

## COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC-4
DA Number	515/2018/1
LGA	Woollahra
Proposed Development	Demolition of existing buildings and construction of a new residential flat development containing 3 buildings linked via a common basement car park, communal open space, landscape and site works
Street Address	206D, 280, 210 & 210A Victoria Road BELLEVUE HILL
Applicant/Owner	Denwol BH Pty Ltd (ABN: 44 621 964 592)
Date of DA lodgement	23/11/2018
Number of Submissions	43
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The development that has a capital investment value of more than \$10 million but less than \$30 million: <ul style="list-style-type: none"> <li>for which a development application to the relevant council has been lodged but not determined within 120 days after the application was lodged, and</li> <li>that is the subject of a written request to that council by the applicant for the application to be dealt with by a regional panel</li> </ul>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act 1979 (Section 4.15)</li> <li>Sydney Regional environmental plan (Sydney Harbour Catchment) 2005</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy 55: Remediation of Land</li> <li>State Environmental Planning Policy 65: Design quality of residential flat development</li> <li>Woollahra Local Environmental Plan 2014</li> <li>Woollahra Development Control Plan 2015</li> <li>Section 7.11 Contribution Plans</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>Conditions</li> <li>Plans and elevations</li> <li>Annexures</li> </ul>
Report prepared by	Mr Dimitri Lukas (Senior Assessment Officer)
Report date	14 November 2019

### Summary of s4.15 matters

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

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

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

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

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

## **PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>PANEL REFERENCE No.</b>	PPSSEC-4
<b>COUNCIL</b>	Woollahra
<b>COUNCIL REFERENCE No.</b>	DA515/2018/1
<b>ADDRESS</b>	206D, 280, 210 & 210A Victoria Road BELLEVUE HILL
<b>PROPOSAL</b>	Demolition of existing buildings and construction of a new residential flat development containing 3 buildings linked via a common basement car park, communal open space, landscape and site works
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$24,879,916.00
<b>DATE LODGED</b>	23/11/2018- Original submission 09/07/2019 – Replacement Application I
<b>APPLICANT/OWNER</b>	Denwol BH Pty Ltd (ABN: 44 621 964 592)
<b>ASSESSING OFFICER</b>	Dimitri Lukas (Woollahra Senior Assessment Officer)
<b>SUBMISSIONS</b>	43
<b>RECOMMENDATION</b>	Approval

### **1. REASON FOR REPORT TO PLANNING PANEL (PP)**

Pursuant to State Environmental Planning Policy (State and Regional Development) 2011 – Schedule 7, sub-clause 9, the application is to be determined by the Sydney Eastern City Planning Panel because:

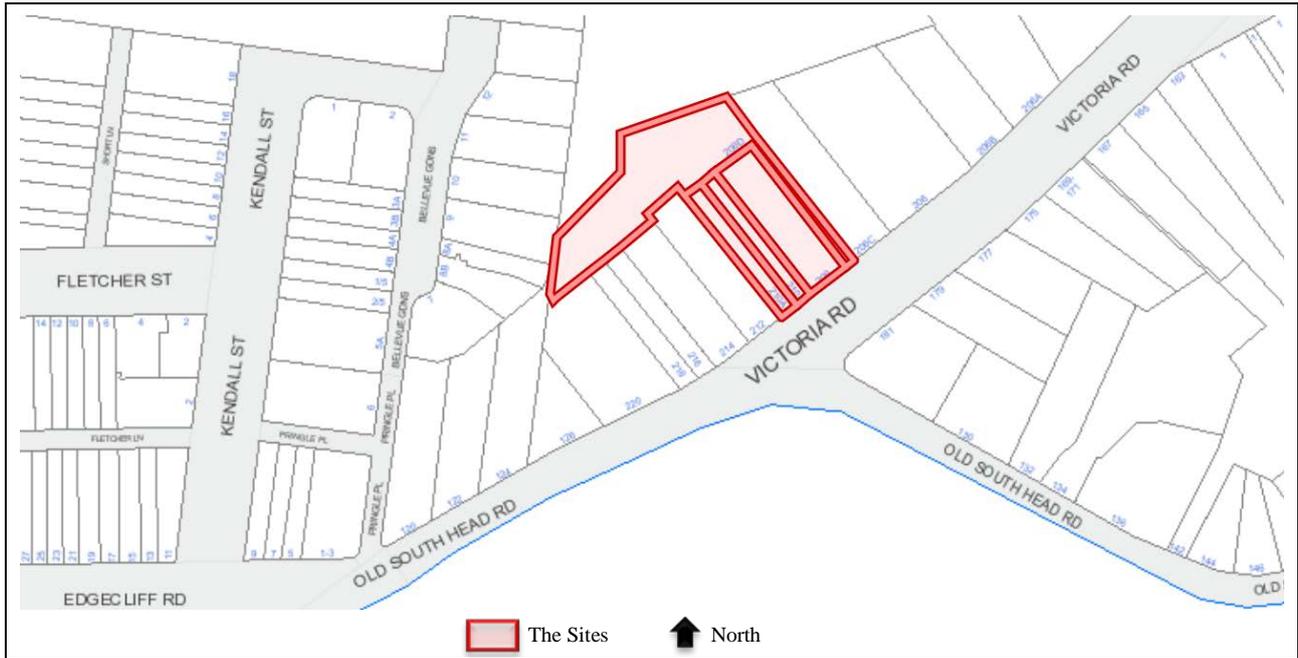
- “...the development that has a capital investment value of more than \$10 million but less than \$30 million –*
- (a) for which a development application to the relevant council has been lodged but not determined within 120 days after the application was lodged, and*
  - (b) that is the subject of a written request to that council by the applicant for the application to be dealt with by a regional panel...”*

### **2. REASONS FOR RECOMMENDATION**

The application has been assessed within the framework of the relevant matters for consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979 and is recommended for approval because:

- The development is permissible within the zone;
- It is considered to be satisfactory with all relevant planning policies including the objectives of SEPP 65, WLEP 2014 and WDCP 2015;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report and considered to be satisfactory;
- The site is suitable for the proposed development; and,
- The proposal is in the public interest.

### 3. LOCALITY PLAN



### 4. PROPOSAL

The proposal is for demolition of 3 existing buildings on the subject sites (ie. No.206D – Inter war flat building; No.208 – Townhouses; and No.210 & 210A Semi-detached dwellings, in total consisting of 13 existing dwellings). The sites would be amalgamated to enable construction of a new residential flat development (RFB) comprising 3 buildings.

The new RFB would be 4-5 storeys in height containing 25 units with a composition of 4 x 2, 13 x 3 and 8 x 4 Bedrooms. The sites would be excavated to facilitate a multi-level common basement that provides 54 vehicle parking spaces, lift access and ancillary areas. The balance of the proposed development is for communal open space, a new landscape scheme and associated site works. Part of the site works would include stabilization of an existing rock escarpment located partially on the subject site and partially on Council land.

A comparative of the existing streetscape/landscape and a photomontage of the proposal viewed from various vantage points as provided by UP Architects is as follows:



Existing and Proposed view  
Victoria Road (Source: UP Architects)



Existing and Proposed view  
 Cooper Park (Source: UP Architects)



Existing and Proposed view  
 Kendall Street (Source: UP Architects)

Replacement Application I which was lodged on 9 July 2019 amended the proposal to retain trees in the far southern corner of the site. The amending plans submitted with this application form the subject of this assessment.

## 5. SUMMARY OF SUBMISSIONS

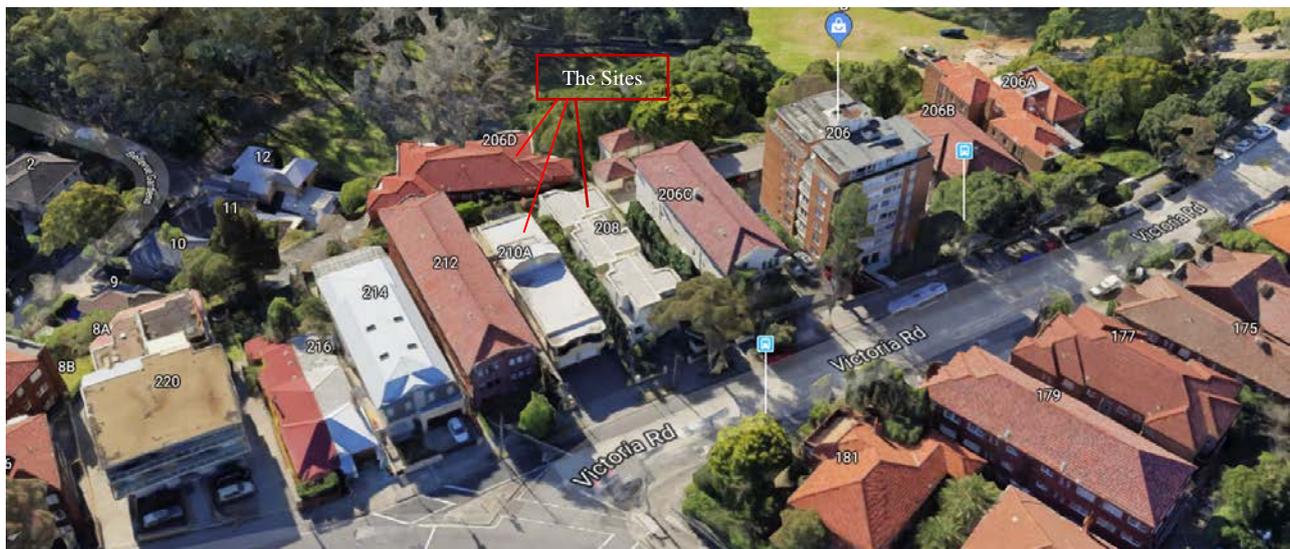
Issue	Conclusion
<b>Zoning</b>	The proposed development, defined as a residential flat building, is a permissible form of development in this R3 Medium Density Residential zone.
<b>Out of character / Overdevelopment</b>	The development provides for the housing needs of the community within a medium density zone and is of a height and scale that achieves the desired future character of the neighbourhood. The proposed development is expected in this zone, is virtually fully compliant with Council's planning controls and is therefore not an overdevelopment of the site.
<b>Streetscape / Design</b>	The design of the development is a modern contemporary form that provides variation to housing types within this medium density residential environment.
<b>Height</b>	The development, including the lift over-run and roof top structures, is fully compliant with the maximum height of buildings development standard.
<b>Floor Space / Density</b>	The development complies with the maximum floor space ratio development standard. The proposed density, directly correlated to the FSR, is expected for this site and locality.
<b>Inadequate setbacks</b>	The development is suitably sited given the sites unusual configuration. It has been sited and designed to minimise detrimental impacts on the amenity of adjoining residents. The setbacks remain consistent with other similar scaled and sited development in this locality.
<b>Non-compliances</b>	There are some relatively minor numerical non-compliances with the relevant planning controls (SEPP 65 & WDCP 2015). Notwithstanding, the development subject to conditions, satisfies the objectives underpinning those controls and is an appropriate development for this site.
<b>Overshadowing</b>	Though there is inevitable overshadowing to the property immediately adjoining to the south, the extent of overshadowing created by the proposed development is not unreasonable. The solar access provided to the most affected property is no greater than what presently exists and is compliant with Council's controls.

