gsa planning

STATEMENT OF ENVIRONMENTAL EFFECTS

Demolition of Existing Single Dwellings and Residential Flat Building, Construction of a New Residential Flat Building with Strata Subdivision and Associated Works at

Nos. 77-83A Yarranabbe Road, Darling Point

Prepared for:
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JOB NO. 23273
December 2023

PIA Planning Institute Australia

CPP CERTIFIED PRACTISING PLANNER

Acknowledgement of Country
We respect and honour Aboriginal and Torres Strait Islander Elders past, present and emerging. We acknowledge the stories, traditions and living cultures of Aboriginal and Torres Strait Islander peoples. We would like to recognise their ongoing connection to land, water and community.

This report has been prepared and reviewed in accordance with our quality control system. The report is a preliminary draft unless it is signed below.

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Job No: 23273

Document Issue	Date	Details
A	10 December 2023	Initial Review
B	12 December 2023	Director Review
C	13 December 2023	Client Review
D	14 December 2023	DA Lodgement

Report prepared by: **Tanya Wallis**, Senior Planner; **Abby Harvey**, Urban Planner

Report reviewed by:

George Karavanas
Managing Director

Date: 14 December 2023

For and on behalf of **GSA Planning**
95 Paddington Street
PADDINGTON NSW 2021

CONTENTS

Abbreviation	Abbreviation Meaning
ADG	Apartment Design Guide
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AS	Australian Standard
ASS	Acid Sulfate Soils
BCA	Building Code of Australia
CBD	Central Business District
CC	Construction Certificate
CIV	Capital Investment Value
CMP	Construction Management Plan/Conservation Management Plan
Council	the Council
CPTED	Crime Prevention Through Environmental Design
CRZ	Critical Root Zone
DA	Development Application
DCP	Development Control Plan
DP	Deposited Plan
DPIE	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EPA Act	Environmental Planning and Assessment Act 1979
EPA Reg	Environmental Planning and Assessment Regulations 2000
EUR	Existing Use Rights
FFL	Finished Floor Level
FSR	Floor Space Ratio
GFA	Gross Floor Area
GCC	Greater Cities Commission (formerly GSC : Greater Sydney Commission)
HCA	Heritage Conservation Area
HIA/HIS	Heritage Impact Assessment/Heritage Impact Statement
LEP	Local Environmental Plan
LGA	Local Government Area
MHWM	Mean High Water Mark
NCC	National Construction Code
NSW	New South Wales
NSWLEC	NSW Land and Environment Court
OC	Occupation Certificate
OSD	On-Site Detention
PCA	Principal Certifying Authority
PoM	Plan of Management
POS	Private Open Space
PP	Planning Proposal
REF	Review of Environmental Factors
RFB	Residential Flat Building
RL	Reduced Level
RMS	Roads and Maritime Services (see TfNSW)
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SREP	Sydney Regional Environmental Plan
SP	Strata Plan
SWMP	Stormwater Management Plan
TfNSW	Transport for New South Wales
TPZ	Tree Protection Zone
VENM	Virgin Excavated Natural Material
WMP	Waste Management Plan
WSUD	Water Sensitive Urban Design
ZFDTG	Zero Fort Denison Tide Gauge (0.925 below AHD)

1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared for Henroth Group by George Karavanas Planning Pty Ltd – (hereafter referred to as GSA Planning). GSA Planning has expertise in Urban Design, Environmental & Traffic Planning.

This SEE is to accompany a Development Application to Woollahra Council for the demolition of the existing single dwellings and residential flat building, the construction of a new five storey residential flat building with strata subdivision and other associated works at Nos. 77-81, 83 and 83A Yarranabbe Road.

The proposal, designed by renowned architects Tzannes, has been skilfully designed to respond to the steep and challenging topography of the area, whilst enhancing views and vistas from the surrounding public and private domain. The proposed residential flat building will improve the appearance of the site when viewed from the Harbour and maintains compliance with the Harbour Foreshore setback. The varied palette of materials and finishes, alongside the detailed landscape design, ensures the built form blends seamlessly in the foreshore setting.

The siting, height, bulk and scale of the proposed residential flat building responds to the character of surrounding development on the northern side of Yarranabbe Road, which currently exceeds the relevant height and FSR standards of the LEP. The siting of the proposed built form away from the foreshore and demolition of the existing dwelling on the foreshore reduces the perceived bulk and scale of development on site when viewed from the harbour (compared to existing), and minimises potential impacts on neighbouring residential development in terms of privacy, solar access, and views. The modulation of the built form when viewed from the waterfront ensures the building appears as two modules, to interpret the pre-existing subdivision pattern.

Whilst the proposal has been assessed on its own merits and is acceptable from a planning perspective, there are two approvals across the subject site (DA 172/2018 at Nos 83 & 83A Yarranabbe Road & DA 233/2018 at Nos. 77-81 Yarranabbe Road). These approvals are a relevant consideration, as Council or the Court were previously satisfied with the envelope, proposed impacts and Clause 4.6 variation applications. It is for these reasons that the overall external envelope and setbacks of the approvals (with the space between the two lots infilled by the single building) has been adopted for the current proposal.

The proposed development satisfies majority of controls of the Woollahra Development Control Plan (DCP) 2015. The proposal complies with the objectives of the building setbacks, landscaped area, landscaping and parking numerical provisions in the DCP.

In our opinion, the proposed development satisfies the relevant zone objectives in the Woollahra Local Environmental Plan (LEP) 2014. Whilst the proposal has greater height and FSR than the development standards of the LEP, two Clause 4.6 Applications to Vary a Development Standard have been prepared (separately submitted). In our opinion, the proposal is acceptable for the reasons which include site topography, compatibility with the existing and approved developments on the subject site, and removal of bulk and scale at the foreshore.

This document is divided into six sections. Section 2 contains a site analysis; Section 3 provides details of the proposal; Sections 4 and 5 contains the detailed assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act); and Section 6 concludes the report.

2.0 SITE ANALYSIS

This section contains a description of the following: The Locality; Site Description; Existing Built Form and Landscaping; and Existing Character and Context.

2.1 The Locality

The subject site is located approximately 2.7km east of the Sydney CBD, 1km from Kings Cross Local Centre and is located within the Local Government Area (LGA) of Woollahra (see **Figure 1**).

Source: SIX Maps

Subject Site

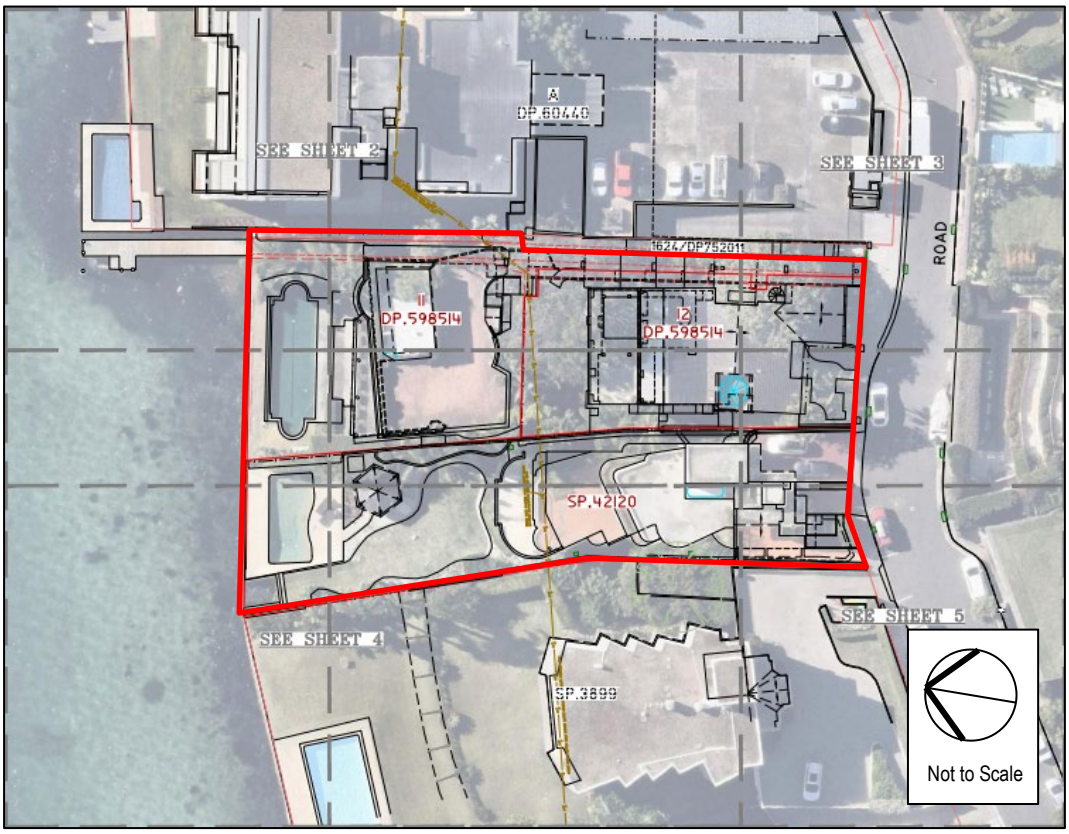
Figure 1: Location Plan

2.2 Site Description

The subject site is located on the northern side of Yarranabbe Road, between New Beach and Darling Point Roads. The site comprises three allotments described as SP42120, Lot 11 in DP598514 and Lot 12 in DP 598514.

The combined site is an irregular parcel of land, with a northern boundary of 42.76 metres, an eastern boundary of 67.645 metres, a southern boundary of 34.615 metres, and a western boundary of 69.625 metres, providing a total site area of 2,494.9m^2 (see **Figure 2** and Survey Plan separately submitted).

The site is relatively steep, with a south-to-north fall of 8.98 metres (RL 10.76 AHD and RL 1.78 AHD) measured through the centre of the site.



Source: CMS Surveyors Pty Ltd

Subject Site

Figure 2: Survey Plan

2.3 Existing Built Form and Landscaping

Nos. 77-81 Yarranabbe Road is occupied by a six-storey residential flat building with a flat roof, which presents as single storey to Yarranabbe Road due to the steep topography. A garage lift at street level provides vehicular access to parking for the residential flat building (see **Photograph 1**). Separate pedestrian access to the building is located next to the street level garage lift to the western boundary of the site. A pool and large communal area of open space is located within the northern portion of the subject site.

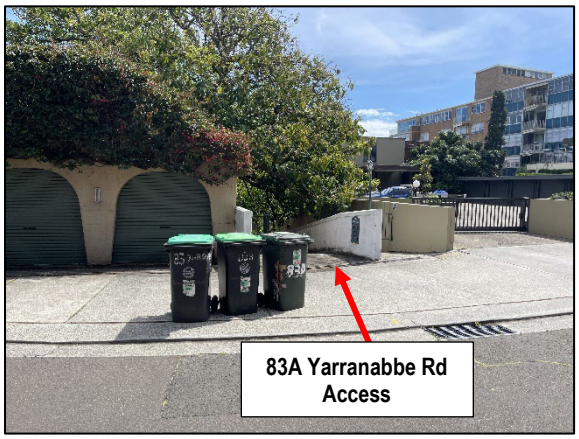
No. 83 Yarranabbe Road, comprises a four-storey dwelling with a pitched tile roof, that presents as a single-storey to Yarranabbe Road. An at-grade double garage provides vehicular access to the dwelling on the street frontage, with pedestrian access via a gate to the main entrance of the dwelling (see **Photograph 2**).

No. 83A Yarranabbe Road comprises a two-storey brick and concrete dwelling on a battle-axe allotment behind No. 83 Yarranabbe Road. A single driveway provides vehicular access to the dwelling below street level to the north of the subject site. Pedestrian access to No. 83A is via a pathway located east of the driveway (see **Photograph 3**). A pool is located adjoining the northern boundary of the subject site.

Landscaping is primarily located within the northern portion of the existing sites, facing the harbour. The existing landscaping comprises a mix of lawn, small shrubs and trees (see **Figure 3** on the following page).

Photograph 1: No. 77-81 Yarranabbe Road, as viewed from the street

Photograph 2: No. 83 Yarranabbe Road, as viewed from the street



Photograph 3: No. 83A Yarranabbe Road, as viewed from the street

Source: Realestate.com

Figure 3: The Site as Viewed Aerially from the North

2.4 Existing Character and Context

The surrounding area is predominantly characterised by a mixture of multi-storey residential flat buildings and two-three storey dwellings. Development displays a mixture of traditional and contemporary architectural styles. Due to the sloping topography of the area, dwellings situated south of Yarranabbe Road are elevated from the street level, and dwellings to the north step down to the harbour.

Development to the North

As the subject site is located at the tip of Darling Point, Sydney Harbour lies to the north. The steeply sloping topography provides views from the subject site across the harbour to the Opera House, Sydney Harbour Bridge and Mosman coastline,
and Cremorne Point (see **Photograph 4**).

Source: Realestate.com

Photograph 4: Sydney Harbour, looking west from 77-81 Yarranabbe Road

Development to the East

To the east is No. 85 Yarranabbe Road, a multi-storey brick residential flat building with a flat roof, with parking accessed via Yarranabbe Road and a communal swimming pool to the north of the building (see **Photograph 5**). Further to the east is Nos. 87-97 Yarranabbe Road, a multi-storey brick residential flat building with a flat roof, with parking accessed via Yarranabbe Road and a communal swimming pool to the north of the building (see **Photograph 6**).

Photograph 5: No. 85 Yarranabbe Road, as viewed from Yarranabbe Road

Photograph 6: Nos. 87-97 Yarranabbe Road, as viewed from Yarranabbe Road

Development to the South

To the south is Nos. 17 & 17A Thorton Street, both multi-storey rendered residential flat buildings with a pitched and flat roof respectively, and a swimming pool to the north of each building (see **Photograph 7 & 8**). These buildings are located above a tall retaining wall when viewed from Yarranabbe Road, reflecting the steep topography and the higher elevation of Thornton Street. Further to the south is No. 21 Thorton Street, a more than 20 storey high brick residential flat building with a flat roof. Landscaping throughout the site comprises lawn, trees and a swimming pool to the north of the building (see **Photograph 9** on the following page).

Photograph 7: No. 17 Thorton Street, as viewed from Yarranabbe Road

Photograph 8: No. 17A Thorton Street, as viewed from Yarranabbe Road

Photograph 9: No. 21 Thorton Street, as viewed from Yarranabbe Road

Development to the West

To the west is No. 73-75 Yarranabbe Road, an eight-storey residential flat building, which presents a three storey massing to Yarranabbe Road (see **Photograph 10**). Vehicular access is via a sloping driveway along the western boundary to an entrance beneath the entrance courtyard. Nos. 73-75 Yarranabbe Road has a large communal open space bordering Sydney Harbour, with a swimming pool. Further to the west are Nos. 71 & 71A Yarranabbe Road, two dwelling houses with detached parking located at street level and a swimming pool to the north of each dwelling (see **Photograph 11**).

Photograph 10: No. 73-75 Yarranabbe Road, as viewed from Yarranabbe Road (Source: Google Street View, 2021)

Photograph 11: Nos. 71 & 71A Yarranabbe Road, as viewed from Yarranabbe Road

3.0 THE PROPOSAL

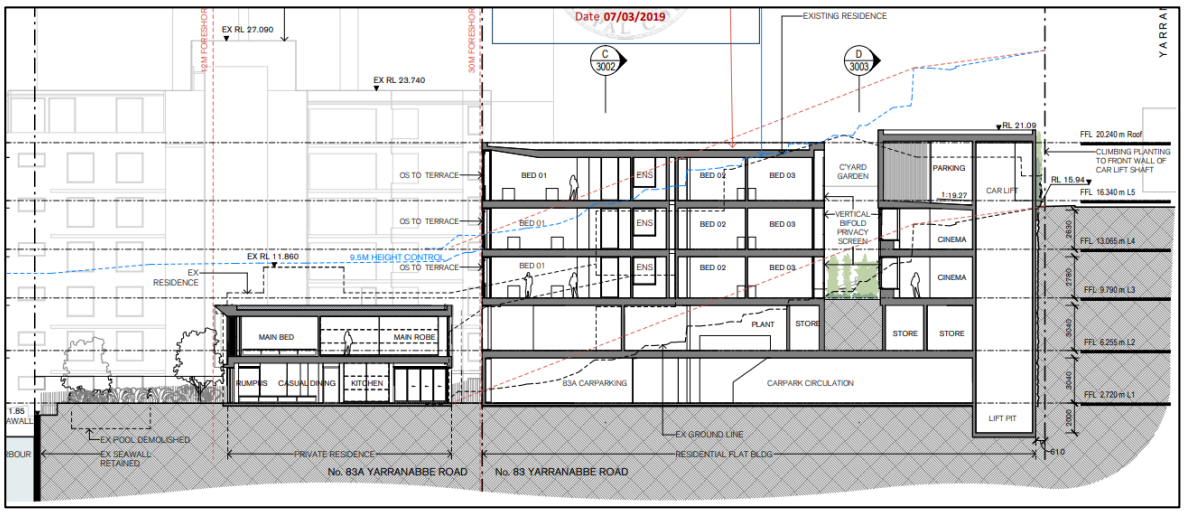
This section will describe the following: The Background to the Proposal; Built Form and Land Use; Height; Gross Floor Area and Floor Space Ratio; Landscaping, Private Open Space and Balconies; and Access and Parking.

3.1 Background to the Proposal

Nos. 83 and 83A Yarranabbe Road

On **14 November 2012**, a Development Application (DA 485/2012) was submitted with Woollahra Council for demolition of the existing dwellings and the construction of a residential flat buildings at Nos. 83 and 83A Yarranabbe Road. On **1 July 2013**, the application was refused by Council. The applicants lodged an appeal with the Land and Environment Court (LEC). on the **17 September 2013**. On **14 January 2014**, the appeal was dismissed by the LEC.

