

DA NO: DA-2023/269
ADDRESS: 13 CAMMARAY ROAD, CASTLE COVE NSW 2069.
PROPOSAL: ALTERATIONS AND ADDITIONS TO EXISTING DWELLING AND GARAGE AND LANDSCAPING, WITH ASSOCIATED WORKS.
RECOMMENDATION: APPROVAL
ATTACHMENTS:
1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. ASSESSMENT UNDER *WDCP*
4. SUBMISSIONS TABLE
5. APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT
6. OFFICER'S CLAUSE 4.6 ASSESSMENT – HEIGHT
7. SECTION 4.15 (79C) ASSESSMENT
8. SCHEDULE OF CONDITIONS
9. NOTIFICATION MAP
RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER
AUTHOR: OLIVIA NAVRATIL – DEVLEOPMENT ASSESSMENT OFFICER
REPORT DATE: 29 MAY 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-2023/269 for the *alterations and additions to existing dwelling and garage and landscaping, with associated works* at 13 Cammaray Road, Castle Cove.

The application is required to be referred to the WLPP for determination because the proposed development exceeds the height of buildings development standard by more than 10%.

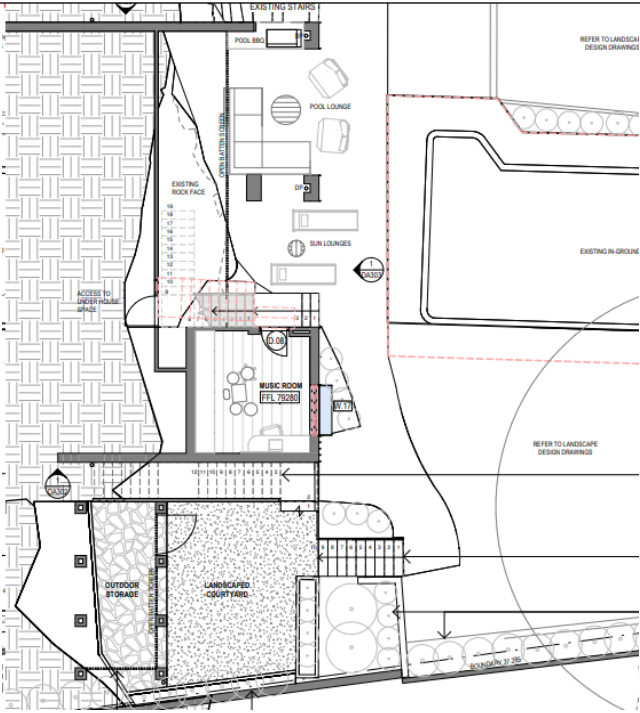
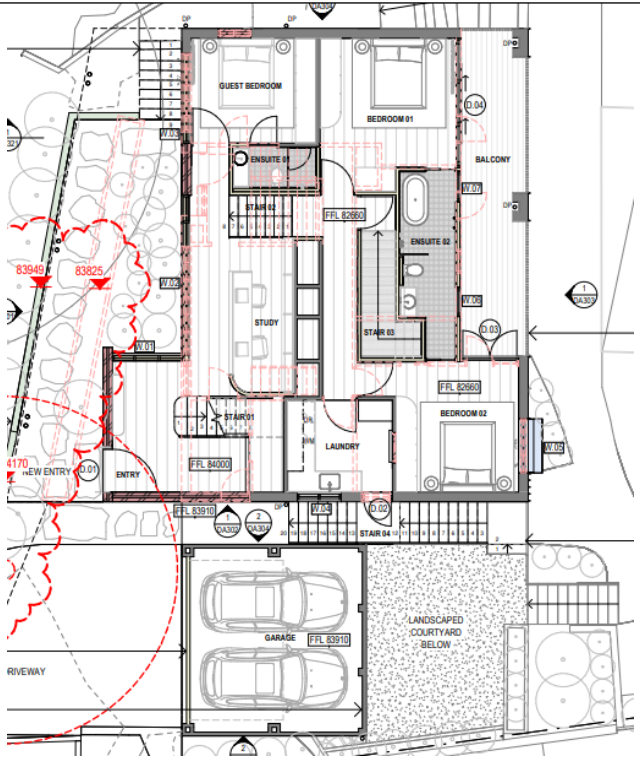
2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approve Development Application DA-2023/155 for alterations and additions to existing dwelling and garage and landscaping, with associated works at 13 Cammaray Road, Castle Cove NSW 2069 for the following reasons:

2.1.1 The proposal is consistent with the objectives of the C4- Environmental Living Zone and considered to be consistent with the objectives of Part B, Part C, Part G, Part I and Part J of the *Willoughby Development Control Plan 2023 (WDCP)*.

Specifically, the proposed alterations and additions would result in the following configuration:

Level	Proposal	Proposal
<p>Lower Ground Floor (existing level)</p>	<ul style="list-style-type: none"> - Music room - Outdoor entertaining area with BBQ - Outdoor storage connected to landscaped courtyard 	
<p>Entry and Ground Floor (existing level)</p> <p>(connects to the First Floor split level configuration)</p>	<ul style="list-style-type: none"> - Main entry connected to a study room - One bedroom with ensuite - Two bedrooms connected to one ensuite - Laundry - Double car garage 	

Application History

- The subject development application (DA-2023/269) was lodged on 3 October 2023 and at this time, the *Willoughby Development Control Plan 2006 (2006 DCP)* applied.

The *2006 DCP* was replaced by the new *Willoughby Development Control Plan 2023 (WDPCP)* on the 4 October 2023. The *WDPCP* does not contain any savings provision to allow the *2006 DCP* to continue to apply.

- The application was allocated to Eric Kim and internally referred to Council's Engineer, Landscape Officer and Building Officer on 18 October 2023.
- The proposed development was on public notification pursuant to the *Willoughby Community Participation Plan (WCPP)* from 27 October 2023 to 10 November 2023 and five (5) individual submissions were received which has been addressed in Attachment 3.
- Engineering required additional information to form part of the RFI letter on 16 November 2023.
- An assessment of the proposal resulted in a Request for Additional Information (RFI) letter dated 30 November 2023, which raised the following:
 - Insufficient detail provided in the Clause 4.6 Variation Statement
 - 2.5m side setback is required by the *DCP*
 - Garage details (Elevation Plans and External Finishes)
 - Earthwork and retaining wall detail
 - Low reflective external colours and finishes required
 - Stormwater design to be updated
- The Landscape referral was completed on 13 December 2023 with no objection, subject to conditions,
- The Building referral was completed on 14 December 2023 with no objection, subject to conditions.
- The applicant submitted documentation in response to the RFI letter on 20 December 2023.
- The Engineering referral was completed on 16 February 2024 with no objection, subject to conditions.
- The application was re-allocated to Olivia Navratil on 20 February 2024. The planning assessment was completed on 12 April 2024 and recommended for approval, subject to conditions.

4. DISCUSSION

The proposed development seeks to exceed the maximum height of buildings development standard by more than 10%.

The report contains the following:

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

Attachment 2 contains the controls, development statistics and referrals that apply to the subject land.

Attachment 4 contains the submissions table.

Attachment 5 contains the applicant's Clause 4.6 request to vary the Maximum Building Height development standard.

Attachment 6 contains Council's assessment of the applicant's request to vary the Maximum Building Height development standard.

Attachment 7 contains a table addressing matters for consideration under s4.15 of the *EP&A Act 1979*.

Attachment 8 contains the schedule of conditions.

Attachment 9 contains the notification map.

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=533359>

5. CONCLUSION

The Development Application DA-2023/284 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 not acceptable in the particular location, and is recommended for approval included in **Attachment 7**.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The property known as 13 Cammaray Road, Castle Cove, legally described as Lot 503 DP 31070 is a trapezoidal shaped allotment located generally on an east/west axis. The property is located on the northern side of Cammaray Road, between Deepwater Road and Koorinya Road, which is characterised as a general residential lot with a large rear garden.



Figure 2: Aerial of the subject site as identified by the red outline.

The site is zoned C4 – Low Environmental Living and has a total site area of 846.7m² with a frontage of 24.385m to Cammaray Road with a rear boundary of 22.005m with access achieved only via Cammaray Road and has a depth of 37.285m-38.24m. The topography contains a cross site fall of 9.75m towards the rear of the site, being a north east to south west slope.

To the rear, the site is burdened by a right of way to facilitate an access handle to 17 Cammaray Road.

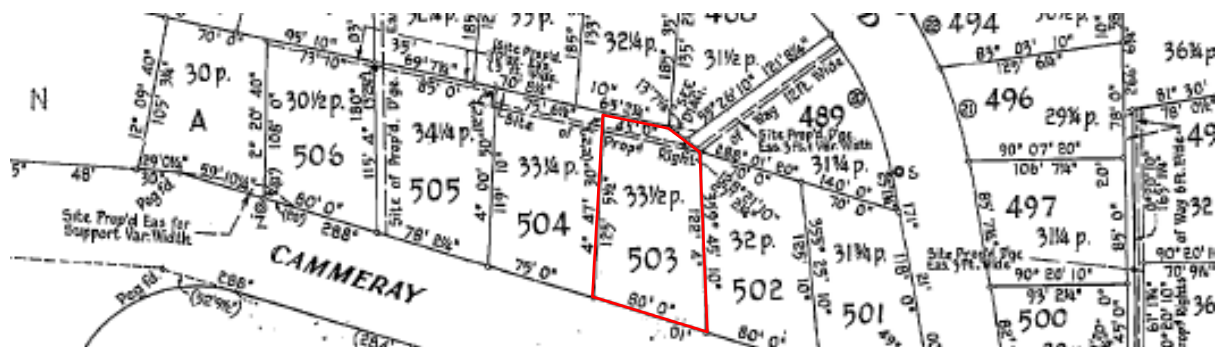


Figure 3: Deposited Plan with Lot 503 being burdened by a Right of Way.

