

**SYDNEY NORTH PLANNING PANEL**  
**COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	2019SNH018 DA
<b>DA Number</b>	DA115/11/04
<b>LGA</b>	North Sydney Council
<b>Proposed Development</b>	<b>Modification to DA 115/11 pursuant to S.4.55(2) including modifications proposing internal changes to basement layout and uses; changes to car parking allocation and storage; landscape changes; fence and pedestrian entry change; changes to stormwater arrangements; front balustrade change and installation of an external access ladder to rear of building for building maintenance.</b>
<b>Street Address</b>	106 Kirribilli Avenue, Kirribilli
<b>Applicant/Owner</b>	A Plus Group Pty Ltd C/- Redgen Matheson Pty Ltd
<b>Date of DA lodgement</b>	28-Sep-2018
<b>Number of Submissions</b>	Four (4)
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	<b>General Development (Ref Cl 23G of EP &amp; A Act &amp; Cl 21 SEPP State and Regional Development) 2011)</b> <b>Original Consent determined by Sydney East JRPP</b> <b>Capital Investment Value Exceeds \$10M as applicable to the originally approved development application.</b>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• s 2.12 EP &amp; A Act 1979 (as amended) (cf previous s 23G)</li> <li>• Cl 123B EP &amp; A Regulations 2000</li> <li>• North Sydney Local Environmental Plan 2013</li> <li>• SREP – Sydney Harbour Catchment 2005</li> <li>• SEPP No. 55 – Contaminated Lands</li> <li>• SEPP No. 65 – Design Quality of Residential Flat Development</li> <li>• SEPP (Building Sustainability Index: BASIX) 2004</li> <li>• SEPP (State and Regional Development) 2011</li> <li>• North Sydney DCP 2013</li> <li>• Apartment Design Guidelines (ADGs)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Architectural Plans numbered ss6.10B1, s96.10B2, s96.1001, s96.1002, s96.1003, s96.1004, s96.1005, ss6.1006, s96.1007 s96.2001, s96.2002 ss6.2003 s96.2004 s96.3001 s96.3002 s96.3003 s96.5001 s96.5002 s96.5003 dated May 2018 and December 2018, drawn by Redgen Mathieson</li> <li>• Landscape plans numbered s96-01, s96-02 s96-03 s96-04 s96-05, Prepared by Secret Gardens dated May 2018</li> <li>• Stormwater Plans prepared by AJ Wipps dated Aug 2017</li> <li>• Submissions</li> </ul>
<b>Report prepared by</b>	David Hoy, Team Leader Assessments
<b>Report date</b>	28 March 2019

**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 summarized, 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)?

No

*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*

**JOINT REGIONAL PLANNING PANEL  
(Sydney North Planning Panel)**

**S.4.55(2) MODIFICATION ASSESSMENT REPORT**

<b>JRPP No</b>	<b>2019SNH018 DA</b>
<b>DA Number</b>	DA115/11/4
<b>Local Government Area</b>	<b>North Sydney Council</b>
<b>Proposed Development</b>	Modification to DA 115/11 pursuant to S.96(2) including modifications proposing internal changes to basement layout and uses; changes to car parking allocation and storage; landscape changes; fence and pedestrian entry change; changes to stormwater arrangements; front balustrade change and installation of an external access ladder to rear of building for building maintenance
<b>Street Address</b>	<b>106 Kirribilli Avenue, Kirribilli</b>
<b>Drawings:</b>	Architectural Plans numbered ss6.10B1, s96.10B2, s96.1001, s96.1002, s96.1003, s96.1004, s96.1005, ss6.1006, s96.1007 s96.2001, s96.2002 ss6.2003 s96.2004 s96.3001 s96.3002 s96.3003 s96.5001 s96.5002 s96.5003 dated May 2018 and December 2018, drawn by Redgen Mathieson Landscape plans numbered s96-01, s96-02 s96-03 s96-04 s96-05, Prepared by Secret Gardens dated May 2018 Stormwater Plans prepared by AJ Wipps dated Aug 2017
<b>Applicant</b>	AGA Project Control PO Box 20 VAUCLUSE NSW 2030
<b>Number of Submissions</b>	<b>Four (4) against</b>
<b>Date of Report</b>	28 March 2019
<b>Amended:</b>	11 December 2018
<b>Report by</b>	David Hoy, Team Leader Assessments
<b>Recommendation</b>	Approval

## EXECUTIVE SUMMARY

Consent is sought to modify Development Application No. 115/11 under the provisions of Section 4.55(2) to provide for various changes to the approved building layout to rationalise the approved development for constructability reasons and to facilitate the increase in total units from three (3) units to four (4) x 3 bedroom units.

**The proposal is referred to the Sydney North Planning Panel as the Panel is the relevant consent authority for modifications to development approved by a Regional Planning Panel under Clause 23 of SEPP (State & Regional Development) 2011.**

The originally approved development was determined by the former Sydney East Joint Regional Planning Panel due to the estimated Capital Investment Value limits applicable at the time of determination. Works associated with the approved development application commenced on site in November 2016 with the development nearing completion.

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

**Modification No. 115/11/2** was approved by the Sydney East Joint Regional Planning Panel on 4 February 2016 to provide for internal layout changes to facilitate reduction from five (5) apartments to three (3) apartments, balcony and terrace changes, facade changes, terrace at level 6, extend lift to provide access to level 6, parapet changes, increased basement excavation to levels B1 & B2 to the approved residential flat building.

**Modification No. 115/11/3** was approved by the Sydney East Joint Regional Planning Panel on 22 March 2017 to provide various changes to building layout and external configuration including building entry and basement changes, facade and window changes and layout changes to all levels to facilitate *increase from three (3) units over six floors to four (4) x 3 bedroom units.*

The subject modification has been notified with owners of adjoining properties and the Bradfield Precinct notified of the proposed development on and submissions accepted up to 4 November 2016.

In response a total of **four (4) submissions have been received** in objection to the proposal raising issues with regard to further views and visual impact arising from the proposed amendments. The issues raised in the submission are not considered to be well founded or demonstrate any additional adverse impacts would arise as a result of the proposed modifications.

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

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

## DESCRIPTION OF PROPOSAL

Modifications to DA 115/11 pursuant to S.4.55(2) including modifications proposing internal changes to basement layout and uses; changes to car parking allocation and storage; landscape changes; fence and pedestrian entry change; changes to stormwater arrangements; front balustrade change and installation of an external access ladder to rear of building for building maintenance.

The application is to be determined by the Sydney North Planning Panel as the relevant consent authority under Clause 23 of SEPP (State & Regional Development) 2011 and the previous determination by the Sydney East Joint Regional Planning Panel on 15 December 2011 and the estimated Capital Investment Value of the originally approved development.

