Council Ref: HPE Container SC8954

23 March 2026

C/o Joseph Chan
Department of Planning, Housing and Infrastructure
joseph.chan@dpie.nsw.gov.au

Dear Mr Chan,

Application Number	**SSD-80626208**
Proposal	Construction of a multi-storey residential flat building with in-fill affordable housing and Torrens Title subdivision of one lot into two (2) allotments
Location	**8-10 New Mclean Street, Edgecliff**

Thank you for your email dated 03 March 2026, inviting Woollahra Council to provide advice on the abovementioned State Significant Development Application (SSDA).

It is understood that the SSDA involves the construction of a multi-storey residential flat building at 8-10 New Mclean Street, Edgecliff (the site) containing:

- 65 units (including 2 units to be dedicated as Affordable Housing in perpetuity)
- Demolition of all structures onsite
- Removal of trees
- Torrens Title subdivision of one lot into two (2) allotments (the eastern site and the western site)
- Excavation for a 5-storey basement carpark

Council understands that a fundamental policy objective of the NSW government is to deliver more housing across Sydney, in well located areas to create vibrant and walkable communities.

The proposal seeks to utilise a concurrent Planning Proposal PP-2023-1648 (PP-2023-1648) that proposes to amend Woollahra Local Environmental Plan 2014 (WLEP). However, PP-2023-1648 has not yet been finalised.

The Planning Proposal provides an opportunity to evolve the built environment and provide additional housing within the subject site. However, the development should not diminish the significance of the Paddington Heritage Conservation Area (Paddington HCA).

Council staff have reviewed the Environmental Impact Statement (EIS) and advise that:

- The subdivision of the site would pre-empt built form outcomes departing from those envisaged by PP-2023-1648 and undermine the integrity of the endorsed height and FSR controls, particularly given the proposed concentration of FSR on the western site. In the absence of any mechanism to secure coordinated,

site wide development outcomes, subdivision of the site should not be supported.

- The proposal is not consistent with PP-2023-1648, as it does not follow the proposed allocation of FSR across the site, it does not provide the same front, side and rear landscaped setbacks, and it does not step down towards the rear to the same extent recommended in PP-2023-1648.
- The overall bulk and scale of the building is excessive; the rear of the building and the Level 5 swimming pool deck protrude beyond the DCP building envelope, which is contributing to overshadowing of Trumper Oval and Trumper Park.
- The proposal undermines strategic objectives of the NSW Government by failing to demonstrate:
    - The proposal would not result in a net loss of affordable dwellings.
    - The proposed affordable housing provision will be affordable for eligible households.
- The proposal includes the removal of 152 trees and the retention of only 11 trees within the site. The extensive native vegetation removal that is required to achieve the bulk and scale of this proposal is unacceptable with regards to:
    - Threatened species and the biodiversity of adjacent Trumper Park.
    - The desired future character of the area.
    - The significance of the Paddington HCA.
- The proposed replacement tree canopy and deep soil landscaping is inadequate.
- The height and FSR have been incorrectly calculated
- The proposal provides excessive car parking provision for this accessible location, which fails to ensure sustainable transport outcomes, minimise adverse impacts to the road network, and reduce excavation.
- Council's Traffic and Transport Engineers raise serious concerns on the adverse traffic impact of the development as it is envisaged to exacerbate the traffic conditions on the surrounding road network. Noting that the intersection of New South Head Road, New Mclean Street and Darling Point Road is already operating at capacity and traffic performance is highly sensitive to any additional traffic.
- It is strongly recommended the SSDA is refused.

If the Department of Planning, Housing and Infrastructure (DPHI) concludes that this development should be supported, amendments are required to lessen the adverse impacts of the SSDA. Recommended amendments are set out in section 40 of this submission.

Detailed advice is provided under the headings contained in the following table:

1) Conditions

In the event the proposal is approved, it is recommended that the conditions of consent provided, without prejudice to Council's advice, at Annexure A are included as part of any development consent.

The conditions have been prepared in the limited time provided and should not be considered a full and complete set of conditions.

2) State Significant Development Declaration

On 26 February 2025, the Minister for Planning and Public Spaces declared development specified in Expression of Interest (EOI) application 231094, dated 13 January 2025, at 8-10 New Mclean Street, Edgecliff to be State significant development.

The Housing Delivery Authority (HDA) Record of Briefing from 19 February 2025 identified the proposal to comprise of an 18-storey residential development comprising of an indicative 250 dwellings.

The HDA advised the Minister that the proposal had state significance as a major residential project.

It is questioned whether the proposed development benefits from the, 26 February 2025, State Significant Development Declaration Order, given that:

- The proposal is not consistent with the development specified in EOI application 231094.
- Instead of comprising of an 18-storey residential development with approximately 250 dwellings, the proposal comprises of the demolition of 106 existing dwellings, the subdivision of the site, and the construction of a 10-storey residential development with 65 dwellings.
- The proposed subdivision enables the eastern site to be sold with no mechanism to ensure that future development is consistent with the EOI.
- There is no certainty the eastern section of the site will be redeveloped in a manner which is consistent with the EOI.

3) Planning Proposal PP-2023-1648

The SSDA relies on the planning controls proposed under PP-2023-1648 to justify the scale of the development. It is essential that the DPHI considers how the Height of Buildings (HOB) and Floor Space Ratio (FSR) controls were derived and the rationale behind them.

Background

On 28 February 2024, the Sydney Eastern City Planning Panel (the Panel) considered a rezoning review request for 8–10 New McLean Street, Edgecliff. The Panel resolved to support PP-2023-1648 to be submitted for a Gateway determination, but deferred endorsement of the proposed HOB and FSR controls for the completion of an independent urban design review to test the appropriate built form for the site.

Following this resolution, SJB was commissioned to prepare an independent urban design study (the SJB study). The SJB study tested a range of potential building envelopes for the site, having regard to height transitions, overshadowing, interfaces and environmental constraints.

On 1 November 2024, the Panel considered the SJB study and endorsed:

- A variable height regime, with a maximum HOB of RL 91 (effectively 18 storeys).
- An FSR of 3.7:1.

A Gateway determination was issued on 7 April 2025 by the DPHI stating the proposal should proceed to public exhibition, subject to conditions.

PP-2023-1648 was placed on public exhibition from 26 May 2025 to 1 July 2025.

On 19 November 2025, the Panel held a post-exhibition public meeting inviting those who made a submission to PP-2023-1648 to address the Panel. Following the

meeting, the Panel reconvened to consider whether the planning proposal should proceed to finalisation.

On 9 December 2025, the Panel resolved to recommend that PP-2023-1648 proceeds to finalisation. The proposal was subsequently submitted to DPHI and is currently progressing through the finalisation stage. The Panel's combined Record of Decision is provided at Annexure B.

Design principles underpinning the endorsed controls

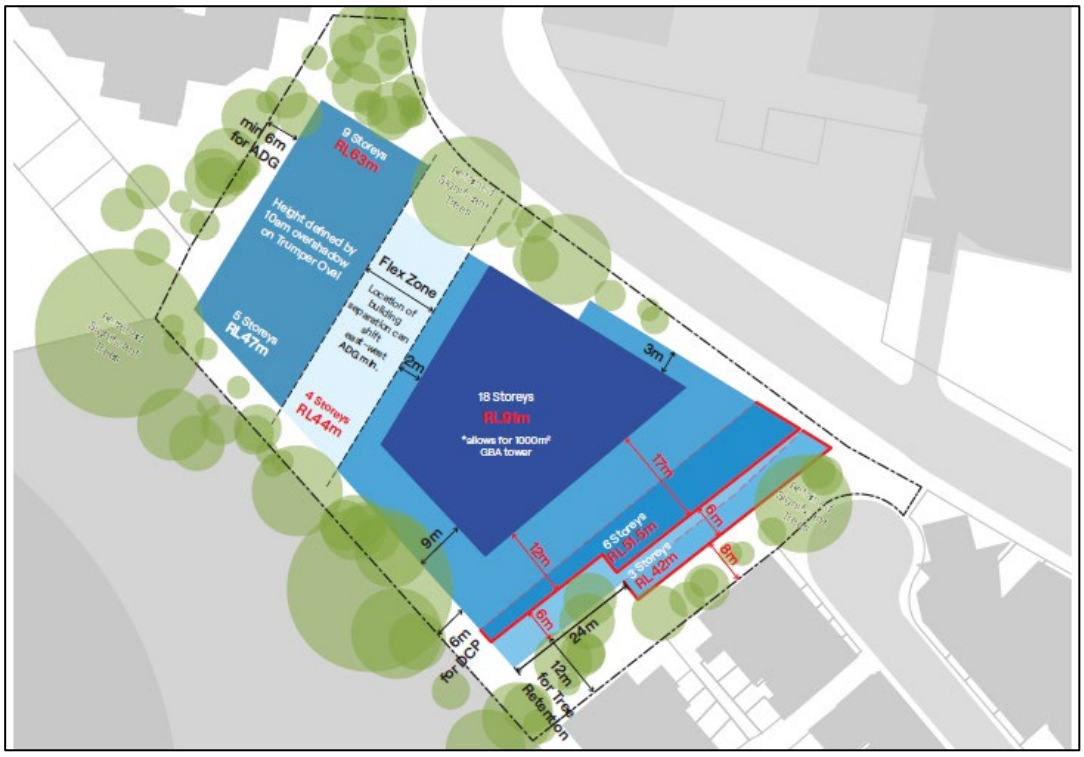
The SJB study developed a site-specific building envelope in direct response to the design principles set by the Panel. The Panels design principles included:

- Retention of the R3 Medium Density Residential zone, with any uplift directed solely to residential outcomes.
- A height guide of approximately 12 storeys for the entire site, transitioning downward toward Trumper Park and adjoining development within the Paddington HCA.
- Providing a height step-down from the Edgecliff Commercial Centre, consistent with Council-endorsed height strategies for the precinct.
- Careful consideration of overshadowing, not only to the Trumper Park Oval but to the park as a whole, as well as impacts on residential amenity within the Paddington HCA.
- Ensuring that the ultimate FSR reflects the envelope testing once appropriate heights, setbacks, interfaces and environmental constraints were applied.

Based on this testing, the SJB study recommended an envelope (see Figure 1) comprising:

- Podium elements ranging between 3 and 9 storeys.
- A single tower element with a maximum height of RL 91 (effectively 18 storeys).
- A maximum site-wide FSR of 3.7:1.

Figure 1: SJB Final Recommendation Envelope and Controls
Source: SJB



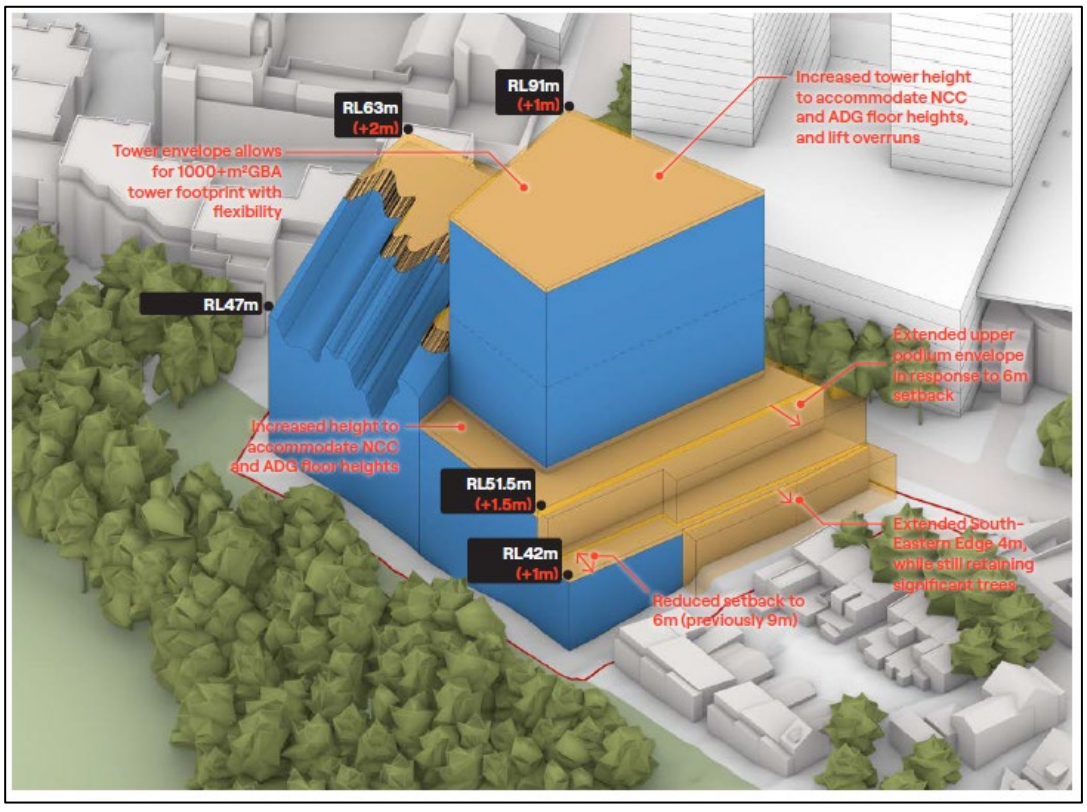
Despite the Panel's indicative height guide of approximately 12 storeys, The SJB study's detailed testing suggested that a tower of up to RL 91 (effectively 18-storeys), carefully located on the eastern portion of the site, could be accommodated without unacceptable impacts.

The tested envelope represents the maximum built form appropriate for the site.

As illustrated in Figure 2 below, the endorsed RLs include an allowance of up to 2m to accommodate the National Construction Code (NCC) and Apartment Design Guide (ADG) floor-to-floor requirements, as well as lift overruns. This allowance was expressly identified as a technical provision only and was not intended to facilitate an additional storey. As stated in SJB's independent urban design study:

> *"Adjustments to the envelope heights have been made to accommodate NCC and ADG requirements. Increases to podium heights creates minimal to no perceived issues for surrounding areas and is therefore appropriate. The increase to the tower height allows for appropriate lift overruns, but would not permit an additional storey." (SJB, July 2024, p.15).*

Figure 2: SJB's Final Envelope, incorporating the proponent's requested amendments
Source: SJB



Accordingly, any proposal that relies on this allowance to introduce an additional level would exceed the envelope tested and endorsed by the Panel and would undermine the integrity of the endorsed FSR for the site.

A copy of the SJB study is provided at Appendix C.

4) Subdivision

Council staff do not support the proposed subdivision of the site. The maximum HOB of RL 91 and FSR of 3.7:1 were supported on the basis that the site would be

redeveloped in a single, integrated site, delivering a coordinated and varied built form outcome across the site.

PP-2023-1648 does not provide a framework for development across multiple lots. In particular, it does not:

- Address subdivision outcomes.
- Provide for the apportionment of gross floor area (GFA) between lots.
- Contemplate separate redevelopment of the western and eastern portions of the site.

Recent discussions with DPHI indicate that a HOB of RL 91 is likely to be applied across the site, rather than the variable height regime recommended by the Panel. While this approach may be manageable if the site is developed as a single parcel and guided by a site-specific Development Control Plan (DCP), subdivision would introduce significant uncertainty regarding the ultimate built form outcome.

In the absence of statutory mechanisms to secure coordinated, site-wide outcomes, subdivision would undermine the intent of the endorsed controls.

In particular:

- There is no certainty that the eastern and western lots will be developed in a coordinated manner.
- The subdivision enables the eastern site to be sold and developed independently from the western site.
- The endorsed HOB and FSR rely on a carefully distributed height and bulk across the whole site, including a lower-scale built form on the western site and capacity for a taller tower element on the eastern site.
- There is no statutory height control to ensure the maximum 9-storey built form permitted for the western site if subdivision were permitted.
- The proposed FSR on the western site is significantly greater than that envisaged under PP-2023-1648. This is evidenced by the provision of an additional storey and significant breaches of the building envelope identified in the site-specific draft DCP which accompanies PP-2023-1648.
- There is no certainty that the endorsed FSR of 3.7:1 would remain suitable to facilitate the 18-storey tower envisaged for the eastern portion of the site.
- Applying the HOB and FSR independently to each lot would likely result in departures from the endorsed controls, as these controls may not operate together as intended if the site were subdivided.
- The proposed SSDA proposes a 0m setback to the eastern boundary of the western lot. The 0m setback is contrary to the ADG setback requirements and is provided on the assumption that the eastern site will be developed in a coordinated manner. If the eastern site is sold and independently developed, the 0m setback will adversely impact on the development potential of the eastern site.

Additionally, if developed independently, both subdivided lots could seek to pursue an 18-storey building form, an outcome that was neither tested, intended nor endorsed through PP-2023-1648 or the independent urban design process.

Council staff therefore consider that subdivision of the site would pre-empt built form outcomes departing from those envisaged by PP-2023-1648 and undermine the integrity of the endorsed HOB and FSR controls. Accordingly, and in the absence of

any mechanism to secure coordinated, site-wide development outcomes, subdivision of the site should not be supported.

5) Loss of Affordable Housing

It is requested that the DPHI considers whether the proposal would result in an overall reduction in affordable housing within the site.

The definition for affordable housing under s1.4 of the EP&A Act is 'housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument'.

Under s13 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP), a household is taken to be a very low income household, low income household or moderate income household if—

(a) the household—

(i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—

(A) very low income household—less than 50%,
(B) low income household—50–less than 80%,
(C) moderate income household—80–120%, and

(ii) pays no more than 30% of the gross income in rent

According to the Social Impact Assessment (SIA), which accompanies the SSDA, the site contains 106 existing dwellings (50 studios, 44 one-bedroom apartments, and 12 two-bedroom apartments). It is acknowledged that No. 8-10 New Mclean Street is strata subdivided and therefore Chapter 2, Part 3 (Retention of existing affordable housing) of the Housing SEPP does not apply.

Although, No. 8-10 New Mclean Street is strata subdivided, the SIA states that it is understood that some of the existing accommodation on the site is leased below the suburb median. This is supported by a review of available online rental data, which indicates that the weekly rent for a number of the studios has ranged from $450 to $600 over the past 12 months.

Based on the median household income for Greater Sydney, the existing apartments could be rented by a number of low income or moderate income households without paying more than 30% of their gross income in rent. These existing apartments are therefore considered to fall within the definition of affordable housing. This is supported by the SIA which states that in some cases the existing accommodation is leased below the suburb median.

The EIS should be amended to identify how many existing affordable housing dwellings exist at the site and assess the loss of existing affordable housing within the site.

It is noted that the SIA states that the existing accommodation on site provides low amenity and there are structural issues with the buildings. However, there is no evidence provided to support this.

The SSDA proposes the demolition of the existing 106 dwellings, which provide an affordable and diverse apartment mix, and proposes only 2 dwellings to be retained as affordable housing in perpetuity. The proposal is considered to undermine objective 1.3(b) of the EP&A Act by failing to promote the supply, delivery and maintenance of affordable housing, and principle (h) set out under Chapter 1 of the Housing SEPP, which requires development to mitigate the loss of existing affordable rental housing.

6) Land use

Section 2.3(2) of the WLEP states that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

Whilst the proposal provides additional housing, the height and scale of the development fail to achieve the desired future character of the neighbourhood, or conserve and enhance tree canopy cover, which is contrary to the fourth and fifth objectives of the R3 Medium Density Residential zone.

This issue is discussed further in the following sections of this submission.

7) Zone Interface

The site is located at two zone interfaces. Whilst the site is zoned R3 Medium Density Residential, the land to the south-east is zoned R2 Low Density Residential and the land to the south and south-west is zoned RE1 Public Recreation. A maximum height standard of 9.5m applies to development within the R2 zone (even where the LMR provisions apply), therefore development within the adjoining lower density residential zone is envisaged to be a maximum height of 3 storeys.

As stated under section 4, applying the HOB and FSR independently to each lot would likely result in departures from the endorsed controls, as these controls may not operate together as intended if the site is subdivided.

This should be considered with heightened sensitivity given the location of the eastern site at a zone interface.

8) Desired future character

The desired future character of this area provides for retention of the unique heritage significance of Paddington, the introduction of well-designed contemporary buildings, the reinforcement of a building scale that respect the historic built form of the Paddington HCA, and development that conserves and enhances tree canopy cover.

The proposal represents a significant increase in bulk and scale relative to the existing residential context and the planning controls applicable to the site. The proposal is not consistent with PP-2023-1648, as it does not follow the proposed allocation of FSR across the site, it does not provide the same front, side and rear landscaped setbacks, and it does not step down towards the rear to the same extent recommended in PP-2023-1648.

The SJB study and site-specific draft DCP building envelope anticipates a lower-scale built form of up to 9 storeys on the western portion of the site. This outcome was central to achieve:

- Appropriate transitions to Trumper Park and adjoining low and medium residential development.
- A fine-grain response along the southern side of New McLean Street.
- The capacity to distribute additional height and bulk to the eastern portion of the site, including the anticipated 18-storey tower element.
- The retention of existing tree canopy around the perimeter of the site.

The proposed 10-storey street wall to New McLean Street departs from this intent and is considered excessive and inconsistent with both the existing and desired future character of the street. The southern side of New McLean Street is characterised predominantly by low- and medium-density residential development, including

- Terrace housing and apartment buildings of modest scale.
- The adjoining *Wimbledon* residential complex, which presents four-storey street walls along New McLean Street.

The concentration of FSR on the western lot, at 3.42:1, means the overall bulk and scale of the building is excessive, the rear of the building and the Level 5 swimming pool deck protrude beyond the site-specific draft DCP building envelope and contribute to overshadowing of Trumper Oval and Trumper Park. The excessive building footprint and insufficient setbacks results in a development which fails to enhance tree canopy.

In this locality, the proposal would present as visually dominant, as it fails to provide an appropriate transition to lower-scale residential development and undermines the cohesive low scale character of the Paddington HCA.

The proposal is contrary to principle (f) of the Housing SEPP which requires development to reinforce the importance of designing housing in a way that reflects and enhances its locality.

9) Height

Height provisions under PP-2023-1648

The SJB study building envelope proposed a 9-storey form to the western portion of the site with a maximum height to New Mclean Street of RL 63 and a maximum height to Trumper Park of RL 47. These requirements were reinforced in the site-specific draft DCP. The SJB study envelope incorporated up to 2m to accommodate the NCC and ADG floor-to-floor requirements, as well as lift overruns.

As clearly articulated in the SJB's study, this allowance was intended for technical provision only and was not designed to facilitate an additional storey. The endorsed FSR of 3.7:1 was established based on a 9-storey built form on the western site, not a 10-storey outcome.

The introduction of an additional storey has resulted in:

- A proposal that exceeds the bulk and scale anticipated by the endorsed envelope.