Issue	Conclusion
<b>Privacy</b>	<p>The proposed main living areas and private open space of the units are primarily orientated towards Victoria Road or to the rear towards Cooper Park valley. The layout and location of the primary living areas, private open space and bedrooms are consistent with the prevailing layout and orientation of other residential development in this immediate locality.</p> <p>The proposed terraces, balconies and windows on the upper levels are appropriately screened or treated. The extent of overlooking between residential properties is mutual, expected and reasonable in this built up urban and hilly environment. See below for further assessment.</p> <p>Standard Council conditions have been applied to minimise impact from all mechanical plant equipment and enable action should a nuisance arise.</p>
<b>Amenity</b>	<p>The assessment of the development against the relevant planning controls concludes that it satisfies those controls or their objectives and will not detrimentally impact on the amenity of adjoining residents.</p>
<b>Rock face / escarpment</b>	<p>The existing rock face located on Council land needs rectification work. The rectification work cannot proceed because of access and the potential damage to the existing buildings/structures immediately above. Any redevelopment of the subject site cannot proceed without rectification work to the rock face. In this regard, the redevelopment of the site and rectification work to the rock face go hand in hand.</p> <p>Council's Assets Team has referred this application to an engineering firm (GHD) for review. The advice received is that the proposed development will not cause any adverse impacts to the properties that are located below the rock face.</p> <p>Prior to any excavation works are undertaken, the rock face will require stabilisation works. The stabilisation works are outlined in the GHD Engineering Rock Face Assessment and conditions have been imposed for these works to be undertaken with appropriate programming, supervision, certification and monitoring.</p>
<b>Excavation / Construction issues</b>	<p>A Geotechnical Engineers Report has been submitted and reviewed by Council's Development Engineer. The conclusion reached is that there are no mitigating circumstances associated with the proposed excavation that will detrimentally impact the amenity of adjoining residents, the environment, the water table or any adjoining structures. Conditions are applied to mitigate the expected impacts associated with the excavation and construction process including vibration monitoring, submission of dilapidation reports, dust control and the like.</p> <p>Any new development will inevitably result in temporary impacts on the locality during the excavation and construction process. To ensure the proper and orderly management of the works and to mitigate the anticipated impacts associated with the redevelopment of the site, a Construction Management Plan is recommended to be submitted and approved by Council. Conditions applied.</p>
<b>Trees</b>	<p>The existing identified significant trees on the southern end of the site fronting Victoria Road would be retained. There are no other identified significant trees that would be removed. Significant trees identified on adjoining sites would also be retained. Conditions are imposed to ensure these objectives are achieved.</p>
<b>Parking / Traffic issues</b>	<p>The proposal complies with the FSR control achieving the expected density for this site. Off street car parking is provided on this site to cater for the number of dwellings in accordance with Council's requirements. It should be noted that the car parking controls as prescribed by Council's WDCP 2015 are a maximum requirement not a minimum.</p> <p>Council's Traffic Engineer indicates the anticipated movements from the basement level are unlikely to detrimentally impact on traffic flow or result in vehicle and pedestrian conflict on Victoria Road.</p> <p>The proposal is unlikely to detrimentally impact on the amenity of the neighbourhood with regard to parking availability or traffic movements.</p>

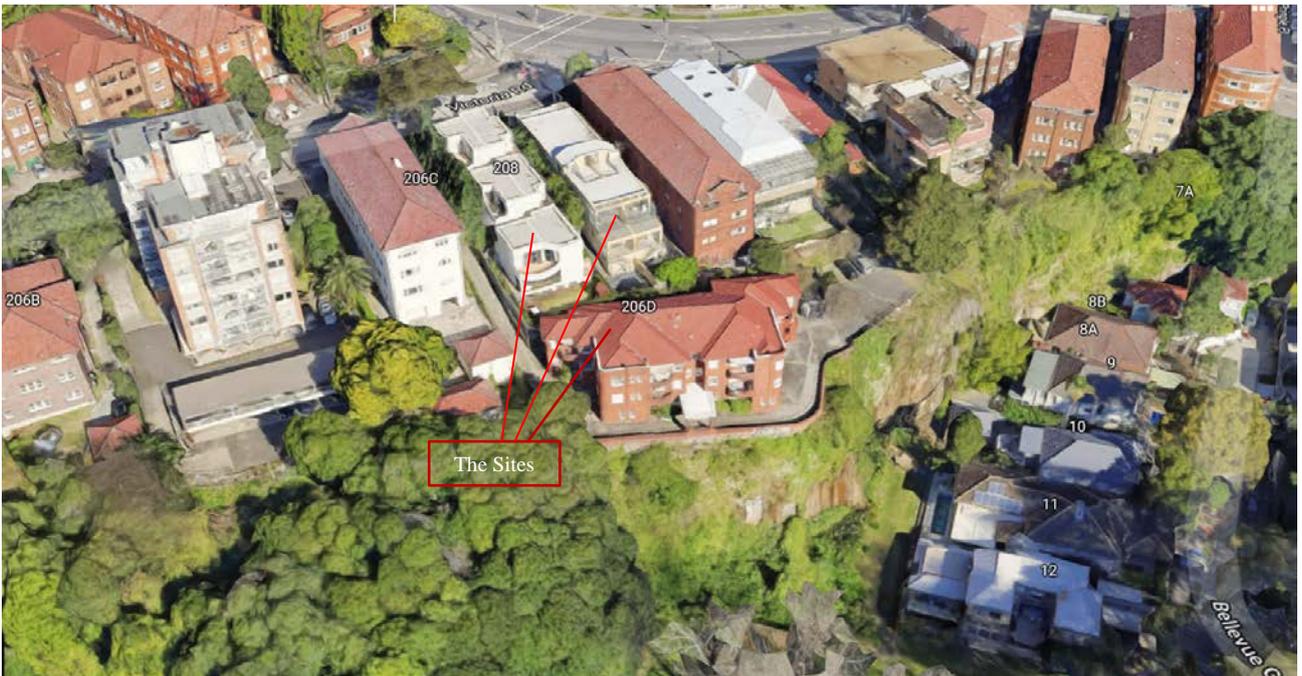
Issue	Conclusion
<b>Falling objects</b>	Falling objects are a risk from any development elevated above public or private land. The development is sufficiently setback from properties located on Bellevue Gardens immediately to the rear and below the site to ensure there is no detrimental impact on their amenity.
<b>Views</b>	Any building form fully compliant with Council's FSR and height controls would impact on existing views. The proposed building envelope is generally compliant with Council's controls and it is this compliant building envelope that is expected and encouraged on this site that causes the view loss. The extent of the view loss from the proposed building is reasonable in this circumstance. See below for further assessment.
<b>Precedent</b>	This is not a relevant issue pursuant to the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Each development is assessed on its merits.
<b>Fire Safety</b>	The fire consultant report submitted indicates that it is possible to implement a performance design solution for fire safety compliant with the relevant provisions of the BCA without significant changes or modifications to the building design.
<b>Inaccurate / Misleading Documentation</b>	The information submitted is sufficient for the Panel to determine the application pursuant to the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.
<b>Heritage</b>	A Demolition Report and a Due Diligence Report for Aboriginal Heritage were submitted and reviewed by Council's Heritage Officer. The findings of the reports were considered to be accurate with conditions imposed to ensure its terms are satisfied.
<b>Ecological Impacts</b>	The proposal is unlikely to detrimentally impact on the ecology of the locality.
<b>Garbage</b>	A Site Waste Minimisation Management Plan (SWMMP) has been submitted and details the waste management of the site. The proposal provides adequate storage, access and disposal of waste from the site in accordance with Council's requirements. The waste disposal is unlikely to detrimentally impact on the amenity of adjoining residents or the locality.
<b>Advertising / Notification Signage</b>	<p>The application has been submitted and assessed in accordance with Council's requirements and procedures. All local residents have been afforded opportunity to make a submission in relation to the development and may voice their concerns at the Planning Panel who will determine the application.</p> <p>The advertising and notification of the development has been completed in accordance with Council's requirements prescribed by WDCP 2015.</p>

