



Woollahra Local Planning Panel (Public Meeting)

Tuesday 13 December 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 in person and members of the public may attend via audio-visual link.

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

5 December 2022

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 13 December 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)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Tuesday 13 December 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 before the meeting**.
- Watch and listen to the meeting live via Council's website **from 1.00pm on the day of the meeting:**
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_agendas_audio_recordings_and_minutes

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

Woollahra Local Planning Panel (Public 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	DA177/2021/1 - O'Sullivan Road Rose Bay - 22/2322727 *See Recommendation Page 26	
D2	DA277/2022/1 - 68 Darling Point Road Darling Point - 22/238396181 *See Recommendation Page 224	
D3	DA278/2022/1 - 68 Darling Point Road Darling Point - 22/238490403 *See Recommendation Page 443	

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA177/2021/1
ADDRESS	O'Sullivan Road ROSE BAY
COUNCIL WARD	Bellevue Hill
SITE AREA	13.787ha
ZONING	RE1 Public Recreation
PROPOSAL	Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.
TYPE OF CONSENT	Local development
COST OF WORKS	\$3,655,981.00
DATE LODGED	30/04/2021
APPLICANT	Roth Architecture Workshop Pty Ltd
OWNER	Woollahra Municipal Council
AUTHOR	Mr V Aleidzans
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	13
RECOMMENDATION	Approval, subject to Condition C1

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:

- Conflict of interest
Development for which the land owner is:
a) the council

AND

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

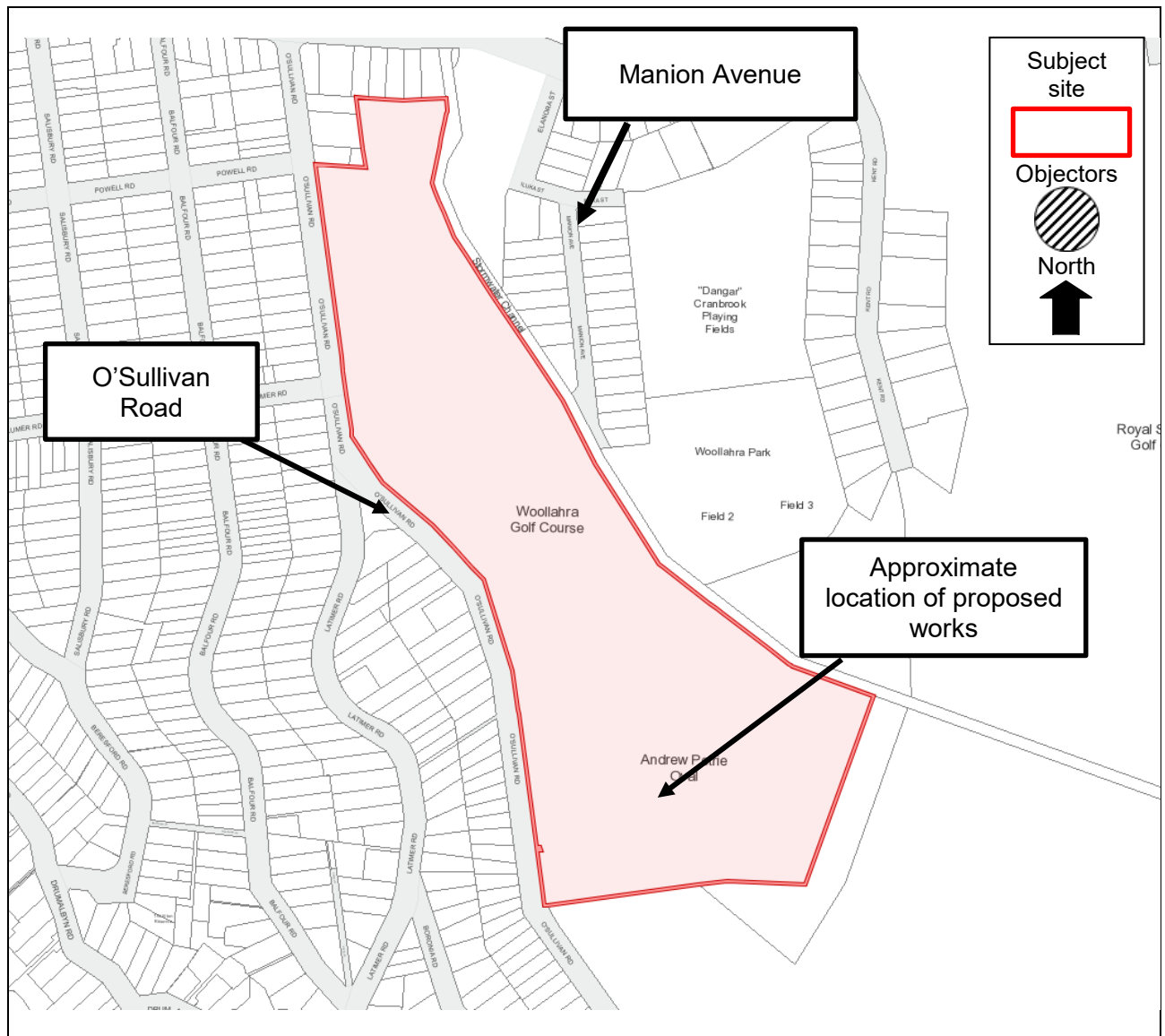
2. REASONS FOR RECOMMENDATION

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

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

- The site is suitable for the proposed development.
- The proposal is in the public interest.

3. LOCALITY PLAN





Note: Where multiple objections were received from the same property these have only been identified once on the mapping above. Furthermore, it should be noted that given the location of some objecting properties, only those captured on the above maps have been identified. See Section 9 of this assessment report for a complete list.

4. PROPOSAL

The architectural plans were amended on 19/07/2022 and involved the following changes:

- Greater separation of the proposed built form from the Grimly Pavilion;
- Reconfiguration of ground and first floor levels as a result of the above along with the reorganization of proposed amenity areas.

The proposal, as amended, involves demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping. Specifically, the proposal involves the following:

Ground Floor

- Storage areas along with storage lockers;
- Unisex disabled bathrooms;
- Male and female public bathrooms;
- First aid room;
- Female home and away change rooms and bathrooms;
- Male home and away change rooms and bathrooms;
- Cleaners room;
- Referee rooms;
- New grandstand;
- Landscaping works;
- Raised platform/viewing area;
- New internal and external stair access; and
- New lift.

First Floor

- Community room with storage areas and toilet facilities;
- Gym area; and
- Roof terrace and balcony.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

5.2 Primary Issues

- Suitably resolved via the recommended conditions of consent.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The area of the proposed works is contained within the boundaries of Lot 1319 of DP 1222163. This lot does not possess a street address and contains the Woollahra Golf Course site, Eastern Suburbs Rugby Union Club and Andrew Petrie Oval. Specifically the area of the proposed works is contained to the south-western corner of the site. Overall, the site has a total area of approximately 13.787ha. Vehicle access to the site is accommodated via O'Sullivan Road and is in proximity of where the new works are proposed.

Topography
In terms of the site's topography, the area where the proposed works are contained is generally flat.
Existing buildings and structures
The subject site is primarily comprised by the grounds of the Woollahra Golf Course along with Andrew Petrie Oval. There are also a number of buildings associated with the various clubs which operate from the subject site. Of notable mention are the George S. Grimley Pavilion, Sydney Croquet Club buildings and the clubhouse for the Eastern Suburbs Rugby Club and Woollahra Golf club.
Surrounding Environment
The subject site adjoins the Royal Sydney Golf Club and is located adjacent to Lyne Park, Rose Bay Harbour, a residential suburb and a neighbourhood centre consisting of several restaurants/cafes and shops.
More specifically, the area of the proposed works will be surrounded by Andrew Petrie Oval to the east, the Eastern Suburbs Rugby clubhouse to the north, George S. Grimley Pavilion to the south-west along with the Woollahra Golf Club House to the south.



Image 1: Aerial view of the subject site



Image 2: Area of the proposed works viewed from carpark



Image 3: Area of the proposed works viewed from Andrew Petrie Oval



Image 4: Eastern suburbs rugby clubhouse



Image 5: Andrew Petrie Oval



Image 6: Woollahra golf club house

7. RELEVANT PROPERTY HISTORY

Current use
Recreational Facility Indoor, Recreational Facility Outdoor along with ancillary aspects of these primary uses.
Relevant Application History
A previous development Application was submitted to Council for the demolition of the existing change room facilities and the construction of a substantial two storey addition to the George Grimley Pavilion including a grand stand, new change rooms, team facilities, public bathrooms and a new first floor gym, function room and roof terrace and balcony (reference DA224/2020/1). This application was later withdrawn as confirmed via a letter dated 18 November 2020.
Relevant Compliance History
N/A
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
<p>A Stop the Clock letter dated 13 May 2021 was issued and requested the following:</p> <ul style="list-style-type: none"> - Revised stormwater management plans - Clarification as to the use of the community centre on the first floor plan. <p>The requested information was provided on 27 May 2021 by way of an amended Social Impact Assessment, Amended Plan of Management and revised stormwater drawings.</p>

An initial referral response dated 16 July 2021 was received from Council's Heritage Officer which concluded that the proposal was unsatisfactory and further design amendments were required.

An initial referral response dated 9 August 2021 was received from Council's Traffic Engineer which concluded that there was insufficient information to allow a proper assessment of the application.

An initial referral response dated 16 September 2021 was received from Council's Tree and Landscape Officer which concluded that there was insufficient information to allow a proper assessment of the application.

To address the above, the following information was provided:

- 16 September 2021: Revised Traffic Report
- 24 March 2022: Revised Social Impact Assessment Report
- 22 August 2022: Revised Architectural Plans and Shadow Diagrams
- 24 August 2022: Revised Site Plan
- 11 October 2022: Revised Photomontages

Land and Environment Court Appeal(s)

N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Technical Services	Satisfactory, subject to conditions of consent	3
Traffic	Satisfactory, subject to conditions of consent	4
Trees and Landscaping	Satisfactory, subject to conditions of consent	5
Heritage	Satisfactory, subject to conditions of consent	6
Environmental Health	Satisfactory, subject to conditions of consent	7
Drainage	Satisfactory, subject to conditions of consent	8
Parks and Open Space	Satisfactory, subject to conditions of consent	9
Property	Satisfactory, subject to conditions of consent	10
NSW Police	Satisfactory, subject to conditions of consent	11
Sydney Water	Satisfactory, subject to conditions of consent	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 19/05/2021 to 03/06/2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Marie White – 2/2 Manion Street, Rose Bay
2. James and Judy Poulos – 127 O'Sullivan Road, Bellevue Hill
3. Michelle Coxhead - 129 O'Sullivan Road, Bellevue Hill
4. Edwin and Merlyn Jankelowitz - 147 O'Sullivan Road, Bellevue Hill (3 x submissions)
5. Vivienne and Michael Selwyn - 139 O'Sullivan Road, Bellevue Hill
6. Guy Gibson – Woollahra Golf Club
7. Angela Wales Kirgo - 5/5 Manion Avenue, Rose Bay
8. Ron Kramer – 145 O'Sullivan Road, Bellevue Hill
9. Jamie fox – 137 O'Sullivan Road, Bellevue Hill
10. Reina Nicholls and Tim Hallam - 121 O'Sullivan Road, Bellevue Hill
11. David Henderson - 32 Kent Road, Rose Bay

The submissions raised the following issues:

Issue	Conclusion	Section
Increased parking demand in the area, dangerous traffic conditions and safety concerns from increased traffic.	Council's Traffic Engineer has raised no objection to the proposal with regards to an increased parking demand. The following comments were provided: <i>Given the proposed ancillary function of the proposed spaces to the site's current use, there is no volume increase of the popular events days for the site. This is not anticipated to be any adverse traffic generated by this application.</i>	Attachment 4
Increase of illegal parking.	As stated directly above, Council's Traffic Engineer has determined that the proposal is not anticipated to result in any adverse traffic generation. Furthermore, it is anticipated that no further parking demand would be generated.	Attachment 4
Tree removal.	No objections have been raised by Council's Tree and Landscaping Officer subject to the recommended conditions of consent.	Attachment 5
Lack of parking facilities.	Council's Traffic Engineer has raised no objection to the proposal with regards to an increased parking demand. The following comments were provided: <i>The traffic impact statement has identified that the proposed buildings including function centre and gym are ancillary to the site's current use and will only be utilised by players and officials who are already in attendance. As such, it is expected that there will be no additional parking generation for the site and there is no requirement for any additional parking spaces to be provided.</i>	Attachment 4
Crowd noise and light pollution from the stadium.	No changes are sought to the existing stadium lighting. Conditions of consent have been recommended to address potential adverse noise generation from the proposal. These include Conditions I.3, I.4, I.5, I.6, I.7, I.9.	Conditions I.3, I.4, I.5, I.6, I.7, I.9.
Issues of sustainability and general pollution from the intensified use.	SEPP (Building Sustainability Index: BASIX) 2004 is not applicable to the proposal as it relates to a non-residential land use. The proposal is considered to have applied design principles which assist to promote a suitable amenity. The proposed development is not considered to be a use that would substantially contribute to pollution.	11 and 14.6
The development is not necessary.	The proposal is permissible with consent within the RE1 Public Recreation land zone and upholds the objectives of the zone.	13.2
Excessive noise and amenity impacts caused by the proposed roof terrace.	Conditions of consent have been recommended to address potential adverse noise generation from the proposal. These include Conditions I.3, I.4, I.5, I.6, I.7, I.9.	Conditions I.3, I.4, I.5, I.6, I.7, I.9.
Increased patronage and impacts of negative behaviour in the locality.	Conditions of consent have been recommended to address potential adverse noise generation from the proposal. These include Conditions I.3, I.4, I.5, I.6, I.7, I.9.	Conditions I.3, I.4, I.5, I.6, I.7, I.9.

Issue	Conclusion	Section
The nature of the community use is questioned.	The proposal is permissible with consent within the RE1 Public Recreation land zone and upholds the objectives of the zone.	13.2
View impacts.	There are limited views toward the area of the proposed works from the streetscape and therefore these would not be highly impacted. Views to the front elevation of the pavilion would not be affected and are considered suitable. The view impacts between the pavilion and oval are considered acceptable as the original relationship between the pavilion and oval has been lost.	Attachment 6
The traffic report is inadequate.	No objection has been raised by Council's Traffic Engineer as to the adequacy of the submitted traffic reports.	Attachment 4
Several errors in the proposal.	The submitted information is considered acceptable to undertake a proper assessment against the relevant considerations of Section 4.15 of the Environmental Planning and Assessment Act 1979.	N/A
The community consultation process prior to DA submission was inadequate.	The community consultation process prior to the submission of the development application is beyond the scope of this planning assessment. The proposal was suitably advertised and notified in accordance with the requirements of the Woollahra Community Participation Plan.	9
Current road markings and traffic signage is not clear.	No objections have been raised by Council's Traffic Engineer as to the adequacy of traffic signage. This is considered to be outside the scope of this development application.	Attachment 4
Ensuring that continuous power is provided to the Woollahra golf club shop.	This is considered to be an issue associated with any future site works rather than a consideration under the current application and assessment. It is considered that any impacts would be managed through the duration of works by the principal certifying authority.	N/A
Ensuring that any disruption caused by construction access along with storage of equipment and materials is minimised.	Any likely/potential issues throughout the duration of works is considered to be addressed via the recommended conditions of consent. Furthermore, a construction management plan is required per the recommendations of Conditions D.3 and E.3.	Condition D.3 and E.3
Ensuring that access to public toilets is available.	The architectural drawings note that public bathrooms are accommodated in the proposed design. It is considered that the operation of these bathrooms in terms of times/days of availability would be managed by Council's Property Section/Open Space Recreational Planning Section as part of any agreement with the Rugby Club.	Attachment 1
Temporary public toilets should be provided during construction.	Toilet facilities are to be provided for onsite workers associated with the works in accordance with the requirements of Condition D.7. Any redevelopment of this area of the subject site would likely involve the closure of the existing public toilet facilities. No objections have been raised to their demolition by Council's Property or Open Space and Recreational Planning Departments.	Condition D.7
The water supply to the Easts rugby club dressing rooms and the golf club locker rooms should be separately metered.	This matter is considered to be outside the scope of this planning assessment.	N/A
Interruptions to gas, water and electricity should be minimised.	This is considered to be an issue associated with any future site works rather than a consideration under the current application and assessment. It is considered that any impacts would be managed through the duration of works by the principal certifying authority.	N/A

Issue	Conclusion	Section
Opportunity should be taken to increase the capacity of the local sewerage system.	No objections have been raised by Council's Development Engineer with regard to the capacity of the existing sewer system. This appears to be outside the scope of this development application and no further considerations is considered necessary under this assessment.	N/A
Issue of waterproofing from current Easts rugby dressing rooms and roof guttering through the wall which adjoins the golf shop and ceiling under the F45 gymnasium.	The existing dressing rooms will be demolished as part of this application. Any issues with current leaking are outside the scope of this assessment. The proposal will have limited connectivity to the wall of the golf shop and F45 Gym. Furthermore, the proposal will need to comply with all relevant requirements of the Building Code of Australia.	Attachment 1
Requirement for dilapidation reports.	The application was reviewed by Council's Development Engineer and the requirement for dilapidation reports was not considered necessary in this case.	N/A
Impact to community garden at the club end of Manion Avenue.	The area of the proposed works is suitably separated from Manion Avenue and on that basis there would be no adverse impacts in this regard.	N/A
Concern regarding the proposed hours of operation.	Condition I.12 has been recommended which reflects the base hours of use for a 'high risk' operation as prescribed by Part F3.3 of the Woollahra DCP 2015	14.7 and Condition I.12
The prioritisation of community and sporting groups versus private functions.	The proposal is permissible with consent within the RE1 Public Recreation land zone and upholds the objectives of the zone. The issue as to whether particular interests are being prioritised is not a relevant consideration and is beyond the scope of this assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979.	13.2
Clarity as to which areas would be subject to the liquor licence.	The community room would be subject to the liquor licence.	N/A
The plan of management is insufficient.	The Plan of Management is to be updated in accordance with the recommendations of Condition C.1.	Condition C.1
The provision of a licenced premises in the current residential setting.	The proposal is permissible with consent within the RE1 Public Recreation land zone and upholds the objectives of the zone. Any potential amenity impacts as a consequence of the future use are considered to be suitably addressed via the recommend conditions of consent.	13.2
The expansion has a commercial motive.	The proposal is permissible with consent within the RE1 Public Recreation land zone and upholds the objectives of the zone.	13.2

9.2 Replacement Application

The amendments noted in Section 4 were not renotified to surrounding residents and previous objectors under the Woollahra Participation Plan because they were considered to have no greater cumulative environmental or amenity impact.

9.3 Statutory Declaration

The CEO of Easts Rugby Club has completed the statutory declaration dated 23/11/2022 declaring that the site notice for DA177/2021/1 was erected and maintained during the notification period in accordance with the Woollahra Participation Plan.

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

Chapter 4 Remediation of Land

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

Although the site is identified as being potentially contaminated by Council's mapping system, based on the comments provided by Council's Environmental Health Officer in relation to a previous Development Application (DA308/2002 for upgrading work including the installation of drainage and irrigation, returfing of the playing fields and (two) 2 new synthetic cricket pitches) remediation work is not required. The same conclusion is applied to the subject proposal.

Council's Environmental Health Officer has not raised any concern with regards to site contamination, noting **Condition D.12** has been recommended which relates to an unexpected finings protocol.

Accordingly, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

Chapter 2 Coastal Management

The provisions of this planning instrument that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

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.

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

SEPP (Building Sustainability Index: BASIX) 2004 is not applicable as it relates to a non-residential land use.

12. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 Vegetation in non-rural areas

Council's Tree and Landscaping Officer has raised no objections to the proposal subject to the recommended Conditions of consent. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

Chapter 10 Sydney Harbour Catchment

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and the proposal is satisfactory with regards to Chapter 10 of the SEPP (Sydney Harbour Catchment).

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

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

13.2 Land Use Table

The subject site is zoned RE1 Public Recreation.

The proposed areas which include team locker rooms, referee rooms, first aid rooms, toilet facilities, change facilities, grandstand and storage areas are considered to be ancillary to one of the primary land uses at the site being for a recreational facility (outdoor).

The proposed gym area would be defined as a recreational facility (indoor).

It should be noted that the future ownership of the facilities is unresolved at this stage. In the circumstance where Woollahra Council would not have ownership of the buildings, the proposed community room would be considered as an extension of the registered club, noting that registered clubs are permitted with consent in the land zone.

In the circumstance where Woollahra Council would take ownership of the buildings, the community room would be defined as a Community Facility as it would be owned by a public authority (the Council) and would be used for the development and welfare of the community noting some of which would be ancillary to one of the primary uses of the site for outdoor recreation when this is occurring.

Regardless of the ownership scenarios detailed above, both land uses are permissible with consent.

Overall, the proposal is permitted and is consistent with the objectives of the RE1 Public Recreation zone.

13.3 Part 4.3: Height of Buildings

There is no maximum height development standard prescribed for the site in accordance with Part 4.3 of the Woollahra LEP 2014.

13.4 Part 4.4: Floor Space Ratio

There is no maximum floor space ratio development standard prescribed for the site in accordance with Part 4.4 of the Woollahra LEP 2014.

13.5 Part 5.10: Heritage Conservation

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

The subject site and proposed development is not located within a heritage conservation area, however, comprises the following heritage items:

- Item No. 696 of local significance being George S. Grimley Pavilion - 1926 building and interiors, 1930s single storey extension on east side of building and interiors, forecourt on south side of building.

- Item No. 697 of local significance being Sydney Croquet Club - clubhouse and interiors, moveable heritage items (including rustic benches, timber lockers, opening plaque, honour boards, pennants, historical photographs and trophies), lawns, timber shelters, surrounding trees (3 Hill's Weeping Figs, 3 Norfolk Island Pines, 1 Washingtonia Palm, 3 Yellowwoods, 2 Eucalyptus sp and 2 Brush Box trees)

Council's Heritage Officer has reviewed the application and concludes that:

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

The proposal is therefore satisfactory with regard to the relevant considerations of Part 5.10 of the Woollahra LEP 2014. Refer also to **Attachment 6** for a copy of the complete referral response.

13.6 Part 5.21: Flood Planning

Council's Drainage Engineer has reviewed the application and concludes that it is generally satisfactory subject to the recommended conditions of consent. See also **Attachment 8** for a copy of the referral response. Accordingly, the proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

13.7 Part 6.1: Acid Sulfate Soils

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

The subject site is located on the boundary of land which is identified as comprising Classes 3, 4 and 5 as specified by the Acid Sulfate Soils Map. Specifically, the subject works would be contained on land identified as Class 4.

The application was reviewed by Council's Environmental Health Officer who provides the following conclusion. For a detailed assessment, reference should be made to Council's Health Officer's Referral Response included as **Attachment 7**.

*"Environmental Health is satisfied that the preferred strategies for the management of acid sulfate soils, as presented in Section 7 of the **Preliminary Acid Sulfate Soil Assessment & Management Plan: prepared by JK Environments. Document Reference No. E33473PDlet dated 24 September 2020** are adequate in dealing with the disturbance of acid sulfate containing soils."*

Accordingly, the proposal is acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

13.8 Part 6.2: Earthworks

The proposal does not seek any bulk excavation works, the proposed platform on which the building is situated upon is lifted up to 500mm from the ground level below which negates the requirement for any bulk excavation. No objections have been raised by Council's Development Engineer subject to the recommended conditions of consent and is therefore acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B3: General Development Controls

In accordance with Map 1 of Section B3.1.1, the provisions of Section B3 do not apply to the subject site.

14.2 Chapter E1: Parking and Access

The application was reviewed by Council's Traffic Engineer who offered the following in regards to parking:

Parking

The traffic impact statement has identified that the proposed buildings including function centre and gym are ancillary to the site's current use and will only be utilised by players and officials who are already in attendance. As such, it is expected that there will be no additional parking generation for the site and there is no requirement for any additional parking spaces to be provided.

Accessible

It is noted that the site currently has Accessible Parking that is expected to be retained.

Bicycle

It is unclear from the plans and traffic statement provided if there are any existing secure bicycle parking on site. The DCP makes reference to a minimum requirement for a recreation facility for workers and visitors alike. It is anticipated that there is already sufficient bicycle parking on site for staff, however, if this development is approved, bicycle parking should be provided for visitors attending this site. For the calculation below, visitors have been determined by the maximum capacity of the function room and gym.

Visitors: $126 + 63 = 189$

Minimum requirement in DCP: 1 space per 15 Visitors

Bicycle spaces required: 12.6 **(13)**

Motorcycle

It is unclear if there are any dedicated motorcycle spaces on site, however, the TIS indicates there are 114 car parking spaces on site. If there are no spaces provided on site, this would represent a shortfall of 11 motorcycle spaces per the requirements of Council's DCP.

Overall, it is understood that the close proximity of the site to public transportation services and easy access to alternative transport options, including car sharing, cycling and walking, could provide some support and convenience for staff and visitors.

The proposal is therefore acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015 subject to the recommended conditions of consent.

14.3 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.

14.4 Chapter E3: Tree Management

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 recommended conditions of consent.

14.5 Chapter E5: Waste Management

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.

Part E5.3: On-Site Waste and Recycling Controls for all Development

The submitted Plan of Management notes that waste would be removed by Council with suitable recycling bins provided on site. In accordance with the Eastern Suburbs District Rugby Union Club liquor license dated 1 July 2008, the club will arrange bottle collection after 6:00am.

Furthermore, the submitted waste management plan notes that the ongoing waste facilities will be relied upon as existing. The waste would be collected once per week from the existing area that is accessible via O'Sullivan Road.

Overall, the proposal is considered acceptable with regard Part E5 of the Woollahra DCP 2015.

14.6 Chapter E6: Sustainability

Where possible the proposal is considered to have applied passive heating and cooling design principles which includes orientation of habitable spaces, window locations and roof eaves. Suitable landscaping would be retained and proposed to assist with passive cooling and shading within proximity of the proposed works, noting the relationship would not be substantially different than existing.

Furthermore, no objections have been raised by Council's Environmental Health Officer or Development Engineer with regards to the issue of sustainability nor the discharge of stormwater.

Accordingly, the proposal is acceptable with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015.

14.7 Chapter F3: Licensed Premises

The subject application has been reviewed by Council's Environmental Health Officer and the NSW Police and is considered acceptable in this regard subject to the recommended conditions of consent, inclusive of **Condition C.1**. The recommended conditions of consent and management strategies are considered suitable in this case to mitigate any adverse amenity impacts upon the surrounding locality as a consequence of the proposed use and operation.

Consideration has also been given to Part F3.3 of the Woollahra DCP 2015. It should be noted that the proposed hours of operation as it pertains to the gym, roof terraces and licensed component of the proposal have not been nominated by the applicant and therefore there is inadequate information to undertake a complete assessment in this regard. To this effect **Condition I.12** has been imposed which prescribes hours of operation that reflect the base hours for 'high risk' operations as prescribed by this part of the DCP.

Accordingly, the proposal is acceptable with regard to the objectives and controls in Chapter F3 of the Woollahra DCP 2015.

15. WOOLLAHRA PARK PLAN OF MANAGEMENT 2013

The application has been reviewed by Council's Team Leader of Open Space and Recreation Planning and no objections have been raised subject to the recommended conditions of consent. The following assessment has been provided. See also **Appendix 9** for a copy of the complete referral response.

Eastern Suburbs District Rugby Union Football Club (ESDRUFC) has a licence from Woollahra Council for the non-exclusive use of the land on which the development is proposed to be located.

The land is part of Woollahra Park, which is owned and managed by Woollahra Council in accordance with the Woollahra Park Plan of Management (POM) 2013.

The proposed development is situated within the Woollahra Oval 1 Management Zone and is categorised as 'Sportsground' in the POM.

Relevant permitted activities, uses and responsibilities in the POM are as follows:

- *Grimley Pavilion – ESDRUFC licence for use throughout the year. Dressing rooms may be used by casual users of the Oval, booked through the Council. Gymnasium to be available for use by members of the public and is not limited to use by ESDRUFC members. The Club must maintain the Grimley Pavilion in good order and condition (except of a structural nature), including spectator seating and the gymnasium in the Grimley Pavilion, and leaving the changing rooms, oval and toilets clean after each use for training and matches.*
- *ESDRUFC shall be responsible for the maintenance of the clubhouse (including of a structural nature) and immediate surrounds.*
- *Dressing rooms used by ESDRUFC and casual users of the Oval are the responsibility of Easts Rugby Club.*
- *Woollahra Oval No.1 has relatively high visitation, particularly in winter when it is leased to ESDRUFC for training and playing.*

Relevant permitted future developments in the POM include:

- *Upgrade of building within existing footprint, in keeping with the park values.*
- *Interior redesign.*
- *Host community events/ functions*

While the POM permits an upgrade of the building (Grimley Pavilion) within existing footprint, it does not prohibit new buildings and additions.

Relevant actions in the POM to be carried out in the future are as follows:

- *Strategy: Improve facility available for the community.*
 - *Issue: Lack of facilities discourages community use of this management area.*
 - *Action: Provide additional facilities for community use (e.g. fitness station, running track, etc) to encourage healthy living and wellbeing (consistent with WMC Vision).*
 - *Action: Facilities to be appropriate for use by all park users and an agreement made between park stakeholders determining the roles and responsibilities associated with facilities.*
 - *Action By: WMC & Easts Rugby.*

16. DRAFT AMENDMENTS TO POLICIES AND PLANS

Public Exhibition commenced on 10 August 2022 for new floor space ratio development standards for low density residential development, and urban greening requirements for all residential development. The proposed amendments to the Woollahra Local Environmental Plan 2014 aim to ensure that all new development is of an appropriate scale, retains and enhances tree canopy whilst including high-quality landscaping.

Although, the subject site does not contain a residential zoning, as it applies to the proposal, the Aims under Clause 1.2 of the WLEP 2014 would be updated with new aims also inserted.

Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, requires that provisions of proposed planning instruments are to be considered by a consent authority when determining a development application if they are or have been the subject of public consultation.

As it applies to the subject application, reference is made to *Alamdo Holdings Pty Limited v The Hills Shire Council [2012] NSWLEC 1302* which had regard to the proper interpretation of savings provisions under the relevant LEP.

The current savings provisions under Clause 1.8A of the Woollahra LEP 2014 read as follows:
If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

As detailed in the Alamdo case, because the savings provision did not include the wording 'had been exhibited' in the savings provision, the provision did not specify whether the instrument was to be treated as a proposed instrument. Based on the specific wording, the Court accepted that because the LEP had to be treated as if it had not commenced it could not be considered under Section 4.15(1)(a)(i). Furthermore, it was not considered a proposed instrument i.e. one that has already been made, noting that the savings provision did not specify it should be treated as though it had. It could therefore not be considered under Section 4.15(1)(a)(ii).

Having considered the wording of Clause 1.8A of the Woollahra LEP 2014 and the above discussion the proposed amendments would have no effect upon the subject application, noting this was made prior to the commencement of the public exhibition period.

17. SECTION 7.12 CONTRIBUTION PLANS

17.1 Section 94A (now 7.12) Contribution Plan 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011. Refer to **Condition C.2**.

Cost of Works	Rate	Contribution Payable
\$3,655,981	1%	\$36,559.81

18. APPLICABLE ACTS/REGULATIONS

18.1 Environmental Planning and Assessment Regulation 2021

Clause 61: Additional matters that consent authority must consider

Clause 61 of the Environmental Planning and Assessment Regulation 2021 requires Council to consider Australian Standard AS 2601-2001: The demolition of structures. The proposal is considered to be acceptable, subject to Conditions.

19. THE LIKELY IMPACTS OF THE PROPOSAL

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

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

21. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

22. CONCLUSION

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

23. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 177/2021/1 for demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage, new community centre, gym and roof terrace, construction of a new grandstand to the north of the proposed building, demolition of existing sheds, removal of trees and new landscaping on land at O'Sullivan Road Rose Bay, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*. Standard Condition: A1 (Autotext AA1)

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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

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

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

PC means the Principal Certifier under the *Act*.

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

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

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

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

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

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

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

A.3 Approved Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
DA.02 (Rev M)	Site Plan	Roth Architects	24/8/2022
DA.03 (Rev L)	Demolition Plan		24/3/22
DA.04 (Rev M)	Proposed Ground		19/7/2022
DA.05 (Rev M)	Proposed First Floor		19/7/2022
DA.06 (Rev M)	Proposed Roof		19/7/2022
DA.07 (Rev M)	Proposed Ground		19/7/2022
DA.08 (Rev M)	Proposed First Floor		19/7/2022
DA.09 (Rev M)	Proposed Roof		19/7/2022
DA.10 (Rev M)	Elevation East		19/7/2022
DA.11 (Rev M)	Elevation North		19/7/2022
DA.12 (Rev M)	Elevation West		19/7/2022
DA.13 (Rev M)	Elevation South		19/7/2022
DA.14 (Rev M)	Section AA		19/7/2022
DA.15 (Rev M)	Section BB		19/7/2022
DA.19 (Rev J)	External Finishes		19/4/21
DA.23 (Rev M)	Elevation North-East		19/7/2022
DA.24 (Rev M)	Elevation North-West		19/7/2022
DA.25 (Rev M)	Elevation South-West		19/7/2022
DA.26 (Rev M)	Elevation South-East		19/7/2022
TX14654.00-01.rpt.MiD.docx	Flood Risk Management Report	Triaxial Consulting	25 Jun 2020
TX14654.00-01.ltr.MiD.docx	Flood Risk Management Assessment	Triaxial Consulting	28 Jul 2020
2020/08 SW1-Rev B SW2-Rev B SW3-Rev B SW4-Rev B SW5-Rev B	Stormwater Management Plans	Law & Dawson P/L	09/03/22 09/03/22 09/03/22 09/03/22 09/03/22
20.033R01V02	Traffic Impact Statement	TRAFFIX Traffic and Transport Planners	28 Oct 2020
20.033R02V01	Traffic Impact Statement	TRAFFIX Traffic and Transport Planners	8 Sep 2021
E33473PDlet	Acid Sulphate Soil Management Plan	JK Environments	24 Sep 2020
20200890.1/0109 A/RO/WY. Revision 0.	Acoustic Report	Acoustic Logic Pty Ltd	01 Sep 2020
2200727	Plan of Management	Ethos Urban	19 May 2021
LA-000, LA-100, LA-200, LA-300	Landscape Plan	Roth Architects	8/3/2022
	Arboricultural Impact Assessment Report	Treetalk	Mar 2020
	Site Waste Minimisation and Management Plan	Alex Roth	19 Jun 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.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

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

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

Standard Condition: A8 (Autotext AA8)

A.5 Deed of Variation of License

Before any construction occurs on site for the approved works of this DA 177/2021 comprising a new building structure or extension of the footprint of any existing building structure; the Eastern Suburbs District Rugby Union Football Club Ltd must obtain a separate approval from Council as required under the current Licence agreement, and enter into a Deed of Variation of Licence with Woollahra Municipal Council.

The Deed of Variation of Licence will include terms and conditions for the maintenance and management of the new structures being constructed, including provisions for a further valuation assessment of the rent payable by Eastern Suburbs District Rugby Union Football Club Ltd.

A.6 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)
3 (hedge)	3 x <i>Syzygium</i> sp. (Lillypilly)	North of the proposed new stair and storage locker area as indicated on the submitted Groundfloor Landscape Plan(LA-100)	7 x 3 metres
4 (hedge)	multiple <i>Syzygium</i> sp. (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	6 x 2 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 (hedge)	9 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	7 x 3 metres
2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	8 x 6 metres
3 (hedge)	5 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	7 x 3 metres
5	*Dead tree	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	9 x 4 metres

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

Note: The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.

- c) The following trees shall be pruned in accordance with *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry*, to the minimum extent necessary to provide clearance to the new development:

Council Ref No.	Species	Location	Approved pruning (extent of pruning)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	North of the proposed new stair and storage locker area	Crown lift lowest branches by a maximum of 1.8 metres. Maximum branch diameter to be pruned shall not exceed 70 mm in diameter at final cut.

Note: The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

A.7 Sydney Water

1. Water Servicing

- Potable water servicing should be available via a 100m CICL watermain (laid in 1927) on O'Sullivan Road.
- Amplifications, adjustments, and/or minor extensions may be required.

2. Wastewater Servicing

- Wastewater servicing should be available via a 150mm CI wastewater main (laid in 1927) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.

3. Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

4. Building Plan Approval

The approved plans must be submitted to the Sydney Water **Tap in™** online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.

The **Tap in™** service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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 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.5 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.

- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

B.6 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)
3 (hedge)	3 x <i>Syzygium</i> sp. (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres
4 (hedge)	multiple <i>Syzygium</i> sp. (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 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) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.

- f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.7 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Location	Approved works
3 (hedge)	3 x <i>Syzygium</i> sp. (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	Footings for new stairs, pathway and soft landscaping works
4 (hedge)	multiple <i>Syzygium</i> sp. (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	New pathway constructed above grade

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

B.8 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of non-compliance
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist shall inspect the installed irrigation system to plants in garden beds. The arborist shall certify there is an appropriate distribution of water to planted and existing trees. • Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees

	to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> • Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • The project arborist shall supervise the dismantling of tree protection measures • After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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) The Plan of Management (POM) shall be amended to include details of all operational and management procedures of the premises. The POM shall include, but is not limited to, its amenity within the neighbourhood of the premises, compliance with conditions (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints), the behaviour of patrons, liquor practices (if licensed, including the responsible service of alcohol), staffing roles and responsibilities (including security personnel if required), management of patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements.
The POM shall be submitted to, and approved by Council prior to the commencement of operations
- b) Any new roofing to the proposed rear addition is to be of a traditional corrugated profile similar to Colorbond Custom Orb and be in a colour equivalent to Colorbond's "Windspray", "Shale Grey", "Jasper" or "Wallaby" in order to comply. Tray profile roofing is not supported.
- c) The solid to void ratios of the southern façade of the proposed new building are excessive and not sympathetic to the heritage significance of the pavilion. As the highlight windows to the ground and first floor are not vertically proportioned and in order to reduce the amount of glazing, these are to be deleted.
- d) To ensure consistency with the submitted architectural drawings the Ground floor Landscape Plan must be amended to illustrate and specify the number of Lilly Pilli specimens in Hedge 4 required to be removed to accommodate the proposed new path that runs through Hedge 4. Additionally, The Landscape Plan must include an adequate number of replacement trees, of a suitable ornamental tree species (planted in the deep soil area north east or south west of Hedge 4) to compensate for the removal of trees within Hedge 4.

- e) To ensure the preservation of roots from Lilli Pilli trees to be retained within Hedge 4 the proposed new path located through the hedge must be constructed above grade utilising permeable pavers. The new surface shall be established above the former ground level. 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.

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 (S138)	\$90,352	No	T115
DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$36,559.81 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$127,113.81 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 7.12 Development Contributions Plan 2022

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 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.4 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.5 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.6 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 parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities* and AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* respectively showing the following:

- a) All parking spaces must have minimum dimensions of 2.5m x 5.4m, to comply with AS2890.1.
- b) Minimum aisle width of 5.8m shall be provided to comply with AS2890.1.
- c) The plans must satisfy the following requirement(s): Minimum 13 bicycle parking spaces provided on site for visitors.

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 required to be provided and maintained by this consent.

Standard Condition: C45 (Autotext: CC45)

C.7 Stormwater Management Plan

Prior to issue of the 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) General design in accordance with stormwater management plans, prepared by Law & Dawson P/L, referenced 2020/08-Rev B, dated 09/03/2022, other than amended by this and other conditions,
- b) Stormwater from the development shall be collected and discharged into a recognised public drainage system,
- c) The existing public drainage system must be upgraded to ensure stormwater from the development will be adequately drained without causing any adverse impacts to the surrounding properties,
- d) All new Stormwater Drainage System complying with the BCA,
- e) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- f) Compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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).

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.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

C.8 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 proposed change room.
- b) Flood compatible materials shall be used for all flood exposed construction.
- c) All flood exposed electrical wiring and equipment shall be waterproofed.
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is completed 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.9 Light and Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.10 Acoustic Certification – New 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 any new 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.11 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 *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. 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.12 Heritage Architect Supervision

Prior to the issue of a Construction Certificate, Council's Heritage Officer must be provided with the details of an experienced suitably qualified & Heritage Architect who will be commissioned to assist and to provide advice to the consultant team throughout the construction stage of the project.

The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. They are to monitor and catalogue the works during demolition, to ensure that any significant fabric that may be present is catalogued.

The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

C.13 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned

- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

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

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

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

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

This condition does not apply:

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

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

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

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

D.2 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.3 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- 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.4 Works (Construction) Zone – Approval and Implementation

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

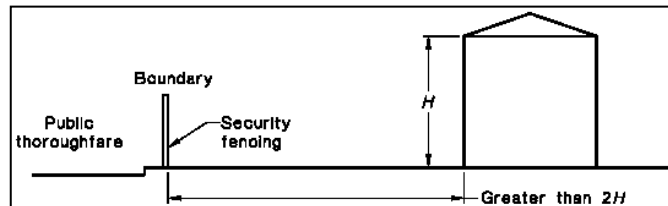
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are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

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

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

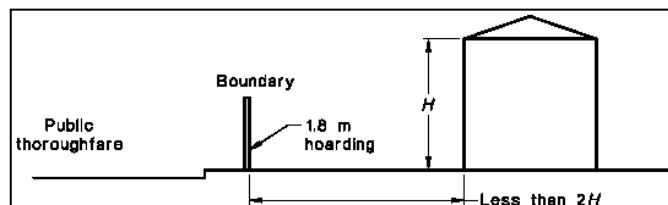
D.5 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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

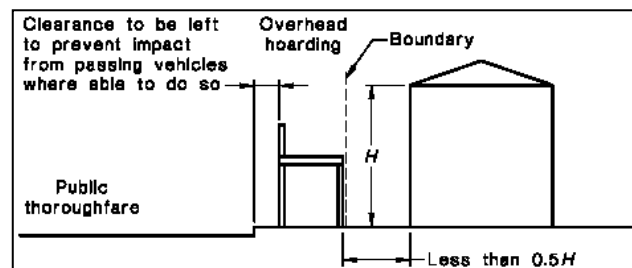
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- 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.6 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

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

Clause 227A of the *Regulation* provides:

Signs on development sites

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

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

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

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

Standard Condition: D12 (Autotext DD12)

D.7 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

D.8 Erosion and Sediment Controls – Installation

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

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

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

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

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

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

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

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

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

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

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

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

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

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

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

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

D.10 Notification of Home Building Act 1989 requirements

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

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

D.11 Access through Public Open Space

Access to the development site through Woollahra Park for construction purposes will not be permitted unless a permit for *Construction Access Through Public Open Space* has been obtained from Council's Open Space & Trees Department. An application must be submitted to Council for assessment and approval at least 14 days prior to the date that construction access through Woollahra Park is required.

The *principal contractor* or *project manager* is to submit an application on the required form and pay the appropriate fee.

D.12 Unexpected Contamination Finds Protocol (UFP)

Prior to the commencement of works, an Unexpected Contamination Finds Protocol (UFP) prepared by a suitably qualified and experienced expert shall be prepared. The protocol should include detailed procedures for identifying and dealing with unexpected contamination, asbestos and other unexpected finds. The Applicant should ensure that the procedure includes details of who will be responsible for implementing the unexpected finds procedure and the roles and responsibilities of all parties involved. The UFP must be submitted to the Certifier and Council. The UFP must be implemented for the duration of construction works.

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 Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3 (Autotext EE3)

E.4 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 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.9 Support of Adjoining Land and Buildings

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

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

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

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

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

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

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

Standard Condition: E13 (Autotext EE13)

E.10 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

Standard Condition: E15 (Autotext EE15)

E.11 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- 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*.
- 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.12 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.13 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.14 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.15 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.16 Compliance with Acid Sulfate Soils Management Plan

The Principal Contract / Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan: ***Preliminary Acid Sulfate Soil Assessment & Management Plan prepared by JK Environments. Document Reference No. E33473PDlet dated 24 September 2020*** and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

Note: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

Note: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about
- plant roots being burnt by acid, reducing plant health and productivity
- acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
- plants and soil life can be poisoned by the available toxic metals
- loss of aquatic plants that can not survive acidic conditions
- loss of fish, crustaceans, birds and other animals
- damage to metal and concrete structures (such as bridge pylons and pipes)

Standard Condition: E28

E.17 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.18 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.19 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.20 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, Part 1: 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.21 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.22 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.23 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.24 Storage of building material in Public Open Space

Building, excavation, demolition and construction material and plant must not be stored on Council's public open space (Woollahra Park) unless prior written approval has been obtained by Council's Open Space & Trees Department. An application for hoarding must be submitted to Council for assessment and approval at least 14 days prior to the date that storage approval is required.

The *principal contractor* or *project manager* is to submit an application on the required form and pay the appropriate fee.

E.25 Tree Preservation

All persons must comply with Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

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 *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/ Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
3 x <i>Tristanopsis laurina</i> (Water Gum)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	100 litre	8 x 5 metres
1 x <i>Jacaranda mimosifolia</i> (Jacaranda)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	400 litre	12 x 8 metres
1 x <i>Lagerstroemia indica</i> (Crepe Myrtle)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	100 litre	6 x 4 metres
3 x <i>Ulmus parvifolia</i> (Chinese Weeping Elm)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	100 litre	10 x 8 metres

The project arborist shall document compliance with the above condition.

E.27 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)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres
4 (hedge)	multiple <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres

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.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)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres
4 (hedge)	multiple <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	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.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.
Standard Condition: F7 (Autotext FF7)

F.3 Acoustic Controls to the Building Structure (Venue Room, Terrace, Gym & associated Gym Equipment)

All acoustic construction & equipment controls recommended in the ***Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20200890.1/0109A/RO/WY, Revision 0. Dated 01 September 2020*** shall be fully implemented prior to the occupation or use of the building.

F.4 Acoustic Controls - Gym Area

The sound level in the gym area is to be monitored by the installation of a tamper proof Noise Limiter to control all amplified speaker music. The Noise Limiter must be set by a qualified acoustic engineer to ensure compliance where sound level trigger levels are not to exceed (90 dB(A) L10 at any time during the use of the gym area.

F.5 Acoustic Controls – Venue Area

The sound level in the venue area is to be monitored by the installation of a tamper proof Noise Limiter to control all amplified music entertainment. The Noise Limiter must be set by a qualified acoustic engineer to ensure compliance where sound level trigger levels are not to exceed for the late evening period from 10pm to 12am (75 dB(A) L10, during the evening period from 6pm to 10pm (80 dB(A) L10 and the daytime period from 7am to 6pm (90 dB(A) L10.

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 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.2 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) pipe invert levels and surface levels to Australian Height Datum, and
- c) 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 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.3 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 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
Car Parking	114
Bicycle Parking	13

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

I.2 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ 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/nlg.htm>)
ISBN 1741370671, dated December 2004.
Standard Condition: I59

I.3 Acoustic Controls – Venue Room, Terrace & Gym Area

All noise mitigation strategies recommended in the ***Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20200890.1/0109A/RO/WY, Revision 0. Dated 01 September 2020 are to be maintained at all times during the ongoing use of the premises.***

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>) 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.5 Noise from Licensed Premises

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: dB(A) is a value used for 'A-weighted' sound pressure levels 'A' frequency weighting is an adjustment made to approximate the response of the human ear.

Note: *Licensed premises* means premises licensed under the *Liquor Act 2007*

Note: For the purposes of this condition, the L_{A10} is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured.

Note: 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} level measured by a sound level meter over the applicable period.

Note: This condition is identical to the minimum standard condition imposed by the Casino Liquor and Gaming Control Authority (the Authority). The Authority may specify other standards in respect of the above condition under the *Liquor Act 2007*, and associated Regulations. Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Director of Liquor and Gaming is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For further information go to the NSW Office of Liquor and Gaming and Racing's website: (www.olgr.nsw.gov.au).

Note: Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.
Standard Condition: I58

I.6 Noise Control - Plan of Management

In order to protect the amenity of the surrounding residential area and other sensitive land uses, the noise control measures for the operation of the licenced premises as detailed in the Plan of Management (Ethos Urban 19 May 2021/2200727) shall be adhered to at all times by the Eastern Suburbs District Football Club.

I.7 Neighborhood Amenity

The management of the premises:

Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.

Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.

Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided. Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

I.8 Liquor Sale/Supply/Consumption

No liquor may be sold, supplied or consumed on the premises except with the approval and authorisation from the relevant Liquor Authority.

The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor and outdoor areas.

No patron shall be permitted to take glasses or open containers of liquor off the premises.

I.9 Entertainment Noise Emissions

No sound reproduction device nor any forms of entertainment operated within the premises are to exceed a noise level of 5dBA above background noise levels measured from any public place or other parts of the premises or adjoining premises.

No sound reproduction device shall be installed external to the building, but rather shall be confined to internal areas of the subject premises only. Such devices must not be placed so as to direct the sound towards the outdoor areas associated with the premises.

Sound reproduction devices (including music live or otherwise) shall be restricted to between 9am and 10pm, Monday to Saturday and from 9am to 9.30pm Sundays due to residential premises being located nearby.

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.

I.10 Copies of Consents and Management Plans

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required, and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or Liquor and Gaming NSW Authorised Officers.

I.11 Surveillance Cameras to be Maintained on the Premises (Licensed Premises)

The Management must maintain a closed-circuit television (CCTV) system on the premises.

The CCTV system must comply with the following requirements:

- (a) It must operate continuously from opening time until one hour after closing;
- (b) It must record in digital format at a minimum of six frames per second;
- (c) Any recorded image must specify the time and date of the image;
- (d) The system's cameras must cover:
 - i. All entry and exit points of the premises,
 - ii. The footpath immediately adjacent to the premises, and
 - iii. All publicly accessible areas (other than toilets) on the premises.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.

I.12 Hours of Use

The hours of use for the Community Centre, Gym Area and all other external roof terraced areas are limited to the following:

Internal (Fully Enclosed)		External (Not Fully Enclosed)	
Monday to Sunday and Public Holidays	8am – 10pm	Monday to Sunday and Public Holidays	7am – 10pm

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: I11)

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 Valdis Aleidzans, Assessment Officer, on (02) 9391 7159.

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

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.8 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Refund of Security Bond Application form can be downloaded from

www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

K.9 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.10 Owner-builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.
Standard Condition: K18 (Autotext KK18)

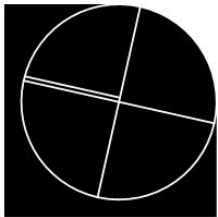
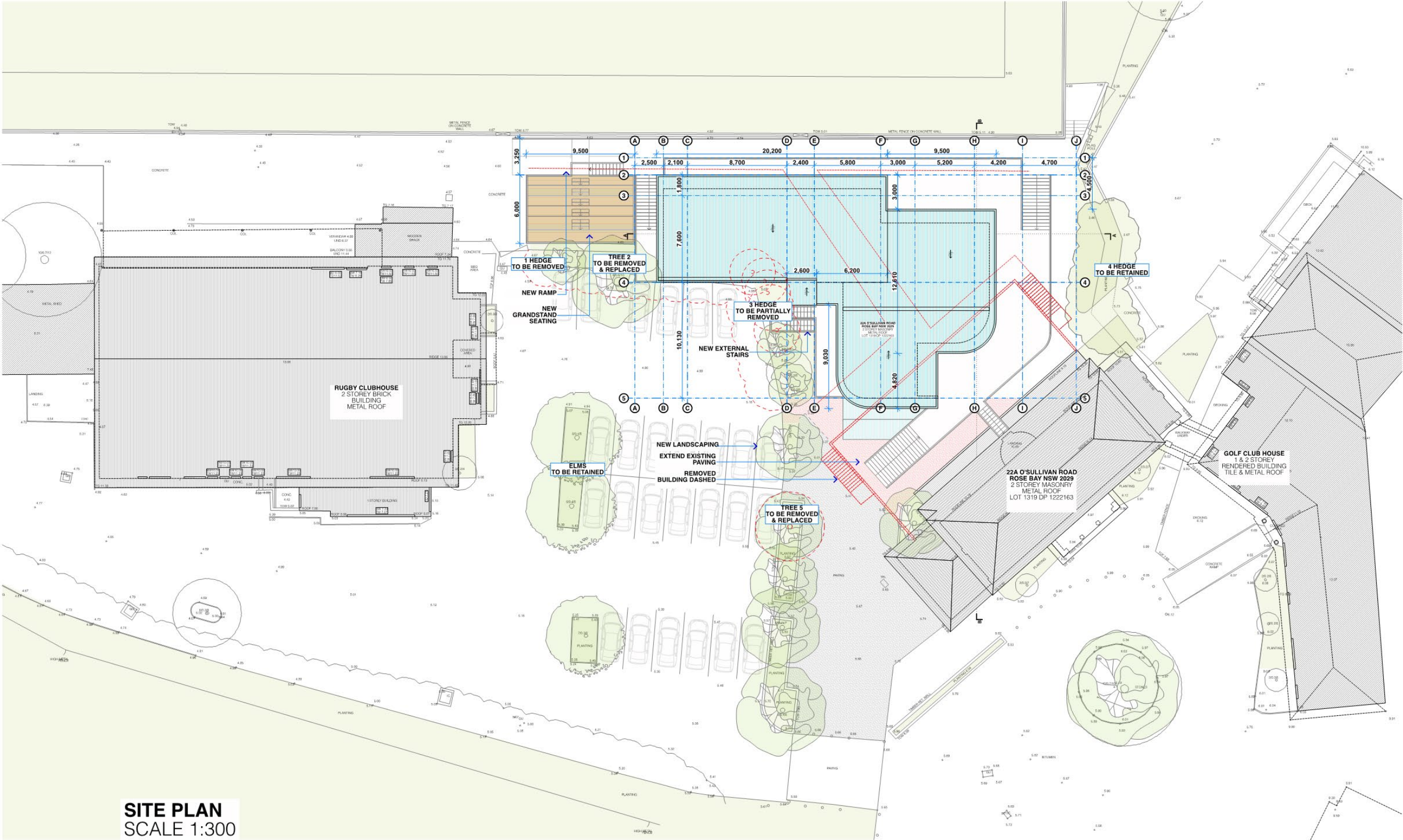
K.11 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

Attachments

1. Architectural Plans, Photomontages, Landscape Plans and Site Survey
2. Plan of Management
3. Technical Services Referral Response
4. Traffic Engineering Referral Response
5. Trees and Landscaping Referral Response
6. Heritage Referral Response
7. Environmental Health Referral Response
8. Drainage Engineering Referral Response
9. Open Space Referral Response
10. Council's Property Referral Response
11. NSW Police Referral Response
12. Sydney Water Referral Response



PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

SITE PLAN. 1:300

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI

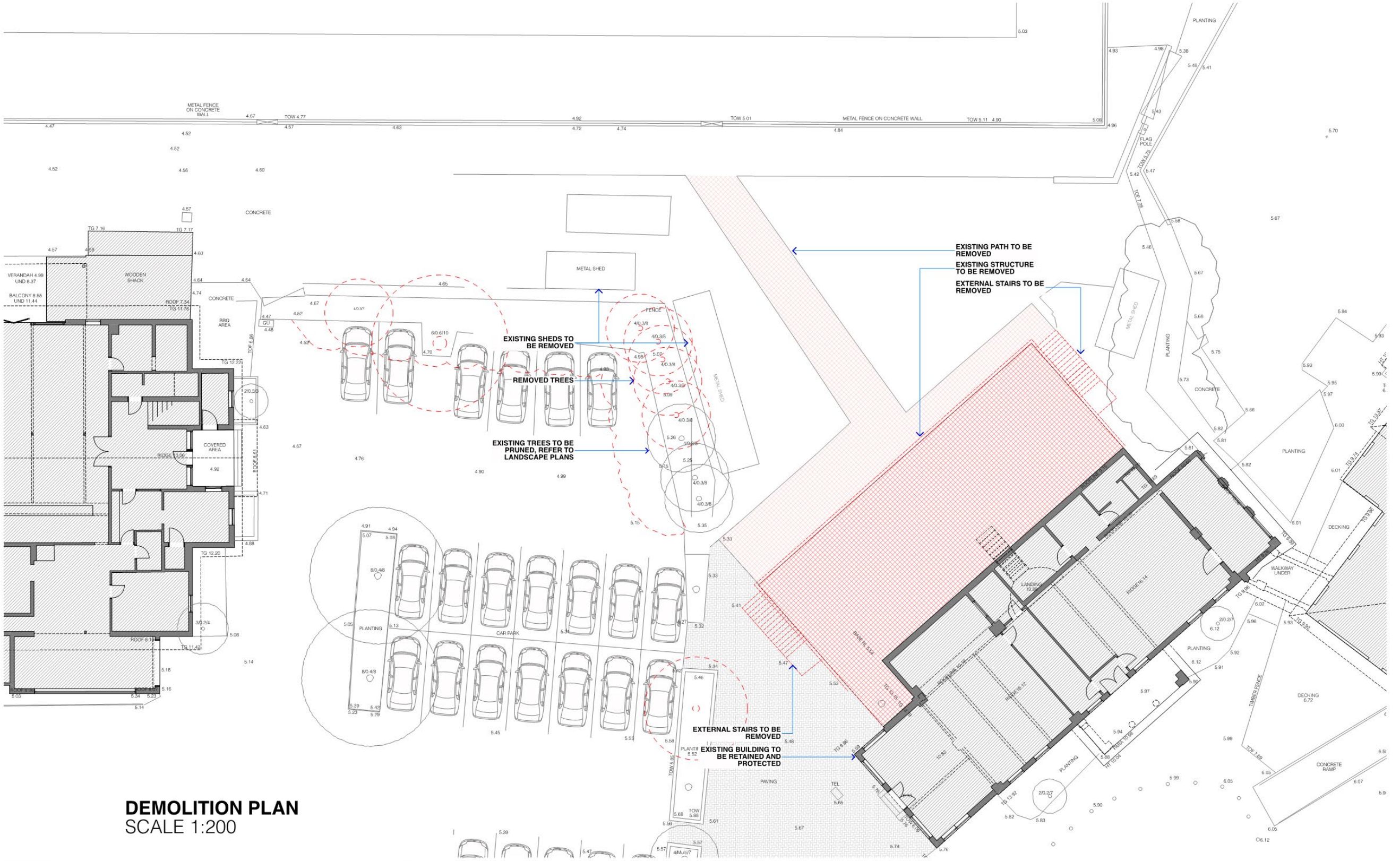


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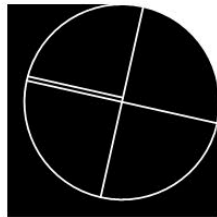
EASTS RUGBY
CLUB

DA.02 (M)
SITE PLAN

24/8/2022 CHECKED BY AGR / DRAWN BY DH 1:300 @ A3



DEMOLITION PLAN
SCALE 1:200



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

DEMOLITION PLAN. 1:200
AMENDMENTS
L - DA RFI
K - DA RFI
J - DA SUBMISSION



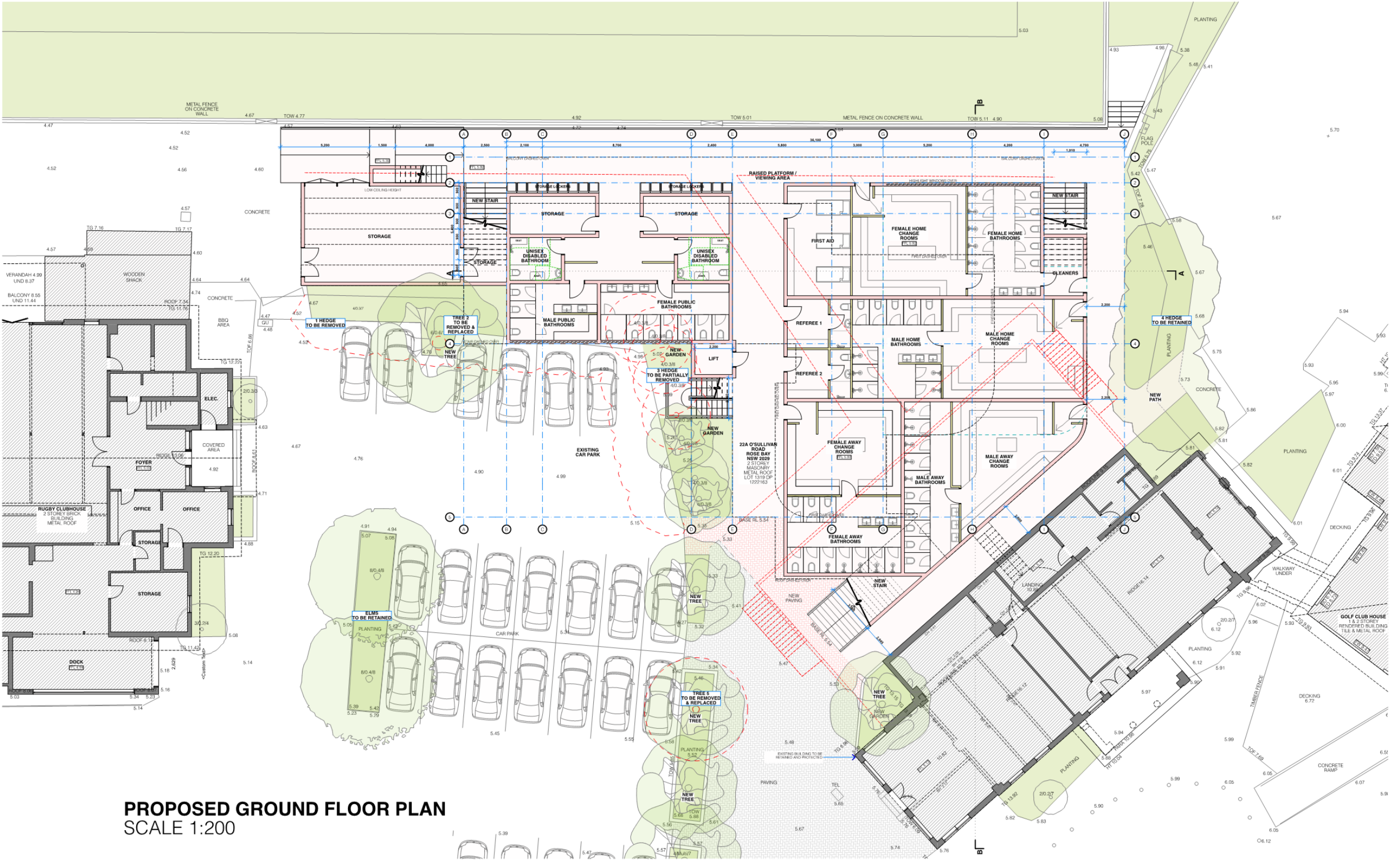
EASTS RUGBY CLUB

DA.03 (L)
DEMOLITION PLAN

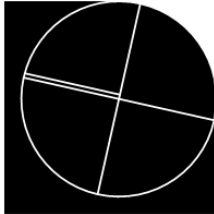
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PROPOSED GROUND FLOOR PLAN
SCALE 1:200



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

PROPOSED GROUND 1:200
AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



EASTS RUGBY CLUB

DA.04 (M)
PROPOSED GROUND 1:200

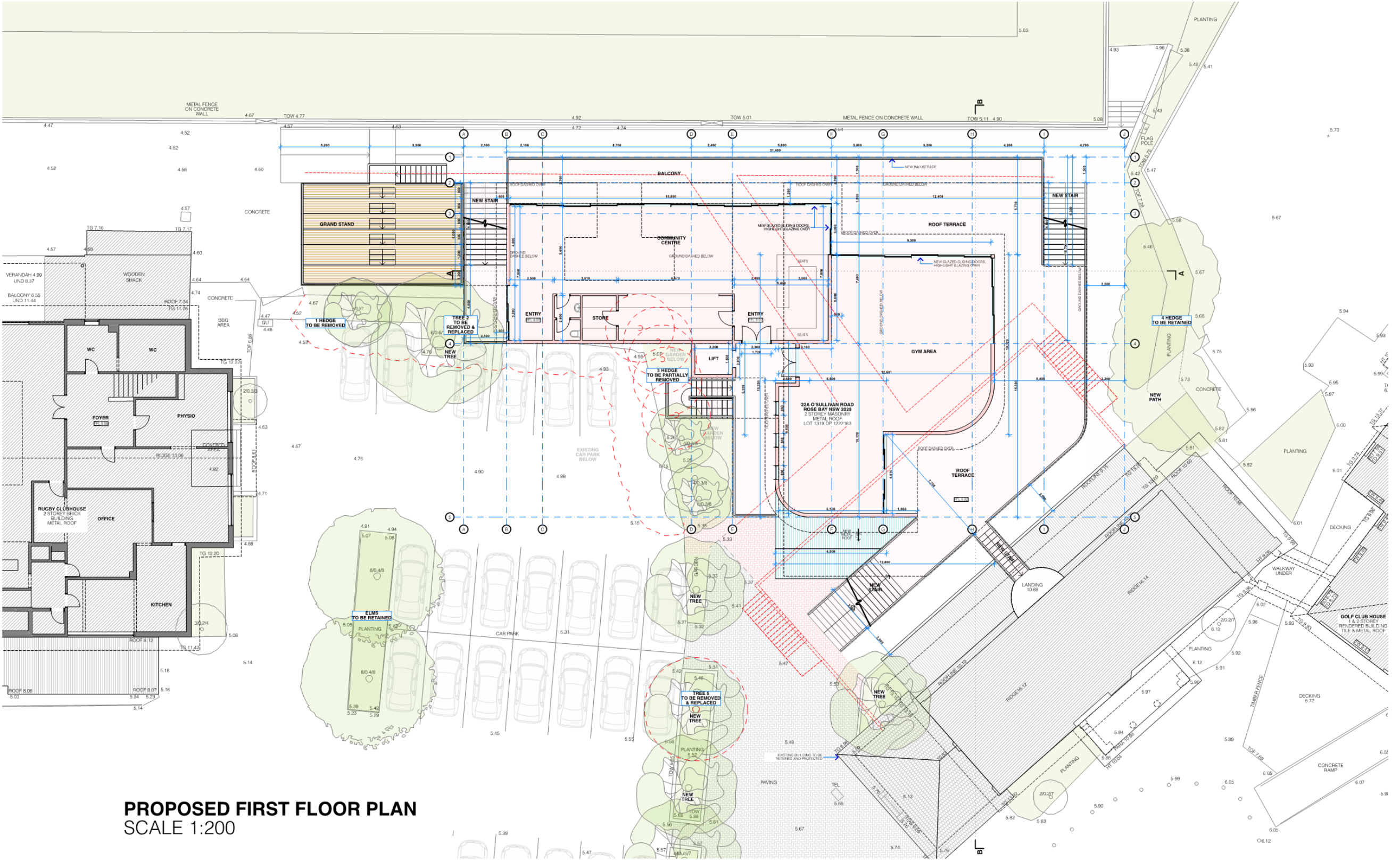
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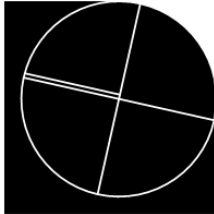
19/7/2022

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1:200 @ A3



PROPOSED FIRST FLOOR PLAN
SCALE 1:200



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

PROPOSED FIRST FLOOR 1:200

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



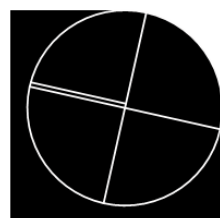
EASTS RUGBY CLUB
PROPOSED FIRST FLOOR 1:200

DA.05 (M)

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PROPOSED ROOF 1:200

AMENDMENTS
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L - DA RFI
K - DA RFI

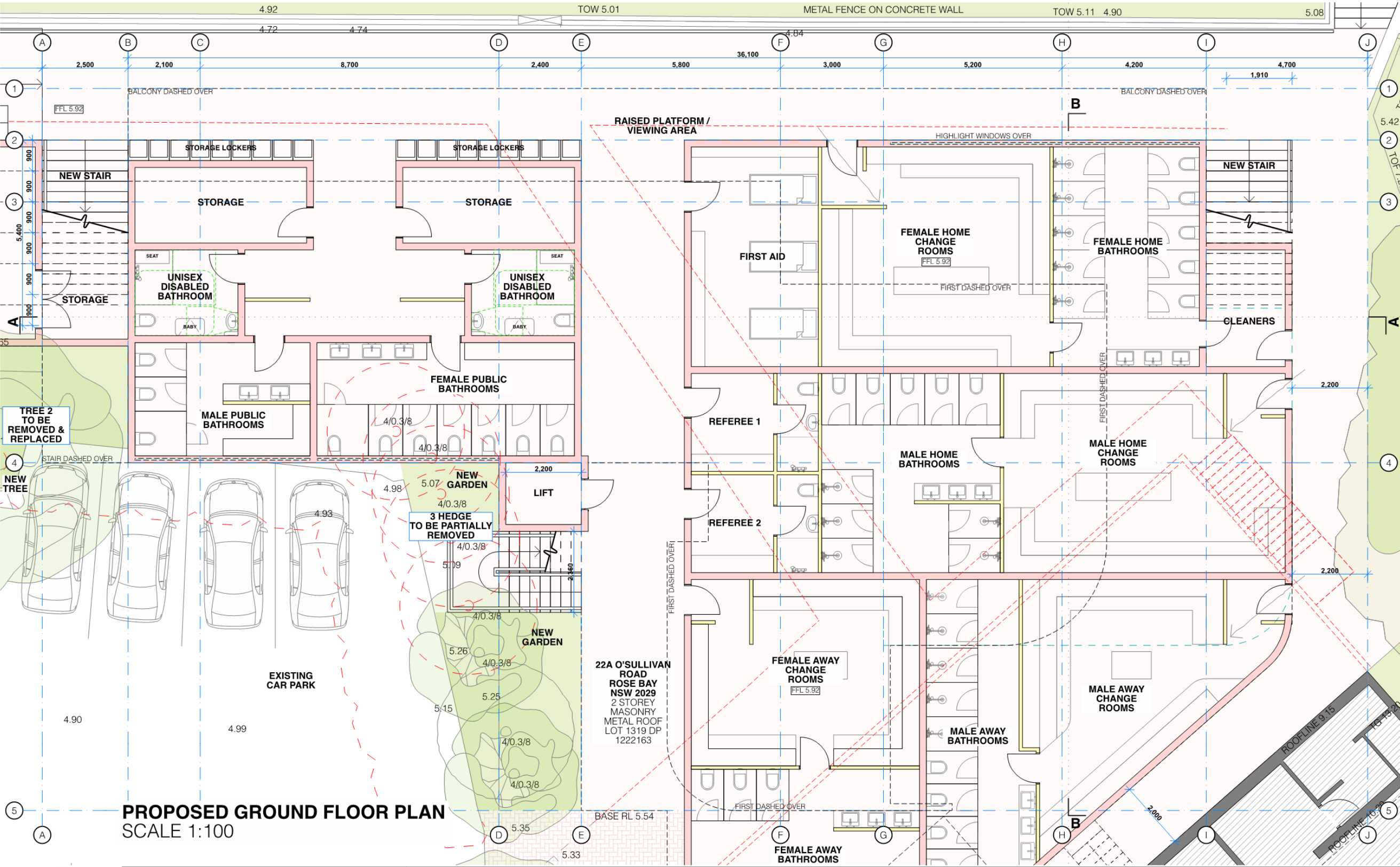


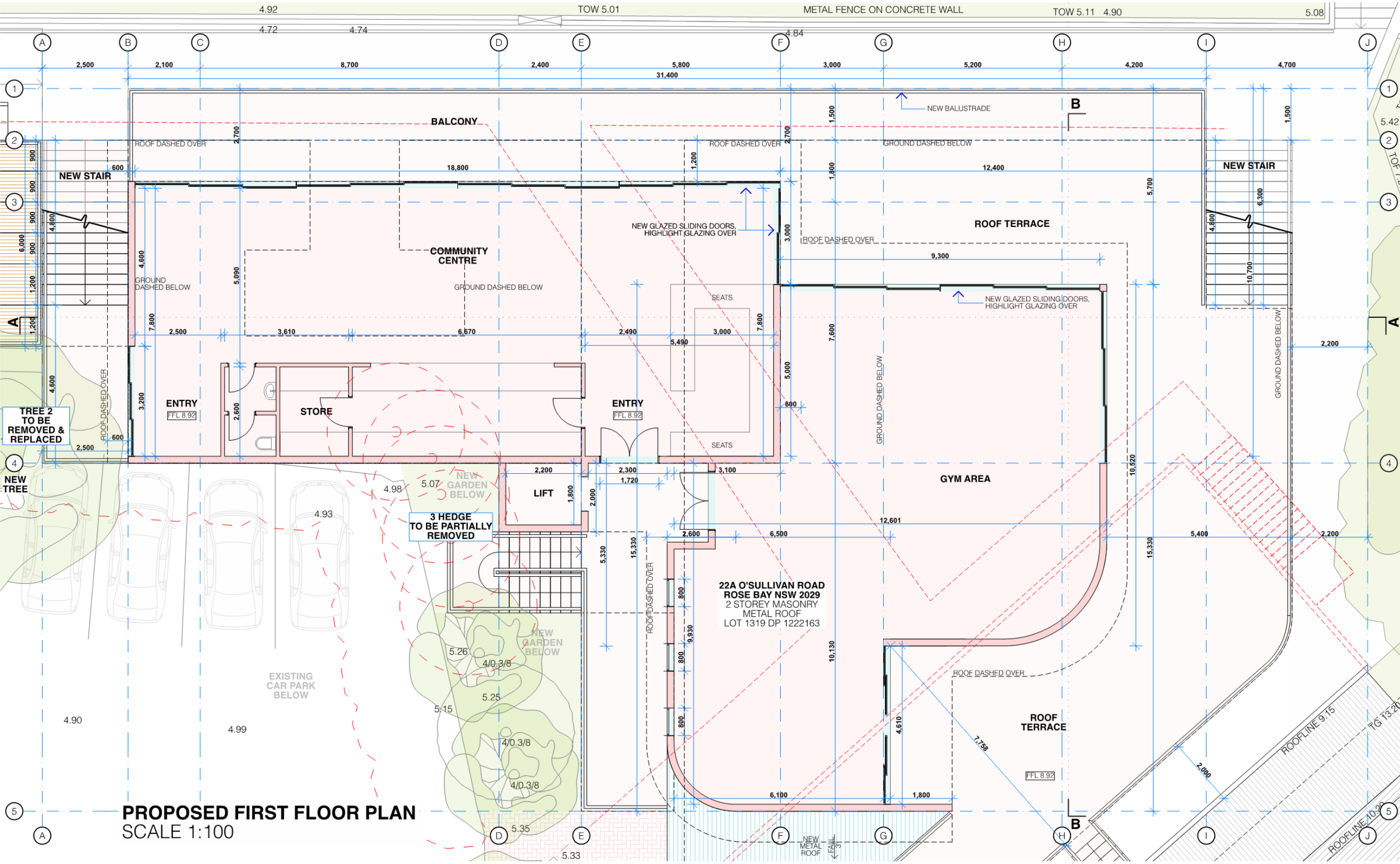
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PROPOSED ROOF 1:200

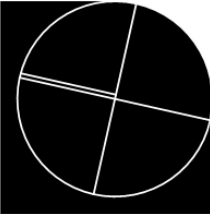
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1:200 @ A3





PROPOSED FIRST FLOOR PLAN
SCALE 1:100



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

PROPOSED FIRST FLOOR. 1:100

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



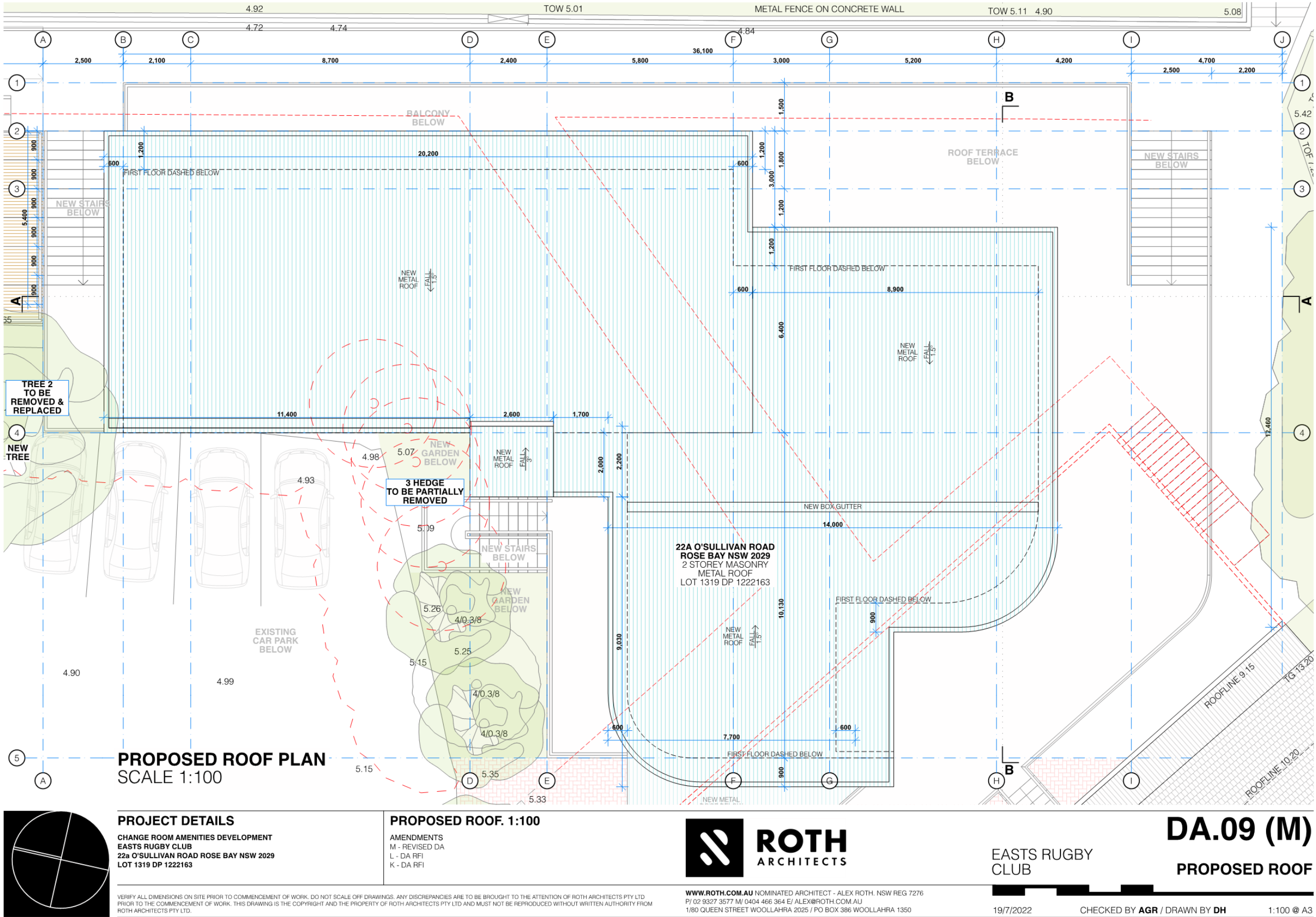
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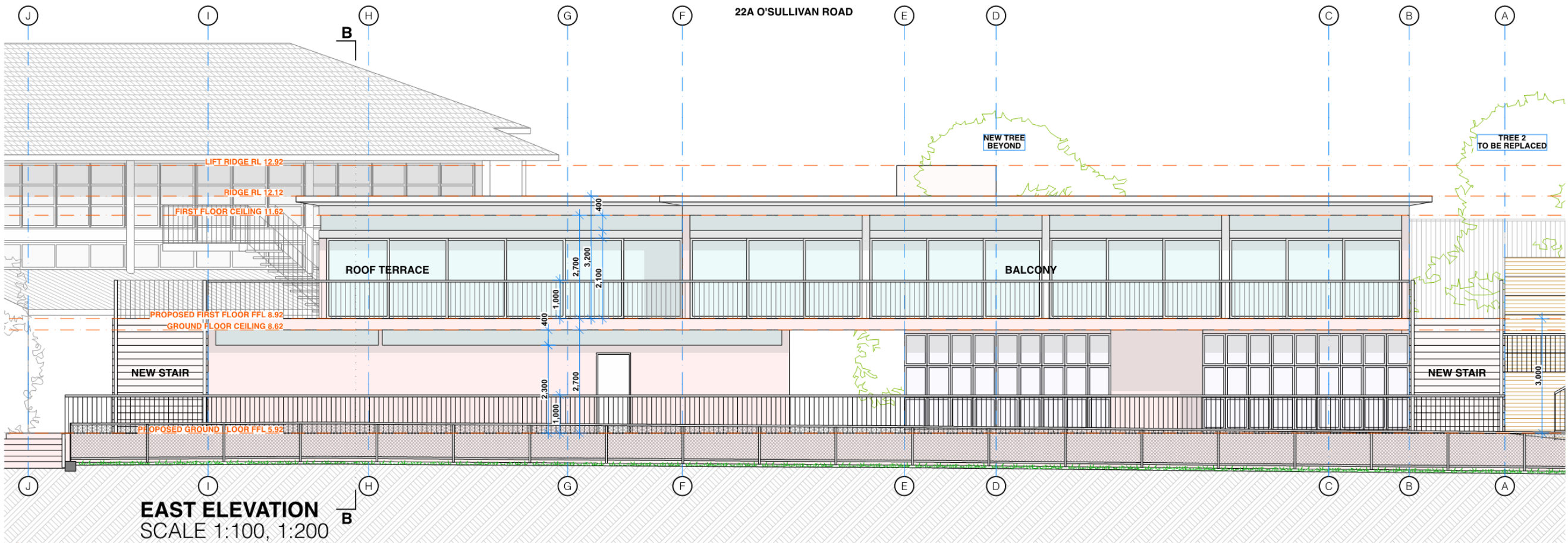
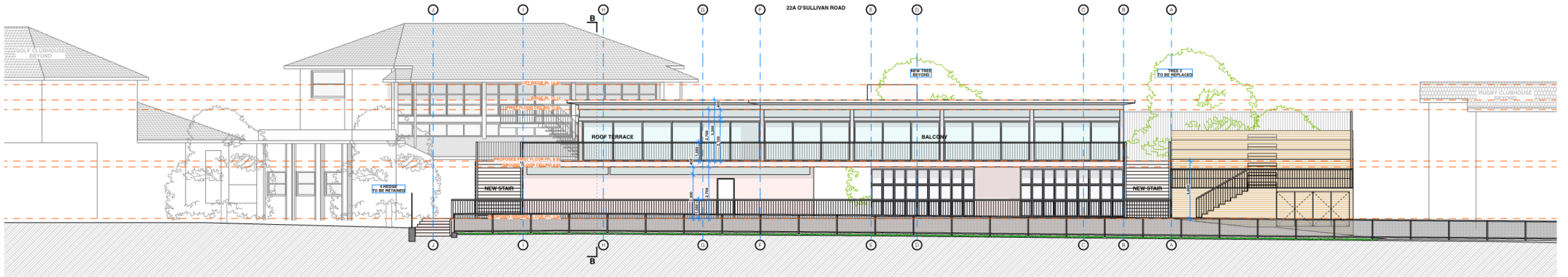
EASTS RUGBY
CLUB

DA.08 (M)

PROPOSED FIRST FLOOR

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EAST ELEVATION
SCALE 1:100, 1:200

PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION EAST. 1:100, 1:200
AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



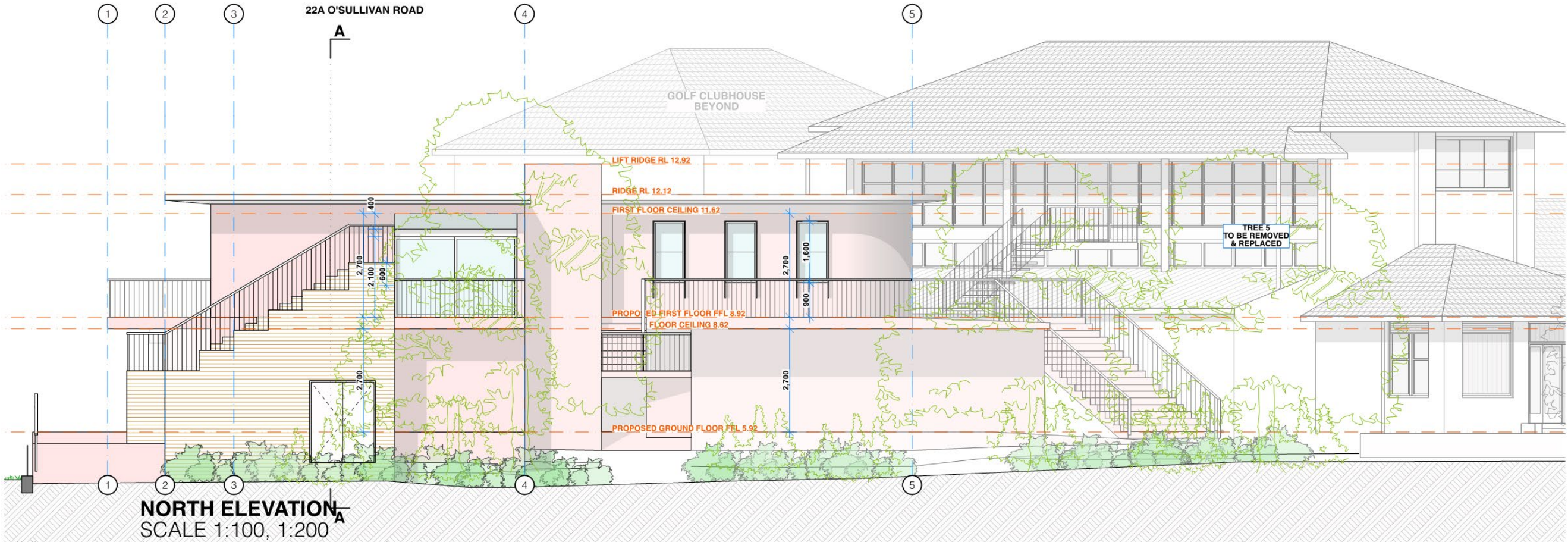
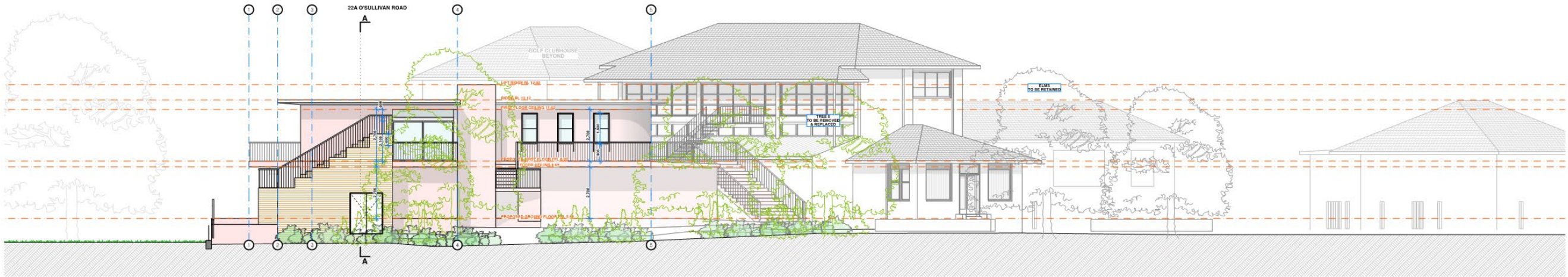
EASTS RUGBY CLUB

DA.10 (M)
ELEVATION EAST

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PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION NORTH. 1:100, 1:200

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



EASTS RUGBY CLUB

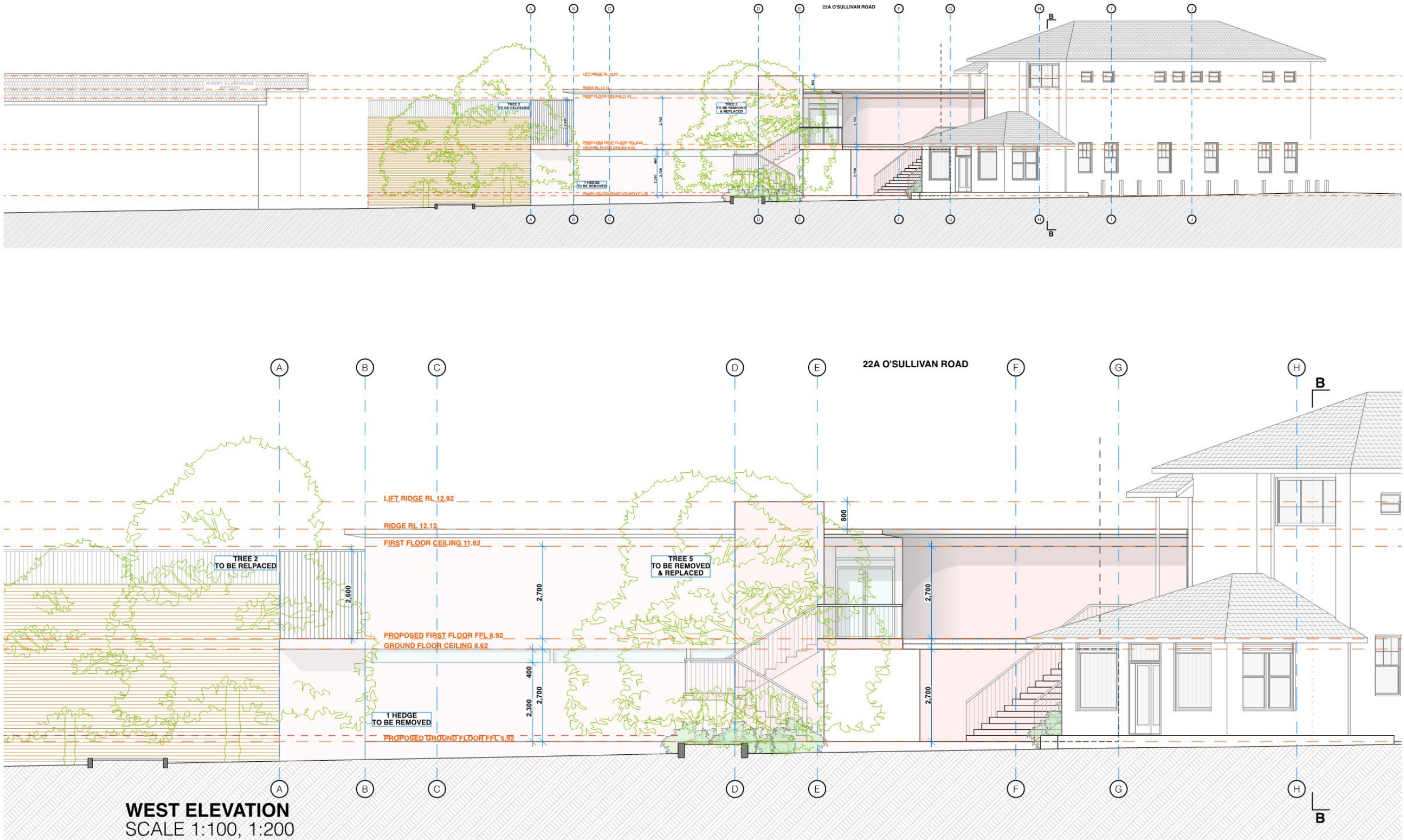
DA.11 (M)
ELEVATION NORTH

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PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION WEST. 1:100, 1:200
AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



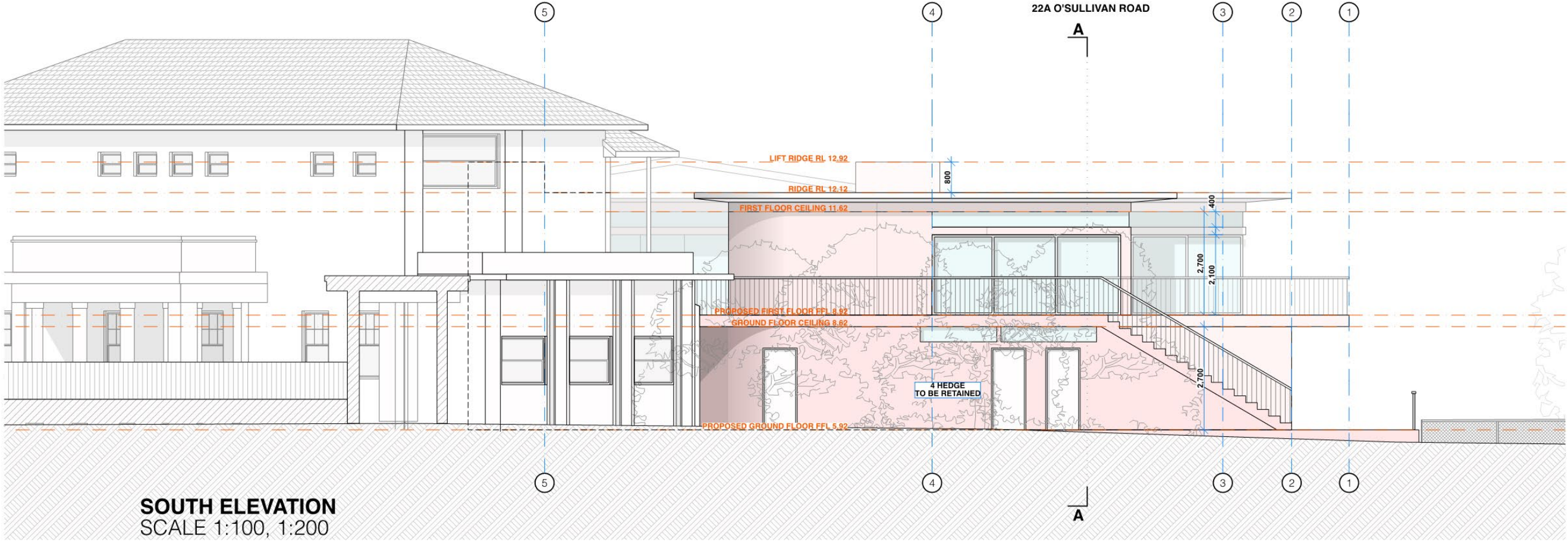
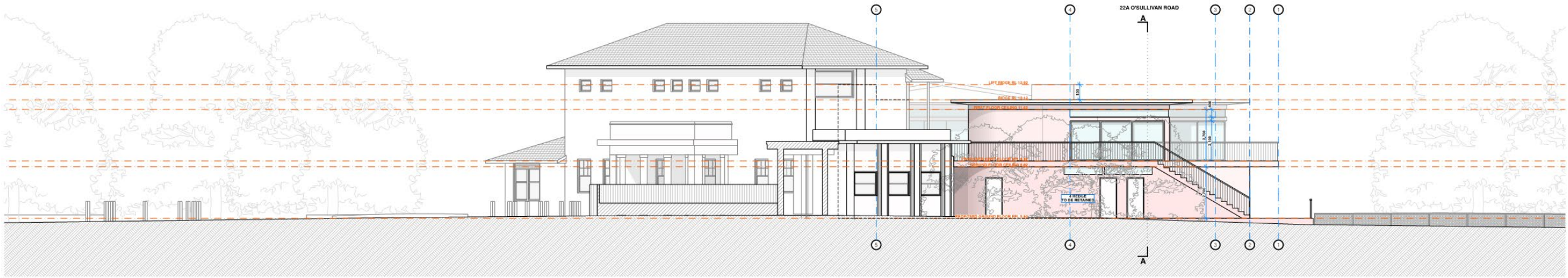
EASTS RUGBY CLUB

DA.12 (M)
ELEVATION WEST

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SOUTH ELEVATION
SCALE 1:100, 1:200

PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION SOUTH. 1:100, 1:200

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



EASTS RUGBY
CLUB

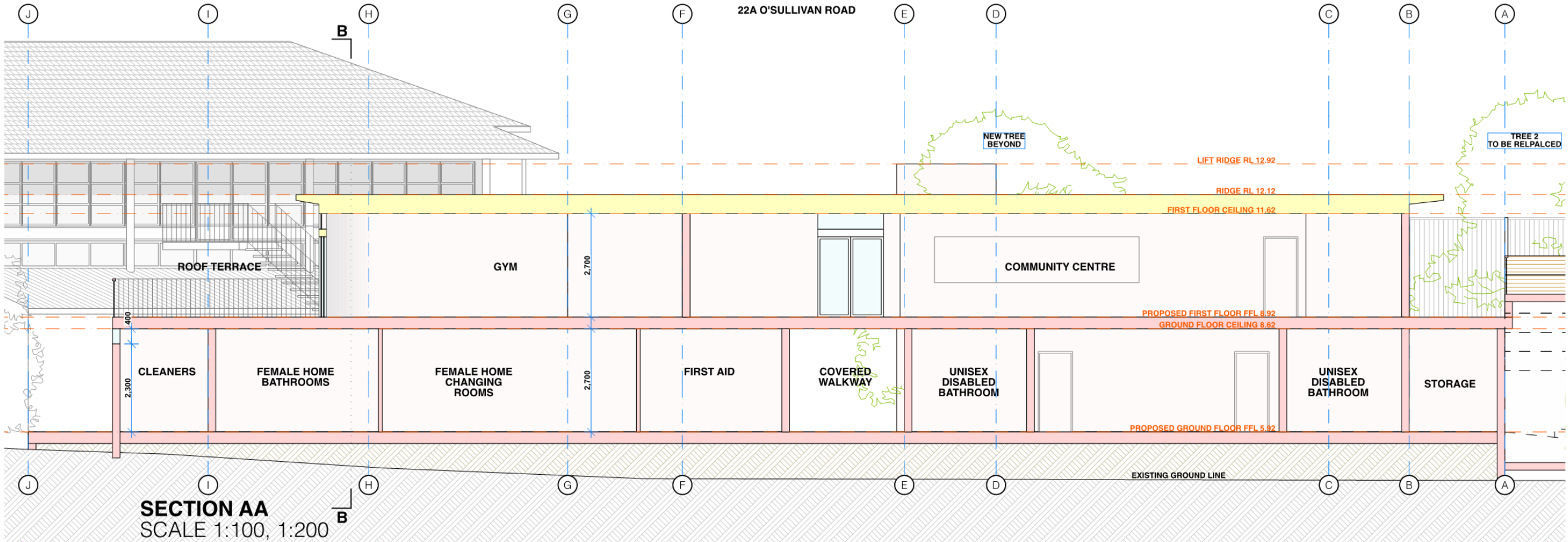
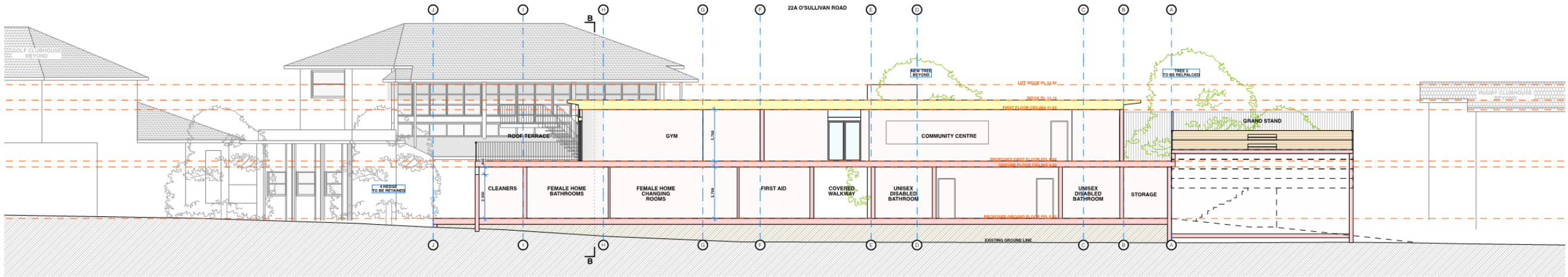
DA.13 (M)
ELEVATION SOUTH

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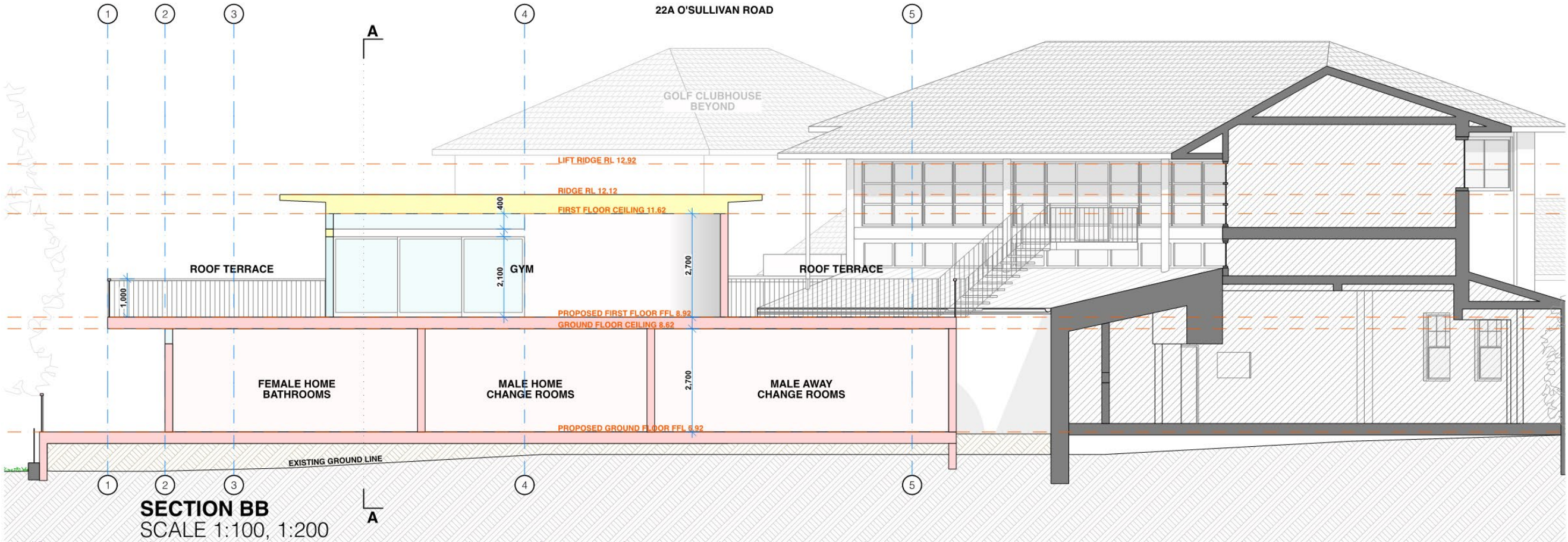
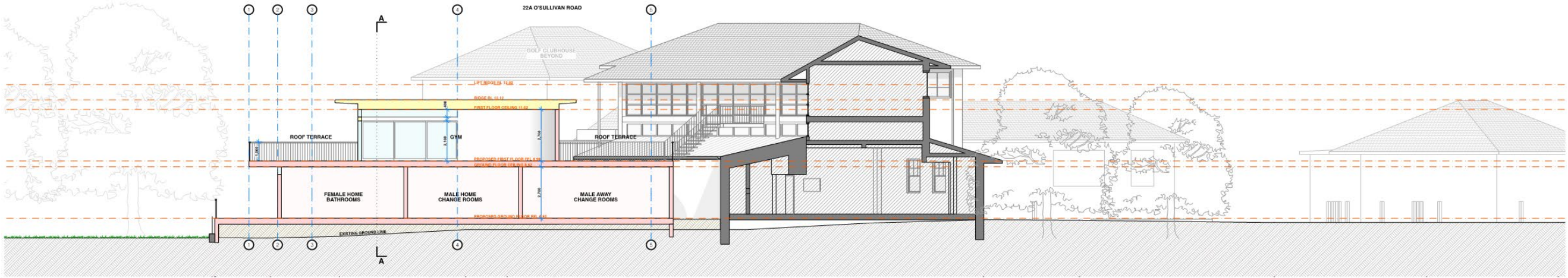
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SECTION AA
SCALE 1:100, 1:200

PROJECT DETAILS CHANGE ROOM AMENITIES DEVELOPMENT EASTS RUGBY CLUB 22a O'SULLIVAN ROAD ROSE BAY NSW 2029 LOT 1319 DP 1222163	SECTION AA. 1:100, 1:200 AMENDMENTS M - REVISED DA L - DA RFI K - DA RFI	ROTH ARCHITECTS	DA.14 (M) SECTION AA
<small>VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF WORK. DO NOT SCALE OFF DRAWINGS. ANY DISCREPANCIES ARE TO BE BROUGHT TO THE ATTENTION OF ROTH ARCHITECTS PTY LTD. PRIOR TO THE COMMENCEMENT OF WORK. THIS DRAWING IS THE COPYRIGHT AND THE PROPERTY OF ROTH ARCHITECTS PTY LTD AND MUST NOT BE REPRODUCED WITHOUT WRITTEN AUTHORITY FROM ROTH ARCHITECTS PTY LTD.</small>		<small>WWW.ROTH.COM.AU NOMINATED ARCHITECT - ALEX ROTH. NSW REG 7276 P/ 02 9327 3577 M/ 0404 466 364 E/ ALEX@ROTH.COM.AU 1/80 QUEEN STREET WOOLLAHRA 2025 / PO BOX 386 WOOLLAHRA 1350</small>	
		<small>19/7/2022</small>	<small>CHECKED BY AGR / DRAWN BY DH 1:100, 1:200 @ A3</small>



SECTION BB
SCALE 1:100, 1:200

PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

SECTION BB. 1:100, 1:200

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI

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DA.15 (M)

EASTS RUGBY CLUB

SECTION BB

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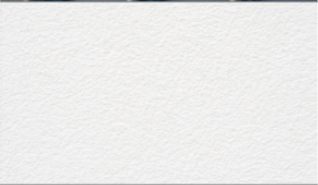
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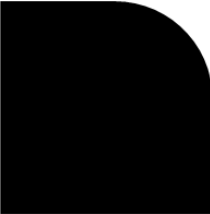
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Attachment 1 Architectural Plans, Photomontages, Landscape Plans and Site Survey

Page 83

EXTERNAL FINISHES SCHEDULE

ITEM	MATERIAL / FINISH	
ROOF	ALUMINIUM ROOF WOODLAND GREY	
EXTERNAL WALLS	RENDERED MASONRY PAINTED WHITE	
GLAZED DOORS & WINDOWS	CLEAR GLASS, BLACK ALUMINIUM FRAMES	
FLOORS & STAIRS	CONCRETE	



PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

EXTERNAL FINISHES

AMENDMENTS
J - DA SUBMISSION

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EASTS RUGBY CLUB

DA.19 (J)
EXTERNAL FINISHES

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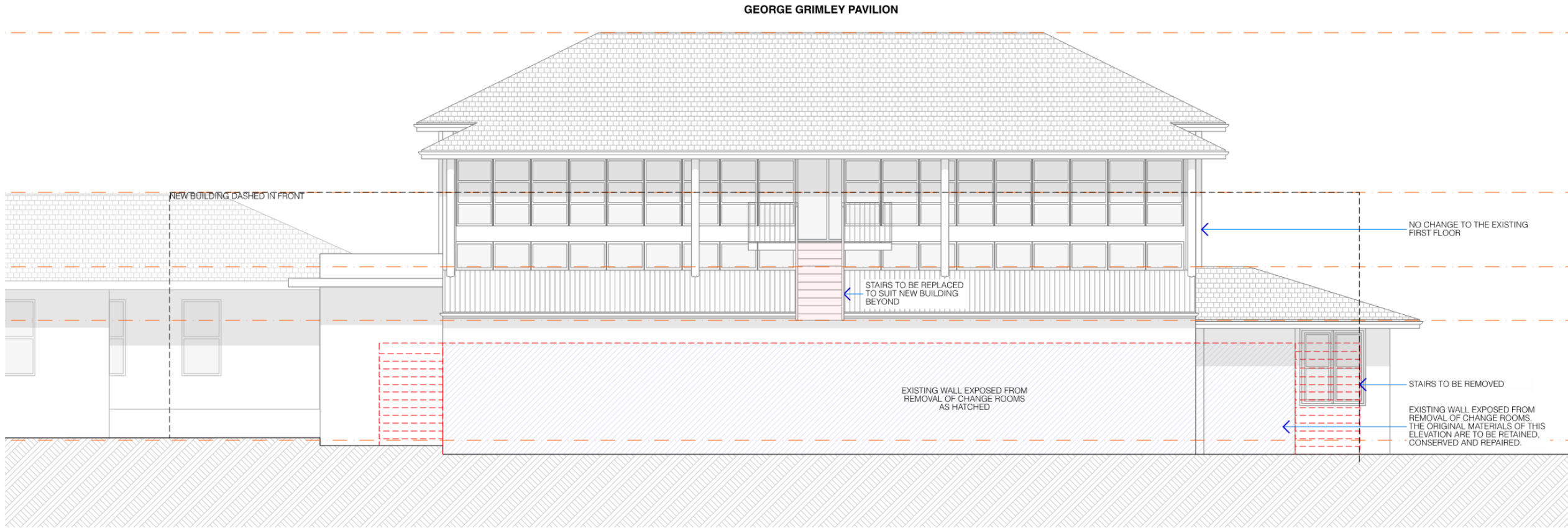
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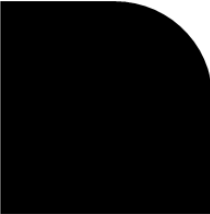
NTS @ A3

Attachment 1 Architectural Plans, Photomontages, Landscape Plans and Site Survey

Page 84



REAR (NORTH-EAST) ELEVATION
SCALE 1:100



PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION NORTH-EAST. 1:100

AMENDMENTS
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EASTS RUGBY
CLUB

DA.23 (M)

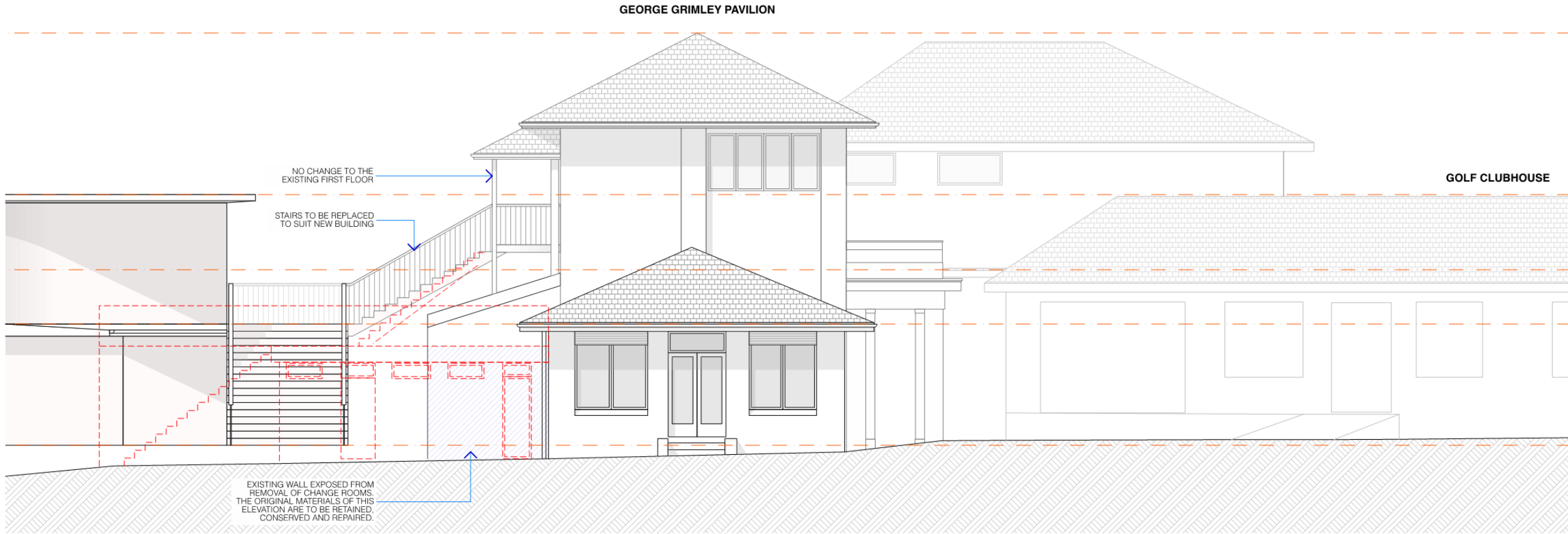
ELEVATION NORTH-EAST

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1:100 @ A3



SIDE (NORTH-WEST) ELEVATION
SCALE 1:100

PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION NORTH-WEST. 1:100

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



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1/80 QUEEN STREET WOOLLAHRA 2025 / PO BOX 386 WOOLLAHRA 1350

EASTS RUGBY
CLUB

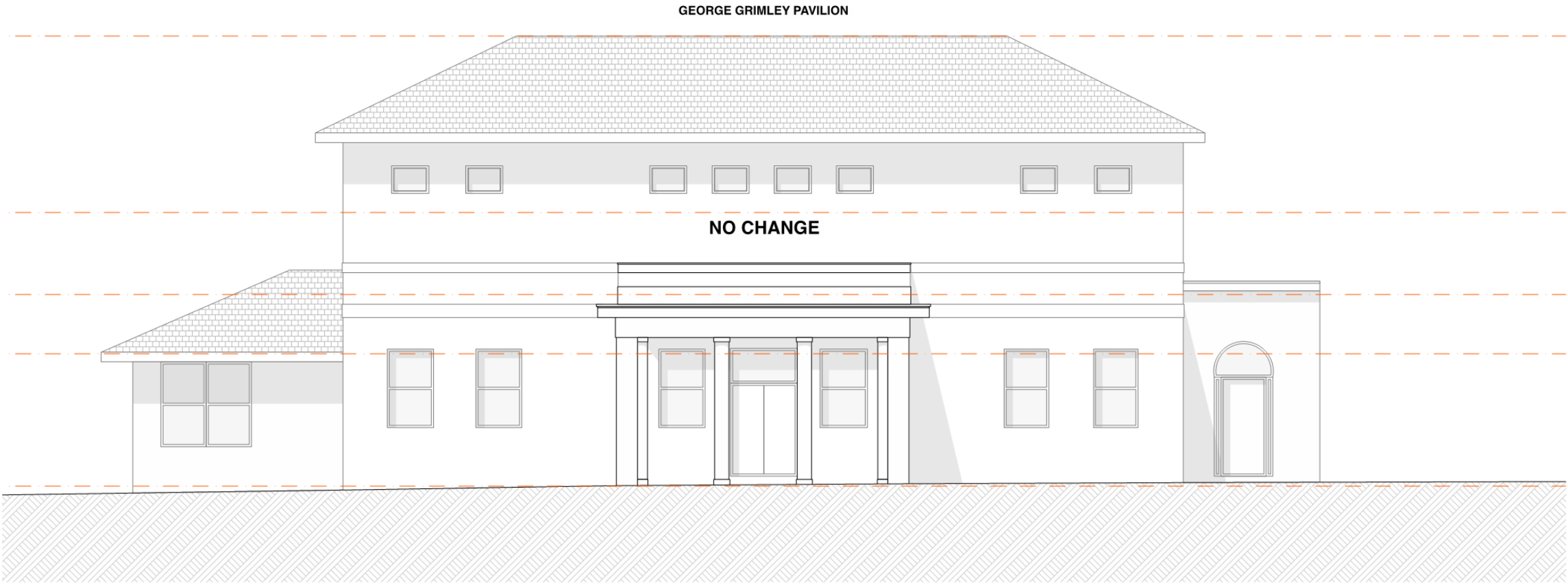
DA.24 (M)
ELEVATION NORTH-WEST

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19/7/2022

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1:100 @ A3



SIDE (SOUTH-WEST) ELEVATION
SCALE 1:100

PROJECT DETAILS

CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION SOUTH-WEST. 1:100

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



EASTS RUGBY CLUB

DA.25 (M)

ELEVATION SOUTH-WEST

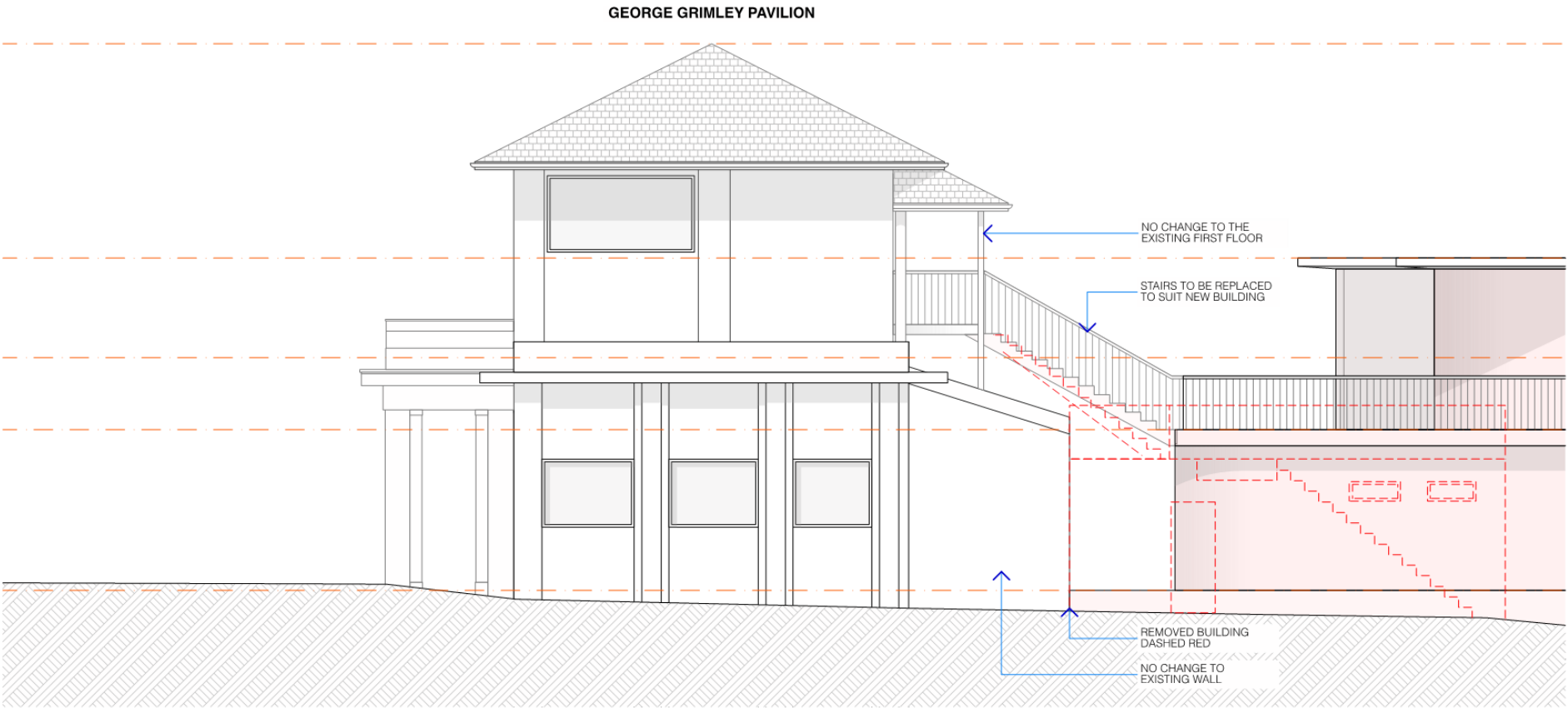
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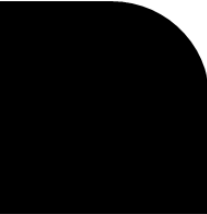
19/7/2022

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1:100 @ A3



SIDE (SOUTH EAST) ELEVATION
SCALE 1:100



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

ELEVATION SOUTH-EAST. 1:100

AMENDMENTS
M - REVISED DA
L - DA RFI
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EASTS RUGBY CLUB

DA.26 (M)

ELEVATION SOUTH-EAST

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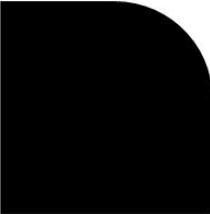
19/7/2022

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1:100 @ A3



PHOTOMONTAGE



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

PHOTOMONTAGE
AMENDMENTS
M - REVISED DA SUBMISSION
L - DA RFI
K - DA RFI



ROTH
ARCHITECTS

EASTS RUGBY
CLUB

DA.20 (M)
PHOTOMONTAGE

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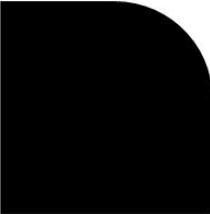
11/10/22

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NTS @ A3



PHOTOMONTAGE



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

PHOTOMONTAGE
AMENDMENTS
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EASTS RUGBY CLUB

DA.21 (M)
PHOTOMONTAGE

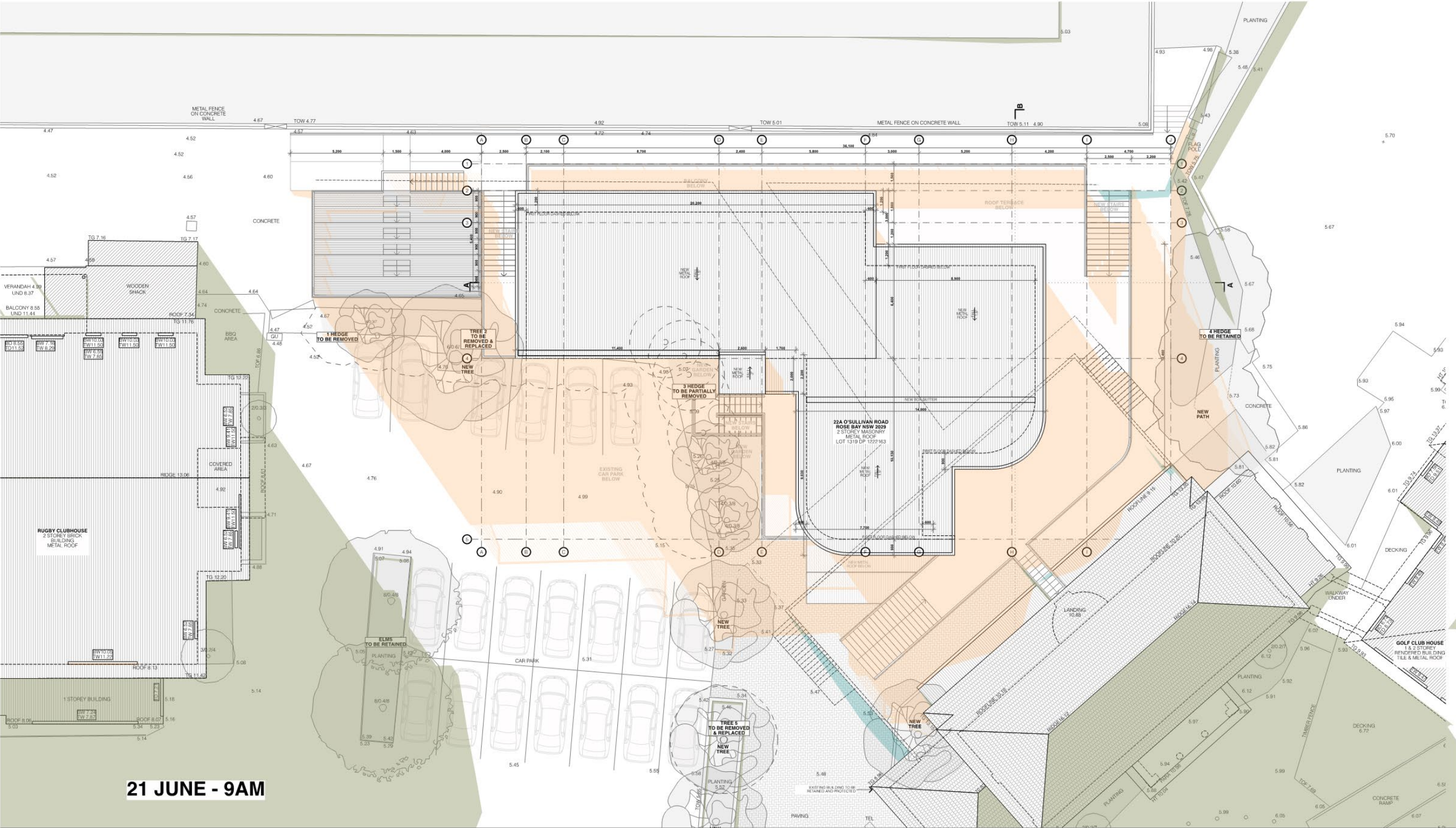
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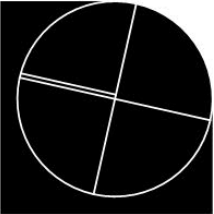
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NTS @ A3



21 JUNE - 9AM
SHADOW DIAGRAMS
SCALE 1:200

- EXISTING SHADOW
- NEW SHADOW
- REMOVED SHADOW



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

SHADOWS 21 JUN 9AM. 1:200

AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



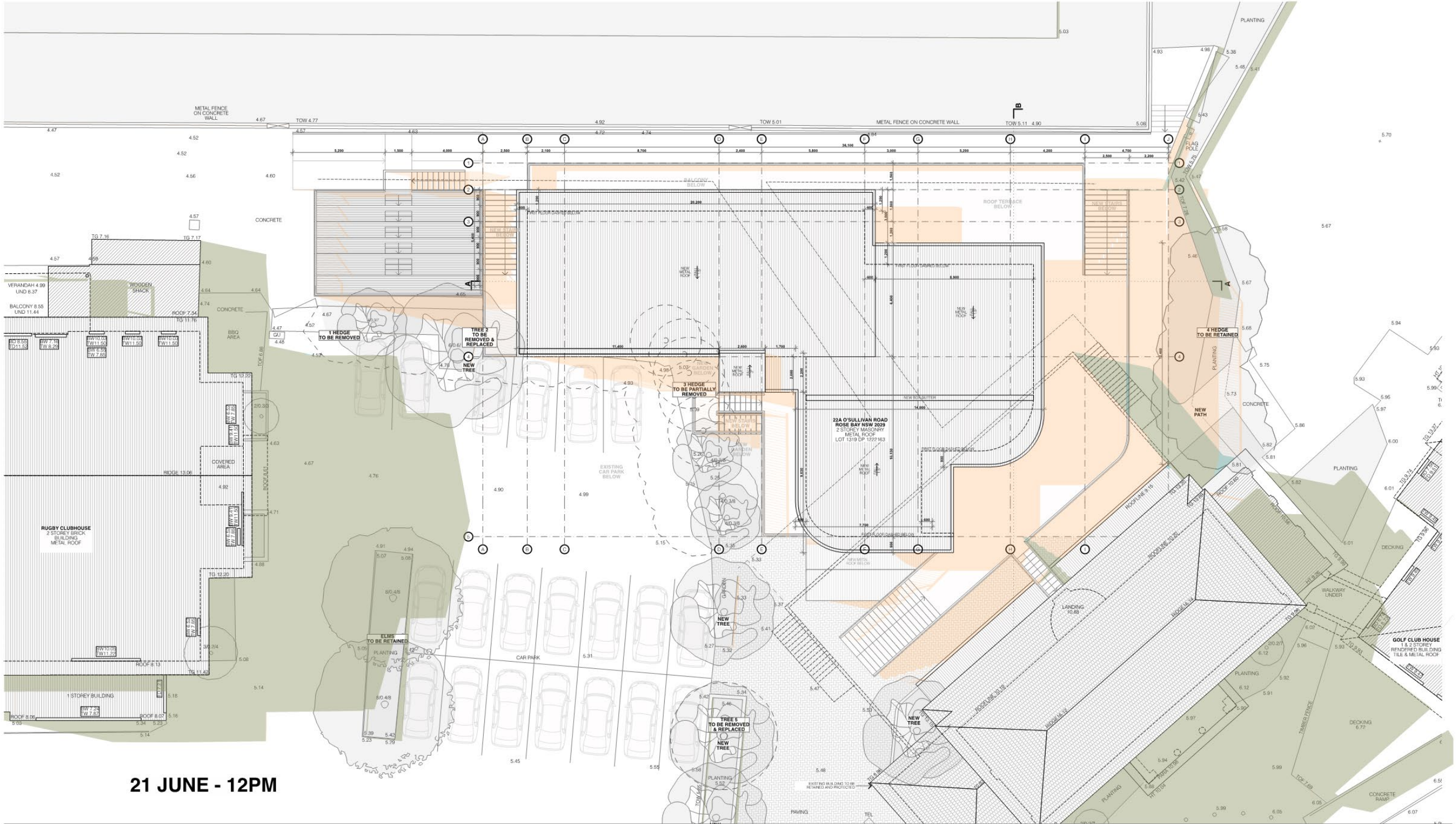
EASTS RUGBY CLUB

DA.16 (M)
SHADOWS 21 JUN 9AM

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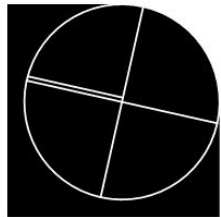
18/8/2022 CHECKED BY AGR / DRAWN BY DH 1:200 @ A3



21 JUNE - 12PM

SHADOW DIAGRAMS
SCALE 1:200

- EXISTING SHADOW
- NEW SHADOW
- REMOVED SHADOW



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

SHADOWS 21 JUN 12PM. 1:200
AMENDMENTS
M - REVISED DA
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K - DA RFI



EASTS RUGBY CLUB

DA.17 (M)

SHADOWS 21 JUN 12PM

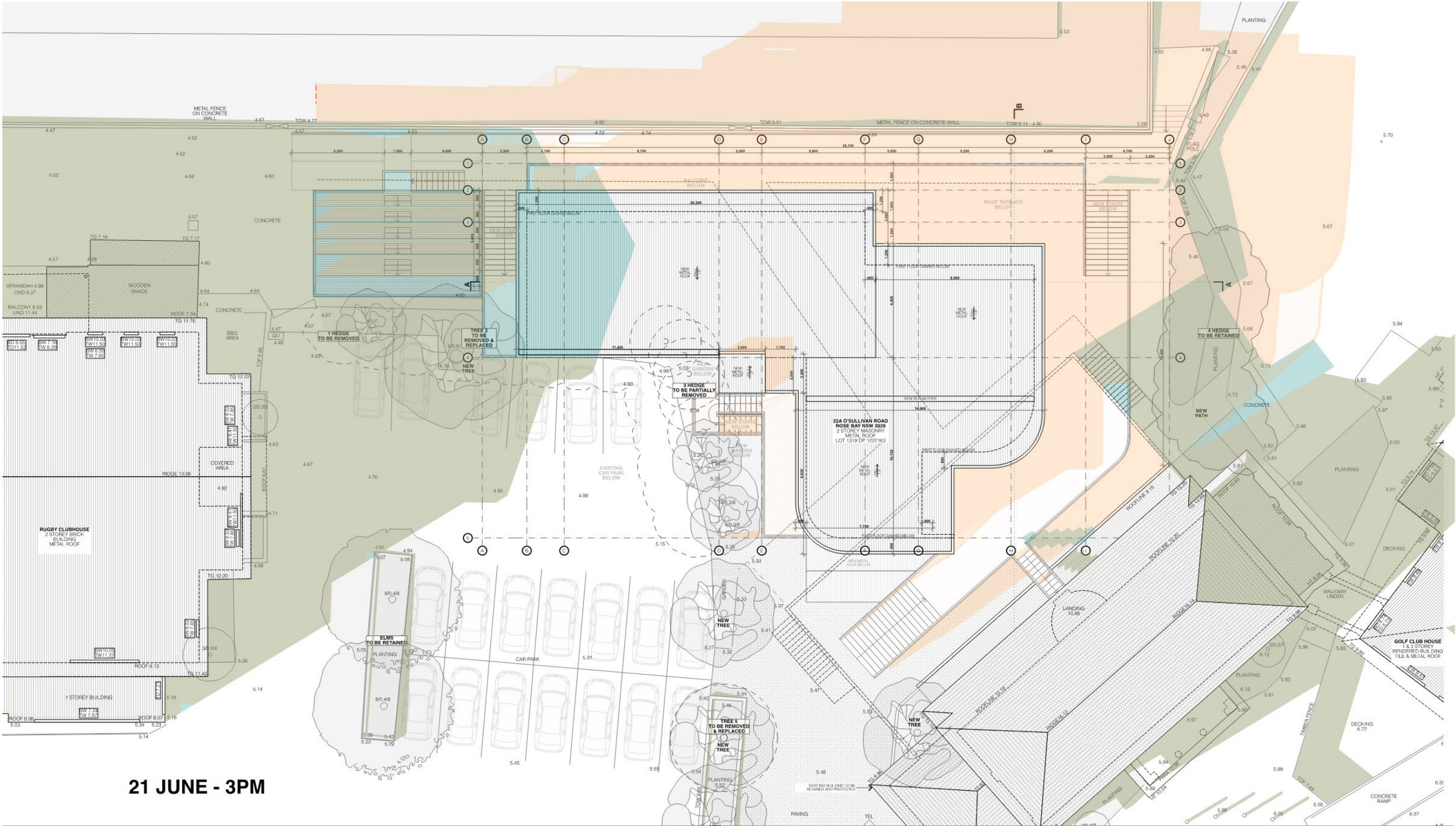
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18/8/2022

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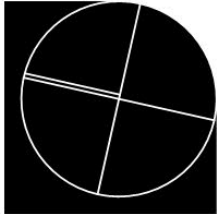
1:200 @ A3



21 JUNE - 3PM

SHADOW DIAGRAMS
SCALE 1:200

- EXISTING SHADOW
- NEW SHADOW
- REMOVED SHADOW



PROJECT DETAILS
CHANGE ROOM AMENITIES DEVELOPMENT
EASTS RUGBY CLUB
22a O'SULLIVAN ROAD ROSE BAY NSW 2029
LOT 1319 DP 1222163

SHADOWS 21 JUN 3PM. 1:200
AMENDMENTS
M - REVISED DA
L - DA RFI
K - DA RFI



EASTS RUGBY CLUB

DA.18 (M)
SHADOWS 21 JUN 3PM

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EASTS RUGBY CLUB CHANGE ROOM AMENITIES DEVELOPMENT

Development Application | Landscape Architecture Plans

DRAWING LIST

No.	TITLE
LA-000	Cover sheet
LA-100	Landscape plan
LA-200	Landscape details
LA-300	Planting schedule



REFERENCE PLAN 1:200 @ A3

NOTE: Refer Architects plans for further details.



