

Attachment E

Submissions

From: Michael Neary [REDACTED]

Sent on: Wednesday, December 13, 2023 10:24:29 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I wish to object to the above da on the follow

It exceeds the height limits. The suburb has high and low buildings and the diversity is part of the suburb. The height restrictions should be maintained and that was the basis on which it was purchased
This is in a dominant position for the suburb and its scale, bulk and design is not appropriate for the area and will detract from the Garrison Church and other historic buildings such as the Hero of Waterloo
The building is too close to the footpath and should be set back further so as not to dominate the streetscape and create a visual overhand and impinging on the visual of the footpath.
The current footprint is at the rear of the block
The footprint and greenspace is less than many of the older buildings in the area such as Argyle Place and Lower Fort St and it removes greenspace increasing hard surface area
A renovation changing footprint has not been approved in the past for renovations and this will set a new precedent for development in the area for new and renovations

Regards

Michael

Dr Michael Neary
[REDACTED]

From: Greg O'Dea [REDACTED]
[REDACTED]

Sent on: Thursday, December 14, 2023 3:17:57 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council,

I write in support of DA D/2023/1036. The proposed dwelling will significantly improve the Lower Fort St streetscape. The combination of a heritage-modelled facade with modern, environmentally mindful amenity is both exciting and to be welcomed. It is my opinion that what has been proposed will sit comfortably with the surrounding structures. I am very happy that a local, community-minded applicant has so thoughtfully considered the plans that have been proposed.

Regards,
Greg O'Dea
69 Lower Fort Street
[REDACTED]

From: [Redacted]

Sent on: Saturday, December 30, 2023 3:00:33 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

[Redacted]

[Redacted]

[Redacted]

From: John Cusack [REDACTED]
[REDACTED]

Sent on: Thursday, January 4, 2024 11:28:51 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

My concern is that there is a high likelihood of finding significant early artisan, domestic or other artefacts below 1 metre depth, particularly in the central and north-eastern corner of the block of land, 87 Lower Fort Street.

DA Document "Detailed Site Investigation" 31/1/18 (JBS&G) p36 has examined up to one metre of soil only and as this may be mostly fill deposited over many years since the demolition of earlier business dwellings on the site from the 19th c., it is highly likely that artefacts will be present from these earlier demolitions.

From the submitted plans it shows that excavation in most sections of the block will be well below 1 metre. The historical research shows known dwellings from 1830 on and who knows before that. Given the discoveries from other excavations, in Millers Point and the nearby Rocks area, it is worthy of investigation.

DA Document "Historical Archaeological Assessment & Archaeological Research Design" June 2023, in the Executive Summary pp ii, does not recommend the reclamation of artefacts because of soil contamination. Surely with modern safety regulations and technology it would be possible to reclaim and preserve artefacts in such a way that would render them safe.

The excavation process may take a while longer, but with the proper direction from the appropriate heritage authority, the potential finds from this site could be significant.

Yours,

John Cusack
6A/161 Kent Street, Millers Point 2000
[REDACTED]

From:



Sent on: Monday, January 8, 2024 10:40:09 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Attachments: Aboriginal archaeology concerns (09012024 letter to COS).pdf (62.24 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please see attached objection.

I firmly believe that a meticulous and comprehensive examination of potential impacts on heritage and Aboriginal archaeology by the City of Sydney and in consultation with the Metropolitan Local Aboriginal Land Council is essential for the conscientious development of this site. This evaluation would precede any determination of the development application to ensure responsible and respectful treatment of the cultural and historical and spiritual aspects intertwined with the land.



Dear Ms Barone

87 Lower Fort Street, Millers Point
City of Sydney Development Application D/2023/1036

On these, their lands of the First Peoples it is with profound respect that I acknowledge the Spirits of their Elders past, today's Elders and emerging leaders. To the east, west, north and south; surrounded by the oceans; seas, rivers, creeks and streams; under the Southern stars in the celestial heavens. Acknowledging that they continue to be the custodians and having nurtured these lands for over 60,000 years they are the oldest continuous culture on Mother Earth on these, their lands of the First Peoples.

I am writing to comment and object to development application for 87 Lower Fort Street, Millers Point, currently under consideration by the City of Sydney during the exhibition period from 21 November 2023 to 11 January 2024.

From my perspective, the exhibition period seems insufficient for key stakeholders, specifically if the Metropolitan Local Aboriginal Land Council has not been consulted and invited to offer their well-informed advice to the City of Sydney, especially considering the developer's proposed bulk excavation's potential impact on Aboriginal and heritage relics on the site.

There is no public record indicating consultation with the Aboriginal Land Council regarding the development.

I believe that the developer be made to undertake comprehensive efforts to identify potential heritage or Aboriginal items before initiating bulk excavation and in consultation with Metropolitan Local Aboriginal Land Council. This precautionary could be included as a condition of approval by the City of Sydney, aligning with guidance from the NSW Department of Planning and Environment, acting as a delegate to the NSW Heritage Council.

The developer's plans involve the demolition of the former Baby Health Centre on the site, followed by the excavation and construction of a new three-level dwelling, including an open plan basement level with access to a deep soil central backyard and pool, garaging, landscaping and external works.

The documents submitted by the developer deny the possibility of Aboriginal artefacts.

The report states

The report is designed to assess the potential historical, archaeological remains of the study area, as well as the heritage significance of these remains. It does not deal with the potential of the study area to retain evidence of use by Aboriginal people.

In my view, the developer's intention to perform bulk excavation raises concerns about the limited opportunity to salvage and preserve relics or items of archaeological significance.

The architectural design conceived by the developer appears to intentionally emphasise and exalt the principles and values associated with Georgian colonialism. In doing so, there is a discernible concern as it seemingly relegates Aboriginal archaeology to a secondary status, potentially burying its historical significance. This raises noteworthy apprehensions about the omission or overshadowing of any Aboriginal history on the site, indicative of a stance that might overlook the rich cultural heritage and spirits intertwined with the land.

The NSW Government Conservation Management Plan, however, emphasises the importance of considering potential relics.

It is also possible that evidence remains of later Aboriginal activity and interactions in the area. The unearthing of such information of the Aboriginal experience is of major importance to the Aboriginal community in preserving cultural heritage and lifeways.

Casey & Lowe Pty Ltd were engaged Global Projects NSW on behalf of the proponent of the development provide a Historical Archaeological Assessment. The report is designed to assess the potential for historical (non-Aboriginal) archaeological remains (heritage items including 'relics') within the study area, as well as determining the heritage significance of these remains but not Aboriginal archaeological remains.

The report states that

the site contains contaminants - including lead, carcinogenic PAHs and asbestos - at levels above or exceeding human health criteria. Additional hazardous building materials - non-friable asbestos, potential friable asbestos, synthetic mineral fibres and lead-based paint - were also identified throughout the site. Due to the serious health implications of the contamination, archaeological investigation of the site is not considered possible, and neither is the removal of artefacts which are likely to have absorbed contaminants.

The report identifies that the degree of contamination means the archaeological investigation of the site will be limited to monitoring, with no contact with soil and items, including artefacts, that may have absorbed chemicals unless they can be made safe through remediation. The developer has not budgeted for decontamination nor remediation works.

Astonishingly, the developer and Casey & Lowe fail to assess the potential for historical Aboriginal archaeological remains, including 'relics'.

Critically, the NSW Government's Conservation Management Plan reports that the site has been relatively undisturbed with the potential for underground archaeology relating to the previous uses of the site is high.

In my view, the NSW Government's Conservation Management Plan as it relates to potential Aboriginal archaeology is to be applied. Any archaeological deposits found on site have the potential to be of State and Indigenous significance, potentially. Further, the Government's Conservation Management Plan highlights some potential for archaeology relating to the Aboriginal occupation and use of the site.

The NSW Department of Planning and Environment as a delegate of the Heritage Council of NSW, has granted approval to the developer subject to the following conditions, including that:

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the Heritage Act 1977. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the National Parks and Wildlife Act 1974.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

When considering the significance of Aboriginal archaeology, it is urged that the City of Sydney requires the developer to:

- Conduct consultations with the Metropolitan Local Aboriginal Land Council before the Council engages in deliberations on the development application.
- Initiate comprehensive public consultation procedures prior to the commencement of any archaeological work.
- Organise public open days during the excavation phase to foster transparency and community engagement.
- Facilitate information sessions and ensure the responsible display of any recovered deposits, with a commitment to interpretation for the public's benefit.

I firmly believe that a meticulous and comprehensive examination of potential impacts on heritage and Aboriginal archaeology by the City of Sydney and in consultation with the Metropolitan Local Aboriginal Land Council is essential for the conscientious development of this site. This evaluation would precede any determination of the development application to ensure responsible and respectful treatment of the cultural and historical and spiritual aspects intertwined with the location.



9 January 2024

Mr Monica Barone
Chief Executive Officer
City of Sydney

From:



Sent on: Thursday, January 11, 2024 10:11:53 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Supplementary letter regarding 87 Lower Fort Street, Millers Point City of Sydney Development Application D/2023/1036

Attachments: Aboriginal archaeology concerns (11012024 supplementary letter to COS).pdf (44.45 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please see attached supplementary letter regarding 87 Lower Fort Street, Millers Point City of Sydney Development Application D/2023/1036.





Dear Ms Barone

**Supplementary letter regarding 87 Lower Fort Street, Millers Point
City of Sydney Development Application D/2023/1036**

I am writing to supplement my earlier communication dated 9 January 2024 concerning the development application for 87 Lower Fort Street, Millers Point (D/2023/1036). It is my sincere hope that the City of Sydney carefully considers the points raised in my letter as they are crucial to ensuring a fair and transparent decision-making process.

I request an extension of the exhibition period for the development application by a minimum of 30 days. This additional time is essential to allow for thorough scrutiny by the community, enabling a more comprehensive understanding of the proposed changes. An extended exhibition period would undoubtedly contribute to a more inclusive and participatory decision-making process.


I strongly advocate for giving precedence to engagement with the Metropolitan Local Aboriginal Land Council before the City of Sydney considers granting approval (if at all) for the development.

In my opinion, consulting with the Metropolitan Local Aboriginal Land Council is an obligation and a step towards acknowledging and respecting the cultural significance and spirit of the land. The First Peoples' insights would provide valuable perspectives on potential impacts and inform a more nuanced decision-making process.

I propose that prior to approving the development application (if at all) that you require the developer to formally consult with the Millers Point Community Resident Action Group and broader community. It would be appropriate for the City of Sydney to require the developer to explicitly outline to the community how they intend to address objections raised by the community during the public development application process. This engagement is vital for addressing community concerns and ensuring that the proposed development aligns with the needs and aspirations of the community.

I believe that these measures will enhance the overall transparency of the decision-making process and demonstrate a commitment to fostering collaboration towards a more inclusive and considerate urban development that respects both Aboriginal archaeology, cultural heritage, and community engagement.

Aboriginal archaeology transcends the confines of being a local community concern. It stands as a matter of national significance and is integral to the essence of our Nationhood on these their lands of the First People.



11 January 2024

**Mr Monica Barone
Chief Executive Officer
City of Sydney**

From: Steven Ding [REDACTED]
Sent on: Tuesday, January 9, 2024 1:55:50 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: D/2023/1036/ 87 Lower Fort Street, Millers Point NSW 2000
Urgent: High

Attachments: DA 2023 _1036 Letter DA CoS 9-1-24 .pdf (97.56 KB), CCE30032020_0001.pdf (1.66 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Afternoon Monica Barone, Bill Mackey & Marie Burge,

Kindly find our submission for your consideration.

Kind Regards,

Steven Ding
288 Capital Pty. Ltd.

Mobile: [REDACTED]
Email: [s\[REDACTED\]](mailto:s[REDACTED])
PO Box 528, Willoughby, NSW 2068
Parcel Locker 10125 62340, 59 Penshurst Street WILLOUGHBY NSW 2068

9th January 2024

General Manager
City of Sydney Council
GPO Box 1591
Sydney NSW 2001

ATT: Monica Barone

RE: D/2023/1036 – 87 Lower Fort Street, Millers Point, NSW 2000
Demolition of existing structure, site excavation and the construction of a new dwelling with associated landscaping.

On behalf of 288 Capital Pty Ltd, Owner of 85 Lower Fort Street, Argle House.

- We lodge this submission regarding D/2023/1036 seeking approval for the demolition of existing structure, site excavation and the construction of a new dwelling with associated landscaping located at 87 Lower Fort Street, Millers Point.
- As an immediate adjoining landowner, we are concerned that this application is seeking approval for a significant change to the long-established existing use and development of the property which will impact on our property, without sufficient details being provided on the intended proposal of the site.
- We submit that this application should be not approved without sufficient critical details of the intended proposal and development of the property forming part of the application. It is premature for a decision on removal of existing building in the absence of resolved plans of the development plans for the site having regard to the sensitive heritage character of the area and the relationship with adjoining properties.
- In addition, we consider that approving this proposal without resolving the details of the integrated proposal and built form of the site, may result in a sub-optimal outcome for the area.
- Following are few main objections;
 - Garage & Plantroom facilities & enclosure /annexure locale at northern section of the site;
 - 2 car garage & cross over adjacent to our Argle House and along Lower Fort Street main pedestrian route poses grave danger to public and pedestrian alike, and are not in interest of Miller Point areas.
 - Noise and acoustic impact from large number of the plantrooms, air con compressors and pool equipment right adjacent and against to our Argle House.
 - Huge height (some 4.3m above lower end of street pathway) & large bulk of this Garage & Plantroom facilities & enclosure /annexure is incongruous nor contextual to site setting adjacent to and blocking our Argyle House view setting from south end of the streets junction/intersection & Observatory Hills.
 - Proposed solar panels on the garage roof will have great glare & reflectivity to our Argle House & adjacent buildings.
 - Others
 - As per last objection submission dated 30th March 2020, on D/2020/182 – 87 Lower Fort Street, Millers Point, NSW 2000. Demolition of Structure (former baby health centre), Removal of 6 Trees, Site Remediation Works and Torrens Title Subdivision of existing allotment into 2 lots.

We repeat our request that Council recognize & uphold the Easements (S9) Restriction on the use of Land 1.8 wide (DP1212987) highlighted in **Green**, (S5) & (S9) Easement of Services 0.5 wide highlighted in **Blue**, (7A) & (S9) Easement for Support Over Common Retaining Wall 0.3 wide (DP 121 6874) highlighted in **Red**, burdened on adjoining landowner lot in favor of 85 Lower fort street, Argle House in attachment (5 pages).

- The Proposal do not have adequate design plans, with no cross and longitudinal sections including RL levels and abutment / interface details, landscaping, fencing and gates alike for my access, and also to deter any illegal dumping and anti-social activities to this 1.8M easement zone land adjoining and immediate interface with our

property, Argle House. From the DA submitted plans, I am unsure any proposed alteration /modification to the existing site levels and contour, retaining walls at this 1.8M easement zone land adjoining 85 Lower Fort Street.

- Without proper and agreed POM (Plan of Management) at this 1.8M easement zone land. It will be a nightmare for both of adjoining owners in future.
- Others.
- o Excessive proposed bulk envelope and over height limit;
 - Proposed grandeur building bulk 4 storeys height envelope is excessive & well over height limit should not be supported at this pivotal corner adjacent to heritage Argle place, Argle House and Observatory Hills.
 - It should be scaled back in keeping to surrounding building form in both building bulk and overall building height.
- o Proposed north facing windows;
 - No in coherent to most and general windows are both street front & rear facade facing presentation at Miller Point and along Lower Fort Street & Argle place.
 - We strongly object to north façade windows & attic window north facing due to privacy impact to & from (future) our Argle House.
- o Dilapidation Inspection & Reports required on all adjoining properties are mandatory DA conditions due to size of the size of excavation & building construction adjacent to heritage buildings.
- o Consultation with adjoining neighbors.
 - On record. On 3rd November 2022 3:50pm, Ms Mel Tait call me & sms me at 4:01pm her & her husband email contact. And I had replied my email contact with view that she will forward to me plans & docus for Neighbors consultation. To-date non have still received from Ms Mal Tait.
 - However, on 18th December 2023 late morning around 10:30am. I accidently met Ms Mal Tait and her 2 consultants in-front of my property at 85 Lower Fort Street. Ms Tait verbally demanded immediate to access my property to conduct Dilapidation Inspection & Reports without Owner consent and valid DA consent & conditions.
- We request that Council recognize our objection and also the deficiency of detail provided in this application and we object to the proposal.

Please contact the undersigned once you have had an opportunity to consider our objection.

Yours Faithfully,
INFIN Architects

Steven Ding
 Director
 288 Capital Pty Ltd.

Mobile: [REDACTED]
 Email: [REDACTED]
 PO Box 528, Willoughby, NSW 2068



LAND
REGISTRY
SERVICES



CERTIFICATE ORDER SUMMARY

Transaction Details

Date: 14/12/17 11:10

Order No. 48382141

Certificate No: 76561961

Your Reference: SJ:20162490:85 Lower Fort

Certificate Ordered: NSW LRS - Copy of Plan - Deposited Plan 1221024

Available: Y

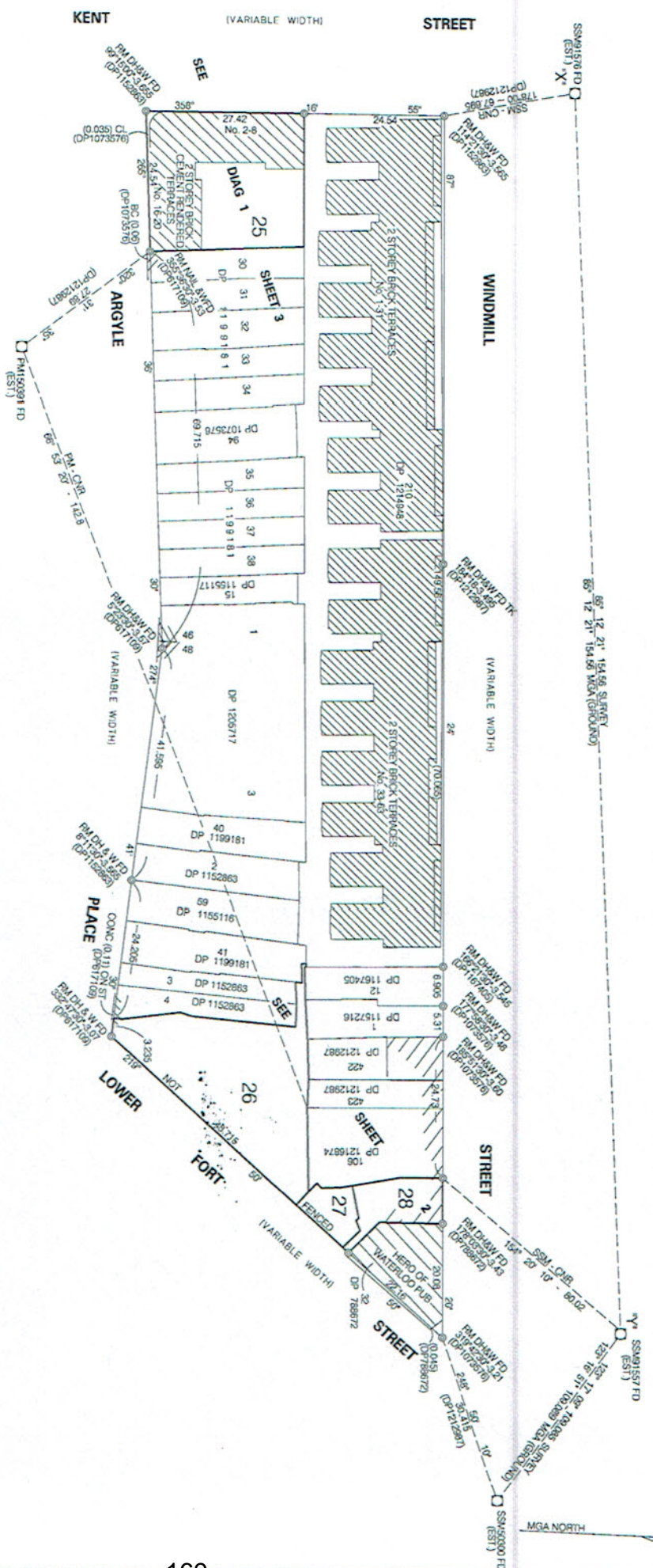
Size (KB): 464

Number of Pages: 7

Scan Date and Time: 13/12/17 22:02

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SAI Global Property Division an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900.



MGA CONNECTIONS
 SSM50300 TO PM10391
 24570746 219.449 SURVEY
 24570754 219.442 MGA (GROUND)
 PM10391 TO SSM50300
 34140716 148.668 MGA (GROUND)
 34140716 148.668 MGA (GROUND)

SURVEYING AND SPATIAL REGULATION 2017 CLAUSES 70(III) AND 70(2)			
MGA CO-ORDINATES		CLASS ORDER	
MARK	EASTING	NORTHING	ORIGIN
SSM 50300	334063.932	6 252186.910	B 2
SSM 9157	333972.742	6 252246.768	C 4
SSM 91576	333818.733	6 252233.851	C 4
PM 150391	333864.853	6 252094.633	C 4

THIS PLANS STREET BOUNDARY DEFINITION FOR KENT, WINDMILL AND LOWER FORT STREETS AND ARGYLE PLACE AGREES WITH DP 1212987 PREVIOUSLY CONSENTED TO BY COUNCIL

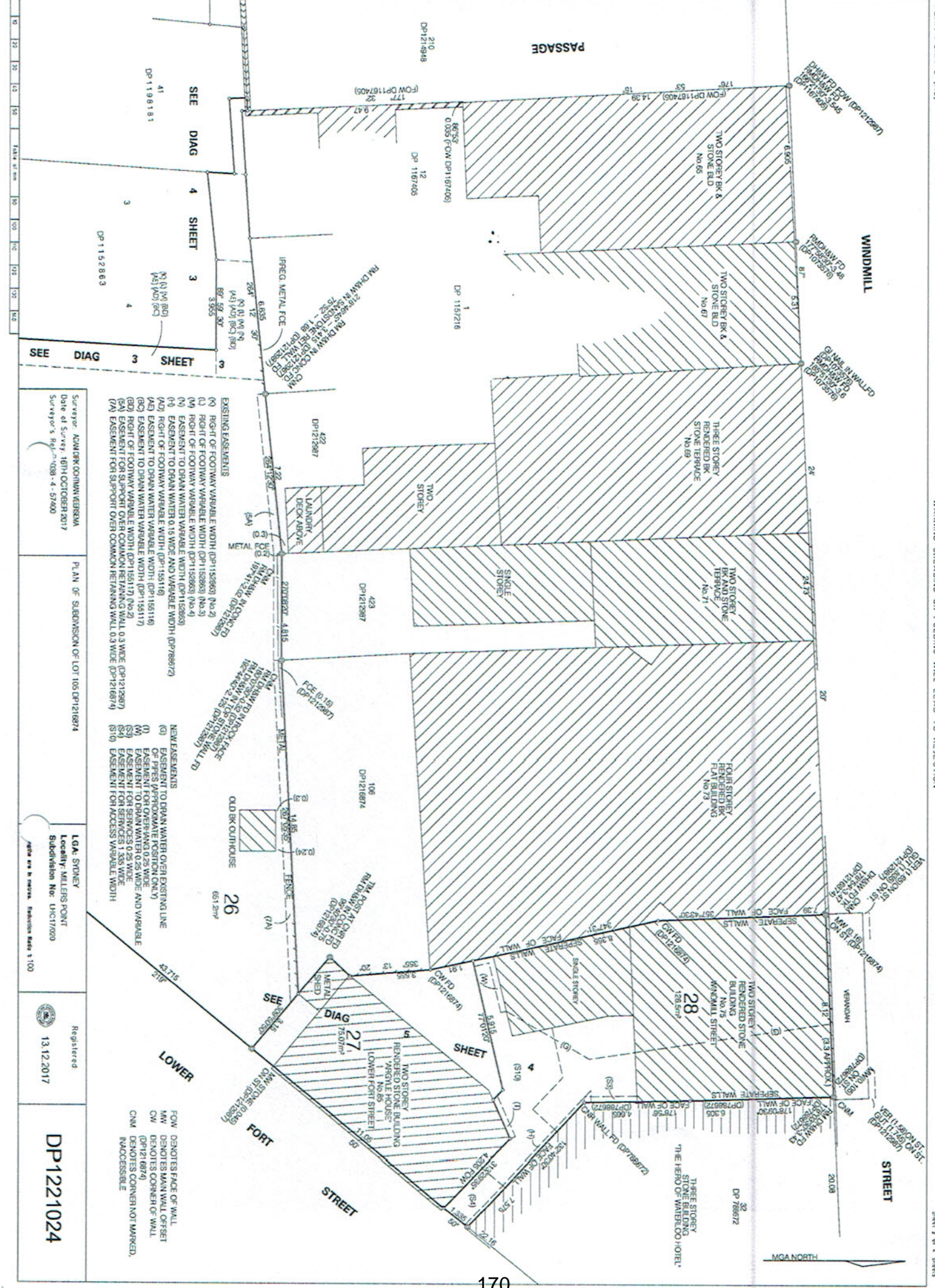
Surveyor: ADAM DOORAN/VERBA
 Date of Survey: 18TH OCTOBER 2017
 Surveyor's Ref: 098-4-5740

PLAN OF SUBDIVISION OF LOT 105 DP1218674

LGA: STONEY
 Locality: MILLENS POINT
 Subdivision No: UHC17600

Registered
 13.12.2017

DP1221024



SEE DIAG 4 SHEET 3

SEE DIAG 3 SHEET 3

EXISTING EASEMENTS

- (N) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.2
- (L) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.3
- (M) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.4
- (N) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1152863)
- (N) EASEMENT TO DRAIN WATER 0.15 WIDE AND VARIABLE WIDTH (DP786672)
- (M) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863)
- (L) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1152863)
- (M) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863)
- (N) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1152863)
- (M) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863)
- (L) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1152863)
- (M) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863)
- (N) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL 0.3 WIDE (DP1218974)
- (M) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL 0.3 WIDE (DP1218974)