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY



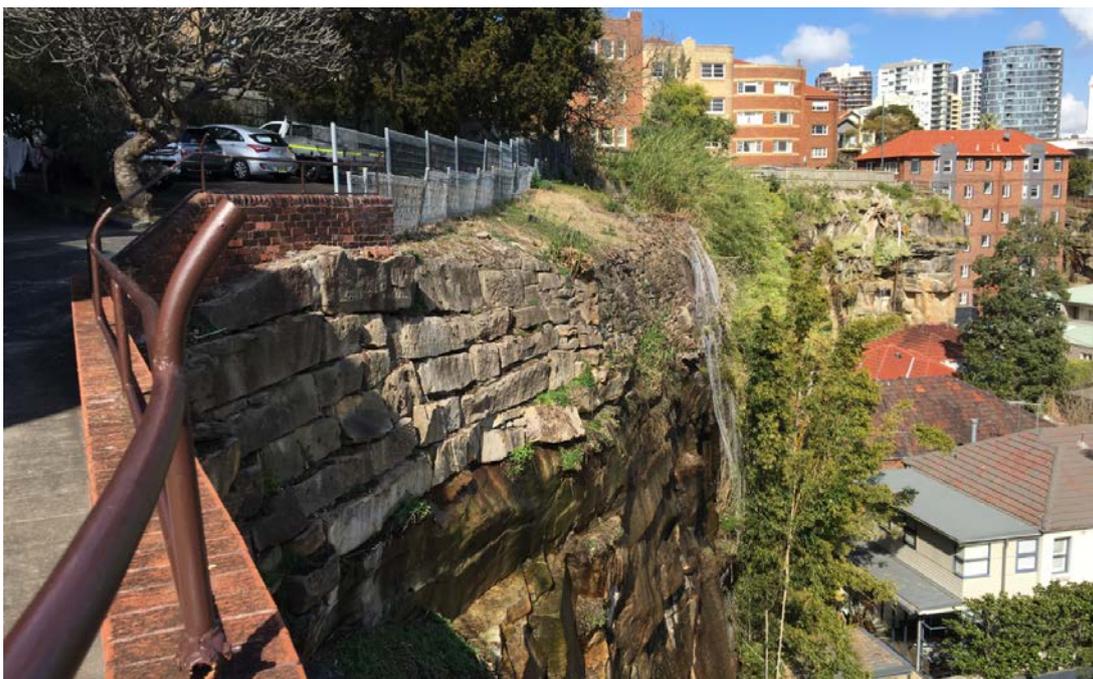
3D Aerial View (Source: Google maps)



3D Aerial View (source: Google maps)



Victoria Road street front elevation (source: UP Architects)



View towards rear South west corner of site

### Physical features

There are four (4) sites that form the subject development site, being Nos.206D, 208, 210 and 210A Victoria Road Bellevue Hill. The combined sites are located on the western side of Victoria Road a few properties removed to the north from the Old South Head Road intersection.

The sites are sited on the southern end of the Bellevue Hill ridge. The northern end of the sites adjoins a cliff face that is primarily on public land. Immediately below this cliff face to its eastern end is Cooper Park and towards its western end is the rear of residential properties accessed from Bellevue Gardens.

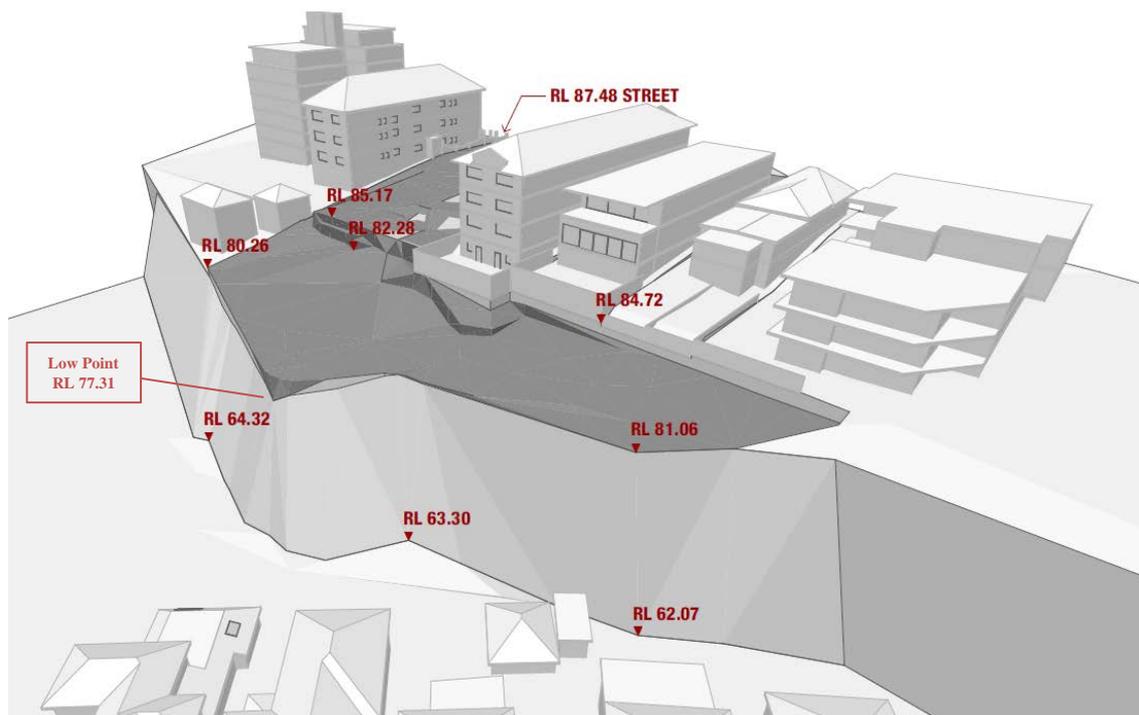
The combined sites have a frontage to Victoria Road of 27.435m. The north eastern side boundary is 61.415m and the south western side boundary is 49.08m.

The rear north western boundary, adjoining public land, is dog legged and has a combined length of 71.025m. The rear north western boundary, adjoining the private properties along Bellevue Gardens, totals 18.765m. The total combined rear north western boundary length is 89.79m.

The sites rear south east side, adjoining the rear of properties fronting Victoria Road, have a staggered boundary totalling 52.12m. The combined site area is 2525.5m<sup>2</sup>.

### Topography

The site generally falls down from Victoria Road. There are varying undulations along the rear elongated section of the site but it generally falls towards its rear centre. There is an approximate difference of 10m between the high point of the site to its front eastern corner on Victoria Road down to its lowest point located centrally along its rear northern boundary. The topography is best depicted of the sites in the 3D model provided by UP Architects which includes Reduced Levels:



### Existing buildings and structures

No.206D Victoria Road contains a 3 storey inter war flat building with 6 units. Car parking is provided partly within this building as well as an open hard stand car parking area to its south western end. Along its rear northern side boundary above the cliff face is a low lying perimeter fence consisting in part of masonry, sandstone, concrete and wire. This site has a long and narrow access handle located between No.206C and 208 Victoria Road.

No.208 Victoria Road contains a part two/part three storey townhouse development comprising 3 detached dwellings. The dwellings step down the site following the topography.

No.210 & 210A Victoria Road contains a pair of two storey semi-detached dwellings.

<b>Surrounding Environment</b>
<p>The subject sites are surrounded by an eclectic mixture of low and medium density development comprising single storey dwelling houses, semi-detached dwellings, townhouses and residential flat buildings ranging between 3 and 8 storeys in height.</p> <p>On the opposite side of Victoria Road are a group of inter war flat buildings up to 4 storeys in height.</p> <p>To the rear northern end and below the subject site are single dwelling houses accessible from Bellevue Gardens.</p> <p>There is a healthy tree canopy to the rear of the site within Cooper Park as well as on public and private land facing Victoria Road.</p> <p>Victoria Road generally follows the Bellevue Hill ridge and offers a variety of views from both the private and public domain. To the north are views towards the Cooper Park valley, Sydney City skyline and Sydney Harbour. To the south there are views of Bondi Junction Commercial Centre and the Pacific Ocean.</p>

## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
No.206D Victoria Road – RFB No.208 Victoria Road – Townhouses No.210 & 210A Victoria Road – Dwellings
<b>Relevant Application History</b>
There is no application history in Council’s inventory relevant to the scope of works proposed.
<b>Relevant Compliance History</b>
Nil.
<b>Pre-DA</b>
Nil.
<b>Requests for Additional Information and Replacement Applications</b>
28.11.2018 – Request to provide revised stormwater plans, amended driveway details and demolition report. 30.11.2018 – email to applicant requesting a Due Diligence Aboriginal Heritage Assessment. 03.12.2018 – Submission of additional information to address Council request. 12.12.2018 – revised Demolition Report submitted. 07.03.2019 – Due Diligence Aboriginal Heritage Assessment submitted. 26.06.2019 – Amended Geotechnical Report, Landscaped design and Aborigicultural Impact Assessment. 05.07.2019 – Supplementary Geotechnical advice submitted. 09.07.2019 – Replacement Application submitted with amended architectural and landscape plans. 16.08.2019 – Application registered with the Planning panel for determination. 23.08.2019 – email request to provide GFA and excavation calculations. 29.08.2019 – request to provide Preliminary Site Investigation Report and view analysis undertaken. 27.09.2019 – email request to respond to engineering issues associated with rock face/escarpment. 01.10.2019 – Risk Assessment submitted to address engineering issues. 04.10.2019 – further email request to respond to engineering issues associated with rock face/escarpment. 16.10.2019 – further Risk Assessment submitted to address engineering issues. 05.11.2019 – Confirmation of Survey submitted.
<b>Land and Environment Court Appeal(s)</b>
25.06.2019 – Land and Environment Court Class 1 Appeal lodged (Case No.195438 of 2019). A conciliation conference pursuant to section 34 of the Land and Environment Court Act 1979 is scheduled for 28 February 2020. The date of submission of the Statement of Facts and Contentions has been delayed and are under review as agreed to by both parties.
<p>It should be noted that pursuant to Section 8.15(4) of the EPA &amp; Act 1979 the Council “...remains the respondent but is subject to the control and direction of the panel in connection with the conduct of the appeal...”</p>

