

Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday 8 September 2014*

Time: *6.00pm*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Recommendation only to the Full Council:

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic matters, such as:-
 - Town Planning Objectives; and
 - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Planning Proposals and Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

Delegated Authority:

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

Committee Membership:

7 Councillors

Quorum:

The quorum for a committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

4 September 2014

To: Her Worship the Mayor, Councillor Toni Zeltzer ex-officio
Councillors Katherine O'Regan (Chair)
Ted Bennett
Anthony Boskovitz
Luise Elsing (Deputy Chair)
James Keulemans
Greg Levenston
Matthew Robertson

Dear Councillors

Urban Planning Committee Meeting – 8 September 2014

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Thornton Room (Committee Room), 536 New South Head Road, Double Bay, on Monday 8 September 2014 at 6.00pm.**

Gary James
General Manager

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Meeting Agenda

Item	Subject	Pages
1	Leave of Absence and Apologies	
2	Late Correspondence Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 25 August 2014	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Planning Proposal for 240 New South Head Road, Edgecliff – 1064.G	2
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Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 25 August 2014**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 25 August 2014 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 25 August 2014 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: **Planning Proposal for 240 New South Head Road, Edgecliff**
Author: Brendan Metcalfe – Strategic Planner
File No: 1064.G (Planning Proposal Request - 240 New South Head Road, Edgecliff)
Reason for Report: To report on the public exhibition of the planning proposal for 240-246 New South Head Road, Edgecliff.
To obtain Council's approval to proceed with finalisation of the planning proposal.

Recommendation

That Council exercise its delegation authorised by the Department of Planning and Environment on 12 May 2014, to finalise and make the planning proposal under section 59(2) of *the Environmental Planning and Assessment Act 1979*.

1. Summary

On 10 February 2014, Council resolved to prepare and exhibit a planning proposal for Lot 4 in DP 431756 at 240-246 New South Head Road, Edgecliff (the site).

The planning proposal was to amend Woollahra Local Environmental Plan 1995 (WLEP 1995) by making the following changes to the planning controls that apply to the land:

- Increase the maximum floor space ratio (FSR) from 0.875:1 to 4:1
- Increase the maximum building height from 9.5m to 18m, and also apply a second height limit of 14m at the highest part of the site.

The land is currently zoned Residential 2(b) and the proposed changes will facilitate additional residential development on the site.

The public exhibition of the planning proposal is now complete. Nine submissions were received during the exhibition period.

The submissions did not raise any issues that warrant amendment of the planning proposal as exhibited. Our planning responses to the submissions are outlined in Part 4 of this report.

We recommend that Council proceed with the planning proposal as exhibited.

2. Background

In October 2013 a planning proposal, including a view analysis, for the site was submitted to Council by Gary Shiels and Associates Pty Ltd (GSA Planning) on behalf of the land owner. The planning proposal sought to amend WLEP 1995 by increasing the height and floor space ratio (FSR) controls to facilitate a 5-6 storey residential development on the site. The applicant requested a maximum FSR of 4.09:1 and building height of 18m.

The planning proposal was reported to the Urban Planning Committee on 16 December 2013. The recommendation was to proceed with the planning proposal, but with a reduced FSR of 4:1 and an 18m height limit with a second height limit of 14m to improve view sharing. This recommendation was adopted by Council on 10 February 2014.

3. Public exhibition

The planning proposal (see **Annexure 1**) was exhibited from 18 June 2014 to 28 July 2014, consistent with the *Environmental Planning and Assessment Act 1979* (the Act), *Environmental Planning and Assessment Regulation 2000* (the Regulation), and the conditions set out in the gateway determination (see **Annexure 2**).

The exhibition took place in Council's main offices in Double Bay, in the Customer Service area during business hours. A copy of the planning proposal and information required by the gateway determination was also placed on Council's website for the duration of the exhibition period. Details of the exhibition were notified in the Wentworth Courier editions of 18 June, 25 June, 9 July, 16 July and 23 July 2014.

We wrote to over 775 property owners about the proposal and notified nine State Government agencies: the Department of Planning and Environment, Roads and Maritime Services (RMS), Heritage Branch, NSW Department of Housing, State Transit Authority, Sydney Buses, Department of Water and Energy, Department of Lands and Sydney Water.

During the exhibition period staff took three telephone enquiries and four front counter enquires. The exhibition information page on Council's website was visited by 42 external customers.

4. Submissions

Nine submissions were received:

- Two submissions were from government bodies, namely RMS and the NSW Office of Water. Neither of these submissions objected to the planning proposal.
- Seven submissions objecting to the proposal were received from, or made on behalf of, the owners of adjoining residential flat buildings at 230-238 New South Head Road (East Building) and 248-250 New South Head Road (Templeton), including one from the body corporate of each property.

The East Building adjoins the site slightly uphill to the west. Templeton adjoins the site downhill to the north. The location of these sites in relation to the site is shown in Image 1 on the following page.

The submissions to the planning proposal relate to the following issues:

1. Traffic
2. Privacy
3. Site suitability
4. Setbacks
5. Building height and views
6. Floor space ratio and density
7. Zoning and land use
8. Indicative concept drawings
9. Contaminated land and asbestos
10. Geotechnical and hydrology
11. Process

The submissions did not raise any matters that warrant the amendment of the planning proposal.

A summary of the submissions and the staff responses is provided in the table below. A copy of all submissions is provided at **Annexure 4**.

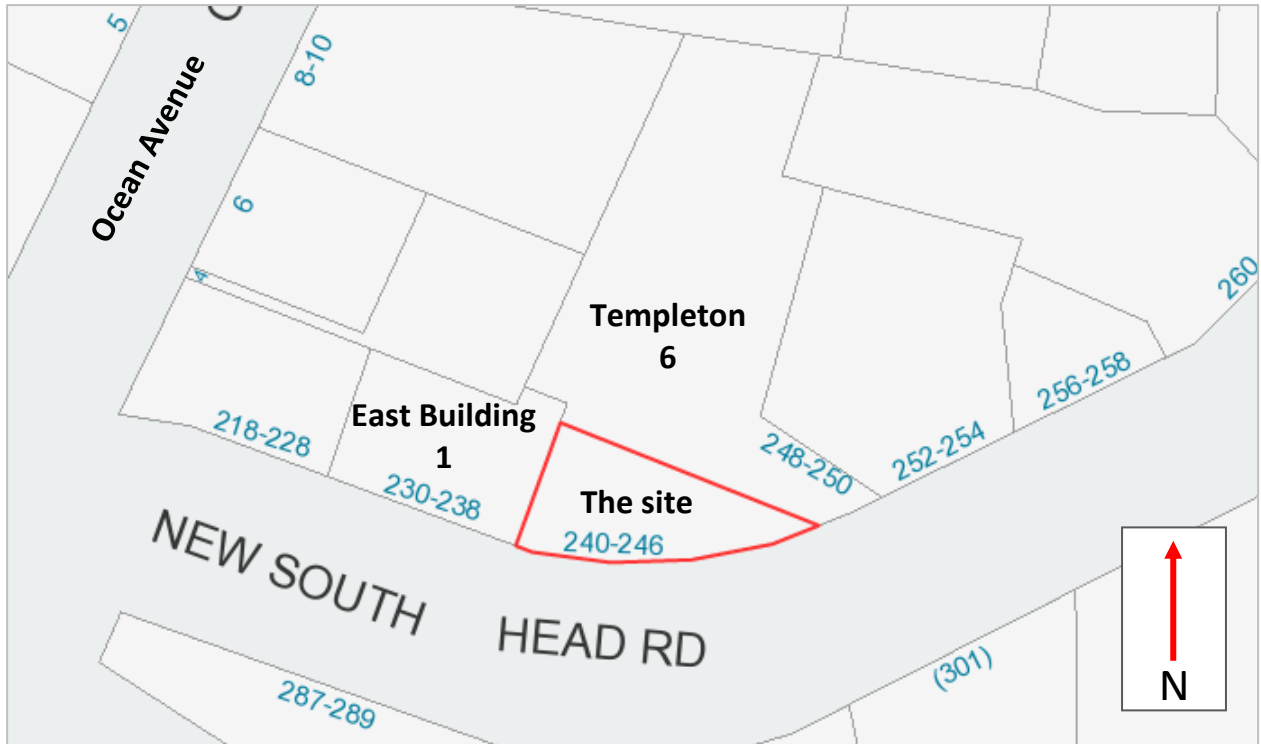


Image 1: Submissions map

1. Traffic

Eight submissions raised traffic related issues, one from RMS and seven from adjoining properties.

Traffic generation

Issues raised in submissions

- The submissions from the East Building and Templeton state that the additional traffic would be unacceptable, would create conflict with traffic, add to the congestion on New South Head Road, or increase queuing on the local road network.
- The RMS submission states that:

Based on the nature of development and site proximity to public transport, shops and services, the proposed development is unlikely to result in a significant increase in traffic generation of the site.

Staff response

The RMS and Council's Traffic Engineers identify that redevelopment of the site under the proposed controls would not generate a significant increase in traffic volume¹, and there is capacity in the existing road network to accommodate the increase.

The issues raised in submissions do not warrant change to the planning proposal.

We also note that the site is conveniently located to public transport and the Edgecliff and Double Bay business centres, which may reduce demand for vehicle trips. Notwithstanding, further consideration of traffic and parking will be undertaken in response to a specific development application (DA).

Use of the right-of-way

The site has access to Ocean Avenue via a right-of-way which runs along the northern side of 218-228 New South Head Road and the East Building, as shown by the dashed line in the image below.

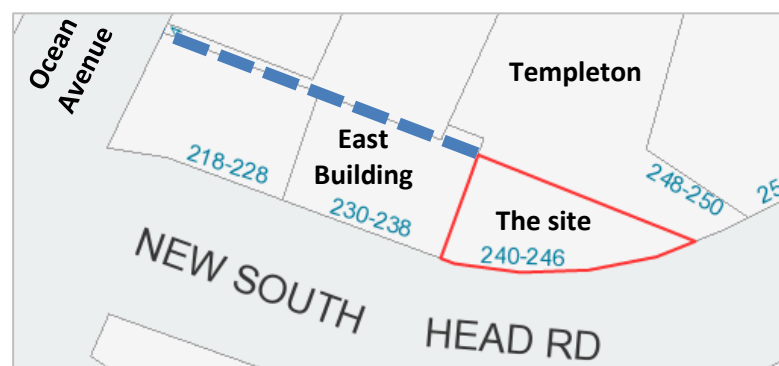


Image 2: Right-of-way access to Ocean Avenue

¹ Under the Roads and Traffic Authority Guide to Traffic Generating Developments (2002), a high density residential development containing 20 units would equate to an increase of only 4.8 peak trips.

Issues raised in submissions

- The submissions from the East Building and Templeton raised a number of objections regarding use of the right-of-way:
 - the width of the right-of-way cannot accommodate passing vehicles;
 - use of the right-of-way will result in congestion, safety concerns and amenity impacts such as noise arising from other right-of-way users;
 - that part of the right-of-way immediately to the west of the site is owned by the East Building and any excavation of this area will require owner's consent;
 - the right-of-way should be continued through the site to New South Head Road, effectively creating a laneway from Ocean Street. This approach would be mutually beneficial and allow access for all to New South Head Road;
 - three buildings currently use the access laneway which is monopolised by the vehicle repair station located at the rear of 218-228 New South Head Road, making access difficult;
 - residents from Templeton have difficulty using the laneway to Ocean Avenue. When the gate to Templeton is left open, non-residents abuse visitor parking spaces and use the driveway to exit onto New South Head Road.
 - the right-of-way from Ocean Street is constantly blocked by present tenants of the site, making use impossible.
- The RMS submission states that any future redevelopment of the site must be designed so that vehicular access is obtained via Ocean Avenue, and vehicular access to New South Head Road from the site is prevented.

Staff response

The use of the right-of-way for site access is required by RMS, and supported in principle by Council's Traffic Engineers. We note that alternate access from New South Head Road will not be approved by the RMS.

The concerns regarding vehicles parking and blocking the right-of-way are not relevant considerations for the planning proposal. Notwithstanding, further consideration of the use of the right-of-way will be undertaken in response to a specific DA.

2. Privacy

Five submissions raised concerns regarding privacy impacts on Templeton.

Issues raised in submissions

The submissions suggest that the proposed controls would result in overlooking and acoustic privacy issues, thereby reducing amenity and property value. One submission stated that the planning proposal would result in privacy impacts that contradicted the 'rules of thumb' in *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)*.

Site description

The position of the site and the Templeton building is shown over the page.



Image 3: Relationship of the site and the Templeton building

The Templeton building is oriented to the north to allow solar access and take advantage of views to the harbour. Balconies and primary living areas are located at the northern part of the building. The lift, lobby and stairs are located at the southern end, facing the subject site.

Staff response

The redevelopment of the subject site under the proposed controls can be undertaken in a manner that provides reasonable visual and acoustic privacy to Templeton because:

- No windows or balconies on the southern elevation of Templeton face the site.
- The Residential Flat Design Code suggests that habitable rooms and balconies are separated by 12m in residential flat buildings up to 4 storeys. Templeton has 3 storeys of development which are approximately 13m from the site with the other levels of the building set down below the driveway. Adequate separation distance is therefore achieved for the 3 storeys of development which adjoin the site.
- Any future DA for the site can minimise overlooking impacts through separation and building design. In particular, redevelopment of the site will be required to have regard to SEPP 65 and the Residential Flat Design Code, which address building separation and privacy.

3. Site suitability

Five submissions were received from Templeton regarding site suitability.

Issues raised in submissions

The submissions state that the irregular shape of the site precludes a development under the proposed controls. Two of those submissions stated that alternative locations, such as Edgecliff Road near Bondi Junction or the Edgecliff Commercial Centre, were more appropriate for increased residential density.

Staff response

Although the site is an irregular shape, development is possible under the proposed controls. The site is suitable for increased dwelling density as it is well located in proximity to the Edgecliff Rail and Bus Interchange, Edgecliff Commercial Centre and Double Bay Commercial Centre. Its location reduces the need for car use and provides access to employment, services and public transport within walking distance.

4. Setbacks

Three submissions were received regarding setbacks.

Issues raised in submissions

- The submissions from Templeton state that:
 - the proposal illustrated in the concept plan would not comply with Council’s setbacks for RFBs which require a ‘wedding cake’ effect.
 - The lack of buffer or visual relief between a new building on the site and Templeton reinforces the proximity of the two buildings. Any extensions to the building on the site should be setback.
- The submission from the East Building requests a 9m setback to the western edge of the site. By combining the 3m setback of the main part of the East Building with a 9m setback on the site, a 12.5m setback would be created. The purpose of the setback would be to allow building separation that is consistent with the Residential Flat Design Code which supports SEPP 65, and create a view corridor for the dwellings in the East Building.

The submission states that the 9m setback would only need to apply to levels that were higher than the podium of the East Building. Development on lower levels could be built to the western boundary of the site to a height that is consistent with the podium of the East Building.

Staff response

The concept plan included in the planning proposal does not identify any setback to the north or to the west. However, the concept plan is for illustrative purposes only. The proposed FSR and height controls will provide an opportunity to design a building and include setbacks which respond to the site and address the relationship with adjoining properties.

The specific setbacks will be considered at the DA stage, and will need to address matters in SEPP 65 and specifically the Residential Flat Design Code, which identifies dimensions for building separation based on the type of rooms (habitable rooms, balconies and non-habitable) and the number of storeys in the building (setbacks increase with the building height).

5. Building height and views

Four submissions referred to maximum building height.

Issues raised in submissions

- The submissions from Templeton state that:
 - a development under the proposed controls would be ‘hard up’ against Templeton, creating a canyon wall which would be out of keeping with the area.

- consideration should be given to lowering the height to be more consistent with the prevailing character and context of the locality.

The submission from the East Building states that the 18m height limit and 14m second height are too high, and that a 13.5m height limit should apply over the majority of the site. The submission suggests that within 9m of the western boundary of the site, the maximum height of any building should be no higher than the podium level of the East Building. The aim of limiting height in this location is to provide building separation and facilitate view sharing.

Staff response

Height limits

The 18m height limit is appropriate and consistent with the scale of buildings in the area. New South Head Road and the area surrounding the subject site are characterised by medium and high density mixed use and residential development which range between five and 20 storeys. In the immediate vicinity, the context includes:

- 218-228 New South Head Road which is a five storey mixed use building over one level of parking;
- East Building at 230-238 New South Head Road which is a six to seven storey residential flat building over two levels of parking; and
- Templeton at 248-250 New South Head Road which is a six storey residential flat building over one level of parking.

The proposed 18m height for the subject site is generally lower than the height of the surrounding multi-storey buildings. Furthermore, the 14m second height will limit development on the New South Head Road frontage to between four and five storeys.

Views

The proposed height for the subject site, including the second height will provide opportunities for view sharing from the East Building.

The main (harbour) views from the East Building are to the north. The primary living spaces are located facing north to capture these views. These views will not be affected by redevelopment of the site.

Some apartments on levels three and four of the East Building also have views over the side boundary towards the site. These views are from bedrooms and part of the living area and may be affected by the proposed height controls. However, as the views from the primary living spaces to the north will be retained, view sharing will be possible for all apartments in the East Building under the proposed controls.

Limiting the height on the site within 9m of the boundary to the East Building is not necessary to provide for view sharing. Further consideration of views, including assessment of the planning principles set down in *Tenacity Consulting v Warringah Shire Council* [2004] NSWLEC 140, will also be given at the DA stage.

6. FSR and density

Two submissions commented on FSR and the density of the area.

Issues raised in the submissions

One submission states the FSR and height controls are mismatched. It suggests that a building constructed to 4:1 will go beyond the maximum height limits, and that a 4:1 FSR would normally be associated with a height limit of 20m or more.

The other submission states that the density of high rise buildings in this area of Edgecliff has already been maximised.

Staff response

The 4:1 FSR and height controls were established using sound planning practice. To determine a suitable FSR for the site we looked at the principles of SEPP 65, which aim to improve the design quality of residential flat development in New South Wales.

The Residential Flat Design Code recommends that a well-designed building should be articulated and fill no more than 80% of the overall building envelope. We have taken this approach in determining the maximum FSR for the site. Applying a figure of 80% results in an FSR of 4:1.

The proposed 18m height limit permits a 5 to 6 storey building. A building of this height can accommodate a 4:1 FSR and whilst providing suitable articulation.

Regarding the density of the area, it is good planning policy to encourage greater density close to public transport and commercial centres.

7. Zoning and land use

Three submissions from Templeton related to zoning or land use.

Issues raised in submissions

The submissions raise the following matters:

- The use of the site should remain as commercial.
- The site should be rezoned to commercial to reflect the current use.
- Why has a commercial use been able to operate on the site despite being zoned Residential 2(b)?

Staff response

Rezoning the site to a commercial zone is not supported as:

- the subject site is currently zoned Residential 2(b) which is consistent with the zoning and use of adjoining land;
- the planning proposal would facilitate medium density residential development which is consistent with the Residential 2(b) zone; and
- it would not be good planning practice to rezone this individual site to a business zone, particularly when the adjoining land is zoned residential and occupied by RFBs.

Regarding the existing uses, whilst the current uses are not residential, they are likely to have been approved prior to the commencement of the current or previous planning schemes.

8. Indicative concept drawings

Two submissions referred to the accuracy of 'Figure 5: Indicative concept' of the planning proposal.

Issues raised in the submissions

The submissions state that:

- The landscaping shown on the northern side of the concept drawing in Figure 5 of the planning proposal is misleading.
- Landscaping is shown over the driveway of Templeton and the right-of-way to Ocean Street, which would not be possible.
- Figure 5 creates the impression that the building does not overlook Templeton.

Staff response

The indicative concept drawings were included in the planning proposal to provide a sense of the potential height and scale of a building constructed under the proposed controls.

The comments regarding the landscaping and overlooking are noted. However, the accuracy of the concept plan has not affected our considerations or ability to assess the planning proposal on its merit.

9. Contaminated land and asbestos

Two submissions referred to the possibility of the site being contaminated or the existing building containing asbestos.

Issues raised in the submissions

One submission states that the site should have a detailed site investigation for contamination and that a remedial action plan should be prepared. Both submissions discuss the potential for asbestos to be found in the existing building and if found, how it should be managed.

Staff response

These matters are not relevant to the planning proposal, but will be addressed at the DA stage as follows:

Site investigation

As the existing Residential 2(b) zone is being maintained, a detailed site investigation is not required. However, at the DA stage the applicant will undertake an initial site evaluation to identify any past or present potentially contaminating activities to assess the likelihood of contamination, and identify if further investigation is required.

Asbestos

Should a DA be approved, prior to any works being undertaken on the site (including demolition), the owner must identify all hazardous substances located on the site in accordance with Australian Standard AS2601- 'The Demolition of Structures'. This includes asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, and chemicals.

The removal of asbestos and other hazardous materials must comply with the Work Cover Regulation and relevant Codes of Practice.

10. Geotechnical and hydrology

Six submissions related to existing or potential geological and hydrology issues.

Issues raised in submissions

Concerns were raised regarding excavation or construction on the site potentially exacerbating an existing ground water issue affecting the garages of Templeton. There was also concern that excavation could lead to dilapidation of the existing structures on Templeton.

Staff response

This matter is not relevant to the planning proposal, but will be addressed at the DA stage. Any DA which includes excavation must include a geotechnical report containing a hydrogeological analysis and addressing existing ground conditions, bore logs, methods of support and design parameters.

If a DA is approved, prior to the issuing of a construction certificate the applicant would be required to provide details of:

- design for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work; and
- a geotechnical hydrogeological monitoring program for the site during construction.

If a DA is approved, a condition may be imposed requiring a dilapidation report for nominated adjoining properties located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration.

11. Process

One submission commented on the process of preparing the planning proposal.

Issues raised in the submission

The submission states that the planning proposal does not satisfy 'Section A – Need for a planning proposal' of the Department of Planning and Environment template for preparing planning proposals. It suggests that the current process should be set aside and that the changes should have been included as part of the Draft WLEP 2013 process.

Staff response

Council complied with the statutory requirements of the Act and the Regulation to prepare the planning proposal.

Council staff considered the merit of the planning proposal and are satisfied that the planning proposal meets the requirements of 'Section A – Need for a planning proposal' as it was the result of a strategic study to identify locations for increased residential development and was considered the best means of achieving the objective of the study.

The Department of Planning and Environment concurred with Council's position by issuing a gateway determination allowing the exhibition of the plan.

The public exhibition of Draft WLEP 2013 commenced in August 2013. As the applicant's documentation for the planning proposal was received in October 2013, the changes could not be included in the Draft WLEP 2013 process.

5. Making the Draft LEP under delegated authority

To streamline the plan making process, some plan making powers can be delegated to Council for routine matters.

In this case, the Minister has provided written authorisation to exercise delegation to finalise this planning proposal (see **Annexure 3**).

Should Council resolve to finalise the planning proposal, staff will request that Parliamentary Counsel (PC) prepare a draft local environmental plan amendment. Once the amendment has been prepared, PC will issue an opinion that it can be made.

6. Conclusion

The planning proposal was prepared and exhibited in the manner required by the Act, Regulation and gateway determination. The matters raised in the submissions have been considered and do not warrant the amendment of the planning proposal.

