

DA NO: DA-2024/162

ADDRESS: 29 COOLAWIN ROAD, NORTHBRIDGE NSW 2063.

PROPOSAL: ALTERATIONS AND ADDITIONS TO EXISTING DWELLING TO INCLUDE INTERNAL CHANGES, PEDESTRIAN BRIDGE, STAIR AND LIFT, EXTEND EAST FACING BALCONY WITH SPA ADDITION, CONVERT GARAGE TO CARPORT, REMOVE SKYLIGHT AND PARAPET, NEW GLASS BALUSTRADE TO LANDSCAPED CARPORT ROOF AND WALKWAY, PERGOLA OVER FIRST FLOOR BALCONY AND ASSOCIATED WORKS.

RECOMMENDATION: APPROVAL

ATTACHMENTS:

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT
4. OFFICER'S CLAUSE 4.6 ASSESSMENT – HEIGHT
5. APPLICANT'S CLAUSE 4.6 SUBMISSION – FSR
6. OFFICER'S CLAUSE 4.6 ASSESSMENT – FSR
7. SECTION 4.15 (79C) ASSESSMENT
8. SCHEDULE OF CONDITIONS
9. NOTIFICATION MAP

RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER

AUTHOR: SAUMYA SHAH - DEVELOPMENT ASSESSMENT OFFICER

REPORT DATE: 20 NOVEMBER 2024

MEETING DATE FOR ED ELECTRONIC DETERMINATION

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2024/162 for alterations and additions to existing dwelling to include internal changes, pedestrian bridge, stair and lift, extend east facing balcony with spa addition, convert garage to carport, remove skylight and parapet, new glass balustrade to landscaped carport roof and walkway, pergola over first floor balcony and associated works at 29 Coolawin Road, Northbridge.

The application is required to be referred to the WLPP for determination because (More than 10% variation in FSR and overall building height standards under *WLEP*).

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

- 2.1 Support the Clause 4.6 exception contained in Attachment 4 as it is considered unreasonable and unnecessary to comply with the development standard of Clause 4.3A and 4.4A *Willoughby Local Environmental Plan 2012 - Height of Buildings and Floor Space Ratio* as the overall building height and gross floor area of the proposed development exceeds the development standard for the following reasons:**

2.1.1 The proposed works on top of an existing garage including the new balustrades in the front garden is considered a part of the building immediate to the street frontage. The proposed balustrades consist 1 m height and it exceeds Clause 4.3A - 1(a), overall building height of *WLEP*. The existing garage is retained under this application and the non-compliance due to new balustrades is not considered to adversely impact on the residential amenity of adjoining properties, streetscape, natural vegetation/features or building bulk of the subject development. Therefore, the non-compliance is considered to be acceptable in this particular circumstance.

2.1.2 The noncompliance of Clause 4.3 – 1(b), overall building height for the dwelling is existing. However, the proposed alterations and additions reduces the overall building height of the dwelling. Therefore, the non-compliance is considered to be acceptable.

2.1.3 The proposed development is not considered to cause unreasonable external impacts on adjoining properties in terms of disruption of views, loss of privacy, overshadowing and visual intrusion.

2.2 Approve Development Application DA-2024/162 for alterations and additions to existing dwelling to include internal changes, pedestrian bridge, stair and lift, extend east facing balcony with spa addition, convert garage to carport, remove skylight and parapet, new glass balustrade to landscaped carport roof and walkway, pergola over first floor balcony and associated works at 29 Coolawin Road, Northbridge NSW 2063, subject to conditions contained in Attachment 8, for the following reasons:

2.2.1 The proposal is consistent with the objectives of C4 – Environmental Living zone and objectives of the development standards and does not increase the existing FSR of the subject site.

2.2.2 The proposed development is considered to be consistent with the objectives for dwelling houses contained in Part C4- Development in C4 zone 2023 of the *Willoughby DCP*.

2.2.3 The proposed development will have acceptable amenity impacts on neighbouring properties and is consistent with the streetscape and natural character of the locality.

3. BACKGROUND

The site is located on the eastern side of Coolawin Road and extending to the foreshore of Middle Harbour. A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

The proposal seeks consent for the following works:

- First Floor (new entry level)
- Construct pedestrian bridge from Coolawin Road frontage to first floor front balcony.
- Reconfigure internal layout and square off north-eastern corner to provide:
 - Main entry with central corridor
 - Stair and lift
 - Living, dining, kitchen

- Butler's pantry
- Study/ media room
- Guest bedroom and ensuite
- Bathroom
- Extend east facing balcony

Ground Floor

- Reconfigure internal layout and square off north-eastern corner to provide:
 - New Double garage and storage
 - Four bedrooms
 - Three bathrooms
 - Laundry
 - Walk-in-robe
 - Stair and lift
- Extend east facing balcony and include spa
- Convert external garage to carport by demolition the garage door

Lower Ground Floor

- Reconfigure internal layout with reduction in floor space in south-eastern corner and increase in floor space in north-eastern corner to provide:
- Rumpus room and bar
- Gym
- Sauna
- Bathroom
- Cellar
- Stair and lift
- Extend paved terrace to east

External

- Remove pitched skylight and parapet
- Increase glazing to street frontage
- Provide timber battening to windows and garage door
- Provide glass balustrade to landscaped carport roof and walkway
- Provide sandstone fin walls to northern and southern side of front (west) elevation
- Provide sandstone support columns to lower ground and ground floor rear (east) elevation
- Provide pergola over first floor east facing balcony

4. DISCUSSION

The proposed development was lodged on 30 July 2024 and the duration of the notification period extended from 30 August 2024 to 13 September 2024.

The preliminary assessment of the submitted plans indicated that the proposed development did not comply with the maximum permitted Floor Space Ratio (FSR) Development Standard pursuant to Section 4.4&4.4A of the *Willoughby Local Environmental Plan 2012 (WLEP)*. The development proposed a total Gross Floor Area (GFA) of 540m², resulting in an FSR of 0.32:1, which exceeded the maximum permitted FSR by 31%. The proposed alterations and additions, including changes to the existing footprint of the dwelling, the enclosure of existing balconies into habitable spaces, and the addition of a new double car garage, contributed to an increase in GFA that was deemed unreasonable. In addition, the Clause 4.6 written statement did not demonstrate adequate environmental planning grounds to warrant a breach to the FSR development standard.

The submitted documents also indicated that the proposed development did not align with the car parking standards set forth in the *Willoughby Development Control Plan (WDCP)* and failed to adhere to the Floor Space Ratio (FSR) standards by excluding both the proposed carport and the new garage from the Gross Floor Area (GFA) calculation. According to Part F – Transport and Parking Management 2023, a dwelling with three or more bedrooms is permitted to have two on-site car parking spaces. The conversion of an existing garage into a new carport and a new proposed double car garage will result in four car parking space as total, and to exclude all four car parking spaces into GFA calculation will contravene the definition of GFA under *WLEP*. Therefore, additional two car parking spaces as a new double car garage must be calculated in the GFA calculation.

The proposed addition was not compliant with the side setbacks and privacy controls established by the *Willoughby Development Control Plan (WDCP)*. However, the proposed development matches the side setback provided by the existing dwelling; therefore the noncompliance of side setback was accepted by Council based on merit.

The existing site is not compliant for a minimum deep soil area forward of the building line (50%) and soft landscape area in the front setback area for C4- Environmental Living zone. The proposed development provides further reduction in soft landscape area by introducing new entrance walkway in the front garden area on top of an existing garage.

Council requested additional information on 23 October 2024 seeking amended set of plans indicating details mentioned below:

- A recommendation to redesign the proposal to maintain the existing footprint and avoid any increase in the existing GFA and no net increase in the existing FSR calculations.
- While the proposed development is not compliant with the side setbacks controls, it is recommended to provide adequate measures to mitigate privacy impact to the neighbouring properties
- A comprehensive justification is required for the proposed conversion of the existing garage into a carport, as well as the addition of a new double garage, which contravenes FSR development standards of the *WLEP*.
- A comprehensive justification is required for the reduction in existing overall landscape area at the front, by introducing a new walkway in the existing front roof garden on top of the existing garage. Additionally, a landscape plan prepared by a qualified landscape designer or landscape architect is to be provided detailing the noncompliance of soft landscape area and removal of existing trees.

To resolve the ongoing planning issues, applicant and council had a meeting on 30 October 2024. In response to Council's comments, the applicant amended the proposal and submitted the amended set of plans on 01 November 2024 with the following amendments:

- The existing staircase removed from the architectural plans at all floors resulting in reduction of gross floor area at lower ground floor
- The width of the proposed planter boxes (both on northern and southern side) has been increased to 1m on ground floor
- Addition of the similar scale planter boxes (both on northern and southern side) and privacy screen to the BBQ area (southern side) on first floor
- The existing garage proposed to be retained and the garage door is proposed to be relocated (further back 750mm approximately)
- Privacy screens has been added to the living room windows on first floor
- Retention of the existing front garden on top of the existing garage and no landscape works proposed under this application

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

A detailed applicant's request of the Clause 4.6 for the overall building height is provided in **Attachment 3**.

A detailed officer's assessment of the submitted Clause 4.6 for the overall building height is provided in **Attachment 4**.

A detailed applicant's request of the Clause 4.6 for the Floor Space Ratio is provided in **Attachment 5**.

A detailed officer's assessment of the submitted Clause 4.6 for the Floor Space Ratio is provided in **Attachment 6**.

A detailed assessment of the proposal for approval and justification of the noncompliant matters are provided in **Attachment 7**.

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://www.willoughby.nsw.gov.au/Development/Get-Approval/DA/DA-tracker-20-11-2024>

5. CONCLUSION

The Development Application DA-2024/162 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 7.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO



Figure 1: Aerial image of the subject site

The subject property, located at 29 Coolawin Road, Northbridge (Lot 56 in DP 17119), comprises a site area of 1,644m². The site is situated on the eastern side of Coolawin Road, extending to the foreshore of Middle Harbour.

The existing development on the site includes a three-storey residential dwelling, accompanied by a detached double garage at the front of the property, a swimming pool at the rear, and a boatshed adjacent to the foreshore. The site is zoned as C4 – Environmental Living under the *Willoughby Local Environmental Plan 2012*, where single dwelling houses are a permissible land use. The topography of the site exhibits a vertical fall of approximately 44 meters from the front (western) boundary to the foreshore of Middle Harbour at the rear. Additionally, there is a 3-meter fall from the front boundary to the dwelling, which is set back 14.5 meters from the street frontage. The double garage is situated below street level within the front setback area, with driveway access occupying the remainder of the front yard, and its roof is landscaped. The dwelling's entry is located on the middle (Ground Floor) level, which contains the primary living areas, including an office, bedroom, powder room, and balcony. The first floor includes four bedrooms, a study, three bathrooms, and a walk-in robe. A balcony is located at the front of the dwelling, with a terrace at the rear with views of Middle Harbour.



Figure 2: Subject site viewed from the Coolawin Road



Figure 3: Subject site viewed from the existing swimming pool area

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

<i>Willoughby Local Environmental Plan 2012 Zoning:</i>	C4 - Environmental Living Dwelling houses Permitted with the consent under C4 - Environmental Living zone.
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	No
Aboriginal Heritage	No
Heritage Item	No
Vicinity of Heritage Item	No
Natural Heritage Register	Yes – Rear Garden
Bushfire Prone Area	No
Foreshore Protection Area	Yes
Flood related planning control	No
Adjacent to classified road	No
Road/lane widening	No
BASIX SEPP	Yes - <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i>
Infrastructure SEPP - Rail	No
Infrastructure SEPP – Road	No
Coastal Management SEPP	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	Considered
Adjacent / above Metro	No
Other relevant SEPPS	N/A
Other relevant REPS	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>Sydney Regional Environmental Plan (Sydney Regional Harbour catchment)</i>
Relevant policies and resolutions	<i>WDCP</i>

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Sydney Harbour Foreshores and Waterways Area requires that, in addition to the Council’s FBL, the following criteria should be considered when siting buildings and structures:

- where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it;
- buildings should address the waterway;
- buildings should not obstruct views and vistas from public places to the waterway;
- buildings should not obstruct views of landmarks and features identified on the maps accompanying this *DCP*; and
- where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore.

Foreshore Building line

Foreshore building lines (FBL) relates to land within Willoughby City which fronts a bay, a river, a creek, a lake, a lagoon or the harbour. Areas with foreshore building lines are indicated on maps in *Willoughby Local Environmental Plan 2012 (WLEP 2012)*.



Figure 4: The Foreshore Building Line (FBL) that affects the subject site at 29 Coolawin Road, Northbridge. The site is outlined in yellow, the FBL in pink (Source: E-Spatial Viewer)

Proposed development including the excavation to accommodate a new staircase and the addition of the terrace on the lower ground floor does not alter or encroach the existing FBL.

