



14 November 2025

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 376/2025/1

**ADDRESS:** 351 New South Head Road DOUBLE BAY 2028

**PROPOSAL:** Demolition of the existing building and construction of a new residential flat building including basement carpark with affordable housing

**FROM:** Vanessa Wood

**TO:** Mr B McIntyre

---

### 1. DOCUMENTATION

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

- Drawing set by Hill Thalys/ Luigi Rosselli, dated 16.9.2025, and numbered DA00 – DA11.1
- Heritage Impact Statement by Weir Phillips, dated September 2025
- Demolition Report by Weir Phillips, dated September 2025
- Statement of Environmental Effects by GSA Planning, dated September 2025
- Survey plan by ESA Survey, ref 3545/25
- Aboriginal Heritage Impact Assessment by Associates Archaeology, dated September 2025
- Geotechnical Report by Geofirst Pty Ltd, dated 10 October 2025
- Arboricultural Impact Assessment by Tree Wise Men, dated 23 September 2025

### 2. DESCRIPTION OF PROPOSED WORKS

The applications seeks consent to carry out Demolition of the existing building and construction of a new residential flat building including basement carpark with affordable housing at the subject site.

### 3. SITE INSPECTION / RESEARCH

The following research was undertaken in the preparation of this assessment:

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.
- Pre-DA minutes and previous referral responses (Heritage Referral Response by Shona Lindsay, 29 July 2019 for DA2019/226/1)
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- 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

### Statement of significance

Since 2019, two comparable DAs have been submitted regarding the subject property (DA2025/352/1 (rejected) and DA2019/226/1 (LEC Appeal)). The below has largely been extracted from the heritage referral response by Shona Lindsay dated 29 July 2019 for DA2019/226/1.

The Demolition Report prepared by Weir Philips provides the following statement of significance for the properties:

*Nos. 351 and 353 New South Head Road, Double Bay are not considered to be innovative in terms of layout, form, siting on the lot or architectural detailing. The current buildings do not contribute to the understanding of the neighbouring heritage listed gardens nor are they connected to the establishment of Hay's garden or of 'Overthorpe' (demolished) and its grounds. Furthermore, no trees predating the construction phase of either No. 351 New South Head Road, Double Bay or No. 353 New South Head Road, Double Bay have been found on the site.*

*Nos. 351 and 353 New South Head Road, Double Bay are not landmark sites. Similarly, the buildings are not considered to be architecturally or stylistically rare and is similar to many Sydney buildings dating from the Federation and Inter-War eras.*

*The association of No. 351 New South Head Road, Double Bay with Ernest A. Green has not been proven. However, this potential connection is not considered to meet the threshold for associated significance as the building has been substantially altered and is not considered to be indicative of his work. The association of No. 351 New South Head Road, Double Bay with Tom Raine is not considered to meet the threshold for associated significance.*

*Neither building meets the threshold for listing on the Woollahra LEP 2014. The character of the surrounding area is not such that it is likely to be listed as a Heritage Conservation Area.*

*Nos. 351 and 353 New South Head Road, Double Bay are not locally significant sites and thus has failed to meet any of the criteria for listing provided by Heritage NSW.*

Detailed research into the properties has found some of the findings Weir Philips discusses of No. 351 to be incorrect. No. 351 was not constructed by Ernest A. Green or lived in by Tom Raine. This history relates to the house 'Guyong', which originally stood at No. 349 (previously recorded as No. 325 on Sands Directory). Tom Raine moved to 'Guyong' in 1899.

Unfortunately the original plans do not survive, but reports note 'Guyong' was designed by architect Ernest A. Scott (Australian Dictionary of Biography). A later DA in 1924 states Ernest A. Scott & Green as the architect for the addition of a garage, tool house and car wash to the property when the owner was Murray Willcox Esq. Tom Raine was known to have continued to maintain and expand the trees and plants that Sir John Hay had planted in the area (The Sydney Mail and NSW Advertised, Wed 11 Jan 1905, pg. 940). Guyong was well known for its garden setting and tree plantings, and held many parties at the premises.



Tom Raine subdivided a portion of his land, which was known as the Guyong Gardens subdivision. This was advertised between 1918 and 1927. No. 351 was constructed on Lot 1, and No. 353 on Lot 2 of the Guyong Gardens subdivision. The Land Title of 1918 of No. 351 makes explicit that the new owner of the land, Philip Thornton Thane, was to construct a single residential dwelling and it was not to have any windows or doors overlooking the house of Tom Raine to the south east. Tom Raine is last listed in the Sands Directory as living at Guyong in 1919.

Philip Thornton Thane is listed in the Sands Directory as living at No. 351 in 1920, therefore suggesting the house at No. 351 was constructed between 1919-1920. The property was originally constructed in the Federation style but has been substantially altered and an addition added to the front façade. Therefore, No. 351 does not retain its Federation style and is not a good example of this type of architecture. The original plans of the house are not retained therefore the original architect is unknown.

No. 353 was constructed in c.1922 with a BA submitted in 1921 and later amended in 1922. The Sands Directory indicates Samuel Woolf living at the site in 1923. The original 1921 files do not indicate who the original architect was, although the building register notes the builder/architect to be Samuel Woolf. It is noted that building was not built to the 1921 BA, but rather the 1922 BA which was designed by architect W.C.Brown. The interior is simply decorated. The building has undergone minor alterations and additions.

