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WTJ16-339_Additional Information Response



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Attention: Susanna Cheng

Development Application for Proposed Construction and Use of a Health Facility with Basement Car Parking
25 Shirley Road, Wollstonecraft
DA 326/17

Dear Susanna,

This letter provides additional information to inform the assessment of Development Application 326/17 relating to the proposed construction and use of a health facility with basement car parking, at 25 Shirley Road, Wollstonecraft. Specifically, this letter responds to the matters raised within the Additional Information Requests from North Sydney Council dated 1 February 2018 and 20 February 2018.

The response is structured as follows:

- Executive Summary
- 1. Height, Bulk and Scale
- 2. Balconies
- 3. Acoustic Privacy
- 4. Parking
- 5. Landscape Design in Asset Protection Zone
- 6. Bushland

Supporting this response are the following Appendices:

- **Appendix 1** Tresillian Operational Statement
- **Appendix 2** Additional Information Request, dated 1 February 2018
- **Appendix 3** Additional Information Request, dated 20 February 2018
- **Appendix 4** Original Pre-DA Meeting Minutes, dated 6 April 2017
- **Appendix 5** Design Excellence Panel Meeting Minutes, dated 10 October 2017
- **Appendix 6** View Analysis Report
- **Appendix 7** View Analysis Photomontages
- **Appendix 8** Shadow Diagrams
- **Appendix 9** Sunshadow Matrix
- **Appendix 10** Heritage Statement
- **Appendix 11** Updated Architectural Drawings

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- **Appendix 12** Traffic and Parking Statement
- **Appendix 13** Landscape Statement
- **Appendix 14** Updated Landscape Plans
- **Appendix 15** Flora and Fauna Landscape Statement

We trust that the additional information enclosed addresses all matters raised by Council. If you have any further questions, please do not hesitate to contact the undersigned.

Yours faithfully,



Chris Wilson
Managing Director
Willowtree Planning

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EXECUTIVE SUMMARY

The Tresillian Family Care Centre located on the subject site offers a range of holistic health services for early parenting. The services provided by the health facility include child care, day stay services, parenting programs, group based educational sessions and outreach services to families located on the Lower North Shore. Tresillian Family Care Centre plays an important role within the community, creating resilient and nurturing families and support networks. The proposal recognises Tresillian's positive outcomes within the community and represents a unique opportunity to redevelop the site and provide a facility to maintain positive outcomes for future generations.

As well as responding to the specific items identified by Council in the most recent Additional Information Request, it is also considered highly pertinent to demonstrate the ways in which the proposed development reflects the recommendations of Council's Design Excellence Panel. As documented in the Meeting Minutes (refer **Appendix 5**), the Design Excellence Panel *commended the applicant for a well considered and detailed proposal*.

The Minutes also state that *the Panel supports the proposal subject to the above issues being addressed*. The following table therefore demonstrates how each of the *above issues* have been addressed.

Table 1. Response to Design Excellence Panel Recommendations	
Design Excellence Panel Recommendation	Comment
<i>The Panel had some initial concerns with the bulk and scale of the building and the impact on neighbours.</i>	<p>The bulk and scale of the proposed development is appropriate for the site and surrounding development, as confirmed through visual assessment (based on photomontages), heritage assessment, assessment against the NDCP20013 Character Statement for the Wollstonecraft Conservation Area, and consideration of relevant LEC Planning Principles. Full assessment of the proposal's height, bulk and scale, in light of the NDCP2013 and the Planning Principles established in <i>Project Venture Developments v Pittwater Council [2005] NSWLEC19</i> and <i>Veloshin v Randwick Council [2007] NSWLEC 428</i>, is provided in Section 1 of this letter.</p> <p>As demonstrated through the application of the tests in <i>Project Venture Developments v Pittwater Council [2005] NSWLEC19</i> to the development, the proposal does not result in any unacceptable visual impacts or physical impacts. This is further supported by solar access and view sharing assessment included in Section 1c and 1d (also refer commentary in the following rows of this table).</p> <p>Further, it should be acknowledged that the floor plates and overall size of the development respond to the operational requirements of Tresillian. Any reduction in the scale of the proposal would undermine the ability for Tresillian to deliver important health services to the community of the North Shore.</p>
<i>The proposal will have shadow, privacy and view impacts on some of the adjacent neighbours.</i>	<p>The proposed development provides for reasonable retention of solar access for surrounding properties,</p>

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Concern was raised with the south eastern corner of the building and the impacts on the townhouses in Tryon Avenue below. It was suggested that additional shadow information, by way of sun-eye view diagrams, be sought for Council to be satisfied that adequate solar access is maintained to the townhouses. Some modifications to the SE corner of level 2 may be required to improve shadow impacts. Any such changes would also reduce the visual bulk of the building.

including the townhouses at 24 Tyron Avenue. To demonstrate this, detailed solar analysis has been carried out and is presented in the Shadow Diagrams at **Appendix 8**. Solar access for the living areas and private outdoor spaces of each of the 12 dwellings within the strata complex has been recorded at 15 minute intervals on the Winter solstice. This modelling of solar access has been interpreted in the Sunshadow Matrix at **Appendix 9**, which clearly states whether each living area and private outdoor space of each dwelling will be in sun or shade for each 15 minute interval between 8am – 4pm on the Winter solstice, both pre and post the development. This analysis clearly shows that over 70% of all dwellings within the strata complex will receive at least two (2) hours solar access to their living areas and private outdoor spaces between 8am – 4pm on the Winter solstice, thereby achieving the DCP requirement.

For those dwellings that will experience some additional overshadowing as a result of the development, it is important to note that the same level of overshadowing would be caused by a two (2) storey building on the site. As the additional storeys of the building do not cause further impact, it is reasonable to conclude that the building in its present form exhibits sensitive design and that, given no material benefit would result from reducing its height, the proposed development is highly suitable in its current form.

Further consideration of solar access is provided in **Section 1d** of this letter which includes an assessment against the Planning Principle established in *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*.

The proposed development has been designed in accordance with the principles of view sharing and does not give rise to any unacceptable view impacts. This is demonstrated in the View Montages at **Appendix 7** and through the application of the four-step assessment established in *Tenacity Consulting v Warringah [2004] NSWLEC 140* (refer **Section 1c** of this report).

As for solar access, a two (2) storey building would result in the same level of view loss. Therefore a reduction in the number of storeys would provide no material benefit.

Given that the proposal is consistent with the principles of view sharing, no modifications to the building envelope are required.

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<p><i>Overlooking was also a concern and it was recommended that screening be provided to the southern edge of the boardwalk to restrict overlooking. External ledges/shelves should be considered on the angled windows on the south elevation to restrict the downward view to the townhouses.</i></p>	<p>The proposed development has been designed to protect neighbouring privacy and minimise overlooking.</p> <p>Visual privacy has been secured through the strategic siting and orientation of windows and balconies, screening devices and vegetation adjacent to the site boundaries. Additionally, side setbacks beyond the DCP requirement of 3m (proposed to provide 5.940m northern side setback and 3.069m southern side setback), assist in protecting neighbouring amenity.</p> <p>To minimise the potential for overlooking from the boardwalk towards the southern boundary, the deck has been redesigned. The extent of deck in closest proximity of the southern boundary has been removed, the width of the deck that is to be retained has been narrowed, and the primary volume of the deck has been repositioned to the centre of the site as far as possible from all common boundaries.</p> <p>Additional screen planting has also been introduced adjacent to the southern boundary, corresponding with the previous position of the deck. This will improve the visual appearance of the development as viewed from the adjoining property. Vegetation screening adjacent to the northern boundary will similarly promote positive views toward the site from adjoining properties, create a pleasant environment for users of the boardwalk, and offset any potential overlooking of neighbouring sites.</p> <p>The deck redesign and additional landscape screening are shown in the updated Architectural Drawings at Appendix 11. As requested by Council, the sketches provided to Council as part of the previous Additional Information Response for discussion purposes, have now been finalised.</p> <p>In accordance with previous discussions with the Panel, horizontal sunshades/privacy louvers have also been introduced to the vertical windows in the eastern elevation to avoid potential overlooking of the adjoining site. These privacy features were also shown in the sketch plans at Appendix 3 of the previous Additional Information Response and are incorporated in the updated Architectural Drawings at Appendix 11.</p>
<p><i>Landscape screening to the boardwalk and its undercroft was suggested to lessen the bulk of the building from the neighbouring townhouses.</i></p>	<p>Additional screen planting will improve the appearance of the undercroft as viewed from adjoining sites as well as the boardwalk, ensuring</p>

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<p><i>Consideration could also be given to the provision of pram accessibility promoting the use of the boardwalk. Poor access and lack of use of the boardwalk may in time result in the under-croft area assumed as a storage area as it is conveniently located adjacent to the car parking and potentially out of view. Careful spatial and material treatment of the under-croft space is recommended to achieve an appropriate level of amenity to the "boardwalk" and sitting/ viewing area overlooking the northern garden.</i></p>	<p>that a highly amenable environment is create for the enjoyment of site users.</p> <p>Storage will not be permitted in the undercroft area. The use of the undercroft for storage is precluded owing to fire safety, and the requirement for annual fire inspections will ensure that there is no opportunity for the undercroft to assume the role of a storage area. It should also be acknowledged that Tresillian has a long history of being a great custodian of the land and property generally.</p>
<p><i>The Panel suggested some additional windows to the north elevation where the administration office is proposed on the ground floor to improve internal lighting and lessen the amount of brickwork facing the neighbours.</i></p> <p><i>The Panel noted the minimal setback of the northern neighbours to the common boundary and the generous setback of the proposal.</i></p> <p><i>With respect to the upper levels immediately fronting the neighbour's windows and balconies, the Panel suggested the use of timber slat screening, or the like, along the outer edge of the boardwalk to further lessen the amount of brickwork facing the neighbours and to provide privacy for mothers/ prams using the boardwalk.</i></p>	<p>Additional glazing has been provided to the ground floor of the north elevation, to improve natural light for the administration offices. These additional windows will also contribute to façade articulation and break up expanses of brick.</p> <p>To improve privacy for neighbours and users of the boardwalk, solid full height screening has been provided along the southern outer-edge of the boardwalk. To similarly enhance privacy, horizontal sunshades/privacy louvres have been provided to the vertical windows in the eastern elevation.</p> <p>These façade and privacy features are shown in the updated Architectural Drawings at Appendix 11.</p>
<p><i>The Panel raised concern about the protection of the Pine Tree near the NE corner of the building. Further information from the arborist may be necessary to ensure it can be protected and survive the building works.</i></p>	<p>Owing to the high amenity value of the pine tree to Tresillian and the adjoining neighbours, it will be retained and protected throughout the development. This was addressed in the updated Arboricultural Assessment at Appendix 5 of the previous Additional Information Response.</p>
<p><i>Concern was raised with the amenity impacts of the driveway and the location of the waste store at the rear of the Guthrie Centre. This could be resolved with solid fencing to provide acoustic and visual amenity. Where possible additional planting to the fence line is recommended to ameliorate amenity impacts and enhance the landscape setting to Carpenter House.</i></p>	<p>It is proposed to screen the bin store and OSD tank with a timber vertical slatted screen. This will ensure a pleasant outlook from the neighbouring property to the south and the driveway, and will provide a secure and contained area for bins.</p>
<p><i>The Panel noted the significant garden setting of the site and recommended any services (e.g substation kiosk) and ancillary structures should be discreetly located and sympathetically integrated into the landscape setting.</i></p>	<p>As shown within the Landscape Plan (Appendix 14), the substation kiosk has been integrated with the landscape setting of the site. Similarly, planting adjacent to the driveway, pathways, all site boundaries, the waste management area and parking bay, will protect the landscaped character of the site and ensure that views toward the site from</p>

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	all perspectives take in the high quality landscaped setting.
<i>The Panel queried the service vehicular movements and provision for adequate loading/turning area in the carpark.</i>	<p>Access to the site for delivery vehicles will be facilitated via the driveway adjacent to the southern site boundary.</p> <p>Deliveries will be made by small vans that comply with the requirements of the B99 vehicles specified in AS2890.1. As confirmed in the swept paths incorporated within the Traffic Report (Appendix 20 of original DA), the driveway and car park design facilitate the appropriate circulation and turning of B99 vehicles.</p>
<i>The applicant explained the design and the process and the Panel commended the applicant for a well considered and detailed proposal.</i>	Based on the commendation provided by the Panel, the design of the facility was further developed, having respect to the recommendations of the Panel as demonstrated in this table.

As the design of the development has been previously commended by Council's Design Excellence Panel and all issues identified by the Panel suitably addressed, it is clear that the proposed facility reflects Council's recommendations and directions for the development of the site.

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1. HEIGHT, BULK AND SCALE

Whilst Council considers the height, bulk and scale of the building to be excessive in relation to the built form character of the surrounding context, shadow impacts and view impacts, the detailed assessment provided herein confirms that the proposed development is highly suitable for the site and will not result in any unacceptable amenity impacts for neighbouring properties.

The following subsections provide responses to the specific matters identified by Council.

(a) (i) Response of building design to characteristics, opportunities and constraints of the site and wider context.

The proposed building exhibits a contemporary architectural design that incorporates design elements and an overall form that respond to the heritage building on the site as well as other key characteristics of the site and surrounding context.

As described in the Heritage Impact Statement (Appendix 14 of original DA), the contemporary form and detail of the building *is an appropriate response to a large new building on a heritage site and is encouraged by the CMP 2017.... The proposed form of the building respects the heritage items by not imitating them; it will be 'of its time.'*

In particular, specific components of the contemporary design have been referenced by the Heritage Impact Statement as positively responding to the heritage character of the site:

- *Massing and scale is managed through the use of flat and low-pitched roof forms and well-articulated elevations.*
- *The overall form of the building has a horizontality that compliments the dominant form of Carpenter House.*
- *Openings have a verticality that corresponds to the vertical emphasis in the openings of Carpenter House.*
- *The proposed finishes and colours also compliment Carpenter House, while being distinct from it and part of the contemporary character of the new building.*
- *The siting of the building to the rear of the site ensures Carpenter House and its gardens remain dominant in the setting of nearby heritage items.*
- *The new building has been designed to be as recessive as possible.*
- *Significant public views to and from the heritage items are retained.*
- *The new building is well set back from the street and its orientation and alignment will not be read in conjunction with nearby heritage items.*
- *An adequate visual curtilage is retained around each item in the vicinity of the site.*

Accordingly, the proposed architecture appropriately responds to Carpenter House and will protect the heritage significance of the site. This has also been previously acknowledged by Council, given the Pre-DA Meeting Minutes provide that *a contemporary approach could be supported in principle, subject to referencing and complementing the character of the site and the significance of listed buildings.* As confirmed within the Heritage Impact Statement (refer extracts above), the scale and design of the proposed building complement the character and heritage-significance of the site and existing buildings on the site.

This is also demonstrated through the photomontages below (extracts from the Architectural Drawings at Appendix 4 and Architectural Design Report at Appendix 7 of the original DA).