NEW EASEMENTS

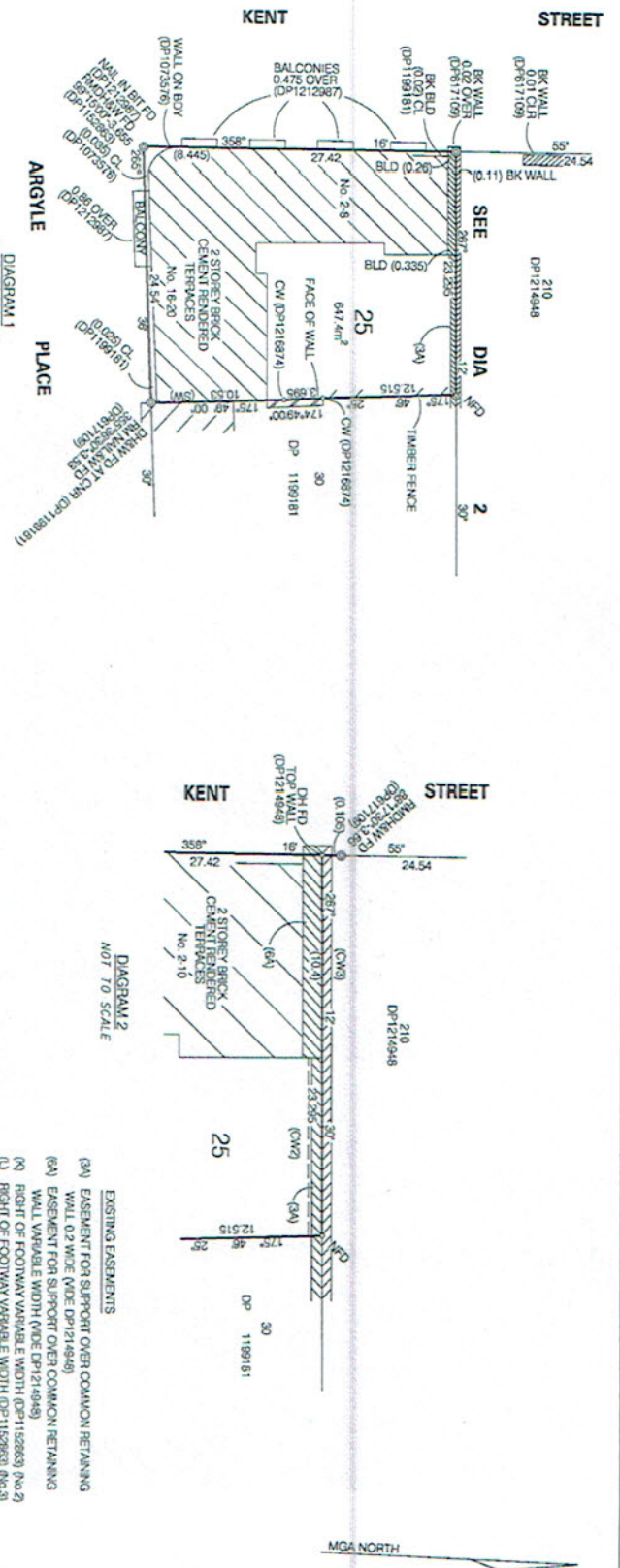
- (G) EASEMENT TO DRAIN WATER OVER EXISTING LINE
- (G) OF PIPES APPROXIMATE POSITION ONLY
- (M) EASEMENT FOR OVERHANG 0.25 WIDE
- (M) EASEMENT TO DRAIN WATER 0.25 WIDE AND VARIABLE
- (S1) EASEMENT FOR SERVICES 0.25 WIDE
- (S2) EASEMENT FOR SERVICES 0.25 WIDE
- (S10) EASEMENT FOR ACCESS VARIABLE WIDTH

LEG. STONEY
Locality: WILKINS POINT
Subdivision No: UNCT7030

Registered
13.12.2017

DP1221024

FOW DENOTES FACE OF WALL
MW DENOTES MAIN WALL OFFSET
CW DENOTES CORNER OF WALL
(DP1218974)
C/M DENOTES CORNER NOT MARKED, INACCESSIBLE



(CM1) CENTRE OF 0.23 WIDE BRICK WALL (NDE DP 1159181)
 (CM2) BOUNDARY S CENTRE OF 0.23 WIDE BRICK WALL
 (CM3) BOUNDARY S LOCATED WITHIN 0.35 WIDE BK WALL
 NFD DENOTES NAIL FOUND TOP OF WALL AT CHR WIDE DP1189181
 (SM) DENOTES SEPARATE WALLS
 CW DENOTES CORNER OF WALL
 PFD DENOTES PLUG RD (DP122887)
 FOW DENOTES FACE OF WALL

EXISTING EASEMENTS
 (3A) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL 0.2 WIDE (NDE DP1214948)
 (6A) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL VARIABLE WIDTH (NDE DP1214948)
 (N) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863) (No.2)
 (U) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863) (No.3)
 (M) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863) (No.4)
 (N) EASEMENT TO DRAIN WATER VARIABLE E. WIDTH (DP1152863)
 (4A) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863)
 (4B) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1187428)
 (4C) RIGHT OF FOOTWAY VARIABLE WIDTH (DP1153116)
 (4D) RIGHT OF FOOTWAY VARIABLE WIDTH (DP1153116)
 (4E) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1153116)
 (4F) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1153117)
 (4G) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1153117) (No.2)
 (4) EASEMENT FOR OVERHANG 0.24 WIDE (DP1152863)

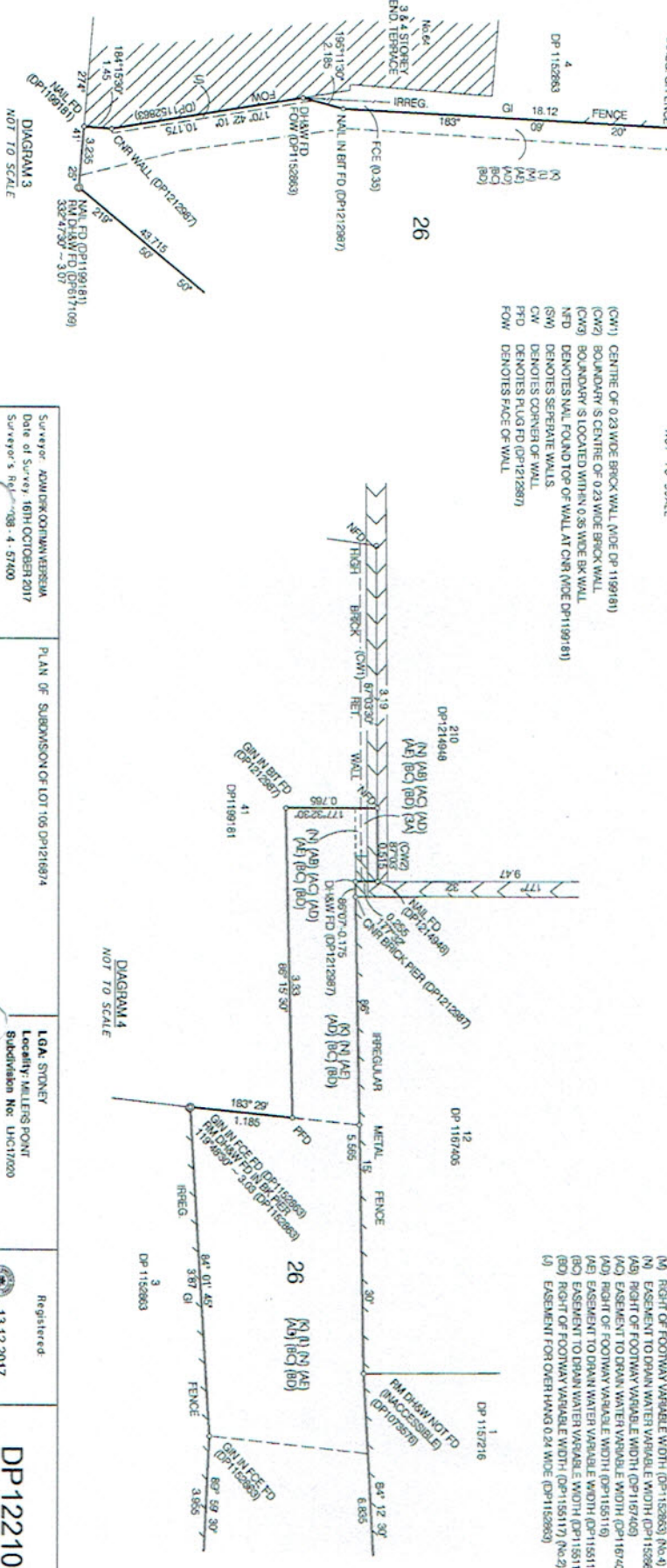


DIAGRAM 3
NOT TO SCALE

DIAGRAM 1
NOT TO SCALE

DIAGRAM 2
NOT TO SCALE

DIAGRAM 4
NOT TO SCALE

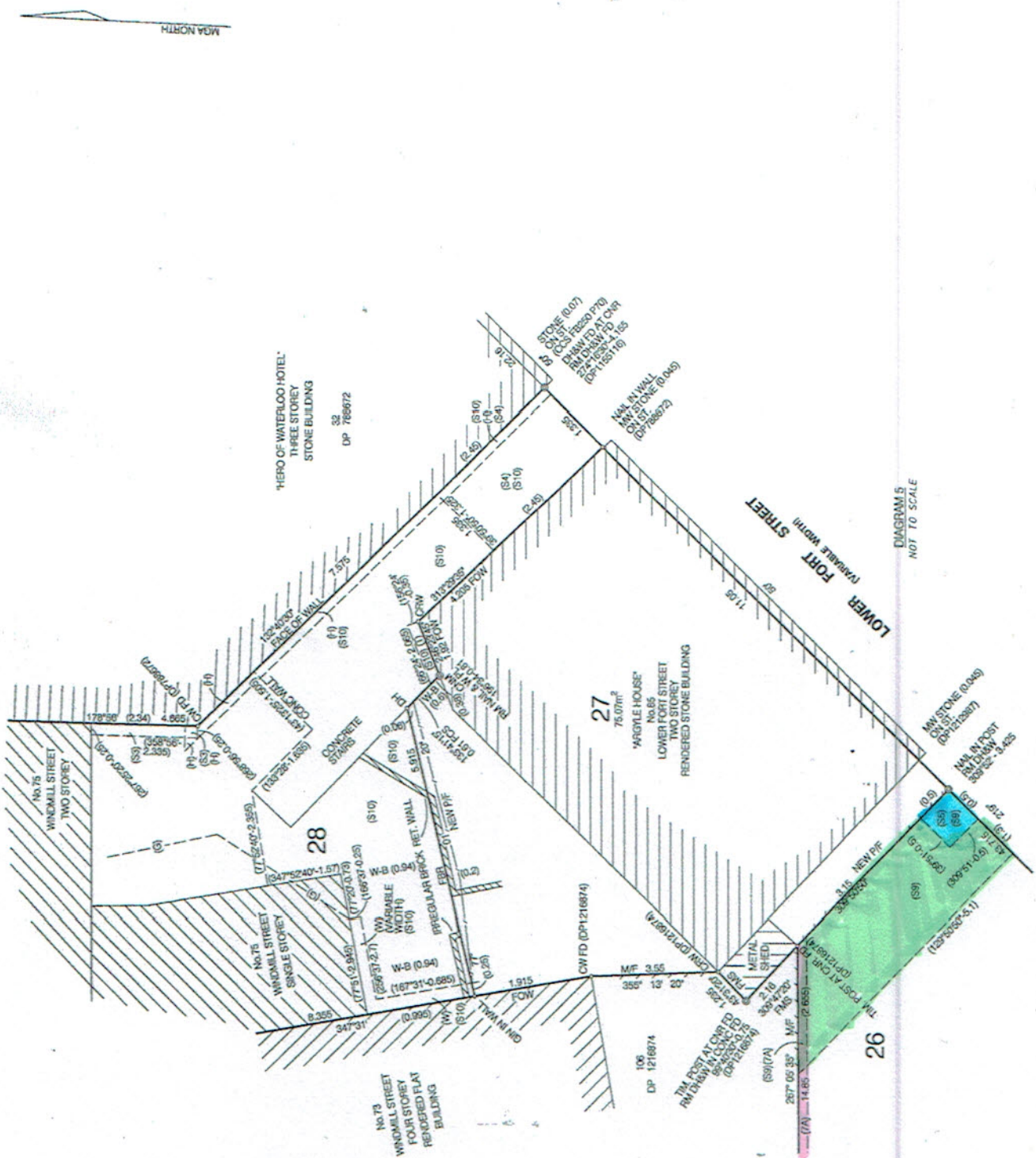
Surveyor: ADAM GREG KORTMAN VERSEUM
 Date of Survey: 16th OCTOBER 2017
 Surveyor's Ref: 08-4-57400

PLAN OF SUBDIVISION OF LOT 106 DP1218974

LGA: STONEY
 Locality: MULLENS POINT
 Subdivision No: UNIC17020
 After 5th Nov 2017, Production Date 1:500

Registered
 13.12.2017

DP1221024



- NEW EASEMENTS**
- (S) EASEMENT TO DRAIN WATER OVER EXISTING LINE OF PIPES (APPROXIMATE POSITION ONLY)
 - (T) EASEMENT FOR OVERHANG 0.25 WIDE
 - (W) EASEMENT TO DRAIN WATER 0.25 WIDE AND VARIABLE
 - (S1) EASEMENT FOR SERVICES 0.25 WIDE
 - (S4) EASEMENT FOR SERVICES 1.335 WIDE
 - (S5) EASEMENT FOR SERVICES 0.5 WIDE
 - (S9) RESTRICTION ON THE USE OF LAND 1.8 WIDE
 - (S10) EASEMENT FOR ACCESS VARIABLE WIDTH
- EXISTING EASEMENTS**
- (A) EASEMENT TO DRAIN WATER 0.15 WIDE AND VARIABLE WIDTH (DP1788672)
 - (A) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL 0.3 WIDE (DP1216874)

Surveyor: JOM DEB CORRIAN VEREMA
 Date of Survey: 16TH OCTOBER 2017
 Surveyor's Ref: 708-A-57400

PLAN OF SUBDIVISION OF LOT 106 DP1216874

LGA: STONEY
 Locality: MILLETS POINT
 Subdivision No: LHC17020

Registered
 13.12.2017

DP1221024

From: [REDACTED]

Sent on: Tuesday, January 9, 2024 9:01:05 PM

To: City of Sydney <council@cityofsydney.nsw.gov.au>

Subject: DA Comment re: D/2023/1036

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please see the below comments in respect of the DA: D/2023/1036 at 87 Lower Fort St, Millers Point.

D/2023/1036, 87 Lower Fort St, concerns and considerations:

1. Archaeology

As mentioned on p.41 (Section 3.3 Historical Archaeology) of the original CMP, the site has been relatively undisturbed. "The potential for underground archaeology relating to the previous uses of the site is considered to be high".

Any archaeological deposits found on site have the potential to be of state significance. There is potential for archaeology relating to the aboriginal occupation and use of the site and that of early settlers.

Such archaeology should be investigated and any items of significance noted and retained.

Any remaining footprints of earlier buildings should be preserved.

2. Public right of way

As the public laneway has never historically formed part of the allotment boundaries of this property, the laneway should be retained in its current position, width and length, as a public right of way, with current access also retained. The laneway should remain open to maintain pedestrian circulation. Refer CMP.

3. Dominance, unsympathetic

The bulk and scale of the 2 proposed adjoining buildings are such as to create a dominant structure within the Heritage precinct in which it is prominently located. The dormer windows in the roof sit above 2 storeys of strong vertical walls of a different style. This mish-mash of architectural style, with its height above ground level significantly more than all previous structures on the site, in a prominent position within the precinct, make the development unsympathetic to the Heritage streetscape.

The proposed structure is wider than the Heritage residences in the vicinity, as well as being three storeys, including dormer level, above the street level. The proposed buildings block viewlines from local public areas to the surrounding Heritage precinct. If the intent of the design was to create the appearance of two separate less-imposing buildings, this would be better achieved with a single level glazed central adjoining structure set back further from the street than the solid building structures on each side. This would still enable enclosed access to and from each building block while lessening the dominant nature of the proposed structures, and improving viewlines.

As the CMP states, DA's for this site should take into account the historic archaeological potential of the site, public views of the surrounding residential developments, the historic patterns of development and subdivision at the intersection of Argyle Place, Windmill Street and Lower Fort Street; the existing historic public laneway forming the western boundary of the allotment; the predominant form and scale of the surrounding residential developments; and the historic and aesthetic character of the Millers Point and Dawes Point Village Precinct and the Millers Point Conservation Area.

4. The location of the **garage access** might create a traffic hazard, given its proximity to the sharp bend at the junction of Argyle Place and Lower Fort St.

I ask that the above concerns be taken into consideration when assessing this DA and modifications be required and/or conditions be placed on the approval to better preserve the significant Heritage pertaining to this site and its location, and to ensure safe vehicular ingress and egress.

Regards

Local resident

Name and contact details - not to be made publicly available:

[REDACTED]

[REDACTED]

From: [REDACTED]

Sent on: Thursday, January 11, 2024 1:36:47 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Marie,

I would like to object to this development proposal. Please withhold my name and contact details.

I am concerned about the proposal for the following reasons:

1. The potential existence of Aboriginal archaeological evidence has not been assessed. Millers Point is the original site of invasion. It is imperative that the City of Sydney be sensitive to this issue and make certain any remaining indigenous evidence is preserved.
2. The building is in a prominent location on a corner block and is highly visible. The bulk of the building is exceptionally large in a small and historically significant area. The building will be imposing on its surroundings. A much smaller building would be more appropriate.
3. The height of the building is not compliant by over six metres and will affect sight lines from surrounding buildings, the street and observatory hill.
4. The historical laneway and wall should be retained in their current condition. I note that although the laneway is publicly owned, it is currently locked and inaccessible. Australians should be able to enjoy it as part of the history of the Millers Point area.
5. Finally, there has been a very short notice period for this development application given that many people have been away over the holiday period. I request that a reasonable extension of 4 weeks be granted.

Regards,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent on: Wednesday, January 10, 2024 11:01:01 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge
Attachments: Full Submission - Copy.pdf (215.74 KB), NSW Govt CMP - Laneway extract - Copy.pdf (950.18 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Ms Burge,

Please see attached documents for my objection to the proposal D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000. I request my personal details to be kept confidential.

Kind regards,

[REDACTED]

With Reference to the **proposed DA at 87 Lower Fort Street MILLERS POINT NSW 2000**

Application: D/2023/1036

Link:

<https://eplanning.cityofsydney.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=2215358>

Exhibition Period: 21/11/2023 to 11/01/2024

Objections:

1. Inadequate DA Communication

I express my deep concern regarding the current response period allocated for the Development Application (DA) in the Millers Point area. I appreciate the efforts taken by the City of Sydney Council (CoS Council) in communicating this matter, but I am compelled to highlight certain inadequacies that demand immediate attention. All stakeholders should have an opportunity to provide input. This can also have wider interest beyond the small boundary of local residents that have been notified.

Firstly, the timing of the communication has proven to be particularly challenging for the residents of the Millers Point area. The announcement coincided with the holiday season, a period during which a significant number of individuals were away on vacations or forced leave from employment. Additionally, many government organizations and corporate entities, crucial stakeholders in this matter, were in shutdown mode due to the Christmas holidays. This unfortunate timing has left a substantial portion of the wider community uninformed and unable to respond adequately.

Understanding the far-reaching implications of the proposed DA, it is imperative to ensure that the community is given sufficient notice and a reasonable timeframe to provide thoughtful and meaningful input. The current constraints on time significantly hinder this process and compromise the democratic principles that underpin community engagement.

In light of these challenges, I respectfully request an extension of the response period by at least 30 days. This extension is crucial to afford residents and the wider community the opportunity to thoroughly review the details of the proposed development and formulate well-informed opinions, given the large amount of documentation to consider. Moreover, I urge the CoS Council to enhance its communication strategy by employing more comprehensive methods to reach the wider community effectively.

To facilitate broader awareness and engagement, I propose the implementation of additional communication channels, such as community meetings, informational sessions, and targeted outreach efforts and social media. These initiatives will ensure that all stakeholders are adequately informed and can actively participate in shaping the future of this historic area. This should include Lower Fort Street,

Windmill Street, Argyle Street, Argyle Place, Kent St, High Street, Pottinger Streets, Hickson Rd as well as more broadly in Sydney.

I understand the complexities involved in managing such processes, but I firmly believe that a fair and inclusive approach to community engagement is essential for the success and legitimacy of any development project.

2. Height of new building is non-compliant

In the following report, it is noted on page 18 and 21 of the "Statement of Environmental Effects" that the height of the new building is "not compliant" with both Clause 6.47 and the Sydney Local Environmental Plan 2012 by a significant amount. ie 5.98 metres for the new building's parapet level and an additional 6.44 metres for the new building's roof ridge.

(link <https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!!J47JgRfezydQ5a%2bzMJ6pTwjOJQn2MmMhQIEjXA%3d%3dXgFqxWOje4M%3d&ext=PDF&filesize=3584942&modified=2023-11-06T06:00:33Z>) This may impact views to/from historical and important points such as Observatory Hill and other long-standing historic buildings.

It is noted on page 21 that the building is a "detracting item in the Building Contribution Map of the SDCP 2012".

On what basis would this not create a new precedent for other buildings in the area?

The built form is large and could be considered too large compared to similar small terraces to which it adjoins.

The height should be limited to the compliant height only.

3. Bulk Excavation Impact on potential Aboriginal and heritage relics

Limitations of the report – in section " 1.7 Limitations" of "HISTORICAL ARCHAEOLOGICAL ASSESSMENT & ARCHAEOLOGICAL RESEARCH DESIGN". The report specifically states its limitation as "It does not deal with the potential of the study area to retain evidence of use by Aboriginal people". Link:

<https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!!%2bg6sAEybe0up92GeEPsjcJSpBoZpQTc5MklymA%3d%3dCPvEEgaZZoQ%3d&ext=PDF&filesize=7842664&modified=2023-06-07T01:46:19Z>

All attempts to remediate the site to identify potential items of heritage or Aboriginal significance should be undertaken. The original site was formed in the 1830's when it was used as a shop/residence, and then a blacksmith's workshop (c.1879). As mentioned on p.41 (Section 3.3 Historical Archaeology) of the govt CMP, the site has been relatively undisturbed, "the potential for underground archaeology relating to the previous uses of the site is considered to be high....any archaeological deposits found on site have the potential to be of state significance....there is some potential for archaeology relating to the aboriginal occupation and use of the site" (p.41).

The intent is to do bulk excavation of the site which limits the opportunity to salvage any relics or items of archaeological significance – they are lost, wiped out. The documents submitted by the owners do not refer to the possibility of aboriginal artefacts, however the CMP from the govt did refer to that being possible.

The proponents submitted a " HISTORICAL ARCHAEOLOGICAL ASSESSMENT & ARCHAEOLOGICAL RESEARCH DESIGN"
(link <https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.aspx?id=!!%2bg6sAEybe0up92GeEPsjcJSpBoZpQTc5MklymA%3d%3dCPvEEgaZZoQ%3d&ext=PDF&filesize=7842664&modified=2023-06-07T01:46:19Z>)
which stated on page (ii) "the site contains contaminants - including lead, carcinogenic PAHs and asbestos - at levels above or exceeding human health criteria. Additional hazardous building materials - non-friable asbestos, potential friable asbestos, synthetic mineral fibres and lead-based paint - were also identified throughout the site. Due to the serious health implications of the contamination, archaeological investigation of the site is not considered possible, and neither is the removal of artefacts which are likely to have absorbed contaminants."

Further on page (ii) the proponent's assessment stated "The proposed works include the construction of a three-storey private residence with a lower ground floor, pool and garage. Bulk excavation is proposed across most of the study area for the construction of the lower ground floor and sunken courtyard"

Then, on page 3, point 4 the report recommended "The degree of contamination means the archaeological investigation of the site will be limited to monitoring, with no contact with soil and items, including artefacts, that may have absorbed chemicals unless they can be made safe through remediation."

The question is **how will they be able to find any items if they are doing a bulk excavation? Those relics would in effect be wiped out and the opportunity to preserve these lost forever.**

4. Lack of view impact assessment and sight line impact – views of/to heritage listed buildings would be lost forever

The impact of the building on the sight lines in Millers Point is not covered in the DA – this should be completed to ensure there is no impact on sight lines. Sight lines from historical buildings such as adjoining terraces along Argyle Place, and the historic Garrison Church and heritage-listed Stevens Terrace at 73 Windmill Street built in 1900. A full view-impact analysis should be conducted to assess any building height impacts, given that it is surrounded by historical buildings, and has sight lines to Harbour Bridge and Observatory.

Views from the Observatory Hill and from Garrison Church of the Stevens Building would be compromised by the development. Figure 11 of the DA document "Statement of Environmental Effects" clearly shows that the view of the heritage-listed Stevens Building would be completely lost from the street level.

<https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!!J47JgRfezydQ5a%2bzMJ6pTwjOJQn2MmMhQIEjXA%3d%3dXgFqxWOje4M%3d&ext=PDF&filesize=3584942&modified=2023-11-06T06:00:33Z>

The sight lines have been a major concern for the government and community and are to be preserved – refer to [Report \(nsw.gov.au\)](#)

Notable excerpts include:

3.3 The Heritage Council went on to explain this significance in the context of Barangaroo, noting that there are a number of heritage sites in the surrounding area that are **'intrinsically linked to harbour sight lines'**. These sites include the State heritage listed Warehouses, Millers Point, Dawes Point Village Precinct and the Sydney Observatory.

3.5 Additionally, the heritage significance of Observatory Hill was emphasised to the committee, with the Heritage Council explaining **its importance to First Nations pre-settlement**, early colonists and modern-Sydney.

3.6 The significant heritage value of these areas was reiterated by the Millers Point Resident Action Group, **who stressed that the preservation of the sight lines and the community's ability to enjoy these views is of significant public interest**. They explained that the views of Sydney Harbour are central to the heritage value of these locations and should be actively protected.

3.8 Stakeholders also drew the committee's attention to the fact that the heritage value of the area, of which the sight lines are an integral part, is important to Sydney's standing as an international destination for tourists. They referred to the many visitors that attend Sydney Observatory, as well as other destinations in the Millers Point and Observatory Hill area, to enjoy the views and the related history of the precinct.

3.15 To address these concerns, the committee heard evidence from the Heritage Council about mechanisms available to the NSW Government that would better protect sight lines in the context of any future development and ensure that their heritage value is maintained.

5. Government CMP should apply – potential Aboriginal archaeology impact

The site is steeped in history - when the govt sold the land to the proponent, the following Conservation Management Plan (CMP) applied and should still apply- it pointed out the potential for Aboriginal archaeology to be identified. See link below:

<https://heritagensw.intersearch.com.au/heritagenswjspui/retrieve/9864ddb7-0e04-419e-87bf-16c7b5b272f9/H13567%20-%20NO87.pdf>

The original site was formed in the 1830's when it was used as a shop/residence, and then a blacksmith's workshop (c.1879). As mentioned on p.41 (Section 3.3 Historical Archaeology) of the original CMP, the site has been relatively **undisturbed**, "the potential for underground archaeology relating to the previous uses of the site is considered to be high...any archaeological deposits found on site

have the potential to be of state significance....**there is some potential for archaeology relating to the aboriginal occupation and use of the site"** (p.41).

p.42 has a diagram showing the **Areas of Potentially State Significant Archaeology**

On page 56 in 5.3.5 Criterion E: An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area) it states: "archaeological deposits found on site have the potential to be of State significance and to provide further information into lifestyles, commercial activities of the area, insights into life in the colony in the early to mid-1800s and the types of commercial premises that were once located throughout the precinct. **The potential for underground archaeology to exist at the place is considered to be high and any archaeological deposits found on site have the potential to be of State significance. The place potentially meets the criterion for research potential on a Local and State level.**"

On page 57: "Being built on the site of a number of earlier buildings, **any archaeological deposits found on site have the potential to be of state significance** and to provide further information into the commercial activities and lifestyles of the Millers Point and Dawes Point residents throughout the 19th century"

p.66 - 8.1.2 Alterations and Additions "the property is located in two State Heritage listed conservation areas and is surrounded by residential properties individually listed on the State Heritage Register, **consideration of the impacts on the setting, views, historic pattern of development and form, scale and character of the immediate surrounds should form the basis of any future works at the place.** Refer also to Policy 55 in Part 2 CMP"

p.66 - Replacement Policy 59 - Building Envelope, Original Buildings, development applications should take into account: the historic archaeological potential of the site; **public views of the surrounding residential developments**; the historic patterns of development and subdivision at the intersection of Argyle Place, Windmill Street and Lower Fort Street; the existing historic public laneway forming the western boundary of the allotment; **the predominant form and scale of the surrounding residential developments**; and the historic and aesthetic character of the Millers Point and Dawes Point Village Precinct and the Millers Point Conservation Area."

p.68 - 8.2.1 Subdivision of No. 87 Lower Fort Street "as the public laneway has never historically formed part of the allotment boundaries for the subject property, **this laneway should be retained as a public right of way...The laneway should remain open to maintain pedestrian circulation and is to be retained as a public right of way.**"

p.141 - Policy 68 - Car Parking "**The adaptation of rear yards and outbuildings for car parking could seriously compromise the place and potentially cause the loss of significant fabric and is generally not possible.**"

p.144 7.2.23 Views "Potential impacts on the setting of properties and key views to and from properties and groups (as identified in Part 1) will need to be carefully considered in the heritage impact assessment process. The significant views provided in Part 1 are to be conserved and consideration of impacts will need to be included in development applications. **The management of streetscapes and presentation of groups of terraces is an important element to be conserved** (see Policy 83). In summary, consideration of the impact of development on the setting of Millers Point buildings requires as much care and consideration as changes to the building itself. The sum of the parts is greater than the whole in this conservation area."