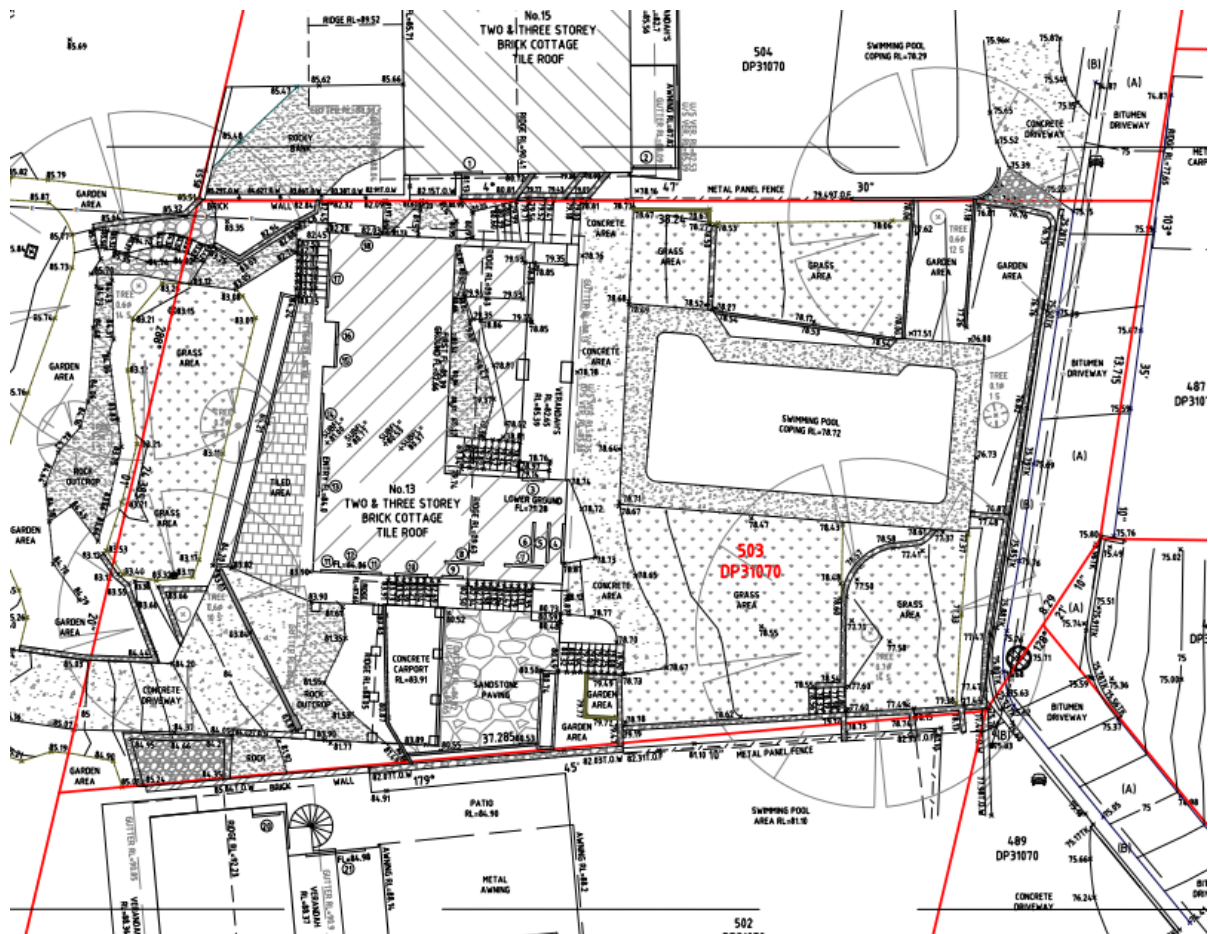


Figure 4: Survey Plan.

Existing on the site is a three storey dwelling with a detached double concrete carport made up of brick veneer and a pitched tiled roof and swimming pool (as indicated by the Survey Plan). The site is not identified as a heritage item and is not located within a heritage conservation area.



Figure 5: View of the subject site as viewed from the street, with the vehicular access highlighted to the right.

The surrounding locality is characterised by a steep undulating topography, with surrounding development comprising of single detached dwellings that are two to three storeys in height.

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

WLEP 2012 Zoning:		C4 – Environmental Living
Existing Use Rights		No
Additional Permitted Use		No
Additional Local Provisions		No
Conservation area		No
Aboriginal Heritage		No
Heritage Item		No
Vicinity of Heritage Item		No
Natural Heritage Register		Yes
Bushfire Prone Area		Yes – S4.14 of the <i>EP&A Act 1979</i>
Flood related planning control		No
Foreshore Building Line		No
Adjacent to classified road		No
Road/lane widening		No
Acid Sulphate Soil Category		Class 5
Land Issues - Exponare		No
Development near Lane Cove Tunnel		No
Adjacent / above Metro		No
Sustainable Buildings <i>SEPP 2022 (BASIX)</i>		Yes
Transport and Infrastructure <i>SEPP 2021</i>	Road	No
	Rail	No
Biodiversity and Conservation <i>SEPP 2021</i>	<ul style="list-style-type: none"> • Foreshores and Waterway • 100m of a waterbody • Sydney Water Catchment 	<ul style="list-style-type: none"> • Not located within the Foreshore Building Line, however, the site is located within the Foreshores and Waterways Mapped Area. • >100m from a waterbody • Sydney Water Catchment
Resilience and Hazards <i>SEPP 2021</i>	Coastal Management	Yes – mapped as being located with the Coastal Use and Coastal Environment areas.
	Contaminated Land	No. There is no evidence of land contamination pursuant to the SEPP based on Council's records. Additionally, the sites have historically been used for residential and small scale shop related activities that do not appear to have involved hazardous practices correlating to potential contamination and no change of use is proposed. Of note, the SEE does not adequately demonstrate that the site is unlikely to be contaminated noting that the SEE states " <i>the owners have advised that as the long term use of the site has been residential, the site is unlikely to be contaminated. On this basis, further investigation is not considered necessary</i> ".
Applicable policies, <i>SEPPs</i> , <i>DCP's</i> and resolutions		<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Environmental Planning and Assessment Regulation 2021</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6, Sydney Harbour Catchment</i> • <i>State Environmental Planning Policy (Sustainable</i>

	<p><i>Buildings) 2022</i></p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4</i> • <i>Willoughby Local Environmental Plan 2012</i> • <i>Willoughby Development Control Plan 2023</i>
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Referrals

Internal Referrals	
Engineering	No objection, subject to conditions of consent.
Building	No objection, subject to conditions of consent.
Landscape	No objection, subject to conditions of consent.

Development Statistics

Development Statistics (C4 – Dwelling House and/or ancillary development)		
Site Area (m²)	846.7m ²	
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)</i>		
Clause	Criteria	Considered
Chapter 6 – Water Catchments, Part 6.3 – Foreshores and Waterways Area		
6.28 Development in Foreshores and Waterways area	The consent authority must be satisfied that the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from— (i) the Foreshores and Waterways Area, and (ii) public places, landmarks and heritage items.	✓
	<p>Comment: The site is not located within the Foreshore Building Line mapped area; however, the site is located within the Foreshores and Waterways mapped area. As such, the proposed development is not considered to impose a significant impact to the visual qualities of the foreshores and waterways area as to what is anticipated for residential development in this locality.</p> <p>In particular, photomontages from the public domain have been provided that display the appropriate design and colour scheme of the proposal that allows the dwelling to cater to the visual qualities of the site and locality.</p>	

<p>State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)</p> <p>- The site is mapped as Coastal Environmental Area and Coastal Use Area</p>		
Clause	Criteria	Considered
<p>Chapter 2 – Coastal Management, Part 2.2, Development Controls for Coastal Management Areas</p>		
<p>2.10 Development on land within the coastal environment area</p>	<p>The consent authority must be satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>✓</p>
<p>2.11 Development on land within the coastal use area</p>	<p>The consent authority must be satisfied that—</p> <p>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</p>	<p>✓</p>
<p>Comment:</p> <p>The site is mapped as Coastal Environmental Area and Coastal Use Area. The proposal is not considered to impose an adverse impact on the visual amenity and scenic qualities of the coast. The design of the proposed boatshed would incorporate natural materiality so as to integrate with the natural landscape and visual quality of the locality. As such, the proposal would not be considered to adversely impact the quality of the foreshore area as to what is anticipated for residential development in this locality.</p>		
<p>Willoughby Local Environmental Plan 2012 (WLEP 2012)</p>		
<p>Zone Objectives:</p> <p>C4 – Environmental Living</p>	<p>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</p>	<p>Considered</p>
	<p>To ensure that residential development does not have an adverse effect on those values.</p>	<p>Considered</p>
	<p>To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.</p>	<p>Considered</p>
	<p>To maintain the scale, character and streetscape of individual localities.</p>	<p>Considered</p>
	<p>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.</p>	<p>Considered</p>
	<p>Comment:</p> <p>Whilst the proposal would add to bulk as to what is existing, the proposal is not considered to impose a significant impact to its setting with respect to the</p>	

		<p>aesthetic values the surrounding area as the built form generally relates to the topography and presents as a low profile development from the street, incorporating recessive and natural materiality to integrate with the natural landscape character of its setting.</p> <p>Additionally, the proposal is not considered to impose a significant impact to ecological values, noting that the land is not identified on the Biodiversity Values mapped area and Council's Landscape Officer has provided relevant conditions. Furthermore, the proposal is not considered to visual dominate the foreshore.</p>			
Permissibility: Dwelling House		The development application is seeking development consent for alterations and additions to a <i>dwelling house</i> which is permitted with consent in the C4 – Environmental Living zone under the <i>WLEP 2012</i> .			
Clause	Control	Existing	Proposed by applicant	Standard	Numerical Compliance
Cl.4.3	Height (m)		11.27m (32.59%)	8.5m	No. See Attachment 5
Cl.4.4 & Cl. 4.4A	GFA (m ²)		269.07	270.944	Yes
	FSR		0.32:1	0.32:1	
Willoughby Development Control Plan 2023 (WDCP 2023)					
WDCP Control		Criteria			Considered
Part B.2 – Performance Criteria for Residential Development					
2.1.8 Visual and Aural Privacy	<i>Objective: protect visual and acoustic privacy of residents.</i>				✓
	<ul style="list-style-type: none"> Provide effective siting, layout and location of windows, balconies, and private open space 				✓
	<ul style="list-style-type: none"> Avoid elevated terraces/decks with direct overlooking 				✓
	<ul style="list-style-type: none"> Incorporate privacy measures including privacy screens, translucent glazing, increase sill heights and setbacks 				✓
	Comment: Subject to assessment below				
2.1.9 Solar access	<i>Objective: protect residential amenity and maximise energy efficiency of buildings.</i>				✓
	<ul style="list-style-type: none"> Avoiding overshadowing to living areas and private open spaces 				✓
	<ul style="list-style-type: none"> Planting deciduous trees in appropriate locations to maximise winter sun 				✓
	<ul style="list-style-type: none"> Exploring alternative design options 				✓
	Comment: Proposed overshadowing would impact the street and not the POS or living areas of the adjoining properties.				
2.1.10 Service Facilities and Structures	<i>Objective: protect residential amenity and integrate services and facilities with the design of the development.</i>				✓
	<ul style="list-style-type: none"> Visually integrate within the development 				✓
	Location of services also	<ul style="list-style-type: none"> Garbage and clothes drying areas with safe and convenient access and not to impact amenity of adjoining 			✓

to be detailed on floor plan	properties	
	<ul style="list-style-type: none"> Garbage bins to be in an enclosed area 	✓
	<ul style="list-style-type: none"> Satellite dishes and the like to be out of sight from the public domain and not visually obtrusive to adjoining properties 	✓
	<ul style="list-style-type: none"> Air conditioning units and any other noise generating sources to be designed to minimise noise impacts 	✓
Comment: Considered.		
2.1.11 Urban Heat	<i>Objective: reduce temperatures and mitigate extreme impacts of urban heat to improve health, comfort and wellbeing of residents.</i>	✓
	<ul style="list-style-type: none"> Limit solar reflectivity through the use of external materials, façade elements and glazing 	✓
	<ul style="list-style-type: none"> Apply WSUD principles, reduce hard surfaces, and provide large tree canopies which can include: <ul style="list-style-type: none"> Planting native grasses, groundcovers or mulched garden beds the use of plants with a high water demand to filter nutrients and reduce runoff the construction of depressions, swales, contour banks, rock channels, pebble paths or similar measures to capture and retain runoff 	✓
	Comment: Considered.	
2.1.12 View Sharing	<i>Objective: limit the extent and impact on existing views.</i>	✓
	<ul style="list-style-type: none"> Consider alternative design options to maintain existing views from adjoining and neighbouring properties, with particular regard to significant and iconic views 	✓
	<ul style="list-style-type: none"> Water views are to have higher regard than land views 	✓
	<ul style="list-style-type: none"> Prioritise consideration of potential view loss from living areas 	✓
	Comment: Considered.	
2.1.13 Natural Heritage	<i>Objective: preserve and protect significant trees and vegetation and other natural features such as rock outcrops.</i>	✓
	<ul style="list-style-type: none"> Natural Heritage Register (NHR): Natural Heritage Register Willoughby City Council (nsw.gov.au) 	✓
	Comment: The subject site is identified on Council's Natural Heritage Register and the application was referred to Council's Landscape Officer whom had no objection, subject to conditions.	
2.1.14 Storage Areas and Plant Rooms	<i>Objective: reduce excessive areas nominates as storage and/or plant rooms which could be used for habitable purposes. Additional floor area contributes to excessive excavation and bulk.</i>	✓
	<ul style="list-style-type: none"> Maximum area for below ground floor storage areas and plant/mechanical services rooms is 5% of the total allowable floor area for a dwelling house 	✓