On **27 April 2018**, a Development Application (DA 172/2018) was submitted with Woollahra Council for the demolition of existing building at No. 83 Yarranabbe Road and construction of a residential flat building and alterations and additions to the dwelling at 83A Yarranabbe Road (see **Figure 4**). The DA resulted in a five storey built form, which breached the height and FSR development standards. On **7 March 2019**, the application was approved by the Woollahra Local Planning Panel.

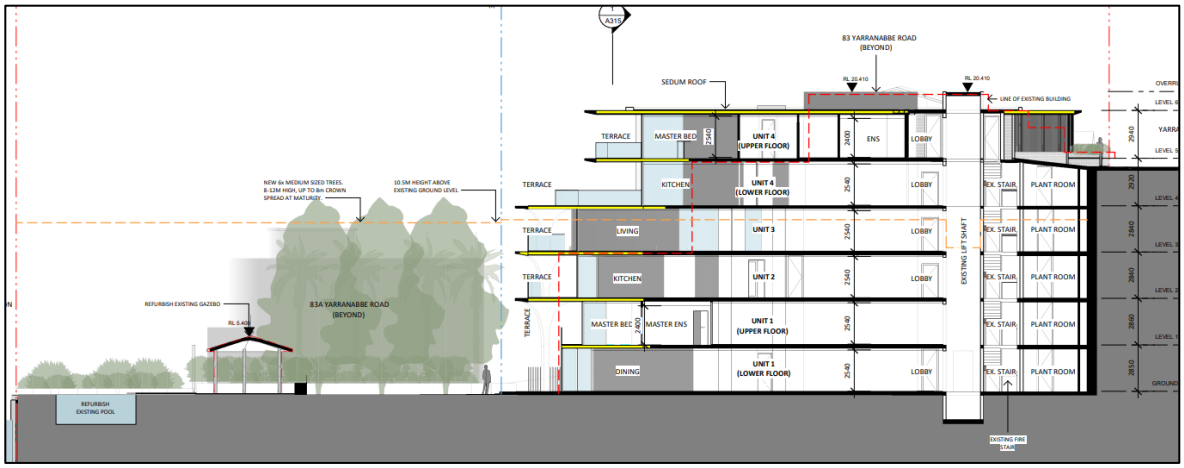


Source: Tzannes

Figure 4: Section B - Approved Plans DA 172/2018

Nos. 77-81 Yarranabbe Road

On **1 June 2018**, a Development Application (DA 233/2018) was submitted to Woollahra Council for extensive alterations and additions to the existing residential flat building at Nos. 77-81 Yarranabbe Road (see **Figure 5** on the following page). The DA resulted in a six storey residential flat building, with excavation directly adjacent to the street boundary, that breached the height and FSR development standards. On **25 January 2021**, the application was approved by the LEC.



Source: Koichi Takada Architects

Figure 5: Section B - Approved Plans DA 233/2018

This new DA is for a residential flat building across both abovementioned sites, and has a comparable height, bulk and scale to the previous approvals on both sites.

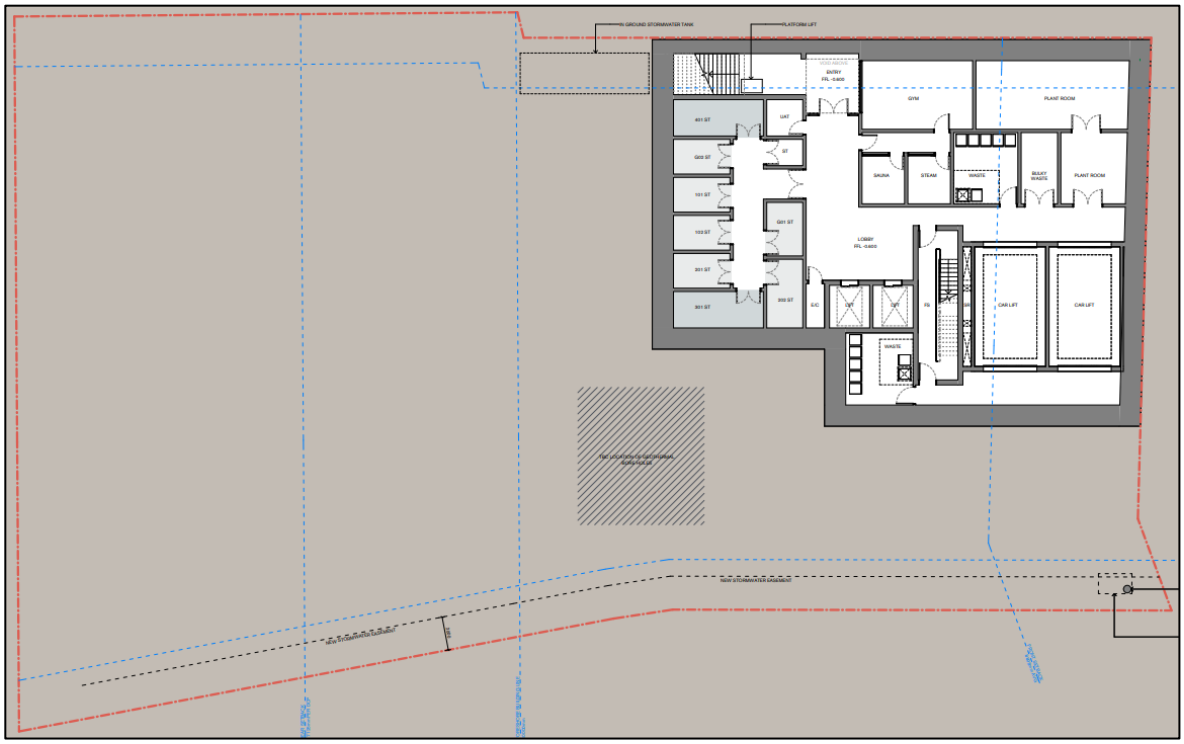
3.2 Built Form and Land Use

It is proposed to demolish the existing buildings and construct a new five storey residential flat building with internal parking. The proposed residential flat building comprises 8 units with a gross floor area (GFA) of 3,140.88m^2.

A floor by floor description is provided below. Further details of the proposed development are contained in the architectural drawings, separately submitted.

Basement Floor Level

The Basement Floor Level is at FFL -0.60 AHD and is accessed internally via the car lift, the pedestrian lift and staircase. The basement floor also provides external access to the communal open space and pool via stairs and a platform lift. On this level it is proposed to have a communal gym, sauna, steam room and storage rooms. This level will also include the waste rooms, pump room and other services (see **Figure 6** on the following page).



Source: Tzannes

Figure 6: Basement Floor Plan

Ground Floor Level

The Ground Floor Level is at FFL 2.60 AHD and includes Units G01 and G02, and external communal areas including the swimming pool and a common lawn (see **Figure 7** on the following page).

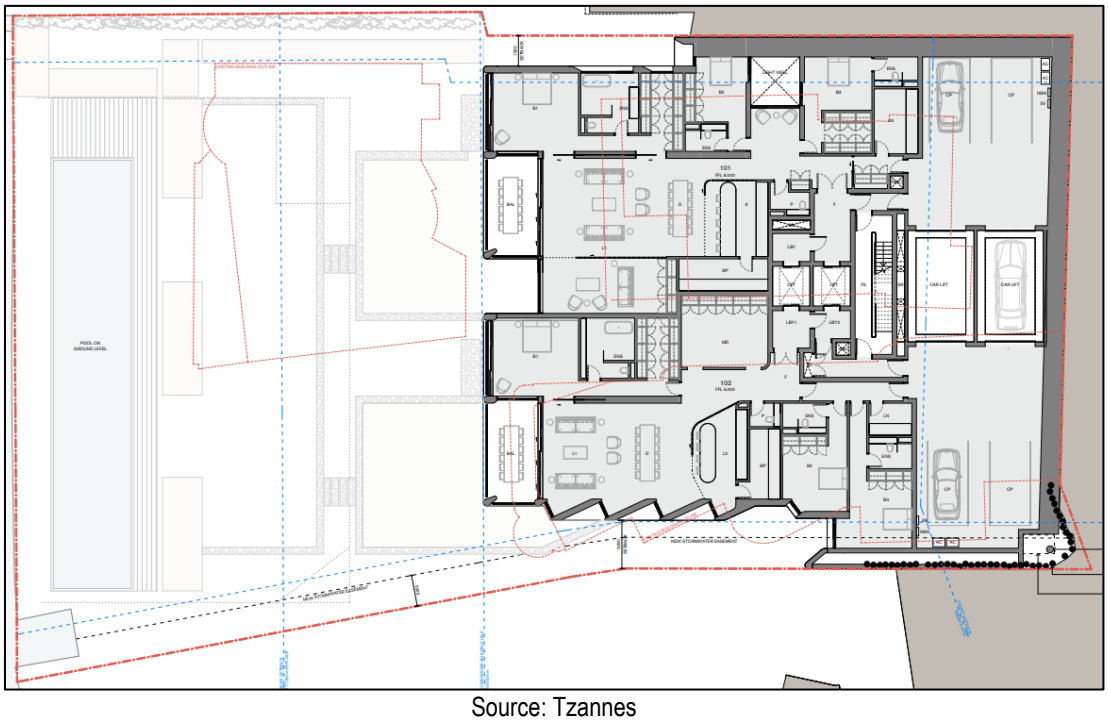
Unit G01 includes three bedrooms with ensuites and two walk in robes, open plan kitchen dining and living area, a secondary living area, butler's pantry, laundry, powder room, light well and balcony. Unit G02 includes three bedrooms with ensuites, one walk in robe, open plan kitchen dining and living area, a media room, butler's pantry, laundry, powder room, and balcony. Each unit is accessible internally via lift and staircase access, and have external access to separate private lawn areas. Two car spaces per unit are accessible from the car lift, with individual waste chutes and electrical/comms services.

Source: Tzannes

Figure 7: Ground Floor Plan

Level 1

Level 1 is at FFL 6.00 AHD and includes Units 101 and 102 (see **Figure 8**). Unit 101 includes three bedrooms with ensuites and two walk in robes, open plan kitchen dining and living area, a secondary living area, butler's pantry, laundry, powder room, light well and balcony. Unit 102 includes three bedrooms with ensuites, one walk in robe, open plan kitchen dining and living area, a media room, butler's pantry, laundry, powder room, and balcony. Each unit is accessible internally via lift and staircase access. Two car spaces per unit are accessible from the car lift, with individual waste chutes and electrical/comms services.

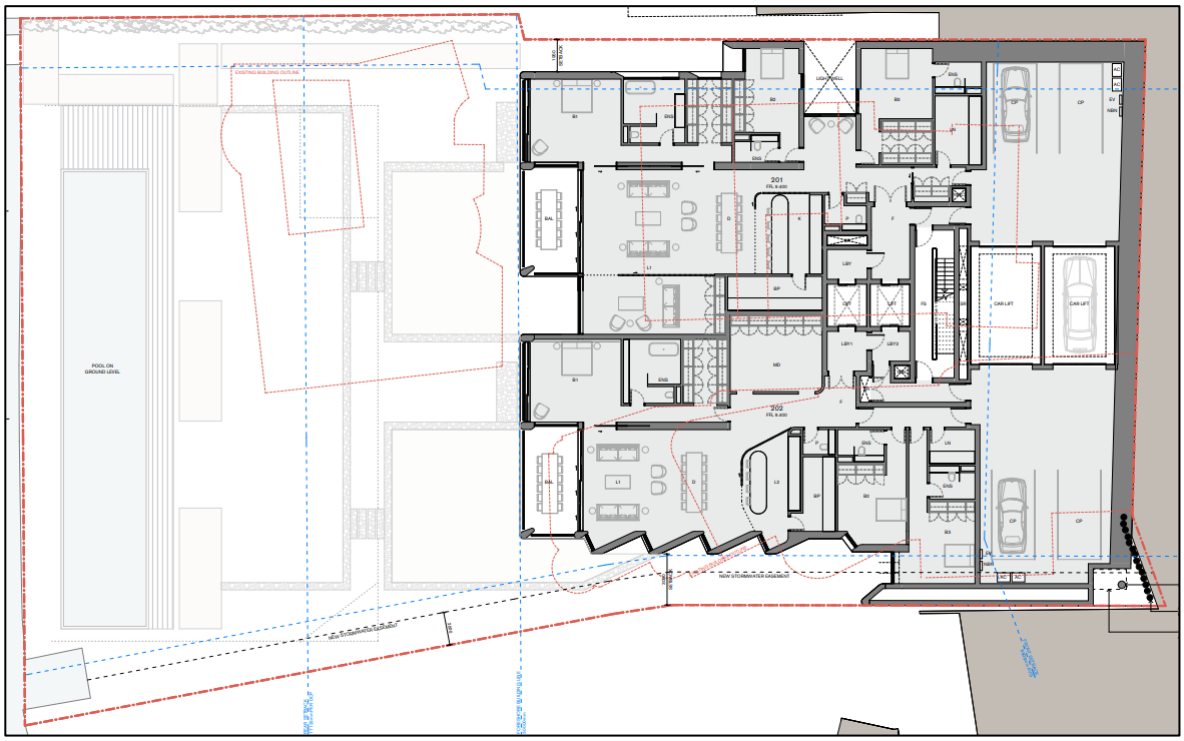


Source: Tzannes

Figure 8: Level 1 Floor Plan

Level 2

Level 2 is at FFL 9.40 AHD and includes units 201 and 202 (see **Figure 9**). Unit 201 includes three bedrooms with ensuites and two walk in robes, open plan kitchen dining and living area, a secondary living area, butler's pantry, laundry, powder room, light well and balcony. Unit 202 includes three bedrooms with ensuites, one walk in robe, open plan kitchen dining and living area, a media room, butler's pantry, laundry, powder room, and balcony. Each unit is accessible internally via lift and staircase access. Two car spaces per unit are accessible from the car lift, with individual waste chutes and electrical/comms services.



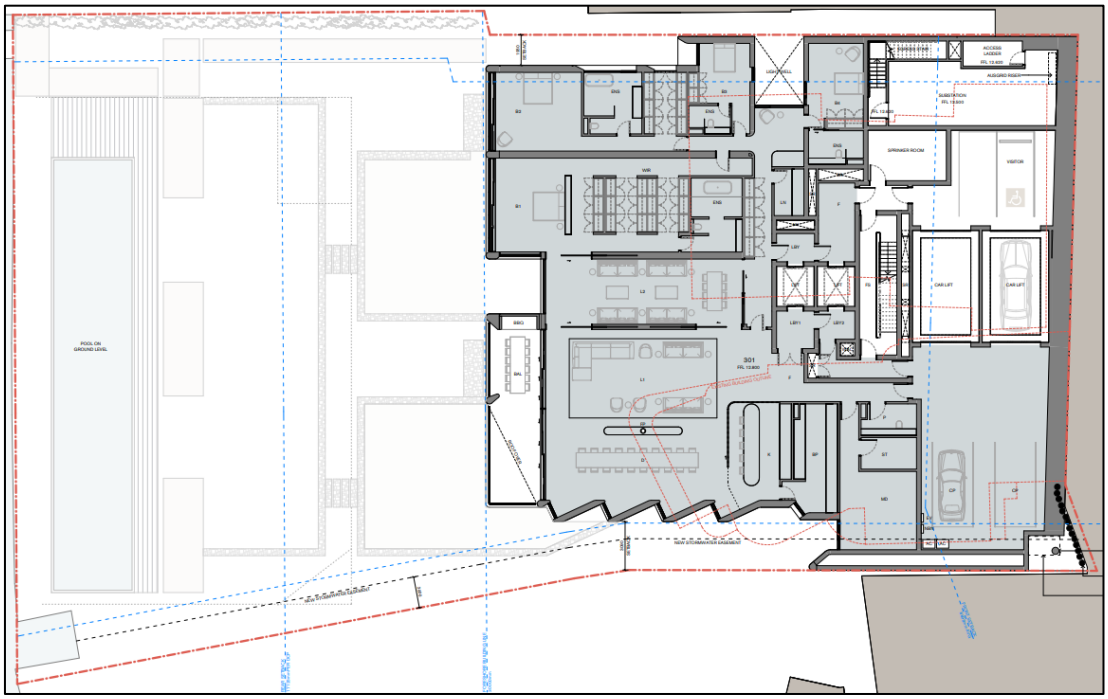
Source: Tzannes

Figure 9: Level 2 Floor Plan

Level 3

Level 3 is at FFL 12.58 - 12.80 AHD and includes Unit 301 (see **Figure 10** on the following page). Unit 301 includes four bedrooms with ensuites, two walk in robes, open plan kitchen dining and living area, a butler's pantry, secondary living area, media room, laundry, powder room, light well, storage and balcony with barbeque area. This unit is accessible internally via lift and staircase access, and via vehicle lift. Two car spaces and a waste chute are available to this unit.

This level also includes an accessible visitor parking space, fire sprinkler room, and substation which are accessible via egress stairs to the street level.