6. Aboriginal remains were excluded from the assessment submitted

The proponent's report titled "HISTORICAL ARCHAEOLOGICAL ASSESSMENT & ARCHAEOLOGICAL RESEARCH DESIGN" dated JUNE 2023 by Casey and Lowe specifically excluded Aboriginal remains and there appears to be no attempt to remediate the land (link

<https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!%2bg6sAEybe0up92GeEPsjcJSpBoZpQTc5MklymA%3d%3dCPvEEgaZZoQ%3d&ext=PDF&filesize=7842664&modified=2023-06-07T01:46:19Z>)

- In the Executive Summary on page (i), stated the purpose of their assessment is NOT related to Aboriginal artefacts "This report is designed to assess the potential for historical (**non-Aboriginal**) archaeological remains (heritage items including 'relics') within the study area, as well as determining the heritage significance of these remains"
- on page (ii), the assessment found "Moderate potential for archaeological remains associated with the c.1833 residence/shop, c.1879 additions and associated features, including demolition debris. As the site was raised and levelled in the early 20th century, intact remains would be at depth below the current ground level. There is a higher potential for footings and other structural remains including"

There were many conditions in the document from the Department of Planning and Environment approving the "APPLICATION UNDER SECTION 60 OF THE HERITAGE ACT 1977" (link

<https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!ntn%2bZafnVcBBHt3BPi0JysYQBQy4vEhEniCVQA%3d%3dIARX8sE01Q%3d&ext=PDF&filesize=100736&modified=2023-11-10T00:15:28Z>)

- on page 5, if they find any unexpected items or relics, they are meant to cease work and notify Heritage Council of NSW and Heritage NSW.

The question is how will they be able to find any items if they are doing a bulk excavation as mentioned above? Those relics would in effect be wiped out and the opportunity to preserve these lost forever

7. Original laneway built in early 1900s to be demolished

The proposal is also to demolish the existing structure and reconstruct the stone wall. In the document submitted by the proponent titled "Statement of Environmental Effects" it states on page 4 "**The proposal involves the demolition of the existing**

structures on the site and the dismantling and reconstruction of the stone wall along the private laneway"

(link <https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!J47JgRfezydQ5a%2bzMJ6pTwjOJQn2MmMhQIEjXA%3d%3dXqFqxWOje4M%3d&ext=PDF&filesize=3584942&modified=2023-11-06T06:00:33Z>)

In the CMP developed by the govt, it stated the laneway was public use and had special significance, see attached document containing excerpts from the govt CMP in regards to the laneway.

The laneway should not have a gate and should be open to the public and allow public access and should not be demolished or reconstructed. It should be preserved as is.

8. Potential cultural insensitivity to First Nations People

Millers point consists of many heritage buildings. To my knowledge, there has been no new construction of houses or terraces since those on Pottinger Street, Millers Point, around 2002, which were contemporary terraces.

Building a colonial-style house in Millers Point may be considered culturally insensitive, as it could evoke memories of Australia's colonial history and its impact on Indigenous populations. Such a construction may not align with the contemporary values of acknowledging and respecting the diverse cultures and histories of Australia's First Nations people.

Constructing a new colonial-style house might clash with local preservation efforts, as it may not contribute to the authenticity and integrity of the existing historical context.

Colonial architecture can carry symbolic associations with colonialism, which may be a painful reminder for certain segments of the population. Constructing a building in this style may be perceived as promoting or glorifying historical narratives that are offensive to some individuals and communities.

In the modern era, there is a growing emphasis on diversity and inclusivity in architecture. Building a colonial-style house may be seen as neglecting the opportunity to showcase a more inclusive and diverse range of architectural styles that reflect the multicultural nature of contemporary Australia.

Georgian-style mansions are often linked to wealth and privilege, potentially exacerbating perceptions of social inequality.

In the proponent's submission of "Comparison of Georgian Mansions, Millers Point, Sydney Harbour" in the link:

<https://eplanning.cityofsydney.nsw.gov.au/Common/Integration/FileDownload.ashx?id=!BZMCGNvLpCzlnVddRPFbovyzhjmGUld6BNZEeQ%3d%3djwoQgzTSBjk%3d&ext=PDF&filesize=2883436&modified=2023-05-29T02:35:10Z> page 1 and 3 states:

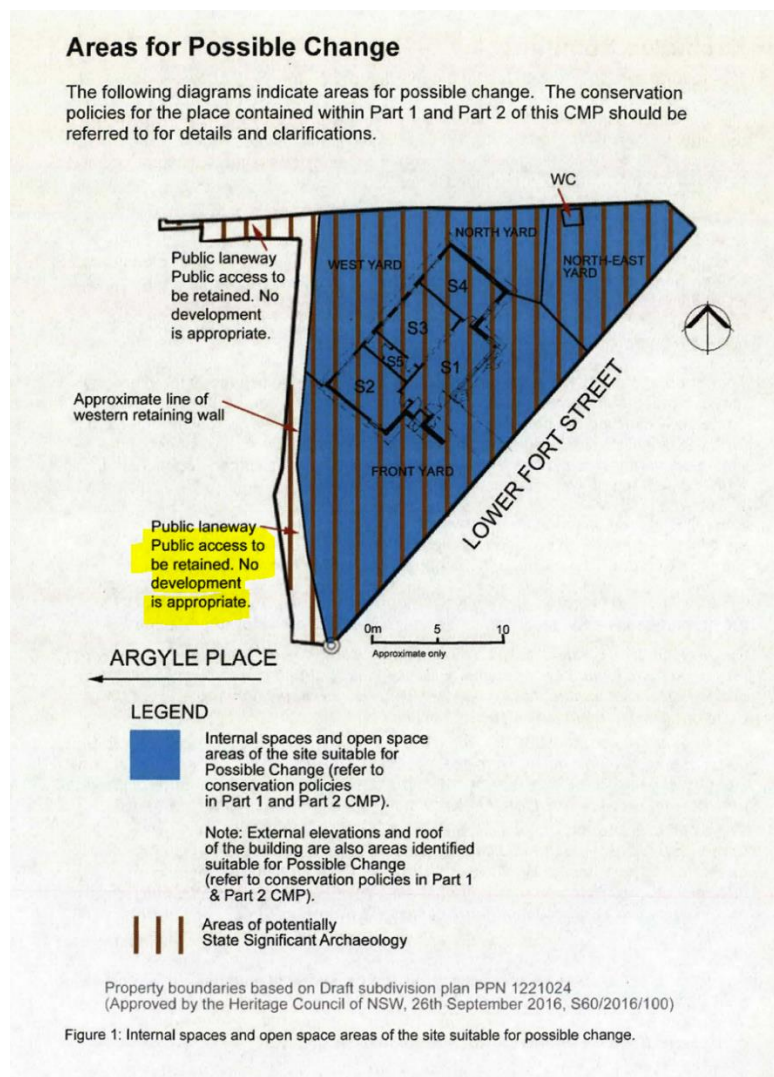
"Georgian Architecture was the predominant style used for the grand residences of the wealthy and well-to-do in Colonial Australia. Popular throughout Britain at the time, it was a style that was easily transposable from

England to the budding colony. This style brought a sense of civilisation to the bush and reminded the gentry and nouveau riche of “home”Strolling past the grand Georgian terrace houses, villas and mansions on these broad streets with their regimented rows, their elegant and towering presence gives a subtle proclamation of their wealth... The style of the Georgian mansion and the wealth required to construct it reflected the growth and prosperity of their owners and of the progress of the colony....In heritage, imitation is looked upon as being misleading, a forgery of the past”

The Lord Mayor, Clover Moore, has **acknowledged that Sydney's history included events and attitudes that required redress, particularly in relation to Aboriginal and Torres Strait Islander communities and that “The impact of colonisation is particularly poignant here in Sydney, the first site of invasion”** (<https://www.sbs.com.au/nitv/article/plaques-on-sydneys-colonial-statues-will-be-revised-after-a-push-from-the-citys-only-aboriginal-councillor/mtm4cx325>).

Acceptance of the DA proposal could be seen by the wider community of NSW who may not be aware of such a new build, as a failure to align with contemporary values.

The question for assessors is how does this proposal contribute to a more inclusive city for all people?



This CMP applies to the place located at No. 87 Lower Fort Street, Millers Point. The real property definition of the place is Part Lot 211 of DP 1214948. The whole of Lot 211 also contains the properties located at 85 Lower Fort Street (Argyle House) and 73 Windmill Street (see Figure 4). However, as of September 2016, Lot 211 of DP 1214948 (at that time known as Lot 105 of SP 1216874) had received approval for subdivision into a series of individual allotments, including a single, separate allotment for the subject property and including the area of land that formed the side yard for the adjacent property at No. 85 Lower Fort Street (see Figure 5).

The allotment for the subject property contains a single storey community facility building originally constructed as a Baby Health Centre in c.1952, landscaping an enclosed rear and north yard area, an enclosed northeast yard area (formerly part of the allotment for No. 85 Lower Fort Street) and the southern portion of a public laneway linking Argyle Place to the rear lane running along the north property boundaries of the Argyle Place properties (see Figure 2). The laneway has been established as a legal Right of Way as well as a drainage easement as per the approved subdivision plans for Lot 211 of DP 1214948.

3.1 Site Description

The Site

Formed in the 1830s (possibly earlier), the allotment that contains the former Baby Health Centre is a reasonable sized allotment, triangular in shape that retains its original or early allotment boundaries from the 1830s on its south-eastern (fronting Lower Fort Street) and northern boundaries. The former Baby Health Centre building is located close to the centre of the allotment facing eastward to Lower Fort Street. The remainder of the site is relatively undeveloped with the east and southern portions having been landscaped, while a fenced rear yard (northwest and north areas) appears to have been used in the past as a dumping ground for construction or other waste. This area is currently inaccessible due to safety reasons.

The western boundary of the allotment appears to have been formed in the 1850s with the creation of a public right of way or laneway leading northwards from Argyle Street along the western boundary of the site and to the west behind the terrace rows fronting Argyle Street. Although a portion of this laneway is now part of the legal allotment boundaries of the subject property, a right of way over this access path has been legally established.

The south-eastern corner of the allotment consists of an enclosed landscaped area

Page 47:

The public laneway located within the property boundaries of the site is ranked as being of High significance as this element dates from at least the 1850s and is historically significant as part of the historic development of the locality as a residential precinct and should be retained. Likewise, the alignment of the site boundaries along the Lower Fort Street frontage and the northern boundary which is shared with the adjacent properties at 69 to 75 Windmill Street, appear to survive from the initial granting of the land in the 1830s.

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Page 66:

8.1.1 Archaeology Management

Replacement Policy 37 – Archaeological Potential

The historic archaeological potential of the place should be conserved. No. 87 Lower Fort Street (including the north-east yard) has the potential to contain state significant archaeology and an archaeological assessment is required before any detailed proposal to reconfigure the allotment that would require excavation and risk the disturbance of archaeological 'relics'.

8.1.2 Alterations and Additions

As the former Baby Health Centre building is not an individual item of heritage significance and is not considered to be of aesthetic significance, substantial alterations to the building including replacement of the existing building is considered appropriate.

However, the property is located in two State Heritage listed conservation areas and is surrounded by residential properties individually listed on the State Heritage Register, consideration of the impacts on the setting, views, historic pattern of development and form, scale and character of the immediate surrounds should form the basis of any future works at the place. Refer also to Policy 55 in Part 2 CMP.

Replacement Policy 59 – Building Envelope, Original Buildings

The configuration, form and scale of any new additions, alterations or replacement building/s at the subject property should take into account the following:

- the historic archaeological potential of the site;
- public views of the surrounding residential developments;
- the historic patterns of development and subdivision at the intersection of Argyle Place, Windmill Street and Lower Fort Street;
- the existing historic public laneway forming the western boundary of the allotment;
- the predominant form and scale of the surrounding residential developments; and
- the historic and aesthetic character of the Millers Point and Dawes Point Village Precinct and the Millers Point Conservation Area.

New works at 87 Lower Fort Street that result in adverse impacts on the above components of significance are not appropriate.

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8.2 Conservation Policies Specific to No. 87 Lower Fort Street

8.2.1 Subdivision of No. 87 Lower Fort Street

The subject property at 87 Lower Fort Street is currently located on a single allotment that also contains the adjacent buildings at 85 Lower Fort Street (Argyle House) and 73 Windmill Street, being Lot 211 of DP 1214948.

As of September 2016, Lot 211 of DP 1214948 had received approval for subdivision into a series of individual Torrens title allotments, including a single, separate allotment for 87 Lower Fort Street comprised of the triangular piece of land with the Baby Health Centre building and associated landscaping together with the adjoining public laneway running along the western boundary of the site linking Argyle Place with the laneway running along the northern boundary of the properties fronting Argyle Place (see Figures 2, 4 and 5).

The current owner's requirement for the place (see Section 7.0) involves selling the site as a single Torrens Title allotment, however, it is possible that a future owner of the place may wish to subdivide or strata subdivide the property.

For any future subdivision proposal, consideration should be given to the historic configuration of the allotment which has been in place since at least the 1830s.

In addition, as the public laneway has never historically formed part of the allotment boundaries for the subject property, this laneway should be retained as a public right of way.

Policy 93 – Future Subdivision

Subdivision (either Torrens or Strata) of the allotment is appropriate so long as the historic triangular form of the allotment of land for 87 Lower Fort Street as indicated in Figure 1 is retained. Amalgamation of the site with any adjoining site is not appropriate.

Policy 94 – Future Subdivision

No permanent or temporary structures are to be introduced into the western public laneway. The laneway should remain open to maintain pedestrian circulation and is to be retained as a public right of way.



From: Shiney Mehrotra [REDACTED]
[REDACTED]

Sent on: Thursday, January 11, 2024 3:23:48 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hello

I object to the proposal on the basis of the building's scale and height, which is not in keeping with the surrounding buildings. In addition, the archaeological and aboriginal artefacts on the site need to be preserved.

Regards,

Shiney

From: Vanessa Colclough [REDACTED]
Sent on: Thursday, January 11, 2024 2:50:42 PM
To: dasubmissions@cityofsydney.nsw.gov.au
CC: PAADesign Information <info@paadesign.com.au>
Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge
Attachments: 240111A_DA2023 1036_87 Lower Fort Street Submission.pdf (4.7 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Marie Burge,

Please find attached our submission in regard to the above Development Application.

Please do not hesitate to contact us if you require further information.

Regards

Vanessa Colclough
Managing Director

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Nominated Architect: Peter Andrews
Registration No. 3678

Our Ref: 23025/1101A

11 January 2024

City of Sydney
GPO Box 1591
Sydney NSW 2001

By Email: council@cityofsydney.nsw.gov.au

Attention: Marie Burge

Dear Ms Burge,

**Submission on Development Application D/2023/1036
87 Lower Fort Street Millers Point NSW 2000**

Peter Andrews and Vanessa Colclough are owners and residents of 67 Windmill Street. Our property adjoins 87 Lower Fort Street, the property subject to the above Development Application. We provide the following submission in regard to this Development Application.

The redevelopment of 87 Lower Fort Street based on the documentation lodged for the Development Application, is proposed to incorporate:

- Bulk excavation across most of the site up to an approximate depth of 4m over the site for the construction of the lower ground floor, sunken courtyard, and swimming pool. This includes removal of fill and also excavating into the rock platform up to 4 metres in height.
- Construction of a four level, GFA of 498.5m², 10.67 metre high building at street level, plus a garage, swimming pool, raised decks, retaining block walls and various landscape treatment.

This is a significant development in the Millers Point Heritage Conservation Area. We have identified a number of issues that will have an impact on our landholding and dwelling. This includes impacts on the existing boundary retaining walls, privacy and visual amenity, and potential heat gain as a result of the proposed redevelopment. Accordingly, we provide the following objections to the development.

Structural Integrity and Retaining Walls

87 Lower Fort Street sits above several heritage buildings on Windmill Street and shares a boundary with 65, 67, 69, 71, 73 and 75 Windmill Street. The land subject to the Development Application is supported by different types of retaining walls at the rear of the above properties. These retaining walls include:

- Sandstone rock with rockbolts (71 Windmill Street).
- A mixture of sandstone rubble walls supported on layered sandstone rock,
- A 230mm brick infill wall along part of 67 and part of 69 Windmill Street on layered sandstone rock. The brick infill is supported by a brick buttress on top of a sandstone rubble wall on the western boundary of 69 Windmill Street. There is evidence that the buttress has failed in at least two places in the past, although the wall appears to be stable under current conditions and loadings.

The retaining walls have been identified in the CMPs for the various properties.

Refer images of the retaining wall in 67 and below.



Brick buttress and retaining wall



Retaining wall materials

Despite some evidence of cracking and the failed buttress, the sandstone rubble wall and brick infill wall appear to be stable and capable of supporting the existing load. In accordance with the recommendations of the CMP and associated engineering advice and subsequent engineering advice, we have been continually monitoring the wall in 67 Windmill Street and removed the vegetation recommended in the CMP.

The proposed development will increase the loadings onto the retaining walls and as noted in the geotechnical report there is significant potential for ground vibration to these walls and adjoining properties. Refer extract below.

The structural engineering review does not adequately address the impacts and appears to be inconsistent with the geotechnical report.

The Geotechnical Investigation Report submitted as part of the Development Application states the following;

The site was observed to be bounded and supported by a brick wall (6.00m to 7.00m height) to properties No.65, 67 and 69 which can be seen in Photograph 5, however due to access limitation the supporting wall and the boundary condition to properties No. 71, 73 and 75 was not observed. The footing and foundation condition of the supporting wall was not investigated; however, the supporting wall within properties (No.65, 67 and 69) appeared to be in a good condition without any signs of major cracks or ground movement.

From the provided architectural drawing the neighbouring structures towards the north and the boundary wall (No. 69,71,73, and 75 Windmill Street) appear to be sitting approximately 6.0m below (RL15.35) the sites ground level. The difference in ground level eliminates the threat of damage to the property's dwellings from soil excavation, however structures can still be impacted by ground vibrations during excavation.

The foundation conditions and footings of the boundary walls towards the north and west were not investigated due to limited access. Additional inspection will be required for the boundary wall once the site has been cleared of existing vegetation to confirm the condition of the boundary wall and any support required.

It is recommended that a structural engineer be engaged to assess the need for additional temporary support to protect these structures during the proposed works and also to determine the need for permanent support.

The excavation of low up to high strength rock requires the use of rock excavation equipment which can produce ground vibrations of a level which can potentially cause damage to neighbouring structures. Therefore, selection of suitable equipment and a sensible methodology are critical. The need for full time vibration monitoring will be determined based

upon the type of rock excavation equipment proposed for use. Crozier Geotechnical Consultants should be consulted for assessment of the proposed equipment prior to its use. It is recommended that a rock saw and small ($\leq 150\text{kg}$) rock hammers be proposed for use at this site to avoid the need for full time monitoring. Larger rock hammers may be preferred and if utilised, further assessment and potentially full-time monitoring would be necessary.

The description in the Geotechnical Report is not correct as the image is of the rear retaining wall along properties from 63 Windmill Street and to the west. Properties from 63 Windmill Street and to the West (the Workers Cottages) comprise a continuous engineered brick retaining wall running along the rear of those properties. The rear retaining wall along 65, 67 and 69 is not a brick wall as described above. Further the footing and foundation conditions were not observed.

The Structural Engineering report proposes shoring and piling along part of the ROW and Lower Fort Street. However, it does not describe any structural treatment for the retaining walls at the rear of 67 and 69 Windmill Street. Yet,

- there will be a significant increase on the loadings on this wall because of the proposed block walls and swimming pool, and potentially the landscape proposed.
- as noted in the geotechnical report, there will be potential for vibration impacts, and
- there is potential impact from the landscape treatment proposed on the structural integrity on the walls as noted in the various CMPs.

The Structural Engineering report is a review only based on a site visit on assets that could be viewed and the Geotechnical Report. As noted above, the Geotechnical observations are incorrect. Further there has not been a full investigation of the retaining wall that adjoins the boundary with 87 Lower Fort Street. We were not approached in regard to providing access when the review was prepared.

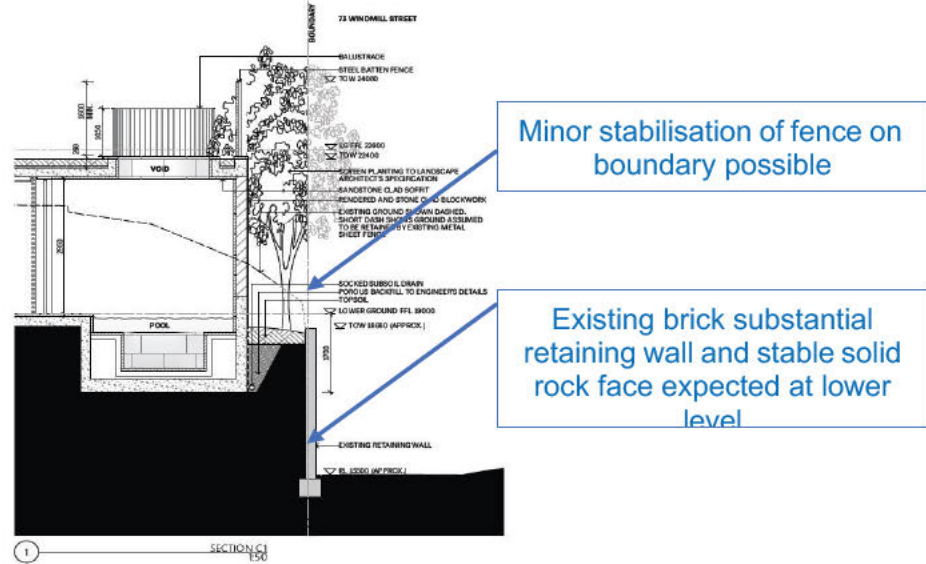
The redevelopment proposal incorporates along the northern boundary adjoining properties 67 to 73 Windmill Street and adjoining the retaining wall at the rear of these properties:

- A swimming pool and spa, water tanks and garden.
- A rendered and stone clad blockwork retaining wall for the pool and deck area.
- Backfill to the rear heritage retaining wall.
- Top soil of varying depth, which does not meet deep soil conditions.
- 17 trees, which range in size from 8m to 15m tall and up to 10m wide including Chinese Juniper, Blueberry Ash, Tuckeroo and Weeping Lillypilly and over 150 smaller plants under the proposed trees within a width of approximately 1200m.

The structural report review does not consider the full length of the retaining wall at 67 and 69 Windmill Street and how the retaining walls will be impacted by the development. The report addresses 73 Windmill Street only as shown on the image below. The heritage retaining wall is not a substantial brick wall in the other properties as outlined above and there is no detail in how the retaining walls are satisfactory for the proposed development. The information shown is incorrect. The existing retaining wall is shown incorrectly and does not represent what is on site.

The architectural drawings show a section of the retaining wall of 69 Windmill Street, however this is also based on incorrect information on the wall.

Sketch Image 1-Southern Boundary to Lower Fort Street



Sketch Image 2 – northern boundary to 73 Windmill Street

There has not been any considered investigation in regard to the removal and excavation for the proposal nor the load from the proposed redevelopment including the landscape treatment on the entire retaining wall that adjoins the boundary. We note the landscape treatment is to provide better amenity to the adjoining landowners (which we discuss further below). However, there has not been a considered investigation in regard to whether the retaining walls, that is part of the CMPs for all properties, will be impacted by the landscape proposed. Neither the structural review nor geotechnical report discuss the potential impacts of the landscape treatment.

The structural report does not address the need for ongoing monitoring of impacts of vibration during construction. Monitoring of the impacts on the existing retaining walls should be carried out by an independent party.

Visual and Acoustic Amenity Impacts

The Statement of Environmental Effects states:

Potential privacy concerns have been addressed by positioning most of the living spaces of the dwelling to face the front of the site and by directing the window openings of the bedrooms and living areas on the upper levels away from the adjoining residential properties and when necessary, appropriately designed metal screens were used.

This statement is incorrect as the whole of the ground floor comprise living areas that face to the north west and open onto the outdoor courtyard.

Glass doors on the ground floor are 3 metres high from floor to ceiling and can be opened entirely for a length of 7.9m. These are accessed from the living area onto the outdoor courtyard. The outdoor courtyard is also elevated. Whilst shutters are proposed, these are adjustable and can be closed or opened and orientated at any angle.

Similarly, tall windows are proposed along the rear façade on level 1. The sill height is only 1m and the windows go to the full height of the ceiling being 2.7m. The windows are sliding windows, which can be opened for a large area. Again, aluminium shutters are proposed, however these are adjustable and can be closed or opened and orientated at any angle.

Due to the orientation of the building and the location and size of the windows and glass doors, views will be available directly to our living area and kitchen from the proposed ground floor living areas, outdoor courtyard, the first floor and roof top terrace at 87 Lower Fort Street.

Council's DCP identifies development is to maximise visual privacy to side and rear boundaries and includes the following measures amongst others:

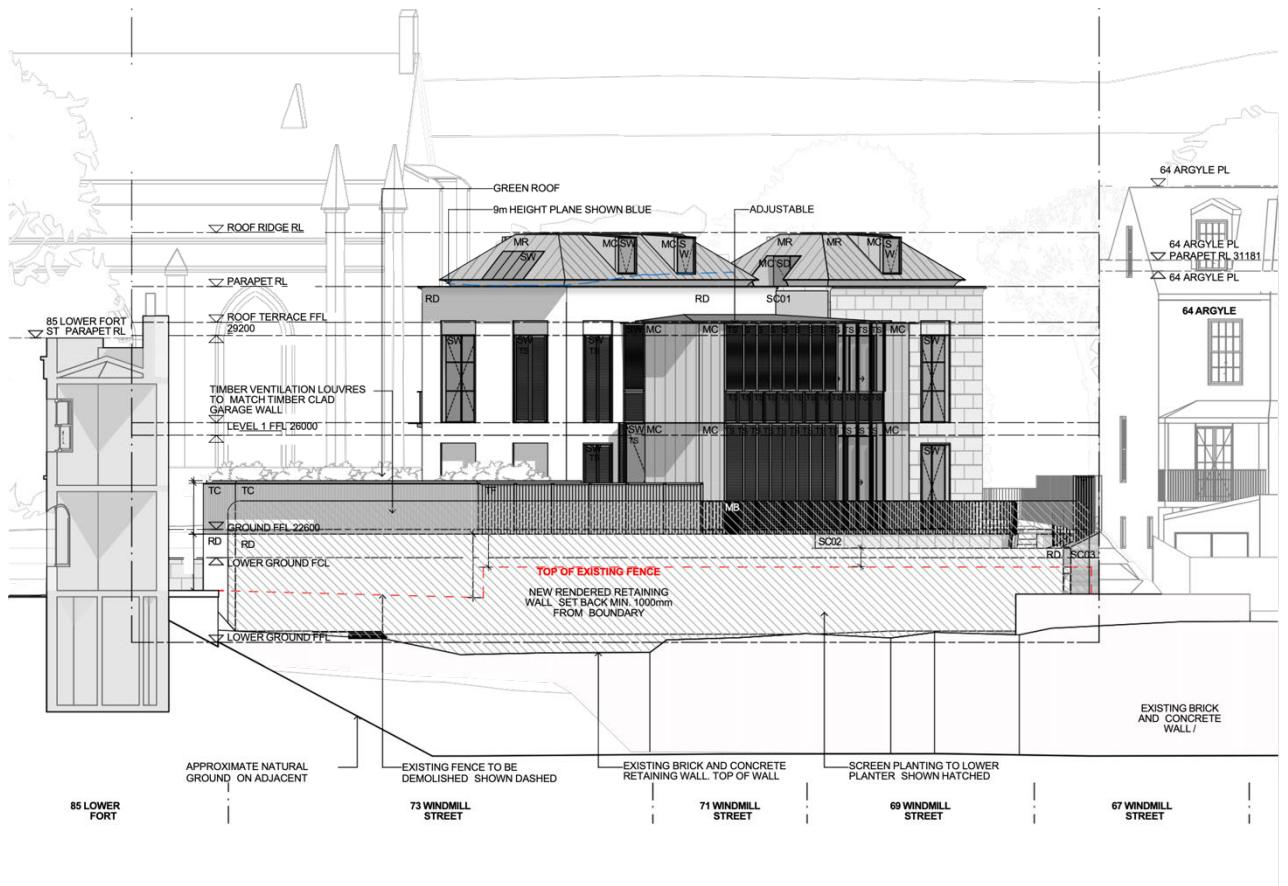
- (d) providing sill heights of 1.4m above finished floor level;
- (2) Screening devices such as obscure glazing, timber screens, external ventilation blinds, window hoods and shutters are to be at least 60% obscure, permanently fixed and made of durable material.

