

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH001
DA Number	DA115/11/3
LGA	North Sydney Council
Proposed Development	Modification to DA 115/11 pursuant to S.96(2) including various changes to building layout and external configuration including building entry and basement changes, changes to approved RLs (no increase overall building height), facade and window changes and layout changes to all levels to facilitate increase from three (3) units over six floors to four (4) x 3 bedroom units.
Street Address	106 Kirribilli Avenue, Kirribilli
Applicant/Owner	AGA Project Control PO Box 20 VAUCLUSE NSW 2030
Date of DA lodgement	26 September 2016
Number of Submissions	Five (5) in support One (1) against (minor concerns)
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	General Development (Ref CI 23G of EP & A Act & CI 21 SEPP State and Regional Development) 2011) Original Consent determined by Sydney East JRPP Capital Investment Value Exceeds \$10M as applicable to the originally approved development application.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • CI 23G EP & A Act • CI 123B EP & A Regulations 2000 • North Sydney Local Environmental Plan 2013 • SREP – Sydney Harbour Catchment 2005 • SEPP No. 55 – Contaminated Lands • SEPP No. 65 – Design Quality of Residential Flat Development • SEPP (Building Sustainability Index: BASIX) 2004 • SEPP (State and Regional Development) 2011 • DCP 2013 • Apartment Design Guidelines (ADGs)
List all documents submitted with this report for the Panel's consideration	Architectural Plans prepared by Redgen Mathieson Statement of Environmental Effects Prepared by City Plan Services Landscape Plans prepared by William Dangar Outdoor Solutions Geotechnical Letter prepared by JK Geotechnics Traffic Engineering Letter prepared by TEF Consulting Arborist Addendum Letter prepared by Jacksons Nature Works BASIX Certificate and Commitment Summary prepared by MC2 Energy Consultants Submissions
Report prepared by	David Hoy, Team Leader Assessments
Report date	16 February 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / No

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes / No / Not
Applicable

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes / No / Not
Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Yes / No / Not
Applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes / No

**JOINT REGIONAL PLANNING PANEL
 (Sydney East Joint Regional Planning Panel)**

S.96(2) MODIFICATION ASSESSMENT REPORT

JRPP No	2017SNH001
DA Number	DA115/11/3
Local Government Area	North Sydney Council
Proposed Development	Modification to DA 115/11 pursuant to S.96(2) proposing various changes to building layout and external configuration including building entry and basement changes, changes to approved RLs (no increase overall building height), facade and window changes and layout changes to all levels to facilitate increase from three (3) units over six floors to four (4) x 3 bedroom units.
Street Address	106 Kirribilli Avenue, Kirribilli
Drawings:	Architectural Plans numbered S96.0100(A), S96.0200(A), S96.10B1(A), S96.10B2(A), S96.1001(A), S96.1002(A), S96.1003(A), S96.1004(A), S96.1005(A), S96.1006(A), S96.1007(A), S96.2001(A), S96.2002(A), S96.2003(A), S96.2004(A), S96.3001(A), S96.3002(A), S96.3003(A), S96.5001(A) & S96.5002(A) dated Sept 2016, drawn by Redgen Mathieson and received by Council on 26 Sept 2016 Landscape plans numbered LP01-3115, LP02-3115, LP03-3115, LP04-3115 & LP05-3115 Prepared by William Dangar Outdoor Solutions dated Sept 2016
Applicant	AGA Project Control PO Box 20 VAUCLUSE NSW 2030
Number of Submissions	Five (5) in support One (1) against (minor concerns)
Date of Report	25 January 2017 16 February 2017
Report by	David Hoy, Team Leader Assessments
Recommendation	Approval

EXECUTIVE SUMMARY

Consent is sought to modify Development Application No. 115/11 under the provisions of Section 96(2) to provide for various changes to the approved building layout to rationalise the approved development for constructability reasons and to facilitate the increase in total units from three (3) units to four (4) x 3 bedroom units.

Other modifications include extensive façade modifications and external configuration to building entries, basement changes, changes to approved RLs (no increase overall building height), window changes and internal unit layout changes to all levels.

The proposal is referred to the Sydney North Planning Panel as the Panel is the relevant consent authority for modifications to development approved by a Regional Planning Panel under Clause 21 of SEPP (State & Regional Development) 2011.

The originally approved development was determined by the former Sydney East Joint Regional Planning Panel due to the estimated Capital Investment Value limits applicable at the time of determination. Works associated with the approved development application were commenced on site in November 2016 with demolition of existing structures and early works having commenced.

Development Application No. 115/11 was approved by the Sydney East Joint Regional Planning Panel on 15 December 2011 for demolition of a residential flat building containing eight (8) units and construction of a new six (6) storey residential flat building comprising five units, two levels of basement parking for eight (8) cars and associated excavation, road works and landscape works at 106 Kirribilli Avenue, Kirribilli.

Modification No. 115/11/2 was approved by the Sydney East Joint Regional Planning Panel on to provide for internal layout changes to facilitate **reduction from five (5) apartments to three (3) apartments**, balcony and terrace changes, facade changes, create terrace at level 6, extend lift to provide access to level 6, parapet changes, increased basement excavation to levels B1 & B2, basement layout changes and amend approved landscape plans to the approved residential flat building.

Notification has been undertaken with owners of adjoining properties and the Bradfield Precinct notified of the proposed development on 21 October 2016 and submissions accepted up to 4 November 2016. In response a total of **five (5) submissions have been received in support** of the proposal and **one (1) submission** raising issues with regard to views and visual impact arising from the proposed amendments. The issues raised in the submission are not considered to be well founded or demonstrate any additional adverse impacts would arise as a result of the proposed modifications.

The proposed modifications have been considered against the relevant environmental planning instruments including the North Sydney LEP 2013, NSDCP 2013, SEPP 65 and SREP (Sydney Harbour Catchment and others). The amended development is considered to remain generally satisfactory in relation to the requirements of Council's applicable planning controls. Where variation is sought to Council's controls, the variances are generally minor in nature, would not result in any material adverse impact to adjoining land or the surrounding environment. The amended proposal is therefore considered to be generally satisfactory with regard to the requirements of Council's LEP, the zone objectives and DCP controls.

The amended development would remain substantially the same development as that previously considered and approved by the Sydney East Regional Planning Panel and is recommended for **approval**.

DESCRIPTION OF PROPOSAL

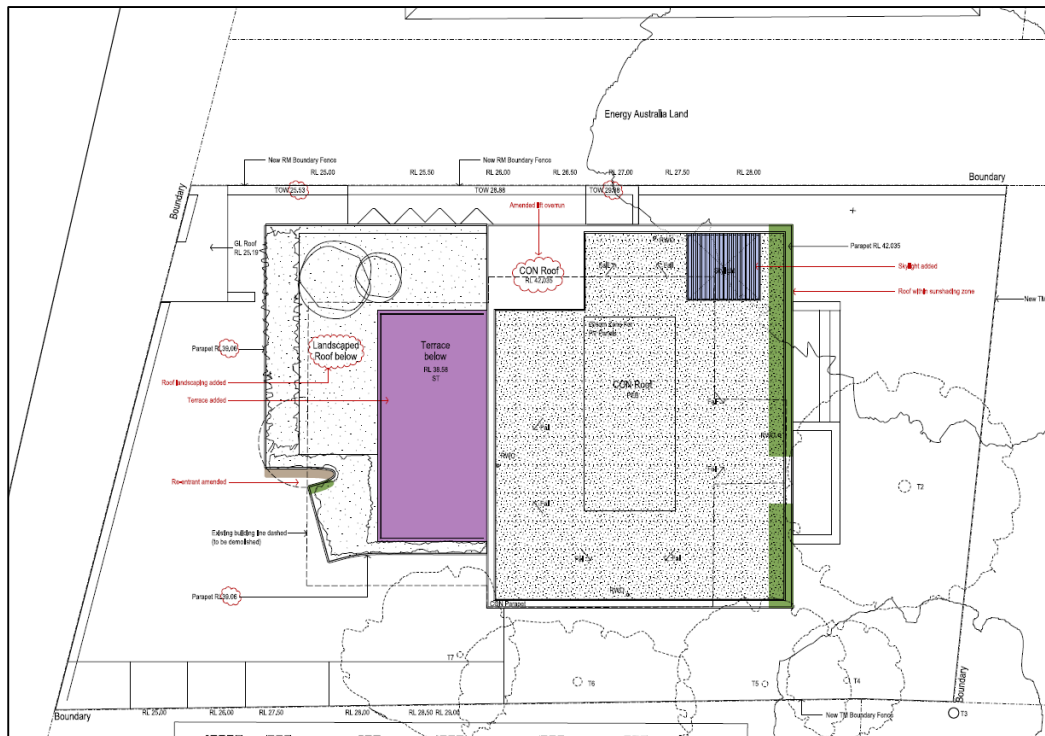
Modifications to DA 115/11 pursuant to S.96(2) including various changes to building layout and external configuration including building entry and basement changes, changes to approved RLs (no increase overall building height), facade and window changes and layout changes to all levels to facilitate increase from three (3) units over six floors to four (4) x 3 bedroom units.

The application is to be determined by the Sydney North Planning Panel as the relevant consent authority under Clause 21 of SEPP (State & Regional Development) 2011 and the previous determination by the Sydney East Joint Regional Planning Panel on 15 December 2011 and the estimated Capital Investment Value of the originally approved development.

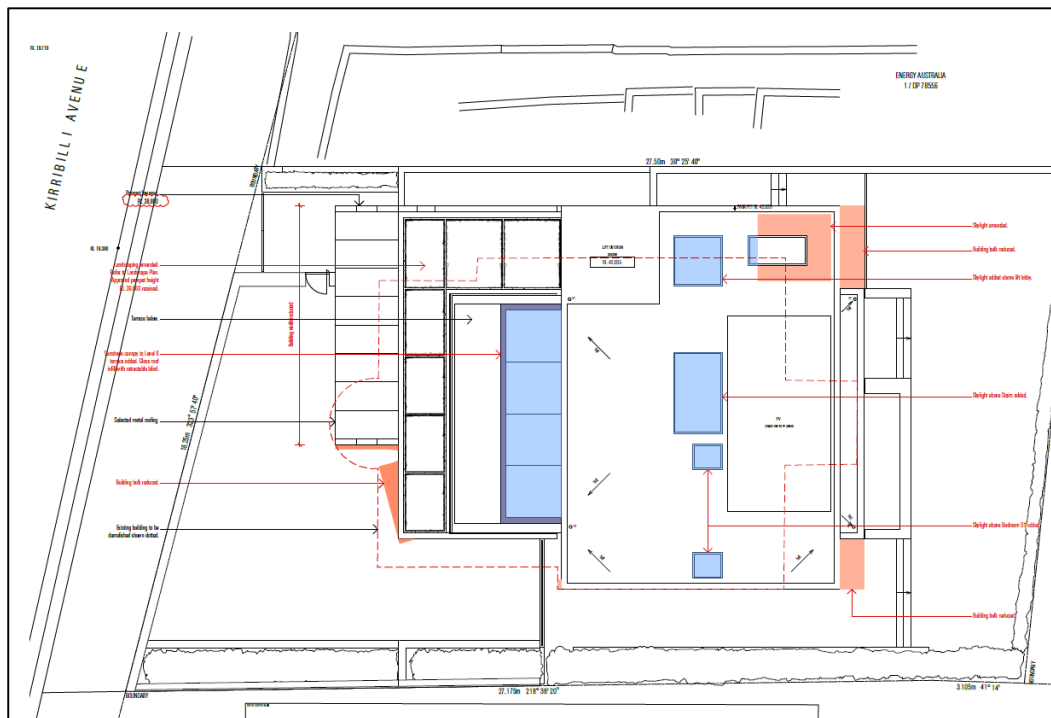
Specifically, the proposal seeks consent for the following modifications:

