

Item 3.**Development Application: 1 Challis Avenue, Potts Point - D/2023/878**

File No.: D/2023/878

Summary

Date of Submission:	27 September 2023, amended plans received 14 June 2024 and 14 August 2024
Applicant:	St Vincent's College Limited
Architect/Designer:	Leaf Architecture
Developer:	Mary Aikenhead Education Limited
Owner:	Mary Aikenhead Education Limited
Planning Consultant:	Ethos Urban
Heritage Consultant:	Vivian Sioutas Architecture Pty Ltd
DAPRS:	05 December 2023
Cost of Works:	\$ 43,439,539
Zoning:	The site is zoned R1 - General Residential under the Sydney Local Environmental Plan (SLEP) 2012. The proposed use is for 'educational uses' within an existing educational establishment (school), which is permissible with consent.
Proposal Summary:	Alterations and upgrades to St. Vincent's College comprising: Site preparation - <ul style="list-style-type: none">• demolition of existing swimming pool, sports courts and structures• removal of 19 trees (12 require consent), retention of 35 trees• bulk excavation and earthworks

Construction works -

- new partially sunken multi-purpose sporting facility - includes sports hall, assembly stage, indoor pool and rooftop sports court
- new music and administration building (Bethania building) interconnecting with the rear of the existing Garcia building
- new pedestrian access, for parents and visitors, through a glazed foyer from Challis Avenue
- internal alterations to the Garcia building, minor internal alterations to the Vincentia building
- minor internal alterations to reconfigure the existing boarding facilities within Aikenhead House, including a lift, new stairs and a ramp

Associated works -

- two (2) new school signs
- new tree planting and landscaping
- upgrades to services including a new chamber substation fronting Challis Ave

The application is referred to the Local Planning Panel (LPP) for determination as the development is contentious development receiving more than 25 unique objections.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

Development Controls: Environmental Planning and Assessment Act (EPA Act) 1979
Environmental Planning and Assessment Regulation (EPA Regs) 2000
Sydney Local Environment Plan (SLEP) 2012
State Environmental Planning Policy (Resilience and Hazards) 2021
State Environmental Planning Policy (Industry and Employment) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Community Engagement Strategy and Participation Plan 2022

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Selected Plans

D. View Loss Assessment

E. Overshadowing Analysis

F. Submissions

Recommendation

It is resolved that consent be granted to Development Application Number D/2023/878 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The site is located in the Zone R1 General Residential. The proposed development comprises alterations and additions to an educational establishment (school) which is permitted with consent in the zone.
- (B) The proposed development complies with the maximum Height and Floor Space Ratio development standards contained within Clause 4.3 and 4.4 of the Sydney Local Environmental Plan 2012.
- (C) The proposed development provides an appropriate contribution that is suitable in terms of its context, scale and built form and is consistent with the policy aims and design quality principles set out in Chapter 3 and Schedule 8 of State Environmental Planning Policy (Transport and Infrastructure) 2021.
- (D) The design of the proposed structures minimise the extent of view loss and maintains view corridors where possible and protects the setting of heritage items on the site and within the surrounding Potts Point Heritage Conservation Area.
- (E) The proposed development will not unreasonably impact the existing amenity of surrounding residential properties.
- (F) Suitable conditions of consent are recommended, and the proposed development is considered to be in the public interest.

Background

The Site and Surrounding Development

1. The subject site, comprising 1 Challis Avenue and 1 Tusculum Street, is irregular in shape and covers two individual land parcels namely 1 Challis Avenue (12,543.5 sqm) and 1 Tusculum Street (936.7 sqm). The site has a total combined area of 13,480.2 sqm.
2. The site has two street frontages, Victoria Street to the west, which is used as the main entry point, and a secondary frontage and access to Challis Avenue to the north. Rockwall Crescent and Rockwall Lane to the east provide two alternative access points to the site.
3. The school site is known as St Vincent's College which comprises several educational and administrative buildings, as well as sports courts, a swimming pool, the Grotto, carparking and the St Vincent's Chapel.
4. The school boundary falls wholly within the R1 General Residential zone, abutting the MU1 Mixed Use zone to the east. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial in nature.
5. The site contains locally listed heritage items including 'St Vincent's Convent Group' which includes 'buildings and their interiors and grounds' (I1121) and the 'Former convent Bethania and Carmelita' (I1122).
6. To the east of the site is No. 2 - 4 Rockwall Crescent (in ownership of the school), which is a three-level masonry grand terrace building comprising two residential dwellings and is a locally listed heritage item (I1152).
7. Also to the east is No. 5 Rockwall Crescent, a locally listed two storey Colonial Regency style villa/town house in sandstone blocks (I1153). A large level, landscaped lawn is located just west of the house.
8. Hotel Challis abuts the north-eastern boundary of the site and is a locally listed heritage item (I1126).
9. A considerable number of other locally listed heritage items, predominantly terraced dwellings, surround the site to the north, west and south. The whole site is located within the Potts Point Heritage Conservation Area (C51) and is identified as Contributing to the Heritage Conservation area.
10. The site is located within the Potts Point locality and is identified as being subject to flooding.
11. A site visit was carried out on 9 November 2023. Site visits were also undertaken to the following neighbouring properties during February, March and April 2024 - all units within 6-8, 10-16 and 18 Rockwall Crescent, Hotel Challis at 21-23 Challis Avenue and Unit 11, 6 Challis Avenue.
12. Site maps and photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Aerial view of site identifying existing individual buildings



Figure 3: Site and Vincentia building viewed from Victoria Street



Figure 4: Main student entry and existing swimming pool area viewed from Victoria Street



Figure 5: North-west corner of site with pool viewed from Victoria Street



Figure 6: Pool area and sports courts viewed from corner of Challis Avenue and Victoria Street



Figure 7: View of existing pool looking towards intersection of Victoria Street and Challis Avenue



Figure 8: View of existing sports courts looking towards dwellings on northern side of Challis Avenue



Figure 9: Looking east along Challis Avenue (residential dwellings to the left, subject site to the right)



Figure 10: View of heritage listed Garcia building from Challis Avenue looking south



Figure 11: View looking southwest along Challis Avenue



Figure 12: View looking northeast to the rear of Hotel Challis and Garcia building from Rockwall Lane



Figure 13: Rear of Garcia building as viewed from Rockwall Lane facing northwest



Figure 14: View looking east to Hotel Challis and existing landscaped area to rear of Garcia building



Figure 15: View to south from within the site of heritage dwellings on southern side of Rockwall Lane



Figure 16: View facing southwest of heritage dwellings on Rockwall Lane (listings I1152 and I1154)



Figure 17: View of site access point from Rockwall Lane looking west



Figure 18: View of Rockwall Lane entry from within the site and edge of Grotto



Figure 19: View of the central Grotto and the existing landscaped setting



Figure 20: View north of existing access from Challis Avenue set on western side of Garcia building

History Relevant to the Development Application

Development Applications

13. The following applications are relevant to the current proposal:

- **U92-00330** – Development consent was granted on 10 July 1992 for the erection of a two-storey residential building accommodating the Sisters of Charity, involving 12 chambers with communal living, dining and kitchen at 1-3 Rockwall Crescent, Potts Point.
- **D/2006/152** - Development consent was granted on 28 February 2006 for Level 2 internal refurbishment and alterations of bathroom and laundry area - Tarmons Building.
- **D/2006/204** - Development consent was granted on 03 April 2006 for repair and improvement works to existing brick and sandstone wall at the corner of Victoria Street and Challis Avenue (St Vincents College).
- **D/2006/213** - Development consent was granted on 19 March 2007 for the installation of a temporary demountable classroom building for up to three (3) years-revised location behind "Garcia" building near Rockwall Lane.
- **D/2007/356** - Development consent was granted on 19 March 2007 for alterations and additions to Level 2 of Building E - new storeroom in substructure void space.
- **D/2007/356/1** - Development consent was granted on 24 July 2008 for the extension of Consent D/2007/356
- **D/2010/46** - Development consent was granted on 01 March 2013 for the refurbishment to Building B of St Vincent's College, including works to undercroft, air-conditioning system and internal fit-out.
- **D/2010/1935** - Development consent was granted on 17 January 2011 for the installation of temporary demountable building adjacent to the Garcia building to provide toilet facilities at St Vincent's College. The site also has secondary frontages to Victoria Street and Rockwall Lane.
- **D/2010/2162** - Development consent was granted on 31 March 2011 for alterations and additions to Blocks B, B.1 and C within St Vincent's College including the construction of a formal entry fronting Victoria Street, a breezeway and stair/ramp access to all floors in Blocks B, B.1 and B.2, internal reconfiguration of Block C to convert former boarding house accommodation to classrooms, new common area for students and archive facilities.
 - **D/2010/2162/A** - Modification was supported on 21 December 2012 for a Section 96(1a) to allow for staged construction certificates by deferring conditions 2,3,4,5, and 6.
 - **D/2010/2162/B** - Modification was supported on 11 February 2014 for a S96(2) modification to the breezeway structure for St Vincents College including reconfiguration of the entry from Victoria Street, new stairs accessing the roof of Blocks B and B1, installation of accessible facilities, a

northern roof extension, and amendments to louvred windows on Blocks B and B1.

- **D/2010/2162/C** - Modification was supported on 29 September 2014 for a Section 96(1A) modification of conditions 3 and 5 and removal of condition 8.
- **D/2012/231** - Development consent was granted on 10 April 2012 for the reconfiguration of dorm rooms and bathrooms in Block C at St Vincents College.
- **D/2016/1654** - Development consent was granted on 17 March 2017 for the conversion of a convent residential building to an archives and heritage centre for the Religious Sisters of Charity of Australia. Alterations and additions include partial demolition, refurbishment of existing building, signage and construction of 3 storey rear wing and associated works.
- **HWC/2018/300** - **An exemption was given on 20 September 2018 to modify the building occupant warning system for St Vincent's College.**
- **HWC/2021/250** - An exemption was given on 11 August 2021 for replacing existing gallery balustrade (not original) with cast iron new balustrade.
- **PDA/2022/246** - Pre-DA - Alterations and additions to school
- **HWC/2023/185** - An exemption was given on 11 July 2023 for the repair and maintenance due to deterioration to roof, windows and stone brickwork to St Vincent's Chapel.

Compliance Action

14. The site is not subject to any compliance action.

Application chronology and amendments

15. A summary of the application chronology is provided below:

27 September 2023 - application lodged

9 October 2023 - Following a preliminary review of supporting information, a 'Stop the Clock request for further information' letter was issued. The following information was requested:

- Clarify FSR calculations and provide TFA plans
- Update architectural plans with easements and burdens, privacy treatments
- Submit a Detailed Site Investigation Plan (DESI)
- Update shadow diagrams for amenity impact assessment
- Submit a 1:500 scale physical model
- Confirm development pathway for WaterNSW dewatering approval

8 November 2023 - Applicant responded to the first request for further information letter.

05 December 2023 - The application was reviewed by the City's Design Advisory Panel Residential Subcommittee (DAPRS).

21 February 2024 - Following a full assessment of the supporting information and receipt of comments from DAPRS, a second 'request for further information' letter was issued to the applicant. The following information was requested:

- Floor space ratio incorrect, provide amended GFA plans and Provide TFA plans for affordable housing contribution

Revise architectural plans to address architectural expression issues, materiality, sunshades, privacy measures, glazing, netting and enclosures, and correct mislabelling
- Provide eastern elevation of proposed Bethania building, southern elevation of the multi-purpose building and roof plan for southern end of the site, and signage. Address design issues for proposed multi-purpose building including reducing glazing, justifying build heights and setbacks, and resolve design issues for proposed Bethania including overall bulk, simplification of form and relocation of rooftop plant. Amend plans to remove any intrusions / doors opening over the footway of Victoria Road. Amend architectural plans to include all Sydney Water easements/rights of ways to demonstrate no impacts
- Provide a materials schedule for surface finishes, typical details for proposed balustrades, stone walls, fence, pergola and shade structures. Details of proposed lighting for sports areas, including operating hours and if required, light spillage diagrams Heritage Interpretation Strategy for Garcia building
- Additional structural design details (in addition to the Structural Engineering Report submitted) to include excavation methodology
- Shadow diagrams to scale with compliance table and view from the sun diagrams and elevational shadow diagrams demonstrating impacts to Hotel Challis
- View Impact analysis methodology to be summarised
- Update landscape plans to confirm adequate soil depth and volume, with levels and planter details for each location and landscape setbacks at grade, and outline strategy for ongoing access and landscape maintenance. Provide landscaping plan for Grotto with irrigation for all landscape zones on landscaping and architectural drawings
- Submit a BCA compliance assessment report relating to the boarding facilities (Aikenhead House), including deficiencies and recommendations for any fire upgrades
- Provide a DESI, and Remediation Action Plan (RAP) if recommended

- Provide an NCC Section J Compliance Report and complete the City Design for Environmental Performance form
- Provide a Flood Planning Level Assessment within the Civil Engineering Report with a table showing compliant flood planning levels and a compliant MUSICLink certificate
- Confirm student numbers and any recent increases. Confirm proposed use of existing Assembly Hall, and proposed intent for any spaces vacated as part of the proposed development. Confirm operational hours and anticipated persons to be utilising the new access point on Challis Avenue
- Provide written consent from adjoining owner of Hotel Challis for proposed boundary works or move building off eastern boundary
- Outline considerations for provision of the school facilities for public use e.g. access to the sports or music facilities as required by the Transport and Infrastructure SEPP (T&I SEPP).
- Demonstrate compliance with AUSGRID restrictions for the substation

7 June 2024 - Applicant responded to the second 'request for further information' letter, which including a revised set of architectural plans and supporting documents.

31 July 2024 - Assessment was undertaken on the submitted documents and the remaining outstanding matters were raised in a third 'request for further information' letter, which requested the following:

- Overshadowing analysis applies the superseded design - provide an overshadowing assessment which applies the amended scheme
- Existing rear POS for affected terraces on Rockwall Crescent potentially non-compliant solar access. Analysis to include these in the assessment as they are 'combined multipurpose courtyard areas in inner city areas'
- View Loss Assessment (VLA) is to be updated to reflect the amended building form to allow accurate assessment of the view loss impact
- Plant enclosures and any rooftop elements on the Bethania Block building are to have top of wall RLs annotated on Section A of the architectural drawings
- Landscaping plans updated for Bethania, and the Multi-purpose building rooftop, with annotated levels demonstrating adequate soil volumes, layout of pots, location of all trees, plant schedules and access for maintenance. Further landscaping information required for Reflection Garden including appropriate drainage and larger trees. Challis Avenue planting schedule to be updated with species that provide adequate canopy cover

Update Arboricultural Impact Assessment to include review of potential encroachment to Tree 10 and confirm retention of Tree 36. Arboricultural Impact Assessment prepared for all street trees surrounding the site, detailing impacts and any pruning requirements

- Civil Engineering Report amended to include a Flood Planning Level Assessment
- Following the amendments to the Geotechnical Report to minimise vibration, the Acoustic Report is to be updated to reflect the new recommendations
- Preliminary Public Art Plan to be provided

14 August 2024 - Applicant responded to the third 'request for further information' letter with the remaining outstanding information.

16. Significant amendments made to the originally proposed scheme are as follows:

- Facade expression of the multi-purpose building is revised by increasing the solid masonry to void ratio, reducing the extent of glazing and revising materiality from solely concrete palette, to a blonde coloured brick.
- Height of the sports fence surrounding the rooftop courts is reduced from 7m to 5m. The structure of the court is revised to align with the structural grid and brick bays of the multi-purpose building beneath.
- Simplification of the pergola shade structure on the rooftop of the multi-purpose sporting facility building.
- Expansion of the like-for-like stone wall replacement along Challis Ave and Victoria Street where possible.
- Redesign of the landscape proposal including maximisation of planting along the Challis Avenue frontage and refinement to on-structure planting.
- Bethania building amended to better reflect the residential context, with changes to the interface with Rockwall Lane, which include more vertical rhythm and reduced openings with privacy screening.
- Bethania roof form simplified and materials revised to a lighter, more masonry palette, replacing metal cladding with face brick, and the application of lightweight timber weatherboard cladding to the upper levels.
- Introduction of 1.5 metre setback off the eastern boundary with Hotel Challis and a partial ingress of the fire stairs. Louvres are also added to windows on the eastern elevation of the Bethania building to improve privacy and outlook.
- A brick pier and palisade fence are proposed along the boundary, with landscaping proposed between the building and the fence.
- The connection to the Garcia building from the multi-purpose building is redesigned to remove solid, horizontal elements and be more recessive when viewed from Challis Ave.
- Air conditioning units relocated to ground level to minimise roof plant.
- Removal of lettering from the Crest sign located on the corner of Challis Avenue and Victoria Street.

- Introduction of staged construction and occupation.

Design Advisory Panel Residential Subcommittee comments

17. The Design Advisory Panel Residential Subcommittee (DAPRS) were presented with the application as it was originally lodged on 5 December 2023. Whilst the application does not comprise residential development, given its highly residential context and zoning, it was determined the assessment would benefit from the architectural input of the Panel.
18. The issues raised by DAPRS are now largely resolved by the submission of the amended plans. A summary of the Panel's comments, and a response discussing how the comment was addressed, is provided in the table below.

DAPRS Comment	Response
<p>The proposal, its site and existing buildings are a complex arrangement of structures and street interfaces, and therefore more information is required for review and assessment. The applicant will need to submit 1:100 plans, elevations of all facades, neighbouring buildings, their window positions and outdoor private space, geotechnical / excavation information, the location and design of services, view from the sun diagrams, more detailed design intent, proposed materials and finishes, operability of facades, sections that reflect structural and servicing requirements, and survey information.</p>	<p>1:100 / 1:50 elevations and sections are provided within the amended planset to show greater detailing, and materiality.</p> <p>View from the sun diagrams, elevational overshadowing diagrams and survey information provided.</p>
<p>The proposed fit within the urban context could be improved. Building bulk should be reduced where possible.</p>	<p>The multi-purpose building has been redesigned to include more solid masonry and a stronger vertical rhythm that responds to the residential rhythm and materiality of the surrounding residential area, further achieved through a reduction in the amount of glazing. Architectural detailing, including recessing, to reduce the bulk of the façade has been added</p>
<p>The form of the proposed Bethania Building is supported in principle however may benefit from a more restrained material palette, finer grain and proportions that draw cues from the modulation and materials evident in the immediate context of the Heritage</p>	<p>The Bethania building has been redesigned to adopt a lighter palette which is consistent with the surrounding heritage and residential context. The removal of 'heavy' materials ensures that visual bulk is managed through design measures, without the need to</p>

DAPRS Comment	Response
<p>Conservation Area. Copper 'look' cladding and dark 'monument' metal cladding are potentially inconsistent with the character of the HCA and heritage items. Brickwork or other warmer materials and more considered fenestration proportions would be a better response to the fine-grained context of Rockwall Lane.</p>	<p>compromise internal amenity or in-demand teaching space.</p>
<p>The architectural expression proposed along Challis Ave and Victoria Street should be reconsidered. A better relationship with the Garcia and Vincentia buildings is encouraged, for example an expression comprising a more substantial solid to void ratio.</p>	<p>The multi-purpose building has been redesigned to include more solid masonry and a stronger vertical rhythm that responds to the residential rhythm and materiality and includes a reduction in the amount of glazing.</p> <p>The multi-purpose building no longer adopts a concrete material palette and instead uses blonde coloured brick to better integrate the design with the streetscape.</p>
<p>The proposed architectural language of the new multi-purpose building does not seem to be a comfortable contextual response to the vertically proportioned fenestration evident in heritage buildings elsewhere in the context. Referring to the elevational analysis for the north elevation, a tri-partite sub-grid (already in the glazing mullion set-out) may be a way to provide more physical substance and richness to better respond to the Garcia building and other surrounding context.</p>	<p>The multi-purpose building has been redesigned to include more solid masonry and a stronger vertical rhythm that responds to the residential rhythm and materiality of the surrounding area, including a reduction in the level of glazing.</p>
<p>The utilitarian screen proposed for the rooftop sports court is poorly integrated with the overall building composition. Consider extending the primary structural grid of the building to form the screen as a series of portals.</p>	<p>The structure of the rooftop sports court has been amended to align with the structural grid and brick bays of the multi-purpose building below.</p> <p>The height of the rooftop netting / fence is reduced from 7 m to 5 m.</p>
<p>Proposed setbacks along Victoria Street are not characteristic of this side of the street. It may be better to deal with bulk and scale issues</p>	<p>The like-for-like replacement of the sandstone wall will be in the same location as the existing sandstone wall. The multi-purpose building's setback will remain consistent with the existing</p>

DAPRS Comment	Response
architecturally rather than provide an uncharacteristic landscape set back.	streetscape, which is characterised by zero-setback buildings.
Privacy to neighbouring terraces across Rockwall Lane should be improved and buffer landscape increased. Rooftop plant equipment could potentially be accommodated where it has less impact on neighbours	Privacy screening in the form of fixed horizontal external louvres added to the southern and eastern elevations of the Bethania building providing screening from mutual overlooking.
View and amenity impact to the adjoining hotel need further consideration and supporting analysis.	<p>The Bethania building is moved off the shared eastern boundary and setbacks ranging between 1.7 m and 4.9 m from Hotel Challis are provided.</p> <p>Western views toward the City CBD skyline are greatly reduced or lost from two hotel rooms on the third level, but view sharing is retained for two hotel rooms with existing views.</p> <p>Landscape screening is proposed within the setback between Hotel Challis and Bethania to improve the outlook.</p> <p>Redistribution of air conditioning units to the ground level of Bethania to reduce the size of the A/C enclosure on the roof will aid the retention of views for these rooms.</p>
The proposed development is located in an area that currently has substantial landscaping. More landscape integration is needed including discussion of potential street trees with the Council. For example, the existing fence in Rockwell Lane could be replaced with a hedge (with hidden fence) to provide more planting and privacy.	<p>Amended landscaping plans increasing the level of planting have been submitted and are supported by Council's Landscape and Tree Officers.</p> <p>A residential interface between the southern elevation of Bethania and Rockwall Lane has been embraced, which includes a railing fence and brick palisades.</p>
There is currently a very distinct landscape setting to Challis Street. Further consideration should be given to this landscape setback to ensure there is adequate space for street tree and setback planting that can tie in with wider streetscape character. This interface needs more cross sections	Amended landscaping plans increasing the level of planting and demonstrating appropriate soil depths and volumes within this setback have been submitted and following review, are supported by Council's Landscape and Tree Officers.

DAPRS Comment	Response
showing pavement levels, wall heights, footings, soil depth and volumes.	
The design of the rooftop retreat requires further consideration to create higher amenity spaces. Consideration should be given to providing more smaller gathering areas for smaller groups, with larger zones for gardens, and shade tree planting. The expansive areas of paving should be reconsidered as they are likely to be very hot and of limited recreational or amenity value.	<p>The proposed rooftop area provides additional educational spaces as well as an opportunity for passive and active recreation for students, staff, and college stakeholders.</p> <p>An appropriate balance between soft landscaping and functional hard-landscaped areas is sought in the design.</p>
A more well developed architecturally resolved shade canopy should be considered.	A simple pergola structure is proposed along the eastern side of the rooftop terrace. The design uses a combination of timber look screening and clear roofing for both shade and wet weather protection.
Maintenance of raised gardens needs further consideration and irrigation should be provided to all landscape zones and included in landscape DA drawings.	<p>Automatic irrigation system installed to all garden beds. Combining this process with appropriate native and low water demand species will reduce amount of watering required through-out the year.</p> <p>Balustrade will be located along the roof perimeter, on the edge to allow for easy maintenance access.</p>
Interface to the grotto needs further review. The current scheme creates a confined space, to this interface.	<p>Landscaping adjoining the Grotto has been redesigned. Landscape species around the Grotto have been inspired by historical photos which show a mixture of species, which will be used around the Grotto to balance a contemporary look where the past meets the present.</p> <p>Low level shrub and groundcover planting is proposed to open up the space.</p> <p>The heritage interpretation items for the Grotto are simplified.</p>
Opportunities for the inclusion of solar panels should be investigated.	The applicant has advised that photovoltaics will be included on available roof space that is not required for active purposes.

DAPRS Comment	Response
	Condition 34 has been imposed requiring details to be submitted to Council, prior to the issue of construction certificate.

Proposed Development

19. The application seeks consent for the following:

- site preparation and demolition of existing structures, including the removal of 12 trees and excavation works
- construction of a new partially sunken multi-purpose sports facility building on the corner of Challis Avenue and Victoria Street, with rooftop sports court and breakout terrace
- construction of a new three storey music and administration building (the Bethania Building) interconnecting with the rear of the existing Garcia building
- minor internal alterations to the existing boarding facilities in Aikenhead House
- minor internal alterations in the Vincentia building to connect to the new multi-purpose building
- tree planting and landscaping
- a new pedestrian access and foyer structure from Challis Avenue
- two new school signs
- upgrades and augmentation of existing services to support the development, including a new chamber substation fronting Challis Avenue
- the development does not propose any increase in teaching staff or student numbers or any change to the existing operational aspects on the site such as transport, waste etc.