## 8. REFERRALS

Referral	Summary of Comment	Annexure
<b>Urban Planner</b>	<p>“...This site is an example of the permitted FSR being in conflict with the building envelope ...the level of development proposed and the impact that that development will have on the public park and adjacent dwellings is unacceptable...</p> <p>...The proposed building excavates to accommodate more ...off street car spaces ...residential accommodation...</p> <p>...The ground level of the four storey development along the escarpment has been excavated to lower the built form and effectively alters the profile of the escarpment. This altering of a topographical feature to accommodate residential development is not appropriate...</p> <p>...The proposal in its present form should be refused. To be acceptable from an urban design perspective the rear built forms would need to be significantly lowered and pulled away from the boundary. And the amount of excavation would need to be significantly reduced and have the required side setbacks...”</p>	1
<b>Engineering</b>	The proposal is satisfactory subject to conditions.*	2
<b>Traffic</b>	The proposal is satisfactory subject to conditions.*	3
<b>Heritage</b>	The proposal is acceptable on heritage grounds as it complies with the relevant statutory and policy documents and would have a satisfactory impact. Consent, subject to conditions.*	4
<b>Trees</b>	The proposal is satisfactory subject to conditions.	5
<b>Health</b>	The proposal is satisfactory subject to conditions.*	6
<b>Drainage</b>	The proposal is satisfactory subject to conditions.*	7
<b>NSW RMS</b>	No objection subject to advisory comments to consider.	8

\* The conditions recommended have been modified for clarity.

In relation to Council’s Urban Planners comments, an assessment of the development against the relevant planning controls, and in particular the provisions of SEPP 65, is undertaken below.

### ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) The provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - (iii) any development control plan, and
  - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
  - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,
- (b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) The suitability of the site for the development,
- (d) Any submissions made in accordance with this Act or the regulations,
- (e) The public interest.

## **9. ADVERTISING AND NOTIFICATION**

### **9.1 Submissions**

The application was advertised and notified in accordance with Chapter A2 of the Woollahra DCP 2015. In response to the notification period, forty-three (43) submissions were received.

The issues raised in the submissions have been summarised above (see Section 5) and where required, are further addressed in the body of the report.

### **9.2 Statutory Declaration**

The applicant has completed the statutory declaration declaring that the site notice was erected and maintained during the notification period in accordance with Chapter A2 of the Woollahra DCP 2015.

### **9.3 Replacement Application**

Replacement Application I as detailed above was not renotified to surrounding residents and objectors because, pursuant to Chapter A2 of the Woollahra DCP 2015, the amended design would have no greater cumulative environmental or amenity impact.

## **10. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005**

The subject site is within the area to which the SREP applies.

The proposed works have no detrimental impact on the watercourse, wetlands or significant vegetation and do not result in any adverse visual impact on the foreshore. The works blend into the urban landscape and have no detrimental impact on the harbour or any view to or from the waterways.

The proposal complies with the relevant criteria prescribed by the REP.

## **11. STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018**

The provisions of this planning instrument that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast. The proposal will have no detrimental adverse environmental impact on this coastal locality.

The proposal complies with the relevant criteria prescribed by this SEPP.

## **12. STATE ENVIRONMENTAL PLANNING POLICY NO.19 – BUSHLAND IN URBAN AREAS**

The subject site adjoins Cooper Park and accordingly this SEPP applies.

Cooper Park contains remnant bushland as defined by this SEPP.

The proposed development is undertaken to that part of the site that has already been developed. The works do not propose any alteration to any existing bushland.

Existing trees on and around the site that are identified as significant are to be retained and conditions are imposed to ensure this objective is achieved. The new landscape scheme provides additional native landscaping to enhance the landscape character of the locality.

The proposal satisfies the relevant criteria prescribed by the SEPP.

### **13. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

The SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the development and relates to commitments in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by BASIX Certificate committing to environmental sustainability measures relating to thermal comfort, water savings and energy efficiency. The measures as prescribed by Clause 97A of the Environmental Planning and Assessment Regulation 2000 are imposed by Council's standard conditions.

### **14. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND**

The *Initial site evaluation* provided by the applicant indicates the land does not require further consideration under clause 7 (1) (b) and (c) of SEPP 55.

### **15. STATE ENVIRONMENTAL PLANNING POLICY 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT**

The provisions of SEPP 65 applies given the composition of this development is for 3 or more storeys and 4 or more self-contained dwellings.

The DA was accompanied by a design verification statement prepared by a qualified designer, as required by the EPA Regulations cl.50(1A).

The instrument requires the proposal be referred to a Design Review Panel. However, this panel has not been established for the Woollahra area. Notwithstanding this, the instrument requires the assessment of the subject development application against the 9 design quality principles and against the relevant objectives of the Apartment Design Guide.

The 9 design quality principles are assessed as follows with summarised comments from Council's *Urban Design Planner* inserted into each relevant head of consideration:

#### **15.1 Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent*

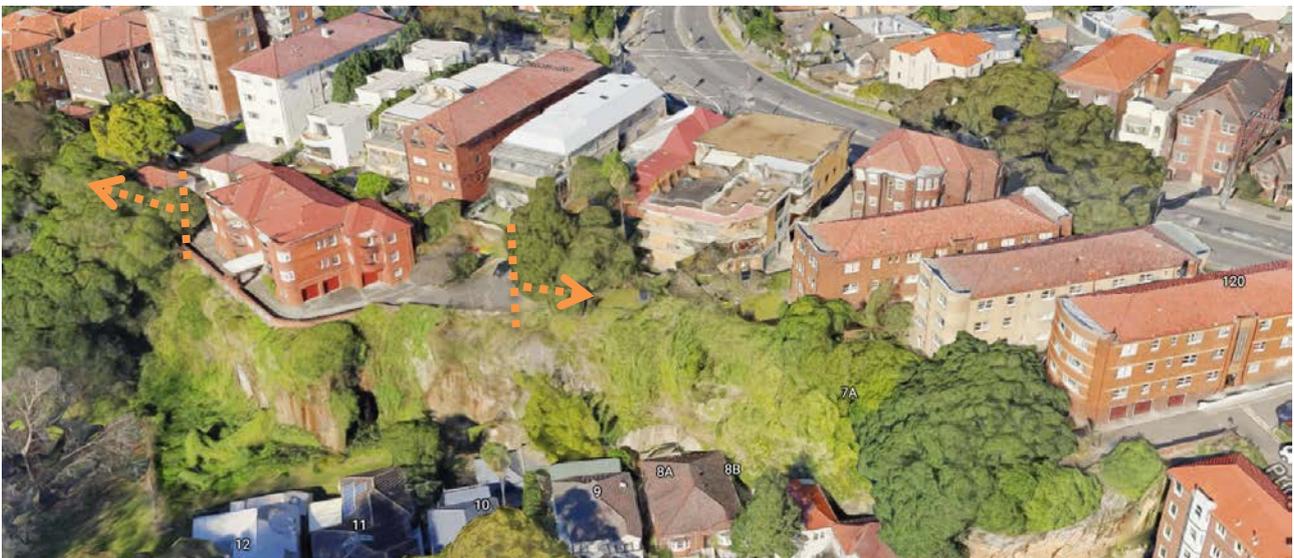
***sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.***

*Urban Design Planner's comments: The proposed building consolidates the five separate buildings currently on the site into three forms all connected by the excavated car parking level. The building has a substantial presence on the street. This location is characterised by residential flat building and the proposed streetscape design approach is acceptable. The rear of the site is bounded by an escarpment that drops approximately 12m to Cooper Park. The proposal sits on the top of the escarpment and is setback from 0.75m – Approximately 3.00m from the edge, which is also the site boundary. The two rear four storey buildings rises approximately another 12.00m. This siting has a major impact on the character of the park below and does not enhance the qualities and identity of the area.*

