

DA NO: DA-2024/8
ADDRESS: 365 SAILORS BAY ROAD, NORTHBRIDGE NSW 2063.
PROPOSAL: ALTERATIONS AND ADDITIONS TO EXISTING DWELLING INCLUDING PARTIAL DEMOLITION, ROOFING, LANDSCAPING AND ASSOCIATED WORKS.
RECOMMENDATION: APPROVAL
ATTACHMENTS:
1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT
4. OFFICER'S CLAUSE 4.6 ASSESSMENT – HEIGHT
5. APPLICANT'S CLAUSE 4.6 SUBMISSION – FSR
6. OFFICER'S CLAUSE 4.6 ASSESSMENT – FSR
7. SECTION 4.15 (79C) ASSESSMENT
8. SCHEDULE OF CONDITIONS
9. NOTIFICATION MAP
RESPONSIBLE OFFICER: CAITLIN MCNALLY – TEAM LEADER FAST TRACK
AUTHOR: LORI LI – DEVELOPMENT ASSESSMENT OFFICER
REPORT DATE: 2 JULY 2024
MEETING DATE FOR ED ELECTRONIC DETERMINATION

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2024/8 for alterations and additions to existing dwelling including partial demolition, roofing, landscaping and associated works at 365 Sailors Bay Road, Northbridge.

The application is required to be referred to the WLPP for determination as the development proposal contravenes the Floor Space Ratio development standard by more than 10%. The application also exceeds the maximum building height, however this breach is less than 10%.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Support the Clause 4.6 exception relating to height contained in Attachment 3 as it is considered unreasonable and unnecessary to comply with the development standard of Clause 4.3 *Willoughby Local Environmental Plan 2012 (WLEP)* (Height). The height of the proposed development exceeds the development standard and should be supported for the following reasons:

2.1.1 The breach is existing. The application proposes a material change to the roof, therefore requiring a Clause 4.6 variation as works are being carried out above the maximum height limit.

2.1.2 The Clause 4.6 variation request submitted by the applicant establishes that the proposal is consistent with the objectives of the development standard and the zone.

2.1.3 The variation requests to Height of Buildings submitted with the development application were found to provide adequate environmental planning grounds to justify the breach in the maximum height.

2.2 Support the Clause 4.6 exception relating to Floor Space Ratio (FSR) contained in Attachment 5 as it is considered unreasonable and unnecessary to comply with the development standard of Clause 4.4A *Willoughby Local Environmental Plan 2012 (WLEP)* (Floor Space Ratio). The gross floor area of the proposed development exceeds the development standard and should be supported for the following reasons:

2.2.1 The breach to the FSR is existing. The Gross Floor Area (GFA) is not increasing however the layout of some areas of the dwelling are being re-arranged, therefor requiring a Clause 4.6.

2.2.2 The Clause 4.6 variation request submitted by the applicant establishes that the proposal is consistent with the objectives of the development standard and the zone.

2.2.3 The variation requests to Floor Space Ratio submitted with the development application were found to provide adequate environmental planning grounds to justify the breach in the maximum floor space ratio.

2.3 Approve Development Application DA-2024/8 for Alterations and additions to existing dwelling including partial demolition, roofing, landscaping and associated works at 365 Sailors Bay Road, Northbridge NSW 2063, subject to conditions contained in Attachment 8, for the following reasons:

2.3.1 The proposed development will not have unreasonable impacts on the streetscape, the residential amenity of the neighbouring properties or the surrounding locality;

2.3.2 It is considered that the proposed development meets the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)* and objectives of the *Willoughby Development Control Plan (WDCP)*.

3. BACKGROUND

The application was lodged to Council on 15 January 2024. Notification occurred from 22 January to 6 February 2024. No submissions were received during this period.

The proposal is for alterations and additions to the existing dwelling including partial demolition, roofing, landscaping and associated works. More specifically:

Front yard & Garage

- Existing crossover will be maintained.
- Driveway within the site boundary will be widened to improve vehicle manoeuvring.
- External pedestrian entry will be reconfigured to connect to the ground floor entry door.

Ground Floor

- The existing south-eastern terrace will be maintained.
- Part of the existing roof will be demolished, and a new sheet metal roof will be added to the office, with an eave over the entry stairs and path from the garage.
- The entry hall will be widened.
- The existing staircase to the first floor will be demolished and relocated.
- A new double-height void and central courtyard will be introduced to provide solar access and natural ventilation to the centre of the plan.
- The existing laundry and ensuite will be demolished to create a combined kitchen, living, and dining area.
- The existing bedroom will be converted into a walk-in pantry and laundry.
- New openings will be added to the main communal areas, particularly those with northern and eastern aspects, to allow for additional solar access and better connection to the outdoors.

First Floor

- A new staircase and double-height void will provide light to a central hallway, allowing for stack effect passive ventilation between the two floors.
- The oversized south-eastern existing balcony will be partially enclosed. A new study will be added to the eastern end of the balcony, and a new main bedroom to the southern end.
- The existing laundry will be demolished to accommodate a walk-in robe and ensuite adjoining the main bedroom.
- New high-level windows will be added to the main bedroom, walk-in robe, and ensuite.
- The existing bathroom and northern bedrooms will largely be maintained.
- Additional external cladding with retrofit insulation and proposed solar screening will be added to the first floor to improve thermal performance in the primary bedrooms.

Roof

- The original tile roof, which needs maintenance and repairs, will be replaced with metal sheet roofing plus insulation. Existing ridge heights and gutter locations will be maintained.
- Solar photovoltaic panels will be installed at the northern end of the roof for optimized performance and will be positioned away from the public domain.

It should be noted that the height of the building will remain the same as the existing. The GFA calculation will also remain the same, however the layout of the dwelling will change as a result of the proposal.