Specifically, the proposal seeks consent for the following modifications:

<b>Basement 2:</b>	<ul style="list-style-type: none"><li>Reconfigured storage/plant to storage/cellar; and</li><li>Plant/storage space converted into additional parking.</li></ul>
<b>Basement 1:</b>	<ul style="list-style-type: none"><li>Visitor/carwash bay converted to additional parking; and</li><li>Plant/store reconfigured to accommodate laundry, gym, bathroom and shower/change room.</li></ul>
<b>Level 1:</b>	<ul style="list-style-type: none"><li>Front gate deleted;</li><li>Concealed condenser unit in planter; and</li><li>Minor landscaping amendments (with no overall change to landscape area).</li></ul>
<b>Level 3:</b>	<ul style="list-style-type: none"><li>Rear and side fences behind the building line changed to lightweight timber fence, rear fence height increased for additional privacy;</li><li>Crepe Myrtle removed and three new Crepe Myrtles to be planted in the space; and</li><li>Wall mounted condenser unit concealed in rear garden by retaining wall and planting.</li></ul>
<b>Roof:</b>	<ul style="list-style-type: none"><li>Skylights removed;</li><li>Lift over run changed to metal; and</li><li>Penetrations added for mechanical ventilation - penetrations flush with parapet.</li></ul>
<b>North Elevation:</b>	<ul style="list-style-type: none"><li>Roof access ladder added for roof and building façade maintenance.</li></ul>
<b>South Elevation:</b>	<ul style="list-style-type: none"><li>Refined balustrade design.</li></ul>
<b>Western Elevation:</b>	<ul style="list-style-type: none"><li>Windows reduced in size and rendered concrete upstaged added.</li></ul>
<b>East Elevation:</b>	<ul style="list-style-type: none"><li>Lightweight timber boundary fence proposed for rear half of the property.</li></ul>
<b>Materials and Façade</b>	<ul style="list-style-type: none"><li>Minor changes in material where copper was not able to be used due to availability/structural deficiencies.</li></ul>

### **Other changes**

**Alteration of the proposed stormwater drainage** to match the site's existing conditions and provide a piped outlet into the existing kerb and gutter system in accordance with the method used by all surrounding properties.

Applicant's statement in support of layout changes and external ladder access to northern elevation:

*"Many of the proposed modifications result as a consequence of the requirements of the owner of Apartment 4; their requirements for separate sanitary facilities and to ensure that access for roof maintenance does not require entry via their apartment.*

#### **Façade**

*The primary change to the building façade is the inclusion of a ladder at the building's northern (rear) elevation. This ladder provides access to the roof for maintenance and window cleaning. The ladder is required as the current approved fire stair terminates at level 5 and cannot offer roof access without significant intrusion to the residential amenity and privacy of the owners of Apartment 4. "*

### **Modification of Conditions**

To provide for the above changes, modification to the following conditions is sought:

Condition A1	Modify to reflect amended plans accompanying this application
Condition A9	Modify to reflect amended plans accompanying this application
Condition A12	Delete condition
Condition A13	Delete condition
Condition C13a	Modify to reflect revised stormwater plans and Hydraulic Statement
Condition C13b	Modify to reflect revised stormwater plans and Hydraulic Statement
Condition C16	Modify to delete reference to "Crepe Myrtle (adjacent to north boundary)"
Condition C26	Modify to reflect the new BASIX number "911800M-02"

## SITE & LOCALITY

The site identified as No.106 Kirribilli Avenue is currently a construction site following the commencement of demolition works in November 2016. The site was previously occupied by a four storey residential flat building (with basement area) comprising seven units being 2 x two (2) bedrooms units on the ground, first and second floors with a three (3) bedroom unit with terrace on the third floor. The site is located on the northern side of Kirribilli Avenue and diagonally opposite Waruda Avenue. The existing building on the site is located in the Kirribilli Conservation Area.

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

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

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



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

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

### Character of the locality



**Figure 2:** Locality view taken from pedestrian level deck of Harbour Bridge

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



**Figure 3:** Street view Kirribilli Avenue road reserve



**Figure 4:** Street view Kirribilli Avenue road reserve



**Figure 5:** No. 79 Kirribilli Avenue (opposite)



**Figure 6:** No. 108 Kirribilli Avenue (adjacent)

## STATUTORY CONTROLS

### North Sydney Local Environmental Plan 2013

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

### S7.11 Contributions

Environmental Planning & Assessment Act 1979

SREP – Sydney Harbour Catchment 2005

SEPP No. 55 – Contaminated Lands

SEPP No. 65 – Design Quality of Residential Flat Development

SEEP (Vegetation in Non-rural Areas) 2017

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (State & Regional Development) 2011

## POLICY CONTROLS

DCP 2013

SEPP 65 Apartment Design Guide (ADGs)

## ZONING MAPS – NORTH SYDNEY LEP 2013

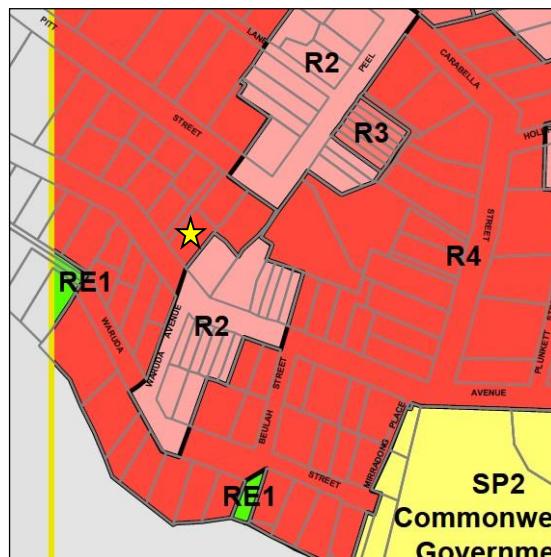


Figure 7 : Zone extract NSLEP 2013

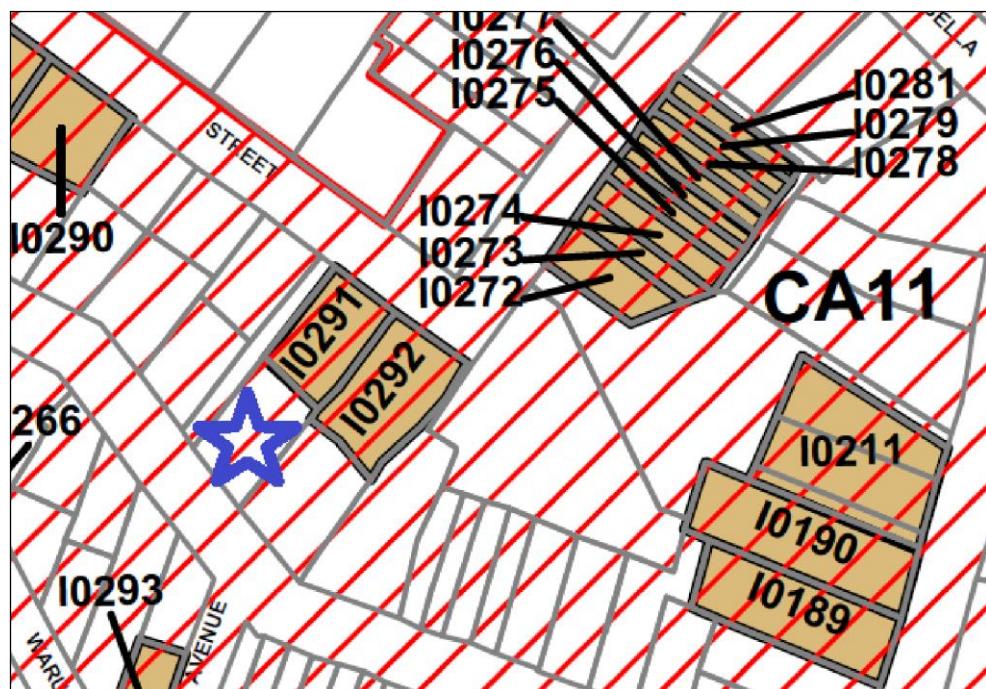


Figure 8: Heritage Map extract NSLEP 2013

## CONSENT AUTHORITY

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

**The proposal is referred to the Sydney North Planning Panel as the Panel is the relevant consent authority for modifications to development approved by a Regional Planning Panel under Clause 23 of SEPP (State & Regional Development) 2011.**

