to Council for approval.	Condition C.5

Issue	Conclusion	Section
Construction impacts on nearby residences	Conditions of Consent have been imposed to mitigate adverse impacts to surrounding properties during the construction phase.	Conditions of Consent
Light spill from the development during construction and operation	Lighting during construction of the development is limited to the approved hours for construction. Lighting within the development is required to comply with Council's standard conditions for residential and commercial lighting.	Conditions of Consent Condition 1.17 and 1.18
Dust mitigation during construction	Conditions of Consent have been included to assist with dust mitigation during construction.	Condition E.22
Boundary fencing and protection of neighbouring properties	Conditions of Consent have been included to protect boundary fencing and neighbouring properties during construction and operation of the development.	Conditions of Consent
No detail of maintenance of exterior wall planting – easement required	An easement is required to allow maintenance access for climbing planting to the eastern and western elevations of Block B. A Condition of Consent has been requiring the easement be created.	Condition G.3
Absence of dimensions on architectural drawings	The architectural plans provided to Council are considered acceptable.	Attachment 1
Detention Tank not shown on basement plan	The proposed OSD tank is shown on the architectural plans to be located at the First Floor level.	Attachment 1
Basement Plan does not accord with Draft Strata Plan	An amended Strata Plan was provided by applicant and has been reviewed by Council's Building and Compliance Officer. The proposed Strata Plan is considered to be appropriate and acceptable.	Attachment 10
Potential requirement for electricity sub-station	No requirement for a new electricity substation has been raised by the applicant nor by Council's Technical Services Department.	N/A
Objections to the development beyond those relating to the proposed amendments	Matters beyond the extent of amendments proposed to the approved DA 274/2020 are not a matter for consideration as part of this assessment.	N/A
Number of Oxford Street facing tenancies	The proposed Draft Strata Plan provides a single tenancy (Tenancy 6) at the first floor level fronting Oxford Street.	N/A

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is located on the northern side of Oxford Street and encompasses three (3) adjoining lots known as Nos.432, 434 and 436 to 440 Oxford Street. The subject site has a rectangular shape and total area of 1636.7m ² . The rear of the property is accessed from Elizabeth Place, via a right of way, which forms part of the subject site.
Topography
The subject site slopes from the front (Oxford Street) to the rear.

Existing buildings and structures

The subject site contains five (5) x two (2) storey late Victorian Italianate commercial terraces, known as the 'Cambrian Buildings'. These buildings form part of a group of six (6) terraces (Nos.432 to 442 Oxford Street). The stuccoed façade with decorative parapet, dentil corbelling and symmetrical fenestration are characteristic Italianate details common to the group. The terrace group has intact Italianate details and a relatively homogeneous Victorian era rear elevation. All of the shopfronts have been substantially altered, with the exception of the original shopfront to No.436 Oxford Street. The subject buildings contribute to the aesthetic value of the conservation area.

Constructed in 1887, the '*Cambrian Buildings*' are physical evidence of the continued development of Oxford Street as a commercial high street, during the post gold rush economic boom, a significant phase of development of Paddington as a suburb. The buildings demonstrate a strong association with the development of the area as a shopping destination, during the Victorian era and evolving commercial practices. The terrace group therefore significantly contributes to the historical significance of the Paddington Heritage Conservation Area.

The rear of the site is vacant and currently used for car parking.

Surrounding Environment

The immediate environment is surrounded by a mixture of commercial, retail and residential development. To the east of the site (Nos.442) is two (2) storey commercial terrace with vacant land to the rear, similar to the subject site (this is the remaining building of the '*Cambrian Building*' group). Further to the east is a three (3) storey early Victorian detached dwelling, known as 'Seaview Villa' set within extensive gardens at No.444 Oxford Street.

To the west (No.430 Oxford Street) is a two (2) storey commercial terrace building (this site only extends partway along the length of the subject site). The remainder of this boundary is adjoined by the rear yards and garaging to Nos.15, 17, 19 and 21 Elizabeth Street (these lots run perpendicular to the subject site). Located to the south on the opposite side of Oxford Street is a row of two (2) storey modern commercial buildings with retail uses at ground level. To north of the site on the opposite side of Elizabeth Place is a group of ten (10) modest two (2) storey Victorian terraces, with car parking located within the street front zone of most of these properties.



Existing Oxford Street frontage



Existing rear elevation

7. RELEVANT PROPERTY HISTORY

Current use
<p>432 Oxford Street</p> <ul style="list-style-type: none"> • Ground floor – retail (vacant) • First floor – commercial offices (vacant) <p>434 Oxford Street</p> <ul style="list-style-type: none"> • Ground floor – retail (vacant) • First floor – commercial offices (vacant) <p>436 Oxford Street</p> <ul style="list-style-type: none"> • Ground floor – antique store • First floor – office <p>438 Oxford Street</p> <ul style="list-style-type: none"> • Ground floor – restaurant (the Italian Bar) • First floor – office <p>440 Oxford Street</p> <ul style="list-style-type: none"> • Ground floor – Massage therapist • First floor – Massage therapist
Relevant Application History
<ul style="list-style-type: none"> • DA 436/2016 (432-434 Oxford Street) – Alterations and additions to two (2) existing terrace buildings fronting Oxford Street, including two (2) retail tenancies to the ground floor level with access to a central courtyard; two (2) x two (2) bedroom apartments above; new three (3) storey mixed use infill development to the rear with basement car parking for six (6) vehicles including a turn-table with a three (3) car stacker accessed from Elizabeth Place; a ground floor retail tenancy and seven (7) residential apartments above. Withdrawn – 11/12/2019 • DA 274/2020 (432-440 Oxford Street) – Amalgamation of three (3) lots for strata subdivision, alterations and additions to five (5) shops and shop-top apartments, construction of new shop-top housing development with basement car parking and associated landscaping. Approved by LEC – 25/06/2021 • A revised Clause 4.6 (FSR) was submitted on 14/04/2022

Relevant Compliance History
N/A
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
A Stop the Clock (STC) letter dated 7/12/2021 was issued to the applicant requesting an updated Stormwater Management Plan and a Draft Strata Plan. A response to the request was provided on 7/12/2021.
Land and Environment Court Appeal(s)
A Class 1 Appeal on the grounds of a deemed refusal of this application was lodged with the LEC on 15/02/2022. Council has been directed by the Court to file a Statement of Facts and Contentions (SOFAC) by the 25/04/2022. A S.34 Conference has been scheduled for 6/05/2022.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Technical Services – Development Engineering	Satisfactory, subject to conditions.	4
Traffic and Transport	Satisfactory, subject to conditions.	5
Trees and Landscaping	Satisfactory, subject to conditions.	6
Heritage	Satisfactory.	7
Environmental Health	Satisfactory, subject to conditions.	8
Technical Services – Drainage	Satisfactory, subject to conditions.	9
Compliance	Satisfactory, subject to conditions.	10
Urban Design (Brian McDonald)	Satisfactory, subject to conditions.	11
Urban Design (Diana Griffiths)	Satisfactory, subject to conditions.	12

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 15/12/2021 to 29/01/2022 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Jean Corbett, 2 Elizabeth Place, Paddington
2. Helen Lowy, 5 Elizabeth Place, Paddington
3. Suzanne Blake, 8 Elizabeth Place, Paddington
4. Ann-Maree Cook, 11 Elizabeth Place, Paddington
5. George Sarakiniotis, 15 Elizabeth Street, Paddington
6. Jamie & Rosa Bernado, 17 Elizabeth Street, Paddington
7. Michael & Natasha Sheika, 19 Elizabeth Street, Paddington
8. Roberta Lauchlan, 21 Elizabeth Street, Paddington
9. Anne Pike, 23 Elizabeth Street, Paddington
10. Ivan Gunarajan, 25 Elizabeth Street, Paddington
11. Simon & Jean Gray, 27 Elizabeth Street, Paddington
12. John & Robyn Durack, 444 Oxford Street, Paddington
13. Kathleen Johnson, 146A Underwood Street, Paddington
14. Penny & Robert Alford, 152 Underwood Street, Paddington
15. Bart de Haan & Liz Walden, 174 Underwood Street, Paddington
16. Nina Mistilis, 118 Windsor Street, Paddington (obo WMC Floodplain Risk Management Committee, Community Representative)
17. Petra O'Neill, 49 William Street, Paddington
18. The Paddington Society

The submissions raised issues as outlined in Section 5.3 above.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 16/02/2022 declaring that the site notice for DA554/2021/1 was erected and maintained during the notification period in accordance with Woollahra Community Participation Plan of the Woollahra DCP 2019.

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

10.1. Chapter 2 – Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, 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.

10.2. Chapter 4 – Remediation of Land

The aims of Chapter 4 of the *Resilience and Hazards SEPP* 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 4.6 (1) (a) of the SEPP, 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/retail use, it is considered that the land does not require further consideration under Clause 4.6 (1) (b) and (c) of the SEPP 55. The proposal is therefore acceptable with regard to the *Resilience and Hazards* SEPP.

11. 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.

12. STATE ENVIRONMENTAL PLANNING POLICY NO. 65: DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

SEPP 65 – Design Quality of Residential Flat Development applies to new residential apartment buildings (or substantial redevelopment) comprising three or more storeys and four or more self-contained dwellings. In this instance the development proposes amendments to the approved DA 274/2020 for an apartment building comprising 3 storeys and 17 self-contained dwellings.

12.1. Clause 2: Aims and Objectives

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

- a) *To ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *By providing sustainable housing in social and environmental terms, and*
 - (ii) *By being a long-term asset to its neighbourhood, and*
 - (iii) *By achieving the urban planning policies for its regional and local contexts*
- b) *To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- c) *To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- d) *To maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- e) *To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions*
- f) *To contribute to the provision of a variety of dwelling types to meet population growth*
- g) *To support housing affordability*
- h) *To facilitate the timely and efficient assessment of applications for development to which this Policy applies*

The proposal is acceptable with regard to the above stated aims.

12.2. Design Quality Principles

Clause 30(2) of SEPP 65 requires the assessment of the application against the design quality principles in Schedule 1.

*This assessment has been undertaken by the Assessment Officer of this report having regard to both Urban Design referral responses – **Annexure 11 and 12.***

Design Quality Principle			Complies
Principle 1: Context and Neighbourhood Character	<p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's <u>existing or future character</u>. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, <u>streetscape and neighbourhood</u>.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>The amendments to the approved DA are primarily focused on changes in the internal layout on the ground floor of Block B. The proposed amendments will not significantly impact on the context and neighbourhood character.</p>	YES
Principle 2: Built Form and Scale	<p><i>Good design achieves a <u>scale, bulk and height appropriate</u> to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, <u>articulation</u> and the <u>manipulation of building elements</u>.</i></p> <p><i>Appropriate built form <u>defines the public domain</u>, contributes to the character of <u>streetscapes</u> and parks, including their <u>views and vistas</u>, and provides internal amenity and outlook.</i></p>	<p>The increased height of lift overrun to 10.41m is within the approved height limit of 10.85m. The proposed changes to the lift overrun will not significantly impact on the bulk and scale of the approved development.</p>	YES
Principle 3: Density	<p><i>Good design achieves a <u>high level of amenity</u> for residents and each apartment, resulting in a density appropriate to the site and its <u>context</u>.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, <u>public transport</u>, access to jobs, community facilities and the environment.</i></p>	<p>The amendments to the approved DA will retain the approved GFA and hence FSR.</p> <p>The amendments are substantially in accordance with the court approved DA with regards to the size and number of apartment units.</p>	YES

Design Quality Principle			Complies
Principle 4: Sustainability	<i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of <u>natural cross ventilation and sunlight</u> for the amenity and liveability of residents and passive thermal design for <u>ventilation</u>, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and <u>deep soil zones</u> for groundwater recharge and vegetation.</i>	<p>The amendments are substantially in accordance with the court approved DA with regards to the layout of the apartment units.</p> <p>Photovoltaic panels have been added to Block A which is a positive addition to the sustainability of the development.</p> <p>The principal areas of deep soil landscaping with minimum dimensions greater than 6m amounts to 106.5m², falling short of the 114.6m² minimum required by the ADG. The deep soil landscaped courtyard and turf areas are to be amended to ensure that a minimum of 114.6m² of deep soil area is provided with a minimum 6.0m dimension as per the ADG. Refer to Condition C.1 (a).</p>	YES, subject to Condition C.1 (a).
Principle 5: Landscape	<p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments <u>with good amenity</u>. A <u>positive image and contextual fit</u> of well-designed developments is achieved by contributing to the <u>landscape character of the streetscape and neighbourhood</u>.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which <u>contribute to the local context</u>, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, <u>respect for neighbours' amenity</u>, provides for practical establishment and long term management.</i></p>	<p>The proposed landscape design appears to have a high species diversity but some of the proposed landscape located on Level 1 has building structures underneath, reducing the ability to support larger trees, and tree growth and health.</p>	YES

Design Quality Principle			Complies
<p>Principle 6: Amenity</p>	<p><i>Good design positively influences internal and external <u>amenity for residents and neighbours</u>. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>Good amenity combines appropriate room <u>dimensions and shapes</u>, access to <u>sunlight</u>, <u>natural ventilation</u>, <u>outlook</u>, <u>visual</u> and <u>acoustic privacy</u>, <u>storage</u>, indoor and outdoor space, efficient layouts and service areas, and ease of <u>access</u> for all age groups and degrees of mobility.</i></p>	<p>The increase in height to the lift overrun to 10.41m and the increase to the Lobby 3 planter boxes (boundary wall) adjacent to the side boundaries, causes additional overshadowing to 440 Oxford Street, however, this does not cause a significant change in impact to the approved level of overshadowing.</p> <p>Condition C.16 (a) of the Conditions of Consent outlined by the court, “A maximum of 12 car parking spaces shall be clearly marked and shall be allocated for use by 10 residential units and 2 retail / commercial tenancies (with a maximum of 1 space applying for the allocated tenancy). The allocated car parking spaces shall be clearly shown on the revised Architectural Plans and Construction Certificate plans.”</p> <p>The proposal includes allocation of the 12 basement parking spaces to the proposed residential units.</p> <p>Council's Traffic and Transport Engineer has advised that this is acceptable, subject to conditions. Refer to Section 15.2.</p> <p>The proposal includes reconfiguration of internal courtyards, including relocation of a Block B courtyard with planting from Ground Floor to Level 1. Council's urban design advice has noted that this may impact on visual privacy to 430 Oxford Street. However, said courtyard is not located adjacent to 430 Oxford Street but rather is adjacent to the existing rear garage structures at nos. 15 & 17 Elizabeth Street. No visual privacy impact is anticipated as a result of the courtyard relocation.</p>	<p>YES</p>

Design Quality Principle			Complies
Principle 7: Safety	<p><i>Good design optimises safety and security, within the development and the public domain. It provides for <u>quality public and private spaces</u> that are clearly defined and fit for the intended purpose. Opportunities to maximise <u>passive surveillance</u> of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and <u>visible areas</u> that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The removal of public entry from Elizabeth Place results in increased safety and privacy to the residents.</p> <p>Limiting the pedestrian entry to the development from Oxford Street creates a clear and defined entrance to the development, which is well differentiated from the vehicular entry with passive surveillance provided from the private domain.</p>	YES
Principle 8: Housing Diversity and Social Interaction	<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a <u>broad range of people</u>, providing opportunities for social interaction amongst residents.</i></p>	<p>The amendments are substantially in accordance with the court approved DA with regards to the mix of apartment sizes.</p> <p>Changes to the courtyard on ground level and level 1 provide adequate communal open space to support social interaction</p>	YES
Principle 9: Aesthetics	<p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of <u>materials, colours and textures</u>.</i></p> <p><i>The <u>visual appearance</u> of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The amendments are substantially in accordance with the court approved DA with regards to the external finishes of the development.</p>	YES

12.3. Apartment Design Guide

Part 3 – Siting the Development

Part 3A: Site Analysis

The proposal complies with the requirements of the Site Analysis Checklist.

Part 3B: Orientation

No changes proposed to the approved scheme with respect to building orientation.

Part 3C: Public Domain Interface

No changes proposed to the approved scheme with respect to public domain interface

Part 3D: Communal Open Space

	Approved	Proposed	Control	Complies
Min. communal open space	461 m ² 28%	455 m ² (28%)	25% of Site 409.2 m ²	Yes
Min. solar access to the principal useable portion of communal space	> 50% for 2 Hours Between 9am and 3pm on June 21	> 50% for 2 Hours Between 9am and 3pm on June 21	50% for 2 Hours Between 9am and 3pm on June 21	Yes
Min. dimension of communal open space	Principal communal spaces > 3m	Principal communal spaces > 3m	3m	Yes
Communal open space	Consolidated	Consolidated	Consolidated and co-located with deep soil	Yes
Access to communal open space	Direct access	Direct access	Direct access from common areas	Yes
Communal facilities	Seating	Seating	Seating for individuals or groups	Yes
Location of communal facilities	Provided, well lit and visible	Provided, well lit and visible	Access to sun, shade, shelter, well lit, visible from habitable windows	Yes
Boundaries of communal open space	Defined	Defined	Defined	Yes

Part 3E: Deep Soil Zones

	Approved	Proposed	Control	Complies
Min. deep soil	138.2 m ² (Per DCP definition)	134.7 m ²	7% 114.6m ²	Yes
Min. dimension of deep soil	Some areas min. 6m	Some areas min. 6m	6.0m	Partial
Existing significant trees	Removed (Replacement trees provided)	Removed (Replacement trees provided)	Retained	No

The principal area of deep soil landscaping that has minimum dimensions greater than 6m amounts to 106.5m², falling short of the 114.6m² minimum required by the ADG. The deep soil landscaped courtyard and turf areas are to be amended to ensure that a minimum of 114.6m² of deep soil area is provided with a minimum 6.0m dimension as per the ADG. Refer to **Condition C.1 (a)**.

The proposed development has been provided with substantial planting and replacement trees, which will make significant improvement to the landscape character of the site. The proposal is acceptable in this regard.

Part 3F: Visual Privacy

No changes are proposed to the approved scheme with respect to visual privacy.

Part 3G: Pedestrian Access and Entries

The proposed amendments to the approved scheme include removal of the public thoroughfare through the site from Oxford Street to Elizabeth Place. The removal of this thoroughfare will have improved outcomes for residents regarding safety and security and is supported.

Public access to the building will remain through the primary frontage to Oxford Street.

Part 3H: Vehicle Access

The proposal generally retains the existing vehicular access scheme and is considered acceptable with regard to the ADG.

Part 3J: Bicycle and Car Parking

The proposal as modified will retain the 12 approved car parking spaces in the basement.

Council's Traffic and Transport Engineer has advised that the 17 bicycle parking spaces proposed in enclosed storage rooms and 12 bicycle parking spaces on the Ground Floor are considered satisfactory. Appropriate conditions have been recommended to ensure provision and allocation of vehicle and bicycle parking consistent with the proposal. Refer to Section 15.2.

Part 4 – Designing the Building

Part 4A: Solar and Daylight Access

The proposal will retain the approved siting of the development and location of the residential apartments, and will therefore retain the approved levels of solar and daylight access to apartments.

Part 4B: Natural Ventilation

The proposal generally retains the existing apartment layout and design and remains consistent with the natural ventilation measures.

Part 4C: Ceiling Heights

No changes are proposed the approved ceiling heights.

Part 4D: Apartment Size and Layout

The approved apartment sizes and layouts are proposed to be retained.

Part 4E: Private Open Space and Balconies

The approved private open spaces and balconies for all apartments are proposed to be retained.

Part 4F: Common Circulation and Spaces

The approved circulation scheme and layout of the apartments is proposed to be retained.

Part 4G: Storage

No changes to approved residential apartment storage are proposed.

Part 4H: Acoustic Privacy

No changes to the approved window and door openings or room locations are proposed.

Part 4J: Noise and Pollution

No changes to the approved apartment layout and siting are proposed.

Part 4K: Apartment Mix

No changes to the approved apartment mix are proposed.

Part 4M: Façades

No substantial changes to the approved façades are proposed.

Part 4N: Roof Design

No changes are proposed to the approved roof design over the residential portion of the development.

Part 4O: Landscape Design

The proposed modifications to the approved development will retain the approved tree planting scheme.

Part 4P: Planting on Structures

The proposed modifications to the approved development will generally retain the approved scheme with regard to planting on structures.

Part 4Q: Universal Design

The proposal retains the approved quantity of Universal Apartments.

Part 4S: Mixed Use

The proposal retains the approved mix and location of uses within the development.

Part 4V: Water Management and Conservation

No changes to approved water fitting and appliances are proposed.

Part W: Waste Management

	Approved	Proposed	Control	Complies
Location of Bin Storage	Away from the front	Basement	Away From The Front or in Basement	Yes
	Well Ventilated	Unclear	Well Ventilated	Yes
Access Between Bin Storage and Collection Point	Easy	Easy	Easy Manoeuvrability to Collection Point	Yes
Temporary Storage	Provided	Provided	Required	Yes
Waste Management Plan	Provided	Provided	Required	Yes
Bin Storage – Mixed Development	Separate	Separate Bin Rooms	Separate Bin Rooms	Yes

It is unclear whether the proposed waste storage areas are well ventilated. **Condition C.7** requires that that exhaust ventilation be provided to waste storage areas.

The proposed amendments to the approved waste management scheme are considered to be acceptable, subject to conditions.

13. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by BASIX Certificate 1234333M demonstrating compliance with the SEPP. These requirements are imposed in Conditions of Consent.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1. Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

14.2. Land Use Table

The subject site with the exception of the right of way is zoned B4 Mixed Use. The proposed modifications to the approved shop-top housing development is permissible and consistent with the objectives of the B4 Mixed Use zone.

The right of way located at the rear of the site is zoned R2 Low Density Housing. This area of the site is proposed to be used as a road which is permissible and is consistent with the objectives of the R2 Low Density Housing zone.

14.3. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Approved	Proposed	Control	Complies
Maximum Building Height	10.5m	9.75m (Existing terraces) 10.85 (Infill Building)	9.75m (Existing terraces) 10.41m (Infill Building)	9.5m	NO

The proposal does not comply with Part 4.3 of Woollahra LEP 2014.

14.4 Part 4.6: Exceptions to Development Standards

Departure

The proposal involves a non-compliance with the height of buildings statutory control under Part 4.3 of the Woollahra LEP 2014.

The proposal exceeds the 9.5m maximum Height of Buildings development standard under Clause 4.3 of the Woollahra LEP 2014. The approved infill building is up to 10.85m in height (RL 74.54) and represents a 1.35m, or 14.2% non-compliance with the development standard. The proposed amendments to the approved scheme involve a height increase to the lift overrun by 0.1m to a maximum height of 10.41m (RL 74.50).

New solar panels are proposed to the existing terrace rooftop above the 9.5m height limit to a maximum height of approximately 9.9m.

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 departure. Refer to **Attachment 2**.

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, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

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

Comment: The applicant's written request has adequately demonstrated that the objectives of the *Height of Buildings* development standard are achieved, notwithstanding the numerical non-compliance.

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of 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 (paragraph 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 good design and local amenity of the built environment, in accordance with the object 1.3(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 request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4) (a) (ii) – Assessment

Clause 4.6 (4) (a) (ii) requires the consent authority to be satisfied that:

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

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Height of Buildings* development standard, and the zone objectives of the B4 Mixed Use Zone. An assessment against these objectives is provided below.

Clause 4.3 – Height of Buildings

The proposal is assessed against the sub-clause (1) objectives of Clause 4.3 which specify the following objectives:

- *To establish building heights that are consistent with the desired future character of the neighbourhood*

Comment: The proposed height increase to the lift overrun of the approved infill building and the addition of solar panels are considered to represent minor non-compliances. The amendments to the approved scheme will retain the approved presentation to Elizabeth Place as a row of two-storey terraces and the proposal is considered to be consistent with neighbouring development with regard to height and scale. The proposal is therefore consistent with the desired future character of the neighbourhood.

- *To establish a transition in scale between zones to protect local amenity*

Comment: The subject site is located on the zone interface between the B4 Mixed Use and R2 Residential Zones. The height of the approved infill building is compatible with the general pattern of development, and no change to the overall height of the building is proposed. The transition in scale between these zones is considered to be appropriate and is not considered to be detrimental to the amenity of surrounding properties.

- *To minimise the loss of solar access to existing buildings and open space*

Comment: The proposed amendments to the approved development will retain acceptable solar access to the surrounding properties.

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

Comment: The works will not adversely impact on views, overshadowing, and privacy and will not result in significant visual intrusion.

- *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*

Comment: The works will not adversely impact on the public domain and will not impede views of the harbour or surrounding areas.

Objectives of the B4 Mixed Use Zone:

The objectives of the B4 Mixed Use Zone:

- *To provide a mixture of compatible land uses;*

Comment: The proposed development retains the approved mixed used development that contains both commercial and residential uses, which are considered to be compatible and appropriate land uses within the zone.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*

Comment: The proposal will retain integration of commercial and residential uses within the Oxford Street commercial centre, providing optimum opportunities to encourage the use of public transport, walking and cycling.

- *To provide active ground floor uses to create vibrant centres*

Comment: The development involves the restoration of the existing shop fronts fronting Oxford Street, which will enhance the streetscape quality of Oxford and facilitate the provision of active ground floor uses of these space. Which, together with the provision of a publically accessible courtyard will contribute to the vitality and viability of the Oxford Street commercial centre.

- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area*

Comment: The proposed development is considered to be of a scale that is compatible with the residential amenity of surrounding properties.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood*

Comment: The proposed development is of a height and scale that is consistent with the general pattern of development in the locality and is therefore considered to be consistent with the desired future character of the locality.

Conclusion:

The departure from the development standard is considered to be satisfactory with the intent of the B4 zone objectives and there are sufficient environmental planning grounds to justify the contravention.

- The objectives of the Clause 4.3 Height of Buildings development standard have been satisfied;
- The objectives of the B4 Mixed Use zone have been satisfied; and
- There are sufficient environmental planning grounds to justify contravening the development standard in this instance.

Clause 4.6 (4) (b)

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

(b) the concurrence of the Secretary has been obtained.

The Department issued a Planning Circular No. *PS20-002 (dated 05 May 2020)* which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

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.

The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the Height of Buildings development standard and those applicable to development within the zone.

Accordingly, departure from the development standard is justified in this instance and departure from the control can be supported.

14.5 Part 4.4: Floor Space Ratio

Part 11 limits development to a maximum floor space ratio of 1:1 for a mixed use development.

Site Area: 1527.9m ²	Existing	Approved	Proposed	Control	Complies
Floor Space Ratio	< 1:1	1.2:1 (1835 m ²)	1.2:1 (1835 m ²)	1:1 (1,527.9m ²)	NO

The total site area, once the existing Right of Way access at the rear is removed, is 1,527.9 m². The proposed amendments to the approved DA 274/2020 will result in a scheme that retains the same GFA, resulting in a floor space ratio of 1.2:1. The proposal does not comply with Part 4.4 of Woollahra LEP 2014 as detailed and assessed below.

Part 4.6: Exceptions to Development Standards

Departure

The proposal exceeds the 1:1 maximum floor space ratio development standard under Clause 4.4 of the Woollahra LEP 2014. The approved development comprises 1,835m² of gross floor area, representing a 307.1m² non-compliance with the standard, resulting in a proposed FSR of 1.2:1. The proposed amendments to the approved scheme will retain the approved quantity of gross floor area, and hence the approved floor space ratio.

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 departure. Refer to **Attachment 3**.

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, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

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

Comment: The applicant's written request has adequately demonstrated that the objectives of the *Floor Space Ratio* development standard are achieved, notwithstanding the numerical non-compliance.

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of 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 (paragraph 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 good design and local amenity of the built environment, in accordance with the object 1.3(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 request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4) (a) (ii) – Assessment

Clause 4.6 (4) (a) (ii) requires the consent authority to be satisfied that:

- iii) *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 B4 Mixed Use Zone. An assessment against these objectives is provided below.

Clause 4.4 – Floor Space Ratio

The proposal is assessed against the objective of the Development Standard prescribed by Clause 4.4 which states:

For buildings in Zone B4 Mixed Use Zone:

- (b) To ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.*

Comment: The proposal achieves the relevant objective of the floor space ratio control. The proposed amendments to the approved DA 274/2020 will retain the approved GFA and FSR for the development, and no substantial changes to the bulk and scale of the development are proposed. The proposal retains the approved mix of commercial and residential uses within the site. The development as proposed will continue to present as a row of two-storey terraces to Elizabeth Place at the rear and will retain the existing shopfronts to Oxford Street.

Objectives of the B4 Mixed Use Zone:

The objectives of the B4 Mixed Use Zone:

- *To provide a mixture of compatible land uses;*

Comment: The proposed development retains the approved mixed used development that contains both commercial and residential uses, which are considered to be compatible and appropriate land uses within the zone.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*

Comment: The proposal will retain integration of commercial and residential uses within the Oxford Street commercial centre, providing optimum opportunities to encourage the use of public transport, walking and cycling.

- *To provide active ground floor uses to create vibrant centres*

Comment: The development involves the restoration of the existing shop fronts fronting Oxford Street, which will enhance the streetscape quality of Oxford and facilitate the provision of active ground floor uses of these space. Which, together with the provision of a publically accessible courtyard will contribute to the vitality and viability of the Oxford Street commercial centre.

- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area*

Comment: The proposed development is considered to be of a scale that is compatible with the residential amenity of surrounding properties.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood*

Comment: The proposed development is of a height and scale that is consistent with the general pattern of development in the locality and is therefore considered to be consistent with the desired future character of the locality.

Conclusion:

The departure from the development standard is considered to be satisfactory with the intent of the B4 zone objectives and there are sufficient environmental planning grounds to justify the contravention.

- The objectives of the Clause 4.4 Floor Space Ratio development standard have been satisfied;
- The objectives of the B4 Mixed Use zone have been satisfied; and
- There are sufficient environmental planning grounds to justify contravening the development standard in this instance.

Clause 4.6(4)(a)(b)

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

(b) the concurrence of the Secretary has been obtained.

The Department issued a Planning Circular No. *PS20-002 (dated 05 May 2020)* which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

Conclusion

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

The consent authority 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.

The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the Floor Space Ratio development standard and those applicable to development within the zone.

Accordingly, departure from the development standard is justified in this instance and departure from the control can be supported.

14.6 Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The approved development is located in Paddington Heritage Conservation Area. No heritage items are located within the site or in the vicinity of the site. The proposed modifications to the approved scheme are acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014. Refer to **Appendix 7 – Heritage Referral response**.

14.7 Part 5.21: Flood Planning

Part 5.21 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The proposed amendments to the approved DA 274/2020 will not increase the risk of flooding within the site. Council's Technical Services Department has considered the proposed development to be acceptable in terms of flooding impacts, subject to Conditions.

The proposal is acceptable with regard to Part 5.21 of the Woollahra LEP 2014.

14.8 Part 6.1: Acid Sulfate Soils

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

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

14.9 Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal involves additional excavation to accommodate the extended basement garage. The additional excavation will create an additional 94.7m² of basement area at the southern end of the basement, and an additional 32.8m² at the north-eastern corner. No additional depth to the approved maximum depth of 6.5m is proposed.

In terms of ESD principles, the extent of soil being removed from the site is considered to be acceptable.

The extent and siting of excavation is discussed having regard to the following:

- (a) *The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development*

The proposed development is unlikely to have detrimental impacts on the drainage patterns of site. Council's Technical Services has advised that there are no objections to the proposed works with regard to drainage patterns or soil stability.

(b) The effect of the development on the likely future use or redevelopment of the land

Given the proposed scope of works, it is unlikely that the proposed development would impact the likely use or redevelopment of the land.

(c) The quality of the fill or the soil to be excavated, or both

Council's Technical Service Department has not raised any concern relating to the quality of the soil to be excavated.

(d) The effect of the development on the existing and likely amenity of adjoining properties

The proposed excavation works do not directly adjoin any habitable structures or any significant original fabric. Surrounding habitable structures are considered to be sufficiently separated from the works. Appropriate Conditions of Consent have been recommended to mitigate potential impacts of the proposed excavation works.

(e) The source of any fill material and the destination of any excavated material

The excavated material is to be disposed according to the appropriate classification. Any material that is classified as solid or to be contaminated is to be disposed of at a licensed facility.

(f) The likelihood of disturbing relics

It is considered unlikely to disturb any relics.

(g) The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

The proposed development is not located within a close proximity to any waterway, catchment or other environmentally sensitive area.

(h) Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development

The applicant has submitted a Geotechnical Report and a Structural Feasibility Report in support of the application. Council's Technical Services Department has recommended appropriate Conditions of Consent to mitigate the impacts of the proposed excavation works.

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

15 WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1 Chapter C1: Paddington Heritage Conservation Area

15.1.1 Part C1.2.3: Character elements

The proposal retains the property as a commercial site and establishes a cohesive relationship between the new development and the neighbouring community shops.

15.1.2 Part C1.2.4: Desired future character

The proposal remains consistent with Paddington's low scale development and the desired future character to retain the diversity of building types, including commercial buildings.

15.1.3 Part C1.2.5: Contemporary design in Paddington

The proposed design takes cues from the two storey terraces in Elizabeth Place and uses materials that offer a contemporary approach to traditional designs which is supported.

15.1.4 Part C1.3.8: Commercial and industrial buildings including shops

All commercial development

Controls C1, C2, C4, C5, C7, C8, C10, C11, C12

The proposal aims to retain the principal building forms of the subject terraces, including significant architectural elevations on Oxford Street and significant finishes and details and is consistent with C1 and C2.

The proposed works remove the through-site link at the shopfront at No. 432 due to the requirement of a fire hydrant. This HIS provides the following comment which is agreed with:

Advice has been provided by Warrington Fire noting that Oxford Street is the only feasible location for a fire hydrant to service the site. This advice is in accordance with AS 2419.1, which requires the booster to be within sight of the main entry of the building (noting also that this application proposes to make the Oxford Street frontage the principal entry to the site). Additionally, Warrington Fire has found that access to the rear of the site for fire brigade appliances is poor, due to its physically constrained nature. Noting these requirements and constraints, the design for the new fire hydrant booster is considered sympathetic to the overall character and detailing of the refurbished shopfronts, including appropriate proportions and materials which will allow it to visually integrate into the presentation of the shopfronts.

Commercial development in Oxford Street

*Objectives O1, O2, O3, O5, O11, O13
Controls C1, C2, C7, C8, C9, C10, C11*

The proposal maintains retail/commercial use of the ground floor and it is consistent with C1.

The proposed changes to the entrance of No. 432 are consistent with the existing approval and are in keeping with the character of the group.

The proposed amendments to the approved DA 274/2020 are acceptable with regard to Part C1.3.8 of the Woollahra DCP 2015.

15.1.5 Part C1.3.13: Infill development (new development)

The proposed changes to the infill development to the rear of the sites along Elizabeth Place are consistent with the existing approval and will not adversely impact the HCA.

The proposal is acceptable with regard to Part C1.3.13 of the Woollahra DCP 2015.

15.1.6 Part C1.4.1: Principal building form and street front zone of contributory buildings

*Objectives O1, O2, O3, O4, O6, O7, O11, O12
Controls C1, C2, C3, C7, C8, C15*

The proposal aims to retain the principal building forms of the subject terraces, including significant architectural elevations on Oxford Street and significant finishes and details. Original significant internal fabric will also be retained.

The proposed works remove the through-site link at the shopfront at No. 432 due to the requirement of a fire hydrant. This HIS provides the following comment which is agreed with:

Advice has been provided by Warrington Fire noting that Oxford Street is the only feasible location for a fire hydrant to service the site. This advice is in accordance with AS 2419.1, which requires the booster to be within sight of the main entry of the building (noting also that this application proposes to make the Oxford Street frontage the principal entry to the site). Additionally, Warrington Fire has found that access to the rear of the site for fire brigade appliances is poor, due to its physically constrained nature. Noting these requirements and constraints, the design for the new fire hydrant booster is considered sympathetic to the overall character and detailing of the refurbished shopfronts, including appropriate proportions and materials which will allow it to visually integrate into the presentation of the shopfronts.

The proposal is acceptable with regard to Part C1.4.1 of the Woollahra DCP 2015.

15.1.7 Part C1.4.3: Rear elevations, rear additions, significant outbuildings and yards

Objectives O1, O2, O3, O4

Controls C2, C3, C4

The original rear wings are retained which is supported. The HIS provides the following comment in regards to the rear elevation works which is agreed with:

The existing ground-floor level lean-to at the rear of no. 432, which is proposed to be removed and replaced with new work, is not original to the building nor in any way contributory to its character and significance. Its removal is supportable from a heritage perspective. The replacement addition will be clearly identifiable as new work, and its single-storey scale would not detract from the legibility and setting of the contributory building.

The proposal is acceptable with regard to Part C1.4.3 of the Woollahra DCP 2015.

15.1.8 Part C1.4.4: Roofs and roof forms

No changes to the approved roof form are proposed. The proposal is acceptable with regard to Part C1.4.4 of the Woollahra DCP 2015.

15.1.9 Part C1.4.5: Building height, bulk, form and scale

Objectives O1, O3, O4, O5, O6

Controls C1, C3, C4, C7

The overall height, bulk, form and scale of the proposal is consistent with the approved development. The proposal is seeking to increase the height the lift overrun to 10.41m and an increase to the planter boxes (boundary wall) adjacent to the side boundaries (Lobby 3 Level), which will causes some additional overshadowing to 440 Oxford Street. However, this additional overshadowing is considered minor and will not cause a significant change in impact to the approved level of overshadowing.

The proposal is acceptable with regard to Part C1.4.5 of the Woollahra DCP 2015, subject to conditions.

15.1.10 Part C1.4.7: Excavation

The proposal includes additional excavation to accommodate additions to the approved basement garage. In total, the additional area of excavation proposed amounts to 127.5 m² of additional excavated area within the approved basement, 94.7 m² at the southern end of the basement and 32.8 m² at the north-eastern corner of the site.

The additional proposed excavation is considered acceptable for the following reasons:

- Council's Technical Services Officer did not raise any objection to the proposed additional excavation works, subject to conditions.
- The proposed works will not affect groundwater flows;
- Control C7 (b) requires excavation works to be setback by 1.5m. The proposed excavation works are located on the side and rear boundaries. These works are considered acceptable, as they do not adjoin any significant original fabric or habitable rooms. These works are adjoined on the western side by non-habitable (garage) structures. The land is vacant on the eastern side of the excavation works. The excavation works are considered to be sufficiently separated from the buildings to the rear (at Nos. 10 and 11 Elizabeth Place, minimum 3.7m);
- No objections to the proposed additional excavation works were raised by Council's Heritage or Landscape Officers.

The proposal is therefore acceptable with regard to Part C1.4.7 of the Woollahra DCP 2015.

15.1.11 Section C1.4.8: Private Open Space, Swimming Pools, Lightwell Courtyards and Landscaping

Site Area: 1636.7m ²	Approved	Proposed	Control	Complies
C5 Minimum deep soil landscape area for mixed use development	8.4% 138.2 m ²	8.2% 134.7m ²	12% 196.40m ²	No

The proposal to amend the approved DA 274/2020 includes changes to the configuration of the communal open space within the site. 134.7 m² of deep soil landscaped area is proposed as per the Woollahra DCP 2015 definition, an overall decrease of 3.5m² across the development. Notwithstanding the non-compliance, the amendment to the quantity of deep soil provided is considered to be minor. The development will retain the landscape character of the site as per the approved development DA 274/2020.

The proposal is acceptable with regard to Part C1.4.8 of the Woollahra DCP 2015.

15.1.12 Section C1.4.10: Acoustic and Visual Privacy

The proposal includes the installation of new air conditioning condensers to the Tenancy 5 rooftop, and balconies to Units B1, B2, B3, B4, B5, B6, and B7.

Council's Environmental Health Officer has advised that the proposal is acceptable with regard to potential acoustic impacts, subject to conditions. Notwithstanding, the proposed air conditioning condensers are considered to be unacceptable with regard to the DCP. Refer to Section 15.1.7.

No additional visual privacy impacts are anticipated as a result of the proposed amendments to the approved DA 274/2020.

The proposal is acceptable with regard to Section C1.4.10 of the Woollahra DCP 2015, subject to conditions.

15.1.13 Section C1.4.11: Land subdivision and site amalgamation

The proposed amendments to the approved DA 274/2020 will retain the approved amalgamation of three (3) existing lots into a single allotment to facilitate the proposed development. The amalgamation will retain the existing building pattern on the site and will not result in the loss of any significant original fabric, significant fences or landscape elements. The proposed design and form of the development provides an appropriate response to the historic subdivision pattern of the Paddington Heritage Conservation Area and is acceptable in this regard. The proposal is therefore considered acceptable with regard to Section C1.4.11.

15.1.14 Section C1.5.3: Windows, doors, shutters and security

Objective O3

Control C4

The proposed changes to the entrance to No. 432 are in keeping with the character of the group and are supported.

The proposal is acceptable with regard to part C1.5.3 of the Woollahra DCP 2015.

15.1.15 Section C1.5.6: On-site Vehicle Parking, Garages, Carports, Driveway Access and Servicing Facilities

General

The proposal includes additional excavation to expand the approved basement garage. The garage will retain parking provisions for 12 cars, as well as a car lift and turntable to provide access from street level to the basement.

No changes are proposed to the approved car access to the site and the proposal remains generally consistent with the relevant objectives and controls of Part C1.5.6 of the DCP, subject to conditions.

Residential Parking Rates

12 residential car parking spaces have been provided on the site, which is considered acceptable. Further details are provided at Section 15.2.

Retail, Commercial and Other Non-Residential Parking and Servicing Rates

The proposal includes an additional 91 m² of commercial floor area. No onsite car parking for the proposed retail uses on the site have been proposed. The 12 car parking spaces allocated solely to residential uses will result in a shortfall of 14 spaces for non-residential uses under the DCP. Notwithstanding the non-compliance, Council's Technical Services Engineer has advised that the proposal remains acceptable. Further details are provided below in Section 15.2.

The proposal is acceptable with regard to Section C1.5.6 of the Woollahra DCP 2015, subject to conditions.

15.1.16 Section C1.5.8 Materials, finishes and details

Objectives O2

Controls C4

Proposed materials and finishes are contemporary but sympathetic and will achieve a positive outcome within the Paddington context.

The proposal will retain the original shopfront of No. 436 and reinstate the other shopfronts using this original example, which is a positive heritage outcome and will re-establish the shared distinctive characteristics of the group.

15.1.17 Section C1.5.9 Exterior colours

Objective O1

Controls C1, C3, C4

The proposed colour scheme complies and is acceptable with regard to Part C1.5.9 of the Woollahra DCP 2015.

15.1.18 Section C1.5.11: Satellite Dishes, Aerials, Air Conditioning Units and Other Site Facilities

Objectives O3, O4

Controls C2, C3, C4, C5, C6

The proposal includes the addition of new air conditioning condensers to the Tenancy 5 rooftop, as well as to the balconies of Block B apartments B1–B7.

The proposal is inconsistent with Control C2 as the proposed condensers to the infill building are not located internally within the building.

The proposed new condensers are inconsistent with Control C3 as they are located more than 1.8m above the existing ground level, and may be visible from the public domain. The condensers proposed over Tenancy 5 are inconsistent with Control C3 (b) as they are located on a roof.

The proposed new air conditioning condensers over Tenancy 5 and to the balconies of apartments B1–B7 are required to be deleted from the plans as detailed at **Condition C.1 (b)**.

The proposal is considered unacceptable with regard to Part C1.5.11 of the Woollahra DCP 2015.

15.2 Chapter E1: Parking and Access

Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Allowed Parking
Studio/1 bedroom	12	0.5	6
2 bedrooms	5	1	5
Visitor	17	0.2	3.4 (3)
Total allowed			14
Non-residential Component	Quantity	DCP Minimum Requirement per 100m ² GFA	DCP Minimum Required Parking
Retail	529m ²	3.3 spaces per 100m ² GFA with 0.7 multiplier for Oxford Street B4 Zone	12.2 (12)
Retail/Commercial (Additional)	91m ²	3.3/2.5 spaces per 100m ² GFA with 0.7 multiplier for Oxford Street B4 Zone	2.1/1.6 (2)

Parking for residential uses is calculated using the generation rates specified in E1.4.2. In this instance, the development results in a generation rate of 14 spaces and makes provision for 12 spaces.