The proposed development does not meet the requirements of the DCP as it has sill heights lower than 1.4m, all windows are opening and to full widths, glass doors are also proposed to open to full width and the building is orientated, which will look directly into our dwelling and we will look directly into the proposed dwelling. Whilst there are screening devices, these are fully adjustable and do not provide any visual privacy for the occupants or us.

The visual and acoustic amenity for the lower ground floor has been improved by the proposed retaining walls and landscape treatment as noted above. However, it is not known whether this is going to be feasible particularly given our concerns and the lack of information and incorrect information in regard to the existing retaining walls, its ability to withstand the load of the proposal and the proposed construction method. Should a different solution be proposed then further assessment and advertisement should be undertaken to ensure that the proposal does improve the proposal's impact on privacy for the occupants and the adjoining buildings.

The proposed retaining wall and landscape treatment as shown on the plans, does not provide screening to 67 Windmill Street at the proposed new ground level in the north west corner. The screening will apparently rely on landscape on the lower level behind the existing retaining wall. As noted previously, incorporating tall trees and extensive vegetation in this location is inconsistent with the CMP recommendations for 67 and 69 Windmill Street.

The existing metal fence above the retaining wall is shown to be removed, which includes part of our property. Refer following image. There is no information on how security will be provided to our property from the new development including the right of way. It will be extremely difficult to get access to maintain the proposed vegetation between the existing retaining walls and the new wall and we question the long term viability of the landscape proposal in that regard.



Potential Solar Impacts

There will be substantial sun reflected onto 67 Windmill Street, particularly from the west, due to the bulk and height of the building, orientation of the building, the proposed materials including glass, aluminium louvres, and the size and location of glass windows and doors on the north western façade. This will reflect heat, which will cause heat gain in 67 Windmill Street and potential glare.

It appears, that at least approximately 75% of the rear façade is proposed to incorporate aluminium louvres and/or glass. Given that our property has already been impacted by new developments in the CBD through reflection of glazed walls, which has increased the heat gain and reduced amenity by increased glare, the proposal is likely lead to cumulative impacts of solar reflection and glare, given the extent of glass and aluminium.

Conclusion

In conclusion, we have outlined a number of issues including the impacts on the existing boundary retaining walls, privacy and visual amenity, and potential heat gain as a result of the proposed redevelopment.

Prior to determining the application, the applicant should be required to demonstrate how the impacts that we have identified can be properly addressed. We are happy to assist the applicant and Council further in trying to resolve our objections. We have real concerns in regard to the impact on the heritage retaining walls and the lack of information and investigations to support the Development Application. We request that Council keep us informed on how these matters will be resolved.

Yours faithfully,

Peter Andrews
Director

cc. The owners – 87 Lower Fort Street Millers Point

From: Kuzi Jaravani [REDACTED]
Sent on: Thursday, January 11, 2024 4:29:11 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge
Attachments: Written Objection - D-2023-1036 - 87 Lower Fort Street, Millers Point.pdf (1.51 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi Marie,

Please find attached an objection to D/2023/1036 at 87 Lower Fort St, Millers Point on behalf of the owners of 64 Argyle Place, Millers Point.

If you have any questions or comments regarding the above, please do not hesitate to be in contact.

Kind regards,

KUZI JARAVANI
TOWN PLANNER



T: (02) 9690 0279

E: [REDACTED]

W: www.theplanninghub.com.au

A: Suite 3.09, Level 3, 100 Collins Street, Alexandria, NSW 2015



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11 January 2024

council@cityofsydney.nsw.gov.au.

City of Sydney
GPO Box 1591
Sydney NSW 2001

Attention – Marie Burge

Written Objection to D/2023/1036 – 87 Lower Fort Street, Millers Point on behalf of the Owners of 64 Argyle Place, Millers Point

Thank you for providing the opportunity to comment on the proposed development at 87 Lower Fort Street, Millers Point (*“the site”*). This objection is written on behalf of the owners of 64 Argyle Place, Millers Point (*“our client”*), that is located directly to the west of the site.

The proposed development as we understand, seeks approval for the demolition of existing structures, site excavation and the construction of a new dwelling with associated landscaping.

We note that the proposed development results in a number of unacceptable impacts on our client, their property and the surrounding area. It is our opinion that those significant issues include the following:

- Non-compliance with the Sydney Local Environmental Plan (LEP) 2012 in relation to the maximum building height development standard and demolition.
- Non-compliance with key controls and objectives of the Sydney Development Control Plan (DCP) 2012 in relation to the privacy, solar access, view loss and bulk and scale;
- Unreasonable Impacts on Existing Views;
- Inconsistency with the Conservation Management Plan applying to the site; and
- Inconsistency with the Objectives of the R1 General Residential Zone under the Sydney Local Environmental Plan (LEP) 2012.

The following sets out a detailed assessment of the proposed development based on a review of the DA documentation, a detailed review of applicable planning controls and the resulting impacts on the area.

1.0 Non-compliance with Key Controls and Objectives of the Sydney LEP 2012

The Sydney Local Environmental Plan (LEP) 2012 provides development controls to ensure a high standard of urban design in the public and private domains, to protect and enhance the amenity, vitality, and viability of Sydney for existing and future residents, and people who work in and visit Sydney.

The LEP also provides controls to ensure that development achieve a high-quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities.

The following provides an overview of the non-compliances and inconsistencies with the key controls and objectives of the Sydney DCP.

Clause 6.47 Miller Point Heritage Conservation Area

In accordance with Clause 6.47(5) of the Sydney Local Environmental Plan (LEP) 2012, the maximum height of a building on land to which this clause applies is the height of the building on the land as at the commencement of this clause.

The applicant has identified that the maximum height permissible equates to the existing one-storey building on the site which is the former Baby Health Centre. Specifically, the ground level is set at RL 21.39m and its roof ridge is set at RL 25.62 resulting in a maximum building height of 4.23m.

The proposed development involves the demolition of existing structures, site excavation and the construction of a new dwelling with associated landscaping. The proposed dwelling is intending to set the roof ridge at RL 32.06m resulting in a maximum building height of 10.67m being an increase of 6.44 metres.

Given the maximum building height of 4.23m, the proposal exceeds the requirements as prescribed under Clause 6.47(5) by 252.2%. The variations are detailed in **Figure 1 and 2** below.

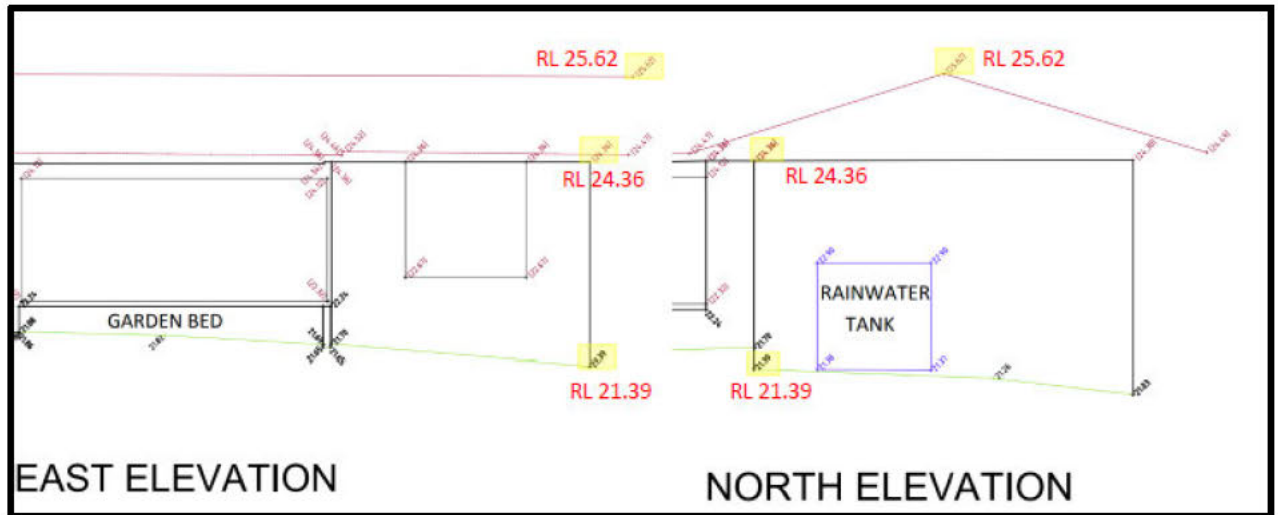


Figure 1: Existing building's north-eastern corner height. (Source: RPS)



Figure 2: Proposed South Elevation (Source - Andrew Burns Architecture)

The applicant has submitted a request under Clause 4.6 of the Sydney LEP for the proposed variation which contends that the 252.2% variation is acceptable because the objectives of the development standard are achieved notwithstanding non-compliance with the standard, contextual response to the built form qualities of the surrounding locality, the intended residential use, consistency with the height of parapets and roof ridges of adjoining properties and as the existing building on the site is identified as a detracting item in the Building Contribution Map of the SDCP 2012.

Clause 4.6 (3) of the Sydney LEP states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- *that there are sufficient environmental planning grounds to justify contravening the development standard*

In accordance with Clause 4.6 (4) (a) of the Sydney LEP the consent authority can grant development consent for development that contravenes a development standard if they are satisfied that:

- *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

It is considered that the applicant's Clause Variation Request is not well founded as it does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify contravening the development standard and that despite the variation the proposed development is in the public interest.

The proposed development is inconsistent with the objectives of the Clause 6.47 and the objectives of the R1 General Residential Zone which are as follows:

Clause 6.47 Miller Point Heritage Conservation Area

- (a) to conserve the heritage items and built form of the Millers Point heritage conservation area, and
- (b) to ensure that conservation management plans endorsed by the Heritage Council are considered in the assessment of development that impacts a heritage item in the Millers Point heritage conservation area.

Zone R1 General Residential – Objectives

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain the existing land use pattern of predominantly residential uses.*

The proposed exceedance of the 4.23m maximum building height control in two instances is inconsistent with the relevant objectives of the minimum lot size development standard and the R1 General Residential Zone in that:

- The built form proposed in of an excessive bulk and scale that is inconsistent with the Millers Point heritage conservation area;
- The development will result in adverse amenity impacts on adjoining residents in terms of overlooking and solar access;
- The type and density of the development proposed is incompatible with the site;

- It results in an increase in density and over development;
- The provision of single dwelling house will not provide a notable contribution to the supply of housing in the surrounding area;
- The provision of a dwelling house of this bulk and scale is inconsistent with the historic use of the site;
- It results in a built form that is inconsistent with the built and natural features of the area by unduly compromising the amenity of adjoining properties; and
- The built form minimises the amount of community facilities and public open space within the surrounding area.

Whilst it is understood that a height of 4.26m is restrictive in nature, the applicant's Clause 4.6 does not adequately demonstrate how a development of this bulk or scale is an appropriate built form response to the site or surrounding area. Overall, the height of roof ridge and parapet aligns with adjoining development, however, it results in adverse amenity impacts on adjoining surrounding residents and demonstrates a built form that is incompatible with the site.

It is noted that the surrounding area contains development ranging in typology, scale and significance and should be considered individually and collectively as whole community fabric. Aligning all development to a singular roof ridge and parapet alignment does not achieve an urban design response to the significance of the area. Specifically, adjoining development comprises of a range or medium to high density development. The extent of the variation proposed for the purpose of a detached dwelling house is considered to be unnecessary and over development noting a more skillful design could make better use of the overall site whilst minimising the extent of the variation. The development is located on a constrained triangular site and the proposed built form results in adverse overlooking, privacy and solar access impacts on adjoining properties demonstrating that the site is unsuitable from the proposed bulk and scale.

The proposed development fails to provide a contextually appropriate response to the surrounding area. This is a result of the development resulting in an excessive visual bulk and scale that will detract, overshadow and de-emphasise from surrounding local landmarks (the garrison church). Additionally, this large and prominent corner allotment should not be considered a 'midblock' noting this proposal has the potential to adversely impact on significant and district views along Lower Fort Street and Argyle Place.

Overall, the proposal facilitates the construction of an inappropriate contemporary development that fails to consider the heritage significance of the surrounding heritage area. **Figure 3** below demonstrates that the site has historically been more suitable for single-story development due to the irregular shape of the allotment. The proposed alteration to a residential use does not justify an uplift of this extent noting that the existing scale has been respected with all development on site, including the original dwelling and the Baby Health Centre. As a result of the proposed bulk and scale, the site is likely to remain as a detracting component within the streetscape whilst arising adverse amenity impact on adjoining properties in terms of overlooking, privacy and shadowing.

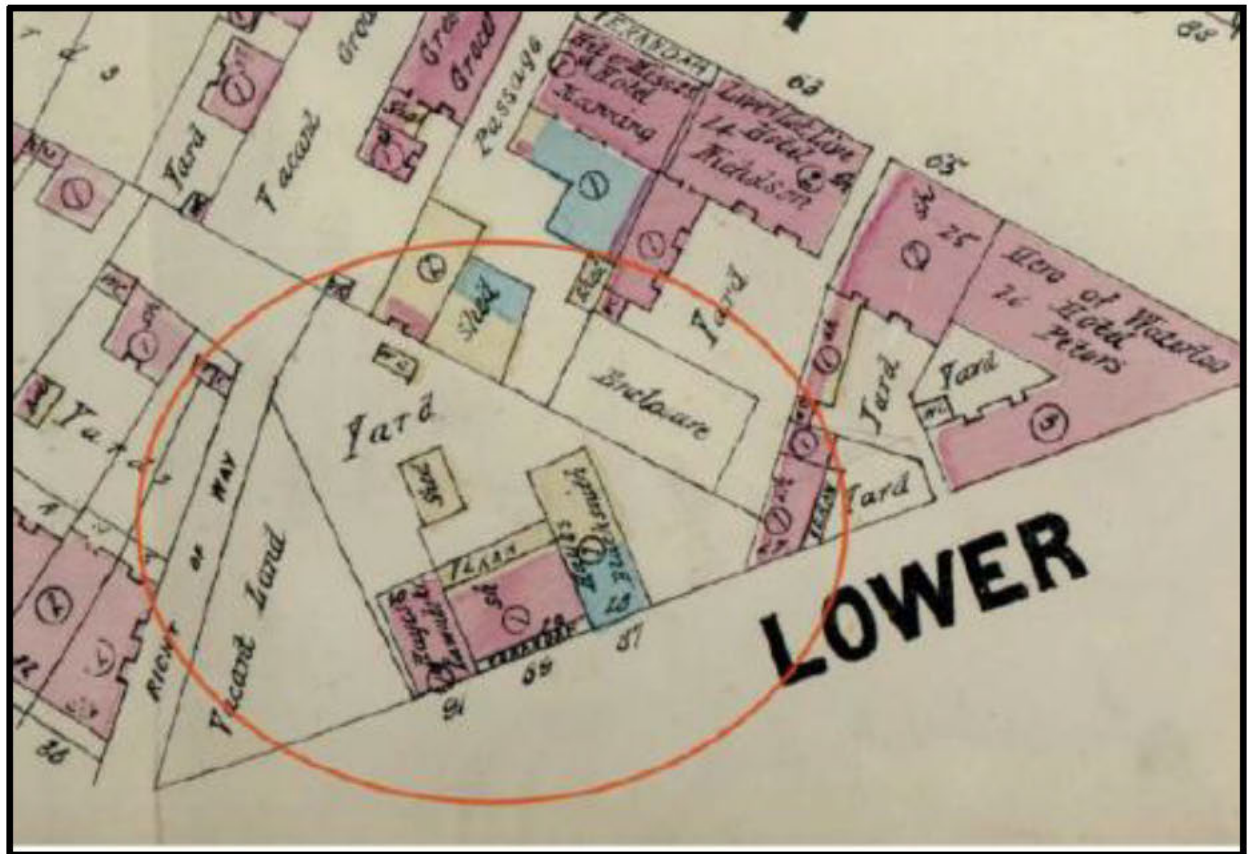


Figure 3: Detail from Book 53 of Percy Doves commercial survey of Sydney City published in 1880

Therefore, the applicant's Clause 4.6 Variation Request is not considered to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

Based on the proposed development being inconsistent with the relevant objectives of the development standard and R1 zone and the applicant not demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard the Clause 4.6 Variation Request is not considered to be well founded.

Therefore, in accordance with Clause 4.6 (4) (a) of the Sydney LEP the consent authority cannot grant development consent to the proposed variation to the minimum lot size development standard. The proposed development is recommended to be redesigned to facilitate a more compatible building type that responds to sites constraints and to ensure that the resulting building does not require a breach to the minimum lot size development standard.

It is considered that the overall form and scale is excessive for the purpose a dwelling house, and a more skilful design should be explored that is a more compatible and better designed to respond to the site and surrounding context.

Clause 7.19 Demolition must no result in long term adverse visual impacts

Clause 7.19(a) of the Sydney Local Environmental Plan (LEP) 2012, provides key controls relating to the demolition of a building to ensure development does not result in long term adverse visual impacts on the surrounding area. The control specified under this clause are as follows:

Development consent must not be granted to development involving the demolition of a building unless the consent authority is satisfied that—

- (a) any land affected by the demolition—*
 - (i) in the case of land to which any provision of Division 5 (Site specific provisions) of Part 6 applies—is subject to a site-specific development control plan, or*
 - (ii) in any other case—will be comprehensively redeveloped under the development consent (if granted) or under an existing development consent relating to the site, and*
- (b) adequate measures will be taken to assist in mitigating any adverse visual impacts that may arise as a result of the demolition with regard to the streetscape and any special character area.*

The proposed development is considered to be inconsistent with the key controls specified under Clause 7.19 of the Sydney LEP. Specifically, Clause 7.19(a)(i) of the Sydney LEP prohibits development involving the demolition of a building on land identified in Division 5 (Site specific provisions) of Part 6 unless it is subject to a site-specific development control plan.

The proposed development consists of the demolition of a building located within the Millers Point Heritage Conservation Area which is land identified under Division 5 (Site specific provisions) of Part 6 of the Sydney LEP. As this site does not contain a site-specific development control plan, it is our view that granting development consent would be contrary to Clause 7.19 of the Sydney LEP and would set an undesirable precedent for redeveloping key sites within Sydney Local Government Area.

It is noted that the applicant has submitted legal advice in support of the proposed development. In summary, the advice notes that ‘subparagraphs (a)(i) and (a)(ii) are alternatives. Specifically, the advice aims to establish that ‘each sub-paragraph creates a separate, alternative, matter about which the consent authority must be satisfied’. The applicant in this instance considers the demolition of the structures acceptable in accordance with Section 7.19(ii) as the site is proposed to be comprehensively redeveloped under this development consent (if granted).

It is argued that ‘in any other case’ in sub-paragraph (a)(ii) is not plainly broad enough to permit the demolition of buildings on land that should be subject to a site-specific development control plan. It is of our opinion that ‘in any other case’ refers to land not identified under Division 5 (Site specific provisions) of Part 6 of the Sydney LEP.

2.0 Non-compliance with Key Controls and Objectives of the Sydney Development Control Plan (DCP) 2012

Section 4.1.3 of the Sydney DCP provides the objectives and controls relating to the residential amenity for residential development (dwellings, terraces and dual occupancies). The objective of Section 4.1.3 are as follows:

- (a) Maintain or enhance residential amenity by ensuring adequate solar access, landscaping, deep soil planting, visual and acoustic privacy and ventilation.*
- (b) Reduce urban heat load and increase canopy coverage and ground absorption of water.*

This section is broken up into 6 parts and those relevant to this letter are outlined below. As a result of non-compliance associated with solar access and visual privacy, the proposed development is considered to be inconsistent with the objectives specified under Section 4.1.3 of the Sydney DCP. Specifically, the proposed development does not maintain residential amenity of adjoining residents.

Visual privacy

Section 4.1.3.6 of the Sydney DCP provides the controls relating to visual privacy. The key controls of this section are as follows:

- (1) Development is to maximise visual privacy to side and rear boundaries through the following measures:*
 - (a) offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
 - (b) building to the boundary where appropriate;*
 - (c) setting back the first floor from the side boundary;*
 - (d) providing sill heights of 1.4m above finished floor level; and*
 - (e) screening devices such as landscaping, fencing, obscure glazing, timber screens, external ventilation blinds or window hoods and shutters.*
- (2) Screening devices such as obscure glazing, timber screens, external ventilation blinds, window hoods and shutters are to be at least 60% obscure, permanently fixed and made of durable material.*

Comment

The proposed development has not been designed to adequately manage potential overlooking or visual privacy impacts on our client's property. As demonstrated in **Figures 4 – 9**, our client's property is situated to the west.

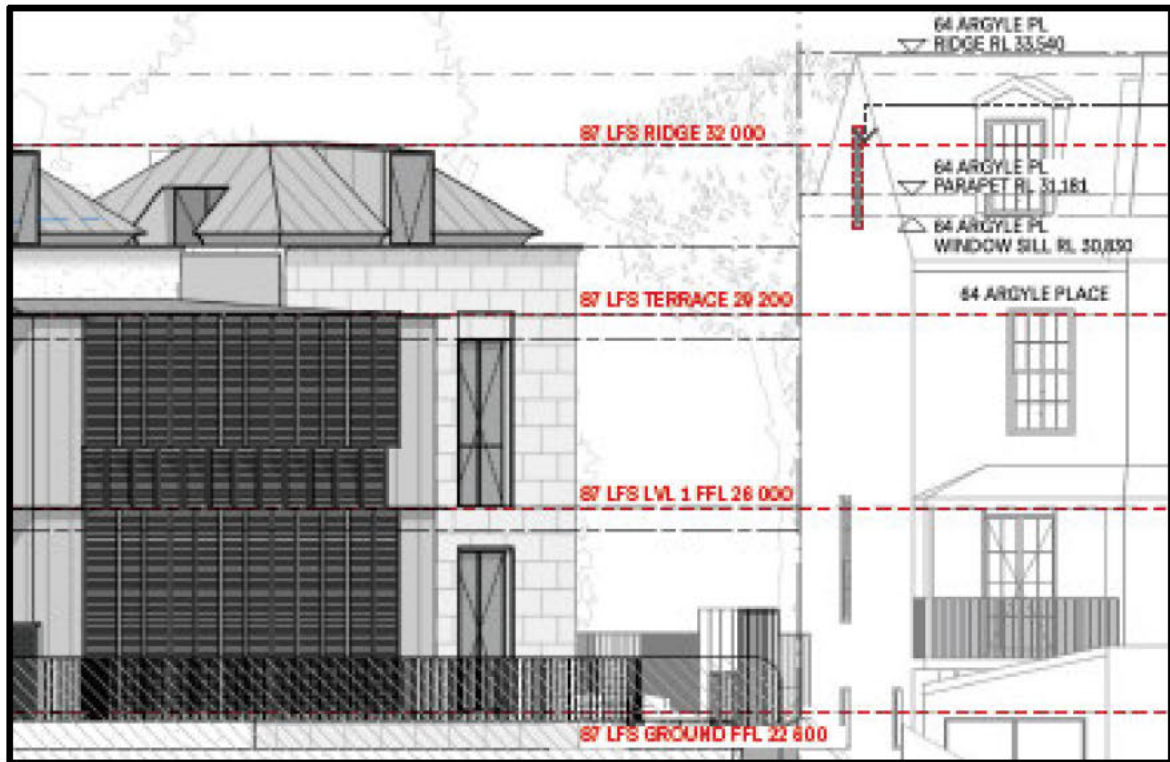


Figure 4: Outlook from 64 Argyle Place - Attic Window and ground floor window (Source: Andrew Burns Architecture)



Figure 5: Proposed south elevation showing windows facing 64 Argyle Place (Source: Andrew Burns Architecture)



Figure 6: View from 64 Argyle ground window – proposed (Source: Andrew Burns Architecture)

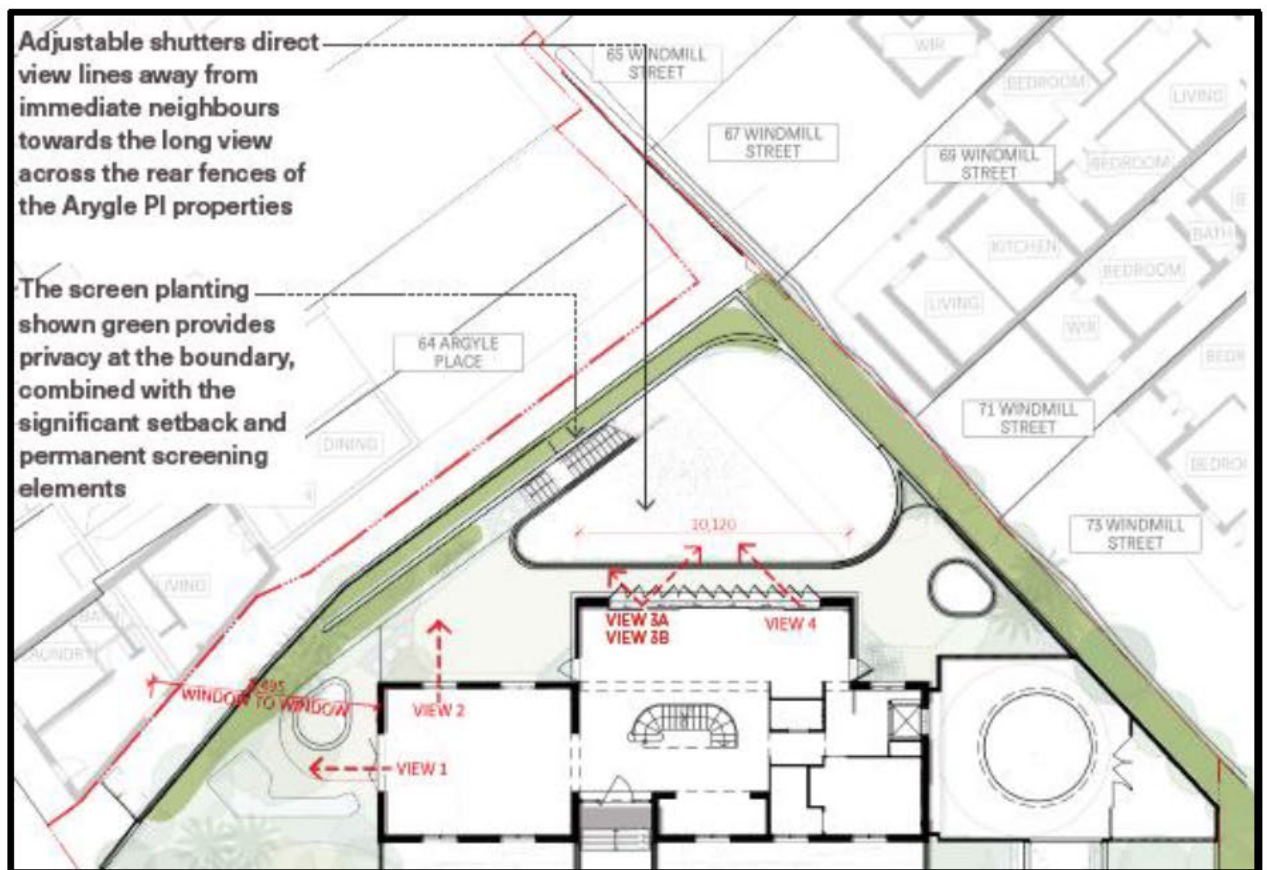


Figure 7: Privacy Impact Study – Ground Floor – proposed (Source: Andrew Burns Architecture)

