

## COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH072
DA Number	DA326/17
LGA	North Sydney
Proposed Development	Construction of 5-storey health facility with lower ground level parking for 11 cars, demolition of ancillary buildings to permit vehicle driveway, earthworks, associated landscaping, conservation works to Carpenter House
Street Address	25 Shirley Road, Wollstonecraft
Applicant/Owner	Tresillian Family Care Centres
Date of DA lodgement	18 September 2017
Number of Submissions	131
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private infrastructure and community facilities over \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• North Sydney Local Environmental Plan 2013</li> <li>• Rural Fires Act 1997</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Contaminated Lands</li> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Integrated Development</li> <li>• North Sydney Development Control Plan 2013</li> </ul>
List all documents submitted with this report for the Panel's consideration	1. Drawings 2. <i>Additional Information Response</i> by Willow Tree Planning dated 6/4/18 3. <i>Traffic, Transport &amp; Parking Assessment Reports</i> by The Transport Planning Partnership dated 1/9/17 & 29/3/18 4. Shadow diagrams & matrix 5. View analysis 6. Draft conditions of consent (without prejudice)
Report prepared by	Susanna Cheng, Senior Assessment Officer
Report date	25 June 2018

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? Yes

### Legislative clauses requiring consent authority satisfaction

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

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

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Not Applicable

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Not Applicable

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

### Conditions

Have draft conditions been provided to the applicant for comment? Yes

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

## REPORT TO SYDNEY NORTH PLANNING PANEL

### Attachments:

1. Drawings
2. Additional Information Response
3. Traffic, Transport & Parking Reports
4. View analysis
5. Shadow diagrams & matrix

**ADDRESS/WARD:** 25 Shirley Road, Wollstonecraft

**APPLICATION No:** DA 326/17

**PROPOSAL:** Construction of 5-storey health facility with lower ground level parking for 11 cars, demolition of ancillary buildings to permit vehicle driveway, earthworks, associated landscaping, and conservation works to Carpenter House

**PLANS REF:** Drawings by Team 2 Architects numbered DA100-104 (Rev.I), DA105 & 106 (Rev.H), DA200 (Rev.J), DA201-203 (Rev.I), DA300 (Rev.H) & DA301-302 (Rev.C) and received by Council on 12/4/18

**OWNER:** Tresillian Family Care Centres

**APPLICANT:** Tresillian Family Care Centres

**AUTHOR:** Susanna Cheng, Senior Assessment Officer

**DATE OF REPORT:** 25 June 2018

**DATE LODGED:** 18 September 2017  
**AMENDED:** 20 December 2017 and 12 April 2018

**SUBMISSIONS:** 131

**RECOMMENDATION:** Refusal

## EXECUTIVE SUMMARY

This development application seeks Council's approval for construction of a 5-storey health facility with lower ground level parking for 11 cars, demolition of ancillary buildings to permit vehicle driveway, earthworks, associated landscaping, and conservation works to Carpenter House.

The application is reported to Sydney North Planning Panel for determination as it is for private infrastructure and community facilities over \$5 million.

The application is Integrated Development as the proposal is for a "Special Fire Protection Purpose Development" pursuant to section 100B of the *Rural Fires Act 1997*. The Rural Fire Service has granted concurrence and terms of approval.

The proposed development has been assessed against the provisions of North Sydney Local Environmental Plan 2013, SEPP (Infrastructure) 2007, SEPP No.55 Contaminated Lands, SREP (Sydney Harbour Catchment) 2005 and SEPP (Educational Establishments & Child Care Facilities) 2017.

Council's notification of the proposal has attracted one hundred & thirty-one (131) submissions raising particular concerns about traffic and parking, construction impacts, solar access, bushfire safety, noise and air pollution, view impacts, privacy, heritage impacts, tree removal, impacts on child care centre, and drainage, flooding and erosion. There were three (3) submissions supportive of the application, for provision of necessary infrastructure. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

It is considered that the ongoing operation of the site as a Tresillian health service is in keeping with the current and historical use of the site. The restoration works to Carpenter House are supported, as is the siting of the new building. However, the physical impacts of the proposed new facility on adjoining land are assessed to be unacceptable.

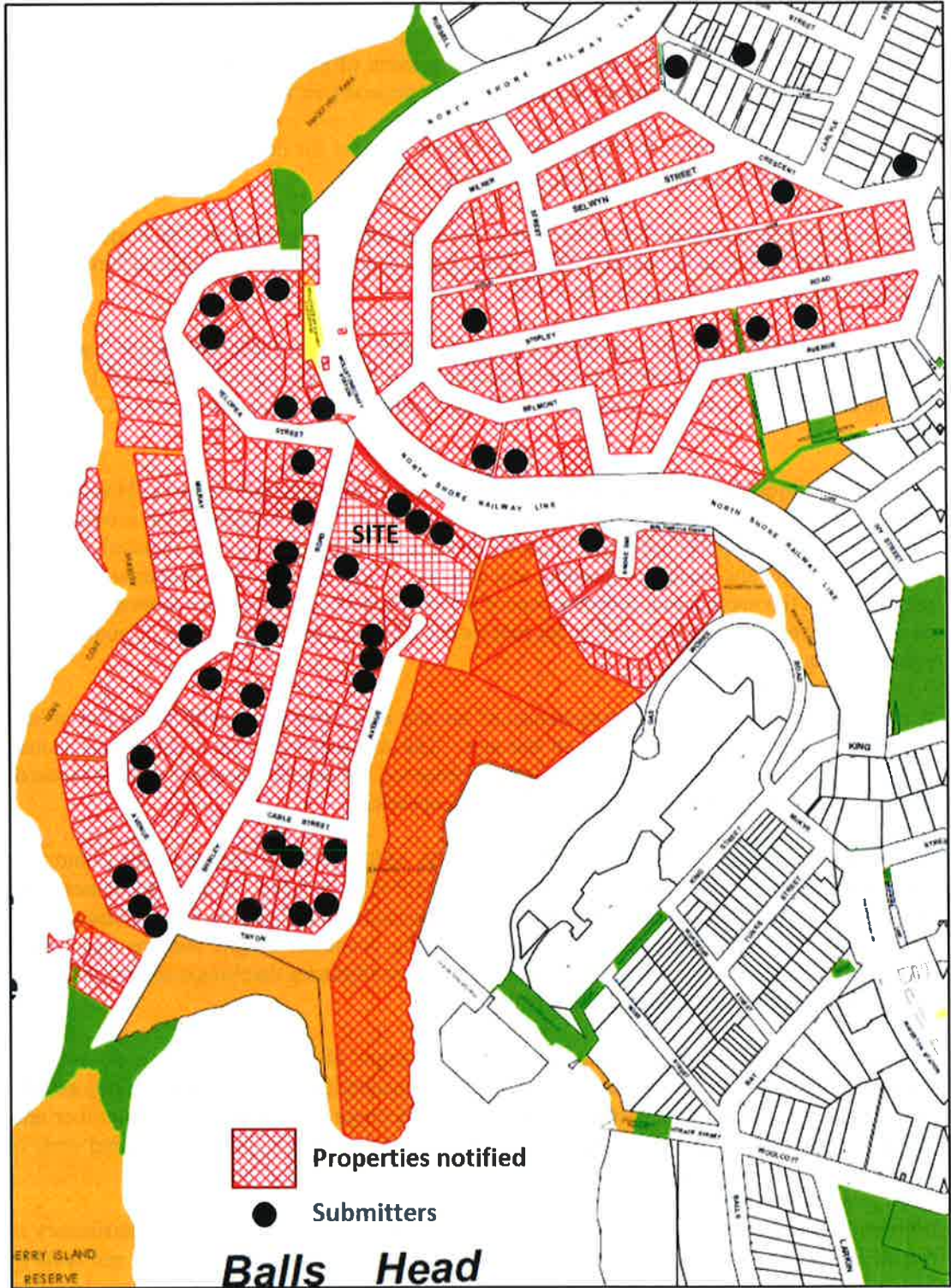
The site is located in Wollstonecraft peninsula within which the prevailing and desired characteristic height as reflected in North Sydney LEP 2013 is 8.5m. The proposed new building is up to 16m at the rear parapet, being 88% above characteristic height. In conjunction with falling topography and inadequate building separations, the proposed height and massing results in overbearing bulk and scale, view and shadow impacts on adjoining dwellings, and an unsatisfactory relationship with the heritage-listed Carpenter House.

It is considered that the floorplate, setbacks and height of the new building do not respond appropriately to the site constraints, in particular, the proximity of adjoining dwellings and the fall of the land. Furthermore, it is considered that there is scope to redistribute useable floor areas to the undercroft or void spaces within the new building to reduce the apparent bulk and scale of the building and its amenity impacts.

Following this assessment, the development application is considered to be unsatisfactory in the circumstances and is recommended for **refusal** due to the excessive height, bulk and scale of the new building, and associated heritage and amenity impacts.

Should the Panel be of a mind to grant approval to the development, it is recommended that the Panel seek amendments to the design of the proposed building so as to reduce environmental impacts.

LOCATION MAP

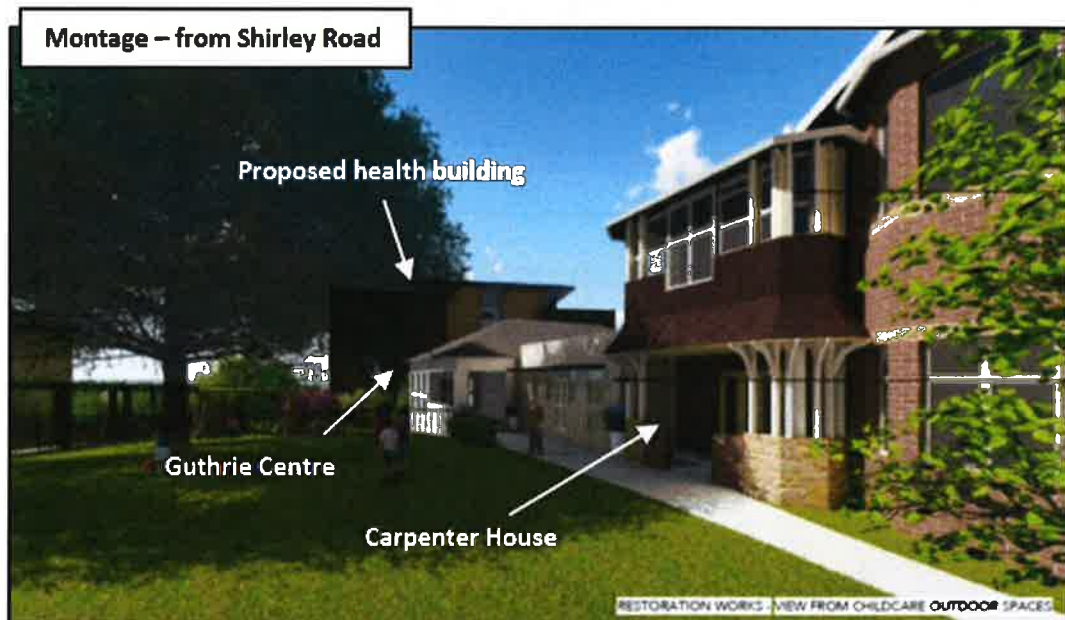




## DESCRIPTION OF PROPOSAL

The application seeks approval for construction of 5-storey health services facility with lower ground level parking for 11 cars, demolition of ancillary buildings to permit vehicle driveway, earthworks, associated landscaping, and conservation works to Carpenter House. Photomontages and details of the works and operational details are provided below (**Figures 1 to 3**). Drawings are provided in **Attachment 1** to this report.

The site is identified as bushfire prone land. As such, the development application is **Integrated Development** requiring concurrence of Rural Fire Service (RFS) pursuant to section 100B of the *Rural Fires Act*.

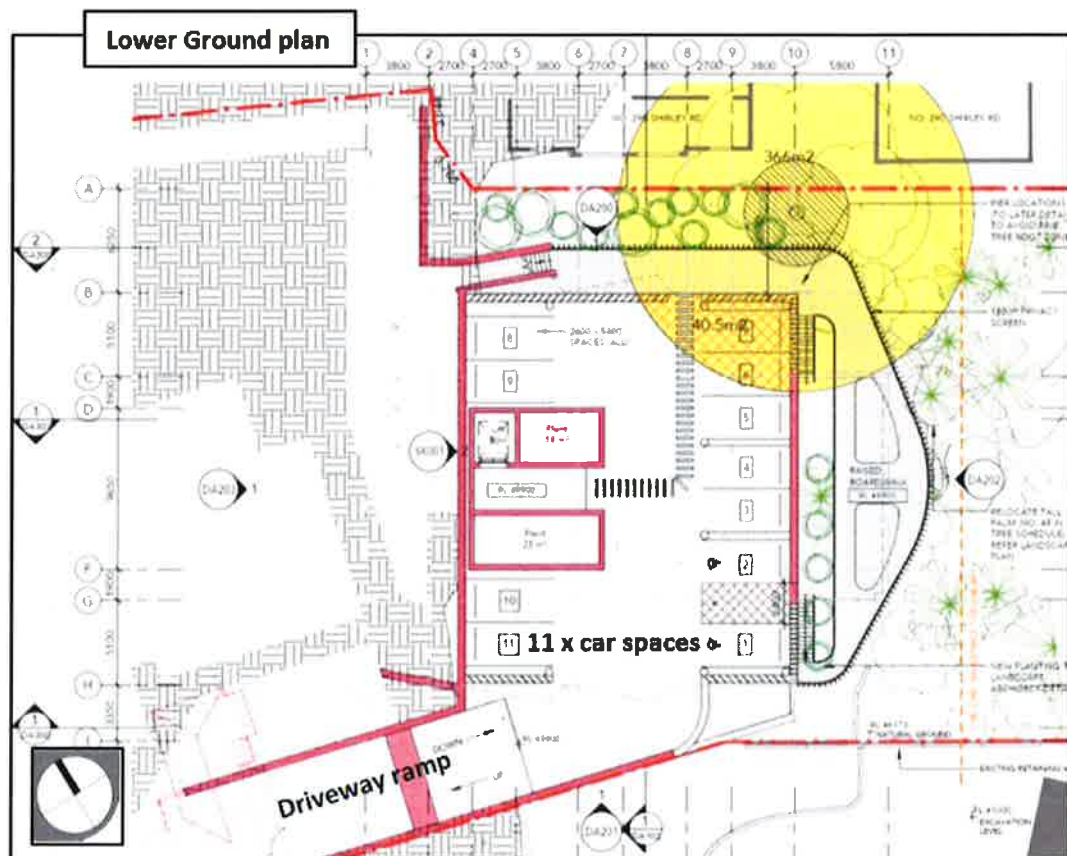


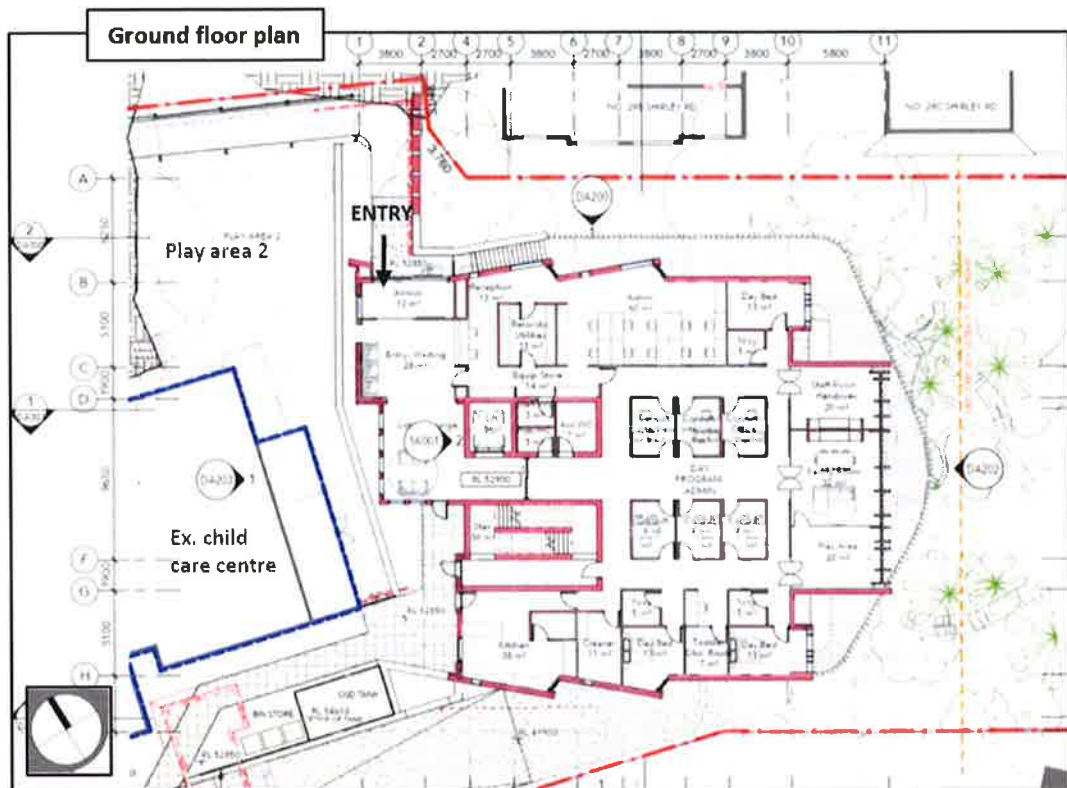


*Figure 1 – Perspectives of proposed development*

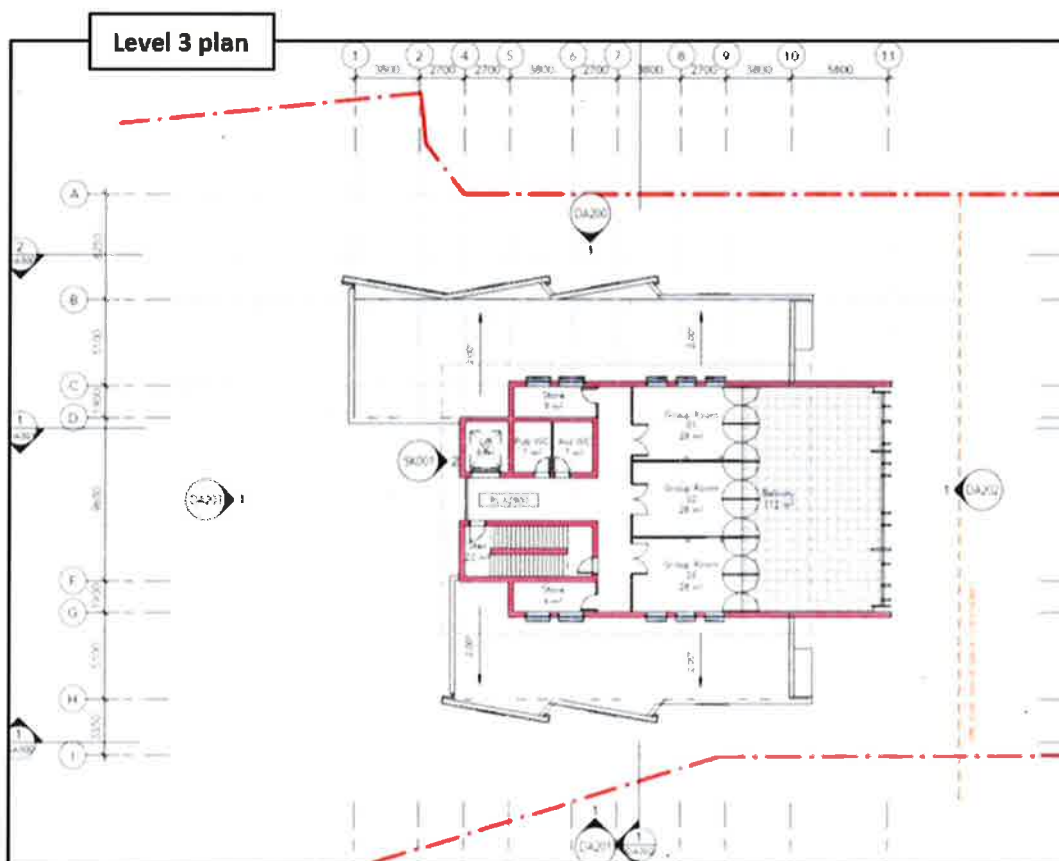


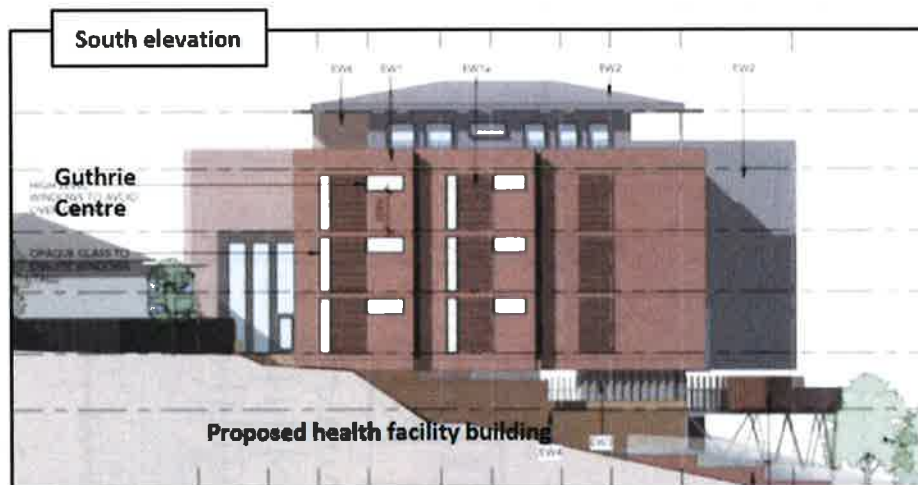
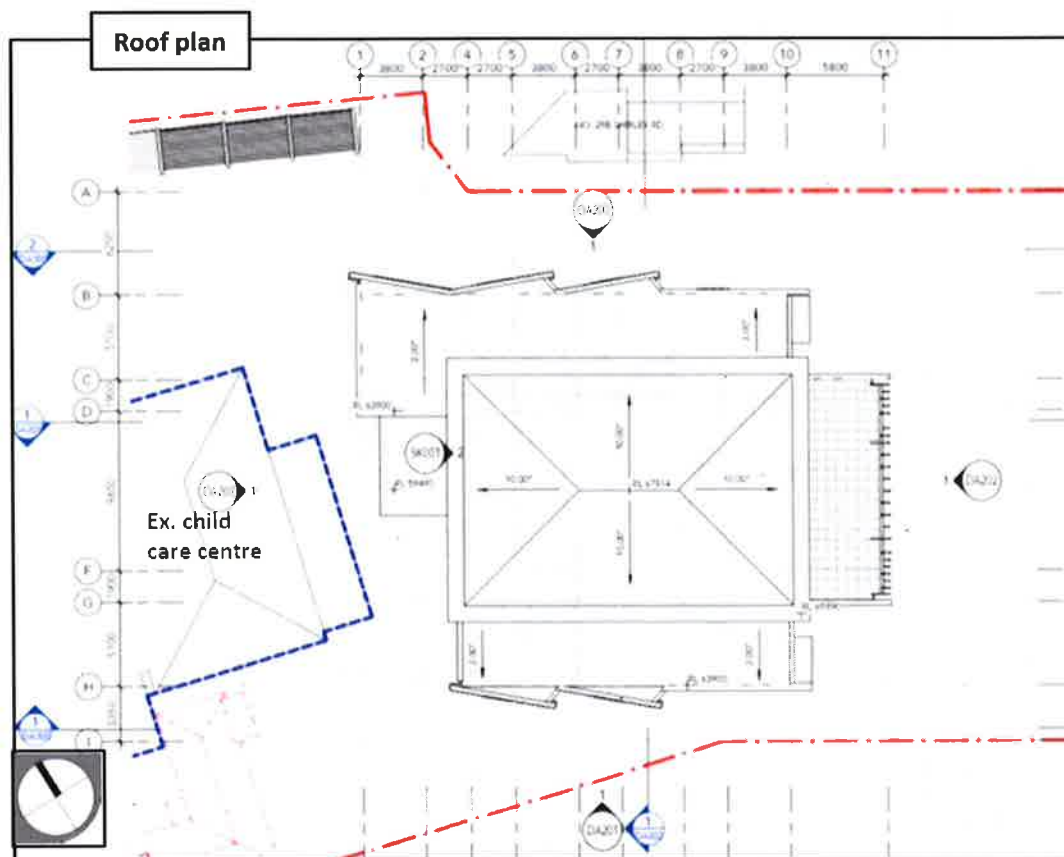
Proposed health services facility building	
<p><b>Basement level</b></p> <ul style="list-style-type: none"> <li>• 11 x car parking spaces</li> <li>• Plant rooms</li> <li>• Lift</li> <li>• Balcony/walkway</li> </ul> <p><b>Ground floor</b></p> <ul style="list-style-type: none"> <li>• Reception, lounge, admin</li> <li>• 3 x day bed</li> <li>• 3 x nursery</li> <li>• Consultation rooms</li> <li>• Family room, play area</li> <li>• Kitchen</li> <li>• Sanitary facilities</li> </ul>	<p><b>Level 1</b></p> <ul style="list-style-type: none"> <li>• 7 x nurseries with ensuites (Rooms 1 to 7)</li> <li>• Lounge, dining, social room</li> <li>• Preparation and utility rooms</li> <li>• Sanitary facilities</li> </ul> <p><b>Level 2</b></p> <ul style="list-style-type: none"> <li>• 7 x nurseries with ensuites (Rooms 8 to 14)</li> <li>• Lounge and play area</li> <li>• Preparation and utility rooms</li> <li>• Sanitary facilities</li> </ul> <p><b>Level 3</b></p> <ul style="list-style-type: none"> <li>• 3 x group rooms</li> <li>• Sanitary facilities</li> <li>• Balcony</li> </ul>













*Figure 2 – Plans & elevations of the proposed building*

The health services facility will provide day and residential programs in early parenting, new-parents support, and post-natal health and wellbeing. (No change is proposed to an existing child care centre currently operating out of the Guthrie building within the site.)