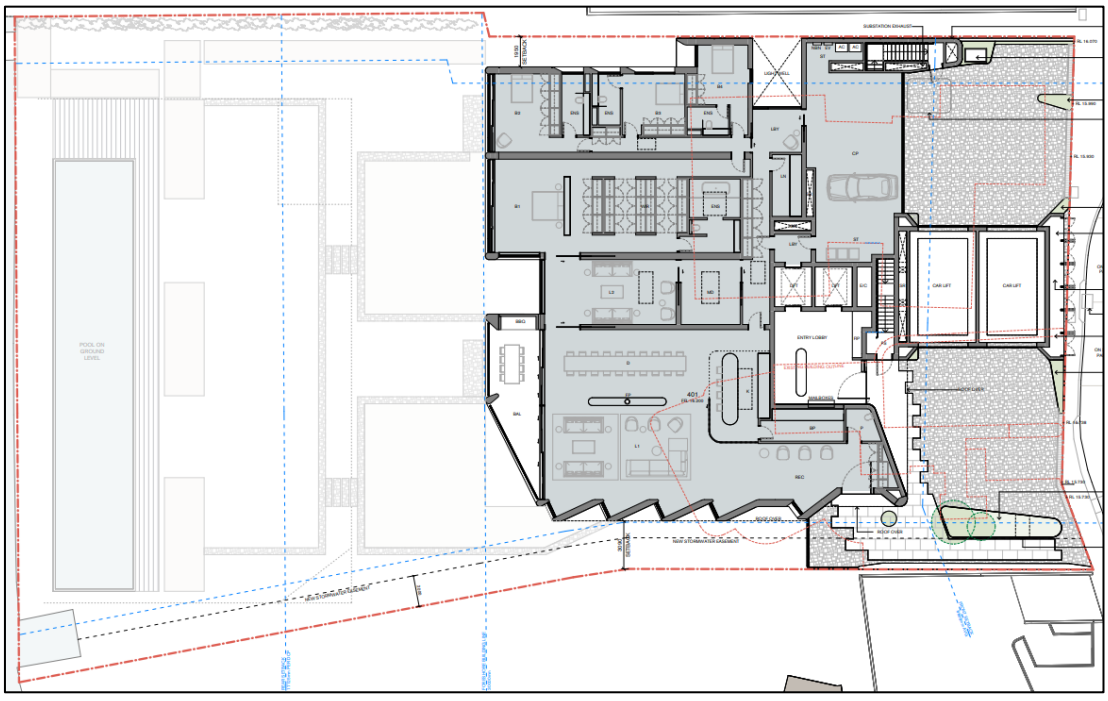


Source: Tzannes

Figure 10: Level 3 Floor Plan

Level 4

Level 4 is at FFL 16.20 AHD and includes Unit 401 (see **Figure 11**). Unit 401 includes four bedrooms with ensuites, two walk in robes, open plan kitchen dining and living area, a butler's pantry, secondary living area, media room, laundry, powder room, light well, storage and balcony with barbeque area. This unit is accessible from the street level. A three-car garage is accessible from the driveway off Yarranabbe Road. This level also includes the entry lobby, driveway, car lifts to lower levels, services and landscaped areas. A hydrant booster and FS alarm valve are located on the street boundary.



Source: Tzannes

Figure 11: Level 4 Floor Plan

Roof Level

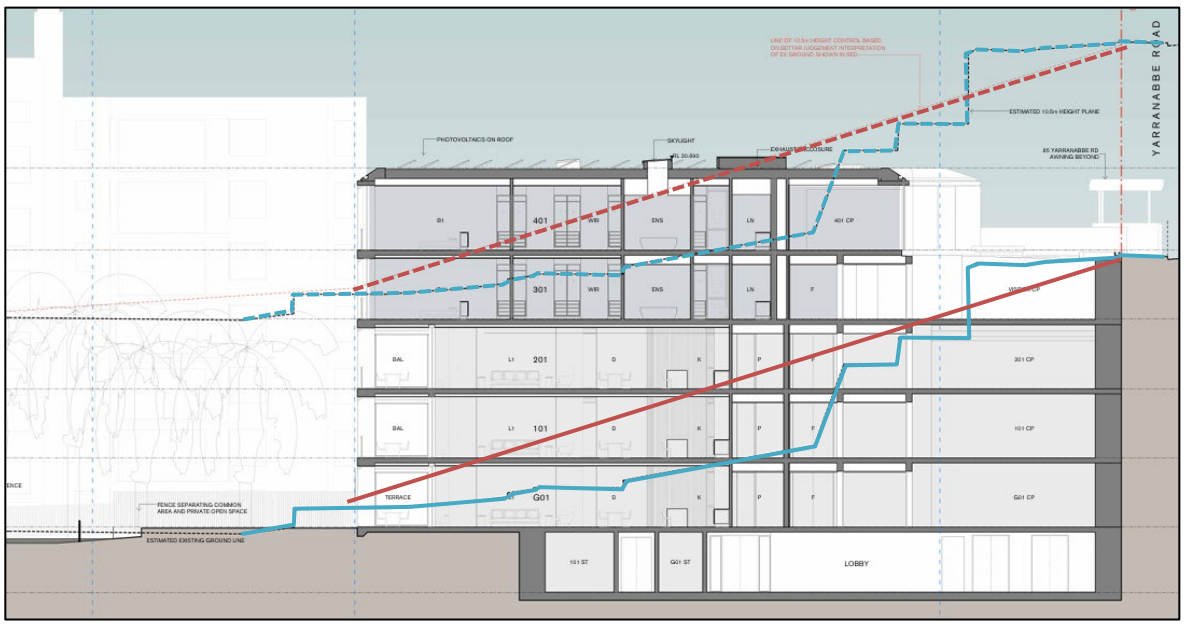
The Roof Level ranges from RL 19.84 AHD to RL 21.07 AHD and will include photovoltaic cells, solar panels, passenger lift overruns, a green roof on the car lift overrun, and other services (see **Figure 12**).

Source: Tzannes

Figure 12: Roof Plan

3.3 Height

The proposed five storey residential flat building will have a building height that ranges from 4.87m to the top of the car lift structure at street level, to a maximum 17.00m at the tallest point at the rear (measured to the top of the solar panels). These measurements are taken from the RL of the car lift roof and top of solar panels, to the estimated existing ground level directly below (see **Figure 13**).



Source: Tzannes

Figure 13: Proposed Height

3.4 Gross Floor Area and Floor Space Ratio

The proposed residential flat building has a Gross Floor Area (GFA) of 3,140.88m^2 with a Floor Space Ratio (FSR) of 1.26:1. A summary of the uses on each floor and GFA is described below (see **Table 1**).

TABLE 1: DETAILS OF THE PROPOSAL

Floor Level	Details by Level	Gross Floor Area
Basement Level (FFL -0.60 AHD)	Storage, gym, sauna, steam room, waste rooms and services	97.63m^2
Ground Floor (FFL 2.60 AHD)	Units G01 and G02 comprising a total of 6 bedrooms, 4 car spaces and internal living areas	613.95m^2
Level 1 (FFL 6.00 AHD)	Units 101 and 102 comprising a total of 6 bedrooms, 4 car spaces and internal living areas	637.57m^2
Level 2 (FFL 9.40 AHD)	Units 201 and 202 comprising a total of 6 bedrooms, 4 car spaces and internal living areas	644.29m^2
Level 3 (FFL 12.80 AHD)	Unit 301 comprising 4 bedrooms, 3 car spaces and internal living areas	609.68m^2
Level 4 (FFL 16.20 AHD)	Unit 401 comprising 4 bedrooms, 3 car spaces, internal living areas and concierge	537.75m^2
TOTAL	**8 dwellings and 18 car spaces**	**3140.88m^2**

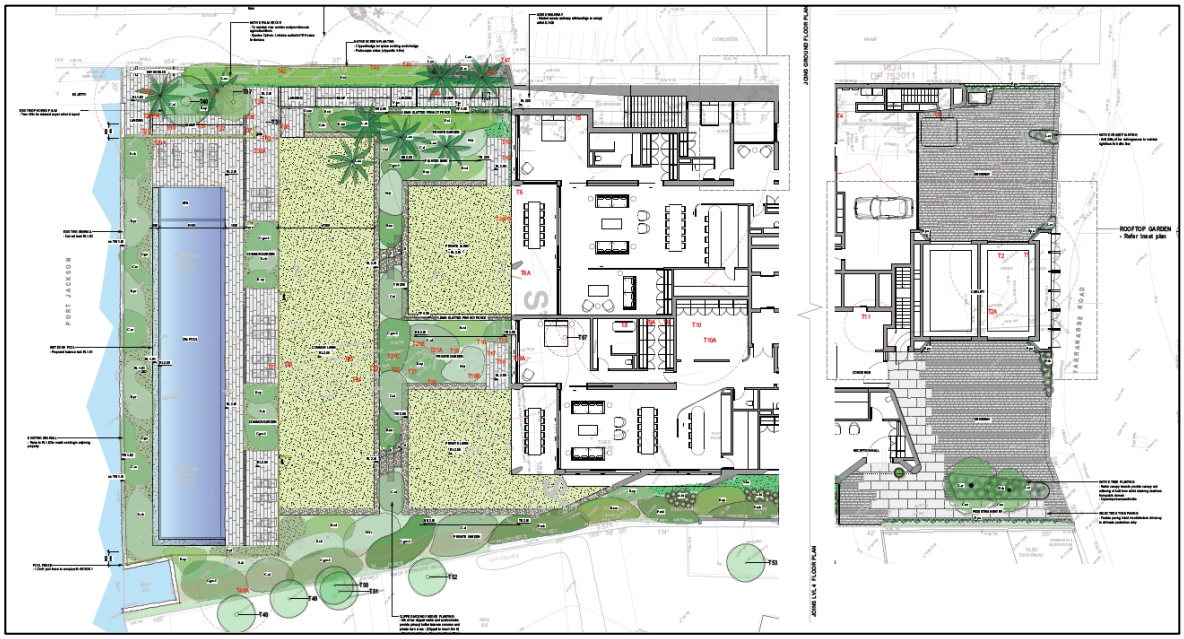
Drawings prepared by Tzannes show the areas included in GFA calculations, and areas excluded by reason of the definition or as basement area (see **Figure 14**).

Source: Tzannes

Figure 14: Diagram Showing GFA Calculations

3.5 Landscaping, Private Open Space and Balconies

The proposed development will provide 854m^2 (34.2%) of deep soil landscaping. The proposal will retain 7 trees, transplant 1 tree and remove 55 trees to accommodate the proposal. These trees will be replaced with new landscaping areas in the form of deep soil landscaping and trees, soft landscaping in planters, a green roof above the car lift, and planting within the lightwell (see **Figure 15** on the following page). Further details of tree removal and retention are contained within the Arborist Report prepared by Tree Wise Men (separately submitted).



Source: Spirit Level Designs

Figure 15: Landscape Plan

Further details of the proposed landscaping, species and design intent are in the Landscape Report and Plan, prepared by Spirit Level Designs (separately submitted).

Balconies are proposed on the northern elevations of all levels and are accessible from the living areas of each unit. The private open space accessible to each unit varies in size from 20.56m^2 to 135.03m^2. In addition to this private open space, all units have access to 920m^2 of communal open space within the common lawn and pool side area and have access to the communal swimming pool.

3.6 Access and Parking

The site has pedestrian access from Yarranabbe Road, via pathway to the main entrance of the proposed building.

The proposed development has internal car parking at each level via a two way car lift. The proposal will provide a total of 18 vehicles, comprising 17 resident and 1 visitor spaces within designated bays accessible via a double car lift. One of the proposed car parking spaces will be a disabled space and is located on Level 3. The proposed car lift is accessible via a 7.5 metre wide driveway, as measured from the layback, from Yarranabbe Road and has a ramp gradient of 6.0% to 8.5% to get from the street to the car lift.

Further details about access and parking are contained in the Traffic Report, prepared by TTPP Transport Planning (separately submitted).

4.0 PLANNING CONTROLS

Pursuant to Section 4.15 of the EPA Act, this section assesses compliance with the planning instruments applicable to the site in accordance with the relevant matters for consideration. The relevant planning instruments include:

- Woollahra Local Environmental Plan (LEP) 2014;
- State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022;
- State Environmental Planning Policy (SEPP) – (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021;
- State Environmental Planning Policy (SEPP) No. 65 - Design Quality of Residential Apartment Development;
- Woollahra Development Control Plan (DCP) 2015.

4.1 Woollahra Local Environmental Plan (LEP) 2014

The subject site is zoned R3 Medium Density Residential under the LEP, which commenced operation on 23 May 2015 (see **Figure 16**). The proposed residential flat building is permissible with development consent.

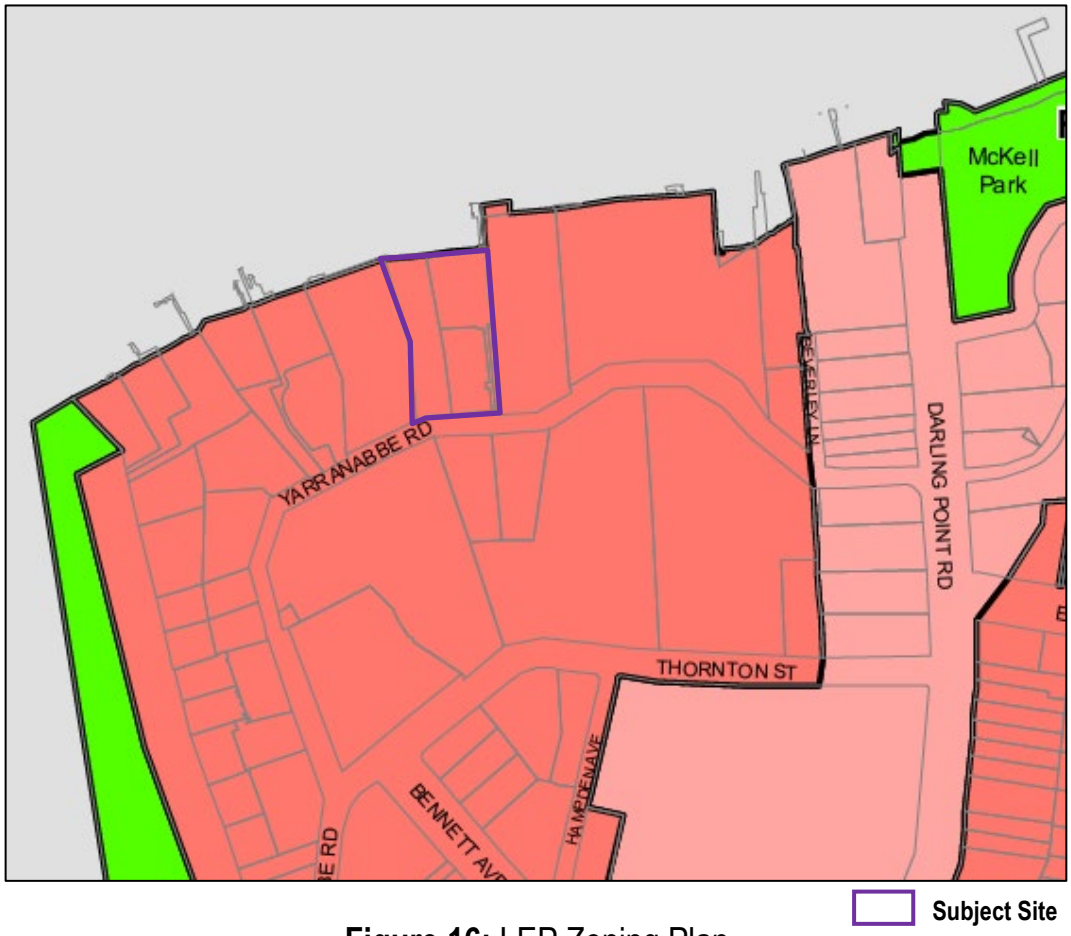


Figure 16: LEP Zoning Plan

4.1.1 Objectives

The LEP Land Use Table contains the objectives for the R3 Medium Density Residential Zone. The relevant objectives and our responses are as follows:

Objective: *To provide for the housing needs of the community within a medium density residential environment.*

Response: The proposal will replace two existing single dwellings and a four unit residential flat building with a new eight unit residential flat building. The proposed enhanced residential flat building will increase residential amenity and accessibility, which provides for the housing needs of the community within a medium density residential environment.

Objective: *To provide a variety of housing types within a medium density residential environment.*

Response: The proposal will provide a mix of three- and four-bedroom units within the proposed eight unit development, providing a variety of housing types within the medium density residential environment.

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

Response: N/A

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

Response: The proposed height and FSR are consistent with nearby existing development, as well as the height, bulk and scale of the 2x previously approved DAs on the subject site for residential flat buildings. A building that strictly complied with the height standard and FSR standards would not be consistent with the existing approvals, surrounding character or achieve the desired future character of the area.

Objective: *To ensure development conserves and enhances tree canopy cover.*

Response: New trees are proposed as part of the landscape design to conserve tree canopy cover, however, are strategically distributed and sited in order to maintain or improve oblique water views across the side and rear setbacks from neighbouring developments.

Accordingly, in our opinion, the proposal satisfies the relevant objectives of the LEP.

4.1.2 LEP Compliance

A summary of our assessment of the proposed development against the LEP is following (see **Table 2**).

TABLE 2: LEP PROJECT COMPLIANCE

Site Area: 2,494m^2			
Development Standard	**Requirement**	**Proposal**	**Complies**
Site Area (Min) for RFB	700m^2	2,494m^2	YES
Building Height (Max)	10.5m	17m	Appropriate on Merit (see Section 4.1.2)
Floor Space Ratio (Max)	0.9: 1 (2245 m^2)	1.26: 1 (3140.88 m^2)	Appropriate on Merit (see Section 4.1.3)
LEP Provisions			**Complies / Comments**
Permissibility		R3 Medium Density Residential	Proposal is permissible within the zone
Heritage Item		NO	N/A
Conservation Area		NO	

Within the vicinity of Heritage Item	YES	The site is located adjacent to heritage item I186 and I185 (see Section 4.1.6)
Acid Sulfate Soils	Class 2 & 5	The subject site is classified as Class 2 and 5. The proposal is unlikely to encounter Acid Sulfate Soils in this location as the proposed building footprint is located within the Class 5 area.
Earthworks	YES	Excavation proposed in order to achieve a viable development on the steeply sloping site (see Section 4.1.7)
Foreshore Area and Foreshore Building Line	YES	The foreshore area/foreshore building line runs through the site. The built form has a proposed 30m setback, as required by this provision.

The proposal satisfies the relevant objectives of the LEP, is permissible in the Zone and complies with the lot size development standard contained in the LEP. The proposal exceeds the development standards relating to FSR and building height. These will be discussed in the following paragraph and in Applications to Vary a Development Standard (Clause 4.6 Variation) which are separately submitted.

