



22 January 2025

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** **Development Applications:** 413/2024/1

**ADDRESS:** 488-492 Old South Head Road ROSE BAY 2029

**PROPOSAL:** Demolition of the existing buildings and construction of a new four storey mixed use building comprising a Woolworths supermarket at Ground floor and Level 1 and 13 residential apartments at Levels 1-3, three levels of basement car parking and associated services; site remediation; earthworks; landscaping; signage and siteworks.

**FROM:** Gina Scheer

**TO:** Ms L Samuels

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### 1. DOCUMENTATION

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by pbd architects, dated 26 September, 2024, and numbered DA 000 issue 3 to 004, DA 100 to 107, DA 200 to 201, DA 300 to 303, DA 400, 411, 412, DA 500, 510, 520, 530, 541, 560, DA 600, 601, 610, 611, DA 700 and DA 801.
- Statement of Environmental Effects by Ethos Urban, dated 4 October, 2024
- Aboriginal Heritage Impact Assessment by Austral Archaeology, dated 28 November, 2024
- Landscape Plan by Site Image Landscape Architects, no date, plans numbered 000, 100, 101, 102, 103 and 501 and 502.

### 2. DESCRIPTION OF PROPOSED WORKS

The application seeks consent to carry out Demolition of the existing buildings and construction of a new four storey mixed use building comprising a Woolworths supermarket at Ground floor and Level 1 and a total of 13 residential apartments at Levels 1-3, along with three levels of basement car parking and associated services; site remediation; earthworks; landscaping; signage and siteworks at the subject site.

The project is extensive and the works include the following impacts:

- Site preparation works including demolition of the existing building, remediation and earthworks.
- Construction and use of a four (4) storey mixed-use building comprising: – A Woolworths supermarket on the Ground Floor and part of the Level 1 area; and – 13 residential apartments located on Levels 1-3, comprising a mix of two, three and four bedroom dwellings.
- Construction of three (3) basement levels containing 70 supermarket parking spaces (inclusive of 5 'Direct to Boot' spaces), 19 residential vehicle spaces, 3 residential visitor parking spaces, a car wash bay, as well as motorcycle and bicycle spaces;
- Installation of business and building identification signage;



- Landscaping works including ground level secured separation zone landscaping and provision of upper level communal and private open spaces; and
- Extension and augmentation of infrastructure and services as required

Due to the size of the project, the site is the current subject of an active Planning Proposal (PP-2022-731). The planning proposal was issued a Gateway Determination on 23 February 2024 and will be determined by the Sydney Eastern City Planning Panel.

### 3. RESEARCH

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- The 2018 demolition report prepared by Weir Phillips Architects for No. 30 Albermarle Avenue, Rose Bay submitted to Woollahra Council for DA2018-296-1
- Council's stop the clock letter which included a request for an Aboriginal cultural heritage assessment
- The many objections to this DA, filed at the Development Application DA2024/413/1 to ascertain whether heritage was an issue
- Council's photography files relevant to the immediate area
- Council's aerial photography and mapping database
- Google Maps – street view

### 4. STATUTORY AND POLICY CONTEXT

The following statutory and policy documents are relevant to the application:

- National Parks & Wildlife Act 1974
- Heritage Act 1977 (as amended)
- Woollahra LEP 2014
- Woollahra DCP 2015

### 5. SIGNIFICANCE OF SUBJECT PROPERTY

The subject property was not assessed for its historical heritage significance. There was no heritage impact statement prepared for this DA. The area is not included in Council's historical maps.

To shed some light on the heritage significance some historical research has been completed for this referral. The historical information has been derived from Woollahra Library Local Studies collection, the Woollahra Aboriginal heritage study and the Aboriginal cultural heritage impact assessment report for the DA prepared by Austral Archaeology.