Operational particular		Proposed operations
Hours of operation	Day services	7am-6pm Monday to Friday
	Residential services	24 hours, 7 days per week
	Child care services (existing)	7am-6pm Monday to Friday
Services & capacity	Day services	6 clients / day
	Parenting programs	10 parents (+ children) held twice per week
	Child care services (existing)	42 children
	Residential services	14 beds
Staffing (up to 17 staff)	Day services	<ul style="list-style-type: none"> <li>Nursing Unit Manager</li> <li>Registered nurses with child &amp; family post-graduate certification</li> </ul>
	Child care services (existing)	<ul style="list-style-type: none"> <li>Director</li> <li>Staff as per legislated ratios &amp; qualifications</li> <li>Part-time qualified cook</li> </ul>
	Residential services (4-night/5-day in-patients)	<ul style="list-style-type: none"> <li>Nursing Unit Manager</li> <li>Registered nurses with child &amp; family post-graduate certification</li> <li>Director Psychology &amp; Social Work</li> </ul>
Deliveries	Variety of suppliers for food, linen, stationary, equipment & cleaning products	7am-8am daily

## STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – SP2 Infrastructure (Health Services Facility)
- Item of Heritage – Yes (I1108)
- In Vicinity of Item of Heritage – Yes (No's. 42 & 46 Shirley Road)
- Conservation Area – Yes (Wollstonecraft conservation area CA25)

Rural Fires Act 1997

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy No. 55 – Contaminated Lands

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

SEPP (Educational Establishments & Child Care Facilities) 2017

Integrated Development

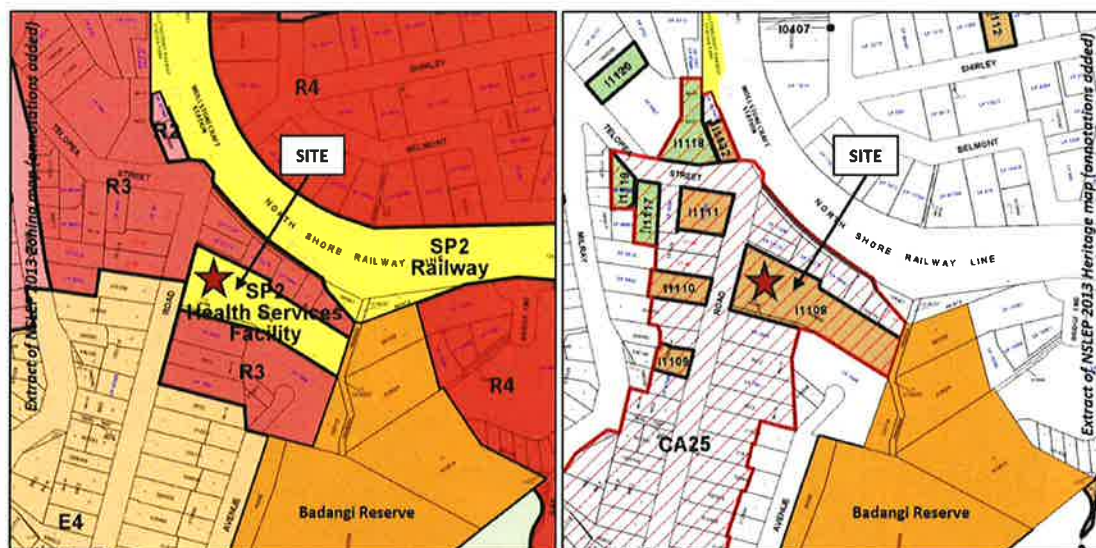
North Sydney Development Control Plan 2013

## POLICY CONTROLS

NSDCP 2013

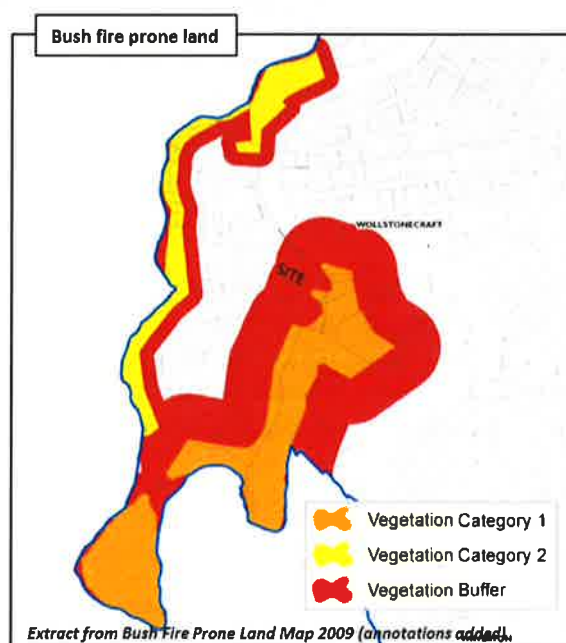
## DESCRIPTION OF LOCALITY

The site is identified as Lot B DP 964648 and Lot 7376 DP 1167508, and known as 25 Shirley Road, Wollstonecraft. The site is zoned **SP2 Infrastructure (Health Services Facility)** under North Sydney LEP 2013. The site is immediately adjoined to the north and south by R3 Medium Density zone and E4 Environmental Living zone to the west on the opposite side of Shirley Road. The east-adjoining Reserve is zoned E2. Further to the north is North Shore Rail line zoned SP2 Infrastructure (Railway). The property is a local heritage item and within Wollstonecraft conservation area (CA25) under North Sydney LEP 2013 (**Figure 3**).



**Figure 3 – Site is zoned SP2 Infrastructure (Health Services Facility) and is a heritage item**

The site is within bush fire prone land as identified in North Sydney Council's Bush Fire Prone Land Map 2009 (**Figure 4**) and subject to the provisions of the *Rural Fires Act 1997*.



**Figure 4 – Site is within bush fire prone land**

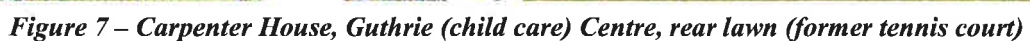
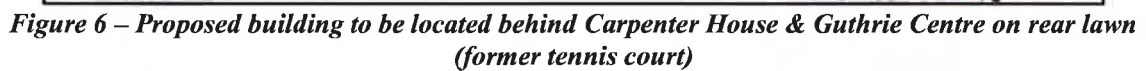
The site is located on the eastern side of Shirley Road and has a frontage of 56.5m and falls to the east where its rear boundary adjoins Badangi Reserve (**Figure 5**). The highest RL of the site from Shirley Road is RL55.33, falling some 26.03m to the rear of the site where the ground level is RL29.30. The site has a total area of **6,006m<sup>2</sup>**.



**Figure 5 – Site**

The site is occupied by two buildings known as “Carpenter House” (with ancillary buildings) and “Guthrie Centre” located forward on lot within a landscaped front garden setting, and a rear lawn (former tennis court) beyond which the land is densely vegetated and drops steeply to the east (**Figures 6 & 7**). Existing vehicular access is via a single driveway on the southern side of the street frontage at Shirley Road, leading to an open car stand for stacked parking of up to three cars.





“Carpenter House” contains a family care centre with services for early parenting involving day visits, residential stays and education programs, and “Guthrie Centre” contains a child care centre for 42 children. Existing services are provided by Tresillian. It is understood the current proposal has come about due to the closure of Tresillian’s Willoughby facility.

The surrounding area is predominantly residential. The site is immediately adjoined by detached dwellings, residential flat buildings and townhouses in a medium density context of modest height (**Figure 8**). Wollstonecraft railway station is located approximately 210m (3 minutes’) walk to the site.



**Figure 8 – Adjoining development**

## RELEVANT HISTORY

A **pre-lodgement meeting** was held on 6 April 2017 proposing a new 5-storey health facility. Council advised that the proposal would have to be informed by a conservation management plan. Council raised particular concern about the southern side setback in relation to building bulk, shadow impacts, privacy, traffic and parking.

The subject **DA326/17** was lodged on 18 September 2017, including a conservation management plan and traffic report, and incorporation of increased setbacks compared to the original pre-DA scheme.

A **briefing** of the application was provided to Sydney North Planning Panel at its meeting on 26 February 2018. The following key issues remained outstanding at the time of the briefing:

### 1. *Height, bulk and scale*

- *Reduction to the overall height of the proposed building by one storey;*
- *Reduction of the height of the parapet walls to the north-east and south-east corners of the building;*
- *Increase the setback of the building at the upper level(s);*
- *Reduction to the blade walls to the central projection in the rear (eastern) elevation;*
- *Relocation of the proposed top floor "group rooms" to the undercroft area; and/or*
- *Sinking the building down one level.*

### 2. *Balconies*

- *The setbacks of the Lower Ground level boardwalk and balcony should be increased, in order to reduce privacy impacts on adjoining residents; and*
- *The balcony on Level 3 should be deleted or reduced in size, given the height of the balcony above neighbouring residences and associated visual and acoustic privacy impacts.*

Council received **additional information on 12 April 2018**, in response to the issues raised. The information did not contain any of the recommended amendments to the height and setbacks of the building, however, provided for increased setbacks to the Lower Ground level boardwalk and balcony. A copy of the *Additional Information Response* prepared by Willow Tree Planning dated 6/4/18 is included in **Attachment 2**.

## REFERRALS

### Integrated Referrals

#### NSW Rural Fire Services

The site is identified as bushfire prone land. As such, the development application is Integrated Development requiring concurrence of Rural Fire Service (RFS) pursuant to section 100B of the *Rural Fires Act*. The proposal was referred to NSW Rural Fire Services who provided the following advice:

*This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:*



#### **Asset Protection Zones**

*The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:*

*1. At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within 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'.*

#### **Water and Utilities**

*The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:*

*2. The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.*

#### **Evacuation and Emergency Management**

*The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:*

*3. A new and or updated Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning – A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014' and Australian Standard AS3745 2010 'Planning for Emergencies in Facilities'.*

#### **Design and Construction**

*The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:*

*4. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.*

#### **Landscaping**

*5. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.*

**Planner's comment:** The proposed development includes for the following bushfire protection strategies:

- Provision and maintenance of minimum 50m wide Asset Protection Zone to the east;
- Landscaped gardens to be maintained in accordance with Appendix 5 of *Planning for Bushfire Protection 2006* and NSW Rural Fire Services' *Specifications for Asset Protection Zones*;
- Construction to comply with sections 3 & 5 of AS3959;
- Existing Sydney Water reticulated service to be extended into the site with hydrants installed in accordance with AS2419.1-2005; and
- Evacuation Plan to be prepared in accordance with AS3745-2002 including emergency protocols.

The development will be required to meet relevant requirements of RFS's *Planning for Bush Fire Protection* guidelines, with any bushfire mitigation controls to be integrated wholly within the site and not reliant on Council land (via **condition**).

## **Other External referrals**

### **Aboriginal Heritage**

The application was referred to Aboriginal Heritage, who advised:

*No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.*

*If areas of in situ sandstone outcrop are in the proposed development area (such as overhangs over 1m in height or level platforms over 2m square), the Aboriginal Heritage Office would recommend a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by the Aboriginal Heritage Office. If there are no existing sandstone outcrops present (or if any outcrops that were present were properly excluded from future impacts), then no further assessment is required and the Aboriginal Heritage Office would not foresee any further Aboriginal heritage constraints on the proposal.*

*Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.*

### **Railcorp**

The proposal was referred to Railcorp (Sydney Trains) pursuant to Clause 85 in relation to development adjacent to rail corridors. Sydney Trains, as delegate of Railcorp, has reviewed the proposal under Clause 85 and requests the following issues be addressed in the conditions for this proposed development:

#### ***1. Noise and Vibration***

*Sydney Trains is concerned that the future occupants of the development will encounter rail-related noise and vibration from the adjacent rail corridor. Rail noise and vibration can seriously affect residential amenity and comfort, jeopardise the structural safety of buildings, and thus should be addressed early in the development process.*

*The Department of Planning has released the document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The document is available on the Department of Planning's website.*

*Council is therefore requested to impose the **condition** of consent:*

- An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".*

#### ***2. Stray Currents and Electrolysis from Rail Operations***

*Stray currents as a result of rail operations may impact on the structure of the development. Electric currents on overhead wiring pass through the train's motor and return to the power substation via the rail tracks. Occasionally, these currents may stray from the tracks and into the ground. Depending on the type and condition of the ground, these may be passed to the nearest conductive material (concrete reinforcement, piling, conduits, pipework and earthing rods) accelerating corrosion of metals and leading to concrete cancer. Therefore, the Applicant should consider this possible impact, and engage an expert consultant when designing its buildings. It is requested that Council include the following **condition** of consent:*

- *Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.*

### **3. Geotechnical and Structural Stability and Integrity**

*Sydney Trains needs to be assured that the development has no adverse effects on the geotechnical and structural stability and integrity of Sydney Trains Facilities. It is requested that Council impose the following **condition** of consent:*

- *Prior to the commencement of works, the Applicant shall provide certification from a qualified Geotechnical and Structural Engineers stating that the proposed works are to have no negative impact on the rail corridor and associated rail infrastructure.*

### **4. Crane and Other Aerial Operations**

*During construction, the use of cranes and other equipment capable of intruding into the airspace above the corridor and of operating over any overhead wiring or transmission lines must be strictly controlled. The developer must demonstrate to the satisfaction of Sydney Trains that all crane and other overhead operations are properly managed, and enter into an agreement with Sydney Trains for such operation. It is requested that Council include the following **condition** of consent:*

- *If a crane is to be used at any stage of the proposed works, the following condition applies:*
  - *Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*

## **Sydney Water**

The proposal was referred to Sydney Water who has recommended conditions of any approval in relation to Building Plan Approval and Section 73 Certificate.

### **Internal referrals**

#### **Design Excellence Panel**

The proposal was referred to Council's Design Excellence Panel at its meeting on 10/10/17. The Panel provided the following advice:

*The Panel had some initial concerns with the bulk and scale of the building and the impact on neighbours.*

*The proposal will have shadow, privacy and view impacts on some of the adjacent neighbours. 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.*



*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.*

*Landscape screening to the boardwalk and its undercroft was suggested to lessen the bulk of the building from the neighbouring townhouses. 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.*

*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. The Panel noted the minimal setback of the northern neighbours to the common boundary and the generous setback of the proposal. 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.*

*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.*

*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.*

*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.*

*The Panel queried the service vehicular movements and provision for adequate loading/turning area in the carpark.*

*The applicant explained the design and the process and the Panel commended the applicant for a well considered and detailed proposal.*

### **Conclusion**

*The Panel supports the proposal subject to the above issues being addressed.*

**Planner's comment:** The application has not been amended to address the concerns of the Panel in relation to the visual bulk of the building. No change is proposed to the height and setback of the south eastern corner of level 2 which remain as originally proposed. It is considered that the development as currently proposed does not address the issues raised by the Panel.

### **Building**

The proposal was referred to Council's Building Surveyor who advised that the proposal is capable of complying with the Building Code of Australia. Compliance can be ensured via **conditions** of any consent.

## Development Engineer

The proposal was referred to Council's Development Engineer who has recommended **conditions** of any consent, including in relation to construction traffic management plan, geotechnical report, and stormwater management and design.

## Health

The application was referred to Council's Environmental Health Manager who has recommended **conditions** of any consent, including in relation to mechanical ventilation and compliance with submitted acoustic report.

The Acoustic Report advises that windows to the bedrooms are to be closed at night times in the event of children crying or similar. This must be complied with.

Please note that the acoustic report also advises that some bedrooms do not require mechanical ventilation on the grounds that internal noise levels can be achieved with the windows open. It should be clarified with the applicant that to prevent noise from crying babies exiting the premises at night, that all bedroom windows must be kept closed. They therefore may want to consider mechanical ventilation options for all bedrooms.

Planner's comment: The applicant has since clarified that all bedroom windows will be sealed and remained closed at all times, and that mechanical ventilation will be provided to all bedrooms. The operation of mechanical ventilation can be regulated via conditions of any consent.

## Heritage

The application was referred to Council's Conservation Planner who has conducted an assessment of the proposed works in terms of Part 5 Clause 5.10 (Heritage Conservation) of the North Sydney LEP 2013 and Section 13 (Heritage and Conservation) of the North Sydney DCP 2013.

### 1. *Heritage status and significance*

*25 Shirley Road, Wollstonecraft is identified as a heritage item in Part 1 of Schedule 5 in North Sydney LEP 2013 and is situated within the Wollstonecraft conservation area as identified in Part 2 of the Schedule. The statement of significance for 25 Shirley Road states the following:*

*Excellent and attractive Federation Free Style house of substantial size, set in extensive grounds with complementary stone boundary wall. Associations as important Child Development Centre in present function. Typical of development in the vicinity and complements a number of other large residences nearby. Remains on original subdivision.*

The Statement of Significance for the Wollstonecraft conservation area as contained in Section 10.10.3 of North Sydney DCP 2013 states that the Wollstonecraft Conservation Area is significant:

- (a) As a substantially intact residential subdivision from the early 20th century that retains much of its urban detail and fabric in gardens, street fencing and use of sandstone.*
- (b) As a consistent and largely intact early 20th century residential area with a mix of high quality buildings and particularly the Federation and Inter-War housing on large lots.*
- (c) For its unity that is derived from its subdivision history and which is evident in the development and built form.*

*The following heritage items are in the immediate vicinity of the subject site.*

*11109 36 Shirley Road*

*11110 42 Shirley Road*

*11111 46 Shirley Road*

*These properties are all located on the opposite (western) side of Shirley Road.*

## **2. The Property**

*25 Shirley Road is a substantial two storey Federation house situated on the eastern side of Shirley Road. The property sits on the high ground of the site that falls away to the east, south and west. The property is known as Tresillian House and comprises a number of elements being:*

- *Carpenter House: - This is the original Federation free-style house built in 1912. It is one of the earliest houses built on the Wollstonecraft peninsula that is still on its original subdivision. The house sits forward of the lot where the front and north boundary are almost equal and addresses the north east corner of the site. This area has a landscaped garden and forms part of the setting of Carpenter House.*
- *Guthrie Childcare Centre extension: - The extension was built in 2000 comprising a lower ground and ground level. The childcare centre operates partially from Carpenter House and partially from within a large single storey extension on the eastern side.*
- *Ancillary buildings: - It is a free standing, 'L-shaped' building located to the south of Carpenter House and close to the southern property boundary. The east-west running wing was constructed in two phases being 1919 and 1924 and was used as a garage. The north south wing was constructed in 1940.*

*To the rear, the site slopes downward and contains a series of terraces including a Tennis court, where the location of a new multi-level building is proposed, followed by a landscaped terraced garden area that slopes away.*

*The NSW heritage inventory data sheet provides the following physical description of the original dwelling as follows:*

*Substantial two storey brick house with hipped and gabled roof of slate. Main features include rusticated sandstone string courses, sandstone segmental arches to ground floor verandah openings, faceted bays, roughcast rendered gable ends and blind lancet openings in the spandrels between floors. This building was designed in the Federation Free Style.*

## **3. Proposal**

*It is proposed to construct a new free-standing building comprising four storeys and lower ground floor parking and plant to the rear (eastern side) of Carpenter House on the area currently occupied by a tennis court. The building will be constructed in a contemporary design and will be used for the purposes of providing a residential program associated with Tresillian House. The construction of the building will require the existing vehicular access to be widened to provide serviceability to the new building. The new driveway is referenced as Option 1: New driveway along the northern boundary in the heritage impact statement and assessed to have the least impact on the heritage significance of the place out of two options considered. The works to facilitate the driveway involve:*

- *Demolition of the 1940 two storey bathroom extension along the 'southern end of the southern wing of Carpenter House to facilitate the construction of a new vehicular driveway to access the new building.*
- *Demolition of the Ancillary Building along the southern boundary of the site to facilitate the construction of a new vehicular driveway to access the new building.*

- Removal of and the reconfiguration of the external fire stairs to Carpenter House.

*Other associated works to be undertaken involve:*

- Implementation of new landscaping works involving retention of significant trees as well as the removal of others, some of which will be relocated within the site. New plantings, new pathways/walkways and new seating areas are also proposed as well as reconfiguring the fencing associated with the Childcare Centre and make it less conspicuous and placing an arbour over the entrance into the centre.
- Reinstatement of the verandah balustrade involving the removal of the glass, timber and fibro enclosure at the first floor verandah in the NW elevation of Carpenter House.
- Retention and upgrade the first floor verandah in the northern elevation of Carpenter House involving some alterations to the fabric.
- Repainting of timber work and the exterior of Carpenter House and the Guthrie Childcare Centre using the colour scheme submitted in the Schedule of Works to Carpenter House and contained in the HIS and informed by photographic evidence (Figure 6 of HIS) c1910-1920.