Architectural plans

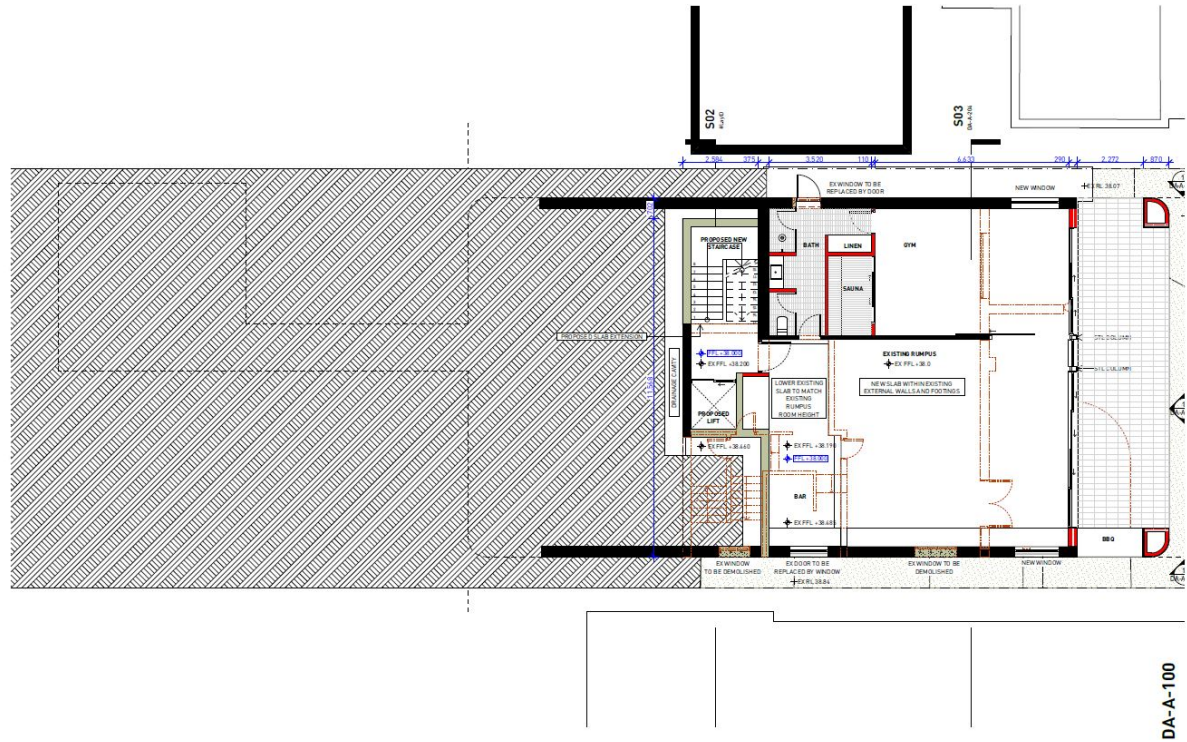


Figure 5: Proposed Lower Ground Floor

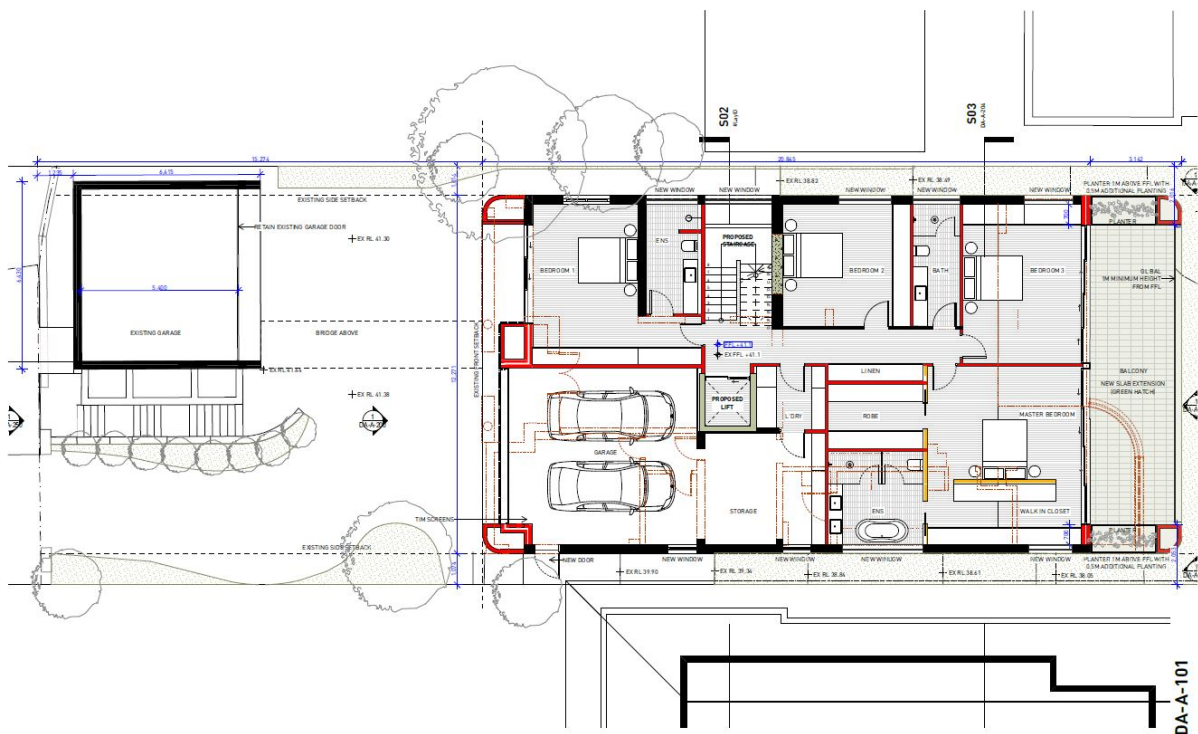


Figure 6: Proposed Ground Floor

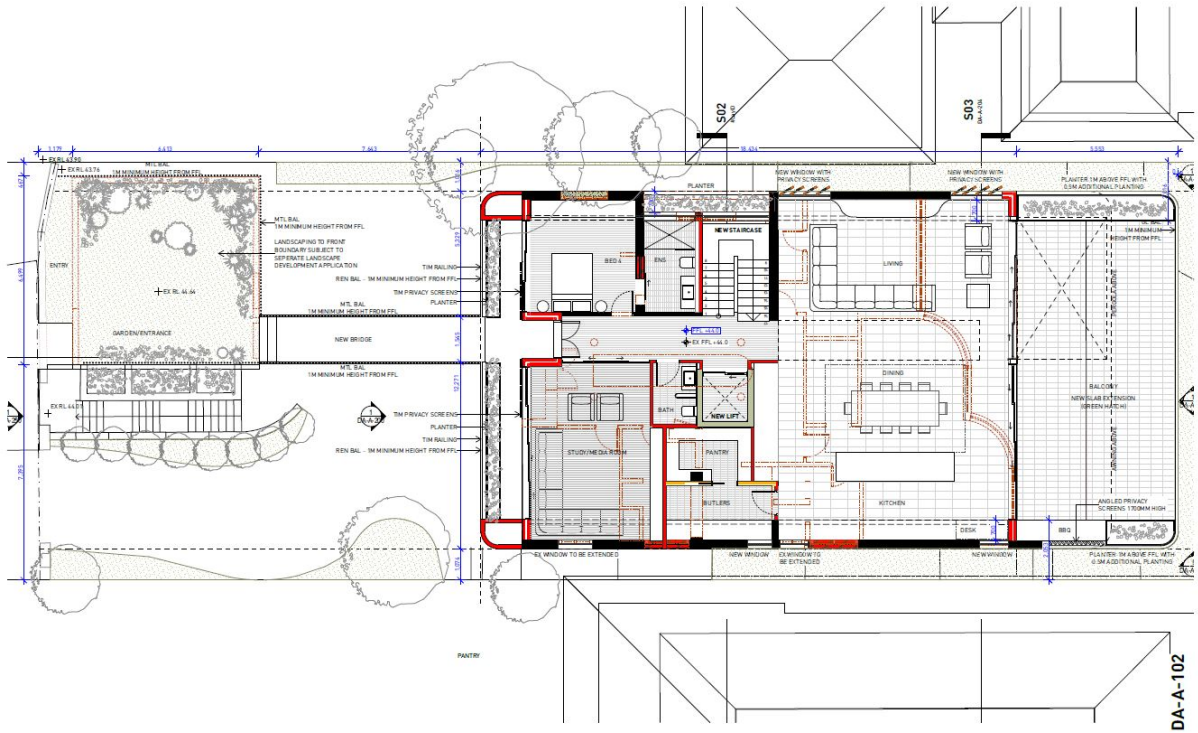


Figure 7: Proposed First Floor

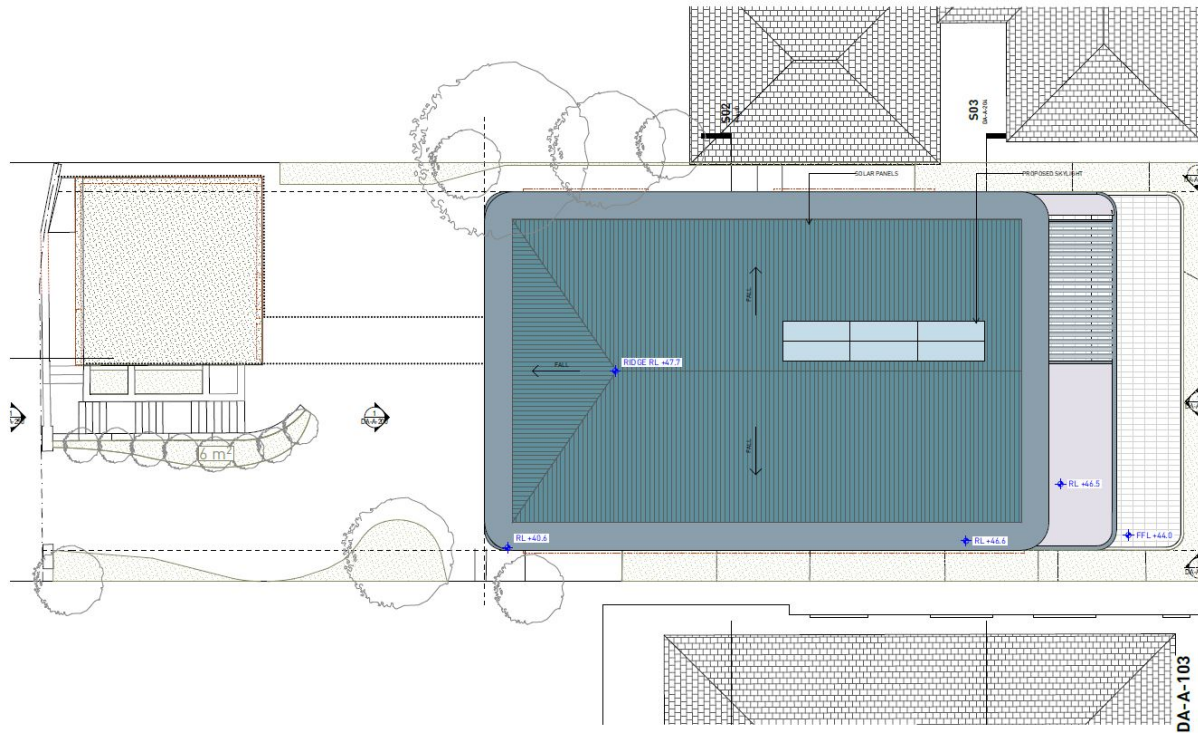
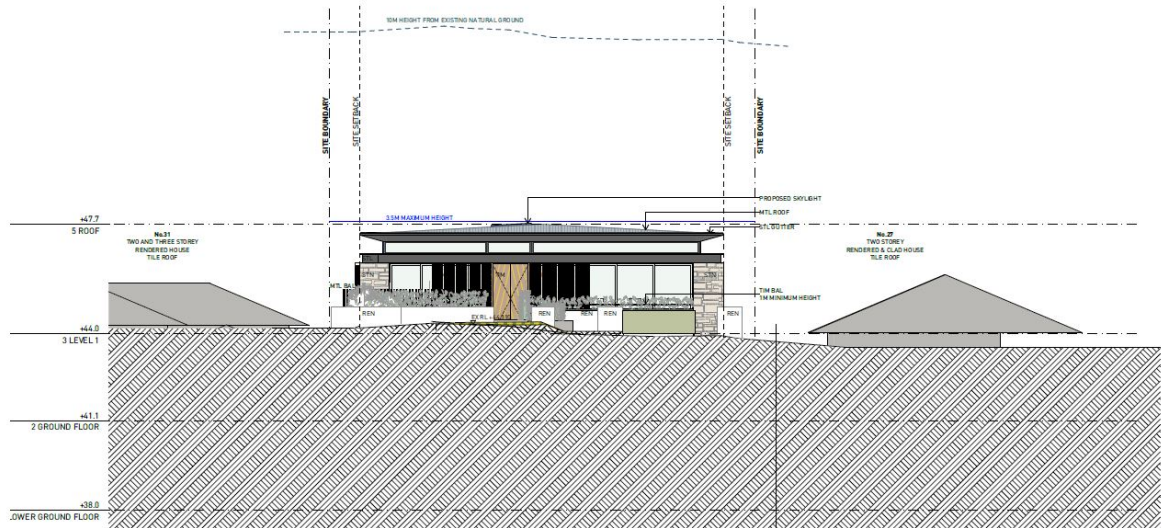
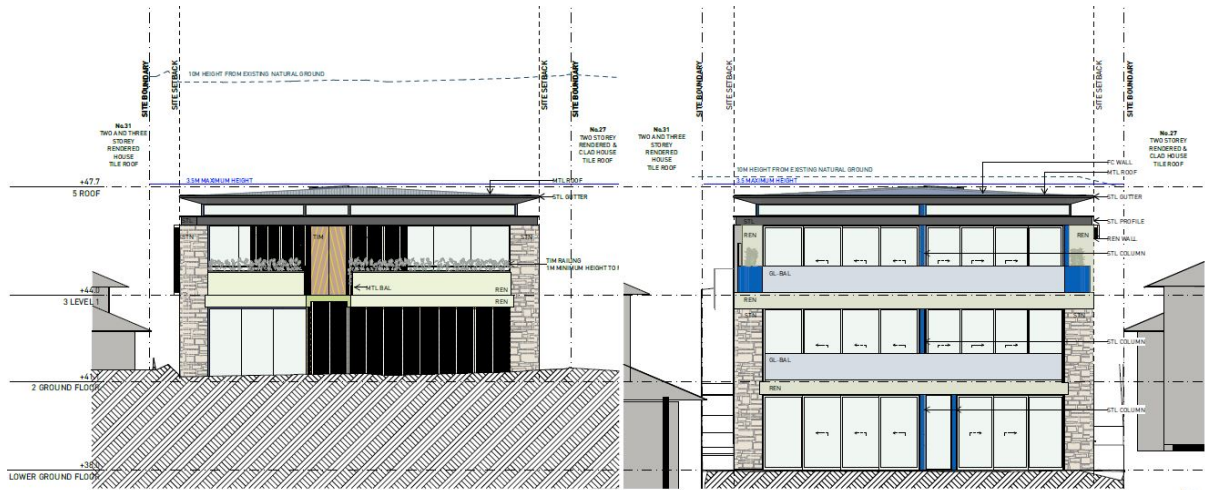