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

## RELEVANT HISTORY

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

**Modification No. 115/11/2** was approved by the Sydney East Joint Regional Planning Panel on 4 February 2016 to provide for internal layout changes to facilitate **reduction from five (5) apartments to three (3) apartments**, balcony and terrace changes, facade changes, create terrace at level 6, extend lift to provide access to level 6, parapet changes, increased basement excavation to levels B1 & B2, basement layout changes and amend approved landscape plans to the approved residential flat building.

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

**Modification No. 115/11/3** was approved by the Sydney East Joint Regional Planning Panel on 22 March 2017 to provide various changes to building layout and external configuration including building entry and basement changes, facade and window changes and layout changes to all levels to facilitate *increase from three (3) units over six floors to four (4) x 3 bedroom units*.

## REFERRALS

### Development Engineer

Council’s Development Engineer has raised no objection to the proposed amended development, subject to amended engineering conditions being imposed on the consent to reflect the revised stormwater design prepared by AJ Whipps.

Specific conditions have been imposed on the existing consent to ensure adequate protection of adjoining land in relation to geotechnical stability and structural stability. The proposed modifications do not alter the requirements for ongoing engineering certification of the project.

### Conservation Planner

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

#### ***Heritage Impact Assessment***

*There are several elements in the application that will have an impact upon the character of the conservation area.*

**1. Changes to the balcony balustrade** - *The proposed simplification of the approved Tzannes design is not supported. In conservation areas, traditional balustrades provide solid detail to balconies.*

*The approved design has an angled top rail to provide a visual solidity, in a contemporary manner, to the balustrade. The proposed design, will however, be so minimal that the solidity is removed and is not supported.*

**2. Removal of front pedestrian gate** - No objection is raised to the deletion. Not all properties in the conservation area have a gate and its deletion will have low impact.

*Please delete the following condition:*

*Pedestrian Entry Gate*

*A12. The front pedestrian entry gate to the adjoining public footpath must have an open palisade design and shall not be a solid faced door. Details of the palisade design of the gate must be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.*

*(Reason: To minimise impacts to the conservation area)*

**3. Increase in height of the Eastern side boundary fence** - It is recommended that the side boundary in the front building line be maintained at 1m height with a palisade, sandstone or masonry construction, as low fences are characteristic in the conservation area in front gardens. No objection is raised to an increase in height behind the front building line. This is how it was previously conditioned.

*Eastern Boundary Fencing/wall*

*A13. The proposed brushwood material to the eastern boundary wall/fence on the boundary with No. 108 Kirribilli Avenue is not approved. The boundary fence/wall must be of open design or solid masonry walls and be a maximum of 1.0 metre height along the boundary.*

*The details of the proposed eastern boundary wall/fence must be submitted to Council and approved in writing by Council's Conservation Planner prior to the release of the relevant Construction Certificate.*

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

**4. Materials Selection** - The proposed amendments are acceptable subject to the abutment of metals not resulting in galvanic corrosion. Condition A9 needs updating for the new schedule.

#### **Planner's Comment**

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

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

Council's conservation planner is generally supportive of the changes to the finishes of the building but has sought an improved balustrade detail to maintain a solidity to the the balustrade form, which will be quite prominent in the façade. However the depth of the proposed balustrade at 200mm and 12mm thick frame glass is considered sufficient to ensure a high-quality finish to the conservation area.



**Figure 9:** Profile of proposed revised balustrade

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

#### **Eastern boundary fence**

The site's eastern adjoining neighbour is substantially elevated above the site and side boundary fencing would be marginally visible from adjoining and nearby public areas. Whilst the proposed brushwood fencing is not characteristic, the revised fencing has been accepted by the adjoining property owner and is considered sufficient to ensure adequate privacy between properties in a manner that would not detract from the conservation area. To enable the revised fence design, Condition A9 should be deleted.

#### **Landscape Development Officer**

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

*The site has two remaining trees being a Port Jackson Fig and a Crepe Myrtle. The proposal includes the removal of the Crepe Myrtle as it has had 40 % of its root plate removed during the construction process contrary to the conditions of consent. Whilst the tree provides some screening to the properties behind, it is now considered to be unstable and should be removed. No objection is raised to its replacement with three 400L Crepe Myrtles.*

*The Fig tree, Tree1, has been assessed by the arborist, Ross Jackson of Jacksons Nature Works as in good health. It is proposed for retention.*

*The submitted Landscape Plan is considered to be satisfactory subject to the application of the following conditions:*

## **SUBMISSIONS**

Notification has been undertaken with owners of adjoining properties and the Bradfield Precinct notified of the proposed development on 12 October 2018 and submissions accepted up to 26 October 2018. In response a total of **four (4) submissions have been received in objection.**

The issues raised in the submission are summarised in the following table:

<b>Name &amp; Address of Submitter</b>	<b>Summary of Submissions</b>
Soula Triant 8/65 Upper Pitt St Kirribilli NSW <a href="mailto:henleyoncrown@gmail.com">henleyoncrown@gmail.com</a>	<ul style="list-style-type: none"><li>• We have previously objected in regards to significant view losses posed by this building to our iconic Sydney Harbour views. Please refer to our earlier submissions.</li><li>• Please note the changes proposed here as were the earlier applications very unclear</li><li>• they are looking to install an access ladder to roof which sits directly in front of our apartment and will further impact our iconic harbour views. This the third attempt by this development to significantly affect our property.</li><li>• we object to the façade treatment of the western and northern wall; significant breach to current 12m height limit; and mechanical exhausts directly in our direct significant view lines.</li><li>• Request consideration be given to the air pollution and noise to be emitted by these exhausts.</li></ul>
Willowtree Planning Pty Ltd On behalf of Residents at 104 Kirribilli Avenue, Kirribilli	<ul style="list-style-type: none"><li>• <b>Location of Air-Conditioning Condenser Units</b> The previously approved basement plant room areas have been reconfigured to accommodate a number of luxury amenities for the future Apartment 4 residents including a cellar, private/secure bathroom, laundry and gym for Apartment 4 residents and hospitality staff/trades. This has resulted in the air-conditioning condenser units being relocated aboveground and adjacent to existing dwellings which is likely to result in significant visual and noise amenity impacts on adjoining residents.</li><li>• <b>Western Elevation Windows</b> The proposed modification includes changes to the western elevation windows which run the full height of the building. The originally approved design for these windows included angled windows with adjustable louvres so that no visual privacy impact would arise from views into bedrooms and living areas of the adjoining building at 104 Kirribilli Avenue, but rather, face the harbour or be screened. It is</li></ul>

understood that subsequent modifications were made resulting in these windows being surface mounted, without louvres, that will look directly into the neighbouring building with no visual amelioration.