#### **4. Heritage Assessment and Recommendations**

*An assessment of the proposed works at 25 Shirley Road has been undertaken in relation to Clause 5.10 Heritage conservation of NSLEP 2013, and Section 13 Heritage and Conservation of NSDCP 2013.*

*The proposal is accompanied by a Heritage Impact Statement and a Conservation Management Plan both prepared by Weir Phillips Heritage dated September 2017. The Landscaping components of the site are supported by a Landscape Heritage Report, Landscape Design Statement, Aboricultural Assessment and a Flora Fauna Assessment that form part of a separate Landscape referral.*

*The Conservation Management Plan titled Tresillian: 25 Shirley Road, Wollstonecraft, updates the earlier CMP for the site prepared by Brian McDonald + Associates in February 2000 in association with the development of the Guthrie Childcare Centre extension. In particular, the statement of significance has been revised from the earlier 2000 CMP on the basis that it omits any reference to the high significance of the site arising out of its occupation by Tresillian. The following is the new revised statement of significance for the site as a whole, incorporating the findings of the Landscape Report:*

*No 25 Shirley Road, Wollstonecraft, New South Wales has high historic and social significance for its ongoing and unbroken association with the Royal Society for the Welfare of Mothers and Babies (Tresillian) since 1940. Tresillian have played a significant role in promoting the welfare of mothers and infants in New South Wales since 1918.*

*The site has historical and aesthetic significance arising out of the presence of Carpenter House, one of a large number of Federation period dwellings to survive within the North Sydney area. Erected c1911-1913, it is a fine and substantially intact example of the type of larger dwelling erected by professional men for their families on the North Shore during this period. Unlike many examples, it retains substantial grounds, including the remnants of a Gardenesque Style landscape laid out in the first part of the twentieth century. It also retains a Federation period outbuilding, albeit much altered and extended.*

*The revised statement of significance for the site should be updated in the heritage inventory relevant to 25 Shirley Road.*

#### **Construction of the new building**

*The principle that supports a new building on the site and its nominated location is in keeping with Article 22.1 of the Burra Charter which provides guidance about new work as follows:*



*New work such as additions to the place may be acceptable where it does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation.*

*Further, the CMP sets out the case for the expansion of Tresillian (ref section 6.3.2.6 Ongoing Actions to Physically Protect the Site) and support for the use of the site by Tresillian as being appropriate. The CMP states that:*

*The continued use of the site by Tresillian is supported as an appropriate use and is integral to the significance of the site. The central significance of the site lies in the heritage values of Carpenter House and to a lesser extent, its Ancillary Building, as well as in the stone terracing on the eastern part of the site.*

*The method of assessment contained in the Heritage Impact Statement to assess the effect of the development on the heritage significance of the site, addresses the following three headings as raised in the NSW Statements of Heritage Significance (2002 update) document:*

- 1. The following aspects of the proposal respect or enhance the heritage significance of the item or the conservation area for the following reasons.*
- 2. The following aspects of the proposal could detrimentally impact on heritage significance. The reasons are explained as well as the measures to be taken to minimise impacts.*
- 3. The following sympathetic solutions have been considered and discounted for the following reasons.*

*The responses to these statements in the heritage impact statement for the site are contained in Appendix A to this report.*

*Option 2 was put forward as the less viable option for a vehicular driveway because the knock-on effect on the setting of Carpenter House, the garden setting generally, sandstone edge, removal of the established oak tree and the configuration of the childcare centre was more broad-reaching in terms of having a greater adverse impact the significance of the place. Following an assessment of the two options, Option 1 (see Appendix 1) supporting the case to utilise the southern side of the site where the alignment of the original driveway previously existed is supported.*

*The actions in section 6.3.2.7 G1 of the CMP puts forward the following case in relation to The Ancillary Building:*

*It would be desirable to retain the ancillary Building because it belongs to all phases of the site's history, however, the mixed integrity and its location on the site is such that, if it furthers the work of Tresillian, and thus supports the social significance of the site and maintains the garden setting of Carpenter House to the north and west, it may be possible to demolish or substantially alter this building.*

*Impact on the heritage items in the vicinity of the subject site*

*The impact from changes to the streetscape relating to the new driveway are minimal as the intervention to fabric involves secondary elements that will not adversely impact the legibility of Carpenter House or its setting.*

*Although significant views to Tresillian are not affected, the gap views to the site will be affected by the excessive height of the new building which is higher than Carpenter House and are contrary to Section 13.5.2 Form, massing, scale.*

*Additionally, the topography on the western side of Shirley Road is at a higher level. Therefore, the properties on the opposite (western) side of Shirley Road are likely to have views over Tresillian. This has not been made clear in the submission relating to the DA but an earlier image in the historical documentation indicates that views to the Harbour Bridge were readily available prior to the established landscaping taking over. Should this be the case, the visibility of the new multi-storey building will be exacerbated due to its proposed height which is higher than the principal building. This visual intrusion would be out of character within the Wollstonecraft conservation area. This bulk and scale of the new structure will also affect gap views.*

## **5. Conclusions and Recommendations**

*The proposed development will result in some impact on the fabric of the place. However, the use of the site by Tresillian continues to be a viable use that supports the ongoing use of the site. The new building is clearly discernible and furthers the work of Tresillian.*

*The demolition of the 1940 bathrooms, The Ancillary Buildings and removal of the fire stairs along the southern side of Carpenter House as submitted is supported in this instance.*

*The conservation works are appropriate and in keeping with the significance of the place and will make a positive contribution to the interpretation of Carpenter House and its setting.*

***The proposal is acceptable on heritage grounds subject to a revision to reduce the height of the new building to be compatible with the principal building on the site.** Additionally, conditions of consent requiring an archival recording of The Ancillary Building, and the areas of Carpenter House that are to be altered are to be made, including:*

***C12 Colours, Finishes and Materials (Heritage Items); C14 Sandstone Re-pointing; and C15 Heritage Architect to be commissioned***

## **Landscape**

The application was referred to Council's Environmental Landscape Development Officer who has provided the following advice:

*The proposal requires 14 trees, that are protected by Council's DCP, to be removed to accommodate the current development. The majority of these trees have Low Landscape significance and their removal is acceptable, given this is offset by the proposal to replant 15 locally native trees on the site.*

*The recommended **conditions** highlight the importance of tree protection and having an on site arborist as per the recommendations provided in the report by RainTree consulting, specifically for a number of trees with a high Landscape significance.*

## **Bushland management**

The application was referred to Council's Bushland Management Team (GD) who advised:

*I have reviewed the relevant parts of the supplied documents and cannot see any direct impacts from the development with regard to bushland management in Badangi Reserve.*

*Whilst they are not seeking to landscape the rear portion of the block, I think this is a missed opportunity and Badangi Reserve would benefit from the applicant preparing a Vegetation Management Plan that seeks to transition the rear portion of the block from a mostly weedy/exotic mix of plants to a more native-dominated and structurally diverse bush habitat garden. This could be achieved without harming heritage plantings and with consideration for bushfire management. Stormwater management could also be integrated in to this VMP more cohesively with the design of an ephemeral creekline connecting to the Badangi Reserve creek.*

**Planner's comment:** The applicant, in Additional Information Response document prepared by Willow Tree Planning dated 6/4/18 has indicated that the preparation of a Vegetation Management Plan for the rear of the site (within the Asset Protection Zone) may be included as a **condition** of consent.

## **Traffic**

The application, including *Traffic, Transport & Parking Assessment Report* prepared by The Transport Planning Partnership Pty Ltd (TPPP) dated 1/9/17 (**Attachment 3**), was referred to Council's Traffic & Transport Operations Manager who has provided the following advice:

### **Existing development**

*The site is located on the western side of Shirley Road to the south of Telopea Street and is occupied by the Tresillian Family Care Service facility with the following services:*

- *Day stay services with capacity of up to 6 clients per day*
- *Parenting programs involving group based educational sessions held twice per week with approximately 10 parents and 3 child care workers*
- *Outreach services to visit the homes of parents and families within the Lower North Shore area*
- *Guthrie Child Care Centre with a capacity of up to 42 children*
- *Off-street carparking for 3 vehicles (staff)*

### **Proposed development**

*The proposed development involves the construction of a new four-level building at the rear of the site to provide a new residential stay program with a capacity of 12-14 facilities to live-in over four nights and five days, with an average of 6 visitors per day. The proposed development includes provision of a total of 11 off-street parking spaces.*

### **Traffic Generation**

*I generally concur that the traffic generated by proposed development will not have any unacceptable impact on the road network.*

### **Parking Provision**

*It is noted that the expected parking demand for the proposed development has been estimated based on a similar facility in Willoughby.*

*It is not stated what the clientele level was of the Willoughby facility at the time of the survey, or if the parenting programs were running at the time. Without this information it is difficult to extrapolate what the average or maximum parking demand from clients at the Wollstonecraft facility may be.*

*It is however known that the existing parking demand from the staff at the Wollstonecraft facility is 65% (Table 4.2). The report states that at any given time there will be 17 staff on-site. This equates to a staff parking demand of 11 vehicles, which is the total number of spaces provided.*

*Further clarification is needed as to whether child care staff have been accounted for and what the average and maximum client parking requirements are (for the residential stay facility and parenting programs).*

### **Green Travel Plan**

*The TTPP report includes reference to a Green Travel Plan (GTP). Whilst the initiatives outlined in the GTP are supported, the GTP is broad and does not include any commitments specific to the proposed development. For example, the staff parking demand is known and the site conditions restrict the amount of parking that can physically be provided on-site. Therefore, clear and measurable objectives should be included in the GTP such that the demand for parking is less than or equal to the amount of staff parking provided (e.g., no more than 8 out of 17 staff drive to work).*

*The GTP should be amended to provide more measurable objectives and commitments from management.*

### **Loading**

*The TTPP report states that deliveries will be made by small delivery vans. There are no dedicated loading facilities shown on the plans so delivery vehicles will also be sharing the off-street parking spaces.*

### **Conclusion**

*It is recommended that more clarification be provided with respect to the expected parking demand as outlined above, and the Green Travel Plan be revised as outlined above prior to approval of this development.*

*Should this development be approved it is recommended that the following conditions be included as conditions of consent:*

- 1. That a Demolition and Construction Management Program be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of a Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. That all aspects of the bicycle storage and parking facilities comply with AS2890.3 and a minimum of 2 bicycle parking spaces be provided within the site.*
- 3. That it be noted that no resident parking permits will be provided for occupants (residential, visitor or staff) of this development in accordance with Council's Resident Parking Policy.*

Additional information to address the above was provided to Council in letter dated 29/3/18 prepared by TPPP (**Attachment 3**). The letter was referred to the Traffic & Transport Operations Manager who provided the following comments:

### **Parking Provision**

*Based on the additional information and the survey of the similar facility in Willoughby and the existing child care centre, the parking requirements are as follows:*

<b>Component</b>	<b>Parking Requirement</b>	<b>Parking Provision</b>	<b>Shortfall</b>
<b>Family Care Facility</b>	10	8	-2
<b>Child Care Facility – Staff and visitors</b>	6 (3 staff, 3 visitors)	3	-3
<b>Child Care Facility set down area</b> <i>Based on rates for other local child care facilities (1 space/ 7 children)</i>	6	7 (currently on-street)	+1
<b>Total</b>	<b>22</b>	<b>18</b>	<b>-4</b>



*There are currently 7 spaces of 1/4P 7.30-9.30am 4.30-6.30pm Mon-Fri on Shirley Road adjacent to 25 Shirley Road which was likely installed to provide a set down area for the existing child care centre. This is a generous allocation of on-street parking compared to other child care centre in the LGA. For new child care centres, Council typically requires the set-down area to be provided off-street.*

*Based on the parking survey for the Willoughby Tresillian Centre and the existing child care centre at 25 Shirley Road, peak parking demand for the family care facility does not appear to coincide with the peak parking demand for the child care centre. Therefore, to make the most efficient use of the off-street parking whilst minimising impacts on the on-street parking, it is recommended that the on-street set down area in front of 25 Shirley Road be reduced from 7 spaces to 3 spaces, and that 3 off-street parking spaces are designated as a set down area for the child care centre between 7.30am-9.30am and 4.30pm-6.30pm.*

*Should this development be approved it is recommended that the following conditions be included as conditions of consent:*

- 1. That a Demolition and Construction Management Program be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of a Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. That a Green Travel Plan for the site be developed and submitted to Council for approval prior to issue of the Occupation Certificate. The Green Travel Plan shall highlight to staff and clients the available public and sustainable transport options for travelling to the site. The Green Travel plan should also include specific and measurable targets for reducing car trips to and from the site, and include resources and mechanisms for implementation, monitoring, review and continual improvement of the travel plan.*
- 3. That all aspects of the bicycle storage and parking facilities comply with AS2890.3 and a minimum of 2 bicycle parking spaces be provided within the site.*
- 4. That all aspects of the off-street parking comply with AS2890.1.*
- 5. That it be noted that no resident parking permits will be provided for occupants (residential, visitor or staff) of this development in accordance with Council's Resident Parking Policy.*
- 6. That the existing "1/4P 7.30am-9.30am 4.30pm-6.30pm Mon-Fri" parking zone on Shirley Road in front of be reduced from 7 spaces to 3 spaces; and 3 of the off-street parking spaces be designated as 1/4P 7.30am-9.30am 4.30pm-6.30pm Mon-Fri. The changes to the on-street parking require approval of the North Sydney Traffic Committee.*

## **Community development**

The application was referred to Council's Community Development Manager who advised as follows:

*The proposed development, if Parking Access option 3 is approved, maintains the existing child care centre based in the Guthrie Centre. In particular, the proposal results in no reduction in the existing capacity of the child care centre (47 children @ 7m sq./child), including in outdoor play space.*

*For the reasons of clean air and disruption during construction process the option for an access road to the new building that is on the opposite side of the site to Guthrie Child Care Centre is required [via **condition**].*

*Construction phasing and management will need to accommodate for the continued use of the child care centre or otherwise provide details of viable alternative facilities and services for current users [via **condition**].*

*The proposal can be supported if the above comments are addressed satisfactorily.*

**Planner's comment:** The proposed development provides for parking access along the southern boundary of the site, which would allow for the continued operation of the Guthrie child care centre during construction and operation of the development.

## **Waste**

The application was referred to Council's Environmental (Waste) Officer (EC) who advised that the development would require a commercial waste contract and waste bins to be kept off the street, including for collection.

**Planner's comment:** A lay-by bin storage area is located adjacent the driveway within the site.

## **SUBMISSIONS**

The owners of adjoining properties and the **Wollstonecraft Precinct** were notified of the proposed development for a 30-day period, between **29 September and 30 October 2017**, in accordance with section A4 of NSDCP 2013. The notification resulted in **one-hundred & thirty-one (131) submissions**. The key issues and concerns raised are summarised as follows:

- |   |   |
|---|---|
| • Traffic & parking (96)                                | • Views (34)                                      |
| • Character (69)  | • Privacy (17)                                    |
| • Bulk and scale (57) & Sense of enclosure (1)          | • Light spill (14)                                |
| • Construction traffic, safety, duration & impacts (57) | • Heritage (8)                                    |
| • Solar access (50)                                     | • Tree removal (6)                                |
| • Bushfire evacuation safety (41)                       | • Air and light pollution from vehicles (3)       |
| • Noise (38)  | • Odour from bins (2)                             |
|   | • Loss of outdoor space for child care centre (2) |
|   | • Drainage, flooding, erosion (1)                 |

Those **in support (3)** consider the development is in the public interest in that allowing the provision of the facility outweighs the private interests.

## **CONSIDERATION**

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

### **SEPP 55 and Contaminated Land Management Issues**

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The submitted *Preliminary Site Investigation* by EI Australia dated 30/1/17 indicates that the eastern portion of the site in the area of proposed earthworks has not previously been developed, comprising grassed and bushland areas. Given the residential, and health and child care history of the site, there is unlikely to be any issues of soil contamination that would require remediation.

### **SREP (Sydney Harbour Catchment) 2005**

The site falls within the Sydney Harbour Catchment Boundary Area to which the Policy applies. The site is on the periphery, however outside of the Foreshores & Waterways Area as defined in the Sydney Harbour Catchment Map (Sheet 2) in the SREP.

It is nonetheless noted that the proposed building will be visible from Balls Head Bay, however, will be set back some 370m from the shoreline with intervening public bushland (Badangi Reserve). In this regard, the visual qualities of Sydney Harbour will be generally maintained as the development will be significantly set back from the foreshore.

### **SEPP (Infrastructure) 2007**

#### ***Health services facilities***

Part 3 Division 10 of the SEPP provides for health services facilities. The provisions generally relate to development of health services facilities by or on behalf of a public authority, and do not refer to private health services facilities as is proposed. The prevailing environmental planning instrument is therefore North Sydney LEP 2013.

#### ***Development adjacent to rail corridor***

Consideration has been given to Clause 87 of the Infrastructure SEPP in relation to the impact of rail noise or vibration on non-rail development. The submitted *Acoustic Assessment* by Acoustic Logic dated 21/6/17 provides an assessment of traffic and rail noise intrusion into the proposed development and concludes that the development is capable of complying with the requirements of the SEPP and other relevant standards. **Conditions** of any approval may be imposed to ensure the implementation of mitigation measures recommended in the Acoustic Assessment.

#### ***Traffic generating development***

The proposed Health Services Facility with parking for less than 200 vehicles, is not identified as Traffic Generating Development under the Infrastructure SEPP. As such, Clause 104 of the SEPP does not apply.

### **SEPP (Educational Establishments & Child Care Facilities) 2017**

The proposed development includes landscape works that will reduce the existing outdoor play area of the Guthrie child care centre by 155m<sup>2</sup>, from 758m<sup>2</sup> to 603m<sup>2</sup>.

The proposed provision of 603m<sup>2</sup> exceeds the minimum requirement of 294m<sup>2</sup> (at least 7m<sup>2</sup> unencumbered outdoor space per child x 42 children) for the subject centre, in accordance with Clauses 107 & 108 of the *Education and Care Services National Regulations*.

## NORTH SYDNEY LEP 2013

### 1. Permissibility within the zone

The site is zoned **SP2 Infrastructure (Health Services Facility)** under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). The proposal is characterised as *health services facility* as defined in the LEP, being:

*health services facility* means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital

Development for the purposes of *health services facility* is permissible with the consent of Council. Demolition is permissible with consent pursuant to Clause 2.7 of the LEP.

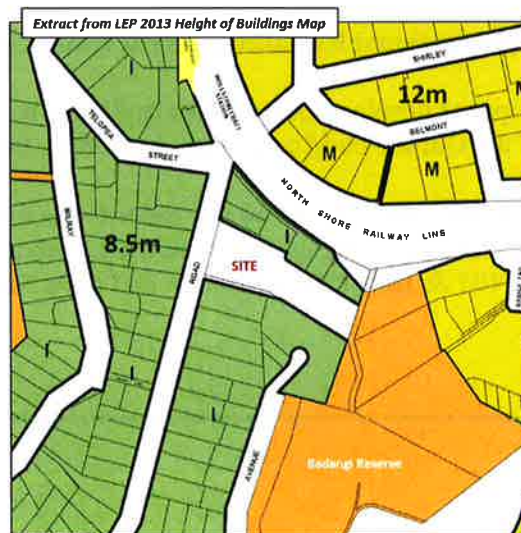
### 2. Zone Objectives

Clauses 2.3 and the Land Use Table contained in NSLEP 2013 provide for the particular objectives of the **SP2 Infrastructure (Health Services Facility)** zone. It is considered that the proposed development satisfies the provisions as it will provide for infrastructure and related uses for the nominated purpose on the LEP Map.

### 3. Development standards

The site is not subject to floor space ratio or height of buildings controls, or any other relevant development standards contained in Part 4 of NSLEP 2013.

It is noted that the Height of Buildings Map does not prescribe a maximum height limit to the subject site and that a height control of 8.5m applies to the properties immediately surrounding the site (**Figure 9**).



**Figure 9 – Site is not subject to a maximum building height**



The height of the proposed building has been assessed on merit, taking into consideration the surrounding built form context. The proposed building height has been assessed in this report to be inappropriate and unsatisfactory as against the objectives of the height control contained in Clause 4.3(1) of the LEP:

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*  
Comment: The proposed new building does not step down or follow the natural fall of the land towards the rear of the site.
- (b) *to promote the retention and, if appropriate, sharing of existing views,*  
Comment: The proposed development, by reason of its height towards the rear of the new building, does not promote the sharing of existing views, as discussed in the **Views** section in the DCP Compliance Table in this report.
- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*  
Comment: The proposed development, by reason of its height towards the rear of the new building, does not promote the solar access to existing residential development, as discussed in the **Solar Access** section in the DCP Compliance Table in this report.
- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*  
Comment: The proposed does not result in any privacy impacts by reason of the proposed building height.
- (e) *to ensure compatibility between development, particularly at zone boundaries,*  
Comment: The proposed new building is assessed to be excessive in height in relation to adjoining development in R3 Medium Density Residential zone, as discussed in the **Context** section in the DCP Compliance Table in this report.
- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*  
Comment: The height of the new building is assessed to be inappropriate and inconsistent with the character of the area, as discussed in the **Context** section in the DCP Compliance Table in this report.

#### **4. Development Near Zone Boundaries**

The site is within 25m of R3 Medium Density Residential and E4 Environmental Living zones under NSLEP 2013; therefore, Clause 5.3 applies. The proposal however does not rely on the adjoining zone to carry out development that would be permissible within those zones. As such, no further assessment under this provision is relevant or necessary

#### **5. Heritage conservation**

The site is a local heritage item (Item I1108 "Carpenter House") within Wollstonecraft conservation area, and in the vicinity of heritage items at No's.42 & 46 Shirley Road.

The application is accompanied by a Conservation Management Strategy, Heritage Impact Statement and Landscape Heritage Report, in accordance with Clause 5.10 of NSLEP 2013.

As discussed earlier in the **Heritage Referral** section of this report, Council's Conservation Planner has assessed the proposal in relation to the relevant heritage conservation provisions in Clause 5.10 of NSLEP 2013 advised that the proposal is acceptable on heritage grounds subject to a revision to reduce the height of the new building to be compatible with the principal building on the site.

The application has, however, not been amended to reduce the height of the building; as such, the application is not considered to be satisfactory on heritage grounds; in particular, the development in its current form does **not satisfy** objectives (a) & (b) in Clause 5.10(1) which seek:

- (a) *to conserve the environmental heritage of North Sydney,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.*

## **6. Bushfire hazard reduction**

It is noted that Clause 5.11 of the LEP allows bushfire hazard reduction work authorised by the *Rural Fires Act 1997* to be carried out on any land without development consent.

## **7. Earthworks**

The proposed development is generally sited in the area of an existing terraced level of the site (former tennis court), however, will involve earthworks in the area of the embankment to some 6m in depth at the western end, as indicated in the submitted *Geotechnical Assessment* by EI Australia dated 1/1/17.

Earthworks are permissible with consent, pursuant to Clause 6.10 of the LEP. The development has been assessed in relation to the objectives and relevant provisions in Clause 6.10(1) & (2) and found to be satisfactory. In particular:

- (a) ***The likely disruption of, or any detrimental effects on:***
  - (i) ***drainage patterns and soil stability in the locality of the development***
  - (ii) ***natural features of, and vegetation on, the site and adjoining land***

Comment: The prevailing fall of the land toward the rear of the site, and associated drainage patterns, will be maintained. The proposed demolition of a dry stone retaining wall has been assessed to be satisfactory having regard to the relative value of retention of this fabric on the one hand, being outweighed by the social significance demolition to facilitate the continued work of Tresillian on the site. The stability of the land can be maintained subject to measures outlined in the Geotechnical Assessment and via **conditions** recommended by Council's Development Engineer.