The proposal includes an increase of GFA for retail/commercial use by 91m², whilst retaining the previous proposal of residential mix and car parking.

The proposal would permit a maximum of 14 car parking spaces for residential uses and requires a minimum provision of 14 car parking spaces for retail/commercial uses. The proposed 12 car parking spaces solely allocated to residential uses will result in a shortfall of 14 spaces for non-residential components, however the proposal remains acceptable for the following reasons:

- Parking for residential uses generally has a lower turnover rate than retail/commercial uses, which will generate less traffic into and out of the narrow right of way, and hence less adverse impact on parking and traffic for the adjoining properties;
- Travel patterns can be influenced by availability of parking and provision of alternative transport modes. The subject site is surrounded by 'No Stopping' and 1P/2P timed and metered parking restrictions, which assists with deterring long-term parking. The subject site is also in close proximity to public transport services, and has convenient access to cycling and car sharing facilities. These arrangements are considered acceptable to accommodate customers/visitors of the retail/commercial components, who have random, short-term and yet more frequent parking demand than residential uses;
- The subject site is serviced by several public car parks, which could also provide support and convenience for staff, customers and visitors;
- Resident parking schemes are operated covering the majority of local streets. Such schemes will remain viable as future tenants and residents of the proposed development will be denied access to these schemes;
- A compliant parking provision would result in extensive excavation due to site constraints and is not desirable in the area.

As such, considering the nature of the development, the existing traffic and transport conditions in the surrounding area, as well as the physical constraints to provide on-site parking that conforms to Council's DCP and AS/NZS 2890.1:2004, the proposed car parking provision is considered acceptable. Conditions have been recommended regarding provision of signage/pavement marking to ensure these parking spaces can only be accessed for residential uses during the on-going operation of the premises.

It is also noted that two (2) accessible parking spaces are proposed for the adaptable units, which complies with BCA's requirements and is deemed satisfactory.

BICYCLE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	Proposed
Residential residents	17 dwellings	1 per dwelling	17	19
Residential visitors	17 dwellings	1 per 10 dwellings	1.7 (2)	
Retail Employees	529m²	1 per 250m²	2.1 (2)	10
Retail Customers	529m²	2 + 1 per 100m² over 100m² GFA	6.3 (6)	
Retail/ Commercial	91m²		2/1	
MOTORBIKE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	
Car Spaces	12	1 per 10 car spaces	1.2 (1)	2
Total required			1	

The proposal includes two (2) motorcycle parking spaces in the basement, 17 bicycle parking spaces in enclosed storage rooms and 12 bicycle parking spaces on the Ground Floor, which is considered satisfactory. Appropriate conditions have been recommended to ensure provision and allocation of vehicle and bicycle parking consistent with the proposal.

Traffic Generation

On-site car parking is restricted to residential uses, and traffic generated at the rear through Elizabeth Place will only relate to residents. Therefore, the net increased traffic for Elizabeth Place and the Right of Way is calculated as being:

- Weekday peak hour vehicle trips = 4.3–6.5 trips
- Daily vehicle trips = 43–65 trips

Elizabeth Place is a local road, which primarily functions as an access way for the residential properties between Elizabeth Street and the cul-de-sac end of Elizabeth Place. The environmental capacity of an access way like Elizabeth Place can accommodate a maximum of 100 vehicles per hour, in accordance with Table 4.6 of *RMS Guide to Traffic Generating Developments 2002*. The calculated increase of traffic for Elizabeth Street and the ROW is thus considered to not be manageable, subject to traffic conditions and Right of Way alignment. It is understood that the Right of Way alignment is proposed to be retained as approved. With no changes made associated with traffic accessing the rear of the property, such an arrangement is considered acceptable.

Access Driveway, Queuing, Waiting Bay

No changes are proposed to the previously approved mechanical installations including car lift, turntable and traffic signal. Accordingly, the provision and location of the waiting bay is retained. Swept path diagrams for B99 vehicles demonstrate vehicles can enter/leave the car lift in a forward direction while a vehicle is standing in the waiting bay, which is acceptable. The waiting bay should have a minimum length of 6m and must not exceed a maximum grade of 1 in 20 to comply with E1.15 of Council's DCP.

The traffic light system should give traffic entering the car lift and vehicles in the Right of Way priority to minimise disruption to vehicle and pedestrian flows along the Right of Way, as detailed at **Condition C.15**.

Loading Bay & Access to Elizabeth Place

It is envisaged that the proposed development will require frequent deliveries to and from the site. No designated loading bay is provided on-site. Given the site constraints, it is required that all delivery vehicles use the nearby loading zones along Oxford Street frontage and access to Elizabeth Place is restricted to occupants of the residential component of the development, with the exception of emergency vehicles. Access to Elizabeth Place by vehicles related to other uses, including delivery vehicles, are prohibited, refer to **Condition I.2**.

Conclusion

The proposed amendments to the approved development are considered acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

15.3 Chapter E2: Stormwater and Flood Risk Management

Since the alignment of the existing Council's stormwater pipe cannot be located, Council's Drainage Engineer has requested that the existing Council drainage pipe that traverses the development site be replaced. The pipe shall be relocated to the proposed access way so that any future access into the Council's pipeline would not be compromised due to obstruction by the proposed building structures.

It is required that the proposed basement and structures on the proposed ground floor must be built clear of this new 2-metre wide drainage easement. A minimum 3-metre head clearance shall be provided between the ground levels and the underside of the first floor level.

Condition A.3 has been imposed deferring commencement of the consent subject to provision of a peg out document showing the exact location of the existing Council pipeline, and the submission of concept engineering design showing the realignment and replacement of the existing Council stormwater pipeline and connection to the existing in-ground drainage system in Elizabeth Place. Refer to **Condition A.3**.

15.4 Chapter E3: Tree Management

Site Trees

Removal of Trees T3 and T4 are supported subject to appropriate replacement planting, with a species that will attain a mature height of similar dimensions within the proposed deep soil area of the development. Refer to **Conditions A.8** and **E.9**.

Neighbouring Trees

The proposed works are acceptable with regard to potential impacts on trees in neighbouring properties. The canopy for Tree T8 overhangs the subject site and could be affected during alterations to the rear of the terrace at 440 Oxford Street. **Condition B.5** has been recommended requiring a pruning specification be submitted to Council for approval prior to issuing of a Construction Certificate.

The proposal is generally acceptable with regard to Chapter E3, subject to conditions.

15.5 Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

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

Part E5.2: Demolition and Construction Phase

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

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

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

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

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

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

Part E5.6: Commercial and Non-Residential Developments

The proposal is acceptable with regard to Part E5.6 of the Woollahra DCP 2015, subject to conditions.

Part E5.7: Mixed Use Developments

The proposal provides separated waste and recycling storage areas for the residential and commercial components of the development.

The proposal is acceptable with regard to Part E5.7 of the Woollahra DCP 2015, subject to conditions.

15.6 Chapter E6: Sustainability

The proposal includes new rooftop photovoltaic panels to the rear roof of the existing terrace dwellings fronting Oxford Street. The proposal is inconsistent with Control C1 (d) as the panels are proposed to affix the roof plane of the principal building form.

The panels are unlikely to be visible from the public domain due to the rear-sloping nature of the roof form, and due to the relative bulk and scale of Block B. The proposal is therefore consistent with Control C2 and with Objective O1.

The proposed photovoltaic panels are to be installed in line with the roof surface no more than 300mm above and parallel to the roof surface. The solar panels must not exceed thickness of 35mm. Refer to **Condition C.1 (c)**.

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

16 SECTION 7.11 AND 7.12 CONTRIBUTION PLANS

16.1 Section 7.12 Contributions Plan 2011

In accordance with Schedule 1, 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2011. Refer to **Condition C.2**.

Cost of Works	Rate	Contribution Payable
\$1,086,061	1%	\$10,860.61

17 APPLICABLE ACTS/REGULATIONS

17.1 Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to **Condition E.2**.

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.

Building upgrade is required in **Condition C.4** and annual fire safety statements are required to be submitted as detailed in **Condition I.7**.

18 THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

19 THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

20 THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

21 CONCLUSION

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

22 DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the *Height of Buildings* and *Floor Space Ratio* development standards under Clause 4.3 and 4.4 of Woollahra LEP 2014. The Panel assumes the concurrence of the Secretary, Department of Planning 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. 554/2021/1 for alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA) on land at 432 - 440 Oxford 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 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2 (Autotext AA2)

A.3 Deferred Commencement - (section 4.16(3) of the Act, clause 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:

- a) The submission of a peg out document prepared by a public utility services locator showing the exact location of the existing Council's pipeline.
- b) The submission of concept engineering design showing the realignment and replacement of the existing Council's stormwater pipeline and connected to the existing in-ground drainage system in Elizabeth Place. The new stormwater pip shall be Class 4, RRJ 525mm diameter steel reinforced concrete pipe.

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 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)
TL237-01F02 Acoustic Report for DA (r3)	Acoustic Report	Renzo Tonin & Associates	28/10/2021
DA11 Rev A	Site Roof Plan	MHN Design Union	03/11/2021
DA20 Rev A	Basement Floor Plan		27/10/2021
DA21 Rev A	Ground Floor Plan		27/10/2021
DA22 Rev A	Level 1 Floor Plan		27/10/2021
DA23 Rev A	Level 2 Floor Plan		27/10/2021
DA30 Rev A	Elevation North & South		27/10/2021
DA31 Rev A	Elevation East & West		27/10/2021
DA32 Rev A	Elevation North & South Courtyard		27/10/2021
DA33 Rev A	Detailed Elevation Oxford Street		18/10/2021
DA40 Rev A	Section A & Section B		18/10/2021
DA90 Rev A	Driveway Profile & Sewer Location		18/10/2021
DA54, DA55	Waste MGMT Plans		18/10/2021
1234333M	BASIX Certificate	NSW Department of Planning and Environment	05/11/2021
P19520.G20	Geotechnical Opinion	EI Australia	14/10/2021
LA-001 – 004 Rev C	Landscape Plan	Jane Irwin Landscape Architecture	12/11/2021
202043-C107-P2	Stormwater Management Plan	TTW	01/11/2021
202043 CAAA	Civil Engineering Report	TTW	29/10/2021
21598	Traffic and Parking Assessment Report	Varga Traffic Planning Ptd Ltd	25/11/2021
	Site Waste Minimisation and Management Plan	A. Hampton	22/06/2020

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A5 (Autotext AA5)

A.5 Relationship with Development Consent to DA 369/2017/1

Development consent No. 274/2020/1 shall be modified by the works approved under this consent pursuant to Section 4.17(1)(b) of the *Environmental Planning and Assessment Act 1979*. Further, the works under DA554/2021/1 and DA 274/2020/1 are to be undertaken concurrently.

The provisions of Clause 97 of the Environmental Planning and Assessment Regulation 2000 are to be met prior to an Occupation Certificate being issued.

This condition has been imposed to ensure the development, as constructed, will be consistent with this application.

A.6 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.
Standard Condition: A8 (Autotext AA8)

A.7 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to the following:

- The demolition of the existing western side boundary fence including the existing masonry fence adjacent to No.430 Oxford Street;
- New commercial, business, retail or food and drink premises uses within the site;
- The planting of plants on any land outside the Site.

A.8 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
T3	Eriobotrya japonica	South-eastern boundary	8m x 6m
T4	Corymbia citriodora	South-eastern boundary	8m x 3m

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.
Note: reference shall be made to the Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services dated March 2020 for tree numbers and locations.

A.9 Retail/commercial uses (separate development application)

Separate development applications must be submitted and approved for the first retail/commercial uses, including the hours of operation of each tenancy.

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

B.1 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the *Act*.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1 (Autotext BB1)

B.2 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the NSW Department of Environment & Climate Change: Construction Noise Guideline be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the NSW Department of Environment & Climate Change: Construction Noise Guideline which sets out management levels for noise at residences and other sensitive land uses.

B.3 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.
Standard Condition: B6

B.4 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

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	TPZ Radius from Centre of Trunk (Metres)
T5	Melia azedarach	444 Oxford Street	7m
T6	Corymbia citriodora	444 Oxford Street	9m
T8	Corymbia citriodora	444 Oxford Street	9.8m

Note: reference shall be made to the Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services dated March 2020 for tree numbers and locations.

- b) No 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.
- c) Care shall be taken when operating heavy machinery, erecting scaffolding and undertaking construction activities within the canopy dripline of any tree to be retained. Branches must not be damaged or pruned unless written approval is granted by Council.

- d) 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.
- e) The project arborist shall provide written certification of compliance with the above condition.

B.6 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
T8	Corymbia citriodora	9.8m	Building construction under Arborist supervision

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;
- 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.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; 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
Tree Pruning	Certification works completed in accordance with approved pruning specification
Construction works within canopy dripline of T8	Certification of any machinery operations, scaffolding erected
Prior to the issue of a Final Occupation Certificate	Certification of tree protection measures implement for entirety of construction works

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.

B.9 Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).
Standard Condition: B8

B.10 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

A full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- a) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Note: Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf

Standard Condition: B2 (Autotext BB2)

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

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

a) Deep Soil Landscaping

The proposal must be amended to include a minimum of 114.6m² of deep soil landscaped area with minimum dimension of 6.0m as per the Apartment Design Guide. This condition is imposed in order to comply with:

- Apartment Design Guide, Part 3E, Design Criteria 1

b) Air Conditioning Condensers

The proposed new air conditioning condensers on the Tenancy 5 rooftop and on the balconies of apartments B1–B7 are unacceptable and must be deleted from the plans. The parapet height increase above Tenancy 5 proposed to screen the condensers must also be deleted from the plans.

This Condition is imposed in order to comply with:

- Woollahra DCP 2015, Chapter C1, Clause C1.5.11, Objectives O3, O4, Controls C2, C3

c) Solar Panels – Block A

To protect the character and appearance of the Paddington Heritage Conservation Area the proposed photovoltaic panels to the existing terrace roofing must be installed in line with the roof surface or no more than 300mm above and parallel to the roof surface. The solar panels must not exceed a thickness of 35mm.

This Condition is imposed in order to comply with:

- Woollahra DCP 2015, Chapter E6.3, Objective O1, Controls C1, C2

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$30,216	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$66,350	No	T113
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$10,860.61 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$494	No	
Local Government Act Activity Applications (Other than where a specific fee is provided) (S68 Fee)	\$180 plus an assessment charge of \$180 per hour or part of an hour	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$108,482.61 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.1234333M with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".
Standard Condition: C7

C.4 Building Upgrade (Clause 94 of the Regulation)

Council considers, pursuant to clause 94 of the Regulation, that it is appropriate to require the existing building to be brought into total 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.

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 required by this condition.

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

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

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

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

C.5 Submission of a Plan of Management (POM)

Prior to the issue of a Construction Certificate a Plan of Management in accordance with Council's DA Guide is to be submitted and approved by Council. This Plan of Management is to include and is not limited to the following:

- Waste Management
- Waste Collection for retail / commercial uses from Oxford Street only
- Waste Collection for residential uses from the rear of the site only. The Plan must demonstrate that there is sufficient space for Council's waste collection vehicle to access and utilise the waiting bay
- Access to the communal open space
- The restriction of access through the site via Elizabeth Place
- Operation and maintenance of the waiting bay, turning bay, car lift and turntable

- Deliveries (No deliveries are to be provided from the rear of the site)
- Vehicular access to the rear of the site (No visitor cars or motorcycles shall use the car lift or park on the site)
- Flood Management

C.6 Road and Public Domain Works

Prior to issue of any Construction Certificate, a separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works. Detailed design drawings prepared by a suitably qualified and experienced civil engineer for the infrastructure works must be carried out at the applicant's expense:

1. Drainage Works

- a) The reconstruction of the existing kerb inlet pit in Elizabeth Place. The new inlet pit must be designed to sustain T44 loading with Class D type grate. All works shall be carried out in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.
- b) The existing 300mm Council's drainage pipe that traverses the development site shall be replaced with a Class 4, 525mm RRJ Steel Reinforced Concrete pipe and connected to the existing Council's in-ground drainage system in Elizabeth Place. Minimum two new inlet pits are to be provided at both ends of the new pipe. Full engineering design drawings including longitudinal sections of the proposed pipelines shall be prepared in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Drainage and Assets Engineers. The longitudinal sections shall include both existing and finished ground levels, depth of cut/fill, chainage point, HGL, gradients representing in percentage, proposed pipe invert levels and size.
- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

2. Bonds

- a) A bond of \$66,350 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.7 Waste Storage – Mixed Developments (both commercial and residential)

The *Construction Certificate* plans and specifications required by Clause 139 of the Regulation, must include detailed plans and specifications must make provision for:

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building,
 - b) Two separate centralised waste and recycling rooms or areas, one for commercial waste and one for residential waste. They must be self-contained and have separate keys and locking systems.
 - c) The path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8. The waste storage area must be as close as possible to the service road collection point.
 - d) Bins to be stored with lids down to prevent vermin from entering the waste containers.
 - e) Smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
 - f) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
 - g) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
 - h) Odour problems must be minimised by exhaust ventilation.
 - i) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
 - j) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.
- Standard Condition: C18

C.8 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.9 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.10 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) "*Managing Urban Stormwater - Soils and Construction*" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

Standard Condition: C25

C.11 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35 (Autotext CC35)

C.12 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.13 Geotechnical and Hydrogeological Design, Certification and Monitoring

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must be accompanied by a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).

- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.14 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act 1993*.

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Standard Condition: C41 (Autotext: CC41)

C.15 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 AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2018 - *Off-Street Parking: Commercial Vehicle Facilities* respectively.

The plans must satisfy the following requirement(s):

- a) The proposed 12 car parking spaces be clearly marked and designated for residential uses and these designated car parking spaces shall be shown on the Architectural Plans and Construction Certificate plans;
- b) A total of 29 bicycle parking spaces shall be provided, comprising 19 residential and 10 retail/commercial bicycle parking spaces. A maximum of 17 spaces in the basement car park and a minimum of 12 spaces at Ground level and shall be provided with only resident bicycles permitted in the basement car park. All bicycle parking spaces shall be clearly marked and designated for these uses. The designated bicycle parking spaces shall be clearly shown on the revised Architectural plans;
- c) A traffic signal system be incorporated into the proposed carpark and car lift to facilitate flow between the ground floor and basement level to regulate traffic and ensure safe manoeuvring. The traffic light system should give traffic entering the car lift and vehicles in the right of way priority to minimise the disruption to vehicle and pedestrian flows along the right of carriageway.
- d) The car lift specifications shall be clearly identified on the plans to include, inter alia, a minimum travel speed of 0.3 metres/second, door opening / closing time of 5 seconds or less, car lift shaft space of 3.4m wide by 5.95m long, travel depth of 4.5m, a pit of 0.95m depth to fit the hoist when fully lowered and a headroom of 2.8m.
- e) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS/NZS 2890.1:2004;
- f) No visitor cars or motorcycles shall use the car lift or park on the site.

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.16 Relocation or reconstruction of Council's stormwater drainage system

Prior to issue of any Construction Certificate, a separate application under Section 68 of the Local Government Act 1993 is to be made to and be approved by Council for the following works. The works must be carried out at the applicant's expense:

- a) The existing 300mm Council's drainage pipe that traverses the development site shall be realigned and replaced with Class 4, 525mm RRJ Steel Reinforced Concrete Pipe. The pipe shall be relocated to the proposed access way. Minimum two new inlet pits are to be provided at both ends of the new pipe. The approximate length of the new pipe required to be installed is 35m. Full engineering design drawings including longitudinal sections of the proposed pipelines shall be prepared in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Drainage and Assets Engineers. The longitudinal sections shall include both existing and finished ground levels, depth of cut/fill, chainage point, HGL, gradients representing in percentage, proposed pipe invert levels and size.

The developer must meet all costs of relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development. All engineering drawings (plan, sections and elevation views) and specifications of the new stormwater drainage system to be constructed are to be prepared by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

Note: Four weeks should be allowed for assessment.

The design and construction of the works must be in accordance with Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and "Specification for Road Works, Drainage and Miscellaneous Works" which include Council's Standard Drawings. Both documents are available from Council's website <http://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.
Standard Condition: C.48 (Autotext CC48)

C.17 Stormwater Management Plan

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by ITM Design P/L, referenced 19/135, dated 02/09/2020 other than amended by this and other conditions;
- b) All underground structures are to be fully tanked;
- c) The installation of minimum 3.6m³ pumpout system;
- d) Compliance with the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP with regard to the installation of stormwater treatment system as specified in the stormwater plans;
- e) Compliance the objectives and performance requirements of the BCA;
- f) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

OSR Requirements

The minimum (OSD) Site Storage Requirements ("SSR") and the Peak Site Discharge ("PSD") from the site must be 40.9m³ and 55.6l/s.

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.

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

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.18 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing the following:

- a. The provision of a storage/inlet area with minimum storage capacity of 9m³ is to be created and connected to Council's drainage system in Elizabeth Street via a 225mm diameter pipe;
- b. The development drainage is to be directed to a 40kL rainwater reuse tank which is to be connected to toilet flushing to all units, automatic garden watering and automatic pool top up.
- c. The existing 300mm Council drainage pipe that traverses the development site shall be replaced with a 525mm RRJ Concrete pipe. The applicant shall provide Council with plans indicating the location of the proposed pipeline before construction commences. The plans are to include details of the proposed easement completed by a registered surveyor. The Easement shall be a minimum 2m wide;
- d. A full post construction CCTV survey of the new pipe system and its connection to Council's existing system is to be provided to Council;
- e. Evidence for the registration of a new drainage easement shall be provided to Council.
- f. All below ground construction is to be fully tanked.
- g. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark;

- h. Permanent flood risk management plans shall be installed areas frequented by the all the residents;
- i. The pedestrian access through the centre of the building shall be at or above the flood planning level of RL64.13m AHD;
- j. The access to the stairwell near the plant room shall be constructed at a flood planning level at or above RL64.35m AHD;
- k. The plant access room shall be constructed at or above a flood planning level (FPL) of RL64.23m AHD and all fixed electrical equipment (air conditioners shall be at or above RL62.7m AHD;
- l. All fences and walls are to be designed to be structurally stable during all flood events up to the probable maximum flood (PMF);
- m. Flood compatible materials shall be used for all flood exposed construction;
- n. All electrical wiring and fixed electrical equipment shall be located above or waterproofed to the flood planning level (FPL);
- o. The car parking area shall be protected by a mechanical flood barrier with the threshold set to the flood planning level (FPL) of RL64.3m AHD;
- p. All habitual floors shall be above or protected from flooding to the flood planning level (FPL) of RL64.3m AHD;
- q. Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation;
- r. Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) are to be installed in the car parking area.
- s. 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.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: *Off-street car parking*. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

C.19 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power
Standard Condition: C57 (Autotext CC57)

C.20 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.21 Ventilation – Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement garage 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 basement garage must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement garage and provide details to the *Certifying Authority* accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the basement garage shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.22 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.23 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 ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).

2. Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Standard Condition: C62

C.24 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 Acoustic Report, prepared by Renzo Tonin & Associates will be implemented.

Design sound levels for building interiors should not exceed those recommended maximum design sound levels, L_{Aeq} , 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.25 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 Water's sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

Standard Condition: C20 (Autotext CC20)

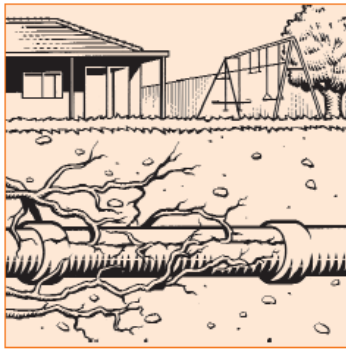
C.26 Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System

A Compliance Certificate must be obtained from Sydney Water under section 73 of the *Sydney Water Act 1994*. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains.

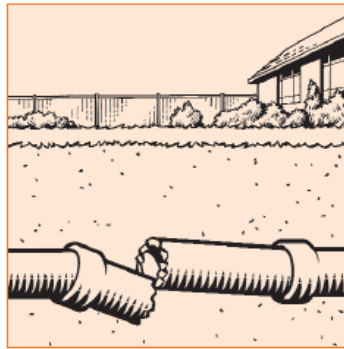
Note: Sydney Water will assess the development and if required will issue a 'Notice of Requirements' letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Please make early contact with Sydney Water or a WSC, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Note: For more information go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

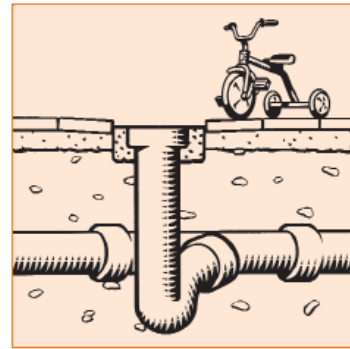
The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be sewer grade UPVC or copper with continuously welded joints.



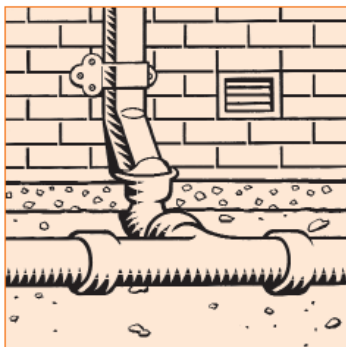
Cracked pipes



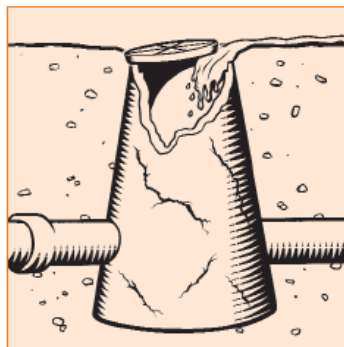
Broken pipes



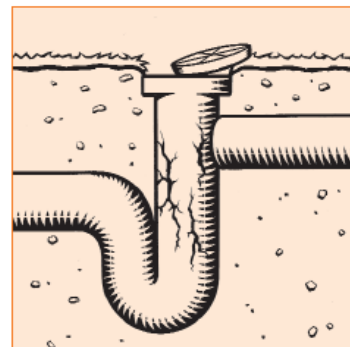
Damaged or low-lying gullies



Direct stormwater connections



Hidden or damaged maintenance holes



Hidden or damaged inspection points

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 systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.
Standard Condition: C22 (Autotext CC22)

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

D.2 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

Nos. 10, 11, 15, 17, 19, 21 and 23 Elizabeth Street

No. 442 Oxford Street

No. 22 George Street

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. A copy of the reports shall be forward 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.3 Dilapidation Reports for Public Infrastructure before Works

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a professional engineer, on Council’s infrastructure within and near the development site.

The dilapidation report must be submitted to Council as the assets owner prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of the public stormwater drainage systems fronting, adjoining and/or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work.

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 Principal Contractor fails to submit the dilapidation 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: D5 (Autotext DD5)

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*.
Standard Condition: D6 (Autotext DD6)

D.5 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must 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.6 Construction Traffic Management Plan

As a result of the site constraints, limited space and access a Construction Traffic Management Plan (CTMP) 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 CTMP by Council's Traffic Engineer and pay all fees associated with the application.

The CTMP 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.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work 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.7 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

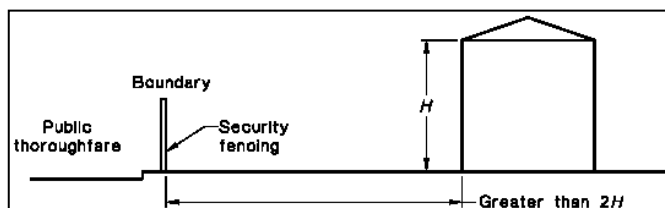
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

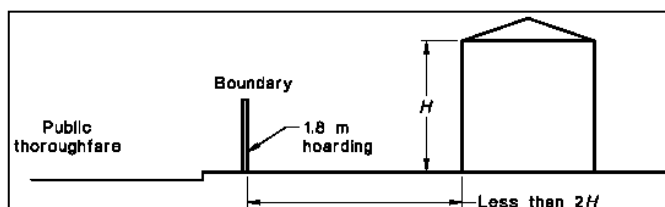
D.8 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Type A Hoarding

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.



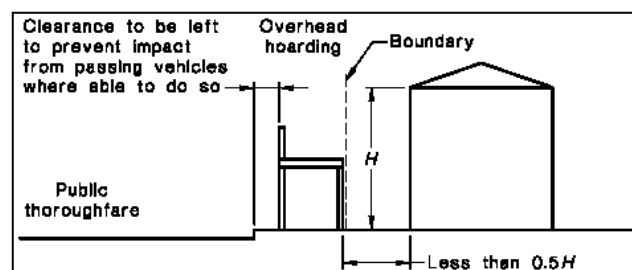
Type B Hoarding

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

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW *Code of Practice - Overhead Protective Structures 1995*. This is code available at www.safework.nsw.gov.au/_data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Hoardings on Public Land including 'Creative Hoardings'

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council's Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
 - B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
 - C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).
- Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding".
- The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.
- Standard Condition: D11 (Autotext DD11)

D.9 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

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

Clause 227A of the *Regulation* provides:

Signs on development sites

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

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

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

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.
Standard Condition: D12 (Autotext DD12)

D.10 Toilet Facilities

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

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

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

In this condition:

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

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

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

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

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

D.11 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

D.12 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council’s website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.
Standard Condition: D15 (Autotext DD15)

D.13 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.

- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.
- Standard Condition: D17 (Autotext DD17)

D.14 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

- a) the boundaries of the site by permanent marks (including permanent recovery points),
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establishes a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the Principal Certifier.

Note: Where the Principal Contractor or Owner-builder notes any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the Principal Contractor or Owner-builder should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

Standard Condition: D18 (Autotext DD18)

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),

- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.3 Compliance with Construction Traffic Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CTMP), approved pursuant to Condition D.6. All controls in the CTMP 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 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Standard Condition: E4 (Autotext EE4)

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.
Standard Condition: E5 (Autotext EE5)

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 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.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.

Standard Condition: E7 (Autotext EE7)

E.8 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.9 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)
Angophora costata	Court yard adjacent to southern side of tenancy 4	200L	16m x 8m
Banksia integrifolia	Eastern boundary	200L	8m x 5m
Elaeocarpus eumundii	Eastern boundary	200L	8m x 4m

The project arborist shall document compliance with the above condition.

E.10 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Corymbia citriodora</i> (Lemon-scented Gum)	444 Oxford Street	10

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.11 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,
- dust controls,
- dewatering discharges,
- noise controls,
- vibration monitoring and controls,
- ablutions.

Standard Condition: E11

E.12 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12 (Autotext EE12)

E.13 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows:
“**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13 (Autotext EE13)

E.14 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. "*building* includes part of a building and any structure or part of a structure...."

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.
Standard Condition: E14 (Autotext EE14)

E.15 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) "*Managing Urban Stormwater - Soils and Construction*" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.16 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.17 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:

Illegal waste dumping - www.epa.nsw.gov.au/your-environment/litter-and-illegal-dumping/illegal-dumping-laws-penalties

Is that fill legal? www.epa.nsw.gov.au/your-environment/litter-and-illegal-dumping/prevent-illegal-dumping/accepting-fill

Standard Condition: E18 (Autotext EE18)

E.18 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19 (Autotext EE19)

E.19 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.

- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

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

Standard Condition: E20 (Autotext EE20)

E.20 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21 (Autotext EE21)

E.21 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

E.22 Dust Mitigation

Dust mitigation must be implemented in accordance with "*Dust Control - Do it right on site*" published by the Southern Sydney Regional Organisation of Councils. This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: "*Dust Control - Do it right on site*" can be down loaded free of charge from Council's web site www.woollahra.nsw.gov.au or obtained from Council's office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific condition and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23

E.23 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within roads and other public places.

Note: A copy of Council's *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council's website www.woollahra.nsw.gov.au

Standard Condition: E24 (Autotext EE24)

E.24 Existing Drainage Easement, Drainage Reserve or Stormwater Drainage System Benefiting Council

Council's stormwater system passes through the site. No building or other structure must be placed over the drainage easement and/or stormwater system or within the zone of influence taken from the invert of any pipe.

The Principal Contractor or Owner-builder must locate all stormwater drainage systems without causing any damage to the public system and ensure its protection. The Owner, Principal Contractor or Owner-builder must not obstruct or otherwise remove, disconnect or render inoperable the stormwater drainage system.

Works such as fences must not obstruct the natural floodway or alter the natural floodway in such a way as to direct or concentrate stormwater on to neighbouring properties.

Where the relocation or reconstruction of Council's drainage system is approved then 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 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: The *Local Government Act 1993* provides:

"59A Ownership of water supply, sewerage and stormwater drainage works

- a. Subject to this Division, a council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by the council (whether or not the land is owned by the council).

- b. A council may operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed."
- Standard Condition: E27 (Autotext EE27)

E.25 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly 'signpost' the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31 (Autotext EE31)

E.26 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,

- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
 - i) minimise site disturbance and limit unnecessary excavation,
 - j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
 - k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.
- Standard Condition: E32 (Autotext EE32)

E.27 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public
Standard Condition: E39

E.28 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.
Standard Condition: E40

E.29 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.
Standard Condition: E41

E.30 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.31 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

F.2 Fire Safety Certificates

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

- a) to commence occupation or use of a *new building*, or
 - b) to commence a change of building use for an existing building,
- a certifying authority must be satisfied that a *final fire safety* certificate has been issued for the building.

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

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

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

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

Note: In this condition:

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

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

new building has the same meaning as it has in section 6.1 of the *Act*.

Standard Condition: F4 (Autotext FF4)

F.3 Bin 'Carry Out' Service

Prior to the issue of an Occupation Certificate the person operating this consent shall make an application to Council's Waste Service Department for a bin 'Carry Out' service. This condition has been applied to minimise impacts associated with the collection of waste from the subject site.

Note: Council's bin carry out service is subject to an annual fee determined by Council's Waste Services Department.

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.
Standard Condition: F6 (Autotext FF6)

F.5 Street Numbering

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

Note: Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.
Standard Condition: F11 (Autotext FF11)

F.6 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.
Standard Condition: F12 (Autotext FF12)

F.7 New Waste Services

No Occupation Certificate must be issued until the Owner/developer has procured the provision of required wastes services including purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved Waste Management Plan.

Standard Condition: F19 (Autotext FF19)

F.8 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as executed is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

Standard Condition: F7 (Autotext FF7)

F.9 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)

F.10 New drainage easement (Council drainage infrastructure)

A new deposited plan, including a 2 metres wide drainage easement in Council's favour over the as-built drainage infrastructure, giving Council access rights for personnel and equipment to inspect and maintain and/or replace the drainage pipeline, must be registered at the Land Titles Office, prior to the issue of any Occupation Certificate.

Standard Condition: F14 (Autotext FF14)

F.11 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition C##.

Standard Condition: F22 (Autotext FF22)

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

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 Easement to allow access to the widened right of way

A right of way easement shall be created to the area of the subject site that incorporates the 'widened right of way access' (including the waiting and turning bay and excluding the waste collection area) must be created upon the linen plans burdening the subject site and benefiting all properties currently benefiting from the Right of Carriageway 3.66 metres wide, including the following properties:

- 442 Oxford Street, Paddington
- 444 Oxford Street, Paddington
- 11 Elizabeth Place, Paddington and
- 22 George Street, Paddington.

The linen plans, must be registered at the Land Titles Office, prior to the issue of any Occupation Certificate.

G.2A Easement in favour of Woollahra Municipal Council

An easement in gross pursuant to s88E of the Conveyancing Act 1919, on terms satisfactory to the Council, shall be registered benefiting Woollahra Municipal Council, its servants and agents, for the following:

- for the purposes of entering the right of way referred to in condition G2 above, and performing waste collection services on the right of way,
- for the purposes of enabling the public to access from Oxford Street the courtyard between Block A and Block B within retail trading hours. For the avoidance of doubt, the body corporate of the proposed strata scheme must maintain the access from Oxford Street and the courtyard;

The linen plans, must be registered at the Land Titles Office, prior to the issue of any Occupation Certificate.

G.3 Easement to allow maintenance access for climbing planting to the eastern and western elevation of building B

An easement for support and maintenance must be created upon the linen plans burdening the Site and benefiting the following properties:

- a) No.442 Oxford,
- b) No. 17 Elizabeth Street,
- c) No. 19 Elizabeth Street,
- d) No. 21 Elizabeth Street

The purpose of this easement is to permit the landscape structures on the walls of Building B to be used as support for any plants grown on properties (a) – (d) above, and to permit access to the Site for the maintenance of those plants.

The linen plans, must be registered at the Land Titles Office, prior to the issue of any Occupation Certificate.

G.4 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 the Occupation Certificate for the whole of the building

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No.1234333M.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A *certifying authority* must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7 (Autotext HH7)

H.2 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.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 (Autotext HH12)

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
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13 (Autotext HH13)

H.5 Landscaping

The principal contractor or owner must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

H.6 Dilapidation Report for Public Infrastructure After Works

After completion of all construction works and prior to issue of any Occupation Certificate, the Principal Contractor must submit for approval by Council's Assets Engineer, a follow up dilapidation report. The report must be prepared by a professional engineer on Council's infrastructure within and near the development site to Council upon completion of the work.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged and/or defective public infrastructure. All identified damaged and/or defective public infrastructure must be rectified, at no costs to Council, to the satisfaction of Council's Assets Engineer.

The Occupation Certificate must not be issued until Council's Asset Engineer is satisfied that all required restoration works have been satisfactorily completed and the Principal Certifying Authority has been provided with written correspondence from Council's Asset Engineer attesting that this condition has been satisfied.

Note: If the Principal Contractor fails to submit the dilapidation 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: H14 (AutotextHH14)

H.7 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work and prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor shall be submitted for approval by the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) that stormwater quality system have been constructed in accordance with the approved stormwater plans,
- c) the structural adequacy of OSD tank, rainwater tank and pumpout system,
- d) that the works have been constructed in accordance with the approved design and will provide the detention and retention storage volume in accordance with the approved stormwater plans,
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) 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.

- g) 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 at the Land Titles Office.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

H.8 Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems (Special Condition)

On completion of construction work, mechanical parking installations 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 mechanical parking installation including turntable, car lift and traffic light system;
- b) That the works have been constructed in accordance with the approved design;
- c) A positive covenant pursuant to Section 88E of the *Conveyancing Act* 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

Note: 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.9 Positive Covenant for Mechanical Parking Installation

On completion of construction work, mechanical parking installations 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 mechanical parking installation including vehicle turntables and car lift.
- b) That the works have been constructed in accordance with the approved design.
- c) Binding the owners and future owners to be responsible for ongoing maintenance required in terms of the mechanical parking installations.

H.10 Covenant for Private Works on Council Property

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 the on-going maintenance of any private structures on or over Council property for which consent has been given, such as steps, retaining walls, access ways, overhang, balconies, awnings, signs and the like.

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 prior to the issuance of any Occupation Certificate.

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 Occupation Certificate.

Note: No Occupation Certificate must be issued until this condition has been satisfied.
Standard Condition: H19 (Autotext HH19)

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

I.1 Hours of Use

The hours of the commercial uses are limited to the following:

- a) Monday to Wednesday & Friday: **9am – 6pm**
- b) Thursday: **9am – 9pm**
- c) Saturday: **9am – 6pm**
- d) Sunday and Public Holiday: **10am – 5pm**

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: Deliveries to or dispatches from the site must not be made outside these hours. Trading hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1 (Autotext: II1)

I.2 Loading & Deliveries

All loading and deliveries to the commercial uses shall be between the following hours:

Monday to Saturday: 9am – 6pm

All deliveries to the site shall be made via Oxford Street.

I.3 Communal Courtyard

The residents of the building shall have exclusive uses of the communal courtyard outside of retail trading hours.

I.4 Bin 'Carry Out' Service

To facilitate the bin 'carry out' service the occupiers of the development shall ensure the residential bins are transferred to the waste collection area located to the rear of 'Building B' adjacent to the rear boundary, by 5am on collection day until such time that the bins are serviced.

I.5 Garbage Collection

The garbage area must be maintained at all times to ensure that a breeding ground is not created for pests and must be capable of being easily and effectively cleaned.

All garbage containers must have tight fitting lids and be large enough or in sufficient numbers to contain all the waste produced by the business while awaiting the next removal from the premises.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Standard Condition: I16 (Autotext: II16)

I.6 Waste Management

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 in accordance with the approved SWMMP.

To minimise potential conflicts between residential waste and the vehicular waiting bay, residential bins shall be presented to the bin collection area no earlier than 6pm the evening prior to collection and shall be removed from the collection area within 3 hours of being serviced.

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.
Standard Condition: I32

I.7 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: I35

I.8 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1234333M.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

I.9 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:1993 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car Parking (Resident Only)	12
Bicycle Parking (Residential)	19
Bicycle Parking (Retail)	10
Motorcycle Parking	2

No visitor cars or motorcycles shall use the car lift or park on the site.

This condition has been imposed to ensure adequate on-site parking is maintained.
Standard Condition: I21

I.10 No On-Site Car or Motorcycle Visitor Parking

No residential / retail or commercial visitors are to park cars or motorcycles on-site.

I.11 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.12 On-going Maintenance of the Mechanical Parking Installation Systems;

The Owner(s) must in accordance with this condition and any positive covenant:

- a) Keep the systems clean and free of rubbish and debris;
- b) 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;
- c) Carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;
- d) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- e) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- f) 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;
- g) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- h) 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 systems and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of maintenance requirements for their mechanical systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

I.13 Operation in Accordance with Traffic Management Plan (Special Condition)

- a) The operation and management of the premises shall be in accordance with the approved TMP;
 - b) The TMP cannot be altered without the written consent of Council.
- Standard Condition: I15 (Autotext: I115)

I.14 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I56

I.15 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *acoustic report*.

Standard Condition: I57

I.16 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671, dated December 2004.

Standard Condition: I59

I.17 Outdoor lighting – Residential

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

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.

Standard Condition: I49

I.18 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 luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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 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: I50

I.19 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 luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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: I51

I.20 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.
Standard Condition: I25

I.21 Ongoing Maintenance of the On-Site-Detention System

The owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain.
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- e) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- g) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- i) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

J. Miscellaneous Conditions

Nil

K. Advising

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

K.3 NSW Police Service and Road Closures

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

Warning: If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Note: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov.au or ph 9369 9899.
Standard Advising: K4 (Autotext KK4)

K.4 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website
www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating
Standard Condition: K5 (Autotext KK5)

K.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 www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.
Standard Condition: K6 (Autotext KK6)

K.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 www.safework.nsw.gov.au or call 131 050.
Standard Condition: K7 (Autotext KK7)

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 www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050.
Standard Advising: K8 (Autotext KK8)

K.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.

Standard Advising: K9 (Autotext KK9)

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 www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.
Standard Advising: K10 (Autotext KK10)

K.10 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr S Grevler-Sacks, Assessment Officer, on (02) 9391 7150.

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

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.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

www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

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.

Standard Condition: K17 (Autotext KK17)

K.13 Pruning or Removing a Tree Growing on Private Property

- a) A 'Pruning Specification' for Tree 8 – Lemon Scent Gum located within 444 Oxford Street, prepared by a qualified Arborist (minimum AQF Level 5) must be submitted to and approved by Council's Tree Management team prior to the issuing of the Construction Certificate. The report must include:
 - i. Number of branches and orientation, branch diameter, percentage of canopy to be pruned/removed.

- ii. Photos with individual branches which are recommended for pruning/removal to be clearly marked. (Please note reports which include photos with a single vertical line as the area recommended for pruning will not be accepted).
- iii. A maximum of 5% canopy removal and maximum of 100mm diameter branches will be permitted by Council.
- iv. Pruning work must be specified in accordance with *Australian Standard 4373–2007, Pruning of Amenity Trees*.
- v. Tree removal must not be recommended in this report.
- b) All approved tree pruning works must be carried out by a qualified Arborist, with a minimum Level 3 AQF in arboriculture and in accordance with WorkCover's Code of Practice – Amenity Tree Industry.
- c) Any pruning works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning, which result in the overall shape of the tree becoming unbalanced and/or unstable.
- d) Written consent from the owner of the tree must be provided to Council prior to the issuing of the Construction Certificate.
- e) This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. All tree works must be undertaken from within the subject property unless consent from the neighbour is obtained to enter their property.