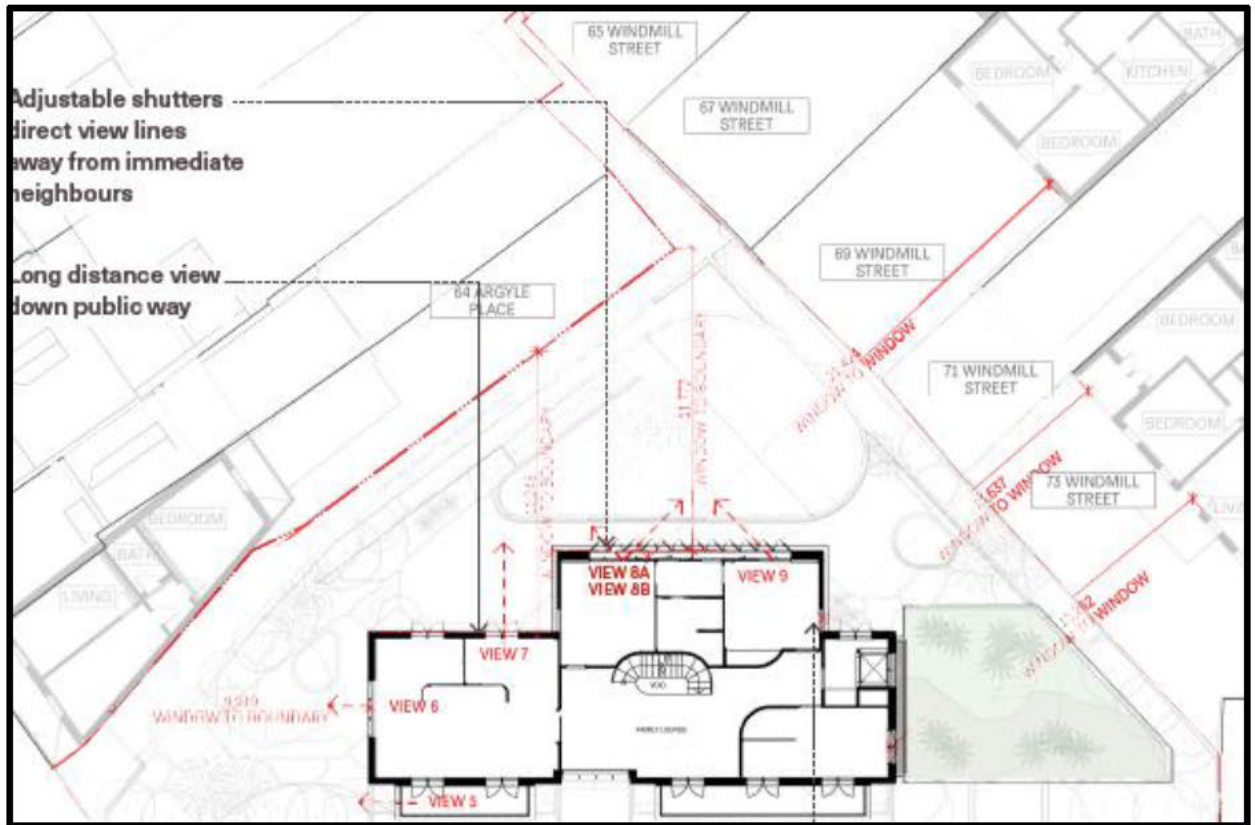


Figure 8: Privacy Impact Study – First Floor - (Source: Andrew Burns Architecture)

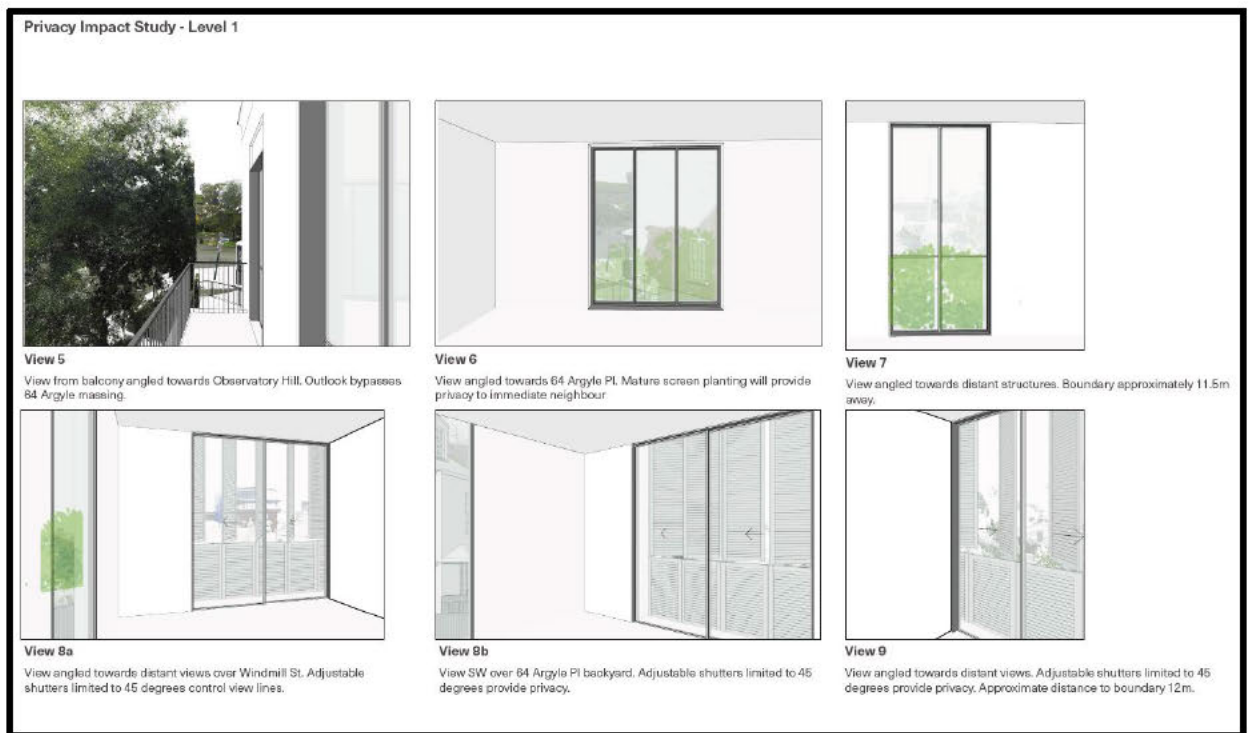


Figure 9: Privacy Impact Study – Level 1 - (Source: Andrew Burns Architecture)

Southern elevation (View 6)

The proposed design of the development includes a number of windows to the rear elevation/side that face our client’s property and does not comply with the key controls or objectives of Section 4.1.3.6 of the DCP. Specifically, the windows on the southern elevation (View 6) as illustrated on **Figure 8** and **9** proposes large expansive openings which have not been adequately offset. These windows permit direct and intrusive viewing towards habitable windows on our clients ground floor and first floor windows and doors.

The size of windows on this elevation are considered to be excessive and unnecessary. Based on the siting of these windows, the likely aim is to take advantage of views towards Garrison Church as they do not provide any solar benefits. It is considered that the southern elevation windows should be removed to maintain a suitable level of privacy for our client’s property. Alternatively, they should be designed in a manner that negates direct and intrusive viewing towards our client’s property.

Rear Elevation (Views 7, 8A, 8B and 9)

With regard to the proposed upper-level windows along the rear elevation, objection is raised due to the potential for adverse overlooking impacts to our client’s private open space (POS). **Figures 8** and **9** above details potential view points towards our client’s property at 64 Argyle Place, Millers Point and **Figure 10** below details the first-floor windows of concern.

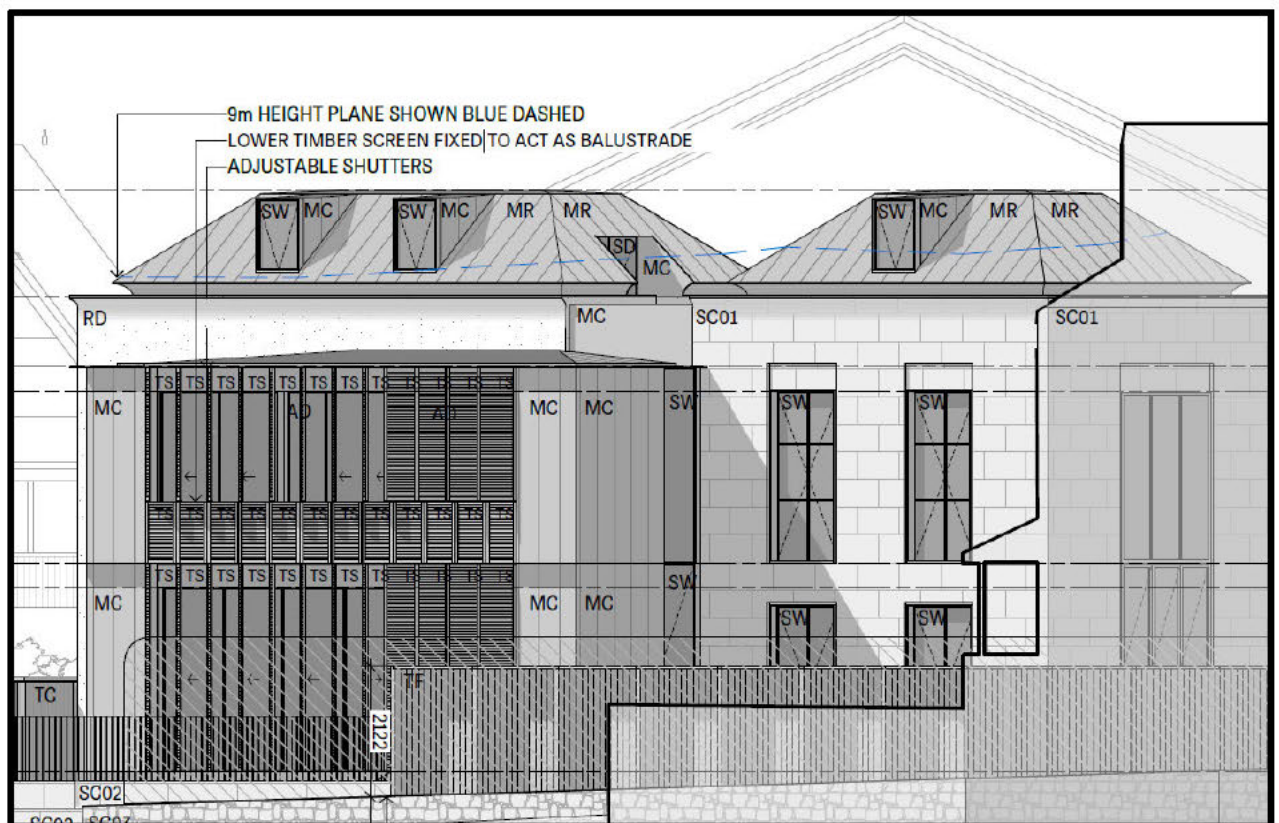


Figure 10: West Elevation (Source: Andrew Burns Architecture)

The applicant contends that a 'combination of view angling, screening and screening vegetation has been employed to preserve privacy'. However, insufficient information has been lodged with the application to demonstrate that first floor windows avoid sightlines towards our clients POS. Specifically, the windows adjoining the bedrooms 2 and 4 (View 8A, 8B & 9) are considered to be excessive noting they directly face our clients POS. At a minimum, the lower timber screen fixed to act as balustrade should extend to a height of 1.4m above finished floor level and/or the shutters shall be permanently fixed, or remaining openings be 60% obscure.

The windows associated with the master bedroom are also considered to be unacceptable and inconsistent with Section 4.1.3.6 of the DCP. Specifically, view 7 windows shall incorporate sill heights of 1.4m above finished floor level and forms and adequate screening devices such as obscure glazing, timber screens, external ventilation blinds or window hoods and shutters.

Landscaping as a Safe Guard

Figure 11 and 12 below also demonstrates significant reliance on landscaping as a safeguard against overlooking. Whilst our client is supportable of screen planting being incorporated along the boundaries of the site, the overall design shall not rely on this as primary measure of mitigating privacy impacts. Specifically, a Land and Environment Court Planning Principle, *Super Studio v Waverley [2004] NSWLEC 91* found that "where landscaping is the main safeguard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climatic conditions and good luck."



Figure 11: View 1 towards 64 Argyle Pl. (Source: Andrew Burns Architecture)



Figure 12: View 6 and 7 towards 64 Argyle Pl. (Source: Andrew Burns Architecture)

Windows of concern include those associated with the ground floor formal lounge and first floor master bedroom. These windows rely significantly on landscaping as a measure of protecting privacy on adjoining properties. This measure is deemed to be inadequate in accordance with *Super Studio v Waverley [2004] NSWLEC 91*. As such, it is requested that that strict compliance is demonstrated with 4.1.3.6 of the Sydney DCP and more permanent privacy measures are incorporated.

Roof Terrace and Dormer Windows

It is also noted that insufficient information has been lodged with the application to demonstrate how adverse overlooking impacts will be managed on the proposed roof terrace and dormer windows. These components have the potential to overlook our clients POS. It is requested that a Privacy Impact Analysis is prepared for these components of the proposed development and suitable privacy protection measures are indicated.

As demonstrated above, the development in its current form is inconsistent with objectives specified under 4.1.3.6 of the Sydney DCP. Specifically, the development has not been sited or designed in a manner that Maintain or enhance residential amenity by ensuring adequate visual privacy.

Adverse Solar Access and Overshadowing Impacts

Section 4.1.3.1 of the Sydney DCP provides the objectives and controls relating to solar access. The relevant objective of this section are as follows:

- (a) *Buildings are to be designed and sited to provide solar access to:*
 - (i) *private open space within the site and of adjoining dwellings;*
 - (ii) *habitable rooms within the development and in adjoining developments;*

The key controls of Section 4.1.3.1 relating to the solar access and overshadowing are as follows:

- (1) *Development sites and neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and at least 50% of the minimum amount of private open space.*
- (2) *New development must not create any additional overshadowing where solar access is less than two hours between 9am and 3pm on 21 June. This control does not apply to windows on a side boundary or windows only separated from a side boundary or passageway.*

Comment

The proposed development involves the demolition of existing structures, site excavation and the construction of a new dwelling with associated landscaping. As shown in **Figure 13**, the proposed development will unreasonably cast additional overshadowing on the adjoining development to the west.

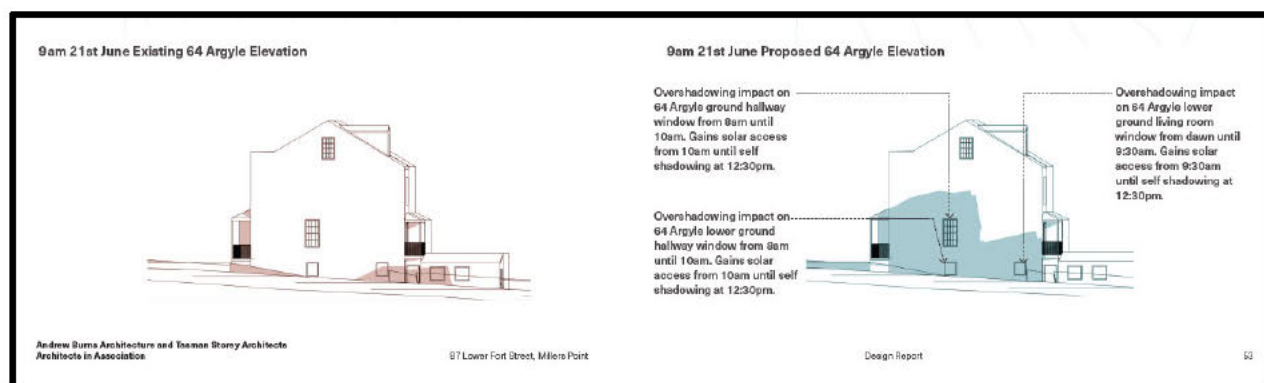


Figure 13: View towards 64 Argyle Pl. (Source: Andrew Burns Architecture)

Specifically, the proposed development results in additional overshadowing impacts towards the lower ground hallway, lower ground living and ground hallway of 64 Argyle Pl between 9am and 12pm. The applicant has advised that these components gain solar access from 10am until self-shadowing at 12:30pm. However, the shadow diagrams submitted as part of the application only show detail every 3 hours and do not illustrate any solar access gained as a result of the proposed development. The applicant also proposes significant landscaping along the boundary that have the potential to cast additional overshadowing on our client's site. Overall, the proposed development has failed to adequately meet their evidential burden.

The proposed bulk and scale of the development are not considered to be suitable for the site. Overall, the proposed development has not been designed to adequately manage adverse overshadowing impacts on adjoining properties. A more skilful design should be explored that responds to the site's constraints and avoids adverse amenity impact on adjoining properties. For example, the following measures should be incorporated.

- Reduce the visual bulk and scale of the development by reducing the floor to ceiling height of each level. Specifically, the ground floor - floor to ceiling height is 3m which is considered to be unnecessary.
- The proposed attic/store spaces towards the south west should be deleted or consolidated with the north east portion. This amendment would support maintain solar access to our client's site.
- Maintain the rear portion of the site to a maximum of 1 storey to permit adequate solar access to our client's property and to reduce the overall bulk and scale of the development when viewed from surrounding properties.

As demonstrated above, the development as proposed would be inconsistent with objectives specified under Section 4.1.3.1 of the Sydney. Specifically, the proposed development has not be designed or sited in a manner that provides solar access to habitable rooms of adjoining residents.

3.0 Unreasonable Impacts on Existing Views

The notion of view sharing is invoked when a property enjoys existing views, and a proposed development would share that view by taking some of it away for its own enjoyment. The proposed development results in devastating loss of existing views for our client's property at 64 Argyle Place, Millers Point.

The documentation submitted with the proposal does not adequately address view loss impacts experienced at our client's property or surrounding area in accordance the planning principle established by the NSW Land & Environment Court to deal with the assessment of view loss impacts in *Tenacity Consulting v Warringah [2004] NSW LEC 140 (Tenacity)*.

To determine the impact of view loss, the planning principle in Tenacity sets out that the following four-step assessment should be used.

- Step 1** *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
- Step 2** *The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*
- Step 3** *The third step is to assess the extent of the impact. This needs to be done for the whole of the property, and not just to that part where the views are affected. The views from living areas (including kitchen areas) are more significant than from bedrooms or service areas. Whilst the impact could be assessed quantitatively, it is more useful to look at the issue in a qualitative sense and ask whether the view loss is negligible, minor, moderate, severe or devastating.*

Step 4 *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.*

The following provides an assessment of the properties deemed to be impacted by the development using the steps established in *Tenacity*.

Step 1 – Assessment of Views to be Affected

Our client’s property currently benefits from existing views of the Sydney Harbour Bridge including which is considered an iconic view from their attic windows. Whilst this view is obtained from the side boundary, the proposed variation to the maximum building height severely impacts on our client’s property which would be ultimately protected if compliance was demonstrated. Our client’s property is outlined in blue, and 87 Lower Fort Street, Millers Point is outlined in red in the below locality map (Figure 14).

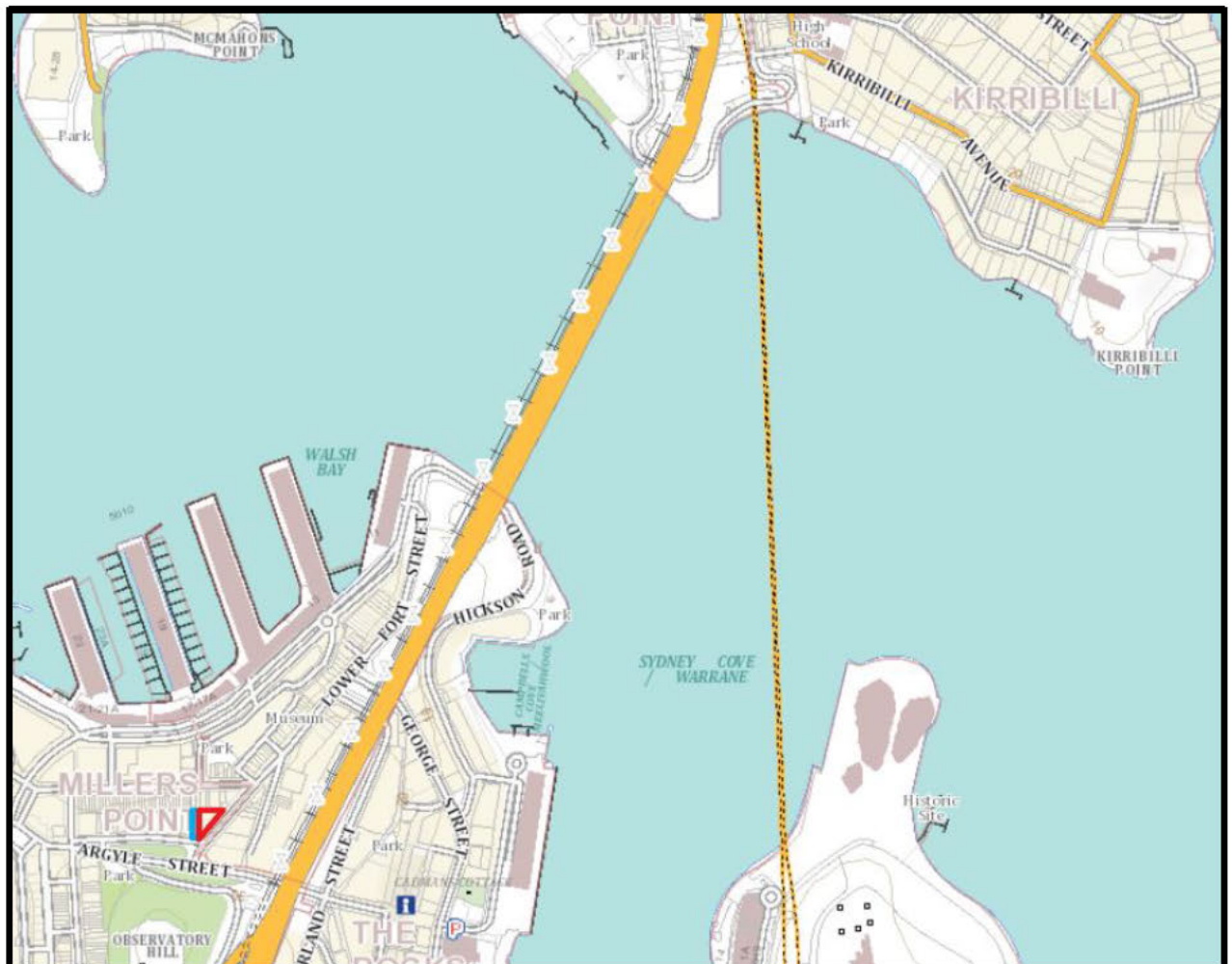


Figure 14: Site Context (Source: Six maps)

Step 2 – What Part of the Property are the Views Obtained

Figures 15 and 16 demonstrates what part existing views are obtained, being from the attic windows of 64 Argyle Street.