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Registered Landscape Architect:
Garth Paterson FAILA Reg#716
BLA (CANB) MLAUD (HARV)

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REV.	DESCRIPTION	DWN.	CHK.	DATE
A	Development Application Landscape Plan	DC	GP	03/06/20
B	Development Application Landscape Plan	DC	GP	08/03/22

PROJECT
EASTS RUGBY CLUB
PROPOSED AMENITIES DEVELOPMENT
22a O'SULLIVAN RD, ROSE BAY NSW 2029
LOT 1319 DP 1222163

CLIENT:
EASTERN SUBURB
RUGBY CLUB

ARCHITECT.
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DRAWING TITLE:
LA000 - COVER SHEET

DWN.
DC

CHK.
GP

DATE. 08/03/22

SHEET. A3

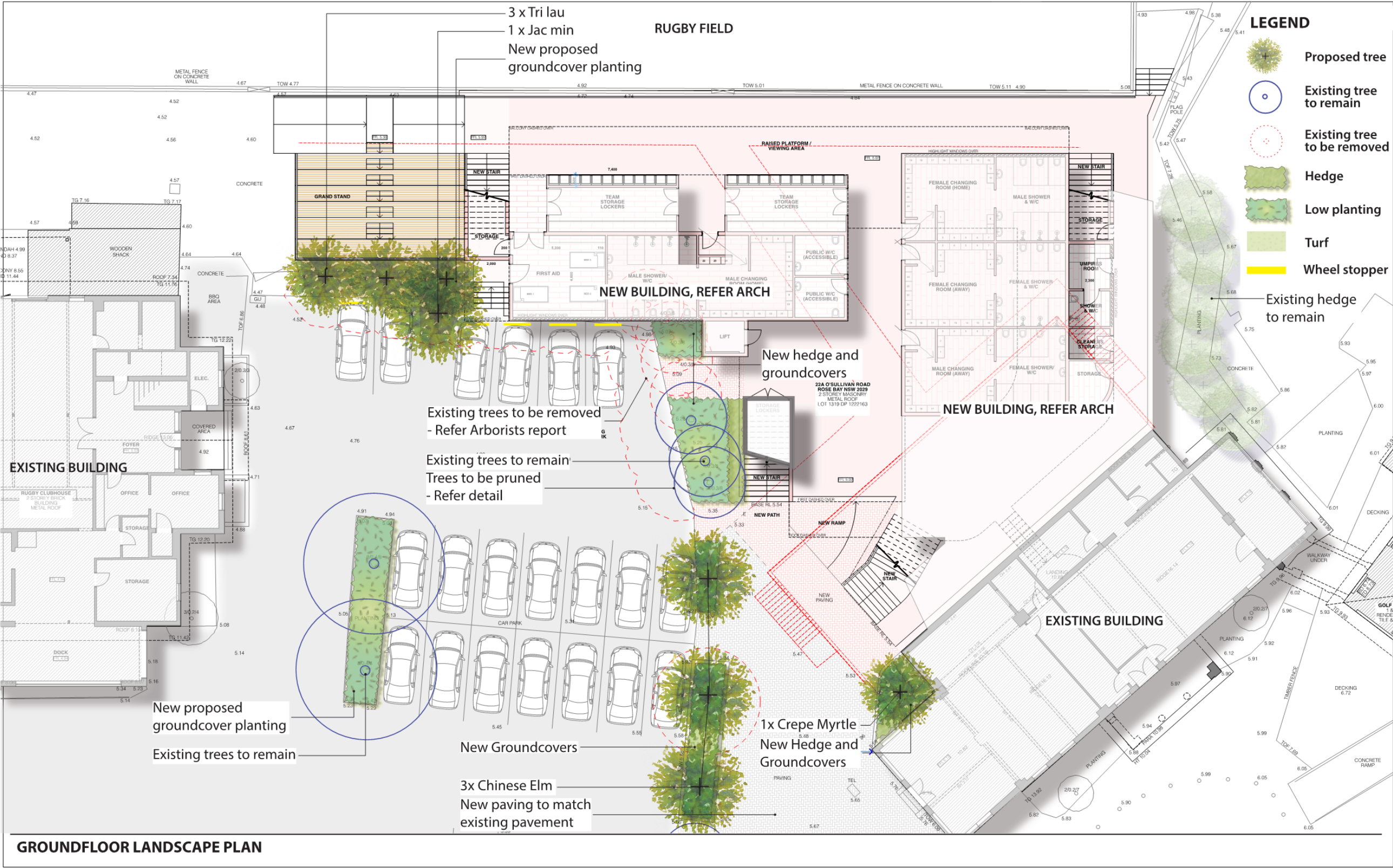
SCALE. AS SHOWN

REVISION.
B

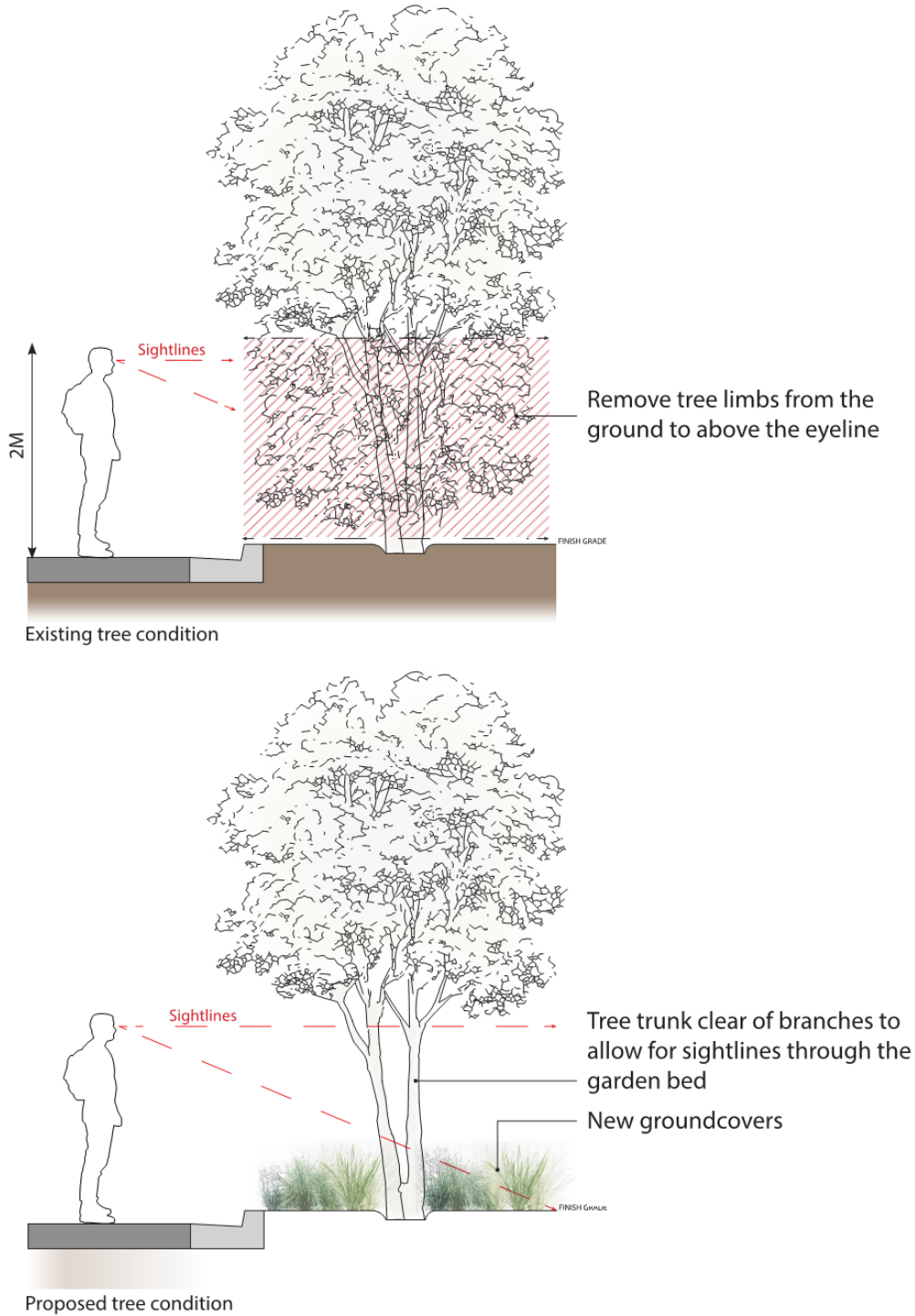
PROJECT NO.



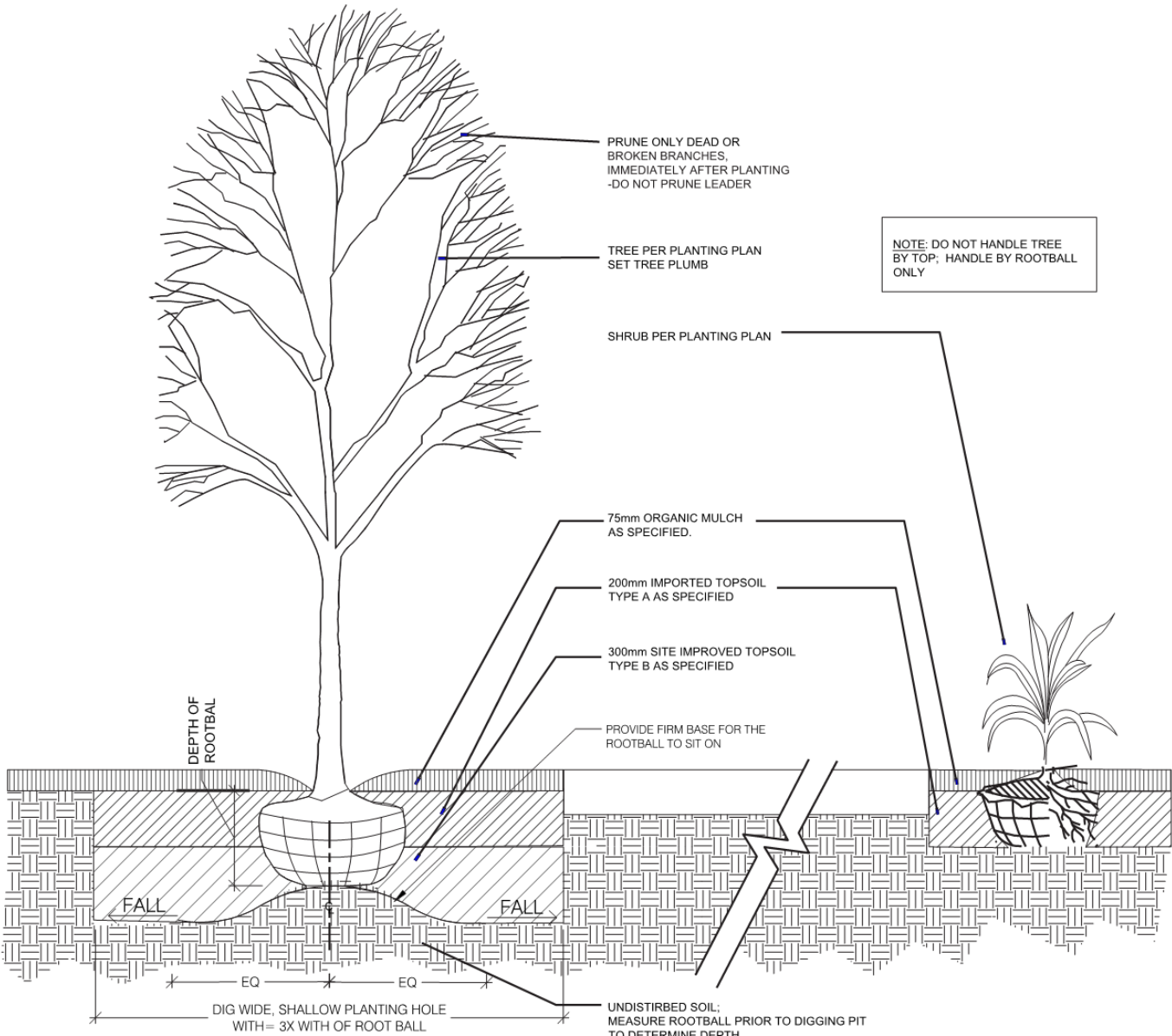
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DWN.	CHK.																													
DC	GP																													
DATE. 08/03/22																														
						<div>DRAWING TITLE.</div> <div>LA 100 - LANDSCAPE PLAN</div>	<div>SHEET. A3</div>	<div>REVISION.</div> <div>B</div>	<div>PROJECT NO.</div>																					
							<div>SCALE. 1:200 @ A3</div>																							



TREE PRUNING SECTION 1:50 @ A3



100L TREE AND SHRUB PLANTING 1:20 @A3

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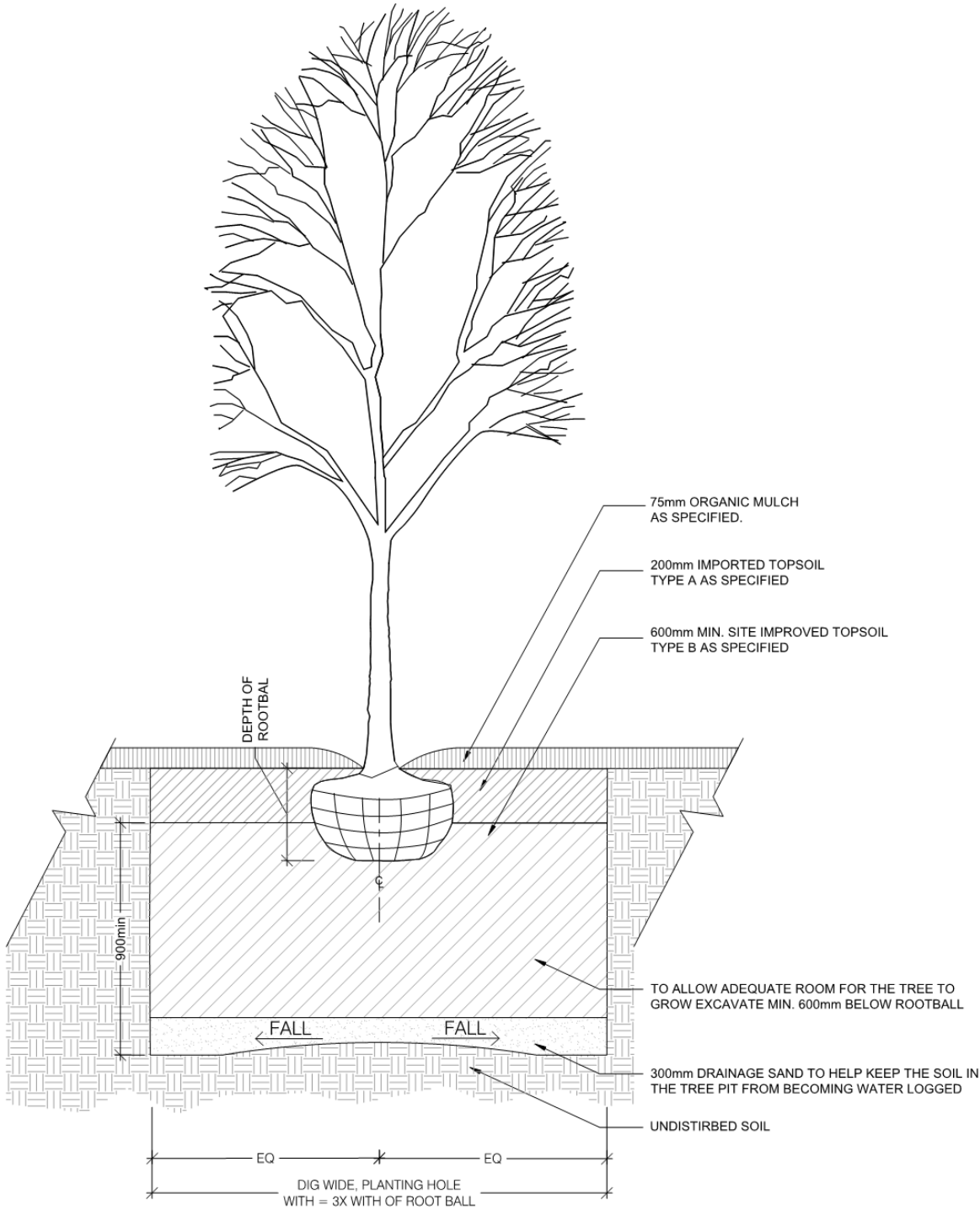
REV.	DESCRIPTION	DWN.	CHK.	DATE
A	Development Application Landscape Plan	DC	GP	03/06/20
B	Development Application Landscape Plan	DC	GP	08/03/22

PROJECT EASTS RUGBY CLUB PROPOSED AMENITIES DEVELOPMENT 22a O'SULLIVAN RD, ROSE BAY NSW 2029 LOT 1319 DP 1222163
--

CLIENT: EASTERN SUBURB RUGBY CLUB

ARCHITECT. ROTH ARCHITECTS
DRAWING TITLE: LA 200 - LANDSCAPE DETAILS

DWN. DC	CHK. GP
DATE. 08/03/22	
SHEET. A3	REVISION. B
SCALE.	PROJECT NO.



400L FEATURE TREE PLANTING DETIL 1:20 @A3



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PROJECT

EASTS RUGBY CLUB
PROPOSED AMENITIES DEVELOPMENT
22a O'SULLIVAN RD, ROSE BAY NSW 2029
LOT 1319 DP 1222163

CLIENT.

EASTERN SUBURB
RUGBY CLUB

ARCHITECT.

ROTH ARCHITECTS

DRAWING TITLE:
LA 200 - LANDSCAPE DETAILS

DWN.
DC

CHK.
GP









DATE. 08/03/22


SHEET. A3

SCALE.

REVISION.
B

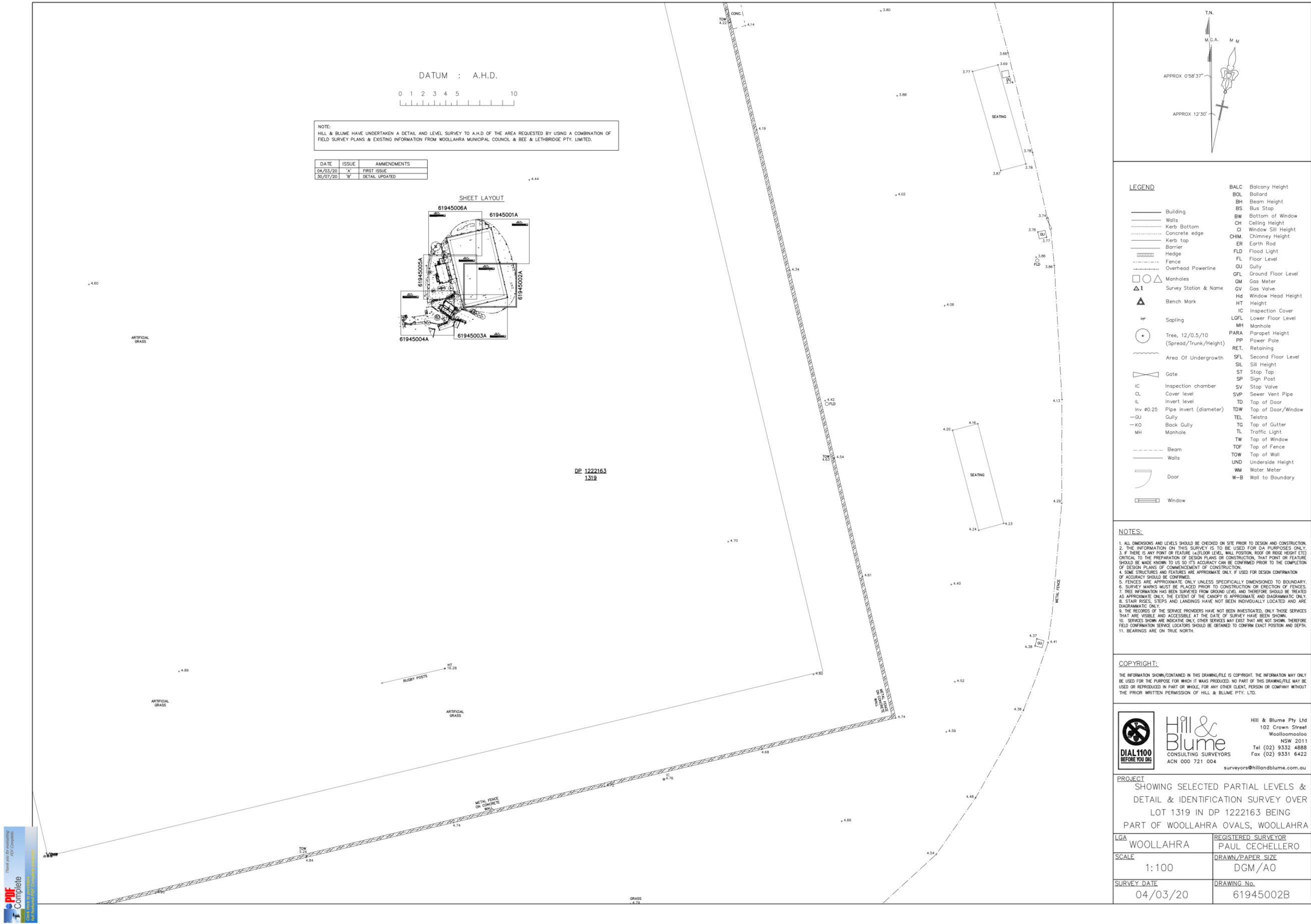
PROJECT NO.

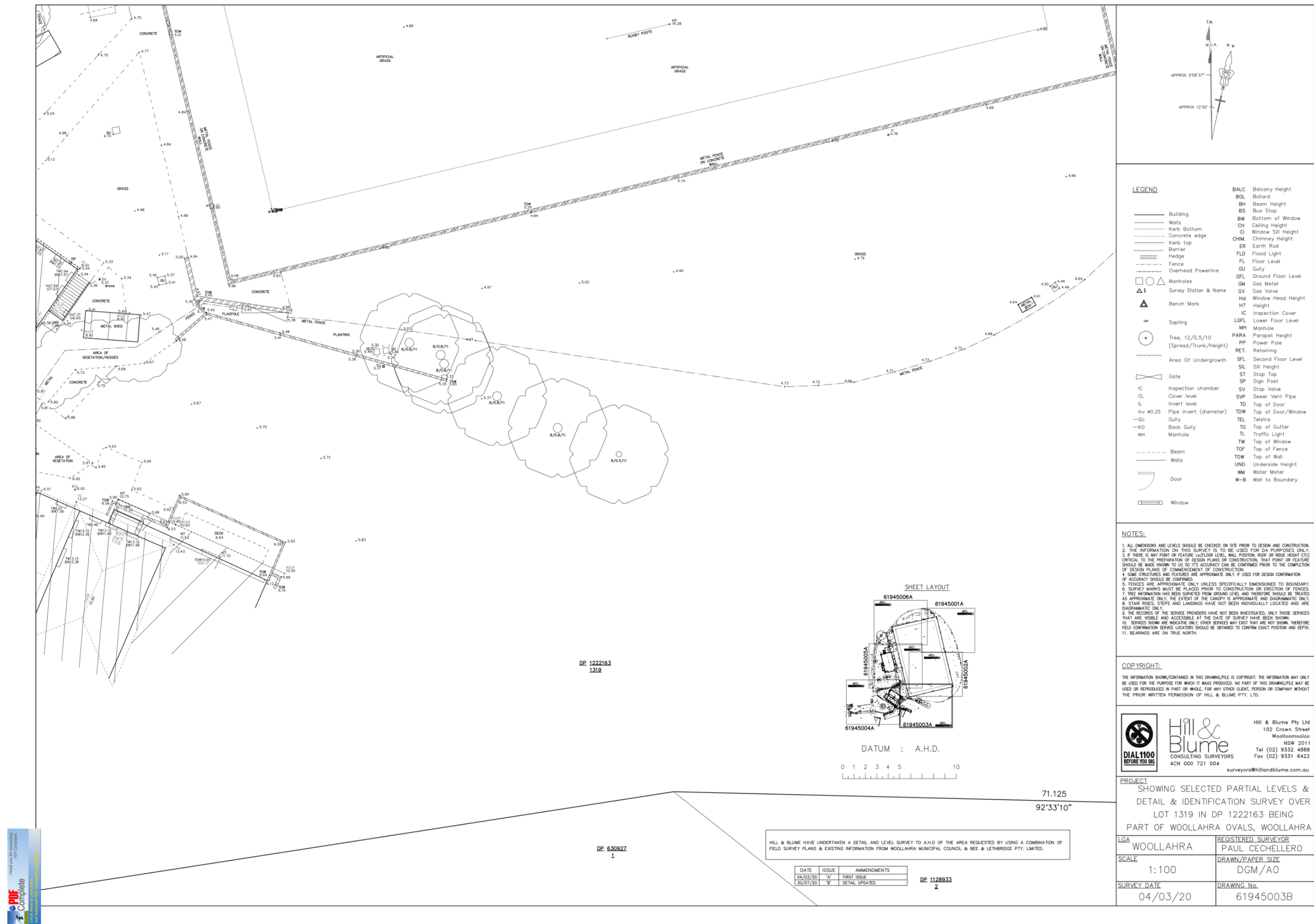
PLANTING SCHEDULE																
	Code	Botanical Name	Common Name	Images	Height	Spread	Description	Seasonal/ Special Feature	Preferred Soil Conditions	Drought/Frost Tolerance	Pest & Disease Susceptibility	Maintenance Requirement	Availability	Nuisance	Longevity/ Growth Rate	Pot size/Density
TREES	Lag ind	Lagerstroemia indica x fauriei 'Tuscarora'	Crepe Myrtle		6m	4m	Medium sized tree with dark fuchsia-pink flowers from late Summer to early Autumn.	Beautiful fuchsia-pink crinkled flowers that are borne in late Summer.	It prefers a well drained moderately fertile moist sandy to clay soil that is tending acidic.	Grows in an open sunny to semi shaded position and is frost tolerant and drought tender when young.	Susceptible to powdery mildew, wax scale, aphids, leaf spot, sooty mold, Japanese beetle.	Low water requirement, responding to mulch and an occasional deep watering during dry periods, particularly for young plants.	Readily available from commercial nurseries.	Leaf fall in autumn. Relatively small leaflets.	Long-lived – 50 years plus in urban areas. Moderate.	100L
	Ulm par	Ulmus parvifolia	Chinese Weeping Elm		8-12m	12m	This long-lived deciduous tree has an erect stem and arching branches with pendulous tips and forms a broad spreading crown	Bark sheds in small platelets leaving marbled irregular patterned trunk.	Adaptable - Prefers moderately fertile soils with good moisture levels in summer. Drought sensitive	Tolerant of cold temperatures to minus 5°C.	Susceptible to aphids and thrips which may lead to sooty mould.	Regular watering during establishment. Relatively low branching. May require periodic crown lifting to provide vehicular clearance.	Generally available from commercial nurseries. Superior clonal material should be selected for propagation.	Leaf fall in autumn. Leaves are relatively small.	Long-lived – 50 years plus in urban areas. Moderate.	100L
	Jac mim	Jacaranda mimosifolia	Jacaranda		10-15m	12m	This single or multiple trunked tree has corky grey bark and spreading curved branches that form a rounded open crown.	It has a light green divided fern-like leaves and the bluish bell-shaped flowers appear in a cluster in late spring on a leafless tree.	It prefers a moist deep well drained poor to moderately fertile sand to clay soil.	It grows in an open sunny position. It is drought and frost tolerant once established.	Susceptible to aphids, root rot, phytophthora, red spider mite, whiteflies under glass.	Once established it has a medium water requirement, and responds to mulching with an occasional deep watering during dry periods.	Generally available from commercial nurseries.	Early Summer large flower drop, and late Winter leaf drop.	Medium growth rate.	400L
	Tri lau	Tristanopsis laurina	Water Gum		10-12m	8-10m	Small compact tree with light smooth bark and yellow flowers in Spring.	Dull green dense foliage, small yellow flowers during November to January.	Prefers moist fertile soils with good moisture levels in summer. Adaptable to a wide range of soil conditions.	Tolerant of low temperatures to minus 3°C. Prefers a sheltered spot.	No known susceptibility to any specific pests or diseases.	Regular watering during establishment. May require formative pruning to ensure development of a single trunk.	Generally available in commercial nurseries.	Consistent foliage & debris (nuts & dead leaves) some bark shedding in small strips.	Long-lived – 50 years plus in urban areas. Fast growth rate.	100L
SHRUBS	Acm smi	Acmena smithii "Allyn Magic"	Dwarf Lilly Pilly		0.5m	0.5m	A native Australian, compact lilly pilly with glossy green foliage and copper coloured new growth.	Perfect for low hedges and borders with richly coloured new growth appearing throughout the year following pruning.	Grows well in most soil types which are reasonably well draining.	Tolerant of cool temperate to tropical environments Full sun to part shade.	No major pest or disease problem, rhizomes shoots after fire or disturbance	Has a naturally dense habit but may be trimmed as required.	Readily available from commercial nurseries.	N/A	Medium	45L
	Lom tan	Lomandra Tanika	Tanika		1m	1m	This rhizomatous rush-like perennial forms a tussock-like clump. It has soft fine textured deep green foliage.	During early spring a yellowish flower head appears and the plant is used in patio pots or along borders.	It tolerates heavy clay to well drained sandy soils that are moderately fertile.	Full sun, open position; frost, drought and pollution tolerant	No major pest or disease problem, rhizomes shoots after fire or disturbance	It has a low water requirement once established.	Readily available from commercial nurseries.	Pruning not normally required, but will recover well if cut back hard.	Fast	6 Plants per sq metre
	Poa lab	Poa labillardieri	Tussock Grass		0.3 - 0.8 m		Poa labillardieri is a dense perennial tussock grass with long, slender, soft, greyish-green or blue-green leaves in a weeping habit.	Delicate plume like flowerheads in spring to summer extend above the foliage up to 1.2 metres.	Prefers moist well drained soils, but will grow on slightly dry soils. It is not very well suited to growing on harsh shallow soils.	Tolerates full sun, but prefers dappled shade. Tolerates moderate salt winds and frost.	No major pest or disease problem	It has a low water requirement once established.	Readily available from commercial nurseries.	Pruning not normally required, but will recover well if cut back hard	Short lived with a fast growth rate.	6 Plants per sq metre
	Dia rev	Dianella revoluta	Spreading Flax Lily		0.6 - 1m	1m	This rhizomatous perennial has rigid strap-like dark green leaves that form a clump.	The upright branched inflorescence has nodding dark blue star-shaped flowers that appear from late spring to summer followed by dark blue berries.	Well drained, moderately fertile sandy/stony soils, tolerates lime	Drought, salt and frost tolerant	No major pest or disease problem	It has a low water requirement once established.	Readily available from commercial nurseries.	Pruning not normally required, divide to contain during spring	Fast	6 Plants per sq metre
GROUNDCOVERS																

 <div>Paterson Design Studio Landscape Architects / Urban Designers Paterson Design Studio PTY. LTD 16a/1-15 Tramore Place Killarney Heights, NSW 2087. <small>Copyright by PDS Pty Ltd. This drawing, or parts thereof, may not be reproduced for any purpose without the consent of PDS Pty Ltd. It is implied and has legal backing. These drawings are to be read in conjunction with the specification and any other written instructions issued. Any discrepancies shall be referred to the Superintendent for a written decision prior to ordering supply/installation/ construction.</small></div>	Registered Landscape Architect: Garth Paterson FAILA Reg#716 BLA (CANB) MLAUD (HARV) T +61 2 9452 4911 admin@pdsdesign.com.au www.pdsdesign.com.au	NOTES. DRAWINGS PRODUCED AND PRINTED COLOUR			
	REV.	DESCRIPTION.	DWN.	CHK.	DATE.
	A	Development Application Landscape Plan	DC	GP	03/06/20
	B	Development Application Landscape Plan	DC	GP	08/03/22

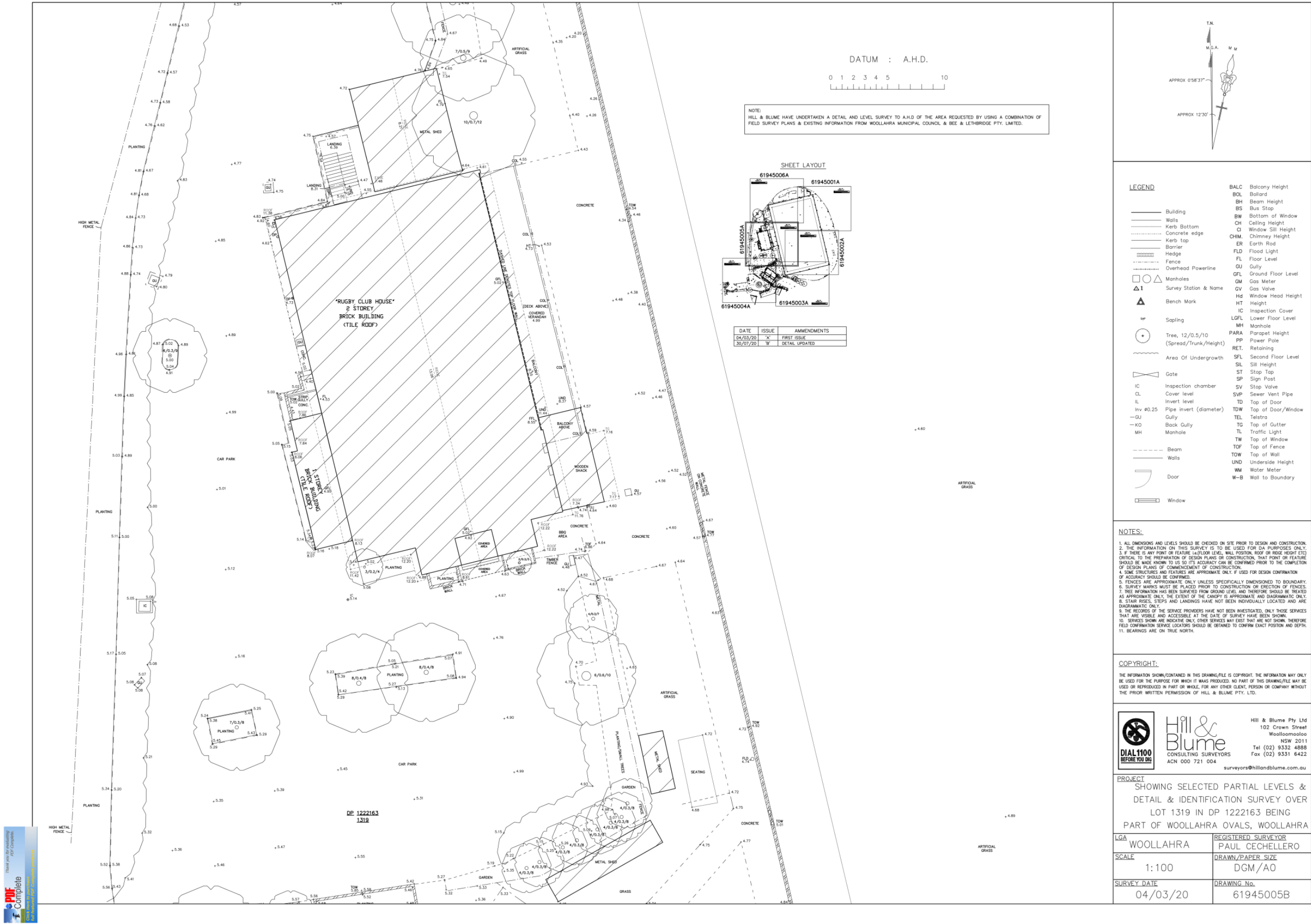
PROJECT EASTS RUGBY CLUB PROPOSED AMENITIES DEVELOPMENT 22a O'SULLIVAN RD, ROSE BAY NSW 2029 LOT 1319 DP 1222163	CLIENT. EASTERN SUBURB RUGBY CLUB	ARCHITECT. ROTH ARCHITECTS	DWN. DC DATE. 08/03/22	CHK. GP	
		DRAWING TITLE. LA 300 - PLANTING SCHEDULE	SHEET. A3	REVISION. B	
			SCALE.	PROJECT NO.	



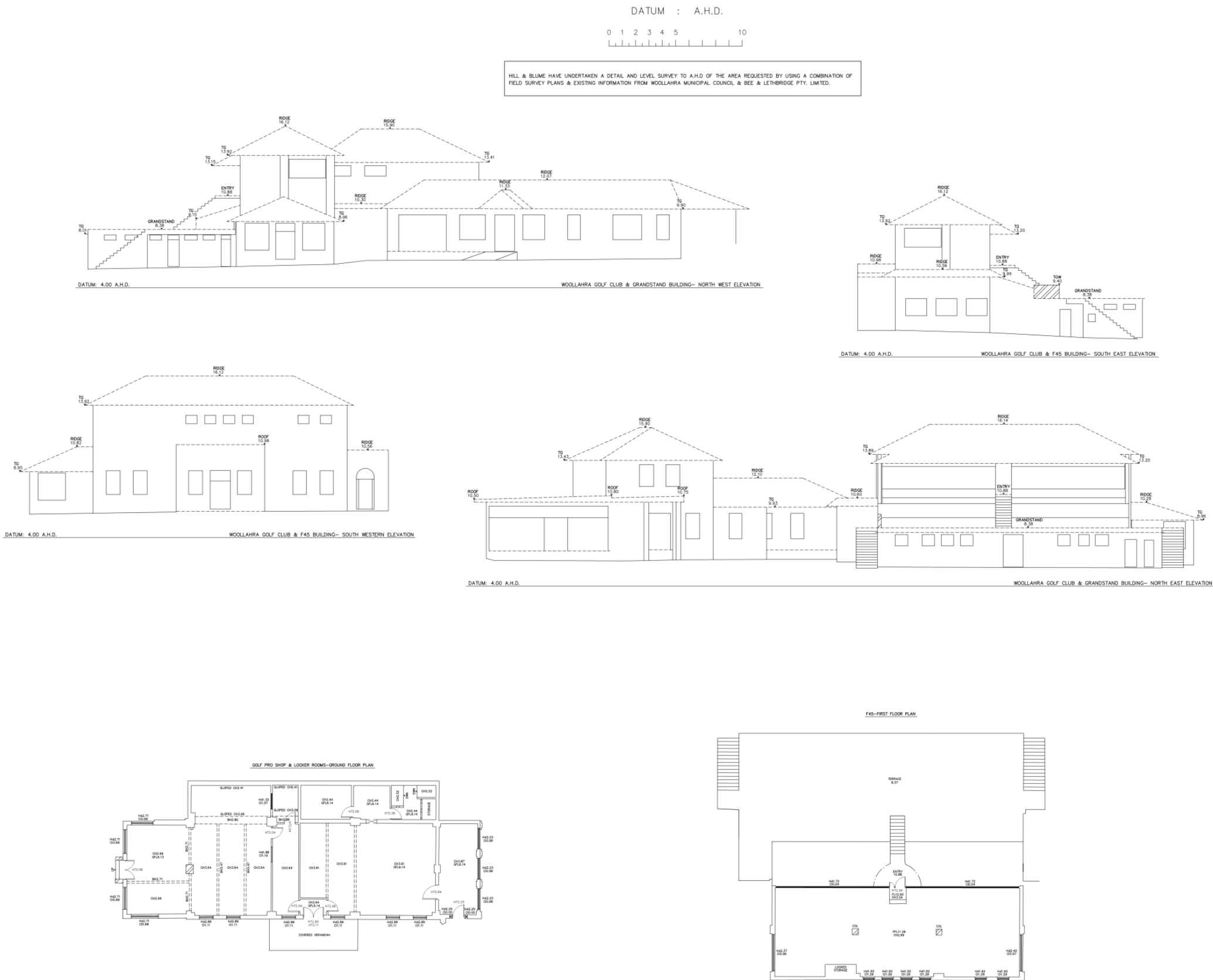












LEGEND

Building	BALC	Balcony Height
Walls	BOL	Bollard
Kerb Bottom	BH	Beam Height
Concrete edge	BS	Bus Stop
Kerb top	BW	Bottom of Window
Barrier	CH	Celling Height
Hedge	CI	Chimney Height
Fence	CHIM	Chimney Height
Overhead Powerline	ER	Earth Rod
Manholes	FLD	Flood Light
Survey Station & Name	FL	Floor Level
Bench Mark	GU	Gully
Sapling	GFL	Ground Floor Level
Tree, 12/0.5/10 (Spread/Trunk/Height)	GM	Gas Meter
Area Of Undergrowth	GV	Gas Valve
Gate	Hd	Window Head Height
IC	HT	Height
CL	IC	Inspection Cover
IL	LGFL	Lower Floor Level
Inv #0.25	MH	Manhole
GU	PP	Parapet Height
Bus Gully	PARA	Power Pole
Manhole	RET	Retaining
Beam	SFL	Second Floor Level
Walls	SIL	Sill Height
Door	ST	Stop Tap
Window	SP	Sign Post
	SV	Stop Valve
	SVP	Sewer Vent Pipe
	TD	Top of Door
	TDW	Top of Door/Window
	TEL	Telstra
	TO	Top of Gutter
	TL	Traffic Light
	TW	Top of Window
	TOF	Top of Fence
	TOW	Top of Wall
	UND	Underside Height
	WM	Water Meter
	W-B	Wall to Boundary

NOTES:

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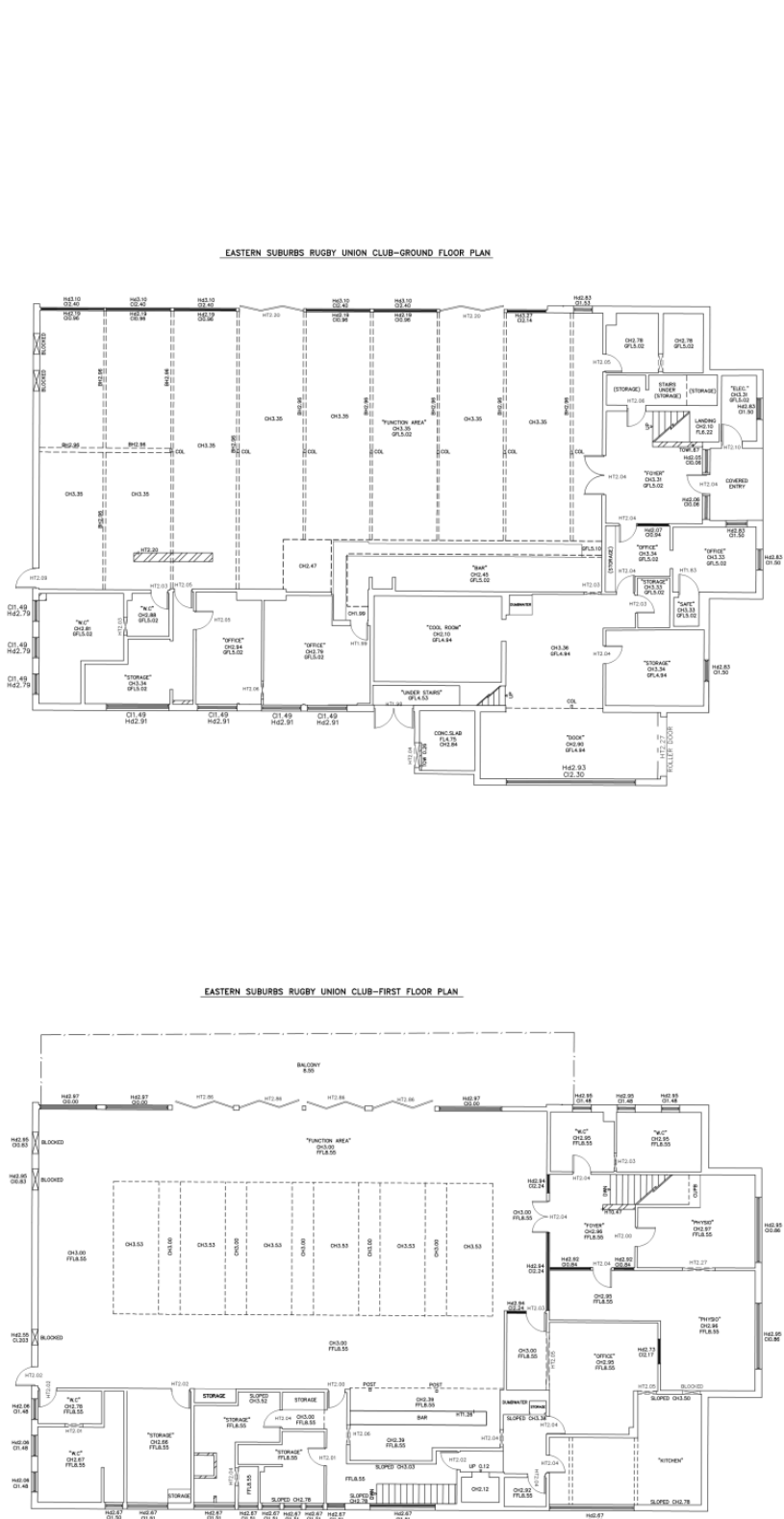


Hill & Blume Pty Ltd
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Woollahra NSW 2011
Tel (02) 9332 4888
Fax (02) 9331 6422
surveyors@hillandblume.com.au

PROJECT

SHOWING SELECTED ELEVATIONS
AND FLOORPLANS OVER
LOT 1319 IN DP 1222163 BEING
50 O'SULLIVAN ROAD, WOOLLAHRA.

LGA	WOOLLAHRA	REGISTERED SURVEYOR	PAUL CECHELLERO
SCALE	1:100	DRAWN/PAPER SIZE	DGM/AO
SURVEY DATE	04/03/20	DRAWING No.	61945007B



LEGEND	
	Building
	Walls
	Kerb Bottom
	Concrete edge
	Kerb top
	Barrier
	Hedge
	Overhead Powerline
	Manholes
	Survey Station & Name
	Bench Mark
	Sapling
	Tree, 12/0.5/10 (Spread/Trunk/Height)
	Area Of Undergrowth
	Gate
	IC Inspection chamber
	CL Cover level
	IL Invert level
	Inv #0.25 Pipe invert (diameter)
	GU Gully
	W/G Busk Gully
	MH Manhole
	Beam
	Walls
	Door
	Window
BALC	Balcony Height
BOL	Bollard
BH	Beam Height
BS	Bus Stop
BW	Bottom of Window
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PROJECT

SHOWING SELECTED PARTIAL LEVELS
AND FLOORPLANS OVER
LOT 1319 IN DP 1222163 BEING
EASTERN SUBURBS RUGBY UNION CLUB.

LGA	WOOLLAHRA	REGISTERED SURVEYOR	PAUL CECHELLERO
SCALE	1:100	DRAWN/PAPER SIZE	DGM/AO
SURVEY DATE	04/03/20	DRAWING No.	61945008B

**ETHOS
URBAN**

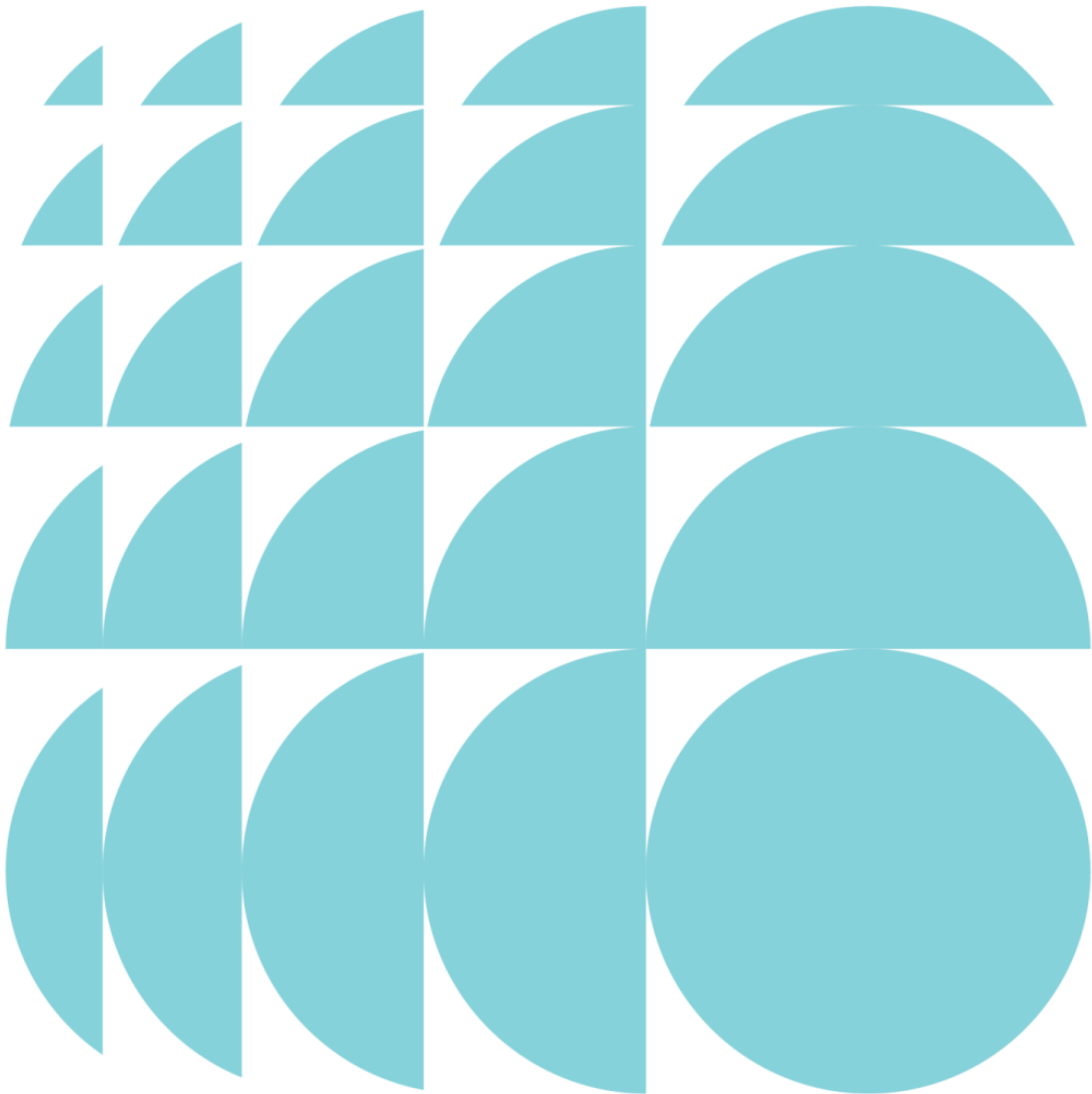
Plan of Management

FINAL REPORT

Eastern Suburbs District Rugby Club - Change
Room Amenities Development

Prepared for Easts Rugby Club

19 May 2021 | 2200727



CONTACT

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This document has been prepared by:

This document has been reviewed by:



Hannah McDonald

19 May 2021

Allison Heller

19 May 2021

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VERSION NO.

DATE OF ISSUE

REVISION BY

APPROVED BY

V2

19 May 2021

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1.0 Introduction

1.1 Purpose of this Plan

This Plan of Management (PoM) has been prepared on behalf of Eastern Suburbs District Rugby Club (referred to as "the Club") to support the function of the future Club house at 22a O'Sullivan Road, Rose Bay. The proposed development for a new licenced Club house is currently at the Development Application stage, and once operational, this PoM will apply.

The purpose of the PoM is to protect the amenity of the surrounding residential and other sensitive uses and protect the wellbeing of patrons and staff associated with the Club. To achieve this, the PoM outlines measures to control the external effects of the operation of the licenced premises on the community and outlines how operations are to be managed by the Club.

This PoM responds to the requirements of Woollahra Council's *Attachment 7 Social Impact Reports and Management Plans*.

It is noted that the Club has an existing liquor licence (club liquor licence number LIQC300227081). It is also noted that not all aspects of the operation of the Club, post development, are fully resolved at this stage. This Plan has been prepared on the basis of best available information at the current time, and will be updated in due course.

1.2 Site context

The subject site is located in Woollahra Park, in the suburb of Rose Bay in the Eastern Suburbs of Sydney. The subject site is situated at the south-western side of Woollahra Park, west of the Sydney Royal Golf Club (see **Figure 1**). The site is accessible via O'Sullivan Road to the west.

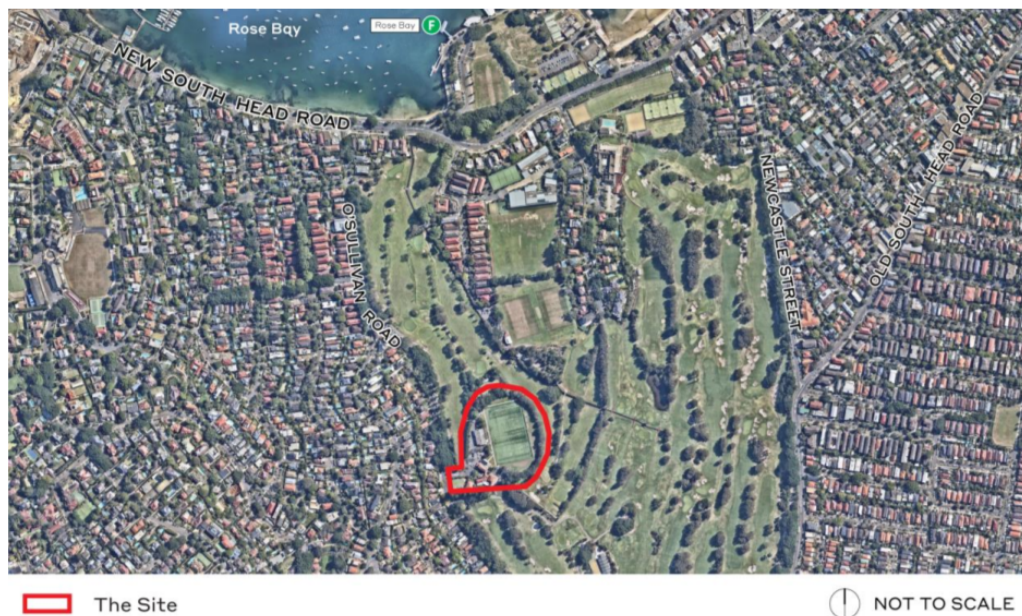


Figure 1: Site Location

Source: Nearmap & Ethos Urban

1.3 Existing built form

Woollahra Park is 21.4 Ha and made up of several existing buildings. To the north from the carpark accessible off O'Sullivan Road is Eastern Suburbs Rugby Union Club house, a two-storey brick building with a metal roof.

To the south of this is the George Grimley Pavilion, a two-storey rendered building with a tile roof which overlooks Woollahra Oval number 1 to the north-east.

South of this is the Woollahra Golf Club house, a one and storey rendered building with a tile roof. The subject site consists of on-site outdoor parking to accommodate users of Woollahra Park and its amenities.

The site is largely flat, with the area for the proposed development sloping down approximately 0.75 metres from south to north.

1.4 Proposed Development Application

East's Rugby Club are currently preparing a Development Application for the construction of a new two storey change room amenities development of appropriate contemporary design at 22a O'Sullivan Road, Rose Bay.

The proposed development is located within Woollahra Park, between the Eastern Suburbs Rugby Union Club house, the George Grimley Pavilion and Woollahra Oval number 1.

The location of the proposed development is positioned strategically to improve connections to the field, carpark and adjacent buildings, while preserving the significant heritage aspects of the George Grimley Pavilion (refer to **Figure 2**).

The proposal seeks removal of the existing change room adjacent to the George Grimley Pavilion which are in need of urgent upgrades, so that more of the building's form and bulk may be contained within an appropriate area.

On the ground floor, the proposal includes (refer to **Figure 3**):

- New female and male changing rooms for home and away teams, along with respective shower and toilet facilities;
- New accessible public toilets, team storage lockers, a first aid room, ample storage space, and an umpires room;
- A new grandstand structure to the North of the proposed building;
- Demolition/removal of three metal sheds, to be replaced with adequate storage facilities found in the proposed building, and
- Removal of eight site trees, to be replaced with new planting beside the proposed building.

On the first floor, the proposal features (refer to **Figure 4**):

- A new community room, gym area, and rooftop terrace, accessible via the main west staircase, the staircase beside the grandstand, the staircase to the south, or elevator.

Once the proposed development is operational, this PoM will apply.

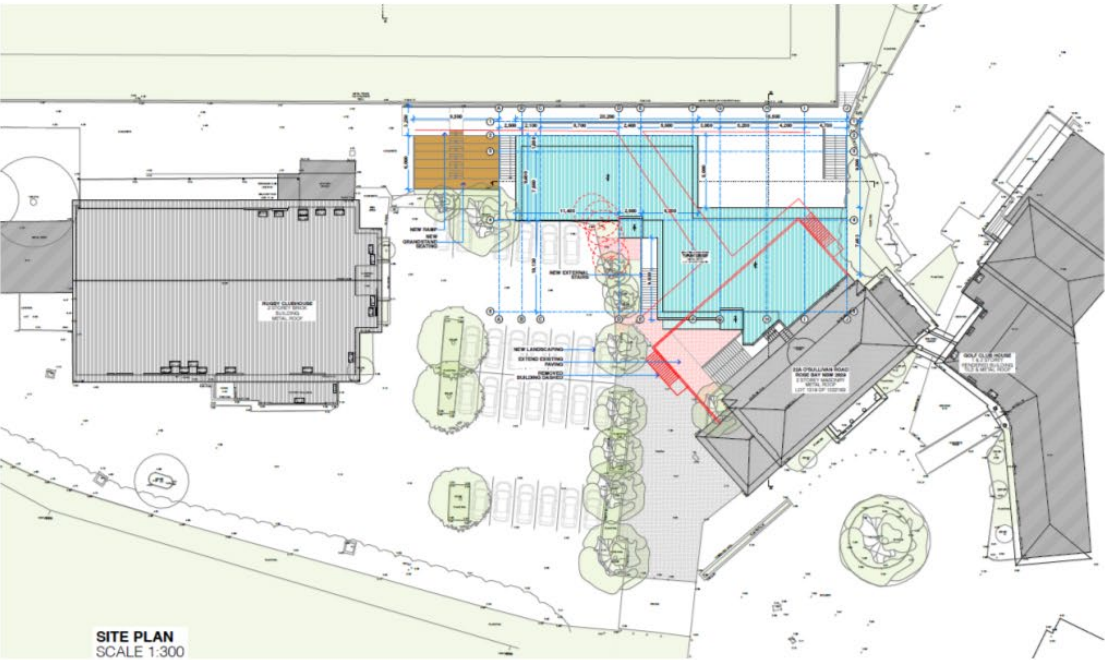


Figure 2: Location of the proposed building on the site
Source: Roth Architects

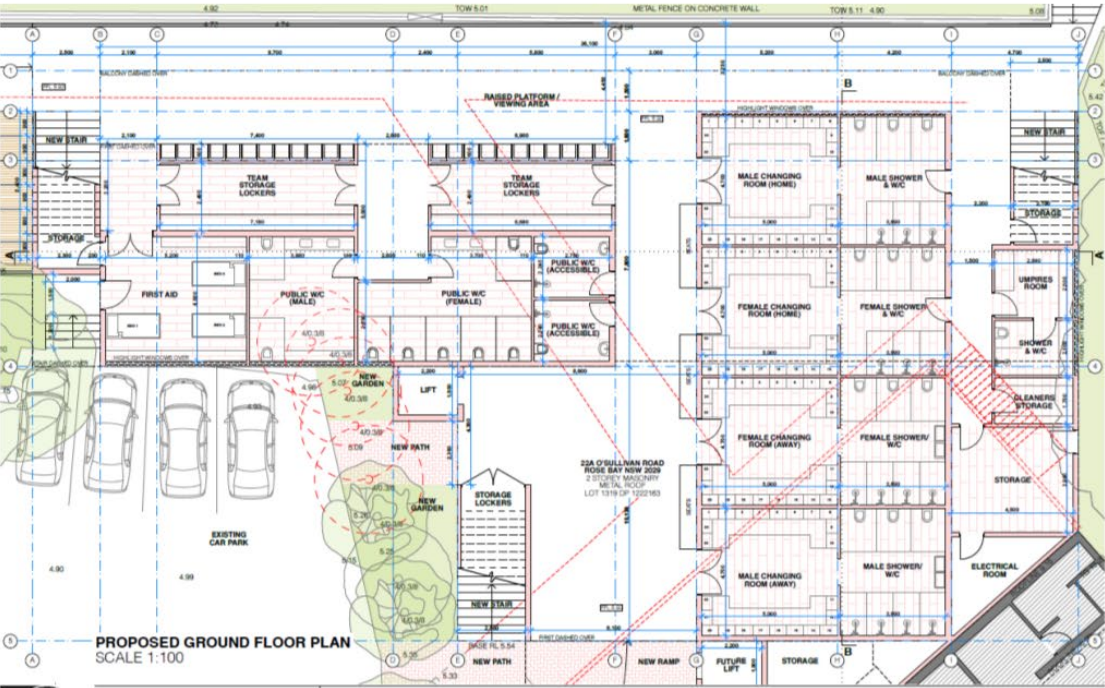


Figure 3: Proposed Ground Floor
Source: Roth Architects

Eastern Suburbs District Rugby Club | Plan of Management | 19 May 2021

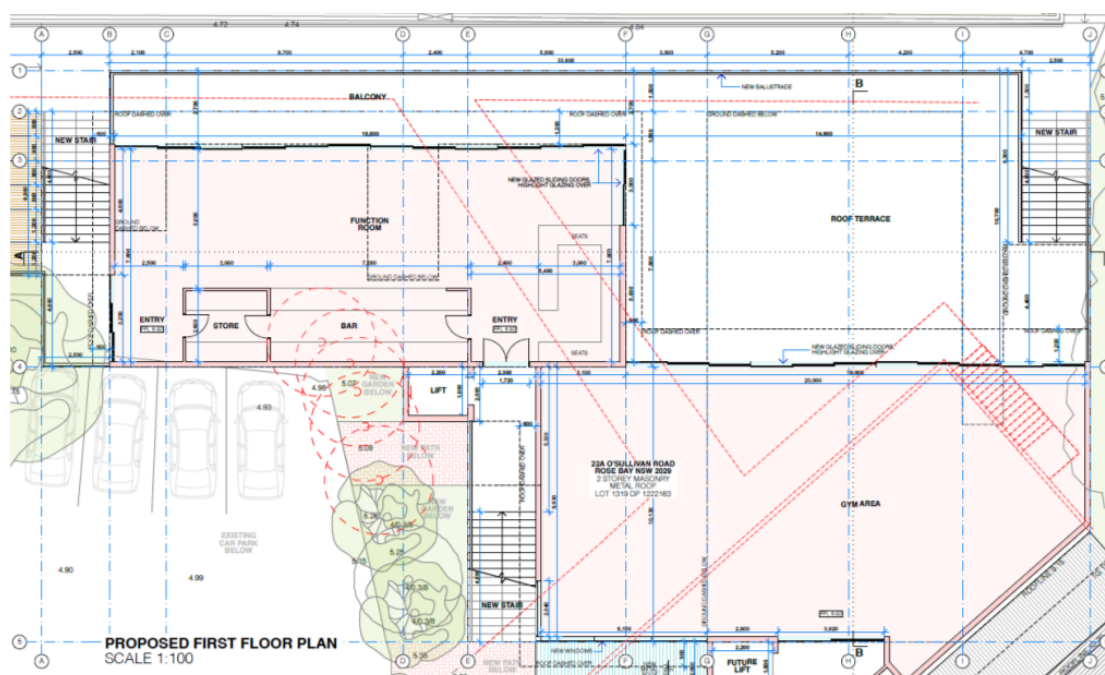


Figure 4: Proposed First Floor

Source: Roth Architects

1.5 Objectives of the Plan of Management

The objectives of the PoM are to:

- Provide an easy-to-follow document that outlines how the Club will be managed and maintained in a manner that provides for a high standard of accommodation for all Club patrons, staff and other members of the community.
- To ensure that management policies and procedures support the successful operation of the Club as a responsible and responsive member of the local community.
- Ensure that all servicing of the Club is carried out in a coordinated, safe and managed manner, with minimal disruption to the surrounding area.
- Ensure that vehicle access and traffic generation associated with the Club has a minimal impact on the local road network.
- Create an environment that is safe and non-threatening to Club patrons, staff and other members of the community.
- Minimise any noise and encourage patrons to leave the premises in a quiet and orderly fashion to not disturb the surrounding community.
- Effectively manage the provision of alcohol on site and discourage rapid or excessive consumption of alcohol.
- Ensure all staff and Club volunteers are trained on their responsibilities and have a sound understanding of management procedures adopted by the operator.
- Minimise the impacts of the operation of the premises on the community and surrounding amenity and to respond to community concerns promptly and professionally.

1.6 Implementation

The PoM is a dynamic document which can be updated to respond to changing regulations, procedures and practices.

All Club staff and volunteers will be provided with a copy of the PoM and briefed on the requirements.

A copy of the PoM will be available on site at all times.

The Club has and will adhere to the following rules of operation at all times:

- Comply with all regulatory approvals (Development Consent and Liquor Licencing);
- Comply with its House Policies (emergency and evacuation Procedures, RSA, cash handling and the like), and
- Ensure compliance with this PoM.

2.0 Daily venue operation

2.1 Liquor Licence

The current liquor licence held by Eastern Suburbs District Rugby Union Club is a club liquor licence (number LIQC300227081). This licence was granted on 22 February 1960. As per the NSW Liquor Act 2007, a club licence authorises the licensee to sell liquor by retail on the licenced premises to a member of the club (or a guest of a member of the club) for consumption on or away from the licenced premises.

Eastern Suburbs District Rugby Union Club has been subject to a number of conditions since the licence was granted on 22 February 1960. These include (in descending date order):

- Start date 04/03/2016: Liquor must not be sold or supplied between midnight and 5.00am on more than twelve occasions within any 12-month period. At least 14 days before each occasion the following persons or bodies must be notified: (a) the local police, (b) the local consent authority, (c) the Secretary. Note: This condition does not limit or prevent extended trading during the following periods: 1. Between midnight and 2:00AM on 1 January each year, and 2. During any period when the club would otherwise be authorised to sell and supply liquor in accordance with section 13 of the Liquor Act 2007.
- Start date 29/10/2008: CONDITION PURSUANT TO S.17AA COMPLAINT IMPOSED ON 28 OCT 2008: The club is to have regard to the quiet and good order of the neighbourhood when determining the type of functions to be held on the licenced premises.
- Start date 29/10/2008: After 09:00pm on Saturday nights and a function night, the doors and windows are to be kept closed to minimise noise impact on neighbours, such that: The LA10* noise level emitted from the licenced premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence. The LA10* noise level emitted from the licenced premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the licenced premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am. * For the purpose of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licenced premises.
- Start date 29/10/2008: CONDITIONS IMPOSED ON 18 APR 2005 PURSUANT TO 17AA COMPLAINTS (VARIED ON 23 OCT 2008): The staff member in charge at the club on any night is to have a mobile phone for the purpose of receiving any complaints. The phone has to be active and the staff member is to immediately respond and seek to resolve any complaint.
- Start date 01/07/2008: No party to the Section 17AA proceedings is to make known to any other person not being a party, the names or addresses of any other party in the proceedings; in particular, no member of the premises is to be informed either directly or indirectly of the identity or location of any complainant.
- Start date 01/07/2008: Management of Easts to arrange to have bottle collection after 06:00am.

- Start date 01/07/2008: The staff member in charge at the club on any night is to have a mobile phone for the purpose of receiving any complaints. The phone has to be active and the staff member is to immediately respond and seek to resolve any complaint. The phone number is to be distributed by the way of a letterbox drop in the local area.
- Start date 01/07/2008: The club will comply with the Management Plan, lodged with the Office of Liquor, Gaming and Racing on 17 MAR 2005, and continue to implement the objectives of the plan.
- Start date 01/07/2008: Non-restricted area authorisation Whole of premises excluding Poker Machine Area.
- Start date 01/07/2008: Functions are to cease at midnight.
- Start date 01/07/2008: Discourage live music at functions and noise level to be moderate to comply with the noise emission criteria.

It is envisaged that the proposed uses on the site under the Development Application will be aligned with the current club liquor licence as per the NSW Liquor Act 2007.

2.2 Access

The main entry is located on the western corner of the premises, at the entry stairs located adjacent to the existing car park (see **Figure 5** below). This entry point provides access to the first floor uses including the community room, roof terrace and gym area. There is another point of access to the first floor with stairs providing access from the ground level to the roof terrace (southern boundary) and to the community room (northern boundary) (see the proposed floorplan in **Figure 3** above).

The internal ground floorspace is serviced by multiple points of entry on the eastern boundary of the building. This is to service floorspace with distinct areas, being the team storage lockers, first aid, public toilets, male changing rooms (home and away), female changing rooms (home and away) and umpire's room and storage.

Both these access points can also be used as a main exit point from the premises in the evenings to minimise noise.



Figure 5: Render image of the proposed Development Application

Source: Roth Architects

2.3 Capacity

The community room has capacity for 126 people, and the gym has capacity for 63 people.

3.0 Music and noise mitigation

3.1 Provision of music

There are sensitive receivers in close proximity to the site. A condition to Eastern Suburbs District Rugby Union Club's liquor licence imposed on 1 July 2008 states "discourage live music at functions and noise level to be moderate to comply with noise emission criteria".

Music played through speakers will be played at an appropriate volume that does not disturb the surrounding residential community.

No music will be played after 23:00.

The Club Executive reserve the right to decrease in volume or turn of any unreasonable music during a function.

The Club will be managed to minimise the potential of causing nuisance, or an offensive noise as defined in the *Protection of the Environment Operations Act 1997* to adjoining properties and surrounding land uses.

3.2 Noise attenuation measures

The proposed design of the new Club building accommodating new change room amenities, community room and gym proposes to use soundproof materials to prevent noise from travelling.

There is no indication that noise levels will exceed the L10db (A) limit of 10 decibels above normal background noise levels.

More specifically, as per the Club liquor licence condition, the LA10* noise level emitted from the licenced premises will not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 and 12:00 midnight at the boundary of any affected residence. The LA10* noise level emitted from the licenced premises will not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the licenced premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00.

After 9:00 on Saturday nights and on function nights, the doors and windows to the community room will be kept closed to minimise noise impact on surrounding neighbours.

Function will cease at midnight to minimise noise impact on surrounding neighbours.

All patrons of the Club will be made aware to keep noise to a minimum when existing the Club through the display of signage and direction from staff and security guards.

Details of any complaints associated with noise will be recorded in the Club's complaints register. Should complaints be received in relation to noise, staff will monitor the behaviour of patrons from the premises or relocate them inside the premises.

3.3 Staff closing procedures

Following the end of the alcohol restriction at 12:00am, staff and security guards will ensure all doors and windows are closed to ensure noise is maintained to a minimum the clean-up procedure takes place. Rubbish and bottles will be disposed of throughout the course of the day/evening to ensure limited disruption to surrounding neighbours.

Once ready to depart, the lock-up process will be orderly and staff will depart in single file from the car-park entrance to the venue, keeping noise to a minimum. Group conversations will not occur at the entrance, in the car park or on the street.

3.4 Surveillance of smoking areas

Smoking is not permitted in any internal areas of the Club. Those smoking outdoors will need to do so in the allocated areas. Staff and security will monitor these designated areas to avoid the excessive emission of noise, and to ensure responsible disposal of cigarette butts.

3.5 Minimising impacts to the surrounding environment

East's Rugby Club buildings will display appropriate signage located near exits enforcing patrons to leave the club quietly and making them aware that noise is a problem given close proximity to residents.

Staff will instruct all patrons that they must behave in an orderly manner whilst in the confines of the Club and whilst entering or leaving if required.

4.0 Amenity considerations

4.1 Lighting

External lighting will be provided around the building and building entries to enable clear vision and will be designed in such a manner so as to prevent concealment and shadowing. The standard of lighting will not only reduce the fear of crime in accordance with Australian lighting standards.

This will ensure patrons and staff feel safe, surfaces are visible at night and to discourage loitering when patrons leave the premises.

4.2 Waste

The waste will be removed via Council and building permitted waste bins on premises – provider yet to be confirmed. Recycling of cardboard/paper, glass, cans and plastic will be in place to minimise waste impact. The waste bins are located on the southern boundary of the site and managed onsite.

As per the condition imposed on the Eastern Suburbs District Rugby Union Club's liquor dated 1 July 2008, the Club will arrange to have bottle collection after 06:00am.

4.3 Deliveries

To prevent disturbance of the amenity and impact to surrounding neighbours, deliveries are to be regulated to occur after 06:00.

4.4 Management of patrons who are smoking

Smoking is not permitted in any internal areas of the Club. Smoking is not permitted in any outdoor area where food is permitted to be consumed. Likewise, the consumption of food is not to be permitted in any area designated as a smoking area.

Security guards and staff will manage surveillance of smoking areas to ensure no excessive emission of noise.

Appropriate bins will be provided to manage the responsible disposal of cigarette butts.

5.0 Safety and security

5.1 Number of patrons entering and existing

Patrons are expected to sign-in to the Club upon arrival and sign-out when existing. This will monitor the number of people at the premises at any given time.

When it is believed there are more than 100 patrons at the Club, staff will conduct a handheld tally on an hourly basis to monitor crowd management.

5.2 Security arrangements

A licenced security guard company is contracted to provide guards between 08:00 and midnight on Saturday's.

The provision of the on-site security guards is in accordance with the requirements of the relevant licensing laws.

5.3 Handling of large groups

Rose Bay Area command to be informed of any functions over 100 people and also a request from the Club for a Local Patrols to patrol O'Sullivan Road at the conclusion time of functions where possible.

The contracted security guards will monitor the behaviour of patrons lining up to enter the Club and within the venue.

Patrons are encouraged to arrive and exit the Club in small groups and in an orderly manner that does not disturb the surrounding community.

Security guards to advise patrons to leave quietly.

All staff are to enforce the House Policy.

All staff are to be education in the Responsible Service of Alcohol.

For functions:

- All music to cease by 23:30
- Bar service to cease by 23:00
- Guests must be off the premises by 00:00
- If hosts organise transport, proof and contact of transport to be provided
- Minimum of one security per 100 guests
- All guests must depart in a quiet and orderly manner
- Club staff will adhere by Responsible Service of Alcohol requirements. Service of alcohol can and will be terminated at their absolute discretion.
- Staff observe the right to request proof of age any guest.
- All functions will be notified to Rose Bay Police Station, including function host's name and contact details registered.
- Damage of club property and/or damage to the club or oval (including glass breakage) will be dealt with by the Club Executive.
- No alcohol is to be brought onto the premises
- No alcohol is to be taken off the premises.

For functions for 18th and 21st birthdays:

- Supervises alcohol available
- One parent/guardian per 25 guests
- One security guard per 50 guests
- A full disclosure of attendance list provided to include names, addresses and D.O.B
- Wristbands will be issued to the host (colour coded for age)
- Proof of age/guest verification required at the door
- No entrance permitted unless on guest list and issues with wrist band
- Windows and closed must be closed at 21:00
- Transport must be booked in advance to collect guests by 23:30; transport contact provided.

5.4 House Policy

The Club's House Policy endorses the Responsible Service of Alcohol. The Club are committed to the following:

- Encouraging patrons to drink in moderation
- Not serving persons under the age of 18 years.
- Not serving any patron to intoxication.
- Eliminating drink driving.
- Water station for patrons
- Offering low alcohol and non-alcoholic beverages.
- To encourage patrons to leave the premises in a quiet orderly fashion so as to not affect the neighbourhood.
- To immediately remove any intoxicated, disorderly or abusive patron from the club.

5.5 Monitoring patron behaviour

Monitoring patron behaviour adopts the procedure stated in the Club's House Policy.

Security guards and Club executive are responsible for monitoring the behaviour of patrons. They are responsible for preventing anti-social behaviour on the grounds of the premises and within the surrounding proximity, to ensure no disruption to the surrounding land uses and community.

Security guards and Club executive will enforce RSA policy and anyone that behaves antisocially, disorderly or is abusive will be immediately remove from the Club.

5.6 Availability of parking and transport

Public car parking is available on the site for patrons. When necessary, parking is also available on O'Sullivan Road.

Public transport access is not strong. Around 450m south of the site is a bus stop at Blaxland Road, serviced by bus route 326 to Bondi Junction.

Around 750m north of the site is a bus stop on New South Head Road, serviced by bus routes 323 (to Walsh Bay), 324 (to Edgecliff), 325 (to Walsh Bay) and L24 (to Wynyard in peak hour).

There are appropriate locations for ride share vehicles to enter and exit.

The footpath on the northern boundary of O'Sullivan Road has the width to accommodate active transport uses including cycling and pedestrians.

The Club building has appropriate change room amenities to support end-of-trip needs.

6.0 Handling of complaints and incidents

Staff will instruct all patrons that they must behave in an orderly manner whilst in the confines of the Club premises and whilst entering or leaving.

All staff will undergo complaints training to ensure that they are skilled in being able to appropriately manage complaints or when they are required to be elevated to a Manager. Generally, all complaints will be dealt with by the Club Executive.

Staff will be trained to handle complaints by teaching them the LAST process – Listen, Apologise, Solve and Thank. Staff are trained to know how and when to turn over complaints to the Club Executive.

The Club Executive will maintain a complaint register which will note any complaints made by the Police, Council, surrounding landowners and will endeavour to address any reasonable concerns brought forward.

Completion Date: 11 May 2022

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 177/2021/1
ADDRESS: O'Sullivan Road ROSE BAY 2029
PROPOSAL: Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.
FROM: Mr R Lam
TO: Mr V Aleidzans

1. ISSUES

- None
- Refer to comments and/or conditions from Council's Traffic Engineer separately

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced Issue A, prepared by Roth Architecture, dated 29 June 2020.
- Revised Architectural Plans, referenced Rev L, prepared by Roth Architecture, dated 24/03/22.
- Survey, referenced 61945006B, prepared by Hill & Blume, dated 04/03/20.
- Flood Risk Management Report, referenced TX14654.00-01.rpt.MiD.docx, prepared by Triaxial Consulting P/L, dated 25 June 2020.
- Flood Risk Management Assessment, referenced TX14654.00-01.ltr.MiD.docx, prepared by Triaxial Consulting P/L, dated 28 July 2020.
- Revised Stormwater Management Plan, referenced 2020/08-Rev B, prepared by Law & Dawson P/L, dated 09/03/22.

3. ASSESSMENT

Comments have been prepared on the following.

a. Site Drainage comments

The submitted concept stormwater plans are considered satisfactory in principle. Conditions will be imposed to ensure that stormwater will be discharged to a recognised public drainage system and that the existing drainage system is adequate.

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

Council's Drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions:

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 proposed change room.*
- b) Flood compatible materials shall be used for all flood exposed construction.*
- c) All flood exposed electrical wiring and equipment shall be waterproofed.*
- d) All flood protection measures shall 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

There are no works on Council's property as part of this application.

d. Traffic comments

Refer to comments/conditions from Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

Conditions will be imposed to ensure all parking spaces comply with AS2890.1.

f. Geotechnical, Hydrogeological and/or Structural comments

It appears from the submitted revised architectural plans that there is no excavation proposed a part of this application other than the construction of footings. As such, the submission of a geotechnical report is not required.

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)
TX14654.00-01.rpt.MiD.docx	Flood Risk Management Report	Triaxial Consulting	25 June 2020
TX14654.00-01.ltr.MiD.docx	Flood Risk Management Assessment	Triaxial Consulting	28 July 2020
2020/08 SW1-Rev B SW2-Rev B SW3-Rev B SW4-Rev B SW5-Rev B	Stormwater Management Plans	Law & Dawson P/L	09/03/22 09/03/22 09/03/22 09/03/22 09/03/22

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)	\$90,352	No	T115
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C.25 Soil and Water Management Plan – Submissions & Approval

C.35 Structural Adequacy of Existing Supporting Structures

C.36 Professional Engineering Details

C.45 Parking Facilities

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed plans and specifications for all bicycle, car parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities* and AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* respectively showing the following:

- All parking spaces must have minimum dimensions of 2.5m x 5.4m, to comply with AS2890.1.
- Minimum aisle width of 5.8m shall be provided to comply with AS2890.1.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking required to be provided and maintained by this consent.

Standard Condition: C45 (Autotext: CC45)

C.51 Stormwater Management Plan

Prior to issue of the 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) General design in accordance with stormwater management plans, prepared by Law & Dawson P/L, referenced 2020/08-Rev B, dated 09/03/2022, other than amended by this and other conditions,
- b) Stormwater from the development shall be collected and discharged into a recognised public drainage system,
- c) The existing public drainage system must be upgraded to ensure stormwater from the development will be adequately drained without causing any adverse impacts to the surrounding properties,
- d) All new Stormwater Drainage System complying with the BCA,
- e) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- f) Compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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).

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.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

C.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) A permanent flood risk management plan shall be installed in a prominent area of the proposed change room.
- b) Flood compatible materials shall be used for all flood exposed construction.
- c) All flood exposed electrical wiring and equipment shall be waterproofed.
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is completed 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.6 Adjoining buildings founded on loose foundation materials

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.13 Support of Adjoining Land Owners

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.20 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) pipe invert levels and surface levels to Australian Height Datum, and
- c) 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 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

Nil

J. Miscellaneous Conditions

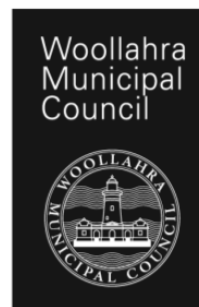
Nil

K. Advisings

Nil

Memorandum - Traffic

Date 1 August, 2022
File No. Development Applications: 177/2021/1
To Mr V Aleidzans
CC
From Ms C Bailey
Address O'SULLIVAN ROAD, ROSE BAY 2029



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 17 September 2021 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects prepared by Roth Architects, Reference Easts Rugby Club, Issue A, dated 29 June 2020;
2. Architectural Plans prepared by Roth Architects, Revision L, dated 24 March 2022;
3. Traffic Impact Statement prepared by TRAFFIX Traffic and Transport Planners, Reference 20.033r02v01, dated 8 September 2021.
4. Traffic Impact Statement prepared by TRAFFIX Traffic and Transport Planners, Reference 20.033r01v02, dated 28 October 2020.
5. Plan of Management by Ethos Urban, Reference 2200727, dated 19 May 2021.

Proposal

Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.

COMMENTS

Traffic Comments

Parking

The traffic impact statement has identified that the proposed buildings including function centre and gym are ancillary to the site's current use and will only be utilised by players and officials who are

already in attendance. As such, it is expected that there will be no additional parking generation for the site and there is no requirement for any additional parking spaces to be provided.

Accessible

It is noted that the site currently has Accessible Parking that is expected to be retained.

Bicycle

It is unclear from the plans and traffic statement provided if there are any existing secure bicycle parking on site. The DCP makes reference to a minimum requirement for a recreation facility for workers and visitors alike. It is anticipated that there is already sufficient bicycle parking on site for staff, however, if this development is approved, bicycle parking should be provided for visitors attending this site. For the calculation below, visitors have been determined by the maximum capacity of the function room and gym.

Visitors: $126 + 63 = 189$

Minimum requirement in DCP: 1 space per 15 Visitors

Bicycle spaces required: 12.6 **(13)**

Motorcycle

It is unclear if there are any dedicated motorcycle spaces on site, however, the TIS indicates there are 114 car parking spaces on site. If there are no spaces provided on site, this would represent a shortfall of 11 motorcycle spaces per the requirements of Council's DCP.

Overall, it is understood that the close proximity of the site to public transportation services and easy access to alternative transport options, including car sharing, cycling and walking, could provide some support and convenience for staff and visitors.

Traffic Generation

Given the proposed ancillary function of the proposed spaces to the site's current use, there is no volume increase of the popular events days for the site. This is not anticipated to be any adverse traffic generated by this application.

Access

There are no changes proposed to the current access arrangement and these are considered to be acceptable.

RECOMMENDATION

Should the development be approved, it is recommended that the following conditions be included as part of the DA consent:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
20.033R01V02	Traffic Impact Statement	TRAFFIX Traffic and Transport Planners	28 October 2020
20.033R02V01	Traffic Impact Statement	TRAFFIX Traffic and Transport Planners	8 September 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) Minimum 13 bicycle parking spaces provided on site for visitors.
- b) Other conditions imposed by Council's 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

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 AS2890.3:2015 *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
Car Parking	114
Bicycle Parking	13

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

Standard Condition: I21

22 November 2022

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 177/2021/1

ADDRESS: O'Sullivan Road ROSE BAY 2029

PROPOSAL: Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.

FROM: Nick Williams- Tree & Landscape Officer

TO: Mr V Aleidzans

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Roth Architects, dated 29th of June 2020.
- Survey Plan No. 61945001B, drafted by Hill & Blume, dated 4/3/2020.
- Revised Architectural Drawing No's DA.04 (M) - DA.15 (M), DA.23 (M) – DA.26 (M), drawn by Roth Architects, dated 19/7/2022.
- Stormwater Drainage Plan No's 2020/08-SW1-SW5 (Issue B), drawn by Law and Dawson, dated 9/3/2022
- Arboricultural Impact Assessment Report, written by Treetalk (Sue Wylie), dated March 2020
- Landscape Plan No's LA-000, LA-100, LA-200, LA-300, designed by Roth Architects, dated 8/3/2022.

A site inspection was carried out on. 22nd of November 2022.

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 proposal includes the removal of one mature *Melaleuca* tree (tree 2) of moderate landscape significance, and several Lilli Pilli trees that form a hedge (hedges 1 & 3). If tree 2 were retained it is likely the canopy would require substantial pruning to accommodate the proposed stairs that lead to the community centre. Additional impacts from root loss to accommodate footings are also probable.

There are generally no issues with the removal of most of the Lilly Pilli trees that form Hedges 1 & 3, to accommodate the grandstand and community centre footprint. Although the trees from an effective screen in their current position they are relatively young specimens and not considered to have high Landscape significance.

West of the proposed grandstand (within the same area as tree 2 and hedge 1) the proposal includes replacement tree planting of advanced *Jacaranda* and *Tristanopsis laurina*. These species are considered highly suitable compensatory plantings for this area and adequately compensate for the removal of existing landscape plantings.

The proposed new path that runs through Hedge 4 will mean that several relatively small trees from this hedge will need to be removed. Similar to Hedges 1 & 3 these trees are considered young with low landscape significance. Regardless the applicant should be required to specify the number of trees from Hedge 4 required to be removed and to ensure adequate compensatory tree planting is undertaken. Refer to Condition C.2 of this referral response.

To ensure the viable retention of the three (3) specimens within hedge 3 that are proposed to be retained ensure all of Conditions E within this referral response form part of any development approval. Arborist supervision is also required as per Condition B.3 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 Council Land

Council Ref No.	Species	Location	Dimension (metres)
3 (hedge)	3 x <i>Syzygium</i> sp. (Lillypilly)	North of the proposed new stair and storage locker area as indicated on the submitted Groundfloor Landscape Plan(LA-100)	7 x 3 metres
4 (hedge)	multiple <i>Syzygium</i> sp. (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	6 x 2 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 (hedge)	9 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	7 x 3 metres
2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	8 x 6 metres
3 (hedge)	5 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	7 x 3 metres
5	*Dead tree	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	9 x 4 metres

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

Note: The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.

- c) The following trees shall be pruned in accordance with *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry*, to the minimum extent necessary to provide clearance to the new development:

Council Ref No.	Species	Location	Approved pruning (extent of pruning)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	North of the proposed new stair and storage locker area	Crown lift lowest branches by a maximum of 1.8 metres. Maximum branch diameter to be pruned shall not exceed 70 mm in diameter at final cut.

Note: The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
LA-000, LA-100, LA-200, LA-300	Landscape Plan	Roth Architects	8/3/2022
	Arboricultural Impact Assessment Report	Treetalk	March 2020

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)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres
4 (hedge)	multiple <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 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) 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.
- g) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- h) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- i) 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	Location	Approved works
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	Footings for new stairs, pathway and soft landscaping works
4 (hedge)	multiple <i>Syzygium</i> <i>sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk	New pathway constructed above

		arboricultural report	grade
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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
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist shall inspect the installed irrigation system to plants in garden beds. The arborist shall certify there is an appropriate distribution of water to planted and existing trees. • Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.

Prior to any occupation or use of the building	<ul style="list-style-type: none"> • Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • The project arborist shall supervise the dismantling of tree protection measures • After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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 consistency with the submitted architectural drawings the Ground floor Landscape Plan must be amended to illustrate and specify the number of Lilly Pilli specimens in Hedge 4 required to be removed to accommodate the proposed new path that runs through Hedge 4. Additionally, The Landscape Plan must include an adequate number of replacement trees, of a suitable ornamental tree species (planted in the deep soil area north east or south west of Hedge 4) to compensate for the removal of trees within Hedge 4.

- b) To ensure the preservation of roots from Lilli Pilli trees to be retained within Hedge 4 the proposed new path located through the hedge must be constructed above grade utilising permeable pavers. The new surface shall be established above the former ground level. 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.

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 Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

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 *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
3 x <i>Tristaniaopsis laurina</i> (Water Gum)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	100 litre	8 x 5 metres
1 x <i>Jacaranda mimosifolia</i> (Jacaranda)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	400 litre	12 x 8 metres
1 x <i>Lagerstroemia indica</i> (Crepe Myrtle)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	100 litre	6 x 4 metres
3 x <i>Ulmus parvifolia</i> (Chinese Weeping Elm)	As plotted on Sheet LA100 of the submitted Roth Architects Landscape drawings	100 litre	10 x 8 metres

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)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres
4 (hedge)	multiple <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres

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 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
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			trunk (metres)
3 (hedge)	3 x <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	2.5 metres
4 (hedge)	multiple <i>Syzygium sp.</i> (Lillypilly)	Refer to Image 2 (page 4) of the submitted Treetalk arboricultural report	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.

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)

Nil

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

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.



Nick Williams
Tree Officer



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22 November 2022

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 177/2021/1

ADDRESS: O'Sullivan Road ROSE BAY 2029

PROPOSAL: Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.

FROM: Vanessa Wood - Heritage Officer

TO: Mr V Aleidzans

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Roth Architects, dated 19 July 2022, Issue M
- Heritage Impact Statement by John Oultram Heritage & Design, dated October 2020
- Statement of Environmental Effects by Roth Architects, dated 29 June 2021
- Survey plan by Hill & Blume, ref 61945001B, dated 04 March 2020
- Landscape drawings by Paterson Design Studio, dated 03 June 2020

Previous documentation provided by the applicant has also been examined for this referral response, including:

- Drawing set by Roth Architects, dated 19 April 2021, Issue J
- Sketch plan by Roth Architects, dated 18 November 2021, Issue K
- Amended drawings by Roth Architects, dated 24 March 2022, Issue L

SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was previously inspected on 22 June 2021, 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.
- Previous referral responses:
 - Heritage Referral Response by Nastaran Forouzesh dated 16 July 2021
 - Heritage Comments by Nastaran Forouzesh dated 6 December 2021
 - Heritage Comments by Nastaran Forouzesh dated 24 May 2022
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets (Heritage Assessment of Woollahra Golf Clubhouse and the George S. Grimley Pavilion by Weir Phillips dated September 2020)
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

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The following statutory and policy documents are relevant to the application:

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The proposed works are located within the allotment boundaries of heritage listed item 'George S. Grimley Pavilion', located within Woollahra Park. Woollahra Park is owned by the Woollahra Municipal Council and contains the Woollahra Golf Club, the Sydney Croquet Club, sporting ovals, and a multi-purpose active recreation reserve.

The statement of significance for 'George S. Grimley Pavilion' follows:

The George S. Grimley Pavilion, Woollahra Park, Rose Bay, has historic, associative, aesthetic and representative significance at a local level. Designed by the architectural firm of E.A. Scott and Green and erected in 1926, it provides evidence of Council's interest in providing public recreational facilities in the 1920s, an interest that continues today. The building was designed to serve a dual function: as a grandstand for the adjoining oval and as a place where community and private activities and functions could be held. The pavilion commemorates George S. Grimley, a long serving alderman of Woollahra Council and Mayor in 1930-31, 1938-29 and 1945-46.

The south-western half of the original building is readily recognisable as the building designed by E.A. Scott and Green and has high significance. This part of the building contains the original function rooms. While the upper part of the original grandstand above the function rooms has been enclosed and the tiered seating removed or concealed, the original tiled roof form above and the pillars supporting the roof remain. Any remnants of the tiered form of the grandstand that survives beneath the existing gym and the Colorbond roof immediately below are significant. The remainder of the north-eastern part of the building, comprising the 1978 addition, is not significant. The early addition on the north-eastern side has moderate significance.

Source: Heritage Significance Assessment by Weir Phillips, dated September 2020



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Figure 1. 'Aerial View of Rose Bay Golf Course, c. 1920s, Detail Only', Source: Fairfax Archivaes, National Library of Australia, sourced from Heritage Significance Assessment by Weir Phillips in September 2020

The Heritage Significance Assessment by Weir Phillips in September 2020 identifies the significant elements of the different parts of the George S. Grimley Pavilion in the figure below.



Figure 2. 'Significant elements of the George S. Grimley Pavilion' – areas of high significance have been coloured in red, moderate significance in yellow and little significance in green. The first floor of the building is identified as having high significance. Source: Woollahra Council, annotations by WP Heritage and Planning.

In addition, the following reduced curtilage has been recommended for the George S. Grimley Pavilion in the Heritage Significance Assessment by Weir Phillips:



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Figure 3. 'Reduced lot curtilage'. Source: Six Maps, annotation by WP Heritage and Planning.

The following historical development of the subject site has also been sourced from the Heritage Significance Assessment by Weir Phillips:

The Building:

Woollahra Council Minutes of the 1920s and 1930s reveal a keen awareness of the importance of open space and publicly accessible recreational facilities. In 1923, Woollahra Council received permission from the Governor of NSW to borrow £20,000 for the 'acquisition of park and recreation areas and the improvement thereof.' Accordingly, Woollahra Park was created and the first sod of earth turned by Alderman Grimley on 25 October 1924.

In 1926, architects E.A. Scott and Green were commissioned to prepare sketch plans of a pavilion it was proposed to call the George S. Grimley Pavilion in honour of the long serving alderman of Woollahra Council and Mayor in 1930-31, 1938-29 and 1945-46. In late 1926, the tender of A.R. Hinwood for the construction of the pavilion was accepted and, on 22 January 1927, Alderman Grimley laid the foundation stone.

The pavilion was officially opened on 25 October 1927 by the Mayor. At the time, it was described as providing seating accommodation for 1,000 people, a social hall, four dressing rooms and a kitchen. The original plans have not been located. In addition to providing a grandstand for the oval, the completed pavilion played an important role in the social life of Woollahra. Local organisations used the pavilion for meetings and events; private functions were also regularly held.

The building has a long history of alterations and additions, dating from the early-to mid 1930s. The most significant alterations were carried out in 1972 when the Eastern Suburbs District Rugby Union Club, who were now using the pavilion, removed seating on the north-eastern side and extended the building outwards to accommodate dressing rooms. Sometime after 1996, the remaining seating was removed and a gym constructed at the first floor level beneath the original roof form.

Source: Heritage Significance Assessment by Weir Phillips, dated September 2020

The following physical description of 'George S. Grimley Pavilion' has been sourced from the Heritage Significance Assessment by Weir Phillips:



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The George S. Grimley Pavilion is one and two storeys in height. The walls are rendered and painted masonry. The principal roof is hipped and clad in terracotta tile. The roof of the single storey wing on the north-western side is similarly hipped and clad in terracotta tile. The eaves are wide and timber lined. The change rooms on the north-eastern side have a flat concrete deck roof.

The principal building form is two storeys in height. A projecting band delineates the ground and first floors. The principal elevation is the south-western elevation. A single storey portico projects outwards from this elevation. The portico is wide and flat roofed. The roof is supported by square profiled and Doric columns and bears the words 'George S. Grimley Pavilion.' Within the portico there is a pair of framed and glazed doors with toplight, to either side of which is a timber framed double hung window with a single pane to the lower sash and multiple panes to the upper sash. There are two similarly detailed windows at ground floor level to either side of the portico. At first floor level, there are a series of highlight metal framed awning sash windows.

There is a single storey wing on the north-western side of the principal building form. It has a hipped roof and multiple paned doors and windows.

The original pavilion has been extended on the north-eastern side to provide dressing rooms with a flat roofed deck accessed via concrete stairs on either side. The original seating has been removed and the top section, beneath the principal roof, infilled to house a gym.

The pavilion is connected to the golf club via a single storey arcade on the south-eastern side.

1937-8: Alterations and additions (M.E.V Woodforde, architect).

1972: Removal of seating in the grandstand and extension on the north-eastern side of the dressing rooms (David Brindley and Vickery, architect).

1983: Alterations to the pro-shop.

1996: Internal refurbishment.

2008: Alterations to the gym.

Source: Heritage Significance Assessment by Weir Phillips, dated September 2020

The proposed works are to the building known as 'George S. Grimley Pavilion', within the Woollahra Park grounds, as well as to surrounding grounds. The inventory sheet for the subject site identifies the 1926 'George S. Grimley Pavilion' building, the 1930 single storey extension on the east side of the building, the interiors, and the forecourt on the south side of the building to be of significance.

National Parks and Wildlife Act 1974

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 07 July 2021 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 0m buffer in or near the above location.

The site does not contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.



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As a result, a Due Diligence Assessment was not required at DA stage. However, an unexpected finds condition of consent will be provided below.

Woollahra LEP 2014 Part 5.10 Heritage Conservation

The subject site is a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area. The following listing applies to the subject site:

- 'George S. Grimley Pavilion – 1926 building and interiors, 1930 single storey extension on east side of building and interiors, forecourt on south side of building' at O'Sullivan Road (within Woollahra Park) (Item No. 697)

The following consideration is provided.

The proposal entails works to the 'George S. Grimley Pavilion' building, to the existing sheds and stores in proximity to the pavilion, to trees in proximity, and to the car parking area.

A Heritage Impact Statement (HIS) by John Oultram Heritage & Design considers potential heritage impacts to the 'George S. Grimley Pavilion' heritage item. It is noted that the HIS includes the following recommendation:

Consideration be given to a more 'stand alone' location for the new building that separates it completely from the Pavilion and allows the visual and historic relationship to the sports field to be maintained retaining the setting of the Pavilion as a stand alone element.

In addition, the following recommended management for the heritage item has been sourced from the inventory sheet for the item in the Heritage Significance Assessment by Weir Phillips, dated September 2020:

The following management policies are recommended:

- *The overall form of the south-western half of the building, including the roof forms and columns supporting the tiled roof at first floor level, should be retained and remain clearly legible.*
- *The south-western elevation should be retained. The reinstatement of the original window openings at first floor level and the removal of the security awnings is to be encouraged.*
- *Alterations within the ground floor of the south-western half of the building (outlined in red and yellow in Figure 90) can occur but must take into consideration the surviving original fabric, including ceilings and joinery. There is greater scope for alteration in the area outlined in yellow, an early addition to the original building.*
- *The bathrooms within the ground floor of the south-western half of the building can be updated as required.*
- *The north-western half of the building (outlined in green in Figure 90) can undergo further alteration and addition, particularly with regard to the 1978 flat roofed addition. This later addition can be removed if required. Any remnants of the grandstand tiers that survive beneath the existing gym and the sloping Colorbond roof immediately below it are to be considered significant fabric. It is desirable to retain existing concealed tiering of the original grandstand which may provide an outlook towards the playing field if reinstated.*
- *It is desirable that an outlook beyond the curtilage defined by Figure 90 above towards the playing field be maintained for as long as the playing field is retained, particularly if concealed tiered seating has survived in the upper part of the grandstand and is reinstated.*



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The following consideration is provided:

Setting

- In the amended design, the footprint of the proposed ground floor level of the new building has been increased to align with the setbacks of the first floor roof terrace above. The first floor setback has previously been supported from a heritage perspective, on the grounds it provides sufficient separation between the new building and the heritage listed George S Grimley Pavilion. Furthermore, the extended footprint would have a negligible visual impact on the heritage item. As such, the proposed extension of the ground floor of the new building is supported from a heritage perspective.
- The amended design incorporates a proposed linking structure between the first floor roof terrace of the new building and the first floor of the heritage listed George S Grimley Pavilion. This is in the form of a new staircase and balustrade. The proposed works require the demolition of the existing stairs to the heritage item, but no other external works. As the existing staircase is not original or significant, its demolition is supported. Furthermore, as the proposed linking structure is in a sympathetic design that is appropriate to the heritage context, it is also supported.
- The proposed height of the new structure is consistent with the previous design iterations (Revision J- Revision L), and is therefore supported.
- As discussed in previous referral responses, the proposed rear additions will block views from the building to the oval. However, the existing oval is not original and the original relationship between the pavilion and the original oval has since been lost as a result of the changes to the oval, as well as to the pavilion itself. As a result, partially obstructing views to the oval is supported based on this merit.

External fabric

- The proposal to demolish the 1970s changing rooms to the rear of the building at ground floor level is supported in principal, as the fabric of this section of the building is not considered to be significant. Any remnants of the grandstand tiers that survive beneath the existing gym and the sloping Colorbond roof immediately below it are considered significant fabric. The amended plans note that the original materials of this elevation will be retained, conserved and repaired where necessary. However, a Heritage Architect is to monitor and catalogue the works during the demolition works, to ensure that any significant fabric that may be present is catalogued. A condition of consent will be provided below.
- The proposal to demolish the existing external stairs is supported as these elements are not original or highly significant.
- The proposal includes the demolition of fabric identified to be of moderate and high significance in Figure 2 above. As this fabric is located to the rear, in an area of less significance, it is supported based on this merit. However, as discussed above, any remnant grandstand tiers that survive beneath the existing gym and the sloping Colorbond roof immediately below it are considered significant fabric. The amended plans note that the original materials of this elevation will be retained, conserved and repaired where necessary. However, a Heritage Architect is to monitor the demolition works of fabric of moderate and high significance to ensure that any concealed tiering and significant fabric is retained and catalogued.

Internal Fabric

- The amended proposal does not include the demolition of any significant internal fabric of the pavilion. The majority of the original internal fabric of the pavilion will be retained as part of the proposal which is supported and complies.

Views

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- Due to the location of the proposed works, it is noted that they would not be highly visible from the public domain. Therefore, views to the site from the O'Sullivan Road streetscape will not be highly impacted, which is supported.
- In the amended design, views to the front elevation of the pavilion will not be affected by the works, which is supported.
- In the amended design, views between the pavilion and the oval will be impacted by the proposal. However, as discussed above, this is supported in this instance, as the original relationship between the oval and pavilion has been lost.

Design

- The height and roof form of the amended design to the new building is consistent with that previously supported from a heritage perspective.
- The solid to void ratios of the western façade of the proposed new building have been amended to be more sympathetic to the heritage context, which is supported.
- In the amended design, the solid to void ratios of the southern façade of the proposed new building are excessive and not sympathetic to the heritage significance of the pavilion. The highlight windows to the ground and first floor are to be deleted in order to comply.
- The proposed materiality of the amended design is consistent with that of the original proposal and is generally supported. However, the profile of the roofing should be traditional corrugated metal similar to Custom Orb Colorbond.

Landscape

- The proposed landscaping works to the grounds are supported as they will not impact any fabric of heritage significance. I will refer to Council's Tree Management Officer regarding the removal of any trees within the subject site.

Significance of items in the vicinity

The following listed heritage items are located in proximity of the site:

- 'Sydney Croquet Club – clubhouse and interiors, moveable heritage items (including rustic benches, timber lockets, opening plaque, honour boards, pennants, historical photographs and trophies), lawns, timber shelters, surrounding trees (3 Hill's Weeping Figs, 3 Norfolk Island Pines, 1 Washingtonia Palm, 3 Yellowwoods, 2 Eucalyptus sp and 2 Brush Box Trees)' at O'Sullivan Road (within Woollahra Park) ADDRESS (Item No. 696)
- 'Royal Sydney Golf Club – Clubhouse and interiors, grove of approx. 20 Broad – Leafed Paperbarks along Norwich Road' at Kent Road (Item No. 318)

The proposed new works will not have any adverse impacts on the views to the heritage items in the vicinity or on their setting and fabric of significance. This is due to their location and distance from the heritage items in the vicinity.

Woollahra DCP 2015

There are no relevant heritage-related sections of the Woollahra DCP 2015 which apply to the subject site.

CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal heritage will be provided below.

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Woollahra LEP 2014

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions.

1. Any new roofing to the proposed rear addition is to be of a traditional corrugated profile similar to Colorbond Custom Orb and be in a colour equivalent to Colorbond's "Windspray", "Shale Grey", "Jasper" or "Wallaby" in order to comply. Tray profile roofing is not supported.
2. In the amended design, the solid to void ratios of the southern façade of the proposed new building are excessive and not sympathetic to the heritage significance of the pavilion. As the highlight windows to the ground and first floor are not vertically proportioned and in order to reduce the amount of glazing, these are to be deleted from the drawings.
3. Heritage Architect Supervision
 - Prior to the issue of a Construction Certificate, Council's Heritage Officer must be provided with the details of an experienced suitably qualified & Heritage Architect who will be commissioned to assist and to provide advice to the consultant team throughout the construction stage of the project.

The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. They are to monitor and catalogue the works during demolition, to ensure that any significant fabric that may be present is catalogued.

The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

Standard Conditions

1. Aboriginal Objects – Unexpected Findings
 - If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:
 - a) Not further disturb or move these objects or bones.
 - b) Immediately cease all work at the particular location.
 - c) In the case of suspected human remains, notify NSW Police.



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- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- **Note:** The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

Vanessa Wood - Heritage Officer

Completion Date: 13/05/2021

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications/ 177/2021/1
ADDRESS: O'Sullivan Road ROSE BAY 2029
PROPOSAL: Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.
FROM: Louie Salvatore
TO: Mr V Aleidzans

1. ISSUES

- *Acoustics – First Floor Gym, function room & grandstand.*
- *Acid Sulfate Soils – WLEP 2014 Class 4 land.*
- *SEPP 55 Remediation of Land.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by Roth Architects. Dated 29 June 2020. Issue A.
- Architectural Plans: prepared by Roth Architects.
- Preliminary Acid Sulfate Soil Assessment & Management Plan: prepared by JK Environments. Document Reference No. E33473PDlet dated 24 September 2020.
- Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20200890.1/0109A/RO/WY, Revision 0. Dated 01 September 2020.
- Plan of Management: prepared by Ethos Urban. Document Reference No. 2200727 dated 22 December 2020.

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

The proposed works to 22a O'Sullivan Road the construction of a new two storey change room amenities development of appropriate contemporary design. The proposed development is located within Woollahra Park, between the Eastern Suburbs Rugby Union Club house, the George Grimley Pavilion, and Woollahra Oval # 1. The new building is positioned strategically to improve connections to the field, carpark and adjacent buildings, while preserving the significant heritage aspects of the George Grimley Pavilion.

The proposal also seeks removal of the existing change room adjacent to the George Grimley Pavilion which are in need of urgent upgrades, so that more of the building's form and bulk may be contained within an appropriate area.

On the ground floor, the proposal includes:

- New female and male changing rooms for home and away teams, along with respective shower and toilet facilities;
- New accessible public toilets, team storage lockers, a first aid room, ample storage space, and an umpire's room;
- A new grandstand structure to the North of the proposed building;
- Demolition / removal of three metal sheds, to be replaced with adequate storage facilities found in the proposed building;
- Removal of eight site trees, to be replaced with new planting beside the proposed building.

On the first floor, the proposal features:

- A new function room, gym area, and rooftop terrace, accessible via the main West staircase, the staircase beside the grandstand, the staircase to the South, or elevator.

Excavation

As the subject site is located within a Flood Planning Area as per Woollahra Council's LEP 2014, no excavation is proposed. The proposed platform the building is situated upon is lifted up 500mm from the flat ground below to avoid the need for excavation.

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

a) Acoustics

Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20200890.1/0109A/RO/WY, Revision 0. Dated 01 September 2020.

An acoustic assessment of potential noise impacts of the proposed new sports field change room facility, specifically the acoustic impact of the gym, function room and outdoor terrace.

The function room and outdoor terrace are proposed to operate from Monday to Sunday: 7am – 12am. The gym is proposed to operate Monday to Friday: 5am – 9pm & Saturday to Sunday: 6am – 8pm.

The function and outdoor terrace are expected to be liquor licensed venues, with the function room proposing to have background music played through an amplified system at a low level. The nearest noise receivers that have the potential to be affected are:

- R1: Residential Receiver 1 – Multi-storey residential dwellings west of the site at 137-143 O'Sullivan Road, and
- C1, C2 & C3: Commercial Receivers – Existing commercial facilities surrounding the site at 22a & 50 O'Sullivan Road.

Noise Assessment

Unattended background noise monitoring was previously conducted by Acoustic Logic Pty Ltd (at 233 O'Sullivan Rd) from 13th to 19th September 2017; confirmation of the sound levels were also taken on 31st August 2020 (noise spectrum). Refer to Tables 4-1 & 4-2 of the report. The project specific noise emission criteria used for the site are detailed in Table 5-1, 5-2, 5-3 & 5-4 of the report:

- Woollahra Council DCP 2015 & LEP 2014. (Table 5-1).
- Liquor & Gaming NSW licensed premises acoustic requirements. (Table 5-2).
- NSW Department of Environment & Heritage – Noise Policy for Industry (NPfI) 2017. (Table 5-3).
- Sleep Arousal Criteria. (Table 5-5).

A summary of the Noise Emission Criteria are detailed in Tables 5-6, 5-7 & 5-8 of the report.

Function Room & Outdoor Terrace

Noise from use of the venue (including extended trading hours) will primarily be from noise from patrons & noise from amplified background music within the venue. It should be noted that the average sound power level per patron within the venue has been taken as 77 dB(A)L10 with 1 in 2 patrons talking at any one time. Refer to Table 6-1 of the report which details the noise spectrum for patron speech sound power level (Internal Areas).

The uniform sound pressure level for amplified music within the venue has been assessed as 75 dB(A)L10. Refer to Table 6-2 of the noise spectrum for amplified music sound pressure level.

The venue operation was assessed to the most time sensitive period of operation, being the late evening period (10pm-12am & based on the following assumptions:

- A conservative assessment of 150 patrons located within the indoor area, with 1 in 2 patrons talking at any one time.
- A conservative assessment of 100 patrons located within the outdoor seating area on the eastern boundary of the tenancy.
- Music within the venue limited to 75dB(A)L10 sound pressure level during the late evening period (10pm-12am), and 80dB(A)L10 during the evening period (6pm-10pm) and 90dB(A)L10 during the daytime period (7am-6pm).

The predicted noise levels from the venue operation are presented in section 6.4.1, 6.4.2, 6.4.3 & 6.4.4 of the report. The predicted external noise levels from the venue operation are presented in Table 6-3 of the report.

Environmental Health – Comments

Based on the noise modelling and predicted noise levels from the venue operation, Environmental Health is satisfied that if the following noise mitigation strategies are implemented, compliance can be achieved with the project specific noise criterion:

- Patron numbers internally within the venue are not to exceed 150.
- Amplified music within the venue is not to exceed a sound pressure level of 75 dB(A) L10 during the late evening period from 10pm to 12am.
- Amplified music within the venue is not to exceed a sound pressure level of 80 dB(A) L10 during the evening period from 6pm to 10pm.
- Amplified music within the venue is not to exceed a sound pressure level of 90 dB(A) L10 during the daytime period from 7am to 6pm.
- Speakers are to be vibration isolated by NRD mounts or equal.
- All external glazing area, including doors on all facades of the function room may remain open during all hours of operation.
- Signs are to be displayed at the entry and exit of the venue reminding patrons to minimize noise when departing the premises, in particular when departing at 10pm.
- Outdoor terrace patron numbers are not to exceed 100.
- To protect the amenity of residents located around the development, garbage collection, deliveries and disposal of bottle/waste should be completed between the hours of 7am and 6pm. In particular, glass bottles and similar should be stored within the premises and not be disposed of after 10pm.
- The venue is to close by 12am.

In addition, Environmental Health recommends that:

The sound level in the venue area is to be monitored by the installation of a tamper proof Noise Limiter to control all amplified music entertainment. The Noise Limiter must be set by a qualified acoustic engineer to ensure compliance where sound level trigger levels are not to exceed for the late evening period from 10pm to 12am (75 dB(A) L10, during the evening period from 6pm to 10pm (80 dB(A) L10 and the daytime period from 7am to 6pm (90 dB(A) L10.

Mechanical Plant Noise

Detailed plant selection has not been undertaken. There is no additional external plant proposed over the base building services. In the event that additional external plant is installed as part of the development, noise emissions from all mechanical services to the closest receiver shall comply with Woollahra Council's Noise Criterion for Mechanical Plant (where noise level from mechanical plant shall not exceed the background noise level when measured at any location at the site boundary).

Gym Operational Noise

Noise from the operation of the gym will include patron noise, background music playing within the gym area and the use of gym equipment. The following assumptions have been made where the hours of operation are to be from 5am to 9pm, Monday to Friday, and 6am to 8pm, Saturday and Sunday. The noise level predicted at each receiver is based on 1 in 2 people talking at any one time. Refer to Table 7-1 for L10 sound pressure level spectrum of single patron & Table 7-2 noise spectrum for amplified music sound pressure level & Table 7-3 noise spectrum for general gym usage sound pressure level.

The uniform sound pressure level for patrons talking has been assessed at 77 dB(A) L10. The uniform sound pressure level for amplified music to be used in the gym has been assessed as 90 dB(A) L10. The uniform Lmax sound pressure level from the usage of the gym equipment has been assessed as 88 dB(A) Lmax, typical for such a venue. The predicted noise levels are presented in Tables 7-4 & 7-5 of the report.

Environmental Health - Comments

Based on the noise modelling and predicted noise levels from the venue operation, Environmental Health is satisfied that if the following noise mitigation strategies are implemented, compliance can be achieved with the project specific noise criterion:

- Treadmills are to sit on a plywood platform mounted with Embelton NR mounts.
- The floor isolation for the free weights areas shall be constructed as shown in illustration 7.3.2 of the report.
- Rubber sleeves/jackets shall be installed on the metal arms holding weights to avoid clunking type noise.
- Prominent signage to notify patrons that weights are not to be dropped above knee height & minimize noise at any time.
- All weight machines shall be on vibration isolated Embelton Springs as illustrated in section 7.3.3. Big machines shall be isolated by Embelton NXL-96; small machines shall be isolated by Embelton NXS-17 OR the floor of the machine areas shall be covered by a minimum of 30mm Olympact A1 Matting or equivalent.
- Speakers are to be isolated with Embelton NRD mounts or equivalent. Music is to be played at a maximum of 90 dB(A) sound pressure level at all times.
- Management should ensure that patrons enter and depart the premises in a prompt and orderly manner, in particular during the hours of 5am to 7am.

- All glazing on the western façade are to remain shut during general operation except for patron ingress and egress.
- Glazing facing the outdoor terrace may remain open for the duration of the gym operation.
- The floor slab between the gym and change room/amenities below is to be a minimum of 200mm thick concrete.

In addition, Environmental Health recommends that:

The sound level in the gym area is to be monitored by the installation of a tamper proof Noise Limiter to control all amplified speaker music. The Noise Limiter must be set by a qualified acoustic engineer to ensure compliance where sound level trigger levels are not to exceed (90 dB(A) L10 at any time during the use of the gym area.

e) Acid Sulphate Soils

Preliminary Acid Sulfate Soil Assessment & Management Plan: prepared by JK Environments. Document Reference No. E33473PDlet dated 24 September 2020.

The ASS assessment and preparation of the report was undertaken with reference to the National Acid Sulfate Soil Guidance (2018) documents and the Acid Sulfate Soil Management Advisory Committee (ASSMAC) Acid Sulfate Soil Manual (1998).

The proposed development includes alterations and additions to Easts Rugby Club and will include demolition to part of the existing amenities building followed by construction of a new two storey building providing a grandstand, amenities, change rooms, function room and gym facilities. A lift is proposed in the central section of the site and we assume that excavations will be required to 2m Below Ground Level (BGL) to construct a lift overrun pit. Specific details regarding depths of soil disturbance, footings, and potential piling requirements (method and depths) have not been provided. Therefore, the assessment was limited to a maximum depth of 3mBGL, which we assume will be at least 1m beyond the proposed maximum depth of disturbance.

Soil Assessment

A review of the ASS risk maps prepared by Department of Land and Water Conservation (1997)³ indicates that the site is located in an area classed as having 'low risk' at depths of greater than 3m below the round surface. A review of the Woollahra council LEP indicates that the site is located on the boundary of ASS risk Classes 3, 4 and 5 (refer to appendices for further details on each risk class).

The National Acid Sulfate Soil Guidance (2018) requires sampling to a depth of 1m beyond the depth of disturbance (including the depth of any groundwater disturbance). A summary of the sampling densities and analysis requirements outlined in the *National Acid Sulfate Soil Guidance: National acid sulfate soils sampling and identification methods manual* (2018) is provided in Table 3-1 of the report and minimum number of soil samples in Table 3-2 of the report. The action criteria presented in the *National Acid Sulfate Soil Guidance: National acid sulfate soils*

sampling and identification methods manual (2018) are summarised in Table 3-3 of the report.

