

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	0.0
<b>FILE No.</b>	DA377/2016/1
<b>ADDRESS</b>	636 & 638-646 New South Head Road ROSE BAY
<b>SITE AREA</b>	1,496m <sup>2</sup>
<b>ZONING</b>	R3 Medium Density Residential (No.636 NSHR) B2 Local Centre (Nos. 638-646 NSHR)
<b>PROPOSAL</b>	Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road, remediation of the site(s), the erection of a new Seniors Living Development comprising of nine (9) residences, two (2) retail and two (2) commercial tenancies & 19 car parking spaces
<b>TYPE OF CONSENT</b>	Integrated development
<b>CIV</b>	\$21,343,051 (not including GST)
<b>DATE LODGED</b>	06/09/2016
<b>APPLICANT</b>	Mr D Rabinowitz
<b>OWNER</b>	The Owners - Strata Plan No. 22533 (No. 636 NSHR) Mr A & Mrs I Spindel (Nos. 638-646 NSHR)
<b>AUTHOR</b>	Ms R Coull
<b>TEAM LEADER</b>	Mr D Waghorn
<b>SUBMISSIONS</b>	Three (3)
<b>RECOMMENDATION</b>	Conditional approval

## SUMMARY

### 1. PREAMBLE

The Sydney Central Planning Panel (former Joint Regional Planning Panel) is the consent authority for this development application as the application is for development that has a capital investment value of more than \$20 million (\$21,343,051).

### 2. RECOMMENDATION

Conditional approval.

### 3. PROPOSAL

The proposal involves the following works:

- Demolition of the existing service station at No. 638-646 New South Head Road & the existing residential flat building at No. 636 New South Head Road.
- Remediation of the site.
- Construction of a 3-4 storey (plus basement) Seniors Living Development, including:

- Nine (9) self-contained seniors housing units.
- Retail and commercial uses on the ground floor level with frontage to New South Head Road (two retail and two commercial tenancies).
- Two levels of basement car parking (19 car parking spaces).
- Consolidation of the two allotments.



**Figure 1:** 3D southern elevation (New South Head Road)



**Figure 2:** 3D northern elevation (Rose Bay)



**Figure 3:** 3D eastern elevation



**Figure 4:** 3D western elevation

#### 4. LOCALITY PLAN



**Figure 5:** Site Location Plan





**Figure 6:** Existing petrol station at 638-646 New South Head Road



**Figure 7:** Existing residential flat building at 636 New South Head Road viewed from Rose Bay



## 5. ISSUES

### 5.1 Primary Issues

**Table 1: Primary Issues**

Issue	Conclusion	Section
Height non-compliance (WLEP 2014)	Satisfactory	19.4 & 19.6
Objectors concerns	Satisfactory, subject to conditions	10.1
Communal open space non-compliance (SEPP 65)	Satisfactory	15.2.4
Visual privacy – separation distances to windows and balconies non-compliances (SEPP 65)	Satisfactory	15.2.6
Solar access – number of units with no direct solar access non-compliance (SEPP 65)	Satisfactory	15.2.10
Ceiling heights (mixed use) non-compliance (SEPP 65)	Satisfactory	15.2.12
Seniors living – detailed design of self-contained dwellings (SEPP SL)	Satisfactory, subject to <b>Condition C2(b)</b>	16.18
Seniors living – provision of affordable places and on-site services to receive 0.5 FSR bonus (SEPP SL)	Satisfactory, subject to <b>Conditions A8, H8 &amp; I8</b>	16.19
Site contamination & remediation works	Satisfactory, subject to <b>Conditions A3, C15, C16, C17, C18 &amp; H9</b>	14
Swimming pool setback and height non-compliances (WDCP 2015)	Satisfactory	20.2.5
Building depth non-compliance (WDCP 2015)	Satisfactory	20.3.5
Floor-to-floor height non-compliances (WDCP 2015)	Satisfactory	20.3.5
Solar panel height non-compliance (WDCP 2015)	Satisfactory, subject to <b>Condition C2(a)</b>	20.9.2

### 5.2 Matters Raised by the Sydney Central Planning Panel

#### Draft Central District Plan

The Draft Central District Plan (2016) sets out a vision, priorities and actions for the development of the Central District of Greater Sydney. The four goals of A Plan for Growing Sydney are addressed in the District Plan in three themes: A productive city (Goal 1); A liveable city (Goals 2 and 3); and A sustainable city (Goals 3 and 4). Each theme contains priorities.

Section 5, A Sustainable City, Sustainability Priority 3: Enhance access to Sydney Harbour foreshore and waterways states:

*Councils around Sydney Harbour should work with Roads and Maritime Services to revise foreshore and waterway access strategies for Sydney Harbour. These strategies should consider ways to manage competing demands placed on Sydney Harbour including:*

- *protection of flora and fauna*
- *public access to the foreshore and waterway*
- *growth in boat ownership*
- *changes in boat size*
- *demand for moorings, marinas, dinghy storage and other boat support infrastructure*

- *demand for on-street boat parking*

Clause 6.4(5) of the Woollahra LEP 2014 requires Council to consider whether and to what extent the development would encourage public access to and along the foreshore through or adjacent to the proposed development.

The Sydney Central Planning Panel indicated that consideration should be given to incorporating public access to the foreshore and waterway as part of the proposed development.

This matter has been considered and a requirement for public access as part of the proposed development is considered unreasonable and unnecessary for the following reasons:

- There are existing public access points to the harbor/ harbor foreshore within a close proximity to the subject site: 80m to the south-west (Tingira Memorial Park) and 85m to the north-east (Percival Park).
- Chapter D6 Rose Bay Centre of the Woollahra DCP 2015 includes provisions for a desirable public access link from Percival Park to New South Head Road (Figure 8). The WDCP 2015 has not identified the subject site as a location for a new public access link to the foreshore.
- The provision of a public path through the subject site is not practical because at high tide, water meets the seawall and there would be nowhere to go.
- The provision of a public path through the subject site would require a re-design of the proposal and would create issues in terms of security and privacy
- There are ownership and liability matters that would result from the provision of a public path through the site.



**Figure 8:** Section D6.5.3 of Woollahra DCP 2015 – Rose Bay Urban Form

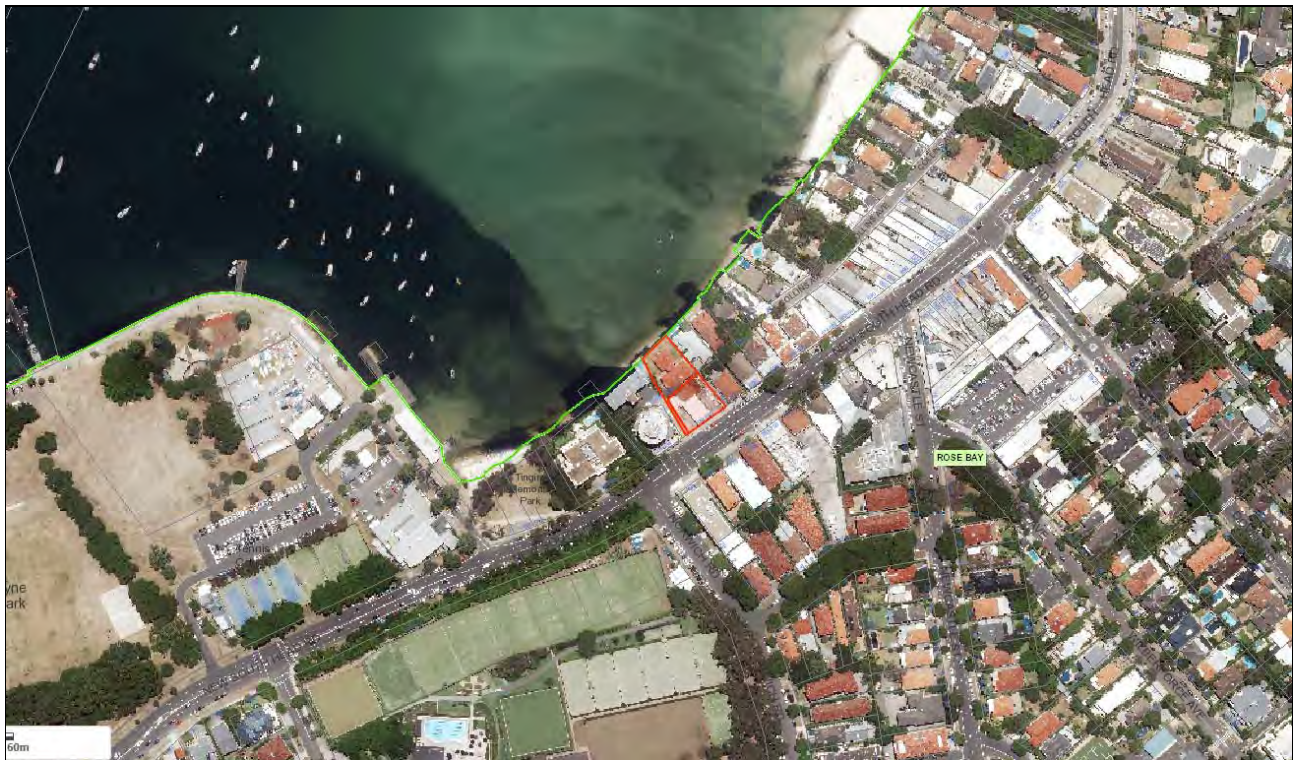
## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

**Table 2:** Site and Locality Details

<b>Physical features</b>
<p>The subject site is located on the northern side of New South Head Road, between Norwich Road and Newcastle Street and comprises two separate allotments. The lot fronting New South Head Road is known as Nos. 638-646 New South Head Road, Rose Bay, is described as Lot A in DP 393087 and has a site area of 705m<sup>2</sup>. The lot fronting the Harbour is known as No. 636 New South Head Road, Rose Bay, is described as SP 22533 and has a site area of 791m<sup>2</sup>.</p> <p>The combined site has a northern frontage to the Harbour of 20.77 metres, an eastern boundary of 59.005 metres, a southern frontage to New South Head Road of 28.785 metres and a western boundary of 55.92 metres, providing a total site area of 1,496m<sup>2</sup>.</p>
<b>Topography</b>
<p>The site has a 0.13m fall along the street frontage, from 4.28 AHD to 4.15 AHD at the eastern and western corners of the site respectively. The site also has a south to north fall of 2.43m, from 4.19 AHD at the centre of the street boundary to 1.76 AHD at the centre of the rear boundary fronting the Harbour.</p>
<b>Existing buildings and structures</b>
<p>No. 636 New South Head Road is occupied by a two storey Inter War residential flat building constructed circa 1929. This building contains six apartments and has direct frontage to the Harbour. There is currently no landscaping on the southern portion of the site, as the unbuilt upon area is occupied by hardstand parking area and circulation zone.</p> <p>Within the northern portion of the site, vegetation in the form of trees, shrubs and lawn area are located along the eastern, northern and western boundaries.</p> <p>Nos. 638-646 New South Head Road is occupied by a service station and workshop known as Budget Petrol.</p> <p>At the centre of the site is a large steel framed clad canopy, which provides protection for the petrol pumps. Behind the canopy is a single storey rendered brick convenience store and workshop with flat metal roof. A small metal shed is located adjacent to the eastern boundary, and a steel framed carport is located to the west attached to the convenience store.</p>
<b>Surrounding Environment</b>
<p>Development in the surrounding area comprises mixed retail, commercial and residential development. Heights range generally from two to four storeys along New South Head Road, with some examples of six and eight storey development located in the immediate vicinity of the site. The buildings vary considerably in architectural style and character, with most having large site coverage and minimal landscaping. A number of properties in the immediate areas have vehicular access from New South Head Road.</p>





**Figure 9: Aerial Photograph of Site**

## 7. RELEVANT PROPERTY HISTORY

**Table 3: Summary of Property History**

<b>Current use</b>
Service station and residential flat building
<b>Relevant Application History</b>
<ul style="list-style-type: none"> <li>DA413/2010 for the demolition of the existing service station, remediation of the site and the construction of a 4 storey mixed development consisting of 2 retail spaces and 7 residential units above a basement level parking area on the subject site was withdrawn on 17/8/2010.</li> <li>A TPO for removal of a <i>Eucalyptus nicholli</i> was approved on 22/06/2016.</li> <li>DA212/2015/1 for the demolition of the existing service station, remediation of the site &amp; the construction of a mixed development (15 car spaces at basement level, retail at ground floor level and 10 units over the 3 levels above) was approved by Council's Development Control Committee on 18/7/2016.</li> </ul>
<b>Pre-DA</b>
Nil.
<b>Requests for Additional Information</b>
<p>On 24 October 2016, the following information was requested:</p> <ul style="list-style-type: none"> <li>Further acoustic assessment (acoustic report provided on 21/11/2016).</li> </ul> <p>On 10 November 2016, the following information was requested:</p> <ul style="list-style-type: none"> <li>Coastal report (coastal report and amended plans provided on 18/11/2016).</li> </ul> <p>On 14 December 2016, the following information was requested:</p> <ul style="list-style-type: none"> <li>Height of solar panels (section provided on 14/12/2016).</li> <li>Encroachment of pool over harbour (amended plans provided on 17/01/2017 &amp; 23/01/2017).</li> </ul> <p>On 20 December 2016, the following information was requested:</p> <ul style="list-style-type: none"> <li>Plans showing the window levels of adjoining properties (provided on 20/12/2016).</li> </ul> <p>On 20 January 2017, the Applicant was advised to consider of provision of public access to the harbour.</p>

## 8. REFERRALS

**Table 4:** Summary of Referral Responses

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to <b>conditions.</b>	2
Trees and Landscaping	Satisfactory, subject to <b>conditions.</b>	3
Urban Design	Satisfactory.	4
Environmental Health	Satisfactory, subject to <b>conditions.</b>	5
Community Services	Satisfactory.	6
Fire Safety	Satisfactory, subject to <b>conditions.</b>	7
Heritage	Satisfactory, subject to <b>conditions.</b>	8
Department of Primary Industries (formerly the NSW Office of Water)	Satisfactory, subject to <b>conditions.</b>	9
Foreshore Committee	No response.	10
Roads and Maritime Services	Satisfactory, subject to <b>conditions.</b>	11
Property	Satisfactory, subject to <b>conditions.</b>	12

## PLANNING ASSESSMENT

### 9. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT)

#### 9.1. Section 23G – Joint Regional Planning Panels

Section 23G and Schedule 4A(3) of the EP&A Act requires the Planning Panel (former Joint Regional Planning Panel) to determine applications for general development over \$20 million. The capital investment value of the application is \$21,343,051 (not including GST). The application is to be determined by the Sydney Central Planning Panel.

#### 9.2. Section 91 – Integrated Development

The proposal requires approval from the Department of Primary Industries (formerly the NSW Office of Water) as the proposed involves works requiring a controlled activity approval under the Water Management Act 2000.

#### 9.3. Section 79C Evaluation

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 include the following:

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

The proposal has been assessed under the relevant matters for consideration in the following sections of this report.

## **10. ADVERTISING AND NOTIFICATION**

### **10.1. Submissions**

The application was advertised and notified from 21/09/2016 to 20/10/2016 in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015.

Submissions were received from:

1. Li Li Qu – 6/733 New South Head Road, Rose Bay.
2. Shanxian Xu – 7/733 New South Head Road, Rose Bay.
3. Mark Heeley – 648 New South Head Road, Rose Bay.

The submissions raised the following issues:

- ***View loss from the living areas of Unit 6 & 7 of No.733 New South Head Road***

Comment: Letters, dated 16/01/2017, were sent to both objectors requesting a site inspection to enable an assessment of the potential view impacts. No response was received. Notwithstanding this, the proposed development is considered acceptable in terms of view impacts, refer to Section 20.2.3.

- ***The shadow diagrams are inadequate – they do not show overshadowing impacts to No.733 New South Head Road***

Comment: The shadow diagrams submitted with the development application are considered suitable for assessment. The proposed development will not result in any overshadowing impacts to No.733 New South Head Road.

- ***Construction impacts – obstruction of access to No. 648 New South Head Road during construction***

Comment: Development consent is not granted for access to No.648 New South Head Road during demolition or construction.

- ***Construction impacts – request for a dilapidation report for No.648 new South Head Road***

Comment: **Condition D2** requires a dilapidation report for No. 648 New South Head Road.

- ***Privacy impacts to windows at No. 648 New South Head Road resulting from insufficient separation / setback***

Comment: Non-compliances with the minimum separation distances required in SEPP 65 / ADG are addressed in Section 15.2.6.

An assessment of the privacy impacts to No.648 New South Head Road windows is provided below:



#### *First floor level (Level 4)*

The windows and balcony to the proposed apartment WF3 on the first floor level will not result in overlooking impacts to No. 648 New South Head Road. Apartment WF3 has a finished floor level of RL 8.85 (AHD) which sits above the top of the windows of the adjoining property (surveyed head height of adjoining windows: RL 8.3 AHD) and enjoys views over the top of No. 648 New South Head Road.

#### *Ground floor level (Level 3)*

The windows to the proposed apartment WF2 on the ground floor level will not result in any unreasonable overlooking impacts to No.648 New South Head Road. The windows to Bed 1 are orientated east towards the harbour. The two narrow Bed 1 ensuite windows are sufficiently offset and separated (approximately 10m) from the adjoining development at No. 648 new South Head Road.

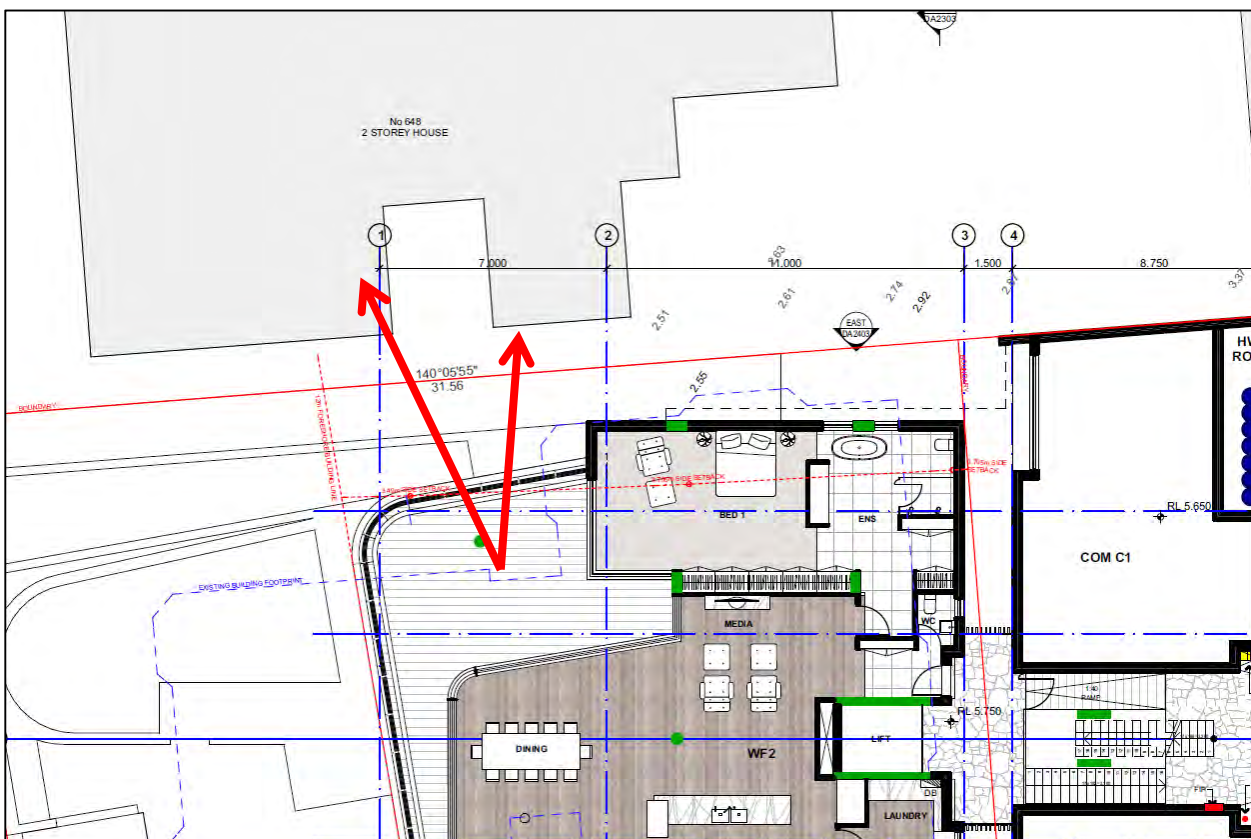
The main balcony to the proposed apartment WF2 on the ground floor level will result in overlooking to the two first floor south-west facing windows of No.648 New South Head Road (refer to Figures 10 & 11). Apartment WF2 has a finished floor level of RL 5.75 (AHD) which will have direct views into the windows of the adjoining property (surveyed heights of adjoining windows: [sill] RL 6.75 & [head] RL 8.3 AHD). The separation distance between the existing windows of the adjoining property and the proposed balcony of apartment WF2 is 5-7m. Therefore, **Condition C2(j)** is recommended requiring a louvered privacy screen to the north-eastern edge of the deck to apartment WF2 that extends for a minimum length of 4m as measured from the north-western external wall to Bedroom 1.

#### *Lower ground floor level (Level 2)*

The deck to the proposed apartment WF1 on the lower ground floor level will not result in overlooking impacts to No. 648 New South Head Road. The existing north-eastern side boundary wall between the subject site and Apartment WF1 has a height of RL 4.59 to RL 4.35 (AHD) which will prevent any overlooking from apartment WF1 which has a finished floor level of RL 2.65 (AHD) to the ground floor windows and private open space of No. 648 New South Head Road (refer to Figure 12).



**Figure 10:** Photograph of upper floor windows at No.648 New South Head Road which are affected by overlooking (circled in red on photograph)



**Figure 11:** Location of the upper floor windows at No.648 New South Head Road which are affected by overlooking in relation to the proposed development



**Figure 12:** Existing north-eastern side boundary wall between subject site and No.648 New South Head Road

- ***Height of the north-east boundary wall – view impacts resulting from construction of a solid boundary wall***

Comment: The Applicant has clarified that no works are proposed to the existing north-eastern boundary wall (shown in Figure 12 above), this is reinforced by **Condition C2(k)**.

- ***Wind tunnelling***

Comment: The proposed built form is 3-4 storeys in height and maintains suitable separation to the adjoining buildings at both sides and is unlikely to result in wind tunnelling impacts.

- ***Acoustic impacts***

Comment: The design of the proposed development includes living areas, balconies and the communal area concentrated towards the harbour front. The proposed replacement of the existing 6 residential units and a service station with a 9 unit seniors living development with retail and commercial fronting New South Head Road is unlikely to generate any unreasonable noise impacts. **Condition I4** is recommended to minimise noise impacts arising from the proposed development.

- ***Location of pool plant equipment***

Comment: **Condition C22** requires that pool plant equipment be located as far as possible from neighbouring dwellings and be housed in an acoustically treated enclosure so that noise from the operation of pumps and equipment is not audible beyond the boundaries of the site.



## **10.2. Statutory Declaration**

The applicant has completed the statutory declaration dated 25/10/2016 declaring that the site notice for DA377/2016/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

## **11. STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011**

SEPP (State and Regional Development) 2011 sets out the functions of regional panels in determining applications for regional development. Clause 20 and 21 of the SEPP require the Planning Panel to be the determining authority for development included in Schedule 4A of the Act. This includes development over \$20million in value. The application is submitted to the Sydney Central Planning Panel (former JRPP) for determination as the capital investment value if over \$20 million.

## **12. STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

### **Clause 101: Development with Frontage to Classified Road**

Clause 101 requires consideration of the impact upon the safety, efficiency and ongoing operation of New South Head Road, including the design of the vehicular access, the emission of smoke or dust, the nature, volume or frequency of vehicles.

The proposal satisfies the relevant objectives and considerations prescribed by Clause 101.

### **Clause 102: Impact of Road Noise or Vibration on Non-Road Development**

Clause 102 applies to development adjacent to a road with an annual average daily traffic of more than 40,000 vehicles.

The annual average daily traffic volume for New South Head Road is less than 40,000 vehicles.

However, given the high volume of traffic on New South Head Road and the design of the proposal which includes bedroom and living areas facing New South head Road, **Condition C2(a)** is recommended to ensure adequate acoustic treatment.

Note: Concurrence with RMS is not required. Notwithstanding this, the application was referred to Roads and Maritime Services. Roads and Maritime Services has provided concurrence under Section 138 of the Roads Act 1993 for the proposed vehicle crossing to New South Head Road, subject to conditions (**Annexure 10**).

The proposal is therefore acceptable with regard to SEPP (Infrastructure) 2007.

## **13. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

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

The development application was accompanied by BASIX Certificate 713823M\_02 demonstrating compliance with the SEPP. These requirements are imposed in **Conditions C4, H1 and I1**.

#### **14. STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND**

State Environmental Planning Policy No.55 (SEPP 55) requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1)(b) and (c) of SEPP 55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

No.636 New South Head Road comprises of a service station and on 22 May 2012 the NSW EPA declared the subject land to be significantly contaminated.

An Environmental Site Assessment Report, prepared by Consulting Earth Scientists (Reference No. CES160201-DYL-AB and dated 29 April 2016) and a Remediation Action Plan, prepared by Consulting Earth Scientists (Reference No. CES160201-DYL-AE and dated 27 June 2016) were submitted with the development application.

The purpose of the Environmental Site Assessment was to establish the environmental conditions at the site with respect to soil and groundwater and confirm the suitability of the soil and groundwater for the proposed residential development. The assessment included modelling and testing.

The Environmental Site Assessment concludes:

*Based on the comparatively low detections of Contaminants of Potential Concern and their localised nature and extent, the assessment considers there not to be a significant risk to current site users or ecological receptors.*

*Based on the findings of the investigation, the detected soil and groundwater impacts that have the potential to impact future construction workers and residents of the proposed redevelopment can be addressed during redevelopment of the site with appropriate remediation and validation sampling which would include the footprint of existing structures on the site. A RAP has been provided which describes the remediation strategy for the site.*

The Remediation Action Plan is based on review of all previous environmental site investigations and reports for the site including those carried out by Consulting Earth Sciences and those carried out by JBS&G Australia Pty Ltd.

Considering the identified sources of contamination, the appropriate remediation strategy is considered as follows:

- Demolition of above ground structures and buildings with removal of petroleum hydrocarbon impact from the site through excavation of potentially impacted materials associated with the service station to allow validation of residual soils in excavated areas; and
- Classification and off-site disposal of excavated material to an appropriately licensed landfill.

The report concludes that if the Remediation Action Plan is implemented, then the site will be made suitable for the proposed development.

Council's Environmental Health Officer has reviewed the proposal and submitted documentation and recommends the following:

1. Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review and determine the appropriateness of the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016*. The Site Auditor shall verify that the information provided in the Remediation Action Plan (RAP) by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.
2. Engage a qualified, experienced and reputable environmental consultant to prepare a Validation report which assesses the results of the post-remediation goals stated in the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016*.
3. Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review the Validation Report and submit interim advice from the accredited Site Auditor commenting on the adequacy of the remediation work to remove the sources of contamination at the subject site and certifies that the Validation Report has achieved the remediation goals.
4. Provide a Site Audit Statement and Site Audit Report to Woollahra Council which certifies:
  - The nature and extent of the contamination has been appropriately determined;
  - The Sampling, Analysis and Quality Plan was appropriate to determine the nature and extent of the off-site contamination;
  - The investigation report complied with relevant standards, procedures and guidelines made or approved under the Contaminated Land Management Act 1997; and
  - A Management Plan, if required for the subject development site, is appropriate to manage identified off-site impacts.

The above-mentioned recommendations are implemented via **Conditions A3, C15, C16, C17, C18 & H9**. Refer to the Environmental Health referral response (**Annexure 5**). Subject to these conditions, the subject land is considered to be suitable for the proposed development in terms of the provisions of the SEPP 55.

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

SEPP 65: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings.

The aim of the SEPP is to improve the design quality of residential apartment development:

- a) *To ensure that it contributes to the sustainable development of New South Wales:*
  - (i) *By providing sustainable housing in social and environmental terms, and*
  - (ii) *By being a long-term asset to its neighbourhood, and*
  - (iii) *By achieving the urban planning policies for its regional and local contexts*
- b) *To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- c) *To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*



- d) *To maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- e) *To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions*
- f) *To contribute to the provision of a variety of dwelling types to meet population growth*
- g) *To support housing affordability*
- h) *To facilitate the timely and efficient assessment of applications for development to which this Policy applies*

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

Clause 30(2) of SEPP 65 requires the assessment of the application against the design quality principles in Schedule 1. This assessment has been undertaken by Council's Urban Design Officer. Where relevant, comment from Council's Assessment Officer is also included.

### **15.1. Design Quality Principles**

The proposal is considered to be of a high quality design which respects the characteristics of the site and precinct in the following ways:

- The building mass is broken into two at the front of the site with a vertical circulation shaft and pedestrian entry located centrally.
- The 4-storey street front height provides an appropriate transition between the adjoining 2 & 7 storey buildings.
- The 7 larger units face north, away from traffic on New South Head Road, and two smaller units are located over retail fronting New South Head Road.
- The contemporary character will positively contribute to the character of the area. The nautically inspired stair is designed to reflect the ship-like aesthetic of the beach fronting façade and the metal clad recessed top floor is designed to reflect a 'cabin'. The transition from round to orthogonal form is gradual as the building morphs to the predominant rectilinear form on the New South Head Road frontage.

#### **15.1.1. Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

Council's Urban Design Officer's comment: "This proposal relates to two principal contexts. These are; the transitional location on New South Head Road at the western edge of the Rose Bay

commercial centre and the shoreline of Rose Bay Sydney Harbour. In both cases the design response is appropriate and in line with the desired future character of the location as identified in WDCP2015”.

Planner’s comment: Concurred. The proposal satisfies the WDCP 2015 requirements in terms of both the Rose Bay Residential Precinct and the Rose Bay Centre. The proposal is an appropriate response to the desired future character for this location and will contribute to the quality and identity of the area.

#### **15.1.2. Principle 2: Built Form and Scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

Council's Urban Design Officer’s comment: “The proposed building’s built form and bulk is appropriate in this location”.

Planner’s comment: Concurred. The proposal satisfies the WDCP 2015 requirements in terms of both the Rose Bay Residential Precinct and the Rose Bay Centre. The proposed 4-storey frontage to New South Head Road provides an appropriate transition between the adjoining 7-storey building to the west and the 2-storey building to the east. The proposal is consistent with the built form and scale of the desired future character for this location.

#### **15.1.3. Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

Council's Urban Design Officer’s comment: “The proposed building’s density is appropriate in this well serviced location”.

Planner’s comment: Concurred. The proposed density is suitable for this well serviced location.

#### **15.1.4. Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes.*

*Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of*

*materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.*

Council's Urban Design Officer's comment: "The proposal performs reasonably with regard to solar access and cross ventilation. There are no significant sustainability initiatives over and beyond those required by BASIX. Outdoor clothes drying areas are required by the SEPP and WDCP2015".

Planner's comment: The proposal performs well in terms of sustainability. Each of the proposed units have good amenity. All units achieve cross ventilation requirements, more than 70% of the units (7 of the 9 units) receive more than 2 hours of sunlight in mid-winter, a central rainwater tank (28,000L) will be provided and a photovoltaic energy system will be provided.

### 15.1.5. Principle 5: Landscape

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.*

*Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.*

Council's Urban Design Officer's comment: "The landscape plan is satisfactory, but it should be noted that the four street trees proposed (Tuckeroos) are not the tree indicated by the Council Street Tree Master Plan 2014 and the WDCP2015 which is *Harpullia Pendula*. I have a concern that, although the SEE suggest otherwise, this proposal may not meet the deep soil requirements for this site. Please refer to the assessment officer's report. Outdoor clothes drying areas are required by the SEPP and WDCP2015".

Planner's comment: Council's Trees & Landscape Officer has advised that the proposed street tree species illustrated on the supplied landscape plan (*Cupaniopsis anacardioides*) is not consistent with the preferred street tree species listed in Council's Street Tree Master Plan for New South Head Road (between Norwich Road and Caledonia street Rose Bay). **Condition C27** is recommended requiring the species to be substituted with *Harpullia pendula* (Tulipwood) (refer to **Annexure 3**). The proposal is considered to provide good landscape design for the following reasons:

- The proposal includes new street trees along New South Head Road.
- The commercial courtyards include planting.
- The proposal incorporates planting on the upper level balconies.
- A green vertical screen is proposed on the western elevation.
- The proposal involves retention of the row of Kentia Palms and transplanting of the large frangipani tree.
- The amount of deep soil landscaped area complies with the requirements of the ADG and WDCP 2015.

- The removal of the largest tree, *Agonis flexuosa* (Willow Myrtle), has previously been approved to be removed under Tree Works Application 135/2016/1.

Each unit incorporates large balconies which provide sufficient space for outdoor drying.

#### **15.1.6. Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.*

Council's Urban Design Officer's comment: "Two of the nine apartments do not receive solar access directly into the living area. These apartments do have satisfactory amenity however. All apartments have good cross ventilation. The amenity of the apartments is satisfactory. Outdoor clothes drying areas are required by the SEPP and WDCP2015".

Planner's comment: The two units that do not receive solar access directly into the living area are the two south facing units where solar access to the site is limited. The overall (internal) amenity provided on the site is good in terms of solar access, cross ventilation, unit and room sizes, the amount of private open space for each unit, inclusion of ample storage areas, visual and acoustic privacy. Each unit incorporates large balconies which provide sufficient space for outdoor drying.

#### **15.1.7. Principle 7: Safety**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Council's Urban Design Officer's comment: "The proposal has issues regarding the relatively complex entry arrangement, which will need to be carefully design".

Planner's comment: There are no safety or security issues regarding this development. The building incorporates passive surveillance, well defined entrances, active retail uses at the ground floor level.

#### **15.1.8. Principle 8: Housing diversity and social interaction**

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.*



*Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.*

Council's Urban Design Officer's comment: "This proposal provides housing for over 55 year old".

Planner's comment: The proposed development provides for nine (9) seniors housing units in a location where there is considerable demand.

### 15.1.9. Principle 9: Aesthetics

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

Council's Urban Design Officer's comment: "The aesthetics of the proposal are satisfactory".

Planner's comment: The proposed development is considered to be of a high-quality design that will positively contribute to the desired future character of the area. The nautically inspired stair is designed to reflect the ship-like aesthetic of the beach fronting façade and the metal clad recessed top floor is designed to reflect a 'cabin'. The transition from round to orthogonal form is gradual as the building morphs to the predominant rectilinear form on the New South Head Road frontage.

### 15.2. Apartment Design Guide (ADG)

SEPP 65 Clause 28(2)(c) provides that the consent authority must take into consideration the design criteria prescribed by the ADG. Clause 6 of the SEPP prescribes that in the event of an inconsistency between the SEPP and another environmental planning instrument (i.e. WLEP 2014 & WDCP 2015) this Policy prevails to the extent of the inconsistency.

Council's Urban Planner's provides comments in relation to the criteria prescribed by the ADG in the referral response attached as **Annexure 4**.

An assessment is provided against the relevant design guidance and criteria in the ADG as follows:

**Table 5: SEPP 65 Compliance Table** (Note: Non-compliances are **highlighted**)

Design Criteria Site Area: 1,496m <sup>2</sup>	Proposed	Control	Complies
3D - Communal open space - Minimum area (m <sup>2</sup> ) - Direct sunlight access to principal part in mid-winter	<b>14% or (212m<sup>2</sup>)</b> <b>&gt;50% for 2hrs</b>	25% or (374m <sup>2</sup> ) 50% for 2hrs	<b>NO</b> YES
3E - Deep soil zones - Area (m <sup>2</sup> ) - Minimum dimension (m)	12% (or 185m <sup>2</sup> ) >6	7% or (105m <sup>2</sup> ) 6	YES YES
3F - Minimum separation distances between windows and balconies (m): - To habitable rooms and balconies - To non-habitable rooms	<b>&lt;6m &amp; &lt;9m WF7</b> <b>&lt;3m &amp; &lt;4.5m WF7</b>	6m & 9m WF7 3m & 4.5m WF7	<b>NO</b> <b>NO</b>

<b>Design Criteria Site Area: 1,496m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
4A - Minimum number of apartments that receive 2 hours of solar access during mid-winter to living rooms and private open space	78% or (7)	70% or (6)	YES
4A - Maximum number of apartments that receive no direct sunlight during mid-winter	<b>22% or (2)</b>	15% or (1)	<b>NO</b>
4B - Minimum number of apartments that are cross-ventilated	100% or (9)	60% or (5)	YES
4B - Cross-ventilated apartments (m) - Maximum depth	<18	18	YES
4C - Minimum ceiling heights (m) - Habitable rooms - Non-habitable rooms - Mixed use (ground & first floor)	2.9 2.9 <b>2.9</b>	2.7 2.4 3.3	YES YES <b>NO</b>
4D - Minimum internal areas of apartments 2/3 x Bedrooms (m <sup>2</sup> )	>70/>90	70/90	YES
4D - Maximum habitable room depths (m) - Habitable rooms - Open plan	<7.25 <8	7.25 8	YES YES
4D - Master bedroom & other bedrooms: - Minimum sizes (m <sup>2</sup> ) - Minimum dimension (m)	>10 & >9 >3	10 & 9 3	YES YES
4D - Living rooms minimum width (m)	>4m	4	YES
4E - Apartment balconies (2/3 x Bedrooms) - Minimum area (m <sup>2</sup> ) - Minimum depth (m)	>10/>12 >2/>2.4	10/12 2/2.4	YES YES
4E - Ground level private open space - Minimum area (m <sup>2</sup> ) - Minimum depth (m)	>15m <sup>2</sup> >3m	15m <sup>2</sup> 3m	YES YES
4F - Maximum number of apartments off circulation core	<8	8	YES
4G - Minimum storage size volume 2/3 x Bedrooms (m <sup>3</sup> )	8/10	8/10	YES

### 15.2.1. Part 3A: Site Analysis

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

### 15.2.2. Part 3B: Orientation

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

### 15.2.3. Part 3C: Public Domain Interface

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**Condition F7** is recommended in relation to street numbering, **Condition F8** is recommended in relation to letter boxes and **Condition I7** is recommended in relation to clothes drying.

### 15.2.4. Part 3D: Communal and Public Open Space

The proposal fails to satisfy the relevant design criteria prescribed by this Part because:

- The size of the communal open space area is 14% of the site area, where a minimum of 25%

is required.

Notwithstanding this, the proposal satisfies the relevant objectives of the design criteria prescribed by this Part for the following reasons:

- The proposal incorporates large individual private open space areas to each unit.
- The proposed communal open space is orientated to the north and has frontage to the Harbour. The space is well designed and incorporates a swimming pool, deck and deep soil landscaped area.
- The site also includes common courtyards for the commercial component of the development (these areas are not included in the calculable common open space area).

#### 15.2.5. Part 3E: Deep Soil Zones

The proposal satisfies the relevant objectives, design criteria and design guidance prescribed by this Part.

#### 15.2.6. Part 3F: Visual Privacy

**Table 6:** Design Criteria 1 - ADG

Building height	Habitable rooms and balconies	Non-habitable rooms
(a) Up to 12m (4 storeys)	6m	3m
(b) Up to 25m (5-8 storeys)	9m	4.5m

All of the development falls within the controls in (a) above, other than the top floor which exceeds 12m in height (unit WF7 – third floor, level 6).

The side setbacks vary throughout the development. The proposed setback to the north-eastern boundary is 0m to 10m and the proposed setback to the south-western boundary is 2m to 9m (with the exception of the lower ground floor which has a zero setback).

The proposal fails to satisfy the relevant design criteria prescribed by this Part as follows:

**Table 7:** Visual Privacy & Separation Distances

Floor	Unit	Windows/ balcony	Comment
Lower GF – Level 2	WF1	Bed 1 ensuite windows <3m to NE boundary	Below fence level
		Bed 2 & 3 windows <6m to SW boundary	Mostly below fence level & Bed 2 window is oriented north (away from the side boundary)
		Living area balcony <6m to NE boundary	Below fence level
		Bedroom balcony <6m to SW boundary	Due to the irregular shape, small size and location to a secondary bedroom, the balcony will not result in unreasonable privacy impacts
Ground floor – Level 3	WF2	Bed 1 ensuite windows <3m to NE boundary	The narrow ensuite windows are offset and sufficiently separated from habitable windows
		Bed 2 window <6m to SW boundary	Bed 2 window is oriented north (away from the side boundary)
		Bed 3 window <6m to SW boundary	Bed 3 windows looks over a driveway/ service area
		Bedroom balcony <6m to SW	Due to the irregular shape, small size and

		boundary	location to a secondary bedroom, the balcony will not result in unreasonable privacy impacts
		Living area balcony <6m to NE boundary	<b>Condition C2(j)</b> is recommended requiring a privacy screen to the north-eastern edge of the deck to apartment WF2 that extends for a minimum length of 4m as measured from the north-western external wall to Bedroom 1. Refer to Section 10.1 (also objector concern)
First floor – Level 4	NSHR1	Bedroom balconies <6m to NE boundary	Screens provided
	WF3	Living area & dining room windows <6m to NE boundary	Due to the level of the window, it will look over the roof of the adjoining property
		Living area balcony <6m to NE boundary	Due to the level of the balcony, it will look over the roof of the adjoining property
		Bed 2 window <6m to NE boundary	The window is orientated north, away from the adjoining property
		Bed 3 balcony and window <6m to NE boundary	The balcony is only 0.5m wide. The window is orientated south, away from the adjoining property and is offset to the level of the window at No.650 NSHR.
	WF4	Living area and dining room windows <6m to SW boundary	Minor non-compliance with living area window, it is orientated north, away from the adjoining property. Fixed louvre to dining room window
		Living area and dining room balconies <6m to SW boundary	Minor non-compliance with living area balcony. The balcony is orientated north. Fixed louvre to dining room balcony
		Bed 3 balcony <6m to SW boundary	The balcony is only 0.5m wide. The window is orientated south, away from the adjoining property
	NSHR2	Bedroom balconies <6m to SW boundary	Screens provided
Second floor – Level 5	WF5	Living area balcony <6m to NE boundary	This is a minor non-compliance, the balcony incorporates a solid balustrade and the trafficable area has been limited
		Bed 1, Bed 2, Bed 3 & ensuite windows <6m to NE boundary	The windows are oriented away from the neighbouring buildings. Nib walls are provided to reduce view lines.
	WF6	Bed 1, Bed 2, Bed 3 & ensuite windows <6m to NE boundary	The windows are oriented away from the neighbouring buildings. Nib walls are provided to reduce view lines. A green wall is provided to further reduce overlooking.
Third floor – Level 6	WF7	Bed 1 balcony <9m to NE boundary	There will be no overlooking impact due to the height of the adjoining development
		Bed 1 ensuite window <4.5m to NE boundary	There will be no overlooking impact due to the height of the adjoining development
		Living area balcony <9m to NE boundary	The balcony is setback 6m from the NE boundary and has a floor level of RL 15.55 AHD which will look over the roofs of the adjoining properties to the NE which have ridge lines of RL 10.4 & RL 13.3 AHD.
		Living area balcony <9m to SW boundary	The non-compliant part is less than 1m wide and a solid screen is provided adjacent to the spa
		Bed 2 window <9m to SW boundary	Fixed louvre screen provided
		Bed 2 & 3 balcony <9m SW boundary	Fixed louvre screen provided



Notwithstanding this, the proposal satisfies the relevant objectives of the design criteria prescribed by this Part for the following reasons:

- Full compliance with the separation requirements is difficult to achieve on the site due to the narrow width at the harbour frontage (18.8m).
- The majority of windows and balconies within the development are orientated towards the harbour or street frontage rather than side boundaries.
- Suitable measures are proposed to minimise visual privacy impacts to neighbouring properties and between the units in the development.
- Where the proposal results in an overlooking impact, conditions have been imposed.

The trafficable areas of the balconies are concentrated towards the centre of the site, away from neighbouring properties which will minimise noise impacts. An acoustic assessment (prepared by Acoustic Logic) addresses noise from common areas. This report was considered satisfactory by Council's Health Officer. Standard conditions to minimise noise impacts are recommended.

#### **15.2.7. Part 3G: Pedestrian Access and Entries**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

#### **15.2.8. Part 3H: Vehicle Access**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

#### **15.2.9. Part 3J: Bicycle and Car Parking**

Car parking requirements are addressed in Section 20.4.

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

#### **15.2.10. Part 4A: Solar and Daylight Access**

The proposal fails to satisfy the relevant design criteria prescribed by this Part because:

- The two units receive no direct sunlight between 9am and 3pm mid-winter, where a maximum of one unit is permitted to receive no direct sunlight.

Notwithstanding this, the proposal satisfies the relevant objectives of the design criteria prescribed by this Part for the following reasons:

- The two units that receive no solar direct solar access are the two units that front New South Head Road (NSH1 & NSH2). The living areas and balconies of these units face south-east which limits solar access. The units benefit from a dual aspect and shallow layout which will facilitate indirect light and cross ventilation.

#### **15.2.11. Part 4B: Natural Ventilation**

The proposal satisfies the relevant objectives, design criteria and design guidance prescribed by this Part.