20. Plans and elevations of the proposed development are provided below (figures 21-48). Works identified in blue are proposed Stage 1, works identified in pink are proposed Stage 2 and works identified in orange are proposed Stage 3.

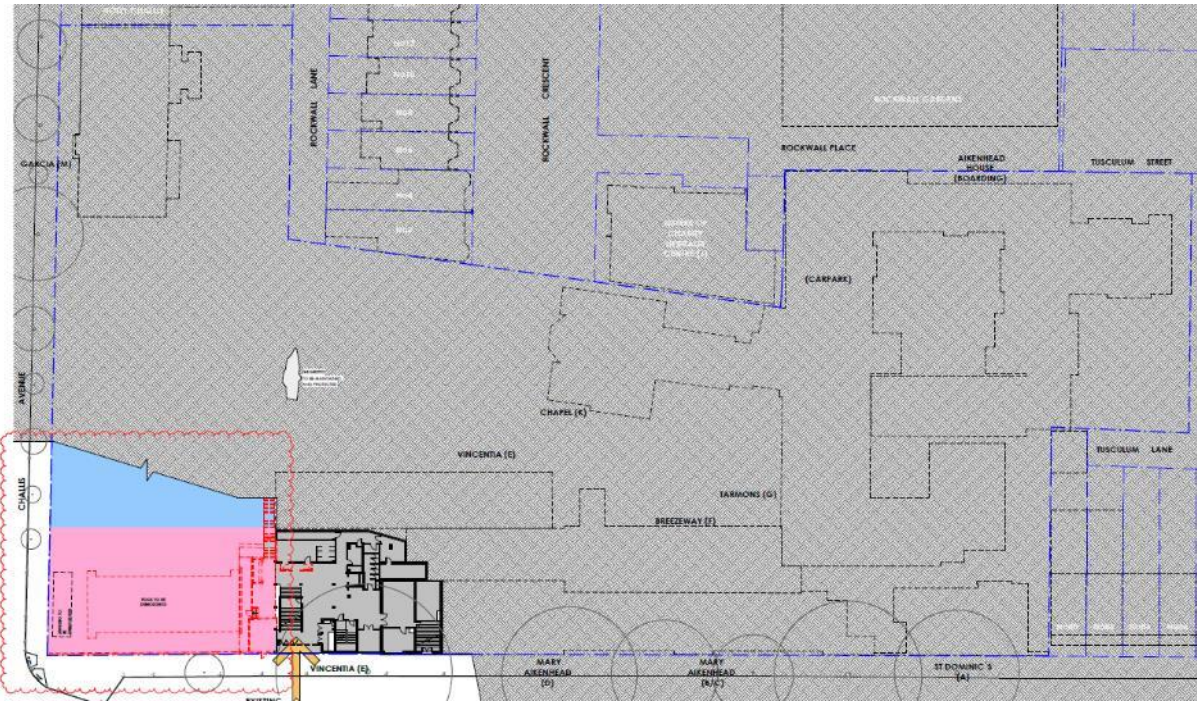


Figure 21: Demolition Floor Plan Level 1

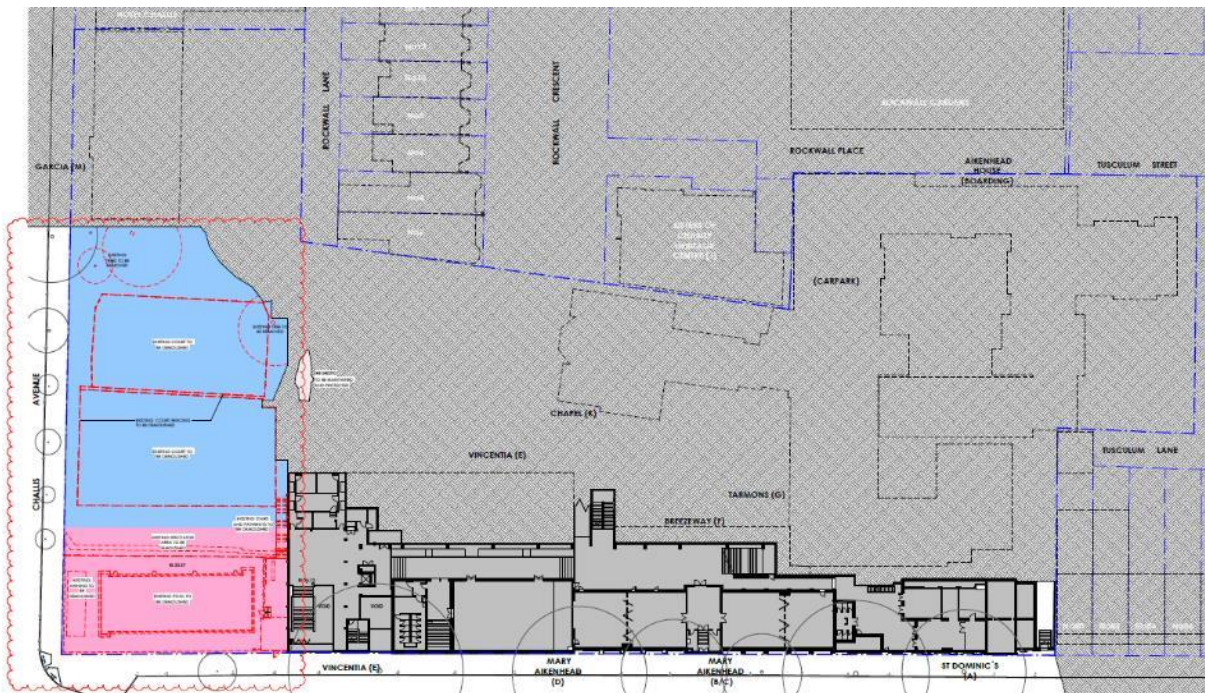


Figure 22: Demolition Floor Plan Level 2

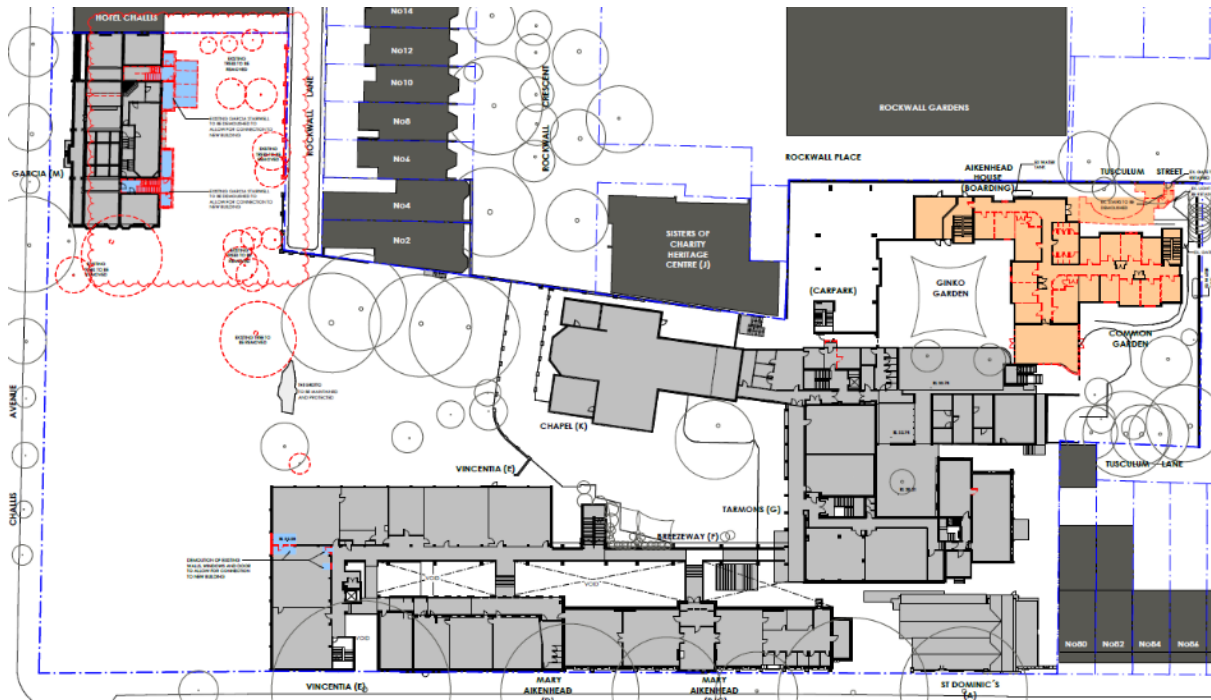


Figure 23: Demolition Floor Plan Level 4

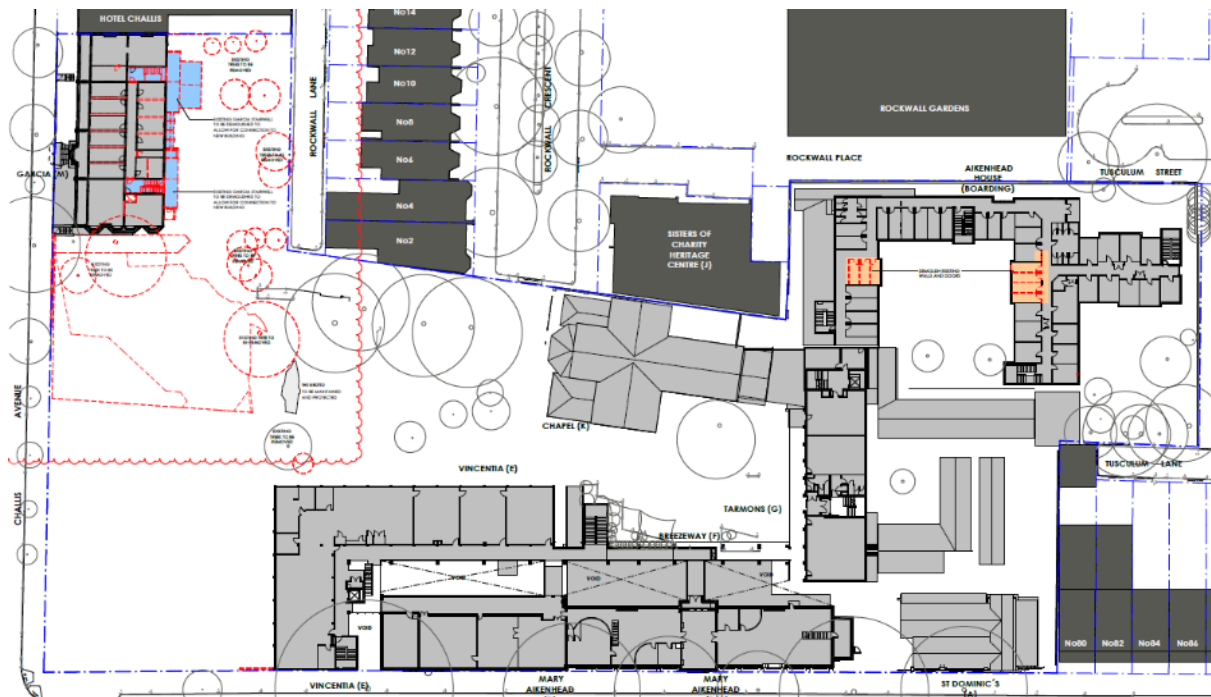


Figure 24: Demolition Floor Plan Level 5

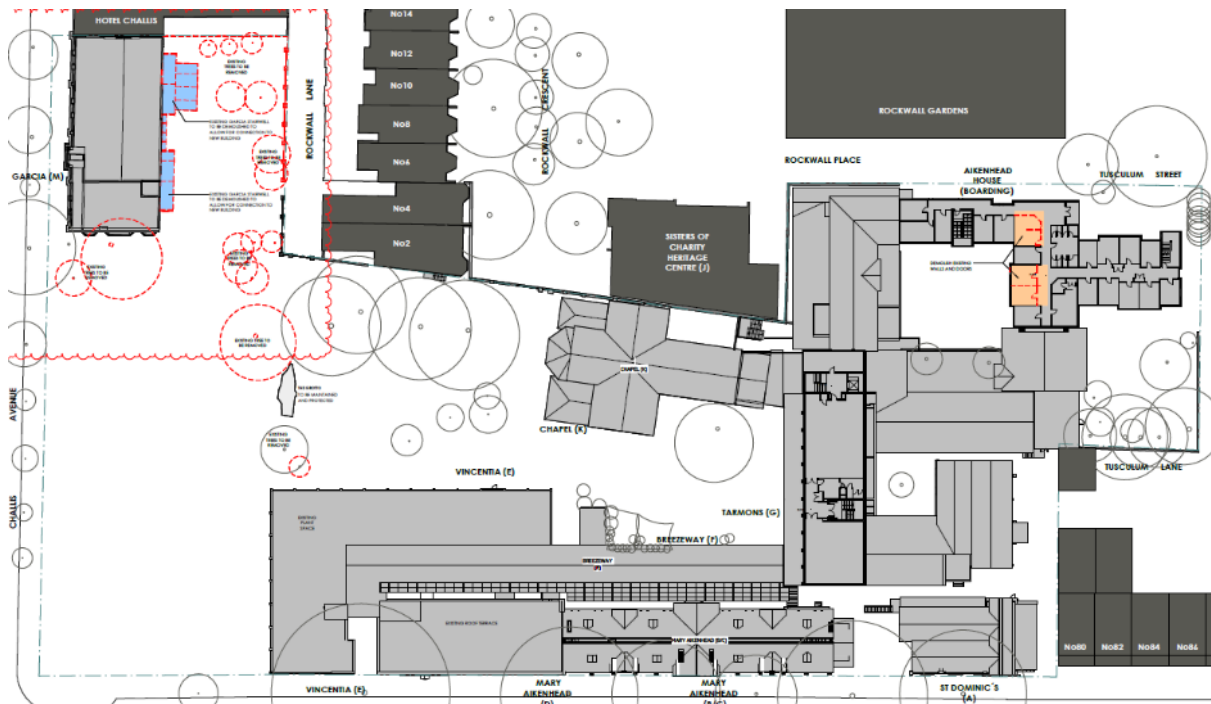


Figure 25: Demolition Floor Plan Level 6

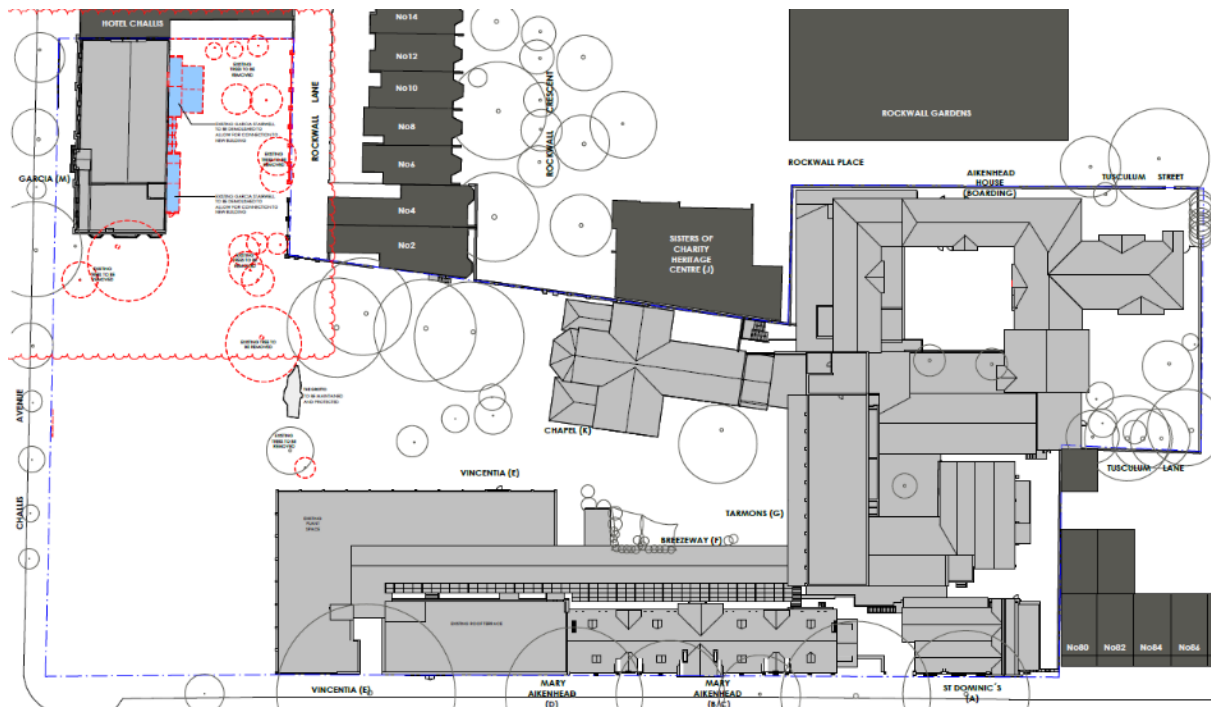


Figure 26: Demolition Roof Plan

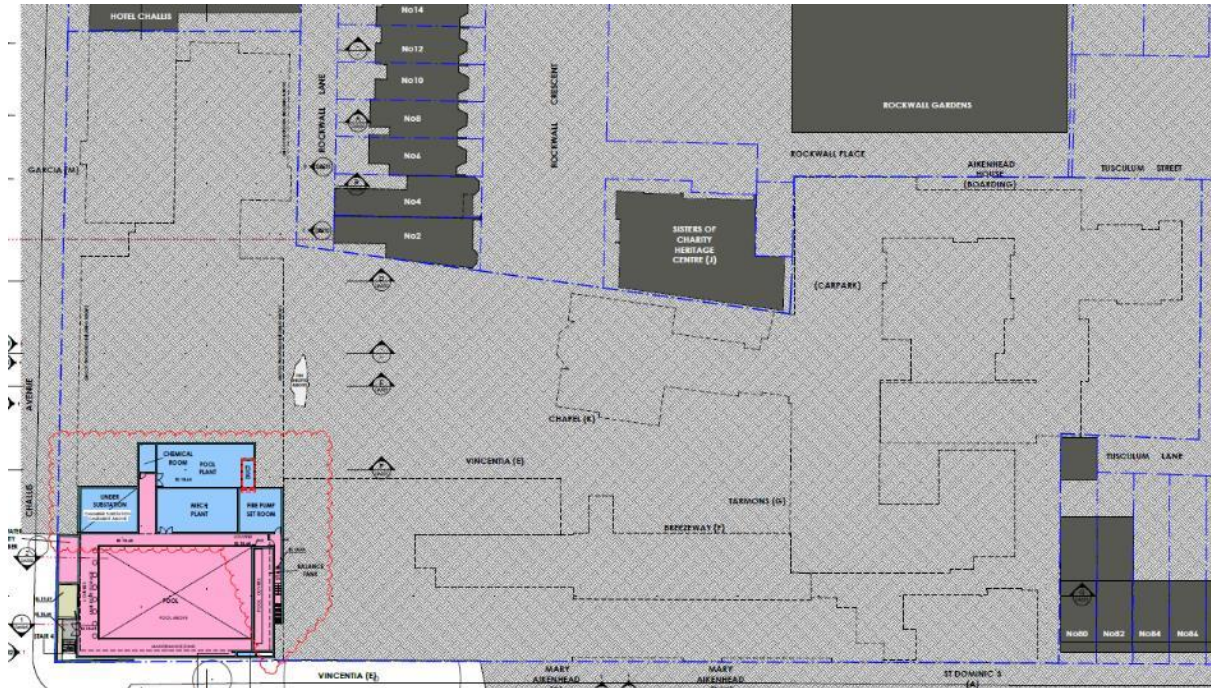


Figure 27: Proposed Floor Plan Basement

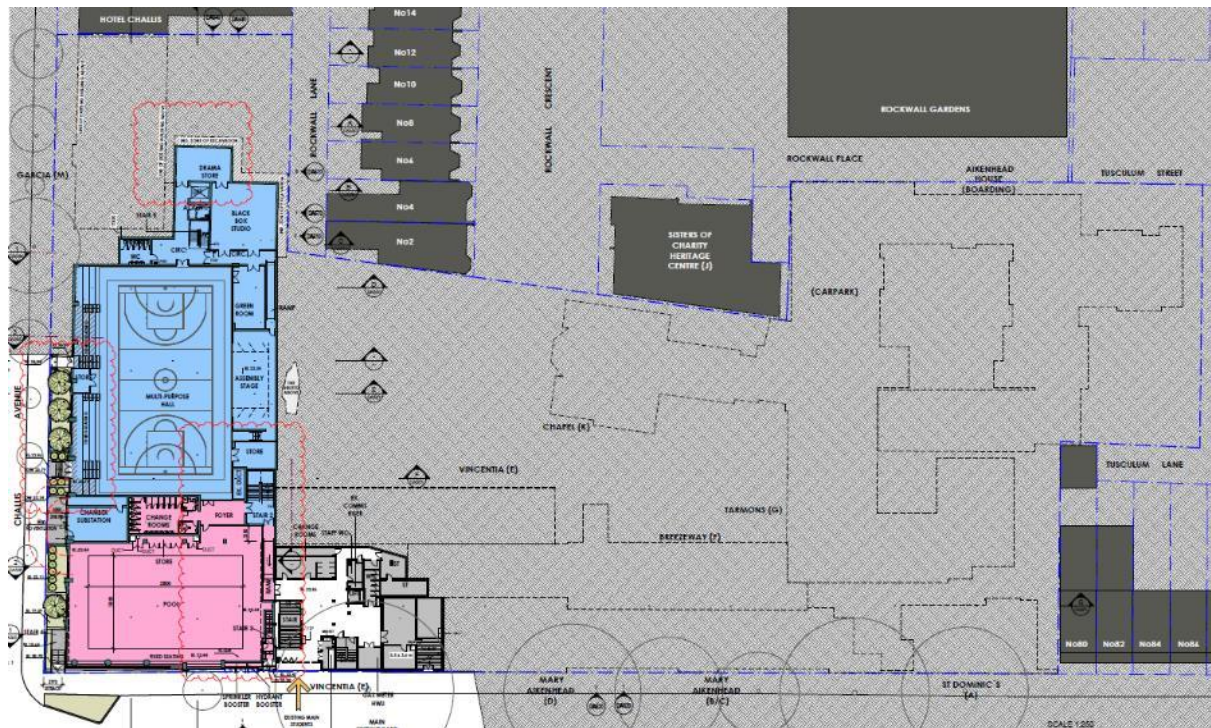


Figure 28: Proposed Floor Plan Level 1