- Internal reconfiguration and extension of basement levels to rationalise basement manoeuvring, to increase basement storage and provide for amended plant and storage arrangements;
- Additional site excavation to provide for expanded basement levels. The expanded basement levels generally sit within the approved upper floor building footprint;
- Amendments to approved RLs to accommodate changes,
- Amendment of the building's internal layout to facilitate an increase reduction from three (3) units to four (4) units including reconfiguration of living rooms and bedrooms;
- Relocation of internal stair access for double storey units between Ground & Level 1 and Level 5 & Level 6;
- Reconfiguration of the approved recessed roof top terrace (Level 6) and internal layout changes from living room to master bedroom suite;
- Alterations to balcony and terrace configurations,
- Alterations to the building's façade to provide for improved constructability; the previously approved feature curved façade to the southern elevation has been replaced with a squared off façade fronting Kirribilli Avenue. The Copper cladding to the building's façade is retained with the detail modified to improve constructability;
- Alteration to the approved pedestrian entries at ground floor including the main building foyer and letter box location;
- Creation of individual basement lift lobbies for individual unit access direct from the car park.
- Amendment of the approved landscape plans to reflect courtyard changes; and
- Amended retaining wall design and planter boxes to the eastern (side) boundary.

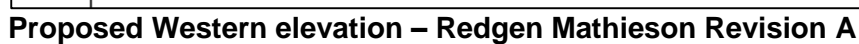
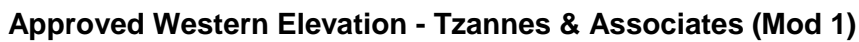
Proposed Elevations & footprint changes



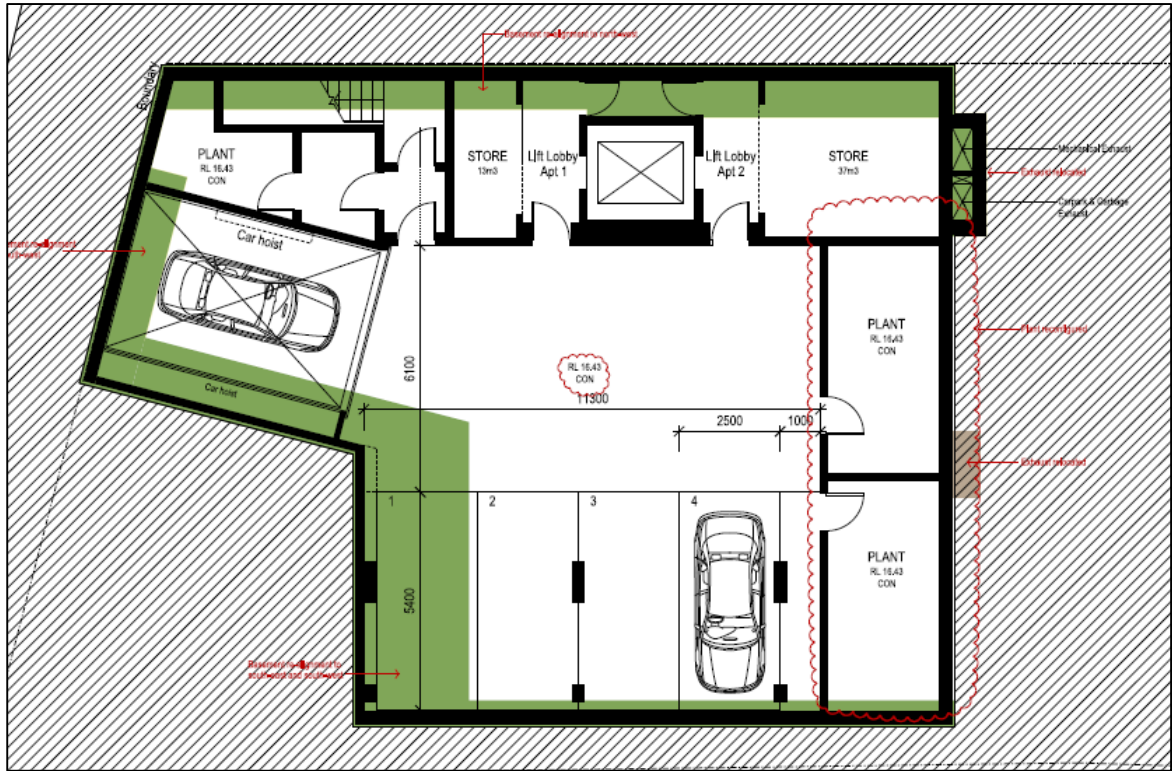
Approved footprint – Tzannes & Associates (Mod 1)



Proposed Footprint – Redgen Mathieson Revision A







Proposed Basement B2- Redgen Mathieson Revision A

Proposed changes to conditions of consent

The following amendments to the conditions of consent are sought:

- **Condition A1 Development in Accordance with Plans**

Changes are requested to reflect the amended plans submitted with the S.96 modification.

- **Condition A3. Approved Landscaping Plan**

Changes are requested to reflect the amended landscape plan plans submitted with the S.96 modification.

- **Condition A9. External Finishes and Materials**

The proposal seeks to modify Condition A9 to reflect the amended schedule of colours and materials submitted with the S.96 modification as follows: -

The colour and type of all external materials shall be in accordance with the submitted schedule, dated September 2016, prepared by Redgen Mathiesen, except where modified by the following conditions of consent.

SITE & LOCALITY

The site identified as No.106 Kirribilli Avenue is currently unoccupied following the recent commencement of demolition works and early site works. The site was previously occupied by a four storey residential flat building (with basement area) comprising seven units being 2 x two (2) bedrooms units on the ground, first and second floors with a three (3) bedroom unit with terrace on the third floor. The site is located on the northern side of Kirribilli Avenue and diagonally opposite Waruda Avenue. The existing building on the site is located in the Kirribilli Conservation Area.

The property is located above a high masonry wall, which forms the edge of Kirribilli Avenue. The pedestrian path above this wall has a timber fence while the front boundary of the site has a high sandstone block wall. The site slopes steeply towards the street from the rear with a fall of approximately 7 metres.

Running along the north western boundary of the site is an easement containing a single storey electricity substation, beyond, which is a three (3) storey apartment building known as No.104 Kirribilli Avenue. Adjoining the site at No.108 Kirribilli Avenue (aka 71A Upper Pitt Street) to the south-east is a three (3) storey duplex identified as a neutral item in the Kirribilli Conservation Area.

Directly to the rear of the property, is the property known as No 69 Upper Pitt Street. This property contains a two storey rendered dwelling built around 1870's, with later additions in the 1890's and a veranda built in 1926. The building known as "Greenmount", is listed in Schedule 3 of NSLEP as a heritage item of regional significance, and located in the Kirribilli Conservation Area. The "Grange" a heritage listed dwelling of regional significance is located at No.69 Upper Pitt Street northeast of the site at the rear. "Rydal" a heritage listed building of local significance is located opposite the site at 83 Kirribilli Avenue.

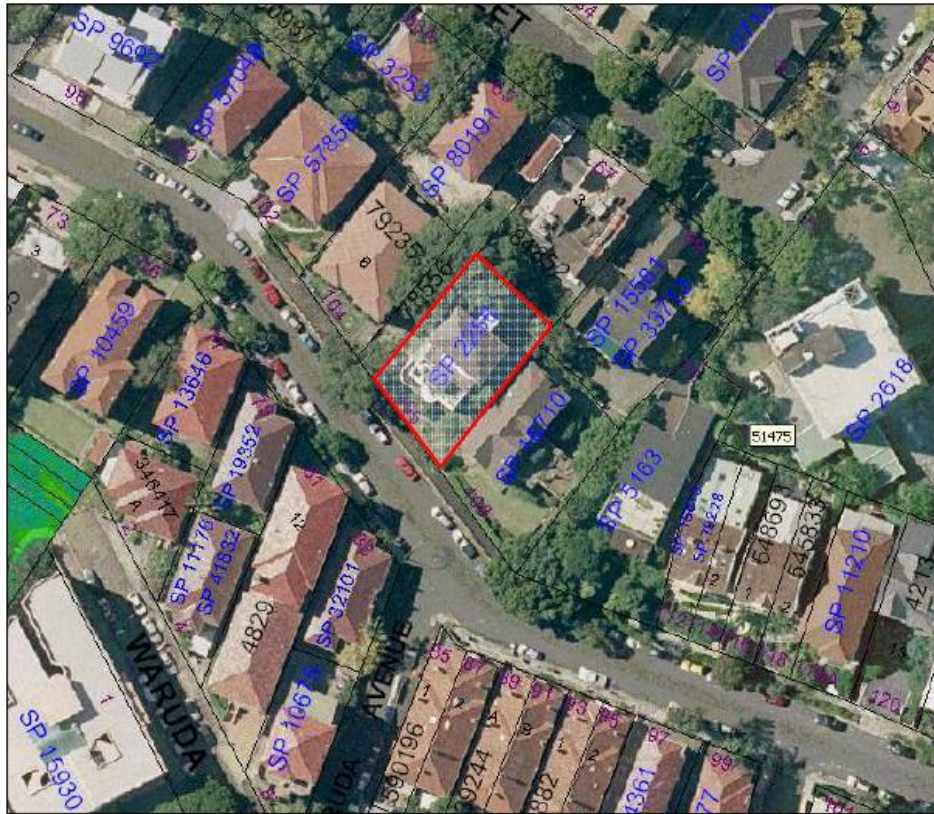


Figure 1: Area map detailing the subject site & surrounding properties. (Source: North Sydney Council GIS)

The surrounding area is characterized by apartment buildings, including an eight-storey block of flats located on the corner of Upper Pitt and Peel Street, attached and detached and terrace style buildings.



Figure 2: Street view of existing flat building from Waruda Avenue



Figure 3: View of site from Kirribilli Avenue to the western elevation of existing building

Character of the locality



Figure 4: Locality view taken from pedestrian level deck of Harbour Bridge

The surrounding area is characterized by apartment buildings, including an eight-storey block of flats located on the corner of Upper Pitt and Peel Street, attached and detached and terrace style buildings.