4.1.3 Building Height

The LEP height provisions are contained in Clause 4.3 and the accompanying height map. Council's LEP prescribes a maximum height of 10.5m for the building with the proposed development exceeding this development standard by 6.5m (61.9%).

An Application to Vary a Development Standard (Clause 4.6 Variation) has been submitted for the Height non-compliance which is, in our opinion, is well founded. The key arguments contained in the Clause 4.6 Application are stated, inter alia:

- *The proposed height facilitates a medium density development consistent in the context;*
- *The proposed height non-compliance is a direct result of the site topography, with a sudden drop from street level to the remainder of the site; and*
- *The removal of the existing waterfront dwelling, with the floorspace transferred to the proposed residential flat building, minimises the height, bulk and scale of development in the foreshore area and improves the interface with the waterfront.*

4.1.4 Floor Space Ratio

The LEP Floor Space Ratio (FSR) provisions are contained in Clause 4.4 and accompanying map and prescribe a maximum FSR of 0.9:1 for the site. The proposal has a GFA of 3,140.88m² and an FSR of 1.26:1 which exceeds with the development standard.

An Application to Vary a Development Standard (Clause 4.6 Variation) has been submitted for the FSR non-compliance which is, in our opinion, is well founded. The key arguments contained in the Clause 4.6 Application are stated, inter alia:

- *The amalgamation of the sites for a single development results in infill of areas that previously would have been side setbacks, resulting in additional GFA;*
- *The proposed FSR non-compliance results in a building consistent in the surrounding context; and*
- *The removal of the existing waterfront dwelling, with the floorspace transferred to the proposed residential flat building, minimises the bulk and scale of development in the foreshore area and improves the interface with the waterfront.*

4.1.5 Foreshore Building Line

The LEP Foreshore Building Line provisions are contained in Clause 6.4 and accompanying map which prescribe a required setback of 30m from the MHWM for the subject site (see **Figure 17**). The proposal has been setback at a minimum distance of 30m from the MHWM, with the proposed buildings located behind the FBL. Accordingly, the proposal complies with this standard.

Figure 17: LEP Foreshore Map Subject Site

4.1.6 Heritage

Clause 5.10 of the LEP relates to heritage items and heritage conservation areas. Any effect of the proposed development on the heritage significance of the nearby item must be considered in the assessment of any proposed development.

Pursuant to the LEP, a Heritage Impact Report prepared by City Plan Heritage concluded the proposal is unlikely to affect nearby heritage values, inter alia:

> *In conclusion, it is considered by City Plan Heritage that the proposed works, including the demolition of the existing residential buildings and construction of a single five storey residential apartment building across the site will have no detrimental impacts to the heritage significance of the nearby heritage items.*
> *…*
> *The proposed building is a well-designed and articulated contemporary addition to the streetscape that fits within the future desired character of the Darling Point Precinct. It will not impact upon the views to or from the streetscape, and will be a contributing factor to the Darling Point residential area by maintaining visual corridors of the surrounding development and enhancing the waterfront of the subject site. The proposal demonstrates compliance with the existing controls regarding heritage conservation and is therefore recommended to Council for approval with the condition recommendation that a consolidated arborist report is prepared to understand which trees are considered mature and significant and should therefore be retained. The arborist should also indicate where replacement planting can be undertaken.*

A Demolition Report is also required by Woollahra Council for works involving part or total demolition of a building. Council considers the potential heritage significance whether the building is listed or contained within a heritage conservation area. The Heritage Report prepared by City Plan Heritage investigated whether the existing developments satisfied the heritage assessment criteria for heritage listing, the report concluded, inter alia:

> *The existing residences within the subject site date from the 1970s and 1990s and have been assessed as having no heritage or architectural values (in accordance with the State of NSW and Department of Planning and Environment's Assessing Heritage Significance, 2023 guidelines). Their removal will have no impact on the existing character and heritage values of the Darling Point neighbourhood.*

The Heritage Report is considered to allay any Council concerns regarding potential heritage value of the existing dwellings and residential flat building. Based on the report, Council can be satisfied the existing buildings can be demolished.

4.1.7 Earthworks

The LEP requires the consent authority to consider the effects of earthworks on drainage patterns and soil stability. The Geotechnical Report, prepared by Douglas Partners (separately submitted), has investigated the existing rock types and considered excavation methods to limit effects on nearby residents and developments. Disposal methods and destinations for excavated material will be outlined in the Construction Management Plan.

4.2 State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022

SEPP (Sustainable Buildings) 2022 was gazetted on 1 October 2023, and applies to the subject site. The Sustainable Buildings SEPP requires all new residences in NSW to meet to meet sustainability targets for energy and water use relative to their climate zones. In considering the merits of the proposal, it is appropriate to refer to the sustainability targets of the SEPP.

A BASIX Report prepared for the proposed development (separately submitted) shows the proposed residential flat building can satisfy the relevant water and energy reducing targets and thermal performance.

4.3 State Environmental Planning Policy (SEPP) – (Biodiversity and Conservation) 2021

SEPP (Biodiversity and Conservation) 2021 was gazetted on 1 March 2022 and applies to the site. The provisions relating to Regulated Catchments and Foreshores and Waterways Area are further discussed below.

4.3.1 Development in Regulated Catchments

The provisions of Chapter 6.2 of SEPP (Biodiversity and Conservation) 2021 apply to the subject site, which is identified as being within a regulated catchment (Sydney Harbour Catchment area). In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.

The proposal has been designed, sited and will be managed to minimise or mitigate any adverse effects on the following:

- Waterways, natural waterbodies, water table, ground water and environmental impacts on the Sydney Harbour Catchment;
- Terrestrial, aquatic or migratory animals or vegetation, aquatic reserves and wetlands;
- Erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody;
- Water quality of a natural waterbody if flooding were to occur;
- Natural recession of floodwaters into wetlands or other riverine ecosystems;
- Recreational land uses or public access to and around foreshores; and
- The Sydney Harbour Catchment area overall.

The proposal is also considered to satisfy the provisions of Chapter 6.2 by implementing the proposed Stormwater Management Plan.

Clause 6.11 requires the consent authority to consider whether development consent should be granted to development located within 100m of a natural waterbody in a regulated catchment as follows, inter alia:

> *In deciding whether to grant development consent to development on land within 100m of a natural waterbody in a regulated catchment, the consent authority must consider whether—*
>
> *a) the land uses proposed for land abutting the natural waterbody are water-dependent uses, and*
>
> *b) conflicts between land uses are minimised.*

With regard to Clause 6.11 the proposal has been designed to limit conflict between land and water uses by maintaining the existing dock and limiting works within the foreshore and waterways areas. The proposed development will not create additional conflict for uses in the water of Sydney Harbour.

Clause 6.28 requires the consent authority to consider whether development consent should be granted to development in Foreshores and Waterways Area as follows, inter alia:

> *(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—*
>
> *(a) whether the development is consistent with the following principles—*
>
> *(i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,*
>
> *(ii) the public good has precedence over the private good,*
>
> *(iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,*
>
> *(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,*
>
> *(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,*
>
> *(d) whether the development promotes water-dependent land uses over other land uses,*
>
> *(e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,*
>
> *(f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
>
> *(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,*
>
> *(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.*
>
> *(2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—*
>
> *(a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,*
>
> *(b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,*
>
> *(c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,*
>
> *(d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,*
>
> *(e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—*
>
> *(i) the Foreshores and Waterways Area, and*
>
> *(ii) public places, landmarks and heritage items.*

With regard to Clause 6.28 the proposal has been designed, sited and will be managed to minimise any adverse effects on the foreshore area by locating works above the 30m foreshore building line, maintaining the existing residential use of the site and implementation of the proposed Stormwater Management Plans.

Clause 6.32 requires the consent authority to consider whether development consent should be granted to development on land classified as Rocky foreshores and significant seagrasses as follows, stated inter alia:

(3) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied the development—

(a) will preserve and enhance the health and integrity of seagrasses, areas containing seagrasses and ecological communities in rocky foreshore areas, and

(b) will maintain or increase the connectivity of seagrass vegetation and natural landforms, and

(c) will prevent, or will not contribute to, the fragmentation of aquatic ecology, and

(d) will not cause physical damage to aquatic ecology.

(4) Despite subsection (2), development consent is not required for development that is—

(a) for the sole purpose of maintaining an existing navigational channel, or

(b) for works that—

(i) will restore or enhance the natural values of rocky foreshore or seagrass areas, including the restoration or enhancement of plant communities, water levels, water flow or soil composition, and

(ii) are to be carried out to rectify damage arising from a contravention of this Chapter, and

(iii) will have no significant environmental impact beyond the site on which they are carried out, or

(c) to be carried out by or on behalf of—

(i) TfNSW, or

(ii) the Port Authority of NSW.

With regard to Clause 6.32 the proposal has been designed, sited and will be managed to minimise any adverse effects on the rocky foreshore with all works located outside of the rocky foreshores area zone.

4.4 State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021

SEPP (Resilience and Hazards) 2021 came into effect on 1 March 2022 and consolidated the previous Coastal Management, Remediation of Land and Hazardous and Offensive Development SEPPs as Chapters 2, 3 and 4 within the new SEPP. The coastal management and remediation of land provisions are relevant in this instance.

4.4.1 Coastal Management

The site is identified on the Coastal Use Area and Coastal Environment Area Map. However, Clauses 2.10 and 2.11 do not apply, as the site is on land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.

Clause 2.12 applies to development within the coastal zone, generally. Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. The proposal is not considered likely to increase risk of coastal hazards on subject or adjoining land.

4.4.2 Remediation of Land

Section 4.6(1) requires the consent authority to consider whether land is contaminated prior to the consent of development on that land.

The owners have advised that as the long term use of the site has been residential, the site is unlikely to be contaminated. On this basis, further investigation is not considered necessary. In addition, Council has been previously satisfied that further investigation is not required in their assessment of other DAs across the subject site.

4.5 State Environmental Planning Policy (SEPP) No. 65 - Design Quality of Residential Apartment Development

SEPP No. 65 Design Quality of Residential Apartment Development was gazetted on 26 July 2002 and applies to the proposed development. A Design Verification Statement prepared by Tzannes has verified the proposal is consistent with the nine Design Principles in SEPP No. 65. The proposal also complies with key provisions of the Apartment Design Guide (ADG) which informs SEPP No. 65. An assessment against all the relevant provisions of the ADG is provided separately.

4.6 Woollahra Development Control Plan (DCP) 2015

The DCP came into force on 23 May 2015 and applies to the site and the proposed development. Part B1 of Council's DCP contains specific controls relating to precincts areas. The subject site is located within the Darling Point Precinct. The objectives of this Precinct are, inter alia:

Objective: *To respect and enhance the streetscape character and key elements of the precinct.*

Response: While majority of the proposal will not be visible in the streetscape, it will be visible from the harbour, which is a key element of Darling Point precinct. Level 4 has the most visibility within the Yarranabbe Road streetscape, and is a sympathetic form with a compatible bulk, scale, setbacks and style to surrounding development.

Objective: *To maintain the sense of the historic grand estates.*

Response: The subject site does not directly adjoin any historic grand estate, and the proposal will not detract from the historic grand estates nearby

Objective: *To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*

Response: The proposal includes a sympathetic palette of materials and is a contemporary architectural style. The proposed development will provide increased living space, on-site parking, improved outlooks, and an enhanced streetscape and harbour appearance (noting a significant reduction in bulk on the foreshore) compared to the existing development across the subject site.

Objective: *To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.*

Response: The proposal will not detract from nearby heritage items and conservation areas.

Objective: *To ensure that development does not reproduce or match existing intrusive buildings.*

Response: The proposal will comply with the harbour foreshore setback and remove the non-compliant existing dwelling at No. 83A Yarranabbe Road. The proposed height and FSR remain compatible with the desired future character of the area, and the proposal's high-quality design does not reproduce or match existing intrusive buildings.

Objective: *To ensure that alterations and additions to period buildings, such as semi-detached dwellings and attached dwellings, do not detract from the character of these buildings and their presentation to the street.*

Response: N/A

Objective: *To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.*

Response: The proposal features a flat roof, which is consistent with other development on the low side of Yarranabbe Road. A green roof above the car lift structure assists in providing an attractive roofscape at street level and when viewed from elevated development to the south.

Objective: *To design and site buildings to respond to the topography and minimise cut and fill.*

Response: The proposal has been designed and sited to respond to the existing topography of the land and remain compliant with the harbour foreshore setback controls. Excavation has been limited and remains compliant with DCP controls (with consideration of the parking and access thereto).

Objective: *To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.*

Response: Due to the site's location, there will be no physical or visual impact on the Darling Point Road tree line.

Objective: *To retain and reinforce the setting of mature street trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.*

Response: The proposal is predominantly at the foreshore level, with no street trees in the vicinity due to the sudden drop from street level to the remainder of the site. Planters with gardens and trees are provided at street level, and the proposal includes extensive landscaping in the foreshore setback to reinforce the character of the area.

Objective: *To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.*

Response: The proposal will provide landscaping within the harbour foreshore setback and minimises hard stand areas. Planters are provided at street level.

Objective: *To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.*

Response: The site is located on the low side of the street, no retaining walls are proposed or existing.

Objective: *To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.*

Response: Views from Yarranabbe Road will be enhanced compared to the existing situation. Due to the siting of the proposal, there are no identified impacts on iconic views.

4.6.1 DCP Compliance

A summary of our assessment of the proposed development against the DCP is following (see **Table 3**).

TABLE 3: PROJECT COMPLIANCE – WOOLLAHRA DCP 2015

Provision	Requirement	Proposal	Complies
Front Setback	Average of 3 most typical of 4 closest residential buildings facing same side of street (excl. car parking structures) = Min 8.898m (average of Nos. 71, 73-75 and 87-89 Yarranabbe Rd)	Car lift structure built to boundary. Minor portion of substation air intake on eastern boundary is within the front setback. Level 4 Building line >9m Ground Floor to Level 3 discussed in response to excavation setback.	Appropriate on Merit (see Section 4.6.2)
	Max 6m unarticulated building width to street frontage	Street elevation is well articulated through incorporation of various materials and panelling as well as recessed side portions	YES
Side Setback	If site width 28.0 - < 35.0 = Min 3.0m	100mm setback to eastern boundary. 3m setback to western boundary above ground level.	Appropriate on Merit (see Section 4.6.2)
	Max 12m unarticulated building wall length to side elevation	< 12m	YES
Rear Setback	25% of average of 2 side boundaries = Min 17.125m Or Foreshore Building Line	Compliant with 30m foreshore building line setback	YES
Excavation	Volume: 2,494m^3 + 8m^3 per dwelling for storage = 64m^3 + Parking & access to it = 1,546m^3 Total = 4,104m^3	Total Excavation Volume: 6,086m^3	Appropriate on Merit (see Section 4.6.3)

	Basement wall setback: Min 1.5m Excavation below 2m and/or within 1.5m of boundary must be accompanied by geotechnical report	Neg. setback to portions of the eastern, southern and western boundaries. Geotechnical Report provided	Appropriate on Merit (see Section 4.6.2 and Geotechnical Report, separately submitted)
Streetscape & Local Character	Building is consistent with area's desired future character	Consistent with desired future character (discussed above)	YES (see Section 5.0)
	Step down sloping sites & follow topography	Residential units generally above EGL	
	Roof forms & structures are well-designed, contribute positively to streetscape and are well integrated with building architecture	Flat, non-trafficable roof well integrated with streetscape & architecture	
	Min 1 habitable room window overlooks street	Entry lobby overlooks street	
Overshadowing	Sunlight to min 50% (or 35m²) of adjacent properties' main ground-level private open space (POS) for min 2hrs between 9am – 3pm	Sunlight maintained for 3 hrs to neighbour's primary POS.	YES (see Section 5.0)
	North-facing windows to adjacent dwellings' upper-level habitable rooms receive min 3hrs of sun between 9am – 3pm over a portion of surface	North facing habitable room windows to upper levels of adjoining property will receive solar access for min. 3 hrs over a portion of their surface	
Public & Private Views	Significant views and vistas identified in DCP are maintained or enhanced	Significant views identified across the site from Yarranabbe Road are maintained or enhanced.	YES (see Section 5.0)
	Vistas along streets preserved/enhanced through sensitive development location & form	Proposal will largely maintain character of street vista as existing	
	Development sited & designed to enable view sharing with surrounding private properties, particularly habitable rooms	Views from neighbouring properties reasonably preserved	
	Development steps down the hillside on a sloping site.	Residential units mainly above EGL,	
	Roof form and elements provide for view sharing	Flat roof to allow view sharing from elevated properties	
	Location of new plantings must preserve public and private views	Plantings appropriately selected and located to preserve views	YES
Acoustic & Visual Privacy	Adequate acoustic & visual privacy for occupants & neighbours	Privacy maintained	YES (see Section 5.0)
	New habitable room windows designed to prevent direct sightline to adjacent dwelling's habitable room windows or POS within 9m	Window location, blade walls and/or screens ensure no direct sightline to adjacent dwellings' habitable room windows or POS within 9m	
	Balconies, decks & terraces suitably located & screened to prevent direct views to neighbouring habitable rooms or POS within 9m	Suitably located and oriented to rear/harbour with open design to maintain and enhance views	YES (see Section 5.0)
	Windows & balconies of upper-level dwelling designed to prevent overlooking of POS of dwelling below in same development	Windows & balconies stacked, oriented and behind adjoining walls where necessary to prevent overlooking within development	YES (see Section 5.0)
Internal Amenity	All dwelling habitable rooms have min 1 external wall primarily above EGL which provides unobstructed window opening	All habitable rooms have openings to outside primarily above EGL, or utilising the lightwell	Appropriate on Merit (see Section 4.6.4)