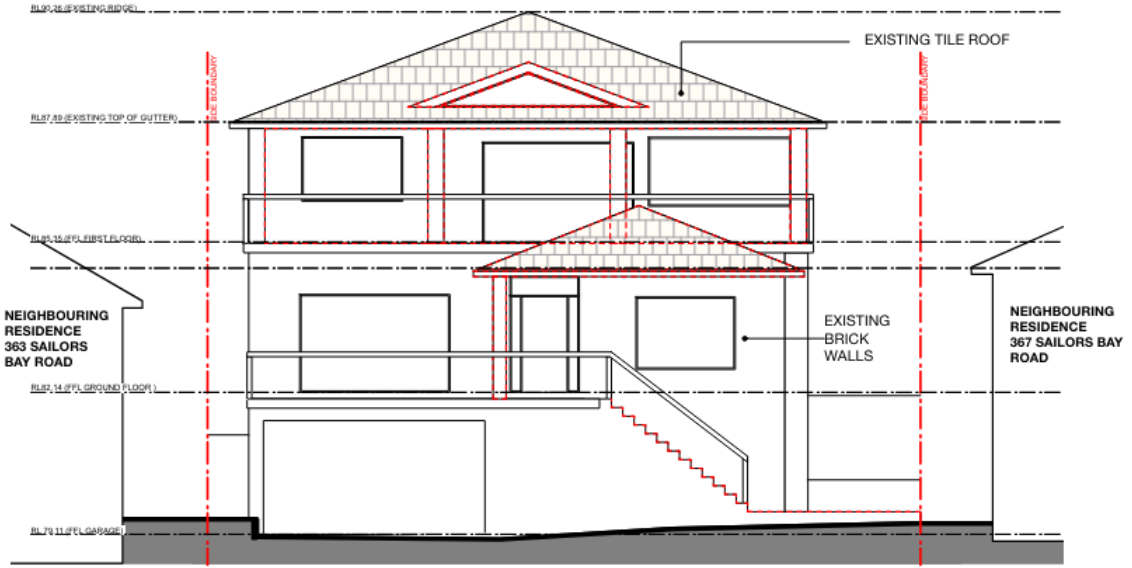


Figure 1 Existing Front (South) Elevation

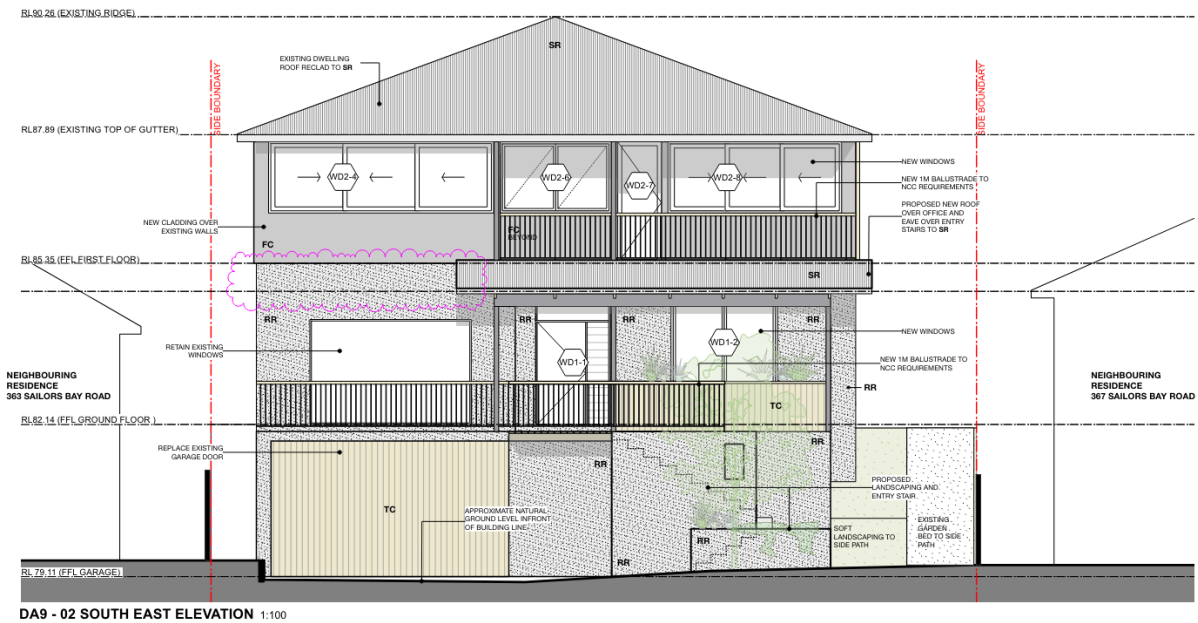


Figure 2 Proposed Front (South) Elevation

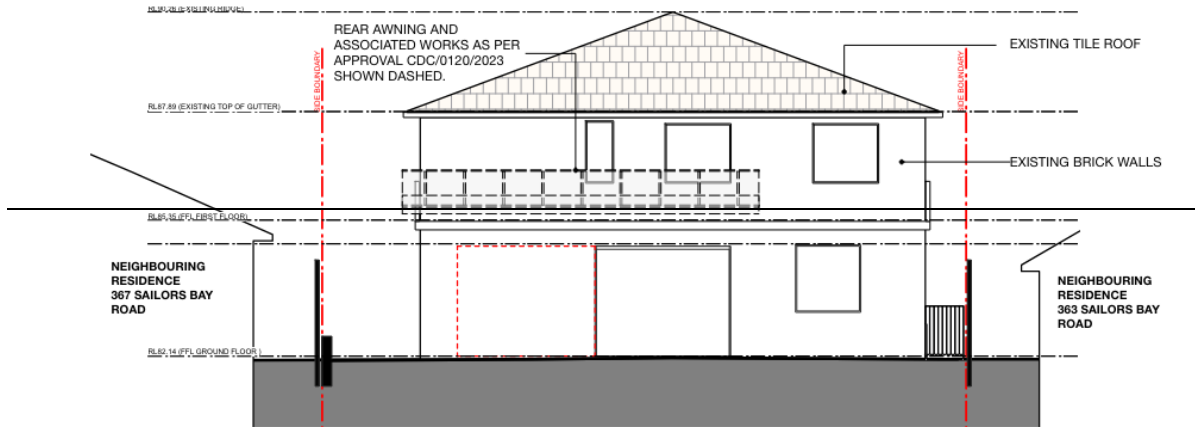


Figure 3 Existing Rear (North) Elevation



Figure 4 Proposed Rear (North) Elevation

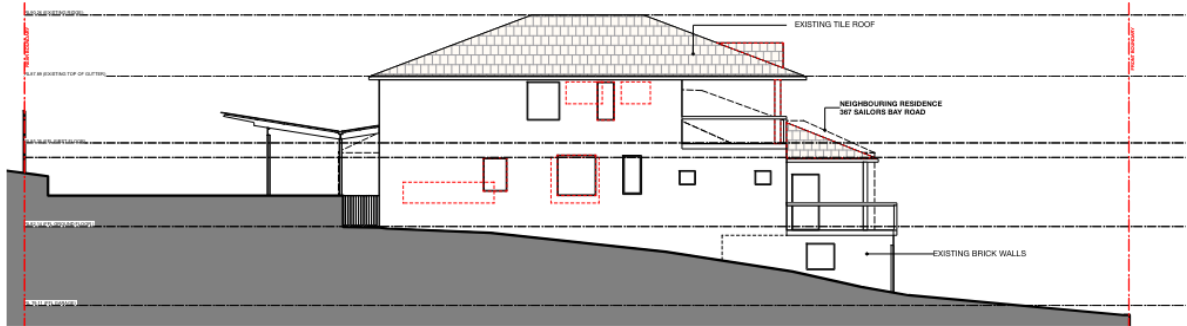


Figure 5 Existing West Elevation

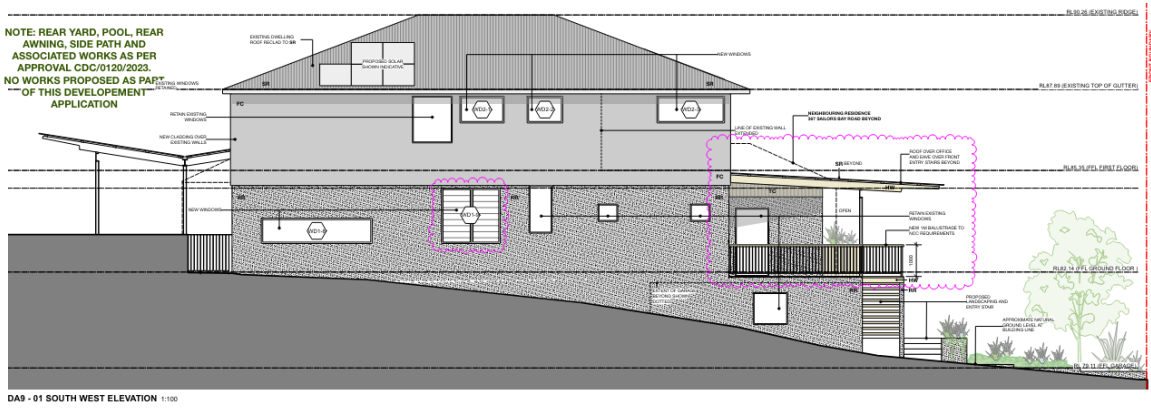
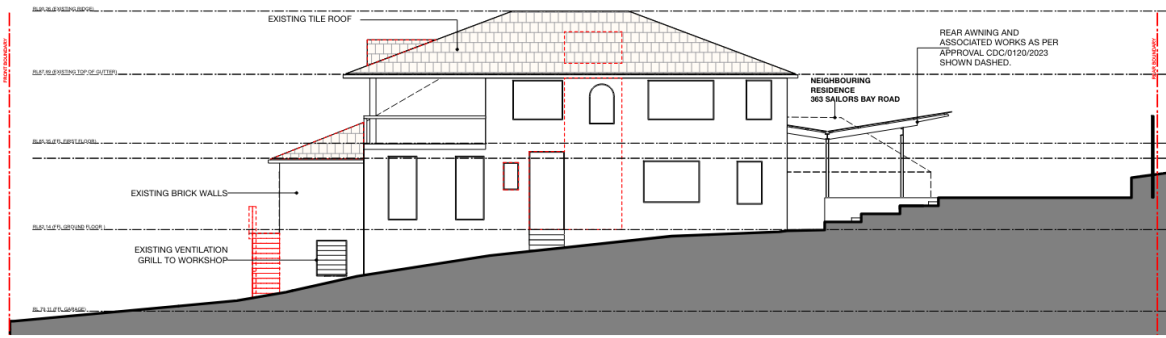
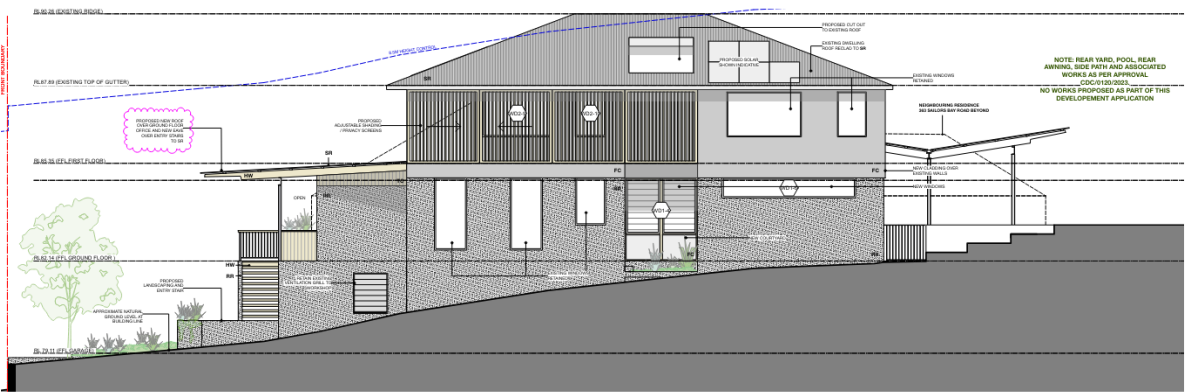


Figure 6 Proposed West Elevation



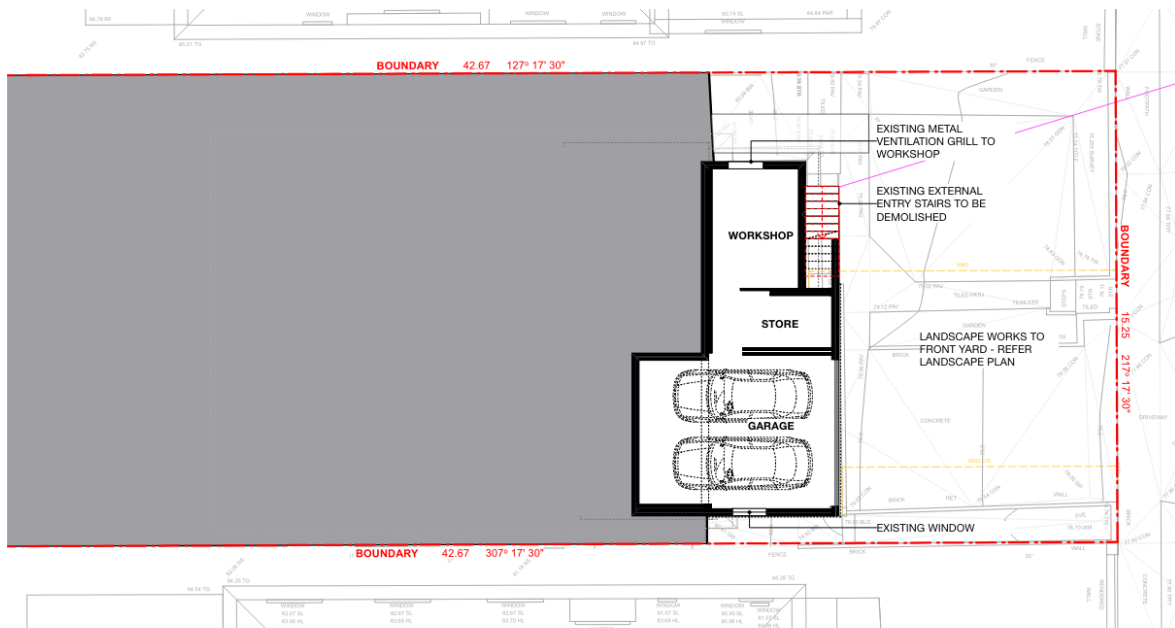
DA3 - 04 EXISTING EAST ELEVATION 1:200 @ A3