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Figure 1. Carpenter House will remain dominant in views from the street (Team 2 Architects 2017)



Figure 2. The proposed new building complements, but does not mimic, the character of Carpenter House (Team 2 Architects 2017)

As well as responding to the heritage significance of the subject site, the proposed development appropriately integrates with the surrounding context. Whilst Council has defined the site context as *walk-up inter-war residential flat buildings*, context analysis reveals that the surrounding context is more diverse. The range of development in the area includes 1960s-1980s walk-up residential flat buildings, art-deco residential flat buildings, and detached dwelling houses with a mix of Federation, Federation Queen Anne, Arts and Crafts, Olde English and Californian bungalow styles. Therefore the surrounding context cannot be described as

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exhibiting a homogenous character based on a single building type, but rather must acknowledge the diversity of the area.

Given the wide variety of building typologies, styles and ages in proximity of the site, it is not possible for the proposed development to adopt the design of all nearby built form. If such an approach were pursued it would result in an incoherent building with an illegible character. Rather it is more appropriate for the building to respond to the existing building on the subject site, being Carpenter House, and as described above and in the Heritage Impact Statement, this approach has been effectively executed through the development as proposed.

As well as being inappropriate, the design of the development to replicate aspects of surrounding building characteristics is irrelevant. This owes to the proposed building not being visible from the street (refer **Figure 1** above). As viewed from the street, the character of the site will remain largely unchanged, being dominated by Carpenter House and its landscaped setting. The scale and design of the proposed development will therefore protect the existing heritage character of the site, and in turn protect the site's existing contribution to the character of the Wollstonecraft Conservation Area. This character preservation will be more effectively achieved through the proposed 'recessive' and 'subservient' development than if the building was designed to mimic surrounding architectural styles.

By maintaining the prominence of Carpenter House and the site's landscaped setting, retaining existing views towards the site from the street and protecting the overall streetscape, the proposed development will also achieve the objectives and provisions of the DCP as they relate to the Character Statement for the Wollstonecraft Conservation Area. The provisions of the Character Statement are directly addressed in the following table.

Table 2. NDCP2013 – Character Statement – Wollstonecraft Conservation Area	
NDCP2013 Clause	Comment
10.10.4 Significant Elements	
<i>Topography</i> <i>P1 Peninsula form, falling away on either side of the ridge to Gore Cove and Balls Head Bay.</i>	The proposal preserves the natural topography of the land through the siting of the building on the flat portion of the site to the rear of Carpenter House.
<i>Subdivision</i> <i>P2 Rectangular blocks with narrowest boundary to street.</i>	The development will take place on an existing lot, with no subdivision, amalgamation or boundary adjustment required.
<i>Streetscape</i> <i>P3 Changes in level, split road and path formations. Sandstone and brick street fences reinforce road layout. Post and rail fencing.</i>	The proposed development is located behind Carpenter House in order to preserve the existing interface of the street and site, including with respect to levels, roads and footpaths. The existing stone wall will be predominantly preserved with only minor alteration required to facilitate driveway access.
<i>Views</i> <i>P4 Tryon Avenue lookout. Views along Shirley Road and from the lower end over Berry Island and the harbour. Views through bush to the harbour from Cable Street and Tryon Avenue. Slot views to the harbour and foreshore over and between buildings.</i>	No views are currently afforded from the street over/across the site. As such, no views obtained from the public domain will be affected by the proposal. This is confirmed within the Heritage Statement at Appendix 10 which states that any potential gap views are obscured by the existing garden setting and mature trees (which are important contributors to the site's heritage significance).
10.10.5 Characteristic Buildings	

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<i>P1 Single storey and two storey dwelling houses on garden lots.</i>	The proposal preserves Carpenter House and its landscaped setting. Accordingly, the site will retain its current contribution to the conservation area with views from the street being dominated by this heritage item and its mature gardens.
<i>P2 Inter-war residential flat buildings.</i>	The site does not include any inter-war residential flat buildings.
10.10.6 Characteristic Built Elements	
<p><i>Siting P1</i> <i>Middle of lot (or slightly forward), generous front and side gardens with trees, lawns and shrubs.</i></p> <p><i>P2 Consistent setbacks.</i></p>	The proposed building has been sited in the middle of the lot, with no built form located within 50m of the rear site boundary. The siting of the building footprint therefore retains the heavily vegetated rear portion of the site and responds to bushfire constraints by providing the required 50m Asset Protection Zone (APZ), whilst also protecting the heritage building to the fore of the site and preserving generous landscaped setbacks to all boundaries. By locating the building behind Carpenter House, existing front setbacks and the significant landscaped setting adjacent to the street will be preserved.
<p><i>Form, massing and scale</i> <i>P3 Single and two storey with hipped and gabled roofs with rear extensions.</i></p> <p><i>P4 Reduced height and scale to rear.</i></p> <p><i>P5 Complex massing, roof form and detail to larger houses.</i></p> <p><i>P6 Strong skyline of pitched roofs and chimneys visible from street and stepped along the streets.</i></p>	<p>The height and scale of the new building, combined with the slope of the land and landscaping, allow for the dominance of Carpenter House to be retained. As described in the Heritage Impact Statement, <i>massing and scale is managed through the use of flat and low-pitched roof forms and well-articulated elevations...Carpenter House and its gardens remain dominant in the setting of nearby heritage items...the new building has been designed to be as recessive as possible.</i></p> <p>The height and scale of the proposed development also provide for the reasonable retention of neighbouring amenity, as demonstrated through the view assessment and solar assessment in Section 1c and Section 1d, respectively.</p> <p>Therefore the height and scale of the development allows the building to appropriately integrate with the character of the area, neighbouring properties and the heritage significance of the site.</p> <p>Further, it should be acknowledged that the floor plates and overall size of the development respond to the operational requirements of Tresillian. Any reduction in the scale of the proposal would undermine the ability for Tresillian to deliver important health services to the community of the North Shore.</p>

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<p>Roofs <i>P7 Pitched and hipped between 30 and 45 degrees with slate and terracotta tiled roofs, without dormers or openings that can be seen from the street.</i> <i>P8 Gabled ends for projecting bays to the street.</i> <i>P9 Skillion roofs to rear extensions.</i> <i>P10 Brick and rendered chimneys with terracotta chimney pots.</i></p>	<p>The proposed flat and low-pitched roof is integral to managing the massing and scale of the building, as stated by the Heritage Impact Statement.</p> <p>By contrast the Heritage Impact Statement provides, <i>a new building of this size with the complex massing and hipped-gabled roofs of nearby heritage items would be too dominant an element.</i></p>
<p>External Materials <i>P11 Sandstone, face brick, roughcast render sandstone foundations.</i> <i>P12 Textured brick to Inter war residential flat buildings.</i> <i>P13 Slate and terracotta tiled roofs.</i> <i>P14 Timber windows, doors and joinery in a Federation, Edwardian and Inter War style.</i> <i>P15 Leadlight windows. Original front and side garden landscaping.</i></p>	<p>The proposed building will utilize a variety of materials that reflect those materials characteristic of the area, including red face brick laid in stretcher bonding and in a pattern comprising alternating rows of horizontal brickwork, sandstone cladding, grey metal cladding, aluminum louvres and timber.</p> <p>Sandstone from the site will be recovered and re-used in the development.</p> <p>The significant fabric of Carpenter House will be preserved.</p>
<p>Fences <i>P16 Original low front fences.</i> <i>P17 Low sandstone walls, timber pickets, timber rails and mesh, pipe and mesh gates, original face brick with piers.</i></p>	<p>The existing stone wall will be predominantly preserved with only minor alteration required to facilitate driveway access.</p> <p>Sandstone from the site will be recovered and re-used in the development.</p>
<p>Car accommodation <i>P18 Side drives with garages and parking located behind the building line.</i></p>	<p>The driveway is located adjacent to the side boundary and car parking is provided behind Carpenter House.</p>
<p>10.10.7 Uncharacteristic Elements</p>	
<p><i>P1 Over-scaled additions; Carports and garages to front of lot; dormers and rooflights to front and side roofs; removal of original details, painting and rendering of face brickwork; high walls and fences to street; inappropriate fence details, paving of gardens.</i></p>	<p>The proposal does not include any additions to the existing building, carports/garages to the front of the site, dormers, rooflights, removal of significant heritage fabric, high walls/fences adjacent to the street frontage, inappropriate fencing or paving of gardens.</p> <p>As described above, the proposed new building effectively integrates with the 'characteristic elements' of the Conservation Area and does not include 'uncharacteristic elements'.</p>

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As well as effectively integrating with the heritage building and landscaped setting on the subject site and preserving the site's contribution to the surrounding context, the proposed development also appropriately relates to neighbouring buildings. As confirmed through the comprehensive assessments that are detailed in this letter and its appendices, neighbouring amenity is protected including with respect to views, solar access and privacy. Further details are provided in the corresponding sections of this letter.

Further to the above, Sections B3.3.1 and B3.3.5 of the DCP are directly responded to in the following table.

Table 3. NDCP2013 - Sections B3.3.1 and B3.3.5	
NDCP2013 Clause	Comment
3.3.1 Context	
<i>O1 To ensure that the site layout and building design responds to the existing characteristics, opportunities and constraints of the site and within its wider context (adjoining land and the locality).</i>	The layout and design of the proposed development responds to the site characteristics so as to preserve significant heritage and vegetation; neighbouring properties so as to protect amenity including views, solar access and privacy; and the surrounding context such that the site maintains its contribution to the Wollstonecraft Conservation Area. Further detail is provided in the paragraphs above and in the following rows of this table.
<i>P1 A Site Analysis is undertaken in accordance with Part A: Section 5 – Site Analysis of this DCP.</i>	A Site Analysis was undertaken to inform the detailed design of the development, and was provided within Appendix 4 of the original DA (also refer Updated Architectural Drawings at Appendix 11).
<i>P2 Proposed developments must be designed to respond to the issues identified in the site analysis and in the relevant area character statement (refer to Part C of the DCP).</i>	<p>The siting and design of the proposed building, driveway and outdoor areas directly respond to the site characteristics, constraints and opportunities identified in the Site Analysis, as follows:</p> <ul style="list-style-type: none">▪ Setbacks – the existing building at 29B Shirley Road has been built to the side boundary, and accordingly the Site Analysis identifies that increased setbacks should be provided for the proposed building. The proposed building has been setback 5.94m, which significantly exceeds the 3m side setback control (DCP Section B3.3.6). Through additional side setbacks and landscaping, the proposed building responds to this site constraint and provides a greater level of amenity for neighbouring properties.▪ Views – the development achieves the principles of view-sharing, as confirmed in the detailed assessment in Section 1c of this letter.▪ Solar access – the development provides for reasonable retention of solar access for surrounding properties, as confirmed in the detailed assessment in Section 1d of this letter.▪ Heritage – the siting and design of the development protects the heritage significance of Carpenter House and its

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	<p>landscaped setting, as confirmed in the Heritage Impact Statement and described above.</p> <ul style="list-style-type: none">▪ Vegetation – tree retention is maximized and 65% of the site will be preserved as deep soil area.▪ Access – the siting of the driveway adjacent to the southern site boundary corresponds with the location of the early driveway, avoids impacting on any significant trees, minimally impacts the garden setting, protects significant heritage fabric, results in only minor impact to the stone front fence, provides for the reasonable retention of neighbouring amenity and achieves efficiency in terms of traffic flow.▪ Topography – by siting the building on the flat area of the site to the rear of Carpenter House, the extent of cut and fill has been minimised.▪ Bush fire – no buildings will be located within the APZ. <p>As described above, the development also responds to the Character Statement for the Wollstonecraft Conservation Area.</p>
B3.3.5 Siting	
<i>O1 To maintain the characteristic building orientation and siting.</i>	<p>As a result of siting the building to the rear of Carpenter House and preserving the mature landscaped setting, the proposed building will not be highly visible from the street. Accordingly, Carpenter House will remain dominant in views toward the site from the street. As such, the characteristic building orientation and siting will be preserved.</p>
<i>P1 Buildings are to be sited in accordance with that described in the relevant area character statement (refer to Part C of the DCP), or if not identified in the relevant area character statement, sited to relate to neighbouring buildings.</i>	<p>The Character Statement for the Wollstonecraft Conservation Area provides that buildings are to be sited in the middle of the lot (or slightly forward) with generous front and side gardens and consistent setbacks. The height and scale of built form is to be reduced to the rear.</p> <p>In accordance with the Character Statement, the proposed building has been sited in the middle of the lot, with no built form located within 50m of the rear site boundary. The siting of the building footprint therefore retains the heavily vegetated rear portion of the site and responds to bushfire constraints by providing the required 50m Asset Protection Zone (APZ), whilst also protecting the heritage building to the fore of the site and preserving generous landscaped setbacks to all boundaries.</p>

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	<p>By locating the building behind Carpenter House, existing front setbacks and the significant landscaped setting adjacent to the street will be preserved. The new building will be effectively screened by the heritage item and mature vegetation, and therefore the contribution of the site to the streetscape and conservation area will also be maintained. This is important for achieving the other objectives and provisions of the Character Statement.</p> <p>The height and scale of the new building, combined with the slope of the land and landscaping, allow for the dominance of Carpenter House to be retained. As described in the Heritage Impact Statement, <i>massing and scale is managed through the use of flat and low-pitched roof forms and well-articulated elevations...Carpenter House and its gardens remain dominant in the setting of nearby heritage items...the new building has been designed to be as recessive as possible.</i></p> <p>The height and scale of the proposed development also provide for the reasonable retention of neighbouring amenity, as demonstrated through the view assessment and solar assessment in Section 1c and Section 1d, respectively.</p> <p>Therefore the height and scale of the development, accounting for its position in the middle of the site and to the rear of Carpenter House, provides an appropriate response to the Character Statement and neighbouring properties.</p>
<i>P2 Site buildings within a single building form, addressing the street.</i>	As the proposed building has been sited to the rear of Carpenter House, views towards the site from the street will continue to take in a single building form orientated toward the street.
<i>P3 Orient each external wall parallel to the corresponding boundary of the site, unless another orientation is characteristic.</i>	The building has been orientated to be parallel with the site boundaries.

This section has demonstrated that the height, bulk and scale of the proposed building is consistent with the specified sections of the DCP including the Character Statement for the Wollstonecraft Conservation Area, integrates with the surrounding context, directly responds to the characteristics of the site including heritage-listed Carpenter House, and respects the amenity of neighbouring properties.

Further, it should be acknowledged that the floor plates and overall size of the development respond to the operational requirements of Tresillian. Any reduction in the scale of the proposal would undermine the ability for Tresillian to deliver important health services to the community of the North Shore.

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(a) (ii) Assessment of proposal against the Planning Principles for compatibility in the urban environment as established in *Project Venture Development v Pittwater Council* [2005] NSWLEC 191

The Land and Environment Court's (LEC) Planning Principle for *compatibility in the urban environment* was established by Roseth SC in *Project Venture Developments v Pittwater Council* [2005] NSWLEC19.

Roseth SC adopted the definition of *compatibility* as *capable of existing together in harmony*, noting that compatibility is different from *sameness*. Roseth SC explicitly references *that buildings can exist together in harmony without having the same density, scale or appearance*.

To test whether a proposal is compatible with its context, the following questions should be asked:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

To determine whether the proposed development for a health facility satisfy the tests for compatibility with the urban environment, these questions have been considered below.

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

In relation to the first question, Roseth SC provided that *the physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity*.