		Comment: Below ground storage areas do not exceed the 13.5472m ² maximum.			
WDCP Control		Existing	Proposed	Standard	Compliance
Part B, Attachment 1 – Controls for Residential Development					
C.C.3.1-2	Solar Access		Satisfactory solar access would be maintained as to what is existing to the adjoining properties.	3hrs of solar access between 9am and 3pm on 21 June to POS and living areas	Yes
WDCP Control		Criteria			Considered
Part C.2 – Performance Criteria for Development in C4 Zone					
2.1.1 Site Area and Lot Dimensions	have regard to any unique topographical features and retention of established trees and vegetation that provide a continuous wildlife corridor, and any other natural features such as rock outcrops				✓
	Comment: Existing site area and lot dimensions are maintained.				
2.1.2 Setbacks	be maintained from the street frontage and bushland having regard to established building lines of dwellings in the immediate vicinity				✓
	reinforce the streetscape and urban bushland character of the locality				✓
	maintain adequate separation between any new development and the canopy of established trees				✓
	be sufficient to allow adequate areas for deep soil zones				✓
	Comment: Setbacks have been evaluated in the assessment below.				
2.1.3 Design	integrate with the natural features of the locality and topography of the site				✓
	maintain view sharing to the foreshore, bushland and waterways from surrounding properties				✓
	not visually dominate the site due to height or bulk when viewed from waterways and public vantage points				✓
	ensure the type of materials for buildings and ancillary structures are sensitive to the character of the area when viewed from the street, waterways, and public open spaces				✓
	ensure two storey walls greater than 6m in length provide articulation to reduce the bulk of the building				✓
	ensure the external colour of buildings (including roofs) in areas adjacent to the foreshore and bushland use natural recessive colours with a minimum solar absorption of 0.55 under the Building Code of Australia				✓
	Comment: Considered.				
2.1.4 Landscaping	retain significant trees and natural features such as rock formations, watercourses, and cliff escarpments				✓
	provide adequate deep soil zones to accommodate large				✓

	trees		
	retain and plant trees with wide tree canopies to reduce the impacts of urban heat island effects	✓	
	Comment: Considered. Referred to Council's Landscaped Officer and no objection subject to conditions.		
2.1.5 Private Open Space	integrate with any natural features and topography of the site	✓	
	Comment: POS considered in the assessment below.		
2.1.6 Private Recreation Facilities	be constructed to integrate with the natural environment and topography of the land	✓	
	ensure adjoining bushland and foreshore areas are not impacted by stormwater drainage	✓	
	be suitably screened to ensure they are not visible from the foreshore, waterways, or other public vantage points	✓	
	Comment: Considered.		
2.1.7 Incline Passenger Lifts (inclinator)	An application for an inclinator must include the information specified on page 5 under this Part.	✓	
	Comment: Inclinator does not form part of the proposed development.		
WDCP Control	Principles	Considered	
Part C, Attachment 1 – Localities			
A.	Castle Cove	Maintain the traditional pattern of setback from side boundaries to ensure good separation between dwellings and allow vistas from the roadway	✓
		Integrate dwellings and ensure the built form is subservient to the predominant natural landscaped areas on the site	✓
		Ensure the built form relates to the topography of the site by following the contours of the land	✓
		Avoid dwelling heights and building elements that break the ridgeline of the peninsula areas, and ensure they are not prominent when viewed from waterways or other areas of the public domain	✓
		Comment: The Castle Cove locality requirements have been considered. The proposal would be in keeping with the traditional pattern of side setbacks in this locality. The existing built form contains a split level design that is subservient to the topography. Whilst the proposed second floor addition (including the proposed balcony) does not comply with the Building Height Plane or the Height of Building Development standard, this would be a function of the topography. In particular, the existing dwelling contains an existing contravention to the height of buildings development standard of 11m. The proposal seeks to alter the existing pitched roof to part of the existing dwelling to a flat skillion roof which also does not comply with the standard, however, it does seek a reduction from the existing height of 11m to 9.9m (1.1m reduction).	

		The proposed second storey addition contravenes the height of buildings development standard with a height of 10.7m and the balcony contravenes this standard with a height of 10.9m. The dwelling contravention relates to a minor portion of the balcony and is not considered to impose adverse bulk and scale impacts. Specifically, the proposed second storey addition would only present as a two storey dwelling from the street and the component that does not comply with the height of buildings development standard is not visible from the public domain and nor is considered to impose significant amenity impacts.			
WDCP Control	Existing	Proposed	Standard	Compliance	
Part C, Attachment 2 – Controls for Development in the C4 Zone					
<ul style="list-style-type: none"> • B – General Development Controls for dwellings, dual occupancies and attached Development • C – Amenity Development Standards • D – Detached Development Controls • F – Swimming Pools • G – Fencing • H – Associated Works 					
B.3	Primary Street Setback		3m	Average of 2 adjoining dwellings (1.59m required). Otherwise: 7m	Yes
B.4	Side setbacks		Proposed second floor addition does not comply with the 2.5m requirement. 1.2m-1.8m side setback is proposed.	One storey – 1.5m Two or more storeys – 2.5m	No ⁽¹⁾
B.5	Rear & Foreshore Building Line Setbacks	20.3m	No change	Average of 2 adjoining dwellings. Otherwise: 15m minimum	Yes
B.6	Building Envelope		Encroachments are made to the west and south sides of the dwelling. Acceptable due to the steep slope of the site.	Within 45° from a height of 3.5m above existing ground level along the boundary of the site	No. Acceptable on merit
B.12-13	Attached side and rear balconies, decks, patios, terraces & verandahs (balcony setbacks)		Existing balconies on the bottom 2 floors. Proposed balcony/rooftop terrace is 5-7.1m above FGL. The height exceeds 4m and is acceptable on merit due to the topography, noting that the	Maximum permitted height (floor level above EGL), where attached to the side/rear, at the following setbacks: <ul style="list-style-type: none"> • Up to 3m = 2m(H) • 3-6m = 3m(H) • >6m = 4m(H) 	No. Acceptable on merit due to the topography.

			balcony relates to the second storey element. The size is considered to increase dwelling amenity, in particular, the indoor living connection to outdoor recreation.		
			40m ² balcony/rooftop terrace The portion that is within 6m of the boundary equates to 11.7m ²	12m ² where 2m above EGL and within 6m of boundary.	No. Acceptable on merit as the balcony has been reduced to ensure that the portion within 6m of the boundary does not exceed 12m ² . In addition, privacy screening can be conditioned.
B.1, B.16	Landscaped Area (LA)	323.94m ²	333.7m ²	400.355m ² <i>Note: 1m min dimension and includes min 20% DSZ (remainder to be 0.6m deep)</i>	No. Acceptable on merit
			224.6m ²	70% of LA behind building line (280.248m ²) <i>Note: 2/3 of this is to comprise of DSZ.</i>	No
B.14, B.17-18	Deep soil zones (DSZ)		>121m ²	Minimum 30% of the required landscaped area (120.1065m ²)	Yes
			80.67% (57.2m ²)	DSZ area forward of building line: <ul style="list-style-type: none"> 70% (>18m lot width) = 49.63m² 50% (<18m lot width) 	Yes
B.19-21	PPOS		>60m ²	<ul style="list-style-type: none"> 60m² 3m min dimension 1:50 grade 	Yes

<p>C.C.2.1-2</p> <p><i>(Control 3 relates to a detached studio and is not included)</i></p>	<p>Privacy Screens</p> <p><i>Note: This does not apply to a bedroom window that has an area of not more than 2m².</i></p>		<p>W8 and W9 of the Level 1 rumpus room contain at least a 6.7m setback to the eastern boundary. Due to the greater than required side setback, the privacy impacts of the subject windows are not viewed to be excessive.</p> <p>W4, 13, 14 belong to non-active rooms.</p>	<p><u>Privacy screen required for habitable room window less than 1.5m above FFL, if window faces and is:</u></p> <ul style="list-style-type: none"> • Less than 3m from side/rear boundary and the FFL is more than 1m above EGL, or • At least 3m, but not more than 6m from side/rear boundary and the FFL is more than 3m above EGL. 	<p>Yes</p>
<p>C.C.3.2-3,5</p> <p><i>(Control 1 relates to battle axe and has not been included)</i></p> <p><i>(Control 4 relates to secondary road and has not</i></p>	<p>Car Parking and Access (dwelling houses)</p> <p><i>Note: car parking space refers to an open hardstand space, carport or</i></p>		<p>Detached garage</p>	<p>Attached car parking space accessed from primary road must be setback 1m behind dwelling.</p>	<p>N/A</p>
			<p>4.8m</p>	<p>Max width of garage openings (lot width)</p> <ul style="list-style-type: none"> • 8-12m = 3.2m • >12m = 6m 	<p>Yes</p>
			<p>Garage setback >1.5m from the</p>	<p>Rear Setback for garage or carport:</p>	<p>Yes</p>

