

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	R2
FILE No.	DA 283/2010/1
PROPERTY DETAILS	37 Darling Point Road DARLING POINT
	Lot & DP No.: LOT: A DP: 108600
	Side of Street: Eastern
	Site Area (m²): 4180.55m ²
	Zoning: Residential 2(b)
PROPOSAL:	Demolition of existing buildings including 'Duntrim house' & removal of selected trees
TYPE OF CONSENT:	Local Development
APPLICANT:	Health Commission of NSW
OWNER:	Health Commission NSW
DATE LODGED:	17/06/2010
AUTHOR:	Mrs L Holbert
CONSENT AUTHORITY	Woollahra Municipal Council or the Joint Regional Planning Panel (except with the approval of Minister when refusal is recommended)

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

1. RECOMMENDATION PRECIS

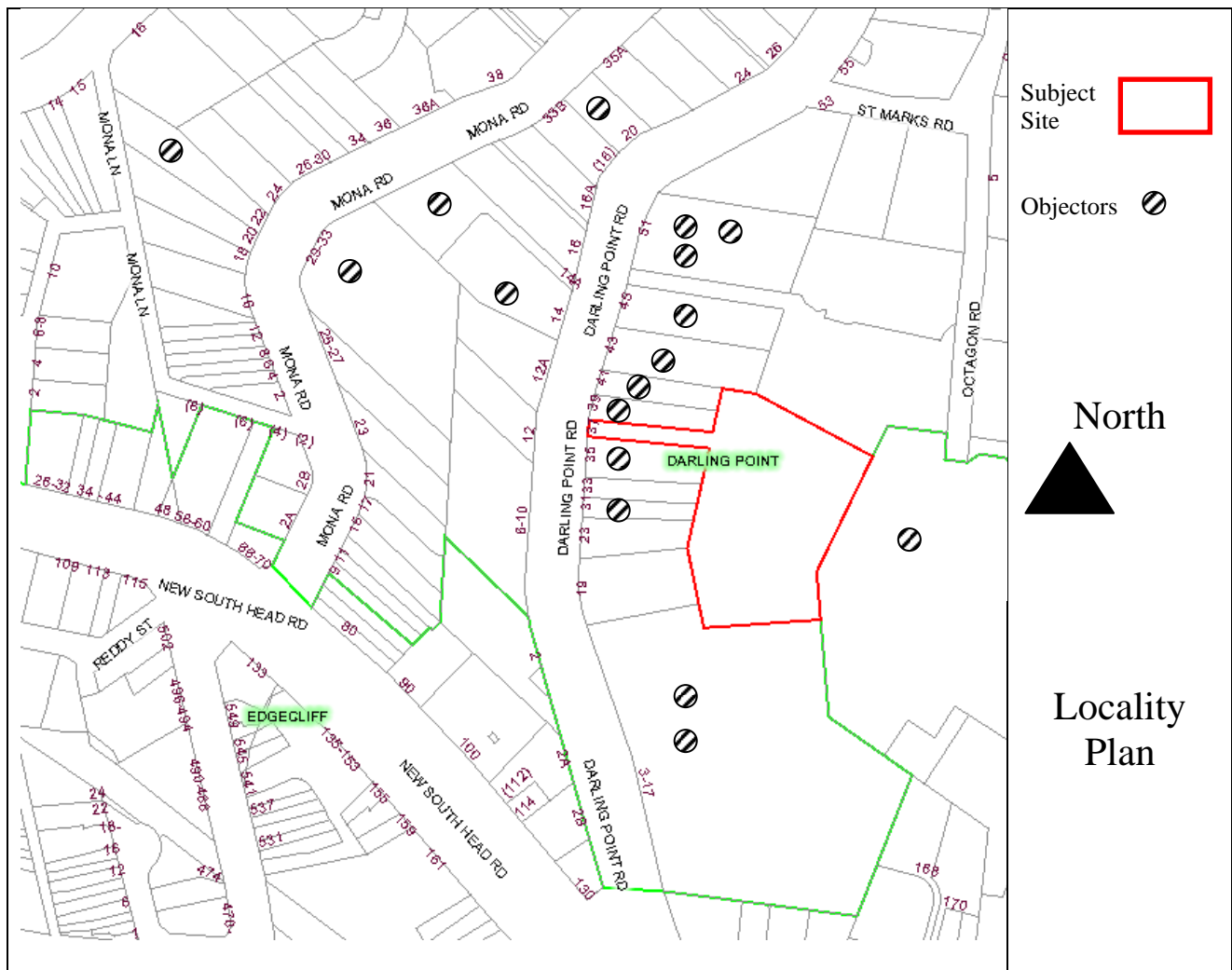
The application is recommended for refusal because:

- It is considered to be unsatisfactory with certain provisions of WLEP 1995 & WRDCP 2003;
- The proposal would result in the demolition of Duntrim House, this building is of such a level of significance that it meets several of the criteria for heritage listing and is recommended to be listed as a local heritage item;
- The proposal would result in the removal of the majority of the trees on the site and no replacement planting has been proposed.

2. PROPOSAL PRECIS

Demolition of existing buildings and removal of selected trees.

3. LOCALITY PLAN



*32 other objectors not on map above. Please see Part 17 for complete list of all objectors

4. DESCRIPTION OF PROPOSAL

The proposed development is for demolition of the existing buildings and removal of selected trees, the proposal involves the following works:

- Demolition of the existing main building located in the centre of the site known as Duntrim house, a small portion of the sandstone base walls of this building is proposed to be retained.
- Demolition of the other buildings located on the site including the store room located to north of Duntrim house, the nurse quarters located on the western boundary and the potting shed located in the south-western corner of the site;
- Demolition of the existing roadways and other associated pathways located on the site with the exception of the existing driveway;
- Demolition of existing landscape structures including the tennis court and swimming pool located on the eastern side of the site;
- Provision of bunding at driveway to prevent stormwater discharge to street;
- Grading of the site to direct stormwater flows towards the centre of the site;
- Construction of a security fence and swales along the perimeter of the site to minimise stormwater flows to adjoining sites;

- Removal of approximately 35 trees* from the site and the retention of 11 trees. Four of the retained trees are proposed to be transplanted.