The detailed assessments contained in this statement (**Section 1c** and **1d**) and its appendices (**Appendices 6-9**) provide confirmation that the proposed development satisfies the principles of view-sharing and provides for reasonable retention of solar access for neighbouring properties, being the key concerns raised by Council and neighbours with respect to the development.

The proposed development does not physically encroach on adjoining sites, instead providing setbacks that exceed the DCP controls. The preservation of mature vegetation and additional deep soil landscaping adjacent to the side boundaries, as well as screening devices and the reduced size of balconies, will provide high levels of visual and acoustic privacy.

The physical impacts of the proposal on surrounding development are therefore acceptable, satisfying the first test.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

To decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task, however can be achieved by testing the proposal against the existing context. *For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment*. This urban character may be described in planning instruments or urban design studies, but in the majority of cases needs to be defined as part of the proposal's assessment.

The urban character applicable to the subject site has been addressed in Section 10.10 of the NDCP2013 which provides a Character Statement for the Wollstonecraft Conservation Area. As described in **Table 2** of this report, the proposed development responds to the 'significant' and 'characteristic' elements of the character area and avoids the 'uncharacteristic' elements. In summary of the detailed assessment provided in **Table 2**, the proposed development responds to the Character Statement (and thereby the surrounding urban character) as follows:

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- The proposal preserves the natural topography of the land through the siting of the building on the flat portion of the site to the rear of Carpenter House.
- The proposal will preserve the dimensions, area, frontage and orientation of the site, given that no subdivision, amalgamation or boundary adjustment is required.
- The proposed development will preserve existing front setbacks, the landscaped setting, the low sandstone wall and the existing interface of the street and site through its siting behind Carpenter House.
- Similarly, by preserving heritage-listed Carpenter House and its landscaped setting, the site will retain its current contribution to the conservation area with views from the street being dominated by this heritage item and its mature gardens.
- No views obtained from the public domain will be affected by the proposal given that no views are currently afforded from the street over/across the site.
- The proposed building will utilize a variety of materials that reflect those materials characteristic of the area, including red face brick laid in stretcher bonding and in a pattern comprising alternating rows of horizontal brickwork, sandstone cladding, grey metal cladding, aluminum louvres and timber.

By responding to the Character Statement, the proposal effectively responds to the urban character of the area in accordance with the principle established by Roseth SC.

To be thorough, as well as assessing the proposed development against the Character Statement, the other assessment criteria nominated by Roseth SC have also been considered. *The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character.* These elements are considered individually as follows:

- *Height – Buildings do not have to be the same height to be compatible...The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.*

The site is not subject to a maximum building height pursuant to the NLEP2013 and therefore is exempted by this EPI from adhering to the same building height applicable to surrounding sites. The standards applicable to surrounding residentially-zoned sites cannot be applied to the subject site, noting that the site's zoning for a health facility and corresponding exemption from height standards is presumably the outcome of previous Council-led strategic planning.

Although the height of the proposed building exceeds other development in the vicinity, this height difference is not evident from the street. The building has been stepped down the site in response to the natural topography of the land, incorporates upper-level setbacks, is situated behind Carpenter House and is screened by the mature landscape setting. The result is shown in the photomontage at **Figure 1**, which confirms that the new development will not be visually-prominent and that Carpenter House and its gardens will remain dominant in views from the public domain. Thereby the proposed building height will not cause the development to 'intrude' in the streetscape but rather will protect the existing streetscape.

Therefore the proposal affectively responds to the urban character so far as determined by building height.

- *Setbacks – Where there is a uniform building line, even small differences can destroy the unity. Setbacks from side boundaries determine the rhythm of building and void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way.*

The proposal will preserve existing front setbacks, as achieved through the siting of the development behind Carpenter House.

Similarly, existing side setbacks for the front portion of the site (corresponding with Carpenter House) will be preserved. Of note, it is these side setbacks closest to the street frontage that most significantly

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contribute to the urban character of the area. In any case, generous side setbacks (5.940m from the northern boundary and 3.069m from the southern boundary) exceed the NDCP2013 requirements (3m side setback control) and will incorporate deep soil landscaping, as is characteristic of the area.

Accordingly, front and side setbacks respond to the setbacks-component of urban character.

- Landscaping – *In some areas landscape dominates buildings, in others buildings dominate the landscape. Where canopy trees define the character, new developments must provide opportunities for planting canopy trees.*

In its existing state the site is dominated by landscaping, including canopy trees, which is also characteristic of the surrounding area.

The proposed development protects the mature garden setting of Carpenter House and preserves significant canopy trees. Where tree removal is required, replacement tree planting will ensure that the site retains its vegetated character. As shown within the Landscape Plan (**Appendix 14**), planting adjacent to the driveway, pathways, all site boundaries, the waste management area and parking bay, will protect the landscaped character of the site and ensure that views toward the site from all perspectives take in the high quality landscaped setting.

The landscaped character of the site and surrounding urban environment will therefore be protected as a result of the proposal.

- Conservation areas – *Conservation areas are usually selected because they exhibit consistency of scale, style or material. In conservation areas, a higher level of similarity between the proposed and the existing is expected than elsewhere. The similarity may extend to architectural style expressed through roof form, fenestration and materials.*

As described above and in **Table 2** of this report, the proposal effectively responds to the Character Statement for the Wollstonecraft Conservation Area. Principally, by situating the building behind Carpenter House and preserving the mature gardens, the new development will not be visible from the street (refer **Figure 1**). The site will therefore maintain its current contribution to the conservation area.

As described in the Heritage Impact Statement (Appendix 14 of original DA), the contemporary form and detail of the building *is an appropriate response to a large new building on a heritage site and is encouraged by the CMP 2017.... The proposed form of the building respects the heritage items by not imitating them; it will be 'of its time.'* Similarly, the proposed flat and low-pitched roof is integral to managing the massing and scale of the building, as stated by the Heritage Impact Statement. By contrast, *a new building of this size with the complex massing and hipped-gabled roofs of nearby heritage items would be too dominant an element.*

Therefore the scale, architectural style and materials of the proposed development, whilst not mimicking heritage items, is a suitable response to developing within the conservation area.

In summary, the proposed development responds to the essential elements that constitute the area's urban character. This has been demonstrated by the proposal's response to the NDCP2013 Character Statement and *the most important contributors to urban character*, prescribed by Roseth SC as building height, setbacks, landscaping, and architectural styles and materials for conservation areas. This is also supported by the photomontage at **Figure 1**, which *provides the opportunity to test the above analysis by viewing the proposal in the same way that a member of the public would.*

The development therefore accords with Roseth SC's concept of visual compatibility with its context, satisfying the second test.

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Summary and conclusion of consistency with the Planning Principle

The assessment undertaken above confirms that the proposed building is compatible with the urban environment in terms of its physical impact and visual impact. The proposal therefore achieves the Planning Principle for compatibility in the urban environment.

(b) Assessment of proposal against the Planning Principles for height and bulk as established in *Veloshin v Randwick Council* [2007] NSWLEC 428

The LEC's Planning Principle for *height, bulk and scale* was established by Roseth SC in *Veloshin v Randwick Council* [2007] NSWLEC 428.

To guide the assessment of the appropriateness of a proposal's height and bulk, Roseth SC established a series of tests and questions which are directly responded to as follows. It is noted that only the first and second tests are applicable to the proposal given that the planning controls for the area clearly intend to preserve the existing character.

Are the impacts consistent with impacts that may be reasonably expected under the controls?
(For complying proposals this question relates to whether the massing has been distributed so as to reduce impacts, rather than to increase them. For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)

The site is not subject to maximum height or floor space controls pursuant to the NLEP2013. Whilst Council have made reference to the zoning and development standards applicable to the surrounding sites, it is important that the unique zoning and standards for the site are acknowledged. In *Veloshin v Randwick Council* [2007] NSWLEC 428, Roseth SC provided:

While these controls are usually also based on subjective judgment, they have been through a statutory process involving exhibition and the consideration of public comment. They therefore express the subjective preferences of a local community and should be given greater weight than the subjective preferences of individuals.

The SP2 zone and exemption from height or FSR standards thereby reflect the result of a statutory process. It is therefore important that the distinct statutory position of the site is not overlooked, and that the controls for separate sites are not applied.

With respect to the NDCP2013, Council provided formal advice prior to the preparation of the DA that the controls for the R3 Medium Density Residential zone and non-residential development in residential zones should be applied. Pursuant to Section 3.4.4 of the NDCP2013 the site is subject to a 50% maximum site coverage control, and pursuant to Sections 1.4.6 and 3.3.6 the site is subject to side setbacks of 900mm for the first storey (up to 4m), 1.5m for the second storey (up to 7m) and 2.5m for the third storey or higher (more than 7m). Under Sections 1.4.6 and 3.3.6 the site is also subject to front setbacks and rear setbacks that match the alignment of neighbouring properties.

Based on these relevant controls which have been prescribed by Roseth SC as relating to height and bulk, a compliance assessment is summarised:

- Building height – no control and therefore considered compliant;
- FSR – no control and therefore considered compliant;
- Site coverage – 22% site coverage proposed and therefore compliant;
- Side setbacks – 5.940m northern side setback and 3.069m southern side setback proposed and therefore compliant for all levels of the building;
- Front setback – the development will be situated behind the existing building on the site and therefore compliant;

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- Rear setback – the development will be setback more than 50m so as to provide the required 50m APZ and therefore compliant.

The proposal is therefore a 'complying proposal' with respect to the prescribed height and bulk controls. As such it becomes relevant to consider whether massing has been distributed so as to reduce impacts, rather than increase them.

As confirmed through the assessment of the proposal against the planning principles established in *Project Venture Developments v Pittwater Council [2005] NSWLEC19* (refer **Section 1a** above), the proposed building is compatible with the urban environment (including adjoining sites and the broader context) in terms of its physical impact and visual impact.

On the basis of complying with the relevant controls for height and bulk and not causing any unacceptable physical impacts or visual impacts, the proposal satisfies the first question of the first test.

How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?

As described in relation to the first question, the proposal complies with the relevant controls for height and bulk. Assuming that Council's numeric controls align with the desired height and bulk for the site, it may be reasonably concluded that the proposal, by way of compliance, achieves the height and bulk desired under the relevant controls.

For the purpose of thoroughness, the objectives of each of the relevant controls have also been considered as follows:

- Height of Buildings (NLEP2013 Clause 4.3) - *the objectives of this clause are as follows:*
 - (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*

In accordance with the objectives of Clause 4.3, the proposal responds to the natural topography of the land by siting the building on the flat portion of land to the rear of Carpenter House and thereby minimizing the extent of cut and fill required. The split-storey design of the building ensures that it remains largely screened by Carpenter House and is not visible from the street.

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

The detailed assessments contained in this statement (**Section 1c**) and its appendices (**Appendices 6 and 7**) provide confirmation that the proposed development satisfies the principles of view-sharing.

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

The detailed assessments contained in this statement (**Section 1d**) and its appendices (**Appendices 8 and 9**) provide confirmation that the proposed development maintains adequate solar access.

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

Visual privacy for future site users and adjoining properties has been secured through the strategic siting and orientation of windows and balconies, screening devices and vegetation adjacent to the site boundaries. Specifically, south-facing windows are high level (greater than 1.5m sill height), vertical fins have been applied to glazed areas of the East elevation, the upper-level balcony has been substantially setback from the side boundaries, the deck has been repositioned and narrowed and

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additional screen planting has been introduced. Side setbacks have also been increased beyond the DCP requirement of 3m (proposed to provide 5.940m northern side setback and 3.069m southern side setback) to protect neighbouring amenity.

As confirmed in the Acoustic Assessment prepared in conjunction with the original DA, acoustic privacy will also be achieved.

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

As confirmed through the assessment of the proposal against the planning principles established in *Project Venture Developments v Pittwater Council [2005] NSWLEC19* (refer **Section 1a** above), the proposed building is compatible with the urban environment (including adjoining sites and the broader context) in terms of its physical impact and visual impact.

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

As per the assessment in **Table 2**, the proposal is consistent with the Character Statement for the Wollstonecraft Conservation Area. The detailed assessment carried out in **Section 1a** of this report also confirms that the proposal is consistent with the character principles established in *Project Venture Developments v Pittwater Council [2005] NSWLEC19*. The development may therefore be reasonably described as being of a scale and density that respects the character of the area.

The proposal is therefore consistent with the objectives of the height of buildings standard.

- Floor Space Ratio (NLEP2013 Clause 4.4) - *the objectives of this clause are as follows:*

(a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,

As per the assessment in **Table 2**, the proposal is consistent with the Character Statement for the Wollstonecraft Conservation Area. The detailed assessment carried out in **Section 1a** of this report also confirms that the proposal is consistent with the character principles established in *Project Venture Developments v Pittwater Council [2005] NSWLEC19*. The development may therefore be reasonably described as being compatible with the desired future character of the area.

The proposal is also consistent with the objectives of the SP2 zone as it provides a health facility on land zoned for such purposes. The proposal does not detract from the provision of infrastructure, but rather delivers important health infrastructure for which there is demonstrated demand.

(b) to limit the bulk and scale of development.

The proposal is of a bulk and scale that results in only appropriate physical impacts and visual impacts (refer above assessment against *Project Venture Developments v Pittwater Council [2005] NSWLEC19*) and complies with the relevant controls prescribed by Roseth SC in *Veloshin v Randwick Council [2007] NSWLEC 428*. Any further limiting of bulk and scale is therefore unnecessary.

The proposal is therefore consistent with the objectives of the floor space ratio standard.

- Site Coverage (NDCP2013 Section 3.4.4) - *the objectives of this clause are as follows:*

01 To ensure that development is balanced and in keeping with the optimum capacity of the site with no over development.

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The proposed development is in-keeping with the character and 'optimum capacity' of the site. As evidenced through the photomontage (refer **Figure 1**), the development is not visible from the street and effectively protects heritage-listed Carpenter House and the garden setting. Tree retention, particularly of significant trees, has been maximized. The proposal also incorporates side setbacks that exceed the DCP controls, and generous front and rear setbacks. Resultantly, the proposal is consistent with the development capacity of the site.

O2 To ensure that development promotes the existing or desired future character of the neighbourhood.

As per the assessment in **Table 2**, the proposal is consistent with the Character Statement for the Wollstonecraft Conservation Area. The detailed assessment carried out in **Section 1a** of this report also confirms that the proposal is consistent with the character principles established in *Project Venture Developments v Pittwater Council [2005] NSWLEC19*. The development may therefore be reasonably described as being compatible with the desired future character of the area.

O3 To control site density.

As described throughout this statement, the proposed development will not result in any unacceptable physical or visual impacts. View sharing will be achieved, the reasonable retention of solar access for neighbouring properties will be provided for, and the development will integrate with the character of the site and surrounding context. Therefore site density is adequately controlled.

O4 To limit the building footprint so as to ensure adequate provision is made for landscaped area.

Vegetation retention has been maximized where possible, with 65% of the site preserved as deep soil area. In particular, the garden setting adjacent to the street frontage will be preserved, additional landscaping will be introduced in the side setback areas and vegetation within the rear APZ will be retained. The proposed building footprint therefore makes adequate provision for landscaped area.

The proposal is therefore consistent with the objectives of the site coverage control.

- Setbacks (NDP2013 Sections 1.4.6 and 3.3.6) - *the objectives of this clause are as follows:*

O1 To reinforce the characteristic pattern of setbacks and building orientation within the street.