Figure 8: Proposed Roof Plan



DA-A-200

Figure 9: Front Elevation viewed from the streetscape



DA-A-201

Figure 10: Front and Rear Elevation



DA-A-202

Figure 11: North Elevation

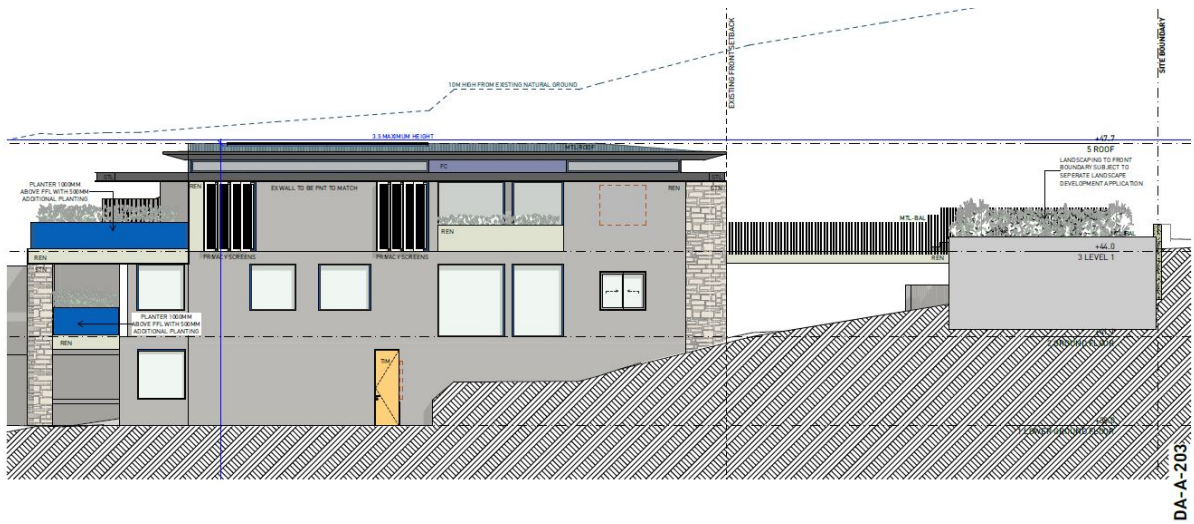


Figure 12: South Elevation

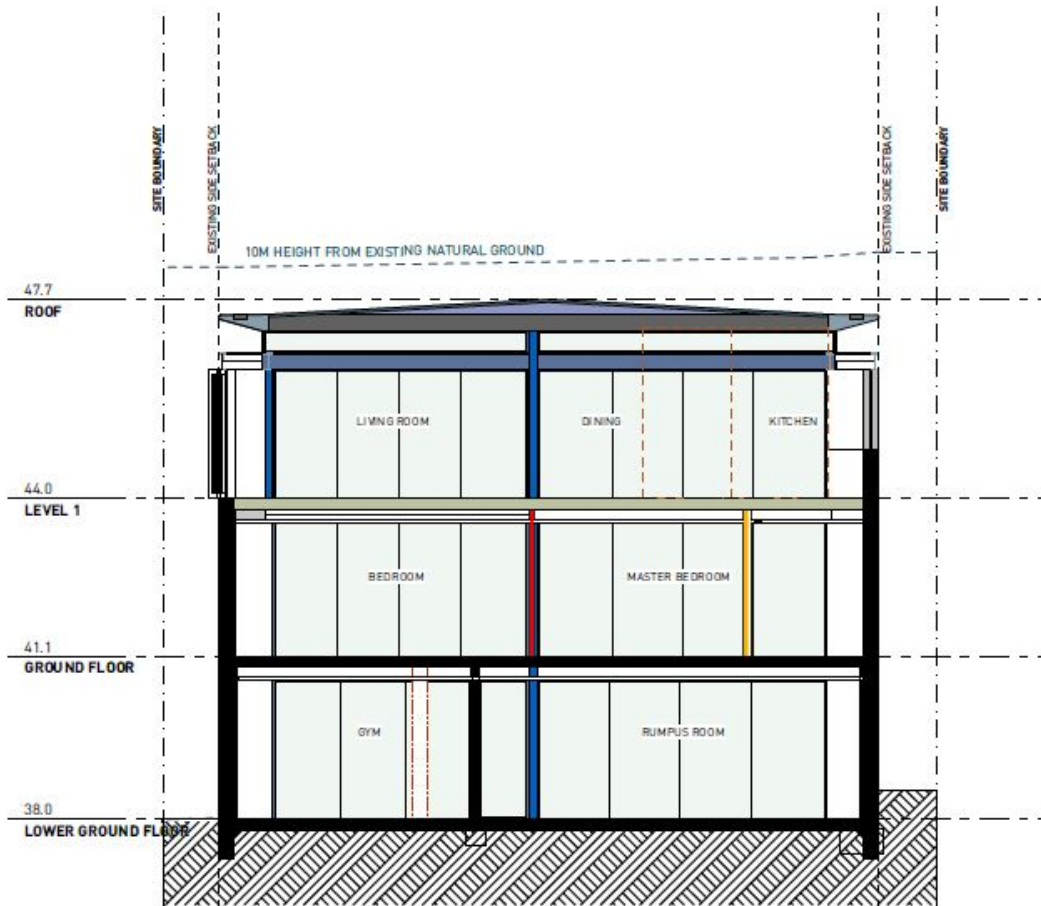


Figure 13: Section S03

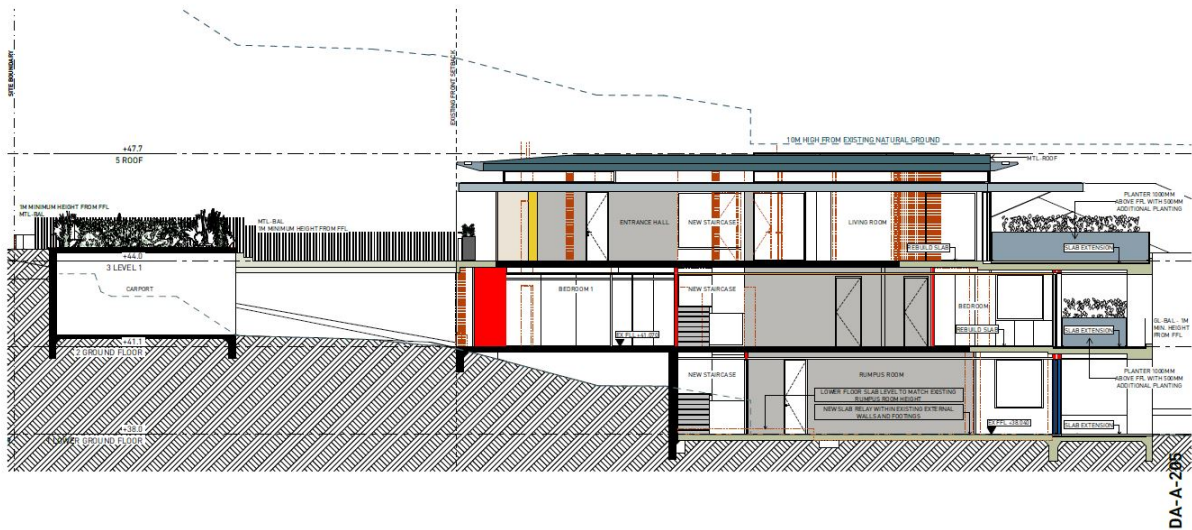


Figure 14: Section S01

Development Statistics (R2 & E4 – Dwelling House and/or ancillary development)					
Site Area (m ²)		1644m ²			
<u>WLEP 2012</u>					
Control	Existing	Proposed by applicant	Calc. by Council	Standard	Numerical Compliance
Maximum building height (in Zone C4 that is identified as “Area 1” on the Height of Buildings Map)					
Measured to the top of a proposed balustrade located forward of the existing garage	1 m (RL +44.6)	2 m (RL +45.6)		3.5m above existing ground level (in this instance, it is measured from the existing ground level located forward of the existing garage - RL +43.6m)	Yes
Measured to the top of a proposed balustrade located above the existing garage	-	4.07 m (RL +45.6)		3.5m above existing ground level (in this instance, it is measured from the F.F.L. of the existing garage - RL +41.53m)	No. Please see the Attachment 5.
Measured to the F.F.L. of the existing garden located above the existing garage	3.11 m (RL +44.6)	No change		3.5m above existing ground level (in this instance, it is measured from the F.F.L. of the existing garage - RL +41.53m)	Yes
Otherwise - overall	10 m	9.7 m	9.9 m	10m above ground level (existing)	Yes

GFA (m²)	520 m ²	520 m ²	520 m ²	411m ²	No. Please see Attachment 6.
FSR	0.31:1	0.31:1	0.31:1	0.25:1 0.4:1(HCA)	

WDCP (2023)

Localities

(c) – Northridge

- integrate dwellings and ensure the built form is subservient to the predominant natural landscaped areas on the site
- maintain adequate setback from side boundaries to ensure separation between dwellings and allow vistas from the roadway
- provide low fencing and walls (including retaining walls) on the street frontage; avoid high fences, walls, unbroken double garages, and high gates, particularly along the streetscapes which have shallow setbacks
- 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 if the public domain

Compliance

Proposed development complies with the principles of this part of the *WDCP* to achieve the desired future character of the Northridge area.