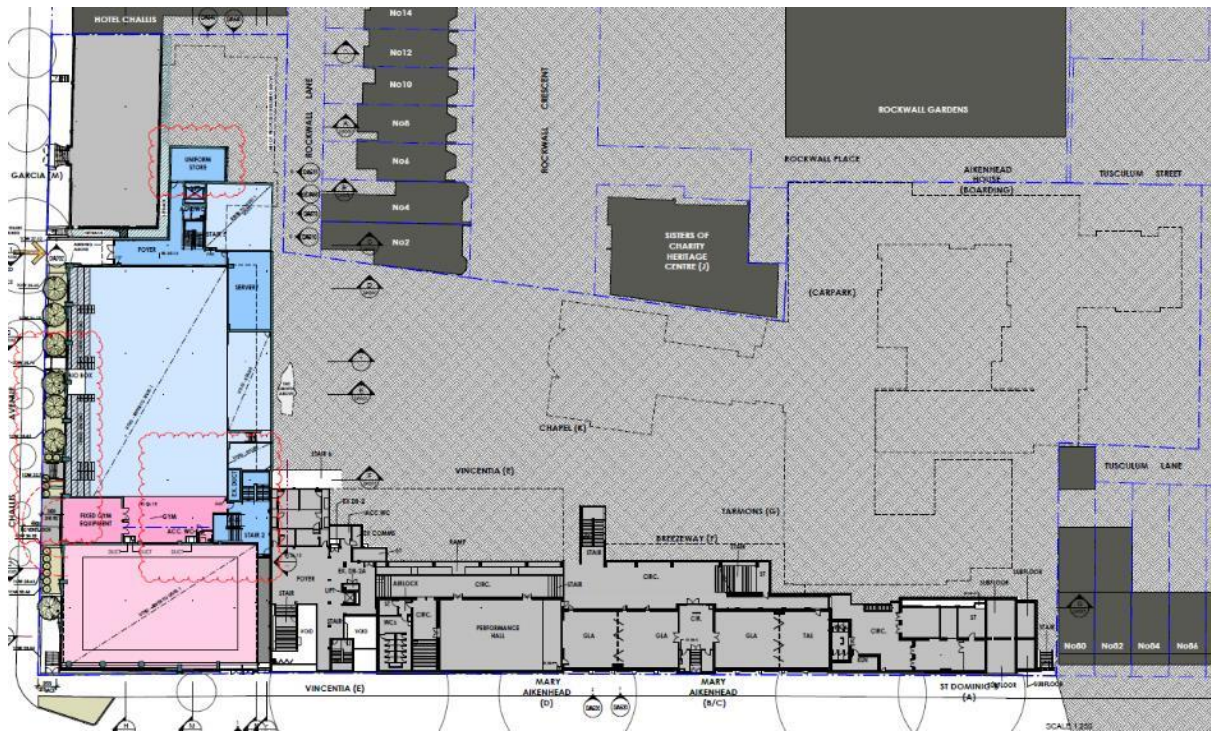


Figure 29: Proposed Floor Plan Level 2

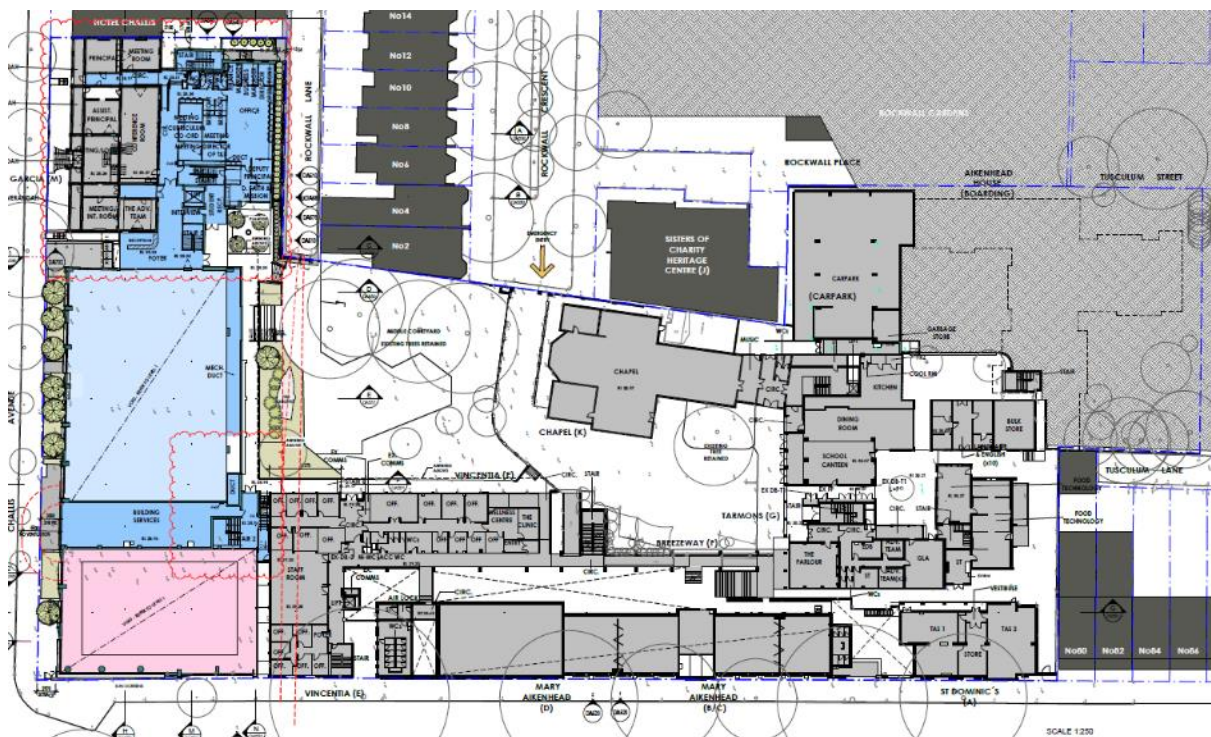


Figure 30: Proposed Floor Plan Level 3

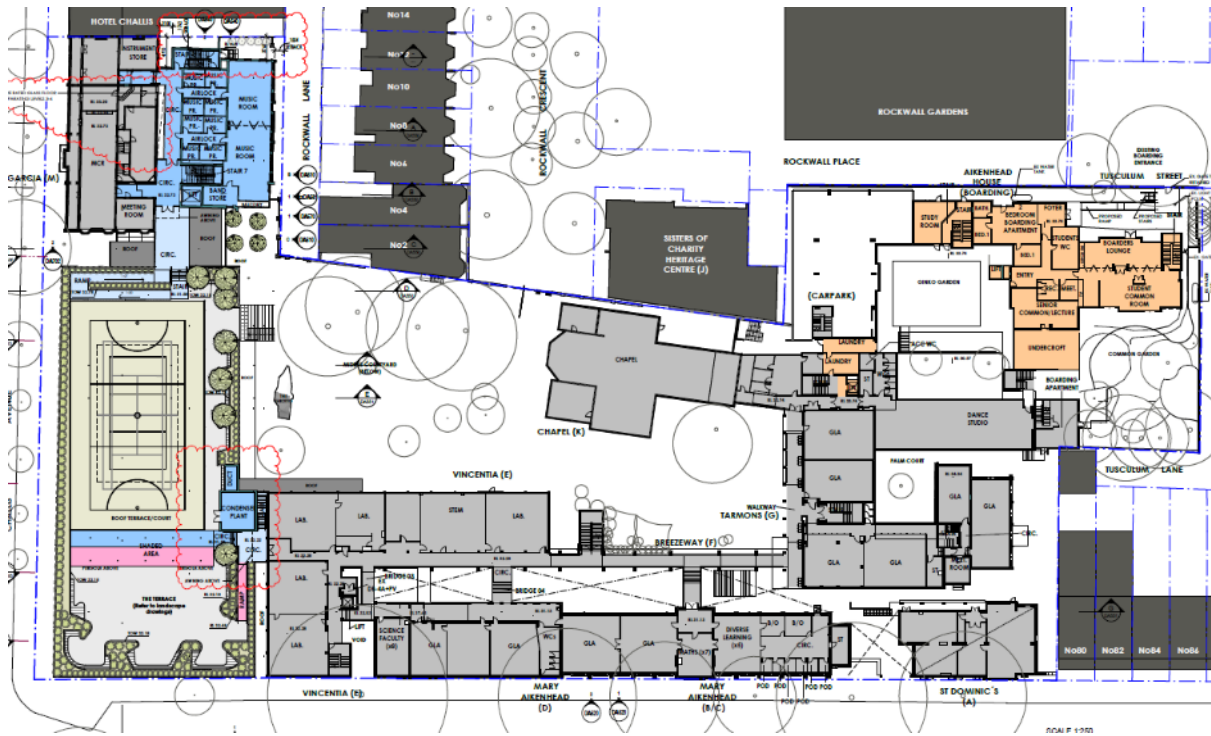


Figure 31: Proposed Floor Plan Level 4

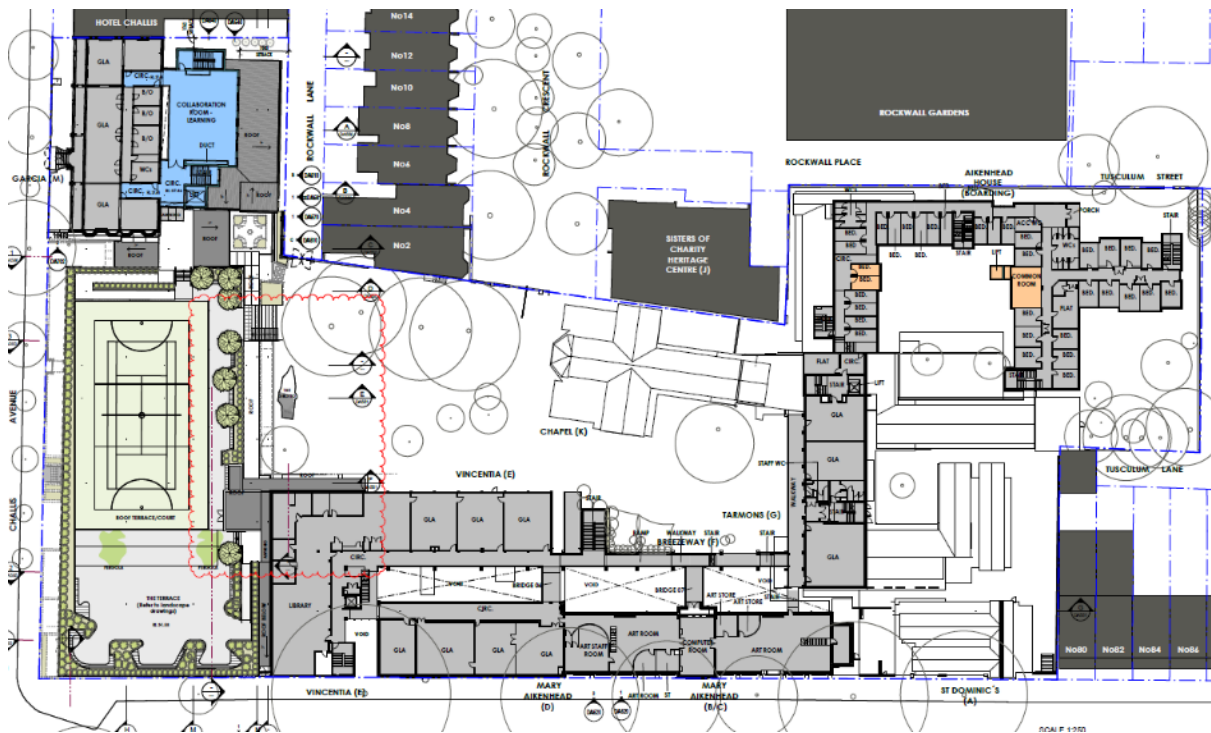


Figure 32: Proposed Floor Plan Level 5

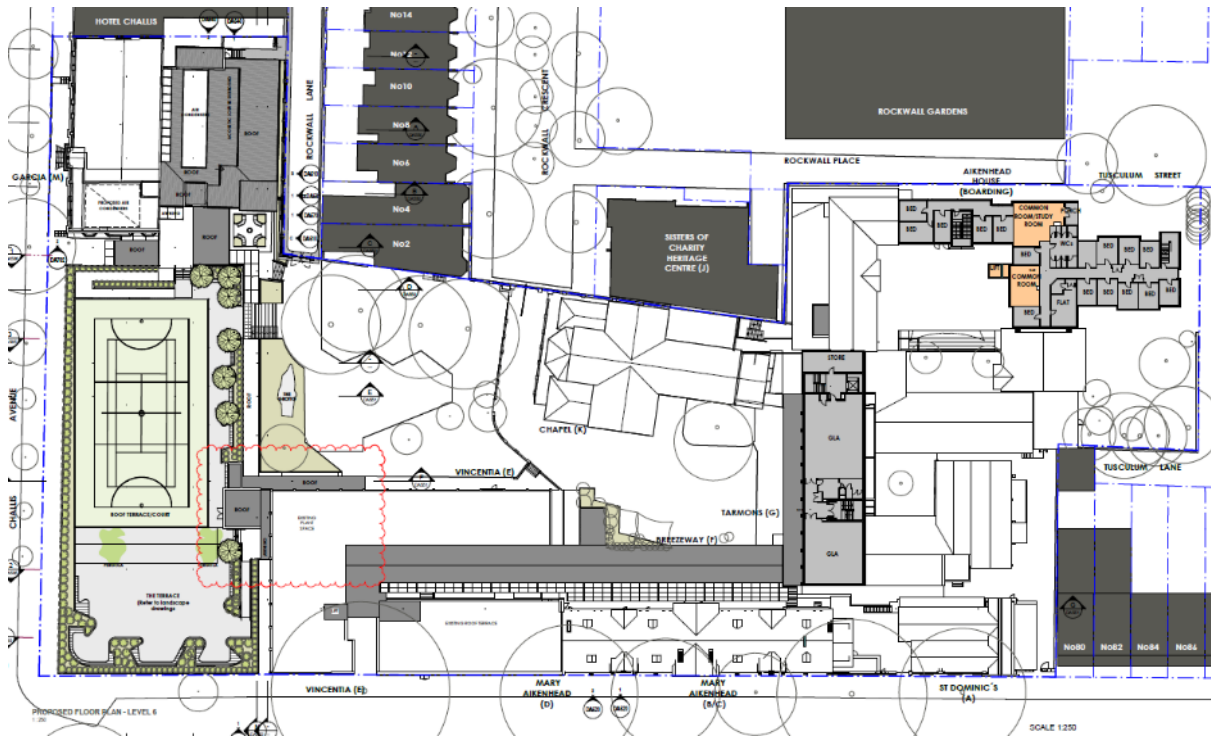


Figure 33: Proposed Floor Plan Level 6

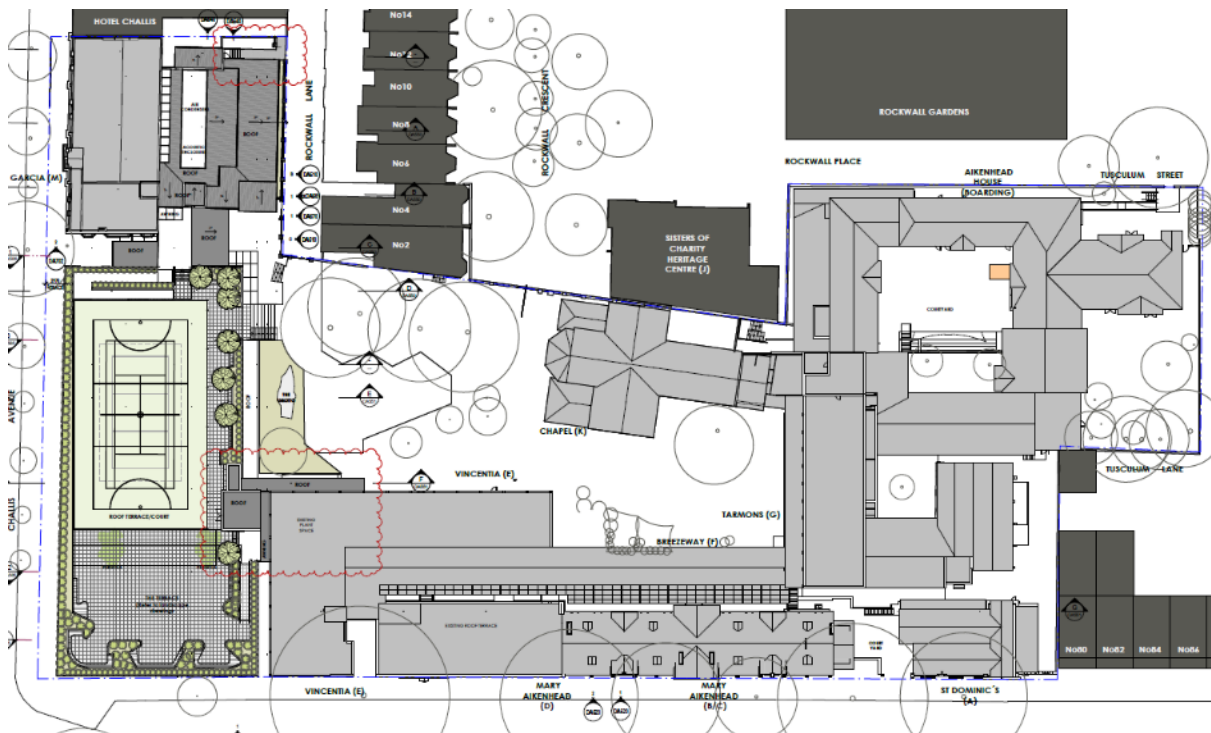


Figure 34: Proposed Roof Plan

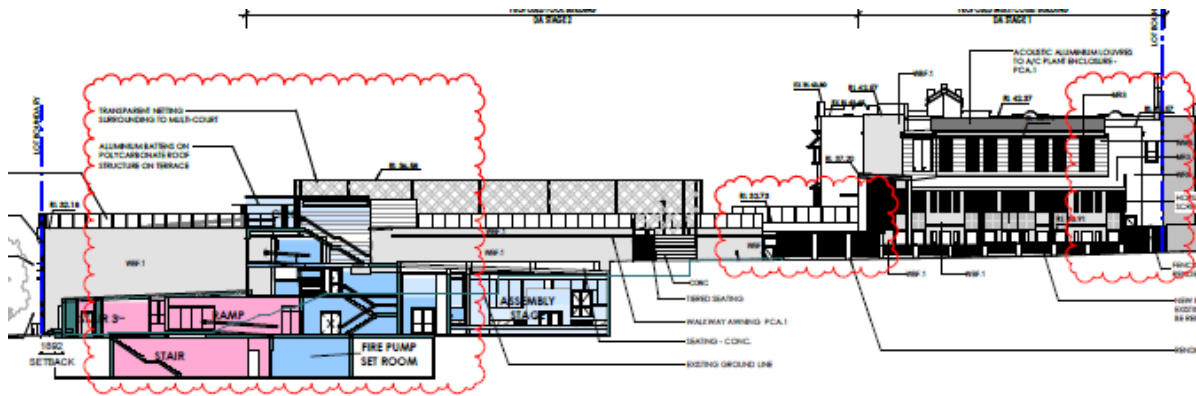


Figure 35: Proposed Elevation - Rockwall Lane (Southern Elevation)



Figure 36: Proposed Elevation - Victoria Street (Western Elevation)

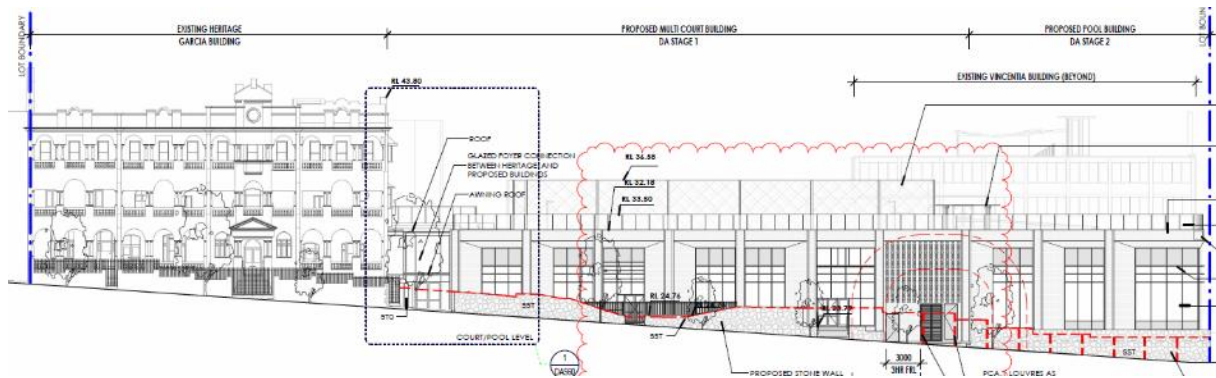


Figure 37: Proposed Elevation - Challis Avenue (Northern Elevation)

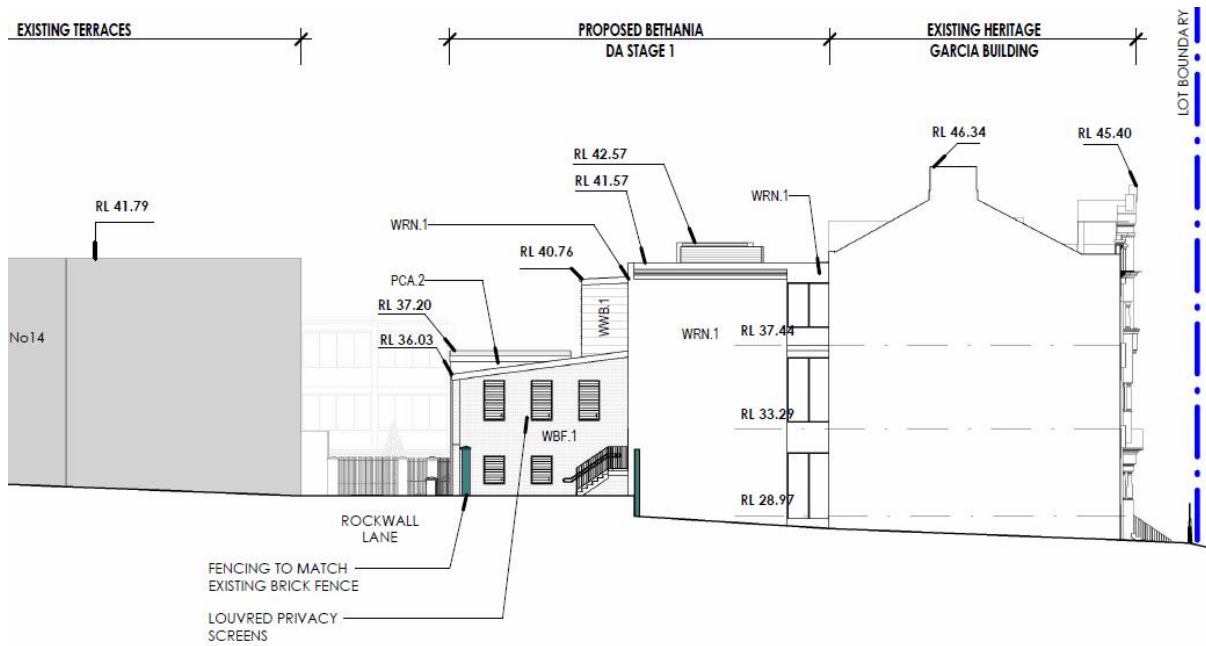


Figure 38: Proposed Elevation - Bethania (Eastern Elevation)

