

JRPP No:	2010SYE033
DA No:	258/2010/1
PROPOSED DEVELOPMENT:	Demolition of 4 residential flat buildings and construction of 4 new residential flat buildings containing 83 apartments with basement parking
APPLICANT:	New South Head Road Properties Pty Ltd
REPORT BY:	Dimitri Lukas, Senior Assessment Officer, Woollahra Municipal Council

Assessment Report and Recommendation

FILE No.	DA 258/2010/1		
PROPERTY DETAILS	Address:	315, 317, 321 & 327 New South Head Road, Double Bay	
	Lot & DP No:	(315) 11 & 1017356; (317) 2 & 103741;	
	Strata Plan No:	(321) 12463; (327) 19597	
	Side of Street:	South	
	Site Area (m²):	(315) 591.3; (317) 657.6; (321) 707.6; (327) 529.1	
	Zoning:	Residential 2(b)	
PROPOSAL:	Demolition of 4 residential flat buildings on 315, 317, 321 & 327 New South Head Road and the construction of 4 residential flat buildings consisting of 83 new apartments over four sites, basement car parking, landscaping, siteworks and public domain improvements		
TYPE OF CONSENT:	Local Development		
APPLICANT:	New South Head Road Properties Pty Ltd		
OWNERS:	New South Head Road Properties Pty Ltd		
DATE LODGED:	02/06/2010		
AUTHOR:	Mr D Lukas		
CONSENT AUTHORITY	Joint Regional Planning Panel (Regional Panel)		

DOES THE APPLICATION INVOLVE A SEPP 1 OBJECTION? YES ☒ NO ☐

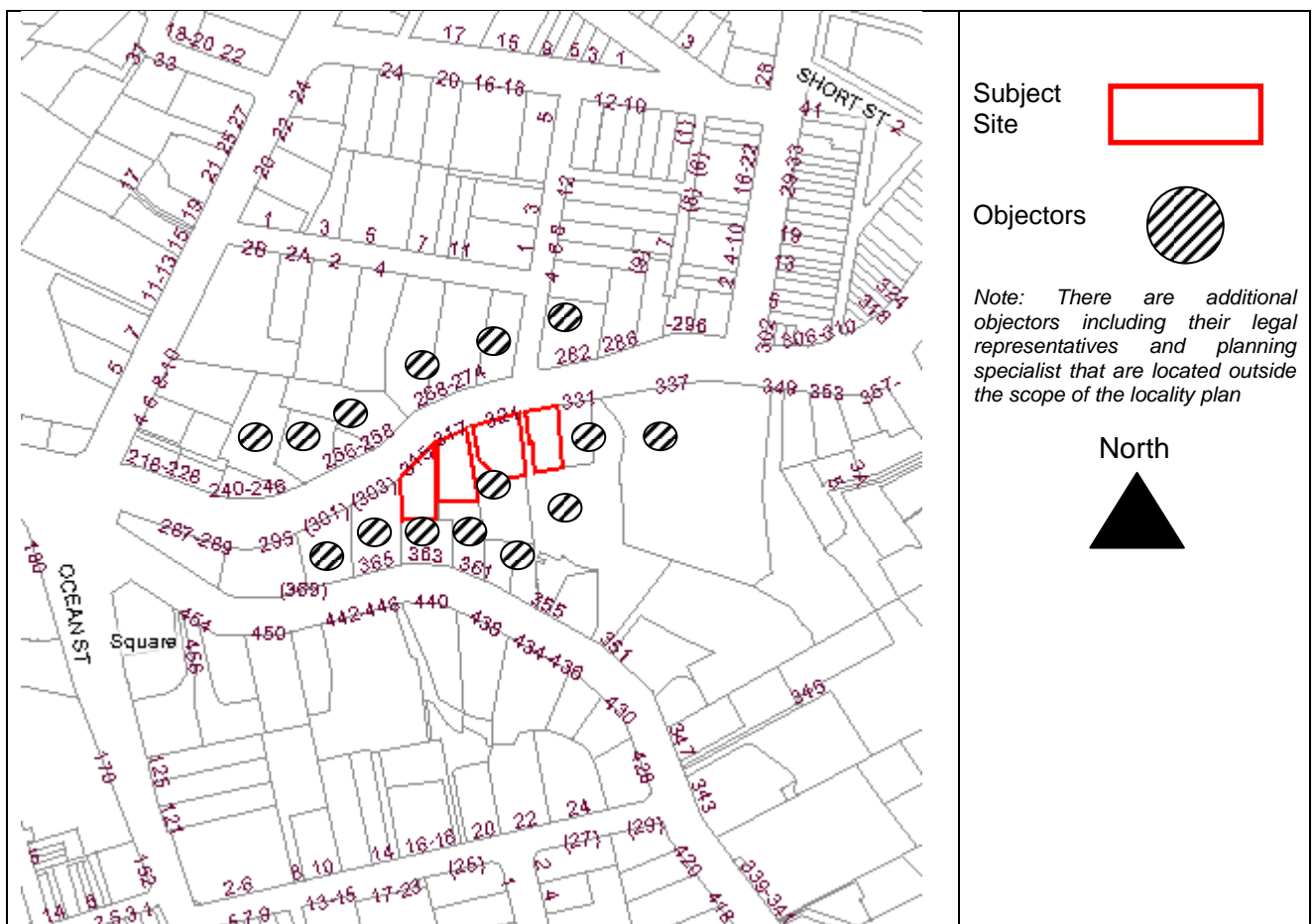
1. RECOMMENDATION PRECIS

Refusal.

2. PROPOSAL PRECIS

The proposed development involves the demolition of 4 existing buildings over 4 allotments and construction of 4 replacement buildings accommodating 83 dwellings and 59 off-street car parking spaces. There are public domain improvements proposed on New South Head Road in the form of landscaping and footpath modifications.

3. LOCALITY PLAN



4. DESCRIPTION OF PROPOSAL

The proposal is for the demolition of 4 residential flat buildings on property Nos.315, 317, 321 & 327 New South Head Road, Double Bay and the construction of 4 new residential flat buildings identified as Building A, B, C and D containing a total of 83 dwellings. Building A would be the most western of the development sites located uphill towards Edgecliff and Building D the most eastern of the development sites located downhill towards Double Bay.

The subject sites are separated by relatively narrow parcels of land which provide access for services (e.g. stormwater, sewage etc), vehicles and pedestrians for the benefit of properties located to the rear of the subject development sites.

The composition of the proposed development is as follows:

Building A would be a 7 storey residential flat building with 2 storeys dedicated to off-street car parking for 16 vehicles, with 1 storey located below ground. The building would consist of 9 x 1 Bedroom, 5 x 2 Bedroom and 1 x 3 Bedroom dwellings.

Building B would be a 9 storey residential flat building with 3 storeys dedicated to off-street car parking for 23 vehicles, with 3 storeys located below ground. The building would consist of 5 x Studios, 3 x 1 Bedroom and 16 x 2 Bedroom dwellings.

Building C would be an 8 storey residential flat building with 2 storeys dedicated to off-street car parking for 20 vehicles, with 2 storeys located below ground. The building would consist of 1 x 1 Bedroom, 11 x 2 Bedroom and 5 x 3 Bedroom dwellings.

Building D would be a 4 storey residential flat building with no off-street car parking provided. The building would consist of 27 x Studio dwellings.

The balance of the works proposed includes a new landscape scheme throughout and public domain improvements in the form of footpath widening and landscaping along New South Head Road.

5. SUMMARY

Reasons for report	Issues	Submissions
<ul style="list-style-type: none"> To assist the Regional Panel in determining the development application; and, To permit the DCC to decide if the Council will make a submission to the Regional Panel. This is because under our current delegations the development application would have otherwise been referred to the DCC for determination as it is for new RFB's 	<ul style="list-style-type: none"> Non-compliance with planning controls Detrimental impact on neighbouring property Parking Design Excavation 	30 submissions were received.

6. ESTIMATED COST OF WORKS

A Quantity Surveyor's report was provided by WT Partnership Quantity Surveyors which estimates the cost of the proposed development at \$29,656,000.00 which is considered to be accurate.

7. DESCRIPTION OF SITE OF LOCALITY



Physical features	<p>The development encompasses 4 sites, being Nos.315, 317, 321 and 327 New South Head Road, Double Bay.</p> <p>No.315, the most western of the sites, has a frontage of 25.81 metres and a site area of 591.3 m².</p> <p>Adjoining to the east of No.315 is a service/access handle on separate title 1.22 metres wide that benefits property to the rear of the site that are accessed from and front Edgecliff Road.</p> <p>Immediately adjoining to the east of the access handle is No.317, the second most western of the sites, with a frontage of 16.83 metres and a site area of 657.6 m².</p> <p>Adjoining to the east of No.317 is a driveway, on separate title, approximately 4 metres in width that benefits No.319 New South Head Road, located to the rear of No.321.</p> <p>Immediately adjoining to the east of the driveway is No.321, the second most eastern of the sites, with a frontage of 25.645 metres and a site area of 707.6 m².</p> <p>Adjoining to the east of No.321 is another driveway, on separate title, approximately 3 metres in width that benefits No.325 New South Head Road, located to the rear of No.327.</p>
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	Immediately adjoining to the east of the driveway is No.327, the most eastern of the sites, with a frontage of 16.98 metres and a site area of 529.1 m ² .
Topography	<p>No.315 is elevated above the roadway, with a sandstone retaining wall presenting to New South Head Road. Vehicular and pedestrian access is provided via punctuations through the eastern end of the existing wall. The site rises towards its rear and also has a cross fall from west to east. There is a defined landscaping area to the front of the site and overgrowth to rear of the building. Behind the building is a bedrock/sandstone cliff face that segregates the rear quarter of the site. The rear quarter of the site is elevated and takes the form of a manicured landscape area that is currently used by the apartment building to the rear at No.363 Edgecliff Road.</p> <p>No.317 is also elevated above the roadway and rises towards its rear. The existing dwelling on the site sits on a relatively flat parcel of land surrounded by pockets of landscaping. The front of the site has a cross fall from west to east with vehicular access provided on its eastern side.</p> <p>No.321 is partly elevated above the roadway and the site is relatively level as a result of previous excavation work. There is range of trees and shrubs located in pockets to the front, side and rear of the site. The adjoining site to the rear (No.319) is accessed via a driveway, is elevated and sits above the subject site.</p> <p>No.327 is partly elevated above the roadway with a relatively level site as a result of previous excavation work. There is landscaping to the rear of the site with its rear boundary elevated and partly landscaped. The adjoining site to the rear (No.325) is accessed via a driveway, is elevated and sits above the subject site.</p>
Existing buildings and structures	<p>The subject sites comprise a mixture of architectural building styles but are predominately 2 storey residential flat buildings with pitched roofs.</p> <p>The most western of the sites have a mixture of masonry and sandstone fences/retaining walls fronting the street with garages and pedestrian access punctuating through the fences/walls.</p> <p>The eastern end of the development sites have low level fences fronting New South Head Road dispersed by driveways that provide access for properties to the rear.</p>
Environment	<p>The sites are located on hilly topography in a residential area approximately halfway between the Edgecliff and Double Bay Commercial precincts.</p> <p>Immediately surrounding and opposite the subject sites are medium density development ranging in height from 2-10 storeys. The dwellings located above and to the rear of the subject sites have views towards the suburb of Double Bay in the foreground and Sydney Harbour in the background over the top of the subject sites.</p> <p>The character of the area is a mixture of hilly terrain, with visible bedrock cliff faces dispersed with significant and established trees and landscaped gardens. The sites are accessible from a main arterial road that links the eastern suburbs with the city. There is a clearway located immediately in front of the sites during the morning peak hour period.</p>

8. PROPERTY HISTORY

Current use	No.315 – Residential, No.317 – Residential, No.321 – Residential & No.327 – Residential
Previous relevant applications	<p>There are numerous applications for alterations and additions to the existing buildings over the 4 allotments. However, none of these applications are relevant to the scope of works proposed under this DA.</p> <p>Of note is DA No.604/2009/1 which proposed demolition of No.317 New South Head Road. This application was approved on 15 March 2010.</p>
Pre-DA Applications	None.