Dr Shashwat Rastogi and Mrs Seema Rastogi.  
unit 9/65 upper Pitt St, Kirribilli

[srastogi@tpg.com.au](mailto:srastogi@tpg.com.au)

- Our unit sits right in front and in the line of sight of the roof of 106 Kirribilli Ave building.
- The proposed installation of an access ladder to the roof sits directly in the line of sight of my apartment and significantly impacts the scenic views of the harbour from our unit.
- The proposed treatment to the western and northern walls will breach the 12mt height limit and once again add to the disruption of the iconic harbour views from our unit.
- The proposed mechanical exhaust will create significant environmental impact with the unnecessary noise and air pollution, impacting all the residents in our unit block.
- The proposed development will severely impact all the residents of our building by unnecessary visual disruption to our iconic Sydney harbour views and create unwanted noise and air pollution.

Amelia and Mario Lara-Ledermann  
4/65 Upper Pitt Street,  
Kirribilli

[mariolara83@gmail.com](mailto:mariolara83@gmail.com)

- The scope of works infers the installation of an access ladder to the building's roof which sits directly in front of our apartment and will impact our scenic views.
- Along with our neighbours, we object to the façade treatment of the western and northern wall; the significant breach to the current 12m height limit; and the proposed mechanical exhausts which will significantly alter the aesthetic continuity of the street as well as our building's outlook.
- Furthermore we fear the environmental impact and the right to peaceful occupancy of our building's inhabitants that these additions will affect- particularly the air pollution and noise to be emitted by such exhausts.

In response to the above submissions the applicant has submitted amended plans which incorporate the further amendments described as follows:

***Visual impact of the condenser units:***

*The condenser unit on the northwest corner of the building has been redesigned such that it is now proposed to be moved into Basement 1, please refer to amended Level 03 plan and amended basement plans. The area that was previously housing the plant on Level 1 will now only be used to access the roof ladder.*

*There is now only a single condensing unit (CU1) located within a planter box directly above the basement on the eastern boundary. This will face into the site and will be screened by the planter box. The landscape architect has confirmed that the chosen hedge screening and shrub species proposed to level 1 planters along the eastern boundary are the most suitable choice due to their known reliability to perform under a wide range of environmental conditions.*

## CONSIDERATION

The proposed modifications has been submitted pursuant to S.4.55(2), The relevant matters for consideration under Section 4.55(2) & S.4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

### **Section 4.55(2) Summary**

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

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

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

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

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

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

This S 4.55(2) application concerns modifications to an approved residential development and does not require the concurrence of the relevant Minister, public authority or other approval body.

***(c) it has notified the application in accordance with:***

***(i) the regulations, if the regulations so require, or***  
***(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

***(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.***

The proposed modification application has been notified in accordance with Section 4 of NSDCP 2013. Submissions received in response to notification are addressed throughout this report.

***(e) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.***

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

The proposed modifications are considered to be consistent with the aims, objectives and provisions of all applicable environmental planning instruments. Consideration of issues arising from the proposed modification against the relevant provisions is as follows:

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

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

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

#### **NORTH SYDNEY LEP 2013**

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

##### **Permissibility within the zone:**

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

##### **Zone Objectives**

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

##### **Objectives of zone**

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*

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

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

### Principal Development Standards

STATUTORY CONTROLS (NSLEP 2013)				
Site Area – 504.1m2	Approved	Proposed	Control	Complies
Building Height (Cl. 4.3)	16.53m (max parapet)	No change to max height of building parapet  13.2m (Proposed Access ladder)	12m	NO*

#### Height of Buildings (Cl. 4.3 NSLEP 2013)

In accordance with the findings by Justice Lloyd in **Gann & Anor v Sutherland Shire Council [2008] NSWLEC 157**, the modification of a development consent pursuant to Section 4.55 which results in a new or modified variation to a development standard, does not require the submission of an objection pursuant to SEPP 1 (Cl. 4.6). In this regard, reference is made to the provisions of S.4.55(3) of the Act which distinguishes between the modification of a development consent pursuant to s.4.55 and the granting of development consent.

Notwithstanding, Council must still consider the proposed modifications and the new elements of the building which breach to the maximum building height standard against the provisions of the development standard, under the requirements of S.4.55(3) & s.4.15 of the Act.

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

#### Height of Buildings – Objectives

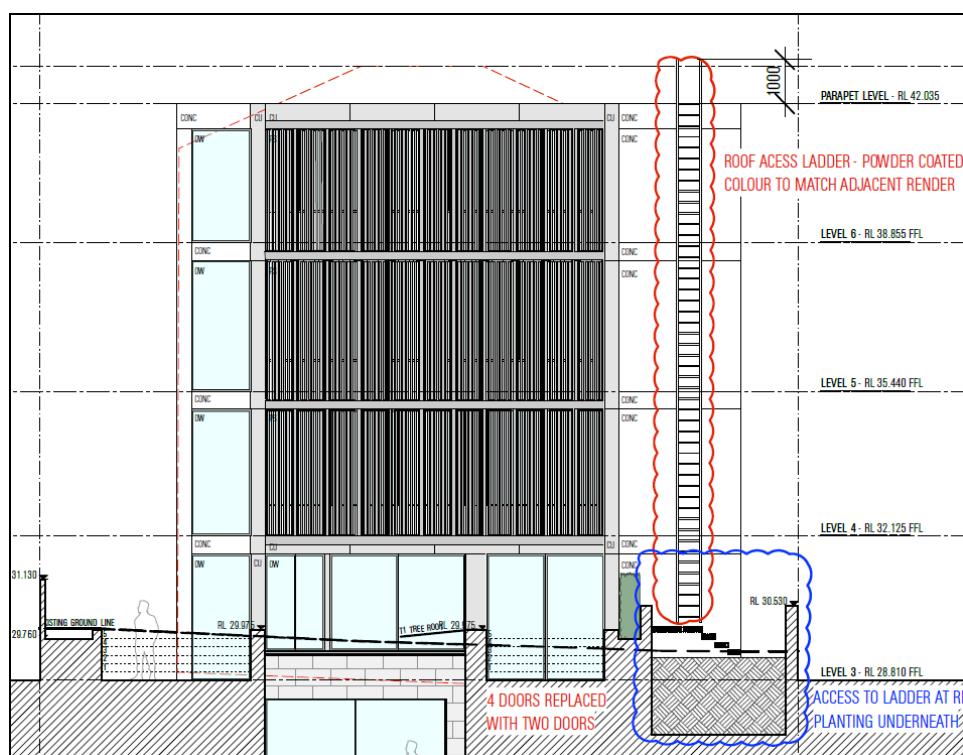
(a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*