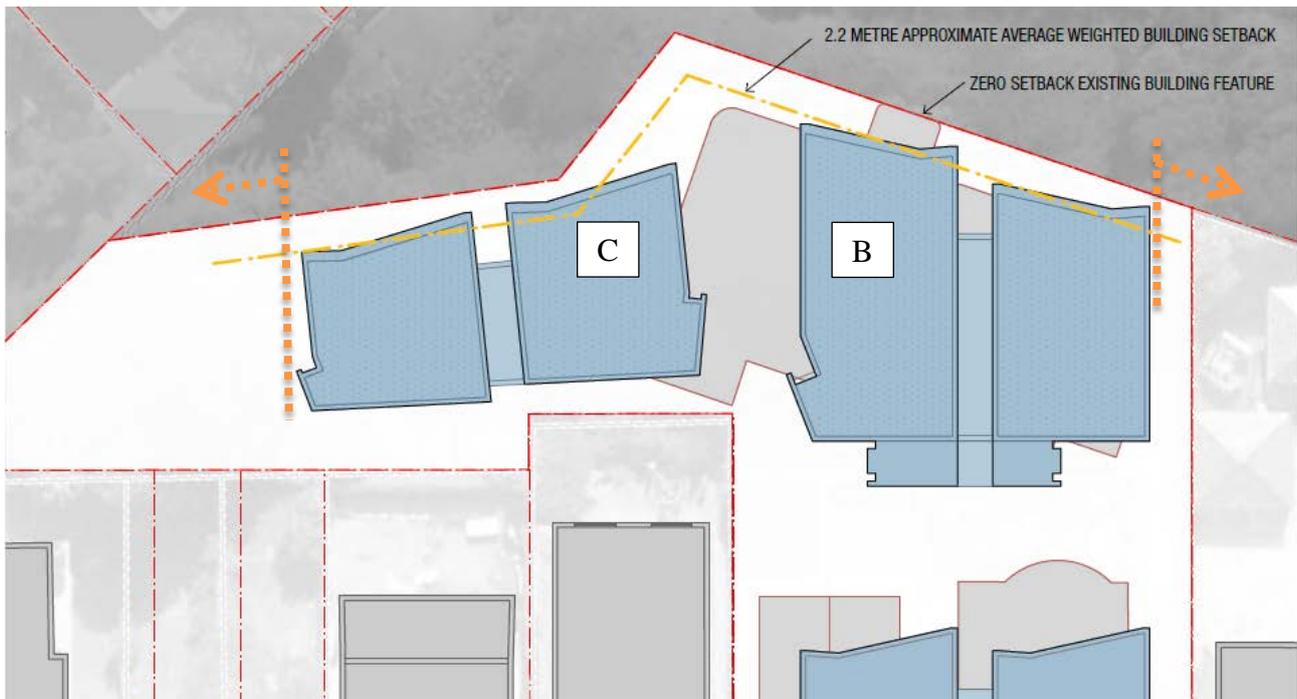
The development provides for the housing needs of the community within a medium density zone and is of a height and scale that achieves the desired future character of the neighbourhood. The development is fully compliant with Council's height and floor space ratio development standards (see below for further assessment).

The rear of the site has a distinct and prominent escarpment that is clearly visible from Cooper Park. It is visible because the site has an existing RFB built to its edge and the open hard stand parking and driveways immediately surrounding. It is defined by landscaping at both ends of the site. With the exception of the subject site, existing landscaping screens the majority of the escarpment from Cooper Park.

The new development is to be located on that part of the site that is already developed replacing the existing RFB. It sits comfortably within the exposed section of the site. The escarpment, landscaping and existing building forms in this locality is best depicted in the following photo with a comparative schematic of the development provided immediately beneath by UP Architects as notated:



Source: Google maps



The rear elevation of the proposed building form is broken up into 2 distinct building forms (being buildings B and C). Building B and in part Building C replaces the existing residential flat building. Building C extends into the space that is currently being used as hard car stand parking area and driveway access.

Buildings B and C are again individually divided into 2 forms as depicted in the schematic above. The rhythm of the proposed building forms, and in particular its siting, setbacks and separation, remain consistent with the character of existing development in this immediate locality.

The new landscape scheme will enhance the setting of the proposed development.

The proposal satisfies this principle.

## 15.2 Principle 2: Built Form and Scale

***Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.***

***Urban Design Planner's comments:*** *The scale of this development is a response to the permitted FSR. The site is extended with a long total boundary length and so has little buffering qualities for this scale of development. The design ignores the building envelope controls which restrict the extent of built form. The result is buildings that dominates the ridge above the park to the north and impacts on views and sunlight to a number of existing dwelling to the south. The built form and sale of this development to the street is acceptable, but the positioning and scale of the buildings to the rear is not.*

The built form and scale of the development fronting Victoria Road fits comfortably within the context of its surrounds.

The rear building forms, their scale and siting, have been designed to best fit within a site constrained by the topography, the landscaping and existing development.

The built form and scale of the new development particularly to its rear, replaces the existing residential flat building that is to be demolished. It also infills the existing exposed section of the site with a similar scaled building form. The form and scale of the proposed development is consistent with existing development in this immediate locality.

The proposal satisfies this principle.

### **15.3 Principal 3: Density**

***Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.***

*Urban Design Planner's comments: The proposed development is 800m from Bondi Junction train Station. Four bus routes use this part of Victoria Road and three use the closely adjacent Old South Head Road. It is 300m to local shops at Bellevue Hill. This is a very well serviced location. The proposed population density is acceptable. The proposed building doubles the dwellings on the site and more than quadruples the number of car spaces. The building mass density associated with these large apartments has adverse amenity impacts on adjacent developments. The more than four-fold increase in the private vehicles density accommodated on site is a concern in this congested location where traffic overload already has a significant negative amenity impact.*

As discussed above, medium density development is expected and encouraged in this zone. The floor space proposed is compliant with Council's development standard. The off-street car parking provided caters for the proposed density and complies with Council's maximum parking controls as prescribed by WDCP 2015.

Council's Traffic Engineer has reviewed the submitted Traffic Report and his comments state in part: "...the additional traffic generated by the proposed development can be accommodated on the road network."

The proposal satisfies this principle.

### **15.4 Principle 4: Sustainability**

***Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.***

*Urban Design Planner's comments: There are no significant environmental initiatives associated with this development. There is no external clothes drying spaces indicated and there is a significant amount of excavation.*

The proposal was accompanied by a BASIX Certificate committing to environmental sustainability measures relating to thermal comfort, water savings and energy efficiency.

With regard to the SEPP 65 ADG Design Criteria, the units are generously sized and more than comply with the minimum requirements for solar access. In addition, all units are cross-ventilated thereby maximising their efficiency. See below for further assessment.

All the units are afforded with generous private open space in the form of balconies that can cater for clothes drying horses, clothes lines or the like if desired.

The proposal satisfies this principle.

### **15.5 Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.*

Urban Design Planner's comments: *The landscape proposal is acceptable.*

The proposal satisfies this principle.

### **15.6 Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.*

Urban Design Planner's comments: *The amenity of these apartments is generally good with over 80% getting good solar access. The building layout does not perform so well with regard to cross ventilation.*

As previously mentioned and assessed below, the development complies with the SEPP 65 ADG Design Criteria in relation to solar access and cross-ventilation, thereby maximising the developments efficiency.

The proposal satisfies this principle.

### **15.7 Principle 7: Safety**

***Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.***

*Urban Design Planner's comments:* *There are no safety concerns with this proposal.*

The proposal satisfies this principle.

### **15.8 Principle 8: Housing Diversity and Social Interaction**

***Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.***

*Urban Design Planner's comments:* *Thirteen of the apartments have three bedrooms. Seven apartments have four bedrooms and four have two bedrooms. This is a response to the market demand in this location. The development provides twelve additional dwellings, but provides little housing diversity. The design provides a number of communal spaces that provide opportunities for social interaction.*

This locality has a large variety of housing types to cater for a varying demographic. The proposal provides additional housing in this locality.

The proposal satisfies this principle.

### **15.9 Principle 9: Aesthetics**

***Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.***

*Urban Design Planner's comments:* *The aesthetics of this development (when the visual impact of bulk and scale is not considered) are well handled.*

The proposal satisfies this principle.

### **15.10 Apartment Design Guide (ADG)**

SEPP 65 Clause 28(2)(c) provides that the consent authority must take into consideration the design criteria prescribed by the ADG. Clause 6 of the SEPP prescribes that in the event of an inconsistency between the SEPP and another environmental planning instrument (i.e. WLEP 2014

& WDCP 2015) this policy prevails to the extent of the inconsistency.

Council's Urban Design Planner provides comments in relation to the design criteria prescribed by the ADG in the referral response (see **Annexure 1**).

An assessment against the relevant design guidance and criteria in the ADG is as follows:

**15.10.1 Compliance Table** (Note: Non-compliances are **highlighted**)

<b>Design Criteria</b> (Site Area 2525.5m <sup>2</sup> )	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Communal open space (3D-1) - Minimum area (m <sup>2</sup> ) - Direct sunlight access to principal part in mid-winter	29% or (747) >50%	25% or (631) 50%	Yes Yes
Deep soil zones (3E-1) - Minimum area (m <sup>2</sup> ) - Minimum dimension (m)	26% (658) >6	15% or (379) 6	Yes Yes
Minimum separation distances between windows and balconies (3F-1) - Up to 12m (4 storeys) - Up to 25m (5-8 storeys) - Between buildings on the site	<3 - <12	6 9 12	<b>No</b> - <b>No</b>
Minimum number of apartments that receive 2 hours of solar access during mid-winter to living rooms and private open space (4A-1)	84% or (21)	70% or (18)	Yes
Maximum number of apartments that receive no direct sunlight during mid-winter (4A-1)	8% or (2)	15% or (4)	Yes
Minimum number of apartments that are cross-ventilated (4B-3)	100% or (25)	60% or (15)	Yes
Cross-ventilated apartments (4B-3) - Maximum depth (m) - Minimum internal width (m)	<18 >4	18 4	Yes Yes
Minimum ceiling heights (4C-1) - Habitable rooms (m) - Non-habitable rooms (m)	2.7 2.4	2.7 2.4	Yes Yes
Minimum internal areas for S/1/2/3 x Beds (m <sup>2</sup> ) (4D-1)	-/-/>75/>95	35/50/75/95	Yes
Maximum habitable room depths (m) (4D-2)	8	8	Yes
Master bedroom & other bedrooms (4D-3) - Minimum sizes (m <sup>2</sup> ) - Minimum dimension (m)	>10 & >9 3	10 & 9 3	Yes Yes
Living rooms minimum widths (4D-3) - Studios & 1 Bed (m) - 2 & 3 Beds (m)	>3.6 >4	3.6 4	Yes Yes
Apartment balconies (S/1/2/3 x Bedrooms) (4E-1) - Minimum area (m <sup>2</sup> ) - Minimum depth (m)	-/-/>10/>12 -/-/>2/>2.4	4/8/10/12 -/2/2/2.4	Yes Yes
Maximum apartments off circulation core (4F-1)	<8	8	Yes
Minimum storage for S/1/2/3 x Bedrooms (m <sup>3</sup> ) (4G-1)	-/-/>8/>10	4/6/8/10	Yes

### **15.10.2 Site analysis (Part 3)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

### **15.10.3 Orientation (Part 3B)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

### **15.10.4 Public domain interface (Part 3C)**

The proposal satisfies the relevant objectives and design guidance prescribed by this Part.