Requests for additional information	03.08.2010 – email sent requesting additional information to address Council's Trees & Landscape Officers concerns and request for clarification of owners consent.
Amended plans/ Replacement Application	16.06.2010 – Addendum to SEPP 1 Objection submitted 09.08.2010 – Amended landscape Plan and Owners Details submitted
L & E Court Appeal	No appeal has been lodged.

9. REFERRALS

9.1 The following table contains particulars of internal referrals.

Referral Officer	Comment	Annexure
Urban Design	Unsatisfactory	2
Development Engineer + Traffic Engineer	Unsatisfactory	3
Heritage Officer	Unsatisfactory	4
Fire Safety Officer	Approval subject to conditions	5
Environmental Health Officer	Approval subject to conditions	6
Open Space and Trees	Unsatisfactory	7

9.2 The following table contains particulars of external referrals.

External Referral Body	Reason for referral	Comment
New South Wales Police Force	For comment under the Memorandum of Understanding – Crime Prevention Through Environmental Design (CPTED)	The development should be modified in accordance with the recommendations (refer to Annexure 8)
Roads and Traffic Authority	s.138 of the <i>Roads Act</i> 1993	The RTA grants concurrence to the proposed development subject to conditions (refer to Annexure 9)

10. ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act* 1979 are assessed under the following headings:

10.1 SEPPs

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificates committing to environmental sustainability measures as follows:

- Certificate No.27324444 (315 NSH Rd)
- Certificate No.71330596 (317 NSH Rd)
- Certificate No.73647071 (321 NSH Rd)
- Certificate No.48163539 (327 NSH Rd)

These requirements can be imposed by standard condition prescribed by clause 97A of the *Environmental Planning & Assessment Regulation 2000*.

State Environmental Planning Policy No. 55

Under clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated. An assessment of the *Initial site evaluation* provided by the applicant indicates the land does not require further consideration under clause 7 (1) (b) and (c) of SEPP 55.

State Environmental Planning Policy No.65

SEPP 65 applies to all new residential flat buildings which comprise 3 or more storeys and 4 or more self contained dwellings and therefore apply to this development.

The DA was accompanied by a design verification statement prepared by a qualified designer, as required by the EPA Regulations cl.50(1A).

The instrument requires the proposal to be referred to a Design Review Panel. However, this panel has not been established for the Woollahra area. Notwithstanding this, the instrument requires the assessment of the subject development application against the 10 design quality principles contained in Part 2 and against the considerations contained in the publication "Residential Flat Design Code". Council's Urban Designer has provided comments in relation to SEPP 65 (**see Annexure 2**) and an assessment against the 10 design quality principles is also provided as follows:

- ***Principle 1: Context***

The proposed buildings are excessive in context to the site dimensions and to the prevailing pattern of development in the locality. This precinct is characterised by its landform and landscape character that harbours significant and contributory trees. The inadequacies of the building setbacks and inadequate landscaped areas would be contrary to the desired future character envisaged for the area as prescribed by the Woollahra Residential Development Control Plan 2003 (further assessment below).

- ***Principle 2: Scale***

Buildings A and B are appropriate in height and would be compatible with the prevailing height of development immediately surrounding. However, the inadequacies of the setback of the development is reflected in the non-compliances with the WRDCP 2003 controls with regard to building footprint and deep soil landscaped area (refer to assessment below). The

excessive scale provides insufficient setbacks and insufficient landscaping to enhance the characteristics of the area.

Buildings C and D are excessive in scale, which is reflected in the excessive non-compliances with the height and floor space ratio development standards prescribed by the LEP as well as the envelope controls prescribed by the RDCP. The planning controls envisage a smaller scaled development for these sites in order to provide adequate transitional buildings that are characteristic of the area which has a mixture of high and low scale development.

- ***Principal 3: Built Form***

The inability of the development to acquire the narrow parcels of land between the sites would create an unattractive public domain as this section of New South Head Road will now be predominately of driveway crossings. The multiple driveway crossings would not reinforce the landscape character of the area but rather provide a paved frontage devoid of significant area for landscaping. The excessive density of the site requires additional off-street car parking spaces and with the increased parking numbers requires increased size of driveway crossings which would be to the detriment of the streetscape and the public domain.

The excessive excavation to the rear of the sites and lack of setback between buildings would create dwellings that would be subterranean and of low amenity particularly with regard to solar access, cross-ventilation and outlook. The built form would be inappropriate with regard to the topography of the site.

- ***Principle 4: Density***

The sites location in close proximity to the Edgecliff Bus/Rail interchange may allow some flexibility in satisfying the off-street car parking space requirement for the site. There is infrastructure to cater for an increase in density in this location with particular regard to access to schools, shops and transport. However, the proposed development is excessive in scale and bulk and would provide insufficient open space both privately and publicly for the residents of the complex (refer to WRDCP 2003 assessment below). Accordingly, the density proposed is excessive in context to the site dimensions and with the context of the locality.

- ***Principle 5: Resource, energy and water efficiency***

The dwellings to the rear of the complex, particularly the lower level dwellings, would fail to satisfy the relevant requirements of SEPP 65 which have poor ventilation, solar access, outlook and access to open space (**refer to Annexure 2** - Urban Design Planners comments for further detailed assessment). The proposal is not a good design with regard to this principle.

- ***Principle 6: Landscape***

The proposed landscaping afforded to the sites would be inadequate with regard to Council's controls (refer to WRDCP 2003 assessment below). The location and extent of landscape areas proposed would be limited between the buildings which would be shaded, bounded in small corridors and would not sustain any substantial growth. The proposal is not a good design with regard to this principle.

- ***Principle 7: Amenity***

The dwellings to the front of the complex overlooking New South Head Road would have a good outlook and access to direct sunlight. The dwellings to the rear, particularly the lower level dwellings, would be primarily subterranean, with poor outlook, poor solar access, poor ventilation and limited access to private open space. The excessive scale and bulk of the development exacerbates the poor amenity created for these dwellings as the buildings would be too big for the site dimensions having regard to the topography of the area. The proposal is not a good design with regard to this principle (*refer to Annexure 2 - Urban Design Planners comments for further detailed assessment*).

- ***Principle 8: Safety and security***

The fenestration around the perimeter of the each building at ground level would provide a reasonable level of surveillance, safety and security for the residents and for the public. The proposal would satisfy this principle.

- ***Principle 9: Social dimensions and housing affordability***

The composition of dwelling types within the complex varies and would cater for different budgets and housing needs. The proposal would satisfy this principle.

- ***Principle 10: Aesthetics***

The development would be a contemporary design with suitable composition of building elements, textures, materials and colours that reflect its intended use. The proposal would satisfy this principle.

- **Residential Flat Design Code**

The proposal fails to satisfy the relevant considerations contained in the publication “Residential Flat Design Code”, with particular reference to Context, Site Design and Building Design. Council’s Urban Designer has provided further comments in relation to this matter (*refer to Annexure 2 - Urban Design Planners*).

10.2 REPs

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject development would blend into the urban landscape and would have no detrimental impact on the harbour or from any view from the waterways.

The proposal would have no detrimental impact on the wetlands or cause pollution or siltation of the waterway. It would not detrimentally impact on existing vegetation or drainage patterns and would not obstruct vistas of the waterway from the public domain.

The proposal would therefore satisfy the relevant criteria prescribed by the REP.

10.4 Other relevant legislation

None relevant.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

Statutory Compliance Table

Development Standards	Proposed	Control	Complies
Min. Site Area (m²) & Min. Lot Frontage (m)			
- Building A	591 & 25	930 & 21	NO & YES
- Building B	658 & 17	930 & 21	NO & NO
- Building C	708 & 26	930 & 21	NO & YES
- Building D	529 & 17	930 & 21	NO & NO
Overall Height (m)			
- Building A	17.9	18	YES
- Building B	19.4	18	NO
- Building C	18.91	9.5	NO
- Building D	11.93	9.5	NO
Floor Space Ratio / (m²)			
- Building A	2.46:1 (1455)	0.875:1 (517)	NO
- Building B	3.5:1 (2307)	0.875:1 (575)	NO
- Building C	3.14:1 (2227)	0.625:1 (443)	NO
- Building D	2.35:1 (1244)	0.625:1 (331)	NO

11.1 Aims and objectives of WLEP 1995 and zone (Clause 8(5))

The proposed development would be permissible and would be consistent with the aims and objectives prescribed for the zone.

However, the proposal is unsatisfactory in terms of Part 2 - Clause 8(5) as it would fail to satisfy the relevant objectives of the plan as follows:

- The proposed density of the sites would have a detrimental impact upon the existing road network, availability of parking, availability of public open space and the environmental qualities of the area. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(a)(ii).
- The lack of off-street car parking spaces provided would not improve the provision for car parking and would not reduce conflict between residents and visitor demand for car parking spaces in the surrounding residential area. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(d)(iv).
- The proposed size, location and use of driveways would not minimise conflict between pedestrians and vehicles. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(d)(v).
- Insufficient open space would be provided for the residents of the dwellings. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(e)(i).
- The proposal would fail to enhance the landscape qualities of the area by removing existing landscaping and providing insufficient area for planting of new trees and landscaping. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(f)(i), (ii) and (iii).

- The proposal would have an unreasonable impact on views of Sydney Harbour on existing residents and would not promote the practice of view sharing from surrounding properties. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(h)(iv).
- The scale and bulk of the development would be excessive together with the size, location and use of the driveway crossings would not enhance the attributes of the site or improve the quality of the public environment. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(k)(iii).

11.2 Site area and site frontage requirements

The site area and site frontage requirements for residential flat buildings apply to the subject development.

In relation to the minimum site area requirement, Buildings A, B, C and D would all breach the development standard. In response, the applicant has lodged a SEPP 1 objection to vary the development standard (see **Annexure 10**).

In relation to the minimum width allotment at the frontage, Buildings A and C would comply with the development standard and would satisfy the relevant objectives of that standard. Buildings B and D would breach the development standard. In response, the applicant has lodged a SEPP 1 objection to vary the development standard (see **Annexure 10**).

The following assessment of the SEPP 1 Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001).

The SEPP 1 Objection is assessed as follows:

i) Is the planning control in question a development standard?

The minimum site area and minimum width of the allotment at the frontage for residential flat buildings is a development standard under WLEP 1995.

ii) What is the underlying purpose of the standard?

The objectives of the site area and frontage development standard in Woollahra LEP 1995 are as follows:

- To achieve compatibility between the scale, density, bulk and landscape character of buildings and allotment size,*
- To provide sufficient space between buildings, to maximise daylight and sunlight access between buildings, to ensure adequate space for deep soil landscaping and to preserve view corridors,*
- To prevent permanent barriers to sub-surface water flows,*
- To ensure that there is sufficient land for car parking on site,*
- To encourage consolidation of allotments in appropriate locations to enable the development of a diversity of dwelling types.*

iii) Is non-compliance with the development standard consistent with the aims of the Policy, and in particular, would strict compliance with the development

standard tend to hinder the attainment of the objectives specified in S.5(a)(I) and (ii) of the EPA Act?

The proposed development is assessed against the objectives of the standard as follows:

Objective a) would not be satisfied as the proposal would not be compatible with development in the vicinity of the site and would fail to satisfy the future character objectives as well as the relevant envelope and landscaping controls prescribed by the WLEP 1995 and Woollahra Residential Development Control Plan 2003 (WRDCP 2003) as assessed below.

Objective b) would not be satisfied as there would be insufficient setback between the buildings to provide adequate sunlight, ventilation and outlook particularly to the dwellings located to the rear lower levels of the complex. The lack of setback between buildings would also result in non-compliance with the deep soil landscaped area requirements prescribed by WRDCP 2003 as assessed below. Furthermore, the lack of setback between buildings fails to provide sufficient view corridors for dwellings located to the rear of the subject site that front and have access from Edgecliff Road.