Field work was undertaken on 4 September 2020. Soil samples were collected from four locations to a maximum borehole depth of 3.0mBGL. Samples for this assessment were analysed for ASS field tests (including pHF and pHFOX) and using the chromium reducible sulfur (SCR) acid base accounting analytical methods. Reference should be made to the laboratory reports (Ref: 250545 and 250545-A) attached in the appendices of the report. A summary of the subsurface soil conditions encountered during the investigation is presented in Table 5.1 of the report.

The soil laboratory results were assessed against the action criteria adopted for the assessment. The results are summarised and are presented in Table 5-2 of the report.

Conclusion

Based on the weight of evidence collected and evaluated for this assessment, the conceptual site model (CSM) for the occurrence of PASS are summarised below:

- None of the pHF results were below pH 4 and therefore were not indicative of AASS;
- The laboratory results identified the net acidity results for the fill sample BH4 (0.9-1.0m) and the natural silty sand sample BH4 (1.1-1.2m) exceeded the action criteria of 0.03%w/w and 18 mol H⁺/t;
- Shell fragments were identified within the fill profile between approximately 0.75m BGL to 1.0m BGL in BH3 and 0.9mBGL to 1.1mBGL in BH4, this fill material could be representative of dredged sediment;
- Slight organic odours were identified in the alluvial soils in BH1 and BH2 during sampling;
- Groundwater seepage was encountered in all boreholes at depths of between approximately 0.9m BGL to 1.8m BGL; and
- The liming rates calculated as part of the acid base accounting analysis were up to 2.6kg CaCO₃/t.

Considering the above, the fill at BH4 and natural soil at the site beneath the groundwater is considered to be PASS and an Acid Sulfate Soil Management Plan (ASSMP) is required for the proposed development. Refer to Section 1.2 of the report.

The acidity risk is considered to be quite low based on the analysis results and it appears that the PASS is likely to be present at shallower depths in the north section of the site (this correlates with the risk mapping). Nevertheless, there were indicators of PASS in other boreholes and there is uncertainty around the conditions beneath a depth of 3mBGL where sampling did not occur for the preliminary assessment. The ASSMP for the proposed development is outlined in the following sections.

Acid Sulfate Soils Management Plan (ASSMP)

Management requirements are triggered under the ASSMP for all soil disturbance that results in exposure of PASS to air. For this project, this may include (but is not limited to) excavation of the fill to the north of BH3 and all natural soils beneath

groundwater. Groundwater was encountered at depths of between approximately 0.9mBGL to 1.8mBGL during the above assessment.

Environmental Health is satisfied that the preferred strategies for the management of acid sulfate soils, as presented in Section 7 of the ***Preliminary Acid Sulfate Soil Assessment & Management Plan: prepared by JK Environments. Document Reference No. E33473PDlet dated 24 September 2020*** are adequate in dealing with the disturbance of acid sulfate containing soils.

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)
E33473PDlet	Acid Sulphate Soil Management Plan	JK Environments	24 September 2020
20200890.1/0109 A/RO/WY. Revision 0.	Acoustic Report	Acoustic Logic Pty Ltd	01 September 2020
2200727	Plan of Management	Ethos Urban	22 December 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 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

B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 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 effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.2 Acoustic Certification - New 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 any new 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.3 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 *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

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

E. Conditions which must be satisfied during any development work

E.1 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - (i) Piling;
 - (ii) Piering;
 - (iii) Rock or concrete cutting, boring or drilling;
 - (iv) Rock breaking;
 - (v) Rock sawing;
 - (vi) Jack hammering; or
 - (vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.

- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

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

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement 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 condition and advice may apply.
- Note:** Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.3 Compliance with Acid Sulfate Soils Management Plan

The Principal Contract / Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan: *Preliminary Acid Sulfate Soil Assessment & Management Plan prepared by JK Environments. Document Reference No. E33473PDlet dated 24 September 2020* and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

Note: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

Note: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about
 - plant roots being burnt by acid, reducing plant health and productivity
 - acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
 - plants and soil life can be poisoned by the available toxic metals
 - loss of aquatic plants that can not survive acidic conditions
 - loss of fish, crustaceans, birds and other animals
 - damage to metal and concrete structures (such as bridge pylons and pipes)
- Standard Condition: E28

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Acoustic Controls to the Building Structure (Venue Room, Terrace, Gym & associated Gym Equipment)

All acoustic construction & equipment controls recommended in the *Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20200890.1/0109A/RO/WY, Revision 0. Dated 01 September 2020* shall be fully implemented prior to the occupation or use of the building.

F.2 Acoustic Controls - Gym Area

The sound level in the gym area is to be monitored by the installation of a tamper proof Noise Limiter to control all amplified speaker music. The Noise Limiter must be set by a qualified acoustic engineer to ensure compliance where sound level trigger levels are not to exceed (90 dB(A) L10 at any time during the use of the gym area.

F.3 Acoustic Controls – Venue Area

The sound level in the venue area is to be monitored by the installation of a tamper proof Noise Limiter to control all amplified music entertainment. The Noise Limiter must be set by a qualified acoustic engineer to ensure compliance where sound level trigger levels are not to exceed for the late evening period from 10pm to 12am (75 dB(A) L10, during the evening period from 6pm to 10pm (80 dB(A) L10 and the daytime period from 7am to 6pm (90 dB(A) L10.

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 Acoustic Controls – Venue Room, Terrace & Gym Area

All noise mitigation strategies recommended in the *Acoustic Report: prepared by Acoustic Logic Pty Ltd. Document Reference No. 20200890.1/0109A/RO/WY, Revision 0. Dated 01 September 2020 are to be maintained at all times during the ongoing use of the premises.*

I.2 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

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

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: 156

I.3 Noise from licensed premises

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: dB(A) is a value used for 'A-weighted' sound pressure levels 'A' frequency weighting is an adjustment made to approximate the response of the human ear.

Note: *Licensed premises* means premises licensed under the *Liquor Act 2007*

Note: For the purposes of this condition, the L_{A10} is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured.

Note: 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} level measured by a sound level meter over the applicable period.

Note: This condition is identical to the minimum standard condition imposed by the Casino Liquor and Gaming Control Authority (the Authority). The Authority may specify other standards in respect of the above condition under the *Liquor Act 2007*, and associated Regulations. Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Director of Liquor and Gaming is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For further information go to the NSW Office of Liquor and Gaming and Racing's website: (www.olgr.nsw.gov.au).

Note: Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.

Standard Condition: 158

I.4 Noise from any proposed mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} , 15 minute level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government

(<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671 , dated December 2004.

Standard Condition: I59

I.5 Noise Control - Plan of Management

In order to protect the amenity of the surrounding residential area and other sensitive land uses, the noise control measures for the operation of the licenced premises as detailed in the Plan of Management (Ethos Urban 22 December 2020/2200727) shall be adhered to at all times by the Eastern Suburbs District Football Club.

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Louie Salvatore

Environmental Health Officer

Date: 13/05/2021

Memorandum - Drainage



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

Date 25/11/2022
File No. Development Applications: DA2021-177-1
To Mr Robert Lam
CC
From Michael Casteleyn

Address 22a O'Sullivan Road ROSE BAY

I refer to the following documents received for this report:

21/86828 Document - Flood Report - DA2021-177-1 - 22a O'Sullivan Road ROSE BAY

RECOMMENDATION

Council's drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions;

C.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in a prominent area of the proposed change room.

- b. Flood compatible materials shall be used for all flood exposed construction.
- c. All flood exposed electrical wiring and equipment shall be waterproofed.
- d. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.

REFERRAL RESPONSE – OPEN SPACE

FILE NO: DA177/2021/1
ADDRESS: O'Sullivan Road ROSE BAY
PROPOSAL: Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.
FROM: Roger Faulkner – Team Leader Open Space and Recreation Planning
TO: Valdis Aleidzans – Assessment Officer
DATE: 19/11/2021

DOCUMENTATION

I refer to the following DA documents reviewed for this referral response:

- HPE 21/86836 Statement of Environmental Effects - dated 29 June 2020.
- HPE 21/86839 Architectural Drawings - dated 19 April 2021.

PLAN OF MANAGEMENT

Eastern Suburbs District Rugby Union Football Club (ESDRUFC) has a licence from Woollahra Council for the non-exclusive use of the land on which the development is proposed to be located.

The land is part of Woollahra Park, which is owned and managed by Woollahra Council in accordance with the Woollahra Park Plan of Management (POM) 2013.

The proposed development is situated within the Woollahra Oval 1 Management Zone and is categorised at 'Sportsground' in the POM.

Relevant permitted activities, uses and responsibilities in the POM are as follows:

- *Grimley Pavilion – ESDRUFC licence for use throughout the year. Dressing rooms may be used by casual users of the Oval, booked through the Council. Gymnasium to be available for use by members of the public and is not limited to use by ESDRUFC members. The Club must maintain the Grimley Pavilion in good order and condition (except of a structural nature), including spectator seating and the gymnasium in the Grimley Pavilion, and leaving the changing rooms, oval and toilets clean after each use for training and matches.*
- *ESDRUFC shall be responsible for the maintenance of the clubhouse (including of a structural nature) and immediate surrounds.*

- *Dressing rooms used by ESDRUFC and casual users of the Oval are the responsibility of Easts Rugby Club.*
- *Woollahra Oval No.1 has relatively high visitation, particularly in winter when it is leased to ESDRUFC for training and playing.*

Relevant permitted future developments in the POM include:

- *Upgrade of building within existing footprint, in keeping with the park values.*
- *Interior redesign.*
- *Host community events/ functions*

While the POM permits an upgrade of the building (Grimley Pavilion) within existing footprint, it does not prohibit new buildings and additions.

Relevant actions in the POM to be carried out in the future are as follows:

- *Strategy: Improve facility available for the community.*
 - *Issue: Lack of facilities discourages community use of this management area.*
 - *Action: Provide additional facilities for community use (e.g. fitness station, running track, etc) to encourage healthy living and wellbeing (consistent with WMC Vision).*
 - *Action: Facilities to be appropriate for use by all park users and an agreement made between park stakeholders determining the roles and responsibilities associated with facilities.*
 - *Action By: WMC & Easts Rugby.*

LICENCE AGREEMENT

The referral response from Council's Senior Property Officer is noted at 21/142348.

Before any construction occurs on site for the approved works of this DA 177/2021 comprising a new building structure or extension of the footprint of any existing building structure; the Eastern Suburbs District Rugby Union Football Club Ltd must obtain a separate approval from Council as required under the current Licence agreement, and enter into a Deed of Variation of Licence with Woollahra Municipal Council.

ASSESSMENT

As Council's Team Leader Open Space and Recreation Planning, my assessment is that the proposal is **satisfactory** in terms of permissibility under the Plan of Management, impacts on public open space, and impacts on Council infrastructure. I require the following conditions to be issued with any development consent:

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

A.1 Access through Public Open Space

Access to the development site through Woollahra Park for construction purposes will not be permitted unless a permit for *Construction Access Through Public Open Space* has been obtained from Council's Open Space & Trees Department. An application must be submitted to Council for assessment and approval at least 14 days prior to the date that construction access through Woollahra Park is required.

The *principal contractor* or *project manager* is to submit an application on the required form and pay the appropriate fee.

B. Conditions which must be satisfied during any development work

B.1 Storage of building material in Public Open Space

Building, excavation, demolition and construction material and plant must not be stored on Council's public open space (Woollahra Park) unless prior written approval has been obtained by Council's Open Space & Trees Department. An application for hoarding must be submitted to Council for assessment and approval at least 14 days prior to the date that storage approval is required.

The *principal contractor* or *project manager* is to submit an application on the required form and pay the appropriate fee.

R. Faulkner

Roger Faulkner
Team Leader Open Space and Recreation Planning
Open Space and Trees Department
19/11/2021

2 August 2021

REFERRAL RESPONSE – Tech Services - Property

FILE NO: DA 177/2021/1

ADDRESS: O'Sullivan Road ROSE BAY 2029

PROPOSAL: Demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping.

FROM: Anthony Sheedy – Senior Property Officer

TO: Mr V Aleidzans

I refer to the following documents received for this report:

1. Architectural plans by Roth Architects, Dwgs No. DA-03 to DA.22 dated 19/4/2021
2. Statement of Environmental Effects by Roth Architects, dated 29/6/2021
3. Survey Plans by Hill & Blume, dated 4/3/2020

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

The Applicant has requested that Council consent to DA 177/2021/ regarding the demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage; new community centre, gym and roof terrace; construction of a new grandstand to the north of the proposed building; demolition of existing sheds; removal of trees and new landscaping at O'Sullivan Road, Rose Bay.

The proposed works of DA177/2021/1 referred to in the Roth Architecture plans will significantly expand the existing footprint of area currently being occupied by Easts Rugby Union Football Club and subject of their current Licence agreement with Woollahra Council.

In accordance with their Licence agreement, Easts Rugby Club must obtain formal approval from Council before any major works are undertaken on the land occupied. Owners consent provided by Council only gives approval to lodge the DA.

Council has been in negotiation with Easts Rugby and will enter into a new Deed of Variation of Licence which details terms and conditions for considering the impact of the proposed works upon the area occupied by the Club, including provisions for a further valuation assessment of the rent payable by Easts Rugby.

Annexure 10 - Referral Response - Property - DA20211771 - OSullivan Road ROSE BAY

No works are to be carried out until the Deed of Variation of Licence has been executed by Council and Easts Rugby Club.

Recommendation:

Council's Property Officer has determined that the proposal satisfies Property & Projects Department concerns, subject to the following conditions. Accordingly, the following conditions are recommended.

Conditions of Consent

Please note that the standard conditions of consent are generally modified by the Technical Services Division to suit a particular development application. Please ensure all Technical Services conditions of consent are cut and pasted from this document only, and not inserted as standard conditions using the automatically generated (F3) function.

Before any construction occurs on site for the approved works of this DA 177/2021 comprising a new building structure or extension of the footprint of any existing building structure; the Eastern Suburbs District Rugby Union Football Club Ltd must obtain a separate approval from Council as required under the current Licence agreement, and enter into a Deed of Variation of Licence with Woollahra Municipal Council.

The Deed of Variation of Licence will include terms and conditions for the maintenance and management of the new structures being constructed, including provisions for a further valuation assessment of the rent payable by Eastern Suburbs District Rugby Union Football Club Ltd.



Anthony Sheedy
Senior Property Officer

OFFICIAL USE ONLY



SUBMISSION

Application by Roth Architecture Workshop Pty Ltd (**the applicant**) in relation to Development Application DA-177/2021 at 22a O'Sullivan Road, Rose Bay NSW 2029

The Executive Manager

Thursday 11th November 2021

Development Assessment

Woollahra Municipal Council

DEVELOPMENT NUMBER, TYPE & ADDRESS:

DA-177/2021

22a O'Sullivan Road,

Rose Bay NSW 2029

LICENSING POLICE POSITION:

No Objection to the entire proposed development but objection to the "Community Room" being a Licensed Area.

COMMENTS:

1. Licensing Police were in receipt of Development Application, DA-177/2021 and conducted a review of the application and associated documentation. Licensing Police highlight the following areas of concern for Council consideration.
2. Venue Disturbances – Previously, Eastern Suburbs Rugby Union Club ("The Club") house has come under notice for noise disturbance related complaints that stemmed from post-game events and functions that were oversights by Club management. These disturbances resulted in concerns relating to the management and operation of the venue at the time, violent, anti-social and criminal activity involving patrons in the vicinity of the venue which predominately occurred on O'Sullivan Road, Rose Bay. A number of these interactions had with these patrons leaving the Club were linked back to their levels of intoxication and the questionable serving practices of the venue at the time.
3. Proposed Development – From reviewing the Social Impact Assessment Document it appears that the applicant is proposing that the development includes a "Community Room" which is licensed. Licensing Police have concerns as to why a "Community Room" that will likely hold community related events, with attendees of varying demographics, needs to be licensed. Licensing Police are of the view that the "Community Room" room should remain un-licensed as not to negatively detract from the amenity of the Community, by intensifying the overall use of the Club and potentially adding to the harms that have already been experienced by the Community previously (Paragraph 2).

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4. Furthermore, it would be difficult for Council and Licensing Police to identify further concerns/harms with the use of this space as representatives of the applicant have highlighted that "It is noted that the operational aspects of this facility are not yet fully resolved by the Club management, so this Social Impact Assessment and Plan of Management have been prepared on the basis of the best knowledge available at the present time." It is requested that applicant ensures that all operational aspects of this space are discussed with Council and Police prior to any approval taking place. The areas to be discussed but are not limited to; Proposed business model, hours of operation, patron capacity, proposed entertainment, proposed security posture, noise mitigation strategies, crowd departure strategies, use of outdoor terrace, etc. This is to ensure that any identified harms are mitigated.
5. If Council were to approve this development and allow the "Community Room" to be licensed, Licensing Police request the following conditions be imposed on the final Consent.

NEIGHBOURHOOD AMENITY

The management of the premises:

Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.

Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.

Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.

Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

LIQUOR SALE / SUPPLY / CONSUMPTION

No liquor may be sold, supplied or consumed on the premises except with the approval and authorisation from the relevant Liquor Authority.

The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor and outdoor areas.

OFFICIAL USE ONLY



No patron shall be permitted to take glasses or open containers of liquor off the premises.

ENTERTAINMENT NOISE EMISSIONS

No sound reproduction device nor any forms of entertainment operated within the premises are to exceed a noise level of 5dBA above background noise levels measured from any public place or other parts of the premises or adjoining premises.

No sound reproduction device shall be installed external to the building, but rather shall be confined to internal areas of the subject premises only. Such devices must not be placed so as to direct the sound towards the outdoor areas associated with the premises.

Sound reproduction devices (including music live or otherwise) shall be restricted to between 9am and 10pm, Monday to Saturday and from 9am to 9.30pm Sundays due to residential premises being located nearby.

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.

COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required, and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or Liquor and Gaming NSW Authorised Officers.

PLAN OF MANAGEMENT (POM) TO BE SUBMITTED AND APPROVED

The POM shall be amended to include details of all operational and management procedures of the premises. The POM shall include, but is not limited to, its amenity within the neighbourhood of the premises, compliance with conditions (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints), the behaviour of patrons, liquor practices (if licensed, including the responsible service of alcohol), staffing roles and responsibilities (including security personnel if required), management of patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements.

The POM shall be approved by Council prior to the commencement of operations

OFFICIAL USE ONLY



SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES
(LICENSED PREMISES)

The Management must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- (a) It must operate continuously from opening time until one hour after closing;
- (b) It must record in digital format at a minimum of six frames per second;
- (c) Any recorded image must specify the time and date of the image;
- (d) The system's cameras must cover:
 - i. All entry and exit points of the premises,
 - ii. The footpath immediately adjacent to the premises, and
 - iii. All publicly accessible areas (other than toilets) on the premises.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.

If you wish to discuss this submission further, please do not hesitate to contact our office on (02) 9362-6349 or alternatively email the case officer on, zahr1jam@police.nsw.gov.au.

A handwritten signature in black ink, appearing to read 'J. Zahra'.

Regards,

Leading Senior Constable Jamie Zahra
Eastern Suburbs Police Area Command
Licensing Unit



25 May 2021

Mr V Aleidzans

Council Assessing Officer
Woollahra Municipal Council
records@woollahra.nsw.gov.au

RE: Development Application 177/2021/1 at O'Sullivan Road, Rose Bay (Easts Rugby Club)

Thank you for notifying Sydney Water of DA 177/2021/1 at O'Sullivan Road, Rose Bay, which proposes demolition of the existing change room facilities and construction of a new building including new change rooms, public toilets and storage on the ground floor, a new community centre, gym and roof terrace on the first floor, construction of a new grandstand to the north of the proposed building, demolition of existing sheds and the removal of trees and new landscaping. Sydney Water has reviewed the application based on the information supplied and provides the following comments to assist in planning the servicing needs of the proposed development.

Water Servicing

- Potable water servicing should be available via a 100m CICL watermain (laid in 1927) on O'Sullivan Road.
- Amplifications, adjustments, and/or minor extensions may be required.

Wastewater Servicing

- Wastewater servicing should be available via a 150mm CI wastewater main (laid in 1927) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

Further advice and requirements for this proposal are in Attachment 1. If you require any further information, please contact the Growth Planning Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "K. Leitch", with a stylized flourish at the end.

Kristine Leitch

Commercial Growth Manager
City Growth and Development, Business Development Group
Sydney Water, 1 Smith Street, Parramatta NSW 2150



Attachment 1

Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA277/2022/1
ADDRESS	68 Darling Point Road DARLING POINT
COUNCIL WARD	Double Bay
SITE AREA	13 556.75m ²
ZONING	R2 Low Density Residential
PROPOSAL	Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months
TYPE OF CONSENT	Integrated development
COST OF WORKS	\$0.00
DATE LODGED	06/07/2022
APPLICANT	Masolage Holdings Pty Ltd
OWNER	Masolage Holdings Pty Ltd
AUTHOR	Mrs L Holbert
TEAM LEADER	Mr G Fotis
SUBMISSIONS	174
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
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

2. REASONS FOR RECOMMENDATION

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

- The proposed event use of the subject site is not permissible with the R2 Low Density Residential Zone
- The proposed temporary use of the subject site does not satisfy Part 2.8(3)(b) of the WLEP 2014, thus the proposed temporary 'event' use of the site is prohibited
- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified
- The site is not suitable for the proposed development
- The proposal is not in the public interest

3. LOCALITY PLAN



4. PROPOSAL

This proposed development is seeking consent to use part of the subject site including the lawns, terrace, ballroom, dining room and other parts of the site and building for up to 41 events days per year including and not limited to:

- Weddings
- Birthdays
- Charity events
- Balls
- Corporate functions
- Product lunches
- Shows
- Displays.

These proposed events involve the following:

- **Normal Events:** for up to 200 people, 20 events per year, between 9am-11pm (primarily indoors, 1 day, no more than 3 per month);
- **Special Events:** for up to 250 people, 12 events per year, between 9am-10pm (primarily outdoors, 1 day, no more than 3 per month);
- **Unique Events:** for up to 300 people, 3 events per year, between 9am-6pm (indoor and outdoor events, over multiple days, max 3 days).

Note: The total number events/functions is 35 separate events, with a total of 41 event days (There are up to 3 x 3 day events).

The following set-up and pack-up arrangements for these events are as follows:

- Set up – After 7am on the day of the event, or the day before. No set-up works to occur after 11pm;
- Pack-up – Before 11pm the day of the event, or after 7am the day.

The proposal does not involve any building works, or for the erection of any permanent structures. No fixings to the existing structures or grounds have been proposed.

A total of 45 parking spaces have been made available within the site for the proposed events.

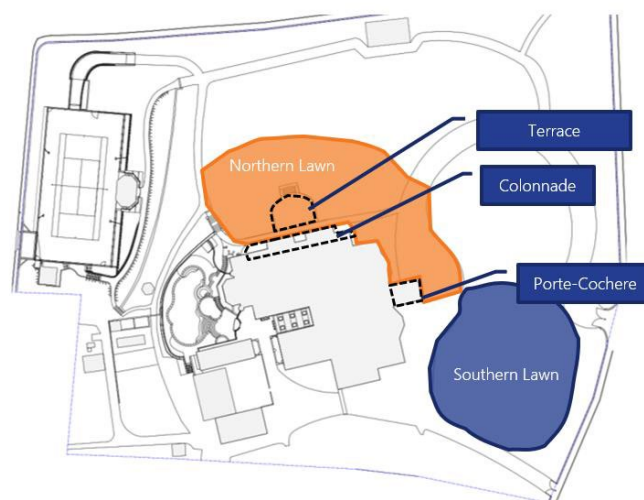


Figure 1: Outdoor event locations.

5. ISSUES

5.1 Primary Issues

Issue	Conclusion	Section
Noise	The submitted Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events. Therefore a proper assessment of the potential acoustic privacy impacts on surrounding residential properties could not be undertaken. This is discussed further below in Section 13.1 of this report.	13.1
Parking	The applicant has not provided adequate/accurate traffic and parking information to allow for a proper assessment of the parking and traffic impacts. The following information was considered to be unsatisfactory: <ul style="list-style-type: none">- Inadequate details of the pick-up/drop-off area	13.2

Issue	Conclusion	Section
	<ul style="list-style-type: none"> - Insufficient traffic management plan - Insufficient details in relation to loading/unloading - Insufficient details in relation to staff parking - The submitted travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the proposed events - No assessment of the cumulative parking/traffic impacts was provided. <p>This issue is further discussed below in Section 13.2 of this report.</p>	
Lighting/light spill	No details were provided in relation to the type, location and intensity of the event lighting. Therefore the potential light spill impacts were not able to be adequately assessed. This issue is further discussed below in Section 16 of this report.	16
Fire Safety	The applicant has not provided sufficient information in relation to fire safety, as the proposed event use of the site requires fires safety upgrade works to be carried out. To ensure these fire safety upgrade works do not adversely affect the heritage significance of the site, details of these works would need to be provided and assessed, prior to any consent of this nature being granted.	15.1
Social Impact	The applicant has not adequately demonstrated that the proposal would have an acceptable social impact, as no Social Impact Report was provided, contrary to Control C7(b) of Chapter F3 of the WDCP, 2015.	13.4
Intense Commercial Use within a Residential Zone (R2)	The use of the subject site for events is not permissible within the R2 Low Density Residential Zone. Even though, Part 2.8 of the WLEP, 2014 allows for temporary uses of land, for a maximum period of 52 days in any 12 month period. The applicant has not adequately demonstrated that the proposal would satisfy Part 2.8(3)(b). The proposal is therefore not permissible and has not been supported. This is further discussed below in Sections 12.2 and 12.3 of this report.	12.2, 12.3
The temporary use of the site would contrary to Part 2.8 of the WLEP, 2014 (permissibility)	The applicant has not adequately demonstrated that the proposed temporary use of the site for events, would satisfy Part 2.8 of the WLEP, 2014. Therefore the proposal is not permissible and has not been supported. This is further discussed below in Section 12.3 of this report.	12.3
Lack of accurate, sufficient and adequate information	The applicant has not provided Council with sufficient, accurate and adequate information to allow for a proper assessment of the proposal. The proposal has therefore not been supported. This is further discussed below in Section 21 of this report.	21
Waste/Rubbish	The applicant has not provided sufficient information in relation to the storage, separation/recycling, collection and the management of waste, including patron littering beyond the site. The proposal has therefore not been supported.	13.3
On-going unauthorised events at the site	The subject site has a long history of hosting unauthorised events at the site, even after the owners of site provided a written undertaking in 2012 to Council that no events/functions would be undertaken without firstly obtaining consent, refer to Attachment 13 . Council has also received a significant number of complaints from surrounding residents, relating to events that have been undertaken at the site. Given this compliance history, there is significant concern whether restrictions/conditions that may be imposed, should consent be granted would be complied with. It noted that the proposed development has not been supported.	7
Cumulative Impact of filming operations and functions at other venues	A significant amount of filming is carried out at the subject site, which can involve large amounts of on-street parking being occupied for extended periods of time. The submitted documentation has not taken account of the cumulative impact of these filming operations have on the amenity of surrounding properties. In addition the submitted documentation fails to make any assessment of the cumulative parking impacts that could be created by concurrent events at nearby venues, such as Lindsay House and McKell Park.	13.4, 21

Issue	Conclusion	Section
Deliveries/Set-up/Pack-up	The applicant has not provided sufficient information in relation to the frequency, size, and delivery location and delivery times. The set-up and pack-up times provided in the POM are considered to be too broad and potentially impact the residential amenity of the locality. The proposed development has not therefore not been supported.	13.2, 16
Cooking Odours/Smoke	The applicant has not provided any information in relation to the location of the food preparation/cooking area in the submitted documentation. The location of the food preparation area that was indicated by owner of the property during the site visit, appears to conflict with the car parking arrangements. Further there is no information, in relation to the managing/mitigation of cooking odours/smoke. The proposed development has not therefore not been supported.	16

5.2 Summary of Submissions

Issue	Conclusion	Section
Noise	The Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue, under worst-case scenario conditions and their impact upon sensitive residential receivers for future events. Therefore a proper assessment of the potential acoustic privacy impacts on surrounding residential properties could not be undertaken.	13.1
Parking/Traffic	The applicant has not provided adequate/accurate traffic and parking information to allow for a proper assessment of the parking and traffic impacts. The following information was considered to be unsatisfactory: <ul style="list-style-type: none"> - Inadequate details of the pick-up/drop-off area - Insufficient traffic management plan - Insufficient details in relation to loading/unloading - Insufficient details in relation to staff parking - The submitted travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the proposed events - No assessment of the cumulative parking/traffic impacts was provided. <p>This issue is further discussed below in Section 13.2 of this report.</p>	13.2
Intense Commercial Use within a Residential Zone (R2)	The use of the subject site for events is not permissible within the R2 Low Density Residential Zone. Even though, Part 2.8 of the WLEP, 2014 allows for temporary uses of land, for a maximum period of 52 days in any 12 month period. The applicant has not adequately demonstrated that the proposal would satisfy Part 2.8(3)(b). The proposal is therefore not permissible and has not been supported. This is further discussed below in Sections 12.2 and 12.3 of this report.	12.2, 12.3
The temporary use of the site would contrary to Part 2.8 of the WLEP, 2014 (permissibility)	The applicant has not adequately demonstrated that the proposed temporary use of the site for events, would satisfy Part 2.8 of the WLEP, 2014. Therefore the proposal is not permissible and has not been supported. This is further discussed below in Section 12.3 of this report.	12.3
Security	The submitted Plan of Management has stated that a security team is to be engaged for each event. The security team will be on-site for the duration of the event and is to manage access and crowd control during the event. Notwithstanding this, the proposal has not been supported.	13.4
Lack of accurate, sufficient and adequate information	The applicant has not provided Council with sufficient, accurate and adequate information to allow for a proper assessment of the proposal. The proposal has therefore not been supported. This is further discussed below in Section 21 of this report.	21
Waste/Rubbish	The applicant has not provided sufficient information in relation to the storage, separation/recycling, collection and management of waste, including patron littering beyond the site. The proposal has therefore not been supported.	13.3

Issue	Conclusion	Section
Anti-social behaviour	The applicant has not submitted a Social Impact Report, thus the impact of anti-social behaviour on surrounding residential properties could not be adequately assessed. The application has therefore not been supported.	13.4
On-going unauthorised events at the site	The subject site has a long history of hosting unauthorised events at the site, even after the owners of site provided a written undertaking in 2012 to Council that no events/functions would be undertaken without firstly obtaining consent, refer to Attachment 13 . Council has also received a significant number of complaints from surrounding residents, relating to events that have been undertaken at the site. Given this compliance history, there is significant concern whether restrictions/conditions that may be imposed, should consent be granted would be complied with. It noted that the proposed development has not been supported.	7
Cumulative Impact of filming operations and functions at other venues	A significant amount of filming is carried out at the subject site, which can involve large amounts of on-street parking being occupied for extended periods of time. The submitted documentation has not taken account of the cumulative impact of these filming operations have on the amenity of surrounding properties. In addition the submitted documentation fails to make any assessment of the cumulative parking impacts that could be created by concurrent events at nearby venues, such as Lindsay House and McKell Park.	13.4, 21
Lighting/light spill	No details were provided in relation to the type, location and intensity of event lighting. Therefore the potential light spill impacts were not able to be adequately assessed. The proposed development is therefore considered to be unacceptable in this regard. This issue is further discussed below in Section 16 of this report.	16
Deliveries/Set-up/Pack-up	The applicant has not provided sufficient information in relation to the frequency, size, and delivery location and delivery times. The set-up and pack-up times provided in the POM are considered to be too broad and potentially impact the residential amenity of the locality. The proposed development has not therefore not been supported.	13.2, 16
Heritage	NSW Heritage and Council's Heritage Officer have supported the application, subject to conditions should consent be granted.	12.4
Cooking Odours/Smoke	The applicant has not provided any information in relation to the location of the food preparation/cooking area in the submitted documentation. The location of the food preparation area that was indicated by owner of the property during the site visit, appears to conflict with the car parking arrangements. Further there is no information in relation to the managing/mitigation of cooking odours/smoke. The proposed development has not therefore not been supported.	16
Loss of property value	Loss of property value is not a relevant head of consideration, pursuant to Cl.4.15 of the EP & A Act, 1979.	5.2
Pedestrian/Traffic Safety	As the applicant has not provided sufficient/accurate traffic assessment, the pedestrian and vehicular safety impacts are not able to be adequately assessed. The proposed development has therefore not been supported.	13.2
Two concurrent DAs applying for the same development	Although multiple consents on the same parcel of land creates the risks of inconsistencies between consents, there is no legal constraint on the number of development applications that a person can make in respect of the same land. In addition there can be more than one valid consent applying to a property at any one time. Notwithstanding this, the proposal has not been supported.	5.2
The proposal notified incorrectly	Whilst, it is acknowledged that the notification letter states that events will be held a maximum of 52 days a year whereas, the documentation states a maximum of 41 event days. The notification letter was not considered to be materially misleading and referenced the maximum number of days that temporary events under Cl.2.8 of the WLEP, 2014 could be carried out. In addition the number of event days was an overstatement and therefore considered acceptable in this regard.	5.2

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is located on the corner of Darling Point Road and Thornton Street, Darling Point. The site is bounded by Hampden Ave to the rear, has an irregular shape and a total area of 13,556.75m ² . The Darling Point Road frontage includes the main entrance to the property via the existing sandstone gates. These gates allow vehicular access via a looped driveway that leads up to a porte-cochere. The Hampden Avenue frontage provides access to the underground carpark, which lies under the existing tennis court.
Topography
The land slopes from the rear (west) to the front (east) towards Darling Point Road.
Existing buildings and structures
The subject site contains a two storey sandstone Victoria Gothic Revival mansion with a three storey tower, set within landscaped grounds. The site is known as 'Swifts' and is the largest most intact (apart from Government House) late Victorian house in Sydney. The subject building, outbuildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gateposts, gates, sculptures, two (2) Moreton Bay Figs, Lemon-scented Gum, Bunya Pine, Norfolk Island Pine are state significant heritage items.
The site contains extensive lawns along the Darling Point frontage. The northern lawn is accessed via the colonnade and terrace area. To the south of the main dwelling is a collection of outbuildings, which include a double garage and stable building. To the rear of the dwelling (western side) is a inground swimming pool, kitchen garden, tennis court, tennis court pavilion and underground garage accommodating 8 car parking spaces.
Surrounding Environment
The subject site is surrounded a mixture of residential development including residential towers to the north and south and single residential dwellings to the east and west.

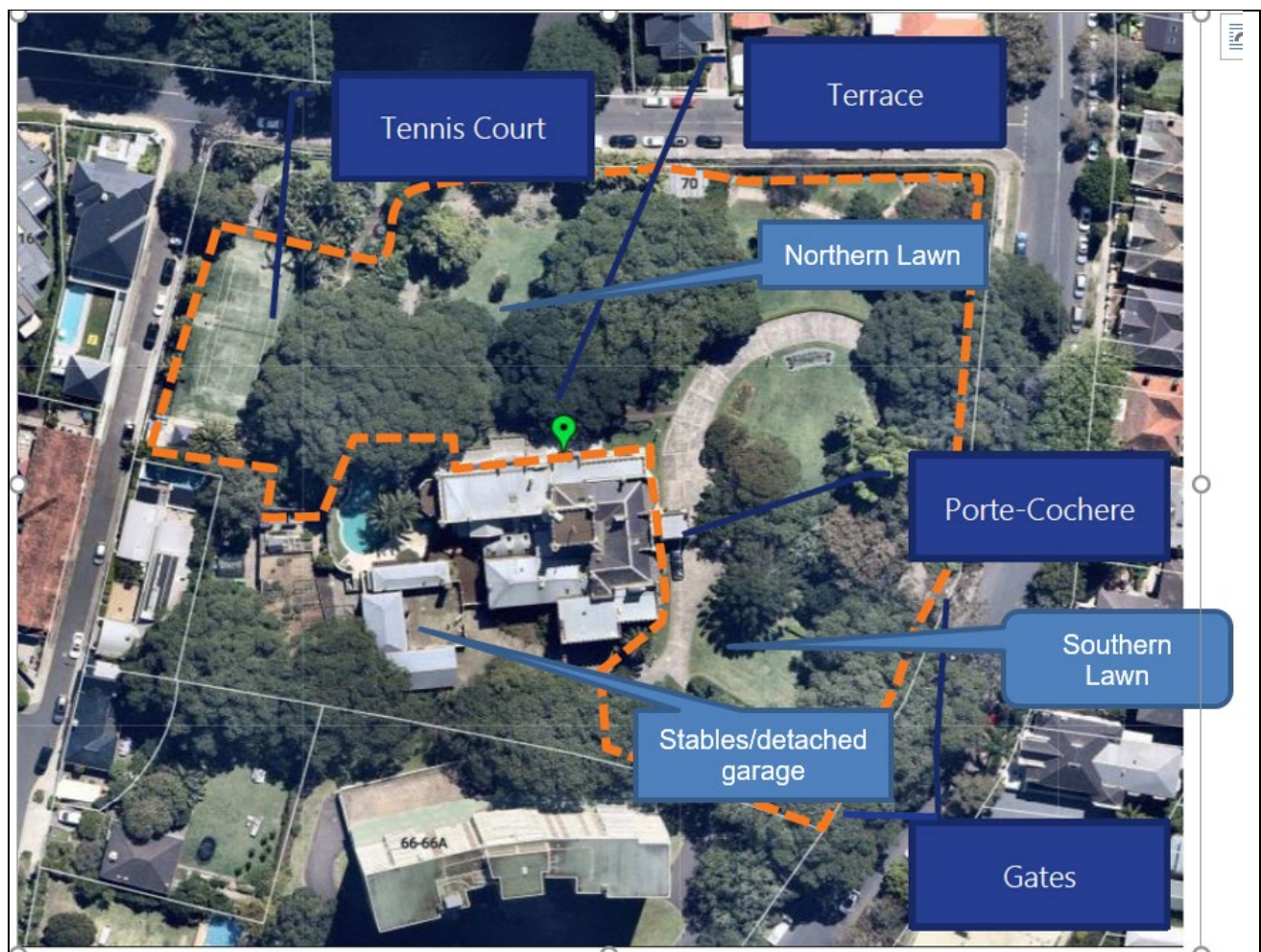


Figure 2: Aerial photo of the subject site.



Photo 1: Eastern and northern elevation of Swifts, as viewed from the internal driveway



Photo 2: Existing Porte- Cochere to the eastern elevation



Photo 3: Southern Lawn



Photo 4: Terrace



Photo 5: Northern lawn



Photo 6: Ballroom



Photo 7: Dining room



Photo 8: Vehicular entry gates off Darling Point Road



Photo 9: Tennis court to the rear of the site



Photo 10: Underground carpark



Photo 11: Vehicular access to the underground car park off Hampden Ave



Photo 12: Residential flat building to the north of the site at No.5-11 Thornton Street.

7. RELEVANT PROPERTY HISTORY

Current use
Residential.
Relevant Application History
<ul style="list-style-type: none"> DA278/2022- Use part of a heritage item (Swifts) for occasional events – Pending. DA21/2022 - Public event with displays of cars in the grounds of Swift's from the 3rd March to 5th March 2022- Withdrawn. DA 545/2015/1- Construction of a new swimming pool and associated landscaping and alterations to the rear of the property to enclose the existing courtyard for a new family room on the ground floor, - Approved - 04/05/2016. DA38/2012 - Swifts Soirees Concert Series: Six Sunday afternoon fine music concerts 4pm - 6pm, approved on 23/04/2012. DA433/2011- Open house and garden at Swift's on Friday 18 to Sunday 20 November 2011 – Approved - 14/11/2011.
Relevant Compliance History
<ul style="list-style-type: none"> Order- Repair of sandstone retaining wall – 26/10/2009; Order – Repair of sandstone retaining wall – 13/09/2013; On 23/02/2012 Council lawyers issued a letter to the owners of Swifts requesting an undertaking that events and functions will not be undertaken without firstly obtaining the relevant consents otherwise Council will commence Class 4 proceedings in the L & EC for appropriate declarations and orders, refer to Attachment 13. The owners of Swifts provided the required undertaking on the basis of Council allow two non-commercial events on 12/03/2012 and 15/03/2012. Council agreed for these events to take place subject to specific restrictions; On 18/11/2022 Council's Compliance Department issued a show cause letter to the owners of the property in relation to the failure to obtain consent for use of the property as a function centre; On 22/11/2022 the owner of the property provided representations in response to this letter; On 23/11/2022 Council's Compliance Department sent the owners of the property an email in relation to that the maximum exempt use of the property for filming has been reached; The owner of the property provided a response this email on 29/11/2022.
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> A Stop the Clock letter requesting the payment of the integrated development referral fee was requested on 19/07/2022 and was provided on 26/07/2022; Additional information in relation to the relevant liquor licence was requested and received on 04/08/2022; Additional information was requested by NSW Heritage on 20/09/2022. This information was received on 20/09/2022; Additional information heritage information was requested on 11/10/2022 and was provided on 20/10/2022; Additional information in relation to waste management and bathroom facilities was requested on 28/11/2022 and provided on 29/11/2022.
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Traffic	<p>Unsatisfactory, insufficient traffic and parking information has been submitted including:</p> <ul style="list-style-type: none"> Inadequate details of the pick-up/drop-off area Insufficient traffic management plan Insufficient details in relation to loading and unloading Insufficient details in relation to staff parking 	1

Referral	Summary of Referral Response	Attachment
	- The travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the events.	
Heritage	Satisfactory, subject to conditions.	2
Environmental Health	Unsatisfactory. <i>The submitted Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.</i> <i>Any new or revised Acoustic Assessment Report for the Subject Venue shall clearly identify if it can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area. All noise mitigation strategies shall be included.</i> <i>No reference has been made in the supporting documentation specific to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food.</i>	3
Fire Safety	Satisfactory, subject to conditions.	4
NSW Heritage	Satisfactory, subject to conditions.	5
NSW Police	Satisfactory, subject to conditions.	6
Compliance	A recent compliance history was provided.	7

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 03/08/2022 to 02/09/2022 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. 174 Submissions, refer to **Attachment 12** for the submission list.

The submissions raised the following issues:

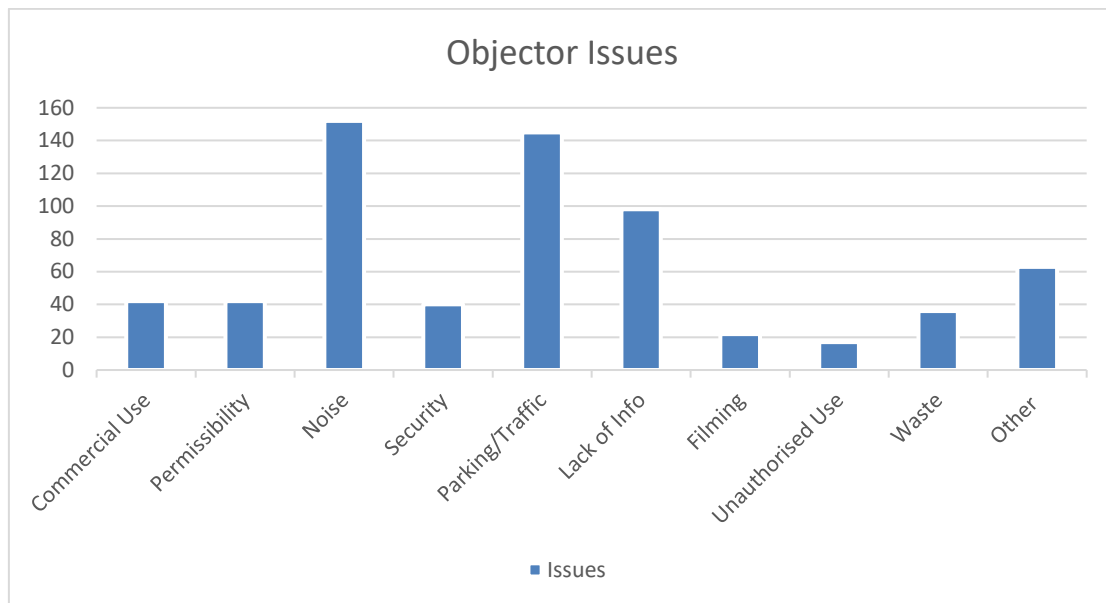


Figure 3: Graph of Objector Issues

Note: 'Other' issue include: Anti-social behaviour, property values, heritage, lighting, set-up/pack-up, invalid DA, odours, pedestrian/traffic safety and invalid notification.

Responses to these issues are discussed above in Section 5.2 of this report.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 05/09/2022 declaring that the site notice for DA277/2022/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

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

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 State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.* On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

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.

11. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The proposed development is obscured from the waterway and the foreshores by existing development and landscaping. The subject site is not a land/water interface development, notwithstanding, Division 2 of Part 6.28 of the Biodiversity and Conservation SEPP prescribed matters for consideration for interrelationship of waterway and foreshore uses as well as maintenance, protection and enhancement of views.

The proposal does not result in any detrimental impact on the wetlands or cause pollution or siltation of the waterway. It does not detrimentally impact on existing vegetation or drainage patterns and does not obstruct vistas of the waterway from the public domain.

The proposal therefore satisfies the relevant criteria prescribed by the SEPP.

It is considered that the proposal, will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the planning instrument.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12.1 Part 1.2: Aims of Plan

The proposal is inconsistent with the following aims in Part 1.2(2) of the Woollahra LEP 2014:

- Part 1, Clause 1.2(2)(g) - The proposal does not protect the amenity and the natural environment
- Part 1, Clause 1.2(2)(k) - The proposal does not adequately minimise and manage traffic and parking impacts.

The application is therefore considered unacceptable in this regard and has not been supported.

12.2 Land Use Table

The proposed 'event' use of the subject site, is not permissible within the R2 Low Density Residential Zone. However, Part 2.8 of the WLEP, 2014 allows for temporary uses on any land and in any zone. Notwithstanding this, it has not been demonstrated that the proposal satisfies Part 2.8(3)(b), thus the proposed temporary 'event' use of the site is prohibited. This is further discussed below in Section 12.3 of this report.

12.3 Part 2.8: Temporary Use of Land

Part 2.8 of the Woollahra LEP 2014 allows a temporary use for a maximum period of 52 days on land in any zone for (whether or not consecutive days) any 12 months period, if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

The proposed use of the subject site for events/functions for a maximum of 41 event days is a prohibited land use in the R2 Low Density Residential zone, as discussed in Section 12.1 of this report. However, Clause 2.8(2) states that “*development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*”

Clause 2.8(3) outlines the relevant matters for consideration which are required to be satisfied in order to grant consent. An assessment of the proposal against these relevant matters is provided below:

- (a) *The temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument*

The proposal is acceptable with regard to subclause (a).

- (b) *The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood*

Acoustic privacy impacts

Whilst, it is acknowledged the subject site is very large, the site is surrounded by a high number of residential properties, including residential towers to the south and north and low density development to the east and west. The subject site has a long history of hosting events at the site, for which Council has received a significant number of noise complaints from surrounding residents. In addition to this, 152 noise objections from surrounding residents were received as part of the notification process of this development application.

The applicant has submitted an Acoustic Report with this application, however this acoustic assessment does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential properties. Therefore a proper assessment of the potential acoustic privacy impacts on surrounding residential properties could not be undertaken. This issue has been further discussed below in Section 13.1 of this report.

Traffic and Parking

The applicant has stated that 45 onsite parking space will be made available for staff and pre-arranged attendees (35 spaces for guests and 10 spaces for staff).

The applicant has not provided adequate/accurate traffic and parking information to allow for a proper assessment of the parking and traffic impacts. The following information was considered to be unsatisfactory:

- Inadequate details of the pick-up/drop-off area
- Insufficient traffic management plan
- Insufficient details in relation to loading/unloading
- Insufficient details in relation to staff parking
- The submitted travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the proposed events
- No assessment of the cumulative parking/traffic impacts was provided.

Therefore a proper assessment of the potential traffic and parking impacts on surrounding residential properties could not be undertaken. This issue is further discussed below in Section 13.2 of this report.

Lighting:

The submitted documentation has not provided any details in relation to the type, location and intensity of event lighting. It is noted that Council has received a high number of complaints in relation light spill impacts from events that have been previously held at the site, which have included the use of strobe and flood lighting. This type of lighting can potentially have unacceptable impacts on the amenity of surrounding residential properties.

In addition, the applicant has not provided any information in relation to whether fireworks are proposed to be used at events. Fireworks have been used in the past at the site and potentially have a significant impact on the amenity of surrounding properties.

Whilst, it is acknowledged that some of these lighting impacts could be resolved by way of condition, the applicant has not provided sufficient information to allow for an adequate assessment of this issue.

For reasons discussed above the proposal is unacceptable with regard to subclause (b). The applicant has not provided sufficient and adequate information to determine whether the proposed temporary use of the subject site for events/functions would adversely impact on adjoining land and the amenity of the neighbourhood. The proposal is unacceptable in this regard.

- (c) *The temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land*

The subject site is heritage listed. No permanent structures or furniture is to be permitted. Marquees, tables, chairs and decorations are to be permitted only where they do not require any modification to the existing building fabric or landscape. Further to this, NSW Heritage and Council's Heritage Officer have supported the proposal, subject to conditions should consent be granted. For reasons discussed above the proposal is unacceptable with regard to subclause (c).

- (d) *At the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use*

The submitted POM has stated the Event Manager will be responsible for returning the site back to its original state at the conclusion of the event. For reasons discussed above the proposal is unacceptable with regard to subclause (d).

Conclusion

The proposal fails to satisfy Part 2.8(3)(b), which permits the temporary use of land (events/functions) which would otherwise be prohibited under Part 2 of Woollahra LEP 2014 in the R2 Low Density Residential zone.

In this instance, the development of the site for a prohibited use warrants grounds for refusal of the application.

12.4 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m. The height limit control is not relevant to this application, as there are no physical works proposed.

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 subject site is not located within heritage conservation area, however contains the following heritage item:

- “Swifts”—building and interiors, outbuildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gateposts, gates, sculptures, 2 Moreton Bay Figs, Lemon-scented Gum, Bunya Pine, Norfolk Island Pine.

The statement of significance as contained in the online NSW State Heritage Inventory listing for the Swifts is as follows:

Swifts is of State significance as, apart from Government House in Sydney, it is the largest remaining Victorian Gothic Revival house in Australia. Swifts remains on its original grounds and still consists of the original landscape, statuary, terrace wall, stairs and paths. It is a prime example of how the upper class people lived in the 19th century in Australia. “Swifts” is also of cultural significance as it was home of two well-known Sydney business families, the Lucas-Tooth and Resch families. “Swifts” connection with the Roman Catholic Church is also of social significance as it was home to three cardinals; Gilroy, Freeman and Clancy. The building is also significant because it is an example of the work of Gustavus Alphose Morell, a prominent Sydney architect in the late 19th century (Lucas, 1994, 128).

The western section of the garden of “Swifts” formed an integral part of the original design of the grounds. The special relationship of the grounds to the mansion is a significant factor in determining the status of the grounds as an item of environmental heritage. The building together with its site is an item of environmental heritage (excerpt from 'Findings' of Commissioner of Inquiry, 1983, p.55).

Physical Description:

Garden:

Swifts is located at 68 Darling Point Road Darling Point. It was originally set in four acres of landscaped gardens.

The garden is divided into three precincts - the eastern, northern and western (Evans, 1983, 12-14). Some of the original garden design is still evident such as the carriage drive which sweeps north, west and south up to the porte cochere, and return / service drive to the property's south-eastern corner (Stuart Read, pers.comm., visit 19/11/2011). Original garden bed design is still evident through the placement of terracotta edging tiles (Evans, 1983, 12-14).

*The Eastern garden is introduced from the enclosed terrace, which leads out to the carriage drive and flower beds. The northern perspective of the house is framed by huge Moreton Bay figs (*Ficus macrophylla*) and camphor laurels (*Cinnamomum camphora*), while the northern garden is scattered with Illawarra plum / brown pine (*Podocarpus elatus*), a bull bay / evergreen magnolia (*M.grandiflora*) from the United States and a bay laurel (*Laurus nobilis*) tree from the Mediterranean. The gardens are scattered with statues to add interest. The north eastern corner is dominated by shrubs. The western garden originally would have been for kitchen use (ibid, 1983, 12-14).*

A rough line of Moreton Bay figs along the eastern Darling Point Road side form a screen from later subdivisions and housing. More Moreton Bay figs line the southern boundary, again masking later subdivisions (and current high rise flats).

*A range of choice trees in the eastern border include Queensland lacebark (*Brachychiton discolor*)(there are a number of these on the western boundary of Swifts and another specimen on the north-east Darling Point Road edge), Illawarra flame tree (*B.acerifolius*), a very rare Burj / shingle oak from the Himalayas (*Quercus leucotrichophora*)(possibly one of only a handful in Australia) and an equally rare palo blanco tree (*Picconia excelsa*), an endangered rainforest tree from the Canary Islands, related to the olive. Its habitat is restricted to the 'cloud forest' or rainforest of the upper Canary Islands and Azores. This species is endangered in the wild due to land-clearing (Stuart Read, pers.comm., 10/10/2012; updated 7/11/2016). It is rarely found here - with only 14 known in NSW (e.g. two specimens in the Royal Botanic Gardens, Sydney, four at Camden Park and a few others, including two at Yasmar, Haberfield and single specimens at Denham Court, Ingleburn and at Cooma Cottage, Yass) and only 33 known around Australia (e.g. Botanic Gardens in Sydney, Melbourne and Geelong; Marybank in the Adelaide Hills)(Stuart Read, pers.comm., 6/2006, updated 10/10/2012; and 2/10/2020). Also in the eastern border is an evergreen oak (*Quercus ilex*) (Stuart Read, pers.comm., visit, 19/11/2011).*

*The Northern garden includes a huge Moreton Bay fig (*Ficus macrophylla*) north-west of the house near its terrace, shading that corner. Below and north of it are a range of smaller trees and shrubs arrayed on grassed lawns sloping down from the mansion to Thornton Avenue. Two young Queensland kauri (*Agathis robusta*) have been planted near an electricity substation facing Thornton Avenue and are now some 8m tall (Stuart Read, pers.comm., 5/2017).*

The Western garden is broadly the service area part of the house, outbuildings and garden, with remnant terracing, grassed today where elements such as orchard and kitchen garden would have been originally (ibid, pers.comm., 5/2017).

Mansion (1875-1882):

The new Swifts, described as Castellated Gothic in style, with 42 rooms (Pike, 2020 says 56 rooms), resembled Government House, but had a larger ballroom, deliberately so (Kehagias, 2016 quoting Dr Shane Moran). It is a two storey sandstone Victorian Gothic Revival mansion with three storey tower, castellated parapets. Swifts resembles Government House, but had a larger ballroom before it was converted into a chapel-of-ease by the Catholic church. The majority of the house is made from either sandstone or rendered brick (Lucas, 1993, p 106). The eastern facing front entrance is marked by a porte cochere that is flanked by projecting bays. The verandah on the north is crenulated and flagged with sandstone. The windows have carved valances and external timber shutters, an unusual form of climate control for the period.

Swifts is comprised of 42 rooms arranged in a U-shape and including drawing room, morning room, smoking room, dining room, study, billiard room, ball room, numerous bedrooms, fitted dressing room, service room, kitchen, scullery, pantry, butlers rooms, silver safe, store, wine cellar and servants quarters. Service buildings include dairy, laundry, four stall stable, double carriage house and a tack room (Lucas, 1994, p 118).

Officially there are 52 rooms - Dr (Shane) Moran said it was hard to know how many bedrooms the property had, because the rooms could be used for any purposes (Kehagias, 2016).

Smoking Room, the remains of an old opium den, which traces back to when opium was legal (ibid, 2016).

The original staff quarters were broken up into small rooms. 'We kept the 1870s layout, which split the house into a male and female side. The male side features lots of wood and there's a billiard room. The female side is brighter' (Dr Shane Moran, in ibid, 2016).

The proposed development is not considered to detract from the character, appearance and setting of this heritage item, for the following reasons:

- No physical works have been proposed;
- NSW Heritage has supported the proposal, subject to conditions should consent be granted;
- Council's Heritage Officer has supported the proposal, subject to conditions should consent be granted;
- The submitted POM has stated that no permanent structures or furniture is permitted; Marquees, tables, chairs and decorations are permitted only where they do not require any modification to the existing building fabric or landscape;
- The Event Manager will be responsible for returning the site back to its original state at the conclusion of the event.

The subject site is located within close proximity to heritage items at Nos.54, 56, 133-135, 137, 139, 141 and 143 Darling Point Road and 13-15 Thornton Street. Council's Heritage Officer has stated that the proposal would not adversely affect the significance of any of these heritage items, located within the vicinity of the site.

Conclusion:

The proposed development is therefore considered to be acceptable with regard Part 5.10 of the WLEP, 2014.

12.6 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. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter B3: General Development Controls

Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

No change to the streetscape presentation or the local character has been proposed.

Part B3.5.3: Public and Private Views

No views from the public or private domain will be obstructed by the proposal.

Part B3.5.4: Acoustic and Visual Privacy

Visual Privacy:

No changes to any fenestration or to the location or level of any private open space at the site has been proposed. Further to this, the proposed outdoor event locations are considered to be sufficiently separated and screened by substantial existing vegetation to maintain the visual privacy of surrounding residential properties.

Acoustic Privacy:

The applicant has submitted an Acoustic Report. The applicants Acoustic Consultant visited the site during a wedding and reception that was occurring on the southern lawn, on 05/02/2022. The driveway/entrance to the residence and the grassed areas further to the north of the southern lawn was used for this wedding. A marquee was set up at the southern extremity of the southern lawn in which the ceremony was undertaken and accompanied by an amplified string quartet and amplification of the service.

A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period.

The Acoustic Report has concluded (indoor events):

"The substantial sandstone construction of the building and the location of the formal entertaining areas being at the northern end of the property would result in negligible acoustic impact on surrounding residential properties and would not cause any measurable increase above the ambient background level if internal music levels were limited to not exceeding 95 dB(A) as a spatial average across the internal spaces.

Any functions occurring inside the residence at night (after 10pm) require supervision to ensure all doors and windows to function areas are closed when entertainment is provided. The Plan of Management requires the appropriate staff to assist attendees leave in a quiet and orderly manner after 10pm".

With regard to outdoor wedding on 05/02/2022, the following conclusion was provided:

"For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A).

At the time of the inspection the marquee located on the southern side of the southern lawns was open on all sides. Events using this marquee location require:

- *The southern wall of the southern and eastern walls of the marquee to be fully closed by the same heavy plastic/vinyl material as used for the large marquee.*
- *Music provided for the ceremony can be unamplified string quartets etc located on the southern side under the marquee.*
- *A sound system for amplification of the celebrant is to have speakers located under the marquee (minimum of 2m from the western end of marquee).*
- *To provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards to north.*
- *The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.*

Following the ceremony, music was provided by amplified instruments located adjacent the main building situated in line with the northern end of the marquee approximately 24 metres from the southern boundary. The small band was oriented in a northerly direction. The provision of a temporary solid timber wall to provide additional acoustic shielding and limiting the band or DJ to a level not exceeding 75 dB(A) (behind the band) is required. No external amplified entertainment would be permitted after 6pm.

With regard to Unique Events the comment was made in the submitted Acoustic Report:

For daytime events involving exhibitions, car displays etc. the general events are not envisaged to create a noise impact provided any amplification for announcements etc are similarly restricted in level. The restriction in levels are dependent upon the sound systems provided and can only be assessed in situ at the site boundaries for an average maximum level of 46 dB(A). This will require management to purchase a sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary”.

Council's Environmental Health has provided the following comments in relation to the submitted Acoustic Assessment:

The submitted Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.

Any new or revised Acoustic Assessment Report for the subject venue shall clearly identify if it can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area. All noise mitigation strategies shall be included.

Noise Environment

The Acoustic Report only provides a ‘one-off’ attended noise assessment of the ambient noise environment, which was conducted on Sunday, 13 February 2022 in the middle of the afternoon and later in the evening period – no time or duration of the noise is recorded in the Acoustic Report. Further, no long-term monitoring of the ambient noise environment was conducted; noise monitoring should have been conducted during representative timeframes in order to account for the noise sources in question.

Having regard to the inadequacy of the acoustic consultant's background noise monitoring, upon which many noise criteria are established, Environmental Health does not consider that background noise levels have been sufficiently established at the most affected residential receivers.

To quantify the existing ambient noise levels in the area, unattended long-term noise monitoring is required for the Day (7AM-6PM), Evening (6PM-10PM) and Night (10PM-7AM) periods. The noise logger is to be conservatively sited in a location(s) to represent the ambient noise levels of the nearby sensitive receptors in accordance with NSW Noise Policy for Industry (NPfI) and the procedures described in Australian Standard AS 1055:2018, “Acoustics - Description and Measurement of Environmental Noise”.

The unattended long-term noise monitoring shall be accompanied with a survey of attended noise monitoring for the Day, Evening and Night periods to further quantify the existing noise environment.

Noise Criteria

The acoustic report is somewhat ambiguous with respect to the measurement methodology employed when establishing the existing noise levels and comparison to an appropriate Noise Criteria. The only reference to a Noise Criteria applied to the subject venue within the Acoustic Report (Acoustic Group 14 June 2022) is, "For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A)". Environmental Health assumes that the Acoustic Report (Acoustic Group 14 June 2022) is referencing the NSW Environmental Protection Authority (EPA) Noise Policy for Industry (NPI) which states the following:

'The intrusiveness of an industrial noise source may generally be considered acceptable if the level of noise from the source (represented by the LAeq descriptor), measured over a 15 minute period, does not exceed the background noise level by more than 5 dB when beyond a minimum threshold. This intrusiveness noise level seeks to limit the degree of change a new noise source introduces to an existing environment.'

Environmental Health refers to the types of events, as stated in The Statement of Environmental Effects (July 2022) and Plan of Management (July 2022), that have traditionally been held at "Swifts" including Weddings, Birthdays, Charity Events, Balls, Corporate functions which undoubtedly will require the premises for such functions to be licensed for the service of alcohol. When assessing noise emissions from licensed premises, Environmental Health and industry standard regards the most appropriate Noise Criteria to be applied is that imposed by the NSW Department of Industry - Liquor & Gaming (L&GNSW) which relate to noise generated by patrons and by music. The noise criteria states:

- *The L10 noise level emitted from the premises shall not exceed 5dB above the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
- *L10 noise level emitted from the premises shall not exceed the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
- *After midnight, noise emissions from the Premises are to be inaudible within any habitable rooms in nearby residential properties.*

Noise Assessment not based on Worst Case Scenario Conditions:

The Acoustic Report (Acoustic Group 14 June 2022) states, "A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period".

Environmental Health has several issues with the above statement. First of all it is the only measured noise level which is used in the Acoustic Report in determining the Project Specific Noise Trigger Levels. No time or duration of the assessment is recorded in the Acoustic Report.

Secondly, the isolated scenario (wedding function) does not represent all 'typical functions'. There are many different functions that would each generate varying levels of noise. In the example used (wedding function), the Acoustic Report does not stipulate attending patron numbers; as a worst-case scenario the assessment should be based on the premise that the wedding function was held at maximum patron capacity.

*In determining the maximum allowable noise levels, the Acoustic Report could have used noise modelling software to predict noise emission levels for all function scenarios, and representing each function scenario in **worst-case scenario conditions**. Environmental Health would have expected the Acoustic Report to reference as a minimum, but not be limited to:*

- *Determining compliance with Project Specific Noise Trigger Levels when compared to measured ambient noise levels (unattended and attended).*
- *Justify assumptions of predicted sound power levels from identified sources of noise, especially patron and music noise, noting that the consumption of alcohol has the potential to increase the level of crowd noise as people lose their inhibitions and become more boisterous.*
- *Predict **cumulative** noise emissions from patron noise, music (amplified or otherwise), mechanical plant services and carpark operations and their impact upon sensitive residential receptors.*
- *Detail each function scenario and acoustic characteristics of the venue setting (internal, external or both) and assume maximum allowable patronage capacity. The larger the group, the larger the vocal effort to communicate.*
- *Detail the typical entertainment permitted for each type of function scenario and set-up locations.*
- *Traffic noise impact assessment at the site that accommodates parking for 45 vehicles on the site.*
- *Waste collection and delivery services (activity scheduling).*
- *Detail of all noise mitigation strategies.*

Sensitive Residential Receptors

The Acoustic Report (Acoustic Group 14 June 2022) states, "Observations of Darling Point Road during the wedding function indicated a reasonable degree of traffic passing the subject site and that the critical residential receivers with respect to functions occurring on the southern lawn would relate to a high-rise apartment building immediately to the south of the subject property that overlooks Swifts".

Environmental Health has concerns that the Acoustic Report has not identified all residential properties that may be adversely impacted by noise emissions, especially for the outdoor events conducted on the Northern Lawn and Southern Lawn. Residential areas include Darling Point Road, Thornton Street and Hampden Avenue.

Sleep Disturbance

Noise sources of short duration and high level that may cause disturbance to sleep if occurring during the Night period need to be considered. The approach recommended by the NPfI is to apply the following initial screening noise levels:

- *L_{Aeq}, 15min 40dBA or the prevailing RBL + 5dB, whichever is the greater; and/or*
- *L_AFmax 52dBA or the prevailing RBL + 15dB, whichever is the greater.*

The sleep disturbance screening noise levels apply outside bedroom windows during the night time period. Where the screening noise levels cannot be met, a detailed maximum noise level event assessment should be undertaken. It may also be appropriate to consider other guidelines including the NSW Road Noise Policy (RNP) which contains additional guidance relating to potential sleep disturbance impacts.

Further to the above, the applicant has not provided any information in relation to whether any plant equipment that may be necessary for the proposed events, such as power generators and temporary refrigeration units and the like would be used for the proposed events.

Conclusion

The applicant has not provided adequate and information to allow for an adequate assessment of the acoustic impacts of the proposal. The proposal is therefore unacceptable with regard to the external controls in Part B3.5 of the Woollahra DCP 2015.

Part B3.6: On-Site Parking

No changes to the existing onsite parking or driveways. The impacts on the on-street parking has been discuss below in the Section of this report.

Conclusion

The proposal is acceptable with regard to the external controls in Part B3.6 of the Woollahra DCP 2015.

Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

The proposed outdoor events are proposed to be positioned on the existing southern lawn and northern lawn. No existing trees or landscaping are likely to be impacted by these events.

Part 3.7.2: Fences

C12-C14 require the retention and maintenance of sandstone fencing and retaining walls.

The proposed development will retain the heritage listed sandstone fencing, retaining walls and gate posts at the site. The proposal is therefore acceptable in this regard.

Conclusion

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

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

Non-Residential Development

C2 requires development to be compatible with the streetscape and the desired future character of the street.

No changes to the streetscape have been proposed.

C3 states that lighting, noise, hours of operation and intensity of the use should not unreasonably impact on residential amenity.

The applicant has not provided sufficient information to allow for assessment of the event lighting, this is further discussed below in Section 16. The noise impacts of the proposal have been discussed above below in Section 13.1 of this report. The proposed hours of operation and intensity of use issues are discussed below in Section 13.4 of this report.

Conclusion

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

13.2 Chapter E1: Parking and Access

Parking:

It is noted that Council's DCP and the RMS Guide to Traffic Generating Developments do not specify car parking generation rates for the event/function uses. The subject site contains a pick-up and drop-off area, with vehicular access via the existing driveways off Darling Point Road. Vehicular access to the site is also provided via a single lane driveway from Hampden Avenue providing access to a basement level car park. Additional parking is available to the south of the main building (adjacent to the stables area). The applicant has stated that 45 onsite parking space will be made available for staff and pre-arranged attendees (35 spaces for guests and 10 spaces for staff), for use during events, including:

- 23 vehicles on the internal loop road (circular driveway), refer to **Figure 4**;
- 12 stacked vehicles to the area south of the Swifts building, refer to **Figure 5**;
- 10 tandem parked vehicles within the basement car park off Hampden Avenue (staff parking), refer to **Figure 6**.



Figure 4: 23 car spaces to the circular driveway, accessed via Darling Point Road

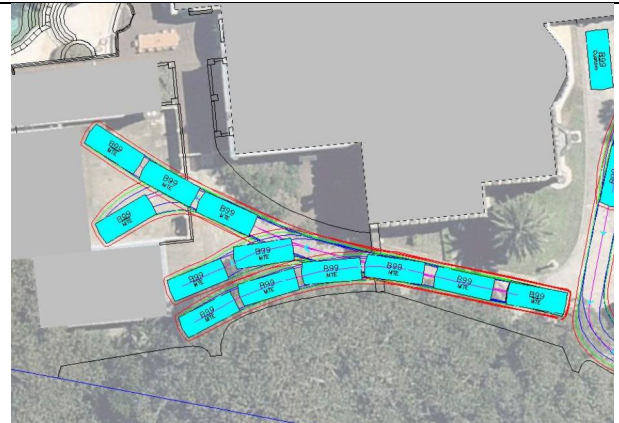


Figure 5: 12 Tandem spaces to the south of the main building

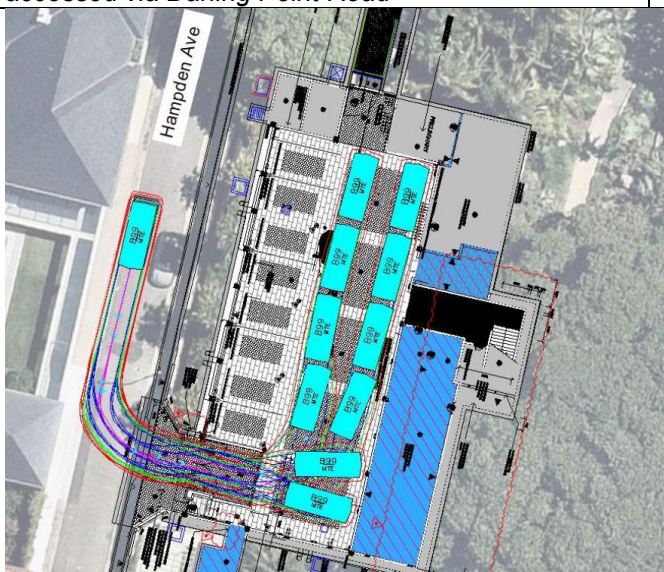


Figure 6: 10 car spaces to the basement car park accessed via Hampden Ave.

Drop off area:

The drop-off area is accessed via a gated single and separated entry and exit driveway, off Darling Point Road that is approximately 4m in width. The circulation driveway can accommodate a significant number of drop-offs/pick-ups at one time, being some 100m between the entry gate and Swifts building, however this has not been made clear in the submitted Traffic Assessment.

On-street parking:

- Darling Point Road: contains unrestricted kerbside parking along both sides of the road;
- Thornton Street: contains unrestricted kerbside parking along both sides of the road;
- Hampden Ave: “No Parking – Motor Vehicles Excepted” signage is positioned along the eastern side of the road and “No Parking” signage is positioned along the western side of the road.

Public Transport:

The public transport access to the subject site includes the following:

- **Train**: the site is within a 1.2 kilometre walk from Edgecliff Station (T4 Eastern Suburbs and Illawarra Line);
- **Bus**: there is a bus stop located on northern side of Thornton Street, adjacent to the Thornton Street site frontage, which is serviced by Route 328 that operates between Bondi Junction and Darling Point via Edgecliff;
- **Ferry**: The site is within a 350m walk from Darling Point Wharf (F7 Eastern Suburbs Line, which provides access to Double Bay and Circular Quay).

Parking Management Procedures:

It is noted that the proposed events are to be ticketed and information packages are proposed to be provided to the guests prior to event. The information that has been proposed to be provided to guests includes:

- No parking is provided on-site (unless otherwise organised) and limited on-street parking is available;
- Alternative transport to the site is recommended including: walking, train, bus, ferry, taxi and ride share;
- A map of the nearest public transport facilities and appropriate timetables for the event is to be provided to guests;
- The location of the entry driveway and the general circulation path of vehicular travel through the site is to be provided.

The following parking management procedures have been proposed:

- In some circumstances (on an as needed basis) a shuttle bus, such as a 22 seater mini-bus, will be provided between the subject site and key public transport locations;
- VIP guests and other nominated/authorised guests will be allowed to park on-site (e.g. bridal party) however, this will be planned prior to the event day;
- Authorised staff will be allowed to park on-site;
- If a guest requires an accessible car parking space for pick-up/drop-off the requirement shall be made known to the event manager.

Parking Impacts:

Council's Traffic Department has raised the following concerns in relation to the car parking:

Council's Traffic Engineers do not concur with the mode split assumptions for the first principles assessment, as detailed below:

- 1) *Special Events & Normal Events.*
 - a. *Travel by Trains. The estimated travel modes include 10% using local bus service, 10% using Edgecliff Train Station and 5% walking to the site. It should be noted that Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment).*
 - b. *Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries is considered much higher than in real practice.*
- 2) *Unique Events*
 - a. *Walking. Considering the nature and scale of the events, it is highly unlikely that 30% of visitors are living in close vicinity within walking distance.*
 - b. *Travel by Trains. As discussed above, Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment). The estimated 10% share of solely travelling by trains is considered higher than in real practice.*
 - c. *Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries are considered much higher than in real practice.*

In addition, visitors using train services would either walk to the site or take a bus and therefore should not be separated from the other two transport modes.

As such, the travel mode split for the proposed events fails to take full consideration of the site constraints, public transport services, nature of the events, etc., to reflect actual travel preferences. Numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in traffic report, noting Council has been receiving complaints on the adverse impacts on local parking and traffic during previous events.

Furthermore, insufficient information is provided on staff arrangement. It is therefore unclear whether the proposed 10 spaces for staff parking is sufficient for different types of events.

Further to the above, the submitted Traffic and Parking Assessment has not taken account of the cumulative traffic and parking impacts of the filming that is carried out at the subject site, which can involve the loss of large amounts of on-street parking surrounding the site for extended periods of time. In addition, no assessment of cumulative traffic and parking impacts that may be created by concurrent events at nearby venues such as Lindsay House and McKell Park, has been provided.

Given the above, the application has not provided adequate and sufficient information to allow for a proper assessment of the parking impacts of the proposal. Therefore the proposal is unacceptable in this regard.

Traffic:

Existing road network:

The existing road network consists of the following:

- Darling Point Road: is an unclassified collector road, with a 12m in wide carriageway facilitating one traffic lane in each direction and kerbside parking along both sides of the roadway;
- Thornton Road: is an unclassified local road, with a 9m in wide carriageway facilitating two-way traffic in each direction and kerbside parking along both sides of the roadway;
- Hampden Ave: is an unclassified local road, with a 5m wide two-way carriageway facilitating one way traffic flow at a time and kerbside parking on the eastern side of the road.

Internal Traffic Management Procedures:

The following internal traffic management procedures have been proposed.

- Traffic will enter and exit the site in a one-way anticlockwise direction, with the northern driveway facilitating entry and the southern driveway facilitating egress;
- Traffic controllers are proposed to direct drivers through the site. There is four (4) nominated locations for traffic controllers, refer to **Figure 7**. Attendance at all four (4) locations is proposed, however this is proposed to be reviewed for each event depending on the number and frequency of vehicles that are expected to enter the site. At a minimum, one traffic controller should attend the entry gate to inspect the tickets of guests upon arrival, and directional signs are to be placed at the remaining three (3) locations, including a “*Watch for Pedestrians*” sign at the exit driveway.
- Guests are to be advised to have their tickets ready for inspection at the gate to promote efficient use of the driveway;
- Once a driver has entered the site they will follow the driveway until reaching the next traffic control point, where they will either drop-off/pick-up guests or park their vehicle as directed by the traffic controller (depending on the pre-approved arrangement);
- Upon leaving, a driver will continue along the driveway where another traffic controller will direct the driver down the southern side of the circulation driveway towards the exit;
- The traffic controller at the egress point, are to monitor exiting vehicles and pedestrians walking across the site frontage;
- If accessible parking is required by a guest this is to be made known to one of the traffic controllers, where they will direct the driver of the vehicle to the dedicate pick-up/drop-off point for people with disabilities.



Figure 7: Traffic Management Plan

Traffic Impacts:

It is noted that the RMS Guide to Traffic Generating Developments does not specify traffic generation rates for events/functions.

Council's Traffic Department has provided the following comments in relation to traffic impacts of the proposed modifications:

- 1) It is noted that a pick-up/drop-off area is provided on-site, however the site plan does not demonstrate the location or dimension of the pick-up/drop-off area or how the pick-up/drop-off traffic will be managed;*
- 2) It is stated in the traffic report that a maximum of 35 attendee parking can be accommodated on-site, including 23 spaces within the internal loop road and 12 stacked parking spaces in the area south of the castle. It should be noted that the internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the castle restricts traffic movements when vehicles are parked as suggested. With the proposed parking layout, Council's Traffic Engineers query the manoeuvrability of vehicles and how accessing/egressing traffic can be managed efficiently. A more detailed traffic management plan should be submitted to demonstrate the traffic control before, during and after the events.*

Given the above, the applicant has not provided adequate and sufficient information to allow for an adequate assessment of the traffic impact of the proposal. Therefore the proposal is unacceptable in this regard.

Servicing & Loading:

The submitted Traffic Report has stated that deliveries and loading will be carried out onsite via the existing internal driveway off Darling Point Road, which allows for vehicles to enter and exit the site in a forward direction. It has been stated that events will be serviced by 6.4m long Small Rigid Vehicle (SRV). It has been specified that loading and unloading will occur outside of event times.

Council's Traffic Department has provided the following comments in relation to traffic impacts of the proposed modifications:

- 1) Insufficient information has been provided for event schedules regarding the load in and load out hours, the size and frequency of deliveries or how and where the deliveries will be handled.*

Given the above, the applicant has not provided adequate and sufficient information to allow for an adequate assessment of the servicing/loading arrangements. This issue is further discussed, below in Section 16 of this report. The proposal is therefore unacceptable in this regard.

Conclusion

The proposal is unacceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

13.3 Chapter E5: Waste Management

Part E5.3: On-Site Waste and Recycling Controls for all Development

C2 requires waste storage areas to facilitate the separation of garbage and recycling.

The applicant has not provided sufficient information in relation to waste management and has simply stated that event organisers provide waste storage receptacles for each event and remove all waste off site at the conclusion of the event. The applicant has not provided any information in relation to whether the waste is to be separated into garbage and recycling. However a condition requiring the separation of waste could be imposed should consent be granted.

C3 and C4 require waste storage areas to be behind the building line or in non-habitable spaces and integrated within the building design.

This information has not been provided, however given the extremely large size of the site there would be sufficient space to accommodate the storage of waste. Should consent be granted a condition requiring compliance with Controls C3 and C4 could be imposed.

C7 ensures that waste collection points should not interfere with traffic or pedestrian safety.

The applicant has stated that event organisers remove the waste at the conclusion of the event. A condition to this effect could be imposed should consent be granted. Conditions could be imposed to ensure that glass sorting, recycling and collection does not affect the amenity of surrounding properties.

The proposal is unacceptable with regard to Part E5.3 of the Woollahra DCP 2015.

13.4 Chapter F3: Licensed Premises

Rating

The premises comprises an on-premises licence has a rating level of **HIGH** in accordance with Table F3.2.

Assessment

In accordance with C1 of F3.3 the assessment of the licensed premises must consider the following:

a) *The location of the premises and the proximity of residential and other sensitive uses*

The subject site is surrounded on four sides by residential properties, including high density residential tower buildings to the south and north of the site and low scale residential properties to the east and west. It is noted that the subject site is very large, being 13 556.75m² in size.

b) The type of licensed premises

The applicant has stated that the proposed events/function does not involve the sale of liquor, however liquor may be supplied at these events/functions. Swifts does not have a liquor licence. Liquor licences are proposed to be provided by the caterers of specific events. The NSW Licencing Police expressed concern about this arrangement and provided the following comment:

Caterer endorsed liquor licence has a generous degree of flexibility. This may include extended hours of trade (beyond midnight), the ability to provide liquor with or without food and no restriction on patron capacity. A caterer often has no on-going association with the site and subsequently limited knowledge of location sensitivities and other harms (including noise etc) that may arise from their activity.

Our assessment will subsequently view the application as that of a 'function centre'. Based upon the location and proximity to predominantly residential premises it is likely we would seek the imposition of consent conditions to minimise harms.

Should consent be granted the NSW Licencing Police has recommended that a condition be imposed requiring the applicant seek approval and authorisation from the relevant Liquor Authority. An 'on-premises' liquor licence, which authorises the sale or supply of liquor for consumption on premises with another product or service that is sold or supplied at premises would be the relevant Liquor Licence for the proposed event/function use of the site.

c) The size and capacity of the premises

This applicant has sought consent to use part of the subject site, including the southern and northern lawns, terrace, Porte-Cochere, Colonnade, Dining room, Drawing room, Billiard Room, Music Room and Ballroom for up to 41 event days per year.

These proposed events involve the following:

- **Normal Events** (small or intimate weddings, lunches and dinners in the ballroom):
 - For up to 200 people
 - 20 events per year (no more than 3 per month)
 - Between 9am-11pm
 - Primarily indoors
 - 1 day event.
- **Special Events** (weddings, product launches/fashion events, birthdays):
 - For up to 250 people (outdoors only) and up to 300 people (for indoor/outdoor events)
 - 12 events per year (no more than 3 per month)
 - Between 9am-10pm
 - 1 day event.
- **Unique Events:** (Antique fair, Christmas fair, open garden, Concours d'Elegance)
 - For up to 300 people
 - 3 events per year
 - Between 9am-6pm
 - Indoor and outdoor events over multiple days, max 3 days.

Outdoor Events (Max 250 guests):

- The outdoor events are to be primarily contained to the northern and southern lawn areas, refer to **Figure 1**;
- The northern lawn is proposed to be available for use between 9am – 10pm;

- The southern lawn is proposed to be available for use between 9am-6pm (no marquee). If a walled and roofed marquee is to be used in this area, it would be available for use after 6pm with no PA system other than for speeches limited to a maximum duration of 1 hour;
- The outdoor areas also include use of the Porte-Cochere, Colonnade and Terrace;
- The remainder of the grounds and tennis court area may be used for Unique Events for various displays. No amplified music will be utilised in the outdoor event locations. The volume of the PA system will be limited. The PA system will be limited to one hour of continuous use.

Indoors Events (Max 200 guests):

- Indoor events will be contained to the ground floor area of the main building, including the Ballroom, Drawing, Music, Dining and Billiard rooms, and the indoor garage beneath the tennis court;
- Events are proposed to utilise areas of the Terrace and Portico, Colonnade and Porte-Cochere (which are outdoors);
- Amplified music and PA systems are proposed to be used indoors, where doors and windows to the outside are closed after 10pm.

C5 limits the number of patrons based on amenity impacts and emergency purposes. Departure from this limit is permitted in C6, as a reviewable condition, for the following reasons:

Given the submitted traffic/parking information and the acoustic assessment is insufficient and inadequate it is not possible to determine whether the proposed patron capacity would be appropriate, in terms of its amenity impact, particularly given the subject site is within a residential area.

d) Trading hours

In accordance with C2, the trading hours are to be limited to 8am – 10pm for internal areas (8am – Midnight- extended hours) and 7am – 10pm for external areas (7am-11pm, fri & sat only- extended hours).

The proposed trading hours of the events at Swifts are as follows:

- **Normal Events:** Between 9am-11pm (primarily Indoors)
- **Special Events:** Between 9am-10pm (primarily outdoors)
- **Unique Events:** Between 9am-6pm (outdoors)

The submitted POM has stated that all guests must depart within 1 hour of the conclusion of the event.

Whilst, the above mentioned trading hours are generally compliant with the relevant requirements, the applicant has not provided sufficient information, particularly in relation to acoustic privacy to allow for a proper assessment of the proposed trading hours. The proposed development is therefore unacceptable in this regard.

e) Existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas

C7(a) requires the submission of a Plan of Management.

Swifts has a long history of hosting events/functions at the site. It is noted there is no consent that allows for events/functions to be undertaken at the site, other than for a few specific events that have been held at the site, refer to Section 7 above. This consent seeks to formalise the use of the site for events, however it is noted that events have continued to be held at the subject site, even after the owners of site provided a written undertaking in 2012 to Council stating that no events/functions would be undertaken without firstly obtaining consent, refer to **Attachment 13**.

Council has received a significant number of complaints from surrounding residents, relating to events that have been undertaken at the site. These complaints have primarily raised parking, noise and light spill issues. The NSW Police have also received multiple noise complaints from residents in relation to events being carried out at the site. Given this compliance history, there is significant concern whether restrictions/conditions that may be imposed, would be complied with.

In addition to the above, the submitted Plan of Management (**Attachment 8**) is considered to be insufficient as it does not adequately mitigate potential impacts from noise, parking/traffic, light spill, waste, deliveries/set-up/pack-up, food preparation and anti-social behaviour on the residential amenity of the locality. However, it is acknowledged that should consent be granted, conditions of consent could be imposed to address some of these amenity issues. The proposed development is therefore considered to be unacceptable in this regard.

f) *Existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises*

The following management practices have been proposed to minimise impacts on surrounding properties:

Music & PA Systems:

- **Normal Events:** (Indoor Areas)
 - Amplified music is permitted
 - PA is permitted
 - External doors and windows are to be closed after 10pm where there is amplified music and/or PA is being utilised.
- **Special Events:** (Northern lawn and associated outdoor areas - Colonnade, Portico and Terrace)
 - Small amplified musical ensembles and sound systems is proposed to 6pm
 - After 6 pm, music is to be small unamplified musical ensembles, eg. string quartets etc
 - All amplified music after 6pm is proposed to be prohibited
 - A PA system with a sound level limiter is the only system proposed to be permitted
 - No use of a PA is permitted after 6pm, other than for speeches limited to a duration of 1 hour.
- **Special Events:** (Southern Lawn Area)
 - If the event is to go beyond 6pm, the event is to occur within a marquee with southern and eastern walls fully closed by heavy plastic/vinyl material;
 - A sound system for amplification of the ceremony and speeches is to have speakers located under the marquee (minimum of 2m from the western end of marquee);
 - PA limited to 1 hour of continuous use;
 - To provide distribution of sound for the ceremony the speakers is proposed to be permitted located along the southern side of the seating area and directed towards the north;
 - A PA system, with a sound level limiter, is the only system proposed to be permitted. The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker;

- Before 6pm, music is to be provided by amplified instruments or systems located adjacent to the main building situated in line with the northern end of the marquee (approximately 24 metres from the southern boundary). The music source is to be oriented in a northerly direction and a temporary solid timber wall is to be provided for additional acoustic shielding limiting the music source to a level not exceeding 75 dB(A);
 - After 6 pm, music can is to be small unamplified musical ensembles, eg. string quartets etc, located on the southern side under the marquee;
 - No use of a PA or amplified music is to be permitted after 6pm, other than a PA system for ceremonies and speeches of a duration of up to 1 hour.
- **Unique Events:**
 - The restrictions stated above apply depending on the relevant area used;
 - It is proposed for management to have available, at all times, a sound level meter and conduct measurements to ensure noise emission levels of the event does not exceed 46 dB(A) at any residential boundary.

Arrival, Drop-off and Parking:

The following management practices are proposed in relation to arrival, drop-off and parking:

- Notify guests that parking is not provided on-site (without prior arrangement) and it is recommended that guests take alternative transport to the site, such as Uber, walk, train, bus, ferry, taxi and ride share;
- A map of the nearest public transport facilities and appropriate timetables for the event is to be provided to all guests;
- In some circumstances (on an as needed basis) a shuttle bus, such as a 7m long 22-seater mini-bus will be provided between the site and key locations;
- VIP guests, guests with mobility issues and other nominated/authorized guests shall be exempt from the above requirements;
- Authorised staff will be able to park on-site;
- On-site car parking is available within the circulation roadway, to the back (south) of the residence and within the basement garage off Hampden Avenue;
- The primary access is from Darling Point Road via the existing gates. The primary access accommodates vehicular circulation via an internal looped driveway to a Porte-Cochere and then back onto Darling Point Road.

It is noted that the submitted parking/traffic and acoustic assessment is inadequate and insufficient, thus the application has not been supported. Should consent be granted, conditions could be imposed to approve the submitted POM along with additional mitigation measures to minimise impacts on surrounding properties.

C7(b) requires the submission of a Social Impact Report. C9 requires revisions where there is an extension of trading hours, patrons or a review of these limitations.

A Social Impact Report has not been submitted, contrary to Control C7(b). The proposal is considered to be unacceptable in this regard.

g) The density of licensed premises in the vicinity of the proposed development

The following licensed premises are located in the immediate vicinity:

The site is generally surrounded by residential properties, including high rise apartment towers located to the north and south of the subject site. In the vicinity of the site is McKell Park and

Lindsay House, which are located approximately 250-300m to north and St Marks Church and Ascham School are located approximately 600m and 800m to the south, respectively.

McKell Park:

McKell Park is located on the Harbour foreshore and is managed by Woollahra Council. The park contains the Heritage listed Canobury Cottage (which has a capacity of up to 20 people). The park and cottage can be hired by the general public for group activities, functions, photography and filming between sunrise and sunset (approximately 7am to 7:30pm, summertime) for up to 100 people. Wedding bookings are not to exceed 2 hours and other events can be booked for up to 4 hours. A maximum of 2 bookings per day are permitted. There is no onsite parking and has direct ferry access.

There is no liquor licence at the site however, the event organiser can use their own liquor licence within the park.

Lindsay House:

Lindsay House and surrounding grounds is a heritage listed national trust property located adjacent to McKell Park. This venue can be hired for weddings, private parties, garden parties, corporate meetings, luncheons, photography and filming. This venue hosts open days, committee meetings and exhibitions.

Functions:

From: 9.00am to 10.00pm, Monday to Saturday, Max 12 per year, Max 3 functions per month & Max of 100 persons.

Dinner Functions:

From: 5.00pm to 11.00pm, Monday to Saturday, Max 20 persons.

Small Group Filming and Photography

From: 9.00am to 5.00pm, Monday to Saturday, Max 1 group per day & Max 20 persons per group.

Exhibitions:

From: 9.30am to 5.30pm, Monday to Saturday, Max 2 per year, open to the general public & Max 10 day duration.

National Trust Meetings and Functions:
(excluding Womens Committee)

Until 12.00am, Max 20 per year & Max 20 persons.

Womens Committee Meetings:

From: 1.00pm to 3.00pm, Mondays, Max 11 per year, Max 65 persons, except on the Annual General Meeting with a Max of 100 persons.

It is noted that there is no onsite Liquor Licence held by Lindsay House, however the event organisers provide their own liquor licence.

Ascham School:

Ascham School is an Independent girls schools (prep to year 12) located approximately 800m to the south of Swifts. The school hosts a number of events in connection with the school activities including dances, award ceremonies, and musicals. There is no hours of operation that covers the entire school site, however the Science building and English Centre operate between 7am and 10pm. The school has Limited Liquor Licence available for the relevant functions that are undertaken at the school. This allows for a maximum of 52 functions (that serve alcohol) per year.

St Marks Church:

St Marks Church is a place of public worship located approximately 600m to the south of Swifts. The church undertakes regular church services, weddings and funerals within the church building. The church generally does not hold functions, however it does host a Christmas carol event on an annual basis between 5:30pm and 7:30pm. St Marks Church does not hold a liquor licence.

h) Availability of car parking and proximity and access to public transport

Parking:

The following onsite parking will be made available for events at the site:

- 23 vehicles on the internal loop road (circular driveway), refer to **Figure 4;**
- 12 stacked vehicles to the area south of the Swifts building, refer to **Figure 5;**
- 10 tandem parked vehicles to the basement car park off Hampden Avenue (staff parking), refer to **Figure 6.**

Public Transport:

The public transport access to the subject site includes the following:

- **Train:** the site is within a 1.2 kilometre walk from Edgecliff Station (T4 Eastern Suburbs and Illawarra Line);
- **Bus:** there is a bus stop located on the northern side of Thornton Street, adjacent to the Thornton Street site frontage, which is serviced by Route 328 that operates between Bondi Junction and Darling Point via Edgecliff;
- **Ferry:** The site is within a 350m walk from Darling Point Wharf (F7 Eastern Suburbs Line, which provides access to Double Bay and Circular Quay).

It is noted that Council's Traffic Department have stated that submitted traffic and parking information is unsatisfactory and inadequate. This is discussed further above in Section 13.2 of this report. The proposed development is therefore unacceptable in this regard.

i) Any recommendations/comments provided by NSW Police

The NSW Police have made the following comments:

Venue Disturbances – Police note the premise is situated within a Low-Density Residential Zone. Police note multiple complaints were made by neighbours to Rose Bay Police Station following a party that occurred at the premise on Saturday 29 May 2021. Police note the applications have proposed controls for noise, however as the premise is situated within a residential setting, Licensing Police seek stringent conditions to mitigate against further instances of disturbances created by the premise.

The NSW Police have recommended conditions in relation to entertainment noise emissions, a liquor licence, copies of consents and management plans, requiring the POM to be amended, submitted and approved by Council and for a CCTV system to be maintained, refer to **Attachment 6**.

Management Practices

C8 requires active and passive surveillance.

The proposal is considered to be acceptable in terms Control C8 for the following reasons:

- The primary entrance of Swifts is proposed to be managed by a security guard;
- Only invited guests will be allowed entry;
- The security guard at the front gate will have a list of invited guests to confirm the identity of each guest on arrival;
- The secondary access off Hampden Road is only to be utilised by event staff;
- A security team is proposed to be engaged for each event;
- The security team will be on-site for the duration of the event;
- The security team will be required to manage access and crowd control during the event;
- The NSW Licencing Police has recommended a condition that requires a CCTV system to be maintained at the premises.

C12 promotes upgrades of fire services, building structure and toilet facilities where there is an intensification of use.

Fire Safety:

Council's Fire Safety Officer has recommended that a Fire Safety upgrade be undertaken and for a Fire Safety Certificate and Annual Fire Safety Statements to be provided, refer to **Attachment 4**. However there is potential for the required fire safety upgrades necessary for the proposed event/function use, to have a detrimental impact on the heritage significance of the property. Should consent be granted, details of the fire safety upgrade works should be provided to Council, prior to any consent of this nature being issued. This will allow for the heritage implications to be assessed by Council's Heritage Officer and NSW Heritage.

Site Facilities:

The applicant has stated there are 4 external toilets and 3 internal toilets available for guest use. Portable toilets can also be provided for larger events.

Council's Building Officer has stated that based on the maximum patron capacity of 300 (not including employees), the required sanitary facilities for patrons (150 male, 150 female) is as follows:

Male

Closet pans – 2
Urinals – 3
Washbasins – 2

Female

Closet pans – 4
Washbasins – 2

Should consent be granted, a condition of consent could be imposed requiring compliance with Cl.F2.3 of the Building Code of Australia in relation to bathroom facilities.

C13 requires lighting to improve visibility of frontages, entrances and exits.

No permanent lighting has been proposed. Conditions of consent could be imposed to comply with Control C13. Lighting has been further discussed below in Section 16 of this report.

C14 states that the frontage is to be active, consistent with the streetscape and avoids blank facades.

No changes to the existing frontage is proposed.

Conclusion

The proposal is unacceptable with regard to the objectives and controls in Chapter F3 of the Woollahra DCP 2015.

14. DRAFT AMENDMENTS TO POLICIES AND PLANS

Public Exhibition commenced on 10 August 2022 for new floor space ratio development standards for low density residential development, and urban greening requirements for all residential development. The proposed amendments to the Woollahra Local Environmental Plan 2014 aim to ensure that all new development is of an appropriate scale, retains and enhances tree canopy whilst including high-quality landscaping.

Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, requires that provisions of proposed planning instruments are to be considered by a consent authority when determining a development application if they are or have been the subject of public consultation.

As it applies to the subject application, reference is made to Alando Holdings Pty Limited v The Hills Shire Council [2012] NSWLEC 1302 which had regard to the proper interpretation of savings provisions under the relevant LEP.

The current savings provisions under Clause 1.8A of the Woollahra LEP 2014 read as follows:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

As detailed in the Alando case, because the savings provision did not include the wording 'had been exhibited' in the savings provision, the provision did not specify whether the instrument was to be treated as a proposed instrument. Based on the specific wording, the Court accepted that because the LEP had to be treated as if it had not commenced it could not be considered under Section 4.15(1)(a)(i). Furthermore, it was not considered a proposed instrument i.e. one that has already been made, noting that the savings provision did not specify it should be treated as though it had. It could therefore not be considered under Section 4.15(1)(a)(ii).

Having considered the wording of Clause 1.8A of the Woollahra LEP 2014 and the above discussion the proposed amendments would have no effect upon the subject application, noting this was made prior to the commencement of the public exhibition period.

15. APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2021

Clause 62: Consent Authority May Require Buildings to be Upgraded

Clause 62 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 4**. A building upgrade is required and an annual fire safety schedule is required to be submitted. Whilst, this could be imposed by way of condition, should consent be granted, it is noted that fire safety building upgrades could impact the heritage significance of the building, thus this information would need to be provided to Council, prior to the granting of consent, so the potential heritage impacts on any works can be adequately assessed.

16. THE LIKELY IMPACTS OF THE PROPOSAL

Food Preparation/Safety/Odours:

The proposed events will involve the preparation and/or serving of food, however the submitted documentation has not made any reference to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food (*Standard 3.2.2 Food Safety Practices and General Requirements*). NSW Food laws (NSW Food Act and Food Safety Standards) place many responsibilities on the proprietor of a food business. An organiser of an event that is selling food, must be aware of these responsibilities.

All food businesses that make or sell food are to be known to enforcement agencies to ensure that food businesses are handling food safely. The Food Safety Standards require all food businesses to provide the following information to the appropriate enforcement agency before any food handling begins:

- Contact details for the business, including the name of the business and the name and address of the proprietor;
- The nature of the business; and
- The location of all food premises that are within the jurisdiction of the enforcement agency.

It is noted that a condition requiring the POM to be updated to include the relevant food safety requirements could be imposed, should consent be granted.

The submitted documentation does not provide any indication of where the food preparation/serving area would be located. It is noted that during the site visit the area of the site that was indicated as the food preparation area, would seem to conflict with a car parking area. Further to this, the submitted documentation does not provide any indication of types of food to be prepared on site and what measures will be undertaken to mitigate cooking odours, fumes and or smoke.

The proposed development is therefore considered to be unacceptable in this regard.

Set-up & Pack Up:

The submitted POM has stated that the set up and pack up is proposed to occur as follows:

- Set up – After 7am on the day of the event, or the day before. Set-up must not occur after 11pm;
- Pack up – before 11pm the day of the event, or after 7am the day after the event.

It is recommended that a condition be imposed, should consent be granted that set-up should be between the following times, given the residential location:

- Set-up between the hours of 8am- 6pm;
- Pack up- prior to 11pm on the day of the event (indoors) and prior to 10pm (outdoors) and between 8am – 6pm the day after the event.

The submitted POM has stated that no permanent structures or furniture are permitted. Marquees, tables, chairs and decorations are permitted only where they do not require any modification to the existing building fabric or landscape. The Event Manager will be responsible for returning the site back to its original state at the conclusion of the event. However the following issues have been identified:

- No details have been provided in relation to the size and frequency of deliveries;
- No details have been provided in relation to the delivery times;
- No details showing the location of loading/unloading and deliveries;
- No details have been provided in relation to arrival and departure times of staff.

The proposed development is therefore considered to be unacceptable in this regard.

Lighting:

The submitted documentation has not provided any details in relation to the type, location and intensity of event lighting, including whether any lighting frameworks will be erected at events. It is noted that the Council has received a high number of complaints in relation light spill impacts, which have included the use of strobe and flood lighting, which potentially have unacceptable impacts on the amenity of surrounding residential properties.

There are residential properties that are located opposite the driveway exit of Swifts. Council received an objection from the occupiers of No.101/109 Darling Point Road, which has raised concern about the light spill impacts from car head lights, as vehicles exit the site, particularly late in the evening. The applicant has not provided sufficient information in relation to the traffic flows or provided any measures that could mitigate these light spill impacts on this property.

In addition, the applicant has not provided any information in relation to whether fireworks are proposed to be used at events, particularly as fireworks have been used in the past at the site and potentially have a significant impact on the amenity of surrounding properties.

Whilst, it is acknowledged that some of these lighting impacts could be resolved by way of condition, the applicant has not provided sufficient information to allow for an adequate assessment of this issue.

Filming:

It is noted that filming is carried out at the site. Filming does not require development consent when it is carried out on private property for no more than 30 days within a 12 month period. Council issues a permit if on-street parking is required. It is noted that 30 days of filming has already occurred at the site for 2022, which has required an on-street parking permit. This type of filming can require trucks that occupy large sections of on-street parking. Therefore it is noted that the cumulative impact of the proposed event use and the filming use on the amenity of surrounding residents is also of concern. It is also noted that 20 objectors included a concern about the filming use of the site and its associated impacts.

It is therefore recommended that should a new development application of this nature be lodged with Council, the filming use should form part of this application, so that proper assessment can be carried out.

17. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development, as the application has not provided sufficient/adequate information to demonstrate the proposal is suitable for the subject site.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. CONCLUSION

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

20. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 277/2022/1 for the temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months on land at 68 Darling Point Road Darling Point, for the following reasons:

1. Woollahra Local Environmental Plan 2014 – Aims of Plan

The proposal is unacceptable because it does not comply with:

- Part 1, Clause 1.2(2)(g) - The proposal does not protect the amenity and the natural environment
- Part 1, Clause 1.2(2)(k) - The proposal does not adequately minimise and manage traffic and parking impacts.

2. Woollahra Local Environmental Plan 2014 – Land Use Table

The proposal is unacceptable because it does not comply with the following objectives of the R2 Low Density Residential Zone:

- Objective 3 - To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.

3. Woollahra Local Environmental Plan – Permissibility

The proposed development has failed to demonstrate that the temporary event use of the site does not adversely impact the amenity of adjoining land and neighbourhood and is contrary to Part 2.8(3)(b) of the WLEP 2014. This deems the proposed development to be prohibited, given that 'event use' of the site is not permissible within the R2 Low Density Residential Zone.

4. Inadequate/Insufficient & Inaccurate Information/Plans

The submitted plans and documentation are insufficient, inaccurate and unclear, in the following manner:

○ **Plans**

- No plans have been provided that show the parts of the sites that would accommodate events/functions.
- No plans have been provided that show function/event layouts.

○ **Acoustic Report:**

- The submitted Acoustic Report, does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.
- The submitted Acoustic Assessment Report for the subject venue has not clearly identified whether the site can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area.
- The submitted Acoustic Report does not identify all relevant noise mitigation strategies within the report.

Noise Environment:

- The submitted Acoustic Report only provides a 'one-off' attended noise assessment of the ambient noise environment which was conducted on Sunday, 13 February 2022 in the middle of the afternoon and later in the evening period. No time or duration of the noise is recorded in the Acoustic Report. Further, no long-term monitoring of the ambient noise environment was conducted. Noise monitoring is to be conducted during representative timeframes in order to account for the noise sources in question.
- The background noise levels have not been sufficiently established at the most affected residential receivers.
- No unattended long-term noise monitoring and a survey of attended noise monitoring for the day, evening and night periods to further quantify the existing noise environment was provided.

Noise Criteria:

- The submitted Acoustic Report has not used the appropriate noise criteria, given that the proposed events will be licensed. The appropriate Noise Criteria to be applied is the NSW Department of Industry - Liquor & Gaming (L&GNSW), which relate to noise generated by patrons and by music. The noise criteria states:
 - *The L10 noise level emitted from the premises shall not exceed 5dB above the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
 - *L10 noise level emitted from the premises shall not exceed the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
 - *After midnight, noise emissions from the premises are to be inaudible within any habitable rooms in nearby residential properties.*

Noise Assessment not based on Worst Case Scenario Conditions

- The only measured noise level which is used in the submitted Acoustic Report in determining the Project Specific Noise Trigger Levels. No time or duration of the assessment is recorded in the Acoustic Report.
- The isolated scenario (wedding function) that has been used in the submitted Acoustic Report, does not represent all 'typical functions'. There are many different functions that would each generate varying levels of noise. In the example used (wedding function), the Acoustic Report does not stipulate attending patron numbers; as a worst-case scenario the assessment should be based on the premise that the wedding function was held at maximum patron capacity.
- In determining the maximum allowable noise levels, the Acoustic Report could use noise modelling software to predict noise emission levels for all function scenarios, and representing each function scenario in worst-case scenario conditions. The Acoustic Report has not referenced the following:
 - Determining compliance with Project Specific Noise Trigger Levels when compared to measured ambient noise levels (unattended and attended).
 - Justify assumptions of predicted sound power levels from identified sources of noise, especially patron and music noise, noting that the consumption of alcohol has the potential to increase the level of crowd noise as people lose their inhibitions and become more boisterous.
 - Predict cumulative noise emissions from patron noise, music (amplified or otherwise), mechanical plant services and carpark operations and their impact upon sensitive residential receptors.
 - Detail each function scenario and acoustic characteristics of the venue setting (internal, external or both) and assume maximum allowable patronage capacity. The larger the group, the larger the vocal effort to communicate.
 - Detail the typical entertainment permitted for each type of function scenario and set-up locations.
 - Traffic noise impact assessment at the site that accommodates parking for 45 vehicles on the site.
 - Waste collection and delivery services (activity scheduling).
 - Detail of all noise mitigation strategies.

Sensitive Residential Receptors

- The submitted Acoustic Report has not identified all residential properties that may be adversely impacted by noise emissions, especially for the outdoor events conducted on the Northern Lawn and Southern Lawn. Residential areas include Darling Point Road, Thornton Street and Hampden Avenue.

Sleep Disturbance

- Noise sources of short duration and high level that may cause disturbance to sleep if occurring during the Night period were not considered in the submitted Acoustic Report. The approach recommended by the NPfI is to apply the following initial screening noise levels:
 - LAeq,15min 40dBA or the prevailing RBL + 5dB, whichever is the greater; and/or
 - LAFmax 52dBA or the prevailing RBL + 15dB, whichever is the greater.

- The sleep disturbance screening noise levels apply outside bedroom windows during the night time period. Where the screening noise levels cannot be met, a detailed maximum noise level event assessment should be undertaken. It may also be appropriate to consider other guidelines including the NSW Road Noise Policy (RNP) which contains additional guidance relating to potential sleep disturbance impacts.
- **Food Preparation/Safety/Odours**
 - The submitted documentation does not provide any indication of where the food preparation/service area would be located. It is noted that during the site visit the location of the food preparation area was indicated, however it would seem this area of the site, conflicts with one of the proposed car parking areas.
 - The submitted documentation does provide any indication of types of food to be prepared on site and what measures will be undertaken to mitigate cooking odour, fumes and/or smoke.
 - The submitted documentation makes no reference to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food (*Standard 3.2.2 Food Safety Practices and General Requirements*). NSW Food laws (NSW Food Act and Food Safety Standards) place many responsibilities on the proprietor of a food business.
- **Traffic & Parking Assessment**
 - The submitted traffic and parking assessment is inadequate as the travel mode split that has been utilised for the proposed events fails to take full consideration of the site constraints, the availability of public transport services, the nature of the events, etc., to reflect actual travel preferences. The numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in the submitted traffic report.
 - Insufficient information in relation to the estimated staff numbers, in order to assess whether the proposed 10 staff parking spaces is sufficient to accommodate staff parking demand for different types of events.
 - Insufficient detail in relation to the staggering of departure times.
 - The submitted documentation does not provide the location or dimensions of the pick-up/drop-off area, or how the pick-up/drop-off traffic will be managed.
 - The submitted Traffic Management Plan is inadequate for the following reasons:
 - The internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the main building restricts traffic movements when vehicles are parked as proposed.
 - The proposed parking layout, does not allow for adequate manoeuvrability of vehicles or the efficient management of ingressing and egressing traffic.
 - The Traffic Management Plan does not adequately demonstrate that there are appropriate traffic control measures in place before, during and after events.
 - The submitted Traffic and Parking Assessment has not taken account of the cumulative traffic and parking impacts of the filming that is carried out at the subject site, which can involve the loss of large amounts of on-street parking surrounding the site for extended periods of time.
 - No assessment of the cumulative traffic and parking impacts that may be created by concurrent events at nearby venues such as Lindsay House and McKell Park.
- **Deliveries/Loading/Unloading/Set-Up/Pack-up**
 - No details have been provided in relation to the size and frequency of deliveries.
 - No details have been provided in relation to the proposed delivery times.

- No details relating to the loading/unloading and delivery location has been provided.
- Insufficient details including specific times in relation to setting-up and packing up of events have been provided.
- No details in relation to arrival and departure times of staff have been provided.
- **Fire Safety**
 - No details of the relevant fire safety upgrade works necessary for the proposed event use have been provided.
- **Waste:**
 - Insufficient information in relation to the storage, separation, collection and management waste have been provided.
 - No details have been provided in relation to the sorting, collection and recycling of glass waste.
 - No details have been provided in relation to the management of patron littering beyond the site boundaries.
- **Social Impact Report**
 - No Social Impact Report has been provided.
- **Lighting/light spill**
 - No details have been provided in relation to the type, location and intensity of event lighting, including lighting frameworks if applicable;
 - No information was provided in relation to measures that could potentially mitigate light spill impacts from headlights of vehicles on the adjacent residential properties, particularly when vehicles exit the site late in the evening.
 - No information in relation to whether fireworks are proposed to be used at events have been provided.
- **Site Facilities**
 - The submitted Plan of Management does not make it clear that each function will comply with the minimum bathroom requirements, in accordance with Part F2.3 of the Building Code of Australia.
 - The applicant has not provided any information in relation to whether plant equipment, such as power generators and temporary refrigeration units and the like are to be used at the site.
- **Filming:**
 - It would appear that the amount filming that has been undertaken at the site in 2022 has exceeded 30 days. Additional filming at the site would require development consent. Any new development application of this nature should consider including filming operations as part of the application.

5. Public Interest

The proposed development is not in the public interest.

Attachments

1. Traffic Referral Response
2. Heritage Referral Response
3. Health Referral Response
4. Fire Safety Officer Referral Response
5. NSW Heritage Referral Response
6. NSW Police Referral Response
7. Compliance Referral Response
8. Plan of Management (POM)
9. Heritage Report
10. Acoustic Impact Assessment
11. Traffic and Parking Assessment
12. List of Submissions
13. Legal letter from Council to Swifts dated 23/02/2012

Memorandum – Traffic

Date 4 November, 2022

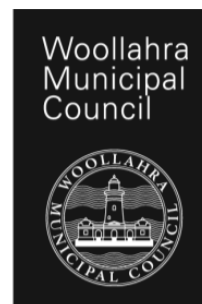
File No. Development Applications: 278/2022/1

To Mrs L Holbert

CC

From Ms E Fang

Address **68 DARLING POINT ROAD DARLING POINT 2027**



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I refer to the memo from the Planning Department dated 19 July 2022 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects, referenced 11607, prepared by GLN Planning, dated 5 July 2022;
2. Traffic and Parking Impact Assessment, referenced 220019.01FC, prepared by McLaren Traffic Engineering & Road Safety Consultants, dated 29 June 2022;
3. Plan of Management, referenced 11607, prepared by GLN Planning, dated 5 July 2022.

Proposal

Use part of a heritage item (Swift's) for occasional events

COMMENTS

Parking & Traffic Generation

It is understood that the events proposed to be held include:

- 1) Normal Events, up to 200 people, 20 events per year, occur between 9am-11pm;
- 2) Special Events, up to 250 people, 12 events per year, occur between 9am-10pm;
- 3) Unique Events, up to 300 people, 3 events per year, occur between 9am-6pm.

It is noted that Council's DCP or RMS Guide to Traffic Generating Developments doesn't specify the parking/traffic generation rates for the proposed events, however Council's Traffic Engineers do not concur with the mode split assumptions for the first principles assessment, as detailed below:

Referral Response - TS Traffic - DA20222781 - 68 Darling Point Road DARLING POINT

- 1) Special Events & Normal Events.
 - a. Travel by Trains. The estimated travel modes include 10% using local bus service, 10% using Edgecliff Train Station and 5% walking to the site. It should be noted that Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment).
 - b. Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries is considered much higher than in real practice.
- 2) Unique Events
 - a. Walking. Considering the nature and scale of the events, it is highly unlikely that 30% of visitors are living in close vicinity within walking distance.
 - b. Travel by Trains. As discussed above, Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment). The estimated 10% share of solely travelling by trains is considered higher than in real practice.
 - c. Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries are considered much higher than in real practice.

In addition, visitors using train services would either walk to the site or take a bus and therefore should not be separated from the other two transport modes.

As such, the travel mode split for the proposed events fails to take full consideration to site constraints, public transport services, nature of the events, etc., to reflect actual travel preferences. Numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in traffic report, noting Council has been receiving complaints on the adverse impacts on local parking and traffic during previous events.

Furthermore, insufficient information is provided on staff arrangement. It is therefore unclear the proposed 10 spaces for staff parking is sufficient for different types of events.

Plan of Management (POM)

Upon review of the submitted POM, the following issues are identified:

- 1) It is noted that a pick-up/drop-off area is provided on-site, however the site plan does not demonstrate the location or dimension of the pick-up/drop-off area or how the pick-up/drop-off traffic will be managed.
- 2) It is stated in the traffic report that a maximum of 35 attendee parking can be accommodated on-site, including 23 spaces within the internal loop road and 12 stacked parking spaces in the area south of the castle. It should be noted that the internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the castle restricts traffic movements when vehicles are parked as suggested. With the proposed parking layout, Council's Traffic Engineers query the manoeuvrability of vehicles and how accessing/egressing traffic can be managed efficiently. A more detailed traffic management plan should be submitted to demonstrate the traffic control before, during and after the events.
- 3) Insufficient information has been provided for event schedules regarding the load in and load out hours, the size and frequency of deliveries or how and where the deliveries will be handled.

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RECOMMENDATIONS

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

1. Parking & Traffic Generation –
 - a. The travel mode split for the proposed events fails to take full consideration to site constraints, public transport services, nature of the events, etc., to reflect actual travel preferences. Numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in traffic report, noting Council has been receiving complaints on the adverse impacts on local parking and traffic during previous events.
 - b. Insufficient information is provided on staff arrangement and whether the proposed 10 staff parking spaces is sufficient to accommodate staff parking demand for different types of events.
2. Plan of Management –
 - a. The site plan does not demonstrate the location or dimension of the pick-up/drop-off area or how the pick-up/drop-off traffic will be managed.
 - b. It is stated in the traffic report that a maximum of 35 attendee parking can be accommodated on-site, including 23 spaces within the internal loop road and 12 stacked parking spaces in the area south of the castle. It should be noted that the internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the castle restricts traffic movements when vehicles are parked as suggested. With the proposed parking layout, Council's Traffic Engineers query the manoeuvrability of vehicles and how accessing/egressing traffic can be managed efficiently. A more detailed traffic management plan should be submitted to demonstrate the traffic control before, during and after the events.
 - c. Insufficient information has been provided for event schedules regarding the load in and load out hours, the size and frequency of deliveries or how and where the deliveries will be handled



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8 November 2022

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 277/2022/1

ADDRESS: 68 Darling Point Road DARLING POINT 2027

PROPOSAL: Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months)

FROM: Shona Lindsay - Heritage Officer

TO: Mrs L Holbert

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Heritage Impact Statement by GML Heritage, dated 1 July 2022
- Statement of Environmental Effects by GLN Planning, dated 5 July 2022
- Plan of Management by GLN Planning, dated 5 July 2022

SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was inspected on the 8 November 2022, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Conservation Analysis and Conservation Guidelines by Clive Lucas, Stapleton and Partners, dated September 1995
- Heritage Council of NSW –Terms of approval of integrated development application dated 2 November 2022
- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Heritage Act 1977 (as amended)
- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY

Referral Response - Heritage - DA20222771 - 68 Darling Point Road DARLING POINT



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The listing in the Woollahra LEP 2014 for “Swifts” is:

“Swifts”—building and interiors, outbuildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gateposts, gates, sculptures, 2 Moreton Bay Figs, Lemon-scented Gum, Bunya Pine, Norfolk Island Pine

Statement of Significance and Physical Description:
(from the Heritage NSW SHI)

Statement of Significance

“Swifts” is of State significance as, apart from Government House in Sydney, it is the largest remaining Victorian Gothic Revival house in Australia. Swifts remains on its original grounds and still consists of the original landscape, statuary, terrace wall, stairs and paths. It is a prime example of how the upper class people lived in the 19th century in Australia. “Swifts” is also of cultural significance as it was home of two well-known Sydney business families, the Lucas-Tooth and Resch families. “Swifts” connection with the Roman Catholic Church is also of social significance as it was home to three cardinals; Gilroy, Freeman and Clancy. The building is also significant because it is an example of the work of Gustavus Alphose Morell, a prominent Sydney architect in the late 19th century (Lucas, 1994, 128).

The western section of the garden of “Swifts” formed an integral part of the original design of the grounds. The special relationship of the grounds to the mansion is a significant factor in determining the status of the grounds as an item of environmental heritage. The building together with its site is an item of environmental heritage (excerpt from ‘Findings’ of Commissioner of Inquiry, 1983, p.55).

Physical Description:

Garden:

Swifts is located at 68 Darling Point Road Darling Point. It was originally set in four acres of landscaped gardens.

The garden is divided into three precincts - the eastern, northern and western (Evans, 1983, 12-14). Some of the original garden design is still evident such as the carriage drive which sweeps north, west and south up to the porte cochere, and return / service drive to the property's south-eastern corner (Stuart Read, pers.comm., visit 19/11/2011). Original garden bed design is still evident through the placement of terracotta edging tiles (Evans, 1983, 12-14).

The Eastern garden is introduced from the enclosed terrace, which leads out to the carriage drive and flower beds. The northern perspective of the house is framed by huge Moreton Bay figs (*Ficus macrophylla*) and camphor laurels (*Cinnamomum camphora*), while the northern garden is scattered with Illawarra plum / brown pine (*Podocarpus elatus*), a bull bay / evergreen magnolia (*M. grandiflora*) from the United States and a bay laurel (*Laurus nobilis*) tree from the Mediterranean. The gardens are scattered with statues to add interest. The north eastern corner is dominated by shrubs. The western garden originally would have been for kitchen use (ibid, 1983, 12-14).

A rough line of Moreton Bay figs along the eastern Darling Point Road side form a screen from later subdivisions and housing. More Moreton Bay figs line the southern boundary, again masking later subdivisions (and current high rise flats).

A range of choice trees in the eastern border include Queensland lacebark (*Brachychiton discolor*) (there are a number of these on the western boundary of Swifts and another



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specimen on the north-east Darling Point Road edge), Illawarra flame tree (*B.acerifolius*), a very rare Burj / shingle oak from the Himalayas (*Quercus leucotrichophora*)(possibly one of only a handful in Australia) and an equally rare palo blanco tree (*Picconia excelsa*), an endangered rainforest tree from the Canary Islands, related to the olive. Its habitat is restricted to the 'cloud forest' or rainforest of the upper Canary Islands and Azores. This species is endangered in the wild due to land-clearing (Stuart Read, pers.comm., 10/10/2012; updated 7/11/2016). It is rarely found here - with only 14 known in NSW (e.g. two specimens in the Royal Botanic Gardens, Sydney, four at Camden Park and a few others, including two at Yasmarr, Haberfield and single specimens at Denham Court, Ingleburn and at Cooma Cottage, Yass) and only 33 known around Australia (e.g. Botanic Gardens in Sydney, Melbourne and Geelong; Marybank in the Adelaide Hills)(Stuart Read, pers.comm., 6/2006, updated 10/10/2012; and 2/10/2020). Also in the eastern border is an evergreen oak (*Quercus ilex*) (Stuart Read, pers.comm., visit, 19/11/2011).

The Northern garden includes a huge Moreton Bay fig (*Ficus macrophylla*) north-west of the house near its terrace, shading that corner. Below and north of it are a range of smaller trees and shrubs arrayed on grassed lawns sloping down from the mansion to Thornton Avenue. Two young Queensland kauri (*Agathis robusta*) have been planted near an electricity substation facing Thornton Avenue and are now some 8m tall (Stuart Read, pers.comm., 5/2017).

The Western garden is broadly the service area part of the house, outbuildings and garden, with remnant terracing, grassed today where elements such as orchard and kitchen garden would have been originally (ibid, pers.comm., 5/2017).

Mansion (1875-1882):

The new Swifts, described as Castellated Gothic in style, with 42 rooms (Pike, 2020 says 56 rooms), resembled Government House, but had a larger ballroom, deliberately so (Kehagias, 2016 quoting Dr Shane Moran). It is a two storey sandstone Victorian Gothic Revival mansion with three storey tower, castellated parapets. Swifts resembles Government House, but had a larger ballroom before it was converted into a chapel-of-ease by the Catholic church. The majority of the house is made from either sandstone or rendered brick (Lucas, 1993, p 106). The eastern facing front entrance is marked by a porte cochere that is flanked by projecting bays. The verandah on the north is crenulated and flagged with sandstone. The windows have carved valances and external timber shutters, an unusual form of climate control for the period.

Swifts is comprised of 42 rooms arranged in a U-shape and including drawing room, morning room, smoking room, dinning room, study, billiard room, ball room, numerous bedrooms, fitted dressing room, service room, kitchen, scullery, pantry, butlers rooms, silver safe, store, wine cellar and servants quarters. Service buildings include dairy, laundry, four stall stable, double carriage house and a tack room (Lucas, 1994, p 118).

Officially there are 52 rooms - Dr (Shane) Moran said it was hard to know how many bedrooms the property had, because the rooms could be used for any purposes (Kehagias, 2016).

Smoking Room, the remains of an old opium den, which traces back to when opium was legal (ibid, 2016).

The original staff quarters were broken up into small rooms. 'We kept the 1870s layout, which split the house into a male and female side. The male side features lots of wood and there's a billiard room. The female side is brighter' (Dr Shane Moran, in ibid, 2016).



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National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. As no excavation or disturbance of the ground is proposed no AHIA was required. Unexpected finds will be a condition of consent.

Heritage Act 1977

The subject site is listed as a heritage item on the State Heritage Register.

The subject site is likely to contain relics as per the Heritage Act 1977 definition. The CMP notes the following in regards to built archaeology:

The extant physical fabric is of archaeological potential in its ability to provide new information in that:

- *The earlier c.1877 house may be discernible upon further physical investigation;*
- *Despite the fact that the Resch family have not inhabited the house since 1963, there is still a large amount of 'debris' from the day to day life of the Resch's extant; and*
- *Details about the Lucas-Tooth period of occupation, such as room spaces, decorations, etc. may be discernible upon further physical investigation.*

These details about the history of the place and aspects of the running of such a large house would not normally be found in the historical record.

The CMP notes the following in regards to below ground archaeology:

The documentary evidence indicates that there is some complexity in the evolution of the gardens and outbuildings built therein. This is mostly applicable to the West Gargen, and House and Courtyard Precincts.

This significance lies in its research potential to reveal aspects about the running of Swifts, the lifestyles of the inhabitants over time, and details about the earlier configuration of the place.

As no excavation or disturbance of the ground is proposed no archaeological assessment was required. Unexpected finds will be a condition of consent.

Heritage Act 1977

The proposed works require approval under Section 57 of the *Heritage Act 1977* by the Heritage Council of NSW.

General Terms of Approval

In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the Heritage Council of NSW resolved to grant approval of the application subject to conditions. These conditions will form part of any approval.

Woollahra LEP 2014

The subject site is a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Clause 1.2 Aims of Plan

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Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

AND

Clause 5.10 Heritage Conservation

The HIS prepared by GML as part of the DA considers potential impacts to the subject property, which is a listed LEP and SHR heritage item. The following consideration is provided:

- The proposed temporary events would not adversely impact significant fabric.
- The primary use of the site will continue to be a residence.
- The site will be restored to the original condition it was prior to the event.
- The works are in accordance with the CMP.
- The original statues and garden features will not be impacted.
- The site inspection confirmed that the internal furniture and fixtures are not original to the house and that they date to the current ownership.
- The events will support ongoing maintenance and conservation of the heritage item.

Heritage NSW provided the following conditions in regards to the design:

- The erection of marques is approved within the Southern lawn only
- No additional permanent structures or modifications to the dwelling to facilitate temporary events shall be approved.

Overall, it is considered that the proposed works can be supported by Council in regards to heritage. These proposed works would have a neutral impact on the heritage item. Therefore, the proposal does comply with Woollahra LEP 2014, Clause 1.2(2) (f) and Clause 5.10 Heritage Conservation, 1(a), (b).

Significance of items in the vicinity

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage potential Aboriginal heritage will be provided below.

Heritage Act, 1977

Refer to General Terms of Approval dated 2 November 2022 under Section 4.47 of the *Environmental Planning and Assessment Act 1979* by the Heritage Council of NSW.

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 item will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

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RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions.

1. General terms of approval

All works are to be in accordance with the general terms of approval provided by Heritage NSW dated 2 November 2022.

2. Section 60 application

An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

3. The erection of marques is approved within the Southern lawn only.

4. No additional permanent structures or modifications to the dwelling to facilitate temporary events shall be approved.

5. Significant built and landscape elements are to be protected from potential damage during site preparation and events. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed. All organisers, contractors, workers and tradespeople on site shall be made aware of the significant fabric on site.

6. The events shall be supervised, including set up and removal, to ensure that required protection measures are implemented and maintained.

7. Heritage consultant

A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

8. Heritage Induction

Prior to any works commencing on site, all organisers, contractors, workers, and tradespeople engaged in setting up and management of events must undergo a heritage induction provided by the nominated heritage consultant. This must include information on the built heritage of the site and also make staff and contractors aware of their statutory obligations under the *Heritage Act 1977*. Documentary evidence demonstrating compliance with above being submitted to Council and the Principal Certifier.