Figure 5: No. 102 Kirribilli Avenue



Figure 6: No. 83 Kirribilli Avenue (opposite)



Figure 7: No. 79 Kirribilli Avenue (opposite)



Figure 8: No. 108 Kirribilli Avenue (adjacent)



Figure 9: Street view Kirribilli Avenue road reserve



Figure 10: Street view Kirribilli Avenue road reserve

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – Residential R4
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (Nos. 67 and 69 Upper Pitt St (adjoining to rear) and 83 Kirribilli Ave (opposite)).
- Conservation Area – Yes, Kirribilli Conservation Area

S94 Contribution

Environmental Planning & Assessment Act 1979

SREP – Sydney Harbour Catchment 2005

SEPP No. 55 – Contaminated Lands

SEPP No. 65 – Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (State & Regional Development) 2011

POLICY CONTROLS

DCP 2013

SEPP 65 Apartment Design Guide (ADGs)

ZONING MAPS – NORTH SYDNEY LEP 2013

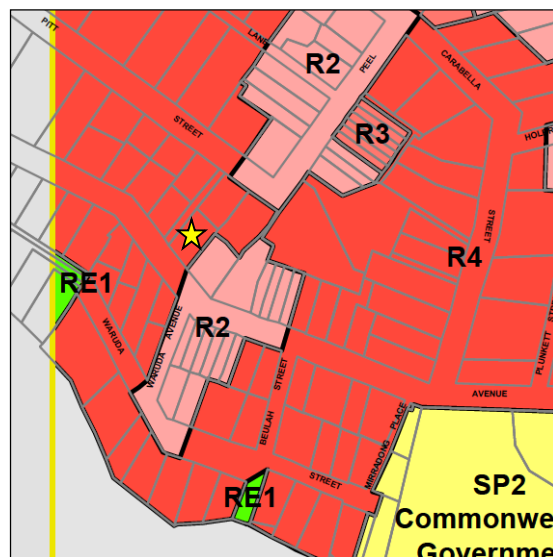


Figure 11: Zone extract NSLEP 2013

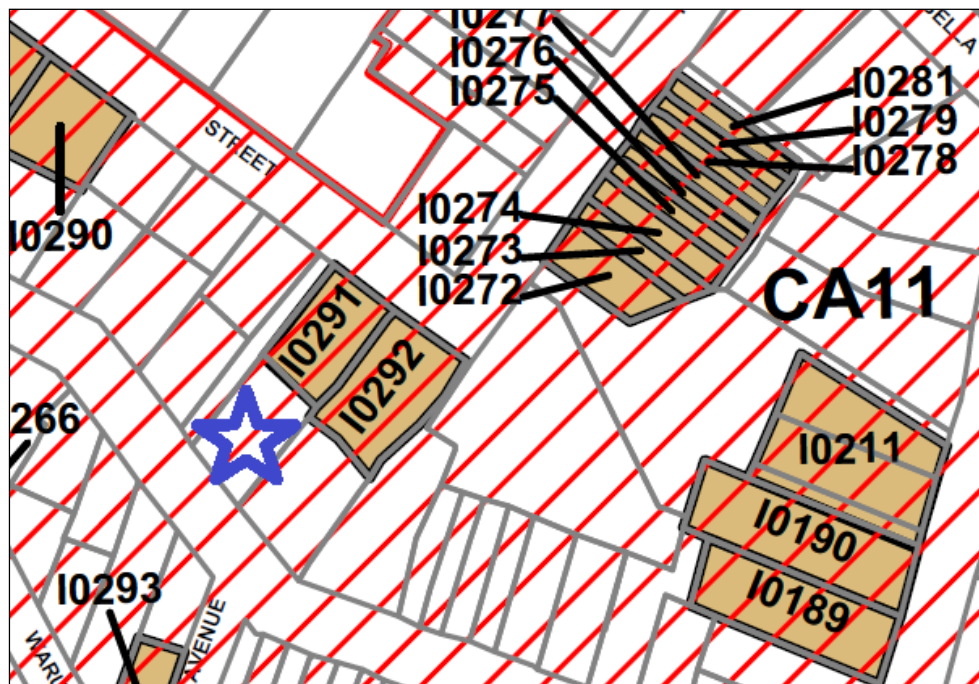


Figure 12: Heritage Map extract NSLEP 2013

CONSENT AUTHORITY

When originally determined by the Sydney East JRPP this proposal had a Capital Investment Value (CIV) of greater than \$16,030,000. At the time the consent authority for the development application was the Joint Regional Planning Panel, Sydney East Region (JRPP).

The proposal is referred to the Sydney North Planning Panel as the Panel is the relevant consent authority for modifications to development approved by a Regional Planning Panel under Clause 21 of SEPP (State & Regional Development) 2011.

The Panel, remains the relevant consent authority for the subject proposal.

RELEVANT HISTORY

Development Application No. 115/11 was approved by the Sydney East Joint Regional Planning Panel on 15 December 2011 for demolition of a residential flat building containing eight (8) units and construction of a new six (6) storey residential flat building comprising five units, two levels of basement parking for eight (8) cars and associated excavation, road works and landscape works at 106 Kirribilli Avenue, Kirribilli.

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Construction Certificate No. 152831 (X115/11) was issued by Mr Brendan Bennet (BPB 0027) of City Plan Services on 28 October 2016 for Stage 1 Demolition, Bulk Excavation and shoring for "three(3) residential units and two basement car parks".

REFERRALS

Development Engineer

Council's Development Engineer has raised no objection to the proposed amended development, subject to engineering conditions being imposed on consent. Specific conditions have been imposed on the existing consent to ensure adequate protection of adjoining land in relation to geotechnical stability and structural stability. The proposed modifications do not alter the requirements for ongoing engineering certification of the project.

Conservation Planner

The following comments were provided by Council's Conservation Planner:

Heritage Impact Assessment

a) North Sydney LEP 2013 Clause 5.10

The proposed modifications are considered to be of a minor nature however, some further detail is required and/or should be conditioned to ensure that the impact to the character of the conservation area is minimised.

b) North Sydney DCP 2013

An assessment of the proposal, with reference to Part B Section 13 of the North Sydney DCP 2013 has been made with the following elements of the DCP being of note:

13.4 Development in the Vicinity of Heritage Items- *The proposed minor changes will have minimal impact upon the heritage items located at the rear, being 67 and 69 Upper Pitt St.*

13.6.1 General Objectives O1 *Ensure that new development is designed to retain and complement the character and significance of the conservation area-*

Comment: The recommended details/conditions given below will ensure that the approved development does not detract further from the character of the conservation area.

13.6.1 General Objectives O2 *Ensure that contributory items are retained and where practical improved, with a focus to locate new work to the rear or away from publicly visible elevations of the building-*

Comment: The contributory item has approval for demolition. Thus, this control is no longer of relevance.

13.6.2 Form, Massing and Scale - Objective O1 *To ensure new development has a compatible and complimentary building form and scale to that which characterises the conservation area-*

Comment: The proposed changes will have only very minor impact upon the building's form, so no objection is made. The previously approved faceted windows on the West Elevation successfully created articulation, had vertical proportions and responded to the fluted facades and corbelled brickwork on nearby Art Deco style buildings. The deletion of the faceted windows does reduce the level of characteristic detail and articulation, however, the proposed privacy screens will provide textural interest subject to their final detail. There is no proposal to alter its height.

P9 *New work may adopt a contemporary character, provided the development is not likely to have a detrimental impact on the characteristic built form of the area, particularly in terms of bulk, scale, height, form or materials-*

Comment: The approved building is contemporary in character. The recommendations given below will however, assist in preventing the building from detracting further from the character of the conservation area.

13.6.3 Roofs - Objective O1 *To maintain the characteristic roof profiles and roofing materials within a heritage conservation area-*

Comment: No objection is raised to the proposed awning projection to Level 6.

13.9.1 Skylights, Solar Panels and Satellite Dishes – Objective O1 *To ensure that skylights, solar panels and satellite dishes do not detrimentally impact upon the significance of heritage items and heritage conservation areas-*

Comment: No objection is raised to the proposed skylights subject to the application of the condition below.

13.9.4 Materials - Objective O1 *To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas-*

Comment: The proposed materials for the modifications are consistent with the existing approved schedule. Clarification is recommended with regard to the garage door and privacy screens.

13.9.5 Garages and Carports- Objective O1 *To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area.*

Comment: Further detail is requested with regard to the garage door.

13.9.6 Fences- Objective O1 – To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area-

Comment: The proposed eastern boundary fence was approved inadvertently as a timber fence under DA 115/11/2, although it was not highlighted as a change to the original plans. A brush fence is not supported upon this edge as this is not a characteristic fence type in the conservation area. An open palisade fence would be acceptable as other properties within the immediate vicinity have no side boundary fences within the front setback.

CONCLUSION

To ensure that the proposal does not detract further from the character of the conservation area, it is recommended that the following conditions be applied, or be requested as additional information:

Pedestrian Entry Gate

A#. Front pedestrian entry gate to have maximum height of 1.2 m and to have open construction. Detail design of the gate is to be submitted to the satisfaction of Council's Planner and provided to the Certifying Authority prior to the issue of any Construction Certificate.

Eastern Boundary Fence

A#. Eastern boundary fence to be open palisade, not a brush fence. Eastern boundary sandstone cladding to retaining wall to have split, rock-faced or sparrow-picked texture. (Reason: To be consistent with the palette of materials used in the conservation area.)

Entry Planter

A#. Sandstone cladding to entry planter to have split, rock-faced or sparrow-picked texture. (Reason: To be consistent with the palette of materials used in the conservation area.)

Garage Screen Door

A#. Garage screen door to be a dark recessive colour, complementary to the quality of the development and complimentary to the materials specified in the approved schedule of finishes. Detail design of garage screen door to be submitted to the satisfaction of Council's Council Planner and provided to the Certifying Authority prior to the issue of any Construction Certificate. (Reason: To be sympathetic to the character of the conservation area.)

Privacy Screens

A#. Privacy screens on West and North Elevation to be fixed. Privacy screens to have copper channels with a minimum depth of 150mm and front face of 50 mm. Detail section 1:20 of privacy screens to be submitted to the satisfaction of Council's Council Planner and provided to the Certifying Authority prior to the issue of any Construction Certificate. (Reason: To be sympathetic to the character of the conservation area.)

Traditional Blinds

A#. Traditional blinds to South Elevation to be a dark recessive colour, complimentary to the materials specified in the approved schedule of finishes and retractable. Detail design to be submitted to the satisfaction of Council's Council Planner and provided to the Certifying Authority prior to the issue of any Construction Certificate. (Reason: To be sympathetic to the character of the conservation area.)

External Finishes and Materials

A9. The colour and type of all external materials shall be in accordance with the submitted schedule, dated 11 September 2015, prepared by Tzannes & Associates and received at Council on 7 October 2015, except where modified by the following conditions of consent. (Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Copper Cladding and Privacy Screens (Amended Condition)

A6. The approved copper cladding, including that on the privacy screens, shall have a pre-weathered patina finish at the time of installation. Details of the copper cladding shall be approved in writing by Council's Conservation Planner, or suitably qualified conservation architect, and provided to the Certifying Authority prior to the issue of any Construction Certificate.