- Height allowances intended for technical accommodation have been translated into additional development yield.
- Non-compliances with the RL 63 and RL 47 height planes.
- A disproportionate amount of the FSR proposed under PP-2023-1648 being provided on the western site.
- A proposal which departs from the carefully tested height and bulk parameters that underpinned the endorsed key planning controls for the site.
- Overshadowing to Trumper Oval.
- A building that is excessive in bulk and scale.

Building Height Variation

At section 3.1.1 of the Environmental Impact Statement (EIS) the project summary identifies a proposed height of RL 64.7 (AHD). This appears to be consistent with the height shown in the architectural drawings which depicts the proposal breaching RL 63 and RL 47 (the maximum RLs for the western site depicted in the site-specific draft DCP envelope which accompanied PP-2023-1648).

In contrast, the Variation Statement contained within the EIS states:

> *The proposed maximum building height is 39.8m to the topmost point of the rooftop plant enclosure and lift overrun. This is equivalent to a maximum building height of RL62.7…*
>
> *…With consideration to the provisions of draft LEP Amendments in PP-2023-1648, the maximum building height development standard that will apply to the western lot is RL63. The proposed building height complies with the anticipated building height control. When the WLEP 2014 amendments are made, the proposed building height will be compliant and this Clause 4.6 will not be required for assessment and determination purposes.*

Furthermore, at Figure 38 of the EIS, a section of the proposal clearly depicts a maximum height of RL 64.7, but at Figure 39, the proposal is incorrectly shown to not breach the RL 63 height plane.

The Variation Statement submitted with the SSDA:

- Fails to accurately identify the extent of the height non-compliance.
- Incorrectly states that the proposed building height will comply with the RL 63 building height standard that will apply to the western lot.
- Inaccurately states that the proposed development is consistent with PP-2023-1648.

As set out in this submission, it has not been adequately demonstrated that the proposed height variation is consistent with the following objectives of the height standard:

a) *to establish building heights that are consistent with the desired future character of the neighbourhood*
b) *to establish a transition in scale between zones to protect local amenity*
c) *to minimise the loss of solar access to existing buildings and open space*
d) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion*

10)Floor Space Ratio (FSR)

FSR provision under PP-2023-1648

The endorsed maximum HOB of RL 91 and FSR of 3.7:1 represent the upper limits of development capacity for the site. These controls were derived through site-specific envelope testing, with particular regard to overshadowing constraints, height transitions, and environmental and heritage interfaces.

Importantly, the endorsed FSR of 3.7:1 was adopted on a site-wide basis. While the proposed development may remain numerically within the 3.7:1 FSR when assessed in isolation, Council staff consider it nonetheless exceeds the quantum of bulk intended for the western portion of the site. Studio GL, who have undertaken an Urban Design Review of the proposal for Council, have identified that typically a 10-storey residential flat building can reasonably be achieved at an FSR of approximately 3.1:1.

Compliance with the proposed FSR standard for the entire site is insufficient where the resulting built form departs from the envelope testing that underpinned the control.

Allocating a high FSR on the western site (Stage 1) would result in a reduced FSR allocation available for the eastern site (Stage 2). As the Stage 2 development on the eastern site is anticipated to achieve the recommended 18-storey height limit, the redistribution of FSR toward the western side in Stage 1 will either require an increase in the overall site FSR to accommodate the intended built form outcomes in Stage 2, or a reduction in the quantum of development possible in Stage 2. The proposal should therefore reconcile this discrepancy and clearly demonstrate how the cumulative FSR and desired built form across both stages will remain within the 3.7:1 limit established by PP-2023-1648.

FSR Variation

Whilst the proposal is stated to provide a maximum FSR of 3.42:1 this figure is disputed as the GFA has not been calculated in accordance with the GFA definition contained within the WLEP. Specifically:

- Any car parking which does not meet the requirements of the consent authority must be included in GFA. The EIS and Traffic Impact Assessment submitted with the SSDA have determined the car parking based on the car parking generation rates in section E1.4.2, Part E of the Woollahra Development Control Plan 2015 (WDCP), which equates to 134 car parking spaces. However, the car parking generation rates in section E1 do not apply to the subject development. The correct car parking generation rates for the site are contained within section B.4, Part B of the WDCP which provides a maximum car parking generation rate for residential uses for land within 800m of Edgecliff Station. This equates to 64 car parking spaces. The 70 car parking spaces provided in addition to the maximum car parking permitted under section B.4 provides an additional GFA of at least 910m^2.
- The proposed car parking for 6 x ‘utility’ spaces and 2 x B85 loading spaces are also not required to meet any requirements of the consent authority and therefore fall within the definition of GFA. This equates to approximately 100m^2 of additional GFA.
- The ground floor garbage areas are not located within a basement and are instead elevated significantly above existing ground level and therefore fall

within the definition of GFA. This equates to approximately 140m^2 of additional GFA
- It is unclear if the bin room on Basement level 01 projects more than 1m above ground level. If it does the area of the bin room (19m^2) should be included as GFA.
- This provides an additional GFA of approximately 1,169m^2 which equates to an FSR of 3.83:1

The Clause 4.6 Variation must detail the accurate FSR non-compliance.

As set out in this submission, it has not been adequately demonstrated that the SSDA is consistent with the following objectives of the FSR standard:

i. to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
ii. to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and
iii. to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space

Whilst not technically GFA, it is noted that the proposal includes a large (approximately 175m^2) unnecessary void area at level 01 located above the ground floor level. Whilst this void is located above the loading dock, the loading dock has been designed to accommodate a 6.5m Small Rigid Vehicle (SRV) with an overall body height of 2.080m. Therefore, the double height loading dock is considered excessive. This unutilised space adds to the bulk of the building creating additional adverse amenity impacts to the public domain.

11)Departure from Endorsed Design Parameters

The proposal results in significant departures from the endorsed design principles provided by the SECPP and within the SJB study.

Sydney Eastern City Planning Panel design principles

The SECPP noted that the current 106 'affordable' units in the residential flat buildings on the site will be lost. The SECPP required the changes to Woollahra LEP 2014 to incorporate a no net loss and unit mix clause to support residential growth on the site. As discussed, further in section 15, the proposal undermines this principle by replacing the existing 106 existing dwellings with 65 (two and three bedroom) apartments.

PP-2023-1648 originally proposed a through-site link from New Mclean Street to the rear of the site. The Planning Proposal Report dated 07 May 2025 states that:

> *The through-site link has been removed following input from the SECPP and PPA Team during the Pre-Gateway Review process. The removal of the through-site link was required due to the safety implications and impacts to the surrounding locality. It is considered that retainment of the existing accessways from New McLean Street to Trumper Park and Oval are sufficient***.**

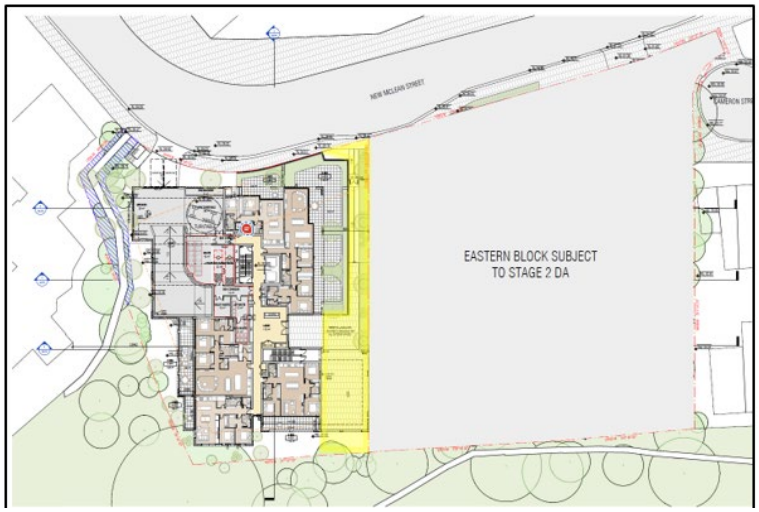
The SSDA has effectively reinstated the originally proposed through-site link.

Figure 3 below depicts the originally proposed through-site link. Figure 4 depicts the concept ground floor plan with the removal of the through-site link which accompanies the current PP-2023-1648. Figure 5 depicts the current SSDA ground floor plan with the through-site link reinstated.

Figure 3: Ground floor concept plan with the originally proposed through-site link outlined in dotted yellow.
Source: Plan FJC Studio. Annotation Council Staff

Figure 4: PP-2023-1648 proposed ground floor concept plan with the removal of the through-site link.
Source: Plan FJC Studio

Figure 5: SSDA proposed ground floor plan with reinstated through-site link shaded in yellow.
Source: Plan FK. Annotation Council Staff



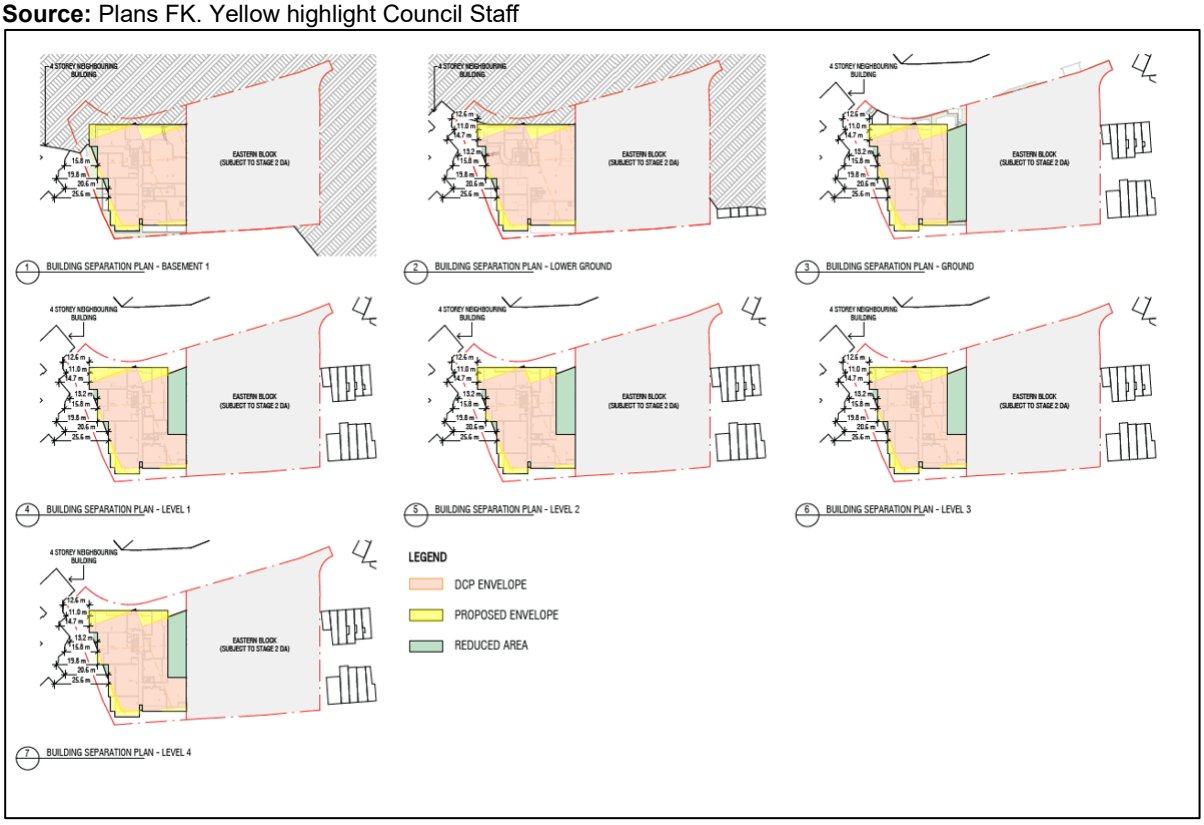
SJB study design principles

While the SJB study's building envelope does not operate as a statutory control, it establishes clear design expectations regarding:

- Setbacks.
- Articulation.
- Tree retention setbacks to maintain existing tree canopy.
- Distribution of height and bulk.

Figure 6 below details (in yellow) the proposed exceedances of the site-specific draft DCP setbacks at each level of the building. The proposed reductions to the building, when compared to the site-specific draft DCP are also shown in green. However, as noted above the reductions have been provided to reinstate the through-site link which was required to be deleted by the SECPP and PPA Team during the Pre-Gateway Review process. The reinstatement of the through-site link and the resulting breaches of the building envelope are considered to be a poor outcome.

Figure 6: Building separation
Source: Plans FK. Yellow highlight Council Staff



The SJB study also addressed the provision of tree retention setbacks to maintain the existing tree canopy and identified trees for retention as depicted in Figures 7 and 8 below.

Figure 7: Tree retention setbacks shown in green
Source: SJB

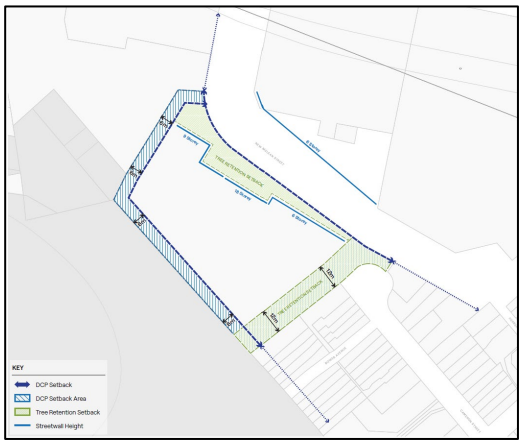


Figure 8: Trees to be retained shown in green
Source:SJB

The SSDA removes many of the trees identified for retention by SJB study on both the western and eastern sites and retains only 11 trees within the entire site. The proposal also provides minimal deep soil landscaping to the frontage of New Mclean Street, where the tree retention setback was proposed. Instead, the proposal sites a substation, the vehicular access, and paved private open space areas within the tree retention setback.

Figures 9 and 10 below depict the proposed deep soil landscaping to the western site in green and the trees proposed to be removed in dotted red.

Figure 9: Deep soi landscaping shown in green
Source: Wyer and Co

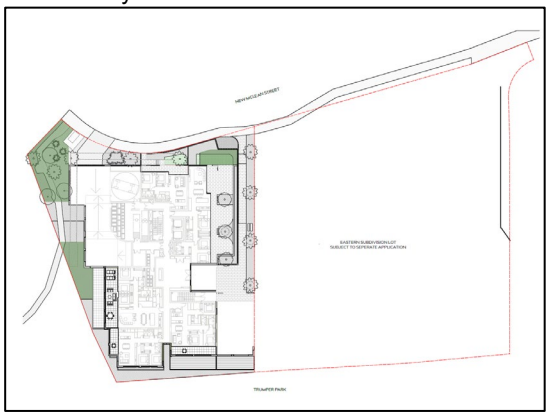
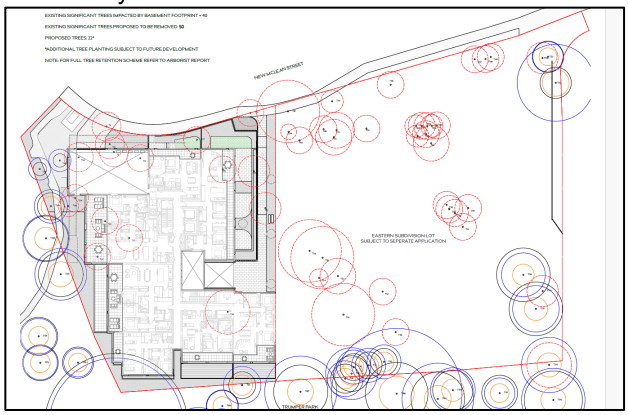


Figure 10: Trees to be removed shown in dotted red
Source: Wyer and Co



Council staff consider the departure from the endorsed parameters contained within the site-specific draft DCP are unjustified and represent an overdevelopment of the western site.

To address these concerns, Council staff recommend:

- Reducing the building height by at least one storey.
- Ensuring the elevation to Trumper Park does not exceed RL 47.
- Lowering and articulating the street wall to achieve a finer-grain response.
- Increasing side and rear setbacks to align with the separation and transition objectives
- Enclosing the covered ‘communal open space’ on the ground floor to improve the functionality of the covered communal space and remove the through-site link.

Council staff emphasise that the endorsed HOB and FSR controls were developed through holistic, site-wide envelope testing and were never intended to operate on a lot-by-lot basis. While the building envelope accompanying the planning proposal is not in itself prescriptive, the key design principles and built form intentions underpinning the endorsed controls must be adhered to.

12)Urban Design Review

An Urban Design Review has been undertaken by Studio PL Pty Ltd. The assessment and recommendations can be summarised as follows:

Overall, the proposal represents a significant increase in bulk and scale relative to the existing residential context and the planning controls applicable to the site. The EIS states that “Given the time and effort invested in the design evolution through PP-2023-1648 it would be ignorant and ill-conceived to propose a design option which is not consistent with the information refined from PP-2023-1648.” This proposal is not consistent with PP-2023-1648. It does not follow the proposed allocation of FSR across the site, it does not provide the same front, side and rear landscaped setbacks, and it does not step down towards the rear to the same extent recommended in the Planning Proposal.

The concentration of FSR on the western lot, at 3.42:1, means the overall bulk and scale of the building is excessive, the rear of the building and the Level 5 swimming pool deck protrude beyond the DCP building envelope and is contributing to overshadowing of Trumper Oval and Trumper Park.

A summary of recommended changes to improve the internal amenity for residents and the external amenity of neighbours is provided below:

- Reduce the proposed FSR of the western site to ensure the proposed development is consistent with the information refined from PP-2023-1648 and to preserve adequate FSR capacity for the Stage 2 eastern site, consistent with the 3.7:1 FSR established for the entire site.
- Revise the FSR calculations to include all enclosed communal amenity spaces at Ground and Level 5 to ensure an accurate GFA assessment.
- Consider reducing the length and height of the building so that it more successfully follows the slope of the site. This would create a more interesting and site responsive design. This would also address some of the overshadowing issues identified.
- Redesign the rear of the building and remove the Level 5 swimming pool deck so that it is located within the site-specific draft DCP building envelope. Relocating the pool to be within the enclosed amenity area would reduce bulk and overshadowing to Trumper Oval.
- Reduce the depth of balconies on the southern facade to reduce the overall bulk and scale of the building, provide setbacks that are consistent with the ADG and increase the opportunity for landscaping along the side boundary.
- Remove secondary balconies given that primary balconies already provide adequate outdoor amenity.
- Explore reducing the floor-to-floor height at Level 9 from 3,400mm to 3,300mm and increasing the floor-to-floor height at Basement Level 1 from 3,200mm to 3,300mm to improve solar access to lower-level apartments without increasing the overall building height.

- Remove apartment A-B106 at Basement Level 1, which does not meet ADG minimum amenity standards due to topographical constraints, absence of direct sunlight and lack of cross ventilation.
- Reduce the depth of single aspect apartments so that the maximum depth of open plan living, dining and kitchen areas does not exceed 8m.
- Redesign to ensure the communal open space provided is consolidated, suitable for a range of age groups, linked to deep soil and has access to 2 hours of sunshine in mid-winter.
- Provide direct access to the lobby off the street rather than down a long side path. This would also improve safety and surveillance.
- Reduce the private open space for apartment A-G05 and allocate more of the eastern side setback to a private communal open space suitable for a range of age groups.
- Due to the size of the site and impact of the development, require enhanced tree canopy targets of 20% and enhanced deep soil area of 15%.
- Provide 6m side and rear setbacks, as proposed in PP-2023-1648.
- Relocate the proposed freestanding substation next to the public access pathway to Trumper Oval and Trumper Park.

Figure 11: Summary of key recommendations for south-western boundary shown over Photomontage
Source: Photomontage 02 by FK. Annotations Studio PL

Site and Context

The site is located at 8-10 New McLean Street, at the southwest side of New McLean Street and to the south of Edgecliff railway line. The site is less than 50m from the entrance to Edgecliff Railway Station. The current site contains two residential flat buildings that are nearing the end of their economic life and lack architectural or heritage merit.

New McLean Street provides the primary frontage and vehicular access. New McLean Street is a small cul-de-sac, which is very busy at certain times and the street character is dominated by access to the various public and private carparks and loading dock facilities. Any development of the site needs to consider the constraints created by the existing access, including those that support access to the Edgecliff station.

Topography directly impacts the site, with the landform sloping significantly in a south and south-westerly direction away from the high point on New McLean Street. This fall places the site within a lower section of the local catchment, directing surface water flows through the property toward Trumper Oval and Trumper Park and rendering the land flood prone. Additionally, the way the landform falls away from the street level

emphasizes the height of any built form when viewed from adjacent lower areas, including Trumper Oval and Trumper Park.

Proposal

The submission proposes a two-lot Torrens title subdivision of 8-10 New McLean Street, splitting the site into an eastern lot of 4,435.6m^2 and a western lot of 2,790.3m^2. The proposals also seeks approval for a new 10-storey residential flat building on the western lot, comprising 65 apartments of which two are to be dedicated in perpetuity as affordable housing, managed by a Community Housing Provider.

The proposal provides five levels of basement, accommodating approximately 140 car parking spaces, 94 bicycle spaces and 16 motorcycle spaces, with an additional 5 visitor car spaces and 30 visitor bicycle spaces at lower ground level. The proposal is seeking approval for approximately 9,534 m^2 GFA on the western lot, resulting in a proposed FSR of 3.42:1. Pedestrian access is provided from New McLean Street along the south-eastern side of the western boundary, to a centrally located entry lobby. Communal open space is distributed across the ground-level, to the southeast, and the Level 5 podium, and provides a swimming pool, decking and indoor-outdoor amenity spaces.