- (b) ***The effect of the development on the likely future use or redevelopment of the land***  
Comment: The proposed development facilitates provision of a health services facility in accordance with zone. The earthworks are relatively minor, with the majority of the site not subject to any excavation works.

(c) ***The quality of the fill or the soil to be excavated, or both***

Comment: Given the residential, health and child care history of the site, there is unlikely to be any issues of soil contamination. The submitted Preliminary Site Investigation undertaken by EI Australia indicates that the site in the location of the proposed earthworks, comprising grass and bushland, has not previously been developed. Submitted correspondence from Safework NSW indicates the absence of any storage of hazardous chemicals on the site.

(d) ***The effect of the development on the existing and likely amenity of adjoining properties***

Comment: The proposed earthworks will generally be set back from boundary, with the exception of a driveway along the southern boundary. The driveway alignment has been amended to allow for retention of a tree on the neighbouring property.

(e) ***The source of any fill material and the destination of any excavated material***

Comment: Excavated material will be required to be disposed of in accordance with relevant legislation.

(f) ***The likelihood of disturbing Aboriginal objects or relics***

Comment: The site has not been identified as being likely to contain Aboriginal artefacts.

(g) ***The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area***

Comment: The earthworks are set back from the bushfire asset protection zone 50m from rear boundary and terraced bush garden.

(h) ***Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development***

Comment: The submitted geotechnical assessment contains recommended mitigation measures in relation to dilapidation, excavation, and footing design.

## **8. Vehicle access**

The proposed development will require reconstruction or replacement of an existing driveway, road shoulder, and kerb and guttering. Development for the purposes of a driveway and vehicular crossing within a road reserve associated with a permissible use in an adjoining zone may be carried out with consent, pursuant to Clause 6.13 of the LEP.

## **North Sydney Development Control Plan 2013**

### **DCP Section B3 Non-Residential Development in Residential zones**

The proposal is assessed against relevant provisions in section **B3** of the DCP relating to **non-residential developments Residential zones**, and section **C10 & C10.10** being the Character Statement for the **Wollstonecraft Conservation Area** within the Waverton / Wollstonecraft Planning Area.

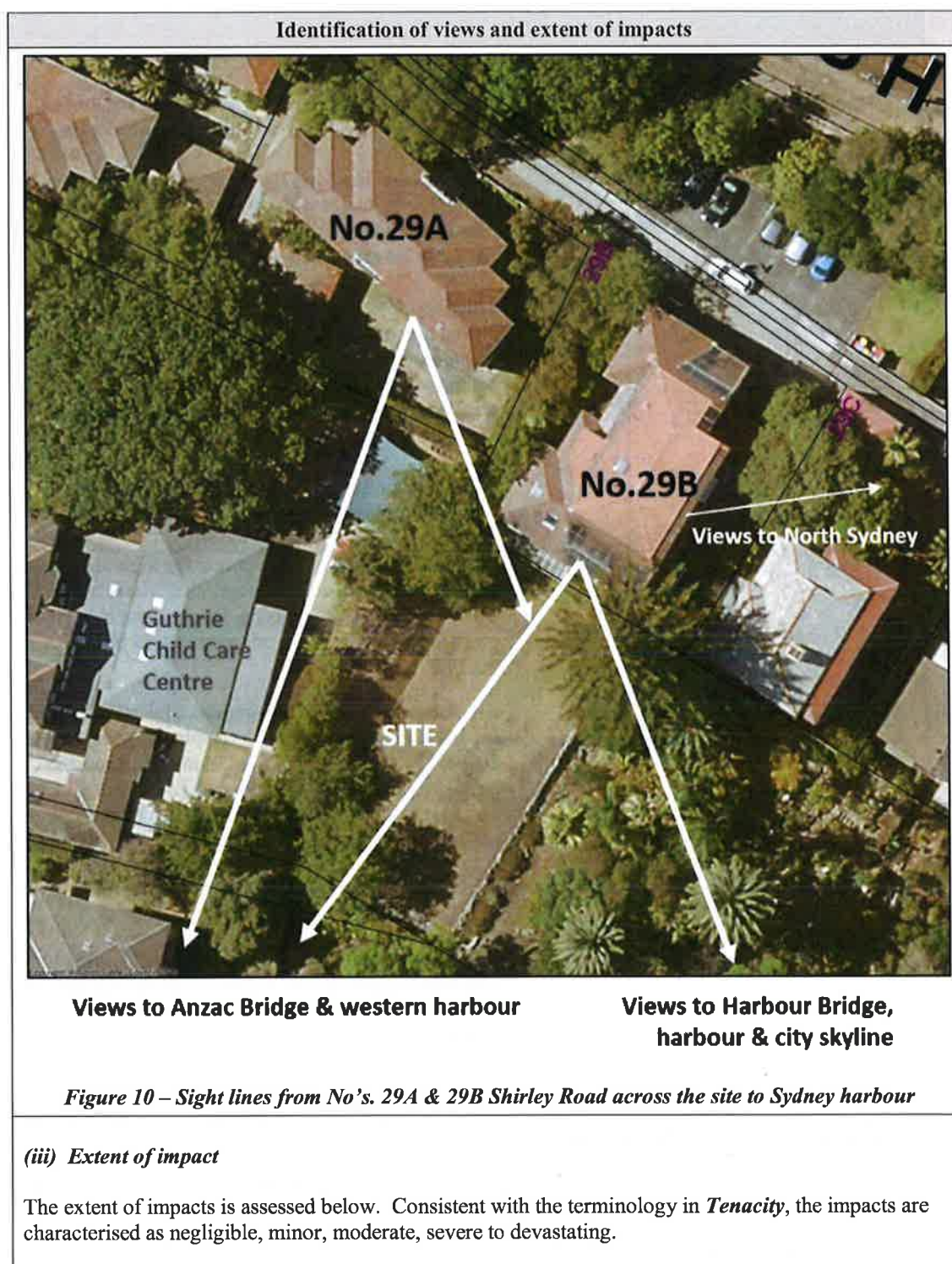
The subject site, zoned SP2 Infrastructure, adjoins **R3 Medium Density Residential** and **E4 Environmental Living** zones. **Section B3.1.2(b) of the DCP** provides that development in SP zone is to be assessed as against the most restrictive requirements for non-residential development in residential zones. In this case, the extent of connection of the site with the E4 zone is for a minor portion of the frontage along Shirley Road; as such, it is considered that the most relevant adjoining zone is **R3 Medium Density Residential** which adjoins the site along all boundaries and for the most part of the Shirley Road frontage. Accordingly, the provisions of the R3 Medium Density Residential are considered most relevant and applicable in this particular context.

<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>B3.2 Environmental criteria</b>		
<b>3.2.1 Topography</b>	Yes	The prevailing fall of the land toward the rear of the site will be maintained. The proposed earthworks are generally located in the area of a former tennis court and will not require removal of any significant vegetation or natural features in this area. Proposed excavations will generally be set back 1m from boundaries, with the exception of the driveway. The driveway alignment has been designed to allow for retention of trees/shrubs. <b>Conditions</b> are recommended to ensure the structural integrity of adjoining land.
<b>3.2.2 Properties in proximity to bushland</b>	Yes	The existing landscaped buffer to the adjoining bushland (Badangi Reserve) will be maintained.
<b>3.2.3 Properties on Bush Fire Prone Land</b>	Yes	The development is capable of and will be required to comply with the relevant requirements of the Rural Fire Service's <i>Planning for Bush Fire Protection</i> guidelines. A <b>condition</b> is recommended to require that bushfire mitigation controls must be integrated wholly within the boundaries of the site and must not be placed on Council.
<b>3.2.5 Noise</b>	Yes	The application is supported by an Acoustic Assessment concludes that the development is capable of complying with relevant noise emission criteria in the DCP and EPA Industrial Policy. <b>Conditions</b> are recommended to ensure implementation of recommended mitigation measures, including acoustic treatments for mechanical plant.
<b>3.2.6 Reflectivity</b>	Yes	The proposed development comprises a greater proportion of masonry to glazing. Glare from the largest expanse of glazing to the rear (eastern) elevation will be reduced by vertical louvre blades. A <b>condition</b> is recommended to ensure that the selected glazing does not cause nuisance glare.



<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>3.2.7 Artificial illumination</b>	Yes	<p>The development is considered to be satisfactory in respect of any lightspill onto adjoining residences.</p> <p>The proposed windows on the side elevations are narrow, vertical or highlight windows, or otherwise angled and recessed behind a blade wall, and the upper level side windows are associated with ensuites and bedrooms.</p> <p>There is a 17-20m separation between the proposed glazed rear elevation and bedroom windows of townhouses in No.24 Tryon Avenue, and the upper level rear windows are associated with a quiet lounge, play area, void and group rooms that are not expected to be used intensively during the night.</p> <p>Entrance lighting will be screened by the entry walkway, and the reception area set back from the side boundary.</p>
<b>3.2.8 Views</b>	No	<p>Section B3.2.8 O4 seeks to encourage view sharing as a means of ensuring equitable access to views from dwellings, whilst recognising development may take place in accordance with other provisions of this DCP and the LEP.</p> <p>An assessment of the view impacts of the development has been undertaken utilising the planning principles adopted by the NSW Land &amp; Environment court in <i>Tenacity Consulting v Warringah</i> [2004] NSWLEC 140 from the following properties identified to be most adversely affected by the proposal:</p> <ul style="list-style-type: none"> <li>• Units 3 &amp; 4 of No.29A Shirley Road; and</li> <li>• Units 3, 4, &amp; 6 of No.29B Shirley Road;</li> </ul> <p>The view assessment has been informed by visits to neighbouring properties, and aided by photographs and survey information submitted by the applicant (<b>Attachment 4</b>).</p>

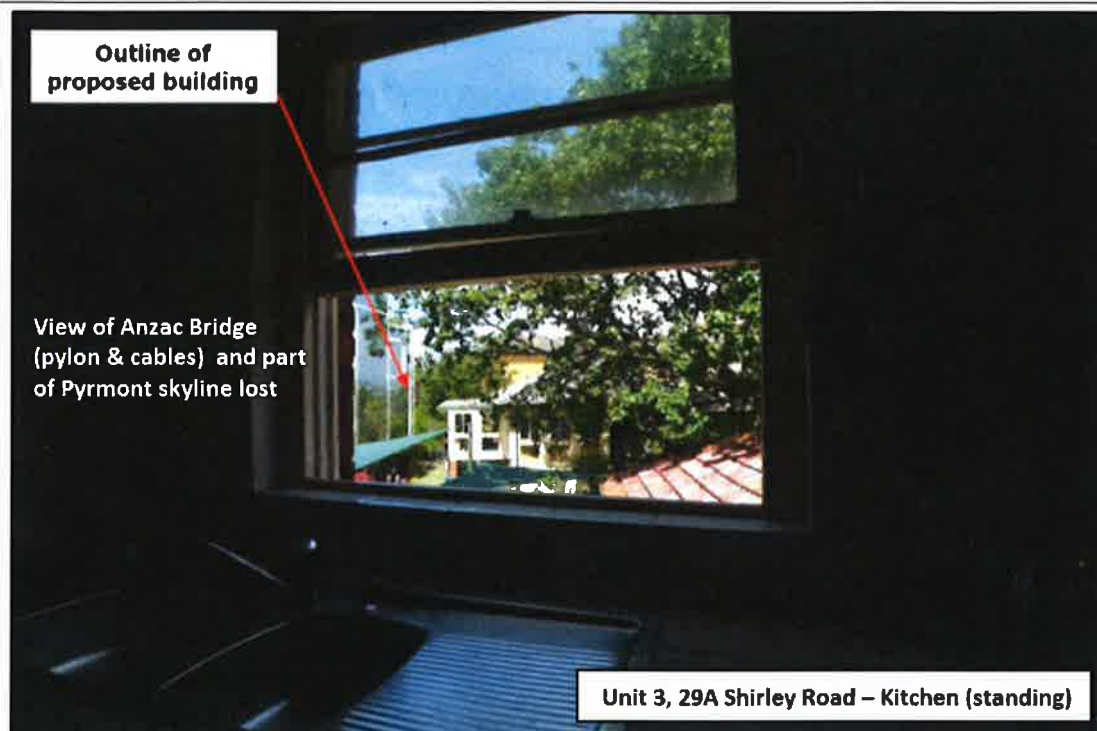
<b>Identification of views and extent of impacts</b>
<p><b>(i) Assessment of views to be affected</b></p> <p>The views from neighbouring properties comprise views of the Anzac Bridge, Pyrmont skyline, district views of Sydney Harbour to the west, Sydney Harbour Bridge, and city skyline.</p>
<p><b>(ii) From where are the views obtained</b></p> <p>The most affected views are from the living and sun rooms, bedrooms and kitchens of adjoining apartment units located at <b>No's. 29A &amp; 29B Shirley Road (Figure 10)</b>.</p>



**Identification of views and extent of impacts**

**Unit 3 – 29A Shirley Road**

The development will result in the loss of views to part of the Anzac Bridge (including a pylon and cables), and part of the Pyrmont skyline (**Figure 11**). The view is obtained at an angle from a standing position through the kitchen window, across the side boundaries of the subject site and through gaps in vegetation. A direct and immediate outlook to the landscaped open space associated with the Guthrie Child Care Centre within the site will, however, be maintained.



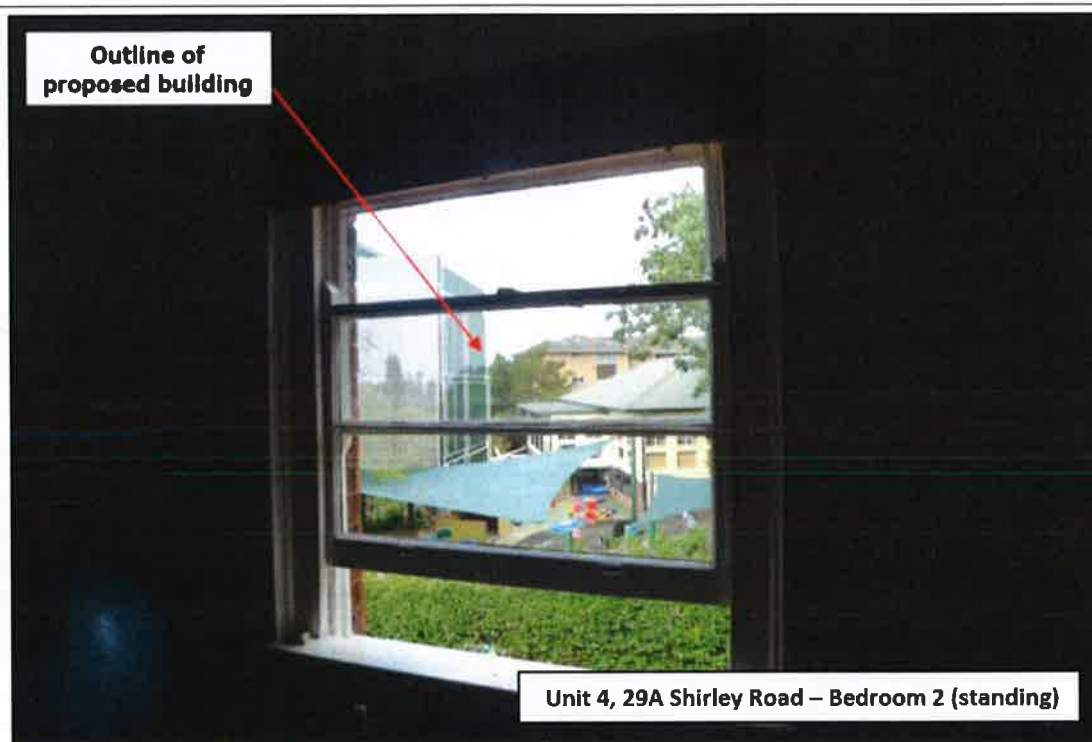
**Figure 11 – View impacts on the kitchen window of Unit 3, 29A Shirley Road**

**On balance, the overall view impact from Unit 3, 29A Shirley Road is assessed to be moderate,** given that on the one hand, the view impacted upon includes part of an iconic element (Anzac Bridge) which will be completely obscured and the view lost is the only view from the unit; and on the other hand, the harbour view affected is distant and partial, and obtained from a kitchen window at an oblique angle and across side boundaries of the subject site.

**Identification of views and extent of impacts**

**Unit 4 – 29A Shirley Road**

The development will result in the loss of views to part of the Anzac Bridge (including a pylon and cables) (**Figure 12**). The view is obtained at an angle from a standing position in the 2<sup>nd</sup> bedroom of Unit 4, across the side boundaries of the subject site and through gaps in vegetation. A direct and immediate outlook to the open space associated with the Guthrie Child Care Centre within the site will, however, be maintained.



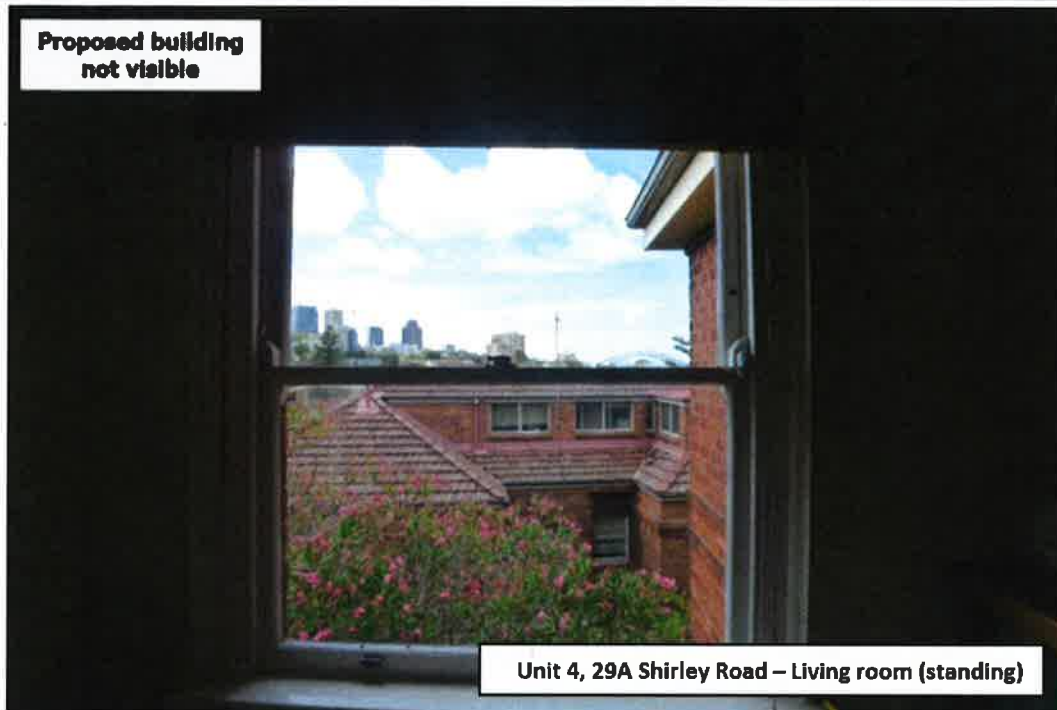
***Figure 12 – View impacts on the 2<sup>nd</sup> bedroom window of Unit 4, 29A Shirley***

The proposed development will not impact on views from the living room, which include part of the arch of the Harbour Bridge and North Sydney skyline (**Figure 13**). The outlook from the kitchen toward the Guthrie Child Care Centre will be largely maintained.



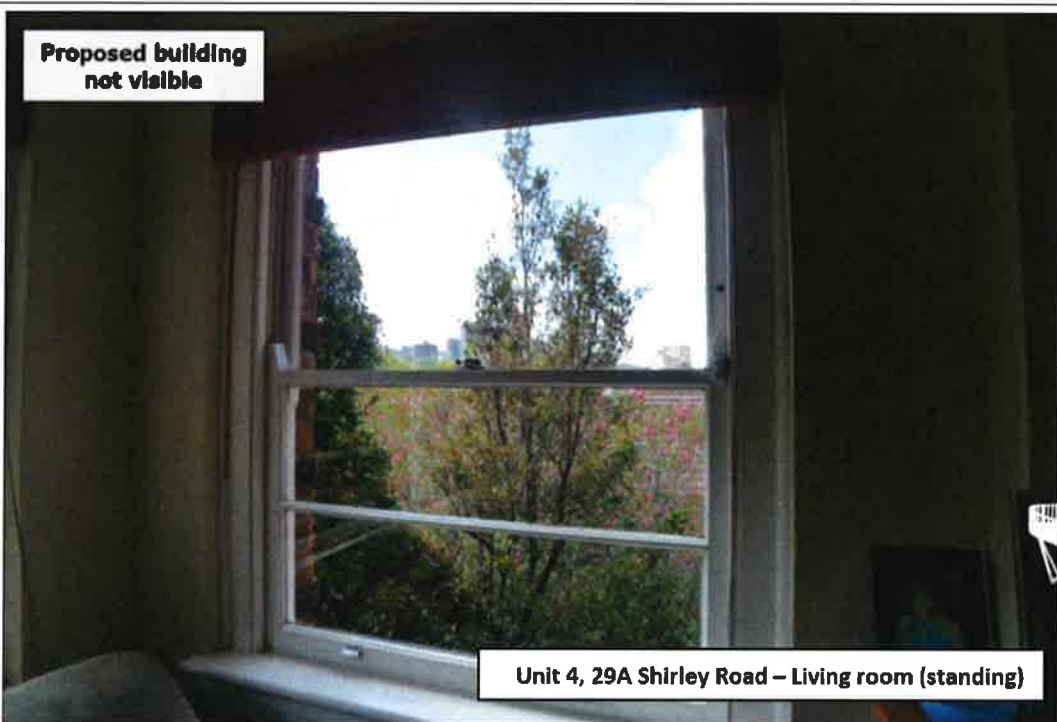
Identification of views and extent of impacts

**Proposed building  
not visible**



**Unit 4, 29A Shirley Road – Living room (standing)**

**Proposed building  
not visible**



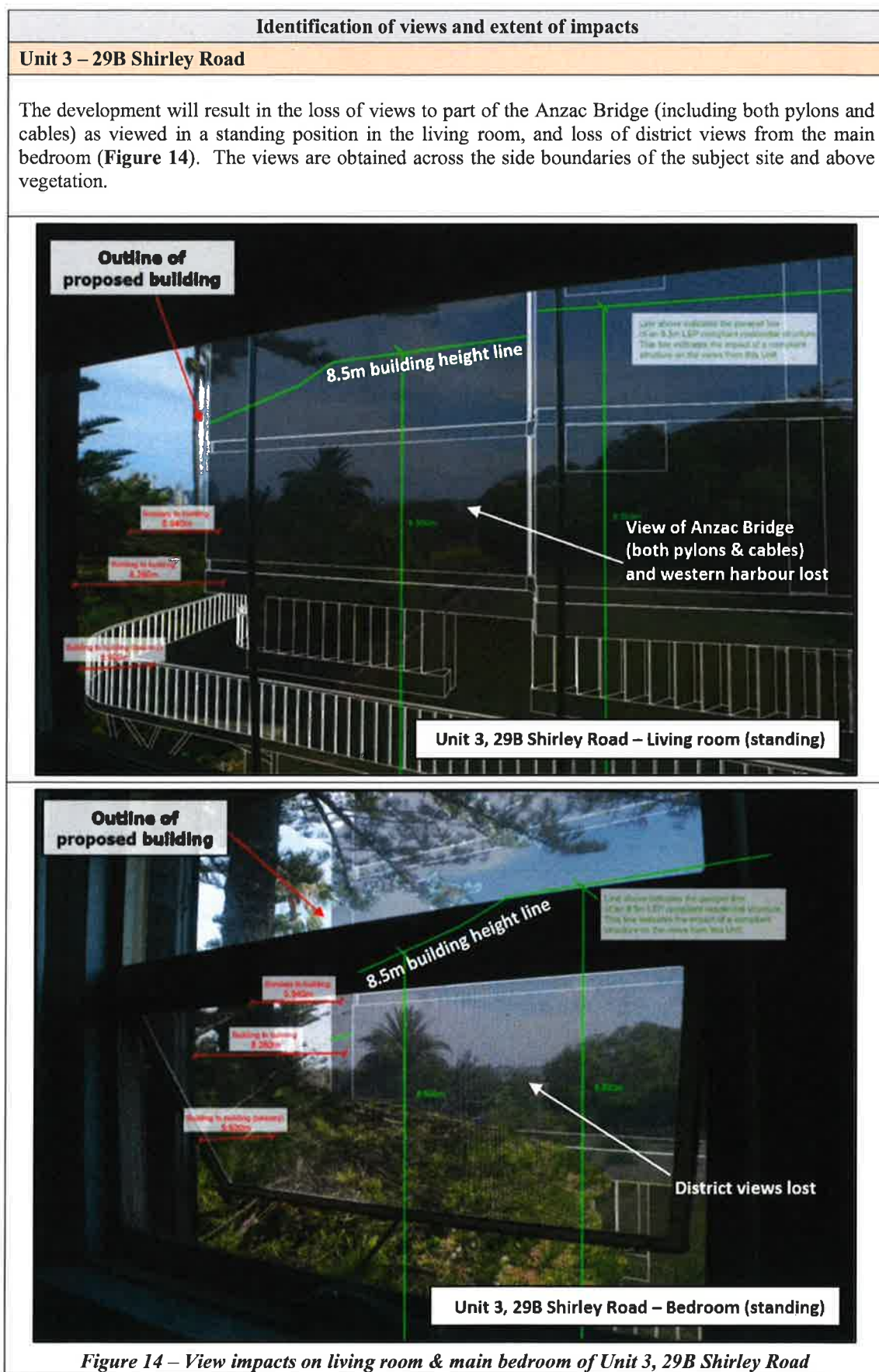
**Unit 4, 29A Shirley Road – Living room (standing)**





**Figure 13 – View impacts on living room, bedroom and kitchen windows of Unit 4, 29A Shirley Rd**

On balance, the overall view impact on Unit 4, 29A Shirley Road is assessed to be minor given that the view lost is from a bedroom looking across side boundaries, while views from the living room, including parts of the Harbour Bridge and North Sydney skyline, and views from the main bedroom, will not be affected by the proposed development.