	All dwelling habitable rooms & sanitary compartments have direct natural light & ventilation	All habitable rooms have openings with natural light & ventilation, some sanitary compartments electronically lit and ventilated	
	Light wells must not be the primary air source for habitable rooms		
	Depth of dwelling room partially/fully below EGL (excl. basement parking & storage): Max 2 x ceiling height	Some rooms within G01, G02 and L01 non-compliant	
	Unobstructed openings: Min 20% of habitable room area	> 20% Except B2 of Units 102, 202	
On-Site Parking	Does not dominate street frontage; preserves landscape value; and is in building envelope	Internal parking provided within all residential levels. Car lift is within street frontage but preserves streetscape character, and provides consistency with previous site approval (Nos. 83-83A Yarranabbe Rd)	YES
	Development involving min 3 dwellings provides basement parking	Basement parking provided	YES
	Maximum car parking structures width = 6m	Car lift structure >6m to satisfy AS/NZS 2890.1 (2004).	Appropriate on Merit (see Traffic Report, separately submitted)
	For car parking structures located in the front setback, the maximum height of the structure is 2.7m above the footpath level. If the existing height of the retaining/street wall or the two adjoining car parking structures is higher than 2.7m, that greater height may be permitted	Proposed car lift structure 4.5m in height (when measured from footpath level to roof level) to accommodate the car lift system, and provide consistency in height with the roof of the main building	
	The width of driveways is minimised	Two driveway entrances provided to ensure vehicles can enter and exit the lift in a forward direction and to provide access to Unit 401's garage. Reduction in driveway crossings when compared to existing	
	Only 1 driveway entrance		
	Car: Max 16 resident + 2 visitor = 18 total	18 spaces proposed in total	
	Bicycle: Min 8 resident + 0 visitor = 8 total	Storage areas will accommodate bicycle parking	YES
	Motorcycle: Min 1 per 10 car spaces = 2 total	Motorcycle parking can be accommodated on site	YES
Landscaped Area & Private Open Space	30% of site area is tree canopy area = Min 873.215m^2	7.6% (190m^2)	Appropriate on Merit (see Section 4.6.5)
	50% of tree canopy area comprises canopy trees = Min 436.60m^2	No canopy trees proposed due to potential view impacts.	
	35% of site area is deep soil = Min 873.215m^2	34.2% (854m^2)	
	40% of front setback is deep soil = Min 123m^2	Soft landscaping provided in the form of planters and trees	
	POS: Min 8m^2 (2m x 2m) per dwelling	> 8m^2 (2m x 2m) per dwelling	YES
	Development takes advantage of opportunities to provide north facing private open space	Private open space orientated to the north	YES
	Private open space is clearly defined for private use through planting, fencing or landscape features	Fencing and plantings clearly define public and private open space on the ground level.	YES
	Native species are preferred, and landscape designs are encouraged to provide at least 50% of the plants as native species	50% Native Species proposed	YES

Fencing	Front fence max 1.2m height (if solid) Max 1.5m if 50% transparent/open	No front fence proposed	N/A
	On the low side of the street, adjacent to each side boundary incorporate transparent or open fence/gate panels to preserve significant views.	Low height fencing proposed to the western boundary to maintain view corridor	YES
	The rear and side fences a) are behind the building front setback, b) max 1.8m on level sites, or 1.8m as measured from the low side where boundaries are not level	New fences will have a max height of 1.8m	YES
Site Facilities	Mechanical plant equipment (including lift overruns and air conditioners) must be located internally within the principal building in a suitably designed plant room or the like.	Air conditioning units are located in the private garages. Lift overruns located on the roof level appropriately sited to limit visibility, and landscaping utilised to further reduce any impact. This is typical for majority of new residential flat building developments.	YES
	Mechanical plant equipment must be wholly within the building envelope and not be located externally or on the roof, unless it (a) cannot be reasonably located elsewhere is thoughtfully located, sized, enclosed, concealed and integrated (including when viewed from above) with certain conditions		
Swimming Pools	Water edge setback: Min 1.8m	> 1.8m	YES
	Surround level: Max 1.2m above/below EGL	<1.2m above EGL	YES
	Depth: Max 2m from surround level	Max 2m	YES
Minimum Lot Width	RFB: Min 21m at street front alignment	34.615m	YES
Residential Flat Buildings	Internal layout & window placement achieves good natural ventilation	All apartments achieve natural cross ventilation	YES
	Kitchen back wall max 8m from a window	>8m, except unit 301	Appropriate on Merit (see Section 4.6.4)
	Where practical, habitable rooms excl. bedrooms oriented north for max solar access	Living areas oriented north	YES
	Each dwelling has direct access to its own POS	Each dwelling has direct access to its own POS	YES
	POS minimises overlooking from other dwellings in the development	Stacked and screened to minimise overlooking	YES
Waste Management	The size and design of the waste and recycling area or areas accommodate: a) 120L of residual waste per residential dwelling; b) 55L of recyclables per residential dwelling stored in colour coded, shared use, 120L and/or 240L mobile garbage bins; c) 240L shared use mobile garbage bins for food and garden organics.	Size of waste areas accommodates the required volumes of waste	YES (see Waste Management Plan)
	An area or areas suitable to accommodate on-site composting is provided. This may be for a communal facility or an area for each dwelling.	On site composting can be accommodated in the rear private lawn areas or communal private open space.	YES
	Bulk waste bins are not encouraged and should only be considered for developments containing 12 or more dwellings.	240L waste bins proposed due to waste chute system and steep topography	Appropriate on Merit

	Communal waste and recycling storage rooms should generally be located in a basement location within the main building envelope. Where the storage room is in a separate standalone structure, the room and access to it is designed consistent with Crime Prevention Through Environmental Design (CPTED) principles.	Bulky waste areas and waste rooms located within the basement	YES
Additional controls for development in sensitive locations	Development as viewed from Sydney Harbour follows the natural topography and maintains or enhances vegetation cover	Proposal sited to maintain compatibility with natural topography outside the existing building envelope, landscaping cover enhanced	YES
	Roofs are below the tree canopy and maintain the prominence of the treed skyline	Proposed roof has no impact on tree line due to distance and topography	YES
	Development as viewed from Sydney Harbour, is designed and constructed to blend with the natural landscape setting and the existing built environment through the use of materials, colours, wall articulation, building form and landscaping. Glass elevations and excessive use of windows resulting in reflectivity and glare are avoided.	Landscaping and building siting designed to reduce visual impact when viewed from Sydney Harbour, windows appropriately glazed to reduce reflectivity	YES
	Swimming pools and spa pools are not elevated more than 1.2m above ground level and complement the character of the harbour and foreshore	Pool not elevated above 1.2m	YES
	Swimming pool and spa pool walls are suitably treated to complement the natural foreshore, and where visible, are sandstone clad and incorporate suitable screen landscaping.	Pool fencing appropriate for maintaining views	YES
	Boundary fences are not permitted within 8m of the mean high water mark	No fences proposed within 8m of mean high water mark	YES
	Within the foreshore area: fences are not more than 1.5m in height above the existing ground level, and are constructed of open weave materials (such as wire or lattice to enable vines, creepers or hedges) to provide natural cover; boundary planting is not higher than 1.5m when fully mature; and hard surfaces and artificial surfaces, such as paving, are minimised and generally limited to swimming pool surrounds or modest walkways between the residential building and foreshore structures, such as swimming pools or boat ramps.	Within foreshore area fences are no more than 1.5m in height and are a vertical blade with wire design to enable landscaping to grow through. Hard surfaces and paving is minimised.	YES
	Development on foreshore properties maintains or reduces current levels of site stormwater or sediment run-off entering the harbour	Proposed impact on Stormwater acceptable	YES (see Stormwater Management Plans and Civil Engineers Report)

	Development on foreshore properties does not significantly alter the topography and preserves natural foreshore features including cliffs, rock outcrops, rock shelfs and beaches	Proposed excavation will not be readily visible from foreshore areas and is internally within the building. No natural foreshore features, such as cliffs, rocky outcrops or beaches impacted by the proposal	YES
Parking	Electric vehicle charging points must be integrated into all off-street car parking of new residential and non-residential development	Electric vehicle charging points provided to all units	YES
Mechanical Parking Installations	Vehicle access to the mechanical parking installation must be made in accordance with AS/NZS 2890.1 (2004)	Vehicle access complies	YES
	Where multiple car lifts are proposed, one car lift must be capable of accommodating a B99 vehicle and the remaining lifts must be capable of accommodating a B85 vehicle	Two car lifts proposed, capable of accommodating B99 Vehicle.	YES
	Residential visitor parking must be provided external to the mechanical parking installation	Visitor parking provided in location supported by Traffic Consultant.	See Traffic Report for further details

The proposal satisfies the relevant objectives of the DCP and complies with the foreshore building setback, views, privacy, solar access, fencing, sensitive development, waste management, and mechanical parking controls. The proposal exceeds Council's controls relating to front and side setbacks, landscaped areas, internal amenity and excavation volume, which will be discussed below. The proposal largely complies with DCP provisions for neighbour amenity, and these will be addressed more thoroughly in Section 5.3.

4.6.2 Setbacks

The proposal is partially beyond current DCP setback controls, however this is to an extent similar to the existing, proposed and approved developments on the sites. The partial departures from the relevant setback controls are specified below.

Front Setback

The LEP defines a setback as:

> *building line or setback means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and—*
> *(a) a building wall, or*
> *(b) the outside face of any balcony, deck or the like, or*
> *(c) the supporting posts of a carport or verandah roof,*
> *whichever distance is the shortest.*

The DCP further states that the front setback

> "*.. is determined by the distance between the primary street boundary and the outside face of the front building wall, or any protruding balcony deck or the like (excluding car parking structures).*"

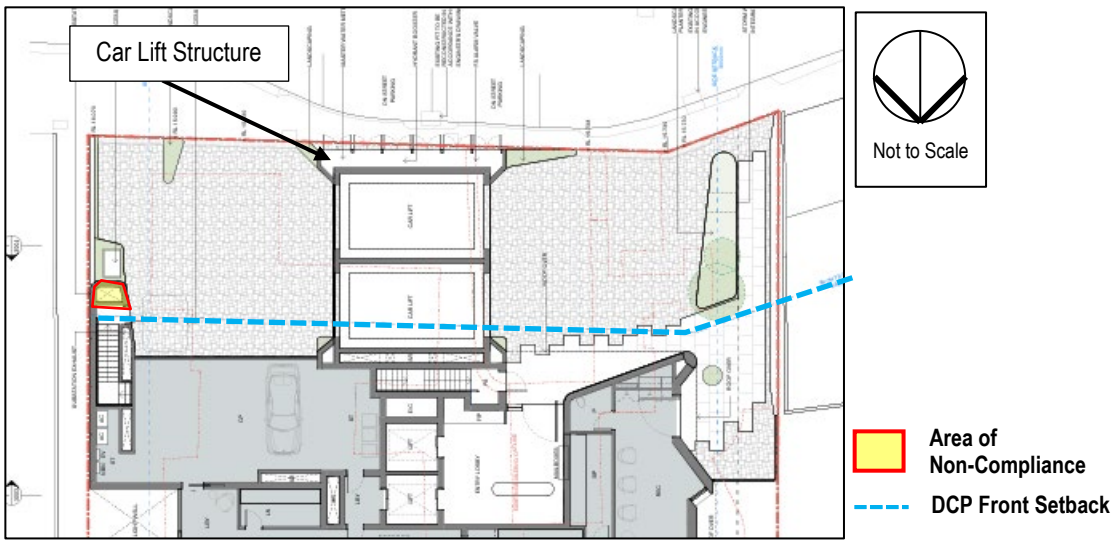
Based on the DCP wording, the proposed car lift structure (as part of the proposal's 'car parking structure') could be excluded from the proposal's front setback. However, if it were to be included as a breach to the front setback control by Council, we note that car parking structures close to the street are typical in the streetscape, and given the limitations of the site it is the only viable location to accommodate access to off-street parking.

Furthermore, Council accepted a car lift structure in the front setback of the site in the previously approved DA No. 172/2018 at Nos. 83-83A Yarranabbe Road, with the WLPP Agenda report stating on page 366:

> *The proposed development has a minimal setback from the front site boundary, with the enclosed car lift structure set back 350mm from the boundary. Notwithstanding the non-compliance with the front setback control, the proposal is satisfactory for the following reasons:*
>
> - *The immediate locality of Yarranabbe Road is characterised by varying front setbacks with a lack of any discernible pattern. In particular, Nos. 85 Yarranabbe Road and 87 97 Yarranabbe Road contain large parking forecourts with front setbacks of approximately 33m and 24m respectively. Conversely, properties to the west comprise minimal front setbacks, with garages adjoining the street directly;*
> - *The proposal comprises landscaped area that will make a positive contribution to Yarranabbe Road. This includes the green wall and planter bed in front of the car lift structure and the proposed new street tree within the site frontage.*

Similarly to the above, the proposed car lift has a minimal front setback, however this is in character with the area. Further, the car lift structure includes a green roof with spillover planting and landscaping on the walls to make a positive contribution to the streetscape.

The proposal otherwise provides a compliant front setback from the main building line, with the exception of a portion of the substation air intake and the excavated parking structures on each level below. The proposal increases the setbacks to the main building wall when compared to the existing situations, and the location of non-compliance at street level is solely due to the air intake exhaust for the substation (see **Figure 18**). Excavation to the front boundary is proposed for parking and access at the levels below street level, which also departs from the 1.5m setback for excavation under the DCP.



Source: Tzannes

Figure 18: Level 4 Plan Demonstrating Front Setback Non-Compliance

In any case, the numeric variation is considered appropriate and satisfies the front setback control's objectives, as stated inter alia:

> *O1 To reinforce the existing streetscape and character of the location.*
> *O2 To provide consistent front setbacks in each street.*
> *O3 To provide for landscaped area and deep soil planting forward of the building*

This non-compliance is minor in nature and consistent with the front setbacks of nearby properties along Yarranabbe Road, ensuring the proposal is contextually compatible with the surrounding area when viewed in the streetscape.

Landscaped areas in the form of planters are provided in the front setback, as the site constraints and excavated area below (to accommodate compliant levels of car parking) prevent the viability of deep soil areas. Areas of excavation and walls within the front setback at the lower levels are also not visible in the streetscape or from neighbouring developments, therefore have no impact in this regard.

Accordingly, in our opinion, the proposed front setbacks are appropriate in the circumstances of this case.

Side Setback

The proposed eastern side setback on all levels will be non-compliant with the DCP setback control of 3m, with the proposal providing a negligible to 1.95m setback to the boundary.

Above ground the proposed western setback will appear as compliant with the DCP setback controls as outlined in the DCP. Small subterranean portions of the western setback on the Ground Floor to Level 3 will be non-compliant with this control to accommodate the air conditioning units, pilings and structural elements of the proposal. Above ground, the proposal is intentionally designed to provide more than compliant western side setbacks towards the harbour, achieving, a compliant or better than compliant appearance.

The subterranean setbacks have been supported in the Geotechnical report, separately submitted, and will have no adverse impact on neighbouring properties or the public domain.

The partial variations above ground achieve the controls objectives, stated inter alia;

> *O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*
> *O2 To ensure the side elevation of buildings are well articulated.*
> *O3 To protect the acoustic and visual privacy of residents on neighbouring properties.*
> *O4 To facilitate solar access to habitable windows of neighbouring properties.*
> *O5 To facilitate views between buildings.*
> *O6 To provide opportunities for screen planting.*
> *O7 To allow external access between the front and rear of the site.*

The Basement and Ground Floor level setbacks to the eastern boundary and small portions of the western setback on the Ground Floor to Level 3, are subterranean and will not create a sense of enclosure to neighbouring properties, in particular Nos. 73-75 and 85 Yarranabbe Road. In addition, these areas of subterranean non-compliance will not result in additional solar, privacy or acoustic impacts.

Where the eastern setback non-compliance is located above ground, the proposal has been sited to align with the parking spaces and structures of No. 85 Yarranabbe Road. The proposed eastern setbacks will therefore not create a sense of enclosure to the occupants of No. 85 Yarranabbe Road. The proposed side elevations, in particular within the areas of setback non-compliance, are appropriately articulated with windows and materials to reduce the appearance of the proposal from neighbouring properties.

Due to the lot orientation, the eastern setback non-compliance will have no impact on the solar access of No. 85 Yarranabbe Road. When compared to the existing situation, solar access to the dwellings of No. 85 Yarranabbe Road will be increased (see Section 5.0).

The proposed setback will have no adverse impact on the availability of views when compared to the existing situation. Further details of the views are contained in the View Impact Assessment (separately submitted) and in Section 5.0 of this report. Screen plantings have been avoided in this location to further improve the views. Due to the sloping topography of the site, access between the front and rear of the site is not appropriate on the eastern boundary, internal access is instead provided.

In addition to the above, the proposal increases the visible setbacks compared to those approved in DA 172/2018 and DA 233/2018 (see **Figure 19**). The proposal will therefore improve the previous approvals and provide a development that is more compatible with surrounding development.

Source: Tzannes

Figure 19: Diagram Showing Approved (Blue) and Proposed (Black/Grey) Building Footprint and Setbacks

In relation to subterranean setbacks generally, we note that excavation within the setbacks is supported in the Geotechnical and Structural Reports for this application (separately submitted). Further, Council previously found non-compliances with setbacks for walls in excavated areas on the site (DA No. 172/2018) appropriate on the following grounds (page 371 of WLPP Agenda report), which are consistent with the current proposal:

> *The proposed excavation will extend to the eastern side boundary and front boundary at levels 1-4. Despite the non-compliance with control C6, the proposed excavation is acceptable as follows:*
>
> - *The applicant has provided a detailed geotechnical and construction methodology report confirming that the proposed excavation is technically feasible and can be undertaken with an appropriate level of risk from a geotechnical perspective. Council's Development Engineer has reviewed the submitted engineering documentation and raised no objection on a structural or geotechnical basis.*
> - *The proposed excavation along the front boundary facilitates the construction of the proposed car lift structure and reduces the proportion of the site area that is dedicated to vehicle access and parking.*

Accordingly, in our opinion, the proposed side setbacks are considered appropriate in the circumstances of this case.