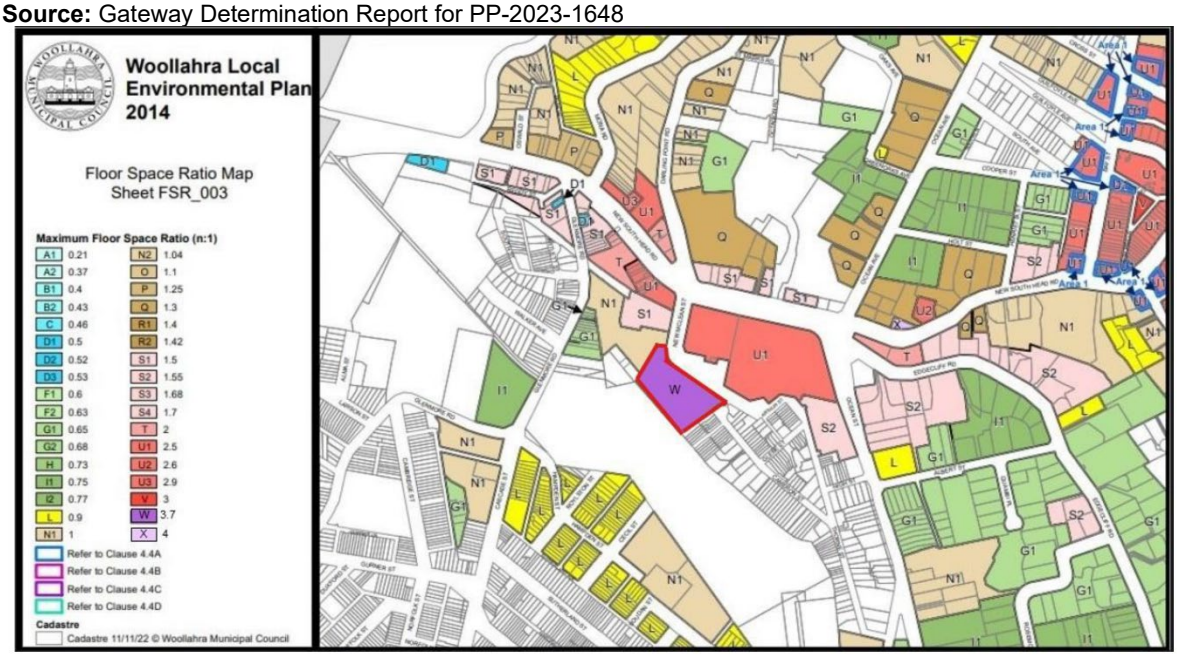
Key issues

A consideration of the key issues identified in the Urban Design Review is provided below.

FSR

The Environmental Impact Assessment suggests an FSR of 3.7:1 applied to the western site alone, would be compliant with the permissible FSR controls. However, the Gateway Determination Report for PP-2023-1648 clearly states that the planning proposal introduces a new maximum FSR of 3.7:1 applicable to the entire site (refer Figure 12 below).

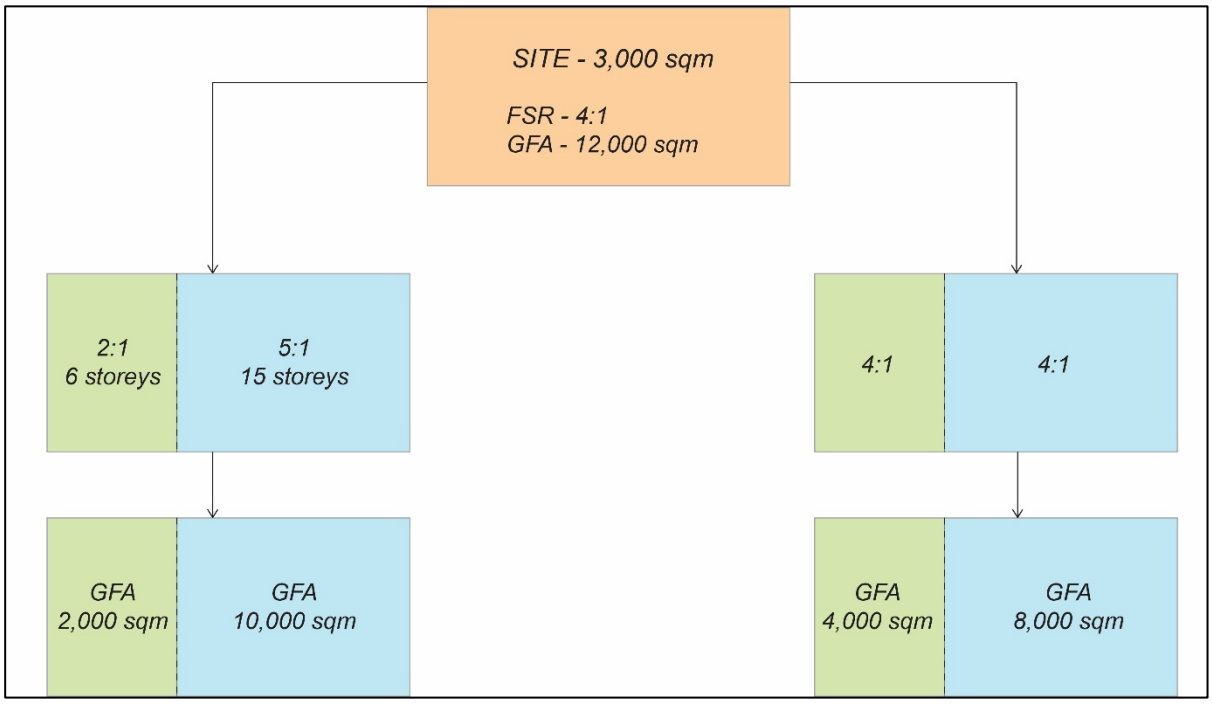
Figure 12: Proposed floor space ratio map excerpt, subject site outlined in red
Source: Gateway Determination Report for PP-2023-1648



The Post Exhibition Briefing Report by DPHI on the Planning Proposal recommended a maximum FSR of 3.7:1 be applied to the entire 7,224m^2 site. This application is only for a small part of the overall site, the western part, but the proposal has assumed that the FSR for the whole site is equally applicable for this part of the site. This is a flawed argument as the detailed urban form proposed in the Planning Proposal was highly nuanced, with heights adjusted to minimise overshadowing and ensure compatibility with surrounding buildings and landscaped interfaces.

For example, while the overall maximum building height was RL91 (approximately 18 storeys) the western part of the site has a maximum building height of RL63 (assumed to be 5 to 9 storeys). This means the FSR was not assumed to be consistently applied across the site but instead was intended to be highly localised. Splitting the site into parts and applying the overall FSR to the part of the site which had been assumed to have less development would distort the proposed location of built form (see Figure 13 below).

Figure 13: Diagram showing how applying a consistent FSR to only one part of the site which is proposed to have buildings with different heights would distort where development occurs on the site. Note for simplicity this image uses different numbers to that in the proposal
Source: Studio PL Pty Ltd



Allocating a high FSR on the western site (Stage 1) would result in a reduced FSR allocation available for the eastern site (Stage 2). As the Stage 2 development on the eastern site is anticipated to achieve the recommended 18-storey height limit, the redistribution of FSR toward the western side in Stage 1 will either require an increase in the overall site FSR to accommodate the intended built form outcomes in Stage 2, or a reduction in the quantum of development possible in Stage 2. The proposal should therefore reconcile this discrepancy and clearly demonstrate how the cumulative FSR and desired built form across both stages will remain within the 3.7:1 limit established by the Gateway Determination for the site.

Recommendations

- The planning proposal should reduce the overall built form and scale of the Stage 1 western site to ensure the overall site 3.7:1 FSR and built form

established by the Gateway Determination Report PP-2023-1648 can be delivered.

- Typically a 10-storey residential flat building can reasonably be achieved at an FSR of approximately 3.1:1. The current proposal of 3.42:1 on the western site locates a disproportionate share of the total site FSR on this part of the site, which is creating poor design outcomes including a deep floorplate building, apartments with little or no sunshine and limited side and rear setbacks.
- It is recommended that the FSR of the western site be reduced to ensure it complies with the built form supported in the planning proposal.

Building height

The amended LEP height map identifies a maximum building height of RL63m. The site-specific draft DCP and the SJB study recommended building envelope proposed that this maximum height only occur along New McLean Street, falling to RL47 6m from the rear of the western site to avoid overshadowing Trumper Oval. The proposed building, while [stated to be] within RL63 is not fully within the recommended building envelope. The proposed lift overrun and the swimming pool deck at Level 5 both breach the DCP building envelope, with the lift overrun exceeding the envelope by approximately 2.35m. These breaches increase the bulk and scale of the building form and result in overshadowing to Trumper Oval to the rear of the site.

Figure 14: Diagram highlighting where the proposed development is outside the draft DCP side, rear and front setbacks (blue line added to architects drawing). The lack of setbacks has reduced the landscaped setting, increased overshadowing of Trumper Oval and resulted in more trees being removed along the side and rear boundaries.
Source: Studio PL Pty Ltd

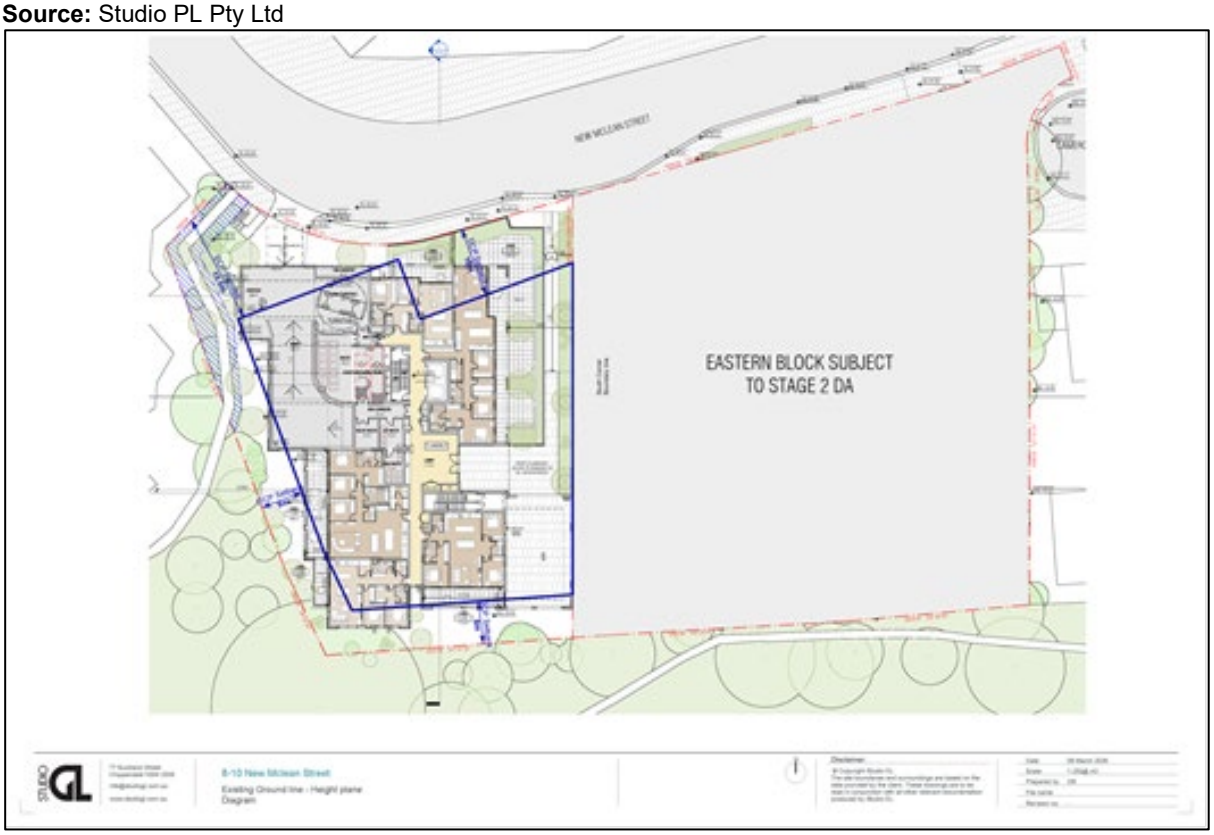
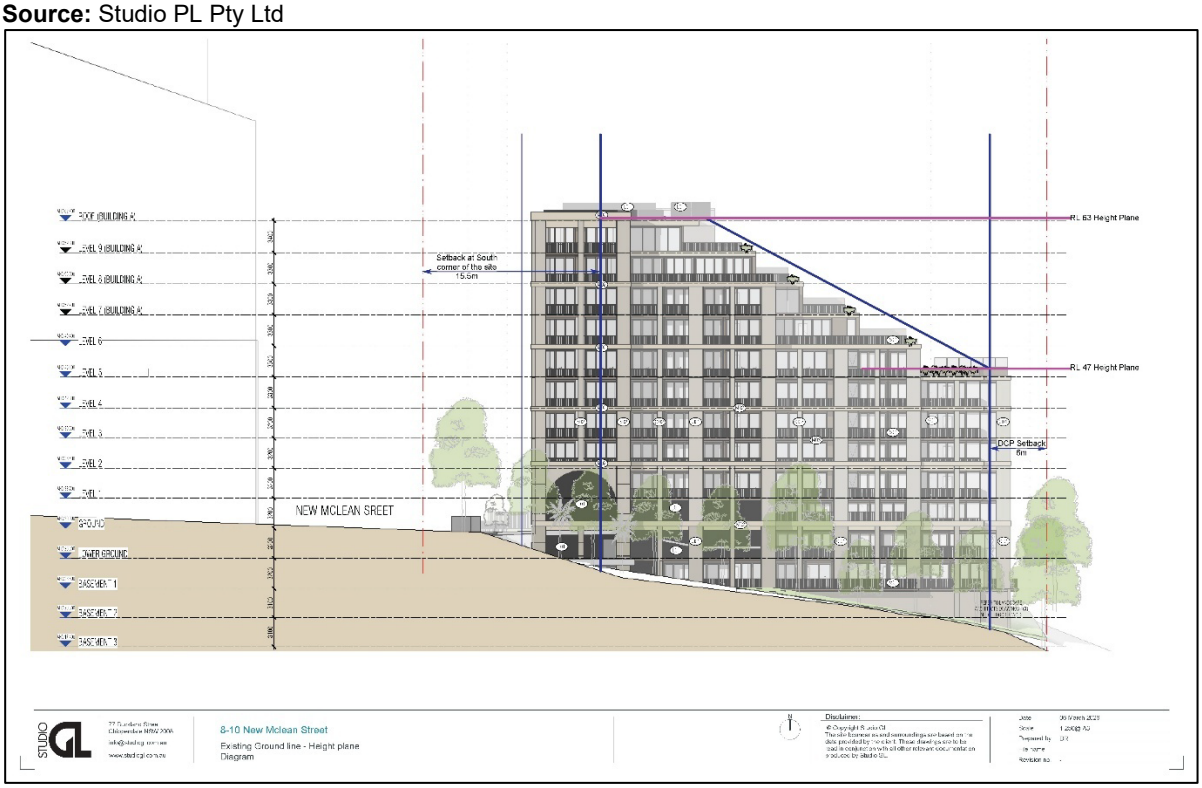


Figure 15: Diagram highlighting where the proposed development is outside the draft DCP rear and front setbacks (blue line and RL height plane added to architects drawing).The lack of setbacks has reduced the landscaped setting, increased overshadowing of Trumper Oval and resulted in more trees being removed along the side and rear boundaries.
Source: Studio PL Pty Ltd



Recommendations

The following recommendations would help reduce the perceived bulk and scale when viewed from the side and rear boundary, and contribute to a building façade that better responds to the desired height and bulk along the street and to minimising overshadowing impacts along the southwestern boundary at the rear:

- The proposal should be revised to ensure all building elements, including balconies, are fully contained within the site-specific draft DCP setbacks and heights.
- The Level 5 swimming pool deck should be redesigned to sit within the site-specific draft DCP building envelope to help in reducing the overall bulk and scale of the building. The swimming pool can be relocated to the enclosed amenity area on Level 05.
- The overall bulk and scale of the building should be reduced to minimise overshadowing impacts to Trumper Oval and ensure the development does not unreasonably compromise solar access to this significant public open space.

<u>Built Form and Scale</u>

The proposal states that the western site should have access to the maximum permissible FSR for entire site. This is resulting in a building form that is very bulky and deep. While the design quality of most of the apartments is reasonable, the depth of single aspect apartments is of concern. The depth of a single aspect apartment directly influences the quality of natural ventilation and daylight access and the maximum recommended depth for open plan layouts (living, dining, kitchen) with a ceiling height of 2.7m is 8m. 28 of the 65 units (43%) are over 8.5m deep. Deeper balconies more than 2.4m also reduce access to natural ventilation and daylight in the

living, dining and kitchen areas. It is recommended that the depth of these apartments and balconies is reduced.

In addition, the FSR calculations do not include the covered 'communal open space' on the ground floor or the covered outdoor amenity space on Level 5. It is assumed these under croft spaces have been excluded as they are not 'enclosed' but they are contributing to the bulk and scale of the development and would be substantially more useful if they were enclosed and included in FSR calculations, although this would increase the proposed FSR.

The deep balconies (4.6m) on the western facade further add to the overall bulk and scale of the building and reduce the opportunity for landscaping along the side boundary. Reducing the depth of these balconies would reduce the bulk of the building.

Recommendations

- Reduce the depth of single aspect apartments so that the maximum depth of open plan living, dining and kitchen areas does not exceed 8m.
- Revise the FSR calculations to include all enclosed communal amenity spaces at Ground and Level 5 to ensure an accurate GFA assessment.
- Remove secondary balconies given that primary balconies already provide adequate outdoor amenity.

<u>Setbacks</u>

The site-specific draft DCP and the SJB study recommended building envelope showed a generous 15m setback to the north-west corner of the site, and a minimum 6m setback along the side and rear boundaries. The recommended setbacks also resulted in a building that 'faced' the angled street, orienting views from apartments along the street corridor. The proposed development orients development along the new mid-site boundary, orienting views from apartments towards the rear of the Edgecliff Centre.

Figure 16: Extract from EIS showing the difference between the draft DCP setbacks (in orange) and the proposed development (black line). This diagrams also identifies proposed side and rear setbacks.
Source: EIS

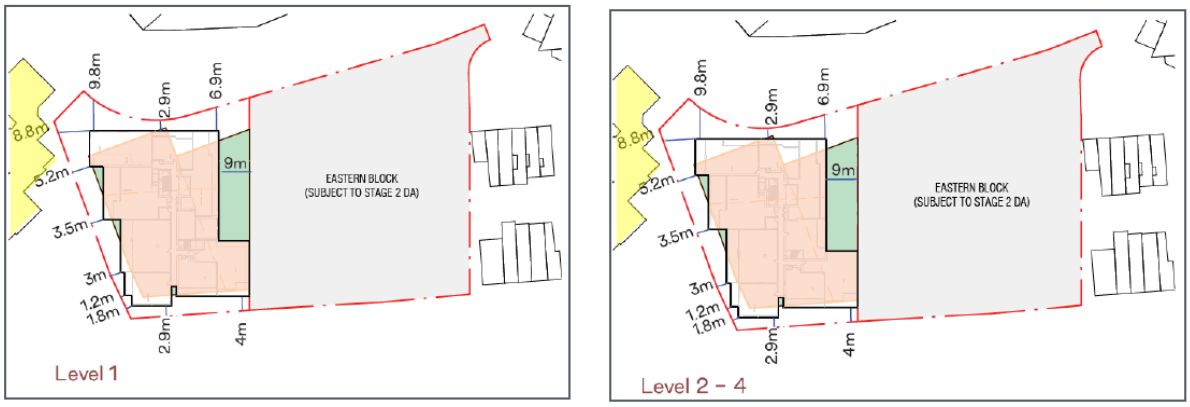


Figure 30: Diagrams showing proposed setbacks for Level 1 and Levels 2 to 4 (footprint of neighbouring building shaded yellow)

The proposed front setback is predominantly narrow (down to 2.9m) and the 'front' of the building consists of a driveway and fire booster assembly, fenced private open spaces that do not address the street and gated side access. This contributes little to

activity, safety or amenity along the street and substantially reduces the opportunity for landscape.

Along the side and rear boundaries, the 6m setback has been reduced to as little as 1.2m. This is insufficient for maintenance to the building or landscape areas to be able to occur within site. It also substantially reduces the amount of tree canopy and deep soil provided on the site.

Recommendations

- Provide setbacks that are consistent with the ADG and increase the opportunity for access, maintenance and landscaping along the side and rear boundary.

- Setbacks to the rear and western side should provide sufficient space for screening landscape and limit overshadowing of Trumper Oval.

Building Separation:

The Design Report (Appendix 7 to the EIS) and Design Verification Statement assess building separation distances relative to the existing building located on the adjoining site at 4 New McLean Street. The current building on this adjoining site has generous setbacks and is only 3 to 4 storeys high. The approach taken does not account for the potential future extension or redevelopment of neighbouring properties and relies on the neighbouring sites not developing to a similar scale as the proposal site which is unlikely. As the adjoining site at 4 New McLean Street is large and is located within 400m of Edgecliff Railway Station, it is reasonable to anticipate that it will be subject to significant future development as part of the state-led uplift of the Edgecliff Station precinct.

Measuring building separation from an existing building outline on a neighbouring site, rather than from within the site boundary does not adequately protect the amenity of either the proposed development or future development on adjoining sites. The ADG requires that building separation be assessed from the site boundary to ensure adequate light, privacy and outlook are maintained across the long term, irrespective of the current built form on neighbouring properties.

Recommendations:

- Building separation distances and setbacks should be measured from the site boundary, consistent with the ADG requirements, and not from the existing building outline on the adjoining site.

Solar Access

The Design Verification Statement indicates that approximately 21.5% (14 of 65) of apartments will receive no direct sunlight between 9am and 3pm on 21 June (mid-winter). This exceeds the ADG's maximum threshold, which permits no more than 15% of apartments in a residential flat building to receive no direct sunlight. The Design Verification Statement notes that affected apartments achieve outlook and views, which are cited as contributing to residential amenity. While views are a valued amenity consideration, they are not a substitute for direct solar access. Solar access is fundamental to residential habitability as it directly influences thermal comfort and daylighting. This is a large site and, as the plans establish the scale and location of built form, it should demonstrate compliance with this key ADG objective.

Furthermore, the application claims that 75.4% of apartments will receive 2hrs of sunlight in mid-winter, however, it is clear from the sun eye view that this is only possible if the neighbouring site at 4 New McLean Street remains as is with no additional development. As this site is within 400m of Edgecliff Station it is reasonable to assume that this site will also be considered for considerable uplift as part of the state led rezoning of the Edgecliff Station Precinct.

Recommendations:

- The proposal should be redesigned to ensure that no more than 15% of apartments fail to receive the minimum 2 hours of direct sunlight between 9am and 3pm on 21 June, consistent with ADG requirements.

- The proposal should be redesigned to ensure a minimum of 70% of apartments will retain 2hrs of sunlight in mid-winter if 4 New McLean Street is redeveloped in the future.

Landscape and Amenity

The EIS identifies that the proposal will clear approximately 3,000sqm of planted vegetation, including native species. Of the 203 trees identified, 152 are proposed for removal, of which 114 are native species, with only 51 trees to be retained and protected [the 51 trees to be retained includes trees outside of the site, the landscape plans depict only 11 trees to be retained within the entire site]. The proposed tree canopy coverage of 19.1% represents a significant loss of existing canopy, particularly given the site's current capacity to support medium to large tree species through the availability of large areas of deep soil. This site directly adjoins a large area of open space providing the opportunity to visually extend the park and tree canopy into the site. A site of this size, with available deep soil, presents a clear opportunity to establish a generous tree canopy that supports shading, amenity and biodiversity outcomes, while also enhancing the quality and usability of the communal open space.