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

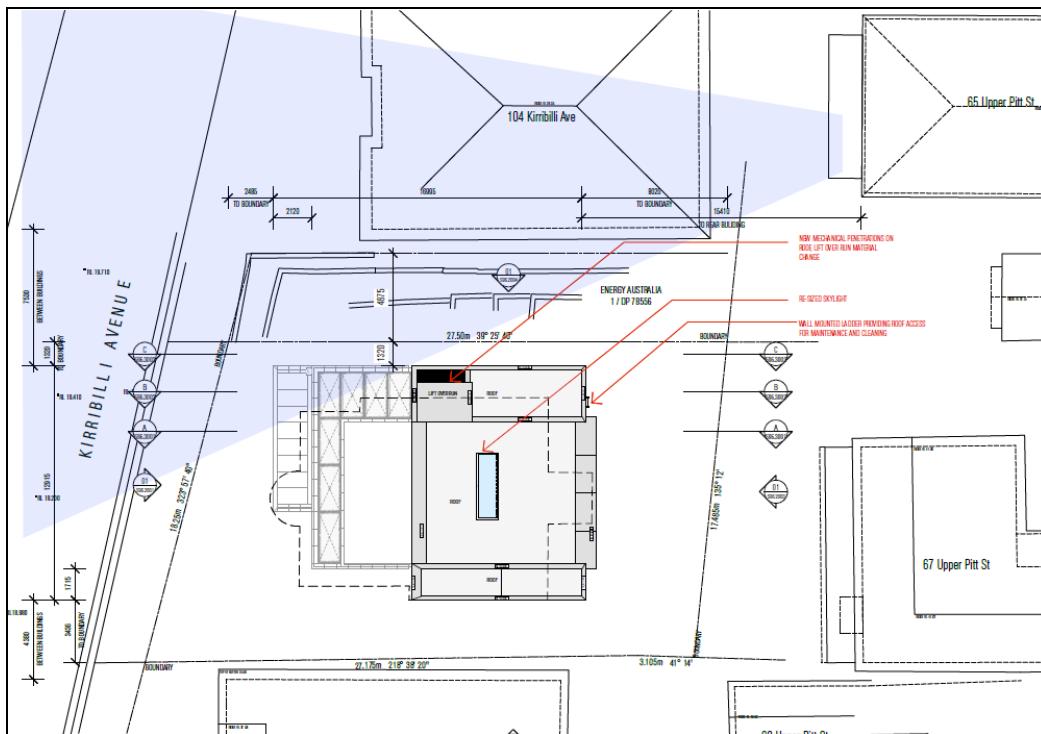
**(b) to promote the retention and, if appropriate, sharing of existing views,**

Detailed consideration of the impact on views as a result of the proposed building was undertaken under the original development application and the development deemed to have an acceptable impact on existing views subject to adequate view sharing.

The building envelope of the modified development would not present any additional view impacts to surrounding properties. The proposed installation of an access ladder to the north western corner of the building would not result in any significant adverse effect in relation to view loss as the existing large port Jackson fig is to be retained and currently obscures city and harbor views across the site from the north-west and properties at 65 Upper Pitt Street ads indicated in the images below.



**Figure 10.** Proposed amended north elevation



**Figure 11.** View corridor across the site from No. 65 Upper Pitt Street

The proposed ladder however, does not comply with the height standard and would protrude 1.0m above the roof level to enable maintenance access to the roof. Whilst the visual impact of the structure is considered to be unacceptable from aesthetic considerations, the structure is a minor addition to the building and the variation to the height control would not adversely affect existing views.

A condition is recommended to require the proposed ladder structure to be deleted, as reasonable alternative means of access is available from the Level 6 roof terrace, utilizing relocatable ladder anchor points above the balcony to the unit on Level 6 and harness access. Considering the need access would be limited to short periods only and related to general building maintenance, including access requirements for landscaping, the ladder is not considered essential for maintenance purposes.

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

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

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

The proposed reconfigured roof top landscape garden and location of the proposed terrace back from the parapet edge would not present any new or significant adverse privacy intrusion to adjoining properties and as such is supported.

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

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

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

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

## Summary

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

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

## NSDCP 2013

The proposed modifications have been assessed against the relevant aims, objectives and planning controls of the North Sydney Development Control Plan 2013 (NSDCP).

Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
<b>1.3 Environmental Criteria</b>		
<b>Views</b>	Yes	<p>Detailed consideration of the impact on existing views was undertaken under the original development application. The approved development was deemed to have an acceptable impact on existing views subject to adequate view sharing. The external building envelope of the modified development would not present any additional view impact to surrounding properties.</p> <p>The impact to existing view arising from the proposed modifications would be low to negligible, with the modified development generally consistent with the approved development.</p> <p>An adjoining residential units at 65 Upper Pitt have raised concerns about the potential erosion of existing views from their premises by the proposed roof access ladder on the northern (rear) elevation, however the canopy of the existing large Port Jackson Fig currently obscuring views towards the south-east from the balcony and living room of these adjoining units. Furthermore, the more expansive views available from these properties would not be affected either by the building or the proposed amendments.</p> <p>To alleviate concerns about potential view impacts arising from proposed roof plant and extensions to exhaust risers, the application has been amended to delete these elements. Having regard for these changes, it is concluded that the modified development would not present any additional view impacts and as such the modifications can be supported.</p>

Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
<b>Solar Access</b>	Yes	The proposed modifications would not present any new or material additional impact to adjoining properties in terms of overshadowing.
<b>Visual Privacy</b>	Yes	Proposed changes to the western boundary window to lift lobbies is not considered to give rise to additional privacy impacts. The privacy implications with regard to the removal of trees is adequately address by the requirement for replacement screen planting along the northern boundary.
<b>1.4 Quality built form</b>		
<b>Context</b>	Satisfactory	<p>The originally proposed scheme was not initially supported by North Sydney Council due to the impact of the original development on the heritage significance of the previously existing residential flat building and the applicable heritage controls in place at the time.</p> <p>Following the grant of consent by the previous Sydney East Planning Panel, Council has sought to ensure the features of the approved development remain of high quality and minimise impacts to the conservation area.</p> <p>The approved development is a substantial residential building which will be prominent in the context of the southern face slopes of Kirribilli, with the elevated site position, contemporary building features and massing likely to ensure the development will be conspicuous in its context.</p> <p>The approved building comprises a contemporary form with premium amenity and high grade materials, finishes and features. However, the building massing, design and materiality will remain non-typical of the characteristic building forms evident in the Kirribilli Conservation Area.</p> <p>Council has sought to ensure the design features of the development are retained to minimise the impact of the development on the Conservation Area and to ensure the integrity of the approved development is retained.</p> <p>The conditions recommended by Council's conservation planner are generally in support of the proposed amendments, subject to certain additional details to be resolved as the development is completed.</p>
<b>Streetscape</b>	Yes	<p>The streetscape controls of NSDCP 2013 relate to the physical impact to the public road reserve. The proposal involves partial demolition and replacement of the existing elevated pedestrian footpath to provide vehicle access from Kirribilli Avenue.</p> <p>The modifications would not significantly alter the approved road conditions. Council's Development Engineer has also reviewed the proposal and raised no objection to the proposed works. It should be noted that any person seeking to act on a consent for rebuilding &amp; repair of Council's footpath, would be subject to Council's design specifications.</p>