Control	Existing	Proposed by applicant	Calc. by Council	Standard	Numerical Compliance
Parking	2	4	4	2	No. Please see the “Noncompliance matters” section below.
Water management (%)	-	No changes has been proposed to the existing stormwater management system. Council’s engineers have assessed the application and imposed relevant conditions in the consent.		< 50%-N/A 50%-55% - 3000L tank >55% 10,000L tank	Yes subject to conditions.
Earth works	-	1.5	1.5	1m if located not more than 1m from any boundary	No. Please see the “Noncompliance matters” section below.
Tree preservation	-	No changes has been proposed to the existing soft landscape area and existing trees.		Trees exceeding 4m, trunk girth 0.6m or crown exceeding 3 m subject to preservation controls	N/A
Fencing	-	No changes has been proposed to the existing fencing		Max. height 1.8 with 1m setback	N/A
Colours	-	Proposed colours and external material will not		Sensitive to surroundings	Yes

		deliver detrimental impact to the surroundings. The proposed development is considered to meet with the objectives of this section of the plan.			
Two storey wall length	-	The proposed addition in relation to two storey wall length control is minor compared to the existing development. Additionally the proposed development will maintain the existing profile and massing of the existing dwelling and it will not deliver detrimental impact to the neighbouring properties.		6m max without articulation	No. Acceptable on merit.
Building Height Plane	-	As mentioned above the proposed development maintains the existing side setback, with the additions aligned to the current profile of the dwelling. Therefore, the proposed development is considered to meet with the objectives of this section of the plan.		Within 45 degree from a height of 3.5m above existing ground level along the boundary of the site	No. Acceptable on merit.
Front Setback (m)	15m	No changes has been proposed to the existing front setbacks.		For the lot >1500m ² = 10m	Yes
Side Setback (m)	1 m	1 m		One storey - 1.5m Two or more storeys- 2.5m	No. Please see the "Noncompliance matters" section below.
Side Setback (m)	1 m	1 m			
Setbacks to rear boundaries and the foreshore building line	>15m	>15m	>15m	Average of 2 adjoining dwellings. Otherwise: 15m minimum	Yes
Maximum height of balconies, decks, patios, terraces and verandahs attached to the side and rear of dwelling	1m setback = 6m above existing ground level	No proposed changes to the existing balcony levels and side setbacks.		<ul style="list-style-type: none"> Setback Up to 3m = 2m above existing ground level 	No. Please see the "Noncompliance matters" section below.
Total floor area of all attached side and rear balconies, decks, patios, terraces, and verandahs within 6m of the boundary and more than 2m above the existing ground level	56.9 m ²	105 m ²	105 m ²	12m ²	
Soft Landscaped Area (m²)	960 m ²	No changes has been proposed to the overall soft		0.5 × site area = 822 m ²	Yes

		landscape area of the subject site.			
Minimum landscaped area behind the building line	910 m ²	No changes has been proposed to the overall soft landscape area behind the building line of the subject site.		50% of the total landscaped area = 480 m ²	Yes
Minimum deep soil zone forward of the building line on a lot less than 18m wide	4 m ²	Existing front landscape area and deep soil zone is not compliant. No changes has been proposed in the front setback area, which affects the existing landscape area or deep soil zone.		50% of the area forward of the building line = 108.65 m ²	No. Acceptable on merit.
Private open space (>400m²)	>60m ²	>60m ²	>60m ²	60m ²	Yes
Private Recreation Facilities	-	No changes has been proposed to the existing swimming pool under this application.		Pools not to exceed 1.5m high setback min 1 m from boundary. Tennis courts min setback 2m from boundary	N/A
Privacy	-	Proposed alterations and additions will not deliver detrimental privacy impact to the neighbouring properties. The proposed development is considered to meet with the objectives of this section of the plan.		Need for privacy protection	Yes
Solar access	-	The subject site is oriented in North/South direction. The proposed development is considered to meet with the objectives of this section of the plan.		3 hours between 9am to 3pm on 22 June to private open space and living areas	Yes

Noncompliance matters:

Car Parking

The proposed development provides four car parking spaces in total including the retention of an existing double car garage and a new double car garage into the existing footprint of the dwelling, which is not compliant to the *WDCP* controls. As per Table 1 Car parking rates under Part F – Transport and Parking management 2023 of the *WDCP (2023)*, maximum of two car parking spaces permitted for the dwelling houses with three or more bedrooms.

The intent for this section generally is to ensure developments make adequate provision for a reasonable number of off-street car parking spaces, including accessible (disabled) parking spaces.

The breaches to the control requirements for this section of the Code have been assessed with regards to the new addition and on merit are considered to comply with the objective provisions in the following ways:

- The proposed new double car garage area does not contribute an addition to the existing FSR of the subject dwelling
- The proposed new double car garage does not alter the footprint of the existing dwelling
- The proposed new double car garage will not deliver additional mass and bulk impact to the streetscape
- The retention of an existing car garage will contribute in maintaining the existing soft landscape area located at the streetscape level of Coolawin Road.
- The proposed car parking arrangements will maintain existing on street car parking spaces.

Earthworks

The proposed development provides excavation at the lower ground floor to include a new staircase on the northern side. The proposed excavated area is 9m² which is compliant as per the *WDCP* controls for excavation. However, the depth of the proposed excavation is more than 1m from the existing ground level, which is not compliant to the *WDCP* controls. As per the control 1, section h - Development controls for associated works of the Part C - Development in C4 zone 2023 of the *WDCP*, associated works include earthworks, retaining walls, drainage, protection of walls for the purpose of development must not exceed a maximum depth of 1m, measured from existing ground level, if it is located not more than 1m from any boundary.

The breaches to the control requirements for this section of the Code have been assessed with regards to the new addition and are considered acceptable on merit with the objective provisions in the following ways:

- Proposed excavation does not encroach further into the existing side setback area
- Proposed area of excavation will retain the existing outer wall on the northern side
- Proposed excavation is minor and it will not deliver detrimental impact to the neighbouring properties

Building envelope - Side Setbacks – Two Storey Wall Length

The proposed addition provides 1m side setback from both northern and southern boundaries, which is not compliant to *WDCP* controls. The intent for this section generally is to ensure the sitting of buildings, which must provide adequate separation for the amenity of residents, adjoining properties and from the street including adequate space for landscaping, sunlight, and views. It is also to ensure that there is not bulk and scale impact from the streetscape perspective.

The breaches to the control requirements for this section have been assessed with regards to the new addition and on merit are considered to comply with the objective provisions in the following ways:

- The existing dwelling provides 1m side setbacks from both northern and southern boundaries, which is not compliant to *WDCP* controls.
- The proposed development maintains the existing side setback, with the additions aligned to the current profile of the dwelling.
- It also ensures that the overall scale and appearance of the property remain consistent with its existing form.
- The proposed development does not encroach further into the side setback or alter the established layout, it will not add any detrimental impacts to the neighbouring properties.

Balconies/Terraces

The proposed development provides addition of balconies/terraces providing the side setback of 1m (same as existing dwelling) at each level including 37m² terrace on lower ground floor, 37m² balcony at ground floor level and 68m² balcony on first floor, which is not compliant to the *WDCP* controls. As per control 13 section b under Part C - Development in C4 zone 2023 of the *WDCP*, total floor area of all attached side and rear balconies, decks, patios, terraces, and verandahs within 6m of the boundary and more than 2m above the existing ground level is permitted to have total 12m² area.

The breaches to the control requirements for this control have been assessed with regards to the new addition and on merit are considered to comply with the objective provisions in the following ways:

- The existing dwelling provides first floor balcony with the total area of 56m², which is not compliant to *WDCP* controls.
- The proposed balconies maintains the existing side setbacks and is aligned to the current profile of the dwelling.
- It also ensures that the overall scale and appearance of the property remains consistent with its existing form.
- The proposed development does not encroach further into the side setback or alter the established layout, it will not add any detrimental impacts to the neighbouring properties.
- The proposed ground floor and first floor balconies provides 1m wide and 1m high planter boxes on both northern and southern boundaries to minimise the privacy impact to the neighbouring properties
- The proposed first floor balcony provides 1.7m high privacy-screen from the F.F.L. (on southern boundary) to mitigate the privacy impact to the neighbouring property

Developer’s Contribution Plans:

7.12 Section 94A contribution:	Yes
a. Applicable rate (%):	1%
b. The cost of development (Part A Cl 25J) (\$)	\$746,900
c. Date of accepted cost of development:	31/07/2024
d. The total contribution payable (\$)	\$7,469

Internal Referrals

Building services	No objection from a building perspective subject to conditions mentioned in the consent.
Engineering	Site falls to the harbour. Under Part I, stormwater is to be drained to the harbour via a filtration device. Relevant conditions have been imposed. The new garage dimensions comply with the requirements of AS/NZS 2890.1. The modified car port also complies. There is sufficient hardstand outside the garage and car port to allow vehicles to turn around, which is required due to the curve in the driveway.

	<p>While the existing vehicle crossing is in good conditions, it has been constructed in materials that do not comply with Council requirements and can cause a slip hazard when wet. As such, Council's engineers have required that it be replaced.</p> <p>There are existing stepping stones within the road reserve, which cause a potential trip hazard. We conditioned that these be removed. However, Council's engineers conditioned that a concrete slab may be provided at the pedestrian entry.</p>
Landscape	<p>The amended plans have been amended to show the existing landscape areas to be retained as existing as per meeting discussions. The plans do not propose any tree removals. There are no objections with regard to landscape issues subject to the following conditions</p>

ATTACHMENT 3: APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT



**Request for Variation of
Development Standard under the
Provisions of Clause 4.6 of
Willoughby Local Environmental Plan
2012**

Height

29 Coolawin Rd,
Northbridge

November 2024

Lodged on a Without Prejudice Basis

1.0 INTRODUCTION

This is a request for variation of the maximum permissible height above ground level specified in clause 4.3A(1)(a) of *Willoughby Local Environmental Plan 2012* (WLEP 2012) to be considered in conjunction with a development application DA-2024/162 for alterations and additions to a dwelling house at 29 Coolawin Road, Northbridge.

Clause 4.3A(1) of WLEP 2012 specifies exceptions to the height of building standard as follows:

The maximum height of a building on land in Zone C4 Environmental Living that is identified as "Area 1" on the [Height of Buildings Map](#) is—
(a) for the part of the building on land immediately adjoining the street frontage—3.5m above ground level (existing), and
(b) otherwise—10m above ground level (existing).

29 Coolawin Road is identified on the Height of Buildings map as being within Area 1.

The proposed development complies with the maximum 10m height control specified under clause 4.3A(1)(b) however clause 4.3A(1)(a) is ambiguous and can be interpreted in several ways. The development application and accompanying Statement of Environmental Effects as submitted has interpreted the control to be that **no part of the building is to exceed 3.5m above the highest point of the ground level at the street frontage (RL44.31)**. This interpretation is consistent with both the general objectives of the height control as specified in clause 4.3(1) as well as what is understood to be the specific objective of the control (although not expressly stated in either WLEP 2012 or WDCP) being that the building does not rise more than one storey above street level.

Alternate interpretations of the control could be as follows:

- 1. Only that part of the building immediately adjoining the street frontage is to be no more than 3.5m above ground level (existing).*

There is no part of the building immediately adjoining the street frontage and as such the control would not apply.

- 2. No part of the building is to exceed 3.5m above the existing ground level as measured at the lowest point of the street frontage.*

As the existing ground level varies along the length of the street frontage with the lowest point being to enable driveway access to on-site parking, the building would exceed this control and the submission of a clause 4.6 request for variation of the standard would be required to enable approval.

- 3. No part of the building is to exceed 3.5m above the existing ground level as measured at that point of the street frontage immediately forward of that part of the building.*

For the same reasons as stated in 2 above the submission of a clause 4.6 request for variation of the standard would be required to enable approval.

- 4. The front of the building (depth not specified) is not to exceed 3.5m above the existing ground level immediately below that point with the remainder of the building required to comply with the 10m control specified in clause 4.3(A(1)(b)).*

ARNOTT PLANNING **ABN** 60 595 795 686 **M** 0402 712 501 **E** ian@arnottplanning.com.au

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This control would not appear to achieve any likely objective other than perhaps articulating the front of the building. If this interpretation is taken there appears no reason why the control only applies to those areas identified as Area 1 on the Height of Buildings map. Nevertheless, should this interpretation be applied a clause 4.6 request for variation of the standard would be required to enable approval.

5. No part of the building is to exceed 3.5m above the existing ground level as measured at the front of the building.

Should this interpretation be applied a clause 4.6 request for variation of the standard would be required to enable approval noting the building as both existing and proposed is two storeys at the front.

Should the clause be interpreted as meaning either 2, 3, 4 or 5 specified above, the submission of a clause 4.6 variation request is required. This clause 4.6 variation request is submitted on a without prejudice basis to enable assessment to proceed should any one of these interpretations be applied.

The relevant provisions of clause 4.6 state:

4.6 Exceptions to development standards

(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.*

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

It is noted that the height development standard is not expressly excluded from the operation of clause 4.6.

A 2018 judgement handed down in the Land and Environment Court (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*) found that there is no provision that requires compliance with the objectives of the clause. In this judgement Chief Justice Preston found that as clause 4.6(1) is not an operational provision it does not apply a test for assessment of an application that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development. Rather it is the remaining sub-clauses to clause 4.6 (in particular 4.6(2) and 4.6(3)) that are the operational provisions imposed to achieve the objectives of the clause.