#### **15.2.12. Part 4C: Ceiling Heights**

The proposal fails to satisfy the relevant design criteria prescribed by this Part because:

- The floor-to-ceiling height of the commercial development is 2.9m, where a minimum of 3.3m is required.

Notwithstanding this, the proposal satisfies the relevant objectives of the design criteria prescribed by this Part for the following reasons:

- The 2.9m floor-to-ceiling height complies with the BCA and will provide suitable internal amenity.

#### **15.2.13. Part 4D: Apartment Size and Layout**

The proposal satisfies the relevant objectives, design criteria and design guidance prescribed by this Part.

#### **15.2.14. Part 4E: Private Open Space and Balconies**

The proposal satisfies the relevant objectives, design criteria and design guidance prescribed by this Part.

#### **15.2.15. Part 4F: Common Circulation and Spaces**

The proposal satisfies the relevant objectives, design criteria and design guidance prescribed by this Part.

#### **15.2.16. Part 4G: Storage**

The proposal satisfies the relevant objectives, design criteria and design guidance prescribed by this Part.

#### **15.2.17. Part 4H: Acoustic Privacy**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

#### **15.2.18. Part 4J: Noise and Pollution**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

#### **15.2.19. Part 4K: Apartment Mix**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

#### **15.2.20. Part 4L: Ground Floor Apartments**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.21. Part 4M: Facades**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.22. Part 4N: Roof Design**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.23. Part 4O: Landscape Design**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.24. Part 4P: Planting on Structures**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.25. Part 4Q: Universal Design**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.26. Part 4S: Mixed Use**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.27. Part 4T: Awnings and Signage**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.28. Part 4U: Energy Efficiency**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.29. Part 4V: Water Management and Conservation**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.30. Part 4W: Waste Management**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**15.2.31. Part 4X: Building Maintenance**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

**16. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

SEPP (Housing for Seniors or People with a Disability) 2004 aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability and make efficient use of existing infrastructure and services.

The SEPP provides provisions for seniors, people with a disability, seniors housing, residential care facilities, hostels and self-contained dwellings. The proposal contains nine (9) self-contained seniors housing units.

## **Chapter 1 - Preliminary**

### **16.1. Clause 2: Aims and Objectives**

Clause 2.2 states that the aims of the policy seek to encourage the provision of housing that will:

- a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability*
- b) make efficient use of existing infrastructure and services*
- c) be of good design*

The proposal satisfies the aims and objectives prescribed by this Part.

### **16.2. Clause 4: Land to which Point applies**

Clause 4(1) states that this policy applies to land zoned primarily for urban purposes, or land that adjoins land zoned primarily for urban purposes, but only if:

- (a) Development for the purpose of any of the following is permitted on the land:*
  - (i) Dwelling houses,*
  - (ii) Residential flat buildings,*
  - (iii) Hospitals*
  - (iv) Development of a kind identified in respect of land zoned as special uses, including (but not limited to churches, convents, educational establishments, schools and seminaries or*
- (b) The land is being used for the purposes of an existing registered club*

Under Woollahra Local Environment Plan 2014 (WLEP), the site incorporates two zones as follows:

- FRONT (No. 638-646 NSHR) - B2 Local Centre zone.
- REAR (No. 636 NSHR) - R3 Medium Density Residential zone.



**Figure 13:** Zoning map (WLEP 2014 zoning map overlay)

‘Dwelling houses’, ‘residential flat buildings’ and ‘seniors housing’ are permitted in the R3 Medium Density Residential zone under WLEP 2014.

‘Hospitals’ are permitted in both the B2 Local Centre zone and R3 Medium Density Residential zone under State Environmental Planning Policy (Infrastructure) 2007.

Accordingly, it is considered that the proposal falls within SEPP (Housing for Seniors or the Disabled) 2004.

## Chapter 2 – Key concepts

### 16.3. Clause 13: Self-contained dwellings

Clause 13 describes self-contained dwellings as:

*“...a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis”*

It is considered that the proposal falls within this definition as the proposal includes shared facilities such as a communal swimming pool and communal open space area.

## Chapter 3 – Development for seniors housing

### 16.4. Clause 19: Use of seniors housing in commercial zones

Clause 19 does not permit the use for residential purposes of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes



unless another environmental planning instrument permits the use of all of the building for residential purposes.

The proposal incorporates commercial development on the ground floor level for the part of the site which is within the B2 Local Centre zone (i.e. No.638-646 New South Head Road). The proposal therefore satisfies this Clause.

## **Part 1A Site compatibility certificates**

### **16.5. Clause 24: Site compatibility certificates required for certain development applications**

Clause 24(1)(b) identifies development applications that require site compatibility statements and includes development applications that involve buildings that have a floor space ratio that require the consent authority to grant consent under clause 45.

The proposal seeks the FSR bonus under clause 45 but only for the part of the site which is within the R3 Medium Density Residential zone (on which residential flat buildings are permissible).

Clause 24(1A) states that the clause does not apply if the proposed development is permissible with consent under another environmental planning instrument. 'Seniors housing' is a permissible use in the R3 Medium Density Residential zone under WLEP 2014. Therefore, a site compatibility statement is not required.

## **Part 2 Site-related requirements**

### **16.6. Clause 26: Location and Access to Facilities**

**Table 8: Site Location Summary**

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Banking Services	<400m	400m	YES
Shops/Retail/Commercial Facilities	<400m	400m	YES
Community Services	<400m	400m	YES
Recreation Facilities	<400m	400m	YES
General Practitioner	<400m	400m	YES
Gradient	<1:14	1:14	YES
Bus Stop	<400m	400m	YES

The Rose Bay Centre has two supermarkets, three banks, chemists, a broad range of restaurants and cafes and other day-to-day services that contribute to making the centre the most convenient and important for residents from the eastern half of the Woollahra Local Government Area (LGA).

The centre is well serviced by public transport with five bus routes running along New South Head Road to the CBD, being route Nos. 323, 324, 325, and L24. Connections are available from these routes at the Edgecliff Bus and Rail Interchange to district centres such as Bondi Junction. The

Rose Bay Ferry Wharf is 550m from the centre with services to Circular Quay, Double Bay and Watsons Bay.

The proposal satisfies the provisions of this clause.

#### **16.7. Clause 28: Water and Sewer**

Clause 28 requires the consent authority to be satisfied that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

Council's Development Engineer considers the proposal satisfactory, subject to conditions.

#### **16.8. Clause 29: Site Compatibility Criteria**

Clause 29(1) states that:

*This clause applies to a development application made pursuant to this chapter in respect of development for the purposes of seniors housing to which Clause 24 does not apply.*

Clause 29(2) states that:

*A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in Clause 25(5)(b)(i), (iii) and (v), which states as follows:*

Given that Clause 24 does not apply, the consent authority must take into consideration the following criteria in Clause 25(5)(b):

- (i) The natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development*

The natural environment of the site is considered to be appropriate for the proposed development. There are no significant issues or hazards applicable to the site that would significantly impede the development. The existing site comprises of a residential flat building at the rear. The redevelopment of the existing service station at the front of the site for a mixed use development (comprising of 10 units) was approved on 18/7/2016. The surrounding development consists of residential flat buildings, mixed use developments, commercial development and a retirement village (Rose Bay Towers Retirement Village) immediately adjacent to the site at No.624 New South head Road. The proposal is considered to be compatible with the existing uses in the vicinity of the site.

- (iii) The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision.*

There are sufficient services and infrastructure available to meet the demands generated by the proposed development within less than 400m in Rose Bay commercial centre. The site is also well serviced by transport which provides access to larger centres at Double Bay, Edgecliff and Bondi Junction.

- (v) *The impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development*

Surrounding development consists of a range of two to eight storey developments. The proposed three to four storey development responds to the heights of the adjoining buildings, the split-zoning of the site and maintaining amenity to adjoining buildings.

The development presents four storeys to the primary frontage to New South Head Road, with the upper level setback. The street frontage height is compatible with other surrounding development. The development provides articulation through varied setbacks and balconies to minimise any significant impacts of bulk, scale or sense of enclosure. Further, landscaping will soften the impact of the development as viewed from adjoining dwellings.

Overall, the scale, form and character of the development are considered to be acceptable in the context of the site, topography and surrounding development.

### **Part 3 Design Requirements**

#### **16.9. Clause 30: Site Analysis**

Clause 30 requires the consent authority to consider a detailed site analysis.

The proposal satisfies the provisions of this clause.

### **Division 2 Design Principles**

#### **16.10. Clause 33: Neighbourhood Amenity and Streetscape**

Clause 33 states that the proposed development should:

- a) *Recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area*

The proposed development achieves the Desired Future Character objectives of the Rose Bay Precinct and the Rose Bay Centre (refer to detailed assessment in Sections 20.1 & 20.3).

- b) *Retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*

The subject site is not in a heritage conservation area. Heritage items in the vicinity of the site are located adequate distance from the site so as not to be impacted upon. Council's Heritage Officer has not raised any concern with the proposal. Accordingly, the proposal is acceptable in this regard.

- c) *Maintain reasonable neighbourhood amenity and appropriate residential character by:*  
i) *Providing building setbacks to reduce bulk and overshadowing*  
ii) *Using building form and siting that relates to the site's land form*  
iii) *Adopting building heights at the street frontage that are compatible in scale with adjacent development*

- iv) *Considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours*

The proposal is acceptable for the following reasons:

- The proposal provides adequate setbacks to minimise bulk and steps down towards the harbour to minimise amenity impacts to adjoining properties.
  - The building form and siting responds well to the site's land form.
  - The building height when viewed from New South Head Road is appropriate and comparable in scale and height with surrounding development.
  - Where walls have a zero setback to side boundaries, they will not have an adverse impact on neighbouring properties.
- d) *Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line*

The front setback is commensurate with the front setback of both adjoining properties and is considered to be acceptable.

- e) *Embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape*

Council's Trees and Landscaping Officer is satisfied with the proposal in terms of trees and landscaping, subject to conditions (**Annexure 3**).

- f) *Retain, wherever reasonable, major existing trees*

Council's Trees and Landscaping Officer is satisfied with the proposal in terms of trees and landscaping, subject to conditions (**Annexure 3**).

- g) *Be designed so that no building is constructed in a riparian zone*

Not applicable.

#### **16.11. Clause 34: Visual and Acoustic Privacy**

Clause 34 states:

*The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) *appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) *ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Acoustic and visual privacy is considered as follows:

##### Acoustic privacy:

- Council's Environmental Health Officer considers the proposal acceptable, subject to conditions.

- An acoustic report by Acoustic Logic dated 10/03/2016 was submitted with the application which concludes that subject to recommendations made in Section 6 of the report, including requirements regarding materials and acoustic seals around openings, the proposal is deemed to meet the specified noise criteria. **Condition A3** requires compliance with the acoustic report.
- **Condition C2** is recommended to ensure appropriate acoustic treatment to the units fronting New South Head Road.
- **Conditions C22, C23, I3 & I5** are recommended to minimise noise impacts from mechanical plant equipment including the proposed A/C units.
- Noise generated from the future use of the site is generally consistent with what would reasonably be expected to occur from development on the site. **Condition I4** is recommended to minimise noise impacts from the use of the property.

Visual privacy:

- Windows and balconies to habitable rooms are orientated towards the street and harbour, not towards side boundaries.
- Adequate separation distances will be provided and privacy screens are incorporated where appropriate (refer to Section 15.2.6).

Subject to the abovementioned conditions, the proposal is considered to be acceptable with regard to Clause 34.

## 16.12. Clause 35: Solar Access and Design for Climate

Clause 35 states:

*The proposed development should:*

- (a) *ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) *involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

The following assessment is provided regarding Part (a):

- The north-south alignment of the allotment results in the majority of additional shadows falling over New South Head Road.
- Shadow diagrams have been submitted for 21 June demonstrating the extent of overshadowing to neighbouring residents as follows:
  - At 9am overshadowing occurs over No.624B New South Head Road, located immediately adjacent to the western boundary of the subject site. There will be a minor amount of overshadowing to the swimming pool but the majority of the additional shadows fall over the parking area.
  - At 9am overshadowing occurs over No. 624-634 New South Head Road, located immediately adjacent to the western boundary of the subject site. There will be additional overshadowing to the parking area and the east-facing ground floor windows, the first floor windows and the second floor dining room windows. There will be no overshadowing impact to the balconies or windows of the units above the second floor level.



- At 12 noon overshadowing occurs over the parking area of No. 624-634 New South Head Road. There will be no overshadowing impact to the balconies or windows of the building at any level.
- At 3pm overshadowing occurs over Nos. 737 & 745-749 New South Head Road (located on the opposite side of New South Head Road). The overshadowing will affect the north-east facing ground floor windows and street frontage. However, these areas relate to commercial uses.
- Some overshadowing impact is reasonably expected from the redevelopment of the service station site. The extent of overshadowing is not considered to be unreasonable given that the majority of overshadowing does not affect habitable windows or balconies.
- Solar access will be maintained to adjoining properties in accordance with Council's WDCP 2015 requirements.

The following assessment is provided regarding Part (b):

- In terms of site planning, the location and north/south orientation of the development allow for good solar access to most units throughout the day. Seven of the nine units receive good solar access. Two units receive no direct sunlight between 9am and 3pm mid-winter, however, these are the units that front New South Head Road (NSH1 & NSH2). The living areas and balconies of these units face south-east which limits solar access. The units benefit from a dual aspect and shallow layout which will facilitate indirect light and cross ventilation.
- The substantial communal open space areas within the site will receive good solar access.
- Cross ventilation is provided to all units.
- BASIX Certificates were submitted with the development application and compliance with these is recommended in the conditions.

Accordingly, for the reasons discussed above, the proposal is considered to be acceptable in terms of Clause 35.

#### **16.13. Clause 36: Stormwater**

Clause 36 states:

*The proposed development should:*

- (a) *control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) *include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Council's Development Engineer considers the proposal satisfactory in terms of stormwater, subject to conditions (**Annexure 2**).

#### **16.14. Clause 37: Crime Prevention**

Clause 37 states:

*The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:*

- (a) *site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) *where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) *providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

The proposal satisfies the provisions of this clause.

#### **16.15. Clause 38: Accessibility**

Clause 38 states:

*The proposed development should:*

- (a) *have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) *provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors*

Safe and level footpaths are provided to the front of the site providing access to public transport with links to nearby services and facilities.

Level access is provided within the development between each level of the building via a lift. This allows for access from the basement car park to each level of the building. Further, a Statement of Compliance for access for people with a disability dated 10/03/2016 by Accessible Building Solutions has been provided which concludes that the proposal can achieve compliance with the access provisions of the BCA.

In terms of parking, the proposal complies with the parking requirements in the SEPP (Housing for Seniors or People with a Disability) 2004 (refer to Section 16.20).

#### **16.16. Clause 39: Waste Management**

Clause 39 states:

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

The proposal satisfies the provisions of this clause.

### **Part 4 Development standards to be complied with**

#### **Division 1 General**

#### **16.17. Clause 40: Development Standards – Minimum Sizes and Building Height**

Clause 40(1) states that a consent authority must not consent to a development application made pursuant to this clause unless it complies with the following controls.

**Table 9: SEPP Seniors Housing - Development Standards**

Site Area: 1,496m <sup>2</sup>	Proposed	Control	Complies
Site Area	1,496m <sup>2</sup>	1,000m <sup>2</sup>	YES
Site Frontage	28.8m	20m	YES

The proposal is compliant.

**16.18. Clause 41: Standards for Hostels and Self-Contained Dwellings (Schedule 3 – Standards Concerning Accessibility and Useability for Hostels and Self-Contained Dwellings)**

Clause 40(1) states:

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.*

The standards specified in Schedule 3 relate to the detailed design in terms of accessibility and useability. An Access Report was submitted with the development application. **Condition C2(b)** is recommended to ensure that the development complies with the relevant detailed design requirements of Schedule 3.

**Part 6 Development for vertical villages**

**16.19. Clause 45: Vertical villages**

Clause 45 applies to land on which the development of residential flat buildings is permitted. The clause therefore applies to the rear portion of the site (No. 636 NSHR) which is zoned R3 Medium Density Residential.

Clause 45(2) states that a development can exceed the maximum FSR permitted under another environmental planning instrument (in this case the Clause 4.4 of WLEP 2014) by a bonus 0.5:1, provided the following is undertaken:

- The proposed development will deliver on-site support services for its residents;
- At least 10% of dwellings will be affordable places.
- The applicant identifies the locations of the dwellings to be set aside as affordable places.

The proposed development relies on the bonus FSR provision under Clause 45 for the rear portion of the site (No. 636 NSHR). Written evidence from B'nei B'rith Retirement Villages Limited was submitted with the development application confirming availability and interest in providing on-site support services to the proposed development.

The applicant has also nominated a 5-year subsidised rental accommodation for one of the two-bedroom units fronting New South Head Road (NSH2).

Whilst this unit is located in the front part of the site (rather than the rear, where the bonus is applicable), this is considered acceptable subject to **Condition H7** which requires the consolidation of the two sites.

The nominated 5-year lease does not meet the requirements of the SEPP. Therefore, in accordance with Clause 45(2), (6) (8) & (9) the following conditions are recommended:

- **Condition I8** – requiring the provision of on-site support services as defined under the SEPP.
- **Condition A8** – requiring the creation of a restrictive covenant on the land relating to the continued provision of the affordable places identified in the application.
- **Condition A8** – requiring the affordable places to be owned and managed by an organisation providing community housing that is registered for the time being with the Office of Community Housing.

## Part 7 Development standards that cannot be used as grounds to refuse consent

### 16.20. Clause 50: Standards That Cannot be used to Refuse Consent

A consent authority must not refuse consent to a development application on any of the following:

**Table 10: SEPP Seniors Housing – Standards that cannot be used to refuse consent**

Site Area: 1,496m <sup>2</sup>	Proposed	Control	Complies
Height – All Buildings	14.2m	8m or less	NO
Maximum Floor Space Ratio (Overall)	1.3:1 (1,961m <sup>2</sup> )	0.5:1 (748m <sup>2</sup> )	NO
Minimum Landscaped Area	25% (372m <sup>2</sup> )	30% of the Site (449m <sup>2</sup> )	NO
Deep Soil Landscaping – Total	12% (185m <sup>2</sup> )	15% of the Site (224m <sup>2</sup> )	NO
Deep Soil Landscaping – Rear	>Two-thirds	Two-thirds deep soil zone	YES
Deep Soil Landscaping – Dimensions	>3m	Min Dimension 3m	YES
Solar Access To Living Rooms – Between 9am and 3pm on June 21	70% 6 units	70% of Dwellings for 3 Hours (6 units)	YES
Ground Floor Unit Private Open Space – Accessibility (WF1)	Accessible from Living	Accessible from Living	YES
Ground Floor Unit Private Open Space – Minimum Area (WF1)	>15m <sup>2</sup>	15m <sup>2</sup>	YES
Ground Floor Unit Private Open Space – Minimum Dimension (WF1)	>3m x 3m	3m x 3m	YES
Upper Level Unit Private Open Space Minimum Balcony Size	>10m <sup>2</sup>	10m <sup>2</sup>	YES
Upper Level Unit Private Open Space Minimum Balcony Depth or Length	>2m	2m	YES
Car Parking (25 bedrooms)	14 spaces	0.5 spaces/Bedroom (13 spaces)	YES

Clause 50 provides standards whereby the consent authority cannot refuse consent of these is compliance with the standards. These standards do not impose maximum or minimum standards and the consent authority may approve a development where it exceeds the provisions.

The following matters have been addressed elsewhere in this report and are considered satisfactory:

- Building height – refer to Section 19.4.
- Floor space ratio – refer to Section 19.5.
- Landscaped area/ deep soil landscaped area – the proposal complies with the deep soil area requirements of the ADG - SEPP 65, refer to Section 15.

The proposal is acceptable with regard to SEPP (Housing for Seniors or People with a Disability) 2004.

#### **17. STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009**

Clause 49(2) of the SEPP (Affordable Rental Housing) 2009 states that Part 3 ‘Retention of existing affordable rental housing’ does not apply to a building to which SEPP (Housing for Seniors or People with a Disability) 2004 applies.

#### **18. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005**

The provisions of Clauses 13, 25 and 26 of this instrument and the accompanying Development Control Plan for the SREP 2005 require Council to consider the visual impact that a development proposal will have upon Sydney Harbour and adjoining foreshore areas and the likely impact upon available views to and from Sydney Harbour.

The aims of the SREP are outlined in Clause 2 and the relevant matters for consideration in Clause 25 that relate to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways. The site and the existing buildings thereon have an immediate frontage to, and are visible from, Sydney Harbour.

The subject site has immediate frontage to Rose Bay and its foreshore. When viewed from harbour and foreshore perspectives, the proposed 3-4 storey development will appear transitional in scale between the 6-8 storey developments to the west and the lower 2 storey developments to the east. The proposed materials and articulation to the north-western elevation, facing the harbour, will adequately mitigate reflective glare from glazing as viewed from the harbour.

The proposed fenestration remains adequately proportioned or recessed within the building form or located beneath terraces and balconies thereby mitigating its reflectivity. Cumulatively, the extent of glazing within is not sufficient to warrant or justify refusal or modification of the development.

It is considered that the proposal will not have adverse visual impacts upon Sydney Harbour and adjoining foreshore areas.

Whilst the proposal will have an adverse impact upon the views from several properties located on the opposite side of New South Head Road, this is considered to be inevitable as the impact is predominantly caused by the portion of the built form that is compliant with Council's development controls. This issue is discussed in greater depth in Section 20.

The proposal is considered to be satisfactory with regard to the provisions of SREP (Sydney Harbour Catchment) 2005.



## 19. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

### 19.1. Part 1.2: Aims of Plan

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

### 19.2. Land Use Table

The proposed Seniors Housing is permissible on the Site under SEPP (Housing for Seniors or People with a Disability) 2004 (refer to Section 16).

### 19.3. Part 4.1A: Minimum Lot Sizes for a Dual Occupancies, Multi Dwelling Housing and Residential Flat Building

Clause 4.1A(2) specifies a minimum lot size of 700m<sup>2</sup> for residential flat buildings in the R3 Medium Density Residential zone.

**Table 11:** LEP Minimum Lot Sizes

No. 636 NSHR (harbourfront)	Proposed	Control	Complies
Minimum Lot Size – R3 Zone Multi-Unit/Residential Flat Building	791m <sup>2</sup>	700m <sup>2</sup>	YES

The proposal complies with 4.1A(2) of Woollahra LEP 2014.

### 19.4. Part 4.3: Height of Buildings

Clause 4.3 limits development to a maximum height of 9.5m for No. 636 NSHR and 14.1m for Nos. 638-646 NSHR.

**Table 12:** LEP Building Height

	Proposed	Control	Complies
Height – No. 636 NSHR (harbourfront)	9.2m – 12.2m	9.5m	NO*
Height – Nos. 638-646 NSHR (streetfront)	8.8m – 15.3m	14.1m	NO*

*\*Clause 4.6 variation request submitted*

The proposal does not comply with Clause 4.3 of Woollahra LEP 2014 as detailed and assessed in Clause 4.6 below.

### 19.5. Part 4.4: Floor Space Ratio

Part 11 limits development to a maximum floor space ratio of 0.65:1 for No.636 NSHR and 2:1 for Nos. 638-646 NSHR.

However, the floor space ratio control in Clause 11 is overridden for No. 6363 NSHR (harbourfront portion of the site) by Clause 45 of SEPP (Housing for Seniors or People with a Disability) 2004, which allows for an additional 0.5:1 floor space ratio bonus.

**Table 13: LEP Floor Space Ratio**

	Site Area	Control	Proposed	Complies
FSR – No. 636 NSHR (harbourfront)	791m <sup>2</sup>	0.65:1 (514.2m <sup>2</sup> ) LEP / 1.15:1 (909.7m <sup>2</sup> ) inc. 0.5 SEPP bonus	0.88:1 (703.7m <sup>2</sup> )	YES (complies with SEPP)
FSR – Nos. 638-646 NSHR (streetfront)	705m <sup>2</sup>	2:1 (1,410m <sup>2</sup> )	1.73:1 (1,256.9m <sup>2</sup> )	YES

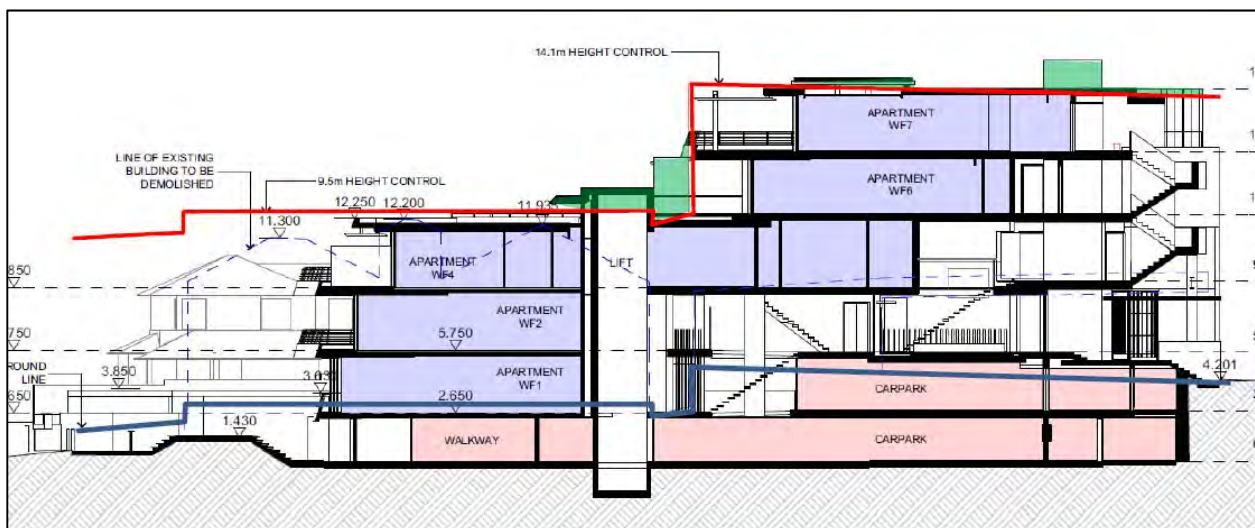
The proposal complies with the FSR controls contained in Clause 4.4 of Woollahra LEP 2014 and Clause 45 of SEPP (Housing for Seniors or People with a Disability) 2004.

## 19.6. Part 4.6: Exceptions to Development Standards

### Departure

The proposal involves a non-compliance with the building height development standard under Clause 4.3 of the Woollahra LEP 2014, as detailed in Section 19.4.

The extent of the non-compliances relate to the first and third floor (upper) levels including two lift overruns, the solar panels, the pop-up roof and clerestory windows, and roof terraces/balustrades as indicated in Figure 14 below.



**Figure 14: Section showing height non-compliance (provided by the Applicant)**

### Purpose

Part 4.6 allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

### Written Request

Part 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided a written request in relation to the departure (**Annexure 11**).

### Assessment

Part 4.6(4) requires Council to be satisfied that the written request has adequately addressed the relevant matters, the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and zone and the concurrence of the Director-General has been obtained.

The Department issued Planning Circular No.PS08-003 which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

An assessment against the building height objectives prescribed in Clause 4.3 is provided below.

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

Assessment: The site is located within two precincts identified in Woollahra DCP 2015. The streetfront portion of the site is located within the Rose Bay Centre precinct and the harbourfront portion of the site is located within the Rose Bay Residential precinct.

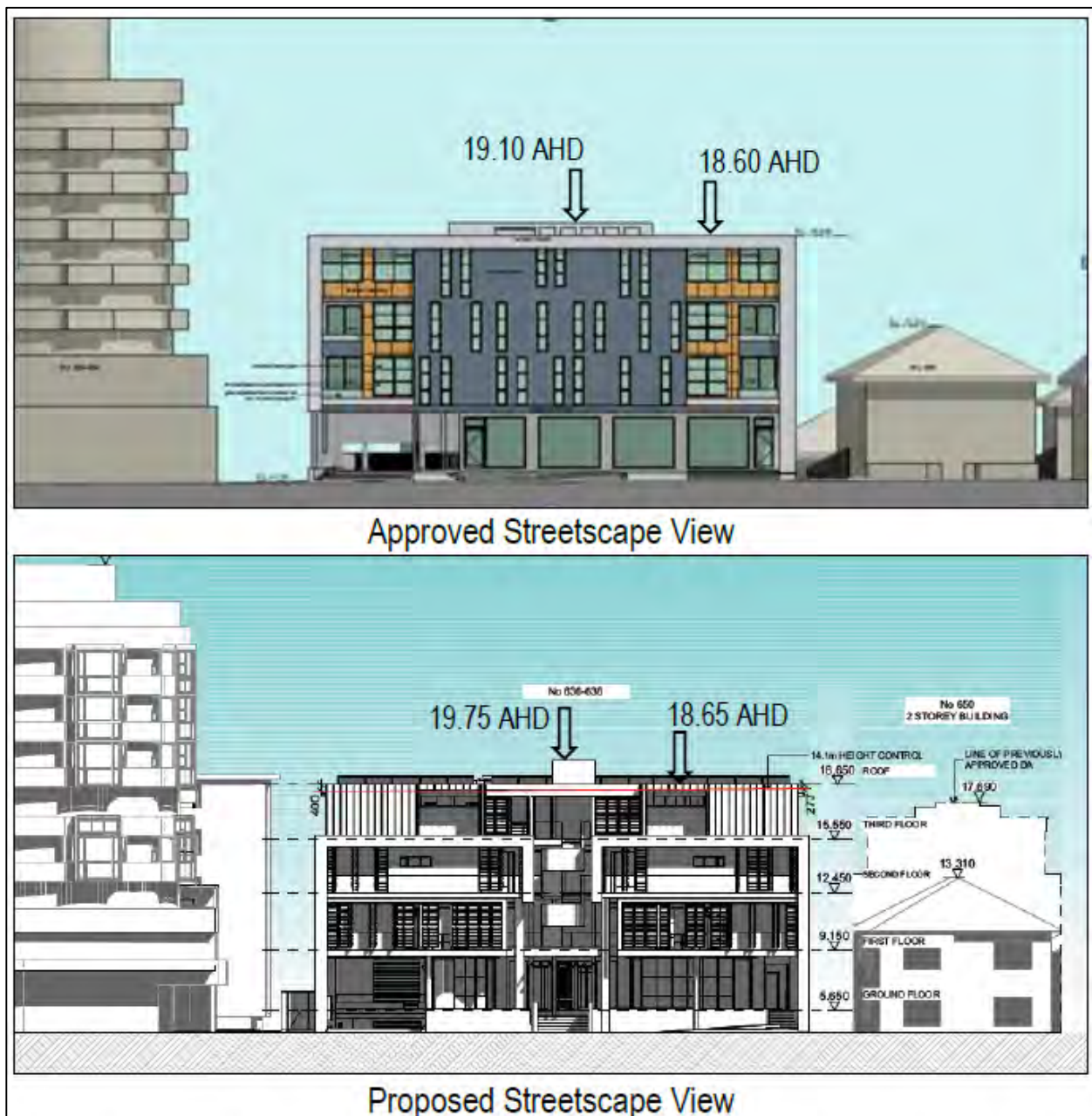
Development within the Rose Bay Centre is characterised by a mix of commercial buildings and multi-storey mixed use developments. The desired future character for the Rose Bay Centre precinct is to develop a high quality medium density village with a mix of uses. Development within the Centre is required to retain and enhance the village character of the centre and the public domain.

Development within the Rose Bay Residential precinct is characterised by a mix of two storey dwelling houses and multi-storey residential flat buildings. The desired future character for the Rose Bay Residential precinct identifies the R3 zone as an area for change and redevelopment due uses such as residential flat buildings with larger scale development concentrated on New South Head Road, adjacent to the commercial centre. Development within the precinct is required to respect and enhance the streetscape character, reinforce consistent building scale, protect iconic and harbour views from public spaces and reinforce the landscape setting.

The proposed building height is similar to the recent approval on the streetfront portion of the site (DA 2015/212, approved on 18/07/2016), as detailed in Table 14 and Figure 15 below.

**Table 14:** Height comparison table (provided by the Applicant)

HEIGHT COMPARISON BETWEEN APPROVED AND PROPOSED DEVELOPMENT		
	Approval	Proposal
RL of parapet at New South Head Road	18.60 AHD	18.65 AHD
RL at top of lift shaft	19.10 AHD	19.75 AHD
Height of building at the lift tower	15.13m	15.32m



**Figure 15:** Approved and proposed streetscape views (provided by the Applicant)

The proposed replacement of the services station with a mixed use development with an active street frontage to New South Head Road at the ground floor level and street planting will improve the public domain and visual presentation of the site. The development relates to the site context, stepping down towards the harbour, achieves a high standard of design (refer to SEPP 65 assessment) and provides an appropriate transition to the height of the adjoining developments. Therefore, the proposal satisfies objective (a).

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

Assessment: The site is located within the B2 Local Centre zone and R3 Medium Density zone. The proposed development will provide an appropriate transition in built form and scale to developments in adjoining zones. The proposed 3-4 storey development will provide a transition between the 6 & 8 storey buildings to the west and 2 storey buildings to the east. This is achieved by concentrating the density towards the front (NSHR side) of the site and stepping it down towards

the rear (harbour side), reflecting the split-zoning and dual height controls applicable to the site. As the Rose Bay Centre is undergoing change, a number of 4 storey buildings have been recently approved and constructed within the precinct.

The previous approval for a 4-storey development on the front portion of the subject site has a comparable height to the proposed development (refer to comment under objective (a) above). The height of the proposed development on the rear portion of the subject site is comparable to the ridge height of the existing development on the site. It is also noted that the adjoining 2 storey RFB to the east (No. 650 NSHR) has approval for conversion to a 4-storey mixed use development (DA 2004/576, approved on 05/02/2007). The extent of variation to the height controls is minor and will not have an adverse impact on the transition between zones or amenity impacts that would result from a compliant development. Therefore, the proposal satisfies objective (b).

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

Assessment: Shadow diagrams for the proposed development demonstrates that the extent of overshadowing to neighbouring properties in mid-winter (21 June) is minor with the majority of additional shadows falling over non-residential uses, parking areas, driveways and New South Head Road. The proposal will maintain a compliant amount of solar access to adjoining windows and private open space areas in accordance with SEPP 65 and Woollahra DCP 2015. Some overshadowing impact is reasonably expected from the redevelopment of the service station site. The extent of overshadowing is not considered to be unreasonable given that the extent of overshadowing is similar to a building form that complies with the height standard. Therefore, the proposal satisfies objective (c).

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

Assessment: In terms of **views**, an assessment of the view impacts resulting from the proposed development is included in Section 20 based on the NSW Land and Environment Court principle *Tenacity v Warringah Council (2004) NSWLEC 140*.

The streetfront portion of the site (No. 638 – 646 NSHR) has previously had a similar built form approved (DA2015/212 approved on 18/07/2016). The assessment of the approved DA (which had a similar height at the street frontage), concluded that the built form did not have an unreasonable impact on views. The redevelopment of the service station site will inevitably result in some view loss to properties on the opposite side of New South Head Road to the south. However, the extent of view loss resulting from the proposed development will be similar to the approved development and is considered acceptable.

The harbourfront portion of the site (No. 636 NSHR) steps down towards the rear and will maintain views from adjoining properties.

In terms of **privacy**, the areas of non-compliance do not relate to parts of the building that would cause privacy impacts.

In terms of **overshadowing**, the proposed development will not result in unreasonable overshadowing impacts. The proposal will maintain a compliant amount of solar access to windows and private open space areas of adjoining properties in accordance with SEPP 65 and Woollahra DCP 2015

In terms of **visual intrusion**, the proposed development will not result in an inappropriate visual presentation or visual intrusion.

Therefore, the proposal satisfies objective (d).

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

Assessment: Views of the harbour from the public domain were largely obstructed due to existing built forms. The areas of the proposed development that are non-compliant in height will not result in any significant impacts upon public views. Therefore, the proposal satisfies objective (e).

The development is consistent with the R3 Medium Density Residential zone objectives as follows:

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

Assessment: The proposed development satisfies this objective.

- ***To provide a variety of housing types within a medium density residential environment***

Assessment: The proposed development satisfies this objective.

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

Assessment: The proposed development satisfies this objective.

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

Assessment: The proposed development is of a height and scale that achieves the desired future character of the Rose Bay Centre precinct and Rose Bay Residential precinct (refer to comment under objective (a) above). The proposed development satisfies this objective.

The development is consistent with the B2 Local Centre zone objectives as follows:

- ***To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area***

Assessment: The proposed development satisfies this objective.

- ***To encourage employment opportunities in accessible locations***

Assessment: The proposed development satisfies this objective.

- ***To maximise public transport patronage and encourage walking and cycling***

Assessment: The proposed development satisfies this objective.



- *To attract new business and commercial opportunities*

Assessment: The proposed development satisfies this objective.

- *To provide active ground floor uses to create vibrant centres*

Assessment: The proposed development satisfies this objective.

- *To provide for development of a scale and type compatible with the amenity of the surrounding residential area*

Assessment: The proposed development satisfies this objective.

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

Assessment: The proposed development is of a height and scale that achieves the desired future character of the Rose Bay Centre precinct and Rose Bay Residential precinct (refer to comment under objective (a) above). The proposed development satisfies this objective.

## **Conclusion**

The applicant's written request has adequately addressed the relevant matters.

The departure from the control is in the public interest in the following manner:

- The objectives of the Clause 4.3 Height of buildings development standard have been satisfied.
- The objectives of the R3 Medium Density Residential zone have been satisfied.
- The objectives of the B2 Local Centre zone have been satisfied.

The proposal is in the public interest and consistent with the objectives of the building height development standard. Departure from the control is supported.

## **19.7. Part 5.9: Preservation of Trees or Vegetation**

Part 5.9(1) seeks to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation where there are works to any tree or other vegetation.

Council's Tree & Landscape Officer considers the proposal satisfactory, subject to conditions (**Annexure 3**).

The proposal is acceptable with regard to Part 5.9 of the Woollahra LEP 2014.

## **19.8. Part 5.10: Heritage Conservation**

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

The subject site does not comprise any heritage items and is not within a heritage conservation area. The subject site is within the vicinity of heritage items, but the proposed works will have no adverse impact on the nearby heritage items.

Council's Heritage Officer considers the proposal satisfactory, subject to **Condition B4** requiring archival recording prior to demolition (**Annexure 8**). Therefore, the proposal is acceptable with regard to the objectives in Clause 5.10 of the Woollahra LEP 2014.

#### **19.9. Part 6.1: Acid Sulfate Soils**

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

The subject site is within a Class 3 area as specified in the Acid Sulfate Soils Map. Class 3 soils are likely to be found beyond 1m below the natural ground surface. The proposal involves excavation to a depth of more than 3m.

Council's Environmental Health Officer has advised the following (**Annexure 5**):

*"Based on the results of laboratory analyses of four samples obtained from boreholes JBH01 to JBH04, the results indicated the presence of no Acid Sulfate Soils. The report concluded that actual / potential acid sulphate soils were unlikely to be encountered during the proposed construction / development works on the site, which consisted of potential excavation to a depth of 3.0m bgs. Therefore the preparation of an Acid Sulfate Soils Management Plan is not required for the development site".*

**Condition E30** is recommended requiring compliance with the Acid Sulphate Management Plan and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines. It is therefore acceptable with regard to Clause 6.1.

#### **19.10. Part 6.2: Earthworks**

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

The proposal involves 3,874m<sup>3</sup> of excavation to accommodate the basement carpark. A Geotechnical Report was submitted with the development application. Council's Development Engineer considers the proposal satisfactory subject to conditions to minimise excavation impacts and addressing the recommendations outlined in the geotechnical report (**Annexure 2**).

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

#### **19.11. Part 6.3: Flood Planning**

Part 6.3 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The subject site is located within a 'flood planning area'. The site is subject to Estuary Planning Level (EPL) and Flood Planning Level (FPL) controls. The proposed development has addressed

the EPL and FPL controls and incorporates permanent and mechanical flood protection devices (consisting of flood walls, barriers, raised building levels, raised entry thresholds, flood doors and automated flood barriers) to ensure flood protection and manage flood risk.

Council's Development Engineer has raised no objections to the proposed development subject to conditions (**Annexure 2**).

The proposal is acceptable with regard to Part 6.8 of Woollahra LEP 2014.

## **19.12. Part 6.4: Limited Development on Foreshore Area**

In Part 6.4, development on the foreshore of Sydney Harbour is permitted subject to it not impacting upon natural foreshore processes or the significance and amenity of the area.

Part 6.4(2) specifies a minimum foreshore building line of 12m for No.636 NSHR.

**Table 15:** Limited development on foreshore area

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Foreshore Building Line – No.636 NSHR (harbourfront)	>12m	12.0m	YES

In accordance with Clause 6.4(2), the rebuilding of the sea wall, fencing and swimming pool are permitted within the foreshore area 12.

Clause 6.4(5) requires Council to consider whether and to what extent the development would encourage public access to and along the foreshore through or adjacent to the proposed development. This matter is addressed in Section 5.2.

The proposal complies with the foreshore building line prescribed by Part 6.4(2) of Woollahra LEP 2014.

## **20. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

The northern part of the site (No.636 NSHR) is within the Rose Bay Residential Precinct whilst the southern part of the site (Nos. 638-646 NSHR) are within the Rose Bay Centre Precinct.

*NOTE: The provisions of SEPP 65 and SEPP (Housing for Seniors or People with a Disability) 2004 prescribe that in the event of an inconsistency between the SEPP and another environmental planning instrument, the SEPP prevails to the extent of the inconsistency.*

This report addresses the relevant controls of the WDCP 2015.

### **Rose Bay Residential Precinct (No. 636 NSHR)**

#### **20.1. Chapter B1: Rose Bay Residential Precinct**

The site is located in the Rose Bay Precinct. The desired future character objectives for the Rose Bay Precinct are as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To encourage development at a scale which relates to the function and role of the streets they address, i.e. larger scale development on the major streets (Old South Head Road and New South Head Road adjacent to the commercial centre) and a range of housing types on minor streets.*
- O3 To provide for an evolution of building stock from dwelling houses to medium density development in the R3 zoned areas.*
- O4 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O5 To reinforce a consistent building scale within streets.*
- O6 To design and site buildings to respond to the topography and minimize cut and fill.*
- O7 To protect important iconic and harbor views from the public spaces of the precinct.*
- O8 To reinforce the landscape setting and maintain the existing tree canopy.*

The proposal achieves the desired future character objectives for the Rose Bay Precinct in the following ways:

- The street frontage height (four storeys, with the upper level setback) is compatible with the heights of development along New South Head Road. The proposed height provides a transition to the adjoining two and eight storey buildings.
- Structures located on the roof including the lift access and solar panels are minor structures and are adequately set back from the front of the building and integrated into the development so as not to present adverse bulk and scale or adversely impact on the streetscape presentation of the of the proposal.
- The proposal is considered to be appropriately designed and articulated through inclusion of balconies and sufficient setbacks which minimise the bulk and scale as viewed from the streetscape, the harbour and surrounding properties.
- The proposal will not have adverse impacts on iconic or harbour views from public spaces.
- The proposal incorporates suitable landscaping that will maintain and enhance the landscape setting of the precinct.

## 20.2. Chapter B3: General Development Controls

**Table 16: WDCP General Compliance Table**

<b>No. 636 NSHR: 791m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Rear Setback	>12m	12m FSBL	YES
Side Boundary Setbacks (eastern side)	1.65m – 3.65m	15% (3.5m – 4m)	<b>NO*</b>
Side Boundary Setbacks (western side)	3.45m – 5.2m	15% (3.5m – 4m)	<b>NO*</b>
Maximum Unarticulated Wall Length	<12m	12m	YES
Maximum Volume of Excavation	691m <sup>3</sup>	750m <sup>3</sup>	YES
Excavation, Piling and Subsurface Wall Setback	>3.5m	3.5m – 4m	YES
Solar Access to Open Space of Adjacent Properties	>50% for 2 hours on 21 June	50% for 2 hours on 21 June	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties	>3 hours on 21 June	3 hours on 21 June	YES
Setback of Bedroom Windows from Streets/Parking of Other Dwellings	>3m	3.0m	YES
Distance of Habitable Room Windows to Adjacent Dwellings	<9m	9.0m	<b>NO*</b>

<b>No. 636 NSHR: 791m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Setback of Roof Terraces from Open Space/Habitable Room Windows of Adjoining Properties	<12m	12.0m	<b>NO*</b>
Basement Parking	Basement parking provided	Required for 3 or More Dwellings	YES
Maximum Number of Driveways	One	One	YES
Deep Soil Landscaping – Overall	>50%	50% outside the buildable area	YES*
Deep Soil Landscaping – Rear Setback	>50%	50% of rear setback	YES*
Private Open Space (Upper Floor Units) Total Area Minimum dimension	>8m <sup>2</sup> 2m	8m <sup>2</sup> 2m	YES*
Side Fence Height	600mm	1.8m	YES
Lockable Mailboxes	Not specified	Provided at Street Entrance	<b>NO</b>
Lockable Storage Spaces – RFB	>8m <sup>3</sup> / dwelling	8m <sup>3</sup> / dwelling	YES*
Clothes Drying Facilities	Not specified	At Least One per Dwelling	<b>NO</b>
Air Conditioning Units	Not Visible from Public Domain	Not Visible from Public Domain	YES
Swimming Pool Excavation, Piling and Subsurface Wall Setback	0.7m	1.5m	<b>NO</b>
Level of Swimming Pool Above or Below Ground Level	+1.34 (communal) +670 (private)	Maximum 1.2m Change	<b>NO</b>
Maximum Depth of Swimming Pool	2.15m	2.0m	<b>NO</b>
RFB Ventilation – Maximum Depth for Single Aspect Units	No single aspect units	8.0m from a Window	YES*
RFB Ventilation – Kitchen in RFB	<8m	Maximum 8.0m from a Window	YES*
RFB Ventilation – Width of Cross Through Units Over 15m	>4m	Minimum 4.0m	YES*
Height of Boundary Fences/Landscaping Within FSBL Area	<b>1.5 – 3.0m</b>	1.5m	<b>NO</b>

*\*These controls are superseded by SEPP 65 as detailed in Section 15 above*

Note: whilst No. 636 NSHR is an individual site, the battle-axe controls are not applicable due to the design of the proposal across the two allotments.