The proposal will preserve front setbacks, and similarly will preserve side setbacks for the front portion of the site (corresponding with Carpenter House). Given that Carpenter House will be retained adjacent to the street frontage, the characteristic building orientation will also be preserved.

O2 To control the bulk and scale of buildings.

The proposal is of a bulk and scale that results in only appropriate physical impacts and visual impacts (refer above assessment against *Project Venture Developments v Pittwater Council [2005] NSWLEC19*) and complies with the relevant controls prescribed by Roseth SC in *Veloshin v Randwick Council [2007] NSWLEC 428*. Any further limiting of bulk and scale is therefore unnecessary.

O3 To provide separation between buildings.

In order to provide appropriate separation, the proposed building has been setback an additional distance from the side boundaries (5.940m northern side setback and 3.069m southern side setback, respectively, compared to the 3m DCP control). This provides a separation distance of 8.444m to the nearest building to the north, 13.723m separation to the nearest building to the south-east and 18.577m separation to the nearest living room door of the dwelling to the south-east. Landscaping within the side setbacks will also assist in preserving neighbouring amenity.

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O4 To preserve the amenity of existing dwellings and provide amenity to new dwellings in terms of shadowing, privacy, views, ventilation and solar access.

The proposed setbacks provide for the reasonable retention of neighbouring amenity, as demonstrated through the view assessment and solar assessment in **Section 1c** and **Section 1d**, respectively. Privacy has also been secured through the strategic siting and orientation of windows and balconies, screening devices and vegetation adjacent to the site boundaries. The building separation achieved through the additional side setbacks will maximise ventilation compared to a scheme that purely complied with the controls.

The proposal is therefore consistent with the objectives of the setbacks control.

Through consistency with both the objectives and provisions of the relevant LEP and DCP clauses for height and bulk (being height, FSR, site coverage and setbacks as prescribed by Roseth SC), the development achieves the height and bulk desired under these relevant controls. The proposal therefore also satisfies the second question of the first test.

Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:

Does the area have a predominant existing character and are the planning controls likely to maintain it?

The existing character of the local area is described in Section 10.10 of the NDCP2013 which provides a Character Statement for the Wollstonecraft Conservation Area. The objectives and provisions contained within the Character Statement demonstrate the intention to maintain the existing character.

Does the proposal fit into the existing character of the area?

As described in **Table 2** of this report, the proposed development responds to the 'significant' and 'characteristic' elements of the character area and avoids the 'uncharacteristic' elements. In summary of the detailed assessment provided in **Table 2**, the proposed development responds to the Character Statement (and thereby the surrounding character) as follows:

- The proposal preserves the natural topography of the land through the siting of the building on the flat portion of the site to the rear of Carpenter House.
- The proposal will preserve the dimensions, area, frontage and orientation of the site, given that no subdivision, amalgamation or boundary adjustment is required.
- The proposed development will preserve existing front setbacks, the landscaped setting, the low sandstone wall and the existing interface of the street and site through its siting behind Carpenter House.
- Similarly, by preserving heritage-listed Carpenter House and its landscaped setting, the site will retain its current contribution to the conservation area with views from the street being dominated by this heritage item and its mature gardens.
- No views obtained from the public domain will be affected by the proposal given that no views are currently afforded from the street over/across the site.
- The proposed building will utilize a variety of materials that reflect those materials characteristic of the area, including red face brick laid in stretcher bonding and in a pattern comprising alternating rows of horizontal brickwork, sandstone cladding, grey metal cladding, aluminum louvres and timber.

By responding to the Character Statement, the proposal effectively responds to the character of the area.

In *Project Venture Developments v Pittwater Council [2005] NSWLEC19*, Roseth SC nominated other contributors to 'urban character' as height, setbacks, landscaping, architectural styles and materials. The

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detailed assessment of the proposal against this Planning Principle (refer **Section 1a** of this report), confirms the development fits into the urban environment and existing character of the area.

Accordingly, the proposal satisfies the second test.

As already noted, only the first and second tests are applicable to the proposal given that the planning controls for the area clearly intend to preserve the existing character. Consideration to the third and fourth tests is therefore not relevant.

Summary and conclusion of consistency with the Planning Principle

The assessment undertaken above confirms that the proposed building exhibits an appropriate height and bulk with respect to compliance with relevant controls, impacts and local character. The proposal therefore achieves the Planning Principle for height and bulk.

(c) Assessment of proposal against the Planning Principles for view sharing as established in *Tenacity Consulting v Warringah [2004] NSWLEC 140*

The LEC's Planning Principle for *view sharing* was established by Roseth SC in *Tenacity Consulting v Warringah [2004] NSWLEC 140*. To guide the assessment of view impact, Roseth SC provides that *the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.)* To decide whether or not view sharing is reasonable, Roseth SC adopted a four-step assessment, as follows:

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 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 a 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 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.*

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.

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The four-step assessment has been applied to each of the properties which have raised concerns in relation to views, with the following written assessment also supported by the photomontages in **Appendix 7** and the View Analysis Report in **Appendix 6**. The views referred to in the following assessment derive from the locations shown in **Figure 3**.

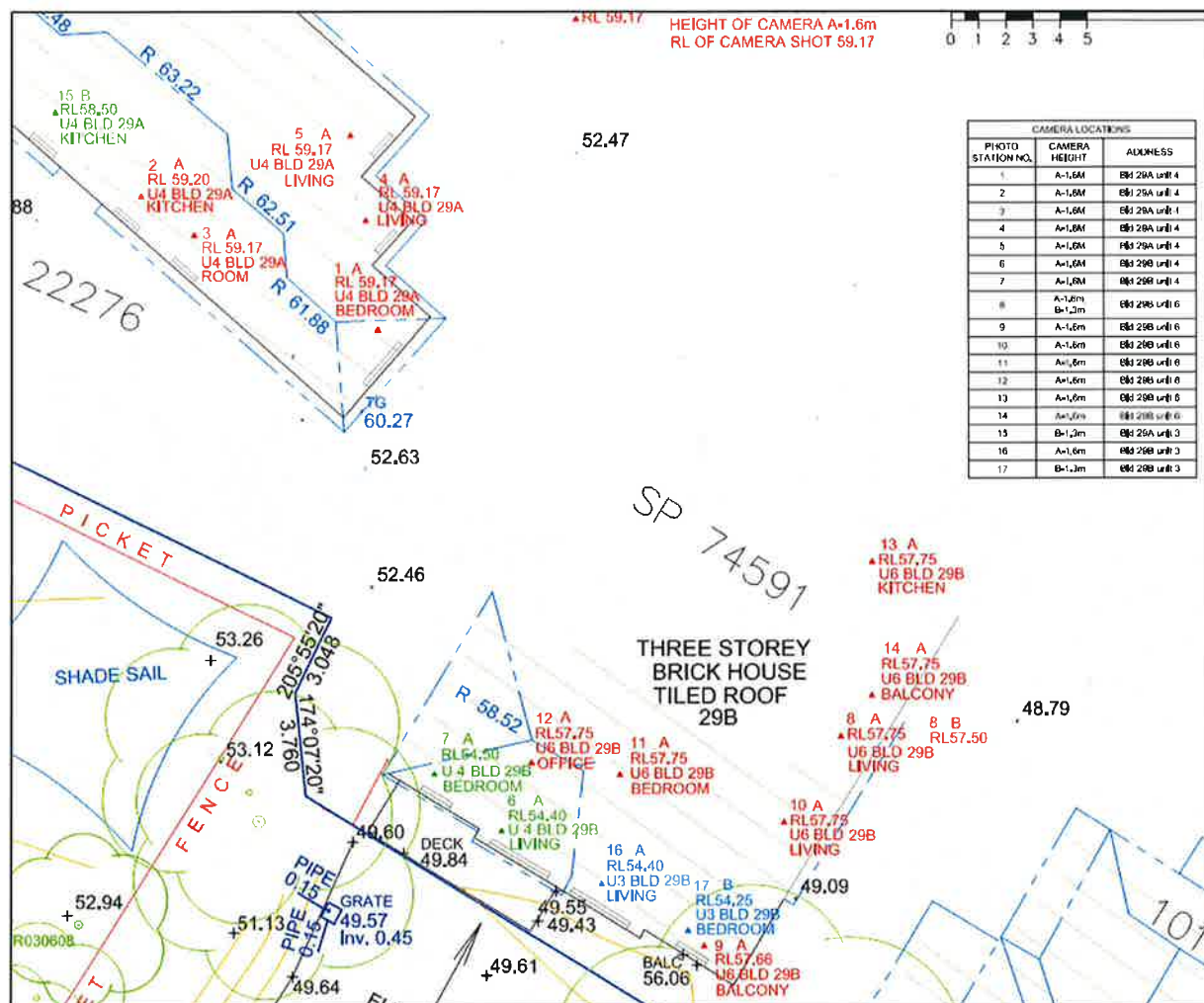


Figure 3. View Locations Plan, 29A and 29B Shirley Road

Unit 3, 29A Shirley Road, Wollstonecraft

1. The view in question is an oblique south-westerly outlook over the side boundary and middle section of the adjoining site, framed by vegetation. The outlook includes vegetation in the foreground, partly-obsured distant views of Anzac Bridge and partly-obsured distant views of a small area of the city-west skyline. No water views or iconic views will be affected. The outlook to be affected may therefore be described as partial, distant, land views without icons.
2. The outlook to be affected is obtained from a standing position in the kitchen, across the side property boundary and middle, undeveloped section of the adjoining site. The kitchen, and entire dwelling, exhibit a south-westerly orientation. The views are visible only when looking obliquely through the far extent of the kitchen window. Roseth SC notes that *the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries*.
3. The view described as being affected by the proposal represents the only view obtained by the property. Given the view is distant, largely-obsured, visible through only a small portion of the kitchen window and obtained only when looking obliquely across the middle,

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undeveloped section of the adjoining site, the resulting view loss may be described as a minor impact.

4. The proposal complies with key height, FSR, site coverage and setback controls, and therefore the development *would be considered more reasonable than one that breaches them*. The same view impact would occur even from a building with reduced number of storeys. Moreover, the design merit of the development has been previously acknowledged by Council's Design Excellence Panel. Therefore, in accordance with the LEC's fourth step, the view impact of the proposed development would be considered acceptable and the view sharing reasonable.

In summary, the impact of the development on the views of Unit 3, 29A Shirley Road, is limited to a partial, distant, land view without icons that is framed by vegetation and obtained from an oblique south-westerly outlook from the kitchen, over the side boundary and middle, undeveloped section of the adjoining site. Owing to these factors and the limited extent of view currently obtained, the property is vulnerable to view loss. Overall, the resulting view impact may be described as minor.



Figure 4. 'View 15' from Kitchen of Unit 3, 29A Shirley Road

▪ Unit 4, 29A Shirley Road, Wollstonecraft

1. The view in question is an oblique south-westerly outlook over the side boundary and middle section of the adjoining site, taking in vegetation only. No water views or iconic views will be affected.
2. The outlook to be affected is obtained from a standing position in the second bedroom and kitchen, across the side property boundary and middle, undeveloped section of the adjoining site. The second bedroom and kitchen exhibit a south-westerly orientation (noting that the primary orientation of the dwelling is to the south-east as indicated by the location of primary living spaces and panoramic views). The outlook in question is obtained through only a portion (less than half) of the bedroom window and kitchen window, respectively. Roseth SC notes

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that *the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries.*

3. The views described as being affected by the proposal represent only a minor aspect of the views obtained from the property as a whole. Views from the living room taking in the Harbour Bridge, and views from the main bedroom taking in the Harbour Bridge, harbour and city, will not be affected by the proposed development. Views from the living room, main bedroom and unobscured sections of the kitchen window and second bedroom window also take in vegetation. Given iconic views and water views from the property's principal living spaces will be preserved, and considering the views to be affected take in vegetation only, the resulting view loss may be described as a negligible impact.
4. The proposal complies with key height, FSR, site coverage and setback controls, and therefore the development *would be considered more reasonable than one that breaches them.* The same view impact would occur even from a building with reduced number of storeys. Moreover, the design merit of the development has been previously acknowledged by Council's Design Excellence Panel. Therefore, in accordance with the LEC's fourth step, the view impact of the proposed development would be considered acceptable and the view sharing reasonable.

In summary, the impact of the development on the views of Unit 4, 29A Shirley Road, is limited to vegetation. The affected outlook is obtained from an oblique south-westerly outlook from the second bedroom and kitchen, over the side boundary and middle, undeveloped section of the adjoining site. The main, panoramic views taking in iconic elements that are obtained from the dwelling's primary living spaces (including the living room and main bedroom) will not be affected as a result of the development. Overall, the resulting view impact may be described as negligible.



Figure 5. 'View 2' from Kitchen of Unit 4, 29A Shirley Road

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Figure 6. 'View 3' from Second Bedroom of Unit 4, 29A Shirley Road



Figure 7. 'View 5' from Living Room of Unit 4, 29A Shirley Road

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Figure 8. 'View 4' from Living Room of Unit 4, 29A Shirley Road



Figure 9. 'View 1' from Main Bedroom of Unit 4, 29A Shirley Road

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▪ **Unit 3, 29B Shirley Road, Wollstonecraft**

1. The view in question is an oblique south-westerly outlook over the side boundary and middle section of the adjoining site, framed by vegetation. The outlook includes vegetation in the foreground, largely-obsured distant views of a small area of water, partly-obsured distant views of Anzac Bridge, partly-obsured distant views of a small area of the city-west skyline and Centrepont Tower. The outlook to be affected may therefore be described as partial, distant land and water views with Centrepont Tower as the only icon.
2. The outlook to be affected is obtained from standing positions in the living room and bedroom, across the side property boundary and middle, undeveloped section of the adjoining site. The dwelling exhibits a south-westerly and south-easterly orientation. Roseth SC notes that *the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries*.
3. The views described as being affected by the proposal represent the majority of the view obtained by the property. Views from rooms with a south-easterly orientation (including the main bedroom, kitchen, second bedroom and bathroom) will not be affected by the development (although owing to the ground level position of the unit it is understood that the south-easterly outlook takes in the adjoining site and its existing development). The view of Centrepont Tower, being an icon, gained from the living room will be preserved. Given the view is distant, largely-obsured and obtained only when looking obliquely across the middle, undeveloped section of the adjoining site, the resulting view loss may be described as a moderate impact.
4. The proposal complies with key height, FSR, site coverage and setback controls, and therefore the development *would be considered more reasonable than one that breaches them*. The same loss of outlook would occur even from a two (2) storey dwelling as indicated by the 8.5m height line annotated on **Figures 10 and 11**. No material benefit would therefore arise from reducing the number of storey included in the proposed development. Moreover, the design merit of the development has been previously acknowledged by Council's Design Excellence Panel. Therefore, in accordance with the LEC's fourth step, the view impact of the proposed development would be considered acceptable and the view sharing reasonable.