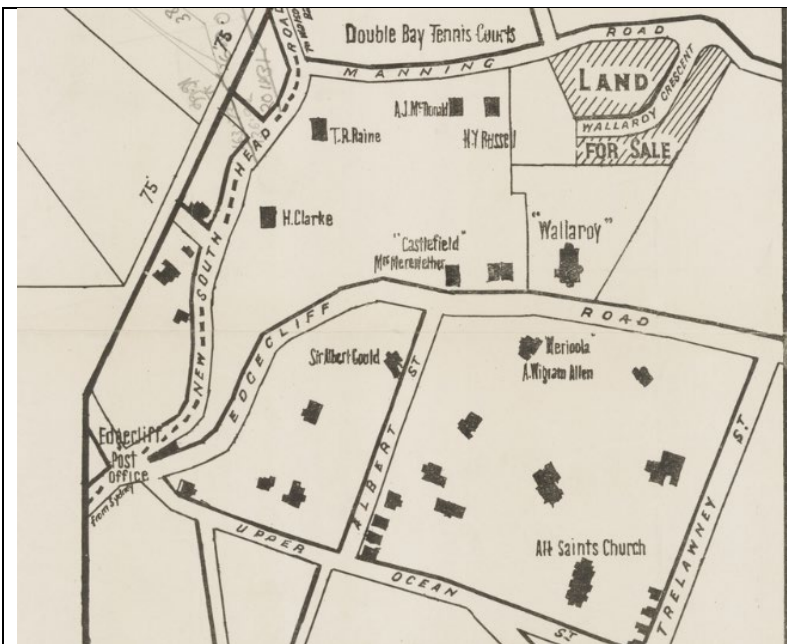
Although the land of No. 351 and 353 was originally part of the Guyong estate, which was formally part of Sir John Hay's land, it does not provide evidence of the original estate of Sir John Hay's experimental nursery. The Landscape Management plan has found the trees on the subject property to not pre-date the construction of the current buildings, and have been developed through seedlings crossing between the properties or modern plantings. Therefore the association with the Guyong estate or Sir John Hay is not retained on the subject properties and the associative significance would not reach the threshold for local significance.

The properties are not heritage listed and are not located within a heritage conservation area. The construction of the dwellings is not associated with any known prominent architect and have no distinctive landmark qualities or other features that would make them potentially significant or rare.

The report by Weir Philips has assessed the potential heritage significance of the existing dwellings and has concluded that the properties do not meet the criteria for identification as a place of local significance. The report by Weir Philips, together with further research, has determined the properties to not be of local significance.

*Historical plans and images*





Detail of subdivision plan of Z/SP/D9/20 - Wallaroy Road, Wallaroy Crescent, [1914]

- 4 Aaronson Frederiek
  - 313 Campbell Mrs. Ronald, "Linton"
  - 315 Coe Miss G. H., "Shandon"
  - 317 Emanuel Mrs. S.
  - 319 Goldschmidt Julius, "Holebrook"
  - 321 Taylor John, "Haycroft"
  - 323 Anderson William, "Overthorpe"
  - 325 Raine Tom R., "Guyong"
- Manning road*

Sands Directory 1919

- 313 Campbell Mrs. Ronald, "Linton"
  - 315 Coe Miss G. H., "Shandon"
  - 317 Emanuel Mrs. S.
  - 319 Goldschmidt Julius, "Holebrook"
  - 321 Markell Alex.
  - 323 Anderson William, "Overthorpe"
  - 327 Thane P. T., physician and surgeon
- Manning road*

Sands Directory 1920



which an offer of £1550 was refused.  
The auction by Messrs. Raine and Horne in their rooms on Thursday met with a little more success. Here again there was a large attendance and a fairly attractive catalogue. An allotment at the corner of Manning-road, Double Bay, being one of a small subdivision of the **Guyong Garden**, was sold at £16 per foot. The three other allotments still remain unsold. For a residence at Musgrave-street, Mosman, £2300 was refused. A cottage at Artarmon was passed in at £540, and for a block of land at St. Mark's-road, Randwick, £710 was refused.

Guyong Garden Estate – advertised in The Sydney Morning Herald 8 Dec 1917 pg 7

No. 21,701. APPLICANT:—Philip Thornton Thane, Double Bay. LAND:—Municipality Woollahra, 26½ perches,—lot 1, **Guyong Garden Estate**, fronting southern side New South Head road, about 146 feet westerly from Manning-road.

No. 21,775. APPLICANT:—George Washington Cleveland, Gore Hill. LAND:—Municipality Lane Cove, 8 acres 3 roods 29 perches, fronting south side Mowbray-road, about 15 chains west of Centennial-avenue.

Guyong Garden Estate – advertised in the Government Gazette of the State of NSW. Fri 15 Aug 1919 pg 4530

**Messrs. Raine and Horne report sales:—**  
City Council subdivision, in Parramatta-road, in conjunction with Messrs. Richardson and Wrench, £480; block of land at Alexandria, £2000; freehold reversion, Waterloo, £480; freehold reversion, Waterloo, £600; **Guyong Garden Estate**, Double Bay (residential site), £700; two lots, Northbridge **Estate**, No. 10, 37/6 and 47/6 per ft; two lots, Bennett's **Estate**, Bay View, £2/10/; property, York and

Guyong Garden Estate – advertised in The Sydney Morning Herald 10 January 1920 pg 9.