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 request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.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 below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

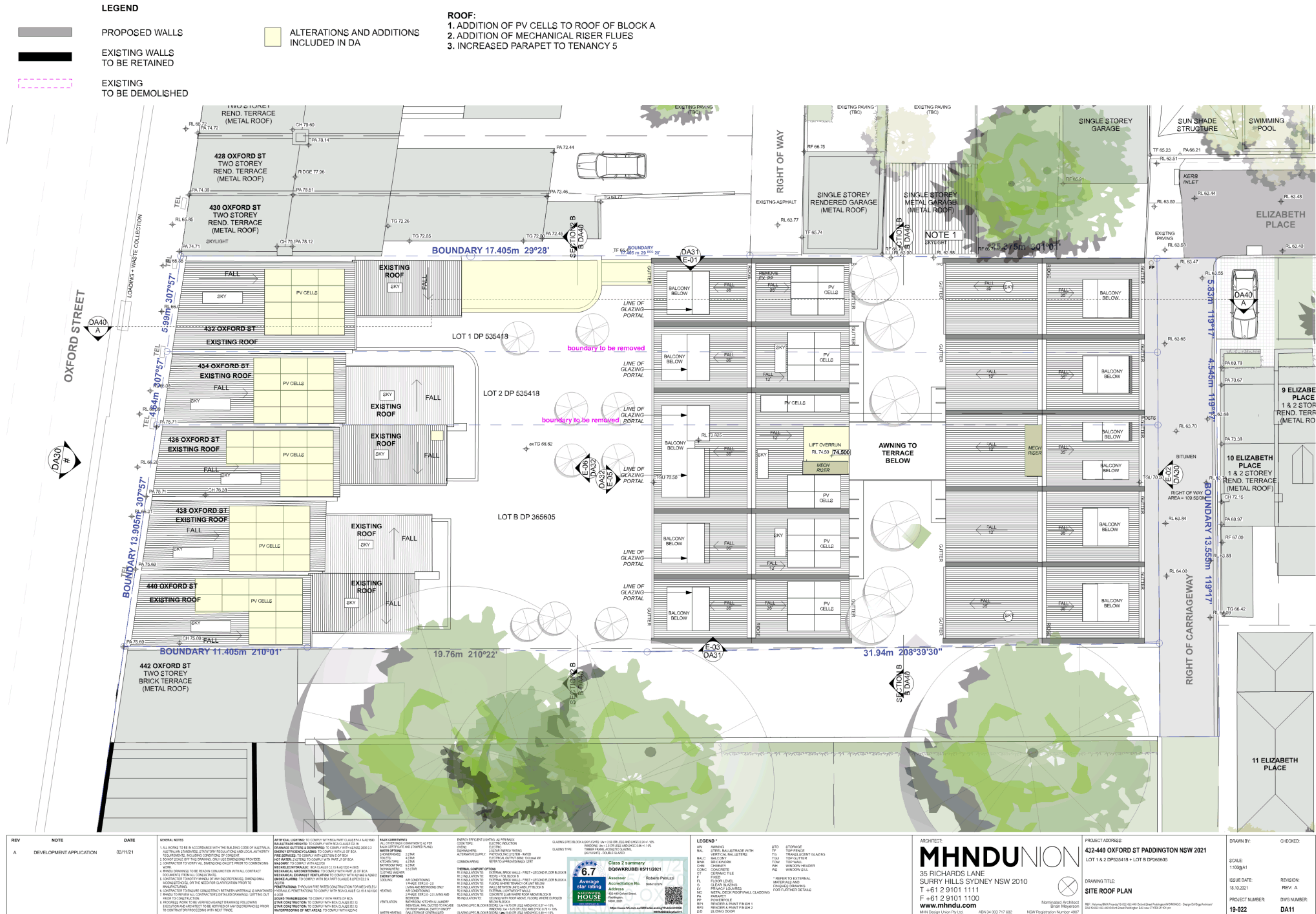
Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

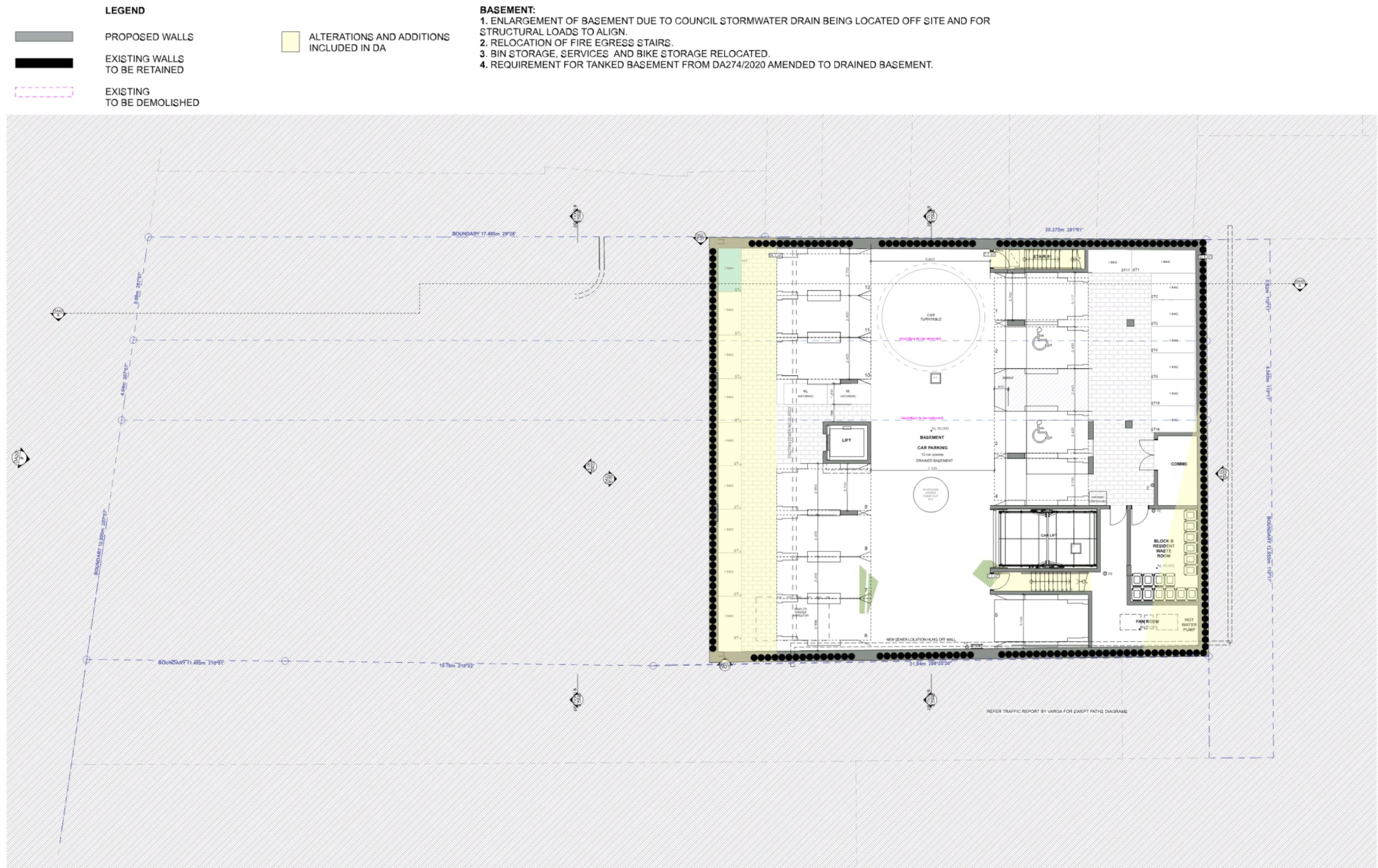
Note: *road* has the same meaning as in the *Roads Act 1993*.

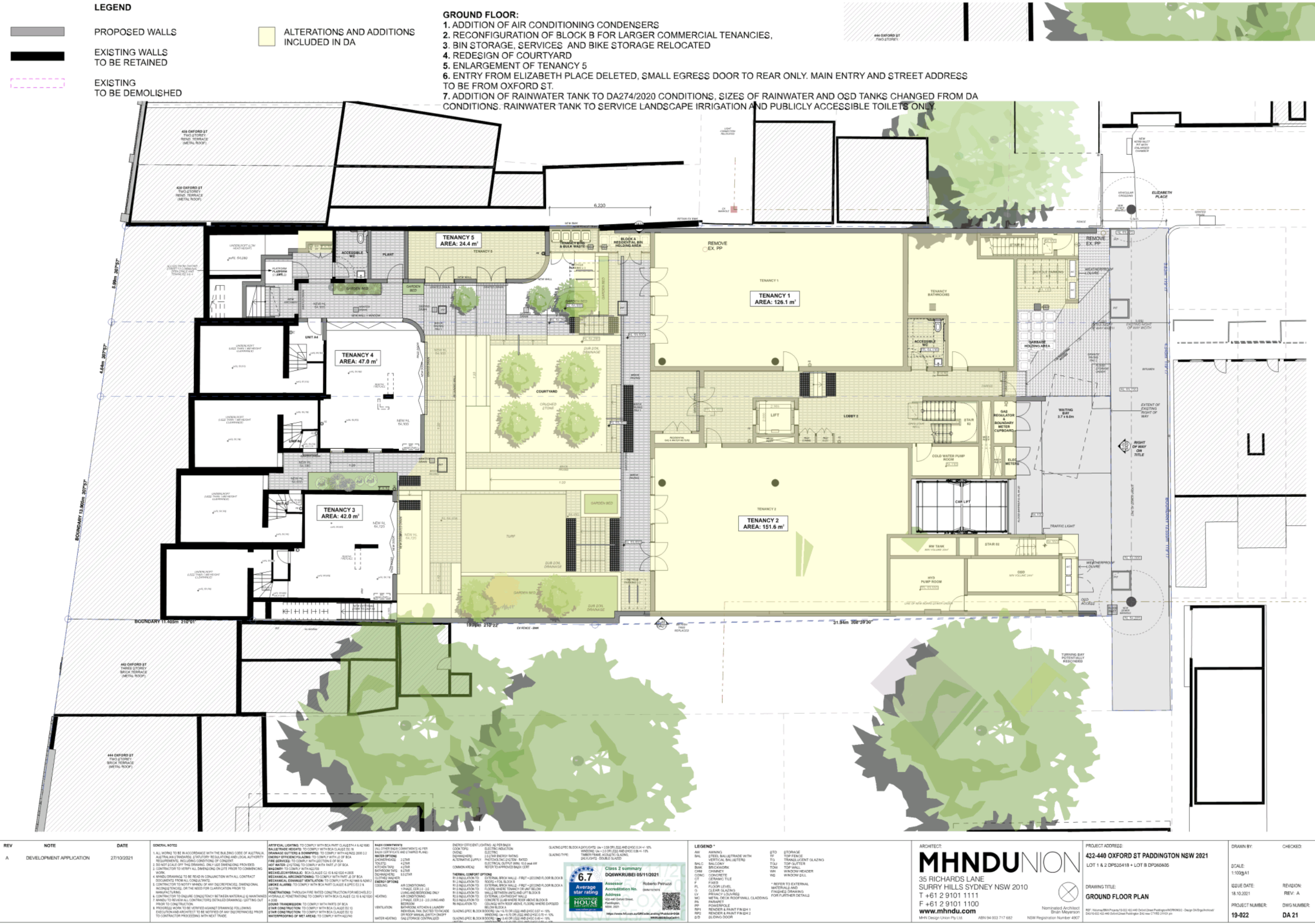
Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
Standard Advising: K24 (Autotext KK24)

Attachments

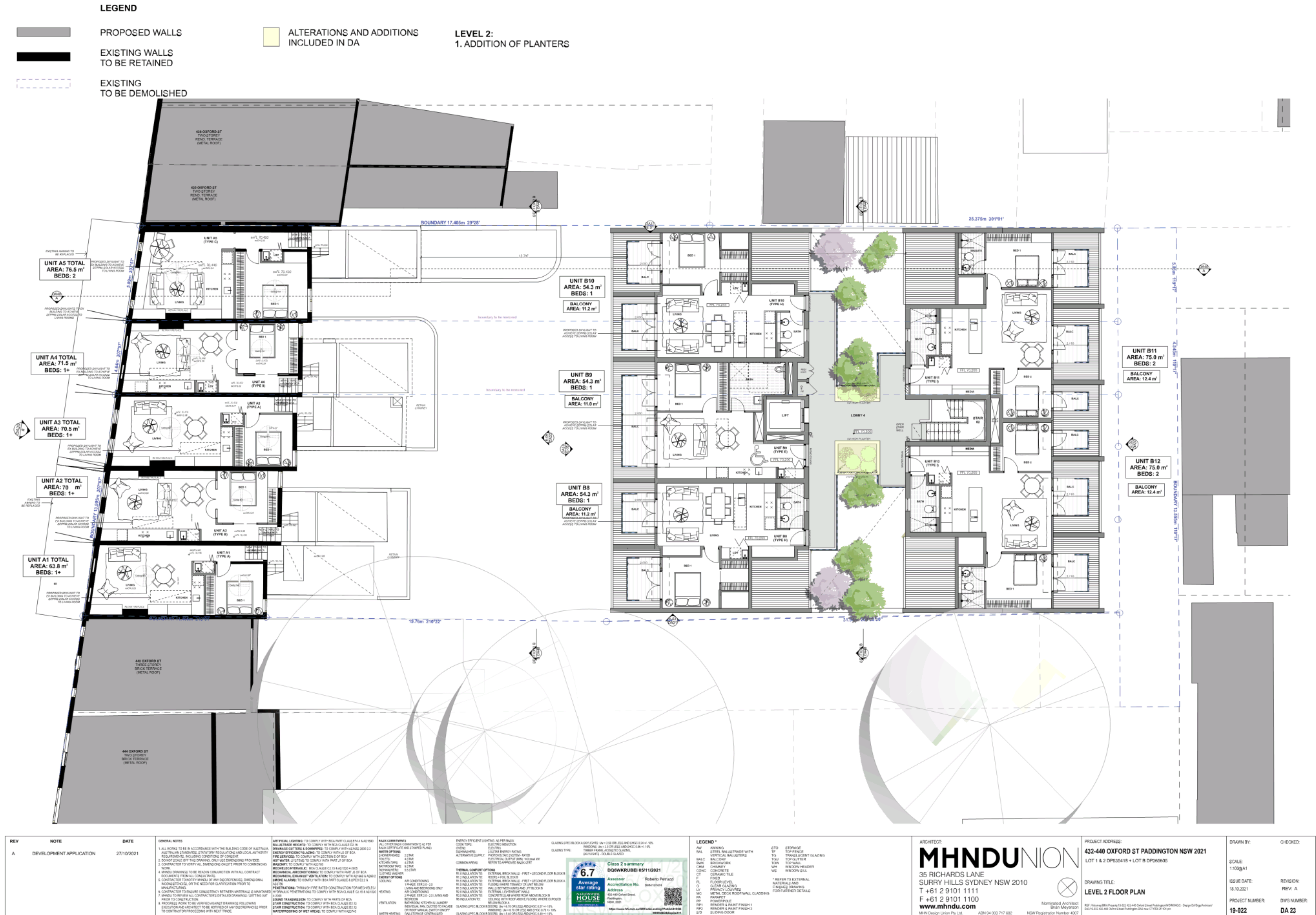
1. Plans and elevations
2. Clause 4.6 Written Request (Height)
3. Clause 4.6 Written Request (FSR)
4. Technical Services Referral Response
5. Traffic Referral Response
6. Landscaping Referral Response
7. Heritage Referral Response
8. Environmental Health Referral Response
9. Drainage Referral Response
10. Compliance Referral Response
11. Urban Design Referral Response (Brian McDonald)
12. Urban Design (Diana Griffiths) Referral Response
13. Landscape Plans
14. Survey
15. Court Approved Plans (DA 274/2020)
16. Waste Management Plans



[illegible]



[illegible]





NORTH ELEVATION FROM RIGHT OF CARRIAGEWAY



SOUTH ELEVATION FROM OXFORD ST
(refer to detailed elevation DA33 for more information)

[illegible]



EAST ELEVATION



WEST ELEVATION

[illegible]



NORTH ELEVATION COURTYARD



SOUTH ELEVATION COURTYARD

[illegible]



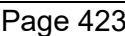


SECTION A (STEPPED SECTION)



SECTION B

[illegible]



**CLAUSE 4.6 REQUEST FOR VARIATIONS OF HEIGHT OF
BUILDINGS DEVELOPMENT STANDARD**

**HEIGHT OF BUILDINGS STANDARD UNDER CLAUSE 4.3 OF
WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

25 November, 2021

Properties: 432-440 Oxford Street, Paddington

*Tony Moody
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CLAUSE 4.6 – REQUEST FOR VARIATIONS OF HEIGHT OF BUILDINGS DEVELOPMENT STANDARD
432-440 Oxford Street, Paddington

1.0 INTRODUCTION

This request is made pursuant to the provisions of Clause 4.6 of Woollahra Local Environmental Plan 2014 (WLEP 2014).

Variations under Clause 4.6 of WLEP 2014 are requested in relation to the Height of Buildings Standard under Clause 4.3 of WLEP 2014 in support of a Development Application (DA) seeking approval for *“Proposed Alterations and Additions to Approved Development under DA Consent 274/2020: 4 Retail/Commercial Tenancies with 5 Shop-Top-Housing Apartments and Construction of New Mixed Use, 3-Storey Brickwork Building with 2 Ground Floor Commercial Tenancies and 12 Residential Apartments with Underground Car Park and Associated Landscaping. Amalgamation of 3 Lots into 1 Lot for Strata Subdivision”*. on the consolidated area of the properties, known as 432-440 Oxford Street, Paddington (subject site).

The Objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes arising from a proposed development.

This Clause 4.6 Request dated 25 November, 2021, relating to the Height of Buildings Standard is prepared based on Architectural Plans which have been lodged by the Applicant.

I consider that variations of the Height of Buildings Standard in the circumstances of this current DA would achieve a better planning outcome rather than requiring strict adherence to the Height of Buildings Standard.

Clause 4.6 of WLEP 2014 allows a Consent Authority to grant a variation to a Development Standard as prescribed below.

Clause 4.6 – Exceptions to Development Standards

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

CLAUSE 4.6 – REQUEST FOR VARIATIONS OF HEIGHT OF BUILDINGS DEVELOPMENT STANDARD
432-440 Oxford Street, Paddington

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. *When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.*

CLAUSE 4.6 – REQUEST FOR VARIATIONS OF HEIGHT OF BUILDINGS DEVELOPMENT STANDARD
432-440 Oxford Street, Paddington

- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated*
 - (c) *clause 5.4.*

In the case of *Al Maha Pty Ltd v Strathfield Council* [2017] NSWLEC 1083, Presiding Commissioner C Dickson of the Land and Environment Court (Court) held that:

"[63] It is clear from a reading of cl 4.6 of WLEP 2012 that the onus is on the applicant to meet the tests of cl 4.6 in seeking flexibility to the Height or FSR standards by demonstrating that the breaches of the 2 development standards are justified. Ms Ogg provided a written request under cl 4.6(3) which seeks to justify the contravention of the FSR Standard (FSR Request).

[64] In Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7, Preston CJ outlines that Commissioners on appeal exercising the functions of the consent authority have power to grant consent to developments that contravene the building height standard, or the FSR standard (cl 4.6(2)). However, they cannot grant such a development consent unless they:

- (1) are satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii))*
- (2) are satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii))*
- (3) have considered a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with they are satisfied that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6 (4)(a)(i)).*
- (4) have considered a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl. 4.6(3)(b) and cl 4.6(4)(a)(i))."*

In addition to the above mentioned Court judgments, there are other relevant Court judgements relating to the application of a Clause 4.6 Request including, but not limited to, *Winton Property Group v North Sydney Council* [2001] NSWLEC 46, *Wehbe v Pittwater*

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*Council [2007] NSWLEC 827, Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 and
Moskovich v Waverley Council [2016] NSW LEC 1015.*

Given the above judgment of his Honour, Chief Judge Preston, which was followed by
Presiding Commissioner C Dickson, this Clause 4.6 Request seeks to address the matters
raised in (1) - (4) above and the provisions of Clause 4.6 of WLEP 2014.

I note that the Height of Buildings Development Standard is not specifically excluded from the
operation of Clause 4.6 of WLEP 2014.

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2.0 THE DEVELOPMENT STANDARD AND THE VARIATIONS SOUGHT

Clause 4.3 – Height of Buildings

- (1) *The objectives of this clause are as follows:*
- (a) *to establish building heights that are consistent with the desired future character of the neighbourhood,*
 - (b) *to establish a transition in scale between zones to protect local amenity,*
 - (c) *to minimise the loss of solar access to existing buildings and open space,*
 - (d) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
 - (e) *to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

(2A) Despite subclause (2) and clause 4.3A, the maximum height of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.

(2B) Despite subclause (2) and clause 4.3A, the maximum height of a building on a battle-axe lot on land in Zone R3 Medium Density Residential is 9.5 metres.

Comment:

Clearly, the above Clause 4.3 of WLEP 2014 is a Development Standard. The Height of Buildings Standard applicable to the subject site is 9.5m under WLEP 2014, pursuant to Clause 4.3 of WLEP 2014.

Based on the advice from the Architects for the proposed development, the maximum height of the proposed development is 10.85m to the ridgeline and 10.41m to the top of the lift overrun. I note that the very minor increase to the proposed lift overrun will result in an imperceptible height increase compared to the approved lift overrun, whilst maintaining the Court approved maximum building height of 10.85m. The following Height Blanket Diagrams demonstrate the extent of the non-compliances, which are very comparable to the Court approved development.

Thus, the maximum breach is 12% or 1.35m above the Height of Buildings Standard, but with other points of breach shown in the Height Blanket Diagrams.

Despite the above breaches, I consider that variations of the Height of Buildings Standard are very reasonable for the reasons outlined in this Clause 4.6 Request.

I should note that the Court has held on previous occasions that the degree of the breach is not the ultimate determining factor in the deciding whether to support a request for variation of a Development Standard.

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This Clause 4.6 Request seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary by reference to the first test in *Wehbe*, that is that the objectives of the standard are achieved notwithstanding the non-compliance.

I note that Council supported variation to the Height of Buildings Standard for the previous Court approved development. I note the following comments of Council:

“The written submission from the applicant has adequately demonstrated that the contravention of the Height of Buildings development standard prescribed by Part 4.3 of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by this Clause. Departure from the control can therefore be supported.

The written submission from the applicant has adequately demonstrated that the contravention of the Height of Buildings development standard prescribed by Part 4.3 of the Woollahra LEP 2014 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 of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

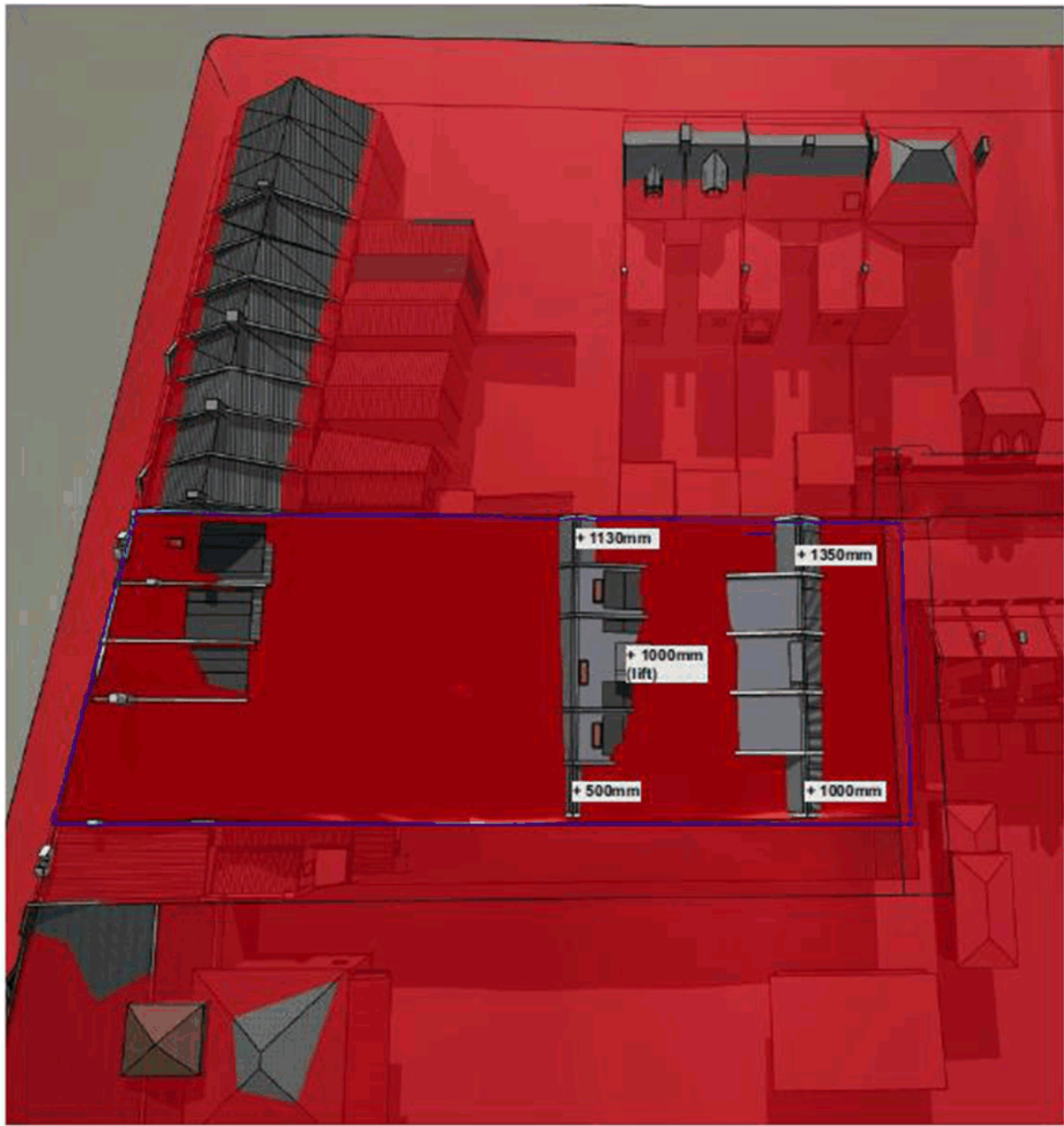
The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the development standard and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.3 development standard. Departure from the control can therefore be supported”.

I consider that the above comments in response to the Court approved development equally apply to the current proposed development for the following reasons:

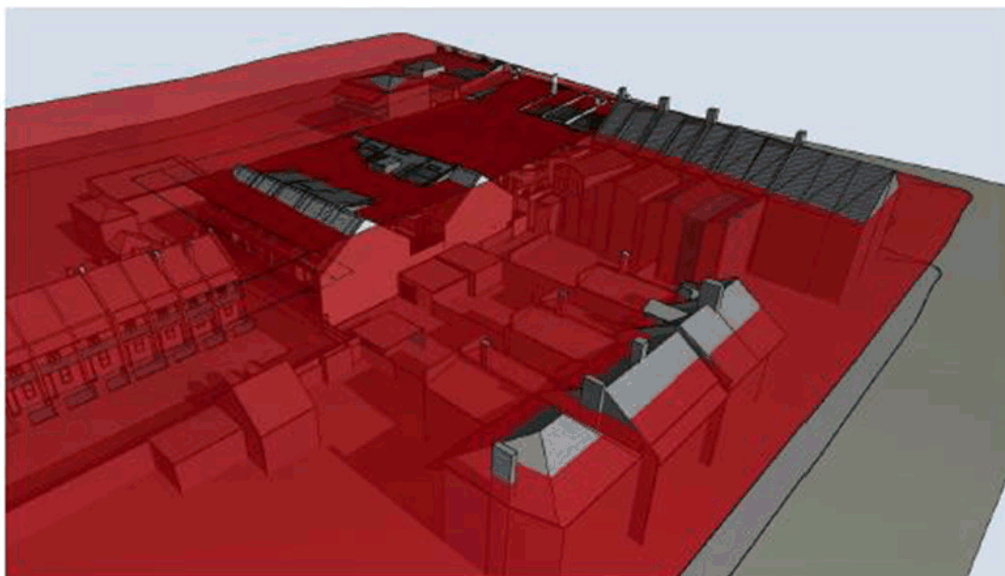
- i. The proposed maximum height of 10.85m for the current proposed development is the same maximum height as the Court approved development.
- ii. The design of the current proposed development is equivalent to the design of the Court approved development.

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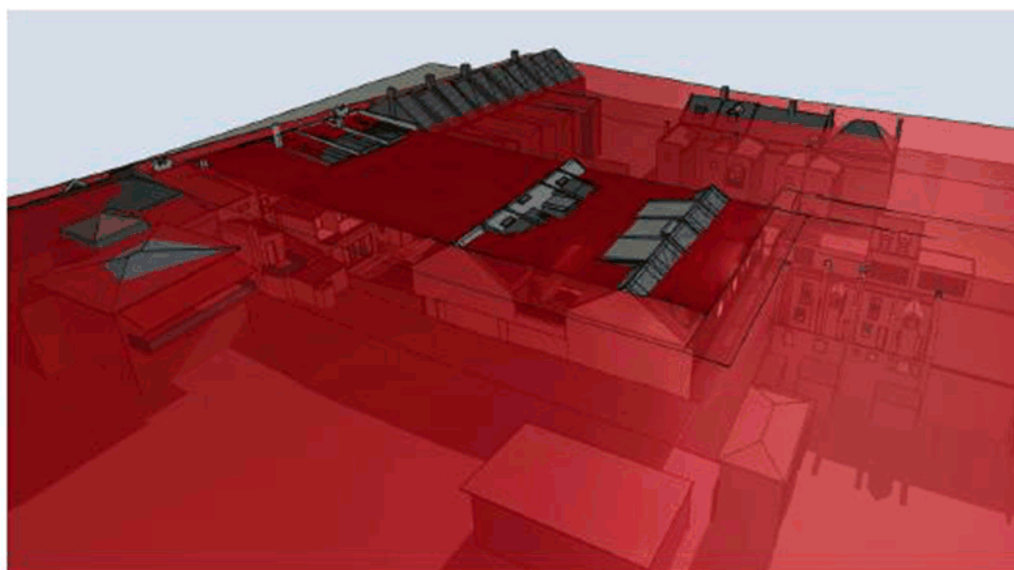


9.5M HEIGHT BLANKET - BIRDS EYE VIEW

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9.5M HEIGHT BLANKET - BIRDS EYE VIEW
PERSPECTIVE FROM NORTH-WEST



9.5M HEIGHT BLANKET - BIRDS EYE VIEW
PERSPECTIVE FROM NORTH-EAST

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3.0 PROPOSAL WILL BE IN PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD

Based on Clause 4.3(1) of WLEP 2014, the Objectives of the Height of Buildings Standard are as follows:

- (1) *The objectives of this clause are as follows:*
- (a) *to establish **building heights that are consistent with the desired future character of the neighbourhood**,*
 - (b) *to establish a **transition in scale between zones to protect local amenity**,*
 - (c) *to **minimise the loss of solar access to existing buildings and open space**,*
 - (d) *to **minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion**,*
 - (e) *to **protect the amenity of the public domain by providing public views of the harbour and surrounding areas**.*

Comment:

I consider that the proposed development, notwithstanding the breaches of the Height of Buildings Standard, achieves the above Objectives of the Height of Buildings Standard for the reasons outlined in this Clause 4.6 Request and the associated Statement of Environmental Effects (SEE) and Heritage Impact Statement (HIS). I particularly note the following points:-

- (a) **To establish building heights that are consistent with the desired future character of the neighbourhood:**
- I consider that the Architectural Plans, Photomontage and Model clearly indicate that the proposed development is compatible with the height, bulk and scale of adjacent existing buildings facing Elizabeth Place.
 - The proposed development also responds to the scale, form and detailing of the existing terraces on Oxford Street and Elizabeth Place.
 - I consider that the height of the proposed development is compatible with that of the surrounding context. The northern eave of the proposed new building is at an approximate alignment with the eave of the Elizabeth Place terraces at the rear, and so establishes a comparable height relationship between the proposed and neighbouring buildings.
 - The visual bulk and scale of the proposed development is reduced when seen from Elizabeth Place by concealing the attic level behind the proposed roof.
 - The proposed apartment building to the rear of the subject site is a modern interpretation of the Elizabeth Place terrace houses, where the proportions and scale of the balcony projections are in keeping with those of the facades of the existing terrace houses.
 - The proposed public communal courtyard between the existing and new buildings reduces the bulk and scale of the development and provides shared amenity to the surrounding properties. The bulk and scale are further reduced by the internal lightwell and setbacks to the proposed attic storey.

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

- The proposed development on the Mixed Use B4 zoned portion of the subject site is compatible with the existing and likely future scale of development in the immediate vicinity.
- In terms of the proposed terraces at the rear of the subject site, which adjoin the Low Density Residential R2 zone, I consider that the scale of the proposed townhouses protect local amenity for the following reasons:
 - i. The bulk and scale of the current proposed development are articulated in the detailing of façade proportions and roof forms to present to the street as a 2 storey terrace row and roofs consistent with forms and character of the local area.
 - ii. There is a carriageway to the north which provides additional spatial separation between the proposed shop-top housing development and the adjoining existing terraces to the north fronting Elizabeth Place.
 - iii. In terms of Overlooking Impact, the windows on the northern façade of the proposed shop-top housing development will have a sufficient separation, by reason of the intervening carriageway, to ensure no unreasonable Overlooking Impact. In terms of Overlooking Impact to the adjoining terraces to the west, there are no windows or balconies which would create adverse Overlooking Impact on the existing terraces to the west.
 - iv. In terms of View Loss, I consider that the current DA does not result in any unreasonable View Loss on existing views from adjoining properties. I particularly note the following:
 - a) The proposed development does not inhibit view sharing due to the fact that the existing buildings facing Oxford Street currently inhibit any potential views across the subject site.
 - b) The proposed development will have no unreasonable adverse impact on views from public open spaces to the Harbour, foreshore areas and City Skyline.
 - c) The proposed landscaping works will have no unreasonable impact on views from the public or private domain.
 - d) I consider that the proposed development will not adversely impact on any public views, particularly views of Sydney Harbour.
 - e) I particularly note the fact that the proposed development will not impact on any “*Significant Views and Vistas*” identified under Woollahra Development Control Plan 2015 (DCP 2015).
 - f) I also consider that the proposed development will also not be contrary to the Court’s Planning Principle entitled “*Impact on Public Domain Views*”, established in *Rose Bay Marina Pty Ltd vs Woollahra Council*.
- In terms of Overshadowing Impact, the proposed rear shop-top housing development results in some additional overshadowing on the adjoining properties to the south east at 442 Oxford Street and 444 Oxford Street. In relation to the rear yard of 442 Oxford Street, which includes substantial paved areas for car parking, the proposed development will not generate additional overshadowing at 9:00am at mid-winter. The rear yard of 444 Oxford Street, which is currently occupied by extensive trees, will also not be impacted at 9:00am at mid-winter. At 12:00noon, the proposed development will increase overshadowing on the rear yard of 442 Oxford Street, but this additional

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overshadowing will primarily fall on the substantial paved areas. There will only be a very minor additional overshadowing on the rear yard of 444 Oxford Street, primarily falling within the area occupied by extensive trees. At 3:00pm, the proposed development will not result in additional overshadowing on 442 Oxford Street and will result in additional overshadowing on 444 Oxford Street, but this additional overshadowing largely falls within the area occupied by extensive trees. In relation to overshadowing on existing buildings on the above adjoining properties, the proposed development will not unreasonably impact on any living spaces within adjoining existing buildings. Based on my above comments, I consider that the proposed development satisfies the relevant provisions of WDCP 2015 and will not generate unreasonable Overshadowing Impact, particularly as the additional overshadowing will largely fall on existing ancillary structures, paved area and/or extensive trees.

- Based on the advice of Anthony Kilias and Stephen Davies, Heritage Consultants, the proposed *“works are considered minor in nature, from a heritage perspective, and would not disrupt, obscure, or otherwise detract from the subject contributory buildings, including on their contributory fabric and setting”*.
- The new terrace-style development would present as 2 storeys in scale (with third storey in the attic roof space), thus presenting as appropriately scaled new infill of high-quality contemporary design.

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

- Please refer to comments in (b) above.

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

- Please refer to comments in (b) above.

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

- For the reasons outlined in this Clause 4.6 Request, I consider that the proposed development will not adversely impact on any public views, particularly views of the Harbour.
- I particularly note the fact that the proposed development will not impact on any *“Significant Views and Vistas”* identified under DCP 2015.
- I also consider that the proposed development will also not be contrary to the Court’s Planning Principle entitled *“Impact on Public Domain Views”* established in *Rose Bay Marina Pty Ltd vs Woollahra Council*.

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4.0 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

For the reasons outlined in this Clause 4.6 Request, SEE and HIS, I consider that strict adherence to the Height of Buildings Standard under WLEP 2014 is unreasonable and unnecessary in the circumstances of the proposed development. I consider that the proposed development will achieve the objectives of the development standard notwithstanding the non-compliance.

I wish to particularly note the following points: -

- For the reasons outlined this Clause 4.6 Request, SEE and HIS prepared by Anthony Kiliias and Stephen Davies, I consider that the proposed development results in a range of Positive Outcomes. Please refer to the range of environmental planning grounds referred to in Section 5.0 of this Clause 4.6 Request.
- I consider that the Architectural Plans, Photomontages and Model clearly indicate that the proposed development is compatible with the height, bulk and scale of adjoining existing developments.
- On the issue of Heritage, I refer to the advice of Anthony Kiliias and Stephen Davies. I note that Anthony Kiliias and Stephen Davies fully support the proposed development, notwithstanding the breach of the Height of Buildings Standard. Please also refer to the HIS.

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5.0 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

For the reasons outlined in the SEE, Clause 4.6 Request and the HIS, I consider that there are strong environmental planning grounds to justify contravention of the Height of Buildings Standard.

The adjectival phrase “*environmental planning grounds*” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the Environmental Planning and Assessment Act (the Act), including the Objects in Section 1.3 of the Act.

The environmental planning grounds which I consider justify a contravention of Height of Buildings Standard are expressed in the SEE, but I wish to particularly note the following environmental grounds or, in other words, the Positive Outcomes arising from the proposed development:

- The proposed external finishes include white painted bagged brick work, painted render, steel balustrades, ceramic tiles, metal cladding, corrugated grey metal roof/wall cladding and translucent glazing. In accordance with the advice of Stephen Davies, Heritage Consultant, in relation to the approved development, these external finishes are compatible with those of the neighbouring terraces and Paddington HCA. Please refer to the “*Photomontage Oxford Street*”.
- The proposed development provides an appropriate level of safety and security, as well as a positive relationship between public, communal and private spaces.
- Passive surveillance is provided from within the proposed residential terraces to the proposed public communal courtyard.
- As advised in the SEPP 65 Design Statement, while there is no requirement for adaptable units in the proposed development, 4 of the units will achieve silver level universal design standards as per the Liveable Housing Guide, and this complies with the Apartment Design Guide requirement of 20% universal design.
- The current proposed development provides social and economic opportunities by locating apartments, commercial and retail tenancies, and a proposed public communal courtyard within the context of the Oxford Street precinct.
- The proposal provides for a quality development, with carefully considered bulk and scale, apartment layout and aspect. The proposed development provides a variety of high quality apartments in a contemporary, yet respectful aesthetic.
- The proposed residential terraces provide the opportunity for low-rise medium density accommodation for individuals who wish to remain close to their friends and neighbours, thus ensuring a positive social outcome. This form of housing has been described as the “*Missing Middle Housing*”.
- Based on the separate HIS for the approved development and the current proposed development, the current proposed development would respect and enhance the heritage significance of the contributory site and of the wider Paddington HCA.
- The proposal would retain and conserve the contributory buildings which form part of the larger ‘*Cambrian*’ group, and the majority of the exterior and interior character-defining elements which contribute to the buildings’ significance.

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- The proposal seeks to remove the existing detracting and intrusive shopfronts and reinstate an interpretation of the traditional shopfront, using the extant frontage at 436 Oxford Street as a precedent. Please refer to the *"Photomontage Oxford Street"*.
- The proposal would enhance activation and public engagement with the contributory buildings on the subject site, as well as with the wider Paddington HCA.
- The proposed development generally conforms with WDCP 2015, with particular reference to the Paddington HCA.
- The proposal would engender positive urban design outcomes through the creation of a public communal courtyard.
- The proposed new terrace-style development to the rear of the subject site would demonstrate form, bulk, scale, proportionality and materialities, which are referential to surrounding built forms (namely, Victorian period terraces), while being noticeably modern. Please refer to *"Photomontage Elizabeth Place"*.
- The proposed new terrace-style development would respect and respond to the existing fine-grain subdivision of the area.
- The proposed new terrace-style development would present as 2 storeys in scale (with a third storey in the roof space), thus presenting as appropriately scaled new infill of high-quality contemporary design.
- The existing carriageway at the rear of the subject site will be widened, whilst also removing the necessity of requiring 3 individual access points should the 3 lots forming the subject site be redeveloped individually. In other words, there will only be 1 access point.
- The surface of the existing carriageway will be significantly upgraded.
- There will be a significant improvement in the area and quality of landscaping on the subject site.
- The proposed development comprises 3 lots which allows a holistic redevelopment of this infill site with a range of Positive Outcomes. To have a large area along the Oxford Street Precinct represents an opportunity to provide a vibrant and cohesive development with particular reference to the substantial improvement to the Oxford Street facades, the provision of a public communal courtyard in the middle of the subject site and additional housing stock by way of terraces as part of the shop-top-housing development to the rear of the subject site.
- A further Positive Outcome arising from the current proposed development relates to access through the subject site from the rear Elizabeth Place into Oxford Street during specified periods. The Court approved development did allow public access from Elizabeth Place to Oxford Street. One of the concerns raised by a number in the local community was that such public access would result in excessive parking in Elizabeth Place by persons wishing to walk from Elizabeth Place to Oxford Street. The current DA will stop such public access by infilling the previously approved public access corridor along part of the western boundary.

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6.0 PROPOSAL WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE ZONE

In accordance with Clause 4.6(4)(a), Development Consent must not be granted to a development that contravenes a Development Standard unless Council is satisfied in relation to the following matters: -

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

The above matters are addressed in the SEE, Clause 4.6 Request and HIS, including the following comments: -

The subject site is zoned B4 Mixed Use.

1 Objectives of zone

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

Comment:

The proposed development comprises construction of "Shop-Top Housing" and "Commercial Premises" which are both permissible forms of development within the current B4 zone. I note that commercial premises encompass the following permissible uses - business premises, office premises and retail premises.

I consider that the proposed development also satisfies the relevant Objectives of the B4 zone for the following reasons:

- In relation to the first objective, the proposed development will provide a mixture of retail, commercial and residential uses on the subject site, which are compatible with the existing land uses of the locality.
- In relation to the second objective, the proposed development will result in an integration of residential, retail and commercial development close to existing public

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transport along Oxford Street and is easily accessible by walking and cycling via Oxford Street and Elizabeth Place.

- In relation to the third objective, the proposed development will result in an active ground floor for office/retail uses fronting Oxford Street active and dynamic spaces along Oxford Street and the provision of a public communal courtyard within the middle of the proposed development. I consider that these proposed elements will contribute to the vibrancy of the Oxford Street Precinct.
- In relation to the fourth objective, the proposed development is of a height and scale that is compatible with the amenity of the surrounding shop-top-housing buildings, which generally comprise attached terraces up to 3 storeys in height.
- In relation to the fifth objective, the proposed development is of a height and scale that achieves the desired future character of the neighbourhood. On this point, I note the comments relating to the desired future character in this SEE.