In summary, the impact of the development on the views of Unit 3, 29B Shirley Road, is limited to partial, distant land and water views (noting that the view of Centrepont Tower, as the only icon, will be retained). The affected outlook is obtained from an oblique south-westerly outlook from the living room and bedroom, over the side boundary and middle, undeveloped section of the adjoining site. The proposed development retains iconic aspects of the view, being Centrepont Tower, whilst reducing the general outlook from the two (2) affected windows. All outlooks from rooms with a south-easterly orientation (including the main bedroom, kitchen, second bedroom and bathroom) will remain unaffected. Owing to these factors, and as demonstrated by the 8.5m height line indicating that a two (2) storey dwelling would similarly affect Unit 3's outlook, the south-westerly-orientated rooms are vulnerable to view loss. Overall, the resulting view impact may be described as moderate.

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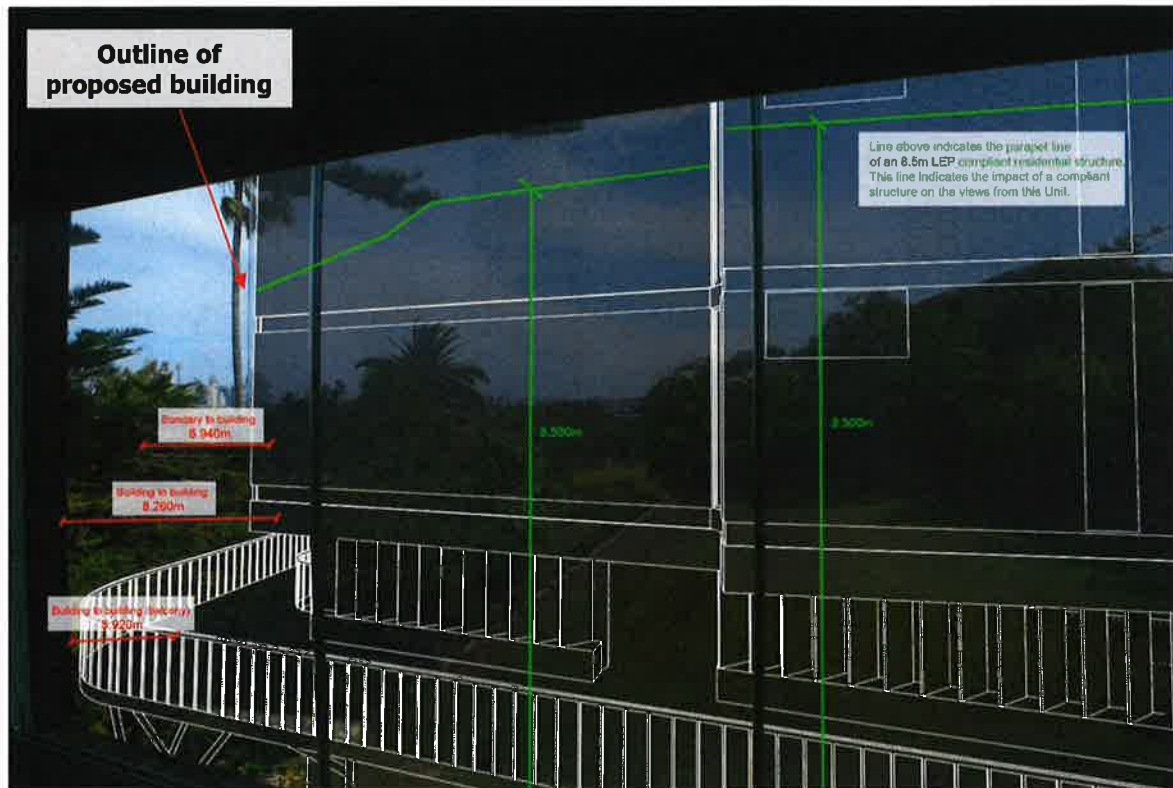


Figure 10. 'View 16' from Living Room of Unit 3, 29B Shirley Road

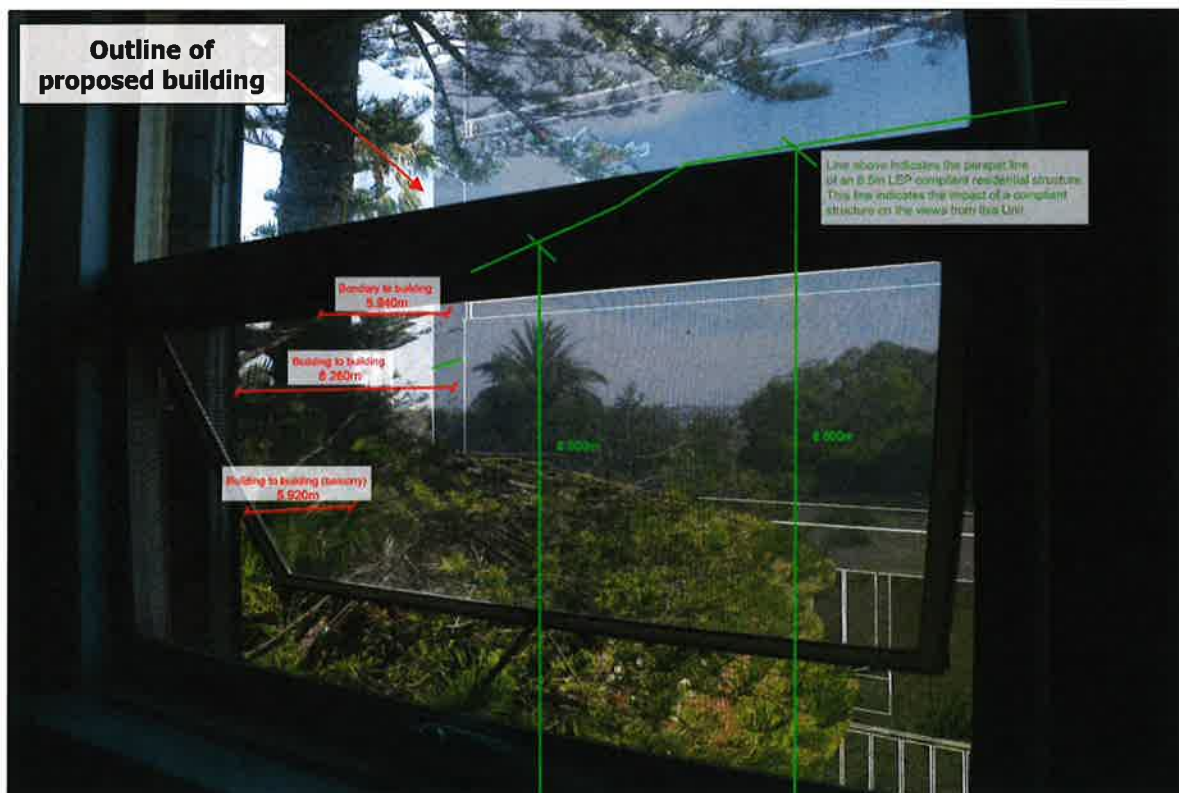


Figure 11. 'View 17' from Bedroom of Unit 3, 29B Shirley Road

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The 8.5m height line shown in the view montages is also included on the Northern Elevation depicted in **Figure 12** (also refer Updated Architectural Drawings at **Appendix 11**).



Figure 12. 8.5m Height Line on Northern Elevation

The origins of the views shown in **Figures 10-11** are labelled in **Figure 13**.

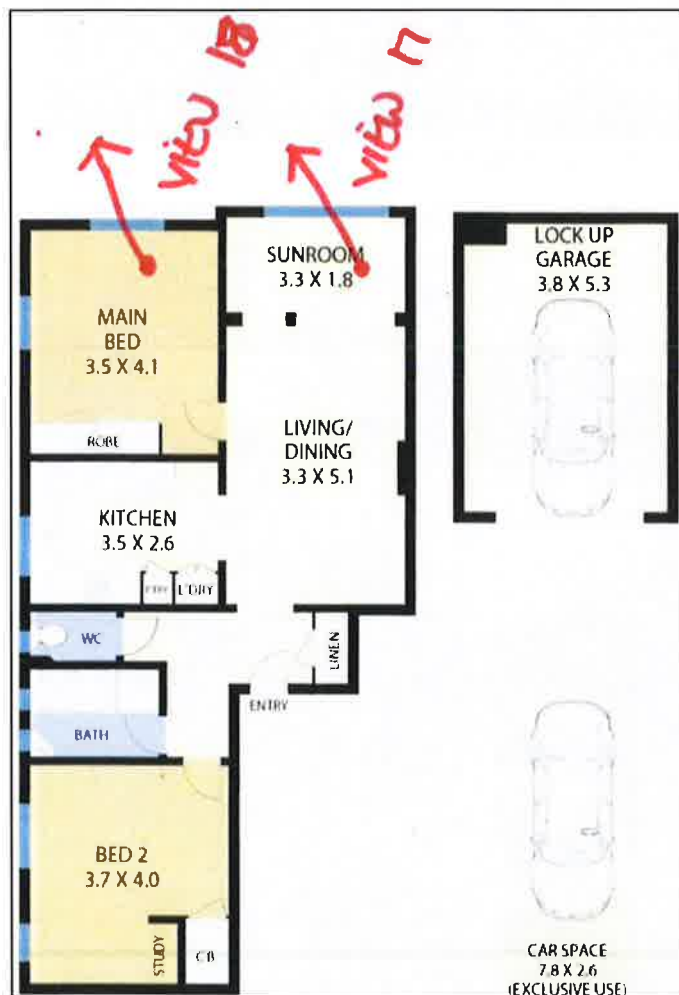


Figure 13. View Locations for Unit 3, 29B Shirley Road

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▪ **Unit 4, 29B Shirley Road, Wollstonecraft**

1. The view in question is an oblique south-westerly outlook over the side boundary and middle section of the adjoining site, framed by vegetation. The outlook includes vegetation in the foreground, largely-obscured distant views of a small area of water, partly-obscured distant views of Anzac Bridge and partly-obscured distant views of a small area of the city-west skyline. The outlook to be affected may therefore be described as partial, distant land and water views without icons.
2. The outlook to be affected is obtained from standing positions in the living room and bedroom, across the side property boundary and middle, undeveloped section of the adjoining site. The dwelling exhibits a south-westerly and north-westerly orientation. Roseth SC notes that *the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries*.
3. The views described as being affected by the proposal represent the majority of the view obtained by the property. Views from rooms with a north-westerly orientation (including the second bedroom, kitchen and bathroom) will not be affected by the development (although owing to the position of the unit it is understood that the north-westerly outlook takes in the adjoining site and its existing development). Given the view is distant, largely-obscured and obtained only when looking obliquely across the middle, undeveloped section of the adjoining site, the resulting view loss may be described as a moderate impact.
4. The proposal complies with key height, FSR, site coverage and setback controls, and therefore the development *would be considered more reasonable than one that breaches them*. The same loss of outlook would occur even from a two (2) storey dwelling as indicated by the 8.5m height line annotated on **Figures 14 and 15**. No material benefit would therefore arise from reducing the number of storey included in the proposed development. Moreover, the design merit of the development has been previously acknowledged by Council's Design Excellence Panel. Therefore, in accordance with the LEC's fourth step, the view impact of the proposed development would be considered acceptable and the view sharing reasonable.

In summary, the impact of the development on the views of Unit 4, 29B Shirley Road, is limited to partial, distant land and water views without icons. The affected outlook is obtained from an oblique south-westerly outlook from the living room and bedroom, over the side boundary and middle, undeveloped section of the adjoining site. All outlooks from rooms with a north-westerly orientation (including the second bedroom, kitchen and bathroom) will remain unaffected. Owing to these factors, and as demonstrated by the 8.5m height line indicating that a two (2) storey dwelling would similarly affect Unit 4's outlook, the south-westerly-orientated rooms are vulnerable to view loss. Overall, the resulting view impact may be described as moderate.

The 8.5m height line shown in the view montages is also included on the Northern Elevation depicted in **Figure 12** above (also refer Updated Architectural Drawings at **Appendix 11**).

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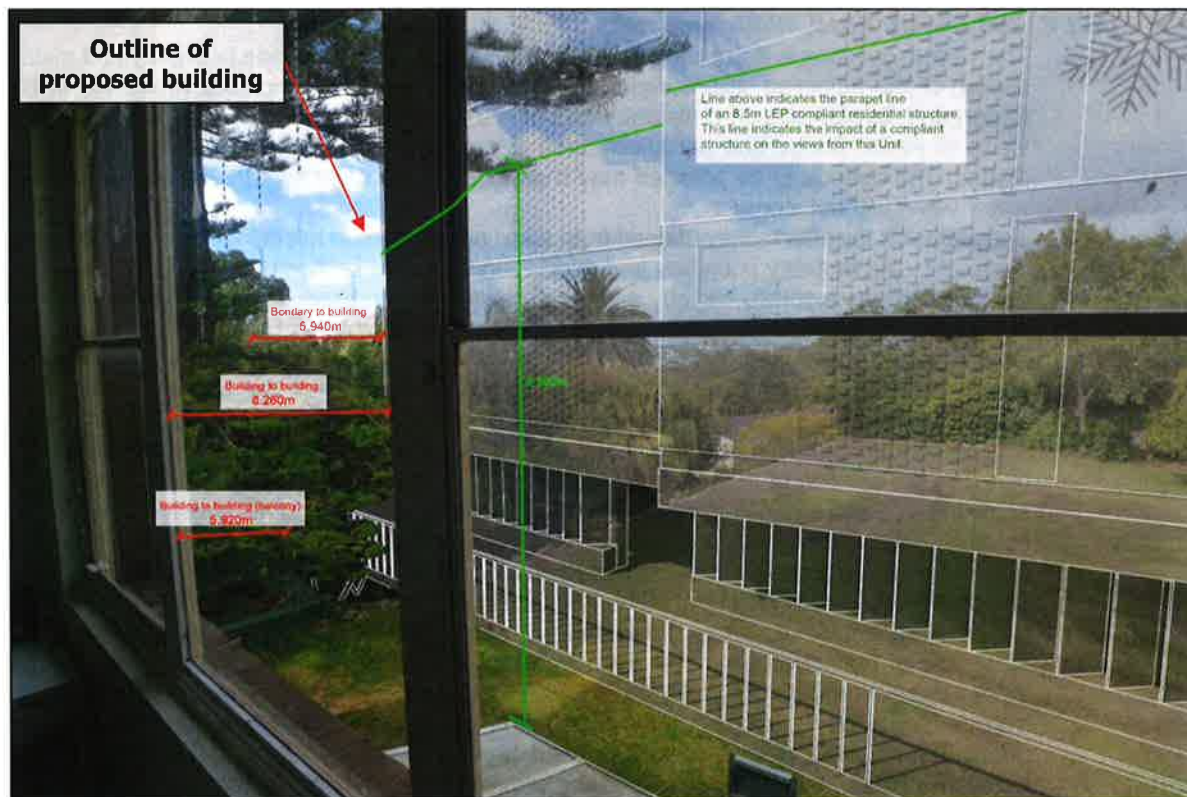