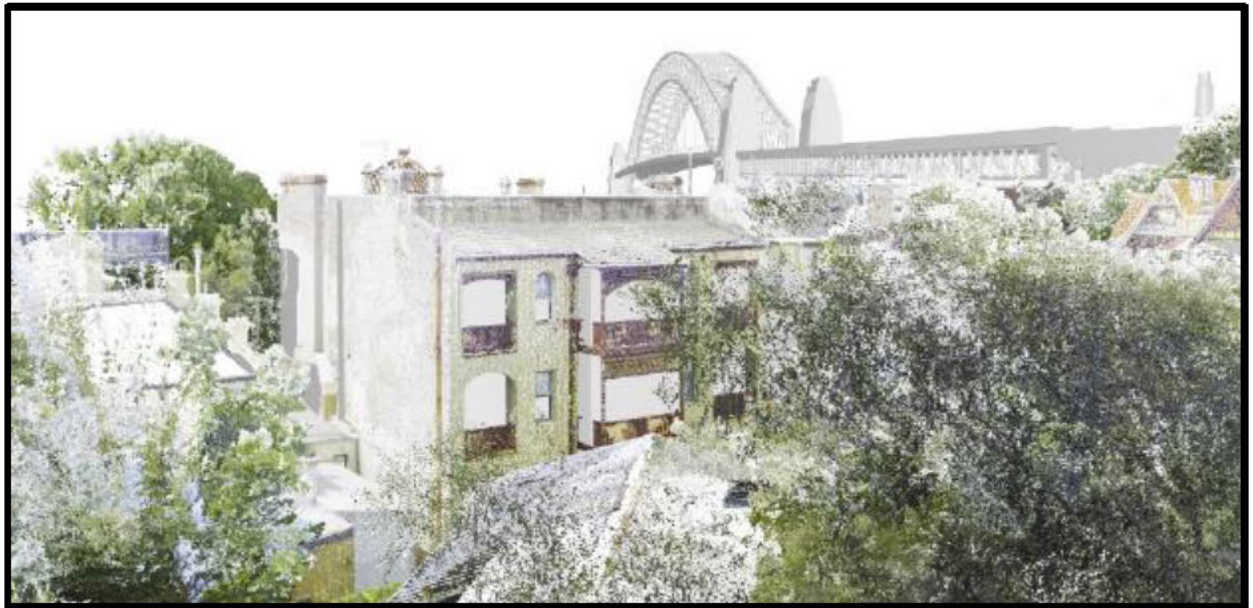


Figure 15: View from 64 Argyle attic window– existing (Source: Andrew Burns Architecture)

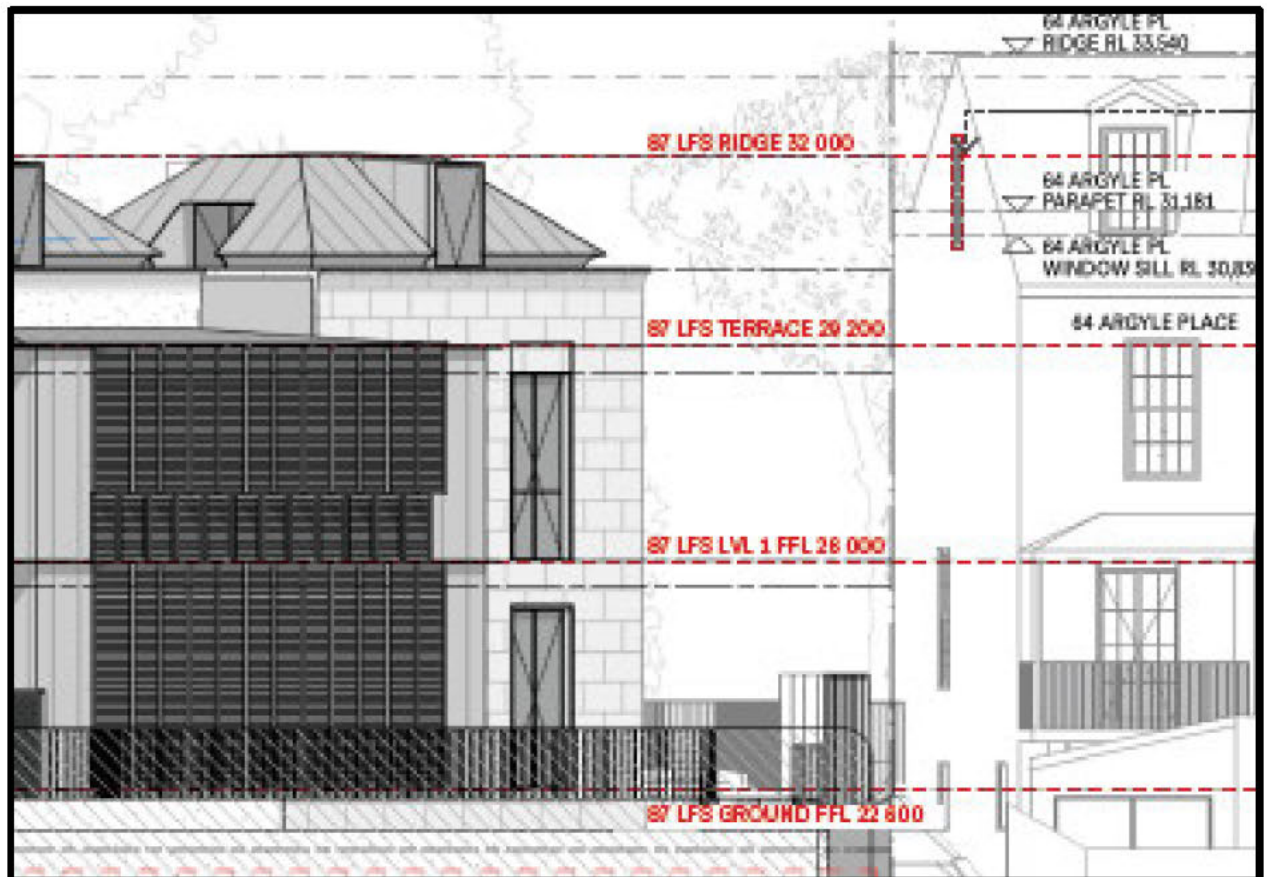


Figure 16: Attic Window outlined in red (Source: Andrew Burns Architecture)

Step 3 – Extent of Impact

The proposed development at 87 Lower Fort Street will result in devastating view loss impacts for our client’s property. Specifically, the proposed additions will obstruct the existing views of Sydney Harbour Bridge (including portions before the arch) which frame the horizon view. **Figures 17** below details the extent of the view loss should the development be approved.



Figure 17: View from 64 Argyle attic window – proposed (Source: Andrew Burns Architecture)

As demonstrated in **Figures 17**, the proposed development will have an adverse impact on the existing views. The views are proposed to be disrupted by a dwelling that is excessive in bulk and scale and does not comply with the applicable maximum building height control.

Step 4 – Reasonableness of Proposal

The proposed development at 64 Argyle Place is considered to be unreasonable as it results in devastating impacts on the existing views obtained from our client’s property as a result of the dwelling which exceeds the maximum height control under the Sydney LEP 2012 by 252.2%. The applicant has not adequately demonstrated that the proposed development does not untenably impact on surrounding development or maintain an appropriate level of amenity.

Whilst understood the existing controls are restrictive in nature, it is considered that a more skillful design could provide the applicant with the same development potential whilst minimising adverse amenity impact on neighbours in terms of views, solar access and privacy. It is therefore our submission that there are no planning grounds to justify such a devastating impact on surrounding development.

In summary, the development as proposed does not provide for appropriate view sharing, results in adverse impacts on existing views as a result of the non-compliance with building height development standard under the Sydney LEP 2011. Therefore, the development in its current form should be **refused** based on the devastating amenity impacts on our client.

4.0 Inconsistency with the Heritage Conservation Management Plan Applying to the site

The proposed development is considered to be inconsistent with the CMP applying to the site. Specifically, A conservation management plan has been prepared for No. 87 Lower fort Street Millers Point being 'Lucas, Stapleton, Johnson and Partners Pty Limited, *No. 87 Lower Fort Street Conservation Management Plan, Parts 1 of 2*, dated April 2017 (CMP)'.

The CMP contained a detailed history of the place, a fabric assessment, an assessment and statement of significance and conservation guidelines for the place. As outlined below, the proposed development is considered to be inconsistent with the policies prescribed within the CMP in relation to building envelopes and use.

Policy 59 - Building Envelope, Original Buildings.

Policy 59 of the CMP requires any new additions, alterations or replacement building/s at the subject property to take into consideration the following:

- *the historic archaeological potential of the site;*
- *public views of the surrounding residential developments;*
- *the historic patterns of development and subdivision at the intersection of Argyle Place, Windmill Street and Lower Fort Street;*
- *the existing historic public laneway forming the western boundary of the allotment;*
- *the predominant form and scale of the surrounding residential developments; and*
- *the historic and aesthetic character of the Millers Point and Dawes Point Village Precinct and the Millers Point Conservation Area.*

New works at 87 Lower Fort Street that result in adverse impacts on the above components of significance are not appropriate.

Comment

As previously outlined, the proposed development fails to provide a contextually appropriate response to the surrounding area. This a result of the development resulting in an excessive visual bulk and scale has the potential to disrupt public views of the surrounding residential developments, historic patterns of development and the historic and aesthetic character of the Millers Point and Dawes Point Village Precinct and the Millers Point Conservation Area. The proposal facilitates the construction of an inappropriate contemporary development that is fails to consider the heritage significance of the surrounding heritage area and will likely detract, overshadow and de-emphasise from surrounding local landmarks (the Garrison Church).

The proposed alteration to a residential use does not justify an uplift of this extent noting that the existing scale has been respected with all development on site, including the original dwelling and the Baby Heath

Centre. As a result of the proposed bulk and scale, the site is likely to remain as a detracting component within the streetscape whilst arising adverse amenity impact on adjoining properties in terms of overlooking, privacy and shadowing.

Replacement Policy 83 - Building Use

Replacement Policy 83 of the CMP provides the conservation requires with regard to use. Specifically, this section outlines the following:

Appropriate, compatible uses for 87 Lower Fort Street include residential, commercial, retail and community uses. The way the place is used must maximise the conservation of the significant fabric considering the effects of:

- *Structural loadings;*
- *Statutory requirements;*
- *Code compliances;*
- *Service installations; and*
- *Meeting access needs.*

The use of the place and its circulation pattern must be arranged to involve the least intervention in the significant fabric.

Comment

The proposed development involves the demolition of existing structure for the construction of a new dwelling. The proposed development does not maximise the conservation of the significant fabric nor make use of the place and its circulation pattern.

Based on the design of the proposed development, the demolition of the existing development is not considered to be the best design outcome for the site. The significant uplift which detrimentally alters the site, is likely to detract from significant contributing features within the surrounding area.

Therefore, the development as currently proposed is inconsistent with the relevant policies prescribed under the CMP and significant design changes are necessary to avoid adverse impact on the significance of the surrounding area.

5.0 Inconsistency with the Objectives of the R1 General Residential Zone under the Sydney Local Environmental Plan (LEP) 2012.

A key consideration for any development application is a development's consistency with the objectives of the zone. The subject site is zoned R1 General Residential pursuant to the Sydney Local Environmental Plan (LEP) 2012. The objectives of the R1 Zone under the Sydney LEP are as follows:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain the existing land use pattern of predominantly residential uses.

The proposed development is considered to be inconsistent with the relevant objectives of the R1 zone based on the following:

- The proposed development is of a bulk and scale that is incompatible with the General residential environment;
- The type of housing proposed has been designed in a manner that results in adverse amenity impact on adjoining properties in terms of overshadowing, solar access, view loss and visual privacy; and
- The proposed development presents an excessive visual bulk that is incompatible with the character, context and setting of the surrounding area.

The development as proposed will have adverse overshadowing, solar access, view loss and privacy impact on our client's property as detailed throughout this letter. The overall bulk and scale of the development is not considered to be suitable from the site and have demonstrated to be inconsistent with the key controls and objectives of the Sydney LEP and DCP.

Therefore, the development as currently proposed is inconsistent with the relevant objectives of the R1 zone and significant design changes are necessary to avoid adverse amenity impacts on adjoining properties.

It is our professional opinion that the proposed development cannot be approved in its current form.

6.0 Conclusion

This submission has been written to object to the development proposed under to **D/2023/1036 – 87 Lower Fort Street, Millers Point** on behalf of the Owners of 64 Argyle Place, Millers Point

It is our professional opinion that the proposed development cannot be approved and requires significant changes to appropriately address our client's concerns. In summary, the key issues with the proposed development are as follows:

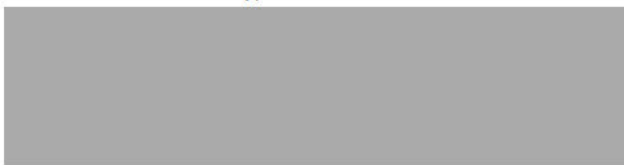
- Non-compliance with the Sydney Local Environmental Plan (LEP) 2012 in relation to the maximum building height development standard and demolition.
- Non-compliance with key controls and objectives of the Sydney Development Control Plan (DCP) 2012 in relation to the privacy, solar access, view loss and bulk and scale;
- Unreasonable Impacts on Existing Views;
- Inconsistency with the Conservation Management Plan applying to the site; and
- Inconsistency with the Objectives of the R1 General Residential Zone under the Sydney Local Environmental Plan (LEP) 2012.

It is considered that the proposed development in its current form cannot be approved based on non-compliances with Council controls which result in adverse impacts on adjoining development and the wider locality. Approval would set an undesirable precedent for redeveloping sites within the street and surrounding area.

Given the level of concern with the application It would be appreciated if you could keep us, and our client informed as the application progresses.

Should you wish to discuss any of the details of this response please do not hesitate to contact **Jeremy** on 9690 0279 or jeremy@theplanninghub.com.au.

Yours sincerely,



Jeremy Swan
DIRECTOR | THEPLANNINGHUB

From: [REDACTED]

Sent on: Thursday, January 11, 2024 5:53:40 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I object due to the height of the building and its large size for this prominent location located in The Rocks.

Name to be kept confidential.

Sent from my iPhone

From: Nicholas Wolff [REDACTED]
Sent on: Sunday, January 14, 2024 8:51:28 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge
Attachments: 2nd marked up plan from DA D2023 1036.pdf (2.09 MB), 1st marked up plan from DA D2023 1036.pdf (3.23 MB), Sections from DA D2023 1036.pdf (2.15 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please note - This is a re-send of the original email which I mistakenly thought I had sent prior to going overseas on 22 December. Apparently, it remained in my Outbox and I have only just realised that. I note the exhibition period for this DA finished late last week, but I do hope, as I am an immediately impacted resident, that my objections to the project can still be taken into consideration. Please confirm this by return email.

Thanks

Nicholas Wolff

Good afternoon Marie

I wish to object to the above Development Application and ask that it not be approved in its current form. I have two specific areas of concern. I am a resident of 65 Windmill Street.

Firstly there are inadequate landscaping beds and actual major trees proposed in the application to ensure overlooking of the rear yards of the houses fronting particularly Windmill Street, but also those fronting Argyle Street. The proposed 3 storey facade facing northwest which replaces the single storey facade currently on the site, will generate serious overlooking of the rear yards of the houses mentioned. Admittedly, there is some screening proposed on the facade to reduce the opportunity of overlooking, but for a building of such scale this facade screening should be supplemented by significant trees in the northwest corner of the site. However, to accommodate this the narrow and relatively shallow proposed landscape strip running parallel with 64 Argyle Street boundary needs to be at a minimum doubled in width to 2.5-3.0m and increased in depth to accommodate major planting. (This should be done while still retaining the proposed bin storage within the structure as currently proposed). In the northwest corner of the site this landscape strip should open out into a minimum of 4m x 4m x 2.5m deep landscaped pit to accommodate a major advanced tree planted in that location. Such a relatively modest increase in the landscape proposed on the site would have significant screening and privacy benefits for the adjoining residents.

My second objection is that the application does not accurately reflect the impact this development and its related excavation and construction activity will have on the existing brick and rubble 4m high, retaining wall located on properties 65 to 73 Windmill Street. Further, the drawings in the application - particularly the relevant sections - suggest that this retaining wall which is a continuous integrated structure running the full length of the Windmill facing properties, is a perfectly vertical brick structure founded on a concrete strip footing. This is not the case as any reasonable investigation of the state of the wall would have established. This retaining wall is made up of various brick and stone rubble elements and supports a substantial amount of fill behind its full length - part of which is proposed to be excavated by this scheme. Given the nature of the extensive excavation which is proposed behind that wall, I suggest that no approval can be given for the design as proposed in the application until detailed investigations into the stability of that retaining wall and an assessment of the likely impact of the excavation and construction activities on that wall, have been carried and proposals advanced to protect the integrity of that wall, all to the satisfaction of the owners of the Windmill Street properties.

For reference a engineering report carried out by the firm Mott Macdonald in 2014 (prior to maintenance being carried out on part of the wall by the State Government), concluded that 'The performance of this wall is unpredictable. It may be that with monitoring and periodic maintenance it will continue to stand for many years. However, the wall is suffering ongoing degradation and small movements and there is the potential for parts of the wall or the total wall to collapse'. My fear is that the unconstrained activities of a construction entity without appropriate controls in place to preserve and protect that wall, may generate its collapse.

If, instead of rejecting this application ,Council is of a mind to approve this application. appropriately worded conditions requiring the following should be included in the Consent conditions.

- The retaining wall for the length of the properties from 65 - 73 Windmill Street should be covered by a comprehensive insurance policy covering the cost of any repair needed (and related inconvenience caused to the property owners) to that wall resulting from the activities relating to the excavation or construction of the applicant's property. That policy is to be acceptable to the majority of owners of the listed properties and have the owners of all the properties identified as the beneficiaries of the policy. All costs associated with this policy, including legal costs for review of the policy by the Windmill Street owners are to be borne by the applicant.
- A skilled engineering firm nominated by the majority of the owners of the listed Windmill Street properties - similar to a Mott Macdonald type firm - is to be engaged and paid by the applicant to ensure that the interests of the owners of the properties on Windmill Street are fully taken into account during the excavation and construction processes of the applicants property. The full scope of work for that engineering firm is to be agreed with the Windmill Street owner prior to their appointment. Any advice or direction provided by that firm regarding the retaining wall is to be implemented fully by and at the cost of the applicant.
- Dilapidation reports on the wall at each of the Windmill Street properties are to be undertaken prior to any construction or excavation works being commenced and are to be undertaken with a representative of the Windmill Street owner-nominated engineering firm present. Movement monitoring devices, if proposed by the Windmill Street owners' engineer, should be installed at the cost of the applicant at the same time as the dilapidation inspections.
- The Principal Certifying Authority appointed by the applicant for the construction process should be required to take into account any advice regarding stopping or limiting the excavation and construction works he or she may receive from the Windmill Street owners engineer.

In support of the above objections I have attached 3 marked up extracts from the applicant's drawings for their proposal. These mark ups illustrate further the points above.

Should Council officers or the applicant wish to discuss my objections with me at any time please contact me on the mobile below.

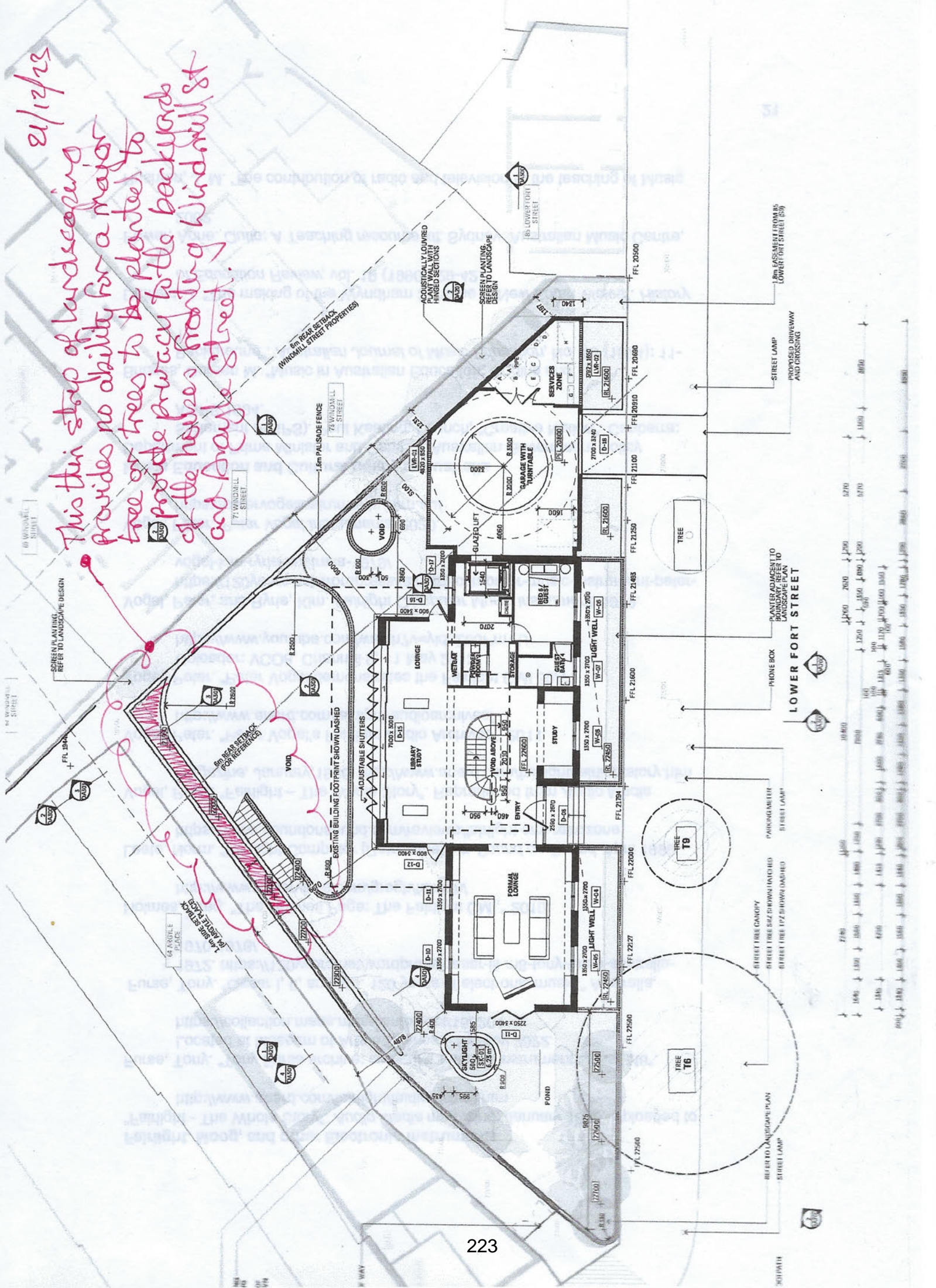
Thank you for your consideration.

Regards

Nixholas Wolff
65 Windmill STreet
Millers Point
Mob: [REDACTED]

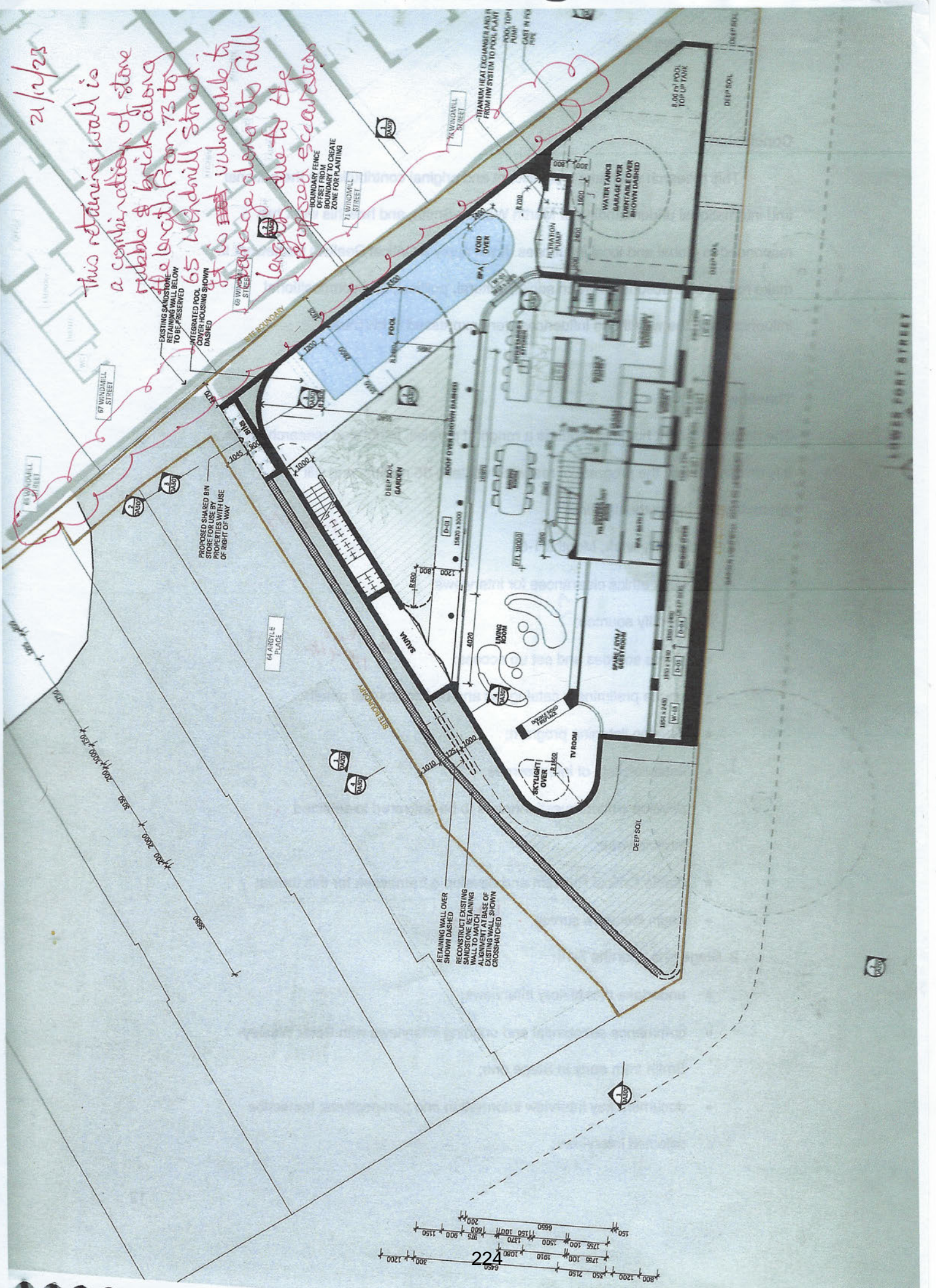
21/12/23

This thin strip of landscaping provides no ability for a major tree or trees to be planted to provide privacy to the backyards of the houses fronting Windmill St and Angyle Street.



21/1/23

This retaining wall is a combination of stone rubble & brick along the length from 73 to 65 Werdmill Street. It is vulnerable to damage along its full length due to the proposed excavation.