For the western lot the Landscape Plan proposes removing 50 existing trees and replacing them with 22 trees. The trees proposed for removal include medium to large canopy species that currently contribute significant shade, ecological value and visual amenity and landscape character to the site and its surrounds. Most proposed replacement species are identified as having a canopy diameter of approximately 2m at maturity, representing very small canopy trees that make a limited contribution to overall canopy coverage and will provide limited shade, ecological value and visual amenity and landscape character. The Tree Canopy Guide for Low and Mid Rise Housing defines a small canopy tree as one having a minimum diameter spread of 6m. The guide also states that “Deep soil zones with a minimum dimension of 3m allows sufficient space for the planting and healthy growth of new trees that provide canopy cover and assist with urban cooling and infiltration of rainwater to the water table”. Almost half of the proposed “canopy trees” are not located in deep soil areas greater than 3m wide.

The ADG identifies that the purpose of communal open space is to provide outdoor recreation opportunities, enhance residential amenity through connection to the natural environment and provide opportunities for landscaping and valuable ‘breathing space’ between apartment buildings. The ADG also recommends that communal open space should be consolidated into a well-designed, easily identified and usable area and co-located with deep soil areas with access to sun in winter, shade in summer and shelter

from strong winds. The ADG recommends 25% of the site area should be communal open space, with 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

The communal open space in the proposal is stated to be 27%, however, this calculation includes an area shown as the private open space of unit A-G05. The true area of communal open space is 22.5% (630 sqm) and is highly fragmented and composed of:

- The access pathway to the entry lobby. Most of this pathway is located over basement and will have no deep soil.
- A space next to the entry to the lobby located at the south-east corner of the site, accessible from the central lobby and street. The area is covered, enclosed on one side (and potentially two sides after Stage 2 is built), not co-located with any deep soil and provides limited landscape amenity for residents.
- An outdoor communal space located on Level 5, consisting of a swimming pool with deck and outdoor yoga/Pilates area and located next to a covered 'outdoor' amenity area. The pool faces south and the landscape to this area is limited to narrow planters.

The communal open space does not meet the ADG design criteria as it does not enhance residential amenity for the 65 apartments, nor does it provide opportunities for high quality landscaping or invite a wide range of activities, informal recreation and outdoor activities collocated with deep soil and with good access to sunshine in mid-winter. One reason for the limited ground level communal open space is because the proposal has allocated much of the open space at the ground level to lobby access and a private open space for apartment A-G05.

Recommendations

- Given the substantial reduction in deep soil and tree canopy proposed and as the site is well over 1,500m^2 in size the development should aim to provide 15% of the site as deep soil.

- Provide 6m side and rear setbacks, as proposed in the original planning proposal, to allow for small and medium tree canopy trees and ensure that development does not impact the health of trees in the adjoining open space. These setbacks would also ensure that the site could be landscaped in such a way that it provides amenity to the residents and can be easily maintained.

- Provide direct access to the lobby off the street rather than down a long side path. This would also improve safety and surveillance for the development and the street.

- Reduce the private open space for apartment A-G05 and allocate more of the eastern side setback to a private communal open space suitable for a range of age groups.

<u>Other Issues</u>

Several secondary balconies (off bedrooms) are proposed. As the primary balconies are well proportioned and adequately support outdoor amenity, these undersized

secondary balconies can be removed. This would reduce the overall bulk and scale of the building.

The freestanding substation next to the public access pathway to Trumper Oval and Trumper Park is poorly located. It conceals the access and reduces surveillance of the path. It should be relocated, preferably to the east of the driveway.

In addition, it is recommended that apartment A-B106 at Basement Level 1 is removed. This unit is partially below ground, has a 4.8m deep balcony and a living, dining and kitchen depth of approximately 13m. The application claims this apartment receives 15mins of sun in mid-winter but the views from the sun do not show this. The apartment also has no cross ventilation. At a floor-to-floor height of 3,200mm, the combined impact of poor solar access, absence of daylight to habitable rooms and lack of natural ventilation results in a unit that does not meet the ADG objectives for residential amenity.

Council's planning staff advises that the proposal is contrary to the principles set out under Chapter 1, and the design requirements for residential apartment development set out under Chapter 4 of the Housing SEPP.

13)Inconsistencies with the Site-Specific Draft DCP

A site-specific draft DCP was submitted in support of PP-2023-1648, which is included at Annexure D.

It is acknowledged that if adopted the site-specific draft DCP would not strictly apply to the SSDA. However, in accordance with the DPHIs Guide to Faster Assessments for SSD Housing Applications it is requested that the provisions contained within the site-significant draft DCP are given due consideration.

This approach is supported by the EIS which advises that "Given the time and effort invested in the design evolution through PP-2023-1648 it would be ignorant and ill-conceived to propose a design option which is not consistent with the information refined from PP-2023-1648."

The site-specific draft DCP states:

> *This chapter includes additional provisions to address adverse environmental and other amenity impacts that could result from development benefitting from the greater height and floor space permitted.*

It is therefore considered essential that regard is given to the site-specific draft DCP to ensure that potential adverse impacts are appropriately managed by providing a built form that has been tested and determined to be appropriate for the site.

The SSDA is considered to undermine the following provisions withing the site-specific draft DCP:

- The proposal fails to provide a pedestrian entry from the New McLean Street frontage and individual entries for ground level apartments.
- The sites-specific draft DCP requires no more than one vehicle crossover to New McLean Street and for development to consolidate the two existing vehicle crossovers into a single crossover that is located the maximum possible

distance from the New South Head Road and New McLean Street intersection. In contrast the SSDA proposes a vehicular crossover at the north-western corner of the site at the minimum possible distance from the New South Head Road intersection. A further vehicle crossover will need to be provided for the redevelopment of the eastern site.

- The SSDA is inconsistent with the heights proposed under PP-2023-1648 and in Figure 2 of the site-specific draft DCP.
- The SSDA is inconsistent with the proposed building envelopes shown in Figure 2.
- The SSDA fails to use building setbacks and the graduation and transition of height across the site to protect and conserve the significance of the conservation area and minimise impacts of overshadowing to Trumper Oval.
- The site-specific draft DCP requires balconies, terraces and windows of habitable rooms to be orientated towards New McLean Street to the north-east or Trumper Park to the south-west where possible. Where this is not possible, balconies, terraces and windows of habitable rooms are to comply with the separation requirements of the Apartment Design Guide. The SSDA proposes many balconies to the north-western and south-eastern side elevations. The setbacks do not fully comply with the ADG.
- The site-specific draft DCP requires any development on the site to deliver a range of apartment types and sizes to cater for different household types now and into the future, with the following percentage mix:
  - 1 bedroom: 30-50%;
  - 2 bedroom: 30-50%; and
  - 3 bedroom: 20-40%.

  The SSDA provides no 1 bedroom units, and proposes 24 x 2 bedroom apartments (37%) and 41 x 3 bedroom apartments (63%).
- The SSDA fails to provide sufficient deep soil landscaping around the building envelope, with minimum dimensions of 3m in any direction and no overhang from any building. The proposal provides no deep soil landscaping to the rear or eastern side of the building, and provides minimal deep soil landscaping to the New Mclean Street frontage.
- Insufficient tree canopy area is to be provided throughout the site.
- Existing trees identified by the project arborist to be of high significance and located within the setback areas are to be removed contrary to the requirements of the site-specific draft DCP.
- Insufficient supplementary screen planting is provided around the periphery of the site to replace trees which have been removed.
- The SSDA is incompatible with the streetscape, in terms of height transition and tree canopy coverage.
- The SSDA has failed to provide an Environmental Wind Assessment which models the impact of the proposal on local wind conditions.
- The site-specific draft DCP requires loading and servicing to occur in the basement level with a dedicated loading bay that can accommodate a Medium Rigid Vehicle (MRV) and waste trucks. The proposed loading bay cannot accommodate MRV or Council's waste trucks.
- The proposed substation is not integrated into the design of the building and co-located with other services and facilities. Instead, the substation is located to New Mclean Street immediately adjacent to the entry to the highly used public footpath to Trumper Park.
- The rooftop design fails to incorporate landscaping to reduce the urban heat island effect.

For the reasons set out in this submission the proposal in its current form is considered to undermine the objectives of the site-specific draft DCP which aim to ensure that development on the site:

- *Achieves architectural and urban design excellence (O1).*
- *Contribute towards the growth and revitalisation of the Edgecliff Centre with the replacement of residential flat buildings with high quality residential development (O2).*
- *Has a scale, bulk and design that reflects the desired streetscape character, and respects the adjoining and nearby residential development, particularly in terms of the building setback, articulation and distribution of height (O3).*
- *Promotes environmental amenity on the site and surrounding properties, and does not unreasonably compromise the amenity of nearby residential uses having particular regard to overshadowing, visual and acoustic privacy, and view sharing (O4).*
- *Minimises the impact on Trumper Park Oval and walking track having particular regard to overshadowing of public areas (O5).*
- *Minimises the impact on the significant values of the heritage items and Paddington Heritage Conservation Area in the vicinity of the site and ensure new development sensitively responds to heritage significance and the site's surrounding historic setting (O6).*
- *Minimises traffic and parking impacts (O7).*
- *Provides a diversity of dwelling sizes and provides for affordable housing (O8).*
- *Supports the retention of tree canopy and the planting of vegetation screening (O9).*

14) Potential Future Applications and/or the Application of the Infill Affordable Housing Bonus.

At section 4 Council staff have raised objection to the proposed subdivision of the site.

If the site is subdivided there is nothing preventing a further application being lodged for the western site which proposes to utilise the full 3.7:1 FSR proposed under PP-2023-1648 or increasing the maximum building height above RL63 (as it is understood a blanket maximum height of RL 91 across the site is proposed under PP-2023-1648). This is an outcome that was never envisaged during the assessment of PP-2023-1648.

If PP-2023-1648 is approved, there is nothing preventing the applicant from seeking to utilise the infill affordable housing bonus under the Housing SEPP.

Potential future applications which increase the FSR and height, or apply the infill affordable housing bonus would further undermine the design principles that underpinned the controls endorsed under PP-2023-1648 and would undermine the amendments which have occurred to PP-2023-1648 to reduce the height and density, and deliver a more sympathetic and considered response of the characteristics of the immediate and wider locality.

The Planning Proposal Report dated 07 May 2025 states that:

The intent of this Planning Proposal is to provide concept envelopes which appropriately relate to the characteristics of the locality and surrounding developments (both existing and future), to enable redevelopment which will improve the public domain, provide numerous public benefits and allow for an increase in density. This is detailed in the UDR prepared by FJC and submitted with this Report. The concept envelopes have been developed following detailed design development and collaboration between numerous experts to deliver a development which is reflective of the strategic and site specific importance of the subject site. In addition, the concept envelopes have also been reviewed and modified following input from the Department's PPA Team, SECPP and the independent Urban Design Review undertaken by SJB. This has resulted in a strategic massing which will bring with it an appropriate balance and distribution of massing between the podium and tower structures, landscaping, neighbouring properties and public domain….

…The extent of solar impact has been determined following careful analysis and massing of the concept envelopes, consistent with the independent Urban Design Review prepared by SJB. That is, the built form, namely the western podium and tower, have been carefully massed with appropriate heights and envelopes, to minimise the extent of overshadowing to Trumper Park and Oval, thereby creating an appropriate outcome.

Potential future applications which increase the FSR and height, or apply the infill affordable housing bonus would result in adverse amenity impacts that were not envisaged during the assessment of PP-2023-1648.

15)Apartment Mix

The site currently accommodates 106 small, lower-cost units as follows:

- 50 studio apartments
- 44 one-bedroom apartments
- 12 two-bedroom apartments

PP-2023-1648 anticipates that future redevelopment of the site would deliver between 30-50% studio and one-bedroom apartments, consistent with the recommendations of the SJB study. This unit mix has been incorporated into the proponent's site-specific draft DCP and was supported by a feasibility study provided by the proponent (refer to Annexure E).

The feasibility assessment demonstrated that the endorsed HOB and FSR are feasible with an affordable housing contribution rate of 2.76% of uplift GFA, delivered on site in perpetuity. This testing assumed the delivery of approximately 285 apartments, reflecting a high proportion of smaller dwellings.

The concept proposal accompanying the planning proposal included a total of 246 dwellings, comprising:

- 84 one-bedroom apartments
- 112 two-bedroom apartments
- 50 three-bedroom apartments

In comparison, SSDA-80626208 proposes a new residential flat building on the new western lot containing only 65 dwellings, comprising:

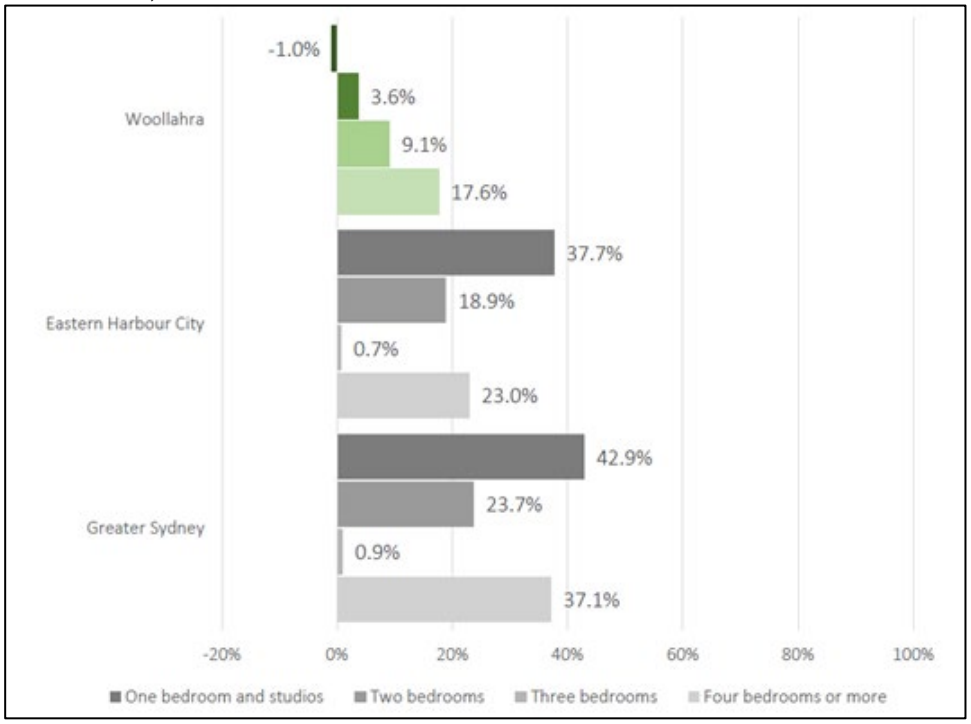
- 24 two-bedroom units
- 41 three-bedroom units

Under this scenario, project feasibility is reasonably expected to improve further. In the Woollahra LGA, market trends favour large, luxury apartments especially penthouses. These larger units often sell for more per square metre than smaller ones, making them more attractive to developers.

This trend has contributed to a short supply of smaller, more affordable dwellings.

According to the 2021 ABS Census, only 12.5% of dwellings in Woollahra LGA are studios or one-bedroom apartments. Over the last decade, this typology saw rapid growth across the Eastern Harbour City and Greater Sydney (38% and 43% increases, respectively). In contrast, Woollahra saw a 1% decline in one-bedroom and studio dwellings, while larger homes, particularly four-bedroom houses, grew by 18% (see Figure 17).

Figure 17: Graph showing growth in dwelling sizes, 2011-2021
Source: SGS, 2024



Notwithstanding the above, the EIS accompanying SSDA 80626208 states that updated feasibility testing has resulted in a substantial revision to the project. The development is now proposed to be delivered in two stages, with a revised dwelling mix comprising only two and three bedroom apartments.

The SSDA fails to provide a dwelling mix that meets the needs of a diverse population while significantly reducing the overall number of dwellings delivered on the site. As a result, the development uplift permitted under the planning proposal would not contribute meaningfully to overall housing supply. Instead, it would be absorbed through fewer, larger luxury apartments, contrary to the objectives of the planning proposal.

The proponent further proposes to defer the delivery of smaller dwelling types (i.e. studio and one bedroom apartments) to the future redevelopment of the eastern lot. This outcome is highly uncertain, as redevelopment of the eastern lot would be subject to a separate development application and approval process. The subdivision enables sale of the eastern site, and as such, there is no certainty that smaller dwelling types would be delivered.

The SIA states that:

> *"The Applicant will agree to a condition requiring the inclusion of a proportion of one-bedroom dwellings in the proposed development on the eastern part of the site which will be the subject of a separate application".*

Council Staff raise concerns about the reasonableness and enforceability of this condition. Noting that the imposition of such a condition is contrary to the NSW Land and Environment Court planning principle contained within *Parrott v Kiama Council [2004] NSWLEC 77* which addresses when a residential subdivision application should impose constraints on future development. A constraint should not be placed on the proposed eastern site due to the shortcomings of the development on the western site.

Given the scale of uplift sought through the PP-2023-1648 and the further departures sought under SSDA-80626208, Council does not support the proposed development in its current form. The SSDA is contrary to the principles set out under Chapter 1 of the Housing SEPP, which requires:

> *(a) enabling the development of diverse housing types, including purpose-built rental housing,*
> *(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.*

The proposal should be amended to deliver a meaningful contribution to housing supply, particularly smaller dwelling types, rather than consolidating development potential into a limited number of large, high-end apartments. Staff recommend that the proposal shall be revised to require at least 30% of new dwellings (rounded to the nearest whole number) to be self contained studio or one bedroom apartments, or a mix of both.

This recommendation is based on staff analysis of the average dwelling yield in the surrounding area, identifying where a dwelling mix would be feasible. The 30% target also reflects the 30% share of lone-person households in the LGA, and the similar 27% share of households with couples without children.

This approach aligns with the site-specific draft DCP and the draft clause in the Edgecliff Commercial Centre Planning Proposal, which requires development with more than 9 dwellings to provide at least 30% of self-contained studios and/or one-bedroom apartments.

16)Proposed Affordable Housing

Quantum of affordable housing

PP-2023-1648 provides for an affordable housing contribution of 2.76% of uplift Gross Floor Area (GFA) to be delivered on site and in perpetuity. This affordable housing rate was endorsed by the Sydney Eastern City Planning Panel, having regard to the feasibility assessment submitted by the proponent (refer to Annexure E).

As outlined in the section above, the feasibility testing relied on the assumption that approximately 285 dwellings would be delivered on the site. This assumption underpinned both the endorsed development standards and the recommended affordable housing rate.

By contrast, SSDA-80626208 proposes the delivery of only 65 dwellings, comprising exclusively two- and three-bedroom apartments. This represents a substantial reduction in dwelling yield. In the Woollahra LGA, larger units typically sell for more per square metre than than smaller units. On this basis, it is reasonable to suggest that the proposed scheme would result in a material improvement in development feasibility, notwithstanding the reduced dwelling yield.

In addition, the significant reduction in the number of dwellings affects the housing productivity contribution payable under the *Environmental Planning and Assessment* framework. Housing productivity contributions are levied on a per-dwelling basis (currently $10,812.18 per new dwelling). Under the scheme proposed in SSDA-80626208, the number of dwellings is below the existing dwelling yield on the site, meaning no housing productivity contribution would be payable. This outcome represents a further cost saving to the development that was not contemplated in the feasibility testing that informed the planning proposal.

In summary, the reduction in dwelling yield, the shift toward larger, higher-value dwellings, and the avoidance of housing productivity contributions demonstrate that the overall feasibility of the proposal has improved significantly relative to the scenario assessed under the planning proposal.

The scale of the uplift permitted under the planning proposal (approximately 393% increase above the existing FSR development standard and approximately 600% increase above the existing HOB development standard) was justified on the basis that it would deliver meaningful public benefits, including a contribution to housing supply and the provision of affordable housing.

However, the SSDA absorbs this uplift through fewer, larger luxury apartments, significantly reducing overall housing supply while retaining the same affordable housing contribution rate. This outcome is inconsistent with the intent of the planning proposal and does not deliver an equitable public benefit.

Under Part 2 Development for Affordable Housing of the *State Environmental Planning Policy (Housing) 2021*, development seeking the maximum incentive of up to 30% additional FSR and HOB are required to provide a minimum of 15% of the total development GFA as affordable housing for a period of 15 years. While the SSDA does not seek to rely on the In-fill Affordable Housing bonus, this policy provides a benchmark for the scale of affordable housing contribution reasonably expected.

The feasibility of a higher affordable housing provision within the Edgecliff suburb is supported by the findings of Cameron Murray – Chief Economist, Fresh Economic Thinking and Peter Phibbs – Professor Emeritus, The University of Sydney in their research for Shelter NSW which is provided at Annexure F. This identifies that the application of the In-fill Affordable Housing density bonus under the Housing SEPP provides a greater value to property owners in high value locations such as Edgecliff.

With a proposed FSR of 3.7:1, the uplift at the subject site is considerably higher than the uplift that would apply if the LMR and infill affordable housing provisions were applied to the site, which would result in an FSR of 2.86:1.

In contrast to the provision of 15% of total GFA as affordable housing for period of 15 years required under the infill affordable housing provisions for a FSR of 2.86:1, PP-2023-1648 identified that the appropriate percentage of affordable housing for a proposal with an FSR of 3.7:1 was:

- 5% of the upside GFA allocated as affordable housing for a period of 15 years; or
- 2.76% of the upside GFA allocated as affordable housing in perpetuity.

Accordingly, Council staff consider that the affordable housing quantum should be revised, having regard to:

- The significantly reduced dwelling yield relative to the planning proposal assumptions;
- The improved feasibility resulting from larger dwelling typologies;
- The absence of housing productivity contributions; and
- The further development uplift sought by the proponent (an additional storey).

With respect to delivery, staff have regard to the *NSW Affordable Housing Ministerial Guidelines* and prevailing rental prices in Edgecliff, which indicate a clear need for smaller, more affordable dwelling typologies. Staff therefore strongly recommend that any affordable housing delivered on site comprise studio and one-bedroom apartments, rather than larger dwellings. This is discussed in greater detail below.

Affordability

The affordable housing provision comprises of 1 x 2-bedroom apartment and 1 x 3 bed apartment to be maintained in perpetuity.

Reviewing the most recent available (Dec 2025) rental data for 2-bedroom and 3-bedroom apartments in Edgecliff on the NSW Government Rent tables, the median rental price for a 2-bedroom apartment is $1100 and the median rental price for a 3-bedroom apartment is $1775. If a discount of 20% of market rent is applied this equates to a weekly rental rate of $880 for a two-bedroom unit and $1420 for a three-bedroom unit.

This equates to an annual rent of $45,760 for a 2-bedroom apartment and $73,840 for a 3-bedroom apartment.