<i>been included)</i>	<i>garage.</i>		rear boundary	<ul style="list-style-type: none"> Up to 900m² = 900mm >900m² – 1,500m² = 1.5m >1,500m² = 2.5m 	
D.1-7	Detached Development (garage)		3.1m	Height = 4.5m	Yes
		<0.6m	No change – the proposal seeks to convert the existing carport into a garage	Max FFL = 0.6m	Yes
			25m ²	GFA = 60m ²	Yes
			0.5m - 1.2m (skewed boundary) Acceptable on merit as the non-compliance is existing. In particular, the proposal seeks to refurbish the existing carport to convert the form into an enclosed garage. The use of timber materiality integrates with the natural landscape setting.	Side Setback = 2.5m	No. Acceptable on merit
			>0.9m	Rear Setback = 0.9m	Yes
F.1-4	Swimming pools	>1m from side/rear boundaries	No change	Located behind dwelling and setback 1m from side/rear boundaries.	Yes
		<0.6m	No change	Associated decking not to exceed 0.6m above EGL.	Yes
			Coping extended to 1m	Coping to be a maximum 1.4m above EGL and 0.3m wide if 0.6m above EGL.	Yes
H.1	Excavation		Significant excavation does not facilitate the proposal.	<u>Maximum depth from EGL:</u> <ul style="list-style-type: none"> ≤1m from boundary = 1m 1-1.5m from boundary = 2m >1.5m from boundary = 3m 	N/A

H.2-4	Fill		Significant fill does not facilitate the proposal.	<p><u>Maximum height from EGL where purpose is for:</u></p> <ul style="list-style-type: none"> • Alteration or addition to dwelling house = 1m • Any other purpose • <i>Note: The height of fill contained wholly within the footprint of a dwelling house or any attached = 600mm</i> <p>Fill >1.5m above EGL is limited to 50% of the landscaped area where it is not contained wholly within the footprint of the dwelling or any development.</p>	N/A
H.5	<p>Support for Earthworks</p> <p><i>Note: support to take the form of a retaining wall or other structural support such as embankment or batter</i></p>		Retaining walls are proposed and have been clarified to be a maximum height of 0.5m in height. The plans will be marked up to ensure compliance with this.	<p>Where earthworks exceed 0.6m, support is required:</p> <ul style="list-style-type: none"> • Height shall not exceed the associated cut/fill. • 2m separation from any other retaining wall. • Toe or top >1m from side/rear boundary (embankment or batter). • Certified by a engineer, adequate drainage lines and does not redirect flows. 	Yes
Part F – Transport and Parking Management					
4.1-2	Car Parking and Driveway Design		Driveway location is generally in keeping with existing.	<p>Driveways not to be located closer than:</p> <ul style="list-style-type: none"> • 2m from a street tree or 1.5m from any other tree • 1m from a power pole and/or stormwater pit 	Yes
Table 1	Car Parking		2 spaces	<ul style="list-style-type: none"> • 1 /dwelling with 	Yes

	Rates (all other areas)			≤2 bedrooms • 2 /dwelling with ≥3 bedrooms	
Part G – Vegetation Management					
2.1	Tree preservation		Referred to Council's Landscape Officer and conditions provided.	Trees exceeding 4m, trunk girth 0.6m or crown exceeding 3m subject to preservation controls	Yes
Part I – Stormwater Management					
2.2	Stormwater Management		10kL RWT	10kL RWT (alts and ads > 400m ²)	Yes
Part J – Building Sustainability					
2.2	Building Sustainability Index (BASIX)		Alterations and additions BASIX certificate submitted	BASIX certificate with commitments on DA plans.	Yes

Developer's Contribution Plans:

S7.11/S7.12:	Yes – 7.12 COW >\$250,000.00
a. Applicable rate (%):	1%
b. The cost of development (Part A CI 25J) (\$)	\$1,173,463
c. The total contribution payable (\$)	\$11,734.63

ATTACHMENT 3: ASSESSMENT UNDER WDCP

This section of this report provides an assessment of the proposed development in accordance with the *Willoughby Development Control Plan 2023 (WDCP)* and any non-compliance with the relevant controls.

1. B.4 – Side Setbacks

The setback performance criteria pursuant to Section 2.1.2 under Part C of the *WDCP* requires new development to reinforce the streetscape and urban bushland character of the locality.

The second floor addition is required to have a 2.5m side setback in accordance with Control B.4 under Part C, Attachment 2 of the *WDCP*. The second floor side setback does not comply, proposing a 1.2m-1.8m side setback, with the following encroachments considered:

- 5.9m² dwelling GFA encroachment
- 3.7m² balcony encroachment
- The boundary is 38.24m deep and the extent of the proposal protruding into the side setback is 10.3m deep (26%). The reduction in the balcony size would result in a 5.7m (14%) depth that protrudes into the side setback.

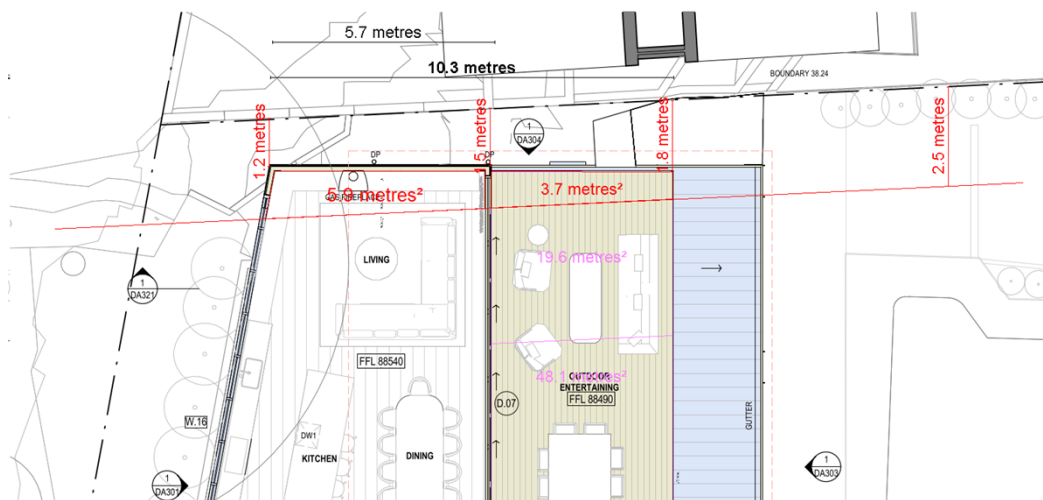


Figure 6: Second Floor Plan – encroachment to the 2.5m side setback is detailed (extract is prior to the reduction of the balcony size).

New development is required to maintain the traditional pattern of side setbacks to ensure good separation between dwellings in accordance with the Castle Cove locality requirements pursuant to Part C, Attachment 1(a) under the *WDCP*.

It is a common theme within the streetscape, for the same setback to be utilised by the upper floors. The proposed second floor side setback would be in keeping with the lower floors and would ensure consistency with the pattern of side setbacks in the locality and would therefore be in keeping with the streetscape character. In this regard, the proposed non-compliance is supported on merit.



Figure 7: Extracts of the applicant's side setback analysis of surrounds identifying that the upper level setback being the same as the lower level is characteristic of the area.

ATTACHMENT 4: SUBMISSIONS TABLE

Council was in receipt of five (5) individual submissions from the following objectors:

1.	Jack Wong and Verona Yun – 11 Cammaray Road, Castle Cove
2.	Hilary Wong – 11 Cammaray Road, Castle Cove
3.	Jennifer Parrish and Brandon Parrish – 10 Cammaray Road, Castle Cove
4.	Paul Ding – PO Box 20331, World Square
5.	Helen Chow and Lai Yuen Chow – 15 Cammaray Road, Castle Cove

The below table provides the issues raised by the objectors and Council’s response.

Issues Raised	Officer’s Response
Tree Removal	<p>The development application proposes the removal of two trees on the subject site and an Arborist Report was submitted with the application. Of note, any trees outside the property boundary are not proposed for removal. The proposal was internally referred to Council’s Landscape Officer to assess the suitability of tree removal and any requirements for tree replacements. The referral did not object to the proposal, subject to conditions and as such, the proposed tree removal is considered to be satisfactory.</p> <p>Additionally, the following comments are highlighted based on the submitted Arborist Report:</p> <ul style="list-style-type: none"> - Tree 3 is an established <i>Eucalypt sp.</i>, is located in the rear garden and is not listed on the Natural Heritage register. <p>The poor state of the tree does not appear to be a result of the recent pool renovation works, but were pre-existing. Whilst there are no proposed works that will impact on tree 3, based on the tree’s condition and the arborists recommendation, removal of the tree is supported subject to condition for replacement with a suitable species of a mature size.</p> <ul style="list-style-type: none"> - Tree 2, a <i>Eucalyptus punctata</i>, located in the front garden is within the footprint of the proposed development. <p>The tree is listed in the Natural Heritage Register; however, this does not mean that the tree has a ‘local heritage listing’. The tree is located within 10m of the dwelling and eligible for removal under the RFS 10/50 vegetation clearing. Removal of the low value tree is supported subject to replacement with a suitable species of a mature size.</p> <ul style="list-style-type: none"> - It is noted that whilst the site is identified as bushfire prone land, there is sufficient space to accommodate replacement trees as conditioned, whilst still maintaining a non-continuous canopy.
Overshadowing	Due to the orientation of the site, excessive overshadowing would not occur to neighbouring sites, as 15 Cammaray Road would benefit from afternoon sun and 11 Cammaray Road would benefit from the morning sun.
Front Setback	The front setback complies with the <i>WDCP</i> .
Lack of landscape	Existing non-compliance has been increased
Streetscape	As identified in the assessment above, the proposal is considered to be in keeping with the streetscape and is not considered to impose any adverse impacts to its surroundings or the natural environment.

Bulk and Scale	As identified in the assessment above, the proposal is not considered to impose an adverse bulk and scale impact. In particular, <ul style="list-style-type: none">- The proposal does not exceed the maximum permitted FSR under the <i>WLEP 2012</i>, noting that the contravention to the building height standard is only a function of the topography.- The built form and setbacks are in keeping with the character of the locality and are considered satisfactory.- The proposal would not impose any adverse amenity impacts.
Height	The existing three storey component is a split level design that has been designed to be subservient to the sloping topography. The proposed two storey addition would present as a two storey dwelling from the street. Additionally, the contravention to the building height development standard is a function of the topography and is acceptable.