Figure 7 Existing East Elevation



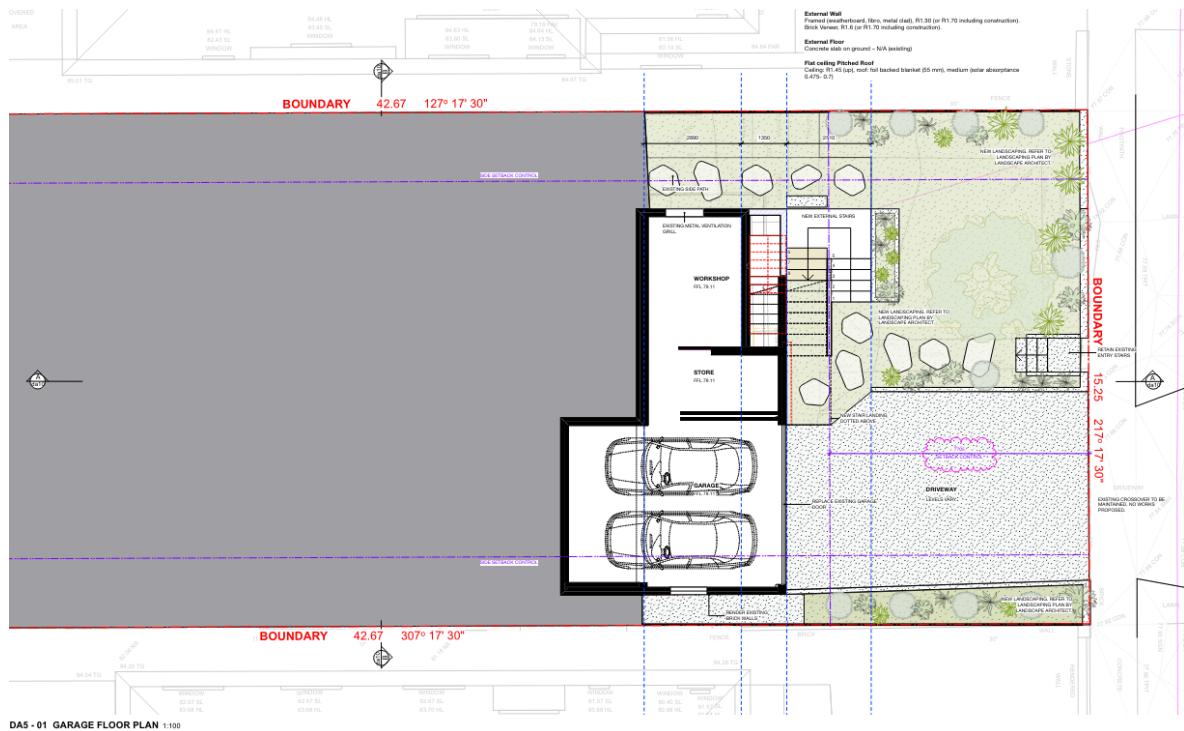
DA8 - 01 NORTH EAST ELEVATION 1:100

Figure 8 Proposed East Elevation



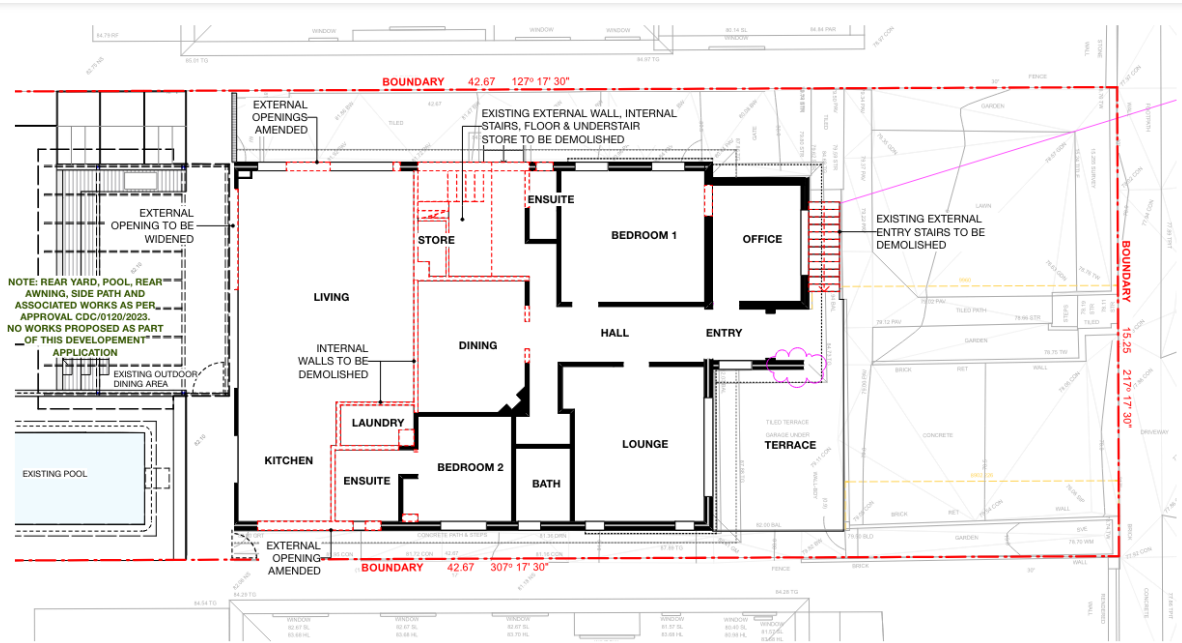
DA2 - 01 DEMOLITION GARAGE FLOOR PLAN 1:200 @ A3

Figure 9 Existing Garage Floor Plan



DA5 - 01 GARAGE FLOOR PLAN 1:100

Figure 10 Proposed Garage Floor Plan



DA2 - 02 DEMOLITION GROUND FLOOR PLAN 1:200 @ A3

Figure 11 Existing Ground-floor Plan

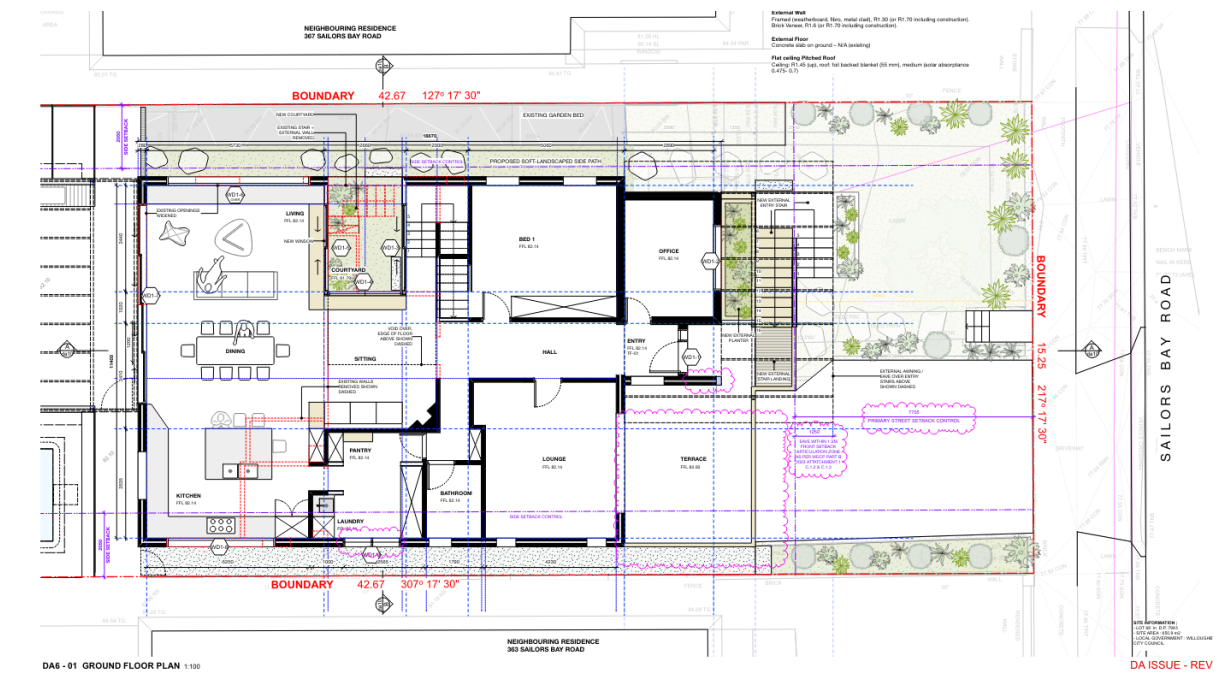


Figure 12 Proposed Ground-floor Plan

4. DISCUSSION

Attachment 1 contains a description of the site and surrounding area, including an aerial photograph.

Attachment 2 contains the controls and development statistics that apply to the subject land are provided in.

Attachment 3 contains the applicant's Clause 4.6 request to vary the Building Height development standards.

Attachment 4 contains Council's assessment of the applicant's request to vary the building Height development standards.

Attachment 5 contains the applicant's Clause 4.6 request to vary the FSR development standards.

Attachment 6 contains Council's assessment of the applicant's request to vary the FSR development standards.

Attachment 7 contains a table addressing matters for consideration under S4.15 of the EP&A Act.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=535872>

5. CONCLUSION

The Development Application DA-2024/8 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 8.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The subject property, known as Lot 68 DP 7943, is a rectangular site generally oriented along a northwest-southeast axis.

It is located on the north-western side of Sailor Bay Road, between Narani Crescent and the Northbridge Golf Course. The site is occupied by a two-story, brick-clad dwelling with a tiled roof that corresponds with the slope of the land. The property slopes toward the curb but is generally flat along the frontage.

The surrounding area consists of similar-sized dwellings on R2 zoned lots, featuring a range of architectural designs. Council's records indicate that there are no easements on the property.



Figure 15: Aerial Image of Site

Relevant History

The site has been subject to the following approvals:

DA-2001/1688, Add roof over existing 1st floor balcony

BA-1990/500025

BA-1995/500317

BA-1979/355, Extension

CD-2023/278, Construction of awning, swimming pool and related landscaping

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

Willoughby Local Environmental Plan 2012 Zoning:	R2 Low Density Residential
Existing Use Rights	NO
Additional Permitted Use	NO
Conservation area	NO
Aboriginal Heritage	NO
Heritage Item	NO
Vicinity of Heritage Item	YES, minimal impacts on I180
Natural Heritage Register	NO
Bushfire Prone Area	NO
Flood related planning control	NO
Foreshore Building Line	NO
Adjacent to classified road	NO
Road/lane widening	NO
BASIX SEPP	YES
Infrastructure SEPP - Rail	NO
Infrastructure SEPP - Road	NO
Coastal Management SEPP	NO
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	NO
Contaminated Land	NO
Adjacent / above Metro	NO
Land Issues - Exponare	NO
Other relevant SEPPS	<i>SEPP 55 Resiliency and hazard.</i>
Other relevant REPS	<i>Sydney Regional Environmental Plan (Sydney Regional Harbour catchment)</i>
Relevant DCPs policies and resolutions	<i>WDCP</i>

Developer's Contribution Plans:

S7.11/7.12 Section 94A contribution:	Yes
a. Applicable rate (%):	1%
b. The cost of development (Part A CI 25J) (\$)	\$618,249.50
c. Date of accepted cost of development:	14.12.2023
d. The total contribution payable (\$)	\$6,182.49

Referrals

Building services	N
Engineering	Y, standard engineering conditions applied
Environmental Health	N
Waste	N
Landscape	N

No external referrals required.

Neighbour Notification

The application has been notified in accordance with the *Willoughby Community Participation Plan (WCPP)* for a period of 14 days. As a result, no submissions were received.

Photograph and written statement for Notification sign registered in ECM	Yes
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ASSESSMENT

The proposed development does not comply with the following Development Standards:

Building Height

See Attachment 4- Council's assessment of the applicant's request to vary th Building Height development standards.

Floor Space Ratio

See Attachment 6- Council's assessment of the applicant's request to vary the FSR development standards.

Development Statistics (R2– Low-density Residential Development)

The proposed development does not comply with the following numerical controls under the *WDCP*.

Water Management

The area of works proposed is over 25m², with the impervious area measuring over 60%. In this regard, a 10kl rainwater tank is required. Conditions have been put in the Consent to require a 10kl rainwater tank as well as other standard engineering conditions.

Side Setbacks

Under *WDCP*, the first floor of the dwelling is required to be set back a minimum of 2.025m from side boundaries. The proposed extensions to the first floor do not meet this requirement. It should be noted that the existing side setbacks are also noncompliant. The design of the small additions to the first floor maintains the existing setbacks.

The proposed variation from the setback requirement would not compromise the ability of the underlying objectives of the standard to be satisfied. Any overshadowing to neighbouring properties would be minimal as a result of these side setback. It is considered that the proposed departures from the setback requirements could be reasonably supported by Council.

Soft Landscaped Area

WDCP requires a minimum of 263.61 square meters of soft landscaping for a site with an area of 644.97 square meters. The application proposes 245.8 square meters, which falls short by 17.81 square meters.