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,



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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

10. Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

Shona Lindsay - Heritage Officer

Completion Date: 13/10/2022

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 277/2022/1
ADDRESS: 68 Darling Point Road DARLING POINT 2027
PROPOSAL: Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months)
FROM: Louie Salvatore
TO: Mrs L Holbert

1. ISSUES

- *Acoustics.*
- *Food Safety Compliance.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by GLN Planning Pty Ltd, Project No. 11607 dated 05 July 2022.
- Acoustic Report: prepared by The Acoustic Group. Document No. 52.5498.L1:MSC dated 14 June 2022.
- Plan of Management: prepared by GLN Planning Pty Ltd, Document No. 11607 PoM 4 FINAL dated July 2022.

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

The DA seeks approval for the use of part of the site and building for occasional events. The proposal seeks to formalise use of lawns, terrace, ballroom and other parts of the site for the types of events that have traditionally been held at Swifts, these include (but are not limited to):

- Weddings, Birthdays, Charity Events, Balls, Corporate functions, Products launches, Shows, and Displays.

Swifts has been the venue for several significant societal events. The proposal represents the formalisation of events that have traditionally been held at Swifts. Normal events will be held primarily indoors in the ballroom, dining room etc. Special Events will be held primarily outdoors in the Northern Lawn or Southern Lawn areas and may include use of Terrace & Portico, Colonnade and Porte-Cochere and

driveway areas. The absolute maximum number of events that can be held at the site does not exceed 41 days, which is considerably less than the 52 days.

Normal Events, which are primarily held indoors, over 1 day between 9am and 11pm

Special Events, which are primarily held outdoors, over 1 day between 9am and 10pm

Unique Events, which are indoor and outdoor events and held over multiple days between 9am and 6pm

The combined duration of events must not exceed 41 days in any calendar year.

Normal Events – Maximum of 20 per year – no more than 3 per month.

Special Events – Maximum of 12 per year – no more than 3 per month.

Unique Events – Maximum of 3 per year – no single event lasting more than 3 days in total.

Outdoor events are limited to a maximum of 300 guests, whilst indoor events are limited to 200 guests. A unique event can have a maximum of 300 guests per day. These are typical of the type of events that have traditionally been held at Swifts and are commensurate with the size of the premises and grounds.

- Events held outdoor only – Maximum 250 guests
- Events held indoor only - Maximum 200 guests
- Events held across indoor and outdoor areas – Maximum 300 guests
- Unique events – maximum of 300 guests at any time

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

a) ACOUSTICS

Environmental Health – Review

Review of Acoustic Report: prepared by The Acoustic Group. Document No. 52.5498.L1:MSC dated 14 June 2022.

The Noise Assessment

The report presents results and findings of an acoustic assessment in relation to the conduct of occasional events at the property of 68 Darling Point Road, Darling Point known as “Swifts”.

A site visit was carried out on the afternoon of Saturday, 5 February 2022 whilst a wedding was occurring on the southern lawn and then followed by a reception using the southern lawn, the driveway/entrance to the residence and the grassed areas further to the north of the southern lawn. A marquee was set up at the southern extremity of the southern lawn in which the ceremony was undertaken and accompanied by an amplified string quartet and amplification of the service.

A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period.

Environmental Health notes that the 4 page acoustic report concludes:

Inside Events

"The substantial sandstone construction of the building and the location of the formal entertaining areas being at the northern end of the property would result in negligible acoustic impact on surrounding residential properties and would not cause any measurable increase above the ambient background level if internal music levels were limited to not exceeding 95 dB(A) as a spatial average across the internal spaces.

Any functions occurring inside the residence at night (after 10pm) require supervision to ensure all doors and windows to function areas are closed when entertainment is provided. The Plan of Management requires the appropriate staff to assist attendees leave in a quiet and orderly manner after 10pm".

Outside Event (Wedding 05 February 2022)

"For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A).

At the time of the inspection the marquee located on the southern side of the southern lawns was open on all sides. Events using this marquee location require:

- *The southern wall of the southern and eastern walls of the marquee to be fully closed by the same heavy plastic/vinyl material as used for the large marquee.*
- *Music provided for the ceremony can be unamplified string quartets etc located on the southern side under the marquee.*
- *A sound system for amplification of the celebrant is to have speakers located under the marquee (minimum of 2m from the western end of marquee).*
- *To provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards to north.*
- *The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.*

Following the ceremony, music was provided by amplified instruments located adjacent the main building situated in line with the northern end of the marquee approximately 24 metres from the southern boundary. The small band was oriented in a northerly direction. The provision of a temporary solid timber wall to provide additional acoustic shielding and limiting the band or DJ to a level not exceeding 75 dB(A) (behind the band) is required. No external amplified entertainment would be permitted after 6pm.

For daytime events involving exhibitions, car displays etc. the general events are not envisaged to create a noise impact provided any amplification for announcements etc are similarly restricted in level. The restriction in levels are dependent upon the sound systems provided and can only be assessed in situ at the site boundaries for an average maximum level of 46 dB(A). This will require management to purchase a

sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary”.

Environmental Health – Comments & Recommendation

Environmental Health considers that the submitted *Acoustic Report: prepared by The Acoustic Group. Document No. 52.5498.L1:MSC dated 14 June 2022* **does not** provide an accurate representation of potential noise emissions from the Subject Venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.

Any new or revised Acoustic Assessment Report for the Subject Venue shall clearly identify if it can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area. All noise mitigation strategies shall be included.

1. Noise Environment

The Acoustic Report (Acoustic Group 14 June 2022) only provides a ‘one-off’ attended noise assessment of the ambient noise environment which was conducted on Sunday, 13 February 2022 in the middle of the afternoon and later in the evening period – no time or duration of the noise is recorded in the Acoustic Report. Further, no long-term monitoring of the ambient noise environment was conducted; noise monitoring should have been conducted during representative timeframes in order to account for the noise sources in question.

Having regard to the inadequacy of the acoustic consultant’s background noise monitoring, upon which many noise criteria are established, Environmental Health does not consider that background noise levels have been sufficiently established at the most affected residential receivers.

To quantify the existing ambient noise levels in the area, unattended long-term noise monitoring is required for the Day (7AM-6PM), Evening (6PM-10PM) and Night (10PM-7AM) periods. The noise logger is to be conservatively sited in a location(s) to represent the ambient noise levels of the nearby sensitive receptors in accordance with *NSW Noise Policy for Industry (NPfI)* and the procedures described in *Australian Standard AS 1055:2018, “Acoustics - Description and Measurement of Environmental Noise”*.

The unattended long-term noise monitoring shall be accompanied with a survey of attended noise monitoring for the Day, Evening and Night periods to further quantify the existing noise environment.

2. Noise Criteria

The report is somewhat ambiguous with respect to the measurement methodology employed when establishing the existing noise levels and comparison to an appropriate Noise Criteria. The only reference to a Noise Criteria applied to the Subject Venue within the Acoustic Report (Acoustic Group 14 June 2022) is, *“For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A)”*. Environmental Health assumes that the Acoustic Report (Acoustic Group 14 June 2022) is referencing the *The NSW Environmental Protection Authority (EPA) Noise Policy for Industry (NPI)* which states the following:

'The intrusiveness of an industrial noise source may generally be considered acceptable if the level of noise from the source (represented by the LAeq descriptor), measured over a 15minute period, does not exceed the background noise level by more than 5 dB when beyond a minimum threshold. This intrusiveness noise level seeks to limit the degree of change a new noise source introduces to an existing environment.'

Environmental Health refers to the types of events, as stated in The Statement of Environmental Effects (July 2022) and Plan of Management (July 2022), that have traditionally been held at "Swifts" including Weddings, Birthdays, Charity Events, Balls, Corporate functions which undoubtedly will require the premises for such functions to be licensed for the service of alcohol. When assessing noise emissions from licensed premises, Environmental Health and industry standard regards the **most appropriate Noise Criteria** to be applied is that imposed by the NSW Department of Industry - Liquor & Gaming (L&GNSW) which relate to noise generated by patrons and by music. The noise criteria states:

- *The L10 noise level emitted from the premises shall not exceed 5dB above the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
- *L10 noise level emitted from the premises shall not exceed the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
- *After midnight, noise emissions from the Premises are to be inaudible within any habitable rooms in nearby residential properties.*

3. Noise Assessment not based on Worst Case Scenario Conditions

The Acoustic Report (Acoustic Group 14 June 2022) states, "A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period".

Environmental Health has several issues with the above statement. First of all it is the only measured noise level which is used in the Acoustic Report in determining the Project Specific Noise Trigger Levels. No time or duration of the assessment is recorded in the Acoustic Report.

Secondly, the isolated scenario (wedding function) does not represent all 'typical functions'. There are many different functions that would each generate varying levels of noise. In the example used (wedding function), the Acoustic Report does not stipulate attending patron numbers; as a worst-case scenario the assessment should be based on the premise that the wedding function was held at maximum patron capacity.

In determining the maximum allowable noise levels, the Acoustic Report could have used noise modelling software to predict noise emission levels for all function scenarios, and representing each function scenario in **worst-case scenario conditions**. Environmental Health would have expected the Acoustic Report to reference as a minimum, but not be limited to:

- Determining compliance with Project Specific Noise Trigger Levels when compared to measured ambient noise levels (unattended and attended).
- Justify assumptions of predicted sound power levels from identified sources of noise, especially patron and music noise, noting that the consumption of alcohol has the potential to increase the level of crowd noise as people lose their inhibitions and become more boisterous.
- Predict **cumulative** noise emissions from patron noise, music (amplified or otherwise), mechanical plant services and carpark operations and their impact upon sensitive residential receptors.
- Detail each function scenario and acoustic characteristics of the venue setting (internal, external or both) and assume maximum allowable patronage capacity. The larger the group, the larger the vocal effort to communicate.
- Detail the typical entertainment permitted for each type of function scenario and set-up locations.
- Traffic noise impact assessment at the site that accommodates parking for 45 vehicles on the site.
- Waste collection and delivery services (activity scheduling).
- Detail of all noise mitigation strategies.

4. Sensitive Residential Receptors

The Acoustic Report (Acoustic Group 14 June 2022) states, "*Observations of Darling Point Road during the wedding function indicated a reasonable degree of traffic passing the subject site and that the critical residential receivers with respect to functions occurring on the southern lawn would relate to a high-rise apartment building immediately to the south of the subject property that overlooks Swifts*".

Environmental Health has concerns that the Acoustic Report has not identified all residential properties that may be adversely impacted by noise emissions, especially for the outdoor events conducted on the Northern Lawn and Southern Lawn. Residential areas include Darling Point Road, Thornton Street and Hampden Avenue.

5. Sleep Disturbance

Noise sources of short duration and high level that may cause disturbance to sleep if occurring during the Night period need to be considered. The approach recommended by the NPfI is to apply the following initial screening noise levels:

- LAeq,15min 40dBA or the prevailing RBL + 5dB, whichever is the greater; and/or
- LAFmax 52dBA or the prevailing RBL + 15dB, whichever is the greater.

The sleep disturbance screening noise levels apply outside bedroom windows during the night time period. Where the screening noise levels cannot be met, a detailed maximum noise level event assessment should be undertaken. It may also be appropriate to consider other guidelines including the *NSW Road Noise Policy (RNP)* which contains additional guidance relating to potential sleep disturbance impacts.

b). FOOD SAFETY PRACTICES

Environmental Health notes that no reference has been made in the supporting documentation specific to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food (*Standard 3.2.2*

Food Safety Practices and General Requirements). NSW Food laws (NSW Food Act and Food Safety Standards) place many responsibilities on the proprietor of a food business. An organiser of an event that is selling food, must be aware of these responsibilities.

All food businesses that make or sell food are to be known to enforcement agencies to ensure that food businesses are handling food safely. The Food Safety Standards require all food businesses to provide the following information to the appropriate enforcement agency before any food handling begins:

- contact details for the business, including the name of the business and the name and address of the proprietor;
- the nature of the business; and
- the location of all food premises that are within the jurisdiction of the enforcement agency.

Reference:

<https://www.foodstandards.gov.au>

<https://www.foodauthority.nsw.gov.au>

6. RECOMMENDATION

For reasons stated in Section 5 of this Environmental Health Referral Response, Council's Environmental Health Officer has determined that insufficient information has been submitted to enable an assessment of the proposal.

- A. General Conditions**
- B. Conditions which must be satisfied prior to the demolition of any building or construction**
- C. Conditions which must be satisfied prior to the issue of any construction certificate**
- D. Conditions which must be satisfied prior to the commencement of any development work**
- E. Conditions which must be satisfied during any development work**
- F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**
- 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

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Louie Salvatore
Environmental Health Officer

Date: 13/10/2022

Completion Date: 7 October 2022

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 277/2022/1
ADDRESS: 68 Darling Point Road DARLING POINT 2027
PROPOSAL: Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months)
FROM: Ashley Wang - Fire Safety Officer
TO: Mrs L Holbert

1. ISSUES

- *Ground floor level is assessed as a Class 9b building.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 11607 prepared by GLN Planning, dated 5 July 2022.

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- Plan of Management, referenced 11607, prepared by GLN Planning, dated 5 July 2022.

4. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2000*.

☒ Clause 93 – Change of Use – ‘Fire safety and other considerations’

- *Category 1 fire safety provisions required*

☐ Clause 94 – ‘Consent authority may require buildings to be upgraded’

- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
- Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings

☐ Clause 94 – ‘Fire safety and other considerations applying to erection of temporary structures’

- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

6. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

- A. General Conditions
- B. Conditions which must be satisfied prior to the demolition of any building or construction
- C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Fire safety upgraded – Change of building use (cl. 93 of the Regulation)

Council considers pursuant to clause 93 of the *Regulation* that it is appropriate to require the existing building to be upgraded to total or partial conformity with the *BCA*.

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

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

- a) Performance Requirement EP1.3 of the *BCA*.

Note: The *Certifying Authority* issuing the *Construction Certificate* has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the *BCA* the *Certifying Authority*, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed-to-satisfy) provisions of the *BCA* these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the *Act*.

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

Note: AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.
Standard Condition: C9

- D. Conditions which must be satisfied prior to the commencement of any development work
- E. Conditions which must be satisfied during any development work
- F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building's proposed new use are provided:

- a) Performance Requirement EP1.3 of the BCA.

Note: Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.
Standard Condition: F3

F.2 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:

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

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

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

Standard Condition: F4

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

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

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

I.1 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.
Standard Condition: I22

J. Miscellaneous Conditions

K. Advisings

Ashley Wang
Fire Safety Officer

Date: 7 October 2022



Heritage NSW

HMS Application ID: 1300
Your ref: CNR-42766 - DA277/22

Larissa Holbert
Senior Assessment Officer
Woollahra Municipal Council
PO BOX 61
DOUBLE BAY NSW 1360

By email: larissa.holbert@woollahra.nsw.gov.au

Dear Ms Holbert

**HERITAGE COUNCIL OF NSW – GENERAL TERMS OF APPROVAL
INTEGRATED DEVELOPMENT APPLICATION**

Address: 68 Darling Point Road DARLING POINT NSW 2027
SHR item: Swifts, SHR no. 00146
Proposal: CNR-42766 - DA277/22 - Temporary use for events
IDA application no: HMS ID 1300, received 27 July 2022

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

APPROVED DEVELOPMENT

1. Development must be in accordance with:
 - a. *Statement of Heritage Impact*, prepared by GML Heritage, dated 29 June 2022.
 - b. *Statement of Environmental Effects*, prepared by GNL Planning, dated June 2022.
 - c. *Plan of Management*, prepared by GNL Planning, dated June 2022
 - d. *Acoustic Assessment*, prepared by the Acoustic Group, dated 14 June 2022.
 - e. *Traffic and Parking Impact Assessment of the Proposed events at Swifts*, prepared by McLaren, dated 29 June 2022.

EXCEPT AS AMENDED by the following general terms of approval:

DURATION OF APPROVAL

2. This approval will lapse after 2 years from the date of the consent.

Reason: To ensure that impacts of the temporary use of the place can be measured.

DESIGN

3. The erection of marquees is approved within the Southern lawn only.
4. No additional permanent structures or modifications to the dwelling to facilitate temporary events shall be approved.

Reason: To minimise impacts of the proposed temporary use upon the significance of the place.

Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

SITE PROTECTION

5. Significant built and landscape elements are to be protected from potential damage during site preparation and events. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.
6. The events shall be supervised, including set up and removal, to ensure that required protection measures are implemented and maintained.
7. A site induction package shall be prepared that includes heritage information for all organisers and tradespeople engaged in setting up and management of events to ensure that any works required to facilitate these events are undertaken with minimal impacts to heritage values.

Reason: To minimise impacts arising from setting up for temporary events at the place. To ensure significant fabric and values of the place are protected and that site protection measures are carried out.

SITE MONITORING

8. A quarterly monitoring report shall be submitted to Heritage Council of NSW (or its delegate). The report shall include the following information:
 - a. The number and nature of events held within the property during the reporting period.
 - b. The location of the events held within the property during the reporting period, including any marquees.
 - c. Photographs with date stamps of bump in, set up and bump out.
 - d. A report by a suitably qualified heritage consultant with information on any impacts occurring to significant fabric, landscape elements and moveable heritage items.

Reason: To ensure that all approved activities are conducted according to the consent granted and impacts to the place are managed effectively.

UNEXPECTED FINDS

9. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics or any other buried fabric such as works not identified are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project.

COMPLIANCE

10. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

SECTION 60 APPLICATION

11. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Unexpected discoveries during works

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the *Heritage Act 1977*. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the *National Parks and Wildlife Act 1974*.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

Right of Appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please contact Mariyam Nizam, Senior Assessments Officer, at Heritage NSW on 88376375 or [Mariyam.Nizam@environment.nsw.gov.au](mailto:Mariam.Nizam@environment.nsw.gov.au).

Yours sincerely

Rajeev Maini

Rajeev Maini
Manager, Assessments Team 3
Heritage NSW
Department of Planning & Environment
As Delegate of the Heritage Council of NSW
2 November 2022

OFFICIAL USE ONLY



SUBMISSION

Application DA2022/277/1 & DA2022/278/1 at 68 Darling Point Road, Darling point

The Executive Manager

Tuesday 13 September 2022

Development Assessment

Woollahra Municipal Council

DEVELOPMENT NUMBER, TYPE & ADDRESS:

DA2022/277/1

DA2022/278/1

68 Darling Point Road,

Darling Point 2027

LICENSING POLICE POSITION:

If Woollahra Council deem the application to meet the provisions under the Woollahra Local Environmental Plan 2015, Police do not object. If granted, Police propose conditions to be placed to mitigate against noise and potential harms.

COMMENTS:

1. Licensing Police were in receipt of Development Application, DA2022/277/1 & DA2022/278/1. Police conducted a review of the applications and associated documentation. Licensing Police highlight the following areas of concern for Council consideration.
2. Venue Disturbances – Police note the premise is situated within a Low-Density Residential Zone. Police note multiple complaints were made by neighbours to Rose Bay Police Station following a party that occurred at the premise on Saturday 29 May 2021. Police note the applications have proposed controls for noise, however as the premise is situated within a residential setting, Licensing Police seek stringent conditions to mitigate against further instances of disturbances created by the premise.
3. If Council were to approve this development, Licensing Police request the following conditions be imposed on the final consent.

OFFICIAL USE ONLY



ENTERTAINMENT NOISE EMISSIONS

No amplified music in outdoor areas is permitted after 6pm.

When amplified music is utilised indoors, all doors and windows must be shut from 6pm.

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.

LIQUOR SALE / SUPPLY / CONSUMPTION

No liquor may be sold or supplied on the premises except with the approval and authorisation from the relevant Liquor Authority.

Local Licensing Police must be informed at least 14 days prior to any activity utilising a liquor licence.

1 licensed security guard is to be located at the primary entrance to the premises for the duration of any activity that utilises a liquor licence.

No patron shall be permitted to take glasses or open containers of liquor off the premises.

COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required, and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers and Police Officers.

PLAN OF MANAGEMENT (POM) TO BE SUBMITTED AND APPROVED

The POM shall be amended to include details of all operational and management procedures of the premises. The POM shall include, but is not limited to, its amenity within the neighbourhood of the premises, compliance with conditions (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints), the behaviour of patrons, liquor practices (if licensed, including the responsible service of alcohol), staffing roles and responsibilities (including security personnel if required), management of patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements.

The POM shall be approved by Council prior to the commencement of operations

OFFICIAL USE ONLY



SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES (LICENSED EVENTS)

The Management must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- (a) It must operate continuously from one hour prior to the function / event and one hour after it has concluded
- (b) It must record in digital format at a minimum of 12 frames per second
- (c) Any recorded image must specify the time and date of the image
- (d) The system's cameras must cover:
 - i. All entry and exit points of the premises utilised by guests,
 - ii. The footpath immediately adjacent to the premises, and
 - iii. All accessible areas for guests (other than toilets) on the premises.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) These recordings are to be provided to Council or Local Police within 24 hours of any request

Regards,

Senior Constable Angus Franks

Eastern Suburbs Police Area Command

Licensing Unit

Larissa Holbert

From: Asli Erik
Sent: Thursday, 1 December 2022 3:42 PM
To: Larissa Holbert
Cc: George Fotis; Paul Sullivan
Subject: Response to Planning Referral- 68 darling Point Rd
Attachments: Re: Swifts 68 Darling point Road, Darling Point

Dear Larissa,

Below are the complaints/enquiries logged in iConcierge in relation to use and parking issues. Most issues emanate from lack of parking in the area. In relation to filming I have sent an advisory e-mail which I have forwarded to you earlier this afternoon.

Attached E-mail is sent by Mr Harding and subsequently I informed the Regulatory Services and I have issued a show cause letter on 18/11/2022 (HPE 22/224580) for Failure to obtain Development Consent for the allegations in relation to the use of the property as function centre, representations from Mr Moran can be found on HPE 22/236592. This was issued after receiving the latest complaint.

Please be further advise that most complaints come as parking complaints and if these complaints come to compliance they are directed to Colin DeCosta to create iConcierge requests. He may give you the total number of complaints received by the Regulatory Team in relation to illegal parking or lack of parking space for residents living around 68 Darling Point Road.

34214 - Unauthorised use private property - objection to DA 29/08/2022
39644 - Unauthorised use private property – filming 03/11/2022
40156 - Unauthorised use private property – filming 09/11/2022
40992 - Unauthorised use private property – enquiry in relation to filming 17/11/2022

I will be in the office tomorrow if you like to chat face to face and please let me know if you require any other information from me in relation to the use of the property.

Thanks,

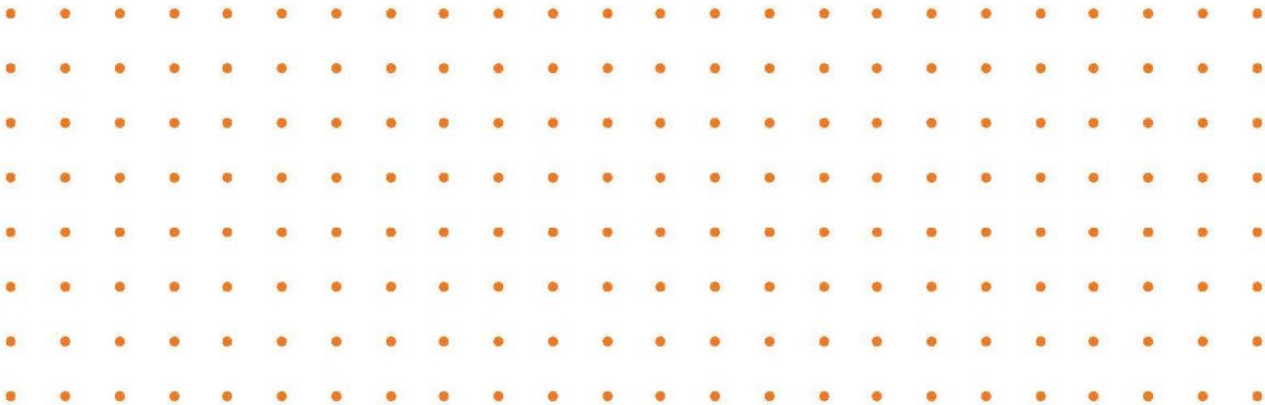


Asli Erik
Building & Compliance Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 02 9391 7076
e: asli.erik@woollahra.nsw.gov.au **w:** www.woollahra.nsw.gov.au

Our Values: Respect for People | Integrity and Excellent Performance | Professional Quality Service | Open Accountable Communication

We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.



PLAN OF MANAGEMENT

Swifts Occasional Events Venue – 68 Darling Point
Road, Darling Point



Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Plan of Management

Swifts Occasional Events – 68 Darling Point Road, Darling Point

Prepared for

Masolage Holdings Pty Ltd

By



ABN 39 585 262 237

A Level 10, 70 Pitt Street, Sydney 2000 P GPO Box 5013, Sydney
NSW 2001

T (02) 9249 4100 F (02) 2949 4111 E info@glnplanning.com.au

i

11607 PoM 4 FINAL
July 2022



Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

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A Level 10, 70 Pitt Street, Sydney 2000 P GPO Box 5013, Sydney NSW 2001

T (02) 9249 4100 F (02) 2949 4111 E info@glplanning.com.au



Date of final issue: 05/07/2022

File Path: C:\Users\Paul Grech\Dropbox (GLN Planning)\Public\Projects\Active\11607 Swifts - 68 Darling Pt Rd Darling Point\Reports\DA - cl.2.8\Appendix A - Plan of Management - DRAFT\11607 PoM.docx

Project Manager: Paul Grech

Client: Masolage Holdings Pty Ltd

Project Number: 11607

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Document History and Status

Version	Issue To	Qty	Date	Prepared by	Reviewed by
Draft	Masolage Holdings	1-e	22/06/2022	MH	PG
Final Draft	Masolage Holdings & Council	1-e	05/07/2022	MH	PG

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July 2022

gln.

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



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Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



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Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



1 Introduction

This Plan of Management (**PoM**) has been prepared to administer the occasional use of part of the site at 68 Darling Point Road, Darling Point (the **Site**) – known as “Swifts” – for events. Swifts is a heritage listed residence that has historically been the location for a wide range of events.

The occasional use of the Site for events has been approved by Woollahra Municipal Council (**Council**) under Development Application [insert Consent Ref when issued]. Any event that occurs on the Site will need to meet the minimum requirements provided within the conditions of consent provided in [insert Consent Ref when issued] (**Attachment A**) and this PoM. Where there is a conflict between this PoM and the conditions of consent in Attachment A, the conditions in Attachment A prevail.

Swifts is a large residence situated in Darling Point. The residence was constructed in 1882 by the Tooth family. The residence includes rooms and landscape specifically designed for entertaining, including (but not limited to): a ballroom, billiard room, large dining rooms, extensive landscaped gardens, swimming pool and tennis court. The primary use of the Site will remain as a large residential dwelling, therefore this PoM includes measures that limit the number and extent of events that can occur on the Site, so the integrity of the residential use of the Site and the amenity of the surrounding residential uses is maintained.

This PoM supports the occasional use of the Site for the following types of events (but are not limited to):

- Weddings,
- Birthdays,
- Charity Events,
- Balls,
- Corporate functions,
- Product launches,
- Shows, and
- Displays.

The above list is not exhaustive but provides an indication of the types of events this PoM will support. The following PoM provides the location, duration, capacity and frequency of events that can occur on the Site, as well as including a reporting structure.

A summary of the information provided in this PoM is included in **Attachment B**.

The Event Schedule in **Attachment C** is to be updated and a copy provided to Council on a quarterly basis. The combined number of days the Site is utilised for events must not exceed 41 days in a calendar year, with further restrictions on the number of specific events provided in **Section 4.1**.

For the avoidance of doubt, this PoM and the related restrictions do not apply to any personal event hosted by or for a member(s) of the Moran family (for which a fee is not charged).

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



2 Event Type and Management

A designated Event Manager for each event must be onsite for the duration of the event (including set-up and pack-up). The Event Manager along with the landowner (Masolage Holdings Pty Ltd) will be responsible for the event's compliance with the requirements of this PoM and the conditions of consent in **Attachment A**.

The Event Manager will be provided a copy of this PoM and is required to have a copy in their possession for the duration of the event. Each event will have its own unique Plan, which must include a section that demonstrates compliance with this PoM and the conditions of consent.

2.1 Event Categories

All events will be categorised as either:

Normal Events, which are primarily held indoors, over 1 day between 9am and 11pm

Special Events, which are primarily held outdoors, over 1 day between 9am and 10pm

Unique Events, which are indoor and outdoor events and held over multiple days between 9am and 6pm

The total number of guests are limited in accordance with **Section 4.1**. All guests must depart the venue within 1 hour of the conclusion of the event in accordance with **Section 4.2** of this PoM. Pack up and set up of the event may occur outside of these times but must be done in accordance with **Section 4.2.1**.

2.2 Frequency of Events

The combined duration of events must not exceed 41 days in any calendar year.

Normal Events – Maximum of 20 per year – no more than 3 per month.

Special Events – Maximum of 12 per year – no more than 3 per month.

Unique Events – Maximum of 3 per year – no single event lasting more than 3 days in total.

2.3 Event Notification

The Event Schedule in **Attachment C** will be updated and provided to Council on a quarterly basis. The Event Schedule will include the category of the event and the contact information for the Event Manager and summarise the details of the event. The schedule will be updated to ensure that events do not collectively exceed 41 days in a calendar year.

Surrounding residents will be notified of any Unique Events at least two weeks before the event. This will include a letterbox drop to all residential letterboxes on:

- Darling Point Road – between Yarranabbe Road and Etham Avenue (southern intersection)
- Thornton Street – between Darling Point Road and Hampden Avenue

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

- Hampden Avenue – between Thornton Avenue and Goomerah Crescent

The information provided to the residents will include, at a minimum, the hours of the event and the contact details of the Event Manager.

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



3 Site and Event Areas

The Site is located at 68 Darling Point Road and has significant frontage to Darling Point Road, Thornton Street and Hampden Avenue (see **Figure 1**). The Site consists of approximately 1.36ha on the western side of Darling Point Road, Darling Point and contains the historic Swifts building, which is described as a late Victorian castellated Gothic Revival mansion and contains extensive lawns along the Darling Point Road frontage (see **Figure 2**).



Figure 1 Aerial of Site

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 2 Photo of the eastern elevation of Swifts taken from internal driveway

3.1 Outdoor event locations

Outdoor events will primarily be contained to the:

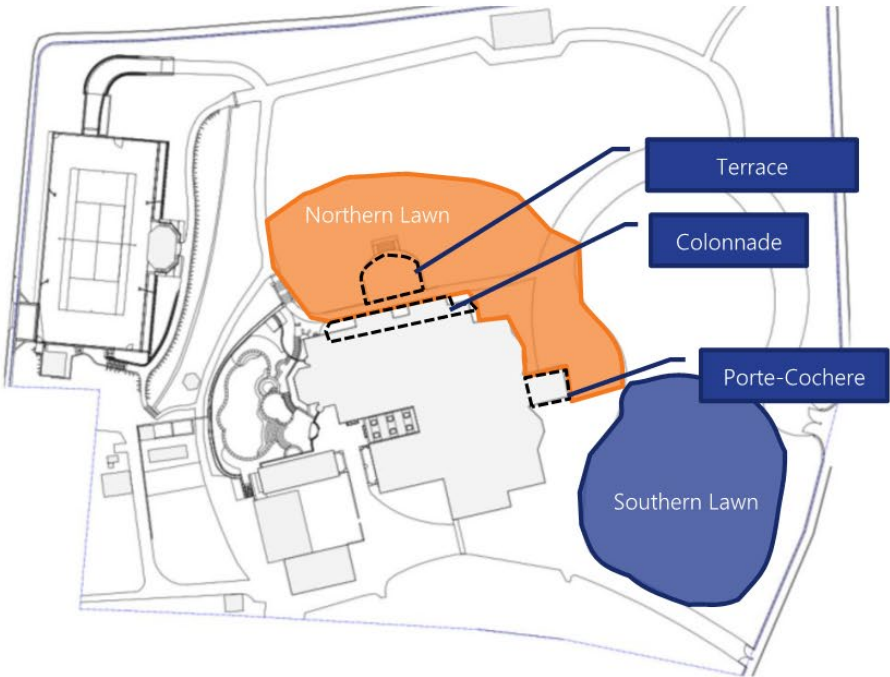
- Northern Lawn
 - Available for use between 9am – 10pm
- Southern Lawn Area
 - Available for use between 9am – 6pm if no marquee provided
 - Use after 6pm must be in a marquee with roof and walls.
 - No PA systems to be utilised after 6pm, other than for speeches limited to a duration of 1 hour.

The above areas are shown in **Figure 3-7**.

The outdoor areas also include use of the Porte-Cochere, Colonnade and Patio area. The balance of the gardens and tennis court area may be used during a Unique Event for various displays. As outlined in **Section 4.3** no amplified music will be utilised in the outdoor event locations. The volume of the PA system will be limited. The PA System will be limited to one hour of continuous use.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning

Figure 3 Outdoor event spaces



Source: GLN Planning 25.10.21

Figure 4 Photo of terrace and Northern lawn from Portico

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 5 Photo of Northern lawn from Terrace



Source: GLN Planning 25.10.21

Figure 6 Photo of driveway and Northern lawn adjacent to Port-Cochere

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 7 Photo of southern lawn

3.2 Indoor event locations

Indoor events will be contained to the ground floor area of the Swifts main building, including Ballroom, Drawing, Music, Dining and Billiard rooms, and the indoor garage beneath the tennis court. Events may also utilise areas of the Terrace and Portico, Colonnade and Porte-Cochere. Amplified music and PA systems can be used indoors, where doors and windows to the outside can be closed after 10pm. Photos of the main rooms are provided in **Figures 8-9**.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 8 Photo of ballroom



Source: GLN Planning 25.10.21

Figure 9 Photo of dining room

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



4 Event Particulars

4.1 Capacity

- Events held outdoor only – Maximum 250 guests
- Events held indoor only – Maximum 200 guests
- Events held across indoor and outdoor areas – Maximum 300 guests
- Unique events – maximum of 300 guests at any time

4.2 Duration of Events

Normal Events – Can be held between the hours of 9am – 11pm

Special Events – Can be held between the hours of 9am and 10pm

Unique Events – Can be held between 9am and 6pm across a maximum of 3 days.

All guests must have vacated the premises within 1 hour of the conclusion of the event.

4.2.1 Set up and Pack Up.

Set up and pack up can occur outside of the above times.

- Set up – After 7am on the day of the event, or the day before. Set up must not occur after 11pm.
- Pack up – before 11pm the day of the event, or after 7am the day after the event.

4.3 Music & PA Systems

To minimise the impact on surrounding residents and occupants of Swifts, acoustic and amplified music is only permitted in certain areas at certain times.

- Normal Events (Indoor Areas)
 - Amplified music is permitted.
 - PA is permitted.
 - External doors and windows must be closed after 10pm where amplified music and/or PA is being utilised.
- **Special Events (Northern Lawn and associated outdoor areas - Colonnade, Portico and Terrace)**
 - Small amplified musical ensembles and sound systems permitted up to 6pm.
 - After 6 pm, music can be small unamplified musical ensembles, eg. string quartets etc.
 - Any amplified music after 6pm is prohibited.
 - A PA system with a sound level limiter is the only system permitted.
 - No use of a PA is permitted after 6pm, other than for speeches limited to a duration of 1 hour.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

- **Special Events (Southern Lawn Area)**

- If the event is to go beyond 6pm, the event is to occur within a marquee with southern and eastern walls fully closed by heavy plastic/vinyl material
- A sound system for amplification of the ceremony and speeches is to have speakers located under the marquee (minimum of 2m from the western end of marquee)
- PA limited to 1 hour of continuous use.
- To provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards the north
- A PA system, with a sound level limiter, is the only system permitted. The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.
- Before 6pm, music may be provided by amplified instruments or systems located adjacent to the main building situated in line with the northern end of the marquee (approximately 24 metres from the southern boundary). The music source is to be oriented in a northerly direction and a temporary solid timber wall is to provide additional acoustic shielding limiting the music source to a level not exceeding 75 dB(A).
- After 6 pm, music can be small unamplified musical ensembles, eg. string quartets etc, located on the southern side under the marquee.
- No use of a PA or amplified music is permitted after 6pm, other than a PA system for ceremonies and speeches of a duration of up to 1 hour.

- **Unique Events**

- The above restrictions apply depending on the relevant area used.
- Management to have available, at all times, a sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary.

4.4 Arrival, Drop-off and Parking

The Event Manager will be required to undertake the following prior to the event:

- Notify guests that parking is not provided on-site (without prior arrangement) and it is recommended that guests take alternative transport to the site, such as Uber, walk, train, bus, ferry, taxi and ride share. A map of the nearest public transport facilities and appropriate timetables for the event is to be provided to all guests.
- In some circumstances (on an as needed basis) a shuttle bus, such as a 7m long 2-seater mini-bus will be provided between the site and key locations.
- VIP guests, guests with mobility issues and other nominated/authorised guests shall be exempt from the above requirements.
- Authorised staff will be able to park on-site
- On-site car parking is available within the circulation roadway, to the back (south) of the residence and within the basement garage off Hampden Avenue (see **Figures 10–13**).

The primary access is from Darling Point Road via existing gates. The primary access accommodates vehicular circulation via an internal looped driveway to a Porte-Cochere and then back onto Darling

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

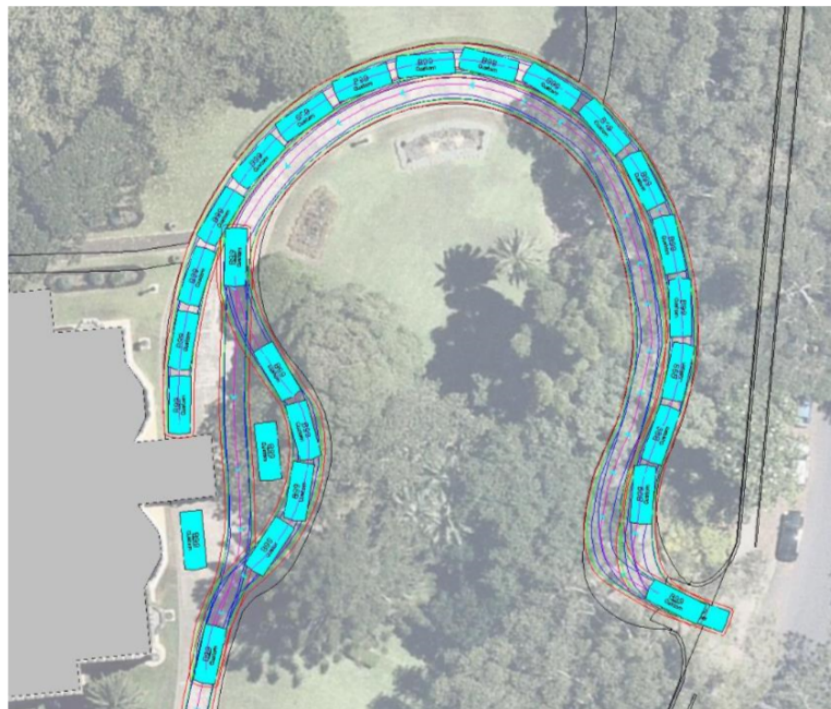
Point Road. Pedestrian access is also available off Darling Point Road. A secondary vehicular entrance is also available off Hampden Ave, into a basement garage located under the tennis court. The basement provides a "back of house" access through the gardens to the residence.

The primary entrance will be managed by a security guard. Only invited guests will be allowed entry. The security guard at the front gate will have a list of invited guests to confirm the identity of each guest on arrival. The secondary access off Hampden Road is only to be utilised by event staff.

During the event, traffic will enter and leave the site in a one-way anticlockwise fashion, entering via the primary entrance. Once a driver has entered the Site, they will follow the circulation driveway until reaching the larger area in front of the Porte-Cochere at which point they will either drop-off/pick up guests. Upon leaving, the driver will continue along the circulation driveway down the southern side of the circulation driveway toward the exit.

If accessible parking is required by a guest, this is to be made known to the security guard in which case they will direct the driver to dedicated parking for people with disabilities.

No event will require any road closure.



Source: McLaren Traffic Engineers

Figure 10 23 x parked vehicles maintaining two-way passing within loop road

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

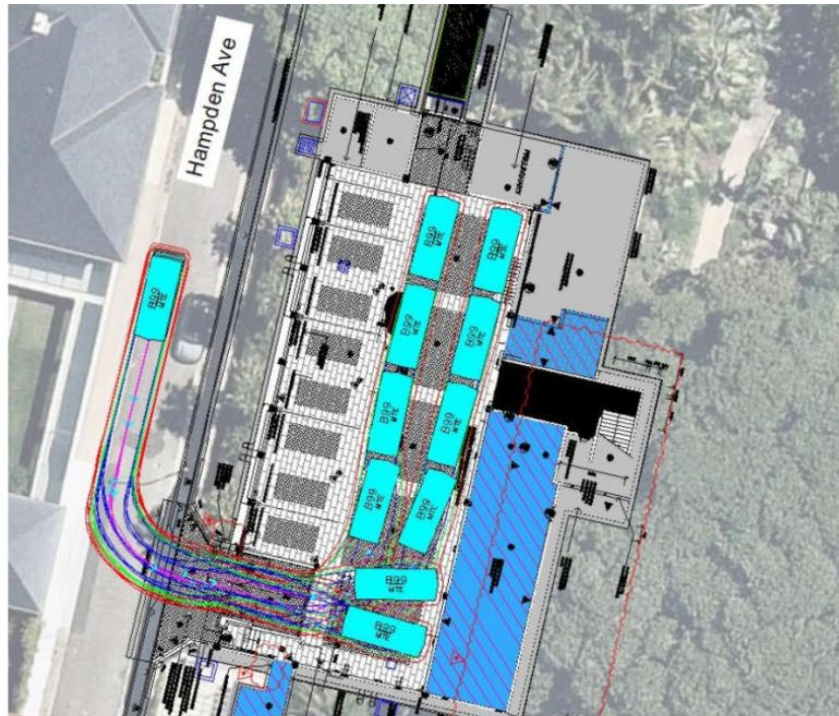


Source: McLaren Traffic Engineers

Figure 11 12 x parked vehicles in a tandem arrangement at the area south of the residence

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: McLaren Traffic Engineers

Figure 12 10 x parked vehicles in a tandem arrangement within the basement under the tennis court.

4.5 Security Management

A security team is to be engaged for each event. The security team will be on-site for the duration of the event. The security will be required to manage access and crowd control during the event.

Any engaged security company will be required to hold relevant licencing in accordance with relevant regulations.

4.6 Emergency Evacuation Plan

An individual emergency evacuation plan is required to be prepared for each event by the Event Manager. The Event Manager will be responsible for ensuring all staff and guests are aware of the plan and procedures.

4.7 Toilet and Amenities

Depending on the type and numbers of the event, existing facilities on site will be used. Additional temporary facilities can be provided, but must be arranged with Masolage Holdings Pty Ltd prior to the event.

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



4.8 Complaint Register

If complaints are made during the event, they will be communicated personally by event management staff.

If complaints are made after the event they will most likely be in the form of a letter drop or email. It will be the Event Manager's responsibility to review the complaint and address as necessary.

4.9 Structures and furniture

No permanent structures or furniture is permitted. Marquees, tables, chairs and decorations are permitted only where they do not require any modification to the existing building fabric or landscape. The Event Manager will be responsible for returning the site back to its original state at the conclusion of the event.

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



**APPENDIX A: CONDITIONS OF
CONSENT**

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



APPENDIX B: SUMMARY TABLE

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

Type of Events	Number of events	Capacity	Location	Duration	Music	PA	Restrictions
Normal events (indoors)	20 per year (no more than 3 per month)	Up to 200 people	Inside (main residence and/or garage) with use of ballroom colonnade, northern terrace and driveway.	Between 9am and 11pm (guests out by 12pm)	Amplified music permitted.	PA system permitted	Windows must be closed where PA system and amplified music is played beyond 10pm
Special events (outdoor)	12 per year (no more than 3 per month)	Up to 250 people	Outside – all areas including northern and southern lawn areas	Between 9am and 10pm (guests out by 11pm)	Amplified music permitted before 6 pm with restrictions (which differ for Northern Lawn areas and Southern Lawn area). Small unamplified musical ensembles permitted after 6 pm. No amplified music after 6pm.	PA system with RMS limiter. No use of a PA or is permitted after 6pm, other than one hour of speeches and/or ceremonies.	Use of Southern Lawn from 6-10pm only permitted within a marquee with roof and southern wall of the southern and eastern walls fully closed by heavy plastic/vinyl material.
Unique events	3 per year	Up to 300 people at any time	All areas	Between 9am and 6pm	The above restrictions apply depending on the relevant area.	The above restrictions apply depending on the relevant area.	Each event no longer than 3 days total. Noise emission levels not to exceed 46 dB(A) at any residential boundary

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



APPENDIX C: EVENT REGISTER

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Event Name	Event Date	Event Manager and Contact	Event Type	Duration	Annual Cumulative Event Type	Annual Cumulate Event Days Total
Example 1 [Wedding of xx and xx]	01/07/22	John Smith 04XX XXX XXX	Special (Outdoor)	6pm – 11pm	Normal Events (0 of 20) Special Events (1 of 12) Unique Events (0 of 3)	1 of 41
Example 2 [xx new season launch]	10/08/22 – 13/08/22	Joanne Smith 04XX XXX XXX	Unique Events	9am – 6pm	Normal Events (0 of 20) Special Events (1 of 12) Unique Events (1 of 3)	2 & 3 of 41
Example 3 [50 th birthday celebration for xx]	01/09/22	Jennifer Smith 04XX XXX XXX	Normal (Indoor)	5pm – 11 pm	Normal Events (1 of 20) Special Events (1 of 12) Unique Events (1 of 3)	4 of 41

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1 July 2022

Craig Swift-McNair
The General Manager
Woollahra Municipal Council
536 New South Head Road
DOUBLE BAY NSW 2028

Our Reference: 21-0159Agmc2

**Re: Swifts, 68 Darling Point Road, Darling Point—Clause 2.8
Application, Temporary Use of Land**

Dear Craig Swift-McNair

GML Heritage Pty Ltd (GML) has been commissioned by Masolage Holdings Pty Limited, owner of Swifts, located at 68 Darling Point Road, Darling Point, to prepare a heritage report to accompany an application under the Clause 2.8 Temporary Use of Land of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP).

This application is to allow temporary events within the gardens and residence of Swifts. Given the subject area is zoned in the Woollahra LEP as Low Density Residential (R2), commercial business is disallowed. This application is to apply to Woollahra Council through Clause 2.8 Temporary Use of Land for consent for Temporary events at Swifts.

Heritage Context

Swifts, built in 1876, is identified as an item of state significance on the State Heritage Register (SHR 00146) and is listed as a heritage item (Item no. 99) in the Woollahra LEP—Schedule 5 Environmental heritage. The following statement of significance for Swifts, is taken from the State Heritage Inventory Sheet and outlines its cultural significance:

Swifts is of State significance as, apart from Government House in Sydney, it is the largest remaining Victorian Gothic Revival house in Australia. Swifts remains on its original grounds and still consists of the original landscape, statuary, terrace wall, stairs and paths. It is a prime example of how the upper-class people lived in the 19th century in Australia. Swifts is also of cultural significance as it was home of two well-known Sydney business families, the Lucas-Tooth and Resch families. Swifts connection with the Roman Catholic Church is also of social significance as it was home to three cardinals; Gilroy, Freeman and Clancy. The building is also significant because it is an example of

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the work of Gustavus Alphose Morell, a prominent Sydney architect in the late 19th century.

The western section of the garden of Swifts formed an integral part of the original design of the grounds. The special relationship of the grounds to the mansion is a significant factor in determining the status of the grounds as an item of environmental heritage. The building together with its site is an item of environmental heritage.

The primary heritage significance of Swifts house and gardens is associated with its continuous use as a residence from 1876 to the present. Swifts has been as a place where social functions have occurred throughout that time. The frequency of functions at Swifts has changed over the historic phases of occupation.

Historic Background of Events at Swifts

The attached document, "Swifts, Darling Point Road, Darling Point—History Occupation and Use" (Final, 27 June 2022) was prepared by GML (see attachment A). This historic overview provides a history of various phases of development and identifies the use of Swifts, specifically associated with events from 1882 through to the present. This is summarised below.

In the early occupation, Swifts was used as a family residence and there were few social gatherings at Swifts. Between 1928 and 1963 only a few large-scale social events were held at the residence. In the early 1930s, Florence and Edmund Resch occupied the residence and hosted occasional fund-raising events, including bridge parties in 1933. On 21 November 1935, an afternoon 'musical' for District Nursing Association, was held for 300 people—a buffet tea served on the lawn, a musical program in the ballroom and a tennis tournament on the tennis courts of Swifts.

From 1964 through to 1996, Swifts was the official residence of the Roman Catholic Archbishop of Sydney. The ground floor of the house was converted to a chapel, known as the Chapel of St Edmund, for the local congregation. During the period, Swifts was the venue for weddings, requiem masses, funerals, baptisms and other services.

In 1997, the Moran family purchased Swifts. In 2010, the property was transferred to Dr Shane Moran (Masolage Holdings Pty Ltd) and his sister Kerry Jones (KJ Property Investments Aust Pty Ltd). Dr Moran and his family resided at the property and Ms Jones operated a function business out of the property. A website and brochure offered events and functions at Swifts for an agreed payment.

In 2011, following complaints about events by the local community, Woollahra Municipal Council judged the events to be of a commercial character and required development consent, regardless of whether the events involved charity fundraising.

Subsequently, Council requested Kerry Jones not hold events of a commercial character unless prior development consent was obtained. On that basis Kerry Jones lodged a



successful development application (DA433/2011) to hold an Open House and Garden Party at Swifts from 18 to 20 November 2011. The proceeds of this event were given to 'Friends of Swifts' charities. During the war, between 1942 and 1944, Swifts was used as the Swifts Rest Centre, providing civilian aid service.

Previous DA for Temporary use (Event)

In January 2022, the owner of Swifts submitted a DA for Temporary use (Event) at the premises of 68 Darling Point Road, Darling Point for the vintage car event, Sydney Harbour Concours d'Elegance, scheduled for 3-5 March 2022.

On 1 March 2022, Heritage NSW (as Delegate of the Heritage Council of NSW) approved a Section 60 application for the subject Temporary use (Event) at Swifts (see attachment B). The most relevant conditions of approval included:

Condition 2—Specialist Tradespersons: All work to, or affecting, significant fabric should be carried out by qualified tradesperson with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

Condition 3—Site Protection: Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure that significant fabric including vegetation is protected during construction.

Condition 4—Compliance: If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council NSW approval to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

The above reasons for the Conditions are in keeping with the Standard Exemptions (see attachment C Schedule of Standard Exemptions).

The event, temporary in nature, ensured the organisers restore the site to the condition it was in prior to the event. This eliminated any adverse heritage impact on the culturally significant place. The temporary nature of structures had no adverse heritage impact. All temporary displays and structures for ceremonial purposes were in accordance with CMP conservation guidelines, including Section 8.3.19 Mobile and Temporary Structures for Compatible Uses and 8.3.20 Outdoor Furniture, Rubbish Bins, Signs and Other Facilities.



Current Functions and Temporary Use of Swifts

The owner of the property has previously held functions and events within Swifts gardens and residence. Events include garden parties for charity events, dinners, theatrical events, reunions, Christmas parties, galas, fundraiser events, AXA Sydney Harbour Concours d'Elegance, weddings and film shoots. In the future, the proposal seeks to formalise the way these events are held.

The proposal includes:

- **Special Events**—12 per year (no more than 3 per month) for 250 people—utilising all areas;
- **Normal Events**—20 per year (no more than 3 per month) up to 200 people—utilising inside and use of ballroom colonnade, northern terrace and driveway); and
- **Unique Events**—3 per year across up to 3 days (up to 300 people at any time)—utilising all areas.

The question that needs to be asked is whether this number of temporary events is in accordance with the “tolerance” for the conservation of this item of state heritage significance.

Schedule of Standard Exemptions

Listed on the State Heritage Register, Swifts has Standard Exemptions for engaging in or carrying out activities/ works otherwise prohibited by section 57(1) of the Heritage Act 1977. On 9 December 2020, Standard Exemptions granted Swifts exemption from subsection 57(1) of the Heritage Act 1977. The Schedule of Standard Exemptions to Subsection 57(1) of the Heritage Act 1977 made under Subsection 57(2) included 20 Standard Exemptions (see attachment C). These standard exemptions have general conditions that require compliance. The standard exemptions of relevance to this application include:

- Standard Exemption 12: Temporary Structures;
- Standard Exemption 15: Signs;
- Standard Exemption 16: Filming; and
- Standard Exemption 17: Temporary Relocation of Moveable Heritage Items.

Standard Exemption 12: Temporary Structures is likely to cover many requirements for an event including stages, marquees, fences, etc.

Conservation and Maintenance Works at Swifts—1997 to the present

In 1997, the Moran family purchased Swifts. The following is a summary of information provided by the owner about conservation works undertaken during that time:



At the time of purchase, the residence and grounds were in a dilapidated condition. Extensive conservation and restoration work to the house was supervised by heritage architects, Clive Lucas, Stapleton & Partners. These works included significant stonework and roofing repairs, electrical and plumbing works prior to reinstatement of original finishes. This initial phase cost over \$22m.

Further conservation works were undertaken to the gardens (including over 12,000 plantings) as well as the conservatory, pool, tennis court and garages. These works have cost a further \$20m.

Future conservation works, including the need to reinstate the driveways, the electrical subway, the stables, tower, further roof repairs (since the recent storms) and ongoing garden works including several tree replacements. The costs are estimated at a further \$7.5m over the next five years.

Conservation and maintenance works are in accordance with "Swifts, Darling Point Road, Darling Point Sydney—Conservation Analysis & Conservation Guidelines" [CMP], prepared by Clive Lucas, Stapleton & Partners, September 1995. At the time of writing the CMP there were concerns about potential future development of the site. Section 6.4.3 Conservation Works outlines these concerns and the preference for an owner to operate the site as a residence to limit modifications to the fabric:

These capital and maintenance costs have serious implications for the future of the site. A commercial development would seek to reduce both while maximising the return on the former. A large capital cost of restoration would suggest a scheme which involves little interference with the existing fabric would be more sensible commercially. In conservation terms this would certainly be preferable. However, this approach would almost certainly lead to pressure for development on other parts of the site.

The ongoing maintenance costs of the fabric may be a disincentive to any operation, for example a hotel... or a school... In any proposal it is vital that the problem of maintenance be addressed to ensure that the existing fabric is conserved, and any restoration is not wasted by future neglect.

Unless a more philanthropic organisation or individual chooses to restore and operate the site the above factors will be a limit on the type and scale of future development.

The current owner and custodian of Swifts has been able to restore and maintain this unique residence and grounds. The owners have found a use (temporary social and charitable events) that helps to finance the upkeep of the place. The owners have made assurances that they utilise the funds raised from these events to provide ongoing upkeep of the place through its function business.

Heritage Items Used for Events

Custodians of heritage-listed places often hire spaces as a way of generating funds for the restoration of their properties. Various institutions hire their heritage-listed properties as venues for social events:



- The National Trust of NSW rents out Lindesay, Darling Point; Everglades, Blue Mountains; and Old Government House, Parramatta among other properties. In the case of Lindesay, Darling Point, the National Trust holds 12 large functions annually along with smaller functions. Five per cent of the hiring fee at Lindesay contributes to the National Trust's guardianship and conservation of the house and garden.
- Sydney Living Museum rents event space at its properties including Vaucluse House, Vaucluse, Elizabeth House, Hyde Park Barracks and The Mint.

Woollahra LEP, Clause 2.8 Temporary Use of Land

Clause 2.8 of the Woollahra LEP 2014 permits temporary use of land providing it satisfies the following conditions:

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Responses to Clause 2.8 Temporary Use of Land

The following provides responses to each of the subclauses raised in Clause 2.8 and seeks the approval of the authority, Woollahra Council.

1. The proposal to hold temporary events at Swifts will not compromise any future development of the land or have a detrimental impact on the economic, social, amenity or environmental aspects of this state heritage significant place. Temporary events have occurred throughout the history of Swifts. Proposed temporary events continue to be in accordance with the historic and social use of the place, whilst



retaining its primary significance as a residence. Due to statutory requirements to conserve Swifts, a place listed as a state heritage item, the owners and managers of the place implement strict practices to ensure all heritage significant fabric is conserved and protected before, during and after all temporary events.

There are no specific policies in the CMP that address a programme of temporary events within the buildings and gardens of Swifts. The CMP was prepared in 1995 prior to the purchase by the current owners. In 2020, the Heritage Council of NSW granted Standard Exemptions to Swifts. This allows, with conditions, that certain works are allowed without approval.

To ensure the place is retained in a manner commensurate with its heritage significance and ensure it is available for the public to appreciate, the owners and managers invest substantial ongoing funds for annual repair, cyclical maintenance and security.

2. The owner and manager of Swifts have identified an annual programme of temporary events within its buildings and grounds.

This proposal limits the number of events per year to minimise adverse heritage impacts on the building and grounds. The owners plan, manage and monitor events to ensure heritage significance is not materially impacted. Protective measures, limiting numbers at events, acoustic requirements, etc will be required to ensure Swift's heritage significance is conserved during events or other activities. The proposal also creates the opportunity of having Free Open Days to provide public appreciation and enjoyment of historic gardens at Swifts.

3. The proposed temporary events at Swifts are to be undertaken in a fashion that will minimise impacts. The temporary events are undertaken to ensure the organisers restore the site to the condition it was in prior to the event. The temporary nature of structures is designed to have no adverse heritage impact. All temporary displays and structures are in accordance with CMP conservation guidelines, including Section 8.3.19 Mobile and Temporary Structures for Compatible Uses and 8.3.20 Outdoor Furniture, Rubbish Bins, Signs and Other Facilities. They are also in accordance with Standard Exemptions 12, 15, 16 and 17.

The temporary events at Swifts are carefully managed to minimise negative impacts on the neighbourhood by reducing noise, traffic and lighting before, during and after the event. An Event Management Plan will be submitted to Council for approval of each type of event to ensure traffic, noise and heritage issues are considered holistically to minimise impact on the amenity of the local community.



LEP Clause 5.10 Considerations

Having regard to the terms of Clause 2.8(2) of the LEP, it would appear that the provisions of Clause 5.10 are not relevant. Nonetheless, we have considered the potentially relevant provisions of clause 5.10, particularly Clause 5.10(5), which are effectively concerned with the conservation of the heritage value of the item.

For the reasons stated above we consider that no impacts will arise. Additionally given the temporary nature of events, the proposal will not have an impact on the heritage significance of land that is within the vicinity of Swifts”.

Conclusion

Temporary events, such as those that currently occurring at Swifts, have caused no unreasonable impact on significant heritage fabric. Through the implementation of the Clause 2.8 Temporary Use of Land, of the Woollahra LEP it is proposed that Temporary Events are able to occur within the grounds of Swifts without detrimentally impacting on the state heritage listed property. This would have a positive heritage impact by ensuring the future preservation and protection of Swifts.

We would recommend Clause 2.8 Temporary Use of Land be activated for temporary events at Swifts, subject to appropriate conditions. This would have the added benefit of ensuring the ongoing restoration and maintenance of Swifts is built-into the business management of the place, one of NSW’s most significant state-significant residential assets.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Lynette Gurr'.

Lynette Gurr
Senior Associate
GML Heritage Pty Ltd

Attachments

- A. “Swifts, Darling Point Road, Darling Point—History Occupation and Use”, Final, prepared by GML, 27 June 2022.
- B. Heritage NSW (as Delegate of the Heritage Council of NSW) approved a Section 60 application for the subject Temporary use (Event) at Swifts, 1 March 2022.
- C. Swifts—Schedule of Standard Exemptions, dated 9 November 2020.



**Swifts, Darling Point Road, Darling Point—History Occupation and Use”, Final,
prepared by GML, 27 June 2022.**



Swifts, 68 Darling Point Road, Darling Point

History, Occupation and Use

Final Report prepared for Masolage
Holdings Pty Ltd

June 2022

Acknowledgement of Country

At GML we acknowledge that we work and live on the land of the First Australians. We know that this land was never ceded, and we respect the rights and interests of Australia's first people in land, culture, and heritage. We acknowledge their Elders past and present and support the concepts of voice, treaty, and truth in the Uluru Statement from the Heart.

Report Register

The following report register documents the development and issue of the report entitled Swifts, 68 Darling Point Road, Darling Point—Occupation and Use History undertaken by GML Heritage Pty Ltd in accordance with its quality management system.

Job Number	Issue Number	Notes/Description	Issue Date
21-0159	1	Preliminary Draft	18 June 2021
21-0159	2	Final Report	27 June 2022

Quality Assurance

GML Heritage Pty Ltd operates under a quality management system which has been certified as complying with the Australian/New Zealand Standard for quality management systems AS/NZS ISO 9001:2016.

The report has been reviewed and approved for issue in accordance with the GML quality assurance policy and procedures.

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1 Introduction

1.1 Background

GML Heritage Pty Ltd (GML) has been commissioned by Masolage Holdings Pty Limited to investigate the history, occupation and use of the building at 68 Darling Point Road, Darling Point (the subject site).

1.2 Study Area

The subject site comprises 'Swifts', a large Victorian Gothic residence with outbuildings set in landscaped gardens. The property is described as Lot 2 in DP 221605.

1.3 Heritage Status

Swifts is identified as an item of state significance on the State Heritage Register (SHR 00146) and is listed as a heritage item in the *Woollahra Local Environmental Plan 2014*—Schedule 5 Environmental Heritage (Item no. 99).

1.4 Author Identification

This report has been prepared by Léonie Masson, Senior Heritage Consultant, and reviewed by Claire Nunez, Senior Associate, of GML.

1.5 Methodology

The methodology used in this report is consistent with the principles and guidelines of the *Australia ICOMOS Burra Charter, 2013*. It is consistent with the relevant sections of the methodology outlined in the *NSW Heritage Manual* (NSW Department of Urban Affairs and Planning and Heritage Council of NSW, first edition, 1996).

The principal sources and repositories consulted during the compilation of this report include:

- the NSW Land Registry Services (NSW LRS);
- the State Library of NSW;
- Trove, National Library of Australia;
- Woollahra Municipal Council files, including building and development application files; and
- The Woollahra Library Local Studies Collection.



2 Historical Context

The following section provides a succinct overview of the historical development of the subject site and places it within the history of the area. It is based upon secondary sources, supplemented with additional primary research from the National Library of Australia, the State Library of NSW, NSW Land Registry Services (LRS) and Woollahra Municipal Council.

2.1 Aboriginal History

Aboriginal occupation of Sydney can be traced through the archaeological records to at least 22,000 years ago, with some estimates extending towards 35,000 years.¹ The Sydney region supported the Eora nation, made up of more than 30 separate clans woven together by intermarriage across the region. They had a nuanced understanding of the land and followed a complex land management system that sustained them and their Country. The land was part of a network of creation (Dreaming) and ceremonial sites, intertwined with the natural landscape and extending across the Sydney region. Most clans took their names from their Country, like the Gadigal along the harbour's southern shore, or the Wangal from Wanne, the lower reaches of Parramatta River, or the Kamaygal from Kamay, Botany Bay. Others, like the Cammeraygal from the harbour's northern shore, may have been named for their role in ceremony and law, and the skills of their clever men or karadji. Among the 30-plus Sydney clans, it was these four groups in particular who bore the initial brunt of the arrival of Europeans and whose men and women moved amongst the colonists. They were also the people most frequently referred to in descriptions of Aboriginal people within European accounts of the immediate period after contact.

Sydney's Aboriginal people were the first people dispossessed by Europeans after their arrival in Sydney Cove in 1788. This dispossession underpins the foundation and growth of the city. In 1789, the smallpox epidemic devastated the Aboriginal population and disrupted clan boundaries in Sydney. However, the Aboriginal people did not simply all vanish or die. As historian Grace Karskens has written: 'Sydney has an Aboriginal history, not located safely in the distant past, but unbroken, and still throbbing insistently today.'

In 1883, the establishment of the Aborigines Protection Board in NSW signalled the beginning of successive waves of intervention into Aboriginal lives. Nonetheless Aboriginal people continued to live in Sydney and were joined by other Aboriginal people from across NSW to live, work and forge new lives in urban communities. Dr Paul Irish writes about an Aboriginal settlement at Rushcutters Bay in the 1890s which consisted of several gunyahs (dwellings) made of slabs of wood leaning against a fence and covered with iron, sheets and other materials, around a central campfire. At this time there were a few permanent residents of the settlement who survived by fishing, shellfishing, and selling boomerangs and shell ornaments in the city. This accords with the childhood memories of Elizabeth Phillips who, aged 93 in 1903, recalled there were a large number of Aboriginal people camped on Darling Point who caught fish and traded some of their catch with the local European residents.

To the Cadigal, Darling Point was 'Yarranabbe' (variously spelt Yaranabe, Yarrandabbi, Yarranabbi and Eurambi). It was reportedly named after a Burramatagal man, Yeranibe Goruey, who was married to Benelong's sister Worogan.

The area was occupied by the Cadigal for at least 6000 years. It was a place where Aboriginal people and Europeans gathered rushes, used respectively for light-weight spears for fishing and thatching



settler huts. According to Dr Paul Irish, settlers were cutting rushes in Rushcutters Bay to west of Darling Point within weeks of the arrival of Europeans in Australia in 1788. He further records several different Aboriginal settlements, at different times, occupying land either side of the Rushcutters Creek (near Darling Point) and on higher grounds either side of the bay.

2.2 Early Land Grants and European Occupation

This initial phase of development on the harbour is represented by a small number of properties between Woolloomooloo Bay and Vaucluse Bay erected between 1800 and 1820. While Sir Henry Brown Hayes' property at Vaucluse Bay (c1803) (later enlarged by WC Wentworth) and John Palmer's Woolloomooloo House (c1803) display optimistic rural intentions at their outset, the realities of the soils and rocky terrain soon rendered the houses places of retreat. Captain John Piper's long demolished Henrietta Villa (c1816) at Point Piper is indicative of both the progress and developing ambitions of the colony, setting the precedent for the marine villas of the following generation with its picturesque setting of harbour foreground and bushland backdrop.

By the 1830s, the vast majority of the harbourfront land east of Darling Point was held by a small number of landholders, principally the Cooper and Wentworth families, while at Double Bay, a government village had been reserved. The area to the west of Double Bay, comprising the promontories of Potts Point/Darlinghurst and Darling Point, reflect another pattern of land alienation initiated under Governor Darling from 1825.

In the Potts Point/Darlinghurst grants, Darling stipulated in the land deed the fulfilment of so-called 'villa conditions', which ensured only one residence was built on each grant to an approved standard and design inclusive of a generous landscaped garden setting. With some exceptions, the villas were erected under these conditions for the privileged members of the military and civil establishment. At Darling Point, Governor Darling reserved the promontory for sale in 1831 at the suggestion of his surveyor general, Thomas Livingstone Mitchell. The area was subsequently surveyed by Mitchell's assistant James Larmer into large villa allotments of the scale previously implemented at Potts Point/Darlinghurst. Larmer referred to the promontory as 'Mrs Darling's Point' in deference to Eliza Darling, the wife of the governor.

The first auction of the northern part of the promontory came on 11 October 1833 under the direction of Darling's successor, Governor Bourke.¹² At the sale, nine allotments varying in area between six acres and 15 acres were offered. Each allotment had frontage to either Darling Point Road (Mrs Darling's Road as originally known) and/or Thornton Street, following their circuitous routes along the ridge and parallel to the shoreline of the promontory. With the exception of a few allotments at the southeastern corner, most allotments had frontage to the harbour proper. The aforementioned roads were laid out at this time and an existing old track made in the 1820s by John Piper to his Henrietta Villa at Point Piper (now generally Loftus and Marathon roads) was incorporated into the subdivision (see Figure 2.1).

The most favourably sited allotments in regard to the harbour were first sold, with the allotments at the point being purchased by Joseph Wyatt, James Holt and James Chisholm Senior. The high land-locked allotments were purchased by Thomas Barker, and the low-lying grants fronting Double Bay were acquired by William Macdonald and Elizabeth Pike. The reserve price per acre was 10 pounds, but the average price actually paid was much higher at 34 pounds. The remaining allotments were purchased in mid-1835 by Thomas Smith and Thomas Barker for an average of 27 pounds 10 shillings an acre.



Governor Brisbane's astronomer, James Dunlop, was conditionally gifted over 15 acres, but the allotment was later sold to the merchant Thomas Ware Smart in 1841.

Swifts is located on allotment four of the nine and three-quarter acres granted by purchase to Thomas Barker in November 1833. Barker also purchased the adjoining allotment (No. 3) of seven and three-quarter acres at the same time. These grants together comprised all the land enclosed by Darling Point Road and Thornton Street. The total purchase price for the 17 acres was 573 pounds.

With no development evidently having occurred, Barker's Darling Point grant was soon sold in 1835 to Thomas Icely. Icely had also acquired the neighbouring allotment of Lindesay at this time.

Elsewhere on the promontory, there was also little demand to actually commence building work over the 1830s—the success of the subdivision was largely dependent on the forming of New South Head Road to provide access to the town centre. The road had been surveyed in 1831 under the direction of Thomas L Mitchell, but the prolonged delay in completing the stone bridge over West Creek at Rushcutters Bay impeded access from the city to the promontory. This necessitated, in the interim, taking the circuitous route along the high-level Old South Head Road. On completion of the bridge in 1838, the road linked Darling Point and Potts Point/Darlinghurst with the emerging centre of government along Macquarie Street and the construction of the new government house.

One of the first houses erected on Darling Point was 'Lindesay' in present day Lindesay Avenue, which was completed between 1834 and 1836 for the colonial treasurer, Campbell Drummond Riddell. Nearby 'Glenrock' (now part of Ascham School) was completed by early 1836 for merchant Thomas Smith. Over the early 1840s, TL Mitchell relocated from Darlinghurst to Lindesay while he had Carthona built nearby. Lindesay was soon resold to Mitchell's friend Dr Charles Nicholson (1808–1903). Mitchell and his neighbour Nicholson were educated, well-read men who were doyens of colonial society. Before taking up residence at Darling Point, Mitchell had returned to England to seek a knighthood and complete his long-awaited survey of the colony. He was familiar with current thinking in architecture and the arts and had an appreciation of landscape. Carthona (1841) embodies Mitchell's thinking on these matters in its design and landscaped setting. The attraction of Darling Point to Mitchell was its seclusion and the natural beauty of its extensive tree cover and rocky outcrops with harbour views. To the south of Carthona, on the highest point in Darling Point, the colonial architect John Mortimer Lewis, Mitchell's civil office compatriot, erected his own home, Mount Adelaide, around 1843.

By the 1850s, the association of Darling Point's favourable harbour views and setting with exclusivity, affluence and gentility had been set, but the social world of its inhabitants was representative of men engaged in commerce and industry, rather than civil and military service or the leisured. The move to suburbs such as Darling Point is indicative of the exodus of the prosperous middle class in the mid-nineteenth century from the affluent inner-city addresses established over the 1830s and 1840s, such as Macquarie Street and Lower Fort Street. Coincidental was the emerging popularity of the villa, being a large, detached house with a good-sized garden. Thomas W Smith, of the importers, agents and merchants Smith, Croft & Co, built Ecclesbourne in present day Ocean Road by 1847. Ranelagh, at the southern end of Darling Point Road, was built for the Sydney furniture maker Andrew Lenehan in the early 1850s. Of the larger estates, Thomas Ware Smart, who made a fortune as an auctioneer, built Mona around 1842 within a 15-acre site. The greatest Australian nineteenth-century industrialist, Thomas Sutcliffe Mort, moved to Greenoakes (Bishopscourt) in Greenoakes Avenue set within 13 acres in 1848 following enlargement of a cottage named Percyville built for the Sydney ironmonger Thomas Woolley in 1841. The retail store dynasties also moved to Darling Point; William Farmer lived at Claines,



and Anthony Hordern built Retford Hall in 1866. Mitchell's Carthona was sold to the vaudeville impresario Harry Rickards in 1861, and Nicholson's Lindesay was sold in 1868 to the ironmonger John Macintosh.

2.3 Brief History of Swifts

The following brief history of Swifts, Darling Point draws on information provided in the Conservation Analysis and Conservation Guidelines report prepared by Clive Lucas, Stapleton and Partners Pty Ltd in 1995.

Swifts is located on part of the nine acres and one rood granted by purchase to Thomas Barker on 11 September 1833 at 'Mrs Darling's Point' (**Figure 2.1**). Simultaneously, Barker was also granted adjoining land comprising seven acres and three roods. Thomas Icely acquired Barker's grants in 1835 and three years later Barker's two grants were conveyed to Thomas Urmson Ryder. He subdivided the land into 14 lots suitable for villas and advertised for auction in April 1840 as the Delemere (or De Lamere) Estate (**Figure 2.2**). The northernmost allotments comprised the site of the future Swifts.



Figure 2.1 Detail from Plan of Mrs Darling's Point divided into villa allotments for sale, 1833. The subject site is outlined in red. (Source: State Library of NSW, a4692001h.jpg, annotated by Casey & Lowe 2016, Swifts, 68 Darling Point Road, Darling Point Archaeological Assessment, p13)

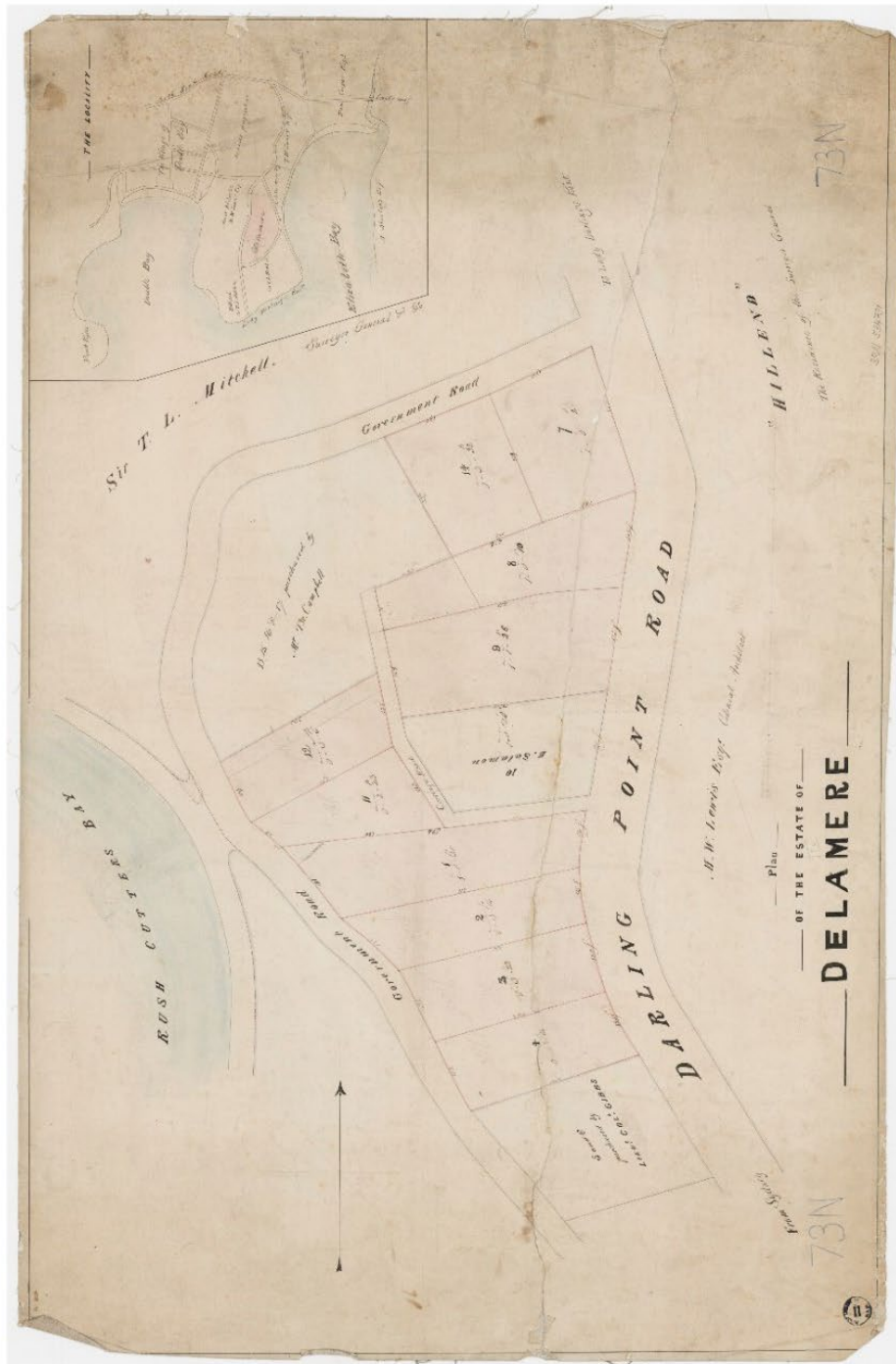


Figure 2.2 Plan of the Estate of Delamere, 1840, oriented to north. (Source: State Library of NSW, c076910001.jpg)



Ownership of the subject land changed hands successively over the 1840s and 1850s through conveyance, mortgage or trusteeship, but no development ensued. Francis Mitchell became the owner of the property in 1869 through a mortgage. Mitchell was the senior partner of Messrs. Mitchell and Co., ship chandlers and ship owners. Shortly before his death, Mitchell converted the land to Torrens title in October 1874 and sold three acres two roods and 21 perches of the property to Robert Lucas-Tooth, eldest son of brewer Edwin Tooth. The land is described at this time as 'unoccupied' and valued at £3631/-. During construction of their new house, the Tooth family lived nearby at Trevellyn, Darling Point, from early 1873 to March 1876.

Robert Lucas Tooth set about building and rebuilding Swifts from 1876 to around 1887. The house is first listed in Woollahra Municipal Council Assessment Books in 1876 as a 'cottage and 3 acres of land opposite M. Master' owned by Robert L Tooth. However, the following year it is described as an 'unfinished' house listed in Thornton Street. In October 1877, J Bird advertised for a 'good scabblar' to work on Tooth's house at Darling Point, indicating the stonework was under construction at the end of 1877.

The name 'Swifts' first appears in the 1880 assessment, while at the same time Robert Lucas-Tooth is listed at Swifts in the *Sands Directory* from 1880. Swifts was named after 'Great Swifts', his grandfather's home at Cranbrook in Kent, England. The original house was described as an 'exceptionally plain red brick structure with no embellishment at all, except a small quasi-classical porch in stone...'²

In 1882, Robert Lucas Tooth commissioned French architect Gustavus Alphonse Morrell to rebuild Swifts. In October the same year, Morrell invited tenders for the 'Erection and Completion of Extensive Additions to DWELLING HOUSE, Darling Point comprising Ball-room, Billiard-room, retaining walls, etc'.³



Figure 2.3 Extract from detail survey Woollahra, Sheet 11, c1885. The subject site outlined in red, with outbuildings numbered in red. (Source: State Library of NSW, annotated by Casey & Lowe 2016, Swifts, 68 Darling Point Road, Darling Point Archaeological Assessment, p 16)

The family lived at Swifts until late 1889 when Mills, Pile and Wilson advertised the property to let for 2 years:

Darling Point—To let for 2 years, furnished, a first-class mansion, Swifts, the residence of RL Tooth, Esq. with 3 acres 3 roods of high improved land. Possession beginning of next summer.⁴

In October the same year, W Garling advertised the auction sale of RL Tooth's carriages, horses, harness, saddles and bridles, stable requisites, etc' for Tooth 'who is about leaving for England'.⁵ Robert Lucas Tooth moved to England permanently and died there in 1915.

It is not known who took up the initial two-year lease of Swifts from the end of 1889. However, in November 1891 Mrs Henry Harris advertised for a housemaid and kitchenmaid care of 'Swifts, Darling Point'⁶ and the following month she advertised for a 'competent footman for indoor work'.⁷ Henry Harris, JP occupied Swifts from then until at least 1897.

Raine and Horne advertised Swifts to let in November 1898. It was available as a furnished residence containing large double entrance hall, four reception rooms, nine bedrooms, billiard room, ballroom and servants' rooms.⁸



The Harris family may have lived here until late 1899 when the *Daily Telegraph* reported that Raine and Horne had sold the property to Edmund Resch in December that year.⁹ The reported price of the property was £14,000, an 'an excellent bargain' considering 'the original cost of the handsome buildings and grounds reached between £30,000 and £40,000'. According to the *Armidale Chronicle*:

On entering the spacious hall the elaborate decorations at once command attention. Off the hall are situate' commodious dining and sitting rooms all furnished in rich and costly style. The billiard room is fitted with one of Alcock's best tables, the scoring being done by means of electricity (the players pressing a button on the table, which registers the score on a conspicuous board). The Ball-room is gorgeously ornamented, the artistic paintings on the walls being a specially attractive feature. In this apartment is erected a magnificent American organ, which supplies the music on all festive occasions. The bedrooms are situated upstairs, and here also the furnishing has been carried out on a lavish scale. There is an extensive promenade on the top of the building, and from this position a beautiful panoramic view of the harbour is to be obtained. The grounds abound with delightful lawns, shrubberies and flower beds. The stables are substantially constructed, everything connected therewith being arranged in a thoroughly up-to-date manner, Mr. Tooth evidently spared no expense in building what is generally regarded as one of Sydney's finest mansions.¹⁰

Edmund Resch lived at Swifts from 1900 to his death in 1923. Resch was born in Germany and arrived in Australia in 1863. He and his younger brother Richard purchased a cordial and aerated water factory in Wilcannia in 1877, and in 1879 opened the Lion Brewery, the foundation of his brewing empire. The company expanded in 1899 when he purchased the Waverley Brewery, and in 1900 he purchased the New South Wales Lager Bier Company Ltd in South Dowling Street, Redfern. His brewing operations were relocated to Redfern by 1903 and the business renamed 'The Waverley' in 1900. Resch's Limited was the registered business name from 1906.

The illustration at Figure 2.4 accompanied a description of the property furnished by the *Sunday Times* in March 1900, shortly after Resch purchased and moved into Swifts. In May 1909, Edmund Resch, in consequence of his intended departure to Europe, listed Swifts for auction sale as 'an opportunity... [to acquire] one of Sydney's finest and most imposing homes for a fraction of its original cost'.¹¹ The auction was held on 20 May but no offers were received and the property was passed in for private treaty.¹² In December the *Sydney Morning Herald* announced that Edmund Resch junior would act in his father's place as Consul for the Netherlands for an expected 18 months absence while his father travelled to Europe.¹³ In the intervening period, Edmund Resch junior served as acting Consul for the Netherlands, with the consulate located at 56–58 Hunter Street, Sydney. There are various newspaper accounts indicating that both father and son travelled to Europe. Edmund Resch senior and wife returned from Europe in March 1914 after five years travelling.¹⁴ Edmund Resch junior returned in March 1915, having been in Germany when World War I broke out.¹⁵

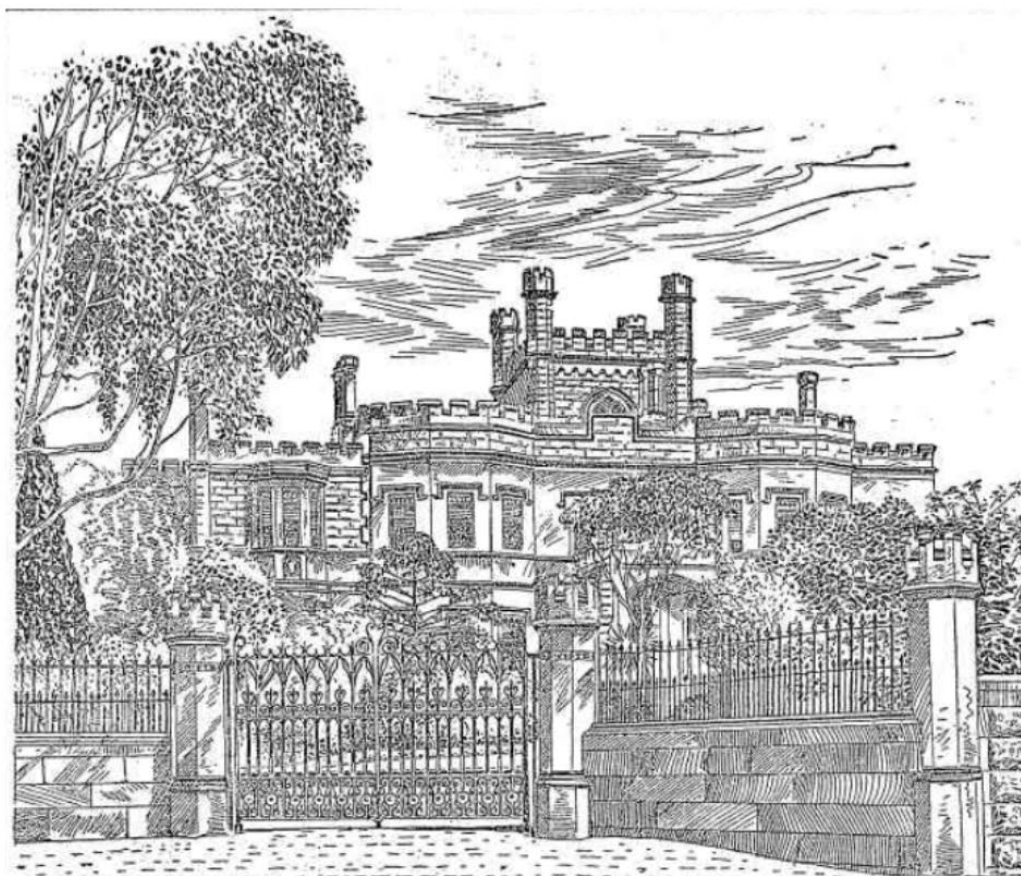


Figure 2.4 'Types of Homes, No 23: "Swifts, Darling Point, Mr Resch's Residence'. (Source: *Sunday Times*, 11 March 1900, p 10)

Edmund Resch senior was interred at the German internment camp at Holsworthy from November 1917–March 1918 and was subsequently held under house arrest at Swifts due to ill health. He lived at Swifts until his death in 1923. The property was bequeathed upon trust to make monthly payments to Caroline Resch (£300 per month for life) and permit her to occupy Swifts during her life. Their sons Edmund (junior) and Arnold were appointed executors of the estate.

Caroline died in August 1927 leaving an estate of £46,448. Edmund (junior) and Arnold's differences of opinion about disposing of the property were resolved in an out-of-court settlement in January 1929, with the former purchasing Swifts from the estate at the auction sale. Edmund had wanted to keep the property intact while Arnold wanted to subdivide the three acres.

Edmund Junior undertook various works to Swifts including interior redecoration, construction of several buildings (laundry, manure bins and incinerator), alterations to buildings 3 and 4 (garages), concreting over the former carriage drive and garden paths, and rebuilding the former gardener's compound and extant cottage (now excised from current land title). Edmund Resch married Florence Mabel Bennett in 1927 and they lived at Swifts until their respective deaths in 1963 and 1959, dying without issue. When Edmund died his estate was valued at £6,542,127, with the bulk being Tooth Shares; Resch's was taken



over by Tooths in 1929. Resch was a Lutheran and devised two-thirds of his Estate to St Vincent's Hospital and the remaining one-third to four charities. Swifts, valued at £235,000, inclusive of shares, was given to the Roman Catholic Church with two key provisos, that it be used as a residence for the Archbishop of Sydney, and that the property residence and grounds was not to be sold or subdivided and the main building not be demolished for at least 20 years after his death.

In June 1964, Swifts was formally conveyed to the Trustees of the Roman Catholic Church (Archdiocese of Sydney). Cardinal Gilroy took up residence at Swifts the same year. Also during the year, the former ballroom was converted for use as a chapel-at-lease, a temporary place of worship for parishioners living at Darling Point. Known as St Edmund's Chapel, it was blessed and opened by Cardinal Gilroy. The chapel accommodated seating capacity of 200 and standing room for up to 60 people. It was furnished by nuns from various Sydney congregations.

According to Cardinal Gilroy at the time, 'I don't necessarily like living in such luxurious surroundings but the house has been left to the Church and if I reside here it saves £5000 a year in rates...' ¹⁶ To facilitate occupation by the Archbishop of Sydney, structural alterations were carried out under the supervision of SG Hirst and Kennedy, architects. The ground floor plan (**Figure 2.5**) notes the former ballroom as chapel and sanctuary, adjoining the colonnade, chapel entry, narthex and sacristy.

The provision in Edmund Resch's will regarding the 20-year moratorium on the sale and demolition of Swifts lapsed in 1983. The Church immediately sought to sell the property, claiming that it could not fund the annual maintenance and repair costs of \$945,000. Community concern about the future of Swifts led to placement of an Interim Conservation Order (ICO) by the Heritage Council. The Commission of Inquiry did not agree with the Church's argument that a Permanent Conservation Order (PCO) would cause financial hardship and upgraded the property to a PCO in April 1984.

The Catholic Archdiocese of Sydney sold Swifts in March 1986 to Minjar Holdings Pty Ltd, the family company of Sydney businessman Carl Spies for \$9 million, the highest price ever paid for a residence in Australia. Spies and his family moved into Swifts and were living there in 1990 when the Supreme Court granted an order to evict them over non-payment of a \$2.69 million debt. The property was conveyed at this date to the mortgagee, St George Commercial Credit Corporation Limited.

In 1995, St George Bank commissioned Peddle Thorp and Walker, architects to prepare plans for conservation and restoration of the house and its conversion to four apartments, construction of a 23-level tower on the northwest section of the site containing 26 apartments and basement parking, restoration of the remaining garden area, provision of recreational facilities for residents of the site and provision of 72 carparks. The development application was lodged with Woollahra Municipal Council the same year. The application was refused by the council on grounds of overdevelopment and destruction of the cultural and heritage significance of Swifts. The matter was heard in the Land and Environment Court in October and the council's decision was upheld. St George Bank subsequently withdrew the application in favour of a narrow 12-storey tower on the western side of the property. This application did not proceed, instead Swifts was advertised for sale by tender in late 1996 and then for auction sale on 27 May 1997 when it was sold to the Moran family, operators of private health and aged care facilities, for a reputed \$12 million.

The Moran family commissioned heritage architects, Clive Lucas Stapleton and Partners, authors of the Conservation Management Plan, to supervise the restoration of the house, vacant since 1990. In 2013, Dr Shane Moran bought out the last remaining Moran family interests in the property and became the



sole proprietor of Swifts. He erected a new conservatory off the service wing, swimming pool, new carpark with tennis court above and extensive works to the grounds and gardens.

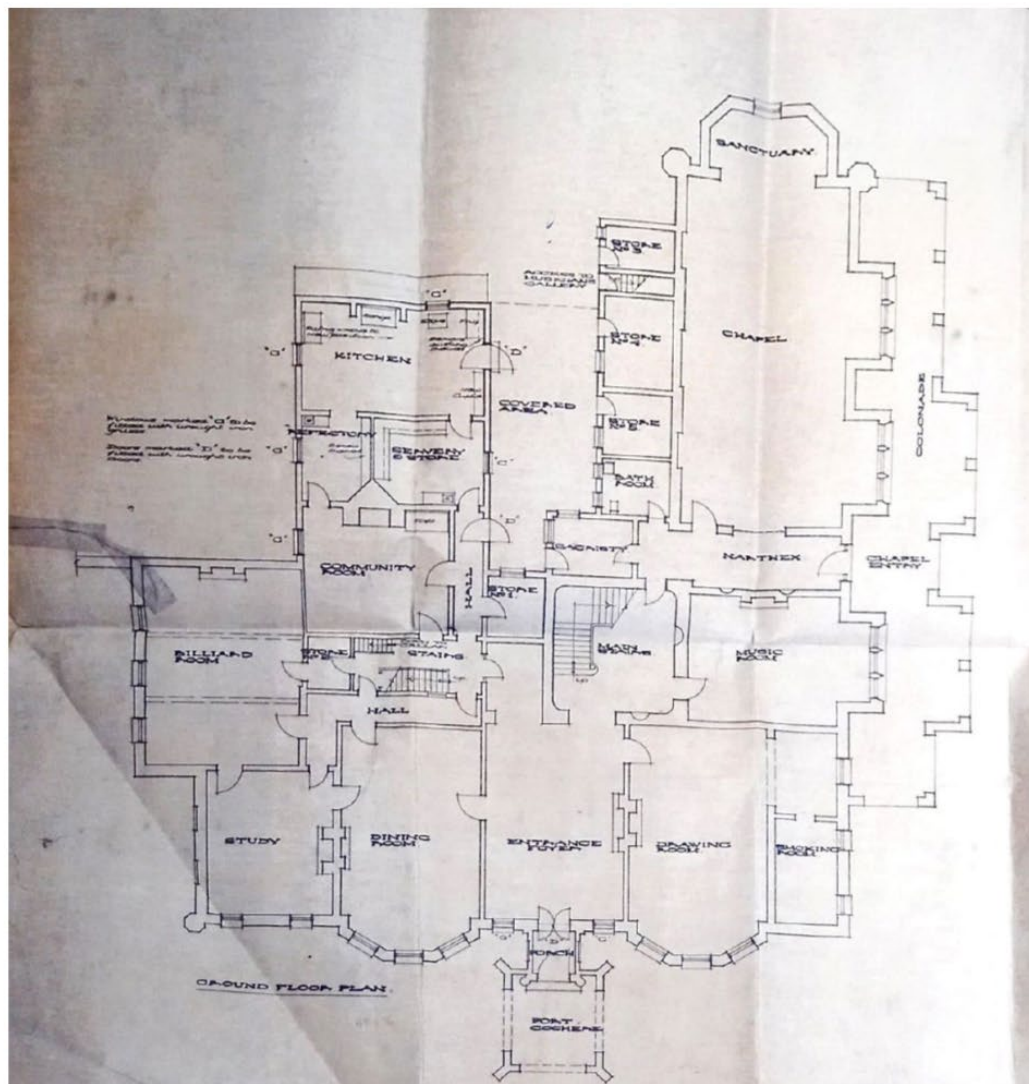


Figure 2.5 SG Hirst & Kennedy, Architects 1964, Ground floor plan 'Proposed alterations—Swifts, 65 Darling Point Rd, Darling Point for His Eminence NT Cardinal Gilroy Archbishop of Sydney St Marys Cathedral'. (Source: BA753/64, Woollahra Municipal Council)



2.4 Endnotes

- ¹ Attenbrow, V 2010, *Sydney's Aboriginal Past: Investigating the Archaeological and Historical Record*, UNSW Press, Sydney, p 153.
- ² JH Harvey to Edmund Resch Esq 14 January 1936 quoted in Clive Lucas Stapleton and Partners 1995, p 100.
- ³ 'To Builders', *Sydney Daily Telegraph*, 16 October 1882, p 1, Trove, National Library of Australia, viewed 21 May 2021 <<http://nla.gov.au/nla.news-article238473838>>.
- ⁴ 'Advertising', *The Sydney Morning Herald*, 14 August 1889, p 10, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article28337376>>.
- ⁵ 'Advertising', *The Sydney Morning Herald*, 18 October 188, p 11, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article28337228>>.
- ⁶ 'Advertising', *The Sydney Morning Herald*, 10 November 1891, p 8, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article13872010>>.
- ⁷ 'Advertising', *The Sydney Morning Herald*, 3 December 1891, p 8, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article13856927>>.
- ⁸ 'Advertising', *The Sydney Morning Herald*, 19 November 1898, p 13, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article14185954>>.
- ⁹ 'The property market', *The Daily Telegraph*, 16 December 1899, p 13, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article237188145>>.
- ¹⁰ 'The property market', *The Daily Telegraph*, 16 December 1899, p 13, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article237188145>>.
- ¹¹ 'Advertising', *The Sydney Morning Herald*, 8 May 1909, p 20, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article15056590>>.
- ¹² 'No offers', *Evening News*, 20 May 1909, p 5, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article115495450>>.
- ¹³ 'Personal', *The Sydney Morning Herald*, 25 December 1909, p 8, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article15075761>>.
- ¹⁴ 'The world and his wife', *Sunday Times*, 8 March 1914, p 7, Trove, National Library of Australia, viewed 16 Jun 2021 <<http://nla.gov.au/nla.news-article120353502>>.
- ¹⁵ 'Back from Germany', *Barrier Miner*, 18 March 1915, p 2, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article45319125>>.
- ¹⁶ 'Tea at the Swifts', *The Bulletin*, 15 August 1964, p 22, Trove, National Library of Australia, viewed 15 June 2021.



3 Occupation and Use of Swifts

3.1 Phase 2: 1882–1900

There is no documentary evidence that prior to completion of the extensive additions to Swifts, including construction of the ballroom, that the Tooth family held any notable, large functions or events in the house.

There are few references in the press documenting parties or functions held at Swifts while the Tooth family remained in residence until 1889. With seven children born over a 19-year period from 1875 to 1894, his youngest child born after they moved to England, it is unlikely entertaining on a large scale was important to Robert Lucas Tooth and his wife Helen Tooth.

The Bulletin reported on 12 September 1885 that Mrs RL Tooth had issued invitations for an 'At Home' on Tuesday 22 September 1885. According to *The Bulletin*, the ball was the first trial of the new ballroom floor, 'which came out of the ordeal with flying colours—it is simply perfect'. Featuring a who's who of Sydney society including Hon Sir John Hay and family, a full account of the event was published on 3 October:

Last Tuesday, September 22, Mrs RL Tooth's ball came off with great éclat at her residence, Swift's, Darling Point. This entertainment had many fascinations apart from the passive influence of beautiful surroundings and artistic luxury...Mrs Tooth received her guests in the large drawing room, which drifts into an inner reception room, beautiful and quaint with its Oriental hangings, and Eastern furniture, that is appropriately known as the Cairo room. Through the lofty pillared hall with its thick Persian carpet, statuary and oaken furniture, or across the corridor, one passed to the ballroom, its white length of wall broken by niches filled with stands of beautiful ferns and palms, and wreathed with ever-green...¹

Four years after this event, the Tooth family vacated Swifts and moved to England. The house was offered on a two-year lease commencing in the summer of 1889–1890. Henry Harris, JP, was living at Swifts with his family by late 1891 and they were very active in society, hosting several events between 1892 and 1894 including a gentlemen's dinner party on 5 December 1892, a small gathering 'To meet Miss Shaw' on 21 December 1892, a tennis party on 27 June 1893, large dinner event on 23 October 1893, an 'At Home' tennis and dinner party for Officers of HMS Ringdove and friends on 27 February 1894 and a farewell banquet to Mr and Mrs Hoffnung on 13 September 1894. The newspaper accounts of these events do not mention whether guests were charged for their attendance but seemingly were expressly hosted by Mr and Mrs Harris and paid for out of their own funds. Similarly, there is no information suggesting these were charity events. Rather they appear to have been gatherings for family and friends, business acquaintances and politicians.

Mr and Mrs Henry Harris lived at Swifts until 1897 but there is no further reference in the press to events held at Swifts after September 1894. It is not known who lived at Swifts between 1898 and 1900 and there are no newspaper references during that period apart from the 'To Let' advertisements in October–November 1898.

Table 3.1 contains a brief outline of events held at Swifts which were publicised in the local newspapers and magazines.



Table 3.1 Events held at Swifts 1885–1894.

Date	Event (Source)
22 September 1885	'At Home' held at Swifts (<i>The Bulletin</i> , Vol 3 No 122, 12 Sep 1885, p16; <i>The Bulletin</i> , Vol 3 No 125, 3 October 1885, pp15–16)
5 December 1892	Henry Harris entertained a large company of gentlemen friends at dinner. Guests included Premier, Sir George Dibbs and WP Manning (Mayor) (<i>Daily Telegraph</i> , 10 December 1892, p9; <i>Sydney Mail and New South Wales Advertiser</i> , 10 December 1892, p1307))
21 December 1892	Mrs Henry Harris invited over a dozen guests 'To meet Miss Shaw' (<i>Sydney Mail and New South Wales Advertiser</i> , 31 December 1892, p1467)
27 June 1893	Mrs Henry Harris had a very successful tennis party (<i>Sydney Mail and New South Wales Advertiser</i> , 1 July 1893, p13)
23 October 1893	Mr and Mrs Henry Harris entertained a large company at dinner. Guests included the Premier, Sir George Dibbs and Lady Dibbs (<i>Sydney Morning Herald</i> , 28 October 1893, p7)
27 February 1894	Mrs Henry Harris was 'at home' and hosted tennis party and dinner for Officers of the HMS Ringdove and other friends (<i>Australian Town and Country Journal</i> , 10 March 1894, p35; <i>Sydney Mail and New South Wales Advertiser</i> , 10 March 1894, p480; <i>Sydney Morning Herald</i> , 3 March 1894, p5))
13 September 1894	Mr and Mrs Henry Harris gave farewell banquet to Mr and Mrs A Hoffnung. Guests included the Premier, Sir George Dibbs and Lady Dibbs (<i>Sydney Mail and New South Wales Advertiser</i> , 22 September 1894, p5)



3.2 Phase 3: 1900–1928

Apart from the one reception in September 1902, the Resch family did not hold any grand parties, dinners or other functions at Swifts, Darling Point, during the period 1900–1928.

Edmund Resch was living at Swifts by March 1900 when he was listed as a new subscriber to the Edgecliff telephone exchange. Two years later he and his wife hosted a reception to celebrate the twenty-second anniversary of the birth of Queen Wilhemina of the Netherlands. Edmund Resch was the Consul for the Netherlands. The event was held at Swifts on 1 September 1902. Guests included NH Paling (Vice-Consul for Netherlands), Major WHL Holman ADC, Captain WO Watt ADC (representing the State Governor, Sir Harry Rawson), the Mayor of Sydney (Alderman T Hughes) and the various consuls living in Sydney.

Edmund Resch and his wife travelled to Europe at the end of 1909 and did not return to Australia until March 1914. In the intervening period, their son Edmund Resch lived at Swifts and acted in his father's stead as Consul for the Netherlands. There are no references to events held at Swifts during this period and any official consulate functions were held at the consulate in Hunter Street, Sydney, or other venues such as the Australia Hotel, Pitt Street. *The Sun* reported in November 1912 that 'Mr E Resch left Sydney for Europe', leaving Vice-Consul de Carriere in charge of the Consul for the Netherlands. The *Sydney Morning Herald* confirms that this was Edmund Resch junior who departed on the *Marama*, leaving for Vancouver. The *Sands Directory* continued to list Edmund Resch, JP, at Swifts in the 1913 edition.

During World War I there was no entertaining or events held at Swifts. Both father and son (Edmund) were travelling in Europe during the early years of the war. Later on, Edmund Resch was interred at the German Internment Camp at Holsworthy from November 1917 to March 1918, then was under house arrest at Swifts due to ill-health until the end of 1918. Edmund Resch died at Swifts in March 1923 aged 75 years, survived by his wife and grown family. Caroline Resch continued to live at Swifts with her son Edmund until her death in August 1927 aged 71 years, leaving her estate to her sons, Edmund and Arnold.

Table 3.2 Events held at Swifts 1900–1928.

Date	Event (Source)
1 September 1902	Anniversary birthday reception for Queen Wilhemina of the Netherlands (<i>Evening News</i> , 2 September 1902, p3)



3.3 Phase 4: 1928–1963

Brothers Edmund and Arnold Resch resolved their dispute over the disposal of Swifts in an out-of-court settlement in August 1928. The property was advertised for auction sale on 5 October and purchased by J Bennett acting as an agent for Edmund Resch. The following January, Edmund and Arnold held the auction sale of valuable furniture, appointments and effects removed from Swifts. Edmund and Florence Mabel Resch brought in their own furniture when they took over as owners of the house.

The Great Depression hit Australia in 1930 and unemployment peaked two years later, and it took the country almost a decade to recover. Where a large portion of the population were suffering, Edmund and Florence Resch continued to prosper during this period. Florence Resch offered her ballroom for a bridge party at Swifts on 13 June 1933 in aid of the Darling Point Centre of the District Nursing Association with tickets costing 4s each. This is the first reference to a charity event held at Swifts with an entry fee charged.¹ The *Sydney Morning Herald* reported that this event raised £77 for the organisation.

Florence and Edmund vacated Swifts for a short time in 1934 for an overseas trip to America, England and Europe, returning in November. There was no entertaining or events held at Swifts during the year.

Florence Resch was a great supporter of the District Nursing Association (Darling Point branch) and hosted an afternoon 'musical' at Swifts on 21 November 1935. The event was sold out and over 300 people attended the event which included a buffet tea served on the lawn, a musical program in the ballroom and a tennis tournament on the tennis courts of Swifts.

In 1939, the Commonwealth Government investigated Edmund Resch over suspected disloyalty and possessing illicit wireless apparatus. In June 1940, the Police Department Sydney had received a letter alleging that Edmund Resch had held a large party at Swifts 'attended by a number of Germans ... one evening last week to celebrate the German victory over France'. The letter writer's information was discounted as hearsay and not fact. Commonwealth Investigation Branch inspector DRB Mitchell investigated and reported that Edmund Resch, 63 years old at this time residing at Brittan Street, Leura 'is a man that lives a secluded life, being mainly interested in his country home at Wentworth Falls, and his mansion Swifts, Darling Point. He has no children and apparently his one forte in life is the care of Edmund'.² Later in 1942 he was visited at his home at Leura and the report stated he was living a life of quiet independence with his wife and the general atmosphere definitely illustrated that he was not interested with the doings of the outside world to any great extent'.³ A further file note indicates that Resch had 'in the last few years' visited Germany three times.

From the foregoing, it appears that Florence and Edmund were living a good part of their time at their Blue Mountains home for the duration of World War II. In October 1942, the *Daily Telegraph* published comments of Mrs Resch on the shortage of domestic help. She complained that she only had three girls serving at their Blue Mountains home and five servants and two gardeners at Swifts.⁴

In 1942, Florence and Edmund Resch lent to the local Civilian Aid Service the ballroom and two other large rooms (bathroom and the main kitchens) to be converted to the Swifts Rest Centre for the duration of the war. It was officially opened in September 1942 and was staffed at this date by 20 personnel.⁵ The rest centre was disbanded by November 1944.

Between the end of World War II and the deaths of Florence Mabel Resch and Edmund Resch in July 1959 and 2 October 1963 respectively, there is no further evidence that they entertained at Swifts or lent the house and grounds for charitable endeavours.



Table 3.3 Events held at Swifts 1928–1963.

Date	Event (Source)
13 June 1933	Bridge Party (<i>The Sun</i> , 21 May 1933, p28; <i>Sydney Morning Herald</i> , 25 May 1933, p3; <i>Smith's Weekly</i> , 3 June 1933, p18; <i>Daily Telegraph</i> , 6 June 1933, p4; <i>Daily Telegraph</i> , 14 June 1933, p4)
21 November 1935	Musical (Labor Daily, 5 November 1935, p9; <i>The Sun</i> , 17 November 1935, p30; <i>The Sun</i> , 21 November 1935, p44; <i>Sydney Morning Herald</i> , 22 November 1935, p4)
September 1942—November 1944	Swifts Rest Centre (The Bulletin, 23 September 1942, p24; <i>Sydney Morning Herald</i> , 28 September 1942, p4; <i>The Sun</i> , 27 September 1942, p7; <i>The Sun</i> , 6 October 1942, p4; <i>Daily Telegraph</i> , 27 September 1942, p28)



3.4 Phase 5: 1964–1996

From 1964, Swifts was the official residence of the Roman Catholic Archbishop of Sydney. The house and grounds was bequeathed to the Church on the proviso that the house was not demolished, and the grounds not subdivided for 20 years after Edmund Resch's death. The first Archbishop to reside at Swifts was Cardinal Gilroy. Some minor alterations were carried out to the house to accommodate the new occupier. At the same time, part of the ground floor of the house was converted to a chapel of ease for the local congregation and known as the Chapel of St Edmund (colloquially known as St Edmunds Chapel).

During the next 20 years, the chapel (former ballroom) hosted weddings, funerals, baptisms and other services, with the successive archbishops or visiting clergy officiating. Information about the cost of such events is suppressed in documentary records, but it is highly likely that the congregants contributed a donation for the services held at Swifts, which may have been allocated to the costs of maintenance and repair of Swifts.

Table 3.4 below contains a list of weddings held in the Chapel of St Edmund sourced from the *Australian Women's Weekly*, *Sydney Morning Herald*, *Sunday Telegraph* and other local newspapers. It is not necessarily a complete list but indicates the regularity of weddings held at Swifts between 1968 and 1980. Table 3.5 contains an incomplete list of mass requiems/funeral services held in the chapel at Swifts from 1970 to 1985. Details of baptisms held at St Edmunds Chapel have not been located.

Table 3.4 Incomplete list of weddings held at St Edmunds Chapel, Swifts.

Date	Couple
August 1968	Mary Ellen Johnson-Tony Ayrton
January 1969	Ginette Condon-Peter Byron
January 1969	Ann Christine Kelly-Mary Robert Edser
June 1969	Anne-Marie Fingleton-Eric Carrigan
July 1968	Bronwyn Martin-Ronald Clulow
July 1969	Jane Milne-John Keating
July 1969	Vikki Brown-John Giblin
September 1969	Eva Yee-Barry Murphy
October 1969	Janet Halpin-Ian Wilks
November 1969	Kerrie Macdonald-Phillip Whiteman
November 1969	Colleen Duff-Robin Lees
December 1969	Julie Wheeler-Peter White
1970	Stone-Freeman
April 1970	Carol Renshaw-John Luckie
November 1970	Gael Fagan-Michael Winnick
December 1970	Julie White-Franklyn Yates
October 1970	Clare Hurley-Gerald Curtin
February 1970	Helen Wilson-Kevin Donohue



Date	Couple
February 1970	Margaret Hegarty-Noel Dorney
February 1970	Carolyn Nolan-John Weingarth
March 1970	Renee Anast-Michael Leonard
March 1970	Joan Hall-Timothy Kearney
April 1970	Kay Nevill-Robert Crawford
April 1970	? Sydenham-Lloyd Lomas
April 1970	Toni Harris-Richard Byrne
April 1970	Cherie Traynor-Lim Lowndes
April 1970	Gaille Garry-Giuseppe Piccirilli
April 1970	Diane Cook-Michael Causer
May 1970	Francis?-Christopher Roberts
June 1970	Maryanne Dynon-Ian Pagent
July 1970	Vivienne Joris-Brendon Bovill
July 1970	Alison Lawrie-Ronald O'Brien
September 1970	Chantel Legrand-Graeme Emerson
October 1970	Anne Brennan-Ian McGregor
November 1970	Julie White-Frank Yates
November 1970	Delphine Dockery-Kevin Morrissey
November 1970	Julie White-Frank Yates
November 1970	Clara Hurley-Gerald Curtin
January 1971	Dr Patricia Flight-Dr Richard Martin
January 1971	Mary Osborne-John Myers
January 1971	Anne Parmentier-John Swift
February 1971	Jacqueline Lowe-Gregory Johnston
February 1971	Gai Russell-Peter Martin
March 1971	Sharon Hasler-Graham Spencer
March 1971	Sandra Crawley-Peter Cadwallader
April 1971	Naone Lae-Sub Lt Michael Carrel
April 1971	Hedy Rumpeltes-Peter Brown
May 1971	Robyn Laundry-Dr Arch De Angelis
May 1971	Margaret Hills-Michael Christie
July 1971	Toni Walton-Peter Barry
July 1971	Lynne Whalan-James Schiller
August 1971	Amber Richardson-Edward Cahill
September 1971	Amber Richardson-Edward Cahill



Date	Couple
September 1971	Penelope Ross-Robert Sterneberg
September 1971	Penny Tyrrell-Peter Hohnen
December 1971	Valerie Brooks-Max Prentice
October 1971	Dr Lesley Campbell-Dr John Charlesworth
October 1971	Lorraine McEvoy-Nicholas James
October 1971	Eileen Pratt-Jon Williams
December 1971	Sally Bellmaine-Tony Bennett
January 1972	Julie-Anne Spratt-Graeme O'Donoghue
January 1972	Louise Searle-Major David Paul Ara
February 1972	Putchie Stening-David Lyle
March 1972	Louise Christie-Peter Kinsella
April 1972	Antonia Cannon-Dennis Scott
June 1972	Sanda Alcorso-John de Burgh Blockey
June 1972	Jane Walters-Peter McCardell
July 1972	Vivian Liibus-David Jackson
October 1972	Barbara Thurston-Bruce Little
November 1972	Marelle Blacklock-Ian Bridge
December 1972	Janine O'Brien-Robert Bruce Scott Macfarlan
January 1973	Anne-Claude Guiges-Francois Beaumont
January 1973	Robin Pearce-Shayne Yates
February 1973	Helena John-Hon Bob Carr
February 1973	Lynette Huggins-Brendan Hannelly
March 1973	Joan Grauss-Dr Bob Paterson
April 1973	Margaret Blackburn-Patrick Cain
May 1973	Susan Oliver-Gerard McCormack
June 1973	Yvonne Dunworth-Victor Dekyvere
June 1973	Christine Apps-Michael Julian
July 1973	Suzanne Bowditch-David Bath
September 1973	Suzanne Tisdale-Graeme Walton-Smith
November 1973	Rosemary Zanelli-John Southwell-Keely
December 1973	Rosemary Zanelli-John Southwell-Keely
January 1974	Marian St Leger Moss-Giulio Cantarella
January 1974	Maria Power-Dr Gordon Pullin
January 1974	Kerry O'Brien-Donald Story
February 1974	Elizabeth Redmond-Peter Colless



Date	Couple
June 1974	Carole Briggs-John Radnedge
July 1974	Cherie Harvie-John O'Riordan
June 1974	Colleen Till-John Greaves
August 1974	Susan Donohoe-Kenneth Watson
February 1974	Michelle Toussard-Robert Holmes
November 1974	Margret Hereford-James Meagher
November 1974	Vivienne Pye-Stephen MacMahon
January 1975	Jocelyn Isaac-Ian Angus
February 1975	Christine Stribley-Michael Boon
March 1975	Jerry Barrett-Peter Burke
March 1975	Robyn Mason-David Dunworth
April 1975	Therese Carmody-Geoffrey Gorick
April 1975	Gresha Hepworth-David Martin
April 1975	Jan Carey-Dr James Cheatham
May 1975	Susan Todd-Stephen Martin
May 1975	Margaret Sheaves-Joseph Lizzio
May 1975	Candy Hamilton-Peter Tonkin
June 1975	Patricia Hughes-Dr Tony Bull
October 1975	Kerrin Maloney-Joseph Ryan
November 1975	Pamela Dillon-Warwick James
February 1976	Katherine Clift-Michael Walker
February 1976	Margaret Richards-John Kellett
April 1976	Merrilyn Bedford-Paul O'Sullivan
May 1976	Anne Fowler-James Dwyer
June 1976	Robyn Gillespie-David Arnott
August 1976	Kathryn Perry-Dr Phillip Yuile
August 1976	Patricia Lake-Francis Moody
December 1976	Susan Mallett-Ugo Nardi
February 1977	Rosemary McDonagh-Dr Michael McMahon
February 1977	Maryanne Allen-Paul Clark
May 1977	Catherine McAuley-Gregory McKew
May 1977	Sue Prettyman-Peter Noonan
June 1977	Susan Meos-David Hunter
April 1977	Virginia Quain-Peter Burnham
August 1977	Helen Scharrer-Dennis Wall



Date	Couple
August 1977	Eleanor Wookey-Jack Lewis
September 1977	Judith Ryan-Steve Stove
October 1977	Vivienne Rich-Ian Rae
November 1977	Elizabeth Wadsworth-Michael Sissian
February 1978	Kacy Camphin-Bruce Grady
April 1978	Katrina Gibson-Iven Page
May 1978	John Wallington-Robert Atkins
May 1978	Lisa Muggivin-Doug Brown
September 1978	Frances Walker-Andrew Elsegood
April 1980	Virginia Marr-Peter Jenkins
May 1980	Maria Listwan-James Shevlin
December 1980	Gai Smith-Robbie Waterhouse



Table 3.5 Requiem masses/funerals held at St Edmunds Chapel, Swifts.

Date	Deceased
January 1970	Catherin Theresa Frazer
January 1971	Dr Patricia Flight-Dr Richard Martin
August 1972	Italo Rossi
November 1973	Mary Pauline Tarlinton
August 1974	Joseph Leo Murphy
December 1974	William John Allner
November 1975	Shaneen Bowe-Michael Bowe
January 1976	Emily Eugenie Veronica O'Neill
February 1976	Sister Mary Gerard
October 1976	John Redmond Barrett
December 1976	Maria Coen
June 1977	Douglas Croft
August 1977	Gabrielle Duval Stuby
December 1977	Bernard Richard Dunne
December 1978	John William Joseph Byrne
March 1979	Blanche Casimir Traynor
September 1979	Edna Irene McCamley
April 1980	Arthur Robert McCamley
September 1980	Mrs Kathleen Mary Coen
June 1981	Kathleen Stella McEnroe
August 1982	Miss Beth Mansour
June 1983	Louise Patricia Murphy
November 1983	John Francis Racy Worth
February 1984	Alan Macleay Duncan
September 1985	Richard John Priess

3.5 Phase 6: 1997 to the present

The Moran family purchased Swifts in 1997 from the mortgagee in possession and undertook an extensive and lengthy conservation and restoration of the house and grounds supervised by heritage architects, Clive Lucas, Stapleton & Partners.

On 7 November 1998, Shane and Penelope Moran held their wedding reception in the grounds of Swifts for 270 people attending. Two years later, in 2000, Evette and Mark Moran married at Swifts.

After a gap of eight years, the next major function took place on 24 February 2009 when Doug and Greta Moran hosted a lunch at Swifts in aid of the child abuse prevention charity Cornucopia. This is one of



the earliest references located in the press reporting on a charity function held at Swifts after the property was purchased by the Moran family.

In 2010, the property was transferred to Dr Shane Moran (Masolage Holdings Pty Ltd) and his sister Kerry Jones (KJ Property Investments Aust Pty Ltd) in equal shares. They agreed that Shane and his family would reside at the property and Kerry would operate a function business out of the property. Accordingly, Kerry created a website and brochure offering events and functions at Swifts for an agreed payment.

The *Sydney Morning Herald* reported on 16 April 2011 that Kerry Jones intended to open Swifts to the public through means of a new group 'Friends of Swifts'. Her plan was to hold garden parties and offer scholarships with NIDA. The first event was planned for 29 April, comprising an invitation-only dinner in the ballroom in association with NIDA to celebrate the wedding of Prince William and Kate Middleton. The royal wedding party was hosted by Kerry Jones and raised funds for a new annual Swifts scholarship at NIDA. One month later, Swifts was the venue for a reception in honour of Lady Primrose Potter AC, hosted by the Australian Ballet.

In October 2011, the *Sydney Morning Herald* reported that some Darling Point residents were up in arms, claiming Swifts had become a 'noisy party pad' with the parties reportedly costing organisers up to \$20,000 to hire the residence. Jones in reply stated that the events raised money for charity, not a commercial operation. Furthermore, she said, 'this is a private residence. If we want to have a party here we can. The money from hiring the house covers the costs associated with putting on these events, with the balance going to charity'.¹

Residents' complaints led the Woollahra Municipal Council to investigate the occupation and commercial use of Swifts. Council wrote to Kerry Jones on 18 August 2011 requiring her to seek development consent for use of the property for 'charity functions and corporate functions'. Email correspondence from Peter Cavanagh, Paddington Ward councillor, indicated that a friend of his attended the event and stated it was a function for a friend of the owners and not a commercial function. The council received legal advice to define 'commercial use' as follows:

The hiring of property for a financial reward;

The invitation to hire is made to the public;

The lease or use of the property is advertised and promoted; and

The property is available for hire on a regular basis.

Consequently, Woollahra Municipal Council judged the events characterised above were of a commercial character and required development consent, whether or not the events involved charity fundraising. Council requested Kerry Jones not hold events of a commercial character in 2012 unless prior development consent was obtained. On that basis Kerry Jones lodged a successful development application (DA433/2011) to hold an Open House and Garden Party at Swifts from 18 to 20 November 2011. The proceeds of this event were given to 'Friends of Swifts' charities.

Woollahra Municipal Council wrote to Kerry Jones in late January 2012 following complaints from residents about a wedding held at Swifts, Terry Biviano and Anthony Minichello, on 21 January. Council considered this a development without consent in contravention of discussions between the parties earlier in the month.²



In April 2012, Kerry Jones lodged a successful application to hold the Swifts Soirees Concert Series: six Sunday afternoon fine music concerts.³ According to the council report, Kerry Jones amended the dates of the series, originally scheduled to take place in March and April, with the first concert taking place in June instead.

Late in 2012, Kerry abandoned plans to utilise Swifts for charity and fundraising events. As she could not operate the property as a function centre, she sold her half share in the property to her brother in 2013, leaving Shane Moran as the sole owner and resident of Swifts.

Since then, Shane and Penelope Moran have hosted many weddings, events and functions at Swifts, utilising the ballroom, dining room and gardens. According to Penelope Moran 'Swifts is not advertised as a venue for hire [and] all enquiries come from friends and acquaintances'. Further, 'Masolage Holdings Pty Ltd does not host any function or event unless Shane and Penelope Moran or their children have a personal connection with the event'.⁴ In addition to the list of events outlined in Table 3.6, Shane and Penelope Moran have hosted other events for their children's schools, including graduation dinners, pre-formal drinks and thank you dinner; events for their children's sporting clubs, such as post-season team get togethers and fundraising dinners; concerts for their nursing home residents; big birthday parties for their friends and family members; and several weddings for family and friends. .

Swifts has also regularly featured in television series, films and advertisements as outlined in Table 3.7. These events are likely subject to some fees, but this is a question for the property owner.

Table 3.6 Principal events/functions held at Swifts 2011–2021.