ATTACHMENT 5: APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT



**WILLOUGHBY LEP
2012
Clause 4.6 Exceptions
to Development
Standards – Height of
Buildings**

Proposed Alterations and Additions to the Existing Dwelling House and Garage with Landscaping at

**No. 13 Cammaray Road,
Castle Cove**

Prepared for:
Isabelle O'Connor
c/- Litera Trotta

Prepared by:
GSA PLANNING
Urban Design, Environmental & Traffic Planners
(A.B.N 89 643 660 628)
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JOB NO. 23310
September 2023

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WILLOUGHBY LOCAL ENVIRONMENTAL PLAN (LEP) 2012
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Isabelle O'Connor
SITE ADDRESS: No. 13 Cammaray Road, Castle Cove
PROPOSAL: Proposed alterations and additions to the existing dwelling house and garage with landscaping

1. (i) **Name of the applicable planning instrument which specifies the development standard:**

Willoughby Local Environmental Plan (LEP) 2012

(ii) **The land is zoned:**

C4 Environmental Living. The objectives of the C4 Zone are as stated:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.*
- *To maintain the scale, character and streetscape of individual localities.*
- *To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.*

(iii) **The number of the relevant clause therein:**

Clause 4.3 – Height of Buildings which is stated as follows:

- (1) *The objectives of this clause 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.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

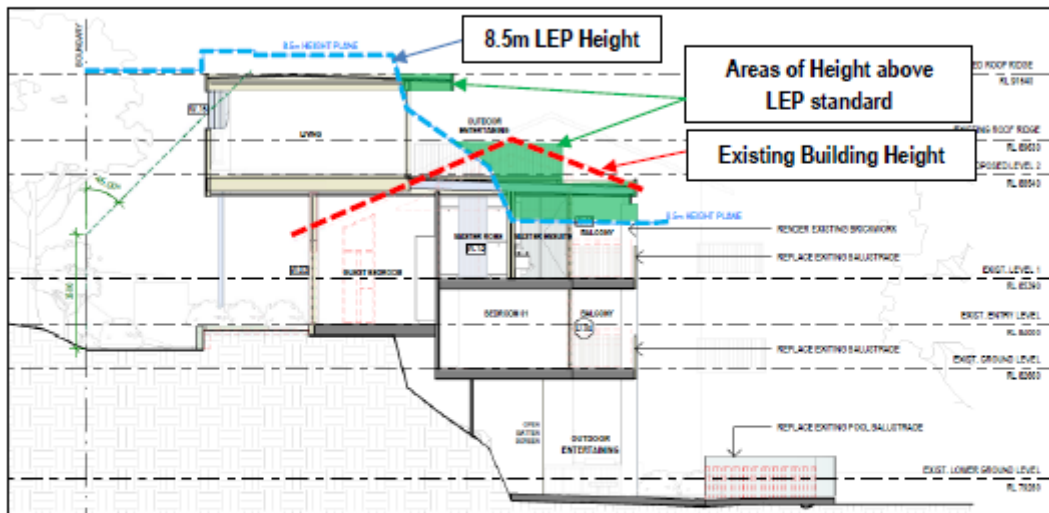
2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the Height Map which indicates a maximum 8.5 metres applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

This proposed alterations and additions are compliant with the building height standard of the LEP at the front of the dwelling, however includes some areas of departure from the standard in areas beyond. The maximum building height is 10.62m, representing a 24.9% departure. Due to the sloping topography the maximum building height, as per Council’s definition, is measured from the existing ground line to the top of the balustrades at the second floor level terrace at RL 89.44 AHD. The highest point of the building has a maximum RL of RL 91.64 AHD (see Figure 1). The areas of additional height are a result of the steep topography of the site, which has a significant slope from the front to the rear boundary. Furthermore, the proposal aims to minimise areas of additional height non-compliance above the existing roof ridge.



Source: LiteraTrotta

Figure 1: Section Demonstrating Existing and Proposed Height

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

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

Flexibility is sought in the application of the height development standard to the proposed development in the circumstance of this particular case. It is our opinion that the building height is appropriate as it is similar to surrounding development.

The proposal complies with the other major built form standard being the floor space ratio (FSR) development standard, retains existing side and rear setbacks with a compliant new front setback, and offers improvements to landscaping compared to existing. These considerations ensure an appropriate height and bulk in its context. The proposed building height is not anticipated to have additional amenity impacts to neighbours compared to a compliant envelope, particularly given the new addition at the second floor largely sits below the maximum height line which will minimise view impacts, along with the retention of solar access to neighbouring windows and private open space.

Flexibility in this circumstance will provide a better outcome both for and from the development. Strict compliance would require removal of the second floor terrace and parts of the adjoining internal area and roof; and deletion of the rear rooms and roof overhang to the balcony at Level 1 which are in fact below the existing dwelling's maximum ridgeline height. This would diminish internal and external amenity and the design. To do so would be without any discernible benefit, as the areas above the height standard will not result in additional amenity impact when compared to a building of a fully compliant height. As the proposal is consistent with the objectives of Clause 4.6, the variation is acceptable in this instance.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (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) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

5.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable height development standard, the proposal achieves the desired low density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development achieves the objectives of the height standard are explained below.

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

The additional areas above the height standard, over and above the existing dwelling, are relatively minor in nature. The roof at a portion of the second floor and the rear roof overhang to the second floor terrace is a minor area above the standard. The semi-open balustrading to the second floor terrace and lowered roof above Level 1 will remain below the existing dwelling's maximum ridge height, minimising additional bulk and scale. This allows for the proposed works to read as predominantly 1.5/2 storeys in the streetscape, which is consistent with majority of surrounding development in particular the two to three storey built form at No. 11 Cammaray Road (see **Figure 2** on the following page).



Photomontage of the Proposal on Cammaray Road



Existing Dwelling Directly to the East at No. 11 Cammaray Road

Source: LiteraTrotta & Google Street View (2021)

Figure 2: The Proposal and Neighbour as Viewed in the Streetscape

Accordingly, the proposal provides a built form that is a height, bulk and scale consistent with neighbouring and nearby dwellings in the Cammaray Road 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,*

The area of additional height is restricted largely beyond the front façade, in order to minimise potential amenity impacts on surrounding properties. Each aspect of this objective is discussed in the following paragraphs:

Views

We have not had the opportunity to inspect neighbouring properties for potential view loss. However, we note that neighbouring properties opposite the site to the south are expected to have primary views towards the southeast, rather than directly across the subject site. Any potential distant views across the subject site would be significantly obstructed by existing trees, as well as the existing dwelling.

Any potential minor view impacts on distant views would likely occur as a result of a height compliant portion of the proposed building envelope. There are no significant views across the site which would be obstructed by the proposal (i.e. iconic, water and land water interface views).

Potential disruption of neighbouring views as a result of the areas above the height standard are therefore minimised.

Privacy

The proposal will enhance visual privacy as amended windows above the height standard offer reductions in size along the eastern elevation, and privacy on the western elevation. The proposed roof terrace is partially above the height standard, and is located and oriented to capture views of the distant ridgeline and river beyond. There is 13.9m separation between the proposed terrace and primary private open space to No. 11 Cammaray Road, with this generous separation in turn minimising visual privacy impacts. Further, there is no clear-glazed windows to the side elevation of the dwelling at No. 15 Cammaray Road, and their rear upper balcony is positioned well beyond the rear alignment of the proposed second floor terrace.

Potential impacts on privacy as a result of the areas above the height standard are therefore minimised.

Overshadowing

The proposal has been thoughtfully designed to retain solar access to neighbouring habitable room windows and primary private open space (see **Figure 3** on the following page). In relation to overshadowing to adjoining or nearby properties, we note the following:

At **9:00am**, the proposed development will reduce areas of existing overshadowing to neighbouring properties, with no additional overshadowing proposed. At **12noon**, there is again no additional impact to solar access to neighbouring properties. At **3:00pm**, the proposal will increase solar access to the external staircase and a window at No. 11 Cammaray Road. Where additional overshadowing occurs to No. 11 Cammaray Road it will be located within a blank area of the western wall and a small section of an existing doorway window.

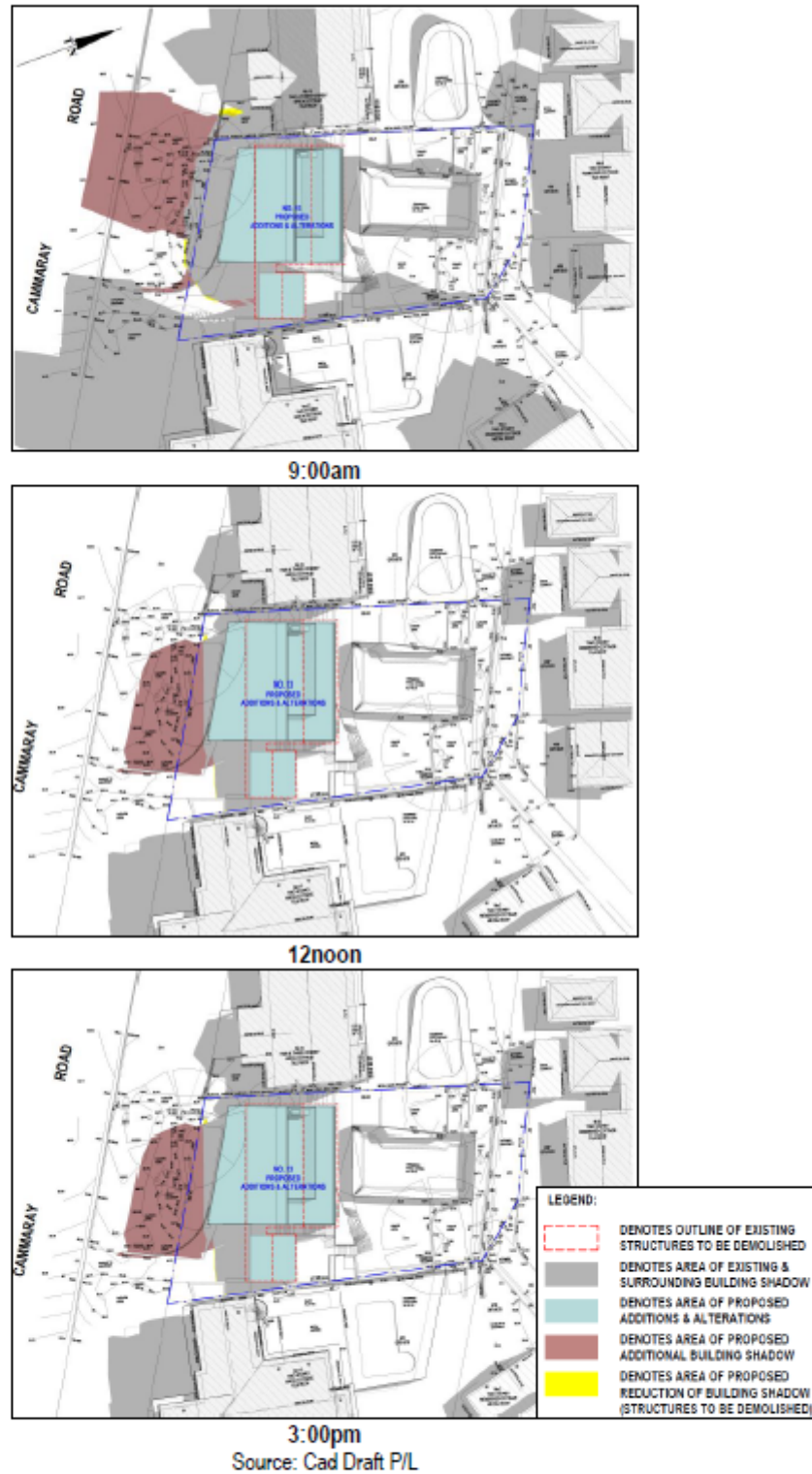


Figure 3: Proposed Solar Access Diagrams, 21st June

Accordingly, the proposal's solar impact to neighbouring properties is minimised, with the areas of additional height resulting in no change to existing levels of compliance.