(Reason: To ensure a high quality finish, to reduce glare at the time of installation and to ensure the face materials will age appropriately in keeping with the context of the site)

Balustrades (Amended Condition)

A4. Balustrade design for balconies to the front facade shall be in accordance with the detail submitted to Council on 17 November 2011, labelled Facade Detail Sketch dated 8 November 2011, by Tzannes Architects, except for Level 6. Details shall be submitted to Council's Conservation Planner, consistent with the detail provided on this plan shall be submitted to the Certifying Authority prior to the release of the Construction Certificate. Details of the balustrade design for Level 6 shall be approved in writing by Council's Conservation Planner, or suitably qualified conservation architect, and provided to the Certifying Authority prior to the issue of any Construction Certificate.

(Reason: To provide a degree of solidity to the balustrade for Levels 2-5, such that it is sympathetic to the character of the Conservation Area)

Skylights (Amended Condition)

C30. The approved skylights must not project above the height of the approved parapet. The Certifying Authority must be satisfied that the requirements to maintain adequate weather protection, does not extend above the approved parapet level as shown in the approved section.

(Reason: To limit the project of the proposed skylights)

Planner's Comment

The originally proposed scheme was not initially supported by North Sydney Council due to the impact of the original development on the heritage significance of the previously existing residential flat building and the applicable heritage controls in place at the time. However, following the grant of consent by the previous Sydney East Planning Panel, Council has sought to ensure the features of the approved development remain of high quality and minimise impacts to the conservation area.

The approved development is a substantial residential building which will be prominent in the context of the southern face slopes of Kirribilli, with the elevated site position, contemporary building features and massing likely to ensure the development will be conspicuous in its context. The approved building comprises a contemporary form with premium amenity and high grade materials, finishes and features. However, the building massing, design and materiality will remain non-typical of the characteristic building forms evident in the Kirribilli Conservation Area (See Figure 13 below and site images above).



Figure 13: Photo Montage of original proposal

Council has sought to ensure the design features of the development are retained to minimise the impact of the development on the Conservation Area and to ensure the integrity of the approved development is retained. The conditions recommended by Council's conservation planner are generally in support of the proposed amendments, subject to certain additional details to be resolved as the development is completed. The conditions are generally supported however the following comments should be noted:

Pedestrian entry gate

The proposal to require an open palisade design is supported however the proposal to specify a maximum height of 1.2metres is considered unnecessary, as further detailed design approval is required. An amended condition is recommended.

Eastern boundary fence

The site's eastern adjoining neighbour is substantially elevated above the site and side boundary fencing would be marginally visible from adjoining and nearby public areas. Whilst the proposed brushwood fencing is not characteristic, a palisade style would not provide adequate privacy between properties. An amended condition is recommended to require further side boundary fence details to be approved at an appropriate time.

Balustrades (Amended Condition)

In relation to the approved balustrade design and nominated copper finish, Condition Nos. A4 was imposed in the original consent to ensure an appropriate balustrade design is provided to the southern elevation as shown in the approved sketch diagram below in Figure 14. The current modification incorporates façade changes which would still enable this balustrade design to be achieved. Amendment to the condition is sought by Council's Conservation planner to differentiate between the primary elevation and the Level 6 terrace

The approved balustrade detail is provided as follows:

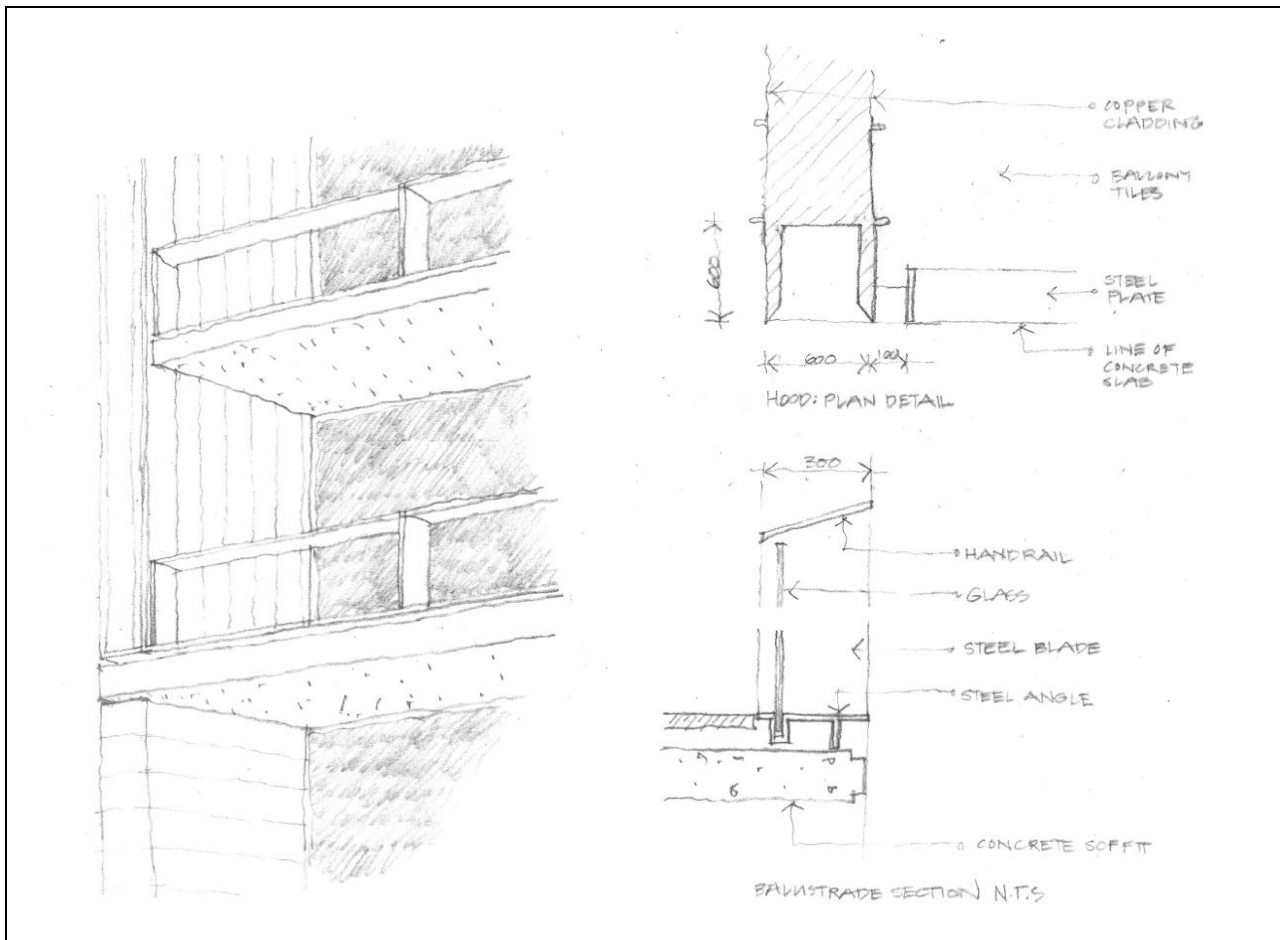


Figure 14: Extract of approved balustrade detail referred to in Condition A4.

Landscape Development Officer

Council's Landscape Development Officer has considered the proposed modifications and the following matters should be considered by the Panel:

Existing Landscaping/Topography

The existing topography of site is essentially a terraced rear garden area at the top of a sandstone cliff face which connects to a raised Council footpath at the southern boundary of the property. The footpath is some 4-5 metres above the Road level. The front of the property comprises of a small raised sandstone faced garden bed area between the building and the common boundary Council. At the junction to the road and up to the footpath level it essentially comprises of a part of a large exposed sandstone cliff face.

Impacts to existing Trees

The consent requires retention of a mature Port Jackson Fig growing at the rear of the property in the north western corner, and the removal of all other vegetation on the property.

The proposal has also shown a mature Ash Tree growing adjacent the common boundary corner with the property to the north and growing on that boundary. Protective measures are required during the course of works.

Impact to Port Jackson Fig (Tree No. 1)

The Arborists' Report is comprehensive, detailed and provides a significant amount of generic protective measures for the Fig Tree as well as a detailed specific tree protection plan for the tree.

The amended development must appropriately protect the Port Jackson Fig Tree from any detrimental impacts on its health and stability from the required demolition, excavation and building works associated with the project. The protection methods included in the Arborists Report must be undertaken at all stages of the proposed building works.

Protective measures have also been provided for the Golden Ash growing on the adjoining property near the north eastern corner of the subject property.

SUBMISSIONS

Notification has been undertaken with owners of adjoining properties and the Bradfield Precinct notified of the proposed development on 21 October 2016 and submissions accepted up to 4 November 2016. In response a total of **five (5) submissions have been received in support** of the proposal and **one (1) submission in opposition**. The issues raised in the submission are summarised in the following table:

Name & Address of Submitter	Summary of Submissions
Soula Triant 8/65 Upper Pitt St Kirribilli NSW Soula.Triant@aussie.com.au	<ul style="list-style-type: none">• Relocation of the Exhaust Stack to the West of the roof and their impact to our amenity. Why is this necessary?• New L6 terrace canopy is enclosed in glass with retractable blinds and will unnecessarily impede our amenity and create severe view loss from your apartment. It seems to be a grab for more floor space and will cut a large percentage of the field of view from our apartment balcony to iconic Sydney Opera House/Harbour views• The view loss is created through an unnecessary creation of a canopy and blinds which appear to have been added to extend further the use of the NEW L6 terrace area.

CONSIDERATION

The proposed modifications has been submitted pursuant to S.96(2), The relevant matters for consideration under Section 96(2) & S.79C of the *Environmental Planning and Assessment Act* 1979, are assessed under the following headings:

Section 96(2) Summary

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

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

Under Development Consent 115/11, The Panel granted consent for: -

"Demolition of an existing heritage listed residential flat building containing eight (8) units and construction of a new six (6) storey residential flat building comprising five (5) units, two levels of basement parking for eight (8) cars and associated excavation, road works and landscape works."

The approved development was modified to provide for internal layout changes to facilitate **reduction from five (5) apartments to three (3) apartments**, balcony and terrace changes, facade changes, create terrace at level 6, extend lift to provide access to level 6, parapet changes, increased basement excavation to levels B1 & B2, basement layout changes and amend approved landscape plans to the approved residential flat building.

The proposed modifications are considered to be consistent with the originally approved development application. The proposed modification retains the intent of originally approved development, is substantially the same development as originally approved by the JRPP and is considered to be acceptable.

SEPP 65 Design Quality of Residential Flat Development & Apartment Design Guidelines

The development as approved was considered against the Design Guidelines and objectives of SEPP 65. The applicant has submitted a revised Design Statement prepared by a qualified architect.

The development, as amended will continue to achieve quality built form and relationship with the public domain and is assessed as acceptable with regard to residential amenity having regard for the fall of land and southern orientation of the site. The development as modified would achieve the design principles set down by the SEPP and is satisfactory with regard to the requirements of the Apartment Design Guidelines.

NORTH SYDNEY LEP 2013

The application has been assessed against the relevant numeric controls in NSLEP 2013 and DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

Permissibility within the zone:

The proposed development (as modified) is for the purposes of a residential flat building and constitutes a permissible form of development within the R4 (High Density Residential) zone.