Figure 14. 'View 6' from Living Room of Unit 4, 29B Shirley Road

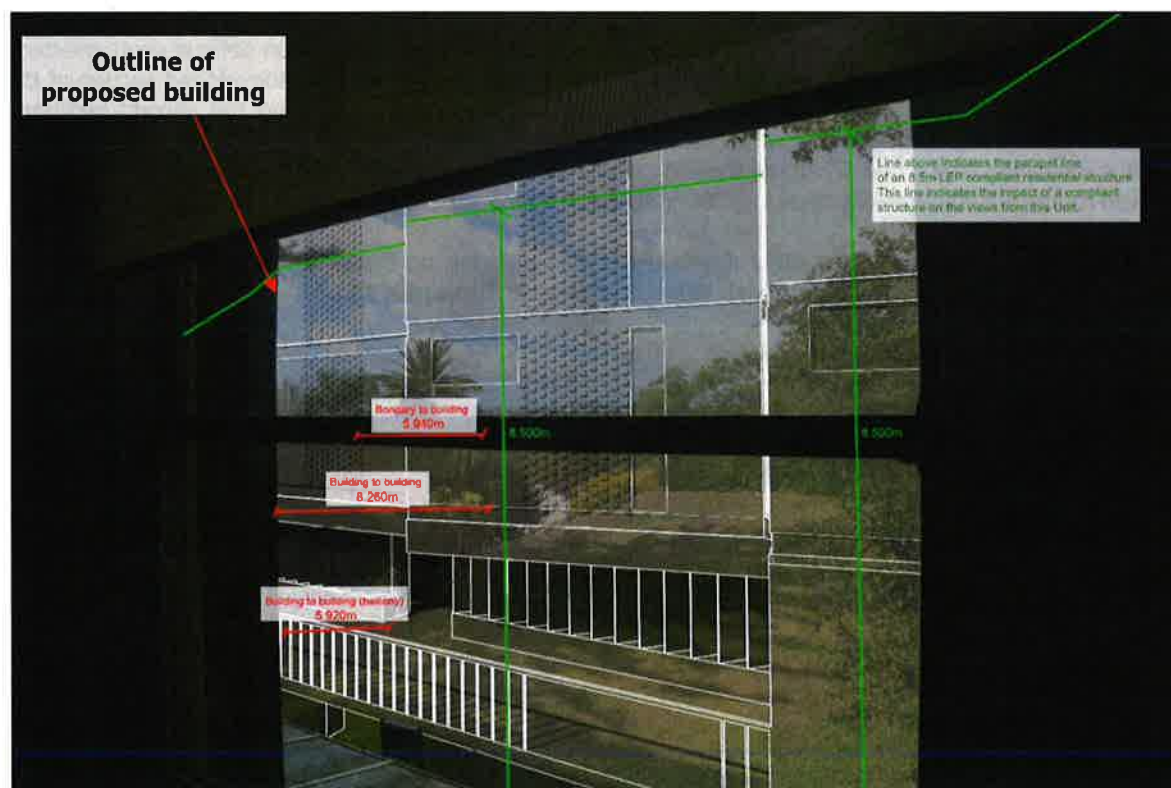


Figure 15. 'View 7' from Bedroom of Unit 4, 29B Shirley Road

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The origins of the views shown in **Figures 14-15** are labelled in **Figure 16**.

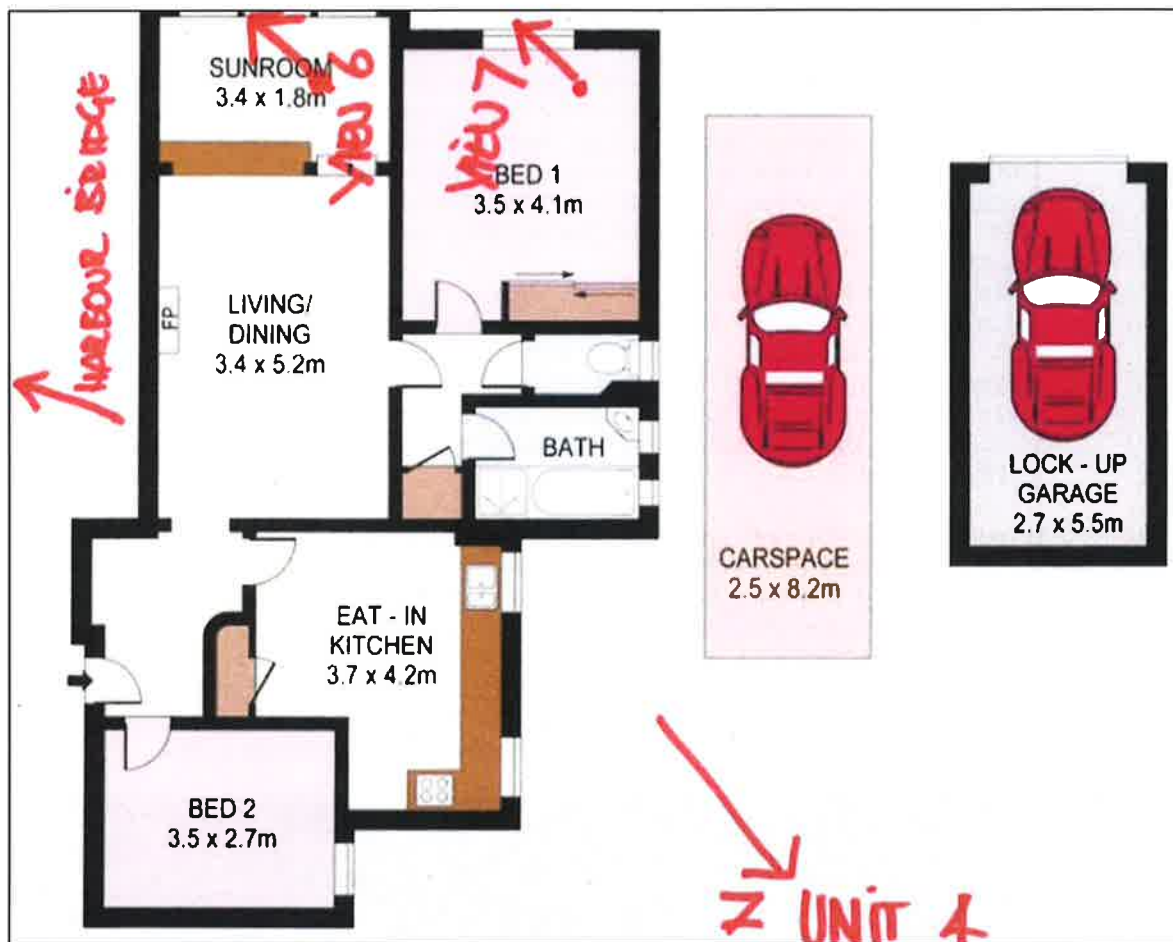


Figure 16. View Locations for Unit 4, 29B Shirley Road

▪ **Unit 6, 29B Shirley Road, Wollstonecraft**

1. The view in question is an oblique south-westerly outlook over the side boundary and middle section of the adjoining site, framed by vegetation. The outlook includes vegetation and existing development in the foreground, partly-obsured harbour views, partly-obsured distant views of Anzac Bridge and partly-obsured distant views of the city-west. No iconic views or whole views will be affected. The outlook to be affected may therefore be described as partial land and water views without icons.
2. The outlook to be affected is obtained from seated and standing positions on the main balcony, seated and standing positions in the main bedroom (looking across the main balcony) and standing positions in the study (through a roof window). Views obtained from the far extent of the living room window (looking across the main balcony) will also take in the proposed development. Views are obtained across the side property boundary and partly over the rear property boundary (for the main balcony and minor extent of the living room window), looking over the middle, undeveloped section of the adjoining site. The dwelling exhibits a south-westerly and south-easterly orientation. Roseth SC notes that *the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries*.
3. The views described as being affected by the proposal represent only a portion of the views obtained from the property as a whole. Views from the living/dining room, second balcony and kitchen, taking in the Harbour Bridge, harbour and city, will not be affected by the

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proposed development. Views from the living room window will be largely preserved, with the only section to be affected taking in a minor section of harbour. The views from the living room window of the Harbour Bridge, city and majority of the harbour will be unaffected. From the main balcony, views of the Harbour Bridge, Centrepont Tower and city will not be affected, and views of a portion of the harbour (including the land-water interface) will be protected. From the bedroom, views of the city, Centrepont Tower and a small area of harbour will be retained. From the study, views of Centrepont Tower and the city will be protected. Given all iconic views and some water views from the property's principal living spaces and private outdoor open spaces will be preserved, and considering the views to be affected are already partly obstructed, the resulting view loss may be described as a low impact.

4. The proposal complies with key height, FSR, site coverage and setback controls, and therefore the development *would be considered more reasonable than one that breaches them*. The same view impact would occur even from a building with reduced number of storeys. Moreover, the design merit of the development has been previously acknowledged by Council's Design Excellence Panel. Therefore, in accordance with the LEC's fourth step, the view impact of the proposed development would be considered acceptable and the view sharing reasonable.

In summary, the impact of the development on the views of Unit 6, 29B Shirley Road, is limited to partial land and water views. The affected outlook is obtained from an oblique south-westerly outlook from the main balcony, main bedroom (looking across the main balcony) and study, over the side boundary and middle, undeveloped section of the adjoining site. The proposed development retains iconic aspects of the view, including the Harbour Bridge, Centrepont Tower, sections of Sydney Harbour and sections of the city, whilst reducing the general south-westerly outlook from the affected areas. The main, panoramic views taking in iconic elements that are obtained from the dwelling's primary living spaces (including the living room, balconies and kitchen) will remain unaffected. Overall, the resulting view impact may be described as low.



Figure 17. 'View 9' from Main Balcony of Unit 6, 29B Shirley Road

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Figure 18. 'View 10' from Living Room of Unit 6, 29B Shirley Road

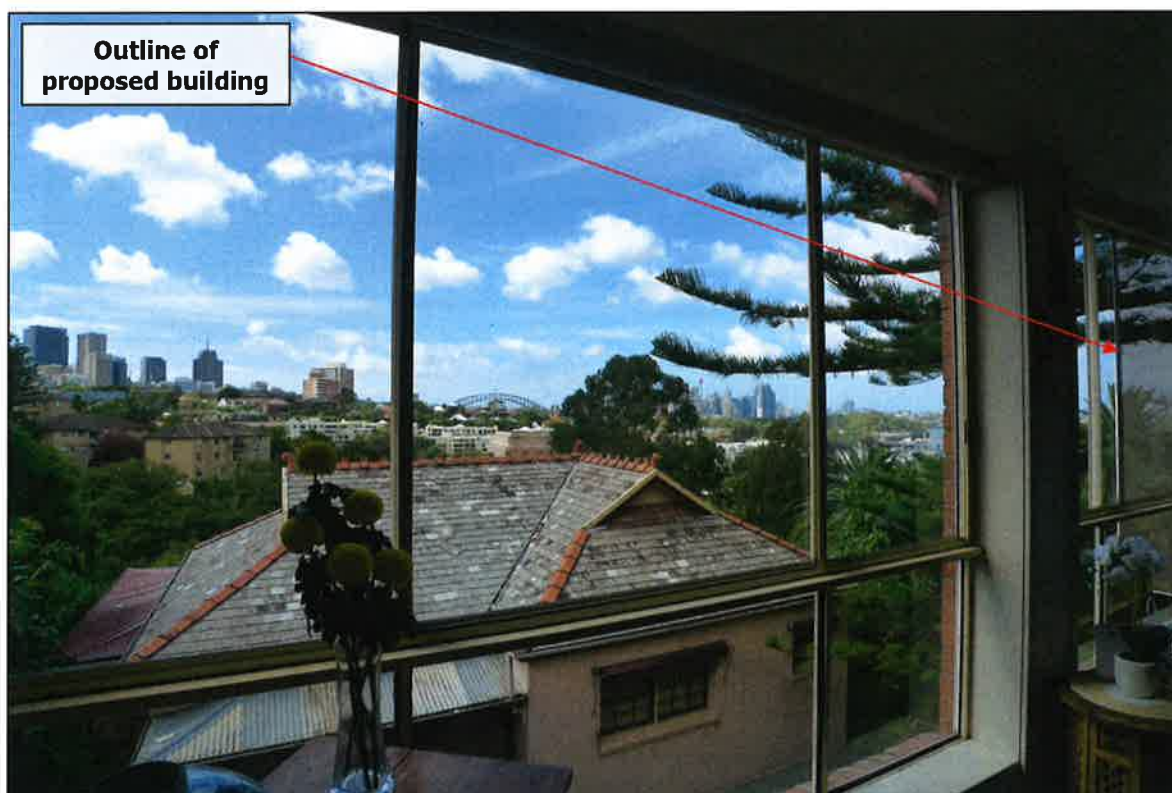


Figure 19. 'View 8' from Living/Dining Room of Unit 6, 29B Shirley Road

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Figure 20. 'View 11' from Bedroom of Unit 6, 29B Shirley Road



Figure 21. 'View 14' from Second Balcony of Unit 6, 29B Shirley Road

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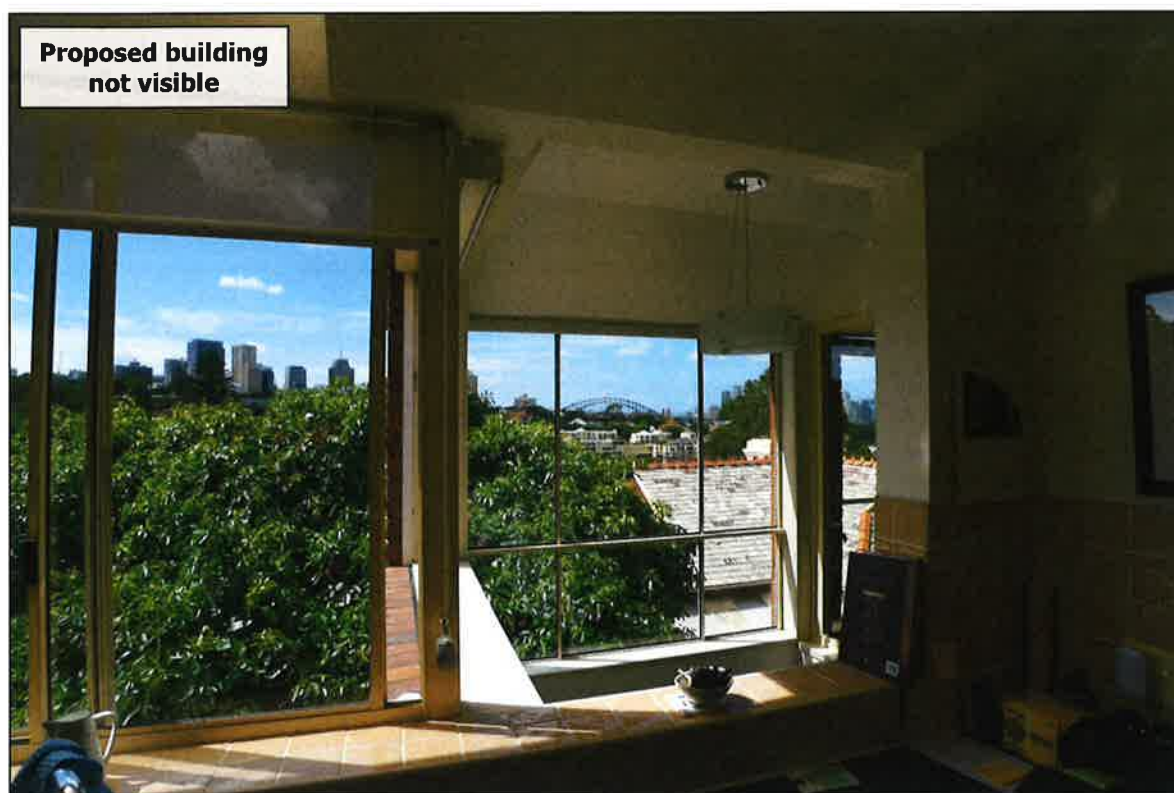


Figure 22. 'View 13' from Kitchen of Unit 6, 29B Shirley Road

The origins of the views shown in **Figures 17-22** are labelled in **Figure 23**.