### **15.10.5 Communal and public open space (Part 3D)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

### **15.10.6 Deep soil zones (Part 3E)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

### **15.10.7 Visual privacy (Part 3F)**

This Design Criteria prescribes the development must have a minimum separation distance of 6m from the side and rear boundaries as well as 12m between buildings on the subject site as detailed in the table above.

The rear setback of the development, which varies in part, is non-compliant with this design criteria. There is public land that separates the subject site from the nearest residential properties located on Bellevue Gardens. The development is sited on an escarpment which provides vertical separation from the private open space of the nearest residential properties below. The vertical separation, together with the public land and the setback of the development from the edge of the escarpment, provides sufficient separation between residents in this circumstance.

The side setbacks, which vary and stepped in part, have a minimum setback of 2.5m. The side setbacks are non-compliant with this design criteria but are compliant with the side setback controls prescribed by Woollahra DCP 2015. All windows facing the side boundaries are suitably orientated and screened to prevent overlooking of adjoining habitable windows and private open space.

The proposed side setbacks are contextually compatible and are consistent with existing development in this locality as discussed earlier.

A strict application of these prescribed setback controls would compromise the economic development of the land by reducing its useable floor area. It should be noted that the proposed building is fully compliant with the FSR development standard (further assessment follows).

The proposed fenestration and balconies are suitably screened and orientated so that their primary outlook is towards the Victoria Road, to the centrally located communal open space or Cooper Park to the rear.

Even though the separation between buildings on the subject site is less than the minimum prescribed by these controls, no fenestration or balconies overlook each other. This development has been designed to maximise privacy between residents on the subject site as well as between existing residents immediately adjoining.

This medium density residential accommodation is encouraged and permissible in this locality. Any incidental overlooking between residential properties is mutual, expected and reasonable in this locality particularly from the upper levels.

The proposal nevertheless satisfies the objective of this part which states “...to achieve reasonable levels of external and internal visual privacy.”

Further assessment provided below.

#### **15.10.8 Pedestrian Access and Entries (Part 3G)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

#### **15.10.9 Vehicle access (Part 3H)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

#### **15.10.10 Bicycle and car parking (Part 3J)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

#### **15.10.11 Solar and daylight access (Part 4A)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

#### **15.10.12 Natural ventilation (Part 4B)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

#### **15.10.13 Ceiling heights (Part 4C)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

#### **15.10.14 Apartment size and layout (Part 4D)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

#### **15.10.15 Private open space and balconies (Part 4E)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

**15.10.16 Common circulation and spaces (Part 4F)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

**15.10.17 Storage (Part 4G)**

The proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

**15.10.18 Acoustic privacy (Part 4H)**

For reasons already discussed above for visual privacy, the proposal satisfies the relevant objective and design criteria prescribed by this Part.

**15.10.19 Noise and pollution (Part 4J)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.20 Apartment mix (Part 4K)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.21 Facades (Part 4M)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.22 Roof design (Part 4N)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.23 Landscape design (Part 4O)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.24 Planting on structures (Part 4P)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.25 Universal design (Part 4Q)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

**15.10.26 Mixed use (Part 4S)**

Not relevant to this development.

**15.10.27 Awnings and signage (Part 4T)**

Not relevant to this development.

#### **15.10.28 Energy efficiency (Part 4U)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

#### **15.10.29 Water management and conservation (Part 4V)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

#### **15.10.30 Waste management (Part 4W)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

Further assessment is provided below under DCP provisions.

#### **15.10.31 Building maintenance (Part 4X)**

The proposal satisfies the relevant objective and design guidance prescribed by this Part.

### **16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

*NOTE: The provisions of SEPP 65 Clause 6(1) and (2) prescribe that in the event of an inconsistency between the SEPP and another environmental planning instrument the SEPP prevails to the extent of the inconsistency.*

#### **16.1 Preliminary (Part 1)**

##### **16.1.1 Aims of Plan (Part 1.2)**

The proposal satisfies the relevant aims of this plan.

#### **16.2 Permitted or Prohibited Development (Part 2)**

##### **16.2.1 Zone R3 – Medium Density Residential**

The proposal is a permissible form of development and is consistent with the objectives of the zone which state:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

### 16.3 Principal Development Standards (Part 4)

#### Compliance Table

Development Standard	Proposed	Control	Complies
Minimum lot size for ...residential flat buildings (m <sup>2</sup> )	2525.5	700	Yes
Height of building (m)	<13.5	13.5	Yes
Maximum Floor Space Ratio (m <sup>2</sup> )	1.3:1 (3283)	1.3:1 (3283.15)	Yes

#### 16.3.1 Minimum lot size for ...residential flat buildings (Part 4.1A)

The proposal complies with the development standard.

#### 16.3.2 Height of buildings (Part 4.3)

The proposal complies with the development standard.

#### 16.3.3 Floor space ratio (Part 4.4)

The proposal complies with the development standard.

### 16.4 Miscellaneous Provisions (Part 5)

#### 16.4.1 Heritage Conservation (Part 5.10)

The subject sites and buildings thereon are not listed on the State Heritage Register. They have not been identified as a heritage item, are not a potential heritage item nor are they located within a Heritage Conservation Area. The sites are however located within the vicinity of local heritage items and the Bellevue Hill Conservation Area. Council's Heritage Officers comments state in part: *"...The subject property is located a sufficient distance from the heritage items and will therefore not impact on the setting or significant views of the heritage items."*

In relation to the subject buildings on the site, a Demolition Report has been submitted and indicates the buildings have little value. Council's Heritage Officer's comments state in part: *"...the properties are not of heritage value and therefore no objection is raised to the proposed demolition of the existing buildings."*

Part of the site has a rock escarpment that may potentially have some significance. Accordingly, a Due Diligence Report was prepared by AMAC in consultation with the La Perouse Local Aboriginal Land Council. Council's Heritage Officers comments state in part: *"...no confirmed Aboriginal sites on AHIMS are located within the property... The report recommended a site heritage induction, inspection of the site by the La Perouse Local Aboriginal Land Council after the demolition process ...and an unexpected finds procedure be implemented."* Conditions applied.

The proposal satisfies the relevant criteria prescribed by this Part.

## 16.5 Additional Local Provisions (Part 6)

### 16.5.1 Acid Sulphate soils (Part 6.1)

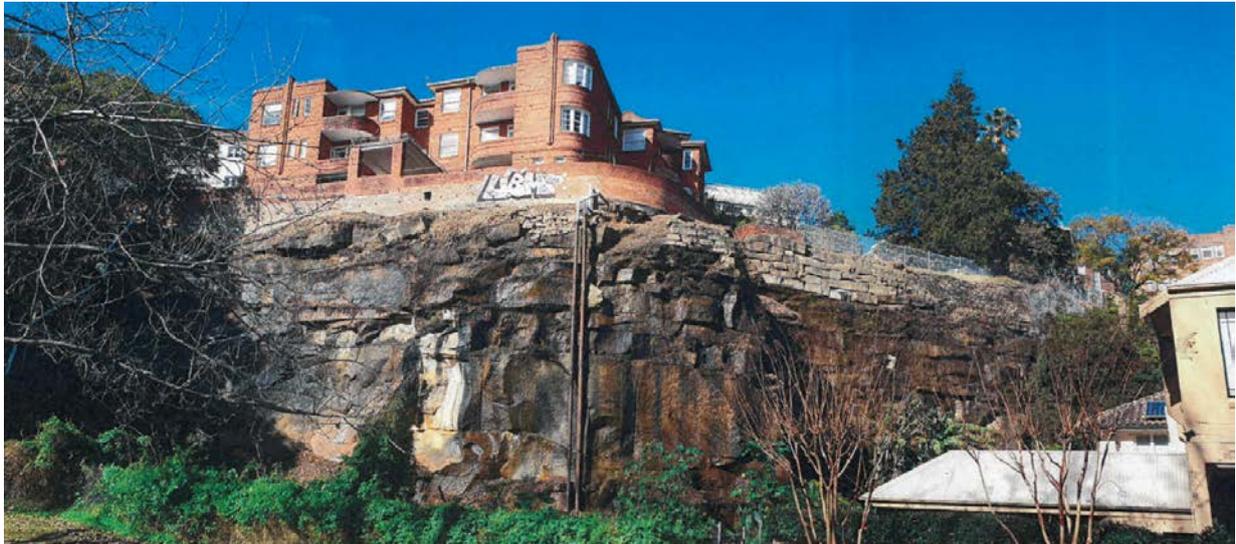
The proposal satisfies the relevant criteria prescribed by this Part.