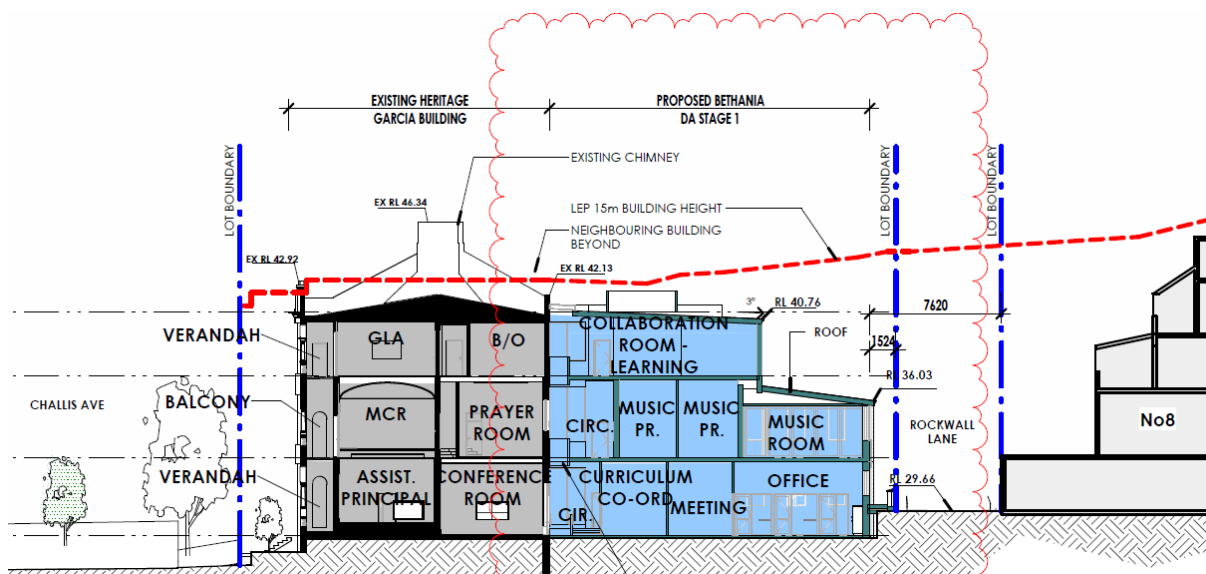


Figure 39: Section A

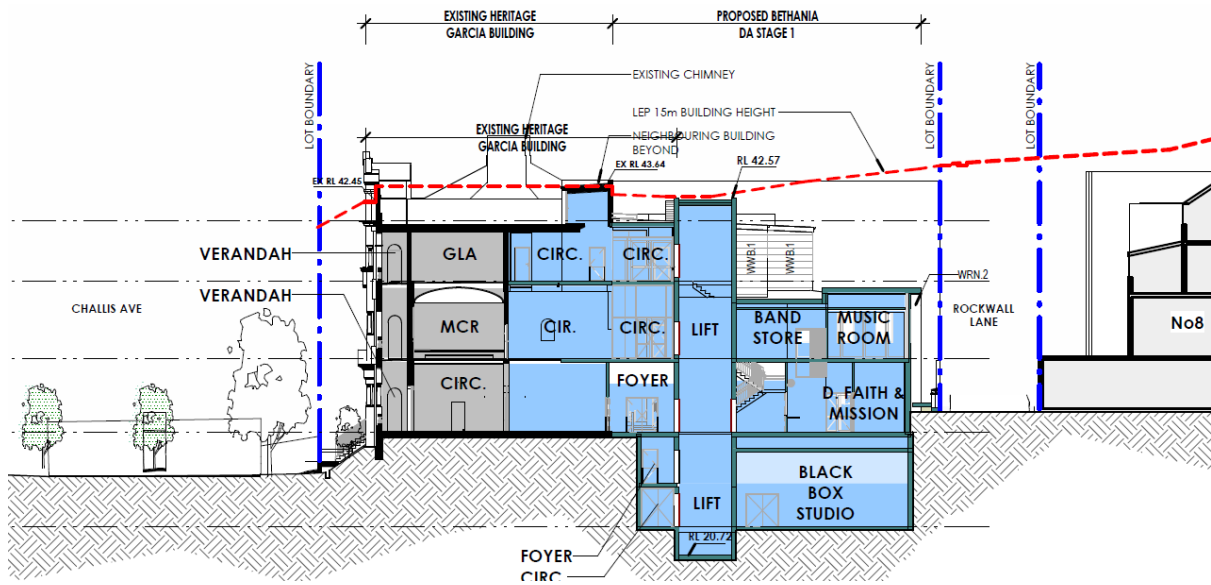


Figure 40: Section B

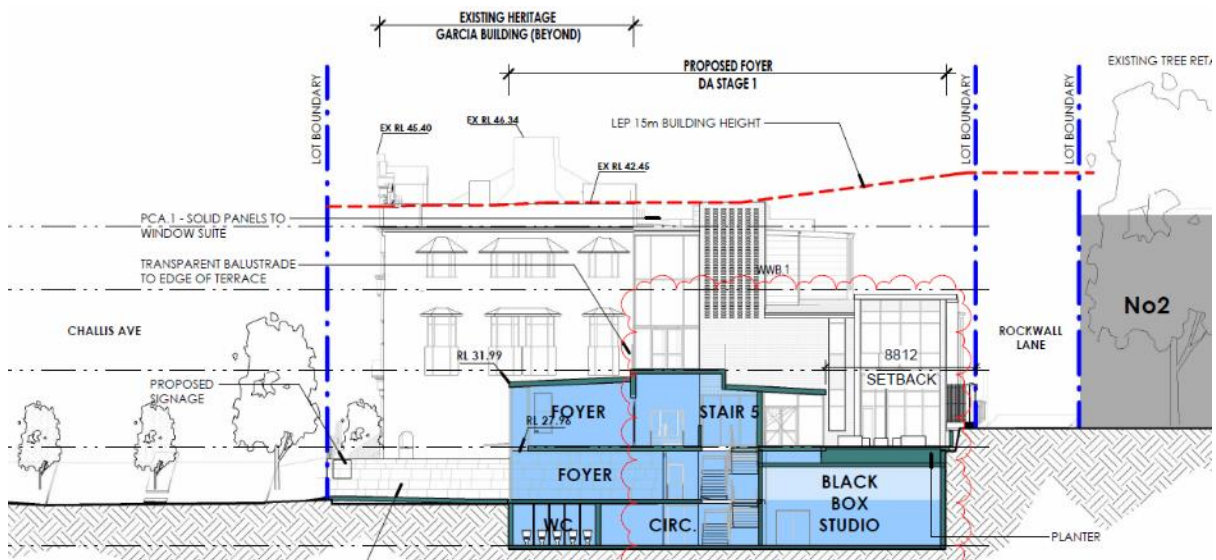


Figure 41: Section C

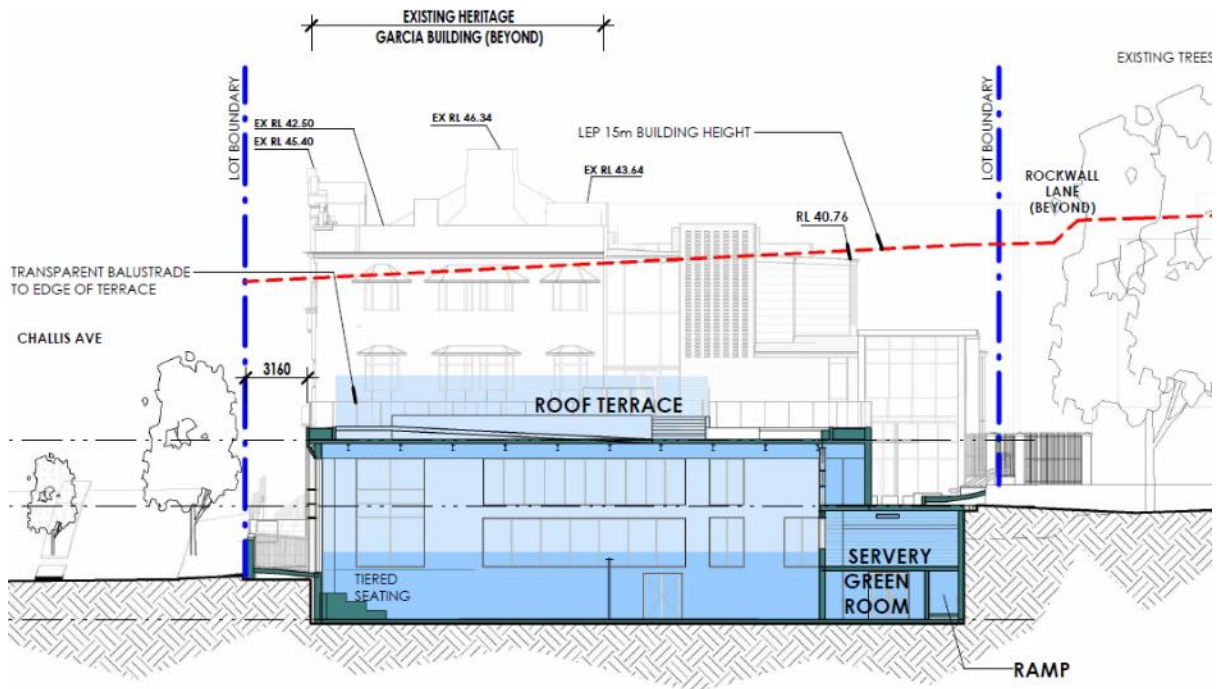


Figure 42: Section D

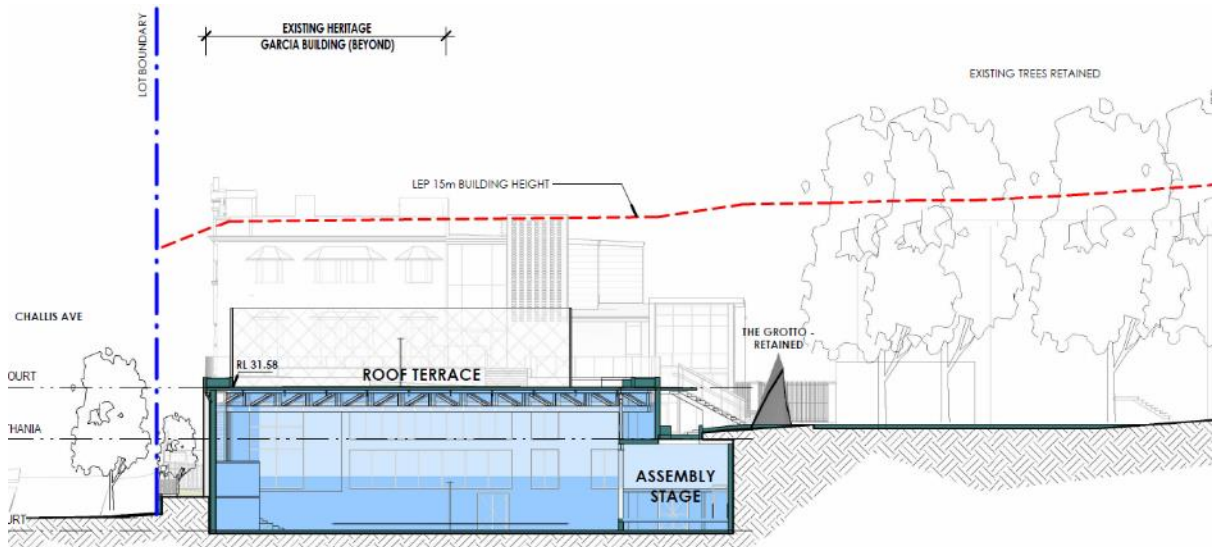


Figure 43: Section E

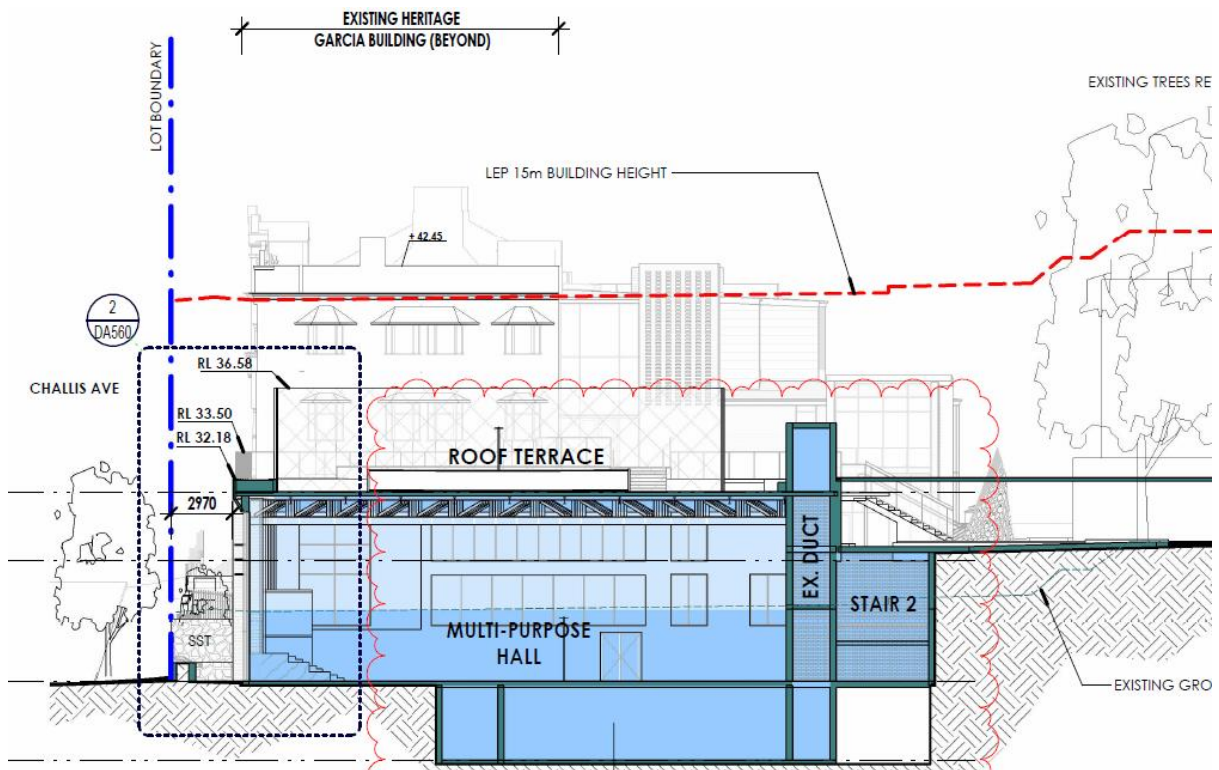


Figure 44: Section F

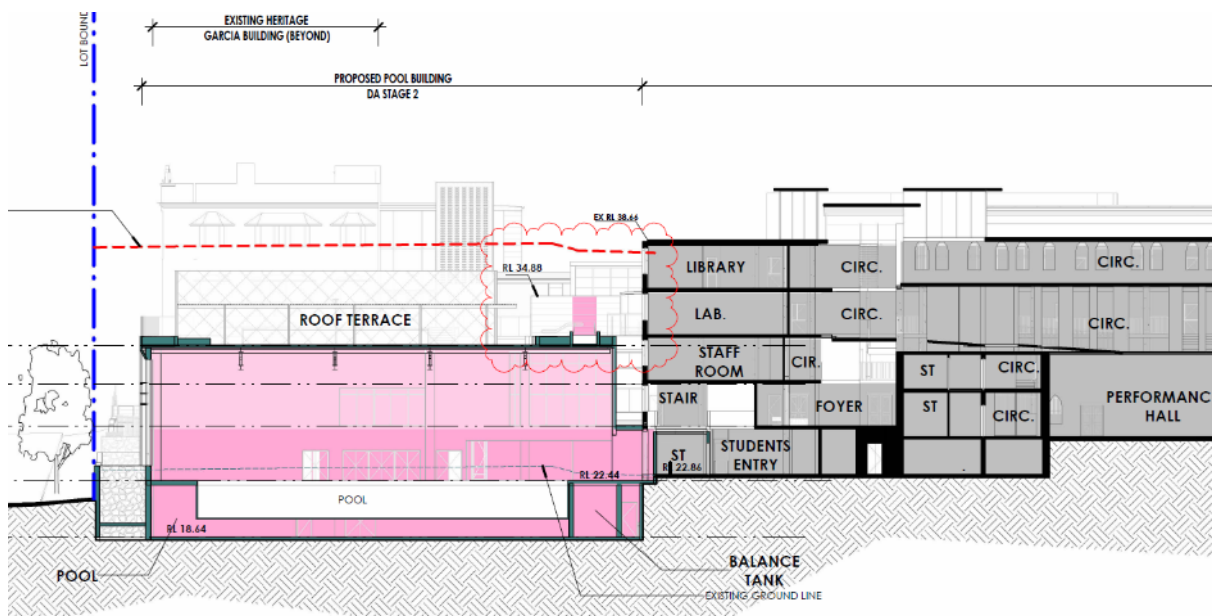


Figure 45: Section G

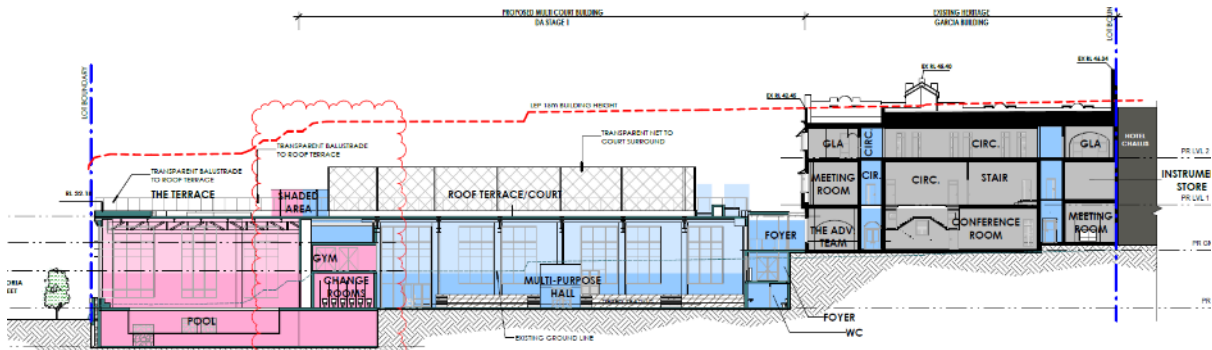


Figure 46: Section H

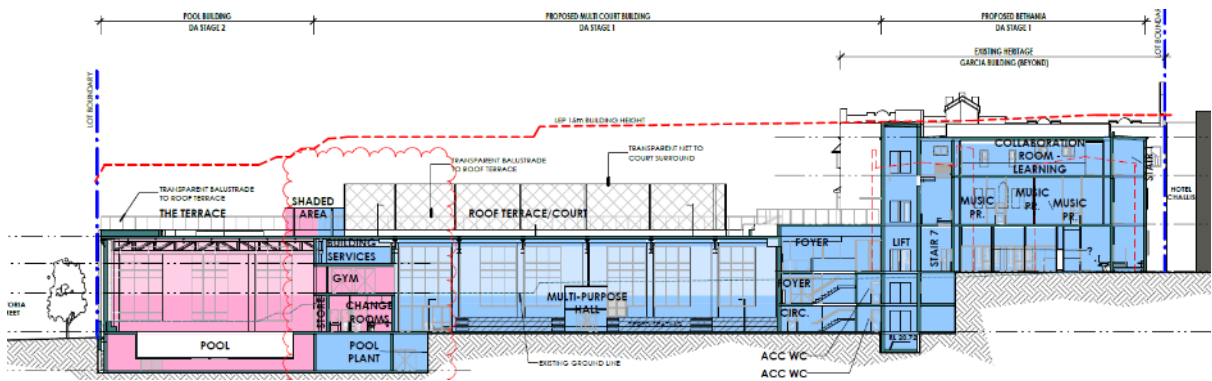


Figure 47: Section M

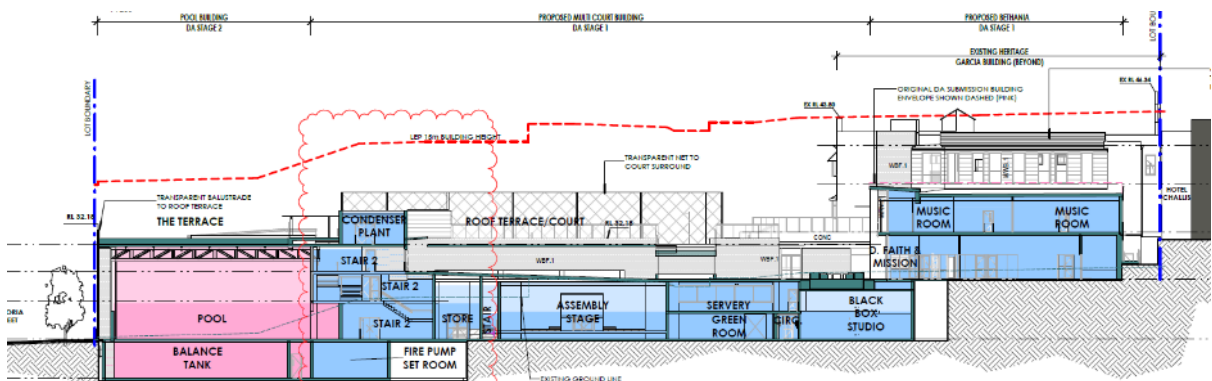


Figure 48: Section N

21. Below are a selection of plans and elevations illustrating how the design has evolved to respond to the comments of DAPRS, Council's internal specialists and the public submissions (figures 49-53).



Figure 49: Original multi-purpose building (left) and following amendments (right) (Corner of Victoria Street and Challis Avenue)



Figure 50: Original multi-purpose building (left) and following amendments (right) (Corner of Victoria Street and Challis Avenue)



Figure 51: Original foyer entrance (left) and proposed following amendments (right) (Challis Avenue)



Figure 52: Original Bethania building (left) and proposed following amendments (right) (Rockwall Lane)



Figure 53: Original Bethania interface with Rockwall Lane (left) and following amendments (right)

Assessment

22. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act (EP&A Act) 1979.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

23. The aim of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
24. Due to the proposed excavation of approximately 9m on the site Alliance Geotechnical and Environmental Solutions were engaged to prepare a Preliminary Site Investigation Report (PESI) to review the use history of the site and identify any potential contaminant sources or perceived potential for contamination.
25. The PESI concluded that the site has potential for unacceptable land contamination as a result of current and previous uses, and historical uncontrolled fill and demolition. A Detailed Environmental Site Investigation (DESI) was required to address the potentially unacceptable human health and ecological risks identified within the PESI.
26. A DESI was submitted 14 June 2024, to establish whether the site would be suitable, in the context of land contamination, for the proposed land use scenario. The DESI identified six areas of concern (AEC) with the following contaminants as present on the site:
 - Carcinogenic PAHs as (benzo(a)pyrene TEQ) detection in soil exceeding the human health tier 1 screening criteria at sampling point BH04;
 - Bonded asbestos detected in a fragment of fibrous cement sheeting collected from surface soils at sampling point BH05.

27. Potential contamination risks in AEC01, AEC02, AEC03 and AEC06 have not yet been adequately assessed, due to active site use as a secondary college, and presence of structures and hardstand materials across most of the site constraining adequate access to underlying soils.
28. The DESI concludes that the site can be remediated for land uses, including secondary schools, subject to a Remediation Action Plan (RAP) with strategies for addressing the unknown risks.
29. A RAP relating to the site was submitted alongside the DESI and details the intended remediation strategy for the site. Supporting interim audit advice from Ramboll Australia Pty Ltd, confirms that the approaches outlined within the RAP are appropriate.
30. Council's Health Unit reviewed the PESI, DESI and RAP provided, and recommended conditions of consent to ensure compliance with the remediation measures outlined. Council is to be notified should there be any changes to the strategy for remediation.
31. In conclusion, the Council's Health Unit is satisfied that, subject to conditions, that the site can be made suitable for the proposed use.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

32. The aim of State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high-quality design and finish.
33. The development proposes two signs (see figures 54-57 below), which have been considered against the objectives of the policy. An assessment against the provisions within the assessment criteria set out in Schedule 5 is provided in the table below.

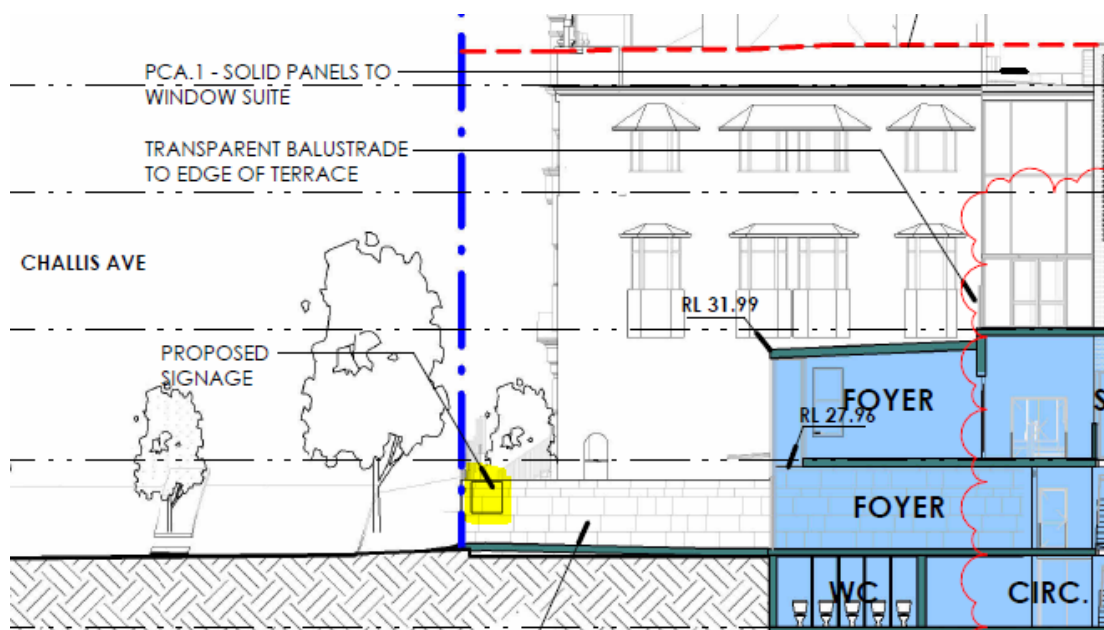


Figure 54: Sign 1 (located near the new Challis Avenue entry)

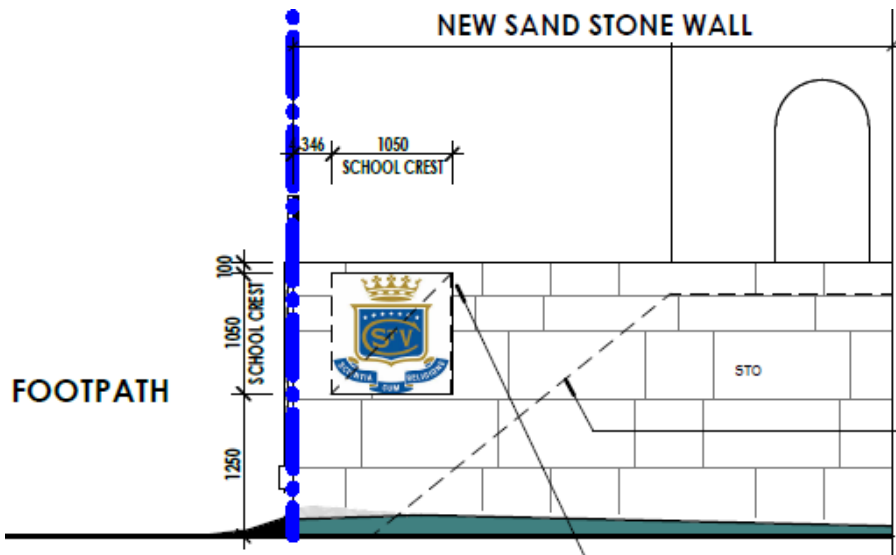


Figure 55: Sign 1 (located near the new Challis Avenue entry)

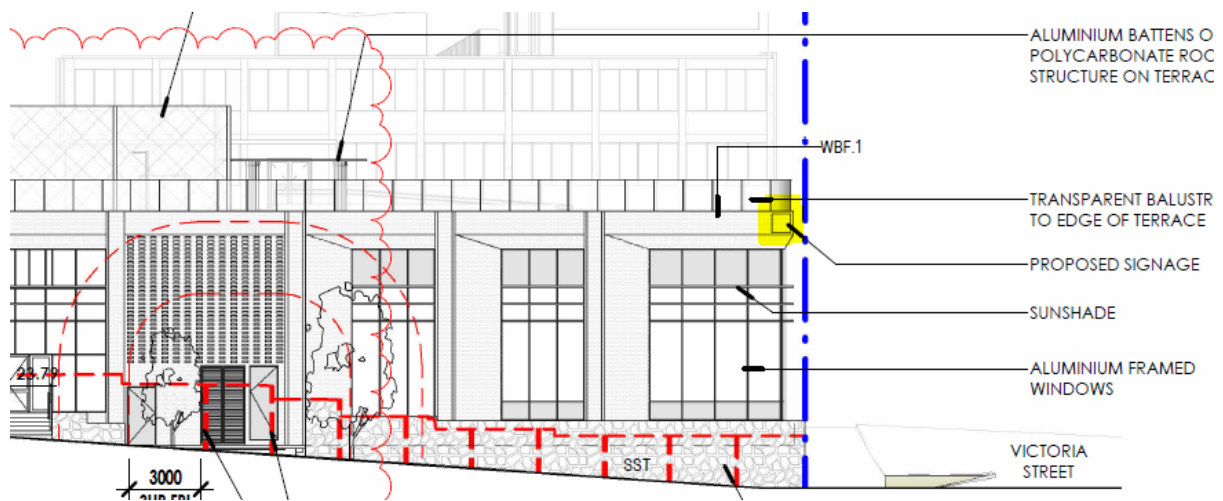


Figure 56: Sign 2 (located on the corner of Challis and Victoria Street)