2.0 EXTENT OF VARIATION OF STANDARD

The following table provides the extent of numerical variance to the height standard relative to each of the interpretations of the clause as stated in 2, 3, 4 and 5 above.

Table 1: Table of Existing Approved and Proposed Heights

Control	Existing Approved	Extent of Approved Variation	Proposed	Extent of Proposed Variation
<i>No part of the building is to exceed 3.5m above the existing ground level as measured at the lowest point of the street frontage (RL43.68)</i>	(48.48 – 43.68) 4.8m	1.3m	(47.7 – 43.68) 4.02m	0.52m
<i>No part of the building is to exceed 3.5m above the existing ground level as measured at that point of the street frontage immediately forward of that part of the building</i>	(48.48 – 44) 4.48m	0.98m	(47.7 – 43.68) 4.02m	0.52m
<i>The front of the building is not to exceed 3.5m above the existing ground level immediately below that point</i>	(48.48 – 40.93) 7.55m	4.05m	(46.6 – 40.98) 5.62m	2.12m
<i>No part of the building is to exceed 3.5m above the existing ground level as measured at the front of the building</i>	(48.48 – 40.93) 7.55m	4.05m	(47.7 – 40.98) 6.72m	3.22m

The proposal removes the existing parapeted form and central triangulated skylight with the introduction of a new floating roof form. The ridge of the new roof at RL47.7 is consistent with the current parapet height with the proposed eave being 1.1m lower at RL46.6 both being lower than the peak of the existing triangulated skylight (RL48.48). It is evident from Table 1 that in respect to any of the interpretations of the clause the extent of non-compliance for the proposed development is less than the existing non-compliance.

3.0 ASSESSMENT AGAINST THE CRITERIA SPECIFIED IN CLAUSE 4.6(3)

3.1 4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances,

In accordance with the principle established in *Wehbe v Pittwater Council [2007] NSWLEC 827* compliance with the development standard can be determined to be unreasonable and unnecessary where it can be established that the objectives of the standard are achieved notwithstanding the non-compliance. The development, in which variation to the height standard is proposed is assessed against each of the objectives of the control contained in clause 4.3(1) of *Willoughby Local Environmental Plan 2012* (WLEP 2012) as follows:

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

The existing building is both forward and higher than the two adjoining dwellings due to its location on the convex side of a bend and at the highest point of the street. Notwithstanding, the overall bulk and scale of the existing building is consistent with surrounding development. The proposed works reduce the overall height of the building and introduce elements, such as replacing the parapet with a floating roof form, reducing the dominance of the building as viewed from the street. The result is a building that sits more harmoniously in 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,

The proposed reduction in height by the removal of the parapet and central skylight provides the opportunity for improved views across the site from properties opposite on the western side of Coolawin Road. The more contemporary building design, introduction of the floating roof form and provision of a greater void to solid ratio reduces visual bulk and improves the contribution of the building to the Coolawin Road streetscape. The proposal does not result in any significant detrimental impacts on the amenity of adjoining or nearby properties.

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

As previously stated, the contemporary building form including the introduction of floating roof form, provision of a greater void to solid ratio and use of natural materials ensures the building achieves a high visual quality when viewed from the street, adjoining properties and adjoining waterway.

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

The overall reduction in the height of the building provides the opportunity for improved views across the site from properties opposite on the western side of Coolawin Road. The existing extensive water views currently enjoyed from the adjoining properties, No.'s 27 and 31 Coolawin Road, are not impacted.

(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,

The proposed development results in a reduction in building height and introduces contemporary elements consistent with surrounding development and the potential of the site.

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

The reduction in height and overall architectural response results in a development that responds positively to its natural foreshore setting consistent with the desired future character for the area.

(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 site is not within 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 site is not within proximity to business or retail centres.

For completeness the variation of the 3.5m height control is assessed against the objectives of the C4 (Environmental Living) zone in which the site is located as follows:

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

The proposed development is of a lesser or same impact as that existing on site. It does not intrude into any of the natural landscaped areas of the site and the use of natural materials assists in it sitting comfortably within its foreshore setting. The lowering of the height of the building and the contemporary design incorporating overhanging eaves improves the appearance of the development as viewed from the street and the water.

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

The height reduction and façade update have a positive effect on the aesthetic values to the streetscape.

- *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.*

The development is contained entirely within the footprint of the existing building and preserves the natural features and bushland setting of the site. The reduction in height, use of natural materials and inclusion of terraces to articulate the façade provides a better relationship of the dwelling to its natural environment. The site is not identified as being within a bushfire prone area.

- *To maintain the scale, character and streetscape of individual localities.*

The development proposes lowering the height and reducing the bulk by increasing the void to solid ratio on the street facing façade. The upgrade of the façade to present as a more contemporary building provides a positive contribution to the Coolawin Road streetscape. Parking provision is located below street level enabling landscaping to be provided at the street level (above the existing garage) softening the streetscape appearance of the building.

- *To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.*

Views – Properties on the western side of Coolawin Road will continue to enjoy extensive water views over the rooftop of the subject property which will be marginally improved by the removal of the pitched central skylight and parapet.

Solar Access – The building complies with the maximum 10m height control. The reduction in height by the removal of the central skylight, whilst under certain interpretations of 4.3A(1)(a) of WLEP 2012 (3.5m height control) continues to exceed the control, does not result in additional unacceptable overshadowing impacts.

Aural and Visual Privacy – N/A to the variation of the proposed height control.

Foreshore Setting, Landscape Quality and Heritage Value – The subject property is not identified as a heritage item nor is it located within proximity of a heritage item or heritage conservation area. There is no known place or item of aboriginal heritage in the vicinity of the site. The proposed upgrade to the facades of the building, including the introduction of terraces and use of natural materials, provides better integration of the building with its natural environment and foreshore setting. As the works are contained entirely within the footprint of the existing building it does not impact the landscape quality of the site or area.

It is therefore submitted that the proposal is consistent with the zone objectives for the site.

It is evident from Table 1 above that, if clause 4.3A(1)(a) is interpreted in accordance with any of the alternate interpretations outlined in 2, 3, 4 or 5 above, the proposal would be non-compliant with the 3.5m height control and a request for variation of the standard is required. It is noted that in all these interpretations the extent of variation of the standard is less than that of the existing building.

As has been demonstrated, the proposal is consistent with the objectives of the zone and the objectives of the height control including an assumed control that the building be not more than one storey above the street frontage. The reduction in the height of the building, together with other design improvements, ensures the proposed development achieves a better environmental and aesthetic outcome for the site than that existing. For these reasons compliance with the 3.5m height control specified in clause 4.3A(1)(a), if interpreted in accordance with 1, 2, 3, 4 or 5 above, is considered unreasonable and unnecessary in this instance.

3.2 4.6(3)(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

There are sufficient environmental planning grounds to justify variation of the height control contained in clause 4.3A(1)(a) of WLEP 2012 for the following reasons:

- The development results in an overall reduction to the height of the building.
- The bulk and dominance of the building to the streetscape, and in general, is reduced through removal of the parapet, introduction of overhanging eaves with a floating roof form and increased void to solid ratio.
- The reduced height has the potential to marginally improve views from properties on the western side of Coolawin Road.
- The reduced height and contemporary forms are consistent with surrounding development and the streetscape.
- The design changes to the building including the reduction in height and use of natural materials blending with the foreshore environment, ensures the building achieves a high visual quality when viewed from the street, adjoining properties and adjoining waterway.
- The works are proposed entirely within the footprint of the existing building preserving the natural features and bushland setting of the site and minimising impacts to neighbouring properties.
- The overall development of contemporary design, including the reduction in height integrates with its natural foreshore setting and is consistent in form and scale with surrounding development in Coolawin Road, representing an improvement to that of the existing building on site.

The proposal results in a reduction in height compared to that of the existing building. It is consistent with the stated objectives of the control together with an assumed objective that development on the foreshore side of Coolawin Road does not rise more than one storey above street level. It is of superior design and presentation resulting in a more aesthetically pleasing building with more articulated facades reducing the overall perceived bulk of development. It does not result in any significant amenity impacts to neighbouring properties or the public domain. It is therefore submitted that there are sufficient environmental planning grounds to justify the contravention of the 3.5m height development standard.

3.0 CONCLUSION

This request for variation to the 3.5m height control applicable to 29 Coolawin Road under the provisions of clause 4.3A(1)(a) of *Willoughby Local Environmental Plan 2012* is submitted on a without prejudice basis should the clause be interpreted differently to that submitted in the Statement of Environmental Effects and should be read in conjunction with the development application for alterations and additions to the subject property on this basis.

The proposal reduces the overall height of the building by 0.78m (maximum existing parapet/skylight height compared to maximum ridge height) and further reduces the perceived height of the building by the introduction of a floating roof form with lower overhanging eaves. The reduction in height together with design changes to the building provide a less dominant and more aesthetically pleasing development on site with no significant amenity impacts to neighbouring properties or the public domain.

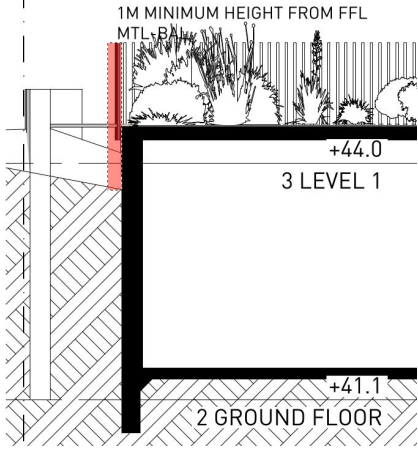
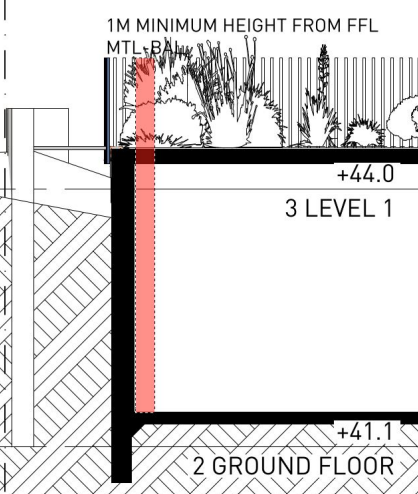
It is submitted that the reasons outlined in 3.1 and 3.2 above provide sufficient grounds for the consent authority to determine that the applicant has satisfactorily demonstrated that compliance with the 3.5m height control is unreasonable and unnecessary in this instance and that there are sufficient environmental planning grounds to justify contravention of the development standard.

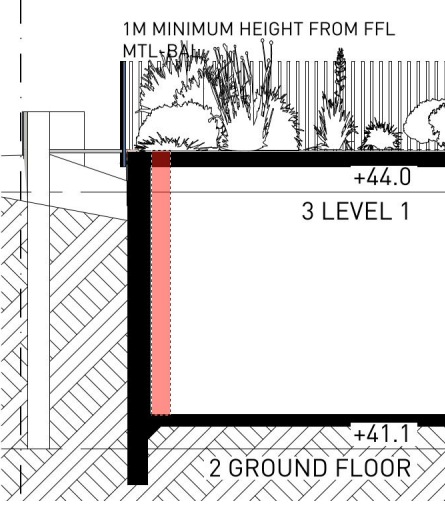
Although the findings of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* determine that there is no provision that requires compliance with the objectives of clause 4.6, it is evident for reasons previously outlined that the proposal results in a better outcome both for and from the development.

On the basis of this submission, it is respectfully requested that variation of the height control be supported in this instance.

ATTACHMENT 4: OFFICER’S CLAUSE 4.6 ASSESSMENT – HEIGHT

Description of non compliance

Development Standard	Immediate part of the building	Height Standard	Proposed Height	%Variation
Maximum building height (in Zone C4 that is identified as “Area 1” on the Height of Buildings Map) CI 4.3 A (1)				
(a) for the part of the building on land immediately adjoining the street frontage— 3.5m above ground level (existing), and	Measured to the top of proposed balustrade located above the existing garage  <p>Figure 15: Image indicating interpretation of the area</p>	3.5m above existing ground level (in this instance, it is measured from the existing ground level located forward of the existing garage - RL +43.6)	2 m (RL +45.6)	No Variation.
	Measured to the top of an proposed balustrade located above the existing garage  <p>Figure 16: Image indicating interpretation of the area</p>	3.5m above existing ground level (in this instance, it is measured from the F.F.L. of the existing garage - RL +41.53)	4.07 m (RL +45.6)	14% 0.47m over the standard
	Measured to the F.F.L. of the existing garden located above the existing garage	3.5m above existing ground level (in this instance, it is measured	3.11 m (RL +44.6)	No Variation.