We recommend that Council resolves to finalise the planning proposal and amend WLEP 1995 by making the following changes to the planning controls that apply to the site:

- Increase the maximum floor space ratio (FSR) from 0.875:1 to 4:1
- Increase the maximum building height from 9.5m to 18m, and also apply a second height limit of 14m at the highest part of the site.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Jacquelyne Della Bosca
Team Leader Strategic Planning

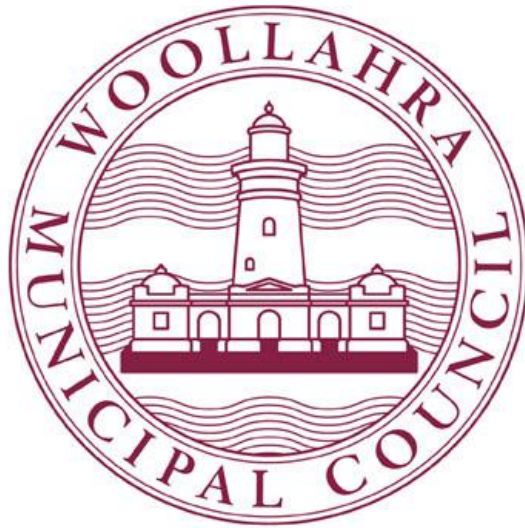
Brendan Metcalfe
Strategic Planner

Annexures

1. Exhibited planning proposal for 240 New South Head Road, Edgecliff
2. Gateway determination dated 12 May 2014
3. Written authorisation to exercise delegation
4. Submissions

Annexure 1

Exhibited planning proposal for 240 New South Head Road, Edgecliff



PLANNING PROPOSAL

240 New South Head Road, Edgecliff

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Part 1 – Introduction

This planning proposal is for the property at No. 240 New South Head Road, Edgecliff, legally described as Lot 4 in DP 431756.

This planning proposal and has been prepared in accordance with Planning and Infrastructure's '*A Guide to Preparing Planning proposals*'.

The planning proposal is to change the height and floor space ratio (FSR) controls in Woollahra Local Environmental Plan 1995 (WLEP 1995) by:

- increasing the maximum FSR from 0.875:1 to 4:1
- increasing the maximum building height from 9.5m to 18m
- applying a second height limit of 14m at the highest part of the site to protect views.

The proposed density for the subject site will facilitate additional residential development. It will also result in a built form that addresses the site's prominent location, and is in context with surrounding development.

Background

In 2010, Woollahra Council responded to NSW Government requirements to change the planning controls to increase dwelling capacity across the Woollahra Local Government Area (LGA). Council identified 24 'opportunity sites' to assist in meeting housing targets set by the NSW Government in the Sydney Metropolitan Strategy and the Draft East Subregional Strategy.

Council identified the subject land as an opportunity site to increase residential capacity by amending the FSR and maximum building height controls. A change of zone was also proposed. Council consulted the community under former s62 of the *Environmental Planning and Assessment Act 1979* (the Act) regarding the following proposed controls for the site:

- Zone: B4 Mixed Use
- FSR: 4.8:1
- Height: 24.9m.

This planning proposal does not include a change from the current 2(b) Residential zone, as it is the site owner's intention to redevelop the subject site for medium density residential dwellings. However, changes to FSR and height controls are proposed.

The FSR of 4:1 is approximately 17% less than the Council's opportunity site proposal. The height of 18m is more than 25% lower than the Council's opportunity site proposal (the equivalent of two storeys).

Part 2 – Site and context description

The site

No. 240 New South Head Road is located to the east of the Edgecliff Commercial Centre. It is approximately 150m east of the Edgecliff bus and rail interchange, and is approximately 500m west of the Double Bay Centre. Location maps for this site are shown below in Figures 1 and 2.



Figure 1: Location of 240 New South Head Road, Edgecliff showing broader context



Figure 2: Location of 240 New South Head Road, Edgecliff showing immediate context.

The triangular site slopes from west to east down towards Double Bay and is approximately 384m². The entire site is occupied by the existing building, comprised of an upper level office area and a basement commercial area.

Pedestrian access to the site is via New South Head Road. There are two vehicular access points to the site. One via New South Head Road, and a second entrance off Ocean Avenue via a right of carriageway. Three other properties share the carriageway: 218-228 New South Head Rd, 230-238 New South Head Road and 4 Ocean Avenue.

The site is not located in a heritage conservation area and the existing building is not a heritage item. However, a heritage item is located on the opposite side of the road to the south-west at 287-289 New South Head Road.

The site is located on a bend in New South Head Road and is highly prominent when driving west from Double Bay as shown in Figure 3 below. The existing building has a modest streetscape appearance and does not make a strong contribution to the eastern gateway of the Edgecliff Commercial Centre.



Figure 3: The site as viewed from New South Head Road westbound

Context

New South Head Road and the area surrounding the subject site are characterised by medium and high density mixed use and residential development. In the immediate vicinity of the subject site there is:

- a five storey mixed use building over one level of car parking at No. 218-228 New South Head Road and
- a six to seven storey residential flat building over two levels of car parking adjoining the site at Nos. 230-238 New South Head Road.

These two buildings contribute to the creation of the Eastern Gateway to the Edgecliff Commercial Centre.

Adjoining the site to the north is a six storey residential flat building over one level of parking at 250 New South Head Road. In the surrounding area, buildings range between six and 20 storeys.

Part 3 – Objective of planning proposal

The objective of this planning proposal is to facilitate additional residential dwellings in a location that is near shops, services and public transport.

Part 4 – Explanation of provisions

This planning proposal is to amend WLEP 1995 to increase the FSR and height on 240 New South Head Road, Edgecliff. The proposed planning control changes are:

- Amendment of the WLEP 1995 Density Map to a maximum permissible FSR of 4:1, in accordance with Figure 10 - Proposed Density Map; and
- Amendment of the WLEP 1995 Height Map to a maximum building height of 18m and a second height limit of 14m, in accordance with Figure 11 - Proposed Height Map.

WLEP 1995 contains seven locations where two maximum building heights apply. The first height limit is the overall maximum height for development. The second height is a maximum height of development at the highest part of the site, or the crown of the adjoining road, whichever is the higher.

The purpose of the two height controls in this planning proposal is to:

- provide an element of compatibility with the scale of adjoining development, and
- minimise impact of new development on existing public and private views.

Part 5 – Justification

The key reasons to amend WLEP 1995 are:

- The site is in proximity to commercial centres and public transport
- The proposal is compatible with the existing character and context
- The proposal will provide capacity for additional dwellings in accordance with the Metropolitan Plan for Sydney to 2036 and the Draft East Subregional Strategy
- The proposal will provide suitable amenity and improve the streetscape.

5.1 - Proximity to centres and public transport

The subject site is within 150m of the Edgecliff Commercial Centre, which includes commercial and retail tenancies together with medical centres and other facilities.

The Edgecliff Commercial Centre also includes a timed customer car park and rail/bus interchange and taxi rank. The Edgecliff Railway Station provides train services on the Eastern Suburbs and Illawarra Railway Line, which carries passengers between Central, the CBD and Bondi Junction. The interchange services eight local and regional bus routes and provides several bus services to the CBD.

The subject site is also within 650m of the Double Bay Commercial Centre. The Double Bay Commercial Centre consists of retail and commercial tenancies, restaurants, pubs, bars and other local services. Five bus routes run along New South Head Road to the CBD, including Route Nos. 323, 324, 325, 326 and L24 from Double Bay.

Given the site's proximity to services and public transport, increased density will positively contribute to the Woollahra LGA and provide the opportunity for residents to work closer to home and reduce vehicle trips.

Medium density residential development on the subject site is consistent with the well-established best planning practice of increasing development potential near transport nodes and shopping centres to promote sustainable and public transport oriented development.

5.2 – Character and context

The owner of the land has submitted a preliminary concept design as an example of what could be built on the site using a maximum building height of 18m and FSR of 4.09:1.

The concept drawings from the design are shown below in Figures 4 and 5. They indicate a built form of five storeys addressing New South Head Road, with six storeys to the rear. This form of development will change the site from a low level commercial use to medium density residential use.

The drawings demonstrate that the building would be in context with the adjoining six to seven storey building at 230-238 New South Head Road, and would be generally lower than the height of surrounding multi storey buildings.

The drawings illustrate a built form which would contribute to the eastern gateway to the Edgecliff Commercial Centre. The concept design is 6.9m (2 storeys) lower than the controls provided in Council's opportunity site proposal.

The concept design uses a slightly greater FSR than the 4:1 recommended by this planning proposal. Notwithstanding, the concept design is a reasonable representation of what a building could look like under the controls recommended by this planning proposal.



Figure 4: Indicative concept – view to the north east from New South Head Road

Source: Simmons Architects



Figure 5: Indicative concept – view to the west along New South Head Road

Source: Simmons Architects

5.3 – Provision of additional dwellings in accordance with local and State planning strategies

In December 2010, the NSW Government released 'The Metropolitan Plan for Sydney to 2036' (Metropolitan Plan). The Metropolitan Plan replaced the Sydney Metropolitan Strategy City of Cities: A Plan for Sydney's Future (2005). The Metropolitan Plan draws on the strengths and principles of the Metropolitan Strategy. It is a single integrated plan for Sydney and incorporates the Sydney Metropolitan Transport Plan (2010).

The Metropolitan Plan estimates that between 2006 and 2036 Sydney's population will grow by 1.7 million people to 6 million people. While Sydney's population is growing, the average household size is falling, creating demand for smaller and more affordable homes. As a result, Sydney will need 770,000 additional homes by 2036 - a 46% increase on the city's current 1.68 million homes. The location, size and type of new housing must reflect the population's changing needs. In addition, Sydney's growth will require 760,000 more jobs closer to home.

The Metropolitan Plan is divided into Strategic Directions, including Housing Sydney's Population, which provides a strategic approach to housing growth with an emphasis on achieving the most efficient use of existing urban areas where small, medium and large centres enjoy good access to services, jobs and public transport. Relevant objectives of the Housing Strategic Direction are:

- D1. To ensure an adequate supply of land and sites for residential development;
- D2. To produce housing that suits our expected future needs;
- D3. To improve housing affordability;
- D4. To improve the quality of new housing development and urban renewal.

The subject site is near employment generating uses, local services and public transport. Given the location of the site, a higher density for residential development is consistent with the aims of the Metropolitan Plan.

The Draft East Subregional Strategy (2007) takes the Metropolitan Strategy and applies it to the Woollahra LGA. Two key elements of the Subregional Strategy are the provision of additional dwellings and increasing opportunities for new jobs.

The Metropolitan Strategy set targets of 20,000 additional dwellings and 12,500 new jobs for the eastern region up to 2031. Targets set for the Woollahra LGA are 2,900 additional dwellings and 300 new jobs.

The Subregional Strategy has identified Edgecliff and Double Bay as important Town Centres, particularly as Bondi Junction expands as a Major Centre. Initiative C2.1 of the Subregional Strategy is to focus residential development within centres and corridors with access to public transport and local services. The Subregional Strategy further states that increasing residential densities within the walking radius of smaller local centres can make these places more vibrant and provide much needed housing choice for the ageing and changing population.

The planning control changes for the subject site will increase the dwelling capacity of the site. Based on a dwelling size of 100m², the subject site could provide a yield of three dwellings under the current WLEP 1995 controls and 15 dwellings under the proposed controls.

Accordingly, the planning proposal is consistent with the objectives of the Metropolitan Strategy, Metropolitan Plan and the initiatives of the Subregional Strategy.

5.4 – Suitable amenity and streetscape

The indicative concept proposed by Council during the 2010 community consultation included controls to match the adjoining five, six and seven storey buildings in New South Head Road, while maintaining the existing building footprint.

The proposed 18m height limit in this planning proposal is lower than the height proposed during the opportunity site consultation and will provide an appropriate contextual fit with the locality.

The existing building does not have any heritage or conservation value. It is out-dated and offers no visual interest in the streetscape. The planning proposal provides opportunities to mark the eastern gateway to the Edgecliff Commercial Centre and improve the streetscape appearance.

The subject site is located on the northern, lower side of New South Head Road. It is opposite a four to five storey commercial building at 295 New South Head Road, which adjoins a four storey over basement commercial building at Nos. 287-289 New South Head Road to the west.

Shadow modelling has shown little to no impact on sunlight for these buildings. A view assessment has been conducted by the land owner's planning consultant, GSA Planning, from some of the surrounding properties.

These issues are further discussed below.

5.4.1 View assessment

A key issue associated with this planning proposal is the potential impact on views from neighbouring buildings to the south of the site. To assist with an assessment of the potential view impacts, GSA Planning submitted a view analysis which is attached as **Annexure 1** of the supplementary material.

The analysis started with the erection of poles on the site indicating a height of 18m. Observations were then taken from surrounding buildings and photographs were taken from some surrounding buildings. The photographs were then used to superimpose a 3D building over the site. The potential view impact was assessed using methodology set out in the planning principle contained in the Land and Environment Court decision for *Tenacity v Warringah Council (2004) NSWLEC 140*.

Having considered this view analysis, Council is satisfied that there is sufficient information to place the planning proposal on public exhibition. This will enable submissions to be received from adjoining and neighbouring property owners.

The view analysis will form part of the planning proposal and will be placed on exhibition. It provides information for the community to assess the potential impacts on their properties and make a submission to Council for our further consideration.

5.4.2 Shadow assessment

Simmons Architects have undertaken an urban design analysis for overshadowing based on an 18m height limit and 4.09:1 FSR. Although the FSR is slightly more than the 4:1 FSR recommended in this planning proposal, the maximum building height is the same. The shadowing demonstrates that increased height and FSR can be reasonably accommodated on the subject site.

Shadow diagrams that formed part of the community consultation for this site in 2010 indicate the shadow cast by the existing building at 9am, noon and 3pm (Figure 6).

Shadow diagrams prepared by Simmons Architects for 9am, noon and 3pm indicate that the additional shadow, as a result of the proposed concept using a maximum building height of 18m and FSR of 4.09:1, will be cast over New South Head Road and the commercial buildings to the south only (Figure 7).

The diagrams show that north facing windows of residential developments will not be impacted on.



Figure 6: Shadow diagrams – Existing buildings



Figure 7: Shadow diagrams – 3D model under the proposed controls

5.4.2 Privacy

Any redevelopment on the site must be designed in accordance with *State Environmental Planning Policy 65 – Design Quality of Residential Flat Building Development*, ensuring that distances and treatments of windows and balconies will protect the privacy of surrounding residences.

The Woollahra Residential DCP 2003 also contains provisions to ensure adequate acoustic and visual privacy are provided to occupants of neighbouring residential properties. For example, balconies, terraces, decks, roof terraces and other like areas within a development must be suitably located and screened to prevent direct views into habitable rooms (including bedrooms) or private open space of the adjoining and adjacent dwellings.

Section A - Need for planning proposal

1. Is the planning proposal a result of any strategic study or report?

Yes. This planning proposal is a result of Woollahra Council's Opportunity Site Report, dated June 2010. Council identified the subject site as an opportunity site at the eastern gateway to the Edgecliff Commercial Centre.

The report included a proposed change in zoning to B4 Mixed Use with an FSR of 4.8:1 and a height of 24.9m for the subject site. This would have resulted in an estimated yield of 19 dwellings based on a unit size of 100m². The key justifications for the planning control changes contained in the report in summary were:

- consistency with best planning practice of increasing development potential in centres to promote more sustainable and public transport oriented development and
- that increased height and floor space ratio can be reasonably accommodated on this site. This point is discussed in detail in Section 5.2 of this planning proposal.

The recommended planning controls for this site contained in this planning proposal are an FSR of 4:1 with a maximum building height of 18m and second height of 14m at the highest part of the site fronting New South Head Road.

2. Is the planning proposal the best means of achieving the objectives, or is there a better way?

Yes. This planning proposal is the best means of achieving the objectives. A planning proposal is needed to change the maximum FSR and height on the site to facilitate residential development. The planning control changes proposed for this site are consistent with the Council's opportunity site investigation to increase capacity for residential development and will allow additional dwellings near transport and centres.

The Council at its meeting of 10 February 2014 has endorsed this approach. Accordingly, a planning proposal is the most appropriate way of achieving the intended outcome.

Section B – Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The planning proposal is consistent with the objectives of the Metropolitan Plan for Sydney to 2036 and the initiatives of the Draft East Subregional Strategy (2007). This has been discussed in detail in Part 5.3 above.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes. Woollahra 2025 is Council's 15 year strategic plan for the LGA. Woollahra's future planning is based on the principle of sustainability. That is, meeting the needs of the present, without compromising the ability of future generations to meet their own social, economic, environmental and civic leadership needs.

A key theme of Woollahra 2025 is to provide quality places and spaces to meet the different needs of people living in the area and houses within easy distance of shopping areas, business precincts and local facilities.

The planning proposal will enable additional dwellings near the services, facilities and transport offered in the Double Bay Commercial Centre and the Edgecliff Commercial Centre. The planning proposal is therefore consistent with Council's Community Strategic Plan.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable *State Environmental Planning Policies*.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The planning proposal is consistent with applicable section 117 directions (refer to **Attachment 1**).

Section C – Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. Accordingly, the proposal will not have any impact in this regard.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Potential environmental effects were discussed in Part 5 above. Other environmental effects that might arise through the use of a building on this site would be identified via a development application for the site. Good design and conditions of consent will limit these effects.

9. Has the planning proposal adequately addressed any social and economic effects?

For the reasons discussed in Part 5, the planning proposal will have positive social and economic effects. In summary, these include:

- Increased development potential near shopping centres and transport nodes to promote more sustainable and public transport oriented development;
- An increase in maximum FSR and height on the subject site will provide opportunities for additional dwellings which will assist with meeting the housing targets of the Metropolitan Strategy;
- Additional dwellings in this locality will increase the population and provide economic support to local businesses;
- Redevelopment will create job opportunities while a future building is being constructed, with additional potential for employment with on-going maintenance;
- Additional residential apartments will increase housing supply and potentially increase affordability;
- Potentially greater housing choice offered by a development that includes a mix of apartment sizes;
- An opportunity to contribute to the creation of the eastern gateway to the Edgecliff Commercial Centre.

Accordingly, for the reasons stated elsewhere in this report and summarised above, the planning proposal will have positive social and economic benefits, with a multiplier effect that will benefit the broader community. The proposal has addressed social and economic impacts and it is in the public interest.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes. The site is connected to water, sewer, electricity and telephone services. The site is also in proximity to regular and frequent public transport services which have capacity to accommodate increased demand.

There is no significant infrastructure demand that will result from the planning proposal. The existing services that are available to the subject site are suitable for the proposal and appropriate for the requirements of a medium density residential use.

Notwithstanding, we will consult with public utility and service providers during the public exhibition.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

This section will be completed following consultation with public authorities identified in the gateway determination.

Part 6 – Mapping

The existing FSR controls are shown in Figure 8 and existing height controls in Figure 9. The proposed FSR controls are shown in Figure 10 and proposed height controls in Figure 11.