Date	Event Name	Organiser	Event Type
11-Mar-2011	Cornucopia Foundation—Annual Swifts Garden Party	Evette Moran	Charitable Fundraiser
30-April-2011	Royal Wedding party and fundraiser for NIDA	Kerry Jones	Charitable Fundraiser
3-May-2011	Moran Arts Foundation	Mark Moran	Charitable Fundraiser Dinner
11-May-2011	Australian Ballet Reception for Lady Primrose Potter AC	Kerry Jones	Charitable Fundraiser
21-June-2011	YSL Dream of Colour range launch	Kerry Jones	Launch Event
5-Sep-2011	Celebratory dinner for Baz Luhrmann and artist Vincent Pantalazzo, winner of Doug Moran National Portrait Prize for Painting of Luhrmann	Mark Moran	Charitable Fundraiser Dinner
1-Nov-2011	Melbourne Cup Garden Party	Kerry Jones	Open House and Garden Weekend in conjunction with the Launch of the Swifts Arts & Civics Scholarships & Charity Annual Program
21-Oct-2011	Underbelly Razor-themed Dinner Party	Mark Moran/Kerry Jones	Charitable Fundraiser Dinner for Prince of Wales Hospital Foundation



Date	Event Name	Organiser	Event Type
9-Dec-2011	Funeral wake for Doug Moran	Greta Moran	Family Function
Feb-2012	Fox FX Launch	Kerry Jones	Launch Event
June-2012	First of Swifts Musical Soirees Concert Series	Kerry Jones	Charitable Fundraiser
10 to 14 Aug 2015	Mary - The Making of a Princess	Fremantle Media Aust	Filming
26-Aug-15	Harry Holt - The Defector	Singularity Films Pty Ltd	Filming
07-Nov-15	Mimi Bartsch's wedding	Shane Moran	Wedding
15-Oct-15	I-Manifest	I Manifest Pty Ltd	Charity Function
03-Apr-16	Guess Who is Coming to Lunch	Pearl Catering	Lunch
2-4 April 2016	Amazing Homes	Chanel 9	Filming
30-Apr-16	Nick Easton Dinner	Shane Moran	Dinner Party
13-May-16	Sherry Wong's Wedding	Quintessentially Events (HK)	Photo Shoot
16-Jun-16	Foxtel Dinner	Foxtel Australia	Corporate Dinner
06-Sep-16	National Trust Women's Committee	National Trust of Australia	Charity Fundraiser
20-Oct-16	Chinese (Wuxi) Delegation with Hon Anthony Roberts MP	Shane Moran	Parliamentary Delegation Dinner
15-Nov-16	Moore College Fundraiser for Archbishop Peter Jensen	Barbara Moran/Shane Moran	Dining Room Dinner/Fundraiser
21-Feb-17	Westfield Promotion (Big House)	GoLightly PR Pty Ltd	PR Event
24-Apr-17	The Bachelor	Warner Bros	Filming
16-May-17	Easybeats	Playmaker Fomm	Filming
17-May-17	A Place to Call Home	Seven Productions	Filming
30-May-17	Breguet Swiss Watches	Pearl Catering	Launch
1 - 2 June 2017	A Fighting Season	FS No 1 Productions	Filming
13 -14, 26 -27 June 2017	A Place to Call Home	Seven Productions	Filming
18-19 June 2018	Lambs of God	CSA Productions 2	Filming
28-Jun-17	A Place to Call Home	Seven Productions	Filming



Date	Event Name	Organiser	Event Type
28-Jul-18	Allianz Corporate Event	Pearl Catering	Corporate Lunch
03-Jul-17	The Bachelorette	Warner Bros	Filming
12-Aug-17	Mosman Cricket Club	Shane Moran	Charitable Fundraiser
17-Aug-17	Fashion Event	Pearl Catering	
09-Sep-17	Ravenswood Reunion	Penelope Moran	School Function
08-Nov-17	MIHC Thank You Dinner	Penelope Moran	Client Thankyou Dinner
03-Nov-17	Uber Eats	Revolver Film Design	Advertisement Shoot
11-Nov-17	Year 7 Loreto Cocktail party	Penelope Moran	School Function Fundraiser
20-Nov-17	Wolper Jewish Hospital	Shane Moran	Fundraiser with Adam Goodes (Guest Speaker)
12-Dec-17	Provectus Christmas Party	Pearl Catering	Thankyou Dinner
03-Jan-18	Prime Minister Hon Malcolm Turnbull & family photo shoot	Woman's Weekly	Photo Shoot
16-Mar-18	A Place to Call Home	Seven Productions	Filming
20-Mar-18	Historic Houses - Dead Men Talking	Historic Houses Trust of Australia	Charity Fundraiser
19-Apr-18	Secret City	Secret City 2 Productions	Filming
24-Apr-18	Lana Tsapepas Wedding	Shane Moran	Wedding
14-15 May 2018	MacGraw Fashion Show	MacGraw Pty Ltd	Fashion Shoot
13-Jun-18	Foxtel Lunch	Pearl Catering	Lunch Party
15/06/2018, 4-5 July 2018	A Place to Call Home	Seven Productions	Filming
15-Jun-18	Master Builders Association Photos (Conservatory & Pool)	Shane Moran	Photo Shoot
04-Aug-18	Rainbows for Kate	NAB Charity Event	Charity Fundraiser
20-Aug-18	Smiths Crisp	Multi Channel Network	Advertisement Filming
07-Sep-18	So They Can	Charity Event	Lunch Party - Charity Fundraiser
21-Sep-18	Loreto Capital Raising Ballroom Dinner	Loreto Kirribilli	Charity Fundraiser
14-Nov-18	Loreto Capital Raising Dining Room Dinner	Loreto Kirribilli	Charity Fundraiser



Date	Event Name	Organiser	Event Type
04-Oct-18	Organ Recital Society	Grace Chan/Shane Moran	Charity Fundraiser
12-13 Nov 2018	Cue Clothing	Cue Clothing	Photo Shoot
01-Dec-18	Isobel Carroll Wedding	Kashaya/Shane Moran	Wedding
07-Mar-19	Sydney Children's Hospital Silver Party	Rizer	Charity Fundraiser
08-Mar-19	Loreto Fundraising Dinner	Loreto Kirribilli	Charity Fundraiser
11 -12 March 2019	The Unlisted	Locations Manager	Filming
01-Apr-19	The Bachelor Filming	Big House	Filming
11-Ma-19	Loreto Year 12 Cocktail Party	Shane & Penelope Moran	Cocktail/Charity Fundraiser
03-Jun-19	Eastside Music Festival	Dr Grace Chan & Shane Moran	Charity Fundraiser (featuring Neal Peres Da Costa)
15-Jun-19	Shore Foundation Headmaster's Thank-you Dinner	Shore School & Shane Moran	Charity Fundraiser
24-Jun-19	St Joseph's College Class of '79 40th Reunion	Shane Moran	Cocktail/ Dinner Charity Fundraiser
30-Jun-19	Wolper Jewish Hospital	Shane Moran	Charity Fundraiser with Hon Malcolm Turnbull (Guest Speaker);
16-Aug-19	Fallout Filming	Dave Singleton	Filming
11-Sep-19	Organ Recital Society	Grace Chan	Music Recital -Organ (Charity)
20-Sep-19	Stand Tall Ladies Charity Lunch	Angie Farr-Jones	Luncheon (Charity Fundraiser)
28-Sep-19	Baby Shower	DK Events	Baby Shower Lunch for Michelle
17-Oct-19	Dior	Alias Events	Launch of Cruise Collection
18-Oct-19	Sydney Living Museums	Grace Chan	Music Recital -Organ (Charity)
25-Oct-19	St Andrews Cathedral Choir	St Andrew's Cathedral	Fundraising Dinner
15-Nov-19	Loreto Men's Lunch	Loreto	Luncheon
15-Nov-19	Loreto Year 12 Pre Formal Drinks	Loreto Kirribilli	Cocktail
22-Nov-19	Loreto Capital Campaign Dinner	Loreto Kirribilli	Fundraising Dinner
23-Nov-19	Loreto Year 6 Graduation Dinner	Loreto Kirribilli	Fundraising Dinner



Date	Event Name	Organiser	Event Type
15-Feb-20	Kashaya - Surprise Birthday Party	Kashaya	Cocktail & Dinner
5-8 March 2020	Sydney Harbour Concours D'Elegance	James Nicholls	Motor Show/ Cocktail
05-Mar-20	Loreto – Year 11 Modern History classes Tour	Loreto Kirribilli	History Tour
23-July-20	Georgia Lowe Harpist	Shane Moran/Dr Grace Chan	Harpist Recording in the ballroom
25-Jul-20	Kurtly Beale / Maddie Blomberg Wedding	Shane Moran	Wedding Ceremony
7-Nov-20	Leify Porter & Rob Paglioso Wedding	Katering/Shane Moran	Wedding Ceremony
28-Feb-21	Sudipta Ghosh & Alex Viniarsky Wedding	DK Events	Wedding Ceremony
4 Mar - 7 Mar 2021	Sydney Harbour Concours D'Elegance	James Nicholls	Motor Show/ Cocktail
12-Mar-21	Jessica Palmer & Trent Lawler	Emma Burns/ Jessica Palmer	Wedding Ceremony/ canapes
25-Mar-21	Nadia Fairfax Wedding	Nadia / Ally Considine	Wedding Ceremony/ Reception
29-Mar-21	2GR Wagu Decadence Dinner	Maree Andrews & Shane Moran	Chefs' Dinner Party
30-Apr-21	David Campese Australian Rugby Union Tribute Luncheon	Nick Farr-Jones & Shane Moran	Charity Fundraising Lunch / Auction
10-28 May 21	Pieces of Her Filming	Phillip Roope	Filming Location Venue
21-May-21	Georgia Moran's 14 th Birthday Party	Penelope & Shane Moran	Birthday Party
29-May-21	Catherine Calavrias & Joshua Chambers Wedding	Kashaya	Wedding Ceremony

Table 3.7 Swifts featured on film 2012–2021.

Date	TV/Film name
2012	Jack Daniel's—Master Distiller Dinner. Jeff Arnett, Jack Daniel's Master Distiller, invited to a very special dinner with meals created and prepared by Celebrity Chef Luke Mangan. Mangan created and prepared the courses on site, accompanied by matching cocktails. The event was filmed.
2015	Telemovie: <i>Peter Allen: Not the Boy Next Door</i> (Shine Productions)
2016	Television series: <i>Unreal Estate</i> (Nine Network). Episode aired 25 October
August 2020	Television Advertisement: <i>Noble Oak</i> (Beautiful State)



3.6 Endnotes

- ¹ 'No title', *The bulletin*, 3 October 1885, pp 15-16, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.obj-254299364>>
- ² 'In and out of town', *The Sun*, 21 May 1933, p 28, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article228895857>>.
- ³ 15 August 1939, The Director, Commonwealth Investigation Branch, Resch, Edmund Richard Emil [Box 225], National Archives of Australia, C123, 7532.
- ⁴ 12 June 1942, Inspector 2/c Watkins, Security Service, Resch, Edmund Richard Emil [Box 225], National Archives of Australia, C123, 7532.
- ⁵ 'Battling Along with Handful of Servants', *The Daily Telegraph*, 14 October 1942, p 5, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article247892558>>.
- ⁶ 'Women's Letters', *The bulletin*, Vol 63 No 3267, 23 September 1942, p 24, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.obj-532730960>>
- ⁷ 'Swift's party nest ruffles feathers', *Sydney Morning Herald*, 22 October 2011, p 28.
- ⁸ Development without Consent, Notice Orders 29/2012, Ms M Eaton, 23 January 2012, Woollahra Municipal Council.
- ⁹ DA38/2012, Woollahra Municipal Council.
- ¹⁰ Pers. Comm. Penelope Moran, 6 May 2021.



4 Planning Context for Swifts

4.1 County of Cumberland Planning Scheme 1948–1960

The County of Cumberland Planning Scheme was released in 1948 but not gazetted until 1951. Large parts of the Woollahra Municipal Council were designated as 'Living Areas' (defined below).

The purpose of Living Areas is to provide for residences and all other facilities associated with residential areas. These include flats, hotels, churches, schools, hospitals, shops, and commercial premises except warehouses and bulk stores.

The main prohibition in Living Area is against industries other than "Local Light Industries". These latter have a floor space not exceeding 5,000 square feet, do not require utility services in excess of those normally provided in a Living Area, and do not generate traffic likely to create congestion or danger on residential roads. The growth of these industries beyond 5,000 square feet is also prohibited.

There is no necessity to obtain planning permission for the erection of dwelling houses in Living Areas, though this does not relieve the developer from the necessity to obtain the normal approval of building plans by the local council.

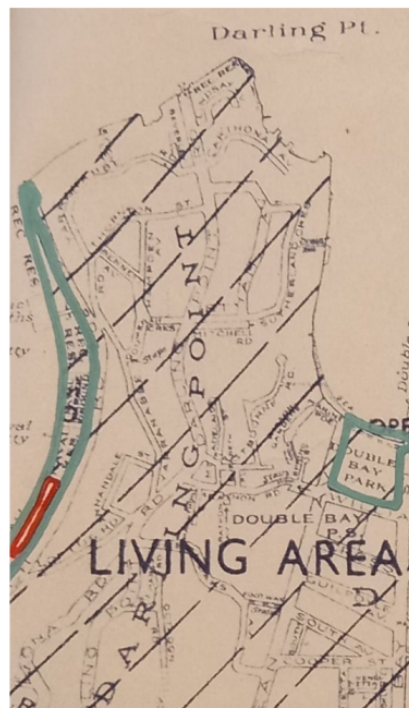


Figure 4.1 Detail from County of Cumberland Planning Scheme showing Darling Point as a 'Living Area'. (Source: Woollahra Library)



Figure 4.2 Detail from County of Cumberland Planning Scheme and Legend. Darling Point coloured pink—Living Areas, 1951 (Source: State Library of NSW)

4.2 Woollahra Planning Scheme Ordinance

The Woollahra Planning Scheme Ordinance (WPSO) printed in December 1972 is attached at Appendix ?. The WPSO applied to all land within the Municipality of Woollahra as constituted at 1 August 1968 and shown on the scheme map (**Figure 4.3**). The council was the responsible authority and 'charged with the functions of carrying into effect and enforcing the provisions' of the Ordinance. Swifts was zoned Residential 2(d), shaded pink on the scheme map below.



Figure 4.3 Detail from Woollahra Planning Scheme Ordinance showing subject site zoned Residential 2(d). Original site boundary outlined in blue. (Source: Woollahra Library)



4.3 Woollahra Local Environmental Plan No. 24 (1985)

Swifts, 68 Darling Point Road, Darling Point, is designated 'No 5 (a) Special Uses Zone' under the provisions of the *Woollahra Local Environmental Plan No. 24* (WLEP No. 24)—it is coloured yellow on the accompanying zoning sheet and annotated as 'Church' (Figure 4.5). The area is identified as an item of environmental heritage (Schedule 7) on the map reproduced at Figure 4.6. The relevant sections outlining general aims and objectives and heritage provisions from the WLEP No. 24 are quoted below.

PART I—PRELIMINARY

Aims, objectives, etc.

This plan aims—

- (a) to zone land to which this plan applies so as—*
 - i. to create separate areas for residential and non residential use in the interests of residential amenity,*
 - ii. to ensure the functional viability of non-residential activities by providing a balanced distribution of services and employment opportunities; and*
 - iii. to establish an efficient traffic distribution network;*
- (b) to reserve land for the purpose of improving the traffic flow on major roads;*
- (c) to make provision for general environmental improvement through public authority initiatives; and*
- (d) to make provision for such other specific controls on development as would help to achieve the objectives specified in Schedule.*

Land to which plan applies

- 1) Except as provided by subclause (2), this plan applies to the land shown by distinctive colouring or edging or in some other distinctive manner on the map.*
- 2) This plan does not apply to land shown uncoloured, edged heavy black and marked "Deferred" on the map, being land excluded from the operation of this plan pursuant to section 68 (5) of the Act.*

PART II—GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND

10. Zones indicated on the map

ZONE No. 5 SPECIAL USES

1. Without development consent

Nil

2. Subject to conditions

Nil

3. Only with development consent

The particular purposes indicated by scarlet lettering on the map; parks and gardens; roads.



4. *Prohibited*

5. *Any purpose other than a purpose included in Item 3.*

PART III—SPECIAL PROVISIONS

Conservation of Items of Environmental Heritage

21. (1) *In this clause and in clauses 22-26—*

"demolition", in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or in part;

"item of the environmental heritage" means a building, place, work or relic—

(a) situated on land shown coloured orange on Sheet 5 of the map;

(b) specified in Schedule 7; or

(c) identified as such in a development control plan;

"relic" means a deposit, object or material evidence relating to the settlement (including aboriginal habitation) prior to 1st January, 1900, of the area of the council;

"renovation", in relation to a building or work, means—

(a) the making of structural changes to the inside or outside of the building or work; or

(b) the making of non-structural changes to the fabric or appearance of the outside of the building or work which may have a major or significant impact on the heritage value of the environment.

(2) A person shall not, in respect of a building, place, work or relic that is an item of the environmental heritage—

(a) demolish, renovate or extend the building or work;

(b) damage or despoil the relic or any part of the relic;

(c) excavate any land for the purpose of exposing or removing the relic;

(d) erect a building on the land on which that building, work or relic is situated or the land which comprises that work or relic is situated or the land which comprises that place: or

(e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

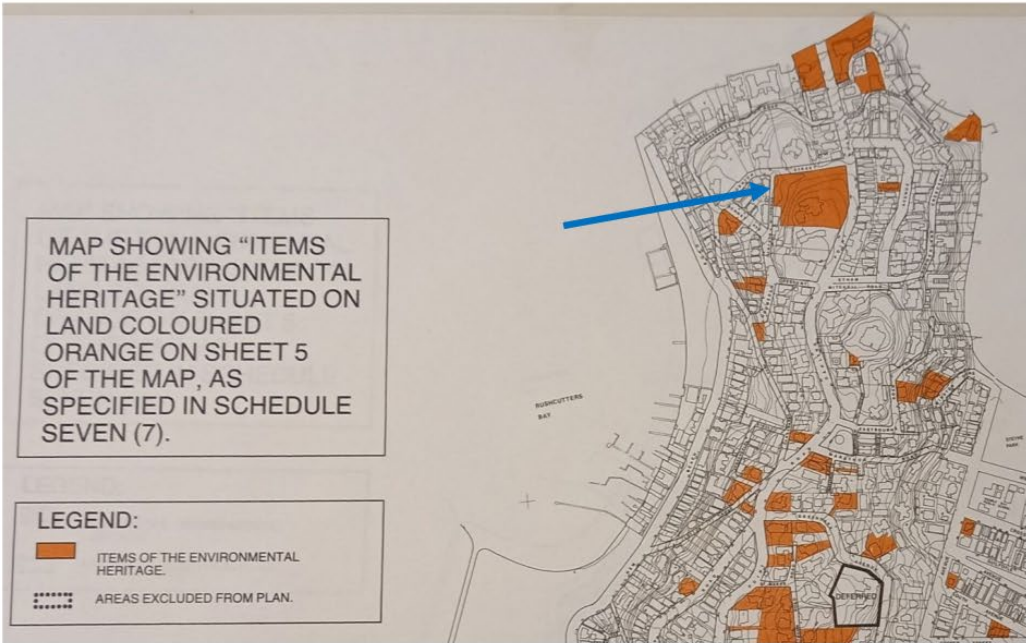


Figure 4.4 Woollahra Local Environmental Plan No. 24—Items of Environmental Heritage Sheet, 1985. Swifts is identified as a heritage item. (Source: Woollahra Library)



Figure 4.5 Detail from Woollahra Local Environmental Plan No. 24 Zoning Sheet, 1985. Swifts designated Special Uses A Zone—Church. (Source: Woollahra Library)



4.4 Woollahra Local Environmental Plan 1995

Swifts, 68 Darling Point Road, Darling Point, is zoned Residential 2(a) under the provisions of the *Woollahra Local Environmental Plan 1995* (WLEP 1995). The relevant sections of WLEP 1995 are reproduced below as they relate to Swifts.

The objectives of this zone are:

- a) *to maintain the amenity and existing characteristics of areas predominantly characterised by dwelling houses;*
- b) *to allow certain non-residential development of low intensity which is compatible with the residential character and amenity of the locality;*
- c) *to improve access to and along the Sydney Harbour foreshore where opportunities arise;*
- d) *to protect the environment attributes of the coastal and foreshore lands.*

Development for the purpose of:

Drainage; dwelling-houses within the foreshore scenic protection area (but not those also within a heritage conservation area or those also identified as heritage items); home occupations carried on in dwelling-houses; roads may be carried out without consent in this zone.

Development for the purpose of:

Child care centres; dwelling-houses within the harbour foreshore scenic protection area, within a heritage conservation area or identified as heritage items; home occupations carried on in residential flat buildings; hospitals; parks and gardens; utility installations (other than gas holders or generating works); works to enable public pedestrian access to and along Sydney Harbour foreshore is permissible with consent.

All other development is prohibited.

Allotment Sizes

The minimum allotment size indicated for The Swifts site is 1 100m².

Height

The maximum building height on The Swifts site is 9.5m.

Harbour Foreshore Scenic Protection Area (HFSPA)

The site is in the HFSPA. Council shall not grant consent to development in this area unless it has made an assessment of:

- a) *the visual impact when viewed from Sydney Harbour of the design of the proposed development including the colours, textures, styles and types of materials to be used and the type and form of any roof;*
- b) *the impact of the proposed development on the natural landform and topography.*



Heritage

The Swifts—building, out buildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gate posts, gates, sculptures, 2 Moreton Bay Figs, Lemon Scented Gum, Bunya Pine, Norfolk Island Pine—as listed as a heritage item.

The plan provides that in respect of a heritage item a person shall not:

- a) demolish or alter the building or work;*
- b) damage or move the relic, or excavate for the purpose of exposing the relic;*
- c) damage or despoil the place;*
- d) damage or move the tree;*
- e) erect a building on the land that comprises the place;*
- f) subdivide the land on which the building, work, relic or tree is situated or that comprises the place;*
- g) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,*

except with the consent of the Council.

Council shall not grant consent to a development application required above unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

Further, Council may decline to grant a consent as required above unless it has considered a Statement of Heritage Significance or a conservation plan that explains the heritage significance of the heritage item.

The Council must also take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

There are several heritage items in the vicinity of The Swifts site.

Further, Council can only grant consent to the carrying out of development on a potential archaeological site if it has considered an assessment of how the proposed development will affect the conservation of the site and relics, has notified the Heritage Council and is satisfied that any necessary excavation permit required by the Heritage Act has been granted.

Heritage Conservation Incentives

The plan further provides in CI 32(1):

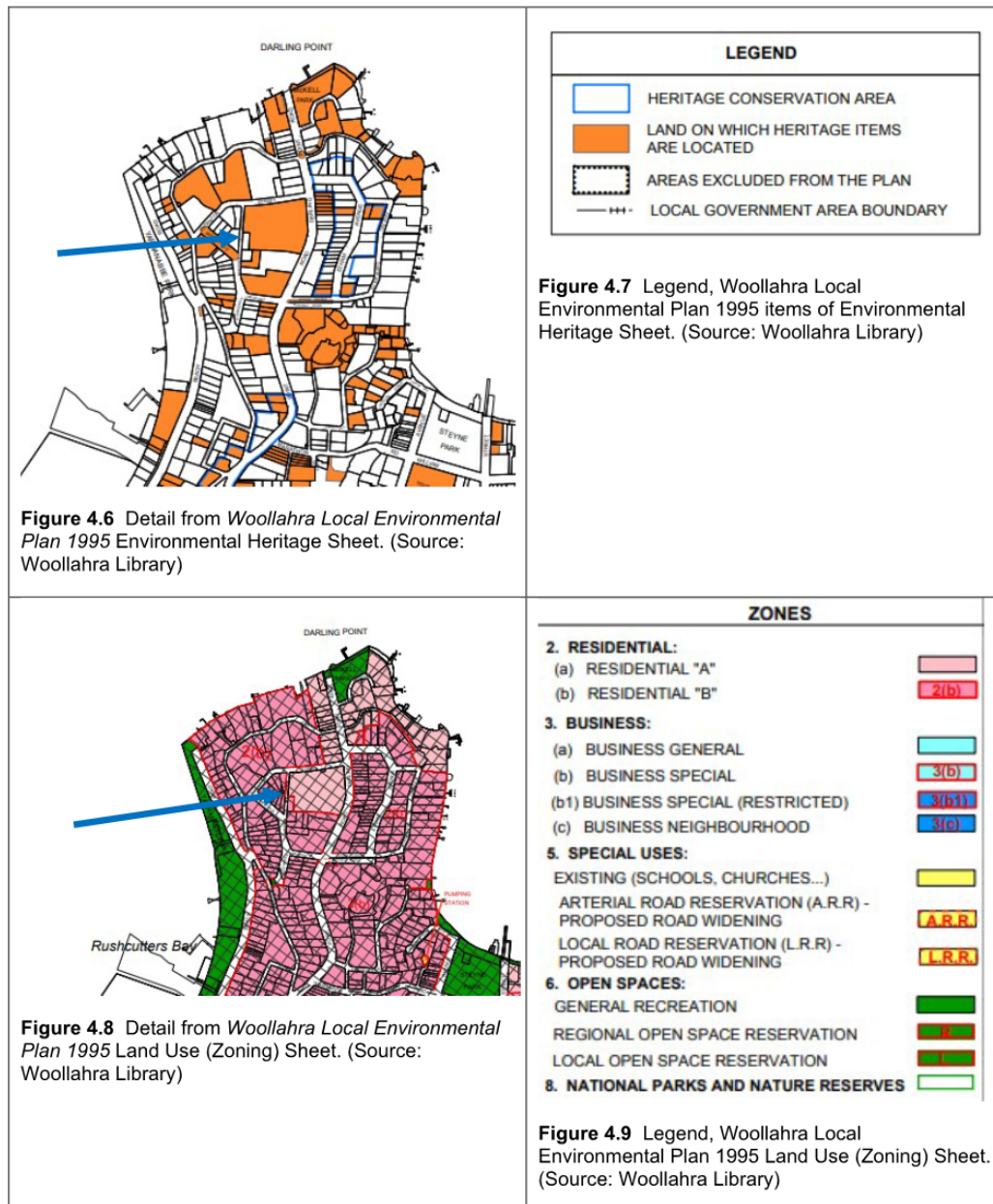
32. (1) Nothing in this plan prevents the Council from granting consent to an application for consent to the use, for any purpose, of a building that is a heritage item or the land on which the building is erected if it is satisfied that:

- a) the proposed use would have little or no adverse effect on the heritage significance of the heritage item and on the amenity of the neighbouring area;*
- b) the conservation of the building will be achieved by the Council granting that consent.*



(2) When considering an application for consent to erect a building on land on which there is situated a building which is heritage item, the Council may:

- a) for the purpose of determining the floor space ratio;*
- b) for the purpose of determining the number of parking spaces to be provided on the site, exclude from its calculation of the gross floor area of the buildings erected on the land the gross floor area of the heritage item, but only if the Council is satisfied that the conservation of the heritage item will be achieved by the Council granting the exclusion.*



4.5 Woollahra Residential Development Control Plan 2003

The *Woollahra Residential Development Control Plan 2003* (RDCP 2003) came into force on 27 February 2004 and was modelled on the RDCP 1999 prepared by Hassell Pty Ltd with Woollahra Municipal Council. The development controls pertaining to Swifts are contained in three sections: Site analysis controls (Part 3); Precinct controls (Part 4); and General controls (Part 5). RDCP 2003 applies



to all types of housing located within the Municipality of Woollahra that is zoned Residential 2(a), Residential 2(b), General Business 3(a), Special Business 3 (b), restricted Special Business 3(b1) and Neighbourhood Business 3(c) but excludes land subject to the *Double Bay Centre Development Control Plan*, the *Rose Bay Centre Development Control Plan*, and land within the Paddington, Woollahra and Watsons Bay heritage conservation areas as defined in the WLEP 1995.

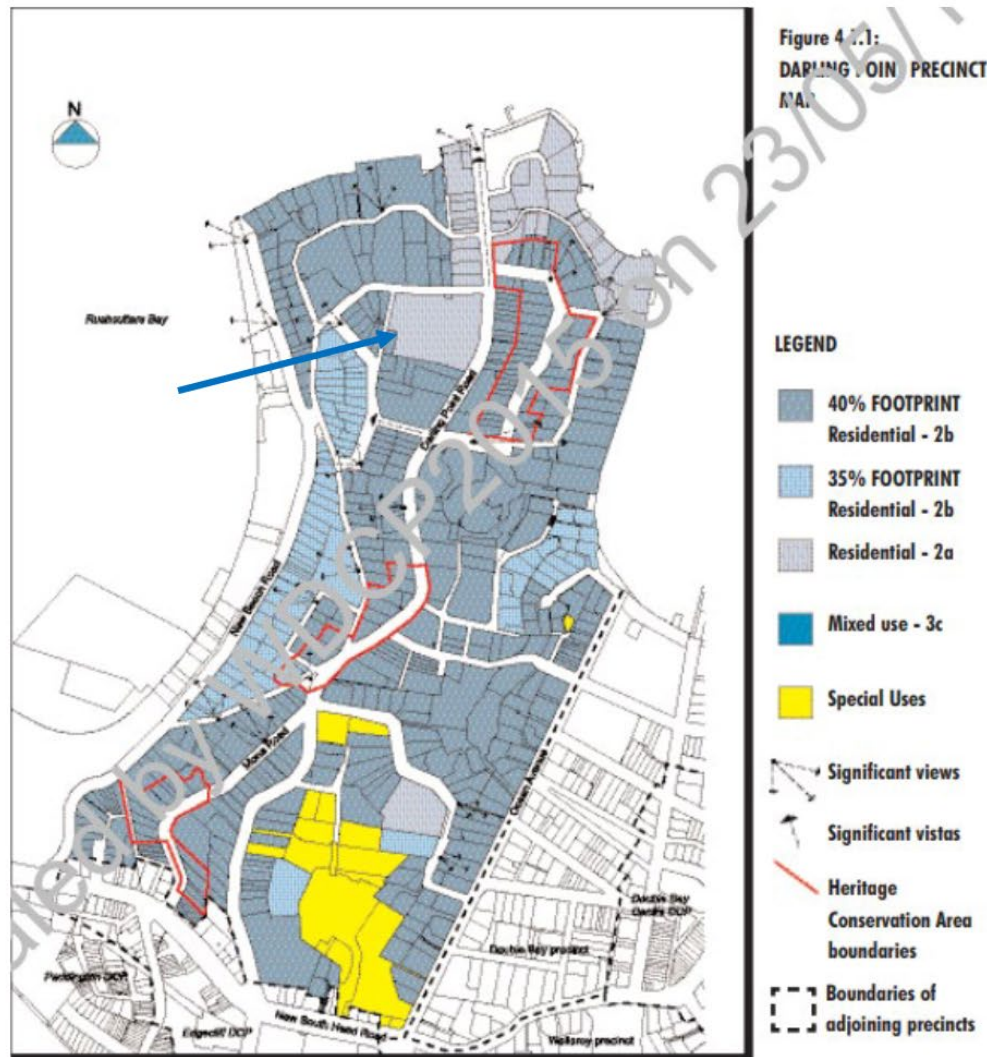


Figure 4.10 Darling Point Precinct Map, *Woollahra Residential Development Control Plan 2003*. (Source: Woollahra Municipal Council)

Swifts is zoned Residential 2(a) on the Darling Point Precinct Map (**Figure 4.10**). It is not located within a heritage conservation area. The RDCP 2003 sets out general design guidelines for development in the precinct but does not define or control commercial use of residential property. The RDCP 2003 was



superseded on 23 May 2015 by the current development control plan—*Woollahra Residential Development Control Plan 2015*.

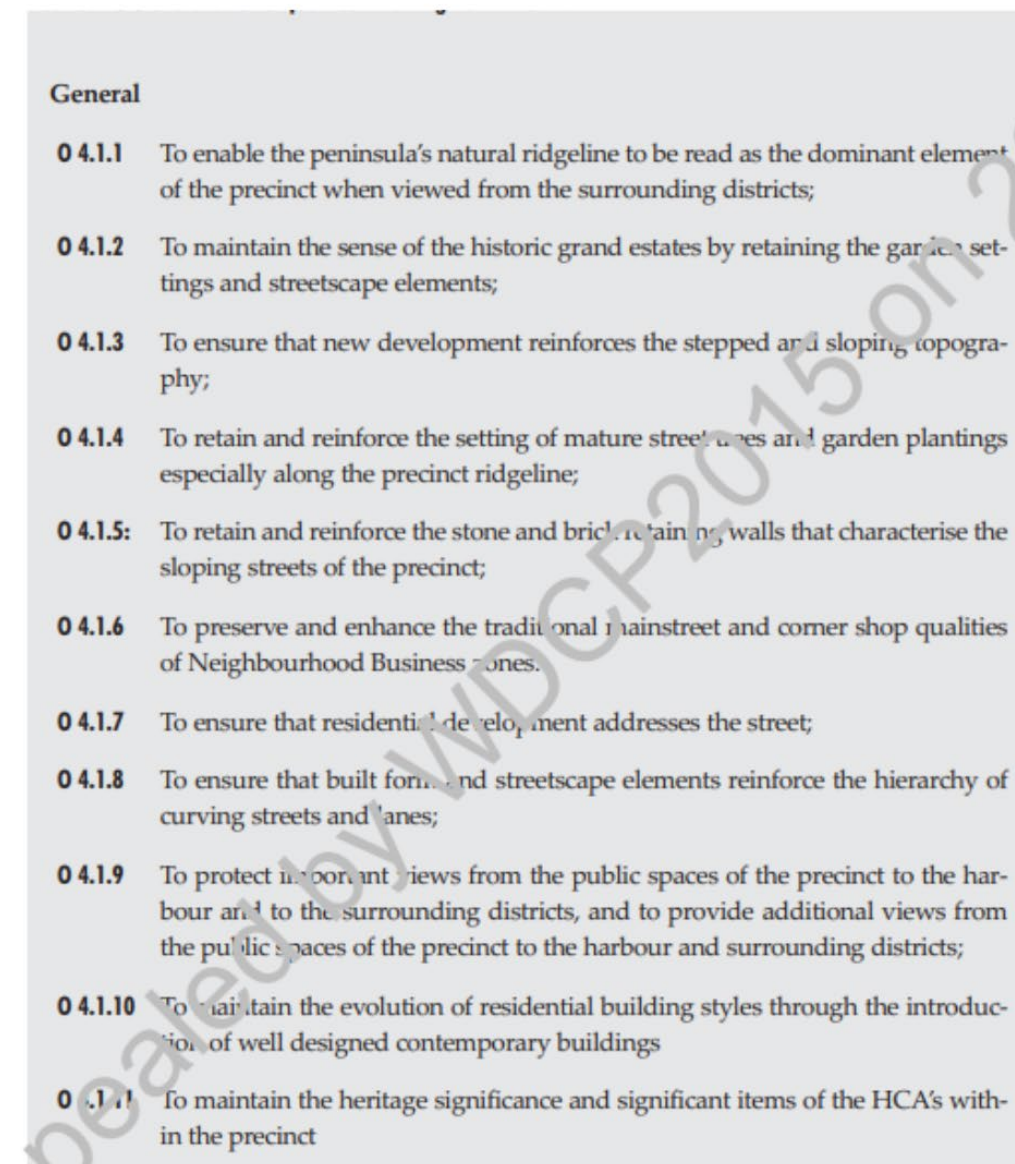


Figure 4.11 Desired future character objectives—Darling Point Precinct. (Source: *Woollahra Residential Development Control Plan 2003*, Woollahra Municipal Council)



4.6 Woollahra Development Control Plan 1995

The *Woollahra Development Control Plan 1995* (WDCP 1995) came into force on 21 June 1995 and lays down council requirements for all forms of residential development.

The objectives of the plan are:

- a) *to facilitate the implementation of the objectives and strategies contained in relevant environmental planning instruments relating to residential development and residential zones;*
- b) *to provide guidance to the community on how the Council will apply the provisions of the relevant environmental planning instruments in relation to individual developments and locations;*
- c) *to supplement the provisions of environmental planning instruments with detailed local controls designed to further the environmental objectives of 11 those instruments, and similarly, to complement the provisions of other Development Control Plans, Codes, and Policies of the Council;*
- d) *to assist the orderly and objective assessment of development and building application proposals;*
- e) *generally to encourage community adoption of high standards of residential amenity in the planning and execution of development;*
- f) *specifically in relation to any development, to protect and promote:*
 - i. *sunlight access, views and aural and visual privacy in relation to aural and visual privacy in relations to neighbouring land;*
 - ii. *compatibility with the scale, built form and intensity of use of surrounding development;*
 - iii. *the amenity of public places and reserves;*
 - iv. *heritage items and conservation areas;*
 - v. *the natural environment;*
- g) *to achieve a balance between the right to reasonably develop the subject site and the right to preserve aural and visual privacy, views, sunlight and the amenity of the neighbouring lands.*

The WDCP 1995 also contains objectives in relation to height, floorspace ratio, siting of development, private open space, building form, external materials, colours and finishes and other requirements. These are not relevant to this substance of this report.



4.7 Woollahra Local Environmental Plan 2014

See Woollahra Municipal Council webpage for written instrument and accompanying maps.

4.8 Woollahra Development Control Plan 2014

See Woollahra Municipal Council webpage for written instrument and accompanying maps.



Appendices

Appendix A

County of Cumberland Planning Scheme

Appendix B

Woollahra Local Environmental Plan No. 24, 1985

Appendix C

Woollahra Local Environmental Plan 1999



Heritage NSW (as Delegate of the Heritage Council of NSW) approved a Section 60 application for the subject Temporary use (Event) at Swifts, 1 March 2022.



Heritage NSW

HMS Application ID: 743

Mr Michael David Hanisch
GLN Planning
LEVEL 10 70 PITT ST
SYDNEY NSW 2000

By email: michael@glnplanning.com.au

Dear Mr Hanisch

**Application under section 60 of the *Heritage Act 1977*
Swifts
State Heritage Register No. 00146**

Address: 68 Darling Point Road, DARLING POINT NSW 2027
Proposal: Application for a temporary event, the Concours d'Elegance between 3 - 5 March 2022 (plus pack up on 6 March). Display of 40 cars and associated temporary displays. No permanent works. Please see attached SEE that includes Heritage Statement

Section 60 fast track application no: HMS ID 743, received 18 January 2022.

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above fast track application, including those matters identified under section 62 of the *Heritage Act 1977*. Pursuant to section 63 of the Act, approval is granted subject to the following conditions:

APPROVED DEVELOPMENT

1. All work shall comply with the information contained within:
 - a) Statement of Environmental Effects: Temporary use (Event) – Sydney Harbour Concours d'Elegance, prepared by GLN Planning., dated 18 January 2022.;

EXCEPT AS AMENDED by the conditions of this approval:

SPECIALIST TRADESPERSONS

2. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

SITE PROTECTION

3. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

COMPLIANCE

4. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

DURATION OF APPROVAL

5. This approval will lapse five years from the date of the consent unless the building works associated with the approval have physically commenced.

Reason: To ensure the timely completion of works.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Unexpected discoveries during works

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the *Heritage Act 1977*. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the *National Parks and Wildlife Act 1974*.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

Right of Appeal

If you are dissatisfied with this determination appeal may be made to the Minister under section 70 of the Act.

It should be noted that an approval under the Act is additional to that which may be required from other Local Government and State Government Authorities in order to undertake works.

Stamped documents

Any stamped documents (e.g. approved plans) for this application are available for the Applicant to download from the Heritage Management System at <https://hms.heritage.nsw.gov.au> under 'My Completed Applications.'

If you have any questions about this correspondence, please contact Erin McWhirter, Customer Services Officer, at Heritage NSW on 8837 6397 or Erin.McWhirter@environment.nsw.gov.au.

Yours sincerely



Tim Smith OAM
Director, Heritage Assessments
Heritage NSW
Department of Premier and Cabinet
As Delegate of the Heritage Council of NSW
1/3/22

cc: Woollahra Council,



Swifts—Schedule of Standard Exemptions, dated 9 November 2020.

ORDER UNDER SECTION 57(2) OF THE HERITAGE ACT 1977

Standard exemptions for engaging in or carrying out activities/ works otherwise prohibited by section 57(1) of the *Heritage Act 1977*.

I, Donald Harwin, the Special Minister of State pursuant to subsection 57(2) of the *Heritage Act 1977*, on the recommendation of the Heritage Council of New South Wales do by this Order, effective 1 December 2020:

1. revoke the order made on 11 July 2008 and published on pages 91177 to 9182 of Government Gazette Number 110 of 5 September 2008 and varied by notice published in the Government Gazette on 5 March 2015; and
2. grant the exemptions from subsection 57(1) of the *Heritage Act 1977* that are described in the attached Schedule.

Donald Harwin
Special Minister of State
Signed this 9th Day of November 2020.

SCHEDULE OF STANDARD EXEMPTIONS TO SUBSECTION 57(1) OF THE *HERITAGE ACT 1977* MADE UNDER SUBSECTION 57(2)

General Conditions:

1. These general conditions apply to **all** of the following standard exemptions.
2. These standard exemptions apply to **all** items of **all** values listed on the NSW State Heritage Register or subject to an Interim Heritage Order (termed 'item' or 'items' for the purpose of these standard exemptions), including Aboriginal cultural heritage.
3. These standard exemptions are available to the owner of a listed item or item subject to an Interim Heritage Order, or any person with the consent in writing of that owner, or if the item is situated on Crown Land, as defined in the *Crown Land Management Act 2016*, the lawful occupier.
4. Anything done under the standard exemptions must be carried out by people with knowledge, skills and experience appropriate to the work (some exemptions require suitably qualified and experienced professional advice/ work).
5. The standard exemptions do not permit the removal of any significant fabric. Significant fabric means all the physical material of the place/item including elements, fixtures, landscape features, contents, relics and objects which contributes to the item's heritage significance.

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6. The standard exemptions do not permit the removal of relics or Aboriginal objects.

If relics are discovered, work must cease in the affected area and the Heritage Council must be notified in writing in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, assessment and an excavation permit may be required prior to the recommencement of work in the affected area.

If any Aboriginal objects are discovered, excavation or disturbance is to cease, and Heritage NSW notified in accordance with section 89A of the *National Parks and Wildlife Act 1974*. More information is available at <http://www.environment.nsw.gov.au/licences/ACHregulation.htm>

Aboriginal object has the same meaning as in the *National Parks and Wildlife Act 1974*.

7. Activities/ works that do not fit strictly within the exemptions described below require approval by way of an application under section 60 of the *Heritage Act 1977*.
8. The standard exemptions are self-assessed. It is the responsibility of a proponent to ensure that the proposed activities/ works fall within the standard exemptions.
9. The proponent is responsible for ensuring that any activities/ works undertaken by them meet all Relevant standards and have all necessary approvals.
10. Proponents must keep records of any activities/ works for auditing and compliance purposes by the Heritage Council. Where advice of a suitably qualified and experienced professional has been sought, a record of that advice must be kept. Records must be kept in a current readable electronic file or hard copy for a reasonable time.
11. It is an offence to do any of the things listed in section 57(1) of the *Heritage Act 1977* without a valid exemption or approval.
12. A person guilty of an offence against the *Heritage Act 1977* shall be liable to a penalty or imprisonment, or both under Section 157 of the *Heritage Act 1977*.
13. Authorised persons under the *Heritage Act 1977* carry out inspections for compliance.
14. The standard exemptions under the *Heritage Act 1977* are not authorisations, approvals or exemptions for the activities/ works under any other legislation, Local Government and State Government requirements (including, but not limited to, the *Environmental Planning and Assessment Act 1979* and the *National Parks and Wildlife Act 1974*).
15. The standard exemptions under the *Heritage Act 1977* do not constitute satisfaction of the relevant provisions of the Building Code of Australia for ancillary works.
16. Activities or work undertaken pursuant to a standard exemption must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*.
17. In these exemptions, words have the same meaning as in the *Heritage Act 1977* or the relevant guidelines, unless otherwise indicated. Where there is an inconsistency between relevant guidelines and these exemptions, these exemptions prevail to the extent of the

inconsistency. Where there is an inconsistency between either relevant guidelines or these exemptions and the *Heritage Act 1977*, the Act will prevail.

18. The *Heritage Manual* (1996, Heritage Office and Department of Urban Affairs & Planning) and *The Maintenance Series* (1996 republished 2004, NSW Heritage Office and Department of Urban Affairs & Planning) guidelines must be complied with when undertaking any activities/ works on an item. These guidelines are available on the Heritage NSW website.

STANDARD EXEMPTION 1: MAINTENANCE AND CLEANING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The maintenance of an item to retain its condition or operation.
- b) Application of protection coatings such as limewash, polish, oils and waxes to an item.
- c) Cleaning to remove surface deposits, organic growths or graffiti from an item.

Relevant standards:

- d) Specified activities/ works must not involve removal of or damage to significant fabric.
- e) New materials or finishes may only be introduced to non-significant fabric where this does not impact the significance of the item, uses a colour sympathetic to the item, does not detract from the item and does not reduce the ability to appreciate the item.
- f) Protective coatings may only be applied to surfaces which have previously had these coatings. Existing finishes such as oils and waxes for timber must continue to be used rather than modern alternative protective coatings.
- g) Surface patina important to the item's heritage significance must be preserved during maintenance and cleaning.
- h) Cleaning of significant fabric may only use low-pressure water less than 100 psi and neutral detergents.

STANDARD EXEMPTION 2: REPAIRS TO NON-SIGNIFICANT FABRIC

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Repair (such as refixing and patching) of damaged or deteriorated non-significant fabric.
- b) Replacement of missing, damaged or deteriorated non-significant fabric that is beyond further maintenance.

Relevant standards:

- c) Specified activities/ works must not involve alteration to, damage to, or the removal of, significant fabric.
- d) Only missing, damaged or deteriorated non-significant fabric that is beyond further repair or maintenance may be replaced.
- e) Any new materials must not exacerbate the decay of significant fabric due to chemical incompatibility, obscure existing significant fabric or limit access to significant fabric for future maintenance.

STANDARD EXEMPTION 3: ALTERATION TO NON-SIGNIFICANT FABRIC

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The alteration of an item involving the introduction of new fabric and/or the removal of non-significant fabric.

Relevant standards:

- b) The specified activities/ works must not impact the heritage significance of the item.
- c) Significant fabric of the item must not be impacted.
- d) Relics must not be impacted.
- e) Work must not involve construction of extensions or additions where these may impact the item's setting, views to or from the item, obscure existing significant fabric, impact relics and/or impact significant landscape layout, landscape elements or vegetation.
- f) The positioning and size of walls, windows and doors is not altered.
- g) Significant finishes, surfaces (including flooring) and fixtures must not be impacted.
- h) Any new fabric must be sympathetic to but can be distinguished from the appearance, composition, detailing, size, position and finish of existing fabric.
- i) Non-significant fabric must be identified as non-significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as non-significant fabric in written advice prepared by a suitably qualified and experienced heritage professional before it can be removed.

- j) Installation of new fabric must be in accordance with the policies of a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or in written advice prepared by a suitably qualified and experienced heritage professional before installation.
- k) Any new fabric must not impact setting or views to or from the item, obscure existing significant fabric or limit access to existing fabric for future maintenance.
- l) Any new penetrations must be:
 - i. limited in number; and
 - ii. made through non-significant fabric or mortar joints only.
- m) Any excavation must comply with Standard Exemption 8: Excavation.
- n) Any new fabric must not exacerbate the decay of existing fabric or risk the destruction of existing significant fabric due to chemical incompatibility, vibration, percussion or explosive flammability.

STANDARD EXEMPTION 4: ALTERATION TO INTERIORS OF NON-SIGNIFICANT BUILDINGS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Alteration to the interior of a non-significant building.

Relevant standards:

- b) The specified activities/ works to the non-significant building must not impact the heritage significance of the item.
- c) Significant fabric of the item must not be impacted.
- d) Relics must not be impacted.
- e) Work must not involve construction of extensions or additions where these may impact the item's setting, views to or from the item, obscure existing significant fabric, impact relics and/or impact landscape values.
- f) Non-significant buildings must be either:
 - i. buildings identified as non-significant in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as non-significant building in written advice prepared by a suitably qualified and experienced heritage professional, and/or

- ii. buildings constructed since the listing of the item on the State Heritage Register or the publication of an interim heritage order in the Gazette, which applies to the land.

STANDARD EXEMPTION 5: REPAIR OR REPLACEMENT OF NON-SIGNIFICANT SERVICES (Mechanical, Electrical and Plumbing)

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Repair or replacement of non-significant services on or in an item, such as cabling, plumbing and wiring (excluding telecommunications and fire safety systems).
- b) Activities/ works necessary to upgrade or replace existing non-significant lighting fixtures and fittings within buildings/structures and or/affixed to buildings/ structures.

Relevant standards:

- c) The specified activities/ works must not involve alteration to, damage to, or the removal of, significant fabric. The specified activities/ works must not impact significant views and landscape values.
- d) Any excavation must comply with Standard Exemption 8: Excavation.
- e) Any new hardware must not be attached to the primary or significant façade(s) and must be discreetly located to reduce negative visual impact.
- f) Replacement fabric must appear the same, be sympathetic to the item's fabric and unobtrusive.
- g) Activities/ works must use existing service routes, cavities or voids or replace existing surface mounted services.
- h) Reuse of existing fixing points in significant fabric is permitted.
- i) Any new fabric must not obscure significant fabric or limit access to significant fabric for future maintenance.
- j) Any new fabric must not exacerbate the decay of existing fabric or risk the destruction of existing significant fabric due to chemical incompatibility, vibration, percussion or explosive flammability.
- k) Replacement surface mounted services must be the same or less intrusive than the surface mounted services they replace.
- l) Existing service routes and/or conduits may be deleted if the installation can be streamlined into one existing service route, cavity or void.

STANDARD EXEMPTION 6: NON-SIGNIFICANT TELECOMMUNICATIONS INFRASTRUCTURE

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Upgrade or installation of telecommunication infrastructure.
- b) Upgrade of existing telecommunication towers.

Relevant standards:

- c) Activities/work must not involve alteration to, damage to, or the removal of, significant fabric.
- d) The specified activities/ works must not impact significant views to or from the item and landscape values, including landscape or archaeological features.
- e) Any excavation must comply with Standard Exemption 8: Excavation.
- f) Any new hardware must not be attached to the primary or significant façade(s) and must be discreetly located to reduce negative visual impact.
- g) Any new fabric must not obscure significant fabric or limit access to significant fabric for future maintenance.
- h) Reuse of existing fixing points in significant fabric is permitted.
- i) Existing service routes and/or conduits may be deleted if the installation can be streamlined into one existing service route, cavity or void.
- j) There is no increase in height of any existing telecommunication towers or vantage point and no more than a 20% increase in the size of the antenna array on the approved tower or fixing point.
- k) Telecommunications infrastructure must be able to be later removed without damage to the significant fabric of the item.

STANDARD EXEMPTION 7: FIRE SAFETY DETECTION AND ALARM SYSTEMS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Upgrade to, or installation of, a fire safety detection and alarm system. Note: this exemption does not apply to fire suppression systems (for example sprinklers).

Relevant standards:

- b) Fire safety system elements must not obscure, affix to, penetrate, remove or otherwise damage significant fabric.

- c) The specified activities/ works must not impact landscape values or obstruct significant views to and from the item.
- d) Fire safety system elements must not unnecessarily obscure significant fabric, limit access to significant fabric for future maintenance, exacerbate the decay of significant fabric or risk the destruction of significant fabric due to chemical incompatibility.
- e) Reuse of existing fixing points in significant fabric is permitted.
- f) Any fire safety system elements must be:
 - i. not attached to primary façade(s);
 - ii. grouped with existing services where possible;
 - iii. consolidated with existing conduits where possible;
 - iv. discreetly located to reduce negative visual impact while maintaining the need for easy identification and access.
- g) Fire safety system elements must be able to be later removed without damage to the significant fabric of the item.

STANDARD EXEMPTION 8: EXCAVATION

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Excavation or disturbance of land that is:
 - i. for the purpose of exposing underground utility services infrastructure which occurs within an existing service trench, or
 - ii. to carry out inspections or emergency maintenance or repair on underground utility services, or
 - iii. to maintain, repair, or replace underground utility services to buildings, or
 - iv. to maintain or repair the foundations of an existing building, or
 - v. to expose survey marks, or
 - vi. associated with feral animal/insect eradication.

Relevant standards:

- b) Activities/ works must not disturb or remove any relics.
- c) Excavation must not compromise the structural integrity of any heritage structure or significant landscape elements.
- d) Activities/ works must not affect archaeological evidence, for example the archaeology of foundation trench deposits from the time of original construction.

STANDARD EXEMPTION 9: PAINTING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Paint removal, surface preparation and repainting of the already painted fabric of an item.
- b) Painting non-significant fabric.

Relevant standards:

- c) Activities/ works must not involve the disturbance or removal of earlier paint layers other than those which have failed by chalking, flaking, peeling or blistering.
- d) When painting already painted significant fabric, activities/ works must involve application of an isolating layer, to protect significant earlier layers and provide a stable basis for repainting.
- e) Painting significant fabric must use the same colour scheme and paint type as an earlier or existing scheme.
- f) For removal of earlier failed paint layers, the paint removal method/s used must be verified by a suitably qualified and experienced professional to not affect significant fabric. Paint removal must be immediately followed by recoating using the same colour scheme to protect the exposed surface.
- g) New paint must be appropriate to the substrate.
- h) Painting must not endanger the survival of earlier paint layers.
- i) Painting of non-significant fabric must:
 - i. use a colour sympathetic to the item,
 - ii. not detract from the item,
 - iii. not reduce the ability to appreciate the item.

STANDARD EXEMPTION 10: RESTORATION OF FABRIC THAT FORMS PART OF THE SIGNIFICANCE OF THE ITEM (SIGNIFICANT FABRIC)

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Returning significant fabric, which has been removed or dislodged, to a known earlier location.
- b) Revealing a known earlier significant configuration, including reassembling existing elements or removing non-significant accretions and/or obstructions.

Relevant standards:

- c) The specified activities/work must not involve damage to, or the removal of significant fabric.
- d) The specified activities/work must not introduce new material other than fixings and fastenings.
- e) Any new fixings and fastenings must use existing penetrations where possible.
- f) Any new penetrations must be:
 - i. limited in number; and
 - ii. made through non-significant fabric or mortar joints only.
- g) Work to reveal a known earlier configuration must be guided by historical evidence for the earlier configuration of that item.
- h) Significant fabric must be identified as significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as significant fabric in written advice prepared by a suitably qualified and experienced heritage professional.
- i) Revealing a known earlier configuration must be in accordance with the policies of a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as significant fabric in written advice prepared by a suitably qualified and experienced heritage professional.
- j) Non-significant accretions and/or obstructions must be identified as non-significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as significant fabric in written advice prepared by a suitably qualified and experienced heritage professional, before it can be removed.
- k) Work must be carried out by a suitably qualified person with heritage experience.

STANDARD EXEMPTION 11: SUBDIVISION OF NON-SIGNIFICANT BUILDINGS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Subdivision under the *Strata Schemes Development Act 2015* (termed Strata subdivision) of the interior of a building that is not of heritage significance and which has been constructed since the listing of the item on the State Heritage Register or the publication of an Interim Heritage Order in the *NSW Government Gazette*.
- b) Subdivision under the *Strata Schemes Development Act 2015* (termed Strata subdivision) of the exterior of an item for car spaces.

Relevant standards:

- c) Strata subdivision under this exemption must not subdivide the curtilage of an item other than for car spaces in an existing area identified for carparking.
- d) Strata subdivision must not involve alterations to the external appearance of the building other than that permitted by other exemptions under the *Heritage Act 1977*.

STANDARD EXEMPTION 12: TEMPORARY STRUCTURES

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The construction or installation of a temporary structure or structures.

Relevant standards:

- b) Activities/ works must not involve alteration to (including penetrations), damage to, or the removal of, significant fabric.
- c) Any excavation must comply with Standard Exemption 8: Excavation.
- d) Temporary structure/ structures may be internal or external to items or buildings.
- e) The temporary structure or structures must not be located where it could:
 - i. damage (including through use of the temporary structure) significant fabric or
 - ii. endanger significant fabric, including landscape or archaeological features, or
 - iii. obstruct significant views to and from the item, or
 - iv. detract from the significance of the item, or
 - v. reduce the ability to appreciate the item.
- f) Existing public access to the item must be maintained and not restricted.

- g) The temporary structure or structures must not be erected for more than 30 consecutive calendar days (inclusive of set-up, pack-down and removal).
- h) No further temporary structure or structures may be erected again on the site, under this exemption within a period of 90 calendar days.

STANDARD EXEMPTION 13: VEGETATION

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Weeding (including poisoning of weeds), watering, mowing, manual clearing of paths and drains, top-dressing, pest control and fertilizing.
- b) New planting of species sympathetic to the item.
- c) Pruning to control size, improve shape, condition, flowering or fruiting.
- d) Removal of non-significant diseased, dying, dead and/or dangerous trees and/or plant material.
- e) Tree surgery.

Relevant standards:

- f) Activities/ works must not alter the significant layout, contours, plant species or other significant landscape features or views.
- g) Pruning of significant vegetation must not exceed 30% of the tree canopy within a period of two years.
- h) Tree surgery may only be performed by a qualified arborist, horticulturist or tree surgeon and must be necessary for the health of those plants.
- i) Selective herbicide should be used when poisoning weeds. Herbicide should be applied using:
 - i. Spot application around significant elements of the heritage item (e.g. ornamental or symbolic plants, remnant native vegetation, structures, exposed relics and moveable items) to avoid adverse impacts to these; and
 - ii. Spraying in non-significant areas of the curtilage.
- j) Removal of diseased, dead, dying or dangerous trees and/or plant material must not disturb archaeological relics (for example through stump grinding or removal of tree boles, in such situations stumps and tree boles should be left in place).

STANDARD EXEMPTION 14: BURIAL SITES AND CEMETERIES

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Creation of a new grave or interment of ashes or continued use of existing family vaults.
- b) Erection of monuments or grave markers (excluding above-ground chambers, columbaria or vaults).
- c) Traditional maintenance activities/ works in accordance with Standard Exemptions for maintenance, repairs and cleaning including:
 - i. re-blackening, re-leading or re-gilding of existing inscriptions; or
 - ii. re-application of traditional coatings such as limewash where these were previously applied.
- d) Addition of memorial inscriptions or attachment of memorial plaques to existing monuments or grave furniture (includes grave markers, grave kerbing or grave surrounds).
- e) Excavation or disturbance of land for carrying out conservation or repair of monuments or grave markers.

Relevant standards:

- f) Existing significant fabric must not be disturbed or removed as part of creation of a new grave or interment or use of existing family vault.
- g) New monuments or grave markers must be in keeping with and not conflict with the existing character of the place, including materials, size, colour and form; however, new monuments and grave markers should be distinguishable on close inspection from the existing monuments and markers.
- h) Additional inscriptions or plaques must be in keeping with the existing size, materials, form, colour and lettering of the original monument.
- i) Additional inscriptions or plaques must not overshadow or obscure the original monument.
- j) Relettering of existing inscriptions must only be carried out to maintain appearance and legibility.
- k) Relettering must only be carried out using traditional methods and materials which are the same as the existing lettering on the monument or grave marker.
- l) Relettering of monuments must not involve re-cutting of existing inscriptions.
- m) Conservation, repair or relettering of monuments or grave markers must be directed, supervised and carried out by a suitably qualified and experienced heritage professional.
- n) There must be no disturbance to human remains, relics in the form of grave goods, associated landscape features or Aboriginal cultural heritage values.

STANDARD EXEMPTION 15: SIGNS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The installation of temporary signs located behind or on the glass surface of a commercial tenancy window.

- b) The installation of temporary real estate signs notifying of an auction, sale or letting.
- c) Removal, repairs or replacement of modern non-significant site interpretation and/or waymarking signs.
- d) The installation of new non-illuminated site interpretation and/or waymarking signs.
- e) Relocation of non-illuminated site interpretation and/or waymarking signs.

Relevant standards:

- f) Temporary signs must not be affixed to significant fabric of the item, internally illuminated or flashing.
- g) Temporary commercial tenancy window signs must be removed within 60 calendar days of erection and temporary real estate signs must be removed within 14 calendar days after the auction, sale or letting.
- h) Temporary signs must not conceal or involve the removal of or damage to significant pre-existing signs.
- i) Replacement interpretation and/or waymarking signs must not exceed the size of the original sign area and must be in the same location.
- j) Installation of new interpretation and/or waymarking signs or relocation or interpretive and/or waymarking signs must:
 - i. not obscure, affix to, penetrate or otherwise damage heritage fabric, including landscape or archaeological features, or obstruct significant views to and from the heritage item. Reuse of existing fixing points is permitted,
 - ii. not be in the form of a mural or artwork,
 - iii. be for the sole purpose of providing information to assist in the interpretation of the item's heritage significance or to navigate the item,
 - iv. be able to be later removed without causing damage to the significant fabric of the item,
 - v. not be of a modular or cantilever structure, or over 2 square metres in size,
 - vi. not be commercial in any way unless in the form of a freestanding flag or banner associated with a building used for a purpose which requires such promotion, for example a theatre, gallery or museum.
- k) Any excavation must comply with Standard Exemption 8: Excavation.

STANDARD EXEMPTION 16: FILMING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The use of an item as a set or backdrop for filming in a manner that may result in the temporary movement and/or alteration of an item.

Relevant standards:

- b) The specified use of the heritage item as a set or backdrop for filming is permitted for up to 60 calendar days in a calendar year.

- c) Any activities/ works must be temporary, reversible and must have no physical impact to significant fabric, landscape elements and/or archaeological relics.
- d) No permanent activities/ works are to be undertaken to the item.
- e) No painting or special effects are to be physically applied to significant fabric.
- f) Significant fabric must be protected from damage by using bumpers, gaskets and/or matting.
- g) No penetrations into significant fabric are permitted. Clamping or bracing to the item's significant fabric may be used.
- h) Consent must be provided by the owner or lawful occupier of the item to the use of the item as a set or backdrop for filming.
- i) The item must not be moved except as permitted by Standard Exemption 17 - Moveable Heritage Items.

STANDARD EXEMPTION 17: TEMPORARY RELOCATION OF MOVEABLE HERITAGE ITEMS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The temporary relocation of moveable heritage items, including contents, fixtures and objects.

Relevant standards:

- b) The item must be identified as a moveable heritage item on the State Heritage Register or gazetted Interim Heritage Order.
- c) Relocation must only be for the purpose of ensuring the moveable heritage items' security, maintenance or preservation, conservation or exhibition of moveable heritage items.
- d) The moveable heritage items must be returned to their location within 180 calendar days of their relocation (inclusive of packing, moving and transit time).
- e) Maintenance, preservation or conservation activities/ works are not permitted under this exemption. These activities may be covered under other exemptions or may require approval.
- f) The moveable heritage items must be safely stored and adequately protected from damage during any temporary relocation.
- g) An inventory (including photos) and information about the items and their permanent location must be retained with the moveable heritage items in their temporary space.

STANDARD EXEMPTION 18: COMPLIANCE WITH MINIMUM STANDARDS AND ORDERS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Specified actions required for the purposes of compliance with minimum standards set out in:
 - i. Part 3 of the *Heritage Regulation 2012*, or
 - ii. An Order under section 120 of the *Heritage Act 1977*, or
 - iii. An Order under Schedule 5 Part 1 or Part 2 of the *Environmental Planning and Assessment Act 1979* which is consistent with a submission by the Heritage Council under Schedule 5 Part 4 Clause 3 (Orders affecting heritage items) of that Act.

Relevant standards:

- b) Activities/ works required by an order under the *Environmental Planning and Assessment Act 1979* must be consistent with a submission by the Heritage Council under Schedule 5 Part 4 Clauses 3 of that Act.

STANDARD EXEMPTION 19: SAFETY AND SECURITY

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The erection of temporary security fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access, or to secure public safety.
- b) Emergency stabilisation activities/ works necessary to secure safety where a structure or landscape feature (such as a tree) has been irreparably damaged or destabilised and poses a safety risk to its users or the public.

Relevant standards:

- c) Installation and operation of any temporary equipment specified in a) and b) above must not impact on significant fabric (including landscape or archaeological features) and the item's overall heritage significance.
- d) Any temporary security fencing, scaffolding, hoardings or surveillance systems must not be erected for more than 180 calendar days (inclusive of setup and pack down).

- e) No further temporary fencing, scaffolding, hoardings or surveillance may be erected again on the site, under this exemption within a period of 365 calendar days.
- f) Work must not permanently change or alter the structure such as the configuration of the floor space, or any architectural or landscape features.
- g) Any new penetrations must be:
 - i. limited in number; and
 - ii. made through non-significant fabric or mortar joints only.
- h) Work must not result in an increase in the floor space of any building or structure.

STANDARD EXEMPTION 20: EMERGENCY SITUATIONS AND LIFESAVING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Any activities/ works that would be in contravention of subsection 57(1) of the *Heritage Act 1977* that is solely for the purpose of:
 - i. Saving or protecting human life under imminent threat in an emergency.
 - ii. Securing the safety of a ship endangered by stress of weather or navigational hazards.
 - iii. Dealing with an emergency involving serious threat to the environment.
 - iv. Preventing imminent serious damage to property or any heritage item in an emergency.

Relevant standards:

- b) The activities/ works must have been immediately necessary for the identified purposes.¹
- c) The activities/ works were reasonable and justifiable in the circumstances.
- d) The activities/ works were proportionate to the damage the item has suffered and to the risk of further damage. The effects of the activities/ works must be adequately mitigated or remedied.

¹ Incidents likely to cause serious damage and require actions necessary to save or protect life could include: an uncontrolled escape, spillage or leakage of a substance, an uncontrolled implosion, explosion or fire, an uncontrolled escape of gas or steam, an uncontrolled escape of a pressurised substance, exposed live electrical parts, fall or release from a height of any plant, substance or thing, the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be designed or registered (for example a collapsing crane), the collapse or partial collapse of a structure, the collapse or failure of an excavation or of any shoring supporting an excavation, the inrush of water, mud or gas. <https://www.safeworkaustralia.gov.au/doc/incident-notification-fact-sheet>

52.5498.L1:MSC

14 June 2022

GLN

Level 10, 70 Pitt Street

SYDNEY NSW 2000

Attention: Mr. P. Grech

Dear Sirs,

SWIFTS OCCASSIONAL EVENTS VENUE
68 DARLING POINT ROAD, DARLING POINT

The purpose of this report is to present the results and findings of an acoustic assessment in relation to the conduct of occasional events at the property of 68 Darling Point Road, Darling Point known as "Swifts".

We are instructed that Swifts is a heritage listed residence that has historically been the location for a wide range of events utilising the large residence situated on the site and also the extensive landscaped gardens.

We are instructed that the site has been used for various types of events: associated with weddings, birthdays, charity events, balls, corporate functions, product launches, shows and displays.

We are instructed that the regularisation of occasional events is required under a development application to be submitted to Woollahra Municipal Council.

We are instructed that events will be ticketed and be categorised as either:

- Normal events which are primary held indoors over one day between 9 am and 11 pm,
- Special events, which are primary held outdoors, over one day between 9 am and 10 pm,
- Unique events which are indoors and outdoor events and held over multiple days between 9 am and 6 pm.

6/62 ARGYLE STREET, SOUTH WINDSOR NSW 2756 AUSTRALIA
ph: (+612) 9555 4444 tag1@acoustics.com.au ABN 73 082 704 701



Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
GLN

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The subject property is a unique property in Darling Point and has frontages to Darling Point Road, Thornton Street and Hampden Avenue (see Appendix A).

An inspection of the site was carried out during the course of an event to provide recommendations in relation to location of specific noise generating events and to provide input into a Plan of Management.

The site visit was carried out on the afternoon of Saturday, 5 February 2022 whilst a wedding was occurring on the southern lawn and then followed by a reception using the southern lawn, the driveway/entrance to the residence and the grassed areas further to the north of the southern lawn.

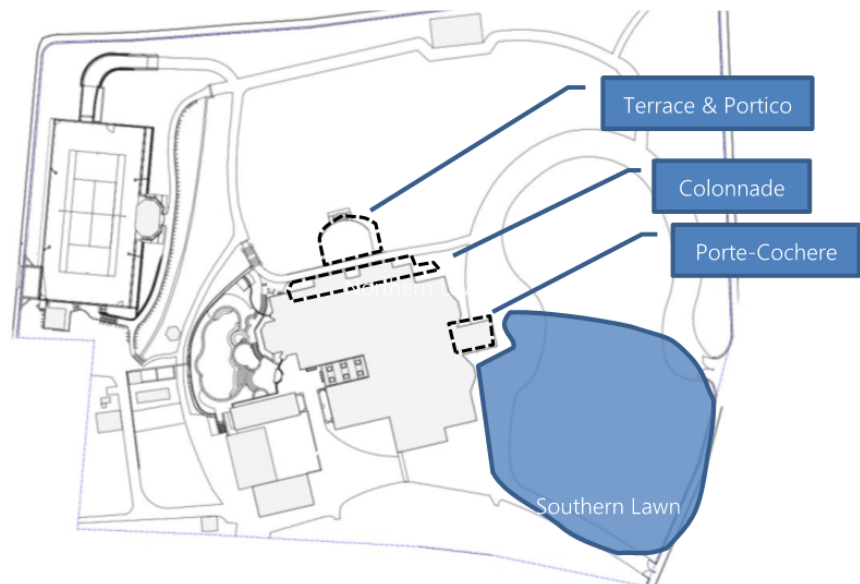


Figure 1: Outdoor event spaces Source: GLN Planning

A marquee was set up at the southern extremity of the southern lawn (see upper figure in Appendix A) in which the ceremony was undertaken and accompanied by an amplified string quartet and amplification of the service.

At the time of the site visit the area was experiencing high levels of wind that would not permit (under EPA requirements) the determination of the ambient background level. A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period.

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14 June, 2022



*Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
GLN*

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Observations of Darling Point Road during the wedding function indicated a reasonable degree of traffic passing the subject site and that the critical residential receivers with respect to functions occurring on the southern lawn would relate to a high-rise apartment building immediately to the south of the subject property that overlooks Swifts.

The residential properties on the eastern side of Darling Point Road are located at a lower elevation than Swifts and are further removed from the southern lawns.

Acoustic Assessment

With respect to the provision of activities (including entertainment) occurring inside the premises, these have been occurring for a number of years. The substantial sandstone construction of the building and the location of the formal entertaining areas being at the northern end of the property would result in negligible acoustic impact on surrounding residential properties and would not cause any measurable increase above the ambient background level if internal music levels were limited to not exceeding 95 dB(A) as a spatial average across the internal spaces.

Any functions occurring inside the residence at night (after 10pm) require supervision to ensure all doors and windows to function areas are closed when entertainment is provided.

The Plan of Management requires the appropriate staff to assist attendees leave in a quiet and orderly manner after 10pm.

For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A).

At the time of the inspection the marquee located on the southern side of the southern lawns was open on all sides. Events using this marquee location require:

- the southern wall of the southern and eastern walls of the marquee to be fully closed by the same heavy plastic/vinyl material as used for the large marquee,
- music provided for the ceremony can be unamplified string quartets etc located on the southern side under the marquee,
- a sound system for amplification of the celebrant is to have speakers located under the marquee (minimum of 2m from the western end of marquee).

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GLN

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- to provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards to north,
- the speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.

Following the ceremony, music was provided by amplified instruments located adjacent the main building situated in line with the northern end of the marquee shown in the upper figure of Appendix A (approximately 24 metres from the southern boundary). The small band was oriented in a northerly direction. The provision of a temporary solid timber wall to provide additional acoustic shielding and limiting the band or DJ to a level not exceeding 75 dB(A) (behind the band) is required.

No external amplified entertainment would be permitted after 6pm.

For daytime events involving exhibitions, car displays etc. the general events are not envisaged to create a noise impact provided any amplification for announcements etc are similarly restricted in level. The restriction in levels are dependent upon the sound systems provided and can only be assessed in situ at the site boundaries for an average maximum level of 46 dB(A). This will require management to purchase a sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary.

Yours faithfully,

THE ACOUSTIC GROUP PTY LTD


STEVEN E COOPER

The Acoustic Group Letter 52.5498.L1:MSC
14 June, 2022



Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
GLN

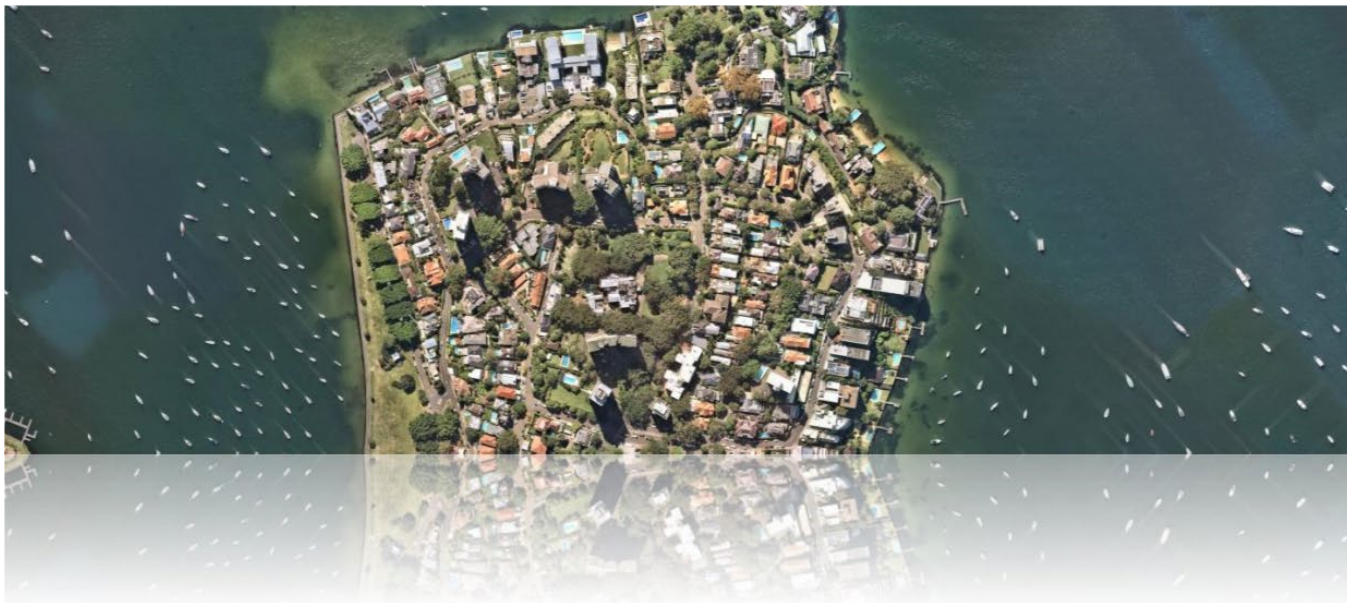
APPENDIX A1

APPENDIX A: **Site Location**



The Acoustic Group Letter 52.5498.L1:MSC
14 June, 2022





**TRAFFIC AND PARKING IMPACT ASSESSMENT OF
THE PROPOSED EVENTS AT SWIFTS
AT 68 DARLING POINT ROAD, DARLING POINT**



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Transport Planning, Traffic Impact Assessments, Road Safety Audits, Expert Witness

220019.01FC - 29 June 2022



Development Type: Events at Swifts
Site Address: 68 Darling Point Road, Darling Point
Prepared for: GLN Planning
Document reference: 220019.01FC

Status	Issue	Prepared By	Checked By	Date
Draft	A	DW	CM	22 April 2022
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Final	B	DW	CM	27 April 2022
Final	C	DW	CM	29 June 2022

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220019.01FC - 29 June 2022



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1 INTRODUCTION

McLaren Traffic Engineering was commissioned by *GLN Planning* to provide a traffic and parking impact assessment of proposed Events at Swifts at 68 Darling Point Road, Darling Point. The site layout is presented in **Annexure A** for reference.

1.1 Description and Scale of Development

The proposed events to be held have the following characteristics relevant to traffic and parking:

- (1) Special Events (weddings, product launch/fashion events, birthdays):
 - (a) Up to 250 people;
 - (b) 12 events per year (no more than 3 per month);
 - (c) Occurs between 9:00 AM and 10:00 PM.
- (2) Normal Events (small or intimate weddings, lunches and dinners in ballroom):
 - (a) Up to 200 people;
 - (b) 20 per year (no more than 3 per month);
 - (c) Occurs between 9:00 AM and 11:00 PM.
- (3) Unique Events (antique fair, Christmas fair, open garden, Concours d'Elegance):
 - (a) Up to 300 people at any time;
 - (b) 3 per year;
 - (c) Occurs between 9:00 AM and 6:00 PM.

The site has an at-grade pick-up and drop-off area with vehicular access via the existing driveways from Darling Point Road. Vehicular access to the site is also provided via a single lane driveway from Hampden Avenue providing access to a basement level car park. Further, additional parking is available on-site around the back of the Castle (close to the old stables area).

1.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed development does not qualify as a traffic generating development with relevant size and/or capacity under *Clause 2.121* of the *SEPP (Transport and Infrastructure) 2021*. Accordingly, formal referral to Transport for NSW (TfNSW) is unnecessary and the application can be assessed by Woollahra Council officers accordingly.

1.3 Site Description

The subject site, is currently zoned *R2 – Low Density Residential* under the Woollahra Council LEP 2014 and is currently occupied by Swifts. The site has frontages to Darling Point Road to the east, Thornton Street to the north and Hampden Avenue to the west.



The site is generally surrounded by residential properties as well as some high rise units. Further away from the site are other attractions such as McKell Park to the north and marina/sailing facilities to the south west.

In addition to the above, premises that hold events within near vicinity of the subject site include:

- Lindsay House – located approximately 250m northeast of the subject site;
- Ascham School – located approximately 800m south of the subject site;
- St Mark's Church – located approximately 600m south of the subject site.

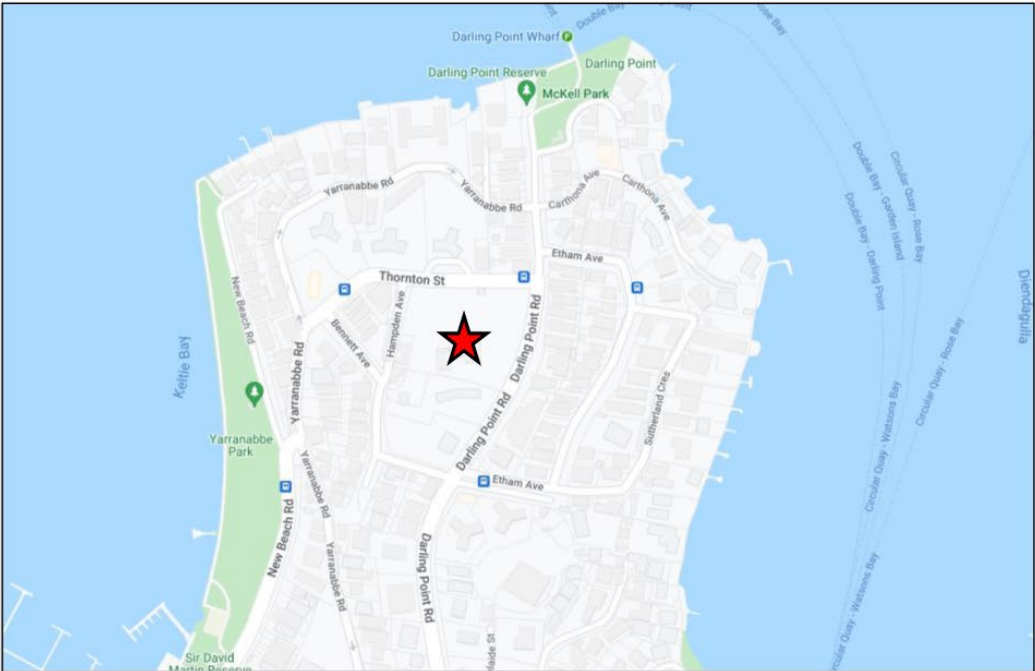
1.4 Site Context

The location of the site is shown on an aerial photo and a street map in **Figure 1** and **Figure 2** respectively.



Site Location

FIGURE 1: SITE CONTEXT – AERIAL PHOTO



 Site Location

FIGURE 2: SITE CONTEXT – STREET MAP



2 EXISTING TRAFFIC AND PARKING CONDITIONS

2.1 Road Hierarchy

The road network within close proximity of the site has the following characteristics as described in the following sub-sections.

2.1.1 Darling Point Road

- Unclassified COLLECTOR Road;
- Approximately 12m wide two-way carriageway facilitating one traffic lane in each direction and kerbside parking along both sides of the road;
- Signposted 50km/h speed limit;
- Unrestricted kerbside parking permitted along both sides of the road.

2.1.2 Thornton Street

- Unclassified LOCAL Road;
- Approximately 9m wide two-way carriageway facilitating one (1) traffic lane in each direction;
- No speed limit signposted, 50km/h applies;
- Unrestricted kerbside parking permitted along both sides of the road.

2.1.3 Hampden Avenue

- Unclassified LOCAL Road;
- Approximately 5m wide two-way carriageway facilitating one traffic flow direction at a time and kerbside parking on one side of the road;
- No speed limit signposted, 50km/h applies;
- “No Parking – Motor Vehicles Excepted” signage along the eastern side of the road and “No Parking” signage along the western side of the road.

2.2 Existing Traffic Management

- “Stop” controlled intersection of Thornton Street / Darling Point Road;
- “Give Way” controlled intersection of Goomerah Crescent / Darling Point Road / Mitchell Road;
- “Give Way” controlled intersection of Etham Avenue / Darling Point Road;
- Priority controlled intersection of Thornton Street / Hampden Avenue.



2.3 Public Transport

The subject site is adequately serviced by public transport and has access to the existing bus stop (ID: 202746) located along the northern side of Thornton Street at the site frontage. The bus stop services existing bus route 328 (Bondi Junction to Darling Point via Edgecliff) provided by Transdev John Holland Buses.

Edgecliff Train Station is located approximately 1.2km walking distance to the south of the subject site, servicing the T4 – South Coast Line. A train service is provided every 3 – 5 minutes in commuter peak periods and provides direct access between Edgecliff and Sydney CBD and Bondi Junction.

Darling Point Wharf is located approximately 350m walking distance to the north of the subject site, servicing the F7 – Double Bay Route. A ferry service is provided every 30 – 60 minutes on weekdays and every 60 minutes on weekends. The ferry service provides direct access to Circular Quay and Double Bay.

The location of the site subject to the surrounding public transport network is shown in **Figure 3**.

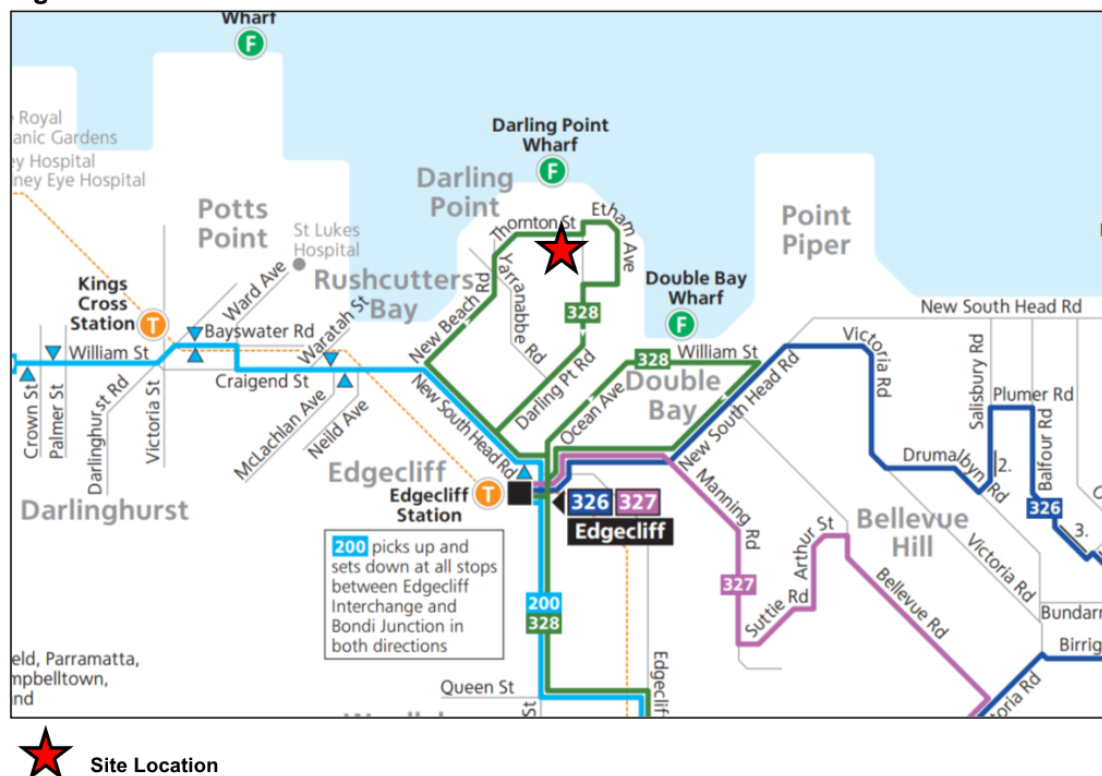


FIGURE 3: PUBLIC TRANSPORT NETWORK MAP

2.4 Future Road and Infrastructure Upgrades

From Woollahra Council Development Application tracker and website, it appears that there are no future planned road or public transport changes that will affect traffic conditions within the immediate vicinity of the subject site.



3 TEMPORARY ON-SITE CAR PARKING PROVISION AND INTERNAL TRAFFIC MANAGEMENT

On-street and on-site parking is limited and as such procedures shall be implemented to reduce the demand on private vehicles arriving to the site and requiring a car parking space.

The subject site is accessed via gated single and separated entry and exit driveway off Darling Point Road approximately 4m wide each. This circulation driveway can accommodate a significant number of drop-offs / pick-ups at one time being some 100m between the entry gate and Swifts heritage building. The internal roadway continues for a further 60m to the exit gate to the south.

Whilst the basement car park from Hampden Avenue is not required for all events, there is an opportunity for at least ten (10) vehicles for staff of events to utilise this basement car park.

3.1 On-site Temporary Car Parking Provision

The temporary on-site car parking provision is approximately 45 car parking spaces comprising of 35 for guests and 10 for staff only. The locations of the car parking space is as per the following and presented in **Annexure C** for reference:

- (1) Internal loop road – 23 car parking spaces;
- (2) Area south of the Castle – 12 stacked parking spaces;
- (3) Basement car park accessed from Hampden Avenue – 10 staff car parking spaces.

3.2 Internal Traffic Management

The following subsections outline the internal traffic management procedures and process that will occur for events.

3.2.1 Prior to the event

All events will be ticketed such that information packages can be provided to the guests prior to event. The information that shall be provided to the guests and management procedures prior to the event shall include the following:

- (1) No parking is provided on-site (unless otherwise organised) and limited on-street parking is available:
 - (a) It shall be recommended to take alternative transport to the site such as walk, train, bus, ferry, taxi and ride share. A map of the nearest public transport facilities and appropriate timetables for the event shall be provided to the guest;
 - (b) In some circumstances (on an as needed basis) a shuttle bus, such as a 7m long 22 seater mini-bus, will be provided between the subject site and key public transport locations;
 - (c) VIP guests and other nominated/authorised guests shall be allowed to park on-site (e.g. bridal party) however, this will be planned prior to the event day;



- (d) Authorised staff shall also be allowed to park on-site.
- (e) On-site car parking is available within the circulation roadway, to the back (south) of the castle (close to the old stables area) and within the basement car park off Hampden Avenue.
- (2) The location of the entry driveway and the general circulation path of vehicular travel through the site;
- (3) Tickets to the event including the requirement of showing the ticket upon entry;
- (4) If a guest requires an accessible car parking space for pick-up/drop-off the requirement shall be made known to the event manager;
- (5) Any servicing and loading requirement of trucks are to occur either prior to or after the event and be generally limited to small and medium sized vehicles;
- (6) Staff are to arrive prior to the start of the event.

3.2.2 During the event

Traffic will enter and leave the site in a ONE-WAY ANTICLOCKWISE fashion via the eastern driveways with the northern driveway facilitating entry and the southern driveway facilitating exit.

Traffic controllers will direct drivers through the site. We have nominated four (4) locations for traffic controllers, as presented in **Annexure B**. Attendance at all four (4) locations would not normally be required but will be reviewed for each event depending on the number and frequency of vehicles that are expected to enter the site. At a minimum, a traffic controller should attend the entry gate to inspect the tickets of guests upon arrival, and directional signs should be placed at the remaining three (3) locations, including a “*Watch for Pedestrians*” sign at the exit driveway. Guests are to have their tickets ready for inspection at the gate to promote efficient use of the driveway.

Once a driver has entered the site they will follow the circulation driveway until reaching the next traffic control at which point they will either drop-off/pick-up guests or park their vehicle as directed by the traffic controller (depending on the pre-approved arrangement).

Upon leaving, a driver will continue along the circulation driveway where another traffic controller will direct the driver down the southern side of the circulation driveway towards the exit.

The traffic controller at the exit will monitor for exiting vehicles and pedestrians walking across the site frontage.

If accessible parking is required by a guest this is to be made known to one of the traffic controllers in which they will direct the driver of the vehicle to the dedicate pick-up/drop-off point for people with disabilities.



4 TRAFFIC ASSESSMENT

The impact of the expected traffic generation levels associated with the subject proposal is discussed in the following sub-section.

4.1 Traffic Generation and Impact

The *RTA Guide to Traffic Generating Developments (2002)* and recent supplements do not outline traffic generation rates for special events and as such a first principles assessment has been undertaken incorporating the following assumptions:

(1) Unique events:

- a. Up to 300 people in attendance at any one-time;
- b. Attendees come and go throughout the duration of the event;
- c. Estimated / approximate travel modes:
 - i. 30% walking from their homes as they are expected to live locally and within easy walking distance for these types of events;
 - ii. 10% will use the local bus service (route 328);
 - iii. 10% will use Edgecliff Train Station;
 - iv. 10% will utilise the Ferry service at McKell Wharf;
 - v. 20% will be dropped-off / picked-up, including taxi, Uber and other ride share services (typically 2 to 3 passengers per car, the lower end of the range has been adopted, i.e. 2 passengers per car);
 - vi. 20% utilising private vehicles and parking on-site.
- d. Car occupancy of recreational events are typically 3 to 4 persons per car, the lower end of the range has been adopted, (i.e. 3 persons per car which equates to some **20 cars**);
- e. It is expected that the majority of attendees (some 80%) will arrive within the first 4 hours (i.e. up to 1pm) with a further 20% arriving after 1pm.

(2) Special / Normal events:

- a. Up to 250 people in attendance at any one-time;
- b. Attendees arrive at the beginning of the event and depart at the end of the event;
- c. Estimated / approximate travel modes:
 - i. 5% walking from their homes as they live locally;
 - ii. 10% will use the local bus service (route 328);
 - iii. 10% will use Edgecliff Train Station;
 - iv. 10% will utilise the Ferry service at McKell Wharf;



- v. 30% will be dropped-off / picked-up, including taxi, Uber and other ride share services (typically 2 to 3 passengers per car, the lower end of the range has been adopted, i.e. 2 passengers per car);
- vi. 35% utilising private vehicles and parking on-site.
- d. Car occupancy of recreational events are typically 3 to 4 persons per car, the lower end of the range has been adopted, (i.e. 3 persons per car equating to **29 cars**);
- e. Assumed that 90% of attendees arrive within the first hour of the event and 90% of attendees depart in the last hour of the event.

The resulting peak hourly traffic generation is summarised in **Table 1**.



TABLE 1: ESTIMATED TRAFFIC GENERATION

Event Type	Time	Type	Rate	Scale	Peak Hour Traffic Generation
Unique events	During event	Pick-up / drop-off (Including taxi and ride share)	20% of guests with 2 guests/car (assuming 80% of guests arrive within a 4-hour period)	300 guests	12 ⁽¹⁾ (6 in, 6 out)
		Private vehicle trips	20% of guests with 3 guests/car (assuming 80% of guests arrive within a 4-hour period)		4 ⁽²⁾ (4 in, 0 out)
Total	-	-	-	-	16 (10 in, 6 out)
Special / Normal events	Arrival Hour	Pick-up / drop-off (Including taxi and ride share)	30% of guests with 2 guests/car (assuming 90% of guests arrive within a 1-hour period)	250 guests	68 ⁽³⁾ (34 in, 34 out)
		Private vehicle trips	35% of guests with 3 guests/car (assuming 90% of guests arrive within a 1-hour period)		26 ⁽⁴⁾ (26 in, 0 out)
	Departure Hour	Pick-up / drop-off (Including taxi and ride share)	30% of guests with 2 guests/car (assuming 90% of guests arrive within a 1-hour period)	250 guests	68 ⁽³⁾ (34 in, 34 out)
		Private vehicle trips	35% of guests with 3 guests/car (assuming 90% of guests arrive within a 1-hour period)		26 ⁽⁴⁾ (0 in, 26 out)
Total	Arrival Hour	-	-	-	94 (60 in, 34 out)
	Departure Hour	-	-	-	94 (34 in, 60 out)

Notes:

- (1) $\{[(300 \times 0.8 / 4) \times 0.2] / 2\} \times 2$ – this calculation includes the pick-up/drop-off car arriving and departing i.e. 2 trips.
 (2) $\{[(300 \times 0.8 / 4) \times 0.2] / 3\}$
 (3) $\{[(250 \times 0.3) \times 0.9] / 2\} \times 2$ – this calculation includes the pick-up/drop-off car arriving and departing i.e. 2 trips.
 (4) $\{[(250 \times 0.35) \times 0.9] / 2\}$

As shown, the expected traffic generation associated with the proposed development is in the order of **16** vehicle trips during the Unique events peak period and **94** vehicle trips during the Special / Normal events peak period.



This level of traffic generation is moderate and can be accommodated by the surrounding road network with minimal impact. It should be noted that events will typically be held outside of peak commuter periods such that the road network surrounding the site will be operating a reduced load from network peak. In peak hourly terms the level of traffic generated is equivalent to 1 vehicle trip every 3.5-minutes during the Unique events and 1 vehicle trip every 35-seconds during the Special / Normal events.

This level of traffic will have no adverse effect on any nearby intersections and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency and road safety considerations.



5 **CAR PARKING ASSESSMENT**

Woollahra Council's DCP does not outline car parking rates for the proposed development. In view of the first principles assessment that has been undertaken in **Section 4.1** and the internal traffic management procedures described in **Section 3**, the forecast peak parking demand can be calculated as per the following:

(1) Unique events:

- a. 20 arriving guest vehicles over the day, of which 80% arrive in the first hours with an average duration of stay of 2 hours gives eight (8) cars that can be fully accommodated on-site.
- b. There is at least 10 car parking spaces for staff on-site within the basement car park accessed from Hampden Avenue.

(2) Special / Normal events:

- a. 29 arriving guest vehicles which stay for the duration of the event, i.e. 29 cars that can be fully accommodated on-site.
- b. There is at least 10 car parking spaces for staff on-site within the basement car park accessed from Hampden Avenue.

The site can provide on-site parking for approximately 45 cars on-site comprising of 35 for guests and 10 for staff. The 23 vehicles that can be parked on the site within the loop road can do so without obstructing the through traffic for pick-up and drop-off activities.

5.1 *Parking for People with Disabilities*

Woollahra Council does not outline car parking rates for people with disabilities applicable to proposed events. As such, reference is made to *Table D3.5* of the *Building Code of Australia* (BCA) as part of the *National Construction Code 2019* (NCC) which categorises a social gathering building as a Class 9b building and therefore requires the provision of car parking for people with disabilities at a rate of:

Class 9b 1 space for every 50 carparking spaces or part thereof.

Considering the nature of the proposal it is considered necessary to provide the facility of one (1) car parking space for people with disabilities. The existing and proposed car parking layout has adequate area to facilitate the pick-up and drop-off of people with disabilities. Considering each event will be ticketed a guests need for accessible parking shall be made known to the event organisers prior to the event such that appropriate concessions can be made if required.



5.2 Servicing & Loading

Woollahra Council DCP does not outline servicing and loading requirements for the proposed use of the site. The existing site is able to accommodate a 6.4m long Small Rigid Vehicle (SRV) within the internal circulation road with forward entry and exit capable within via the northernmost driveway along Darling Point Road. Swept path testing of an SRV entering and exiting the site in a forward direction have been undertaken with the results presented in **Annexure C**. It is expected that the site will be able to be adequately serviced by Small Rigid Vehicles and that loading will occur outside of event times.

5.3 Car Park Design & Compliance

No changes to the existing vehicle entry driveway or parking layout is proposed as part of the development. Therefore, no review of the parking layout, with regard to AS2890 has been undertaken or is necessary.



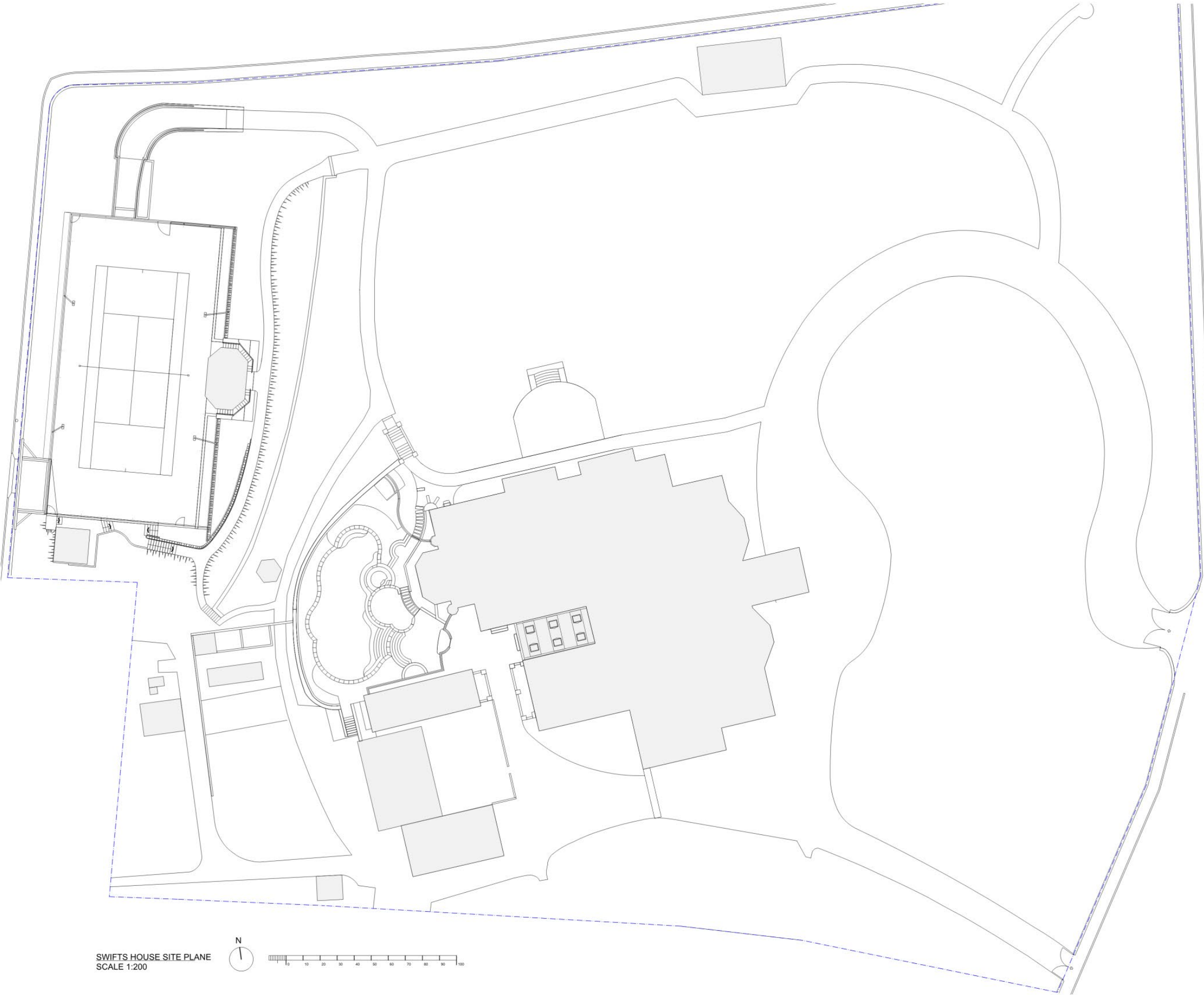
6 **CONCLUSION**

In view of the foregoing, the subject Events at Swifts proposal at 68 Darling Point Road, Darling Point (as depicted in **Annexure A**) is fully supportable in terms of its traffic and parking impacts. The following outcomes of this traffic impact assessment are relevant to note:

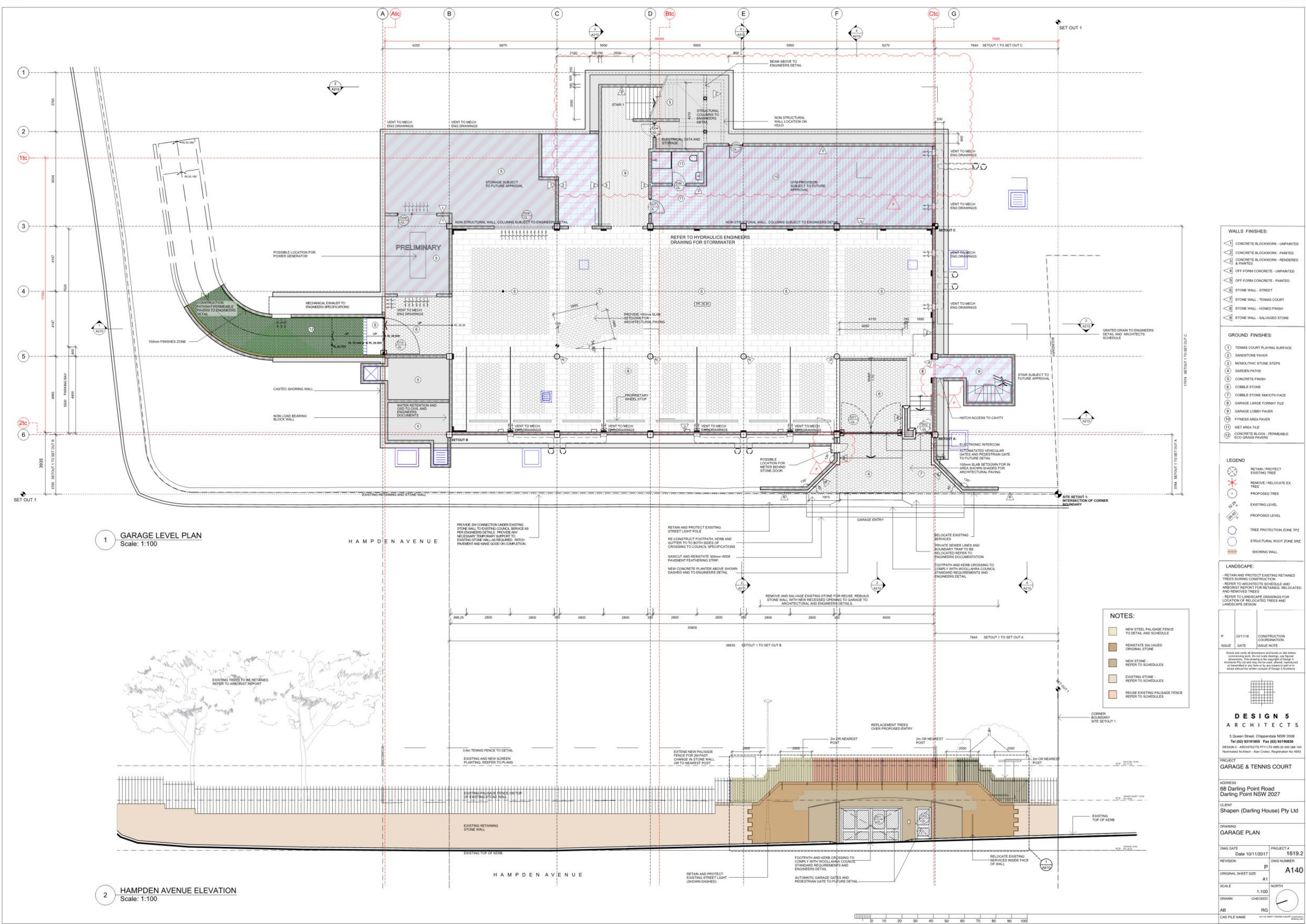
- (a) The temporary on-site car parking provision is approximately 45 car parking spaces comprising of the, located in the following areas:
 - (i) Internal loop road – 23 car parking spaces
 - (ii) Area south of the Castle – 12 stacked parking spaces
 - (iii) Basement car park off Hampden Avenue – 10 staff car parking spaces
- (b) The estimate generated peak car parking demand is expected to be on the order of **29** vehicles for the events.
- (c) Events will be organised under a traffic management plan to cater for the individual needs of each event. In general, the site will operate with a one-way anticlockwise circulation controlled under the guide of traffic controllers.
- (d) No changes to the existing vehicle entry driveway or parking layout is proposed as part of the development. Therefore, no review of the parking layout, with regard to AS2890 has been undertaken or is necessary.
- (e) The expected traffic generation associated with the proposed development is in the order of **16** vehicle trips during the Unique events peak period and **94** vehicle trips during the Special / Normal events peak period. This level of additional traffic is moderate and when considering the expected time of events to be outside of peak commuter periods the impact to the surrounding road network will be minimal. In peak hourly terms the level of traffic generated is equivalent to 1 vehicle trip every 3.5-minutes during the Unique events and 1 vehicle trip every 35-seconds during the Special / Normal events.



**ANNEXURE A: SITE PLAN
(2 SHEETS)**



SWIFTS HOUSE SITE PLANE
SCALE 1:200



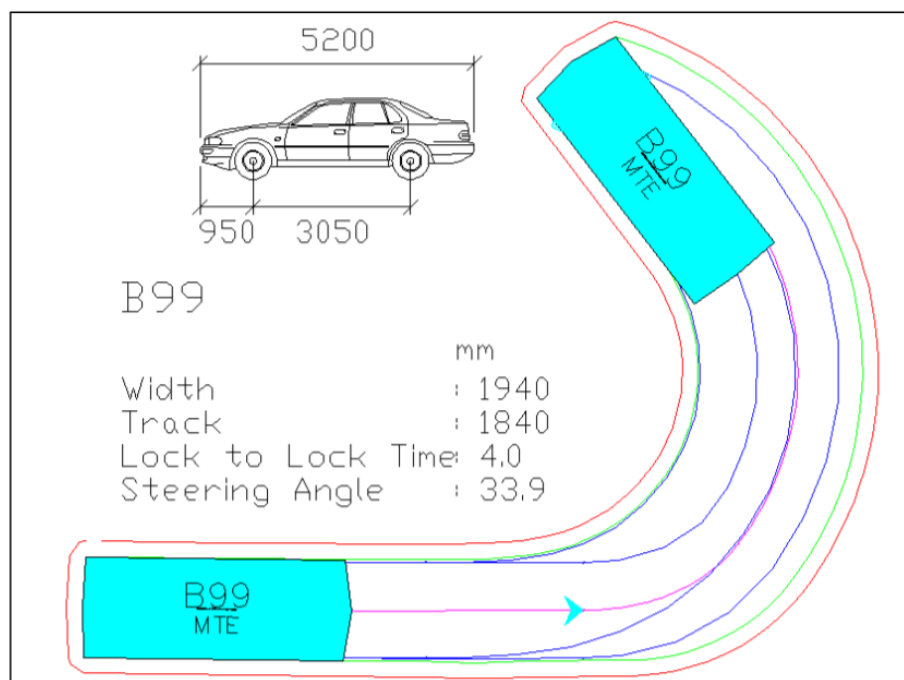


**ANNEXURE B: TRAFFIC MANAGEMENT PLAN
(1 SHEET)**



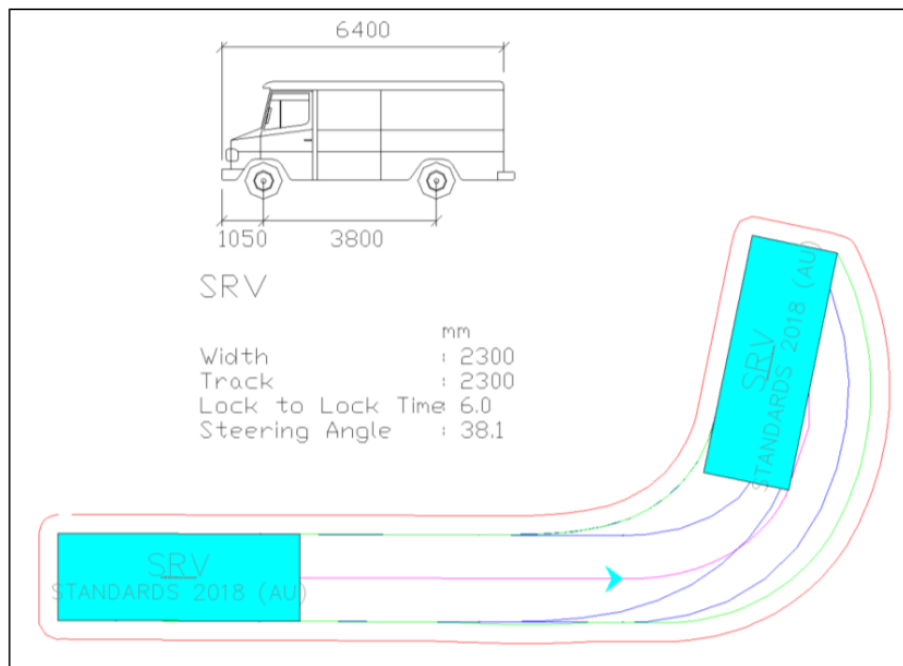


**ANNEXURE C: SWEPT PATH TESTING
(6 SHEETS)**



AUSTRALIAN STANDARD 99.8TH PERCENTILE SIZE VEHICLE (B99)

Blue – Tyre Path
Green – Vehicle Body
Red – 300mm Clearance



AUSTRALIAN STANDARD SMALL RIGID VEHICLE (SRV)

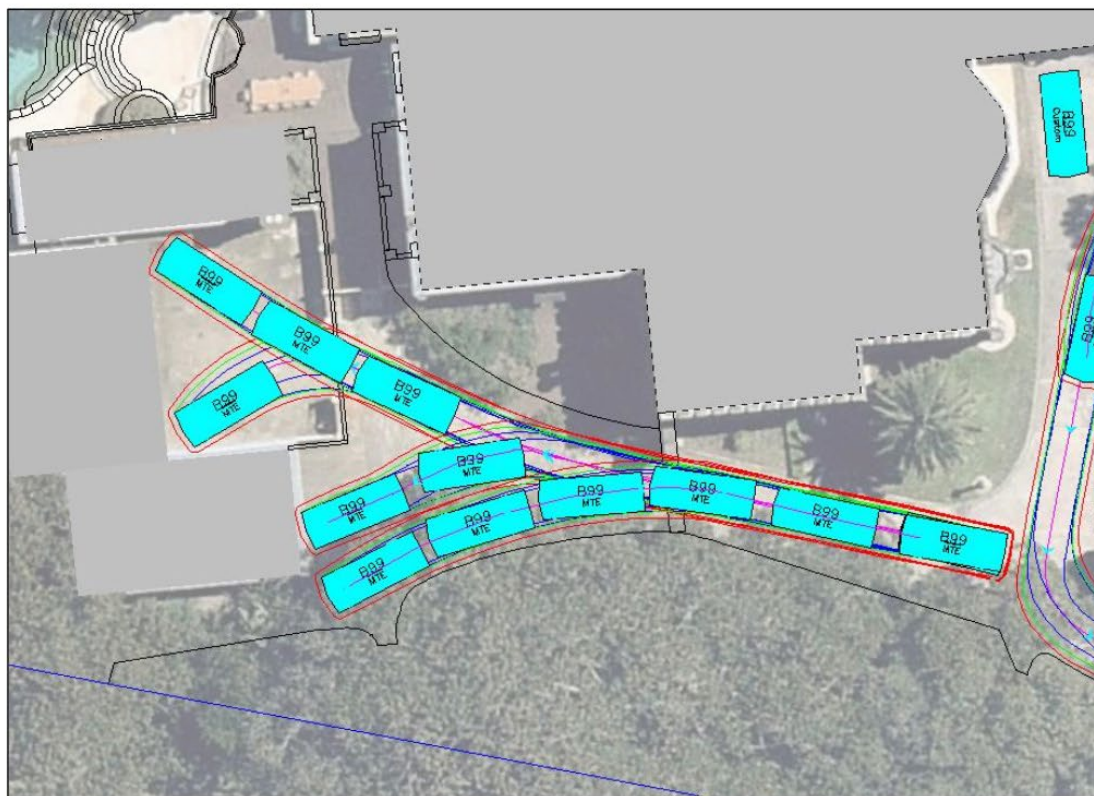
Blue – Tyre Path
Green – Vehicle Body
Red – 500mm Clearance



SRV ENTRY AND EXIT SITE
Successful

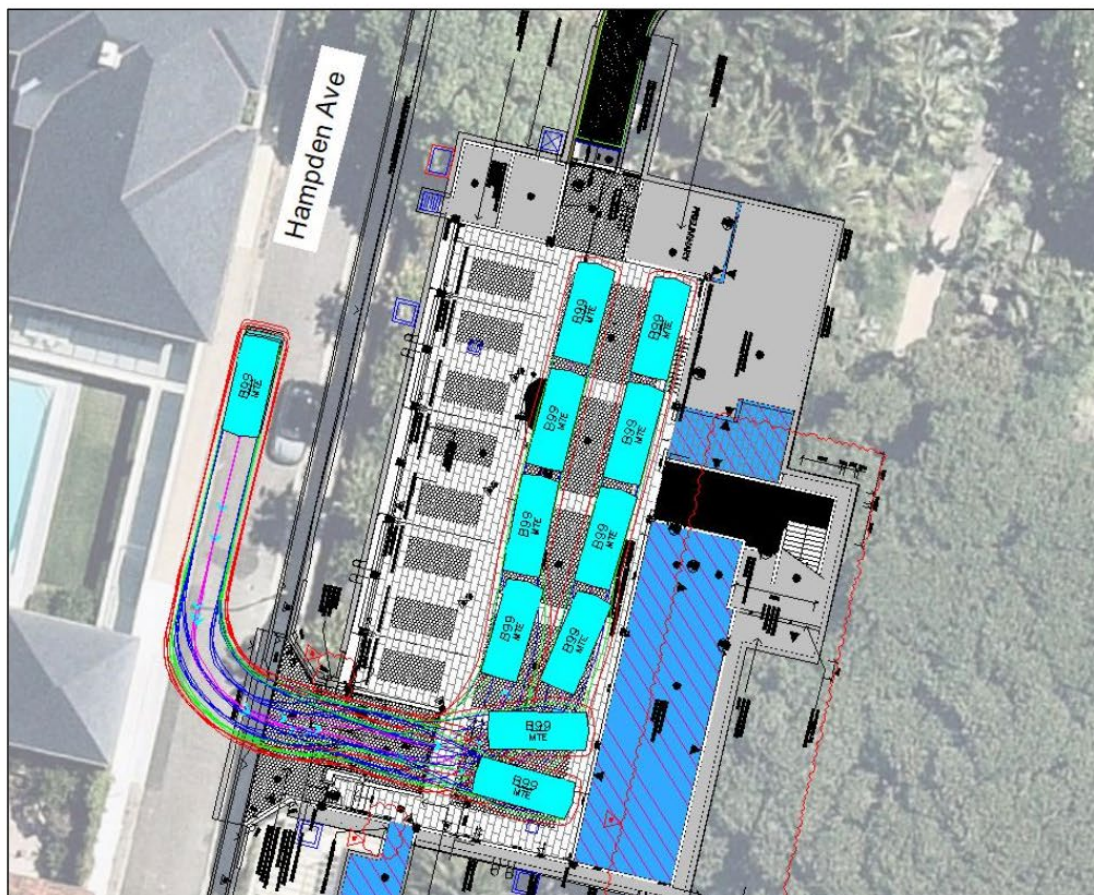


23 parked B99 vehicles while maintaining two-way passing within the loop road.



12 parked B99 vehicles in a tandem arrangement at the area south of the Castle.

Organised under traffic management as required.



10 parked B99 vehicles in a tandem arrangement within the basement car park for staff.

Organised under traffic management as required.

First Name	Address	Suburb/State/PCode
Michael Hanisch	Level 10/70 Pitt Street	SYDNEY NSW 2000
Aiden Aldred	3B/23 Thornton Street	DARLING POINT NSW 2027
Marita Alexander	B/5-11 Thornton Street	DARLING POINT NSW 2027
Gary Andreasen	27 Etham Avenue	DARLING POINT NSW 2027
Penny Andricopoulos	8B/13-15 Thornton Street	DARLING POINT NSW 2027
Iris Archibald	33/58-64 Darling Point Road	DARLING POINT NSW 2027
A & R Ariel	4B/5 Thornton Street	DARLING POINT NSW 2027
Anna Armstrong-Smith	13A 5-11 Thornton Street	DARLING POINT NSW 2027
Deborah & John Balderstone	145 Darling Point Road	DARLING POINT NSW 2027
David Barnett	5/60 Darling Point Road	DARLING POINT NSW 2027
Susan Bell	5-11 Thornton Street	DARLING POINT NSW 2027
Andrea Booth	36/60 Darling Point Road	DARLING POINT NSW 2027
Chris Borton	29 Etham Ave	DARLING POINT NSW 2027
Jessica Bowditch	127 Darling Point Road	DARLING POINT NSW 2027
Colleen Bray	5/67 Yarranabbe Road	DARLING POINT NSW 2027
Leone Brennan	Apartment 121 Winslow Gardens	DARLING POINT NSW 2027
David Bridger	66 Darling Point Road	DARLING POINT NSW 2027
Wal Broun	7/121 Darling Point Road	DARLING POINT NSW 2027
Iolanda Capodanno	8/38 Darling Point Road	DARLING POINT NSW 2027
Simon Carr	parkhamstreet@hotmail.com	
Kerryn & Douglas Carter	31 Etham Avenue	DARLING POINT NSW 2027
Andrew Cartwright	18/58-64 Darling Point Road	DARLING POINT NSW 2027
Doreen Cheong	105a Darling Point Road	DARLING POINT NSW 2027
Warrick Clark	201/109 Darling Point Road	DARLING POINT NSW 2027
Barbara Cohen	25/60 Darling Point Road	DARLING POINT NSW 2027
David Collier	Unit 401, 109 Darling Point Road	DARLING POINT NSW 2027
Lena & George Collins	15C/21 Thornton Street	DARLING POINT NSW 2027
Belinda Conibear	3/121 Darling Point Road	DARLING POINT NSW 2027
Alison Cooper	125 Darling Point Road	DARLING POINT NSW 2027
Sue Cooper	17 Etham Avenue	DARLING POINT NSW 2027
Elliot Cousins	302/109 Darling Point Rd	DARLING POINT NSW 2027
Virginia Lette Cowan	13/13 Thornton Street	DARLING POINT NSW 2027
Richard Cowan	84 Darling Point Road	DARLING POINT NSW 2027
Janet Cullen	11C/13 Thornton Street	DARLING POINT NSW 2027
Sarah Cunningham	3/105A Darling Point Road	DARLING POINT NSW 2027
Edward & Stella Curl	39 Etham Avenue	DARLING POINT NSW 2027
Catherine Curtis	129 Darling Point Road	DARLING POINT NSW 2027
Andrew Cusack	14B/13 Thornton Street	DARLING POINT NSW 2027
Bruce Davey	86 Darling Point Road	DARLING POINT NSW 2027
Karla De Bono	133-135 Darling Point Road	DARLING POINT NSW 2027
Jacqueline De Bono	133-135 Darling Point Road	DARLING POINT NSW 2027
Eric de Diesbach	135 Darling Point Road	DARLING POINT NSW 2027
Peter Degeling	Lot 45 15B/21 Thornton Street	DARLING POINT NSW 2027
Santha Dickson	3 Carthona Avenue	DARLING POINT NSW 2027
John Doumani	14 Hampden Avenue	DARLING POINT NSW 2027
Noel & Betty Drennan	9/121 Darling Point Road	DARLING POINT NSW 2027
Andrew Dyer	101/109 Darling Point Road	DARLING POINT NSW 2027
Lucienne Edelman	2B/13 Thornton Street	DARLING POINT NSW 2027
Ben Edwards	506/109 Darling Point Road	DARLING POINT NSW 2027
Diana Eilert	5/82 Darling Point Road	DARLING POINT NSW 2027
Virginia Everingham	81/66 Darling Point Road	DARLING POINT NSW 2027

Suzanne Farrow	66 Darling Point Road	DARLING POINT NSW 2027
Charlotte Feldman	PO Box 1131	EDGECLIFF NSW 2027
Chevaun Fenton	Thornton Street	DARLING POINT NSW 2027
Debra Ferguson	dferguson2170@yahoo.com	
Clare & Ron Ferster	1 Thornton Street	DARLING POINT NSW 2027
Anne & Simon Footit	25 Etham Avenue	DARLING POINT NSW 2027
Philip French	502/109 Darling Point Road	DARLING POINT NSW 2027
Elizabeth Garbacz	2A/5-11 Thornton Street	DARLING POINT NSW 2027
Mervyn & Jacqueline Garber	1/60 Darling Point Road	DARLING POINT NSW 2027
Susan Goodman	106/109 Darling Point Road	DARLING POINT NSW 2027
Ventry Gray	14A/5-11 Thornton Street	DARLING POINT NSW 2027
Gilda Gude	9A/21 Thornton Street	DARLING POINT NSW 2027
Stewart Gulliver	13B/5-11 Thornton Street	DARLING POINT NSW 2027
Justin Haik	2/15 Thornton Street	DARLING POINT NSW 2027
Jan Hamilton	107 Darling Point Road	DARLING POINT NSW 2027
Chris Hannan	139 Darling Point Road	DARLING POINT NSW 2027
Nicholas Harding	14 Thornton Street	DARLING POINT NSW 2027
Andrew Hardy	1 Etham Avenue	DARLING POINT NSW 2027
Robert Hart	15B/5-11 Thornton Street	DARLING POINT NSW 2027
Liz Haynes	207/109 Darling Point Road	DARLING POINT NSW 2027
Esther & Trevor Hayter	14 Royston Street	PADDINGTON NSW 2021
Janet Hemery	3a/23 Thornton Street	DARLING POINT NSW 2027
Amanda Henricks	13B/5-11 Thornton Street	DARLING POINT NSW 2027
Jack Herrald	3/2-4 Bennet Avenue	DARLING POINT NSW 2027
N & J Ho	9C/5-11 Thornton Street	DARLING POINT NSW 2027
S K Ho	8C/5-11 Thornton Street	DARLING POINT NSW 2027
Andrew Hollo	129 Darling Point Road	DARLING POINT NSW 2027
Tammy Irvine	4 & 4a Etham Avenue	DARLING POINT NSW 2027
Di Jagelman	205/109 Darling Point Road	DARLING POINT NSW 2027
Judith & Marcel Jarvin	10B/5-11 Thornton Street	DARLING POINT NSW 2027
Boz & Mark Jawien	5/113 Darling Point Road	DARLING POINT NSW 2027
Paul Jayne	Level 1, 47 Darby Street	NEWCASTLE NSW 2300
T W Jones	28/60 Darling Point Road	DARLING POINT NSW 2027
Carol Jones	28/60 Darling Point Road	DARLING POINT NSW 2027
Nicholas Jones	405/109 Darling Point Road	DARLING POINT NSW 2027
Robert Joske	3/16-18 Thornton Street	DARLING POINT NSW 2027
Ronald Kaiser	101/66 Darling Point Road	DARLING POINT NSW 2027
Albert Kavelar	albert.kavelar@gmx.at	DARLING POINT NSW 2027
Jim & Linda Jane Keepkie	29/58-64 Darling Point Road	DARLING POINT NSW 2027
Donna-Marie Kelly	307/109 Darling Point Road	DARLING POINT NSW 2027
Michelle Kirk	507/109 Darling Point Road	DARLING POINT NSW 2027
Lisa & Andrew Koch	2/2-4 Bennett Avenue	DARLING POINT NSW 2027
Juergen Krufczyk	8/83 Darling Point Road	DARLING POINT NSW 2027
Hilary Levine	2/105A Darling Point Road	DARLING POINT NSW 2027
David Lidbetter	david@animalorthopaedics.com.au	
Hugh Livingston	107/109 Darling Point Road	DARLING POINT NSW 2027
Bettina Lung	13/121 Darling Point Road	DARLING POINT NSW 2027
Lucinda Lyons	137 Darling Point Road	DARLING POINT NSW 2027
Diana Lysaght	155 Darling Point Road	DARLING POINT NSW 2027
Robin MacKay	robinmackay4@gmail.com	
Chizuko Makishima	4/113 Darling Point Road	DARLING POINT NSW 2027
Robyn & Colin Manoy	10A/5-11 Thornton Street	DARLING POINT NSW 2027
Scott Marina	14/60 Darling Point Road	DARLING POINT NSW 2027

John Markovic	80 Darling Point Road	DARLING POINT NSW 2027
Colette McCue	139 Darling Point Road	DARLING POINT NSW 2027
Vanessa Miers	87-89 Darling Point Road	DARLING POINT NSW 2027
Deepinder & Marc Miller	19 Etham Avenue	DARLING POINT NSW 2027
Marisa Mitchell	5C/21 Thornton Street	DARLING POINT NSW 2027
Elena Mitchell	5C/21 Thornton Street	DARLING POINT NSW 2027
Peter Mochrie	Lot 45, 15B/21 Thornton Street	DARLING POINT NSW 2027
Susie Moore	9C/13-15 Thornton Street	DARLING POINT NSW 2027
Denise & Bruce Morris	1/2-4 Bennett Avenue	DARLING POINT NSW 2027
Nina Murray	3 Etham Avenue	DARLING POINT NSW 2027
Scott Murray	137 Darling Point Road	DARLING POINT NSW 2027
Joel & Paul Nothman	12C/5-11 Thornton Street	DARLING POINT NSW 2027
Michael Nourse	13/66 Darling Point Road	DARLING POINT NSW 2027
Eli Olsen	Lot 1, Unit 1A, 21 Thornton Street	DARLING POINT NSW 2027
A H Opie	6 Bennett Avenue	DARLING POINT NSW 2027
Mary Owyong	11B/5 Thornton Street	DARLING POINT NSW 2027
Olivia Pascoe	2/129 Darling Point Road	DARLING POINT NSW 2027
James & Edwina Patterson	109 Darling Point Road	DARLING POINT NSW 2027
Neale Peppernell	84/66 Darling Point Road	DARLING POINT NSW 2027
Mary Perrett	32/105A Darling Point Road	DARLING POINT NSW 2027
Christopher Pokorny	7A, Longwood, 5-11 Thornton Street	DARLING POINT NSW 2027
Sophie Polednik	141 Darling Point Rd	DARLING POINT NSW 2027
Freda Potok	32/9 Goomerah Cres	DARLING POINT NSW 2027
Jan Pullen	21B/5 Thornton St	DARLING POINT NSW 2027
Christiane Purcal	8/121 Darling Point Road	DARLING POINT NSW 2027
Giorgia Pusztay	Level 48, 264 George Street	SYDNEY NSW 2000
Harold Quek	6/113 Darling Point Road	DARLING POINT NSW 2027
John Roger & Linden Rosemary Ramsey	4/129-131 Darling Point Road	DARLING POINT NSW 2027
Jim Rayner	35 Etham Avenue	DARLING POINT NSW 2027
Raj Reddy	36/60 Darling Point Road	DARLING POINT NSW 2027
Lucinda Regan		
Heinrich & Zita Ruiz de Roxas	34/60 Darling Point Road	DARLING POINT NSW 2027
Tatiana Seskin	402/109 Darling Point Road	DARLING POINT NSW 2027
Daniela Shannon	8A Etham Avenue aka 1/8 Carthona Avenue	DARLING POINT NSW 2027
Franklin Robert Sharpe	31/60 Darling Point Road	DARLING POINT NSW 2027
Ronald Shields	105/109 Darling Point Road	DARLING POINT NSW 2027
Lyn Shwaiko	104/109 Darling Point Road	DARLING POINT NSW 2027
Cody Shwaiko	104/109 Darling Point Road	DARLING POINT NSW 2027
Ralph & Marie Therese Sicouri	1B/5-11 Thornton Street	DARLING POINT NSW 2027
Christine Simon	Unit 2A, 21 Thornton Street	DARLING POINT NSW 2027
Geoff & Wendy Simpson	141/66 Darling Point Road	DARLING POINT NSW 2027
Luisa & Gavin Skene	1 Etham Avenue	DARLING POINT NSW 2027
Hubert Stadlmann	19/58-64 Darling Point Road	DARLING POINT NSW 2027
Ana Maria Stadlmann	19/58-64 Darling Point Road	DARLING POINT NSW 2027
Rod Stockell	92/66 Darling Point Road	DARLING POINT NSW 2027
Strata Plan 2766	13-15 Thornton Street	DARLING POINT NSW 2027
George Sved	12/60 Belgravia Gardens	DARLING POINT NSW 2027
Julia Taylor	206/109 Darling Point Road	DARLING POINT NSW 2027
Robyn Taylor	206/109 Darling Point Road	DARLING POINT NSW 2027
Richard & Jan Thomas	32/66 Darling Point Road	DARLING POINT NSW 2027
Argyro Tikellis	4/2-4 Bennett Avenue	DARLING POINT NSW 2027

Robyn Tucker	5/60 Darling Point Road	DARLING POINT NSW 2027
Dean White	141 Darling Point Road	DARLING POINT NSW 2027
Peter White	5 Holt Road #09-02	Singapore 249444
Jennifer White	7B/5-11 Thornton Street	DARLING POINT NSW 2027
Andrew Wilkinson	12/121 Darling Point Road	DARLING POINT NSW 2027
R L Williams	62/66 Darling Point Road	DARLING POINT NSW 2027
Ross Wilson	403/109 Darling Point Road	DARLING POINT NSW 2027
Jane Wily & Ruth Wily	30 Etham Avenue	DARLING POINT NSW 2027
Rita Winter	305/109 Darling Point Road	DARLING POINT NSW 2027
Jean Wright	1/9 Goomerah Cresecent	DARLING POINT NSW 2027
Bervinda Xebregas	4B/21 Thornton Street	DARLING POINT NSW 2027
Alana Yap	1A/5-11 Thornton Street	DARLING POINT NSW 2027
Lee Manfred	87-97 Yarranabbe Road	DARLING POINT NSW 2027
Graham Young	81/66 Darling Point Road	DARLING POINT NSW 2027
Maryanne & Stewart Young	1 Goomerah Crescent	DARLING POINT NSW 2027
Malcolm Young	10 Pine Hill Avenue	DOUBLE BAY NSW 2028
Maria-Teresa Zamora	404/109 Darling Point Road	DARLING POINT NSW 2027
Joshua Zucker	23/60 Darling Point Road	DARLING POINT NSW 2027
Rina Zucker	23/60 Darling Point Rd	DARLING POINT NSW 2027

23 February 2012

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Email
peter.rigg@nortonrose.com

Attention: Mrs Kerry Jones - Director

K J Property Investments (Australia) Pty Ltd
Level 13
189 Kent Street
SYDNEY NSW 2000

Your reference

Our reference
2778513

Dear Madam

**The Swifts - 68 Darling Point Road, Darling Point
Unauthorised use of premises in breach of Woollahra Local Environmental Plan 1995 and Section
76A of the Environmental Planning and Assessment Act 1979**

We act for Woollahra Municipal Council in the above matter.