### 16.5.2 Earthworks (Part 6.2)

The existing site has steep topography, is tiered and has undulations. In order to enable construction of any new development on the subject site, fully compliant with Council's controls, would require excavation of the site.

The proposed volume of excavation is 17,376m<sup>3</sup>. The majority of this proposed excavation is associated with providing car parking along with associated access, circulation and ancillary service areas that is fully compliant with Council's controls (see below for further assessment).

To the rear of the site is a cliff face that requires stabilization works. The cliff face with the existing building located thereon, is best depicted in the following photo taken from Cooper Park below:



It should be noted the excavation within this area is generally limited to the removal of fill and loose materials, which will improve the geotechnical risk profile of the cliff face.

GHD, an engineering firm engaged by Council, has undertaken a risk assessment of the cliff face. This firm indicates that the cliff face requires stabilization works. These stabilization works are enforced by conditions. Subject to the imposition of conditions, GHD states that the site can be made suitable for the proposed development.

The objective of this Part is: “...to ensure earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.”

Prior to granting any consent for earthworks, sub-clause (3) of this Part provides the consent authority *matters for consideration* which are stated and assessed as follows:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

Council's Development Engineer has reviewed the Geotechnical and Hydrogeological Investigation and stormwater drainage plans lodged with the application and recommends approval of the development.

The proposal is unlikely to have any detrimental effect on drainage patterns and soil stability in the locality.

*(b) the effect of the development on the likely future use or redevelopment of the land,*

The proposed development is an expected and permissible use of the land which is located within a R3 Medium Density Residential zone.

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

The Geotechnical Investigation field work confirms the presence of Hawksbury Sandstone with a layer of sand (2-5mm) overlying the sandstone.

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

Council's Development Engineer has reviewed the proposal, including the Geotechnical Engineers Report and raises no objection to the excavation on technical grounds. Based on the advice of the Geotechnical Engineers Report, there are no mitigating circumstances associated with the proposed excavation that will detrimentally impact the amenity of adjoining residents, the environment, the water table or any adjoining structures.

Standard conditions are applied to regulate the excavation process including vibration monitoring to minimise any likely disturbance to the amenity of residents on neighbouring property.

A Construction Management Plan will be required to be submitted and approved. Conditions have been applied that regulate truck movements, security fencing, site signs and other mechanisms for the maintenance of vehicular and pedestrian safety and to mitigate potential impacts on the amenity of the neighbourhood.

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

The SEE submitted indicates that there is no fill proposed. Disposal methods and destinations for excavated material will be outlined in a future Construction Management Plan. Some of the excavated material is to be reused onsite.

*(f) the likelihood of disturbing relics,*

As stated earlier, no relics have been identified on the site but further investigation will be required once demolition is undertaken. Conditions applied.

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

The proposal is unlikely to detrimentally impact on Cooper Park immediately adjoining and in particular, the central creek located within.

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

Geological and Hydrogeological Reports have been provided including recommendations contained therein to minimise and mitigate the impacts associated with the redevelopment of the land.

The proposal satisfies the relevant criteria prescribed by this Part.

### **16.5.3 Flood planning (Part 6.3)**

Council’s Drainage Engineer has reviewed the proposal and indicates that the proposal can satisfy the terms of this part subject to the imposition of conditions.

The proposal satisfies the relevant criteria prescribed by this Part.

## **17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

*NOTE: The provisions of SEPP 65 Clause 6(1) and (2) prescribe that in the event of an inconsistency between the SEPP and another environmental planning instrument, the SEPP prevails to the extent of the inconsistency.*

### **Part A - Introduction and Administration**

#### **17.1 About this DCP (A1.1)**

##### **17.1.1 Objectives of this Plan (A1.1.5)**

The proposal satisfies the relevant objectives prescribed by this Plan.

### **Part B - General Residential**

#### **17.2 Residential Precincts (Chapter B1)**

##### **17.2.1 Bellevue Hill South Precinct (B1.7)**

The proposal satisfies the desired future character objectives prescribed by this Plan which state:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.*
- O3 To establish a transition of development scale from the detached dwelling houses at the northern end of Bellevue Hill to the residential flat buildings that address the major streets - Birriga Road, Old South Head Road and Victoria Road – situated along the precinct ridgeline.*
- O4 To ensure that alterations and additions to the Inter-War flat buildings do not detract from the character of these buildings and their presentation to the street.*
- O5 To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 To preserve significant views and vistas to surrounding areas from the streets and parks.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*

### 17.3 General Development Control (Chapter B3)

#### 17.3.1 Introduction (B3.1)

- **Objectives (B3.1.3)**

The proposal satisfies the relevant objectives prescribed by this Part.

#### 17.3.2 Building Envelope (B3.2)

Site Area (2525.5m <sup>2</sup> )	Proposed	Control	Complies
<b>Setbacks (m)</b>			
Block A (front)			
- Front (SE)	5.7	5.7	Yes
- Side (NE)	2.5	2.5	Yes*
- Side (SW)	2.5 - 4	2.5	Yes*
Blocks B & C (rear)			
- Rear (NW)	<b>0.8 – 6.9</b>	3	<b>No*</b>
- Rear (SE)	<b>1.8 – 4.1</b>	3	<b>No*</b>
- Side (NE)	2.5	2.5	Yes*
- Side (SW)	>2.5	2.5	Yes*
Wall articulation & setback (m)	<12	12	Yes

\* SEPP 65 provisions prevail

- **Front setback (B3.2.2)**

The proposal complies with the front setback control.

- **Side & Rear setback (B3.2.3 & 3.2.4)**

The side setbacks of the development have been assessed above under the SEPP 65 and ADG provisions which prevail.

Block A complies with the side and rear setback controls. Blocks B & C have been designed to best fit within the confines of an irregular shaped allotment. The setbacks nevertheless remain consistent with existing development on and surrounding the site and minimise impacts on the amenity of adjoining residents. For reasons already discussed, the proposal satisfies the objectives underpinning these controls.

#### 17.3.3 Excavation (B3.4)

Site Area (2525.5m <sup>2</sup> )	Proposed	Control	Complies
Excavation			
- Maximum volume (m <sup>3</sup> )	<b>17,376</b>	2725m <sup>3</sup>	<b>No*</b>
- Minimum sub-surface wall setback (m)	<b>0 - 5.7</b>	1.5	<b>No</b>

\* Control C4 permits a variation to the maximum volume control

- **Objectives**

The objectives of this Part state:

- O1 To allow buildings to be designed and sited to relate to the topography.*
- O2 To minimise excavation.*
- O3 To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.*
- O4 To minimise structural risks to adjoining structures.*
- O5 To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.*

- **Control**

The maximum volume of excavation exceeds the terms of these controls. However, Control C.4 allows a variation to the maximum volume control in order to accommodate the required car parking and storage. The majority of the proposed excavation is required to facilitate basement car parking on this steeply sloping site.

The setback of the excavation from the boundaries also varies and is contrary to the terms of these controls. Once again, the volume and the setback of the proposed excavation is affected by the unusual site configuration, the topography and existing structures on and immediately adjoining.

It should be noted that the development is fully compliant with the maximum Floor Space Ratio development standard. The major contributor to the non-compliance with the volume and location of excavation is to facilitate car parking to cater for the expected density of this development.

Based on expert engineering advice, there are no technical grounds that indicate the excavation of the site cannot proceed. For reasons already discussed above (LEP provisions), the variation to the maximum excavation volume control should be applied in this instance.

### 17.3.4 Built form and context (B3.5)

Site Area (2525.5m <sup>2</sup> )	Proposed	Control	Complies
Hours of solar access provided between 9am-3pm during mid-winter to adjoining property to:			
- Main ground level open space (m <sup>2</sup> )	>3 or (35)	3 or (35)	Yes*
- Portion of North facing first floor window	>3	3	Yes*

\* SEPP 65 provisions prevail

- **Streetscape character (B3.5.1)**

The proposal complies with this control.

- **Overshadowing (B3.5.2)**

In relation to providing solar access to the residential component of the development, this has been addressed under the provisions of SEPP 65 which supersede these controls.

In relation to overshadowing of adjoining property, the proposal complies with this control.

- **Public and Private Views (B3.5.3)**

*Public views*

The proposal complies with this control.

*Private views*

A number of submissions received have raised concern regarding view loss but is a generalised reference in the submissions, being ...*view loss from adjoining property*. Only three (3) of the submissions have raised view loss from their respective properties as a concern. In this regard, the following view loss assessment is primarily focused on the three (3) properties which incidentally, are the properties most affected by the development.

View loss from other properties in this locality is not unreasonable given this is an expected and compliant form of development with respect to the maximum floor space ratio and height development standards.

In assessing the view impact, the Land & Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council (2004)* adopted planning principle for assessing view impacts which is undertaken as follows:

*i. What is the value of the view?*

The concerns expressed primarily relate to loss of district views and view loss of the Sydney City Skyline.

*ii. From what part of the properties are the views obtained?*

A gauge on the type of views afforded from the most affected properties, including an approximated outline of the proposed building form (represented as a **red dotted line**), is best depicted as follows:

- **No.10/197 Victoria Road**, upper level sunroom and study from a standing position



- **No.8/212 Victoria Road**, upper level sunroom from a standing position



- **No.214 Victoria Road**, rear ground floor living room from a standing position



*iii. What is the extent of the impact?*

From No.10/197 Victoria Road the view impact is considered to be severe.