The following trees are proposed to be retained:

- Port Jackson (tree 1)
- Illawarra Flame (tree 3)
- Sentry Palm (tree 6), this tree is proposed to be transplanted
- Windmill Palm (tree 7), this tree is proposed to be transplanted
- Norfolk Island Pine (tree 17)
- Cheese Tree (tree 20)
- Sentry Palm (tree 22), this tree is proposed to be transplanted
- Sentry Palm (tree 23), this tree is proposed to be transplanted
- Illawarra Flame (tree 27)
- Brush Cherry (tree 29)
- Brush Box (tree 34)

The following trees are proposed to be removed from the site:

- African Olive (tree 2)
- Camellia (tree 4)
- Umbrella Tree (tree 5)
- Coin Spot Fern (tree 8)
- Canary Island Date Palm (tree 9)
- Bull Bay Magnolia (tree 10)
- African Olive (tree 11)
- Cocos Palm (tree 12)
- Jacaranda (tree 13)
- Avocado (tree 14)
- Avocado (tree 15)
- Brushbox (tree 16)
- Cheese Tree (tree 18)
- Large leave privet (tree 19) (this tree was identified by the applicant's arborist as Cheese tree)
- Yucca (tree 21)
- African Olive (tree 24) (there are 8 African Olive trees marked as tree 24) (two of these trees were identified as a Cheese tree and a Illawarra Flame tree, the Cheese tree is located in the south-eastern corner of the swimming pool and the Illawarra Flame tree is located on the north-eastern corner of the tennis court)
- American Hackberry (tree 25)
- Jacaranda (tree 26)
- Tree of Heaven (tree 28)
- Camphor Laurel (tree 30)
- Tree of Heaven (tree 31) (there are a 3 Tree of Heaven trees marked as tree 31)
- Port Jackson Fig (tree 32)
- American Hackberry (tree 33)
- Banksia (tree 35) (there is no tree marked no.35 on the plans, however there is a unnumbered Banksia tree located to the rear of Duntrim house)
- Bottle Brush (tree 36) (there is no tree marked no. 38 on proposed plans)
- Tree of Heaven (tree 37) (there is no tree marked no.37, however there is 3 Tree of Heaven trees located to the rear of Duntrim house marked as no. 31)
- American Hackberry (tree 38)

* The number of trees on the site is an approximate as a number of errors have been identified on the proposed plans including the incorrectly identified tree species and missing tree numbers of the plans.

The current owner of the site, the Health Commission of NSW is intending to sell the property and this application is intended to give certainty to any future purchaser of the property that the current heritage listing for site will only cover the identified Norfolk Island Pine and that there is no requirement to retain any of the existing built elements on the site.

In preparing the application for demolition, preliminary option studies have been developed to give an indication of the potential for redevelopment. This proposal does not seek approval for these options and they are provided to demonstrate the likely outcome of future development once demolition is complete (refer to **Annexure 5**).

5. SUMMARY

Reasons for report	Issues	Submissions
<ol style="list-style-type: none">To assist the Regional Panel in determining the development application, andTo 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:<ul style="list-style-type: none">The matter is of public interest.	<ul style="list-style-type: none">Loss of Significant building;Loss of treesConstruction ImpactsTraffic/ParkingImpacts from the redevelopment of the siteImpacts on the amenity of the community	49 submissions were received.

6. ESTIMATED COST OF WORKS

The applicant's estimated cost of the proposed development at \$550 000 has been checked using our adopted practice and is considered to be accurate.

7. DESCRIPTION OF SITE OF LOCALITY

THE SITE AND LOCALITY	
Physical features	The site is located on the eastern side of Darling Point Road and is a 'battle axe' block with a drive way frontage of approximately 6.095m to the street. The subject site is 4180.55m ² in size, the access driveway is 280.45m ² which provides a total area of 4461m ² .
Topography	The site is elevated above Darling Point Road and is generally higher than neighbouring sites, however the site is relatively flat. The site falls from a high point of RL 48.46 at the south west corner of the main house to RL 45.41 in the SW corner of the site adjacent to the Ranelagh apartment complex.
Existing buildings and structures	The subject site is currently occupied by number of buildings including the building known as Duntrim house, this building is a two/three storey stone and rendered building with a slate a metal roof was constructed in approximately 1911 in the Arts and Crafts style, on the foundations of the early Victorian mansion Glanworth, built in 1852. The foundations of Glanworth remain at the basement level of the existing building. Other buildings at the site include a two storey brick building located on the western boundary, a two storey rendered building located to the north of Duntrim house and a small potting shed located in the south-western corner of the site. A tennis court and swimming pool are located to rear of Duntrim house on the eastern side of the site. The site contains approximately 46 trees on the site including an Heritage listed Norfolk Island Palm tree, which is located on the south-western side of the site.
Environment	The site is bounded on two sides by Ascham School (northern and eastern sides) and to south the site adjoins the Ranelagh apartment complex. Residential dwelling houses adjoin both sides of the access driveway.

8. PROPERTY HISTORY

PROPERTY HISTORY	
Current use	Hospital/health purposes (currently provides accommodation for the Sydney Dialysis Centre, the centre is due to relocate to another location in 2012.
Previous relevant applications	N/A
Pre-DA	<ul style="list-style-type: none"> The applicant meet with Director of Planning and Council's former Heritage Officer in October 2009, the applicant was requested to provide formal historical research and architectural development opportunities of the site; The review of this report was undertaken in January 2010 and recommended that the report be developed to encompass a more detailed analysis of heritage significance as a precursor to lodging an application for redevelopment. A more detailed Statement of Heritage Significance was lodged in March 2010, Council's former Heritage Officer accepted the applicant's heritage analysis and statement of significance and did not consider that the building has enough significance to be listed as heritage item in WLEP, 1995 (refer to Annexure 4). <p>Note: Council's position on the heritage significance of the subject property has changed due to the following factors: additional research and site visits were carried out by Council's current Heritage Officer from the recommendations of the previous heritage referral response; and subsequently, the additional research changed the conclusion of the comparative analysis.</p>
Requests for additional information	N/A
Amended plans/ Replacement Application	N/A
Land & Environment Court appeal	N/A