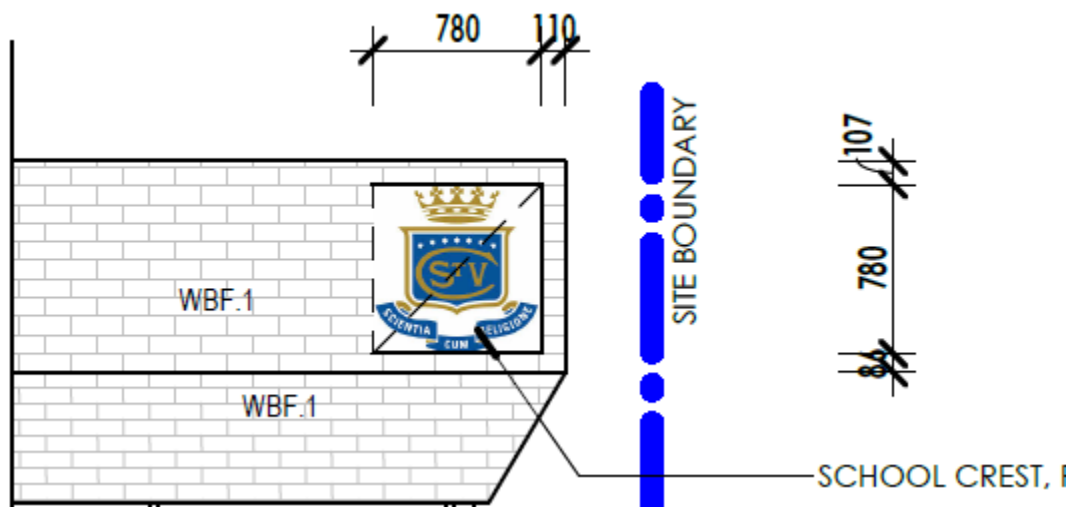


Figure 57: Sign 2 (located on the corner of Challis and Victoria Street)

Provision	Compliance	Comment
1. Character of the area	Yes	The proposed signage is consistent with the desired character of the Potts Point Heritage Conservation Area.
2. Special areas		
3. Views and vistas	Yes	No views or vistas will be adversely affected by the proposed signage.
4. Streetscape, setting or landscape	Yes	The proposed signage is minor in scale and considered to be of an appropriate proportion and form, providing a positive contribution to the streetscape and setting of the area.
5. Site and building	Yes	The scale, proportion and positioning of the proposed signage is acceptable and the materiality is compatible with the finishes and colours of the building.
6. Associated devices and logos	Yes	Not applicable
7. Illumination	Yes	Both signs are proposed to be illuminated in accordance with the Australian Standards for illumination. Condition 2 and Condition 9 are imposed on the consent to ensure the proposed illumination does not impact the heritage character of the area.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

34. The proposed signage is consistent with the objectives of State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2, Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

35. The application is also subject to Clause 2.48 of the State Environmental Planning Policy as the development will be carried out immediately adjacent to an electricity substation. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.
36. Ausgrid responded on 28 November 2023 and consented to the development, subject to recommended conditions to locate and protect existing network infrastructure, including the electricity substation and underground services.
37. Based on the advice received, the applicant was advised that the exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil filled equipment, or 120/120/120 where there is no oil filled equipment and is to be constructed of non-combustible material.
38. Following receipt of amended plans which demonstrate this compliance, a second consultation was made to Ausgrid on 14 June 2024. No further comments were received. The conditions recommended by Ausgrid are included in the recommended conditions of consent.

Chapter 3 Educational Establishments and Child Care Facilities

39. Clause 3.36 of the Transport and Infrastructure SEPP (T&I SEPP) relates to development permitted with consent for schools. An assessment against the relevant clauses of the SEPP is undertaken below. I

Provision	Comment
(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.	The site is located within the R1 General Residential zone which is a prescribed zone. The proposed educational establishment use is therefore permissible with consent in accordance with this clause.
(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.	Consent is not sought for the use of the school's facilities for the physical, social, cultural or intellectual development or welfare of the wider community.

Provision	Comment
(6) Before determining a development application for development of a kind referred to in subsection (1), (3) or (5), the consent authority must take into consideration—	
(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and	An assessment of the proposal against the seven design quality principles is undertaken below this table
(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.	<p>The applicant has advised that the proposed development is principally for the use of the staff and students at the school. However, the facilities may be shared with parents and other broader members of the school community.</p> <p>Due to increased safety concerns relating to its function as an all-girls school, the school facilities are not proposed to be opened for use to the general public.</p>
(7) Subject to subsection (8), the requirement in subsection (6)(a) applies to the exclusion of any provision in another environmental planning instrument that requires, or that relates to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind.	Noted. Clause 6.21C of the SLEP 2012 relates to design excellence as a prerequisite to granting development consent. Given the proposal relates to development for an educational establishment, Clause 6.21C does not apply.
(8) A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subsection (6)(a) applies that has a capital investment value of less than \$50 million.	Noted. The requirement for a competitive design process under Clause 6.21D of the SLEP 2012 therefore has no effect.
(9) A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subsection (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.	Noted. The SDCP 2012 does not include any specific controls relating to the site or educational establishments.

Schedule 8 - Design quality principles in schools

40. The evaluation of the proposed development against the design quality principles set out in Schedule 8 of the State Environmental Planning Policy is discussed below.

Principle 1 - Context, built form and landscape

- The site comprises listed items of environmental heritage under the SLEP 2012, and is located within the Potts Point Heritage Conservation Area, with the buildings, spaces and landscaped grounds contributing to its overall significance.
- The proposed demolition of the out-dated pool, sports courts and viewing areas located within the site's frontage to Victoria Street and Challis Avenue is supported as the structures contain no significant heritage fabric. The replacement multi-purpose sports facility building is of a high architectural design and will enhance the interface of the site with the HCA.
- The Garcia building fronting Challis Avenue is heritage listed as the 'Former Convent Bethania and Carmelita' (15-19 Challis Avenue) (I1122). The proposed 'new' Bethania building will require the demolition of the remnant original rear wings and stairwells of the Garcia building, which were retained to enable interpretation of the original layout of the Convent following their demolition. Architectural considerations have been made to allow for this interpretation within the new Bethania building and are supported by the submission of the 'Garcia Rear Wing/Stairs Interpretation Strategy'.
- The architectural design of the replacement multi-purpose building, linking foyer element and the new Bethania building has been amended in response to comments from the Design Advisory Panel Residential Subcommittee (DAPRS) panel and Council. Amendments include significant changes to the proposed materiality and the architectural expressions of the frontages. The buildings are now considered purposively designed within the heritage context of the site and are clearly articulated as contemporary additions with an appropriate palette of materials and finishes.
- Proposed materiality for the Bethania consists of a mix of face brick (Pure Velvets Crushed Grey) and metal facade screens (Woodland Grey), a stepped grey (Southerly) Colourbond roofing, with a light cream weatherboard cladding above.
- The multi-purpose building comprises primarily of face brick (Pure Velvets Crushed Grey), with glazing and colourback panels in woodland grey. The face brick on the western Victoria Street elevation incorporates additional recessed brick detail. The linking foyer element between the multi-purpose building and the existing Garcia building is subserviently recessed and predominantly lightweight clear glazing to aid navigation.
- Appropriate high-quality materials and detailing have been chosen from surrounding buildings to ensure continuity in the built landscape and a reflection of the local heritage materiality.
- The proposed replacement building and the new Bethania addition to the rear of the Garcia will augment the surrounding buildings and connect many disparate spaces and circulation routes. The development will provide equitable access and inclusivity for the school community through corresponding floor levels

between buildings, and improve accessibility to the Garcia building with the installation of a lift in the Bethania building.

- The heritage listing highlights the importance of existing landscaping across the site. Although a number of trees will need to be removed to facilitate the development, the proposed replacement planting across the site, including on the rooftop of the multi-purpose sports facility, will preserve the 'garden' feel, whilst improving view lines across the site for a number of surrounding properties.
- Minor internal alterations proposed to the existing boarding facilities within Aikenhead House, including a new lift, a ramp and stairs, which will provide improved circulation and community spaces for the existing school borders. No increase in border numbers or school students are proposed as part of the works program.
- Inconsequential minor internal works to the Vincentia building will also allow for a connection to the new building.

Principle 2 - Sustainable, efficient and durable

- The multi-purpose building maximises passive sun protection through its form, while providing sun shading to windows with a lengthy exposure to summer solar gain from the northern elevation.
- The Bethania building allows natural light to filter into the learning and administration spaces to increase natural lighting for a building with no north facing openings.
- A Sustainability Report was submitted with the application outlining the sustainability initiatives and commitments for the proposed school, particularly relating to energy and water efficiency.
- The development will meet the school's future requirements in terms of functionality and will be constructed utilising durable materials. The spaces within the buildings comprise of administrative areas, multi-purpose learning spaces, a multi-purpose sports facility building with competition pool, roof top sports court and a shaded breakout terrace, which are designed as adaptable and flexible to enable the spaces to evolve over time to meet future requirements.

Principle 3 - accessible and inclusive

- The proposed development is fully accessible, with barrier free access provided from the footpath, in and through the building.
- A new more secure access from Challis Avenue will prevent visitors from wandering across the site, providing more security for students.
- The proposed development ties into existing floor levels and connects both existing and new buildings across the school campus for improved, equitable accessibility. This has been a key driving factor in the heights and levels.
- The new multi-purpose building will link with the existing Vincentia building and in turn provide internal access through the Garcia and the Bethania buildings improving accessibility across the site. New lifts are to be added to the Bethania and Aikenhead buildings, allowing for equitable access across the site.

- The new building provides a variety of spaces which could be utilised by the school community and cater for activities outside of school hours. The provision of open access for the wider community to the all-female private school cannot be accommodated due to security reasons.

Principle 4 - Health and safety

- The school will have a variety of landscaped spaces dispersed throughout the site, which contribute to the positive wellbeing of the students and staff.
- The proposal provides opportunity for passive surveillance with well-glazed facades bounding most of the thoroughfares.
- The proposed foyer and staff areas will provide surveillance and the new front landscaped area along Challis Avenue will contribute to a safe and welcoming environment.

Principle 5 - Amenity

- The proposed development for the school will provide pleasant and engaging spaces that are accessible for a range of educational and sporting activities, while also considering the amenity of nearby properties.
- The new buildings include large multi-purpose spaces that can accommodate the school population, noting that the existing spaces on site are not large enough to allow for whole-school gatherings.
- The design responds to the circulation requirements around and through the buildings. This strategy preserves convenient indoor and outdoor movement throughout the campus.
- Access to sunlight, natural ventilation and outlook have been prioritised in the design, with spaces connected by lightwells and generous glazing where appropriate to enhance daylight access and outlook.
- The proposed re-landscaping scheme for the site includes ground level screening for Hotel Challis, with new vegetation fronting Rockwall Lane. The site includes a proposed reflection garden and roof top break out space with shading and planters. New trees are proposed to line Challis Avenue and also along an internal walkway within the site.

Principle 6 - Whole of life, flexible and adaptive

- The proposed development has been conceived as a series of major versatile spaces that can be utilised and adaptively used and altered as needs change.

Principle 7 - Aesthetics

- The design of the multi-purpose building, foyer and Bethania building include a combination of traditional and contemporary materials to articulate the facades and ensure new additions are broken up to reduce the perceived bulk and scale.
- The Bethania building incorporates a modest setback from Rockwall Lane and Hotel Challis to the east. The modulated roof of the Bethania is below the maximum building height of 15 metres and the building is set down behind, and occluded by, the Garcia building.

- The multi-purpose building and rooftop elements are sensitively designed, using an appropriate void to solid ratio to minimise the appearance of bulk and scale, with lightweight sports fencing and light grey colouring for the architectural trimmings.
 - The proposed development provides for sympathetic contemporary additions to a heritage listed site, which appropriately responds to the site's context.
41. The development is generally acceptable when assessed against the above stated provisions and the State Environmental Planning Policy.

State Environmental Planning Policy (Sustainable Buildings) 2022

42. The Sustainable Buildings State Environmental Planning Policy 2022 incorporates transitional provisions so that the SEPP will not apply to development applications that have been submitted but not determined before 1 October 2023. This application was lodged on 27 September 2023, so consequently the SEPP does not apply.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non-Rural Areas) 2017

43. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this State Environmental Planning Policy (SEPP).
44. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
45. The application seeks consent for the removal of 12 trees within the site. To compensate 19 new trees are proposed for planting. The site provides sufficient canopy cover to meet Council targets and nominates an appropriate selection of native durable, reliable sun and wind tolerant plant species for the roof structure. Additional tree planting is also proposed along the Challis Avenue frontage and along an internal walkway within the site.
46. Landscape drawings have been updated to confirm location of proposed tree species, and the provision of adequate soil depth and volume for proposed tree planting on structure. The proposed tree removal will not adversely affect the heritage of the area, subject to appropriate replacement tree planting and landscaping. Council's Tree Management and Landscape Officers supports the tree removal and subsequent landscaping, subject to recommended conditions of consent.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments

47. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above State Environmental Planning Policy. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

48. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.
49. Conditions of consent are recommended to ensure that appropriate stormwater controls are implemented during and post construction to address this matter.

Local Environmental Plans

Sydney Local Environmental Plan 2012

50. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan (SLEP) 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the R1 General Residential zone. Educational establishments are permitted with consent under SLEP.</p> <p>Clause 3.36(1) of the T&I SEPP permits development for the purpose of an educational establishment (school) within the R1 zone.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>A maximum building height of 15 metres is permitted.</p> <p>A maximum building height of 14.90 m (Bethania building) above existing ground level is proposed.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p>
4.4 Floor space ratio	Yes	<p>The site is laid over two titles. The maximum floor space ratio (FSR) for the two land parcels are as follows:</p> <p>No. 1 Challis Avenue:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> Title area of 12,145.4 sqm. Permissible FSR of 1.75:1 Maximum GFA of 21,254.62 sqm <p>No. 1 Tusculum Lane:</p> <ul style="list-style-type: none"> Title area of 929.5 sqm Permissible FSR of 1.5:1 Maximum GFA of 1,394.25 sqm <p>A FSR of 1.27:1 or 15,651 sqm is proposed for No. 1 Challis Avenue.</p> <p>An FSR of 0.68:1 or 637 sqm is proposed for No. 1 Tusculum Lane.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site contains two listed heritage buildings being:</p> <ul style="list-style-type: none"> St Vincent's Convent group (I1121). Former convent 'Bethania' and 'Carmelita' (15-19 Challis Ave) (I1122) (Garcia). <p>The site is adjacent to the following heritage listed items:</p> <ul style="list-style-type: none"> Terrace group 'Byrock' and 'Uralla' (21-23 Challis Ave) (I1126) Terrace group (2-4 Rockwall Crescent) (I1152) Terrace group (80 Victoria Street) (I1173)

Provision	Compliance	Comment
		<p>The following heritage listed items are in proximity of the site and potentially affected by the development proposal.</p> <ul style="list-style-type: none"> • Terrace group 'Brunswick Terrace' (6-14 Rockwall Crescent) (I1154) • Terrace group 'Pamela Terrace' (16-20 Rockwall Crescent) (I1155) <p>The site is located within the Potts Point Heritage Conservation area C51.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area and the heritage items.</p> <p>See further details in the 'Discussion' section below.</p>

Part 6 Local provisions – height and floor space

Division 4 Design excellence		
6.21 Design excellence	N/A	Pursuant to Clause 3.36(7) of the State Environmental Planning Policy (Transport and Infrastructure) 2021, this clause does not apply.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	N/A	<p>The application does not seek to amend the quantum of existing car parking spaces currently provided at the site.</p> <p>Bicycle parking is to be provided at a rate of 1 bicycle parking space per 300 sqm for the additional GFA being created, which will be secured through condition.</p>

Provision	Compliance	Comment
Division 3 Affordable Housing		
7.13 Contribution for the purpose of affordable housing	Yes	<p>The development involves alterations to an existing building on residual land to be used for purposes other than residential accommodation and will result in the creation of more than 60 square metres of gross floor area, the development is therefore subject to a Section 7.13 affordable housing contribution.</p> <p>Total Floor Area (TFA) plans support the application and an appropriate condition is contained in the recommended conditions of consent.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with class 5 Acid Sulfate Soils.</p> <p>The application does not require the preparation of an Acid Sulfate Soils Management Plan.</p>
7.15 Flood planning	Yes	<p>The subject site is identified as flood affected as per the 1 per cent Annual Exceedance Probability flood layer.</p> <p>The subject site is located within the Woolloomooloo catchment. The application proposes development at or below the flood planning level.</p> <p>A Flood Study accompanies the application within the amended Civil Engineering Report, prepared by Taylor, Thomson Whiting, dated 04 September 2024.</p> <p>Some minor design changes at each entrance to the new school buildings was required, following the findings of the flood report to accommodate the potential flood levels.</p> <p>Council's drainage engineer reviewed the supporting documentation and confirmed the Flood Study demonstrates</p>

Provision	Compliance	Comment
		<p>that the development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p> <p>Condition 41 is recommended to ensure the development is constructed to comply with the flood planning levels stipulated within the supporting Civil Engineering Report.</p>

Development Control Plans

Sydney Development Control Plan 2012

51. In accordance with section 3.36(9) of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the provisions of any development control plan do not apply to developments for the purpose of a school on land in a prescribed zone.

Discussion

Heritage

52. The subject site comprises of two highly significant heritage item listings, 'St Vincent's Convent Group' (I1121) and former convent 'Bethania and Carmelita' (15-19 Challis Avenue) (I1122) and falls within the Potts Point Heritage Conservation Area. Numerous heritage listed terraces and buildings are situated around the site perimeter, contributing to the highly valued heritage significance of the area. A Statement of Heritage Impacts (SOHI) prepared by Vivian Sioutas Architecture, supports the application. The development proposed introduces a substantial volume of new built form into the site (see figure below), which has the potential to detract from the significant heritage value of the area.

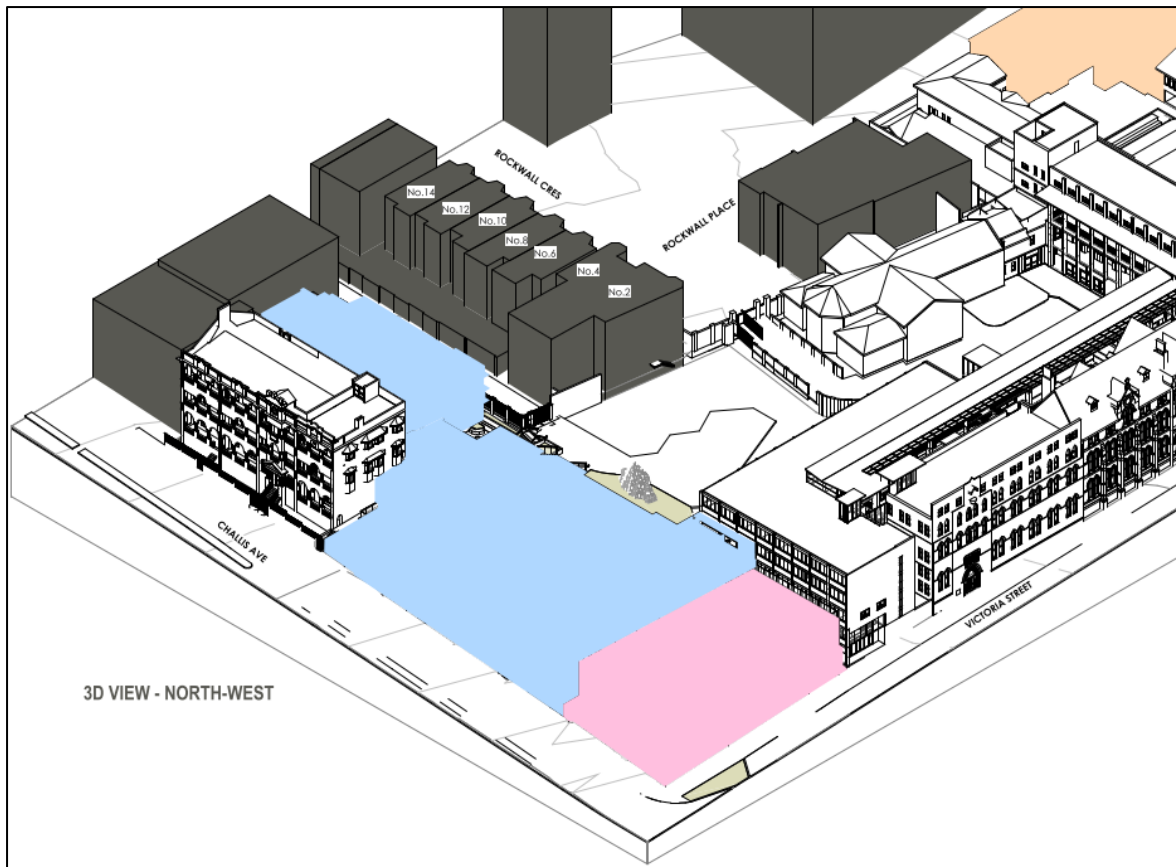


Figure 58: Proposed new built form located on the corner of Challis and Victoria Street

Multi-purpose sports facility building

53. The application proposes the demolition of several structures on the site, including the existing pool, sports courts and viewing area to allow for a replacement multi-purpose sports facility building. No heritage issues arise from the removal of these items, as the pool and court fabric is not of any heritage value.
54. The proposed multi-purpose sports facility building will incorporate an indoor pool, a large multi-purpose sports court/assembly area, with drama studio, gym and supporting building services and storage rooms. The rooftop area will also host a second sports court and a breakout terrace area. Following feedback from Council's heritage and urban design officers and DAPRS committee, amendments were made to the exterior of the building (see figure below).



Figure 59: New multi-purpose building on corner of Challis and Victoria Street

55. The initial commercial appearance of the multi-purpose sports facility building has been softened and the overly strong horizontal proportion adjusted. The void to solid ratio of the building is increased, with a reduction in glazing and an increase of solid material. Windows on this elevation are now recessed and vertical masonry elements are added to create visual separation between the windows.
56. Due to the minimum requirements for ceiling heights for a number of different sports, the floor to ceiling heights of the proposed building could not be reduced to decrease the overall building height. Nonetheless, the building is sunken to reduce view loss impacts and ensure appropriate subservience to the heritage significant items within and around the site. The building, inclusive of the netting, is set well below the maximum building height limit for the site. The sports netting is predominantly transparent and the associated support structures / poles are lightweight. The support structures for the netting are conditioned to be revised from the proposed black colour to woodland grey to reduce visual impacts and match other trim detail on the site. These revised features are more compatible with the residential character of the area and complementary to the heritage significance.
57. The foyer connection between new multi-purpose building and the Garcia is predominantly clear glazing and represents a link between old and new. The linking element is reduced in scale and presents as a low lightweight connection, recessed from the street frontage.

58. The new building will require a significant amount of excavation. Appropriate geotechnical, heritage and structural assessment reports support the application and conditions will be applied to the consent to secure compliance with the recommendations within the reports.

Stone boundary wall

59. An existing historic sandstone boundary wall which runs along Challis Avenue and Victoria Street is proposed to be demolished (see figure 59 above). The stone wall is graded as fabric of high significance in the Conservation Management Plan (CMP). However, the existing wall is in very poor condition and also comprises of two types of existing sandstone walls, with vertical brick topping in part, from unsympathetic repairs undertaken at differing periods.
60. Although the heritage stone wall cannot be retained or restored, the rebuilding of the wall like for like, including the height and the coursing (bar the sections required for maintenance access), will allow for an authentic replication of the existing arrangement, reflecting the original boundary history of the site.
61. The preference is the existing sandstone from the boundary wall be salvaged and reused as much as possible for the base of the new building. However, it is understood that at some stage cement mortar was applied to the joints which is hard to remove without damage to the stone.
62. A supplementary option would be to utilise stone quarried from the site during development, as was probable with the original stone wall. It is accepted that the Geotechnical Report provides uncertainty with regard to the strength of the sandstone to be quarried from the site. However, where possible, if additional new sandstone for the stone wall is required, it is to be sourced from the site. Conditions 7 and 61 are included in the recommended conditions to secure the above and provide appropriate oversight from a heritage consultant during reconstruction.
63. The existing public domain around the school boundary is in good condition. The demolition and reconstruction of the sandstone wall along Victoria Street and Challis Avenue may result in damage to the public domain. The public domain damage bond, protection of stone kerbs and dilapidation report conditions are to be applied to ensure public domain restoration takes place to the City's current standard.