(c) Lots 3 and 4 of the **Guyong Garden Estate** subdivision at the north-western intersection of Manning-road and New South Head road. Area, 29½ perches. [3452]

Guyong Garden Estate – advertised in the Government Gazette of the State of NSW. Fri 21 Dec 1923, pg. 5885



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.

**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.

Anyone proposing to carry out an activity that may harm an Aboriginal object or a declared Aboriginal place must investigate, assess and report on the harm that may be caused by the activity they propose.

The 'Due Diligence Code of Practice for the protection of Aboriginal Objects in NSW' (2010) prescribes that an extensive search must be undertaken if AHIMS has shown that there are Aboriginal sites or places in the search area.

The Office of Environment & Heritage (OEH) disclosures for AHIMS searches are copied below:

- *You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.*
- *If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.*
- *The information derived from the AHIMS search is only to be used for the purpose for which it was requested.*
- *AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;*
- *It is not be made available to the public.*
- *Information recorded on AHIMS may vary in its accuracy and may not be up to date.*
- *Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings.*
- *Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.*
- *Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.*

The Applicant has provided an Aboriginal Heritage Impact Assessment (the 'report') prepared in accordance with the 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW' published by the Department of Environment, Climate Change and Water and dated 13 September 2010 and in accordance with Attachment 10 of Council's DA guide available at: [https://www.woollahra.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf](https://www.woollahra.nsw.gov.au/__data/assets/pdf_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf)

Associates Archaeology & Heritage Consultants is a qualified Aboriginal heritage consultant who has inspected the property on 7 August 2025 on foot. Dr Shane Ingrey from the La Perouse LALC also attended the inspection, evidencing consultation.



There has been consideration of relevant previous Aboriginal heritage investigations, as detailed in section 3.2.

The AHIMS of the OEH was consulted on 17 October 2024 and the extensive search is attached at section 3.1 and Appendix 1 of the report. 82 sites are in a 6km x 5km area and none of these sites are within 500m.

The report identifies the following potential for unexpected findings within the area:

- *The nearest confirmed listed sites are more than 1km away. It is in an area near the former swamp that previously occupied the flat land in Double Bay and which was an important resource area and close to some locations with 19th Century historical associations. These do not, however, provide enough cause to predict an open occupation site warranting further investigation*

In terms of site's disturbance, the report states that:

- *We observed that the properties are largely disturbed and has no exposed or likely near-surface sandstone.*

The report's recommendations conclude that:

1. *'Harm' to an 'Aboriginal object' (as defined in the NPW Act) is considered generally unlikely to occur as a result of the proposed work.*
2. *However, an unexpected finds protocol should be in place and conveyed to all contractors involved in any excavation work, whether during any demolition or construction. If any flaked stone, bone, charcoal rich deposit or shell is found during excavation, work should to stop immediately and an archaeologist or representative of LPLALC engaged to expect the find;*
3. *In the event that any bones are observed that may be human, there is also a legal requirement under the Coroner's Act to notify the Police. The involvement of Heritage NSW would be recommended to help expedite the required management response.*
4. *Contractors should be advised that failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act). Any slight, initial, unanticipated harm may be considered to have been done 'unknowingly' and subject to a due diligence defence based on the advice in this report, but any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and harsh penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.*
5. *Council is advised to remove the lots from the Potential Aboriginal Heritage Sensitivity map (this would be reversed in the unlikely event of any unanticipated find).*
6. *A copy of this report has been forwarded to LPLALC (Admin@laperouse.org.au);*
7. *A copy of this report should be submitted to AHIMS (ahims@environment.nsw.gov.au)*

#### Woollahra Council Sensitivity Mapping

The following comment was provided:

- *Council is advised to remove the lots from the Potential Aboriginal Heritage Sensitivity map (this would be reversed in the unlikely event of any unanticipated find).*

#### La Perouse LALC



On 22 September 2025, the La Perouse LALC provided the following recommendations in response to the application:

Recommendation 1:

- *The La Perouse LALC agrees with recommendations as set out on page 19 of the assessment.*

Recommendation 2:

- *The La Perouse LALC advises that if any Aboriginal objects (such as human or animal bone, shell material or stone artifacts) are impacted or unearthed during any activity on the property, the activity must cease and the NSW Heritage and La Perouse LALC be contacted immediately.*

Conclusion

Given the above, it is concluded that relevant conditions of consent for the protection and management of Aboriginal Heritage will need to be imposed as part of the DA consent.

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 may contain relics as per the Heritage Act 1977 definition.

**Consideration**

*Archaeology*

The existing buildings were the first known structures to be built on the subject properties. Prior to this the land was used as the grounds for Guyong Estate, and prior to this as Sir John Hay's experimental nursery. It is likely that the existing buildings disturbed any previous remains when they were constructed. Therefore it is unlikely that potential historical archaeology to remain.

It is noted that the geotechnical report specifies that the site is underlain with natural Aeolian sand located beneath topsoil/fill. Therefore, the construction/demolition team are to be made aware of potential unexpected archaeological finds on the site during excavation works and the appropriate procedures for dealing with unexpected archaeological finds.