## **20.2.1. Part B3.2: Building Envelope**

### Part 3.2.3: Side Setbacks

This matter has been addressed under the provisions of SEPP 65 which supersede these controls.

### Part 3.2.4: Rear Setback

The proposal satisfies the relevant criteria prescribed by this section.

### 20.2.2. Part B3.4: Excavation

Council's Development Engineer considers the proposal satisfactory, subject to conditions.

The proposal satisfies the relevant criteria prescribed by this section.

### 20.2.3. Part B3.5: Built Form and Context

#### Part 3.5.1: Streetscape Character

The proposal satisfies the relevant criteria prescribed by this section.

#### Part 3.5.2: Overshadowing

The proposal satisfies the relevant criteria prescribed by this section.

#### Part 3.5.3: Public and Private Views

There are no significant public views that will be affected by the proposed development.

The owners of the following properties objected to the proposed development on the basis of view loss:

- 6/733 New South Head Road, Rose Bay.
- 7/733 New South Head Road, Rose Bay.
- 648 New South Head Road, Rose Bay (this view loss objection relates to the north-eastern boundary wall and is addressed via **Condition C2(k)**).

Letters were sent to the objectors at 6 & 7, No.733 New South Head Road requesting access for a view assessment. No response was received.

The proposed building height is similar to the recent approval on the streetfront portion of the site (DA 2015/212, approved on 18/07/2016), as detailed in Figure 8. The view impact assessment for DA 212/2015 concluded that the view loss resulting from redevelopment of the site was reasonable.

Based on the photographs available from the view assessment of DA 212/2015 and the three dimensional view analysis by JPR Architects submitted with this development application, the degree of view loss resulting from the proposed development is assessed below.

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

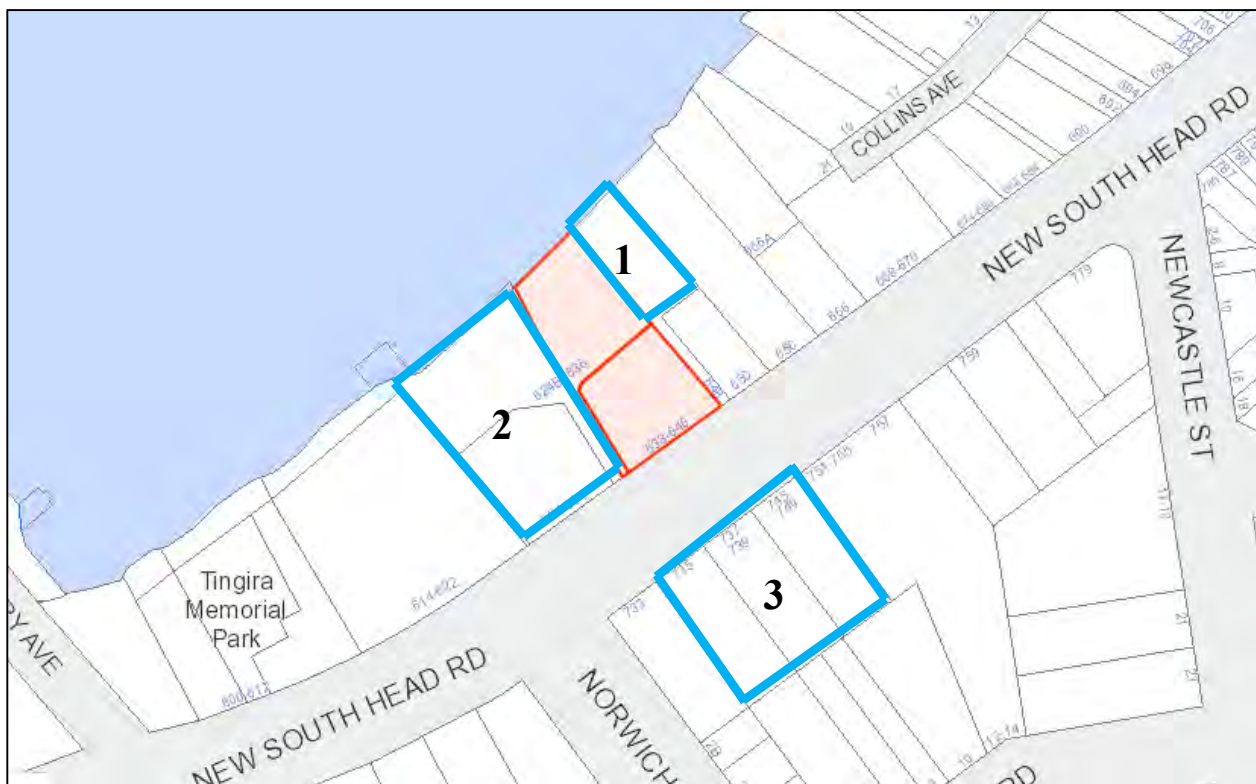
#### 1. The assessment of the views affected

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

The views affected by the proposal are as follows:

- (1) No. 648 New South Head Rd (north-east of subject site) – district views, harbour/ harbour foreshore views to the south.
- (2) No.624-634 & 624B New South Head Rd (south-west of subject site) – district views, harbour/ harbour foreshore views to the north (upper levels).
- (3) No.735, 737-739 & 745-749 New South Head Rd (southern side of NSHR) – harbour/ harbour foreshore views to the north-west and outlooks of the sky above the harbour/ foreshore (upper levels).

Note: The proposal will likely result in view impacts to upper level units for other properties on the south-eastern side of New South Head Road which benefit from views over the subject site. This includes upper level units at No.733 New South Head Road.



**Figure 16:** Plan showing the location of properties with views affected by the proposed development

2. Consideration from what part of the property the views are obtained

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views are obtained as follows:

- **(1) No. 648 New South Head Rd:** views obtained to the south across a side boundary from a sitting and standing position. Views across the rear boundary (to the east) remain unaffected.



- **(2) No.624-634 & 624B New South Head Rd:** views obtained to the north across a side boundary from a sitting and standing position. Views across the rear boundary (to the east) remain unaffected.
- **(3) No.735, 737-739 & 745-749 New South Head Rd:** views obtained from front boundary (to the east) across NSHR from a sitting and standing position.

3. The extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

- **No.648 New South Head Rd:** The upper level windows will benefit from increased cross-boundary water views due to the removal of the existing RFB and larger harbour setbacks.
- **No.624-634 New South Head Rd:** The level 1 and 2 windows will benefit from increased cross-boundary water views due to the removal of the existing RFB and larger harbour setbacks. The floors above will generally retain similar views when compared to the existing.
- **No. 624B New South Head Rd:** The level 1, 2 and 3 windows will benefit from increased cross-boundary water views due to the removal of the existing RFB and larger harbour setbacks.
- **No.735 New South Head Rd:** The extent of view loss to the ground floor and level 1 is minor. The extent of view loss to the two levels above is considered to be severe/ devastating.
- **No. 737-739 New South Head Rd:** The extent of view loss to the ground floor and level 1 is minor. The extent of view loss to level 2 (top floor) is considered to be severe/ devastating.
- **No. 745-749 New South Head Rd:** The extent of view loss to the ground floor and level 1 is minor. The extent of view loss to level 2 (top floor) is considered to be severe/ devastating.

Refer to the three dimensional view analysis submitted with the development application.

Note: The proposal will likely result in view impacts to upper level units for other properties on the south-eastern side of New South Head Road which benefit from views over the subject site. This includes upper level units at No.733 New South Head Road. This view loss may range from minor to severe/ devastating.

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

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered*

*unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

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

The proposal is non-compliant in terms of:

- Height - the 9.5m and 14.1m building height controls in Clause 4.3 of Woollahra LEP 2014.
- Side setbacks – the minimum separation distance controls in SEPP 65/ ADG and the side setback controls in the Woollahra DCP 2015.

However, compliance with the above controls would not significantly reduce the view loss as follows:

- The redevelopment of the existing single storey service station will inevitably result in some view loss.
- The area of height non-compliance only obscures outlooks of the sky. Requiring full compliance with the height control would not reduce the extent of view loss.
- The side setback non-compliances do not significantly affect views. Requiring full compliance with the setback control would not significantly reduce the extent of view loss.
- Large harbour setbacks have been incorporated to minimise, and improve, cross-boundary views of adjoining properties.
- The harbour/ harbour foreshore views affected by the proposal are predominantly caused by a compliant building envelope.
- The streetscape portion of the site has approval for a four storey development. The proposal has a similar envelope to the approved development (at the street frontage). The view loss resulting from the previous proposal was considered acceptable.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

It is considered that scope does not exist in this instance for a more skilful design that would significantly reduce the view impacts upon the above-mentioned properties, as the harbour/harbour foreshore views affected by the proposal are predominantly caused by a compliant building envelope. Accordingly, the view loss is considered to be inevitable and therefore reasonable.

#### Part B3.5.4: Acoustic and Visual Privacy

The proposal is non-compliant as follows:

- Control C3 which states that electrical, mechanical, hydraulic and plant equipment are to be suitably housed so as to not create an ‘offensive noise’, either within or at the boundaries of any property at any time of the day.

However, the proposal is considered acceptable for the following reasons:

- **Conditions C22, C23, I3 & I5** are recommended to minimise noise impacts from mechanical plant equipment including the lift, garage door, A/C units and pool equipment (objective O3).

Control C4 and C10 relate to minimum sightline distances to neighbouring development. This matter has been addressed under the provisions of SEPP 65 which supersede these controls.

#### **20.2.4. Part B3.6: On-Site Parking**

Council's Development Engineer considers the proposal satisfactory, subject to conditions (**Annexure 2**).

The proposal satisfies the relevant criteria prescribed by this section.

#### **20.2.5. Part B3.7: External Areas**

##### Part 3.7.1: Landscaped Areas and Private Open Space

The proposal satisfies the relevant criteria prescribed by this section.

##### Part 3.7.2: Fences

The proposal is non-compliant as follows:

- Control C8 which stipulates that where a vehicular entrance is proposed, a 45° splay or its equivalent is provided either side with minimum dimensions of 2m by 2m.

However, the proposal is considered acceptable for the following reasons:

- Council's Development Engineer requires a driveway splay that complies with the relevant Australian Standard, refer to **Condition C2(d)**.

##### Part 3.7.3: Site Facilities

The proposal is non-compliant as follows:

- Control C1 requires lockable mailboxes at the street front and integrated within the front fence or entry.
- Controls C3 & C4 require at least one clothes drying facility that is secure, has access to sunlight and away from public view.

However, the proposal is considered acceptable for the following reasons:

- **Condition F8** is required in relation to the provision of mailboxes (C1).
- The units include laundries which provide sufficient space for clothes drying (O3, O4).

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

The proposal is non-compliant as follows:

- Control C3 requires excavation for swimming pools to be setback 1.5m from property boundaries.
- Control C4 states that swimming pool surrounds are to be no more than 1.2m above or below ground level.
- Control C5 limits the depth of a swimming pool to 2.0m.

However, the proposal is considered acceptable for the following reasons:

- The design of the swimming pool has been informed by the Estuary Planning Levels (EPLs) calculated for the foreshore edge and outlined in the Seawall Advice prepared by Royal Haskoning DHV, dated 17 November 2016.
- The proposed swimming pool wall will be appropriately treated and integrated with the seawall.
- The proposed swimming pool will not compromise the amenity of adjoining properties and is consistent with objective O1.

#### **20.2.6. Part B3.8: Additional Controls for Development Other Than Dwelling Houses**

##### Part 3.8.6: Residential Flat Buildings and Multi Dwelling Housing

The proposal satisfies the relevant criteria prescribed by this section.

#### **20.2.7. Part B3.10: Additional Controls for Development in Sensitive Locations**

##### Part 3.10.2: Harbour Foreshore Development

The proposal is non-compliant as follows:

- Control C5 requires that swimming pools are not located more than 1.2m above or below existing ground level.
- Control C15 limits fences and landscaping within the foreshore are to 1.5m in height.

However, the proposal is considered acceptable for the following reasons:

- The height of the swimming pool is acceptable for the reasons set out in Section 20.2.5 above.
- The scenic quality of the landscape and built environment as viewed from the harbour will be protected, consistent with objective O1.
- The height of the proposed seawall varies across the site (raised from the existing RL 2.45 up to a maximum of RL 2.95). The height of the wall shown in the compliance table is measured from the existing ground level at the foreshore. The height of the wall has been informed by the Estuary Planning Levels (EPLs) calculated for the foreshore edge and outlined in the Seawall Advice prepared by Royal Haskoning DHV, dated 17 November 2016. Due to the varying levels of the wall and pool across the site, it will be well integrated with existing seawalls along this section of the foreshore.

#### **Rose Bay Centre Precinct (Nos. 638-646 NSHR)**

### **20.3. Chapter D6: Rose Bay Centre**

#### **20.3.1. Part D6.1.3 Objectives**

The desired future character objectives for the Rose Bay Centre precinct are:

- O1 To retain and enhance the village atmosphere of the Rose Bay Centre.*
  - a) To encourage contiguous ground floor retail frontage to ensure liveliness of the centre;*
  - b) To limit the width of street frontage of individual shops to preserve the 'small shop' character of the centre;*
  - c) To promote a coherent building scale and high quality development;*

- d) *To retain and improve the pedestrian environment by encouraging through block pedestrian connections at nominated locations, and requiring continuous awnings in nominated areas;*
- e) *To improve vehicle parking and servicing in the centre and reduce vehicular and pedestrian conflicts;*
- f) *To enhance the public domain of Rose Bay Centre by considering the Public Domain Improvement Plan and Streetscape Design Manual 1999; and*
- g) *To encourage the provision of community services and facilities as part of site redevelopments.*
- O2 *To improve the connections between the Rose Bay Centre and the harbour foreshore.*
  - a) *To encourage the creation of a public square between New South Head Road and Collins Avenue, opposite Percival Park;*
  - b) *To encourage the construction of pedestrian arcades as part of developments in nominated locations, to improve public access through to the foreshore; and*
  - c) *To maximise views to the water from the public domain.*
- O3 *To create a memorable image for Rose Bay.*
  - a) *To create defined entrances to the centre;*
  - b) *To provide a stronger public domain focus to the centre; and*
  - c) *To provide direction and certainty of outcome in relation to build form to ensure:*
    - *a coherent street scale;*
    - *that new development meets the desired future character;*
    - *a variety of building types; and*
    - *a high level of amenity.*
- O4 *To improve the Rose Bay Centre's public domain.*
  - a) *Improve the public domain of Rose Bay by using the Public Domain Improvement Program and the Streetscape Design Manual to inform changes;*
  - b) *Identify the location of and building envelopes surrounding a new public square in the centre, which support the use of bonus height and FSR controls in the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014);*
  - c) *To improve pedestrian amenity throughout the centre; and*
  - d) *To retain the important role that public transport plays in the Rose Bay Centre.*
- O5 *To foster the diverse mix of uses in the Rose Bay Centre.*
  - a) *To retain and enhance the combination of retail, commercial, public and residential uses that characterise Rose Bay; and*
  - b) *To encourage a range of flexible accommodation to support the diverse mix of uses in the centre.*
- O6 *To conserve and enhance the visual and environmental amenity of all buildings and places of significance in the centre.*
  - a) *To identify character buildings within the Rose Bay Centre; and*
  - b) *To ensure that alterations and additions to character buildings and heritage items are compatible in scale, form and material with these buildings and items, and adjoining developments.*
- O7 *To improve traffic and parking management in the centre and reduce vehicle and pedestrian conflicts.*
  - a) *To identify parking and servicing arrangements for the centre.*
- O8 *To introduce stormwater management measures to control localised flooding, stormwater quality and quantity, and improve the visual and environmental impact of stormwater drainage, particularly at the harbour foreshore.*
  - a) *To facilitate the creation of the Rose Bay Square between New South Head Road and the drainage reserve off Collins Avenue to mitigate against local flooding of the centre;*
  - b) *To improve the visual and environmental impact of existing stormwater outlets into Rose Bay; and*
  - c) *To coordinate overland flow management with public domain improvements.*
- O9 *To enhance the diverse character of streets in the Rose Bay Centre.*
  - a) *To carry out public domain improvements to preserve and enhance the unique character of the individual streets in the centre; and*
  - b) *To provide specific design criteria for both public and private domain to allow for, and enhance the character of, individual streets.*

The proposal achieves the objectives for the Rose Bay Centre in the following ways:

- The provision of ground floor retail frontage to New South Head Road in two small tenancies with commercial uses behind will preserve the ‘small shop’ and village character of the area.
- A mix of uses (retail, commercial and seniors housing) which contribute to the diverse mix of uses within the centre.
- A building scale that fits within the context.
- Incorporating an attractive interface between the public and private domain.
- Enhanced public domain and interface to the street through provision of a retail frontage and street tree planting.

### 20.3.2. Part D6.2 Understanding the context

The proposal demonstrates a considered response to the context in terms of siting, historical development, built form, public parks and facilities and access and circulation.

### 20.3.3. Part D6.3 Urban structure

The site is located within the ‘Transition Area’ which is described as:

*“The Transition Areas lie outside the Core in the vicinity of the recreational areas and residential zones, and are an important buffer to these areas. They do not contain the same level of retail activity as the Core but provide residential and commercial uses. They are generally characterised by less continuous building frontage and a stronger landscape presence. The Transition Area should provide a gradation in development intensity from the Core to the residential and recreational areas”*

The proposal, with its mixed uses and active street frontage, will positively contribute to the urban village character of the Rose Bay Centre and is consistent with the urban structure encouraged for the Transition Area.

### 20.3.4. Part D6.4 Street character

The proposal is consistent with the desired future character for development on the north-western side of NSHR as vehicle crossing have been minimised, the apartment design has regard to noise attenuation and the building profile follows the typical profile for development encouraged in this area.

### 20.3.5. Part D6.5 Built form envelopes: Control drawings (Control Drawing 2) & Part D6.6 Development objectives and controls

**Table 17: WDCP Rose Bay Centre Precinct Compliance Table**

No. 638-646 NSHR: 705m <sup>2</sup>	Proposed	Control	Complies
Max. residential frontage (C4 – D6.6.2)	<20%	20%	YES
Max. retail frontage (C5 – D6.6.2)	<15m	15m	YES
Awnings (control diagram)	Awning over part of the frontage	Discontinuous	YES
Ground level – articulation zone at street frontage (control diagram)	>1.2m	1.2m	YES

<b>No. 638-646 NSHR: 705m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Ground level – build on area (control diagram)	<100% for a depth of 16m	100% for a depth of 16m	YES
Upper level – articulation zone at street frontage (control diagram)	>1.2m	1.2m	YES
Upper level – build on area (control diagram)	<100% for a depth of 8m + 50% for a depth of 8m	100% for a depth of 8m + 50% for a depth of 8m	YES
Max. building depth (C3 – D6.6.3.1)	>12m	12m	<b>NO</b>
Min. floor-to-ceiling heights (C4 – D6.6.3.1)	>2.7m	2.7m	YES*
Min. floor-to-floor heights (C5 – D6.6.3.1) - Ground floor - Level 1 - Levels 2 & 3	3.5m 3.3m 3.1m	4m 3.4m 3.1m	<b>NO*</b> <b>NO*</b> YES*
Street Façade Articulation Zone (SFAZ) (C1 – D6.6.3.3)	>30% internal space & 70% external space	30% internal space & 70% external space	YES
Awning height (C1 – D6.6.3.7)	>3.2m	3.2m	YES
Visual privacy (C1 – D6.6.4) - Non-habitable rooms - Non-habitable & habitable rooms - Habitable rooms	<6m <9m <12m	6m 9m 12m	<b>NO*</b>
Min. private open space (C1 – D6.6.5.2) - Medium dwelling (60-90m <sup>2</sup> ) - Large dwelling (>90m <sup>2</sup> ) - Preferred & Minimum depth (m)	>12m <sup>2</sup> >16m <sup>2</sup> >2.4m	12m <sup>2</sup> 16m <sup>2</sup> 2.4m & 1.8m	YES*
Hours of Solar Access to north habitable windows & private open space of adjoining properties between 9am and 3pm on 22 June (C2 – D6.6.6.1)	>3hrs & 2hrs	3hrs & 2hrs	YES
Hours of Solar Access to north habitable windows & private open space of development between 9am and 3pm on 22 June (C3 – D6.6.6.1)	>3hrs & 2hrs	3hrs & 2hrs	YES*

*\*These controls are superseded by SEPP 65 as detailed in Section 15 above*

#### Part D6.6.2: Use

The proposal satisfies the relevant criteria prescribed by this section.

#### Part D6.6.3.1: Building envelopes

The proposal is non-compliant as follows:

- Control C3 which specifies a maximum building depth of 12m above ground level.

However, the proposal is considered acceptable for the following reasons:

- The non-compliance with the building depth control at the first floor level is minor (1.0m). The two units affected (WF3 & WF4) receive good internal amenity and the built form is well articulated.

Control C5 relates to minimum floor-to-floor heights. This matter has been addressed under the provisions of SEPP 65 which supersede these controls.



Part D6.6.3.2: Setbacks

The proposal satisfies the relevant criteria prescribed by this section.

Part D6.6.3.3: Building articulation

The proposal satisfies the relevant criteria prescribed by this section.

Note: the articulation zone at the rear controls are not applicable as the proposed development extends across two allotments. The built form is considered to be appropriately articulated.

Part D6.6.3.5: Architectural resolution

The proposal satisfies the relevant criteria prescribed by this section.

Part D6.6.3.6: Roof design

The proposal satisfies the relevant criteria prescribed by this section.

Part D6.6.3.7: Awnings

The proposal satisfies the relevant criteria prescribed by this section.

Part D6.6.4: Visual and acoustic privacy

Refer to Section 15.

Part D6.6.5: Private open space

The proposal satisfies the relevant criteria prescribed by this section.

Note: the deep soil landscaped area control is not applicable as the proposed development extends across two allotments. The proposal incorporates an appropriate amount of deep soil landscaped area across the two allotments, the majority of which is concentrated towards the harbour frontage.

Part D6.6.6: Solar access and natural ventilation

Refer to Section 15.

Part D6.6.7: Parking and servicing

The proposal satisfies the relevant criteria prescribed by this section.

Part D6.6.8: Geotechnology and hydrogeology

The application proposes a two level basement carpark beneath existing ground level which extends to the side boundaries. In accordance with the terms of this control, a Geotechnical and Hydrogeological Engineers Report have been submitted for consideration prepared by Jeffery and Katauskas Pty Ltd.

The proposed excavation also involves de-watering of the site. The matter was referred to NSW Department of Primary Industries who have provided *General Terms of Approval for Construction Dewatering*.

The issue of Site Contamination and Acid Sulfate Soils is assessed under the relevant heads of consideration in this report.

The proposal satisfies the relevant criteria prescribed by this section.

#### Part D6.6.9: Site facilities

Details of street numbering and mail-boxes have not been provided but this is addressed by **Conditions F7 & F8**.

The proposal satisfies the relevant criteria prescribed by this section.

#### **General (No. 636 & 638-646 NSHR)**

### **20.4. Chapter E1: Parking and Access**

The State Environmental Planning Policy (SEPP) – Housing for Seniors or People with a Disability 2004 requires **13 parking spaces** for the residential component of the development.

The commercial component is addressed below:

**Table 18:** Woollahra DCP Parking Compliance Table

	Parking Rate	Multiplier for Rose Bay B2 Zone	Number of spaces required
Retail (70.5m <sup>2</sup> )	3.3 spaces/100m <sup>2</sup>	x 0.7 Multitplier	1.6 spaces
Commercial (125m <sup>2</sup> )	2.5 spaces/100m <sup>2</sup>	x 0.5 Multitplier	1.6 spaces
<b>Total</b>			<b>4 spaces</b>

The proposal includes a 2-level basement accommodating 19 parking spaces.

The proposal makes provision for 14 car parking spaces to be allocated to the residential component which meets the SEPP minimum parking requirement.

The proposal makes provision of 5 car parking spaces for non-residential use including 1 courier parking space which satisfies the DCP minimum parking requirement. This is reinforced in **Condition I8**.

#### **20.4.1. Part E1.7: Special Provisions**

##### **Parking spaces for people with a disability (E1.7.4)**

The proposal satisfies the relevant criteria prescribed by this part.

#### **20.4.2. Part E1.8: Parking and Access Design Standards**

Council's Traffic Engineer has identified a number of deficiencies in terms of technical compliance of the car park with the relevant Australian Standard. However, these matters are addressed in the recommended conditions (**Annexure 2**).

The proposal satisfies the relevant criteria prescribed by this Part.

#### **20.4.3. Part E1.10: Off-street Loading and Servicing Facilities**

The non-residential component of the development incorporates 5 car parking spaces for retail use including 1 courier parking space which satisfies the DCP requirement for loading areas.

#### **20.4.4. Conclusion**

The proposal is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

### **20.5. Chapter E2: Stormwater and Flood Risk Management**

The stormwater plans submitted with the development application show that stormwater runoff from the site will be discharged to the street kerb and gutter by gravity. Council's Development Engineer considers the proposed site drainage generally satisfactory subject to conditions requiring refinements at the CC stage.

A Flood Study prepared by AKY Civil Engineering, dated May 2016 was submitted with the DA. The report concludes that the proposed development has considered the Estuary Planning Level (EPL) and Flood Planning Level (FPL) controls and incorporates permanent and mechanical flood protection devices (consisting of flood walls, barriers, raised building levels, raised entry threshold levels, flood doors and automated flood barriers) which will provide suitable flood protection and manage flood risk. Council's Development Engineer supports the findings of the Flood Report.

The proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

### **20.6. Chapter E3: Tree Management**

Council's Tree & Landscape Officer considers the proposal satisfactory, subject to conditions.

The proposal satisfies the relevant objectives prescribed by this part.

### **20.7. Chapter E4: Contaminated Land**

This Chapter identifies requirements for applicants when proposing a development and is consistent with the provisions of SEPP 55 for managing contaminated land. The provisions of SEPP 55 have been assessed in Section 14 above.

## 20.8. Chapter E5: Waste Management

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

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

The applicant provided a SWMMP with the development application and it was found to be satisfactory.

### Part E5.2: Demolition and Construction Phase

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

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

The proposed development includes separate waste storage areas for the retail and domestic components of the development, located on the Lower Ground Floor (Level 2).

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

### Part E5.7: Mixed Use Developments

**Table 19:** Woollahra DCP Waste Generation

	Waste and recycling generation rate	Requirement
Residential - 9 units	120L general waste / dwelling	1080L / general waste (or 4.5 x 240L bins)
	55L recycling / dwelling	495L / recycling (or 2 x 240L bins)
	1 x 240L garden organics	240L garden organics (or 1 x 240L bin)
Retail (70.5m <sup>2</sup> )	50L general waste / 100m <sup>2</sup>	35L / general waste
	25L recycling / 100m <sup>2</sup>	18L / recycling
Commercial (125m <sup>2</sup> )	10L general waste / 100m <sup>2</sup>	13L / general waste
	10L recycling / 100m <sup>2</sup>	13L / recycling

The waste and recycling requirements are as follows:

- Residential = 8 x 240L bins
- Retail/ commercial = 2 x 240L bins

The size of the waste storage rooms are suitable to accommodate the waste and recycling generated by the development.

Control C11(E5.5) specifies that the maximum distance between the waste storage area to the collection point is not more than 50m for SEPP Seniors Housing. The proposal is compliant.

## Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

## 20.9. Chapter E6: Sustainability

### 20.9.1. Part E6.2: Commercial and Non-Residential Buildings

The proposal satisfies the relevant objectives prescribed by this part.

### 20.9.2. Part E6.3: Solar Energy Systems

**Table 20:** Solar Energy System Compliance Table (WDCP 2015)

	Proposed	Control	Complies
Maximum Projection Above Roof Surface	493mm	300mm	<b>NO</b>
Location of Solar Energy System	Behind the front setback	Behind the front setback	YES

Control C1 limits solar equipment to 300mm above the roof surface and behind the front setback. The height of the proposed solar panels is non-compliant. **Condition C2** is recommended to limit the height of the solar panels to RL 18.95 AHD.

Control C2 requires that solar energy systems must not have an unreasonable visual impact upon the streetscape or area, views from Sydney Harbour, adjoining properties or views from private property. Subject to **Condition C2**, the solar panels will have no adverse impact on views from private properties.

### 20.9.3. Conclusion

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

## 21. SYDNEY HARBOUR FORESHORES AND WATERWAYS AREA DEVELOPMENT CONTROL PLAN 2005

The site is located within the Foreshores and Waterways Area and the Sydney Harbour Foreshores and Waterways Area Development Control Plan is applicable to the proposal. An assessment of the proposed modifications in this regard is provided below.

### Ecological Assessment (Part 2)

The subject site and the existing buildings thereon have an immediate frontage to, and are visible from, Sydney Harbour.

The proposed development ensures that the natural features of the foreshore are maintained in this respect and satisfy the relevant criteria prescribed by this part.

### Landscape Assessment (Part 3)

The proposed development, swimming pools and associated landscape works, remains consistent with respect to its scale, bulk, height and setback with other foreshore developments in this immediate locality. The building, as it presents to the harbour, forms part of the urban landscape.

The proposal satisfies the relevant performance criteria prescribed by this part.

#### **Water based and Land/Water Interface Development (Part 4)**

The proposed works do not obstruct or unreasonably affect public views and vistas of the harbour within the foreshore building line area, or the natural flow of tides and currents, or foreshore access. The proposal satisfies the relevant performance criteria prescribed by this part.

#### **Design Guidelines for Land-based Development (Part 5)**

The proposal satisfies the relevant performance criteria prescribed by this part.

#### **Conclusion**

The proposal is considered to be acceptable with regard to the Sydney Harbour Foreshores and Waterways Area Development Control Plan.

### **22. DRAFT AMENDMENTS TO POLICIES AND PLANS**

#### **22.1. Draft State Environmental Planning Policy (Coastal Management) 2016**

##### **Division 2 Coastal vulnerability area**

- The Site is located in an area that is subject to coastal hazards.
- The proposal incorporates appropriate measures to manage risk and life and public safety from coastal hazards.

##### **Division 3 Coastal environment area**

- The Site is located within the coastal environment area.
- The proposal is unlikely to have an adverse impact on the coastal environment area, subject to the proposed mitigation measures and conditions.

##### **Division 4 Coastal use area**

- The Site is located within the coastal use area.
- The proposal will not adversely affect public access to the foreshore, overshadowing, wind funnelling, loss of view from public places to foreshores and visual amenity.
- The bulk, size and scale of the proposed development has been considered.

The proposal is acceptable with regard to the objectives and controls in the Draft SEPP (Coastal Management) 2016.

### **23. SECTION 94 CONTRIBUTION PLANS**

#### **23.1. Section 94A Contributions Plan 2011**

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011. Refer to **Condition C3**.

**Table 21: S94 Contributions**

Cost of Works	Rate	Contribution Payable
\$21,343,051	1%	\$213,430.51

## 23.2. Application of Contributions

Section 3.5 of the Section 94A Contributions Plan 2005 states:

*‘A condition under section 94 of the Act may be imposed on a development consent as an alternative to imposing a condition authorised by this Plan, depending on the nature of the development and the demand for public facilities.’*

In this instance, given the increase in the density of the site, Section 94A contributions have been applied. Accordingly, Section 94 contributions are not applicable.

## 24. APPLICABLE ACTS/REGULATIONS

### 24.1. Environmental Planning and Assessment Regulation 2000

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

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to **Condition E2**.

### 24.2. Swimming Pools Act 1992

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

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

These form **Conditions C19, C20, F3 & I2**.

## 25. THE LIKELY IMPACTS OF THE PROPOSAL

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

## 26. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.



## **27. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## **28. CONCLUSION**

The proposal is acceptable against the relevant considerations under Section 79C.

## **29. DISCLOSURE STATEMENTS**

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

## **30. RECOMMENDATION: PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

THAT the Sydney Central Planning Panel, as the consent authority, is of the opinion that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the 9.5m & 14.1m building height development standards under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard.

AND

THAT the Sydney Central Planning Panel as the consent authority, grant development consent to DA377/2016/1 for demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces on land at 636 & 638-646 New South Head Road ROSE BAY, subject to the following conditions:

### **A. General Conditions**

#### **A.1 Conditions**

Consent is granted subject to the following conditions imposed pursuant to section 80 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning and Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to section 79C of the Act.

Standard Condition: A1 (Autotext AA1)

#### **A.2 Definitions**

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

***Applicant*** means the applicant for this Consent.

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

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

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

**Council** means Woollahra Municipal Council

**Court** means the Land and Environment Court

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

**Stormwater Drainage System** means all works, facilities and documentation relating to:

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

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

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

**PCA** means the *Principal Certifying Authority* under the *Act*.

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

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

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

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

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

**Site** means the land being developed subject to this consent.

**WLEP 2014** means *Woollahra Local Environmental Plan 2014*

**Work** for the purposes of this consent means:

- the use of land in connection with development,

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

**Note: Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Standard Condition: A2 (Autotext AA2)

### A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
DA2000 S	Basement – Level 1	JPRA	23/01/2017
DA2001 S	Lower Ground – Level 2	JPRA	23/01/2017
DA2002 S	Ground Floor – Level 3	JPRA	23/01/2017
DA2003 S	First Floor – Level 4	JPRA	23/01/2017
DA2004 S	Second Floor – Level 5	JPRA	23/01/2017
DA2005 S	Third Floor – Level 6	JPRA	23/01/2017
DA2006 S	Roof	JPRA	23/01/2017
DA2300 J	Section A	JPRA	23/01/2017
DA2301 J	Section B	JPRA	23/01/2017
DA2302 E	Section C	JPRA	22/08/2016
DA2303 E	Section D	JPRA	22/08/2016
DA2400 E	Finishes	JPRA	22/08/2016
DA2401 F	South Elevation	JPRA	22/08/2016
DA2402 F	West Elevation	JPRA	22/08/2016
DA2403 F	East Elevation	JPRA	22/08/2016
DA2404 H	North Elevation	JPRA	17/01/2017
713823M_02	BASIX Certificate	NSW Department of Planning and Infrastructure	17/08/2016
N/A	Letter – Seawall Advice	Royal Haskoning DHV	17/11/2016
20160318.1/0211 A/RO/HP Rev 0	Acoustic Report	Acoustic Logic	2/11/2016
N/A	Construction Management Plan	Grey Matter Construction	N/A
216032	Statement of Compliance – Access for People with a Disability	Accessible Building Solutions	10/03/2016
2016/0167	Site Waste Management Plan	BASIX Services	19/05/2016
M01A to M06A (7 pages)	Mechanical Engineering Drawings	Nick Przita & Associates Pty Ltd	05/2016
6115-01 C & 6115-02B (2 pages)	Landscape Plans	Peter Glass & Associates	11/05/16

H-DA-00 B to H-DA-02 B (3 pages)	Hydraulic Drawings	ITM Design Pty Ltd	11/05/2016
C-01 B to C-03 B (3 pages)	Flood Drawings	AKY Civil Engineering Pty Ltd	18/03/2016
14105	Traffic & Parking Report	Terraffic Pty Ltd	4/06/2016
24048VT2rpt	Geotechnical Report	Jeffery & Katauskas Pty Ltd	8/8/2011
16014 Rev A	Flood Report	AKY Civil Engineering	May 2016
CES160201-DYL-AB	Environmental Site Assessment (Soil Contamination & Acid Sulfate Soil)	Consulting Earth Sciences	29 April 2016
CES160201-DYL-AE	Remediation Action Plan	Consulting Earth Sciences	27 June 2016

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

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5 (Autotext AA5)

#### A.4 Acoustic Treatments

- a) The acoustic treatments presented in Acoustic Report prepared by Acoustic Logic: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016 shall be fully employed in the building design to ensure that internal noise levels comply with the requirements below:
  - Woollahra Council Development Control Plan 2015;
  - NSW Department of Planning and Environment's document–‘State Environmental Planning Policy (SEPP) (INFRASTRUCTURE) 2007’;
  - NSW Department of Planning's–‘Developments near Rail Corridors or Busy Roads–Interim Guideline’;
  - Australian and New Zealand AS/NZS 3671:1989 ‘Acoustics—Road traffic noise intrusion—Building siting and construction’;
  - Australian and New Zealand AS/NZS 2107:2000 ‘Recommended design sound levels and reverberation times for building interiors’.
- b) Carpark acoustic treatments as recommended in section 5.2.2.1 of Acoustic Report prepared by Acoustic Logic: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016 shall be fully employed during the construction phase of the building.
- c) All future mechanical plant & associated equipment should have a design goal that specifies noise emission from any set of primary, or secondary plant, or equipment, on the basis that if that equipment could operate at any time of the day, or night, then the noise emission component, when measured at the nearest residential property façade should not exceed the nocturnal background sound level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location, must not exceed the nocturnal background noise level by more than 5dB(A).

- d) Noise from demolition and construction and vibration management levels shall be managed in accordance with the NSW EPA Interim Construction Noise Guideline & NSW EPA document Assessing Vibration: A technical guideline. A Construction Noise and Vibration Management Plan (CNVMP) shall be developed incorporating noise mitigation strategies. The CNVMP should seek to ensure that construction noise and vibration is managed effectively to prevent any negative impact on surrounding receivers. Options may include the following:
- A Plant Hazard Assessment prepared for each piece of plant prior to its operation on site. The PHA will require measurement of the sound power level and will confirm that actual plant noise levels are within those maximum noise levels. Ensure that all plant where possible are fitted with noise control equipment. Example all equipment is equipped with appropriate noise control such as mufflers, silenced exhausts, acoustic enclosures, flashing lights as an alternative to reversing beepers).
  - Attended noise monitoring carried out to verify construction noise levels against the Construction Noise and Vibration Impact Assessment and determine effectiveness of noise mitigation strategies. Attended noise monitoring of construction activities should be undertaken within 14 days of commencement of significant construction activities.
  - Consider scheduling activities where cumulative impacts indicate increased noise impacts so that these works are not undertaken together.
  - Consider the use of temporary screens for mitigation of specific stationary noise sources, where identified, as causing excessive noise impact. If required, deploy screens in a way to ensure noise goals are met.
  - Delivery of plant and equipment to the site to occur during standard construction hours.
  - Apply and strictly adhere to low speed limits within the development site and minimise engine revving.
  - Ensure no compression braking on the approach to, or within the development site.
  - Ensure a clearly defined access road is available through the development site and that the road surfaces are adequately maintained.
  - Ensure traffic movement is kept to a minimum, e.g. ensure trucks are fully loaded so that the volume of each delivery is maximised.
  - Ensure traffic control in and around the development site to ensure proper traffic flow.
  - Undertake close community liaison to ensure that local residents are aware of the times and durations when they may be affected by construction noise and vibration and to provide an avenue for communication between the community and the developer. Each complaint should be investigated and where the noise in question is in excess of allowable limits, appropriate noise amelioration measures are to be put in place to prevent future occurrences.
  - Attended vibration monitoring to be undertaken; if monitored vibration levels are considered to be high risk or close to the vibration criteria, unattended vibration monitoring should be carried out on a continuous basis at the nearest vibration sensitive receiver.
  - Where attended vibration monitoring is not feasible, due to extended periods of vibration intensive works, a permanent vibration monitoring system should be installed to warn plant operators whenever there is potential for cosmetic damage to buildings and structures.

## **A.5 General Terms of Approval – Roads Act 1993 (RMS concurrence under Section 138 of the Roads Act 1993)**

The following general terms of approval have been imposed by the Roads and Maritime Services in relation to classified roads.

- a) All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property, along the New South Head Road boundary.
- b) The redundant driveways on the New South Head Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on New South Head Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 88492138).  
Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.  
A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
- c) The development is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.  
The development is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.  
The report and any enquiries should be forwarded to:  
Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
Telephone 8849-2114  
Fax 8849-2766  
If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- d) Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works:  
Details should be forwarded to:  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph. 8849-2114 or Fax. 8849-2766.
- e) Waste collection for all uses should occur as part of Council's regular waste service and complying with Council's requirements for 120 litre/240 litre bins as appropriate.

- Should there be bins larger than those listed above (approved by Council for general roadside collection), waste collection for these bins should be carried out on site.
- f) The existing 1P restrictions should be extended along the site frontage to cover the existing eastern driveway which is proposed to be removed. The parking restrictions frontage of the subject site shall be in accordance with Roads and Maritime requirements. The development is to submit a sign plan to Roads and Maritime for approval detailing the locations of the 1P signs with respect to the new access arrangement.
  - g) The developer shall be responsible for all public utility adjustment/ relocation works, necessitated by the above work and as required by the various public utility authorities and/ or their agents.
  - h) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on New South Head Road during construction activities.
  - i) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New South Head Road.
  - j) All vehicles are to enter and exit the site in a forward direction.
  - k) All works/ regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

**A.6 General Terms of Approval – Water Management Act 2000 (Integrated development for controlled activity under Section 91A(3) of the Environmental Planning and Assessment Act 1979)**

The following general terms of approval have been imposed by the NSW Department of Primary Industries – DPI Water:

1. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA377/2016/1 and provided by Council:
  - (i) Site plan, map and/ or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.
2. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
3. The following plans are required to be prepared:
  - (i) Erosion and Sediment Control Plan
  - (ii) Soil and Water Management Plan
4. All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at [www.water.nsw.gov.au/Water-Licensing/Approvals](http://www.water.nsw.gov.au/Water-Licensing/Approvals).
  - (i) Outlet structures



5. (i) any controlled activity must be carried out in accordance with approved plans and (ii) any controlled activity must be constructed and/ or implemented by or under the direct supervision of a suitably qualified professional and (iii) when required, a certificate of completion must be provided to DPI Water.
6. Waterfront land affected by the carrying out of any controlled activity must be reinstated in accordance with a plan or design approved by the DPI Water.
7. A suitably qualified person must monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.
8. Ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.
9. No materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.
10. All erosion and sediment control works and water diversion structures must be established in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained through the working period and must not be removed until the site has been fully stabilised.
11. No excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.
12. Any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water.

The following general terms of approval for **construction dewatering** have been imposed by the NSW Department of Primary Industries – DPI Water:

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
3. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - a. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure ; and
  - b. any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure ; and

- c. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
4. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater , and shall not themselves cause pollution of the groundwater .
5. DPI Water requires documentation (referred to as 'report') comprising measurements , maps, borelogs, calculations , results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation) , at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

6. The following shall be included in the initial report:
  - a. measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including borelogs and three-dimensional identification information.
  - b. a map of the site and its immediate environs depicting the watertable (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the watertable during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - c. details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - d. a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes .]
7. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
8. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory . Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the

presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
10. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
11. A copy of a valid development consent for the project shall be provided in the initial report.
12. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
13. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During excavation

14. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
15. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
16. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
17. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such

as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

19. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation .
20. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

21. Following completion of the dewatering operations , the Applicant shall submit to DPI Water , Parramatta Office, the completion report which shall include:
  - a. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - b. a watertable map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - c. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
22. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

## A.7 Tree Preservation & Approved Landscaping Works

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

- a) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location (current)	Dimension (metres)
1-5	5 x <i>Howea forsteriana</i> (Kentia palm)	South Western boundary	6 x 2 metres

**Note:** The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
6	<i>Agonis flexuosa</i> (Willow Myrtle)	Rear boundary of 636 New South Head Road	8 x 3 metres
7	<i>Plumeria acutifolia</i> (Frangipani)	Rear boundary of 636 New South Head Road	5 x 3 metres
8	<i>Howea forsteriana</i> (Kentia palm)	Rear boundary of 636 New South Head Road	5 x 3 metres

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

## A.8 Restrictions upon the occupation of the development

In accordance with the provisions of **Clause 18 Restrictions on occupation** under SEPP (Housing for Seniors or People with a Disability) 2004, the occupation of the development is limited to the following:

- i) Seniors or people who have a disability,
- ii) People who live within the same household with seniors or people who have a disability,
- iii) Staff employed to assist in the administration of and provision of services to the residential care facility and the serviced self-care housing.

In accordance with the provisions of **Clause 45 Vertical villages** under SEPP (Housing for Seniors or People with a Disability) 2004, the following affordable places and on-site services are required to be provided:

- i) The continued provision of Unit No. NSHR2 as an affordable place.
- ii) The affordable place (Unit No. NSHR2) is required to be owned and managed by an organisation providing community housing that is registered for the time being with the Office of Community Housing.