9. REFERRALS

9.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Landscaping Officer	<p>Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form. Refusal of this application is recommended for the following reasons:</p> <ul style="list-style-type: none"> Thirty four trees are proposed for removal without any design detail that illustrates the necessity of these removals. No landscape details have been provided that show how the community will be compensated for the loss of the existing landscape amenity. 	2
Heritage Officer	<ul style="list-style-type: none"> The building known as Duntrim meets the threshold for heritage listing under several criteria, and is recommended to be listed as a local heritage item. The building and its grounds should be retained, and the building adaptively re-used. The Norfolk Island Pine is to be retained and protected during any future works. The nurses' home building and the workshop building do not have the same significance as Duntrim, and their demolition is considered acceptable. The grounds have significance, and a heritage assessment of the grounds and landscaping should be carried out, to allow inclusion of relevant features in the listing. 	3

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. RELEVANT STATE/REGIONAL INSTRUMENTS AND LEGISLATION

10.1 SEPPs

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. The land is currently used for health purposes and has not been identified as potentially contaminated. Notwithstanding this, the possibility of the subject site being contaminated will be further considered if the subject site is redeveloped.

In this regard, the proposal would be acceptable in terms of the relevant parts of SEPP 55.

10.2 REPs

SREP (Sydney Harbour Catchment) 2005 and accompanying DCP

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore, there are no specific matters for consideration in relation to this DA.

10.3 Section 94 contribution

Council's s.94A Development Contributions Plan does require a monetary contribution for the proposed development. This contribution is calculated as follows:

$$\text{Levy} = 1\% \text{ (levy rate)} \times \$550\,000 \text{ (estimated development cost)}$$

$$\text{Total contribution} = \$5\,500$$

The requirement for payment of this contribution can be applied by way of condition.

10.4 Other relevant legislation

The site is owned by the crown, under the care, control and management of the Health Commission of NSW and is therefore affected by s.89 of the Environmental Planning & Assessment Act, 1979. s.89 of the Act states:

(1) A consent authority (other than the Minister) must not:

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.*

- (2) If the consent authority fails to determine a Crown development application within the period prescribed by the regulations, the applicant or the consent authority may refer the application:*
 - (a) to the Minister, if the consent authority is not a council, or*
 - (b) to the applicable regional panel, if the consent authority is a council.*
- (2A) A Crown development application for which the consent authority is a council must not be referred to the Minister unless it is first referred to the applicable regional panel.*
- (3) An applicable regional panel to which a Crown development application is referred may exercise the functions of the council as a consent authority (subject to subsection (1)) with respect to the application.*
- (4) A decision by a regional panel in determining a Crown development application is taken for all purposes to be the decision of the council.*
- (5) If an applicable regional panel fails to determine a Crown development application within the period prescribed by the regulations, the applicant or the panel may refer the application to the Minister.*
- (6) The party that refers an application under this section must notify the other party in writing that the application has been referred.*
- (7) When an application is referred under this section to an applicable regional panel or the Minister, the consent authority must, as soon as practicable, submit to the panel or the Minister:*
 - (a) a copy of the development application, and*
 - (b) details of its proposed determination of the development application, and*
 - (c) the reasons for the proposed determination, and*
 - (d) any relevant reports of another public authority.*
- (8) An application may be referred by a consent authority or applicable regional panel before the end of a relevant period referred to in subsection (2) or (5).*

As this application is recommended for refusal, in accordance with s.89(2A), the development application must firstly be referred to the regional panel for consideration (the applicable regional panel in this instance is the Sydney East Joint Regional Planning Panel (JRPP)).

Pursuant to s.89(3), the JRPP may exercise the same functions of Council as the consent authority. The JRPP is also unable to refuse consent to the development application except with the written approval of the Minister.

The consent authority, being Council if it is of a mind to approve the development application cannot impose any conditions of consent without the prior approval of the Department of Health or the Minister. It should also be noted that pursuant to s.89(4), the decision made by the JRPP in relation to the application is deemed to be the decision of the council.

In this instance, if Council agrees with the report recommendation that the application be refused, the matter is required to be referred to the Joint Regional Planning Panel for consideration.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

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

The proposal is permissible within the 2(b) Residential Zone, however the proposed development is considered to be inconsistent with the aims and objectives of the WLEP, 1995 in the following ways:

- Objective 2(1)(g) of the LEP requires the conservation of environmental heritage of the area of Woollahra. The proposed demolition of the buildings on the site would result in the loss of Dumtrim house. Council's Heritage Officer is of the opinion that this building should be heritage listed;
- Objective 2(1)(h). The proposal involves the removal of the majority of the trees on site and does not involve any replacement planting. This is considered to be detrimental to the natural environment of Woollahra.
- Objective 2(2)(f) (ii). The proposed development does not promote the retention of the existing trees on the site as the majority of trees are to be removed and no replacement planting has been proposed,
- Objective 2(2)(g) (i). Council's Heritage Officer has identified that Dumtrim house, which is proposed to be demolished, should be listed as a heritage item;
- Objective 2(2)(g)(iv). Council's Heritage Officer considers Dumtrim House that is currently used for health purposes should not be demolished and should be reused in a manner, which is compatible and sympathetic with the fabric and character of the building.

11.3 Statutory compliance table

Site Area: 4180.55m ²	Existing	Proposed	Control	Complies
Overall Height	Not specified	>9.5m	9.5m	YES

11.4 Height

Whilst, the proposed demolition works will exceed Council's 9.5m height limit required by Cl.12 of the WLEP, 1995, Cl.12 does not apply in this instance as this clause only relates to the erection of a building and not for demolition works.

11.5 Other special clauses/development standards

Clause 18 Excavation: The proposed excavation works are considered to be satisfactory in terms of Clause 18.

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

Clause 25 Water, wastewater and stormwater: The proposal is acceptable in terms of Clause 25(1) and (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: The subject site is not located within a conservation area, however this site contains a heritage listed Norfolk Island Palm and is located within the vicinity of a number of heritage items including the following:

- 12 Darling Point Road, 'Wavenal'; 188 New South Head Road 'Ascham School' (precinct comprising: *Fiona* and former entrance gates, Glenrock and inner and outer gates, the Dower House, sandstone works, remaining open space and oval adjacent to *Fiona*, Moreton Bay Figs, *The Octagon*, and *Yeomerry*);
- 53 Darling Point Road, which is St Mark's Rectory by Edmund Blacket.