The NSW Affordable Housing Ministerial Guidelines identify that the household income eligibility limits for the Sydney region 2025/2026 are:

Household type	Very low	Low	Moderate
Single	$36,000	$57,600	$86,400
Single + 1	$46,800	$74,900	$112,300
Single + 2	$57,600	$92,200	$138,200
Single + 3	$68,400	$109,500	$164,100
Couple	$54,000	$86,400	$129,600
Couple + 1	$64,800	$103,700	$155,500
Couple + 2	$75,600	$121,000	$181,400
Couple + 3	$86,400	$138,300	$207,300

Based on the figures above, and given that no more than 30% of gross income can be paid on rent:

- None of the very low-income households or low income households would be able to afford any of the proposed affordable housing apartments.
- Several of the moderate-income households (Single +3, Couple +2, Couple +3) would be able to afford a proposed 2-bedroom apartment. However, a 2-bedroom apartment may not be appropriate for the size of these households.
- None of the 24 household types listed in the table above would be able to afford the proposed 3-bedroom apartments.

Reviewing the most recent available (Dec 2025) rental data for one-bedroom apartments in Edgecliff on the NSW Government Rent tables, the median rental price for a 1-bedroom apartment is $673. If a discount of 20% of market rent is applied this equates to a weekly rental rate of $538.4 for a 1-bedroom apartment.

This equates to an annual rent of $27,996.8 for a 1-bedroom apartment.

Based on the figures above, and given that no more than 30% of gross income can be paid on rent:

- A 1-bedroom apartment would be affordable for a moderate-income couple
- For the remaining households, a studio or 1 bedroom apartment would either be unaffordable, or affordable but potentially an inappropriate size for the household.

The proposal fails to provide an apartment mix that ensures the affordable housing can be accessed by a wider variety of eligible households including very-low and low-income households.

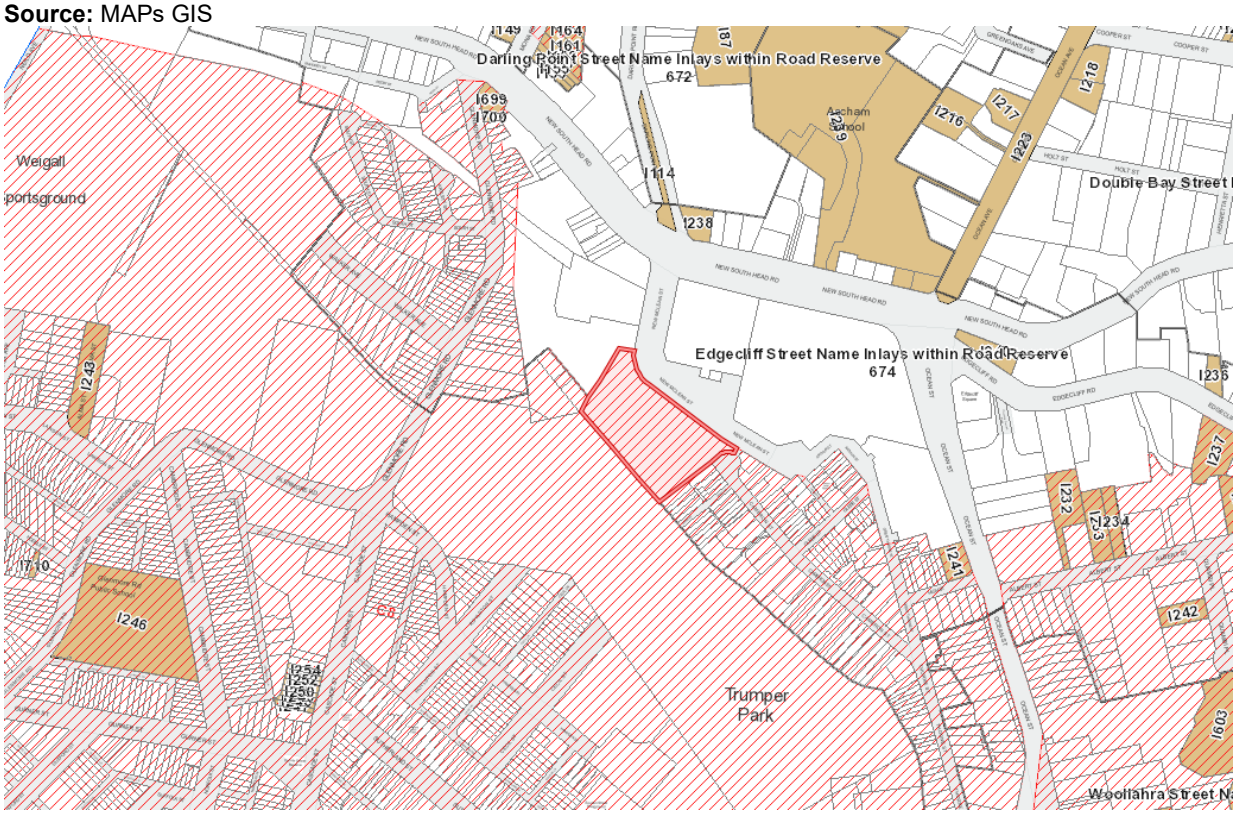
To ensure that the affordable housing can be leased by eligible households the proposed apartment mix should be amended to comprise of studios, and 1-bedroom apartments.

17)Heritage

Council's Senior Strategic Heritage Officer has reviewed the SSDA and provided the following comments:

The subject site is not a listed heritage item in the WLEP but is located within the Paddington HCA. An excerpt from Council's mapping system, below, shows the wider heritage context of the site.

Figure 18: Heritage items and Heritage Conservation Areas within the vicinity of the site.
Source: MAPs GIS



The uppermost portion of the site is atop the ridge of Edgecliff. This inevitably means that any tall building will be highly visible throughout much of the wider area, as is the case for the already existing Ranelagh to the north, the top of which is at RL127.200, compared with RL62.700 of the subject proposal.

<u>Loss of trees and impact on Trumper Park escarpment</u>

The proposal includes the removal of a majority of the existing trees on the site (152 trees), of which a significant minority (57 trees) are considered Category A for retention [this includes trees to be retained outside of the site, the landscape plans depict only 11 trees to be retained within the entire site]. This will have a significant impact on the heritage value of the Trumper Park escarpment as a key landscape feature within the Paddington Heritage Conservation Area (Woollahra DCP 2015, Chapter C1, p. 10), which provides both a visual backdrop to much of the HCA and a key location of natural environment that is enjoyed by visitors and residents. The impact of shade and, at night, artificial light will also impact the use and enjoyment of the area by residents and visitors.

Views within the Paddington HCA will still be altered considerably by the proposal, particularly by the loss of trees. There is no amelioration proposed to the impacts created by the loss of trees.

These impacts could be ameliorated by breaking up the building footprint to allow the retention of existing trees and planting of additional trees.

Additionally, the heritage values of the escarpment in providing a lush green bushland area are tied to its ecological values, which are likely to be impacted as a result of the loss of trees, light impacts, and shade impacts as previously noted by Council's Senior Environment and Sustainability Officer and again by Council's Parks and Recreation Planner (see below).

Overshadowing

The following is noted by Council's Parks and Recreation Planner.

> The site contains significant threatened species, as identified in the Trumper Park POM. The submitted solar access diagrams indicate that the proposed development will overshadow much of the bushland area between 9:00 am and 3:00 pm on 21 June. However, the diagrams do not illustrate potential overshadowing before 9:00 am or after 3:00 pm, meaning that shadows may extend into Trumper Park outside the displayed hours.
>
> The proposal shows that the existing tree canopy overshadows approximately half of Trumper Park Oval at 10:00 am. It should be noted that canopy conditions change over time, and consequently, the shadow footprint will also vary. Furthermore, the canopy shadow is likely to be speckled, with gaps of sunlight reaching the ground. As such, it does not provide a strong basis for arguing that the proposed development's shadow footprint is less than that of the existing canopy.

The above overshadowing also impacts on the heritage value of the Paddington HCA, including the potential further loss of trees and canopy.

The eastern wing of the building, excluded from this DA, is likely to have further overshadowing impacts.

Scale

The scale of the proposed building envelope relates directly to the potential impact on the heritage value of the Trumper Park escarpment, the wider Paddington HCA, including significant views, and the shadows cast by the potential built form.

The scale of towers at this height, while still substantial elements in the wider landscape are only somewhat taller than already existing buildings in the Heritage Conservation Area, and would be more substantially obscured by the surrounding foliage.

However, the impact is increased by the mass removal of trees proposed as part of the development.

Demolition of buildings by Clarke, Gazzard & Partners

The Heritage Assessment prepared by Curio Projects and supported by a peer review from Urbis considers that the existing buildings on the site by Clarke, Gazzard &

Partners do not meet the threshold for listing and can therefore be demolished. The conclusions drawn by the study are not unreasonable, but in my view the comparative analysis on which the assessment is based is lacking. Only one of the Sydney School buildings cited in comparison is an apartment building. The buildings and landscape together have architectural merit, and it would be appropriate to compare them with other apartment buildings of the period and style, and other apartment buildings by Clarke, Gazzard & Partners. George Clarke was a formidable figure in Sydney planning and architecture, and the work of his firm is of historical interest.

Having visited the site, I broadly concur with the conclusion that the buildings are quite distinct from those that typify the Sydney School, but there is clear influence from both the Sydney School and the international Brutalism that inspired it, particularly in the use of off-form concrete and in the lush, landscaped gardens.

While there is no obvious reason based on my own site visit and brief research to doubt the conclusions of the Heritage Impact Statement, a more complete comparative analysis would give surety. This analysis should not be restricted to the Sydney School, the work of Clarke & Gazzard, or the LGA. The conclusions of the study that the buildings are not significant are not unreasonable, but also not sufficiently supported by the analysis.

Woollahra DCP 2015

The subject site is located within the Paddington HCA as defined in the Woollahra DCP 2015.

The increase in height proposed is not consistent with the desired future character of the locality. The existing human scale development described in the DCP desired future character statement would be adversely affected, as would the existing character elements of Trumper Park escarpment and oval.

National Parks and Wildlife Act

The subject site is not in an area of identified Aboriginal heritage sensitivity. However, it is near to an area identified as being of high sensitivity. Precautions must form part of any proposed development on the site.

Woollahra LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve and enhance built and natural environmental heritage

Clause 5.10 Heritage Conservation

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP. The following commentary is provided:

- Clause 5.10(1)(a): The proposed development does not conserve the heritage of Woollahra as it would give rise to unacceptable impact on the heritage significance of the Paddington conservation area and its setting, including views to and within the Trumper Park escarpment.

- Clause 5.10(1)(b): The proposal does not conserve the heritage significance of the Paddington HCA and would give rise to unacceptable adverse impact upon the heritage significance of the Paddington HCA, its setting and the broader visual catchment within and beyond the Paddington HCA through the loss of a large number of native trees.
- Clause 5.10(2) and (3): Consent is required for the proposed works
- Clause 5.10(4): This referral constitutes an assessment under this clause.
- Clause 5.10(5): A heritage management document was submitted with the development application and was not found to be acceptable.
- Clause 5.10(6): A Conservation Management Plan was not required.
- Clause 5.10(7) and (8): The site is not identified as an archaeological site or a place of Aboriginal heritage significance. It has however been identified as having archaeological potential.
- Clause 5.10(9): Demolition of a nominated State heritage item is not proposed.
- Clause 5.10(10): Conservation incentives are not being sought as part of this application.

The submitted Archaeological Report identifies that the site has historical archaeological potential.

Woollahra DCP 2015: Part C – Heritage Conservation Areas – C1 Paddington HCA DCP

Council is aware that under Part 2.2 (State Significant Development), section 2,10 of State Environmental Planning Policy (Planning Systems) 2021, Development Control Plans (DCP) do not apply to State Significant Developments.

Notwithstanding this the DPHIs Guide to Faster Assessments for SSD Housing Applications states that:

> *Development Control Plans (DCPs) do not apply to SSD applications, however they may be a good guide to help minimise impacts and align with existing development in the area. In this respect the Department may, in some circumstances, ask applicants to consider DCP controls.*

Given that the site is located within the Paddington HCA it is requested that consideration is given to Chapter C1 Paddington HCA of the Woollahra DCP 2015.

An assessment of the proposal against the key relevant objectives and controls of Chapter C1 is provided below.

UNDERSTANDING THE CONTEXT

Clause 1.2.1 The significance of the Paddington Heritage Conservation Area

- The Trumper Park escarpment and playing fields are part of the significance of the Paddington HCA, and the mass removal of trees and potential overshadowing of the escarpment and fields has an unacceptable impact.

BUILDING TYPES

Clause 1.3.13 Infill development (new development)
Objectives O2, O3, O4, O5
Controls C3, C4, C12

- The proposed development has a significant impact on the Trumper Park escarpment and may impact the maintenance of the area (with overshadowing potentially impacting the long term prospects of flora and fauna).
- The proposed development requires the removal of a substantial number of trees, altering the character of the escarpment significantly.

GENERAL CONTROLS FOR ALL DEVELOPMENTS

Clause 1.5.10 Gardens and trees
Objectives O1, O2
Controls C1, C2, C6

- The proposed development requires the removal of a substantial number of trees which are significant in heritage terms, altering the character of the escarpment significantly.

Clause 1.6.2 Views and vistas
Objectives O1
Controls C1, C2

- The proposal has a significant impact on significant views of Trumper Park and escarpment.

Conclusion

As it stands, the proposal is unacceptable primarily due to the excessive loss of trees proposed, making it contrary to objectives and controls of the Woollahra LEP 2014 and Woollahra DCP 2015. Secondary impacts of overshadowing on the Trumper Park escarpment and oval are also an unacceptable impact.

Without prejudice heritage conditions have been included at Annexure A.

18)Impact upon Public Open Space – Trumper Park

The SSDA has been reviewed by Council's Parks and Recreation Planner who has advised:

Trumper Park Plan of Management (Trumper Park POM)

While the EIS references several relevant planning documents, it does not consider the Trumper Park POM. Given that Trumper Park is directly adjacent to the site, it is important that this document be considered as part of the assessment of the proposal.

The Trumper Park POM is a key strategic document that outlines the current and future use of the park, permissible activities, and key management issues. It also establishes performance targets to be achieved during the planning, design, construction, and ongoing maintenance of works within the park.

Consideration of this document would assist in determining whether the proposal is consistent with the long-term planning and management framework for the park. The document also identifies existing issues relating to soil erosion and flooding associated with stormwater flows during heavy rainfall events, which are relevant considerations for the proposed development and should be addressed as part of the assessment.

Accordingly, it is recommended that the applicant review and address the POM within the planning justification and demonstrate how the proposal responds to the objectives and management outcomes identified in the document.

Landscape Levels, Grading and Drainage

After reviewing the documents noted above, it is observed that a detailed Levels and Grading Plan has not been provided. The submission does not include a plan indicating grading falls, drainage points, or the relationship between proposed landscaping and site grading.

Appendix 13 notes that a gross pollutant trap (GPT) will be installed on the site. However, the documentation does not indicate the proposed location of the trap. The location of this infrastructure should be clearly identified within a Landscape Levels and Grading Plan, which has not been included in the submission.

It must also be noted that there is a pathway that follows the western boundary of the proposal site within Trumper Park. The absence of a Levels and Grading Plan prevents Council from assessing potential hard surface runoff, which could affect the park, including the oval, bushland, and the adjacent pathway along the western boundary. Council also requires details of any proposed drainage points and erosion controls at the interface of the western boundary to demonstrate how rainwater overflows will be managed and mitigated to prevent impacts on the park.

In addition, the Trumper Park POM notes that:

> *"Water flows towards Trumper Oval, contributing to the erosion of topsoil from the steeper slopes. During major flood events, the oval has been inundated. Flows from the oval then spill into Glenmore Road."*

Given the identified erosion, slope instability, and flood behaviour, a comprehensive levels and grading plan demonstrating drainage management across the site is required to adequately assess the proposal. This is particularly important as the proposed development has a significantly larger footprint than the existing buildings. The plan should clearly demonstrate surface falls, drainage points, and the direction of stormwater flows across the site and Trumper Park.

Public Domain and Privacy Impacts Along the Thoroughfare

The proposal states that the existing public footpath thoroughfare adjacent to the western side of the proposal will be "maintained". Currently, the residential apartment buildings are set back from the thoroughfare, providing a degree of separation between private dwellings and the public domain.

Overshadowing - Trumper Park Bushland

The site contains significant threatened species, as identified in the Trumper Park POM. The submitted solar access diagrams indicate that the proposed development will overshadow much of the bushland area between 9:00 am and 3:00 pm on 21 June. However, the diagrams do not illustrate potential overshadowing before 9:00 am or after 3:00 pm, meaning that shadows may extend into Trumper Park outside the displayed hours, threating the long-term health of threatened species.

Overshadowing - Trumper Oval

The proposal shows that the existing tree canopy overshadows approximately half of Trumper Oval at 10:00 am on 21 June. It should be noted that canopy size and conditions change over time and enable speckled sunlight with gaps of sunlight reaching the ground. Consequently, the shadow footprint will also vary. As such, it debatable whether the proposed development's shadow footprint is less than that of the existing canopy.

19) Biodiversity

Council's Environment and Sustainability Team Leader has reviewed the proposal and advised that:

This proposal requires the removal of 152 trees, 114 of which are native. Native shrubs and groundcovers present onsite will also be removed in the clearing of 3518m^2 of vegetation.

The EIS states that 'due to the significant proposed new native plantings and increased habitat opportunities, the development is considered to have a positive impact on flora and fauna within the site and locality' (p121). This claim is disputed, with the extent of impacts outlined below.

As stated in the EIS, the vegetation, rocks and groundcover onsite provide foraging, roosting and nesting habitat for birds, and habitat for small reptiles. The vegetation onsite contributes to local habitat corridors, being part of the habitat corridor linking Sydney Harbour and Rushcutters Bay through Paddington and Trumper Park to Cooper Park. There are also other environmental implications of the tree removal which are not directly related to biodiversity, such as its contribution to the urban heat.

Although the species onsite are planted, the native species (particularly the canopy species) are diverse, well established, and provide significant habitat value. In particular, the Eucalyptus saligna and figs provide important foraging habitat for the vulnerable Grey Headed Flying Fox.

This proposal contributes to the following key threatening processes (Schedule 4, BC Act):

- Clearing of native vegetation.
- Loss of hollow-bearing trees.
- Removal of dead wood and dead trees.
- Aggressive exclusion of birds from woodland and forest habitat by abundant Noisy Miners.

Although the Landscape Plan includes native species, the diversity of species included in the Plan is limited, and there are many non-native species which ideally would be replaced with local natives that are present in Trumper Park.

Impacts on the biodiversity of Trumper Park

The proposal will have an unacceptable impact on the biodiversity values of Trumper Park. Trumper Park, one of Woollahra's Key Habitat Areas, is situated immediately adjacent to the proposed development site. The vegetation surrounding Trumper Park forms part of a habitat corridor supporting local biodiversity and threatened species.

The vegetation currently present on the site of the proposed development acts as a buffer between Trumper Park and the surrounding urban area, protecting the bushland from edge impacts and artificial light and noise.

Impacts on the biodiversity of Trumper Park include:

- Decreased foraging and roosting habitat for native fauna including threatened species
- Loss of hollow-bearing trees, which provide habitat for fauna including threatened microbat species
- Excessive shading of bushland, potentially resulting in an altered vegetation structure and decreased solar access for native fauna, particularly reptiles, insects and diurnal birds
- Increased artificial light into bushland, which impacts the foraging habits of nocturnal fauna and may alert predators to their roost locations
- Increased noise pollution that is likely to result from both construction and the ongoing use of the development. Microbats are particularly susceptible to this disturbance as they rely on echolocation to forage.
- Increased edge effect on the habitat within Trumper Park.

If the development is approved, it is critical that the Construction Environmental Management Plan adequately addresses the containment of sediment from the site during construction, to ensure that no sediment enters Trumper Park. In addition, there must be weed control on the site, to ensure that there is no weed incursion into the Trumper Park bushland.

This is consistent with clause 6.4(c) of the Woollahra LEP 2014, which states:

(c) the development will not cause environmental harm such as—
(i) pollution or siltation of the waterway, or
(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats, or
(iii) an adverse effect on drainage patterns.

Impacts on native fauna

The removal of 114 native trees will have a negative impact on native fauna, including threatened species. The vegetation onsite represents structural diversity with native species present in the canopy, mid-, and under-storey, providing shelter and habitat for a variety of small birds and reptiles. The canopy trees onsite also provide important foraging habitat, particularly for flying-foxes, microbats, and diurnal birds. Predatory birds such as the Powerful Owl may be indirectly impacted due to the reduction in prey availability.

Grey headed flying fox (listed vulnerable under NSW and Commonwealth legislation) forage in the adjacent fig trees, and the site includes a hollow bearing tree which would potentially provide habitat for microbats and other hollow dwelling species. In development of the SBDAR, surveys for microbats were undertaken but 99% were of insufficient quality to enable identification, and issues were noted with the detector functioning and placement (p37 SBDAR). Only one species of bat was identified. These surveys should have been repeated to ensure that accurate data was used in the SBDAR. The SBDAR did state that there is potential for threatened bats to forage and roost on and near the site.

Council's Biodiversity Conservation Strategy states that Trumper Park provides foraging and roosting habitat for threatened microbats – the Large Bent-winged Bat, Large-eared Pied Bat and Southern Myotis. It is highly likely that these species use the habitat on the site of the proposed development.

Table 3 of the SBDAR (p39) details the assessment of threatened fauna species, including microbats. The species assessment for the Large-eared Pied Bat states that 'the subject site is not located within 2km of any cliffs, rocky areas, caves, escarpments, outcrops or crevices. This assertion is incorrect. Trumper Park contains a number of rocky areas and outcrops, and Council records identify the species as occurring at Trumper Park. The proposed development site potentially provides habitat for this species.

The hollow bearing trees onsite are important habitat features for microbats. If the development is approved, removal of the hollow bearing trees must follow the protocol outlined in the SBDAR and the large hollow in the Ficus branch overhanging the site must be retained.

The SBDAR recommends installing replacement nest boxes either on the site or within Trumper Park. Should the development be approved to proceed, it is requested that nest boxes be installed in both locations, with two boxes per removed hollow installed onsite and two boxes per removed hollow installed nearby in Trumper Park.

The actions to alleviate or ameliorate potential impacts outlined in Table 12 (p50) of the SBDAR must be followed, along with the summary measures on p52. As per the SBDAR p50, existing roofs should be removed sequentially to enable any bats to disperse. There may also be bats living inside the existing carpark.

Clearing of the site and construction over the existing vegetated area will also impact on bush rock, which provides important habitat for reptiles. Existing bush rock should be reused onsite in the landscaping plan.

<u>Impacts on native flora</u>

The exceedance of FSR on this site results in excessive removal of native vegetation and loss of tree canopy.