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**7.0 STATE OR REGIONAL ENVIRONMENTAL PLANNING SIGNIFICANCE AND THE
PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD**

Clause 4.6 (5) relates to matters for consideration by the Secretary as to “*whether contravention of the Development Standard raises any matter of significance for State or regional environmental planning.*”

The contraventions of the Height of Buildings Standard in the circumstances of this application do not raise any matter of significance for State or Regional Environmental Planning.

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8.0 IS THE OBJECTION TO THE DEVELOPMENT STANDARD WELL FOUNDED?

I consider that this objection to the Development Standard is well founded for the reasons outlined in the SEE, Clause 4.6 Request and HIS. I again note the range of Positive Outcomes which are listed below:

- The proposed external finishes include white painted bagged brick work, painted render, steel balustrades, ceramic tiles, metal cladding, corrugated grey metal roof/wall cladding and translucent glazing. In accordance with the advice of Stephen Davies, Heritage Consultant, in relation to the approved development, these external finishes are compatible with those of the neighbouring terraces and Paddington HCA. Please refer to the *"Photomontage Oxford Street"*.
- The proposed development provides an appropriate level of safety and security, as well as a positive relationship between public, communal and private spaces.
- Passive surveillance is provided from within the proposed residential terraces to the proposed public communal courtyard.
- As advised in the SEPP 65 Design Statement, while there is no requirement for adaptable units in the proposed development, 4 of the units will achieve silver level universal design standards as per the Liveable Housing Guide, and this complies with the Apartment Design Guide requirement of 20% universal design.
- The current proposed development provides social and economic opportunities by locating apartments, commercial and retail tenancies, and a proposed public communal courtyard within the context of the Oxford Street precinct.
- The proposal provides for a quality development, with carefully considered bulk and scale, apartment layout and aspect. The proposed development provides a variety of high quality apartments in a contemporary, yet respectful aesthetic.
- The proposed residential terraces provide the opportunity for low-rise medium density accommodation for individuals who wish to remain close to their friends and neighbours, thus ensuring a positive social outcome. This form of housing has been described as the *"Missing Middle Housing"*.
- Based on the separate HIS for the approved development and the current proposed development, the current proposed development would respect and enhance the heritage significance of the contributory site and of the wider Paddington HCA.
- The proposal would retain and conserve the contributory buildings which form part of the larger 'Cambrian' group, and the majority of the exterior and interior character-defining elements which contribute to the buildings' significance.
- The proposal seeks to remove the existing detracting and intrusive shopfronts and reinstate an interpretation of the traditional shopfront, using the extant frontage at 436 Oxford Street as a precedent. Please refer to the *"Photomontage Oxford Street"*.
- The proposal would enhance activation and public engagement with the contributory buildings on the subject site, as well as with the wider Paddington HCA.
- The proposed development generally conforms with WDCP 2015, with particular reference to the Paddington HCA.
- The proposal would engender positive urban design outcomes through the creation of a public communal courtyard.
- The proposed new terrace-style development to the rear of the subject site would demonstrate form, bulk, scale, proportionality and materialities, which are referential to

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surrounding built forms (namely, Victorian period terraces), while being noticeably modern. Please refer to “*Photomontage Elizabeth Place*”.

- The proposed new terrace-style development would respect and respond to the existing fine-grain subdivision of the area.
- The proposed new terrace-style development would present as 2 storeys in scale (with a third storey in the roof space), thus presenting as appropriately scaled new infill of high-quality contemporary design.
- The existing carriageway at the rear of the subject site will be widened, whilst also removing the necessity of requiring 3 individual access points should the 3 lots forming the subject site be redeveloped individually. In other words, there will only be 1 access point.
- The surface of the existing carriageway will be significantly upgraded.
- There will be a significant improvement in the area and quality of landscaping on the subject site.
- The proposed development comprises 3 lots which allows a holistic redevelopment of this infill site with a range of Positive Outcomes. To have a large area along the Oxford Street Precinct represents an opportunity to provide a vibrant and cohesive development with particular reference to the substantial improvement to the Oxford Street facades, the provision of a public communal courtyard in the middle of the subject site and additional housing stock by way of terraces as part of the shop-top-housing development to the rear of the subject site.
- A further Positive Outcome arising from the current proposed development relates to access through the subject site from the rear Elizabeth Place into Oxford Street during specified periods. The Court approved development did allow public access from Elizabeth Place to Oxford Street. One of the concerns raised by a number in the local community was that such public access would result in excessive parking in Elizabeth Place by persons wishing to walk from Elizabeth Place to Oxford Street. The current DA will stop such public access by infilling the previously approved public access corridor along part of the western boundary.

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9.0 CONCURRENCE OF PLANNING SECRETARY

(4) Development consent must not be granted for development that contravenes a development standard unless—

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

Comment:

The Department issued Planning Circular No. PS18-003 (dated 21st February 2018) which notified Council 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 provide that Council may assume the Director General’s [Secretary’s] concurrence for exceptions to Development Standards, thus satisfying the terms of this provision.

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10.0 CONCLUSION

Notwithstanding the breach of the Height of Buildings Standard, I consider that this request for variations of the Height of Buildings Standard is well founded.

I consider that the proposed development, notwithstanding the breaches, will not have an unreasonable adverse impact on adjoining properties or the public domain and will result in a range of Positive Outcomes which are outlined in this Clause 4.6 Request and the SEE.

A handwritten signature in dark ink, appearing to read 'Tony Moody', with a stylized, cursive script.

TONY MOODY

BTP(UNSW), LL.B (UTS)(Hons.), MPIA

Dated: 25 November, 2021.

**REVISED CLAUSE 4.6 REQUEST FOR VARIATION OF THE FLOOR
SPACE RATIO STANDARD**

**FLOOR SPACE RATIO STANDARD UNDER CLAUSE 4.4 OF
WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

14 April, 2022

Properties: 432-440 Oxford Street, Paddington

*Tony Moody
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REVISED CLAUSE 4.6 – REQUEST FOR VARIATION OF FSR DEVELOPMENT STANDARD
432-440 Oxford Street, Paddington

1.0 INTRODUCTION

This Revised Clause 4.6 Request is made pursuant to the provisions of Clause 4.6 of Woollahra Local Environmental Plan 2014 (WLEP 2014).

I note that there was a previous approval granted by Acting Commissioner G Shiels of the Land and Environment Court (Court) on 28 July, 2021 for an approved development on 432-440 Oxford Street, Paddington (subject site).

A variation under Clause 4.6 of WLEP 2014 is requested in relation to the Floor Space Ratio (FSR) Standard under Clause 4.4 of WLEP 2014 in support of a Development Application (DA) seeking approval for *“Proposed Alterations and Additions to Approved Development under DA Consent 274/2020: 4 Retail/Commercial Tenancies with 5 Shop-Top-Housing Apartments and Construction of New Mixed Use, 3-Storey Brickwork Building with 2 Ground Floor Commercial Tenancies and 12 Residential Apartments with Underground Car Park and Associated Landscaping. Amalgamation of 3 Lots into 1 Lot for Strata Subdivision.”* on the subject site.

The Objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes arising from a proposed development.

This Revised Clause 4.6 Request dated 14 April, 2022, relating to the FSR Standard, is prepared based on Architectural Plans which have been lodged by the Applicant.

I consider that variation of the FSR Standard in the circumstances of this current DA would achieve a better planning outcome, rather than requiring strict adherence to the FSR Standard.

Clause 4.6 of WLEP 2014 allows a Consent Authority to grant a variation to a Development Standard as prescribed below.

Clause 4.6 – Exceptions to Development Standards

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

REVISED CLAUSE 4.6 – REQUEST FOR VARIATION OF FSR DEVELOPMENT STANDARD
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- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

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Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated
 - (c) clause 5.4.

In the case of *Al Maha Pty Ltd v Strathfield Council* [2017] NSWLEC 1083, Presiding Commissioner C Dickson of the Court held that:

"[63] It is clear from a reading of cl 4.6 of WLEP 2012 that the onus is on the applicant to meet the tests of cl 4.6 in seeking flexibility to the Height or FSR standards by demonstrating that the breaches of the 2 development standards are justified. Ms Ogg provided a written request under cl 4.6(3) which seeks to justify the contravention of the FSR Standard (FSR Request).

[64] In *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, Preston CJ outlines that Commissioners on appeal exercising the functions of the consent authority have power to grant consent to developments that contravene the building height standard, or the FSR standard (cl 4.6(2)). However, they cannot grant such a development consent unless they:

- (1) are satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii))
- (2) are satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii))
- (3) have considered a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with they are satisfied that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6 (4)(a)(i)).
- (4) have considered a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl. 4.6(3)(b) and cl 4.6(4)(a)(i))."

In addition to the above mentioned Court judgments, there are other relevant Court judgements relating to the application of a Clause 4.6 Request including, but not limited to, *Winton Property Group v North Sydney Council* [2001] NSW LEC 46; *Wehbe v Pittwater*

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*Council [2007] NSW LEC 827, Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 90 and
Moskovich v Waverley Council [2016] NSW LEC 1015.*

Given the above judgment of his Honour, Chief Judge Preston, which was followed by
Presiding Commissioner C Dickson, this Revised Clause 4.6 Request seeks to address the
matters raised in (1) - (4) above and the provisions of Clause 4.6 of WLEP 2014.

I note that the FSR Standard is not specifically excluded from the operation of Clause 4.6 of
WLEP 2014.

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2.0 THE DEVELOPMENT STANDARD AND THE VARIATION SOUGHT

Clause 4.4 – Floor Space Ratio

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

(b) *for buildings in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, and Zone B4 Mixed Use: To ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.*

Comment:

Clearly, the above Clause 4.4 of WLEP 2014 is a Development Standard.

The FSR Standard applicable to the subject site is 1:1 under WLEP 2014, pursuant to Clause 4.4 of WLEP 2014. The FSR of the proposed development is 1.2:1, based on the advice of the Architects for the proposed development.

The area of the subject site is 1,527.9m², which represents the Site Area, excluding the rear right of way. The proposed Gross Floor Area (GFA) is 1,835.0m², which results in a 20% breach of the FSR Standard. I note that the proposed GFA is the same GFA as the Court approved development.

Despite the above breach, I consider that variation is very reasonable.

I should note that the Court has held on previous occasions that the degree of the breach is not the ultimate determining factor in deciding whether to support a request for variation of a Development Standard.

This request seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary by reference to the first test in *Wehbe*, in that the objectives of the standard are achieved, notwithstanding the non-compliance.

I note that Council supported variation to the FSR Standard for the recent Court approved development and the current DA does not result in any increase in the proposed GFA compared to the Court approved development.

I note the following comments contained in the Assessment Report of Council in response to the Court approved development:

“The written submission from the applicant has adequately demonstrated that the contravention of the FSR development standard prescribed by Part 4.4 of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by this Clause. Departure from the control can therefore be supported.

The written submission from the applicant has adequately demonstrated that the contravention of the FSR development standard prescribed by Part 4.4 of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

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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 of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

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

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4. development standard. Departure from the control can therefore be supported".

I consider that the above comments in response to the Court approved development equally applies to the current proposed development for the following reasons:

- i. The proposed FSR of 1.2:1 for the current proposed development is the same FSR as the Court approved development.
- ii. The design of the current proposed development is equivalent to the design of the Court approved development.

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3.0 PROPOSAL WILL BE IN PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD

Based on Clause 4.4 of WLEP 2014, the relevant Objectives of the FSR Standard for buildings in zone B4 – Mixed Use is as follows:

- (1) *The objectives of this clause are as follows—*
- (b) *for buildings in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, and Zone B4 Mixed Use: To ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.*

Comment:

The subject site is identified as having a FSR Standard of 1:1.

The proposed development has a proposed GFA of 1,835.0m², with an area of the subject site of 1,527.9m², excluding the right of carriageway at the rear of the subject site. The proposed FSR, being approximately 1.2:1, breaches the FSR Standard.

As noted above, the objectives of the FSR Standard is to ensure compatibility with the desired future character of the area in terms of bulk and scale.

I note that this Revised Clause 4.6 Request, the Revised Statement of Environmental Effects (SEE) and the Heritage Impact Statement (HIS) address the compatibility of the proposed development with the desired future character of the area in terms of bulk and scale. For the reasons outlined in the Revised SEE, this Clause 4.6 Request and HIS, I consider the bulk and scale of the proposed development to be very reasonable and achieves the above objectives.

As noted in the HIS, the proposed new terrace-style development to the rear of the subject site will demonstrate form, bulk, scale, proportionality and materials which are compatible with surrounding built form whilst being noticeably contemporary and will therefore be compatible with the desired future character. Furthermore, the proposed modifications to the Oxford Street frontages of the existing buildings would enhance the significance of the existing buildings. Anthony Kiliyas and Stephen Davies, Heritage Consultants, fully support the current proposed development, notwithstanding the breach of the FSR Standard. Please refer to the HIS.

I should also add that the current DA incorporates a public communal courtyard between the existing terraces facing Oxford Street and a proposed infill shop-top housing at the rear of the subject site. The proposed public communal courtyard provides additional spatial separation between the elements of the proposed development, thus further reducing any visual impact.

For the above reasons, I am of the opinion that the above objectives of the FSR Standard will be achieved.

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4.0 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

For the reasons outlined in this Revised Clause 4.6 Request, Revised SEE and HIS, I consider that the compliance with the FSR Standard under WLEP 2014 is unreasonable and unnecessary in the circumstances of the proposed development. The proposed development will achieve the objectives of the development standard notwithstanding the non-compliance.

I wish to particularly note the following points: -

- For the reasons outlined in the Revised SEE, Revised Clause 4.6 Request and HIS, I consider that the proposed development results in a range of Positive Outcomes.
- I consider that the Architectural Plans, Photomontages and Model clearly indicate that the current proposed development is compatible with the height, bulk and scale of adjoining existing developments.
- As previously stated, the current DA will not result in any increase in FSR compared to the Court approved development.
- Furthermore, I refer to the following comments contained in the Assessment Report of Council relating to the Court approved development:
 - (i) *Council's Heritage Officer has considered the proposal to be consistent with the mixed commercial and residential character of Oxford Street*
 - (ii) *The proposed development will retain, restore, conserve and enhance the contributory buildings, which form part of the larger group known as 'Cambrian Buildings'.*
 - (iii) *The proposed development will enhance the heritage contribution the 'Cambrian Buildings' make to the Paddington Heritage Conservation Area and to the Oxford Streetscape;*
 - (iv) *The proposed infill building will respect and respond to the existing fine-grain subdivision pattern in the area;*
 - (v) *The proposed infill building has been appropriately scaled to ensure that the new building does not dominate or compete with surrounding Victorian terraces. The top level has been set into the roof space in a design that is referential to the residential terrace dwellings located along Elizabeth Place".*
- I consider the above comments can be equally applied to the current proposed development.
- I refer to the advice of Anthony Kiliass and Stephen Davies who prepared the HIS. I particularly note that Anthony Kiliass and Stephen Davies consider that the proposed development will "*not generate any adverse or unreasonable impacts on the established heritage significance of the subject site, nor of the Paddington HCA in which the site is located*".
- Anthony Kiliass and Stephen Davies fully support the proposed development, notwithstanding the breach of the FSR Standard.

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5.0 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

For the reasons outlined in this Clause 4.6 Request, Revised SEE and HIS, I consider that there are strong environmental planning grounds to justify contravention of the FSR Standard.

The adjectival phrase “*environmental planning grounds*” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the Environmental Planning and Assessment Act (the Act), including the Objects in Section 1.3 of the Act.

The environmental planning grounds which justify a contravention of FSR Standard are expressed in the Revised SEE, Revised Clause 4.6 Request and HIS, but I wish to particularly note the following environmental grounds or, in other words, the Positive Outcomes arising from the proposed development:

- The proposed external finishes include white painted bagged brick work, painted render, steel balustrades, ceramic tiles, metal cladding, corrugated grey metal roof/wall cladding and translucent glazing. In accordance with the advice of Stephen Davies, Heritage Consultant, in relation to the approved development, these external finishes are compatible with those of the neighbouring terraces and Paddington HCA. Please refer to the “*Photomontage Oxford Street*”.
- The proposed development provides an appropriate level of safety and security, as well as a positive relationship between public, communal and private spaces.
- Passive surveillance is provided from within the proposed residential terraces to the proposed public communal courtyard.
- As advised in the SEPP 65 Design Statement, while there is no requirement for adaptable units in the proposed development, 4 of the units will achieve silver level universal design standards as per the Liveable Housing Guide, and this complies with the Apartment Design Guide requirement of 20% universal design.
- The current proposed development provides social and economic opportunities by locating apartments, commercial and retail tenancies, and a proposed public communal courtyard within the context of the Oxford Street precinct.
- The proposal provides for a quality development, with carefully considered bulk and scale, apartment layout and aspect. The proposed development provides a variety of high quality apartments in a contemporary, yet respectful aesthetic.
- The proposed residential terraces provide the opportunity for low-rise medium density accommodation for individuals who wish to remain close to their friends and neighbours, thus ensuring a positive social outcome. This form of housing has been described as the “*Missing Middle Housing*”.
- Based on the separate HIS for the approved development and the current proposed development, the proposed development would respect and enhance the heritage significance of the contributory site and of the wider Paddington HCA.
- The proposal would retain and conserve the contributory buildings which form part of the larger ‘*Cambrian*’ group, and the majority of the exterior and interior character-defining elements which contribute to the buildings’ significance.

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- The proposal seeks to remove the existing detracting and intrusive shopfronts and reinstate an interpretation of the traditional shopfront, using the extant frontage at 436 Oxford Street as a precedent. Please refer to the *"Photomontage Oxford Street"*.
- The proposal would enhance activation and public engagement with the contributory buildings on the subject site, as well as with the wider Paddington HCA.
- The proposed development generally conforms with WDCP 2015, with particular reference to the Paddington HCA.
- The proposal would engender positive urban design outcomes through the creation of a public communal courtyard.
- The proposed new terrace-style development to the rear of the subject site would demonstrate form, bulk, scale, proportionality and materialities which are referential to surrounding built forms (namely, Victorian period terraces), while being noticeably modern. Please refer to the *"Photomontage Elizabeth Place"*.
- The proposed new terrace-style development would respect and respond to the existing fine-grain subdivision of the area.
- The proposed new terrace-style development would present as 2 storeys in scale (with a third storey in the roof space), thus presenting as appropriately scaled new infill of high-quality contemporary design.
- The existing carriageway at the rear of the subject site will be widened, whilst also removing the necessity of requiring 3 individual access points should the 3 lots forming the subject site be redeveloped individually. In other words, there will only be 1 access point.
- The surface of the existing carriageway will be significantly upgraded.
- There will be a significant improvement in the area and quality of landscaping on the subject site.
- The proposed development comprises 3 lots which allows a holistic redevelopment of this infill site with a range of Positive Outcomes. To have such a large area along the Oxford Street Precinct represents an opportunity to provide a vibrant and cohesive development with particular reference to the substantial improvement to the Oxford Street facades, the provision of a public communal courtyard in the middle of the subject site and additional housing stock by way of terraces as part of the shop-top-housing development to the rear of the subject site.
- A further Positive Outcome arising from the current proposed development relates to access through the subject site from the rear Elizabeth Place into Oxford Street during specified periods. The Court approved development did allow public access from Elizabeth Place to Oxford Street. One of the concerns raised by a number in the local community was that such public access would result in excessive parking in Elizabeth Place by persons wishing to walk from Elizabeth Place to Oxford Street. The current DA will stop such public access by infilling the previously approved public access corridor along part of the western boundary.

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6.0 PROPOSAL WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE ZONE

In accordance with Clause 4.6(4)(a), Development Consent must not be granted to a development that contravenes a Development Standard unless Council is satisfied in relation to the following matters: -

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

The above matters are addressed in this Clause 4.6 Request, including the following comments: -

The subject site is zoned B4 Mixed Use.

1 Objectives of zone

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

Comment:

The proposed development comprises construction of "Shop-Top Housing" and "Commercial Premises" which are both permissible forms of development within the current B4 zone. I note that commercial premises encompass the following permissible uses - business premises, office premises and retail premises.

The proposed development also satisfies the relevant Objectives of the B4 zone for the following reasons: -

- In relation to the first objective, the proposed development will provide a mixture of retail, commercial and residential uses on the subject site, which are compatible with the existing land uses of the locality.
- In relation to the second objective, the proposed development will result in an integration of residential, retail and commercial development close to existing public

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transport along Oxford Street and is easily accessible by walking and cycling via Oxford Street and Elizabeth Place.

- In relation to the third objective, the proposed development will result in an active ground floor for office/retail uses fronting Oxford Street active and dynamic spaces along Oxford Street and the provision of a public communal courtyard within the middle of the proposed development. I consider that these proposed elements will contribute to the vibrancy of the Oxford Street Precinct.
- In relation to the fourth objective, the proposed development is of a height and scale that is compatible with the amenity of the surrounding shop-top-housing buildings, which generally comprise attached terraces up to 3 storeys in height.
- In relation to the fifth objective, the proposed development is of a height and scale that achieves the desired future character of the neighbourhood. On this point, I note the comments relating to the desired future character in this Clause 4.6 Request and the accompanying Revised SEE.

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**7.0 STATE OR REGIONAL ENVIRONMENTAL PLANNING SIGNIFICANCE AND THE
PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD**

Clause 4.6 (5) relates to matters for consideration by the Secretary as to “*whether contravention of the Development Standard raises any matter of significance for State or regional environmental planning.*”

The contravention of the FSR Standard in the circumstances of this application does not raise any matter of significance for State or Regional Environmental Planning.

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8.0 IS THE OBJECTION TO THE DEVELOPMENT STANDARD WELL FOUNDED?

I consider that this objection is well founded for the reasons outlined in this Revised Clause 4.6 Request, the Revised SEE and HIS. I again note the range of Positive Outcomes which are listed below:

- The proposed external finishes include white painted bagged brick work, painted render, steel balustrades, ceramic tiles, metal cladding, corrugated grey metal roof/wall cladding and translucent glazing. In accordance with the advice of Stephen Davies, Heritage Consultant, in relation to the approved development, these external finishes are compatible with those of the neighbouring terraces and Paddington HCA. Please refer to the *"Photomontage Oxford Street"*.
- The proposed development provides an appropriate level of safety and security, as well as a positive relationship between public, communal and private spaces.
- Passive surveillance is provided from within the proposed residential terraces to the proposed public communal courtyard.
- As advised in the SEPP 65 Design Statement, while there is no requirement for adaptable units in the proposed development, 4 of the units will achieve silver level universal design standards as per the Liveable Housing Guide, and this complies with the Apartment Design Guide requirement of 20% universal design.
- The current proposed development provides social and economic opportunities by locating apartments, commercial and retail tenancies, and a proposed public communal courtyard within the context of the Oxford Street precinct.
- The proposal provides for a quality development, with carefully considered bulk and scale, apartment layout and aspect. The proposed development provides a variety of high quality apartments in a contemporary, yet respectful aesthetic.
- The proposed residential terraces provide the opportunity for low-rise medium density accommodation for individuals who wish to remain close to their friends and neighbours, thus ensuring a positive social outcome. This form of housing has been described as the *"Missing Middle Housing"*.
- Based on the separate HIS for the approved development and the current proposed development, the proposed development would respect and enhance the heritage significance of the contributory site and of the wider Paddington HCA.
- The proposal would retain and conserve the contributory buildings which form part of the larger 'Cambrian' group, and the majority of the exterior and interior character-defining elements which contribute to the buildings' significance.
- The proposal seeks to remove the existing detracting and intrusive shopfronts and reinstate an interpretation of the traditional shopfront, using the extant frontage at 436 Oxford Street as a precedent. Please refer to the *"Photomontage Oxford Street"*.
- The proposal would enhance activation and public engagement with the contributory buildings on the subject site, as well as with the wider Paddington HCA.
- The proposed development generally conforms with WDCP 2015, with particular reference to the Paddington HCA.
- The proposal would engender positive urban design outcomes through the creation of a public communal courtyard.
- The proposed new terrace-style development to the rear of the subject site would demonstrate form, bulk, scale, proportionality and materialities which are referential to

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surrounding built forms (namely, Victorian period terraces), while being noticeably modern. Please refer to “*Photomontage Elizabeth Place*”.

- The proposed new terrace-style development would respect and respond to the existing fine-grain subdivision of the area.
- The proposed new terrace-style development would present as 2 storeys in scale (with a third storey in the roof space), thus presenting as appropriately scaled new infill of high-quality contemporary design.
- The existing carriageway at the rear of the subject site will be widened, whilst also removing the necessity of requiring 3 individual access points should the 3 lots forming the subject site be redeveloped individually. In other words, there will only be 1 access point.
- The surface of the existing carriageway will be significantly upgraded.
- There will be a significant improvement in the area and quality of landscaping on the subject site.
- The proposed development comprises 3 lots which allows a holistic redevelopment of this infill site with a range of Positive Outcomes. To have a large area along the Oxford Street Precinct represents an opportunity to provide a vibrant and cohesive development with particular reference to the substantial improvement to the Oxford Street facades, the provision of a public communal courtyard in the middle of the subject site and additional housing stock by way of terraces as part of the shop-top-housing development to the rear of the subject site.
- A further Positive Outcome arising from the current proposed development relates to access through the subject site from the rear Elizabeth Place into Oxford Street during specified periods. The Court approved development did allow public access from Elizabeth Place to Oxford Street. One of the concerns raised by a number in the local community was that such public access would result in excessive parking in Elizabeth Place by persons wishing to walk from Elizabeth Place to Oxford Street. The current DA will stop such public access by infilling the previously approved public access corridor along part of the western boundary.

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9.0 CONCURRENCE OF DIRECTOR GENERAL

(4) Development consent must not be granted for development that contravenes a development standard unless—

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

Comment:

The Department issued Planning Circular No. PS18-003 (dated 21st February 2018) which notified Council 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 provide that Council may assume the Director General’s [Secretary’s] concurrence for exceptions to Development Standards, thus satisfying the terms of this provision.

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10.0 CONCLUSION

Notwithstanding the breach of the FSR Standard, I consider that this request for variation of the FSR Standard is well founded.

I consider that the proposed development, notwithstanding the breach of the FSR Standard, will not have an unreasonable adverse impact on adjoining properties or the public domain and will result in a range of Positive Outcomes outlined in this Revised Clause 4.6 Request, HIS and Revised SEE.

A handwritten signature in dark ink, appearing to read 'Tony Moody', with a stylized flourish at the end.

TONY MOODY

BTP(UNSW), LL.B (UTS)(Hons.), MPIA

Dated: 14 April, 2022.

Completion Date: 12 February 2022

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 554/2021/1
ADDRESS: 432 Oxford Street PADDINGTON 2021
PROPOSAL: Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)
FROM: Mr R Lam
TO: Mr S Grevler-Sacks

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 19068TM, prepared by Tony Moody Planning & Development, dated 25 November 2021.
- Architectural Plans, referenced 19-022-Rev A, prepared by MHNDUNION, dated 25/05/2020.
- Survey, referenced 58489003A, prepared by Hill & Blume Consulting Surveyor, dated 23/05/2019.
- Stormwater Disposal Concept Plan, referenced 19/135-Rev C, prepared by ITM design P/L, dated 02/09/2020.
- Stormwater Disposal Concept Plan, referenced 19/135-Rev C, prepared by ITM design P/L, dated 02/09/2020.
- Geotechnical Opinion, referenced 27489PHrpt-Rev 5, prepared by EI Australia, dated 28 October 2019.

3. ASSESSMENT

Comments have been prepared on the following.

a. Site Drainage comments

The submitted revised concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage which will be conditioned accordingly.

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

c. Impacts on Council Infrastructure comments

Since the alignment of the existing Council's stormwater pipe cannot be located, Council's Drainage Engineer has requested that the existing Council drainage pipe that traverses the development site be replaced with a 525mm RRJ Reinforced Concrete pipe. The pipe shall be relocated to the proposed access way so that any future access into the Council's pipeline would not be compromised due to obstruction by the proposed building structures. Two new inlet pits are to be provided at both ends of the new pipe. The approximate length of the new pipe required to be installed is 35m. In this regard, the alignment of the new pipeline and longitudinal section (scale 1:100V, 1:50 H) showing preliminary design of the proposed Council's stormwater diversion pipe shall be provided. The longitudinal sections shall include both existing and finished ground levels, depth of cut/fill, chainage point, HGL, gradients representing in percentage, proposed pipe invert levels and size. A new 2 metres wide drainage easement, centrally located over the proposed pipeline is to be created as part of this application. It is required that the proposed basement and structures on the proposed ground floor must be built clear of this new 2 metres wide drainage easement. A min 3 metres head clearance shall be provided between the ground levels and the underside of the first floor level. The 2 metres wide new drainage easement must be clearly depicted on the revised architectural plans.

Given that the applicant hasn't addressed the above requirements, it is considered that these outstanding requirements could be conditioned as a deferred commencement consent if this application is supported by the planning department.

d. Traffic comments

Refer to comments and conditions from Council's Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed carparking layout and aisle width comply with AS2890.1 which are considered satisfactory. Vehicular access into and out of the proposed basement will be assessed by Council's Traffic Engineers

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by JK Geotechnics, Ref: 27489PHrpt Rev 5, dated 28 October 2019, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 6.5 metres below the existing ground levels for the proposed basement. It is further noted that assumption for the lift and car lift over-run pits will require excavation to a maximum depth of 1.5m below bulk excavation level.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 1.5m (BH102).*
- b) Depth of silty clay or silty sand was encountered below the fill.*
- c) Sandstone bedrock was encountered beneath the silty clay/silty sand at a depth of 2m (BH101) and 1.7m (BH102).*
- d) Groundwater was not encountered during the field investigation.*

The report made comments and recommendations on the following:

- Shoring and support,*
- Vibration Monitoring,*
- Excavation method,*
- Further Geotechnical input.*

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 for the deferred commencement approval:

A. General Conditions

A.3 Deferred Commencement - (section 4.16(3) of the Act, clause 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:

- a) The submission of a peg out document prepared by a public utility services locator showing the exact location of the existing Council's pipeline.
- b) The submission of concept engineering design showing the realignment and replacement of the existing Council's stormwater pipeline and connected to the existing in-ground drainage system in Elizabeth Place. The new stormwater pipe shall be Class 4, RRJ 525mm diameter steel reinforced concrete pipe.

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
P19520.G20	Geotechnical Opinion	EI Australia	14 Oct 2021
202043-C107-P2	Stormwater Plan	TTW	1/11/2021
202043 CAAA	Civil Engineering Report	TTW	29 Oct 2021

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

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.5 Security Deposits

Property Damage Security Deposit (S138)	\$30,216	No	T115
Infrastructure Works bond (S138)	\$66,350	No	T113
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$494	No	T45
Local Government Act Activity Applications (other than where a specific fee is provided) (S68 Fee)	\$180 plus an assessment charge of \$180 per hour or part of an hour.	No	T45

C.13 Road and Public Domain Works

Prior to issue of any Construction Certificate, a separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works. Detailed design drawings prepared by a suitably qualified and experienced civil engineer for the infrastructure works must be carried out at the applicant's expense:

1. Drainage Works

- a) The reconstruction of the existing kerb inlet pit in Elizabeth Place. The new inlet pit must be designed to sustain T44 loading with Class D type grate. All works shall be carried out in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.
- b) The existing 300mm Council's drainage pipe that traverses the development site shall be replaced with a Class 4, 525mm RRJ Steel Reinforced Concrete pipe and connected to the existing Council's in-ground drainage system in Elizabeth Place. Minimum two new inlet pits are to be provided at both ends of the new pipe. Full engineering design drawings including longitudinal sections of the proposed pipelines shall be prepared in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Drainage and Assets Engineers. The

longitudinal sections shall include both existing and finished ground levels, depth of cut/fill, chainage point, HGL, gradients representing in percentage, proposed pipe invert levels and size.

- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

2. Bonds

- a) A bond of \$66,350 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.48 Relocation or reconstruction of Council's stormwater drainage system

Prior to issue of any Construction Certificate, a separate application under Section 68 of the Local Government Act 1993 is to be made to and be approved by Council for the following works. The works must be carried out at the applicant's expense:

- a) The existing 300mm Council's drainage pipe that traverses the development site shall be realigned and replaced with Class 4, 525mm RRJ Steel Reinforced Concrete Pipe. The pipe shall be relocated to the proposed access way. Minimum two new inlet pits are to be provided at both ends of the new pipe. The approximate length of the new pipe required to be installed is 35m. Full engineering design drawings including longitudinal sections of the proposed pipelines shall be prepared in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Drainage and Assets Engineers. The longitudinal sections shall include both existing and finished ground levels, depth of cut/fill, chainage point, HGL, gradients representing in percentage, proposed pipe invert levels and size.

The developer must meet all costs of relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development. All engineering drawings (plan, sections and elevation

views) and specifications of the new stormwater drainage system to be constructed are to be prepared by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

Note: Four weeks should be allowed for assessment.

The design and construction of the works must be in accordance with Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and “Specification for Road Works, Drainage and Miscellaneous Works” which include Council's Standard Drawings. Both documents are available from Council's website <http://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.
Standard Condition: C.48 (Autotext CC48)

C.21 Provision for Energy Supplies

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.41 Ground Anchors

C.51 Stormwater Management Plan

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by ITM Design P/L, referenced 19/135, dated 02/09/2020 other than amended by this and other conditions;
- b) All underground structures are to be fully tanked;
- c) The installation of minimum 3.6m³ pumpout system;
- d) Compliance with the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP with regard to the installation of stormwater treatment system as specified in the stormwater plans;
- e) Compliance the objectives and performance requirements of the BCA;
- f) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

OSR Requirements

The minimum (OSD) Site Storage Requirements (“SSR”) and the Peak Site Discharge (“PSD”) from the site must be 40.9m³ and 55.6l/s.

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.

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer’s specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer’s specifications for proprietary products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

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.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing the following:

- a. The provision of a storage/inlet area with minimum storage capacity of 9m³ is to be created and connected to Council's drainage system in Elizabeth Street via a 225mm diameter pipe;
- b. The development drainage is to be directed to a 40kL rainwater reuse tank which is to be connected to toilet flushing to all units, automatic garden watering and automatic pool top up.
- c. The existing 300mm Council drainage pipe that traverses the development site shall be replaced with a 525mm RRJ Concrete pipe. The applicant shall provide Council with plans indicating the location of the proposed pipeline before construction commences. The plans are to include details of the proposed easement completed by a registered surveyor. The Easement shall be a minimum 2m wide;
- d. A full post construction CCTV survey of the new pipe system and its connection to Council's existing system is to be provided to Council;
- e. Evidence for the registration of a new drainage easement shall be provided to Council.
- f. All below ground construction is to be fully tanked.
- g. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark;
- h. Permanent flood risk management plans shall be installed in areas frequented by all the residents;
- i. The pedestrian access through the centre of the building shall be at or above the flood planning level of RL64.13m AHD;
- j. The access to the stairwell near the plant room shall be constructed at a flood planning level at or above RL64.35m AHD;
- k. The plant access room shall be constructed at or above a flood planning level (FPL) of RL64.23m AHD and all fixed electrical equipment (air conditioners) shall be at or above RL62.7m AHD;
- l. All fences and walls are to be designed to be structurally stable during all flood events up to the probable maximum flood (PMF);
- m. Flood compatible materials shall be used for all flood exposed construction;
- n. All electrical wiring and fixed electrical equipment shall be located above or waterproofed to the flood planning level (FPL);
- o. The car parking area shall be protected by a mechanical flood barrier with the threshold set to the flood planning level (FPL) of RL64.3m AHD;
- p. All habitual floors shall be above or protected from flooding to the flood planning level (FPL) of RL64.3m AHD;

- q. Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation;
- r. Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) are to be installed in the car parking area.
- s. 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.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: *Off-street car parking*. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

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

D.4 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 10, 11, 15, 17, 19, 21 and 23 Elizabeth Street
No. 442 Oxford Street
No. 22 George Street

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. A copy of the reports shall be forward 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.5 Dilapidation Reports for Public Infrastructure before Works

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council as the assets owner prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of the public stormwater drainage systems fronting, adjoining and/or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work.

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 Principal Contractor fails to submit the dilapidation 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: D5 (Autotext DD5)

D.6 Adjoining buildings founded on loose foundation materials

D.7 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must 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

E.27 Existing Drainage Easement, Drainage Reserve or Stormwater Drainage System Benefiting Council

Council's stormwater system passes through the site. No building or other structure must be placed over the drainage easement and/or stormwater system or within the zone of influence taken from the invert of any pipe.

The Principal Contractor or Owner-builder must locate all stormwater drainage systems without causing any damage to the public system and ensure its protection. The Owner, Principal Contractor or Owner-builder must not obstruct or otherwise remove, disconnect or render inoperable the stormwater drainage system.

Works such as fences must not obstruct the natural floodway or alter the natural floodway in such a way as to direct or concentrate stormwater on to neighbouring properties.

Where the relocation or reconstruction of Council's drainage system is approved then 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 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: The *Local Government Act 1993* provides:

"59A Ownership of water supply, sewerage and stormwater drainage works

- a. Subject to this Division, a council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by the council (whether or not the land is owned by the council).
- b. A council may operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed."

Standard Condition: E27 (Autotext EE27)

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.7 Commissioning and Certification of Systems and Works

F.9 Commissioning and Certification of Public Infrastructure Works

F.14 New drainage easement (Council drainage infrastructure)

A new deposited plan, including a 2 metres wide drainage easement in Council's favour over the as-built drainage infrastructure, giving Council access rights for personnel and equipment to inspect and maintain and/or replace the drainage pipeline, must be registered at the Land Titles Office, prior to the issue of any Occupation Certificate.

Standard Condition: F14 (Autotext FF14)

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.14 Dilapidation Report for Public Infrastructure After Works

After completion of all construction works and prior to issue of any Occupation Certificate, the Principal Contractor must submit for approval by Council's Assets Engineer, a follow up dilapidation report. The report must be prepared by a professional engineer on Council's infrastructure within and near the development site to Council upon completion of the work.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged and/or defective public infrastructure. All identified damaged and/or defective public infrastructure must be rectified, at no costs to Council, to the satisfaction of Council's Assets Engineer.

The Occupation Certificate must not be issued until Council's Asset Engineer is satisfied that all required restoration works have been satisfactorily completed and the Principal Certifying Authority has been provided with written correspondence from Council's Asset Engineer attesting that this condition has been satisfied.

Note: If the Principal Contractor fails to submit the dilapidation 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: H14 (AutotextHH14)

H.20 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work and prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor shall be submitted for approval by the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) that stormwater quality system have been constructed in accordance with the approved stormwater plans,
- c) the structural adequacy of OSD tank, rainwater tank and pumpout system,

- d) that the works have been constructed in accordance with the approved design and will provide the detention and retention storage volume in accordance with the approved stormwater plans,
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) 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.
- g) 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 at the Land Titles Office.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

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

I.29 Ongoing Maintenance of the On-Site-Detention System

J. Miscellaneous Conditions

Nil

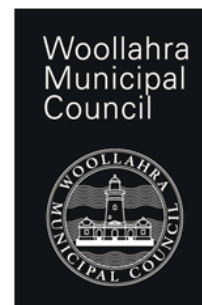
K. Advisings

K.23 Dilapidation report

K.24 Roads Act Application

Memorandum – Traffic

Date 11 March, 2022
File No. Development Applications: 554/2021/1
To Mr S Grevler-Sacks
CC Mr L Robert
From Ms E Fang, Mr E Andari
Address **432-440 OXFORD STREET PADDINGTON 2021**



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I refer to the memo from the Planning Department dated 7 December January 2021 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects, referenced 19068TM, prepared by Tony Moody Planning and Development;
2. Traffic and Parking Assessment Report, referenced 21598, prepared by Varga Traffic Planning Pty Ltd, dated 25 November 2021;
3. Operational Waste Management Plan, referenced Report No. 3525, Rev. B, prepared by Elephants Foot Consulting, dated 17 February 2022;
4. Construction Traffic Management Plan, referenced 19491, prepared by Varga Traffic Planning Pty Ltd, dated 2 June 2021;
5. Ausgrid Connection, Design Related Services Offer, referenced (MC) 1900108372, prepared by Ausgrid, dated 29 July 2021;
6. Architectural Drawings, referenced Project No. 19-022, prepared by MHN Design Union, dated 18 October 2021, including:

DA01	COVER PAGE / LOCATION PLAN	DA50	AREA DIAGRAMS - GFA
DA02	PHOTOMONTAGE OXFORD ST	DA51	AREA DIAGRAMS - GFA
DA03	PHOTOMONTAGE ELIZABETH PLACE	DA52	AREA DIAGRAMS - LANDSCAPE
DA10	SITE ANALYSIS PLAN	DA53	AREA DIAGRAMS - COMMON
DA11	SITE ROOF PLAN	DA54	WASTE MGT PLAN
DA12	DEMOLITION PLAN	DA55	WASTE MGT PLAN
DA13	SITE CONTEXT PHOTOS	DA60	DESIGN VERIFICATION
DA14	DEVELOPMENT SUMMARY	DA61	SEPP 65 PRINCIPLE 1 - CONTEXT
		DA62	SEPP 65 PRINCIPLE 2 - BUILT FORM & SCALE
		DA63	SEPP 65 PRINCIPLE 3 - DENSITY
		DA64	SEPP 65 PRINCIPLE 4 - SUSTAINABILITY
DA20	BASEMENT FLOOR PLAN	DA65	SEPP 65 PRINCIPLE 5 - LANDSCAPE
DA21	GROUND FLOOR PLAN	DA66	SEPP 65 PRINCIPLE 6 - AMENITY
DA22	LEVEL 1 FLOOR PLAN	DA67	SEPP 65 PRINCIPLE 7 - SAFETY
DA23	LEVEL 2 FLOOR PLAN	DA68	SEPP 65 PRINCIPLE 8 - HOUSING DIVERSITY
		DA69	SEPP 65 PRINCIPLE 9 - AESTHETICS
		DA70	ADG CHECKLIST
DA30	ELEVATIONS NORTH & SOUTH	DA71	ADG CHECKLIST
DA31	ELEVATIONS EAST & WEST	DA72	ADG CHECKLIST
DA32	ELEVATIONS NORTH & SOUTH COURTYARD	DA80	INTERNAL STORAGE AREAS
DA33	DETAILED ELEVATION OXFORD STREET	DA81	DRIVEWAY PROFILE & SEWER LOCATION PLAN
		DA82	EXTERNAL MATERIALS & FINISHES
		DA83	EXTERNAL MATERIALS & FINISHES
DA40	SECTION A & SECTION B	DA84	NOTIFICATION PLAN
			NOTIFICATION PLAN

Attachment 5 - Referral Response - Traffic

Proposal

Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)

COMMENTS

Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter C1 Paddington Heritage Conservation Area* and *Chapter E1 Parking and Access*:

Table 1: Car Parking Provision – Mixed Use

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Allowed Parking
Studio/1 bedroom	12	0.5	6
2 bedrooms	5	1	5
Visitor	17	0.2	3.4 (3)
Total allowed			14
Non-residential Component	Quantity	DCP Minimum Requirement per 100m² GFA	DCP Minimum Required Parking
Retail	529m ²	3.3 spaces per 100m ² GFA with 0.7 multiplier for Oxford Street B4 Zone	12.2 (12)
Retail/Commercial (Additional)	91m ²	3.3/2.5 spaces per 100m ² GFA with 0.7 multiplier for Oxford Street B4 Zone	2.1/1.6 (2)

Reference is also made to the recently approved proposal under DA2020/274/1 for the subject site. It is understood that the new proposal will include an increase of GFA for retail/commercial use by 91m², whilst retaining the previous proposal of residential mix and car parking.