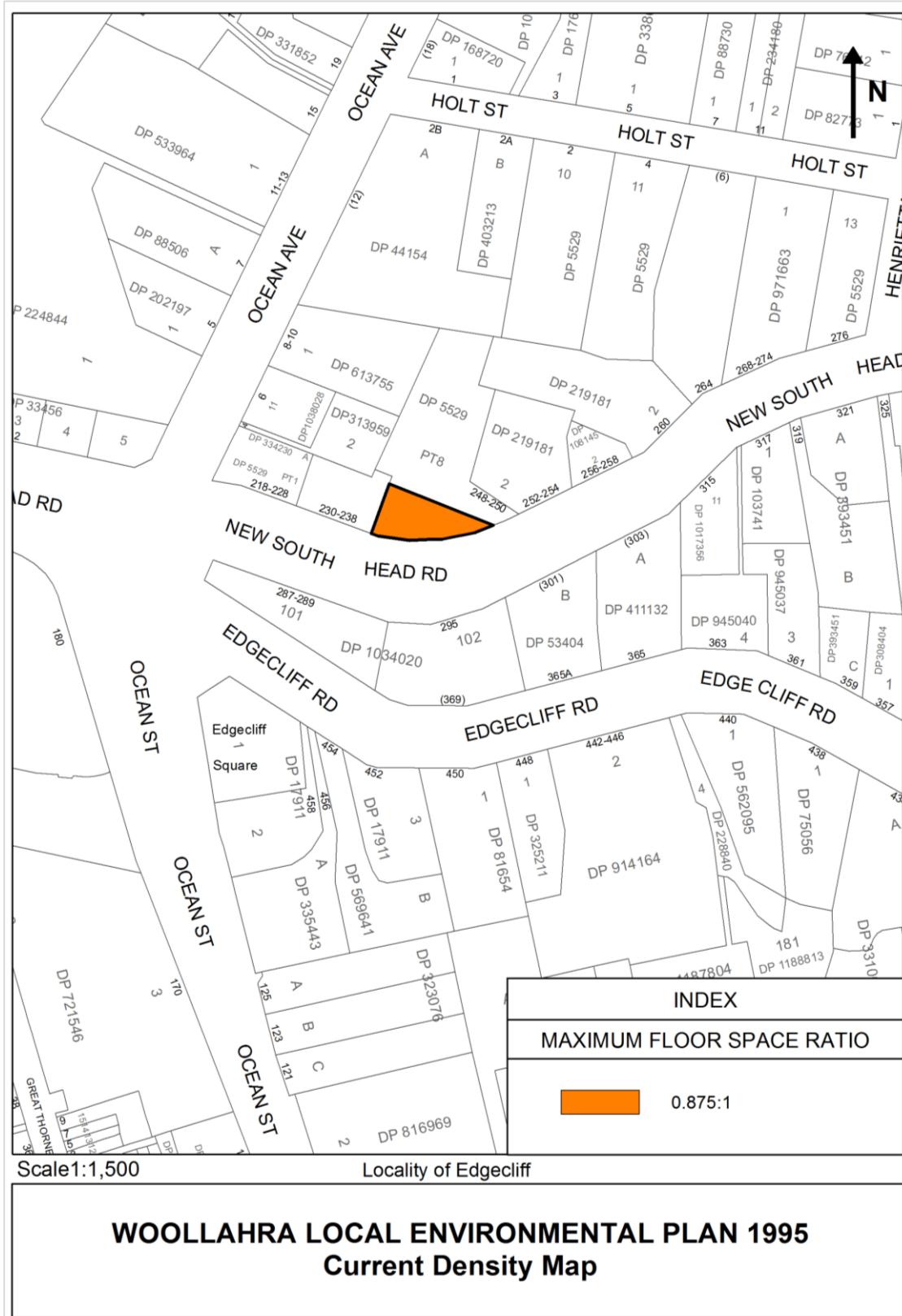


Figure 8: Current FSR Map

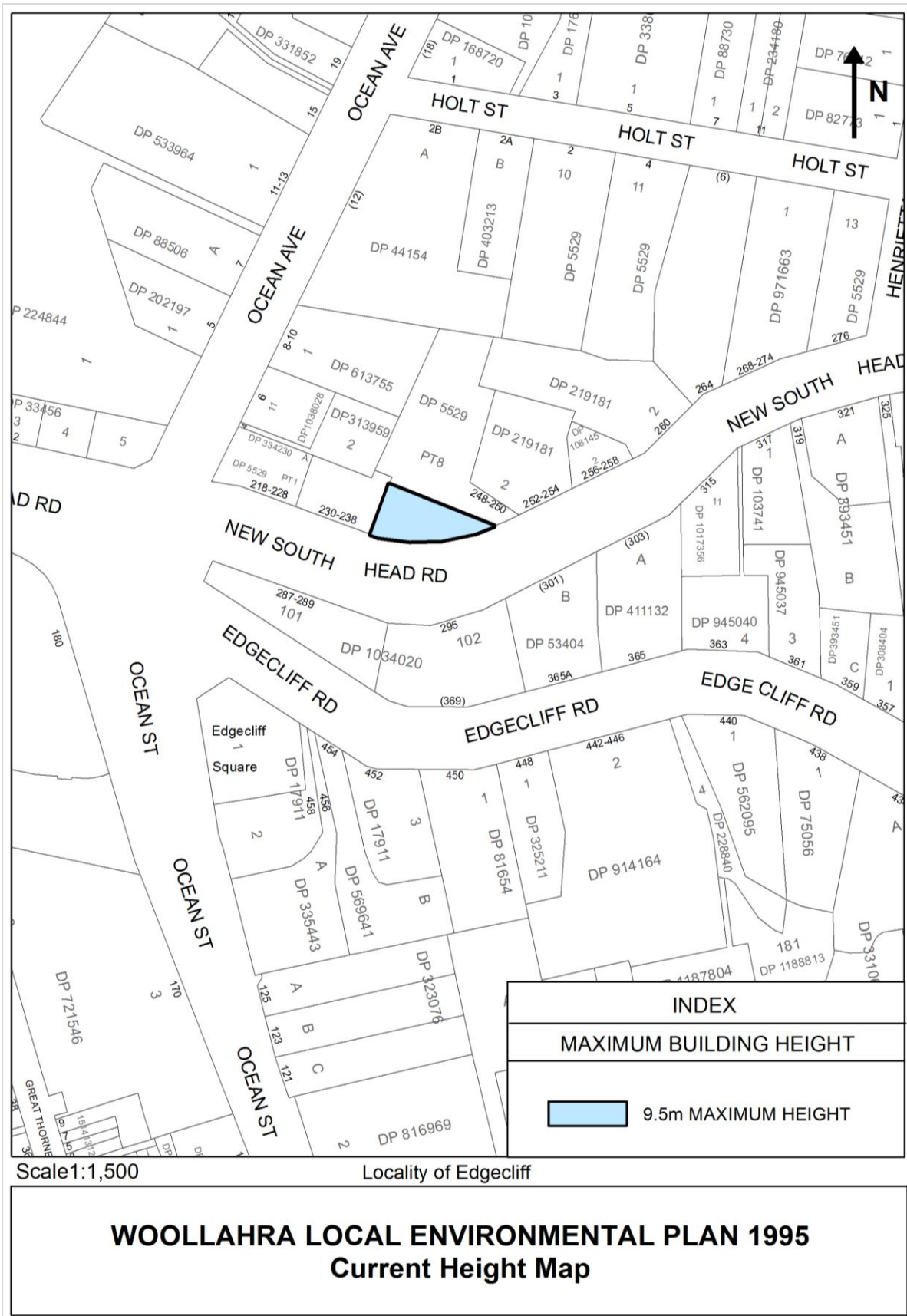


Figure 9: Current Height Map

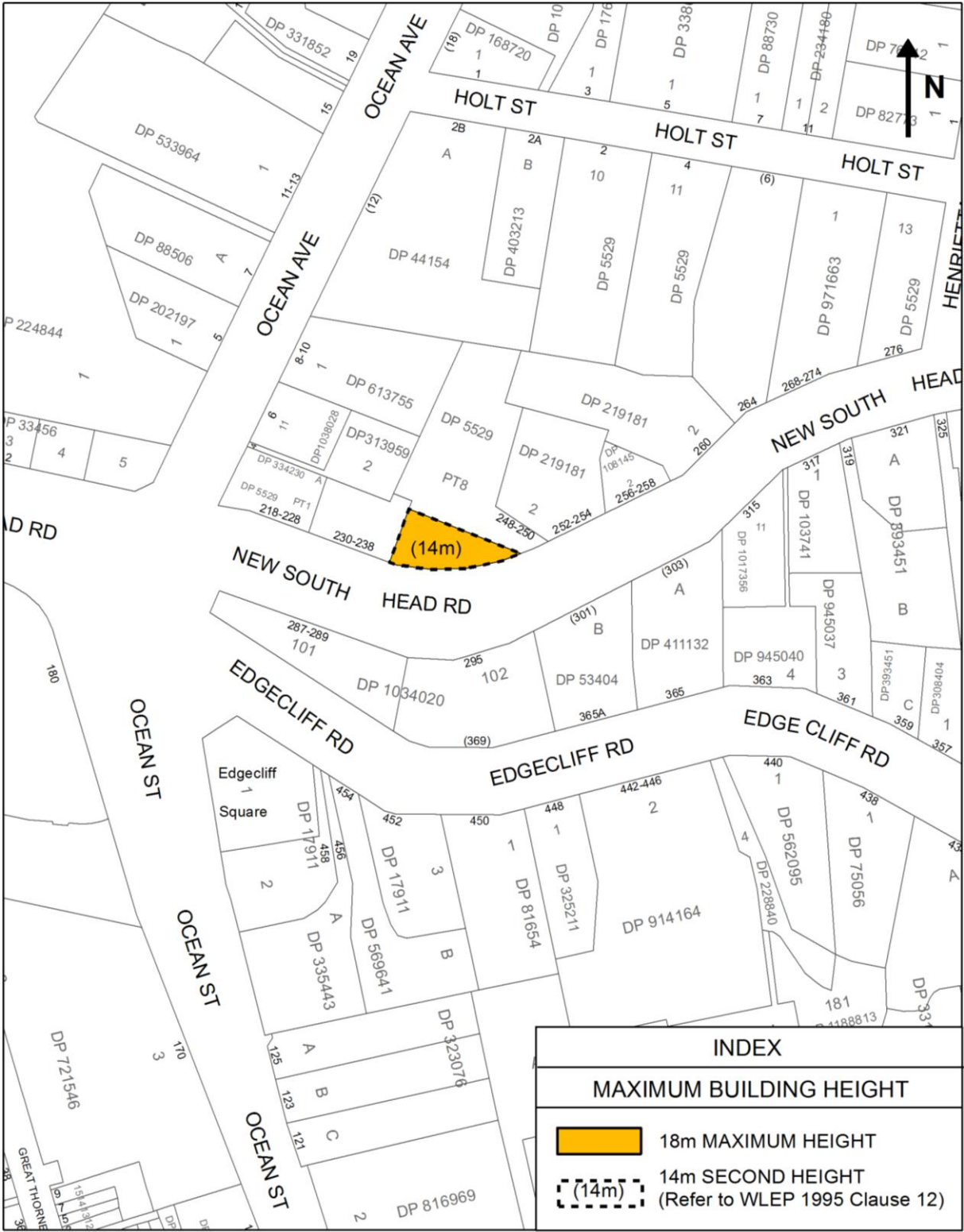


Scale 1:1,500

Locality of Edgecliff

Proposed Density Map

Figure 10: Proposed Density Map



Scale 1:1,500

Locality of Edgecliff

Proposed Height Map

Figure 11: Proposed Height Map

Part 7 – Community consultation

The public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2000*.

We recommend that the planning proposal is exhibited for 28 days.

Public notification of the exhibition will comprise:

- a weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period,
- a notice on Council's website,
- a letter to land owners in the vicinity of the site, and
- a letter to persons that made a submission (or signed the petition) to the exhibition of the opportunity site consultation in 2010.

During the exhibition period, the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- the planning proposal, in the form approved by the gateway determination, and
- the gateway determination, and
- information relied upon by the planning proposal (such as the view analysis and relevant Council reports).

Part 8 – Project timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan-making step	Estimated completion
Urban Planning Committee recommends proceeding	December 2013
Council resolution to proceed	February 2014
Gateway determination	April 2014
Completion of technical assessment	None anticipated
Government agency consultation	April 2014
Public exhibition period	May 2014 (28 days)
Submissions assessment	June 2014
Council assessment of planning proposal post exhibition	July/August 2014
Submission of planning proposal to the DPI finalising the LEP	N/A – proposal subject to delegation
Council decision to make the LEP amendment (if delegated)	September 2014
Forwarding of LEP amendment to DPI for notification	September 2014
Notification of the approved LEP	October 2014

Attachment 1
Compliance with section 117 directions

Planning proposal – 240 New South Head Road, Edgecliff
Compliance with section 117 directions

Direction	Applicable/comment
1	Employment and resources
1.1	<p>Business and industrial zones</p> <p>The planning proposal does not affect land within a business or industrial zone. However, the site is currently occupied by a vehicle sales or hire premises and office suites. These uses provided the equivalent of seven full-time jobs across approximately 700m² of floor space.</p> <p>This is a relatively small number of jobs and amount of floor space and can be easily accommodated in existing vacancies in the nearby Double Bay Commercial Centre and Edgecliff Commercial Corridor.</p> <p>The Eastern Suburbs Economic Profile (2013) identified that the Double Bay Centre has a very high commercial vacancy rate, with approximately 11,000m² or 13% of existing floor space unoccupied.</p> <p>In the Edgecliff Commercial Corridor, over 3,100m² of vacant office space was identified following a search on realcommercial.com.au on 29 May 2014.</p> <p>Both these centres also have capacity to increase the commercial floor space to accommodate future demand through development.</p> <p>The proposed changes to the planning controls for 240 New South Head Road are therefore considered acceptable.</p>
1.2-1.5	Strategies 1.2-1.18 Not applicable. These directions are not relevant to the Sydney metropolitan area.
2	Environment and heritage
2.1	Environment protection zones Not applicable. The planning proposal does not apply to land within an environmental protection zone or land identified for environmental protection.
2.2	Coastal protection Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3	Heritage conservation Not applicable. The planning proposal does not apply to an item of environmental heritage, nor does it seek to amend any existing heritage provisions.
2.4	Recreation vehicle areas Not applicable. The planning proposal does not apply to an area of significant conservation, nor will it allow land to be developed for a recreation vehicle area.

**Planning proposal – 240 New South Head Road, Edgecliff
Compliance with section 117 directions**

Direction	Applicable/comment
3	Housing, infrastructure and urban development
3.1	Residential zones Consistent. The proposal will facilitate residential development in proximity to public transport, shops and services.
3.2	Caravan parks and manufactured home estates Consistent. The planning proposal does not relate to caravan parks or manufactured home estates.
3.3	Home occupations Not applicable. The planning proposal does not affect home occupations in dwelling houses.
3.4	Integrating land use and transport Consistent. The planning proposal is consistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001) as it: <ul style="list-style-type: none"> • facilitates residential development within walking distance to public transport and shops and services, thereby reducing the need for vehicle trips • supports the nearby commercial centres of Edgecliff and Double Bay.
3.5	Development near licensed aerodromes Not applicable. The planning proposal does not apply to land near a licensed aerodrome.
3.6	Shooting ranges Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
4	Hazard and risk
4.1	Acid sulfate soils Consistent. The planning proposal applies to land identified as Class 5 on Council's Acid Sulfate Soils Planning Map. This is the lowest risk category. Existing acid sulfate soils provisions will not be altered by the planning proposal and will apply to any future development which might intensify the use of the land.
4.2	Mine subsidence and unstable land Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
4.3	Flood prone land Not applicable. The planning proposal does not apply to land within a flood prone area.
4.4	Planning for bushfire protection Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.
5	Regional planning
5.1 - 5.9	Strategies 5.1-5.9 Not applicable. These strategies do not apply to the Woollahra LGA.

**Planning proposal – 240 New South Head Road, Edgecliff
Compliance with section 117 directions**

Direction		Applicable/comment
6	Local plan making	
6.1	Approval and referral requirements	Consistent. The proposal does not include provisions that require development applications to be referred externally and is not related to designated development.
6.2	Reserving land for public purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site specific provisions	Consistent. The planning proposal does not propose a rezoning or include additional land uses for the land.
7	Metropolitan Planning	
7.1	Implementation of the Metropolitan Plan for Sydney 2036	Consistent. The planning proposal will facilitate additional residential development in proximity to public transport, shops, services and employment.

Supplementary material

Annexure 1 - View Analysis submitted by GSA Planning

Annexure 2 - Urban Planning Committee report (16 December 2013)

Annexure 3 - Council resolution (10 February 2014)



ADDENDUM TO PLANNING PROPOSAL

VIEW ANALYSIS

**No. 240 New South Head Road
Edgecliff**

Prepared for:
Mr Peter Thane
PO Box 76
Edgecliff NSW 2027

Prepared by:
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Urban Design, Environmental & Traffic Planners
(A.B.N 18 003 667 963)

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1.0 INTRODUCTION

This View Analysis has been prepared for Mr Peter Thane by Gary Shiels & Associates Pty Ltd – (hereafter referred to as GSA Planning). GSA Planning has expertise in Urban Design, Environmental & Traffic Planning.

The View Analysis was requested by Council Officers in a letter dated 11 June 2013 to assess the potential view impacts of the proposed built form at the Planning Proposal stage rather than the development application stage. Council nominated eight buildings to be assessed including Nos. 365, 442-446, 448, 450, 452, 454, 456 and 458 Edgecliff Road, Edgecliff.

This View Analysis is to accompany a Planning Proposal to amend the height and FSR development standards for the Thane Building at No. 240 New South Head Road, Edgecliff.

In the preparation of this assessment the following tasks were undertaken:

1. The establishment of height poles by a registered surveyor to indicate the maximum height of 18m being sought in the Planning Proposal;
2. Certification of the height poles by a registered surveyor;
3. Observations from as many of the buildings identified by Council as possible;
4. Photographs from some of these locations taken over the subject site;
5. 3D massing superimposed onto selected photographs and certified; and,
6. Certification of the 3D massing models by Tony Law of 3D Architectural Imaging; and,
7. Preparation of a view analysis in accordance with the view sharing Planning Principles contained in *Tenacity v Warringah Council (2004) NSWLEC 140*.

Whilst we endeavoured to inspect and take photos from as many of the identified buildings as possible, it was only feasible to inspect Nos. 452 and 458 Edgecliff Road.

This document is divided into four sections. Section 2 describes the process for the view analysis, Section 3 undertakes the view analysis and Section 4 concludes the report.

2.0 PROCESS FOR THE VIEW ANALYSIS

The process for the view analysis has involved erecting height poles, certifying the height of the poles, taking photographs from dwellings within the buildings as noted by Council, superimposing a building mass onto the photos and assessing them against the four view sharing Planning Principles of *Tenacity v Warringah Council (2004) NSWLEC 140*.

2.1 Properties identified by Council

Council nominated eight buildings on Edgecliff Road and the potential view impacts from these buildings has been assessed in Section 3.0 (see Figure 1):

- No. 365 Edgecliff Road;
- Nos. 442 - 446 Edgecliff Road;
- No. 448 Edgecliff Road;
- No. 450 Edgecliff Road;
- No. 452 Edgecliff Road;
- No. 454 Edgecliff Road;
- No. 456 Edgecliff Road; and,
- No. 458 Edgecliff Road.



Figure 1: Potential View Locations

2.2 Height Certification

The maximum height in the Planning Proposal is RL48.80 and this was surveyed and marked with a height poles by registered surveyor, Peter Bolan and Associates Pty Ltd on 20 August 2013 (see Annexure 1).

2.3 Photographs

On the day the height poles were erected, being 20 August 2013, photographs were taken by GSA Planning from the following buildings nominated by Council:

- Units 10, No. 452 Edgecliff Road; and,
- Units 4, 6, 10 and 20, No. 458 Edgecliff Road.

Photographs from other properties on Edgecliff Road have been reviewed on www.domain.com.au.

Six photographs have been used to assess the view impacts of the proposed built form. Photograph 1 relates to Unit 10, No. 452 Edgecliff Road. Photographs 2, 3 and 4 relate to Units 6, 10 and 20, No. 458 Edgecliff Road, respectively. Photographs 5 and 6 relate to Unit 4, No. 458 Edgecliff Road. The photograph and the corresponding direction of the view are identified in Figure 2 on the following page (see Figure 2). The Pine tree in Double Bay Park has been used as the location reference. The photographs contain an inset indicating the location of where the photograph was taken from. Concept envelopes have been prepared by 3D Architectural Imaging and superimposed onto the photographs where necessary to assess the view impact. The 3D models have been prepared on the basis of the survey levels certified by Peter Bolan & Associated surveyors (see Annexure 2). The photographs and view assessment are contained in Section 3.0.

2.4 View Analysis

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the four view sharing principles of *Tenacity v Warringah Council* (2004) NSWLEC 140. We have employed these principles as a generally accepted basis for determining the impact of view loss, for this situation. The four steps in assessing view affectation are as follows:

1. The assessment of the views affected

The first step is to assess the view affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views. That is, a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

2. Consideration from what part of the property views are obtained

The second step is to consider what part of the property the views are obtained, noting that the front and rear boundaries are given priority while standing views may be easier to preserve than sitting views. Senior Commissioner Roseth states that “the expectation to retain side views and sitting views is often unrealistic.”

3. The extent of impact

The third step is to assess the extent of the impact from the whole of the property. The impact on views from living areas is more significant than from bedrooms or service areas. View loss is assessed qualitatively as negligible, minor, moderate, severe or devastating.

4. The reasonableness of the proposal that is causing the impact

The fourth step in the process refers to complying and non-complying applications. A development that complies with all planning controls would be considered more reasonable than one that breaches them. This step is less relevant and would apply more to a development application.

The analysis has considered the location of each of the nominated buildings, assessed the views affected, considered from what part of the property views are obtained and assessed the extent of impact. The view assessment in Section 3.0 is on the basis of Step 3.

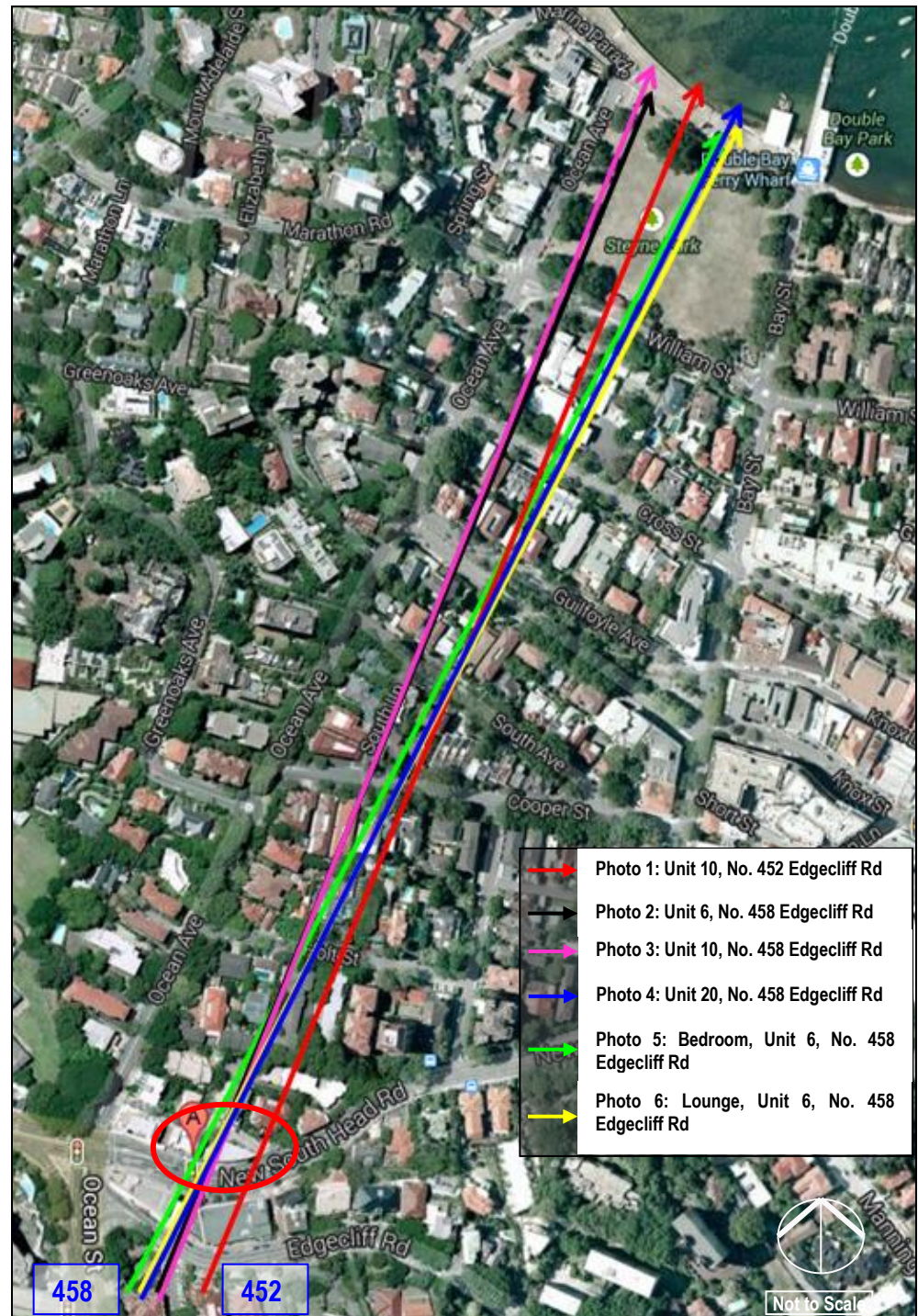


Figure 2: View Photographs and Directions

3.0 VIEW IMPACT ANALYSIS

The following section provides a visual impact assessment of the Planning Proposal.

The buildings identified by Council are residential flat buildings and are located to south and elevated well above the subject site (see Figure 1 on page 3).

The north facing windows of these buildings have northerly and north easterly views towards Double Bay. Based on the certified height on the subject site, and the elevated nature of the buildings to the south, view loss is mostly negligible, with the exception of one inspected unit, which potentially has moderate impact.

3.1 No. 365A Edgecliff Road

No. 365A Edgecliff Road is south east of the subject site. Views to and from this site are constrained by the topography, the existing vegetation and the built elements in the immediate area. Views to the north to the water are likely to be maintained. In our opinion, on the basis of Step 3, the view loss can be described as negligible impact on this property.

3.2 Nos. 442-446 Edgecliff Road

No. 442-446 Edgecliff Road is over 100m south east of the subject site. Views to and from this site are constrained by the topography, the existing vegetation and the built elements on Edgecliff Road and the southern side of New South Head Road. In our opinion, the view loss can be described as negligible.

3.3 No. 448 Edgecliff Road

No. 448 Edgecliff Road is two storeys above garage level and over 80m south of the subject site. Views to and from this site are constrained by the commercial building at Nos. 297-299 New South Head Road. In our opinion, there will be no view loss.

3.4 No. 450 Edgecliff Road

No. 450 Edgecliff Road is 80m south of the subject site. The lower levels of No. 450 Edgecliff Road would have limited views over the commercial building at Nos. 297-299 New South Head Road. Views of the water from the upper levels will not be impacted. In our opinion, the view loss can be described as negligible.

3.5 No. 452 Edgecliff Road (Photograph 1)

No. 452 Edgecliff Road, known as Cumberland, is a five storey building above garage and is 80m south of the subject site. Views from the lower levels are constrained by the commercial development at Nos. 287-295 and Nos. 297-299 New South Head Road. Photographs were taken from Unit 10 on Level 3. Views of the water from the upper levels will not be impacted (see **Photograph 1**). In our opinion, the view loss can be described as negligible.



Photograph 1: View from Unit 10, No. 452 Edgecliff Road

3.6 No. 454 Edgecliff Road

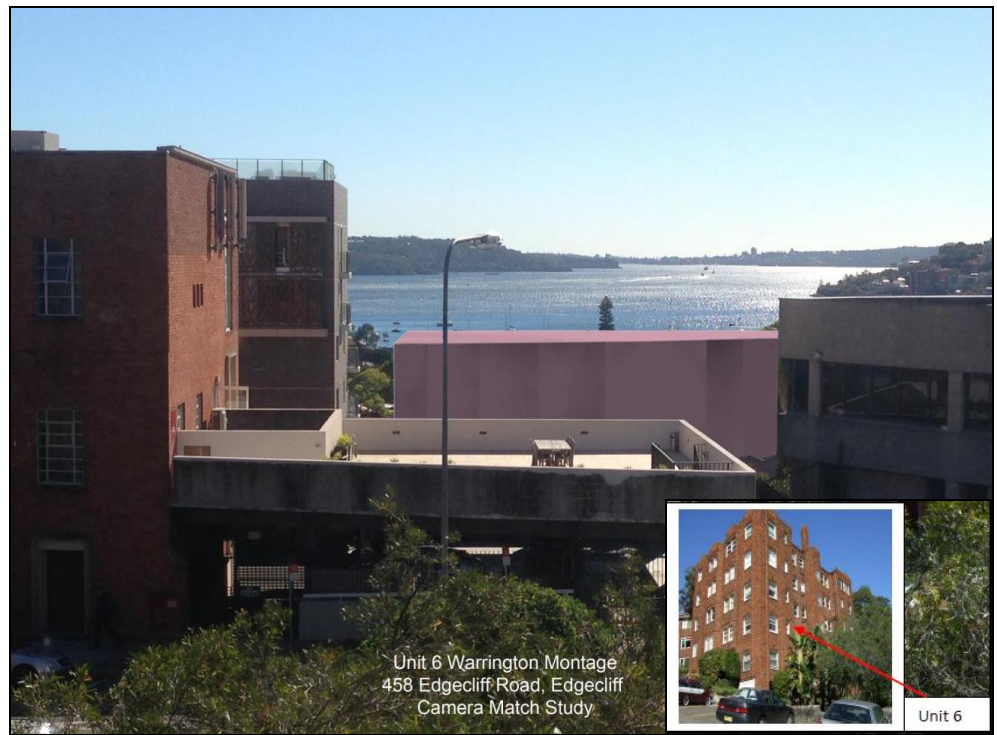
No. 454 Edgecliff Road is 115m south west of the subject site, behind No. 452 Edgecliff Road. Views from this building are constrained by the existing built form in the immediate and surrounding locality. In our opinion, there will be no view impacts.