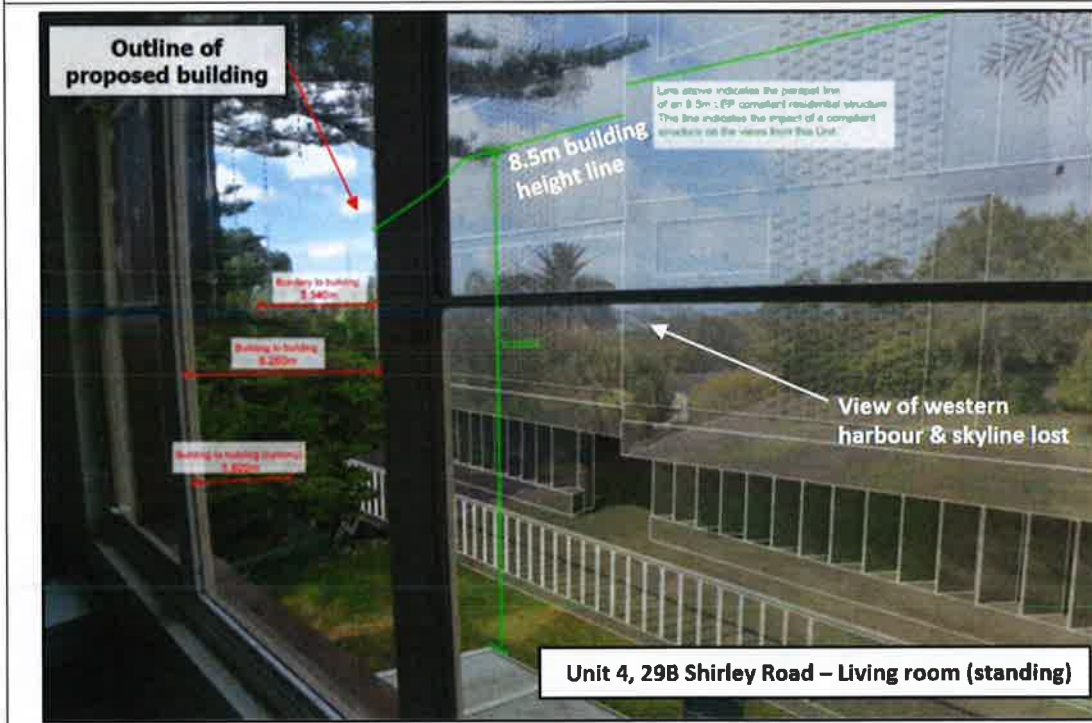


### Identification of views and extent of impacts

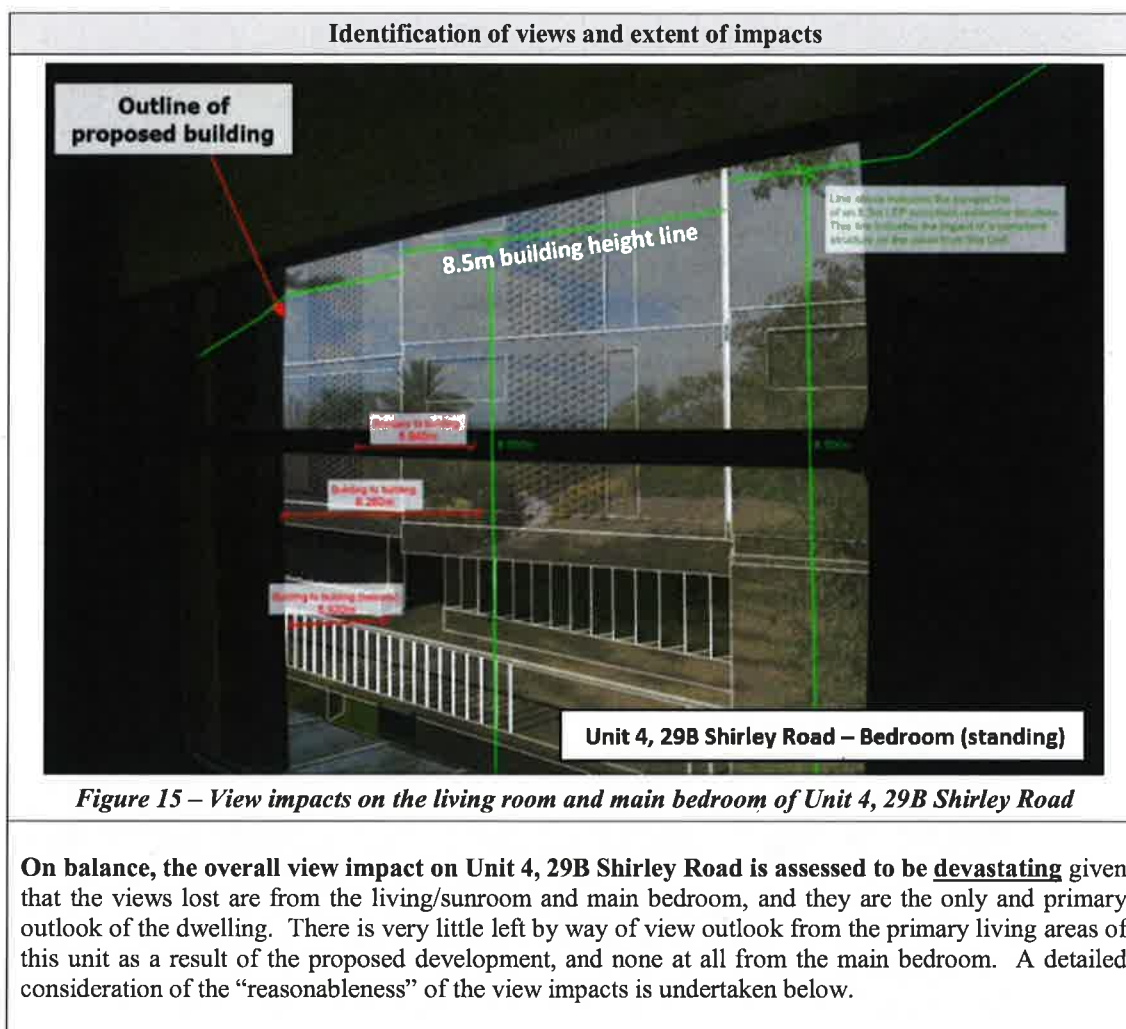
**On balance, the overall view impact on Unit 3, 29B Shirley Road is assessed to be devastating** given that the views lost are from the living/sunroom and main bedroom, and they are the only and primary outlook of the dwelling. There is very little left by way of view outlook from the primary living areas of this unit as a result of the proposed development. A detailed consideration of the “reasonableness” of the view impacts is undertaken below.

#### Unit 4 – 29B Shirley Road

The development will result in the loss of views to the western harbour, including land/water interface and skyline (**Figure 135**). The views are from a standing position in the living room and main bedroom, across the side boundaries of the subject site and above and/or through vegetation.







### Identification of views and extent of impacts

#### Unit 6 – 29B Shirley Road

Views lost from the unit from standing positions looking in a south westerly direction on the primary balcony and from the master bedroom are identified as:

- Anzac Bridge pylon and cables;
- Part of Balls Head and wharf structure; and
- District views of western harbour, including land/water interface (Figure 16).

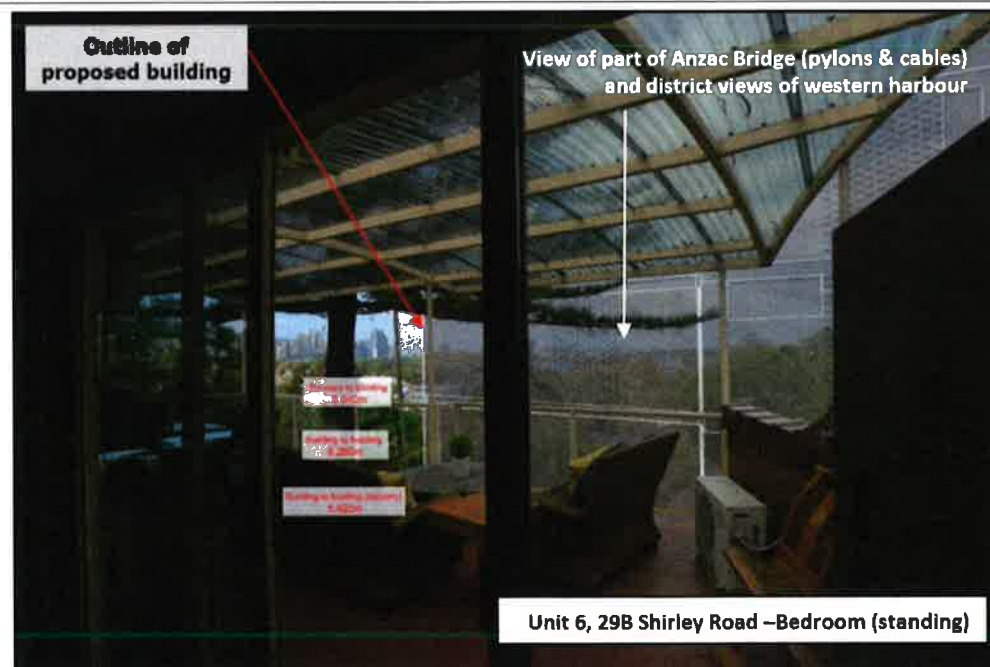
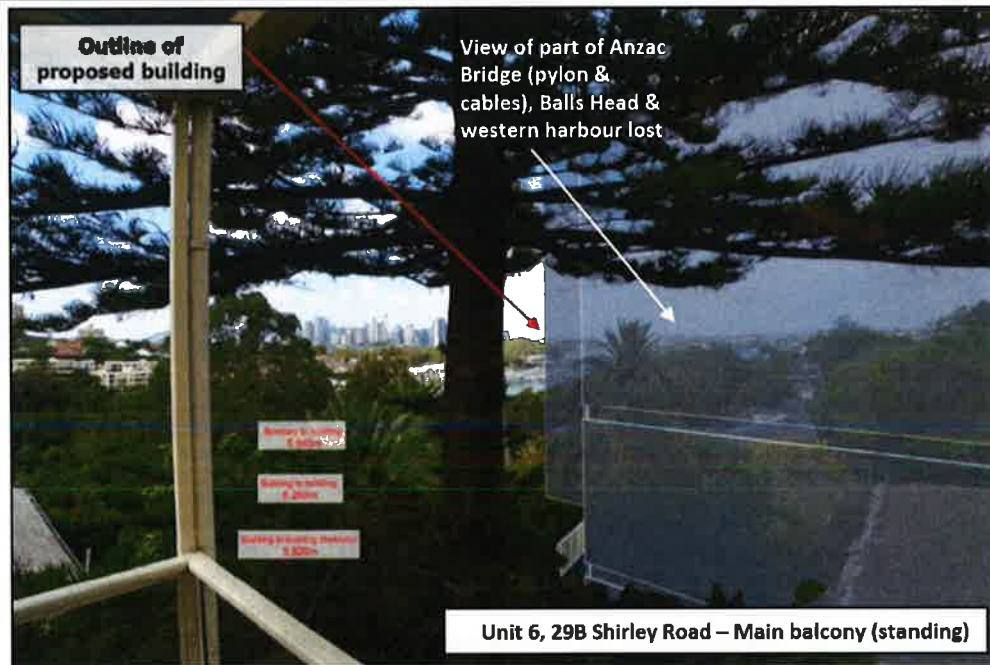


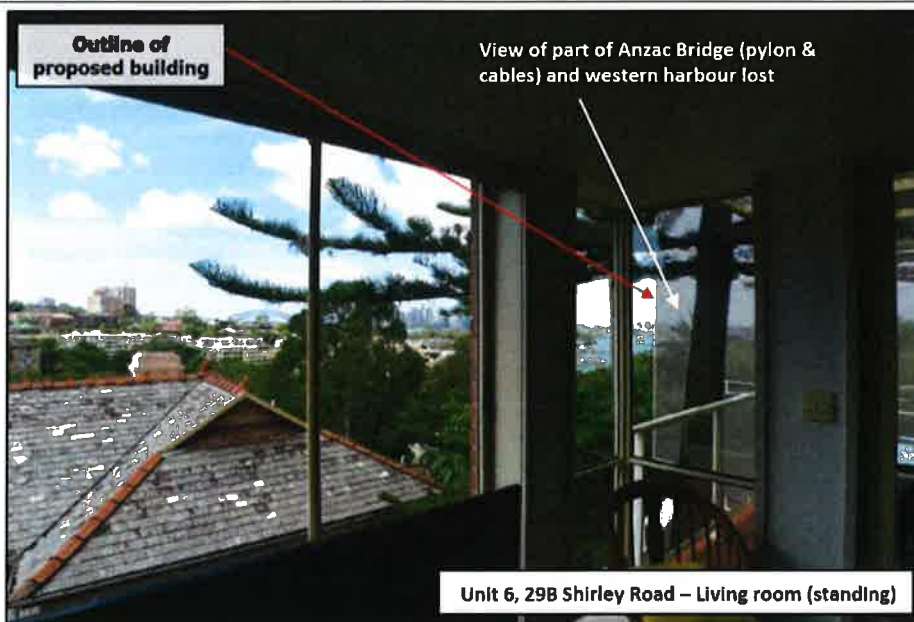
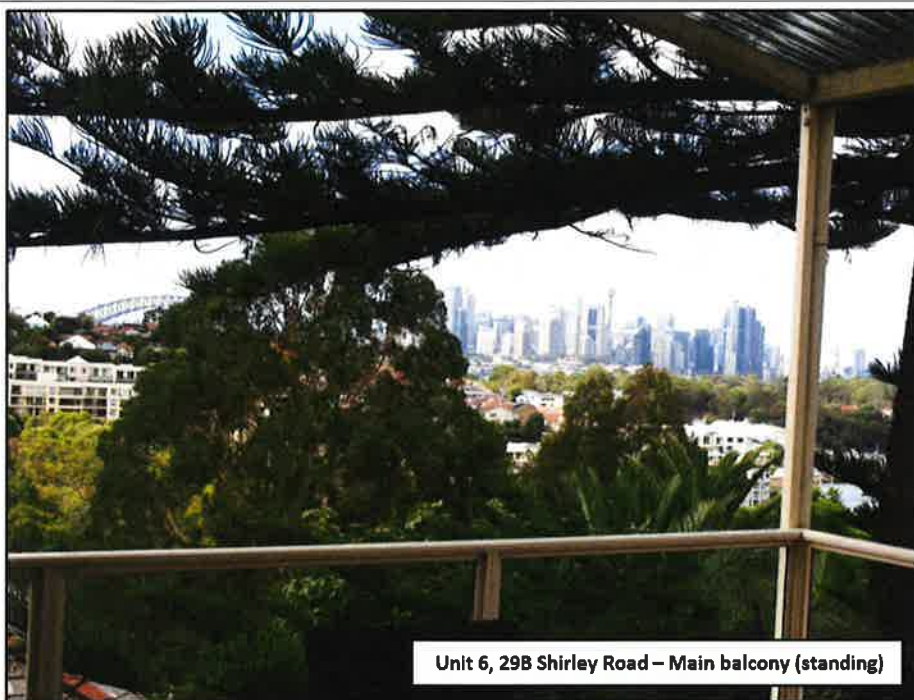
Figure 16 - View impacts on the main balcony & main bedroom of Unit 6, 29B Shirley Road

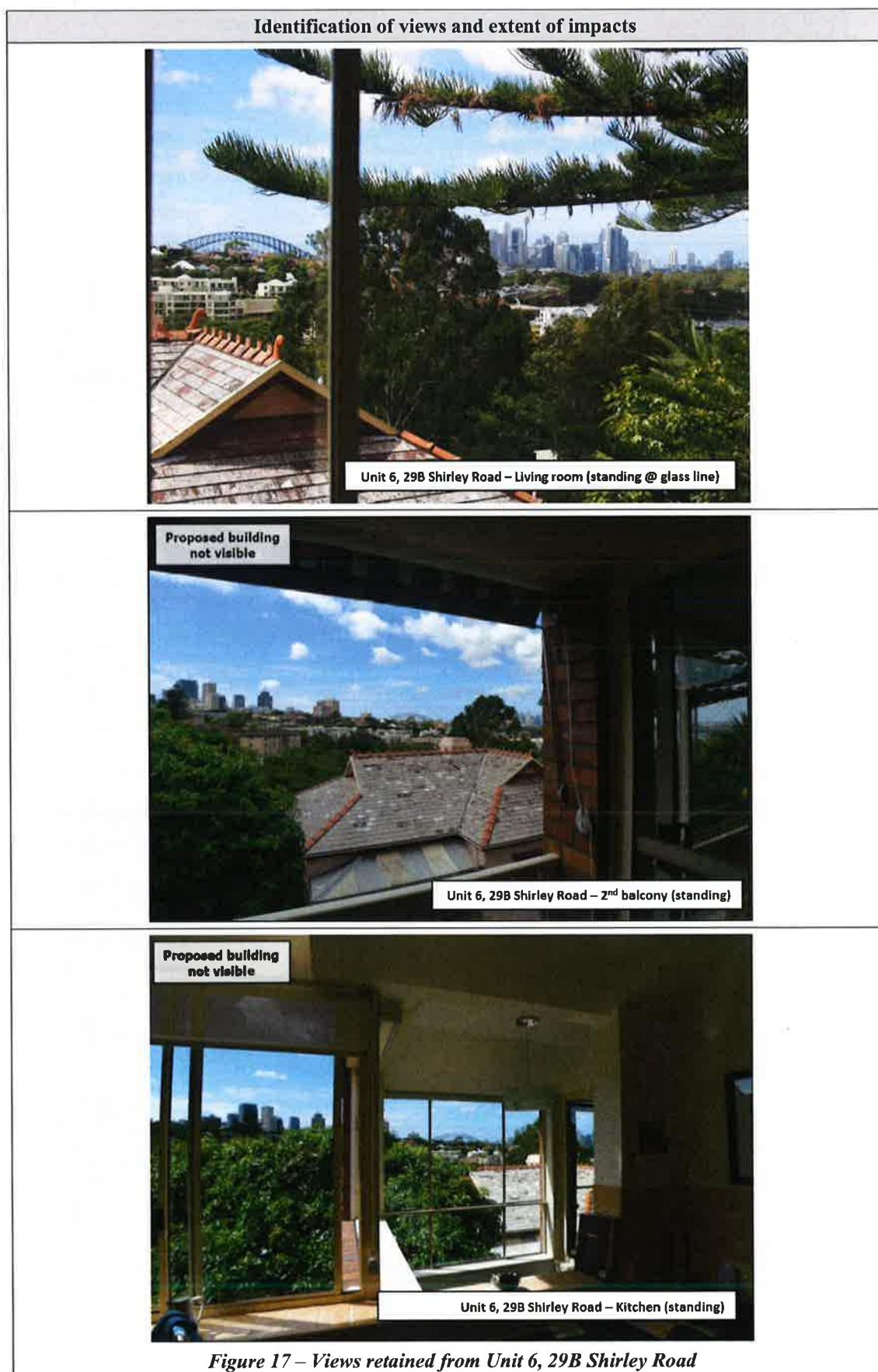


### Identification of views and extent of impacts

Views retained from the unit are identified as:

- Sydney CBD skyline views from the main bedroom;
- Views of the Sydney CBD skyline from the southern end of the main balcony;
- Harbour Bridge and city and North Sydney skyline views from the living/dining room, second balcony and kitchen (**Figure 17**).