The heritage listed Norfolk Island Pine is a visually significant specimen, particularly when viewed from the western approach to the Municipality along New South Head Road, Rushcutter's Bay and from the surrounding ridges. Located prominently on the ridge the tree is a landmark planting and particularly important in the context of being a tall, lone remnant of the original estate gardens prior to the ubiquitous high-rise development of Darling Point. The Norfolk Island Pine is an integral component of the early cultural planting of Darling Point, and as such forms part of the larger visual and historic character of this inner city suburb. It has been proposed to retain and protect this tree.

Council's Heritage Officer has not raised any concerns relating to the surrounding heritage items or to the demolition of the other buildings on the site including the nurses home and the workshop building, however significant concern has been raised relating to the demolition of the existing building on the site known as Duntrim house. Council's Heritage Officer has raised the following concerns:

- *The proposed demolition of the building Duntrim and components of its grounds and landscaping would have a high negative impact upon the heritage significance of the place.*
- *The building should be considered as a 1911 Arts and Crafts building built upon the site and foundations of a former Victorian villa, not as an altered 1852 Victorian villa. The original siting of and the potential archaeology from the 1852 Victorian villa add to the historic significance of the place, and do not detract from the integrity of the Arts and Crafts form of the existing house.*
- *The building is of substantial scale and in good condition and thus has value as a property asset. Demolition is considered to be an unsustainable development proposal in terms of retaining value, whether cultural heritage or otherwise.*
- *Should the building no longer be required for its current use, it should be adaptively re-used. The Tanner Statement of Environmental Effects provides several options for re-use of the site and Duntrim. These include adaptive re-use of Duntrim for residential purposes. This would in principle be supported in heritage conservation terms.*
- *The significant grounds and landscaping should be retained, as it is a component of the heritage significance of the place.*

As a result of the above mentioned concerns, Council's Heritage Officer has concluded the following:

The application for the demolition of Duntrim is not acceptable as it does not comply with all the provisions of the relevant statutory and policy documents as shown in the above assessment and would have a highly unsatisfactory heritage impact.

It is the conclusion of this report that the building known as Duntrim is of such a level of significance that it meets several of the criteria for listing, and thus it should be listed as a local heritage item (refer to the statement of significance below).

....the building known as Duntrim meets the threshold for heritage listing under several criteria, and should be listed as a local heritage item.

The building and its grounds should be retained, and the building adaptively re-used. The Norfolk Island Pine is to be retained and protected during any future works.

The grounds have significance, and a heritage assessment of the grounds and landscaping should be carried out, to allow inclusion of relevant features in the listing.

Council's Heritage Officer has undertaken the following assessment of the significance of Duntrim, this is as follows:

The Heritage Council has developed a set of seven criteria for assessing heritage significance, which can be used to make decisions about the heritage value of a place or item. There are two levels of heritage significance used in NSW: state and local.

The following assessment of heritage significance has been prepared for the entire site in accordance with the 'Assessing Heritage Significance' (2001) guideline from the NSW Heritage Manual.

<p>Historical significance SHR criterion (a)</p>	<p>An item is important in the course, or pattern, of Woollahra's cultural or natural history</p> <p>The building known as <i>Duntrim</i> is significant as the original site of the early Victorian mansion <i>Glanworth</i> built in 1852. <i>Glanworth</i> was one of the original grand residences built on the peninsula of Darling Point and part of the earliest subdivisions. The foundations and basement of this building remain relatively intact and undisturbed.</p> <p>The building known as <i>Duntrim</i> was built in 1911 for William Taylor Macpherson, by the well-known architect Maurice B Halligan.</p> <p>The building was used by Sydney Hospital as a nurses' home from 1954 until 1981, after which it became the State Government's Sydney Dialysis Centre until the present time. It has been a community health facility for over 50 years.</p> <p>Each of the three attributes above, by themselves, is of medium significance at a local level.</p>				
	<table border="1"> <tr> <th data-bbox="387 1373 874 1400"><u>Guidelines for inclusion</u></th><th data-bbox="874 1373 1442 1400"><u>Guidelines for exclusion</u></th></tr> <tr> <td data-bbox="387 1400 874 1568"> <ul style="list-style-type: none"> • Shows evidence of a significant human activity • Is associated with a significant activity or historical phase • Maintains or shows the continuity of a historical process or activity </td><td data-bbox="874 1400 1442 1568"> <ul style="list-style-type: none"> • Has incidental or unsubstantiated connections with historically important activities or processes • Provides evidence of activities or processes that are of dubious historical importance • Has been so altered that it can no longer provide evidence of a particular association </td></tr> </table>	<u>Guidelines for inclusion</u>	<u>Guidelines for exclusion</u>	<ul style="list-style-type: none"> • Shows evidence of a significant human activity • Is associated with a significant activity or historical phase • Maintains or shows the continuity of a historical process or activity 	<ul style="list-style-type: none"> • Has incidental or unsubstantiated connections with historically important activities or processes • Provides evidence of activities or processes that are of dubious historical importance • Has been so altered that it can no longer provide evidence of a particular association
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<p>Historical association significance SHR criterion (b)</p>	<p>An item has strong or special association with the life or works of a person, or group of persons, of importance in Woollahra's cultural or natural history.</p> <p>The building known as <i>Duntrim</i> is built on the stone basement and foundations of <i>Glanworth</i>, the early Victorian villa built for Robert Coveny (1809-1878), merchant and philanthropist, who appears in the Australian Dictionary of Biography. <i>Glanworth</i> was later owned by The Honourable James Watson (1837-1907), merchant and politician, who is also listed in the Australian Dictionary of Biography.</p> <p><i>This attribute by itself is of medium significance at a local level.</i></p> <p>The place is strongly associated with its architect, Maurice B Halligan (1863-1926), who was an important Australian architect of the late 19th and early 20th century.</p> <p>The building is one of a group of substantial and complex works by Halligan, and forms part of the architect's body of work in the local area. Four other buildings by Halligan out of six or so known are currently listed in the Woollahra LEP.</p>				