Zone Objectives

Consideration is required of the relevant zone objectives with regard to the provision of housing for residents within the R4 (High Density Residential) zone as follows:

Objectives of zone

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The proposal is generally satisfactory with regard to the zone objectives.

Principal Development Standards

STATUTORY CONTROLS (NSLEP 2013)				
Site Area – 504.1m ²	Approved	Proposed	Control	Complies
Building Height (Cl. 4.3)	16.53m (max parapet)	No change to max height	12m	NO*

Height of Buildings (Cl. 4.3 NSLEP 2013)

In accordance with the findings by Justice Lloyd in ***Gann & Anor v Sutherland Shire Council [2008] NSWLEC 157***, the modification of a development consent pursuant to Section 96 which results in a new or modified variation to a development standard, does not require the submission of an objection pursuant to SEPP 1 (Cl. 4.6). In this regard, reference is made to the provisions of S.96(3) of the Act which distinguishes between the modification of a development consent pursuant to s.96 and the granting of development consent.

Notwithstanding, Council must still consider the proposed modifications and the new elements of the building which breach to the maximum building height standard against the provisions of the development standard, under the requirements of S.96(3) & s.79C of the Act.

The proposed modifications involve changes to the approved building above the height of building height standard applicable under NSLEP 2013. The variation to the maximum building height standard were considered in detail in the preceding assessment of the original development application, however further detailed consideration of the new works has been undertaken against the relevant objectives of the building height standard.

Height of Buildings – Objectives

- (a) ***to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,***

The proposed modifications would not materially alter the relationship of the approved building to the existing and prevailing topography.

(b) to promote the retention and, if appropriate, sharing of existing views,

Detailed consideration of the impact on existing views has been undertaken under the previous development application and the development deemed to have an acceptable impact on existing views subject to adequate view sharing.

The external building envelope of the modified development would not present any additional view impacts to surrounding properties. The proposed changes to the external configuration of the building would reduce the approved building envelope and would not extend above the approved roof parapet level or closer to site boundaries.

A condition is recommended to require the proposed skylight structures not to protrude above the height of the approved parapet level and to ensure the appropriate maintenance of the level 6 roof garden landscaping.

(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The proposed modifications would not present any new or material additional impact to adjoining properties in terms of overshadowing.

(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The approved Level 6 balcony exceeds the height control for the site, and the proposed altered apartment layouts would modify the location of internal living spaces within the penthouse unit, with living space located at Level 5 and the Level 6 terrace now located adjacent to the master bedroom suite of the top floor penthouse. However, the proposed reconfigured roof top landscape garden and location of the proposed terrace back from the parapet edge would not present any new or significant adverse privacy intrusion to adjoining properties and as such is supported.

(e) to ensure compatibility between development, particularly at zone boundaries,

The site adjoins the R2 (Low Density zone) to the eastern boundary, however the proposed modifications would not alter the relationship of the approved development with the adjoining zone.

(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The scale of the development as modified, is consistent with the scale of the approved development.

Summary

The proposed new works above the height control have been considered against the height of building objectives and are assessed as satisfactory. The proposed new breaches to the height control are therefore deemed to be acceptable.

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

This S 96(2) application concerns modifications to an approved residential development and does not require the concurrence of the relevant Minister, public authority or other approval body.

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

The proposed modification application has been notified in accordance with Section 4 of NSDCP 2013.

(e) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

(i) The likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

Excavation

The proposed increase in basement excavation includes the extension of the basement to the site's southern boundary with Kirribilli Avenue. This extension is considered acceptable as the site's boundary does not adjoin a dwelling but rather the adjoining public footpath.

This Development Application is accompanied by an amendment to the Geotechnical Report submitted with DA115/11 prepared by JK Geotechnics which makes a series of comments and recommendations regarding excavation conditions, retention systems, vibration monitoring, footings and hydrogeological considerations.

The report provides a summary of the principle geotechnical issues and recommendations as follows;

"1. Prior to demolition or excavation, we recommend detailed dilapidation surveys be completed on any neighbouring structures that fall within the zone of influence, taken as twice the excavation depth from the common boundary.

2. *Excavation for the proposed basement will be through pavement, fill, residual soils and sandstone bedrock of typically medium to high strength resulting in "hard rock" excavation techniques.*

3. *Vibration monitoring during excavation is required due to "hard rock" percussive excavation techniques being used.*

4. *Retention systems will be required to support the excavation for the driveway entrance under the footpath and the sites boundaries.*

5. *Pad or strip footings founded within sandstone bedrock may be used to support the proposed building. The magnitude of the allowable bearing pressures chosen for the footings will affect the minimum frequency of geotechnical inspections of the footing excavations which will have to be scheduled.*

6. *Groundwater seepage into the excavation should be expected but is unlikely to be a significant issue for the proposed basement as we would expect seepage rates to be manageable using conventional sump and pump or gravity methods."*

Subject to ongoing compliance with the conditions of consent and ongoing compliance with the requirements of the geotechnical report, the proposed excavation is considered to be generally consistent with the extent of excavation permitted by the original development consent and as such is assessed as acceptable.

NSDCP 2013

Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
Population Mix Dwelling target 1dwg/90sqm = 5.6 Unit Mix: mix of unit size (by bedrooms)	Satisfactory	<p>The proposed modified development would increase the total number of units from the currently approved 3 x 3 bed units to 4 x 3 Bedroom units over six floors.</p> <p>Notwithstanding the changes proposed, further consideration is required as to whether the development as modified continues to meet with the objectives of the High Density Residential zone considering the following changes:</p> <p>The proposed increase in units is considered to reflect the large residential floor plates, which allows one dwelling per floor and high end two storey units at the ground and upper floors. The approved development is not considered likely to contribute to a significant reduction in housing choice in the locality. Consideration</p> <p>has been given to the adaptability of the amended scheme to provide for increased dwelling yield at a later date. In this regard the proposed development as modified could be later modified to increase the number of units within the building considering the arrangement and location of services and common areas through the building.</p>

Maintaining Residential Accommodation	Satisfactory	The development represents an overall reduction of dwellings from the pre-existing 8 units to 4 premium size units. However, as with the preceding applications the overall dwelling yield at the site was accepted by the JRPP. The current proposal to increase dwelling yield would improve the performance against Council's target residential population controls
1.3 Environmental Criteria		
Views	Yes	<p>Detailed consideration of the impact on existing views was undertaken under the original development application. The approved development was deemed to have an acceptable impact on existing views subject to adequate view sharing.</p> <p>The external building envelope of the modified development would not present any additional view impact to surrounding properties.</p> <p>A condition is recommended to require the proposed skylight structures not to protrude above the height of the approved parapet level and to ensure the appropriate maintenance of the level 6 roof garden landscaping.</p> <p>The impact to existing view arising from the proposed modifications would be low to negligible, with the modified development generally consistent with the approved development.</p> <p>An adjoining resident at 65 Upper Pitt raised some concerns about the potential erosion of existing views from your premises by the proposed awning to the Level 6 Terrace, however the canopy of the existing large Port Jackson Fig currently obscuring views towards the south-east from the balcony and living room. It was agreed that the overall height and location of the awning could not be clearly demonstrated on site as there was no building present on the site for a reference point to be taken.</p> <p>To alleviate concerns about potential impacts, the proponent has agreed to delete the awning by way of condition to delete the Level 6 terrace awning.</p> <p>Having regard for this, it is concluded that the proposed modified development would not present any additional view impacts and as such the modifications can be supported.</p>
Solar Access	Yes	The proposed modifications would not present any new or material additional impact to adjoining properties in terms of overshadowing.
Visual Privacy	Yes	The Level 6 balcony/terrace is considered acceptable owing to the location being well separate from adjoining properties, and the provision of roof

		<p>top landscape which would generally obscure it from view from public areas and prevent unreasonable overlooking of adjoining properties.</p> <p>The amended development, including changes to the landscape treatment otherwise generally provides for the privacy of adjoining properties.</p>
1.4 Quality built form		
Context	Satisfactory	<p>The originally proposed scheme was not initially supported by North Sydney Council due to the impact of the original development on the heritage significance of the previously existing residential flat building and the applicable heritage controls in place at the time.</p> <p>Following the grant of consent by the previous Sydney East Planning Panel, Council has sought to ensure the features of the approved development remain of high quality and minimise impacts to the conservation area.</p> <p>The approved development is a substantial residential building which will be prominent in the context of the southern face slopes of Kirribilli, with the elevated site position, contemporary building features and massing likely to ensure the development will be conspicuous in its context.</p> <p>The approved building comprises a contemporary form with premium amenity and high grade materials, finishes and features. However, the building massing, design and materiality will remain non-typical of the characteristic building forms evident in the Kirribilli Conservation Area.</p> <p>Council has sought to ensure the design features of the development are retained to minimise the impact of the development on the Conservation Area and to ensure the integrity of the approved development is retained.</p> <p>The conditions recommended by Council's conservation planner are generally in support of the proposed amendments, subject to certain additional details to be resolved as the development is completed.</p>
Streetscape	Yes	<p>The streetscape controls of NSDCP 2013 relate to the physical impact to the public road reserve. The proposal involves partial demolition and replacement of the existing elevated pedestrian footpath to provide vehicle access from Kirribilli Avenue.</p> <p>The modifications would not significantly alter the approved road conditions. Council's Development Engineer has also reviewed the proposal and raised no objection to the proposed works. It should be noted that any person seeking to act on a consent</p>

		for rebuilding & repair of Council's footpath, would be subject to Council's design specifications.
Siting	Satisfactory	<p>The proposal does not substantially alter the approved building setbacks with setback alterations primarily occurring through the expansion of the basement to the site's southern boundary at the sub-floor levels and minor increases in balcony depths which marginally reduces the setback from the Kirribilli Avenue frontage.</p> <p>However, the modifications would not present any significant reduction in the approved street setbacks and as such can be supported. Furthermore, the rationalisation of the building's southern and western facades will ensure the high quality design features evident in the originally approved development are reflected in this modified scheme. The siting of the modified development also reflects the site topography and the siting is generally consistent with other buildings of similar scale in the locality.</p>
Building Separation	Yes	Complies with ADG requirements.
Form Massing Scale	Yes	The amended proposal reflects the design elements contained in the originally approved scheme. The proposed changes to the western facing living room windows represents a minor change to the building fenestration only, and aids in simplifying the final design.
Built Form Character	Yes	Refer comments under context above.
Dwelling Entry	Yes	Consistent with the approved development.
Materials	Yes	The proposed amended material selection is in keeping with the character of the approved building. Subject to compliance with the detailed conditions concerning the façade treatment and pre-patinated treatment to the copper cladding surface, the proposed material selection is considered acceptable.
1.5 Quality Urban Environment		
High Quality Residential Accommodation	Yes	The proposal unit areas all exceed the minimum sizes specified in the DCP. The proposed unit layouts and amenity are satisfactory and the proposed units are considered to have a high level of amenity.
Car parking	No (Assessed as acceptable)	<p>Under Section 10 (car parking) of NSDCP 2013, car parking is required to be provided at the following maximum rate:</p> <p>Residential: 1-2 bedroom unit / 1 space 3 bedroom unit / 1.5 spaces Visitor spaces / 0.25 spaces per unit (or part)</p> <p>The proposed development is required to provide a total maximum of 6 car spaces comprising 5 residential and 1 visitor space.</p>

		<p>The amended proposal includes a total number of car spaces of 8 spaces, comprising 7 resident car spaces and 1 dual visitor/car wash space, being two space greater than the maximum rate.</p> <p>The proposed total of 8 spaces is considered satisfactory and not significantly above the maximum rate required of spaces. Further, the provision of additional parking would provide future flexibility within the development to provide parking and storage for additional dwellings.</p>
Vehicle Access and Parking	Yes	Council's Development Engineer has reviewed the proposed development with regards to the provision of vehicular access as satisfactory subject to the imposition of standard conditions of consent
Site Coverage (45% Max)	Yes	The amended proposal would have a total site coverage of 41% (206.6m ²) which complies with site coverage requirements.
Landscape Area - Soft Landscaping: 45% (min) - unbuilt-upon area: 15% (max)	No	Refer to detailed comments below

Landscape Area (Part B S.1.5.6 NSDCP 2013)

The proposed modifications involve substantial changes to the internal layout and configuration of the basement level car park and would result in substantial additional volumes of excavated material from the site, to facilitate additional plant areas and car parking from Basement Level B2.