Woollahra LEP 2014

*Clause 1.2 Aims of Plan*

*Subclause 1.2. (2) (f) – to conserve and enhance 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 does not conserve the heritage of Woollahra as it would give rise to unacceptable impacts on the heritage significance of the neighbouring heritage items and their settings, including views to and within the items.
- **Clause 5.10(1)(b):** The proposal does not conserve the heritage significance of the heritage items within the vicinity of the site. It would give rise to unacceptable adverse impacts upon the heritage significance of the heritage items, including their setting and fabric.
- **Clause 5.10(2) and (3):** Consent is required for the proposed works
- **Clause 5.10(4):** This referral constitutes an assessment under this clause.
- **Clause 5.10(5):** A heritage management document was submitted with the development application and was not found to be acceptable.
- **Clause 5.10(6):** A Conservation Management Plan was not required.
- **Clause 5.10(7) and (8):** The site is identified as an archaeological site or a place of Aboriginal heritage significance. A referral was sent to the La Perouse Local Aboriginal Land Council and return correspondence was received within 28 days.
- **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.

#### Consideration

##### *Existing Buildings*

The existing buildings have no heritage significance and do not make any contribution to the heritage significance of Edgecliff. The properties are not heritage listed and are not located within a heritage conservation area.

The construction of the buildings is not associated with any known prominent architect and have no distinctive landmark qualities or other features that would make them potentially significant or rare.

The report by Weir Philips has assessed the potential heritage significance of the existing buildings and has concluded that the properties do not meet the criteria for identification as a place of local significance. The report by Weir Philips, together with further research, has determined the properties to not be of local significance. Accordingly, the properties are not of heritage value and therefore no objection is raised to the proposed demolition of the existing buildings.

Given that the buildings still retain some of the Federation and Inter War style, it is considered that the buildings and setting should be archivally recorded prior to being demolished.

##### *Proposed building*

Under DA2019/226/1 the L&EC approved the construction of a new five-storey building with one level of basement parking on the subject site.

The current proposal is for a nine-storey building with two levels of basement parking. The proposed bulk and scale is a significant increase on that previously approved.

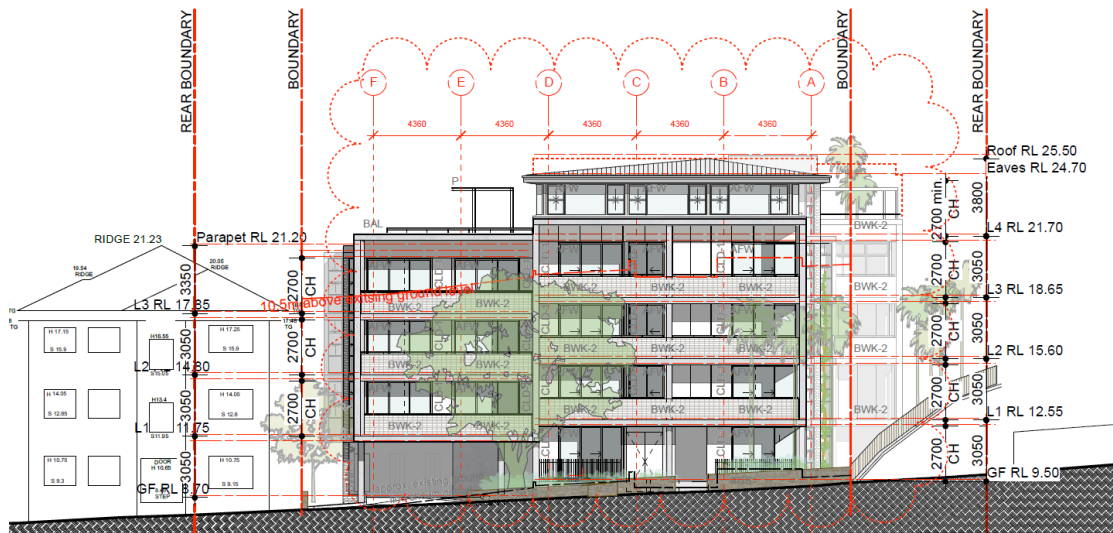


Figure 1. Approved streetscape elevation DA2019/226/1



Figure 2. Proposed design

Comparing the designs, it is evident that the c2019 approved design responds more appropriately to the streetscape, with the left portion of the building aligning with the parapet of the neighbouring property. The applicant is proposing to apply the new Low- and Mid-Rise Housing provisions.

**Trees**

The analysis contained within the Construction Impact Assessment and Management Plan prepared by Botanics Tree Wise People Pty Ltd has determined that there are no trees remaining on the site that predate construction phase of either No. 351 New South Head Road, Double Bay or No. 353 New South Head Road, Double Bay. (pg. 6)

The HIS states:

*No. 351 New South Head Road contains limited landscaping mostly located to the perimeter of the site. In December 2018, a Construction Impact Assessment and Management Plan was prepared*



by Botanicus Tree Wise People Pty Ltd. This assessment identified an African Olive (*Olea europea*) to the northern boundary. Several other environmental weed species, or trees dating from the modern phase of occupation, such as: Privet (*Ligustrum*); Frangipani (*Plumeria acutifolia*); and Avocado (*Persea Americana*) were identified along the eastern site boundary. A mature Bull Bay Magnolia (*Magnolia grandiflora*), and an established Kentia Palm (*Howea forsteriana*) were identified along the western boundary. The rear yard to the south of the lot is a small concrete and tiled space which contains limited perimeter planting.