Objective c) would not be satisfied as the lack of sub-surface setbacks would result in permanent barriers to subsurface water flows. It would not be lawful for the development to rely on adjoining property to satisfy this objective.

Objective d) would not be satisfied as the development does not provide the minimum number of car parking spaces as prescribed by WRDCP 2003 (refer to assessment below).

Objective e) would be satisfied as the development provides for a diversity of dwelling types within the complex.

In relation to the objectives specified in S.5(a)(i) and (ii) of the EPA Act, they are as follows:

- 5(a)(i) *To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- 5(a)(ii) *To encourage the promotion and co-ordination of the orderly and economic use and development of land.*

Strict enforcement of the standard would not hinder the proper management of the site or the orderly and economic use and development of the land. The breach of the standard would be for the benefit of the owner of the site but would not be for the betterment of the environment as there would be detrimental environmental issues associated with the non-compliances as discussed, which would be contrary to the objectives prescribed by the EPA Act.

Having considered the arguments presented by the applicant in the SEPP 1 submission against the relevant objectives of the development standard contained in Woollahra LEP 1995, it is considered that the proposal would not uphold the objectives underlying the development standard.

iv) Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

Having regard to the objectives of the development standard contained in Woollahra LEP 1995, it is considered that strict compliance with this standard is reasonable and necessary in this case because:

- There are no exceptional circumstances to warrant a departure from the controls
- The proposal would be an overdevelopment of the site
- The proposal would be detrimental to the amenity of adjoining residents with regard to views, privacy and sense of enclosure
- The proposal would result in a development that would be contrary to the future character objectives and envelope controls prescribed by WRDCP 2003

v) *Is the objection well founded?*

In view of the above, the objection advanced by the applicant that compliance with the development standard is unreasonable and unnecessary is not well founded and it is considered that granting of development consent would be inconsistent with the aims and objectives of the development standard.

11.3 Height

Building A would comply with the maximum height development standard and would satisfy the relevant objectives of that standard.

Buildings B, C and D would breach the maximum height development standard. In response, the applicant has lodged a SEPP 1 objection to vary the development standard (see **Annexure 10**).

The following assessment of the SEPP 1 Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council*(NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council*(2001) NSW LEC 46 (6 April 2001).

The SEPP 1 Objection is assessed as follows:

i) *Is the planning control in question a development standard?*

The maximum building height is a development standard under WLEP 1995.

ii) *What is the underlying purpose of the standard?*

The objectives of the maximum building height development standard in Woollahra LEP 1995 are as follows:

- To minimise the impact of new development on existing views of the Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline;*
- To provide compatibility with the adjoining residential neighbourhood;*
- To safeguard visual privacy of interior and exterior living areas of neighbouring dwellings;*
- To minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing;*
- To maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes.*

iii) *Is non-compliance with the development standard consistent with the aims of the Policy, and in particular, would strict compliance with the development standard tend to hinder the attainment of the objectives specified in S.5(a)(i) and (ii) of the EPA Act?*

The proposed development is assessed against the objectives of the standard as follows:

Objective a) would not be satisfied as those parts of the development that extend above the height limit would impact on existing views from adjoining property particularly Buildings C and D. The proposal therefore fails to satisfy the relevant objective of the standard as it would not minimise impact on existing views (refer view analysis below).

Objective b) would be satisfied as the height of development in the immediate vicinity of the sites varies ranging from 2 to 8 storey development. The height of the development would be compatible with the adjoining residential neighbourhood.

Objective c) would not be satisfied as the fenestration and balconies to the dwellings to the rear of the development, particularly Buildings C and D that extend above the height control and when coupled with the non-compliant setback controls prescribed by WRDCP 2003 (refer to assessment below), would not safeguard the visual privacy of adjoining property particularly to their dormitories and private living areas.

Objective d) would be satisfied as it would not be a result of the non-compliant height of the development that causes overshadowing of exterior open spaces of dwellings immediately adjoining to the south, but rather the lack of setback of the development from the rear boundary (refer to WRDCP 2003 assessment below).

Objective e) would be satisfied as the development would maintain views of the harbour from the public domain.

In relation to the objectives specified in S.5(a)(i) and (ii) of the EPA Act, they are as follows:

- 5(a)(i) *To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- 5(a)(ii) *To encourage the promotion and co-ordination of the orderly and economic use and development of land.*

Strict enforcement of the height control in this instance would not hinder the proper management of the site or the orderly and economic use and development of the land. The additional height of the building would be for the benefit of the owner of the site but would not be for the betterment of the environment as there would be detrimental environmental issues associated with the non-compliance as discussed, which would be contrary to the objectives prescribed by the EPA Act.

Having considered the arguments presented by the applicant in the SEPP 1 submission against the relevant objectives of the development standard contained in Woollahra LEP 1995, it is considered that the proposal would not uphold the objectives underlying the development standard.

iv) Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

Having regard to the objectives of the development standard contained in Woollahra LEP 1995, it is considered that strict compliance with this standard is reasonable and necessary in this case because:

- There are no exceptional circumstances to warrant a departure from the controls

- The proposal would be an overdevelopment of the site
- The proposed height of the development would be detrimental to the amenity of adjoining residents with regard to views and privacy and sense of enclosure
- The proposal would result in a development that would be contrary to the future character objectives and envelope controls prescribed by WRDCP 2003

v) *Is the objection well founded?*

In view of the above, the objection advanced by the applicant that compliance with the development standard is unreasonable and unnecessary is not well founded and it is considered that granting of development consent would be inconsistent with the aims and objectives of the development standard.

11.4 Floor space ratio

Buildings A, B, C and D would all breach the maximum floor space ratio development standard. In response, the applicant has lodged a SEPP 1 objection to vary the development standard (see **Annexure 10**).

The following assessment of the SEPP 1 Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001).

The SEPP 1 Objection is assessed as follows:

i) *Is the planning control in question a development standard?*

The maximum floor space ratio is a development standard under WLEP 1995.

ii) *What is the underlying purpose of the standard?*

The objectives of the maximum floor space ratio development standard in Woollahra LEP 1995 are as follows:

- To set the maximum density for new development,*
- To control building density, bulk and scale in all residential and commercial localities in the area in order to achieve the desired future character objectives of those localities,*
- To minimise adverse environmental effect on the use of enjoyment, or both, of adjoining properties, and*
- To relate new development to the existing character of surrounding built and natural environment as viewed from the streetscape, the harbour or any other panoramic viewing point.*

iii) *Is non-compliance with the development standard consistent with the aims of the Policy, and in particular, would strict compliance with the development standard tend to hinder the attainment of the objectives specified in s.5(a)(i) and (ii) of the EPA Act?*

The proposed development is assessed against the objectives of the standard as follows:

Objective a) would not be satisfied as the density of the sites would excessively exceed what the standard anticipates. Having regard to the non-compliance with the off-street car

parking, deep soil landscaped area and private open space controls and objectives prescribed by WRDCP 2003 (refer to assessment below), the proposal would be an over-development of the sites.

The applicant's SEPP 1 argues that the development is consistent with the scale and character of development in the area. However, this section of Double Bay has varying forms of development, some of which were constructed before the implementation of the development standard. These surrounding developments are proportional to their respective site areas. The subject development is excessive in relation to its site dimensions. In addition, there is no prevailing scale of development to which consistency can apply as Double Bay has varying forms of development.

Objective b) would not be satisfied as the proposed development would be an over-development of the site that is reflected in the non-compliance with the envelope controls prescribed by the WLEP and by WRDCP 2003 (refer assessment below). The non-compliance with the envelope controls result in a development that would not reinforce the precincts landform and landscape qualities contrary to the desired future character objectives for the precinct.

Objective c) would not be satisfied as the additional scale and bulk of the building would result in an enlarged building envelope which would detrimentally impact on the amenity of adjoining residents with regard to sense of enclosure, privacy and views (refer to assessment below).

Objective d) would not be satisfied as the siting of the development would not be consistent with the character of the existing built environment which has building setbacks proportional to the site area and proportional to the scale of the development thereon.

In relation to the objectives specified in S.5(a)(i) and (ii) of the EPA Act, they are as follows:

- 5(a)(i) *To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- 5(a)(ii) *To encourage the promotion and co-ordination of the orderly and economic use and development of land.*

Strict enforcement of the floor space control in this instance would not hinder the proper management of the site or the orderly and economic use and development of the land. The additional floor space would be for the benefit of the owner of the site but would not be for the betterment of the environment as there would be detrimental environmental issues associated with the non-compliance as discussed, which would be contrary to the objectives prescribed by the EPA Act.

Having considered the arguments presented by the applicant in the SEPP 1 submission against the relevant objectives of the development standard contained in Woollahra LEP 1995, it is considered that the proposal would not uphold the objectives underlying the development standard.

iv) Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

Having regard to the objectives of the development standard contained in Woollahra LEP 1995, it is considered that strict compliance with this standard is reasonable and necessary in this case because:

- There are no exceptional circumstances to warrant a departure from the controls
- The siting of the development, particularly from New South Head Road, would be detrimental to the streetscape and the character of the area
- The development would result in unreasonable impacts on the amenity of adjoining residents with regard to sense of enclosure, privacy, scale, bulk and views
- The proposal would be an overdevelopment of the site
- The proposal would result in a development that would be contrary to the future character objectives and envelope controls prescribed by WRDCP 2003

v) *Is the objection well founded?*

In view of the above, the objection advanced by the applicant that compliance with the development standard is unreasonable and unnecessary is not well founded and it is considered that granting of development consent would be inconsistent with the aims and objectives of the development standard.

11.6 Other special clauses/development standards

Clause 18 Excavation: The proposed development involves substantial excavation of Nos. 315, 317 and 321 New South Head Road to facilitate basement car parking as well as levelling the rear of these sites to accommodate habitable area. The depth of excavation would range between 7 and 14 metres below natural ground level.

There is no basement level proposed or excavation depth greater than 1.5metres for No.327 New South Head Road.

A geotechnical investigation report was prepared by Douglas Partners. The report indicates further testing would be required pending demolition of existing structures on the sites to enable access for drilling equipment. The preliminary testing undertaken was via Cone Penetrometer Test (CPT) and Dynamic Penetrometer Tests (DPT).

The testing revealed a variety of foundation types ranging from loose sand on the surface to high strength sandstone bedrock both visible and at lower levels.

There was no groundwater observed during the field work undertaken on any of the sites.

The investigation revealed that there were no mitigating circumstances associated with the excavation of the site from an engineering perspective that would warrant refusal of the application subject to appropriate excavation methodologies being employed and pending further testing upon demolition of existing structures on the sites to enable further testing.

In relation to the provisions of Clause 18, the proposal is assessed as follows:

The **temporary amenity impacts** are assessed as follows:

Noise: The excavation process will involve noise impacts from rock breaking machinery and from the transportation of the excavated material. Conditions could be implemented to limit the hours when excavation may occur and the duration of the excavation process.

Vibrations: The geotechnical investigation report provides no information on this issue pending further testing. Conditions could be implemented to ensure that the proposal will be monitored to ensure a reasonable tolerance of vibration is achieved.

Dilapidation reports would need to be undertaken on all adjoining property before any demolition or excavation is undertaken.

Dust: Conditions could be provided to ensure dust will be mitigated to minimise impact on adjoining properties.

Erosion: Best practice techniques to control erosion from the site could be implemented as well as preparation of an erosion and sediment control plan.

Support to existing land and building both within the site and neighbouring site: The geotechnical investigation indicates no on-going issue with support of adjacent buildings due to the foundation material and subject to appropriate shoring techniques pending recommendations following further testing.

Ground Water: The geotechnical investigation report indicates that there will be no on-going intermittent water seepage of the sites. The drainage system for the site could cater for any groundwater seepage.