The North Sydney DCP 2013 provides that landscaped area for residential flat buildings should be provided at a minimum of 40% with an unbuilt upon area of 15% of the total site area.

The proposed landscaped area is reduced from 186.2m² (36.9%) to 126.9m² (25.2%) as indicated in Figure 13 below. This is a substantial departure from the numeric requirements of Council's DCP provisions and significant reduction in overall deep soil landscaping from the approved scheme.

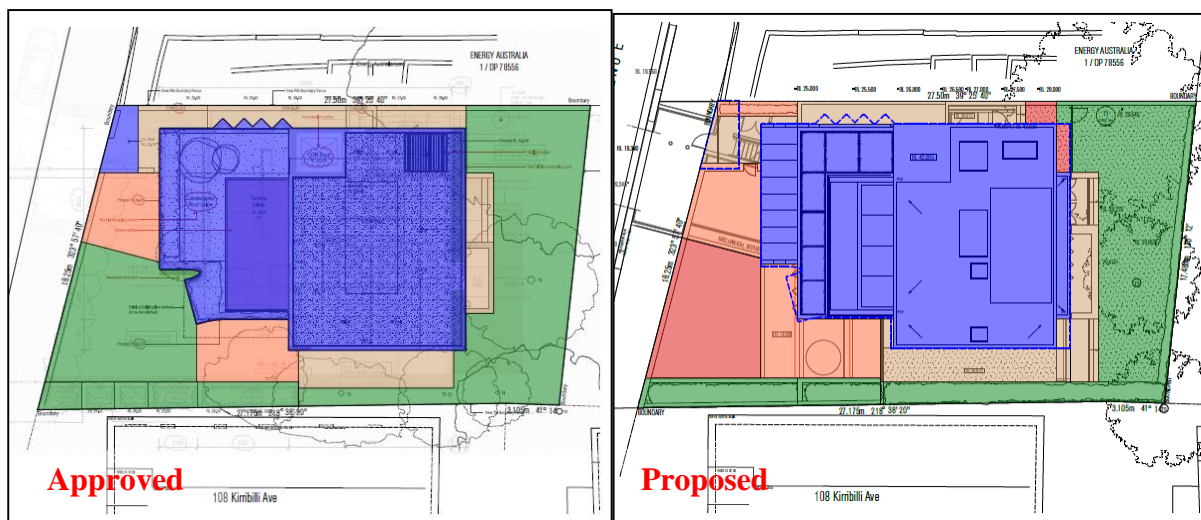


Figure 15 & 16: Approved and proposed landscape areas

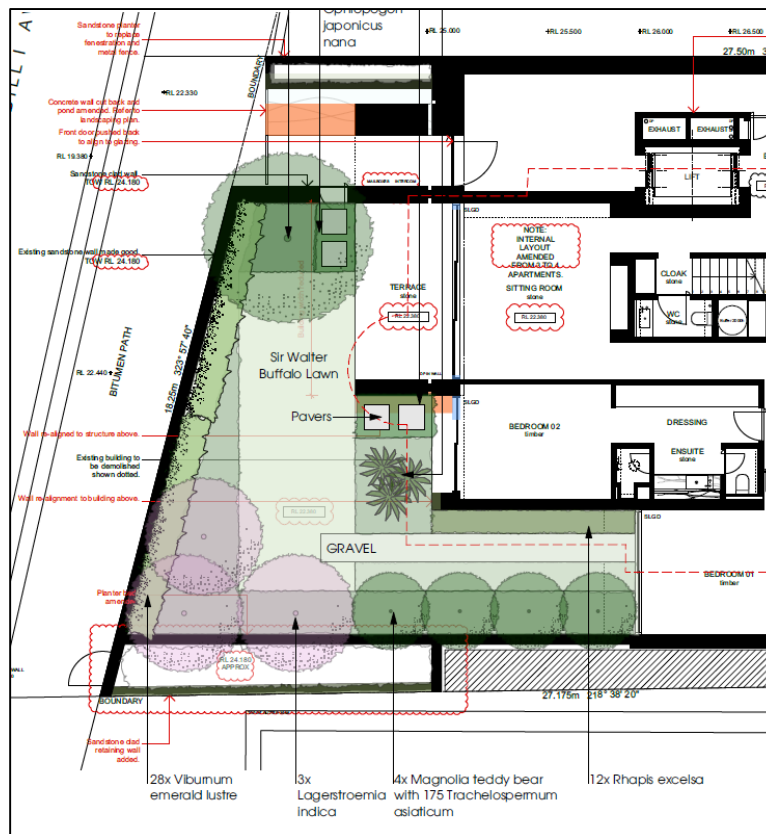


Figure 17: Proposed Landscape design

The applicant submits that the variation to the DCP minimum landscape area requirement is justified and has addressed the relevant objectives of the landscape area control as follows:

Objective	Comment
(a) promote the character of the neighbourhood;	The proposed modification does not alter the "perceived" landscape area in any way. The additional noncompliance is purely definitional derived from reconfiguration and expansion of basement facilities. From a streetscape perspective the proposed landscaping will perform better and thus enhance the character of the neighbourhood.
(b) provide useable private open space for the enjoyment of residents;	The proposed modification does not alter the usability of approved private open space in any way. The additional noncompliance is purely definitional derived from reconfiguration and expansion of basement facilities. These alterations will in fact improve the usability of landscaped area by removing the existing sandstone and infilling the area above Basement 02 with 2.5-3m of soil allowing better growing opportunity.
(c) provide a landscaped buffer between adjoining properties;	The proposed modification does not alter the landscape buffer between properties. Rather this buffer is improved through alterations to the landscape treatment of the eastern boundary. Refer to Figure 4 below and the landscape plans that accompany this statement for detail.
(d) maximise retention and absorption of surface drainage water on site;	The proposed modification will not alter the retention and absorption of surface drainage water.

<i>(e) minimise obstruction to the underground flow of water;</i>	<i>The proposed modification will not alter the obstruction of underground flow in a substantial way.</i>
<i>(f) promote substantial landscaping, that includes the planting of trees that when mature will have significant canopy cover;</i>	<i>Due to view sharing on the site no substantial trees were approved or are proposed within the front setback. The proposal does not alter the retention of existing mature trees on the site as noted in the Arborist Letter accompanying this statement.</i>
<i>(g) control site density;</i>	<i>The site coverage of the proposal has decreased from 43.5% (as previously approved) to 41% (as currently proposed).</i>
<i>(h) minimise site disturbance;</i>	<i>This statement is accompanied by a Geotechnical Letter from JK Geotechnics. This letter advises that any site disturbance from additional excavation will be minimal and will not impact upon the findings of previous geotechnical investigations carried out on the site.</i>
<i>(i) contributes to streetscape and amenity;</i>	<i>The proposed modification does not alter the "perceived" landscape area in any way. The additional noncompliance is purely definitional derived from reconfiguration and expansion of basement facilities. By providing greater soil depth the proposed planting will now be able to thrive and enhance the amenity of the streetscape.</i>
<i>(j) allows light to penetrate between buildings;</i>	<i>Solar access to the subject site and surrounding buildings is not altered by proposed modifications to landscape area.</i>

In considering the proposed variation to the site landscape area, consideration has been given to the performance of the proposal against the landscape area objectives as well as a comparative analysis of the approved development. Council contends that there are sufficient grounds to justify the departure from the landscape area standard and supports the performance of the proposal against the objectives of the control having regard for the following;

- The variation of 3.1% is minor over the total site area and the proposed landscape scheme would ensure appropriate landscaping is provided for the development having regard for the complementary landscaping included as "on-slab" landscaping.
- The site has a significant fall from the rear boundary towards the street and substantial site excavation is incorporated into the approved scheme as indicated in the long sections;
- The character of the northern side of Kirribilli Avenue is dominated by the road cutting and low height landscape features, with a number of apartment developments reliant upon planter box style landscape solutions.
- The proposed modified development would remove substantial additional volumes of local sandstone resulting in additional site excavation adjacent to the adjoining public footpath and Road reserve. The additional excavation at the front of the site would not be perceived from adjoining lands.
- The effect of the additional site excavation on adjoining land is minimal, provided adequate site management is adhered to and protection of adjoining public land is maintained throughout the construction program;

- The approved ground floor unit courtyard required minor excavation in existing fill at the southern portion of the site in the order of 1.5m-2m below previously existing site levels to R.L. 22.13. The proposed amended courtyard is to be finished to R.L. 22.38 to match internal floor levels a change of 250mm.
- The approved ground floor courtyard nominates the use of turf over the courtyard footprint which would necessarily be placed on a shallow sandstone base with more substantial boundary landscaping features positioned adjacent to front boundary. The proposed amended scheme provides the same treatment and would achieve a similar landscape outcome;
- The high quality and variation in the proposed amended landscape design would provide high amenity within the private open space for the ground floor unit, would not reduce the availability of open space for other occupants and would ensure adequate boundary landscaping can be established.
- The proposed deep soil "on-slab" low scale landscaping (nominally "turf") would have sufficient depth to ensure the landscape plantings remain viable. The extension to the basement Level B2 would occur at a depth of some 2.6m below the finished ground level of the courtyard to the ground floor unit.
- The landscape design incorporates additional landscaping proposed at the front of the site that has sufficient soil depth to encourage plantings of an appropriate scale and density to be established at the front of the site. An additional condition is recommended to prevent further loss of soft landscaping;

Council has considered the performance of the proposal against the objectives of the control having regard for the above. Having regard for the above justification, the proposed variation is considered to be acceptable and can be supported.