The site includes one threatened species of plant, Syzygium paniculatum. The Arboricultural Impact Assessment Report identified two S. paniculatum onsite and recommended removing them both (tree ID 29 & 78). However, the SBDAR identified only one individual. The SBDAR recommends that the Syzygium Paniculatum be replaced as part of the landscape plan for the site. If possible, the existing individuals onsite should be relocated nearby.

Table 1 in the Arboricultural Impact Assessment Report provides an assessment of the construction impacts on trees. There are a number of trees recommended for removal which, according to the discussion column in the table, could be retained. For example, two Eucalyptus salignas (Tree ID 81 & 82) are recommended for removal, but the Discussion / Comment states: 'To retain the tree in a viable condition, the landscaping within the NRZ will need to be designed via tree sensitive methods to minimise the impact to the trees root system and demonstrate that the impact will be

acceptable.' As these are important habitat trees, every effort should be made to retain them, and the landscape plan should be developed to achieve this.

Recommendation

The extensive native vegetation removal that is required to achieve the bulk and scale of this proposal is unacceptable and will likely have impacts on threatened species and the biodiversity of adjacent Trumper Park, one of Woollahra's Key Habitat Areas. The survey effort in the SBDAR to identify threatened microbat species onsite was inadequate, with equipment not functioning properly.

There are opportunities to improve the proposal, both from a biodiversity perspective and ESD perspective. The scale of the development footprint should be reduced to ensure less vegetation loss. Retention of more trees and other vegetation onsite would protect threatened species habitat, and reduce the impact on the adjoining Trumper Park bushland, and the habitat corridor. The Landscape Plan should include more local native species. Only 69% of the species included on the planting schedule are Australian native species. There is opportunity to increase this, and also to refine the planting list to ensure the native species chosen are endemic, ensuring replacement of some of the habitat that will be lost as a result of this proposed development.

20)Tree Impacts

Council's Tree and Landscaping Officer reviewed the proposal and identified the following key issues:

- Modifications required to the front setback of the proposed development to allow for deep soil and canopy trees to be planted.
- The proposal shall be modified to increase the setback to the south and southwest to minimise impact to trees located in Trumper Park.
- Additional planting will be conditioned to be planted within the front setback of the property.
- A Pruning specification relating specifically to Tree Nos. 37, 177 & 181 located in Trumper Park must be submitted to Council's Tree Management Officer for approval prior to the commencement of works.

These issues are discussed in greater detail below:

Impact to the treescape to the front of the site adjacent to New McLean Road.

The property currently has several trees located within the front setback of the property providing streetscape amenity to the area, including large mature Tree No.77 *Eucalyptus globulus* considered to be of High Amenity and Tree No. 79 *Casuarina glauca* semi-mature specimen in good health and condition considered to be of Medium amenity value.

The applicant was advised to reduce the proposed impact to the trees in 2022 on 8.6 Open Space and Trees of the Pre-Application Consultation Response Ref No.1/2022, and again in 2023:

- *Reduce basement excavation to facilitate the retention of high value trees (in liaison with the Consulting Arborist).*

However, the proposal has not taken into consideration the above-mentioned comments, all trees are proposed to be removed with limited space for planting at the front of the site both in the private and public domain.

Modifications are required to the front setback of the proposed development:

Council's Urban Forest Strategy Project Manager has provided the following comments:

- The proposed façade overhangs the proximity to boundary and provides insufficient space for street trees.
- Given the loss of vegetation, it is recommended that the front elevation shall be setback a further 2m from the New Mclean Street boundary (providing a minimum of 5m setback) to allow for deep soil and canopy trees to be planted.

Additionally, the Landscaper Plans shall be modified to include two (2) locally native additional trees to comply with canopy cover controls. They should be planted within the front setback to offset canopy loss and loss of streetscape amenity in line with the abovementioned recommendation from the Council's Urban Forest Strategy Project Manager.

<u>Impact to trees in Trumper Park and modifications required to the west and south setbacks.</u>

Trees located on adjacent properties shall be retained and protected and impacts to below and above ground tree parts shall be avoided or minimised. However, the proposed building encroaches onto the NRZ of several trees and onto the canopy of Tree Nos. 37 & 177.

Tree No.37 *Robinia pseudoacacia:*

This tree is located within the Trumper Park, adjacent to the property boundary to south. The arborist report indicates the tree has a crown 3.0m in radii. The northern section of the crown is entirely located within the site and is impacted by the proposed building which is located at 1.0m from the property boundary opposite to the trunk of the tree. This means up to 50% of the crown will need to be pruned to allow for the construction of the building envelope and associated works as scaffolding with future pruning anticipated for building clearance.

Tree No.177 *Ficus macrophylla* (Moreton Bay Fig):

This tree is located within the Trumper Park, near the southwestern corner of the site. It is a very large specimen found to be in good health and fair condition and assessed as providing *Very High* amenity value and as having a *Long* Safe Useful Life Expectancy (SULE) on the Arboricultural Impact Assessment Report.

The tree, identified as Fig A, is listed on *5.04 Trumper Park* of the Woollahra Significant Tree Register 2022:

- *These trees (fig A and other fig) are both magnificent specimens of similar size and structure with expansive canopies, though quite distinctive in their degree of buttressing. These trees pre-date the general landscaping to the park and are likely associated with the equally large, but heavily pruned Moreton Bay Figs of Cameron Street, near the pathway to the tennis courts. All these trees are notable as typical of plantings in the 19th and early 20th century. Their size*

and scale lend themselves to grand landscape schemes appropriate for early large estates.

- *These two outstanding figs totally dominate the west-facing and south-facing slopes respectively, of Trumper Oval and are by far the oldest and most significant vegetation in this park. Both figs are in excellent condition and health with strong new growth and a very dense and expansive canopy.*
- *The lush green foliage of these trees continues a general theme throughout the parks of this area and their elevated location makes them visually significant from Paddington and local environs.*

The applicant was advised to reduce the proposed impact to the tree in 2022 on 8.6 *Open Space and Trees of* the Pre-Application Consultation Response Ref No.1/2022, and again in 2023:

- *Reduce basement excavation to facilitate the retention of high value trees (in liaison with the Consulting Arborist).*
- *For trees within Trumpet Park, proposed works must be located outside of the TPZ.*

The plans indicate works are proposed within the Notional Root Zone (NRZ) of the tree which has been calculated in accordance with Australian Standard AS 4970-2025 – 'Protection of trees on development sites' as being 15 metres (radius from trunk).

Architectural Plans Rev A, drawn by FKAustralia, dated 17/12/2025 prepared for the SSD application show that the proposed building provides an encroachment into the NRZ and encroachment into the crown. It has been estimated that approximately 11% of the crown will be required to be pruned for the construction of the building itself. However, there is no doubt that this percentage of crown reduction will increase to more than 17% when considering the installation of scaffolding during construction works, also to provide a minimum building clearance to four units, A-B103 on Basement 01, A-B103 on Lower Ground, A-G02 on Ground and A-0103 on Level 1. Without this reduction, these units would remain entirely shaded by the canopy with no direct sunlight which is contrary to 2.13.2 *Solar pruning principles* of the Woollahra Tree Management Policy.

The proposed impact to the trees, specifically the extent of crown reduction is contrary to Objective 4O-2 *Landscape design contributes to the streetscape and amenity* of the Apartment Design Guide.

- Design responds to the existing site conditions including significant landscape features including trees and rock outcrops.

The proposed impact to the tree, specifically the extent of crown reduction is contrary to C1.2.4 *Desired future character* of Paddington Heritage Conservation Area, which requires development:

a) retains the unique national heritage significance of Paddington and recognises it as a rare and distinctive urban area;
b) retains and promotes evidence of the historical development of the area and enables interpretation of that historical development;

The proposed impact to the tree, specifically the extent of crown reduction is contrary to the following objections and controls of C1.4.8 *Private open space, swimming pools, courtyards and landscaping* of Paddington Heritage Conservation Area:

- O6 To ensure that the design and use of private open space areas has regard to environmental impact, impact on the fabric of adjoining properties, infrastructure, and on the amenity of the occupiers of adjoining properties.

- O7 To ensure that trees and other vegetation do not have an adverse impact on the fabric of buildings, and that works have no or minimal adverse impact on the amenity of the occupiers of properties.
- C19 Trees and shrubs at maturity should not have an adverse impact on the fabric of buildings, infrastructure, powerlines or other structures, and have only a minimal adverse impact on the amenity of the occupiers of properties.
- C20 Where prescribed trees are to be retained, structures are setback so they do not impact on the health of the tree.

The proposed impact to the tree, specifically the extent of crown reduction is contrary to the following Objectives and Controls of B 3.7.1 *Landscape area and private open* space of the DCP 2015:

- O1 To ensure that the areas outside the building contribute to the desired future character of the location.
- O9 To ensure that landscaping contributes positively to the streetscape and the amenity of adjoining residents.
- C17 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.

The proposed impact to the tree, specifically the extent of crown reduction is contrary to the following Objectives and Controls of Chapter E3 – *Tree Management* of the DCP 2015:

- O3 To promote, maintain and conserve the leafy character of the Woollahra Municipality.
- O4 To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.

The proposed impact to the tree, specifically the extent of crown reduction does not comply with 3.2 *Assessment criteria for approving removal* of the Tree Management Policy 2011:

- The tree's health, growth habit, stability and structural soundness and the condition of the ground it is in.
- The effect on the landscape or streetscape and the tree's amenity value to the local area.
- Whether the tree forms part of a green corridor or a streetscape theme planting.

Modifications required to the rear setback of the proposed development:

For trees within Trumper Park, proposed works must be located outside of the NRZ and outside of the canopy drip line to avoid pruning. This is shown on the Architectural Plans Rev A, drawn by FKAustralia, dated 17/12/2025.

<u>Canopy Cover & Deep Soil</u>

Regard has been given to the *Tree Canopy Guide for Low and Mid Rise Housing*. For residential flat buildings and shop-top housing, the deep soil and tree planting in Table 6 or Table 7 should be applied across the whole development. For a site area lager than 1,500m^2, tree canopy is required to cover a minimum of 20% and for every 575 m^2 of site area, or part thereof, plant at least 2 medium trees or one large tree in the deep soil area.

The DCP and ADG both outline that the deep soil landscape areas should be free of above ground and underground services. As per 3E of the ADG, Deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas. This will mean that healthy tree and vegetation growth will be restricted due to services occupying areas where planting is proposed. No Services Plans have been provided.

Apartment Design Guide (ADG) Objective 4O-2 recommends that the proposed landscape design includes trees and plants endemic to the region, reflecting the local ecology. A medium size tree is defined as a tree that can reach 9-12m in height and 8m in width canopy as per Table 2 of 3E Deep soil zones of the Apartment Design Guide.

Tree Canopy Guide for Low and Mid Rise Housing (the Tree Canopy Guide) aims to enhance tree canopy cover which in turn contributes positively to the existing and desired future character of the locality. In addition, trees and in particular canopy trees, are critical in mitigating localised warming and provide a number of environmental, social and economic benefits.

The submitted Landscape Plans indicate that the new canopy has been estimated as 19.1% of the area of the western lot which is equivalent to 533.15m^2. This seems to be provided by a number of trees including mature Livistona Cabbage Palms throughout the site to establish canopy structure and coverage at the earliest stages of the project.

An additional 25m^2 is required in order for the Tree Canopy Guide controls to be satisfied. Two (2) additional medium size trees endemic to the region will be conditioned to be planted within the front setback of the property where environmental conditions are most suitable and to compensate loss of streetscape.

Councils Planning staff provide the following additional comments in relation to tree impacts:

- No approval should be granted for the removal of trees from the eastern section of the site under the subject SSDA.
- The removal of trees from the eastern section of the site should form part of the detailed development application for the eastern site, so it can be accurately determined if the tree removal is reasonable based on the building footprint and detailed design.
- This is of particular importance as both the eastern and western sections of the site propose the removal of a large number of trees which were identified for retention under the SJB report (refer to section 11 for further details).
- The landscape plans indicate that only 11 trees will be retained within the entire site.
- The SSDA identifies that the proposal will provide canopy which is 19.1% (533.15m^2) of the area of the western site. The SSDA does not identify the existing tree canopy area within the site, but the BDAR does identify that the approximately 3158m^2 of native vegetation will be cleared (refer to Figure 7 in the BDAR. It is clear the proposal would result in a significant reduction to the existing tree canopy.
- Whilst the proposal is not relying on the LMR provisions, the Tree Canopy Guide indicates the canopy provisions that would apply to surrounding sites within the LMR housing areas. The Tree Canopy Guide is clear that existing canopy can contribute to achieving the targets and the guide should not be used to justify tree removal or a reduction in canopy cover.

- The EIS should clearly identify the proposed reduction to the area of the existing tree canopy.
- The proposed canopy calculations contained within the Landscape Plans are inaccurate for the following reasons:
    - The proposed tree canopy adjacent to the western side of the loading dock, which encroaches over the proposed building footprint is included in the calculations. In this section the building is 10 storeys high, so it is unfeasible for the tree canopy to overhang the building. Refer to Figure 19 below.
    - In many locations the proposed tree canopy is shown to abut the balconies of the building. The tree canopies will require pruning to maintain clearance from the building or will be replaced with smaller species that can actually be accommodated within the limited setbacks provided.
    - The tree canopy calculations include the section of tree canopy of T107, which overhangs the site from its location within Trumper Park. As identified above, the proposal would necessitate the removal of this section of the canopy to accommodate the building. It is therefore inappropriate to include canopy which will be removed due to the provision of the 5-storey building in this location. Refer to Figure 20 below.
    - If the canopy was calculated based on the actual feasible canopy that will exist post development, it is estimated that the proposed canopy area would be closer to 15% of the site area.
    - This confirms the proposed design has provided insufficient setbacks to enable the retention of existing trees and the provision of sufficient replacement canopy.
- Most proposed replacement species are identified as having a canopy diameter of approximately 2m at maturity, representing very small canopy trees that make a limited contribution to overall canopy coverage and will provide limited shade, ecological value and visual amenity and landscape character. The Tree Canopy Guide defines a small canopy tree as one having a minimum diameter spread of 6m. The guide also states that “Deep soil zones with a minimum dimension of 3m allows sufficient space for the planting and healthy growth of new trees that provide canopy cover and assist with urban cooling and infiltration of rainwater to the water table”. Almost half of the proposed “canopy trees” are not located in deep soil areas greater than 3m wide.
- The provision of tree canopy to the New Mclean Street frontage has been compromised due to the provision of the vehicular access, substation and paved private open space within frontage.
- A greater area of tree canopy could easily be provided within the site if the proposal was to accord with the setback requirements identified in the site-specific draft DCP, which were developed in part to ensure the retention and provision of appropriate landscaping.
- The SSDA is contrary to the following objectives of the WLEP:
    - 1.2 (n), which aims to encourage the retention and planting of trees and other vegetation as part of development and minimise the urban heat island effect.
    - To ensure development conserves and enhances tree canopy cover in accordance with the objectives of the R3 zone.

Figure 19: Extract from Tree Canopy Area (adjacent to loading dock)
Source: Wyer and Co

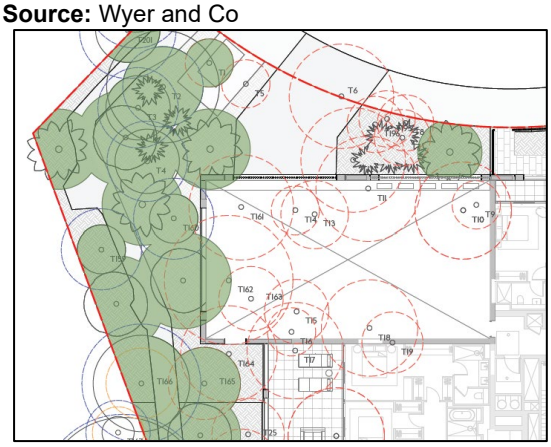
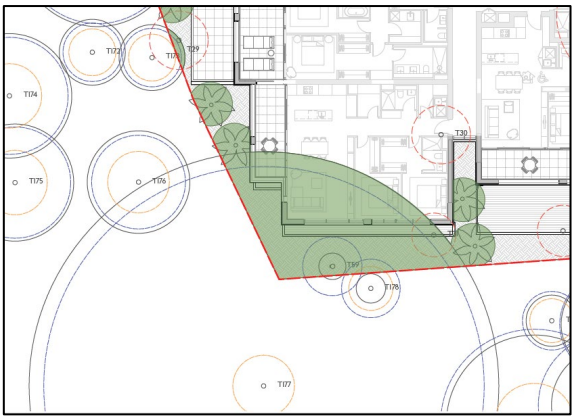


Figure 20: Extract from Tree Canopy Area (Tree T107)
Source: Wyer and Co



Tree damage security deposit

Considering tree value and average tree replacement costs, a nominal value of $10,000.00 shall be applied to tree Nos. 37 & 181. As per Thyer Tree Evaluation methodology, the value of Tree No. 177 is $150,000.00.

Without prejudice conditions of consent are included at Annexure A.

21)Earthworks

Objective 1.2 (m) of the WLEP aims to 'minimise excavation and manage impacts.

Section 6.2 (earthworks) of the WLEP aims to ensure that earthworks and associated construction dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Section 6.2 (3) sets out a number of matters that the consent authority must consider when deciding whether to grant development consent for earthworks and associated construction dewatering.

A Geotechnical Report by Morrow, Ref: P2868_02 Rev 3, dated 5 December 2025, has been submitted in support of the application. The vibration control limits specified in the report are inconsistent with C8 of Chapter E2.2.10 of the WDCP. To ensure compliance with section 6.2 of the WLEP, it is requested that the DPHI seeks an amended geotechnical report with the vibration limits revised to ensure compliance with Council's DCP.

The proposal provides five excavated basement levels, which includes 140 car parking spaces.

The excessive car parking provision fails to minimise excavation, ensure sustainable transport outcomes, minimise adverse impacts to the road network, or support the NSW Government's aim of creating walkable communities.

To reduce excavation, support sustainable transport outcomes, and provide sufficient excavation setbacks to accommodate adequate deep soil landscaping, a maximum of 62 car parking spaces should be provided, and 2 spaces should be allocated for car share use.

22)Parking Provision

The parking provision for the proposal has been assessed with regard to State Environmental Planning Policy (Housing) 2021 and Council's *DCP 2015 Chapter E1 Parking and Access* and *Chapter B4 Housing in Accessible Areas*.

Table 1: Car Parking Provision

SEPP (Housing) 2021 Non-Discretional Minimum Requirement			
Dwellings used for affordable housing			
	Quantity	**SEPP Minimum Requirement per Unit**	**SEPP Minimum Requirement**
2 bedrooms	1	0.5	0.5
3 bedrooms	1	1	1
Dwellings not used for affordable housing			
	Quantity	**SEPP Minimum Requirement per Unit*[1]**	**SEPP Minimum Requirement**
2 bedrooms	23	1	23
3 or more bedrooms	40	1.5	60
Total requirement			85
DCP Maximum Control – Housing in Accessible Areas*			
	Quantity	**DCP Maximum Requirement per Unit**	**DCP Maximum Permitted Parking**
2 bedrooms	24	0.6	14.4
3 or more bedrooms	41	1	41
Visitors	65	0.1	6.5
Total Permitted			62

*The site is within 400m walking distance of Edgecliff Station and Town Centre.

The proposal includes 134 car parking spaces, which substantially exceeds the minimum requirement of SEPP (Housing). Noting the site is immediately adjacent to Edgecliff Train Station and has convenient access to public transport services, the proposed parking provision is considered excessive and contradicts the state government's goal for an environmentally sustainable growth, and its Travel Demand Management strategy to increase the mode share of alternative transport and reduce the use of single-occupancy vehicles.

Due consideration should be given to Council's DCP. At its meeting of 23 February 2026, Council resolved to approve the DCP Amendment (integrated to a new Chapter B4) to strengthen provisions for housing in accessible areas (land subject to the low and mid-rise housing reforms). The amended DCP was developed in line with Housing SEPP's overarching strategy to suit the locality and minimise adverse impacts on the local road network to reduce emissions and alleviate congestions, which sets the below objectives:

- O1 To minimise resident and visitor parking in locations that are identified as having good accessibility to public transport.
- O2 To minimise vehicular traffic generated by development.
- O3 To provide a rate of parking that encourages the use of public transport.
- O4 To reduce the reliance on private vehicles and the corresponding traffic impact on the road network.
- O5 To manage transport demand in a sustainable manner.
- O6 To minimise risks and impacts relating to excavation, subterranean buildings and dewatering works

The parking provision should be reduced to a total of 62 parking spaces, as detailed in the above table. A minimum of two (2) parking spaces should be allocated for car share use, to accommodate residents' day-to-day transport needs and increases the mobility of people using the service with a reduced private car ownership.

This approach is consistent with the ADG which advises that car parking provision should be provided based on the proximity to public transport.

Council's planning staff also question the efficiency of the car park design. At basement levels 02, 03, 04, and 05, the proposal appears to provide excessive space around the supporting columns in the basement (refer to Figure 21 below). A more efficient design would enable a reduction to the excavation and increased setbacks for deep soil landscaping.

Figure 21: Basement 04 Plan with space around supporting columns highlighted in red.
Source: Plan FK. Annotations Council Staff

The car parking provision referenced in the Transport Impact Assessment and the EIS are inaccurate and do not reflect the car parking provision shown on the architectural drawings. Both documents identify that the proposal provides 134 car parking spaces (118 residential and 16 visitor spaces). However, the architectural drawings show 140 spaces (34 spaces at level B05, 34 spaces at level B04, 34 spaces at level B03, 33 spaces at level B02, and 5 spaces on the lower ground floor).

The difference in total car parking spaces can be attributed to the 6 x 'Utility' car parking spaces provided at level B02 (refer to figure 22 below). There is no reference or assessment of these utility spaces within the Transport Impact Assessment or the EIS. These spaces should be deleted.

Figure 22: Basement 02 Plan with 6 x utility spaces highlighted in red.
Source: Plan FK. Annotations Council Staff

23)Traffic Generation

Councils Traffic Engineer has advised:

Traffic Volume

Traffic generation from the proposed development has been calculated in accordance with TfNSW *Guide to Transport Impact Assessment (2024) – TS 00085*.

Existing Development

High Density Residential – High Public Transport Accessibility (TfNSW Guide)

- Weekday peak hour vehicle trips: 106 dwellings x 0.15-0.19 per dwelling = 15.9-20.1 trips
- Daily vehicle trips: 106 dwellings x 1.52 per dwelling = 161.12 trips

Traffic Site Survey Data

- Weekday peak hour vehicle trips = 16 trips ≈ 0.151 trips/dwelling
- Weekend peak hour vehicle trips = 20 trips ≈ 0.189 trips/dwelling

The applicant's traffic consultant undertook on site travel counts which indicates the current vehicular traffic volume is very similar to the results calculated from TfNSW's travel model for high density dwellings in high public transport accessibility. The traffic report continues to use the above generate rate to calculate future traffic however Council's Traffic Team queries the validity of such method.