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	<u>Guidelines for inclusion</u> <ul style="list-style-type: none"> Shows evidence of a significant human occupation Is associated with a significant event, person, or group of persons 	<u>Guidelines for exclusion</u> <ul style="list-style-type: none"> Has incidental or unsubstantiated connections with historically important people or events Provides evidence of people or events that are of dubious historical importance Has been so altered that it can no longer provide evidence of a particular association
Aesthetic significance SHR criterion (c)	<p>An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in Woollahra.</p> <p>Exhibiting substantial scale, landmark location, mature historic garden setting, representative Arts and Crafts features, and fine intact interiors, <i>Duntrim</i> is a substantial representative example of the Arts and Crafts style of Maurice B. Halligan. 1920's additions and more recent alterations are generally either sympathetic or reversible.</p> <p><i>This attribute by itself is of high significance at a local level.</i></p>	
	<u>Guidelines for inclusion</u> <ul style="list-style-type: none"> Shows or is associated with, creative or technical innovation or achievement Is the inspiration for a creative or technical innovation or achievement Is aesthetically distinctive Has landmark qualities Exemplifies a particular taste, style or technology 	<u>Guidelines for exclusion</u> <ul style="list-style-type: none"> Is not a major work by an important designer or artist Has lost its design or technical integrity Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded Has only a loose association with a creative or technical achievement
Social significance SHR criterion (d)	<p>An item has strong or special association with a particular community or cultural group in Woollahra for social, cultural or spiritual reasons.</p> <p>The place has been a community health facility, the Sydney Hospital and the Sydney Dialysis Centre for 56 years.</p> <p>The building and its grounds are recognised by the local community as a historically significant residence and aesthetic landmark of the Darling Point peninsula</p> <p><i>These attributes should be considered to be of medium significance at a local level.</i></p>	
	<u>Guidelines for inclusion</u> <ul style="list-style-type: none"> Is important for its association with an identifiable group Is important to a community's sense of place 	<u>Guidelines for exclusion</u> <ul style="list-style-type: none"> Is only important to the community for amenity reasons Is retained only in preference to a proposed alternative
Technical/research significance SHR criterion (e)	<p>An item has potential to yield information that will contribute to an understanding Woollahra's cultural or natural history.</p> <p>The place contains the remnants of the former Victorian mansion <i>Glanworth</i>, built in 1852, and also its former grounds and landscaping.</p> <p><i>This attribute by itself is of low significance at a local level.</i></p> <p>The building is a resource for the understanding of the architectural detailing of the architect, Maurice B. Halligan.</p> <p><i>This attribute by itself is of low significance at a local level.</i></p>	
	<u>Guidelines for inclusion</u> <ul style="list-style-type: none"> Has the potential to yield new or further substantial scientific and/or archaeological information Is an important benchmark or reference site or type Provides evidence of past human cultures that is unavailable elsewhere 	<u>Guidelines for exclusion</u> <ul style="list-style-type: none"> The knowledge gained would be irrelevant to research on science, human history or culture Has little archaeological or research potential Only contains information that is readily available from other resources or archaeological sites

Rarity SHR criterion (f)	<p>An item possesses uncommon, rare or endangered aspects of Woollahra's cultural or natural history.</p> <p>The building known as <i>Duntrim</i>, whilst a large and landmark example of its type, is not a rare example of the Arts and Crafts style, which is common throughout the municipality.</p>	
	<p><u>Guidelines for inclusion</u></p> <ul style="list-style-type: none"> - Provides evidence of a defunct custom, way of life or process - Demonstrates a process, custom or other human activity that is in danger of being lost - Shows unusually accurate evidence of a significant human activity - Is the only example of its type - Demonstrates designs or techniques of exceptional interest - Shows rare evidence of a significant human activity important to a community 	<p><u>Guidelines for exclusion</u></p> <ul style="list-style-type: none"> - Is not rare - Is numerous but under threat
Representativeness SHR criterion (g)	<p>An item is important in demonstrating the principal characteristics of a class of Woollahra's cultural or natural places or cultural or natural environments.</p> <p>As indicated above, the building is a substantial representative example of the Arts and Crafts style, and of the work of Maurice B. Halligan, and remains substantially intact, internally and externally.</p> <p><i>This attribute by itself is of high significance at a local level.</i></p>	
	<p><u>Guidelines for inclusion</u></p> <ul style="list-style-type: none"> - Is a fine example of its type - Has the principal characteristics of an important class or group of items - Has attributes typical or a particular way of life, philosophy, custom, significant process, design, technique or activity - Is a significant variation to a class of items - Is part of a group which collectively illustrates a representative type - Is outstanding because of its setting, condition or size - Is outstanding because of its integrity or the esteem in which it is held 	<p><u>Guidelines for exclusion</u></p> <ul style="list-style-type: none"> - Is a poor example of its type - Does not include or has lost the range of characteristics of a type - Does not represent well the characteristics that make up a significant variation of a type

Statement of significance for subject site

The building known as Duntrim has significance for it represents and exhibits the aspirations of wealthy land owners of Darling Point in the early twentieth century. It has significance for its ability to reflect the early subdivision pattern and land tenure and use through its association with the former mansion Glanworth.

Duntrim was built in approximately 1911, on the foundations of the early Victorian mansion Glanworth, built in 1852. The foundations of Glanworth remain at the basement level of the existing building. Glanworth was built for the merchant and philanthropist Robert Coveny (1809-1878), and was later owned by The Honourable James Watson (1837-1907), merchant and politician.

The building known as Duntrim was built for William Taylor Macpherson, by the well-known architect Maurice B. Halligan (1863-1926), who was an important Australian architect of the late 19th and early 20th century. The building is one of a group of substantial and sophisticated works by Halligan, and forms part of the architect's body of work in the local area, most of which is locally listed. Many of Halligan's other buildings located in the Sydney CBD, the North Shore and regional towns are local or state listed items.

The building was used by Sydney Hospital as a nurses' home from 1954 until 1981, after which it became the State Government's Sydney Dialysis Centre until the present time. It has been a community health facility for over 50 years.

Exhibiting substantial scale, landmark location, mature historic garden setting, representative Arts and Crafts features, and fine intact interiors, Duntrim is a substantial representative example of the Arts and Crafts style of Maurice B. Halligan. The 1920's additions and the more recent alterations are generally either sympathetic or reversible.