Visual Intrusion

The proposed areas above the height standard largely remain below the existing dwelling's ridge height, which assists in minimising the extent of additional visual intrusion. New areas which are above both the LEP height standard and the existing ridgeline relate to a minor portion of the roof and side elevations at Level 2 and the rear roof overhang at this level. These areas are restrained, and the height exceedance resultant from the sudden drop in the ground line below. The minor upper portions of the side walls and part of the new roof have a separation distance of approximately 10m from the nearest rear upper balcony of No. 11 Cammaray Road; and are positioned well behind any rear upper level balconies, ground floor primary private open space, or habitable room windows with direct sightlines to the proposed development from No. 15 Cammaray Road, to minimise visual intrusion.

Therefore, in our opinion, the careful design and siting of the areas of additional height ensure that any potential visual intrusion to neighbouring developments is minimised.

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

The areas above the height standard utilise lightweight materials including timber and render, and a neutral colour pattern. In our opinion, this is more recessive than the existing dwelling's dark brick and tiled roof exterior. This ensures that the development, including areas above the height standard, will be of a high visual quality when viewed from adjoining properties, the street, and nearby waterways, public reserves and 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,*

View sharing from adjacent developments is discussed in response to Objective (b) above. There are currently no discernible views or vistas across the property from nearby public open spaces, therefore the area of additional height will not impact this objective.

- (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,*

N/A – the subject site does not have an allocated upper limit for building height.

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

N/A – the subject site does not have an allocated maximum upper limit for building height.

- (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,*

N/A – the subject site is not in the city centre of Chatswood.

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

N/A – the subject site is not in a residential area that adjoins higher intensity business and retail centres.

Accordingly, although the proposal will exceed the height standard, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

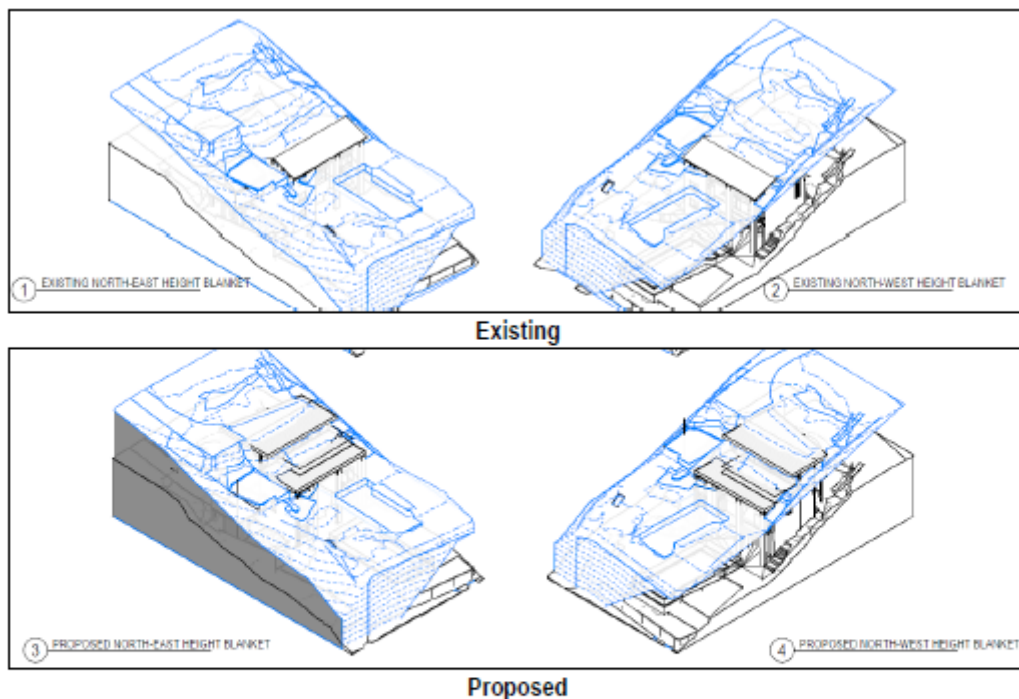
5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The proposal is permissible within the C4 Environmental Living Zone, is consistent with the relevant zone objectives and satisfies an ‘unreasonable and unnecessary’ test established by the Court in *Wehbe*. There are sufficient environmental planning grounds to justify the height variation, which will be discussed below.

Existing Breach

The existing dwelling on the subject site breaches the current height of building standard, with a maximum existing height of 10.806m at the top of the ridge. Majority of new works above the height standard remain below the RL of the existing dwelling’s ridgeline, however given the existing breach it is inevitable that any improvement works (alterations and additions) to the existing envelope at Level 1 will result in a height exceedance.

The only area of additional works above both the existing maximum ridgeline and the LEP height standard are portions of the side walls and the western roof, and the roof overhang to the second floor terrace, which are relatively minor in nature (see **Figure 4**). The Level 2 addition is otherwise compliant with the maximum building height standard, which is particularly the case when viewed from the street whereby the minor area of non-compliance would not result in unacceptable bulk and scale.



Source: LiteraTrotta

Figure 4: 3D LEP Height Blanket Overlayed to Existing and Proposed Dwelling

Site Topography

The areas of height above the LEP development standard is generally in areas where there is a sudden drop or change in existing ground line due to the steep topography and existing areas of excavation. The challenging site topography and associated height non-compliances are demonstrated in **Figure 1 and 4** on previous pages.

Reducing the height to strictly comply would result in a reduction to the existing dwelling's height, which is not a reasonable outcome; reducing the floor area and design of the new upper level (as well as the terrace which remains below the existing ridge height), which would severely limit the space's use as a functional main living, dining and kitchen area; or would otherwise require significant increases in the extent of excavation to lower the overall height, which would further impact the existing site topography and is a much less desirable outcome for the site, which is within the environmental living zone.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, the proposal achieves the objectives of the Height of Buildings Development Standard, as already demonstrated; and the C4 Zone, as discussed below:

Objectives: *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

To ensure that residential development does not have an adverse effect on those values

Response: The proposed alterations and additions will continue to provide a low-impact dwelling that responds to the topography of the area, with the areas of additional height largely a result of the existing steep site topography. The proposed landscaping will increase the amenity of the site within the natural landscaped setting of the area.

Objective: *To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.*

Response: The proposal retains significant trees and vegetation on site and the proposed height will not impact any trees on neighbouring properties or within the public domain. The alterations and additions continue to respond to the natural topography of the area and will not increase the bush fire hazard potential.

- Objective:** *To maintain the scale, character and streetscape of individual localities.*
- Response:** The proposed addition and areas above the height standard will remain compatible with the scale of neighbouring properties on Cammaray Road due to the sloping topography of the site, particularly the two to three storey dwelling directly adjoining the site at No. 11 Cammaray Road. The proposal will remain sympathetic to the existing and emerging character of the locality through its use of colours and materials, and the proposed landscaping.
- Objective:** *To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.*
- Response:** The proposal will continue to retain ample levels of solar access, privacy, and views to neighbours. Landscape quality will be enhanced by the new landscaping design by Spirit Level Designs (separately submitted). There is no impact to foreshore setting or heritage values given the site classification and location.

From this, we consider the proposal is in the public interest and should be supported.

7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed dwelling without significantly, unreasonably or unacceptably impacting neighbouring properties. In particular, compliant solar access will be achieved, with no direct impacts to privacy of habitable rooms and primary private open space resulting from the height non-compliance. Reasonable view sharing is anticipated, despite the areas of additional height.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

8. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the objectives of the C4 Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	8.5m	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard. 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The existing dwelling has a breach in the height standard, which in turn results in non-compliance for any Level 1 alterations and additions to the dwelling; and The challenging site topography has a direct correlation with the areas of additional building height. 	YES
26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the C4 Zone.	YES
28-29	Second Precondition to Enlivening the Power –	7	As the relevant matters for consideration under Clause 4.6 have	YES

Clause 4.6 Exceptions to Development Standards – Height of Buildings
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	That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.		been satisfied as outlined above, the Council can grant development consent.	
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ATTACHMENT 6: OFFICER’S CLAUSE 4.6 ASSESSMENT – HEIGHT

Description of non compliance

Development Standard	Height Standard	Existing Height	Proposed Height	%Variation
CI 4.3 Height of buildings	8.5m	11m	11.27m	32.59% (2.77m over the standard)

Key points of the applicant’s submission:

- a) The proposal will reduce the existing maximum building height and include a second floor addition with a balcony that contravenes the building height development standard. The perceived bulk is predominantly compliant and existing, with the breach relating to the existing dwelling roof, the rear corner, eave and balcony of the proposed addition. Refer to figures 8-9 below:

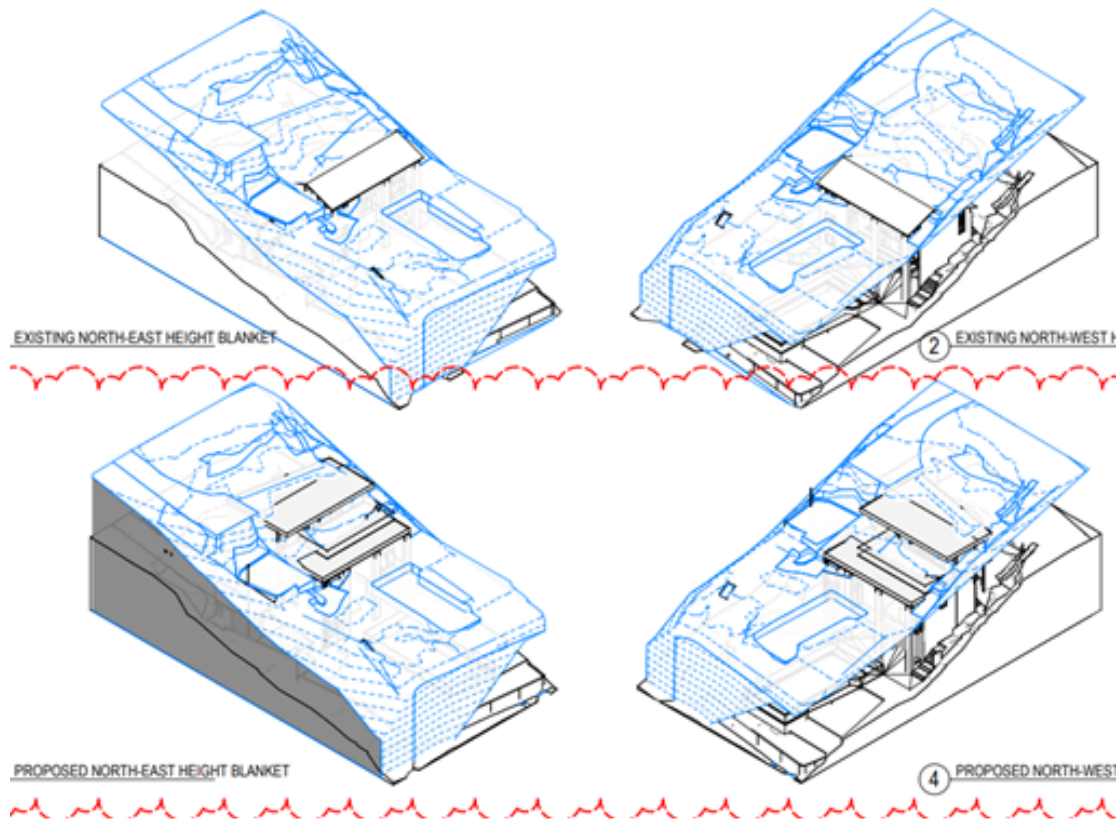


Figure 8: Existing (top) and proposed (bottom) Height Blanket Diagrams – encroachment to the 8.5m height requirement is shown.