We refer to the various statutory notices and requests issued by Council concerning the use of the subject premises for events and functions not permitted in the 2(a) zone under Woollahra Local Environmental Plan 1995.

We are instructed that such events and functions continue to be conducted on the premises and that unless restrained such events are likely to continue with resultant significant amenity impacts for a very large number of neighbouring residents.

Council considers that the evidence obtained by its officers and from the community in relation to the launch of Foxtel's new TV channel at The Swifts on Wednesday this week necessitates that injunction proceedings in Class 4 of the Land and Environment Court jurisdiction be taken to ensure that further significant illegal events are not undertaken without the necessary clause 32 LEP development consent. The nature of the illegal events constitute breaches of s.76A of the Act.

Accordingly, unless we receive an appropriate written undertaking prior to 28 February next that such events and functions will not be undertaken without firstly obtaining the necessary development consent we will commence on Council's behalf Class 4 proceedings in the Land and Environment Court for appropriate declarations and orders without further notice being given. Such action being consistent with the community expectations in this matter.

Yours faithfully

Peter Rigg
Partner
Norton Rose Australia

APAC-#13373267-v1

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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA278/2022/1
ADDRESS	68 Darling Point Road DARLING POINT
COUNCIL WARD	Double Bay
SITE AREA	13 556.75 m ²
ZONING	R2 Low Density Residential
PROPOSAL	Use part of a heritage item (Swifts) for occasional events
TYPE OF CONSENT	Integrated development
COST OF WORKS	\$0.00
DATE LODGED	06/07/2022
APPLICANT	Masolage Holdings Pty Ltd
OWNER	Masolage Holdings Pty Ltd
AUTHOR	Mrs L Holbert
TEAM LEADER	Mr G Fotis
SUBMISSIONS	174
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:

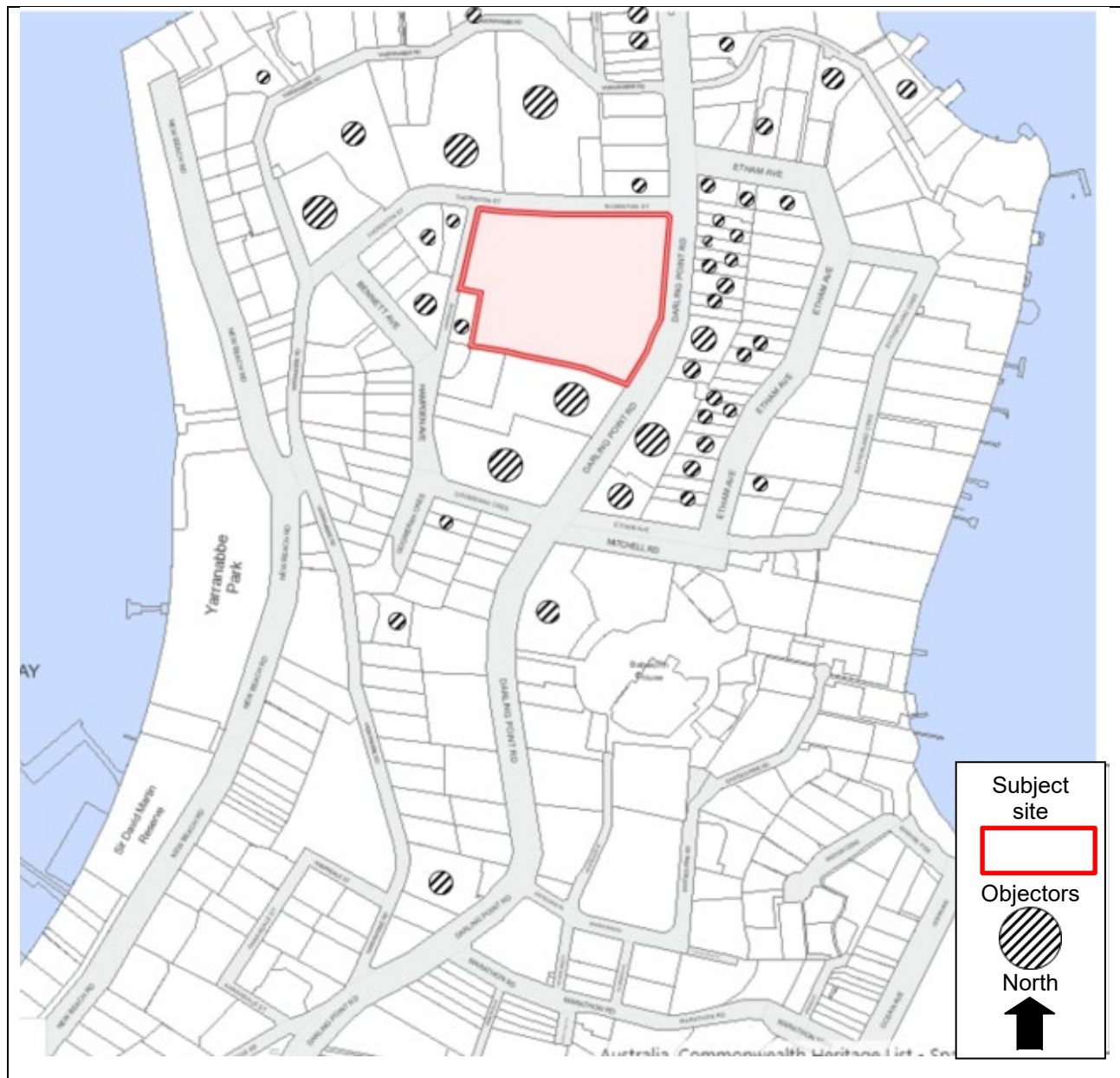
- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

2. REASONS FOR RECOMMENDATION

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

- The proposed event use of the subject site is not permissible with the R2 Low Density Residential Zone
- The proposed 'event' use of the heritage listed site does not satisfy Part 5.10(10) of WLEP 2014 in its entirety, thus the proposed 'event' use of the site is prohibited.
- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified
- The site is not suitable for the proposed development
- The proposal is not in the public interest

3. LOCALITY PLAN



4. PROPOSAL

This proposed development is seeking consent to use part of the subject site including the lawns, terrace, ballroom, dining room and other parts of the site and building for up to 41 events days per year including and not limited to:

- Weddings
- Birthdays
- Charity events
- Balls
- Corporate functions
- Product lunches
- Shows
- Displays.

These proposed events involve the following:

- **Normal Events:** for up to 200 people, 20 events per year, between 9am-11pm (primarily indoors, 1 day, no more than 3 per month);
- **Special Events:** for up to 250 people, 12 events per year, between 9am-10pm (primarily outdoors, 1 day, no more than 3 per month);
- **Unique Events:** for up to 300 people, 3 events per year, between 9am-6pm (indoor and outdoor events, over multiple days, max 3 days).

Note: The total number events/functions is 35 separate events, with a total of 41 event days (There is are up to 3 x 3 day events).

The following set-up and pack-up arrangements for these events are as follows:

- Set up – After 7am on the day of the event, or the day before. No set-up works to occur after 11pm;
- Pack-up – Before 11pm the day of the event, or after 7am the day after the event.

The proposal does not involve any building works or for the erection of any permanent structures. No fixings to the existing structures or grounds have been proposed.

A total of 45 parking spaces have been made available within the site for proposed events.

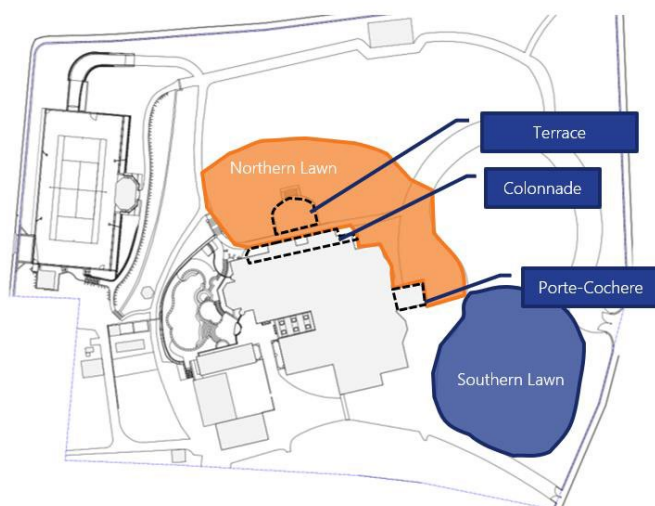


Figure 1: Outdoor event locations.

5. ISSUES

5.1 Primary Issues

Issue	Conclusion	Section
Noise	The submitted Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events. Therefore a proper assessment of the potential acoustic privacy impacts on surrounding residential properties could not be undertaken. This is discussed further below in Section 13.1 of this report.	13.1
Parking	The applicant has not provided adequate/accurate traffic and parking information to allow for a proper assessment of the parking and traffic impacts. The following information was considered to be unsatisfactory: <ul style="list-style-type: none">- Inadequate details of the pick-up/drop-off area- Insufficient traffic management plan	13.2

Issue	Conclusion	Section
	<ul style="list-style-type: none"> - Insufficient details in relation to loading/unloading - Insufficient details in relation to staff parking - The submitted travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the proposed events - No assessment of the cumulative parking/traffic impacts was provided. <p>This issue is further discussed below in Section 13.2 of this report.</p>	
Lighting/light spill	No details were provided in relation to the type, location and intensity of the event lighting. Therefore the potential light spill impacts were not able to be adequately assessed. This issue is further discussed below in Section 16 of this report.	16
Fire Safety	The applicant has not provided sufficient information in relation to fire safety, as the proposed event use of the site requires fire safety upgrade works to be carried out. To ensure these fire safety upgrade works do not adversely affect the heritage significance of the site, details of these works would need to be provided and assessed, prior to any consent of this nature being granted.	15.1
Social Impact	The applicant has not adequately demonstrated that the proposal would have an acceptable social impact, as no Social Impact Report was provided, contrary to Control C7(b) of Chapter F3 of the WDCP, 2015.	13.4
Intense Commercial Use within a Residential Zone (R2)	The use of the subject site for events is not permissible within the R2 Low Density Residential Zone. Even though, Part 5.10(10) of the WLEP, 2014 allows development on heritage listed sites for any purpose, subject to satisfying Part 5.10(10)(a) to (e) of the WLEP, 2014. The applicant has not adequately demonstrated that the proposal would satisfy Part 5.10(10) in its entirety. The proposal is therefore not permissible and has not been supported. This is further discussed below in Sections 12.2 and 12.4 of this report.	12.2, 12.4
The temporary use of the site would contrary to Cl.5.10(10) of the WLEP, 2014 (permissibility)	It is noted that the applicant has not adequately demonstrated that the proposed use of the site for events would satisfy Cl.5.10(10) of the WLEP, 2014. Therefore the proposal is not permissible and has not been supported. This is further discussed below in Section 12.4 of this report.	12.4
Lack of accurate, sufficient and adequate information	The applicant has not provided Council with sufficient, accurate and adequate information to allow for a proper assessment of the proposal. The proposal has therefore not been supported. This is further discussed below in Section 21 of this report.	21
Waste/Rubbish	The applicant has not provided sufficient information in relation to the storage, separation/recycling, collection and the management of waste, including patron littering beyond the site. The proposal has therefore not been supported.	13.3
On-going unauthorised events at the site	The subject site has a long history of hosting unauthorised events at the site, even after the owners of site provided a written undertaking in 2012 to Council that no events/functions would be undertaken without firstly obtaining consent, refer to Attachment 13 . Council has also received a significant number of complaints from surrounding residents, relating to events that have been undertaken at the site. Given this compliance history, there is significant concern whether restrictions/conditions that may be imposed, should consent be granted would be complied with. It noted that the proposed development has not been supported.	7

Issue	Conclusion	Section
Cumulative Impact of filming operations and functions at other venues	A significant amount of filming is carried out at the subject site, which can involve large amounts of on-street parking being occupied for extended periods of time. The submitted documentation has not taken account of the cumulative impact of these filming operations have on the amenity of surrounding properties. In addition the submitted documentation fails to make any assessment of the cumulative parking impacts that could be created by concurrent events at nearby venues, such as Lindsay House and McKell Park.	13.4, 21
Deliveries/Set-up/Pack-up	The applicant has not provided sufficient information in relation to the frequency, size, and delivery location and delivery times. The set-up and pack-up times provided in the POM are considered to be too broad and will potentially impact the residential amenity of the locality. The proposed development has therefore not been supported.	13.2, 16
Cooking Odours/Smoke	The applicant has not provided any information in relation to the location of the food preparation/cooking area in the submitted documentation. The location of the food preparation area that was indicated by owner of the property during the site visit, appears to conflict with the car parking arrangements. Further there is no information, in relation to the managing/mitigation of cooking odours/smoke. The proposed development has not therefore not been supported.	16
Site Sign/Notification	It would appear that no site sign was erected for the subject development application and no Statutory Declaration from the applicant stating the site sign was erected for the entire notification period was subsequently provided. This is contrary to Schedule 1 of the Woollahra Community Participation Plan, 2019. The proposal has therefore not been supported.	9.2

5.2 Summary of Submissions

Issue	Conclusion	Section
Noise	The Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue, under worst-case scenario conditions and their impact upon sensitive residential receivers for future events. Therefore a proper assessment of the potential acoustic privacy impacts on surrounding residential properties could not be undertaken.	13.1
Parking/Traffic	<p>The applicant has not provided adequate/accurate traffic and parking information to allow for a proper assessment of the parking and traffic impacts. The following information was considered to be unsatisfactory:</p> <ul style="list-style-type: none"> - Inadequate details of the pick-up/drop-off area - Insufficient traffic management plan - Insufficient details in relation to loading/unloading - Insufficient details in relation to staff parking - The submitted travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the proposed events - No assessment of the cumulative parking/traffic impacts was provided. <p>This issue is further discussed below in Section 13.2 of this report.</p>	13.2
Intense Commercial Use within a Residential Zone (R2)	The use of the subject site for events is not permissible within the R2 Low Density Residential Zone. Even though, Part 5.10(10) of the WLEP, 2014 allows development on heritage listed sites for any purpose, subject to satisfying Part 5.10(10)(a) to (e) of the WLEP, 2014. The applicant has not adequately demonstrated that the proposal would satisfy Part 5.10(10) in its entirety. The proposal is therefore not permissible and has not been supported. This is further discussed below in Sections 12.2 and 12.4 of this report.	12.2, 12.4

Issue	Conclusion	Section
The temporary use of the site would contrary to Part 5.10(10) of the WLEP, 2014 (permissibility)	It is noted that the applicant has not adequately demonstrated that the proposed use of the site for events would satisfy Cl.5.10(10) of the WLEP, 2014. Therefore the proposal is not permissible and has not been supported. This is further discussed below in Section 12.4 of this report.	12.4
Security	The submitted Plan of Management has stated that a security team is to be engaged for each event. The security team will be on-site for the duration of the event and is to manage access and crowd control during the event. Notwithstanding this, the proposal has not been supported.	13.4
Lack of accurate, sufficient and adequate information	The applicant has not provided Council with sufficient, accurate and adequate information to allow for a proper assessment of the proposal. The proposal has therefore not been supported. This is further discussed below in Section 21 of this report.	21
Waste/Rubbish	The applicant has not provided sufficient information in relation to the storage, separation/recycling, collection and management of waste, including patron littering beyond the site. The proposal has therefore not been supported.	13.3
Anti-social behaviour	The applicant has not submitted a Social Impact Report, thus the impact of anti-social behaviour on surrounding residential properties could not be adequately assessed. The application has therefore not been supported.	13.4
On-going unauthorised events at the site	The subject site has a long history of hosting unauthorised events at the site, even after the owners of site provided a written undertaking in 2012 to Council that no events/functions would be undertaken without firstly obtaining consent, refer to Attachment 13 . Council has also received a significant number of complaints from surrounding residents, relating to events that have been undertaken at the site. Given this compliance history, there is significant concern whether restrictions/conditions that may be imposed, should consent be granted would be complied with. It noted that the proposed development has not been supported.	7
Cumulative Impact of filming operations and functions at other venues	A significant amount of filming is carried out at the subject site, which can involve large amounts of on-street parking being occupied for extended periods of time. The submitted documentation has not taken account of the cumulative impact of these filming operations have on the amenity of surrounding properties. In addition the submitted documentation fails to make any assessment of the cumulative parking impacts that could be created by concurrent events at nearby venues, such as Lindsay House and McKell Park.	13.4, 21
Lighting/light spill	No details were provided in relation to the type, location and intensity of event lighting. Therefore the potential light spill impacts were not able to be adequately assessed. The proposed development is therefore considered to be unacceptable in this regard. This issue is further discussed below in Section 16 of this report.	16
Deliveries/Set-up/Pack-up	The applicant has not provided sufficient information in relation to the frequency, size, and delivery location and delivery times. The set-up and pack-up times provided in the POM are considered to be too broad and potentially impact the residential amenity of the locality. The proposed development has not therefore not been supported.	13.2, 16
Heritage	NSW Heritage and Council's Heritage Officer have supported the application, subject to conditions should consent be granted.	12.4
Cooking Odours/Smoke	The applicant has not provided any information in relation to the location of the food preparation/cooking area in the submitted documentation. The location of the food preparation area that was indicated by owner of the property during the site visit, appears to conflict with the car parking arrangements. Further there is no information in relation to the managing/mitigation of cooking odours/smoke. The proposed development has not therefore not been supported.	16
Loss of property value	Loss of property value is not a relevant head of consideration, pursuant to Cl.4.15 of the EP & A Act, 1979.	5.2

Issue	Conclusion	Section
Pedestrian/Traffic Safety	As the applicant has not provided sufficient/accurate traffic assessment, the pedestrian and vehicular safety impacts are not able to be adequately assessed. The proposed development has therefore not been supported.	13.2
Site Sign/Notification	It would appear that no site sign was erected for the subject development application and no Statutory Declaration from the applicant, stating the site sign was erected for the entire notification period was subsequently provided. This is contrary to Schedule 1 of the Woollahra Community Participation Plan, 2019. The proposal has therefore not been supported.	9.2
Two concurrent DAs applying for the same development	Although multiple consents on the same parcel of land creates the risks of inconsistencies between consents, there is no legal constraint on the number of development applications that a person can make in respect of the same land. In addition there can be more than one valid consent applying to a property at any one time. Notwithstanding this, the proposal has not been supported.	5.2

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is located on the corner of Darling Point Road and Thornton Street, Darling Point. The site is bounded by Hampden Ave to the rear, has an irregular shape and a total area of 13,556.75m ² . The Darling Point Road frontage includes the main entrance to the property via the existing sandstone gates. These gates allow vehicular access via a looped driveway that leads up to a porte-cochere. The Hampden Avenue frontage provides access to the underground carpark, which lies under the existing tennis court.
Topography
The land slopes from the rear (west) to the front (east) towards Darling Point Road.
Existing buildings and structures
The subject site contains a two storey sandstone Victoria Gothic Revival mansion with a three storey tower, set within landscaped grounds. The site is known as 'Swifts' and is the largest most intact (apart from Government House) late Victorian house in Sydney. The subject building, outbuildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gateposts, gates, sculptures, two (2) Moreton Bay Figs, Lemon-scented Gum, Bunya Pine, Norfolk Island Pine are state significant heritage items.
The site contains extensive lawns along the Darling Point frontage. The northern lawn is accessed via the colonnade and terrace area. To the south of the main dwelling is a collection of outbuildings, which include a double garage and stable building. To the rear of the dwelling (western side) is a inground swimming pool, kitchen garden, tennis court, tennis court pavilion and underground garage accommodating 8 car parking spaces.
Surrounding Environment
The subject site is surrounded a mixture of residential development including residential towers to the north and south and single residential dwellings to the east and west.

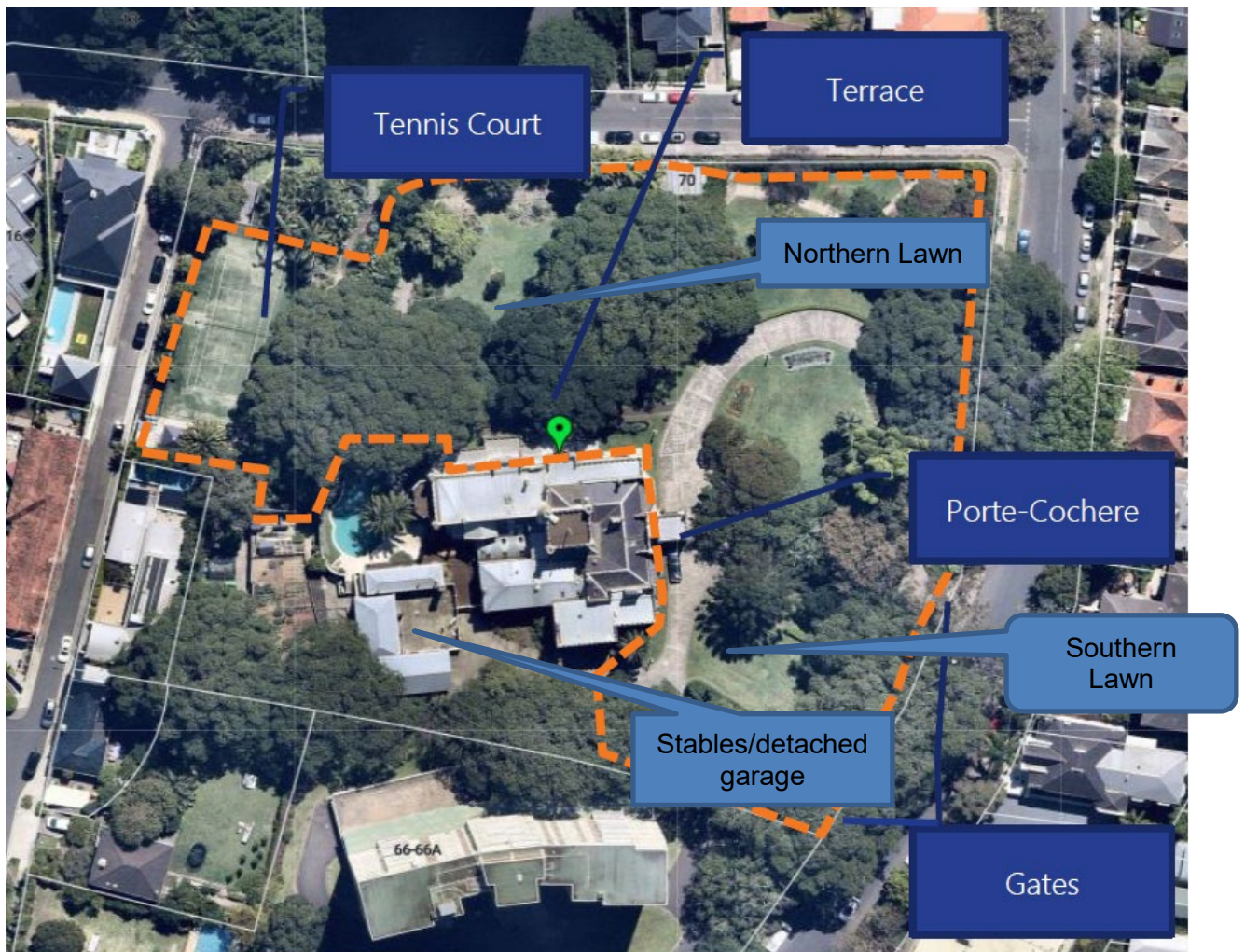


Figure 2: Aerial photo of the subject site.



Photo 1: Eastern and northern elevation of Swifts, as viewed from the internal driveway



Photo 2: Existing Porte- Cochere to the eastern elevation



Photo 3: Southern Lawn



Photo 4: Terrace



Photo 5: Northern lawn



Photo 6: Ballroom



Photo 7: Dining room



Photo 8: Vehicular entry gates off Darling Point Road



Photo 9: Tennis court to the rear of the site



Photo 10: Underground carpark



Photo 11: Vehicular access to the underground car park off Hampden Ave



Photo 12: Residential flat building to the north of the site at No.5-11 Thornton Street.

7. RELEVANT PROPERTY HISTORY

Current use
Residential.
Relevant Application History
<ul style="list-style-type: none"> • DA277/2022- Temporary use for events (Clause 2.8 of Woollahra LEP 2014) - maximum of 52 days – Pending. • DA21/2022 - Public event with displays of cars in the grounds of Swift's from the 3rd March to 5th March 2022- Withdrawn. • DA 545/2015/1- Construction of a new swimming pool and associated landscaping and alterations to the rear of the property to enclose the existing courtyard for a new family room on the ground floor, - Approved - 04/05/2016. • DA38/2012 - Swifts Soirees Concert Series: Six Sunday afternoon fine music concerts 4pm - 6pm, approved on 23/04/2012. • DA433/2011- Open house and garden at Swift's on Friday 18 to Sunday 20 November 2011 – Approved - 14/11/2011.

Relevant Compliance History
<ul style="list-style-type: none"> Order- Repair of sandstone retaining wall – 26/10/2009; Order – Repair of sandstone retaining wall- 13/09/2013; On 23/02/2012 Council lawyers issued a letter to the owners of Swifts requesting an undertaking that events and functions will not be undertaken without firstly obtaining the relevant consents otherwise Council will commence Class 4 proceedings in the L & EC for appropriate declarations and orders, refer to Attachment 13. The owners of Swifts provided the required undertaking on the basis of Council allow two non-commercial events on 12/03/2012 and 15/03/2012. Council agreed for these events to take place subject to specific restrictions; On 18/11/2022 Council's Compliance Department issued a show cause letter to the owners of the property in relation to the failure to obtain consent for use of the property as a function centre; On 22/11/2022 the owner of the property provided representations in response to this letter; On 23/11/2022 Council's Compliance Department sent the owners of the property an email in relation to that the maximum exempt use of the property for filming has been reached; The owner of the property provided a response this email on 29/11/2022.
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> A Stop the Clock letter requesting the payment of the integrated development referral fee was requested on 19/07/2022 and was provided on 26/07/2022; Additional information in relation to the relevant liquor licence was requested and received on 04/08/2022; Additional information was requested by NSW Heritage on 20/09/2022. This information was received on 20/09/2022; Additional information heritage information was requested on 11/10/2022 and was provided on 20/10/2022; Additional information in relation to waste management and bathroom facilities was requested on 28/11/2022 and provided on 29/11/2022.
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Traffic	<p>Unsatisfactory, insufficient traffic and parking information has been submitted including:</p> <ul style="list-style-type: none"> - Inadequate details of the pick-up/drop-off area - Insufficient traffic management plan - Insufficient details in relation to loading and unloading - Insufficient details in relation to staff parking - The travel mode split fails to take consideration of site constraints, availability of public transport services and the nature of the events. 	1
Heritage	Satisfactory, subject to conditions.	2
Environmental Health	<p>Unsatisfactory.</p> <p><i>The submitted Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.</i></p> <p><i>Any new or revised Acoustic Assessment Report for the Subject Venue shall clearly identify if it can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area. All noise mitigation strategies shall be included.</i></p> <p><i>No reference has been made in the supporting documentation specific to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food.</i></p>	3

Referral	Summary of Referral Response	Attachment
Fire Safety	Satisfactory, subject to conditions.	4
NSW Heritage	Satisfactory, subject to conditions.	5
NSW Police	Satisfactory, subject to conditions	6
Compliance	A recent compliance history was provided.	7

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 27/07/2022 to 26/08/2022 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. 174 Submissions, refer to **Attachment 12** for the submission list.

The submissions raised the following issues:

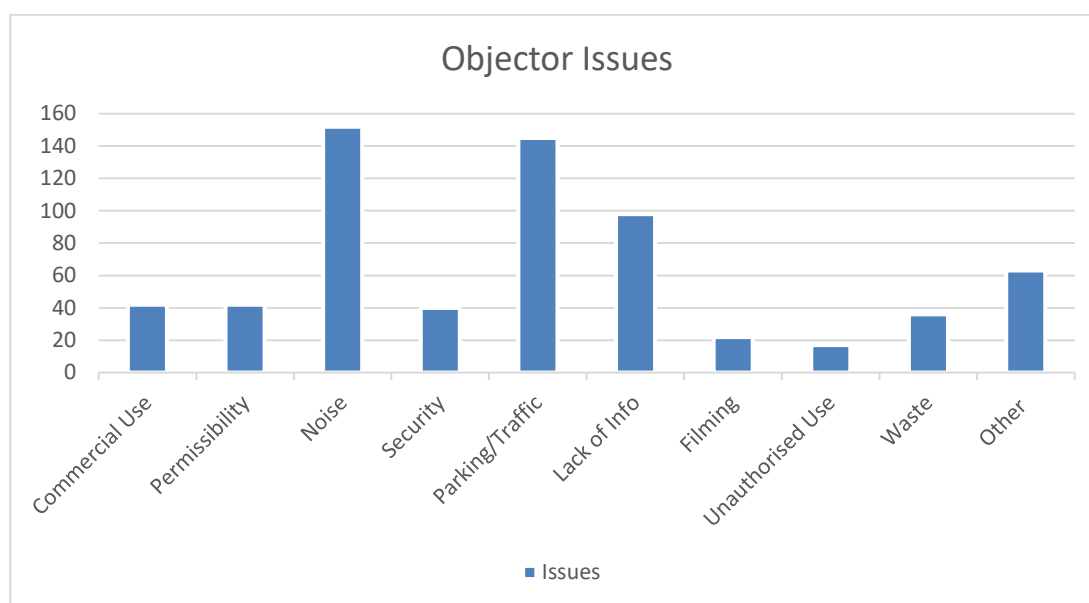


Figure 3: Graph of Objector Issues

Note: 'Other' issue include: Anti-social behaviour, property values, heritage, lighting, set-up/pack-up, invalid DA, odours, pedestrian/traffic safety and site sign.

Responses to these issues are discussed above in Section 5.2 of this report.

9.2 Statutory Declaration

The applicant has not provided a statutory declaration to demonstrate that the site sign was erected at the site for the entire notification period, in accordance with Schedule 1 of the Woollahra Community Participation Plan, 2019. The proposed development has therefore not been supported.

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

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 State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.* On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

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.

11. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The proposed development is obscured from the waterway and the foreshores by existing development and landscaping. The subject site is not a land/water interface development, notwithstanding, Division 2 of Part 6.28 of the Biodiversity and Conservation SEPP prescribed matters for consideration for interrelationship of waterway and foreshore uses as well as maintenance, protection and enhancement of views.

The proposal does not result in any detrimental impact on the wetlands or cause pollution or siltation of the waterway. It does not detrimentally impact on existing vegetation or drainage patterns and does not obstruct vistas of the waterway from the public domain.

The proposal therefore satisfies the relevant criteria prescribed by the SEPP.

It is considered that the proposal, will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the planning instrument.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12.1 Part 1.2: Aims of Plan

The proposal is inconsistent with the following aims in Part 1.2(2) of the Woollahra LEP 2014:

- Part 1, Clause 1.2(2)(g) - The proposal does not protect the amenity and the natural environment
- Part 1, Clause 1.2(2)(k) - The proposal does not adequately minimise and manage traffic and parking impacts.

The application is therefore considered unacceptable in this regard and has not been supported.

12.2 Land Use Table

The proposed 'event' use of the subject site, is not permissible within the R2 Low Density Residential Zone. However, as the subject site is heritage listed, Part 5.10(10) (conservation incentives) of the WLEP, 2014 allows for any use to be carried out on the site. Notwithstanding this, it has not been demonstrated that the proposal complies with Part 5.10(10) in its entirety, thus the proposed 'event' use of the site is prohibited. This is further discussed below in Section 12.4 of this report.

12.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m. The height limit control is not relevant to this application, as there are no physical works proposed.

12.4 Part 5.10: Heritage Conservation

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

The subject site is not located within heritage conservation area, however contains the following heritage item:

- "Swifts"—building and interiors, outbuildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gateposts, gates, sculptures, 2 Moreton Bay Figs, Lemon-scented Gum, Bunya Pine, Norfolk Island Pine.

The statement of significance as contained in the online NSW State Heritage Inventory listing for the Swifts is as follows:

Swifts is of State significance as, apart from Government House in Sydney, it is the largest remaining Victorian Gothic Revival house in Australia. Swifts remains on its original grounds and still consists of the original landscape, statuary, terrace wall, stairs and paths. It is a prime example of how the upper class people lived in the 19th century in Australia. "Swifts" is also of cultural significance as it was home of two well-known Sydney business families, the Lucas-Tooth and Resch families. "Swifts" connection with the Roman Catholic Church is also of social significance as it was home to three cardinals; Gilroy, Freeman and Clancy. The building is also significant because it is an example of the work of Gustavus Alphose Morell, a prominent Sydney architect in the late 19th century (Lucas, 1994, 128).

The western section of the garden of "Swifts" formed an integral part of the original design of the grounds. The special relationship of the grounds to the mansion is a significant factor in determining the status of the grounds as an item of environmental heritage. The building together with its site is an item of environmental heritage (excerpt from 'Findings' of Commissioner of Inquiry, 1983, p.55).

Physical Description:

Garden:

Swifts is located at 68 Darling Point Road Darling Point. It was originally set in four acres of landscaped gardens.

The garden is divided into three precincts - the eastern, northern and western (Evans, 1983, 12-14). Some of the original garden design is still evident such as the carriage drive which sweeps north, west and south up to the porte cochere, and return / service drive to the property's south-eastern corner (Stuart Read, pers.comm., visit 19/11/2011). Original garden bed design is still evident through the placement of terracotta edging tiles (Evans, 1983, 12-14).

*The Eastern garden is introduced from the enclosed terrace, which leads out to the carriage drive and flower beds. The northern perspective of the house is framed by huge Moreton Bay figs (*Ficus macrophylla*) and camphor laurels (*Cinnamomum camphora*), while the northern garden is scattered with Illawarra plum / brown pine (*Podocarpus elatus*), a bull bay / evergreen magnolia (*M. grandiflora*) from the United States and a bay laurel (*Laurus nobilis*) tree from the Mediterranean. The gardens are scattered with statues to add interest. The north eastern corner is dominated by shrubs. The western garden originally would have been for kitchen use (ibid, 1983, 12-14).*

A rough line of Moreton Bay figs along the eastern Darling Point Road side form a screen from later subdivisions and housing. More Moreton Bay figs line the southern boundary, again masking later subdivisions (and current high rise flats).

*A range of choice trees in the eastern border include Queensland lacebark (*Brachychiton discolor*) (there are a number of these on the western boundary of Swifts and another specimen on the north-east Darling Point Road edge), Illawarra flame tree (*B. acerifolius*), a very rare Burj / shingle oak from the Himalayas (*Quercus leucotrichophora*) (possibly one of only a handful in Australia) and an equally rare palo blanco tree (*Picconia excelsa*), an endangered rainforest tree from the Canary Islands, related to the olive. Its habitat is restricted to the 'cloud forest' or rainforest of the upper Canary Islands and Azores. This species is endangered in the wild due to land-clearing (Stuart Read, pers.comm., 10/10/2012; updated 7/11/2016). It is rarely found here - with only 14 known in NSW (e.g. two specimens in the Royal Botanic Gardens, Sydney, four at Camden Park and a few others, including two at Yasmar, Haberfield and single specimens at Denham Court, Ingleburn and at Cooma Cottage, Yass) and only 33 known around Australia (e.g. Botanic Gardens in Sydney, Melbourne and Geelong; Marybank in the Adelaide Hills) (Stuart Read,*

pers.comm., 6/2006, updated 10/10/2012; and 2/10/2020). Also in the eastern border is an evergreen oak (Quercus ilex) (Stuart Read, pers.comm., visit, 19/11/2011).

The Northern garden includes a huge Moreton Bay fig (Ficus macrophylla) north-west of the house near its terrace, shading that corner. Below and north of it are a range of smaller trees and shrubs arrayed on grassed lawns sloping down from the mansion to Thornton Avenue. Two young Queensland kauri (Agathis robusta) have been planted near an electricity substation facing Thornton Avenue and are now some 8m tall (Stuart Read, pers.comm., 5/2017).

The Western garden is broadly the service area part of the house, outbuildings and garden, with remnant terracing, grassed today where elements such as orchard and kitchen garden would have been originally (ibid, pers.comm., 5/2017).

Mansion (1875-1882):

The new Swifts, described as Castellated Gothic in style, with 42 rooms (Pike, 2020 says 56 rooms), resembled Government House, but had a larger ballroom, deliberately so (Kehagias, 2016 quoting Dr Shane Moran). It is a two storey sandstone Victorian Gothic Revival mansion with three storey tower, castellated parapets. Swifts resembles Government House, but had a larger ballroom before it was converted into a chapel-of-ease by the Catholic church. The majority of the house is made from either sandstone or rendered brick (Lucas, 1993, p 106). The eastern facing front entrance is marked by a porte cochere that is flanked by projecting bays. The verandah on the north is crenulated and flagged with sandstone. The windows have carved valances and external timber shutters, an unusual form of climate control for the period.

Swifts is comprised of 42 rooms arranged in a U-shape and including drawing room, morning room, smoking room, dinning room, study, billiard room, ball room, numerous bedrooms, fitted dressing room, service room, kitchen, scullery, pantry, butlers rooms, silver safe, store, wine cellar and servants quarters. Service buildings include dairy, laundry, four stall stable, double carriage house and a tack room (Lucas, 1994, p 118).

Officially there are 52 rooms - Dr (Shane) Moran said it was hard to know how many bedrooms the property had, because the rooms could be used for any purposes (Kehagias, 2016).

Smoking Room, the remains of an old opium den, which traces back to when opium was legal (ibid, 2016).

The original staff quarters were broken up into small rooms. 'We kept the 1870s layout, which split the house into a male and female side. The male side features lots of wood and there's a billiard room. The female side is brighter' (Dr Shane Moran, in ibid, 2016).

The proposed development is not considered to detract from the character, appearance and setting of this heritage item, for the following reasons:

- No physical works have been proposed;
- NSW Heritage has supported the proposal, subject to conditions should consent be granted;
- Council's Heritage Officer has supported the proposal, subject to conditions should consent be granted;
- The submitted POM has stated that no permanent structures or furniture is permitted; Marquees, tables, chairs and decorations are permitted only where they do not require any modification to the existing building fabric or landscape;
- The Event Manager will be responsible for returning the site back to its original state at the conclusion of the event.

The subject site is located within close proximity to heritage items at Nos.54, 56, 133-135, 137, 139, 141 and 143 Darling Point Road and 13-15 Thornton Street. Council's Heritage Officer has stated that the proposal would not adversely affect the significance of any of these heritage items, located within the vicinity of the site.

Part 5.10(10) allows development for any purpose on heritage listed properties, subject to satisfying Part 5.10(10)(a) to (e). It has been proposed for the existing building and grounds to be utilised for events/functions, which would be otherwise prohibited, within the R2 Low Density Residential Zone.

- (a) *The conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent*

The following justification has been provided from the application in relation to Part 5.10(10)(a):

Since 1997, conservation works have been undertaken by the owner of Swifts. Maintenance works are ongoing. It is intended that profits from the temporary events programme at Swifts would assist in paying for the ongoing maintenance schedule and in future conservation works planned for the buildings and grounds at Swifts. The granting of consent of a programme of temporary events at Swifts would assist in the future conservation of the place. Maintaining and conserving a state heritage significant asset of this grandeur is an ongoing expense. To ensure the place is retained in a manner commensurate with its significance and ensure it is available for the public to appreciate, substantial ongoing funds are required for annual repair, cyclical maintenance and security costs.

Comment: The submitted documentation has not explicitly set out what conservation works will be carried out. Therefore it has not been sufficiently demonstrated, how the conservation of the heritage item is facilitated by the granting of consent. The proposed development is therefore unacceptable in this regard and has not been supported.

- (b) *The proposed development is in accordance with a heritage management document that has been approved by the consent authority*

The following justification has been provided from the application in relation to Part 5.10(10)(b):

There are no specific policies in the CMP that address a programme of temporary events within the buildings and gardens of Swifts. The CMP was prepared in 1995 prior to the purchase by the current owners. In 2020, the Heritage Council of NSW granted Standard Exemptions to Swifts. This allows, with conditions, that certain works are allowed without approval. This would require the identification of the site's tolerance for change and providing heritage guidelines to minimise adverse heritage impacts. This may be done retrospectively to the approval of the DA. This proposal limits the number of events per year to minimise adverse heritage impacts on the building and grounds. The owners plan, manage and monitor events to ensure heritage significance is not materially impacted. Protective measures, limiting numbers at events, acoustic requirements, etc will be required to ensure Swift's heritage significance is conserved during events or other activities. The owner might also consider having Free Open Days to provide public appreciation and enjoyment of historic gardens at Swifts.

Comment: The CMP that has been prepared for the site, was undertaken in 1995 and does not relate to the proposed event use. This document should be updated or a new CMP should be prepared to incorporate the use of the site for events, in order to comply with Part 5.10(10)(b). The proposed development is considered to be unacceptable in this regard and has not been supported.

- (c) *The consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out*

The following justification has been provided from the application in relation to Part 5.10(10)(b):

“Swifts, Darling Point Road, Darling Point Sydney—Conservation Analysis & Conservation Guidelines” [CMP], was prepared by Clive Lucas, Stapleton & Partners, in September 1995. Since the preparation of this heritage management document, several phases of conservation works have been undertaken by the owner of Swifts and future works are planned: - Around 1998, conservation works were undertaken—including significant stonework and roofing repairs, electrical and plumbing and reinstatement of original finishes. This initial phase cost over \$22m.

- *Further conservation works were undertaken to the gardens (including over 12,000 plantings), the conservatory, pool, tennis court and garages. These works cost approximately \$20m.*
- *Ongoing annual maintenance of Swifts has occurred between 1997 and the present and according to the current owner and custodian amount to between \$750,000 and \$1,000,000 annually. These works involve the ongoing conservation, repairs and maintenance of various components of Swifts, relating directly to both the main building ancillary buildings and also the grounds and gardens including the following main categories of works/costs:*
 - a) *Roofing and guttering including:*
 - *Repairs to Copper Roofing and Vents;*
 - *Mech cowl tops and lead flashing maintenance and repairs;*
 - *Copper valleys, flutes, vents, roof sheeting, wall lining to stairwells;*
 - *Replacing lead chimney flashings;*
 - *Maintaining and repairing original skylights and flashings;*
 - *Replacing corrugated roof sheeting;*
 - *Various lead flashing repairs and replacement;*
 - *Waterproofing generally;*
 - *Replacing slate roofing and repairs.*
 - b) *Repairs and maintenance of sandstone and general stonework - including external retaining walls along the perimeter, castellated and surface walls, paths and stairways, stone foundations, etc.*
 - c) *General repairs and upgrading of plumbing and electrical works throughout the property;*
 - d) *Fire and smoke detection maintenance and ongoing upgrade to current standards;*
 - e) *Conservation, maintenance and repair of all painted and decorative surfaces, joinery, plaster work, lead light windows, walls and ceilings including both interior and exterior works;*
 - f) *Maintenance and conservation of garden heritage features, ornaments, gazebos and original statuary and garden urns;*
 - g) *Maintenance of gardens generally including heritage trees, shrubs, driveways and pathways, tennis court, heritage incinerator, irrigation and original garden plumbing systems;*
 - h) *Ongoing general repairs, maintenance and sourcing of heritage and other original fixtures and fittings including doors, windows, locks, fireplaces, light fittings, joinery, plasterwork, etc.*
 - i) *Higher insurance premiums for fire, damage and security risks due to heritage nature of the house and grounds;*
 - j) *Ongoing termite, bat, possum and other pest control and prevention measures (both internally and throughout the grounds);*

- k) *Managing and maintaining foundations including subsidence, structural issues and rising damp problems;*
- l) *Ongoing repairs and maintenance of gates and perimeter fencing.*
- *Future conservation works include—reinstate the driveways, conservation works to the electrical subway, the stables, tower, roof repairs (following recent storms) and ongoing garden works including several tree replacements. The costs are estimated at \$7.5m over the next five years.*

Comment: The heritage documentation does refer to some works that may be carried out at the site, however this works are listed in general and potential terms. Therefore Council could not be reasonably satisfied that this conservation works would be carried out. The proposal is inconsistent with the Part 5.10(10)(c) and is therefore unacceptable in this regard.

- (d) *The proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance*

The applicant has demonstrated that the proposed development would be consistent with Part 5.10(10)(d). The following justification has been provided:

The proposed temporary events at Swifts are proposed to be undertaken in a fashion that will minimise impacts. The temporary events are undertaken to ensure the organisers restore the site to the condition it was in prior to the event. The temporary nature of structures is designed to have no adverse heritage impact. All temporary displays and structures are in accordance with CMP conservation guidelines, including Section 8.3.19 Mobile and Temporary Structures for Compatible Uses and 8.3.20 Outdoor Furniture, Rubbish Bins, Signs and Other Facilities. They are also in accordance with Standard Exemptions 12, 15, 16 and 17.

Comment: It is noted that Council's Heritage Officer and NSW Heritage have both stated that the proposal would not adversely affect the heritage significance of the property, subject to conditions should consent be granted. The proposed development is therefore considered acceptable in this regard.

- (e) *The proposed development would not have any significant adverse effect on the amenity of the surrounding area*

The applicant has provided the following comment in relation to Part 5.10(10)(e). The following justification has been provided:

The temporary events at Swifts are carefully managed to minimise negative impacts on the neighbourhood by reducing noise, traffic and lighting before, during and after the event. An event Management Plan will be submitted Council for approval of each of event to ensure traffic, noise and heritage issues are considered holistically to minimise impact on the amenity of the local community.

Comment: Swifts has a long history of hosting large scale events at the property. It is noted that there is no development consent that allows for events/functions to be held, other than for specific events, as stated above in Section 7. Council has received a significant amount of complaints from surrounding residents over a long period time in relation to these events. Some of these events have had significant impacts on the amenity of surrounding properties, particularly with regard to noise, traffic, parking and light spill. It is noted that events at Swifts have been ongoing even though, on 23/02/2012. Council lawyers issued letters to the owners of Swifts requesting a written undertaking that events and functions will not be undertaken without firstly obtaining consent, to which the owners of Swifts subsequently agreed too, refer to **Attachment 13**.

Whilst, the applicant has provided a Traffic Report, Acoustic Report and Plan of Management (POM), the submitted documentation was considered to be inadequate, inaccurate and insufficient. These documents have not allowed for a proper assessment of the proposal or for Council to be satisfied that the proposal does not have '*any significant adverse effects on the amenity of the surrounding area*'. Therefore as Part 5.10(10) cannot be satisfied, the proposed use of the property for events would be prohibited, given the use of the site for 'events' is not permissible within the R2 Low Density Residential Zone.

The proposed development is unacceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

12.5 Part 6.1: Acid Sulfate Soils

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

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

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter B3: General Development Controls

Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

No change to the streetscape presentation or the local character has been proposed.

Part B3.5.3: Public and Private Views

No views from the public or private domain will be obstructed by the proposal.

Part B3.5.4: Acoustic and Visual Privacy

Visual Privacy:

No changes to any fenestration or to the location or level of any private open space at the site has been proposed. Further to this, the proposed outdoor event locations are considered to be sufficiently separated and screened by substantial existing vegetation to maintain the visual privacy of surrounding residential properties.

Acoustic Privacy:

The applicant has submitted an Acoustic Report. The applicants Acoustic Consultant visited the site during a wedding and reception that was occurring on the southern lawn, on 05/02/2022. The driveway/entrance to the residence and the grassed areas further to the north of the southern lawn was used for this wedding. A marquee was set up at the southern extremity of the southern lawn in which the ceremony was undertaken and accompanied by an amplified string quartet and amplification of the service.

A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period.

The Acoustic Report has concluded (indoor events):

“The substantial sandstone construction of the building and the location of the formal entertaining areas being at the northern end of the property would result in negligible acoustic impact on surrounding residential properties and would not cause any measurable increase above the ambient background level if internal music levels were limited to not exceeding 95 dB(A) as a spatial average across the internal spaces.

Any functions occurring inside the residence at night (after 10pm) require supervision to ensure all doors and windows to function areas are closed when entertainment is provided. The Plan of Management requires the appropriate staff to assist attendees leave in a quiet and orderly manner after 10pm”.

With regard to outdoor wedding on 05/02/2022, the following conclusion was provided:

“For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A).

At the time of the inspection the marquee located on the southern side of the southern lawns was open on all sides. Events using this marquee location require:

- *The southern wall of the southern and eastern walls of the marquee to be fully closed by the same heavy plastic/vinyl material as used for the large marquee.*
- *Music provided for the ceremony can be unamplified string quartets etc located on the southern side under the marquee.*
- *A sound system for amplification of the celebrant is to have speakers located under the marquee (minimum of 2m from the western end of marquee).*
- *To provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards to north.*
- *The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.*

Following the ceremony, music was provided by amplified instruments located adjacent the main building situated in line with the northern end of the marquee approximately 24 metres from the southern boundary. The small band was oriented in a northerly direction. The provision of a temporary solid timber wall to provide additional acoustic shielding and limiting the band or DJ to a level not exceeding 75 dB(A) (behind the band) is required. No external amplified entertainment would be permitted after 6pm.

With regard to Unique Events the comment was made in the submitted Acoustic Report:

For daytime events involving exhibitions, car displays etc. the general events are not envisaged to create a noise impact provided any amplification for announcements etc are similarly restricted in level. The restriction in levels are dependent upon the sound systems provided and can only be assessed in situ at the site boundaries for an average maximum level of 46 dB(A). This will require management to purchase a sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary”.

Council's Environmental Health has provided the following comments in relation to the submitted Acoustic Assessment:

The submitted Acoustic Report does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.

Any new or revised Acoustic Assessment Report for the subject venue shall clearly identify if it can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area. All noise mitigation strategies shall be included.

Noise Environment

The Acoustic Report only provides a 'one-off' attended noise assessment of the ambient noise environment, which was conducted on Sunday, 13 February 2022 in the middle of the afternoon and later in the evening period – no time or duration of the noise is recorded in the Acoustic Report. Further, no long-term monitoring of the ambient noise environment was conducted; noise monitoring should have been conducted during representative timeframes in order to account for the noise sources in question.

Having regard to the inadequacy of the acoustic consultant's background noise monitoring, upon which many noise criteria are established, Environmental Health does not consider that background noise levels have been sufficiently established at the most affected residential receivers.

To quantify the existing ambient noise levels in the area, unattended long-term noise monitoring is required for the Day (7AM-6PM), Evening (6PM-10PM) and Night (10PM-7AM) periods. The noise logger is to be conservatively sited in a location(s) to represent the ambient noise levels of the nearby sensitive receptors in accordance with NSW Noise Policy for Industry (NPfI) and the procedures described in Australian Standard AS 1055:2018, "Acoustics - Description and Measurement of Environmental Noise".

The unattended long-term noise monitoring shall be accompanied with a survey of attended noise monitoring for the Day, Evening and Night periods to further quantify the existing noise environment.

Noise Criteria

The acoustic report is somewhat ambiguous with respect to the measurement methodology employed when establishing the existing noise levels and comparison to an appropriate Noise Criteria. The only reference to a Noise Criteria applied to the subject venue within the Acoustic Report (Acoustic Group 14 June 2022) is, "For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A)". Environmental Health assumes that the Acoustic Report (Acoustic Group 14 June 2022) is referencing the NSW Environmental Protection Authority (EPA) Noise Policy for Industry (NPI) which states the following:

'The intrusiveness of an industrial noise source may generally be considered acceptable if the level of noise from the source (represented by the LAeq descriptor), measured over a 15 minute period, does not exceed the background noise level by more than 5 dB when beyond a minimum threshold. This intrusiveness noise level seeks to limit the degree of change a new noise source introduces to an existing environment.'

Environmental Health refers to the types of events, as stated in The Statement of Environmental Effects (July 2022) and Plan of Management (July 2022), that have traditionally been held at "Swifts" including Weddings, Birthdays, Charity Events, Balls, Corporate functions which undoubtedly will require the premises for such functions to be licensed for the service of alcohol. When assessing noise emissions from licensed premises, Environmental Health and industry standard regards the most appropriate Noise Criteria to be applied is that imposed by the NSW Department of Industry - Liquor & Gaming (L&GNSW) which relate to noise generated by patrons and by music. The noise criteria states:

- *The L10 noise level emitted from the premises shall not exceed 5dB above the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
- *L10 noise level emitted from the premises shall not exceed the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
- *After midnight, noise emissions from the Premises are to be inaudible within any habitable rooms in nearby residential properties.*

Noise Assessment not based on Worst Case Scenario Conditions:

The Acoustic Report (Acoustic Group 14 June 2022) states, "A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period".

Environmental Health has several issues with the above statement. First of all it is the only measured noise level which is used in the Acoustic Report in determining the Project Specific Noise Trigger Levels. No time or duration of the assessment is recorded in the Acoustic Report.

Secondly, the isolated scenario (wedding function) does not represent all 'typical functions'. There are many different functions that would each generate varying levels of noise. In the example used (wedding function), the Acoustic Report does not stipulate attending patron numbers; as a worst-case scenario the assessment should be based on the premise that the wedding function was held at maximum patron capacity.

*In determining the maximum allowable noise levels, the Acoustic Report could have used noise modelling software to predict noise emission levels for all function scenarios, and representing each function scenario in **worst-case scenario conditions**. Environmental Health would have expected the Acoustic Report to reference as a minimum, but not be limited to:*

- *Determining compliance with Project Specific Noise Trigger Levels when compared to measured ambient noise levels (unattended and attended).*
- *Justify assumptions of predicted sound power levels from identified sources of noise, especially patron and music noise, noting that the consumption of alcohol has the potential to increase the level of crowd noise as people lose their inhibitions and become more boisterous.*
- *Predict **cumulative** noise emissions from patron noise, music (amplified or otherwise), mechanical plant services and carpark operations and their impact upon sensitive residential receptors.*
- *Detail each function scenario and acoustic characteristics of the venue setting (internal, external or both) and assume maximum allowable patronage capacity. The larger the group, the larger the vocal effort to communicate.*
- *Detail the typical entertainment permitted for each type of function scenario and set-up locations.*
- *Traffic noise impact assessment at the site that accommodates parking for 45 vehicles on the site.*
- *Waste collection and delivery services (activity scheduling).*
- *Detail of all noise mitigation strategies.*

Sensitive Residential Receptors

The Acoustic Report (Acoustic Group 14 June 2022) states, "Observations of Darling Point Road during the wedding function indicated a reasonable degree of traffic passing the subject site and that the critical residential receivers with respect to functions occurring on the southern lawn would relate to a high-rise apartment building immediately to the south of the subject property that overlooks Swifts".

Environmental Health has concerns that the Acoustic Report has not identified all residential properties that may be adversely impacted by noise emissions, especially for the outdoor events conducted on the Northern Lawn and Southern Lawn. Residential areas include Darling Point Road, Thornton Street and Hampden Avenue.

Sleep Disturbance

Noise sources of short duration and high level that may cause disturbance to sleep if occurring during the Night period need to be considered. The approach recommended by the NPfI is to apply the following initial screening noise levels:

- *LAeq,15min 40dBA or the prevailing RBL + 5dB, whichever is the greater; and/or*
- *LAFmax 52dBA or the prevailing RBL + 15dB, whichever is the greater.*

The sleep disturbance screening noise levels apply outside bedroom windows during the night time period. Where the screening noise levels cannot be met, a detailed maximum noise level event assessment should be undertaken. It may also be appropriate to consider other guidelines including the NSW Road Noise Policy (RNP) which contains additional guidance relating to potential sleep disturbance impacts.

- Further to the above, the applicant has not provided any information in relation to whether any plant equipment that may be necessary for the proposed events, such as power generators and temporary refrigeration units and the like would be used for the proposed events.

Conclusion

The applicant has not provided adequate and information to allow for an adequate assessment of the acoustic impacts of the proposal. The proposal is therefore unacceptable with regard to the external controls in Part B3.5 of the Woollahra DCP 2015.

Part B3.6: On-Site Parking

No changes to the existing onsite parking or driveways. The impacts on the on-street parking has been discuss below in the Section of this report.

Conclusion

The proposal is acceptable with regard to the external controls in Part B3.6 of the Woollahra DCP 2015.

Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

The proposed outdoor events are proposed to be positioned on the existing southern lawn and northern lawn. No existing trees or landscaping are likely to be impacted by these events.

Part 3.7.2: Fences

C12-C14 require the retention and maintenance of sandstone fencing and retaining walls.

The proposed development will retain the heritage listed sandstone fencing, retaining walls and gate posts at the site. The proposal is therefore acceptable in this regard.

Conclusion

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

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

Non-Residential Development

C2 requires development to be compatible with the streetscape and the desired future character of the street.

No changes to the streetscape have been proposed.

C3 states that lighting, noise, hours of operation and intensity of the use should not unreasonably impact on residential amenity.

The applicant has not provided sufficient information to allow for assessment of the event lighting, this is further discussed below in Section 16. The noise impacts of the proposal have been discussed above below in Section 13.1 of this report. The proposed hours of operation and intensity of use issues are discussed below in Section 13.4 of this report.

Conclusion

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

13.2 Chapter E1: Parking and Access

Parking:

It is noted that Council's DCP and the RMS Guide to Traffic Generating Developments do not specify car parking generation rates for the event/function uses. The subject site contains pick-up and drop-off area, with vehicular access via the existing driveways off Darling Point Road. Vehicular access to the site is also provided via a single lane driveway from Hampden Avenue providing access to a basement level car park. Additional parking is available to the south of the main building (adjacent to the stables area). The applicant has stated that 45 onsite parking space will be made available for staff and pre-arranged attendees (35 spaces for guests and 10 spaces for staff), for use during events, including:

- 23 vehicles on the internal loop road (circular driveway), refer to **Figure 4**;
- 12 stacked vehicles to the area south of the Swifts building, refer to **Figure 5**;
- 10 tandem parked vehicles within the basement car park off Hampden Avenue (staff parking), refer to **Figure 6**.



Figure 4: 23 car spaces to the circular driveway, accessed via Darling Point Road



Figure 5: 12 Tandem spaces to the south of the main building

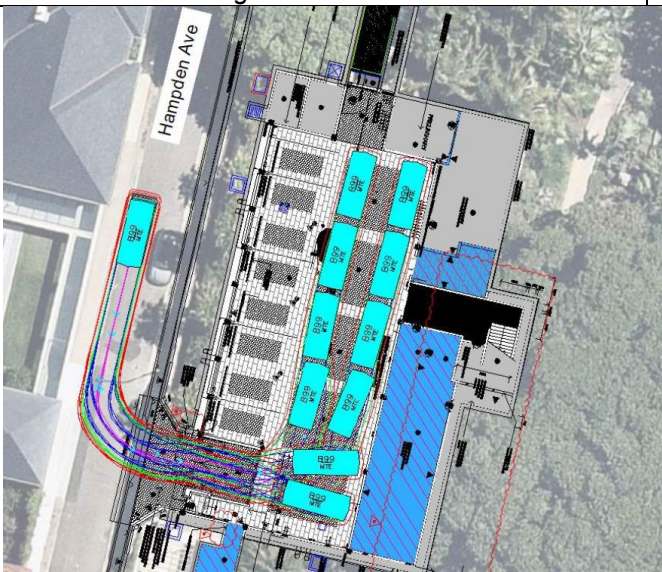


Figure 6: 10 car spaces to the basement car park accessed via Hampden Ave.

Drop off area:

The drop-off area is accessed via a gated single and separated entry and exit driveway, off Darling Point Road that is approximately 4m in width. The circulation driveway can accommodate a significant number of drop-offs/pick-ups at one time, being some 100m between the entry gate and Swifts building, however this has not been made clear in the submitted Traffic Assessment.

On-street parking:

- Darling Point Road: contains unrestricted kerbside parking along both sides of the road;
- Thornton Street: contains unrestricted kerbside parking along both sides of the road;
- Hampden Ave: “No Parking – Motor Vehicles Excepted” signage is positioned along the eastern side of the road and “No Parking” signage is positioned along the western side of the road.

Public Transport:

The public transport access to the subject site includes the following:

- **Train:** the site is within a 1.2 kilometre walk from Edgecliff Station (T4 Eastern Suburbs and Illawarra Line);
- **Bus:** there is a bus stop located on northern side of Thornton Street, adjacent to the Thornton Street site frontage, which is serviced by Route 328 that operates between Bondi Junction and Darling Point via Edgecliff;
- **Ferry:** The site is within a 350m walk from Darling Point Wharf (F7 Eastern Suburbs Line, which provides access to Double Bay and Circular Quay).

Parking Management Procedures:

It is noted that the proposed events are to be ticketed and information packages are proposed to be provided to the guests prior to event. The information that has been proposed to be provided to guests includes:

- No parking is provided on-site (unless otherwise organised) and limited on-street parking is available;
- Alternative transport to the site is recommended including: walking, train, bus, ferry, taxi and ride share;
- A map of the nearest public transport facilities and appropriate timetables for the event is to be provided to guests;
- The location of the entry driveway and the general circulation path of vehicular travel through the site is to be provided.

The following parking management procedures have been proposed:

- In some circumstances (on an as needed basis) a shuttle bus, such as a 22 seater mini-bus, will be provided between the subject site and key public transport locations;
- VIP guests and other nominated/authorised guests will be allowed to park on-site (e.g. bridal party) however, this will be planned prior to the event day;
- Authorised staff will be allowed to park on-site;
- If a guest requires an accessible car parking space for pick-up/drop-off the requirement shall be made known to the event manager.

Parking Impacts:

Council's Traffic Department has raised the following concerns in relation to the car parking:

Council's Traffic Engineers do not concur with the mode split assumptions for the first principles assessment, as detailed below:

- 1) **Special Events & Normal Events.**
 - a. *Travel by Trains. The estimated travel modes include 10% using local bus service, 10% using Edgecliff Train Station and 5% walking to the site. It should be noted that Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment).*
 - b. *Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries is considered much higher than in real practice.*
- 2) **Unique Events**
 - a. *Walking. Considering the nature and scale of the events, it is highly unlikely that 30% of visitors are living in close vicinity within walking distance.*

- b. *Travel by Trains. As discussed above, Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment). The estimated 10% share of solely travelling by trains is considered higher than in real practice.*
- c. *Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries are considered much higher than in real practice.*

In addition, visitors using train services would either walk to the site or take a bus and therefore should not be separated from the other two transport modes.

As such, the travel mode split for the proposed events fails to take full consideration of the site constraints, public transport services, nature of the events, etc., to reflect actual travel preferences. Numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in traffic report, noting Council has been receiving complaints on the adverse impacts on local parking and traffic during previous events.

Furthermore, insufficient information is provided on staff arrangement. It is therefore unclear whether the proposed 10 spaces for staff parking is sufficient for different types of events.

Further to the above, the submitted Traffic and Parking Assessment has not taken account of the cumulative traffic and parking impacts of the filming that is carried out at the subject site, which can involve the loss of large amounts of on-street parking surrounding the site for extended periods of time. In addition no assessment of cumulative traffic and parking impacts that may be created by concurrent events at nearby venues such as Lindsay House and McKell Park, has been provided.

Given the above, the application has not provided adequate and sufficient information to allow for a proper assessment of the parking impacts of the proposal. Therefore the proposal is unacceptable in this regard.

Traffic:

Existing road network:

The existing road network consists of the following:

- Darling Point Road: is an unclassified collector road, with a 12m in wide carriageway facilitating one traffic lane in each direction and kerbside parking along both sides of the roadway;
- Thornton Road: is an unclassified local road, with a 9m in wide carriageway facilitating two-way traffic in each direction and kerbside parking along both sides of the roadway;
- Hampden Ave: is an unclassified local road, with a 5m wide two-way carriageway facilitating one way traffic flow at a time and kerbside parking on the eastern side of the road.

Internal Traffic Management Procedures:

The following internal traffic management procedures have been proposed.

- Traffic will enter and exit the site in a one-way anticlockwise direction, with the northern driveway facilitating entry and the southern driveway facilitating egress;

- Traffic controllers are proposed to direct drivers through the site. There is four (4) nominated locations for traffic controllers, refer to **Figure 7**. Attendance at all four (4) locations is proposed, however this is proposed to be reviewed for each event depending on the number and frequency of vehicles that are expected to enter the site. At a minimum, one traffic controller should attend the entry gate to inspect the tickets of guests upon arrival, and directional signs are to be placed at the remaining three (3) locations, including a “*Watch for Pedestrians*” sign at the exit driveway.
- Guests are to be advised to have their tickets ready for inspection at the gate to promote efficient use of the driveway;
- Once a driver has entered the site they will follow the driveway until reaching the next traffic control point, where they will either drop-off/pick-up guests or park their vehicle as directed by the traffic controller (depending on the pre-approved arrangement);
- Upon leaving, a driver will continue along the driveway where another traffic controller will direct the driver down the southern side of the circulation driveway towards the exit;
- The traffic controller at the egress point, are to monitor exiting vehicles and pedestrians walking across the site frontage;
- If accessible parking is required by a guest this is to be made known to one of the traffic controllers, where they will direct the driver of the vehicle to the dedicate pick-up/drop-off point for people with disabilities.



Figure 7: Traffic Management Plan

Traffic Impacts:

It is noted that the RMS Guide to Traffic Generating Developments does not specify traffic generation rates for events/functions.

Council's Traffic Department has provided the following comments in relation to traffic impacts of the proposed modifications:

- 1) *It is noted that a pick-up/drop-off area is provided on-site, however the site plan does not demonstrate the location or dimension of the pick-up/drop-off area or how the pick-up/drop-off traffic will be managed;*

- 2) *It is stated in the traffic report that a maximum of 35 attendee parking can be accommodated on-site, including 23 spaces within the internal loop road and 12 stacked parking spaces in the area south of the castle. It should be noted that the internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the castle restricts traffic movements when vehicles are parked as suggested. With the proposed parking layout, Council's Traffic Engineers query the manoeuvrability of vehicles and how accessing/egressing traffic can be managed efficiently. A more detailed traffic management plan should be submitted to demonstrate the traffic control before, during and after the events.*

Given the above, the applicant has not provided adequate and sufficient information to allow for an adequate assessment of the traffic impact of the proposal. Therefore the proposal is unacceptable in this regard.

Servicing & Loading:

The submitted Traffic Report has stated that deliveries and loading will be carried out onsite via the existing internal driveway off Darling Point Road, which allows for vehicles to enter and exit the site in a forward direction. It has been stated that events will be serviced by 6.4m long Small Rigid Vehicle (SRV). It has been specified that loading and unloading will occur outside of event times.

Council's Traffic Department has provided the following comments in relation to traffic impacts of the proposed modifications:

- 1) *Insufficient information has been provided for event schedules regarding the load in and load out hours, the size and frequency of deliveries or how and where the deliveries will be handled.*

Given the above, the applicant has not provided adequate and sufficient information to allow for an adequate assessment of the servicing/loading arrangements. This issue is further discussed, below in Section 16 of this report. The proposal is therefore unacceptable in this regard.

Conclusion

The proposal is unacceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

13.3 Chapter E5: Waste Management

Part E5.3: On-Site Waste and Recycling Controls for all Development

C2 requires waste storage areas to facilitate the separation of garbage and recycling.

The applicant has not provided sufficient information in relation to waste management and has simply stated that event organisers provide waste storage receptacles for each event and remove all waste off site at the conclusion of the event. The applicant has not provided any information in relation to whether the waste is to be separated into garbage and recycling. However a condition requiring the separation of waste could be imposed should consent be granted.

C3 and C4 require waste storage areas to be behind the building line or in non-habitable spaces and integrated within the building design.

This information has not been provided, however given the extremely large size of the site there would be sufficient space to accommodate the storage of waste. Should consent be granted a condition requiring compliance with Controls C3 and C4 could be imposed.

C7 ensures that waste collection points should not interfere with traffic or pedestrian safety.

The applicant has stated that event organisers remove the waste at the conclusion of the event. A condition to this effect could be imposed should consent be granted. Conditions could be imposed to ensure that glass sorting, recycling and collection does not affect the amenity of surrounding properties.

The proposal is unacceptable with regard to Part E5.3 of the Woollahra DCP 2015.

13.4 Chapter F3: Licensed Premises

Rating

The premises comprises an on-premises licence has a rating level of **HIGH** in accordance with Table F3.2.

Assessment

In accordance with C1, assessment of the licensed premises must consider the following:

a) *The location of the premises and the proximity of residential and other sensitive uses*

The subject site is surrounded on four sides by residential properties, including high density residential tower buildings to the south and north of the site and low scale residential properties to the east and west. It is noted that the subject site is very large, being 13 556.75m² in size.

b) *The type of licensed premises*

The applicant has stated that the proposed events/function does not involve the sale of liquor, however liquor may be supplied at these events/functions. Swifts does not have a liquor licence. Liquor licences are proposed to be provided by the caterers of specific events. The NSW Licencing Police expressed concern about this arrangement and provided the following comment:

Caterer endorsed liquor licence has a generous degree of flexibility. This may include extended hours of trade (beyond midnight), the ability to provide liquor with or without food and no restriction on patron capacity. A caterer often has no on-going association with the site and subsequently limited knowledge of location sensitivities and other harms (including noise etc) that may arise from their activity.

Our assessment will subsequently view the application as that of a 'function centre'. Based upon the location and proximity to predominantly residential premises it is likely we would seek the imposition of consent conditions to minimise harms.

Should consent be granted the NSW Licencing Police has recommended that a condition be imposed requiring the applicant seek approval and authorisation from the relevant Liquor Authority. An 'on-premises' liquor licence, which authorises the sale or supply of liquor for consumption on premises with another product or service that is sold or supplied at premises would be the relevant Liquor Licence for the proposed event/function use of the site.

c) *The size and capacity of the premises*

This applicant has sought consent to use part of the subject site, including the southern and northern lawns, terrace, Porte-Cochere, Colonnade, Dining room, Drawing room, Billiard Room, Music Room and Ballroom for up to 41 event days per year.

These proposed events involve the following:

- **Normal Events** (small or intimate weddings, lunches and dinners in the ballroom):
 - For up to 200 people
 - 20 events per year (no more than 3 per month)
 - Between 9am-11pm
 - Primarily indoors
 - 1 day event.
- **Special Events** (weddings, product launches/fashion events, birthdays):
 - For up to 250 people (outdoors only) and up to 300 people (for indoor/outdoor events)
 - 12 events per year (no more than 3 per month)
 - Between 9am-10pm
 - 1 day event.
- **Unique Events:** (Antique fair, Christmas fair, open garden, Concours d'Elegance)
 - For up to 300 people
 - 3 events per year
 - Between 9am-6pm
 - Indoor and outdoor events over multiple days, max 3 days.

Outdoor Events (Max 250 guests):

- The outdoor events are to be primarily contained to the northern and southern lawn areas, refer to **Figure 1**;
- The northern lawn is proposed to be available for use between 9am – 10pm;
- The southern lawn is proposed to be available for use between 9am-6pm (no marquee). If a walled and roofed marquee is to be used in this area, it would be available for use after 6pm with no PA system other than for speeches limited to a maximum duration of 1 hour;
- The outdoor areas also include use of the Porte-Cochere, Colonnade and Terrace;
- The remainder of the grounds and tennis court area may be used for Unique Events for various displays. No amplified music will be utilised in the outdoor event locations. The volume of the PA system will be limited. The PA system will be limited to one hour of continuous use.

Indoors Events (Max 200 guests):

- Indoor events will be contained to the ground floor area of the main building, including the Ballroom, Drawing, Music, Dining and Billiard rooms, and the indoor garage beneath the tennis court;
- Events are proposed to utilise areas of the Terrace and Portico, Colonnade and Porte-Cochere (which are outdoors);
- Amplified music and PA systems are proposed to be used indoors, where doors and windows to the outside are closed after 10pm.

C5 limits the number of patrons based on amenity impacts and emergency purposes. Departure from this limit is permitted in C6, as a reviewable condition, for the following reasons:

Given the submitted traffic/parking information and the acoustic assessment is insufficient and inadequate it is not possible to determine whether the proposed patron capacity would be appropriate, in terms of its amenity impact, particularly given the subject site is within a residential area.

d) Trading hours

In accordance with C2, the trading hours are to be limited to 8am – 10pm for internal areas (8am – Midnight- extended hours) and 7am – 10pm for external areas (7am-11pm, fri & sat only- extended hours).

The proposed trading hours of the events at Swifts are as follows:

- **Normal Events:** Between 9am-11pm (primarily Indoors)
- **Special Events:** Between 9am-10pm (primarily outdoors)
- **Unique Events:** Between 9am-6pm (outdoors)

The submitted POM has stated that all guests must depart within 1 hour of the conclusion of the event.

Whilst, the above mentioned trading hours are generally compliant with the relevant requirements, the applicant has not provided sufficient information, particularly in relation to acoustic privacy to allow for a proper assessment of the proposed trading hours. The proposed development is therefore unacceptable in this regard.

e) Existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas

C7(a) requires the submission of a Plan of Management.

Swifts has a long history of hosting events/functions at the site. It is noted there is no consent that allows for events/functions to be undertaken at the site, other than for a few specific events that have been held at the site, refer to Section 7 above. This consent seeks to formalise the use of the site for events, however it is noted that events have continued to be held at the subject site, even after the owners of site provided a written undertaking in 2012 to Council stating that no events/functions would be undertaken without firstly obtaining consent, refer to **Attachment 13**.

Council has received a significant number of complaints from surrounding residents, relating to events that have been undertaken at the site. These complaints have primarily raised parking, noise and light spill issues. The NSW Police have also received multiple noise complaints from residents in relation to events being carried out at the site. Given this compliance history, there is significant concern whether restrictions/conditions that may be imposed, would be complied with.

In addition to the above, the submitted Plan of Management (**Attachment 8**) is considered to be insufficient as it does not adequately mitigate potential impacts from noise, parking/traffic, light spill, waste, deliveries/set-up/pack-up, food preparation and anti-social behaviour on the residential amenity of the locality. However, it is acknowledged that should consent be granted, conditions of consent could be imposed to address some of these amenity issues. The proposed development is therefore considered to be unacceptable in this regard.

f) Existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises

The following management practices have been proposed to minimise impacts on surrounding properties:

Music & PA Systems:

- **Normal Events:** (Indoor Areas)
 - Amplified music is permitted
 - PA is permitted
 - External doors and windows are to be closed after 10pm where there is amplified music and/or PA is being utilised.
- **Special Events:** (Northern lawn and associated outdoor areas - Colonnade, Portico and Terrace)
 - Small amplified musical ensembles and sound systems is proposed to 6pm
 - After 6 pm, music is to be small unamplified musical ensembles, eg. string quartets etc
 - All amplified music after 6pm is proposed to be prohibited
 - A PA system with a sound level limiter is the only system proposed to be permitted
 - No use of a PA is permitted after 6pm, other than for speeches limited to a duration of 1 hour.
- **Special Events:** (Southern Lawn Area)
 - If the event is to go beyond 6pm, the event is to occur within a marquee with southern and eastern walls fully closed by heavy plastic/vinyl material;
 - A sound system for amplification of the ceremony and speeches is to have speakers located under the marquee (minimum of 2m from the western end of marquee);
 - PA limited to 1 hour of continuous use;
 - To provide distribution of sound for the ceremony the speakers is proposed to be permitted located along the southern side of the seating area and directed towards the north;
 - A PA system, with a sound level limiter, is the only system proposed to be permitted. The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker;
 - Before 6pm, music is to be provided by amplified instruments or systems located adjacent to the main building situated in line with the northern end of the marquee (approximately 24 metres from the southern boundary). The music source is to be oriented in a northerly direction and a temporary solid timber wall is to be provided for additional acoustic shielding limiting the music source to a level not exceeding 75 dB(A);
 - After 6 pm, music can is to be small unamplified musical ensembles, eg. string quartets etc, located on the southern side under the marquee;
 - No use of a PA or amplified music is to be permitted after 6pm, other than a PA system for ceremonies and speeches of a duration of up to 1 hour.
- **Unique Events:**
 - The restrictions stated above apply depending on the relevant area used;
 - It is proposed for management to have available, at all times, a sound level meter and conduct measurements to ensure noise emission levels of the event does not exceed 46 dB(A) at any residential boundary.

Arrival, Drop-off and Parking:

The following management practices are proposed in relation to arrival, drop-off and parking:

- Notify guests that parking is not provided on-site (without prior arrangement) and it is recommended that guests take alternative transport to the site, such as Uber, walk, train, bus, ferry, taxi and ride share;
- A map of the nearest public transport facilities and appropriate timetables for the event is to be provided to all guests;

- In some circumstances (on an as needed basis) a shuttle bus, such as a 7m long 22-seater mini-bus will be provided between the site and key locations;
- VIP guests, guests with mobility issues and other nominated/authorized guests shall be exempt from the above requirements;
- Authorised staff will be able to park on-site;
- On-site car parking is available within the circulation roadway, to the back (south) of the residence and within the basement garage off Hampden Avenue;
- The primary access is from Darling Point Road via the existing gates. The primary access accommodates vehicular circulation via an internal looped driveway to a Porte-Cochere and then back onto Darling Point Road.

It is noted that the submitted parking/traffic and acoustic assessment is inadequate and insufficient, thus the application has not been supported. Should consent be granted, conditions could be imposed to approve the submitted POM along with additional mitigation measures to minimise impacts on surrounding properties.

C7(b) requires the submission of a Social Impact Report. C9 requires revisions where there is an extension of trading hours, patrons or a review of these limitations.

A Social Impact Report has not been submitted, contrary to Control C7(b). The proposal is considered to be unacceptable in this regard.

g) The density of licensed premises in the vicinity of the proposed development

The following licensed premises are located in the immediate vicinity:

The site is generally surrounded by residential properties, including high rise apartment towers located to the north and south of the subject site. In the vicinity of the site is McKell Park and Lindsay House, which are located approximately 250-300m to north and St Marks Church and Ascham School are located approximately 600m and 800m to the south, respectively.

McKell Park:

McKell Park is located on the Harbour foreshore and is managed by Woollahra Council. The park contains the Heritage listed Canobury Cottage (which has a capacity of up to 20 people). The park and cottage can be hired by the general public for group activities, functions, photography and filming between sunrise and sunset (approximately 7am to 7:30pm, summertime) for up to 100 people. Wedding bookings are not to exceed 2 hours and other events can be booked for up to 4 hours. A maximum of 2 bookings per day are permitted. There is no onsite parking and has direct ferry access.

There is no liquor licence at the site however, the event organiser can use their own liquor licence within the park.

Lindsay House:

Lindsay House and surrounding grounds is a heritage listed national trust property located adjacent to McKell Park. This venue can be hired for weddings, private parties, garden parties, corporate meetings, luncheons, photography and filming. This venue hosts open days, committee meetings and exhibitions.

Functions:

From: 9.00am to 10.00pm, Monday to Saturday, Max 12 per year, Max 3 functions per month & Max of 100 persons.

Dinner Functions:

From: 5.00pm to 11.00pm, Monday to Saturday, Max 20 persons.

Small Group Filming and Photography

From: 9.00am to 5.00pm, Monday to Saturday, Max 1 group per day & Max 20 persons per group.

Exhibitions:

From: 9.30am to 5.30pm, Monday to Saturday, Max 2 per year, open to the general public & Max 10 day duration.

National Trust Meetings and Functions:
(excluding Womens Committee)

Until 12.00am, Max 20 per year & Max 20 persons.

Womens Committee Meetings:

From: 1.00pm to 3.00pm, Mondays, Max 11 per year, Max 65 persons, except on the Annual General Meeting with a Max of 100 persons.

It is noted that there is no onsite Liquor Licence held by Lindsay House, however the event organisers provide their own liquor licence.

Ascham School:

Ascham School is an Independent girls schools (prep to year 12) located approximately 800m to the south of Swifts. The school hosts a number of events in connection with the school activities including dances, award ceremonies, and musicals. There is no hours of operation that covers the entire school site, however the Science building and English Centre operate between 7am and 10pm. The school has Limited Liquor Licence available for the relevant functions that are undertaken at the school. This allows for a maximum of 52 functions (that serve alcohol) per year.

St Marks Church:

Is a place of public worship located approximately 600m to the south of Swifts. The church undertakes regular church services, weddings and funerals within the church building. The church generally does not hold functions, however it does host a Christmas carol event on an annual basis between 5:30pm and 7:30pm. St Marks Church does not hold a liquor licence.

h) Availability of car parking and proximity and access to public transport

Parking:

The following onsite parking will be made available for events at the site:

- 23 vehicles on the internal loop road (circular driveway), refer to **Figure 4**;
- 12 stacked vehicles to the area south of the Swifts building, refer to **Figure 5**;
- 10 tandem parked vehicles to the basement car park off Hampden Avenue (staff parking), refer to **Figure 6**.

Public Transport:

The public transport access to the subject site includes the following:

- **Train:** the site is within a 1.2 kilometre walk from Edgecliff Station (T4 Eastern Suburbs and Illawarra Line);
- **Bus:** there is a bus stop located on the northern side of Thornton Street, adjacent to the Thornton Street site frontage, which is serviced by Route 328 that operates between Bondi Junction and Darling Point via Edgecliff;
- **Ferry:** The site is within a 350m walk from Darling Point Wharf (F7 Eastern Suburbs Line, which provides access to Double Bay and Circular Quay).

It is noted that Council's Traffic Department have stated that submitted traffic and parking information is unsatisfactory and inadequate. This is discussed further above in Section 13.2 of this report. The proposed development is therefore unacceptable in this regard.

i) Any recommendations/comments provided by NSW Police

The NSW Police have made the following comments:

Venue Disturbances – Police note the premise is situated within a Low-Density Residential Zone. Police note multiple complaints were made by neighbours to Rose Bay Police Station following a party that occurred at the premise on Saturday 29 May 2021. Police note the applications have proposed controls for noise, however as the premise is situated within a residential setting, Licensing Police seek stringent conditions to mitigate against further instances of disturbances created by the premise.

The NSW Police have recommended conditions in relation to entertainment noise emissions, a liquor licence, copies of consents and management plans, requiring the POM to be amended, submitted and approved by Council and for a CCTV system to be maintained, refer to **Attachment 6**.

Management Practices

C8 requires active and passive surveillance.

The proposal is considered to be acceptable in terms Control C8 for the following reasons:

- The primary entrance of Swifts is proposed to be managed by a security guard;
- Only invited guests will be allowed entry;
- The security guard at the front gate will have a list of invited guests to confirm the identity of each guest on arrival;
- The secondary access off Hampden Road is only to be utilised by event staff;
- A security team is proposed to be engaged for each event;
- The security team will be on-site for the duration of the event;
- The security team will be required to manage access and crowd control during the event;
- The NSW Licensing Police has recommended a condition that requires a CCTV system to be maintained at the premises.

C12 promotes upgrades of fire services, building structure and toilet facilities where there is an intensification of use.

Fire Safety:

Council's Fire Safety Officer has recommended that a Fire Safety upgrade be undertaken and for a Fire Safety Certificate and Annual Fire Safety Statements to be provided, refer to **Attachment 4**. However there is potential for the required fire safety upgrades necessary for the proposed event/function use, to have a detrimental impact on the heritage significance of the property. Should consent be granted, details of the fire safety upgrade works should be provided to Council, prior to any consent of this nature being issued. This will allow for the heritage implications to be assessed by Council's Heritage Officer and NSW Heritage.

Site Facilities:

The applicant has stated there are 4 external toilets and 3 internal toilets available for guest use. Portable toilets can also be provided for larger events.

Council's Building Officer has stated that based on the maximum patron capacity of 300 (not including employees), the required sanitary facilities for patrons (150 male, 150 female) is as follows:

Male

Closet pans – 2
Urinals – 3
Washbasins – 2

Female

Closet pans – 4
Washbasins – 2

Should consent be granted, a condition of consent could be imposed requiring compliance with Cl.F2.3 of the Building Code of Australia in relation to bathroom facilities.

C13 requires lighting to improve visibility of frontages, entrances and exits.

No permanent lighting has been proposed. Conditions of consent could be imposed to comply with Control C13. Lighting has been further discussed below in Section 16 of this report.

C14 states that the frontage is to be active, consistent with the streetscape and avoids blank facades.

No changes to the existing frontage is proposed.

Conclusion

The proposal is unacceptable with regard to the objectives and controls in Chapter F3 of the Woollahra DCP 2015.

14. DRAFT AMENDMENTS TO POLICIES AND PLANS

Public Exhibition commenced on 10 August 2022 for new floor space ratio development standards for low density residential development, and urban greening requirements for all residential development. The proposed amendments to the Woollahra Local Environmental Plan 2014 aim to ensure that all new development is of an appropriate scale, retains and enhances tree canopy whilst including high-quality landscaping.

Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, requires that provisions of proposed planning instruments are to be considered by a consent authority when determining a development application if they are or have been the subject of public consultation.

As it applies to the subject application, reference is made to Alando Holdings Pty Limited v The Hills Shire Council [2012] NSWLEC 1302 which had regard to the proper interpretation of savings provisions under the relevant LEP.

The current savings provisions under Clause 1.8A of the Woollahra LEP 2014 read as follows:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

As detailed in the Alando case, because the savings provision did not include the wording 'had been exhibited' in the savings provision, the provision did not specify whether the instrument was to be treated as a proposed instrument. Based on the specific wording, the Court accepted that because the LEP had to be treated as if it had not commenced it could not be considered under Section 4.15(1)(a)(i). Furthermore, it was not considered a proposed instrument i.e. one that has already been made, noting that the savings provision did not specify it should be treated as though it had. It could therefore not be considered under Section 4.15(1)(a)(ii).

Having considered the wording of Clause 1.8A of the Woollahra LEP 2014 and the above discussion the proposed amendments would have no effect upon the subject application, noting this was made prior to the commencement of the public exhibition period.

15. APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2021

Clause 62: Consent Authority May Require Buildings to be Upgraded

Clause 62 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 4**. A building upgrade is required and an annual fire safety schedule is required to be submitted. Whilst, this could be imposed by way of condition, should consent be granted, it is noted that fire safety building upgrades could impact the heritage significance of the building, thus this information would need to be provided to Council, prior to the granting of consent, so the potential heritage impacts on any works can be adequately assessed.

16. THE LIKELY IMPACTS OF THE PROPOSAL

Food Preparation/Safety/Odours:

The proposed events will involve the preparation and/or serving of food, however the submitted documentation has not made any reference to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food (*Standard 3.2.2 Food Safety Practices and General Requirements*). NSW Food laws (NSW Food Act and Food Safety Standards) place many responsibilities on the proprietor of a food business. An organiser of an event that is selling food, must be aware of these responsibilities.

All food businesses that make or sell food are to be known to enforcement agencies to ensure that food businesses are handling food safely. The Food Safety Standards require all food businesses to provide the following information to the appropriate enforcement agency before any food handling begins:

- Contact details for the business, including the name of the business and the name and address of the proprietor;
 - The nature of the business; and
 - The location of all food premises that are within the jurisdiction of the enforcement agency.
- It is noted that a condition requiring the POM to be updated to include the relevant food safety requirements could be imposed, should consent be granted.

The submitted documentation does not provide any indication of where the food preparation/serving area would be located. It is noted that during the site visit the area of the site that was indicated as the food preparation area, would seem to conflict with a car parking area. Further to this, the submitted documentation does provide any indication of types of food to be prepared on site and what measures will be undertaken to mitigate cooking odours, fumes and or smoke.

The proposed development is therefore considered to be unacceptable in this regard.

Set-up & Pack Up:

The submitted POM has stated that the set up and pack up is proposed to occur as follows:

- Set up – After 7am on the day of the event, or the day before. Set-up must not occur after 11pm;
- Pack up – before 11pm the day of the event, or after 7am the day after the event.

It is recommended to that a condition be imposed, should consent be granted that set-up should be between the following times given the residential location:

- Set-up between the hours of 8am- 6pm;
- Pack up- prior to 11pm on the day of the event (indoors) and prior to 10pm (outdoors) and between 8am – 6pm the day after the event.

The submitted POM has stated that no permanent structures or furniture are permitted. Marquees, tables, chairs and decorations are permitted only where they do not require any modification to the existing building fabric or landscape. The Event Manager will be responsible for returning the site back to its original state at the conclusion of the event. However the following issues have been identified:

- No details have been provided in relation to the size and frequency of deliveries;
- No details have been provided in relation to the delivery times;
- No details showing the location of loading/unloading and deliveries;
- No details have been provided in relation to arrival and departure times of staff.

The proposed development is therefore considered to be unacceptable in this regard.

Lighting:

The submitted documentation has not provided any details in relation to the type, location and intensity of event lighting, including whether any lighting frameworks will be erected at events. It is noted that the Council has received a high number of complaints in relation light spill impacts, which have included the use of strobe and flood lighting, which potentially have unacceptable impacts on the amenity of surrounding residential properties.

There are residential properties that are located opposite the driveway exit of Swifts. Council received an objection from the occupiers of No.101/109 Darling Point Road, which has raised

concern about the light spill impacts from car head lights, as vehicles exit the site, particularly late in the evening. The applicant has not provided sufficient information in relation to the traffic flows or provided any measures that could mitigate these light spill impacts on this property.

In addition, the applicant has not provided any information in relation to whether fireworks are proposed to be used at events, particularly as fireworks have been used in the past at the site and potentially have a significant impact on the amenity of surrounding properties.

Whilst, it is acknowledged that some of these lighting impacts could be resolved by way of condition, the applicant has not provided sufficient information to allow for an adequate assessment of this issue.

Filming:

It is noted that filming is carried out at the site. Filming does not require development consent when it is carried out on private property for no more than 30 days within a 12 month period. Council issues a permit if on-street parking is required. It is noted that 30 days of filming has already occurred at the site for 2022, which has required an on-street parking permit. This type of filming can require trucks that occupy large sections of on-street parking. Therefore it is noted that the cumulative impact of the proposed event use and the filming use on the amenity of surrounding residents is also of concern. It is also noted that 20 objectors included a concern about the filming use of the site and its associated impacts.

It is therefore recommended that should a new development application of this nature be lodged with Council, the filming use should form part of this application, so that proper assessment can be carried out.

17. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development, as the application has not provided sufficient/adequate information to demonstrate the proposal is suitable for the subject site.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. CONCLUSION

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

20. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 278/2022/1 for the use of part of the heritage item (Swifts) for occasional events on land at 68 Darling Point Road Darling Point, for the following reasons:

1. Woollahra Local Environmental Plan 2014 – Aims of Plan

The proposal is unacceptable because it does not comply with:

- Part 1, Clause 1.2(2)(g) - The proposal does not protect the amenity and the natural environment
- Part 1, Clause 1.2(2)(k) - The proposal does not adequately minimise and manage traffic and parking impacts.

2. Woollahra Local Environmental Plan 2014 – Land Use Table

The proposal is unacceptable because it does not comply with the following objectives of the R2 Low Density Residential Zone:

- Objective 3 - To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.

3. Woollahra Local Environmental Plan – Permissibility

The proposed development has failed to demonstrate that the heritage listed site satisfies Part 5.10(10) (conservation incentives) of the WLEP 2014, which deems the proposed development to be prohibited, given that 'event use' of the site is not permissible within the R2 Low Density Residential Zone.

4. Site Sign

No site sign has been erected for the subject development application and no Statutory Declaration declaring that the site sign was erected at the site for the entire notification period was subsequently provided, contrary to Schedule 1 of the Woollahra Community Participation Plan, 2019.

5. Inadequate/Insufficient & Inaccurate Information/Plans

The submitted plans and documentation are insufficient, inaccurate and unclear, in the following manner:

○ Plans

- No plans have been provided that show the parts of the sites that would accommodate events/functions.
- No plans have been provided that show function/event layouts.

○ Acoustic Report:

- The submitted Acoustic Report, does not provide an accurate representation of potential noise emissions from the subject venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.
- The submitted Acoustic Assessment Report for the subject venue has not clearly identified whether the site can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area.
- The submitted Acoustic Report does not identify all relevant noise mitigation strategies within the report.

Noise Environment:

- The submitted Acoustic Report only provides a 'one-off' attended noise assessment of the ambient noise environment which was conducted on Sunday, 13 February 2022 in the middle of the afternoon and later in the evening period. No time or duration of the noise is recorded in the Acoustic Report. Further, no long-term monitoring of the ambient noise environment was conducted. Noise monitoring is to be conducted during representative timeframes in order to account for the noise sources in question.
- The background noise levels have not been sufficiently established at the most affected residential receivers.
- No unattended long-term noise monitoring and a survey of attended noise monitoring for the day, evening and night periods to further quantify the existing noise environment was provided.

Noise Criteria:

- The submitted Acoustic Report has not used the appropriate noise criteria, given that the proposed events will be licensed. The appropriate Noise Criteria to be applied is the NSW Department of Industry - Liquor & Gaming (L&GNSW), which relate to noise generated by patrons and by music. The noise criteria states:
 - *The L10 noise level emitted from the premises shall not exceed 5dB above the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
 - *L10 noise level emitted from the premises shall not exceed the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
 - *After midnight, noise emissions from the premises are to be inaudible within any habitable rooms in nearby residential properties.*

Noise Assessment not based on Worst Case Scenario Conditions

- The only measured noise level which is used in the submitted Acoustic Report in determining the Project Specific Noise Trigger Levels. No time or duration of the assessment is recorded in the Acoustic Report.
- The isolated scenario (wedding function) that has been used in the submitted Acoustic Report, does not represent all 'typical functions'. There are many different functions that would each generate varying levels of noise. In the example used (wedding function), the Acoustic Report does not stipulate attending patron numbers; as a worst-case scenario the assessment should be based on the premise that the wedding function was held at maximum patron capacity.
- In determining the maximum allowable noise levels, the Acoustic Report could use noise modelling software to predict noise emission levels for all function scenarios, and representing each function scenario in worst-case scenario conditions. The Acoustic Report has not referenced the following:
 - Determining compliance with Project Specific Noise Trigger Levels when compared to measured ambient noise levels (unattended and attended).

- Justify assumptions of predicted sound power levels from identified sources of noise, especially patron and music noise, noting that the consumption of alcohol has the potential to increase the level of crowd noise as people lose their inhibitions and become more boisterous.
- Predict cumulative noise emissions from patron noise, music (amplified or otherwise), mechanical plant services and carpark operations and their impact upon sensitive residential receptors.
- Detail each function scenario and acoustic characteristics of the venue setting (internal, external or both) and assume maximum allowable patronage capacity. The larger the group, the larger the vocal effort to communicate.
- Detail the typical entertainment permitted for each type of function scenario and set-up locations.
- Traffic noise impact assessment at the site that accommodates parking for 45 vehicles on the site.
- Waste collection and delivery services (activity scheduling).
- Detail of all noise mitigation strategies.

Sensitive Residential Receptors

- The submitted Acoustic Report has not identified all residential properties that may be adversely impacted by noise emissions, especially for the outdoor events conducted on the Northern Lawn and Southern Lawn. Residential areas include Darling Point Road, Thornton Street and Hampden Avenue.

Sleep Disturbance

- Noise sources of short duration and high level that may cause disturbance to sleep if occurring during the Night period were not considered in the submitted Acoustic Report. The approach recommended by the NPfI is to apply the following initial screening noise levels:
 - LAeq,15min 40dBA or the prevailing RBL + 5dB, whichever is the greater; and/or
 - LAFmax 52dBA or the prevailing RBL + 15dB, whichever is the greater.
- The sleep disturbance screening noise levels apply outside bedroom windows during the night time period. Where the screening noise levels cannot be met, a detailed maximum noise level event assessment should be undertaken. It may also be appropriate to consider other guidelines including the NSW Road Noise Policy (RNP) which contains additional guidance relating to potential sleep disturbance impacts.

○ **Food Preparation/Safety/Odours**

- The submitted documentation does not provide any indication of where the food preparation/service area would be located. It is noted that during the site visit the location of the food preparation area was indicated, however it would seem this area of the site, conflicts with one of the proposed car parking areas.
- The submitted documentation does provide any indication of types of food to be prepared on site and what measures will be undertaken to mitigate cooking odour, fumes and/or smoke.

- The submitted documentation makes no reference to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food (*Standard 3.2.2 Food Safety Practices and General Requirements*). NSW Food laws (NSW Food Act and Food Safety Standards) place many responsibilities on the proprietor of a food business.
- **Traffic & Parking Assessment**
 - The submitted traffic and parking assessment is inadequate as the travel mode split that has been utilised for the proposed events fails to take full consideration of the site constraints, the availability of public transport services, the nature of the events, etc., to reflect actual travel preferences. The numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in the submitted traffic report.
 - Insufficient information in relation to the estimated staff numbers, in order to assess whether the proposed 10 staff parking spaces is sufficient to accommodate staff parking demand for different types of events.
 - Insufficient detail in relation to the staggering of departure times.
 - The submitted documentation does not provide the location or dimensions of the pick-up/drop-off area, or how the pick-up/drop-off traffic will be managed.
 - The submitted Traffic Management Plan is inadequate for the following reasons:
 - The internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the main building restricts traffic movements when vehicles are parked as proposed.
 - The proposed parking layout, does not allow for adequate manoeuvrability of vehicles or the efficient management of ingressing and egressing traffic.
 - The Traffic Management Plan does not adequately demonstrate that there are appropriate traffic control measures in place before, during and after events.
 - The submitted Traffic and Parking Assessment has not taken account of the cumulative traffic and parking impacts of the filming that is carried out at the subject site, which can involve the loss of large amounts of on-street parking surrounding the site for extended periods of time.
 - No assessment of the cumulative traffic and parking impacts that may be created by concurrent events at nearby venues such as Lindsay House and McKell Park.
- **Deliveries/Loading/Unloading/Set-Up/Pack-up**
 - No details have been provided in relation to the size and frequency of deliveries.
 - No details have been provided in relation to the proposed delivery times.
 - No details relating to the loading/unloading and delivery location has been provided.
 - Insufficient details including specific times in relation to setting-up and packing up of events have been provided.
 - No details in relation to arrival and departure times of staff have been provided.
- **Heritage Management Document**
 - The submitted Heritage Management documentation does not sufficiently demonstrate how the conservation of the heritage item is facilitated by the granting of consent.
 - The submitted Heritage documentation does not sufficiently demonstrate compliance with Part 5.10(10) of the WLEP, 2014.

- **Fire Safety**
 - No details of the relevant fire safety upgrade works necessary for the proposed event use have been provided.
- **Waste:**
 - Insufficient information in relation to the storage, separation, collection and management waste have been provided.
 - No details have been provided in relation to the sorting, collection and recycling of glass waste.
 - No details have been provided in relation to the management of patron littering beyond the site boundaries.
- **Social Impact Report**
 - No Social Impact Report has been provided.
- **Lighting/light spill**
 - No details have been provided in relation to the type, location and intensity of event lighting, including lighting frameworks if applicable;
 - No information was provided in relation to measures that could potentially mitigate light spill impacts from headlights of vehicles on the adjacent residential properties, particularly when vehicles exit the site late in the evening.
 - No information in relation to whether fireworks are proposed to be used at events have been provided.
- **Site Facilities**
 - The submitted Plan of Management does not make it clear that each function will comply with the minimum bathroom requirements, in accordance with Part F2.3 of the Building Code of Australia.
 - The applicant has not provided any information in relation to whether plant equipment, such as power generators and temporary refrigeration units and the like are to be used at the site.
- **Filming:**
 - It would appear that the amount filming that has been undertaken at the site in 2022 has exceeded 30 days. Additional filming at the site would require development consent. Any new development application of this nature should consider including filming operations as part of the application.

6. Public Interest

The proposed development is not in the public interest.

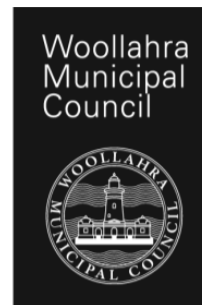
Attachments

1. Traffic Referral Response
2. Heritage Referral Response
3. Health Referral Response

4. Fire Safety Officer Referral Response
5. NSW Heritage Referral Response
6. NSW Police Referral Response
7. Compliance Referral Response
8. Plan of Management (POM)
9. Heritage Report
10. Acoustic Assessment
11. Traffic and Parking Assessment
12. List of Submissions
13. Legal letter from Council to Swifts dated 23/02/2012

Memorandum – Traffic

Date 4 November, 2022
File No. Development Applications: 278/2022/1
To Mrs L Holbert
CC
From Ms E Fang
Address 68 DARLING POINT ROAD DARLING POINT 2027



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
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www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 19 July 2022 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Statement of Environmental Effects, referenced 11607, prepared by GLN Planning, dated 5 July 2022;
2. Traffic and Parking Impact Assessment, referenced 220019.01FC, prepared by McLaren Traffic Engineering & Road Safety Consultants, dated 29 June 2022;
3. Plan of Management, referenced 11607, prepared by GLN Planning, dated 5 July 2022.

Proposal

Use part of a heritage item (Swift's) for occasional events

COMMENTS

Parking & Traffic Generation

It is understood that the events proposed to be held include:

- 1) Normal Events, up to 200 people, 20 events per year, occur between 9am-11pm;
- 2) Special Events, up to 250 people, 12 events per year, occur between 9am-10pm;
- 3) Unique Events, up to 300 people, 3 events per year, occur between 9am-6pm.

It is noted that Council's DCP or RMS Guide to Traffic Generating Developments doesn't specify the parking/traffic generation rates for the proposed events, however Council's Traffic Engineers do not concur with the mode split assumptions for the first principles assessment, as detailed below:

Referral Response - TS Traffic - DA20222781 - 68 Darling Point Road DARLING POINT

- 1) Special Events & Normal Events.
 - a. Travel by Trains. The estimated travel modes include 10% using local bus service, 10% using Edgecliff Train Station and 5% walking to the site. It should be noted that Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment).
 - b. Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries is considered much higher than in real practice.
- 2) Unique Events
 - a. Walking. Considering the nature and scale of the events, it is highly unlikely that 30% of visitors are living in close vicinity within walking distance.
 - b. Travel by Trains. As discussed above, Edgecliff Station is approximately 1.3km (16min) from the site, which is considered beyond walkable distance (800m or 10min from a public transport service, Department of Planning & Environment). The estimated 10% share of solely travelling by trains is considered higher than in real practice.
 - c. Travel by Ferry Service at Darling Point Wharf. Currently Sydney Ferry (F7) operates between Circular Quay and Double Bay Wharf and stops at Darling Point Wharf once per hour. Considering the limited service provided, the estimated 10% of mode share for ferries are considered much higher than in real practice.

In addition, visitors using train services would either walk to the site or take a bus and therefore should not be separated from the other two transport modes.

As such, the travel mode split for the proposed events fails to take full consideration to site constraints, public transport services, nature of the events, etc., to reflect actual travel preferences. Numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in traffic report, noting Council has been receiving complaints on the adverse impacts on local parking and traffic during previous events.

Furthermore, insufficient information is provided on staff arrangement. It is therefore unclear the proposed 10 spaces for staff parking is sufficient for different types of events.

Plan of Management (POM)

Upon review of the submitted POM, the following issues are identified:

- 1) It is noted that a pick-up/drop-off area is provided on-site, however the site plan does not demonstrate the location or dimension of the pick-up/drop-off area or how the pick-up/drop-off traffic will be managed.
- 2) It is stated in the traffic report that a maximum of 35 attendee parking can be accommodated on-site, including 23 spaces within the internal loop road and 12 stacked parking spaces in the area south of the castle. It should be noted that the internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the castle restricts traffic movements when vehicles are parked as suggested. With the proposed parking layout, Council's Traffic Engineers query the manoeuvrability of vehicles and how accessing/egressing traffic can be managed efficiently. A more detailed traffic management plan should be submitted to demonstrate the traffic control before, during and after the events.
- 3) Insufficient information has been provided for event schedules regarding the load in and load out hours, the size and frequency of deliveries or how and where the deliveries will be handled.

Referral Response - TS Traffic - DA20222781 - 68 Darling Point Road DARLING POINT

RECOMMENDATIONS

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

1. Parking & Traffic Generation –
 - a. The travel mode split for the proposed events fails to take full consideration to site constraints, public transport services, nature of the events, etc., to reflect actual travel preferences. Numbers of attendees travelling by private vehicles or picked-up/dropped-off on-site are expected to be higher than estimated in traffic report, noting Council has been receiving complaints on the adverse impacts on local parking and traffic during previous events.
 - b. Insufficient information is provided on staff arrangement and whether the proposed 10 staff parking spaces is sufficient to accommodate staff parking demand for different types of events.
2. Plan of Management –
 - a. The site plan does not demonstrate the location or dimension of the pick-up/drop-off area or how the pick-up/drop-off traffic will be managed.
 - b. It is stated in the traffic report that a maximum of 35 attendee parking can be accommodated on-site, including 23 spaces within the internal loop road and 12 stacked parking spaces in the area south of the castle. It should be noted that the internal loop road cannot accommodate two-way traffic when vehicles are parked on one side and the area south of the castle restricts traffic movements when vehicles are parked as suggested. With the proposed parking layout, Council's Traffic Engineers query the manoeuvrability of vehicles and how accessing/egressing traffic can be managed efficiently. A more detailed traffic management plan should be submitted to demonstrate the traffic control before, during and after the events.
 - c. Insufficient information has been provided for event schedules regarding the load in and load out hours, the size and frequency of deliveries or how and where the deliveries will be handled



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8 November 2022

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 277/2022/1

ADDRESS: 68 Darling Point Road DARLING POINT 2027

PROPOSAL: Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months)

FROM: Shona Lindsay - Heritage Officer

TO: Mrs L Holbert

DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Heritage Impact Statement by GML Heritage, dated 1 July 2022
- Statement of Environmental Effects by GLN Planning, dated 5 July 2022
- Plan of Management by GLN Planning, dated 5 July 2022

SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

- The site was inspected on the 8 November 2022, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Conservation Analysis and Conservation Guidelines by Clive Lucas, Stapleton and Partners, dated September 1995
- Heritage Council of NSW –Terms of approval of integrated development application dated 2 November 2022
- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Heritage Act 1977 (as amended)
- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY

Referral Response - Heritage - DA20222771 - 68 Darling Point Road DARLING POINT



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The listing in the Woollahra LEP 2014 for “Swifts” is:

“Swifts”—building and interiors, outbuildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gateposts, gates, sculptures, 2 Moreton Bay Figs, Lemon-scented Gum, Bunya Pine, Norfolk Island Pine

Statement of Significance and Physical Description:
(from the Heritage NSW SHI)

Statement of Significance

“Swifts” is of State significance as, apart from Government House in Sydney, it is the largest remaining Victorian Gothic Revival house in Australia. Swifts remains on its original grounds and still consists of the original landscape, statuary, terrace wall, stairs and paths. It is a prime example of how the upper class people lived in the 19th century in Australia. “Swifts” is also of cultural significance as it was home of two well-known Sydney business families, the Lucas-Tooth and Resch families. “Swifts” connection with the Roman Catholic Church is also of social significance as it was home to three cardinals; Gilroy, Freeman and Clancy. The building is also significant because it is an example of the work of Gustavus Alphose Morell, a prominent Sydney architect in the late 19th century (Lucas, 1994, 128).

The western section of the garden of “Swifts” formed an integral part of the original design of the grounds. The special relationship of the grounds to the mansion is a significant factor in determining the status of the grounds as an item of environmental heritage. The building together with its site is an item of environmental heritage (excerpt from ‘Findings’ of Commissioner of Inquiry, 1983, p.55).

Physical Description:

Garden:

Swifts is located at 68 Darling Point Road Darling Point. It was originally set in four acres of landscaped gardens.

The garden is divided into three precincts - the eastern, northern and western (Evans, 1983, 12-14). Some of the original garden design is still evident such as the carriage drive which sweeps north, west and south up to the porte cochere, and return / service drive to the property's south-eastern corner (Stuart Read, pers.comm., visit 19/11/2011). Original garden bed design is still evident through the placement of terracotta edging tiles (Evans, 1983, 12-14).

The Eastern garden is introduced from the enclosed terrace, which leads out to the carriage drive and flower beds. The northern perspective of the house is framed by huge Moreton Bay figs (*Ficus macrophylla*) and camphor laurels (*Cinnamomum camphora*), while the northern garden is scattered with Illawarra plum / brown pine (*Podocarpus elatus*), a bull bay / evergreen magnolia (*M. grandiflora*) from the United States and a bay laurel (*Laurus nobilis*) tree from the Mediterranean. The gardens are scattered with statues to add interest. The north eastern corner is dominated by shrubs. The western garden originally would have been for kitchen use (ibid, 1983, 12-14).

A rough line of Moreton Bay figs along the eastern Darling Point Road side form a screen from later subdivisions and housing. More Moreton Bay figs line the southern boundary, again masking later subdivisions (and current high rise flats).

A range of choice trees in the eastern border include Queensland lacebark (*Brachychiton discolor*) (there are a number of these on the western boundary of Swifts and another



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specimen on the north-east Darling Point Road edge), Illawarra flame tree (*B.acerifolius*), a very rare Burj / shingle oak from the Himalayas (*Quercus leucotrichophora*)(possibly one of only a handful in Australia) and an equally rare palo blanco tree (*Picconia excelsa*), an endangered rainforest tree from the Canary Islands, related to the olive. Its habitat is restricted to the 'cloud forest' or rainforest of the upper Canary Islands and Azores. This species is endangered in the wild due to land-clearing (Stuart Read, pers.comm., 10/10/2012; updated 7/11/2016). It is rarely found here - with only 14 known in NSW (e.g. two specimens in the Royal Botanic Gardens, Sydney, four at Camden Park and a few others, including two at Yasmarr, Haberfield and single specimens at Denham Court, Ingleburn and at Cooma Cottage, Yass) and only 33 known around Australia (e.g. Botanic Gardens in Sydney, Melbourne and Geelong; Marybank in the Adelaide Hills)(Stuart Read, pers.comm., 6/2006, updated 10/10/2012; and 2/10/2020). Also in the eastern border is an evergreen oak (*Quercus ilex*) (Stuart Read, pers.comm., visit, 19/11/2011).

The Northern garden includes a huge Moreton Bay fig (*Ficus macrophylla*) north-west of the house near its terrace, shading that corner. Below and north of it are a range of smaller trees and shrubs arrayed on grassed lawns sloping down from the mansion to Thornton Avenue. Two young Queensland kauri (*Agathis robusta*) have been planted near an electricity substation facing Thornton Avenue and are now some 8m tall (Stuart Read, pers.comm., 5/2017).

The Western garden is broadly the service area part of the house, outbuildings and garden, with remnant terracing, grassed today where elements such as orchard and kitchen garden would have been originally (ibid, pers.comm., 5/2017).

Mansion (1875-1882):

The new Swifts, described as Castellated Gothic in style, with 42 rooms (Pike, 2020 says 56 rooms), resembled Government House, but had a larger ballroom, deliberately so (Kehagias, 2016 quoting Dr Shane Moran). It is a two storey sandstone Victorian Gothic Revival mansion with three storey tower, castellated parapets. Swifts resembles Government House, but had a larger ballroom before it was converted into a chapel-of-ease by the Catholic church. The majority of the house is made from either sandstone or rendered brick (Lucas, 1993, p 106). The eastern facing front entrance is marked by a porte cochere that is flanked by projecting bays. The verandah on the north is crenulated and flagged with sandstone. The windows have carved valances and external timber shutters, an unusual form of climate control for the period.

Swifts is comprised of 42 rooms arranged in a U-shape and including drawing room, morning room, smoking room, dinning room, study, billiard room, ball room, numerous bedrooms, fitted dressing room, service room, kitchen, scullery, pantry, butlers rooms, silver safe, store, wine cellar and servants quarters. Service buildings include dairy, laundry, four stall stable, double carriage house and a tack room (Lucas, 1994, p 118).

Officially there are 52 rooms - Dr (Shane) Moran said it was hard to know how many bedrooms the property had, because the rooms could be used for any purposes (Kehagias, 2016).

Smoking Room, the remains of an old opium den, which traces back to when opium was legal (ibid, 2016).

The original staff quarters were broken up into small rooms. 'We kept the 1870s layout, which split the house into a male and female side. The male side features lots of wood and there's a billiard room. The female side is brighter' (Dr Shane Moran, in ibid, 2016).



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National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. As no excavation or disturbance of the ground is proposed no AHIA was required. Unexpected finds will be a condition of consent.

Heritage Act 1977

The subject site is listed as a heritage item on the State Heritage Register.

The subject site is likely to contain relics as per the Heritage Act 1977 definition. The CMP notes the following in regards to built archaeology:

The extant physical fabric is of archaeological potential in its ability to provide new information in that:

- *The earlier c.1877 house may be discernible upon further physical investigation;*
- *Despite the fact that the Resch family have not inhabited the house since 1963, there is still a large amount of 'debris' from the day to day life of the Resch's extant; and*
- *Details about the Lucas-Tooth period of occupation, such as room spaces, decorations, etc. may be discernible upon further physical investigation.*

These details about the history of the place and aspects of the running of such a large house would not normally be found in the historical record.

The CMP notes the following in regards to below ground archaeology:

The documentary evidence indicates that there is some complexity in the evolution of the gardens and outbuildings built therein. This is mostly applicable to the West Gargen, and House and Courtyard Precincts.

This significance lies in its research potential to reveal aspects about the running of Swifts, the lifestyles of the inhabitants over time, and details about the earlier configuration of the place.

As no excavation or disturbance of the ground is proposed no archaeological assessment was required. Unexpected finds will be a condition of consent.

Heritage Act 1977

The proposed works require approval under Section 57 of the *Heritage Act 1977* by the Heritage Council of NSW.

General Terms of Approval

In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the Heritage Council of NSW resolved to grant approval of the application subject to conditions. These conditions will form part of any approval.

Woollahra LEP 2014

The subject site is a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Clause 1.2 Aims of Plan

Referral Response - Heritage - DA20222771 - 68 Darling Point Road DARLING POINT



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Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

AND

Clause 5.10 Heritage Conservation

The HIS prepared by GML as part of the DA considers potential impacts to the subject property, which is a listed LEP and SHR heritage item. The following consideration is provided:

- The proposed temporary events would not adversely impact significant fabric.
- The primary use of the site will continue to be a residence.
- The site will be restored to the original condition it was prior to the event.
- The works are in accordance with the CMP.
- The original statues and garden features will not be impacted.
- The site inspection confirmed that the internal furniture and fixtures are not original to the house and that they date to the current ownership.
- The events will support ongoing maintenance and conservation of the heritage item.

Heritage NSW provided the following conditions in regards to the design:

- The erection of marques is approved within the Southern lawn only
- No additional permanent structures or modifications to the dwelling to facilitate temporary events shall be approved.

Overall, it is considered that the proposed works can be supported by Council in regards to heritage. These proposed works would have a neutral impact on the heritage item. Therefore, the proposal does comply with Woollahra LEP 2014, Clause 1.2(2) (f) and Clause 5.10 Heritage Conservation, 1(a), (b).

Significance of items in the vicinity

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

CONCLUSION

National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage potential Aboriginal heritage will be provided below.

Heritage Act, 1977

Refer to General Terms of Approval dated 2 November 2022 under Section 4.47 of the *Environmental Planning and Assessment Act 1979* by the Heritage Council of NSW.

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 item will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

Referral Response - Heritage - DA20222771 - 68 Darling Point Road DARLING POINT



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RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions.

1. General terms of approval

All works are to be in accordance with the general terms of approval provided by Heritage NSW dated 2 November 2022.

2. Section 60 application

An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

3. The erection of marques is approved within the Southern lawn only.

4. No additional permanent structures or modifications to the dwelling to facilitate temporary events shall be approved.

5. Significant built and landscape elements are to be protected from potential damage during site preparation and events. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed. All organisers, contractors, workers and tradespeople on site shall be made aware of the significant fabric on site.

6. The events shall be supervised, including set up and removal, to ensure that required protection measures are implemented and maintained.

7. Heritage consultant

A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

8. Heritage Induction

Prior to any works commencing on site, all organisers, contractors, workers, and tradespeople engaged in setting up and management of events must undergo a heritage induction provided by the nominated heritage consultant. This must include information on the built heritage of the site and also make staff and contractors aware of their statutory obligations under the *Heritage Act 1977*. Documentary evidence demonstrating compliance with above being submitted to Council and the Principal Certifier.

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,



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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

10. Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

Shona Lindsay - Heritage Officer

Completion Date: 13/10/2022

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 277/2022/1
ADDRESS: 68 Darling Point Road DARLING POINT 2027
PROPOSAL: Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months)
FROM: Louie Salvatore
TO: Mrs L Holbert

1. ISSUES

- *Acoustics.*
- *Food Safety Compliance.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by GLN Planning Pty Ltd, Project No. 11607 dated 05 July 2022.
- Acoustic Report: prepared by The Acoustic Group. Document No. 52.5498.L1:MSC dated 14 June 2022.
- Plan of Management: prepared by GLN Planning Pty Ltd, Document No. 11607 PoM 4 FINAL dated July 2022.

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

The DA seeks approval for the use of part of the site and building for occasional events. The proposal seeks to formalise use of lawns, terrace, ballroom and other parts of the site for the types of events that have traditionally been held at Swifts, these include (but are not limited to):

- Weddings, Birthdays, Charity Events, Balls, Corporate functions, Products launches, Shows, and Displays.

Swifts has been the venue for several significant societal events. The proposal represents the formalisation of events that have traditionally been held at Swifts. Normal events will be held primarily indoors in the ballroom, dining room etc. Special Events will be held primarily outdoors in the Northern Lawn or Southern Lawn areas and may include use of Terrace & Portico, Colonnade and Porte-Cochere and

driveway areas. The absolute maximum number of events that can be held at the site does not exceed 41 days, which is considerably less than the 52 days.

Normal Events, which are primarily held indoors, over 1 day between 9am and 11pm

Special Events, which are primarily held outdoors, over 1 day between 9am and 10pm

Unique Events, which are indoor and outdoor events and held over multiple days between 9am and 6pm

The combined duration of events must not exceed 41 days in any calendar year.

Normal Events – Maximum of 20 per year – no more than 3 per month.

Special Events – Maximum of 12 per year – no more than 3 per month.

Unique Events – Maximum of 3 per year – no single event lasting more than 3 days in total.

Outdoor events are limited to a maximum of 300 guests, whilst indoor events are limited to 200 guests. A unique event can have a maximum of 300 guests per day. These are typical of the type of events that have traditionally been held at Swifts and are commensurate with the size of the premises and grounds.

- Events held outdoor only – Maximum 250 guests
- Events held indoor only - Maximum 200 guests
- Events held across indoor and outdoor areas – Maximum 300 guests
- Unique events – maximum of 300 guests at any time

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

a) ACOUSTICS

Environmental Health – Review

Review of Acoustic Report: prepared by The Acoustic Group. Document No. 52.5498.L1:MSC dated 14 June 2022.

The Noise Assessment

The report presents results and findings of an acoustic assessment in relation to the conduct of occasional events at the property of 68 Darling Point Road, Darling Point known as “Swifts”.

A site visit was carried out on the afternoon of Saturday, 5 February 2022 whilst a wedding was occurring on the southern lawn and then followed by a reception using the southern lawn, the driveway/entrance to the residence and the grassed areas further to the north of the southern lawn. A marquee was set up at the southern extremity of the southern lawn in which the ceremony was undertaken and accompanied by an amplified string quartet and amplification of the service.

A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period.

Environmental Health notes that the 4 page acoustic report concludes:

Inside Events

“The substantial sandstone construction of the building and the location of the formal entertaining areas being at the northern end of the property would result in negligible acoustic impact on surrounding residential properties and would not cause any measurable increase above the ambient background level if internal music levels were limited to not exceeding 95 dB(A) as a spatial average across the internal spaces.

Any functions occurring inside the residence at night (after 10pm) require supervision to ensure all doors and windows to function areas are closed when entertainment is provided. The Plan of Management requires the appropriate staff to assist attendees leave in a quiet and orderly manner after 10pm”.

Outside Event (Wedding 05 February 2022)

“For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A).

At the time of the inspection the marquee located on the southern side of the southern lawns was open on all sides. Events using this marquee location require:

- *The southern wall of the southern and eastern walls of the marquee to be fully closed by the same heavy plastic/vinyl material as used for the large marquee.*
- *Music provided for the ceremony can be unamplified string quartets etc located on the southern side under the marquee.*
- *A sound system for amplification of the celebrant is to have speakers located under the marquee (minimum of 2m from the western end of marquee).*
- *To provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards to north.*
- *The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.*

Following the ceremony, music was provided by amplified instruments located adjacent the main building situated in line with the northern end of the marquee approximately 24 metres from the southern boundary. The small band was oriented in a northerly direction. The provision of a temporary solid timber wall to provide additional acoustic shielding and limiting the band or DJ to a level not exceeding 75 dB(A) (behind the band) is required. No external amplified entertainment would be permitted after 6pm.

For daytime events involving exhibitions, car displays etc. the general events are not envisaged to create a noise impact provided any amplification for announcements etc are similarly restricted in level. The restriction in levels are dependent upon the sound systems provided and can only be assessed in situ at the site boundaries for an average maximum level of 46 dB(A). This will require management to purchase a

sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary".

Environmental Health – Comments & Recommendation

Environmental Health considers that the submitted *Acoustic Report: prepared by The Acoustic Group. Document No. 52.5498.L1:MSC dated 14 June 2022* **does not** provide an accurate representation of potential noise emissions from the Subject Venue under worst-case scenario conditions and their impact upon sensitive residential receivers for future events.

Any new or revised Acoustic Assessment Report for the Subject Venue shall clearly identify if it can operate under all function scenarios in conformance with all relevant criteria and without adverse noise impact on residential amenity in the area. All noise mitigation strategies shall be included.

1. Noise Environment

The Acoustic Report (Acoustic Group 14 June 2022) only provides a 'one-off' attended noise assessment of the ambient noise environment which was conducted on Sunday, 13 February 2022 in the middle of the afternoon and later in the evening period – no time or duration of the noise is recorded in the Acoustic Report. Further, no long-term monitoring of the ambient noise environment was conducted; noise monitoring should have been conducted during representative timeframes in order to account for the noise sources in question.

Having regard to the inadequacy of the acoustic consultant's background noise monitoring, upon which many noise criteria are established, Environmental Health does not consider that background noise levels have been sufficiently established at the most affected residential receivers.

To quantify the existing ambient noise levels in the area, unattended long-term noise monitoring is required for the Day (7AM-6PM), Evening (6PM-10PM) and Night (10PM-7AM) periods. The noise logger is to be conservatively sited in a location(s) to represent the ambient noise levels of the nearby sensitive receptors in accordance with *NSW Noise Policy for Industry (NPfI)* and the procedures described in *Australian Standard AS 1055:2018, "Acoustics - Description and Measurement of Environmental Noise"*.

The unattended long-term noise monitoring shall be accompanied with a survey of attended noise monitoring for the Day, Evening and Night periods to further quantify the existing noise environment.

2. Noise Criteria

The report is somewhat ambiguous with respect to the measurement methodology employed when establishing the existing noise levels and comparison to an appropriate Noise Criteria. The only reference to a Noise Criteria applied to the Subject Venue within the Acoustic Report (Acoustic Group 14 June 2022) is, *"For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A)"*. Environmental Health assumes that the Acoustic Report (Acoustic Group 14 June 2022) is referencing the *The NSW Environmental Protection Authority (EPA) Noise Policy for Industry (NPI)* which states the following:

'The intrusiveness of an industrial noise source may generally be considered acceptable if the level of noise from the source (represented by the LAeq descriptor), measured over a 15minute period, does not exceed the background noise level by more than 5 dB when beyond a minimum threshold. This intrusiveness noise level seeks to limit the degree of change a new noise source introduces to an existing environment.'