The existing landscaping is 194.29 square meters, and the proposal increases this by 51 square meters. With the additional landscaped area, the proposal will meet the relevant intent and performance criteria, will be a better outcome for the site in regard to soft landscaping and is therefore supported with respect to this matter.

Solar Access

WDCP requires 3 hours of solar access between 9am and 3pm on 22 June to private open space and living areas of neighbouring properties.

The application was accompanied by shadow diagrams to demonstrate the impact of the proposed development upon adjoining and nearby development. The additional solar impact resulted from the proposal is considered to be within acceptable limits. The diagrams further demonstrate that the small extensions to the first floor do not create an unreasonable impact to neighbouring solar access.

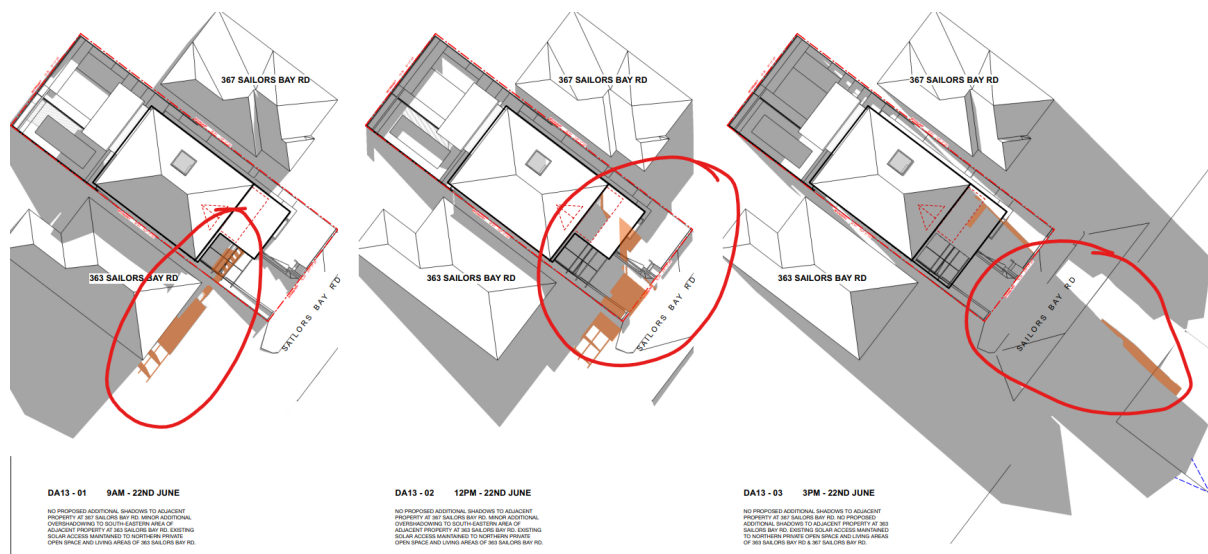


Figure 16 Overshadowing Diagrams

Development standards under the WLEP for the proposed alterations and upper level additions to the existing dwelling

Description	Existing	Proposed	Control	Yes	No	N/A
Height of building (Clause 4.3)	9m	9m	8.5m		x	
Maximum FSR (Clause 4.4A)	0.505:1 (326m ²)	0.505:1 (326m ²)	0.43:1 (277m ²)		x	
Minimum lot size (Clause 6.10)	644.97m ²	No change				✓

Development controls under the DCP for the proposed alterations and additions to the existing dwelling.

Description	Proposed	Control	Yes	No	N/A
1. Landscaped area	245m ²	263.61m ²		x	

Description	Proposed	Control	Yes	No	N/A
2. Minimum dimension	Min 1m	1m	✓		
3. Minimum deep soil zone.	>20%	20% of the total landscaped area	✓		
4. Minimum landscaped area behind the building line	>50%	50% of the total landscaped area			✓
5. Minimum deep soil zone forward of the building line on a lot 18m or more wide		70% of the area forward of the building line			✓
6. Minimum deep soil zone forward of the building line on a lot less than 18m wide	>50%	50% of the area forward of the building line	✓		
7. Construction of basement					✓
Construction of basement on lots between 6m – 10m		Not exceed 25m ²			✓
Construction of basement on lots >10m	-	Not exceed 45m ²			✓
Note: The basement may be used for car parking and include storage areas and/or plant/mechanical service rooms. However, the combined below ground storage areas and/or plant/mechanical service rooms must not exceed 5% of the total allowable area for a dwelling house (see section 2.1.14 of Part B).					
8. Primary road setback is to be the	No change	average of 2 adjoining dwellings, otherwise	✓		
OR					
Up to 300m ²		3m			✓
>300m ² – 900m ²	No change	4.5m			✓
>900m ² – 1500m ²		6.5m			✓
>1500m ²		10m			✓
9. Side setbacks					
Lot width:	Building Height:				
Up to 10m	Up to 5.5m		900mm		✓
Up to 10m	>5.5m – 8.5m		(height - 5.5m) / 4 + 0.9m		✓
>10m – 18m	Up to 4.5m	900mm	900mm	✓	
>10m – 18m	>4.5m – 8.5m	900mm	(height - 4.5m) / 4 + 0.9m=2.025m		×
>18m – 24m	Up to 4.5m		1.5m		✓
>18m – 24m	>4.5m – 8.5m		(height - 4.5m) / 4 + 1.5m		✓
>24m	Up to 8.5m		2.5m		✓

Description	Proposed	Control	Yes	No	N/A
Note: excludes common side boundary walls with a nil setback or within 900mm if the adjoining building is within 900mm.					
10. Maximum height of walls abutting or within 900mm of side boundary		3.3m or height of adjoining building abutting or within 900mm (maximum height for detached development is 4.5m)			✓
11. Maximum length of wall abutting or within 900mm of side boundary (including any detached development)					
Lot width at the building line:					
6m – 10m		20m or 50% of lot depth (whichever is lesser)			✓
>10m – 12.5m		10m			✓
Note: the length of the wall may be the same as the adjoining dwelling if the length of the wall on the adjoining property is greater than these control					
12. Rear setbacks					
Lot area:	Building Height:				
Up to 300m ²	Up to 4.5m	3m			✓
Up to 300m ²	>4.5m – 8.5m	10m or average of 2 adjoining houses, (whichever is lesser)			✓
>300m ² – 900m ²	Up to 4.5m	3m			✓
>300m ² – 900m ²	>4.5m – 8.5m	13.5m	8m	✓	
>900m ² – 1500m ²	Up to 4.5m	5m			✓
>900m ² – 1500m ²	>4.5m – 8.5m	12m			✓
>1500m ²	Up to 4.5m	10m			✓
>1500m ²	>4.5m – 8.5m	15m			✓
13. Secondary road setbacks for corner lots					
Lot size:					
Up to 600m ²		2m			✓
>600m ² – 1500m ²		3m			✓
>1500m ²		8m			✓
14. Minimum front setback to a classified road (including any detached development)		9m			✓

Description	Proposed	Control	Yes	No	N/A
15. Minimum setback to a public reserve (including any detached development)		3m			✓
16. Front setback for battle axe lot		3m			✓
17. Minimum side and rear setbacks for aerials, awnings, air conditioners, and the like		450mm			✓
Note: minimum setbacks do not apply to downpipes, driveways, electricity or gas meters, gutters, and the like					
18. Setback of structures abutting or within 900mm of a rear lane		50% of the boundary			✓
19. Maximum height of balconies, decks, patios, terraces and verandahs attached to the side and rear of dwelling	Floor level above existing ground level				
Setback:					
Up to 3m		2m	✓		
>3m – 6m		3m			✓
>6m		4m			✓
Note: the lot must have a minimum width of 10m and area of 300m ²					
20. Total floor area of all attached side and rear balconies, decks, patios, terraces, and verandahs within 6m of the boundary and more than 2m above the existing ground level					✓
21. Minimum principal private open space					
Lot width:					
Up to 10m		16m ²			✓
>10m		24m ²	✓		
Minimum length and width of principal private open space		3m	✓		
Maximum grade of principal private open space		1:50	✓		

c. Amenity development standards

Note:

- Building elements include: an entry feature or portico; a balcony, deck, pergola, terrace or verandah; a window box treatment; a bay window or similar feature; an awning or other feature over a window; a sun shading feature; and an eave.

Description	Yes	No	N/A
c.1 Building design (does not apply to a dwelling on a battle-axe lot)			
1. A dwelling must contain at least 1 door and 1 window to a habitable room at ground floor level facing the primary road.	✓		
2. A dwelling with a setback from a primary road of at least 3m may have an articulation zone that extends up to 1.5m forward of the minimum required setback from the primary road.	✓		
3. Building elements may be located within the articulation zone providing the maximum total area of all building elements in the articulation zone, (other than an awning or other feature over a window, a sun shading feature or an eave) must not comprise more than 25% of the area of the articulation zone.	✓		
4. A building element on a dwelling (other than an entry feature or portico that has the same pitch as the roof on the dwelling) must not extend more than 1m above the gutter line of the eaves of a single storey dwelling house, or above the gutter line of the eaves of a 2 storey dwelling house.	✓		
5. A dwelling on a corner lot must have a window to a habitable room with an area of at least 1m ² that faces and is visible from the secondary road.			✓
6. A dwelling with a setback from a secondary road of not more than 4.5m must have at least one of the following building elements for a minimum length of 20% of the elevation of the walls that face the secondary road and that are within 4.5m of the secondary road:			✓
▪ an entry feature or portico			✓
▪ a balcony, deck, pergola, terrace or verandah			✓
▪ a bay window			✓
▪ a step of at least 600mm in depth			✓

Description	Yes	No	N/A
7. Building elements listed above may be located in a secondary road articulation zone if the zone extends no more than 1m into the minimum required setback area and spans the length of the walls that face the secondary road, and if the building element comprises no more than 20% of the zone area.			✓
8. Any part of a gable or hipped roof that overhangs walls that are within 4.5m of the secondary road boundary must include eaves that extend for the length of those walls and project at least 450mm, but not more than 1m from those walls.			✓

c.2 Privacy screens			
1. A privacy screen must be provided for any part of a window to a habitable room that is less than 1.5m above the finished floor level of that room if:			
<ul style="list-style-type: none"> the window faces and is less than 3m from a side or rear boundary and the room has a finished floor level of more than 1m above existing ground level 			✓
<ul style="list-style-type: none"> the window faces and is at least 3m, but not more than 6m, from a side or rear boundary and the room has a finished floor level of more than 3m above existing ground level 			✓
This does not apply to a bedroom window that has an area of not more than 2m ² .			
2. A privacy screen of at least 1.7m, but not more than 2.2m, above the finished floor level of a balcony, deck, patio, terrace or verandah must be installed at the edge of that part of the balcony, deck, patio, terrace or verandah that is parallel to or faces towards the relevant side or rear boundary if the area of the balcony, deck, patio, terrace or verandah is at least 3m ² and:			
<ul style="list-style-type: none"> that edge is less than 3m from a side or rear boundary and the balcony, deck, patio, terrace or verandah has a finished floor level of more than 1m above existing ground level 	✓		
<ul style="list-style-type: none"> that edge is at least 3m, but not more than 6m from a side or rear boundary and the balcony, deck, patio, terrace or verandah has a finished floor level of more than 2m above existing ground level 			✓
3. A privacy screen must be provided for any part of a window in a detached studio that is less than 1.5m above the finished floor level of that room if the window faces and is less than 3m from a side or rear boundary and:			✓
<ul style="list-style-type: none"> the room has a finished floor level more than 1m above existing ground level 			✓
<ul style="list-style-type: none"> the window faces and is at least 3m, but not more than 6m from a side or rear boundary and the room has a finished floor level more than 3m above existing ground level 			✓