New Bethania building

64. The existing Garcia building (previously 'Bethania and Carmelita') is located on the southern side of Challis Avenue and presents as a row of white articulated three storey terraces within the street.
65. A new three storey building will be connected to the rear of the Garcia building and will be known as the new 'Bethania'. In addition to the new foyer link between the Garcia and the new Multi-purpose sports facility building, continuous covered access through the school will be provided.
66. A review of the 1997 CMP for the Garcia building shows that the original rear wings were partly demolished to create a vacant space for potential development, with small sections of the wings retained to enable interpretation of the original extent of the building. The subsequent 2010 CMP for the entire site grades the rear wings as fabric of high significance. The proposal is to remove the remnant rear wings (and stairwells) entirely.

67. The option to retain the remnant section of the Garcia rear wings was investigated; however, due to floor level differences and lack of equitable access alternatives, the option was abandoned. Council's Heritage Officer concurs with the findings in the supporting heritage impact statement in that due to the altered state, the assigned high significance is not substantiated and the remnant wings are at best, of medium significance. Their removal is adequately justified by the fact the new addition will provide compliant fire upgrade and DDA access to Garcia building without impacting any other fabric of high significance. The loss should be additionally mitigated by interpreting the rear wings within the new development and a heritage interpretation strategy provided to this effect.
68. The Sydney DCP controls are switched off by the State Environmental Planning Policy (Transport & Infrastructure) 2021. However, appropriate bulk, scale and contextual fit of the building are all relevant, and following amendments, are now considered acceptable when applying the Design Principles within Schedule 8 of the T&I SEPP.

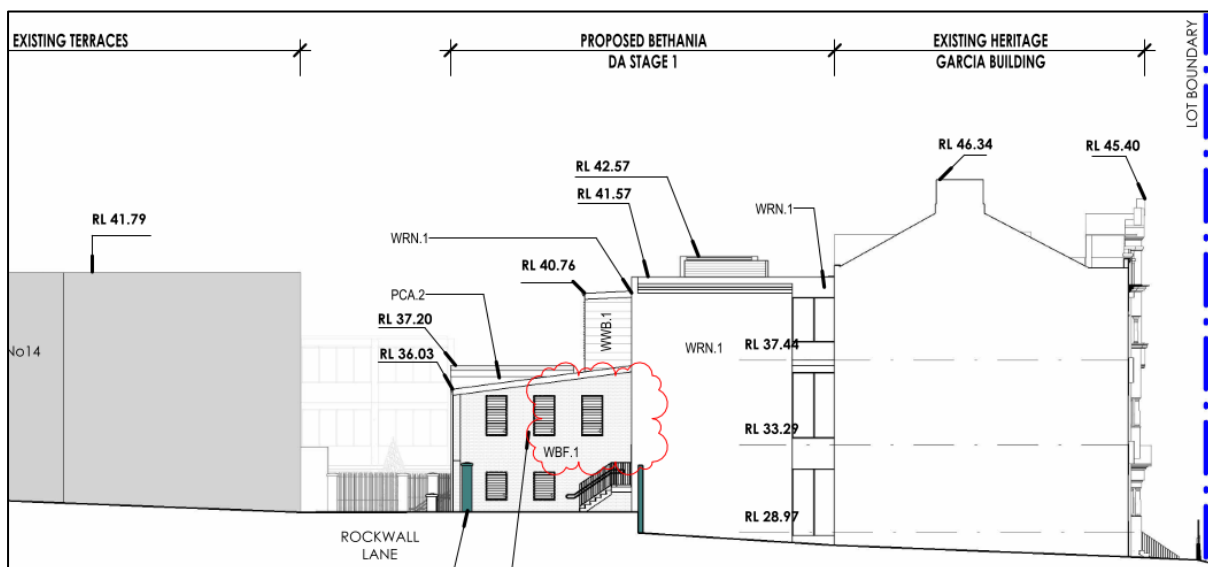


Figure 60: Scale of new Bethania building set behind the existing Garcia

69. The original design for Bethania lacked architectural detailing and fine grained elements, was considered excessive in bulk and scale and proposed a complicated roof form, with a complex colour palette. The siting, footprint and design of the rear addition to Garcia building has been carefully re-considered. The brick base of the building is now divided in response to the original wings of the Garcia and the adjacent terraces on Rockwall Lane, reflecting the early subdivision pattern of the site. Window sizes are reduced and reflect more traditional sizes and proportions.
70. The air conditioning units originally proposed on the roof of the Bethania building have been relocated to reduce visual bulk and put on Garcia building where they will be hidden by the existing high parapet wall. The building sits below the height plane and the ridge of the Garcia building and the visibility of the new Bethania addition is constrained when viewed from Challis Avenue. The modulated roof form and compliant building height of the Bethania results in a development which will not significantly affect heritage views to and from the site, nor the setting of the surrounding heritage items.

71. The Bethania Building is setback approximately 1.6m to Rockwall Lane, noting that most buildings are built to the boundary along Rockwall Lane. The setback is increased to 7.8 m on the upper level to allow for view retention and minimise overbearing. The setback and setback from the Rockwall Lane boundary for the top floor allows for better view sharing outcomes, whilst also providing a more sympathetic interface with the residential terraces on Rockwall Lane. Boundary fencing on Rockwall Lane is lightweight and provides for a smooth integration at the interface between the school and the residential character of the area. Privacy louvres are to be installed on all windows on the southern and eastern elevations to retain a suitable level of visual privacy from and to the school.



Figure 61: Interface of new Bethania building with residential terraces on Rockwall Lane

72. Hotel Challis abuts the north-eastern boundary of the site and is a locally listed heritage item known as Terrace group 'Byrock' and 'Uralla' (21-23 Challis Ave) (I1126). The original design proposed to set the eastern wall of the Bethania building on the eastern boundary, which would have required the demolition of the boundary wall. A setback of between 1.7 m and 4.9 m from Hotel Challis is now provided, which provides an element of separation and allows for better maintenance of the setting of the adjoining heritage item, Hotel Challis.

Grotto and surrounds

73. The Grotto is a highly significant feature within the school grounds and, although an important part of the site history, its current landscape setting is poorly presented and is to be rejuvenated. The heritage interpretation plan for the Grotto has been simplified to include stone artwork and the planting of species found within historic photographs of the Grotto.
74. A remediation methodology has been formulated with the intention to retain and conserve the Grotto in its current location, with appropriate protection during construction works.

Landscaping

75. Landscaping is an important part of the Potts Point Heritage Conservation Area and the subject site. The proposed development will require the removal of substantial mature planting on the site, particularly to the rear of the Garcia building.
76. A comprehensive landscaping strategy supports the application which includes substantial new planting, demonstrating adequate soil volumes / depths on structure and protection measures for trees retained on site and the impacted street trees. Services have been rationalised on Challis Avenue to improve planting within the frontage setback and within the setback to Rockwall Crescent. Planting is also proposed within the eastern setback between Bethania and Hotel Challis.

Conclusion

77. The school site is constrained with regard to room for expansion and modernisation of the school facilities.
78. The new buildings now proposed respond positively to their urban context and have undergone numerous design revisions to sensitively contribute to the heritage context with minimal visual impacts. A heritage interpretation strategy has been prepared to ensure the school community understands the historic importance of the site.

View sharing

79. The site is located in Potts Point where many properties enjoy partial views to the Sydney Harbour Bridge, Woolloomooloo Wharf, the Sydney Opera House, Sydney Harbour and the City Central Business District (CBD) skyline. Due to the topography of the surrounding land and the density of the area, the proposal has the potential to impact a number of properties to varying degrees.
80. The applicant provided a View Loss Assessment (VLA) prepared by Ethos Urban and an accompanying Visual Impact Photomontage and Methodology Report applying 3D modelling techniques (prepared by Virtual Ideas) (reproduced in Attachment D).
81. Following design amendments to the scheme to improve architectural expression and view sharing, the VLA modelling has been updated. The following review of the assessment is applied to the revised scheme now under consideration.
82. The VLA states that the assessment used has been made against the planning principles for view sharing established by Senior Commissioner Roseth in the Land and Environment Court decision of Tenacity Consulting v Warringah [2004] NSWLEC140.
83. The VLA undertook a visual analysis using heatmapping to develop an understanding of the extent of view loss and identify the primary locations likely to be subject to the greatest view loss impacts from the proposed development. A number of other buildings in close proximity were also considered and excluded with acceptable justifications, including 14 Macleay Street and 6 Challis Avenue.
84. Following the visual heatmap analysis, the properties below were identified as having the greatest potential for view loss impacts from the proposed development (figure 61):
 - No. 6-8 Rockwall Crescent, Potts Point;

- No. 10-16 Rockwall Crescent, Potts Point; and
- No. 21-23 Challis Avenue, Potts Point (Hotel Challis).



Figure 62: Subject site and location of three sites selected for view loss analysis

85. To supplement the view impact analysis, Council also carried out an independent view loss review through physical site inspections and photographing of the following properties in February, March and April 2024.

- Unit 1, 2, 3, 4, 5, and 6 of No. 6-8 Rockwell Crescent
(6 properties (4 units and 2 dwellings))
- Units 1 and 2 of Nos.10, 12 and 14, and No. 16 of 10-16 Rockwell Crescent
(7 properties (6 units and 1 six-bed dwelling))
- No. 18 Rockwall Crescent
- No. 21-23 Challis Avenue (Hotel Challis)
- No. 11/6 Challis Avenue

86. The inspections confirmed that the viewpoints and imagery utilised in the VLA Report are generally an accurate representation of views from the various locations. A number of objectors also provided photos to demonstrate where views are obtained.

Tenacity

87. The bulk of the works take place in the northern part of the site. The view loss concerns relate to the loss of private views enjoyed by certain residential dwellings and from a commercial entity (Hotel Challis). Protection of views are a consideration but not a planning control. The assessment to determine the degree and reasonableness of the impact must be made against the relevant planning controls and the extent to which the development complies.
88. Although the planning controls make no provision for the preservation of private views specifically, the principal development standards demonstrates that the proposed development envelope achieves general compliance with the relevant planning controls as follows.
89. The primary view loss impact results from the proposed Bethania building, which interconnects to the rear of the existing Garcia with a maximum building height of 14.90 metres. This height complies with the maximum height of building standard of 15 metres prescribed in Clause 4.3 of the Sydney Local Environmental Plan 2012.
90. The site is laid over two titles. The floor space ratio (FSR) prescribed for the northern part of the site with the bulk of the development is 1.75:1. With a site area of 12,145.4 sqm, a maximum gross floor area (GFA) of 21,254.62 sqm is permitted. The proposed GFA is 15,651 sqm and therefore comfortably complies with the maximum FSR for the site.
91. In order to understand the impact of the proposal on the existing views, an assessment of view impact is undertaken based on the principles of view sharing established by Senior Commissioner Roseth in the Land and Environment Court decision of *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (known as *Tenacity*).
92. In the *Tenacity* case, Senior Commissioner Roseth notes that: '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. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.)'.
93. To decide whether view sharing is reasonable or not, Senior Commissioner Roseth developed a four-step assessment, which is summarised in part below:
- (a) The first step is the assessment of views to be affected. Water views are valued more highly than land views. 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.
 - (b) 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. The expectation to retain side views is often unrealistic.

- (c) The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas, kitchens are more significant than from bedrooms or service areas.
 - (d) The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls is more reasonable than one that breaches them.
94. The extent of the impact on views are assessed using the following criteria:
- (a) Negligible
 - (b) Minor
 - (c) Moderate
 - (d) Severe
 - (e) Devastating
95. The level of impact on view loss for affected properties within No.6-8 Rockwall Crescent, No.10-16 Rockwall Crescent and Hotel Challis (No.21-23 Challis Avenue) is assessed below. The assessment is made against photomontages for the revised form found within the revised VLA Report, dated 12 August 2024 (see Attachment D).

No. 6-8 Rockwall Crescent, Potts Point

96. The property comprises six dwellings within two terraces. Each terrace has one apartment at lower ground, one at upper ground, and a three-storey dwelling across Levels 1 to 3 (level 3 is within an attic). Rockwall Lane provides rear access to 2 multi-purpose private amenity space, which are both currently used as parking areas.
97. Apartments located on the ground levels have direct views of the subject site, but no view access through or over the site as they are obstructed by the existing buildings. The view loss assessment is focused on those units with defined views, as per the Tenacity principles.
98. Viewpoints from these properties were identified as shown in the extract from the VLA Report below. The CAM No. makes reference to a particular view and the correlating image within the VLA.

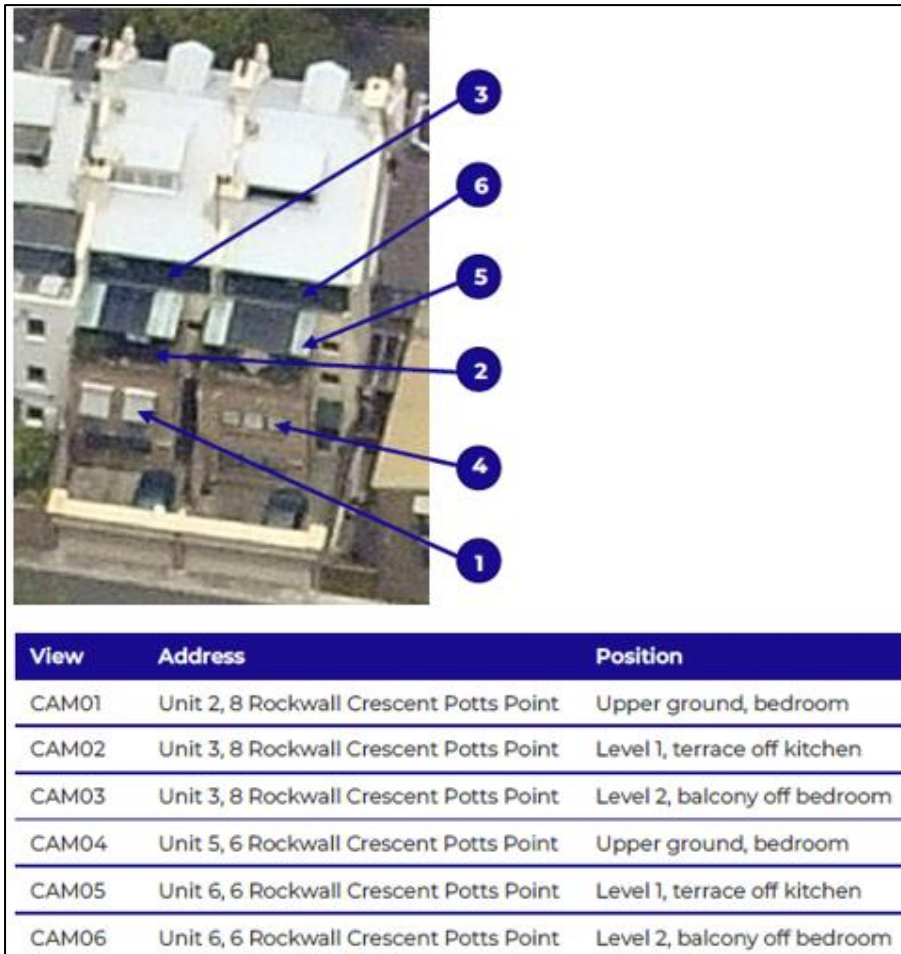


Figure 63: Extract from VLA of viewpoint locations from units within No.6-8 Rockwall Crescent

99. The following table (table 1) summarises the applicant's assessment of view loss impacts to affected units with existing views within No.6-8 Rockwall Crescent, and Council's conclusion on the view loss assessment. All views from the affected terraces are gained from the rear. Where there are multiple viewpoints within one property, the view with the greatest impact is assessed in detail. All views are summarised in the Tables below.

100. It must be noted that since the production of the VLA Report and Council's site visits, a significant amount of vegetation has been removed from the school site, which has in fact improved views for a number of properties, including Units 2 and 3 within No.6 Rockwall Crescent.

Table 1: Overview of view loss analysis for impacted units within No.6-8 Rockwall Crescent.

6-8 Rockwall Crescent	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
Unit 2 (CAM01)	Standing views from a bedroom. Limited distant views without high-value elements.	Low value view with a minor extent of view loss.	Since removal of part of the vegetation, high value views of Iconic Harbour

6-8 Rockwall Crescent	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
(8 Rockwall)			Bridge, with moderate to severe view loss.
Unit 3 (CAM02) (8 Rockwall)	Standing views from terrace off a kitchen. Distant views of iconic elements including Sydney Harbour Bridge, Opera House and the City CBD skyline.	High value view with a minor extent of view loss.	Highly valued iconic views, with minor view loss.
Unit 3 (CAM03) (8 Rockwall)	Standing views from a balcony off a bedroom.	High value view with a minor extent of view loss.	Highly valued iconic views, with minor view loss.
Unit 5 (CAM04) (6 Rockwall)	Standing views from a bedroom. Limited distant views without high-value elements.	Low value view with a minor extent of view loss.	Medium-value views, although limited, glimpses of iconic features are obtained, minor view loss.
Unit 6 (CAM05) (6 Rockwall)	Standing views from terrace off kitchen. Distant views of iconic elements including parts of the Sydney Harbour Bridge, Opera House and the City CBD skyline.	High value view with a minor extent of view loss.	Highly valued views from both viewpoints, with minor view loss.
Unit 6 (CAM06) (6 Rockwall)	Standing views from a balcony off a bedroom. Distant views of iconic elements including parts of the Sydney Harbour Bridge, Opera House and the City CBD skyline.	High value view with a minor extent of view loss.	Highly valued views from both viewpoints, with minor view loss.

101. The following section outlines Council's assessment of Units 2, 3, 5 and 6 within No.6-8 the terraces at Rockwall Crescent, against the assessment steps outlined in the Tenacity view sharing principles.

Unit 2, No.8 Rockwall Crescent

Figure 64: Extract from VLA of standing view from upper ground bedroom and proposed building envelope (Unit 2)

- (a) Views to be affected: Views to the northwest, which primarily consist of vegetation and greenery from the school site. Part of the vegetation has been removed by the school to facilitate the proposed development, which opened up iconic views to the Sydney Harbour Bridge.
- (b) Part of property viewed from: Views are obtained from a rear bedroom window on the northern elevation. The views available are standing views.
- (c) Extent of impact: The proposed Bethania building will remove much of the now available view of the Sydney Harbour Bridge from the bedroom. The view loss impact for Unit 8 is considered to be moderate to severe.
- (d) Reasonableness: Unit 2 has distant standing views of the Sydney Harbour Bridge, considered to be a highly valued view. Views are standing and obtained from a bedroom. It is acknowledged that the view to the Bridge was not available prior to the removal of vegetation, which would likely have remained in-situ if the site were not to be redeveloped. The building is compliant in height and FSR. No reasonable amendments could be made to the proposed building to improve the extent of view loss without severely restricting the scale and function of the

Bethania building. The view loss impacts for Unit 2 resulting from the proposed development are considered reasonable.

Unit 3, No.8 Rockwall Crescent



Figure 65: Extract from VLA of standing view from level 1 terrace and proposed building envelope (Unit 3)

- (a) Views to be affected: Views to the northwest, which primarily consist of the Sydney Harbour Bridge and vegetation and greenery from the school site. The sails of the Opera House are also visible from both viewpoints.
- (b) Part of property viewed from: Views are obtained from a rear terrace off a kitchen on level 1 and a rear balcony servicing a bedroom on level 2. The views are available sitting and standing.
- (c) Extent of impact: The proposed Bethania building will sit to the rear of the existing Garcia building. Much of the existing views are maintained, including the iconic view to the Sydney Harbour Bridge and the Opera House sails. View loss impacts for Unit 3 are considered to be minor.
- (d) Reasonableness: Unit 3 maintains distant standing views of the Sydney Harbour Bridge and Opera House from both viewpoints. The view loss impacts for Unit 3 resulting from the proposed development are considered minor and reasonable.

Unit 5, No.6 Rockwall Crescent

Figure 66: Extract from VLA of standing view from upper ground bedroom and proposed building envelope (Unit 5)

- (a) Views to be affected: Views are limited to an outlook and minimal distant views with a glimpse of the Harbour Bridge amongst vegetation on the site.
- (b) Part of property viewed from: Affected views are obtained from windows to a rear bedroom on the northern elevation. The views available are standing views.
- (c) Extent of impact: The proposed building will replace the existing vegetation. Views to the Harbour Bridge, although limited, will be retained. The view loss impact for Unit 5 is considered to be minor.
- (d) Reasonableness: Unit 5 has distant limited standing views, with glimpses of the Harbour Bridge gained from a bedroom. The view loss impacts for Unit 5 resulting from the proposed development are considered reasonable.

Unit 6, No.6 Rockwall Crescent

Figure 67: Extract from VLA of standing view from Level 1 terrace and proposed building envelope (Unit 6)

- (a) Views to be affected: Views to the northwest, which primarily consist of the Sydney Harbour Bridge, part of North Sydney skyline and vegetation and greenery from the school site. The sails of the Opera House are also visible from both viewpoints.
- (b) Part of property viewed from: Affected views are obtained from a level 1 terrace off a kitchen and level 2 balcony servicing a bedroom on the northern elevation. The views available are predominantly standing views.
- (c) Extent of impact: The proposed building will remove much of the existing vegetation. Existing views to the Harbour Bridge and tops of the sails will be retained. The view loss impact for Unit 6 is considered to be minor.
- (d) Reasonableness: Unit 6 will retain distant standing views of the Harbour Bridge and tops of the Opera House sails from both viewpoints. The view loss impacts for Unit 6 resulting from the proposed development are considered reasonable.

Assessment of reasonableness - No.6-8 Rockwall Crescent

102. The above analyses for units within No.6-8 Rockwall Crescent identify the views to be affected by the proposed development and the extent of the impact on the existing views. The impacts are predominantly minor, excepting the impact for Unit 2, which is determined as moderate to severe, as views to the Harbour Bridge are gained.

103. The Iconic view now gained by Unit 2 is newly created through the recent removal of vegetation on the subject site to facilitate the development. The loss of the newly gained view is recognised, however if the development were not planned, this view would not be available. The views are also obtained from a bedroom and are gained from a standing position where there is no connecting balcony.
104. The proposed development is compliant with the relevant building standards and no other existing highly valued views of the Harbour Bridge or Opera House from the other units are impacted.
105. While it is acknowledged that the proposal is not without some minor view sharing impacts and the newly gained Iconic view from the bedroom in Unit 2 is lost, the results of the Tenacity assessment conclude that the view loss from the affected units within No.6-8 Rockwall Crescent as a result of the proposal is reasonable.

No.10-16 Rockwall Crescent, Potts Point

106. The property comprises of four terraces that are divided into separate units. Terraces Nos.10, 12 and 14 each contain two units. The first unit is two-storey and located across the lower ground and upper ground levels. The second unit is set across the upper levels with floors at Level 1 to Level 3 (Level 3 is contained within an attic). No.16 is one large six-bedroomed dwelling house spread across all levels, which was created through the consolidation of the original two units under development application D/2017/1382. Rockwall Lane provides rear access to multi-purpose private amenity space, which are all currently used as parking areas.
107. Viewpoints from these properties were identified as shown in the extract from the VLA Report below:



View	Address	Position
CAM07	Unit 1, 10 Rockwall Crescent Potts Point	Upper ground, study
CAM08	Unit 2, 10 Rockwall Crescent Potts Point	Level 1, Dining room
CAM09	Unit 2, 10 Rockwall Crescent Potts Point	Level 2, balcony
CAM10	Unit 1, 12 Rockwall Crescent Potts Point	Upper ground, study
CAM11	Unit 2, 12 Rockwall Crescent Potts Point	Level 1, Lounge
CAM12	Unit 2, 12 Rockwall Crescent Potts Point	Level 2, balcony
CAM13	Unit 1, 14 Rockwall Crescent Potts Point	Upper ground, study
CAM14	Unit 2, 14 Rockwall Crescent Potts Point	Level 1, lounge
CAM15	Unit 2, 14 Rockwall Crescent Potts Point	Level 2, balcony
CAM16	16 Rockwall Crescent Potts Point	Level 1, dining
CAM17	16 Rockwall Crescent Potts Point	Level 2 balcony
CAM18	16 Rockwall Crescent Potts Point	Level 3 balcony

Figure 68: Extract from VLA of viewpoint locations from units within No.10-16 Rockwall Crescent

108. The following table (table 2) summarises the applicant's assessment of view loss impacts to affected properties within No.10-16 Rockwall Crescent, and Council's conclusions on the view loss assessment.