Environmental Health refers to the types of events, as stated in The Statement of Environmental Effects (July 2022) and Plan of Management (July 2022), that have traditionally been held at "Swifts" including Weddings, Birthdays, Charity Events, Balls, Corporate functions which undoubtedly will require the premises for such functions to be licensed for the service of alcohol. When assessing noise emissions from licensed premises, Environmental Health and industry standard regards the **most appropriate Noise Criteria** to be applied is that imposed by the NSW Department of Industry - Liquor & Gaming (L&GNSW) which relate to noise generated by patrons and by music. The noise criteria states:

- *The L10 noise level emitted from the premises shall not exceed 5dB above the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
- *L10 noise level emitted from the premises shall not exceed the background L90 sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
- *After midnight, noise emissions from the Premises are to be inaudible within any habitable rooms in nearby residential properties.*

3. Noise Assessment not based on Worst Case Scenario Conditions

The Acoustic Report (Acoustic Group 14 June 2022) states, "A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period".

Environmental Health has several issues with the above statement. First of all it is the only measured noise level which is used in the Acoustic Report in determining the Project Specific Noise Trigger Levels. No time or duration of the assessment is recorded in the Acoustic Report.

Secondly, the isolated scenario (wedding function) does not represent all 'typical functions'. There are many different functions that would each generate varying levels of noise. In the example used (wedding function), the Acoustic Report does not stipulate attending patron numbers; as a worst-case scenario the assessment should be based on the premise that the wedding function was held at maximum patron capacity.

In determining the maximum allowable noise levels, the Acoustic Report could have used noise modelling software to predict noise emission levels for all function scenarios, and representing each function scenario in **worst-case scenario conditions**. Environmental Health would have expected the Acoustic Report to reference as a minimum, but not be limited to:

- Determining compliance with Project Specific Noise Trigger Levels when compared to measured ambient noise levels (unattended and attended).
- Justify assumptions of predicted sound power levels from identified sources of noise, especially patron and music noise, noting that the consumption of alcohol has the potential to increase the level of crowd noise as people lose their inhibitions and become more boisterous.
- Predict **cumulative** noise emissions from patron noise, music (amplified or otherwise), mechanical plant services and carpark operations and their impact upon sensitive residential receptors.
- Detail each function scenario and acoustic characteristics of the venue setting (internal, external or both) and assume maximum allowable patronage capacity. The larger the group, the larger the vocal effort to communicate.
- Detail the typical entertainment permitted for each type of function scenario and set-up locations.
- Traffic noise impact assessment at the site that accommodates parking for 45 vehicles on the site.
- Waste collection and delivery services (activity scheduling).
- Detail of all noise mitigation strategies.

4. Sensitive Residential Receptors

The Acoustic Report (Acoustic Group 14 June 2022) states, *"Observations of Darling Point Road during the wedding function indicated a reasonable degree of traffic passing the subject site and that the critical residential receivers with respect to functions occurring on the southern lawn would relate to a high-rise apartment building immediately to the south of the subject property that overlooks Swifts"*.

Environmental Health has concerns that the Acoustic Report has not identified all residential properties that may be adversely impacted by noise emissions, especially for the outdoor events conducted on the Northern Lawn and Southern Lawn. Residential areas include Darling Point Road, Thornton Street and Hampden Avenue.

5. Sleep Disturbance

Noise sources of short duration and high level that may cause disturbance to sleep if occurring during the Night period need to be considered. The approach recommended by the NPfI is to apply the following initial screening noise levels:

- LAeq,15min 40dBA or the prevailing RBL + 5dB, whichever is the greater; and/or
- LAFmax 52dBA or the prevailing RBL + 15dB, whichever is the greater.

The sleep disturbance screening noise levels apply outside bedroom windows during the night time period. Where the screening noise levels cannot be met, a detailed maximum noise level event assessment should be undertaken. It may also be appropriate to consider other guidelines including the *NSW Road Noise Policy (RNP)* which contains additional guidance relating to potential sleep disturbance impacts.

b). FOOD SAFETY PRACTICES

Environmental Health notes that no reference has been made in the supporting documentation specific to food handling controls related to the receipt, storage, processing, display, packaging, transportation and disposal of food (*Standard 3.2.2*

Food Safety Practices and General Requirements). NSW Food laws (NSW Food Act and Food Safety Standards) place many responsibilities on the proprietor of a food business. An organiser of an event that is selling food, must be aware of these responsibilities.

All food businesses that make or sell food are to be known to enforcement agencies to ensure that food businesses are handling food safely. The Food Safety Standards require all food businesses to provide the following information to the appropriate enforcement agency before any food handling begins:

- contact details for the business, including the name of the business and the name and address of the proprietor;
- the nature of the business; and
- the location of all food premises that are within the jurisdiction of the enforcement agency.

Reference:

<https://www.foodstandards.gov.au>

<https://www.foodauthority.nsw.gov.au>

6. RECOMMENDATION

For reasons stated in Section 5 of this Environmental Health Referral Response, Council's Environmental Health Officer has determined that insufficient information has been submitted to enable an assessment of the proposal.

- A. General Conditions**
- B. Conditions which must be satisfied prior to the demolition of any building or construction**
- C. Conditions which must be satisfied prior to the issue of any construction certificate**
- D. Conditions which must be satisfied prior to the commencement of any development work**
- E. Conditions which must be satisfied during any development work**
- F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**
- 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

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Louie Salvatore
Environmental Health Officer

Date: 13/10/2022

Completion Date: 7 October 2022

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 277/2022/1
ADDRESS: 68 Darling Point Road DARLING POINT 2027
PROPOSAL: Temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months)
FROM: Ashley Wang - Fire Safety Officer
TO: Mrs L Holbert

1. ISSUES

- *Ground floor level is assessed as a Class 9b building.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 11607 prepared by GLN Planning, dated 5 July 2022.

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- Plan of Management, referenced 11607, prepared by GLN Planning, dated 5 July 2022.

4. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2000*.

☒ Clause 93 – Change of Use – ‘Fire safety and other considerations’

- *Category 1 fire safety provisions required*

☐ Clause 94 – ‘Consent authority may require buildings to be upgraded’

- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
- Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings

☐ Clause 94 – ‘Fire safety and other considerations applying to erection of temporary structures’

- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

6. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

- A. **General Conditions**
- B. **Conditions which must be satisfied prior to the demolition of any building or construction**
- C. **Conditions which must be satisfied prior to the issue of any construction certificate**

C.1 Fire safety upgraded – Change of building use (cl. 93 of the Regulation)

Council considers pursuant to clause 93 of the *Regulation* that it is appropriate to require the existing building to be upgraded to total or partial conformity with the *BCA*.

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

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

- a) Performance Requirement EP1.3 of the *BCA*.

Note: The *Certifying Authority* issuing the *Construction Certificate* has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the *BCA* the *Certifying Authority*, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed-to-satisfy) provisions of the *BCA* these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the *Act*.

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

Note: AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.
Standard Condition: C9

- D. **Conditions which must be satisfied prior to the commencement of any development work**
- E. **Conditions which must be satisfied during any development work**
- F. **Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**

F.1 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building's proposed new use are provided:

- a) Performance Requirement EP1.3 of the BCA.

Note: Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.
Standard Condition: F3

F.2 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:

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

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

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

Standard Condition: F4

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

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

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

I.1 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.
Standard Condition: I22

J. Miscellaneous Conditions

K. Advisings

Ashley Wang
Fire Safety Officer

Date: 7 October 2022



Heritage NSW

HMS Application ID: 1300
Your ref: CNR-42766 - DA277/22

Larissa Holbert
Senior Assessment Officer
Woollahra Municipal Council
PO BOX 61
DOUBLE BAY NSW 1360

By email: larissa.holbert@woollahra.nsw.gov.au

Dear Ms Holbert

**HERITAGE COUNCIL OF NSW – GENERAL TERMS OF APPROVAL
INTEGRATED DEVELOPMENT APPLICATION**

Address: 68 Darling Point Road DARLING POINT NSW 2027
SHR item: Swifts, SHR no. 00146
Proposal: CNR-42766 - DA277/22 - Temporary use for events
IDA application no: HMS ID 1300, received 27 July 2022

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

APPROVED DEVELOPMENT

1. Development must be in accordance with:
 - a. *Statement of Heritage Impact*, prepared by GML Heritage, dated 29 June 2022.
 - b. *Statement of Environmental Effects*, prepared by GNL Planning, dated June 2022.
 - c. *Plan of Management*, prepared by GNL Planning, dated June 2022
 - d. *Acoustic Assessment*, prepared by the Acoustic Group, dated 14 June 2022.
 - e. *Traffic and Parking Impact Assessment of the Proposed events at Swifts*, prepared by McLaren, dated 29 June 2022.

EXCEPT AS AMENDED by the following general terms of approval:

DURATION OF APPROVAL

2. This approval will lapse after 2 years from the date of the consent.

Reason: To ensure that impacts of the temporary use of the place can be measured.

DESIGN

3. The erection of marquees is approved within the Southern lawn only.
4. No additional permanent structures or modifications to the dwelling to facilitate temporary events shall be approved.

Reason: To minimise impacts of the proposed temporary use upon the significance of the place.

Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

SITE PROTECTION

5. Significant built and landscape elements are to be protected from potential damage during site preparation and events. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.
6. The events shall be supervised, including set up and removal, to ensure that required protection measures are implemented and maintained.
7. A site induction package shall be prepared that includes heritage information for all organisers and tradespeople engaged in setting up and management of events to ensure that any works required to facilitate these events are undertaken with minimal impacts to heritage values.

Reason: To minimise impacts arising from setting up for temporary events at the place. To ensure significant fabric and values of the place are protected and that site protection measures are carried out.

SITE MONITORING

8. A quarterly monitoring report shall be submitted to Heritage Council of NSW (or its delegate). The report shall include the following information:
 - a. The number and nature of events held within the property during the reporting period.
 - b. The location of the events held within the property during the reporting period, including any marquees.
 - c. Photographs with date stamps of bump in, set up and bump out.
 - d. A report by a suitably qualified heritage consultant with information on any impacts occurring to significant fabric, landscape elements and moveable heritage items.

Reason: To ensure that all approved activities are conducted according to the consent granted and impacts to the place are managed effectively.

UNEXPECTED FINDS

9. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics or any other buried fabric such as works not identified are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project.

COMPLIANCE

10. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

SECTION 60 APPLICATION

11. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Unexpected discoveries during works

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the *Heritage Act 1977*. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the *National Parks and Wildlife Act 1974*.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

Right of Appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please contact Mariyam Nizam, Senior Assessments Officer, at Heritage NSW on 88376375 or [Mariyam.Nizam@environment.nsw.gov.au](mailto:Mariam.Nizam@environment.nsw.gov.au).

Yours sincerely

Rajeev Maini

Rajeev Maini
Manager, Assessments Team 3
Heritage NSW
Department of Planning & Environment
As Delegate of the Heritage Council of NSW
2 November 2022

OFFICIAL USE ONLY



SUBMISSION

Application DA2022/277/1 & DA2022/278/1 at 68 Darling Point Road, Darling point

The Executive Manager

Tuesday 13 September 2022

Development Assessment

Woollahra Municipal Council

DEVELOPMENT NUMBER, TYPE & ADDRESS:

DA2022/277/1

DA2022/278/1

68 Darling Point Road,

Darling Point 2027

LICENSING POLICE POSITION:

If Woollahra Council deem the application to meet the provisions under the Woollahra Local Environmental Plan 2015, Police do not object. If granted, Police propose conditions to be placed to mitigate against noise and potential harms.

COMMENTS:

1. Licensing Police were in receipt of Development Application, DA2022/277/1 & DA2022/278/1. Police conducted a review of the applications and associated documentation. Licensing Police highlight the following areas of concern for Council consideration.
2. Venue Disturbances – Police note the premise is situated within a Low-Density Residential Zone. Police note multiple complaints were made by neighbours to Rose Bay Police Station following a party that occurred at the premise on Saturday 29 May 2021. Police note the applications have proposed controls for noise, however as the premise is situated within a residential setting, Licensing Police seek stringent conditions to mitigate against further instances of disturbances created by the premise.
3. If Council were to approve this development, Licensing Police request the following conditions be imposed on the final consent.

OFFICIAL USE ONLY



ENTERTAINMENT NOISE EMISSIONS

No amplified music in outdoor areas is permitted after 6pm.

When amplified music is utilised indoors, all doors and windows must be shut from 6pm.

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.

LIQUOR SALE / SUPPLY / CONSUMPTION

No liquor may be sold or supplied on the premises except with the approval and authorisation from the relevant Liquor Authority.

Local Licensing Police must be informed at least 14 days prior to any activity utilising a liquor licence.

1 licensed security guard is to be located at the primary entrance to the premises for the duration of any activity that utilises a liquor licence.

No patron shall be permitted to take glasses or open containers of liquor off the premises.

COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required, and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers and Police Officers.

PLAN OF MANAGEMENT (POM) TO BE SUBMITTED AND APPROVED

The POM shall be amended to include details of all operational and management procedures of the premises. The POM shall include, but is not limited to, its amenity within the neighbourhood of the premises, compliance with conditions (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints), the behaviour of patrons, liquor practices (if licensed, including the responsible service of alcohol), staffing roles and responsibilities (including security personnel if required), management of patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements.

The POM shall be approved by Council prior to the commencement of operations

OFFICIAL USE ONLY



SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES (LICENSED EVENTS)

The Management must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- (a) It must operate continuously from one hour prior to the function / event and one hour after it has concluded
- (b) It must record in digital format at a minimum of 12 frames per second
- (c) Any recorded image must specify the time and date of the image
- (d) The system's cameras must cover:
 - i. All entry and exit points of the premises utilised by guests,
 - ii. The footpath immediately adjacent to the premises, and
 - iii. All accessible areas for guests (other than toilets) on the premises.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) These recordings are to be provided to Council or Local Police within 24 hours of any request

Regards,

Senior Constable Angus Franks

Eastern Suburbs Police Area Command

Licensing Unit

Larissa Holbert

From: Asli Erik
Sent: Thursday, 1 December 2022 3:42 PM
To: Larissa Holbert
Cc: George Fotis; Paul Sullivan
Subject: Response to Planning Referral- 68 darling Point Rd
Attachments: Re: Swifts 68 Darling point Road, Darling Point

Dear Larissa,

Below are the complaints/enquiries logged in iConcierge in relation to use and parking issues. Most issues emanate from lack of parking in the area. In relation to filming I have sent an advisory e-mail which I have forwarded to you earlier this afternoon.

Attached E-mail is sent by Mr Harding and subsequently I informed the Regulatory Services and I have issued a show cause letter on 18/11/2022 (HPE 22/224580) for Failure to obtain Development Consent for the allegations in relation to the use of the property as function centre, representations from Mr Moran can be found on HPE 22/236592. This was issued after receiving the latest complaint.

Please be further advise that most complaints come as parking complaints and if these complaints come to compliance they are directed to Colin DeCosta to create iConcierge requests. He may give you the total number of complaints received by the Regulatory Team in relation to illegal parking or lack of parking space for residents living around 68 Darling Point Road.

34214 - Unauthorised use private property - objection to DA 29/08/2022
39644 - Unauthorised use private property – filming 03/11/2022
40156 - Unauthorised use private property – filming 09/11/2022
40992 - Unauthorised use private property – enquiry in relation to filming 17/11/2022

I will be in the office tomorrow if you like to chat face to face and please let me know if you require any other information from me in relation to the use of the property.

Thanks,

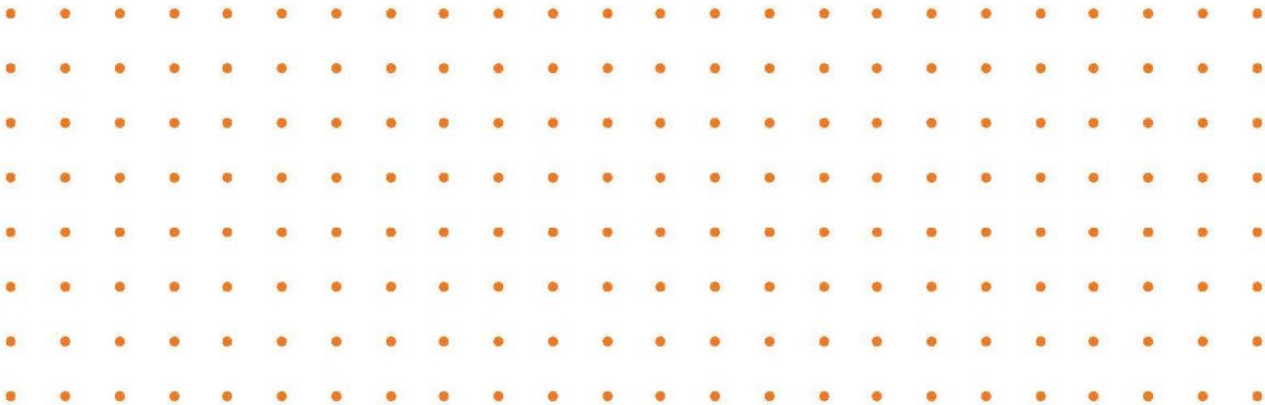


Asli Erik
Building & Compliance Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 02 9391 7076
e: asli.erik@woollahra.nsw.gov.au **w:** www.woollahra.nsw.gov.au

Our Values: Respect for People | Integrity and Excellent Performance | Professional Quality Service | Open Accountable Communication

We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.



PLAN OF MANAGEMENT

Swifts Occasional Events Venue – 68 Darling Point
Road, Darling Point



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Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Plan of Management

Swifts Occasional Events – 68 Darling Point Road, Darling Point

Prepared for

Masolage Holdings Pty Ltd

By



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11607 PoM 4 FINAL
July 2022



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Project Number: 11607

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July 2022

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Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



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1 Introduction

This Plan of Management (**PoM**) has been prepared to administer the occasional use of part of the site at 68 Darling Point Road, Darling Point (the **Site**) – known as “Swifts” – for events. Swifts is a heritage listed residence that has historically been the location for a wide range of events.

The occasional use of the Site for events has been approved by Woollahra Municipal Council (**Council**) under Development Application [insert Consent Ref when issued]. Any event that occurs on the Site will need to meet the minimum requirements provided within the conditions of consent provided in [insert Consent Ref when issued] (**Attachment A**) and this PoM. Where there is a conflict between this PoM and the conditions of consent in Attachment A, the conditions in Attachment A prevail.

Swifts is a large residence situated in Darling Point. The residence was constructed in 1882 by the Tooth family. The residence includes rooms and landscape specifically designed for entertaining, including (but not limited to): a ballroom, billiard room, large dining rooms, extensive landscaped gardens, swimming pool and tennis court. The primary use of the Site will remain as a large residential dwelling, therefore this PoM includes measures that limit the number and extent of events that can occur on the Site, so the integrity of the residential use of the Site and the amenity of the surrounding residential uses is maintained.

This PoM supports the occasional use of the Site for the following types of events (but are not limited to):

- Weddings,
- Birthdays,
- Charity Events,
- Balls,
- Corporate functions,
- Product launches,
- Shows, and
- Displays.

The above list is not exhaustive but provides an indication of the types of events this PoM will support. The following PoM provides the location, duration, capacity and frequency of events that can occur on the Site, as well as including a reporting structure.

A summary of the information provided in this PoM is included in **Attachment B**.

The Event Schedule in **Attachment C** is to be updated and a copy provided to Council on a quarterly basis. The combined number of days the Site is utilised for events must not exceed 41 days in a calendar year, with further restrictions on the number of specific events provided in **Section 4.1**.

For the avoidance of doubt, this PoM and the related restrictions do not apply to any personal event hosted by or for a member(s) of the Moran family (for which a fee is not charged).

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



2 Event Type and Management

A designated Event Manager for each event must be onsite for the duration of the event (including set-up and pack-up). The Event Manager along with the landowner (Masolage Holdings Pty Ltd) will be responsible for the event's compliance with the requirements of this PoM and the conditions of consent in **Attachment A**.

The Event Manager will be provided a copy of this PoM and is required to have a copy in their possession for the duration of the event. Each event will have its own unique Plan, which must include a section that demonstrates compliance with this PoM and the conditions of consent.

2.1 Event Categories

All events will be categorised as either:

Normal Events, which are primarily held indoors, over 1 day between 9am and 11pm

Special Events, which are primarily held outdoors, over 1 day between 9am and 10pm

Unique Events, which are indoor and outdoor events and held over multiple days between 9am and 6pm

The total number of guests are limited in accordance with **Section 4.1**. All guests must depart the venue within 1 hour of the conclusion of the event in accordance with **Section 4.2** of this PoM. Pack up and set up of the event may occur outside of these times but must be done in accordance with **Section 4.2.1**.

2.2 Frequency of Events

The combined duration of events must not exceed 41 days in any calendar year.

Normal Events – Maximum of 20 per year – no more than 3 per month.

Special Events – Maximum of 12 per year – no more than 3 per month.

Unique Events – Maximum of 3 per year – no single event lasting more than 3 days in total.

2.3 Event Notification

The Event Schedule in **Attachment C** will be updated and provided to Council on a quarterly basis. The Event Schedule will include the category of the event and the contact information for the Event Manager and summarise the details of the event. The schedule will be updated to ensure that events do not collectively exceed 41 days in a calendar year.

Surrounding residents will be notified of any Unique Events at least two weeks before the event. This will include a letterbox drop to all residential letterboxes on:

- Darling Point Road – between Yarranabbe Road and Etham Avenue (southern intersection)
- Thornton Street – between Darling Point Road and Hampden Avenue

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

- Hampden Avenue – between Thornton Avenue and Goomerah Crescent

The information provided to the residents will include, at a minimum, the hours of the event and the contact details of the Event Manager.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

3 Site and Event Areas

The Site is located at 68 Darling Point Road and has significant frontage to Darling Point Road, Thornton Street and Hampden Avenue (see **Figure 1**). The Site consists of approximately 1.36ha on the western side of Darling Point Road, Darling Point and contains the historic Swifts building, which is described as a late Victorian castellated Gothic Revival mansion and contains extensive lawns along the Darling Point Road frontage (see **Figure 2**).



Figure 1 Aerial of Site

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 2 Photo of the eastern elevation of Swifts taken from internal driveway

3.1 Outdoor event locations

Outdoor events will primarily be contained to the:

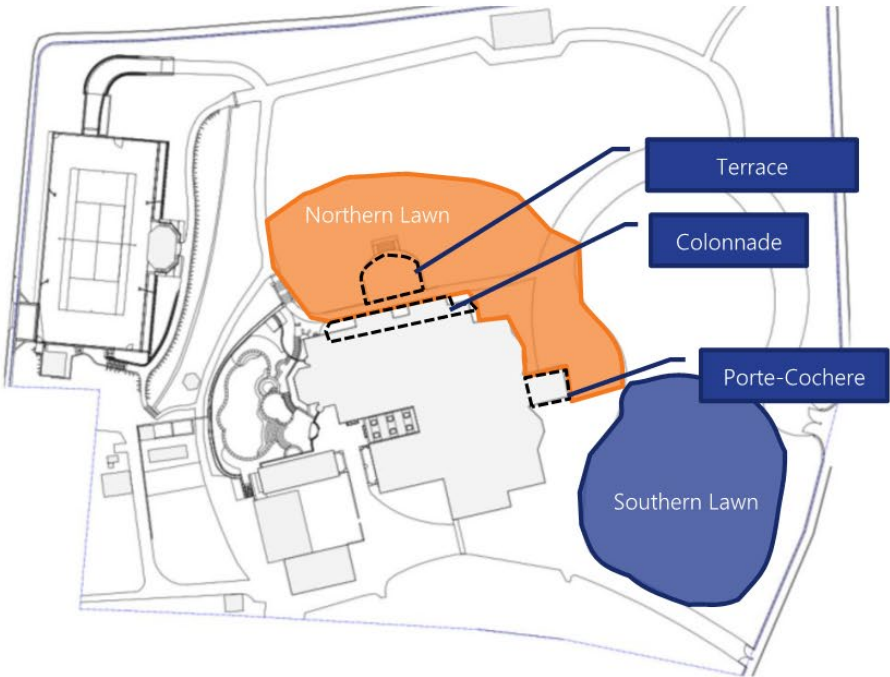
- Northern Lawn
 - Available for use between 9am – 10pm
- Southern Lawn Area
 - Available for use between 9am – 6pm if no marquee provided
 - Use after 6pm must be in a marquee with roof and walls.
 - No PA systems to be utilised after 6pm, other than for speeches limited to a duration of 1 hour.

The above areas are shown in **Figure 3-7**.

The outdoor areas also include use of the Porte-Cochere, Colonnade and Patio area. The balance of the gardens and tennis court area may be used during a Unique Event for various displays. As outlined in **Section 4.3** no amplified music will be utilised in the outdoor event locations. The volume of the PA system will be limited. The PA System will be limited to one hour of continuous use.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning

Figure 3 Outdoor event spaces



Source: GLN Planning 25.10.21

Figure 4 Photo of terrace and Northern lawn from Portico

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 5 Photo of Northern lawn from Terrace



Source: GLN Planning 25.10.21

Figure 6 Photo of driveway and Northern lawn adjacent to Port-Cochere

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 7 Photo of southern lawn

3.2 Indoor event locations

Indoor events will be contained to the ground floor area of the Swifts main building, including Ballroom, Drawing, Music, Dining and Billiard rooms, and the indoor garage beneath the tennis court. Events may also utilise areas of the Terrace and Portico, Colonnade and Porte-Cochere. Amplified music and PA systems can be used indoors, where doors and windows to the outside can be closed after 10pm. Photos of the main rooms are provided in **Figures 8-9**.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: GLN Planning 25.10.21

Figure 8 Photo of ballroom



Source: GLN Planning 25.10.21

Figure 9 Photo of dining room

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



4 Event Particulars

4.1 Capacity

- Events held outdoor only – Maximum 250 guests
- Events held indoor only – Maximum 200 guests
- Events held across indoor and outdoor areas – Maximum 300 guests
- Unique events – maximum of 300 guests at any time

4.2 Duration of Events

Normal Events – Can be held between the hours of 9am – 11pm

Special Events – Can be held between the hours of 9am and 10pm

Unique Events – Can be held between 9am and 6pm across a maximum of 3 days.

All guests must have vacated the premises within 1 hour of the conclusion of the event.

4.2.1 Set up and Pack Up.

Set up and pack up can occur outside of the above times.

- Set up – After 7am on the day of the event, or the day before. Set up must not occur after 11pm.
- Pack up – before 11pm the day of the event, or after 7am the day after the event.

4.3 Music & PA Systems

To minimise the impact on surrounding residents and occupants of Swifts, acoustic and amplified music is only permitted in certain areas at certain times.

- Normal Events (Indoor Areas)
 - Amplified music is permitted.
 - PA is permitted.
 - External doors and windows must be closed after 10pm where amplified music and/or PA is being utilised.
- **Special Events (Northern Lawn and associated outdoor areas - Colonnade, Portico and Terrace)**
 - Small amplified musical ensembles and sound systems permitted up to 6pm.
 - After 6 pm, music can be small unamplified musical ensembles, eg. string quartets etc.
 - Any amplified music after 6pm is prohibited.
 - A PA system with a sound level limiter is the only system permitted.
 - No use of a PA is permitted after 6pm, other than for speeches limited to a duration of 1 hour.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

- **Special Events (Southern Lawn Area)**

- If the event is to go beyond 6pm, the event is to occur within a marquee with southern and eastern walls fully closed by heavy plastic/vinyl material
- A sound system for amplification of the ceremony and speeches is to have speakers located under the marquee (minimum of 2m from the western end of marquee)
- PA limited to 1 hour of continuous use.
- To provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards the north
- A PA system, with a sound level limiter, is the only system permitted. The speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.
- Before 6pm, music may be provided by amplified instruments or systems located adjacent to the main building situated in line with the northern end of the marquee (approximately 24 metres from the southern boundary). The music source is to be oriented in a northerly direction and a temporary solid timber wall is to provide additional acoustic shielding limiting the music source to a level not exceeding 75 dB(A).
- After 6 pm, music can be small unamplified musical ensembles, eg. string quartets etc, located on the southern side under the marquee.
- No use of a PA or amplified music is permitted after 6pm, other than a PA system for ceremonies and speeches of a duration of up to 1 hour.

- **Unique Events**

- The above restrictions apply depending on the relevant area used.
- Management to have available, at all times, a sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary.

4.4 Arrival, Drop-off and Parking

The Event Manager will be required to undertake the following prior to the event:

- Notify guests that parking is not provided on-site (without prior arrangement) and it is recommended that guests take alternative transport to the site, such as Uber, walk, train, bus, ferry, taxi and ride share. A map of the nearest public transport facilities and appropriate timetables for the event is to be provided to all guests.
- In some circumstances (on an as needed basis) a shuttle bus, such as a 7m long 2-seater mini-bus will be provided between the site and key locations.
- VIP guests, guests with mobility issues and other nominated/authorised guests shall be exempt from the above requirements.
- Authorised staff will be able to park on-site
- On-site car parking is available within the circulation roadway, to the back (south) of the residence and within the basement garage off Hampden Avenue (see **Figures 10–13**).

The primary access is from Darling Point Road via existing gates. The primary access accommodates vehicular circulation via an internal looped driveway to a Porte-Cochere and then back onto Darling

Plan of Management

Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

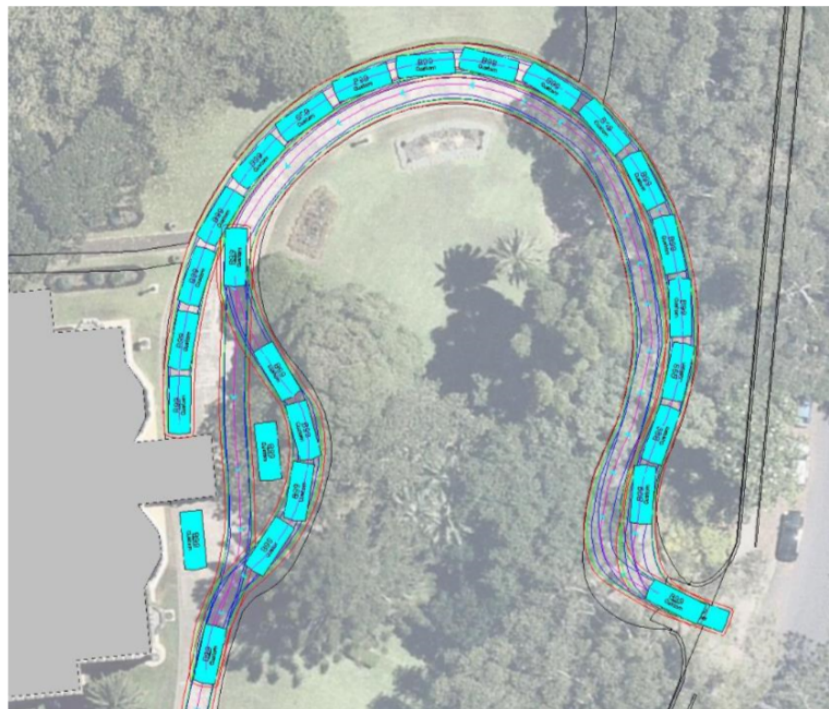
Point Road. Pedestrian access is also available off Darling Point Road. A secondary vehicular entrance is also available off Hampden Ave, into a basement garage located under the tennis court. The basement provides a "back of house" access through the gardens to the residence.

The primary entrance will be managed by a security guard. Only invited guests will be allowed entry. The security guard at the front gate will have a list of invited guests to confirm the identity of each guest on arrival. The secondary access off Hampden Road is only to be utilised by event staff.

During the event, traffic will enter and leave the site in a one-way anticlockwise fashion, entering via the primary entrance. Once a driver has entered the Site, they will follow the circulation driveway until reaching the larger area in front of the Porte-Cochere at which point they will either drop-off/pick up guests. Upon leaving, the driver will continue along the circulation driveway down the southern side of the circulation driveway toward the exit.

If accessible parking is required by a guest, this is to be made known to the security guard in which case they will direct the driver to dedicated parking for people with disabilities.

No event will require any road closure.



Source: McLaren Traffic Engineers

Figure 10 23 x parked vehicles maintaining two-way passing within loop road

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

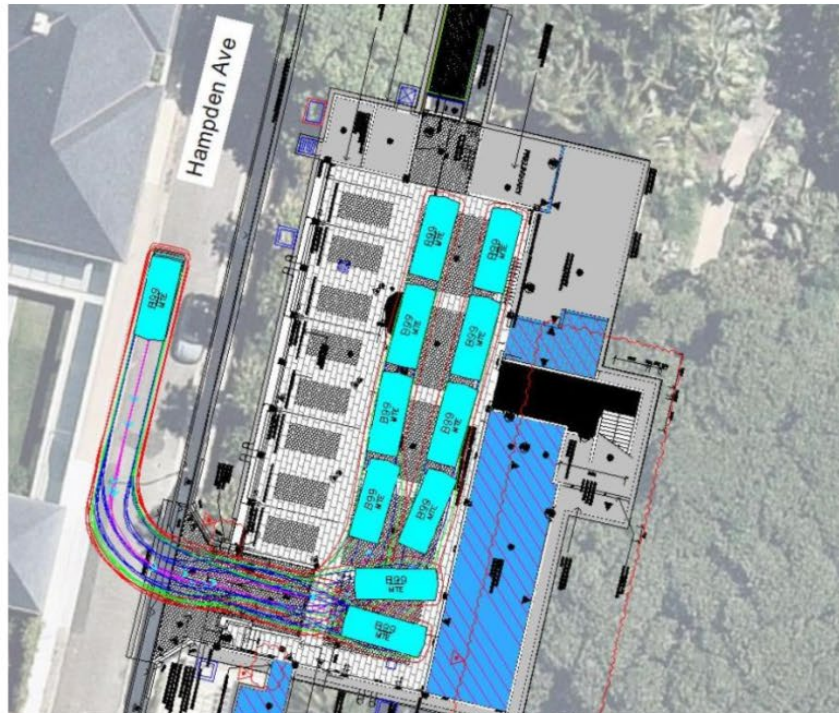


Source: McLaren Traffic Engineers

Figure 11 12 x parked vehicles in a tandem arrangement at the area south of the residence

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Source: McLaren Traffic Engineers

Figure 12 10 x parked vehicles in a tandem arrangement within the basement under the tennis court.

4.5 Security Management

A security team is to be engaged for each event. The security team will be on-site for the duration of the event. The security will be required to manage access and crowd control during the event.

Any engaged security company will be required to hold relevant licencing in accordance with relevant regulations.

4.6 Emergency Evacuation Plan

An individual emergency evacuation plan is required to be prepared for each event by the Event Manager. The Event Manager will be responsible for ensuring all staff and guests are aware of the plan and procedures.

4.7 Toilet and Amenities

Depending on the type and numbers of the event, existing facilities on site will be used. Additional temporary facilities can be provided, but must be arranged with Masolage Holdings Pty Ltd prior to the event.

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



4.8 Complaint Register

If complaints are made during the event, they will be communicated personally by event management staff.

If complaints are made after the event they will most likely be in the form of a letter drop or email. It will be the Event Manager's responsibility to review the complaint and address as necessary.

4.9 Structures and furniture

No permanent structures or furniture is permitted. Marquees, tables, chairs and decorations are permitted only where they do not require any modification to the existing building fabric or landscape. The Event Manager will be responsible for returning the site back to its original state at the conclusion of the event.

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APPENDIX A: CONDITIONS OF CONSENT

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



APPENDIX B: SUMMARY TABLE

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point

Type of Events	Number of events	Capacity	Location	Duration	Music	PA	Restrictions
Normal events (indoors)	20 per year (no more than 3 per month)	Up to 200 people	Inside (main residence and/or garage) with use of ballroom colonnade, northern terrace and driveway.	Between 9am and 11pm (guests out by 12pm)	Amplified music permitted.	PA system permitted	Windows must be closed where PA system and amplified music is played beyond 10pm
Special events (outdoor)	12 per year (no more than 3 per month)	Up to 250 people	Outside – all areas including northern and southern lawn areas	Between 9am and 10pm (guests out by 11pm)	Amplified music permitted before 6 pm with restrictions (which differ for Northern Lawn areas and Southern Lawn area). Small unamplified musical ensembles permitted after 6 pm. No amplified music after 6pm.	PA system with RMS limiter. No use of a PA or is permitted after 6pm, other than one hour of speeches and/or ceremonies.	Use of Southern Lawn from 6-10pm only permitted within a marquee with roof and southern wall of the southern and eastern walls fully closed by heavy plastic/vinyl material.
Unique events	3 per year	Up to 300 people at any time	All areas	Between 9am and 6pm	The above restrictions apply depending on the relevant area.	The above restrictions apply depending on the relevant area.	Each event no longer than 3 days total. Noise emission levels not to exceed 46 dB(A) at any residential boundary

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



APPENDIX C: EVENT REGISTER

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point



Event Name	Event Date	Event Manager and Contact	Event Type	Duration	Annual Cumulative Event Type	Annual Cumulate Event Days Total
Example 1 [Wedding of xx and xx]	01/07/22	John Smith 04XX XXX XXX	Special (Outdoor)	6pm – 11pm	Normal Events (0 of 20) Special Events (1 of 12) Unique Events (0 of 3)	1 of 41
Example 2 [xx new season launch]	10/08/22 – 13/08/22	Joanne Smith 04XX XXX XXX	Unique Events	9am – 6pm	Normal Events (0 of 20) Special Events (1 of 12) Unique Events (1 of 3)	2 & 3 of 41
Example 3 [50 th birthday celebration for xx]	01/09/22	Jennifer Smith 04XX XXX XXX	Normal (Indoor)	5pm – 11 pm	Normal Events (1 of 20) Special Events (1 of 12) Unique Events (1 of 3)	4 of 41

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1 July 2022

Craig Swift-McNair
The General Manager
Woollahra Municipal Council
536 New South Head Road
DOUBLE BAY NSW 2028

Our Reference: 21-0159Agmc2

**Re: Swifts, 68 Darling Point Road, Darling Point—Clause 2.8
Application, Temporary Use of Land**

Dear Craig Swift-McNair

GML Heritage Pty Ltd (GML) has been commissioned by Masolage Holdings Pty Limited, owner of Swifts, located at 68 Darling Point Road, Darling Point, to prepare a heritage report to accompany an application under the Clause 2.8 Temporary Use of Land of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP).

This application is to allow temporary events within the gardens and residence of Swifts. Given the subject area is zoned in the Woollahra LEP as Low Density Residential (R2), commercial business is disallowed. This application is to apply to Woollahra Council through Clause 2.8 Temporary Use of Land for consent for Temporary events at Swifts.

Heritage Context

Swifts, built in 1876, is identified as an item of state significance on the State Heritage Register (SHR 00146) and is listed as a heritage item (Item no. 99) in the Woollahra LEP—Schedule 5 Environmental heritage. The following statement of significance for Swifts, is taken from the State Heritage Inventory Sheet and outlines its cultural significance:

Swifts is of State significance as, apart from Government House in Sydney, it is the largest remaining Victorian Gothic Revival house in Australia. Swifts remains on its original grounds and still consists of the original landscape, statuary, terrace wall, stairs and paths. It is a prime example of how the upper-class people lived in the 19th century in Australia. Swifts is also of cultural significance as it was home of two well-known Sydney business families, the Lucas-Tooth and Resch families. Swifts connection with the Roman Catholic Church is also of social significance as it was home to three cardinals; Gilroy, Freeman and Clancy. The building is also significant because it is an example of

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the work of Gustavus Alphose Morell, a prominent Sydney architect in the late 19th century.

The western section of the garden of Swifts formed an integral part of the original design of the grounds. The special relationship of the grounds to the mansion is a significant factor in determining the status of the grounds as an item of environmental heritage. The building together with its site is an item of environmental heritage.

The primary heritage significance of Swifts house and gardens is associated with its continuous use as a residence from 1876 to the present. Swifts has been as a place where social functions have occurred throughout that time. The frequency of functions at Swifts has changed over the historic phases of occupation.

Historic Background of Events at Swifts

The attached document, "Swifts, Darling Point Road, Darling Point—History Occupation and Use" (Final, 27 June 2022) was prepared by GML (see attachment A). This historic overview provides a history of various phases of development and identifies the use of Swifts, specifically associated with events from 1882 through to the present. This is summarised below.

In the early occupation, Swifts was used as a family residence and there were few social gatherings at Swifts. Between 1928 and 1963 only a few large-scale social events were held at the residence. In the early 1930s, Florence and Edmund Resch occupied the residence and hosted occasional fund-raising events, including bridge parties in 1933. On 21 November 1935, an afternoon 'musical' for District Nursing Association, was held for 300 people—a buffet tea served on the lawn, a musical program in the ballroom and a tennis tournament on the tennis courts of Swifts.

From 1964 through to 1996, Swifts was the official residence of the Roman Catholic Archbishop of Sydney. The ground floor of the house was converted to a chapel, known as the Chapel of St Edmund, for the local congregation. During the period, Swifts was the venue for weddings, requiem masses, funerals, baptisms and other services.

In 1997, the Moran family purchased Swifts. In 2010, the property was transferred to Dr Shane Moran (Masolage Holdings Pty Ltd) and his sister Kerry Jones (KJ Property Investments Aust Pty Ltd). Dr Moran and his family resided at the property and Ms Jones operated a function business out of the property. A website and brochure offered events and functions at Swifts for an agreed payment.

In 2011, following complaints about events by the local community, Woollahra Municipal Council judged the events to be of a commercial character and required development consent, regardless of whether the events involved charity fundraising.

Subsequently, Council requested Kerry Jones not hold events of a commercial character unless prior development consent was obtained. On that basis Kerry Jones lodged a



successful development application (DA433/2011) to hold an Open House and Garden Party at Swifts from 18 to 20 November 2011. The proceeds of this event were given to 'Friends of Swifts' charities. During the war, between 1942 and 1944, Swifts was used as the Swifts Rest Centre, providing civilian aid service.

Previous DA for Temporary use (Event)

In January 2022, the owner of Swifts submitted a DA for Temporary use (Event) at the premises of 68 Darling Point Road, Darling Point for the vintage car event, Sydney Harbour Concours d'Elegance, scheduled for 3-5 March 2022.

On 1 March 2022, Heritage NSW (as Delegate of the Heritage Council of NSW) approved a Section 60 application for the subject Temporary use (Event) at Swifts (see attachment B). The most relevant conditions of approval included:

Condition 2—Specialist Tradespersons: All work to, or affecting, significant fabric should be carried out by qualified tradesperson with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

Condition 3—Site Protection: Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure that significant fabric including vegetation is protected during construction.

Condition 4—Compliance: If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council NSW approval to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

The above reasons for the Conditions are in keeping with the Standard Exemptions (see attachment C Schedule of Standard Exemptions).

The event, temporary in nature, ensured the organisers restore the site to the condition it was in prior to the event. This eliminated any adverse heritage impact on the culturally significant place. The temporary nature of structures had no adverse heritage impact. All temporary displays and structures for ceremonial purposes were in accordance with CMP conservation guidelines, including Section 8.3.19 Mobile and Temporary Structures for Compatible Uses and 8.3.20 Outdoor Furniture, Rubbish Bins, Signs and Other Facilities.



Current Functions and Temporary Use of Swifts

The owner of the property has previously held functions and events within Swifts gardens and residence. Events include garden parties for charity events, dinners, theatrical events, reunions, Christmas parties, galas, fundraiser events, AXA Sydney Harbour Concours d'Elegance, weddings and film shoots. In the future, the proposal seeks to formalise the way these events are held.

The proposal includes:

- **Special Events**—12 per year (no more than 3 per month) for 250 people—utilising all areas;
- **Normal Events**—20 per year (no more than 3 per month) up to 200 people—utilising inside and use of ballroom colonnade, northern terrace and driveway); and
- **Unique Events**—3 per year across up to 3 days (up to 300 people at any time)—utilising all areas.

The question that needs to be asked is whether this number of temporary events is in accordance with the “tolerance” for the conservation of this item of state heritage significance.

Schedule of Standard Exemptions

Listed on the State Heritage Register, Swifts has Standard Exemptions for engaging in or carrying out activities/ works otherwise prohibited by section 57(1) of the Heritage Act 1977. On 9 December 2020, Standard Exemptions granted Swifts exemption from subsection 57(1) of the Heritage Act 1977. The Schedule of Standard Exemptions to Subsection 57(1) of the Heritage Act 1977 made under Subsection 57(2) included 20 Standard Exemptions (see attachment C). These standard exemptions have general conditions that require compliance. The standard exemptions of relevance to this application include:

- Standard Exemption 12: Temporary Structures;
- Standard Exemption 15: Signs;
- Standard Exemption 16: Filming; and
- Standard Exemption 17: Temporary Relocation of Moveable Heritage Items.

Standard Exemption 12: Temporary Structures is likely to cover many requirements for an event including stages, marquees, fences, etc.

Conservation and Maintenance Works at Swifts—1997 to the present

In 1997, the Moran family purchased Swifts. The following is a summary of information provided by the owner about conservation works undertaken during that time:



At the time of purchase, the residence and grounds were in a dilapidated condition. Extensive conservation and restoration work to the house was supervised by heritage architects, Clive Lucas, Stapleton & Partners. These works included significant stonework and roofing repairs, electrical and plumbing works prior to reinstatement of original finishes. This initial phase cost over \$22m.

Further conservation works were undertaken to the gardens (including over 12,000 plantings) as well as the conservatory, pool, tennis court and garages. These works have cost a further \$20m.

Future conservation works, including the need to reinstate the driveways, the electrical subway, the stables, tower, further roof repairs (since the recent storms) and ongoing garden works including several tree replacements. The costs are estimated at a further \$7.5m over the next five years.

Conservation and maintenance works are in accordance with "Swifts, Darling Point Road, Darling Point Sydney—Conservation Analysis & Conservation Guidelines" [CMP], prepared by Clive Lucas, Stapleton & Partners, September 1995. At the time of writing the CMP there were concerns about potential future development of the site. Section 6.4.3 Conservation Works outlines these concerns and the preference for an owner to operate the site as a residence to limit modifications to the fabric:

These capital and maintenance costs have serious implications for the future of the site. A commercial development would seek to reduce both while maximising the return on the former. A large capital cost of restoration would suggest a scheme which involves little interference with the existing fabric would be more sensible commercially. In conservation terms this would certainly be preferable. However, this approach would almost certainly lead to pressure for development on other parts of the site.

The ongoing maintenance costs of the fabric may be a disincentive to any operation, for example a hotel... or a school... In any proposal it is vital that the problem of maintenance be addressed to ensure that the existing fabric is conserved, and any restoration is not wasted by future neglect.

Unless a more philanthropic organisation or individual chooses to restore and operate the site the above factors will be a limit on the type and scale of future development.

The current owner and custodian of Swifts has been able to restore and maintain this unique residence and grounds. The owners have found a use (temporary social and charitable events) that helps to finance the upkeep of the place. The owners have made assurances that they utilise the funds raised from these events to provide ongoing upkeep of the place through its function business.

Heritage Items Used for Events

Custodians of heritage-listed places often hire spaces as a way of generating funds for the restoration of their properties. Various institutions hire their heritage-listed properties as venues for social events:



- The National Trust of NSW rents out Lindesay, Darling Point; Everglades, Blue Mountains; and Old Government House, Parramatta among other properties. In the case of Lindesay, Darling Point, the National Trust holds 12 large functions annually along with smaller functions. Five per cent of the hiring fee at Lindesay contributes to the National Trust's guardianship and conservation of the house and garden.
- Sydney Living Museum rents event space at its properties including Vaucluse House, Vaucluse, Elizabeth House, Hyde Park Barracks and The Mint.

Woollahra LEP, Clause 2.8 Temporary Use of Land

Clause 2.8 of the Woollahra LEP 2014 permits temporary use of land providing it satisfies the following conditions:

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Responses to Clause 2.8 Temporary Use of Land

The following provides responses to each of the subclauses raised in Clause 2.8 and seeks the approval of the authority, Woollahra Council.

1. The proposal to hold temporary events at Swifts will not compromise any future development of the land or have a detrimental impact on the economic, social, amenity or environmental aspects of this state heritage significant place. Temporary events have occurred throughout the history of Swifts. Proposed temporary events continue to be in accordance with the historic and social use of the place, whilst



retaining its primary significance as a residence. Due to statutory requirements to conserve Swifts, a place listed as a state heritage item, the owners and managers of the place implement strict practices to ensure all heritage significant fabric is conserved and protected before, during and after all temporary events.

There are no specific policies in the CMP that address a programme of temporary events within the buildings and gardens of Swifts. The CMP was prepared in 1995 prior to the purchase by the current owners. In 2020, the Heritage Council of NSW granted Standard Exemptions to Swifts. This allows, with conditions, that certain works are allowed without approval.

To ensure the place is retained in a manner commensurate with its heritage significance and ensure it is available for the public to appreciate, the owners and managers invest substantial ongoing funds for annual repair, cyclical maintenance and security.

2. The owner and manager of Swifts have identified an annual programme of temporary events within its buildings and grounds.

This proposal limits the number of events per year to minimise adverse heritage impacts on the building and grounds. The owners plan, manage and monitor events to ensure heritage significance is not materially impacted. Protective measures, limiting numbers at events, acoustic requirements, etc will be required to ensure Swift's heritage significance is conserved during events or other activities. The proposal also creates the opportunity of having Free Open Days to provide public appreciation and enjoyment of historic gardens at Swifts.

3. The proposed temporary events at Swifts are to be undertaken in a fashion that will minimise impacts. The temporary events are undertaken to ensure the organisers restore the site to the condition it was in prior to the event. The temporary nature of structures is designed to have no adverse heritage impact. All temporary displays and structures are in accordance with CMP conservation guidelines, including Section 8.3.19 Mobile and Temporary Structures for Compatible Uses and 8.3.20 Outdoor Furniture, Rubbish Bins, Signs and Other Facilities. They are also in accordance with Standard Exemptions 12, 15, 16 and 17.

The temporary events at Swifts are carefully managed to minimise negative impacts on the neighbourhood by reducing noise, traffic and lighting before, during and after the event. An Event Management Plan will be submitted to Council for approval of each type of event to ensure traffic, noise and heritage issues are considered holistically to minimise impact on the amenity of the local community.



LEP Clause 5.10 Considerations

Having regard to the terms of Clause 2.8(2) of the LEP, it would appear that the provisions of Clause 5.10 are not relevant. Nonetheless, we have considered the potentially relevant provisions of clause 5.10, particularly Clause 5.10(5), which are effectively concerned with the conservation of the heritage value of the item.

For the reasons stated above we consider that no impacts will arise. Additionally given the temporary nature of events, the proposal will not have an impact on the heritage significance of land that is within the vicinity of Swifts”.

Conclusion

Temporary events, such as those that currently occurring at Swifts, have caused no unreasonable impact on significant heritage fabric. Through the implementation of the Clause 2.8 Temporary Use of Land, of the Woollahra LEP it is proposed that Temporary Events are able to occur within the grounds of Swifts without detrimentally impacting on the state heritage listed property. This would have a positive heritage impact by ensuring the future preservation and protection of Swifts.

We would recommend Clause 2.8 Temporary Use of Land be activated for temporary events at Swifts, subject to appropriate conditions. This would have the added benefit of ensuring the ongoing restoration and maintenance of Swifts is built-into the business management of the place, one of NSW’s most significant state-significant residential assets.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Lynette Gurr'.

Lynette Gurr
Senior Associate
GML Heritage Pty Ltd

Attachments

- A. “Swifts, Darling Point Road, Darling Point—History Occupation and Use”, Final, prepared by GML, 27 June 2022.
- B. Heritage NSW (as Delegate of the Heritage Council of NSW) approved a Section 60 application for the subject Temporary use (Event) at Swifts, 1 March 2022.
- C. Swifts—Schedule of Standard Exemptions, dated 9 November 2020.



**Swifts, Darling Point Road, Darling Point—History Occupation and Use”, Final,
prepared by GML, 27 June 2022.**



Swifts, 68 Darling Point Road, Darling Point

History, Occupation and Use

Final Report prepared for Masolage
Holdings Pty Ltd

June 2022

Acknowledgement of Country

At GML we acknowledge that we work and live on the land of the First Australians. We know that this land was never ceded, and we respect the rights and interests of Australia's first people in land, culture, and heritage. We acknowledge their Elders past and present and support the concepts of voice, treaty, and truth in the Uluru Statement from the Heart.

Report Register

The following report register documents the development and issue of the report entitled Swifts, 68 Darling Point Road, Darling Point—Occupation and Use History undertaken by GML Heritage Pty Ltd in accordance with its quality management system.

Job Number	Issue Number	Notes/Description	Issue Date
21-0159	1	Preliminary Draft	18 June 2021
21-0159	2	Final Report	27 June 2022

Quality Assurance

GML Heritage Pty Ltd operates under a quality management system which has been certified as complying with the Australian/New Zealand Standard for quality management systems AS/NZS ISO 9001:2016.

The report has been reviewed and approved for issue in accordance with the GML quality assurance policy and procedures.

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1 Introduction

1.1 Background

GML Heritage Pty Ltd (GML) has been commissioned by Masolage Holdings Pty Limited to investigate the history, occupation and use of the building at 68 Darling Point Road, Darling Point (the subject site).

1.2 Study Area

The subject site comprises 'Swifts', a large Victorian Gothic residence with outbuildings set in landscaped gardens. The property is described as Lot 2 in DP 221605.

1.3 Heritage Status

Swifts is identified as an item of state significance on the State Heritage Register (SHR 00146) and is listed as a heritage item in the *Woollahra Local Environmental Plan 2014*—Schedule 5 Environmental Heritage (Item no. 99).

1.4 Author Identification

This report has been prepared by Léonie Masson, Senior Heritage Consultant, and reviewed by Claire Nunez, Senior Associate, of GML.

1.5 Methodology

The methodology used in this report is consistent with the principles and guidelines of the *Australia ICOMOS Burra Charter, 2013*. It is consistent with the relevant sections of the methodology outlined in the *NSW Heritage Manual* (NSW Department of Urban Affairs and Planning and Heritage Council of NSW, first edition, 1996).

The principal sources and repositories consulted during the compilation of this report include:

- the NSW Land Registry Services (NSW LRS);
- the State Library of NSW;
- Trove, National Library of Australia;
- Woollahra Municipal Council files, including building and development application files; and
- The Woollahra Library Local Studies Collection.



2 Historical Context

The following section provides a succinct overview of the historical development of the subject site and places it within the history of the area. It is based upon secondary sources, supplemented with additional primary research from the National Library of Australia, the State Library of NSW, NSW Land Registry Services (LRS) and Woollahra Municipal Council.

2.1 Aboriginal History

Aboriginal occupation of Sydney can be traced through the archaeological records to at least 22,000 years ago, with some estimates extending towards 35,000 years.¹ The Sydney region supported the Eora nation, made up of more than 30 separate clans woven together by intermarriage across the region. They had a nuanced understanding of the land and followed a complex land management system that sustained them and their Country. The land was part of a network of creation (Dreaming) and ceremonial sites, intertwined with the natural landscape and extending across the Sydney region. Most clans took their names from their Country, like the Gadigal along the harbour's southern shore, or the Wangal from Wanne, the lower reaches of Parramatta River, or the Kamaygal from Kamay, Botany Bay. Others, like the Cammeraygal from the harbour's northern shore, may have been named for their role in ceremony and law, and the skills of their clever men or karadji. Among the 30-plus Sydney clans, it was these four groups in particular who bore the initial brunt of the arrival of Europeans and whose men and women moved amongst the colonists. They were also the people most frequently referred to in descriptions of Aboriginal people within European accounts of the immediate period after contact.

Sydney's Aboriginal people were the first people dispossessed by Europeans after their arrival in Sydney Cove in 1788. This dispossession underpins the foundation and growth of the city. In 1789, the smallpox epidemic devastated the Aboriginal population and disrupted clan boundaries in Sydney. However, the Aboriginal people did not simply all vanish or die. As historian Grace Karskens has written: 'Sydney has an Aboriginal history, not located safely in the distant past, but unbroken, and still throbbing insistently today.'

In 1883, the establishment of the Aborigines Protection Board in NSW signalled the beginning of successive waves of intervention into Aboriginal lives. Nonetheless Aboriginal people continued to live in Sydney and were joined by other Aboriginal people from across NSW to live, work and forge new lives in urban communities. Dr Paul Irish writes about an Aboriginal settlement at Rushcutters Bay in the 1890s which consisted of several gunyahs (dwellings) made of slabs of wood leaning against a fence and covered with iron, sheets and other materials, around a central campfire. At this time there were a few permanent residents of the settlement who survived by fishing, shellfishing, and selling boomerangs and shell ornaments in the city. This accords with the childhood memories of Elizabeth Phillips who, aged 93 in 1903, recalled there were a large number of Aboriginal people camped on Darling Point who caught fish and traded some of their catch with the local European residents.

To the Cadigal, Darling Point was 'Yarranabbe' (variously spelt Yaranabe, Yarrandabbi, Yarranabbi and Eurambi). It was reportedly named after a Burramatagal man, Yeranibe Goruey, who was married to Benelong's sister Worogan.

The area was occupied by the Cadigal for at least 6000 years. It was a place where Aboriginal people and Europeans gathered rushes, used respectively for light-weight spears for fishing and thatching



settler huts. According to Dr Paul Irish, settlers were cutting rushes in Rushcutters Bay to west of Darling Point within weeks of the arrival of Europeans in Australia in 1788. He further records several different Aboriginal settlements, at different times, occupying land either side of the Rushcutters Creek (near Darling Point) and on higher grounds either side of the bay.

2.2 Early Land Grants and European Occupation

This initial phase of development on the harbour is represented by a small number of properties between Woolloomooloo Bay and Vaucluse Bay erected between 1800 and 1820. While Sir Henry Brown Hayes' property at Vaucluse Bay (c1803) (later enlarged by WC Wentworth) and John Palmer's Woolloomooloo House (c1803) display optimistic rural intentions at their outset, the realities of the soils and rocky terrain soon rendered the houses places of retreat. Captain John Piper's long demolished Henrietta Villa (c1816) at Point Piper is indicative of both the progress and developing ambitions of the colony, setting the precedent for the marine villas of the following generation with its picturesque setting of harbour foreground and bushland backdrop.

By the 1830s, the vast majority of the harbourfront land east of Darling Point was held by a small number of landholders, principally the Cooper and Wentworth families, while at Double Bay, a government village had been reserved. The area to the west of Double Bay, comprising the promontories of Potts Point/Darlinghurst and Darling Point, reflect another pattern of land alienation initiated under Governor Darling from 1825.

In the Potts Point/Darlinghurst grants, Darling stipulated in the land deed the fulfilment of so-called 'villa conditions', which ensured only one residence was built on each grant to an approved standard and design inclusive of a generous landscaped garden setting. With some exceptions, the villas were erected under these conditions for the privileged members of the military and civil establishment. At Darling Point, Governor Darling reserved the promontory for sale in 1831 at the suggestion of his surveyor general, Thomas Livingstone Mitchell. The area was subsequently surveyed by Mitchell's assistant James Larmer into large villa allotments of the scale previously implemented at Potts Point/Darlinghurst. Larmer referred to the promontory as 'Mrs Darling's Point' in deference to Eliza Darling, the wife of the governor.

The first auction of the northern part of the promontory came on 11 October 1833 under the direction of Darling's successor, Governor Bourke.¹² At the sale, nine allotments varying in area between six acres and 15 acres were offered. Each allotment had frontage to either Darling Point Road (Mrs Darling's Road as originally known) and/or Thornton Street, following their circuitous routes along the ridge and parallel to the shoreline of the promontory. With the exception of a few allotments at the southeastern corner, most allotments had frontage to the harbour proper. The aforementioned roads were laid out at this time and an existing old track made in the 1820s by John Piper to his Henrietta Villa at Point Piper (now generally Loftus and Marathon roads) was incorporated into the subdivision (see Figure 2.1).

The most favourably sited allotments in regard to the harbour were first sold, with the allotments at the point being purchased by Joseph Wyatt, James Holt and James Chisholm Senior. The high land-locked allotments were purchased by Thomas Barker, and the low-lying grants fronting Double Bay were acquired by William Macdonald and Elizabeth Pike. The reserve price per acre was 10 pounds, but the average price actually paid was much higher at 34 pounds. The remaining allotments were purchased in mid-1835 by Thomas Smith and Thomas Barker for an average of 27 pounds 10 shillings an acre.



Governor Brisbane's astronomer, James Dunlop, was conditionally gifted over 15 acres, but the allotment was later sold to the merchant Thomas Ware Smart in 1841.

Swifts is located on allotment four of the nine and three-quarter acres granted by purchase to Thomas Barker in November 1833. Barker also purchased the adjoining allotment (No. 3) of seven and three-quarter acres at the same time. These grants together comprised all the land enclosed by Darling Point Road and Thornton Street. The total purchase price for the 17 acres was 573 pounds.

With no development evidently having occurred, Barker's Darling Point grant was soon sold in 1835 to Thomas Icely. Icely had also acquired the neighbouring allotment of Lindesay at this time.

Elsewhere on the promontory, there was also little demand to actually commence building work over the 1830s—the success of the subdivision was largely dependent on the forming of New South Head Road to provide access to the town centre. The road had been surveyed in 1831 under the direction of Thomas L Mitchell, but the prolonged delay in completing the stone bridge over West Creek at Rushcutters Bay impeded access from the city to the promontory. This necessitated, in the interim, taking the circuitous route along the high-level Old South Head Road. On completion of the bridge in 1838, the road linked Darling Point and Potts Point/Darlinghurst with the emerging centre of government along Macquarie Street and the construction of the new government house.

One of the first houses erected on Darling Point was 'Lindesay' in present day Lindesay Avenue, which was completed between 1834 and 1836 for the colonial treasurer, Campbell Drummond Riddell. Nearby 'Glenrock' (now part of Ascham School) was completed by early 1836 for merchant Thomas Smith. Over the early 1840s, TL Mitchell relocated from Darlinghurst to Lindesay while he had Carthona built nearby. Lindesay was soon resold to Mitchell's friend Dr Charles Nicholson (1808–1903). Mitchell and his neighbour Nicholson were educated, well-read men who were doyens of colonial society. Before taking up residence at Darling Point, Mitchell had returned to England to seek a knighthood and complete his long-awaited survey of the colony. He was familiar with current thinking in architecture and the arts and had an appreciation of landscape. Carthona (1841) embodies Mitchell's thinking on these matters in its design and landscaped setting. The attraction of Darling Point to Mitchell was its seclusion and the natural beauty of its extensive tree cover and rocky outcrops with harbour views. To the south of Carthona, on the highest point in Darling Point, the colonial architect John Mortimer Lewis, Mitchell's civil office compatriot, erected his own home, Mount Adelaide, around 1843.

By the 1850s, the association of Darling Point's favourable harbour views and setting with exclusivity, affluence and gentility had been set, but the social world of its inhabitants was representative of men engaged in commerce and industry, rather than civil and military service or the leisured. The move to suburbs such as Darling Point is indicative of the exodus of the prosperous middle class in the mid-nineteenth century from the affluent inner-city addresses established over the 1830s and 1840s, such as Macquarie Street and Lower Fort Street. Coincidental was the emerging popularity of the villa, being a large, detached house with a good-sized garden. Thomas W Smith, of the importers, agents and merchants Smith, Croft & Co, built Ecclesbourne in present day Ocean Road by 1847. Ranelagh, at the southern end of Darling Point Road, was built for the Sydney furniture maker Andrew Lenehan in the early 1850s. Of the larger estates, Thomas Ware Smart, who made a fortune as an auctioneer, built Mona around 1842 within a 15-acre site. The greatest Australian nineteenth-century industrialist, Thomas Sutcliffe Mort, moved to Greenoakes (Bishopscourt) in Greenoakes Avenue set within 13 acres in 1848 following enlargement of a cottage named Percyville built for the Sydney ironmonger Thomas Woolley in 1841. The retail store dynasties also moved to Darling Point; William Farmer lived at Claines,



and Anthony Hordern built Retford Hall in 1866. Mitchell's Carthona was sold to the vaudeville impresario Harry Rickards in 1861, and Nicholson's Lindesay was sold in 1868 to the ironmonger John Macintosh.

2.3 Brief History of Swifts

The following brief history of Swifts, Darling Point draws on information provided in the Conservation Analysis and Conservation Guidelines report prepared by Clive Lucas, Stapleton and Partners Pty Ltd in 1995.

Swifts is located on part of the nine acres and one rood granted by purchase to Thomas Barker on 11 September 1833 at 'Mrs Darling's Point' (**Figure 2.1**). Simultaneously, Barker was also granted adjoining land comprising seven acres and three roods. Thomas Icely acquired Barker's grants in 1835 and three years later Barker's two grants were conveyed to Thomas Urmson Ryder. He subdivided the land into 14 lots suitable for villas and advertised for auction in April 1840 as the Delemere (or De Lamere) Estate (**Figure 2.2**). The northernmost allotments comprised the site of the future Swifts.



Figure 2.1 Detail from Plan of Mrs Darling's Point divided into villa allotments for sale, 1833. The subject site is outlined in red. (Source: State Library of NSW, a4692001h.jpg, annotated by Casey & Lowe 2016, Swifts, 68 Darling Point Road, Darling Point Archaeological Assessment, p13)

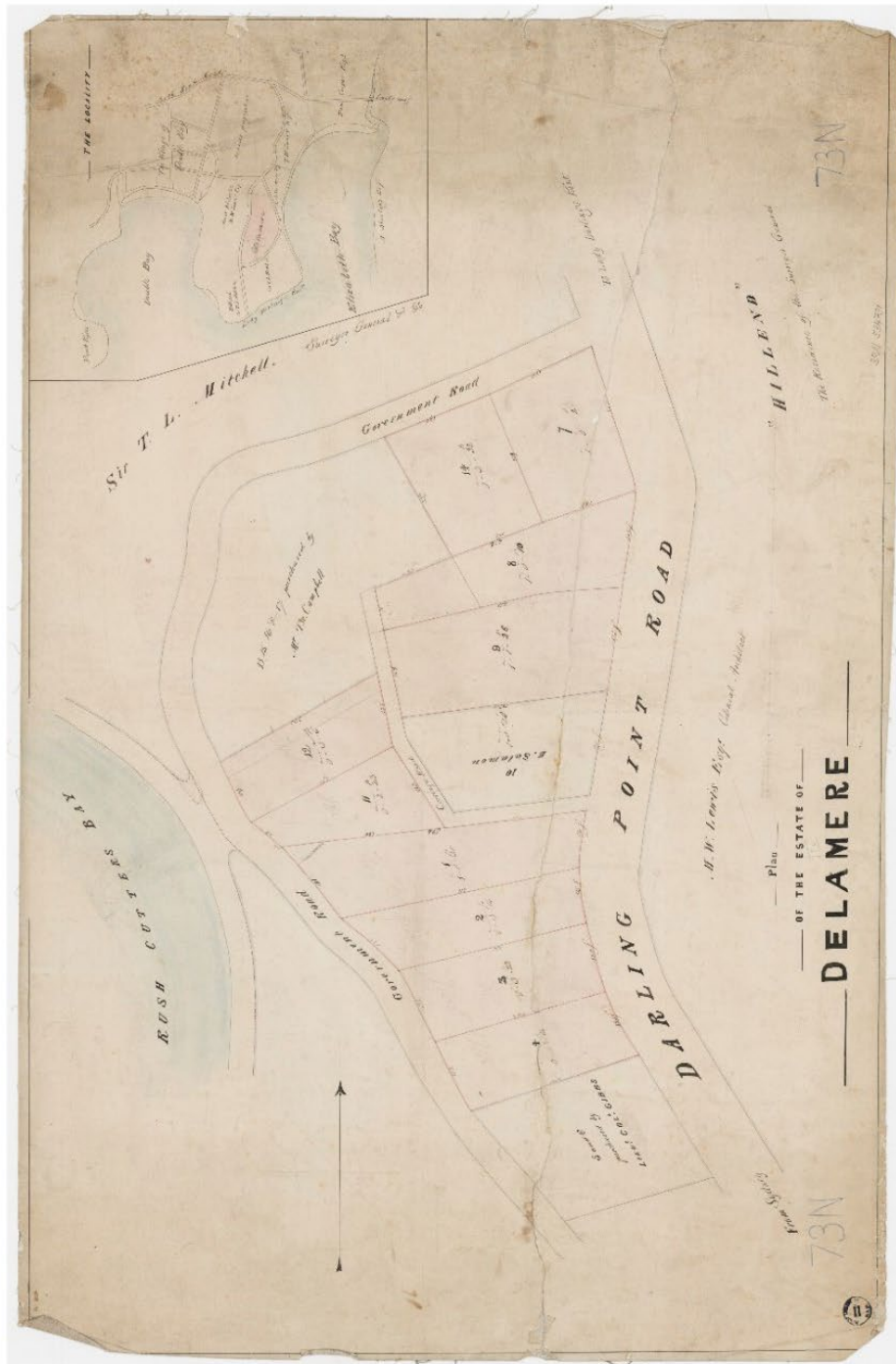


Figure 2.2 Plan of the Estate of Delamere, 1840, oriented to north. (Source: State Library of NSW, c076910001.jpg)



Ownership of the subject land changed hands successively over the 1840s and 1850s through conveyance, mortgage or trusteeship, but no development ensued. Francis Mitchell became the owner of the property in 1869 through a mortgage. Mitchell was the senior partner of Messrs. Mitchell and Co., ship chandlers and ship owners. Shortly before his death, Mitchell converted the land to Torrens title in October 1874 and sold three acres two roods and 21 perches of the property to Robert Lucas-Tooth, eldest son of brewer Edwin Tooth. The land is described at this time as 'unoccupied' and valued at £3631/-. During construction of their new house, the Tooth family lived nearby at Trevellyn, Darling Point, from early 1873 to March 1876.

Robert Lucas Tooth set about building and rebuilding Swifts from 1876 to around 1887. The house is first listed in Woollahra Municipal Council Assessment Books in 1876 as a 'cottage and 3 acres of land opposite M. Master' owned by Robert L Tooth. However, the following year it is described as an 'unfinished' house listed in Thornton Street. In October 1877, J Bird advertised for a 'good scabblor' to work on Tooth's house at Darling Point, indicating the stonework was under construction at the end of 1877.

The name 'Swifts' first appears in the 1880 assessment, while at the same time Robert Lucas-Tooth is listed at Swifts in the *Sands Directory* from 1880. Swifts was named after 'Great Swifts', his grandfather's home at Cranbrook in Kent, England. The original house was described as an 'exceptionally plain red brick structure with no embellishment at all, except a small quasi-classical porch in stone...'²

In 1882, Robert Lucas Tooth commissioned French architect Gustavus Alphonse Morrell to rebuild Swifts. In October the same year, Morrell invited tenders for the 'Erection and Completion of Extensive Additions to DWELLING HOUSE, Darling Point comprising Ball-room, Billiard-room, retaining walls, etc'.³



Figure 2.3 Extract from detail survey Woollahra, Sheet 11, c1885. The subject site outlined in red, with outbuildings numbered in red. (Source: State Library of NSW, annotated by Casey & Lowe 2016, Swifts, 68 Darling Point Road, Darling Point Archaeological Assessment, p 16)

The family lived at Swifts until late 1889 when Mills, Pile and Wilson advertised the property to let for 2 years:

Darling Point—To let for 2 years, furnished, a first-class mansion, Swifts, the residence of RL Tooth, Esq. with 3 acres 3 roods of high improved land. Possession beginning of next summer.⁴

In October the same year, W Garling advertised the auction sale of RL Tooth's carriages, horses, harness, saddles and bridles, stable requisites, etc' for Tooth 'who is about leaving for England'.⁵ Robert Lucas Tooth moved to England permanently and died there in 1915.

It is not known who took up the initial two-year lease of Swifts from the end of 1889. However, in November 1891 Mrs Henry Harris advertised for a housemaid and kitchenmaid care of 'Swifts, Darling Point'⁶ and the following month she advertised for a 'competent footman for indoor work'.⁷ Henry Harris, JP occupied Swifts from then until at least 1897.

Raine and Horne advertised Swifts to let in November 1898. It was available as a furnished residence containing large double entrance hall, four reception rooms, nine bedrooms, billiard room, ballroom and servants' rooms.⁸



The Harris family may have lived here until late 1899 when the *Daily Telegraph* reported that Raine and Horne had sold the property to Edmund Resch in December that year.⁹ The reported price of the property was £14,000, an 'an excellent bargain' considering 'the original cost of the handsome buildings and grounds reached between £30,000 and £40,000'. According to the *Armidale Chronicle*:

On entering the spacious hall the elaborate decorations at once command attention. Off the hall are situate' commodious dining and sitting rooms all furnished in rich and costly style. The billiard room is fitted with one of Alcock's best tables, the scoring being done by means of electricity (the players pressing a button on the table, which registers the score on a conspicuous board). The Ball-room is gorgeously ornamented, the artistic paintings on the walls being a specially attractive feature. In this apartment is erected a magnificent American organ, which supplies the music on all festive occasions. The bedrooms are situated upstairs, and here also the furnishing has been carried out on a lavish scale. There is an extensive promenade on the top of the building, and from this position a beautiful panoramic view of the harbour is to be obtained. The grounds abound with delightful lawns, shrubberies and flower beds. The stables are substantially constructed, everything connected therewith being arranged in a thoroughly up-to-date manner, Mr. Tooth evidently spared no expense in building what is generally regarded as one of Sydney's finest mansions.¹⁰

Edmund Resch lived at Swifts from 1900 to his death in 1923. Resch was born in Germany and arrived in Australia in 1863. He and his younger brother Richard purchased a cordial and aerated water factory in Wilcannia in 1877, and in 1879 opened the Lion Brewery, the foundation of his brewing empire. The company expanded in 1899 when he purchased the Waverley Brewery, and in 1900 he purchased the New South Wales Lager Bier Company Ltd in South Dowling Street, Redfern. His brewing operations were relocated to Redfern by 1903 and the business renamed 'The Waverley' in 1900. Resch's Limited was the registered business name from 1906.

The illustration at Figure 2.4 accompanied a description of the property furnished by the *Sunday Times* in March 1900, shortly after Resch purchased and moved into Swifts. In May 1909, Edmund Resch, in consequence of his intended departure to Europe, listed Swifts for auction sale as 'an opportunity... [to acquire] one of Sydney's finest and most imposing homes for a fraction of its original cost'.¹¹ The auction was held on 20 May but no offers were received and the property was passed in for private treaty.¹² In December the *Sydney Morning Herald* announced that Edmund Resch junior would act in his father's place as Consul for the Netherlands for an expected 18 months absence while his father travelled to Europe.¹³ In the intervening period, Edmund Resch junior served as acting Consul for the Netherlands, with the consulate located at 56–58 Hunter Street, Sydney. There are various newspaper accounts indicating that both father and son travelled to Europe. Edmund Resch senior and wife returned from Europe in March 1914 after five years travelling.¹⁴ Edmund Resch junior returned in March 1915, having been in Germany when World War I broke out.¹⁵

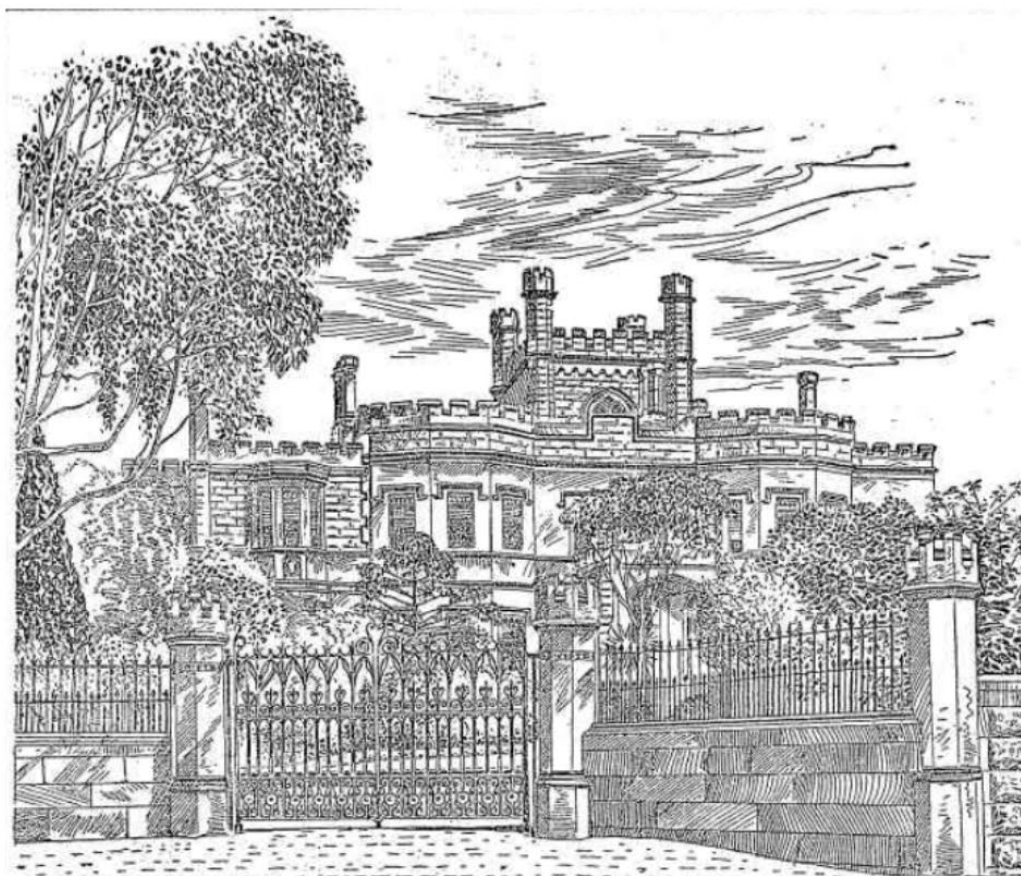


Figure 2.4 'Types of Homes, No 23: "Swifts, Darling Point, Mr Resch's Residence'. (Source: *Sunday Times*, 11 March 1900, p 10)

Edmund Resch senior was interred at the German internment camp at Holsworthy from November 1917–March 1918 and was subsequently held under house arrest at Swifts due to ill health. He lived at Swifts until his death in 1923. The property was bequeathed upon trust to make monthly payments to Caroline Resch (£300 per month for life) and permit her to occupy Swifts during her life. Their sons Edmund (junior) and Arnold were appointed executors of the estate.

Caroline died in August 1927 leaving an estate of £46,448. Edmund (junior) and Arnold's differences of opinion about disposing of the property were resolved in an out-of-court settlement in January 1929, with the former purchasing Swifts from the estate at the auction sale. Edmund had wanted to keep the property intact while Arnold wanted to subdivide the three acres.

Edmund Junior undertook various works to Swifts including interior redecoration, construction of several buildings (laundry, manure bins and incinerator), alterations to buildings 3 and 4 (garages), concreting over the former carriage drive and garden paths, and rebuilding the former gardener's compound and extant cottage (now excised from current land title). Edmund Resch married Florence Mabel Bennett in 1927 and they lived at Swifts until their respective deaths in 1963 and 1959, dying without issue. When Edmund died his estate was valued at £6,542,127, with the bulk being Tooth Shares; Resch's was taken



over by Tooths in 1929. Resch was a Lutheran and devised two-thirds of his Estate to St Vincent's Hospital and the remaining one-third to four charities. Swifts, valued at £235,000, inclusive of shares, was given to the Roman Catholic Church with two key provisos, that it be used as a residence for the Archbishop of Sydney, and that the property residence and grounds was not to be sold or subdivided and the main building not be demolished for at least 20 years after his death.

In June 1964, Swifts was formally conveyed to the Trustees of the Roman Catholic Church (Archdiocese of Sydney). Cardinal Gilroy took up residence at Swifts the same year. Also during the year, the former ballroom was converted for use as a chapel-at-lease, a temporary place of worship for parishioners living at Darling Point. Known as St Edmund's Chapel, it was blessed and opened by Cardinal Gilroy. The chapel accommodated seating capacity of 200 and standing room for up to 60 people. It was furnished by nuns from various Sydney congregations.

According to Cardinal Gilroy at the time, 'I don't necessarily like living in such luxurious surroundings but the house has been left to the Church and if I reside here it saves £5000 a year in rates...' ¹⁶ To facilitate occupation by the Archbishop of Sydney, structural alterations were carried out under the supervision of SG Hirst and Kennedy, architects. The ground floor plan (**Figure 2.5**) notes the former ballroom as chapel and sanctuary, adjoining the colonnade, chapel entry, narthex and sacristy.

The provision in Edmund Resch's will regarding the 20-year moratorium on the sale and demolition of Swifts lapsed in 1983. The Church immediately sought to sell the property, claiming that it could not fund the annual maintenance and repair costs of \$945,000. Community concern about the future of Swifts led to placement of an Interim Conservation Order (ICO) by the Heritage Council. The Commission of Inquiry did not agree with the Church's argument that a Permanent Conservation Order (PCO) would cause financial hardship and upgraded the property to a PCO in April 1984.

The Catholic Archdiocese of Sydney sold Swifts in March 1986 to Minjar Holdings Pty Ltd, the family company of Sydney businessman Carl Spies for \$9 million, the highest price ever paid for a residence in Australia. Spies and his family moved into Swifts and were living there in 1990 when the Supreme Court granted an order to evict them over non-payment of a \$2.69 million debt. The property was conveyed at this date to the mortgagee, St George Commercial Credit Corporation Limited.

In 1995, St George Bank commissioned Peddle Thorp and Walker, architects to prepare plans for conservation and restoration of the house and its conversion to four apartments, construction of a 23-level tower on the northwest section of the site containing 26 apartments and basement parking, restoration of the remaining garden area, provision of recreational facilities for residents of the site and provision of 72 carparks. The development application was lodged with Woollahra Municipal Council the same year. The application was refused by the council on grounds of overdevelopment and destruction of the cultural and heritage significance of Swifts. The matter was heard in the Land and Environment Court in October and the council's decision was upheld. St George Bank subsequently withdrew the application in favour of a narrow 12-storey tower on the western side of the property. This application did not proceed, instead Swifts was advertised for sale by tender in late 1996 and then for auction sale on 27 May 1997 when it was sold to the Moran family, operators of private health and aged care facilities, for a reputed \$12 million.

The Moran family commissioned heritage architects, Clive Lucas Stapleton and Partners, authors of the Conservation Management Plan, to supervise the restoration of the house, vacant since 1990. In 2013, Dr Shane Moran bought out the last remaining Moran family interests in the property and became the



sole proprietor of Swifts. He erected a new conservatory off the service wing, swimming pool, new carpark with tennis court above and extensive works to the grounds and gardens.

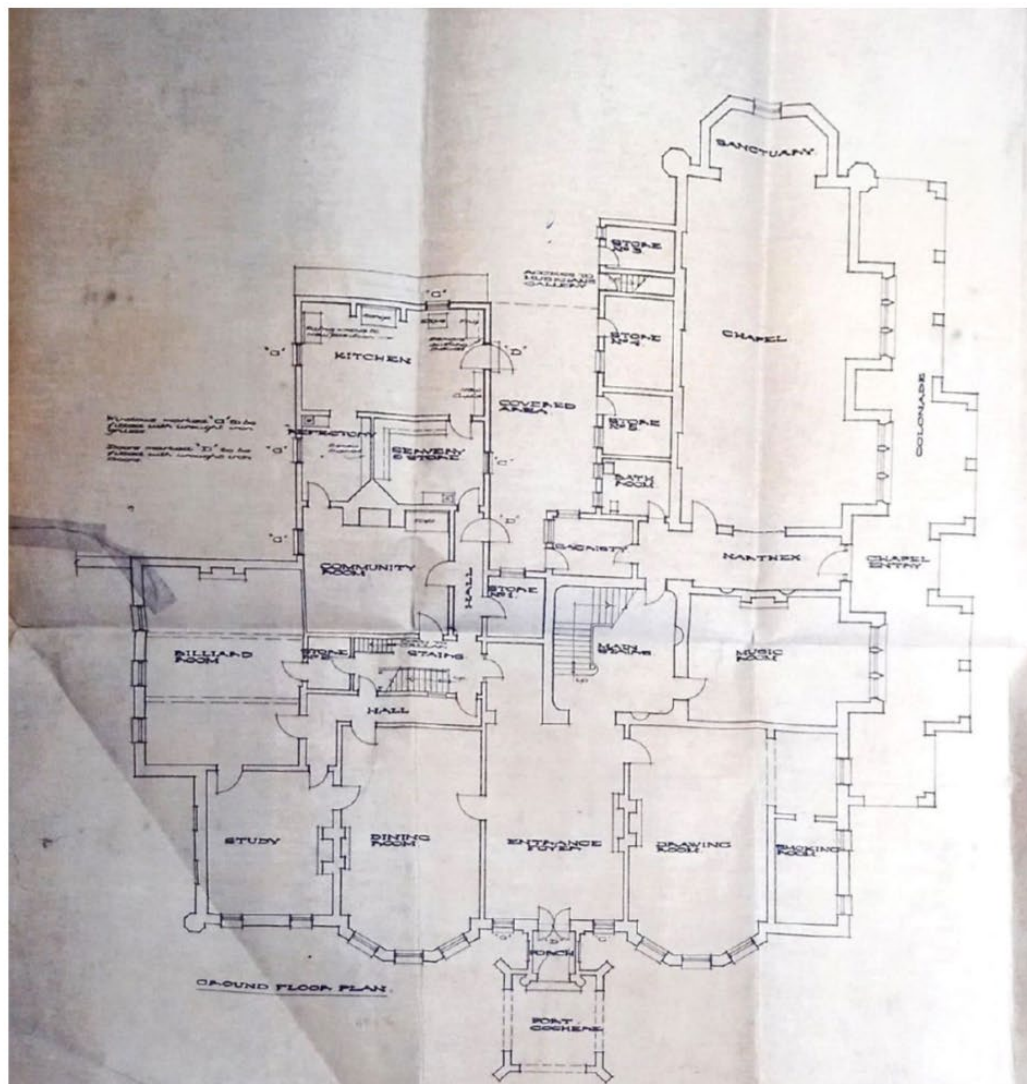


Figure 2.5 SG Hirst & Kennedy, Architects 1964, Ground floor plan 'Proposed alterations—Swifts, 65 Darling Point Rd, Darling Point for His Eminence NT Cardinal Gilroy Archbishop of Sydney St Marys Cathedral'. (Source: BA753/64, Woollahra Municipal Council)



2.4 Endnotes

- ¹ Attenbrow, V 2010, *Sydney's Aboriginal Past: Investigating the Archaeological and Historical Record*, UNSW Press, Sydney, p 153.
- ² JH Harvey to Edmund Resch Esq 14 January 1936 quoted in Clive Lucas Stapleton and Partners 1995, p 100.
- ³ 'To Builders', *Sydney Daily Telegraph*, 16 October 1882, p 1, Trove, National Library of Australia, viewed 21 May 2021 <<http://nla.gov.au/nla.news-article238473838>>.
- ⁴ 'Advertising', *The Sydney Morning Herald*, 14 August 1889, p 10, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article28337376>>.
- ⁵ 'Advertising', *The Sydney Morning Herald*, 18 October 188, p 11, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article28337228>>.
- ⁶ 'Advertising', *The Sydney Morning Herald*, 10 November 1891, p 8, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article13872010>>.
- ⁷ 'Advertising', *The Sydney Morning Herald*, 3 December 1891, p 8, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article13856927>>.
- ⁸ 'Advertising', *The Sydney Morning Herald*, 19 November 1898, p 13, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article14185954>>.
- ⁹ 'The property market', *The Daily Telegraph*, 16 December 1899, p 13, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article237188145>>.
- ¹⁰ 'The property market', *The Daily Telegraph*, 16 December 1899, p 13, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.news-article237188145>>.
- ¹¹ 'Advertising', *The Sydney Morning Herald*, 8 May 1909, p 20, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article15056590>>.
- ¹² 'No offers', *Evening News*, 20 May 1909, p 5, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article115495450>>.
- ¹³ 'Personal', *The Sydney Morning Herald*, 25 December 1909, p 8, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article15075761>>.
- ¹⁴ 'The world and his wife', *Sunday Times*, 8 March 1914, p 7, Trove, National Library of Australia, viewed 16 Jun 2021 <<http://nla.gov.au/nla.news-article120353502>>.
- ¹⁵ 'Back from Germany', *Barrier Miner*, 18 March 1915, p 2, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article45319125>>.
- ¹⁶ 'Tea at the Swifts', *The Bulletin*, 15 August 1964, p 22, Trove, National Library of Australia, viewed 15 June 2021.



3 Occupation and Use of Swifts

3.1 Phase 2: 1882–1900

There is no documentary evidence that prior to completion of the extensive additions to Swifts, including construction of the ballroom, that the Tooth family held any notable, large functions or events in the house.

There are few references in the press documenting parties or functions held at Swifts while the Tooth family remained in residence until 1889. With seven children born over a 19-year period from 1875 to 1894, his youngest child born after they moved to England, it is unlikely entertaining on a large scale was important to Robert Lucas Tooth and his wife Helen Tooth.

The Bulletin reported on 12 September 1885 that Mrs RL Tooth had issued invitations for an 'At Home' on Tuesday 22 September 1885. According to *The Bulletin*, the ball was the first trial of the new ballroom floor, 'which came out of the ordeal with flying colours—it is simply perfect'. Featuring a who's who of Sydney society including Hon Sir John Hay and family, a full account of the event was published on 3 October:

Last Tuesday, September 22, Mrs RL Tooth's ball came off with great éclat at her residence, Swift's, Darling Point. This entertainment had many fascinations apart from the passive influence of beautiful surroundings and artistic luxury...Mrs Tooth received her guests in the large drawing room, which drifts into an inner reception room, beautiful and quaint with its Oriental hangings, and Eastern furniture, that is appropriately known as the Cairo room. Through the lofty pillared hall with its thick Persian carpet, statuary and oaken furniture, or across the corridor, one passed to the ballroom, its white length of wall broken by niches filled with stands of beautiful ferns and palms, and wreathed with ever-green...¹

Four years after this event, the Tooth family vacated Swifts and moved to England. The house was offered on a two-year lease commencing in the summer of 1889–1890. Henry Harris, JP, was living at Swifts with his family by late 1891 and they were very active in society, hosting several events between 1892 and 1894 including a gentlemen's dinner party on 5 December 1892, a small gathering 'To meet Miss Shaw' on 21 December 1892, a tennis party on 27 June 1893, large dinner event on 23 October 1893, an 'At Home' tennis and dinner party for Officers of HMS Ringdove and friends on 27 February 1894 and a farewell banquet to Mr and Mrs Hoffnung on 13 September 1894. The newspaper accounts of these events do not mention whether guests were charged for their attendance but seemingly were expressly hosted by Mr and Mrs Harris and paid for out of their own funds. Similarly, there is no information suggesting these were charity events. Rather they appear to have been gatherings for family and friends, business acquaintances and politicians.

Mr and Mrs Henry Harris lived at Swifts until 1897 but there is no further reference in the press to events held at Swifts after September 1894. It is not known who lived at Swifts between 1898 and 1900 and there are no newspaper references during that period apart from the 'To Let' advertisements in October–November 1898.

Table 3.1 contains a brief outline of events held at Swifts which were publicised in the local newspapers and magazines.



Table 3.1 Events held at Swifts 1885–1894.

Date	Event (Source)
22 September 1885	'At Home' held at Swifts (<i>The Bulletin</i> , Vol 3 No 122, 12 Sep 1885, p16; <i>The Bulletin</i> , Vol 3 No 125, 3 October 1885, pp15–16)
5 December 1892	Henry Harris entertained a large company of gentlemen friends at dinner. Guests included Premier, Sir George Dibbs and WP Manning (Mayor) (<i>Daily Telegraph</i> , 10 December 1892, p9; <i>Sydney Mail and New South Wales Advertiser</i> , 10 December 1892, p1307))
21 December 1892	Mrs Henry Harris invited over a dozen guests 'To meet Miss Shaw" (<i>Sydney Mail and New South Wales Advertiser</i> , 31 December 1892, p1467)
27 June 1893	Mrs Henry Harris had a very successful tennis party (<i>Sydney Mail and New South Wales Advertiser</i> , 1 July 1893, p13)
23 October 1893	Mr and Mrs Henry Harris entertained a large company at dinner. Guests included the Premier, Sir George Dibbs and Lady Dibbs (<i>Sydney Morning Herald</i> , 28 October 1893, p7)
27 February 1894	Mrs Henry Harris was 'at home' and hosted tennis party and dinner for Officers of the HMS Ringdove and other friends (<i>Australian Town and Country Journal</i> , 10 March 1894, p35; <i>Sydney Mail and New South Wales Advertiser</i> , 10 March 1894, p480; <i>Sydney Morning Herald</i> , 3 March 1894, p5))
13 September 1894	Mr and Mrs Henry Harris gave farewell banquet to Mr and Mrs A Hoffnung. Guests included the Premier, Sir George Dibbs and Lady Dibbs (<i>Sydney Mail and New South Wales Advertiser</i> , 22 September 1894, p5)



3.2 Phase 3: 1900–1928

Apart from the one reception in September 1902, the Resch family did not hold any grand parties, dinners or other functions at Swifts, Darling Point, during the period 1900–1928.

Edmund Resch was living at Swifts by March 1900 when he was listed as a new subscriber to the Edgecliff telephone exchange. Two years later he and his wife hosted a reception to celebrate the twenty-second anniversary of the birth of Queen Wilhemina of the Netherlands. Edmund Resch was the Consul for the Netherlands. The event was held at Swifts on 1 September 1902. Guests included NH Paling (Vice-Consul for Netherlands), Major WHL Holman ADC, Captain WO Watt ADC (representing the State Governor, Sir Harry Rawson), the Mayor of Sydney (Alderman T Hughes) and the various consuls living in Sydney.

Edmund Resch and his wife travelled to Europe at the end of 1909 and did not return to Australia until March 1914. In the intervening period, their son Edmund Resch lived at Swifts and acted in his father's stead as Consul for the Netherlands. There are no references to events held at Swifts during this period and any official consulate functions were held at the consulate in Hunter Street, Sydney, or other venues such as the Australia Hotel, Pitt Street. *The Sun* reported in November 1912 that 'Mr E Resch left Sydney for Europe', leaving Vice-Consul de Carriere in charge of the Consul for the Netherlands. The *Sydney Morning Herald* confirms that this was Edmund Resch junior who departed on the *Marama*, leaving for Vancouver. The *Sands Directory* continued to list Edmund Resch, JP, at Swifts in the 1913 edition.

During World War I there was no entertaining or events held at Swifts. Both father and son (Edmund) were travelling in Europe during the early years of the war. Later on, Edmund Resch was interred at the German Internment Camp at Holsworthy from November 1917 to March 1918, then was under house arrest at Swifts due to ill-health until the end of 1918. Edmund Resch died at Swifts in March 1923 aged 75 years, survived by his wife and grown family. Caroline Resch continued to live at Swifts with her son Edmund until her death in August 1927 aged 71 years, leaving her estate to her sons, Edmund and Arnold.

Table 3.2 Events held at Swifts 1900–1928.

Date	Event (Source)
1 September 1902	Anniversary birthday reception for Queen Wilhemina of the Netherlands (<i>Evening News</i> , 2 September 1902, p3)



3.3 Phase 4: 1928–1963

Brothers Edmund and Arnold Resch resolved their dispute over the disposal of Swifts in an out-of-court settlement in August 1928. The property was advertised for auction sale on 5 October and purchased by J Bennett acting as an agent for Edmund Resch. The following January, Edmund and Arnold held the auction sale of valuable furniture, appointments and effects removed from Swifts. Edmund and Florence Mabel Resch brought in their own furniture when they took over as owners of the house.

The Great Depression hit Australia in 1930 and unemployment peaked two years later, and it took the country almost a decade to recover. Where a large portion of the population were suffering, Edmund and Florence Resch continued to prosper during this period. Florence Resch offered her ballroom for a bridge party at Swifts on 13 June 1933 in aid of the Darling Point Centre of the District Nursing Association with tickets costing 4s each. This is the first reference to a charity event held at Swifts with an entry fee charged.¹ The *Sydney Morning Herald* reported that this event raised £77 for the organisation.

Florence and Edmund vacated Swifts for a short time in 1934 for an overseas trip to America, England and Europe, returning in November. There was no entertaining or events held at Swifts during the year.

Florence Resch was a great supporter of the District Nursing Association (Darling Point branch) and hosted an afternoon 'musical' at Swifts on 21 November 1935. The event was sold out and over 300 people attended the event which included a buffet tea served on the lawn, a musical program in the ballroom and a tennis tournament on the tennis courts of Swifts.

In 1939, the Commonwealth Government investigated Edmund Resch over suspected disloyalty and possessing illicit wireless apparatus. In June 1940, the Police Department Sydney had received a letter alleging that Edmund Resch had held a large party at Swifts 'attended by a number of Germans ... one evening last week to celebrate the German victory over France'. The letter writer's information was discounted as hearsay and not fact. Commonwealth Investigation Branch inspector DRB Mitchell investigated and reported that Edmund Resch, 63 years old at this time residing at Brittan Street, Leura 'is a man that lives a secluded life, being mainly interested in his country home at Wentworth Falls, and his mansion Swifts, Darling Point. He has no children and apparently his one forte in life is the care of Edmund'.² Later in 1942 he was visited at his home at Leura and the report stated he was living a life of quiet independence with his wife and the general atmosphere definitely illustrated that he was not interested with the doings of the outside world to any great extent'.³ A further file note indicates that Resch had 'in the last few years' visited Germany three times.

From the foregoing, it appears that Florence and Edmund were living a good part of their time at their Blue Mountains home for the duration of World War II. In October 1942, the *Daily Telegraph* published comments of Mrs Resch on the shortage of domestic help. She complained that she only had three girls serving at their Blue Mountains home and five servants and two gardeners at Swifts.⁴

In 1942, Florence and Edmund Resch lent to the local Civilian Aid Service the ballroom and two other large rooms (bathroom and the main kitchens) to be converted to the Swifts Rest Centre for the duration of the war. It was officially opened in September 1942 and was staffed at this date by 20 personnel.⁵ The rest centre was disbanded by November 1944.

Between the end of World War II and the deaths of Florence Mabel Resch and Edmund Resch in July 1959 and 2 October 1963 respectively, there is no further evidence that they entertained at Swifts or lent the house and grounds for charitable endeavours.



Table 3.3 Events held at Swifts 1928–1963.

Date	Event (Source)
13 June 1933	Bridge Party (<i>The Sun</i> , 21 May 1933, p28; <i>Sydney Morning Herald</i> , 25 May 1933, p3; <i>Smith's Weekly</i> , 3 June 1933, p18; <i>Daily Telegraph</i> , 6 June 1933, p4; <i>Daily Telegraph</i> , 14 June 1933, p4)
21 November 1935	Musical (Labor Daily, 5 November 1935, p9; <i>The Sun</i> , 17 November 1935, p30; <i>The Sun</i> , 21 November 1935, p44; <i>Sydney Morning Herald</i> , 22 November 1935, p4)
September 1942—November 1944	Swifts Rest Centre (The Bulletin, 23 September 1942, p24; <i>Sydney Morning Herald</i> , 28 September 1942, p4; <i>The Sun</i> , 27 September 1942, p7; <i>The Sun</i> , 6 October 1942, p4; <i>Daily Telegraph</i> , 27 September 1942, p28)



3.4 Phase 5: 1964–1996

From 1964, Swifts was the official residence of the Roman Catholic Archbishop of Sydney. The house and grounds was bequeathed to the Church on the proviso that the house was not demolished, and the grounds not subdivided for 20 years after Edmund Resch's death. The first Archbishop to reside at Swifts was Cardinal Gilroy. Some minor alterations were carried out to the house to accommodate the new occupier. At the same time, part of the ground floor of the house was converted to a chapel of ease for the local congregation and known as the Chapel of St Edmund (colloquially known as St Edmunds Chapel).

During the next 20 years, the chapel (former ballroom) hosted weddings, funerals, baptisms and other services, with the successive archbishops or visiting clergy officiating. Information about the cost of such events is suppressed in documentary records, but it is highly likely that the congregants contributed a donation for the services held at Swifts, which may have been allocated to the costs of maintenance and repair of Swifts.

Table 3.4 below contains a list of weddings held in the Chapel of St Edmund sourced from the *Australian Women's Weekly*, *Sydney Morning Herald*, *Sunday Telegraph* and other local newspapers. It is not necessarily a complete list but indicates the regularity of weddings held at Swifts between 1968 and 1980. Table 3.5 contains an incomplete list of mass requiems/funeral services held in the chapel at Swifts from 1970 to 1985. Details of baptisms held at St Edmunds Chapel have not been located.

Table 3.4 Incomplete list of weddings held at St Edmunds Chapel, Swifts.

Date	Couple
August 1968	Mary Ellen Johnson-Tony Ayrton
January 1969	Ginette Condon-Peter Byron
January 1969	Ann Christine Kelly-Mary Robert Edser
June 1969	Anne-Marie Fingleton-Eric Carrigan
July 1968	Bronwyn Martin-Ronald Clulow
July 1969	Jane Milne-John Keating
July 1969	Vikki Brown-John Giblin
September 1969	Eva Yee-Barry Murphy
October 1969	Janet Halpin-Ian Wilks
November 1969	Kerrie Macdonald-Phillip Whiteman
November 1969	Colleen Duff-Robin Lees
December 1969	Julie Wheeler-Peter White
1970	Stone-Freeman
April 1970	Carol Renshaw-John Luckie
November 1970	Gael Fagan-Michael Winnick
December 1970	Julie White-Franklyn Yates
October 1970	Clare Hurley-Gerald Curtin
February 1970	Helen Wilson-Kevin Donohue



Date	Couple
February 1970	Margaret Hegarty-Noel Dorney
February 1970	Carolyn Nolan-John Weingarth
March 1970	Renee Anast-Michael Leonard
March 1970	Joan Hall-Timothy Kearney
April 1970	Kay Nevill-Robert Crawford
April 1970	? Sydenham-Lloyd Lomas
April 1970	Toni Harris-Richard Byrne
April 1970	Cherie Traynor-Lim Lowndes
April 1970	Gaille Garry-Giuseppe Piccirilli
April 1970	Diane Cook-Michael Causer
May 1970	Francis?-Christopher Roberts
June 1970	Maryanne Dynon-Ian Pagent
July 1970	Vivienne Joris-Brendon Bovill
July 1970	Alison Lawrie-Ronald O'Brien
September 1970	Chantel Legrand-Graeme Emerson
October 1970	Anne Brennan-Ian McGregor
November 1970	Julie White-Frank Yates
November 1970	Delphine Dockery-Kevin Morrissey
November 1970	Julie White-Frank Yates
November 1970	Clara Hurley-Gerald Curtin
January 1971	Dr Patricia Flight-Dr Richard Martin
January 1971	Mary Osborne-John Myers
January 1971	Anne Parmentier-John Swift
February 1971	Jacqueline Lowe-Gregory Johnston
February 1971	Gai Russell-Peter Martin
March 1971	Sharon Hasler-Graham Spencer
March 1971	Sandra Crawley-Peter Cadwallader
April 1971	Naone Lae-Sub Lt Michael Carrel
April 1971	Hedy Rumpeltes-Peter Brown
May 1971	Robyn Laundry-Dr Arch De Angelis
May 1971	Margaret Hills-Michael Christie
July 1971	Toni Walton-Peter Barry
July 1971	Lynne Whalan-James Schiller
August 1971	Amber Richardson-Edward Cahill
September 1971	Amber Richardson-Edward Cahill



Date	Couple
September 1971	Penelope Ross-Robert Sterneberg
September 1971	Penny Tyrrell-Peter Hohnen
December 1971	Valerie Brooks-Max Prentice
October 1971	Dr Lesley Campbell-Dr John Charlesworth
October 1971	Lorraine McEvoy-Nicholas James
October 1971	Eileen Pratt-Jon Williams
December 1971	Sally Bellmaine-Tony Bennett
January 1972	Julie-Anne Spratt-Graeme O'Donoghue
January 1972	Louise Searle-Major David Paul Ara
February 1972	Putchie Stening-David Lyle
March 1972	Louise Christie-Peter Kinsella
April 1972	Antonia Cannon-Dennis Scott
June 1972	Sanda Alcorso-John de Burgh Blockey
June 1972	Jane Walters-Peter McCardell
July 1972	Vivian Liibus-David Jackson
October 1972	Barbara Thurston-Bruce Little
November 1972	Marelle Blacklock-Ian Bridge
December 1972	Janine O'Brien-Robert Bruce Scott Macfarlan
January 1973	Anne-Claude Guiges-Francois Beaumont
January 1973	Robin Pearce-Shayne Yates
February 1973	Helena John-Hon Bob Carr
February 1973	Lynette Huggins-Brendan Hannelly
March 1973	Joan Grauss-Dr Bob Paterson
April 1973	Margaret Blackburn-Patrick Cain
May 1973	Susan Oliver-Gerard McCormack
June 1973	Yvonne Dunworth-Victor Dekyvere
June 1973	Christine Apps-Michael Julian
July 1973	Suzanne Bowditch-David Bath
September 1973	Suzanne Tisdale-Graeme Walton-Smith
November 1973	Rosemary Zanelli-John Southwell-Keely
December 1973	Rosemary Zanelli-John Southwell-Keely
January 1974	Marian St Leger Moss-Giulio Cantarella
January 1974	Maria Power-Dr Gordon Pullin
January 1974	Kerry O'Brien-Donald Story
February 1974	Elizabeth Redmond-Peter Colless



Date	Couple
June 1974	Carole Briggs-John Radnedge
July 1974	Cherie Harvie-John O'Riordan
June 1974	Colleen Till-John Greaves
August 1974	Susan Donohoe-Kenneth Watson
February 1974	Michelle Toussard-Robert Holmes
November 1974	Margret Hereford-James Meagher
November 1974	Vivienne Pye-Stephen MacMahon
January 1975	Jocelyn Isaac-Ian Angus
February 1975	Christine Stribley-Michael Boon
March 1975	Jerry Barrett-Peter Burke
March 1975	Robyn Mason-David Dunworth
April 1975	Therese Carmody-Geoffrey Gorick
April 1975	Gresha Hepworth-David Martin
April 1975	Jan Carey-Dr James Cheatham
May 1975	Susan Todd-Stephen Martin
May 1975	Margaret Sheaves-Joseph Lizzio
May 1975	Candy Hamilton-Peter Tonkin
June 1975	Patricia Hughes-Dr Tony Bull
October 1975	Kerrin Maloney-Joseph Ryan
November 1975	Pamela Dillon-Warwick James
February 1976	Katherine Clift-Michael Walker
February 1976	Margaret Richards-John Kellett
April 1976	Merrilyn Bedford-Paul O'Sullivan
May 1976	Anne Fowler-James Dwyer
June 1976	Robyn Gillespie-David Arnott
August 1976	Kathryn Perry-Dr Phillip Yuile
August 1976	Patricia Lake-Francis Moody
December 1976	Susan Mallett-Ugo Nardi
February 1977	Rosemary McDonagh-Dr Michael McMahon
February 1977	Maryanne Allen-Paul Clark
May 1977	Catherine McAuley-Gregory McKew
May 1977	Sue Prettyman-Peter Noonan
June 1977	Susan Meos-David Hunter
April 1977	Virginia Quain-Peter Burnham
August 1977	Helen Scharrer-Dennis Wall



Date	Couple
August 1977	Eleanor Wookey-Jack Lewis
September 1977	Judith Ryan-Steve Stove
October 1977	Vivienne Rich-Ian Rae
November 1977	Elizabeth Wadsworth-Michael Sissian
February 1978	Kacy Camphin-Bruce Grady
April 1978	Katrina Gibson-Iven Page
May 1978	John Wallington-Robert Atkins
May 1978	Lisa Muggivin-Doug Brown
September 1978	Frances Walker-Andrew Elsegood
April 1980	Virginia Marr-Peter Jenkins
May 1980	Maria Listwan-James Shevlin
December 1980	Gai Smith-Robbie Waterhouse



Table 3.5 Requiem masses/funerals held at St Edmunds Chapel, Swifts.

Date	Deceased
January 1970	Catherin Theresa Frazer
January 1971	Dr Patricia Flight-Dr Richard Martin
August 1972	Italo Rossi
November 1973	Mary Pauline Tarlinton
August 1974	Joseph Leo Murphy
December 1974	William John Allner
November 1975	Shaneen Bowe-Michael Bowe
January 1976	Emily Eugenie Veronica O'Neill
February 1976	Sister Mary Gerard
October 1976	John Redmond Barrett
December 1976	Maria Coen
June 1977	Douglas Croft
August 1977	Gabrielle Duval Stuby
December 1977	Bernard Richard Dunne
December 1978	John William Joseph Byrne
March 1979	Blanche Casimir Traynor
September 1979	Edna Irene McCamley
April 1980	Arthur Robert McCamley
September 1980	Mrs Kathleen Mary Coen
June 1981	Kathleen Stella McEnroe
August 1982	Miss Beth Mansour
June 1983	Louise Patricia Murphy
November 1983	John Francis Racy Worth
February 1984	Alan Macleay Duncan
September 1985	Richard John Priess

3.5 Phase 6: 1997 to the present

The Moran family purchased Swifts in 1997 from the mortgagee in possession and undertook an extensive and lengthy conservation and restoration of the house and grounds supervised by heritage architects, Clive Lucas, Stapleton & Partners.

On 7 November 1998, Shane and Penelope Moran held their wedding reception in the grounds of Swifts for 270 people attending. Two years later, in 2000, Evette and Mark Moran married at Swifts.

After a gap of eight years, the next major function took place on 24 February 2009 when Doug and Greta Moran hosted a lunch at Swifts in aid of the child abuse prevention charity Cornucopia. This is one of



the earliest references located in the press reporting on a charity function held at Swifts after the property was purchased by the Moran family.

In 2010, the property was transferred to Dr Shane Moran (Masolage Holdings Pty Ltd) and his sister Kerry Jones (KJ Property Investments Aust Pty Ltd) in equal shares. They agreed that Shane and his family would reside at the property and Kerry would operate a function business out of the property. Accordingly, Kerry created a website and brochure offering events and functions at Swifts for an agreed payment.

The *Sydney Morning Herald* reported on 16 April 2011 that Kerry Jones intended to open Swifts to the public through means of a new group 'Friends of Swifts'. Her plan was to hold garden parties and offer scholarships with NIDA. The first event was planned for 29 April, comprising an invitation-only dinner in the ballroom in association with NIDA to celebrate the wedding of Prince William and Kate Middleton. The royal wedding party was hosted by Kerry Jones and raised funds for a new annual Swifts scholarship at NIDA. One month later, Swifts was the venue for a reception in honour of Lady Primrose Potter AC, hosted by the Australian Ballet.

In October 2011, the *Sydney Morning Herald* reported that some Darling Point residents were up in arms, claiming Swifts had become a 'noisy party pad' with the parties reportedly costing organisers up to \$20,000 to hire the residence. Jones in reply stated that the events raised money for charity, not a commercial operation. Furthermore, she said, 'this is a private residence. If we want to have a party here we can. The money from hiring the house covers the costs associated with putting on these events, with the balance going to charity'.¹

Residents' complaints led the Woollahra Municipal Council to investigate the occupation and commercial use of Swifts. Council wrote to Kerry Jones on 18 August 2011 requiring her to seek development consent for use of the property for 'charity functions and corporate functions'. Email correspondence from Peter Cavanagh, Paddington Ward councillor, indicated that a friend of his attended the event and stated it was a function for a friend of the owners and not a commercial function. The council received legal advice to define 'commercial use' as follows:

The hiring of property for a financial reward;

The invitation to hire is made to the public;

The lease or use of the property is advertised and promoted; and

The property is available for hire on a regular basis.

Consequently, Woollahra Municipal Council judged the events characterised above were of a commercial character and required development consent, whether or not the events involved charity fundraising. Council requested Kerry Jones not hold events of a commercial character in 2012 unless prior development consent was obtained. On that basis Kerry Jones lodged a successful development application (DA433/2011) to hold an Open House and Garden Party at Swifts from 18 to 20 November 2011. The proceeds of this event were given to 'Friends of Swifts' charities.

Woollahra Municipal Council wrote to Kerry Jones in late January 2012 following complaints from residents about a wedding held at Swifts, Terry Biviano and Anthony Minichello, on 21 January. Council considered this a development without consent in contravention of discussions between the parties earlier in the month.²



In April 2012, Kerry Jones lodged a successful application to hold the Swifts Soirees Concert Series: six Sunday afternoon fine music concerts.³ According to the council report, Kerry Jones amended the dates of the series, originally scheduled to take place in March and April, with the first concert taking place in June instead.

Late in 2012, Kerry abandoned plans to utilise Swifts for charity and fundraising events. As she could not operate the property as a function centre, she sold her half share in the property to her brother in 2013, leaving Shane Moran as the sole owner and resident of Swifts.

Since then, Shane and Penelope Moran have hosted many weddings, events and functions at Swifts, utilising the ballroom, dining room and gardens. According to Penelope Moran 'Swifts is not advertised as a venue for hire [and] all enquiries come from friends and acquaintances'. Further, 'Masolage Holdings Pty Ltd does not host any function or event unless Shane and Penelope Moran or their children have a personal connection with the event'.⁴ In addition to the list of events outlined in Table 3.6, Shane and Penelope Moran have hosted other events for their children's schools, including graduation dinners, pre-formal drinks and thank you dinner; events for their children's sporting clubs, such as post-season team get togethers and fundraising dinners; concerts for their nursing home residents; big birthday parties for their friends and family members; and several weddings for family and friends. .

Swifts has also regularly featured in television series, films and advertisements as outlined in Table 3.7. These events are likely subject to some fees, but this is a question for the property owner.

Table 3.6 Principal events/functions held at Swifts 2011–2021.

Date	Event Name	Organiser	Event Type
11-Mar-2011	Cornucopia Foundation—Annual Swifts Garden Party	Evette Moran	Charitable Fundraiser
30-April-2011	Royal Wedding party and fundraiser for NIDA	Kerry Jones	Charitable Fundraiser
3-May-2011	Moran Arts Foundation	Mark Moran	Charitable Fundraiser Dinner
11-May-2011	Australian Ballet Reception for Lady Primrose Potter AC	Kerry Jones	Charitable Fundraiser
21-June-2011	YSL Dream of Colour range launch	Kerry Jones	Launch Event
5-Sep-2011	Celebratory dinner for Baz Luhrmann and artist Vincent Pantalazzo, winner of Doug Moran National Portrait Prize for Painting of Luhrmann	Mark Moran	Charitable Fundraiser Dinner
1-Nov-2011	Melbourne Cup Garden Party	Kerry Jones	Open House and Garden Weekend in conjunction with the Launch of the Swifts Arts & Civics Scholarships & Charity Annual Program
21-Oct-2011	Underbelly Razor-themed Dinner Party	Mark Moran/Kerry Jones	Charitable Fundraiser Dinner for Prince of Wales Hospital Foundation



Date	Event Name	Organiser	Event Type
9-Dec-2011	Funeral wake for Doug Moran	Greta Moran	Family Function
Feb-2012	Fox FX Launch	Kerry Jones	Launch Event
June-2012	First of Swifts Musical Soirees Concert Series	Kerry Jones	Charitable Fundraiser
10 to 14 Aug 2015	Mary - The Making of a Princess	Fremantle Media Aust	Filming
26-Aug-15	Harry Holt - The Defector	Singularity Films Pty Ltd	Filming
07-Nov-15	Mimi Bartsch's wedding	Shane Moran	Wedding
15-Oct-15	I-Manifest	I Manifest Pty Ltd	Charity Function
03-Apr-16	Guess Who is Coming to Lunch	Pearl Catering	Lunch
2-4 April 2016	Amazing Homes	Chanel 9	Filming
30-Apr-16	Nick Easton Dinner	Shane Moran	Dinner Party
13-May-16	Sherry Wong's Wedding	Quintessentially Events (HK)	Photo Shoot
16-Jun-16	Foxtel Dinner	Foxtel Australia	Corporate Dinner
06-Sep-16	National Trust Women's Committee	National Trust of Australia	Charity Fundraiser
20-Oct-16	Chinese (Wuxi) Delegation with Hon Anthony Roberts MP	Shane Moran	Parliamentary Delegation Dinner
15-Nov-16	Moore College Fundraiser for Archbishop Peter Jensen	Barbara Moran/Shane Moran	Dining Room Dinner/Fundraiser
21-Feb-17	Westfield Promotion (Big House)	GoLightly PR Pty Ltd	PR Event
24-Apr-17	The Bachelor	Warner Bros	Filming
16-May-17	Easybeats	Playmaker Fomm	Filming
17-May-17	A Place to Call Home	Seven Productions	Filming
30-May-17	Breguet Swiss Watches	Pearl Catering	Launch
1 - 2 June 2017	A Fighting Season	FS No 1 Productions	Filming
13 -14, 26 -27 June 2017	A Place to Call Home	Seven Productions	Filming
18-19 June 2018	Lambs of God	CSA Productions 2	Filming
28-Jun-17	A Place to Call Home	Seven Productions	Filming



Date	Event Name	Organiser	Event Type
28-Jul-18	Allianz Corporate Event	Pearl Catering	Corporate Lunch
03-Jul-17	The Bachelorette	Warner Bros	Filming
12-Aug-17	Mosman Cricket Club	Shane Moran	Charitable Fundraiser
17-Aug-17	Fashion Event	Pearl Catering	
09-Sep-17	Ravenswood Reunion	Penelope Moran	School Function
08-Nov-17	MIHC Thank You Dinner	Penelope Moran	Client Thankyou Dinner
03-Nov-17	Uber Eats	Revolver Film Design	Advertisement Shoot
11-Nov-17	Year 7 Loreto Cocktail party	Penelope Moran	School Function Fundraiser
20-Nov-17	Wolper Jewish Hospital	Shane Moran	Fundraiser with Adam Goodes (Guest Speaker)
12-Dec-17	Provectus Christmas Party	Pearl Catering	Thankyou Dinner
03-Jan-18	Prime Minister Hon Malcolm Turnbull & family photo shoot	Woman's Weekly	Photo Shoot
16-Mar-18	A Place to Call Home	Seven Productions	Filming
20-Mar-18	Historic Houses - Dead Men Talking	Historic Houses Trust of Australia	Charity Fundraiser
19-Apr-18	Secret City	Secret City 2 Productions	Filming
24-Apr-18	Lana Tsapepas Wedding	Shane Moran	Wedding
14-15 May 2018	MacGraw Fashion Show	MacGraw Pty Ltd	Fashion Shoot
13-Jun-18	Foxtel Lunch	Pearl Catering	Lunch Party
15/06/2018, 4-5 July 2018	A Place to Call Home	Seven Productions	Filming
15-Jun-18	Master Builders Association Photos (Conservatory & Pool)	Shane Moran	Photo Shoot
04-Aug-18	Rainbows for Kate	NAB Charity Event	Charity Fundraiser
20-Aug-18	Smiths Crisp	Multi Channel Network	Advertisement Filming
07-Sep-18	So They Can	Charity Event	Lunch Party - Charity Fundraiser
21-Sep-18	Loreto Capital Raising Ballroom Dinner	Loreto Kirribilli	Charity Fundraiser
14-Nov-18	Loreto Capital Raising Dining Room Dinner	Loreto Kirribilli	Charity Fundraiser



Date	Event Name	Organiser	Event Type
04-Oct-18	Organ Recital Society	Grace Chan/Shane Moran	Charity Fundraiser
12-13 Nov 2018	Cue Clothing	Cue Clothing	Photo Shoot
01-Dec-18	Isobel Carroll Wedding	Kashaya/Shane Moran	Wedding
07-Mar-19	Sydney Children's Hospital Silver Party	Rizer	Charity Fundraiser
08-Mar-19	Loreto Fundraising Dinner	Loreto Kirribilli	Charity Fundraiser
11 -12 March 2019	The Unlisted	Locations Manager	Filming
01-Apr-19	The Bachelor Filming	Big House	Filming
11-Ma-19	Loreto Year 12 Cocktail Party	Shane & Penelope Moran	Cocktail/Charity Fundraiser
03-Jun-19	Eastside Music Festival	Dr Grace Chan & Shane Moran	Charity Fundraiser (featuring Neal Peres Da Costa)
15-Jun-19	Shore Foundation Headmaster's Thank-you Dinner	Shore School & Shane Moran	Charity Fundraiser
24-Jun-19	St Joseph's College Class of '79 40th Reunion	Shane Moran	Cocktail/ Dinner Charity Fundraiser
30-Jun-19	Wolper Jewish Hospital	Shane Moran	Charity Fundraiser with Hon Malcolm Turnbull (Guest Speaker);
16-Aug-19	Fallout Filming	Dave Singleton	Filming
11-Sep-19	Organ Recital Society	Grace Chan	Music Recital -Organ (Charity)
20-Sep-19	Stand Tall Ladies Charity Lunch	Angie Farr-Jones	Luncheon (Charity Fundraiser)
28-Sep-19	Baby Shower	DK Events	Baby Shower Lunch for Michelle
17-Oct-19	Dior	Alias Events	Launch of Cruise Collection
18-Oct-19	Sydney Living Museums	Grace Chan	Music Recital -Organ (Charity)
25-Oct-19	St Andrews Cathedral Choir	St Andrew's Cathedral	Fundraising Dinner
15-Nov-19	Loreto Men's Lunch	Loreto	Luncheon
15-Nov-19	Loreto Year 12 Pre Formal Drinks	Loreto Kirribilli	Cocktail
22-Nov-19	Loreto Capital Campaign Dinner	Loreto Kirribilli	Fundraising Dinner
23-Nov-19	Loreto Year 6 Graduation Dinner	Loreto Kirribilli	Fundraising Dinner



Date	Event Name	Organiser	Event Type
15-Feb-20	Kashaya - Surprise Birthday Party	Kashaya	Cocktail & Dinner
5-8 March 2020	Sydney Harbour Concours D'Elegance	James Nicholls	Motor Show/ Cocktail
05-Mar-20	Loreto – Year 11 Modern History classes Tour	Loreto Kirribilli	History Tour
23-July-20	Georgia Lowe Harpist	Shane Moran/Dr Grace Chan	Harpist Recording in the ballroom
25-Jul-20	Kurtly Beale / Maddie Blomberg Wedding	Shane Moran	Wedding Ceremony
7-Nov-20	Leify Porter & Rob Paglioso Wedding	Katering/Shane Moran	Wedding Ceremony
28-Feb-21	Sudipta Ghosh & Alex Viniarsky Wedding	DK Events	Wedding Ceremony
4 Mar - 7 Mar 2021	Sydney Harbour Concours D'Elegance	James Nicholls	Motor Show/ Cocktail
12-Mar-21	Jessica Palmer & Trent Lawler	Emma Burns/ Jessica Palmer	Wedding Ceremony/ canapes
25-Mar-21	Nadia Fairfax Wedding	Nadia / Ally Considine	Wedding Ceremony/ Reception
29-Mar-21	2GR Wagu Decadence Dinner	Maree Andrews & Shane Moran	Chefs' Dinner Party
30-Apr-21	David Campese Australian Rugby Union Tribute Luncheon	Nick Farr-Jones & Shane Moran	Charity Fundraising Lunch / Auction
10-28 May 21	Pieces of Her Filming	Phillip Roope	Filming Location Venue
21-May-21	Georgia Moran's 14 th Birthday Party	Penelope & Shane Moran	Birthday Party
29-May-21	Catherine Calavrias & Joshua Chambers Wedding	Kashaya	Wedding Ceremony

Table 3.7 Swifts featured on film 2012–2021.

Date	TV/Film name
2012	Jack Daniel's—Master Distiller Dinner. Jeff Arnett, Jack Daniel's Master Distiller, invited to a very special dinner with meals created and prepared by Celebrity Chef Luke Mangan. Mangan created and prepared the courses on site, accompanied by matching cocktails. The event was filmed.
2015	Telemovie: <i>Peter Allen: Not the Boy Next Door</i> (Shine Productions)
2016	Television series: <i>Unreal Estate</i> (Nine Network). Episode aired 25 October
August 2020	Television Advertisement: <i>Noble Oak</i> (Beautiful State)



3.6 Endnotes

- ¹ 'No title', *The bulletin*, 3 October 1885, pp 15-16, Trove, National Library of Australia, viewed 15 June 2021 <<http://nla.gov.au/nla.obj-254299364>>
- ² 'In and out of town', *The Sun*, 21 May 1933, p 28, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article228895857>>.
- ³ 15 August 1939, The Director, Commonwealth Investigation Branch, Resch, Edmund Richard Emil [Box 225], National Archives of Australia, C123, 7532.
- ⁴ 12 June 1942, Inspector 2/c Watkins, Security Service, Resch, Edmund Richard Emil [Box 225], National Archives of Australia, C123, 7532.
- ⁵ 'Battling Along with Handful of Servants', *The Daily Telegraph*, 14 October 1942, p 5, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.news-article247892558>>.
- ⁶ 'Women's Letters', *The bulletin*, Vol 63 No 3267, 23 September 1942, p 24, Trove, National Library of Australia, viewed 16 June 2021 <<http://nla.gov.au/nla.obj-532730960>>
- ⁷ 'Swift's party nest ruffles feathers', *Sydney Morning Herald*, 22 October 2011, p 28.
- ⁸ Development without Consent, Notice Orders 29/2012, Ms M Eaton, 23 January 2012, Woollahra Municipal Council.
- ⁹ DA38/2012, Woollahra Municipal Council.
- ¹⁰ Pers. Comm. Penelope Moran, 6 May 2021.