It is clear from Table 1 the proposal is permitted with a maximum provision of 14 car parking spaces for residential uses and is required with a minimum provision of 14 car parking spaces for retail/commercial uses. The proposed 12 car parking spaces solely allocated to residential uses will result in a shortfall of 14 spaces for non-residential components however is considered acceptable for the reasons listed as follows:

- 1) Parking for residential uses generally has a lower turnover rate than retail/commercial uses, which will generate less traffic into and out of the narrow right of way, and hence less adverse impact on parking and traffic for the adjoining properties;
- 2) Travel patterns can be influenced by availability of parking and provision of alternative transport modes. The subject site is surrounded by 'No Stopping' and 1P/2P timed and metered parking restrictions, which assists with deterring long-term parking. The subject site is also in close proximity to public transport services, and has convenient access to cycling and car sharing facilities. These arrangements are considered acceptable to accommodate

Attachment 5 - Referral Response - Traffic

- customers/visitors of the retail/commercial components, who have random, short-term and yet more frequent parking demand than residential uses;
- 3) The subject site is serviced by several public car parks, which could also provide support and convenience for staff, customers and visitors;
 - 4) Resident parking schemes are operated covering the majority of local streets. Such schemes will remain viable as future tenants and residents of the proposed development will be denied access to these schemes;
 - 5) A compliant parking provision would result in extensive excavation due to site constraints and is not desirable in the area.

As such, considering the nature of the development, the existing traffic and transport conditions in the surrounding area, as well as the physical constraints to provide on-site parking that conforms to Council's DCP and AS/NZS 2890.1:2004, the proposed car parking provision is considered acceptable. Should the development be approved, signage/pavement marking should be provided to ensure these parking spaces can only be accessed for residential uses during the on-going operation of the premise.

It is also noted that two (2) accessible parking spaces are proposed for the adaptable units, which complies with BCA's requirements and is deemed satisfactory.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	Proposed
Residential residents	17 dwellings	1 per dwelling	17	19
Residential visitors	17 dwellings	10 per dwelling	1.7 (2)	
Retail Employees	529m ²	1 per 250m ²	2.1 (2)	10
Retail Customers	529m ²	2 + 1 per 100m ² over 100m ² GFA	6.3 (6)	
Retail/ Commercial	91m ²		2/1	
MOTORBIKE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	
Car Spaces	12	1 per 10 car spaces	1.2 (1)	2
Total required			1	

In response, the proposal includes two (2) motorcycle parking spaces in the basement, 17 bicycle parking spaces in enclosed storage rooms and 12 bicycle parking spaces on the Ground Floor. The provision is deemed satisfactory. Should the development be approved, conditions will be imposed to ensure the compliant provision and allocation of parking consistent with the proposal.

Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

Existing Development

Office

- Weekday peak hour vehicle trips: $78\text{m}^2 \times 1.2\text{-}1.6 \text{ per } 100\text{m}^2\text{GFA} = 0.9\text{-}1.2 \text{ trips}$
- Daily vehicle trips: $78\text{m}^2 \times 11 \text{ per } 100\text{m}^2\text{GFA} = 8.6 \text{ trips}$

Retail – Specialty Shops

- Weekday peak hour vehicle trips: $487\text{m}^2 \times 0.75 \times 5.6 \text{ per } 100\text{m}^2\text{GLFA} = 20.5 \text{ trips}$
- Daily vehicle trips: $487\text{m}^2 \times 0.75 \times 55.5 \text{ per } 100\text{m}^2\text{GLFA} = 202.7 \text{ trips}$

Medium Density Residential – Smaller Units

- Weekday peak hour vehicle trips: $5 \text{ dwellings} \times 0.4\text{-}0.5 \text{ per dwelling} = 2\text{-}2.5 \text{ trips}$
- Daily vehicle trips: $5 \text{ dwelling} \times 4\text{-}5 \text{ per dwelling} = 20\text{-}25 \text{ trips}$

Total

- Weekday peak hour vehicle trips = 23.4-24.2 trips
- Daily vehicle trips = 232.3-236.3 trips

Proposed Development

Retail – Specialty Shops

- Weekday peak hour vehicle trips: $620\text{m}^2 \times 0.75 \times 5.6 \text{ per } 100\text{m}^2\text{GLFA} = 26.0 \text{ trips}$
- Daily vehicle trips: $620\text{m}^2 \times 0.75 \times 55.5 \text{ per } 100\text{m}^2\text{GLFA} = 258.1 \text{ trips}$

Medium Density Residential – Smaller Units

- Weekday peak hour vehicle trips: $17 \text{ dwellings} \times 0.4\text{-}0.5 \text{ per dwelling} = 6.8\text{-}8.5 \text{ trips}$
- Daily vehicle trips: $17 \text{ dwelling} \times 4\text{-}5 \text{ per dwelling} = 68\text{-}85 \text{ trips}$

Total

- Weekday peak hour vehicle trips = 32.8-34.5 trips
- Daily vehicle trips = 326.1-343.1 trips

Or

Commercial

- Weekday peak hour vehicle trips: $620\text{m}^2 \times 1.2\text{-}1.6 \text{ per } 100\text{m}^2\text{GLFA} = 7.4\text{-}9.9 \text{ trips}$
- Daily vehicle trips: $620\text{m}^2 \times 11 \text{ per } 100\text{m}^2\text{GLFA} = 68.2 \text{ trips}$

Medium Density Residential – Smaller Units

- Weekday peak hour vehicle trips: $17 \text{ dwellings} \times 0.4\text{-}0.5 \text{ per dwelling} = 6.8\text{-}8.5 \text{ trips}$
- Daily vehicle trips: $17 \text{ dwelling} \times 4\text{-}5 \text{ per dwelling} = 68\text{-}85 \text{ trips}$

Total

- Weekday peak hour vehicle trips = 14.2-18.4 trips
- Daily vehicle trips = 136.2-153.2 trips

Net Increase

- Weekday peak hour vehicle trips = 0-11.1 trips
- Daily vehicle trips = 0-110.8 trips

Future tenancies for non-residential components are unclear at this moment, however based on the above calculation, it is anticipated that the overall post-development traffic will not generate unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.

It is also noted that post-development traffic will intend to access Oxford Street frontage and the rear laneway of Elizabeth Place and the right-of-way (ROW) carriageway. Given the narrow width, it is acknowledged that the rear laneway and ROW have more restricted traffic conditions and are therefore more sensitive and susceptible to increase of traffic. Traffic accessing the rear of the proposed development is separately assessed in this regard.

Given on-site car parking is restricted to residential uses, it is envisaged that traffic generated at the rear will only be related to residents and their visitors, therefore the increased traffic for Elizabeth Place and the ROW should be calculated as:

Existing Development

Medium Density Residential – Smaller Units

- Weekday peak hour vehicle trips: 5 dwellings x 0.4-0.5 per dwelling = 2.0-2.5 trips
- Daily vehicle trips: 5 dwelling x 4-5 per dwelling = 20-25 trips

Proposed Development

Medium Density Residential – Smaller Units

- Weekday peak hour vehicle trips: 17 dwellings x 0.4-0.5 per dwelling = 6.8-8.5 trips
- Daily vehicle trips: 17 dwelling x 4-5 per dwelling = 68-86 trips

Net Increase

- Weekday peak hour vehicle trips = 4.3-6.5 trips
- Daily vehicle trips = 43-65 trips

Assuming tenants are active for 14-16 hours per day, it is calculated that the proposal will generate an increased traffic of 4.3-6.5 trips per hour during peak hours and 25.8-39 trips (4 hours of peak traffic excluding from daily trips) left to be scattered throughout 10-12 hours, which equals to an average traffic of 2.2-3.9 vehicle trips per hour.

Elizabeth Place is a local road, which primarily functions as an access way for the residential properties between Elizabeth Street and the cul-de-sac end of Elizabeth Place. The environmental capacity of an access way like Elizabeth Place can accommodate a maximum of 100 vehicles per hour, in accordance with Table 4.6 of *RMS Guide to Traffic Generating Developments 2002*. The calculated increase of traffic for Elizabeth Street and the ROW is thus considered not desirable yet manageable, subject to traffic conditions and ROW alignment.

It is understood that ROW alignment is proposed to be retained as previously approved. With no changes made associated with traffic accessing the rear of the property, such arrangement is considered acceptable.

Access Driveway, Queuing, Waiting Bay

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It is understood that no change is made to the previously approved mechanical installations including car lift, turntable and traffic signal. Accordingly, the provision and location of the waiting bay is retained. Swept path diagrams for B99 vehicles demonstrate vehicles can enter/leave the car lift in a forward direction while a vehicle is standing in the waiting bay. This is deemed satisfactory. It should be noted that the waiting bay should have a minimum length of 6m and must not exceed a maximum grade of 1 in 20 to comply with E1.15 of Council's DCP.

Should the development be approved, traffic light system should give traffic entering the car lift and vehicles in the right of way priority to minimise disruption to vehicle and pedestrian flows along the ROW.

Loading Bay & Access to Elizabeth Place

No specific requirement is stipulated for the provision of loading bay in Council's DCP regarding this proposal, however it is envisaged the proposed development will require constant deliveries to and from the site. No designated loading bay is provided on-site. Given the site constraints, it is essential that all delivery vehicles use the nearby loading zones along Oxford Street frontage and access to Elizabeth Place is restricted to occupants of the residential component of the development, with the exception of emergency vehicles. Access to Elizabeth Place by vehicles related to other uses, including delivery vehicles, are prohibited. Measures should be taken in forms of, i.e. proper signage, traffic management plan, etc., and control documentation should be submitted for further assessment, and be followed in the on-going use of the development subject to Council's approval.

RECOMMENDATION

Should this development be approved, it is recommended that the following engineering conditions be included as part of the DA consent:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
21598	Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	25 November 2021

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 AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2018 - *Off-Street Parking: Commercial Vehicle Facilities* respectively.

The plans must satisfy the following requirement(s):

- a) The proposed 12 car parking spaces be clearly marked and designated for residential uses and these designated car parking spaces shall be shown on the Architectural Plans and Construction Certificate plans;

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- b) A total of 29 bicycle parking spaces shall be provided, comprising 19 residential and 10 retail/commercial bicycle parking spaces. A maximum of 17 spaces in the basement car park and a minimum of 12 spaces at Ground level and shall be provided with only resident bicycles permitted in the basement car park. All bicycle parking spaces shall be clearly marked and designated for these uses. The designated bicycle parking spaces shall be clearly shown on the revised Architectural plans;
- c) A traffic signal system be incorporated into the proposed carpark and car lift to facilitate flow between the ground floor and basement level to regulate traffic and ensure safe manoeuvring. The traffic light system should give traffic entering the car lift and vehicles in the right of way priority to minimise the disruption to vehicle and pedestrian flows along the right of carriageway.
- d) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS/NZS 2890.1:2004;
- e) **Other conditions imposed by Development Engineers.**

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

H. Conditions which must be satisfied prior to the issue of a final occupation certificate (Section 109C(1)(c))

H.xx Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems (Special Condition)

On completion of construction work, mechanical parking installations 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 mechanical parking installation including turntable, car lift and traffic light system;
- b) That the works have been constructed in accordance with the approved design;
- c) A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift and traffic signal system incorporated in the development. The wording of the Instrument

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must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

Note: 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.

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

I.21 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:1993 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car Parking (Resident Only)	12
Bicycle Parking (Residential)	19
Bicycle Parking (Retail)	10
Motorcycle Parking	2

No visitor cars or motorcycles shall use the car lift or park on the site.

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.xx On-going Maintenance of the Mechanical Parking Installation Systems;

The Owner(s) must in accordance with this condition and any positive covenant:

- Keep the systems clean and free of rubbish and debris;
- Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- Carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;
- Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost

to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;

- h) 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 systems and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of maintenance requirements for their mechanical systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

I.xx Operation in Accordance with Traffic Management Plan (Special Condition)

- a) The operation and management of the premises shall be in accordance with the approved TMP;
 - b) The TMP cannot be altered without the written consent of Council.
- Standard Condition: I15 (Autotext: I115)

I.xx Loading & Deliveries

All loading and deliveries to the commercial uses shall be between the following hours: Monday to Saturday: 9am and 6pm. All deliveries to the site shall be made via Oxford Street.

I.xx No On-Site Car or Motorcycle Visitor Parking

No residential / retail or commercial visitors are to park cars or motorcycles on-site.

28 January 2022

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 554/2021/1

ADDRESS: 432 Oxford Street PADDINGTON 2021

PROPOSAL: Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)

FROM: Sam Knight

TO: Mr S Grevler-Sacks

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Tony Moody Planning & Development, reference 19068TM
- Architectural Drawings, drawn by MHNDU, dated 3 November 2021
- Arboricultural Impact Assessment Report, written by Earthscape Horticultural Services, dated March 2020
- Landscape Plans – revision C, designed by Jane Urwin Landscape Architecture, dated 12 November 2021

A site inspection was carried out on 27 January 2022.

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

SUMMARY

The proposal involves alterations and additions to approved development under DA consent DA274/2020/1.

A number of trees within and adjacent to the property have been identified that will be impacted by the proposed works.

Tree removal and tree protection measures have been detailed below and are recommended for inclusion into the Conditions of Consent.

COMMENTS

Inspection of the site has identified two (2) trees within the subject site and three (3) trees within the neighbouring property at 444 Oxford Street that will be impacted by the proposal development. This includes T3 – Japanese Loquat, T4 – Lemon Scented Gum which are located on the south-eastern boundary of the subject site and T5 – White Cedar, T6 – Lemon Scented Gum and T8 Lemon Scented Gum which are located in the neighbouring property at 444 Oxford Street.

Please note the above tree numbering has been adopted from the Arboricultural Impact Assessment Report prepared by Earthscape dated March 2020 (applicants Arborist Report). Whilst this report includes an assessment of the previous development design (DA2020/274), information contained within the report is still relevant and has been relied upon for this referral including adoption tree numbering for reference and consistency purposes.

Site Tree – T3 – (Japanese Loquat)

A Japanese Loquat has been identified within the rear yard of the subject site. This tree is number T3 in the applicants Arborist Report. The tree is located directly adjacent to the south-eastern boundary and was noted in good health and poor structural condition. The tree is visually prominent from the rear of the property only and provides a fair contribution the canopy cover of the immediate area. However, an extensive trunk wound and fair branch structure was identified during a recent site inspection. Pockets of decay were noted in the trunk wounds which is compromising the structural integrity of the tree. The tree is rated as having low retention value.

The tree is located within the footprint of the proposed new tenancy 1 and will require removal. Due to the poor structural condition and low retention value of this tree, removal is supported conditional of replacement planting being undertaken within the deep soil area with a tree that achieve a mature height of similar dimensions.

Site Tree – T4 – (Lemon Scented Gum)

A Japanese Loquat has been identified within the rear yard of the subject site. This tree is number T4 in the applicants Arborist Report. The tree is located directly adjacent to the south-eastern boundary and was noted in good healthy condition and provides a positive construction to the amenity and canopy cover of the immediate area. The tree is rated as having moderate retention value.

The tree is located within the footprint of the proposed new tenancy 1 and will require removal. Whilst the tree is in good health and condition, modifications to allow for retention of the tree would be substantial and is not considered appropriate.

Therefore, to compensate for the loss of this tree, replacement planting with a species that will attain a mature height of similar dimensions must be undertaken within the deep soil area in accordance with the below tree planting detail which is recommended for inclusion into the DA consent.

Neighbouring Trees

A White Cedar and two (2) Lemon Scented Gums have been identified in the neighbouring property at 444 Oxford Street which are within close proximity to the proposed development. These trees are numbered T5, T6 and T8 in the applicants Arborist Report. The trees are all noted in good healthy condition and provide a positive contribution to the amenity and canopy cover of the immediate area.

Tree Protection Zones calculated for these trees in accordance with the Australian Standard 4970 'Protection of trees on development sites' are between 5 to 10 metres. A review of the plans has revealed that the proposed excavation and construction works are classified as minor encroachment as defined by AS4970 and are not expected to result in any adverse impacts below ground.

However, majority of the canopy of Tree 9 overhangs the subject site and could be affected during alteration to the rear of the existing terrace known as 440 Oxford Street. Therefore, it is recommended that prior to the issuing of the Construction Certificate, a Pruning Specification be submitted for Council approval. Details that must be addressed in the specification are detailed below and recommended for inclusion into the DA 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

Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to the tree planting included in the Landscape Plans – revision C, designed by Jane Urwin Landscape Architecture, dated 12 November 2021.

The Landscape Plans and tree planting detail must be amended to reflect the tree planting species and requirements included in Condition E.2 of this consent.

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

- a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
T3	Eriobotrya japonica	South-eastern boundary	8m x 6m
T4	Corymbia citriodora	South-eastern boundary	8m x 3m

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

Note: reference shall be made to the Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services dated March 2020 for tree numbers and locations.

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	TPZ Radius from Centre of Trunk (Metres)
T5	Melia azedarach	444 Oxford Street	7m
T6	Corymbia citriodora	444 Oxford Street	9m
T8	Corymbia citriodora	444 Oxford Street	9.8m

Note: reference shall be made to the Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services dated March 2020 for tree numbers and locations.

- b) No 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.
- c) Care shall be taken when operating heavy machinery, erecting scaffolding and undertaking construction activities within the canopy dripline of any tree to be retained. Branches must not be damaged or pruned unless written approval is granted by Council.
- d) 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.
- e) 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
T8	Corymbia citriodora	9.8m	Building construction under Arborist supervision

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;
- 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.4 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of non-compliance; and
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Tree Pruning	Certification works completed in accordance with approved pruning specification
Construction works within canopy dripline of T8	Certification of any machinery operations, scaffolding erected
Prior to the issue of a Final Occupation Certificate	Certification of tree protection measures implement for entirety of construction works

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.

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.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)
Angophora costata	Court yard adjacent to southern side of tenancy 4	200L	16m x 8m
Banksia integrifolia	Eastern boundary	200L	8m x 5m
Elaeocarpus eumundii	Eastern boundary	200L	8m x 4m

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

- a) A 'Pruning Specification' for Tree 8 – Lemon Scent Gum located within 444 Oxford Street, prepared by a qualified Arborist (minimum AQF Level 5) must be submitted to and approved by Council's Tree Management team prior to the issuing of the Construction Certificate. The report must include:

- (i) Number of branches and orientation, branch diameter, percentage of canopy to be pruned/removed.
- (ii) Photos with individual branches which are recommended for pruning/removal to be clearly marked. (Please note reports which include photos with a single vertical line as the area recommended for pruning will not be accepted).
- (iii) A maximum of 5% canopy removal and maximum of 100mm diameter branches will be permitted by Council.
- (iv) Pruning work must be specified in accordance with *Australian Standard 4373–2007, Pruning of Amenity Trees*.

- (v) Tree removal must not be recommended in this report.
- b) All approved tree pruning works must be carried out by a qualified Arborist, with a minimum Level 3 AQF in arboriculture and in accordance with WorkCover's Code of Practice – Amenity Tree Industry.
- c) Any pruning works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning, which result in the overall shape of the tree becoming unbalanced and/or unstable.
- d) Written consent from the owner of the tree must be provided to Council prior to the issuing of the Construction Certificate.
- e) This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. All tree works must be undertaken from within the subject property unless consent from the neighbour is obtained to enter their property.

Sam Knight
Tree Officer



Woollahra
Municipal
Council

1 March 2022

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 554/2021/1

ADDRESS: 432 Oxford Street PADDINGTON 2021

PROPOSAL: Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)

FROM: Shona Lindsay - Heritage Officer

TO: Mr S Grevler-Sacks

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by MHNDUnion, dated 18 October 2021
- Heritage Impact Statement by Urbis, dated 10 November 2021
- Statement of Environmental Effects by Tony Moody Planning and Development
- Survey plan

SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was previously inspected on the 3 May 2016 prior to pre-DA meeting, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Pre-DA minutes and previous referral responses:
 - Heritage Referral Response for DA436/2016 dated 4 July 2019 by Flavia Scardamaglia, Heritage Officer
 - Heritage Referral Response for DA436/2016 dated 25 March 2019 by Flavia Scardamaglia, Heritage Officer
 - Heritage Referral Response for DA436/2016 dated 15 November 2016 by Flavia Scardamaglia, Heritage Officer
 - Heritage Referral Response for Pre-DA (8/2016/1) Meeting dated 11 May 2016 by Flavia Scardamaglia, Heritage Officer
 - Heritage Referral Response for DA432/2014/1 dated 27 November 2014 by Kate Harrison, Heritage Officer
 - Heritage Referral Response for DA2020/274/1 dated 16 December 2020 by Shona Lindsay, Heritage Officer
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Woollahra LEP 2014

Attachment 7 - Referral Response - Heritage



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- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY TO THE CONSERVATION AREA

The subject site is part of a group of 6 Late Victorian Italianate commercial terraces (no.432 to 442 located on the North side of Oxford Street known as the Cambrian Buildings). The stuccoed façade with decorative parapet, dentil corbelling and symmetrical fenestration are characteristic Italianate details common to the group. As part of a terrace group with intact Italianate details and a relatively homogeneous Victorian era rear elevation, the subject building contributes to the aesthetic value of the conservation area.

Constructed in 1887, the Cambrian Buildings are physical evidence of the continued development of Oxford Street as a commercial high street during the post gold rush economic boom, a significant phase of development of Paddington as a suburb. Demonstrating strong association with development of the area as a shopping destination during the Victorian era and evolving commercial practices, the terrace group contributes to the historical significance of the heritage conservation area.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within a heritage conservation area.

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

And

Clause 5.10 Heritage Conservation

Significance of items in the vicinity

There are no listed heritage items in close proximity that would be adversely affected by the proposal

Woollahra DCP 2015

The subject site is within the Paddington Heritage Conservation Area, and is considered a contributory item and a significant item.

Paddington HCA DCP

Clause 1.2.3 Character elements

- The proposal retains the property as a commercial site and establishes a cohesive relationship between the new development and the neighbouring contributory shops.

Clause 1.2.4 Desired future character

- The proposal is consistent with Paddington's low scale development and the desired future character to retain the diversity of building types, including commercial buildings.



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Clause 1.2.5 Contemporary design in Paddington

- The proposed design takes cues from the two storey terraces in Elizabeth Place and uses materials that offer a contemporary approach to traditional designs which is supported.

Clause 1.3.8 Commercial and industrial buildings including shops

All Commercial building

Objectives O1, O2, O3

Controls C1, C2, C4, C5, C7, C8, C10, C11, C12

- The proposal aims to retain the principal building forms of the subject terraces, including significant architectural elevations on Oxford Street and significant finishes and details and is consistent with C1 and C2.
- The proposed works remove the through-site link at the shopfront at No. 432 due to the requirement of a fire hydrant. This HIS provides the following comment which is agreed with:
Advice has been provided by Warrington Fire noting that Oxford Street is the only feasible location for a fire hydrant to service the site. This advice is in accordance with AS 2419.1, which requires the booster to be within sight of the main entry of the building (noting also that this application proposes to make the Oxford Street frontage the principal entry to the site). Additionally, Warrington Fire has found that access to the rear of the site for fire brigade appliances is poor, due to its physically constrained nature. Noting these requirements and constraints, the design for the new fire hydrant booster is considered sympathetic to the overall character and detailing of the refurbished shopfronts, including appropriate proportions and materials which will allow it to visually integrate into the presentation of the shopfronts.

Commercial development in Oxford Street

Objectives O1, O2, O3, O5, O11, O13

Controls C1, C2, C7, C8, C9, C10, C11

- The proposal maintains retail/commercial use of the ground floor and it is consistent with C1.
- The proposed changes to the entrance of No. 432 are consistent with the LEP approval and are in keeping with the character of the group.

Clause 1.3.13 Infill development (new development)

Objectives O1, O2, O3

Controls C1, C3, C4, C5, C6, C7, C13, C14, C15, C16

- The proposed changes to the infill development to the rear of the sites along Elizabeth Place are consistent with the LEP approval and will not adversely impact the HCA.

Clause 1.4.1 Principal building form and street front zone of contributory buildings

Objectives O1, O2, O3, O4, O6, O7, O11, O12

Controls C1, C2, C3, C7, C8, C15

- The proposal aims to retain the principal building forms of the subject terraces, including significant architectural elevations on Oxford Street and significant finishes and details.
- Original significant internal fabric will be retained.
- The proposed works remove the through-site link at the shopfront at No. 432 due to the requirement of a fire hydrant. This HIS provides the following comment which is agreed with:
Advice has been provided by Warrington Fire noting that Oxford Street is the only feasible location for a fire hydrant to service the site. This advice is in accordance with



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AS 2419.1, which requires the booster to be within sight of the main entry of the building (noting also that this application proposes to make the Oxford Street frontage the principal entry to the site). Additionally, Warrington Fire has found that access to the rear of the site for fire brigade appliances is poor, due to its physically constrained nature. Noting these requirements and constraints, the design for the new fire hydrant booster is considered sympathetic to the overall character and detailing of the refurbished shopfronts, including appropriate proportions and materials which will allow it to visually integrate into the presentation of the shopfronts.

Clause 1.4.3 Rear elevations, rear additions, significant outbuildings and yards

Objectives O1, O2, O3, O4

Controls C2, C3, C4

- The original rear wings are retained.
- The HIS provides the following comment in regards to the rear elevation works which is agreed with:
The existing ground-floor level lean-to at the rear of no. 432, which is proposed to be removed and replaced with new work, is not original to the building nor in any way contributory to its character and significance. Its removal is supportable from a heritage perspective. The replacement addition will be clearly identifiable as new work, and its single-storey scale would not detract from the legibility and setting of the contributory building.

Clause 1.4.5 Building height, bulk, form and scale

Objectives O1, O3, O4

Controls C1, C3, C7

- Overall, the height, bulk, form and scale is consistent with the LEP approval.

Clause 1.5.3 Windows, doors, shutters and security

Objective O3

Control C4

- The proposed changes to the entrance to No. 432 are in keeping with the character of the group and are supported.

Clause 1.5.8 Materials, finishes and details

Objectives O2

Controls C4

- Proposed materials and finishes are contemporary but sympathetic and will achieve a positive outcome within the Paddington context.
- The proposal will retain the original shopfront of No. 436 and reinstate the other shopfronts using this original example, which is a positive heritage outcome and will re-establish the shared distinctive characteristics of the group.

Clause 1.5.9 Exterior colours

Objective O1

Controls C1, C3, C4

- The proposed colour scheme complies.

CONCLUSION

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does conserve the built heritage of Woollahra.

Attachment 7 - Referral Response - Heritage



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Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal is generally acceptable as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, no heritage conditions are required.

Shona Lindsay - Heritage Officer

Completion Date: 11/1/22

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications/ 554/2021/1
ADDRESS: 432 Oxford Street PADDINGTON 2021
PROPOSAL: Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)
FROM: Kristina Pakhomova
TO: Mr S Grevler-Sacks

1. ISSUES

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 19068TM, prepared by Tony Moody,
- Architectural Plans, referenced 19-022, prepared by MHDUNION, dated ,
- Acoustic Report, referenced TL237-01F02 Acoustic Report for DA (r3) , prepared by Renzo Tonin & Associates, dated 28 October 2021

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

Basement

- Enlargement of basement due to Council stormwater drain being located off site and for structural loads to align.
- Relocation of fire egress stairs.
- Bin storage, services and bike storage relocated.
- Requirement for tanked basement from DA274/2020 amended to drain basement.

Ground Floor

- Addition of air conditioning condensers.
- Reconfiguration of Block B for larger commercial tenancies.
- Bin storage, services and bike storage relocated.
- Redesign of courtyard.
- Enlargement of tenancy 5.
- Entry from Elizabeth Place deleted, small egress door to rear only. Main entry and street address to be from Oxford Street.
- Addition of rainwater tank to DA274/2020 conditions, sizes of rainwater and OSD tanks

changed from DA conditions. Rainwater tank to service landscape irrigation and publicly accessible toilets only.

Level 1

- Addition of air conditioning condensers.
- Increased parapet to tenancy 5 for masking of air conditioning condensers.
- Reconfiguration of lobby 1 for fire hydrant booster, services cupboards and removal of gate to entry to Unit A5.
- Relocation of planter from Ground Floor to Level 1.

Level 2

- Addition of planters.

Roof Level:

- Addition of PV Cells to roof of Block A.
- Addition of mechanical riser flues.
- Increased parapet to tenancy 5.

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

Executive summary

Renzo Tonin & Associates were engaged to conduct an environmental noise assessment of the proposed alterations and additional to 432-440 Oxford Street, Paddington to accompany an application for Development Application.

As a result of our assessment of the following potential acoustic issues were identified;

- Traffic noise from Oxford Street intruding into the development

This report presents an assessment of the above acoustic components in terms of Council's Development Control Plans, State Environmental Planning Policy (Infrastructure), Australian Standards and NSW Environment Protection Authority noise policies.

5.1 Glazing Design Requirements

Table 6 below presents recommended glazing treatment for the building facades to achieve compliance with the maximum noise levels nominated in Table 2 above.

Table 6: Recommended Glazing Treatment

Level	Facade	Occupancy Type	Recommended Minimum Sound Insulation Rating of Glazing Assembly	Typical Compliance Glazing Thickness, Type and Configuration	Laboratory Test Reference
Building A (Front of Site)					
Ground	All facades	Retail Tenancies 3, 4 & 5 (all facing internal courtyard)	Rw 27	6mm standard float glass	ESTIMATE
Level 1	South-west façade facing Oxford Street	Retail Tenancy 6	Rw 27	6mm standard float glass	ESTIMATE
	North-east façade facing internal courtyard	Study rooms/office	Rw 27	6mm standard float glass	ESTIMATE
		Corridor/stairs	Rw 24	4mm standard float glass	ESTIMATE
	South-west facade facing Oxford Street	Open plan living/dining/kitchen	Rw 35	10.38mm laminated glass	ESTIMATE
Level 2	North-east facade facing internal courtyard	Bedrooms	Rw 27	6mm standard float glass	ESTIMATE
Roof	Skylights	Open plan living/dining/kitchen	Rw 32	6.38mm laminated glass	ESTIMATE
Building B (New Building at rear of Site)					
Ground	All facades	Retail Tenancies 1 & 2	Rw 27	6mm standard float glass	ESTIMATE
		Lobby	Rw 24	4mm standard float glass	ESTIMATE
Levels 1 & 2	All facades	Open plan living/dining/kitchen	Rw 27	6mm standard float glass	ESTIMATE
		Bedrooms	Rw 27	6mm standard float glass	ESTIMATE
		Bathrooms	Rw 24	4mm standard float glass	ESTIMATE
Roof	Skylights	Open plan living/dining/kitchen	Rw 24	4mm standard float glass	ESTIMATE

By way of explanation, the Sound Insulation Rating R_w is a measure of the noise reduction property of the partition, a higher rating implying a higher sound reduction performance.

Note that the R_w rating of systems measured as built on site ($R'w$ Field Test) may be up to 5 points lower than the laboratory result.

5.2 Facade & Roof Sound Insulation

In principle advice is provided below for the acoustic requirements of the roofs and external walls.

5.2.1 External Walls

All external walls shall have sound isolation ratings, R_w , of at least 15dB higher acoustic performance than that of the acoustic glazing specified in Table 6 above.

5.2.2 Roof and Ceiling

Roof/ceiling construction shall have a sound isolation rating, R_w , at least 10dB higher than that of the acoustic glazing on its facade walls.

5.2.3 Glazing Assembly Requirements

The following acoustic measures should also be incorporated into the building design:

- s1. All operable glass windows and doors shall incorporate full perimeter acoustic seals equivalent to Q-Lon, which enable the R_w rating performance of the glazing to not be reduced.
- s2. The glazing thicknesses outlined in Table 6 should be considered the minimum thicknesses to achieve acoustical ratings. Greater glazing thicknesses may be required for structural loading, wind loading etc.
- s3. The glazing supplier shall ensure that installation techniques will not diminish the R_w performance of the glazing when installed on site. Sliding door meeting stiles should form an airtight seal when closed and locked.
- s4. The perimeter of all window and door frames are to be sealed airtight in the external facade using the following methods:
 - For gaps less than 10mm - Fill all gaps around the window perimeter with an acoustic mastic sealer (minimum specific gravity 1.6sg) equivalent to Promat Promaseal. The depth of sealer shall be at least equal to the width of the gap.
 - If the gap is greater than 10mm, fill the cavity with polyester insulation and a backing rod. Seal the gap airtight an acoustic mastic sealer (min specific gravity 1.6sg) equivalent to Promat Promaseal. The depth of sealer shall be at least equal to the width of the gap. The gaps between frames shall also be sealed using aluminium angle brackets (approximately 25 x 25 x 3mm).

7.2 Recommended Noise Control Measures for Mechanical Plant

Mechanical plant such as exhaust systems, air-conditioning and mechanical ventilation associated with the development has the potential to impact on nearby residential and commercial properties. As details of mechanical plant are not available at this stage of the development the following in principle noise control advice are provided.

- Acoustic assessment of mechanical services equipment will be require to be undertaken during the detail design phase of the development to ensure that they shall not either singularly or in total emit noise levels which exceed the noise limits in established in Table 6.
- Mechanical plant noise emission can be controllable by appropriate mechanical system design and implementation of common engineering methods that may include any of the following;
 - procurement of 'quiet' plant
 - strategic positioning of roof and balcony plant equipment away from sensitive neighbouring premises, maximising the intervening shielding between the plant and sensitive neighbouring premises

- installation of commercially available silencers or acoustic attenuators for air discharge and air intakes of plant
- acoustically lined and lagged ductwork
- provide acoustic screens and/or acoustic louvres between plant and sensitive neighbouring premises
- provide partially enclosed or fully enclosed acoustic enclosure over plant
- Mechanical plant shall have their noise specifications and proposed locations checked prior to installation
- Fans shall be mounted on vibration isolators and balanced in accordance with Australian Standard 2625 "Rotating and Reciprocating Machinery - Mechanical Vibration"

Environmental Health reviewed the Acoustic Report provided above and based on the report, given that the recommendations are implemented the proposal will achieve compliance.

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		
TL237-01F02 Acoustic Report for DA (r3)	Acoustic Report	Renzo Tonin & Associates	28 October 2021
	Noise Management Plan		
	Plan of Management		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
	Contaminated Land - Remedial Action Plan (Stage 3)		

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

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

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Waste Storage – Mixed Developments (both commercial and residential)

The *Construction Certificate* plans and specifications required by Clause 139 of the Regulation, must include detailed plans and specifications must make provision for:

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building,
- b) Two separate centralised waste and recycling rooms or areas, one for commercial waste and one for residential waste. They must be self-contained and have separate keys and locking systems.
- c) The path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8. The waste storage area must be as close as possible to the service road collection point.
- d) Bins to be stored with lids down to prevent vermin from entering the waste containers.
- e) Smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- f) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- g) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- h) Odour problems must be minimised by exhaust ventilation.
- i) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- j) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Standard Condition: C18

C.2 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the

Accredited Certifier/Council is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).
Standard Condition C59

C.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 $L_{A90, 15 \text{ minute}}$ 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 (www.acoustics.asn.au/index.php).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).

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 Acoustic Report, prepared by Renzo Tonin & Associates will be implemented.

Design sound levels for building interiors should not exceed those recommended maximum design sound levels, L_{Aeq} , 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

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 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 downloaded from
<http://www.epa.nsw.gov.au/noise/nglg.htm>.

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.2 Dust Mitigation

Dust mitigation must be implemented in accordance with "*Dust Control - Do it right on site*" published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed in 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 free of charge from Council's web site www.woollahra.nsw.gov.au or obtained from Council's office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

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.

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

I.1 Outdoor lighting – Residential

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

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.

Standard Condition: I49

I.2 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 luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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 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: I50

I.3 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 luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

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: I51

I.4 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

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: I56

I.5 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *Acoustic Report*.

Standard Condition: I57

I.6 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

K Pakhomova
Environmental Health Officer

Date: 12/1/22

Memorandum - Drainage



ABN 32 218 483 245

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Double Bay NSW 2028
Correspondence to
General Manager
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DX 3607 Double Bay
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Telephone (02) 9391 7000
Facsimile (02) 9391 7044

Date 28/01/2022
File No. Development Applications: DA2021/554/1
To Mr Robert Lam
CC
From Michael Casteleyn
Address 432-440 Oxford Street PADDINGTON

I refer to the following documents received for this report:

21/244292 document - Civil Engineering Report - DA2021/554/1 - 432-440 Oxford Street PADDINGTON

RECOMMENDATION

Council's drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions;

C.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark and in the foyer area.

- b. The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of 64.3m AHD.
- c. Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation
- d. All below ground construction shall be fully tanked.
- e. Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) are to be installed in the car parking area.
- f. All habitable floors have shall be above or protected from flooding to the flood planning level.
- g. Flood compatible materials shall be used for all flood exposed construction
- h. All flood exposed electrical wiring and equipment shall be waterproofed.
- i. All flood protection measures are to be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.

8 April 2022

REFERRAL RESPONSE

FILE NO: DA 554/2021/1

ADDRESS: 432 Oxford Street PADDINGTON 2021

PROPOSAL: Alterations and additions to approved development under DA consent DA274/2020/1 (Amending DA)

FROM: M Easton, Compliance Officer

TO: Mr S Grevler-Sacks

1. ISSUES

- Nil

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects prepared by Tony Moody Planning & Development
- Draft plan of subdivision (5 sheets) prepared by Andrew Korompay, Surveyor
- Architectural drawings 19-022 DA20 – DA23
- Court approved Architectural Plans

3. SUMMARY OF PROPOSAL

Alterations and additions to approved development under DA274/2020/1. Amendments have been made to the original design to satisfy Council regarding various matters.

4. ASSESSMENT

The approved development comprises basement car parking, ground floor retail and residential apartments on two levels above.

It is recommended that the initial occupation of the commercial tenancies requires separate development consent.

The proposed strata subdivision is consistent with the amended plans and the storage requirements of SEPP 65 and the ADG.

Attachment 10 - Referral Response - Compliance and Signage

5. RECOMMENDATION

Approval subject to the following conditions:

A.1 Retail/commercial uses (separate development application)

Separate development applications must be submitted and approved for the first retail/commercial uses, including the hours of operation of each tenancy.

G.2 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)

M Easton
Compliance Officer



planning consultants

15 March 2022
Our Ref: 21404B.BMcD_Advice

Katie Mortimer
Senior Associate
Lindsay Taylor Lawyers
Level 9, Suite 3, 420 George Street
SYDNEY 2000 NSW

By Email: Katie.Mortimer@lindsaytaylorlawyers.com.au

Dear Katie

Planning, Urban Design and Heritage Advice
DA 554/2021- 432 - 400 Oxford Street, Paddington

PRIVILEGED AND CONFIDENTIAL

I refer to your email dated 4 March 2022 relating to an amended development proposal at 432 - 440 Oxford Street Paddington. At a glance, the proposed development resembles the application (DA 274/2020/1) approved following a Section 34 conciliation conference. However, I have examined the drawings in detail to identify any differences that would need to be addressed.

For ease of reference, I have set out my findings in the table that follows. Measurements are approximate from the pdf drawings where figured dimensions have not been supplied.

DRAWING	DA 554/2021	DA 274/2020/1	DESCRIPTION	COMMENT
DA20 Basement				
North south dimension	28.65m	26.60m	Basement extended to south to accommodate 9 bike/storage areas. Additional excavation is not outside building footprint.	More excavation but probably no adverse impact
Car lift from north boundary	6.44m	6.075m	Increases waiting space at Ground level	Acceptable
Excavation	Splay eliminated	Splay at north-east corner	Basement larger. Retaining wall piling shown.	More excavation but probably no adverse impact subject to Engineering Referral
Residential waste storage	In Basement	At Ground level	Collection zone remains at rear of site	Acceptable Subject to Council waste referral

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Planning, Urban Design and Heritage Advice
DA 554/2021- 432 - 400 Oxford Street, Paddington



Internal planning rearranged	Stairs, storage and motorbikes relocated		Coordinated with ground floor planning changes. One (1) additional retail/commercial parking Space	Acceptable subject to Engineering Referral
DA 21 Ground Floor				
Increased commercial units 1 & 2	277.70m ²	194.00m ²	Replaces relocated waste storage	Acceptable provided overall GFA calculations can be explained
Commercial toilets	1 x accessible + large area	1 x accessible + 1 toilet.	Additional large area labelled tenancy bathrooms	Explanation required as to real use of large bathroom area.
Internal courtyard	Deleted	Landscaped area	Landscaped area moved to first floor.	Acceptable Subject to Council landscape referral.
Through site link	Central	Western side	No impact	Acceptable
Car lift from north boundary	6.44m	6.075m	Increases waiting space	Acceptable
Dimension of south wall of retail to north boundary	28.50m	28.50m	No change building footprint not significantly altered	Acceptable
Paved area south of retail 1 & 2	1.70 m wide	2.80m wide	No adverse impact	Acceptable
Communal open space north - south dimensions	Min. 13.94m Max. 15.78m	Min. 14.23m Max. 15.94m	There is no obvious change to the building footprints to explain why dimensions changed	Explanation required
Communal open space layout	Rectangular	Diagonal	No significant change to landscape and amenity	Acceptable Council landscape referral.
Oxford Street tenancy areas	Ten 3 – 42.00m ² Ten 4 - 47.00m ² Ten. 5 – 24.40m ²	Ten 3 – 39.90m ² Ten 4 - 46.00m ² Ten. 5 – 17.40m ²	Tenancies 3 and 4 appear to be in same existing walls. Tenancy 5 is enlarged	Explanation required
DA22 First Floor				
Oxford Street tenancy 6 area	195.10m ²	195.10m ²	No change	Acceptable
Residential in Oxford Street Building	Minor internal replanning		No impact	Acceptable
Oxford Street Lobby	Hydrant booster valve, Electrical switchboard added	Not included	Would have been necessary anyway	Acceptable
Tenancy 5 roof	Air conditioning plant added behind parapet	Skillion roof	Minimal impact	Noise to be addressed
Rear block courtyard	Landscaping moved to this level	Part ground level	Minimal impact	Acceptable
Apartments B4 - B7	A/C condensers on balconies, minor internal replanning		Minimal impact	Acceptable Council engineering referral.
Separation space north - south dimensions	Min. 10.945m Max. 12.645m	Min. 10.674m Max. 12.364m	Minimal change. Building footprints appear to have not changed?	Explanation required

Planning, Urban Design and Heritage Advice
DA 554/2021- 432 - 400 Oxford Street, Paddington



between apartments				
DA 23 Second Floor				
North block apartments	Minor internal changes	Minimal impact	Acceptable	Minimal impact
Oxford Street apartments	No changes			Acceptable
DA 11 Roof Plan				
Oxford Street roof	Solar panels added	No solar panels	No impact. Positive sustainability measure	Acceptable
DA 30 North & South Elevations				
North elevations rear block	Balcony balustrade simplified to open steel detail.	Mix of open steel and solid balustrade and planter boxes	Positive heritage and streetscape outcome	Acceptable
DA 31 East and West Elevations				
Balcony balustrades	Slender steel balcony balustrades	Glass balustrades	Positive heritage and streetscape outcome. Steel balustrades more traditional.	Acceptable
DA32 Internal Elevations				
North elevation	Solar panels on roof, curved wall to retail tenancy 5		Minimal impact	Acceptable
South elevation balustrades	Simplified steel balustrade. Heavy top rail removed	Deep top rail/planter box.	Positive design outcome. Plain steel balustrades more traditional.	Acceptable
Retail 1 & 2 glazing	Larger glazed openings	Smaller glazed single and double doors	Positive design outcome – admits more daylight to south facing wall.	Acceptable
DA 40 Sections				
Section A	Basement extended south under building footprint	Basement less than building footprint	Minimal impact	Acceptable Council engineering referral.
Section B	Landscaping and open space at first level	Landscaping and open space at ground and first floor levels	Minimal impact	Acceptable
DA 14 Tables				
Retail/commercial GFA	586.00m ²	493.00m ²	93m ² additional	
Residential GFA	Block A 352.5m ² Block B 716.5m ² TOTAL 1069.00m ²	Block A 721.6m ² Block B 357.5m ² TOTAL 1079.3m ²	10.3 m ² less	
Commercial/retail + Residential GFA	1655m ²	1572.3m ²	82.70 additional	
TOTAL GFA Claimed	1835m ²	1835m ²	No change claimed	Explanation required
Residual GFA	180m ²	262.7m ²	Reduction 82.7m ² . There is a disconnect between the floor-to-floor areas totalled and the floor areas calculated for retail/commercial GFA and residential GFA	Explanation required

Planning, Urban Design and Heritage Advice
DA 554/2021- 432 - 400 Oxford Street, Paddington



			It is not clear from the plans why the ancillary spaces making up the balance of GFA are so much less in the modified application and how this compensates for the additional 93m ² of retail/commercial GFA	
Accommodation	Retail Commercial - 6 Residential - 19	Retail Commercial - 6 Residential - 19	No change	Acceptable
Communal open space	455m ² = 28%	61m ² – 28%	Minimal change	Acceptable
Landscaped area	199m ² – 12%	210m ² – 13%	Includes planter boxes Minimal change	Acceptable
Deep soil area	196.4m ² – 12%	197m ² – 12%	Minimal change	Acceptable
Car parking	Residential – 12 Retail/commercial -12	Residential – 12 Retail/commercial -11	Minimal change	Acceptable
Motor bikes	Residential – 2 Retail/commercial - 0	Residential – 2 Retail/commercial - 0	Minimal change	Acceptable
Bicycles	Residential – 19 Retail/commercial - 6	Residential – 19 Retail/commercial - 8	Minimal change	Acceptable

SUMMARY

Differences between the new application and the approved application are generally minor and would result in negligible changes in environmental or amenity impacts.