No. 353 New South Head Road is set back to the rear of the block. The front boundary is defined by sandstone wall with sandstone columns and timber infill panels. Behind this fence is a mature Port Jackson Fig Tree (*Ficus Rubiginosa*). Vehicular access is achieved to the eastern boundary of the site and a timber pedestrian gate. The former front yard has been paved and repurposed as a parking area. The eastern boundary is defined by a timber fence near to which is a small single garage, a Bangalow Palm (*Archontophoenix cunninghamiana*) and three Frangipani (*Plumeria acutifolia*). The small rear yard is bound to the south by a metal hurricane style fence and to the west by the neighbouring brick garage. The garden contains a Weeping Lilly Pilly, identified in the 2018 Construction Impact Assessment and Management Plan as being self-seeded, (see Figure 34) a Kentia Palm (*Howea forsteriana*) two Frangipani (*Plumeria acutifolia*) to the northern boundary and a mix of modern planting such as ferns, yukkias and jasmine.

The proposed works include extensive landscaping including the removal of a Port Jackson Fig (*Ficus rubiginosa*) and African olive (*Olea europea*). The plans include the retention of several mature trees including Norfolk Island Pine (*Araucaria heterophylla*), Bull bay Magnolia (*Magnolia Grandiflora*) and Kentia Palm (*Howea forsteriana*). Supplementary planting will be added to the property which is in keeping with the landscape of the area.

Therefore, the proposed removal of trees on the subject property will not have a heritage impact as the trees post-date the construction of the existing buildings and were not part of the original trees planted by Sir John Hay.

However, the proposed removal of the existing Port Jackson Fig to the north of the property is considered below.

### Significance of items in the vicinity

The subject property is located adjacent to multiple heritage items:

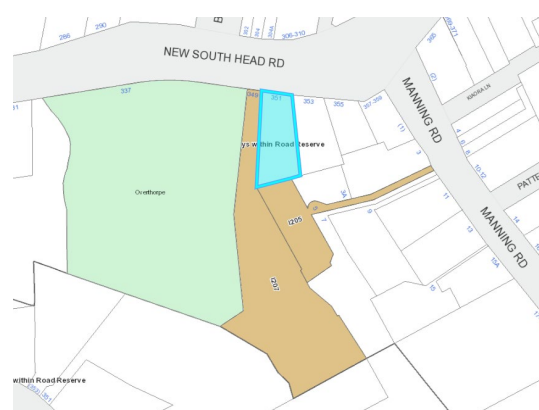


Figure 3. Map showing subject property (blue), state heritage item (green) and heritage items (brown)



#### State significance

- 'Overthorpe', 337-347 New South Head Road, SHR Item No. 246.
- 'Gardens to former "Overthorpe", including 3 Small-Leaved Figs, Coolamon or Watermelon Tree, Silver Quandong, 2 Moreton Bay Figs, Bunya Pine, Queen Palm, Cabbage Palms, 9 Canary Island Date Palms, service driveway, front retaining wall and fence, gates', 337-347 New South Head Road, LEP Item No. 206.

#### Local significance

- 'Weeping Lilli Pilli, all Bangalow Palms (approx. 30), Washingtonia Palm, Queens Palms, Cabbage Palms' 5 Manning Road, Double Bay, LEP Item No. 205.
- 'Vegetation associated with the gardens of the former house "Overthorpe", including Silver Quandong, Norfolk Island Pine, Bunya Pine, rainforest specimen, Bangalow Palms, Queen Palms, Cabbage palms', 349 New South Head Road, Double Bay, LEP Item No. 207.

#### Consideration

##### Setting

The submitted arborist report notes that the existing Port Jackson Fig to the north of the property is proposed to be removed as it has 'declined in vigour'. It is proposed to be replaced with a cook pine and another Port Jackson Tree. I will defer to Councils Tree Officer in regards to the proposed health and removal of the tree. However:

In the approved development (DA2019/226/1), the submitted HIS provided the following comment:

- *The proposed works are considered to be in keeping with the desired future character for this part of New South Head Road, as expressed by Council controls. The subject site is located next to the Heritage listed "Overthorpe". The proposed development has been set back to allow for the retention of the Port Jackson Fig. This tree is noted as not belonging to the former gardeners however its location to the street boundary does form part of the heritage items setting. The intention of the set back is to provide views to the neighbouring heritage listed item and retain the green vistas identified as being at the western end of Double Bay Centre. (pg 33)*

The submitted HIS has removed the above reference to the Port Jackson Fig and therefore, has not appropriately considered the impacts of the proposal to the neighbouring heritage item.

Therefore, it is unclear if the proposal is in keeping with the setting of the heritage item and successful in maintaining the views of this area which are predominately landscaped with large, mature trees.

##### Views



Figure 4. DA2019/226/1



Figure 5. Current proposal

Comparing the photomontages of the proposed and approved design (Figure 4, Figure 5) it is evident that the proposal will impact on significant views to Overthorpe from New South Head Road. All vegetation associated with the garden will be concealed by the development. This will result in a major impact to the setting of the heritage item.