The property is located in an area designated potential Aboriginal heritage sensitivity, generally due to the historical landscape which comprised sand dunes in this part of Rose Bay. As noted from the Woollahra Aboriginal heritage study (2021),

*...back from the shoreline, we know relatively little about other campsites that could be located in the deeper dune deposits of Rose Bay and the elevated dunes either side of Rose Bay and on the harbour headlands at Darling Point and Point Piper. There have been only three archaeological excavations to date, and all have been within the Rose Bay dunes. Nothing is currently known about what the elevated dunes may contain. Two of the Rose Bay excavations found small quantities of artefacts, while the third found a concentration of more than 5,000 artefacts as well as human remains. 126 More information is needed to be able to predict where larger campsites may*



occur. However, it is clear from Rose Bay, and from investigations in similar sand bodies further south at Randwick, that archaeological remains could be found deep in the dunes, below the current reach of house or apartment building footings (Coast, 2021: 70). For this reason, conditions are included for Aboriginal cultural heritage management in relation to unexpected finds.

It appears that non-Aboriginal development on and around the subject property took place by the beginning of the 20<sup>th</sup> century. In 1903 allotments were offered for sale north of the subject property in the Carlisle Estate, above Dover Road. By 1911 there were residences constructed in the area of the subject property at Albermarle and Old South Head Road, with further subdivisions offered for sale in the Cardigan Estate east of Old South Head Road at that time. The 1943 aerial photograph shows numbers of what are likely to be houses facing Old South Head Road and Albermarle Avenue.



Figure 1: A 1943 aerial photograph showing the subject allotments and the numbers of residential buildings located on it at that time. The residence at DP 4567, No. 30 Albermarle Avenue is extant. (NSW Six Maps).

In 1961 Caltex purchased the property and established a service station with three underground storage petrol tanks. They renovated the property in 1991 and replaced the tanks. It was noted that there was only one residential building facing Albermarle Avenue extant in 1978 (Austral Archaeology, 2024: 10).

In 2005 it appears that the earlier service station had been demolished/upgraded and replaced with a newer version and the residential building facing Albermarle Avenue was still extant (Austral Archaeology, 2024: 10).

No. 30 Albermarle Avenue is part of the subject property and the residence is still extant. In 2018 a demolition report was prepared by Weir Phillips Architects for 30 Albermarle Avenue as part of a DA, DA2018/296/1. That redevelopment has not taken place. The demolition report has been reviewed and its history notes the following information regarding dates and occupants which assists in understanding that the property does not meet heritage significance at a local level:



The allotment was part of the Rose Bay Estate. The dwelling at Lot 30 of DP 4567 was included in the Sands Directory for the first time in 1913, when Edmund Covell was the occupant and the house was called *Roscrea*. This suggests a construction date of 1912, which is consistent with the architectural style of the existing dwelling. Charlotte Ruth Covell purchased it in 1916 then in 1918 Alice Maud Connery purchased it and rented to various tenants until 1930. Edward Eagleton, his daughters Francis Bridget and Veronica Mary Eagleton owned it until 1970. In the 1970s the house was owned by Rose Ho Yip Leung and her family. They added a new bedroom, bathroom and a carport in 1973. Since that time there have been a number of approved "additions" to the building.

The 2018 report completed a heritage significance assessment and concluded the residence did not meet any of the heritage criterion. It also recommended however that prior to demolition an archival recording of the building be completed as per standard Woollahra Council requirements. Estate it is recommended that a photographic archival record of the residence and property is to be completed prior to its demolition as part of this proposal.

#### Significance as per the Woollahra LEP 2014

The subject site is not a listed heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014 'Woollahra LEP 2014' and is not within a heritage conservation area. The 2018 demolition report assessed the heritage significance and concluded that No. 30 Albermarle Avenue, Rose Bay forms part of the later subdivision of the Cooper Estate in Rose Bay, in the early 20<sup>th</sup> century. The dwelling constructed c.1912, is a modest example of a Federation period dwelling with later alterations and additions. The extant building was not innovative for its day in terms of layout, form siting or architectural detailing. It is not a landmark site and is located within a mixed residential setting. No person of note has been associated with the site. It does not meet the threshold for listing on the LEP (Weir Phillips, 2018: 21).

#### *Significance of items in the vicinity*

There are no listed heritage items in close proximity that would be adversely affected by the proposal. The closest heritage items are located a few blocks distance from the subject property and are:

- 'Rose Bay Uniting Church and Wesley Hall group of buildings at 518a Old South Head Road, LEP Item No. I683
- Royal Sydney Golf Club, Kent Road, LEP Item No. I318

#### Significance as per the Woollahra DCP 2015

The subject site is not located within a heritage conservation area or a residential precinct outlined in the DCP.