4 Planning Context for Swifts

4.1 County of Cumberland Planning Scheme 1948–1960

The County of Cumberland Planning Scheme was released in 1948 but not gazetted until 1951. Large parts of the Woollahra Municipal Council were designated as 'Living Areas' (defined below).

The purpose of Living Areas is to provide for residences and all other facilities associated with residential areas. These include flats, hotels, churches, schools, hospitals, shops, and commercial premises except warehouses and bulk stores.

The main prohibition in Living Area is against industries other than "Local Light Industries". These latter have a floor space not exceeding 5,000 square feet, do not require utility services in excess of those normally provided in a Living Area, and do not generate traffic likely to create congestion or danger on residential roads. The growth of these industries beyond 5,000 square feet is also prohibited.

There is no necessity to obtain planning permission for the erection of dwelling houses in Living Areas, though this does not relieve the developer from the necessity to obtain the normal approval of building plans by the local council.

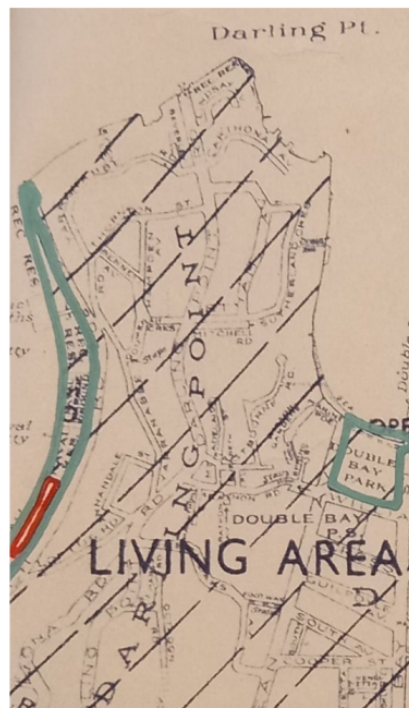


Figure 4.1 Detail from County of Cumberland Planning Scheme showing Darling Point as a 'Living Area'. (Source: Woollahra Library)



Figure 4.2 Detail from County of Cumberland Planning Scheme and Legend. Darling Point coloured pink—Living Areas, 1951 (Source: State Library of NSW)



4.2 Woollahra Planning Scheme Ordinance

The Woollahra Planning Scheme Ordinance (WPSO) printed in December 1972 is attached at Appendix ?. The WPSO applied to all land within the Municipality of Woollahra as constituted at 1 August 1968 and shown on the scheme map (**Figure 4.3**). The council was the responsible authority and 'charged with the functions of carrying into effect and enforcing the provisions' of the Ordinance. Swifts was zoned Residential 2(d), shaded pink on the scheme map below.



Figure 4.3 Detail from Woollahra Planning Scheme Ordinance showing subject site zoned Residential 2(d). Original site boundary outlined in blue. (Source: Woollahra Library)



4.3 Woollahra Local Environmental Plan No. 24 (1985)

Swifts, 68 Darling Point Road, Darling Point, is designated 'No 5 (a) Special Uses Zone' under the provisions of the *Woollahra Local Environmental Plan No. 24* (WLEP No. 24)—it is coloured yellow on the accompanying zoning sheet and annotated as 'Church' (Figure 4.5). The area is identified as an item of environmental heritage (Schedule 7) on the map reproduced at Figure 4.6. The relevant sections outlining general aims and objectives and heritage provisions from the WLEP No. 24 are quoted below.

PART I—PRELIMINARY

Aims, objectives, etc.

This plan aims—

- (a) to zone land to which this plan applies so as—*
 - i. to create separate areas for residential and non residential use in the interests of residential amenity,*
 - ii. to ensure the functional viability of non-residential activities by providing a balanced distribution of services and employment opportunities; and*
 - iii. to establish an efficient traffic distribution network;*
- (b) to reserve land for the purpose of improving the traffic flow on major roads;*
- (c) to make provision for general environmental improvement through public authority initiatives; and*
- (d) to make provision for such other specific controls on development as would help to achieve the objectives specified in Schedule.*

Land to which plan applies

- 1) Except as provided by subclause (2), this plan applies to the land shown by distinctive colouring or edging or in some other distinctive manner on the map.*
- 2) This plan does not apply to land shown uncoloured, edged heavy black and marked "Deferred" on the map, being land excluded from the operation of this plan pursuant to section 68 (5) of the Act.*

PART II—GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND

10. Zones indicated on the map

ZONE No. 5 SPECIAL USES

1. Without development consent

Nil

2. Subject to conditions

Nil

3. Only with development consent

The particular purposes indicated by scarlet lettering on the map; parks and gardens; roads.



4. *Prohibited*

5. *Any purpose other than a purpose included in Item 3.*

PART III—SPECIAL PROVISIONS

Conservation of Items of Environmental Heritage

21. (1) *In this clause and in clauses 22-26—*

"demolition", in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or in part;

"item of the environmental heritage" means a building, place, work or relic—

(a) situated on land shown coloured orange on Sheet 5 of the map;

(b) specified in Schedule 7; or

(c) identified as such in a development control plan;

"relic" means a deposit, object or material evidence relating to the settlement (including aboriginal habitation) prior to 1st January, 1900, of the area of the council;

"renovation", in relation to a building or work, means—

(a) the making of structural changes to the inside or outside of the building or work; or

(b) the making of non-structural changes to the fabric or appearance of the outside of the building or work which may have a major or significant impact on the heritage value of the environment.

(2) A person shall not, in respect of a building, place, work or relic that is an item of the environmental heritage—

(a) demolish, renovate or extend the building or work;

(b) damage or despoil the relic or any part of the relic;

(c) excavate any land for the purpose of exposing or removing the relic;

(d) erect a building on the land on which that building, work or relic is situated or the land which comprises that work or relic is situated or the land which comprises that place: or

(e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

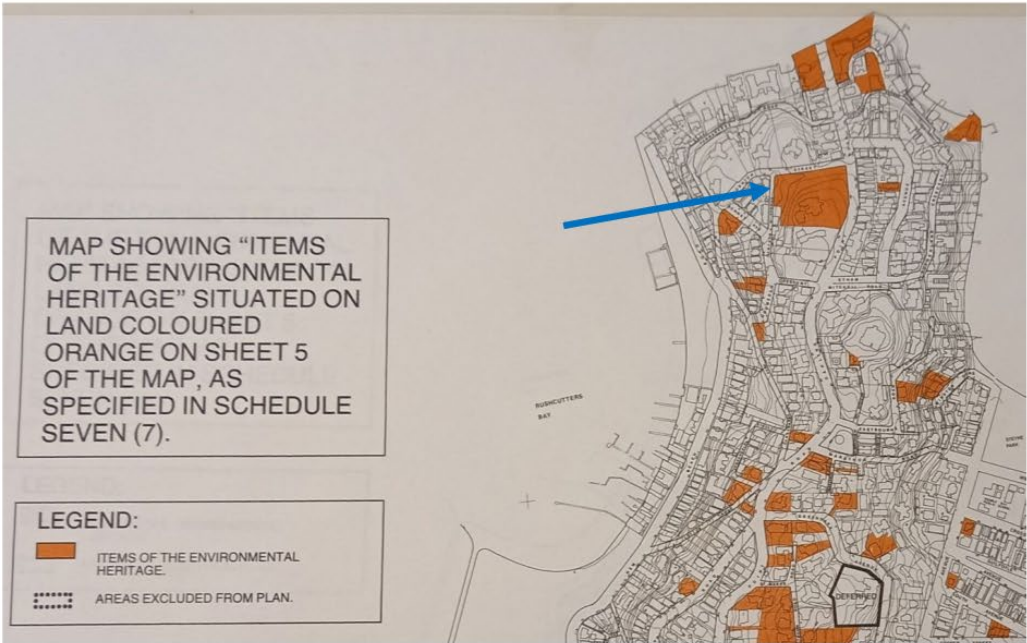


Figure 4.4 Woollahra Local Environmental Plan No. 24—Items of Environmental Heritage Sheet, 1985. Swifts is identified as a heritage item. (Source: Woollahra Library)



Figure 4.5 Detail from Woollahra Local Environmental Plan No. 24 Zoning Sheet, 1985. Swifts designated Special Uses A Zone—Church. (Source: Woollahra Library)



4.4 Woollahra Local Environmental Plan 1995

Swifts, 68 Darling Point Road, Darling Point, is zoned Residential 2(a) under the provisions of the *Woollahra Local Environmental Plan 1995* (WLEP 1995). The relevant sections of WLEP 1995 are reproduced below as they relate to Swifts.

The objectives of this zone are:

- a) *to maintain the amenity and existing characteristics of areas predominantly characterised by dwelling houses;*
- b) *to allow certain non-residential development of low intensity which is compatible with the residential character and amenity of the locality;*
- c) *to improve access to and along the Sydney Harbour foreshore where opportunities arise;*
- d) *to protect the environment attributes of the coastal and foreshore lands.*

Development for the purpose of:

Drainage; dwelling-houses within the foreshore scenic protection area (but not those also within a heritage conservation area or those also identified as heritage items); home occupations carried on in dwelling-houses; roads may be carried out without consent in this zone.

Development for the purpose of:

Child care centres; dwelling-houses within the harbour foreshore scenic protection area, within a heritage conservation area or identified as heritage items; home occupations carried on in residential flat buildings; hospitals; parks and gardens; utility installations (other than gas holders or generating works); works to enable public pedestrian access to and along Sydney Harbour foreshore is permissible with consent.

All other development is prohibited.

Allotment Sizes

The minimum allotment size indicated for The Swifts site is 1 100m².

Height

The maximum building height on The Swifts site is 9.5m.

Harbour Foreshore Scenic Protection Area (HFSPA)

The site is in the HFSPA. Council shall not grant consent to development in this area unless it has made an assessment of:

- a) *the visual impact when viewed from Sydney Harbour of the design of the proposed development including the colours, textures, styles and types of materials to be used and the type and form of any roof;*
- b) *the impact of the proposed development on the natural landform and topography.*



Heritage

The Swifts—building, out buildings, grounds, gardens, sandstone fences and retaining walls, garden terraces, gate posts, gates, sculptures, 2 Moreton Bay Figs, Lemon Scented Gum, Bunya Pine, Norfolk Island Pine—as listed as a heritage item.

The plan provides that in respect of a heritage item a person shall not:

- a) demolish or alter the building or work;*
- b) damage or move the relic, or excavate for the purpose of exposing the relic;*
- c) damage or despoil the place;*
- d) damage or move the tree;*
- e) erect a building on the land that comprises the place;*
- f) subdivide the land on which the building, work, relic or tree is situated or that comprises the place;*
- g) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,*

except with the consent of the Council.

Council shall not grant consent to a development application required above unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

Further, Council may decline to grant a consent as required above unless it has considered a Statement of Heritage Significance or a conservation plan that explains the heritage significance of the heritage item.

The Council must also take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

There are several heritage items in the vicinity of The Swifts site.

Further, Council can only grant consent to the carrying out of development on a potential archaeological site if it has considered an assessment of how the proposed development will affect the conservation of the site and relics, has notified the Heritage Council and is satisfied that any necessary excavation permit required by the Heritage Act has been granted.

Heritage Conservation Incentives

The plan further provides in CI 32(1):

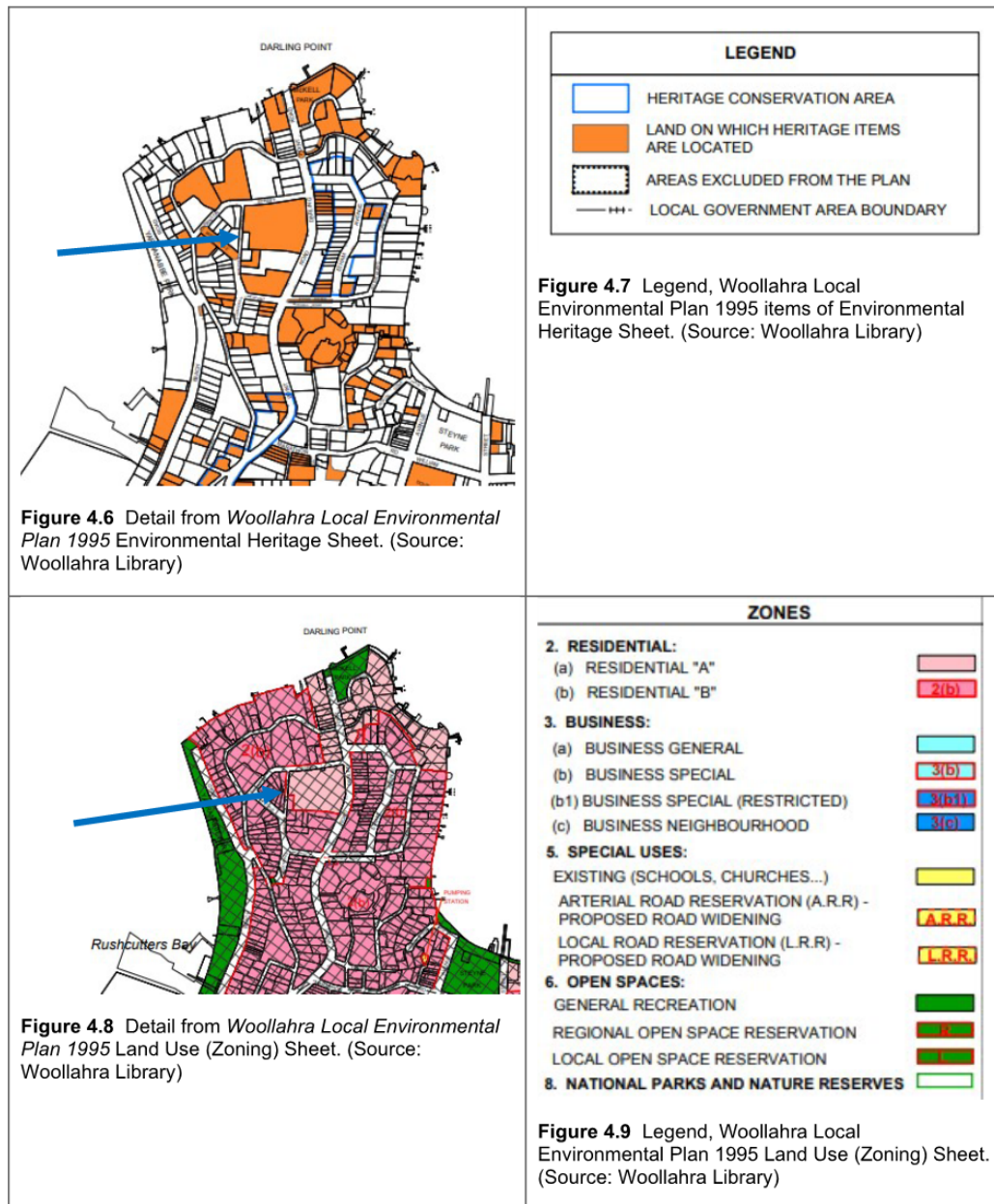
32. (1) Nothing in this plan prevents the Council from granting consent to an application for consent to the use, for any purpose, of a building that is a heritage item or the land on which the building is erected if it is satisfied that:

- a) the proposed use would have little or no adverse effect on the heritage significance of the heritage item and on the amenity of the neighbouring area;*
- b) the conservation of the building will be achieved by the Council granting that consent.*



(2) When considering an application for consent to erect a building on land on which there is situated a building which is heritage item, the Council may:

- a) for the purpose of determining the floor space ratio;*
- b) for the purpose of determining the number of parking spaces to be provided on the site, exclude from its calculation of the gross floor area of the buildings erected on the land the gross floor area of the heritage item, but only if the Council is satisfied that the conservation of the heritage item will be achieved by the Council granting the exclusion.*



4.5 Woollahra Residential Development Control Plan 2003

The *Woollahra Residential Development Control Plan 2003* (RDCP 2003) came into force on 27 February 2004 and was modelled on the RDCP 1999 prepared by Hassell Pty Ltd with Woollahra Municipal Council. The development controls pertaining to Swifts are contained in three sections: Site analysis controls (Part 3); Precinct controls (Part 4); and General controls (Part 5). RDCP 2003 applies



to all types of housing located within the Municipality of Woollahra that is zoned Residential 2(a), Residential 2(b), General Business 3(a), Special Business 3 (b), restricted Special Business 3(b1) and Neighbourhood Business 3(c) but excludes land subject to the *Double Bay Centre Development Control Plan*, the *Rose Bay Centre Development Control Plan*, and land within the Paddington, Woollahra and Watsons Bay heritage conservation areas as defined in the WLEP 1995.

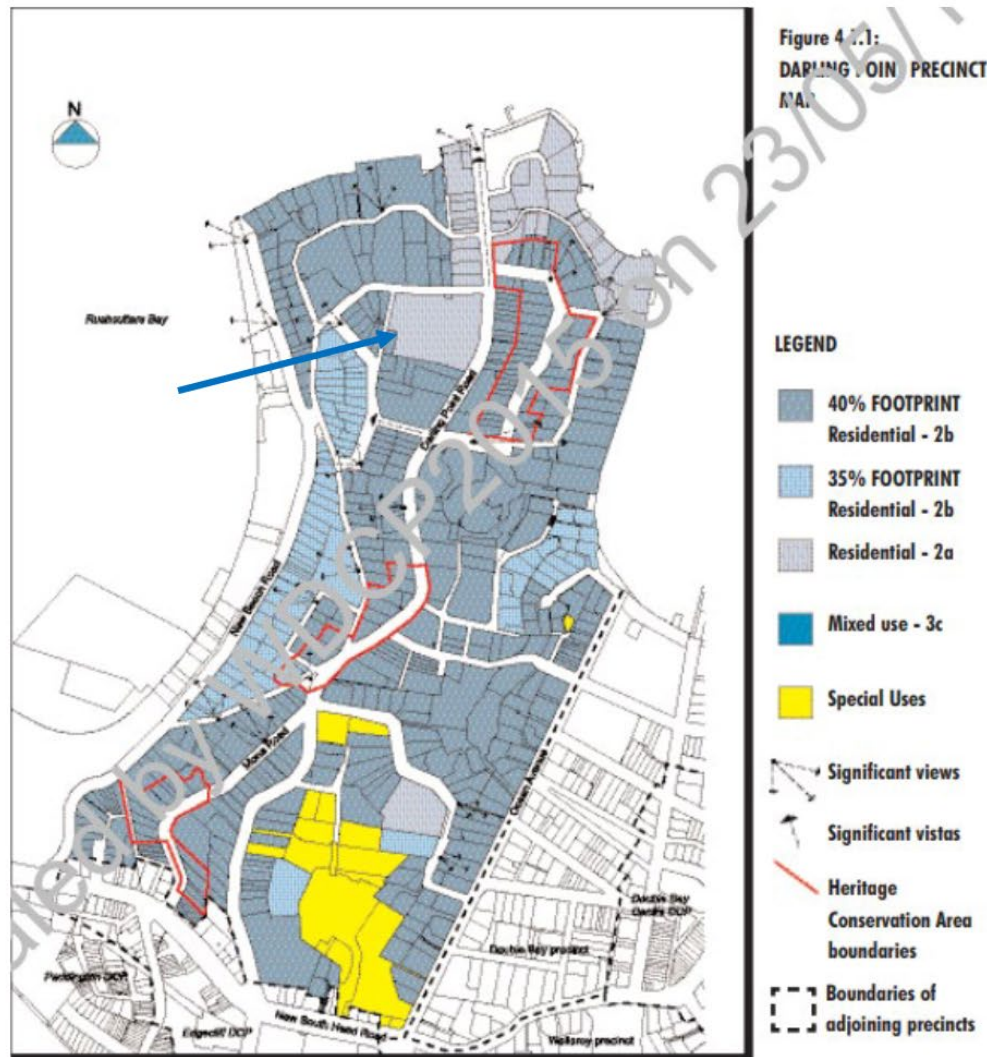


Figure 4.10 Darling Point Precinct Map, *Woollahra Residential Development Control Plan 2003*. (Source: Woollahra Municipal Council)

Swifts is zoned Residential 2(a) on the Darling Point Precinct Map (**Figure 4.10**). It is not located within a heritage conservation area. The RDCP 2003 sets out general design guidelines for development in the precinct but does not define or control commercial use of residential property. The RDCP 2003 was



superseded on 23 May 2015 by the current development control plan—*Woollahra Residential Development Control Plan 2015*.

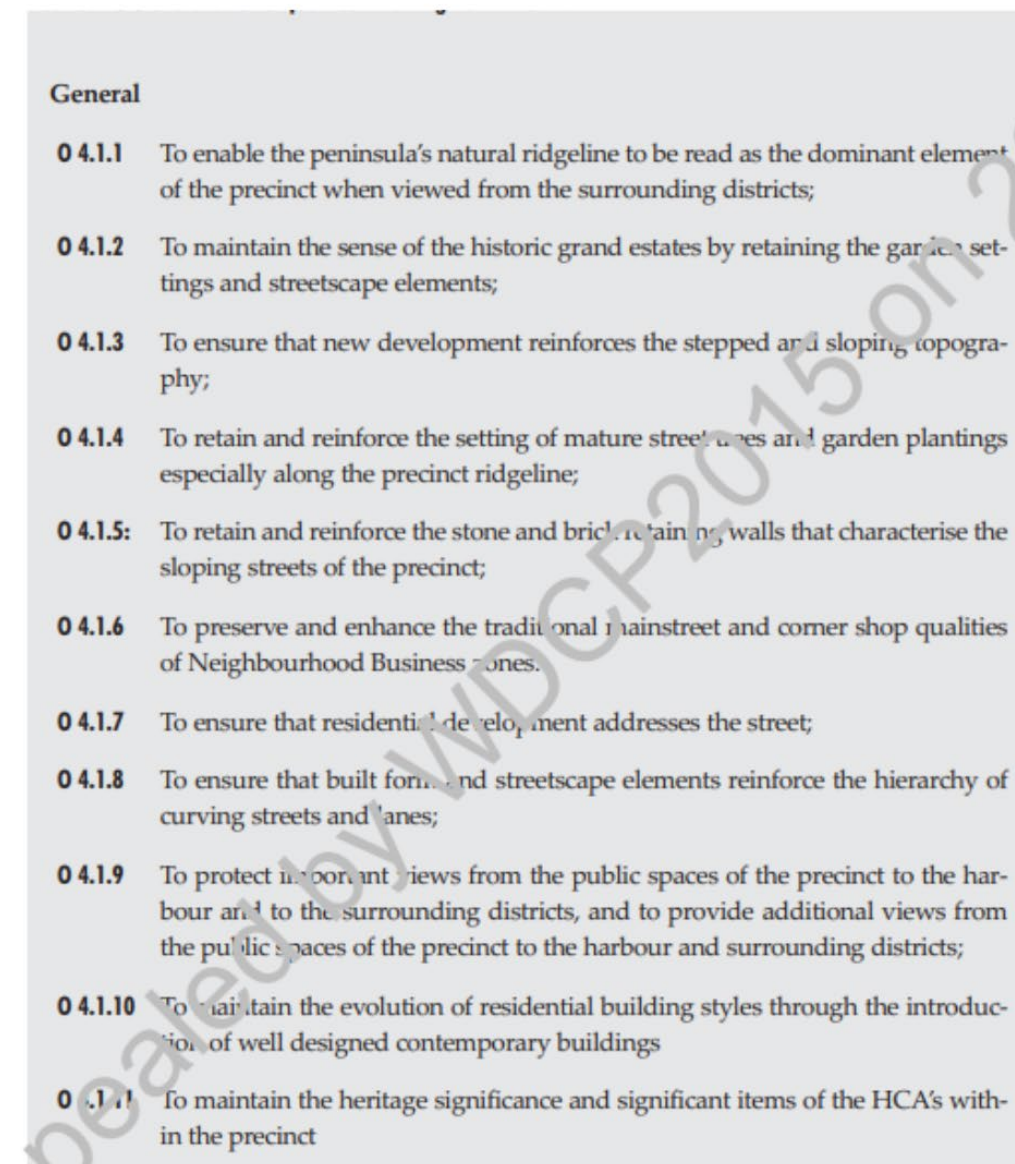


Figure 4.11 Desired future character objectives—Darling Point Precinct. (Source: *Woollahra Residential Development Control Plan 2003*, Woollahra Municipal Council)



4.6 Woollahra Development Control Plan 1995

The *Woollahra Development Control Plan 1995* (WDCP 1995) came into force on 21 June 1995 and lays down council requirements for all forms of residential development.

The objectives of the plan are:

- a) *to facilitate the implementation of the objectives and strategies contained in relevant environmental planning instruments relating to residential development and residential zones;*
- b) *to provide guidance to the community on how the Council will apply the provisions of the relevant environmental planning instruments in relation to individual developments and locations;*
- c) *to supplement the provisions of environmental planning instruments with detailed local controls designed to further the environmental objectives of 11 those instruments, and similarly, to complement the provisions of other Development Control Plans, Codes, and Policies of the Council;*
- d) *to assist the orderly and objective assessment of development and building application proposals;*
- e) *generally to encourage community adoption of high standards of residential amenity in the planning and execution of development;*
- f) *specifically in relation to any development, to protect and promote:*
 - i. *sunlight access, views and aural and visual privacy in relation to aural and visual privacy in relations to neighbouring land;*
 - ii. *compatibility with the scale, built form and intensity of use of surrounding development;*
 - iii. *the amenity of public places and reserves;*
 - iv. *heritage items and conservation areas;*
 - v. *the natural environment;*
- g) *to achieve a balance between the right to reasonably develop the subject site and the right to preserve aural and visual privacy, views, sunlight and the amenity of the neighbouring lands.*

The WDCP 1995 also contains objectives in relation to height, floorspace ratio, siting of development, private open space, building form, external materials, colours and finishes and other requirements. These are not relevant to this substance of this report.



4.7 Woollahra Local Environmental Plan 2014

See Woollahra Municipal Council webpage for written instrument and accompanying maps.

4.8 Woollahra Development Control Plan 2014

See Woollahra Municipal Council webpage for written instrument and accompanying maps.



Appendices

Appendix A

County of Cumberland Planning Scheme

Appendix B

Woollahra Local Environmental Plan No. 24, 1985

Appendix C

Woollahra Local Environmental Plan 1999



Heritage NSW (as Delegate of the Heritage Council of NSW) approved a Section 60 application for the subject Temporary use (Event) at Swifts, 1 March 2022.



Heritage NSW

HMS Application ID: 743

Mr Michael David Hanisch
GLN Planning
LEVEL 10 70 PITT ST
SYDNEY NSW 2000

By email: michael@glnplanning.com.au

Dear Mr Hanisch

**Application under section 60 of the *Heritage Act 1977*
Swifts
State Heritage Register No. 00146**

Address: 68 Darling Point Road, DARLING POINT NSW 2027
Proposal: Application for a temporary event, the Concours d'Elegance between 3 - 5 March 2022 (plus pack up on 6 March). Display of 40 cars and associated temporary displays. No permanent works. Please see attached SEE that includes Heritage Statement

Section 60 fast track application no: HMS ID 743, received 18 January 2022.

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above fast track application, including those matters identified under section 62 of the *Heritage Act 1977*. Pursuant to section 63 of the Act, approval is granted subject to the following conditions:

APPROVED DEVELOPMENT

1. All work shall comply with the information contained within:
 - a) Statement of Environmental Effects: Temporary use (Event) – Sydney Harbour Concours d'Elegance, prepared by GLN Planning., dated 18 January 2022.;

EXCEPT AS AMENDED by the conditions of this approval:

SPECIALIST TRADESPERSONS

2. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

SITE PROTECTION

3. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

COMPLIANCE

4. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

DURATION OF APPROVAL

5. This approval will lapse five years from the date of the consent unless the building works associated with the approval have physically commenced.

Reason: To ensure the timely completion of works.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Unexpected discoveries during works

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the *Heritage Act 1977*. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the *National Parks and Wildlife Act 1974*.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

Right of Appeal

If you are dissatisfied with this determination appeal may be made to the Minister under section 70 of the Act.

It should be noted that an approval under the Act is additional to that which may be required from other Local Government and State Government Authorities in order to undertake works.

Stamped documents

Any stamped documents (e.g. approved plans) for this application are available for the Applicant to download from the Heritage Management System at <https://hms.heritage.nsw.gov.au> under 'My Completed Applications.'

If you have any questions about this correspondence, please contact Erin McWhirter, Customer Services Officer, at Heritage NSW on 8837 6397 or Erin.McWhirter@environment.nsw.gov.au.

Yours sincerely



Tim Smith OAM
Director, Heritage Assessments
Heritage NSW
Department of Premier and Cabinet
As Delegate of the Heritage Council of NSW
1/3/22

cc: Woollahra Council,



Swifts—Schedule of Standard Exemptions, dated 9 November 2020.

ORDER UNDER SECTION 57(2) OF THE HERITAGE ACT 1977

Standard exemptions for engaging in or carrying out activities/ works otherwise prohibited by section 57(1) of the *Heritage Act 1977*.

I, Donald Harwin, the Special Minister of State pursuant to subsection 57(2) of the *Heritage Act 1977*, on the recommendation of the Heritage Council of New South Wales do by this Order, effective 1 December 2020:

1. revoke the order made on 11 July 2008 and published on pages 91177 to 9182 of Government Gazette Number 110 of 5 September 2008 and varied by notice published in the Government Gazette on 5 March 2015; and
2. grant the exemptions from subsection 57(1) of the *Heritage Act 1977* that are described in the attached Schedule.

Donald Harwin
Special Minister of State
Signed this 9th Day of November 2020.

SCHEDULE OF STANDARD EXEMPTIONS TO SUBSECTION 57(1) OF THE *HERITAGE ACT 1977* MADE UNDER SUBSECTION 57(2)

General Conditions:

1. These general conditions apply to **all** of the following standard exemptions.
2. These standard exemptions apply to **all** items of **all** values listed on the NSW State Heritage Register or subject to an Interim Heritage Order (termed 'item' or 'items' for the purpose of these standard exemptions), including Aboriginal cultural heritage.
3. These standard exemptions are available to the owner of a listed item or item subject to an Interim Heritage Order, or any person with the consent in writing of that owner, or if the item is situated on Crown Land, as defined in the *Crown Land Management Act 2016*, the lawful occupier.
4. Anything done under the standard exemptions must be carried out by people with knowledge, skills and experience appropriate to the work (some exemptions require suitably qualified and experienced professional advice/ work).
5. The standard exemptions do not permit the removal of any significant fabric. Significant fabric means all the physical material of the place/item including elements, fixtures, landscape features, contents, relics and objects which contributes to the item's heritage significance.

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6. The standard exemptions do not permit the removal of relics or Aboriginal objects.

If relics are discovered, work must cease in the affected area and the Heritage Council must be notified in writing in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, assessment and an excavation permit may be required prior to the recommencement of work in the affected area.

If any Aboriginal objects are discovered, excavation or disturbance is to cease, and Heritage NSW notified in accordance with section 89A of the *National Parks and Wildlife Act 1974*. More information is available at <http://www.environment.nsw.gov.au/licences/ACHregulation.htm>

Aboriginal object has the same meaning as in the *National Parks and Wildlife Act 1974*.

7. Activities/ works that do not fit strictly within the exemptions described below require approval by way of an application under section 60 of the *Heritage Act 1977*.
8. The standard exemptions are self-assessed. It is the responsibility of a proponent to ensure that the proposed activities/ works fall within the standard exemptions.
9. The proponent is responsible for ensuring that any activities/ works undertaken by them meet all Relevant standards and have all necessary approvals.
10. Proponents must keep records of any activities/ works for auditing and compliance purposes by the Heritage Council. Where advice of a suitably qualified and experienced professional has been sought, a record of that advice must be kept. Records must be kept in a current readable electronic file or hard copy for a reasonable time.
11. It is an offence to do any of the things listed in section 57(1) of the *Heritage Act 1977* without a valid exemption or approval.
12. A person guilty of an offence against the *Heritage Act 1977* shall be liable to a penalty or imprisonment, or both under Section 157 of the *Heritage Act 1977*.
13. Authorised persons under the *Heritage Act 1977* carry out inspections for compliance.
14. The standard exemptions under the *Heritage Act 1977* are not authorisations, approvals or exemptions for the activities/ works under any other legislation, Local Government and State Government requirements (including, but not limited to, the *Environmental Planning and Assessment Act 1979* and the *National Parks and Wildlife Act 1974*).
15. The standard exemptions under the *Heritage Act 1977* do not constitute satisfaction of the relevant provisions of the Building Code of Australia for ancillary works.
16. Activities or work undertaken pursuant to a standard exemption must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*.
17. In these exemptions, words have the same meaning as in the *Heritage Act 1977* or the relevant guidelines, unless otherwise indicated. Where there is an inconsistency between relevant guidelines and these exemptions, these exemptions prevail to the extent of the

inconsistency. Where there is an inconsistency between either relevant guidelines or these exemptions and the *Heritage Act 1977*, the Act will prevail.

18. The *Heritage Manual* (1996, Heritage Office and Department of Urban Affairs & Planning) and *The Maintenance Series* (1996 republished 2004, NSW Heritage Office and Department of Urban Affairs & Planning) guidelines must be complied with when undertaking any activities/ works on an item. These guidelines are available on the Heritage NSW website.

STANDARD EXEMPTION 1: MAINTENANCE AND CLEANING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The maintenance of an item to retain its condition or operation.
- b) Application of protection coatings such as limewash, polish, oils and waxes to an item.
- c) Cleaning to remove surface deposits, organic growths or graffiti from an item.

Relevant standards:

- d) Specified activities/ works must not involve removal of or damage to significant fabric.
- e) New materials or finishes may only be introduced to non-significant fabric where this does not impact the significance of the item, uses a colour sympathetic to the item, does not detract from the item and does not reduce the ability to appreciate the item.
- f) Protective coatings may only be applied to surfaces which have previously had these coatings. Existing finishes such as oils and waxes for timber must continue to be used rather than modern alternative protective coatings.
- g) Surface patina important to the item's heritage significance must be preserved during maintenance and cleaning.
- h) Cleaning of significant fabric may only use low-pressure water less than 100 psi and neutral detergents.

STANDARD EXEMPTION 2: REPAIRS TO NON-SIGNIFICANT FABRIC

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Repair (such as refixing and patching) of damaged or deteriorated non-significant fabric.
- b) Replacement of missing, damaged or deteriorated non-significant fabric that is beyond further maintenance.

Relevant standards:

- c) Specified activities/ works must not involve alteration to, damage to, or the removal of, significant fabric.
- d) Only missing, damaged or deteriorated non-significant fabric that is beyond further repair or maintenance may be replaced.
- e) Any new materials must not exacerbate the decay of significant fabric due to chemical incompatibility, obscure existing significant fabric or limit access to significant fabric for future maintenance.

STANDARD EXEMPTION 3: ALTERATION TO NON-SIGNIFICANT FABRIC

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The alteration of an item involving the introduction of new fabric and/or the removal of non-significant fabric.

Relevant standards:

- b) The specified activities/ works must not impact the heritage significance of the item.
- c) Significant fabric of the item must not be impacted.
- d) Relics must not be impacted.
- e) Work must not involve construction of extensions or additions where these may impact the item's setting, views to or from the item, obscure existing significant fabric, impact relics and/or impact significant landscape layout, landscape elements or vegetation.
- f) The positioning and size of walls, windows and doors is not altered.
- g) Significant finishes, surfaces (including flooring) and fixtures must not be impacted.
- h) Any new fabric must be sympathetic to but can be distinguished from the appearance, composition, detailing, size, position and finish of existing fabric.
- i) Non-significant fabric must be identified as non-significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as non-significant fabric in written advice prepared by a suitably qualified and experienced heritage professional before it can be removed.

- j) Installation of new fabric must be in accordance with the policies of a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or in written advice prepared by a suitably qualified and experienced heritage professional before installation.
- k) Any new fabric must not impact setting or views to or from the item, obscure existing significant fabric or limit access to existing fabric for future maintenance.
- l) Any new penetrations must be:
 - i. limited in number; and
 - ii. made through non-significant fabric or mortar joints only.
- m) Any excavation must comply with Standard Exemption 8: Excavation.
- n) Any new fabric must not exacerbate the decay of existing fabric or risk the destruction of existing significant fabric due to chemical incompatibility, vibration, percussion or explosive flammability.

STANDARD EXEMPTION 4: ALTERATION TO INTERIORS OF NON-SIGNIFICANT BUILDINGS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Alteration to the interior of a non-significant building.

Relevant standards:

- b) The specified activities/ works to the non-significant building must not impact the heritage significance of the item.
- c) Significant fabric of the item must not be impacted.
- d) Relics must not be impacted.
- e) Work must not involve construction of extensions or additions where these may impact the item's setting, views to or from the item, obscure existing significant fabric, impact relics and/or impact landscape values.
- f) Non-significant buildings must be either:
 - i. buildings identified as non-significant in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as non-significant building in written advice prepared by a suitably qualified and experienced heritage professional, and/or

- ii. buildings constructed since the listing of the item on the State Heritage Register or the publication of an interim heritage order in the Gazette, which applies to the land.

STANDARD EXEMPTION 5: REPAIR OR REPLACEMENT OF NON-SIGNIFICANT SERVICES (Mechanical, Electrical and Plumbing)

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Repair or replacement of non-significant services on or in an item, such as cabling, plumbing and wiring (excluding telecommunications and fire safety systems).
- b) Activities/ works necessary to upgrade or replace existing non-significant lighting fixtures and fittings within buildings/structures and or/affixed to buildings/ structures.

Relevant standards:

- c) The specified activities/ works must not involve alteration to, damage to, or the removal of, significant fabric. The specified activities/ works must not impact significant views and landscape values.
- d) Any excavation must comply with Standard Exemption 8: Excavation.
- e) Any new hardware must not be attached to the primary or significant façade(s) and must be discreetly located to reduce negative visual impact.
- f) Replacement fabric must appear the same, be sympathetic to the item's fabric and unobtrusive.
- g) Activities/ works must use existing service routes, cavities or voids or replace existing surface mounted services.
- h) Reuse of existing fixing points in significant fabric is permitted.
- i) Any new fabric must not obscure significant fabric or limit access to significant fabric for future maintenance.
- j) Any new fabric must not exacerbate the decay of existing fabric or risk the destruction of existing significant fabric due to chemical incompatibility, vibration, percussion or explosive flammability.
- k) Replacement surface mounted services must be the same or less intrusive than the surface mounted services they replace.
- l) Existing service routes and/or conduits may be deleted if the installation can be streamlined into one existing service route, cavity or void.

STANDARD EXEMPTION 6: NON-SIGNIFICANT TELECOMMUNICATIONS INFRASTRUCTURE

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Upgrade or installation of telecommunication infrastructure.
- b) Upgrade of existing telecommunication towers.

Relevant standards:

- c) Activities/work must not involve alteration to, damage to, or the removal of, significant fabric.
- d) The specified activities/ works must not impact significant views to or from the item and landscape values, including landscape or archaeological features.
- e) Any excavation must comply with Standard Exemption 8: Excavation.
- f) Any new hardware must not be attached to the primary or significant façade(s) and must be discreetly located to reduce negative visual impact.
- g) Any new fabric must not obscure significant fabric or limit access to significant fabric for future maintenance.
- h) Reuse of existing fixing points in significant fabric is permitted.
- i) Existing service routes and/or conduits may be deleted if the installation can be streamlined into one existing service route, cavity or void.
- j) There is no increase in height of any existing telecommunication towers or vantage point and no more than a 20% increase in the size of the antenna array on the approved tower or fixing point.
- k) Telecommunications infrastructure must be able to be later removed without damage to the significant fabric of the item.

STANDARD EXEMPTION 7: FIRE SAFETY DETECTION AND ALARM SYSTEMS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Upgrade to, or installation of, a fire safety detection and alarm system. Note: this exemption does not apply to fire suppression systems (for example sprinklers).

Relevant standards:

- b) Fire safety system elements must not obscure, affix to, penetrate, remove or otherwise damage significant fabric.

- c) The specified activities/ works must not impact landscape values or obstruct significant views to and from the item.
- d) Fire safety system elements must not unnecessarily obscure significant fabric, limit access to significant fabric for future maintenance, exacerbate the decay of significant fabric or risk the destruction of significant fabric due to chemical incompatibility.
- e) Reuse of existing fixing points in significant fabric is permitted.
- f) Any fire safety system elements must be:
 - i. not attached to primary façade(s);
 - ii. grouped with existing services where possible;
 - iii. consolidated with existing conduits where possible;
 - iv. discreetly located to reduce negative visual impact while maintaining the need for easy identification and access.
- g) Fire safety system elements must be able to be later removed without damage to the significant fabric of the item.

STANDARD EXEMPTION 8: EXCAVATION

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Excavation or disturbance of land that is:
 - i. for the purpose of exposing underground utility services infrastructure which occurs within an existing service trench, or
 - ii. to carry out inspections or emergency maintenance or repair on underground utility services, or
 - iii. to maintain, repair, or replace underground utility services to buildings, or
 - iv. to maintain or repair the foundations of an existing building, or
 - v. to expose survey marks, or
 - vi. associated with feral animal/insect eradication.

Relevant standards:

- b) Activities/ works must not disturb or remove any relics.
- c) Excavation must not compromise the structural integrity of any heritage structure or significant landscape elements.
- d) Activities/ works must not affect archaeological evidence, for example the archaeology of foundation trench deposits from the time of original construction.

STANDARD EXEMPTION 9: PAINTING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Paint removal, surface preparation and repainting of the already painted fabric of an item.
- b) Painting non-significant fabric.

Relevant standards:

- c) Activities/ works must not involve the disturbance or removal of earlier paint layers other than those which have failed by chalking, flaking, peeling or blistering.
- d) When painting already painted significant fabric, activities/ works must involve application of an isolating layer, to protect significant earlier layers and provide a stable basis for repainting.
- e) Painting significant fabric must use the same colour scheme and paint type as an earlier or existing scheme.
- f) For removal of earlier failed paint layers, the paint removal method/s used must be verified by a suitably qualified and experienced professional to not affect significant fabric. Paint removal must be immediately followed by recoating using the same colour scheme to protect the exposed surface.
- g) New paint must be appropriate to the substrate.
- h) Painting must not endanger the survival of earlier paint layers.
- i) Painting of non-significant fabric must:
 - i. use a colour sympathetic to the item,
 - ii. not detract from the item,
 - iii. not reduce the ability to appreciate the item.

STANDARD EXEMPTION 10: RESTORATION OF FABRIC THAT FORMS PART OF THE SIGNIFICANCE OF THE ITEM (SIGNIFICANT FABRIC)

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Returning significant fabric, which has been removed or dislodged, to a known earlier location.
- b) Revealing a known earlier significant configuration, including reassembling existing elements or removing non-significant accretions and/or obstructions.

Relevant standards:

- c) The specified activities/work must not involve damage to, or the removal of significant fabric.
- d) The specified activities/work must not introduce new material other than fixings and fastenings.
- e) Any new fixings and fastenings must use existing penetrations where possible.
- f) Any new penetrations must be:
 - i. limited in number; and
 - ii. made through non-significant fabric or mortar joints only.
- g) Work to reveal a known earlier configuration must be guided by historical evidence for the earlier configuration of that item.
- h) Significant fabric must be identified as significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as significant fabric in written advice prepared by a suitably qualified and experienced heritage professional.
- i) Revealing a known earlier configuration must be in accordance with the policies of a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as significant fabric in written advice prepared by a suitably qualified and experienced heritage professional.
- j) Non-significant accretions and/or obstructions must be identified as non-significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as significant fabric in written advice prepared by a suitably qualified and experienced heritage professional, before it can be removed.
- k) Work must be carried out by a suitably qualified person with heritage experience.

STANDARD EXEMPTION 11: SUBDIVISION OF NON-SIGNIFICANT BUILDINGS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Subdivision under the *Strata Schemes Development Act 2015* (termed Strata subdivision) of the interior of a building that is not of heritage significance and which has been constructed since the listing of the item on the State Heritage Register or the publication of an Interim Heritage Order in the *NSW Government Gazette*.
- b) Subdivision under the *Strata Schemes Development Act 2015* (termed Strata subdivision) of the exterior of an item for car spaces.

Relevant standards:

- c) Strata subdivision under this exemption must not subdivide the curtilage of an item other than for car spaces in an existing area identified for carparking.
- d) Strata subdivision must not involve alterations to the external appearance of the building other than that permitted by other exemptions under the *Heritage Act 1977*.

STANDARD EXEMPTION 12: TEMPORARY STRUCTURES

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The construction or installation of a temporary structure or structures.

Relevant standards:

- b) Activities/ works must not involve alteration to (including penetrations), damage to, or the removal of, significant fabric.
- c) Any excavation must comply with Standard Exemption 8: Excavation.
- d) Temporary structure/ structures may be internal or external to items or buildings.
- e) The temporary structure or structures must not be located where it could:
 - i. damage (including through use of the temporary structure) significant fabric or
 - ii. endanger significant fabric, including landscape or archaeological features, or
 - iii. obstruct significant views to and from the item, or
 - iv. detract from the significance of the item, or
 - v. reduce the ability to appreciate the item.
- f) Existing public access to the item must be maintained and not restricted.

- g) The temporary structure or structures must not be erected for more than 30 consecutive calendar days (inclusive of set-up, pack-down and removal).
- h) No further temporary structure or structures may be erected again on the site, under this exemption within a period of 90 calendar days.

STANDARD EXEMPTION 13: VEGETATION

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Weeding (including poisoning of weeds), watering, mowing, manual clearing of paths and drains, top-dressing, pest control and fertilizing.
- b) New planting of species sympathetic to the item.
- c) Pruning to control size, improve shape, condition, flowering or fruiting.
- d) Removal of non-significant diseased, dying, dead and/or dangerous trees and/or plant material.
- e) Tree surgery.

Relevant standards:

- f) Activities/ works must not alter the significant layout, contours, plant species or other significant landscape features or views.
- g) Pruning of significant vegetation must not exceed 30% of the tree canopy within a period of two years.
- h) Tree surgery may only be performed by a qualified arborist, horticulturist or tree surgeon and must be necessary for the health of those plants.
- i) Selective herbicide should be used when poisoning weeds. Herbicide should be applied using:
 - i. Spot application around significant elements of the heritage item (e.g. ornamental or symbolic plants, remnant native vegetation, structures, exposed relics and moveable items) to avoid adverse impacts to these; and
 - ii. Spraying in non-significant areas of the curtilage.
- j) Removal of diseased, dead, dying or dangerous trees and/or plant material must not disturb archaeological relics (for example through stump grinding or removal of tree boles, in such situations stumps and tree boles should be left in place).

STANDARD EXEMPTION 14: BURIAL SITES AND CEMETERIES

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Creation of a new grave or interment of ashes or continued use of existing family vaults.
- b) Erection of monuments or grave markers (excluding above-ground chambers, columbaria or vaults).
- c) Traditional maintenance activities/ works in accordance with Standard Exemptions for maintenance, repairs and cleaning including:
 - i. re-blackening, re-leading or re-gilding of existing inscriptions; or
 - ii. re-application of traditional coatings such as limewash where these were previously applied.
- d) Addition of memorial inscriptions or attachment of memorial plaques to existing monuments or grave furniture (includes grave markers, grave kerbing or grave surrounds).
- e) Excavation or disturbance of land for carrying out conservation or repair of monuments or grave markers.

Relevant standards:

- f) Existing significant fabric must not be disturbed or removed as part of creation of a new grave or interment or use of existing family vault.
- g) New monuments or grave markers must be in keeping with and not conflict with the existing character of the place, including materials, size, colour and form; however, new monuments and grave markers should be distinguishable on close inspection from the existing monuments and markers.
- h) Additional inscriptions or plaques must be in keeping with the existing size, materials, form, colour and lettering of the original monument.
- i) Additional inscriptions or plaques must not overshadow or obscure the original monument.
- j) Relettering of existing inscriptions must only be carried out to maintain appearance and legibility.
- k) Relettering must only be carried out using traditional methods and materials which are the same as the existing lettering on the monument or grave marker.
- l) Relettering of monuments must not involve re-cutting of existing inscriptions.
- m) Conservation, repair or relettering of monuments or grave markers must be directed, supervised and carried out by a suitably qualified and experienced heritage professional.
- n) There must be no disturbance to human remains, relics in the form of grave goods, associated landscape features or Aboriginal cultural heritage values.

STANDARD EXEMPTION 15: SIGNS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The installation of temporary signs located behind or on the glass surface of a commercial tenancy window.

- b) The installation of temporary real estate signs notifying of an auction, sale or letting.
- c) Removal, repairs or replacement of modern non-significant site interpretation and/or waymarking signs.
- d) The installation of new non-illuminated site interpretation and/or waymarking signs.
- e) Relocation of non-illuminated site interpretation and/or waymarking signs.

Relevant standards:

- f) Temporary signs must not be affixed to significant fabric of the item, internally illuminated or flashing.
- g) Temporary commercial tenancy window signs must be removed within 60 calendar days of erection and temporary real estate signs must be removed within 14 calendar days after the auction, sale or letting.
- h) Temporary signs must not conceal or involve the removal of or damage to significant pre-existing signs.
- i) Replacement interpretation and/or waymarking signs must not exceed the size of the original sign area and must be in the same location.
- j) Installation of new interpretation and/or waymarking signs or relocation or interpretive and/or waymarking signs must:
 - i. not obscure, affix to, penetrate or otherwise damage heritage fabric, including landscape or archaeological features, or obstruct significant views to and from the heritage item. Reuse of existing fixing points is permitted,
 - ii. not be in the form of a mural or artwork,
 - iii. be for the sole purpose of providing information to assist in the interpretation of the item's heritage significance or to navigate the item,
 - iv. be able to be later removed without causing damage to the significant fabric of the item,
 - v. not be of a modular or cantilever structure, or over 2 square metres in size,
 - vi. not be commercial in any way unless in the form of a freestanding flag or banner associated with a building used for a purpose which requires such promotion, for example a theatre, gallery or museum.
- k) Any excavation must comply with Standard Exemption 8: Excavation.

STANDARD EXEMPTION 16: FILMING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The use of an item as a set or backdrop for filming in a manner that may result in the temporary movement and/or alteration of an item.

Relevant standards:

- b) The specified use of the heritage item as a set or backdrop for filming is permitted for up to 60 calendar days in a calendar year.

- c) Any activities/ works must be temporary, reversible and must have no physical impact to significant fabric, landscape elements and/or archaeological relics.
- d) No permanent activities/ works are to be undertaken to the item.
- e) No painting or special effects are to be physically applied to significant fabric.
- f) Significant fabric must be protected from damage by using bumpers, gaskets and/or matting.
- g) No penetrations into significant fabric are permitted. Clamping or bracing to the item's significant fabric may be used.
- h) Consent must be provided by the owner or lawful occupier of the item to the use of the item as a set or backdrop for filming.
- i) The item must not be moved except as permitted by Standard Exemption 17 - Moveable Heritage Items.

STANDARD EXEMPTION 17: TEMPORARY RELOCATION OF MOVEABLE HERITAGE ITEMS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The temporary relocation of moveable heritage items, including contents, fixtures and objects.

Relevant standards:

- b) The item must be identified as a moveable heritage item on the State Heritage Register or gazetted Interim Heritage Order.
- c) Relocation must only be for the purpose of ensuring the moveable heritage items' security, maintenance or preservation, conservation or exhibition of moveable heritage items.
- d) The moveable heritage items must be returned to their location within 180 calendar days of their relocation (inclusive of packing, moving and transit time).
- e) Maintenance, preservation or conservation activities/ works are not permitted under this exemption. These activities may be covered under other exemptions or may require approval.
- f) The moveable heritage items must be safely stored and adequately protected from damage during any temporary relocation.
- g) An inventory (including photos) and information about the items and their permanent location must be retained with the moveable heritage items in their temporary space.

STANDARD EXEMPTION 18: COMPLIANCE WITH MINIMUM STANDARDS AND ORDERS

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Specified actions required for the purposes of compliance with minimum standards set out in:
 - i. Part 3 of the *Heritage Regulation 2012*, or
 - ii. An Order under section 120 of the *Heritage Act 1977*, or
 - iii. An Order under Schedule 5 Part 1 or Part 2 of the *Environmental Planning and Assessment Act 1979* which is consistent with a submission by the Heritage Council under Schedule 5 Part 4 Clause 3 (Orders affecting heritage items) of that Act.

Relevant standards:

- b) Activities/ works required by an order under the *Environmental Planning and Assessment Act 1979* must be consistent with a submission by the Heritage Council under Schedule 5 Part 4 Clauses 3 of that Act.

STANDARD EXEMPTION 19: SAFETY AND SECURITY

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) The erection of temporary security fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access, or to secure public safety.
- b) Emergency stabilisation activities/ works necessary to secure safety where a structure or landscape feature (such as a tree) has been irreparably damaged or destabilised and poses a safety risk to its users or the public.

Relevant standards:

- c) Installation and operation of any temporary equipment specified in a) and b) above must not impact on significant fabric (including landscape or archaeological features) and the item's overall heritage significance.
- d) Any temporary security fencing, scaffolding, hoardings or surveillance systems must not be erected for more than 180 calendar days (inclusive of setup and pack down).

- e) No further temporary fencing, scaffolding, hoardings or surveillance may be erected again on the site, under this exemption within a period of 365 calendar days.
- f) Work must not permanently change or alter the structure such as the configuration of the floor space, or any architectural or landscape features.
- g) Any new penetrations must be:
 - i. limited in number; and
 - ii. made through non-significant fabric or mortar joints only.
- h) Work must not result in an increase in the floor space of any building or structure.

STANDARD EXEMPTION 20: EMERGENCY SITUATIONS AND LIFESAVING

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the Relevant standards prescribed below.

Specified activities/ works:

- a) Any activities/ works that would be in contravention of subsection 57(1) of the *Heritage Act 1977* that is solely for the purpose of:
 - i. Saving or protecting human life under imminent threat in an emergency.
 - ii. Securing the safety of a ship endangered by stress of weather or navigational hazards.
 - iii. Dealing with an emergency involving serious threat to the environment.
 - iv. Preventing imminent serious damage to property or any heritage item in an emergency.

Relevant standards:

- b) The activities/ works must have been immediately necessary for the identified purposes.¹
- c) The activities/ works were reasonable and justifiable in the circumstances.
- d) The activities/ works were proportionate to the damage the item has suffered and to the risk of further damage. The effects of the activities/ works must be adequately mitigated or remedied.

¹ Incidents likely to cause serious damage and require actions necessary to save or protect life could include: an uncontrolled escape, spillage or leakage of a substance, an uncontrolled implosion, explosion or fire, an uncontrolled escape of gas or steam, an uncontrolled escape of a pressurised substance, exposed live electrical parts, fall or release from a height of any plant, substance or thing, the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be designed or registered (for example a collapsing crane), the collapse or partial collapse of a structure, the collapse or failure of an excavation or of any shoring supporting an excavation, the inrush of water, mud or gas. <https://www.safeworkaustralia.gov.au/doc/incident-notification-fact-sheet>

52.5498.L1:MSC

14 June 2022

GLN

Level 10, 70 Pitt Street

SYDNEY NSW 2000

Attention: Mr. P. Grech

Dear Sirs,

SWIFTS OCCASSIONAL EVENTS VENUE
68 DARLING POINT ROAD, DARLING POINT

The purpose of this report is to present the results and findings of an acoustic assessment in relation to the conduct of occasional events at the property of 68 Darling Point Road, Darling Point known as "Swifts".

We are instructed that Swifts is a heritage listed residence that has historically been the location for a wide range of events utilising the large residence situated on the site and also the extensive landscaped gardens.

We are instructed that the site has been used for various types of events: associated with weddings, birthdays, charity events, balls, corporate functions, product launches, shows and displays.

We are instructed that the regularisation of occasional events is required under a development application to be submitted to Woollahra Municipal Council.

We are instructed that events will be ticketed and be categorised as either:

- Normal events which are primary held indoors over one day between 9 am and 11 pm,
- Special events, which are primary held outdoors, over one day between 9 am and 10 pm,
- Unique events which are indoors and outdoor events and held over multiple days between 9 am and 6 pm.

6/62 ARGYLE STREET, SOUTH WINDSOR NSW 2756 AUSTRALIA
ph: (+612) 9555 4444 tag1@acoustics.com.au ABN 73 082 704 701



Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
GLN

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The subject property is a unique property in Darling Point and has frontages to Darling Point Road, Thornton Street and Hampden Avenue (see Appendix A).

An inspection of the site was carried out during the course of an event to provide recommendations in relation to location of specific noise generating events and to provide input into a Plan of Management.

The site visit was carried out on the afternoon of Saturday, 5 February 2022 whilst a wedding was occurring on the southern lawn and then followed by a reception using the southern lawn, the driveway/entrance to the residence and the grassed areas further to the north of the southern lawn.

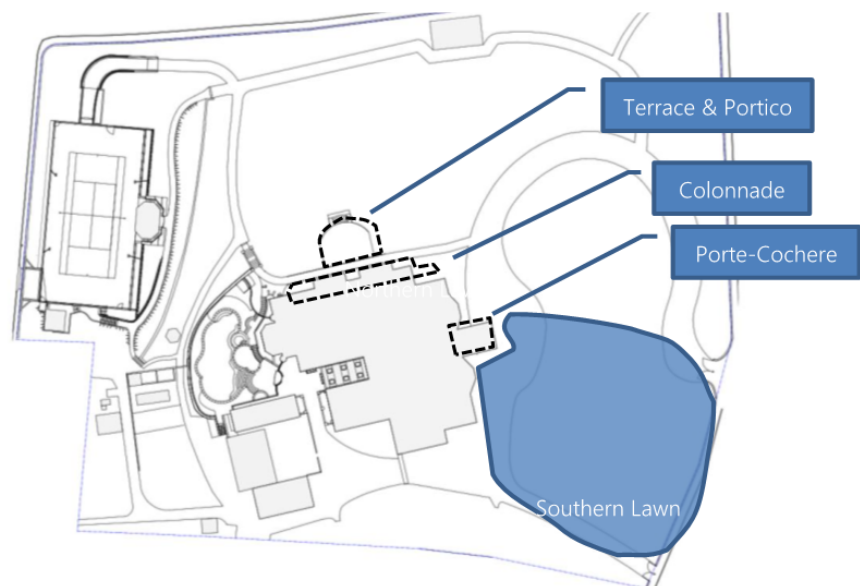


Figure 1: Outdoor event spaces Source: GLN Planning

A marquee was set up at the southern extremity of the southern lawn (see upper figure in Appendix A) in which the ceremony was undertaken and accompanied by an amplified string quartet and amplification of the service.

At the time of the site visit the area was experiencing high levels of wind that would not permit (under EPA requirements) the determination of the ambient background level. A site visit on Sunday, 13 February 2022 identified an ambient background level of 41 dB(A) in the middle of the afternoon. A similar background level was recorded at the site later in the evening period.

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14 June, 2022



*Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
GLN*

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Observations of Darling Point Road during the wedding function indicated a reasonable degree of traffic passing the subject site and that the critical residential receivers with respect to functions occurring on the southern lawn would relate to a high-rise apartment building immediately to the south of the subject property that overlooks Swifts.

The residential properties on the eastern side of Darling Point Road are located at a lower elevation than Swifts and are further removed from the southern lawns.

Acoustic Assessment

With respect to the provision of activities (including entertainment) occurring inside the premises, these have been occurring for a number of years. The substantial sandstone construction of the building and the location of the formal entertaining areas being at the northern end of the property would result in negligible acoustic impact on surrounding residential properties and would not cause any measurable increase above the ambient background level if internal music levels were limited to not exceeding 95 dB(A) as a spatial average across the internal spaces.

Any functions occurring inside the residence at night (after 10pm) require supervision to ensure all doors and windows to function areas are closed when entertainment is provided.

The Plan of Management requires the appropriate staff to assist attendees leave in a quiet and orderly manner after 10pm.

For the wedding set up observed on 5 February 2022 additional noise controls are required to maintain compliance with the general noise limit of background + 5 dB(A).

At the time of the inspection the marquee located on the southern side of the southern lawns was open on all sides. Events using this marquee location require:

- the southern wall of the southern and eastern walls of the marquee to be fully closed by the same heavy plastic/vinyl material as used for the large marquee,
- music provided for the ceremony can be unamplified string quartets etc located on the southern side under the marquee,
- a sound system for amplification of the celebrant is to have speakers located under the marquee (minimum of 2m from the western end of marquee).

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Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
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- to provide distribution of sound for the ceremony the speakers can be located along the southern side of the seating area and directed towards to north,
- the speakers are to be limited to a maximum level of 65 dB(A) at 2 metres from any speaker.

Following the ceremony, music was provided by amplified instruments located adjacent the main building situated in line with the northern end of the marquee shown in the upper figure of Appendix A (approximately 24 metres from the southern boundary). The small band was oriented in a northerly direction. The provision of a temporary solid timber wall to provide additional acoustic shielding and limiting the band or DJ to a level not exceeding 75 dB(A) (behind the band) is required.

No external amplified entertainment would be permitted after 6pm.

For daytime events involving exhibitions, car displays etc. the general events are not envisaged to create a noise impact provided any amplification for announcements etc are similarly restricted in level. The restriction in levels are dependent upon the sound systems provided and can only be assessed in situ at the site boundaries for an average maximum level of 46 dB(A). This will require management to purchase a sound level meter and conduct measurements to ensure noise emission levels of the event do not exceed 46 dB(A) at any residential boundary.

Yours faithfully,

THE ACOUSTIC GROUP PTY LTD


STEVEN E COOPER

The Acoustic Group Letter 52.5498.L1:MSC
14 June, 2022



Swifts Occasional Events Venue – 68 Darling Point Road, Darling Point
GLN

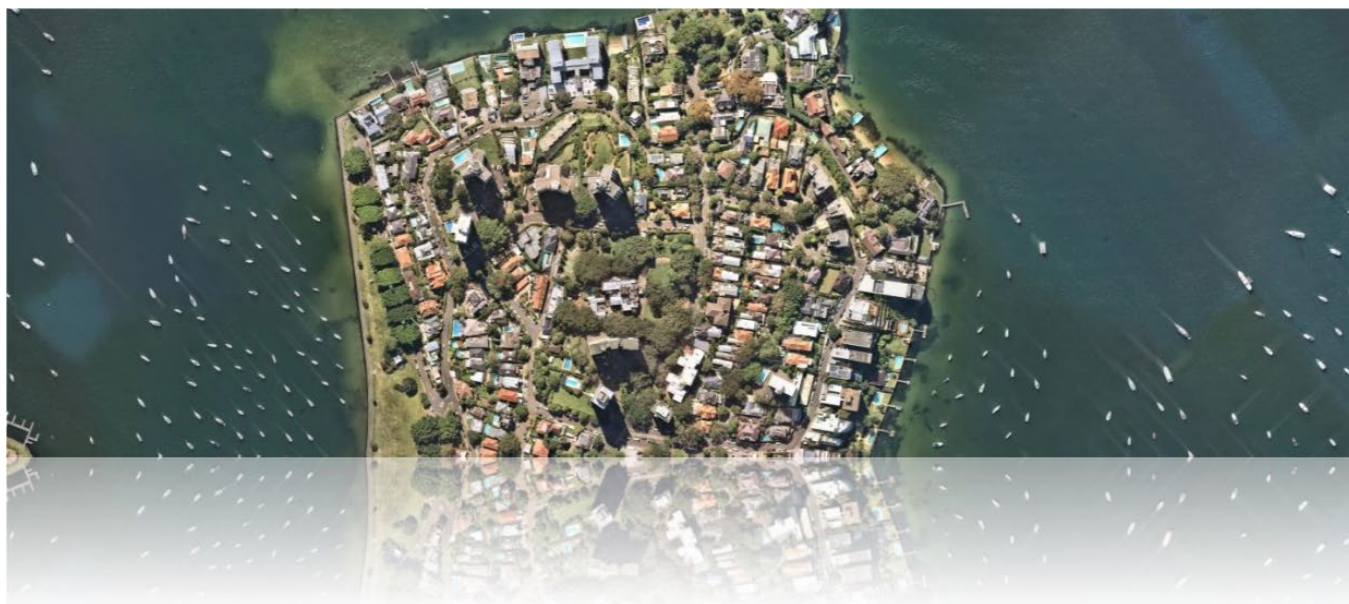
APPENDIX A1

APPENDIX A: **Site Location**



The Acoustic Group Letter 52.5498.L1:MSC
14 June, 2022





**TRAFFIC AND PARKING IMPACT ASSESSMENT OF
THE PROPOSED EVENTS AT SWIFTS
AT 68 DARLING POINT ROAD, DARLING POINT**



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Transport Planning, Traffic Impact Assessments, Road Safety Audits, Expert Witness

220019.01FC - 29 June 2022



Development Type: Events at Swifts
Site Address: 68 Darling Point Road, Darling Point
Prepared for: GLN Planning
Document reference: 220019.01FC

Status	Issue	Prepared By	Checked By	Date
Draft	A	DW	CM	22 April 2022
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Final	B	DW	CM	27 April 2022
Final	C	DW	CM	29 June 2022

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220019.01FC - 29 June 2022



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1 INTRODUCTION

McLaren Traffic Engineering was commissioned by *GLN Planning* to provide a traffic and parking impact assessment of proposed Events at Swifts at 68 Darling Point Road, Darling Point. The site layout is presented in **Annexure A** for reference.

1.1 Description and Scale of Development

The proposed events to be held have the following characteristics relevant to traffic and parking:

- (1) Special Events (weddings, product launch/fashion events, birthdays):
 - (a) Up to 250 people;
 - (b) 12 events per year (no more than 3 per month);
 - (c) Occurs between 9:00 AM and 10:00 PM.
- (2) Normal Events (small or intimate weddings, lunches and dinners in ballroom):
 - (a) Up to 200 people;
 - (b) 20 per year (no more than 3 per month);
 - (c) Occurs between 9:00 AM and 11:00 PM.
- (3) Unique Events (antique fair, Christmas fair, open garden, Concours d'Elegance):
 - (a) Up to 300 people at any time;
 - (b) 3 per year;
 - (c) Occurs between 9:00 AM and 6:00 PM.

The site has an at-grade pick-up and drop-off area with vehicular access via the existing driveways from Darling Point Road. Vehicular access to the site is also provided via a single lane driveway from Hampden Avenue providing access to a basement level car park. Further, additional parking is available on-site around the back of the Castle (close to the old stables area).

1.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed development does not qualify as a traffic generating development with relevant size and/or capacity under *Clause 2.121* of the *SEPP (Transport and Infrastructure) 2021*. Accordingly, formal referral to Transport for NSW (TfNSW) is unnecessary and the application can be assessed by Woollahra Council officers accordingly.

1.3 Site Description

The subject site, is currently zoned *R2 – Low Density Residential* under the Woollahra Council LEP 2014 and is currently occupied by Swifts. The site has frontages to Darling Point Road to the east, Thornton Street to the north and Hampden Avenue to the west.



The site is generally surrounded by residential properties as well as some high rise units. Further away from the site are other attractions such as McKell Park to the north and marina/sailing facilities to the south west.

In addition to the above, premises that hold events within near vicinity of the subject site include:

- Lindsay House – located approximately 250m northeast of the subject site;
- Ascham School – located approximately 800m south of the subject site;
- St Mark's Church – located approximately 600m south of the subject site.

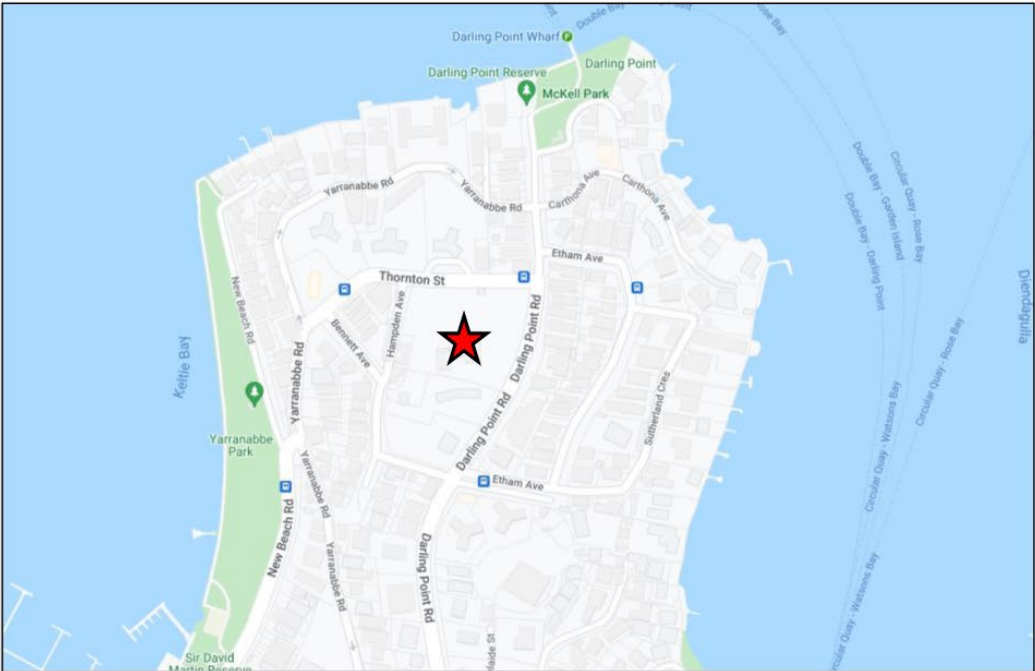
1.4 Site Context

The location of the site is shown on an aerial photo and a street map in **Figure 1** and **Figure 2** respectively.



Site Location

FIGURE 1: SITE CONTEXT – AERIAL PHOTO



 Site Location

FIGURE 2: SITE CONTEXT – STREET MAP



2 EXISTING TRAFFIC AND PARKING CONDITIONS

2.1 Road Hierarchy

The road network within close proximity of the site has the following characteristics as described in the following sub-sections.

2.1.1 Darling Point Road

- Unclassified COLLECTOR Road;
- Approximately 12m wide two-way carriageway facilitating one traffic lane in each direction and kerbside parking along both sides of the road;
- Signposted 50km/h speed limit;
- Unrestricted kerbside parking permitted along both sides of the road.

2.1.2 Thornton Street

- Unclassified LOCAL Road;
- Approximately 9m wide two-way carriageway facilitating one (1) traffic lane in each direction;
- No speed limit signposted, 50km/h applies;
- Unrestricted kerbside parking permitted along both sides of the road.

2.1.3 Hampden Avenue

- Unclassified LOCAL Road;
- Approximately 5m wide two-way carriageway facilitating one traffic flow direction at a time and kerbside parking on one side of the road;
- No speed limit signposted, 50km/h applies;
- “No Parking – Motor Vehicles Excepted” signage along the eastern side of the road and “No Parking” signage along the western side of the road.

2.2 Existing Traffic Management

- “Stop” controlled intersection of Thornton Street / Darling Point Road;
- “Give Way” controlled intersection of Goomerah Crescent / Darling Point Road / Mitchell Road;
- “Give Way” controlled intersection of Etham Avenue / Darling Point Road;
- Priority controlled intersection of Thornton Street / Hampden Avenue.



2.3 Public Transport

The subject site is adequately serviced by public transport and has access to the existing bus stop (ID: 202746) located along the northern side of Thornton Street at the site frontage. The bus stop services existing bus route 328 (Bondi Junction to Darling Point via Edgecliff) provided by Transdev John Holland Buses.

Edgecliff Train Station is located approximately 1.2km walking distance to the south of the subject site, servicing the T4 – South Coast Line. A train service is provided every 3 – 5 minutes in commuter peak periods and provides direct access between Edgecliff and Sydney CBD and Bondi Junction.

Darling Point Wharf is located approximately 350m walking distance to the north of the subject site, servicing the F7 – Double Bay Route. A ferry service is provided every 30 – 60 minutes on weekdays and every 60 minutes on weekends. The ferry service provides direct access to Circular Quay and Double Bay.

The location of the site subject to the surrounding public transport network is shown in **Figure 3**.

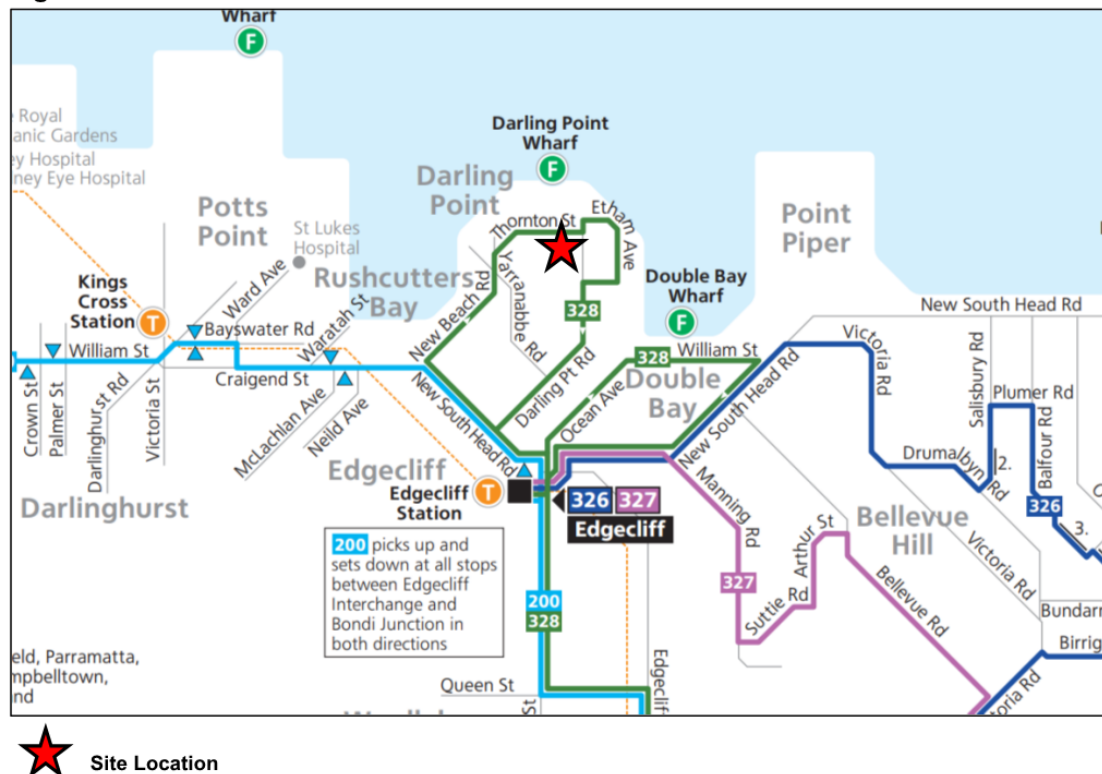


FIGURE 3: PUBLIC TRANSPORT NETWORK MAP

2.4 Future Road and Infrastructure Upgrades

From Woollahra Council Development Application tracker and website, it appears that there are no future planned road or public transport changes that will affect traffic conditions within the immediate vicinity of the subject site.



3 TEMPORARY ON-SITE CAR PARKING PROVISION AND INTERNAL TRAFFIC MANAGEMENT

On-street and on-site parking is limited and as such procedures shall be implemented to reduce the demand on private vehicles arriving to the site and requiring a car parking space.

The subject site is accessed via gated single and separated entry and exit driveway off Darling Point Road approximately 4m wide each. This circulation driveway can accommodate a significant number of drop-offs / pick-ups at one time being some 100m between the entry gate and Swifts heritage building. The internal roadway continues for a further 60m to the exit gate to the south.

Whilst the basement car park from Hampden Avenue is not required for all events, there is an opportunity for at least ten (10) vehicles for staff of events to utilise this basement car park.

3.1 On-site Temporary Car Parking Provision

The temporary on-site car parking provision is approximately 45 car parking spaces comprising of 35 for guests and 10 for staff only. The locations of the car parking space is as per the following and presented in **Annexure C** for reference:

- (1) Internal loop road – 23 car parking spaces;
- (2) Area south of the Castle – 12 stacked parking spaces;
- (3) Basement car park accessed from Hampden Avenue – 10 staff car parking spaces.

3.2 Internal Traffic Management

The following subsections outline the internal traffic management procedures and process that will occur for events.

3.2.1 Prior to the event

All events will be ticketed such that information packages can be provided to the guests prior to event. The information that shall be provided to the guests and management procedures prior to the event shall include the following:

- (1) No parking is provided on-site (unless otherwise organised) and limited on-street parking is available:
 - (a) It shall be recommended to take alternative transport to the site such as walk, train, bus, ferry, taxi and ride share. A map of the nearest public transport facilities and appropriate timetables for the event shall be provided to the guest;
 - (b) In some circumstances (on an as needed basis) a shuttle bus, such as a 7m long 22 seater mini-bus, will be provided between the subject site and key public transport locations;
 - (c) VIP guests and other nominated/authorised guests shall be allowed to park on-site (e.g. bridal party) however, this will be planned prior to the event day;



- (d) Authorised staff shall also be allowed to park on-site.
- (e) On-site car parking is available within the circulation roadway, to the back (south) of the castle (close to the old stables area) and within the basement car park off Hampden Avenue.
- (2) The location of the entry driveway and the general circulation path of vehicular travel through the site;
- (3) Tickets to the event including the requirement of showing the ticket upon entry;
- (4) If a guest requires an accessible car parking space for pick-up/drop-off the requirement shall be made known to the event manager;
- (5) Any servicing and loading requirement of trucks are to occur either prior to or after the event and be generally limited to small and medium sized vehicles;
- (6) Staff are to arrive prior to the start of the event.

3.2.2 During the event

Traffic will enter and leave the site in a ONE-WAY ANTICLOCKWISE fashion via the eastern driveways with the northern driveway facilitating entry and the southern driveway facilitating exit.

Traffic controllers will direct drivers through the site. We have nominated four (4) locations for traffic controllers, as presented in **Annexure B**. Attendance at all four (4) locations would not normally be required but will be reviewed for each event depending on the number and frequency of vehicles that are expected to enter the site. At a minimum, a traffic controller should attend the entry gate to inspect the tickets of guests upon arrival, and directional signs should be placed at the remaining three (3) locations, including a “*Watch for Pedestrians*” sign at the exit driveway. Guests are to have their tickets ready for inspection at the gate to promote efficient use of the driveway.

Once a driver has entered the site they will follow the circulation driveway until reaching the next traffic control at which point they will either drop-off/pick-up guests or park their vehicle as directed by the traffic controller (depending on the pre-approved arrangement).

Upon leaving, a driver will continue along the circulation driveway where another traffic controller will direct the driver down the southern side of the circulation driveway towards the exit.

The traffic controller at the exit will monitor for exiting vehicles and pedestrians walking across the site frontage.

If accessible parking is required by a guest this is to be made known to one of the traffic controllers in which they will direct the driver of the vehicle to the dedicate pick-up/drop-off point for people with disabilities.



4 TRAFFIC ASSESSMENT

The impact of the expected traffic generation levels associated with the subject proposal is discussed in the following sub-section.

4.1 Traffic Generation and Impact

The *RTA Guide to Traffic Generating Developments (2002)* and recent supplements do not outline traffic generation rates for special events and as such a first principles assessment has been undertaken incorporating the following assumptions:

(1) Unique events:

- a. Up to 300 people in attendance at any one-time;
- b. Attendees come and go throughout the duration of the event;
- c. Estimated / approximate travel modes:
 - i. 30% walking from their homes as they are expected to live locally and within easy walking distance for these types of events;
 - ii. 10% will use the local bus service (route 328);
 - iii. 10% will use Edgecliff Train Station;
 - iv. 10% will utilise the Ferry service at McKell Wharf;
 - v. 20% will be dropped-off / picked-up, including taxi, Uber and other ride share services (typically 2 to 3 passengers per car, the lower end of the range has been adopted, i.e. 2 passengers per car);
 - vi. 20% utilising private vehicles and parking on-site.
- d. Car occupancy of recreational events are typically 3 to 4 persons per car, the lower end of the range has been adopted, (i.e. 3 persons per car which equates to some **20 cars**);
- e. It is expected that the majority of attendees (some 80%) will arrive within the first 4 hours (i.e. up to 1pm) with a further 20% arriving after 1pm.

(2) Special / Normal events:

- a. Up to 250 people in attendance at any one-time;
- b. Attendees arrive at the beginning of the event and depart at the end of the event;
- c. Estimated / approximate travel modes:
 - i. 5% walking from their homes as they live locally;
 - ii. 10% will use the local bus service (route 328);
 - iii. 10% will use Edgecliff Train Station;
 - iv. 10% will utilise the Ferry service at McKell Wharf;



- v. 30% will be dropped-off / picked-up, including taxi, Uber and other ride share services (typically 2 to 3 passengers per car, the lower end of the range has been adopted, i.e. 2 passengers per car);
- vi. 35% utilising private vehicles and parking on-site.
- d. Car occupancy of recreational events are typically 3 to 4 persons per car, the lower end of the range has been adopted, (i.e. 3 persons per car equating to **29 cars**);
- e. Assumed that 90% of attendees arrive within the first hour of the event and 90% of attendees depart in the last hour of the event.

The resulting peak hourly traffic generation is summarised in **Table 1**.



TABLE 1: ESTIMATED TRAFFIC GENERATION

Event Type	Time	Type	Rate	Scale	Peak Hour Traffic Generation
Unique events	During event	Pick-up / drop-off (Including taxi and ride share)	20% of guests with 2 guests/car (assuming 80% of guests arrive within a 4-hour period)	300 guests	12 ⁽¹⁾ (6 in, 6 out)
		Private vehicle trips	20% of guests with 3 guests/car (assuming 80% of guests arrive within a 4-hour period)		4 ⁽²⁾ (4 in, 0 out)
Total	-	-	-	-	16 (10 in, 6 out)
Special / Normal events	Arrival Hour	Pick-up / drop-off (Including taxi and ride share)	30% of guests with 2 guests/car (assuming 90% of guests arrive within a 1-hour period)	250 guests	68 ⁽³⁾ (34 in, 34 out)
		Private vehicle trips	35% of guests with 3 guests/car (assuming 90% of guests arrive within a 1-hour period)		26 ⁽⁴⁾ (26 in, 0 out)
	Departure Hour	Pick-up / drop-off (Including taxi and ride share)	30% of guests with 2 guests/car (assuming 90% of guests arrive within a 1-hour period)	250 guests	68 ⁽³⁾ (34 in, 34 out)
		Private vehicle trips	35% of guests with 3 guests/car (assuming 90% of guests arrive within a 1-hour period)		26 ⁽⁴⁾ (0 in, 26 out)
Total	Arrival Hour	-	-	-	94 (60 in, 34 out)
	Departure Hour	-	-	-	94 (34 in, 60 out)

Notes:

- (1) $\{[(300 \times 0.8 / 4) \times 0.2] / 2\} \times 2$ – this calculation includes the pick-up/drop-off car arriving and departing i.e. 2 trips.
 (2) $\{[(300 \times 0.8 / 4) \times 0.2] / 3\}$
 (3) $\{[(250 \times 0.3) \times 0.9] / 2\} \times 2$ – this calculation includes the pick-up/drop-off car arriving and departing i.e. 2 trips.
 (4) $\{[(250 \times 0.35) \times 0.9] / 2\}$

As shown, the expected traffic generation associated with the proposed development is in the order of **16** vehicle trips during the Unique events peak period and **94** vehicle trips during the Special / Normal events peak period.



This level of traffic generation is moderate and can be accommodated by the surrounding road network with minimal impact. It should be noted that events will typically be held outside of peak commuter periods such that the road network surrounding the site will be operating a reduced load from network peak. In peak hourly terms the level of traffic generated is equivalent to 1 vehicle trip every 3.5-minutes during the Unique events and 1 vehicle trip every 35-seconds during the Special / Normal events.

This level of traffic will have no adverse effect on any nearby intersections and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency and road safety considerations.



5 **CAR PARKING ASSESSMENT**

Woollahra Council's DCP does not outline car parking rates for the proposed development. In view of the first principles assessment that has been undertaken in **Section 4.1** and the internal traffic management procedures described in **Section 3**, the forecast peak parking demand can be calculated as per the following:

(1) Unique events:

- a. 20 arriving guest vehicles over the day, of which 80% arrive in the first hours with an average duration of stay of 2 hours gives eight (8) cars that can be fully accommodated on-site.
- b. There is at least 10 car parking spaces for staff on-site within the basement car park accessed from Hampden Avenue.

(2) Special / Normal events:

- a. 29 arriving guest vehicles which stay for the duration of the event, i.e. 29 cars that can be fully accommodated on-site.
- b. There is at least 10 car parking spaces for staff on-site within the basement car park accessed from Hampden Avenue.

The site can provide on-site parking for approximately 45 cars on-site comprising of 35 for guests and 10 for staff. The 23 vehicles that can be parked on the site within the loop road can do so without obstructing the through traffic for pick-up and drop-off activities.

5.1 *Parking for People with Disabilities*

Woollahra Council does not outline car parking rates for people with disabilities applicable to proposed events. As such, reference is made to *Table D3.5* of the *Building Code of Australia* (BCA) as part of the *National Construction Code 2019* (NCC) which categorises a social gathering building as a Class 9b building and therefore requires the provision of car parking for people with disabilities at a rate of:

Class 9b 1 space for every 50 carparking spaces or part thereof.

Considering the nature of the proposal it is considered necessary to provide the facility of one (1) car parking space for people with disabilities. The existing and proposed car parking layout has adequate area to facilitate the pick-up and drop-off of people with disabilities. Considering each event will be ticketed a guests need for accessible parking shall be made known to the event organisers prior to the event such that appropriate concessions can be made if required.



5.2 Servicing & Loading

Woollahra Council DCP does not outline servicing and loading requirements for the proposed use of the site. The existing site is able to accommodate a 6.4m long Small Rigid Vehicle (SRV) within the internal circulation road with forward entry and exit capable within via the northernmost driveway along Darling Point Road. Swept path testing of an SRV entering and exiting the site in a forward direction have been undertaken with the results presented in **Annexure C**. It is expected that the site will be able to be adequately serviced by Small Rigid Vehicles and that loading will occur outside of event times.

5.3 Car Park Design & Compliance

No changes to the existing vehicle entry driveway or parking layout is proposed as part of the development. Therefore, no review of the parking layout, with regard to AS2890 has been undertaken or is necessary.



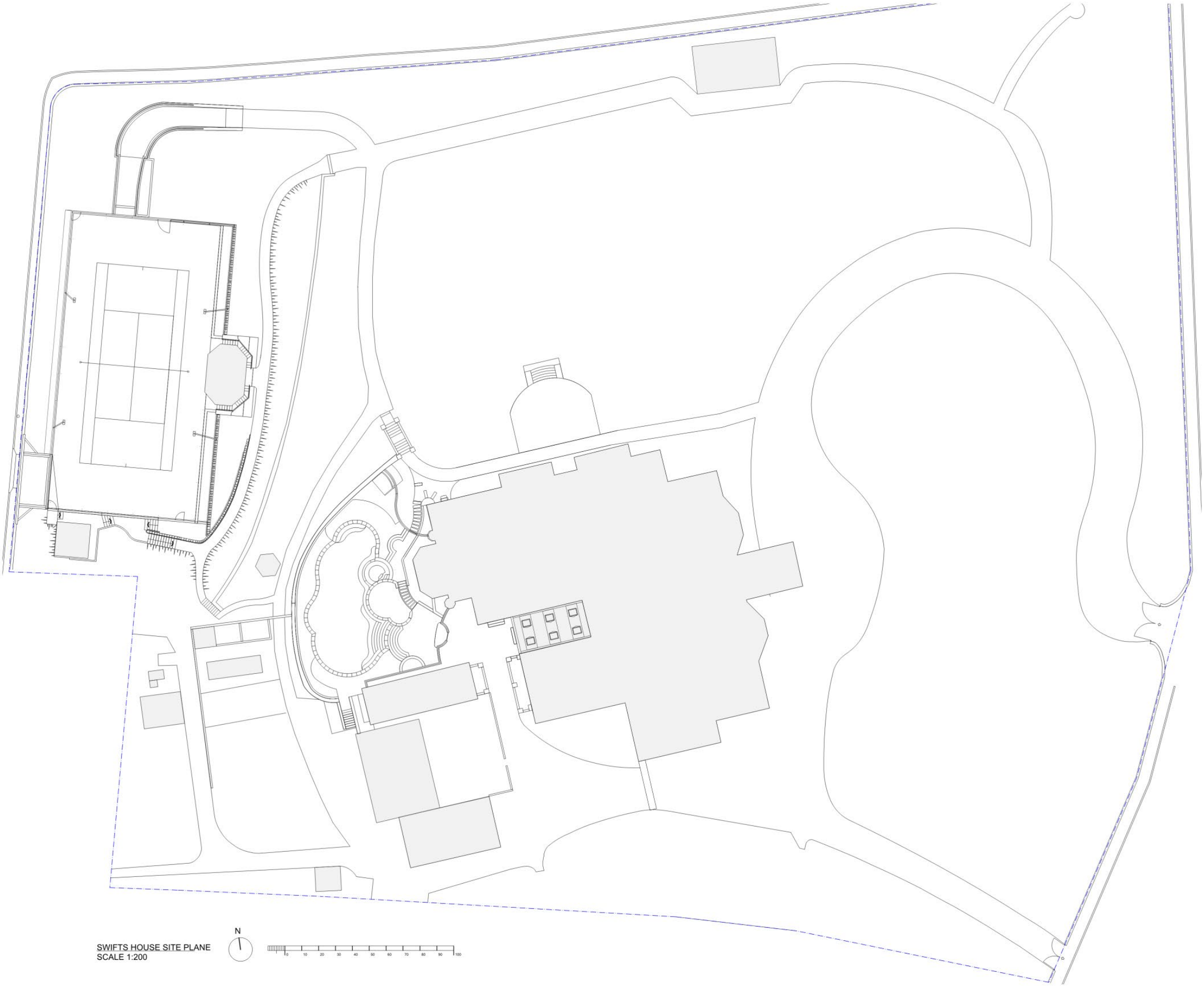
6 **CONCLUSION**

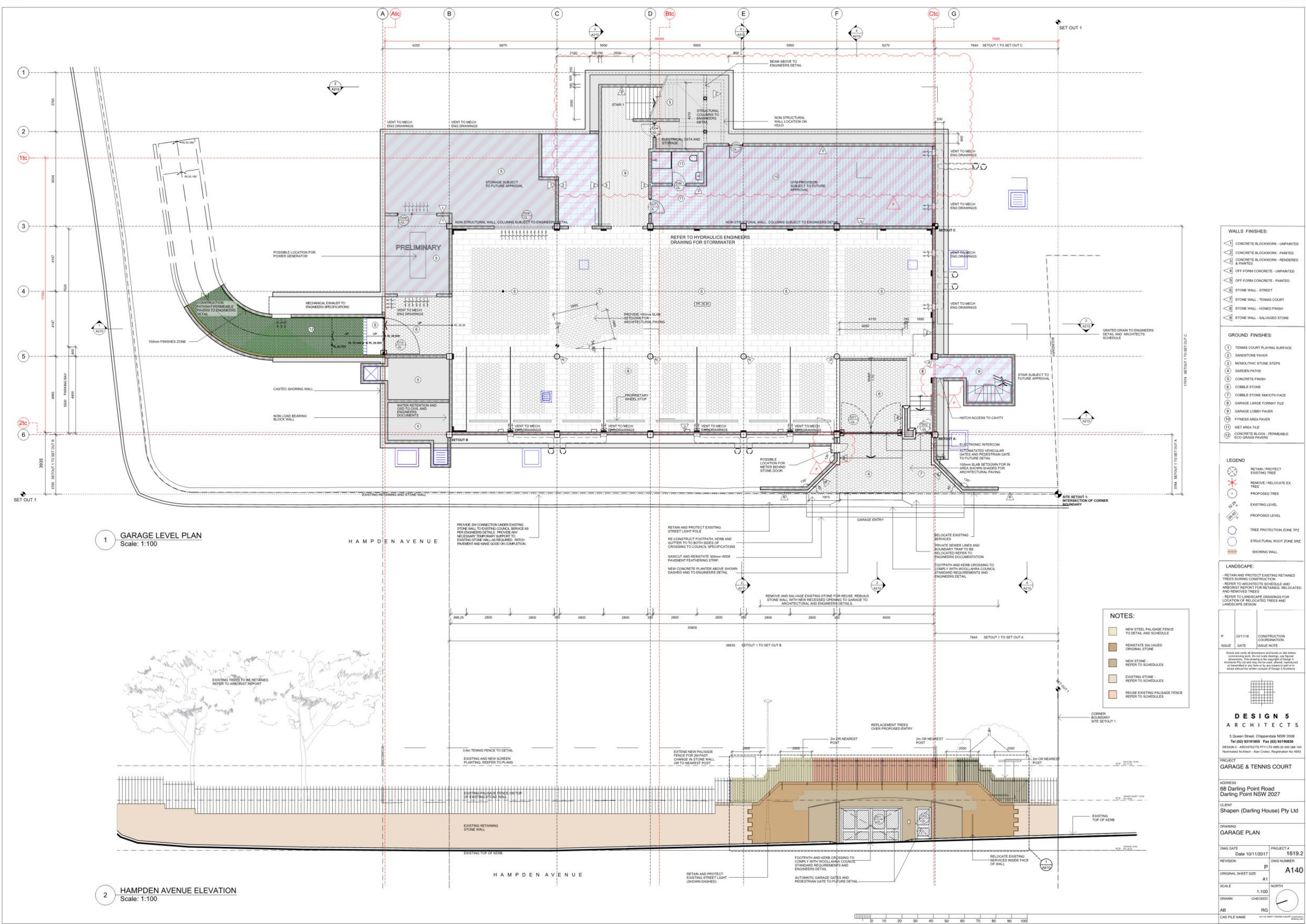
In view of the foregoing, the subject Events at Swifts proposal at 68 Darling Point Road, Darling Point (as depicted in **Annexure A**) is fully supportable in terms of its traffic and parking impacts. The following outcomes of this traffic impact assessment are relevant to note:

- (a) The temporary on-site car parking provision is approximately 45 car parking spaces comprising of the, located in the following areas:
 - (i) Internal loop road – 23 car parking spaces
 - (ii) Area south of the Castle – 12 stacked parking spaces
 - (iii) Basement car park off Hampden Avenue – 10 staff car parking spaces
- (b) The estimate generated peak car parking demand is expected to be on the order of **29** vehicles for the events.
- (c) Events will be organised under a traffic management plan to cater for the individual needs of each event. In general, the site will operate with a one-way anticlockwise circulation controlled under the guide of traffic controllers.
- (d) No changes to the existing vehicle entry driveway or parking layout is proposed as part of the development. Therefore, no review of the parking layout, with regard to AS2890 has been undertaken or is necessary.
- (e) The expected traffic generation associated with the proposed development is in the order of **16** vehicle trips during the Unique events peak period and **94** vehicle trips during the Special / Normal events peak period. This level of additional traffic is moderate and when considering the expected time of events to be outside of peak commuter periods the impact to the surrounding road network will be minimal. In peak hourly terms the level of traffic generated is equivalent to 1 vehicle trip every 3.5-minutes during the Unique events and 1 vehicle trip every 35-seconds during the Special / Normal events.



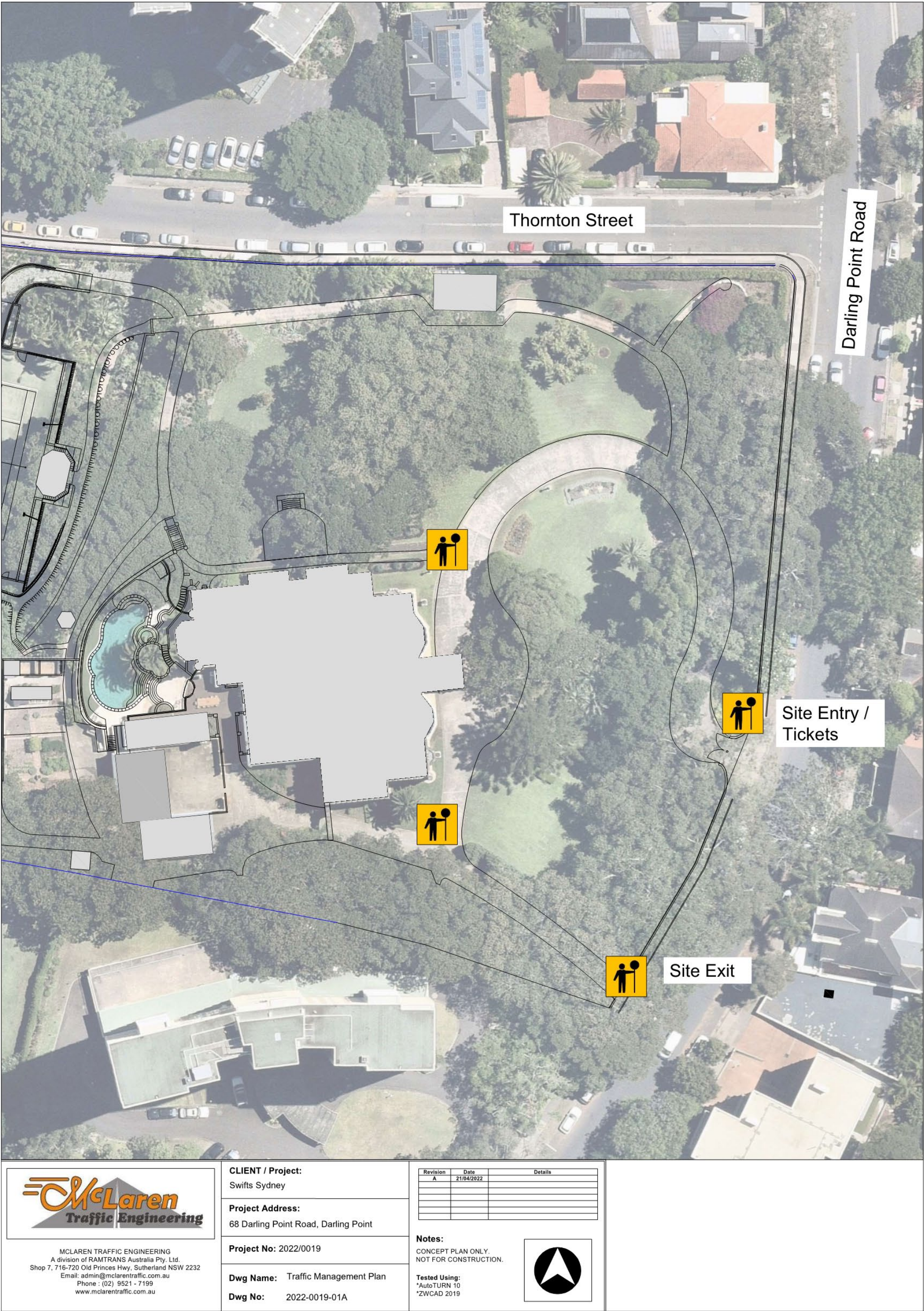
**ANNEXURE A: SITE PLAN
(2 SHEETS)**





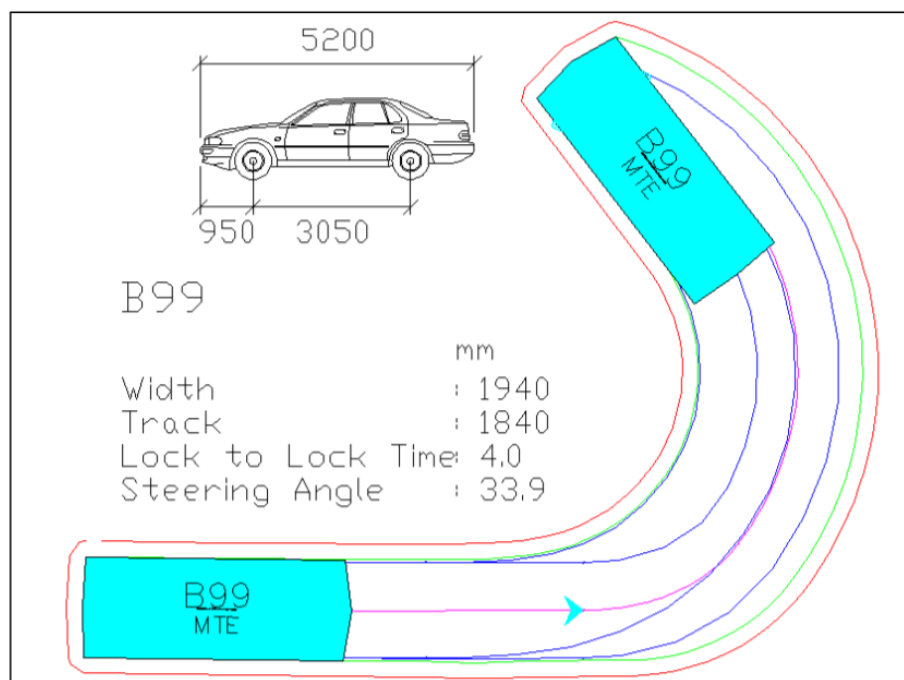


**ANNEXURE B: TRAFFIC MANAGEMENT PLAN
(1 SHEET)**



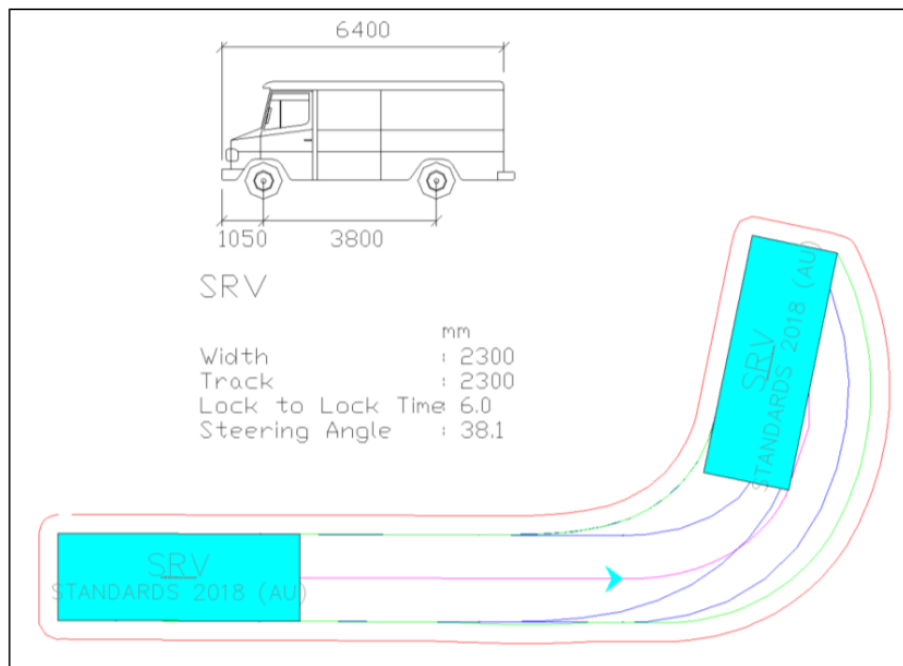


**ANNEXURE C: SWEEP PATH TESTING
(6 SHEETS)**



AUSTRALIAN STANDARD 99.8TH PERCENTILE SIZE VEHICLE (B99)

Blue – Tyre Path
Green – Vehicle Body
Red – 300mm Clearance



AUSTRALIAN STANDARD SMALL RIGID VEHICLE (SRV)

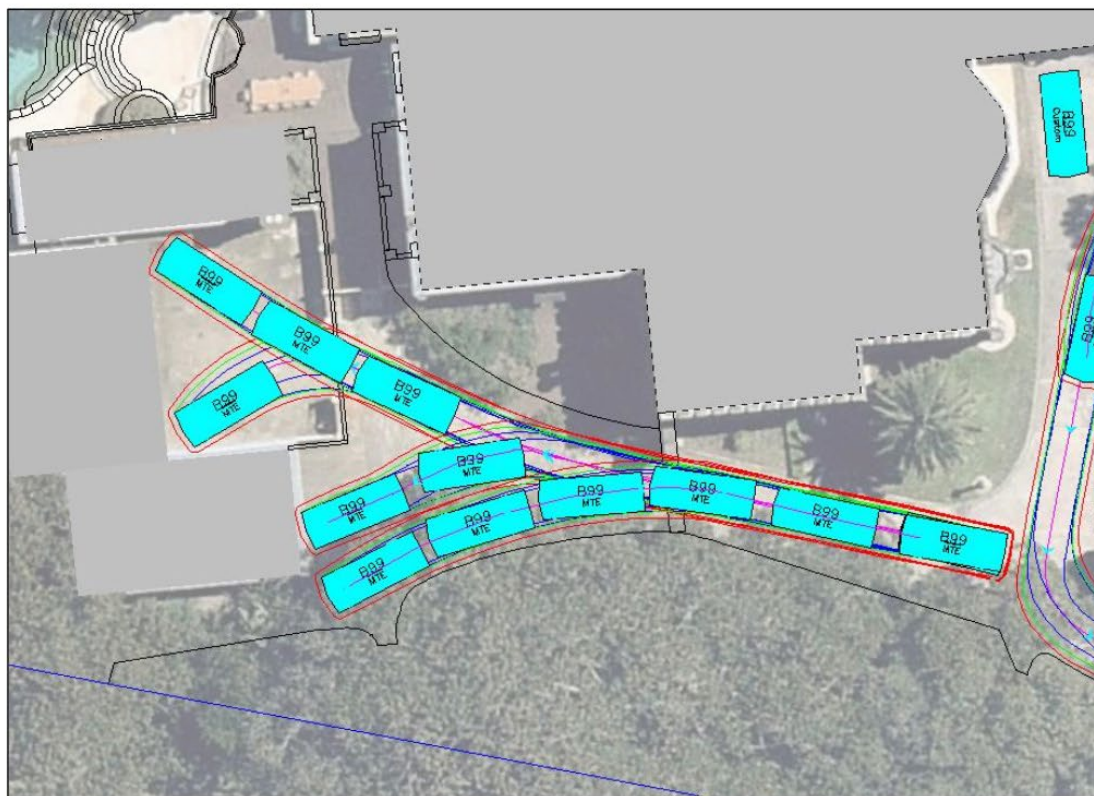
Blue – Tyre Path
Green – Vehicle Body
Red – 500mm Clearance



SRV ENTRY AND EXIT SITE
Successful

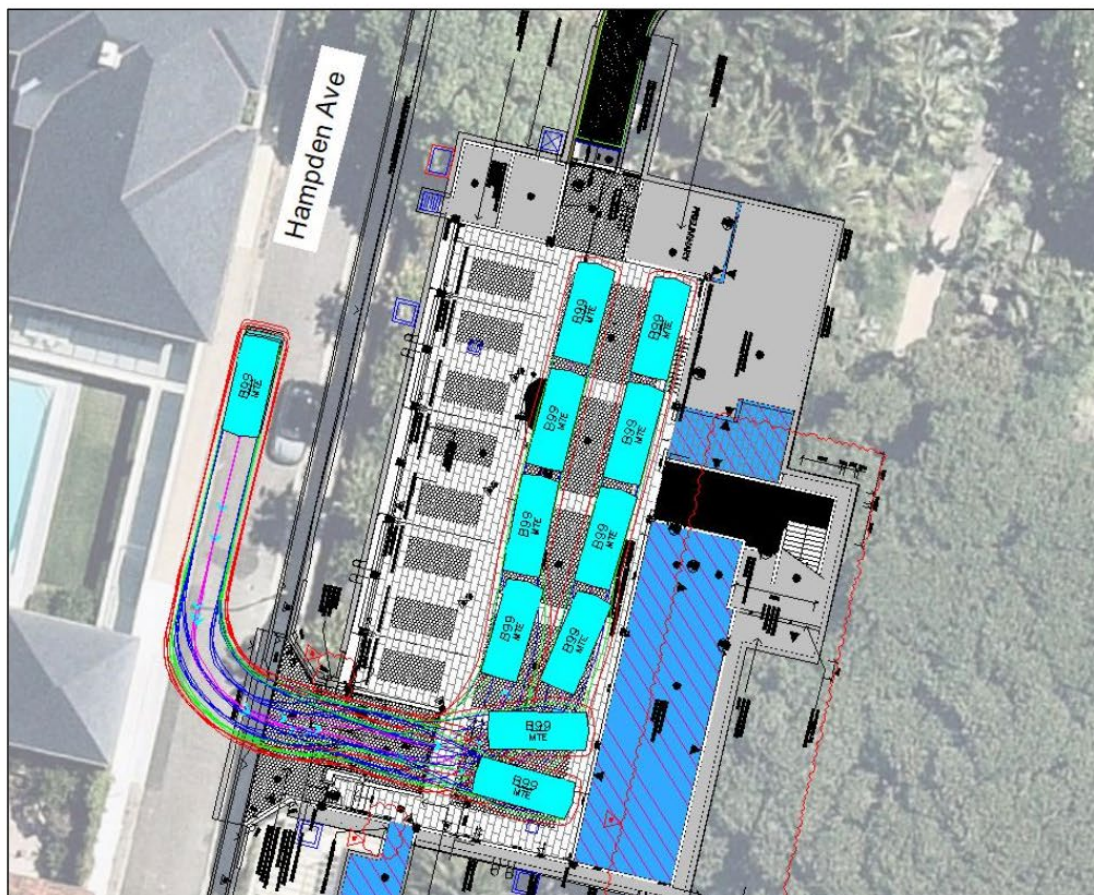


23 parked B99 vehicles while maintaining two-way passing within the loop road.



12 parked B99 vehicles in a tandem arrangement at the area south of the Castle.

Organised under traffic management as required.



10 parked B99 vehicles in a tandem arrangement within the basement car park for staff.

Organised under traffic management as required.

First Name	Address	Suburb/State/PCode
Michael Hanisch	Level 10/70 Pitt Street	SYDNEY NSW 2000
Aiden Aldred	3B/23 Thornton Street	DARLING POINT NSW 2027
Marita Alexander	B/5-11 Thornton Street	DARLING POINT NSW 2027
Gary Andreasen	27 Etham Avenue	DARLING POINT NSW 2027
Penny Andricopoulos	8B/13-15 Thornton Street	DARLING POINT NSW 2027
Iris Archibald	33/58-64 Darling Point Road	DARLING POINT NSW 2027
A & R Ariel	4B/5 Thornton Street	DARLING POINT NSW 2027
Anna Armstrong-Smith	13A 5-11 Thornton Street	DARLING POINT NSW 2027
Deborah & John Balderstone	145 Darling Point Road	DARLING POINT NSW 2027
David Barnett	5/60 Darling Point Road	DARLING POINT NSW 2027
Susan Bell	5-11 Thornton Street	DARLING POINT NSW 2027
Andrea Booth	36/60 Darling Point Road	DARLING POINT NSW 2027
Chris Borton	29 Etham Ave	DARLING POINT NSW 2027
Jessica Bowditch	127 Darling Point Road	DARLING POINT NSW 2027
Colleen Bray	5/67 Yarranabbe Road	DARLING POINT NSW 2027
Leone Brennan	Apartment 121 Winslow Gardens	DARLING POINT NSW 2027
David Bridger	66 Darling Point Road	DARLING POINT NSW 2027
Wal Broun	7/121 Darling Point Road	DARLING POINT NSW 2027
Iolanda Capodanno	8/38 Darling Point Road	DARLING POINT NSW 2027
Simon Carr	parkhamstreet@hotmail.com	
Kerryn & Douglas Carter	31 Etham Avenue	DARLING POINT NSW 2027
Andrew Cartwright	18/58-64 Darling Point Road	DARLING POINT NSW 2027
Doreen Cheong	105a Darling Point Road	DARLING POINT NSW 2027
Warrick Clark	201/109 Darling Point Road	DARLING POINT NSW 2027
Barbara Cohen	25/60 Darling Point Road	DARLING POINT NSW 2027
David Collier	Unit 401, 109 Darling Point Road	DARLING POINT NSW 2027
Lena & George Collins	15C/21 Thornton Street	DARLING POINT NSW 2027
Belinda Conibear	3/121 Darling Point Road	DARLING POINT NSW 2027
Alison Cooper	125 Darling Point Road	DARLING POINT NSW 2027
Sue Cooper	17 Etham Avenue	DARLING POINT NSW 2027
Elliot Cousins	302/109 Darling Point Rd	DARLING POINT NSW 2027
Virginia Lette Cowan	13/13 Thornton Street	DARLING POINT NSW 2027
Richard Cowan	84 Darling Point Road	DARLING POINT NSW 2027
Janet Cullen	11C/13 Thornton Street	DARLING POINT NSW 2027
Sarah Cunningham	3/105A Darling Point Road	DARLING POINT NSW 2027
Edward & Stella Curl	39 Etham Avenue	DARLING POINT NSW 2027
Catherine Curtis	129 Darling Point Road	DARLING POINT NSW 2027
Andrew Cusack	14B/13 Thornton Street	DARLING POINT NSW 2027
Bruce Davey	86 Darling Point Road	DARLING POINT NSW 2027
Karla De Bono	133-135 Darling Point Road	DARLING POINT NSW 2027
Jacqueline De Bono	133-135 Darling Point Road	DARLING POINT NSW 2027
Eric de Diesbach	135 Darling Point Road	DARLING POINT NSW 2027
Peter Degeling	Lot 45 15B/21 Thornton Street	DARLING POINT NSW 2027
Santha Dickson	3 Carthona Avenue	DARLING POINT NSW 2027
John Doumani	14 Hampden Avenue	DARLING POINT NSW 2027
Noel & Betty Drennan	9/121 Darling Point Road	DARLING POINT NSW 2027
Andrew Dyer	101/109 Darling Point Road	DARLING POINT NSW 2027
Lucienne Edelman	2B/13 Thornton Street	DARLING POINT NSW 2027
Ben Edwards	506/109 Darling Point Road	DARLING POINT NSW 2027
Diana Eilert	5/82 Darling Point Road	DARLING POINT NSW 2027
Virginia Everingham	81/66 Darling Point Road	DARLING POINT NSW 2027

Suzanne Farrow	66 Darling Point Road	DARLING POINT NSW 2027
Charlotte Feldman	PO Box 1131	EDGECLIFF NSW 2027
Chevaun Fenton	Thornton Street	DARLING POINT NSW 2027
Debra Ferguson	dferguson2170@yahoo.com	
Clare & Ron Ferster	1 Thornton Street	DARLING POINT NSW 2027
Anne & Simon Footit	25 Etham Avenue	DARLING POINT NSW 2027
Philip French	502/109 Darling Point Road	DARLING POINT NSW 2027
Elizabeth Garbacz	2A/5-11 Thornton Street	DARLING POINT NSW 2027
Mervyn & Jacqueline Garber	1/60 Darling Point Road	DARLING POINT NSW 2027
Susan Goodman	106/109 Darling Point Road	DARLING POINT NSW 2027
Ventry Gray	14A/5-11 Thornton Street	DARLING POINT NSW 2027
Gilda Gude	9A/21 Thornton Street	DARLING POINT NSW 2027
Stewart Gulliver	13B/5-11 Thornton Street	DARLING POINT NSW 2027
Justin Haik	2/15 Thornton Street	DARLING POINT NSW 2027
Jan Hamilton	107 Darling Point Road	DARLING POINT NSW 2027
Chris Hannan	139 Darling Point Road	DARLING POINT NSW 2027
Nicholas Harding	14 Thornton Street	DARLING POINT NSW 2027
Andrew Hardy	1 Etham Avenue	DARLING POINT NSW 2027
Robert Hart	15B/5-11 Thornton Street	DARLING POINT NSW 2027
Liz Haynes	207/109 Darling Point Road	DARLING POINT NSW 2027
Esther & Trevor Hayter	14 Royston Street	PADDINGTON NSW 2021
Janet Hemery	3a/23 Thornton Street	DARLING POINT NSW 2027
Amanda Henricks	13B/5-11 Thornton Street	DARLING POINT NSW 2027
Jack Herrald	3/2-4 Bennet Avenue	DARLING POINT NSW 2027
N & J Ho	9C/5-11 Thornton Street	DARLING POINT NSW 2027
S K Ho	8C/5-11 Thornton Street	DARLING POINT NSW 2027
Andrew Hollo	129 Darling Point Road	DARLING POINT NSW 2027
Tammy Irvine	4 & 4a Etham Avenue	DARLING POINT NSW 2027
Di Jagelman	205/109 Darling Point Road	DARLING POINT NSW 2027
Judith & Marcel Jarvin	10B/5-11 Thornton Street	DARLING POINT NSW 2027
Boz & Mark Jawien	5/113 Darling Point Road	DARLING POINT NSW 2027
Paul Jayne	Level 1, 47 Darby Street	NEWCASTLE NSW 2300
T W Jones	28/60 Darling Point Road	DARLING POINT NSW 2027
Carol Jones	28/60 Darling Point Road	DARLING POINT NSW 2027
Nicholas Jones	405/109 Darling Point Road	DARLING POINT NSW 2027
Robert Joske	3/16-18 Thornton Street	DARLING POINT NSW 2027
Ronald Kaiser	101/66 Darling Point Road	DARLING POINT NSW 2027
Albert Kavelar	albert.kavelar@gmx.at	DARLING POINT NSW 2027
Jim & Linda Jane Keepkie	29/58-64 Darling Point Road	DARLING POINT NSW 2027
Donna-Marie Kelly	307/109 Darling Point Road	DARLING POINT NSW 2027
Michelle Kirk	507/109 Darling Point Road	DARLING POINT NSW 2027
Lisa & Andrew Koch	2/2-4 Bennett Avenue	DARLING POINT NSW 2027
Juergen Krufczyk	8/83 Darling Point Road	DARLING POINT NSW 2027
Hilary Levine	2/105A Darling Point Road	DARLING POINT NSW 2027
David Lidbetter	david@animalorthopaedics.com.au	
Hugh Livingston	107/109 Darling Point Road	DARLING POINT NSW 2027
Bettina Lung	13/121 Darling Point Road	DARLING POINT NSW 2027
Lucinda Lyons	137 Darling Point Road	DARLING POINT NSW 2027
Diana Lysaght	155 Darling Point Road	DARLING POINT NSW 2027
Robin MacKay	robinmackay4@gmail.com	
Chizuko Makishima	4/113 Darling Point Road	DARLING POINT NSW 2027
Robyn & Colin Manoy	10A/5-11 Thornton Street	DARLING POINT NSW 2027
Scott Marina	14/60 Darling Point Road	DARLING POINT NSW 2027

John Markovic	80 Darling Point Road	DARLING POINT NSW 2027
Colette McCue	139 Darling Point Road	DARLING POINT NSW 2027
Vanessa Miers	87-89 Darling Point Road	DARLING POINT NSW 2027
Deepinder & Marc Miller	19 Etham Avenue	DARLING POINT NSW 2027
Marisa Mitchell	5C/21 Thornton Street	DARLING POINT NSW 2027
Elena Mitchell	5C/21 Thornton Street	DARLING POINT NSW 2027
Peter Mochrie	Lot 45, 15B/21 Thornton Street	DARLING POINT NSW 2027
Susie Moore	9C/13-15 Thornton Street	DARLING POINT NSW 2027
Denise & Bruce Morris	1/2-4 Bennett Avenue	DARLING POINT NSW 2027
Nina Murray	3 Etham Avenue	DARLING POINT NSW 2027
Scott Murray	137 Darling Point Road	DARLING POINT NSW 2027
Joel & Paul Nothman	12C/5-11 Thornton Street	DARLING POINT NSW 2027
Michael Nourse	13/66 Darling Point Road	DARLING POINT NSW 2027
Eli Olsen	Lot 1, Unit 1A, 21 Thornton Street	DARLING POINT NSW 2027
A H Opie	6 Bennett Avenue	DARLING POINT NSW 2027
Mary Owyong	11B/5 Thornton Street	DARLING POINT NSW 2027
Olivia Pascoe	2/129 Darling Point Road	DARLING POINT NSW 2027
James & Edwina Patterson	109 Darling Point Road	DARLING POINT NSW 2027
Neale Peppernell	84/66 Darling Point Road	DARLING POINT NSW 2027
Mary Perrett	32/105A Darling Point Road	DARLING POINT NSW 2027
Christopher Pokorny	7A, Longwood, 5-11 Thornton Street	DARLING POINT NSW 2027
Sophie Polednik	141 Darling Point Rd	DARLING POINT NSW 2027
Freda Potok	32/9 Goomerah Cres	DARLING POINT NSW 2027
Jan Pullen	21B/5 Thornton St	DARLING POINT NSW 2027
Christiane Purcal	8/121 Darling Point Road	DARLING POINT NSW 2027
Giorgia Pusztay	Level 48, 264 George Street	SYDNEY NSW 2000
Harold Quek	6/113 Darling Point Road	DARLING POINT NSW 2027
John Roger & Linden Rosemary Ramsey	4/129-131 Darling Point Road	DARLING POINT NSW 2027
Jim Rayner	35 Etham Avenue	DARLING POINT NSW 2027
Raj Reddy	36/60 Darling Point Road	DARLING POINT NSW 2027
Lucinda Regan		
Heinrich & Zita Ruiz de Roxas	34/60 Darling Point Road	DARLING POINT NSW 2027
Tatiana Seskin	402/109 Darling Point Road	DARLING POINT NSW 2027
Daniela Shannon	8A Etham Avenue aka 1/8 Carthona Avenue	DARLING POINT NSW 2027
Franklin Robert Sharpe	31/60 Darling Point Road	DARLING POINT NSW 2027
Ronald Shields	105/109 Darling Point Road	DARLING POINT NSW 2027
Lyn Shwaiko	104/109 Darling Point Road	DARLING POINT NSW 2027
Cody Shwaiko	104/109 Darling Point Road	DARLING POINT NSW 2027
Ralph & Marie Therese Sicouri	1B/5-11 Thornton Street	DARLING POINT NSW 2027
Christine Simon	Unit 2A, 21 Thornton Street	DARLING POINT NSW 2027
Geoff & Wendy Simpson	141/66 Darling Point Road	DARLING POINT NSW 2027
Luisa & Gavin Skene	1 Etham Avenue	DARLING POINT NSW 2027
Hubert Stadlmann	19/58-64 Darling Point Road	DARLING POINT NSW 2027
Ana Maria Stadlmann	19/58-64 Darling Point Road	DARLING POINT NSW 2027
Rod Stockell	92/66 Darling Point Road	DARLING POINT NSW 2027
Strata Plan 2766	13-15 Thornton Street	DARLING POINT NSW 2027
George Sved	12/60 Belgravia Gardens	DARLING POINT NSW 2027
Julia Taylor	206/109 Darling Point Road	DARLING POINT NSW 2027
Robyn Taylor	206/109 Darling Point Road	DARLING POINT NSW 2027
Richard & Jan Thomas	32/66 Darling Point Road	DARLING POINT NSW 2027
Argyro Tikellis	4/2-4 Bennett Avenue	DARLING POINT NSW 2027

Robyn Tucker	5/60 Darling Point Road	DARLING POINT NSW 2027
Dean White	141 Darling Point Road	DARLING POINT NSW 2027
Peter White	5 Holt Road #09-02	Singapore 249444
Jennifer White	7B/5-11 Thornton Street	DARLING POINT NSW 2027
Andrew Wilkinson	12/121 Darling Point Road	DARLING POINT NSW 2027
R L Williams	62/66 Darling Point Road	DARLING POINT NSW 2027
Ross Wilson	403/109 Darling Point Road	DARLING POINT NSW 2027
Jane Wily & Ruth Wily	30 Etham Avenue	DARLING POINT NSW 2027
Rita Winter	305/109 Darling Point Road	DARLING POINT NSW 2027
Jean Wright	1/9 Goomerah Cresecent	DARLING POINT NSW 2027
Bervinda Xebregas	4B/21 Thornton Street	DARLING POINT NSW 2027
Alana Yap	1A/5-11 Thornton Street	DARLING POINT NSW 2027
Lee Manfred	87-97 Yarranabbe Road	DARLING POINT NSW 2027
Graham Young	81/66 Darling Point Road	DARLING POINT NSW 2027
Maryanne & Stewart Young	1 Goomerah Crescent	DARLING POINT NSW 2027
Malcolm Young	10 Pine Hill Avenue	DOUBLE BAY NSW 2028
Maria-Teresa Zamora	404/109 Darling Point Road	DARLING POINT NSW 2027
Joshua Zucker	23/60 Darling Point Road	DARLING POINT NSW 2027
Rina Zucker	23/60 Darling Point Rd	DARLING POINT NSW 2027

23 February 2012

Attention: Mrs Kerry Jones - Director

K J Property Investments (Australia) Pty Ltd
Level 13
189 Kent Street
SYDNEY NSW 2000

Your reference

Our reference
2778513

Dear Madam

**The Swifts - 68 Darling Point Road, Darling Point
Unauthorised use of premises in breach of Woollahra Local Environmental Plan 1995 and Section
76A of the Environmental Planning and Assessment Act 1979**

We act for Woollahra Municipal Council in the above matter.

We refer to the various statutory notices and requests issued by Council concerning the use of the subject premises for events and functions not permitted in the 2(a) zone under Woollahra Local Environmental Plan 1995.

We are instructed that such events and functions continue to be conducted on the premises and that unless restrained such events are likely to continue with resultant significant amenity impacts for a very large number of neighbouring residents.

Council considers that the evidence obtained by its officers and from the community in relation to the launch of Foxtel's new TV channel at The Swifts on Wednesday this week necessitates that injunction proceedings in Class 4 of the Land and Environment Court jurisdiction be taken to ensure that further significant illegal events are not undertaken without the necessary clause 32 LEP development consent. The nature of the illegal events constitute breaches of s.76A of the Act.

Accordingly, unless we receive an appropriate written undertaking prior to 28 February next that such events and functions will not be undertaken without firstly obtaining the necessary development consent we will commence on Council's behalf Class 4 proceedings in the Land and Environment Court for appropriate declarations and orders without further notice being given. Such action being consistent with the community expectations in this matter.

Yours faithfully

Peter Rigg
Partner
Norton Rose Australia

APAC-#13373267-v1

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