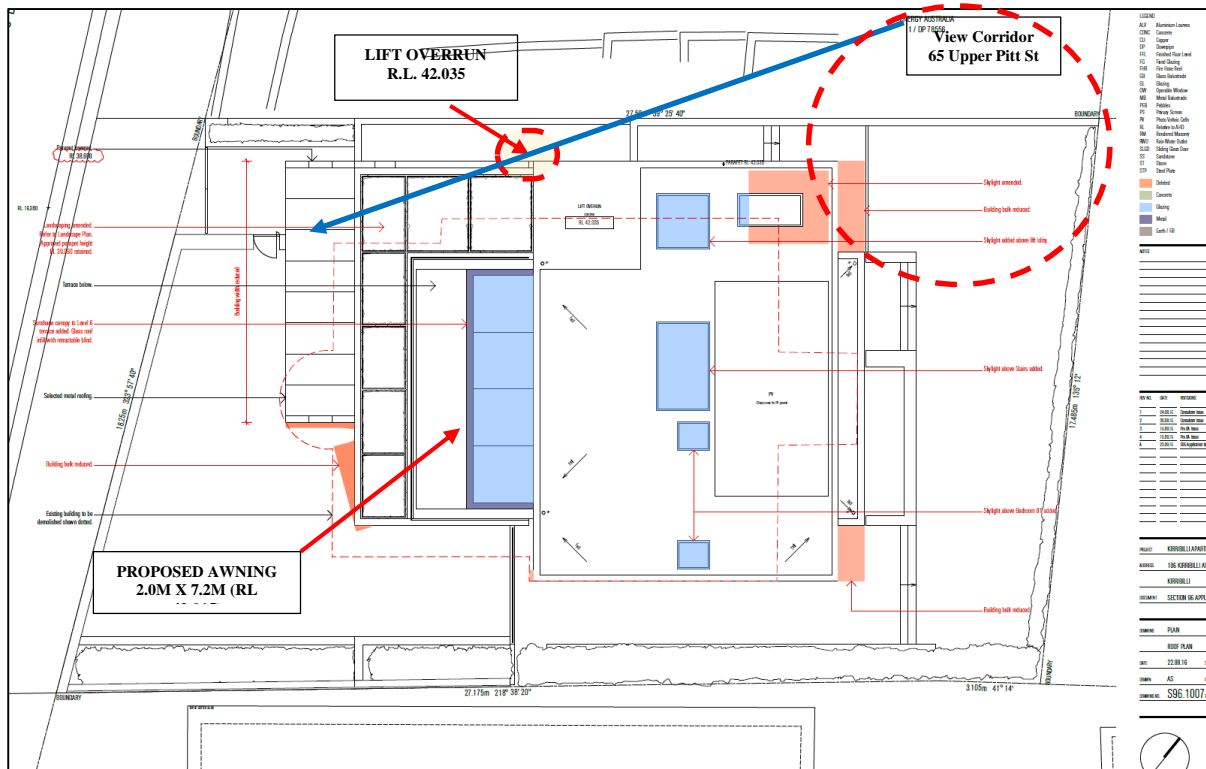
RESPONSE TO SUBMISSIONS

The issues raised in the submissions and the proposed modifications have been considered and addressed as follows:

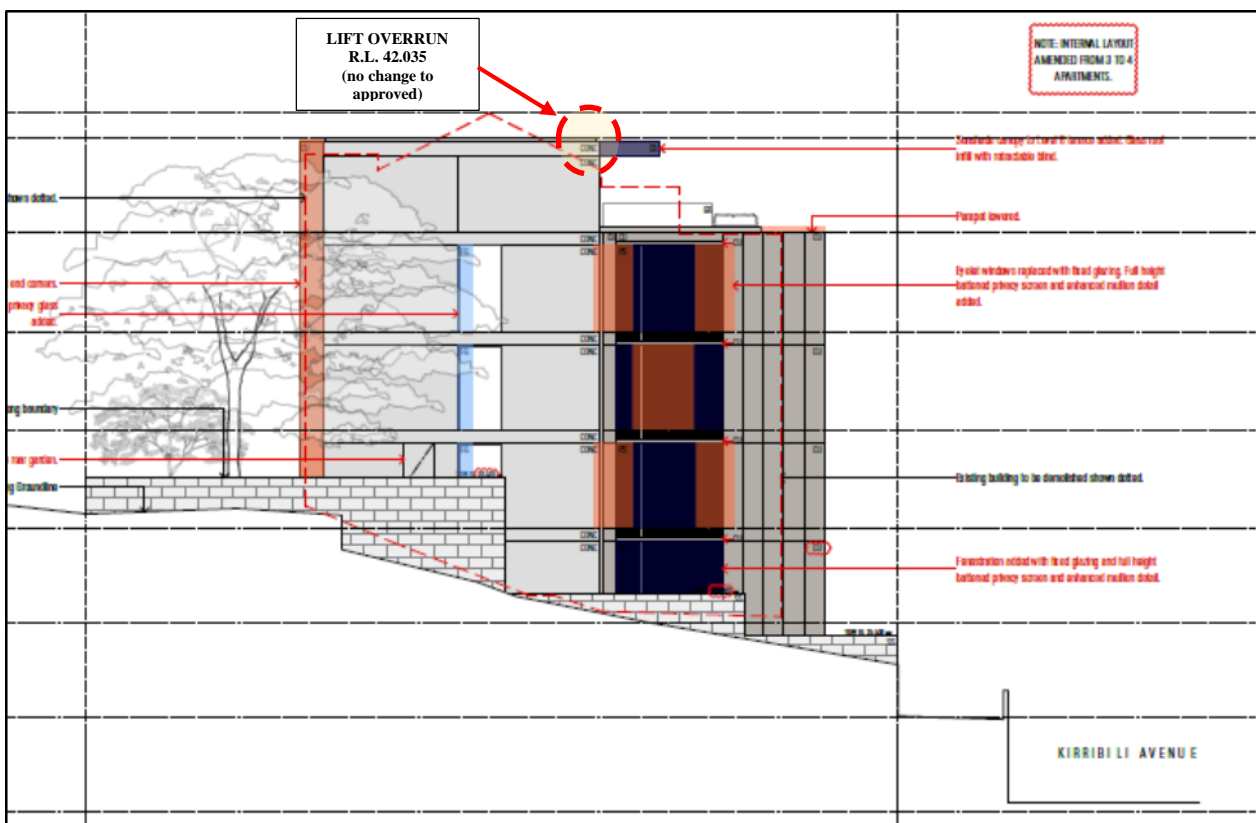
Concerns regarding potential view loss from 8/65 Upper Pitt St.

The primary issue raised by the submitter arising from the amendments was the potential erosion of existing views from your premises by the proposed awning to the Level 6 Terrace of the building and the "enclosure" of the terrace with glass. The proposed glass awning is open sided and not enclosed the glass balustrade is incorporated in the approved scheme. The current proposal would relocate the balustrade to reflect an amended layout for the trafficable area for the terrace. This would not further increase height of the development or additionally impact views from the adjoining property.

The proposed awning is a fixed structure with a glazed awning (roof) and a retractable blind which would extend 2.0m out from the approved roof to the top floor. It is a fixed structure and would generally be obscured from view from the submitter's property by the north-western corner of the lift overrun for the building which is slightly higher (as approved). This is best shown in the following extract diagrams.



Roof Plan Proposed - Reductions shown coloured



Proposed West Elevation showing lift overrun

View loss analysis (*Tenacity Consulting v Warringah Council*)

Consideration has been given to the NSW Land and Environment Court's planning principles relating to view loss impacts as outlined in the case ***Tenacity Consulting v Warringah***, that is;

1. **Assessment of views to be affected**
2. **Which part of site is the view is available from?**
3. **Extent of the impact in relation to views available**
4. **Reasonableness of proposal causing impact**

Consideration of the impact of the proposed development on existing views has been considered against the planning principle and impacts to key views noted in the following view analysis.

View Analysis

The view loss impact undertaken under the original development application identified the locations where view impacts would occur. The impacts to No. 8/65 Upper Pitt Street will not be altered by the proposed modifications. A summary of the existing views and impacts of the proposed revisions is as follows:

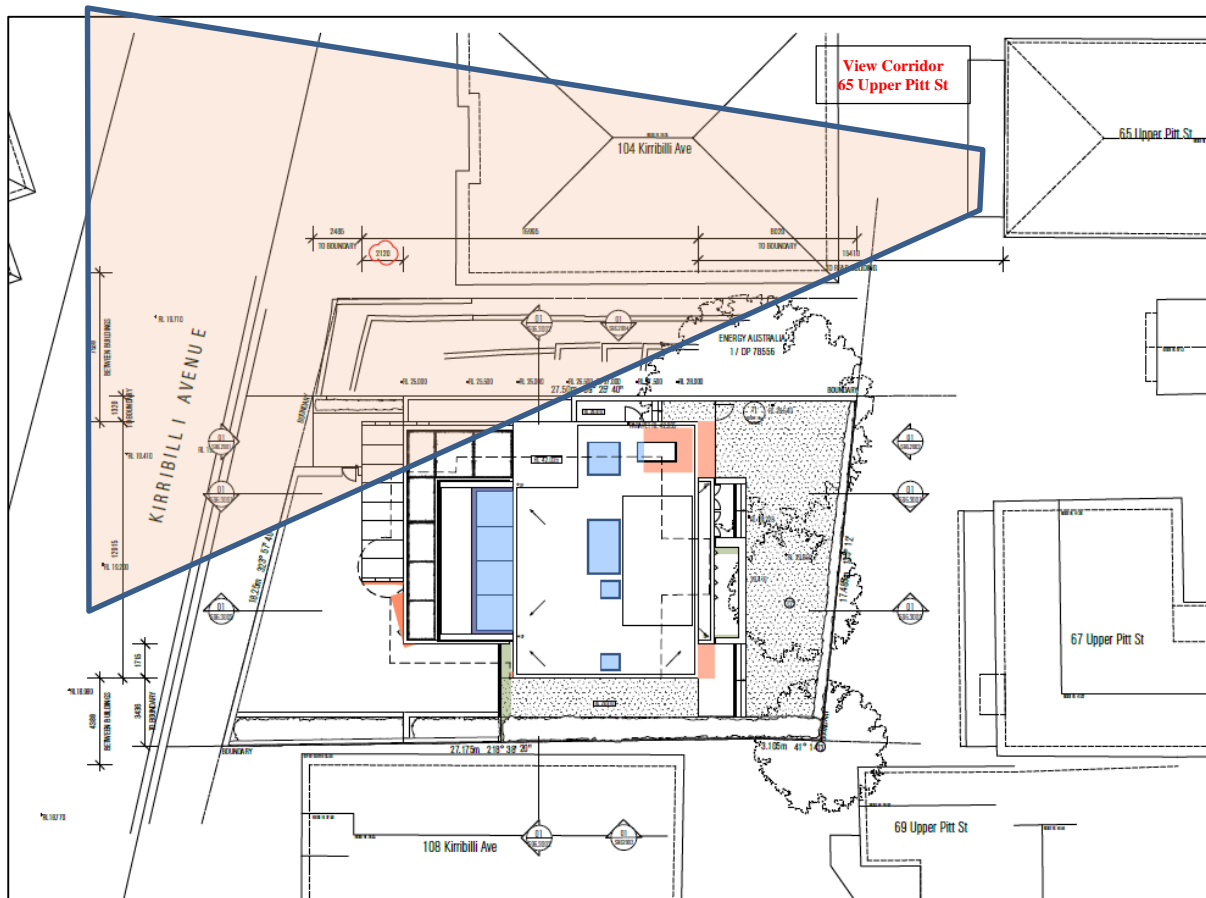


Figure 18: View Corridor – U8 65 Upper Pitt Street



Figure 19: Existing views from balcony of U8/65 Upper Pitt Street, Kirribilli (Site obscured by Port Jackson Fig).