	 <p>Figure 17: Image indicating interpretation of the area</p>	<p>from the F.F.L. of the existing garage - RL +41.53)</p>		
<p>(b) Otherwise—10m above ground level (existing).</p>	<p>F.F.L. of the existing lower ground floor</p>	<p>10m</p>	<p>9.9 m</p>	<p>No Variation.</p>

Maximum building height

The proposed development includes a new 1-meter-high (RL +45.6) balustrade at the periphery of the existing front garden, as well as alterations and additions to the existing dwelling. The balustrade is positioned atop the existing garage and extends along the site boundary, abutting the street frontage. The proposed alterations and addition of the first floor results in a maximum building height of RL 47.7, and it is visible from the street from a far distance (15m front setback).

As per Clause 4.3A under the *WLEP (Willoughby Local Environmental Plan)*:

“4.3A Exceptions to height of buildings

(1) The maximum height of a building on land in Zone C4 Environmental Living that is identified as “Area 1” on the Height of Buildings Map is—

- (a) for the part of the building on land immediately adjoining the street frontage—3.5m above ground level (existing), and*
- (b) otherwise—10m above ground level (existing).”*

Here, the proposed alterations and additions reduces the overall building height of the existing dwelling. Due to extensive front setback and presence of an existing garage and proposed works on top of it, the existing dwelling is not considered as an immediate part of the building from the street frontage. Considering the balustrade as a part of the building, the overall building height is measured from the F.F.L. of the existing garage (RL +41.53) to the top of a proposed balustrade (RL +45.6). With that, the proposed development does not comply with the relevant provisions of the *Willoughby Local Environmental Plan (WLEP)* in terms of overall building height Clause 4.3 -1(a).

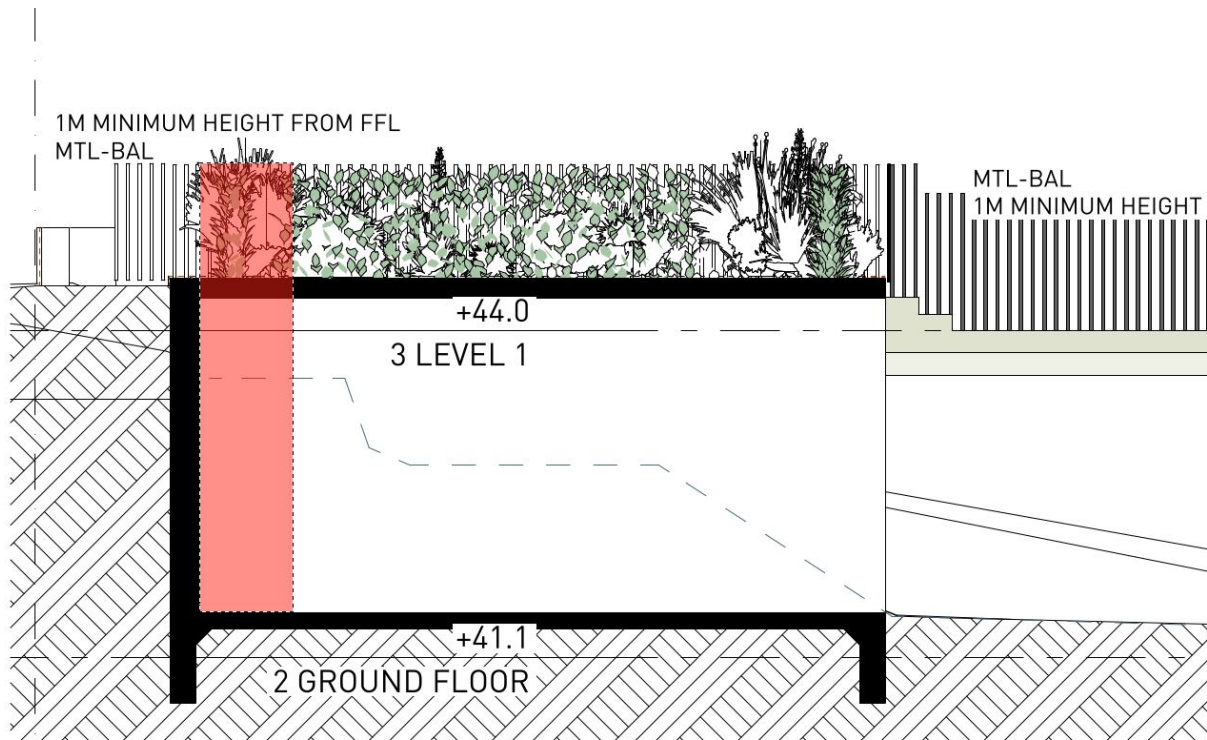


Figure 18: Image indicating overall building height highlighted in red

Key points of the applicant’s submission:

- i) The proposed development will not dominate the streetscape with its mass and bulk in general.
- ii) The works are proposed majorly within the footprint of the existing building preserving the natural features and bushland setting of the site and minimising impacts to neighbouring properties.
- iii) The proposed alterations and addition reduces the overall building height of an existing dwelling, which will marginally improve views from properties on the western side of Coolawin Road.
- iv) The reduced height and contemporary forms are consistent with surrounding development and the streetscape.

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

<i>operation of this clause.</i>	
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 In doing so, the applicant's written request has adequately demonstrated that the compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.
b) <i>Has the applicant's submission demonstrated that there are sufficient environmental planning grounds to justify the non-compliance?</i>	The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. Therefore council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 (3)
4.6(4) <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 has adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance
ii) <i>Is the proposed development in the public interest because it is consistent with:</i>	
• <i>objectives of the particular development standard</i>	Yes, see assessment below
• <i>objectives for the development within the zone in which the development is proposed to be carried</i>	Yes, see assessment below

Consistency with the objectives of the 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 existing dwelling is both forward and higher than the adjoining dwellings at present. The proposed development will reduce the overall building height by replacing parapet with the floating roof form. With the reduction in height the proposed development will reduce the streetscape impact in terms of mass and bulk compared to the existing conditions, therefore it is acceptable.
b) <i>to minimise the impacts of new development on adjoining or nearby</i>	The proposed reduction in height by the removal of the parapet and central skylight provides the

<i>properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	opportunity for improved views across the site from properties opposite on the western side of Coolawin Road. The proposed addition at rear will not affect in any significant detrimental impacts on the amenity of adjoining or nearby properties.
c) <i>to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	The proposed development will provide contemporary building form and with the implementation of natural materials with compatible colours, the overall outcome will achieve a high visual quality when viewed from the street, adjoining properties and adjoining waterway.
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>	As mentioned above the proposed development will reduce the overall height by replacing the parapet walls with the floating roof, due to which the mass and bulk impact from the streetscape will be reduced and an existing view sharing will be improved. In addition, the proposed addition at rear will not affect in any significant detrimental impacts on the amenity of adjoining or nearby properties (No 27 and No 31 Coolawin Road).
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 existing dwelling is not compliant with the overall building height of the <i>WLEP</i> controls. The proposed development will reduce the existing overall building height and introduce contemporary building elements to be consistent with the surrounding development, therefore it is acceptable on merit.
f) <i>to use maximum height limits to assist in responding to the current and desired future character of the locality,</i>	The existing dwelling is not compliant with the overall building height of the <i>WLEP</i> controls. The proposed reduction in the overall building height than the existing building height will respond positively to its natural foreshore setting consistent with the desired future character for the area, therefore it is acceptable on merit.
g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	N/A as the subject site does not impact the City Centre of Chatswood.
h) <i>to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i>	N/A as the subject site does not impact the nearby higher intensity business and retail centres.

Consistency with the objectives of the C4 Zone:

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

Zone Objective	Response
<i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i>	The proposed development does not intrude into any of the natural landscaped areas of the site and the use of natural materials assists in it sitting comfortably within its foreshore setting. The lowering of the height of the building and the contemporary design incorporating overhanging eaves improves the appearance of the

	development as viewed from the street and the water. The proposed development is of a lesser or same impact as that existing on site, therefore it is acceptable.
<i>To ensure that residential development does not have an adverse effect on those values.</i>	The reduction in overall building height and improvement in front façade will provide a positive effect on on the aesthetic values to the streetscape.
<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 proposed development is predominantly contained within the footprint of the existing building and preserves the natural features and bushland setting of the site. The proposed reduction in overall height, use of natural materials and inclusion of terraces to articulate the façade will provide a better outcome to its natural environment. The subject site is not identified as being within a bushfire prone area, therefore proposed alterations and additions are acceptable on merit.
<i>To maintain the scale, character and streetscape of individual localities.</i>	The proposed alterations and additions will reduce the overall building height of the existing dwelling which will reduce the streetscape impact and provide marginally better views from the public domain and neighbouring property. Also, the upgrade of the front façade into more contemporary style will provide a positive outcome to the Coolawin Road streetscape.
<i>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.</i>	The proposed development will improve the views available to the properties on western side by reduction in overall building height. The proposed development will provide sufficient solar access to the neighbouring properties and will not cause any unreasonable overshadowing. The proposed upgrade to the facades of the building, including the introduction of terraces and use of natural materials, provides better integration of the building with its natural environment and foreshore setting. As the works are contained –predominantly within the footprint of the existing building it does not impact the landscape quality of the site or area.

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

The relevant objectives of the standard are considered to be met by the proposed development as outlined below:

- The proposed works on top of an existing garage including the new balustrades in the front garden is considered a part of the building immediate to the street frontage. The proposed balustrades consists 1 m height and it exceeds Clause 4.3A - 1(a), overall building height of *WLEP*. The existing garage is retained under this application and the non-compliance due to new balustrades is not considered to adversely impact on the residential amenity of adjoining properties, streetscape, natural vegetation/features or building bulk of the subject development. Therefore, the non-compliance is considered to be acceptable in this particular circumstance.
- The noncompliance of Clause 4.3 – 1(b), overall building height for the dwelling is existing. However, the proposed alterations and additions reduces the overall building height of the dwelling. Therefore, the non-compliance is considered to be acceptable.

- The proposed development is not considered to cause unreasonable external impacts on adjoining properties in terms of disruption of views, loss of privacy, overshadowing and visual intrusion

The proposal is consistent with the relevant objectives of the C4 – Environmental Living zone. The submitted Clause 4.6 Variation request to vary Clause 4.3A – Height of Buildings development standard indicates sufficient environmental planning grounds to vary the standard.

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

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

ATTACHMENT 5: APPLICANT'S CLAUSE 4.6 SUBMISSION – FSR



Amended

**Request for Variation of
Development Standard under the
Provisions of Clause 4.6 of
Willoughby Local Environmental
Plan 2012**

Floor Space Ratio

29 Coolawin Road,
Northbridge

October 2024

1.0 INTRODUCTION

This is a request for variation of the maximum permissible floor space ratio specified in clause 4.4A(2) of *Willoughby Local Environmental Plan 2012* (WLEP 2012) to be considered in conjunction with a development application for alterations and additions to a dwelling house at 29 Coolawin Road, Northbridge.

This amended clause 4.6 Variation Request is submitted following Council officer's assessment that two car parking spaces are to be included as floor space despite the fact that two of the car parking spaces were to be provided in carport form and as such did not constitute floor space. Noting this assessment it is intended to retain the garage door to the existing parking spaces and include this as floor space. This clause 4.6 variation request is to be read in conjunction with amended plans which reduce floor space so as to be no greater than existing on site.

Clause 4.4A(2) of WLEP 2012 specifies that the maximum floor space ratio (FSR) for a building on land in Area 2 with a site area of 1,300m² or more to be 0.25:1. 29 Coolawin Road is identified on the FSR map as being within Area 2 and has a site area of 1644m². As such a maximum FSR of 0.25:1 applies.

The existing building on site has an FSR of 0.32:1 (520m²). With the inclusion of two car parking spaces and other floor space amendments, the application proposes an FSR of 519m² (0.32:1) being 1m² less than existing. Full FSR calculation plans are provided at DA-A-800. As the development exceeds the FSR standard a variation under clause 4.6 of WLEP 2012 is sought.

The relevant provisions of clause 4.6 state:

4.6 Exceptions to development standards

(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.*

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

It is noted that the FSR development standard is not expressly excluded from the operation of clause 4.6.

A 2018 judgement handed down in the Land and Environment Court (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*) found that there is no provision that requires compliance with the objectives of the clause. In this judgement Chief Justice Preston found that as clause 4.6(1) is not an operational provision it does not apply a test for assessment of an application that noncompliant development should achieve a better environmental planning outcome for the site relative to a compliant development. Rather it is the remaining sub-clauses to clause 4.6 (in particular 4.6(2) and 4.6(3)) that are the operational provisions imposed to achieve the objectives of the clause.