4.6.3 Excavation Volume

The maximum excavation volume for residential flat buildings on this site is 2,494m^3, with an additional 1,610m^3 for compliant storage, parking and access to parking under Control C4 of Section B3.4. The total excavation volume proposed for the site is 6,086m^3 (including storage, parking and access thereto).

Despite the non-compliance with the maximum excavation volume, the proposal will achieve the objectives of the control, stated inter alia;

> *O1 To set maximum acceptable volumes of excavation which:*
>
> *a) require buildings to be designed and sited to relate to the existing topography of the site;*
>
> *b) ensure excavation, including the cumulative impacts of excavation, does not adversely impact*

land stabilisation, ground water flows and vegetation;

c) *avoid structural risks to surrounding structures;*
d) *ensure noise, vibration, dust and other amenity impacts to surrounding properties during construction are reasonable;*
e) *enable deep soil planting in required setbacks;*
f) *ensure traffic impacts and impacts on local infrastructure arising from the transfer of excavated material from the development site by heavy vehicles are reasonable; and*
g) *satisfy the principles of ecologically sustainable development (including the energy expended in excavation and transport of material and the relative energy intensity of subterranean areas in dwellings).*

The proposed excavation volume will accommodate a total of 15 car spaces to service the development (with the remaining car spaces at-grade), and the space to accommodate motorcycle parking, bicycle storage, storage, and vehicular access, including car lifts and manoeuvring to facilitate safe vehicular access. This is important as the site is located on Yarranabbe Road, a tight road with very limited access to on-street parking. The location of the proposed car parking spaces largely in the excavated areas below street level will also enhance the appearance of the proposal when viewed from the street. In our opinion, the excavation volume is reasonable for the proposed residential flat building in terms of safety and streetscape appearance.

While the rest of the excavation volume will be used for levelling the lower units, this excavation is driven by the substantial site slope to the north from street level. These levels will remain primarily above existing ground level when viewed from the north. The proposed landscaping will ensure the change in ground level is not readily discernible from surroundings sites.

The excavation volume will therefore provide a better streetscape and amenity outcome than above-ground services, additional height and external bulk. In other words, the subterranean location of these uses allows the proposal to maintain a less bulky façade and minimises the visual and amenity impact of the proposal. Partly due to the excavation volume which limits the visible built form, the proposal complies with solar access to neighbours. The proposal will also maintain the built form character along the street through a sympathetic, to the single storey appearance that is largely compliant with the front setback controls.

The excavation volume would result in an excavation to site ratio of 2.44:1. When considering this it should be noted that Council have granted approval for various residential flat buildings in the LGA that exceed the excavation limit as detailed in **Figure 20** on the following page. Twelve of the fourteen approvals identified have a ratio range between 2.6:1 and 6.9:1 which are greater than the proposal.

Suburb	Address	Application No.	Site Area	Maximum Control	Approved	Ratio
Bellevue Hill	Nos. 84-88 Birriga Road	335/2022	2,893m²	2,893m³ + store	12,357m³ (427%)	4.3:1
	Nos. 53-55 Drumalbyn Road	416/2021/2	1,857m²	1,857m³ + store	5,087m³ (274%)	2.7:1
	Nos. 206D, 208, 210 & 210A Victoria Road	515/2018	2,525m²	2,725m³	17,376m³ (638%)	6.9:1
	No. 49 Drumalbyn Road	378/2017	837.5m²	837.5m³ + store	4,237m³ (494%)	5.1:1
	No. 252 Old South Head Road	367/2017/7	1,182m²	1,182m³ + store	4,729m³ (400%)	4:1
Double Bay	Nos. 535-537 New South Head Road	404/2013	1,441m²	1,452m³ + store	6,300m³ (434%)	4.4:1
Edgecliff	No. 448 Edgecliff Road	558/2016	719.7m²	750m³	2,900m³ (387%)	4:1
Woollahra	No. 12 Wallaroy Crescent	174/2012	2,329m²	2,330m³ + store	8,464m³ (363%)	3.6:1
Vaucluse	No. 63 New South Head Road	649/2017	1,088m²	1,083m³	2,776m³ (256%)	2.6:1
Rose Bay	Nos. 780-786 New South Head Road	30/2021/3	1,216.6m²	1,216.6m³ + store	4,267m³ (351%)	3.5:1
	Nos. 1-3 Spencer Street	565/2018	1,588.2m²	1,588.2m³	3,466m³ (218%)	2.2:1
	Nos. 5-13 Spencer Street	300/2021	2,223m²	2,200m³	4,514m³ (205%)	2:1
Point Piper	Nos. 590 New South Head Road & 2A Wunulla Road	13/2019	2,393m²	2,393m³ + store	7,200m³ (301%)	3:1
	No. 23 Wolseley Road	484/2018	594m²	665.9m³	2,763m³ (415%)	4.7:1

Source: GSA Planning

Figure 20: Excavation Approvals in Woollahra

The proposed excavation will be undertaken in accordance with the Geotechnical Report and Structural Report, both separately submitted, with waste transported and recycled appropriately. The proposed excavation methods, as outlined in the geotechnical report, will appropriately mitigate any adverse impacts on neighbouring developments, see **Section 5.0**.

Accordingly, the proposed excavation volume can be considered appropriate in the circumstances of this case.

4.6.4 Internal Amenity

The DCP states, 'All habitable rooms in a dwelling must have at least one external wall primarily above the existing ground level which provides an unobstructed window opening'. All new habitable rooms will have at least one unobstructed window opening that is located above the modified ground level, but that are partially or fully below existing ground level on the ground, level 1 and level 2 floors.

The DCP states, 'All habitable rooms and sanitary compartments in a dwelling must have direct natural light and direct natural ventilation'. While some sanitary compartments will have external openings, others will not due to the wide nature of the site. Instead these compartments will incorporate mechanical ventilation units to ventilate the space.

The DCP also states, 'Light wells must not be the primary air source for habitable rooms', the proposal utilises the lightwell to provide natural light and ventilation to the bedroom B2 and B3 in Units G01, 101, B3 in unit 201 and bedroom B4 in Unit 301.

The DCP further stipulates, 'Any room of a dwelling either partially or fully below existing ground level (excluding basement parking and storage areas) is limited to a maximum room depth of 2 X the ceiling height.' The majority of rooms, particularly most habitable areas, are above the existing ground level. However, rooms to the rear of Units G01, G02, 101 and 102 will be slightly below the existing ground level, and its depth will exceed the numerical requirement. Nonetheless, these spaces will have floor-to-ceiling glazing on most elevations, ensuring a high level of natural light, ventilation and amenity.

In addition, the DCP states that 'The area of unobstructed window openings should be equal to at least 20% of the room floor area for habitable rooms', whilst the majority of rooms comply with this controls the bedrooms B2 in units 102 and 103 do not.

The variations are considered consistent with the control's objectives:

> *O1 To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.*
> *O2 To encourage buildings that are designed to maximise natural light provision in habitable rooms.*

The new residential flat building will achieve a high level of internal amenity overall, with living areas and bedrooms having northern outlooks wherever possible. With the exception of the media rooms, some bedrooms and sanitary compartments, all habitable areas will have glazing primarily above the existing ground level to maximise direct natural light and ventilation. With regard to the bedrooms, the proposal incorporates a lightwell to allow for natural light and ventilation. In addition, the proposed modified ground level will mean the bedrooms do not appear as below ground level.

The lightwell will ensure these rooms, whilst below existing ground level, will be appropriately lit and ventilated (see **Figure 21**). Although the media rooms are technically habitable, it is a less frequently occupied space and therefore this variation is considered minor. Additionally, mechanical ventilation is incorporated to spaces which do not have the ability to naturally ventilate due to site constraints. This will ensure that sanitary compartments to the dwellings are well-ventilated.

Source: Tzannes

Figure 21: Solar and Cross Ventilation Diagrams

By providing abundant glazing adjoining landscaped areas and north-facing open spaces, the new residential flat building will achieve a high level of internal amenity through direct natural light and ventilation to habitable rooms, while ensuring privacy for neighbours and the subject site through a combination of recesses, screening, fencing and planting.

In addition to these internal amenity controls, Section B3.8 specifies that residential flat buildings must also comply with additional internal amenity controls. The proposal is compliant with the majority of these controls with the exception of C3 which states, 'The back of the kitchen is no more than 8m from a window'. Due to the large nature of the proposed units, the kitchens are located greater than 8m from the windows. Despite this, the open floor plan has been designed to utilise the northern and side facing windows to ensure the kitchens have dual aspects and opportunities for natural light.

Accordingly, in our opinion, the variations are considered reasonable and the proposal will provide ample internal amenity.

4.6.5 Landscaped Area and Tree Canopy

The proposal results in only a negligible 0.8% departure from the overall deep soil landscaping control as outlined in the DCP, and does not provide 40% deep soil landscaped area within the front setback.

The DCP also requires residential flat building to provide tree canopy area for at least 30% of the site area, of which 50% is contributed by canopy trees. The proposal will provide 7.6% canopy coverage with no canopy trees, in order to maintain significant views and vistas across the site.

Despite the numeric departures, the proposal is consistent with and achieves the control's objectives:

> *O1 To ensure that the areas outside the building contribute to the desired future character of the location.*
> *O2 To provide sufficient deep soil landscaped area to encourage urban greening and maintain and enhance tree canopy cover which in turn contributes positively to the existing and desired future character of the locality.*
> *O3 To provide for on-site stormwater absorption.*

As previously identified, the proposal remains consistent with the desired future character of the Darling Point precinct and maintains and protects the significant views from the public and private domain.
Due to the undulating topography the landscaping shortfall in the front setback will not be visible from the Harbour and is unlikely to be noticeable from the adjoining area, given the substantial soft landscaping proposed in place. In addition, the soft landscaping proposed in the front setback is an improvement on the existing situation and will present as a greener street frontage.

Compared to the existing situation, a larger, consolidated area of deep soil landscaping is now provided in the rear setback and is capable of supporting substantial vegetation. The species and location of landscaping within the rear setback has been carefully selected to ensure views across the side boundaries are maintained for neighbouring properties. In addition, the area to the rear of the site is within the foreshore building line setback, and the site is identified as a development in sensitive locations, due to its visibility from the Harbour. The proposed lack of canopy trees has been designed to maintain the character of the area when viewed from the Harbour, and to maintain the existing harbour and iconic views available across the site from neighbouring development and the public domain, which strict compliance with the tree canopy control would not achieve.

The significant area of deep soil landscaping within the rear setback increases the existing stormwater retention on-site. Stormwater and runoff will also be managed in accordance with the Stormwater Management Plan and any Council conditions of consent.

As the objectives are satisfied and landscaped areas are well improved on balance, in our opinion the variation in the deep soil and canopy tree coverage controls is considered reasonable.

5.0 PLANNING ASSESSMENT

This section will consider the following: The Assessment of the Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15 of the EPA Act.

5.1 Assessment of Natural Environmental Impacts

This section will assess the topographic and scenic impacts as well as the water and air quality impacts of the proposed development.

5.1.1 Topography & Scenic Impacts

Excavation will be undertaken in accordance with Council's standard conditions of consent and the Geotechnical Report, prepared by Douglas Partners (separately submitted). The recommendations pertain to dilapidation surveys, excavation methods, retention methods, excavation vibrations, hydrogeological considerations, foundations and further geotechnical investigation and monitoring during construction. The report addresses the steep topography of the site and the proposed excavation setbacks, stating inter alia:

> *Provided the construction is undertaken in accordance with the recommendations contained in this report and using sound engineering and construction practices, the proposed work would not be expected to affect the overall stability of the site or negatively influence the geotechnical hazards identified in Tables 1 and 2.*
> *…*
> *Given the proximity of the excavation to the boundaries, it will be necessary to provide shoring support for the sandy soils and extremely low to low strength rock. It may be possible to have unsupported vertical excavations within medium strength or stronger sandstone provided there are no adverse joints/defects in the rock.*

The implementation of the recommendations, as outlined in the Geotechnical Report, and any standard conditions of consent will mitigate any adverse impacts of the proposed excavation. The proposed excavation can therefore be considered appropriate in the circumstances of this case.

Trees on site have been assessed in the Arboriculture Report prepared by Tree Wise Men with recommendations for retention, transplantation or removal. Recommendations outlined in the report will be implemented during construction to ensure nominated trees are protected and retained.

5.1.2 Water & Air Quality Impacts

With implementation of the proposed Stormwater Management Plan, and recommendations within the Civil Engineering Design report prepared by Henry Hymas (separately submitted), the proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality. Stormwater and runoff will be managed in accordance with the Stormwater Engineer's recommendations and any Council conditions of consent. The Civil Engineering report concludes:

> *In general, the engineering objectives of civil design and stormwater management elements mentioned above are to create a system that is based on the architectural layout and incorporates the natural topography and site constraints to produce a cost-effective and appropriate drainage system that meets best industry practices and governing water quality and quantity objectives.*
>
> *Specifically, the development proposal:*
> - *Provides a stormwater management system that is in accordance with Council's On-site Stormwater Detention policy.*
> - *Provides a stormwater management system that is in accordance with Council's Water Quality Management policy, resulting in water being discharged into Sydney Harbour with a improved water quality.*
> - *Is designed in consideration of potential Costal Inundation flooding and has a Ground Floor Finished Floor Level that is above the Estuary Planning Level (inclusive of freeboard).*

- *Seeks to the relocated an existing public stormwater line, with the proposal to relocated the existing public stormwater line resulting in the following:*
    - *o Elimination of overland flow through subject site (77-83 Yarranabbe) in 1% AEP storm event.*
    - *o Elimination of previously identified overland flow in neighboring properties 1 in the 5% AEP storm event.*
    - *o Significantly reduces previously identified overland flow in neighboring properties in the 1% AEP storm event.*
    - *o Reduction in ponding in drainage sumps in Yarranabbe Road in all storm events.*
    - *o Provides new infrastructure that complies with current design standards.*

The proposed stormwater management will effectively mitigate the impacts of the proposal on neighbouring properties and Sydney Harbour.

5.2 Assessment of Built Environmental Impacts: Character and Context

This section will address the effects of the proposed development on the character and context of the area.

5.2.1 Impact on the Area's Character

The character of the area comprises detached and attached dwellings, dual occupancies and residential flat buildings of a substantial scale and varied design and architecture. There are recently constructed contemporary dwellings and various existing residential flat buildings that inform the area's desired future character, with many developments including current or historic breaches with numeric controls. Such developments that are of a height and scale well above the current LEP standards, that inform the character of the area, are portrayed in **Figure 22**. Developments along Yarranabbe Road are designed to step down from the street following the steeply sloping topography of the area and are orientated towards the harbour in the north.

Source: Tim Mooney, 'Sydney Waterfronts East: from Bondi to the Bridge' (2006)

Figure 22: Aerial View Showing Height and Scale of Non-Compliant Existing Development in Darling Point (Blue), Nearby the Subject Site (Red)

The proposed five-storey residential flat building has been carefully designed by Tzannes to ensure the building is sympathetic to the site constraints and provides improved residential amenity. The proposed parking has been located internally within the development to minimise the visual impact when viewed from the public domain. The proposed above ground appearance will remain contextually compatible with the existing desired future character objectives of the locality will improve the appearance of the development when viewed from the street and the Harbour. When viewed from the harbour, the proposal has incorporated a modulated design, giving the built form an appearance of two modules. This design aims to interpret the pre-existing subdivision pattern and minimise the perceived bulk of development on the foreshore (see **Figure 23**).

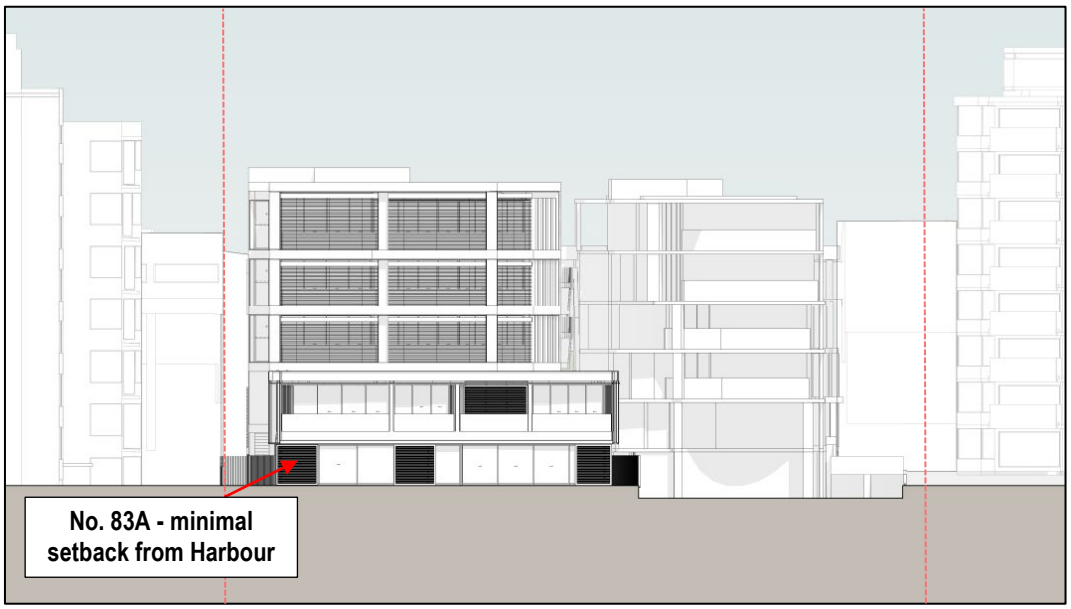
Existing

Proposed

Source: Tzannes

Figure 23: The Proposal in the Streetscape

In addition to improving the existing appearance, the proposal will also improve the apparent bulk of the development when compared to the existing approvals on the subject sites. The removal of No. 83A Yarranabbe Road and the articulation of the proposed built form will significantly improve the appearance and reduce the building bulk on site when viewed from the Harbour (see **Figure 24**). While the development has been assessed on its own merits, the proposed external envelope, bulk and scale has been directly influenced by the existing approvals on the subject site.