## **6. ASSESSMENT OF HERITAGE IMPACT - Compliance with the relevant legislative framework and planning controls**

#### National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 24 January 2025 from the Department of Environment & Heritage NSW website revealed there are no previously recorded Aboriginal sites within a 200m buffer in or near the subject address location



and no previously recorded Aboriginal places within a 200m buffer in or near the subject address location.

The AHIA was prepared by Austral Archaeology Pty Ltd and included information from a site inspection carried out by archaeologist Jake Allen and La Perouse Local Aboriginal Land Council representative Steven Ella on 26 November 2024. The report included information relating to finds within a five-kilometre radius of the subject property and to previous reports. The conclusions drawn were that there was low archaeological potential for this subject property. Geologically it is an area classified as historical coastal deposits, dune facies. While this landscape feature has ensured the address is listed as having the potential to contain Aboriginal cultural heritage for Woollahra Council, the subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The AHIA confirms that the property is located in area of low Aboriginal cultural heritage/archaeology potential. The AHIA confirms that the proposed works can proceed 'with caution'. The AHIA notes that the La Perouse Local Aboriginal Land Council have confirmed that workers involved in initial earthworks are to be provided with an Aboriginal cultural heritage induction in relation to any unexpected finds. Appropriate conditions are provided in this referral to manage Aboriginal heritage unexpected finds.

#### Heritage Act 1977

The subject site is not listed as a heritage item on the State Heritage Register.

The subject site is not listed as a heritage item on a Section 170 Heritage and Conservation Register.

The subject site is not listed on the Woollahra LEP 2014 as an Archaeological Site.

The subject site is not likely to contain relics as per the Heritage Act 1977 definition. This assessment is made based on the known history of 20<sup>th</sup> century development, which included deep excavation for underground petrol tanks in the 1970s which would have removed archaeological remains of early 20<sup>th</sup> century houses and other developments (refer to Figure 1) and the geological history of sand dunes prior to any development.

#### Woollahra LEP 2014

##### *Clause 1.2 Aims of Plan*

*Subclause 1.2. (2) (f) – to conserve and enhance built and natural environmental heritage*

- The proposed works will not have a detrimental impact on the built and natural environmental heritage. As such it conserves the existing built and natural environmental heritage.

##### *Clause 5.10 Heritage Conservation*

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP. The following commentary is provided:

- **Clause 5.10(1)(a):** The proposed development conserves the heritage of Woollahra as it does not appear to give rise to unacceptable impact on the heritage significance of items in the wider area including views to them and the item itself is not a heritage listed item.



- **Clause 5.10(1)(d):** Although the property is located within an area identified as having potential for Aboriginal cultural heritage, the assessment, site visit and advice from the La Perouse LALC is that this property is not identified as a place of heritage significance and has low archaeological potential. Therefore, the proposal does conform with this objective.
- **Clause 5.10(2) and (3):** Consent is required for the proposed works
- **Clause 5.10(4):** There was no assessment of heritage significance of the subject property apart from the Aboriginal cultural heritage assessment. The subject property is not an identified heritage item or near heritage items or located within a heritage conservation area. It is located outside of the Rose Bay residential precinct. Therefore, this clause is not applicable.
- **Clause 5.10(5):** A heritage management document was submitted with the development application assessing Aboriginal cultural heritage and it was found to be acceptable.
- **Clause 5.10(6):** A Conservation Management Plan was not required.
- **Clause 5.10(7) and (8):** The site is not identified as an archaeological site or a place of Aboriginal heritage significance by the Aboriginal cultural heritage impact report (Austral Archaeology 2024) and site inspection by an archaeologist and a representative of the La Perouse LALC. There are conditions applying for unexpected finds which are included in this referral.
- **Clause 5.10(9):** Demolition of a nominated State heritage item is not proposed.
- **Clause 5.10(10):** Conservation incentives are not being sought as part of this application.

#### Woollahra DCP 2015

The subject property at the corner of Old South Head Road and Albermarle Avenue is located outside of the Rose Bay residential precinct, as shown on the DCP map from Chapter B1, refer to Figure 2 overleaf. However, the property at No. 30 Albermarle Avenue is just contained within the Rose Bay residential precinct, located at its edge.