Table 2: Overview of view loss analysis for impacted units within No.10-16 Rockwall Crescent

10-16 Rockwall Crescent	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
Unit 1 (CAM07) (10 Rockwall)	Limited distant views, that do not include high value elements.	Low value view with a minor extent of view loss.	Low value views of predominantly the tops of vegetation. Possibly improved view by the recent loss of vegetation on the school site. Minor view

10-16 Rockwall Crescent	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
			loss, with the gain of city skyline views from the proposed further removal of vegetation.
Unit 2 (CAM08) (10 Rockwall)	Framed distant Iconic views of the Harbour Bridge, partial views of Woolloomooloo Wharf, City CBD and North Sydney skylines.	High value view with a minor extent of view loss.	High value views of the Harbour Bridge. Removal of site vegetation will introduce partial views of the City CBD skyline. Minor view loss.
Unit 2 (CAM09) (10 Rockwall)	Iconic views of the Harbour Bridge, partial views of Woolloomooloo Wharf, Opera House, City CBD and North Sydney skylines.	High value view with a minor extent of view loss.	All high value views are retained of Iconic elements. Some green aspect lost. Minor view loss.
Unit 1 (CAM10) (12 Rockwall)	Limited distant views, that do not include high value elements.	Low value view with a minor extent of view loss.	No real distant views, with immediate outlook to rear of Garcia and limited vegetation on the subject site. Negligible to minor view loss, as loss is to 'outlook', rather than view.
Unit 2 (CAM11) (12 Rockwall)	Views of part of Harbour Bridge, part Sydney CBD skyline.	Moderate value view with a minor extent of view loss.	Proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. Limited views of the Harbour Bridge and City CBD skyline are retained. The view loss impact is negligible to minor.
Unit 2 (CAM12) (12 Rockwall)	Views of part of Harbour Bridge, part Woolloomooloo	High value view with a minor	Wide ranging views of half Harbour Bridge and partial City skyline retained. Green outlook

10-16 Rockwall Crescent	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
	Wharf and Sydney CBD skyline.	extent of view loss.	reduced. Minor view loss impact.
Unit 1 (CAM13) (14 Rockwall)	Limited distant views, that do not include high value elements.	Low value view with a minor extent of view loss.	The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The limited views of the City CBD skyline are retained. The view loss impact is negligible to minor.
Unit 2 (CAM14) (14 Rockwall)	Restricted distant views.	Low value view with a minor extent of view loss.	Very limited distant view with no high-value elements. Green leafy 'outlook' lost. Negligible to minor view loss.
Unit 2 (CAM15) (14 Rockwall)	Framed distant Iconic views of the Harbour Bridge, partial views of Woolloomooloo Wharf, City CBD and North Sydney skylines.	High value view with a minor extent of view loss.	High valued views of a portion of the City CBD skyline, the North Sydney skyline and the southern pier of the Harbour Bridge. Loss of vegetation on the subject site allows views of the Harbour Bridge. Negligible to minor view loss.
(CAM16) (16 Rockwall)	Limited views of the City CBD skyline.	Moderate value view with a minor extent of view loss.	Narrow limited views of the City CBD skyline. Loss of vegetation on the site reduces green 'outlook'. Minor view loss.
(CAM17) (16 Rockwall)	Wide views of Iconic elements, with limited views of the Harbour Bridge, partial views of Woolloomooloo Wharf, and parts of	High value view with a minor extent of view loss.	Iconic reviews retained. Greater views of the Harbour Bridge received with the removal of site vegetation. Limited greenery lost in the

10-16 Rockwall Crescent	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
	the City CBD and North Sydney skylines.		immediate area. Minor view loss.
(CAM18) (16 Rockwall)	Distant Iconic views of the Harbour Bridge, part of the Opera House sails, partial views Woolloomooloo Wharf, City CBD and North Sydney skylines.	High value view with a minor extent of view loss.	Iconic reviews retained. Greater views of the Harbour Bridge received with the removal of site vegetation. Limited greenery lost in the immediate area. Negligible to minor view loss.

109. The following section outlines Council's assessment against the steps outlined in the Tenacity view sharing principles for Units 1 and 2, within Nos.10, 12 and 14 Rockwall Crescent and for No.16 Rockwall Crescent.

Unit 1, No.10 Rockwall Crescent



Figure 69: Extract from VLA of standing view from upper ground study and proposed building envelope (Unit 1, No.10 Rockwall Crescent)

- (a) Views to be affected: Limited views to the northwest, which primarily include the tops of vegetation and vegetation on the subject site.
- (b) Part of property viewed from: Affected views are obtained from an upper ground study on the northern elevation. The views available standing and sitting.
- (c) Extent of impact: The proposed building will remove much of the existing mature vegetation opening up limited views to a small section of the northern CBD skyline. The view loss impact for Unit 1, No.10 Rockwall Crescent is considered to be negligible to minor.
- (d) Reasonableness: Unit 1, No.10 Rockwall Crescent will lose the current natural leafy green views, however, a limited view of the CBD skyline will be visible. The minor view loss impacts for Unit 1, No.10 Rockwall Crescent resulting from the proposed development are considered reasonable.

Unit 2, No.10 Rockwall Crescent



Figure 70: Extract from VLA of existing standing view from level 1 dining room and proposed building envelope (Unit 2, No.10 Rockwall Crescent)

- (a) Views to be affected: Limited views of the tops of vegetation to the northwest, and to leafy trees on the subject site.
- (b) Part of property viewed from: Affected views are obtained from a level 1 dining room on the northern elevation. The views available are standing and sitting. Wider views are also available from the level 2 balcony.

- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The existing extent of views to the Harbour Bridge are retained, with a small section of the northern CBD skyline opened up through the loss of vegetation. The view loss impact for Unit 2, No.10 Rockwall Crescent is considered to be minor.
- (d) Reasonableness: Unit 2, No.10 Rockwall Crescent will lose the current natural leafy green views, however, a limited view of the City CBD skyline will be visible and the existing view to the Harbour Bridge is protected. The view loss impacts for Unit 2, No.10 Rockwall Crescent resulting from the proposed development are considered reasonable.

Unit 1, No.12 Rockwall Crescent



Figure 71: Extract from VLA of existing standing view from upper ground study and proposed building envelope (Unit 1, No.12 Rockwall Crescent)

- (a) Views to be affected: Limited views of vegetation on the subject site and the rear of the Garcia building.
- (b) Part of property viewed from: Affected views are obtained from the study on the upper ground. The views available standing and sitting.
- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The view loss impact for Unit 1, No.12 Rockwall Crescent is considered to be negligible to minor.

- (d) Reasonableness: Unit 1, No.12 Rockwall Crescent will lose the current leafy green 'outlook'. No long ranging 'views' are lost. The view loss impacts for Unit 1, No.12 Rockwall Crescent resulting from the proposed development are considered reasonable.

Unit 2, No.12 Rockwall Crescent



Figure 72: Extract from VLA of existing standing view from upper ground study and proposed building envelope (Unit 2, No.12 Rockwall Crescent)

- (a) Views to be affected: Limited views of vegetation on the subject site and the rear of the Garcia building. A fraction of the Harbour Bridge and southern pier and the CBD can be seen in the distance.
- (b) Part of property viewed from: Affected views are obtained from the level 1 lounge. The views available standing and sitting.
- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The limited views of the Harbour Bridge and City skyline are retained. The view loss impact for Unit 2, No.12 Rockwall Crescent is considered to be negligible to minor.
- (d) Reasonableness: Unit 2, No.12 Rockwall Crescent will lose the current leafy green 'outlook'. No long ranging 'views' are lost, the view loss impacts for Unit 2, No.12 Rockwall Crescent resulting from the proposed development are considered reasonable.

Unit 1, No.14 Rockwall Crescent

Figure 73: Extract from VLA of existing standing view from upper ground study and proposed building envelope (Unit 1, No.14 Rockwall Crescent)

- (a) Views to be affected: Limited views of vegetation on the subject site and the tops of buildings in the CBD City skyline.
- (b) Part of property viewed from: Affected views are obtained from the upper ground study. The views available standing and sitting.
- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The limited views of the City skyline are retained. The view loss impact for Unit 1, No.14 Rockwall Crescent is considered to be negligible to minor.
- (d) Reasonableness: Unit 1, No.14 Rockwall Crescent will lose the current leafy green 'outlook'. No long ranging 'views' are lost, the view loss impacts for Unit 1, No.14 Rockwall Crescent resulting from the proposed development are considered reasonable.

Unit 2, No.14 Rockwall Crescent

Figure 74: Extract from VLA of existing standing view from upper ground study and proposed building envelope (Unit 2, No.14 Rockwall Crescent)

- (a) Views to be affected: High valued views of a portion of the CBD City skyline, the North Sydney skyline and the southern pier of the Harbour Bridge.
- (b) Part of property viewed from: Affected views are obtained from the level 2 balcony. The views available standing and sitting.
- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The existing iconic views are retained, in fact, expansive views of the Harbour Bridge will be gained by the removal of vegetation. The view loss impact for Unit 2, No.14 Rockwall Crescent is considered to be negligible to minor.
- (d) Reasonableness: Unit 2, No.14 Rockwall Crescent will not lose any long ranging views, with views of the Harbour Bridge gained, Some loss of immediate vegetation from the subject site. The view loss impacts for Unit 2, No.14 Rockwall Crescent resulting from the proposed development are considered reasonable.

No. 16 Rockwall Crescent

Figure 75: Extract from VLA of existing standing view from upper ground study and proposed building envelope (No.16 Rockwall Crescent)

- (a) Views to be affected: Wide views of Iconic elements, with limited views of the Harbour Bridge, partial views of Woolloomooloo Wharf, and parts of the City CBD and North Sydney skylines.
- (b) Part of property viewed from: Affected views are obtained from the level 2 balcony. The views available standing and sitting.
- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The limited views of the Harbour Bridge and City CBD skyline are retained. Views are available from three locations within this property, with minimal impacts for all three locations. The view loss impact for No.16 Rockwall Crescent is considered to be negligible to minor.
- (d) Reasonableness: No.16 Rockwall Crescent will lose the current leafy green 'outlook' from the removal of vegetation on the site. No long ranging 'views' are lost, with greater views of the Harbour Bridge being obtained from the removal of the site vegetation. The view loss impacts for No.16 Rockwall Crescent resulting from the proposed development are considered reasonable.

Assessment of reasonableness - No. 10-16 Rockwall Crescent

110. The above analyses for terraces within No.10-16 Rockwall Crescent identify the views to be affected by the proposed development and the extent of the impact on the existing views. The impacts across the terraces are predominantly negligible to minor, with two properties being Unit 2, No.14 and No.16 Rockwall Crescent actually benefitting from the removal of vegetation on the subject site to facilitate the development. Council's view loss assessment accords with the findings of the applicant's View Loss Assessment.
111. There are minimal view loss impacts to all long-distance views obtained from all viewpoints within the heritage terraces, with the impact relating to the loss of the existing 'outlook' resulting from the requirement to remove vegetation for the development. New planting on the site will ameliorate the visual impact from the removal of vegetation, however, the impacts to 'outlook' are not a consideration within the Tenacity principles.
112. While it is acknowledged that the proposal is not without some minor view sharing impacts, the results of the Tenacity assessment conclude that the extent of view loss from the affected properties within No.10-16 Rockwall Crescent as a result of the proposal is reasonable.
113. The assessment of view loss to additional terraces to the east of No.10-16 Rockwall Crescent are not detailed within the applicant's VLA Report, nor were site visits undertaken by Council. However, based on an extrapolation of the view impact data which has been provided for the more affected apartments, it can be concluded that these dwellings would not be affected by view loss impacts.

Hotel Challis (21-23 Challis Avenue)

114. Hotel Challis is situated to the east of the proposed Bethania building and a number of rooms on the western side elevation of the hotel currently enjoy highly valued views across the subject site of the City CBD skyline.
115. Tenacity principles apply to commercial uses and the judgement in *Furlong v Northern Beaches Council* [2022] NSWLEC 1208 (Furlong) promotes the protection of side boundary views.
116. The Hotel has benefited from views across the site to the CBD City skyline since the demolition of the original rear wings of the Garcia building in 1997. View loss impacts for a sample of rooms were assessed in the supporting VLA, as shown in the figure below. View loss to other hotel rooms on the western elevation can be inferred through the findings of view loss impacts to the samples rooms.



Figure 76: Extract from VLA identifying three hotel rooms selected for view loss assessment and corresponding CAM No.

117. The following table (table 3) summarises the applicant's assessment of view loss impacts to the sample rooms within Hotel Challis and Council's conclusions on the view loss assessment.

Table 3: Overview of view loss analysis for impacted rooms within Hotel Challis (21-23 Challis Avenue)

Hotel Challis	VLA view to be affected	VLA view loss summary	Council view loss summary (detailed assessment below)
Level 1 - Room 214 (CAM 19)	No distant views available, loss of green 'outlook' and open sky.	Low value view with a minor extent of view loss.	Low value existing view. Loss relates to green 'outlook'. Minor view loss.
Level 3 - Room 408 (CAM 20)	Long ranging Iconic views of the City CBD skyline and Sydney Tower.	High value view with devastating view loss.	High value views of the City CBD skyline lost. Devastating view loss.
Level 3 - Room 412 (CAM 21)	Iconic views of the City CBD skyline.	High value view with severe view loss.	High value views of the City CBD skyline partially lost. Moderate to severe view loss.

Level 1 - Room 214 (CAM 19)

Figure 77: Extract from VLA of existing standing view from Room 214 (L1) and view with proposed building envelope

- (a) Views to be affected: No distant views currently available.
- (b) Part of property viewed from: Affected views are obtained across a side boundary from Room 214 on level 1 on the southern end of the western elevation. The views available are standing.
- (c) Extent of impact: The proposed building will impact the immediate green, leafy 'outlook', rather than any long-distance views. The view loss impact for western facing rooms on level 1 is considered to be minor.
- (d) Reasonableness: The view loss is to the current leafy green 'outlook' from the removal of vegetation and construction of the Bethania building. No long ranging 'views' are lost. The views obtained from Room 214 are of low value and the view loss resulting from the proposed development is considered reasonable.

Level 3 - Room 408 (CAM 20)

Figure 78: Extract from VLA of existing standing view from Room 408 (L3) and view with proposed building envelope

- (a) Views to be affected: High-value linear views of the City CBD skyline and Sydney Tower, and the leafy green 'outlook'.
- (b) Part of property viewed from: Affected views are obtained across a side boundary from Room 408 on level 3 on the northern end of the western facade of the hotel. The views available are standing.
- (c) Extent of impact: Room 408 will lose its high-quality long-distance views entirely, and also the green 'outlook'. The view loss impact for this room on level 3 is considered devastating.
- (d) Reasonableness: Although devastating, the view loss is to a view from a standing position within a hotel room, across a side boundary. Other hotel rooms on the western elevation will retain partial or existing views of the CBD. The view loss resulting from the proposed development is considered reasonable.

Level 3 - Room 412 (CAM 21)

Figure 79: Extract from VLA of existing standing view from Room 412 (L3) and view with proposed building envelope

- (a) Views to be affected: High-value linear views of the City CBD skyline and Sydney Tower and loss of the immediate green 'outlook'.
- (b) Part of property viewed from: Affected views are obtained across a side boundary from Room 412 on level 3 on the southern end of the western facade of the hotel. The views available are standing.
- (c) Extent of impact: The proposed Bethania building will impact the long-distance views of the City CBD skyline. The view loss impact for this room is considered to be moderate to severe.
- (d) Reasonableness: Although moderate to severe view loss would occur, the view loss is to a view from a standing position within a hotel room, across a side boundary. Other hotel rooms on the western elevation on L3 will retain partial or existing views of the CBD. The view loss resulting from the proposed development is considered reasonable.

Assessment of reasonableness - Hotel Challis (21-23 Challis Avenue)

118. The above analysis for Rooms 214, 408 and 412 within Hotel Challis identifies views to be affected by the proposed development and the extent of the impact on the existing views.
119. Rooms on the lower levels (L1 and L2) receive existing low value views and therefore the development would result in minor view loss to these rooms. Rooms within the third attic level, including Rooms 408 and 412, will incur significant view loss impacts ranging from moderate to devastating with the full or partial loss of the City CBD skyline. The views lost do not however include views of the Sydney Opera House or Harbour bridge.
120. It is noted that hotel rooms are weighted lower than permanent residential properties which are occupied throughout the day. Views gained over a side boundary are also given less weight. Although the site is currently undeveloped to the rear of the Garcia, it should be noted that, up until its demolition in 1997, the built form of the Garcia building extended across the site and would have obscured much of the western view to the City for the Hotel.
121. The view loss results from the bulk and height of the proposed Bethania building. The Bethania has undergone a number of design iterations since its first inception, in order to minimise view loss impacts for the hotel and surrounding residences. The FSR and Building Height for the Bethania are compliant with the LEP development standards.
122. It is recognised that much of the impact results through the loss of landscaping from the requirement to remove vegetation to facilitate the development. New planting on the site will ameliorate the visual impact from the removal of vegetation, however, the impacts to 'outlook' are not a consideration within the Tenacity principles.
123. While it is acknowledged that the proposal is not without substantial view sharing impacts, the results of the Tenacity assessment conclude that the extent of view loss from the affected hotel rooms, as a result of the proposal, is reasonable. Council's review of the view loss assessment accords with the findings of the applicant's assessment for hotel rooms with a western outlook in Hotel Challis.

Residential properties on Challis Avenue

124. It is recognised that the proposed multi-purpose sports facility building is a significant addition to the school, which would be located directly opposite multiple residential properties along the northern side of Challis Avenue who currently have long ranging views of the City skyline.
125. The applicant contends that the proposed development would primarily obscure the five-storey building of St Vincent's College and only a very minor portion of distant viewing would be affected by few residential properties on Challis Avenue.
126. Following a site inspection by Council to a property within No. 6 Challis Avenue, the applicant's assertion was considered accurate. The sunken nature, lightweight sports fencing and overall height of the multi-purpose building would not result in any considerable view loss impacts for the residential dwellings on Challis Avenue. Rather, the impact, which is considered minor, would be to the immediate views of the school currently received by these properties.

127. As shown in the extract of the relevant part of the proposed building envelope from the VLA Report below (figure 80), any minor view loss experienced by residential properties on Challis Avenue from the development, is deemed to be minimal and reasonable.

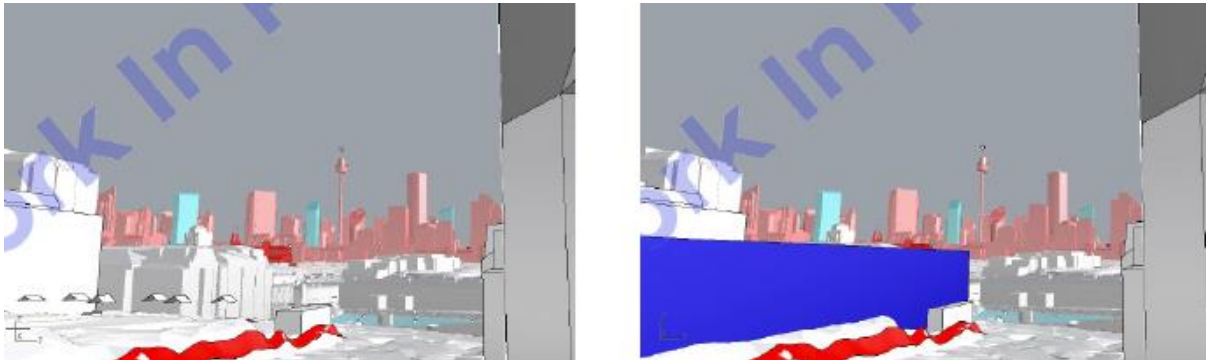


Figure 80: Extract of existing view from a level 1 unit within No. 6 Challis Avenue and proposed envelope

View loss to surrounding heritage

128. Clause 5.10(1)(b) of the SLEP 2012, seeks to conserve the "heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views".
129. As discussed under the 'Heritage' heading above, the proposed development is compliant with the site development standards. Considerations of the impacts and the preservation of reasonable views to and from the surrounding heritage buildings was considered through the SLEP 2012 planning proposal process when developing the appropriate development standards. The proposed development is compliant with the height of buildings and FSR development standards.
130. The neighbouring heritage buildings are invariably taller than the proposed development, which has been interred in part to reduce visual impacts. Existing short and long ranging views the surrounding heritage items are still readily available from the public realm and private properties.
131. The amended development as proposed is not considered to result in any unreasonable adverse impacts to the existing heritage setting, nor to any views to or from the surrounding heritage buildings.

Conclusion of view loss

132. The view loss assessment, applying the principles of Tenacity, demonstrates that the iconic views of the City skyline, Woolloomooloo Wharf and Sydney Harbour Bridge from the relevant Rockwall Crescent properties are either retained or improved upon by the proposed works and landscape changes for the school site.
133. Iconic views from Hotel Challis are impacted with a number of hotel rooms on L3 experiencing severe to devastating view loss. Minor view loss would be experienced from all the affected residential units within No. 6-8 and No. 10-16 Rockwall Crescent.

134. It is understood that the height and floor space ratio development standards are not 'given' maximums for the site. However, they are a guide to the density and character desired for the area, subject to the provision of good and equitable amenity. The proposed development is fully compliant with regard to the SLEP 2012 building height and FSR development standards.
135. The proposed development has undergone numerous modifications to the massing and visual bulk to mitigate view loss and achieve the retention of views, in line with the Tenacity principles. It is considered that there are no further amendments which could retain views, without impacting the development potential of the site.
136. Half the hotel rooms that currently have city skyline views will have their view diminished or lost, while the other half of the rooms will retain some City CBD skyline views. Overall, being located in an urban context within the city fringe, it is inevitable that any development will affect the views and outlook to the surrounding buildings to some extent, and the complete retention of views is not practical or reasonable. It is considered that a more skilful design could not reasonably have mitigated the degree of view loss impact for the Hotel. On balance, the proposal is considered to offer an acceptable level of view sharing.

Visual privacy

137. Mutual overlooking would result between the windows on the rear elevation of the heritage terraces set on Rockwall Lane, and the southern elevation of the newly proposed Bethania building. The 1.524 m setback of the new Bethania building from the southern boundary creates a relatively limited separation distance of approximately 13 m from the residential terraces, resulting in relatively close proximity between the buildings.
138. To remove opportunities for overlooking and to protect mutual privacy, fixed horizontal external privacy louvres are added to all openings on the southern elevation of the Bethania building on Rockwell Lane. Additional fixed louvres are also applied to windows facing Hotel Challis on the eastern elevation to remove the opportunity for mutual overlooking and protect privacy for the hotel guests. Additional screening in the form of tree planting is also proposed within the setback between the Bethania building and Hotel Challis, which will also result in an improved outlook for the hotel guests and students.
139. The existing sports courts fronting Challis Avenue have been in-situ for many years and co-existed with the surrounding residential properties. It is recognised that the replacement building will result in development approximately twice the height of the existing development. However, the existing open-air courts will be reduced from 2 courts to 1, with an alternative indoor court to be provided. The new building is also located deeper into the school site, than the existing sports courts. The proposed intensity of use of the roof top facilities will remain similar to that of the existing courts, as no additional students are proposed as part of the development.
140. Landscaping on the roof of the proposed building and along the Challis Avenue frontage is considered to diminish any perceived overlooking, and the distance across Challis Avenue and Victoria Street provides sufficient separation space between the multi-purpose building and the existing residential properties to maintain visual privacy.

Solar access

141. The applicant provided an Overshadowing Analysis prepared by Ethos Urban, which was updated to assess the impacts of the revised design (reproduced in Attachment E).
142. The resulting assessment confirms that the proposed Bethania building would create minor overshadowing impacts to the private open space areas for 6 and 8 Rockwall Crescent from 9:00am to 10:15am in mid-winter.



Figure 81: New shading at 10:00am to POS for 6-8 Rockwall Crescent from Bethania (in pink)

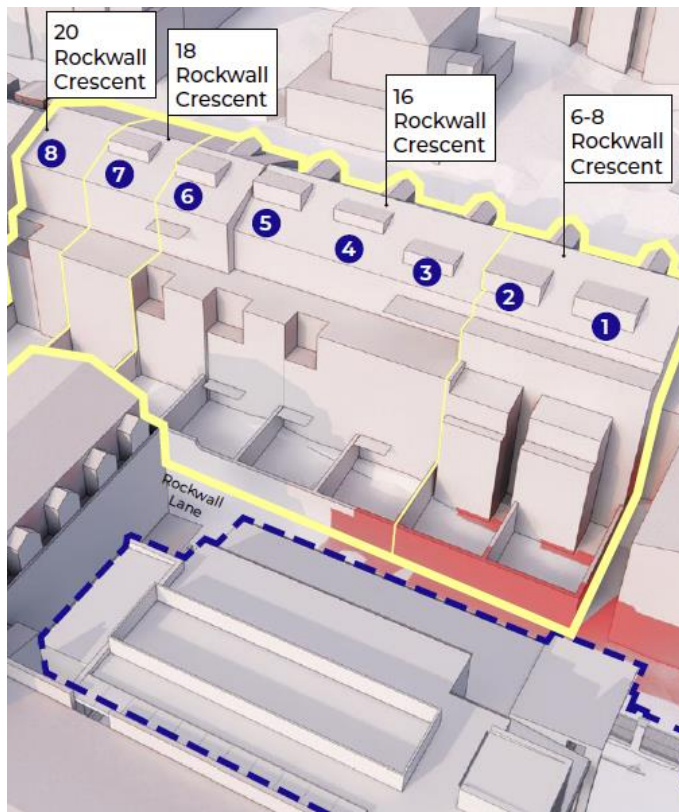


Figure 82: New shading at 10:00am to POS for 6-8 Rockwall Crescent from Bethania (in pink)

143. It is recognised that the parameters for solar access laid out within the Sydney DCP do not apply for this assessment. Notwithstanding, the Principle 5 of the Design quality principles within Schedule 8 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 contends that the amenity of adjacent development and the local neighbourhood is considered.
144. These rear spaces are currently utilised for parking for both No. 6 and No. 8 Rockwall Crescent. It is acknowledged that these areas are multipurpose and could also be returned to private open space. Notwithstanding, the extent of overshadowing proposed from the Bethania building is inconsequential and it would be unreasonable to require additional setback of the Bethania from the southern boundary.
145. The addition to the Garcia building presents as two-storey to the laneway, with a considerable setback to the third storey to address overshadowing and minimise view loss. The plant area atop this level has also been relocated to reduce impacts. On balance, the design and impacts are considered acceptable.
146. In addition to the impacts noted within the terraces on Rockwall Lane, additional overshadowing would be introduced to a large extent of the western elevation of Hotel Challis between 12:45pm and 3pm at mid-winter.