**Note:** In accordance with SEPP (Housing for Seniors or People with a Disability) 2004 means an affordable place, in relation to seniors housing, means a dwelling for the accommodation of a resident:

(a) whose gross household income falls within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:

Very low income household	less than 50%
Low income household	50% or more but less than 80%
Moderate income household	80–120%

(b) who is to pay rent that does not exceed a benchmark of 30% of the resident's actual household income.

A positive covenant, pursuant to Section 88E of the *Conveyancing Act 1919*, shall be created on the title of the subject property, restricting the occupation of the development and the provision of affordable places in accordance with the above.

## A.9 Ancillary Aspect of the Development (s80A(2) of the Act)

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

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

Standard Condition: A8 (Autotext AA8)

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

### **B.1 Construction Certificate required prior to any demolition**

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 81A(2) of the Act. In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.

**Note:** See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.  
Standard Condition: B1 (Autotext BB1)

### **B.2 Identification of Hazardous Material**

In accordance with Australian Standard AS2601- 'The Demolition of Structures' the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing;

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

**Note:** This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.  
Standard Condition: B6

### **B.3 Public Road Assets prior to any work/demolition**

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

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

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

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

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

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

#### **B.4 Recording of significant or contributory buildings prior to any demolition**

A full archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Department of Planning Heritage Branch or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the NSW Department of Planning Heritage Branch.

There should be three sets of the photographic report and film materials or digital materials. The following table summarises the lodgment details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

<b>Material</b>	<b>Minimum Requirement</b>	<b>Repository</b>
Digital Materials	1 copy of photographic report – paper copy 1 CD-R or DVD 1 set of 10.5x14.8cm prints	<u>Woollahra Council</u> Report (paper) + CD-R or DVD + prints <u>Local History Centre</u> Report (paper) + CD-R or DVD <u>Owner/client</u> Report (paper) + CD-R or DVD
Black & White Film (plus any supplementary colour film)	1 copy of photographic report 1 set of negatives 1 sets of proof sheets and catalogue	<u>Woollahra Council</u> Report + negatives + 1st set of proof sheets <u>Local History Centre</u> Report + 2nd set of proof sheets <u>Owner/client</u> Report + 3rd set of proof sheets
Colour Transparencies or Slides	1 copy of photographic report 1 set of original transparencies and two sets of duplicates OR 1 sets of original images taken concurrently	<u>Woollahra Council</u> Report + original transparencies <u>Local History Centre</u> Report + duplicate/concurrent transparencies: <u>Owner/client</u> Report + duplicate/concurrent transparencies

**Note:** Refer to the NSW Heritage Branch free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at:  
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographi crecording2006.pdf>  
Standard Condition: B3

## **B.5 Noise Control Objectives during Demolition Works**

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

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

### **C.1 Surrender of consent (Section 80A(1)(b) and Section 80A(5) of the Act)**

A notice of surrender of DA 212/2015 dated 18/07/2016 must be provided to Council in writing by the owner of the land in compliance with Clause 97 of the *Regulation*. No *Construction Certificate* must be issued until *Council* has acknowledged in writing that this condition has been satisfied.

Standard Condition: C1 (Autotext CC1)

### **C.2 Modification of details of the development (Section 80A(1)(g) of the Act)**

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

- a) Acoustic measures to the development is to be implemented to ensure that the following LAeq levels are not exceeded:
  - (i) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
  - (ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- b) The proposed development shall comply with the relevant detailed design requirements for self-contained dwellings in Schedule 3 of State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004.
- c) The height of the proposed solar panels shall be limited to RL 18.95 AHD.
- d) Pedestrian splay shall be provided in accordance with the dimensions set out in Clause 3.2.4 of AS/NZS 2890.1:2004 in order to ensure adequate sight lines are provided to pedestrians in the frontage footpath and vehicles in the frontage road.
- e) In order to ensure that pedestrian safety is not compromised due to the steep entry driveway gradient, the applicant shall install convex mirrors, rubber speed hump and stop sign at the driveway exit. The rubber speed hump shall be installed, across the entire width of driveway, at approximately 1 metre front the front boundary.



- f) A minimum 12 metres of queuing area shall be provided between the vehicular control point (such as garage entry door or intercom etc) and the property boundary to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road to comply with Clause 3.4 of AS/NZS 2890.1:2004.
- g) Additional control measures such as convex mirrors or give-way lines/signs are required at suitable positions on the driveway ramp connecting the basement level and the lower ground level to ensure safe vehicle movements within the car park.
- h) The proposed loading bay located at the frontage of the site in New South Head Road as indicated on the 'GROUND FLOOR – LEVEL 3' drawing shall be deleted.
- i) For the submitted stormwater plans, the following amendments shall be made:
  - (i) Subsoil drainage is not supported. The proposed basement shall be waterproofed and tanked to comply with Council's DCP.
  - (ii) The proposed absorption trench system shall be located at least 3 metres from the footing of any structures.
  - (iii) For the proposed pump out system, the storage volume required shall not be less than the volume of the runoff generated from the 100 ARI storm with 2 hours durations.
- j) A louvered privacy screen shall be installed along the north-eastern edge of the deck to apartment WF2 on the ground floor (level 3). The privacy screen shall have a minimum height of 1.7m, as measured from the finished floor level of the balcony, and extend for a minimum length of 4m, as measured from the north-western external wall to Bedroom 1.
- k) Development consent is not granted for any changes to the existing north-eastern (side) boundary wall.

**Note:** The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

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

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

Standard Condition: C4 (Autotext CC4)

### C.3 Payment of Long Service Levy, Security, Contributions and Fees

The certifying authority must not issue any *Part 4A Certificate* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a *construction certificate, subdivision certificate or occupation certificate*, as will apply.

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b>			
under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b>			
under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the	\$485,500	No	T115

<i>Council (s138)</i>			
<b>Infrastructure Works Bond</b> -completing any public work required in connection with the consent (s138)	\$35,000	No	T113
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>			
<b>Development Levy</b> (Section 94A)	\$213,431 + Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> under Section 608 of the Local Government Act 1993			
Public Road/Footpath Infrastructure Inspection Fee (s138)	\$441	No	T45
Security Administration Fee	\$180	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$734,552 plus any relevant indexed amounts and long service levy		

#### **Building and Construction Industry Long Service Payment**

The Long Service Levy under Section 34 of the *Building and Construction Industry Long Service Payment Act*, 1986, must be paid and proof of payment provided to the *Certifying Authority* prior to the issue of any *Construction Certificate*. The Levy can be paid directly to the Long Services Payments Corporation or to Council. Further information can be obtained from the Long Service Payments Corporation's website <http://www.lspc.nsw.gov.au/> or the Long Service Payments Corporation on 13 14 41.

#### **How must the payments be made?**

Payments must be made by:

- Cash deposit with Council,
- Credit card payment with Council, or
- Bank cheque made payable to Woollahra Municipal Council.

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

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

#### **How will the section 94A levy be indexed?**

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

#### **Do you need HELP indexing the levy?**

Please contact our customer service officers. Failure to correctly calculate the adjusted development levy will delay the issue of any Part 4A Certificate and could void any Part 4A Certificate (construction certificate, subdivision certificate, or occupation certificate).

#### **Deferred or periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2011**

Where the applicant makes a written request supported by reasons for payment of the section

94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

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

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

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

Any deferred or periodic payment of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

#### C.4 BASIX commitments

The *applicant* must submit to the *Certifying Authority* BASIX Certificate No.713823M\_02 with any application for a *Construction Certificate*.

**Note:** Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

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

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

Standard Condition: C7

#### C.5 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by, Council for the following infrastructure works prior to the issuing of any *Construction Certificate*. The infrastructure works must be carried out at the applicant's expense:

- a) The construction of a new 5.5 metres wide vehicular crossing including the replacement of the existing layback and gutter in accordance with Council's standard driveway

drawing RF2\_D. The centreline of the new vehicular crossing shall be in-line with the centreline of the driveway opening at the property boundary. A design longitudinal surface profile for the proposed driveway must be submitted for assessment.

- b) The removal of all redundant vehicular crossings and layback/gutter and reinstated into standard kerb and gutter to comply with Council's and RMS' specifications.
- c) The reconstruction of the existing footpath within the full frontage of the site in New South Head Road to comply with Council's Specification.
- d) The upgrade of the lighting levels in the vicinity of the proposed pedestrian access point and adjacent to the site to comply with AS1158.

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

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

**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note:** See condition K24 in *Section K. Advising*s of this Consent titled *Roads Act Application*.  
Standard Condition: C13 (Autotext CC13)

## C.6 Provision for Energy Supplies

The applicant must provide to the *Certifying Authority* a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans a section 96 application is required to be submitted to Council. Council will assess the proposed location of the required substation.

The *Construction Certificate* plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required the *Construction Certificate* plans and specifications must provide:

- a) A set back not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape,
- b) A set back not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3),
- c) A set back to and not within the drip line of any existing tree required to be retained,
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose

connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and

- e) The owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

**Note:** If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Certifying Authority* prior to issue of the *Construction Certificate*. The *Certifying Authority* must be satisfied that the requirements of energy authority have been met prior to issue of the *Construction Certificate*.

**Note:** This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

**Note:** Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the *BCA* respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 96 of the *Act* to allow assessment under section 79C of the *Act*.

**Note:** Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 Parking Facilities Set whether such driveways service the site or any adjoining land.  
Standard Condition: C21

## C.7 Soil and Water Management Plan – Submission & Approval

The *principal contractor* or *owner builder* must submit to the *Certifying Authority* a soil and water management plan complying with:

- a) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and  
b) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition” (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence. The *Certifying Authority* must be satisfied that the soil and water management plan complies with the publications above prior to issuing any *Construction Certificate*.

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

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

**Note:** The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publications can be down loaded free of charge from <http://www.woollahra.nsw.gov.au/>.

**Note:** Pursuant to clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may be satisfied as to this matter.  
Standard Condition: C25

## C.8 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.  
Standard Condition: C36

## C.9 Geotechnical and Hydrogeological Design, Certification & Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by a *Geotechnical / Hydrogeological Monitoring Program* together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a *professional engineer*, who is suitably qualified and experienced in geotechnical and hydrogeological engineering. These details must be certified by the *professional engineer* to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
  - Will detect any settlement associated with temporary and permanent works and structures;
  - Will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like);
  - Will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity);
  - Will detect groundwater changes calibrated against natural groundwater variations;
  - Details the location and type of monitoring systems to be utilised;
  - Details the pre-set acceptable limits for peak particle velocity and ground water fluctuations;
  - Details recommended hold points to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;

- Details a contingency plan.  
Standard Condition: C40 (Autotext: CC40)

## C.10 Ground Anchors

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

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

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

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's web-site <http://www.woollahra.nsw.gov.au>. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

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

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

**Note:** Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act* 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.  
Standard Condition: C41 (Autotext: CC41)

## C.11 Car and Commercial Parking Details

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation*, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively.

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

The *Certifying Authority* has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.  
Standard Condition: C45 (Autotext: CC45)

## C.12 Stormwater Management Plan

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by itm design P/L except with the following amendments:
  - (i) Subsoil drainage is not supported. The proposed basement shall be waterproofed and tanked to comply with Council's DCP.
  - (ii) The proposed absorption trench system shall be located at least 3 metres from the footing of any structures.
  - (iii) For the proposed pump out system, the storage volume required shall not be less than the volume of the runoff generated from the 100 ARI storm with 2 hours durations.
- b) Compliance the objectives and performance requirements of the BCA;
- c) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- d) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

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

#### **Layout plan**

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

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

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

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

Standard Condition: C.51 (Autotext CC51)

### **C.13 Stormwater infiltration systems**

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site and must detail:

- a) The soil permeability coefficient and estimate of mean water table level using field observations,
- b) How the system will disperse a 1 in 20 years average recurrence interval storm,
- c) How the system will cater for a 1 in 100 years average recurrence interval storm event by overland flow paths, General compliance with Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Standard Condition: C.53 (Autotext CC53)

### **C.14 Flood protection**

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of a 1:100 year Flood Level and the Estuary Planning Level as determined in the flood report by AKY Civil



Engineering, dated May 2016 and the coastal report by Royal Haskoning DHV, dated 17 November 2016, detailing:

- a) Habitable floor levels not less than 500mm above the flood level.
- b) Non-habitable floor levels not less than 300mm above flood level.
- c) Provision of flood barrier at the driveway crest and flood door installed at all entrance as stated in the architectural plans and flood and coastal reports. All flood barriers supplied by “Flooding Solutions” or equivalent product must not rely on human intervention or power.
- d) Flood compatible materials are to be used for all construction below the Flood Planning Level (FPL).
- e) All electrical equipment is to be located above or water proofed to the Flood Planning Level (FPL).
- f) Permanent flood advisory signs are to be mounted in area frequented advising residents of what to do if a flood occurs.

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

### **C.15 Detailed Environmental Site Assessment**

Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review *Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016*. The Site Auditor shall verify that the information provided in the detailed site assessment by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.

### **C.16 Remediation of Contaminated Land**

Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review and determine the appropriateness of the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016*. The Site Auditor shall verify that the information provided in the Remediation Action Plan (RAP) by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.

### **C.17 Validation Reporting**

Engage a qualified, experienced and reputable environmental consultant to prepare a Validation report which assesses the results of the post-remediation goals stated in the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016*.

Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review the Validation Report and submit interim advice from the accredited Site Auditor commenting on the adequacy of the remediation work to remove the sources of contamination at the subject site and certifies that the Validation Report has achieved the remediation goals.

## C.18 Site Audit Statement & Site Audit Report

Provide a Site Audit Statement and Site Audit Report to Woollahra Council which certifies:

- i. The nature and extent of the contamination has been appropriately determined;
- ii. The Sampling, Analysis and Quality Plan was appropriate to determine the nature and extent of the off-site contamination;
- iii. The investigation report complied with relevant standards, procedures and guidelines made or approved under the Contaminated Land Management Act 1997; and
- iv. A Management Plan, if required for the subject development site, is appropriate to manage identified off-site impacts.

## C.19 Swimming and Spa Pools – Child Resistant Barriers

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

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

Standard Condition: C55

## C.20 Swimming and Spa Pools – Backwash

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

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

**Note:** The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act* 1997. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act* 1997.

Standard Condition: C56

## C.21 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation* 2000 in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act* 1997 in relation to offensive noise or odour.

**Note:** Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with

any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

## **C.22 Noise Control - Swimming pool/spa pool pumps and associated equipment**

The siting of any swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.

## **C.23 Noise Control - Hydraulic Noise Control-Sound Insulation Rating of Services**

That the requirements of the Building Code of Australia BCA Clause F5.6: *Ducts, Hot and Cold Domestic Water, Stormwater, Soil and Waste Pipes*, which serves or passes through more than one sole occupancy unit must be separated from habitable rooms (other than a kitchen) in any other sole occupancy unit by a weighted sound reduction index + traffic noise spectrum adaptation term of not less than 40 if it is adjacent to a habitable room, and 25 if it is adjacent to a wet area (bathroom, laundry etc.) or kitchen.

Details are to be provided by the applicant clearly indicating how this requirement will be achieved in respect to controlling hydraulic noise emission to adjoining habitable rooms.

## **C.24 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)**

The basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the basement caraprk shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

## **C.25 Ventilation - Internal Sanitary Rooms**

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

## C.26 Tree Management Plan

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must show the following information:

- a) Trees to be numbered in accordance with these conditions:
  - shaded green where required to be retained and protected
  - shaded red where authorised to be removed
  - shaded yellow where required to be transplanted
  - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

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

## C.27 Amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and conforming to the conditions of this Development Consent prior to the issue of the Construction Certificate. The amended landscape plan must include the following:

- The proposed street tree plantings on New South Head Road currently shown to be 4 x *Cupaniopsis anacardioides* (Tuckeroo) must be substituted with 4 x *Harpullia pendula* (Tulipwood) in minimum 75 litre pot sizes.

## C.28 Controlled Activity Approval

The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.

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

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

For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

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

This condition does not apply:

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

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

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

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

## **D.2 Dilapidation Reports for existing buildings**

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to):

No. 642B New South Head Road

No. 648 New South Head Road

The dilapidation reports must be completed and submitted to *Council* with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition

Standard Condition: D4 (Autotext DD4)

## **D.3 Adjoining buildings founded on loose foundation materials**

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

**Note:** A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible

for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act* 1919.

Standard Condition: D6 (Autotext DD6)

#### **D.4 Piezometers for the monitoring of Ground water Levels**

The *principal contractor* must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

#### **D.5 Construction Management Plan**

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

The principal contractor or owner must submit an application for approval of the Construction Management Plan by Council's Traffic Engineer and pay all fees associated with the application. The plan must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:-

- a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.

- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: Oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T).
- o) Show the location of any proposed excavation and estimated volumes.
- p) When excavation works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

**Note:** A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

Standard Condition: D9 (Autotext: DD9)

## D.6 Works (Construction) Zone – Approval & Implementation

A works zone is required for this development. The *principal contractor* or *owner* must apply for a works zone. If the works zone is approved the *principal contractor* or *owner* must pay all fees for and implement the required works zone before commencement of any work.

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

**Note:** The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee)

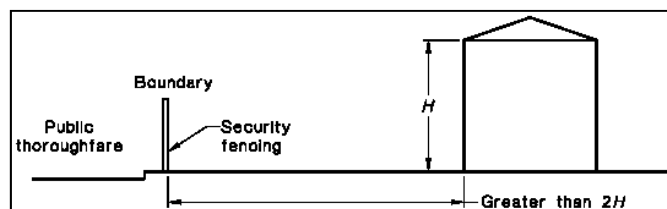
constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

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

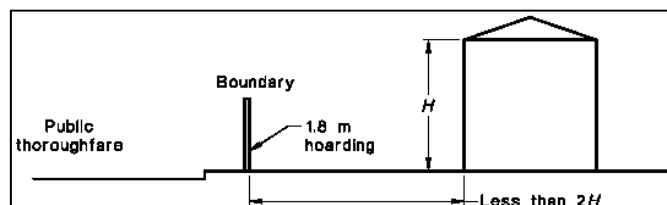
Standard Condition: D10 (Autotext DD10)

## D.7 Security Fencing, Hoarding and Overhead Protection

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



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



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

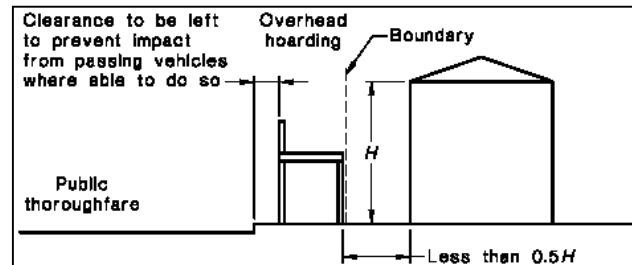
- The vertical height above footpath level of the structure being demolished is less than 4.0 m; or
- The least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

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

- Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- Have a clear height above the footpath of not less than 2.1 m;



- c) Terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5 m above the platform surface; and
- d) Together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The *principal contractor* or *owner builder* must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:

[http://www.workcover.nsw.gov.au/formspublications/publications/Pages/WC00017\\_OverheadProtectiveStructuresCodeofPractice.aspx](http://www.workcover.nsw.gov.au/formspublications/publications/Pages/WC00017_OverheadProtectiveStructuresCodeofPractice.aspx)

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

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

Standard Condition: D11 (Autotext DD11)

## D.8 Site Signs

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

Clause 98A of the *Regulation* provides:

### *Erection of signs*

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws."

Clause 227A of the Regulation provides:

***Signs on development sites***

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

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

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

**Note:** If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

## **D.9 Toilet Facilities**

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

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

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

In this condition:

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

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

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

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

**Note:** This condition does not set aside the requirement to comply with Workcover NSW requirements.

Standard Condition: D13 (Autotext DD13)

## D.10 Erosion and Sediment Controls – Installation

The *principal contractor* or *owner builder* must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The *Soil and Water Management Plan* if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition” (‘The Blue Book’).

Where there is any conflict The Blue Book takes precedence.

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

**Note:** The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be down loaded free of charge from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

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

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

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

Standard Condition: D14 (Autotext DD14)

## D.11 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

- a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
  - Appointed a principal certifying authority for the building work, and
  - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) The principal certifying authority has, no later than 2 days before the building work commences:
  - Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - Notified the principal certifying authority of any such appointment, and
  - Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - Given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

**Note:** *building* has the same meaning as in section 4 of the *Act* and includes part of a building and any structure or part of a structure.

**Note:** *new building* has the same meaning as in section 109H of the *Act* and includes an altered portion of, or an extension to, an existing building.

**Note:** The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

**Note:** *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

**Note:** It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*.

Standard Condition: D15 (Autotext DD15)

## D.12 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 80A (11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- In the case of work for which a *principal contractor* is required to be appointed:
    - the name and licence number of the principal contractor, and
    - the name of the insurer by which the work is insured under Part 6 of that *Act*,
  - In the case of work to be done by an owner-builder:
    - the name of the owner-builder, and
    - if the owner-builder is required to hold an owner-builder permit under that *Act*, the number of the owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State's building laws.

Standard Condition: D17 (Autotext DD17)

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

### **E.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

For the purposes of section 80A (11) of the Act, the following condition is prescribed in relation to a development consent for development that involves any building work:

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

This condition does not apply:

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

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

**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.  
Standard Condition: E1 (Autotext EE1)

### **E.2 Compliance with Australian Standard for Demolition**

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

Standard Condition: E2 (Autotext EE2)

### **E.3 Compliance with Construction Management Plan**

All development activities and traffic movements must be carried out in accordance with the approved construction management plan. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

**Note:** Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

Standard Condition: E3 (Autotext EE3)

### **E.4 Requirement to notify about new evidence**

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage

significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifying Authority.

Standard Condition: E4 (Autotext EE4)

## E.5 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* or *owner builder* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*. *Critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the PCA and any PCA Service Agreement.

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

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

Standard Condition: E5 (Autotext EE5)

## E.6 Hours of Work –Amenity of the neighbourhood

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

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

**Note:** The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be

subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

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

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

**Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

**Note:** EPA Guidelines can be down loaded from <http://www.epa.nsw.gov.au/noise/nglg.htm> .

**Note:** see [http://www.epa.nsw.gov.au/resources/ci\\_build\\_sheet7.pdf](http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf)  
Standard Condition: E6 (Autotext EE6)

## E.7 Public Footpaths – Safety, Access and Maintenance

The *principal contractor* or *owner builder* and any other person acting with the benefit of this consent must:

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

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the *Roads Act 1993* or section 94 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

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

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

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

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

- Part C Management of Waste:
  - a. For fee or reward, transport waste over or under a public place
  - b. Place waste in a public place

- c. Place a waste storage container in a public place.”
  - Part E Public roads:
    - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
    - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”
    - c. Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.
- Standard Condition: E7 (Autotext EE7)

## E.8 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions;

**Note:** See [http://www.epa.nsw.gov.au/small\\_business/builders.htm](http://www.epa.nsw.gov.au/small_business/builders.htm) for additional information.  
Standard Condition: E11

## E.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the *Geotechnical / Hydrogeological Monitoring Program* and any oral or written direction of the supervising *professional engineer*.

The *principal contractor* and any sub-contractor must strictly follow the *Geotechnical / Hydrogeological Monitoring Program* for the development including, but not limited to;

- a) the location and type of monitoring systems to be utilised;
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*; and
- c) the contingency plan.

**Note:** The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the Development Application to be appointed as the *professional engineer* supervising the work however, it is the Council’s recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12 (Autotext EE12)

## E.10 Support of adjoining land and buildings

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



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

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

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

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

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

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

Standard Condition: E13 (Autotext EE13)

## E.11 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity an audible alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*.

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

**Note:** *Professional engineer* has the same mean as in Clause A1.1 of the BCA.

**Note:** *Building* has the same meaning as in section 4 of the Act i.e. “*building* includes part of a building and any structure or part of a structure”.

**Note:** *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.

Standard Condition: E14 (Autotext EE14)

## E.12 Erosion and Sediment Controls – Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition (“*The Blue Book*”).

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



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

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

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

Standard Condition: E15 (Autotext EE15)

### E.13 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

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

Standard Condition: E17 (Autotext EE17)

### E.14 Site Cranes

Site Crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the *principal contractor* or *owner builder* have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

**Note:** Where it is proposed to swing a crane over a public place the *principal contractor* or *owner builder* must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

**Note:** Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19 (Autotext EE19)

### E.15 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The *Principal Contractor* or *Owner Builder* must ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary

works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

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

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

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

Standard Condition: E20 (Autotext EE20)

## E.16 Placement and use of Skip Bins

The *principal contractor* or *owner builder* must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act 1993* to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

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

Standard Condition: E21 (Autotext EE21)

## E.17 Prohibition of burning

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

**Note:** Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation 2000* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

## E.18 Dust Mitigation

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

This generally requires:

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

**Note:** “*Dust Control - Do it right on site*” can be down loaded free of charge from Council’s web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council’s office.

**Note:** Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) and [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) . Other specific condition and advice may apply.

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

Standard Condition: E23 (Autotext EE23)

## E.19 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated February 2012.

The *owner, principal contractor or owner builder* must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within Roads and other public places.

**Note:** A copy of Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” can be down loaded free of charge from Council’s website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

Standard Condition: E24 (Autotext EE24)

## E.20 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act* 1992 must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act* 1992 or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act* 1992.

Standard Condition: E26

## **E.21 Site waste minimisation and management – Demolition**

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

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

When implementing the SWMMP the applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

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

Standard Condition: E31 (Autotext EE31)

## **E.22 Site waste minimisation and management – Construction**

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

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage

- c) Consider organising to return excess materials to the supplier or manufacturer
  - d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
  - e) Clearly 'signpost' the purpose and content of the storage areas
  - f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
  - g) Promote separate collection bins or areas for the storage of residual waste
  - h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
  - i) Minimise site disturbance and limit unnecessary excavation
  - j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
  - k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW
- Standard Condition: E32 (Autotext EE32)

### E.23 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Condition B2 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- b) Be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "*Code of Practice for the Safe Removal of Asbestos*",
- c) No asbestos products may be reused on the site
- d) No asbestos laden skip or bins shall be left in any public place

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

Standard Condition: E39

### E.24 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW DECC *Waste Classification Guidelines, Part1: Classifying Waste* (April 2008).

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

Standard Condition: E40

### E.25 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with Condition E24 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

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

Standard Condition: E41

## E.26 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

**Note:** This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.  
Standard Condition: E42

## E.27 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to WorkCover all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

**Note:** This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.  
Standard Condition: E43

## E.28 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

### General Protection Requirements

- a) Excavation must cease where tree roots with a diameter exceeding 30mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- b) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

**Note:** Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.

## E.29 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Radius from Trunk (metres)
1-5	5 x <i>Howea forsteriana</i> (Kentia palm)	1.5 metres



Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

The project arborist or landscape foreman shall document compliance with the above condition.

### **E.30 Compliance with Acid Sulfate Soils Management Plan**

The Principal Contract / Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

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

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

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

Standard Condition: E28 (Autotext EE28)

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

### **F.1 Occupation Certificate (section 109M of the Act)**

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

**Note:** New building includes an altered portion of, or an extension to, an existing building.

Standard Condition: F1 (Autotext FF1)

### **F.2 Commissioning and Certification of Systems and Works**

The *principal contractor* or *owner builder* must submit to the satisfaction of the *PCA* works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the *works*, as executed and as detailed,

comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant *construction certificate*, the *BCA* and relevant *Australian Standards*.

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

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

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

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

**Note:** The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.

Standard Condition: F7 (Autotext FF7)

### F.3 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with Section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).
- c) The *Principal Contractor* or owner must either obtain a ‘Certificate of Compliance’ issued pursuant to Section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996:

- a) Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- b) Before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:  
<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>  
Standard Condition: F13 (Autotext FF13)

#### F.4 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a *new building*, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

**Note:** This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

**Note:** In this condition:

*interim fire safety certificate* has the same meaning as it has in Part 9 of the Regulation.

*final fire safety certificate* has the same meaning as it has in Part 9 of the Regulation.

*new building* has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

#### F.5 Swimming Pool Fencing

Swimming Pool Fencing is to be constructed in accordance with *AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools*.

**Note:** Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012

Standard Condition: F20 (Autotext FF20)

#### F.6 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

**Note:** This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

## **F.7 Street Numbering**

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

**Note:** Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.

Standard Condition: F11 (Autotext FF11)

## **F.8 Letter Box(es)**

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

**Note:** This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

Standard Condition: F12 (Autotext FF12)

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

### **G.1 Electricity Substations – Dedication as road and/or easements for access**

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Principal Certifying Authority* prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

Standard Condition: G4 (Autotext GG4)

## **H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**

### **H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation**

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 713823M\_02.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7 (Autotext HH7)

### **H.2 Removal of Ancillary Works and Structures**

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

**Note:** This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

Standard Condition: H12 (Autotext HH12)

### **H.3 Road Works (including footpaths)**

The following works must be completed to the satisfaction of Council, in compliance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated February 2012 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- a) Stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b) Driveways and vehicular crossings within the *road*;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the *road*;
- e) Relocation of existing power/light pole
- f) relocation/provision of street signs
- g) New or replacement street trees;
- h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- i) New or reinstated kerb and guttering within the *road*; and
- j) New or reinstated road surface pavement within the *road*.

**Note:** Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be

submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council's customer service centre. Standard Condition: H13 (Autotext HH13)

#### H.4 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the PCA detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the On-Site Detention system (OSD);
- c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- f) A positive covenant pursuant to Section 88E of the *Conveyancing Act* 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land Titles Office.

**Note:** The required wording of the Instrument can be downloaded from Council's web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au). The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*.

**Note:** The *Final Occupation Certificate* must not be issued until this condition has been satisfied. Standard Condition: H20 (Autotext HH20)

#### H.5 Covenant for Private Works on Council Property

Prior to the granting of an Occupation Certificate and to ensure the structures on Council road reserve accord with Council's "Policy for Managing Encroachments on Council road reserves" the land owner with the benefit of this consent must satisfy Council in relation to the following:

- (a) The lodgement of an "Application to Formalise an Existing Encroachment on Council land" in consultation with Council's Senior Property Officer.
- (b) The owner of 636-646 New South Head Road, Rose Bay entering into a legal agreement to formalise the encroachment for the New South Head Road awning structure, as depicted in JPRA Architects drawing DA2006 P dated 22/8/2016 in accordance with Council's "Policy for Managing Encroachments on Council Road Reserves".

The agreement must be in the form of the applicable legal instruments as follows:

- (i) Section 88E Conveyancing Act 1919 Positive Covenant; using Council's standard template for the occupation of the Road, construction, and ongoing maintenance of the encroaching structures.

- (ii) The Positive Covenant agreement must be registered on the Certificate of Title of 636-646 New South Head Road, Rose Bay.
- (c) The land owner must pay all of Council's associated costs, including but not limited to legal and registration fees, in this matter.

## **H.6 Landscaping**

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

**Note:** This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

## **H.7 Consolidation of Allotments**

Prior to the Occupation Certificate, a final Plan of Survey prepared and certified by a Registered Surveyor must be submitted and approved by the Accredited Certifier showing the consolidation of the two lots.

A new deposited plan of the consolidated lot must be registered at the Land Titles Office and a copy provided to Council with copies of certificates of title, prior to the issue of the Occupation Certificate.

## **H.8 Covenant for occupation of the development and provision of affordable places**

A positive covenant pursuant to Section 88E of the *Conveyancing Act* 1919 must be created on the title of the subject property, providing for:

### **a) Restrictions on occupation**

In accordance with the provisions of ***Clause 18 Restrictions on occupation*** under SEPP (Housing for Seniors or People with a Disability) 2004, the occupation of the development is limited to the following:

- i) Seniors or people who have a disability,
- ii) People who live within the same household with seniors or people who have a disability,
- iii) Staff employed to assist in the administration of and provision of services to the residential care facility and the serviced self-care housing.

### **b) Provision of affordable places and on-site services**

In accordance with the provisions of ***Clause 45 Vertical villages*** under SEPP (Housing for Seniors or People with a Disability) 2004, the following affordable places and on-site services are required to be provided:

- i) The continued provision of Unit No. NSHR2 as an affordable place.

- ii) The affordable place (Unit No. NSHR2) is required to be owned and managed by an organisation providing community housing that is registered for the time being with the Office of Community Housing.

**Note:** In accordance with SEPP (Housing for Seniors or People with a Disability) 2004 means an affordable place, in relation to seniors housing, means a dwelling for the accommodation of a resident:

(a) whose gross household income falls within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:

Very low income household	less than 50%
Low income household	50% or more but less than 80%
Moderate income household	80–120%

(b) who is to pay rent that does not exceed a benchmark of 30% of the resident's actual household income.

## H.9 Notice of completion of category 1 remediation work

Pursuant to clause 17 of *State Environmental Planning Policy No 55 - Remediation of Land*, notice of completion of a category 1 remediation work must be given to the council within 30 days after the completion of the work

This notice must be in accordance with clause 18 of SEPP 55.

**Note:** Category 1 remediation work is defined in clause 9 of SEPP 55.  
Standard Condition: D3

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

### I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.713823M\_02.

**Note:** This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.  
Standard Condition: I24

### I.2 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- In compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs;
- In compliance with the NSW Health “*Public Swimming Pool and Spa Pool Guidelines*” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- In compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - Before 8 am or after 8 pm on any Sunday or public holiday, or
  - Before 7 am or after 8 pm on any other day.



**Note:** Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:

<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: I30

### I.3 Noise from mechanical plant and equipment

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

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

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

**Note:** Words in this condition have the same meaning as in the: *NSW Industrial Noise Policy*

([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](http://www.environment.nsw.gov.au/resources/ind_noise.pdf)) ISBN 0 7313 2715 2, dated January 2000, and *Noise Guide for Local Government*

(<http://www.environment.nsw.gov.au/noise/nglg.htm>) ISBN 1741370671, dated December 2004.

Standard Condition: I59

### I.4 Noise Control

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

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

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government*

(<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines*

(<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

#### Useful links:

**Community Justice Centres**—free mediation service provided by the NSW Government

([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page

([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

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

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

**Association of Australian Acoustical Consultants**—professional society of noise related professionals

([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I50

## **I.5 Noise Control - Swimming pool/spa pool pumps and associated equipment**

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2008 as follows:

- *Before 8am or after 8pm during Saturdays, Sundays and public holidays;*
- *Before 7am or after 8pm on any other day.*

## **I.6 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

**Note:** *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).  
Standard Condition: I22

## **I.7 Clothes drying**

No clothes, linen or the like must be hung from any balcony, terrace or veranda such that they are visible from any public place.

**Note:** This condition has been imposed to ensure that the visual amenity of the neighbourhood is not detrimentally affected by a proliferation of such practices.

Standard Condition: I2

## **I.8 On-site support services**

On-site support services are required to be delivered for the residents of the development in accordance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

**Note:** In accordance with SEPP (Housing for Seniors or People with a Disability) 2004 means *on-site support services*, in relation to residents of seniors housing, means:

- (a) 3 meals a day provided on a communal basis or to a resident's dwelling, and
- (b) personal care, and
- (c) home nursing visits, and
- (d) assistance with housework.

## **I.8 Provision of Off street commercial vehicle facilities**

The owner and occupier, in compliance with AS 2890.2-2002: Parking facilities - Off-street commercial vehicle facilities, must maintain unimpeded access to off-street parking as follows:

Use	Number of spaces
Commercial (general)	4 spaces
Commercial (courier)	1 space

**Note:** This condition has been imposed to ensure that commercial vehicles utilise loading facilities within the site to reduce impacts upon the neighbourhood including noise and parking impacts.

Standard Condition: I23

## **J. Miscellaneous Conditions**

No relevant conditions.

## **K. Advisings**

### **K.1 Criminal Offences – Breach of Development Consent and Environmental laws**

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

#### Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

#### Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

**Note:** The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney

General's [www.agd.nsw.gov.au](http://www.agd.nsw.gov.au).

Standard Advising: K1 (Autotext KK1)

### **K.2 Dial before you dig**

A.2



The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au).

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.  
Standard Advising: K2 (Autotext KK2)

### K.3 Builder's Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a *principal contractor* for residential building work who must be the holder of a contractor licence.

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder):  
<http://www.dft.nsw.gov.au/building.html> .

The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

Standard Condition: K5 (Autotext KK5)

### K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved.

The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.

The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124.

The Guide can be down loaded from:

<http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf>

Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

Standard Condition: K6 (Autotext KK6)

### K.5 Workcover requirements

The Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

**Note:** Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office:

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7 (Autotext KK7)

## K.6 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

**Note:** The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or one of Workcover NSW's offices for further advice.

Standard Advising: K8 (Autotext KK8)

## K.7 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act* 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

**Note:** Further information can be obtained from the NSW Department of Lands:

<http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.

Standard Advising: K10 (Autotext KK10)

## K.8 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms R Coull, Senior Assessment Officer, on (02) 9391 7098.

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34

Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

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

Standard Condition: K14 (Autotext KK14)

## **K.9 Release of Security**

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*.

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

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

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

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

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

[http://www.woollahra.nsw.gov.au/\\_data/assets/pdf\\_file/0004/76405/Refund\\_of\\_Security\\_Form.pdf](http://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0004/76405/Refund_of_Security_Form.pdf)

Standard Condition: K15 (Autotext KK15)

## **K.10 Recycling of Demolition and Building Material**

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

Standard Condition: K17 (Autotext KK17)

## **K.11 Owner Builders**

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from the Office of Fair Trading (see [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).)

Standard Condition: K18 (Autotext KK18)

## K.12 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the DCP from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19 (Autotext KK19)

## K.13 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the PCA that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

## K.14 Roads Act Application

Works or structures over, on or under public roads or footpaths are subject to Sections 138, 139 and 218 of the *Roads Act* 1993 and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway

An "Application to carry out works in a Public Road" form must be completed and lodged, with the Application fee, at Council's Customer Services counter. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by *Council* under Section 138 of the *Roads Act* 1993, before the issue of any *Construction Certificate*.

Detailed engineering plans and specifications of the works required by this Condition must accompany the Application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb & gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by *Council*. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

Temporary ground anchors may be permitted, in accordance with Council's "*Rock Anchor Policy*".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

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

**Note:** When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent. Standard Advising: K24 (Autotext KK24)



## **ANNEXURES**

1. Plans and elevations
2. Technical Services referral response
3. Trees and Landscaping referral response
4. Urban Design referral response
5. Environmental health referral responses
6. Community Services referral response
7. Fire Safety referral response
8. Heritage referral response
9. Department of Primary Industries (former Office of Water) referral response (integrated development)
10. Roads and Maritime Services referral response (concurrence)
11. Clause 4.6 written request – building height
12. Property referral response

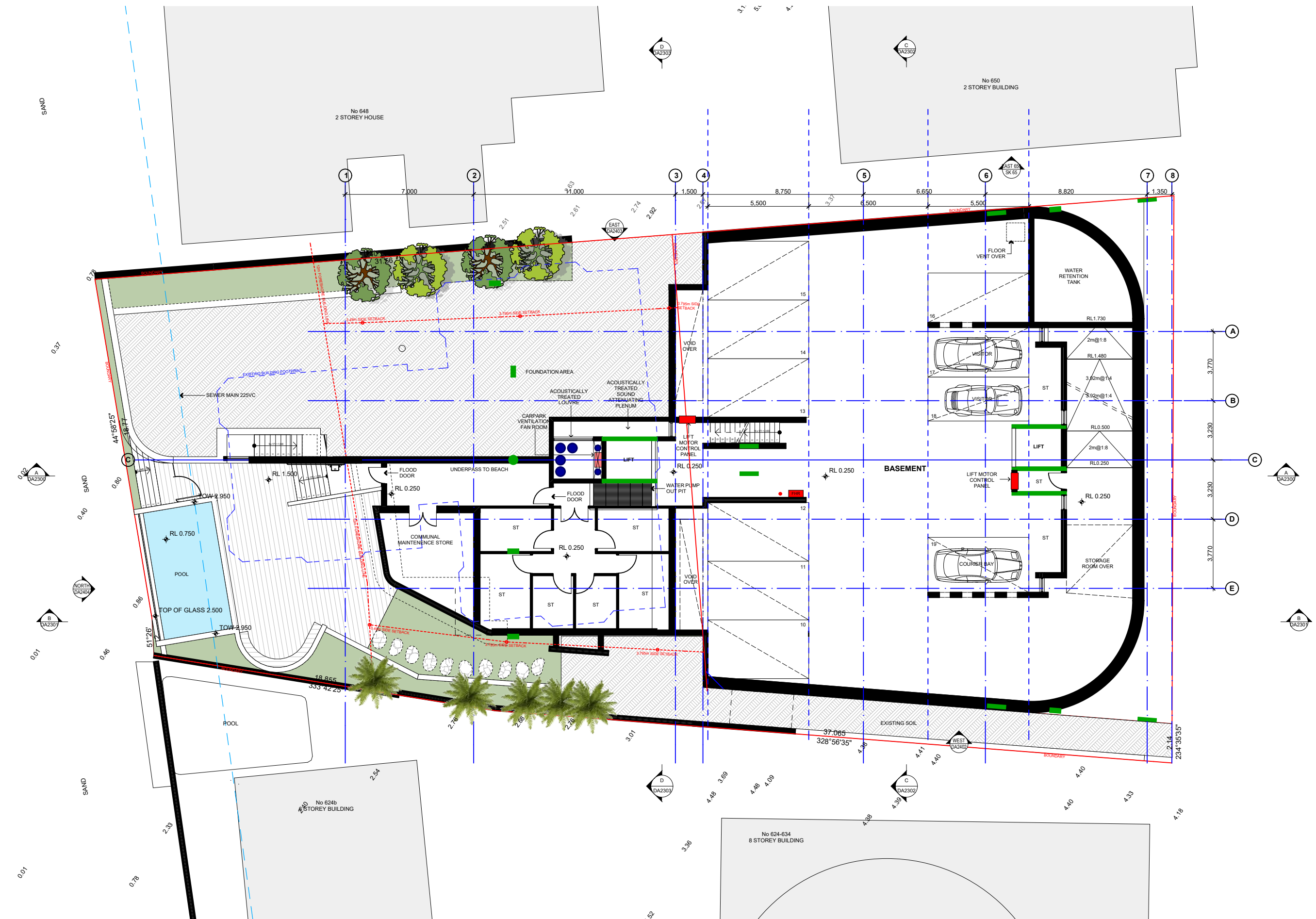




- |  |                               |
|--|-------------------------------|
|  | NOISE                         |
|  | HOT AND DRY SUMMER BREEZES    |
|  | WARM AUTUMN WINDS             |
|  | COOL AFTERNOON SUMMER BREEZES |
|  | COLD WINTER WINDS             |







R 18/11/2016 AMENDMENTS FOLLOWING COASTAL REPORT  
S 23/01/2017 AMENDMENT TO POOL

FILE: 2015072 - 636-638 New South Head Road - DA

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DRAWING NOT TO SCALE IF REPRODUCED

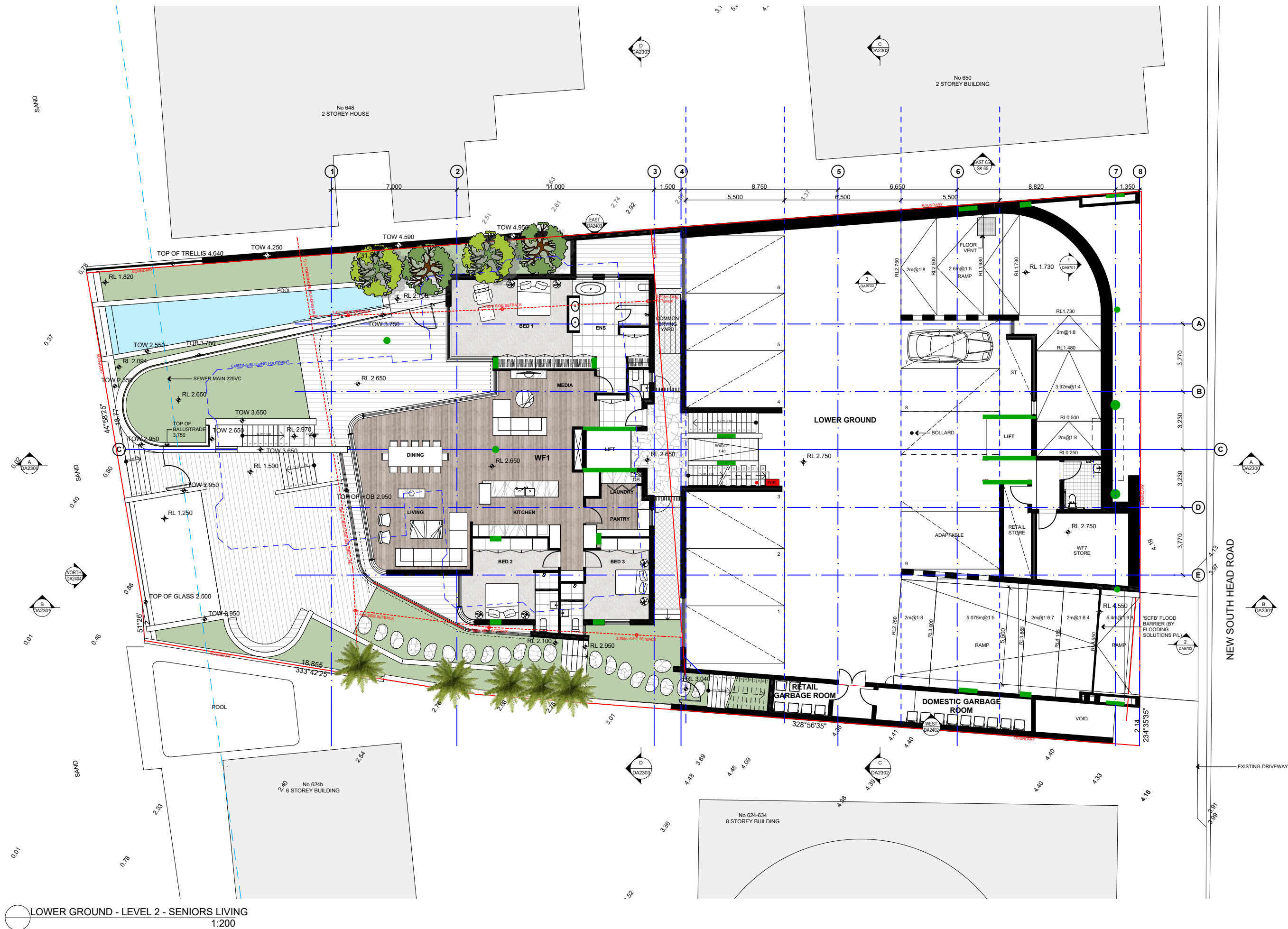


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East Sydney NSW 2010  
Tel +61 2 9366 1133  
Fax +61 2 9366 1100  
ABN 52 255 001 003  
www.jpra.com.au