Of relevance to the Albermarle Avenue property and this DA is the following description from Chapter B1 of the Woollahra DCP 2015:

*The Rose Bay residential precinct incorporates the hillside at the neck of the eastern suburbs peninsula and the lowest part of the Rose Bay basin (adjacent to the large park and recreational area). The street block system in the low lying areas is generally rectilinear, allowing for regular building lots....The mixed use centres of Rose Bay North and Rose Bay South are located on Old South Head Road. These centres frame the precinct and serve the daily and weekly shopping needs of the local community.*

#### *B1.9.2 Desired future character*

*Although much of this R3 zoned land currently contains many dwelling houses, this area is identified for change and will be redeveloped for medium density residential uses such as residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and attached dwellings. In particular, there is opportunity for redevelopment along Old South Head Road, with a view to providing a greater intensity of development adjacent to this classified road.*

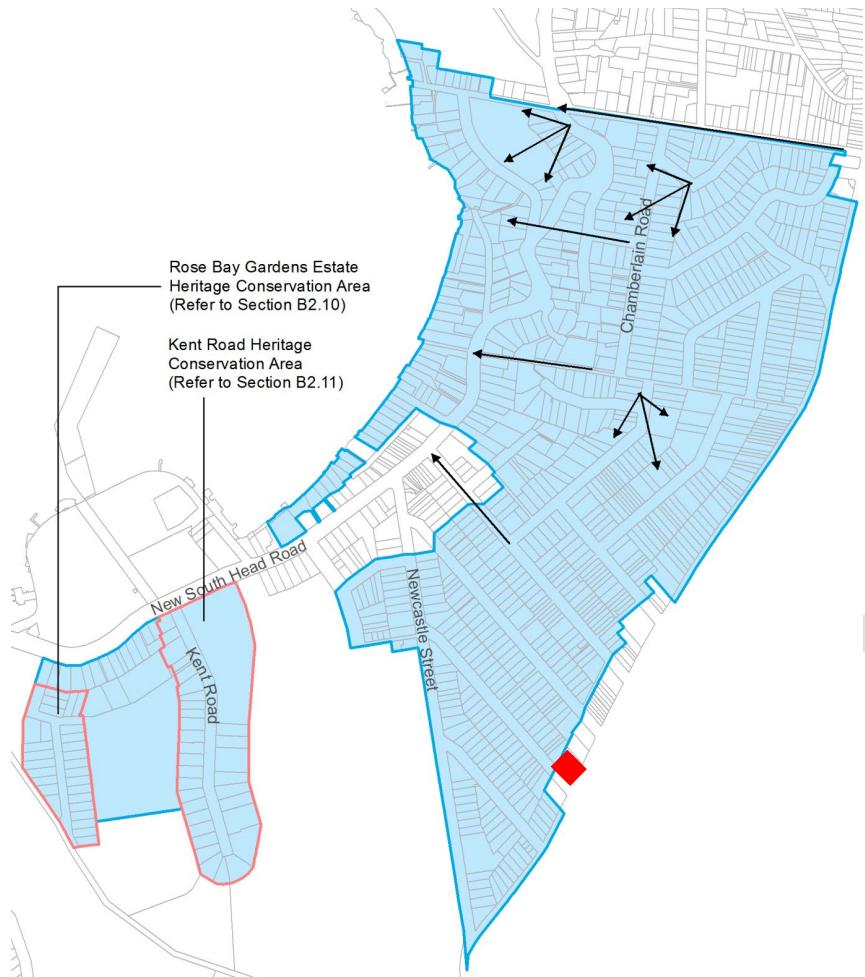


Figure 2: Location of the subject property outside of the Rose Bay Residential Precinct.

The relevant desired future character objectives in relation to the 30 Albermarle Avenue property and DA are as follows, Objectives O1, O2, O4 to O6 and O8 and are addressed below

**O1 To respect and enhance the streetscape character and key elements of the precinct.**

- The proposed redevelopment is for a ground floor Woolworths supermarket and three levels of apartments above. The structure will incorporate car parking for residents and shoppers. The design as shown introduces a larger scale and different character of building to that of the existing predominant one to two storey residences located on Albermarle Avenue. Due to its location and association with Old South Head Road, which has a more varied streetscape and character, this development is acceptable, despite the difference in character.