<b>Building Separation</b>	Yes	Complies with ADG requirements.
<b>Form Massing Scale</b>	Yes	The amended proposal reflects the design elements contained in the originally approved scheme. The proposed changes to the western facing living room windows represents a minor change to the building fenestration only, and aids in simplifying the final design.
<b>Built Form Character</b>	Yes	Refer comments under context above.
<b>Dwelling Entry</b>	Yes	The proposed changes to the building entry are acceptable. The main building entry remains adjacent to the site's south-western corner with the pedestrian entry clearly visible.
<b>Materials</b>	Yes	The proposed amended material selection is in keeping with the character of the approved building. Subject to compliance with the detailed conditions concerning the façade treatment and pre-patinated treatment to the copper cladding surface, the proposed material selection is considered acceptable.
<b>1.5 Quality Urban Environment</b>		
<b>High Quality Residential Accommodation</b>	Yes	The proposal unit areas all exceed the minimum sizes specified in the DCP. The proposed unit layouts and amenity are satisfactory and the proposed units are considered to have a high level of amenity.
<b>Car parking</b>	No (Assessed as acceptable)	<p>Under Section 10 (car parking) of NSDCP 2013, car parking is required to be provided at the following <b>maximum</b> rate:</p> <p>Residential: 1-2 bedroom unit / 1 space 3 bedroom unit / 1.5 spaces Visitor spaces / 0.25 spaces per unit (or part)</p> <p>The proposed development is required to provide a total maximum of 6 car spaces comprising 5 residential and 1 visitor space.</p> <p>The proposed amendments include the reallocation of the existing visitor/car wash space on Basement Level 1 and conversion of plant and storage space on Basement Level 2 into an additional parking space. This results in a total of 9 on site car parking spaces across the two basement levels. The provision of 1 additional parking space is minor and not anticipated to result in any adverse traffic impacts with respect to the surrounding road network. The inclusion of an additional car parking space will reduce pressure for on-street parking surrounding the site.</p> <p>The amended proposal would accommodate 9 car parking spaces for four units. Consent is sought to allocate the approved visitor/car wash space to resident parking.</p> <p>On the basis that the development is a small boutique development catering to the premium apartment market, with off street parking only accessible via a controlled car lift, the requirement for off-street visitor parking and a car wash bay is</p>

		not considered to be essential, nor would the loss of 1 visitor space result in significant demand to on street car parking. The proposed modification is considered to have minimal impact and is supported.
<b>Vehicle Access and Parking</b>	Yes	Council's Development Engineer has reviewed the proposed development with regards to the provision of vehicular access as satisfactory subject to the imposition of standard conditions of consent
<b>Site Coverage (45% Max)</b>	Yes	The amended proposal would have a total site coverage of 41% (206.6m <sup>2</sup> ) which complies with site coverage requirements.
<b>Landscape Area - Soft Landscaping: 45% (min) - unbuilt-upon area: 15% (max)</b>	No	<p>The landscape performance of the development remains consistent with the preceding amendments approved under Mod 3.</p> <p>The North Sydney DCP 2013 provides that landscaped area for residential flat buildings should be provided at a minimum of 40% with an unbuilt upon area of 15% of the total site area.</p> <p>The proposed landscaped area is reduced from 186.2m<sup>2</sup> (36.9%) to 126.9m<sup>2</sup> (25.2%) as indicated in the Figure below.</p> <p>Council has considered the performance of the proposal against the objectives of the control having regard for the above. Having regard for the preceding justification in Mod 3 above justification, the proposed variation is considered to be acceptable and can be supported.</p>



Figure 12: Proposed Landscape design

## RESPONSE TO SUBMISSIONS

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

### ***Concerns regarding potential view loss from 4, 8 & 9 65 Upper Pitt St.***

The primary issue raised by the submitters arising from the amendments was the potential erosion of existing views from your premises by the proposed roof access ladder proposed on the northern elevation of the building.

However, the impact to existing view arising from the proposed modifications would be low to negligible, with the modified development generally consistent with the approved development.

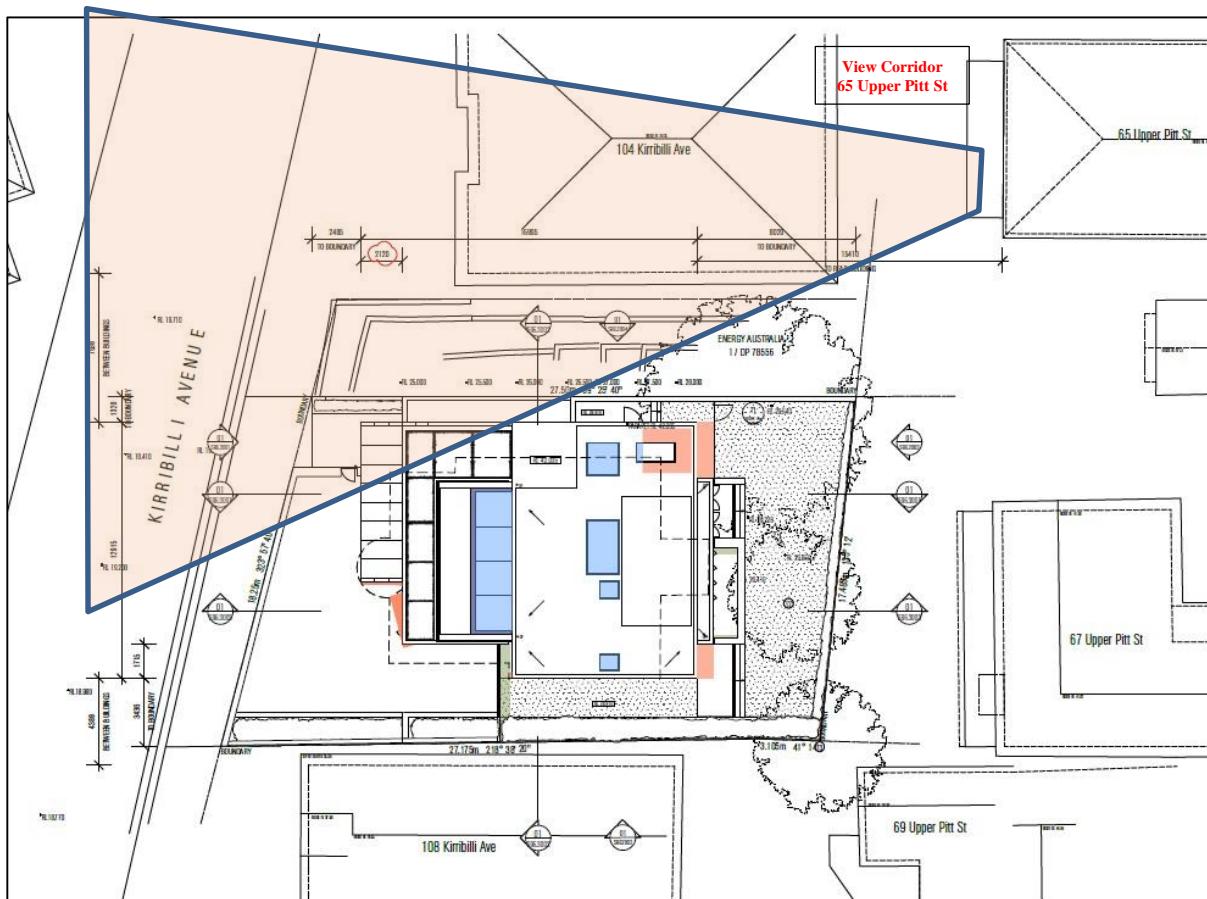
An adjoining residential units at 65 Upper Pitt have raised concerns about the potential erosion of existing views from their premises by the proposed roof access ladder on the northern (rear) elevation, however the canopy of the existing large Port Jackson Fig currently obscuring views towards the south-east from the balcony and living room of these adjoining units. Furthermore, the more expansive views available from these properties would not be affected either by the building or the proposed amendments.