On-site processing of excavated materials: It is not proposed to process excavated material on-site.

The **permanent amenity impacts** of the proposed excavation are assessed as follows:

Landform: The proposal would alter the natural landform outside the proposed building footprint particularly to the rear of the sites.

Support to existing land and building both within the site and neighbouring site: Pending appropriate engineering techniques are employed the development could have a high level of geotechnical stability across the site.

Ground water levels: Further testing would be required to ascertain if the development would adversely impact on ground water level. The lack of setback at the basement level may impede groundwater flow.

Conclusion: The extent of excavation proposed together with the type of foundation material would detrimentally impact on the amenity of the neighbourhood with respect to noise, vibration as well as alteration to the natural landform. The proposed excavation would fail to satisfy the relevant criteria prescribed by Clause 18.

Clause 19 HFSPA: The proposal is acceptable in terms of Clause 19(2).

Clause 24 Land adjoining public open space: The proposal is acceptable in terms of Clause 24(2).

Clause 25 Water, wastewater and stormwater: The proposal would satisfy the relevant criteria prescribed by Clause 25(2).

Clause 25D Acid Sulfate Soils: The proposed works do not require the need for an assessment of acid sulfate soils under clause 25D of Woollahra LEP 1995.

Clauses 26-33 Heritage and conservation area provisions: All the buildings on the 4 sites have undergone alterations and additions throughout their history. Their original form is visible however most of the original building fabric has either been removed or altered. The extent of modifications undertaken on these buildings and their grounds would result in these buildings failing to satisfy the relevant criteria for listing as Heritage Items and therefore could be demolished.

The sites are not located within or adjoin a heritage conservation area nor are they in close proximity to any identified heritage items.

Council's Heritage Officer has recommended that the buildings and the sandstone retaining wall on Nos.315 and 327 New South Head Road should be retained and adapted into any future design. The recommendations of Council's Heritage Officer are not supported in this instance (**refer to Annexure 4** for Heritage Officers detailed comments and assessment).

The proposal is acceptable in terms of Clause 26-32.

12. DRAFT AMENDMENTS TO STATUTORY CONTROLS

None relevant.

13. DEVELOPMENT CONTROL PLANS

13.1 Woollahra Residential Development Control Plan 2003

Each site is assessed independently against the relevant criteria prescribed by the RDCP as follows:

13.1.1 BUILDING A

Numeric Compliance Table

Site Area: 591m ²	Proposed	Control	Complies
Maximum Number of Storeys	6	6	YES
Building Boundary Setbacks (m)			
Front (N)	0 - 2	0 - 2	YES
Rear (S)	7.6	7.9	NO
Side (E)			
- Lower Ground Floor	0	2.5	NO
- Ground Floor	0	2.5	NO
- First Floor	0	4	NO
- Second Floor	0	5.5	NO
- Third Floor	0	7	NO
- Fourth Floor	0	8.5	NO
Side (W)			
- Lower Ground Floor	0.5	2.5	NO

Site Area: 591m²	Proposed	Control	Complies
- Ground Floor	1.5	2.5	NO
- First Floor	1.5	3	NO
- Second Floor	1.5	4.5	NO
- Third Floor	1.5	6	NO
- Fourth Floor	2	7.5	NO
Setback from Significant Mature Trees (m)	>3	3	YES
Building Footprint (m ²)	62% (364)	40% (236)	NO
Floor to Ceiling Height Habitable Rooms (m)	2.7	2.7	YES
Maximum Unarticulated Length to Street (m)	<6	6	YES
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	>2	2	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3	3	YES
Excavation Piling and Subsurface Wall Setback (m)	0	1.5	NO
Deep Soil Landscaping (m ²)	31% (181)	40% (236)	NO
Deep Soil Landscaping Front Setback			
- Front Setback (m ²)	40% (25)	40% (25)	YES
- Consolidated Area (m ²)	15	20	NO
Private Open Space			
- Upper Floor Units (m ²)	<8	8	NO
- Min dimension (metres)	<2	2	NO
Front Fence Height (m)	>1.2 or 1.5m where 50% transparent	1.2 or 1.5m where 50% transparent	NO
Side and Rear Fence Height (m)	N/A	1.8	N/A
Dwelling composition of RFB			
- Single Aspect Dwellings	<25%	25%	YES
- Max. Depth (m)	<8	8	YES
- Kitchen setback (m)	<8	8	YES
- Width of Cross-through >15m Min.(m)	>4	4	YES
Height of Chimneys/Flues (m)	>1	>1	YES
Setback of Bedroom Windows from Streets/Parking Areas of Other Dwellings (m)	>3	3	YES
Car Parking Excavation	Within Building Footprint	Within Building Footprint	YES
Location of Garages and Car Parking Structures	Forward Front Setback	Forward Front Setback	YES
Garage Frontage on High Side of Street			
- Width (m)	9	6	NO
- Height (m)	<2.5	2.5	YES
Car Parking Spaces			
- 1 x Bedroom	Car parking spaces have not been allocated to specific dwellings. Total provided 16	9	NO
- 2 x Bedroom		7.5	
- 3 x Bedroom		2	
- Visitor		4	
- Car Wash Bays		1	
Total Spaces Required		24	

Site Area: 591m²	Proposed	Control	Complies
Minimum Access Driveway Width (m)	>6	3.5 – 6	NO
Access Driveway Grades - Overall - Transitional	<15% <12%	15% 12%	YES YES
Area of Lockable Storage Spaces per Dwelling (m ³)	<8m³	8	NO

Desired future precinct character objectives and performance criteria (Wollaroy Precinct)

- ***Precinct character***

The proposal would not provide sufficient landscaping to enhance the precincts landform and landscape qualities.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- ***Views and vistas***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Building footprint***

The proposal would fail to comply with the maximum building footprint control prescribed for the site resulting in a development that would not relate to the landform and landscape qualities of the topography.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- ***Side boundary setbacks***

The proposal would fail to comply with the minimum side setback control resulting in a form and scale of development that would be excessive in context to its surrounds and provide unreasonable separation between buildings. The form of the development would be uncharacteristic and inconsistent with the predominant side setback of development in this locality and would result in an unreasonable sense of enclosure for development immediately adjoining.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- ***Location of garages***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Front Setback***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Building height - storeys***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Roof form***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Street landscape***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Front fences**

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Deep soil landscape at the frontage**

The proposal provides sufficient DSL at the frontage but fails to provide the minimum in a consolidated area to enable for significant planting to be provided. The proposal could be modified to comply with the control. The proposal, as presented, fails to satisfy the relevant criteria prescribed by the DCP.

- **Building articulation**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building form**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Significant vegetation**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Streetscape

- **Street character**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Pedestrian environment**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Building size and location performance criteria

- **Development setbacks**

The front setback would comply with the minimum requirement prescribed by the DCP.

There is a small non-compliance with the rear setback control (A/C Unit enclosure). The proposal could be modified to ensure compliance with the control. However, as presented, fails to satisfy the relevant criteria prescribed by the DCP.

- **Building form and scale**

Neighbouring properties have raised concern regarding overshadowing from the proposed development. The shadow diagrams submitted indicate that adjoining property would receive the minimum amount of solar access to both its private open space (as defined) and north facing windows in accordance with the relevant criteria prescribed by the DCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- **Site excavation**

The proposed excavation is excessive and would fail to comply with the minimum excavation setback requirement prescribed by the DCP. The proposed excavation is a result of an overdevelopment of the site which is reflective of the non-compliances with the statutory controls for density of the site. Additionally, the proposed excavation would result in the rear lower ground floor dwellings being subterranean.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Open space and landscaping

- ***Private and communal open space***

Insufficient deep soil landscaped area has been provided to the site.

The balconies to the dwellings are insufficient in size to provide adequate private open space for the residents of the dwellings. The lack of setback between the buildings compounds the lack of private open space for the dwellings located to the rear of the building by providing an unreasonable sense of enclosure as well as lack of sunlight, cross-ventilation and outlook.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Fences and Walls

- ***Side and rear fences and walls***

No information has been provided regarding boundary fencing for the site. Notwithstanding, a condition could be incorporated into the recommendation should development consent be granted.

Subject to conditions, the proposal could satisfy the relevant criteria prescribed by the DCP.

- ***Materials***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Topography***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Views

- ***Public views***

The proposal would have no impact on public views and would satisfy the relevant criteria prescribed by the DCP.

- ***Private views***

The assessment of private views has been undertaken as a holistic approach over the entire development inclusive of Buildings A, B, C and D as follows:

The proposal would have some form of impact on private views from dwellings within the buildings located to the rear of the subject site which front Edgecliff Road. The view impact from these dwellings would be from:

- No.359 Edgecliff Road
- No.361 Edgecliff Road
- No.363 Edgecliff Road
- No.365 Edgecliff Road

There would also be some form of view impact from properties located to the rear of the subject sites that are accessed from New South Head Road. The view impact from these dwellings would be from:

- No.319 New South Head Road
- No.325 New South Head Road

The Land & Environment Court, in *Tenacity Consulting Pty Ltd V Warringah Council* (2004), adopted a four-step assessment of view sharing. These steps are as follows:

1. *What is the value of the view?*

The private views from the dwellings would be of the suburb of Double Bay in the foreground and of Sydney Harbour and the lower north shore in the background.

2. *From what part of the property the views are obtained?*

The views are obtained from the primary living areas, dining room, kitchen, bedrooms and balconies of the dwellings.

The views are obtained over the subject sites.

3. *What is the extent of the impact?*

From the lower level dwellings on Edgecliff Road, the view impact would be devastating.

From the mid level dwellings on Edgecliff Road, the view impact would be moderate.

From the upper level dwellings on Edgecliff Road, the view impact would be negligible.

From the lower level dwellings on New South Head Road, the view impact would moderate.

From the upper level dwellings on New South Head Road, the view impact would negligible.

4. *What is the reasonableness of the proposal that is causing the impact?*

Buildings C and D and only a small section to the front of Building B would exceed the statutory height development standard prescribed by the LEP. Building A would comply with the statutory height development standard.

Buildings A, B, C and D would all exceed the maximum FSR development standard prescribed by the LEP and would all exceed the building envelope controls prescribed by the RDCP, particularly the setback controls.

Those parts of Buildings A and B that would affect views from dwellings to the rear that have their frontages and are accessed from Edgecliff Road would comply with the maximum height development standard prescribed by the LEP. Some form of view loss would be anticipated from any development that would comply with the maximum height development standard and compliant building envelope controls by virtue of the orientation of the subject and adjoining sites and the location of existing development on adjoining sites.

However, it is the non-complying elements of the subject buildings, being the envelope controls as mentioned above, that result in additional view loss from dwellings to the rear of the subject sites particularly as the development fails to provide any substantial view corridors between the buildings and fails to provide equitable access to view sharing.

Due to the severity of the non-complying building elements, the proposal would fail to satisfy the criteria set out by the Court and would fail to satisfy the relevant criteria prescribed by the RDCP.

Energy efficiency performance criteria

- **Residential flat buildings**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Solid fuel heaters**
The proposal would satisfy the relevant criteria prescribed by the DCP.

Stormwater management

- **Stormwater disposal**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Multiple use of drainage areas**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Water conservation**
The proposal would satisfy the relevant criteria prescribed by the DCP.

Acoustic and visual privacy

- **Acoustic privacy**
Insufficient separation has been provided to ensure a reasonable level of privacy is afforded between dwellings.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.
- **Visual privacy**
Insufficient separation has been provided to ensure a reasonable level of privacy is afforded between dwellings.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Car parking and driveways

- **Site excavation**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **On-site car parking**
The proposal would fail to provide the minimum number of off-street car parking spaces required to cater for the density of the development.

The availability of public transport in the immediate vicinity of the site at Edgecliff bus/rail interchange may warrant dispensation with providing the minimum required off-street car

parking spaces for the site. However, due to the extent of non-compliances associated with the density and envelope controls for the sites does not warrant any further consideration of this issue.