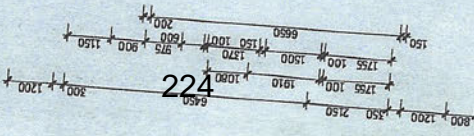


EXISTING SANDSTONE RETAINING WALL BELOW TO BE PRESERVED

INTEGRATED POOL OVER HOUSING SHOWN DASHED

PROPOSED SHARED BIN STORE FOR USE BY PROPERTIES WITH USE OF RIGHT OF WAY

RETAINING WALL OVER SHOWN DASHED
RECONSTRUCT EXISTING SANDSTONE RETAINING WALL TO MATCH EXISTING WALL SHOWN CROSS-HATCHED

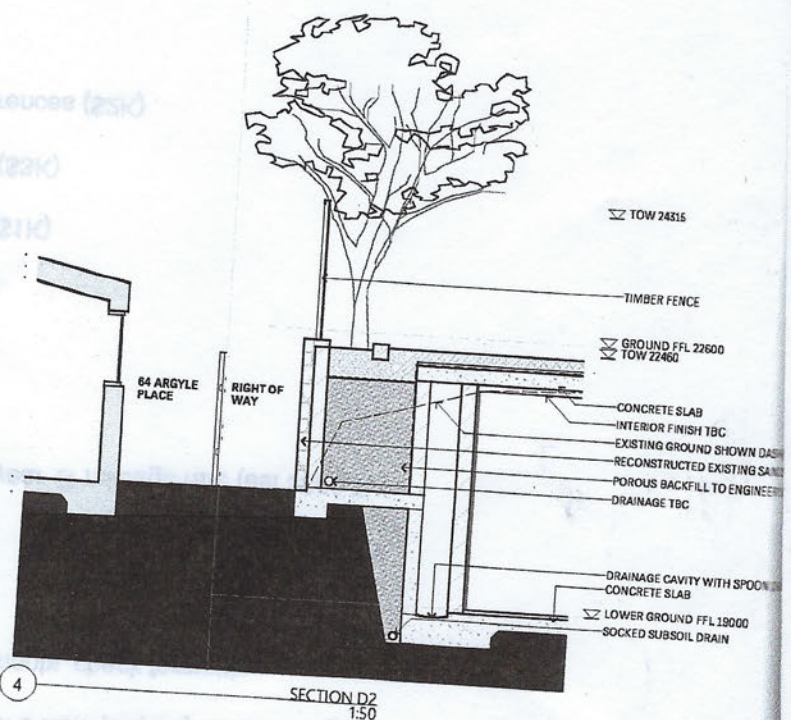
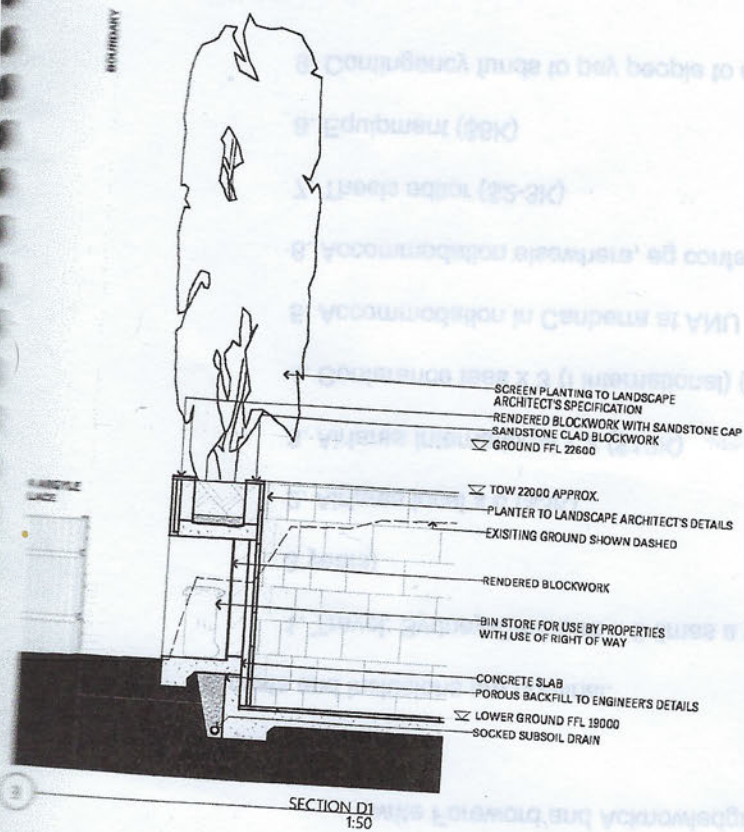
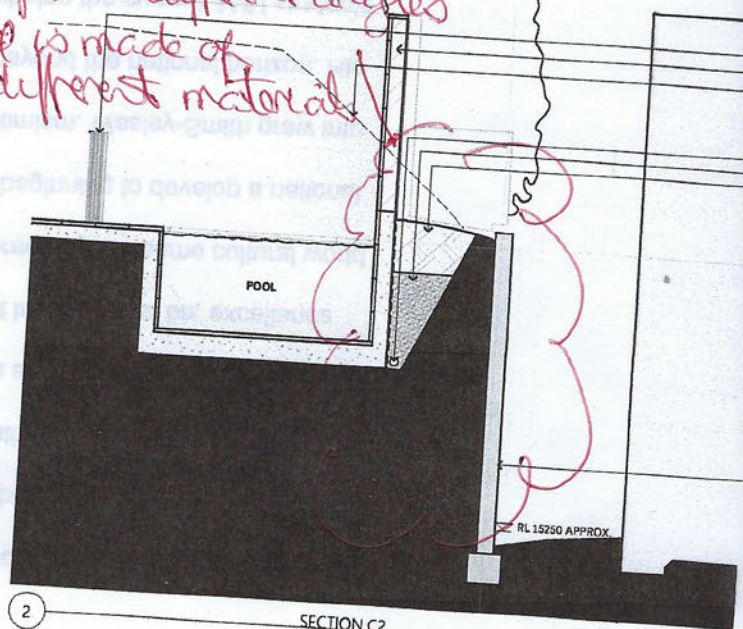
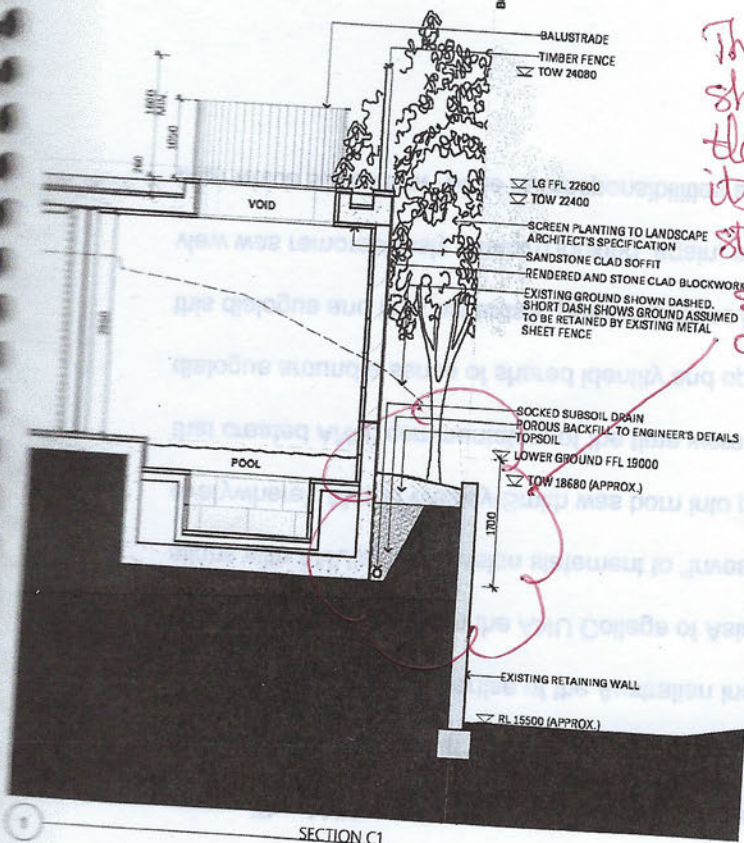


21/12/23

73 WINDMILL
73 WINDMILL STREET

69 WINDMILL
69 WINDMILL STREET

These sections do not show the true state of the retaining wall. Along its length its variously slopes at different angles & is made of different materials!



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LEGEND

AD	ALUMINUM DOOR	FB	FACE BRICK	MC	METAL CLADDING	SS	STAINLESS STEEL
AL	ALUMINUM DOOR	FC	FIBRE CEMENT CLADDING	MR	METAL ROOF SHEETING	TC	TIMBER CLADDING
AW	ALUMINUM WINDOW	FG	FIXED GLASS	MS	METAL SCREEN	TD	TIMBER DOOR
BAL	BALUSTRADE	FW	FLOOR WATER	PA	PAVING	TDK	TIMBER DECKING
CB	CONCRETE BLOCKWORK	HR	HAND RAIL	PL	PLASTERBOARD	TF	TIMBER FENCE
CC	COMPRESSED FIBRE CEMENT	HWU	HOT WATER UNIT	PC	RENDER	TFM	TIMBER FLOORING
CD	CONCRETE	OP	OUTLET	RC	RENDERED CONCRETE	TS	TIMBER SCREEN
CDNC	CONCRETE MASONRY	QV	QUICK DRAIN	SC	SANDSTONE CLADDING	TW	TIMBER WINDOW
CP	CONCRETE	RD	ROOF DRAIN	SD	SANDSTONE CLADDING	VB	VILLBOARD LINING
CT	CERAMIC TILE	RS	ROOF SLOPE	SP	SPACER	VC	V-GROOVE LINING
DP	DOWNPIPE	SB	SOFFIT BOARD	SW	WINDOW SILL	WS	WEATHERBOARD LINING

From: [REDACTED]
Sent on: Wednesday, January 10, 2024 1:27:52 PM
To: DAsubmissions <DAsubmissions@cityofsydney.nsw.gov.au>
Subject: Submission - D/2023/1036 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge
Attachments: 87 Fort St Millers Point.pdf (40.73 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Sent from [REDACTED] for Windows

10 01 2024

My name is Brian Wood.

My address is 806 Observatory Tower, 168 Kent Street, Sydney NSW2000.

I have lived in the area since 1996, and it is of significant value to me. I have had great pleasure from walking the area and immersing myself in its community and its history. Of course it has changed a lot since 1996, particularly in losing the diversity of its occupants, but its history remains and its old and weathered character is still special.

I have also attended many resident action group meetings in the existing building at 87 Lower Fort Street, chaired by Shirley Ball, with Millicent Chalmers doing the minutes, colourful locals crowded into the small space, and with required attendances of the City, utilities, developers etc. Very special stuff, great memories for many, many of us.

I am not objecting to the current proposal.

But I have **three comments** on the application, as follows:

1. I would like to see further information to demonstrate that the house is not too high.

I consider it fundamentally important that the existing harbour water views are not lost to any extent for people on Observatory Hill.

People invariably gravitate to the existing rotunda on the hill, and take in the surrounding views. This has been happening for generations, and must not be lost.

The rotunda should be the focal point. It has hard paving around its base, and most people congregate on it and on the grass in the vicinity of the paving. They also of course stand on the rotunda, but the views for those on the grass are the more critical.

I recommend that the zone to check that views are not lost should be the grassed area within a line drawn around the rotunda 15m out from the edge of the existing paving. People sitting on the grass within that zone must still be able to see the existing water view, with the top of the roof of the new house to be one meter below the existing roof profiles as a buffer, in the arc looking roughly north/west.

It is likely that the proposed design will achieve that, but it requires careful assessment. The information provided in the application does not allow a proper conclusion to be achieved. I recommend a series of cross sections be done, covering the zone at the rotunda and around the arc to verify the water views are not lost or diminished.

2. The existing laneway has already been identified in the CMP as having significant historic value. I have walked it many times, and am certain that visitors as well as locals get pleasantly surprised as they discover it and the many other such quirky little gems.

I am disappointed that the applicant's drawings show a gate at the lane's south end. That implies a prohibition to what is and has always been a public space. There should be no gate.

It is also important that the new construction does not disturb the existing surface of the walkway. Again, it is the slightly battered old appearance and the feel of history in the existing path that is its inherent value. Removing and or replacing portions damaged by the new construction must be prohibited, not simply covered by a bond or similar.

3. Once the old is gone it gets forgotten. The proposed new house is a massive change. The least recompense to this part of the city is to include some aspects of the site's history as a permanent public display.

Plaques and photographs with limited text are commonly done. I suggest however that there is an opportunity here to do something bigger and better.

I recommend that a display cabinet be inserted onto or into the street boundary wall on the south side of the car entry, easily visible to people walking on Lower Fort Street. It needs to be generous in size, lighting and of course contents. I suggest that as a minimum the members of the Millers Point Resident Action Group be involved in selecting its contents.

From: Steven Ding [REDACTED]
Sent on: Wednesday, January 31, 2024 10:16:50 AM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: FW: D/2023/1036/ 87 Lower Fort Street, Millers Point NSW 2000/ 31-1-2024
Urgent: High

Attachments: DA 2023 _1036 Letter DA CoS 9-1-24 .pdf (97.56 KB), CCE30032020_0001.pdf (1.66 MB), 85 LFS's Lawyer Letter dated 20-12-2023 .pdf (356.57 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Good Morning Monica Barone, Bill Mackey & Marie Burge,

Further to recent submission. No discussion have yet from Marie.

1. 1.8m Wide Easements

Further to our submission back in 9th Jan 2024. The proposal did not have incorporate hard pavement for our access & use.

2. Just return from overseas. I just received 87 Lower Fort Street 's Lawyer letter in express post. (refer attached 3rd PDF).

- In my submission back in 9th Jan 2024. " Dilapidation Inspection & Reports required on all adjoining properties are mandatory DA conditions due to size of the size of excavation & building construction adjacent to heritage buildings".

Let me know if you wish to meet on site to discuss our submission.

Kind Regards,

Steven Ding
288 Capital Pty. Ltd.

Mobile: [REDACTED]
Email: [REDACTED]
PO Box 528, Willoughby, NSW 2068
Parcel Locker 10125 62340, 59 Penshurst Street WILLOUGHBY NSW 2068

From: Steven Ding
Sent: Tuesday, 9 January 2024 1:56 PM
To: 'dasubmissions@cityofsydney.nsw.gov.au' <dasubmissions@cityofsydney.nsw.gov.au>
Subject: D/2023/1036/ 87 Lower Fort Street, Millers Point NSW 2000
Importance: High

Afternoon Monica Barone, Bill Mackey & Marie Burge,

Kindly find our submission for your consideration.

Kind Regards,

Steven Ding
288 Capital Pty. Ltd.

Mobile: [REDACTED]
Email: [REDACTED]
PO Box 528, Willoughby, NSW 2068
Parcel Locker 10125 62340, 59 Penshurst Street WILLOUGHBY NSW 2068

9th January 2024

General Manager
City of Sydney Council
GPO Box 1591
Sydney NSW 2001

ATT; Monica Barone

**RE: D/2023/1036 – 87 Lower Fort Street, Millers Point, NSW 2000
Demolition of existing structure, site excavation and the construction of a new dwelling with associated landscaping.**

On behalf of 288 Capital Pty Ltd, Owner of 85 Lower Fort Street, Argle House.

- We lodge this submission regarding D/2023/1036 seeking approval for the demolition of existing structure, site excavation and the construction of a new dwelling with associated landscaping located at 87 Lower Fort Street, Millers Point.
- As an immediate adjoining landowner, we are concerned that this application is seeking approval for a significant change to the long-established existing use and development of the property which will impact on our property, without sufficient details being provided on the intended proposal of the site.
- We submit that this application should be not approved without sufficient critical details of the intended proposal and development of the property forming part of the application. It is premature for a decision on removal of existing building in the absence of resolved plans of the development plans for the site having regard to the sensitive heritage character of the area and the relationship with adjoining properties.
- In addition, we consider that approving this proposal without resolving the details of the integrated proposal and built form of the site, may result in a sub-optimal outcome for the area.
- Following are few main objections;
 - Garage & Plantroom facilities & enclosure /annexure locale at northern section of the site;
 - 2 car garage & cross over adjacent to our Argle House and along Lower Fort Street main pedestrian route poses grave danger to public and pedestrian alike, and are not in interest of Miller Point areas.
 - Noise and acoustic impact from large number of the plantrooms, air con compressors and pool equipment right adjacent and against to our Argle House.
 - Huge height (some 4.3m above lower end of street pathway) & large bulk of this Garage & Plantroom facilities & enclosure /annexure is incongruous nor contextual to site setting adjacent to and blocking our Argyle House view setting from south end of the streets junction/intersection & Observatory Hills.
 - Proposed solar panels on the garage roof will have great glare & reflectivity to our Argle House & adjacent buildings.
 - Others
 - As per last objection submission dated 30th March 2020, on D/2020/182 – 87 Lower Fort Street, Millers Point, NSW 2000. Demolition of Structure (former baby health centre), Removal of 6 Trees, Site Remediation Works and Torrens Title Subdivision of existing allotment into 2 lots.

We repeat our request that Council recognize & uphold the Easements (S9) Restriction on the use of Land 1.8 wide (DP1212987) highlighted in **Green**, (S5) & (S9) Easement of Services 0.5 wide highlighted in **Blue**, (7A) & (S9) Easement for Support Over Common Retaining Wall 0.3 wide (DP 121 6874) highlighted in **Red**, burdened on adjoining landowner lot in favor of 85 Lower fort street, Argle House in attachment (5 pages).

- The Proposal do not have adequate design plans, with no cross and longitudinal sections including RL levels and abutment / interface details, landscaping, fencing and gates alike for my access, and also to deter any illegal dumping and anti-social activities to this 1.8M easement zone land adjoining and immediate interface with our

property, Argle House. From the DA submitted plans, I am unsure any proposed alteration /modification to the existing site levels and contour, retaining walls at this 1.8M easement zone land adjoining 85 Lower Fort Street.

- Without proper and agreed POM (Plan of Management) at this 1.8M easement zone land. It will be a nightmare for both of adjoining owners in future.
- Others.
- o Excessive proposed bulk envelope and over height limit;
 - Proposed grandeur building bulk 4 storeys height envelope is excessive & well over height limit should not be supported at this pivotal corner adjacent to heritage Argle place, Argle House and Observatory Hills.
 - It should be scaled back in keeping to surrounding building form in both building bulk and overall building height.
- o Proposed north facing windows;
 - No in coherent to most and general windows are both street front & rear facade facing presentation at Miller Point and along Lower Fort Street & Argle place.
 - We strongly object to north façade windows & attic window north facing due to privacy impact to & from (future) our Argle House.
- o Dilapidation Inspection & Reports required on all adjoining properties are mandatory DA conditions due to size of the size of excavation & building construction adjacent to heritage buildings.
- o Consultation with adjoining neighbors.
 - On record. On 3rd November 2022 3:50pm, Ms Mel Tait call me & sms me at 4:01pm her & her husband email contact. And I had replied my email contact with view that she will forward to me plans & docus for Neighbors consultation. To-date non have still received from Ms Mal Tait.
 - However, on 18th December 2023 late morning around 10:30am. I accidently met Ms Mal Tait and her 2 consultants in-front of my property at 85 Lower Fort Street. Ms Tait verbally demanded immediate to access my property to conduct Dilapidation Inspection & Reports without Owner consent and valid DA consent & conditions.
- We request that Council recognize our objection and also the deficiency of detail provided in this application and we object to the proposal.

Please contact the undersigned once you have had an opportunity to consider our objection.

Yours Faithfully,
INFIN Architects

Steven Ding
 Director
 288 Capital Pty Ltd.

Mobile: [REDACTED]
 Email: [REDACTED]
 PO Box 528, Willoughby, NSW 2068



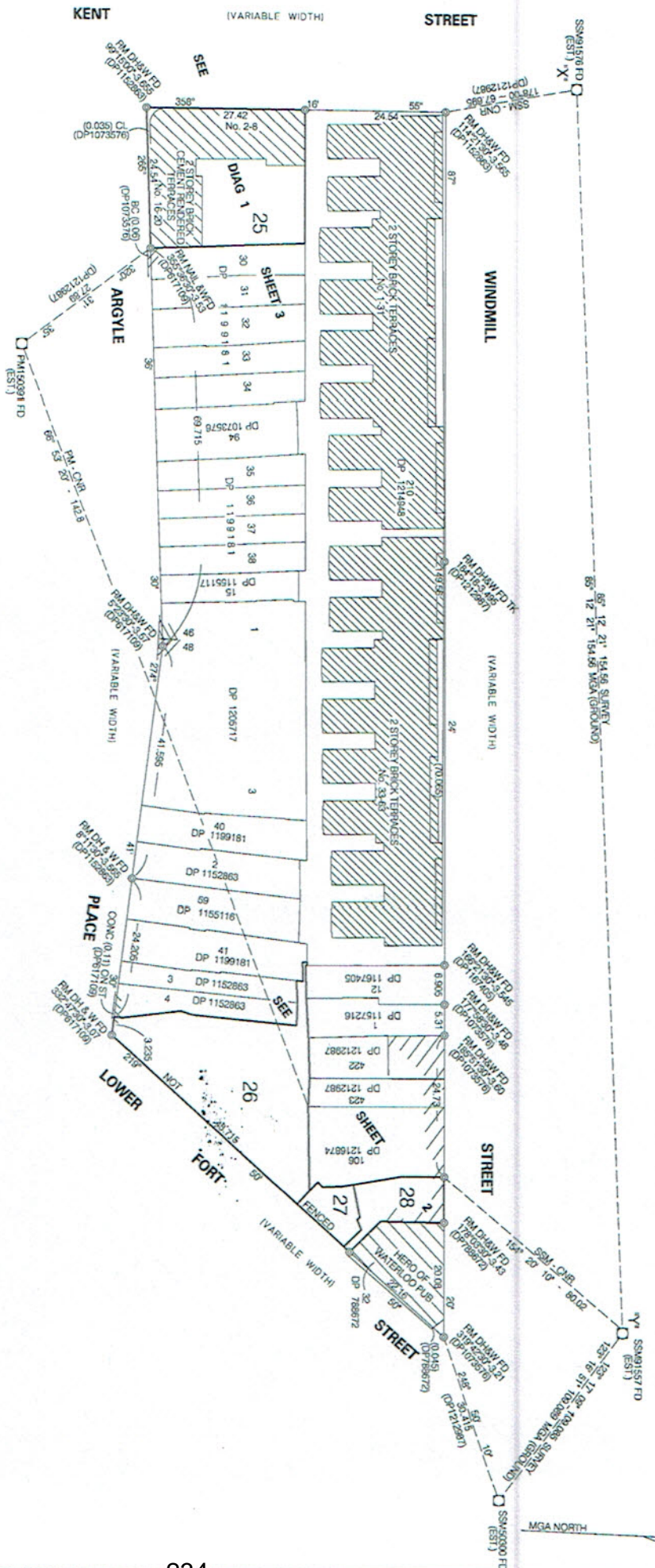
CERTIFICATE ORDER SUMMARY

Transaction Details

Date: 14/12/17 11:10
Order No. 48382141
Certificate No: 76561961
Your Reference: SJ:20162490:85 Lower Fort
Certificate Ordered: NSW LRS - Copy of Plan - Deposited Plan 1221024
Available: Y
Size (KB): 464
Number of Pages: 7
Scan Date and Time: 13/12/17 22:02

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SAI Global Property Division an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900.



MGA CONNECTIONS
 SSM50300 TO PM10391
 24570746 219.439 SURVEY
 24570754 219.442 MGA (GROUND)
 PM10391 TO SSM50300
 34140716 148.668 MGA (GROUND)
 34140716 148.668 MGA (GROUND)

SURVEYING AND SPATIAL REGULATION 2017 CLAUSES 70(1)(A) AND 70(2)				
MGA CO-ORDINATES				
MARK	EASTING	NORTHING	CLASS	ORDER
SSM 50300	334063.932	6 252186.910	B	2
SSM 9157	333972.742	6 252246.768	C	4
SSM 91576	333818.733	6 252233.851	C	4
PM 150391	333864.853	6 252094.633	C	4

THIS PLANS STREET BOUNDARY DEFINITION FOR KENT, WINDMILL AND LOWER FORT STREETS AND ARGYLE PLACE AGREES WITH DP 1212987 PREVIOUSLY CONSENTED TO BY COUNCIL.

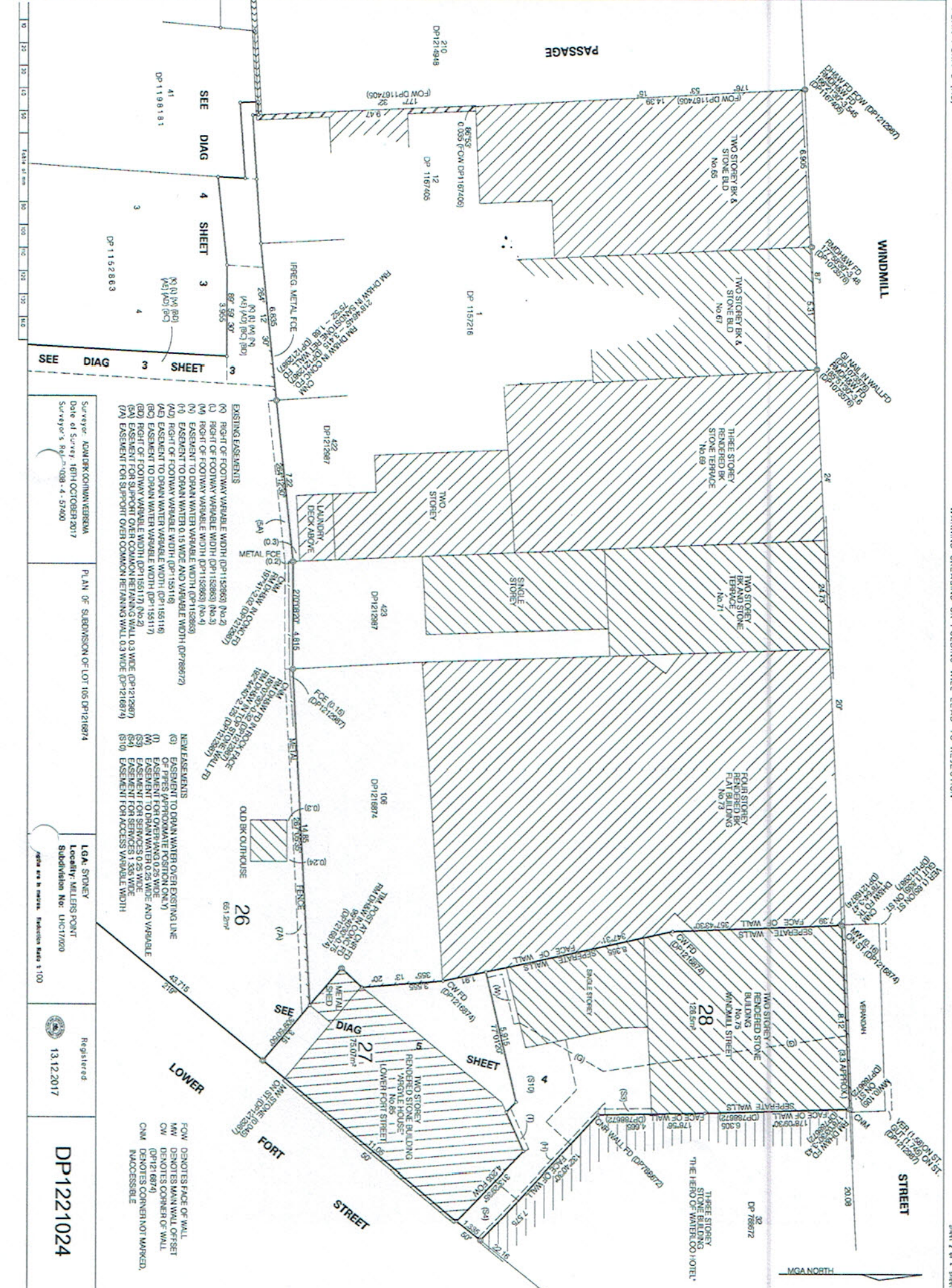
Surveyor: ADAM DOORAN/VERBA
 Date of Survey: 18TH OCTOBER 2017
 Surveyor's Ref: 008-4-5740

PLAN OF SUBDIVISION OF LOT 105 DP1218674

LGA: STONEY
 Locality: MILLENS POINT
 Subdivision No: UHC17000

Registered
 13.12.2017

DP1221024



SEE DIAG 4 SHEET

SEE DIAG 3 SHEET

SEE DIAG 27

- EXISTING EASEMENTS**
- (K) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.2
 - (L) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.3
 - (M) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.4
 - (N) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1152863)
 - (O) EASEMENT TO DRAIN WATER 0.15 WIDE AND VARIABLE WIDTH (DP1152863)
 - (P) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.1
 - (Q) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.2
 - (R) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.3
 - (S) RIGHT-OF-FOOTWAY VARIABLE WIDTH (DP1152863) No.4
 - (T) EASEMENT FOR SUPPORT OVER COMMON BEARING WALL 0.3 WIDE (DP1152863) No.2