PROJECT: 2015072  
DRAWN BY: JE  
SCALE: 1:200 @A3  
PROJECT ADDRESS: 636-638 NSH RD ROSEBAY  
CLIENT: RB JV  
DRAWING: BASEMENT - LEVEL 1  
REV: 1

PROJECT NO: 2015072  
DRAWN BY: JE  
SCALE: 1:200 @A3  
DRAWING NO: 1  
PLOTTED: 23/01/2017

**DA2000 S**



R 18/11/2016 AMENDMENTS FOLLOWING COASTAL REPORT  
S 23/01/2017 AMENDMENT TO POOL

FILE: 2015072 - 636-638 New South Head Road - DA

0 2 4 6m

DRAWING NOT TO SCALE IF REPRODUCED



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PROJECT: 636-638 NSH RD ROSEBAY  
DRAWN BY: JE  
SCALE: 1:200 @A3  
PROJECT ADDRESS: 636-638 NSH RD ROSEBAY  
CLIENT: RB JV  
DRAWING: LOWER GROUND - LEVEL 2

PROJECT NO: 2015072  
DRAWN BY: JE  
SCALE: 1:200 @A3  
DRAWING NO: REV:  
PLOTTED: 23/01/2017

**DA2001 S**



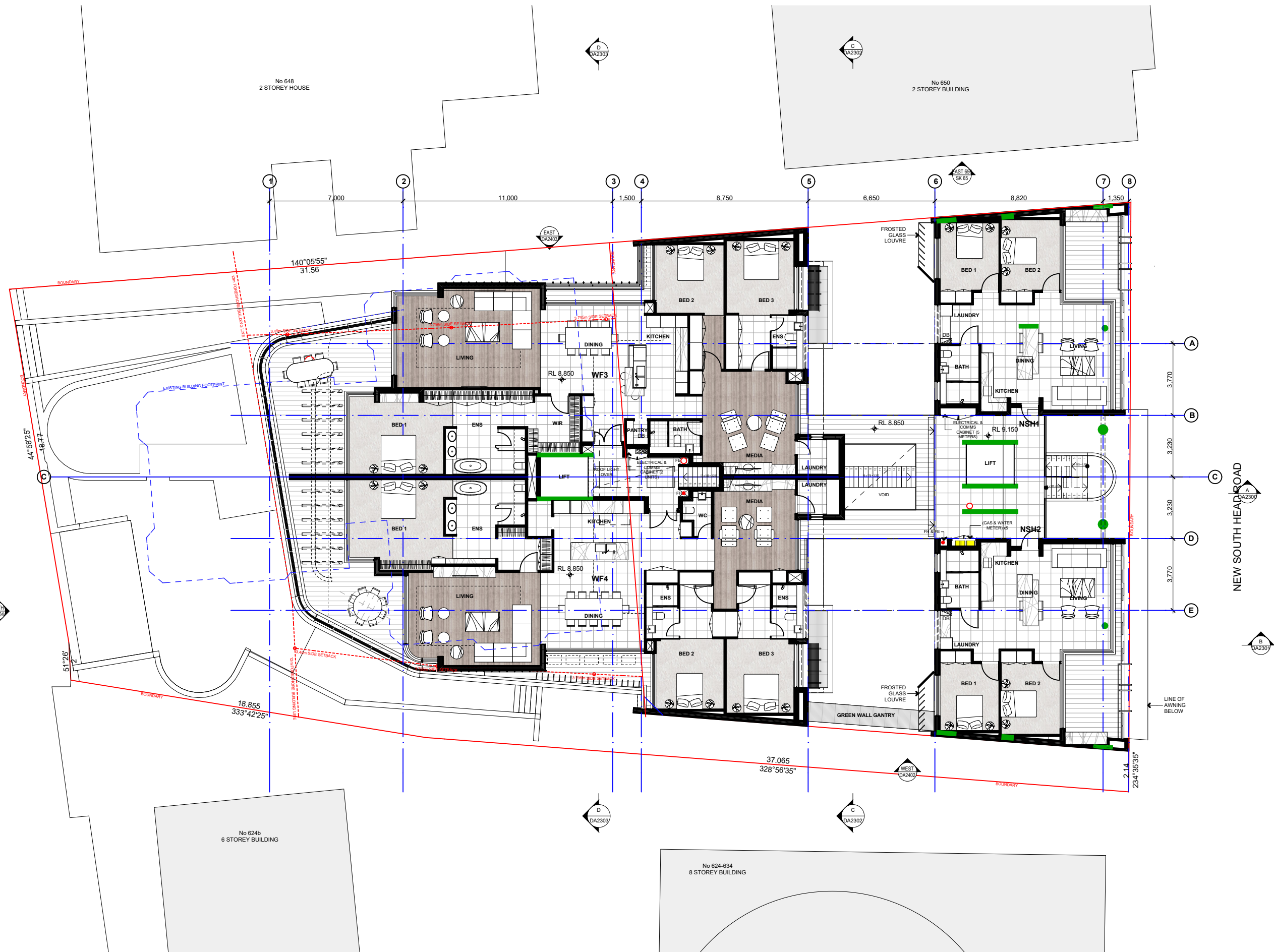
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PROJECT:  
**636-638 NSH RD ROSEBAY**  
PROJECT ADDRESS:  
**636-638 NSH RD ROSEBAY**  
CLIENT:  
**RB JV**  
DRAWING:  
**GROUND FLOOR - LEVEL 3**

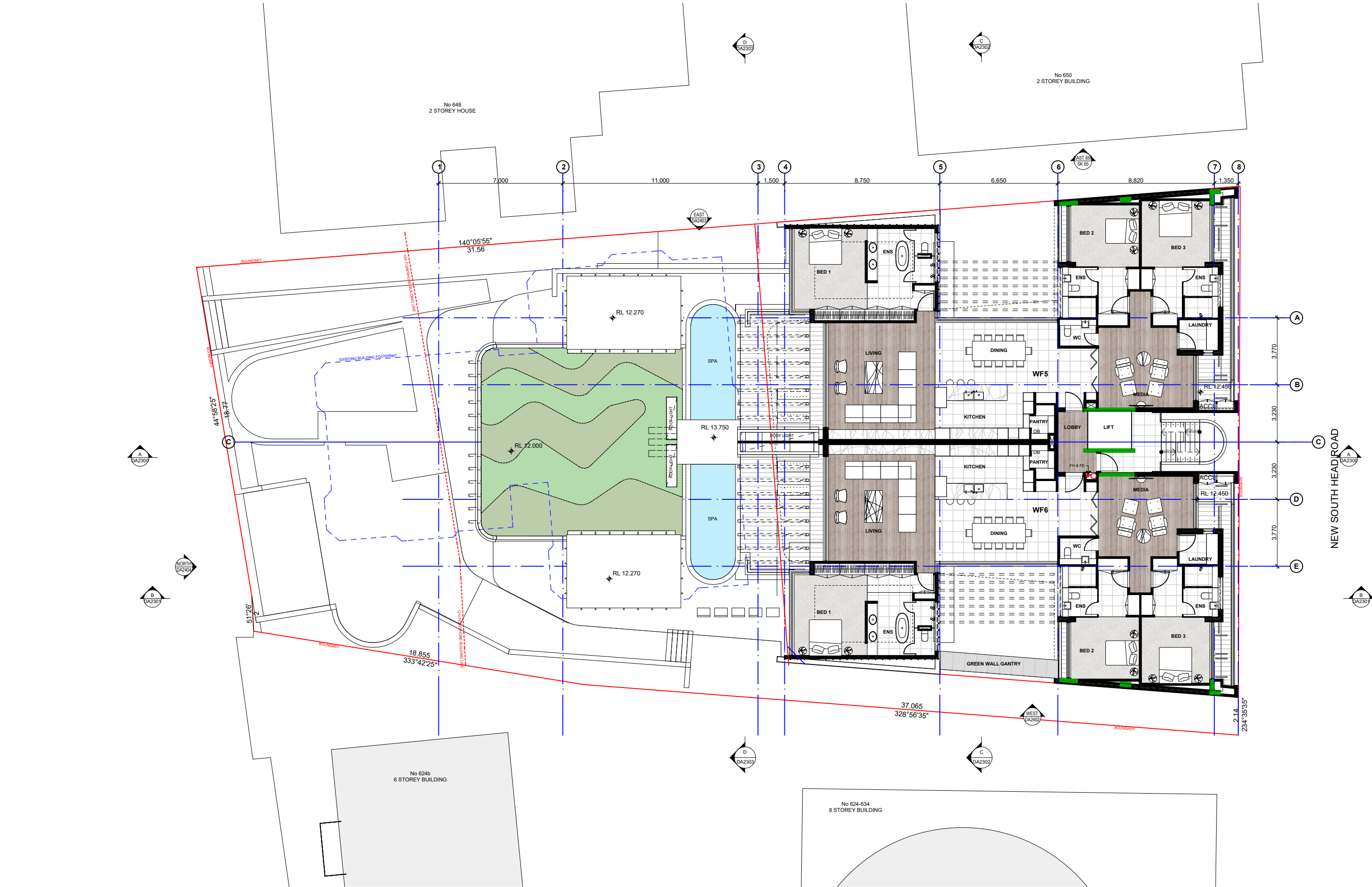
DA2002 S

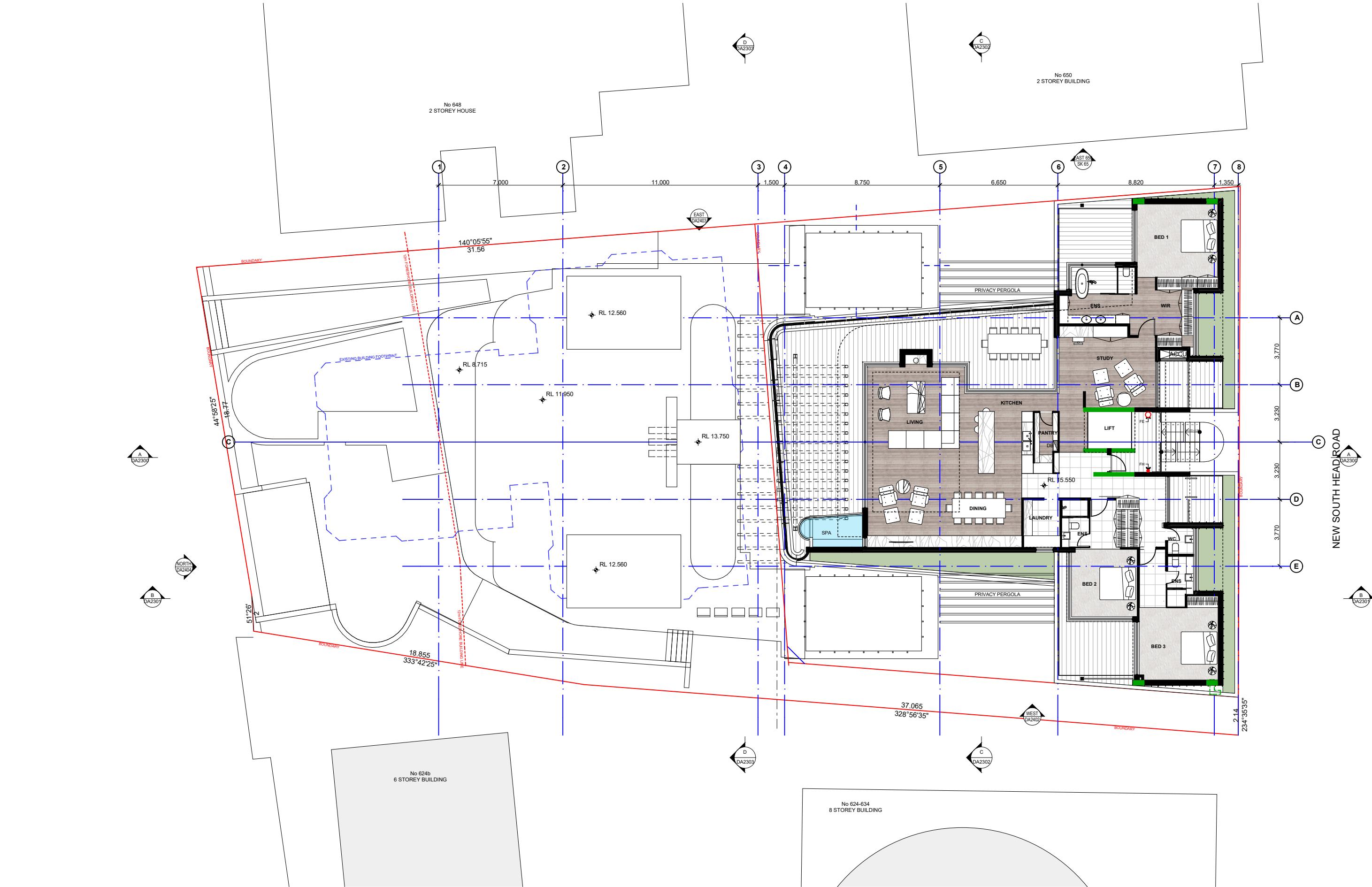
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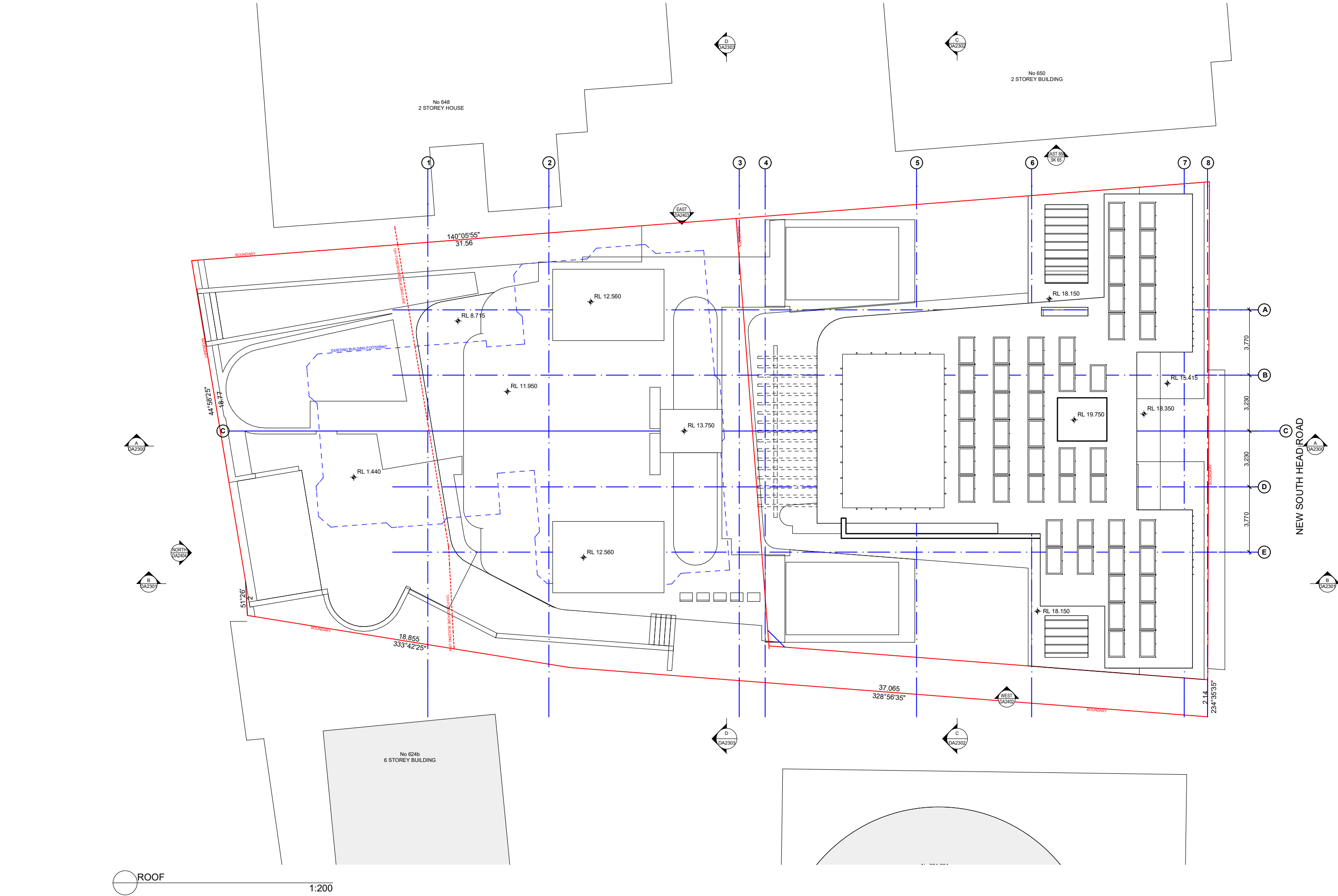


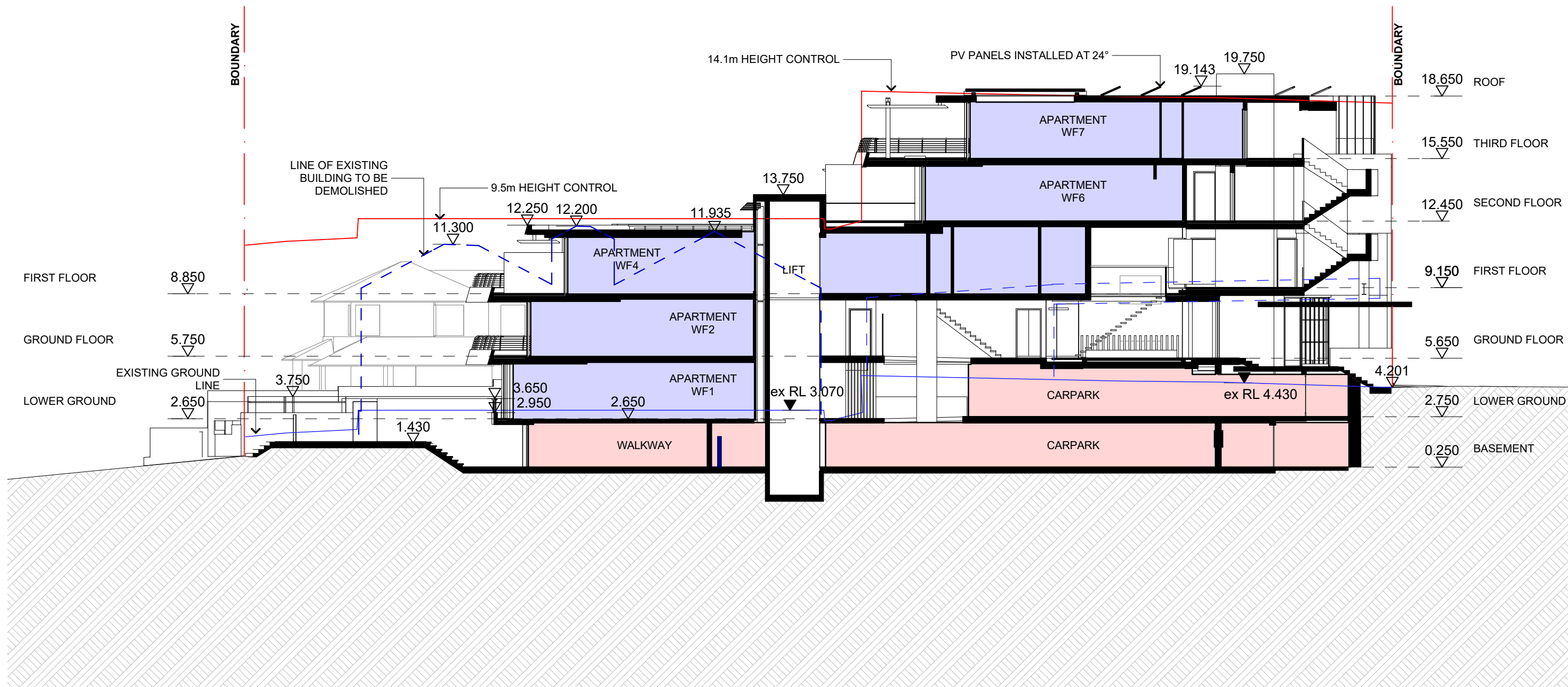
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1:200





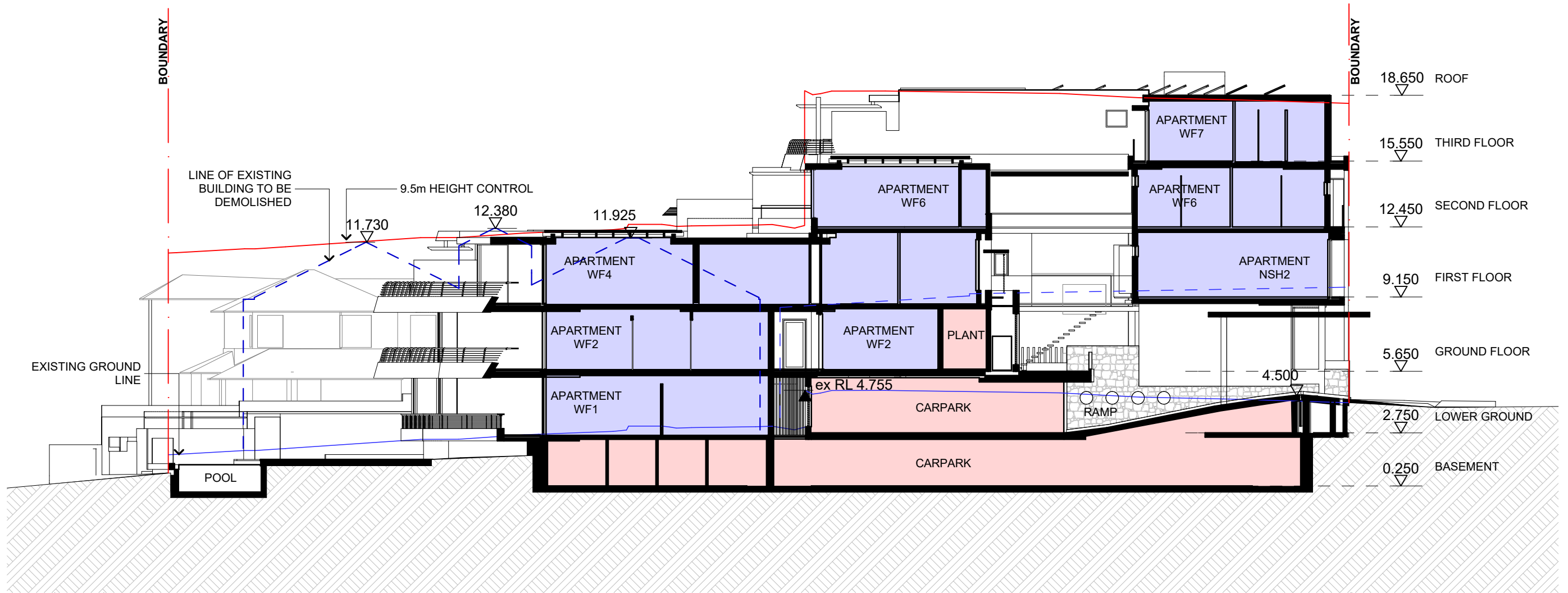






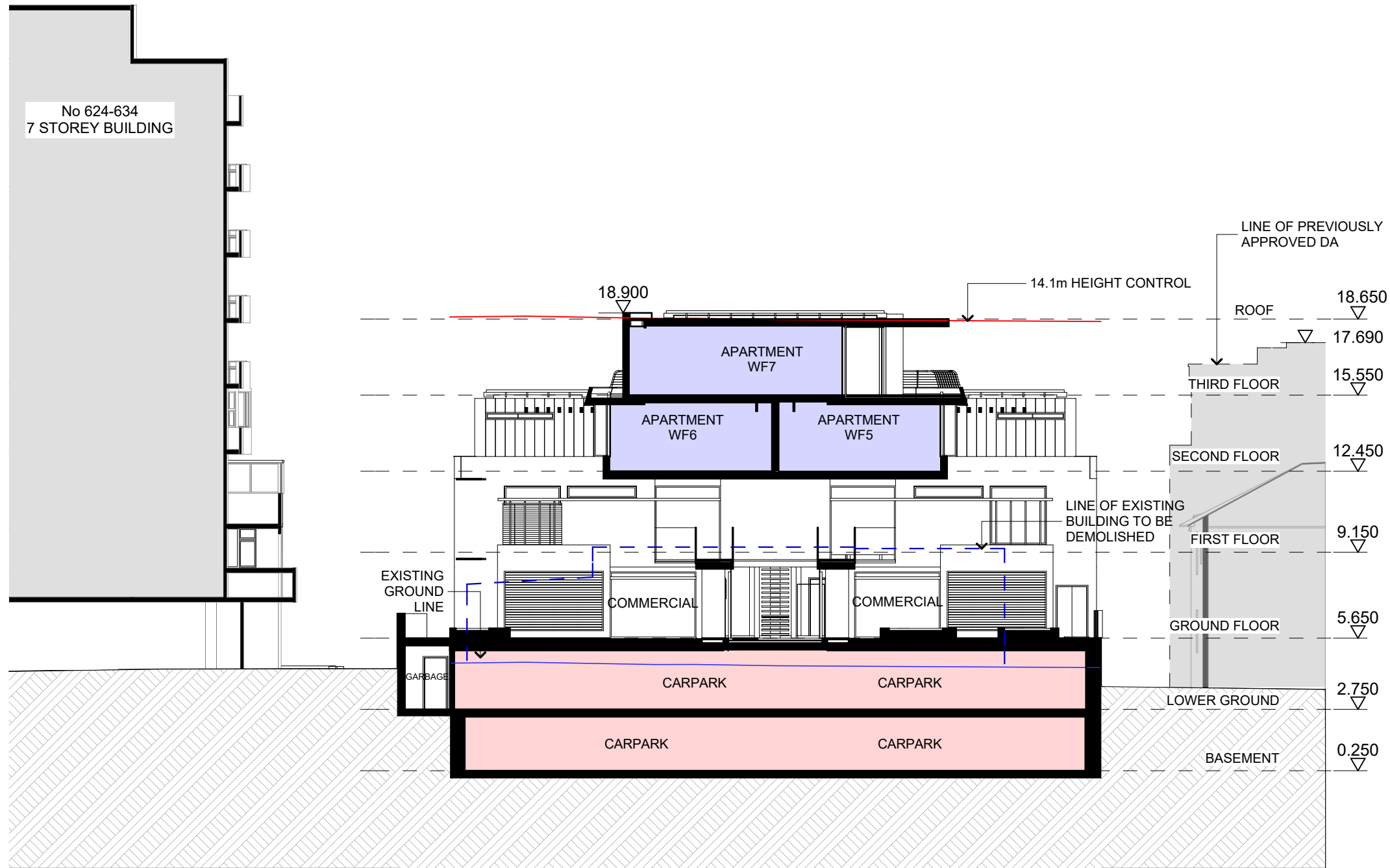
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B 1:200





C 1:200

0 2 4 6m

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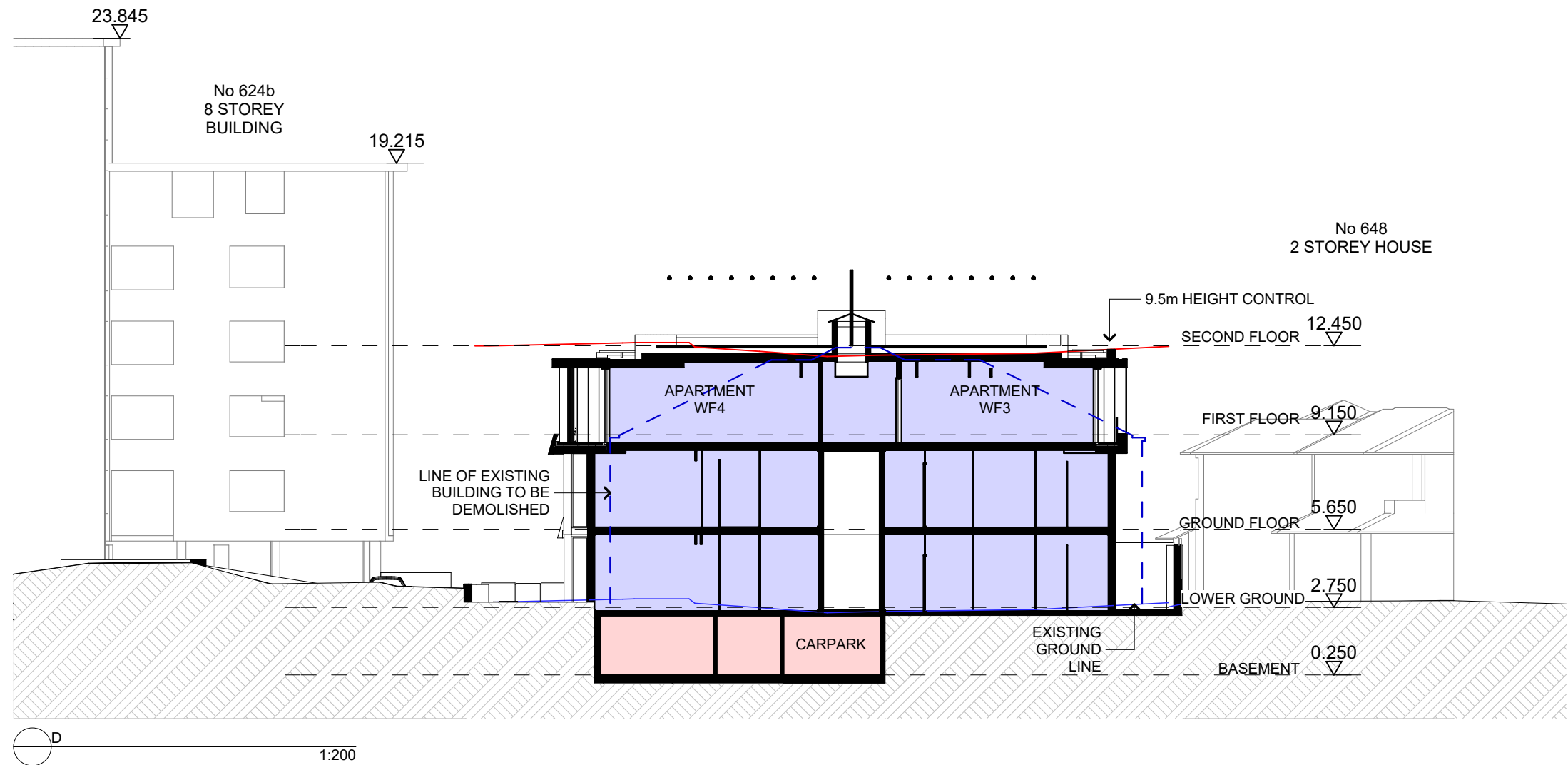


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ABN 52 255 001 003  
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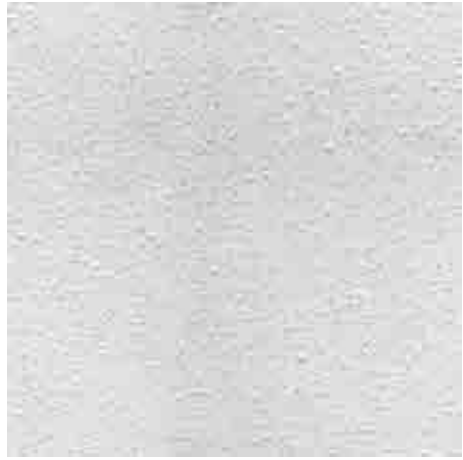
PROJECT: 636-638 NSH RD ROSEBAY  
DRAWN BY: JE  
PROJECT ADDRESS: 636-638 NSH RD ROSEBAY  
CLIENT: RBJV  
DRAWING: SECTION C

PROJECT NO: 2015072  
DRAWN BY: JE  
SCALE: 1:200 @A3  
DRAWING NO: REV:  
PLOTTED: 22/08/2016

**DA2302 E**







F1 - RENDER AND PAINT



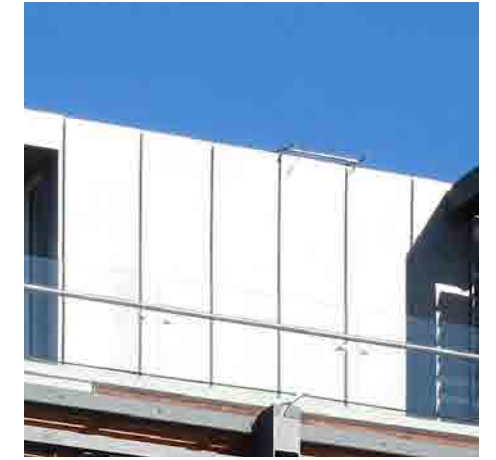
F2 - CERAMIC CLADDING



F3 - SHIPLAP TIMBER  
NATURAL FINISH



F4 - GLASS BALUSTRADE



F5 - STANDING SEAM  
METAL CLADDING



F6 - DRY PACKED STONE



F7 - ALUMINIUM FRAMED  
GLAZING



F8 - PAINTED METAL  
PERGOLA



F9 - TIMBER PANELLING  
NATURAL FINISH



F10 -STAINLESS STEEL  
BALUSTRADE WITH  
TIMBER HAND RAIL



F11 - PAINTED  
STRUCTURAL STEEL



F12 - FIXED LOUVRE



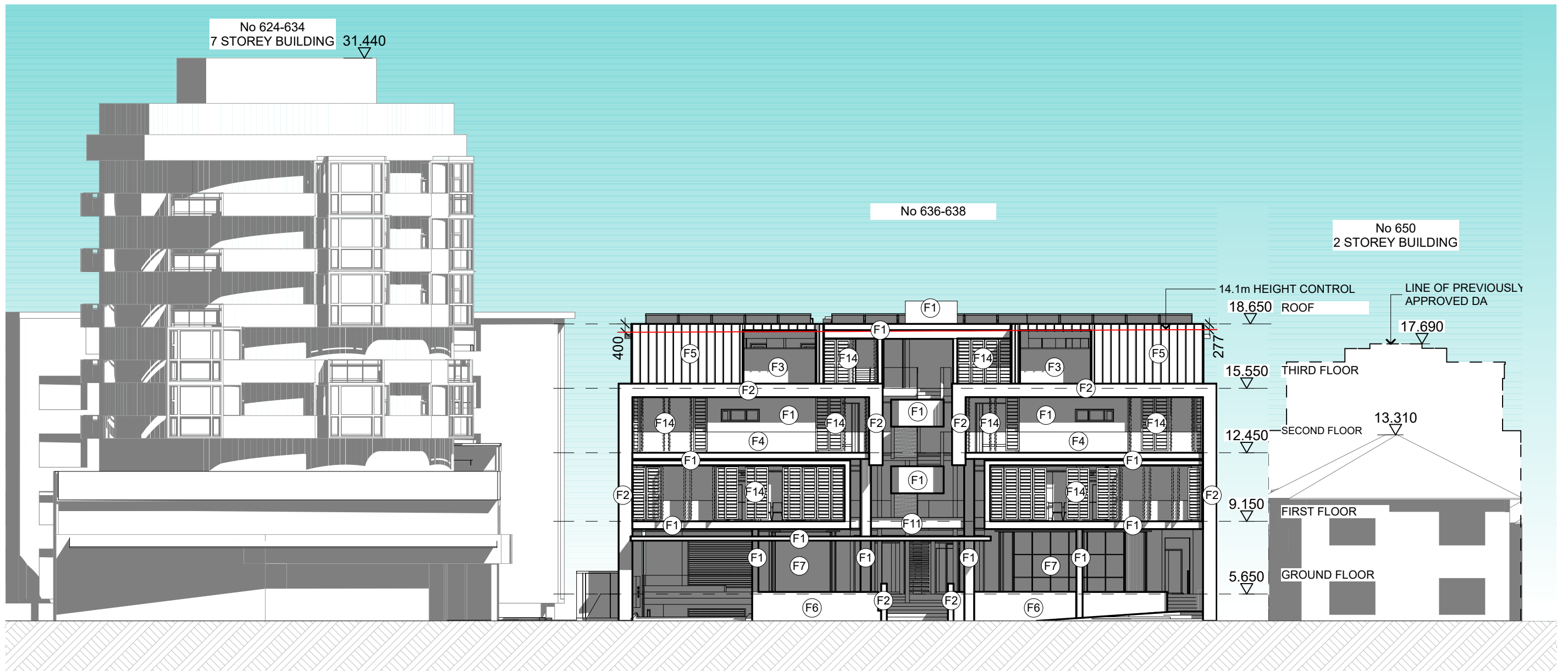
F13 - TIMBER BEAM



F14 - ADJUSTABLE  
TIMBER SHUTTER



F15 - OFF FORM  
CONCRETE



SOUTH 1:200

- F1 RENDER AND PAINT
- F2 CERAMIC CLADDING
- F3 SHIPLAP TIMBER
- F4 GLASS BALUSTRADE
- F5 STANDING SEAM METAL CLADDING
- F6 DRY PACKED STONE
- F7 ALUMINIUM FRAMED GLAZING
- F8 PAINTED METAL PERGOLA
- F9 TIMBER PANELLING
- F10 STAINLESS STEEL BALUSTRADE WITH TIMBER HAND RAIL
- F11 PAINTED STRUCTURAL STEEL
- F12 FIXED LOUVRE
- F13 TIMBER BEAM
- F14 ADJUSTABLE TIMBER SHUTTER
- F15 OFF FORM CONCRETE



South Elevation 3D

0 2 4 6m

DRAWING NOT TO SCALE IF REPRODUCED



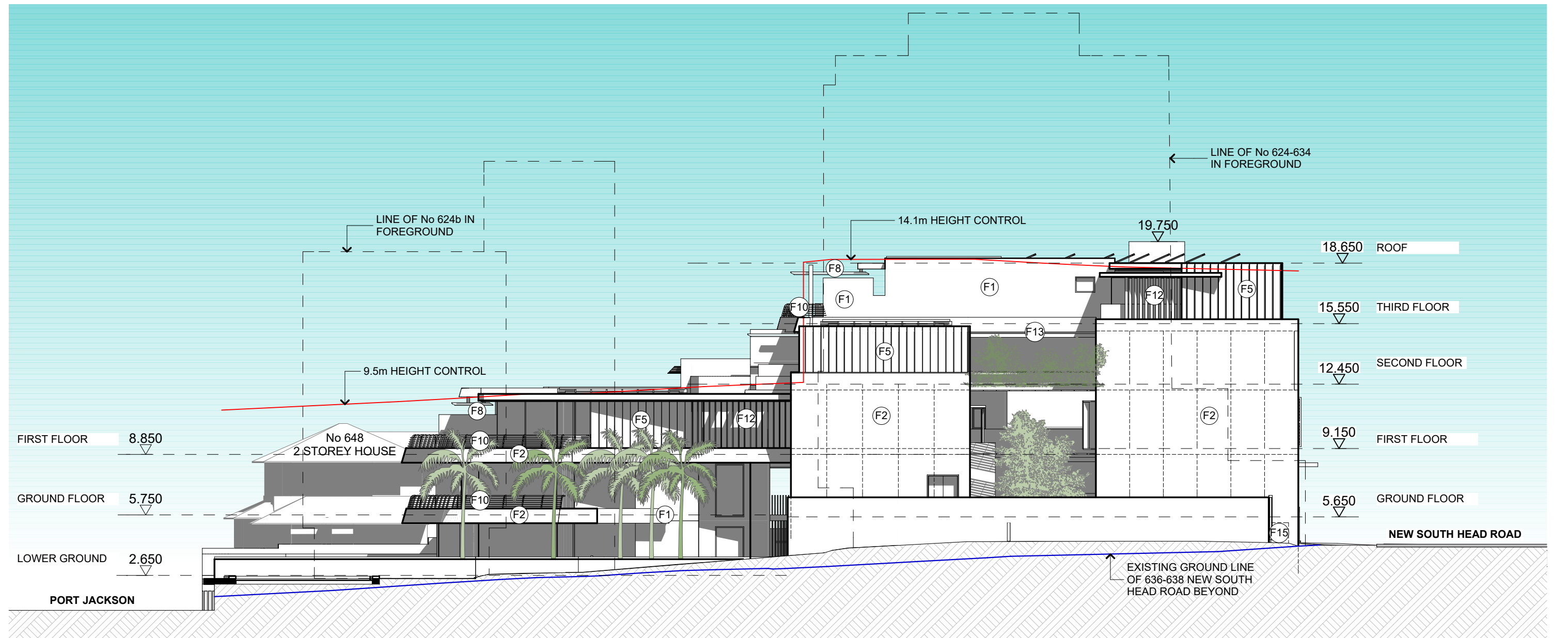
**JPRA**  
JPR Architects Pty Ltd  
Level 4, 50 Stanley Street  
East Sydney NSW 2010  
Tel +61 2 9366 1133  
Fax +61 2 9366 1100  
ABN 52 255 001 003  
www.jprra.com.au

PROJECT: 636-638 NSH RD ROSEBAY  
DRAWN BY: JE  
PROJECT ADDRESS: 636-638 NSH RD ROSEBAY  
CLIENT: RB JV  
DRAWING: SOUTH ELEVATION  
REV:

PROJECT NO: 2015072  
SCALE: 1:200 @A3  
DRAWING NO: REV:  
PLOTTED: 22/08/2016

DA2401 F





WEST 1:200

- F1 RENDER AND PAINT
- F2 CERAMIC CLADDING
- F3 SHIPLAP TIMBER
- F4 GLASS BALUSTRADE
- F5 STANDING SEAM METAL CLADDING
- F6 DRY PACKED STONE
- F7 ALUMINIUM FRAMED GLAZING
- F8 PAINTED METAL PERGOLA
- F9 TIMBER PANELLING
- F10 STAINLESS STEEL BALUSTRADE WITH TIMBER HAND RAIL
- F11 PAINTED STRUCTURAL STEEL
- F12 FIXED LOUVRE
- F13 TIMBER BEAM
- F14 ADJUSTABLE TIMBER SHUTTER
- F15 OFF FORM CONCRETE



West Elevation 3D

0 2 4 6m

DRAWING NOT TO SCALE IF REPRODUCED



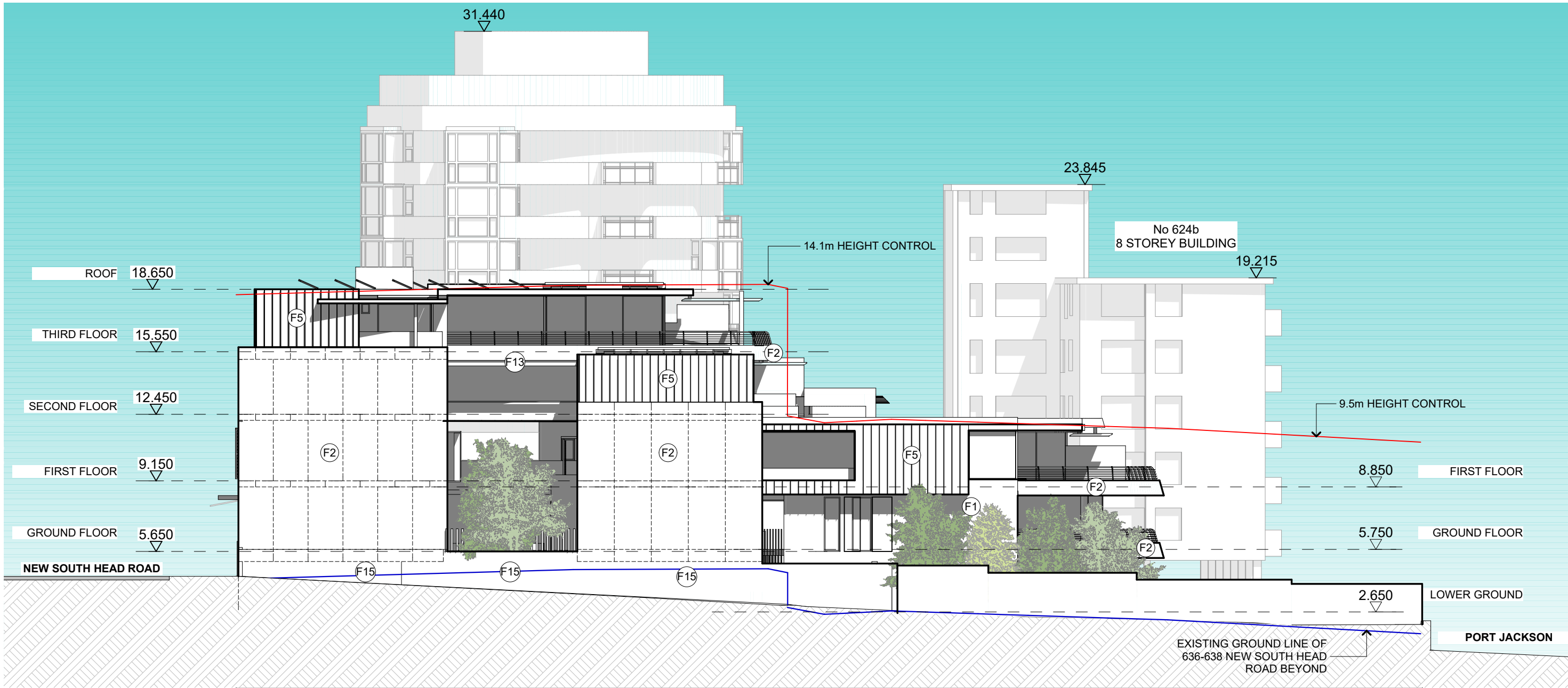
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PROJECT: 636-638 NSH RD ROSEBAY  
DRAWN BY: JE  
PROJECT ADDRESS: 636-638 NSH RD ROSEBAY  
CLIENT: RB JV  
DRAWING: WEST ELEVATION