Accordingly, the proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

- **Streetscape considerations**

The proposed driveway width and its presentation would be excessive and would dominate the streetscape.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Surface design**

The proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

Site facilities

- **Provision and appearance of facilities**

Insufficient storage area would be provided for the dwellings which would fail to satisfy the relevant criteria prescribed by the DCP.

Details of roof cowls have not been provided. The roof cowls would be a necessity on the roof in order for the building to function as exhaust fumes must discharge vertically. Provided the cowls are appropriately treated (ie. colour, screening), they would satisfy the relevant objectives prescribed by the DCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- **Accessibility and function**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Access and mobility performance criteria (Section 5.13)

- **Performance criteria**

The proposal would satisfy the relevant criteria prescribed by the DCP.

13.1.2 BUILDING B

Numeric Compliance Table

Site Area: 658m ²	Proposed	Control	Complies
Maximum Number of Storeys	6	6	YES
Building Boundary Setbacks (m)			
Front (N)	1	0 - 2	YES
Rear (S)	2	8.9	NO
Side (E)			
- Lower Ground Floor	(subterranean)	N/A	N/A
- Ground Floor	1.7	1.5	YES

Site Area: 658m²	Proposed	Control	Complies
- First Floor	1.5	3	NO
- Second Floor	1.5	4.5	NO
- Third Floor	1.5	6	NO
- Fourth Floor	1.5	7.5	NO
- Fifth Floor	1.5	9	NO
Side (W)			
- Lower Ground Floor	0	1.5	NO
- Ground Floor	2	1.5	YES
- First Floor	2	3	NO
- Second Floor	2	4.5	NO
- Third Floor	2	6	NO
- Fourth Floor	2	7.5	NO
- Fifth Floor	2	9	NO
Setback from Significant Mature Trees (m)	<3	3	NO
Building Footprint (m ²)	63% (415)	40% (263)	NO
Floor to Ceiling Height Habitable Rooms (m)	2.7	2.7	YES
Maximum Unarticulated Length to Street (m)	<6	6	YES
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	>2	2	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3	3	YES
Excavation Piling and Subsurface Wall Setback (m)	0	1.5	NO
Deep Soil Landscaping (m ²)	12% (82)	40% (263)	NO
Deep Soil Landscaping Front Setback			
- Front Setback (m ²)	40% (>14)	40% (14)	YES
- Consolidated Area (m ²)	>20	20	YES
Private Open Space			
- Upper Floor Units (m ²)	<8	8	NO
- Min dimension (metres)	<2	2	NO
Front Fence Height (m)	<1.2 or 1.5m where 50% transparent	1.2 or 1.5m where 50% transparent	YES
Side and Rear Fence Height (m)	N/A	1.8	N/A
Dwelling composition of RFB			
- Single Aspect Dwellings	<25%	25%	YES
- Max. Depth (m)	<8	8	YES
- Kitchen setback (m)	<8	8	YES
- Width of Cross-through >15m Min.(m)	>4	4	YES
Height of Chimneys/Flues (m)	1.5	1	NO
Setback of Bedroom Windows from Streets/Parking Areas of Other Dwellings (m)	<3	3	NO
Car Parking Excavation	Within Building Footprint	Within Building Footprint	YES
Location of Garages and Car Parking Structures	Behind Front Setback	Behind Front Setback	YES
Car Parking Spaces			
- 1 x Bedroom (including studios)	Car parking spaces have not been	8	NO

Site Area: 658m ²	Proposed	Control	Complies
- 2 x Bedroom - Visitor - Car Wash Bays Total Spaces Required	allocated to specific dwellings. Total provided 23	16 6 2 32	
Minimum Access Driveway Width (m)	3.5 - 6	3.5 – 6	YES
Access Driveway Grades - Overall - Transitional	<15% <12%	15% 12%	YES YES
Area of Lockable Storage Spaces per Dwelling (m ³)	<8m³	8	NO

Desired future precinct character objectives and performance criteria (Wollaroy Precinct)

- **Precinct character**

The proposal would not provide sufficient landscaping to enhance the precincts landform and landscape qualities.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Views and vistas**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building footprint**

The proposal would fail to comply with the maximum building footprint control prescribed for the site resulting in a development that would not relate to the landform and landscape qualities of the topography.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Side boundary setbacks**

The proposal would fail to comply with the minimum side setback control resulting in a form and scale of development that would be excessive in context to its surrounds and provide unreasonable separation between buildings. The form of the development would be uncharacteristic and inconsistent with the predominant side setback of development in this locality and would result in an unreasonable sense of enclosure for development immediately adjoining.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Location of garages**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Front Setback**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building height - storeys**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Roof form**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Street landscape**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Front fences**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Deep soil landscape at the frontage**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Building articulation**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Building form**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Significant vegetation**
The proposal would satisfy the relevant criteria prescribed by the DCP.

Streetscape

- **Street character**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Pedestrian environment**
The proposal would satisfy the relevant criteria prescribed by the DCP.

Building size and location performance criteria

- **Development setbacks**
The front setback would comply with the minimum requirement prescribed by the DCP.

The proposed setbacks would detrimentally impact on significant trees located on adjoining property.

The proposal would fail to comply with the minimum rear and side setback controls and would fail to satisfy the relevant objectives of those controls.

- **Building form and scale**
Neighbouring properties have raised concern regarding overshadowing from the proposed development. The shadow diagrams submitted indicate that adjoining property would receive the minimum amount of solar access to both its private open space (as defined) and north facing windows in accordance with the relevant criteria prescribed by the RDCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- **Site excavation**
The proposed excavation is excessive and would fail to comply with the minimum excavation setback requirement prescribed by the DCP. The proposed excavation is a result of an overdevelopment of the site which is reflective of the non-compliances with

the statutory controls for density of the site. Additionally, the proposed excavation would result in the rear lower ground floor dwellings being subterranean.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Open space and landscaping

- ***Private and communal open space***

Insufficient deep soil landscaped area has been provided to the site.

The balconies to the dwellings are insufficient in size to provide adequate private open space for the dwellings. The lack of setback between the buildings compounds the lack of private open space to the dwellings to the rear by providing an unreasonable sense of enclosure as well as lack of sunlight, cross-ventilation and outlook.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Fences and Walls

- ***Side and rear fences and walls***

No information has been provided regarding boundary fencing for the site. Notwithstanding, a condition could be incorporated into the recommendation should development consent be granted.

Subject to conditions, the proposal could satisfy the relevant criteria prescribed by the DCP.

- ***Materials***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Topography***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Views

- ***Public views***

The proposal would have no impact on public views and would satisfy the relevant criteria prescribed by the DCP.

- ***Private views***

The assessment of private views has been undertaken as a holistic approach over the entire development inclusive of Buildings A, B, C and D as follows:

The proposal would have some form of impact on private views from dwellings within the buildings located to the rear of the subject site which front Edgecliff Road. The view impact from these dwellings would be from:

- No.359 Edgecliff Road
- No.361 Edgecliff Road
- No.363 Edgecliff Road
- No.365 Edgecliff Road

There would also be some form of view impact from properties located to the rear of the subject sites that are accessed from New South Head Road. The view impact from these dwellings would be from:

- No.319 New South Head Road
- No.325 New South Head Road

The Land & Environment Court, in *Tenacity Consulting Pty Ltd V Warringah Council* (2004), adopted a four-step assessment of view sharing. These steps are as follows:

1. *What is the value of the view?*

The private views from the dwellings would be of the suburb of Double Bay in the foreground and of Sydney Harbour and the lower north shore in the background.

2. *From what part of the property the views are obtained?*

The views are obtained from the primary living areas, dining room, kitchen, bedrooms and balconies of the dwellings.

The views are obtained over the subject sites.

3. *What is the extent of the impact?*

From the lower level dwellings on Edgecliff Road, the view impact would be devastating.

From the mid level dwellings on Edgecliff Road, the view impact would be moderate.

From the upper level dwellings on Edgecliff Road, the view impact would be negligible.

From the lower level dwellings on New South Head Road, the view impact would moderate.

From the upper level dwellings on New South Head Road, the view impact would negligible.

4. *What is the reasonableness of the proposal that is causing the impact?*

Buildings C and D and only a small section to the front of Building B would exceed the statutory height development standard prescribed by the LEP. Building A would comply with the statutory height development standard.

Buildings A, B, C and D would all exceed the maximum FSR development standard prescribed by the LEP and would all exceed the building envelope controls prescribed by the RDCP, particularly the setback controls.

Those parts of Buildings A and B that would affect views from dwellings to the rear that have their frontages and are accessed from Edgecliff Road would comply with the maximum height development standard prescribed by the LEP. Some form of view loss would be anticipated from any development that would comply with the maximum height development standard and compliant building envelope controls by virtue of the orientation of the subject and adjoining sites and the location of existing development on adjoining sites.

However, it is the non-complying elements of the subject buildings, being the envelope controls as mentioned above, that result in additional view loss from dwellings to the rear of the subject sites particularly as the development fails to provide any substantial view corridors between the buildings and fails to provide equitable access to view sharing.

Due to the severity of the non-complying building elements, the proposal would fail to satisfy the criteria set out by the Court and would fail to satisfy the relevant criteria prescribed by the RDCP.

Energy efficiency performance criteria

- ***Residential flat buildings***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Solid fuel heaters***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Stormwater management

- ***Stormwater disposal***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Multiple use of drainage areas***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Water conservation***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Acoustic and visual privacy

- ***Acoustic privacy***

Insufficient separation has been provided between the buildings to ensure a reasonable level of privacy is afforded to the subject dwellings and to adjoining property.

Additionally, the east facing bedrooms of the dwellings would be setback less than 3metres from an adjoining driveway and parking area.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- ***Visual privacy***

Insufficient separation has been provided between the buildings to ensure a reasonable level of privacy is afforded to the subject dwellings and to adjoining property.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Car parking and driveways

- **Site excavation**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **On-site car parking**

The proposal would fail to provide the minimum number of off-street car parking spaces required to cater for the density of the development.

The availability of public transport in the immediate vicinity of the site at Edgecliff bus/rail interchange may warrant dispensation with providing the minimum required off-street car parking spaces for the site. However, due to the extent of non-compliances associated with the density and envelope controls for the sites does not warrant any further consideration of this issue.

Accordingly, the proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

- **Streetscape considerations**

The proposed driveway width and its presentation would be excessive and would dominate the streetscape.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Surface design**

The proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

Site facilities

- **Provision and appearance of facilities**

Insufficient storage area would be provided for the dwellings which would fail to satisfy the relevant criteria prescribed by the DCP.

Details of roof cowls have not been provided. The roof cowls would be a necessity on the roof in order for the building to function as exhaust fumes must discharge vertically. Provided the cowls are appropriately treated (ie. colour, screening), they would satisfy the relevant objectives prescribed by the DCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- **Accessibility and function**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Access and mobility performance criteria (Section 5.13)

- **Performance criteria**

The proposal would satisfy the relevant criteria prescribed by the DCP.