Description	Yes	No	N/A
c.3 Solar access			
1. A minimum of 3 hours of solar access must be provided for residents of the development between 9am and 3pm on 21 June to living areas, such as family rooms, rumpus, lounge/dining, kitchen, and the principal open space and recreational areas.		×	
2. A minimum of 3 hours of solar access must be maintained to adjoining properties between 9am and 3pm on 21 June to living areas, such as family rooms, rumpus, lounge/dining, kitchen, and the principal open space and recreational areas.	✓		

c.4 Car parking and access				✓ No chan ge
All car parking and vehicular access must comply with the relevant provisions of Part F (Transport and Parking Management) of <i>Willoughby DCP</i> . The specific controls below apply to dwelling houses.				✓
1. Off-street car parking space, being an open hard stand space or a carport or garage, must be provided on a lot unless:				✓
<ul style="list-style-type: none"> ▪ the lot has a width of less than 8m measured at the building line 				✓
<ul style="list-style-type: none"> ▪ the alteration of, or an addition to, a dwelling and the lot does not contain an off-street car parking space 				✓
<ul style="list-style-type: none"> ▪ the development is the erection or alteration of, or an addition to, attached development and the lot does not contain an off-street car parking space 				✓
2. The off-street car parking space for a battle-axe lot must be constructed so that vehicles can leave the lot in a forward direction.				✓
3. An attached garage may only be erected on a lot that has a width of less than 8m measured at the building line if the garage is accessed only from a secondary road or lane.				✓
4. An attached garage, carport or car parking space accessed from a primary road must have a minimum setback 5.5m if the dwelling is setback less than 4.5m or 1m behind the building line if the dwelling is setback 4.5m or more.				✓
5. The maximum width of all garage door openings facing a primary or secondary road is 3.2m for a lot between 8m – 12m and 6m for a lot greater than 12m.				✓
6. Secondary road setback for garage or carport				
Up to 600m ²	2m			✓
600m ² – 1500m ²	3m			✓
>1500m ²	5m			✓
7. Rear setback for garage or carport				
Description		Yes	No	N/A
Up to 900m ²	900mm			✓
>900m ² – 1500m ²	1.5m			✓
>1500m ²	2.5m			✓
A detached garage or carport of masonry construction may be built to the rear boundary if the lot area is at least 200m ² , but not more than 300m ² , and the wall of a building on the adjoining lot within 900mm of that boundary (if any) is of masonry construction and does not have a window facing that boundary.				

ATTACHMENT 3: APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT



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Clause 4.6 – Exceptions to Development Standards in relation to Clause 4.3(2) - Height of buildings, of the Willoughby Local Environmental Plan 2012.

365 SAILORS BAY ROAD, NORTHBRIDGE

09.12.23

Preamble

This written request is made pursuant to the provisions of Clause 4.6 of the Willoughby Local Environmental Plan 2012 (the LEP). A variation is sought in relation to the Height of Buildings standard of Clause 4.3(2) of the LEP, in relation to alterations and additions to the existing dwelling house, at 365 Sailors Bay Rd, Northbridge. Under Clause 4.3 a maximum height of 8.5m above natural ground is permissible.

This exception statement has been prepared having regard to the Land and Environment Court judgments in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards

The objective of LEP Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In accordance with the NSW LEC judgement on *Initial Action Pty Ltd v Woollahra Municipal Council* [2018], the applicant's written request to contravene a development standard should demonstrate two matters. First, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Secondly, that there are sufficient environmental planning grounds to justify contravening the development standard. This request addresses both matters.

Nature of Non-Compliance.

The proposed development is alterations and additions to a two storey dwelling house. By virtue of the slope of the site, the dwelling becomes 3 storey for the South-eastern portion toward the street, with the lower ground floor being an existing garage and storage area.

As shown on the submitted Architectural plans, primarily the South-western Elevation and Long Section, there is a minor non compliance to the South East end of the dwelling roof ridge which includes a portion of the existing roof space.

It should be noted that the non compliance exists over a very small portion of the existing roof, and does not relate to any proposed works. The maximum extent of the non compliance at the Southern edge of the roof ridge above the first floor is approximately 500mm (approx 5.9%)



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Further, it is important to note that an existing gable roof feature which would increase the non compliance in this area is proposed to be removed. The vast majority of the dwelling is well below the 8.5m height limit.

Exception to LEP Clause 4.3 – Building Height

Objectives of LEP Clause 4.3 are as follows:

- (a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
- (b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
- (d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*
- (e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
- (f) to use maximum height limits to assist in responding to the current and desired future character of the locality,*
- (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
- (h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

In accordance with the decision of *Wehbe v Pittwater Council* the applicant seeks to establish that 'the objectives of the development standard are achieved notwithstanding non-compliance with the standard'

The response to the objectives are as follows:

- (a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*

The proposed building envelope and height remain unchanged from the existing, maintaining the existing bulk and scale which is in harmony with the streetscape of two and three storey dwelling houses.

- (b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*

The proposed building envelope and height remain unchanged from the existing, minimising impacts of the proposed development on adjoining and nearby properties whereby views, privacy, overshadowing and visual intrusion are all largely maintained or improved upon. Shadow diagrams are attached to the application, which demonstrate the maintenance of 3 hours of sunlight to the adjoining properties principal private open space on the 21 June between 9am and 3pm. There is no impact on the privacy of neighbours created by the maintenance of the existing non compliant portion of roof.



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(c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,

The visual quality of the proposed development when viewed from adjoining properties, the street and the greater public domain will be maintained and enhanced through an improved external material palette, along with a considered planting schedule for the front yard providing additional greenery to the public domain. An unnecessary gabled roof geometry which would otherwise increase the existing non-compliance is proposed to be removed.

(d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,

The local amenity of adjoining and adjacent properties in terms of public and private views, privacy and solar access will be maintained as the overall height and bulk and scale of the existing building will be unchanged.

(e) To set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,

A maintenance of the existing building height is consistent with the redevelopment potential of the site. This is in line with the proposed FSR which is also maintained as per the existing, and area of landscaping which is increased to provide additional amenity to the subject site and surrounds.

(f) to use maximum height limits to assist in responding to the current and desired future character of the locality,

The proposal does not include any increase to the height of the existing house, and is in keeping with the existing and desired future character of the locality, being one, two and three storey dwelling houses within leafy surrounds.

(g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,

The proposal site does not fall within the Chatswood locality, therefore this objective is not applicable.

(h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.

The proposal falls within a residential area and does not adjoin or lie near a retail centre. As such the proposal to maintain the residential building scale and minor non compliance to the existing roof ridge is in keeping with the objective.

In addition to the above it should be noted that, in *Wehbe v Pittwater Council*, the height standard along the North-western frontage of Sailors Bay Road in the vicinity of the proposed development has been '*virtually abandoned*' ... '*by the Council's own decisions in granting development consents that depart from the standard*'. There are numerous dwellings that demonstrate non compliance with the height standard. While many of these are historical, and



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possibly approved for good reasons due to the local topography, it would seem clear that to require strict adherence to the height standard in this case is unreasonable or unnecessary.

Further, a reduction to the existing roof height would result in significant modification to the existing and predominant scale and streetscape character of the site, and result in an unreasonable reduction to the existing habitable floor area thus impacting the overall amenity of the residents. A maintenance of the existing is considered a more sustainable construction option, and modifications purely to meet the standard are unnecessary.

Summary

The height and bulk and scale of the proposed alterations and additions to the existing residential dwelling building is acceptable, notwithstanding the departure from the numerical height standard.

The additions are contained largely within the existing building envelope including the existing roof ridge where the breach of the height standard occurs, such that the height, bulk, scale and character of the existing building and the surrounding development remains unchanged. As such the proposal will not involve any adverse visual impacts from the harbour and foreshores, nor result in environmental harm or adverse impacts on the present amenity of neighbouring properties particularly in relation to views, privacy and solar access.

This written request pursuant to Clause 4.6(3) of the Willoughby LEP 2012, Clause 4.3 is well founded and should be supported by Council for the following reasons:

- (a) The written request adequately addresses the matters required to be demonstrated by sub-clauses 4.6,*
- (b) The proposal will be in the public interest because it is consistent with the objectives of the height of buildings development standard and the objectives for development within the R2 Low Density Residential Zone,*
- (c) it is minor in nature, primarily relating to an existing roof ridge that is proposed to remain unaltered*
- (d) the maintenance of the existing maximum building height, which is in contravention with the development standard, is considered a better outcome and therefore deemed to comply with the objectives of this clause.*

Matt Elkan
Nominated Architect , NSW ARB Reg # 6821
Incidental Architecture Pty Ltd
09 December 2023

ATTACHMENT 4: OFFICER’S CLAUSE 4.6 ASSESSMENT – HEIGHT

Description of non compliance

Development Standard	Height Standard	Proposed Height	%Variation
CI 4.3 Height of buildings	8.5m	9m	5.9% 0.5m over the standard

Key points of the applicant’s submission:

- i) The written request adequately addresses the matters required to be demonstrated by sub-clauses 4.6.
- ii) The proposal is in the public interest as it aligns with the objectives of the height of buildings development standard and the objectives for development within the R2 Low Density Residential Zone.
- iii) The proposal is minor in nature, primarily involving material changes to an existing roof and ridge that is proposed to remain unaltered.
- iv) Maintaining the existing maximum building height, which contravenes the development standard, is considered a better outcome and therefore complies with the objectives of this clause.

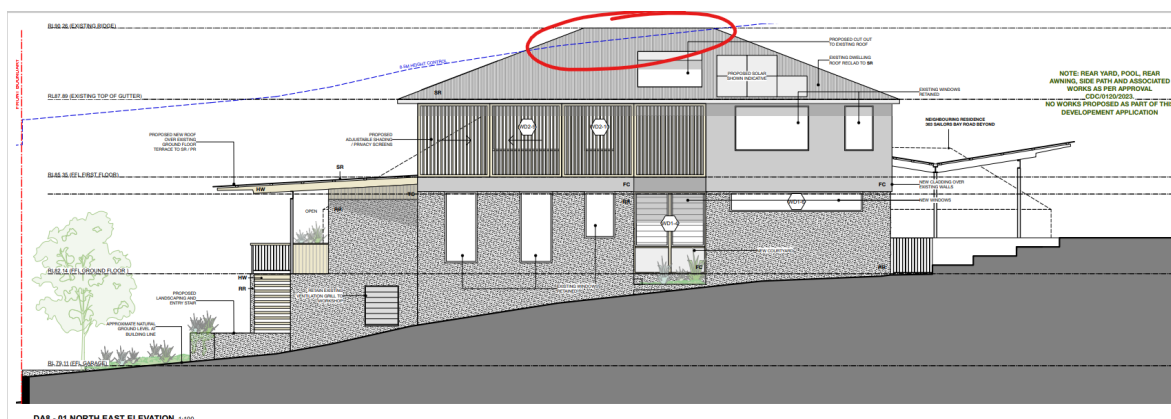


Figure 17 Existing Height Noncompliance

Objectives of Clause 4.6

4.6 (1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

CI 4.6 Criteria	Response
4.6(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause	The development standard is not expressly excluded from the operation of this clause.