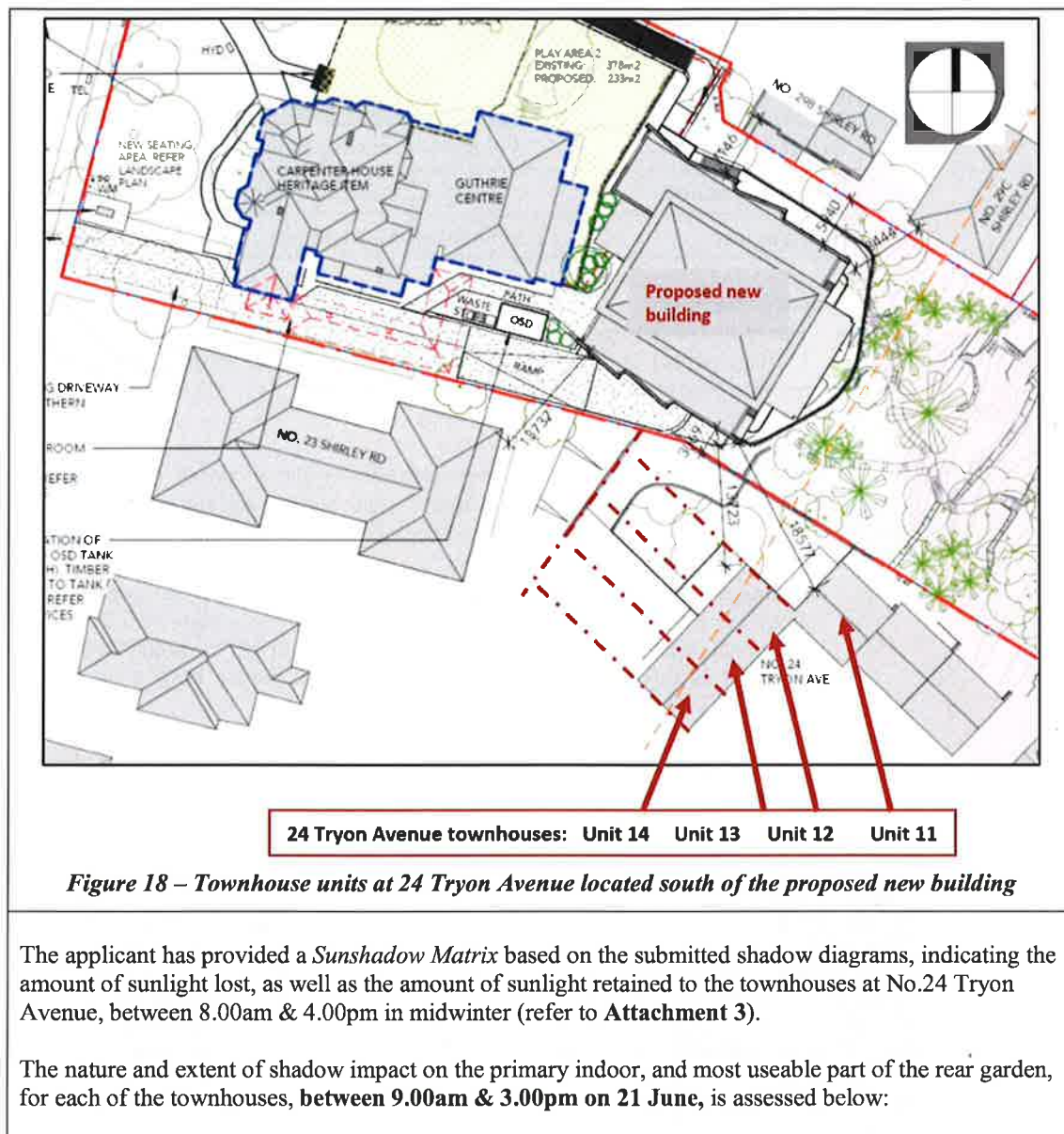


Identification of views and extent of impacts			
<b>On balance, the overall view impact on Unit 6, 29B Shirley Road is assessed to be severe</b> given that harbour views are lost from the main balcony, however noting that views of iconic buildings and skylines, and district panoramas, are retained as viewed from the open plan living/dining/kitchen areas.			
<b>(iv) Reasonableness of proposal that is causing the view impact</b>			
In summary, the view impacts of the proposed development are as follows:			
Unit	Location	View impact	View lines
Unit 3, 29A Shirley Road	1 <sup>st</sup> floor	Moderate	Across the side boundaries of the subject site
Unit 4, 29A Shirley Road	1 <sup>st</sup> floor	Minor	
Unit 3, 29B Shirley Road	1 <sup>st</sup> floor	Devastating	
Unit 4, 29B Shirley Road	1 <sup>st</sup> floor	Devastating	
Unit 6, 29B Shirley Road	2 <sup>nd</sup> floor	Severe	
<p>The view impacts on the units in No.29B Shirley Road arising from the development are considered to be <b>unreasonable</b>, as it is considered that a more skilful design could provide the applicant with the same development potential and amenity as well as reduce the impact on the views of neighbours. An amended design could incorporate the following:</p> <ul style="list-style-type: none"><li>• Reduction in the height of the parapet walls to the north-east corner of the building;</li><li>• Provision of increased side setbacks to the building at parapet level (increasing building separation at parapet level by 1.9m from 7.1m as proposed to 9m as a guideline in the <i>Apartment Design Guide</i> under SEPP 65 used here for reference as relevant to residential amenity);</li><li>• Relocation of useable facilities to the undercroft area (relocation of Rooms 11 &amp; 12);</li><li>• Infill of void space on Level 2 with useable facilities;</li><li>• Reduction to the blade walls to the central projection in the rear (eastern) elevation;</li><li>• Reduction to the overall height of the proposed building by one storey; and/or</li><li>• Sinking the building down one level.</li></ul> <p>While it is not suggested that the proposed building should comply in entirety with the maximum building height of 8.5m applicable to adjoining sites, or that such compliance would result in the full retention of the views that would be lost, it is considered that a redistribution of massing away from the northern and eastern edges of the building could provide for a more equitable access to views and outlook. At the least, a reduction in height and/or increased setback in this location would provide the most severely affected Units 3 &amp; 4 of No.29B Shirley Road with improved remnant outlook to the sky and relief from a singular view to the northern wall of the building as currently proposed.</p> <p>It is considered that the development in its current form does not satisfy DCP Section B3.2.8 objective O4 which seeks to encourage view sharing as a means of ensuring equitable access to views from dwellings, whilst recognising development may take place in accordance with the other provisions of this DCP and the LEP.</p> <p>The applicant’s submission that a reduced-height building in this location would result in similar impact is not considered to be a reasonable basis to support the current form, particularly when significant modification which lowers the built form would significantly reduce impacts to adjoining properties.</p>			

DEVELOPMENT CONTROL PLAN 2013		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>3.2.9 Solar access</b>	<b>No</b>	<p>Section B3.2.9 P1 provides that developments should be designed and sited to provide for a minimum of <b>3 hours midwinter solar access between the hours of 9.00am and 3.00pm</b> to, relevantly, the windows of main internal living areas, and principal private open space areas located on any adjoining residential properties.</p> <p>Extracts of the submitted shadow diagrams contained in <b>Attachment 5</b> are provided below (<b>Figure 17</b>) for ease of reference, followed by an assessment of the shadow impacts of the proposal on the affected dwellings at <b>No.24 Tryon Avenue</b>, conducted in accordance with the principles established by the Land and Environment Court in <i>The Benevolent Society v Waverley Council</i> [2010] NSWLEC 1082.</p>

<i>Assessment of shadow impacts</i>
<i>Density</i>
The site is located in an area characterised by medium density housing, being immediately adjoined by 2- & 3-storey walk up units, and 2-storey townhouses at No.24 Tryon Avenue to the south/southeast.
<i>Overshadowing by fences, roof overhangs and changes in level</i>
<p>Shadows cast by vegetation are not included. The shadow-affected townhouses at No.24 Tryon Avenue are located some 8.7m below the area of the site proposed to be occupied by the proposed new building.</p> <p>The rear gardens of Townhouse Units 11 &amp; 12 are subject to extensive self-shadowing by the existing landscaped terrace, retaining wall and fencing.</p> <p>Shadows cast by Carpenter House and neighbouring residential flat buildings are also accounted for in the submitted shadow diagrams.</p>
<i>Identification of additional shadows &amp; extent of impacts</i>
The proposed development will result in shadow impacts on townhouse <b>Units 11, 12, 13 &amp; 14 of No.24 Tryon Avenue</b> . The townhouses are located to the south of the proposed building ( <b>Figure 18</b> ) and some 8.7m below the development site.







Midwinter solar access 9.00am to 3.00pm				
No.24 Tryon Avenue	Indoor living space		Outdoor space	
Townhouse Unit 11 (Figure 18)	Existing sunlight	4 ¾ hours	Existing sunlight	5 ¼ hours
	Sunlight retained	1 ¼ hours	Sunlight retained	2 ½ hours
	Sunlight lost	- 3 ½ hours	Sunlight lost	- 2 ¾ hours
	<p><b>Indoor living space:</b></p> <ul style="list-style-type: none"> <li>The proposed development will cast shadows on the living room patio doors from 11.30am, with <b>1 ¼ hours' solar access retained for the living room</b> in midwinter between 9.00am &amp; 3.00pm (Figure 19).</li> </ul> <p><b>Rear garden:</b></p> <ul style="list-style-type: none"> <li>The rear patio deck will be overshadowed by the proposed development from approximately 11.15am, with <b>2 ¼ hours' solar access retained on the patio deck</b>.</li> <li>The rear garden beyond the patio deck is substantially self-shadowed by the existing landscaped terrace and walls, and the proposed development will add to the <b>cumulative shadow impact in the rear garden</b>; in particular, the useable lawn area adjoining the deck in the south eastern corner of the garden will be subject to additional shadowing from approximately 10.45am (<b>1 ¼ hours' solar access retained in this corner</b>), with no part of the rear garden beyond the patio deck receiving any sunlight from 11.00am.</li> </ul> <p>The overall and cumulative impact of the development on the solar amenity of Townhouse Unit 11, in particular, indoor living areas and the useable areas of the rear garden comprising patio and adjoining lawn, is assessed to be <u>severe</u>.</p>			



Figure 19 Areas of proposed shadow impacts on Unit 11, 24 Tryon Avenue

Midwinter solar access 9.00am to 3.00pm				
No.24 Tryon Avenue	Indoor living space		Outdoor space	
	Existing sunlight	5.25 hours	Existing sunlight	5.25 hours
	Sunlight retained	1 ¾ hours	Sunlight retained	1 ¾ hours
	Sunlight lost	- 3.5 hours	Sunlight lost	- 3.5 hours
Townhouse Unit 12 (Figure 19)	<p><b>Indoor living space:</b></p> <ul style="list-style-type: none"> <li>The proposed development will cast shadows on the living room patio doors from 10.15am to approximately 1.45pm when the shadows will begin to recede (<b>Figure 20</b>). Approximately <b>1 ¾ hours' solar access will be retained for the living room</b> in midwinter, before 10.00am and after 2.00pm.</li> </ul>			
	<p><b>Rear garden:</b></p> <ul style="list-style-type: none"> <li>The rear patio deck will be overshadowed by the proposed development from approximately 10.00am to approximately 2.15pm when the shadows will begin to recede, with <b>1 ¾ hours' solar access retained on the patio deck</b>.</li> <li>The rear garden beyond the patio deck is substantially self-shadowed by the existing landscaped terrace and walls, and the proposed development will add to the <b>cumulative shadow impact in the rear garden</b>; in particular, the remnant area of sunlight received in the south eastern corner of the garden adjacent to the patio deck will be subject to additional shadowing from approximately 9.30am (<b>less than ½ hours' solar access retained in this corner</b>), with no part of the rear garden beyond the patio deck receiving any sunlight from this time.</li> </ul>			
	<p>The overall and cumulative impact of the development on the solar amenity of Townhouse Unit 12, in particular, indoor living areas and the useable areas of the rear garden comprising patio and adjoining lawn, is assessed to be <b>severe</b>.</p>			



**Figure 20 – Areas of proposed shadow impacts on Unit 12, 24 Tryon Avenue**



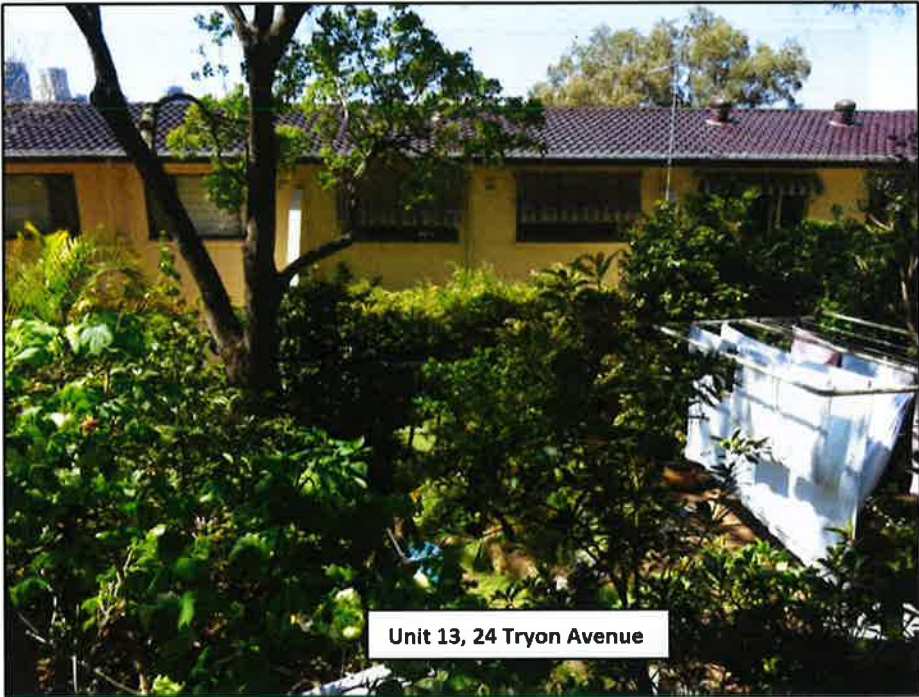

Midwinter solar access 9.00am to 3.00pm				
No.24 Tryon Avenue	Indoor living space		Outdoor space	
	Existing sunlight	5 ¼ hours	Existing sunlight	6 ½ hours
	Sunlight retained	2 ¼ hours	Sunlight retained	3 ¼ hours
	Sunlight lost	- 3 hours	Sunlight lost	- 3 ¼ hours
	<b>Indoor living space:</b> <ul style="list-style-type: none"><li>The proposed development will cast shadows on the living room patio doors from 10.00am to approximately 1.15pm when the shadows will begin to recede. Approximately <b>2 ½ hours’ solar access will be retained for the living room</b> in midwinter, before 10.00am and after 1.15pm.</li></ul>			
Townhouse Unit 13 (Figure 20)	<b>Rear garden:</b> <ul style="list-style-type: none"><li>The rear patio deck will be overshadowed by the proposed development from 9.45/10.00am to approximately 1.00pm when the shadows will begin to recede, with <b>1 ¼ hours’ solar access retained on the patio deck (Figure 21).</b></li><li>The <b>rear garden</b> beyond the patio deck will be substantially shadowed by the proposed development from 8.45/9.00am, with shadows receding from approximately 12.30pm, allowing for approximately <b>1 ¾ hours’ solar access to the mid &amp; upper garden</b> to be retained.</li><li>Approximately <b>1 ¾ hours’ solar access retained to the rear garden area adjacent to the patio deck.</b></li></ul>			
	<b>The overall and cumulative impact of the development on the solar amenity of Townhouse Unit 13, in particular, indoor living areas and the useable areas of the rear garden comprising patio and adjoining lawn, is assessed to be <u>moderate</u>.</b>			
				
	Unit 13, 24 Tryon Avenue			

Figure 21 - Rear garden of Unit 13, 24 Tryon Avenue

Figure 21 - Rear garden of Unit 13, 24 Tryon Avenue

Midwinter solar access 9.00am to 3.00pm				
No.24 Tryon Avenue	Indoor living space		Outdoor space	
Townhouse Unit 14 (Figure 21)	Existing sunlight	4 ½ hours	Existing sunlight	6 hours
	Sunlight retained	2 ¼ hours	Sunlight retained	3 ½ hours
	Sunlight lost	- 2 ¼ hours	Sunlight lost	- 2 ½ hours
	<p><b>Indoor living space:</b></p> <ul style="list-style-type: none"> <li>The proposed development will cast shadows on the living room patio doors from 10.00am to approximately 12.15pm when the shadows will begin to recede. Approximately <b>2 ¾ hours' solar access will be retained for the living room</b> in midwinter, between 9.00am &amp; 10.00am, and after 12.15 to 2.00pm, after which other structures will shadow the patio doors.</li> </ul> <p><b>Rear garden:</b></p> <ul style="list-style-type: none"> <li>The rear patio deck will be overshadowed by the proposed development from approximately 9.45am to approximately 12.15pm when the shadows will begin to recede, with <b>2 ½ hours' solar access retained on the patio deck</b>, between 9.00am &amp; 9.45am, and 12.15pm &amp; 2.00pm (Figure 22).</li> <li>The <b>rear garden</b> beyond the patio deck will be substantially shadowed by the proposed development from 9.00am, with shadows receding from 12.15pm, allowing for approximately <b>1 ¼ hours' solar access to the mid &amp; upper garden</b> to be retained.</li> <li>Approximately <b>1 ¾ hours' solar access retained to the rear garden area adjacent to the patio deck</b> will be maintained.</li> </ul> <p>The overall and cumulative impact of the development on the solar amenity of Townhouse Unit 14, in particular, indoor living areas and the useable areas of the rear garden comprising patio and adjoining lawn, is assessed to be <u>moderate</u>.</p>			



Unit 14, 24 Tryon Avenue

*Figure 22 – Rear garden of Unit 14, 24 Tryon Avenue*

Overall shadow amenity and impact on the townhouse units is summarised as follows:					
		Indoor living space		Outdoor space	
Townhouse	Impact	Sunlight retained	Compliance (min.3 hours*)	Sunlight retained	Compliance (min.3 hours*)
Unit 11	Severe	1 ¼ hours	No	2 ½ hours	No
Unit 12	Severe	1 ¾ hours	No	1 ¾ hours	No
Unit 13	Moderate	2 ¼ hours	No	3 ¼ hours	Yes
Unit 14	Moderate	2 ¼ hours	No	3 ½ hours	Yes
			* midwinter between 9am & 3pm per DCP Section B3.2.9 P1		
Design					
According to the principles established by the Land and Environment Court in <i>The Benevolent Society v Waverley Council</i> , overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines.					
The applicant has submitted comparative shadow diagrams showing the shadow impacts of the proposed 5-storey building as compared to 1-, 2-, 3- & 4-storey versions of the same building. The diagrams suggest that the shadows cast by lowering the building height would yield minimal improvements to the solar access of the townhouses at No.24 Tryon Avenue.					
The comparative shadow diagrams, however, do not successfully demonstrate that a more sensitive design could provide for improved sunlight amenity to the affected residences, by reason of two key assumptions, discussed as follows:					
Comparative shadow diagrams					
Assumptions			Comment		
<ul style="list-style-type: none"><li>The concept schemes portrayed in the comparative shadow diagrams maintain the same setbacks, floorplate and massing as the proposed 5-storey building.</li></ul>			An increased setback at the eastern and southern edges of the building and redistribution of massing at the parapet level could potentially reduce the impact on neighbours.		
<ul style="list-style-type: none"><li>The modelling is based on the number of storeys rather than building height.</li></ul>			The concept 3-storey building, with same floorplate and massing as that proposed, would have a parapet height of up to approximately 13m (taking into account the fall of the land) and some 4.5m above the characteristic and LEP building height of 8.5m. A different massing, with the leading parapet edges pulled back, may reasonably reduce shadow impacts.		
A reduction in the shadow impact on neighbours may be demonstrated by a more sensitive design incorporating the following potential adjustments:					
<ul style="list-style-type: none"><li>Reduction in the height of the parapet walls to the southeastern corner of the building;</li><li>Increased side setback of the building at parapet level;</li><li>Relocation of Room 11 on Level 2 to the undercroft area; and/or</li><li>Sinking the building down one level.</li></ul>					



It is considered that the proposed height and setback from the southern boundary do not adequately respond to the local topography and relationship with neighbouring dwellings.

The concerns raised by the Design Excellence Panel with regard to the bulk and scale of the building, in particular, the south eastern rear parapet, and the impact on neighbours, have not been addressed. It is considered that there is scope to achieve a less severe shadow impact on adjoining dwellings by modulating the floorplate and massing of the building and/or by better utilising the undercroft and void spaces available under the current scheme.

#### ***Solar access - Conclusion***

Upon a balanced consideration of the amenity lost and retained for the affected properties, and the appropriateness and reasonableness of the design response to the subdivision pattern, topography, built form context, it is considered that the proposed development results in unreasonable levels of shadow impact on adjoining dwellings. A more sensitive design that better accounts for the local topography could facilitate more reasonable impacts.