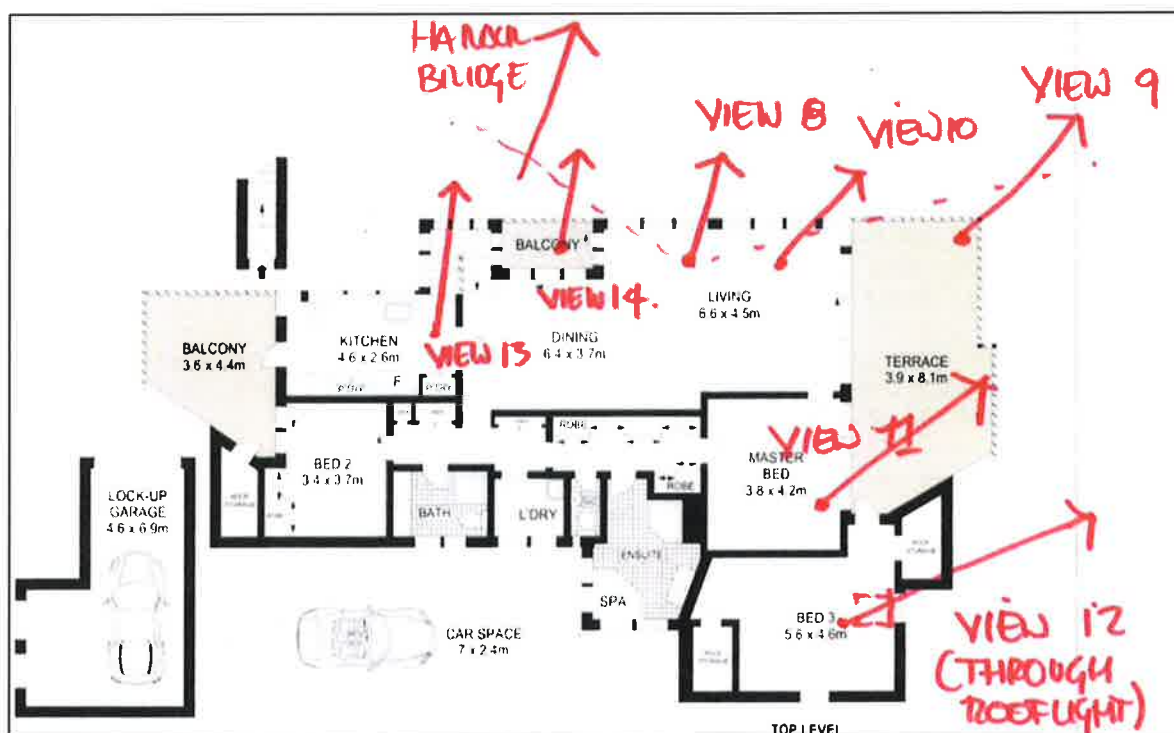


Figure 23. View Locations for Unit 6, 29B Shirley Road

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Summary and conclusion of consistency with the Planning Principle

The assessment undertaken above confirms that the proposed building has been designed in accordance with the principles of view sharing and does not give rise to any unacceptable view impacts. The proposal therefore achieves the Planning Principle for view sharing. No modifications to the building envelope are therefore required in light of view sharing.

(d) Assessment of proposal against the Planning Principles for solar access as established in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082

The LEC's Planning Principle for *solar access* was established by Moore SC in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082. Moore SC established a series of principles to be considered in the assessment of the adequacy of solar access, which are responded to below. This written assessment is supported by the Shadow Diagrams at **Appendix 8** and Sunshadow Matrix at **Appendix 9**.

It is noted that this assessment focuses on the townhouse complex at 24 Tyron Avenue, Wollstonecraft, being the only site about which overshadowing concerns have been raised.

The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.

The site is situated within a medium density context, meaning that the expectation to retain solar access is not as reasonable as in low density environments.

The site in question, being 24 Tyron Avenue (SP7696), is also considered to be particularly vulnerable to overshadowing owing to the following factors:

- The townhouse site is located to the south of development in Shirley Road, including existing residential flat buildings and the developable area of the subject site. Private open spaces and habitable room windows orientated toward these existing and future developments are therefore particularly susceptible to overshadowing.
- The townhouses are located downslope from existing and future development in Shirley Road and therefore any shadow impacts would be exacerbated by the significant fall of the land.
- Owing to excavation carried out in association with their construction, the townhouses, and notably the private open space of Residence 11, are located in cut. The position of the townhouses in cut already impedes solar access and makes Residence 11 in particular highly vulnerable to overshadowing. Existing retaining walls currently cause overshadowing.

Owing to the medium density environment and the unique vulnerabilities of the townhouses linked to orientation, topography and pre-existing cut, the difficulty of retaining solar access is exacerbated and the claim is not as strong as may otherwise be the case.

The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.

The amount of sunlight received pre and post development for each townhouse is quantified in the Sunshadow Matrix at **Appendix 9**. The number corresponding with each townhouse is shown in **Figure 24**. The hours of sunlight retained and lost for each dwelling between 8am-4pm on the Winter solstice is summarised in **Table 4** below.

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Table 4. Solar Impact on Townhouses at 24 Tyron Avenue (SP7696)				
Residence (refer Figure 24 below for location of residences)	Area	Sunlight Currently Received (h)	Sunlight Retained Post- Development (h)	Difference (h)
R1 – R6	Living Areas	NA	As existing	No change
	Private Outdoor Space	NA	As existing	No change
R7	Living Areas	6.75	5.75	-1
	Private Outdoor Space	6.75	6	-0.75
R8	Living Areas	6.75	5.5	-1.25
	Private Outdoor Space	6.75	5.5	-0.75
R9	Living Areas	5.5	5.25	-0.25
	Private Outdoor Space	6.5	5.25	-1.25
R10	Living Areas	6.75	4.75	-2
	Private Outdoor Space	5.75	4.5	-1.25
R11	Living Areas	6.75	4	-2.75
	Private Outdoor Space	5.5	2.5	-3
R12	Living Areas	5.25	1.75	-3.5
	Private Outdoor Space	5.25	1.75	-3.5
R13	Living Areas	5.25	2.25	-3
	Private Outdoor Space	6.5	3.25	-3.25
R14	Living Areas	4.5	2.25	-2.25
	Private Outdoor Space	6	3.5	-2.5

Table 4 demonstrates that 11 of the 14 dwellings (78.57% of the strata complex) receive a minimum of *three (3)* hours of solar access to living areas between 8am-4pm on the Winter solstice. 12 of the 14 dwellings (85.71% of the strata complex) receive a minimum of three (3) hours of solar access to private open spaces between 8am-4pm on the Winter solstice.

Sections 1.3.7(P1) and 3.2.9(P1) of NDCP2013 require that *developments should be designed and sited such that solar access at the winter solstice (21st June) provides a minimum of 3 hours between the hours of 9.00am and 3.00pm to:*

- (a) *any solar panels;*
- (b) *the windows of main internal living areas;*
- (c) *principal private open space areas; and*
- (d) *any communal open space areas.*

located on the subject property and any adjoining residential properties.

Note: Main internal living areas excludes bedrooms, studies, laundries, storage areas.

Therefore, the three (3) hours solar access specified by the NDCP2013 is achieved for 78.57% (living rooms) and 85.71% (private outdoor space) of the dwellings in question.

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From **Table 4** it is clear that, on the basis of receiving more than three (3) solar access on the Winter solstice, no unacceptable overshadowing impact is incurred for Residences 1-10. No further consideration of R1-10 is therefore required.

The remainder of this solar access assessment will therefore focus on Residences 11-14, which receive less than three (3) solar access to living rooms and/or private outdoor spaces. Whilst not compliant with the quantitative control nominated by the NDCP2013, consistency with the objectives of the solar access provisions may be demonstrated. The objectives of Section 1.3.7 (relating to solar access for residential development) and Section 3.2.9 (relating to solar access for non-residential development in residential zones) are as follows:

Section 1.3.7

To ensure that all dwellings have reasonable access to sunlight and daylight.

Section 3.2.9

To ensure that dwellings on adjoining and neighbouring sites have reasonable access to sunlight and daylight.

As described above (refer response to first principle), Residences 11-14 are particularly vulnerable to overshadowing owing to a number of factors:

- The townhouses are located to the south of development in Shirley Road, including existing residential flat buildings and the developable area of the subject site. Private open spaces and habitable room windows orientated toward these existing and future developments are therefore particularly susceptible to overshadowing. As demonstrated in the Shadow Diagrams, existing residential flat buildings, walls and Carpenter House contribute to the shadowing of the townhouses.
- The townhouses are located downslope from existing and future development in Shirley Road and therefore any shadow impacts would be exacerbated by the significant fall of the land.
- Owing to excavation carried out in association with their construction, the townhouses, and notably the private open space of Residence 11, are located in cut. The position of the townhouses in cut already impedes solar access and makes Residence 11 in particular highly vulnerable to overshadowing. Existing retaining walls currently cause overshadowing.
- The site is situated within a medium density context, meaning that the expectation to retain solar access is not as reasonable as in low density environments.

The vulnerability of Residences 11-14 is further demonstrated through the modelling of solar access outcomes based on a two (2), three (3), four (4) and five (5) storey development on the site. As further discussed with respect to the third principle (refer below), a two (2) storey building would cause the same level of overshadowing for Residences 11-14.

Given the vulnerabilities of Residences 11-14, the expectation to retain three (3) hours solar access to living rooms and private outdoor spaces is considered unreasonable, as per the rationale provided by Moore SC in the first principle. It is considered appropriate to state that the shadow impact caused by a two (2) storey building in a medium density environment would be reasonable. Therefore, given that the proposed development results in no more overshadowing than a two (2) storey building, its overshadowing impact may by extension also be concluded to be reasonable. Consistency with the NDCP2013 objectives for solar access is thereby demonstrated.

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Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.

The Shadow Diagrams at **Appendix 8** demonstrate the shadow impacts resulting from a development comprising two (2), three (3), four (4) and five (5) storeys. Comparison of each of the models reveals that a development of only two (2) storeys would impact the amount of sunlight received to the living areas and private open spaces of Residences 10-14 (as the most effected residences) to the same extent as the proposed five (5) storey building. Reducing the height of the building would therefore provide no material benefit to the adjoining residences with respect to solar access.

Overshadowing is therefore shown not to arise from an inappropriate building height. An alternative design incorporating a lesser number of storeys would be no more sensitive in terms of shadow impact, and therefore is inappropriate in the circumstances of the case.

Further, the fact that additional building height (for example five (5) storeys compared to two (2) storeys) does not increase the shadow impact, demonstrates that the building already exhibits high quality and sensitive design. Accordingly the proposed development satisfies this component (being the third point) of the Planning Principle.

For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.

Given that the Survey Plans used to model solar access did not show the windows and doors of residences at 24 Tyron Avenue, the whole of the relevant building elevations have been considered in the assessment of solar access. For a living room to be assessed as receiving sunlight, 80% of the elevation (measured to the ground) has been determined to be in full sunlight.

The Sunshadow Matrix therefore presents a conservative calculation of solar access.

For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.

For an outdoor space to be assessed as receiving sunlight, 30% of its entire area (measured to the ground) has been determined to be in full sunlight.

Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

The Shadow Diagrams at **Appendix 8** have accounted for surrounding buildings, structural walls and level changes. Shadows cast by existing buildings and walls have been noted within the Sunshadow Matrix (**Appendix 9**) and demonstrate the existing vulnerability of certain residences to overshadowing.

Vegetation has not been accounted for in the Shadow Diagrams. The Shadow Diagrams therefore provide a conservative portrayal of the existing scenario, noting that the *actual* extent of *existing* overshadowing would

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be increased by established vegetation and mature trees. Given that overshadowing caused by vegetation (which has however been excluded from the Shadow Diagrams and Sunshadow Matrix), would correspond with parts of the new development's shadow, the actual extent of *new* overshadowing resulting from the development would be less than what is shown in the Shadow Diagrams and Sunshadow Matrix.

In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

The area cannot be described as undergoing change and therefore it is not relevant to consider a changed future development scenario.

Summary and conclusion of consistency with the Planning Principle

The assessment undertaken above confirms that the proposed development does not cause an unacceptable impact in terms of solar access. In particular, the Shadow Diagrams demonstrate that no material benefit would arise from a reduced height development, thereby confirming that reducing the number of storeys would be irrelevant and inappropriate. The proposal therefore achieves the Planning Principle for solar access. No modifications to the building envelope are therefore required in light of solar access.

(e) Heritage and Gap Views

The height, bulk and scale of the proposed building is compatible with Carpenter House and ensure that the heritage item remains the dominant feature of the site. As described in the Heritage Impact Statement (Appendix 14 of original DA), the proposed building responds to and respects the heritage item as follows:

- *Massing and scale is managed through the use of flat and low-pitched roof forms and well-articulated elevations.*
- *The overall form of the building has a horizontality that compliments the dominant form of Carpenter House.*
- *Openings have a verticality that corresponds to the vertical emphasis in the openings of Carpenter House.*
- *The proposed finishes and colours also compliment Carpenter House, while being distinct from it and part of the contemporary character of the new building.*
- *The siting of the building to the rear of the site ensures Carpenter House and its gardens remain dominant in the setting of nearby heritage items.*
- *The new building has been designed to be as recessive as possible.*
- *Significant public views to and from the heritage items are retained.*
- *The new building is well set back from the street and its orientation and alignment will not be read in conjunction with nearby heritage items.*
- *An adequate visual curtilage is retained around each item in the vicinity of the site.*

As confirmed within the Heritage Impact Statement (refer extracts above), the scale and design of the proposed building complement the heritage-significance of the existing building on the site. *The height of the new building is sufficiently mitigated by its setback from Shirley Road and the separation from the main body of Carpenter House. The separation is such the Carpenter House maintains its dominance in the streetscape of Shirley Road and location of the new work means that the garden setting of Carpenter House is maintained.*

This is also demonstrated through the photomontage at **Figure 1** above (extracts from the Architectural Drawings at Appendix 4 and Architectural Design Report at Appendix 7 of the original DA).

Further to the above, the proposal will not compromise any gap views from Shirley Road to the harbor. As confirmed within the Heritage Statement at **Appendix 10**, no views of the harbor are currently afforded from the street over the site, and therefore no further consideration is required. Any potential views are obscured by the significant landscape setting and mature trees, which are key contributors to the site's heritage significance.