<p>does not apply to a development standard that is expressly excluded from the operation of this clause.</p>	
<p>4.6 (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</p>	
<p>a) Has the applicant's submission demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and</p>	<p>The applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard</p> <p>In doing so, the applicant's written request has adequately demonstrated that the compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.</p>
<p>b) Has the applicant's submission demonstrated that there are sufficient environmental planning grounds to justify the non-compliance?</p>	<p>The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>Therefore council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 (3)</p>
<p>4.6(4) Development consent must not be granted for development that contravenes a development standard unless:</p>	
<p>a) i) Has the applicant's written request adequately addressed the matters required to be demonstrated in subclause 3</p>	<p>The applicant's written request has adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance</p>
<p>ii) Is the proposed development in the public interest because it is consistent with:</p>	
<ul style="list-style-type: none"> objectives of the particular development standard 	<p>Yes, see assessment below</p>
<ul style="list-style-type: none"> objectives for the development within the zone in which the development is proposed to be carried 	<p>Yes, see assessment below</p>

Consistency with the objectives of the Height of Buildings development standard:

Consistency of the proposed development with the height of building standard's objectives is discussed below:

<p>Height of Building Development Standard Objectives</p>	<p>Response</p>
<p>a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,</p>	<p>As demonstrated in the character assessment above, the development is deemed to be in harmony with the streetscape, maintaining the existing roof height and ensuring the bulk and scale of the structure remain consistent with the surrounding area.</p>
<p>b) to minimise the impacts of new</p>	<p>The breach has minimal impact on the</p>

<i>development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	surrounding amenity, with no loss of privacy or visual intrusion. Most of the roof will be under 8.5m in height. Additionally, the breach is existing, and the proposed addition does not further negatively affect the surrounding properties.
c) <i>to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	The appearance of the house from adjoining properties and the street will remain largely unchanged, except for the addition designed to match the existing structure, ensuring a high visual quality is maintained.
d) <i>to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,</i>	The proposed alteration to the existing dwelling minimizes the disruption of views and has minimal impact on adjoining properties and open spaces.
e) <i>to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,</i>	The change to the floor space layout and the increase in existing landscaping demonstrate the proposal is consistent with the objectives of the zone.
f) <i>to use maximum height limits to assist in responding to the current and desired future character of the locality,</i>	The proposed height is sympathetic to the surrounding developments, ensuring the structure does not visually dominate the area.
g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	N/A
h) <i>to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i>	N/A

Consistency with the objectives of the R2 Low-density Residential Zone:

Consistency of the proposed development with the Zone’s objectives is discussed below:

Zone Objective	Response
To provide for the housing needs of the community within a low density residential environment.	The proposed alteration and addition to the existing dwelling will enhance the local area and fulfil the housing needs of the community within the low-density residential environment.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	N/A
To accommodate development that is compatible with the scale and character of the surrounding residential development.	The proposed alteration and addition to the existing dwelling will be compatible with the scale and character of the surrounding residential development.
To retain and enhance residential amenity, including views, solar access, aural and visual privacy, and landscape quality.	The proposal will enhance residential amenity including, streetscape, and visual privacy and landscape quality.
To retain the heritage values of particular localities and places and to ensure heritage items and conservation areas are not damaged, demolished or otherwise adversely impacted by new development.	The subject site is not a heritage item or located in a Heritage Conservation Area. The proposed additions will complement the character of the existing dwelling.

To encourage self sufficiency with respect to energy and food supply.	The proposal is designed in a manner that will encourage self-sufficiency with respect to energy and food supply.
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Clause 4.6 4) b) The Concurrence of the Secretary has been obtained

Based on the above considerations, the proposed variation to the development standard is acceptable. Variation of the standard is considered to be in public interest given that the relevant objectives of the zone and standard are met by the proposal despite its numerical non-compliance with the development standard.

The variation is not considered to raise any matter of regional and state significance, and concurrence of the Secretary in approving this variation can be assumed.

ATTACHMENT 5: APPLICANT'S CLAUSE 4.6 SUBMISSION – FSR



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Clause 4.6 – Exceptions to Development Standards in relation to Clause 4.4(2) - Floor Space Ratio, of the Willoughby Local Environmental Plan 2012.

365 SAILORS BAY ROAD, NORTHBRIDGE

REVISION A

17.06.24

Preamble

This written request is made pursuant to the provisions of Clause 4.6 of the Willoughby Local Environmental Plan 2012 (the LEP). A variation is sought in relation to the Floor Space Ratio standard of Clause 4.4(2) of the LEP, in relation to alterations and additions to the existing dwelling house, at 365 Sailors Bay Rd, Northbridge. Under Clause 4.4 a maximum floor space ratio of 0.43:1 is permissible.

This exception statement has been prepared having regard to the Land and Environment Court judgments in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards

The objective of LEP Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In accordance with the NSW LEC judgement on *Initial Action Pty Ltd v Woollahra Municipal Council* [2018], the applicant's written request to contravene a development standard should demonstrate two matters. First, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Secondly, that there are sufficient environmental planning grounds to justify contravening the development standard. This request addresses both matters.

Nature of Non-Compliance

The site is located in the R2 Low Density Residential zone, and in accordance with the Floor Space Ratio Map and controls outlined by the Willoughby Development Control Plan 2023, Part B, Attachment 1, a maximum floor space ratio of 0.43 applies for the site. This equates to a maximum gross floor area of 279.89m².

The site has an area of 650.9m² and the gross floor of the existing building has been calculated to be 326.7m², which is 0.50:1 and therefore exceeds the FSR standard.

The proposal looks to largely maintain the existing building envelope, bulk, scale and character.



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A new courtyard along the north eastern elevation brings light and ventilation into the middle of the floor plan on both ground and first floor, whilst an oversized southern balcony on the first floor is partially enclosed to include a new bedroom. As such the proposed total gross floor area is 326.1m², equating to a minimal reduction of 0.6m² and maintaining the existing FSR of 0.50:1.

Exception to LEP Clause 4.4 – Floor Space Ratio

Objectives of LEP Clause 4.4 are as follows:

- (a) *to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,*
- (b) *to limit traffic generation as a result of that development,*
- (c) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (d) *to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,*
- (e) *to permit higher density development at transport nodal points,*
- (f) *to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,*
- (g) *to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
- (h) *to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,*
- (i) *to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,*
- (j) *to encourage the consolidation of certain land for redevelopment,*
- (k) *to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.*

In accordance with the decision of *Wehbe v Pittwater Council* the applicant seeks to establish that 'the objectives of the development standard are achieved notwithstanding non-compliance with the standard'. Furthermore in accordance with the decision of *Initial Action Pty Ltd v Woollahra Municipal Council* the applicant seeks to establish that compliance with the development standard will prima facie be unnecessary if it can be shown that there is an absence of environmental harm/adverse amenity impacts from the proposed development.

The response to the objectives are as follows:

- (a) *to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,*

The proposed FSR, building envelope and height remain unchanged from the existing, maintaining the existing scale and outer building footprint. Therefore no increase to the intensity of development is proposed, nor any modification to the current environmental capacity of the land or zone objectives for the land.



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(b) to limit traffic generation as a result of that development,

The proposal maintains the existing 2 car garage, and the use as a single dwelling house for an existing family remain unchanged. As such there will be no increase to the traffic generated by the development or it's occupants.

(c) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

The proposed building FSR, envelope and height remain unchanged from the existing, minimising impacts of the proposed development on adjoining and nearby properties whereby views, privacy, overshadowing and visual intrusion are all largely maintained or improved upon.

(d) to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,

As the proposed building FSR, envelope and height remain unchanged from the existing, the bulk and scale is maintained at its existing level. The house being a 2-3 storey residential dwelling is inline with development for the R2 Zoning being low density residential that is compatible with the scale and character of the surrounding residential development. The proposal therefore aligns with the objectives of the zone.

(e) to permit higher density development at transport nodal points,

The subject site is not situated at a transport nodal point nor scheduled for higher density development, therefore this objective is not applicable.

(f) to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,

(g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,

(h) to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,

The subject site does not fall within the Chatswood locality, therefore this objective is not applicable.

(i) to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,

The subject falls within a residential area and does not adjoin or lie near a retail centre. As such the proposal to maintain the residential building scale and minor non compliance to the existing roof ridge is in keeping with the objective.

(j) to encourage the consolidation of certain land for redevelopment,

The subject site is not scheduled for consolidation for redevelopment, therefore this objective is not applicable.



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(k) to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.

The proposal is not concern community facilities, affordable housing, nor is it a heritage item, therefore this objective is not applicable.

As outlined the breach of the standard relates to the existing building as it is now, regardless of the proposed modifications. The existing building is clearly compatible in bulk and scale with the similar two storey and three storey residential dwelling buildings in the immediate area. The minor changes and additions, in particular the demolition of a portion of the the proposed ground and first floor to create a new eastern courtyard, and the partial enclosure of an oversized southern balcony are practical changes to upgrade the existing house and improve its function and amenity, notwithstanding the maintenance of the floor space ration to an existing non compliant building.

The proposal also achieves the current floor area in the building without changing the height and overall contemporary stepped and articulated form and appearance of the dwelling building, as per the predominant streetscape of Sailors Bay Road.

Further, a reduction to the floor space ratio would result in a significant redevelopment of the site at a prohibitive cost to the residents, modify the existing and predominant scale and streetscape character of the site, and result in an unreasonable reduction to the existing habitable floor area thus impacting the overall amenity of the residents. A maintenance of the existing is considered a more sustainable construction option, and modifications purely to meet the standard are unnecessary. The maintenance of the existing floor space ratio, which is in contravention with the development standard, is considered a better outcome and therefore deemed to comply with the objectives of this clause.

Summary

The height and bulk and scale of the proposed alterations and additions to the existing residential dwelling building is acceptable, notwithstanding the departure from the numerical floor space ratio standard.

The additions are contained largely within the existing building envelope and the height, bulk, scale and character of the existing building and the surrounding development remains unchanged. As such the proposal will not involve any adverse visual impacts from the harbour and foreshores, nor result in environmental harm or adverse impacts on the present amenity of neighbouring properties particularly in relation to views, privacy and solar access.

This written request pursuant to Clause 4.6(3) of the Willoughby LEP 2012, Clause 4.3 is well founded and should be supported by Council for the following reasons:

- (a) The written request adequately addresses the matters required to be demonstrated by sub-clauses 4.6,*
- (b) The proposal will be in the public interest because it is consistent with the objectives of the floor space ratio development standard and the objectives for development within the R2 Low Density Residential Zone,*



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(c)the maintenance of the existing floor space ratio, which is in contravention with the development standard, is considered a better outcome and therefore deemed to comply with the objectives of this clause.