Existing Approvals – Approximate Overlay

Proposed (No. 83A Demolished)

Source: Tzannes

Figure 24: Existing Approvals' North Elevation and Proposed North Elevation

Accordingly, the proposal is compatible with the context of the Yarranabbe Road streetscape and the harbour foreshore, and will have a positive contribution to the locality.

5.3 Assessment of Built Environmental Impacts: Privacy and Amenity

This section considers any aural and visual privacy effects resulting from the proposal and needs to be considered in conjunction with Section 4.6. It will specifically address sunlight access, view sharing and waste management.

5.3.1 Aural and Visual Privacy

The design and layout of the proposal will maintain aural and visual privacy for residents of neighbouring sites.

Given the continuing residential use and density of the proposal, it is unlikely that there would be significant additional noise generation associated with the proposal.

An appropriate level of visual privacy is achieved in the foreshore setting by continuing to orient living areas and terraces to the Harbour, similar to the existing situation. Blade walls are proposed between the balconies of each unit to prevent overlooking within the development. Visual privacy of neighbouring properties is also maintained through a range of privacy measures including the orientation of windows, privacy screenings and glazing.

Overall, a combination of orientation, recesses, fencing and landscaping will enhance privacy throughout the site. Especially as both the level and location of primary open spaces are generally maintained as existing, the sensible design is, in our opinion, appropriate in terms of aural and visual privacy.

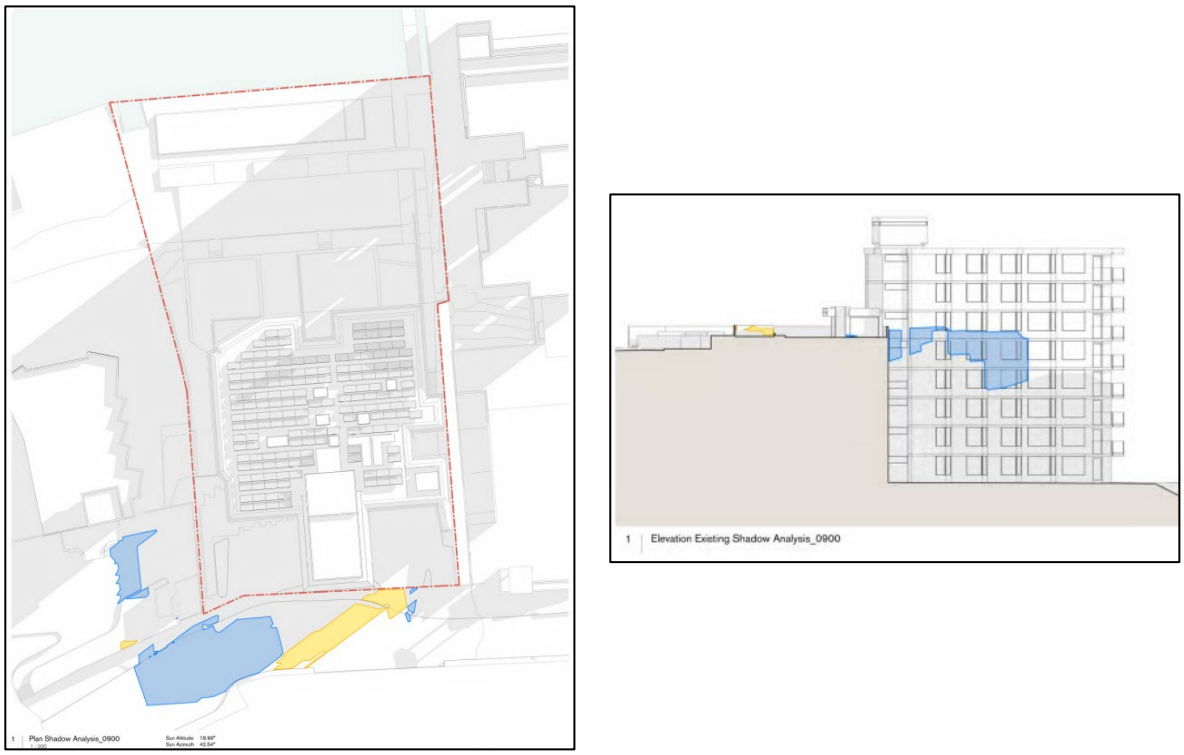
5.3.2 Solar Access

To assess the effect of the proposed development in terms of solar access, shadow diagrams have been prepared for 9:00 am, 12 noon and 3:00 pm for the winter solstice (June 21). Solar diagrams have been prepared to compare the proposals impacts against the existing situation and against the approved developments. Both these diagrams indicate that the proposed development will not further reduce the solar access of habitable rooms that currently receive solar access. When comparing the existing approvals against the proposed development there is net gain of solar access for many of the habitable rooms at No. 73-75 Yarranabbe Road (see **Figures 25-27** on the following pages).

At 9:00am, the proposal reduces solar access to two side windows (Bed 3 of Units 4B and 5B), and increases solar access to the parking area when compared to the approved DA (see **Figure 25** on the following page).

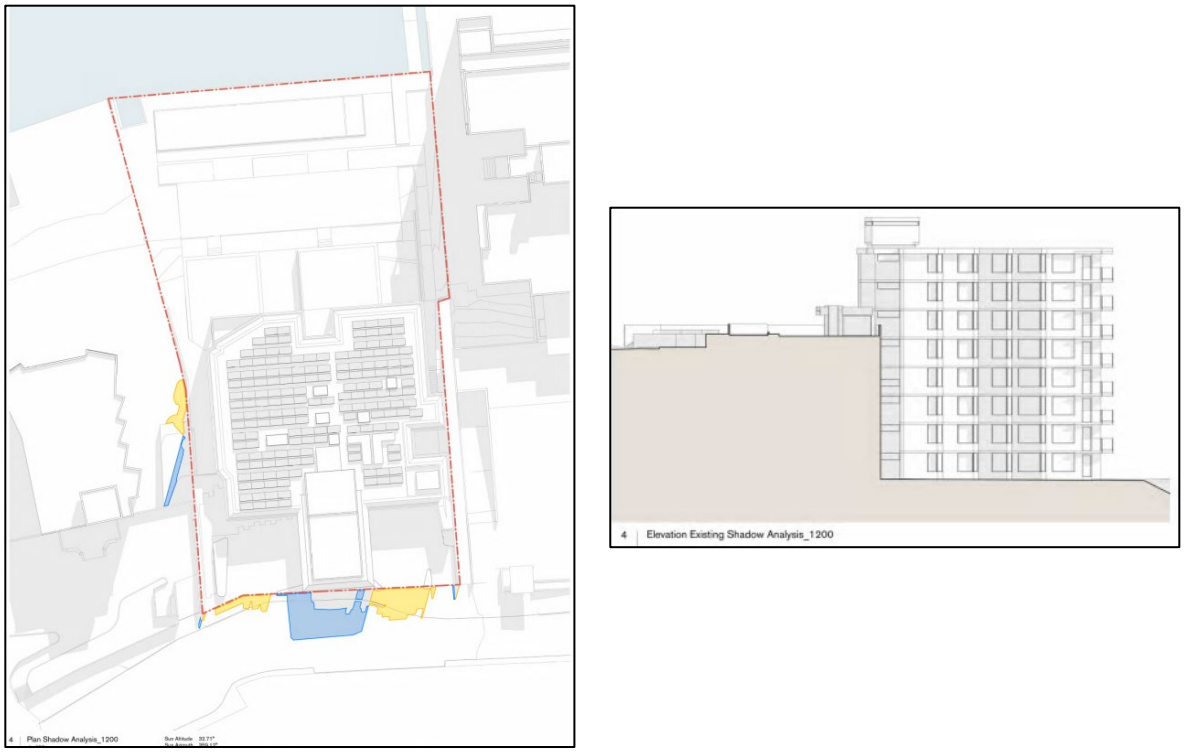
There is no additional impact compared to existing or proposed from 12noon to 3:00pm to Nos. 73-75 Yarranabbe Road (see **Figure 26 and 27** on the following pages). The only impact to No. 85 Yarranabbe Road is over negligible parts of the driveway ramp at 3:00pm, with a significant improvement to solar access when compared to the shadows cast by the previous approvals on the subject site (see **Figure 27** on the following pages).

It is important to note that the majority of windows that will have additional overshadowing are not north-facing. Due to the serrations the orientations of the windows vary between north, north-east and eastern facing windows. The overshadowing of parts of the narrower northern facing, upper level habitable windows on the side of Nos. 73-75 Yarranabbe Road as a result of the proposal does not result in a departure from the DCP controls for overshadowing. This is because minimum 3 hours of solar access is retained to a portion of these windows. Further, compliant levels of solar access are achieved to primary private open space of neighbouring development.



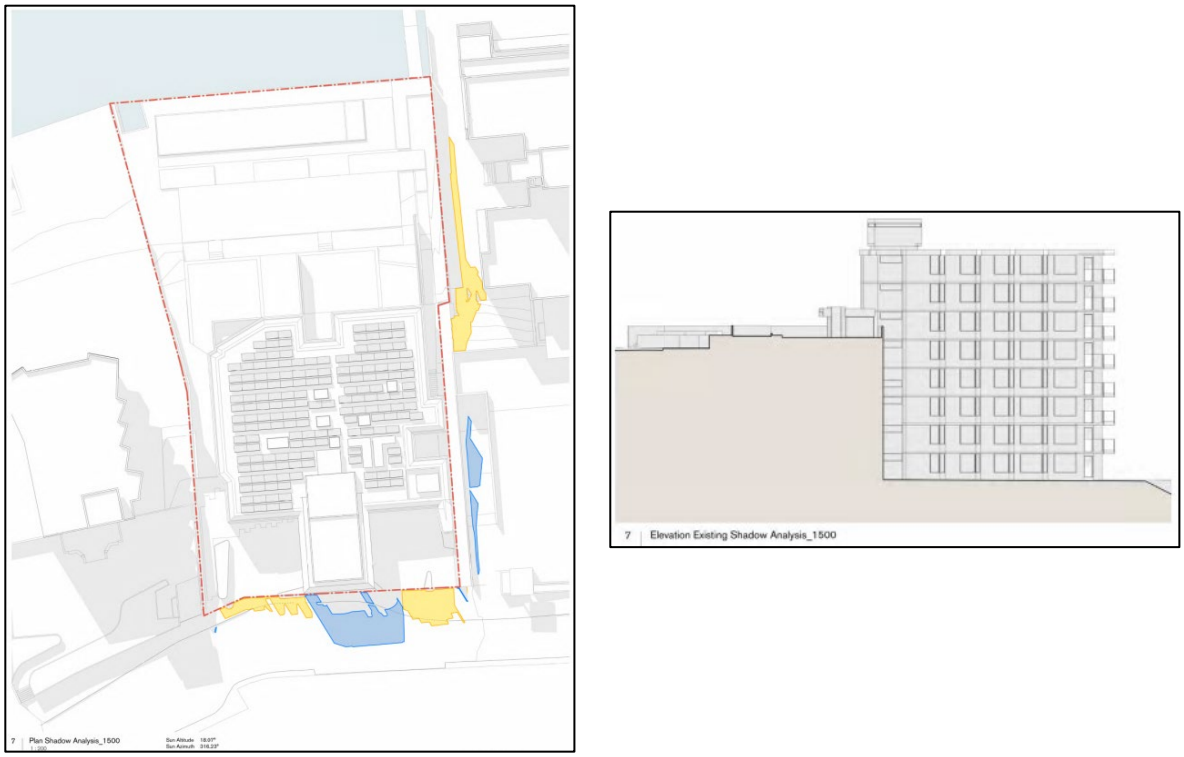
Source: Tzannes

Figure 25: 9:00am Shadow Diagrams



Source: Tzannes

Figure 26: 12:00pm Shadow Diagrams



Source: Tzannes

Figure 27: 3:00pm Shadow Diagrams

5.3.3 View Sharing

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the principle of the *Tenacity v Warringah Council* [2004] NSWLEC 140. Our assessment of the proposal against this planning principle is included below. The four steps in assessing view affectation are considered as follows:

- *Assessment of the Views Affected*
- *From What Part of the Property are the Views Obtained?*
- *The Extent of the Impact*
- *The Reasonableness of the Proposal*

It is noted that our assessment has relied on an inspection around the subject site and a View Impact Analysis diagrams prepared by C.M.S Surveyors Pty Ltd (separately submitted). A brief discussion of public views is contained at the end of this section.

Assessment of the views Affected

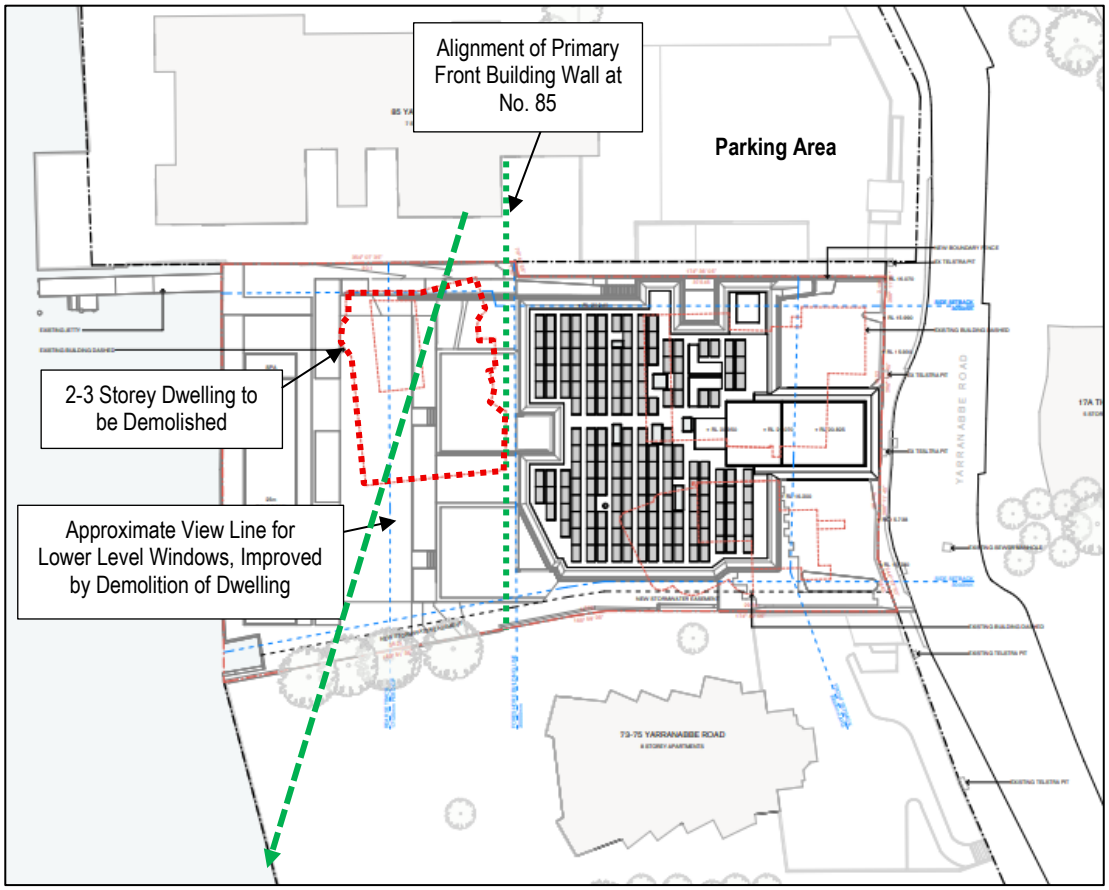
In respect of the first step, *Tenacity* states that water views are valued more highly than land views and iconic views (Opera House or Harbour Bridge) are valued more highly than views without icons. In addition, whole views are valued more highly than partial views.

Neighbouring views are primarily obtained from rear boundary-facing windows, oriented to capture views of the harbour, land-water interface and district views. Views to the northwest across the subject site include iconic views of the Sydney Harbour Bridge and the city skyline, partially obstructed by development in Potts Point and Elizabeth Bay.

From what Part of the Property are Views Obtained?

In respect of the second step, *Tenacity* states that the protection of views from across side boundaries is more difficult than the protection of views from front or rear boundaries. In addition, sitting views are more difficult to protect than standing views.

The proposal has been setback from the rear boundary to comply with the foreshore building line per the LEP. Therefore, the rear building line where the height non-compliance is greatest sits behind the front wall of the neighbouring building at No. 85 Yarranabbe Road to the east. The area of the neighbouring site that is behind the rear building line of the proposed development is occupied by the parking area only. Further, the demolition of the existing two to three storey dwelling on the foreshore of the subject site will enhance views from lower level side windows at No. 85 Yarranabbe Road, across the site (see **Figure 28** on the following page).



Source: Tzannes

Figure 28: Site Plan Demonstrating Neighbouring Viewlines

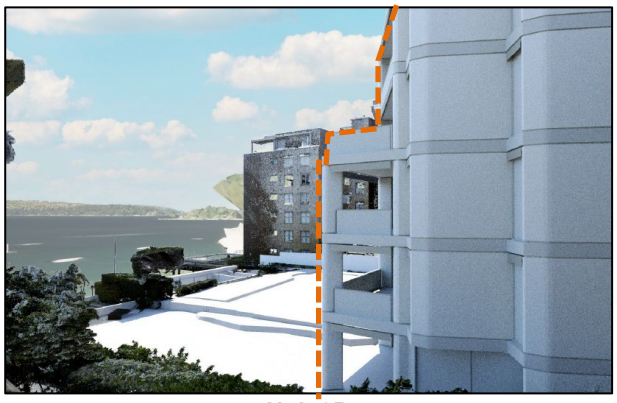
As previously outlined, DCP significant views have been identified across the site from the street to the north.