The current unit mix or the exact number of onsite parking provision is unclear however site inspections indicate the current use only allows access to either one (1) or no onsite parking space for each unit. This is typical for high-density dwellings noting it close proximity to public transport services and is considered consistent with the developments that were surveyed by TfNSW to inform the travel model in the *Guide*. The parking provision, in addition to on-street permit parking restrictions, have served as effective travel demand management measures which contribute to a relatively low traffic generation rate.

This proposal however significantly increases onsite parking provision, equalling to over two (2) spaces per unit, and fails to provide any travel demand management measures to reduce use of private vehicles.

Proposed Development

Table 2: Traffic Generation

	Low Density	**Medium Density**	**High Density[1]**	**High Density[2]**
Traffic Generation Rate	0.68-0.77 per dwelling	0.37-0.39 per dwelling	0.2 per car parking space	0.15-0.19 per dwelling
Quantity	65 dwellings	65 dwellings	134 parking spaces	65 dwellings
Future Traffic Generated	44.2-50.1	24.1-25.4	26.8	9.8-12.4
Share of Car-based Travel	91%	51%	79%	37%

[1] with Low Public Transport Accessibility

[2] with High Public Transport Accessibility

Table 2 presents the comparison of traffic generation for different types of developments, which identifies significant increase of vehicle trips for lower density dwellings as well as high-density dwellings with low public transport accessibility. This indicates that travel behaviour and the number of vehicles trips are strongly related to level of reliance and ownership of private vehicles, which are directly impacted by the number of onsite parking provision.

It is noted that a preliminary Green Travel Plan (GTP) is developed and included in the traffic report, however effectiveness of these plans during implementation largely relies on a 'carrot and stick' approach, which requires both incentives (e.g. active travel infrastructure) and restrictions (e.g. limited parking) to encourage shift of travel preferences. The proposal includes no restriction and limited incentive except for onsite bicycle parking and in addition, GTP actions proposed in the traffic report are mainly for staff management, including flexible commuting, tenant/champion to coordinate travels and promotion via staff induction pack, which appear to be related to the original

planning proposal where retail/commercial components are included. Noting the proposal is for a purely residential development, these actions are not relevant or effective.

It is therefore considered that the proposal in its current form will result in travel behaviours similar to high density dwellings with low accessibility to public transport services, and the higher traffic generation rate should be adopted to consider future traffic impacts.

The traffic report gives no consideration to the impact of extensive parking provision or the induced car travel demand and yet adopts a further reduction rate of vehicle trips based on the assumption that 22% of future travel will be using cars, including 2% as car passengers and 20% as car drivers. This is substantially lower than TfNSW's car share mode even for dwellings with high public transport accessibility and lacks factual evidence or quantifiable analysis to support the assumption.

The traffic generation rate in the traffic report is therefore considered a significant underestimate of future traffic volume.

Traffic Performance

Traffic report doesn't provide SIDRA analysis for the intersection performance and relies on the results submitted at Planning Proposal stage. Noting the proposal has been significantly amended, the original results are not applicable to the current SSDA.

Regardless, it should be noted that New Mclean Street is a no-through road, and all future traffic will require access to the intersection of New South Head Road, New Mclean Street and Darling Point Road which is already operating at capacity and traffic performance is highly sensitive to any additional traffic. The proposed provision of 134 car parking spaces will further exacerbate the traffic congestion, which is associated with higher, more chaotic, and unpredictable accident rates and further reducing overall network stability, not to mention the cumulative impacts of the eastern lot which has a much larger scale and is yet to be planned.

It is noted that this proposal will create two (2) lots at this site, including the eastern lot of 4435.6m^2 and the western lot of 2790.3m^2, with this SSDA commences development for the western lot and a future SSDA for the eastern lot. If similar level of parking is proposed for the future eastern lot, which is approximately 1.6 times the scale of the western lot, the cumulative impact will be detrimental. Council's Traffic & Transport Engineers raise serious concerns on the adverse traffic impact of the development as it is envisaged to exacerbate the traffic conditions on the surrounding road network.

It is therefore imperative that on-site car parking provision to be reduced, to mitigate the adverse impacts. It is also requested that the applicant refer to Council's Edgecliff Public Domain Strategy and Active Transport Plan, to develop, implement and maintain, to the satisfaction of Council's Engineering Services Department, the active transport infrastructure upgrades near the site to facilitate alternative transport modes and reduce adverse traffic impacts.

24) Vehicular Access

Proposed Vehicular Access

The proposed 6.1m-wide vehicular access complies with the width requirement for a Category 2 access facility, as stipulated in AS 2890.1. In light of the high traffic volume, it is requested that all vehicles access and egress the site in a left-in-left-out manner to reduce conflicts with frontage road traffic. To reinforce the restrictions, the applicant is to develop and implement concrete centre median island, to the satisfaction of Council's Engineering Services Department, to deter illegal movements.

It is also noted that the existing parking restrictions need to be updated to accommodate the future vehicular crossing. Applications should be lodged with Council's Traffic & Transport Team to be reviewed and approved by Local Transport Forum. All costs associated with the signage updates should be fully borne by the applicant.

The gradient of the access driveway complies with the standard and is considered acceptable.

The traffic report indicates that queuing would occur at access point in New Mclean Street beyond property boundary. It is therefore requested that a traffic signal system be incorporated to manage the traffic between ground level and basement car park and minimise interruptions to the frontage road traffic. Traffic light system should be incorporated and must be installed at each level of car park, to ensure priorities are given to vehicles entering the site. Waiting bays should be provided accordingly at each level with a minimum dimension of 2.4m x 6.0m and a maximum gradient of 1 in 20.

Future Vehicular Access to the Eastern site

The indicative plans, Traffic and Transport Assessment and site-specific draft DCP which accompanied PP-2023-1648 proposed the consolidation of the two existing driveway crossovers on New Mclean Street to a single point of access located adjacent to the north-eastern corner of the site. It was identified that this should:

- Improve the public realm and safety outcome for pedestrians in the area
- Locate the access driveway towards the eastern end of New Mclean Street where sight distances to oncoming vehicles and pedestrians are strong.

In the contrast the proposal will necessitate the provision of two driveway crossovers. The proposed driveway crossover to the western lot, is located at the north-western corner of the site contrary to the provisions of the site-specific draft DCP.

Council's Traffic Engineer has advised:

Noting the short length of New McLean Street with frequent driveways servicing the Edgecliff Station car park and unit blocks which yield substantial traffic volume, it is line marked with sections of concrete median islands with the intention to deter right-turns or U-turns along the road and reduce conflicts. This is to improve road safety and minimise queuing spillback to the intersection. Vehicles are however permitted by the Road Rules to cross these barrier (double solid) lines if they are directly accessing a property. Another vehicular access undoubtedly will put more pressure on this road as

there will be additional traffic weaving in a short section of road, noting the size of the Eastern site it is very likely that it will generate more traffic.

A consolidated access would be preferred as any additional crossing will create conflict points and take away more parking. In addition, the eastern driveway will be closer, if not immediately adjacent to the pedestrian crossing, which will create safety issues.

25) Service Vehicles

A dedicated service vehicle bay is proposed near the access point with a turntable to assist with vehicle movements. The service bay is capable of accommodating a 6.5m Small Rigid Vehicle (SRV) and it is indicated in the traffic report that future waste collection will be undertaken by a private contractor using SRVs.

It is unclear if such a requirement can be achieved however it should be noted that the proposed area does not have the capacity to accommodate Council's waste collection vehicles and any waste can only be collected kerbside, and onsite building manager or other responsible staff must be responsible to wheel out the bins for collection.

Council's Planning Staff note that the proposal incorporates a loading dock with a 7m turntable on the ground floor and a further 2 x B85 loading spaces on lower ground floor. The provision of the two B85 loading spaces is excessive given that it is proposed to provide each unit with 1-2 car parking spaces.

26)Overshadowing

Amended shadow diagrams should be provided that clearly depict:

- The accurate location of Trumper Park Oval
- The shadows cast by existing vegetation at hourly intervals.

The proposed overshadowing is unsatisfactory as:

- The non-compliances with the proposed height (RL 63) and site-specific draft DCP building envelope results in greater overshadowing to Trumper Park than that which was envisaged under PP-2023-1648.
- Breaches of the site-specific DCP building envelope should not be supported as the proposal results in excessive shading of bushland. This has the potential to result in an altered vegetation structure and decreased solar access for native fauna, particularly reptiles, insects and diurnal birds.

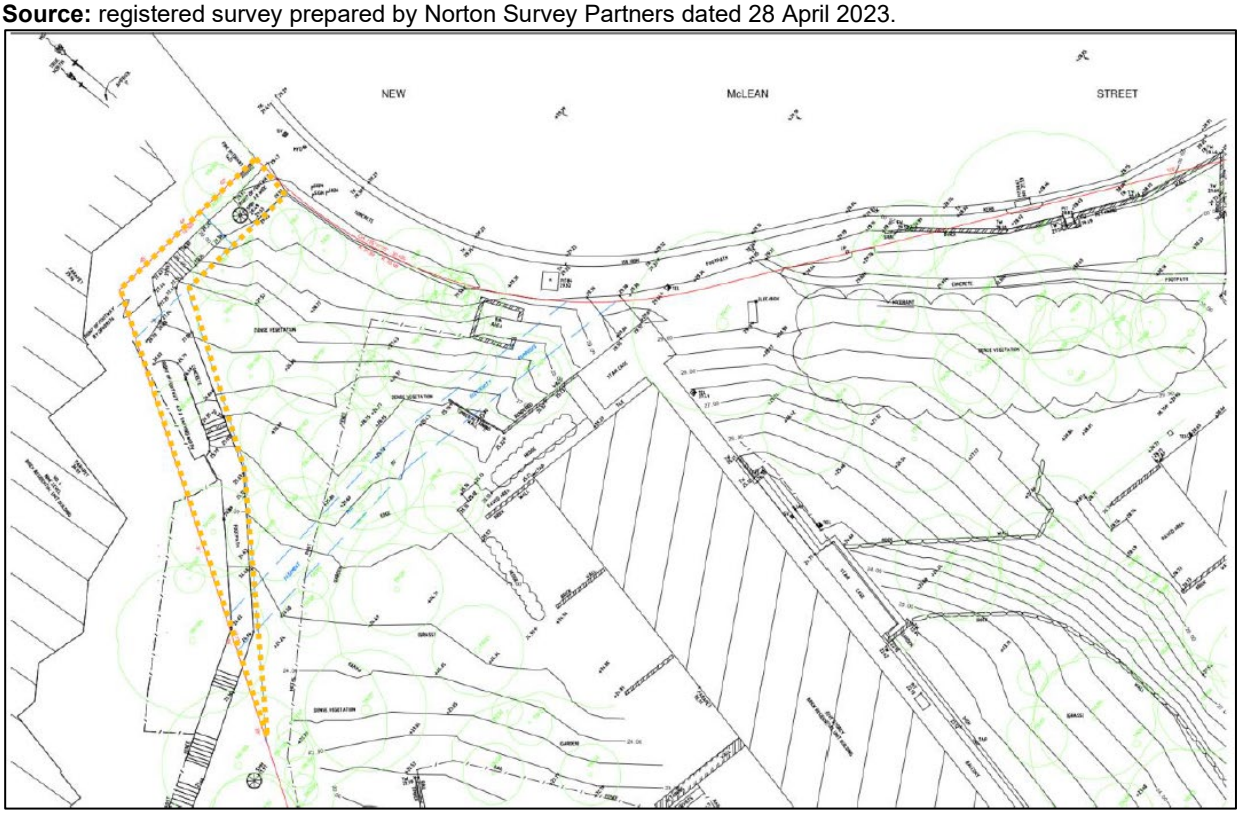
The proposed overshadowing of Trumper Park should be considered with heightened sensitivity due to the potential accumulative overshadowing impacts because of the current state led rezoning of Edgecliff.

27)Public Pathway Within the Site

A public right of footway (public pathway) is located within the northern corner of the site, which connects New Mclean Street to Trumper Park. The public pathway is highly used by Edgecliff residents accessing Trumper Park and Paddington residents accessing Edgecliff station.

The EIS includes an extract of the registered survey which indicates the public pathway. Refer to figure 23 below.

Figure 23: Extract from registered survey. Dashed orange outline indicates public rights of footway.
Source: registered survey prepared by Norton Survey Partners dated 28 April 2023.



Council's Property section has reviewed the proposal and advised:

Public Interest and Orderly Development of Land

Council submits that consideration should be given to the interaction of the proposed development with the public pathway to Trumper Park, and the agreement of the current owners of the Site to create a lot from the current common property which includes the path and approximately corresponds to the existing easement over the path (**Pathway Lot**), and dedicate the Pathway Lot to Council to form part of Trumper Park.

Those matters should be taken into account in the consideration of the public interest under s4.15(1)(e) of the *Environmental Planning & Assessment Act 1979* (**EPA Act**), which is informed by the objects of the EPA Act, which in turn include the 'orderly development' of land.

Background:

In 2018 the Owners of SP 19963 (the neighbouring property at 4 Edgecliff Road) and the Owners of SP20548 approached Council raising concerns about the expense to them of maintaining and insuring a public pathway to Trumper Park located on the Common Property of both Strata, over which there was (and still is) an existing easement benefitting Council. The easement is shown hatched in blue on the Ground Floor Plan DA-100, prepared by FK in Annexure 6 to the SSDA.

The Strata Owners proposed that Council relieve them of the financial burden and acquire a lot created from the common property, containing the pathway from the Strata Owners. On 10 December 2018 Council resolved to enter into a Deed of Agreement with the Strata Plan Owners of SP 19963 and SP 20548 for acquisition of the land. A

copy of the Council resolution taken and the FC&S Committee report 3 December 2018 is attached at Annexure G and Annexure H.

Pursuant to the Council resolution a Deed of Agreement was entered into with the Owners of SP 19963 and SP 20548 on 27 March 2020 allowing for the acquisition of the Trumper Park access pathway lot (**Deed**). A copy of the signed Deed is attached at Annexure I.

In accordance with the steps laid out in the Deed, Council obtained Development consent DA 596/2021/1 dated 17 March 2022 for the subdivision of the Strata SP19963 & SP20548 Common Property area to create the lot containing the pathway (**Subdivision Consent**). I note that this consent will lapse on 16 March 2027. A copy of the consent is attached at Annexure J and the approved plans at Annexure K.

The next step of obtaining a Subdivision Certificate for the Strata Subdivision has been fraught with difficulty and despite obtaining the Owner SP 19963 (No.4) consent in November 2023 the Owners of SP 20548 (8-10) have not been forthcoming to date in providing consent for the Subdivision Certificate, despite significant attempts by Council, including through its lawyers, to engage with the owners of the Site, and the current applicants.

Council currently has a caveat over the Site to protect its interests under the Deed.

Current status:

It is important that in any redevelopment of this Site at 8-10 New McLean Street, Edgecliff that the existing public access pathway to Trumper Park is preserved and protected.

The SSD-80626208 proposal is for demolition of the existing structures on 8-10 New McLean Street and subdividing the land into 2 lots with the smaller western lot of size 2,790 sqm containing a 65 apartment residential complex. The existing Trumper Park public pathway is depicted on the Ground Floor Plan DA-100, prepared by FK in Annexure 6 to the SSDA, with the easement depicted by blue hatching.

The proposed development comes close to the Trumper Park public access path but does not encroach upon the existing easement.

Whilst the built form of the proposed development does not encroach on the easement over the pathway, it is in close proximity to the pathway.

It is also important that in any redevelopment of the Site, the ability to dedicate the pathway and the implementation of the Subdivision Consent is not compromised

The SSDA also proposes a two lot subdivision of the Site. If the SSDA were granted consent in its current form, this would pose difficulties for the implementation of the Subdivision Consent. If the Pathway Lot is not created before the grant of consent to the SSDA, and registration of the subdivision plan to give effect to the SSDA will result in a different lot configuration to the configuration which currently exists on the site, with the effect that implementation of the Subdivision Consent to create the Pathway Lot would be difficult.

This could require modification of the Subdivision Consent, or a new development consent, preparation of a new plan of subdivision, and subdivision certificate, and further meetings of owners corporations for provision of owners consent and consents to registration of the plan of subdivision.

It is inconsistent with the objective of the orderly and economic development of land, for the SSDA to be granted consent, given the impacts on the planning process which has been followed to date to ensure the Pathway Lot is created and transferred into Council's ownership.

Council is the most appropriate owner for the pathway. It is in the public interest for Council to own and maintain this access to Trumper Park. It is also for the benefit of the existing and future owners of the Site and SP19963 that Council has ownership of the pathway to ensure that the obligations for maintenance of the pathway lie with council, and not private landowners. As noted above, it was the current owners of the Site and adjoining property that instigated the proposal for Council to take ownership of the pathway.

Clearly the Subdivision Consent itself does not require the owners of the Site to implement it, but the Deed does, and this should be considered as part of the public interest.

It is accepted that past unauthorised actions are not relevant to a planning assessment. However, no benefit should be derived from past unlawful acts: *Jonah Pty Limited v Pittwater Council* [2006] NSWLEC 99. In this case, there is no unlawful development, but a failure of the owners of the Site to comply with the Deed and implement the Subdivision Consent. They should not receive a benefit through the grant of consent to the SSDA which makes further enforcement of the Deed and achievement of the most appropriate planning outcome for the pathway more difficult.

The best planning outcome for the community, consistent with the objective of promoting orderly development, is for the Pathway Lot to be created in conjunction with the proposed subdivision in the SSDA, and for that lot to be dedicated to Council.

Council considers the best way to achieve this would be for the applicant for the SSDA to amend the SSDA to propose the creation of the Pathway Lot. If the notation '*public reserve'* were included on the proposed plan of subdivision, on the Pathway Lot, then on registration of the plan of subdivision the Pathway Lot would be vested in Council pursuant to s49 of the *Local Government Act 1993*. There is no constraint on the grant of consent to such a subdivision plan: see *Canterbury-Bankstown Council v Hamptons Property Services Pty Ltd* [2025] NSWLEC 41.

Clearly no condition specifically requiring the dedication of the Pathway Lot can be imposed in the absence of such a notation on the plan of subdivision, or a planning agreement: *L & G Management Pty Ltd v Council of the City of Sydney* [2021] NSWLEC 149.

However, if the applicant will not amend its plan of subdivision to include the Pathway Lot as a pubic reserve, Council requests that, at the least, any consent be granted subject to a condition that the plan of subdivision granted consent by the Subdivision Consent (which creates the Pathway Lot) be registered before the subdivision proposed in the SSDA can proceed.

Such a condition could read as follows:

The subdivision certificate cannot be issued until the plan of subdivision the subject of DA596/2021/1 has been registered.

Although this will not ensure dedication of the Pathway Lot to Council, it will at least ensure that the Pathway Lot is created, and there will be no need to commence the planning process again for creation of that lot.

Council's preference would be for the SSDA to be amended to provide for the creation of the Pathway Lot as a public reserve to enable its automatic vesting in Council.

It is noted that the advice contained within this section does not prevail over the advice contained within section 4, which advises that consent should not be granted for the proposed subdivision of the site into two allotments (the western and eastern sites).

Impact on public footway

Figure 24 below depicts the building footprint permitted under the site-specific draft DCP in a dashed orange line. The proposed exceedances of the building footprint, at the northern corner of the site adjacent to the public footway, are depicted in yellow, and reduction to the building footprint is shown in green.

Figure 25 below details the proximity of the public footway to the proposed substation and the proposed vehicular access to the site. Noting that the provision of a freestanding substation and locating the vehicular access to the northern corner of the site are contrary to the requirements of the site-specific draft DCP (refer to section 13).

The breaches of the building footprint and the location of the substation and vehicular access adjacent to the public footway entry would have a detrimental impact of the amenity of the public footway in terms of sense of enclosure, visual amenity, and pedestrian safety.

Figure 24: Annotated ground floor plan
Source: Floor plan FK. Annotations Council staff

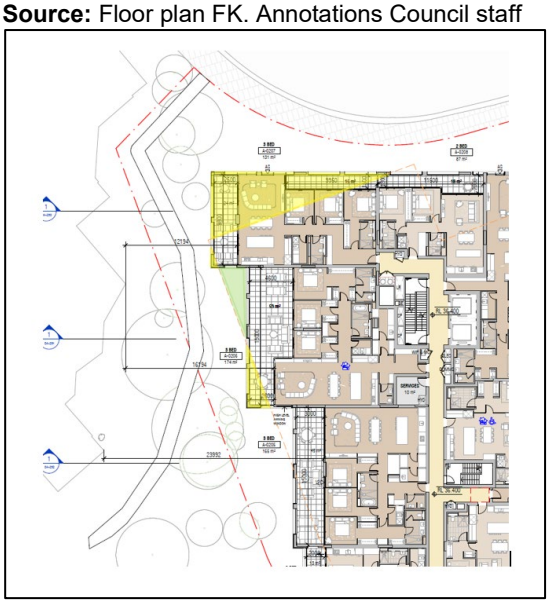
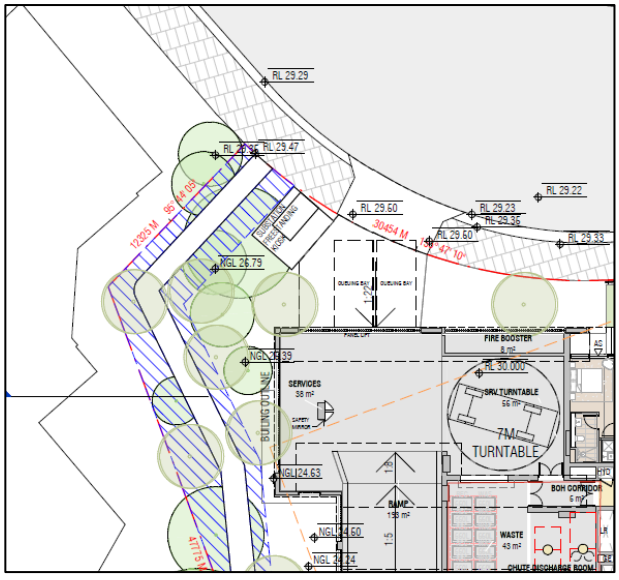


Figure 25: Extract level 2 floor plan
Source: FK



The wind assessment recommends an awning is constructed to the western side of the building to mitigate adverse wind impacts. The awning has not been depicted on

the architectural drawings, and it has not been demonstrated that the recommended awning would not conflict with the public footway.

28)Privacy

This is addressed under section 12.

As discussed, it is recommended that building separation distances and setbacks should be measured from the site boundary, consistent with the ADG requirements, and not from the existing building outline on the adjoining site.