PROJECT NO: 2015072  
DRAWN BY: JE  
SCALE: 1:200, @A3, 71  
DRAWING NO: REV:  
PLOTTED: 22/08/2016

DA2402 F



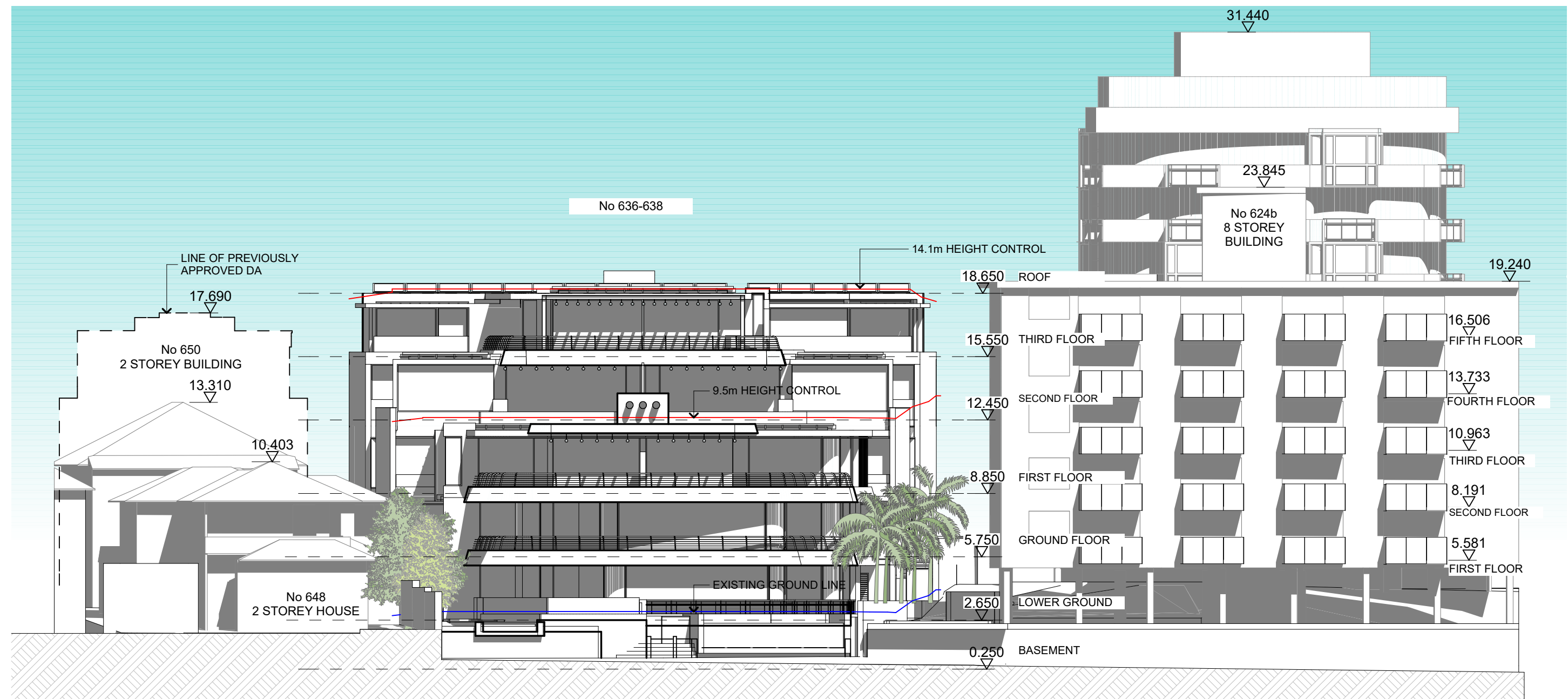


EAST  
1:200

- F1 RENDER AND PAINT
- F2 CERAMIC CLADDING
- F3 SHIPLAP TIMBER
- F4 GLASS BALUSTRADE
- F5 STANDING SEAM METAL CLADDING
- F6 DRY PACKED STONE
- F7 ALUMINIUM FRAMED GLAZING
- F8 PAINTED METAL PERGOLA
- F9 TIMBER PANELLING
- F10 STAINLESS STEEL BALUSTRADE WITH TIMBER HAND RAIL
- F11 PAINTED STRUCTURAL STEEL
- F12 FIXED LOUVRE
- F13 TIMBER BEAM
- F14 ADJUSTABLE TIMBER SHUTTER
- F15 OFF FORM CONCRETE



East Elevation 3D



- F1 RENDER AND PAINT
- F2 CERAMIC CLADDING
- F3 SHIPLAP TIMBER
- F4 GLASS BALUSTRADE
- F5 STANDING SEAM METAL CLADDING
- F6 DRY PACKED STONE
- F7 ALUMINIUM FRAMED GLAZING
- F8 PAINTED METAL PERGOLA
- F9 TIMBER PANELLING
- F10 STAINLESS STEEL BALUSTRADE WITH TIMBER HAND RAIL
- F11 PAINTED STRUCTURAL STEEL
- F12 FIXED LOUVRE
- F13 TIMBER BEAM
- F14 ADJUSTABLE TIMBER SHUTTER
- F15 OFF FORM CONCRETE



North Elevation 3D

0 2 4 6m

DRAWING NOT TO SCALE IF REPRODUCED



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PROJECT: 636-638 NSH RD ROSEBAY  
PROJECT ADDRESS: 636-638 NSH RD ROSEBAY  
CLIENT: RB JV  
DRAWING: NORTH ELEVATION

PROJECT NO: 2015072  
DRAWN BY: JE  
SCALE: 1:200, @A32.0  
DRAWING NO: REV:  
PLOTTED: 17/01/2017

DA2404 H

## REFERRAL RESPONSE – TECHNICAL SERVICES

**FILE NO:** Development Applications/ 377/2016/1  
**ADDRESS:** 636 New South Head Road ROSE BAY 2029  
**PROPOSAL:** Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces  
**FROM:** Mr R Lam  
**TO:** Ms R Coull

---

### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 16019, prepared by GSA Planning, dated August 2016.
- Architectural Plans, referenced 2015072, prepared by JPRA, dated 18/11/2016.
- Survey, referenced B2059, prepared by Project Surveyors, dated 3 February 2016.
- Flood Study, referenced 16014-Rev A, prepared by AKY Civil Engineering, dated May 2016.
- Coastal Study, referenced M&APA1496L002F0.1, prepared by Royal Haskoning DHV, dated 17 November 2016.
- Stormwater Disposal Concept Plan, referenced 15/214, prepared by itm design P/L, dated 11/05/16 .
- Geotechnical Report, referenced 24048VT2rpt, prepared by JK Geotechnics, dated 11 September 2016.
- Traffic Report, referenced 14105, prepared by Terraffic Pty Ltd, dated 4 June 2016.

### 3. ASSESSMENT

Comments have been prepared on the following:

#### a. Site Drainage comments

*The submitted concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. Conditions will be imposed to reflect any required changes*

*required at the CC stage. Stormwater runoff from the site will be discharged to the street kerb and gutter by gravity.*

*Council's Technical Services Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.*

**b. Flooding & Overland Flow comments**

*The property is subject to flood related development control. With the confirmation received from Council's Planning Department that SEPP Seniors Living is permissible to be developed on the subject property, Council's Drainage Engineer has reviewed the submitted flood study and coastal report and raised no objections to the proposed development subject to conditions to be imposed in the DA consent.*

**c. Impacts on Council Infrastructure comments**

*The applicant seeks to construct a new basement carpark as part of this development. As such, the applicant shall construct a new 5.5metres wide vehicular crossing which will be conditioned accordingly.*

**d. Traffic comments**

*Council's Traffic Engineer has provided the following comments:*

*"Should this development be approved, it is recommended that the following conditions of consent be imposed on the development.*

- 1. The applicant be required to submit a CMP together with a completed Construction Management Plan Application form and pay all relevant application fees. The submitted CMP must be approved by Council's Traffic Engineer prior to the issue of a Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. That the developer pay to upgrade the lighting levels in the vicinity of the proposed pedestrian access point and adjacent to the site, to the satisfaction of the Council's Engineering Services Department.*
- 3. That all aspects of the carpark comply with AS/NZS 2890.1 and AS/NZS 2890.6:2009.*
- 4. That minimum 12 metres of queuing area be provided between the vehicular control point and the property boundary to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road as per AS/NZS 2890.1:2004 Clause 3.4.*
- 5. Pedestrian splay shall be provided in accordance with the dimensions set out in AS/NZS 2890.1:2004 Clause 3.2.4.*
- 6. Additional control measures such as convex mirrors or give-way lines/signs are required at suitable positions on the ramp connecting the basement level and the lower ground level to ensure safe vehicle movements within the car park.*
- 7. That the proposed loading bay on New South Head Road in front of the subject site as indicated on 'GROUND FLOOR – LEVEL 3' be deleted."*



**e. Vehicle Access & Accommodation comments**

*The proposed vehicular access and carparking layout comply with AS2890.1. However, amended plans are to be submitted at the CC stage for the provision of sight triangles to be provided for pedestrian safety. Besides, it is noted from the submitted architectural plans that the entry driveway ramp does not comply with AS2890.1 where a maximum of 5% shall be provided for the first 6m into the subject property. It is however further noted that the subject property is affected by major overland floodwater. Based on Council's adopted flood study, flooding will occur in the road reserve from the 1 in 2 year ARI and above. As such, the proposed non-compliance driveway ramp is considered acceptable given that it could prevent the basement from flooding on a more frequent flood event. It is also considered that other amicable measures such as convex mirror, rubber speed hump and stop sign could be provided so that pedestrian safety will not be compromised. Suitable conditions will be imposed accordingly.*

**f. Geotechnical, Hydrogeological and/or Structural comments**

*A Geotechnical Report by JK Geotechnics Ref: 29030Zrpt, dated 3 February 2016, has been submitted in support of the application. The proposal involves excavation with a depth of about 3 metres for the proposed basement and driveway ramp.*

*The report identified that the subsurface conditions as:*

- a) Fill comprising silty sand to a depth of 0.69m to 1.7m*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 10.3m*
- c) Sandstone bedrock was not encountered beneath the natural sand.*
- d) Groundwater was found during field investigation*

*The report made comments and recommendations on the following:*

- Shoring and support,*
- Vibration Monitoring,*
- Excavation method,*
- Dewatering,*
- Further Geotechnical input.*

*Conditions covering these matters as well as others identified by Council have been added to the Referral. Groundwater disposal will require approval from Department of Water and Energy (DWE).*

*Council's Technical Services has no objection to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.*

**4. RECOMMENDATION**

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

## **A. General Conditions**

### **A.5 Approved Plans & Supporting documents**

Reference	Description	Author/Drawn	Date(s)
24048VT2rpt	Geotechnical Report	JK Geotechnics	11 September 2016
16014	Flood Report	AKY Civil Engineering	May 2016
M&APA1496L002F0.1	Coastal Report	Royal Haskoning DHV	17 November 2016

### **A.8 Ancillary Aspect of the Development (S80A(2) of the Act)**

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

### **B.7 Public Road Assets prior to any work/demolition**

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

### **C.4 Modification of details of the development (Section 80A(1)(g) of the Act)**

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

- a) Pedestrian splay shall be provided in accordance with the dimensions set out in Clause 3.2.4 of AS/NZS 2890.1:2004 in order to ensure adequate sight lines are provided to pedestrians in the frontage footpath and vehicles in the frontage road.
- b) In order to ensure that pedestrian safety is not compromised due to the steep entry driveway gradient, the applicant shall install convex mirrors, rubber speed hump and stop sign at the driveway exit. The rubber speed hump shall be installed, across the entire width of driveway, at approximately 1 metre front the front boundary.
- c) A minimum 12 metres of queuing area shall be provided between the vehicular control point (such as garage entry door or intercom etc) and the property boundary to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road to comply with Clause 3.4 of AS/NZS 2890.1:2004.
- d) Additional control measures such as convex mirrors or give-way lines/signs are required at suitable positions on the driveway ramp connecting the basement level and the lower ground level to ensure safe vehicle movements within the car park.
- e) The proposed loading bay located at the frontage of the site in New South Head Road as indicated on the 'GROUND FLOOR – LEVEL 3' drawing shall be deleted.
- f) For the submitted stormwater plans, the following amendments shall be made:
  - (i) Subsoil drainage is not supported. The proposed basement shall be waterproofed and tanked to comply with Council's DCP.

- (ii) The proposed absorption trench system shall be located at least 3 metres from the footing of any structures.
- (iii) For the proposed pump out system, the storage volume required shall not be less than the volume of the runoff generated from the 100 ARI storm with 2 hours durations.

**Note:** The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

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

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

Standard Condition: C4 (Autotext CC4)

## C.5 Security Deposits

Property Damage Security Deposit (S138)	\$485,500	No	T115
Infrastructure Works Bond (S138)	\$35,000	No	T113
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$441	No	T45

## C.13 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by, Council for the following infrastructure works prior to the issuing of any *Construction Certificate*. The infrastructure works must be carried out at the applicant's expense:

- a) The construction of a new 5.5 metres wide vehicular crossing including the replacement of the existing layback and gutter in accordance with Council's standard driveway drawing RF2\_D. The centreline of the new vehicular crossing shall be in-line with the centreline of the driveway opening at the property boundary. A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- b) The removal of all redundant vehicular crossings and layback/gutter and reinstated into standard kerb and gutter to comply with Council's and RMS' specifications.
- c) The reconstruction of the existing footpath within the full frontage of the site in New South Head Road to comply with Council's Specification.
- d) The upgrade of the lighting levels in the vicinity of the proposed pedestrian access point and adjacent to the site to comply with AS1158.

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

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

**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note:** See condition K24 in *Section K. Advising* of this Consent titled *Roads Act Application*.

Standard Condition: C13 (Autotext CC13)



**C.21 Provision for Energy Supplies**

**C.25 Soil and Water Management Plan – Submissions & Approval**

**C.36 Professional Engineering Details**

**C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring**

**C.41 Ground Anchors**

**C.45 Car Parking Details**

**C.51 Stormwater Management Plan**

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by itm design P/L except with the following amendments:
  - (i) Subsoil drainage is not supported. The proposed basement shall be waterproofed and tanked to comply with Council's DCP.
  - (ii) The proposed absorption trench system shall be located at least 3 metres from the footing of any structures.
  - (iii) For the proposed pump out system, the storage volume required shall not be less than the volume of the runoff generated from the 100 ARI storm with 2 hours durations.
- b) Compliance the objectives and performance requirements of the BCA;
- c) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- d) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

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

**Layout plan**

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

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

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

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

Standard Condition: C.51 (Autotext CC51)

**C.53 Stormwater Infiltration Systems**

## C.54 Flood protection

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of a 1:100 year Flood Level and the Estuary Planning Level as determined in the flood report by AKY Civil Engineering, dated May 2016 and the coastal report by Royal Haskoning DHV, dated 17 November 2016, detailing:

- a) Habitable floor levels not less than 500mm above the flood level.
- b) Non-habitable floor levels not less than 300mm above flood level.
- c) Provision of flood barrier at the driveway crest and flood door installed at all entrance as stated in the architectural plans and flood and coastal reports. All flood barriers supplied by “Flooding Solutions” or equivalent product must not rely on human intervention or power.
- d) Flood compatible materials are to be used for all construction below the Flood Planning Level (FPL).
- e) All electrical equipment is to be located above or water proofed to the Flood Planning Level (FPL).
- f) Permanent flood advisory signs are to be mounted in area frequented advising residents of what to do if a flood occurs.

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

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

### D.4 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to):

No. 642B New South Head Road

No. 648 New South Head Road

The dilapidation reports must be completed and submitted to *Council* with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
  - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition  
Standard Condition: D4 (Autotext DD4)

## **D.6 Adjoining buildings founded on loose foundation materials**

## **D.7 Piezometers for the monitoring of Ground water Levels**

The *principal contractor* must be provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

## **D.9 Construction Management Plan – Approval & Implementation**

## **D.10 Work (Construction) Zone – Approval & Implementation**

## **D.14 Erosion and Sediment Controls – Installation**

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

### **E.3 Compliance with Construction Management Plan**

### **E.7 Maintenance of Vehicular and Pedestrian Safety and Access**

### **E.11 Maintenance of Environmental Controls**

### **E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**

### **E.13 Support of Adjoining Land Owners**

### **E.14 Vibration Monitoring**

### **E.15 Erosion and Sediment Controls – Maintenance**

### **E.17 Disposal of Site Water during Construction**

### **E.19 Site Cranes**

### **E.20 Check Surveys – boundary location, building height, stormwater drainage system and flood protection measures relative to Australian height Datum**

### **E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road Works and work within the Road and Footway**

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

**F.7 Commissioning and Certification of Systems and Works**

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

**G.4 Electricity Substations – Dedication as road and/or easements for access**

**H. Conditions which must be satisfied prior to the issue of a Final Occupation  
Certificate (S109C (1) (c))**

**H.13 Road Works (including footpaths)**

**H.20 Positive Covenant & Works-As-Executed certification of stormwater systems**

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

**Nil**

**J. Miscellaneous Conditions**

**Nil**

**K. Advisings**

**K.23**

**K.25**

## **REFERRAL RESPONSE – TREES & LANDSCAPING**

**FILE NO:** DA 377/2016/1

**ADDRESS:** 636 New South Head Road ROSE BAY 2029

**PROPOSAL:** Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road;  
Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces

**FROM:** Nick Williams- Tree & Landscape Officer

**TO:** Ms R Coull

---

### **I refer to the following documents received for this report:**

- Statement of Environmental Effects, prepared by GSA planning, dated August 2016.
- Survey Plan No's 1 & 2, drafted by JPRA, dated 14/7/2016.
- Architectural Drawing No's DA 2000-DA2006 P, DA 2300-DA 2303 E, 2402-2404 F drawn by JPRA, dated 22/8/2016.
- Stormwater drainage Plan No's H-DA-01 & H-DA-02, drawn by ITM Design, dated 11/5/2016.
- Landscape Plan No. s 6115-01 & 6115-02, designed by Peter Glass & Associates, dated 13/4/2016

A site inspection was carried out on: 20<sup>th</sup> of December 2016.

### **Relevant Control:**

- Woollahra Local Environment Plan 2014
- Woollahra Residential Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4970 – Protection of trees on development sites.

## COMMENTS

The proposed street tree species illustrated on the supplied landscape plan (*Cupaniopsis anacardioides*) is not consistent with the preferred street tree species listed in Council's Street Tree Master Plan for New South Head Road (between Norwich Road and Caledonia street Rose Bay). An amended landscape plan is required which shows the species to be substituted with *Harpullia pendula* (Tulipwood) - Refer to Condition C.2 of this referral response.

Other than this required amendment there are no significant tree & landscape issues associated with the proposal. The proposed retention/relocation of the existing *Kentia* palms located on the South West boundary of the property is favourable. Overall the submitted landscape plan also illustrates suitable species selection and quantities and should form part of any development approval.

There are no issues with the removal of existing vegetation on the rear boundary of 636 New South Head Road. The largest tree existing in this location is a heavily lopped and unimpressive *Agonis flexuosa* (Willow Myrtle) which has already received approval to be removed under Tree Works Application 135/2016/1.

## RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.

### CONDITIONS OF CONSENT

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

#### A. General Conditions

##### A.1 Tree Preservation & Approved Landscaping Works

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

- a) The following trees shall be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No.	Species	Location (current)	Dimension (metres)
1-5	5 x <i>Howea forsteriana</i> ( <i>Kentia</i> palm)	South Western boundary	6 x 2 metres

**Note:** The tree/s required to be retained shall appear coloured yellow on the construction certificate plans.

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
6	<i>Agonis flexuosa</i> (Willow Myrtle)	Rear boundary of 636 New South Head Road	8 x 3 metres

7	<i>Plumeria acutifolia</i> (Frangipani)	Rear boundary of 636 New South Head Road	5 x 3 metres
8	<i>Howea forsteriana</i> (Kentia palm)	Rear boundary of 636 New South Head Road	5 x 3 metres

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

## A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
6115-01 & 6115-02	Landscape Plan	Peter Glass & Associates	13/4/2016

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

Nil

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

### C.1 Tree Management Plan

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must show the following information:

- a) Trees to be numbered in accordance with these conditions:
  - shaded green where required to be retained and protected
  - shaded red where authorised to be removed
  - shaded yellow where required to be transplanted
  - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

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

### C.2 Amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and conforming to the conditions of this Development Consent prior to the issue of the Construction Certificate. The amended landscape plan must include the following:

- The proposed street tree plantings on New South Head Road currently shown to be 4 x *Cupaniopsis anacardioides* (Tuckeroo) must be substituted with 4 x *Harpullia pendula* (Tulipwood) in minimum 75 litre pot sizes.

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

Nil

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



## E.1 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

### General Protection Requirements

- a) Excavation must cease where tree roots with a diameter exceeding 30mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- b) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

**Note:** Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

## E.2 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Radius from Trunk (metres)
1-5	5 x <i>Howea forsteriana</i> (Kentia palm)	1.5 metres

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

The project arborist or landscape foreman shall document compliance with the above condition.

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

### F.1 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

**Note:** This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

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

Nil

**H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**

**H.1 Landscaping**

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

**Note:** This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

Nil

**J. Miscellaneous Conditions**

Nil

**K. Advisings**

**K.1 Pruning or Removing a Tree Growing on Private Property**

Woollahra Municipal Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the DCP from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.



Nick Williams  
**Tree & Landscape Officer**

## **REFERRAL RESPONSE**

### **URBAN DESIGN revised to include a SEPP 65 assessment**

FILE NO: Development Applications/ 377/2016/1

ADDRESS: 636 New South Head Road ROSE BAY 2029

PROPOSAL: Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces

FROM: tom jones urban design

TO: Ms R Coull

### **Information**

Architectural drawings: JPRA  
DA1000- Issue B, DA2001-6- issue P,  
DA2300-3-issue E  
DA9301-14, DA9701-3- issue A  
Dated 22/08/2016

Statement of Environmental Effects: GSA 16019 August 2016  
Survey: Survey prepared by Project Surveyors project  
number 2015072 ( the survey is not dated )

### **Background**

This development involves the combination of two lots with different zonings. This has meant that there are planning complexities, which has resulted in a planning proposal being submitted in parallel to this application for development under the Senior Living SEPP which is a permissible use on both lots.

This DA is assessed and determined on the basis of the current controls. It is not open to Council to depart from our existing development standards unless an objection property submitted under clause 4.6 of WLEP 2014 (see below) is upheld.

### **Context**

The site stretches between the waterfront to Rose Bay and New South Head Road on the western edge of the main Rose Bay centre. To the west are two multi-level residential developments. To the east is a residential flat building to the street frontage and a house to the shore line.

The site is currently occupied by a service station and a mid-century two storey residential flat building. The site is almost flat and has an area of 1,496sqm.

## **Proposal**

The proposal is for the demolition of the existing service station and the residential flat building and the remediation of the site.

It is proposed to develop a new Seniors Living Development on the site comprising nine residences, two retail and two commercial tenancies and nineteen car parking spaces.

## **Controls**

- State Environmental Planning Policy # 65 (SEPP 65) : Apartment Design Guide (ADG)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD)
- Woollahra Local Environment Plan 2014 (WLEP2014)
- Woollahra Development Control Plan 2015 (WDCP2015)

## **Compliance**

The following is an assessment of the proposal against the relevant controls above. This is an application using SEPP HSPD, the urban design referral assesses the development using the design requirements in SEPP HSPD and SEPP 65.

### **SEPP 65: 9 Design Principles**

SEPP 65 Clause 28(2)(b) provides that the consent authority must consider design quality when evaluating the development taking into account the following 9 design principles. The assessment against the principles has been made with reference to the relevant objectives of the Apartment Design Guide.

#### ***Principle 1: Context and Neighbourhood Character***

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

This proposal relates to two principal contexts. These are; the transitional location on New South Head Road at the western edge of the Rose Bay commercial centre and the shoreline of Rose Bay Sydney Harbour.

In both cases the design response is appropriate and in line with the desired future character of the location as identified in WDCP2015

**Principle 2: Built Form and Scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

The proposed building's built form and bulk is appropriate in this location.

**Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

The proposed building's density is appropriate in this well serviced location.

**Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.*

The proposal performs reasonably with regard to solar access and cross ventilation. There are no significant sustainability initiatives over and beyond those required by Basix. Outdoor clothes drying areas are required by the SEPP and WDCP2015

**Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.*

The landscape plan is satisfactory, but it should be noted that the four street trees proposed (Tuckeroos) are not the tree indicated by the Council Street Tree Master Plan 2014 and the WDCP2015 which is *Harpullia Pendula*. I have a concern that, although the SEE suggest otherwise, this proposal may not meet the deep soil

requirements for this site. Please refer to the assessment officer's report. Outdoor clothes drying areas are required by the SEPP and WDCP2015.

***Principle 6: Amenity***

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.*

*Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.*

Two of the nine apartments do not receive solar access directly into the living area. These apartments do have satisfactory amenity however. All apartments have good cross ventilation. The amenity of the apartments is satisfactory. Outdoor clothes drying areas are required by the SEPP and WDCP2015

***Principle 7: Safety***

*Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

The proposal has issues regarding the relatively complex entry arrangement, which will need to be carefully design.

***Principle 8: Housing Diversity and Social Interaction***

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.*

This proposal provides housing for over 55 year olds

***Principle 9: Aesthetics***

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

The aesthetics of the proposal are satisfactory.

## SEPP 65: 8 Topic Criteria

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

Topic Area	Subject	Compliance												
3F Building separation	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	Yes
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
4A Solar access	<ol style="list-style-type: none"><li>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</li><li>In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</li><li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</li></ol>	Yes												
4F Common circulation spaces	<ol style="list-style-type: none"><li>The maximum number of apartments off a circulation core on a single level is eight</li><li>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</li></ol>	Yes												
4D Apartment size	<p>1.Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3 bedroom</td><td>90m2</td></tr></table> <p>2.Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>3.In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p> <p>1.Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)</p> <p>2.Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>1.Living rooms or combined living/dining rooms have a minimum width of:</p> <p>3.6m for studio and 1 bedroom apartments</p> <p>4m for 2 and 3 bedroom apartments</p>	Apartment type	Minimum internal area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3 bedroom	90m2	Yes		
Apartment type	Minimum internal area													
Studio	35m2													
1 bedroom	50m2													
2 bedroom	70m2													
3 bedroom	90m2													



	2.The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts																
4C Ceiling Height	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Minimum ceiling height for apartment and mixed use buildings</p> <table><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table> <p>For 2 storey apartments 2.7m for main living area floor</p> <p>2.4m for second floor, where its area does not exceed 50% of the apartment area</p> <p>Attic spaces 1.8m at edge of room with a 30 degree minimum ceiling slope</p> <p>If located in mixed used areas 3.3m for ground and first floor to promote future flexibility of use</p>	Habitable rooms	2.7m	Non-habitable	2.4m	Yes											
Habitable rooms	2.7m																
Non-habitable	2.4m																
4E Private open space	<p>1. All apartments are required to have primary balconies as follows:</p> <table><tr><td>Dwelling type</td><td>Minimum area</td><td>Minimum depth</td></tr><tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m2</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m2</td><td>2.4m</td></tr></table>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m2	-	1 bedroom apartments	8m2	2m	2 bedroom apartments	10m2	2m	3+ bedroom apartments	12m2	2.4m	Yes
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m2	-															
1 bedroom apartments	8m2	2m															
2 bedroom apartments	10m2	2m															
3+ bedroom apartments	12m2	2.4m															
4B Cross ventilation	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	Yes															
4G Storage volumes	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>Studio apartments</td><td>4m3</td></tr><tr><td>1 bedroom apartments</td><td>6m3</td></tr><tr><td>2 bedroom apartments</td><td>8m3</td></tr><tr><td>3+ bedroom apartments</td><td>10m3</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio apartments	4m3	1 bedroom apartments	6m3	2 bedroom apartments	8m3	3+ bedroom apartments	10m3	No there is no indication of storage in the apartments and 7 store rooms in the basement for 9 apartments					
Dwelling type	Storage size volume																
Studio apartments	4m3																
1 bedroom apartments	6m3																
2 bedroom apartments	8m3																
3+ bedroom apartments	10m3																

## SEPP 65 Summary

The Proposal performs satisfactorily regarding SEPP 65 with the exception of the lack of provision of outdoor clothes drying and a storage provision for all apartments.

## SEPP (HSPD)

Chapter 3 Part 3 Design Requirements Division 2 of the SEPP identifies seven design principles, these are:

### 33 Neighbourhood amenity and streetscape

*The proposed development should:*

(a) *recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*

.....

(c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*

(i) *providing building setbacks to reduce bulk and overshadowing, and*

(ii) *using building form and siting that relates to the site's land form, and*

(iii) *adopting building heights at the street frontage that are compatible in scale with adjacent development, and*

(iv) *considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

(d) *be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*

(e) *embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*

.....

The proposed development fronts New South Head Road in a location that is referred to as a transition area in chapter D6 of WDCP2015. The strategy for this area is to:

*Create a transition between the Rose Bay Centre core and the recreational/landscape area towards Lyne Park, with a portion of street defined by street trees and a discontinuous wall of buildings on the harbour side.*

The proposal presents to the street with a raised under-croft space which leads through to an open top light courtyard. This arrangement accommodates the ramps and stair associated with the requirement to raise the ground level to protect from flooding and is an appropriate response in this *transition* area that it is reasonable to assume will not attract large amounts of passing foot traffic, but is suited to consultancies and services, which require a less exposed commercial address, but still want a street presence. The three residential levels above the retail/commercial level are built to the street frontage, are appropriately articulated and make a positive contribution to the character of the street.

The harbour frontage recognises the harbour foreshore building line. The address to the harbour is deferential and will provide an appropriate transition between the residential properties to the east and the multi-level flat building to the west. The scale of the built form is compatible with the desired future character of the location.

The proposed development is acceptable with regard to this design principle.



Excerpt from WDCP 2015: D6 pg.25 This diagram illustrates the locations

### 34 Visual and acoustic privacy

*The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

The proposal has been designed to avoid overlooking neighbouring properties. Most windows face towards the Bay or the street. However windows to the lower level eastern bedrooms have the potential to create a privacy impact and will need screening appropriately.

Certain bedroom windows overlook bedroom windows of other apartments in the same development. These have however been appropriately screened with fixed vertical louvres.

The driveway enters the basement parking directly from the street and provides good separation from all the apartments.

The proposal performs well with regard to this design principle.

### 35 Solar access and design for climate

*The proposed development should:*

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

The proposed development has no significant impact on the solar access of neighbouring properties. All the apartments on the subject site will get some sunlight, although the lower

units facing New South Head Road are not likely to meet the standards expected in SEPP 65 (which does not apply) All units have good cross ventilation.  
The proposal performs well with regard to this design principle.

### **36 Stormwater**

*The proposed development should:*

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Although the SEE reiterates the requirements of the stormwater design principle, the architectural drawings and the soil and water management plan for the proposal do not appear to accommodate these requirements. There appears to be a reduction in the area of the deep soil on site and all stormwater appears to be absorbed on site. There is no requirement for on-site detention in this location. There is a retention tank for potential stormwater re use.

*The proposal will minimise the impacts of Stormwater runoff to adjacent properties through the addition of new landscaping throughout the development. A Soil And Water Management Plan has been prepared by ITM Design and forms part of the Development Application to Council. This is discussed in detail in Section 5.0 of this SEE.*

.....

#### **5.1.3 Water & Air Quality Impacts**

*The proposal will reuse rainwater and stormwater where possible. Detailed stormwater plans prepared by ITM Design will ensure that the proposal will not have any adverse effects on the water quality. The stormwater plans include on-site detention and rainwater tanks for additional stormwater runoff, to be used for irrigation of landscaping throughout the site.*

Excerpt from the applicant's SEE

I have a concern that this proposal does not adequately address this design principle. However this is a matter better addressed by Council's engineers.

### **37 Crime prevention**

*The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:*

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

### **38 Accessibility**

*The proposed development should:*

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

I am considering these two principles together.

The front core serves five apartments on three different levels and the rear core serves four apartments on three levels. The level of access is difficult to determine from the drawings provided, where and how pedestrians gain access to the apartments on the upper ground levels is confusing with multiple doors and awkward spaces. It is not likely that there is a security or safety issue in this location, these well-appointed apartments will be protected with adequate surveillance equipment and personnel.

The proposal provides adequate parking, and services are available close by.

It is probable from reading the information provided that the development meets this design principle.

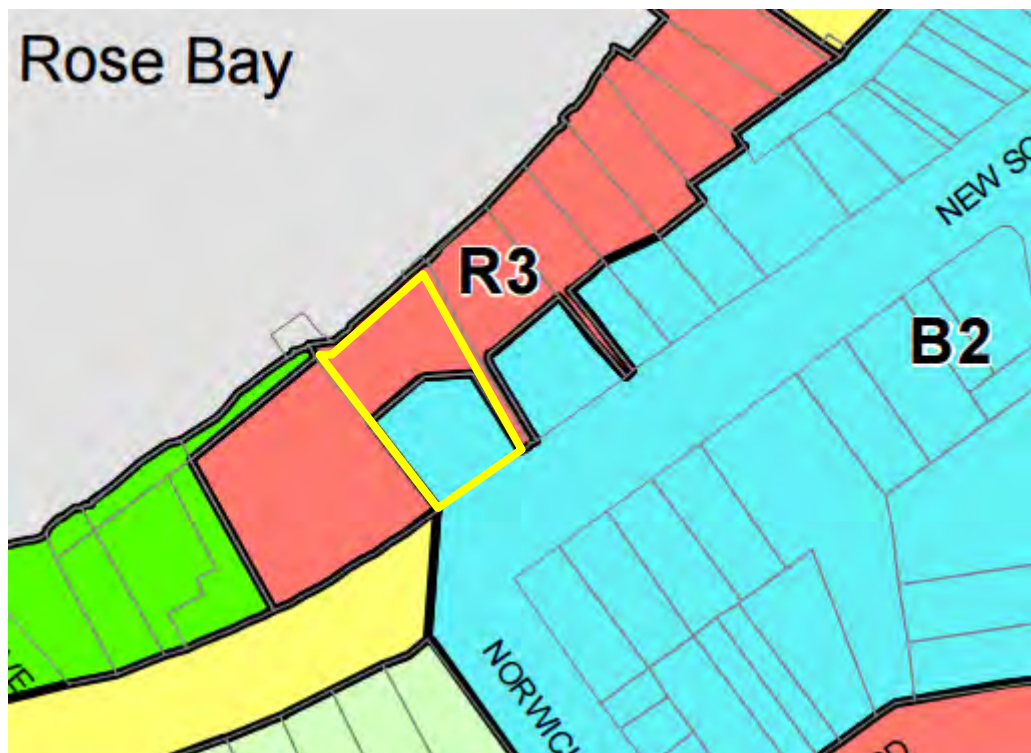
### **39 Waste management**

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

The proposal has adequate waste facilities which are generous enough to accommodate multiple bins to facilitate recycling.

The development meets this design principle.

## **Woollahra Local Environment Plan 2014 (WLEP2014)**



## **Woollahra Development Control Plan 2015 (WDCP2015)**

The zoning allows development under the SEPP HSPD.

The proposal has an FSR of 1.28:1 which is permitted on this amalgamated site for this use. The development adheres to the height limit.

## **Urban Design Review**

The proposal is an appropriate response to the site with a street wall to New South Head Road and a frontage to the harbour that retreats as it rises up to the level of the southern street façade.

The building's form is broken up by significant courtyards to each side elevation. My only concern is the way the upper ground level entry area might or might not work. It is unclear how the courtyard is to be used and by whom, this in turn may create a security concern. The proposal will also need to provide the required storage within the apartments and outdoor drying areas.

## **Recommendation**

From an Urban Design perspective this application is acceptable, if the outdoor drying and the storage shortfall are addressed.

Tom Jones  
Urban Design

9 November 2016

## **REFERRAL RESPONSE URBAN DESIGN**

FILE NO: Development Applications/ 377/2016/1

ADDRESS: 636 New South Head Road ROSE BAY 2029

PROPOSAL: Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces

FROM: Tom Jones Urban Design

TO: Ms S Richards

### **Information**

Architectural drawings: JPRA  
DA1000- Issue B, DA2001-6- issue P,  
DA2300-3-issue E  
DA9301-14, DA9701-3- issue A  
Dated 22/08/2016

Statement of Environmental Effects: GSA 16019 August 2016  
Survey: Survey prepared by Project Surveyors project  
number 2015072 ( the survey is not dated )

### **Background**

This development involves the combination of two lots with different zonings. This has meant that there are planning complexities, which has resulted in a planning proposal being submitted in parallel to this application for development under the Senior Living SEPP which is a permissible use on both lots.

This DA is assessed and determined on the basis of the current controls. It is not open to Council to depart from our existing development standards unless an objection property submitted under clause 4.6 of WLEP 2014 (see below) is upheld.

### **Context**

The site stretches between the waterfront to Rose Bay and New South Head Road on the western edge of the main Rose Bay centre. To the west are two multi-level residential developments. To the east is a residential flat building to the street frontage and a house to the shore line.



The site is currently occupied by a service station and a mid-century two storey residential flat building. The site is almost flat and has an area of 1,496sqm.

## Proposal

The proposal is for the demolition of the existing service station and the residential flat building and the remediation of the site.

It is proposed to develop a new Seniors Living Development on the site comprising nine residences, two retail and two commercial tenancies and nineteen car parking spaces.

## Controls

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD)
- Woollahra Local Environment Plan 2014 (WLEP2014)
- Woollahra Development Control Plan 2015 (WDGP2015)

## Compliance

The following is an assessment of the proposal against the relevant controls above. This is an application using SEPP HSPD, the urban design referral assesses the development using the design requirements in SEPP HSPD. SEPP 65 does not apply to this development.

## SEPP (HSPD)

Chapter 3 Part 3 Design Requirements Division 2 of the SEPP identifies seven design principles, these are:

### 33 Neighbourhood amenity and streetscape

*The proposed development should:*

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*  
.....
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*
  - (i) providing building setbacks to reduce bulk and overshadowing, and*
  - (ii) using building form and siting that relates to the site's land form, and*
  - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
  - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*
  - (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
  - (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*  
.....

The proposed development fronts New South Head Road in a location that is referred to as a transition area in chapter D6 of WDCP2015. The strategy for this area is to:

*Create a transition between the Rose Bay Centre core and the recreational/landscape area towards Lyne Park, with a portion of street defined by street trees and a discontinuous wall of buildings on the harbour side.*

The proposal presents to the street with a raised under-croft space which leads through to an open top light courtyard. This arrangement accommodates the ramps and stair associated with the requirement to raise the ground level to protect from flooding and is an appropriate response in this *transition* area that it is reasonable to assume will not attract large amounts of passing foot traffic, but is suited to consultancies and services, which require a less exposed commercial address, but still want a street presence. The three residential levels above the retail/commercial level are built to the street frontage, are appropriately articulated and makes a positive contribution to the character of the street.

The harbour frontage recognises the harbour foreshore building line. The address to the harbour is deferential and will provide an appropriate transition between the residential properties to the east and the multi-level flat building to the west. The scale of the built form is compatible with the desired future character of the location.

The proposed development is acceptable with regard to this design principle.



Excerpt from WDCP 2015: D6 pg.25 This diagram illustrates the locations

### **34 Visual and acoustic privacy**

*The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

The proposal has been designed to avoid overlooking neighbouring properties. Most windows face towards the Bay or the street. However windows to the lower level eastern bedrooms have the potential to create a privacy impact and will need screening appropriately.

Certain bedroom windows overlook bedroom windows of other apartments in the same development. These have however been appropriately screened with fixed vertical louvres.

The driveway enters the basement parking directly from the street and provides good separation from all the apartments.

The proposal performs well with regard to this design principle.

### **35 Solar access and design for climate**

*The proposed development should:*

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

The proposed development has no significant impact on the solar access of neighbouring properties. All the apartments on the subject site will get some sunlight, although the lower units facing New South Head Road are not likely to meet the standards expected in SEPP 65 (which does not apply) All units have good cross ventilation.

The proposal performs well with regard to this design principle.

### **36 Stormwater**

*The proposed development should:*

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Although the SEE reiterates the requirements of the stormwater design principle, the architectural drawings and the soil and water management plan for the proposal do not appear to accommodate these requirements. There appears to be a reduction in the area of the deep soil on site and all stormwater appears to be absorbed on site. There is no requirement for on-site detention in this location. There is a retention tank for potential stormwater re use.

*The proposal will minimise the impacts of Stormwater runoff to adjacent properties through the addition of new landscaping throughout the development. A Soil And Water Management Plan has been prepared by ITM Design and forms part of the Development Application to Council. This is discussed in detail in Section 5.0 of this SEE.*

.....

### **5.1.3 Water & Air Quality Impacts**

*The proposal will reuse rainwater and stormwater where possible. Detailed stormwater plans prepared by ITM Design will ensure that the proposal will not have any adverse effects on the water quality. The stormwater plans include on-site detention and rainwater tanks for additional stormwater runoff, to be used for irrigation of landscaping throughout the site.*

Excerpt from the applicant's SEE

I have a concern that this proposal does not adequately address this design principle. However this is a matter better addressed by Council's engineers.

### **37 Crime prevention**

*The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:*

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

### **38 Accessibility**

*The proposed development should:*

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

I am considering these two principles together.

The front core serves five apartments on three different levels and the rear core serves four apartments on three levels. The level of access is difficult to determine from the drawings provided, where and how pedestrians gain access to the apartments on the upper ground levels is confusing with multiple doors and awkward spaces. It is not likely that there is a security or safety issue in this location, these well-appointed apartments will be protected with adequate surveillance equipment and personnel.

The proposal provides adequate parking, and services are available close by.

It is probable from reading the information provided that the development meets this design principle.

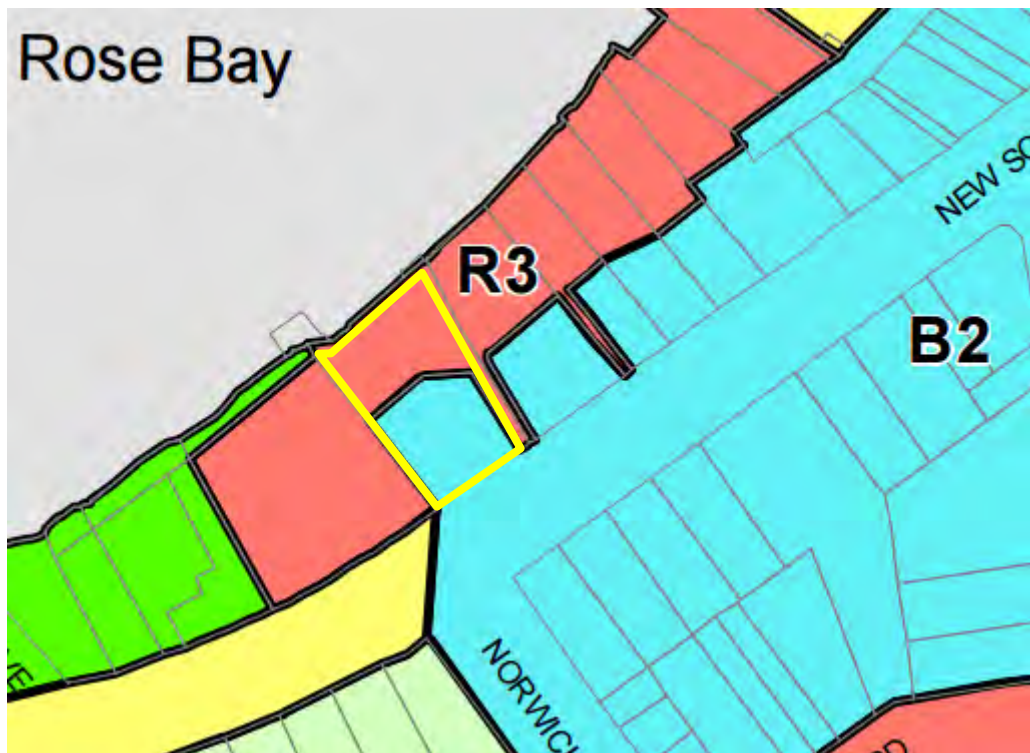
### **39 Waste management**

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

The proposal has adequate waste facilities which are generous enough to accommodate multiple bins to facilitate recycling.