Figure 1: First (top) Floor

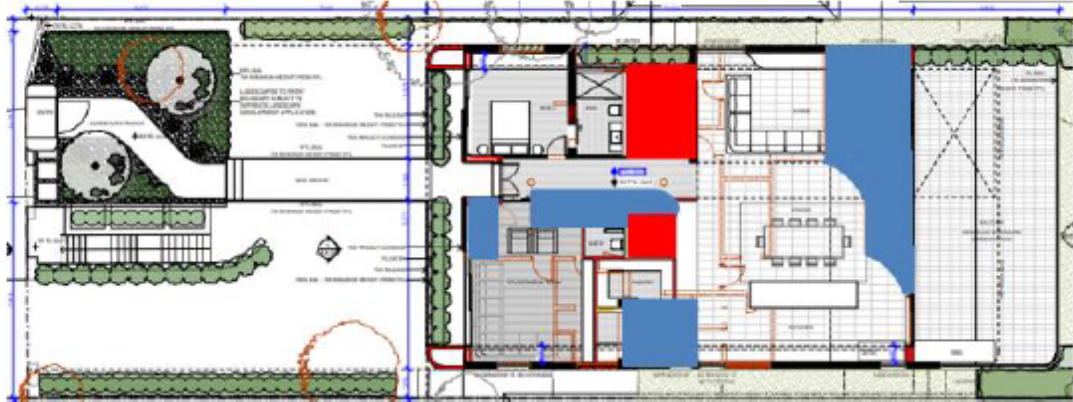
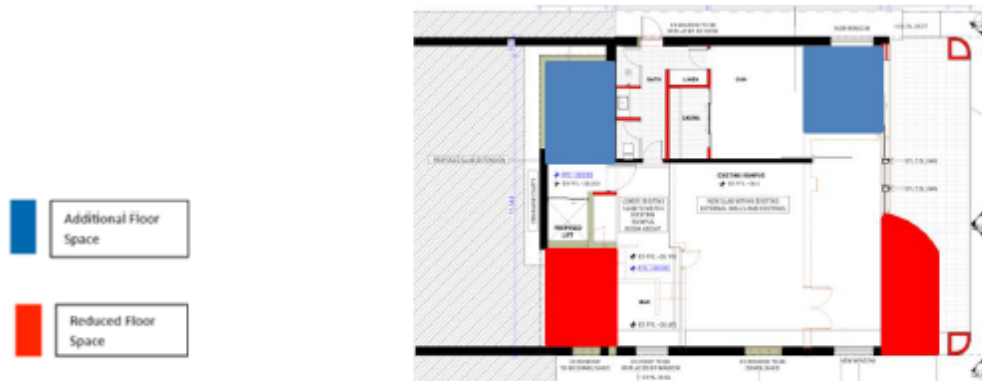


Figure 2: Ground Floor



Figure 3: Lower Ground Floor



2.0 ASSESSMENT AGAINST THE CRITERIA SPECIFIED IN CLAUSE 4.6(3)

2.1 4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances,

In accordance with the principle established in *Wehbe v Pittwater Council [2007] NSWLEC 827* compliance with the development standard can be determined to be unreasonable and unnecessary where it can be established that the objectives of the standard are achieved notwithstanding the non-compliance. The development, in which variation to the floor space ratio (FSR) standard is proposed is assessed against each of the objectives of the FSR control contained in clause 4.4(1) of *Willoughby Local Environmental Plan 2012 (WLEP 2012)* as follows:

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

The works are proposed entirely within the footprint of the existing building and result in a reduction in height achieving compliance with the height controls. It is marginally less floor space than currently exists on site and is consistent in scale with the existing dwelling and surrounding development.

The objectives of the C4 – Environmental Living zone are addressed as follows:

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

The proposed development is of a lesser or same impact as that existing on site. It does not intrude into any of the natural landscaped areas of the site and the use of natural materials assists in it sitting comfortably within its foreshore setting. The lowering of the height of the building and the introduction of terraces to the façade improves the appearance of the development as viewed from the street and the water.

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

The proposal has a positive effect on the aesthetic values of the site.

- *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.*

The development is contained entirely within the footprint of the existing building and preserves the natural features and bushland setting of the site. The use of natural materials and inclusion of terraces to articulate the façade provides a better relationship of the dwelling to its natural environment. The site is not identified as being within a bushfire prone area.

- *To maintain the scale, character and streetscape of individual localities.*

The development proposes lowering the height and reducing the bulk by increasing the void to solid ratio on the street facing façade. The upgrade of the façade to present as a more contemporary building provides a positive contribution to the Coolawin Road streetscape. Parking provision is located below street level enabling landscaping to be provided at the street level (above the existing garage) softening the street scape appearance of the building.

- *To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.*

Views – As the main floorspace extension occurs at the first (top) floor north-eastern corner located higher and further west from the eastern façade of No.'s 27 and 31 Coolawin Road their extensive water views are not impacted. Whilst the extension will be visible from Aubrey Road approaching Coolawin Road it will not block views of the water or the ridgeline of Mosman beyond. Properties on the western side of Coolawin Road will continue to enjoy extensive water views over the rooftop of the subject property which will be marginally improved by the removal of the pitched central skylight and parapet.

Solar Access – The location of the relocated floor space will not result in any additional overshadowing of neighbouring properties. Terrace extensions will not result in overshadowing of internal or external living areas.

Aural and Visual Privacy - The relocation of the primary living areas to the first (top) floor provides vertical separation between the living areas of the subject dwelling and those of neighbouring dwellings. This ensures views from the living level look across the roofs and beyond the outdoor living areas of neighbouring properties to the waterways. Similarly, any noise associated with the use of the upper-level living areas and terrace will more easily disperse across rooftops as opposed to living areas immediately neighbouring each other at the same level.

Foreshore Setting, Landscape Quality and Heritage Value – The subject property is not identified as a heritage item nor is it located within proximity of a heritage item or heritage conservation area. There is no known place or item of aboriginal heritage in the vicinity of the site. The proposed upgrade to the facades of the building, including the introduction of terraces and use of natural materials, provides better integration of the building with its natural environment and foreshore setting. As the works are contained entirely within the footprint of the existing building it does not impact the landscape quality of the site or area.

It is therefore submitted that the proposal is consistent with the environmental capacity and zone objectives for the site.

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

The dwelling remains a 5-6 bedroom dwelling consistent with that existing. The upgrade of the dwelling to make a more usable layout will not increase traffic generation. It is proposed to provide an additional two car parking spaces on site. As is common for dwellings of this size and location, the number of drivers residing at the premises can often be up to five or six which, with the limited public transport times and options servicing the peninsular location requires ownership of more than two vehicles.

The provision of parking for these vehicles on site is necessary due to the limited and dangerous on-street parking in the vicinity noting unbroken double centre lines, and proximity to both the Coolawin Road/ Aubrey Road and Coolawin Road/ Weemala Road intersections.

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

As previously stated, the proposal does not result in any significant detrimental impacts on the amenity of adjoining or nearby properties. The location of the additional floor space does not result in additional overshadowing or visual intrusion. The relocation of living areas to the top level has the potential to improve privacy between properties and there is no significant view loss resulting from the relocated floor space.

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

The visual bulk and scale of the development is consistent with surrounding development and an improvement to that currently on site. The relocation of floor space on the foreshore side of the building together with the introduction of terraces and fenestration assists in reducing the perceived bulk of the development as viewed from the water.

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

N/A – The site is not located at a transport nodal point.

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

N/A – The site is in a low density C4 – Environmental Living zone.

(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 site is not within the city centre of Chatswood.

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

The development provides attractive and usable open space areas for the occupants of the dwelling. It is not suitable for, nor intended for the provision of open space for workers, residents or visitors to the Chatswood city centre.

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

The single dwelling maintains the low-density scale and density characteristic of the area.

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

The zoning of the site is not intended for consolidation for higher density redevelopment.

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

N/A – The development is not for community facilities or affordable housing and is not a heritage item.

It is therefore submitted that whilst the development continues to exceed the 0.25:1 maximum floor space ratio control, the proposal, including provision of discreetly located additional parking within the envelope of the existing building and relocation of floor space on the foreshore side of the building, achieves the objectives of the floor space ratio control and results in a better environmental and aesthetic outcome for the site than that existing. Further the floor space provision does not exceed that of the existing dwelling. In these circumstances, compliance with the 0.25:1 floor space ratio control is considered unreasonable and unnecessary.

2.2 4.6(3)(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

There are sufficient environmental planning grounds to justify variation of the floor space ratio development standard for the following reasons:

- The proposed floor space is marginally less (1m²) than the existing dwelling on site.
- The relocated floor space is contained entirely within the building footprint.
- The relocated floor space to the north-eastern corner of the lower ground level is contained within an area already enclosed on three sides and does not add to the visual bulk of the building.
- The reduction of floor space in the south-eastern corner of the lower ground and ground floor levels and its replacement with terraces articulates the facades and reduces the bulk of the existing curved glass curtain walls.
- The relocated floor space to the north-eastern corner of the first (top) floor level does not result in any significant view loss, privacy or overshadowing impacts to neighbouring properties or the public domain and is well articulated reducing the perceived visual bulk of development.
- The provision of additional on-site parking is necessary due to the difficult site location at the crest of the street, between two intersections and with double centre lines on the road limiting safe on-street parking.
- The garage internally accessible from the dwelling provides for safer manoeuvring of vehicles enabling them to enter and leave in a forward direction.

- The retention of the existing garage with roof top planting provides landscaping at street level within the front yard softening the site and building as viewed from the street.
- The overall development of contemporary design integrates with its natural foreshore setting and is consistent in form and scale with surrounding development in Coolawin Road, representing an improvement to that of the existing building on site.

The proposal is of superior design and presentation to that existing on site. It results in a more aesthetically pleasing building with more articulated facades reducing the overall perceived bulk of development. It does not result in any significant amenity impacts to neighbouring properties or the public domain and provides safer ingress and egress for vehicles accessing the site. It is therefore submitted that there are sufficient environmental planning grounds to justify the contravention of the floor space ratio development standard.

3.0 CONCLUSION

This request for variation to the 0.25:1 floor space ratio control applicable to 29 Coolawin Road under the provisions of clause 4.4A of *Willoughby Local Environmental Plan 2012* is submitted and should be read in conjunction with a development application for alterations and additions to the subject property, including amended plans lodged with this variation to standard request. With the inclusion of the double garage and other amendments to floor space the proposal results in a minor decrease (1m²) in the overall floor space on site. The relocation of floor space together with design changes to the building provide a better, safer and more aesthetically pleasing development on site with no significant amenity impacts to neighbouring properties or the public domain.

It is submitted that the reasons outlined in 2.1 and 2.2 above provide sufficient grounds for the consent authority to determine that the applicant has satisfactorily demonstrated that compliance with the 0.25:1 floor space ratio control is unreasonable and unnecessary in this instance and that there are sufficient environmental planning grounds to justify contravention of the development standard.

Although the findings of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* determine that that there is no provision that requires compliance with the objectives of clause 4.6, it is evident that for reasons previously outlined that the proposal results in a better outcome both for and from the development.

On the basis of this submission, it is respectfully requested that variation of the floor space ratio control be supported in this instance.

ATTACHMENT 6: OFFICER’S CLAUSE 4.6 ASSESSMENT – FSR

Description of non compliance

Development Standard	FSR Standard	Proposed FSR	%Variation
CI 4.4/4.4A Floor space ratio	0.31:1 520m ²	0.31:1 520m ²	No change in the existing FSR calculation. 26.5% 109m ² over the standard

Key points of the applicant’s submission:

- i) The proposed development maintains the existing gross floor area and there is no net increase in the existing FSR calculations for the subject site.
- ii) The proposed development will not dominate the streetscape with its mass and bulk in general.
- iii) The works are proposed majorly within the footprint of the existing building preserving the natural features and bushland setting of the site and minimising impacts to neighbouring properties.
- iv) The relocated floor space to the north-eastern corner of the first (top) floor level does not result in any significant view loss, privacy or overshadowing impacts to neighbouring properties or the public domain and is well articulated reducing the perceived visual bulk of development.
- v) The provision of additional on-site parking is necessary due to the difficult site location at the crest of the street, between two intersections and with double centre lines on the road limiting safe on-street parking.
- vi) The reduced height and contemporary forms are consistent with surrounding development and the streetscape.

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.