#### **DEVELOPMENT CONTROL PLAN 2013**

<b><i>Non-residential development in Residential zone</i></b>	<b><i>Complies</i></b>	<b><i>Comments</i></b>
<b>3.2.10 Acoustic privacy</b>	Yes	Mechanical plant is proposed on the lower ground (car park) level away from boundaries.
<b>3.2.11 Vibration</b>	Yes	The development is capable of complying with relevant acoustic criteria, as discussed in the <b>SEPP (Infrastructure) 2007</b> section in this report.
<b>3.2.12 Visual privacy</b>	Yes	<p>The development is considered to be satisfactory in respect of visual privacy.</p> <p>The <b>upper level windows on the side elevations</b> are narrow, vertical or highlight windows, or otherwise angled and recessed, and associated with ensuites and bedrooms.</p> <p>There is a 17-20m separation between the proposed glazed <b>rear elevation and bedroom windows</b> of townhouses at No.24 Tryon Avenue. The proposed rear windows are affixed with vertical louvres. The outlook is distant to the harbour and local vistas, with existing bushland further mitigating downward views.</p> <p>The <b>boardwalk at Lower Ground Level</b> has been amended to provide for chamfered corners so as to provide adequate setbacks from the side boundaries.</p>

DEVELOPMENT CONTROL PLAN 2013		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
3.2.12 Visual privacy (continued)		<p>The proposed balcony on Level 3 balcony, at 112m<sup>2</sup>, significantly exceeds the maximum balcony size of 18m<sup>2</sup> area provided for in section B3.2.12 P6. The balcony, however, is supported in this case, on balance of the following:</p> <ul style="list-style-type: none"> <li>• The balcony will provide outdoor amenity to the Group Rooms on Level 3 which will host supervised activities;</li> <li>• Visual privacy impacts will be mitigated by side setbacks of 8m &amp; 11m from the southern and northern boundaries, respectively;</li> <li>• The primary orientation of the balcony is towards the harbour; and</li> <li>• As a <b>condition</b> of any consent, it is recommended that a 1m wide planter box be provided to the perimeter of the balcony, in order to reduce sightlines.</li> </ul>
<b>B3.3 Quality built form</b>		
3.3.1 Context	No	<p>Section B3.3.1 seeks 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. In this regard, the proposed development is to be designed to respond to the issues identified in the site analysis and in the relevant area character statement.</p> <p>The development in its current form is <b>unsatisfactory</b> for failure to address the following context:</p> <ul style="list-style-type: none"> <li>• Site constraint as identified in the Site Analysis plan as “No existing setback to neighbouring building [No.29B Shirley Road]. Increase proposed setback to preserve amenity”; and</li> <li>• DCP character statement which identifies as characteristic “reduced height and scale to rear” in section C10.10.6 P4.</li> </ul> <p><b><u>Compatibility in the urban environment</u></b></p> <p>The proposal has been assessed under the planning principles for <b>compatibility in the urban environment</b> as established in <i>Project Venture Developments v Pittwater Council [2005] NSWLEC 191</i>, discussed as follows:</p>

DEVELOPMENT CONTROL PLAN 2013		
Non-residential development in Residential zone	Complies	Comments
<i>Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.</i>		
<p>The development will have significant physical impacts on adjoining residential development, as discussed in this report; in particular:</p> <ul style="list-style-type: none"> <li>The proposal presents an <b>overbearing bulk and scale</b> to the north-adjoining apartment units at No.29B Shirley Road which are set back 1.2m from the side boundary with the site, and townhouses at No.24 Tryon Avenue located some 8m below the disused tennis court level on which the new building is sited;</li> <li>The proposed <b>view impacts</b> (as assessed in the <b>Views</b> section in this report) are moderate and devastating for four out of five apartment units assessed at No's. 29B &amp; 29C Shirley Road adjoining the site;</li> <li>The quality of <b>outlook</b> from the adjoining apartment units at No's. 29B &amp; 29C Shirley Road will be significantly reduced; and</li> <li>The proposed <b>shadow impacts</b> (as assessed in the <b>Solar Access</b> section in this report) are moderate and severe for four impacted townhouse units adjoining the site at No.24 Tryon Avenue.</li> </ul> <p>The proposal has not adequately responded to the advice of the Design Excellence Panel, which raised concerns with the bulk and scale of the building and its impacts on neighbours.</p>		
<i>Is the proposal's appearance in harmony with the buildings around it and the character of the street?</i>		
<p>The proposed 4- to 5-storey building is significantly larger in scale compared to the predominantly 2- to 3-storey buildings in the immediate vicinity of the site. The proposed building appears to be out of place in relation to the surrounding context; in particular:</p> <ul style="list-style-type: none"> <li>In the absence of planning controls related to bulk and character for the subject SP2 zone, reference is made to the planning intent of the existing area as reflected in the R3 zoning and 8.5m height of buildings development standard applicable to the adjoining properties.</li> </ul> <p>The proposed <b>parapet height of up to 16m (5+storeys)</b> exceeds the bulk and character intended by the 8.5m (2- to 3 storeys) building height LEP development standard that applies to the Wollstonecraft peninsula, and is considered to be inconsistent with the area character as reflected in the planning controls.</p> <p>The proposed 16m parapet height is 7.5m higher than (more than two building storey in excess of) the prevailing predominantly low scale 2- &amp; 3-storey walk up residential flat buildings built form character of the area which reflects the 8.5m building height control (<b>Figure 23</b>).</p> <p>The apparent bulk of the new building is attributable in large part to the proposed parapet up to 16m in height, 26m long northern façade, proximity of existing adjoining apartment buildings to the north, and the fall of the land to the rear (east).</p> <p>The proposed building is significantly larger than characteristic buildings and does not complement the existing character of the area, contrary to DCP Section B3.3.7 in relation to form, massing and scale.</p> <p>The concerns raised by the Design Excellence Panel with regard to the bulk and scale of the building and the impact on neighbours have not been adequately addressed.</p>		

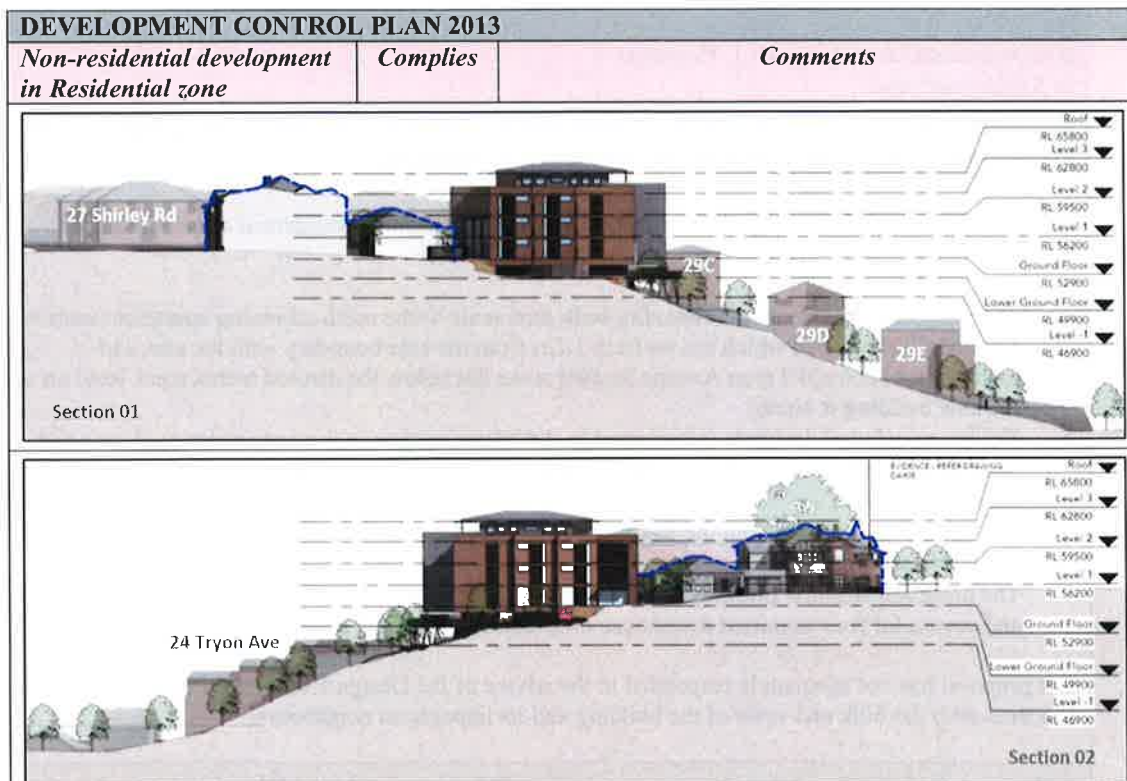
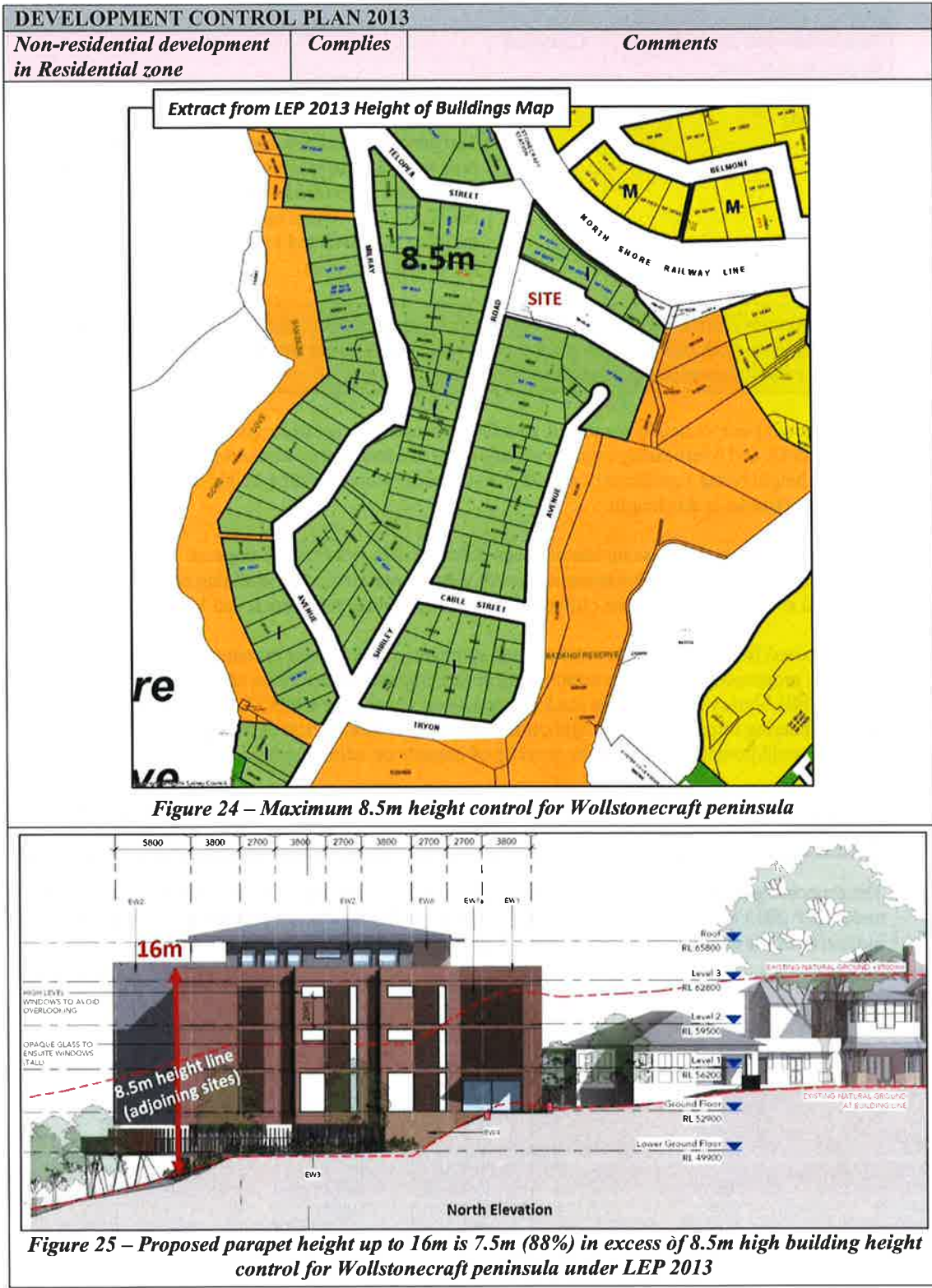



Figure 23 – Proposed building height relative to adjoining apartment/townhouse units

- The proposed **side setbacks** are considered to be inadequate given that the parapet height significantly exceeds the characteristic building height of 2- to 3-storeys (and LEP maximum height of building of 8.5m); in particular:
  - The proposed northern side setback of 5.94m is inadequate for the proposed parapet height. It provides for a building separation of 7.1m, which is 1.9m less than the guideline rate in the *Apartment Design Guide* under SEPP 65 (used here for reference as relevant to residential amenity). The substandard separation gives rise to overbearing and view impacts on units in No.29B Shirley Road; and
  - The proposed setback from the southern side boundary of as little as 3.069m is inadequate for the proposed parapet height, with overbearing and shadow impacts townhouses on the townhouses at No.24 Tryon Avenue exacerbated due to their location some 8m below the subject site in the location of the new building.
- It is considered that increased setbacks at the parapet level, at minimum, should be provided to facilitate a more harmonious interface with adjoining development. A better fit with surrounding buildings could potentially be achieved by means of the following:
  - Reduction of the height of the parapet walls to the north-east and south-east corners of the building;
  - Provision of increased side setbacks to the building at parapet level;
  - Relocation of useable facilities to the undercroft area (relocation of Rooms 11 & 12);
  - Infill of void space on Level 2 with useable facilities;
  - Reduction to the blade walls to the central projection in the rear (eastern) elevation;
  - Reduction to the overall height of the proposed building by one storey; and/or
  - Sinking the building down one level.



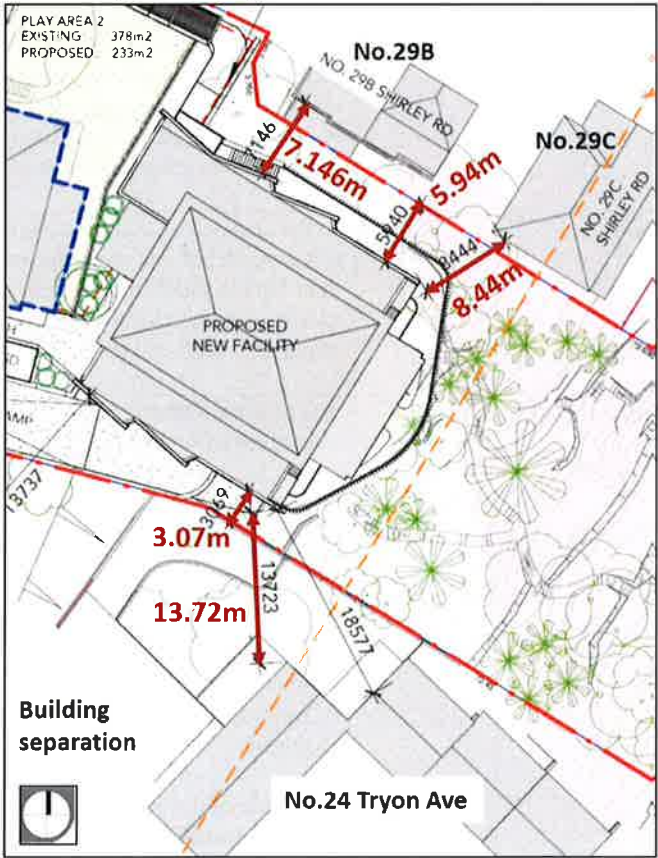
<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>3.3.1 Context</b> (continued)	No	<p><b><u>Height &amp; bulk</u></b></p> <p>The proposal has been assessed under the planning principles for the assessment of <b>height and bulk</b> established in <i>Veloshin v Randwick Council [2007] NSWLEC 428</i>. The proposed bulk and scale of the new building is considered to be excessive within its context, discussed as follows:</p>
<p><i>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.)</i></p>		
<p>The proposed parapet height combined with the proposed side setbacks give rise to material shadow, view, outlook and overbearing impacts on adjoining residences that would not arise but for the proposed building height being significantly greater than the established building height in the area, and the proposed setbacks at this height.</p> <p>It is considered that the massing has not been distributed so as to reduce impacts. A redistribution of massing away from the north eastern and north western parapets of the building could provide for improved solar access, view and outlook amenity to adjoining residences, and less overbearing scale.</p> <p>The proposed floorplate, and the uniform and symmetrical rectilinear massing of the building as currently proposed results in devastating and severe impacts on the views and outlook from Units 3, 4 &amp; 6 of No.29B Shirley Road, severe shadow impacts on townhouse Units 11 &amp; 12 of No.24 Tryon Avenue, and overbearing impacts on the neighbouring properties. Modulation of floorplates and redistribution of massing could potentially reduce the severity of impacts on adjoining land.</p>		
<p><i>How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?</i></p>		
<p>The proposed parapet height of up to 16m is 7.5m (88%) higher than the 8.5m building height control under LEP 2013 applicable to all adjoining lots and the Wollstonecraft peninsula in general and indicative of the desired height in the area (<b>Figures 24 &amp; 25</b>).</p>		



DEVELOPMENT CONTROL PLAN 2013		
Non-residential development in Residential zone	Complies	Comments
<b><i>Does the area have a predominant existing character and are the planning controls likely to maintain it? Does the proposal fit into the existing character of the area?</i></b>		
<p>The established character of the area is predominantly low scale 2- &amp; 3-storey walk up residential flat buildings.</p> <p>The proposed building, with a parapet height of up to 16m, is some 2 storeys more than the prevailing built form character.</p> <p>Excessive bulk is attributable in large part to the proposed 16m parapet height, inadequate building separation or setback at parapet level, and apparent height exacerbated by the fall of the land.</p>		
<b><i>Is the proposal consistent with the bulk and character intended by the planning controls?</i></b>		
<p>In the absence of planning controls related to bulk and character for the subject SP2 zone, reference is made to the planning intent of the existing area as reflected in the R3 zoning and 8.5m height of buildings development standard applicable to adjoining properties and Wollstonecraft peninsula.</p> <p>The proposed parapet height of 16m (5+ storeys) is considered to be inconsistent with the area character as reflected in the 8.5m (2- to 3 storeys) building height control in LEP 2013.</p>		
<b><i>Does the proposal look appropriate in its context?</i></b>		
<p>The bulk of the new 4- to 5-storey building is considered excessive and inappropriate in its context (refer to Figures 22, 23 &amp; 24 above). The apparent bulk and scale of the building is exacerbated as viewed from the dwellings at No.29B Shirley Road (set back some 1.2m from boundary) and from No.24 Tryon Avenue located some 8m below the site (Figure 26).</p>		
 <p>Figure 26 – Dwellings at No.24 Tryon Avenue are located some 8m below the site</p>		
3.3.2 Streetscape	Yes	Compliance with Council's standards in regard to footpaths, kerb and guttering works may be addressed by any conditions of consent.
3.3.4 Subdivision pattern	Yes	No change is proposed to lot size, shape and orientation.

DEVELOPMENT CONTROL PLAN 2013		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
3.3.5 Siting	Yes	<p>The siting of the new building is appropriate in the following respects:</p> <ul style="list-style-type: none"> <li>• The separation of the new building and location at rear will minimise heritage impacts on Carpenter House;</li> <li>• The siting of the building behind Guthrie Centre will allow uninterrupted continued operation of the child care centre;</li> <li>• The building footprint will generally be accommodated within an existing terraced level occupied by a disused tennis court, while maintaining substantial gardens to the front and rear;</li> <li>• The siting complies with the bushfire asset protection zone.</li> </ul>
3.3.6 Setbacks (side)	N/A	<p>The proposed side setbacks of 3.069m from the southern boundary and 5.94m from the northern boundary comply with the minimum side setbacks provided for in section B3.3.6 P3, being:</p> <ul style="list-style-type: none"> <li>• Minimum 2.5m setback at 3<sup>rd</sup> storey or above (&gt; 7m) under provision P3; and</li> <li>• Minimum 3m setback where the adjoining site has balconies or windows to main living areas of dwellings located at the same level under provision P5.</li> </ul> <p><b>Despite numeric compliance however, it is considered that the proposed setbacks do not satisfactory, discussed as follows:</b></p> <p><b><i>01 To reinforce the characteristic pattern of setbacks and building orientation within the street.</i></b></p> <p>There is no established characteristic pattern of setbacks for buildings up to 16m in height at the parapet as is proposed.</p> <p>Adjoining buildings are variously set back from side boundaries, from as little as 1.2m (No.29B Shirley Road) to 4.2m (No.23 Shirley Road), however, pertaining to 2- &amp; 3-storey apartment blocks significantly lower in height than that proposed.</p>



DEVELOPMENT CONTROL PLAN 2013		
Non-residential development in Residential zone	Complies	Comments
3.3.6 Setbacks (side) (continued)	No	<p><b>02 To control the bulk and scale of buildings.</b></p> <p>The proposed bulk and scale of the building has been assessed to be unsatisfactory under the planning principles for the assessment of height and bulk established in <i>Veloshin v Randwick Council</i> [2007] NSWLEC 428, as discussed above in the <b>Context</b> section of this Compliance Table.</p>
	No	<p><b>03 To provide separation between buildings.</b></p> <p>The proposed development provides for separations of at least 7.146m and 13.7m from the north- and south- adjoining dwellings (<b>Figure 27</b>).</p>
 <p>Figure 27 – Separation from adjoining dwellings</p>		
		<p>Section B3.3.6 provides for boundary setbacks, however, does not provide for minimum building separation. In the absence of any numeric provision, reference is made to Section 2F of <i>Apartment Design Guide</i> (ADG) under SEPP 65, for guidance and to assist in the assessment of the proposed separation from the adjoining apartment buildings.</p>

DEVELOPMENT CONTROL PLAN 2013		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>3.3.6 Setbacks (side)</b> (continued)	No	<p>Section 2F provides for the following minimum separations for buildings 5 storeys and above:</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> <p>The proposed development does not provide the guideline minimum separation of <b>9m</b> from adjoining development.</p> <p><b><i>O4 To preserve the amenity of existing dwellings and provide amenity to new dwellings in terms of shadowing, privacy, views, ventilation and solar access.</i></b></p> <p>Section 2F of the ADG also provides that “Required setbacks may be greater than required building separations to achieve better amenity outcomes.” The proposed building separations are inadequate as they result in devastating impacts on outlook from units in No’s. 29A &amp; 29B Shirley Road, and severe shadow impacts on townhouses in No.24 Tron Avenue.</p>
<b>3.3.6 Setback (rear)</b>	Yes	<p>In the absence of a characteristic rear setback alignment, it is considered that the proposed rear setback of more than 50m is satisfactory, being generally aligned with an existing terraced level of the site and providing for the requisite bushfire asset protection zone.</p>
<b>3.3.7 Form, massing &amp; scale</b>	No	<p>The proposed development does not satisfy the following objectives of section B3.3.7, as follows:</p> <p><b><i>O1 The size of new buildings is consistent with surrounding, characteristic buildings and is not significantly larger than characteristic buildings.</i></b></p> <p>The proposed 4- to 5-storey building (16m parapet height) is significantly larger in footprint, height and massing compared to surrounding buildings which are generally 2- to 3-storeys in height with significantly smaller building footprints.</p> <p>The scale of the proposed building is excessive in relation to the surrounding built form context, as assessed against the principles for the assessment of height and bulk established in <i>Veloshin v Randwick Council [2007]</i> NSWLEC 428 under the heading <b>3.3.1 Context</b>, above in this compliance table.</p>

<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>3.3.7 Form, massing &amp; scale</b> (continued)	No	<p><b><i>O2 The design of new buildings reflects and reinforces, or is complementary to, the existing character of the locality.</i></b></p> <p>While the apparent length of buildings has been broken down through the use of articulation, design and detailing, changes in materials and colours (in accordance with provision P11), the design of the new building is unsatisfactory in the following regard:</p> <ul style="list-style-type: none"> <li>• The scale of the building is incompatible with the existing character of the locality comprised of significantly smaller scale structures, contrary objectives O1 &amp; O2; and</li> <li>• The scale of the building does not adequately respond to the setting and curtilage of Carpenter House, contrary to provision P14.</li> </ul>
<b>3.3.8 Entrances &amp; exits</b>	Yes	The main entry to the new building will be demarcated by means of a new accessible pathway, signposting and covered walkway, which will convey a sense of entry and be legible from the street.
<b>3.3.9 Colours &amp; materials</b>	Yes	<p>The proposed materials palette, comprising a mix of sandstone, sandstone cladding, red brick, grey metal and timber cladding, and aluminium louvres, generally reflects and reinforces the character of the area.</p> <p>Extensive glazing to the rear elevation will be mitigated by vertical louvre inserts. The side elevations will be broken down by use of offset layer patterns.</p>
<b>3.3.10 Front fences</b>	Yes	The existing stone front fence will be substantially retained, with removal of stonework minimised to accommodate the modified driveway entry. The children's play area will be replaced with a new fence and entry arbour.
<b>B3.4 Quality urban environment</b>		
<b>3.4.1 Accessibility</b>	Yes	The proposed development is designed to ensure that buildings are accessible to all persons regardless of their mobility.
<b>3.4.2 Safety &amp; security</b>	Yes	Clear sight lines will be maintained to the child care centre and entry to the new building.
<b>3.4.3 Vehicular access &amp; car parking</b>	Yes	Car parking will be located below grade, accessed via a new driveway that utilizes an existing vehicle crossover. The driveway has been configured to retain a tree on adjoining land.

<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<i>Non-residential development in Residential zone</i>	<i>Complies</i>	<i>Comments</i>
<b>3.4.4 Site coverage</b>	Yes	The proposed site coverage of 22% (1,342m <sup>2</sup> ) complies with the maximum site coverage of 50% applicable to surrounding R3 medium density residential housing.
<b>3.4.5 Landscape area</b>	Yes	The proposed landscape area of 65% (3,899m <sup>2</sup> ) complies with the minimum landscape area of 50% applicable to surrounding R3 medium density residential housing.
<b>3.4.6 Excavation</b>	Yes	Site disturbance is minimised as the proposed earthworks are relatively localised to the area of an existing terraced level of the site in the area of a disused tennis court.  The location of the driveway along the southern side boundary allows for significant trees to be retained.  The structural integrity of adjoining properties can be reasonably maintained via <b>conditions</b> of any consent.
<b>3.4.7 Landscaping</b>	Yes	Significant trees will be retained or transplanted. A substantial garden setting will be maintained.
<b>3.4.8 Front gardens</b>	Yes	The proposed front garden will be generally maintained.
<b>3.4.9 Garbage storage</b>	Yes	A screened bin storage area accommodating 3 x 1100L waste and recycling bins, as recommended in the submitted Waste Management Plan, will be located adjacent the new driveway for convenient weekly collection by contractors. The proposed bin storage will be setback from the side boundary.
<b>B3.5 Efficient use of resources</b>		
<b>3.5.1 Energy efficiency</b>	Yes	The proposed development is capable of complying with Part J of the BCA.