3.7 No. 456 Edgecliff Road

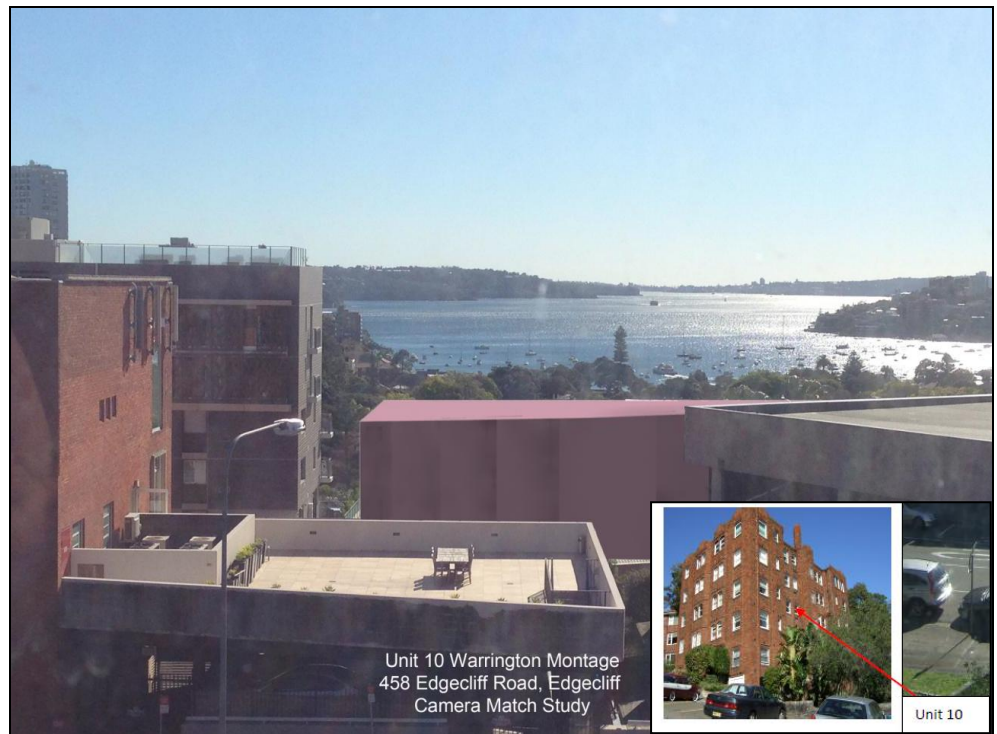
No. 456 Edgecliff Road is 115m south west of the subject site, behind No. 458 Edgecliff Road. Views from this building are constrained by the existing built form in the immediate and surrounding locality. In our opinion, there will be no view impacts.

3.8 No. 458 Edgecliff Road (Photographs 2-6)

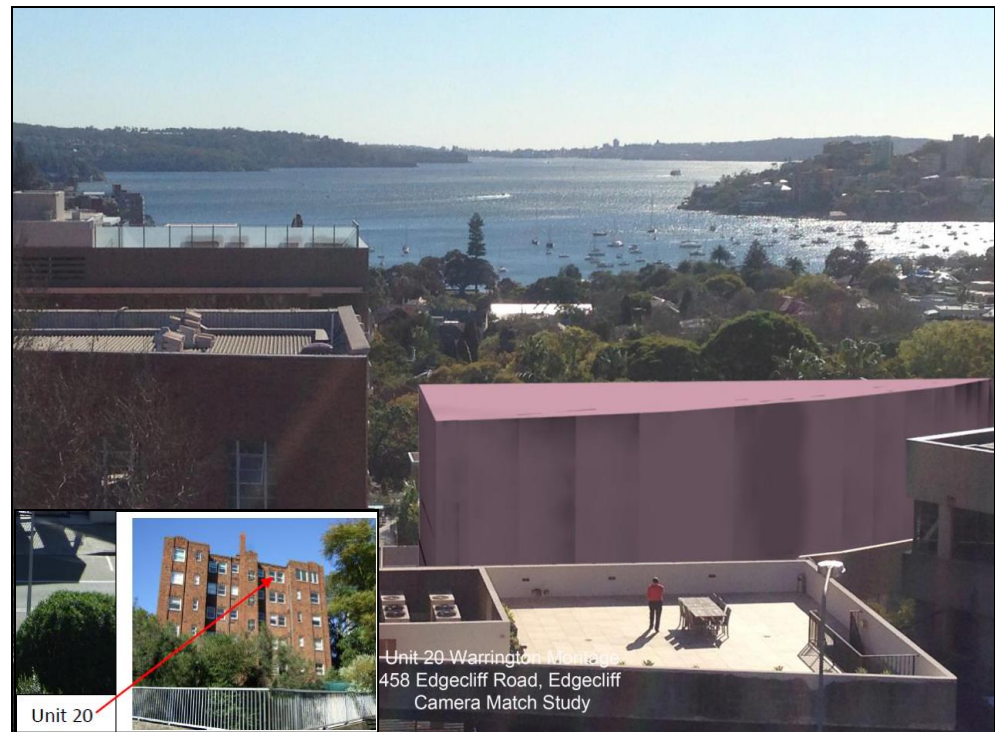
No. 458 Edgecliff Road, known as Warrington, is 90m south west of the subject site. Photographs were taken from Units 4, 6, 10 and 20. Our assessment concludes that there is likely to be negligible to minor impact on water views from Unit 6 (see **Photograph 2**). The majority of the water view from Unit 6 will be maintained. There will be no impact on water views from Units 10 and 20 of the Warrington Building (see **Photographs 3 and 4**).



Photograph 2: View from Unit 6, No. 458 Edgecliff Road



Photograph 3: View from Unit 10, No. 458 Edgecliff Road



Photograph 4: View from Unit 20, No. 458 Edgecliff Road

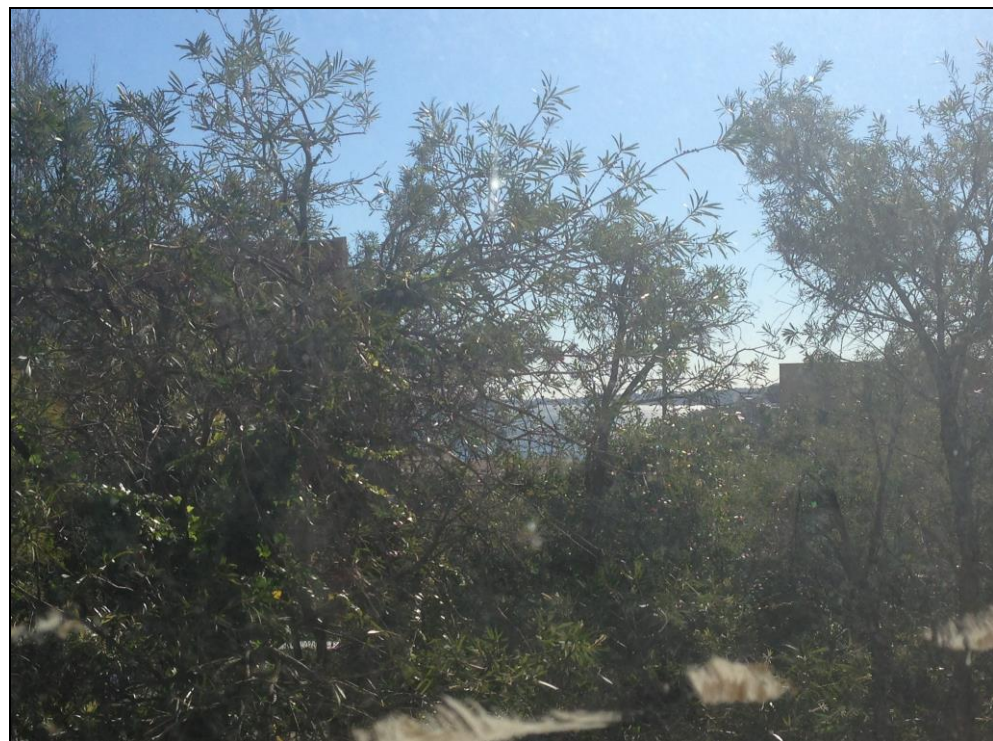
Unit 4 is the western unit on the ground floor with filtered north facing distant water land interface views to Double Bay. This view is heavily constrained by the existing topography, the existing vegetation and the built elements in the immediate area. Unit 4 does not have any iconic views. The impact on views from the bedroom would be described as moderate (see **Photograph 5**).

Commissioner Roseth in his view sharing principles concluded that the impact on views from living areas is more significant than from bedrooms or service areas. The proposed built form would not adversely impact on views from the living room given the existing vegetation and built form (see **Photograph 6**).

We note that while the foreground water views will be impacted on, distant views to Manly Head from Unit 4 will be maintained (see **Photograph 5** and Figure 3 on page 10). The retained view is land/water interface, which is valued more highly than a partial view in Commissioner Roseth's view sharing principles.



Photograph 5: View from Bedroom of Unit 4, No. 458 Edgecliff Road



Photograph 6: View from Living Room of Unit 4, No. 458 Edgecliff Road

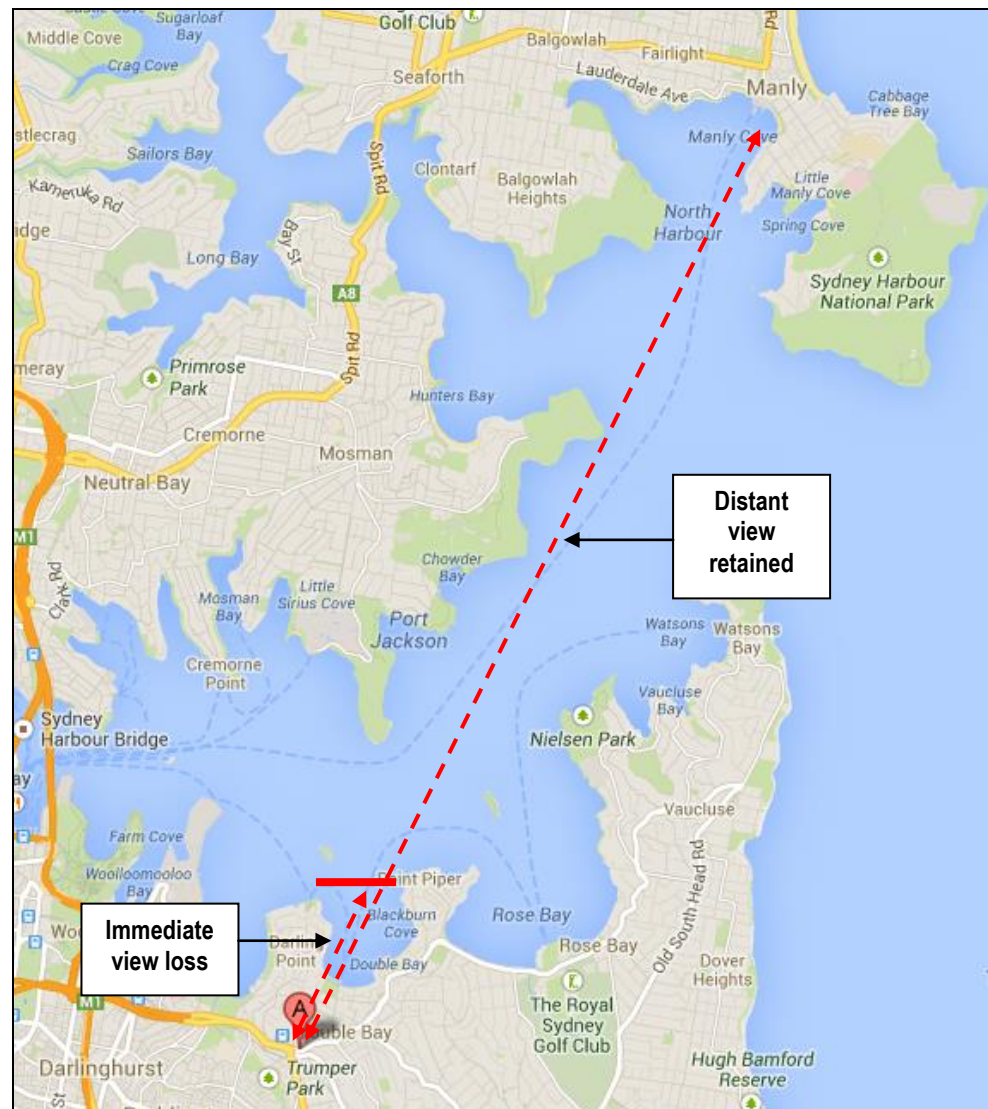


Figure 3: Potential View Impact From Unit 4, No. 458 Edgecliff Road

Accordingly, in our opinion, views of the water from Unit 6 of No. 458 Edgecliff Road will have a negligible to minor impact as a result of the proposed built form. The vast majority of water views will be maintained. Water views from Unit 10 and 20 will not be impacted on.

On our assessment, the view loss from the bedroom of Unit 4 is moderate. While some view will be impacted on, approximately 50% of the water view will be retained. As stated by Commissioner Roseth in *Tenacity Consulting v Waringah* [2004] NSWLEC 140, the impact on views from living areas is more significant than from bedrooms or service areas. The view loss from the living room is negligible given the existing vegetation on site. We are instructed that the owner of Unit 4 of No. 458 Edgecliff Road has provided in principle support to the view loss indicated in Photograph 5.

On balance, the view impact on No. 458 Edgecliff Road can be described as minor to moderate on the basis that three of the four units inspected will retain their views. The view loss from Unit 4 is from a bedroom, which is more difficult to retain under *Tenacity*.

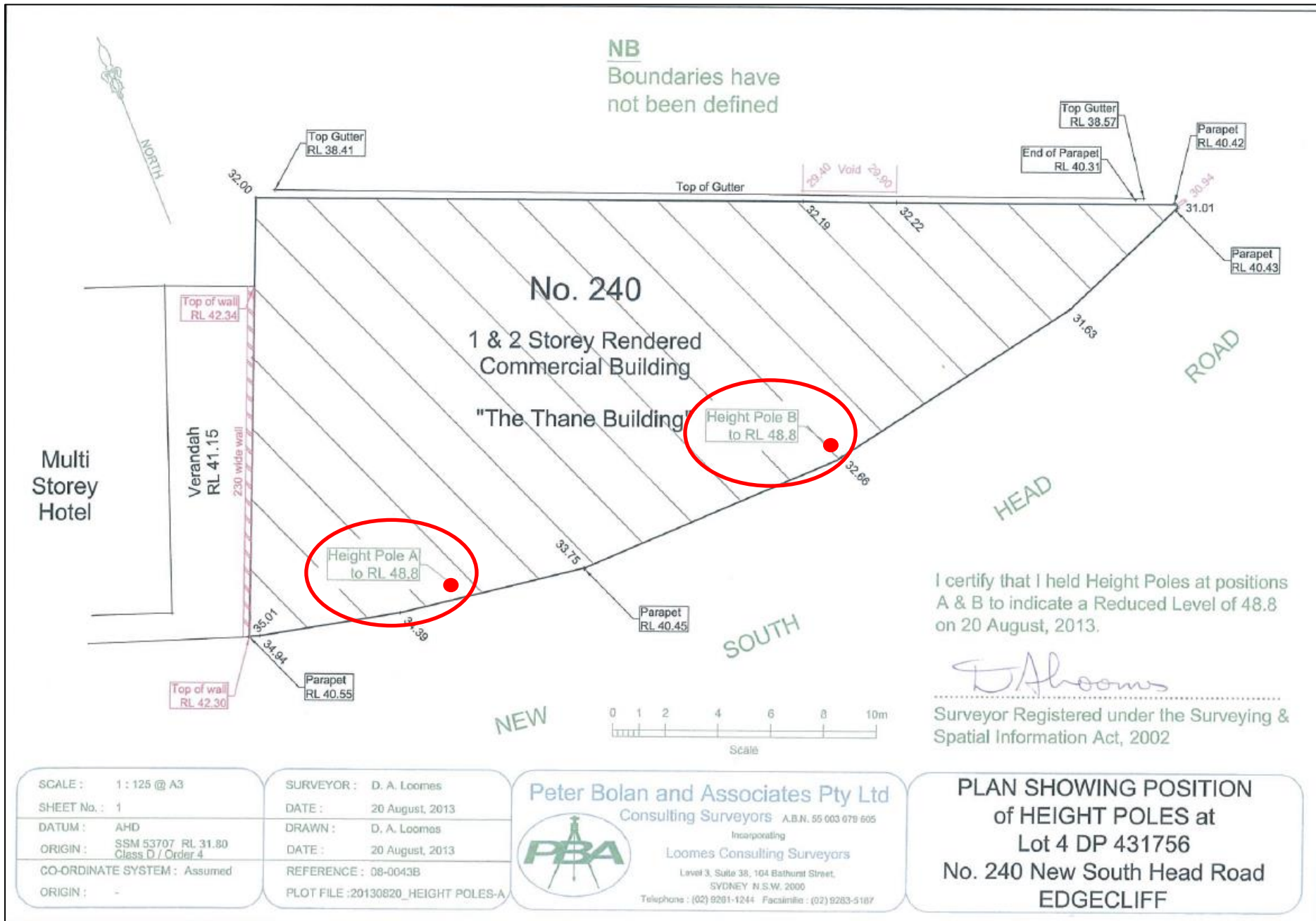
4.0 CONCLUSION

In response to Council's request for a View Analysis of eight properties, the likely view impacts of the proposed built form was undertaken. Height poles were established by a registered surveyor and photographs were taken from the most affected properties, being Nos. 452 and 458 Edgecliff Road. The view analysis was undertaken in accordance with the view sharing Planning Principles contained in *Tenacity v Warringah Council (2004) NSWLEC 140*.

The proposed built form will not impact on the views from Nos. 365A, 442-446, 448, 450, 454 and 458 Edgecliff Road. The proposal will not impact on the views from No. 452 Edgecliff Road on the basis of photos undertaken at a site inspection. The upper levels of No. 458 Edgecliff Road will have no impacts. The bedroom of Unit 4 of No. 458 Edgecliff Road will be impacted on. However, views from bedrooms are more difficult to protect. The views from the living room are already heavily constrained.

Accordingly, for the reasons stated above, view loss from the proposed built form is mostly negligible, with some moderate impact from the bedroom of Unit 4. In our opinion, the Planning Proposal will have minimal environmental and built form impacts and the LEP 1995 should be amended to include an FSR of 4.09:1 and height of 18m for the subject site.

Annexure 1:
Height Certification



SCALE :	1 : 125 @ A3
SHEET No. :	1
DATUM :	AHD
ORIGIN :	SSM 53707 RL 31.80 Class D / Order 4
CO-ORDINATE SYSTEM :	Assumed
ORIGIN :	-

SURVEYOR :	D. A. Loomes
DATE :	20 August, 2013
DRAWN :	D. A. Loomes
DATE :	20 August, 2013
REFERENCE :	08-0043B
PLOT FILE :	:20130820_HEIGHT POLES-A

Peter Bolan and Associates Pty Ltd
Consulting Surveyors A.B.N. 55 003 079 605
Incorporating
Loomes Consulting Surveyors
Level 3, Suite 38, 104 Bathurst Street,
SYDNEY N.S.W. 2000
Telephone : (02) 9261-1244 Facsimile : (02) 9283-5187



**PLAN SHOWING POSITION
of HEIGHT POLES at
Lot 4 DP 431756
No. 240 New South Head Road
EDGECLIFF**

Annexure 2:
3D Certification

06/12/2013

To Whom It May Concern:

Re: 240 South Head Road Edgecliff

Dear Sir/Madam,

3dai is specialised in architectural visualisation. We have been in this industry since 1992. Our services include preparation of 3d images, photomontages, shadow diagrams, and animation.

We use the specialised software Autodesk Max Design (www.autodesk.com) and Photoshop to create photomontage images for the above project.

The 3d model was created by using AMD, based on the survey drawing prepared by Peter Bolan & Associates Pty Ltd. Camera height is taken at RL 1.85m for each floor RL (floor RL is taken from the survey drawings).

We put the photos at the background and adjusted the camera angle to match the 3D models to the photos. The final touch up is done in Photoshop (www.adobe.com).

We believe the proportions of the proposed building to the existing surroundings are in right scale, with 95% accuracy.

Please don't hesitate to contact us if you have any query.

Yours sincerely,

Tony Law
Manager

Yours sincerely,

A handwritten signature in black ink that reads 'Tony Law'.

Tony Law

Item No: R Recommendation to Council

Subject: **PLANNING PROPOSAL FOR 240 NEW SOUTH HEAD ROAD, EDGECLIFF**

Author: Anne White—Senior Strategic Planner

File No: 1064.G Plan Prop 1

Reason for Report: To report on a planning proposal prepared by GSA Planning for 240 New South Head Road, Edgecliff

To obtain Council’s approval to forward the planning proposal to the Department of Planning and Infrastructure so that it can be placed on public exhibition.

Recommendation:

- A. That the planning proposal prepared by GSA Planning for 240 New South Head Road, Edgecliff, as contained in Annexure 1 of the report to the Urban Planning Committee meeting of 16 December 2013 including the following amendments, is forwarded to the Minister for Planning and Infrastructure requesting a gateway determination so that it can be placed on public exhibition. The amended controls are:
- Floor Space Ratio 4:1
 - Overall maximum building height 18m
 - Second building height 14m
- B. That when requesting a gateway determination for the planning proposal at point A above, we seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act*.
- C. That all costs associated with the preparation, submission and exhibition of the planning proposal are to be met by the applicant.

1. Summary

A planning proposal including a view analysis for 240 New South Head Road, Edgecliff was submitted to Council by Gary Shiels and Associates Pty Ltd (GSA Planning) on behalf of the owner Peter Thane.

The planning proposal seeks to amend Woollahra Local Environmental Plan 1995 (WLEP 95) by increasing the height and floor space ratio controls to facilitate a 5-6 storey residential development on the site. Overall, we support this planning proposal for the purpose of exhibition, however, we are recommending amendments to the proposed controls. These amendments slightly reduce the floor space ratio (FSR) and introduce a second height limit.

The purpose of this report is to obtain Council’s approval of the amended planning proposal for the purpose of referring it to the Department of Planning and Infrastructure (DPI) for a gateway determination. The determination will enable the planning proposal to be placed on public exhibition.

2. The site

The site to which this planning proposal relates is located to the east of the Edgecliff Centre. It is approximately 150m east of the Edgecliff bus and train interchange, and is approximately 500m west of the Double Bay Centre.

The site is triangular in shape and slopes down from west to east. The existing building on the site is built to the boundaries and consists of a two storey commercial building addressing New South Head Road. Pedestrian access to the site is provided via New South Head Road. There is one vehicular access to the site via New South Head Road, and a second entrance off Ocean Avenue is provided via a right of carriageway. This carriageway is shared with three properties to the west being 218-228 New South Head Rd, 230-238 New South Head Road and 4 Ocean Avenue.

A location map for this site is shown below in **Figure 1**.