**O2 To encourage development at a scale which relates to the function and role of the streets they address, i.e. larger scale development on the major streets (Old South Head Road and New South Head Road adjacent to the commercial centre) and a range of housing types on the minor streets.**

- As noted above, the larger scale development for Old South Head Road fits with its role and function. However, the proposal introduces a new element for Albermarle Avenue. The stepped back design for the three levels of residential apartments is a suitable mitigation in this corner location. It will also be mitigated by the landscaping and street trees which form part of the development.



*O4 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*

- For Albermarle Avenue, the proposal introduces a larger scale apartment building with ground floor supermarket and this is a new element for the Avenue. However, an apartment building continues the evolution of residential building styles in this part of Rose Bay, and of course similar developments from different periods of time are in place around the corner on Old South Head Road.
- The building appears to be a well designed development which complements the corner location and – due to the stepped back top two levels – will not dominate Albermarle Avenue.
- The pedestrian supermarket entrance being confined to Old South Head Road is also a suitable design component which respects the residential character of Albermarle Avenue. The location of three vehicular entries from Albermarle Avenue is not a design that complements or respects its streetscape character.

*O5 To reinforce a consistent building scale within streets.*

- The proposal is for a mixed use development on a larger scale than the existing older period structures and properties on Old South Head Road. It is not consistent with the building scale for Albermarle Avenue. The stepped back approach for the upper levels reduces the impact of a four storey mixed use development in this location.

*O6 To design and site buildings to respond to the topography and minimise cut and fill.*

- This Objective cannot apply to a large mixed use development in this corner location, where a large amount of cutting will be required to remove underground petrol tanks and excavate for basement level parking and supermarket deliveries.

*O8 To reinforce the landscape setting and maintain the existing tree canopy.*

- The landscape setting will be enhanced by green / planting edging to each of the upper residential levels.
- At ground level, new landscaping and plantings including trees will replace the garden of No. 30 Albermarle Avenue. The new landscape designs contribute to the existing tree canopy, but may not be reinforcing it.

## 7. CONCLUSION

The proposal has been considered having regard to the applicable legislation and policy documents and, on balance, is considered to be acceptable.

## 8. RECOMMENDATION

1. No objections are raised to the proposal, subject to the conditions as recommended, as it complies with the relevant statutory and policy documents and would have an acceptable heritage impact.

### **A.1 Recording of Buildings with Little or No Heritage Significance that are to be Demolished – 30 Albermarle Avenue, Rose Bay**

Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the residence and property at 30 Albermarle Avenue Rose Bay to be demolished is to be submitted, to the satisfaction of Council's heritage officer.



The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) A concise history of the property – which is also contained within the 2018 heritage assessment / demolition report
- b) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- c) Coloured photographs of:
  - each elevation,
  - each structure and landscape feature, and
  - views to the subject property from each street and laneway or public space.

**Notes:**

Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf>

**Condition Reason:** To ensure existing building and landscape elements are recorded to add to our understanding of the history of Rose Bay.

#### A.2 Aboriginal Heritage Induction

Prior to any site works:

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
- b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
- c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

**Condition Reason:** To protect Aboriginal heritage and to comply with NPW Act 1974 and with the Woollahra LEP 2014.

#### A.3 Aboriginal Heritage Due Diligence Responsibilities

While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.



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**Condition Reason:** To protect Aboriginal heritage and to comply with NPW Act 1974 and with the Woollahra LEP 2014.

#### A.4 Heritage Fabric – 30 Albermarle Avenue, Rose Bay

Before the issue of any construction certificate, the Site Waste Minimisation and Management Plan must detail the recycling/salvaging of any significant heritage fabric from the subject site. This may include, but is not limited to, doors, windows, joinery, lighting, plumbing, bricks, stone, roofing, flooring and hardware.

Whilst the existing building is not Heritage listed, it incorporates significant heritage fabric worthy of recycling/salvaging – such as the tessellated tiles on the front verandah and any plaster ceiling roses.

**Condition Reason:** To ensure significant heritage fabric is recycled/salvaged.

Gina Scheer  
Heritage Officer

29 January 2025  
Completion Date