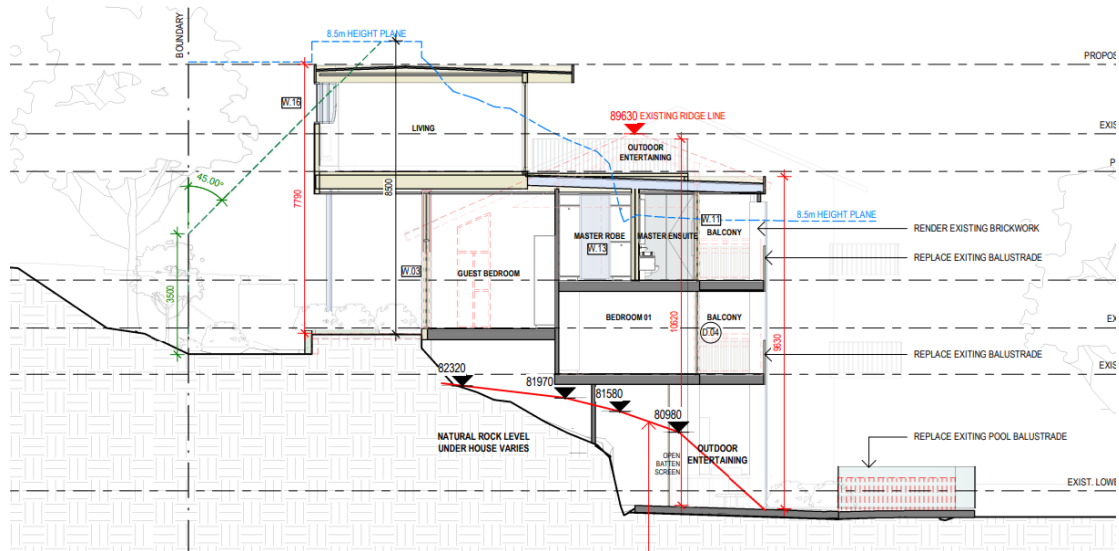


Figure 9: Section Plan – encroachment to the 8.5m height is detailed.

- b) The Development Application contains the following breaches to the height of buildings development standard:
 - i) Existing dwelling breach – The existing roof is reduced from a height of 11m to 9.9m, resulting in a 1.4m variation. Extent of the variation is 16%.
 - ii) Proposed addition breach – 2.77m variation relating to a minor corner of the dwelling and to the rear dwelling eave over balcony. Extent of the variation is 32.59%.
 - iii) Proposed balcony breach – 1.4m-2.4m variation to the balcony, measure to the FFL and to the top of balustrade. Extent of the variation is 16%-28%.
- c) The proposed building height is not anticipated to have additional amenity impacts to neighbours compared to a compliant envelope, particularly given the new addition at the second floor largely sits below the maximum height line which will minimise view impacts, along with the retention of solar access to neighbouring windows and private open space.
- d) The breach to the height of buildings development standard is a function of the sloping topography and will appear consistent in the streetscape. In particular, the proposed addition and areas above the height standard will remain compatible with the scale of neighbouring properties on Cammaray Road due to the sloping topography of the site, particularly the two to three storey dwelling directly adjoining the site at No. 11 Cammaray Road.

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) <i>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—</i>	
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
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 minimal impacts to the direct adjoining neighbours and the current and desired character of the locality.
4.6(4) <i>Development consent must not be granted for development that contravenes a development standard unless:</i>	
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 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. Particularly towards character and streetscape impacts.
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 Height of Buildings development standard:

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

Height of Building Development Standard Objectives	Response
a) <i>to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,</i>	The breach relates to reducing the height of the existing roof and the corner, eave and balcony of the proposed addition which is minor in scale and would not impose an adverse bulk and scale to the surroundings buildings and streetscape, noting that the contravention to the development standard is not visible from the street as due to the building conforming to the rear slope of the land.
b) <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 breach has minimal impact on the surrounding amenity, with minimal additional shadow impacts, loss of privacy or visual intrusion.
c) <i>to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	<p>The proposed breach is recessive to the compliant component of the dwelling which is viewed from the street and only breaches due to the topography of the land. The proposal been designed to ensure that the two storey addition can be located as close as possible to the street to minimise the extent of the breach, ensuring a mainly compliant storey whilst achieving compliant front setbacks.</p> <p>The proposal would not adversely impact the visual qualities of the development when viewed from adjoining properties, the street, waterway, public reserves or foreshores.</p>
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 breach minimises disruption to existing views with minimal impact to adjoining properties and open spaces. Views to Middle Harbour are generally retained for the site and adjoining properties
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 breach does not exceed the existing maximum building height and would not contribute to a non-compliant floor space ratio. Despite the shortfall in landscaped area, the proposal improves landscaped area as to what is existing.
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 breach is in keeping with the existing maximum building height that does not add to the bulk and scale of the development or impact the surrounding residential amenity and is therefore responsive to the current and desired future character of the locality.
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</i>	N/A

<i>Shore Rail Line, being the retail shopping core of Chatswood,</i>	
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 C4 Environmental Living Zone:

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

C4 Standard Objectives	Response
a) <i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i>	The height breach forms part of alterations and additions that would be in keeping with the existing building and the locality.
b) <i>To ensure that residential development does not have an adverse effect on those values.</i>	The height breach would not impose additional adverse impacts to its setting and would preserve the ecological and aesthetic values of the locality. In particular: <ul style="list-style-type: none"> - Ecological values – the land is not identified on Council's Natural Heritage Register or the Biodiversity Values mapped area and would not visually dominate the foreshore. Additionally, conditions have been provided from Council's Landscape Officer. - Aesthetic values – the built form generally relates to the topography and presents as a low profile development from the street, incorporating recessive and natural materiality to integrate with the natural landscape character of its setting.
c) <i>To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential.</i>	The breach does not impact the preservation of natural features and bushland as the proposal would be located in relation to the existing building envelope. The proposal would not alter the topography or the retention rock. Additionally, the site is not identified as being located on bushfire prone land.
d) <i>To maintain the scale, character and streetscape of individual localities</i>	The breach would not impose adverse impacts to the quality of the public domain and the character of the locality. In particular, the proposed addition would present as a two storey dwelling from the street and would ensure that front setbacks are in keeping with the adjoining and that the side setbacks are in keeping with the lower level as intended per the Castle Cove locality requirements under the <i>WDCP</i> . Additionally, the proposal is not considered to impose any adverse amenity impacts. As such, the proposal is in keeping with the scale, character and streetscape of the locality.
e) <i>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.</i>	The development maintains residential amenity and considers visual privacy of adjoining lots. The breach itself doesn't cause adverse amenity impacts.

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 1979*. The most relevant matters for consideration are assessed under the following headings:

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered ✓ Not relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<i>State Environmental Planning Policies (SEPP)</i>	✓
	<i>Local Environmental Plans (LEP)</i>	✓
	Comment: Consideration is given to the provisions of the <i>Willoughby Local Environmental Plan 2023 Amendment No.36</i> in the assessment of this application. However, as this DA has been lodged before the commencement of the amendment, the savings provision under this Plan allows this DA to be determined as if this Plan had not commenced. The application proposes a variation to the Height of Buildings development standard through a clause 4.6 variation. An assessment of the variation found that there was planning merit to accommodate the breach with minimal impacts. Additionally, the objectives were met and satisfied whereby the proposal would not contribute to bulk and scale of the development and would be in keeping with the character of the area. The proposal does not contravene any relevant matters for consideration under the provisions of any <i>SEPPs</i> .	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<i>Draft State Environmental Planning Policies (SEPP)</i>	N/A
	<i>Draft Local Environmental Plans (LEP)</i>	N/A
	Comment: There are no draft <i>SEPPs</i> or <i>LEPs</i> that apply to the subject land.	
(a)(iii)	Any development control plans	
	<i>Willoughby Development Control Plan (WDCP)</i>	✓
	Comment: The Development Application was lodged on the 3 October 2023 and the <i>2006 DCP</i> was replaced on 4 October 2023 by the <i>WDCP</i> . The <i>WDCP</i> does not contain any savings provision to allow the <i>2006 DCP</i> to continue to apply. Therefore, the <i>WDCP</i> is the relevant development control plan considered.	
(a)(iii)(a)	Planning Agreements	
	Any planning agreements including drafts that have been entered into or offered to enter into under section 7.4	N/A
	Comment: No Planning agreements affect the site	
(a)(iv)	Any matters prescribed by the regulations	
	Clause 61 EP&A Regulation-Demolition	✓
	Clause 62 EP&A Regulation-Fire Safety Considerations	N/A
	Clause 61 EP&A Regulation-Fire Upgrade of Existing Buildings	N/A
	Comment: Referred to building services and relevant demolition conditions are recommended.	
(b)	The likely impacts of the development	
	Context & setting	✓
	Access, transport & traffic, parking	✓
	Public domain	✓
	Utilities	✓
	Heritage (including cl 5.10 <i>WLEP</i> – Development near Heritage item/Conservation area)	✓
	Privacy	✓
	Views	✓
	Solar Access	✓

	Water and draining	✓
	Soils	✓
	Air & microclimate	✓
	Flora & fauna	✓
	Waste	✓
	Energy	✓
	Noise & vibration	✓
	Natural hazards	✓
	Safety, security crime prevention	✓
	Social impact in the locality	✓
	Economic impact in the locality	✓
	Site design and internal design	✓
	Construction	✓
	Cumulative impacts	✓
	Comment: The proposal would not result in any significant adverse impacts on adjoining or nearby properties	
(c)	The suitability of the site for the development	
	Does the proposal fit in the locality?	✓
	Are the site attributes conducive to this development?	✓
	Comment: The proposal would 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	
	Public submissions	✓
	Submissions from public authorities	✓
	Comment: No referrals were required to public authorities were required and five (5) individual submissions were received.	
(e)	The public interest	
	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

SCHEDULE

GENERAL CONDITIONS

Conditions 1-7 (inclusive)

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
Site Plan / Roof Plan	DA101	B	03/05/2024	LiteraTrotta
Lower Ground Level	DA201	-	13/09/2023	
Entry & Ground Floor Plan	DA202	A	19/12/2023	
Level 1 Floor Plan	DA203	-	13/09/2023	
Level 2 Floor Plan	DA204	A	03/05/2024	
North Elevation	DA301	A	19/12/2023	
East Elevation	DA302	A	19/12/2023	
South Elevation	DA303	A	19/12/2023	
West Elevation	DA304	A	19/12/2023	
Section – AA	DA321	B	03/05/2024	
Material Board	DA121	A	19/12/2023	
Landscape Concept Plan	L101	C	07/09/2023	Spirit Level Designs Pty Ltd

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. 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)

4. 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)

5. 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)

6. 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)

7. Retaining Walls

All proposed retaining walls shall not exceed 500mm from existing ground level and are not permitted to involve earthworks that alters the existing ground levels.