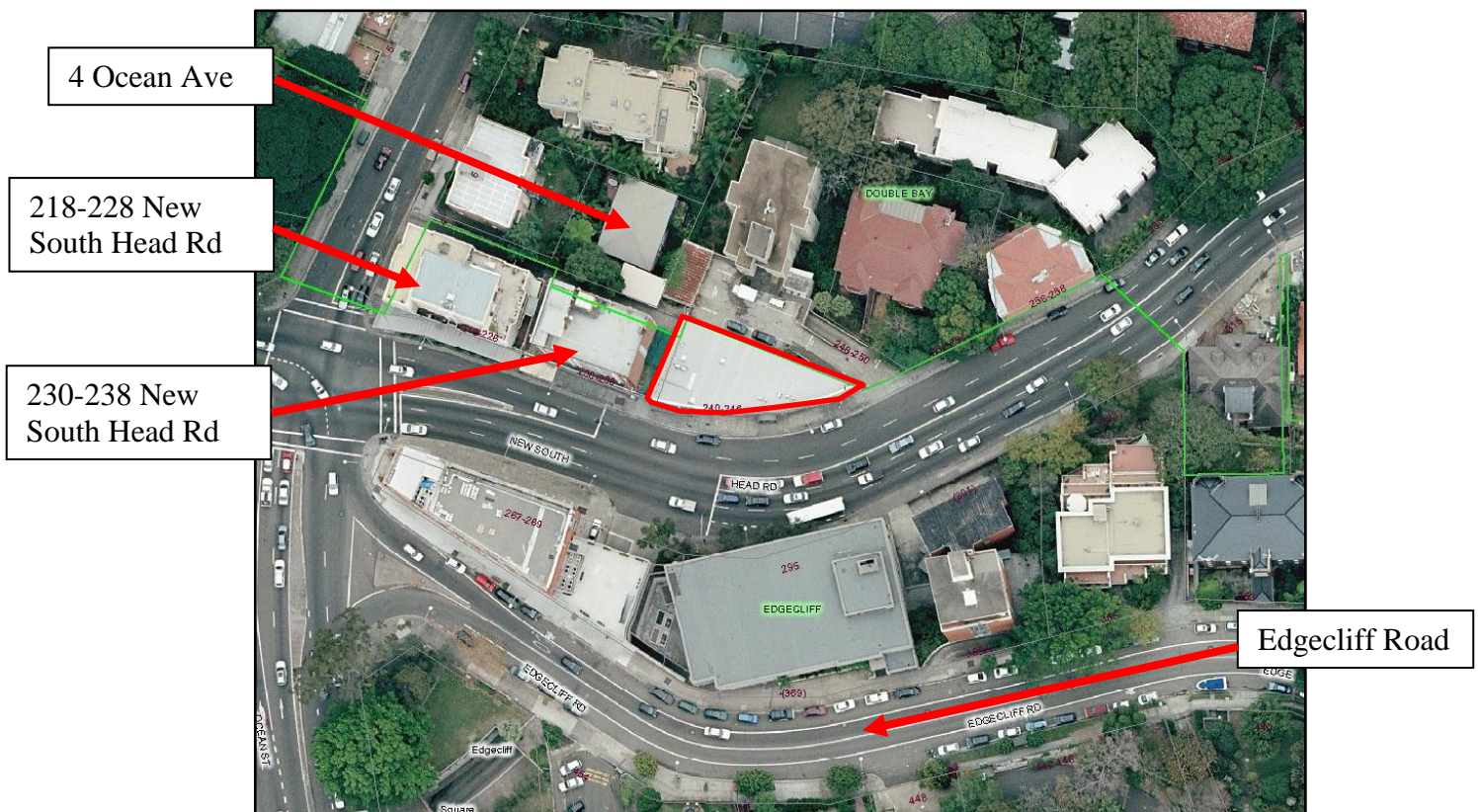


Figure 1: Location of 240 New South Head Road, Edgecliff

It is relevant to note that in June 2010 this site was identified as one of Council's 24 opportunity sites. These were identified for their potential to meet the housing targets set for Woollahra by the State Government subject to planning changes. For this site, we identified that increased development potential would be achieved by increasing the maximum building height and FSR. In relation to this proposal we received 26 submissions during the exhibition period: 3 submissions of support and 23 objections including one petition.

On 25 July 2011 Council resolved to defer further consideration of the opportunity sites in order to focus its resources on the preparation of Draft Woollahra Local Environmental Plan 2013 (Draft WLEP 2013). It was anticipated that the opportunity sites would be further considered after the Draft WLEP 2013 was adopted.

3. The planning proposal

The planning proposal submitted by GSA Planning seeks to amend WLEP 95 by increasing the height and floor space ratio standards to facilitate a 5-6 storey residential development on the site. A summary of the current and proposed controls are below:

	WLEP 95	Planning proposal
FSR	0.875:1	4.09:1
Height	9.5m	18m

A preliminary concept design included with the planning proposal demonstrates what could be built on the site under the proposed controls. The concept drawing shown below in **Figures 2 and 3** indicates a built form of five storeys addressing New South Head Road, with six storeys to the rear accommodating 19 apartments.



Figure 2: Concept drawing - view of the frontage to New South Head Road



Figure 3: Concept drawing - view of the northern façade

4. Review of the planning proposal

Section 55 of the Act sets out what information a planning proposal is to include when submitted for a gateway determination. The DPI has prepared the document titled *A guide to preparing planning proposals* (the guidelines) dated October 2012.

We have reviewed the planning proposal in accordance with section 55 of the Act and the guidelines (see **Annexure 3: Review of the Planning Proposal**). The review identifies where:

- amendments are to be made to the planning proposal, and
- additional information is to be included in the planning proposal.

The key issues identified in our review are below.

4.1 Strategic merit

We identify that the planning proposal has strategic merit and we provide in principle support. The site is well located for additional residential development due to its close proximity to the Edgecliff railway and bus interchange. This is consistent with the well-established planning practice to increase development potential in and around our centres to promote more sustainable and public transport-orientated development.

Based on the concept drawings, view analysis and support material in the GSA submissions, the proposal for a 5-6 storey building is appropriate in this location, and of a scale in keeping with the surrounding buildings.

4.2 Previously identified in the opportunity site consultation

In June 2010 this site was identified as one of Council's 24 opportunity sites. Planning staff identified that the site could accommodate increased development potential. Planning changes proposed for this site were:

	WLEP 95	Opportunity site proposal
Zone	2(b) Residential	B4 Mixed Use
FSR	0.875:1	4.8:1
Height	9.5m	24.9m (part 6-7 storeys)

The issues raised during the consultation included impacts on views, noise, traffic, loss of property values and parking. Having regard to the submissions on view impacts, staff recognised that the proposal required further consideration. An assessment of the issues raised in the submissions is included in **Annexure 3: Review of the Planning Proposal**.

GSA Planning has sought to address the key issue of view loss in the planning proposal. This was achieved by reducing the overall height and FSR from that which was proposed in the opportunity site process.

We have not notified those residents who made a submission to the opportunity site consultation in 2010 for the following reasons:

1. Their submissions related to a previous proposal, and
2. They will be notified when the planning proposal is placed on public exhibition, and they will have the opportunity to make comments on the amended controls.

4.3 Amendments to the proposed FSR and height controls

Height

The applicant proposes a maximum building height of 18m across the site. A height of 18m would facilitate a 5-6 storey residential flat building, a scale generally in keeping with neighbouring buildings.

However, due to the sloping nature of the site and the potential impacts on views, we recommend that a second height limit of 14m is also applied to the site. Second height limits apply at the highest part of the site, which for this site would be the south-western corner adjoining New South Head Road. A second height limit of 14m would restrict the built form to provide certainty that the building can extend to a height no greater than indicated in the view analysis.

Floor space ratio

The applicant proposes an FSR of 4.09:1 for the site, based on a 5 storey residential flat building with 100% site coverage. We do not support an FSR of 4.09:1.

Instead, we have looked at the principles of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* (SEPP 65) which aim to improve the design quality of residential flat development in New South Wales. SEPP 65 recommends that a well designed building should be articulated and fill no more than 80% of the overall building envelope. We have taken this approach in determining the maximum FSR for the site. Applying a figure of 80% results in an FSR of 4:1.

In summary, our recommendations are as follows:

	WLEP 95	Planning proposal	Recommendation
FSR	0.875:1	4.09:1	4.1
Height	9.5m	18m	18m
Second height limit	–	–	14m

4.4 View analysis for public exhibition

A key issue associated with this planning proposal is the potential impact on views from neighbouring buildings to the south of the site. In order to assist with an assessment of the potential view impacts, GSA Planning submitted a view analysis as an addendum to the planning proposal (see **Annexure 2**).

Having reviewed this view analysis we are satisfied that the planning proposal has sufficient merit to be placed on public exhibition for comment. Whilst the overall scale and bulk of the building envelope contained in this planning proposal may have impacts on views, these impacts appear to be minor. The view analysis will form part of the planning proposal placed on exhibition to provide information for the community to assess the potential impacts on their properties and make a submission to Council for our further consideration.

4.5 Additional information to be submitted

Section 55(2) of the Act outlines the components a planning proposal must contain. The planning proposal submitted by GSA Planning has generally been prepared in accordance with the Act. However, there are certain components that have not been addressed or do not contain sufficient information to submit the planning proposal for a gateway determination.

The additional information that must be included in the planning proposal relate to:

- the proposed community consultation including which public agencies should be consulted,
- the indicative project timeline, and
- four maps identifying the current and proposed FSR and height controls.

These matters are all addressed in **Annexure 3: Review of the planning proposal for 240 New South Head Road, Edgecliff.**

5. Options for proceeding

Council has three options for proceeding with this planning proposal:

Option 1: Forward the planning proposal as submitted by GSA Planning to the DPI requesting a gateway determination.

Option 2: Forward the planning proposal subject to amendments to height, FSR and various other matters identified in Annexure 3 to the DPI requesting a gateway for determination. This is our preferred approach.

For options 1 and 2 above, Council will forward the planning proposal to the DPI requesting a gateway determination under section 58(2) of the Act. A gateway determination will then be issued by the Minister specifying whether the planning proposal is to proceed and if so, in what circumstances. The gateway determination will confirm the information and consultation required before the planning proposal can be placed on public exhibition.

Under section 59 of the Act, if a planning proposal is of local significance Council can seek the delegation of the plan-making steps. This planning proposal is considered to have local significance only, and we would seek the delegation of the plan-making steps under section 59 of the Act. This delegation will be to the position of General Manager, and sub-delegated to the position of Director Planning and Development, as per Council's resolution of 29 November 2012. Delegation of a planning proposal removes duplication and streamlines the plan-making process.

Option 3: Notify the applicant that the planning proposal is not supported.

In the event that Council does not support the planning proposal or does not indicate its support within 90 days, the applicant can ask the DPI's Regional Panel to prepare an independent review of the strategic merit of the planning proposal. This is not our recommended approach as it removes our ability to consider this matter at the local level.

6. Identification of income

When a planning proposal is not initiated by Council, under section 11 of the *Environmental Planning and Assessment Regulation 2000* (the Regulations) we can request payment of all costs and expenses incurred in relation to the planning proposal. Council's hourly cost of \$233.65 is set out in the Delivery Program 2013-2017 and Operation Plan 2013-2014. We recommend that the applicant is responsible for all costs associated with the planning proposal.

7. Conclusion

In principle this planning proposal has merit and, subject to amendments, we recommend that Council forwards the planning proposal for 240 New South Head Road, Edgecliff to the Minister for Planning requesting a gateway determination so that it can be placed on public exhibition for comment.

As this matter is of local significance, we recommend seeking delegation of the plan-making steps under section 59 of the Act.

If the gateway determination recommends that the planning proposal proceeds, it should be exhibited for a minimum of 28 days in accordance with the Act and any conditions imposed by the gateway.

Submissions to the exhibition will be reported to the Urban Planning Committee for Council's further consideration.

Anne White
Senior Strategic Planner

Jacquelyne Della Bosca
Team Leader Strategic Planning

Chris Bluett
Manager Strategic Planning

Allan Coker
Director Planning and Development

Annexures

1. Planning proposal for No. 240 New South Head Road, Edgecliff *prepared by GSA Planning, April 2013*
2. Addendum to planning proposal - View analysis *prepared by GSA Planning, November 2013*
3. Review of the planning proposal for 240 New South Head Road, Edgecliff

6. Project timeline

Applicant's proposal

A project timeline was not submitted with the planning proposal.

WMC response

The indicative project timeline for completion of the planning proposal is as follows:

Plan-making step	Estimated completion
Urban Planning Committee recommends proceeding	December 2013
Council resolution to proceed	February 2014
Gateway determination	March 2014
Completion of technical assessment	None anticipated
Government agency consultation	April 2014
Public exhibition period	May 2014 (28 days)
Submissions assessment	June 2014
Council assessment of planning proposal post exhibition	August 2014
Submission of planning proposal to the DPI finalising the LEP	N/A - proposal to subject to delegation
Council decision to make the LEP amendment (if delegated)	September 2014
Forwarding of LEP amendment to DPI for notification	September 2014
Notification of the approved LEP	October 2014

Recommendation

The indicative project timeline to be included in the planning proposal.

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 16 December 2013 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Planning Proposal for 240 New South Head Road, Edgecliff**
Author: Anne White—Senior Strategic Planner
File No: 1064.G Plan Prop 1
Reason for Report: To report on a planning proposal prepared by GSA Planning for 240 New South Head Road, Edgecliff
To obtain Council's approval to forward the planning proposal to the Department of Planning and Infrastructure so that it can be placed on public exhibition.

(O'Regan/Petrie)

10/1 Resolved without debate:

- A. That the planning proposal prepared by GSA Planning for 240 New South Head Road, Edgecliff, as contained in Annexure 1 of the report to the Urban Planning Committee meeting of 16 December 2013 including the following amendments, is forwarded to the Minister for Planning and Infrastructure requesting a gateway determination so that it can be placed on public exhibition. The amended controls are:
- Floor Space Ratio 4:1
 - Overall maximum building height 18m
 - Second building height 14m
- B. That when requesting a gateway determination for the planning proposal at point A above, we seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act*.
- C. That all costs associated with the preparation, submission and exhibition of the planning proposal are to be met by the applicant.

Annexure 2
Gateway determination dated 12 May 2014



Gateway Determination

Planning proposal (Department Ref: PP_2014_WOOLL_001_00): to revise controls at 240 New South Road, Edgecliff.

I, the Director, Metropolitan Delivery (CBD) at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act, 1979* that an amendment to increase the maximum FSR for 240 New South Road, Edgecliff, from 0.875:1 to 4:1, increase the maximum building height for this site from 9.5m to 18m and apply a second height limit at the highest part of the site should proceed subject to the following conditions:

1. Amend the planning proposal to include discussion on its inconsistency with S.117 Direction - 1.1 Business and Industrial Zones.
2. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:
 - (a) the planning proposal is classified as routine as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (former Department of Planning & Infrastructure 2013)*.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 12th day of May, 2014.


Director
Metropolitan Delivery (CBD)
Growth Planning and Delivery
Department of Planning and Environment
Delegate of the Minister for Planning

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion***Against the Motion***

Councillor Bennett
Councillor Boskovitz
Councillor Cavanagh
Councillor Elsing
Councillor Levenston
Councillor Marano
Councillor O'Regan
Councillor Petrie
Councillor Robertson
Councillor Thomas
Councillor Wise
Councillor Wynne
Councillor Zeltzer
Councillor Zulman

14/0

Annexure 3
Written authorisation to exercise delegation



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Woollahra Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_WOOLL_001_00	Planning proposal to amend <i>Woollahra Local Environmental Plan 1995</i> to increase the maximum FSR for 240 New South Road, Edgecliff from 0.875:1 to 4:1, increase the maximum building height for this site from 9.5m to 18m and apply a second height limit at the highest part of the site.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 12th May 2014


Director
Metropolitan Delivery (CBD)
Growth Planning and Delivery

Annexure 4
Submissions

Planning proposal for 240-246 New South Head Rd, Edgecliff (Thane Building)

24/06/2014 03:03 PM

From: "referrals" <referrals@water.nsw.gov.au>
To: <records@woollahra.nsw.gov.au>

Attn: Jacquelyne Della Bosca

Dear Council

The NSW Office of Water (Office of Water) has reviewed the planning proposal for 240-246 New South Head Rd, Edgecliff (Thane Building) and has no objections or comments regarding this proposal.

The Office of Water appreciates the opportunity to review this and any future planning proposals put forward by Woollahra Council.

Kind regards

Vanessa Hornsby | Water Regulation Officer (Strategic Stakeholder Liaison)
NSW Department of Primary Industries | **NSW Office of Water**
Level 11, 10 Valentine Ave | PO Box 3720 Parramatta NSW 2124
T: 02 8838 7816 | E: vanessa.hornsby@water.nsw.gov.au.
W: www.water.nsw.gov.au

11 Templeton
250 New South Head Road
Edgecliff 2027
21 July 2014

General Manager
Woollahra Council
PO Box 61
Double Bay 1360

Dear Sir,

Ref 1064 G Plan Prop

As a resident owner in Templeton , which immediately adjoins the Thane Building with no setback or buffer, I am concerned that the proposed development will have a most detrimental effect on our property.

- * The proposed increase in height exceeds current planning controls and is out of all proportion to the area of the site which comes to a narrow point at the junction with the entry into Templeton from New South Head Road.
- The proposed balconies and windows overlooking Templeton will destroy our privacy, create noise issues and diminish property values.
- Excavation of the adjoining rock face will create serious water problems for Templeton's lower garages which already suffer frequent flooding in times of high rainfall. Has there been a comprehensive geophysical assessment.
- Increase in traffic in an already stressed major route.
- How will vehicular access be managed. Please note that Templeton has right of way over the lane leading to Ocean Avenue.

I believe the Thane Building should be subject to existing height restrictions and rezoned commercial, which has been its sole use for at least the last 40 years.

Professional comment on behalf of Templeton on the proposed development was submitted to Council in 2010 and a further statement is being compiled.

Yours faithfully,

E.S. Bowman

23 July 2014

Our Reference: SYD14/00671 (A7148925)
Council Ref: 1064.G Plan Prop

The General Manager
Woollahra Municipal Council
PO Box 61
DOUBLE BAY NSW 1360

Attention: Jacquelyne Della Bosca

Dear Madam,

**EXHIBITION OF PLANNING PROPOSAL
240-246 NEW SOUTH HEAD ROAD, EDGECLIFF (THANE BUILDING)**

Reference is made to Council's letter dated 17 June 2014, regarding the abovementioned planning proposal which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with the consultation requirements set out in the *Environmental Planning and Assessment Act, 1979* and Gateway Determination.

Roads and Maritime has reviewed the submitted information and provides the following comments for Council's consideration in the determination of the planning proposal:

1. Roads and Maritime has reviewed the information provided and it is noted that the planning proposal aims to facilitate the redevelopment of the existing two-storey office/commercial building into a five-storey medium density residential flat building. Based on the nature of development and site proximity to public transport, shops and services, Roads and Maritime notes that the proposed development is unlikely to result in a significant increase in traffic generation of the site.
2. Notwithstanding the above, Roads and Maritime has road safety concerns with the existing vehicular access to New South Head Road from the site. The sight distance available at the New South Head Road site frontage is significantly constrained due to the horizontal and vertical curvature of the road at this location. The access has significant sight constraints to both motorists on New South Head Road and pedestrians utilising the footpath along the site frontage.

In addition, the access provides little warning for eastbound motorists travelling on New South Road of potential left-turning traffic entering the site from New South Head Road.

3. Roads and Maritime notes that the site obtains alternative access via a Right of Carriageway off Ocean Avenue, which is shared with No. 4 Ocean Avenue, Nos. 218-228 New South Head Road and Nos. 230-238 New South Head Road.
4. As Council would be aware, Roads and Maritime current access management practice is that vehicular access should not be permitted to any classified road if an alternative access is available via the non-classified road network. This is supported by State Environmental

Planning Policy (Infrastructure) 2007, which states “the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that, where practicable, vehicular access to the land is provided by a road other than the classified road.”

5. Given the above considerations, Roads and Maritime would not support any intensified use, or continued use, of the existing access on New South Head Road for the future development of the subject site. Therefore, access points to New South Head Road should not be relied upon for any future development application for the site.

Roads and Maritime would require any future redevelopment of the site to be designed such that vehicular access is obtained via Ocean Avenue, and vehicular access to New South Head Road from the subject site to be closed/physically prevented. Any redundant driveways would need to be closed.

6. It should also be noted that the existing 1P parking provisions on New South Head Road in the vicinity of the property could potentially be converted to “No Stopping” in future to address capacity issues, particularly during the evening peak hour. This on-street parking should not be relied upon in any future development applications.
7. Consideration to the environmental capacity of the Right of Way/laneway access from Ocean Avenue and rationalisation of the access arrangements for the site would need to be considered as part of the traffic impact statement for any future development application.
8. As part of the planning proposal and/or assessment of any future development application for the site, Council should be satisfied that the environmental impacts of the development have been adequately considered, including impacts such as noise, heritage and potential impacts to the adjoining land owners and community as a result of changed access arrangements, loss of parking etc.

General Comments:

9. Promoting increased use of sustainable modes of travel

Roads and Maritime strongly supports development which will reduce car dependency and encourage the use of sustainable modes of travel including public transport, cycling and walking. Roads and Maritime therefore recommends that the planning proposal and future development of the site supports, to the greatest extent possible, the aims and objectives of the State Government policies dealing with this matter.

10. Developer Contribution for Regional Transport Improvements

Council should be satisfied that an appropriate mechanism is in place for developer funding of any required road/transport infrastructure improvements that may be required as a result of the future development of the site and cumulative impacts of the development throughout the Local Government Area.

If you have any questions in relation to this matter, please contact the nominated Land Use Planner, Rachel Nicholson on phone: 8849 2702 or email: Rachel.Nicholson@rms.nsw.gov.au.

Yours sincerely,



Andrew Popoff
**A/Manager Strategic Land Use
Network and Safety Section**

Fw: SUBMISSION ON 1064.G PROP

Records

to:

Brendan Metcalfe

25/07/2014 03:55 PM

Sent by:

Records Desk

Hide Details

From: Records/Woollahra Council

To: Brendan Metcalfe/Woollahra Council@Woollahra Council

Sent by: Records Desk/Woollahra Council

----- Forwarded by Records Desk/Woollahra Council on 25/07/2014 03:55 PM

SUBMISSION ON 1064.G PROP

Miriam Lewin

to:

records@woollahra.nsw.gov.au

25/07/2014 03:25 PM

From: Miriam Lewin <MLewin@monte.nsw.edu.au>

To: "records@woollahra.nsw.gov.au" <records@woollahra.nsw.gov.au>

FROM

Miriam Annette Lewin

3/2 Holt Street,
Double Bay, 2028

W: 9409 6360

H: 9363 4620

mlewin@monte.nsw.edu.au

July 20th

2014

The General Manager

Woollahra Council

PO Box 61

DOUBLE BAY 1360

Re Submission on 1064 Plan Prop

Thane building, 240-246 New South Head Rd

Double Bay, 2028.

Dear Sir/Madam,

I am writing to you to protest to the proposed development on 240- 246 New South Head Rd

It seems to me little thought has been given to the size of the site in relation to the proposed development.

The site is an unusual shape and does not lend itself to this type of development

This site and general area are already stressed with traffic and pedestrian overflow of which we are only too well aware at 250 New South Head Rd. The impact

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RECORDS DEPT.

23 JUL 2014

Doc No 05665.14
File 1064.G PLAN PROP
Action..... B. METCALFE

on us in terms of privacy reduction is blatantly unacceptable if the building is increased in height.

For the last 40 years 240- 246 New South Head Rd has been used as commercial space which is how it should remain.

If the Thane building is found to have asbestos this will add further danger to all nearby residents.

Furthermore if the natural waterway from Woollahra is blocked by the Thane building digging an underground car park, there will be considerable damage to the surrounds as the water finds another channel,

I am strongly opposed to this development on the above grounds,

Yours sincerely,



Susan Barnes

Apt 8, 250 New South Head Rd

Double Bay, NSW, 2028



28 July 2014

1463

The General Manager
Woollahra Municipal Council
PO Box 61
DOULBE BAY NSW 1360

**RE: SUBMISSION ON 1064.G PLAN PROP
240-246 NEW SOUTH HEAD ROAD, DOUBLE BAY (THANE BUILDING)**

Dear Sir/Madam

This submission is written on behalf of the owners of Strata Plan 4585 (**the landowner**) at 250 New South Head Road, Double Bay (the **adjoining property**), a key property landowner within the Woollahra Municipal Council (the **Council**) Local Government Area (**LGA**) and is in respect of the publicly exhibited documents relating to the planning proposal for 240-246 New South Head Road, Double Bay (the **site** or aka **The Thane Building**).