The building is part of a group of extant substantial landmark mansions and historic buildings which sit atop the crest of the Darling Point peninsula. As a historic group they contribute to a historic precinct which reflects the early subdivisions, grand mansions and historic character of the area.

It should be noted that an interim heritage listing of Duntrim House has been undertaken by Council's Heritage Officer, this listing will be reported to Council separately in order for the subject property to be added to Schedule 3 of the Woollahra LEP, 1995 as a heritage item (refer to **Annexure 6**).

12. DEVELOPMENT CONTROL PLANS

12.1 Numeric Compliance table - Woollahra Residential Development Control Plan 2003

Not relevant due to the scope of the proposed works.

Desired future precinct character objectives and performance criteria (Part 4)

The future character objectives of the Darling Point Precinct relevant to the subject development application aim to maintain the sense of the historic grand estates by retaining the garden settings and the setting of mature garden plantings and to protect public views of the harbour and the surrounding area. The proposed demolition of the existing grand building and the majority of the trees is considered to be inconsistent with the desired future character of the Darling Point precinct. The building is part of a group of substantial landmark mansions and historic buildings which sit atop the crest of the Darling Point peninsula. As a historic group they contribute to a historic precinct which reflects the early subdivisions, grand mansions and historic character of the area. The proposal would therefore be contrary to O4.1.2 and O4.1.4 of Part 4.1 of the RDCP, 2003 and would be unsatisfactory in terms of Part 4.1 of the RDCP, 2003.

Streetscape performance criteria (Part 5.1)

The proposed works will not be visible from the street and is therefore acceptable in terms of Part 5.1 of the RDCP, 2003.

Open space and landscaping performance criteria (Part 5.3)

This proposal seeks the removal of approximately 35 trees from the site and the retention of 11 trees. Four of the retained trees are proposed to be transplanted. Council's Landscape Officer has stated that:

*'The supplied Taylor Brammer Landscape report notes that many of the trees proposed for removal are of little horticultural value and have been allowed to develop as a result of a low level of landscape maintenance. My site inspection confirmed this observation. There are a number of large specimens of Ailanthus altissima **Tree of Heaven** and Olea europea var. africana **African Olive** on the site. These species are not protected by the Council's Tree Preservation Order (TPO).*

*During my site inspection I noted a number of errors in the tabulated information of the supplied drawings AR.DA.01 and AR.DA.02. Tree 19 has been identified as a Glochidion ferdinandii **Cheese tree** where it is in fact a Ligustrum lucidum **Large-leaved Privet**. This is not an important error as the Privet is of low value and not protected by the Councils Tree Preservation Order.*

*Of greater concern is two of a group of trees all identified as Tree 24 **African Olive** on the rear eastern boundary. I found the tree adjacent to the south east corner of the swimming pool not to be an **African Olive** as indicated but in fact a valuable **Cheese Tree**. A second tree adjacent to the north east corner of the Tennis Court identified as an **African Olive** is in fact a valuable Brachychiton acerifolius **Illawarra Flame tree**. Tree 29 has been identified as a Syzygium australe **Brush Cherry Lillypilly** where it is in fact an **African Olive**. A good specimen of Ficus rubiginosa **Port Jackson Fig Tree** 32 stands on the rear north boundary of the site. Although this tree appears to stand on an unobtrusive and sustainable location it is proposed for removal.*

I also noted an unusual variety of Banksia tree standing adjacent to the rear north east corner of the building 'Duntrim'. I am not familiar with this particular species, but it is a good specimen. A group of native Yellow-tailed Black Cockatoos were feeding on the cones in this tree at the time of my inspection. The tree is not listed in the tabulation but is shown for removal. Its value as a food source to native fauna is demonstrated.

*The two existing garden beds to the left and right of the main entry steps to Duntrim contain an eclectic mix of plants. These beds are proposed for complete removal. Some of the specimens within these beds are not protected by the Councils Tree Preservation Order. In particular is a specimen of Schefflera actinophylla **Umbrella tree**. This tree should be afforded protection because of its size, its form and its age. Mr Taylor has described a Phoenix canariensis **Canary Island Date palm** standing in this bed as a weed species. This is not correct. This is a good specimen that is protected by the TPO. It is proposed for removal. My assessment is that the cumulative amenity value of these garden beds is high and not readily reproduced.*

I find the errors and omissions contained in this submission of concern. I can not recommend the removal of a number of valuable trees and landscape elements from this site where there is no proposed construction for the site that necessitates removals and no compensatory landscape is offered to the community.

The proposed removal of significant and important trees from the site is also contrary to O5.3.2 and C5.3.2 of Section 5.3 of the RDCP, 2003. The proposed development is therefore considered unsatisfactory in terms of Section 5.3 of the RDCP, 2003.

Fences and walls performance criteria (Part 5.4)

The proposed development involves the retention of some of the existing remnant walls of Glanworth (the Victorian mansion that previously occupied the subject site). This is consistent with C5.4.1 of Part 5.4 of the RDCP, 2003. However as Council's Heritage Officer has considered that the grounds have significance, an assessment of these grounds and landscaping needs to be carried out, to allow inclusion of relevant features in the proposed heritage listing.

Views performance criteria (Part 5.5)

The proposed development will not result in the obstruction of any views from the public or the private domain as the proposal involves the demolition of the existing structures on the site and the removal of several trees from the site.

Stormwater management performance criteria (Part 5.7)

A number of measures to mitigate stormwater runoff to adjoining sites once demolition has been completed have been proposed, these include:

- Construction of a bund at the top of the driveway to prevent stormwater runoff to Darling Point Road;
- Grading of the site to direct stormwater flows to the centre of the site;
- Mulching of all trees identified for removal (except specific weed species) and spreading over the site;
- Construction of security fencing and swales along the site perimeter to minimise flows to adjoining sites.

Council's Development Engineer has confirmed these measures would be acceptable subject to the use of Erosion and sediment controls. The use of erosion and sediment controls could be imposed by way of condition.

In this respect, the proposed development would be acceptable in terms of Part 5.7 of the RDCP, 2003.