The Extent of Impact

In respect of the third step, *Tenacity* states that the views from living areas is more significant than from bedrooms or service areas.

Oblique views across the site from side windows of No. 73-75 Yarranabbe are largely unaffected compared to the existing situation, given the building beyond at No. 85 Yarranabbe Road currently obstructs water views. Only outlooks of the sky are affected due to the proposed height at the rear (see **Figure 29** on the following page). For abundant clarity, the proposed building has been outlined in orange in the figure below.

Unit 1B



Unit 3B

Unit 5B

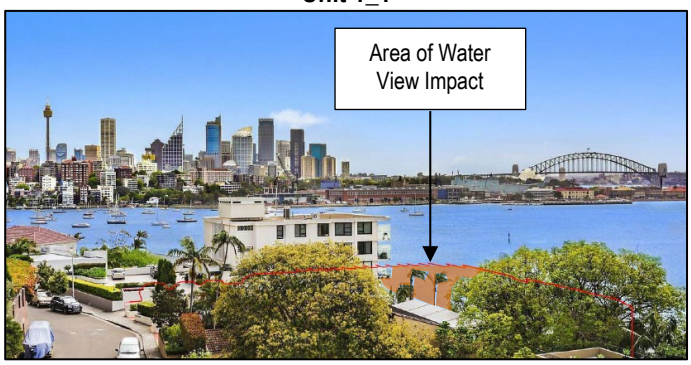
Unit 7B

Source: CMS Surveyors

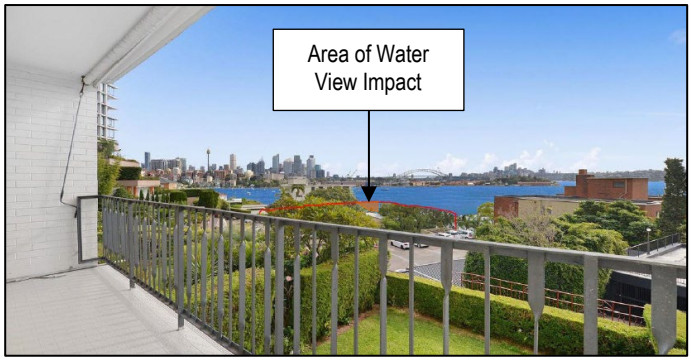
Figure 29: View Impact Photomontages from Side Windows of No. 73-75 Yarranabbe Road – 'Virtual Views' Excerpts (Proposal Outlined Orange)

Iconic, water, and land-water interface views are obtained over the front boundary of Nos. 13-15 Thornton Street, towards the north-west across the subject site. Overall, the proposal will have negligible to minor impacts on water views resulting from the area of additional height towards the rear of the building, however will wholly retain land-water interface and iconic views (see **Figure 30**). For abundant clarity, the proposed building has been outlined in red in the figure below, with areas of impact shaded orange.

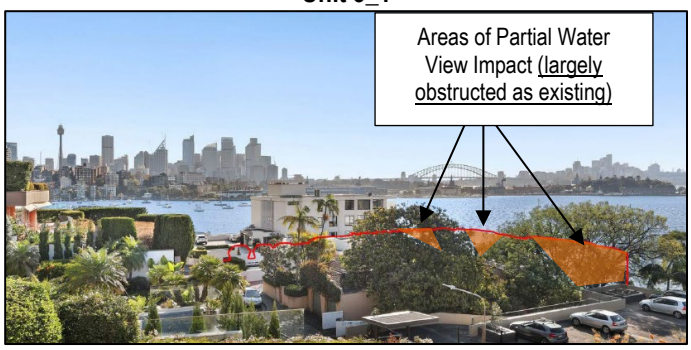
Unit 1_1



Unit 2_2



Unit 3_1



Unit 5_2

Source: CMS Surveyors

Figure 30: View Impact Photomontages from Front Windows/Balconies at Units 1, 2, 3 & 5/No. 13-15 Thornton Street – Excerpts (Proposal Outlined Red)

Similarly, to the above, No. 17 and 17A Thornton Street has water views over the Yarranabbe Road boundary towards the north-west across the subject site. These view impacts are again negligible to minor, with only small portions of the broader water view impacted by the proposal. There is no impact on existing land-water interface and iconic views.

The Reasonableness of the Proposal

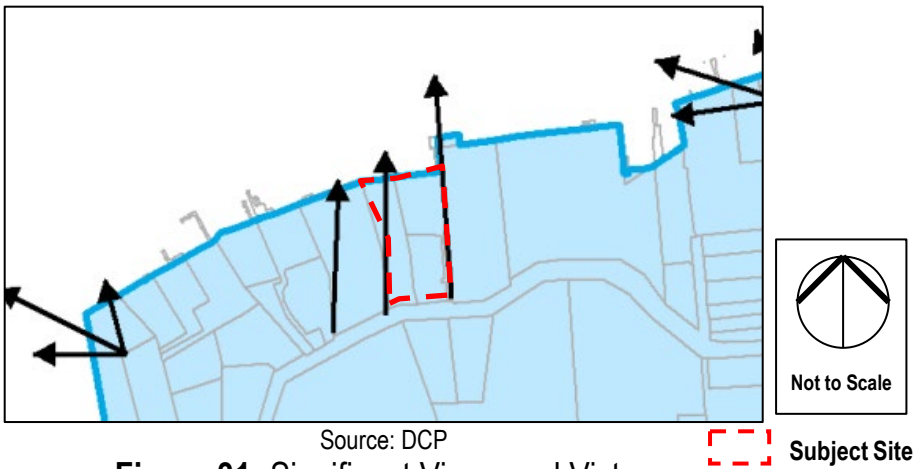
In respect of the fourth step, *Tenacity* states that a development that complies with all planning controls would be considered more reasonable than a development that breaches the controls. With a complying development proposal, the issue is whether the same development potential could be achieved with a more skilful design without affecting the views of the neighbours.

Whilst the proposal does not comply with the key controls of maximum building height and FSR, the view impact analysis combined with the principles of *Tenacity* show the proposal will not result in unacceptable view loss. Any view loss is considered minor to negligible, with no impact on iconic views.

Accordingly, the loss of view is considered to be very minor and the proposal is in our opinion reasonable on the basis of *Tenacity*.

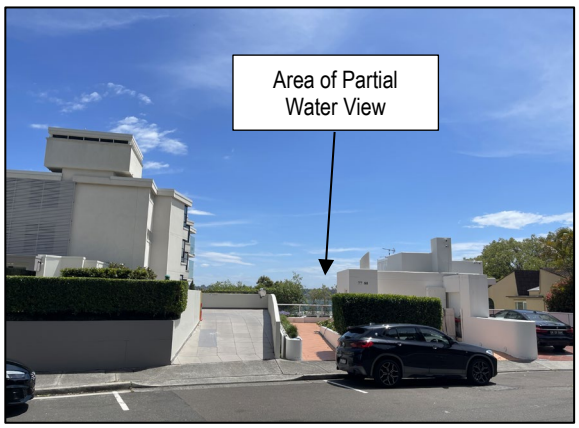
Public Views

We also provide a brief analysis of public views in this section. The DCP identifies two significant public view corridors that run through (west) and alongside (east) the site from Yarranabbe Road to Sydney Harbour towards the north (see **Figure 31**). Partial views of Sydney Harbour are available from these locations. These public views are filtered by existing landscaping and built forms of Nos. 73-75, 77-81, 83 and 83A Yarranabbe Road (see **Photographs 13 & 14**)

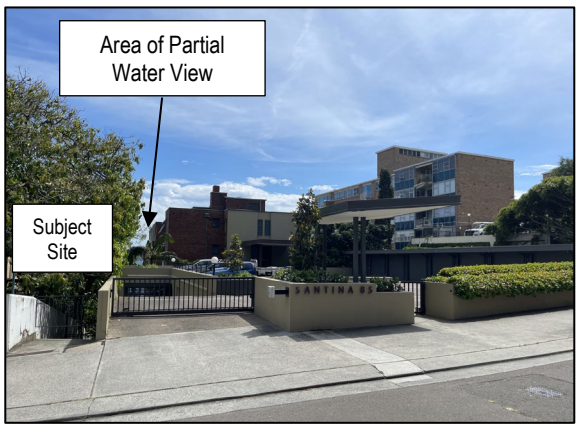


Source: DCP

Figure 31: Significant Views and Vistas



Photograph 13: Harbour view to the west of the site as identified in DCP



Photograph 14: Harbour view to the east of the site as identified in DCP, predominantly on neighbouring site

The proposal is designed to enhance the view corridor on the western side of the site, by removing existing vegetation and sensitively siting the built form and trees/landscaping in the front and side setback (see **Figure 32**). There is no existing view corridor on the eastern side of the site, within the site boundary due to dense landscaping and trees. The eastern view corridor as identified in the DCP is available across the adjoining property at No. 85 Yarranabbe Road, the proposal will not reduce the view corridor as existing.

Existing

Proposed

Source: Tzannes

Figure 32: Existing and Proposed View Corridor (West)

Accordingly, in our opinion, the proposal will enhance public views across the site from Yarranabbe Road.

5.3.4 Waste Management

A Waste Management Plan has been prepared by MRA Consulting, outlining the storage, waste generation rates and methods of collection for the proposed waste management systems. The proposal includes waste chutes, with diverters for recycling, within each unit on the Ground Floor Level to Level 3, these chutes will be deposited into a communal bin storage room in the basement, with one for the eastern waste chute core and one for the western waste chute core. The Level 4 unit will utilise separate bins located in their garage area which has direct access to Yarranabbe Road for kerbside collection.

The waste storage areas for the other units are accessible from the car lift, pedestrian lift and stairs. The proposed waste rooms are each capable of accommodating the estimated 6x 240 litre bins required for waste, recycling and food and organic waste, with a total of 12 bins on site.

The bin storage room location complies with the maximum distance of 75 metres from the storage area to the collection point on Yarranabbe (excluding lift travel). A bulky waste storage room is also located within the basement, capable of accommodating 8m^2 of bulky waste. For more details see the Waste Management Plan (separately submitted).

5.4 Assessment of the Site Suitability

This section will consider the proximity of the site to services and infrastructure; traffic, parking and access issues; and hazards.

5.4.1 Proximity to Services and Infrastructure

This site is well located in terms of public transport. The nearest bus stop is located 260 metres away on Thornton Street and services route No. 328 providing regular access to Edgecliff and Bondi Junction stations and urban centres. This connects to the wider Sydney train network. The Darling Point ferry wharf provides services between Circular Quay and Darling Point, and is located 450m away on Darling Point Road.

As the site is within an established area, electricity, telephone, water and sewerage are also readily available.

5.4.2 Traffic, Parking and Access

A separate report has been prepared by TTP and concludes, inter alia:

> *The key findings from this report are provided below:*
>
> - *The proposed development involves the demolition of existing buildings and construction of a new residential flat building comprising 8 'ultra-premium' large units, concierge and residential garages accessed via a car lift.*
> - *Vehicles would enter the site via Yarranabbe Road from the western access and use the car lift to access their corresponding basement level. The exception to this would be the 3 residential garage spaces on the ground floor which would access these spaces via the eastern driveway on Yarranabbe Road.*
> - *The DCP requires 18 car spaces. It is proposed to provide 18 car spaces including 1 accessible parking space which satisfies the DCP requirements.*
> - *The proposed development is to generate a net additional 2 trips in the AM and PM peak. This level of traffic is negligible from a traffic capacity perspective.*
> - *TTPP's swept path assessment indicates satisfactory access can be provided to/from the site, with appropriate waiting areas provided within the site.*
>
> *Overall, the traffic and parking aspects of the proposed development layout are considered satisfactory.*

As the proposal complies with the total required number of spaces and geometry of Council's DCP and AS 2890.1:2004, will satisfy the likely parking demand for the proposal, it is therefore suitable from a traffic and parking point of view. Further details are provided in the Traffic Report prepared by TTPP (separately submitted).

5.4.3 Hazards

The site is not in an area recognised by Council as being subject to landslip, flooding, bushfire or any other particular hazards. The proposed development will not increase the likelihood of such hazards.

5.5 The Public Interest

This section will consider the social and economic effects of the proposal and the public interest.

5.5.1 Social and Economic Impact

The proposal will have social and economic benefits in the area with the construction of a well-designed and elegant new residential flat building. This will contribute to meeting the demand for housing in the LGA.

The residential flat development will be constructed from materials which are similar to nearby contemporary residential flat buildings and include additional landscaping which will enhance the common open space and garden areas close to the foreshore.

The new residential flat building will reduce water and energy consumption through efficient fixtures, fittings and insulation; and provides additional on and off-street parking for residents and their visitors. This will reduce water consumption and parking congestion in the area.

The proposal will provide employment during demolition and construction and in the provision of maintenance services once the dwellings are occupied.

5.5.2 The Public Interest

The proposal has been designed with consideration of the adjoining residents' amenity and the streetscape. Importantly, the proposal meets the zone objectives of providing a residential flat building that aligns with the character of the area, as well as the desired future character. Additionally, the proposal achieves the Precinct objectives for desired future character.

It will provide a contemporary, well-designed residential flat building which is a contextually appropriate scale and form for the area. The building has been designed to maintain neighbours' and local amenity and contribute positively to the streetscape and local character. The proposal is a quality development which is in the public interest.

6.0 POSITIVE OUTCOMES

This SEE has demonstrated that the proposed development achieves numerous positive outcomes for the subject site, the streetscape and the wider locality. It provides benefits in relation to planning, architecture, amenity, landscaping, urban design and accessibility matters, as summarised below:

- The proposal achieves greater compatibility with relevant objectives of the zone, compared to the existing buildings.
- The proposal affords the opportunity to enhance the appearance and architectural quality of the built form on site. The proposal provides a more articulated and contextually compatible built form than the existing three buildings across the subject site. The new, contemporary residential flat building contributes to the rich and diverse architecture of development in the Yarranabbe Road streetscape, and the character of development when viewed from the foreshore. This benefits the locality by providing a building that better-relates to the desired future character of the area, compared to the existing built form.
- The demolition of the dwelling at No. 83A Yarranabbe Road will increase the availability of views and outlooks across the site from neighbouring development, minimise the scale of development on the foreshore, and improve the overall appearance of the site when viewed from the Harbour. Further, the proposed setbacks at street level and careful placement and selection of landscaping will enhance the availability of public views from Yarranabbe Road towards the harbour.
- The proposal will maintain a similar envelope and setbacks to the previous approvals on site, and is more consistent with neighbouring residential flat buildings compared to a fully LEP compliant built form. This ensures the height, bulk and scale is consistent and compatible with the existing and desired future character of the area.
- The middle portion of the building is recessed in order to present a modulated form that minimises bulk and scale, and reflects the existing subdivision pattern when viewed from the Harbour.
- The new building complies with current access requirements, which improves the site's ability to accommodate all ability levels. This benefits the future occupants and the quality of housing stock in the locality.
- The proposed building represents a more sensitively designed and sustainable development than the existing building. The proposal achieves compliance with the relevant sustainability targets of BASIX. In addition, it incorporates ESD elements, such as internal arrangements which maximise natural light and cross ventilation on a challenging site; solar panels; and electric vehicle charging points.

7.0 CONCLUSION

The proposed residential flat building at Nos. 77-83A Yarranabbe Road, Darling Point has been assessed in accordance with Section 4.15 of the EPA Act and Council's planning instruments. The proposal is permissible in the R3 medium Density Residential Zone under the LEP and in our opinion achieves the relevant objectives of the Zone. In our assessment, the proposal is also consistent with the provisions and objectives related to excavation, harbour foreshore scenic protection, and heritage conservation in the LEP.

This SEE demonstrates the proposal for the demolition of the existing single dwellings and residential flat building, the construction of a new five storey residential flat building with basement level, will achieve the desired character of the locality and maintain the relationship with surrounding development. While the current proposal has been assessed on its own merits, it provides consistency in overall scale, form, proportions, setbacks and materials with the existing approvals (DA 172/2018 and DA 233/2018) and surrounding area. This design approach ensures that the proposal will enhance the local streetscape character and will have a similar impact as the envelope of the previous approvals. Whilst the proposal has been assessed on its own merits, the two approvals on the site are a relevant consideration as Council and the Court were previously satisfied with their envelope, proposed impacts and Clause 4.6 variation requests.

While there is an area of non-compliance in the maximum building height and FSR requirements of the LEP, this has been fully justified in the accompanying Clause 4.6 Application to Vary a Development Standard. The Clause 4.6 Application demonstrates the proposal satisfies matters for consideration and achieves the objectives of the planning controls. In our opinion, the application is considered to be well-founded.

Compliance with the majority controls for mechanical parking installations, visual and aural privacy, fencing, rear setback and solar access of Council's DCP have been achieved. While the proposal does not comply with the internal amenity, landscaping or setback controls, in our opinion the development is consistent with the objectives of those controls. The proposal is also consistent with the Design Quality Principles of SEPP No. 65 and the Apartment Design Guidelines.

The design and siting of the development ensures the new building envelope is unlikely to cause significant overshadowing or loss of privacy to nearby properties. The proposal is also unlikely to significantly affect outlook or views from surrounding properties and the public domain.

The SEE is accompanied by architectural, landscape, survey, heritage, arborist, geotechnical, BASIX, view analysis, SEPP 65, traffic, civil, structural, access, BCA, fire, strata, construction management and waste consultant documentation. These plans and reports have informed our assessment and the consultant reports confirm the proposal is suitable in the locality and will provide additional housing and maintain neighbours' amenity.