13.1.3 BUILDING C

Numeric Compliance Table

Site Area: 708m²	Proposed	Control	Complies
Maximum Number of Storeys	6	3	NO
Building Boundary Setbacks (m)			
Front (N)	2	0-2	YES
Rear (S)	2.2	8	NO
Side (E)			
- Lower Ground Floor	1.5	2.5	NO
- Ground Floor	1.5	2.5	NO
- First Floor	1.5	3.5	NO
- Second Floor	1.5	5	NO
- Third Floor	1.5	6.5	NO
- Fourth Floor	1.5	8	NO
- Fifth Floor	7.2	9.5	NO
Side (W)			
- Lower Ground Floor	4.5	2.5	YES
- Ground Floor	1	3	NO
- First Floor	1	3	NO
- Second Floor	1	4.5	NO
- Third Floor	1	6	NO
- Fourth Floor	1	7.5	NO
- Fifth Floor	1	9	NO
Setback from Significant Mature Trees (m)	>3	3	YES
Building Footprint (m ²)	62% (440)	35% (248)	NO
Floor to Ceiling Height Habitable Rooms (m)	2.7	2.7	YES
Maximum Unarticulated Length to Street (m)	<6	6	YES
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	>2	2	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3	3	YES
Excavation Piling and Subsurface Wall Setback (m)	0.75	1.5	NO
Deep Soil Landscaping (m ²)	17% (120)	40% (283)	NO
Deep Soil Landscaping Front Setback			
- Front Setback (m ²)	>40% (>21)	40% (21)	YES
- Consolidated Area (m ²)	>20	20	YES
Private Open Space			
- Upper Floor Units (m ²)	<8	8	NO
- Min dimension (metres)	<2	2	NO
Front Fence Height (m)	<1.2 or 1.5m where 50% transparent	1.2 or 1.5m where 50% transparent	YES
Side and Rear Fence Height (m)	N/A	1.8	N/A
Dwelling composition of RFB			
- Single Aspect Dwellings	<25%	25%	YES
- Max. Depth (m)	<8	8	YES
- Kitchen setback (m)	<8	8	YES
- Width of Cross-through >15m Min.(m)	>4	4	YES
Height of Chimneys/Flues (m)	>1	>1	YES

Site Area: 708m²	Proposed	Control	Complies
Setback of Bedroom Windows from Streets/Parking Areas of Other Dwellings (m)	<3	3	NO
Car Parking Excavation	Within Building Footprint	Within Building Footprint	YES
Location of Garages and Car Parking Structures	Behind Front Setback	Behind Front Setback	YES
Car Parking Spaces - 1 x Bedroom (including studios) - 2 x Bedroom - 3 x Bedroom - Visitor - Car Wash Bays Total Spaces Required	Car parking spaces have not been allocated to specific dwellings. Total provided 20	1 17 10 7 2 37	NO
Minimum Access Driveway Width (m)	6	6 - 9	YES
Access Driveway Grades - Overall - Transitional	<15% <12%	15% 12%	YES YES
Area of Lockable Storage Spaces per Dwelling (m ³)	<8m³	8	NO

Desired future precinct character objectives and performance criteria (Wollaroy Precinct)

- **Precinct character**

The proposal would not provide sufficient landscaping to enhance the precincts landform and landscape qualities.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Views and vistas**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building footprint**

The proposal would fail to comply with the maximum building footprint control prescribed for the site resulting in a development that would not relate to the landform and landscape qualities of the topography.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Side boundary setbacks**

The proposal would fail to comply with the minimum side setback control resulting in a form and scale of development that would be excessive in context to its surrounds and provide unreasonable separation between buildings. The form of the development would be uncharacteristic and inconsistent with the predominant side setback of development in this locality and would result in an unreasonable sense of enclosure for development immediately adjoining.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Location of garages**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Front Setback**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building height - storeys**

The proposal, coupled with the non-compliance with the maximum statutory height development standard prescribed by the WLEP 1995, would fail to satisfy the relevant criteria prescribed by the DCP.

- **Roof form**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Street landscape**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Front fences**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Deep soil landscape at the frontage**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building articulation**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building form**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Significant vegetation**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Streetscape

- **Street character**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Pedestrian environment**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Building size and location performance criteria

- **Development setbacks**

The front setback would comply with the minimum requirement prescribed by the DCP.

The proposed setbacks would detrimentally impact on significant trees located on adjoining property.

The proposal fails to comply with the minimum rear and the minimum side setback controls and would fail to satisfy the relevant objectives of those controls.

- **Building form and scale**

Neighbouring properties have raised concern regarding overshadowing from the proposed development. The shadow diagrams submitted indicate that adjoining property would receive the minimum amount of solar access to both its private open space and north facing windows in accordance with the relevant criteria prescribed by the RDCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- **Site excavation**

The proposed excavation is excessive and would fail to comply with the minimum excavation setback requirement prescribed by the DCP. The proposed excavation is a result of an overdevelopment of the site which is reflective of the non-compliances with the statutory controls for density of the site. Additionally, the proposed excavation would result in the rear lower ground floor dwellings being subterranean.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Open space and landscaping

- **Private and communal open space**

Insufficient deep soil landscaped area has been provided to the site.

The balconies to the dwellings are insufficient in size to provide adequate private open space for the dwellings. The lack of setback between the buildings compounds the lack of private open space to the dwellings to the rear by providing an unreasonable sense of enclosure as well as lack of sunlight, cross-ventilation and outlook.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Fences and Walls

- **Side and rear fences and walls**

No information has been provided regarding boundary fencing for the site. Notwithstanding, a condition could be incorporated into the recommendation should development consent be granted.

Subject to conditions, the proposal could satisfy the relevant criteria prescribed by the DCP.

- **Materials**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Topography**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Views

- **Public views**

The proposal would have no impact on public views and would satisfy the relevant criteria prescribed by the DCP.

- **Private views**

The assessment of private views has been undertaken as a holistic approach over the entire development inclusive of Buildings A, B, C and D as follows:

The proposal would have some form of impact on private views from dwellings within the buildings located to the rear of the subject site which front Edgecliff Road. The view impact from these dwellings would be from:

- No.359 Edgecliff Road
- No.361 Edgecliff Road
- No.363 Edgecliff Road
- No.365 Edgecliff Road

There would also be some form of view impact from properties located to the rear of the subject sites that are accessed from New South Head Road. The view impact from these dwellings would be from:

- No.319 New South Head Road
- No.325 New South Head Road

The Land & Environment Court, in *Tenacity Consulting Pty Ltd V Warringah Council* (2004), adopted a four-step assessment of view sharing. These steps are as follows:

1. *What is the value of the view?*

The private views from the dwellings would be of the suburb of Double Bay in the foreground and of Sydney Harbour and the lower north shore in the background.

2. *From what part of the property the views are obtained?*

The views are obtained from the primary living areas, dining room, kitchen, bedrooms and balconies of the dwellings.

The views are obtained over the subject sites.

3. *What is the extent of the impact?*

From the lower level dwellings on Edgecliff Road, the view impact would be devastating.

From the mid level dwellings on Edgecliff Road, the view impact would be moderate.

From the upper level dwellings on Edgecliff Road, the view impact would be negligible.

From the lower level dwellings on New South Head Road, the view impact would moderate.

From the upper level dwellings on New South Head Road, the view impact would negligible.

4. *What is the reasonableness of the proposal that is causing the impact?*

Buildings C and D and only a small section to the front of Building B would exceed the statutory height development standard prescribed by the LEP. Building A would comply with the statutory height development standard.

Buildings A, B, C and D would all exceed the maximum FSR development standard prescribed by the LEP and would all exceed the building envelope controls prescribed by the RDCP, particularly the setback controls.

Those parts of Buildings A and B that would affect views from dwellings to the rear that have their frontages and are accessed from Edgecliff Road would comply with the maximum height development standard prescribed by the LEP. Some form of view loss would be anticipated from any development that would comply with the maximum height development standard and compliant building envelope controls by virtue of the orientation of the subject and adjoining sites and the location of existing development on adjoining sites.

However, it is the non-complying elements of the subject buildings, being the envelope controls as mentioned above, that result in additional view loss from dwellings to the rear of the subject sites particularly as the development fails to provide any substantial view corridors between the buildings and fails to provide equitable access to view sharing.

Due to the severity of the non-complying building elements, the proposal would fail to satisfy the criteria set out by the Court and would fail to satisfy the relevant criteria prescribed by the RDCP.

Energy efficiency performance criteria

- ***Residential flat buildings***
The proposal would satisfy the relevant criteria prescribed by the DCP.
- ***Solid fuel heaters***
The proposal would satisfy the relevant criteria prescribed by the DCP.

Stormwater management

- ***Stormwater disposal***
The proposal would satisfy the relevant criteria prescribed by the DCP.
- ***Multiple use of drainage areas***
The proposal would satisfy the relevant criteria prescribed by the DCP.
- ***Water conservation***
The proposal would satisfy the relevant criteria prescribed by the DCP.

Acoustic and visual privacy

- ***Acoustic privacy***
Insufficient separation has been provided between the buildings to ensure a reasonable level of privacy is afforded to the dwellings and to adjoining property. Additionally, the bedroom windows would be less than the minimum setback requirement from an adjoining driveway.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- ***Visual privacy***

Insufficient separation has been provided between the buildings to ensure a reasonable level of privacy is afforded to the dwellings and to adjoining property.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Car parking and driveways

- **Site excavation**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **On-site car parking**

The proposal would fail to provide the minimum number of off-street car parking spaces required to cater for the density of the development.

The availability of public transport in the immediate vicinity of the site at Edgecliff bus/rail interchange may warrant dispensation with providing the minimum required off-street car parking spaces for the site. However, due to the extent of non-compliances associated with the density and envelope controls for the sites does not warrant any further consideration of this issue.

Accordingly, the proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

- **Streetscape considerations**

The proposed driveway width and its presentation would be excessive and would dominate the streetscape.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Surface design**

The proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

Site facilities

- **Provision and appearance of facilities**

Insufficient storage area would be provided for the dwellings which would fail to satisfy the relevant criteria prescribed by the DCP.

Details of roof cowls have not been provided. The roof cowls would be a necessity on the roof in order for the building to function as exhaust fumes must discharge vertically. Provided the cowls are appropriately treated (ie. colour, screening), they would satisfy the relevant objectives prescribed by the DCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- **Accessibility and function**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Access and mobility performance criteria (*Section 5.13*)

- **Performance criteria**

The proposal would satisfy the relevant criteria prescribed by the DCP.

13.1.4 BUILDING D

Numeric Compliance Table

Site Area: 529m²	Proposed	Control	Complies
Maximum Number of Storeys	4	3	NO
Building Boundary Setbacks (m)			
Front (N)	2	0 - 2	YES
Rear (S)	0.9	8.2	NO
Side (E)			
- Ground Floor	1.5	1.5	YES
- First Floor	1.5	3	NO
- Second Floor	1.5	4.5	NO
- Third Floor	1.5	6	NO
Side (W)			
- Ground Floor	0.6	1.5	YES
- First Floor	0.6	3	NO
- Second Floor	0.6	4.5	NO
- Third Floor	0.6	6	NO
Setback from Significant Mature Trees (m)	>3	3	YES
Building Footprint (m ²)	67% (354)	35% (185)	NO
Floor to Ceiling Height Habitable Rooms (m)	2.7	2.7	YES
Maximum Unarticulated Length to Street (m)	<6	6	YES
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	>2	2	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3	3	YES
Excavation Piling and Subsurface Wall Setback (m)	0.9	1.5	NO
Deep Soil Landscaping (m ²)	17% (91)	40% (212)	NO
Deep Soil Landscaping Front Setback			
- Front Setback (m ²)	>40% (>14)	40% (14)	YES
- Consolidated Area (m ²)	>20	20	YES
Private Open Space			
- Upper Floor Units (m ²)	<8	8	NO
- Min dimension (metres)	<2	2	NO
Front Fence Height (m)	2	1.2 or 1.5m where 50% transparent	NO
Side and Rear Fence Height (m)	N/A	1.8	N/A
Dwelling composition of RFB			
- Single Aspect Dwellings	7	8	YES
- Max. Depth (m)	<8	8	YES
- Kitchen setback (m)	<8	8	YES

Site Area: 529m²	Proposed	Control	Complies
- Width of Cross-through >15m Min.(m)	>4	4	YES
Height of Chimneys/Flues (m)	>1	1	YES
Setback of Bedroom Windows from Streets/Parking Areas of Other Dwellings (m)	<3	3	NO
Car Parking Spaces - 1 x Bedroom (including studios) - Visitor - Car Wash Bays Total Spaces Required	0	27 7 2 36	NO
Area of Lockable Storage Spaces per Dwelling (m ³)	<8m ³	8	NO

Desired future precinct character objectives and performance criteria (Wollaroy Precinct)

- **Precinct character**

The proposal would not provide sufficient landscaping to enhance the precincts landform and landscape qualities.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Views and vistas**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building footprint**

The proposal would fail to comply with the maximum building footprint control for the site resulting in a development that would not relate to the landform and landscape qualities of the topography.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Front Setback**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Building height - storeys**

The proposal, coupled with the non-compliance with the maximum statutory height development standard prescribed by the WLEP 1995, would fail to satisfy the relevant criteria prescribed by the DCP.