12.2 Other DCPs, codes and policies

Over the past thirty years, as part of its strategic planning program, Council has undertaken a range of heritage investigations which has resulted in the listing of many heritage items. Potential heritage items will also arise from consideration of development proposals. During the assessment of this development application, Council's Heritage Officer has determined that Duntrim House is a building of such significance that heritage listing is warranted.

Council's ability to identify potential heritage items over time was highlighted in a judgement of the Land and Environment Court (*Terry George Andriotakis v Woollahra Municipal Council*), in relation to 48 Darling Point Road, Darling Point, the judgement stated, in part:

The identification and listing of heritage items is an ongoing process which evolves over time as relevant information is gathered. The fact that earlier studies had paid no regard to the subject building, that it was not included in the original schedule of the LEP or recognised by later amendments to the LEP may be indicative only of a lack of awareness. No matter how laudable the project might be, a council cannot be expected to have adequate resources that would enable it to investigate every building in its area at the one time.

It is considered that the consent authority refuse to grant consent for the demolition of Duntrim and proceed with the heritage listing of Duntrim House. It has therefore been recommended that a planning proposal to list the building know as 'Duntrim House' be carried out (refer to **recommendation B** of this report).

13. APPLICABLE REGULATIONS

Clause 92 of the EP & A Regulation 2000 requires Council to consider Australian Standard AS 2601-1991: The demolition of structures. It also requires compliance with this standard by condition of consent. Given the recommendation for refusal no conditions of consent of this nature has been imposed to address this issue.

14. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed in the body of this report.

15. THE SUITABILITY OF THE SITE

The subject site is not considered to be suitable for the demolition of the existing building (Duntrim House) given its heritage significance, which has been demonstrated above in Section 11.4 of this report. In addition the removal of several significant important mature trees from this site is also considered to be unsuitable for reasons stated above in the Open space and landscaping section of this report.

16. SUBMISSIONS

The proposal was advertised and notified in accordance with Council's Advertising and Notifications DCP. 49 submissions were received from:

Name & Address of Objector	Traffic/ Parking	Heritage Value	Loss of trees/ vegetation	Loss of amenity to the community	Re-development will further overdevelop DP	Adverse impacts from demolition works	Other/ Comments
Beryl Aron 14/9 Goomerah Cresc Darling Point				✓			
Bruce & Christine Austin 12 Carrington Ave Mosman							No issue raised
K D & P L Ayles 20 Darling Point Rd Darling Point					✓		
Leah Bernstein 6/51 Darling Point Rd Darling Point	✓	✓					Decision by full Council
Alan & Belinda Brown 41 Darling Point Rd Darling Point		✓	✓	✓	✓	✓	Purchase by Ascham
Alison Campbell Mundooie Warren	✓	✓	✓	✓	✓		
Patricia Campbell 13A/23 Thornton St Darling Point	✓	✓	✓				Purchase by Ascham
Rosalie Chapman C/- Alldis & Cox OBO SP 11388 14A Darling Point Rd Darling Point		✓	✓	✓			
Doreen Cheong 42/105A Darling Point Road Darling Point		✓		✓			
Timothy Christian		✓	✓		✓		

Name & Address of Objector	Traffic/ Parking	Heritage Value	Loss of trees/ vegetation	Loss of amenity to the community	Re-development will further overdevelop DP	Adverse impacts from demolition works	Other/ Comments
61 Kings Rd Vaucluse							
The Darling Point Society PO Box 1131 Darling Point		✓		✓	✓		
A Davie & S Ayles 46 Beresford Rd Rose Bay				✓	✓		
Stephen Davies Urbis Pty Ltd GPO Box 5278 Sydney		✓		✓			Re-adaptation
Robert & Kate Elliot 6 Amy Street Erskineville		✓		✓	✓		Purchase by Ascham
Charlotte Feldman 11/121 Darling Point Rd Darling Point		✓		✓			
Michelle Flemming & John Doumani 3/14 Hampden Ave Darling Point		✓	✓	✓			
Ian Hamill 12/51 Darling Point Rd Darling Point	✓	✓			✓		Decision by full Council
Katy Hamilton Warili Forbes		✓	✓				
Andrew Hardy 23 Etham Ave Darling Point		✓			✓		
Victoria Harper 1/39 Darling Point Rd Darling Point		✓	✓	✓		✓	
Philippa Hutton 5 Carlisle St Rose Bay		✓			✓		Purchase by Ascham
Keri Huxley Paddington		✓					
Alex Jarvis 198 Edgecliff Rd Woollahra		✓		✓			Purchase by Ascham
David & Nola Jones 7/51 Darling Point Rd Darling Point		✓			✓		Decision by full Council
Kevin Keeble 7/43 Darling Point Rd Darling Point		✓			✓		
Timothy Kemp Cuttabalco Binaway		✓			✓		
Deborah Lewis 14 Darling Point Rd Darling Point		✓					Decision by full Council
Joan Macpherson & Anna Williams 35 Darling Point Rd Darling Point						✓	Restrictions on demolition process
Roger Massy-Greene GPO Box 5465 Sydney		✓	✓	✓			
Stacey McAlister C/- Strata Title Management OBO SP 742 5 Ocean Ave Double Bay							No issue raised
Maja Meschtschek 5D/3 Darling Point Rd Darling Point				✓			
Bruce Millar Cougar Software Pty Ltd Level8 4 Martin Place Sydney		✓					
Harry Pearsall 3C/23 Thornton St Darling Point		✓		✓	✓		Purchase by Ascham
Peter Poland Woollahra History & Heritage Society C/- Box 61 Double Bay		✓		✓			Purchase by Ascham
Kate Prendergast 22 Mona Rd Darling Point		✓		✓	✓	✓	Lack of transparency
Amanda Purcell 21 Wallaroy Rd Woollahra		✓					