(Reason: Ensure compliance)

DEMOLITION AND BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Conditions 8-16 (inclusive)

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 longitudinal sections of the driveway along each side/edge of the driveway to the proposed garage drawn at 1:100 Scale. The longitudinal sections shall be prepared by a suitably qualified person using B85 Ground Clearance Template from AS2890.1 and shall include the following: -
- (i) Horizontal distance from the centreline of the road/lane to the xxx, including provision of a Council's standard layback as per Council's standard drawing SD105 which is available from Council's website.
 - (ii) Both existing and proposed levels (in AHD) and gradients represented in percentage of the vehicular crossing and driveway.

All driveway grades and transitions shall comply with AS 2890.1-2004 and Council's specifications. The finish garage /car-space floor level may require amendment to satisfy the required driveway grades.

- (b) Detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer 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 all roof areas including garage 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) pump size and specification
 - 2) 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

- 3) effective storage capacity
- 4) 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 \$11,734.63 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 \$1,173,463 at 23/04/2024 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

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

(Reason: Statutory requirement)

10. Screen Planting

Screen planting is required as follows:

- a. Level 2 Balcony adjacent to the western boundary – screen planting is required in line with the edge of the balcony.

The planting is to comprise of semi established evergreen species capable of growing to a minimum height of 1.7m. The screen is to be planted at a distance apart that allows for both healthy growth and visual screening. Details of compliance shall be shown on the construction certificate plans.

(Reason: Privacy)

11. 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)

12. Bushfire Protection

The design and construction of the proposal shall comply with the requirements of the *Planning for Bushfire Protection* and Australian Standards 3959-2009. Details of compliance are to be included in plans/specifications prior to the release of the Construction Certificate.

(Reason: Safety and protection of property)

13. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$15,000** (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 **\$250** (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 = \$15,000 + \$250 = \$15,250

(Reason: Protection of public asset)

14. Stormwater Conveyed to Drainage system

Stormwater runoff from the site shall be collected and conveyed to the 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)

15. 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 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 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 and shall be in accordance with the concept stormwater management plans, prepared by ITM design. 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)

16. Amended Landscape Plan

Prior to the issue of a Construction Certificate, submit to the registered certifier an amended Landscape Plan showing:

- (a) The existing tree numbering to match the Arboricultural Impact Statement dated 23/10/2023 prepared by Tree Wise People.
- (b) Additional replacement tree to be located in the existing gardens in the NW rear corner of the property. The tree shall be located more than 10m from the proposed building and any buildings on neighbouring properties.

(Reason: Tree protection, Landscape amenity)

BEFORE WORKS COMMENCE

Conditions 17-24 (inclusive)

17. External Finishes - Compatibility

All external building material shall be in colours and textures, which are compatible with the character of the locality. In this regard, a schedule of these colours and textures submitted with the application satisfy this requirement.
(Reason: Visual amenity)

18. 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)

19. 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)

20. 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)

21. 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)

22. Application for Vehicle Crossing

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.

(Reason: Protection of public asset)

23. 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)

24. Project Arborist

- (a) A Project Arborist is to be appointed prior to commencement of works on site;
- (b) The Project Arborist is to have a minimum qualification AQF Level 5;
- (c) The Project Arborist is to oversee and authorise all tree protection works detailed in the Arboricultural Impact Assessment and Management Plan dated 23/10/2023 prepared by Tree Wise People, and AS4970-2009 *Protection of trees on development sites* and relevant conditions of consent;
- (d) The Project Arborist is to certify that all tree protection measures have been installed prior to commencement of works.

(Reason: Safety, environmental protection, landscape amenity)

DURING DEMOLITION AND BUILDING WORK

Conditions 25-36 (inclusive)

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. 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)

27. 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)

28. 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)

29. Demolition Work AS 2601-2001

Any demolition must be carried out in accordance with AS 2601 – 2001, *The demolition of structures*.
(Reason: Safety)

30. Tree Removal

Approval is given for the removal of the following trees as identified in the Arboricultural Impact Assessment and Management Plan dated 23/10/2023 prepared by Tree Wise People:
Trees 2 & 3.
(Reason: Site development)

31. Public Tree Protection

- (a) Unless identified by the development consent, no tree roots over 25mm diameter are to be damaged or cut and all structures are to be bridged over such roots.
- (b) Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, the Project Arborist is to immediately Contact Council's Public Trees section and resolve the matter to Council's satisfaction.
(Reason: Tree management)

32. Existing Landscaped Gardens

The existing gardens and landscaped areas are to be retained and protected from any construction damage. All areas adjacent to the approved building works are to be reinstated to have the same character and style. The existing, soft landscaped areas are not to be substituted for paving, unless shown in the approved plans.
(Reason: Landscape protection)

33. Storage of Materials on Council Land Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.
(Reason: Safety, environmental protection)

34. Tree Trunk, Branch and Root Protection

- (a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on the approved plans unless exempt under relevant planning instruments or legislation.
- (b) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.
- (c) Tree protection measures must comply with the Arboricultural Impact Assessment and Management Plan dated 23/10/2023 prepared by Tree Wise People, and AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures.
- (d) Tree protection measures in accordance with (c) above are to be certified by the Project Arborist prior to commencement of works.
- (e) Tree roots greater than 25mm diameter are not to be removed unless approved by The Project Arborist on site.
- (f) All structures are to bridge roots unless directed by The Project Arborist on site.

(Reason: Tree management)

35. Dust Control

The following measures must be taken to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- (c) All dusty surfaces and activities must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system. Activities could include, but are not limited to, rock-breaking, excavation, earth moving, drilling, and angle grinding, cutting, jack hammering and chiselling of concrete or masonry.
- (d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- (e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: Amenity and environmental protection)

36. Construction Noise

Construction noise shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline (ICNG). Noise levels shall not exceed the following noise criteria:

- (a) Affected residential properties (during ICNG recommended standard hours) – Noise affected level of $RBL + 10dB$ and Highly noise affected level (i.e. noise level above which there may be strong community reaction) $\leq 75dB(A)_{Leq(15mins)}$.

- (b) Affected commercial premises (i.e. office, retail outlets etc.) – 70dB(A)_{Leq(15mins)}.

A noise and/or vibration monitoring plan shall be implemented during construction in the event of a complaint being received by Council or the construction contractor. Where noise criteria are exceeded, appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity)

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Conditions 37-52 (inclusive)

37. Bushfire Construction

No Occupation Certificate is to be issued until the building works have been constructed in accordance with the appropriate Bushfire Attack level (BAL) determined by the Bushfire Assessment Report and/or Consent Conditions.

(Reason: Bushfire safety)

38. 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)

39. 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)

40. CCTV Report of Council Pipe System After Work

Prior to the issue of any Occupation Certificate, a qualified practitioner, with qualifications/training in accordance with Water Services Association of Australia WSA05-2013 Conduit Inspection Reporting Code of Australia Version 3.1, shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the Council drainage pipeline located xx after the completion of all works. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following: -

- (a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
- (b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
- (c) Distance from the manholes shall be accurately measured and displayed on the video.
- (d) All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
- (e) The inspection survey shall be conducted from manhole to manhole.
- (f) Recorded CCTV footage & reports are to use Council asset pit numbers to identify the start and finish location of the CCTV. A plan can be obtained from Council with these asset numbers at request.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council. Any damage that has occurred to the section of the pipeline since the commencement of any works on the site shall be repaired in full to the satisfaction of Council at no cost to Council, which may include full reconstruction. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier.
(Reason: Ensure compliance and protection of public asset)

41. On-site Water Management System

Prior to the issue of any Occupation Certificate, the stormwater runoff from the site shall be collected and disposed via an approved rainwater system with a minimum volume of 10m³ in accordance with Sydney Water's requirements AS/NZS3500.3, Part I of Council's DCP and Technical Standards 1 and 2. The construction of the stormwater drainage system of the proposed development shall be in accordance with the approved detailed stormwater drawings required under this development consent and Council's specification (AUS-SPEC).
(Reason: Prevent nuisance flooding)

42. Rainwater Re-use – 10kL tank

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 Standards 1 and 2. The rainwater reuse system shall be connected to supply non-potable use including, but not limited to laundry use, toilet flushing, 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 all roof areas shall drain to the rainwater tank(s).
(Reason: Ensure compliance and stormwater management)

43. 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)

44. 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)

45. 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)

46. Vehicular Crossing

Construct a new vehicular crossing including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council’s Engineers. All works shall be carried out in accordance with Council’s specification AUS-SPEC C271 and Council’s Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be 3 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The centreline of the new crossing shall be "in-line" with the centreline of the parking space(s).

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with unless written approval is gained from Council for alternate levels:

- (a) To be provided on long sections and approved by Council

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. The nature strip and footpath is to be adjusted for a minimum distance of 2 metres on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.

(Reason: Public amenity)

47. Turfing of Nature Strip

Prior to the issue of a Whole Occupation Certificate and in the event of damages to the grass verge during works, trim the strip of land between the property boundary and the road, spread topsoil on top of the trimmed surface and lay approved turfing on the prepared surfaces. The turf shall be protected from vehicular traffic and kept watered until established.

(Reason: Public amenity)

48. Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles. In all respects, prior to the issue of any Occupation Certificate, the proposed vehicle access, including any parking spaces, shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification. Any columns, walls or fences shall be located in positions that comply with Figure 5.2 AS/NZS 2890.1.

(Reason: Vehicular access)

49. 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)

50. Completion of Landscape Works

Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design, completed to a professional standard,

consistent with industry best practice and published standards, and certified in writing by a qualified horticulturalist, landscape architect or landscape designer.
(Reason: Landscape amenity)

51. Tree Planting

Prior to the issue of a Whole Occupation Certificate, trees are to be planted in accordance with the following table:

No. Required	Species	Location	Min Pot Size
All trees	As indicated on Landscape Plan Dwg No. 101 C dated 7/9/2023 prepared by Spirit Level Designs	As indicated on the Landscape Plan	As indicated on the Landscape Plan
1 additional tree	<i>Eucalyptus punctata</i>	Rear garden more than 10m from any building	100L

(Reason: Landscape amenity)

52. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Project Arborist is to certify in writing that all tree protection measures and remediation works have been complied with as per conditions of consent.

(Reason: Protection of trees required to be retained)

OCCUPATION AND ONGOING USE

Conditions 53-56 (inclusive)

53. Privacy Screening

Screen planting and as required by this consent must be maintained in perpetuity for the full life of the development. Removal of these measures post consent must not occur without the prior written consent of Council.

(Reason: Ensure compliance)

54. Bushfire Control

The Asset Protection zones (APZ) being maintained in accordance with the principles contained in the NSW Rural Fire Service's '*Planning for Bushfire Protection*'.

(Reason: Bushfire safety)

55. 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)

56. 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: 2023/269

At: 13 Cammaray Road, CASTLE COVE NSW 2069.