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

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

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

Floor Space Ratio Development Standard Objectives	Response
<p>a) <i>to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,</i></p>	<p>The proposed works are mainly within the footprint of the existing building and result in a reduction in height achieving compliance with the overall height control. The proposed alterations and additions will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land.</p>
<p>b) <i>to limit traffic generation as a result of that development,</i></p>	<p>The proposed development does not alter the existing number of bedrooms of the dwelling. However, addition of two car spaces will be necessary due to the limited on street parking and</p>

	subject site's dangerous proximity to both the Coolawin Road-Aubrey Road and Coolawin Road-Weemala Road intersections, therefore it is acceptable on merit.
c) <i>to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The location of the additional floor space does not result in additional overshadowing or visual intrusion. The proposed development provides privacy screens to the windows and BBQ area in the balcony. In addition, the proposed 1m high and 1m wide planter boxes located on the northern and southern side of the proposed rear balcony of the ground floor and first floor will contribute to provide further setback from the site boundary. The proposal does not result in any significant detrimental impacts on the amenity of adjoining or nearby properties, therefore it is acceptable on merit.
d) <i>to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,</i>	The visual bulk and scale of the development is consistent with surrounding development and an improvement to that currently on site. The proposed development does not alter the existing mass and bulk of the dwelling extensively and it will not deliver a detrimental impact to the neighbouring properties, therefore it is acceptable on merit.
e) <i>to permit higher density development at transport nodal points,</i>	N/A
f) <i>to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,</i>	N/A
g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	N/A
h) <i>to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,</i>	N/A
i) <i>to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,</i>	The single dwelling maintains the low-density scale and density characteristic of the area. The subject site is not nearby to any higher intensity business and retail centre.
j) <i>to encourage the consolidation of certain land for redevelopment,</i>	N/A
k) <i>to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.</i>	N/A

Consistency with the objectives of the C4 – Environmental Living Zone:

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

Zone Objective	Response
<i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i>	The proposed development does not alter or encroach the existing landscape areas of the site and use the natural materials to assist in it sitting comfortably within its foreshore setting. The reduction in overall building height and the introduction of the new terraces to the façade will improve the appearance of the development as viewed from the street and the water.
<i>To ensure that residential development does not have an adverse effect on those values.</i>	The proposed alterations and additions with improvement in the front façade and reduction in overall height will have a positive effect on the aesthetic values of the subject site.
<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 proposed development majorly contained within the footprint of the existing dwelling. Also, the use of natural materials and inclusion of terraces to articulate the façade provides a better relationship of the dwelling to its natural environment. The site is not identified as being within a bushfire prone area, therefore it is acceptable on merit.
<i>To maintain the scale, character and streetscape of individual localities.</i>	The proposed development reduces the mass and bulk of the existing dwelling by maintaining the existing FSR and reducing the overall building height. Also, the upgrade of the front façade with more contemporary building style will provides a positive contribution to the Coolawin Road streetscape. The proposed parking facilities are located below the street level and the existing garden located above the existing garage will provide softening effect to the streetscape. Overall the proposed development will maintain the scale, character and streetscape of individual localities.
<i>To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage value.</i>	<p>The proposed development at the rear side of the subject dwelling will not impact the water views of no.27 and no.31 Coolawin Road extensively. Properties on the western side of Coolawin Road will continue to enjoy extensive water views over the rooftop of the subject property which will be marginally improved by the removal of the pitched central skylight and parapet.</p> <p>Proposed development will not result in any unreasonable overshadowing of neighbouring properties.</p> <p>The relocation of the primary living areas to the first (top) floor provides vertical separation between the living areas of the subject dwelling and those of neighbouring dwellings. The proposed development provides privacy screens to the windows and BBQ area in the balcony of the first floor. In addition, the proposed 1m high and 1m wide planter boxes located on the northern and southern side of the proposed rear balcony of the ground floor and first floor will contribute to provide further setback from the site boundary. The proposal does not result in</p>

	<p>any significant detrimental impacts on the amenity of adjoining or nearby properties.</p> <p>The subject site is not identified as a heritage item nor is it located within proximity of a heritage item or heritage conservation area. There is no known place or item of aboriginal heritage in the vicinity of the site. The proposed upgrade to the facades of the building, including the introduction of terraces and use of natural materials, provides better integration of the building with its natural environment and foreshore setting. As the works are contained majorly within the footprint of the existing building it does not impact the landscape quality of the site or area.</p> <p>Overall the proposed development will not provide any detrimental impact to its surroundings, therefore it is acceptable on merit.</p>
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Clause 4.6 4) b) The Concurrence of the Secretary has been obtained

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

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

ATTACHMENT 7 - SECTION 4.15 (79C) ASSESSMENT

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

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

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

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	Comment: Nil	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	Comment: There are no draft SEPPs that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	Comment: See assessment section of this report	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	✓
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	✓
	<ul style="list-style-type: none"> Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	✓
	Comment: Nil	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> Public domain 	✓
	<ul style="list-style-type: none"> Utilities 	✓
	<ul style="list-style-type: none"> Heritage 	✓
	<ul style="list-style-type: none"> Privacy 	✓
	<ul style="list-style-type: none"> Views 	✓
	<ul style="list-style-type: none"> Solar Access 	✓
	<ul style="list-style-type: none"> Water and draining 	✓
	<ul style="list-style-type: none"> Soils 	✓
	<ul style="list-style-type: none"> Air & microclimate 	✓
	<ul style="list-style-type: none"> Flora & fauna 	✓
	<ul style="list-style-type: none"> Waste 	✓
	<ul style="list-style-type: none"> Energy 	✓
	<ul style="list-style-type: none"> Noise & vibration 	✓
	<ul style="list-style-type: none"> Natural hazards: Overland flowpath 	✓
	<ul style="list-style-type: none"> Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> Social impact in the locality 	✓
	<ul style="list-style-type: none"> Economic impact in the locality 	✓
	<ul style="list-style-type: none"> Site design and internal design 	✓

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

	<ul style="list-style-type: none"> • Construction 	✓
	<ul style="list-style-type: none"> • Cumulative impacts 	✓
	Comment: The proposal is considered to satisfy the objectives of the controls.	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	✓
	Comment: The site is considered suitable for the development.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	N/A
	<ul style="list-style-type: none"> • Submissions from public authorities 	N/A
	Comment: No submissions have been received on this application.	
(e)	The public interest	
	<ul style="list-style-type: none"> • Federal, State and Local Government interests and Community interests 	✓
	Comment: The proposal is considered to be in the public interest.	

ATTACHMENT 8: SCHEDULE OF CONDITIONS

SCHEDULE

GENERAL CONDITIONS

Condition

1. Approved Plan/Details

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

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural Plans	24_028 DA-A-010	-	26.06.2024	Smith & Tzannes
	24_028 DA-A-021			
	24_028 DA-A-100		31.10.2024	
	24_028 DA-A-101			
	24_028 DA-A-102		26.06.2024	
	24_028 DA-A-103			
	24_028 DA-A-250		31.10.2024	
	24_028 DA-A-200			
	24_028 DA-A-201			
	24_028 DA-A-202			
	24_028 DA-A-203			
	24_028 DA-A-204			
	24_028 DA-A-205			

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 Information Sign

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

- (a) that unauthorised entry to the work site is prohibited;

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

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

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

(Reason: Ensure compliance)

4. 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)

5. 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)

6. Occupation Certificate

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

(Reason: Safety)

DEMOLITION AND BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

7. 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 \$7469 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 \$746,900 at 31/07/2024 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

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

Deferred payments of contributions will not be accepted.

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

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

8. 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)

9. Detailed Stormwater Management Plan (SWMP)

Prior to the issue of the Construction Certificate, submit to the Certifier for approval, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer or stormwater designer. All drawings shall comply with Part I of Council's Development Control Plan and Technical Standard 1, AS/NSZ3500.3 – *Plumbing and Drainage Code* and National Construction Code.

(Reason: Ensure compliance)

10. Driveway Longsection

Prior to issue of the Construction Certificate and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections for approval by the certifying authority along each side of the proposed vehicular access path drawn at 1:20 Scale. The longitudinal sections shall include the following: -

- (a) Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm wide and back of layback is 100mm above the gutter invert.
- (b) Both existing and proposed levels (in AHD) and gradients represented in percentage (%) of the vehicular crossing and driveway.
- (c) Crossfall on road pavement shall be shown on long sections.

The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile (SD100). All driveway grades and transitions shall comply with AS/NZS 2890.1 -2004 and Council's specifications.

The new crossing is to be 3.2 metres wide with no splays and be constructed at right angle to street kerb. The footpath/footpath zone which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. 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) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At 3.5m from the face of kerb – 170mm above and parallel to the gutter invert.
- (c) At property boundary – Match existing 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.

(Reason: Safe vehicular access)

11. Stormwater Conveyed to Harbour

Stormwater runoff from the site shall be collected and conveyed to the harbour in accordance with Council's specifications. For stormwater quality control, stormwater runoff from hard surface areas shall be collected and conveyed via a filtration device/pollutant trap prior to discharging to the harbour. All drainage works shall comply with the requirements described in Part I of Council's *DCP* and Technical Standard 1. 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)

12. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$6,500** (GST Exempt) to Council against possible damage to Council's

assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$260** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$6,500 + \$260 = \$6,760

(Reason: Protection of public asset)

BEFORE WORKS COMMENCE

Condition

13. Licensee Details

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

(Reason: Information)

14. 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)

15. 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)

16. 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)

17. Underground Utility Services

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

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

(Reason: Protection of utilities)

DURING DEMOLITION AND BUILDING WORK

Condition

18. 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)

19. Building Site Fencing

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

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

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

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

(Reason: Safety)

20. 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)

21. Demolition Work AS 2601-2001

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

(Reason: Safety)

22. Road and Footpath

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

(Reason: Maintain public safety)

23. No Storage or Parking on Footway/Nature Strip

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

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

(Reason: Safety)

24. 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)

25. Excavations and Backfilling

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

(Reason: Safety)

26. Erection Wholly within the Boundaries

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

(Reason: Ensure compliance)

27. Sweep & Clean Pavement

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

(Reason: Legal requirement)

28. Street Signs

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

(Reason: Protection of public assets)

29. Tree Protection

- (a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees, 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 roots greater than 25mm diameter are not to be removed unless approved by a qualified Arborist on site.
- (d) All structures are to bridge roots unless directed by a qualified Arborist on site.
- (e) Tree protection measures must comply with the AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures

(Reason: Tree management)

30. 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 applicant is to immediately Contact Council's Public Trees section and resolve the matter to Council's satisfaction.

(Reason: Tree management)

31. 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)

32. Protection of Rock and Sites of Significance

- (a) All existing rock outcrops outside and below the approved construction footprint are to be maintained and preserved during the works;
- (b) Should any Aboriginal sites be uncovered during works, works are to cease and the Council, the NSW Office of Environment and Heritage and the Metropolitan Local Aboriginal Land Council are to be contacted.

(Reason: Protection of significant environmental features)

33. No Access through Public Open Space

Site access is not approved for construction of the development through adjacent public land.

(Reason: Safety, landscape amenity, tree protection)

34. 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)

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

35. 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)

36. BASIX Certificate

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

(Reason: Environmental sustainability)

37. Surface Water Runoff

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

(Reason: Health and amenity)

38. On-site Water Management System

Prior to the issue of any Occupation Certificate, the stormwater runoff from the site shall be collected and disposed of the harbour in accordance with Sydney Water's requirements AS/NZS3500.3, Part I of Council's *DCP* and Technical Standard 1. 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)

39. 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 3.2 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) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At 3.5m from face of kerb – 170 mm above and parallel to the gutter invert.
- (c) At property boundary – Match existing levels.

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 1.5 metres on both sides of the crossing to suit the new levels.

Existing stepping stones / pavers within the road reserve shall be removed. Subject to approval from Council's Engineers, concrete footpath pavement with a maximum area of 1.4m² may be constructed at the pedestrian entry. Any such pavement is to comply with Council's requirements and not cause a trip hazard.

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)

40. 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. Any existing stepping stones / pavers shall be removed and the area reinstated to Council's requirements. The turf shall be protected from vehicular traffic and kept watered until established.
(Reason: Public amenity)

41. Stormwater to Harbour

For stormwater quality control, stormwater runoff from all hard surface areas shall be collected and conveyed via a filtration device prior to discharging to the harbour.
(Reason: Environmental Protection)

42. 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)

43. 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)

44. Public Tree Maintenance

Prior to the issue of any relevant Occupation Certificate, the applicant’s arborist or landscape designer is to certify that all trees on public land have been adequately maintained, that there has been no net deterioration in health and condition, and that any remedial work complies with AS 4970-2009 “Protection of trees on development sites” and AS 4373 - 2007 “Pruning of Amenity Trees”.
(Reason: Tree management, public asset management)

45. 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

Condition

46. Exposed Timbers

All exposed timbers shall be painted or treated to the satisfaction of the Certifier.
(Reason: Visual amenity/structural integrity)

47. Vehicle Access

All vehicles shall enter and exit the site in a forward direction.
(Reason: Pedestrian and vehicle safety)

48. Trees on Adjoining Properties

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.

(Reason: Environmental protection)

ATTACHMENT 9: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2024/162

At: 29 Coolawin Road, NORTHBRIDGE NSW 2063.