The development meets this design principle.

## Woollahra Local Environment Plan 2014 (WLEP2014)



## Woollahra Development Control Plan 2015 (WDCP2015)

The zoning allows development under the SEPP HSPD.

The proposal has an FSR of 1.28:1 which is permitted on this amalgamated site for this use. The development adheres to the height limit.

## Urban Design Review

The proposal is an appropriate response to the site with a street wall to New South Head Road and a frontage to the harbour that retreats as it rises up to the level of the southern street façade.

The building's form is broken up by significant courtyards to each side elevation. My only concern is the way the upper ground level entry area might or might not work. It is unclear how the courtyard is to be used and by whom.

## Recommendation

From an Urban Design perspective this application is acceptable.

Tom Jones  
Urban Design

## **REFERRAL RESPONSE - ENVIRONMENTAL HEALTH**

**FILE NO:** Development Applications/ 377/2016/1  
**ADDRESS:** 636 New South Head Road ROSE BAY 2029  
**PROPOSAL:** Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road;  
Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces  
**FROM:** Louie Salvatore, Environmental Health Officer  
**TO:** Ms R Coull

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### **1. ISSUES**

- Acoustic Logic Report: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016.

### **2. DOCUMENTATION**

I refer to the following documents received for this report:

- Acoustic Report prepared by Acoustic Logic: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016.

### **3. RESEARCH**

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

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

### **4. SUMMARY OF PROPOSAL**

Acoustic Logic Consultancy have conducted an acoustic assessment of potential noise impacts associated with the proposed mixed use development to be constructed at the 636-638 New South Head Road, Rose Bay. The report addresses noise impacts associated with the following:

- Traffic noise impacts from New South Head Road;
- Noise emissions from mechanical plant to service the base building

### **5. ASSESSMENT**

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

**a) ACOUSTICS**

**Reference is made to the following documentation.**

- **Acoustic Report: prepared by Acoustic Logic titled ‘Noise Impact Assessment’, Document Reference: 20160318.1/1003A/RO/BW dated 10 March 2016.**
- **Acoustic Report prepared by Acoustic Logic: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016**

I refer to Health Referral Response of 21 October 2016 making comment in relation to *Acoustic Report: prepared by Acoustic Logic titled ‘Noise Impact Assessment’, Document Reference: 20160318.1/1003A/RO/BW dated 10 March 2016*, where the report solely presented an assessment of potential traffic noise impacts on the future occupants at the proposed residential development. The acoustic report did not address noise sources associated with the proposed commercial/retail and residential development that has the potential to adversely impact upon nearby residential/commercial receivers. It was recommended that further acoustic assessment was required, specifically addressing the following:

- *Noise arising from mechanical plant & associated equipment; these will include inter-alia, the ventilation system(s) for the carpark, associated air conditioning plant, pool equipment and external exhaust ventilation system(s).*
- *Noise arising from demolition of the old buildings and construction activities of the new development.*
- *Noise arising from the use of the carpark.*
- *Noise arising from service vehicles and waste collection vehicles to the commercial/retail part of the building.*

In response, Acoustic Logic has provided an acoustic report titled “*DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016*” to address the above potential noise impacts.

Unattended noise monitor was installed at 746 New South Head Road in the Eastern yard which is representative of the acoustic environment at the subject site, when excluding noise from the use of the site. Unattended noise monitoring was conducted from the 19<sup>th</sup> October 2016 to the 25<sup>th</sup> October 2016. The background noise levels established from the unattended noise monitoring are detailed in Tables 1 & 2 of the report.

The report has correctly identified the nearest residential noise receivers to be:

- Receiver 1-Residential buildings located at 624 New South Head Road, situated along the South Western boundary of the site, residential receivers are multi-storey;

- Receiver 2-Residential buildings located at 648 and 654 New South Head Road situated adjacent the site to the North East, residential receivers are multi-storey.

## **Internal Noise Intrusion Assessment**

### ***Traffic Noise***

Section 4.2 of the report details noise measurements conducted at the site to establish traffic and surrounding environmental noise levels impacting the development. Traffic noise assessment has been presented in both reports where calculations have been undertaken taking into account the orientation of windows, barrier effects, the total area of glazing, facade transmission loss and room sound absorption characteristics. Recommended interior design levels for living & sleeping areas and bathrooms, ensuites, laundry and commercial areas are summarised in Tables 3 & 4 of the current report. In order to comply with the project noise objectives recommended constructions for the proposed building are detailed in section 4.4 of the Acoustic Logic acoustic report titled “*DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016*”, which include glazed windows and doors finishes, external roof and ceiling finishes, external wall finishes and entry door finishes.

It is recommended that the Construction Finishes for the proposed building, including glazed windows and doors, external roof and ceiling, external walls and entry doors as detailed in sections 4.4.1, 4.4.2, 4.4.3 and 4.4.4 of the Acoustic Logic acoustic report titled “*DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016*” being fully incorporated in the building design.

### ***Mechanical Plant Ventilation***

With respect to natural ventilation of the dwelling, the NSW Department of Planning document “Development near Busy Roads and Rail Corridors-Interim Guideline” dictates that with windows open, the allowable internal noise goal permitted is to be 10dB(A) higher than when the windows are closed. It should be noted that all habitable spaces along the eastern façade facing New South Head Road will require having their windows closed in order to meet acoustic requirements. *A mechanical engineer is to confirm if supplementary ventilation (to meet Australian Standard AS1668.2 requirements) will be required to these rooms.*

## **External Noise Intrusion Assessment**

### ***Mechanical Plant Ventilation***

Noise emission criteria for all mechanical plant associated with the development are summarised in Tables 11 & 12 of the Acoustic Logic acoustic report titled “*DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016*”. It should be noted that final detailed plant selection has not been undertaken at this stage and an acoustic review should be undertaken at Construction Certificate stage of the development to determine appropriate acoustic treatments to control noise emissions.



*It is recommended* that all mechanical plant & associated equipment should have a design goal that specifies noise emission from any set of primary, or secondary plant, or equipment, on the basis that if that equipment could operate at any time of the day, or night, then the noise emission component, when measured at the nearest residential property façade should not exceed the nocturnal background sound level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location, must not exceed the nocturnal background noise level by more than 5dB(A).

### ***Vehicles using carparking***

Noise emissions from the use of the carpark have been assessed in section 5.2.2 of the Acoustic Logic acoustic report titled “*DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016*”. The traffic assessment was conducted by Terraflow Ref: 14105, dated June 2016 predicts peak hour generation of 8 vehicle trips per hour (i.e. 2 movements per 15minutes) for the whole development, this includes the generation from residential, retail and commercial uses. Based on the above assessment it is recommended that:

- Carpark is to be given a broomed surface finish, to minimise tyre squeal noise; and
- 1.8m solid boundary fence (i.e. constructed of lapped and capped timber, colorbond, masonry, minimum 6mm glass, or acoustically approved alternative) with no gaps between panels or at the bottom, to be installed along the boundary for a minimum of 8m from the carpark ventilation openings.

### ***Waste Removal Service***

The site can be serviced by standard bins for roadside Council pickup service. Bins would be transported from the waste room to the pickup point prior to collection.

### ***Demolition and Construction Noise***

The EPA Interim Construction Noise Guideline (ICNG) assessment requires that for work conducted during normal hours where an exceedance of the management levels is predicted, residential noise sensitive receivers can be considered ‘noise affected’; in such circumstances all feasible and reasonable work practices are to be applied in order to minimise the impact of construction noise. Where construction noise levels reach 75dBA residential receivers can be considered as ‘highly noise affected’, consideration must be given to restricting hours to provide periods of respite. Refer to section 6.1.1 of the Acoustic Logic acoustic report titled “*DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016*” for noise emission goals during and outside construction hours.

Section 6.3 of the report refers to peak vibration goals not to be exceeded during construction phase in order to maintain the amenity of nearby land users. Specifically section 6.3.1 & 6.3.2 detail vibration goals and structural borne vibration (damage criteria) for safe limits for building vibration.

The report with respect to construction noise and vibration concludes that taking into account the work to be undertaken on site, including excavation for the removal of the existing fuel tanks; installation of shoring and construction of the built forms on site; it is expected that construction noise impacts will exceed the ICNG Noise Management Levels on occasion. With respect to vibration impacts, given the proximity of the neighbouring receivers it is likely that some vibration monitoring will be required in the management of vibration during the demolition and/or construction phases.

Health Services Section recommends that noise intensive activities such as construction works with impulsive, tonal or low frequency characteristics such as jack hammering, rock hammering, pile driving, vibratory rolling, cutting of pavement and the like should only be undertaken between the hours of 8.00am to 5.00pm Monday to Friday; between the hours of 8.00am to 1.00pm Saturday and in continuous blocks not exceeding three hours each with a minimum respite from those activities and works of not less than one hour between each block in order to protect the amenity of the neighbourhood.

In addition to the above, in an attempt to minimize noise impacts from demolition and construction activities, Health Services Section also recommends the development of a Construction Noise and Vibration Management Plan (CNVMP) incorporating noise mitigation strategies. The CNVMP should seek to ensure that construction noise and vibration is managed effectively to prevent any negative impact on surrounding receivers. Options may include the following:

- A Plant Hazard Assessment prepared for each piece of plant prior to its operation on site. The PHA will require measurement of the sound power level and will confirm that actual plant noise levels are within those maximum noise levels. Ensure that all plant where possible are fitted with noise control equipment. Example all equipment is equipped with appropriate noise control such as mufflers, silenced exhausts, acoustic enclosures, flashing lights as an alternative to reversing beepers).
- Attended noise monitoring carried out to verify construction noise levels against the Construction Noise and Vibration Impact Assessment and determine effectiveness of noise mitigation strategies. Attended noise monitoring of construction activities should be undertaken within 14 days of commencement of significant construction activities.
- Consider scheduling activities where cumulative impacts indicate increased noise impacts so that these works are not undertaken together.
- Consider the use of temporary screens for mitigation of specific stationary noise sources, where identified, as causing excessive noise impact. If required, deploy screens in a way to ensure noise goals are met.
- Delivery of plant and equipment to the site to occur during standard construction hours.
- Apply and strictly adhere to low speed limits within the development site and minimise engine revving.
- Ensure no compression braking on the approach to, or within the development site.
- Ensure a clearly defined access road is available through the development site and that the road surfaces are adequately maintained.

- Ensure traffic movement is kept to a minimum, e.g. ensure trucks are fully loaded so that the volume of each delivery is maximised.
- Ensure traffic control in and around the development site to ensure proper traffic flow.
- Undertake close community liaison to ensure that local residents are aware of the times and durations when they may be affected by construction noise and vibration and to provide an avenue for communication between the community and the developer. Each complaint should be investigated and where the noise in question is in excess of allowable limits, appropriate noise amelioration measures are to be put in place to prevent future occurrences.
- Attended vibration monitoring to be undertaken; if monitored vibration levels are considered to be high risk or close to the vibration criteria, unattended vibration monitoring should be carried out on a continuous basis at the nearest vibration sensitive receiver.
- Where attended vibration monitoring is not feasible, due to extended periods of vibration intensive works, a permanent vibration monitoring system should be installed to warn plant operators whenever there is potential for cosmetic damage to buildings and structures.

## 6. RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to the following conditions:

### A. ACOUSTICS

- I. The acoustic treatments presented in Acoustic Report prepared by Acoustic Logic: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016 shall be fully employed in the building design to ensure that internal noise levels comply with the requirements below:
  - Woollahra Council Development Control Plan 2015;
  - NSW Department of Planning and Environment's document—'State Environmental Planning Policy (SEPP) (INFRASTRUCTURE) 2007';
  - NSW Department of Planning's—'Developments near Rail Corridors or Busy Roads—Interim Guideline';
  - Australian and New Zealand AS/NZS 3671:1989 'Acoustics—Road traffic noise intrusion—Building siting and construction';
  - Australian and New Zealand AS/NZS 2107:2000 'Recommended design sound levels and reverberation times for building interiors'.
- II. Carpark acoustic treatments as recommended in section 5.2.2.1 of Acoustic Report prepared by Acoustic Logic: DA Acoustic Assessment, Project No. 20160318.1, Document Reference. 20160318.1/0211A/RO/HP, Rev 0 dated 2 November 2016 shall be fully employed during the construction phase of the building.
- III. All future mechanical plant & associated equipment should have a design goal that specifies noise emission from any set of primary, or secondary plant, or

equipment, on the basis that if that equipment could operate at any time of the day, or night, then the noise emission component, when measured at the nearest residential property façade should not exceed the nocturnal background sound level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location, must not exceed the nocturnal background noise level by more than 5dB(A).

IV. Noise from demolition and construction and vibration management levels shall be managed in accordance with the NSW EPA Interim Construction Noise Guideline & NSW EPA document Assessing Vibration: A technical guideline. A Construction Noise and Vibration Management Plan (CNVMP) shall be developed incorporating noise mitigation strategies. The CNVMP should seek to ensure that construction noise and vibration is managed effectively to prevent any negative impact on surrounding receivers. Options may include the following:

- A Plant Hazard Assessment prepared for each piece of plant prior to its operation on site. The PHA will require measurement of the sound power level and will confirm that actual plant noise levels are within those maximum noise levels. Ensure that all plant where possible are fitted with noise control equipment. Example all equipment is equipped with appropriate noise control such as mufflers, silenced exhausts, acoustic enclosures, flashing lights as an alternative to reversing beepers).
- Attended noise monitoring carried out to verify construction noise levels against the Construction Noise and Vibration Impact Assessment and determine effectiveness of noise mitigation strategies. Attended noise monitoring of construction activities should be undertaken within 14 days of commencement of significant construction activities.
- Consider scheduling activities where cumulative impacts indicate increased noise impacts so that these works are not undertaken together.
- Consider the use of temporary screens for mitigation of specific stationary noise sources, where identified, as causing excessive noise impact. If required, deploy screens in a way to ensure noise goals are met.
- Delivery of plant and equipment to the site to occur during standard construction hours.
- Apply and strictly adhere to low speed limits within the development site and minimise engine revving.
- Ensure no compression braking on the approach to, or within the development site.
- Ensure a clearly defined access road is available through the development site and that the road surfaces are adequately maintained.
- Ensure traffic movement is kept to a minimum, e.g. ensure trucks are fully loaded so that the volume of each delivery is maximised.
- Ensure traffic control in and around the development site to ensure proper traffic flow.
- Undertake close community liaison to ensure that local residents are aware of the times and durations when they may be affected by construction noise and vibration and to provide an avenue for communication between the community and the developer. Each complaint should be investigated and

where the noise in question is in excess of allowable limits, appropriate noise amelioration measures are to be put in place to prevent future occurrences.

- Attended vibration monitoring to be undertaken; if monitored vibration levels are considered to be high risk or close to the vibration criteria, unattended vibration monitoring should be carried out on a continuous basis at the nearest vibration sensitive receiver.
- Where attended vibration monitoring is not feasible, due to extended periods of vibration intensive works, a permanent vibration monitoring system should be installed to warn plant operators whenever there is potential for cosmetic damage to buildings and structures.

## A. General Conditions

### A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
20160318.1/0211 A/RO/HP Rev 0	Acoustic Report	Acoustic Logic	2 November 2016

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

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

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

### B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and

qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

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

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

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

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

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

Nil.

**H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**

Nil.

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

**J. Miscellaneous Conditions**

Nil.

**K. Advising**

Nil

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**Louie Salvatore**  
**Environmental Health Officer**

**Date: 2/12/2016**

## REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

**FILE NO:** Development Applications/ 377/2016/1  
**ADDRESS:** 636 New South Head Road ROSE BAY 2029  
**PROPOSAL:** Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces  
**FROM:** Louie Salvatore, Environmental Health Officer  
**TO:** Ms S Richards

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### 1. ISSUES

- Acoustic amenity of surrounding environment by subject development. Refer to *Acoustic Report: prepared by Acoustic Logic titled 'Noise Impact Assessment', Document Reference: 20160318.1/1003A/RO/BW dated 10 March 2016.*
- Acid Sulfate Soils. Refer to *Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016.*
- Soil Contamination SEPP No 55-Remediation of Contaminated Land. Refer to *Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016, Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016, Contaminated Sites: Letter dated 6 February 2012 'Rose Bay Budget Service Station, 638-646 New South Head Road, Rose Bay, Document Reference: DOC12/4209 & NSW EPA Contaminated Sites: Declaration of Significantly Contaminated Land under section 11 of the Contaminated Land Management Act 1997, Declaration Number 20121102; Area Number 3304.*

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by GSA Planning, Reference No. 16019 dated August 2016.
- Architectural Plans: prepared by JPR Architects, Project No. 2015072, Drawing No. DA1000B; DA2000P-2006P; DA2300E-2303E; DA2400E; DA2401F-2404; DA9000F-9010F; DA9008E-9009E; DA9301A-9314A; DA9701A-9703A.
- Survey Plans: prepared by Project Surveyors. Drawing No. Survey 1-2.

- Acoustic Report: prepared by Acoustic Logic titled 'Noise Impact Assessment', Document Reference: 20160318.1/1003A/RO/BW dated 10 March 2016.
- Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016.
- Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016.

### 3. RESEARCH

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

- A site inspection was carried out on the following date: 7 October 2016.

### 4. SUMMARY OF PROPOSAL

The proposed development incorporates the amalgamation of the two sites, demolition of an existing service station and residential flat building, and the construction of a new development comprising four ground level commercial and retail uses, nine self-contained seniors housing units, basement car parking for 19 vehicles and associated landscape works.

The proposal is to consolidate this site with the adjoining property at No.636 New South Head Road to create a development site that has both street and Harbour frontage. The consolidation presents the opportunity to remove an existing residential flat building and service station; these will be replaced with a new building that is set further back from the foreshore front that is compatible with the Rose Bay Centre DCP.

### 5. ASSESSMENT

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

#### a) ACOUSTICS

**Reference is made to the following documentation.**

**Acoustic Report: prepared by Acoustic Logic titled 'Noise Impact Assessment', Document Reference: 20160318.1/1003A/RO/BW dated 10 March 2016.**

The report solely presents an assessment of potential traffic noise impacts on the future occupants at the proposed residential development located at 636-638 New South Head Road, Rose Bay. The investigation is based on traffic noise intrusion into the proposed mixed residential development due to high levels of traffic noise potentially heard within habitable spaces that may be disruptive and possible noise mitigation to reduce the noise to a level where it is not intrusive upon normal activities.



## **Noise Measurements & Acoustic Objectives**

Traffic noise measurements were conducted on 3<sup>rd</sup> March 2016 between 4pm and 6pm in order to obtain the peak hour noise level. A Noise Level – LAeq (1hr – Daytime) of 68 dB(A) was measured on the New South Head Road façade.

Acoustic Logic has applied the following noise criterion for the proposed development: *State Environmental Planning Policy (SEPP Infrastructure) 2007 Clause 102 of the NSW SEPP for road traffic noise & AS2107 - 2000 “Recommended Design Sound Levels and Reverberation Times for Building Interiors” and AS3671 – 1989 “Road Traffic Noise Intrusion – Building Sites & Construction”*. Based upon the requirements of the NSW SEPP, AS2107 – 2000 and AS3671 – 1989 the following traffic noise criteria for all internal spaces would apply:

- Bedrooms.....35 (9 hour) dB(A)Leq
- Living Areas.....40 (15 hour) dB(A)Leq

## **Recommended Constructions to Comply with Acoustic Objectives**

Calculations were performed taking into account the orientation of windows, the total area of glazing, facade transmission loss and room sound absorption characteristics. Acoustic treatment required to ensure compliance with the assessment criteria are detailed in Section 6 of the report, which includes construction requirements for glazed windows and doors, roof & ceiling and external walls.

## **Comments**

The acoustic report solely presents an assessment of potential traffic noise impacts on the future occupants at the proposed residential development located at 636-638 New South Head Road, Rose Bay. The acoustic report does not address noise sources associated with the proposed commercial/retail and residential development that has the potential to adversely impact upon nearby residential/commercial receivers.

It would appear from the proposed development that there will be multiple sources of noise. The following sources of noise have been identified:

- Noise arising from mechanical plant & associated equipment; these will include inter-alia, the ventilation system(s) for the carpark, associated air conditioning plant, pool equipment and external exhaust ventilation system(s).
- Noise arising from demolition of the old buildings and construction activities of the new development.
- Noise arising from the use of the carpark.
- Noise arising from service vehicles and waste collection vehicles to the commercial/retail part of the building.

With regards to mechanical plant & associated equipment a design goal that specifies noise emission from any set of primary, or secondary plant, or equipment, should be designed on the basis that if that equipment could operate at any time of the day, or night, then the noise emission component, when measured at the nearest residential property façade should not exceed the nocturnal background sound level. The

cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location, must not exceed the nocturnal background noise level by more than 5dB(A).

With regards to noise arising from demolition & construction activities, given the magnitude of the proposed development, it would have been expected that consideration be given to demolition & construction noise. In managing impacts of noise from the demolishing of the existing dwellings and new construction activities, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* is applied to the site to provide a quantitative assessment for evaluating performance and compliance of resultant noise from such activities. Acoustic studies should also identify construction noise goals, the nature and duration of construction, the potential impact upon residential/commercial receivers and noise mitigation strategies.

With respect to noise arising from the use of the carpark, it is expected that the majority of noise will come from vehicles entering & exiting the carpark through the entrance ramps and design (surface finish) of the carpark floor and ramped driveways. Noise studies should be based on peak hour vehicle movements and demonstrate compliance with the nominated noise criterion, including sleep arousal noise criterion to ensure that the proposed development is not subjected to any significant degradation of acoustical standards of amenity.

Noise arising from service vehicles and waste collection vehicles to the commercial/retail part of the building should also be addressed in any acoustical studies, identifying primary sources of potentially intrusive noise, including but not limited to such things as 'reversing beepers' of delivery trucks, unloading/loading operations and waste collection activities and the possibility of incorporation of a Plan of Management.

## **Recommendation**

It is recommended that further acoustic assessment is required for the proposed development. Potential noise impacts from intrusive noise and external noise emissions associated with the proposed development are to be assessed and referenced against appropriate noise criterion as documented above.

The acoustic assessment shall address sources of noise (apart from traffic noise) that have the potential to adversely impact upon the acoustic amenity of nearby residential/commercial receivers and occupants of the 'new' building; the acoustic assessment shall also formalise the requirements and noise control strategies that the proposed development will adhere to as they relate to operational noise as listed below:

- Noise arising from mechanical plant & associated equipment; these will include inter-alia, the ventilation system(s) for the carpark, associated air conditioning plant, pool equipment and external exhaust ventilation system(s).
- Noise arising from demolition of the old buildings and construction activities of the new development.
- Noise arising from the use of the carpark.

- Noise arising from service vehicles and waste collection vehicles to the commercial/retail part of the building.

#### e) ACID SULPHATE SOILS

The WLEP 2014 indicates that the site is located within an Acid Sulfate Soil (ASS) zone. The Planning Map indicates that the area of the site has been identified as Class 3 land. Class 3 soils are likely to be found beyond 1 m below the natural ground surface, and any works that extend beyond 1 m below the natural ground surface, or works which are likely to lower the water table beyond 1 m below the natural ground surface. Works involving disturbance at such depths have the potential to present an environmental risk and may require an assessment and management. Reference is made to *the JBS Environmental (3 June 2011) 'Potential Acid Sulphate Soils Assessment'* which was prepared to assess the occurrence of acid sulphate soils in proximity of the site.

Based on the results of laboratory analyses of four samples obtained from boreholes JBH01 to JBH04, the results indicated the presence of no Acid Sulfate Soils. *The report concluded that actual / potential acid sulphate soils were unlikely to be encountered during the proposed construction / development works on the site, which consisted of potential excavation to a depth of 3.0m bgs. Therefore the preparation of an Acid Sulfate Soils Management Plan is not required for the development site.*

#### f) LAND CONTAMINATION (SEPP 55)

Reference is made to the following documentation.

- **NSW EPA Contaminated Sites: Letter dated 6 February 2012 'Rose Bay Budget Service Station, 638-646 New South Head Road, Rose Bay, Document Reference: DOC12/4209.**
- **NSW EPA Contaminated Sites: Declaration of Significantly Contaminated Land under section 11 of the Contaminated Land Management Act 1997, Declaration Number 20121102; Area Number 3304**
- **Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016.**
- **Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016.**

**NSW EPA Contaminated Sites: Letter dated 6 February 2012 'Rose Bay Budget Service Station, 638-646 New South Head Road, Rose Bay, Document Reference: DOC12/4209.**

In accordance with section 60 'Duty to Report Contamination' of the Contaminated Land Management Act 1997, on 14 November, 2011 the owner of Rose Bay Budget Service Station notified the NSW EPA of potential off-site migration of contaminants via groundwater and the potential for human exposures to any soil vapours. The

owners indicated that the source of contamination to be an uncontrolled release of petroleum from a former underground storage tank. The NSW EPA required, as a result of the notification that:

- A report following investigations of soil vapour assessment.
- Ensure that contaminated groundwater does not surface at the beach located down gradient of the site.
- Undertake integrity testing of the Underground Petroleum Storage System (UPSS) infrastructure.
- Details of any leaks of the UPSS, records of any former UPSS integrity testing and details regarding any UPSS infrastructure maintenance.
- Provide results of UPSS integrity testing.

**NSW EPA Contaminated Sites: Declaration of Significantly Contaminated Land under section 11 of the Contaminated Land Management Act 1997, Declaration Number 20121102; Area Number 3304**

Under section 11 'Declaring Land to be Significantly Contaminated Land' of the Contaminated Land Management Act 1997, the NSW EPA had reason to believe that subject land was contaminated and that the contamination was significant enough to warrant regulation. The NSW EPA found the following contamination warranting regulation:

- Concentrations of benzene, toluene, ethylbenzene and xylenes present in groundwater at concentrations that exceed human health guideline values.
- Migration of contamination likely to have occurred due to the geology underlying the site and because of properties of contaminants identified in groundwater.
- Contaminated groundwater could degrade the aquatic ecosystem and limit use for recreational purposes.
- Human exposures may occur if contaminant vapours accumulate in enclosed spaces or if contaminated groundwater is used.

On 22 May 2012 the NSW EPA did declare the subject land to be significantly contaminated. The Declaration Order issued by the EPA directed the site owners to:

- Prepare a Remediation Action Plan to remove the sources of contamination.
- Engage an accredited Site Auditor to prepare and provide a Site audit Statement and Site audit Report to determine the appropriateness of the RAP.
- Implement the RAP and prepare a Validation Report.
- Prepare and implement a Sampling, Analysis and Quality Plan.

**Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016.**

The purpose of the Environmental Site Assessment was to establish the environmental conditions at the site with respect to soil and groundwater and confirm the suitability

of the soil and groundwater for the proposed residential development. To achieve the assessment, the following works were undertaken:

- Identification of the site, including location, address, boundaries, zoning and title descriptions;
- Comprehensive research to enable documentation of the site history and assessment of potential sources of contamination;
- A site inspection to visually identify potential sources of contamination;
- Preparation of specific Project Safety Plan (PSP);
- Obtain Dial Before You Dig Plans for the site followed by location of underground and above ground services in proposed intrusive investigation areas;
- Borehole drilling and installation of three groundwater monitoring wells;
- Logging of encountered geology;
- Collection of soil samples and submission to an accredited laboratory;
- Collection of groundwater samples and submission to an accredited laboratory;
- Implementation of a Quality Assurance / Quality Control (QA / QC) program to confirm data quality.
- Review of previous environmental reports (*Environmental Site Assessment: 638-646 New South Head Rd, Rose Bay, JBS Environmental 2010; Remediation Action Plan: Budget Service Station, 638-648 New South Head Rd, Rose Bay, JBS&G, July 2013; Off-Site Environmental Site Assessment: 636 New South Head Rd, Rose Bay, JBS Environmental 2013; Additional Environmental Site Assessment: 638-646 New South Head Rd, Rose Bay, JBS Environmental 2013; Groundwater Monitoring Event Report: Rose Bay Budget Service Station, 638-646 New South Head Road, Rose Bay, JBS&G 2015*); WorkCover records, section 149 planning certificates, sewer/service plans.

### **Site Assessment: Soil & Groundwater Investigation Results**

A Conceptual Site Model (CSM) was developed to provide an understanding of the critical parameters required to understand the contamination status at the site and the CSM was tested through a programme of soil and groundwater analysis taking into account historic site uses and the proposed future redevelopment of the site. Potential sources of contamination that have been identified at the subject site include Hazardous Building Materials (lead, asbestos), Uncontrolled Fill & Off-Site Sources (TRH, BTEX, PAHs, OCPs, Asbestos, Lead and Heavy Metals). A groundwater sampling & soil testing program was undertaken at the subject site.

### **Soils**

For Soil Contamination analysis is presented in Appendix I (of the report) and was screened against the adopted assessment criteria in Appendix J. Exceedances of the Tier 1 assessment criteria are presented on Figure 4. The results are discussed below:

### **Heavy Metals**

Arsenic, cadmium, chromium, lead, mercury and nickel were not detected in any soil sample at concentrations in excess of Tier 1 assessment criteria. Concentrations of copper and zinc were also below the criteria with the exception of the following exceedances of the EILs:

BH101\_0.0-0.1m: copper 16,000 mg/kg and zinc 5,300 mg/kg; and

BH104\_0.0-0.1m: zinc 490 mg/kg

The EIL for copper is 190 mg/kg and zinc 400 mg/kg.

***Benzene, Toluene, Ethylbenzene, Xylenes and Naphthalene (BTEXN)***

BTEXN were not detected in any soil sample at concentrations in excess of Tier 1 assessment criteria.

***TRH***

TRH were not detected in any soil sample at concentrations in excess of Tier 1 assessment criteria.

***OCPs / OPPs***

OCP / OPP were not detected in any soil sample at concentrations in excess of Tier 1 assessment criteria.

***PAHs***

With reference to the ESLs, all PAH concentrations were reported to be below the Tier 1 assessment criteria with the exception of the following:

Benzene(a)pyrene in samples BH101\_0.0-0.1m (2.7 mg/kg), BH102\_0.0-0.1m (3.0 mg/kg), BH103\_0.0-0.1m (2.0 mg/kg), BH104\_0.5-0.6m (1.7 mg/kg), MW105\_0.0-0.1m (1.4 mg/kg), MW105\_1.5-1.6m (2.3 mg/kg), QAQC-105 (3.3 mg/kg), and MW106\_0.0-0.1 (3.2 mg/kg).

The ESL for benzo(a)pyrene is 0.7 mg/kg. With reference to the remaining Tier 1 assessment criteria, none of the detected soil PAH concentrations were in exceedance.

***PCBs***

PCBs were not detected in any soil sample at concentrations in excess of Tier 1 assessment criteria.

***Asbestos***

Asbestos containing material (ACM) was not visually observed in soil samples collected and analysis of soils did not identify the presence of asbestos in any soil samples.

**Groundwater**

***Heavy Metals***

Arsenic, cadmium, chromium, lead, mercury, nickel and zinc were not detected in any of the ground water samples at concentrations in excess of Tier 1 assessment criteria. Concentrations of copper were also below the criteria with the exception of the following exceedances of the GILs: MW06: 2 ug/L; and MW07: 3 ug/L. The GIL for copper is 1.3 ug/L.

***BTEXN***

BTEXN were not detected in any groundwater sample at concentrations in excess of Tier 1 assessment criteria.

#### ***TRH***

All TRH concentrations were reported to be low or below the laboratory reporting limits with no exceedances of the Tier 1 assessment criteria with the exception of the following: MW03: C6 - C10 Fraction minus BTEX (F1) 4,400 ug/L and C10 - C16 Fraction minus Naphthalene (F2) 2,300 ug/L. The HSLs for F1 and F2 are both 1,000 ug/L.

#### ***OCPs / OPPs***

All OCPs / OPPs concentrations were reported to be low or below the laboratory reporting limits with no exceedances of the adopted assessment criteria.

#### ***PAHs***

All PAH concentrations were reported to be low or below the laboratory reporting limits with no exceedances of the adopted assessment criteria.

#### ***PCBs***

All PCBs concentrations were reported to be low or below the laboratory reporting limits with no exceedances of the adopted assessment criteria.

#### **Comments**

Based on the comparatively low detections of Contaminants of Potential Concern and their localised nature and extent, the assessment considers there not to be a significant risk to current site users or ecological receptors.

Based on the findings of the investigation, the detected soil and groundwater impacts that have the potential to impact future construction workers and residents of the proposed redevelopment can be addressed during redevelopment of the site with appropriate remediation and validation sampling which would include the footprint of existing structures on the site. A RAP has been provided which describes the remediation strategy for the site

#### **Recommendation**

Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review *Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016*. The Site Auditor shall verify that the information provided in the detailed site assessment by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.

#### **Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016.**

The Remediation Action Plan is based on review of all previous environmental site investigations and reports for the site including those carried out by Consulting Earth

Sciences and those carried out by JBS&G Australia Pty Ltd. (Refer to section 3 of the RAP).

## **Site Evaluation & Site History**

The site is comprised of a two-storey residential apartment building in the northern portion bordering Rose Bay (the Northern Site) and a petrol service station bordering New South Head Road (the Service Station Site). A site inspection of the Northern Site was carried out on 22 February 2016 and found to be currently occupied by a residential unit complex. There were no visual or olfactory evidence of impacts (e.g. surface staining or distressed vegetation) and no storage of chemicals or fuels were observed on the site.

Site inspections of the Service Station Site were conducted on the 16 June 2010 and 2 December 2012. The site was observed to be paved over the complete site area. Site features observed during the site inspection included a brick building present over the majority of the north, western boundary consisting of a retail area and adjoining workshop; a metal shed located at the northern corner of the site observed to be used for storage of oils and lubricants associated with the operation of the workshop; four fuel dispensers underlying a metal canopy within the central portion of the site; five current underground storage tanks (USTs) were located adjoining the centre and south- western boundary and the eastern portion of the site; two historical USTs located within proximity of the western portion of the site; and an above ground coalescing plate oil / water separator and triple interceptor trap located in the northern portion of the site. A summary of Underground Storage Tanks at the petrol station is provided in Table 3.2 of the RAP.

The history of the site can be summarised in regards to each of the two portions of the site:

- Northern Site - Based on historic aerial photographs reviewed as part of the previous investigation the present residential property was constructed between 1930 and 1943.
- Service Station Site - The site was a residential dwelling prior to the mid 1950's; it was then developed as a service station until approximately 1986;
- An uncontrolled release of petroleum product occurred from UST1 located at the west of the site prior to 1983 – 1984 which resulted in replacing the UST. No soil or groundwater remediation works are known to have occurred in response;
- Two historical USTs were decommissioned prior to 1987 however it is not known whether these USTs are still present on site;
- The current site owner acquired the site in 1987; an additional three USTs were installed in 1987 to increase storage capacity of the site; and UST2 was re-lined in 2006 by the current site owner with fibreglass to facilitate storage and distribution of ethanol blended fuels.

Review of the Sydney Geological Map Sheet 9130, 1:100 000 Edition 1, 1983 (Department of Mineral Resources, 1983) indicated that the site is underlain by Quaternary aged dune deposits of Botany Sands. A review of the Sydney 1:100,000 Soil Landscape Series Map (Sheet 9130: Soil Conservation Service of NSW, 1983) indicates that the site is underlain by Aeolian Tuggerah Landscape Group.



The aquifer underlying the site is represented by the water level in Rose Bay. There were no reported aquifers sufficient for the supply of potable water on site however, the aquifers within 150 m of the site are described as porous, extensive aquifers of low to moderate activity to porous, extensive highly productive aquifers. It is expected that groundwater would flow towards Rose Bay to the north. There are currently ten groundwater monitoring wells installed at the site with groundwater levels ranging from 1.2 to 3.0 mbgl, Groundwater contours indicate groundwater flow in a north to northeast direction with discharge to Rose Bay.

### **Contamination Reporting on the Site**

Section 5 of the RAP provides a summary of reported contamination assessments for the site. These reports include:

- Environmental Site Assessment, 638 - 646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty Ltd, reference JBS41261-15373, dated July 2010.
- Potential Acid Sulfate Soils Assessment – Proposed Redevelopment – 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty Ltd, reference JBS41673-17264, dated 3 June 2011.
- Environmental Site Assessment, 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty Ltd, reference JBS41261-15373 Rev 1, dated January 2012.
- Draft Additional Environmental Site Assessment, Pre-Remediation Environmental Site Assessment and Off-Site Extent Assessment, Budget Service Station, 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty Ltd, reference JBS41893-50196 Rev A, dated March 2012.
- Additional Environmental Site Assessment at Rose Bay in proximity of 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty Ltd, reference JBS41893-50470, dated 13 April 2012.
- Draft Additional Environmental Site Assessment, Budget Service Station, 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty Ltd, reference JBS41893-53102 Rev A, dated January 2013.
- Remedial Action Plan: Service Station UPSS Decommissioning and Petroleum Hydrocarbon Remediation and Validation Works, Budget Service Station, 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS Environmental Pty, reference JBS41564-16488 Rev 0, dated July 2013.
- Groundwater Monitoring Event Report – December 2015, Rose Bay Budget Service Station, 638-646 New South Head Road, Rose Bay, NSW, prepared by JBS&G, reference 50377-102578 (Rev A), 20 January 2016.
- Environmental Site Assessment Report, 636 New South Head Road, Rose Bay, NSW, prepared by CES, reference CES160201-DYL-AB, dated 2 June 2016.

### **Summary of Contamination (Soil & Groundwater)**

With reference to the soil and groundwater investigations provided for in the reports mentioned in section 5 of the RAP, a summary of soil impacts in exceedance of the

assessment screening criteria is detailed in Table 2 of the RAP. Based on the soil results for the site, the contaminants of potential concern are BTEX and benzo(a)pyrene. The copper exceedance is an isolated exceedance and not representative of widespread contamination. As such, it is not considered to be a COPC. It should be noted that samples of soil have not been obtained from the immediate vicinity (i.e. in direct contact) with target UPSS contamination sources (i.e. UPSS). It is anticipated that further extent of impact will be revealed once UPSS are excavated. From a potential vapour, odour, amenity, and aesthetic concern the COPCs for soil should also include TRHs.

Table 3 in the RAP details the preliminary screening of soil samples (CES Assessment Report 2016) which exceeded the screening criteria of the NSW EPA (2014) *Waste Classification Guidelines Part 1: Classifying Waste*. The majority of individual results of analyses indicate classification of soils as Restricted Solid Waste for off-site disposal purposes. It should be noted that waste classification is also based on the results of Toxicity Characteristic Leaching Procedure (TCLP) which has not been conducted on samples retrieved from the site. As such, finalised waste classification should be conducted during remediation of the site and should include specific contaminant concentration (SCC) testing and TCLP testing for comparison with values listed in *Table 2 of the Waste Classification guidelines*.

Table 4 in the RAP provides a summary of the exceedance of groundwater contamination adopted criteria. Based on the groundwater results to date for the site, the contaminants of potential concern (COPC) are benzene and naphthalene. Concentrations of copper in exceedance of the adopted GIL assessment criteria were detected in groundwater sampled from MW06 and MW07. The detected concentrations (2 ug/L and 3 ug/L) are not considered significant and are likely indicative of background levels and not the results of onsite activities. From a potential vapour, odour, amenity, and aesthetic concern the COPCs for groundwater should also include TRHs, toluene, ethylbenzene, and xylenes. Based on the current groundwater data, contamination migration appears to be occurring in boreholes BH01 to BH07 located within the service station and the southern area of the Northern site. Based on the current and historic data, and lack of significant contamination down gradient, it is not considered that there is a significant risk posed to off-site receptors.

In 2013 soil vapour samples were obtained from two soil vapour probes (SV4-1.1m and SV5-1.2m) installed in the northwest boundary of the service station site to assess the vapour risk to the residential properties adjoining the boundary of the service station site and in proximity to the source of petroleum hydrocarbon impact. It was concluded that:

- Levels of soil vapour did not pose a potential human health risk to residents in proximity to the service station located to the northwest;
- In areas of anaerobic soils, there is a potential for high levels of petroleum hydrocarbon vapours. Anaerobic soils have been demonstrated to be present underlying the central portion of the service station site and do not extend to the proximity of the sensitive off-site receptors.

The results of preliminary petroleum vapour intrusion for the Northern site indicated that on the basis of current soil vapour and groundwater information, no short

term/acute risks are likely to be present. Excavation and remediation works are to remove the primary and secondary sources of contamination.

## Remediation Strategy

Considering the identified sources of contamination, the appropriate remediation strategy is considered as follows:

- Demolition of above ground structures and buildings with removal of petroleum hydrocarbon impact from the site through excavation of potentially impacted materials associated with the service station to allow validation of residual soils in excavated areas; and
- Classification and off-site disposal of excavated material to an appropriately licensed landfill.

Section 10 of the report describes in detail the proposed remediation method with reference made to Site Preparation, UPSS Removal, Management of UPSS Residual Liquids, UPSS Removal Process, UPSS Off-Site Disposal, Controlled Excavation & Stockpiling, Management of Groundwater, Soil & Groundwater Off-Site Disposal, Validation and Reporting. Validation sampling will be undertaken during the remediation programme; sampling will be conducted in accordance with relevant NSW EPA guidelines to confirm whether the identified contamination has been adequately removed from the excavated areas and whether any further remediation is required. Refer to section 11 of the report which details Validation Plan. The report concludes that if the Remediation Action Plan is implemented, then the site will be made suitable for the proposed development.

## Recommendation

1. Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review and determine the appropriateness of the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016*. The Site Auditor shall verify that the information provided in the Remediation Action Plan (RAP) by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.
2. Engage a qualified, experienced and reputable environmental consultant to prepare a Validation report which assesses the results of the post-remediation goals stated in the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016*.
3. Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review the Validation Report and submit interim advice from the accredited Site Auditor commenting on the adequacy of the remediation work to remove the sources of contamination at the subject site and certifies that the Validation Report has achieved the remediation goals.
4. Provide a Site Audit Statement and Site Audit Report to Woollahra Council which certifies:
  - I. The nature and extent of the contamination has been appropriately determined;

- II. The Sampling, Analysis and Quality Plan was appropriate to determine the nature and extent of the off-site contamination;
- III. The investigation report complied with relevant standards, procedures and guidelines made or approved under the Contaminated Land Management Act 1997; and
- IV. A Management Plan, if required for the subject development site, is appropriate to manage identified off-site impacts.

## **6. RECOMMENDATION**

Council's Environmental Health Officer has determined that insufficient information has been submitted to enable an assessment of the proposal. The following information is required before any further assessment of the application can be undertaken:

### **A. ACOUSTICS**

The *Acoustic Report prepared by Acoustic Logic titled 'Noise Impact Assessment', Document Reference: 20160318.1/1003A/RO/BW dated 10 March 2016* solely presents an assessment of potential traffic noise impacts on the future occupants at the proposed residential development located at 636-638 New South Head Road, Rose Bay.

It is recommended that further acoustic assessment is required for the proposed development. Potential noise impacts from intrusive noise and external noise emissions associated with the proposed development are to be assessed and referenced against appropriate noise criterion as documented above.

The acoustic assessment shall address sources of noise (apart from traffic noise) that have the potential to adversely impact upon the acoustic amenity of nearby residential/commercial receivers and occupants of the 'new' building; the acoustic assessment shall also formalise the requirements and noise control strategies that the proposed development will adhere to as they relate to operational noise as listed below:

- Noise arising from mechanical plant & associated equipment; these will include inter-alia, the ventilation system(s) for the carpark, associated air conditioning plant, pool equipment and external exhaust ventilation system(s).
- Noise arising from demolition of the old buildings and construction activities of the new development.
- Noise arising from the use of the carpark.
- Noise arising from service vehicles and waste collection vehicles to the commercial/retail part of the building.

### **A. General Conditions**

#### **A.1 Approved Plans and supporting documents**

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
20160318.1/1003 A/RO/BW	Acoustic Report: Noise Impact Assessment	Acoustic Logic	10 March 2016
CES160201-DYL-AB	Environmental Site Assessment (Soil Contamination & Acid Sulfate Soil)	Consulting Earth Sciences	29 April 2016
CES160201-DYL-AE	Remediation Action Plan	Consulting Earth Sciences	27 June 2016

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

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

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

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

**C.1 Detailed Environmental Site Assessment**

Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review *Environmental Site Assessment (Soil Contamination & Acid Sulphate Soil) Report: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AB dated 29 April 2016*. The Site Auditor shall verify that the information provided in the detailed site assessment by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.

**C.2 Remediation of Contaminated Land**

- Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review and determine the appropriateness of the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No.*

*CES160201-DYL-AE dated 27 June 2016.* The Site Auditor shall verify that the information provided in the Remediation Action Plan (RAP) by Consulting Earth Sciences adheres to the relevant standards, procedures and guidelines.