Name & Address of Objector	Traffic/ Parking	Heritage Value	Loss of trees/ vegetation	Loss of amenity to the community	Re-development will further overdevelop DP	Adverse impacts from demolition works	Other/ Comments
Graham Quint The National Trust of Australia (NSW) PO Box 518 Sydney		✓	✓				
Harry Rich PO Box 326 Edgecliff		✓			✓		
Andrew Roberts 11A Gladwood Gnds Double Bay		✓					Purchase by Ascham
Angus Ross 6A/3 Darling Point Rd Darling Point		✓					
Arie & Wendy Rotem 11/17 Sutherland Cresc Darling Point		✓		✓			Re-adaptation
Emily Stone Department of Thoracic Medicine St Vincents Hospital Victoria St Darlinghurst		✓		✓			
Katrina Stuckey 1/31 Darling Point Rd Darling Point		✓	✓	✓		✓	
Anita Thompson 2/33A Mona Rd Darling Point		✓					
Leonie Tkachenko Ascham School 188 New South Head Rd Edgecliff		✓					Purchase by Ascham
Paul & Sarah Tobin 6 The Crescent Vaulcluse		✓		✓			Purchase by Ascham
Gabrielle Upton 74 Darling Point Rd Darling Point		✓		✓	✓		Community consultation
John Woodrow 43 Darling Point Rd Darling Point		✓					Re-adaptation

The objectors raised the following issues:

- **Traffic & Parking**

Comment: The proposed development would not result in any increase in traffic or parking demand, other than when the works are to be carried out. These issues could be addressed via conditions of consent. However, it should be noted that the proposed development has been recommended for refusal.

- **Heritage Value:**

Comment: This issue has been addressed above in Section 11.4 of this report. It should be noted that the proposed development is recommended for refusal on heritage grounds.

- **Loss of trees and vegetation**

Comment: This issue has been addressed above in the Open space and Landscaping section of this report. It should be noted that the proposed development has been recommended for refusal on the grounds relating to tree loss.

- **Loss of Amenity to the community**

Comment: The proposed development is not considered to be in the public interest, the proposed development has therefore been subsequently recommended for refusal.

- **Redevelopment will further overdevelop Darling Point**

Comment: This proposal does not propose any redevelopment of the site, any redevelopment of the site will be subject to separate development application. Notwithstanding this, the proposal has been recommended for refusal.

- **Adverse impacts from demolition works**

Comment: Impacts on surrounding properties from the demolition works can be mitigated through conditions of consent, notwithstanding this, the proposal has been recommended for refusal.

- **Decision by full Council not under delegated authority**

Comment: The proposal will not be determined under delegated authority, pursuant to s.89(1) of the EP & A Act, 1979 Council is unable to refuse a crown development except with the approval of the Minister. It has been recommended that this development application be referred to the JRPP in order to seek approval from the Minister for the refusal of this application (this has been further discussed in Section 10.4 of this report).

- **Purchase by Ascham**

Comment: This is not a relevant head of consideration under s.79C of the EP & A Act, 1979.

- **Readaptation of the building**

Comment: Council's Heritage Officer has recommended that the building be retained and adaptively reused, the proposal has therefore been recommended for refusal on heritage grounds.

- **Lack of Transparency (proposed demolition was not well advertised)**

Comment: The proposed development was advertised in accordance with Council's notification Development Control Plan.

- **Restrictions on demolition process**

Comment: The application has been recommended for refusal.

18. CONCLUSION - THE PUBLIC INTEREST

The proposed development is not considered to be in the public interest as the proposal would result in the loss of the majority of trees on the site (35 of 46 trees) and no compensatory planting has been proposed. In addition the demolition of Duntrim house will result in the loss of a building that is of such significance it should be heritage listed.

The proposed development is therefore considered to be unacceptable against the relevant considerations under s.79C 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

- A. THAT the consent authority, refuse development consent to Development Application No. 283/2010 for demolition of existing buildings and removal of selected trees on land at 37 Darling Point Road Darling Point, for the reasons stated below:

1. Loss of significant building

The proposed demolition of Duntrim and components of its grounds and landscaping would have an unacceptable negative impact on the heritage significance of the place, because:

- a) the building known as Duntrim has historical significance and historical association significance as the original site of the early Victorian mansion Glanworth. Duntrim was designed by the well known architect, Maurice B Halligan and has been used as a community health facility for over 50 years.
- b) The bulding known as Duntrim has aesthetic significance because it exhibits substantial scale, has a landmark location, mature historic garden setting, fine intact interiors and is a substantial example of the Arts and Crafts style by Maurice B Halligan
- c) The site has social significance because the building and grounds are recognised by the local community as a historically significant building and aesthetic landmark of Darling Point.

2. Insufficient and incorrect information

Council does not have sufficient and correct information to properly consider the development application against the matters for consideration listed under Section 79C of the Environmental Planning and Assessment Act, 1979. This includes the following:

- The submitted plans are inaccurate including incorrectly identified tree species, and tree numbers 35, 36 and 37 are missing from the plans;
- The submitted Arborist Report was inadequate, given the extent of tree loss, this report also inaccurately identifies tree species;
- No Landscape Plan has been provided to indicate replacement planting;
- No assessment of the significance of the grounds and landscaping has been provided.

3. Aims and Objectives of Woollahra LEP 1995

The proposal is not consistent with the following objectives of the Woollahra LEP, 1995:

- Clause 2(1)(g) in relation to heritage
- Clause 2 (1)(h) in relation to the natural environment
- Clause 2 (2)(f) (ii) in relation to retention of trees,
- Clause 2(2)(g)(i) in relation to the identification of heritage items and the provision of measures for conservation;
- Clause 2(2)(g)(iv) in relation of the adaptive re-use of significant non-residential buildings.

Therefore, having regard to Cl.8(5) of the WLEP, 1995, the consent authority must not grant consent to the carrying out of the development.

3. Desired future character.

The proposed demolition of the existing grand building, Duntrim House and the majority of the trees on the site is considered to be detrimental to the desired future character of the Darling Point precinct and would be contrary to O4.1.2 and O4.1.4 of Part 4.1 of the RDCP, 2003

4. Loss of trees

The proposed development involves the removal of the majority of the trees on the site including significant and important trees, which is contrary to O5.3.2 and C5.3.2 of Section 5.3 of the RDCP, 2003.

5. Public Interest

The proposal is not considered to be in the public interest.

Mrs L Holbert
ASSESSMENT OFFICER

Mr G Fotis
TEAM LEADER

ANNEXURES

1. Plans
2. Landscape Officer referral
3. Heritage Officer referral
4. Pre-development advice from Council's former Heritage Officer relating to the demolition of Duntrim House
5. Potential redevelopment options from the applicant
6. Interim Heritage listing for Duntrim House.