The submitted HIS provides the following comments:

- *The additional levels to the proposed works will not have a significantly different visual impact than the previously approved residential development (DA226/2019 & LEC Case #2020/00361848). The interaction with the heritage item is from a streetscape and urban interface. The additional storeys to the subject site will be outside these principal view corridors and will not detract from the ability to interact and understand the significant garden and landscaping elements that the heritage items consist of.*
- *The proposed works will have no impact on the ability to understand the historic, aesthetic, rarity and technical significance of the of the neighbouring former garden. Views to the heritage items from the public realm are noted as being from the opposite on New South Head Road as this allows the viewer to observe the garden as a collection of Australian rainforest plants.*
- *The proposal will not result in the loss of any recognised significant views to the adjoining neighbouring heritage item. The scale of the building will be increased, however, green vistas from New South Head Road will be maintained. The proposed development maintains and takes its cue from the surrounding extant building forms and finishes.*

Furthermore, the listing sheet for Overthorpe (337-347 New South Head Road) States:

- *Located below the ridgeline and Edgecliff Road, the site's elevated position visually presents a lush-vegetated hill slope dominated by massive rain forest canopies and emergent Araucarias.*
- *From New South Head Road, Double Bay, near the intersection with Manning Road, the dominant canopy is from one massive and rare fig, possibly the Small-leaved Fig (*Ficus obliqua*). This Fig, typical of the lush Australian rain forest plantings on this site, is botanically of great significance in being one of only a few known specimens of this species in the Municipality. All but one of these occurs on this site.... These Figs are also threatened by competing needs for light and views, particularly with respect to the 351 Edgecliff Road "Arlington" units.*



However, the HIS has not considered the impacts of the proposal of the views to the heritage item from New South Head Road (looking west at intersection with Manning Road), as indicated in the perspectives above. It is considered that, from this view, the green vistas from New South Head Road will not be maintained. Further consideration of this is required.

#### *Direct and indirect impacts*

Compared to the approved design (DA2019/226/1), the proposal involves additional excavation for the provision of an extra basement level parking. It is unclear if this will impact on the tree roots of the existing heritage listed trees. This will be deferred to Councils Tree Officer, however, the HIS should provide some comment on this to mitigate any potential impacts.

#### *Overshadowing*

Due to the increased height, bulk and scale of the development, it will result in additional overshadowing impacts.

The submitted HIS has not considered the impact of this on the following heritage items:

- 'Weeping Lilli Pilli, all Bangalow Palms (approx. 30), Washingtonia Palm, Queens Palms, Cabbage Palms' 5 Manning Road, Double Bay, LEP Item No. 205.
- 'Vegetation associated with the gardens of the former house "Overthorpe", including Silver Quandon, Norfolk Island Pine, Bunya Pine, rainforest specimen, Bangalow Palms, Queen Palms, Cabbage palms', 349 New South Head Road, Double Bay, LEP Item No. 207.

I will defer the potential impacts to Councils Tree Officer. However, a comment must be provided in the HIS, in consultation with the suitably qualified Arborist. Without this, it cannot be concluded that the proposed works will have no impact on the physical fabric of the heritage items.

To assist this assessment, it is recommended that a Flora and Fauna Assessment is undertaken (like that submitted for DA2019/226/1).

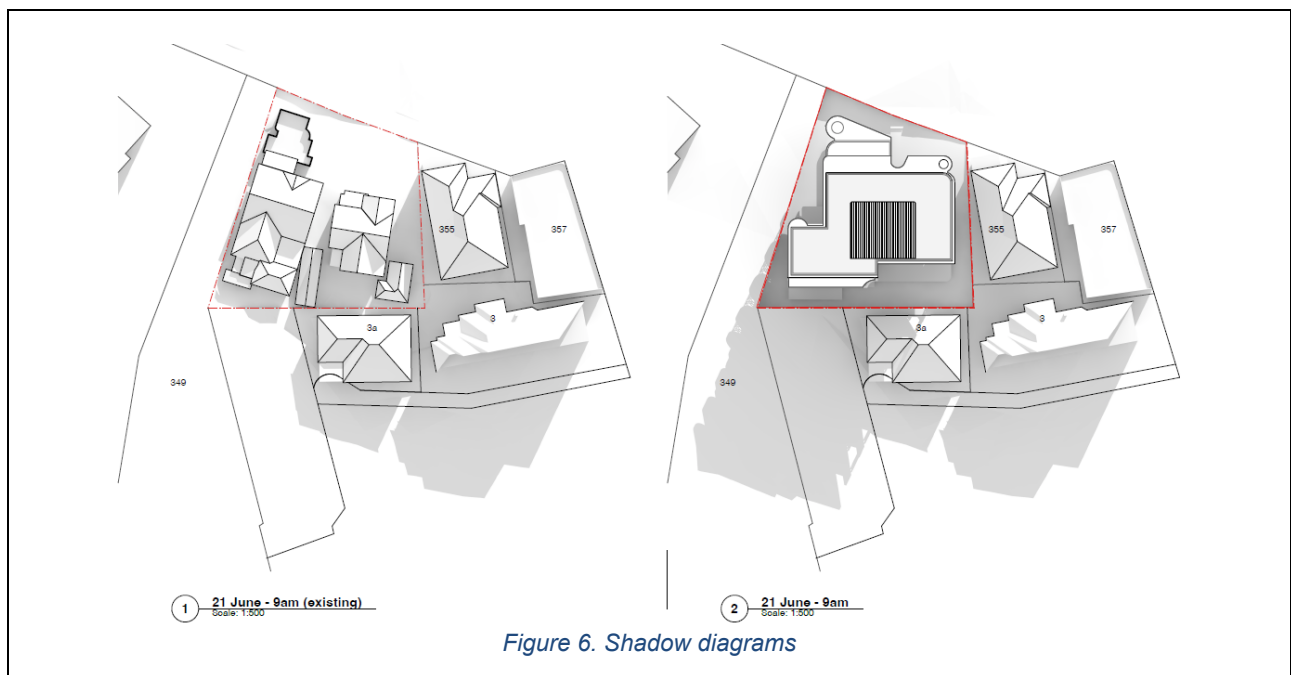




Figure 7. Approximate area of additional overshadowing (red)

## Woollahra DCP 2015

### **Part B – General Residential – B1 Residential Precincts**

#### ***CLAUSE B 1.4 Wallaroy Precinct***

##### ***Desired Future Character***

Objections: O1, O3, O5, O6, O8,

The proposal is not consistent with the Desired Future Character of the area from a heritage perspective. The proposal is excessive in size and does not respond to the sloping topography of the site. It does not retain the Port Jackson Fig on the northern boundary, which contributes to the setting of the heritage listed Overthorpe. Due to the height, the proposal does not retain views of the green canopy of the area.