These comments are subject to referral to Council's engineers, landscape officer and waste officer.

I have not been able to reconcile the accumulated changes in retail/commercial GFA and residential GFA to the claim made that the overall GFA in both proposals remains at 1835m² given the significant increase in the GFA of retail/commercial tenancies 1 and 2. Variations in the floor plans of retail/commercial tenancies 3 - 6 and of the 19 residential apartments do not appear to change the building envelopes, which must mean that the increased retail GFA is compensated by a reduction in residual GFA (circulation and ancillary spaces). This needs to be clarified.

Brian McDonald
Principal Urban Designer and Heritage Consultant
DFP Planning PTY Ltd

Completion Date: 18 March 2022

REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Applications/ 554/2021

ADDRESS: 432- 440 Oxford Street PADDINGTON 2021

PROPOSAL: Alterations and additions to approved mixed use development under DA consent DA274/2020/1 (Amending DA)

FROM: Diana Griffiths

TO: Mr S Grevler-Sacks

Information

Architectural drawings: MHN Design Union– Project No. 10-022– Revision A– 18/10/2021

Landscape Plan: Jane Irwin Landscape Architecture– Job No. 210908– Revision C– 12/11/2021

Statement of Environmental Effects: Tony Moody Planning and Development– Reference 19068TM– 25/11/2021

Survey: Hill and Blume Consulting Surveyors – Drawing No. 58489001C –18/07/2016

Site and Context

The subject site is located in Paddington with a main frontage to Oxford Street and a secondary rear frontage to Elizabeth Place. It consists of three lots, Nos. 432- 440 Oxford Street, which combine to form a rectangular shape, orientated on a north-east to south-west axis. The three lots combined have a total site area of 1636.7m². The land slopes down gently towards the rear of the property.

The site is located within a Heritage Conservation Area of local significance, identified as the '*Paddington Heritage Conservation Area*' (HCA). The existing retail and shop top housing on the site have not been identified as heritage items but all buildings within the HCA have been recognised as contributory items. The desired future character for development in Oxford Street highlights, 'The character of Oxford Street is defined by its heritage items and contributory buildings generally in the form of two storey buildings with parapet façades establishing a consistent street wall'. The objectives for future development along Oxford Street include:

- *To encourage opportunities for rear development on deep and narrow sites, particularly those sites with rear lane access.*
- *To provide a sympathetic transition in built form and uses between the residential areas and the Oxford Street commercial strip.*
- *Infill development is to respect the design of neighbouring buildings and the character of the conservation area in regards to scale, massing, materials, details, orientation and setbacks.*

Urban Design Referral Response – 432- 440 Oxford Street, Paddington – 18 March 2022

The site is surrounded by terraces with a 2-storey street wall, including retail uses on the ground floor facing Oxford Street and residential uses on the level above. Development along Elizabeth Place consists of 2 storey terraces.

Proposal

Alterations and additions to approved mixed use development under DA consent DA274/2020/1, which includes: the amalgamation of three lots for strata subdivision, alterations to 5 shop top apartments (Block A), construction of new shop top housing development with commercial tenancies on ground floor and 12 apartment units (Block B) with basement car park and associated landscaping. The application was approved by the LEC on 28 July 2021 after an agreement was reached at the adjourned conciliation pursuant to s 34(4) of the LEC Act. The development consent was granted to the amended application subject to conditions of consent. The court approved height for the development is 10.85m and the maximum approved FSR is 1.2:1.

The proposed amendments to the approved development include:

Basement level-

- Enlargement of basement
- Relocation of Bin storage, services and bike storage from ground level
- Relocation of fire egress stairs
- Replacement of tanked basement to drained basement

Ground floor-

- Reconfiguration of Block B, including increased size of commercial tenancies
- Redesign of central communal courtyard and relocation of Block B courtyard to Level 1
- Increased size of tenancy 5
- Entry from Elizabeth place deleted and replaced with egress door
- Addition of air conditioning condensers and rainwater tank. Changes to size of rainwater and OSD tank
- Relocation of Bin storage, services and bike storage

Level 1-

- Reconfiguration of lobby 1
- Relocation of Block B courtyard from ground level and increased height of wall along the side boundary adjacent to the courtyard
- Change in parapet level over tenancy 5
- Addition of air conditioning condensers

Level 2-

- Addition of planters

Roof level-

- Increased height of lift overrun

- Addition of PV Cells to roof of Block A

Controls

- State Environmental Planning Policy No 65 —Design Quality of Residential Apartment Development (SEPP 65) & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (WLEP 2014)
- Woollahra Development Control Plan 2015 (WDCP 2015)

Compliance

The following is an assessment of the proposal against the SEPP 65 Principles:

Principle	Statement	Assessment	Complies
Principle 1: Context and Neighbourhood Character	<p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's <u>existing or future character</u>. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, <u>streetscape and neighbourhood</u>.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	The amendments to the approved DA are primarily focused on changes in the internal layout on the ground floor of Block B. The proposed changes do not have a significant impact on the context and neighbourhood character.	YES
Principle 2: Built Form and Scale	<p><i>Good design achieves a <u>scale, bulk and height appropriate</u> to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, <u>articulation</u> and the <u>manipulation of building elements</u>.</i></p> <p><i>Appropriate built form <u>defines the public domain</u>, contributes to the character of <u>streetscapes</u> and parks, including their <u>views and vistas</u>, and provides internal amenity and outlook.</i></p>	The increased height of lift overrun to 10.41m is within the approved height limit of 10.85m. The proposed changes to the lift overrun do not have a significant impact on the bulk and scale of the approved development.	YES

Principle 3: Density	<p>Good design achieves a <u>high level of amenity</u> for residents and each apartment, resulting in a density appropriate to the site and its <u>context</u>.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, <u>public transport</u>, access to jobs, community facilities and the environment.</p>	<p>The amendments to the approved DA result in a slight reduction in FSR (1.12:1) to that approved by the court (1.2:1).</p> <p>The amendments are substantially in accordance with the court approved DA with regards to the size and number of apartment units.</p>	YES
Principle 4: Sustainability	<p>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of <u>natural cross ventilation and sunlight</u> for the amenity and liveability of residents and passive thermal design for 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 <u>deep soil zones</u> for groundwater recharge and vegetation.</p>	<p>The amendments are substantially in accordance with the court approved DA with regards to the layout of the apartment units.</p> <p>It is noted that some of the proposed "deep soil zones" identified on the drawings appear to have building structures underneath or have insufficient dimensions (ADG requires a minimum dimension of 6m for deep soil zones for sites above 1500sqm).</p>	YES
Principle 5: Landscape	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with <u>good amenity</u>. A <u>positive image and contextual fit</u> of well-designed developments is achieved by contributing to the <u>landscape character of the streetscape and neighbourhood</u>.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which <u>contribute to the local context</u>, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, <u>respect for neighbours' amenity</u>, provides for practical establishment and long term management.</p>	<p>The proposed landscape design appears to have a high species diversity but some of the proposed landscape located on Level 1 has building structures underneath, reducing the ability to support larger trees, and tree growth and health.</p>	YES
Principle 6: Amenity	<p>Good design positively influences internal and external <u>amenity</u> for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room <u>dimensions and shapes</u>, access</p>	<p>The amendments to the approved DA include the relocation of a courtyard in Block B from Ground floor to Level 1. This could result in privacy impacts for the residents of 430 Oxford Street.</p> <p>The increase in height to the lift overrun to 10.41m causes additional overshadowing of 440 Oxford Street, however, this does not</p>	<p>YES subject to conditions:</p> <p>-To provide the minimum requirements for retail/ commercial car park spaces as</p>

	<p><i>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.</i></p>	<p>cause a significant change in impact to the current level of overshadowing caused by the approved height of 10.85m. In addition, the proposed changes show a reduction in shadow compared to the court approved DA.</p> <p>It is noted that some of proposed 'communal open space' identified on drawings have insufficient dimensions (ADG requires a minimum dimension of 3m for communal open spaces).</p> <p>As per Clause C16 a) of the conditions of consent outlined by the court, "A maximum of 12 car parking spaces shall be clearly marked and shall be allocated for use by 10 residential units and 2 retail / commercial tenancies (with a maximum of 1 space applying for the allocated tenancy). The allocated car parking spaces shall be clearly shown on the revised Architectural Plans and Construction Certificate plans."</p> <p>The drawings and documents accompanying this DA do not refer to the number of car spaces allocated to the retail/commercial tenancies. The SEE specifies that 12 parking spaces have been provided by the proposed development all of which will be allocated for the proposed residential units.</p>	<p>per court's conditions of consent</p> <p>-To increase height of parapet along Block B facing 430 Oxford Street</p>
Principle 7: Safety	<p><i>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The removal of public entry from Elizabeth Place results in increased safety and privacy to the residents.</p> <p>Limiting the pedestrian entry to the development from Oxford Street creates a clear and defined entrance to the development, which is well differentiated from the vehicular entry with passive surveillance provided from the private domain.</p>	YES
Principle 8: Housing Diversity and Social Interaction	<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i></p>	<p>The amendments are substantially in accordance with the court approved DA with regards to the mix of apartment sizes.</p> <p>Changes to the courtyard on ground level and level 1 provide adequate communal open space to support social interaction</p>	YES

Principle 9: Aesthetics	<i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of <u>materials, colours and textures</u>.</i> <i>The <u>visual appearance</u> of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i>	The amendments are substantially in accordance with the court approved DA with regards to the external finishes of the development.	YES
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Urban Design Review

Overall, the proposed amendments to DA 274/2020 do not result in a significant change to the impact of the approved development. The proposed development result achieves a reduced FSR (1.2:1 to 1.12:1) to that approved by the court. The amendments are substantially in accordance with the court approved DA with regards to building height, building envelope, and apartment size and layout.

The redesign of the central communal courtyard and commercial tenancies on the ground floor provides an improved design solution in terms of legibility, amenity and quality. It is considered that while the minimum requirements for deep soil zones and landscaping have been shown to be met, much of the identified areas do not achieve the minimum dimensions set out in the ADG.

The removal of public entry from Elizabeth Place achieves improved outcome to the residents with regards to safety and security.

Recommendation

The proposal is supported with the following recommended design amendments:

- Provide the minimum requirements for retail/ commercial car park spaces as per court's conditions of consent (10 spaces for residential units and 2 spaces for retail/ commercial tenancies)
- Revise the Deep Soil Zones identified in the drawings to be consistent with the ADG requirements (i.e. minimum dimension of 6m and not located above building structures).
- Increase height of parapet on level 1 along the courtyard facing 430 Oxford Street to 1.5m to reduce overlooking.

Diana Griffiths

B. Arch MURP (Hons) RPIA (Fellow),
Recognised Practitioner in Urban Design
Director of Urban Design
Studio GL Pty Ltd



THE CAMBRIAN - LANDSCAPE DRAWINGS
FOR DEVELOPMENT APPLICATION

PROJECT
432 - 440 STREET, PADDINGTON NSW

CLIENT
Crooked River Holdings Pty Ltd

PROJECT NO.
210908

LANDSCAPE ARCHITECT
Jane Irwin Landscape Architecture

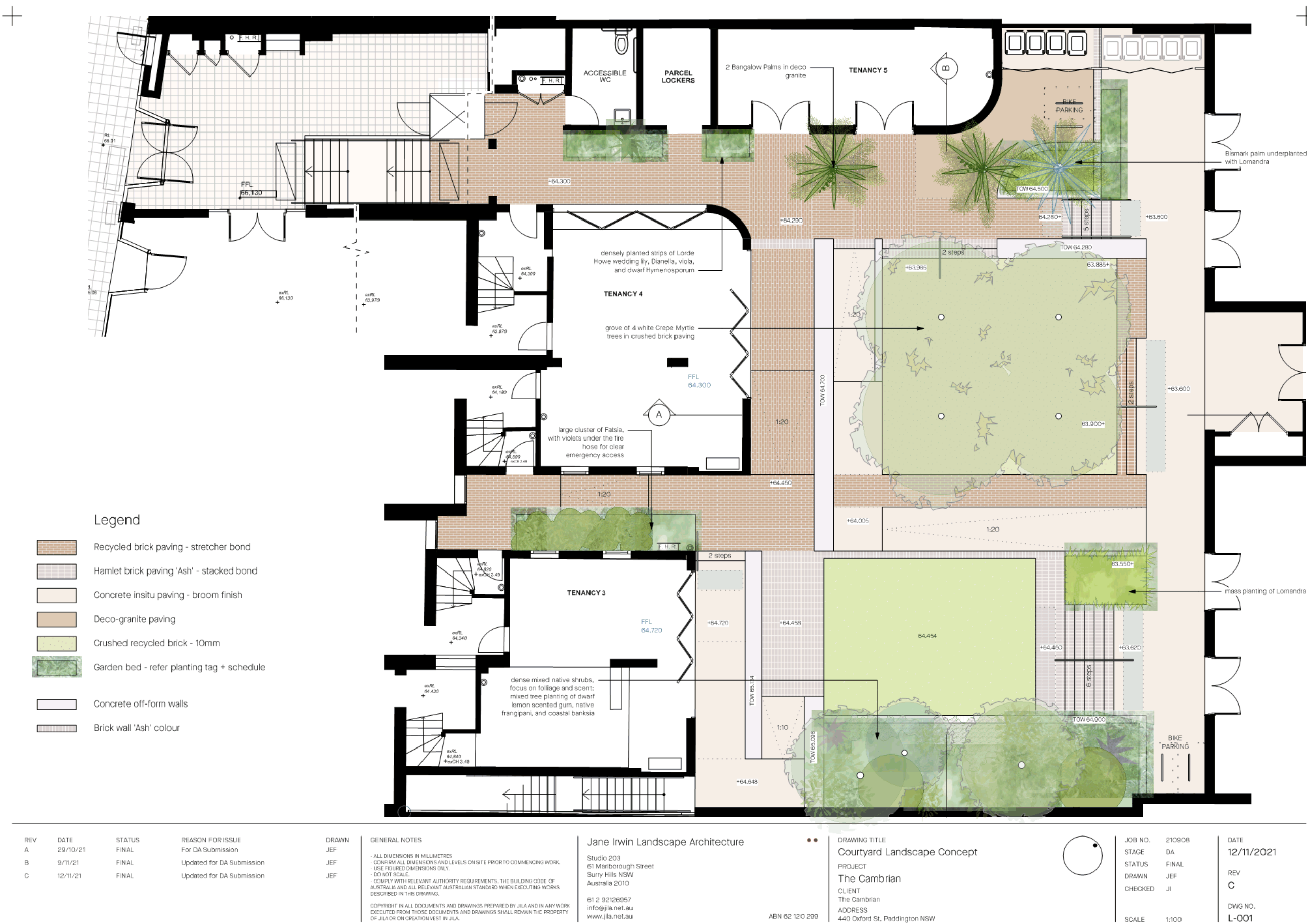
Studio 203, 61 Marlborough Street
Surry Hills NSW
Australia 2010

61 2 92126957
info@jila.net.au
www.jila.net.au

LANDSCAPE DRAWING SCHEDULE

LA-000	Coversheet and Site Plan
LA-001	GF Courtyard Landscape
LA-002	L1 and L2 Landscape
LA-003	Sections
LA-004	Schedules and Precedents

REV	DATE	STATUS	REASON FOR ISSUE	DRAWN	GENERAL NOTES	Jane Irwin Landscape Architecture	DRAWING TITLE	JOB NO.	210908	DATE
A	29/10/21	FINAL	For DA Submission	JEF	- ALL DIMENSIONS IN MILLIMETRES - CONFIRM ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO COMMENCING WORK. - USE FIGURED DIMENSIONS ONLY. - DO NOT SCALE. - COMPLY WITH RELEVANT AUTHORITY REQUIREMENTS, THE BUILDING CODE OF AUSTRALIA AND ALL RELEVANT AUSTRALIAN STANDARD WHEN EXECUTING WORKS DESCRIBED IN THIS DRAWING.	Studio 203 61 Marlborough Street Surry Hills NSW Australia 2010	Coversheet	STAGE	DA	12/11/2021
B	9/11/21	FINAL	Updated for DA Submission	JEF			PROJECT	STATUS	FINAL	REV
C	12/11/21	FINAL	Updated for DA Submission	JEF		61 2 92126957 info@jila.net.au www.jila.net.au	The Cambrian	DRAWN	JEF	C
						ABN 62 120 299	CLIENT	CHECKED	JI	DWG NO.
							440 Oxford St, Paddington NSW	SCALE	N/A	L-000







A Section through communal courtyard
1:100



B Section through communal courtyard
1:100

REV	DATE	STATUS	REASON FOR ISSUE
A	29/10/21	FINAL	For DA Submission
B	9/11/21	FINAL	Updated for DA Submission
C	12/11/21	FINAL	Updated for DA Submission

DRAWN	GENERAL NOTES
JEF	- ALL DIMENSIONS IN MILLIMETRES - CONFIRM ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO COMMENCING WORK. - USE FIGURED DIMENSIONS ONLY. - DO NOT SCALE. - COMPLY WITH RELEVANT AUTHORITY REQUIREMENTS, THE BUILDING CODE OF AUSTRALIA AND ALL RELEVANT AUSTRALIAN STANDARD WHEN EXECUTING WORKS DESCRIBED IN THIS DRAWING.
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ABN 62 120 299

DRAWING TITLE
Sections
PROJECT
The Cambrian
CLIENT
The Cambrian
ADDRESS
440 Oxford St, Paddington NSW

JOB NO.	210908
STAGE	DA
STATUS	FINAL
DRAWN	JEF
CHECKED	JI
SCALE	1:100

DATE	12/11/2021
REV	C
DWG NO.	L-003

Proposed Plant Schedule

CODE	BOTANICAL NAME	COMMON NAME	DENSITY	POT SIZE	MATURE SIZE	NATIVE
Communal courtyard trees						
Ac	Archontophoenix cunninghamiana	Bangalow Palm	AS SHOWN	100L	20m	✓
Bi	Banksia integrifolia	Coastal Banksia	AS SHOWN	100L	8m	✓
Bn	Bismarckia nobilis	Bismarck palm	AS SHOWN	200L	15m	x
DLS	Corymbia sp. 'Dwarf Lemon Scented'	Dwarf Lemon Scented Gum	AS SHOWN	100L	8m	✓
Hf	Hymenosporum flavum	Native Frangipani	AS SHOWN	100L	10m	✓
LW	Lagerstroemia indica 'White'	White Crepe Myrtle	AS SHOWN	200L	10m	x
GF Shade loving shrubs and ground cover plants 6/m2						
	Alpinia nutans	Dwarf Cardamom	~	300mm	1m	✓
	Banksia plagio carpa	Blue Banksia	~	5L	2m	✓
	Blechnum nudum	Fishbone waterbush	~	300mm	0.4m	✓
	Correa reflexa	native fuchsia	~	300mm	1.5m	✓
	Dianella sp.	Blue Flax Lily	~	140mm	0.3m	✓
	Dietes robinsoniana	Lord Howe Wedding Lily	~	300mm	1m	✓
	Doodia aspera	Prickly rasp fern	~	140mm	0.2m	✓
	Fatsia japonica	Japanese aralia	~	300mm	1.5m	x
	Hymenosporum flavum 'Dwarf'	Dwarf native Frangipani	~	140mm	0.5m	✓
	Lasioptalum baueri	Slender velvet bush	~	300mm	1m	✓
	Ligularia reniformis	Tractor plant	~	300mm	1m	x
	Lomandra 'Tanika'	Mat Rush	~	140mm	0.8m	✓
	Philodendron 'Rajo Congo'	Red Philodendron	~	300mm	0.8m	x
	Philodendron selloum	lacy tree philodendron	~	5L	2m	x
	Philotheca myoporoides	Long leaf wax flower	~	5L	1m	✓
	Prostanthera incisa	cut-leaf mint-bush	~	300mm	1.5m	✓
	Prostanthera ovalifolia	oval-leaf mintbush	~	300mm	2m	✓
	Rhapis excelsa	broadleaf lady palm	~	5L	1.5m	x
	Viola hederacea	Native Violet	~	140mm	<0.1m	✓
	Viola odorata	Sweet Violet	~	140mm	<0.1m	x
L1 Native palms and rainforest trees						
Ac	Archontophoenix cunninghamiana	Bangalow Palm	AS SHOWN	75L	20m	✓
Hf	Hymenosporum flavum	Native Frangipani	AS SHOWN	75L	10m	✓
Pm	Polyscias murrayi	Pencil Cedar	AS SHOWN	100L	20m	✓
L1 understorey shrubs and groundcovers 6/m2						
	Alpinia nutans	Dwarf Cardamom	~	300mm	1m	✓
	Banksia plagio carpa	Blue Banksia	~	5L	2m	✓
	Blechnum nudum	Fishbone waterbush	~	300mm	0.4m	✓
	Chamaedorea microspadix	Bamboo Palm	~	300mm	2m	x
	Correa reflexa	native fuchsia	~	300mm	1.5m	✓
	Dianella sp.	Blue Flax Lily	~	140mm	0.3m	✓
	Dietes robinsoniana	Lord Howe Wedding Lily	~	300mm	1m	✓
	Doodia aspera	Prickly rasp fern	~	140mm	0.2m	✓
	Fatsia japonica	Japanese aralia	~	300mm	1.5m	x
	Hymenosporum flavum 'Dwarf'	Dwarf native Frangipani	~	140mm	0.5m	✓
	Ligularia reniformis	Tractor plant	~	300mm	1m	x
	Linospadix monostachyos	Walking Stick Palm	~	300mm	2m	✓
	Philodendron 'Rajo Congo'	Red Philodendron	~	300mm	0.8m	x
	Philodendron selloum	lacy tree philodendron	~	5L	2m	x
	Philotheca myoporoides	Long leaf wax flower	~	5L	1m	✓
	Prostanthera incisa	cut-leaf mint-bush	~	300mm	1.5m	✓
	Prostanthera ovalifolia	oval-leaf mintbush	~	300mm	2m	✓
	Rhapis excelsa	broadleaf lady palm	~	5L	1.5m	x
	Viola hederacea	Native Violet	~	140mm	<0.1m	✓
	Viola odorata	Sweet Violet	~	140mm	<0.1m	x
L2 Robust native shrubs with trailing plants 6/m2						
	Eremophila hybrid 'Pink Pantha'	Pink Pantha	~	300mm	1.5m	✓
	Hardenbergia violacea	purple coral pea	~	140mm	0.5m	✓
	Carpobrotus glaucescens	Pig Face	~	140mm	+2mL	✓
	Casuarina glauca 'Cousin It'	Cousin It plant	~	300mm	+1.5mL	x
	Rhipsalis sp.	mistletoe cactus	~	140mm	+1.5mL	✓

Landscape Precedents



REV	DATE	STATUS	REASON FOR ISSUE	DRAWN
A	29/10/21	FINAL	For DA Submission	JEF
B	9/11/21	FINAL	Updated for DA Submission	JEF
C	12/11/21	FINAL	Updated for DA Submission	JEF

GENERAL NOTES

- ALL DIMENSIONS IN MILLIMETRES
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ABN 62 120 299

DRAWING TITLE

Schedules and Precedents

PROJECT

The Cambrian

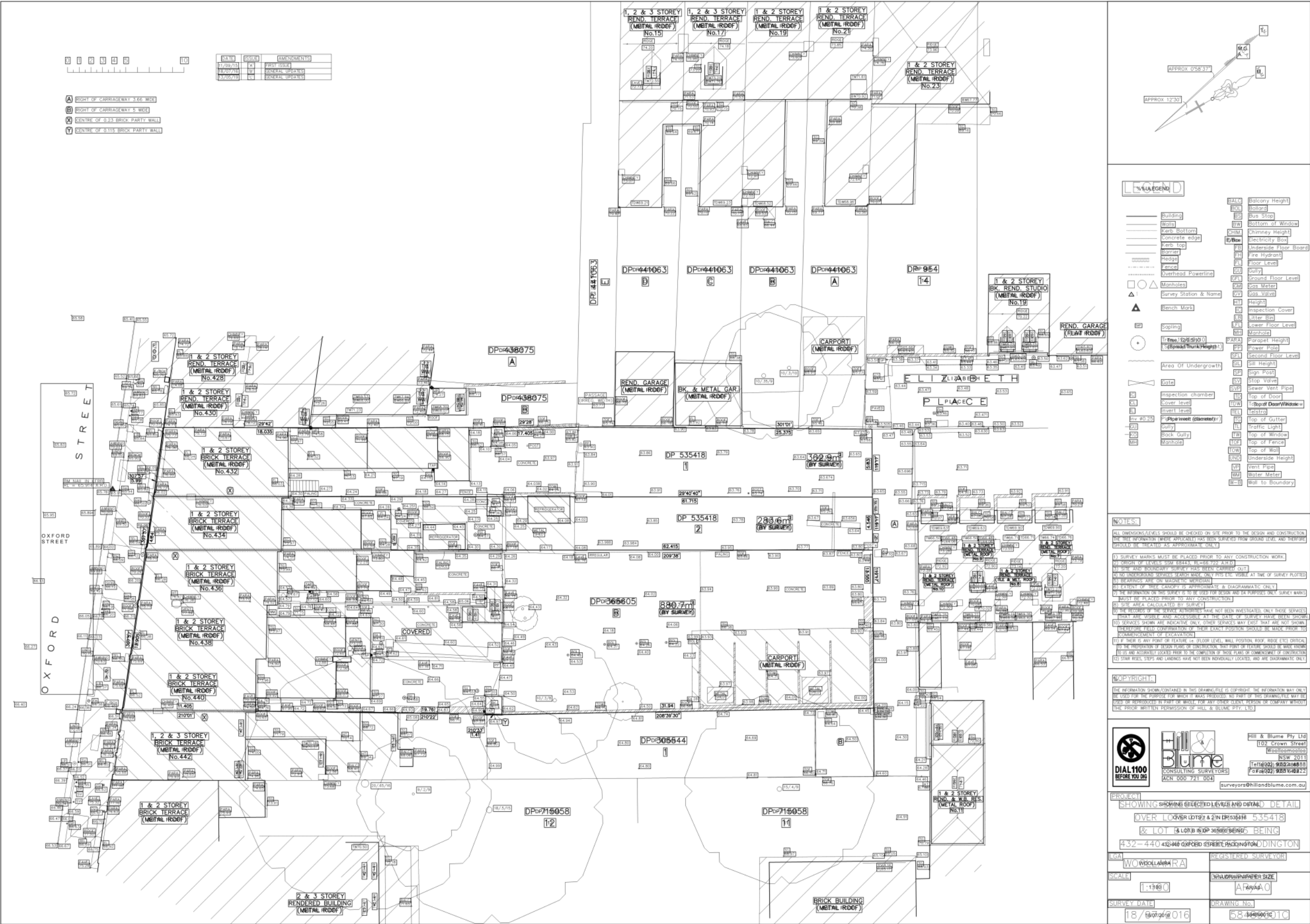
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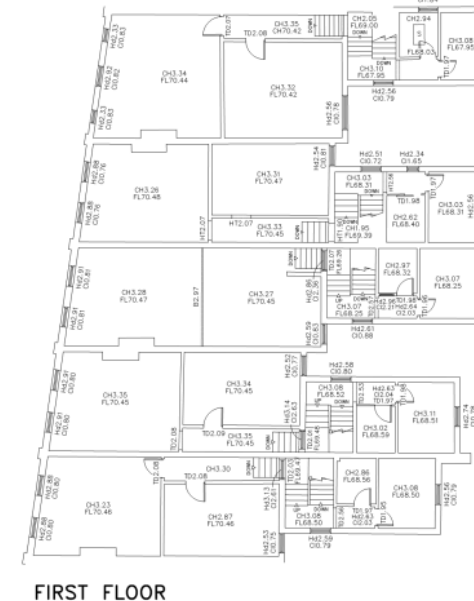
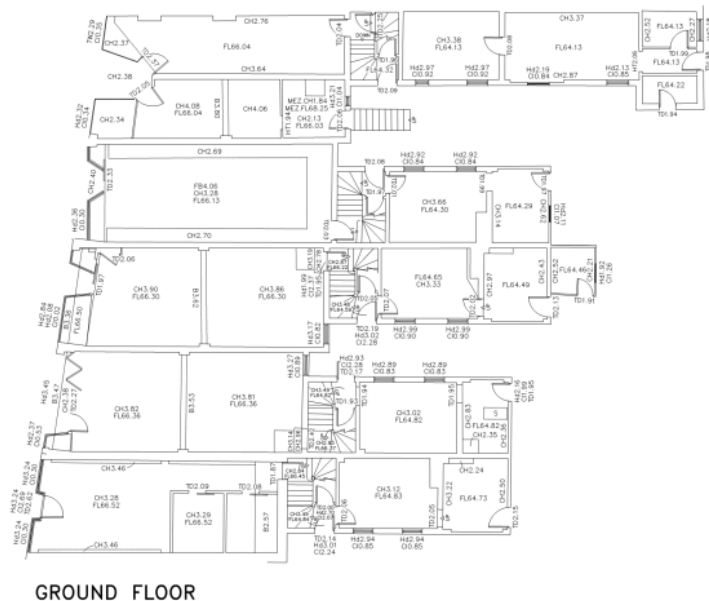
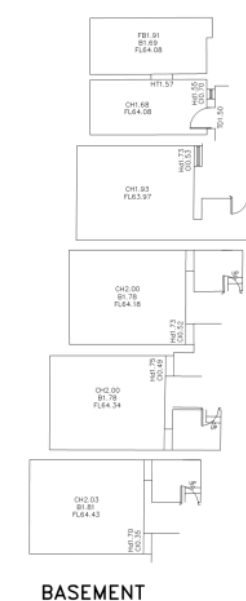
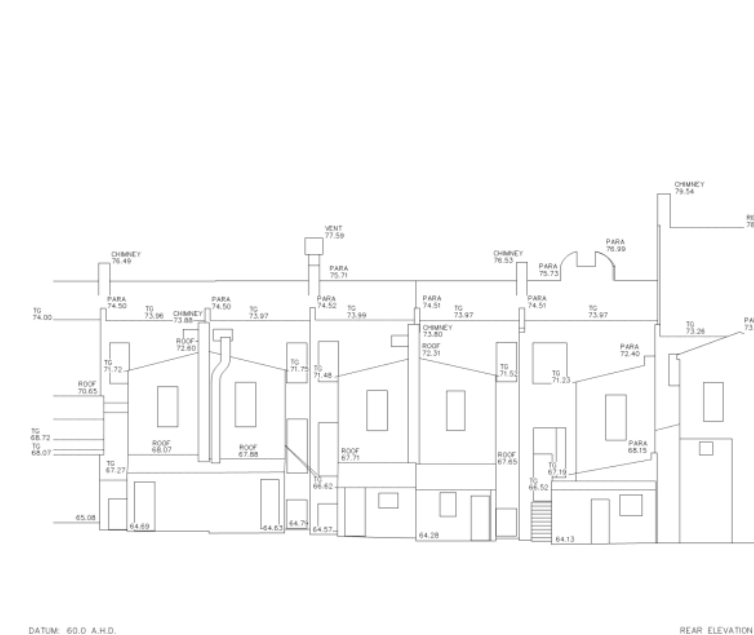
The Cambrian

ADDRESS

440 Oxford St, Paddington NSW

JOB NO.	210908	DATE
STAGE	DA	12/11/2021
STATUS	FINAL	REV
DRAWN	JEF	C
CHECKED	JI	DWG NO.
SCALE	N/A	L-004









LEGEND

	Building	BAL	Balcony Height
	Walls	BOLL	Bollard
	Kerb Bottom	BS	Bus Stop
	Concrete edge	BW	Bottom of Window
	Kerb top	CHM	Chimney Height
	Barrier	ER	Earth Rod
	Hedge	FH	Fire Hydrant
	Fence	FL	Floor Level
	Overhead Powerline	GU	Gully
	Manholes	GFL	Ground Floor Level
	Survey Station & Name	GM	Gas Meter
	Bench Mark	GV	Gas Valve
	UP	HT	Height
	Sapling	IC	Inspection Cover
	Tree, 12/0.5/10 (Spread/Trunk/Height)	LFL	Lower Floor Level
	Area Of Undergrowth	MH	Manhole
	Gate	PARA	Parapet Height
	IC	PP	Power Pole
	CL	SFL	Second Floor Level
	IL	SIL	Sill Height
	Inv #0.25	SP	Sign Post
	Pipe invert (diameter)	SV	Sign Valve
	Gully	SVP	Sewer Vent Pipe
	Back Gully	TD	Top of Door
	Manhole	TDW	Top of Door/Window
		TEL	Telestrut
		TG	Top of Gutter
		TL	Traffic Light
		TW	Top of Window
		TOF	Top of Fence
		TOW	Top of Wall
		UDW	Underside Height
		WM	Water Meter
		W-B	Wall to Boundary

LEGEND

	Beam	B	Beam Height
	Walls	CH	Ceiling Height
	Door	CI	Window Sill Height
	Window	FL	Floor Level
		S	Skylight
		TD	Door Height
		Hd	Window Head Height
		HT	Height

NOTES:

ALL DIMENSIONS/LOCATIONS SHOULD BE CHECKED ON SITE PRIOR TO THE DESIGN AND CONSTRUCTION. THE TRAFFIC INFORMATION (WHERE APPLICABLE) HAS BEEN SURVEYED FROM GROUND LEVEL AND THEREFORE SHOULD BE TREATED AS APPROXIMATE ONLY.

1. SURVEY MARKS MUST BE PLACED PRIOR TO ANY CONSTRUCTION WORK.
2. ORIGIN OF LEVELS SHOWN BMS443, RL=66722.42 HAD BEEN CARRIED OUT.
3. SITE AND BOUNDARY SURVEY HAVE BEEN CARRIED OUT.
4. HAS UNDERGROUND SERVICES BEEN LOCATED AND ARE IN POSITIVE DITCH? (SEE PLAN)
5. BEARINGS ARE ON MAGNETIC MEASURED.
6. EXTENT OF TREE CANOPY IS APPROXIMATE A DIAGRAMMATIC ONLY.
7. TREES WITHIN PROPOSED DEVELOPMENT AREA ARE NOT IDENTIFIED.
8. ALL DIMENSIONS/LOCATIONS SHOULD BE CHECKED ON SITE PRIOR TO ANY CONSTRUCTION.
9. SITE AREA CALCULATED BY SURVEY.
10. THE RECORDS OF THE SURVEY AUTHORITIES HAVE NOT BEEN INVESTIGATED, ONLY THOSE SERVICES WHICH WERE RECORDED AT THE DATE OF SURVEY HAVE BEEN SHOWN.
11. SERVICES SHOWN ARE INDICATIVE ONLY, OTHER SERVICES MAY EXIST THAT ARE NOT SHOWN THEREFORE FIELD CONFIRMATION OF THEIR EXACT POSITION SHOULD BE OBTAINED PRIOR TO ANY CONSTRUCTION.
12. IF THERE IS ANY GAP ON ANY FEATURE (E.G. FLOOR LEVEL, MAIL POSTION, ROAD ETC.) DUE TO THE INADEQUACY OF DESIGN PLANS FOR CONSTRUCTION, THEN PART OF FEATURE SHOULD BE MADE AND THE CORRESPONDING LOCATIONS FOR THE CONSTRUCTION OF THIS FEATURE OR COMPONENT OF CONSTRUCTION SHALL BE PROVIDED BY THE CLIENT. THESE LOCATIONS SHOULD BE LOCATED, AND BE DIAGRAMMATICALLY SHOWN ON THE DRAWING.

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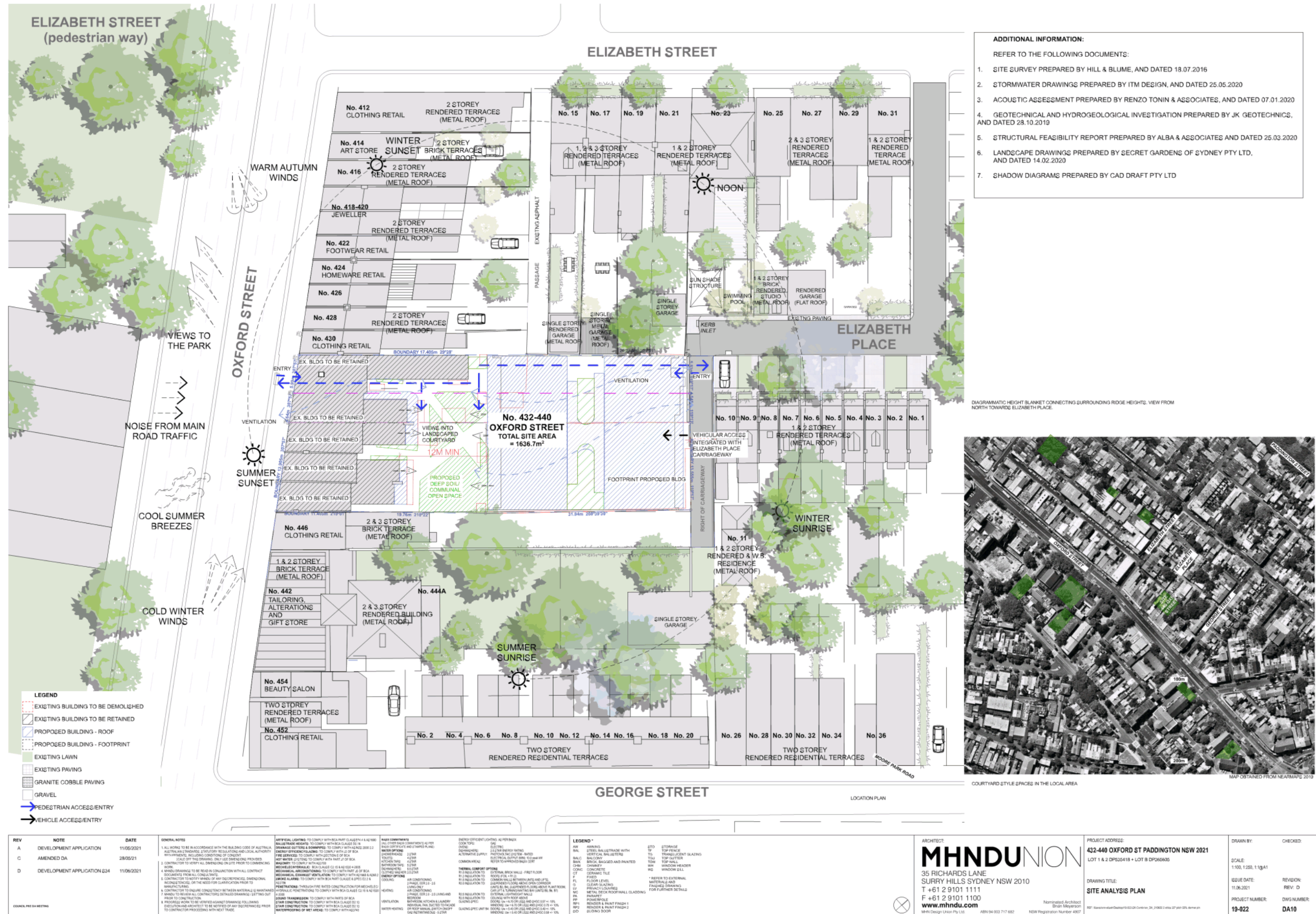
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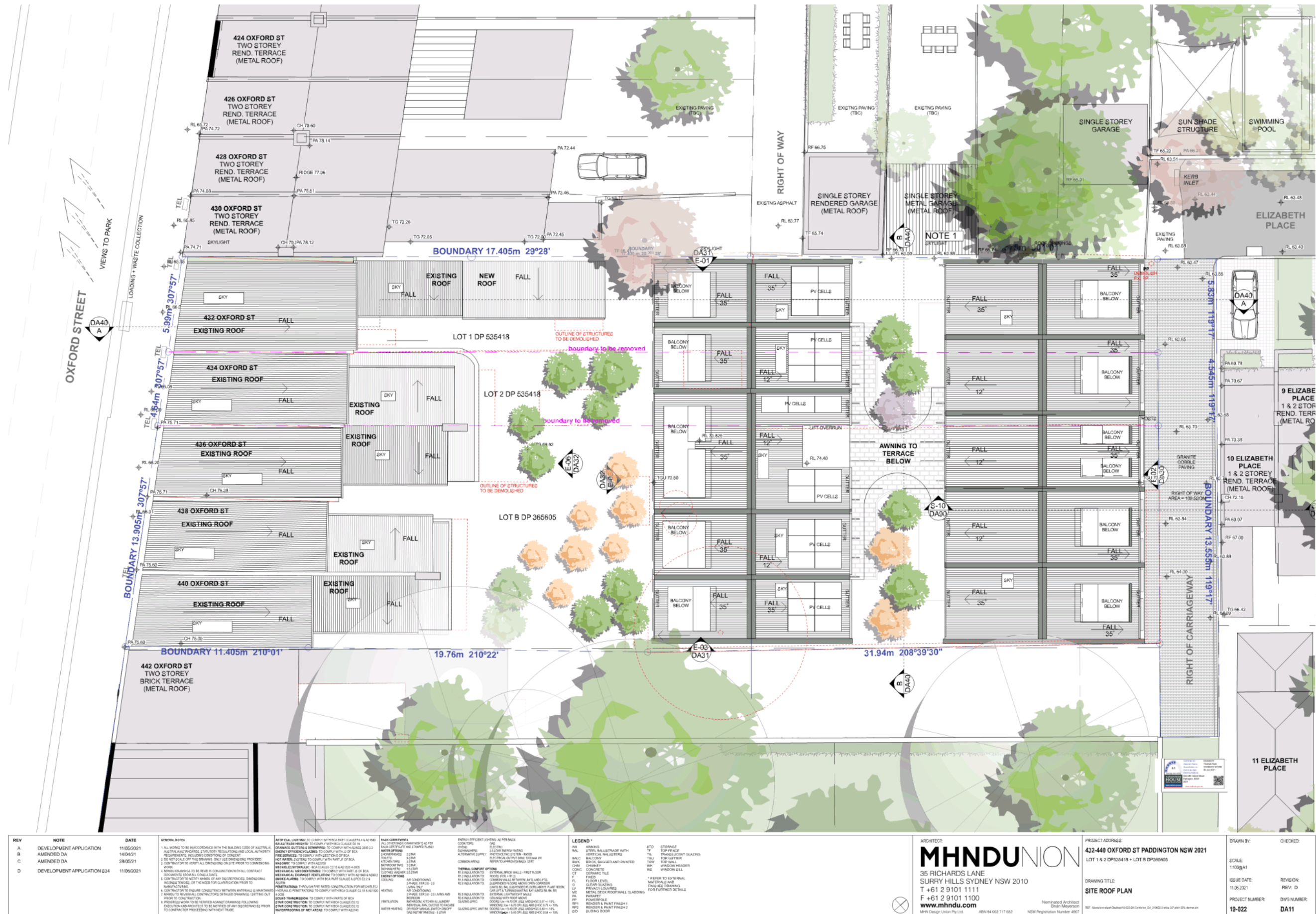
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CONSULTING SURVEYORS
ACN 000 721 004