Preparation of this submission follows a review of the following documentation:

- Gateway Determination 12 May 2014 (*PP 2014 WOOLL 001_00*) by the Department of Planning and Environment (**DoPE**);
- Planning Proposal by Council;
- Addendum to Planning Proposal – View Analysis by GSA Planning;
- Report to Urban Planning Committee 16 December 2013 (Agenda Item R1);
- Council Meeting Minutes 10 February 2014 (Agenda Item R1); and
- Site inspection to determine surrounding locational context.

It is noted the planning proposal seeks to amend the Thane Building's planning controls under the existing Woollahra Local Environmental Plan 1995 (**LEP 1995**), notwithstanding that Draft Woollahra Local Environmental Plan 2013 (**DLEP 2013**) has been placed on public exhibition.

It is apparent that the planning proposal has had little regard for the site's existing locational and built form context, its key location and the potential material and adverse impacts specifically relevant to the adjoining property associated with the significant up-zoning of The Thane Building property. The planning proposal precludes a co-ordinated, consistent and equitable planning and redevelopment approach notwithstanding the State Government's directions. Therefore it is requested that Council strongly consider the following issues:

- **The Indicative Concept (Figure 5) within the planning proposal documentation is grossly inaccurate and would undoubtedly result in unacceptable overlooking of the adjoining property from all levels of the future built form;**
- **The proposed planning controls for the Thane Building may result in its overdevelopment and furthermore are considered excessive given the context and scale of adjacent development;**
- **The Woollahra LGA contains more appropriate sites for increased densities. Bondi Junction and the Edgecliff Centre are more appropriate for higher density development;**
- **Adverse traffic and access impacts in relation to the redevelopment of the Thane Building;**
- **The proposed planning controls and resultant future built forms will have an adverse material impact on the value of existing residential apartments within the adjoining property; and**
- **Geotechnical issues; and**
- **Contamination and asbestos.**

A description of the adjoining property and the Thane Building site follows at Section 1. The specific issues (refer above) raised by the landowner in relation to the planning proposal and specifically The Thane Building and its potential impact on the site follows at Section 2.

1. The surrounding context

1.1 The adjoining property's and The Thane Building's location

The adjoining property and The Thane Building are located between the local village centres of Edgecliff (to the west) and Double Bay (to the east). Each has a primary frontage to New South Head Road and are located within the mixed use character of the New South Head Road strip. The local land use context is characterised by a mixture of commercial, residential, transport related and educational and retail uses (as illustrated at **Figure 1** below). Buildings range in heights depending on their location (high or low side of New South Head Road) and specific nature of use.

Included at **Figure 1** is an aerial photo of the adjoining property (red) and The Thane Building (blue) and the surrounding locality.

1.2 Existing development on the adjoining property

The adjoining property (250 New South Head Road or SP 4585) is located on the northern side of New South Head Road and shares its southern boundary with The Thane Building, which is currently built with a virtual zero building alignment that is at least two storeys in height. There is no buffer or visual relief between the adjoining property and the Thane Building.

Resulting from the surrounding locality's topography the highest point (with the exception of two level of accommodation and the lift overrun) is stepped down the property and not visible from the surrounding public domain. Car parking is provided within two levels (separate up and down ramp) accessed via an existing crossing on New South Head Road adjacent to the south eastern boundary of the Thane Building property. The lower level parking (individual garaging) abuts the lower rock face of the Thane Building. Visitor car parking and individual garages are located at the higher ground level, the level that shares the built form boundary with the Thane Building. It is at this level that access is provided to the apartments.

The adjoining property is not an identified heritage item, is not located in the vicinity of any heritage items and is not within a heritage conservation area.

Included at **Figures 2, 3 and 4** (overleaf) are photos of the adjoining property and the Thane Building demonstrating the existing built form relationship.

1.3 Existing vs proposed predominant planning controls

A comparison of the existing and proposed planning controls applying to the Thane Building relative to LEP 1995 follows at **Table 1** below.

Table 1 – Comparison of existing and proposed planning controls for the Thane Building

Planning controls	Existing	Proposed
Zoning	2(b) Residential	2(b) Residential
Floor space ratio	0.875:1	4:1
Height	9.5 metres	18 metres 14 metres at the highest point of the property



Figure 1 – Aerial photo of the adjoining property and the Thane Building



Figure 2 – The adjoining property as viewed from its entrance at New South Head Road



Figure 3 – The Thane Building as viewed from New South Head looking west. The adjoining property and its driveway are both visible



Figure 4 – The Thane Building as viewed from the adjoining property's visitor car parking area

2. Specific issues raised by the Landowner

The landowner acknowledges the need for further urban consolidation within inner city suburbs and the resultant consultation, exhibition and preparation of the planning proposal. However and notwithstanding the aforementioned, there are a number of key issues which need further resolution and which are as follows:

- The Indicative Concept (Figure 5) within the planning proposal documentation is grossly inaccurate and would undoubtedly result in unacceptable overlooking of the adjoining property from all levels of the future built form;
- The proposed planning controls for the Thane Building may result in its overdevelopment and furthermore are considered excessive given the context and scale of adjacent development;
- The Woollahra LGA contains more appropriate sites for increased densities. Bondi Junction and the Edgecliff Centre are more appropriate for higher density development;
- Adverse traffic and access impacts in relation to the redevelopment of the Thane Building;
- The proposed planning controls and resultant future built forms will have an adverse material impact on the value of existing residential apartments within the adjoining property;
- Geotechnical issues; and
- Contamination and asbestos.

2.1 The Indicative Concept (Figure 5) within the planning proposal documentation is grossly inaccurate and would undoubtedly result in unacceptable overlooking of the adjoining property from all levels of the future built form

Figure 5 within the planning proposal documentation is an indicative view of the future built form (18 metres or 6 storeys with an FSR of 4:1) looking west along New South Head Road from an elevated position. It has been prepared by Simmons Architects and is reproduced below at **Figure 5**.



Figure 5 – *The indicative concept as detailed in the planning proposal*

Whilst the concept drawing provides guidance as to the future built form which would result following gazettal of the planning proposal and subsequent construction of an approved Development Application (DA), serious concern is raised in relation to its accurateness (and therefore future community expectations) and the potential for adverse privacy impacts on the adjoining property for the following reasons:

- the access driveway and ramps to the car parking area within the adjoining property are shown to be completely covered by landscaping in an attempt to screen the future built form. This is completely inaccurate and will never occur unless the adjoining property is part of a future DA (highly unlikely);

- the purported landscaping (which also extends to further to the west and potentially into other adjacent properties) of an adjacent property to reduce the visual built form dominance does not in any way resemble the future built form for the Thane Building. The reality is the landscaping will be replaced by a solid (masonry) wall with a zero building alignment to the adjoining property owner. This would in no way contribute to their amenity nor desired streetscape character, given the site's high visibility along New South Head Road;
- as the Thane Building has frontage to New South Head Road and with the availability of significant northern panoramic views and vistas, all apartments within the future built form would reasonably be expected to be oriented to the north. This is evident in the indicative concept with substantial glazing provided to the future northern elevation. The northern elevation would also include required private open space in the form of balconies and/or terraces directly accessible from the north facing primary living rooms. The potential for aural and visual privacy impacts is exacerbated to an unacceptable level from a built form that is not provided with any real or perceived setback. This will undoubtedly reduce existing levels of residential amenity within but not limited to the adjoining property. The proposed built form would therefore be considered to contradict the 'rules of thumb' in the Residential Flat Design Code (RFDC) and the ten design quality principles of State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development (SEPP 65); and
- the zero building alignment at all future levels to the northern boundary is inconsistent with Council's setback requirements for residential flat buildings, which typically require a 'wedding cake' design.

2.2 The proposed planning controls for The Thane Building may result in its overdevelopment and furthermore are considered excessive given the context and scale of adjacent development

The Woollahra LGA contains more appropriate sites for increased densities. Bondi Junction and the Edgecliff Centre are more appropriate for higher density development

The Draft Metropolitan Strategy for Sydney 2031 (**Draft Strategy**) will supersede the Metropolitan Strategy for Sydney 2036 (**Metro Strategy**), which is currently the primary planning document establishing the direction for future development of Sydney and the role of the Woollahra Local Government Area (LGA) within the broader city. No areas within the Woollahra LGA have been identified as a Major Centre¹ within Sydney similar to Chatswood, Hurstville, Blacktown, Bondi Junction, Hornsby etc. This means that it does not have the capacity to handle significant increases in development density.

The Woollahra LGA is a distinctly urban area and is one of Australia's most prestigious residential locations. It is substantially residential in nature, intermixed with shopping centres of various sizes, large and small recreational and open space areas and large private schools. There is a diversity of dwelling types, including terrace houses, dual occupancies, town houses, and medium and high rise residential flat buildings. Despite this, the majority of the LGA's housing stock is provided in medium or high-density dwelling forms.

Resulting from its highly established nature, new development generally occurs through alterations and additions and replacement of existing buildings with new buildings. This includes the transition from, generally, low scale houses to, mainly, three and four storey residential flat buildings and new higher density development comprising mixed retail, commercial and residential development in town centres or village such as Edgecliff, Double Bay and Rose Bay. These aforementioned centres and in particular the Edgecliff Centre should be where higher density development is located as opposed to that currently proposed. Relevant planning objectives in relation to redevelopment are to protect important local characteristics and residential amenity, maintain housing choice and promote sustainable development. As demonstrated throughout this submission, the increased density and height as proposed for The Thane Building will not maintain existing residential amenity and will be inconsistent with the prevailing locational character (3-4 storey residential flat buildings) of the surrounding locality.

The Metro Strategy identified the commercial centres as having potential to increase housing opportunities and introduced controls for mixed use allowing a variety of uses such as commercial, retail and residential. This initiative supports state government policies of urban consolidation and centres policy. It is also consistent with the Metro Strategy by increasing residential densities and thereby improving the viability and vibrancy of centres. Mixed use higher density centres along transport corridors (for example the Edgecliff Centre and Bondi Junction) are planned to have improved safety (by

¹ A major centre has the characteristics of being a major shopping and business centre for the surrounding area with a full scale shopping mall, Council offices, taller office buildings and residential buildings, central community facilities and a minimum of 8,000 jobs.

better design standards), increased opportunity for al fresco dining, better retail/ local service provision and better use of public transport. Based on the aforementioned it is considered there are other more appropriate sites within the Woollahra LGA and even Bondi Junction that could cater for higher density (residential) development such as is proposed to be permitted at The Thane Building.

Notwithstanding that a future built form on The Thane Building property may exhibit a high architectural quality (as potentially shown in the planning proposal's indicative concepts); a satisfactory environmental outcome is still required. In this regard, there would appear to be no proper or detailed justification by Council for the significant increase in development potential and in particular density for the Thane Building. The proposed planning controls as described at Section 1.3 represent a substantial intensification of use on this property and which in our opinion would lead to its overdevelopment and at the same time unquestionably resulting in adverse environmental impacts (see Section 2.1 above).

Whilst the indicative concept within the planning proposal may be sound in terms of urban design principles, the following points in relation to planning should be noted and addressed:

- the irregular allotment shape and topographical characteristics of the surrounding locality are an unquestionable constraint for the Thane Building's redevelopment. This is despite the Thane Building being identified as being capable of redevelopment. The site's constraints do not successfully lend to such an intensification of land use as compared to that existing or currently permissible;
- the Thane Building forms part of an inconsistent built environment (including land use) and should the proposed planning controls be gazetted, it may lead to an unsatisfactory precedent for redevelopment of other properties within the surrounding locality that result in similar material environmental impacts based on that density of development which is permissible on The Thane Building;
- maximum planning standards, in this instance height and FSR are not a right, rather it needs to be demonstrated that a proposal is not an overdevelopment of the site (see Section 2.1 in this regard);
- the proposed substantial increase in intensification of use on the Thane Building will cumulatively result in adverse environmental impacts to the adjoining and adjacent properties and in particular the site as follows:
 - increase in overlooking (aural and visual privacy) to an unacceptable level (see **Figure 5**) without any real or perceived setback;
 - an 18 metre built form being built with a zero built alignment on the common boundary between the two properties (see **Figure 5**);
 - the overbearing nature of any built form on the site and its resultant visual impact;
 - access conflicts between each property;
 - additional traffic generation in close proximity;
 - no relief of visual built form prominence and lack of potential for landscape buffer or perimeter between the two properties (despite the purported landscaping shown on the adjoining property);
- the proposed built form is out of context with that adjoining, is located at the ridge and therefore visually prominent in the context of the existing built form along New South Head Road;
- the future built form is considered inconsistent with the prevailing character (height and density) of development within its immediate vicinity;
- the future built form represents a significant intensification in use from that existing and will significantly increase built form dominance over existing buildings; and
- consideration should be given to lowering the future height of development to be more consistent with the prevailing character of the locality. By lowering the permissible height to be similar to the prevailing context, benefits would be:
 - a reduction in the FSR, height, bulk and scale, a desired outcome in terms of the future built form's impacts;
 - impacts of the future built form would be generally the same as that existing in the locality; and
 - a reduction in the intensity of the use on the site.

2.3 Adverse traffic and access impacts in relation to the redevelopment of the Thane Building

The Thane Building along with the adjoining property both have frontage to the major arterial road of New South Head Road which connects the eastern suburbs with the Sydney Central Business District (CBD) and other arterial roads connecting to the rest of metropolitan Sydney. Therefore each property is located in an area which already suffers from chronic traffic gridlock at all times of the day and in particular during the morning and afternoon peak periods. Existing intersections at significant or gateway points underperform which leads to unacceptable traffic problems and delays at all times within the surrounding locality. Long delays, queuing and illegal use of the carriageway is a common occurrence within the immediate locality.

Given the existing density of development, the continued and on-going redevelopment of properties in accordance with existing planning controls (and resultant construction traffic and construction zones) existing levels of severe traffic congestion at peak (morning and afternoons) periods, the potential for further queuing (on the local road network and within building car parking areas) within the immediate vicinity of both properties may be immeasurably increased to an unacceptable level. Furthermore as significant future demand will be placed on the locality, not only by any future built form but also by the future redevelopment of adjacent properties and other key properties within the villages of Double Bay and the Edgecliff Centre it is therefore considered illogical and impractical to expect New South Head Road and the surrounding local road network to cope with the significant additional traffic demand placed upon it assuming redevelopment of the locality occurs as currently proposed.

Notwithstanding that redevelopment of The Thane Building is not proposed as part of the planning proposal, it is requested that Council assess its redevelopment potential (density in particular and its resultant traffic generation implications) based on its existing locational characteristics which are considered to inhibit its redevelopment. Specifically:

- crossings (whether they be existing or proposed) to new development with frontage to an arterial road are generally not supported by Council and the NSW Roads and Maritime Services (RMS);
- has the RMS been notified of the planning proposal?
- significant amounts of traffic will be generated through the redevelopment of The Thane Building in accordance with its proposed planning controls. Has any assessment been made in relation to impacts on the surrounding road network through the redevelopment of this property (18 metres and an FSR of 4:1)?
- the potential for additional vehicular conflict with adjoining and adjacent properties and in particular the site which almost shares the same crossing (including queuing at peak AM and PM periods from access/egress points);
- the potential for additional vehicular/pedestrian conflict along the New South Head Road frontage; and
- does the planning proposal require the submission of a detailed Construction Management Plan (CMP) outlining how the construction of future intensified built form would be appropriately managed without adversely impacting on the amenity of the adjoining property (but not limited to)?

2.5 The proposed planning controls and resultant future built forms will have an adverse material impact on the value of existing residential apartments within the adjoining property

The Woollahra LGA is a distinctly urban area and is one of Australia's most prestigious residential locations resulting from its eastern suburbs location, close proximity to the Sydney CBD and the availability of panoramic views of Sydney Harbour, Sydney CBD, Sydney Harbour Bridge, Sydney Opera House and other nearby waterfront suburbs and localities. Historically residential prices within the Woollahra LGA are at a premium. Therefore any proposal which has the potential to result in substantial and material environmental impacts will unquestionably reduce the saleability and return on investment of apartments within but not limited to the adjoining property.

Whilst it is acknowledged that some properties have a greater redevelopment potential, the disparities in height and FSR controls (or existing built form) between the adjoining property and the Thane Building property does not lead to inequitable distribution of redevelopment potential. Having regard to the aforementioned it is considered appropriate that a balance be found in the planning controls for The Thane Building property and those adjacent which result in an appropriate redevelopment of those properties whilst at the same time maintaining or even improving the value of apartments on adjacent properties.

2.6 Geotechnical issues

Notwithstanding that redevelopment of The Thane Building is not proposed as part of the planning proposal, it is requested that the following issues be considered as they relate to the development potential of the future built form:

- substantial excavation would be required to accommodate any future built form including car parking. Given the locality's topographical features, the limited buffers with adjacent built form and the existing development density, the impact of such excavation should be explored. At the very minimum dilapidation reports and photographic surveys of the relevant adjoining/adjacent buildings would be required;
- the amount of excavation could simply be reduced by reducing the potential development density and subsequent yield permissible;
- the submission Geotechnical Report which is able to demonstrate that the site and its underground conditions are suitable for the proposal and the amount of excavation proposed. Furthermore this report should also provide detailed construction methodology recommendations and to assist in the adequate maintenance of runoff and water flows on/to adjoining properties;
- the significant excavation may require the use of large rock breaking equipment which may not fit within the available construction access routes? Alternative options need to be explored and provided to the adjoining property owners for further detailed consideration;
- will the future proposal intercept the groundwater?
- will the future built form and level of excavation impede existing natural watercourses which run down from Woollahra into the Thane Building and then into the lower garage level of the adjoining property which is often flooded during 'standard' rain events. How is this existing runoff and drainage pattern to be addressed?
- the adverse impact of the future development on existing natural landforms; and
- the public safety impacts.

2.7 Contamination

State Environmental Planning Policy No. 55: Remediation of Land (**SEPP 55**) is the relevant legislation which provides the framework/guidelines in relation to contaminated or potentially contaminated land. Clause 6 (Contamination and remediation to be considered in zoning or rezoning proposal) of SEPP 55 states:

- (1) *In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:*
- (a) *the planning authority has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
 - (c) *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

Note. In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.

Given the Thane Building's previous and existing land use(s) and for it to be accurately assessed for its suitability for high density residential accommodation, the following should be required (based on Clause 6 of SEPP 55 – see above) for Council's (and the community) review:

- a Phase 2 Detailed Site Investigation (**DSI**) is required for the proposed site in accordance with the Contaminated Land Management Act 1997, SEPP55, and NSW Office of Environment and Heritage (OEH) Guidelines, including the amended NEPM (2013).
- following completion of the Phase 2 DSI, if required a Stage 3 Remedial Action Plan shall be prepared that advises how the site can be made suitable for the proposed use of residential with limited access to soil.
- following completion of the Phase 2 DSI, if required an Environmental Management Plan is to be prepared.

2.8 Asbestos

Notwithstanding that redevelopment of The Thane Building is not proposed as part of the planning proposal, it is requested that that Council assess its demolition. Demolition of the existing aged built form will be proposed as part of any future DA. If asbestos is found to be present on the site, the following advising/condition is recommended:

'Specialised controlled demolition of the current buildings is to be carried out only by contractors licensed in asbestos removal to arrest and encapsulate airborne dust particles and dispose of such debris in a licensed hazardous waste pit in accordance with the relevant Australian Standard(s).'

The above works would be included within an Asbestos Management Plan in accordance with the Code of Practice: How to Manage and Control Asbestos in the Workplace [Safe Work Australia, 2011].

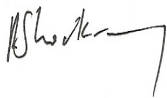
3. Conclusion

Whilst the landowner acknowledges the necessity of its preparation and generally supports the intent of the Woollahra LEP Review, the potential negative impacts significantly outweigh any positives due to the lack of regard to the site's existing characteristics and locational context. In this regard, it is respectfully requested that Council modify the proposed planning controls applying to The Thane Building property. Issues to be further addressed and considered prior to the finalisation and exhibition of the new comprehensive Woollahra LEP which will include planning controls for The Thane Building property are:

- The Indicative Concept (Figure 5) within the planning proposal documentation is grossly inaccurate and would undoubtedly result in unacceptable overlooking of the adjoining property from all levels of the future built form;
- The proposed planning controls for the Thane Building may result in its overdevelopment and furthermore are considered excessive given the context and scale of adjacent development;
- The Woollahra LGA contains more appropriate sites for increased densities. Bondi Junction and the Edgecliff Centre are more appropriate for higher density development;
- Adverse traffic and access impacts in relation to the redevelopment of the Thane Building;
- The proposed planning controls and resultant future built forms will have an adverse material impact on the value of existing residential apartments within the adjoining property;
- Geotechnical issues;
- Contamination; and
- Asbestos.

Trusting the above issues will be considered in appropriate detail. Should you have any further queries or require clarification of the matters contained herein, please don't hesitate to contact the undersigned.

Yours Faithfully



Scott Lockrey
Director

Lot 4 DP 431756 Ref 1064.G Plan Prop

Maureen Sweeten

to:

records

28/07/2014 02:13 PM

From: Maureen Sweeten <maureensweeten@gmail.com>

To: records@woollahra.nsw.gov.au

I own an apartment in Templeton, 250 New South Head Road, Double Bay. My garage is at the rear on the lower level (the majority of garages are here). We have a huge problem with water ingress through the rear wall of these garages, so much so that we have both a drain at the back of the garages and guttering along the top of the garages. The cement on these walls has gradually decayed over the years and the walls are very "clay-like).

I am very concerned that any building being done, along with excavations and footings etc, will seriously affect the stability of the garages. There is a huge amount of water that runs down underground from Woollahra and I am sure the old earthen pipes are not doing all that they should.

I would strongly suggest that, before any building is ever done, that there should be a dilapidation report done on our building to address any consequences of building damage should it arise.

Yours sincerely,

Brian Hallett (Unit 3) Templeton



28 July 2014

DB: PSB\14-139

The General Manager
Woollahra Council
PO Box 61
Double Bay NSW 1360

Dear Sir

**Re Planning proposal for 240-246 New South Head Road, Edgecliff
Reference No. 1064.G Plan Prop**

We write on behalf of the Body Corporate of Strata Plan 86267 (known as the East Building) at 230-238 New South Head Road, Edgecliff in respect to the exhibition of the above planning proposal.

The Proposal

The proposal is to up-zone the planning controls for the site at 240-246 New South Head Road, Edgecliff.

Specifically, the planning proposal is to change the height and floor space ratio (FSR) controls in respect to this site under Woollahra Local Environmental Plan 1995 (WLEP 1995) by:

1. increasing the maximum FSR from 0.875:1 to 4:1;
2. increasing the maximum building height from 9.5m to 18m; and
3. applying a second height limit of 14m at the highest part of the site to protect views.

We have prepared figures identifying the site and our client's relationship is demonstrated in the attached locality maps in Figures 1 and 2 and current and draft planning controls, attached hereto.

Our concerns

Inappropriate Process

This planning proposal is running parallel to a more comprehensive review of Woollahra's planning controls, in particular the preparation of the Draft Woollahra Local Environmental Plan (DWLEP) 2013.

240 New South Head Road is identified in the DWLEP 2013 for zoning, height and floor space ratio control changes, as shown in the below table.

LEP control	WLEP 1995	DWLEP 2013	Planning Proposal
Zoning	Residential 2(b)	R3 Medium Density Residential	Residential 2(b)
Height	9.5 m	13.5 m	18 m (high point 14 m)
Floor Space Ratio	0.875:1	1.3:1	4:1
Site area 384 sqm	336 sqm GFA	499 sqm GFA	1,536 sqm GFA

GFA = Gross Floor Area

Extracts from the relevant DWLEP 2013 maps are provided at Figures 5A, 5B, 5D and 5E.

The increase in development potential proposed within the current planning proposal significantly exceeds that proposed under the current DWLEP.

This plan has been exhibited and will be considered by Council at its meeting on 29 July 2014 with the expectation that the DWLEP 2013 will be finally considered by Council in August and then forwarded to the NSW Department of Planning and Environment for gazettal. The DWLEP is imminent and certain.