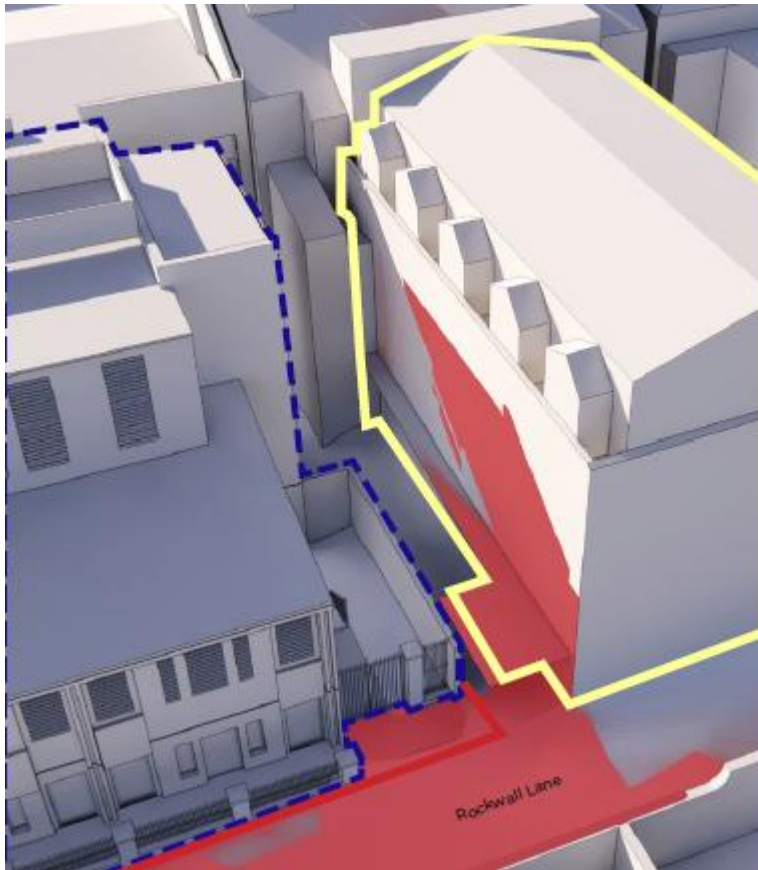


Figure 83: New shading to the southern elevation of Hotel Challis from Bethania (in pink)

147. It is noted that levels of direct sunlight to these rooms in the morning is already limited by the existing overshadowing from the Garcia building. Notwithstanding, hotel rooms are frequently underoccupied during day light hours, in comparison to residential dwellings. Some western facing rooms, particularly within the attic level, will retain the existing level of solar access.
148. Given the compliant nature of the Bethania building, the increased setback from the eastern boundary and the modulated roof form, it would be unreasonable to expect further modification to increase solar access for this side elevation. The additional overshadowing to a number of rooms in the western elevation of Hotel Challis is considered acceptable given the hotel use of the building and the highly urbanised context.

Noise management

149. The school operational hours for the proposed new areas are as follows:

Current Use	Proposed Use	Time	Comments
Court 1 Currently used for sports training and classes as well as during tennis competitions.	No Change	Monday to Friday 7:15am – 4:30pm Occasional use by boarding students throughout evening periods and on weekends.	Minor change to location/orientation of sports court (further from closest residents) Usage of the space equivalent to current operation.
Court 2 Currently used for sports training and classes as well as during tennis competitions.	Passive teaching / recreation during break periods	Monday to Friday 7:15am – 4:30pm Occasional use by boarding students throughout evening periods and on weekends.	Existing court area to be used for general external teaching/recreation use.
Outdoor Pool Currently used for sports training, classes.	No change in use, proposed works will construct indoor pool Passive teaching/recreation space to be incorporated over extent of existing pool location.	Monday to Friday 7:15am – 4:30pm Occasional use by boarding students throughout evening periods and on weekends.	Outdoor pool to be enclosed and incorporated into multipurpose space as part of works
Lawn Adjacent Garcia Building Currently used for student recreation at break times, learning space for classes and occasionally college events.	New school building with general teaching spaces	Monday to Friday 8:00am – 3pm Occasional use by boarding students throughout evening periods and on weekends.	Outdoor student recreation area to be enclosed and incorporated into general teaching, music and admin space.
Garcia Building Currently used as a learning space for teaching music.	Internal modifications.	Monday to Friday 8:00am – 3pm Occasional use by boarding students throughout evening periods and on weekends.	Garcia Building will continue to be used as music practice rooms, mixed ancillary use and admin purposes.

150. A Noise Impact Assessment Report prepared by Acoustic Logic, dated 6 August 2024, accompanies the application. The primary noise emissions from the school are operational noise and mechanical noise from the various part items to be installed as part of the proposed works.

151. A comparative analysis assessment of the following noise sources was undertaken:

- Noise from internal areas
- External activities
- Use of school facilities after hours
- Noise from mechanical plant

152. Whilst there is no specific state or local noise criteria guidelines for schools/ educational establishments, the noise emissions from the operational use of the school facilities are assessed against the requirements within the relevant SEPP. This states that the contributed LAeq, 15-minute noise level emitted from the outdoor area shall not exceed the background noise level by more than 5 dB(A) at the assessment location for residential receivers. The acoustic report adopts the EPA Noise Policy for Industry 2017 noise emission levels for the assessment of the proposed mechanical plant noise.

Operational noise sources

153. The multi-purpose sports facility building comprises the pool, a hall / multi-purpose court and a stage area. The new pool is to be enclosed, which will reduce the existing noise levels from the current outdoor pool. The two existing open-air sports courts are to be reduced to one external court, which is located slightly further away from residential receivers. The roof terrace is proposed as a passive learning space and is not expected to significantly contribute to noise emissions. Given this, it is anticipated that there would actually be a slight reduction in the existing noise levels in this location.
154. To control noise levels from the internal space, recommendations are made for acoustic treatments in the form of acoustic seals on openings along the northern elevation of the building, and operational louvres on the western elevation (Victoria Street).
155. The use of the new Bethania building is primarily, drama, music and dance, along with administrative operations, similar recommendations are made for acoustic treatment in the form of acoustic seals on glazing within the southern elevation of the building, which is secured by an appropriate noise condition.
156. The Report concludes that, with respect to typical operations, the control of noise from new internal areas is reasonable and feasible to minimise impacts on surrounding development. Condition 19 is applied to the consent to ensure the performance parameters and recommendations within the Acoustic Report are implemented, prior to the construction or occupation certificate.

After hour school activities

157. The application proposes occasional use by students and staff of the rooftop sports court and terrace area during evenings and weekends. To protect the surrounding residential amenity, a condition (Condition 105) is recommended requiring the rooftop sports court and terrace area not be used between 10.00pm to 7.00am Monday to Sunday.

Mechanical plant noise

158. A comprehensive technical assessment could not be undertaken of the mechanical plant as the extent and exact location are not yet determined. The Report confirms that satisfactory levels can be achieved through the appropriate selection of plant, location and standard acoustic treatments (e.g. duct lining, acoustic silencers, enclosures etc) within the site. Condition 19 is applied to the consent to require the rooftop mechanical plant selected to accord with the acoustic recommendations made within the Noise Impact Assessment Report, prior to the issue of the construction certificate..

Construction noise and vibration impacts

159. Construction noise and vibration impacts are also assessed within the noise impact assessment. Due to the proximity of Victorian Era buildings to the South and West of the site, it is necessary to minimise the impacts of vibration on the sensitive buildings. The Geotechnical report was updated to confirm that instead of the previous proposed 5mm British Standard, the DIN4150 3mm/s is used instead. It is confirmed that DIN4150 is now applied in the vibration assessment within the Geotechnical report. The report also proposes a variety of recommendations to ensure that this criteria is complied with.
160. The impact on nearby development will be dependent on the activity taking place, with demolition and excavation expected to have the greatest potential noise impact. To ensure appropriate mitigation measures are in place, a Construction Noise and Vibration Management Plan is to be prepared and approved by Council, prior to the commencement of construction, which will include mitigation measures and complaints handling procedures.
161. The noise report confirms that, potential noise impacts to surrounding development, can be suitably mitigated and makes recommendations to achieve the relevant noise criteria. Council's Environmental Health officer has confirmed the acoustic report is acceptable and made recommendations for relevant conditions of consent, including compliance with the approved Noise Impact Assessment Report.

Consultation

Internal referrals

162. The application was discussed with Council's:
- (a) City Transport and Access Unit;
 - (b) Cleansing and Waste Management Unit;
 - (c) Environmental Health Unit for contaminated land and noise;
 - (d) Environmental Projects;
 - (e) Heritage and Urban Design Unit;
 - (f) Landscaping;
 - (g) Public Art;
 - (h) Public Domain Unit;
 - (i) Specialist Surveyor; and
 - (j) Tree Management Unit.
163. Relevant comments have been included in this report, and recommended conditions are included in Attachment A where appropriate. Following amendments to the initial scheme, the above consultees advised that the proposal is acceptable subject to the recommended conditions.

External referrals

Ausgrid

164. Pursuant to Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
165. A response was received on 28 November 2023, raising no objections to the proposed development, subject to recommended conditions to locate and protect existing network infrastructure, including the electricity substation and underground services.

WaterNSW

166. Although the application is not nominated as 'Integrated Development', as the application proposed excavation the application was referred to WaterNSW to seek advice/comments only.
167. WaterNSW provided a response on 18 October 2023, identifying that the construction project will require dewatering. Therefore, the relevant approvals under Section 90(2) of the Water Management Act 2000 must be obtained from WaterNSW, prior to excavations works being commenced.
168. As the application is not 'Integrated Development', General Terms of Approval are not issued by WaterNSW. However, conditions are applied to the consent to ensure the relevant approvals are obtained from WaterNSW, prior to the works commencing.

Sydney Water Corporation

169. Pursuant to Section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water for comment.
170. A response was received on 12 May 2023 raising no objections to the proposed development.

Advertising and notification

171. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 04 October 2023 and 02 November 2023.
172. A second notification was undertaken for a period of 28 days between 14 June 2024 and 13 July 2024.
173. A total of 2628 properties were notified and a total of 39 submissions were received.
174. The submissions raised the following issues:
 - (a) **Issue:** The development will result in private view loss from surrounding terraces and for hotel rooms on the western elevation of Hotel Challis. View loss should have been undertaken on ground level units within the terraces on Rockwall Lane.

Response: An assessment against the view sharing principles set out in *Tenacity Consulting v Warringah* [2004] NSWLEC140 has been undertaken as detailed in the 'Discussion' section above. The submitted view loss analysis has been corroborated by Council staff following individual site inspections and is considered accurate.

The severe and devastating view loss impacts from a side elevation in the Hotel are an unavoidable side effect of the development. The Tenacity assessment questions whether a more skilful design could provide the applicant with the same development potential but reduce the view loss impact on neighbours. The building has undergone a number of design iterations to reduce view loss impacts and afford view sharing, in accordance with the Tenacity Principles.

The constraints of the site limit alternative options that could realise the development potential of the site with lesser view loss impact. It is considered the design considerations outlined in Tenacity are satisfied and the development as proposed leads to the most equitable view sharing outcome between the existing and proposed development.

Submissions raised issue with the omission of the ground floor units within the Rockwall Lane terraces as part of the View Loss Assessment. Council officers attended these apartments and were satisfied that the view available from the ground floor amounted to an 'outlook' and not long ranging views. It was therefore considered unreasonable to require further view loss analysis for ground floor apartments.

- (b) **Issue:** Requests made for 'Height poles' to be installed to define the building envelope and confirm heights, in addition to the 3D modelling currently applied. The applicant provided the following justification for the methodology applied for the VLA.

Response: The View Loss Assessment (VLA) was prepared in accordance with Land and Environment Court (LEC) photomontage policy. This comprised surveying and photography from effected locations and preparing computer generated visualisations that superimpose the proposed development over the selected photographs. Heatmapping was then used to identify properties with the greatest potential to experience view loss. The preparation of the evidence used LEC policy and there is no requirement to include 'height poles', which are in many ways considered a superseded technology.

- (c) **Issue:** The floor to ceiling heights proposed for the pool and indoor sports hall building are excessive and should be reduced.

Response: The applicant confirmed that the floor to ceiling height of the Multipurpose building is required to provide multiple sporting opportunities. The building accommodates the standardised heights for games such as basketball and volleyball. The swimming pool has similar requirements that have informed the proposed depth and height clearance. The development remains below the maximum building height of 15 metres, inclusive of the rooftop sports fencing and does not contribute to any significant view loss impacts.

- (d) **Issue:** The proposed building height is measured incorrectly, and a 4.6 variation request should be submitted. The rooftop sports fencing needs to be included in the definition of building height.

Response: It is agreed that the overall height calculation of the building is to include the proposed sports fencing. A survey plan and sections are submitted demonstrating the proposed building height, including sports fencing. Spot checks against the survey levels were undertaken and provide confirmation that the proposed building, and fencing, are compliant with the building height development standard for the site and a 4.6 variation is not required.

- (e) **Issue:** The proposal will result in overshadowing impacts to the rear elevations and private open spaces for terraces on the northern side of Rockwall Crescent and for the western elevation of Hotel Challis.

Response: Potential overshadowing from the proposal has been assessed in the 'Discussion' section of this report. The submitted comprehensive overshadowing analysis accompanying the application demonstrates that the proposal will result in some minor additional overshadowing to the northern facade and rear private open space of numbers 6 and 8 Rockwell Crescent between 9.00am and 3.00pm midwinter. It also demonstrated definite new overshadowing impacts to rooms set on the western elevation of Hotel Challis.

However, the above solar access assessment demonstrates that the proposal will not result in any unreasonable overshadowing impacts to the terraces, and that the level of overshadowing introduced to the side elevation of Hotel Challis is acceptable within the urban context.

- (f) **Issue:** The lack of building separation for the Bethania building will result in overbearing development and will create privacy impacts to the rear of the terraces on the northern side of Rockwall Crescent, and to the western elevation of Hotel Challis.

Response: Building separation and privacy impacts are assessed as acceptable within the 'Discussion' section of the report above. The amended design relocates the Bethania off of the eastern boundary and provides a moderate setback from the western elevation of Hotel Challis. The southern boundary setback for Bethania is considered to reflect the existing setbacks on the northern side of Rockwall Lane.

Appropriate screening on the southern and eastern elevations in the form of fixed louvres is applied to maintain adequate levels of privacy.

- (g) **Issue:** Ill-conceived contextual fit resulting in heritage impacts to the Potts Point Heritage Conservation Area, heritage settings and views to and from heritage buildings.

Response: The design has undergone a number of revisions to improve the sympathetic response to the surrounding heritage. The proposed massing and bulk of the proposed development, and materiality and aesthetic finish, is considered appropriate for the heritage context and achieves an acceptable level of view sharing as discussed above in this report. As such, the building is appropriate and will contribute positively to the streetscape and character of the heritage conservation area.

The sandstone wall to be replaced on Challis Avenue and Victoria Street is not likely salvageable and where possible, sandstone from the site excavation will be used in its rebuild. The structure of the existing wall is to be recorded and a faithful authentic rebuild of the wall is proposed.

Council's heritage officer supports the proposed demolition of heritage fabric and the heritage strategy proposed for the site.

- (h) **Issue:** Damage to the surrounding heritage items from excessive vibrations and extensive excavation.

Response: The excavation methodology is revised to use drilling methods more sympathetic to the fragility of the surrounding heritage buildings. A dilapidation condition is applied to the consent to require dilapidation reports to be prepared by a qualified structural engineer for adjoining buildings.

- (i) **Issue:** Works are proposed on the shared boundary of Hotel Challis which will require the demolition of part of a heritage wall, without consent being sought from the owners.

Response: The proposed works have been re-located off of the eastern boundary and the boundary wall is to remain intact.

- (j) **Issue:** Demolition and construction noise from the proposal will cause amenity impacts.

Response: The proposal is permissible, and appropriate conditions are recommended to manage the construction impacts and operational hours, prior to commencement of work.

- (k) **Issue:** Noise impacts will result from the proposed sports facility, roof top terrace and sports court and from music rooms within the Bethania building.

Response: Acoustic impacts and the predicted noise levels from the roof terrace/pool have been identified within the accompanying Noise Impact Assessment, and acoustic attenuation solutions for the buildings and a school management plan are recommended. If the recommendations of the noise report are implemented, it is considered the proposed sports facility and roof top elements are not anticipated to result in any unreasonable noise disturbance to surrounding or nearby neighbours. Conditions to limit hours of access to the terrace and general noise levels are applied to the consent.

- (l) **Issue:** Concerns raised with noise impacts from functions and entertainment upon the roof top terrace.

Response: The primary use of the space is as a versatile breakout and learning space. Nothing in the supporting information suggests the area would be used for functions and entertainment.

- (m) **Issue:** Request for condition requiring landscaping to include vines along the northern side of the tennis court netting.

Response: The proposal to grow vines upon the sports fencing is not a feature of the concept landscaping plan and not considered to be appropriate in the context of the proposed development.

- (n) **Issue:** Flood lighting from the rooftop sports court and terrace will result in glare and intrusive visual amenity impacts during the evenings.

Response: No lighting has been approved as part of this development application. A landscaping condition is applied to the consent which requires the approval from Council of any proposed lighting. A condition is also applied to the consent to require any future lighting (which would need to be approved by Council) is closed off by 10.00pm, when the use of the rooftop areas is to cease.

- (o) **Issue:** The proposed construction will cause traffic and access impacts within Rockwall Lane.

Response: The application was referred to Council's Access and Traffic Team regarding the proposed development. It is noted that student numbers will remain unchanged, as will the existing drop off and collection arrangements. No increase in parking or vehicle access is proposed, nor in waste management for the site. No objection was raised to the proposed development, subject to appropriate conditions, which are contained in Attachment A.

A Construction Traffic Management Plan is required to be submitted and approved by Council, prior to construction works being started. This document will assess whether access via Rockwall Lane is appropriate, if it proposed in the first instance.

- (p) **Issue:** The proposed development removes too much of the existing heritage landscaping from the school site and reduces the green outlook.

Response: A comprehensive concept landscaping scheme has been reviewed and is supported by Council's Landscaping and Tree Management Teams. Suitable replanting will take place with appropriate species for the heritage site.

Conditions are applied to the consent to require the submission of a Landscaping Plan to be approved by Council, prior to construction works being started. Suitable tree protection conditions are also applied to protect the existing trees on the site, and the affected surrounding street trees.

- (q) **Issue:** The cost of the proposed development is underestimated.

Response: It is Council's practice to conduct an independent review of a Quantity Surveyor's Report if the cost of works is between \$45 and \$50 million. This application does not meet that threshold. It is noted that the submitted 'Quantity Surveyor's Detailed Cost Report' was undertaken by a qualified and registered Quantity Surveyor and is considered to be accurate for planning assessment purposes.

- (r) **Issue:** The proposed development will diminish property values.

Response: The proposal is considered to be generally in accordance with the relevant planning controls and is consistent with the objectives of the R1 - General Residential zone. The submission is noted; however, the commercial value of surrounding developments is not a matter for consideration under the Environmental Planning and Assessment Act 1979.

- (s) **Issue:** The proposed development will increase teaching space on the campus and the school will increase the student/staff capacity by stealth, without being subject to subsequent impacts such as traffic movements and parking, waste management, amenity etc.

Response: The 2023 school annual report for St Vincent's College states there were 758 students enrolled at the school for 2023. The development under assessment does not seek approval to increase student or staff numbers and there will be no changes to operations such as transport, access or waste management. In addition, the existing office space within the Vincentia building is to remain as administrative space and is not proposed to be converted to additional teaching space as part of this application.

The NSW Department of Education Planning Circular - Regulating expansion of schools (PS 21-038) advises against placing conditions of consent which cap student numbers, without evidence-based assessment of relevant planning issues such as traffic and parking. The circular also recommends that potential impacts be mitigated directly through amendments through the development application stage or via conditions of consent. In this regard, potential impacts from the use of the new spaces that seek approval under this application are mitigated via conditions of consent, including compliance with acoustic recommendations and hour of operation for use of outdoor spaces.

Financial contributions

Contribution under Section 7.11 of the EP&A Act 1979

175. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations. For the purposes of an educational establishment, worker numbers are applied.
176. Gross Floor Area (GFA) plans of the existing school site have been provided and identify the school has a GFA of 12,635 sqm (existing). The proposal results in an increase in GFA of 16,288 sqm (proposed).
177. The proposed development will generate a net population increase of 38.9 workers
- (a) Additional gross floor area proposed of 3653 sqm
 - (b) Credit is applied for the existing gross floor area of 12635 sqm
178. The following monetary contribution is required towards the cost of public amenities
- | | |
|---------------------------|---------------------|
| (a) Open Space | \$60,495.51 |
| (b) Community Facilities | \$57,001.54 |
| (c) Traffic and Transport | \$9,483.62 |
| (d) Stormwater Drainage | \$0.00 |
| Total | \$126,980.67 |
179. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

180. The site is located within the residual land affordable housing contribution area.
181. Section 7.32 of the Environmental Planning and Assessment Act (1979) outlines that the consent authority may grant consent to a development application, subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies. The Act applies with respect to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing within the area and:
- (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
 - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
 - (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
 - (d) the regulations provide for this section to apply to the application.
182. The proposal is consistent with the criteria under part(s) (c) and (d).
183. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
 - (c) the condition requires a reasonable dedication or contribution, having regard to the following -
 - (i) the extent of the need in the area for affordable housing,
 - (ii) the scale of the proposed development,
 - (iii) any other dedication or contribution required to be made by the applicant under this section or section 7.11.
184. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable.
185. As the proposed development includes the erection of a new building with a gross floor area of more than 200 sqm, pursuant to Clause 7.13(1)(a) of the Sydney Local Environmental Plan 2012, a contribution is required.

186. An affordable housing levy contribution of 3 per cent of the total residential floor area, and/or 1 per cent of the total non-residential floor area, of the development is required, at a rate calculated in accordance with the City of Sydney Affordable Housing Program.
187. The City of Sydney Affordable Housing Program requires such a contribution at a rate of \$11,176.22 per sqm of total floor area.
188. Under Clause 7.13 of the SLEP 2012, an affordable housing contribution at a rate of \$11,176.22 per sqm for 1 per cent of the total non-residential floor area, 7862 sqm totalling \$878,674.59 is required.
189. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Relevant legislation

190. Environmental Planning and Assessment Act 1979

Conclusion

191. Approval is sought for alterations and additions to St. Vincent's College, including demolition/excavation works, tree removal and the construction of new buildings.
192. The site is located in an established high density residential area, and the proposal has sensitively and equitably managed the associated physical and amenity impacts to neighbouring properties, responding to the site-specific constraints and opportunities, to modernise and upgrade facilities for the existing students.
193. The proposal is considered to achieve an acceptable level of amenity, by modulation, the use of lightweight materials and utilising privacy devices and appropriate landscaping.
194. The development provides replacement buildings, that will complement the character of the heritage conservation area and the streetscape quality. The proposal is considered to display a high quality of architectural design and materials that responds to the prominence of the site and the surrounding built context, satisfying the 'design quality principles in schools' considerations of Schedule 8 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.
195. The provision of new landscaping and canopy cover will contribute positively to the urban greening of the city.
196. While the proposal does result in some view loss impacts, applying the Tenacity principles finds that generally, the view loss as a result of the proposed development is acceptable. In accordance with step four of the Tenacity assessment process, the resulting design is well considered and within the development controls of the site would result in the most equitable amenity outcome. Therefore, the view loss impacts on balance are unavoidable and considered reasonable in this context.

197. A total of 39 submissions were received. Issues raised include height, solar access, view loss, impacts on the streetscape and the character of the heritage conservation area, privacy and visual amenity impacts, traffic congestion, landscaping and construction impacts. These concerns are addressed within the report.
198. The proposal, as amended, is generally consistent with the objectives, standards and guidelines of the relevant planning controls, and subject to appropriate conditions, is recommended for approval.

ANDREW THOMAS

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