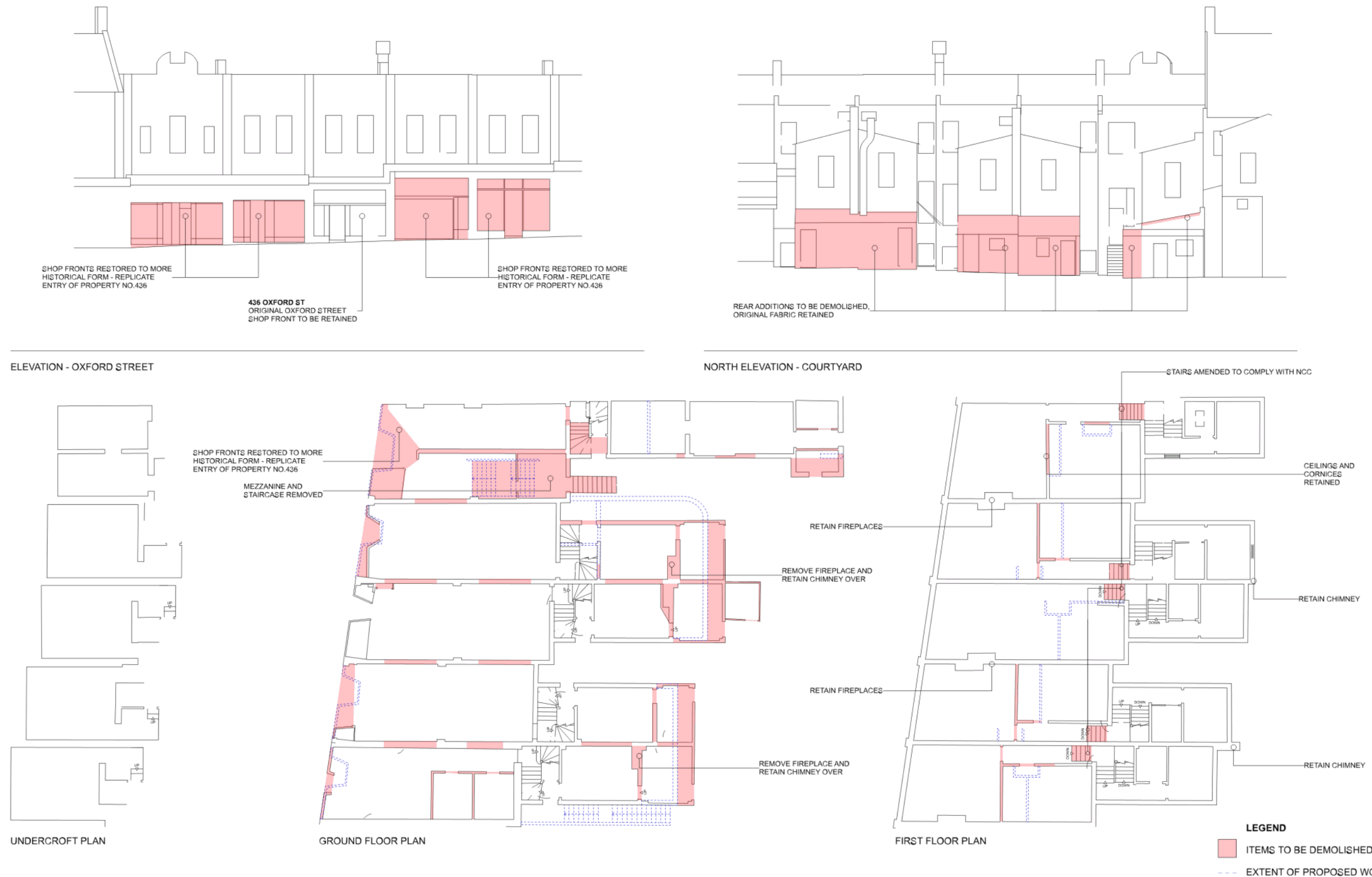
Hill & Blume Pty Ltd
102 Crown Street
Woolloomooloo
NSW 2009
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Fax (02) 9331 6411
surveyors@hillandblume.com.au

PROJECT
SHOWING SELECTED ELEVATIONS & FLOOR
PLANS OF LOTS 1 & 2 IN DP 535418
& LOT B IN DP 365605 BEING
432-440 OXFORD STREET, PADDINGTON

WUOLLAHRA	REGISTERED SURVEYOR
SCALE 1:100	DRAWN/PAPER SIZE AR/A0
SURVEY DATE 23/05/2019	DRAWING No. 58489003A





[illegible]



ELIZABETH PLACE TERRACES



ELIZABETH PLACE RIGHT OF CARRIAGEWAY +
10 ELIZABETH PLACE



REAR ELEVATION OF OXFORD STREET SHOPS



ELIZABETH PLACE REAR GARAGES



OXFORD STREET SHOPFRONTS



ADJACENT SHOPFRONTS



31 ELIZABETH STREET SIDE VIEW TO ELIZABETH PLACE



ELIZABETH STREET TERRACES



ELIZABETH STREET BUILDINGS

REVISION	NOTE	DATE	GENERAL NOTES	LEGEND	HAIR COMMENTS	AS NOTED	AS PROPOSED
A	DEVELOPMENT APPLICATION	25/03/2021	ALL WORKING TO BE ACCORDING TO THE 1:100 SCALE OF THE DEVELOPMENT APPLICATION. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT.	1. ALL WORKING TO BE ACCORDING TO THE 1:100 SCALE OF THE DEVELOPMENT APPLICATION. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT.	1. ALL WORKING TO BE ACCORDING TO THE 1:100 SCALE OF THE DEVELOPMENT APPLICATION. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT.	1. ALL WORKING TO BE ACCORDING TO THE 1:100 SCALE OF THE DEVELOPMENT APPLICATION. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT.	1. ALL WORKING TO BE ACCORDING TO THE 1:100 SCALE OF THE DEVELOPMENT APPLICATION. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT. THE DEVELOPMENT APPLICATION IS TO BE USED TO OBTAIN A DEVELOPMENT APPLICATION FROM THE LOCAL GOVERNMENT.
C	AMENDED DA	28/05/21					
D	DEVELOPMENT APPLICATION 254	11/09/2021					

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PROJECT:
CAMBRIAN

PROJECT NO: 10-022

DRAWN BY: MHNDU

TO SCALE: 1:3

DRAWING NO: REV: D

LOT 1 & 2 DP35418 - LOT B DP35655

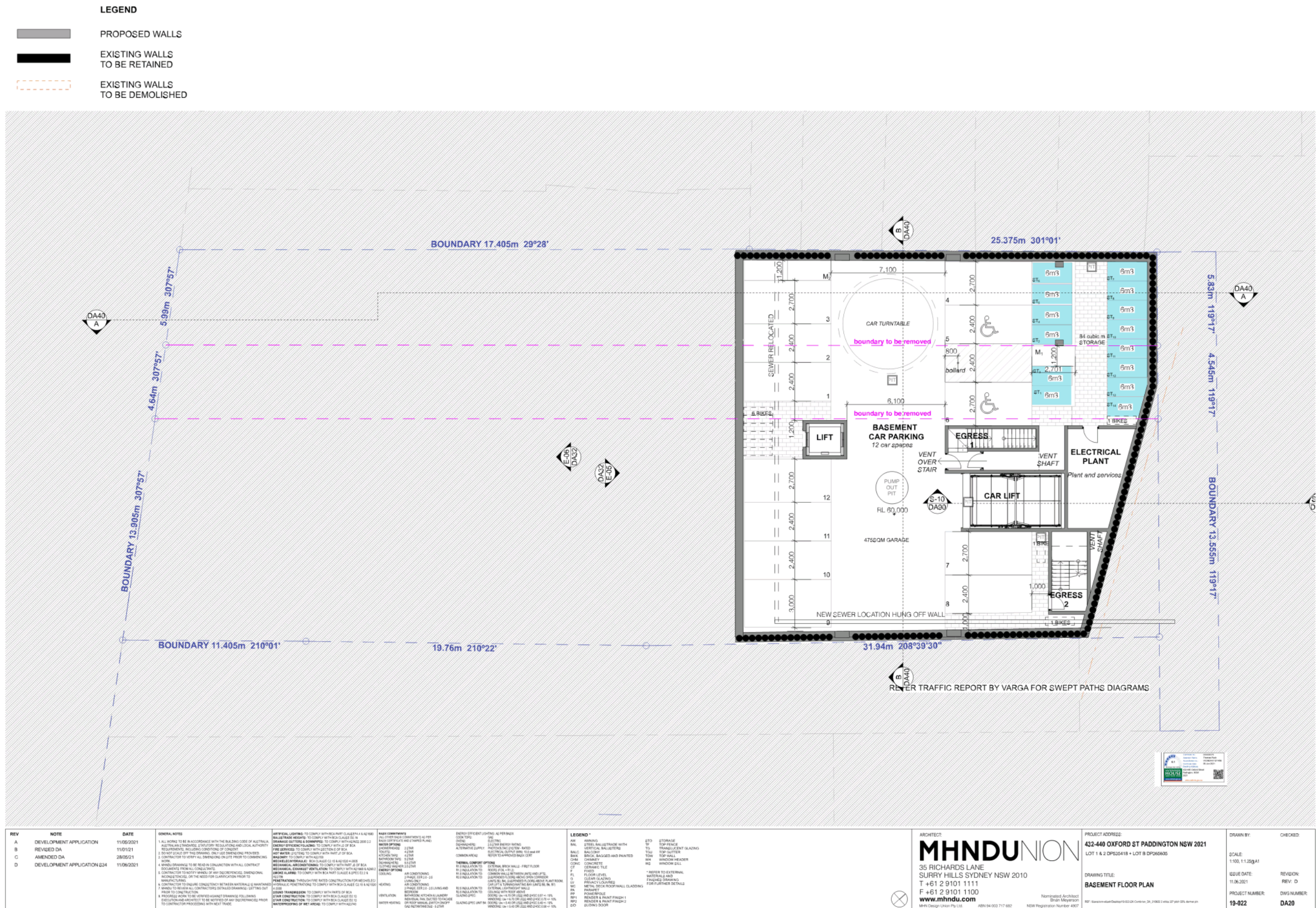
DRAWING 1:

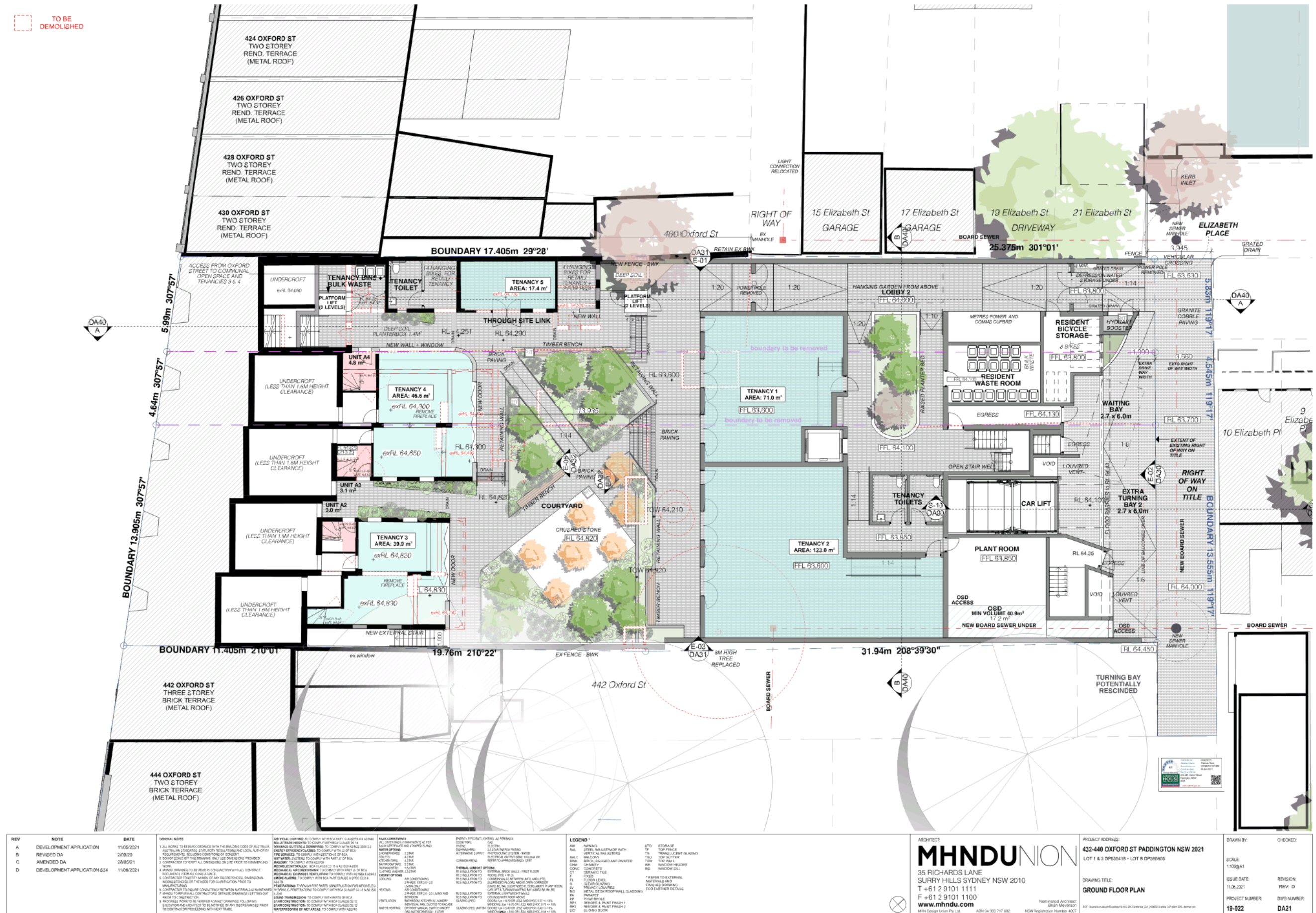
SITE CONTEXT PHOTOS

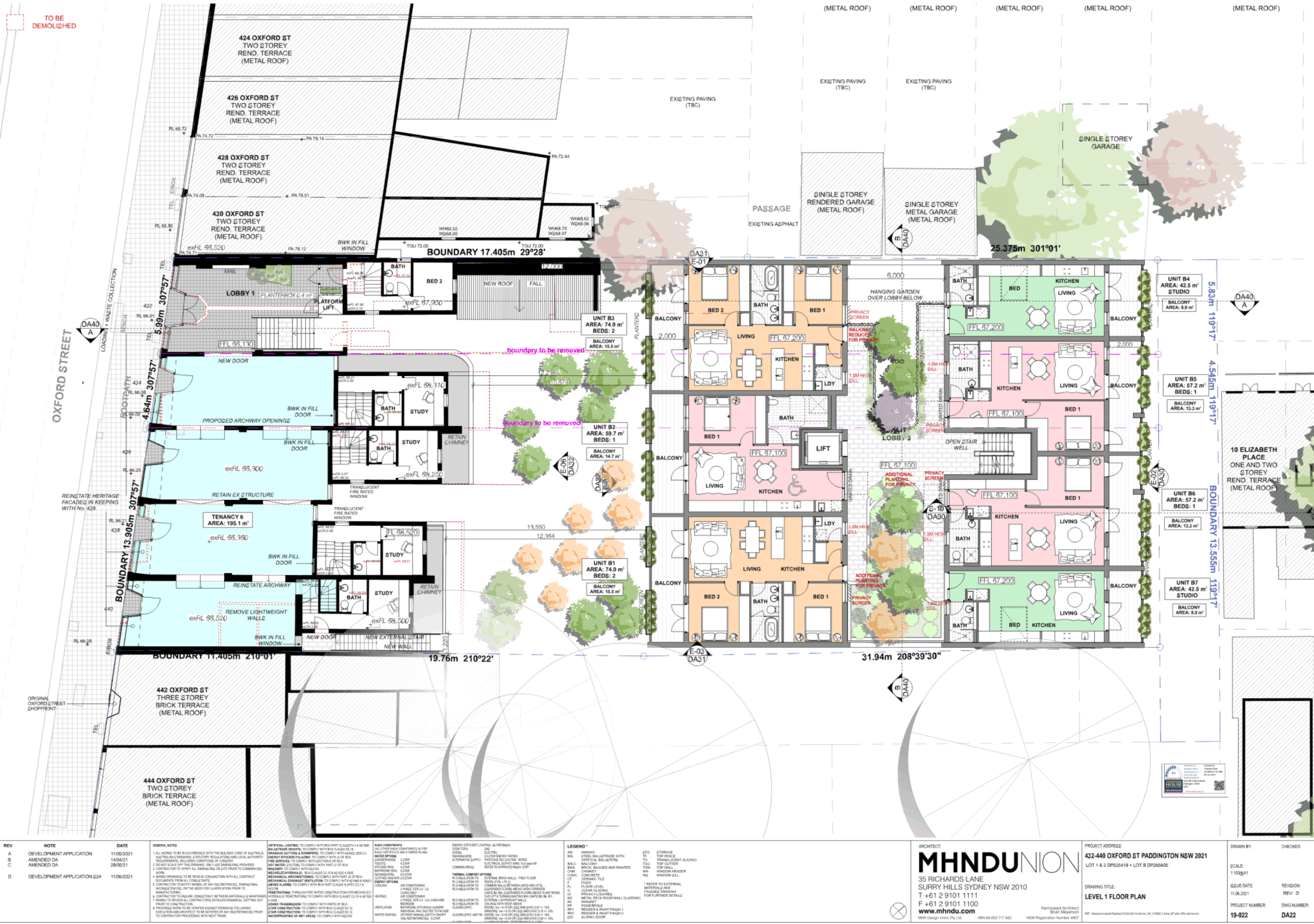
DA13

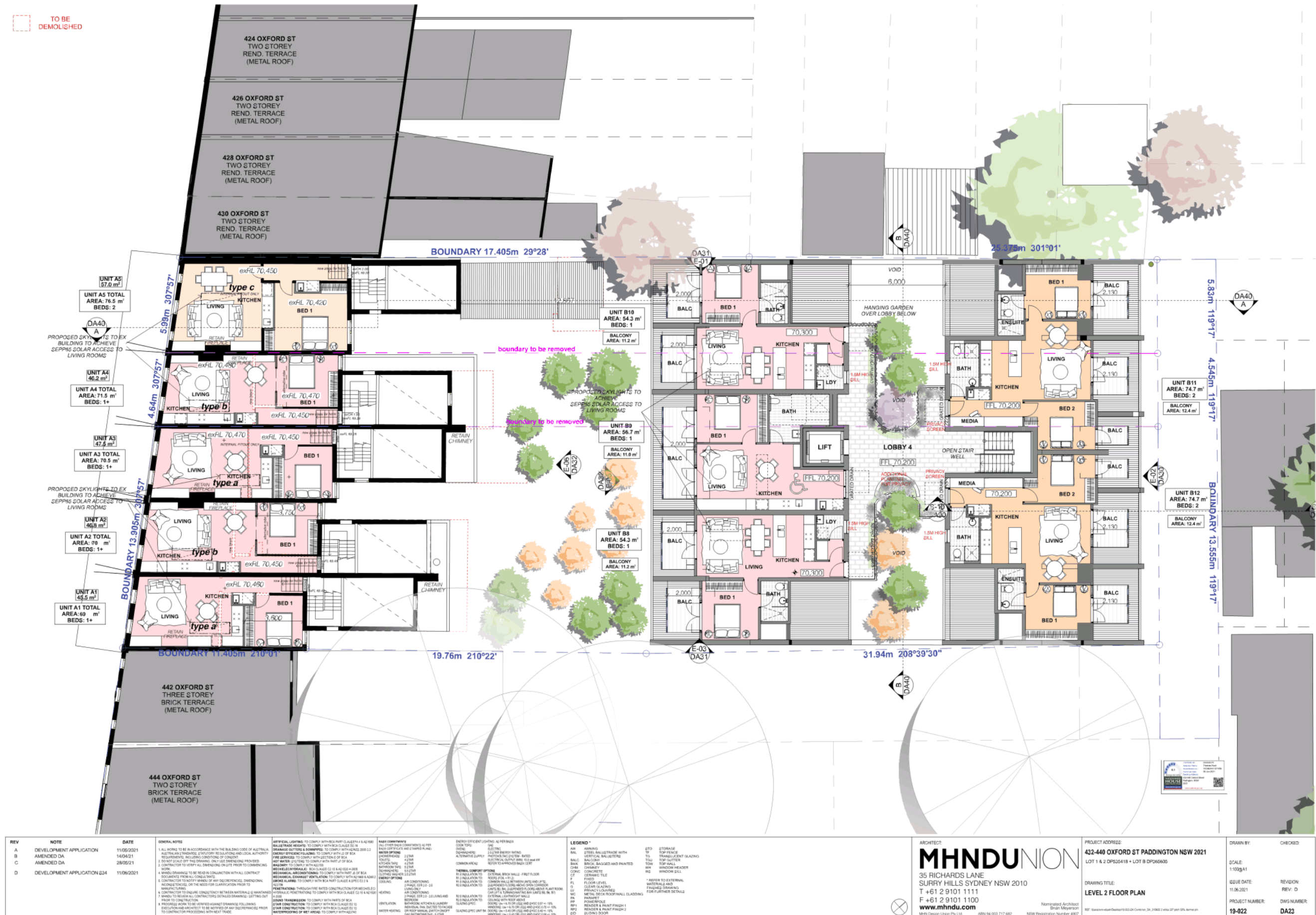
Notified Architect
 Brian Meyerson
 144 Design Union Pty Ltd
 ABN 61 008 717 080
 NSW Registration Number 4907

TOTAL GFA & FSR			
SITE AREA		1,636.7 m² (incl. private road on title)	
GFA	BLOCK A	BLOCK B	
GROUND FLOOR	123m²	403m²	
LEVEL 1	324m²	419m²	
LEVEL 2	243m²	323m²	











NORTH ELEVATION FROM RIGHT OF CARRIAGEWAY



SOUTH ELEVATION FROM OXFORD ST
(refer to detailed elevation DA33 for more information)



REV	NOTE	DATE	GENERAL NOTES	ARTIFICIAL LIGHTING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	WATER HEATING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	ENERGY EFFICIENT LIGHTING AS PER RELEVANT STANDARDS AND REQUIREMENTS	LEGEND	STO	PROJECT ADDRESS	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	11/06/2021	1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, ALL APPLICABLE STANDARDS, LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT, AND ANY OTHER RELEVANT REQUIREMENTS.	ARTIFICIAL LIGHTING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	WATER HEATING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	ENERGY EFFICIENT LIGHTING AS PER RELEVANT STANDARDS AND REQUIREMENTS	LEGEND	STO	35 RICHARDS LANE, SURRY HILLS SYDNEY NSW 2010	SCALE: 1:100	
B	AMENDED DA	14/04/21	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED.	ARTIFICIAL LIGHTING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	WATER HEATING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	ENERGY EFFICIENT LIGHTING AS PER RELEVANT STANDARDS AND REQUIREMENTS	LEGEND	STO	T +61 2 9101 1111	ISSUE DATE: 11/06/2021	REVISION: REV D
C	AMENDED DA	28/05/21	3. CONSULT WITH THE ARCHITECT PRIOR TO COMMENCING WORK.	ARTIFICIAL LIGHTING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	WATER HEATING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	ENERGY EFFICIENT LIGHTING AS PER RELEVANT STANDARDS AND REQUIREMENTS	LEGEND	STO	F +61 2 9101 1100	PROJECT NUMBER: 19-022	DWG NUMBER: DA30
D	DEVELOPMENT APPLICATION 234	11/06/2021	4. CONSULT WITH THE ARCHITECT PRIOR TO COMMENCING WORK.	ARTIFICIAL LIGHTING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	WATER HEATING TO COMPLY WITH RELEVANT STANDARDS AND REQUIREMENTS	ENERGY EFFICIENT LIGHTING AS PER RELEVANT STANDARDS AND REQUIREMENTS	LEGEND	STO	www.mhndu.com		

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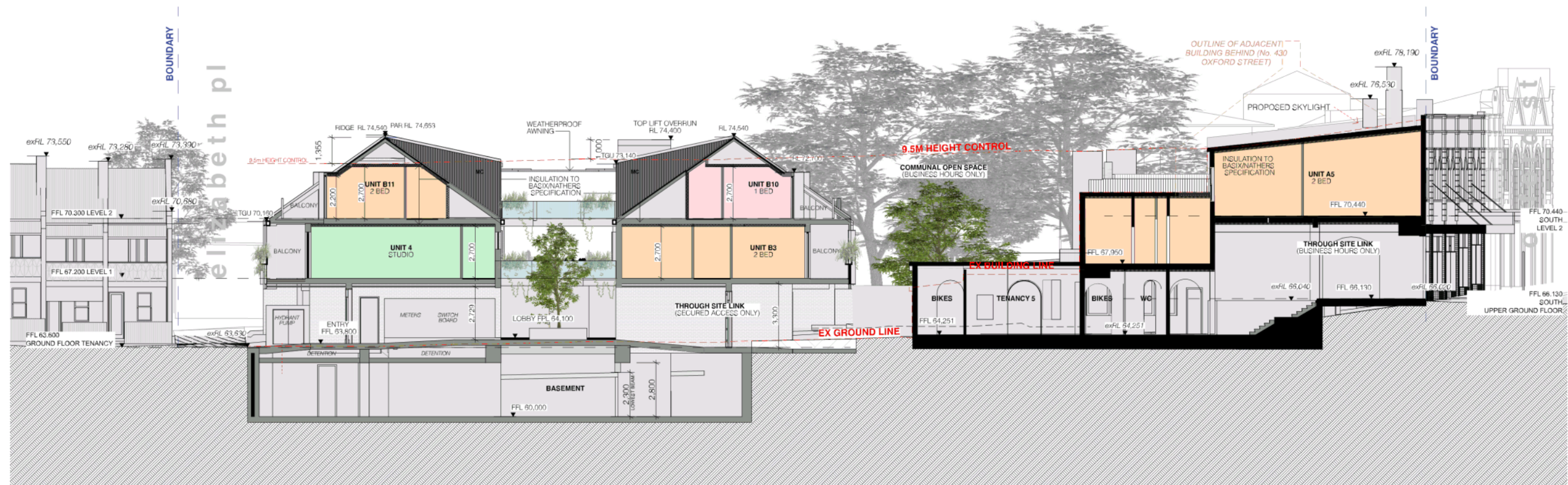
NORTH ELEVATION COURTYARD



SOUTH ELEVATION COURTYARD

[illegible]





SECTION A (STEPPED SECTION)



SECTION B

[illegible]

AREA DIAGRAMS - GFA

WOOLLAHRA MUNICIPAL COUNCIL
LEP 2014 GFA Definition:
gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
- (i) storage, and
- (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

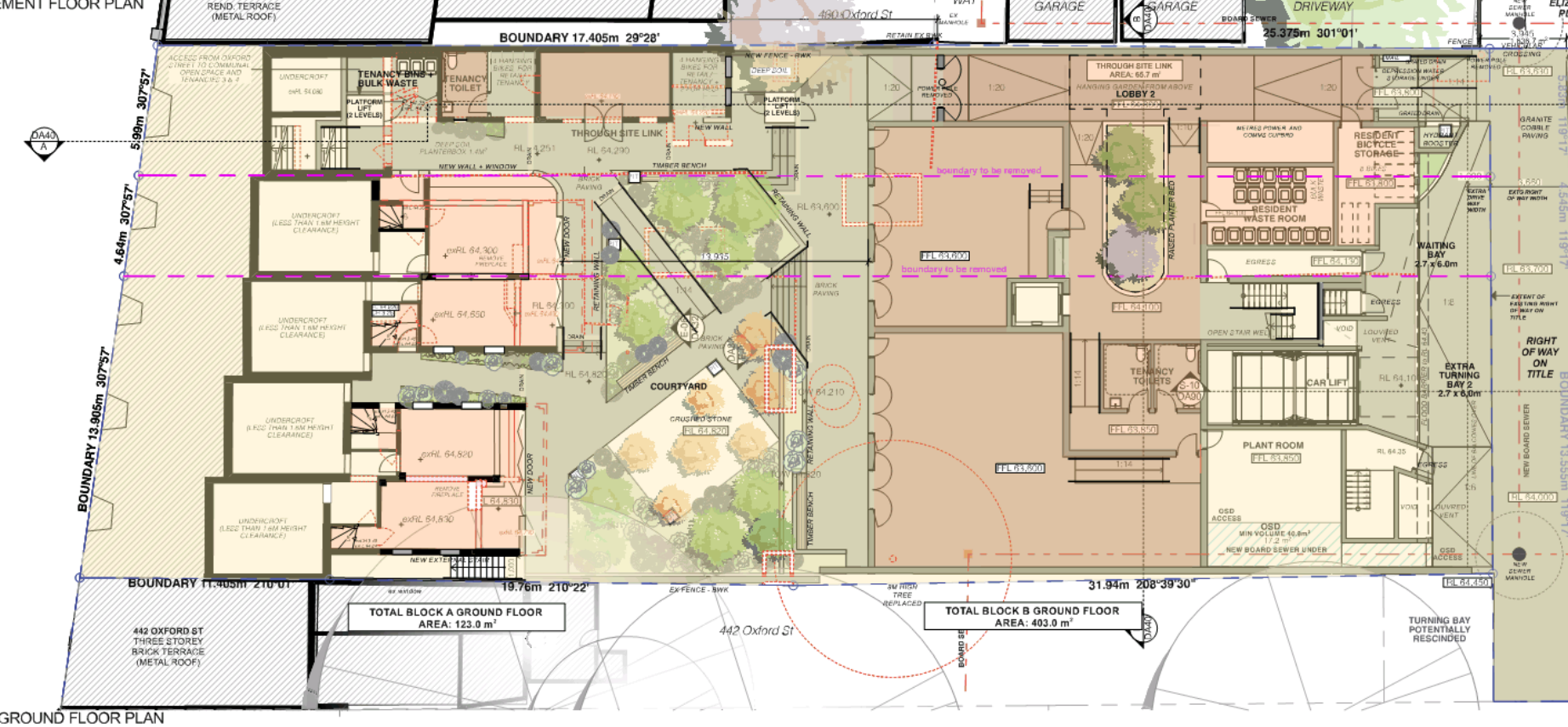
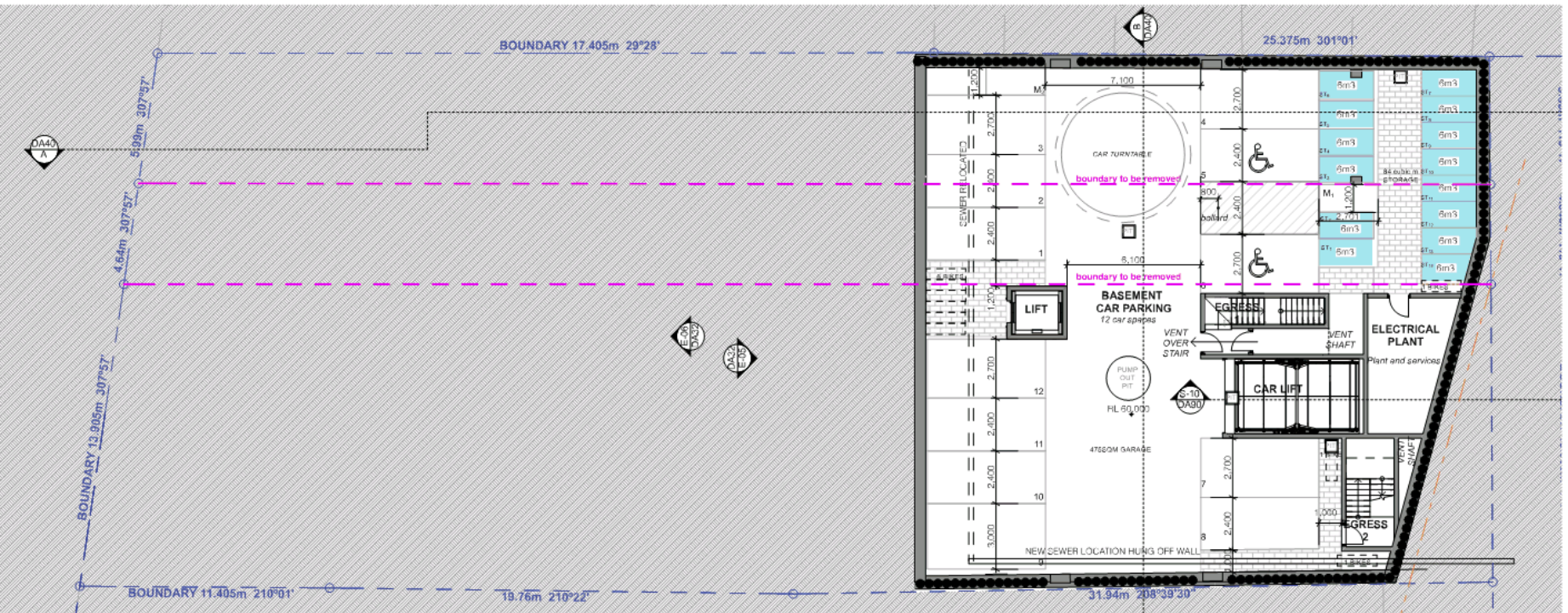
GFA CALCULATIONS			
	BLOCK A	BLOCK B	GFA
BASEMENT:	-	-	-
GROUND FLOOR:	123m²	403m²	526m²
LEVEL 1:	324m²	419m²	743m²
LEVEL 2:	243m²	323m²	566m²
TOTAL GFA			1835m²

FSR		
	EXISTING	PROPOSAL
SITE AREA:	1636.7m²	1636.7m²
TOTAL GFA:		1835m²
FSR:		1.12:1

PARKING	
RESIDENTIAL SPACES:	12
NON-RESIDENTIAL SPACES:	0
RESIDENTIAL BICYCLE SPACES:	19
NON-RESIDENTIAL BICYCLE SPACES:	8

UNIT MIX	
RETAIL:	6
OFFICE:	0
STUDIO:	2
1 BED:	4
1 BED + STUDIO:	6
2 BED:	5
TOTAL	6 COMMERCIAL 17 RESIDENTIAL

KEY	SITE AREA	GROSS FLOOR AREA
-----	-----------	------------------



REVISIONS

NO.	DESCRIPTION	DATE
B	AMENDED DA	14.04.21
C	AMENDED DA	28.05.21
D	DEVELOPMENT APPLICATION 254	11.06.2021

GENERAL NOTES

1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND ANY OTHER RELEVANT STANDARDS AND REGULATIONS.

2. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF CONTAMINATION AND THAT ALL NECESSARY SERVICES ARE AVAILABLE AT THE SITE.

3. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ANY OTHER OBSTACLES OR CONSTRAINTS THAT MAY AFFECT THE PROPOSED DEVELOPMENT.

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LEGEND: EXTERNAL MATERIALS

NO.	DESCRIPTION	DATE
1	CONCRETE	14.04.21
2	BRICK	28.05.21
3	GLASS	11.06.2021
4	STEEL	14.04.21
5	WOOD	28.05.21
6	PAVING	11.06.2021
7	LANDSCAPE	14.04.21
8	PLANTING	28.05.21
9	LIGHTING	11.06.2021
10	SECURITY	14.04.21
11	ACCESS	28.05.21
12	VENTILATION	11.06.2021
13	HEATING	14.04.21
14	Cooling	28.05.21
15	WATER	11.06.2021
16	SEWER	14.04.21
17	POWER	28.05.21
18	TELECOM	11.06.2021
19	WASTE	14.04.21
20	RECYCLING	28.05.21
21	LANDFILL	11.06.2021
22	WATER TREATMENT	14.04.21
23	WASTE TREATMENT	28.05.21
24	WASTE INCINERATION	11.06.2021
25	WASTE TO ENERGY	14.04.21
26	WASTE TO LANDFILL	28.05.21
27	WASTE TO WATER TREATMENT	11.06.2021
28	WASTE TO WASTE TREATMENT	14.04.21
29	WASTE TO WASTE INCINERATION	28.05.21
30	WASTE TO WASTE TO ENERGY	11.06.2021

PROJECT NOTES

1. THE PROJECT IS SUBJECT TO THE APPROVAL OF THE LOCAL COUNCIL AND THE STATE GOVERNMENT.

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30	WASTE TO WASTE TO ENERGY	11.06.2021

PROJECT: CAMBRIAN

432-440 OXFORD ST
PADDINGTON NSW 2021

DRAWING: AREA DIAGRAMS - GFA

DA50

PROJECT NO: 10-022

DRAWN BY: MHNDU

TO SCALE: 1:250 @ A3

DRAWING NO: REV. D

MHNDU

35 RICHARDS LANE
SURRY HILLS SYDNEY NSW 2010

T +61 2 9101 1111

F +61 2 9101 1100

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16000 Registration Number 4807

[illegible][illegible][illegible]

LANDSCAPE & DEEP SOIL

	AREA	SITE	%	REQUIRED	COMPLIES
REQUIRED DEEP SOIL	196.4m ² 114.5m ²	1636.7m ²	12	(DCP) 12% (ADG) 7%	YES YES
PROPOSED DEEP SOIL	197.5m ²				YES



GROUND FLOOR 1:300



LEVEL 1 1:300

[illegible]

PROJECT NOTES		LEGEND: EXTERNAL MATERIALS AND FINISHES	
AW	AWNING	BAL	BALUSTRADE WITH VERTICAL RAILINGS
C	CORNER	BT	BURNED TILE
F	FLOOR	BWK	BROCK, RAGGED AND PAINTED
FL	FLOOR LEVEL	CONC	CONCRETE
FR	FRONT	G	GLASS GLAZING
INT	INTERIOR	IV	METAL DOOR WITH WALL GLAZING
ST	STAIR	MC	MASONRY GLAZING
TS	TERRACE	BS	BROWN STAIN FINISH
TSW	TERRACE WALL	TG	TRANSPARENT GLAZING
W	WINDOW		
WFL	WINDOW FRAME		
WFL	WINDOW FRAME		

MHNDUNION

35 RICHARDS LANE
SURREY HILLS SYDNEY NSW 2010
T +61 2 9101 1111
F +61 2 9101 1100
www.mhndu.com
A/R4 Design Union Pty Ltd A/R4 003 717 682

Nominated Archivist
Brian Meyerowitz
NSW Registration Number 416

PROJECT:
CAMBRIAN

432-440 OXFORD ST
PADDINGTON NSW 2021

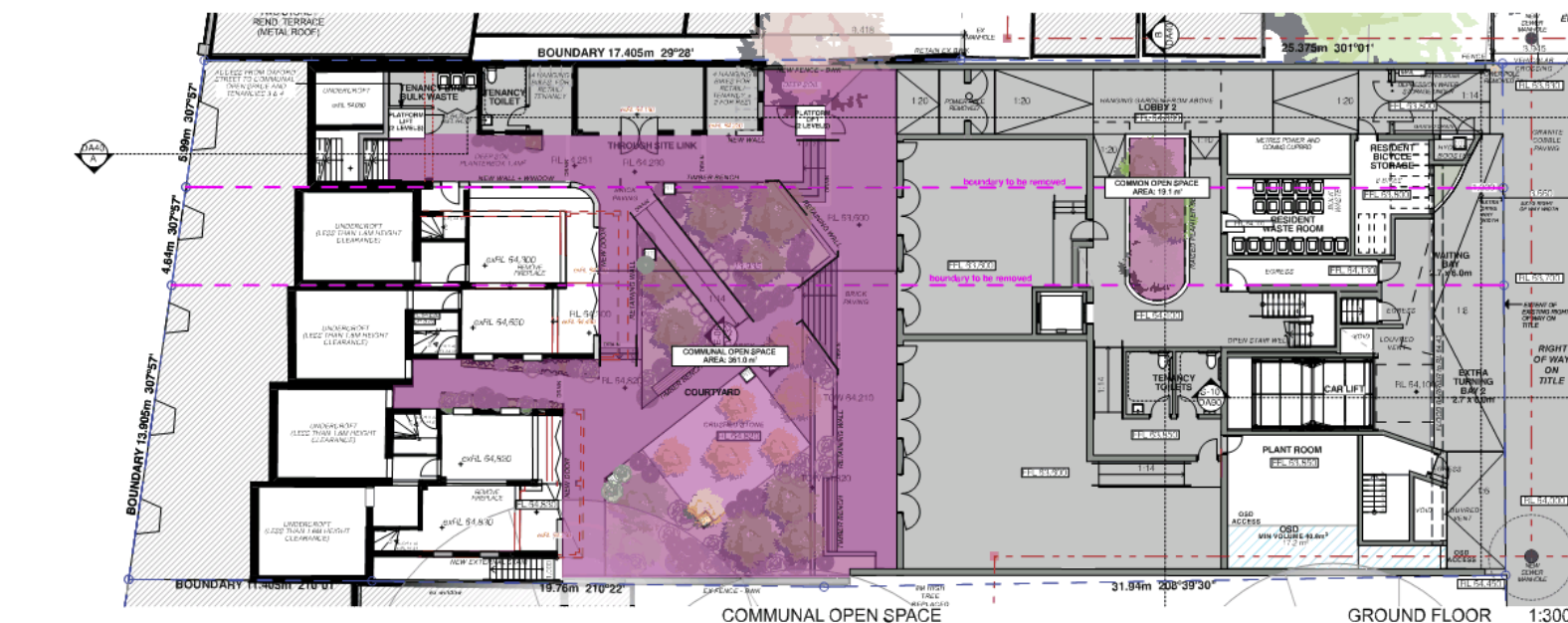
DRAWING:
AREA DIAGRAMS -
LANDSCAPE

PROJECT NO: 19-022
DRAWN BY: MHNDU
TO SCALE: 1:300 @ A3
DRAWING NO: REV: D

1

DA52

COMMUNAL OPEN SPACE					
	COMMUNAL OPEN SPACE	SITE	%	ADG CONTROL	COMPLIES
REQUIRED PROPOSAL	409m²			25%	
	461m²	1636.7m²	28%	25%	YES

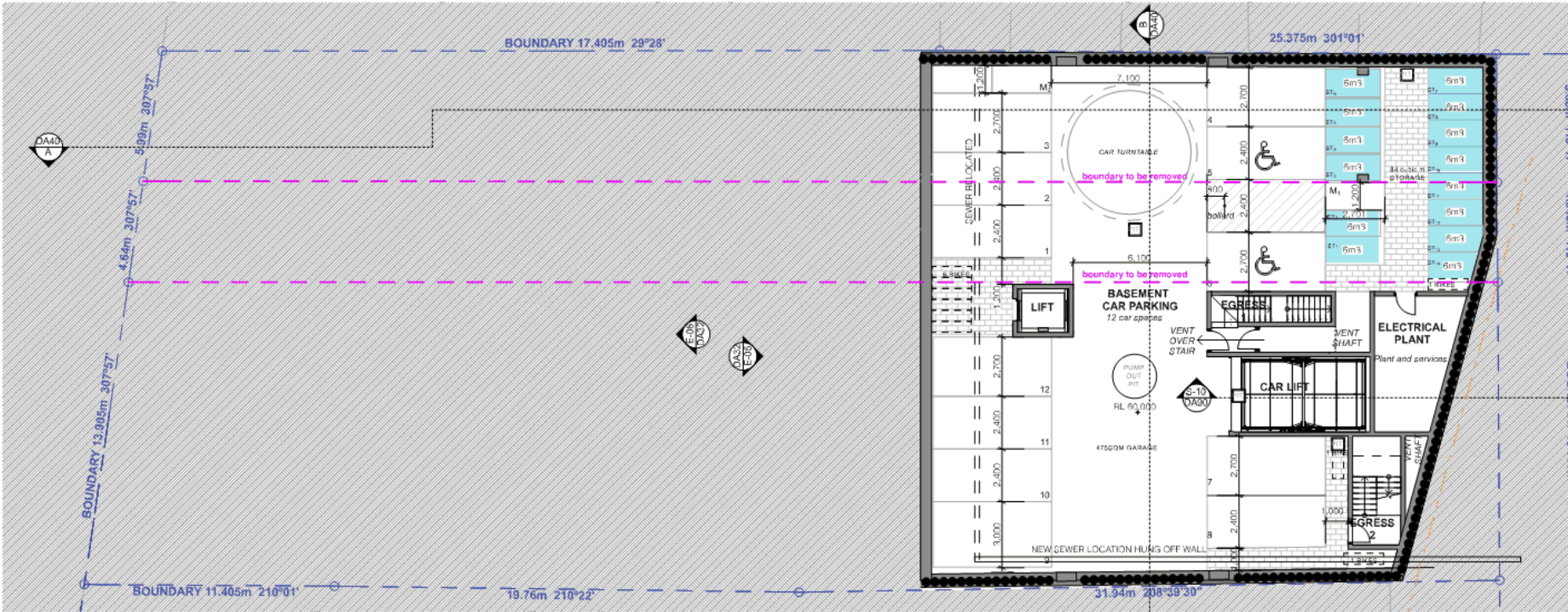


NOTE: 'DCP' REFERS TO THE RELEVANT CONTROLS UNDER WOOLLAHRA COUNCIL'S LEP 2014 AND DCP 2015.
'ADG' REFERS TO THE NSW APARTMENT DESIGN GUIDE.