Given that Council already has in progress a considered process to review the planning controls for this site, via the DWLEP 2013 process, we believe it appropriate that sole consideration of the site should occur via that comprehensive process.

This view is supported when the planning proposal is assessed against the NSW Department of Planning's guidelines (see Department of Planning 2012: A Guide for preparing planning proposals). In our view this planning proposal does not meet the nominated criteria in these guidelines, in particular the guidelines require the following threshold questions to be answered positively for a planning proposal to be considered to have merit.

Section A - Need for the planning proposal.

Q1. Is the planning proposal a result of any strategic study or report?

Yes - the proposal is the result of Woollahra Council's Opportunity Site Report, however this report seemingly has no regard for its own DWLEP 2013 process / conclusions for this site and surrounding sites which differ significantly from those suggested in this planning proposal.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

No – We believe a more appropriate way to assess a site’s planning controls is as part of a comprehensive review. That means exists via the current DWLEP 2013 process that is underway.

Section B – Relationship to strategic planning framework.

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes – Though as stated, we consider that a better way to achieve compliance with state and sub-regional strategy would be via the DWLEP 2013 process.

Q4. Is the planning proposal consistent with a council’s local strategy or other local strategic plan?

No – the planning proposal is inconsistent with the current WLEP 1995 and DWLEP 2013 controls for the site.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes – the planning proposal is not considered to conflict with any applicable State Environmental Planning Policies?

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

No - The NSW Planning and Environment’s Gateway Determination of this planning proposal cites that the proposal is inconsistent with S.117 Direction – 1.1 Business and Industrial Zones. It is unclear how this requirement applies to the site, as the site is currently and proposed to be zoned for residential purposes. However it is noted that under the DWLEP 2013 zoning map the site is on a zone boundary with a B4 Mixed Use zone to the west and the adjoining road zoned as a classified road / infrastructure zone.

Nevertheless it is also considered that the proposal fails the S.117 Direction – 3.1 Residential Zones criteria 4 (d) ‘be of good design’, as the proposed floor space ratio and accompanying height limits are considered likely to promote poor design (see later section of this submission).

Section C – Environmental, social and economic impact.

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No – there are considered to be no ecological impacts as part of this planning proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Yes – there are considered to be adverse and inappropriate local environmental impacts as a result of this planning proposal on 230 New South Head Road. These impacts are discussed further in this submission but in brief they are poor building separation, vehicle

access impacts, poor resolution of local property issues and potential shadowing and view loss.

Q9. Has the planning proposal adequately addressed any social and economic effects?

No – the immediate locality of this site provides for various complex fine-grain issues in respect to the property rights, vehicular access (for example increased usage levels of the right of way, which doesn't provide for passing or tuning of vehicles, is at times already strained area) and potential amenity impacts on neighbours in respect to view loss and shadowing. The site is also constrained and presents unusual design opportunities that would be best managed within the DWLEP 2013 process and accompanying fine-grain DCP controls.

Section D – State and Commonwealth interests

Q10 – Is there adequate public infrastructure for the planning proposal?

Generally Yes – There are adequate services (sewer etc.) and public transport around the site, however the site is also quite constrained and located on a busy State Road and there is a concern that the traffic volume to be generated by a 4:1 FSR residential flat building will also create traffic conflict.

Q11 – What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

This matter is not addressed in the planning proposal to date.

The proposal does not positively answer Q2, Q4, Q6, Q8 and Q9 of the above threshold requirements for consideration as a planning proposal under the relevant statutory guidelines. There is a readily available and commenced process available for this site under which its controls have been reviewed – the DWLEP 2013 process.

Incorporating the review of the site's planning control into the DWLEP 2013 process would also allow for a better design outcome (the DWLEP controls are considered more suited to the site) and would allow for fine-grain urban design issues around the site to also be incorporated into the accompanying comprehensive development control plan (DCP).

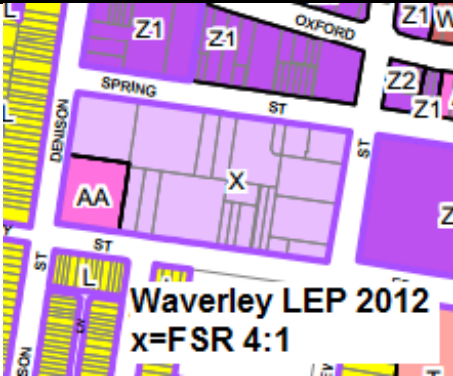
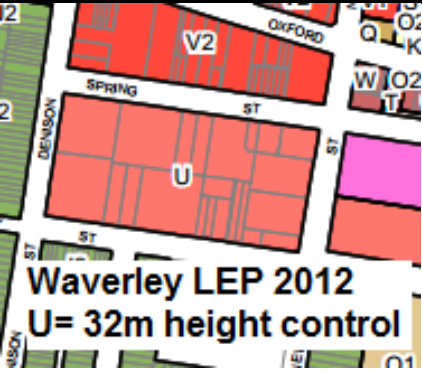
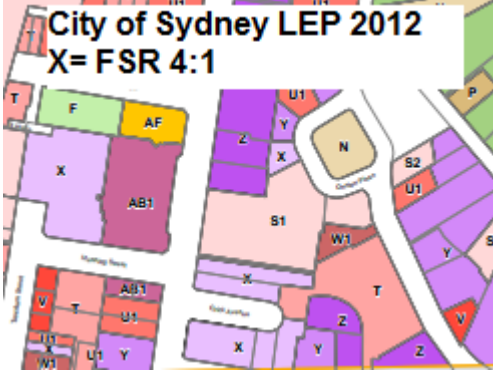
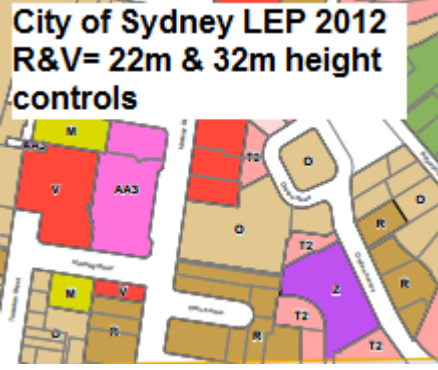
To this end we respectfully submit that the review of this site's planning controls is most appropriately dealt with exclusively within the DWLEP 2013 process and therefore recommend that the current planning proposal be ceased / set aside in favour of the DWLEP 2013 process.

Urban Design

Floor Space - The proposed FSR (4:1) and height limits (18 m and 14 m) are considered mismatched and inappropriate for the site.

A 4:1 FSR is generally accompanied by a minimum 20 m + height limit for medium density development. It is not clear that a building with a 4:1 FSR can be accommodated within the height limits proposed. Consideration needs to be given to the massing of the building and the definition of GFA used. Further urban design consideration needs to be given to the allowable GFA within the proposed height controls.

For example sites in adjoining Councils with 4:1 floor space ratios and their accompanying height controls are shown below.

Local Government Area	Floor Space Ratio	Height
Waverley Bondi Junction – Street Block of Denison Street, Spring Street, Ebley Street and Bronte Road	 <p style="text-align: center;">Waverley LEP 2012 x=FSR 4:1</p>	 <p style="text-align: center;">Waverley LEP 2012 U= 32m height control</p>
City of Sydney Kings Cross	 <p style="text-align: center;">City of Sydney LEP 2012 X= FSR 4:1</p>	 <p style="text-align: center;">City of Sydney LEP 2012 R&V= 22m & 32m height controls</p>

Also, the FSR controls recommended for this locality under DWLEP 2013 do not envisage FSRs as high as 4:1 but rather set a maximum FSR of 3:1 for some nominated sites and then suggests they may be able to achieve greater floor space subject to merit (see clause 4.4 of the DWLEP 2013). As noted previously, the subject site is nominated for a FSR of 1.3:1 under the DWLEP 2013 process.

As the subject site is located on a ridge line and surrounded by some tall buildings, the concern we have is that the FSR proffered for this site under this proposal would appear to suggest that a much taller building is achievable on this site. Given the height limits suggested, the FSR of 1.3:1 and maximum height limit of 13.5m recommended in the WLEP 2013 process is the appropriate control for this site.

Height - The height controls suggested for this site are layered, in as much as an 18 m height control applies to the site with a 14 m control on the site's high point adjacent to the East Building at 230 New South Head Road. Nevertheless, there is a lack of detail and purpose as to how this layered height control is actually going to work.

The lower 14 m control is too high and lacks a broad urban planning objective. It appears that the lower control has been applied to retain views over the site for buildings to its south, similarly in consideration of the neighbouring property to the west a setback should be applied. As shown in the applicant's own modelling of these height controls, the result for the East Building is a sheer wall next to its eastern side elevation – see photograph below.



The eastern side elevation of the East Building provides for balconies and sole windows to bedrooms and windows off living areas. This is not a 'dead' elevation and it requires a neighbourly setback from any proposed building on the subject site, particularly above the podium.

In respect to this matter we respectfully suggest that this height control be lowered and framed to provide adequate building separation between the East Building's eastern residential elevation and the highest elements of any proposed residential building on the subject site.

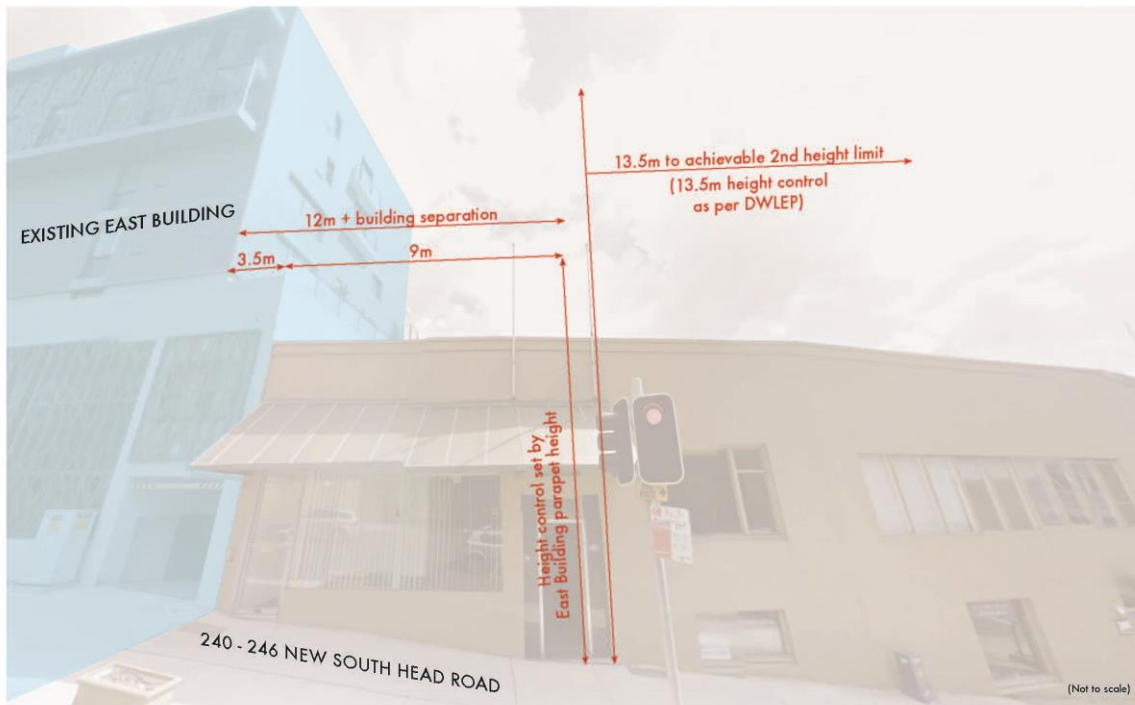
The logic of this height control is that the main part of the East Building is setback 3.5 m from its east side boundary podium. A lower height limit adjacent to the west boundary of the subject site, extending 9 m to the east, would allow for adequate building separation. The main building element should then start at 13.5 m (referencing the DWLEP height control). This layered and contextual response to the height control would be consistent with the building separation principles of SEPP No. 65 – Design Quality of Residential Flat Development (that requires a minimum 12 m building separation for buildings of this scale) and appropriate given the current and proposed zoning for this site. Again, this outcome would be better achieved within the

DWLEP 2013 process, where for example the LEP controls could be supplemented with appropriate fine-grain DCP provisions.

The desired separation is indicated in the below diagram.

Suggested Layered Height Control

Interface Between 230 and 240 New South Head Road, Edgecliff



The proffered reason for the layered building height controls is to protect views. The above approach would better protect views, by actually creating a view corridor through the site, and provide appropriate building separation and addressing concerns of residents previously expressed regarding a canyon like appearance from New South Head Road as you approach Double Bay.

Property / Traffic

The East Building at 230 New South Head Road relies on a rear right-of-way off Ocean Avenue for vehicular access. The subject site benefits from this right-of-way and has a right of way over the East Building land to Ocean Avenue. A copy of the land title and Deposited Plan for 240-246 New South Head Road is attached.

The legal rights surrounding this right-of-way are quite complex with the only other vehicular access to 240-246 New South Head Road off New South Head Road.

A number of properties share this right of way which has a limited width of 3.6 metres and this cannot accommodate passing vehicles. The capacity to accommodate additional traffic should be resolved at the planning proposal stage.

It is our view that when redeveloped the subject site will utilise the rear right-of-way for its sole vehicular access and that given the density of this project and likely vehicular numbers this would result in congestion, safety concerns and general local amenity impacts (e.g. noise) for other right-of-way holders.

It is also worth noting that while the subject site has a right of travel over the right-of-way, the actually land comprising the right-of-way just to the west of the site is owned by the Body Corporate of the East Building and any excavation for services or works associated with the development of this site (e.g. a ramp into a future car park) will require property owner's consent.

The planning proposal for this site should provide for some consideration of appropriate vehicular access to the site and traffic generation, as it is key to establishing an appropriate FSR for this site. A FSR of 4:1 on this site will generate a volume of traffic that will create difficulties for vehicular access.

Our client's suggested solution is that the right-of-way should be continued through the subject site to the east to effectively provide a laneway from Ocean Avenue to New South Head Road. Such a scheme would be mutually beneficial to all and allow for access for all to New South Head Road.

The resolution of these traffic, access and property issues should be resolved prior to this planning proposal progressing given the constrained nature of this site.

General Development Issues

We are aware that the current planning proposal is a strategic planning application and will likely be followed by a detailed development application. However as this is a site specific rezoning and because the building envelope proposed conflicts with existing planning provisions such as SEPP 65 and the provisions of the DWLEP, detailed consideration should be given to the appropriateness of the density proposed. Indeed we submit that the density of the proposal should be moderated to address building separation and traffic / access issues.

The following general property issues are also relevant to the proposal:-

1. Resolution of the status of the rear right-of-way and how that space will be utilised within the development. Ideally access of the site could be enhanced with potential through access to New South Head Road. A greater density on the site may be more tolerable if access through the right-of-way is improved.
2. Construction vehicle access should also not use the right-of-way and consideration of how access from New South Head Road is provided should be considered.
3. The height limits for the site should be clear and include all protrusions from the building. Again, this issue would be best resolved if the development of this site was confined to the DWLEP 2013 process and a consistent height control provided for this site.
4. An FSR that ensures a density / unit capacity that generates appropriate levels of vehicular activity given the constraints of the right-of-way.

Conclusion

It is for the reasons outlined in this submission that we believe that the review of the controls for this site should be kept within the DWLEP 2013 process and the proposed FSR and height controls are mismatched.

It is our view that to achieve a 4:1 FSR on this site (which is in excess of 1,500 sqm of GFA) the building form will be overly bulky and be forced to go beyond the nominated height controls and compromise reasonable planning requirements for separation between the East Building's east side elevation.

The fine-grain study that accompanied this planning proposal focussed exclusively on view impact, providing for a bulky building form that perhaps addresses that issue but neglects traffic / access, property and building separation issues. This planning proposal should be put on hold till supplementary traffic and built form studies have tested the appropriateness of the density proposed. Until those studies justify an increase in height and density beyond the DWLEP 2013 recommendations, it is appropriate to rely on the draft plan provisions given it is imminent and certain.

Nevertheless, if Council were to continue with the planning proposal for this site it is considered essential that the proposed FSR and height controls are amended to provide for a realistic form of development on the site, in particular:-

- A 4:1 FSR is mismatched to a layered 14 m and 18 m height control, a FSR of 1.3:1 as proffered in the DWLEP is more appropriate.
- The layered height controls should serve a broad environmental planning purpose, in this respect a lower height control referencing the podium of the East building and providing a 9 m setback (collectively 12 m building separation) and then a 13.5 m height control (consistent with the DWLEP) for the main building form would better serve view sharing objectives and provide for compliant building separation.
- Also, we are very concerned that complex property and access / traffic issues associated with the existing right-of-ways servicing these sites have not been properly considered in this planning proposal.

Thank you for the opportunity to make this submission.

Yours faithfully

BBC Consulting Planners

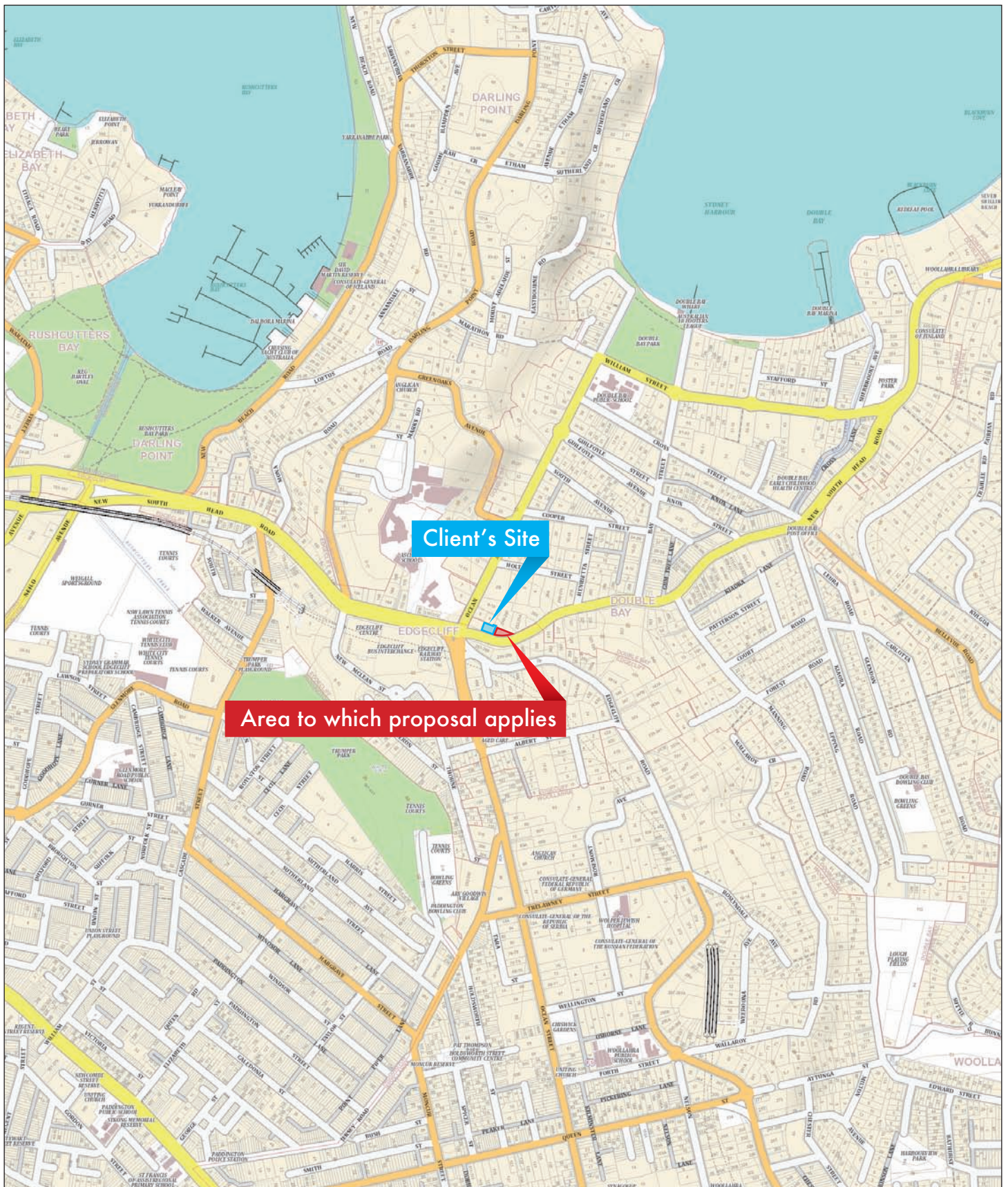


Philip Bull
Associate Director
Email philip.bull@bbcplanners.com.au

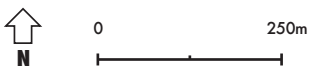


FIGURES

LOCALITY MAPS AND CURRENT AND PROPOSED LEP CONTROLS



Source: <http://maps.six.nsw.gov.au/>



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 1
 Location

Prepared For - SP86267 c/- Andrew Flitcroft





Source: <http://maps.six.nsw.gov.au/>

OBJECTION TO PLANNING PROPOSAL
 240-246 New South Road, Edgecliff

FIGURE 2
 Site

Prepared For - SP86267 c/- Andrew Flitcroft



Source: NearMap 2014

OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 3A
Aerial Photo - Detail

Prepared For - SP86267 c/- Andrew Flitcroft

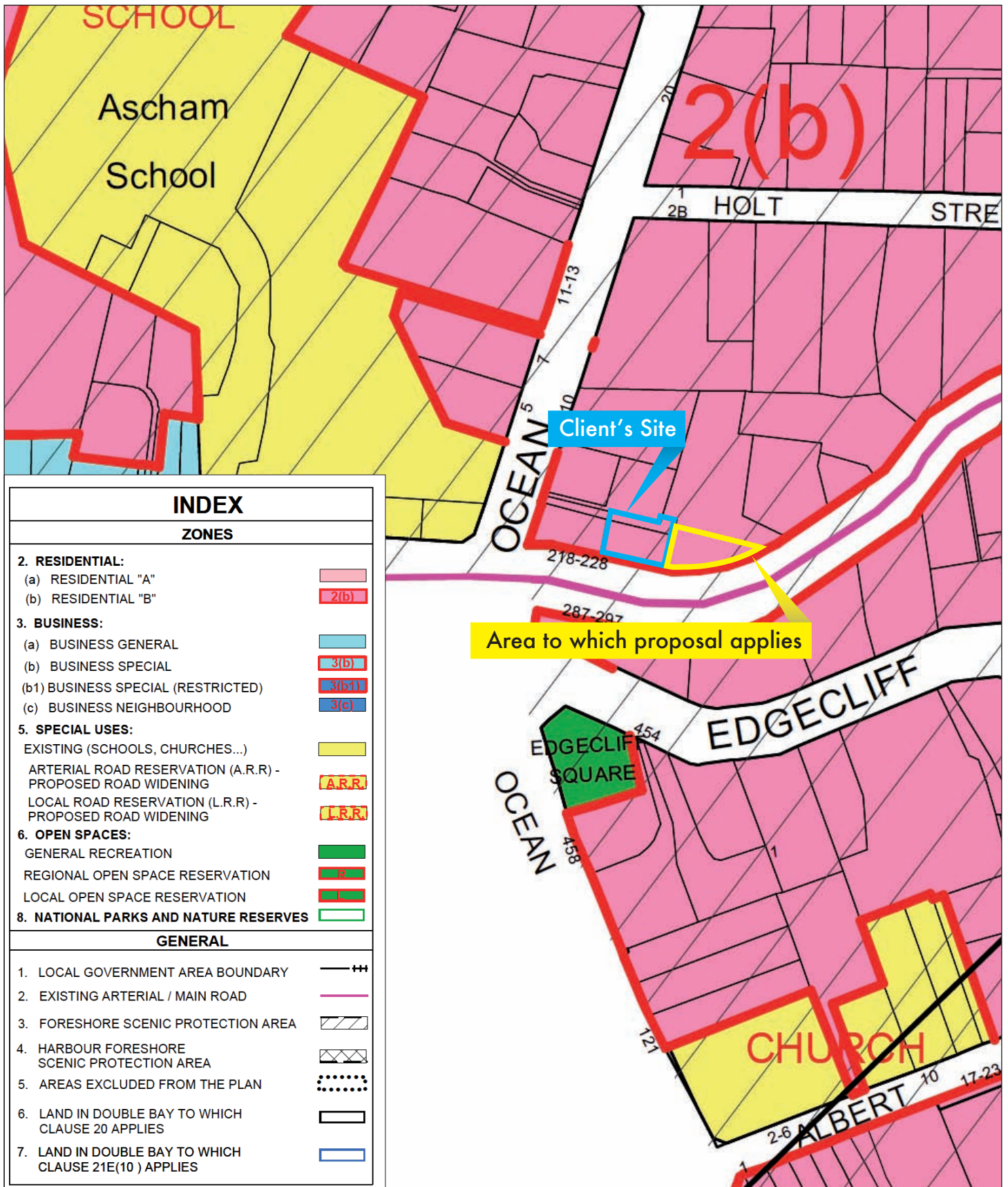


Source: NearMap 2014

OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 3B
Aerial Photo - Wider Area