To alleviate concerns about potential view impacts arising from proposed roof plant and extensions to exhaust risers, the application has been amended to delete these elements.

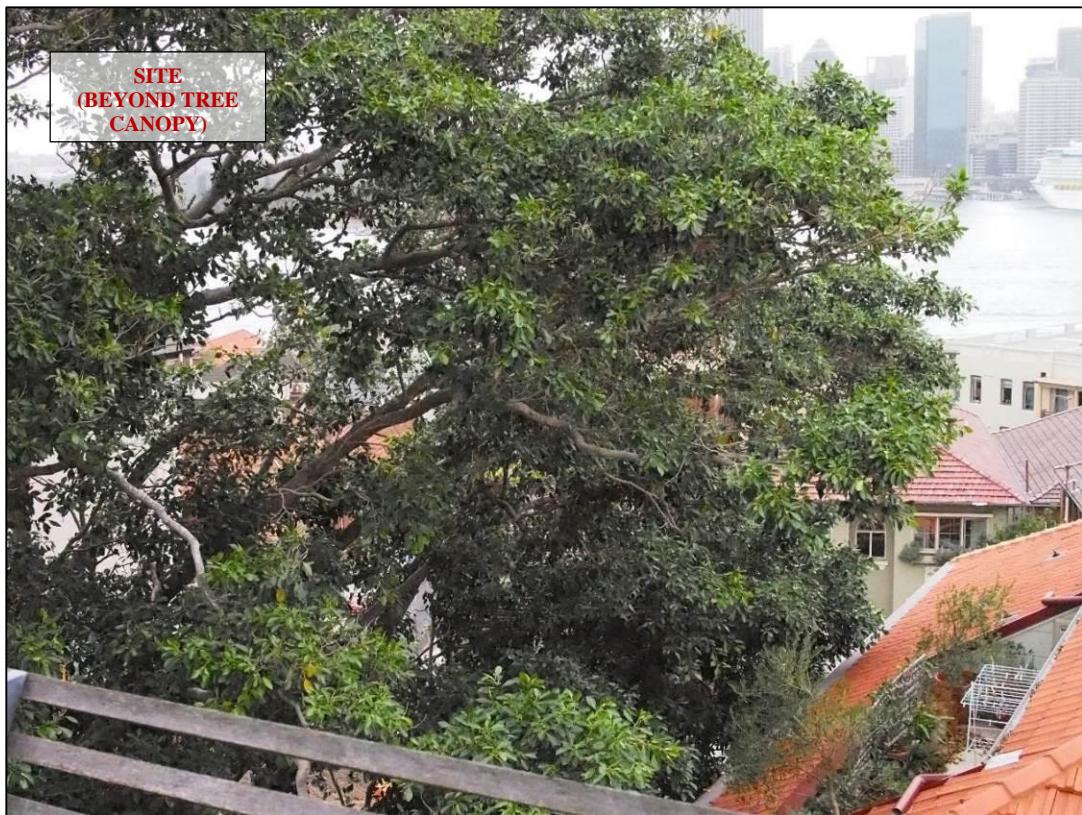
Having regard for this, it is concluded that the proposed modified development would not present any additional view impacts and as such the modifications can be supported.

### ***View Analysis***

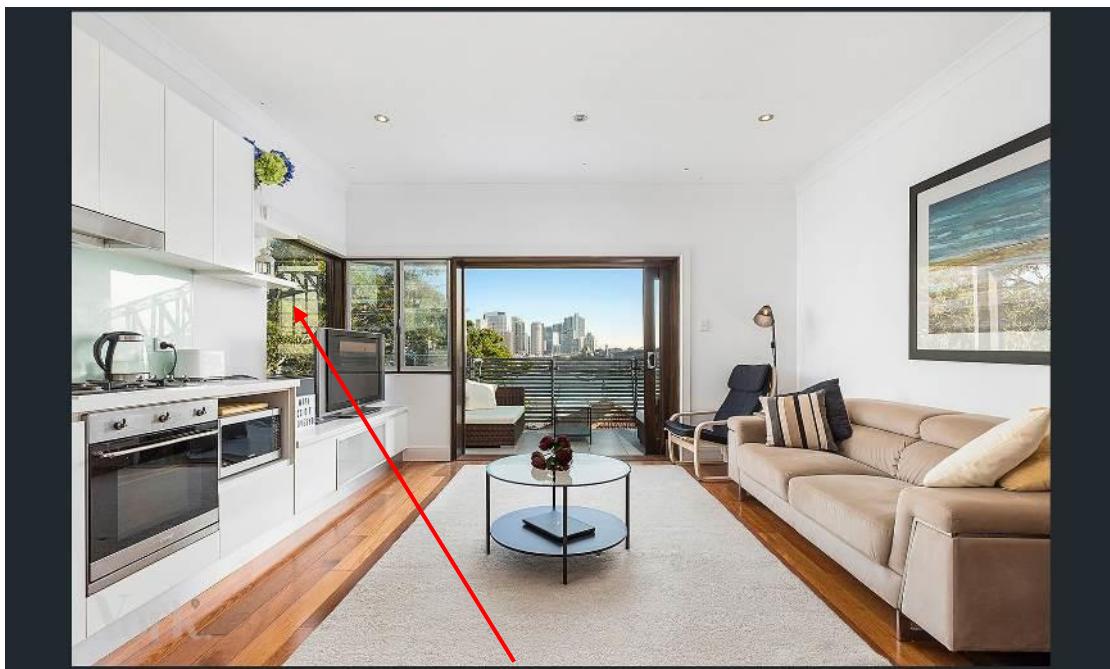
The view loss impact undertaken under the original development application identified the locations where view impacts would occur. The impacts to No. 4, 8 & 9 /65 Upper Pitt Street will not be altered by the proposed modifications. A summary of the existing views and impacts of the proposed revisions is as follows:



**Figure 13** View Corridor –65 Upper Pitt Street



**Figure 14:** Existing views from balcony of U8/65 Upper Pitt Street, Kirribilli (Site obscured by Port Jackson Fig).



**Figure 15:** 8 / 65 Upper Pitt Street (site indicated)



Figure 16: 4 / 65 Upper Pitt Street (site indicated)



Figure 17: 4 / 65 Upper Pitt Street (site indicated)

#### **View impact Summary**

The concerns raised by the adjoining owners of **4, 8 & 9/65 Upper Pitt St** have been considered in the assessment. The impact to existing view arising from the proposed modifications is assessed as low to negligible, with the modified development generally consistent with the approved development.