REVISIONS <table border="1"> <thead> <tr> <th></th> <th>REVISED</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>B</td> <td>AMENDED DA</td> <td>14.04.21</td> <td></td> </tr> <tr> <td>C</td> <td>AMENDED DA</td> <td>28/05/21</td> <td></td> </tr> <tr> <td>D</td> <td>DEVELOPMENT APPLICATION 234</td> <td>11/06/2021</td> <td></td> </tr> </tbody> </table>			REVISED	DATE	DESCRIPTION	B	AMENDED DA	14.04.21		C	AMENDED DA	28/05/21		D	DEVELOPMENT APPLICATION 234	11/06/2021		PLOTTED 11/06/2021 GENERAL NOTES 1. ALL WORK TO BE UNDERTAKEN WITH REFERENCE TO THE FOLLOWING: <ul style="list-style-type: none"> AS/NZS 1170:2002 STRUCTURAL DESIGN STANDARD AS/NZS 1170:2002 CLIMATE DATA AS/NZS 1170:2002 WIND LOADS AS/NZS 1170:2002 EARTHQUAKE LOADS AS/NZS 1170:2002 FLOODING LOADS AS/NZS 1170:2002 COLLAPSE LOADS AS/NZS 1170:2002 CRACKING LOADS AS/NZS 1170:2002 VIBRATION LOADS AS/NZS 1170:2002 THERMAL LOADS AS/NZS 1170:2002 SOUND LOADS AS/NZS 1170:2002 LIGHT LOADS AS/NZS 1170:2002 AIR POLLUTION LOADS AS/NZS 1170:2002 RADIATION LOADS AS/NZS 1170:2002 MOISTURE LOADS AS/NZS 1170:2002 CORROSION LOADS AS/NZS 1170:2002 WEAR LOADS AS/NZS 1170:2002 IMPACT LOADS AS/NZS 1170:2002 COLLISION LOADS AS/NZS 1170:2002 FIRE LOADS AS/NZS 1170:2002 EXPLOSION LOADS AS/NZS 1170:2002 TERRORISM LOADS AS/NZS 1170:2002 OTHER LOADS 	
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CONSTRUCTION COMPLIANCE AT MINIMUM REQUIREMENTS 1. ALL WORK TO BE UNDERTAKEN WITH REFERENCE TO THE FOLLOWING: <ul style="list-style-type: none"> AS/NZS 1170:2002 STRUCTURAL DESIGN STANDARD AS/NZS 1170:2002 CLIMATE DATA AS/NZS 1170:2002 WIND LOADS AS/NZS 1170:2002 EARTHQUAKE LOADS AS/NZS 1170:2002 FLOODING LOADS AS/NZS 1170:2002 COLLAPSE LOADS AS/NZS 1170:2002 CRACKING LOADS AS/NZS 1170:2002 VIBRATION LOADS AS/NZS 1170:2002 THERMAL LOADS AS/NZS 1170:2002 SOUND LOADS AS/NZS 1170:2002 LIGHT LOADS AS/NZS 1170:2002 AIR POLLUTION LOADS AS/NZS 1170:2002 RADIATION LOADS AS/NZS 1170:2002 MOISTURE LOADS AS/NZS 1170:2002 CORROSION LOADS AS/NZS 1170:2002 WEAR LOADS AS/NZS 1170:2002 IMPACT LOADS AS/NZS 1170:2002 COLLISION LOADS AS/NZS 1170:2002 FIRE LOADS AS/NZS 1170:2002 EXPLOSION LOADS AS/NZS 1170:2002 TERRORISM LOADS AS/NZS 1170:2002 OTHER LOADS 		APPROVAL COMMENTS 1. ALL WORK TO BE UNDERTAKEN WITH REFERENCE TO THE FOLLOWING: <ul style="list-style-type: none"> AS/NZS 1170:2002 STRUCTURAL DESIGN STANDARD AS/NZS 1170:2002 CLIMATE DATA AS/NZS 1170:2002 WIND LOADS AS/NZS 1170:2002 EARTHQUAKE LOADS AS/NZS 1170:2002 FLOODING LOADS AS/NZS 1170:2002 COLLAPSE LOADS AS/NZS 1170:2002 CRACKING LOADS AS/NZS 1170:2002 VIBRATION LOADS AS/NZS 1170:2002 THERMAL LOADS AS/NZS 1170:2002 SOUND LOADS AS/NZS 1170:2002 LIGHT LOADS AS/NZS 1170:2002 AIR POLLUTION LOADS AS/NZS 1170:2002 RADIATION LOADS AS/NZS 1170:2002 MOISTURE LOADS AS/NZS 1170:2002 CORROSION LOADS AS/NZS 1170:2002 WEAR LOADS AS/NZS 1170:2002 IMPACT LOADS AS/NZS 1170:2002 COLLISION LOADS AS/NZS 1170:2002 FIRE LOADS AS/NZS 1170:2002 EXPLOSION LOADS AS/NZS 1170:2002 TERRORISM LOADS AS/NZS 1170:2002 OTHER LOADS 																	
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WASTE MGT PLAN

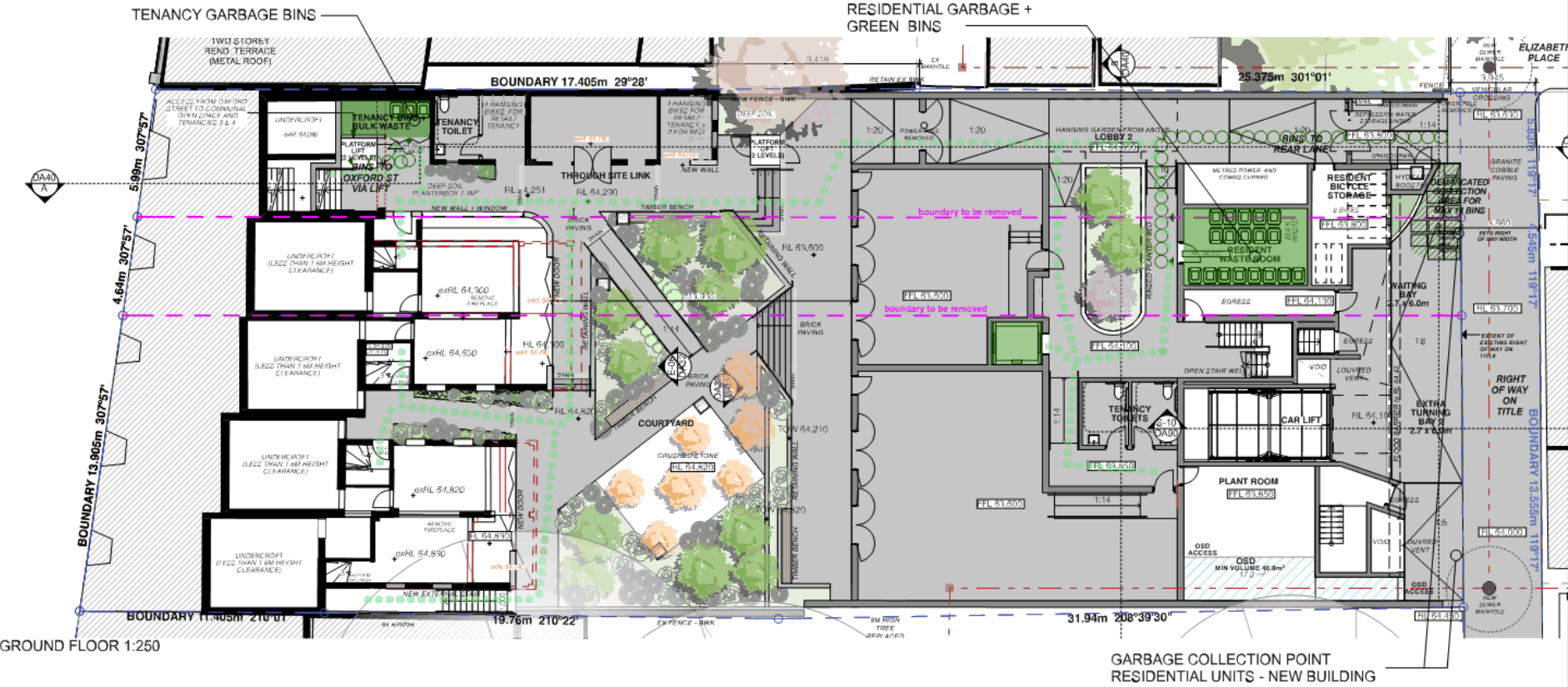


WASTE GENERATION

COMMERCIAL/RETAIL TENANCIES	WASTE GENERATION		
	RESIDUAL	RECYCLE	GREEN
Shop <100m ²	50L/100m ²	25L/100m ²	-
Shop ≥100m ²	50L/100m ²	50L/100m ²	-
TENANCY 1 (71m ²)	40L	20L	-
TENANCY 2 (123m ²)	67L	67L	-
TENANCY 3 (40m ²)	20L	10L	-
TENANCY 4 (47m ²)	23L	12L	-
TENANCY 5 (17m ²)	9L	4L	-
TENANCY 6 (196m ²)	98L	98L	-
TOTAL WASTE PER DAY	257L	211L	-
NO. 240L BINS:	2	1	2

(GREEN BINS PROVIDED FOR COMMON LANDSCAPE MAINTENANCE)

RESIDENTIAL	WASTE GENERATION		
	RESIDUAL	RECYCLE	GREEN
17 units waste per dwelling:	120L	55L	-
BLOCK A (5 UNITS):	600L	275L	240L
NO. 240L BINS:	3	2	1
BLOCK B (12 UNITS):	1,440L	660L	240L
NO. 240L BINS:	6	3	1



REVISIONS

NO.	DESCRIPTION	DATE
1	AMENDED DA	14/04/21
2	AMENDED DA DEVELOPMENT APPLICATION 254	28/05/21

GENERAL NOTES

1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND ANY OTHER RELEVANT STANDARDS AND REGULATIONS.

2. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.

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BASE CONSTRUCTION

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PROJECT NOTES

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LEGEND: EXTERNAL MATERIALS

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MHNDUNION

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www.mhndu.com

PROJECT: CAMBRIAN

432-440 OXFORD ST
PADDINGTON NSW 2021

DRAWING: WASTE MGT PLAN

DA54

PROJECT NO: 10-022

DRAWN BY: MHNDU
TO SCALE: 1:250
DRAWING NO: REV: 0

WASTE MGT PLAN



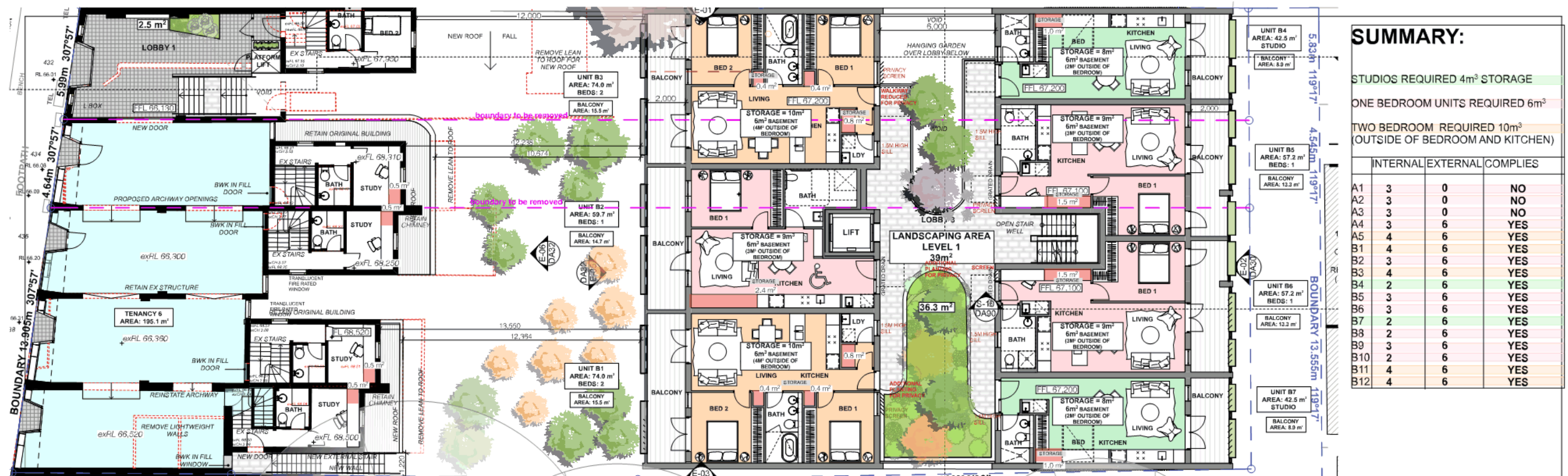
REVISIONS		GENERAL NOTES		LEGEND: EXTERNAL MATERIALS		PROJECT: CAMBRIAN	
1	AMENDED DA	14/04/21	1. ALL WORK TO BE ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS AND REQUIREMENTS.	2. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	3. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	4. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	5. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.
2	AMENDED DA	28/05/21	2. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	3. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	4. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	5. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	6. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.
3	AMENDED DA	28/05/21	3. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	4. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	5. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	6. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	7. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.
4	AMENDED DA	28/05/21	4. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	5. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	6. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	7. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.	8. RETAIN EXISTING WALLS AND STRUCTURE WHERE POSSIBLE.

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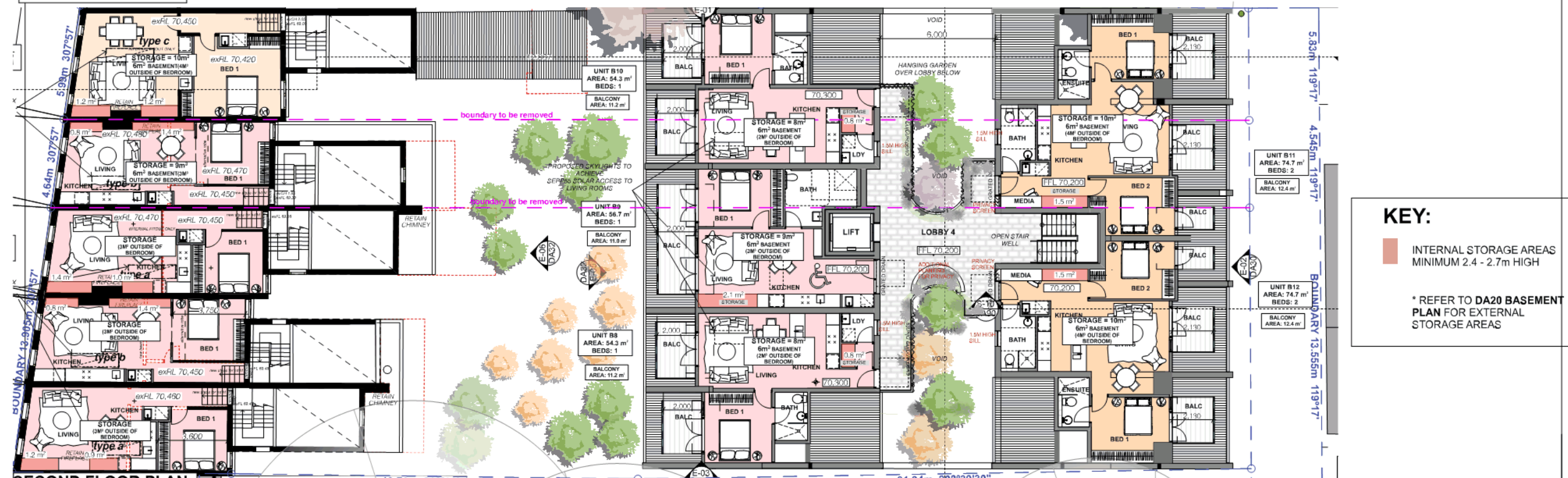
Registered Architect
Brian Mayerson
16289 Registration Number 4807

PROJECT: CAMBRIAN
432-440 OXFORD ST
PADDINGTON NSW 2021

DRAWING: WASTE MGT PLAN
DA55



FIRST FLOOR PLAN



SECOND FLOOR PLAN

SUMMARY:

STUDIOS REQUIRED 4m ³ STORAGE
ONE BEDROOM UNITS REQUIRED 6m ³
TWO BEDROOM REQUIRED 10m ³ (OUTSIDE OF BEDROOM AND KITCHEN)

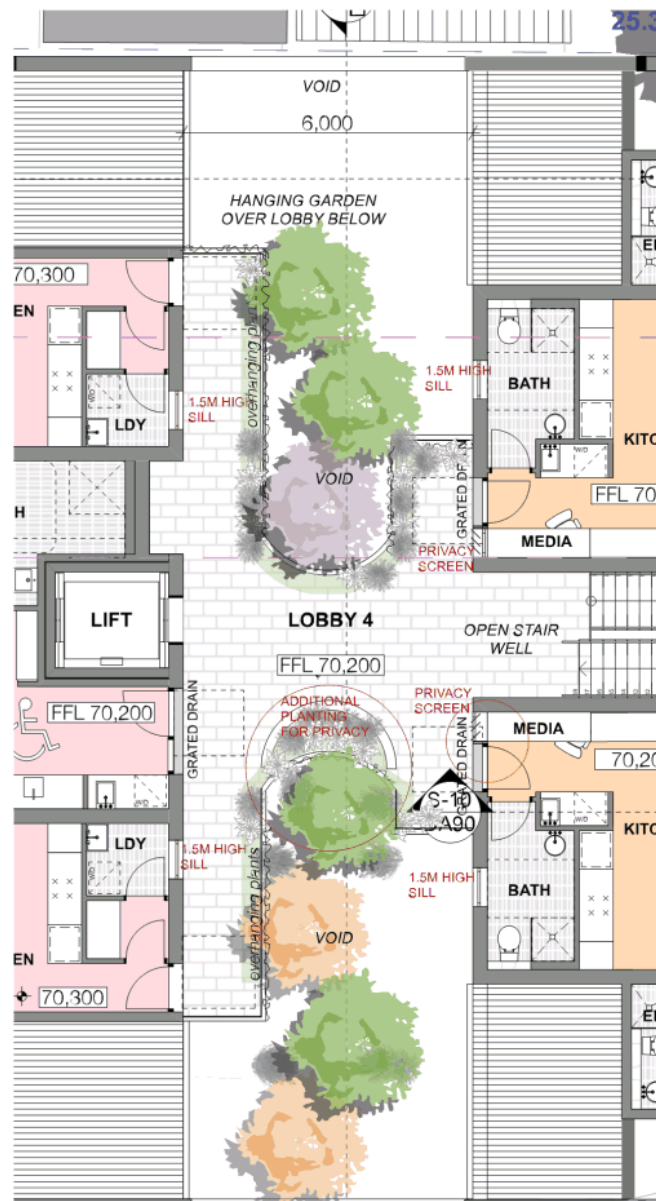
	INTERNAL	EXTERNAL	COMPLIES
A1	3	0	NO
A2	3	0	NO
A3	3	0	NO
A4	3	6	YES
A5	4	6	YES
B1	4	6	YES
B2	3	6	YES
B3	4	6	YES
B4	2	6	YES
B5	3	6	YES
B6	3	6	YES
B7	2	6	YES
B8	2	6	YES
B9	3	6	YES
B10	2	6	YES
B11	4	6	YES
B12	4	6	YES

KEY:

INTERNAL STORAGE AREAS
MINIMUM 2.4 - 2.7m HIGH

* REFER TO DA20 BASEMENT
PLAN FOR EXTERNAL
STORAGE AREAS

[illegible]

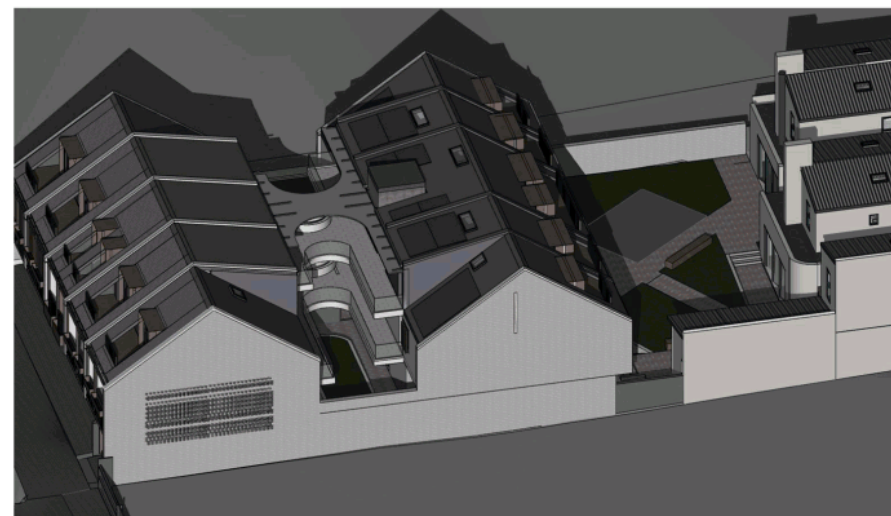
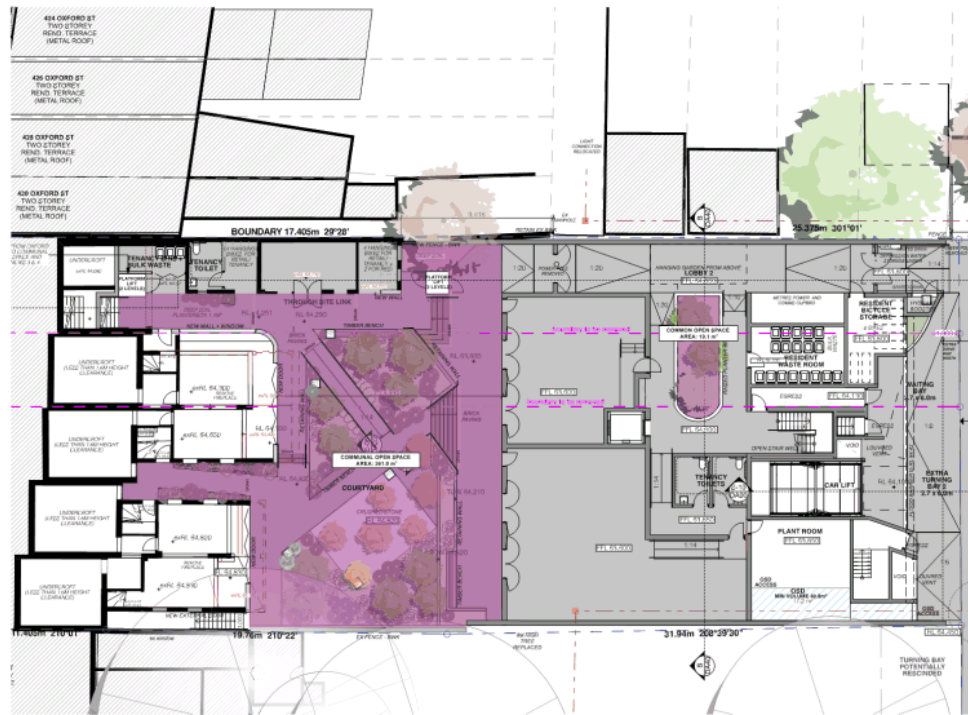


PLAN BLOCK B LEVEL 2

Architectural rendering of a modern building's exterior. The scene shows a balcony with a glass railing and a dark door. The building has a mix of dark and light grey textures. The sky is a pale blue gradient.

VIEW TOWARDS PRIVACY SCREENS LEVEL 1

Page 558



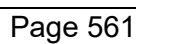
GROUND FLOOR COMMUNAL OPEN SPACE: 361m² + 19.5
FIRST FLOOR: 42m² + 13.2m²
SECOND FLOOR: 26.2m²

**TOTAL COMMUNAL OPEN SPACE: 461.5m² = 28% of site
(1636.7m² minimum = 25% = 409m²)**

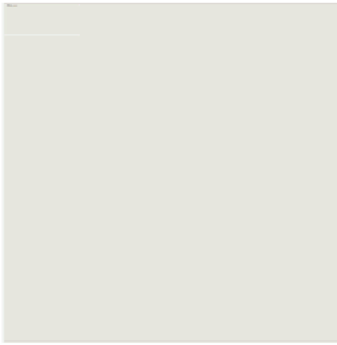
SOLAR ACCESS AT 2pm
21 JUNE

[illegible]

[illegible]



EXTERNAL MATERIALS & FINISHES



PAINT FINISH 1: DULUX TERRACE WHITE



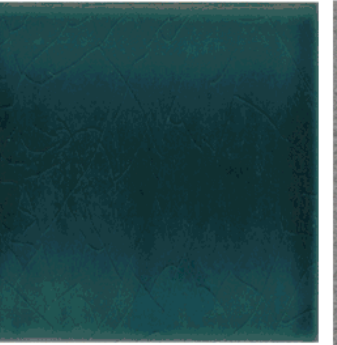
R-P1: RENDER WITH PAINT FINISH 1



BWK: BAGGED WITH PAINT FINISH 1



BWK DETAILING TO EAST AND WEST



CT: 100 X 100 CERAMIC TILES TEAL COLOUR



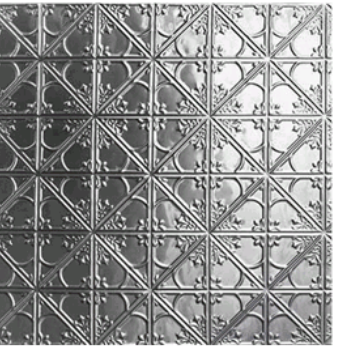
R-P2: RENDER WITH PAINT FINISH 2



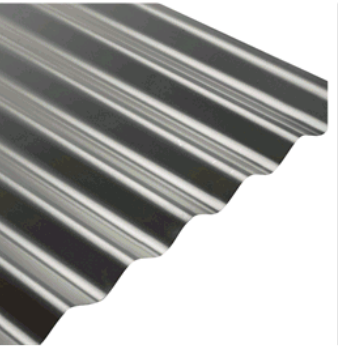
TG1: TRANSLUCENT GLASS ROUGH CAST TEXTURE



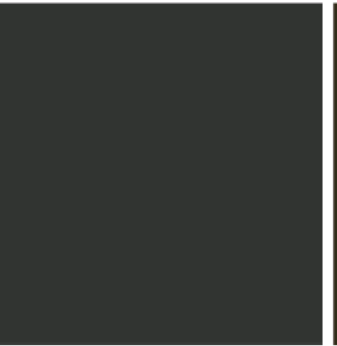
TG2: TRANSLUCENT GLASS NARROW REED TEXTURE



PRESSED METAL CLADDING



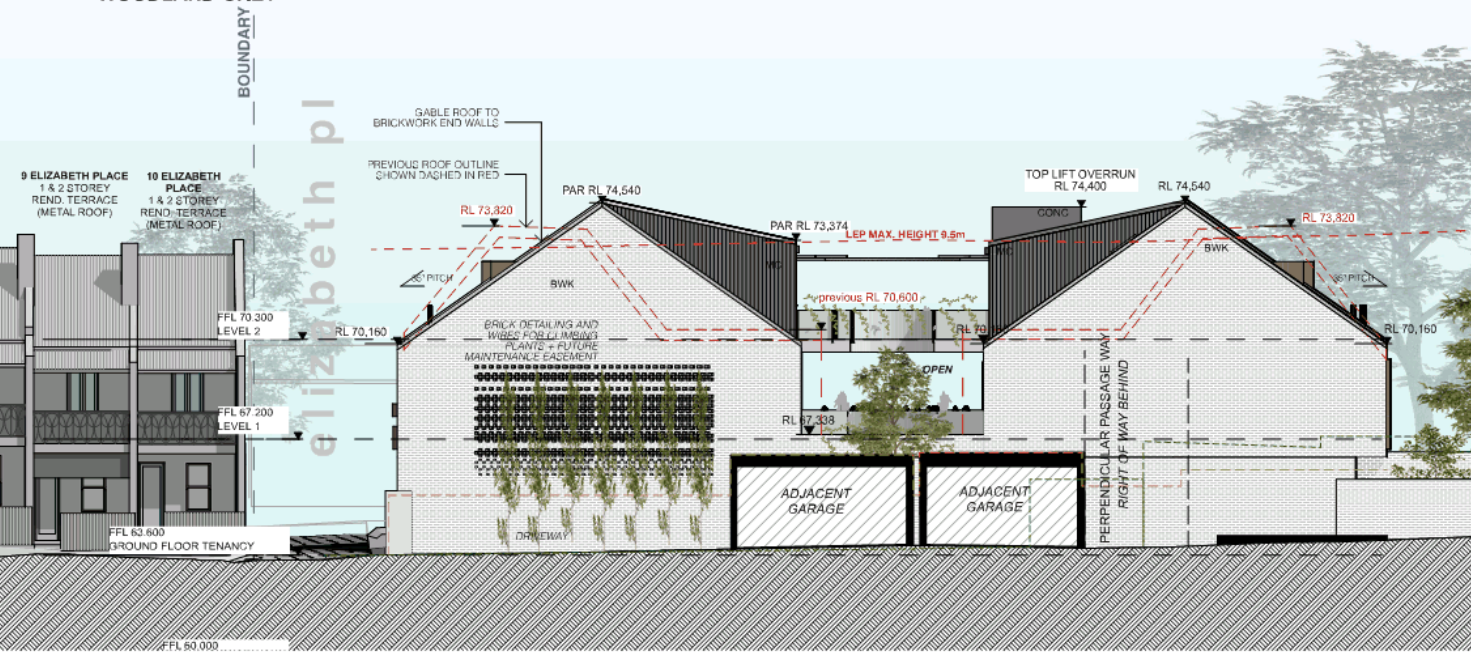
MC: CORRUGATED COLORBOND ROOFING WOODLAND GREY



PAINT FINISH 2: DULUX DOMINO



BALUSTRADES, PLANTERS AND LOUVRES: BRONZE ANODISED ALUMINIUM



REVISION	NOTE	DATE
A	DEVELOPMENT APPLICATION	26/06/2020
B	AMENDED DA	28.5.21
D	DEVELOPMENT APPLICATION 254	11/06/2021

GENERAL NOTES
1. ALL WORK TO BE ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND ALL OTHER RELEVANT STANDARDS AND REGULATIONS.
2. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
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BASE COMMENTS		EQUIPMENT	
ALL SURFACES SHALL BE PROTECTED WITH 1/2" POLYETHYLENE SHEETING	1/2" POLYETHYLENE SHEETING	1/2" POLYETHYLENE SHEETING	1/2" POLYETHYLENE SHEETING
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ALL SURFACES SHALL BE PROTECTED WITH 1/2" POLYETHYLENE SHEETING	1/2" POLYETHYLENE SHEETING	1/2" POLYETHYLENE SHEETING	1/2" POLYETHYLENE SHEETING
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PROJECT: CAMBRIAN

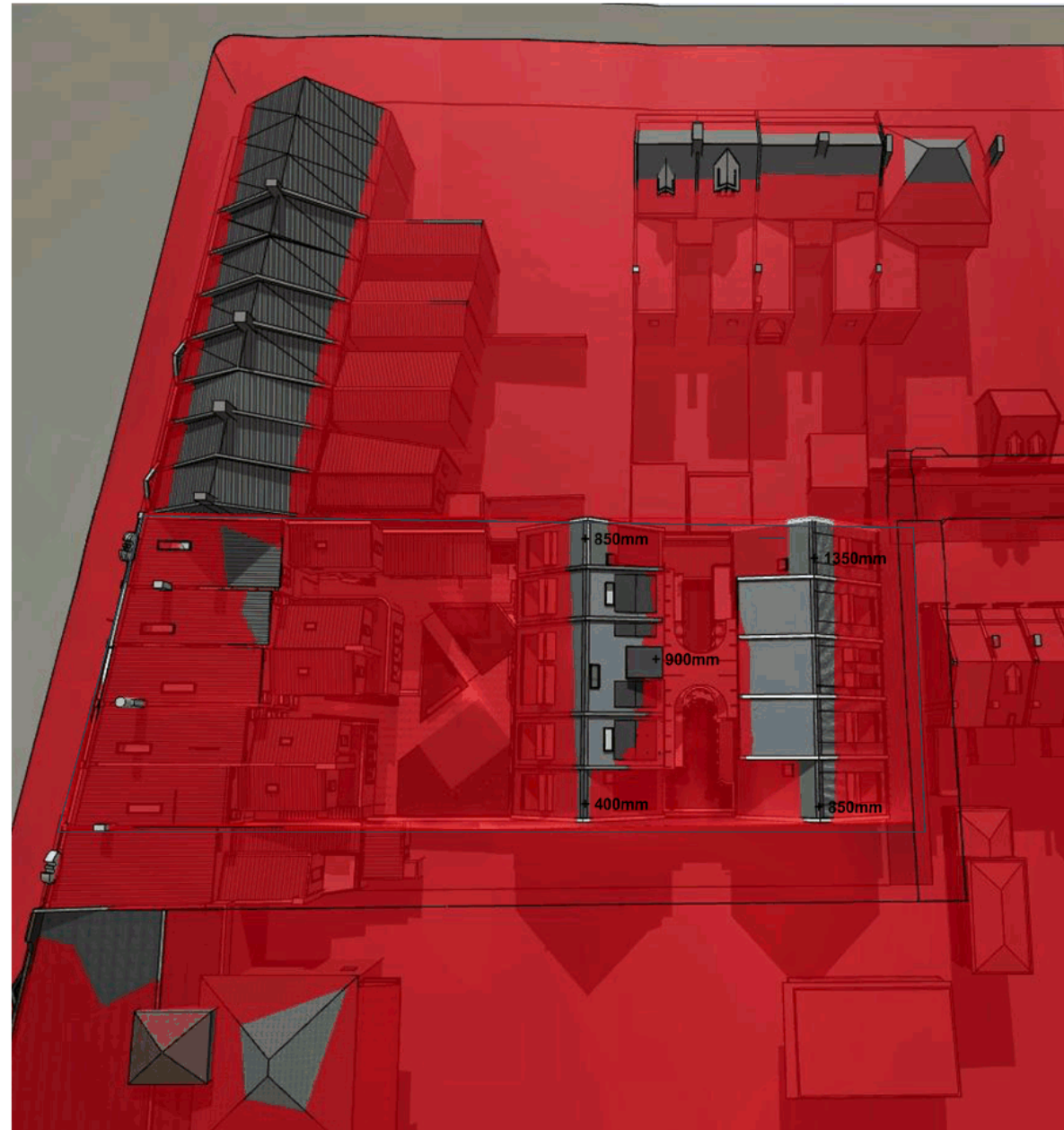
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PADDINGTON NSW 2021

LOT 1 & 2 DP635418 + LOT 3 DP656605

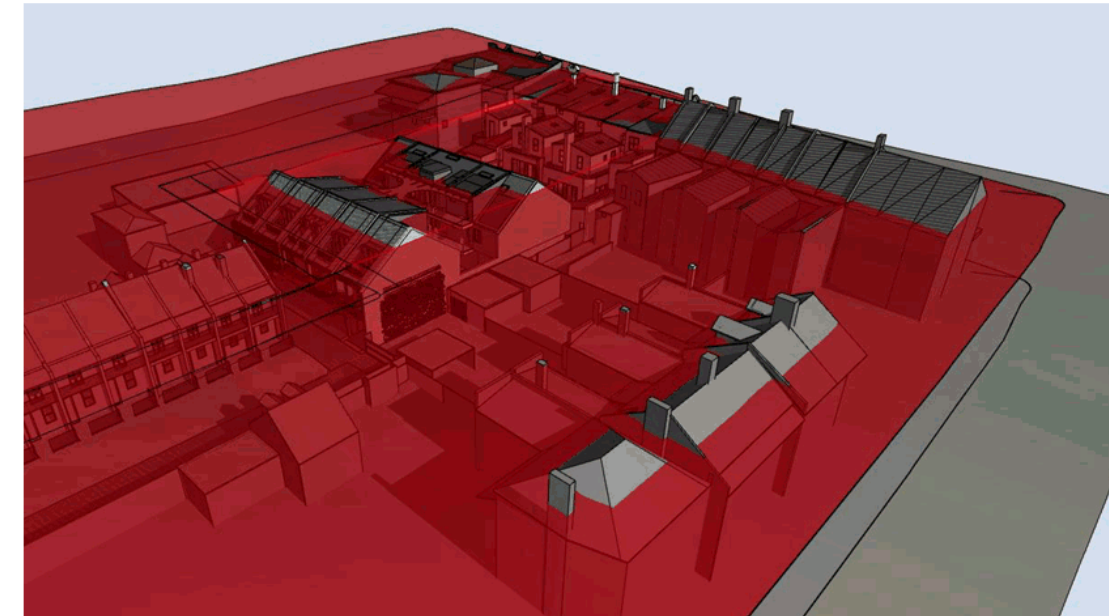
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PROJECT NO: 10-022
DRAWN BY: MHNDU
TO SCALE: 1:200 (A3)
DRAWING NO: REV: D

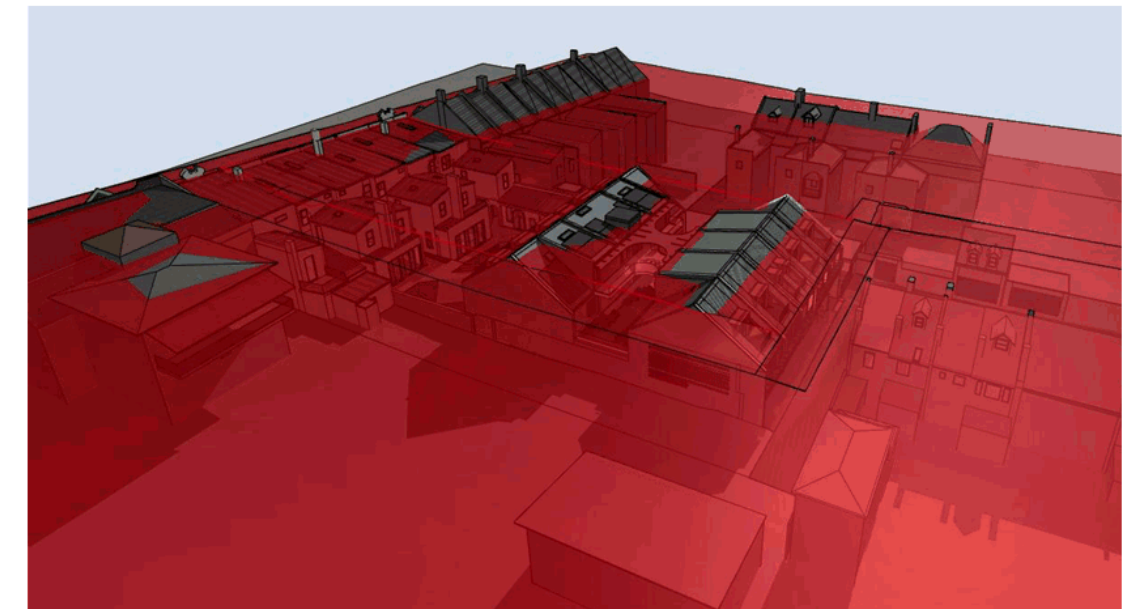
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9.5M HEIGHT BLANKET - BIRDS EYE VIEW

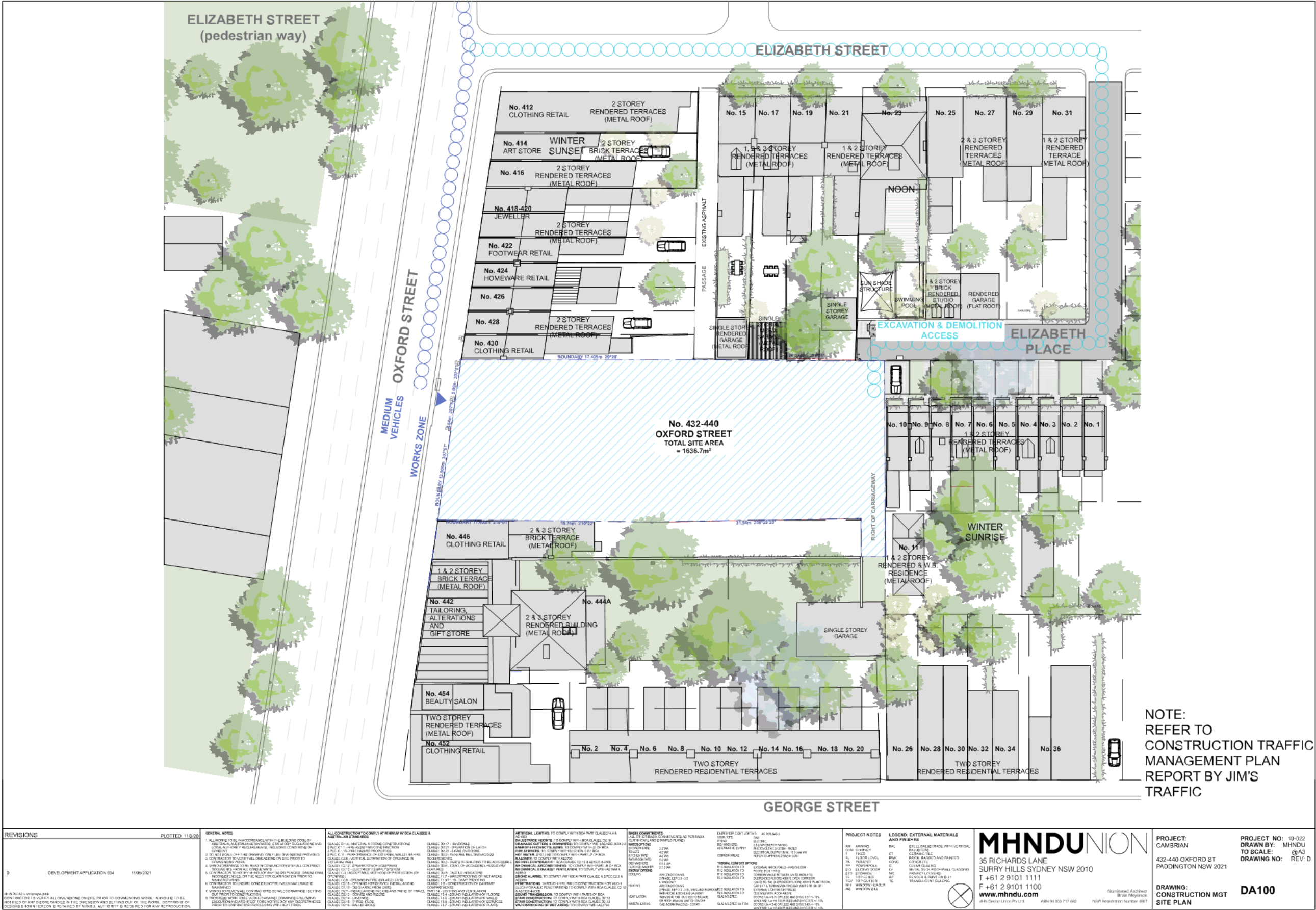


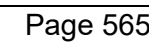
**9.5M HEIGHT BLANKET - BIRDS EYE VIEW
PERSPECTIVE FROM NORTH-WEST**

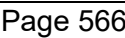


**9.5M HEIGHT BLANKET - BIRDS EYE VIEW
PERSPECTIVE FROM NORTH-EAST**

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