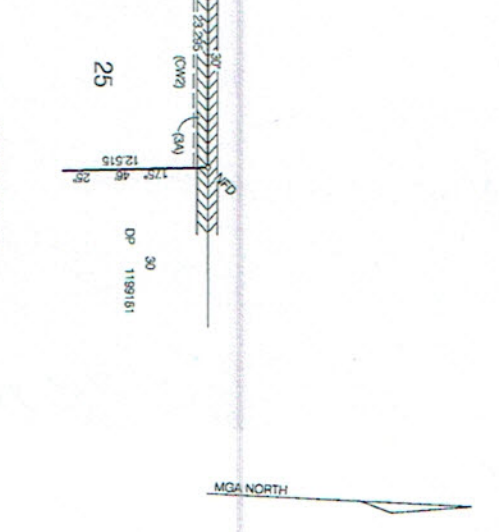
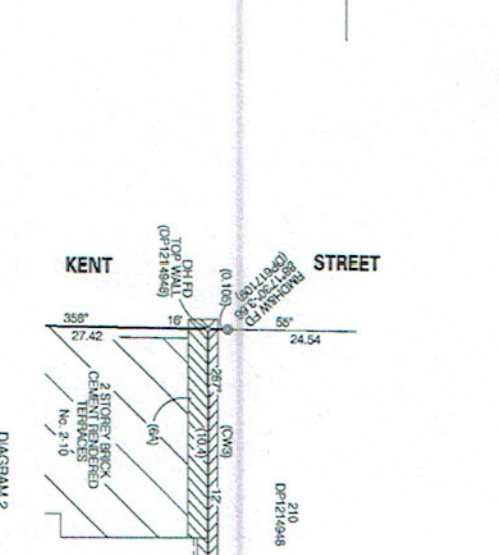
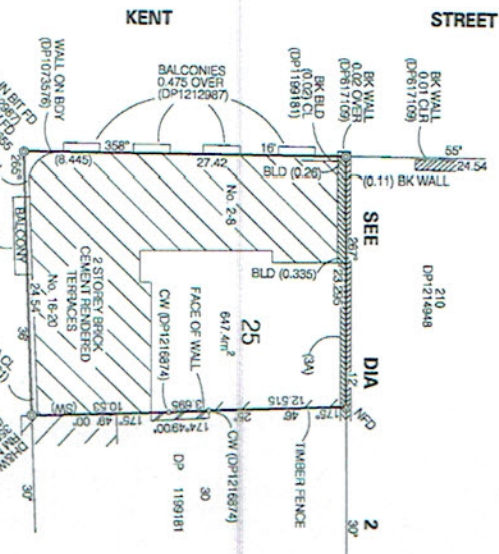
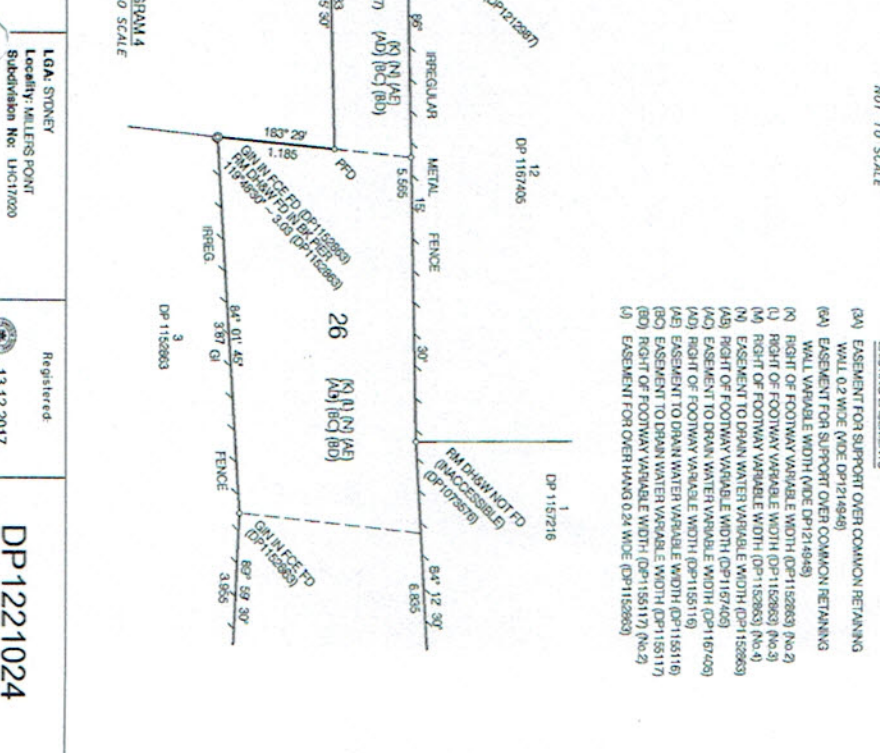
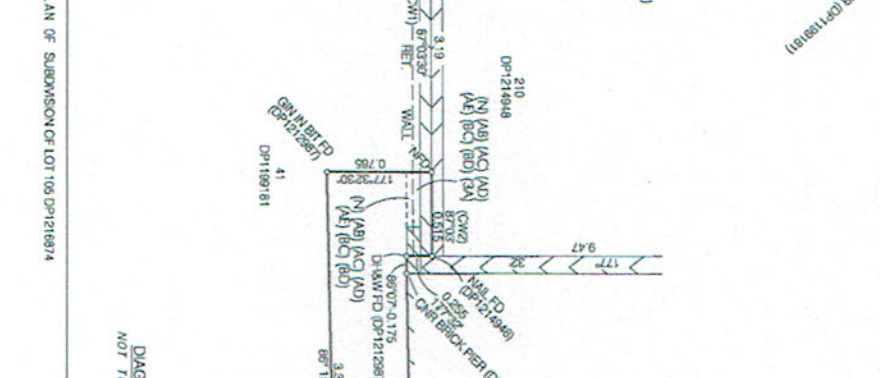
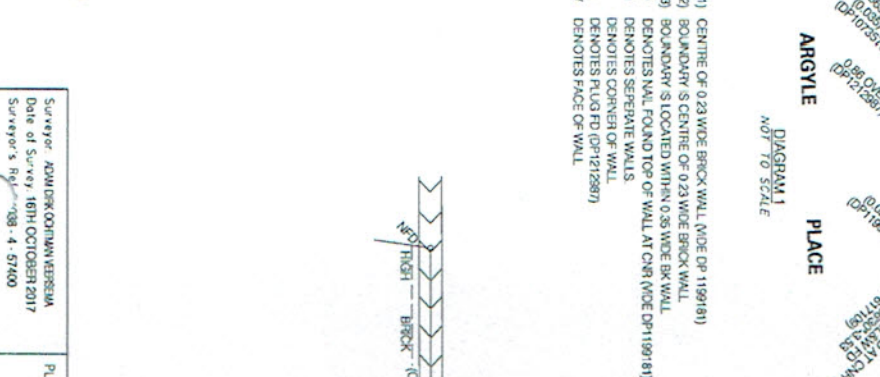
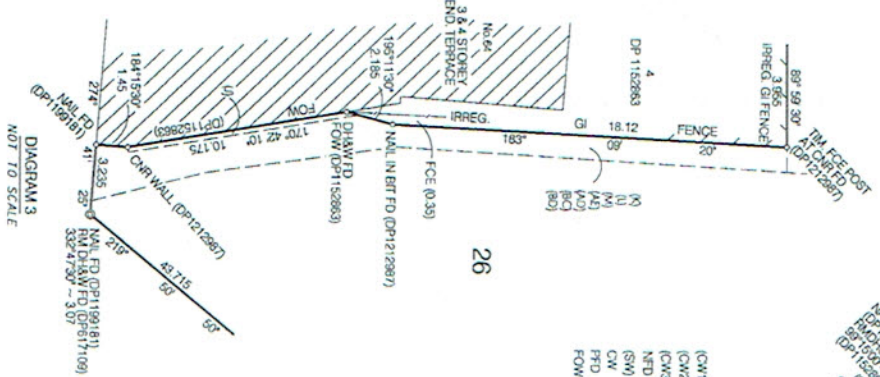
- NEW EASEMENTS**
- (G) EASEMENT TO DRAIN WATER OVER EXISTING LINE
 - (H) EASEMENT FOR OVERHANG 0.25 WIDE
 - (I) EASEMENT FOR OVERHANG 0.25 WIDE AND VARIABLE
 - (J) EASEMENT FOR SERVICES 0.25 WIDE
 - (K) EASEMENT FOR SERVICES 0.25 WIDE
 - (L) EASEMENT FOR ACCESS VARIABLE WIDTH

FOW DENOTES FACE OF WALL
 MW DENOTES MAIN WALL OFFSET
 CW DENOTES CORNER OF WALL
 (DP116874)
 C/M DENOTES CORNER NOT MARKED, INACCESSIBLE

PLAN OF SUBDIVISION OF LOT 105 DP1218974
 Surveyor: ADAM DEKORIAN KERRIMA
 Date of Survey: 18TH OCTOBER 2017
 Surveyor's Ref: 008-4-5700

LEGAL POINT
 Locality: MILLERS POINT
 Subdivision No: UMC17/030
 Registered
 13.12.2017

DP1221024



- EXISTING EASEMENTS
- (3A) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL 0.2 WIDE (NDE DP1214948)
 - (6A) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL VARIABLE WIDTH (NDE DP1214948)
 - (N) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863) (No.2)
 - (U) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863) (No.3)
 - (M) RIGHT OF FOOTWAY VARIABLE E. WIDTH (DP1152863) (No.4)
 - (N) EASEMENT TO DRAIN WATER VARIABLE E. WIDTH (DP1152863)
 - (4S) RIGHT OF FOOTWAY VARIABLE WIDTH (DP1197428)
 - (4D) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1197428)
 - (4S) RIGHT OF FOOTWAY VARIABLE WIDTH (DP1153116)
 - (4D) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1153116)
 - (4S) EASEMENT TO DRAIN WATER VARIABLE WIDTH (DP1153117)
 - (4D) RIGHT OF FOOTWAY VARIABLE WIDTH (DP1153117) (No.2)
 - (6) EASEMENT FOR OVERHANG 0.24 WIDE (DP1152863)

- (CM1) CENTRE OF 0.23 WIDE BRICK WALL (NDE DP 1199181)
- (CM2) BOUNDARY'S CENTRE OF 0.23 WIDE BRICK WALL
- (CM3) BOUNDARY'S LOCATED WITHIN 0.35 WIDE BR WALL
- (NFD) DENOTES NAIL FOUND TOP OF WALL AT CHR (NDE DP1199181)
- (SM) DENOTES SEPERATE WALLS
- (CM) DENOTES CORNER OF WALL
- (PFD) DENOTES PLUG FD (DP1212987)
- (FOW) DENOTES FACE OF WALL

- (N) (AS) (AC) (AD) (AE) (AF) (AG) (AH) (AI) (AJ) (AK) (AL) (AM) (AN) (AO) (AP) (AQ) (AR) (AS) (AT) (AU) (AV) (AW) (AX) (AY) (AZ) (BA) (BB) (BC) (BD) (BE) (BF) (BG) (BH) (BI) (BJ) (BK) (BL) (BM) (BN) (BO) (BP) (BQ) (BR) (BS) (BT) (BU) (BV) (BW) (BX) (BY) (BZ) (CA) (CB) (CC) (CD) (CE) (CF) (CG) (CH) (CI) (CJ) (CK) (CL) (CM) (CN) (CO) (CP) (CQ) (CR) (CS) (CT) (CU) (CV) (CW) (CX) (CY) (CZ) (DA) (DB) (DC) (DD) (DE) (DF) (DG) (DH) (DI) (DJ) (DK) (DL) (DM) (DN) (DO) (DP) (DQ) (DR) (DS) (DT) (DU) (DV) (DW) (DX) (DY) (DZ) (EA) (EB) (EC) (ED) (EE) (EF) (EG) (EH) (EI) (EJ) (EK) (EL) (EM) (EN) (EO) (EP) (EQ) (ER) (ES) (ET) (EU) (EV) (EW) (EX) (EY) (EZ) (FA) (FB) (FC) (FD) (FE) (FF) (FG) (FH) (FI) (FJ) (FK) (FL) (FM) (FN) (FO) (FP) (FQ) (FR) (FS) (FT) (FU) (FV) (FW) (FX) (FY) (FZ) (GA) (GB) (GC) (GD) (GE) (GF) (GG) (GH) (GI) (GJ) (GK) (GL) (GM) (GN) (GO) (GP) (GQ) (GR) (GS) (GT) (GU) (GV) (GW) (GX) (GY) (GZ) (HA) (HB) (HC) (HD) (HE) (HF) (HG) (HH) (HI) (HJ) (HK) (HL) (HM) (HN) (HO) (HP) (HQ) (HR) (HS) (HT) (HU) (HV) (HW) (HX) (HY) (HZ) (IA) (IB) (IC) (ID) (IE) (IF) (IG) (IH) (II) (IJ) (IK) (IL) (IM) (IN) (IO) (IP) (IQ) (IR) (IS) (IT) (IU) (IV) (IW) (IX) (IY) (IZ) (JA) (JB) (JC) (JD) (JE) (JF) (JG) (JH) (JI) (JJ) (JK) (JL) (JM) (JN) (JO) (JP) (JQ) (JR) (JS) (JT) (JU) (JV) (JW) (JX) (JY) (JZ) (KA) (KB) (KC) (KD) (KE) (KF) (KG) (KH) (KI) (KJ) (KK) (KL) (KM) (KN) (KO) (KP) (KQ) (KR) (KS) (KT) (KU) (KV) (KW) (KX) (KY) (KZ) (LA) (LB) (LC) (LD) (LE) (LF) (LG) (LH) (LI) (LJ) (LK) (LL) (LM) (LN) (LO) (LP) (LQ) (LR) (LS) (LT) (LU) (LV) (LW) (LX) (LY) (LZ) (MA) (MB) (MC) (MD) (ME) (MF) (MG) (MH) (MI) (MJ) (MK) (ML) (MN) (MO) (MP) (MQ) (MR) (MS) (MT) (MU) (MV) (MW) (MX) (MY) (MZ) (NA) (NB) (NC) (ND) (NE) (NF) (NG) (NH) (NI) (NJ) (NK) (NL) (NM) (NN) (NO) (NP) (NQ) (NR) (NS) (NT) (NU) (NV) (NW) (NX) (NY) (NZ) (OA) (OB) (OC) (OD) (OE) (OF) (OG) (OH) (OI) (OJ) (OK) (OL) (OM) (ON) (OO) (OP) (OQ) (OR) (OS) (OT) (OU) (OV) (OW) (OX) (OY) (OZ) (PA) (PB) (PC) (PD) (PE) (PF) (PG) (PH) (PI) (PJ) (PK) (PL) (PM) (PN) (PO) (PP) (PQ) (PR) (PS) (PT) (PU) (PV) (PW) (PX) (PY) (PZ) (QA) (QB) (QC) (QD) (QE) (QF) (QG) (QH) (QI) (QJ) (QK) (QL) (QM) (QN) (QO) (QP) (QQ) (QR) (QS) (QT) (QU) (QV) (QW) (QX) (QY) (QZ) (RA) (RB) (RC) (RD) (RE) (RF) (RG) (RH) (RI) (RJ) (RK) (RL) (RM) (RN) (RO) (RP) (RQ) (RR) (RS) (RT) (RU) (RV) (RW) (RX) (RY) (RZ) (SA) (SB) (SC) (SD) (SE) (SF) (SG) (SH) (SI) (SJ) (SK) (SL) (SM) (SN) (SO) (SP) (SQ) (SR) (SS) (ST) (SU) (SV) (SW) (SX) (SY) (SZ) (TA) (TB) (TC) (TD) (TE) (TF) (TG) (TH) (TI) (TJ) (TK) (TL) (TM) (TN) (TO) (TP) (TQ) (TR) (TS) (TT) (TU) (TV) (TW) (TX) (TY) (TZ) (UA) (UB) (UC) (UD) (UE) (UF) (UG) (UH) (UI) (UJ) (UK) (UL) (UM) (UN) (UO) (UP) (UQ) (UR) (US) (UT) (UU) (UV) (UW) (UX) (UY) (UZ) (VA) (VB) (VC) (VD) (VE) (VF) (VG) (VH) (VI) (VJ) (VK) (VL) (VM) (VN) (VO) (VP) (VQ) (VR) (VS) (VT) (VU) (VV) (VW) (VX) (VY) (VZ) (WA) (WB) (WC) (WD) (WE) (WF) (WG) (WH) (WI) (WJ) (WK) (WL) (WM) (WN) (WO) (WP) (WQ) (WR) (WS) (WT) (WU) (WV) (WW) (WX) (WY) (WZ) (XA) (XB) (XC) (XD) (XE) (XF) (XG) (XH) (XI) (XJ) (XK) (XL) (XM) (XN) (XO) (XP) (XQ) (XR) (XS) (XT) (XU) (XV) (XW) (XX) (XY) (XZ) (YA) (YB) (YC) (YD) (YE) (YF) (YG) (YH) (YI) (YJ) (YK) (YL) (YM) (YN) (YO) (YP) (YQ) (YR) (YS) (YT) (YU) (YV) (YW) (YX) (YZ) (ZA) (ZB) (ZC) (ZD) (ZE) (ZF) (ZG) (ZH) (ZI) (ZJ) (ZK) (ZL) (ZM) (ZN) (ZO) (ZP) (ZQ) (ZR) (ZS) (ZT) (ZU) (ZV) (ZW) (ZX) (ZY) (ZZ)

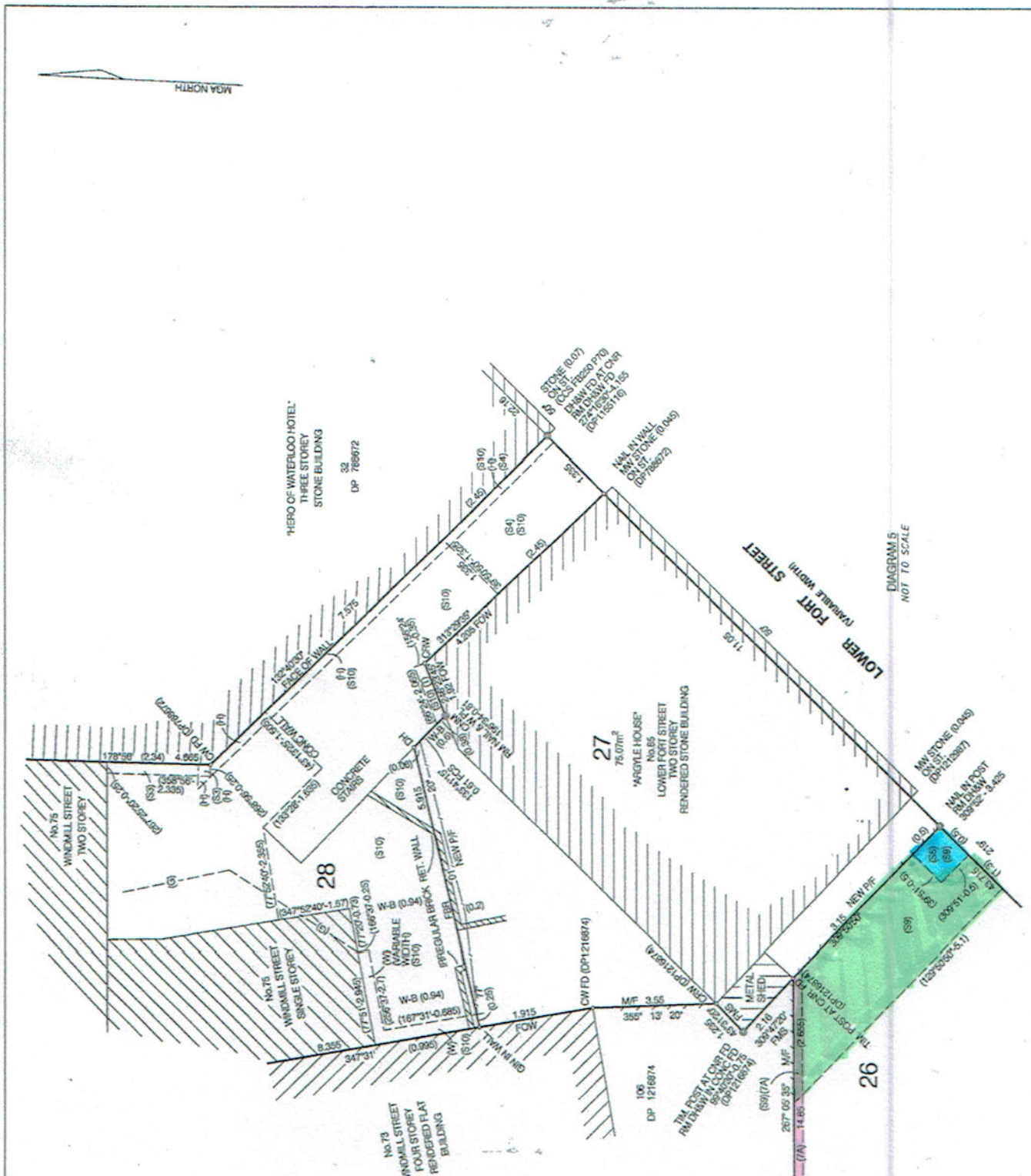
Surveyor: ADAM GORCOTIUM VERSEEM
Date of Survey: 16th OCTOBER 2017
Surveyor's Ref: 08-4-57400

PLAN OF SUBDIVISION OF LOT 106 DP1218974

LGA: STONEY
Locality: MILLERS POINT
Subdivision No: UNIC17030
After 8th Nov 2017 Production Date: 1/10/20

Registered
13.12.2017

DP1221024



- NEW EASEMENTS**
- (S) EASEMENT TO DRAIN WATER OVER EXISTING LINE OF PIPES (APPROXIMATE POSITION ONLY)
 - (I) EASEMENT FOR OVERHANG 0.25 WIDE
 - (W) EASEMENT TO DRAIN WATER 0.25 WIDE AND VARIABLE
 - (S1) EASEMENT FOR SERVICES 0.25 WIDE
 - (S4) EASEMENT FOR SERVICES 1.335 WIDE
 - (S2) EASEMENT FOR SERVICES 0.5 WIDE
 - (S3) RESTRICTION ON THE USE OF LAND 1.8 WIDE
 - (S10) EASEMENT FOR ACCESS VARIABLE WIDTH
- EXISTING EASEMENTS**
- (A) EASEMENT TO DRAIN WATER 0.15 WIDE AND VARIABLE WIDTH (DP1788672)
 - (7A) EASEMENT FOR SUPPORT OVER COMMON RETAINING WALL 0.3 WIDE (DP1216874)

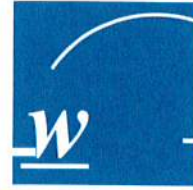
Surveyor: JOM DEL CORRAL VERDEMA
 Date of Survey: 16TH OCTOBER 2017
 Surveyor's Ref: 708-A-57400

PLAN OF SUBDIVISION OF LOT 106 DP1216874

LOA: STONEY
 Locality: MILLETS POINT
 Subdivision No: LHC17020

Registered
 13.12.2017

DP1221024



crose@wilshirewebb.com.au

Wilshire Webb Staunton Beattie Lawyers

Our Ref: 222363

Your ref:

20 December 2023

Steven Ding
85 Lower Fort Street
Millers Point NSW 2000

Attention: Steven Ding

Dear Sir,

RE: 87 LOWER FORT STREET, MILLERS POINT

We act for the owners of 87 Lower Fort Street, Millers Point (**Land**). We are instructed you are the owner of 85 Lower Fort Street, Millers Point (**Your Land**).

As you may be aware, our clients are proposing to develop the Land, which will involve the demolition of the existing structures and construction of a new dwelling.

As part of the proposal, our clients seek access to Your Land to carry out a dilapidation report. The purpose of a dilapidation report is to provide information as to the existing structure and condition of Your Land, to ensure there is no unreasonable change to that existing structure and condition during the development of the Land.

We are instructed that our clients' consultants are available to carry out the dilapidation survey at **10am on either 22 January 2024 or 29 January 2024**.

We would be grateful if you could please indicate if you consent to the inspection being carried out and the preferred date for the inspection. **Please confirm your consent and preference by close of business Monday 15 January 2024.**

Level 9, 60 York Street, Sydney NSW 2000 | Tel (02) 9299 3311 Fax (02) 9290 2114 | DX 777 Sydney NSW
www.wilshirewebb.com.au | ABN 61 849 174 739

Liability limited by a scheme approved under Professional Standards Legislation

We **enclose** a copy of the Public Liability Insurance for the responsible company carrying out the dilapidation report, as we understand you have requested confirmation of the Public Liability Insurance.

Please be aware that in the event that you do not consent to the reasonable request for the dilapidation report being undertaken, the decision to refuse consent will significantly impact on any claim you make in respect of damage to Your Land that you allege in the future. You should take steps to mitigate any damage to Your Land and refusing consent to undertake a dilapidation is contrary to your obligation to mitigate your damages.

We look forward to receiving your response on or prior to **15 January 2024**.

Yours faithfully

WILSHIRE WEBB STAUNTON BEATTIE



CECILIA ROSE
Partner

Business Insurance Certificate of Currency



Policy Number: 9695427CMB

Certificate Date 08 August, 2023

Insurer

AIG Australia Limited (AIG)
ABN: 93 004 727 753
AFSL: 381686

Important Information

The named insured specified below is insured under a contract of insurance issued/insured by AIG Australia Limited. This document is confirmation of such Insurance having been effected but in no way amends the terms conditions warranties limitations exclusions and exceptions of the policy. Refer to Policy for details of excesses.

Period of Cover 7/08/2023 to 7/08/2024 at 4pm

Endorsement effective date 7/08/2023

Insured

Insured Name SDA Structures Pty Ltd

Address 2/61 Victoria Road
Rozelle NSW 2039

Property Owner Only No

Policy Wording

AIG Steadfast My Business Pack

COVERS FOR ALL SITUATIONS

PUBLIC AND PRODUCTS LIABILITY

Limit of Liability

Limit of Liability - Public & Products Liability \$ 20,000,000

Additional Benefit

Property in Your Physical and Legal Control - Limit \$ 250,000

SITUATION SPECIFIC COVERS

SITUATION DETAILS

Situation: 2/61 Victoria Road Rozelle NSW 2039 (Principal)

Business Details

Consulting Engineering Service

Interested Parties

Interested Party # 1

Risks Business Property, Public and Products Liability, Glass

Name Wechsler Property Pty Ltd ACN 614 877 057

Nature of Interest Lease

Address

89 Bronte Road
Bondi Junction, NSW, 2022

GLASS

Sum Insured

Temporary repairs and other associated costs

Signs

Replacement Value

\$ 10,000

\$ 10,000

John pike
311 6 Cowper Wharf Rd.
Woolloomooloo N.S.W.

5/12/2023

I have an apartment in the Fingerwharfe Woolloomooloo. 311 6 Cowper wharf Rd.

One of my most most enjoyable walks is to stroll around magnificent Millers point, with its terraces, the Observatory Hill Park, and visit the S.H. Erwin gallery.

A friend drew my attention to the proposed triangular block of land for sale at 67 lower Fort Street some time ago and I have often wondered what the development will be.

I was expecting a large ultra modern design, and am very gratified and happy with the current proposal.

The concept of a grand Georgian villa with elongated windows and a pitched roof is absolutely appropriate for the area, in addition the finishing touches of sandstone corners and zinc roof help minimise the scale of the building.

The cleverly designed two distinct but asymmetric volumes with the central recess, minimises the impact on the neighbours, and definitely respects the area.

Although the development is reasonably large, there are good setbacks particularly the 6 metres on the northern aspect, and the generous landscaping with a roof garden over the car parking is appropriate.

The building will definitely enhance and not detract from this great part of Sydney.

Dr. John pike
M.B. B.S. F.R.A.N.Z.C.R

From: Barbi Fraser <bfraser@cityofsydney.nsw.gov.au> on behalf of Planning Systems Admin
<planningsystemsadmin@cityofsydney.nsw.gov.au> <Planning Systems Admin
<planningsystemsadmin@cityofsydney.nsw.gov.au>>
Sent on: Thursday, May 9, 2024 9:04:05 AM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: D/2023/1036 - 87 Lower Fort Street

From: Nicholas Wolff [REDACTED]
Sent: Friday, February 23, 2024 3:02 PM
To: Marie Burge <MBurge@cityofsydney.nsw.gov.au>
Subject: Re: D/2023/1036 - 87 Lower Fort Street

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Thank you Marie

I have to say that on the basis of the LPP Directions Policy you forwarded and in particular Schedule 3 which applies to the City of Sydney there is no doubt that the Development Application must be referred to a Local Planning Panel. This is on the basis that the proposed additional height of 6.44m above the height of the existing single storey building - which is effectively the height limit on the site as per the development standard - is significantly in excess of the 25% upper limit control in clause 3 of Schedule 3. Further, the proposed demolition of the existing building, which is within a State Heritage Conservation Area, would also be covered by Clause 4(c) of the Schedule and thus trigger referral to a Local Planning Panel. The project is very sensitive within the community and although there are many commendable aspects to the Development Application, for Council to take a decision regarding its assessment, which does not ensure maximum transparency and the full opportunity for the community's views to be fully heard, could be interpreted as being a flawed process designed to avoid appropriate public scrutiny of such a significant development in Millers Point. Further, it would fly in the face of the State Government's Local Planning Panel Directions Policy. Please treat this email as supplementary to my original objection to the project.

Regards

Nicholas Wolff