It is unclear if the proposal retains significant vegetation, due to the impacts of additional overshadowing and excavation. The proposal does not retain or rebuilds the existing sandstone garden wall to the street. The impact of this is to be considered in the submitted HIS.

## **7. CONCLUSION**



The proposal has been considered having regard to the applicable legislation and policy documents and, on balance, is considered to be not acceptable.

## 8. RECOMMENDATION

Prior to further assessment of the proposal, the application requires the following additional information and design amendments:

### Revised Heritage Impact Statement

The submission of a revised Heritage Impact Statement is required. This is to:

- Clarify the proposed works to the existing sandstone boundary walls to NSH Road. Sandstone walls are considered significant. Options for retention or conservation rather than demolition must be considered.
- Adequately assess the streetscape impacts on the neighbouring heritage items regarding the proposed removal of the existing Port Jackson Fig to the north of the property. The previously submitted HIS for DA2019/226/1 notes that its location to the street boundary contributes to the setting of the neighbouring heritage item.
- Elaborate on the impacts of the proposal of the views to the heritage item from New South Head Road (looking west at intersection with Manning Road). The listing sheet for 'Overthorpe' notes that this view is significant to the State heritage values and setting of the item. It is considered that, from this view, the proposal will not maintain the green vistas from New South Head Road.

### Addendum to the revised Heritage Impact Statement

An addendum to the revised heritage impact statement is to be prepared in collaboration with a suitably qualified Arborist and a suitably qualified Ecologist to consider the impacts of the proposal on the neighbouring State and Local Heritage Items. In particular:

- The proposed removal of the existing Port Jackson Fig to the north of the property.
- Provide comment if the additional excavation will impact on the tree roots of the neighbouring heritage items. The HIS is to consider how any potential impacts could be mitigated.
- Provide thorough assessment of whether the additional overshadowing will impact on the form and fabric of the neighbouring heritage items. i.e. Will less sunlight be detrimental to the health of the trees?

### Flora and Fauna Assessment

It is noted that the heritage item comprises a delicate and rare ecosystem. It is recommended that a Flora and Fauna Assessment is undertaken. (Similar to that submitted for DA2019/226/1)

### Heritage NSW

Following this assessment, it is evident that comment from Heritage NSW is required to further assess the proposal.



### General and standard conditions

The proposal is NOT recommended for approval. However, the following general and standard conditions are relevant to the application:

#### **A. General conditions**

##### **Salvage**

Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, sandstone blocks, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project.

Salvaged building materials surplus to the project must either be stored on site for future reuse or transferred to an established second building material dealer for recycling.

**Condition Reason:** To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).

#### **B. Before Demolition Work Commences (Standard Conditions)**

##### **B3 Recording of Buildings with Little or No Heritage Significance that are to be Demolished**

Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements 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) 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.
- b) 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 Department of Climate Change, Energy, the Environment and Water website for the free publication "Guidelines for preparing archival recordings of heritage items as a condition of consent" available at <https://www.environment.nsw.gov.au/publications/guidelines-for-preparing-archival-recordings-of-heritage-items>

**Condition Reason:** To ensure existing building and landscape elements are recorded.  
(Standard Condition B.3 - Autotext 3B)



## **B8 Archaeological Features – Unexpected Findings**

While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.

Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.

Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

### **Notes:**

Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.

Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.

During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

**Condition Reason:** To protect archaeological features.

(Standard Condition B.8 - Autotext 8B)

## **B9 Skeletal Remains**

While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:

- a) NSW Police, and
- b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Details of the remains and their precise location are to be provided.

Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

**Condition Reason:** To ensure the appropriate management of skeletal remains.

(Standard Condition B.9 - Autotext 9B)

(Autotext 9B)

## **B10 Aboriginal Objects – Unexpected Findings**

While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.



- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.
- f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

**Notes:**

The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**Condition Reason:** To protect Aboriginal objects

(Standard Condition B.10 - Autotext 10B)

## **B12 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.

**Condition Reason:** To protect Aboriginal heritage.

(Standard Condition B.12 - Autotext 12B)

Vanessa Wood  
**Heritage Officer**

14.11.2025  
**Completion Date**

HMS Application ID: 13566

Mr Brett McIntyre  
Planner  
Woollahra Municipal Council  
PO Box 61  
DOUBLE BAY NSW 1360

Email: Brett.McIntyre@woollahra.nsw.gov.au  
Letter issued via email

Address: 351-353 New South Head Road, Double Bay, NSW 2028

Proposal: Demolition of the existing building and construction of a new residential flat building including basement carpark with affordable housing.