View impact Summary

The concerns raised by the adjoining owners of **8/65 Upper Pitt St** have been considered in the assessment. The impact to existing view arising from the proposed modifications is assessed as low to negligible, with the modified development generally consistent with the approved development.

However, it has been agreed with the applicant that the overall height and location of the awning could not be clearly demonstrated on site, as there was no building present on the site for a reference point to be taken.

Following discussions with the submitter and applicant it has been agreed that the proponent would accept a condition which deletes this element from the current proposal. A condition to this affect has been recommended.

Relocation of the Exhaust Stack to the West of the roof and their impact to our amenity. Why is this necessary?

The proposal does not involve relocation of the basement exhaust outlet. It should also be noted that the basement incorporates a combination of natural and mechanical ventilation for the purposes of exhaust venting with exhaust venting proposed at the basement entry from Kirribilli Ave.

CONCLUSION

Consent is sought to modify Development Application No. 115/11 under the provisions of Section 96(2) to provide for various changes to the approved building layout to rationalise the approved development for constructability reasons and to facilitate the increase in total units from three (3) units to four (4) x 3 bedroom units.

Council has considered the issues raised in the submission relating to potential view impacts and visual impacts. The issues raised in the submission are not considered to be well founded or demonstrate any

additional adverse impacts would arise as a result of the proposed modifications. The view impact is deemed to be minor to negligible, however the applicant has agreed to accept a condition to delete the awning to the Level 6 terrace.

The proposed modifications have been considered against the relevant environmental planning instruments including the North Sydney LEP 2013, NSDCP 2013, SEPP 65 and SREP (Sydney Harbour Catchment and others). The amended development is considered to be consistent with the originally approved development application and s.96 of the EP & A Act 1979.

The amended proposal remains generally satisfactory in relation to the requirements of Council's applicable planning controls. Where variation is sought to Council's controls, the variances are generally minor in nature, would not result in any material adverse impact to adjoining land or the surrounding environment.

Having regard to the provisions of section 96 & 79C of the Environmental Planning and Assessment Act 1979, the proposed development as modified is satisfactory. The application is therefore recommended for **approval**.

RECOMMENDATION

- A. THAT** the Sydney North Planning Panel, as the consent authority, grant approval to modify Development Application No. 115/11 pursuant to S.96(2) to permit various changes to building layout and external configuration including building entry and basement changes, changes to approved RLs (no increase overall building height), facade and window changes and layout changes to all levels to facilitate increase from three (3) units over six floors to four (4) x 3 bedroom units, subject to the following modified and additional conditions:

1. Condition A1 of the consent is to be modified to read as follows:

Development in Accordance with Plans

- A1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Dwg No	Rev	Description	Drawn by	Dated	Received
S96.0100	A	Site & Roof Plan	Redgen Mathieson	22.09.16	26.09.16
S96.0200	A	Site Analysis Plan	Redgen Mathieson	22.09.16	26.09.16
S96.10B1	A	Basement 01 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.10B2	A	Basement 02 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1001	A	Level 01 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1002	A	Level 02 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1003	A	Level 03 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1004	A	Level 04 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1005	A	Level 05 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1006	A	Level 06 Plan	Redgen Mathieson	22.09.16	26.09.16
S96.1007	A	Roof Plan	Redgen Mathieson	22.09.16	26.09.16
S96.2001	A	Street Elevation	Redgen Mathieson	22.09.16	26.09.16
S96.2002	A	East Elevation	Redgen Mathieson	22.09.16	26.09.16
S96.2003	A	North Elevation	Redgen Mathieson	22.09.16	26.09.16
S96.2004	A	West Elevation	Redgen Mathieson	22.09.16	26.09.16
S96.3001	A	Sections A	Redgen Mathieson	22.09.16	26.09.16
S96.3002	A	Sections B	Redgen Mathieson	22.09.16	26.09.16
S96.3003	A	Sections C	Redgen Mathieson	22.09.16	26.09.16
S96.5001	A	Western Glazing Details	Redgen Mathieson	22.09.16	26.09.16
S96.5002	A	L6 Planter Detail	Redgen Mathieson	22.09.16	26.09.16
LP01-3115	A(1)	S.96 - Landscape Site Plan & Planting Schedule	William Dangar Outdoor Solutions	Sept 2016	26.09.16
LP02-3115	A(1)	S.96 – L1 Landscape Plan	William Dangar Outdoor Solutions	Sept 2016	26.09.16
LP03-3115	A(1)	S.96 – L2 Landscape Plan	William Dangar Outdoor Solutions	Sept 2016	26.09.16
LP04-3115	A(1)	S96 – L3 Landscape plan	William Dangar Outdoor Solutions	Sept 2016	26.09.16

LP05-3115	A(1)	S96 - L6 Landscape plan	William Dangar Outdoor Solutions	Sept 2016	26.09.16
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(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

2. Condition A3 is amended to read as follows:

Amended Landscaping Plan

A3. The landscape plans prepared by William Dangar Outdoor Solutions identified in Condition A1 must be amended and a revised landscape plan submitted with the Construction Certificate application reflecting the following amendments:

Green Roof Species selection to be amended to reflect the following:

- The nominated species *Imperata cylindrica* shown in the Level 6 planter shall be supported with a variety of other suitable roof garden species, consisting of a minimum of three different dwarf variety or similar species suitable for the roof top location with a maximum height at maturity of 300mm above the approved parapet height of RL 39.06;
- The plantings to the roof top must be maintained so as to not exceed 300mm in height above the parapet height of RL 39.06.

The amended landscape plan must be approved by the Certifying Authority as being in accordance with the requirements of this condition prior to the issue of the Construction Certificate. The landscaping shown on the amended landscape plan must be implemented in accordance with the approved drawings and plants maintained at the nominated mature height on an ongoing basis.

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)

3. Condition A9 is amended to read as follows:

External Finishes and Materials

A9. The colour and type of all external materials shall be in accordance with the submitted schedule, dated September 2016, prepared by Redgen Mathieson and received at Council on 26 September 2016, except where modified by the following conditions of consent.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

4. Condition G12 is amended to read as follows:

Green Roof - Maintenance Requirement

G12. Prior to the issue of the Occupation Certificate a green roof management plan must be prepared by a suitably qualified horticulturalist, detailing the proposed means of management of the Level 6 green roof and certifying that the installed landscaping has been implemented in accordance with the approved landscape plan.

The management plan must specify that the roof top plantings are to be maintained in accordance with the approved landscape design with planting to be maintained at the state mature heights. The landscaping is to be maintained in accordance with the management plan and the conditions of this consent.

(Reasons: To ensure that roof top landscaping is maintained in accordance with the approved landscape plan)

5. Condition C29 & C30 are amended to read as follows:

BASIX Certificate

- C29.** Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 762941M for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Skylights

- C30.** The approved skylights must not project above the height of the approved parapet. The Certifying Authority must be satisfied that the requirements to maintain adequate weather protection does not extend above the approved parapet level as shown in the approved section.

(Reason: To limit the project of the proposed skylight)

6. The following additional conditions are imposed:

Level 6 Awning/canopy deleted

- A11.** The proposed awning/canopy to the Level 6 Terrace shall be deleted as shown clouded in red on the approved plans. No consent is granted for the canopy/awning to the level 6 terrace. The Certifying Authority shall be satisfied that the Construction Certificate Drawings have been amended to delete the awning/canopy prior to the issue of the relevant Construction Certificate.

(Reason: To minimise impacts to the conservation area)

Pedestrian Entry Gate

- A11.** The front pedestrian entry gate to the adjoining public footpath must have an open palisade design and shall not be a solid faced door. Details of the palisade design of the gate must be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

(Reason: To minimise impacts to the conservation area)

Sandstone Cladding to Eastern Boundary wall

- A12.** The eastern boundary retaining wall shall have sandstone a sandstone finish having a split, rock-faced or sparrow-picked texture. The Certifying Authority must be satisfied that the retaining wall will be completed to match this detail as shown on the relevant Construction Certificate plans.

(Reason: To be consistent with the palette of materials used in the conservation area.)

Sandstone finish entry planter

- A13.** The entry planter adjacent to the building entry shall have a sandstone finish having a split, rock-faced or sparrow-picked texture.

(Reason: To be consistent with the palette of materials used in the conservation area.)

Garage Screen Door

- A14. The Garage screen door to be a dark recessive colour having a metal finish, complementary to the quality of the development and complementary to the materials specified in the approved schedule of finishes. Detail design of garage screen door to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

(Reason: To be sympathetic to the character of the conservation area.)

Privacy Screens

- A15. Privacy screens on West and North Elevation to be fixed. Privacy screens to have copper channels with a minimum depth of 150mm and front face of 50 mm. Detailed sections at 1:20 scale of privacy screens to be submitted to the satisfaction of Council's Council Planner and provided to the Certifying Authority prior to the issue of any Construction Certificate.

(Reason: To be sympathetic to the character of the conservation area.)

Copper Cladding and Privacy Screens (Amended Condition)

- A6. The approved copper cladding, including that on the privacy screens, shall have a pre-weathered patina finish at the time of installation. Details of the copper cladding shall be approved in writing by Council's Conservation Planner, or suitably qualified conservation architect, and provided to the Certifying Authority prior to the issue of any Construction Certificate.

(Reason: To ensure a high quality finish, to reduce glare at the time of installation and to ensure the face materials will age appropriately in keeping with the context of the site)

Privacy Screen to western elevation windows (Level 2 to Level 5)

- A7. Fixed Privacy Screens are to be provided and maintained on the western elevation living room windows of Units on Levels 2 to Level 5 in accordance with the fixed batten screen shown on plans numbered S.96.5001 prepared by Redgen Mathiesen dated 23.09.16.

The Certifying Authority must be satisfied that the details of the required screens match the approved plans prior to the issued of the relevant Construction Certificate and the screens are in place prior to the issue of the Occupation Certificate.

(Reason: to maintain visual privacy and ensure appropriate finishes to the external facade)

Basement Slab design

- A8. The upper level Basement B1 must not be extended to align with the southern wall of the lower Basement level B2. No approval is granted for any void space above the slab to Basement Level B2. The areas shown hatched in section in the approved architectural plans in Condition A1 shall be maintained as fill on-slab for the purposes of establishing and maintaining adequate site infiltration and landscaping.

The Certifying Authority must obtain certification from a suitably qualified and practicing structural engineer which certifies the structural slab design as suitable to support the amount of fill over prior to the issue of the relevant Construction Certificate.

(Reason: to ensure adequate fill for landscaping and structural adequacy and design for purpose of the basement roof slab to Basement Level B2)