### **C.3 Validation Reporting**

- Engage a qualified, experienced and reputable environmental consultant to prepare a Validation report which assesses the results of the post-remediation goals stated in the *Remediation Action Plan: prepared by Consulting Earth Scientists, Report Reference No. CES160201-DYL-AE dated 27 June 2016.*
- Engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to review the Validation Report and submit interim advice from the accredited Site Auditor commenting on the adequacy of the remediation work to remove the sources of contamination at the subject site and certifies that the Validation Report has achieved the remediation goals.

### **C.4 Site Audit Statement & Site Audit Report**

- Provide a Site Audit Statement and Site Audit Report to Woollahra Council which certifies:
  - i. The nature and extent of the contamination has been appropriately determined;
  - ii. The Sampling, Analysis and Quality Plan was appropriate to determine the nature and extent of the off-site contamination;
  - iii. The investigation report complied with relevant standards, procedures and guidelines made or approved under the Contaminated Land Management Act 1997; and
  - iv. A Management Plan, if required for the subject development site, is appropriate to manage identified off-site impacts.

### **C.5 Swimming and Spa Pools – Child Resistant Barriers**

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

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

### **C.6 Swimming and Spa Pools – Backwash**

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

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

**Note:** The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.

Standard Condition: C56

## C.7 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

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

Standard Condition C59

## C.8 Noise Control - Swimming pool/spa pool pumps and associated equipment

The siting of any swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.

## C.9 Noise Control - Hydraulic Noise Control-Sound Insulation Rating of Services

That the requirements of the Building Code of Australia *BCA* Clause F5.6: *Ducts, Hot and Cold Domestic Water, Stormwater, Soil and Waste Pipes*, which serves or passes through more than one sole occupancy unit must be

separated from habitable rooms (other than a kitchen) in any other sole occupancy unit by a weighted sound reduction index + traffic noise spectrum adaptation term of not less than 40 if it is adjacent to a habitable room, and 25 if it is adjacent to a wet area (bathroom, laundry etc.) or kitchen.

Details are to be provided by the applicant clearly indicating how this requirement will be achieved in respect to controlling hydraulic noise emission to adjoining habitable rooms.

#### **C.10 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)**

The basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the basement caraprk shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

#### **C.11 Ventilation - Internal Sanitary Rooms**

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

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

#### **D.5 Notice of completion of category 1 remediation work**

Pursuant to clause 17 of *State Environmental Planning Policy No 55 - Remediation of Land*, notice of completion of a category 1 remediation work must be given to the council within 30 days after the completion of the work. This notice must be in accordance with clause 18 of SEPP 55.

**Note:** Category 1 remediation work is defined in clause 9 of SEPP 55.  
Standard Condition: D3



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

### **E.1 Hours of Work –Amenity of the neighbourhood**

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

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

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

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

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

**Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

**Note:** EPA Guidelines can be down loaded from  
<http://www.epa.nsw.gov.au/noise/nglg.htm> .

**Note:** see [http://www.epa.nsw.gov.au/resources/ci\\_build\\_sheet7.pdf](http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf)  
Standard Condition: E6

## E.2 Dust Mitigation

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

This generally requires:

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

**Note:** “*Dust Control - Do it right on site*” can be down loaded free of charge from Council’s web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council’s office.

**Note:** Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) and [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) . Other specific condition and advice may apply.

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

Standard Condition: E23

## E.3 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.

Standard Condition: E26

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

**F.1 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters**

Prior to filling any swimming pool, as defined by the *Swimming Pools Act* 1992:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with Section 30B of the *Swimming Pools Act* 1992 on the NSW Government Swimming Pool Register at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).
- c) The *Principal Contractor* or *owner* must either obtain a 'Certificate of Compliance' issued pursuant to Section 22D of the *Swimming Pools Act* 1992 or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996:

- a) Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- b) Before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: F13

**F.2 Swimming Pool Fencing**

Swimming Pool Fencing is to be constructed in accordance with AS1926-2012 Australian Standard Swimming Pool Safety Part 1 – *Safety Barriers for Swimming Pools*.

**Note:** Pools commenced or completed after May 2013 must meet Part 3.9.6 of the BCA AS1926.1-2012 and AS1926.2-2012

Standard Condition: F20 (Autotext FF20)

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

Nil.

**H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**

Nil.

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

**I.1 Swimming and Spa Pools – Maintenance**

Swimming and Spa Pools must be maintained:

- a) In compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs;
- b) In compliance with the NSW Health “*Public Swimming Pool and Spa Pool Guidelines*” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c) In compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d) With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - Before 8 am or after 8 pm on any Sunday or public holiday, or
  - Before 7 am or after 8 pm on any other day.

**Note:** Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>  
Standard Condition: I13

**I.2 Noise Control**

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

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

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

**Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

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

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

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

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I50

### **I.3 Noise from mechanical plant and equipment**

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

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

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

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

*NSW Industrial Noise Policy*

([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](http://www.environment.nsw.gov.au/resources/ind_noise.pdf))

ISBN 0 7313 2715 2, dated January 2000, and

*Noise Guide for Local Government*

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

ISBN 1741370671 , dated December 2004.

Standard Condition: I53

### **I.4 Noise Control - Swimming pool/spa pool pumps and associated equipment**

The swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2008 as follows:

- *Before 8am or after 8pm during Saturdays, Sundays and public holidays;*
- *Before 7am or after 8pm on any other day.*

### **J. Miscellaneous Conditions**

Nil.

**K. Advisings**

Nil

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**Louie Salvatore**  
**Environmental Health Officer**

**Date: 21/10/2016**

## **REFERRAL RESPONSE – Community Services**

FILE NO: DA 377/2016/1

ADDRESS: 636 New South Head Road ROSE BAY 2029

PROPOSAL: Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces

FROM: Jacky Hony, Team Leader Community Development

TO: Ms S Richards

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### **Summary:**

The 2016 Woollahra Council Aged and Disability Needs Study supports the demand for and supply of additional fully accessible housing in the Woollahra LGA. This application seeks to provide 9 fully accessible residences and is therefore supported by the Community Services Department.

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### **Demand Assessment and the 2016 Aged and Disability Needs Study:**

In 2016, Council engaged Consultants CRED Community Planning in partnership with Micromex Research to undertake research into the supply of and demand for aged and disability services, programs and supported accommodation in the Woollahra LGA.

The study was based on: current and forecast demographic analysis relating to seniors (those aged 65+ years) and people with disability (across all ages) from the 2011 Census and population forecasts; an analysis of the role of Council including comparative analysis with neighbouring councils; an audit and mapping of services; a review of the implications for local, State and Commonwealth government policy changes; and stakeholder and community engagement including a random telephone survey of 397 Woollahra resident including 100 people with disability, 15 carers, and 107 older people aged 65 years and over (resident telephone survey).

### **An abbreviated version of the findings follows:**

#### **Woollahra community profile:**

- Woollahra LGA has a high proportion and increasing number of older residents. In 2011, 16.3% of the population was aged 65 years and over (or 8,494 people). As a proportion of the total population, Woollahra has an older population than

Greater Sydney (12.8%), NSW, Australia, and neighbouring LGAs, equivalent to double that of the City of Sydney (8%).

- By 2031 the total number of older residents will be around 13,050 (+4,556), with particularly high growth in the 75 to 79 and 80 to 84 age brackets.
- In 2011, 2.4% (or 1,243 people) reported needing assistance with core activities because of a disability.
- The resident telephone survey conducted for this Study indicated that around 18% of Woollahra residents self-reported as having one or more health conditions that constitute a disability, the most frequent being 'physical conditions' (including hearing loss, sight loss - 10%) and 'mental health conditions' (7%).

**Current supply and utilisation of fully accessible residences:**

- Results of retirement village provider telephone interviews and feedback from Jewish Care and Holdsworth Community identified that new retirement villages are very expensive (bond and weekly fee) and may exclude access to some older residents. Interviews with retirement village managers (March 2016) indicated that bonds can cost between \$500,000 and \$2 million and weekly fees \$500 and \$1,500.
- There is currently no group housing for people with disability in the Woollahra LGA, and this was identified as a gap by two local service providers and through consultation with a disability social group. Around 6% of people with disability surveyed indicated they would need to move out of the LGA because of affordability.

**Current and forecast demand for places:**

- There are 4 independent living/retirement villages (Goodwin Village, B'nai B'rith, Emanuel Gardens and Vaughan Village) in the Woollahra LGA. These do not provide any level of aged care on site for residents. However, they can facilitate links to home care services for residents, and also have other services such as hairdressers, health and fitness facilities, and cafes on site.
- There are 3 homes that are DA approved and under construction. Feedback from these service providers is that they expect to fill all places. They will provide a full range of housing from retirement village transitioning to high care including 77 retirement village beds and 178 residential aged care beds.
- Council's Access Development Control Plan (DCP) provides guidelines for development that address accessibility for people with disabilities, parents with prams and older people with declining sensory capacity or mobility. Current entitlements are: disabled permit holders are exempt from parking fees in paid parking areas; and Part E, Chapter 8, Affordable Housing aiming to increase the amount of building stock that provides for affordable housing and accessible dwellings.

**Recommendation:**

There is a need for improved access to accessible and affordable housing for older people and people with disability in the Woollahra LGA to allow for ageing in place and for people to remain in the communities that they are connected to. Interviews with local service providers indicated that while there is a good provision of retirement and aged care services in Woollahra LGA, there are issues with a lack of



affordable options, and difficulty in securing development approvals to build and modify homes to be accessible for older people. Woollahra Council does not have any guidelines in its DCP to encourage liveable housing. There are no group homes for younger people with disability in the area, and interviews with service providers suggest some families need to move out of the area if they have a child with disability due to the high cost of housing.

The Aged and Disability Needs Study recommendations that Council 'continue to monitor the supply of aged care accommodation in the Woollahra LGA to ensure that supply is meeting demand' and 'facilitate increased group housing and universally designed housing locally' were adopted by Council 12 September 2016.

This DA application is therefore supported, subject to a condition requiring that the property is used for seniors living.

## REFERRAL RESPONSE – FIRE SAFETY

**FILE NO:** DA 377/2016/1  
**ADDRESS:** 636 New South Head Road ROSE BAY 2029  
**PROPOSAL:** Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces  
**FROM:** Richard Smith - Fire Safety Officer  
**TO:** Ms S Richards

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### 1. ISSUES

- *The proposal is for a new building and the building will have to comply with the Building Code of Australia at construction certificate stage. The standard condition that the building must comply with the BCA is required to be installed in the condition of consent if this application is approved.*

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced construction of a new residential/commercial & seniors housing development & lot consolidation prepared by gsa planning, dated August 2016.
- Architectural Plans, referenced DA100B, DA2000P, DA2001P, DA2002P, DA2003P, DA2004P, DA2005P, DA2006P, DA2300E, DA2301E, DA2302E, DA2303E, DA2401F, DA2402F, DA2403F & DA2404F, prepared by JPR Architects, dated 22 August 2016,
- Building Code of Australia Report, referenced BCA assessment report to accompany DA submission, prepared by Steve Watson & Partners, dated 7 April 2016.

### 3. RESEARCH

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

- A site inspection was carried out on the following date: 30 September 2016

#### **4. BUILDING DESCRIPTION**

Type of Construction:	A
Class:	2, 6 & 7a
Number of Storeys:	6
Rise in Storeys:	6
Effective Height:	15.3 meters ( <i>worked out from DA2300E</i> )

#### **5. ASSESSMENT**

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

#### **6. RECOMMENDATION**

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

- A. General Conditions**
- B. Conditions which must be satisfied prior to the demolition of any building or construction**
- C. Conditions which must be satisfied prior to the issue of any construction certificate**
- D. Conditions which must be satisfied prior to the commencement of any development work**

##### **1.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)**

For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

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

This condition does not apply:

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

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

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

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

Standard Condition: D1 (Autotext DD1)

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

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

### **F.1 Fire Safety Certificates**

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a *new building*, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

**Note:** This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

**Note:** In this condition:

*interim fire safety certificate* has the same meaning as it has in Part 9 of the Regulation.

*final fire safety certificate* has the same meaning as it has in Part 9 of the Regulation.

*new building* has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

- G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**
- H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**
- I. Conditions which must be satisfied during the ongoing use of the development**
- I.1 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

**Note:** *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*.  
*Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*.  
Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety  
[www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).  
Standard Condition: I22

**J. Miscellaneous Conditions**

**K. Advisings**

Nil

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Richard Smith  
Fire Safety Officer

Date: 30 September 2016

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications/ 377/2016/1

**ADDRESS:** 636 New South Head Road ROSE BAY 2029

**PROPOSAL:** Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces

**FROM:** Flavia Scardamaglia  
Heritage Officer

**TO:** Ms S Richards

---

### ISSUES

- *No elements of concern have been identified from a heritage perspective*
- 

### DOCUMENTATION

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

- Drawing set by JPRA, dated x, and numbered DA 1000 – B to DA9701 - A
- Heritage Impact Statement by Urbis, dated June 2016
- Demolition Report by Heritage Solutions, dated February 2015

### SITE INSPECTION / RESEARCH

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

- The site was (previously, if second response) inspected on the x 2012, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

### STATUTORY AND POLICY DOCUMENTS

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

- Woollahra LEP 2014
- Woollahra DCP 2015

### HERITAGE FRAMEWORK

- The subject building is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not listed on the State Heritage Register.
- The subject building is not in a heritage conservation area. It is located in the Rose Bay Precinct.

## **SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA**

*The subject site contains an Inter War residential flat building constructed by 1929 and known as 'Kenmar Court'. Although the subject site comprises of some historical, aesthetic and representative value, it does not reach the threshold for Local heritage listing.*

*Historically, it represents a standard Inter War residential flat building of the time. It was not built as part of a consistent group of Inter War flat buildings as in other precincts of the Woollahra LGA. It therefore does not portray a strong association historically as an individual item. In addition, historic research does not uncover any significant associations with persons of note.*

*Aesthetically, the subject site is relatively simple in its construction and detailing. Externally, it has minimal art deco features and internally, although art deco features of note are relatively intact (including terrazzo flooring, the main central staircase, decorative doors and windows and wall/feature lights), it is considered that overall there are other 'better and more representative examples' of the typology in the LGA.<sup>1</sup>*

## **SIGNIFICANCE OF ITEMS IN THE VICINITY**

The subject site is not located in close proximity of any heritage item that would be adversely affected by the proposed development.

## **DESCRIPTION OF PROPOSAL**

The following works are proposed:

- Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road, remediation of the sites,
- The construction of a new Seniors Living Development comprising of nine residences, two retail and two commercial tenancies & nineteen car parking spaces
- Consolidation of the two sites

## **ASSESSMENT OF HERITAGE IMPACT**

### **Compliance with the relevant planning controls**

The assessment is made using the following statutory and policy heritage conservation provisions:

#### Woollahra LEP 2014 Part 5.10 Clauses 1(a), 1(b), 4

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

### **Consideration**

The site includes a 1929 Inter-War residential flat building at 636 New South Head Road showing Art Deco features. It is known as 'Kenmar Court' and it shows some historical, aesthetic and representative values, but does not reach the threshold for local heritage listing. A comparative analysis included in the

<sup>1</sup> Taken from the Statement of Significance prepared by Urbis for 636 and 638-646 New South Head Road, Rose Bay, June 2016

Heritage Impact Statement concluded that ‘there are many examples of the typology in the LGA’ as ‘a consistent collection and group within Heritage Conservation Areas, and are consistent by way of scale, mass, orientation to the street and common materials and finishes’. It is therefore considered that the demolition of the Inter-War flat building will not incur in the demolition of a potential heritage item and it is supported from a heritage perspective.

Other buildings and structures on the site are of a later period and do not warrant retention on heritage grounds.

## Woollahra DCP 2015

### **Consideration**

#### **Part B1 Residential Precincts DCP**

Clause B1.9 Rose Bay Precinct

Objectives O2, O5

- The proposal is consistent with the objectives for the precinct. No heritage constraints are evident that would contradict the precinct’s desired future character.

## **RECOMMENDATION**

The application is generally acceptable as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions.

### **1.1 Recording of significant or contributory buildings prior to any demolition**

A full archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council’s heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Department of Planning Heritage Branch or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with ‘The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006’ published by the NSW Department of Planning Heritage Branch.

There should be three sets of the photographic report and film materials or digital materials. The following table summarises the lodgment details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

<b>Material</b>	<b>Minimum Requirement</b>	<b>Repository</b>
Digital Materials	1 copy of photographic report – paper copy 1 CD-R or DVD 1 set of 10.5x14.8cm prints	<u>Woollahra Council</u> Report (paper) + CD-R or DVD + prints <u>Local History Centre</u> Report (paper) + CD-R or DVD <u>Owner/client</u> Report (paper) + CD-R or DVD
Black & White Film (plus any	1 copy of photographic report	<u>Woollahra Council</u> Report + negatives + 1st set of proof



supplementary colour film)	1 set of negatives 1 sets of proof sheets and catalogue	sheets <u>Local History Centre</u> Report + 2nd set of proof sheets <u>Owner/client</u> Report + 3rd set of proof sheets
Colour Transparencies or Slides	1 copy of photographic report 1 set of original transparencies and two sets of duplicates OR 1 sets of original images taken concurrently	<u>Woollahra Council</u> Report + original transparencies <u>Local History Centre</u> Report + duplicate/concurrent transparencies: <u>Owner/client</u> Report + duplicate/concurrent transparencies

**Note:** Refer to the NSW Heritage Branch free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at:  
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf>  
 Standard Condition: B3

Flavia Scardamaglia  
Heritage Officer



Contact: Gina Potter  
Phone: 02 8838 7566  
Fax: 02 8838 7554  
Email: Gina.Potter@dpi.nsw.gov.au  
Our ref: 10 ERM2016/0924  
Our file:  
Your ref: DA377/2016/1

The General Manager  
Woollahra Municipal Council  
PO Box 61  
Double Bay NSW 1360

Attention: Ms S Richards

11 November 2016

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: DA377/2016/1**

**Description of proposed activity: Demolition of the existing service station at 638-646 New South Head Road and residential flat building at 636 New South Head Road**

**Site location: 636 New South Head Road Rose Bay NSW 2029**

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

**The attached GTA are not the controlled activity approval.** The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)      [Water licensing](#) > [Approvals](#) > Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



**Gina Potter**  
**Water Regulation Officer**  
**Water Regulatory Operations, WR Operations - Hunter, Sydney & South Coast**  
**NSW Department of Primary Industries – DPI Water**



# General Terms of Approval

for work requiring a controlled activity approval  
under s91 of the *Water Management Act 2000*

Number	Condition	File No:
Site Address:	636 New South Head Road Rose Bay NSW 2029	
DA Number:	DA377/2016/1	
LGA:	Woollahra Municipal Council	
Plans, standards and guidelines		
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA377/2016/1 and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>	
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>	
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Erosion and Sediment Control Plan</p> <p>(ii) Soil and Water Management Plan</p>	
4	<p>All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals">www.water.nsw.gov.au/ Water-Licensing/Approvals</a>.</p> <p>(i) Outlet structures</p>	
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.</p>	
6	N/A	
7	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.</p>	
8	<p>The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.</p>	
9-10	N/A	
11	<p>The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.</p>	
12-14	N/A	
14	<p>The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii)</p>	

Number	Condition	File No:
	wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.	
15-16	N/A	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
19-27	N/A	
28	The consent holder must ensure that any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water.	
<b>END OF CONDITIONS</b>		



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## GENERAL TERMS OF APPROVAL FOR CONSTRUCTION DEWATERING

**These terms do not represent any form of authorisation for the extraction of groundwater. These terms require an appropriate response from the Applicant in recognition that an aquifer interference will occur in an important groundwater resource.**

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### General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
3. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - A. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
  - B. any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - C. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
4. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
5. DPI Water requires documentation (referred to as 'report') comprising measurements, maps, borelogs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.



#### Prior to excavation

6. The following shall be included in the initial report:
  - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including borelogs and three-dimensional identification information.
  - (b) a map of the site and its immediate environs depicting the watertable (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the watertable during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping.  
[DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
7. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
8. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
10. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
11. A copy of a valid development consent for the project shall be provided in the initial report.
12. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.



13. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During excavation

14. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
15. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
16. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
17. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
19. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
20. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

#### Following excavation

21. Following completion of the dewatering operations, the Applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
  - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - (b) a watertable map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
22. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

END OF GENERAL TERMS OF APPROVAL FOR CONSTRUCTION DEWATERING





11 October 2016

Our Ref: SYD16/01256  
Your Ref: DA 377/2016/1

General Manager  
Woollahra Municipal Council  
PO Box 61  
DOUBLE BAY NSW 1360

Attention: Ms S Richards

**DEMOLITION OF EXISTING SERVICE STATION AND  
CONSTRUCTION OF MIXED USE DEVELOPMENT  
636 & 638-646 NEW SOUTH HEAD ROAD, ROSE BAY**

Dear Sir/Madam,

Reference is made to Council's letter dated 15 September 2016 regarding the abovementioned development application which was referred to Roads and Maritime Services (Roads and Maritime) for concurrence under Section 138 of the *Roads Act, 1993*.

Roads and Maritime has reviewed the development application and grants concurrence to the proposed vehicular crossing on New South Head Road under Section 138 of the Roads Act, subject to Council's approval of the development application and the following requirements being incorporated in Council's conditions of development consent:

1. Roads and Maritime has previously resumed & dedicated a strip of land as road along the New South Head Road frontage of the subject property, as shown by grey colour on the attached Aerial –"X".

Therefore there are no objections to the development proposal on property grounds provided all buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the New South Head Road boundary.

2. The redundant driveways on the New South Head Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on New South Head Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 88492138)

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

4. Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 88492766

5. Waste collection for all uses should occur as part of Council's regular waste service and complying with Council's requirements for 120 litre/240 litre bins as appropriate.

Should there be bins larger than those listed above (approved by Council for general roadside collection), waste collection for these bins should be carried out on site.

6. The existing 1P restrictions should be extended along the site frontage to cover the existing eastern driveway which is proposed to be removed. The parking restrictions frontage of the subject site shall be in accordance with Roads and Maritime requirements. The developer is to submit a sign plan to Roads and Maritime for approval detailing the locations of the 1P signs with respect to the new access arrangement.

7. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
8. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on New South Head Road during construction activities.
9. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on the New South Head Road.
10. All vehicles are to enter and exit the site in a forward direction.
11. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

Any inquiries in relation to this application can be directed to Angela Malloch on 8849 2041 or by email at [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au)

Yours sincerely



Angela Malloch  
**Senior Land Use Planner**  
**Network and Safety Section**

gsa planning

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95 paddington street, paddington nsw 2021

ph: 02 9362 3364 fax: 02 9362 3073

email: [info@gsaplanning.com.au](mailto:info@gsaplanning.com.au)

[www.gsaplanning.com.au](http://www.gsaplanning.com.au)

ABN 18 003 667 963

# **WOOLLAHRA LEP 2014**

## **Clause 4.6 Exceptions to Development Standards – Height of Building**

Construction of a New Residential/Commercial and Seniors Housing  
Development and Lot Consolidation

### **Nos. 636 and 638 - 646 New South Head Road, Rose Bay**

Prepared for:

**Rose Bay Joint Venture**

C/- JPR Architects Pty Ltd

Level 4, 50 Stanley Street

East Sydney NSW 2010

Prepared by:

**GSA PLANNING**

Urban Design, Environmental & Traffic Planners

(A.B.N 18 003 667 963)

JOB NO. 16019

August 2016

© GSA PLANNING 2016

## WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

### CLAUSE 4.6 – EXCEPTIONS TO DEVELOPMENT STANDARDS

**APPLICANT'S NAME:** Rose Bay Joint Venture c/- JPR Architects Pty Ltd

**SITE ADDRESS:** Nos. 636 and 638-646 New South Head Road, Rose Bay

**PROPOSAL:** Construction of a New Residential/Commercial and Seniors Housing Development and Lot Consolidation

**1. (i) Name of the applicable planning instrument which specifies the development standard:**

Woollahra Local Environmental Plan (LEP) 2014

**(ii) The land is zoned:**

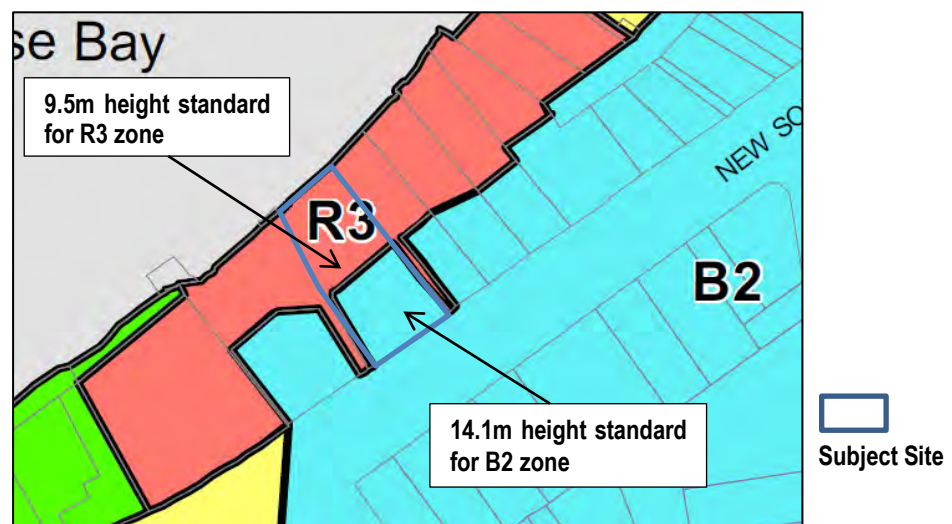
R3 Medium Density Residential for No. 636 New South Head Road and B2 Local Centre for Nos. 638-646 New South Head Road.

**(iii) The number of relevant clause therein:**

Clause 4.3 – Height of Buildings

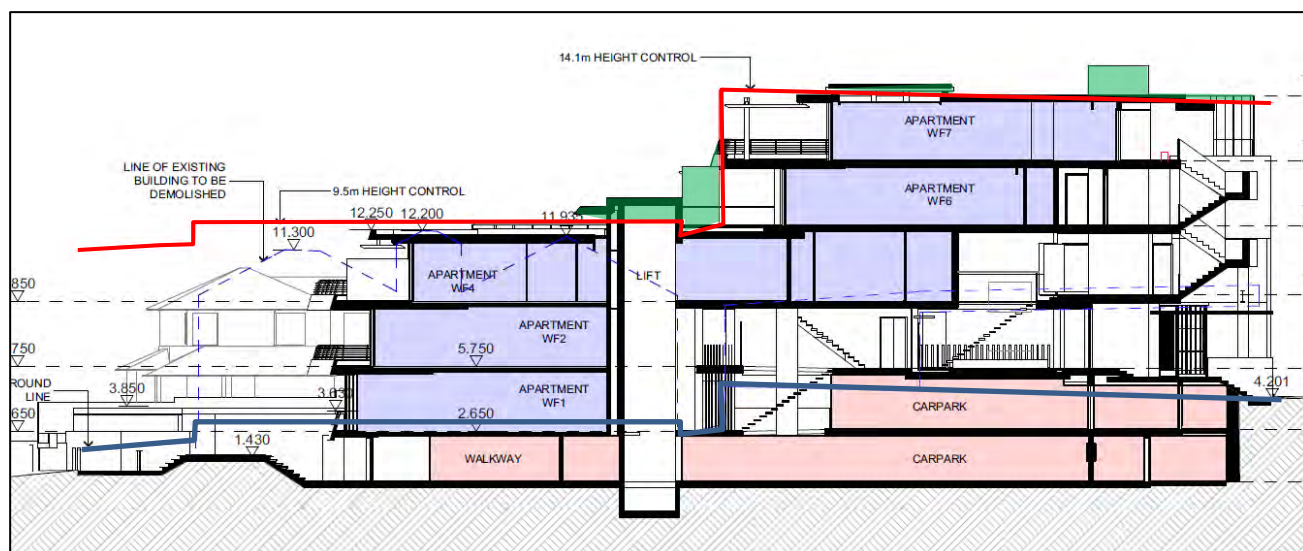
**2. Specify the nature of Development Standard sought to be varied and details of variation:**

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This clause operates in conjunction with the Height of Buildings Map which indicates that a maximum building height of 9.5m applies to the R3 Component of the site (harbourfront) and a maximum of 14.1m applies to the B2 component of the site (streetfront). A diagram indicating the location of the zones and respective height standards is shown in Figure 1.



**Figure 1: Zoning Map and Height Standard**

The proposal has heights ranging from 9.2m to 10.68m within the harbourfront portion and 8.8mm to a maximum of 15.32m within the streetfront portion. The maximum height is measured from the southernmost lift shaft, at 19.75 AHD to the ground line immediately below. While parts of the proposal comply with the building height standard, there are elements of the proposal that exceed the building height by up to 1.22m (see Figure 2).



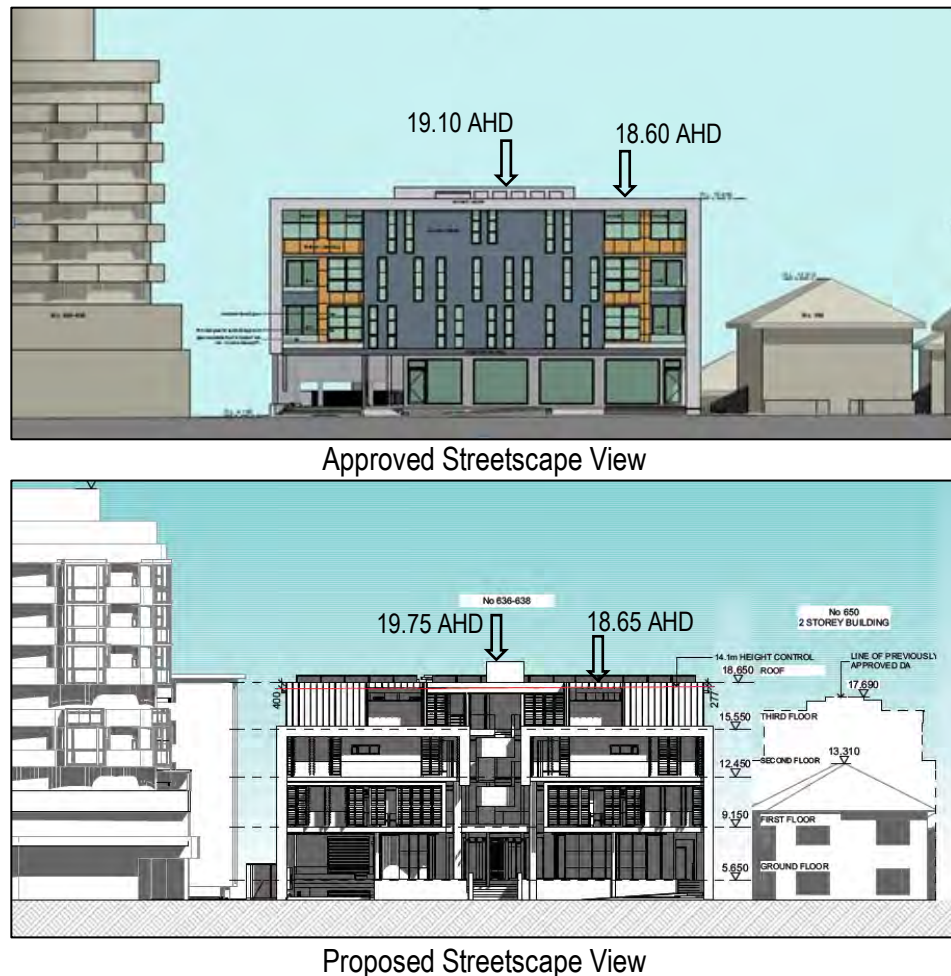
**Figure 2: Section Through Proposed Development**  
(areas of non-compliance shown indicated in green)

Some areas of non-compliance occur as a result of a sudden change in topography at the centre of the site and the need to raise the floor level to reduce flooding impacts from the street. Other areas are the result of providing adequate floor to ceiling heights, provision of a feature roof and a lift overrun.

It is noted that the street front portion of the site (Nos. 638-646 New South Head Road) was the subject of a DA for a four storey mixed use development with a similar height and built form as the proposal which also had minor height non-compliances. This built form was approved by Council and a comparison between the approved and the proposed streetscape evaluation is shown in Table 1 below and Figure 3 on the following page.

<b>TABLE 1: HEIGHT COMPARISON BETWEEN APPROVED AND PROPOSED DEVELOPMENT</b>		
	<b>Approval</b>	<b>Proposal</b>
RL of parapet at New South Head Road	18.60 AHD	18.65 AHD
RL at top of lift shaft	19.10 AHD	19.75 AHD
Height of building at the lift tower	15.13m	15.32m





**Figure 3: Comparison Between Approved and Proposed Streetscape elevations.**

**3. State the objective of the standard to be varied as it relates specifically to the subject site and proposal:**

Clause 4.3 contains the objectives for height of buildings. The objectives state, inter alia:

- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,
- (b) to establish a transition in scale between zones to protect local amenity,
- (c) to minimise the loss of solar access to existing buildings and open space,
- (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
- (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

**4. Explain how the proposal, notwithstanding the non-compliance with the development standard, will achieve the objective of the development standard.**

**Objective (a): to establish building heights that are consistent with the desired future character of the neighbourhood**

As indicated in the accompanying Statement of Environmental Effects (SEE), the streetfront portion of the site is located within the Rose Bay Centre precinct and the harbourfront portion of the site is located within the Rose Bay Residential precinct. Development in the Rose Bay Centre is characterised by a mix of commercial

buildings and multi storey mixed use developments of various architectural styles and forms. Development within the Rose Bay Residential precinct includes a mix of two storey dwelling houses and multi storey residential flat buildings.

The relevant desired future character objectives for the Rose Bay Centre as they relate to the site are to retain and enhance the village atmosphere of the Rose Bay Centre, improve the public domain, foster a diverse mix of uses in the Centre and enhance the visual and environmental amenity

The relevant desired future character objectives of the Rose Bay Precinct are to respect and enhance the streetscape character, reinforce consistent building scale within streets, protect important iconic and harbour views from public spaces and reinforce the landscape setting.

Notwithstanding the non-compliance with the building height standard, the proposal will be similar to the approved development in that it will enhance the village atmosphere of the Rose Bay Centre by providing contemporary mixed use development, which will activate the street and contribute to the diversity of uses in the locality. New street trees and landscaping will improve the public domain and enhance visual presentation when viewed from the street and harbour. The proposal will also provide an appropriate transition in between the approved four storey mixed use development at No. 650 New South Head Road and the eight storey development at Nos. 624 -634 New South Head Road.

Accordingly, in our opinion, the extent of height non-compliance is appropriate as it does not affect how the proposal satisfies the relevant desired future character objectives of the Rose Bay Centre, the Rose Bay Precinct and Objective (a).

**Objective (b): to establish a transition in scale between zones to protect local amenity**

The site is located within a B2 Local Centre Zone and an R3 Medium Density Development zone. To the east is a mix of commercial developments that are currently underdeveloped. Immediately to the east is a residential flat building that has approval for a four storey mixed use building. To the west of the site is an eight storey residential tower. To the north is Rose Bay Beach.

When viewed from New South Head Road, the proposal will provide transition in built form and scale between the eight storey residential tower to the west and the commercial and approved mixed used developments to the east. The areas of height non-compliance within the streetfront portion of the site will not affect this transition (see Figure 4 on the following page).

When viewed from the harbour, the proposed built form provides an appropriate transition in scale between the multi storey mixed use developments in the B2 Zone to the south, and the dwelling houses and residential flat buildings within the R3 Zone to the north east and north west. The areas of height non-compliance within the harbourfront portion of the site will not be easily perceptible from the street and will contribute to the transition in scale.





**Figure 4: 3D Streetscape View**

**Objective (c): to minimise the loss of solar access to existing buildings and open space**

To assess the impact of the proposed development in terms of solar access, shadow diagrams have been prepared for 9am, 12 noon and 3pm for the winter solstice (June 21). These diagrams indicate that as the areas of non-compliance occur near the centre and southern portion of the site, the north facing windows and balconies of adjoining development are likely to receive three hours of solar access between 9am and 3pm in mid-winter which complies with the DCP control. The extent of overshadowing to adjoining development is also similar when compared to a building form that complies with the height standard.

Accordingly, in our opinion, the area of non-compliance is not likely to result in significant impacts in terms of overshadowing and satisfies the intent of objective (c).

**Objective (d): to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion**

In our opinion, the extent of non-compliance will not result in unreasonable impacts on adjoining or nearby properties in respect of views, privacy, overshadowing or visual intrusion. This will now be discussed.

Views

An assessment of the proposal in respect of view impacts outlined in the SEE was based on the NSW Land and Environment Court principle of *Tenacity v Warringah Council (2004) NSWLEC 140*.

It is noted that the streetfront portion of the site has a similar built form to the recently approved DA for Nos. 638-646 New South Head Road. In that DA, Council deemed that notwithstanding the minor height non-compliance, the built form did not have unreasonable impact on views. Whilst it is inevitable that some units on the opposite side of New South Head Road to the south will experience some view affectation, the impact is similar to the approval and is not the result of a height non-compliance.

The harbourfront portion of the site near the foreshore is where views are the most valuable from adjoining properties and it is noted that a large portion of the proposal within this area complies with the height standard. As the area of non-compliance occurs near the centre and streetfront portion of the site, the proposal will not have unreasonable impacts on views from adjoining development. Also, it is our opinion that the extent of view affectation would be similar to a fully height-compliant building. This was demonstrated as part of the recently approved DA and further evidenced by the comparisons illustrated in the submitted view analysis. This analysis demonstrates that the proposed development will be beneficial to many of the adjoining units and that any view affectation is not due to the height non-compliance.

#### Privacy

The areas of non-compliance occur at the roof and lift overrun level only and do not relate to parts of the building that would cause privacy impacts. Accordingly, the areas of non-compliance with the height standard will not have an adverse impact on privacy.

#### Overshadowing

As indicated in Objective (c), the shadow diagrams that form part of this Development Application indicate that the proposal will not result in unreasonable shadow impacts on adjoining properties. The areas of non-compliance with the height will also not have an adverse impact on solar access or overshadowing.

#### Visual Intrusion

The proposed area of non-compliance will not result in an inappropriate visual presentation or visual intrusion. The non-compliant portion of the dwelling will not be easily visible from New South Head Road as it is substantially set back from the street boundary.

When viewed from the harbour, the proposal will improve the appearance of the foreshore by providing a more contemporary built form that is compatible within the context of the existing built environment and landscaping that complements surrounding development. While the majority of the built form within the harbourfront portion of the site will comply with the height standard, the areas of non-compliance will not be easily visible from the harbour.

In our opinion, the area of non-compliance is not likely to result in significant impacts in terms of view loss, privacy, overshadowing and visual intrusion and satisfies the intent of objective (d).

#### **Objective (e): to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.**

Views of the harbour from the public domain were largely restricted due to the existing built forms. However, views may still be available between Nos. 634 and 638-646 New South Head Road, as the proposal includes a setback from the western boundary. However, it is noted that public views are not affected by the areas of height non-compliance.

#### **5. In the circumstances of the case, would strict compliance with the development standard be unnecessary and unreasonable?**

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the

case. In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. The Court's recent decision in *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90 has altered the way the five tests ought to be applied, requiring justification beyond compliance with the objectives of the development standard and the zone. That is, more than one of those five grounds is now arguably required to be made out.

It is our opinion that the proposal satisfies three of the tests established in *Wehbe* which are relevant to the proposal. For that reason, the development standard is unreasonable and unnecessary in this instance. The relevant tests will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard

The proposal is considered to be consistent with the relevant objectives of the R3 and B2 Zone and the Rose Bay Centre and Precinct for the reasons outlined herein.

The proposed residential/ commercial use and seniors housing development is permissible with development consent in the zones and will continue to provide for the housing needs of the community.

The design of the proposal will be more compatible with the scale and character of development in the locality compared to the service station and residential flat building and will ensure the amenity of surrounding development is largely maintained. In addition, the proposal will be consistent with the desired future character of the neighbourhood. Strict compliance would require removal of the lift shaft overrun and lowering the ceiling height of the top floor, which is undesirable. Alternatively, compliance may require a lowering of the building, including retail floor level which is also undesirable, as the retail floor level was raised to comply with the stormwater/flooding amelioration design. In our opinion, the areas of non-compliance are not easily visible from the street or harbour and the proposal will improve the appearance of the development from both areas. Accordingly, in our opinion, the proposal satisfies Test 1.

Test 3 - The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

As indicated, if the purpose of the standard is to present a development that is compatible in the locality, compliance with the height standard is unreasonable. The non-compliance is minor and predominantly relates to the lift shaft and flat roof structure. Full compliance would either require the top level to be lowered which will reduce internal amenity, and a reduction of lift shaft or the lowering of the building. Given the objectives to be compatible with streetscape and preserve environmental amenity are satisfied, the proposal is considered appropriate and the requirement for compliance is unreasonable.

The height non-compliances are not easily discernible from the street and the proposal appears a four storey development, which is contextually appropriate in the Rose Bay Centre. Strict compliance with the height standard would unnecessarily complicate orderly and economic development of the land in accordance with the intentions of the zoning and the objectives of the Environmental Planning and Assessment Act (1979). For the reasons contained in the SEE and outlined above,

the development standard is unreasonable and unnecessary and in our opinion, there are sufficient environmental planning grounds to justify varying the development standard in this instance.

Test 4 - The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

In our opinion, the development standard has been virtually abandoned in this locality. There are numerous examples of dwelling houses in the vicinity of the site, approved by Council, that appear to have heights exceeding the LEP standard.

Although the LEP has only recently been gazetted and there are not many case studies to rely on in the locality, the previous LEP has an identified height standard which was varied in numerous DAs on the basis of contextual compatibility in Woollahra.

It is assumed that notwithstanding the non-compliance, Council deemed the developments acceptable on the basis of built form context and minimal built and environmental impacts. Accordingly, in our opinion, the imposition of the height standard in this circumstance is unnecessary and unreasonable.

5 January 2017

## REFERRAL RESPONSE – Tech Services - Property

FILE NO: DA 377/2016/1

ADDRESS: 636 New South Head Road ROSE BAY 2029

PROPOSAL: Demolition of the existing service station at 638-646 New South Head Road & residential flat building at 636 New South Head Road; Remediation of the site(s); the erection of a new Seniors Living Development comprising of 9 residences, 2 retail and 2 commercial tenancies & 19 car parking spaces

FROM: Anthony Sheedy – Acting Manager - Property & Projects

TO: Ms R Coull

I refer to the following documents received for this report:

1. Architectural Drawing No's DA 2001 P and DA2006 P, 2401 F and 2404 F drawn by JPRA, dated 22/8/2016
2. Statement of Environmental Effects, prepared by GSA planning, dated August 2016.
3. Survey Plan No's 1 & 2, drafted by JPRA, dated 14/7/2016.

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

The Applicant has requested that Council consent to DA 377 /2016/1 regarding the proposed mixed residential, commercial, and retail development at 636 New South Head Road, Rose Bay. An awning structure is proposed on the ground floor which will overhang New South Head Road by approximately 1 metre. The awning is estimated to be 17m in length, and some 4m above the road reserve surface.

A further minor encroachment is proposed over the Rose Bay Beach. This comprises a concrete structure which overhangs the rear boundary by 0.3m, and is some 4m in length. The structure is estimated to be 0.5m in height and forms part of a swimming pool. The underside of the structure is approximately 1m above the Rose Bay beach.

In my opinion, the height above the beach of this encroachment constitutes a safety hazard. In accord with the Council's encroachment policy I recommend that this encroachment not be consented too, as it could be eliminated altogether with architectural redesign of all pool structure behind the rear boundary.

Because the development application involves proposed works over New South Head Road (classified road); approval for the awning structure must be sought and obtained from the RMS prior to determining the application.

## **Recommendation:**

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

## **Conditions of Consent**

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

### **1. RMS Approval**

As the application involves proposed works over New South Head Road (a classified road); approval for the installation of the awning structure must be obtained from Roads and Maritime Services.

### **2. Prior to the granting of an Occupation Certificate and to ensure the structures on Council road reserve accord with Council's "Policy for Managing Encroachments on Council road reserves" the land owner with the benefit of this consent must satisfy Council in relation to the following:**

- (a) The lodgement of an "Application to Formalise an Existing Encroachment on Council land" in consultation with Council's Senior Property Officer.
- (b) The owner of 636-638 New South Head Road, Rose Bay entering into a legal agreement to formalise the encroachment for the New South Head Road awning structure, as depicted in JPRA Architects drawing DA2006 P dated 22/8/2016 in accordance with Council's "Policy for Managing Encroachments on Council Road Reserves".

The agreement must be in the form of the applicable legal instruments as follows:

- (i) Section 88E Conveyancing Act 1919 Positive Covenant; using Council's standard template for the occupation of the Road, construction, and ongoing maintenance of the encroaching structures.
- (ii) The Positive Covenant agreement must be registered on the Certificate of Title of 636-638 New South Head Road, Rose Bay.
- (c) The land owner must pay all of Council's associated costs, including but not limited to legal and registration fees, in this matter.

A handwritten signature in black ink, appearing to read 'Anthony R. Sheedy', with a long horizontal flourish extending to the right.

Anthony Sheedy  
Acting Manager - Property & Projects