From No.8/212 Victoria Road the view impact is considered to be negligible.

From No.214 Victoria Road the view impact is considered to be moderate.

*iv. What is the reasonableness of the proposal that is causing the impact?*

The Court poses two questions, the first question relates to whether a non-compliance with one or more planning controls results in view loss.

The existing views afforded to adjoining residents have been attained because of the undeveloped nature of the subject sites. Any building form fully compliant with Council's height, floor space and envelope controls would impact on these existing views.

In relation to the views afforded from the unit on the opposite side of Victoria Road (being Unit 10/197), the views are better defined as glimpses of the city skyline. The layout of this unit and its fenestration are not orientated or focused towards the city skyline. Rather, these views are only attained by standing in a particular position within the unit.

No city skyline views would be affected from the Unit at 8/212 Victoria Road, but rather only the foreground district views of Woollahra. It may be argued that the green roof of the proposed development would improve the outlook from this unit as opposed to the existing red tile roof of the RFB that is to be demolished.

The dwelling at No.214 Victoria Road is the most affected of the properties. Currently, the rear lower garden and rear ground floor level would lose all of its city skyline view. However, this dwelling also has an elevated first floor terrace and living areas accessed there off. The view from the elevated terrace and living areas has a similar view outlook to Unit 8/212 Victoria immediately adjoining to the north east, which is unaffected. Any development fully compliant with all planning controls would obstruct views from the lower ground and ground floor levels. It is by virtue of the undeveloped nature of the subject site that affords this dwelling these existing views.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views. That part of the development that impacts on views to No.214 Victoria Road is fully compliant with the floor space and height development standards as well as the side setback controls. Reducing part of the floor space of the unit on the upper most level of building C may enable view sharing for the rear ground floor level of the dwelling at No.214 Victoria Road. However, this is contrary to the question imposed by the Court, namely, reducing the floor space also reduces its development potential.

In this regard, the degree of the view impact in this circumstance is reasonable and the proposal satisfies the principle established by the Court.

- **Acoustic and Visual Privacy (B3.5.4)**

The setback controls applicable to the residential component of the development, directly correlated to the impacts on privacy, are overridden by the SEPP 65 provisions which have been assessed above

The layout and orientation of the proposed dwellings and their private open space generally accords and remains consistent with the prevailing layout and orientation of dwellings immediately adjoining and in this locality.

To the lower levels, the boundary fence and the new landscaping provides adequate screening to maintain privacy between residents.

On the upper levels, all living areas and balconies are primarily orientated towards the street front, the centrally located communal open space or Cooper Park to the rear. There is no direct overlooking of any open space or habitable areas of adjoining property.

The windows and balconies along all side boundaries are suitably treated in accordance with the terms of these controls to maintain privacy between residents.

Conditions are applied to all mechanical plant equipment, including pool pump equipment, to mitigate any potential noise issues and enable enforcement action should a nuisance arise.

The balance of the proposal complies with these controls.

### 17.3.5 On-site parking (B3.6)

- **Controls (B3.6.1)**

The proposal complies with these controls.

### 17.3.6 External areas (B3.7)

Site Area (2525.5m <sup>2</sup> )	Proposed	Control	Complies
Primary open space area: - Total (m <sup>2</sup> ) - Maximum Gradient	>8 <1:10	8 1:10	Yes* Yes*
Deep soil landscaped area (m <sup>2</sup> ) - Total - Front setback - Front consolidated area - Rear setback	55% or (713) 45% or (67) >12 50% or (109)	50% or (648) 40% or (61) 12 50% or (109)	Yes* Yes Yes Yes
Fence height: - Front (m) - Side & Rear (m)	<b>1.8</b> 1.8	1.5 & 50% transparent 1.8	<b>Condition</b> Yes

\* SEPP 65 provisions prevail

- **Landscape and private open space (B3.7.1)**

The controls applicable to the residential component of the development are overridden by the SEPP 65 provisions which have been assessed above.

The balance of the proposal complies with these controls.

- **Fences (B3.7.2)**

According to these controls, all screen walls and fencing forward of the front building line must be limited to a maximum 1.5m in height and be 50% transparent.

The proposal includes screen walls that are contrary to the terms of these controls. There is no suitable justification to warrant a variation in this instance. Condition applied.

The balance of the proposal complies with these controls.

- **Site facilities (B3.7.3)**

The issue of waste storage facilities is assessed below.

The balance of the proposal satisfies the relevant criteria prescribed by this control.

### 17.3.7 Additional controls for dwellings other than dwelling houses (B3.8)

Site Area (2525.5m <sup>2</sup> )	Proposed	Control	Complies
Minimum width at street front alignment (m)	>21	21	Yes

- **Residential flat buildings ...(B3.8.6)**

These controls replicate those prescribed by SEPP 65 and the accompanying ADG. For reasons already assessed, the proposal complies with this control.

- **Inter-War flat buildings (B3.8.7)**

The objectives of these controls is to ensure the significant characteristics of inter-war flat buildings are retained and any works thereto are sympathetic. The development seeks demolition of the inter-war flat building.

Council’s Heritage Officer comments state in part: “...*the building does not feature any outstanding decorative features or elements that would make it architecturally significant as an Inter War building.*”

The Demolition Report submitted with the application states in part: “...*the Inter-War apartment building is isolated from other similar examples and does not form part of a consistent streetscape of similar buildings. Thus, the Inter-War flat building at 206D Victoria Road does not reach the requisite level of significance for heritage listing...*”

For these reason, demolition of the building is supported.

### Part E - General Controls for All Development

Site Area (2525.5m <sup>2</sup> )	Proposed	Control	Complies
<u>Maximum</u> Parking Generation Rate			
- Dwellings	48	48	Yes
- Visitors	6	6	Yes
Minimum bicycles spaces	28	28	Yes
Motorcycle Parking Rates			
- Minimum spaces	5	5	Yes
- Minimum dimensions (m)	1.2 x 2.5	1.2 x 2.5	Yes

\* See below for assessment

#### **17.4 Parking and Access (Chapter E1)**

Part E1.10.6 – Driveways and access points, requires the driveway crossing to be perpendicular to the road. The proposed driveways are skewed. Council’s Traffic Engineer insists this requirement is enforced given the high volume of traffic and pedestrian movement in this locality.

The existing street tree immediately in front of the site which is significant and contributory to the landscape character of the locality, hinders the driveway access to the site. Discussions with Council’s Traffic Engineer indicates the driveway can be altered, inside the property boundary, to achieve compliance with the terms of these controls. Condition applied.

The balance of the proposal complies with the relevant criteria prescribed by this control and/or are addressed by Council’s standard conditions.

#### **17.5 Stormwater and Flood Risk Management (Chapter E2)**

The proposal complies with the relevant criteria prescribed by this control and/or are addressed by Council’s standard conditions.

#### **17.6 Tree Management (Chapter E3)**

The proposal complies with the relevant criteria prescribed by this part and/or can be addressed by Council’s standard conditions.

#### **17.7 Contaminated Land (Chapter E4)**

The proposal complies with the relevant criteria prescribed by this part.

#### **17.8 Waste Management (Chapter E5)**

The proposal complies with the relevant criteria prescribed by this part and/or can be addressed by Council’s standard conditions.

### **18. COOPER PARK PLAN OF MANAGEMENT 2001**

The development site adjoins Cooper Park. The proposed development, as discussed above, is unlikely to detrimentally impact on the hydrology, bushland, setting or curtilage of the Park. The proposal satisfies the relevant criteria within this document.

### **19. DRAFT AMENDMENTS TO POLICIES AND PLANS**

There are no draft amendments applicable to this development.

### **20. SECTION 7.11 CONTRIBUTION PLANS**

A Contribution pursuant to the terms of this Plan is required and has been applied as a condition that forms part of the recommendation.

### **21. APPLICABLE ACTS/REGULATIONS**

### **21.1 Demolition of Structures**

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. Compliance with these requirements can be enforced by condition.

### **21.2 Building Code of Australia**

The proposal is required to comply with the relevant provisions of the Building Code of Australia. Compliance with these requirements can be enforced by condition.

### **21.3 Fire Safety**

An annual fire safety schedule is required to be submitted and compliance with this requirement can be enforced by condition.

## **22. THE LIKELY IMPACTS OF THE PROPOSAL**

All other likely impacts have been addressed elsewhere in the report or are considered to be satisfactory and not warrant further consideration.

## **23. THE SUITABILITY OF THE SITE**

The site subject to conditions, is suitable for the proposed development.

## **24. THE PUBLIC INTEREST**

The proposal is in the public interest.

## **25. CONCLUSION**

The assessment of the development against the relevant considerations under Section 4.15 of the *Environmental Planning and Assessment Act 1979* is an appropriate development of the site and is recommended for Approval.

## **26. DISCLOSURE STATEMENTS**

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

## **27. RECOMMENDATION: Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979**

THAT the Sydney Eastern City Planning Panel, as the consent authority, grant development consent to DA515/2018/1 for demolition of existing buildings and construction of a new residential flat development containing 3 buildings linked via a common basement car park, communal open space, landscape and site works on land at 206D, 208, 210 & 210A Victoria Road BELLEVUE HILL subject to the draft conditions provided.

## **ANNEXURES**

1. Referral Response – Urban Design Planner
2. Referral Response – Engineering
3. Referral Response – Traffic
4. Referral Response – Drainage
5. Referral Response – Trees
6. Referral Response – Health
7. Referral Response – Heritage
8. Referral Response – NSW Transport RMS