Matt Elkan
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Incidental Architecture Pty Ltd
09 December 2023

ATTACHMENT 6: OFFICER’S CLAUSE 4.6 ASSESSMENT – FSR

Description of non compliance

Development Standard	FSR Standard	Proposed FSR	%Variation
CI 4.4A Floor space ratio	0.43:1 277m ²	0.505:1 326m ²	17.5% 49m ² over the standard

Key points of the applicant’s submission:

- i) The written request adequately addresses the matters required to be demonstrated by sub-clauses 4.6.
- ii) The proposal will be in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard and the objectives for development within the R2 Low Density Residential Zone.
- iii) It is minor in nature, keeping the existing GFA, however altering the layout of the dwelling.
- iv) Altering the layout of the dwelling while keeping the existing GFA calculation is considered a better outcome and is therefore deemed to comply with the objectives of this clause.

Objectives of Clause 4.6

4.6 (1) The objectives of this clause are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

CI 4.6 Criteria	Response
4.6(2) <i>Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i>	The development standard is not expressly excluded from the operation of this clause.
4.6 (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—	
a) <i>Has the applicant’s submission demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and</i>	The applicant’s written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard In doing so, the applicant’s written request has adequately demonstrated that the compliance with the development standard is unreasonable

	and unnecessary in the circumstances of this case.
b) <i>Has the applicant's submission demonstrated that there are sufficient environmental planning grounds to justify the non-compliance?</i>	The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. Therefore council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 (3)
4.6(4) Development consent must not be granted for development that contravenes a development standard unless:	
a) i) <i>Has the applicant's written request adequately addressed the matters required to be demonstrated in subclause 3</i>	The applicant's written request has adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance
ii) <i>Is the proposed development in the public interest because it is consistent with:</i>	
• <i>objectives of the particular development standard</i>	Yes, see assessment below
• <i>objectives for the development within the zone in which the development is proposed to be carried</i>	Yes, see assessment below

Consistency with the objectives of the Floor Space Ratio development standard:

Consistency of the proposed development with the floor space ratio standard's objectives is discussed below:

Floor Space Ratio Development Standard Objectives	Response
a) <i>to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,</i>	The proposed Floor Space Ratio (FSR) remains the same as the existing FSR.
b) <i>to limit traffic generation as a result of that development,</i>	Development does not increase traffic generation.
c) <i>to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The existing FSR is retained. The proposal will not result in any detrimental amenity impacts to adjoining properties.
d) <i>to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,</i> e) <i>to permit higher density development at transport nodal points,</i>	The bulk and scale of the building have largely remained unchanged and are consistent with the streetscape and neighbouring properties.
f) <i>to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural</i>	N/A

<i>roles while conserving the compactness of the city centre of Chatswood,</i>	
<i>g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	N/A
<i>h) to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,</i>	N/A
<i>i) to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,</i>	N/A
<i>j) to encourage the consolidation of certain land for redevelopment,</i>	N/A
<i>k) to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.</i>	N/A

Consistency with the objectives of the R2 Low-density Residential Zone:

Consistency of the proposed development with the Zone’s objectives is discussed below:

Zone Objective	Response
To provide for the housing needs of the community within a low density residential environment.	The proposed alteration and addition to the existing dwelling will enhance the local area and fulfil the housing needs of the community within the low-density residential environment.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	N/A
To accommodate development that is compatible with the scale and character of the surrounding residential development.	The proposed alteration and addition to the existing dwelling will be compatible with the scale and character of the surrounding residential development.
To retain and enhance residential amenity, including views, solar access, aural and visual privacy, and landscape quality.	The proposal will enhance residential amenity including views, solar access, aural and visual privacy and landscape quality.
To retain the heritage values of particular localities and places and to ensure heritage items and conservation areas are not damaged, demolished or otherwise adversely impacted by new development.	The subject site is not a heritage item or located in a Heritage Conservation Area. the proposed additions will complement the character of the existing dwelling.
To encourage self sufficiency with respect to energy and food supply.	The proposal is designed in a manner that will encourage self-sufficiency with respect to energy and food supply.

Clause 4.6 4) b) The Concurrence of the Secretary has been obtained

Based on the above considerations, the proposed variation to the development standard is acceptable. Variation of the standard is considered to be in public interest given that the relevant objectives of the zone and standard are met by the proposal despite its numerical non-compliance with the development standard.

The variation is not considered to raise any matter of regional and state significance, and concurrence of the Secretary in approving this variation can be assumed.

ATTACHMENT 7 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

**Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ and Not Relevant N/A**

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	Comment: The proposal does not contravene any relevant matters for consideration under the provisions of any SEPPs and REPs. The development breaches the maximum height and FSR controls, however as stated in the report, these breaches are existing, with the height staying the same, and the GFA calculation staying the same during the layout change.	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	N/A
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
	Comment: There are no draft SEPPs that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	Comment: noncompliance with the DCP controls relating to Soft Landscaped Area, Water Management, Side Setbacks and Solar Access are discussed in Attachment 2 of this report.	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	N/A
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	N/A
	<ul style="list-style-type: none"> Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
	Comment: there are no prescribed matters that affect the application.	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> Public domain 	✓
	<ul style="list-style-type: none"> Utilities 	✓
	<ul style="list-style-type: none"> Heritage 	N/A
	<ul style="list-style-type: none"> Privacy 	✓
	<ul style="list-style-type: none"> Views 	✓
	<ul style="list-style-type: none"> Solar Access 	✓
	<ul style="list-style-type: none"> Water and draining 	✓
	<ul style="list-style-type: none"> Soils 	✓
	<ul style="list-style-type: none"> Air & microclimate 	✓
	<ul style="list-style-type: none"> Flora & fauna 	✓
	<ul style="list-style-type: none"> Waste 	✓
	<ul style="list-style-type: none"> Energy 	✓
	<ul style="list-style-type: none"> Noise & vibration 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ and Not Relevant N/A

	<ul style="list-style-type: none"> Natural hazards: Overland flowpath 	✓
	<ul style="list-style-type: none"> Safety, security crime prevention 	N/A
	<ul style="list-style-type: none"> Social impact in the locality 	N/A
	<ul style="list-style-type: none"> Economic impact in the locality 	N/A
	<ul style="list-style-type: none"> Site design and internal design 	✓
	<ul style="list-style-type: none"> Construction 	✓
	<ul style="list-style-type: none"> Cumulative impacts 	✓
	Comment: the proposal will not result in any significant adverse impacts on adjoining or nearby properties	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> Are the site attributes conducive to this development? 	✓
	Comment: the proposal does not adversely alter the character of the locality or impact on the streetscape.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> Public submissions 	✓
	<ul style="list-style-type: none"> Submissions from public authorities 	✓
	Comment: no referrals were required to public authorities and no submissions were received.	
(e)	The public interest	
	<ul style="list-style-type: none"> Federal, State and Local Government interests and Community interests 	✓
	Comment: the proposal will not compromise the character of the locality and therefore approval of the application is in the public interest.	

ATTACHMENT 8: SCHEDULE OF CONDITIONS

GENERAL CONDITIONS

1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural	DA4	B	29.05.2024	Incidental Architecture
	DA5	B	29.05.2024	
	DA6	E	29.05.2024	
	DA7	C	29.05.2024	
	DA8	B	29.05.2024	
	DA9	B	29.05.2024	
	DA10	A	18.03.2024	
Landscaping	DA12	-	12.2023	

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

2. Compliance with National Construction Code

All building works must be carried out in accordance with the performance requirements of the National Construction Code.
(Reason: Compliance)

3. Support for Neighbouring Buildings

- (a) If development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on an adjoining property, the person having the benefit of the development consent must, at the person’s own expense:
 - (i) protect and support the building, structure or work from possible damage from the excavation, and
 - (ii) if necessary, underpin and support the building, structure or work to prevent any such damage, and
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the

allotment of land being excavated or on the adjoining allotment of land.

- (c) In this clause, "allotment of land" includes a public road and any other public place.

(Reason: Safety)

4. Construction Information Sign

A clearly visible all weather sign is required to be erected in a prominent position on the site detailing:

- (a) that unauthorised entry to the work site is prohibited;
- (b) the excavator's and / or the demolisher's and / or the builder's name;
- (c) contact phone number / after hours emergency number;
- (d) licence number;
- (e) approved hours of site work; and
- (f) name, address and contact phone number of the Certifier (if other than Council)

ANY SUCH SIGN IS TO BE REMOVED WHEN THE WORK HAS BEEN COMPLETED.

Council may allow exceptions where normal use of the building/s concerned will continue with ongoing occupation, or the works approved are contained wholly within the building.

(Reason: Ensure compliance)

5. Construction Certificate

This consent IS NOT an approval to carry out any building works. A Construction Certificate may be required PRIOR TO ANY WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

6. Notify Council of Intention to Commence Works

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days' notice to Council, in writing, of the person's intention to commence the erection of the building.

(Reason: Information and ensure compliance)

7. Occupation Certificate

The building/structure or part thereof shall not be occupied or used until an occupation certificate has been issued in respect of the building or part.

(Reason: Safety)

DEMOLITION AND BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Submit the Following Information to Willoughby City Council

Prior to the lodgement of an application for a construction certificate, the applicant shall submit plans and specifications satisfying the following requirements to Willoughby City Council for approval. Documentation confirming approval by Willoughby City Council shall then be submitted to the Certifier for the application of a construction certificate.

- (a) Detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer or drainage consultant showing the installation of a **10m³** rainwater re-use system in accordance with Part I of Council's *DCP* and Technical Standard No. 1 which is available on Council's website. Runoff from 80% of all roof areas shall be directed to the tank(s). The rainwater reuse system shall be connected to supply non-potable use including, but not limited to laundry, toilet flushing and landscape irrigation. The rainwater tank shall be located behind the front alignment of the building to which the tank is connected. Overflow from the rainwater tank shall be directed to the street drainage system by gravity.

The rainwater reuse tank details shall include the following:

- (i) Detailed elevations showing:
- 1) (Height and length and width), type, model and material of the required 10m³ rainwater tank(s).
 - 2) all downpipes (size and invert levels)
 - 3) level of all roof gutter (in particular the level of the lower roof)
 - 4) internal details (eg float valve, air gap, etc)
 - 5) overflow drainage details
- (ii) Details and specifications to include:
- 1) proprietary first flush device (location and type). An acceptable type of first-flush device would be a "ball-float system" or any other similar proprietary in-line first-flush system
 - 2) effective storage capacity
 - 3) proposed usage

(Reason: Ensure compliance)

9. S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of \$6,182.49 for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 1% of the Estimated Development Cost, being \$618,249.50 at 14/12/2023 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

To calculate the monetary contribution that is payable, the Estimated Development Cost, is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_o \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

$\$C_o$ = the original development contribution determined by the Council based on a percentage of the Estimated Development Cost, set out in the Contributions Plan

Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment

Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Please note that the dollar value stated applies to a payment made within the current calendar month. Any payment made in following months would have the relevant indexation (CPI Index) applied in the first instance to determine the actual amount due in the current month.

Deferred payments of contributions will not be accepted.