29) Views

The Visual Impact Assessment (VIA) makes no assessment of the impact upon private views.

PP-2023-1648 considered the impact of views upon No. 3 Darling Point Road. The VIA fails to consider the impacts of the SSDA upon the views to No. 3 Darling Point Road, or the future views to No. 1 Darling Point Road (approved under SSD-76855210). The VIA should be amended to consider private view impacts.

30)Wind Assessment

The SEARs states that the SSDA must:

> *Assess amenity impacts on the surrounding locality, including solar access, visual privacy, view loss and view sharing, as well as wind, lighting and reflectivity impacts. A high level of environmental amenity for any surrounding residential or other sensitive land uses must be demonstrated.*

The site-specific draft DCP states:

> *An Environmental Wind Assessment must be provided to demonstrate acceptable pedestrian level wind conditions on and around the site. The assessment is to be prepared by a suitably qualified wind engineer, and include modelling of the detailed design and appropriate ameliorations for negative effects from impacts such as high pressure on entry doors and potential for internal flow issues, high winds on roof terraces and balconies, Helmholtz resonance, and local wind conditions for stationary activities.*

The SSDA is accompanied by a wind assessment. The wind assessment includes no modelling of the detailed design. Instead, the report advises that the conclusions of the report can be quantified using wind tunnel testing analysis.

The wind assessment identifies that the following locations may not comply without appropriate mitigation:

- New Mclean Street pathway
- Communal open space at level 5
- Elevated corner balconies

The wind assessment recommends:

- Retain the proposed trees and landscaping within and around the development to mitigate local wind speeds. All planting should consist of evergreen, densely foliating species to ensure year-round effectiveness.
- Windbreaks and additional large-canopy trees along the footpath.
- An awning along the west side of the building.
- A 1.8m vertical windbreaks to the communal open space.
- Additional shielding to the corner balconies with further detailed design stage investigation.

The mitigation measures are not detailed on the architectural drawings to enable an assessment of whether they are appropriate. The following concerns are raised with the proposed mitigation measures:

- The current design removes all existing established canopy trees from the New Mclean Street frontage and provides insufficient space and deep soil landscaping for the required large canopy trees.
- The proposed landscaping plans do not include dense landscaping to the frontage.
- Figure 12 in the wind assessment report proposes trees which block/are in conflict with the vehicular access, substation and pedestrian entry.
- No awning is depicted to the western elevation. This would likely conflict with the pubic footway across the site and the three existing trees which are proposed for retention on the western section of the site.
- The 1.8m high vertical windbreak to the level 5 communal open space would further breach the site-specific draft DCP building envelope.
- The proposed shielding to the corner balconies should be determined to enable an assessment of the proposed shielding.

The wind assessment should be amended to include wind tunnel testing analysis. Any proposed mitigations should be detailed on the architectural drawings.

31) Services and Plant

Documentation should be provided to demonstrate that the size of the service and plant areas are not excessive.

The location of the proposed substation to the New Mclean Street frontage immediately adjacent to the entrance to the highly used public footway is inappropriate.

32) Acoustic Impacts

Council's Senior Environmental Health Officer has recommended conditions of consent which are included at Annexure A.

33) Acid Sulfate Soils

Council's Senior Environmental Health Officer has advised that based on the findings of the field screening assessment, and further SPOCAS testing, an Acid Sulfate Soil Management Plan is not required.

34)Contamination

Council's Environmental Health Officer has advised the findings of the PSI indicate that the subject site was predominantly used as residential properties before being redeveloped into the existing residential apartment complex between 1965 and 1970. Due to the age of the building, it is likely that hazardous materials were used during construction.

During its most recent redevelopment, the subject site is likely to have been cut and filled to achieve levelling for the building footprints, and so it is considered unlikely that imported fill would have been required (given the site-sourced fill from the cut). Therefore, the likelihood of the site being impacted by contaminated fill is considered low.

Based on the findings provided in the Preliminary Site Investigation Report prepared by Geosyntec Consultants Pty Ltd – 8-10 New McLean Street Edgecliff – Reference AU123019 Final ESA Edgecliff – 7 May 25, Environmental Health is satisfied that Section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021 has been addressed and the site deemed suitable in its current state for the proposed residential development.

Refer to Annexure A for conditions.

35) Ecologically Sustainable Development

Council's Environment and Sustainability Team Leader has reviewed the proposal and advised that there are several areas where the ESD aspects of the proposed development should be improved to ensure lower carbon emissions.

There is strong potential for the proposed development to be 'all electric'. The proposed development includes a gas fired boiler hot water system. It is requested that the applicant install an energy efficient electric alternative system to provide hot water, such as a heat pump system. In addition, it is recommended to install energy efficient electric induction cooktops instead of gas. This would avoid gas connection to the property and reduce carbon emissions.

A solar PV system is included in the design. It is recommended that battery storage be installed to maximise the use of solar generated onsite.

To minimise embodied carbon emissions, it is recommended to use low carbon concrete in the construction.

Best practice sustainability standards should be applied, including:

- Mandatory Green Star rating, which assesses impacts from demolition and construction including embodied emissions.
- Installation of a green roof around the solar panels to maximise solar efficiency and minimise urban heat.
- Ensuring the installation of the bioretention area, as outlined in the EIS.

The current proposal is contrary to section 2.9 of the site-specific draft DCP as discussed in section 13, and the principle (e) of the Housing SEPP which requires development to minimise adverse climate and environmental impacts of new housing development.

36)Flood

Clause 5.21 of the WLEP states:

(1) The objectives of this clause are as follows—

a) to minimise the flood risk to life and property associated with the use of land,

b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,

c) to avoid adverse or cumulative impacts on flood behaviour and the environment,

d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

a) is compatible with the flood function and behaviour on the land, and

b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and

c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and

d) incorporates appropriate measures to manage risk to life in the event of a flood, and

e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

a) the impact of the development on projected changes to flood behaviour as a result of climate change,

b) the intended design and scale of buildings resulting from the development,

c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,

d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion

In accordance with Clause 5.21(2) development consent must not be granted unless the consent authority is satisfied the provisions of Clause 5.21 are satisfied.

Council's Drainage Engineer has reviewed the proposal and recommended conditions included in Annexure A.

37)Stormwater and OSD

Councill's Development Engineer has reviewed the proposal and advised that:

- Detailed stormwater plans prepared by a chartered professional civil engineer, demonstrating compliance with Chapter E2 of the Council's DCP, must be provided. In particular, the installation of raingarden and stormwater treatment system including results of the MUSIC modelling must be clearly depicted on the drawings.
- The applicant must demonstrate that there is a legal discharge of stormwater to a recognised public drainage system.

38) Impact on Council Infrastructure

Councill's Development Engineer has reviewed the proposal and advised the applicant should address the impacts of the proposed development on Council's infrastructure as follows:

a) The proposed basement must be located clear of the existing Council's Drainage Easement(s) and/or Council's underground drainage pipeline(s) traversing the subject site. Any building encroachment over the existing Drainage Easement(s) must have a minimum clearance of 4 metres between the finished ground levels and the underside of the proposed first floor slab. The alignment of the existing Easement/ Council's underground drainage pipelines must be clearly depicted on the architectural drawings.

b) A closed-circuit television (CCTV) footage of the stormwater pipes traversing the site to the downstream pit must be submitted for assessment,

c) Longitudinal section (scale 1:100) prepared by a chartered professional civil engineer along the full length of the Council's Drainage Easement showing the alignment of the Council's underground drainage system in relation to the finished ground levels must be submitted for assessment. Note that any modification of existing ground levels, including the cut and fill, introduction of stairways within the Drainage Easement is not supported. The long section must include all relevant details such as pipe grades in percentage, horizontal distance in chainages, pipe size and invert, existing ground levels and pipe cover,

39)Waste

Council's Waste Officer has reviewed the proposal and advised:

- The Waste Management Plan (WMP) is unclear whether waste is to be collected by a private contractor or by Council. This should be clarified.
- The proposed recycling and FOGO bin provision in insufficient:
    - 7 x 660L recycling bins are required.
    - 10 X 240L FOGO bins are required.
- The residents with no access to a waste chute will have access to 1 x 240L recycling bin on their level. This should be increased to 2 x 240L recycling bins.
- The WMP advises that Council staff will collect bulky waste from the bulky waste room. If it is proposed for Council to collect bulky waste this must be presented kerbside.

Council's Planning staff advises:

- The subdivision of the site and provision of two driveway crossovers has prevented the provision of a dedicated loading bay that can accommodate a Medium Rigid Vehicle (MRV) and Council's waste trucks.
- Instead, a loading bay is proposed to the western site that is only capable of accommodating a 6.5m Small Rigid Vehicle (SRV), resulting in the need for private waste collection.
- This is contrary to the site-specific draft DCP, which at section 2.7, states:

  C2 Loading and servicing is to occur in the basement level only with a dedicated loading bay that can accommodate a Medium Rigid Vehicle (MRV) and waste trucks.
- The use of a private waste collection is a poor outcome for future residents who will effectively be paying twice for waste collection.

40) Design Amendments

It is considered that the SSDA should not be supported as:

- The subdivision of the site would pre-empt built form outcomes departing from those envisaged by PP-2023-1648 and undermine the integrity of the endorsed height and FSR controls, particularly given the proposed concentration of FSR on the western site. In the absence of any mechanism to secure coordinated, site wide development outcomes, subdivision of the site should not be supported.
- The proposal is not consistent with PP-2023-1648, as it does not follow the proposed allocation of FSR across the site, it does not provide the same front, side and rear landscaped setbacks, and it does not step down towards the rear to the same extent recommended in PP-2023-1648.
- The overall bulk and scale of the building is excessive; the rear of the building and the Level 5 swimming pool deck protrude beyond the DCP building envelope, which is contributing to overshadowing of Trumper Oval and Trumper Park.
- The proposal undermines strategic objectives of the NSW Government by failing to demonstrate:
  - The proposal would not result in a net loss of affordable dwellings.
  - The proposed affordable housing provision will be affordable for eligible households.
- The proposal includes the removal of 152 trees and the retention of only 11 trees within the site. The extensive native vegetation removal that is required to achieve the bulk and scale of this proposal is unacceptable with regards to:
  - Threatened species and the biodiversity of adjacent Trumper Park.
  - The desired future character of the area.
  - The significance of the Paddington HCA.
- The proposed replacement tree canopy and deep soil landscaping is inadequate.
- The height and FSR have been incorrectly calculated
- The proposal provides excessive car parking provision for this accessible location, which fails to ensure sustainable transport outcomes, minimise adverse impacts to the road network, and reduce excavation.
- Council's Traffic and Transport Engineers raise serious concerns on the adverse traffic impact of the development as it is envisaged to exacerbate the traffic conditions on the surrounding road network. Noting that the intersection of New South Head Road, New Mclean Street and Darling Point Road is

already operating at capacity and traffic performance is highly sensitive to any additional traffic.
- It is strongly recommended the SSDA is refused.
- However, if the Department of Planning, Housing and Infrastructure (DPHI) concludes that this development should be supported, amendments are required to lessen the adverse impacts to the streetscape and neighbouring properties. Recommended amendments are set out in section 40 of this submission.

However, if the development progresses it is recommended that the following design amendments are incorporated:

- The removal of the proposed site subdivision from the SSDA.

- To ensure the affordable housing is affordable for eligible households in accordance with the NSW Affordable Housing Ministerial Guidelines (including low-income households), the proposed affordable housing should be amended to comprise of studios, and 1-bedroom apartments.

- The proposal should be amended to provide at least 30% of new dwellings (rounded to the nearest whole number) to be self-contained studios or one bedroom apartments, or a mix of both.

- Reducing the building height by at least one storey.

- Lowering and articulating the street wall to achieve a finer grain response.

- Reduce the proposed FSR of the western site to ensure the proposed development is consistent with the information refined from PP-2023-1648 and to preserve adequate FSR capacity for the development of the eastern site, consistent with the 3.7:1 FSR established for the entire site.

- Enclose the covered ‘communal open space’ on the ground floor to improve the functionality of the covered communal space and remove the through-site link.

- Revise the FSR calculations to include all enclosed communal amenity spaces at Ground and Level 5 to ensure an accurate GFA assessment.

- Reduce the length and height of the building so that it more successfully follows the slope of the site. This would create a more interesting and site responsive design. This would also address some of the overshadowing issues identified.

- Redesign the rear of the building and remove the Level 5 swimming pool deck so that it is located within the site-specific draft DCP building envelope. Relocating the pool to be within the enclosed amenity area would reduce bulk and overshadowing to Trumper Oval.

- Reduce the depth of balconies on the southern facade to reduce the overall bulk and scale of the building, provide setbacks that are consistent with the ADG and increase the opportunity for landscaping along the side boundary.

- Remove secondary balconies given that primary balconies already provide adequate outdoor amenity.

- Explore reducing the floor-to-floor height at Level 9 from 3,400mm to 3,300mm and increasing the floor-to-floor height at Basement Level 1 from 3,200mm to 3,300mm to improve solar access to lower-level apartments without increasing the overall building height.

- Remove apartment A-B106 at Basement Level 1, which does not meet ADG minimum amenity standards due to topographical constraints, absence of direct sunlight and lack of cross ventilation, and is overlooked by the public footpath that crosses the site.

- Reduce the depth of single aspect apartments so that the maximum depth of open plan living, dining and kitchen areas does not exceed 8m.

- Redesign to ensure the communal open space provided is consolidated, suitable for a range of age groups, linked to deep soil and has access to 2 hours of sunshine in mid-winter.

- Provide direct access to the lobby off the street rather than down a long side path. This would also improve safety and surveillance.

- Reduce the private open space for apartment A-G05 and allocate more of the eastern side setback to a private communal open space suitable for a range of age groups, and more of the front setback to tree canopy.

- Given the substantial reduction in deep soil and tree canopy proposed and as the site is well over 1,500m^2 in size the development should aim to provide 15% of the site as deep soil and canopy targets in excess of 20%.

- Provide 6m side and rear setbacks, as proposed in the original planning proposal, to allow for small and medium tree canopy trees and ensure that development does not impact the health of trees in the adjoining open space. These setbacks would also ensure that the site could be landscaped in such a way that it provides amenity to the residents and can be easily maintained.

- Provide setbacks that are consistent with the ADG and increase the opportunity for access, maintenance and landscaping along the side and rear boundary.

- Building separation distances and setbacks should be measured from the site boundary, consistent with the ADG requirements, and not from the existing building outline on the adjoining site.

- The proposal should be redesigned to ensure that no more than 15% of apartments fail to receive the minimum 2 hours of direct sunlight between 9am and 3pm on 21 June, consistent with ADG requirements.

- The proposal should be redesigned to ensure a minimum of 70% of apartments will retain 2hrs of sunlight in mid-winter if 4 New McLean Street is redeveloped in the future.

- Setbacks to the rear and western side should provide sufficient space for screening landscape and limit overshadowing of Trumper Oval.

- Relocate the proposed freestanding substation which is located next to the public pathway to Trumper Oval and Trumper Park.

- To reduce excavation, minimise potential hydrogeological hazards, support sustainable transport outcomes, and ensure sufficient excavation setbacks for deep soil landscaping and tree canopy, a maximum of 62 car parking spaces should be provided. 2 of the 62 spaces should be allocated for car share use.

- The 2 x B85 loading spaces on lower ground floor should be deleted.

- At basement levels 02, 03, 04, and 05, the proposal appears to provide an efficient car parking design as excessive space is provided around the supporting columns on the eastern side of the basement levels. A more efficient design would enable a reduction to the excavation and increased setbacks for deep soil landscaping. Refer to section 22 for further detail.

- The proposal includes 6 x 'Utility' car parking spaces provided at basement level 02, which are not included in the total number of proposed car parking spaces. There is no reference or assessment of these utility spaces within the Transport Impact Assessment or the EIS. These spaces should be deleted.

- The unnecessary void area at level 01 located above the ground floor level loading dock should be deleted.

- No approval should be granted for the removal of trees from the eastern section of the site under the subject SSDA. The removal of trees from the eastern section of the site should form part of the detailed development application for the eastern site, so it can be accurately determined if the tree removal is reasonable based on the building footprint and detailed design.

- There are opportunities to improve the proposal, from a biodiversity perspective. The scale of the development footprint should be reduced to ensure less vegetation loss. Retention of more trees and other vegetation onsite would protect threatened species habitat, and reduce the impact on the adjoining Trumper Park bushland, and the habitat corridor.

- Clearing of the site and construction over the existing vegetated area will impact on bush rock, which provides important habitat for reptiles. Existing bush rock should be reused onsite in the landscaping plan.

- The site includes one threatened species of plant, Syzygium paniculatum. The Arboricultural Impact Assessment Report identified two S. paniculatum onsite and recommended removing them both (tree ID 29 & 78). However, the BDAR identified only one individual. The BDAR recommends that the Syzygium Paniculatum be replaced as part of the landscape plan for the site. If possible, the existing individuals onsite should be relocated nearby.

- Table 1 in the Arboricultural Impact Assessment Report provides an assessment of the construction impacts on trees. There are a number of trees recommended for removal which, according to the discussion column in the table, could be retained. As these are important habitat trees, every effort should be made to retain them, and the landscape plan should be developed to achieve this.

- Only 69% of the species included on the planting schedule are Australian native species. In accordance with the recommendations of the BDAR, the landscape plan should be amended to incorporate up to 80% of native tree, shrub, forb, fern and grass species to enhance the native vegetation component. It should also include like-for-like replacement of threatened species.

- The proposal should be amended to provide the tree retention setback identified in the SJB study and site-specific draft DCP setbacks. At the very minimum, given the loss of vegetation, the front elevation shall be setback a further 2m from the New Mclean Street boundary (providing a minimum of 5m setback) to allow for deep soil and canopy trees to be planted.

- The proposed replacement tree canopy must be increased. This should include two (2) additional medium size locally native trees planted within the front setback to offset canopy loss and loss of streetscape amenity.

- The proposed works must be located outside of the Notional Root Zone (NRZ) and outside of the canopy drip line for trees within Trumper Park to avoid pruning. This is shown on the Architectural Plans Rev A, drawn by FKAustralia, dated 17/12/2025.

- There is an opportunity for this proposal to reduce carbon emissions through the following amendments:
    - Providing an 'electric only' development by installing electric hot water heat pump and induction cooking
    - Installing a battery would maximise the use of onsite solar.
    - Constructing the building using low carbon concrete would significantly reduce the embodied carbon emissions.
    - Installation of a green roof around the solar panels to maximise solar efficiency and minimise urban heat.

41) Request for Further Information

The following additional information is requested to enable an assessment of the proposal:

- An amended EIS, which addresses whether the proposal would result in an overall reduction of affordable housing.

- An updated affordable housing feasibility study which responds to the issues raised in section 16.

- The maximum height is not accurately referenced in the height variation statement. The exhibition documentation should be amended to accurately depict the correct height.

- The FSR is not accurately calculated. The exhibition documentation should be amended to accurately depict the correct FSR.

- An amended VIA which considers the impact of the SSDA upon private views.

- The SSDA should be assessed against the Trumper Park Plan of Management.

- The EIS should clearly identify the proposed reduction to the area of existing tree canopy within the site.

- In the development of the BDAR, surveys for microbats were undertaken but 99% were of insufficient quality to enable identification, and issues were noted with the detector functioning and placement (p37 BDAR). Only one species of bat was identified. These surveys should be repeated to ensure that accurate data is used in the BDAR.

- The vibration control limits specified in the Geotechnical Report by Morrow, Ref: P2868_02 Rev 3, dated 5 December 2025 are inconsistent with C8 of Chapter E2.2.10 of the WDCP. It is requested that an amended geotechnical report is provided with the vibration limits revised to ensure compliance with the WDCP.

- An amended Traffic Report which addresses the issues identified in section 23 of this submission.

- An amended Green Travel Plan (GTP) which relates to the current SSDA.

- Amended shadow diagrams that clearly depict:
    - The accurate location of Trumper Park Oval
    - The shadows cast by existing vegetation at hourly intervals.

- Detailed stormwater plans prepared by a chartered professional civil engineer, demonstrating compliance with Chapter E2 of the Council's DCP. In particular, the installation of raingarden and stormwater treatment system including results of the MUSIC modelling being clearly depicted on the drawings.

- The applicant must demonstrate that there is a legal discharge of stormwater to a recognised public drainage system.

- Given the identified erosion, slope instability, and flood behaviour, and to protect the amenity of Trumper Park, a comprehensive levels and grading plan demonstrating drainage management across the site is required to adequately assess the proposal. The plan should clearly demonstrate surface falls, drainage points, and the direction of stormwater flows across the site and Trumper Park.

- A legible survey.

- The applicant should address the impacts of the proposed development on Council's infrastructure as follows:
    - The proposed basement must be located clear of the existing Council's Drainage Easement(s) and/or Council's underground drainage pipeline(s) traversing the subject site. Any building encroachment over the existing Drainage Easement(s) must have a minimum clearance of 4 metres between the finished ground levels and the underside of the proposed first floor slab. The alignment of the existing Easement/ Council's underground drainage pipelines must be clearly depicted on the architectural drawings,

- A closed-circuit television (CCTV) footage of the stormwater pipes traversing the site to the downstream pit must be submitted for assessment.
- Longitudinal section (scale 1:100) prepared by a chartered professional civil engineer along the full length of the Council's Drainage Easement showing the alignment of the Council's underground drainage system in relation to the finished ground levels must be submitted for assessment. Note that any modification of existing ground levels, including the cut and fill, introduction of stairways within the Drainage Easement is not supported. The long section must include all relevant details such as pipe grades in percentage, horizontal distance in chainages, pipe size and invert, existing ground levels and pipe cover.

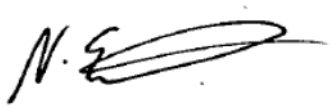
- The wind assessment should be amended to include wind tunnel testing analysis. Any proposed mitigation measures should be detailed on the architectural drawings.

- Documentation should be provided to demonstrate that the size of the service and plant areas are not excessive.

- The Waste Management Plan should be amended to address the issues raised in section 39.

If you require clarification on any issue raised, please do not hesitate to contact Executive Planner **Eleanor Smith** on (02) 9391 7090 or via email at eleanor.smith@woollahra.nsw.gov.au.

Yours sincerely



Nick Economou
Manager – Development Assessment

Annexures

A. Recommended Conditions of Consent (without prejudice to Council advice)
B. Sydney Eastern City Planning Panel Record of Decision PP-2023-1648
C. SJB Urban Design Study
D. Site-specific draft DCP for PP-2023-1648
E. Feasibility study for PP-2023-1648
F. Research for Shelter
G. Copy of the Council resolution
H. FC&S Committee report 3 December 2018.
I. Trumper Park access pathway lot signed Deed.
J. Development consent DA 596/2021/1
K. Approved plans DA 596/2021/1