Development Application no: CNR-88777 - DA2025/376/1

Received: 2 February 2025 via Heritage Mailbox

---

Subject: Development Application Referral - Heritage NSW comment

Dear Mr McIntyre

I refer to your request for Heritage NSW to provide comment on the above-named development application (DA).

**The proposed development involves:**

- Demolition of the existing buildings on the site.
- Construction of a new eight (8) storey residential flat building consisting of twenty-four (24) residential apartments and two levels of basement parking.
- Associated communal spaces, landscaping and stormwater drainage.

The subject property is not listed on the State Heritage Register (SHR). However, the site is in proximity of the SHR listed *Overthorpe* (SHR No. 00246) and directly adjoins two local heritage items listed in Schedule 5 of the *Woollahra LEP 2014*.

The following key documents provided in the application were subject to review:

- Architectural plans, prepared by Luigi Roselli Architects and Hills Thalys Architecture, dated 16 September 2025 (numbered DA 00 to DA 11.1).

- Landscape plans, prepared by Bates Landscape, dated 20 August 2025 (numbered C001 to C015).
- Statement of Heritage Impact, Development Application, Nos. 351-353 New South Head Road, Double Bay, prepared by Weir Phillips Heritage, dated September 2025.
- Aboriginal Heritage Impact Assessment (Due Diligence), 351-353 New South Head Road, Double Bay, prepared by Associates Archaeology & Heritage, dated September 2025.
- Statement of Environmental Effects, prepared by GSA Planning, dated September 2025.
- Arboricultural Impact Assessment for Proposed Residential Development, 351-353 New South Head Road, Double Bay, NSW, prepared by Tree Wise Men, dated 23 September 2025.

It is noted that a previous development application (DA226/2019) for a five-storey residential flat building with basement parking was approved in January 2022 (LEC Case 2020/00361848). Council did not seek comment from Heritage NSW for that application.

### Aboriginal cultural heritage

The following comments are provided in relation to the proposal:

- Heritage NSW advises that it is the responsibility of the proponent to ensure that they comply with Part 6 of the *National Parks and Wildlife Act 1974*.
- If Aboriginal objects are present, or likely to be present, and the proposed activity will harm those objects, an Aboriginal Cultural Heritage assessment must be undertaken. This assessment should inform appropriate management and mitigation measures, which may include the requirement for an Aboriginal Heritage Impact Permit.
- Heritage NSW recommends that the Aboriginal Cultural Heritage assessment is guided by the following documents:
  - *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales* <https://www.environment.nsw.gov.au/publications/guide-investigating-assessing-and-reporting-aboriginal-cultural-heritage-new-south-wales>
  - consultation with the Aboriginal community undertaken in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* <https://www.environment.nsw.gov.au/publications/aboriginal-cultural-heritage-consultation-requirements-proponents>
  - satisfy the requirements of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* <https://www.environment.nsw.gov.au/publications/code-practice-archaeological-investigation-aboriginal-objects-nsw>

### Environmental heritage

The following comments are provided under delegation from the Heritage Council of NSW in relation to the proposal:

- The Statement of Heritage Impact concludes that the proposal will not affect views to and from nearby heritage items. However, the assessment does not adequately address potential impacts on significant views from New South Head Road (looking west toward Overthorpe), a view specifically identified in the SHR Statement of Significance. A comprehensive visual impact assessment is recommended.

- The proposal increases the height and scale from an approved five-storey building to an eight-storey building. This intensification is likely to affect the setting of the SHR item and associated view corridors. Mitigation measures should be explored based on the level of visual impact identified. A design approach more responsive to the site's sloping topography may reduce visual bulk.
- It is noted that the shadow diagrams included in the architectural package shows that the proposed new 8 storey building will not cast shadow on Overthorpe at any time of the year due it being located to the east of SHR item.
- The Arboricultural Impact Assessment identifies a *Ficus* (T33) located on the eastern boundary within the curtilage of the SHR item. Given its heritage significance and potential root sensitivity, root mapping undertaken by an experienced arborist should be undertaken to confirm the extent of encroachment and inform measures to protect the tree during excavation and construction. Further arboricultural advice is recommended to ensure the tree's long-term health is safeguarded.
- Management of overhanging branches associated with the *Ficus* (T33) are required to be monitored by an arborist.
- The Statement of Heritage Impact notes that assessment of historical archaeology is beyond the scope of the report. It is recommended that a historical archaeological assessment be prepared by a suitably qualified historical archaeologist in accordance with the guidelines *Archaeological Assessments* (1996) and *Assessing Significance for Historical Archaeological Sites and Relics* (2009). This assessment should identify any relics likely to be present, evaluate their significance, and consider the impacts of the proposal on this potential archaeological resource. Where harm is likely, the significance of the relics should inform an appropriate mitigation strategy. If harm cannot be avoided in whole or in part, a section 140 permit would be required. As part of any permit application, a detailed Research Design and Excavation Methodology must be prepared to guide proposed excavations or salvage works. Should potential impacts to historical archaeology be identified, Heritage NSW can review the historical archaeological assessment and provide comments prior to determination of the Development Application.

If you have any questions about this correspondence, please contact Rebecca Zulaikha, Senior Assessments Officer at Heritage NSW on (02) 9873 8500 or [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au)

Yours sincerely

*Rochelle Johnston*

Rochelle Johnston  
 Senior Manager, Assessments  
 Heritage NSW  
 Department of Climate Change, Energy, the Environment and Water  
 Environmental heritage comments made as delegate of the Heritage Council of NSW

12 February 2026