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(f) Design Excellence Panel

Council have stated that *the Design Excellence Panel expressed concerns with the bulk and scale of the building and the impact on neighbours*. As elaborated within the Minutes (refer **Appendix 5**), the Panel provided a number of recommendations to ameliorate the potential impacts it had identified. These items related to:

- Additional solar access assessment
- Screening and ledges to reduce overlooking
- Landscape screening
- Treatment of the undercroft
- Additional windows to administration offices
- Protection of the pine tree
- Fencing/planting to enhance amenity around driveway and waste areas
- Integration of services with landscaping
- Adequate loading space

As summarised in **Table 1** (refer Executive Summary of this letter), all recommendations of the Panel have been responded to. Through detailed assessments and some redesign, it has been clearly demonstrated that the proposed building will *not* unacceptably impact on neighbours. The bulk and scale of the proposal has therefore been shown to be highly appropriate for the site.

It is also important to acknowledge that *the Panel commended the applicant for a well considered and detailed proposal*. Based on the commendation provided by the Panel, the design of the facility was further developed, having respect to the recommendations of the Panel as demonstrated in **Table 1**. As the design of the development has been previously commended by Council's Design Excellence Panel and all issues identified by the Panel suitably addressed, it is clear that the proposed facility reflects Council's recommendations and directions for the development of the site.

As well as responding to each of the recommendations provided by the Panel (as above in **Table 1**), this letter responds to each of the items now raised by Council as follows.

Table 5. Response to Council Comments

Council Comment	Response
<i>Reduction in the overall height of the proposed building by one storey.</i>	<p>As described through this report, demonstrated through solar access and view modelling, and confirmed through assessment against the LEC's Planning Principles, the proposed building does not cause any unacceptable physical or visual impacts. The building height is therefore acceptable.</p> <p>Additionally, as shown in the Solar Access Diagrams (Appendix 8) and View Montages (Appendix 7), the same impact would result from a building with a reduced number of storeys. There is therefore no material benefit to be gained through a reduction in building height.</p> <p>Further, as confirmed through photomontages (refer Figure 1) and the Heritage Impact Statement, the building is not visible in views toward the site from Shirley Road and thereby protects the heritage and garden character of the site and surrounding area.</p> <p>Importantly, the proposed health facility has been designed in accordance with the operational</p>

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	<p>requirements of Tresillian such that it is capable of providing the services and capacity required to meet the needs of mothers and babies in the North Shore. Any reduction in the size of the proposed building, including the removal of a storey, would compromise the ability of the facility to fulfill its function in the provision of important health services. This is affirmed in the Operational Statement provided at Appendix 1.</p>
<i>Reduction of the height of the parapet walls to the north-east and south-east corners of the building.</i>	<p>As described above, the proposed building height suitably protects neighbouring amenity and the character of the area. No material benefit would result from a reduced building height in terms of solar access, views or appearance. Any reduction in building height would undermine the facility's operations and thereby compromise the ability of Tresillian to deliver the required health services.</p>
<i>Increase the setback of the building at the upper level.</i>	<p>The proposed building has been generously setback from all boundaries and, in particular, includes side setbacks beyond the DCP requirement of 3m (proposed to provide 5.940m northern side setback and 3.069m southern side setback) to assist in protecting neighbouring amenity. This has been acknowledged by Council's Design Excellence Panel which stated in its Minutes that <i>the Panel noted the minimal setback of the northern neighbours to the common boundary and the generous setback of the proposal</i>.</p> <p>As well as providing increased setbacks beyond the DCP requirement the proposal incorporates design elements to prevent overlooking, including south-facing windows are high level (greater than 1.5m sill height), vertical fins have been applied to glazed areas of the East elevation, the upper-level balcony has been substantially setback from the side boundaries, the deck has been repositioned and narrowed and additional screen planting has been introduced. Many of these features and the deck redesign directly respond to the recommendations of the Design Excellence Panel (refer Table 1 and amended Architectural Drawings at Appendix 11).</p> <p>Given that the building is already setback in excess of the DCP requirements, incorporates features to avoid overlooking and incorporates the recommendations provided by the Design Excellence Panel, no further increased setbacks are required.</p>
<i>Reduction to the blade walls to the central projection in the in the rear (eastern) elevation.</i>	<p>The blade walls incorporated in the eastern elevation perform a privacy function and have been designed to filter views towards the rear of the site. The blade</p>

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	<p>walls are therefore important for avoiding overlooking of neighbouring properties.</p> <p>Additionally, the introduction of the blade walls directly responded to Council's Pre-DA Meeting Minutes which stipulated that <i>windows and balconies to the new building should be designed to minimise downward sightlines to units and houses that area located below the new building.</i></p>
<p><i>Relocation of the proposed top floor 'group rooms' to the undercroft area.</i></p>	<p>The relocation of group rooms to the undercroft area would necessitate additional excavation resulting in more extreme modification of the land's natural topography. This contravenes the objectives of multiple DCP controls, including the Character Statement for the Wollstonecraft Conservation Area.</p> <p>The sinking of the building that would be required to facilitate the relocation of group rooms to the undercroft area has been previously considered, but subsequently dismissed owing to the negative results of modelling. The options for sinking the building and implications of such a design are discussed in the following row of this table.</p> <p>Overall, the results of the previous investigations reveal that it is not possible, from a constructability and access perspective, to develop an undercroft storey, nor desirable with respect to neighbouring amenity.</p>
<p><i>Sinking the building down one level.</i></p>	<p>The potential to step the building down the slope (otherwise described as 'sinking' the building) was considered in the design development phase. This option was however dismissed after modelling revealed a number of problems with this design. The massing options were included in the Architectural Design Report at Appendix 7 of the original DA.</p> <p>In summary of the original study, sinking the building triggers constructability issues and access issues. Additionally, to deliver the required amount of accommodation to support Tresillian's operability, stepping the building the slope would result in a larger building footprint resulting in greater amenity impacts for neighbours as the building footprint is moved down the site. Additionally, more trees would require removal, the APZ would be encroached on, and fire egress routes would be difficult to achieve.</p>

As summarised in this table, the design of the development reflects detailed studies and assessment as well as the Design Excellence Panel's recommendations. All matters identified by Council have therefore been comprehensively considered, and Council may have confidence that the development reflects a rigorous design process.

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2. BALCONIES

(a) Boardwalk and Visual Privacy

To minimise the potential for overlooking from the boardwalk towards the southern boundary, the deck has been redesigned. The extent of deck in closest proximity of the southern boundary has been removed, the width of the deck that is to be retained has been narrowed, and the primary volume of the deck has been repositioned to the centre of the site as far as possible from all common boundaries.

Additional screen planting has also been introduced adjacent to the southern boundary, corresponding with the previous position of the deck. This will improve the visual appearance of the development as viewed from the adjoining property. Vegetation screening adjacent to the northern boundary will similarly promote positive views toward the site from adjoining properties, create a pleasant environment for users of the boardwalk, and offset any potential overlooking of neighbouring sites.

These design amendments are consistent with the sketch overlay of Drawing DA101 that was included in Appendix 3 of the previous Additional Information Response. As now requested by Council, the sketch has been formalized and is included at **Appendix 11** of this submission.

(b) Level 3 Balcony

The proposed upper-level balcony provides a break-out space for the adjacent group rooms and accordingly is important in contributing to the level of amenity offered by the health facility. This outdoor space is intended for use by mothers attending the programs within the group rooms. By providing access to fresh air, sunlight and views of nature, the balcony will support mothers' and babies' mental health and wellbeing.

The size of the balcony responds to this intended function, with suitable area provided to allow more than one (1) mother to use the space at any one time without feeling crowded. This sense of space is key to the 'fresh air reprieve' that the balcony will offer.

The balcony has been significantly setback from the side boundaries (9m from the northern boundary and 7m from the southern boundary, respectively). Additionally, sides provided to the balcony will avoid overlooking of neighbouring properties.

Given the design of the balcony effectively preserves privacy for adjoining properties, no redesign is required. Any reduction in the area of the balcony would compromise its function and the level of amenity afforded to mothers, with no corresponding material benefit in terms of neighbours' privacy.

3. ACOUSTIC PRIVACY

To maximise acoustic privacy at all times of the day and night for adjoining properties, all bedroom windows will be sealed and remain closed at all times. Mechanical ventilation will be provided to all bedrooms.

The provision of mechanical ventilation and sealed windows to all bedrooms reflects the original intent of the design. It is requested that the 'typo' within the Acoustic Report is superseded by this commentary.

4. PARKING

(a) Parking Provision

Council have requested clarification of car parking surveys and requirements for the proposed facility. In response, a Traffic and Parking Statement has been provided by Transport Planning Partnership (TPPP) and is attached at **Appendix 12**.

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In summary, the staff and clientele level at Tresillian's Willoughby facility on the date of the survey (Wednesday 24 May 2017) was as follows:

- 10-12 clients at the residential stay program;
- 16 staff during the morning shift;
- 20 staff during the evening shift; and
- 6 staff during the night shift.

As previously detailed in the car parking survey, occupancy rates were as follows:

- Average car park occupancy – 35%, representing 11 vacancies out of 17 spaces; and
- Maximum car park occupancy – 59%, representing 7 vacancies out of 17 spaces.

Currently, three (3) on-site parking spaces service all components of the Tresillian Wollstonecraft facility, including the Guthrie Child Care Centre and Tresillian Family Care Service. Resulting from the development, the three (3) existing spaces will be relocated to the basement, and an additional eight (8) spaces included in the basement (resulting in the total provision of 11 on-site car parking spaces). This equates to three (3) parking spaces preserved to continue supporting the existing and ongoing component of Tresillian's operations, and an additional eight (8) spaces to service the new operations proposed to be provided at Tresillian's Wollstonecraft facility. All car parking spaces will be managed to ensure appropriate allocation to staff (including child care staff), visitors/patients and for servicing.

(b) Green Travel Plan

As stated in the Traffic Statement at **Appendix 12**, full-details of the Green Travel Plan will be provided prior to the commencement of operations (as envisaged to be included as a Condition of Consent). The Green Travel Plan incorporated within the original Traffic Report was designed to provide a brief framework for the implementation of such a plan. As requested by Council, measurable objectives and commitments have been outlined within the Traffic Statement (**Appendix 12**) and are summarised as follows:

- The Green Travel Plan would include objectives and targets which adopt the S.M.A.R.T mode share targets, being *specific, measurable, achievable, realistic and time-based*.
- The Green Travel Plan would include travel plan strategies and actions to align with key objectives and targets, e.g. incentives and/or preparation of a Transport Access Guide (TAG).
- The Green Travel Plan would include a systematic approach to measure the impact of the travel plan, including commitment of resources to allow for implementation, monitoring, review and continual improvement of the travel plan, including the appointment of a Travel Plan Coordinator who would nominally be a member of staff to oversee the Travel Plan measures.

Additionally, management measures to promote public transport use by residential patients and staff include:

- All patients of the Residential Care Facility book their stay several weeks in advance, and two (2) weeks prior to their arrival are provided by Tresillian with a 'welcome pack'. Advice on accessing the facility will form a component of this orientation documentation. Tresillian will advise on the car parking constraints, and provide maps identifying the close proximity of the train station and bus stops to the site. To encourage residential patients to access the facility by public transport, Tresillian will offer reimbursements for the cost of using public transport. The alternative option of being dropped-off at the facility will also be encouraged (noting the practicality of this option given residential patients typically stay for five (5) nights).
- All staff employed at the facility (including the child care centre) will partake in an induction/orientation and training program in accordance with Tresillian's operational management procedures. A key outcome of the orientation/induction program will relate to familiarity with, and commitment to, the Green Travel Plan on the part of all staff. As a not-for-profit care organisation, Tresillian's vision includes that of having a sustainable approach at a holistic level. In accordance, staff at all levels will be encouraged to use the nearby convenience of public transport. Tresillian recognises the importance

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of creating this culture and will incentivise the use of public transport by staff through the provision of pre-loaded Opal cards.

As noted, it is anticipated that the Green Travel Plan will form a Condition of Consent to be satisfied prior to the operation of the facility.

(c) Loading

Access to the site for delivery vehicles will be facilitated via the driveway adjacent to the southern site boundary. Delivery vehicles will enter the site, proceed to the basement, drop-off the relevant goods/materials and then exit the site. Delivery vehicles will not park on site.

To ensure that delivery vehicles do not obstruct car parking spaces required to service the facility's staff and patients, deliveries will be scheduled such that they take place before opening hours (prior to 9am) and avoid overlapping with the scheduled arrival of staff or patients. The scheduling of deliveries will form part of Tresillian's operational management plan. Prior to 9am, one (1) car parking space will be designated for loading activities.

As confirmed in the swept paths incorporated within the Traffic Report (Appendix 20 of original DA), the driveway and car park design facilitate the appropriate circulation and turning of B99 vehicles, ensuring that all delivery vehicles will enter and exit the site in a forward direction.

As described in the updated Waste Management Plan (Appendix 7 of previous Additional Information Response), waste collection vehicles will not access the site. Rather, bins will be wheeled by staff using a bin mover, to the street on collection day.

5. LANDSCAPE DESIGN IN ASSET PROTECTION ZONE

As confirmed within the statement issued by the Landscape Architect (refer **Appendix 13**), the Landscape Plan (**Appendix 14**) is capable of complying with the requirements for Inner Protection Areas (IPAs) as outlined in Section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document *Standards for Asset Protection Zones*.

Certification from a Heritage consultant and Flora & Fauna expert (being an ecologist) is provided at **Appendix 10** and **Appendix 15** and provides confirmation that the proposed landscaping will complement the heritage landscape and bushland character of the site.

Specifically, the Heritage Statement at **Appendix 10** confirms that the design of the proposed scheme minimizes impact to both the gardenesque setting to the front of the site and the fragment natural bushland to the rear. With respect to Council's request for a Vegetation Management Plan to transition the rear of the site to a more native-dominated and bush habitat garden, the Heritage Statement provides that *this is possible with careful consideration of heritage balanced with bushfire management and suggest the preparation of this plan be made a condition of consent. Final certification by the heritage consultant can be made a Condition of Consent.*

The ecologist confirmed that the majority of species *are natives or native cultivars of locally native species and as such I consider that the landscaping plan complements the bushland character of the site.* The ecologist suggested replacing *Cyanthea cooperi* with *Cyathea australis*, which has been adhered to (as shown in the updated Landscape Plans at **Appendix 14**). In response, the ecologist provides that *due to the use of predominately native species (most locally native) and native cultivars, and the substitution of Cyathea cooperi with a more ecologically appropriate species the amended landscape plan complements the bushland character of the site.*

As per the Landscape Statement at **Appendix 13**, the Landscape Architect has also confirmed that *the character of the proposed landscape design and planting is complementary to the heritage areas of the site,*

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where adjacent. The proposal also responds to the bushland character of the site, offering a unique connection to the existing landscape and nearby creek reserve planting.

6. BUSHLAND

Council have identified an opportunity to transition the rear portion of the site from an exotic mix of plants to a more native-dominated and structurally-diverse bush habitat. This would need to be carried out without harming heritage plantings and with consideration to bushfire management. Stormwater management could also be integrated through the design of an ephemeral creekline connecting to the Badangi Reserve creek.

The preparation of a Vegetation Management Plan for the rear of the site (lying outside of the development area) may be included as a Condition of Consent.

CONCLUSION

This letter and the supporting appendices have responded to the matters raised by Council and demonstrated the suitability of the subject site and proposed development.

It is therefore considered that the information contained in this letter and its appendices provide suitable information to inform the assessment and favourable determination of the subject Development Application (DA 326/17).

Yours faithfully,



Chris Wilson
Managing Director
Willowtree Planning