- **Roof form**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Street landscape**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Front fences**

The proposal would fail to satisfy the relevant controls and objectives of the RDCP.

- **Deep soil landscape at the frontage**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Building articulation***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Building form***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Significant vegetation***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Streetscape

- ***Street character***

The proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Pedestrian environment***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Building size and location performance criteria

- ***Development setbacks***

The front setback would comply with the minimum requirement prescribed by the DCP.

The proposal would fail to comply with the minimum rear setback controls and would fail to satisfy the relevant objectives of those controls.

The proposal would fail to comply with the minimum side setback control resulting in a form and scale of development that would be excessive in context to its surrounds and provide unreasonable separation between buildings. The form of the development would be uncharacteristic and inconsistent with the predominant side setback of development in this locality and would result in an unreasonable sense of enclosure for development immediately adjoining.

- ***Building form and scale***

Neighbouring properties have raised concern regarding overshadowing from the proposed development. The shadow diagrams submitted indicate that adjoining property would receive the minimum amount of solar access to both its private open space and north facing windows in accordance with the relevant criteria prescribed by the RDCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Site excavation***

The proposed excavation is excessive and would fail to comply with the minimum excavation setback requirement prescribed by the DCP. The proposed excavation is a result of an overdevelopment of the site which is reflective of the non-compliances with the statutory controls for density of the site. Additionally, the proposed excavation would result in the rear lower ground floor dwellings being subterranean.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Open space and landscaping

- **Private and communal open space**

Insufficient deep soil landscaped area has been provided to the site.

The balconies to the dwellings are insufficient in size to provide adequate private open space for the dwellings. The lack of setback between the buildings compounds the lack of private open space to the dwellings to the rear by providing an unreasonable sense of enclosure as well as lack of sunlight, cross-ventilation and outlook.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Fences and Walls

- **Side and rear fences and walls**

No information has been provided regarding boundary fencing for the site. Notwithstanding, a condition could be incorporated into the recommendation should development consent be granted.

Subject to conditions, the proposal could satisfy the relevant criteria prescribed by the DCP.

- **Materials**

The proposal would satisfy the relevant criteria prescribed by the DCP.

- **Topography**

The proposal would satisfy the relevant criteria prescribed by the DCP.

Views

- **Public views**

The proposal would have no impact on public views and would satisfy the relevant criteria prescribed by the DCP.

- **Private views**

The assessment of private views has been undertaken as a holistic approach over the entire development inclusive of Buildings A, B, C and D as follows:

The proposal would have some form of impact on private views from dwellings within the buildings located to the rear of the subject site which front Edgecliff Road. The view impact from these dwellings would be from:

- No.359 Edgecliff Road
- No.361 Edgecliff Road
- No.363 Edgecliff Road
- No.365 Edgecliff Road

There would also be some form of view impact from properties located to the rear of the subject sites that are accessed from New South Head Road. The view impact from these dwellings would be from:

- No.319 New South Head Road
- No.325 New South Head Road

The Land & Environment Court, in *Tenacity Consulting Pty Ltd V Warringah Council* (2004), adopted a four-step assessment of view sharing. These steps are as follows:

1. *What is the value of the view?*

The private views from the dwellings would be of the suburb of Double Bay in the foreground and of Sydney Harbour and the lower north shore in the background.

2. *From what part of the property the views are obtained?*

The views are obtained from the primary living areas, dining room, kitchen, bedrooms and balconies of the dwellings.

The views are obtained over the subject sites.

3. *What is the extent of the impact?*

From the lower level dwellings on Edgecliff Road, the view impact would be devastating.

From the mid level dwellings on Edgecliff Road, the view impact would be moderate.

From the upper level dwellings on Edgecliff Road, the view impact would be negligible.

From the lower level dwellings on New South Head Road, the view impact would moderate.

From the upper level dwellings on New South Head Road, the view impact would negligible.

4. *What is the reasonableness of the proposal that is causing the impact?*

Buildings C and D and only a small section to the front of Building B would exceed the statutory height development standard prescribed by the LEP. Building A would comply with the statutory height development standard.

Buildings A, B, C and D would all exceed the maximum FSR development standard prescribed by the LEP and would all exceed the building envelope controls prescribed by the RDCP, particularly the setback controls.

Those parts of Buildings A and B that would affect views from dwellings to the rear that have their frontages and are accessed from Edgecliff Road would comply with the maximum height development standard prescribed by the LEP. Some form of view loss would be anticipated from any development that would comply with the maximum height development standard and compliant building envelope controls by virtue of the orientation of the subject and adjoining sites and the location of existing development on adjoining sites.

However, it is the non-complying elements of the subject buildings, being the envelope controls as mentioned above, that result in additional view loss from dwellings to the rear of the subject sites particularly as the development fails to provide any substantial view corridors between the buildings and fails to provide equitable access to view sharing.

Due to the severity of the non-complying building elements, the proposal would fail to satisfy the criteria set out by the Court and would fail to satisfy the relevant criteria prescribed by the RDCP.

Energy efficiency performance criteria

- **Residential flat buildings**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Solid fuel heaters**
The proposal would satisfy the relevant criteria prescribed by the DCP.

Stormwater management

- **Stormwater disposal**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Multiple use of drainage areas**
The proposal would satisfy the relevant criteria prescribed by the DCP.
- **Water conservation**
The proposal would satisfy the relevant criteria prescribed by the DCP.

Acoustic and visual privacy

- **Acoustic privacy**
Insufficient separation has been provided between the buildings to ensure a reasonable level of privacy is afforded to the dwellings and to adjoining property. Additionally, the bedroom windows would be less than the minimum setback requirement from an adjoining driveway.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

- **Visual privacy**
Insufficient separation has been provided between the buildings to ensure a reasonable level of privacy is afforded to the dwellings and to adjoining property.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

Car parking and driveways

- **On-site car parking**
No off-street car parking has been provided.

The availability of public transport in the immediate vicinity of the site at Edgecliff bus/rail interchange may warrant dispensation with providing the minimum required off-street car parking spaces for the site. However, due to the extent of non-compliances associated with the density and envelope controls for the sites does not warrant any further consideration of this issue.

Accordingly, the proposal as presented would fail to satisfy the relevant criteria prescribed by the DCP.

Site facilities

- ***Provision and appearance of facilities***

Insufficient storage area would be provided for the dwellings which would fail to satisfy the relevant criteria prescribed by the DCP.

Details of roof cowls have not been provided. The roof cowls would be a necessity on the roof in order for the building to function as exhaust fumes must discharge vertically. Provided the cowls are appropriately treated (ie. colour, screening), they would satisfy the relevant objectives prescribed by the DCP.

The balance of the proposal would satisfy the relevant criteria prescribed by the DCP.

- ***Accessibility and function***

The proposal would satisfy the relevant criteria prescribed by the DCP.

Access and mobility performance criteria (Section 5.13)

- ***Performance criteria***

The proposal would satisfy the relevant criteria prescribed by the DCP.

13.2 DCP for off-street car parking provision and servicing facilities

The off-street car parking has been assessed above.

Council's Traffic and Development Engineer have provided a comprehensive review of the proposal, including car parking layout with regard to AS2890.1 and RTA Guidelines (***refer to Annexure 3***). The proposal generally conforms to the design criteria for off-street parking (ie. layout, dimensions, aisle widths etc). However, there is a shortfall in car parking spaces for the density proposed.

Council's data indicates there is a high demand for street parking in the vicinity of the site and the proposed lack of parking spaces on site compounded by the high density would exacerbate this existing problem.

The proposal would fail to satisfy the relevant criteria prescribed by the DCP.

13.3 Woollahra Access

The ground floor of the building would be fully accessible to people with a disability and could comply with the requirements of the BCA and Australian Standard AS1428.2.

The proposal provides satisfactory access within the building in accordance with the requirements prescribed by the DCP.

13.4 Other DCPs, codes and policies

Section 94 & 94A Contributions Plan

The provisions of **Section 94** Contribution Plan would apply to the development as it would result in an increased demand for public facilities in Council's area as a result of the increase in dwellings on the site.

The provisions of **Section 94A** Contribution Plan also applies to all development in the Woollahra Municipality, including the subject development, based on the cost of works.

In determining which contribution should be applied and having regard to the nature of the and the demand for facilities from the proposed development, the payment of a levy pursuant to Section 94A would be recommended to be applied if development consent is granted as this would benefit community facilities, environmental works, Council property, public infrastructure works, public open space and business centres and harbourside works.

It should be noted that Clause 3.5 of the Section 94A Contributions Plan specifies that where an applicant is required to pay a levy under this Plan, the Council cannot impose a further condition pursuant to Section 94 on the same development consent.

14. APPLICABLE REGULATIONS

The proposal would comply by condition with Australian Standard AS 2601-1991: *The demolition of structures*.

If approval was recommended, the proposal could comply by condition with Australian Standard AS 2601-2001: *The demolition of structures*.

The proposal could also comply with the relevant criteria prescribed by the Building Code of Australia.

15. THE LIKELY IMPACTS OF THE PROPOSAL

Some of the additional issues raised by adjoining residents not assessed above are addressed as follows:

- *Loss of property value due to oversupply of dwellings*
This is not a relevant consideration under Section 79c of the Environmental Planning and Assessment Act 1979.
- *Existing covenants have been neglected*
This is not a relevant consideration under Section 79c of the Environmental Planning and Assessment Act 1979. Any private covenant is a civil matter between the relevant parties to which the covenant applies.
- *Request for surveyor verified height poles*

Based on inspections undertaken from adjoining sites and having reviewed information submitted, a reasonable view impact assessment can be undertaken without the need for height poles.

- *Lodgement of single application for multiple unconnected sites is illegitimate*
There is no restriction under the Environmental Planning and Assessment Act 1979 that prohibits the lodgement of a single application for the development of sites located on different parcels of land. Council has sought legal opinion from its solicitors confirming this view.
- *Draft LEP for development of proposed “opportunity site” is not a matter for consideration*
This statement is supported and there is no Draft LEP or any other relevant draft document for consideration in the assessment of this application.
- *Increased dampness due to overshadowing*
The shadow diagrams submitted with the application indicate the proposal would satisfy the relevant criteria prescribed by WRDCP 2003.
- *Non-compliance with Sydney Water guidelines for setback of sewage infrastructure*
This is an issue for Sydney Water to determine.
- *Inadequate information provided*
There is sufficient information submitted for Council to provide an informed recommendation to the JRPP.

All other likely impacts of the proposal have been assessed elsewhere in this report.

16. THE SUITABILITY OF THE SITE

In relation to Acid Sulfate Soils, the site is suitable for the proposed development.