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

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

## **CONCLUSION**

Consent is sought to modify Development Application No. 115/11 under the provisions of Section 4.55(2) to provide for internal changes to basement layout and uses; changes to car parking allocation and storage; landscape changes; fence and pedestrian entry change; changes to storm water arrangements; front balustrade change and installation of an external access ladder to rear of building for building maintenance.

In response a total of four (4) submissions have been received in objection to the proposal raising issues with regard to further views and visual impact arising from the proposed amendments. The issues raised in the submission are not considered to be well founded or demonstrate any additional adverse impacts would arise as a result of the proposed modifications.

The proposed modifications have been considered against the relevant environmental planning instruments including the North Sydney LEP 2013, NSDCP 2013, SEPP 65 and SREP (Sydney Harbour Catchment) and others.

The amended development is considered to remain generally satisfactory in relation to the requirements of Council's applicable planning controls. Where variation is sought to Council's controls, the variances are generally minor in nature, would not result in any material adverse impact to adjoining land or the surrounding environment. The amended proposal is considered to be generally satisfactory with regard to the requirements of Council's LEP, the zone objectives and DCP controls.

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

Having regard to the provisions of section 4.55 & 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development as modified is satisfactory. The application is therefore recommended for **approval**.

## RECOMMENDATION

**A. THAT** the Sydney North Planning Panel, as the consent authority, grant approval to modify Development Application No. 115/11 pursuant to S.4.55(2) to permit internal changes to basement layout and uses; changes to car parking allocation and storage; landscape changes; fence and pedestrian entry change; changes to storm water arrangements; front balustrade change and installation of an external access ladder to rear of building for building maintenance, subject to the following modified and additional conditions:

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

#### Development in Accordance with Plans

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

Dwg No	Rev	Description	Drawn by	Dated	Received
S96.0100	D	Site & Roof Plan	Redgen Mathieson	3.12.18	11.12.18
S96.0200	A	Site Analysis Plan	Redgen Mathieson	22.09.16	26.09.16
S96.10B1	F	Basement 01 Plan	Redgen Mathieson	3.12.18	11.12.18
S96.10B2	C	Basement 02 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1001	C	Level 01 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1002	C	Level 02 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1003	E	Level 03 Plan	Redgen Mathieson	3.12.18	26.09.16
S96.1004	C	Level 04 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1005	C	Level 05 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1006	C	Level 06 Plan	Redgen Mathieson	5.06.18	28-09-18
S96.1007	D	Roof Plan	Redgen Mathieson	21.08.18	28-09-18
S96.2001	B	Street Elevation	Redgen Mathieson	5.06.18	28-09-18
S96.2002	B	East Elevation	Redgen Mathieson	5.06.18	28-09-18
S96.2003	E	North Elevation	Redgen Mathieson	3.12.18	11.12.18
S96.2004	D	West Elevation	Redgen Mathieson	3.12.18	11.12.18
S96.3001	B	Sections A	Redgen Mathieson	5.06.18	28-09-18
S96.3002	D	Sections B	Redgen Mathieson	3.12.18	11.12.18
S96.3003	D	Sections C	Redgen Mathieson	3.12.18	11.12.18
S96.5001	B	Western Glazing Details	Redgen Mathieson	5.06.18	28-09-18
S96.5002	A	L6 Planter detail	Redgen Mathieson	22.09.16	26.09.16
S96.5004	A	Typical Balustrade Detail	Redgen Mathieson	15.11.18	16-11-18

S96-01	A	Level 1 Landscape Plan	Secret Gardens	13-06-18	28-09-18
S96-02	A	Level 2 Landscape Plan	Secret Gardens	13-06-18	28-09-18
S96-03	A	Level 3 Landscape Plan	Secret Gardens	13-06-18	28-09-18
S96-04	A	Level 6 Landscape Plan	Secret Gardens	13-06-18	28-09-18
S96-05	A	Landscape Schedule & notes	Secret Gardens	13-06-18	28-09-18

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

**2. That Condition A20 be imposed to delete the proposed roof access ladder showing he the northern elevation of the building. Condition A20 is imposed as follows:**

**Delete proposed roof access ladder**

A20. The roof access ladder shown on the proposed amended northern elevation is to be deleted as the visual impact of the proposed roof access ladder is considered to be unacceptable and would compromise the architectural quality of the northern elevation of the building.

(Reasons:

- i. The proposed roof access ladder does not comply with the height standard, would protrude 1.0m above the roof level and would be visible to adjoining properties to the immediate north and north-east.
- ii. The proposed access ladder is not considered to be necessary to enable external access to the roof form maintenance purposes as reasonable alternative means of access are available from the Level 6 roof terrace, utilizing relocatable ladder anchor points above the balcony to the unit on Level 6 and harness access.
- iii. Access from the Level 6 Terrace is considered reasonable for maintenance purposes, as the need for access would be limited to short periods only, is related to general building maintenance and would involve no greater imposition than access requirements for landscape maintenance).

**3. Condition A3 is amended to read as follows:**

**Amended Landscaping Plan**

A3. The landscape plans prepared by landscape plans numbered s96-01, s96-02 s96-03 s96-04 s96-05, prepared by Secret Gardens dated May 2018 identified in Condition A1 must be implemented and landscaping maintained to reflect the following:

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

- The nominated species shown in the Level 6 planter is to be consistent with the species shown nominated in the approved landscape plan and must achieve a

maximum height at maturity of 300mm above the approved parapet height of RL 39.06 as shown on the L6 planter detail drawing identified in Condition A1;

- The plantings to the roof top must be maintained so as to not exceed 300mm in height above the planter parapet height of RL 39.06.

#### **Replacement screen planting to northern boundary**

- The three replacement Crepe Myrtles shown adjacent to the norther (rear) boundary must be shown to be advanced growth specimens with a minimum pot size of 400L.

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

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

#### **4. Condition A9 is amended to read as follows:**

##### **External Finishes and Materials**

A9. The colour and type of all external materials shall be in accordance with the submitted schedule, dated September 2016, prepared by Redgen Mathieson and received at Council on 26 September 2016, except where modified by the balustrade details showing on drawings numbered S96.5004 (Rev A) "Typical Balustrade Detail" prepared by Redgen Mathieson, dated 15.11.18 and except where amended by the following conditions of consent.

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

#### **5. Conditions A12 & A13 are deleted.**

#### **6. Conditions C13(a) & C13(b) are amended to reflect the Stormwater Plans prepared by AJ Wipps dated Aug 2017, except where amended by any permit issued by Council's Development Engineer under S.138 of the Roads Act 1993.**

#### **5. Condition C29 is amended to read as follows:**

##### **BASIX Certificate**

C29. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 911800M-02 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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