Prior to payment Council can provide the value of the indexed levy. Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at www.willoughby.nsw.gov.au

When you are ready to pay, please contact Council's Customer Service Centre on 9777 1000 to organise your payment.
(Reason: Statutory requirement)

10. Sydney Water 'Tap In'

Prior to the issue of the Construction Certificate, the approved plans must be submitted online to "Sydney Water Tap In" to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

An approval receipt will need to be obtained prior to release of the Construction Certificate.
(Reason: Ensure compliance)

11. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$6,500.00** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the

building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$260.00** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$6,500.00 + \$260.00 = \$6,760.00

(Reason: Protection of public asset)

12. Stormwater Conveyed to Street Drainage

Stormwater runoff from the site shall be collected and conveyed to the street drainage system in accordance with Council's specifications. Any new drainage pipe connections to street kerb shall be made using a 125mm wide x 75mm high x 4mm thick hot dip galvanised Rectangular Hollow Section (RHS) with a grated drainage pit of minimum 450mm x 450mm provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. All drainage works shall comply with the requirements described in Part I of Council's *DCP*, Technical Standards and AS 3500.3. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.

(Reason: Stormwater control)

13. Detailed Stormwater Management Plan Including Rainwater Tank (SWMP)

Prior to the issue of the Construction Certificate, submit for approval by the Certifier, detailed stormwater management plans for collection of stormwater drainage from the site and connection to the kerb and gutter. The plans shall include a rainwater re-use tank(s) system with a minimum storage volume of 10m³, in accordance with Sydney Water's requirements, Part I of the *Willoughby DCP* and Technical Standard No. 1. Runoff from 80% of all roof areas shall be directed to the tank(s). The rainwater reuse tank system shall be connected to supply non-potable use including flushing of new toilets, laundry use, landscape irrigation and car washing. Overflow from the rainwater tank(s) shall be directed to the receiving stormwater-system by gravity. Any above ground rainwater re-use tank shall be located behind the front alignment of the building to which the tank is connected.

The construction drawings and specifications shall be prepared by a qualified and experienced civil engineer or suitably qualified stormwater drainage consultant. All drawings shall comply with Part I of the *Willoughby DCP*, Technical Standard 1, AS/NZS 3500.3 – *Plumbing and Drainage Code*, Sydney Water's requirements and the National Construction Code.

(Reason: Ensure compliance)

BEFORE WORKS COMMENCE

14. Licensee Details

The name, address and contractor licence number of the licensee who has contracted to carry out the work or the name and permit number of the owner-builder who intends to carry out the work shall be furnished in writing to the Certifier prior to commencement of work. N.B. Should changes be made for the carrying out of the work the Certifier must be immediately informed.

(Reason: Information)

15. Asbestos Sign to be Erected

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site. The sign is to be erected prior to the commencement of works and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health and safety/Ensure compliance)

16. Neighbour Notification of Asbestos Removal

The applicant/builder is to notify anyone occupying premises in the immediate vicinity of the site, five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence.

As a minimum, this notification is to be placed in the letterbox of every property (including every residential flat or unit) either side and immediately at the rear of the site.

(Reason: Public health)

17. Report Existing Damages on Council's Property

Prior to commencement of any works on site, submit to Council and the Principal Certifier a report with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

18. Permits and Approvals Required

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate:

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW. A separate written application to work outside normal hours must be submitted for approval.
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees. (Minimum one (1) weeks' notice required.)
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum

three (3) days).

- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.
- (h) Permit to install ground anchors beneath the road reserve.

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

19. Underground Utility Services

Where excavation is proposed, locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

DURING DEMOLITION AND BUILDING WORK

20. Hours of Work

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how

this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.

(Reason: Ensure compliance and amenity)

21. Building Site Fencing

Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m). Temporary fences are to have a minimum height of 1.8m and be constructed of cyclone wire or similar with fabric attached to the inside of the fence to provide dust control.

Fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible. All parts of the fence, including the fencing blocks shall be located wholly within the property boundaries.

The public safety provisions and temporary fences must be in place and be maintained throughout construction.

(Reason: Safety)

22. Provide Erosion and Sediment Control

Where work involves excavation or stockpiling of raw or loose materials, erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

23. Suitable Screens

In the event of likely emission of dust, noise, waste water or other matter, suitable screens shall be erected during demolition and building work to prevent their emission from the site.

(Reason: Maintain amenity to adjoining properties)

24. Demolition Work AS 2601-2001

Any demolition must be carried out in accordance with AS 2601 – 2001, *The demolition of structures*.

(Reason: Safety)

25. Asbestos Removal and Disposal

Works involving the removal of asbestos must comply with Councils Policy on handling and disposal of asbestos, and must also comply with the Code of Practice for "How to Safely Remove Asbestos" of the NSW Work Health and Safety Act 2011.

Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601 – The Demolition of Structures.

All asbestos laden waste, including bonded or friable asbestos must be disposed of at a waste disposal site approved by the NSW Department of Environment, Climate Change and Water.

Upon completion of the asbestos removal and disposal the applicant must furnish the Certifier with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.

(Reason: Environmental protection/Public health and safety)

26. Road and Footpath

Council's footpath, nature strip or roadway shall not be damaged and shall be kept clear at all times. The public footway must not be obstructed at any time unless written approval has been granted by Council and the footway including any footpath shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Maintain public safety)

27. No Storage or Parking on Footway/Nature Strip

Building materials, plant and equipment and builder's waste, are not to be placed or stored at any time on Council's footpath, nature strip or roadway adjacent to building sites unless prior written approval has been granted by Council.

Further, the parking of motor vehicles on footpaths, nature strips and cross overs and unloading vehicles while double parked or otherwise unsafely parked is not permitted. All vehicles are required to be parked legally and safely

(Reason: Safety)

28. Skips and Bins

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.

(Reason: Safety)

29. Excavations and Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed safely, and must be properly guarded and protected to prevent them from being dangerous to life or property.

(Reason: Safety)

30. Excess or Waste Concrete

Excess or waste concrete from mobile concrete agitators or concrete pumping equipment shall not be washed down, spilled or disposed of onto the road reserve, Council's stormwater system, road, pavement, reserves or Council land.

(Reason: Environmental protection)

31. Erection Wholly within the Boundaries

All works (with the exception of any works approved under S138 of the *Roads Act 1993*) including footings, shall be erected wholly within the boundaries of the property.

(Reason: Ensure compliance)

32. Sweep & Clean Pavement

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.

(Reason: Legal requirement)

33. Street Signs

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant.

(Reason: Protection of public assets)

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

34. Automatic Fire Detection

Prior to the issue of any relevant Occupation Certificate, an automatic fire detection and alarm system complying with Part H3D6 of the Housing Provisions or smoke alarms complying with AS 3786 connected to the mains electricity and having a stand by power supply shall be provided to the dwelling. Smoke alarms must be interconnected and installed in a Class 1 building on or near the ceiling in:

- (a) any storey containing bedrooms
 - (i) between each part of the dwelling containing bedrooms and the remainder of the dwelling;
 - (ii) where the bedrooms are served by a hallway, in the hallway.
- (b) any other storey not containing bedrooms.

(Reason: Safety)

35. Surface Water Runoff

Prior to the issue of the Occupation Certificate and in perpetuity, surface water runoff from new paved areas shall be directed away from neighbouring properties and disposed of to the satisfaction of the Certifier.

(Reason: Health and amenity)

36. BASIX Certificate

Prior to the issue of the relevant Occupation Certificate, a completion certificate is to be submitted to the Certifier demonstrating the manner in which the measures committed to in the latest BASIX Certificate have been satisfied.

(Reason: Environmental sustainability)

37. On-site Water Management System

Prior to the issue of any Occupation Certificate pertaining to any works other than internal renovations, the stormwater runoff from the site shall be collected and disposed of to the kerb and gutter in accordance with Sydney Water's requirements AS/NZS3500.3, Part I of Council's *DCP* and Technical Standard 1. All runoff from roof areas shall drain to the required rainwater tank. The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved detailed stormwater management drawings required under this development consent and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

38. Rainwater Re-use

Prior to the issue of any Occupation Certificate pertaining to any works other than internal renovations, and in perpetuity, the applicant shall supply and install rainwater re-use tanks with a minimum storage volume of 10m³ in accordance with the approved stormwater management plans, Sydney Water's requirements and Part I of Council's *DCP* and Technical Standard 1. The rainwater reuse system shall be connected to supply non-potable use including, but not limited to laundry use, flushing of new toilets, washing of vehicles and landscape irrigation. Any above ground rainwater tanks shall be located behind the front alignment of the building to which the tank is connected. Runoff from 80% of all roof areas shall drain to the rainwater tank(s).

(Reason: Ensure compliance and stormwater management)

39. Sign for Rainwater System

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system, an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the rainwater tank/s.

The wording for the plaque shall state *"This is the rainwater retention and reuse system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris"*.

(Reason: Prevent unlawful alteration)

40. Certification of Rainwater Reuse System

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system and upon completion of the Rainwater Retention and Reuse System, a licensed plumber shall certify that the rainwater retention and reuse system has been constructed in accordance with the approved stormwater management plans and that the as-built system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushing, laundry and landscape irrigation. All plumbing/drainage works shall be carried out which comply with the current plumbing requirements of Sydney Water and the National Construction Code Volume 3.

(Reason: Record of works)

41. Works-As-Executed Plans – Rainwater Reuse

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system and upon completion of the Rainwater Reuse System, the following shall be submitted to the Certifier:

- (a) Work-as-executed plans based on the approved stormwater plans from a registered surveyor to verify that the volume of storage, invert levels of inlet, overflow pipes and discharge outlet are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.
- (b) Plumber's certification that the Rainwater Reuse system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushing, laundry and landscape irrigation. The Certificate shall detail the number and type of fixtures connected to the tank. All works completed shall comply with the current plumbing requirements of Sydney Water and the National Construction Code Volume 3.

(Reason: Record of works)

42. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction and development works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Reason: Protection of public assets)

OCCUPATION AND ONGOING USE

43. Stormwater Kerb Outlet

New stormwater connection outlets at the street kerb shall be made using 125mm wide x 75mm high x 4mm thick hot dip galvanised Rectangular Hollow Section (RHS). Where there are multiple outlets required, a minimum distance of 100mm shall separate these outlets. A grated drainage pit (min. 450mm x 450mm) shall be provided within and adjacent to the property boundary prior to discharging to the Council's drainage system.

(Reason: Protection of public asset)

44. Rainwater Retention and Re-Use Tank(s) System – Ongoing Maintenance

The registered proprietor of the land shall take full responsibility for the ongoing maintenance of the Rainwater Retention and Re-Use Tank(s) system constructed on the land, in accordance with the conditions of this consent, the certified constructed system and the Registered Surveyor's Work As Executed plans. The registered proprietor shall not carry out any alterations to this system and shall carry out regular maintenance to tanks, pipelines, walls and other structures, plumbing fixtures, first flush apparatus, gutters, leaf gutter guards, downpipes, pumps, pipe connections and any associated devices relevant to the system, to keep the system clean, in good working order and to ensure efficient and on-going operation of the system

(Reason: Ensure compliance)

ATTACHMENT 9: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2024/8

At: 365 Sailors Bay Road, NORTHBRIDGE NSW 2063.