17. SUBMISSIONS

The proposal was advertised and notified in accordance with Council’s Advertising and Notifications DCP. Submissions were received from:

- *Dobes & Andrews Solicitors – DX474 Sydney*
- *Landers Company - PO Box A237 Sydney South 1235*
- *GTA Consultants – PO Box 5254, West Chatswood 1515*
- *Pamela & Graham Macdonald – P.O. Box 238, Double Bay 1360*
- *Lockrey Planning & Development Solutions Pty Ltd – P.O. Box 1276, Double Bay 1360*
- *Peter Debnam M.P. – PO Box 960, Bondi Junction 2022*
- *O’Neill Strata Management Pty Ltd – PO Box 887 Bondi Junction 2025*
- *Ian Scott – PO Box 55, Bundarra 2359*
- *Moody & Doyle Pty Ltd – 1st Floor, Suite 102, 25-29 Berry Street, North Sydney 2060*
- *Adriana Poulos – Curwoods Lawyers – Level 7, 95 Pitt Street, Sydney 2000*

- *P.F. and S.F. Davidson – 59 Hopetoun Avenue, Vaucluse 2030*
- *Laura Reid of Mersonn Pty Ltd – 6/20 Wylde Street, Potts Point 2011*
- *Claire Grose - 357 Edgecliff Road, Edgecliff 2027*
- *Jon Foon – 1/361 Edgecliff Road, Edgecliff 2027*
- *Jane Roscoe - 2/361 Edgecliff Road, Edgecliff 2027*
- *Dr D.H. Walker – 4/361 Edgecliff Road, Edgecliff 2027*
- *Terrance John Osborne Clark - 5/361 Edgecliff Road, Edgecliff 2027*
- *R.J. Lampe - 6/361 Edgecliff Road, Edgecliff 2027*
- *H.J. Mater – 9/361 Edgecliff Road, Edgecliff 2027*
- *Maurice S. Fayn - 2/363 Edgecliff Road, Edgecliff 2027*
- *Phillip and Margaret Howe – 3/363 Edgecliff Road, Edgecliff 2027*
- *Warwick and Penelope Coombes – 5/363 Edgecliff Road, Edgecliff 2027*
- *Anthony and Lorraine Barrett - 6/363 Edgecliff Road, Edgecliff 2027*
- *Josephine K. Ridge – 7/363 Edgecliff Road, Edgecliff 2027*
- *John and Alice Joan Beer – 319 New South Head Road, Double Bay 2028*
- *Susan Horrobin - 2/264 New South Head Road, Double Bay 2028*
- *Sacha Macansh – 24/264 New South Head Road, Double Bay 2028*
- *Vivian Grieg – 102/274 New South Head Road, Double Bay 2028*
- *Bruce Allison – 17/282 New South Head Road, Double Bay 2028*
- *S. Hart – 1/331-333 New South Head Road, Double Bay 2028*
- *Julianne Sharah – 2/333 New South Head Road, Double Bay 2028*
- *Andrew & Miriam Reiner – 16/335 New South Head Road, Double Bay 2028*
- *Dr Yvonne White – 12/337 New South Head Road, Double Bay 2028*

The objectors raised the following issues:

- *Loss of views*
- *Loss of security*
- *Loss of amenity resulting from construction of development*
- *Increased traffic volume*
- *Scale and Bulk*
- *Loss of property value due to oversupply of dwellings*
- *Insufficient parking*
- *Impact on existing traffic flow*
- *Inappropriate design*
- *Lack of open space for planting*
- *Excavation would affect existing stairs, access and sewer and stormwater lines on the separate allotment of land between the buildings*
- *Existing height covenants have been neglected*
- *Request for surveyor verified height poles*
- *Loss of privacy*
- *Increased potential for accidents from driveway*
- *Overshadowing*
- *Non-compliance with Councils controls*
- *Insufficient information provided for rooftop elements (cowls, exhaust ducts etc)*
- *Noise associated from plant equipment*
- *Impact of excavation on adjoining structures*
- *Bulk and scale*
- *Over development of the site*
- *Lodgement of single application for multiple unconnected site is illegitimate*

- *Draft LEP for development of proposed “opportunity site” is not a matter for consideration*
- *SEPP 1 unjustified*
- *Poor dwelling amenity*
- *Inappropriate design having regard to SEPP 65*
- *Increased dampness due to overshadowing*
- *Detrimental impact on existing landscaping/trees*
- *Loss of habitat for fauna*
- *Danger to pedestrians from driveway design*
- *Non-compliance with Sydney Water guidelines for setback of sewage infrastructure*
- *Inadequate infrastructure to cater for increased density*
- *Buildings have heritage significance and should be retained*
- *Inadequate information provided*

Submissions in support of the development:

- *Wayne Yates of Lang and Simmons Double Bay – DX3615 Double Bay*
- *Steven Louloudakis – P.O. Box 210, Double Bay 1360*
- *Richard Stenllake – 5/17 Cooper Street, Double Bay 2028*

The issues raised have been assessed in the body of the report.

18. CONCLUSION - THE PUBLIC INTEREST

The proposal is unacceptable against the relevant considerations under s79C and would not be in the public interest.

19. DISCLOSURE STATEMENTS

Under S.147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

20. RECOMMENDATION: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT Joint Regional Planning Panel, as the consent authority, refuse development consent to Development Application No. DA 258/2010/1 for demolition of 4 residential flat buildings on 315, 317, 321 & 327 New South Head Road and the construction of 4 residential flat buildings consisting of 83 new apartments over four sites, basement car parking, landscaping, siteworks and public domain improvements on land at Nos.315, 317, 321 & 327 New South Head Road, DOUBLE BAY, for the following reasons:

1. The development would fail to provide a satisfactory design outcome when assessed against State Environmental Planning Policy 65 and the 10 Design Quality Principles contained in Part 2 as well as the considerations contained in the publication “Residential Flat Design Code”.

2. The development would exceed the maximum Height of Buildings development standard and would result in a development that would:

- f) Not minimise the impact on existing views of the Sydney Harbour, ridgelines and public and private open spaces;
- g) Not provide compatibility with the adjoining residential neighbourhood;
- h) Not safeguard the visual privacy of interior and exterior living areas of neighbouring dwellings; and,
- i) Not minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing.

In this regard, the proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 3 - Clause 12(1) and Clause 12AA Objectives (a), (b), (c) and (d). Furthermore, the SEPP 1 submitted is not well founded.

3. The development would exceed the maximum Floor Space Ratio development standard and would result in a development that would:

- a) Not provide a suitable density for the sites,
- b) Not provide suitable density, bulk and scale in order to achieve the desired future character objectives of the locality as prescribed by Woollahra Residential Development Control Plan 2003,
- c) Not minimise adverse environmental effect on the use of enjoyment of adjoining properties, and,
- d) Not relate to the existing character of surrounding built and natural environment as viewed from the streetscape.

In this regard, the proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 3 - Clause 11(1)(a) and Clause 11AA Objectives (a), (b), (c) and (d). Furthermore, the SEPP 1 submitted is not well founded.

4. The development would exceed the Site Area and Frontage development standard and would result in a development that would:

- a) Not achieve compatibility between the scale, density, bulk and landscape character of buildings and allotment size,
- b) Not provide sufficient space between buildings, to maximise daylight and sunlight access between buildings, to ensure adequate space for deep soil landscaping and to preserve view corridors,
- c) Not prevent permanent barriers to sub-surface water flows, and,
- d) Provide insufficient land for car parking on site,

In this regard, the proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 3 - Clause 10B(2)(a) and (b) and Clause 10A Objective (a), (b), (c) and (d). Furthermore, the SEPP 1 submitted is not well founded.

5. The proposed density of the sites would have a detrimental impact upon the existing road network, availability of parking, availability of public open space and the environmental qualities of the area and would provide insufficient parking spaces to cater for the proposed density. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(a)(ii) and Woollahra Residential Development Control Plan 2003 – Part 4.3, Control C4.3.5; Part 5.9 Objective O5.9.1, O5.9.2 and O5.9.3 and Control C5.9.3, C5.9.7 and C5.9.8.

6. The lack of off-street car parking spaces provided would not improve the provision for car parking and would not reduce conflict between residents and visitor demand for car

parking spaces in the surrounding residential area. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(d)(iv).

7. The proposed size, location and use of driveways would not minimise conflict between pedestrians and vehicles. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(d)(v).
8. Insufficient open space would be provided to the residents of the subject dwellings. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(e)(i) and Woollahra Residential Development Control Plan 2003 – Part 5.3, Objective O5.3.1 and Control C5.3.5.
9. The proposal would fail to enhance the landscape qualities of the area by removing existing landscaping and providing insufficient area for planting of new trees and landscaping resulting in a detrimental impact on the streetscape, the amenity of adjoining residents, the amenity of the subject residents and the environment. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(f)(i), (ii) and (iii) and Woollahra Residential Development Control Plan 2003 – Part 4.3, Objective O4.3.2 and Control C4.3.7.6; Part 5.2 - Objective O5.2.1; and, Part 5.3 – Objective O5.3.1, O5.3.4 and O5.3.5 and Control C5.3.1.
10. The proposal would have an unreasonable impact on views of Sydney Harbour on existing residents and would not promote the practice of view sharing from surrounding properties. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(h)(iv); Woollahra Residential Development Control Plan 2003 – Part 5.5, Objective O5.5.2 and Control C5.5.6 and would fail to satisfy the relevant planning principles set out in *Tenacity Consulting Pty Ltd v Warringah Council*.
11. The scale and bulk of the development would be excessive and together with the size, location and use of the driveway crossings would not enhance the attributes of the site or improve the quality of the public environment. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 1 - Clause 2, Objective (2)(k)(iii).
12. The proposal would involve excessive excavation and provide insufficient setback of the excavation from the boundary which would adversely impact on the amenity of the neighbourhood, the landform, vehicle and pedestrian movements and the environment. The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 3 - Clause 18 and Woollahra Residential Development Control Plan 2003 – Part 5.2, Objective O5.2.4 and Control C5.2.15, C5.2.16 and C5.2.17.
13. The proposal exceeds the maximum number of storeys control resulting in an inappropriate transition of building forms. The proposal would fail to satisfy Woollahra Residential Development Control Plan 2003 - Part 4.3, Objective O4.3.1 and Control C4.3.7.2.
14. The proposal provide insufficient setbacks between buildings and from the boundaries of the sites which would result in a detrimental impact on the streetscape, the amenity of adjoining residents, the amenity of the subject residents and the environment. The proposal would fail to satisfy Woollahra Residential Development Control Plan 2003 - Part 4.3, Objective O4.3.1 and Control C4.3.4; Part 5.2 – Objective O5.2.1, O5.2.2, O5.2.3 and Control C5.2.1, C5.2.3 and C5.2.5; and Part 5.3 – Objective O5.3.1, O5.3.5 and Control C5.3.10.
15. The proposed building footprint would be excessive and would result in a development that would fail to relate to the sites dimensions and would result in a detrimental impact

on the streetscape, the amenity of adjoining residents, the amenity of the subject residents and the environment. The proposal would fail to satisfy Woollahra Residential Development Control Plan 2003 - Part 4.3, Objective O4.3.1 and O4.3.2 and Control C4.3.3; and, Part 5.2 – Objective O5.2.1, O5.2.2 and O5.2.3.

16. The height of the front fence would result in a detrimental impact on the streetscape. The proposal would fail to satisfy Woollahra Residential Development Control Plan 2003 - Part 4.3, Control C4.3.7.5.
17. The proposal would result in a detrimental impact on the amenity of adjoining residents and the amenity of the subject residents with respect to privacy. The proposal would fail to satisfy Woollahra Residential Development Control Plan 2003 - Part 5.8, Objective O5.8.1 and Control C5.8.2, C5.8.5, C5.8.6 and C5.8.7.
18. Insufficient area for storage would be provided for the residents of the development. The proposal would fail to satisfy Woollahra Residential Development Control Plan 2003 - Part 5.10, Control C5.10.2.
19. The proposal is not in the public interest.

Mr D Lukas

SENIOR ASSESSMENT OFFICER

Mr D Waghorn

TEAM LEADER

ANNEXURES

1. Plans and elevations
 2. Referral Response - Urban Design Technical Services
 3. Referral Response - Development Engineer + Traffic Engineer attached
 4. Referral Response - Heritage Officer
 5. Referral Response - Fire Safety Officer
 6. Referral Response - Environmental Health Officer
 7. Referral Response - Open Space and Trees
 8. External Referral Response - NSW Police Force
 9. External Referral Response – RTA
 10. SEPP 1 Objections
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