### **DCP Section B7 Late Night Trading & Trading Hours**

The proposal is assessed to satisfactory in relation to relevant late trading provisions in section **B7** of the DCP.

The proposal complies with DCP trading hours:

<b>DCP hours</b>	<b>Operations</b>	<b>Proposed hours</b>	<b>Complies</b>
<b>Indoors 7am to 10pm Outdoors 8am to 8pm</b>	<b>Day services</b>	<b>7am to 6pm Mon-Fri</b>	<b>Yes</b>
	<b>Residential services</b>	<b>24 hours, 7 days</b>	<b>Yes (provision P6 – see below)</b>
	<b>Child care services</b>	<b>7am to 6pm Mon-Fri</b>	<b>(no change)</b>

Provision **P6** allows for extended trading hours for health services facilities. The proposed provision of 24-hour residential care is considered satisfactory, having regard to the matters for consideration in section B7.2, discussed as follows:



***(a) the location and context of the premises, including proximity to residential and other sensitive land uses and other late trading premises*** – The residential services building adjoins residential neighbours.

***(b) the specific nature of the premises (e.g. pub, nightclub, restaurant etc) and the proposed hours of operation*** – The proposed extended hours are for residential accommodation.

***(c) the existing hours of operation of surrounding businesses*** – There are no businesses in the immediate vicinity of the site.

***(d) the size and patron capacity of the premises*** - The residential service has a maximum capacity of 14 beds.

***(e) the availability of amenities provided to premises*** – Each residential unit contains an ensuite bathroom and nursery.

***(f) the impact of the premises on the mix, diversity and possible concentration, of late night uses in the locality*** – The proposed residential service is unique to the area and will not result in any cumulative impacts from such use

***(g) the likely operation of the proposal during day time hours*** – Health services and child care centre will operate during the daytime.

***(h) submission of a Plan of Management that demonstrates a strong commitment to good management of the operation of the business, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, as well as the public domain*** – The submitted Plan of Management adequately provides for staff operations, room and car park bookings, deliveries, waste management and complaints management.

***(i) the diversity of retail services within an area and the impact of a late night proposal on this diversity*** – There are no late night retail services in the immediate vicinity of the site. The proposed development does not involve any retail activities.

***(j) measures to be used for ensuring adequate safety, security and crime prevention both on the site of the premises and in the public domain immediately adjacent to, and generally surrounding, the premises*** – Security will be provided by way of surveillance cameras, electronic identification and access cards and emergency and anti-social behaviour training for staff.

***(k) the accessibility and frequency of public transport during late night trading hours*** – Wollstonecraft station is 160m walk from the site and the rail service runs to just before 1am (outbound) and just after midnight (inbound) on weekdays, and just before 1am (outbound) and just before midnight (inbound) on weekends. The off-peak frequency is approximately 15 minutes.

On balance of the above, it is considered that the 24-hour residential service will not result in any unreasonable adverse amenity impacts on nearby residents. The overnight rooms are wholly within the building, with nurseries located away from external walls and room windows oriented away from side boundaries. The development will not give rise to adverse late night traffic impacts, in consideration of the residential nature of the use (4-night/5-day programs).

### **DCP Section B10 Car Parking & Transport**

The proposal is assessed to satisfactory in relation to relevant car parking provisions in section B10 of the DCP.

<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<i>Car parking &amp; transport</i>	<i>Complies</i>	<i>Comments</i>
<b>B10 Car Parking &amp; Transport</b>		
<b>10.2.1 Quantity requirements</b>	Yes	<p>The DCP does not provide parking rates for health care facilities. The proposed provision of eleven (11) car parking spaces is assessed on merit.</p> <p>The submitted <i>Traffic, Transport &amp; Parking Assessment</i> by TTPP dated 1/9/17 draws upon data from a comparable site at the Tresillian Centre in Willoughby in order to ascertain the adequacy of the proposed car parking provision. This is considered reasonable in the absence of a DCP rate.</p> <p>The <i>Traffic Assessment</i> concludes that the proposal for 11 car spaces is satisfactory, based on the following key considerations:</p> <ul style="list-style-type: none"> <li>• The existing parking demand from the staff at the Wollstonecraft facility is 65% according to the traffic assessment report. The report states that at any given time there will be 17 staff on-site. This equates to a staff parking demand of 11 vehicles, which is the total number of spaces provided;</li> <li>• Survey data for the Willoughby Tresillian Centre indicates that car parking occupancy is 60% which equates to the use of some 10 car parking spaces (out of 17 spaces);</li> <li>• The residential stay program generally does not have any “typical” peak hour traffic generation rates as trips occur a varying times throughout the day and trips are solely based on booked appointments;</li> <li>• The Wollstonecraft site has significantly better access to public transport and the modal split for train travel is 23% for Wollstonecraft compared to 1% for the Willoughby location;</li> <li>• Car parking for all appointments associated with the residential stay program are booked in advance;</li> </ul>

DEVELOPMENT CONTROL PLAN 2013		
<i>Car parking &amp; transport</i>	<i>Complies</i>	<i>Comments</i>
<b>10.2.1 Quantity requirements</b> (continued)		<ul style="list-style-type: none"> <li>It is proposed to implement a Green Travel Plan at the Wollstonecraft site to encourage staff to use public transport.</li> </ul> <p>On balance of the above, it is considered that sufficient car parking will be provided on-site to cater for the users of the development.</p> <p>It is noted that no change is proposed to parking provision for the Guthrie child care centre. The existing three car spaces on site are not for staff of the child care centre. Drop-offs &amp; pick-ups will continue to rely on time-limited (15-minute) on-street car parking spaces along the Shirley Road frontage of the site.</p>
<b>10.3.1 Design &amp; layout</b>	Yes	The submitted <i>Traffic, Transport &amp; Parking Assessment</i> by TTPP dated 1/9/17 states that the car park, including provision of 2 x accessible spaces, is proposed to comply with design requirements set out in AS2890.1:2004 and AS2890.6:2009.
<b>10.4 Loading &amp; unloading</b>	Yes	Deliveries, in the nature of food, linen, stationery, equipment and cleaning products, will be made with small vans which comply with the B99 vehicles specified in AS2890.1. Swept path diagrams indicate these vehicles can be accommodated in the proposed driveway and car park.
<b>10.5 Bicycle parking &amp; associated facilities</b>	Yes	<p>The DCP does not provide bicycle parking rates for health care facilities. The proposed provision of 2 x rails (4 x bicycle spaces) is assessed on merit.</p> <p>Reference is made in the submitted <i>Traffic, Transport &amp; Parking Assessment</i> by TTPP dated 1/9/17 to NSW Planning Guidelines for Walking and Cycling (2005). This is considered reasonable in the absence of a DCP rate.</p> <p>Based on the NSW Guideline rate of 5-10% x 17 staff, a minimum of 3.4 bicycle spaces are to be provided. The provision of four spaces complies.</p> <p>The location of the bicycle rails adjacent to the driveway is satisfactory for staff, however, a <b>condition</b> is recommended that a bicycle rail be located in proximity to the main public entry to the building.</p>
<b>10.6 Green travel plans</b>	Yes (via condition)	Council's Traffic & Transport Operations Manager has recommended a <b>condition</b> in respect of a Green Travel Plan.

### **DCP Section B15 Bushland**

This section of the DCP applies to development as it is on land which is identified as Bushland Buffer Area A on the Bushland Buffer Map in Appendix 4 to the DCP. The proposal is assessed to be satisfactory in relation to relevant bushland provisions in section **B15** of the DCP.

DEVELOPMENT CONTROL PLAN 2013		
<i>Bushland</i>	<i>Complies</i>	<i>Comments</i>
<b>B10 Car Parking &amp; Transport</b>		
<b>15.2.1 Siting</b>	Yes	The proposed development is set back a minimum of 10m from the bushland to the rear of the site.
<b>15.2.2 Bushland &amp; bushfire hazard management</b>	Yes	The development is capable of complying with the requirements of Rural Fire Service's <i>Planning for Bush Fire Protection</i> (2006).
<b>15.2.3 Materials and colours</b>	Yes	Impacts of the predominantly glazed rear elevation will be mitigated by vertical louvre blades.
<b>15.3.1 Weeds</b>	Yes	A standard <b>condition</b> is recommended requiring removal of noxious weeds.
<b>15.3.2 Landscaping design</b>	Yes	The existing vegetation buffer to Badangi Reserve will be retained in its entirety.
<b>15.3.3 Indigenous vegetation</b>	Yes	The existing 50m+ bushland buffer to be retained contains numerous native species, including acacias, eucalypts and casuarinas.
<b>15.3.4 Stormwater run-off and soil erosion</b>	Yes	The development includes a 17.7kL on-site detention tank to capture roof runoff, pit and pipe network to the basement and discharge to underground soak. The submitted Civil Engineering Services report by WSP the site catchment areas will discharge minimal flows into the existing landscape during major storm events.
<b>15.4 Cultural resources</b>	Yes	The proposed works will be located in previously disturbed areas of the site with low potential for any undiscovered archaeological sites or Aboriginal sites or relics.
<b>15.5 Threatened species</b>	N/A	<p>The submitted <i>Flora &amp; Fauna Assessment</i> dated July 2017 by Cumberland Ecology identifies the presence of threatened flora and fauna species within the site, including Magenta Lilly Pilly and Narrow-leaved Black Peppermint, and large forest owls, grey-headed flying fox and micro bats. The Assessment concludes that:</p> <ul style="list-style-type: none"> <li>• Past and current use of the subject site has entailed clearing and modification of the majority of pre-existing native vegetation, with approximately 0.13ha of urban native/exotic vegetation and 0.04ha exotic dominated grassland proposed to be cleared;</li> <li>• The vegetation to be removed is unlikely to exclusively support a population of any threatened fauna species;</li> <li>• No significant impacts are predicted to occur to threatened species, populations or communities as a result of the proposed development.</li> </ul> <p>Implementation of the recommended mitigation measures, including vegetation protection, erosion and sediment control, pre-clearing and clearing surveys, and weed control measures, can be ensured via <b>condition</b>.</p>



## ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

### ENVIRONMENTAL APPRAISAL

### CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant s4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

### SUBMITTERS CONCERNS

The issues raised in the submissions are addressed below.

#### (a) Traffic & parking

Comment: The proposed parking provision generally complies with Section B10 of North Sydney DCP 2013. The submitted traffic reports account for child care centre operations, existing car spaces, projected staff and visitor demands. The reports are satisfactory to Council's Transport & Traffic Operations Manager, subject to conditions.

Parking demand can be reasonably managed in consideration of the family day care services being by appointment only, peak parking demand for the family care facility will not generally coincide with the peak parking demand for the child care centre. The proposed on-site car park provides opportunity to reduce on-street child care centre parking zone and reallocation of spaces to general parking, subject to approval by North Sydney Traffic Committee. The installation of a roundabout at the intersection of Shirley Road and Telopea Street would also be subject to separate Traffic Committee approval.

A designated loading space will be provided. The existing driveway location will be retained, as will existing sightlines and separation distance of some 93m to the intersection between Shirley Road and Telopea Street. The existing road network is capable of servicing the increase in traffic associated with the 11-space car park.

The site is public transport accessible for staff and visitors, and a Green Travel Plan (to be approved by Council) would be required to be implemented. The plan would need to include specific and measurable targets for reducing car trips to and from the site, and include resources and mechanisms for implementation, monitoring, review and continual improvement of the travel plan.

**(b) Character**

Comment: The use of the site as a health care facility is consistent with the zoning and character of the site. The proposed new building, however, is assessed to be out of character with surrounding development by reason of being significantly oversized, greater in height, bulk and scale compared to surrounding buildings.

**(c) Bulk and scale; Sense of enclosure**

Comment: The proposed bulk, massing and scale of the building, arising from excessive height combined with inadequate setbacks, gives rise to overbearing bulk and scale to adjoining dwellings and a significant loss of outlook.

**(d) Construction traffic, safety, duration and impacts**

Comment: The child care centre building and play areas are oriented to the northern side boundary, while the new driveway and site access will be along the southern boundary. Construction traffic management may be dealt with via conditions of any consent, as recommended by Council's Transport & Traffic Operations Manager. Conditions of any consent will require adherence to relevant State government environmental standards and criteria, including in relation to noise and dust suppression.

**(e) Solar access**

Comment: The proposed new building gives rise to severe and unacceptable shadow impacts on adjoining dwellings, by reason of excessive height and/or inadequate setbacks. It is considered that reasonable solar amenity could be maintained to the affected dwellings by redistributing the building massing.

Lilly Pilly hedge and other plantings along the southern boundary will not be excessive in height or breadth, given the constrained growing conditions adjacent the driveway.

**(f) Bushfire evacuation safety**

Comment: The application is capable of complying with bushfire safety requirements. The Rural Fire Service has provided terms of any approval. The development will not create any impediment to emergency vehicle access to Wollstonecraft peninsula.

**(g) Noise & pollution**

Comment: Windows to nursery rooms will be closed when occupied. The development is capable of complying with relevant noise standards, including for mechanical plant and equipment. Conditions of any consent have been provided by Council's Environmental Health Manager. The entry arbour is a narrow pathway that is not conducive to lingering or gathering. The use of the driveway servicing 11 car spaces is not likely to result in unreasonable noise impacts. Deliveries and waste collection would be restricted by conditions of any consent.

**(h) Views / outlook**

Comment: The proposed development will have devastating view impacts and will significantly diminish outlooks from adjoining dwellings at No.29B Shirley Road.

The bin store and OSD tank will be screened by a timber batten screen and perimeter landscaping.

**(i) Privacy**

Comment: The offset placement of windows on the side elevation will provide for primary sightlines to the rear and not directly overlook adjoining dwellings. Other side windows are ensuite, highlight and ground floor windows to administration areas with no unreasonable privacy impacts. The lower ground level boardwalk at the rear has been adequately cut back at the corners, and the balcony on Level 3 adequately set back so as to maintain adequate privacy separation from adjoining dwellings.

**(j) Light spill**

Comment: Windows on the upper levels on the side elevation are offset windows that do not face directly across the side boundaries, or are small ensuite windows. The windows to the ground level administration areas will not cause unreasonable light spill as they are located at ground level, set back from the boundary and screened by vegetation and fencing. The entry arbour will provide for screening so as not give rise to unreasonable glare. Conditions of any consent would regulate outdoor lighting to relevant standards, including driveway lighting.

**(k) Heritage**

Comment: The demolition of ancillary wings and buildings is assessed to be satisfactory and consistent with the hierarchy of significance of structures within the site. Carpenter House will be restored, and its landscaped curtilage, including significant oak tree, retained.

**(l) Tree removal**

Comment: The majority of trees proposed to be removed are assessed to have low landscape value and their removal will be adequately compensated by replacement plantings of local native trees. The landscaped arbour and perimeter plantings will provide privacy screening. The highly significant oak tree adjacent the northern boundary of the site will be retained.

**(m) Air and light pollution from vehicles**

Comment: Headlights of vehicles will be directed along the proposed driveway parallel to the side boundary and not to any residence. Pollution will be ameliorated by perimeter plantings along the side boundary. Outdoor lighting impacts may be addressed by conditions of any consent.

**(n) Support for development**

Comment: It is considered that the ongoing operation of the site as a Tresillian health service is in keeping with the current and historical use of the site. However, the additional facilities should provide an appropriate response to the site context and constraints.

**(o) Odour from bins**

Comment: The waste storage area has been relocated away from the side boundary on the northern side of the driveway.

**(p) Child care centre**

Comment: The provision of outdoor space to the child care centre will continue to exceed the minimum requirements for outdoor space. There is no evidence of an oversupply of child care centres in the area.

**(q) Drainage, flooding, erosion**

Comment: The development includes an on-site stormwater detention tank. The concept stormwater management and design is generally satisfactory to Council's Development Engineer.

**(r) Options**

Comment: Heritage-listed Carpenter House is not able to provide for the proposed health care facilities to modern standards, including fire compliance and accessibility. It is not considered feasible to accommodate the proposed health services within Carpenter House.

Relocation of the child care centre to the tennis court is not currently an available option as there is a legal agreement in place (since 2001) between Council and Tresillian to operate a long day care centre for at least 40 children until March 2021.

A longer and narrower building would encroach into the Bush Fire Protection Zone at the rear of the site.

The option of increasing the extent of excavations in order to accommodate useable facilities has not been adequately investigated. A comparison of the marginal cost of additional earthworks as against the benefit of redistributing floor space to the excavated levels (and thus reducing the height and bulk of the building, and associated impacts) has not been undertaken.

## CONCLUSION

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

The proposed development is not supported in its current form. While the need for such a facility is well appreciated, the scale of the new health services building and its form and massing are incompatible with surrounding development. The associated heritage and amenity impacts are considerable and unacceptable, and there appears to be reasonable opportunity for an amended scheme that would achieve much of what is being strived for here while reducing impacts on neighbours.

Having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979, the application is considered to be unsatisfactory and is therefore recommended for **refusal**.

Should the Panel be of a mind to approve the development, it is recommended that the Panel seek amendments in the design of the new building so as to reduce environmental impacts. Such amendments should include a reduction in the floorplate of the new health services building, reduction in height, and increase in setbacks at the upper levels of the building.

## RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

A. **THAT the Sydney North Planning Panel**, as the consent authority, **refuse** Development Application No. **326/17** for a 5-storey health services facility with lower ground level parking, demolition of ancillary buildings to permit vehicle driveway, earthworks, associated landscaping, and conservation works to Carpenter House, on land described as **25 Shirley Road, Wollstonecraft**, as shown on plans, for the following reasons:

1. **The height, form, massing and scale of the proposed new health services building is unsatisfactory.**
  - (a) The proposed **height and bulk** of the new health services building is inappropriate within its context, as assessed under *Veloshin v Randwick Council [2007] NSWLEC 428*. The proposed rear parapet exceeds the characteristic and desirable building height of 8.5m, as reflected in Clause 4.3 of North Sydney LEP 2013, by some 88%. Perceived height and bulk are exacerbated by the provision of inadequate setbacks and the fall of the land, resulting in unacceptable amenity impacts.
  - (b) The size of the new building is significantly larger than and inconsistent with surrounding buildings, contrary to **Objective O1 of Section B3.3.7 Form, massing & scale** in North Sydney DCP 2013.



**2. The setbacks of the proposed new health services building are inadequate.**

- (a) The proposed setbacks do not adequately control the bulk and scale of the new health services building, contrary to **Objective O2 of Section B3.3.6 Setbacks** in North Sydney DCP 2013.
- (b) The setbacks of the new building do not provide for adequate separation from adjoining dwellings, contrary to **Objective O3 of Section B3.3.6** in North Sydney DCP 2013.
- (c) The provision of inadequate setbacks, particularly at the parapet level, results in unacceptable shadow, view and overbearing impacts on adjoining dwellings, contrary to **Objective O4 of Section B3.3.6** in North Sydney DCP 2013.

**3. The proposed new health services building provides for an unsatisfactory response to the site context.**

- (a) The design of the new health services building does not respond appropriately to the existing **site context**, in particular, characteristic building height within Wollstonecraft peninsula, proximity of adjoining dwellings, and the fall of the land, contrary to **Objective O3 of Section B3.1.1 Context** and **Objective O1 of Section B3.3.1** in North Sydney DCP 2013.
- (b) The new building is **incompatible with adjoining land and the locality**, as assessed under *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*. The new building is significantly greater in height than surrounding buildings and presents an overbearing bulk and scale to adjoining development.
- (c) The site is not suitable for the proposed development which is overscaled for the site and its context.

**4. The proposed new health services building has unacceptable heritage impacts.**

- (a) The proposed new building does not conserve the heritage significance of Carpenter House and its associated fabric, settings and views, contrary to **Objective (1)(b) of Clause 5.10 Heritage Conservation** in North Sydney LEP 2013.
- (b) The form and massing of the new building does not adequately respond to the setting and curtilage of heritage-listed Carpenter House, contrary to **Provision P14 of Section B3.3.7 Form, massing & scale** in North Sydney DCP 2013.
- (c) The proposed new building is excessive in height in relation to, and incompatible with, Carpenter House, contrary to **Provision P2 of Section B13.5.2 Form, massing & scale** in North Sydney DCP 2013 which seeks to ensure that additions are smaller in scale, height and massing than the original heritage building.
- (d) The proposed new building detracts from the heritage significance of Carpenter House by reason of its height and massing, contrary to **Objective O1 of Section B13.5.2 Form, massing & scale** in North Sydney DCP 2013.

5. **The proposed new health services building gives rise to unacceptable impacts on views and outlook from adjoining dwellings.**
  - (a) The proposed new health services building gives rise to devastating impacts on the outlook and views of neighbouring dwellings, as assessed under *Tenacity Consulting v Warringah [2004] NSWLEC 140* and in accordance with **Provision P4** in **Section B3.2.8 Views** of North Sydney DCP 2013.
  - (b) The affected dwellings are left with very little by way of outlook which could be reasonably alleviated by a redistribution of useable floor space and massing. The development does not allow for equitable access to views, contrary to **Objective O4** of **Section B3.2.8** in North Sydney DCP 2013.
  - (c) The proposed new building has unacceptable adverse impacts on residential amenity, contrary to **Objective O2** of **Section B3.1.1 General Objectives** in North Sydney DCP 2013.
6. **The proposed new health services building gives rise to unacceptable shadow impacts on adjoining dwellings.**
  - (a) The proposed new health services building gives rise to severe midwinter shadow impacts on neighbouring dwellings, as assessed under *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*.
  - (b) The proposed development does not allow for at least 3 hours' midwinter solar access to the primary internal and outdoor spaces of adjoining dwellings, contrary to **Provision P1** in **Section B3.2.9 Solar access** of North Sydney DCP 2013. Midwinter solar access to living and outdoor areas between 9am and 3pm is reduced to 1 ¾ hours for one of the neighbouring dwellings.
  - (c) Solar access to the most affected dwellings are compromised by existing topography, and the proposed additional impacts are not considered reasonable, given that there is reasonable scope to modulate the massing of the building to reduce the shadow impacts. The development does not satisfy **Objective O1** of **Section B3.2.9** in North Sydney DCP 2013 which seeks to ensure that dwellings on adjoining and neighbouring sites have reasonable access to sunlight and daylight.
  - (d) The proposed new building has unacceptable adverse impacts on residential amenity, contrary to **Objective O2** of **Section B3.1.1 General Objectives** in North Sydney DCP 2013.
7. **Approval of the development in its current form would be contrary to the public interest.**
  - (a) The development does not satisfy the heritage provisions in North Sydney LEP 2013 and North Sydney DCP 2013.
  - (b) The development is not consistent with the objectives of the controls for non-residential development in residential zones in North Sydney DCP 2013.
  - (c) The development does not satisfy built form objectives and provisions in North Sydney DCP 2013.
  - (d) The development does not satisfy residential amenity objectives and provisions in North Sydney DCP 2013.