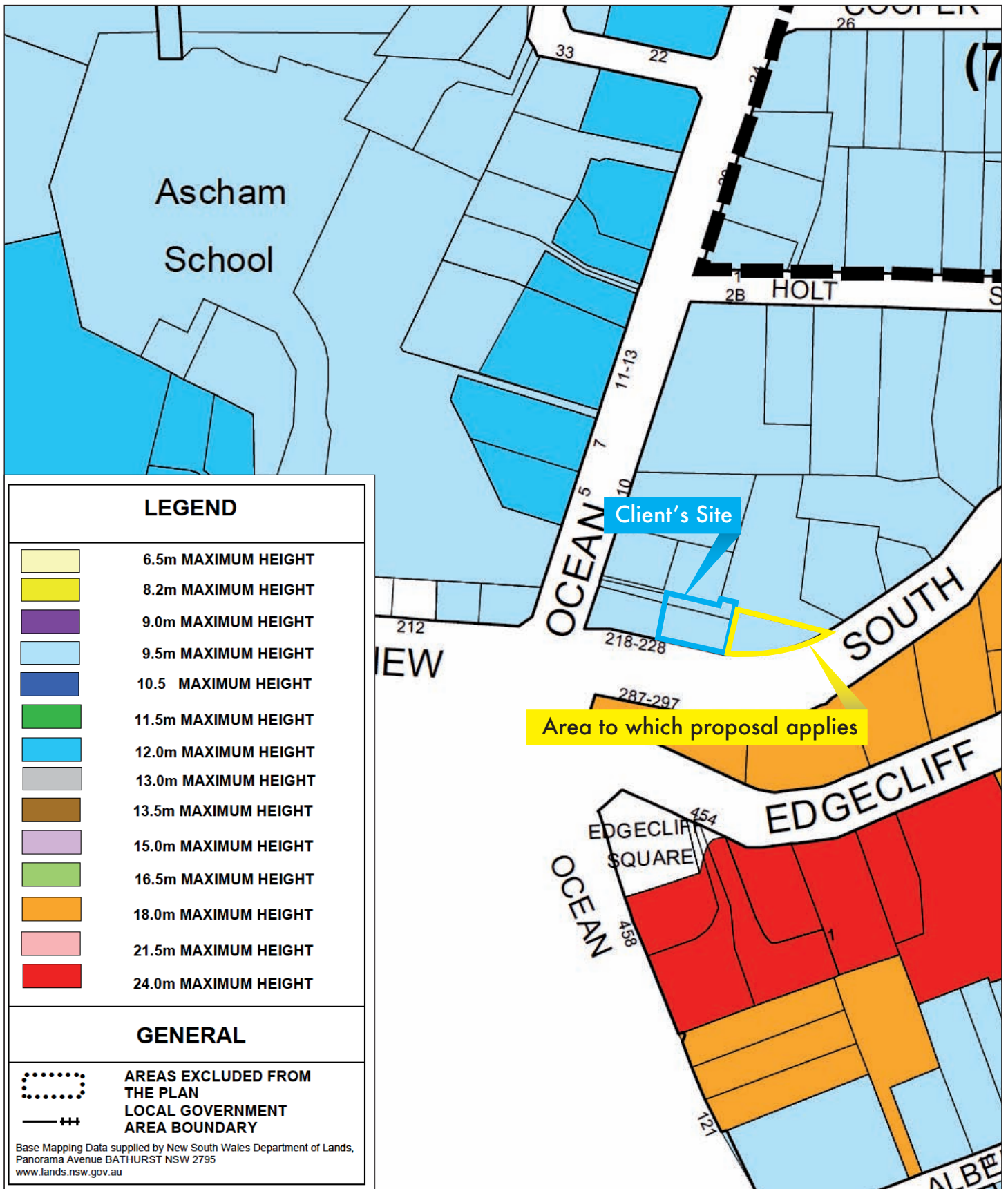
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 4A
Zoning Map - Woollahra LEP 1995

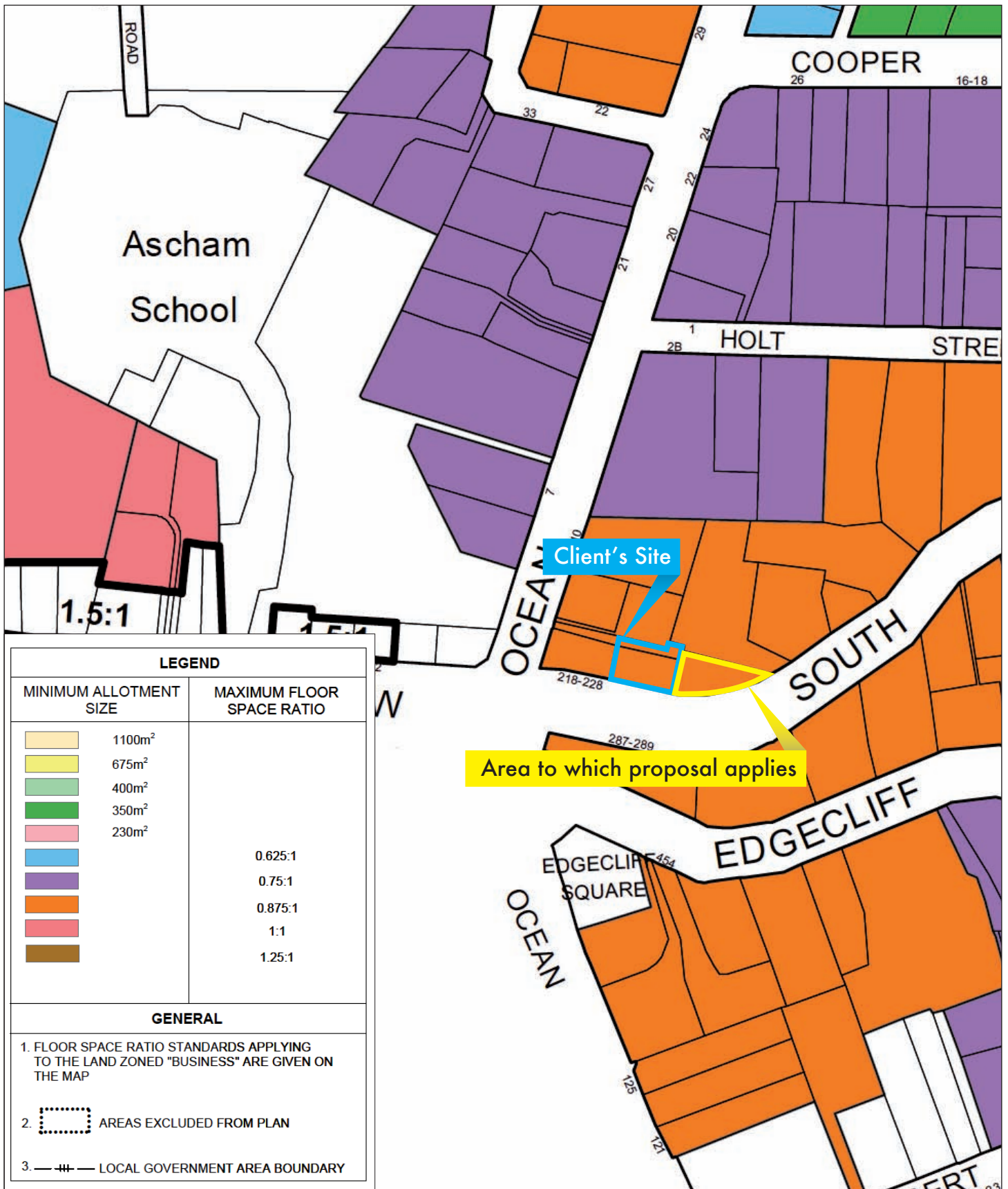
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
 240-246 New South Road, Edgecliff

FIGURE 4B
 Height of Buildings Map - Woollahra LEP 1995

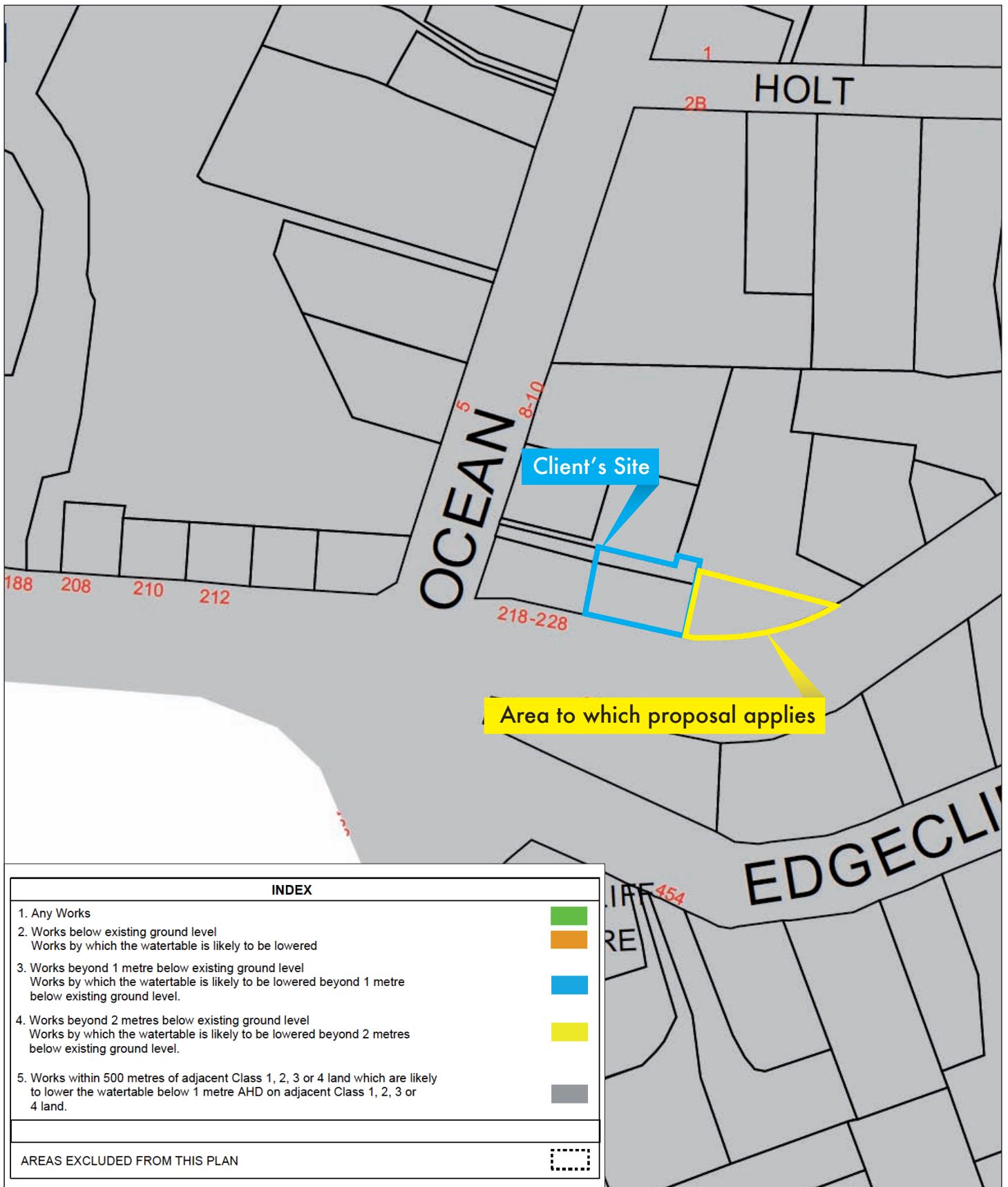
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 4C
Density Map - Woollahra LEP 1995

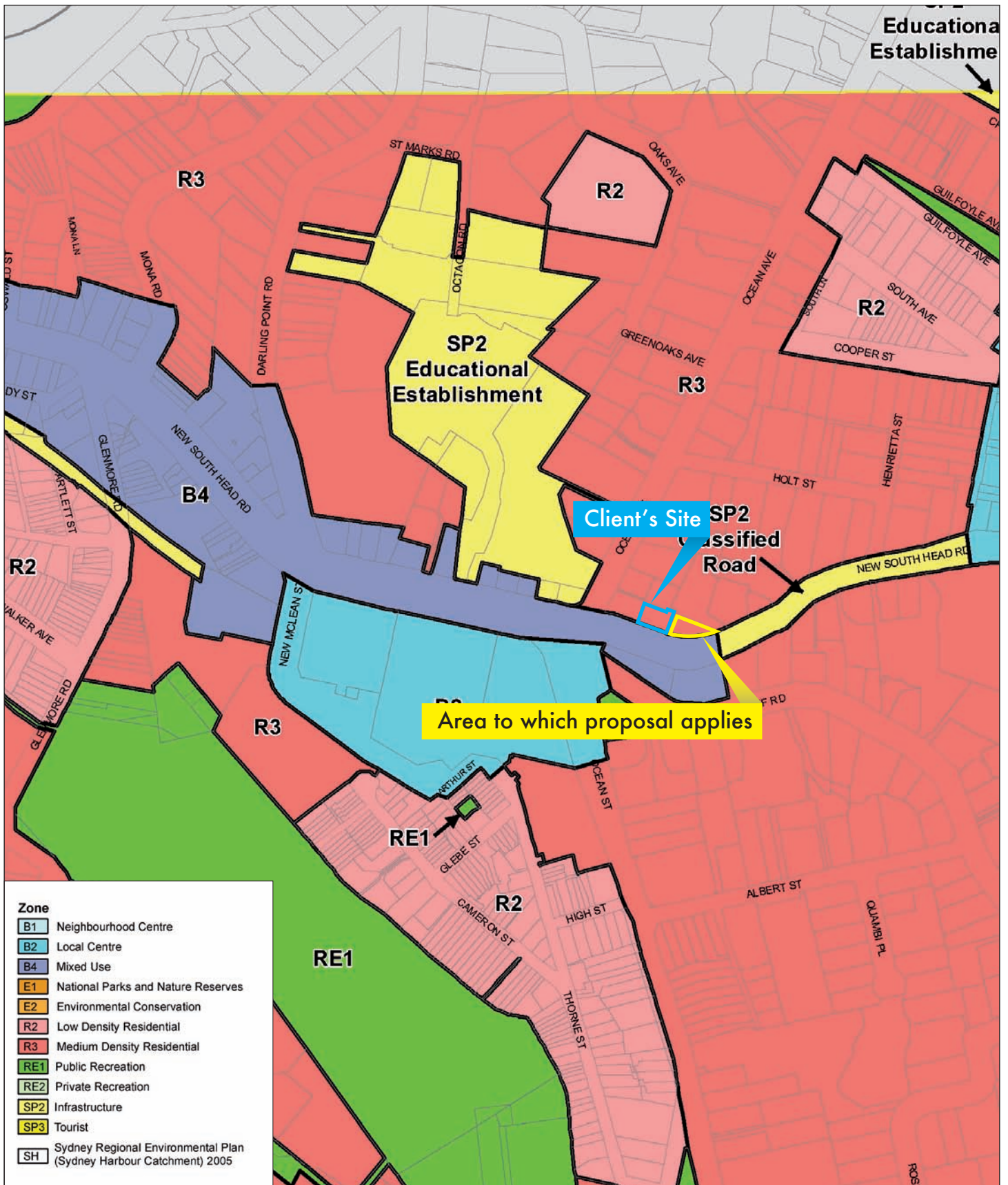
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 4D
Acid Sulfate Soils Map - Woollahra LEP 1995

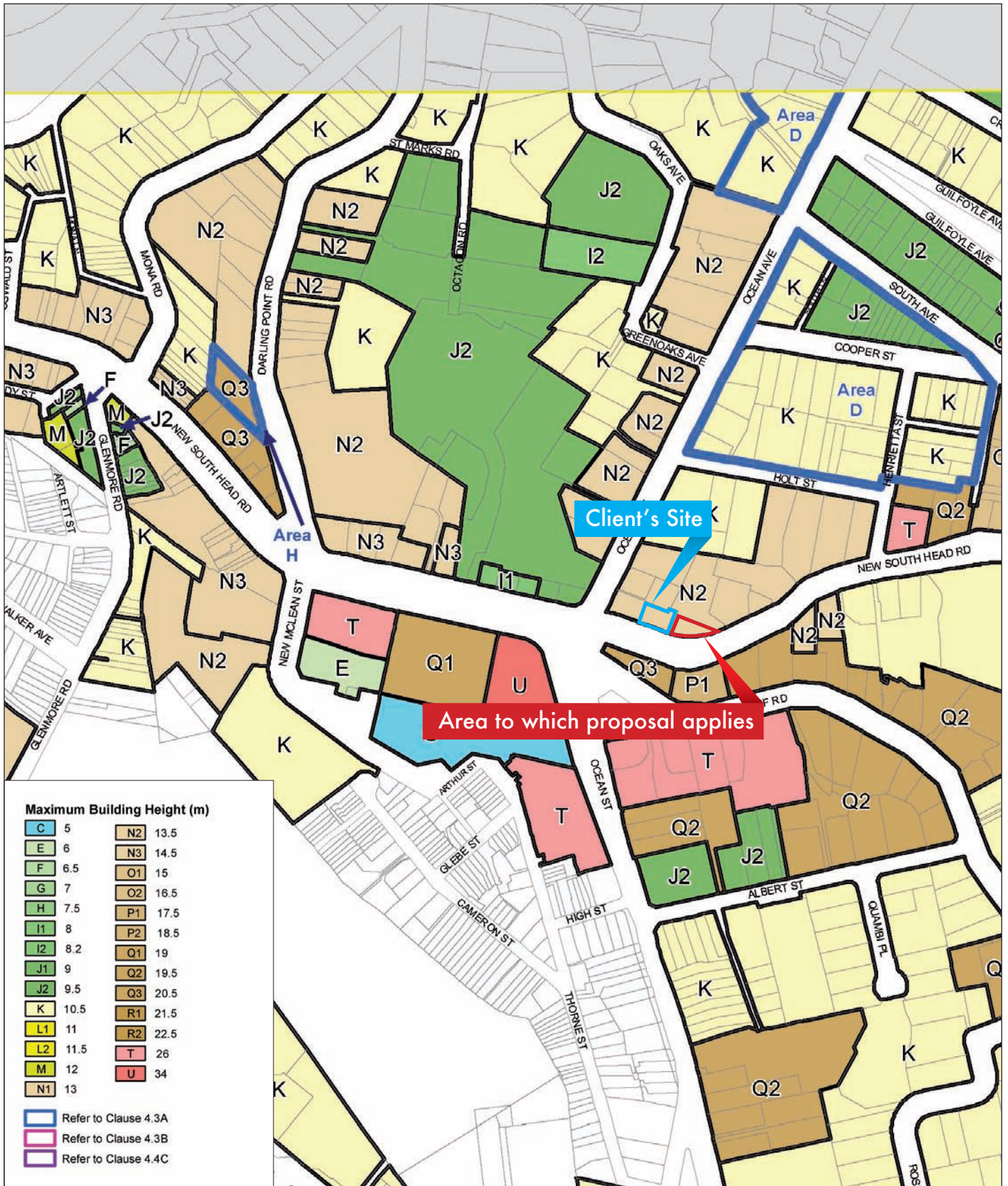
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OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 5A
Zoning Map - Woollahra LEP Draft 2013

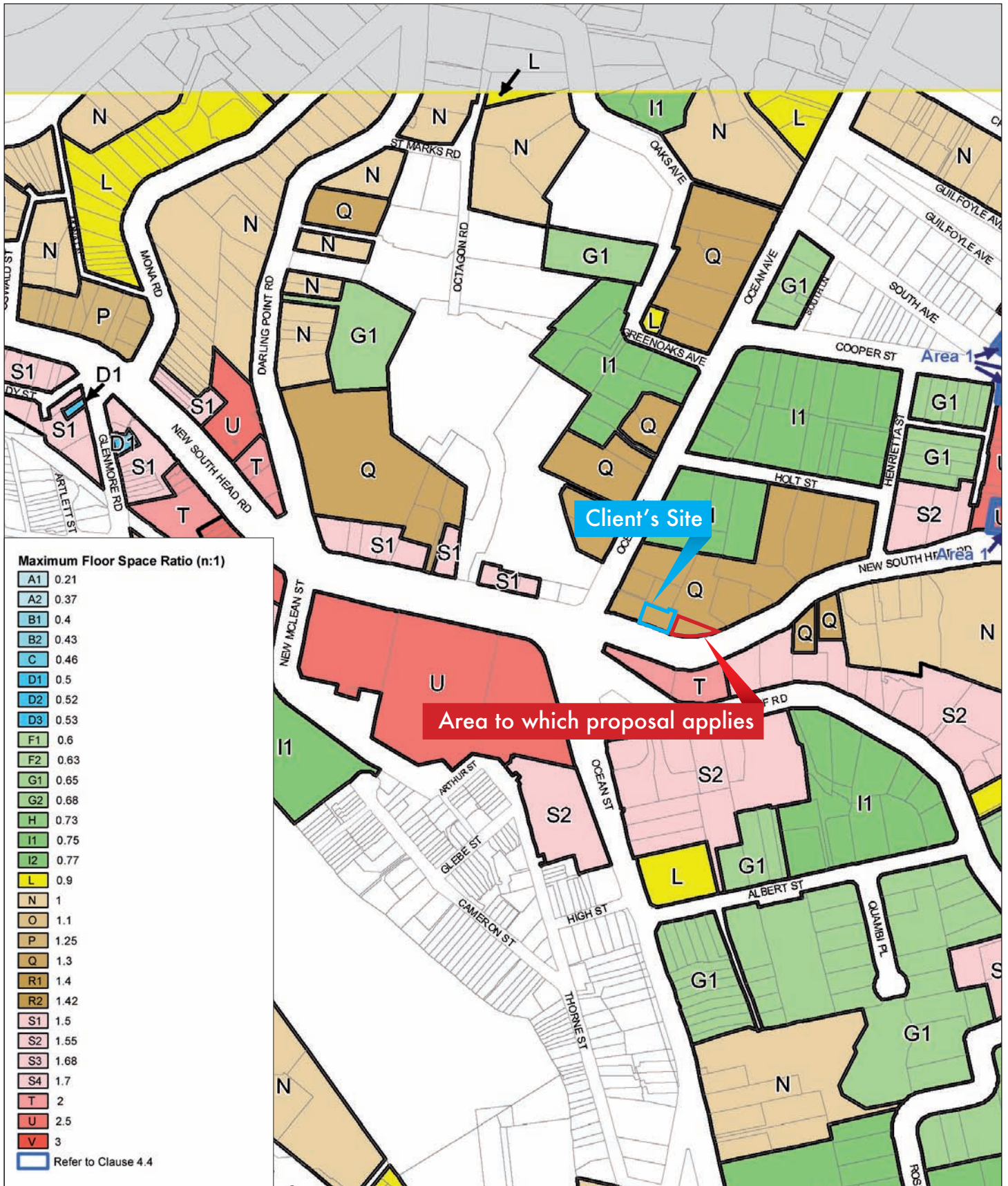
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 5B
Height of Buildings Map - Woollahra LEP Draft 2013

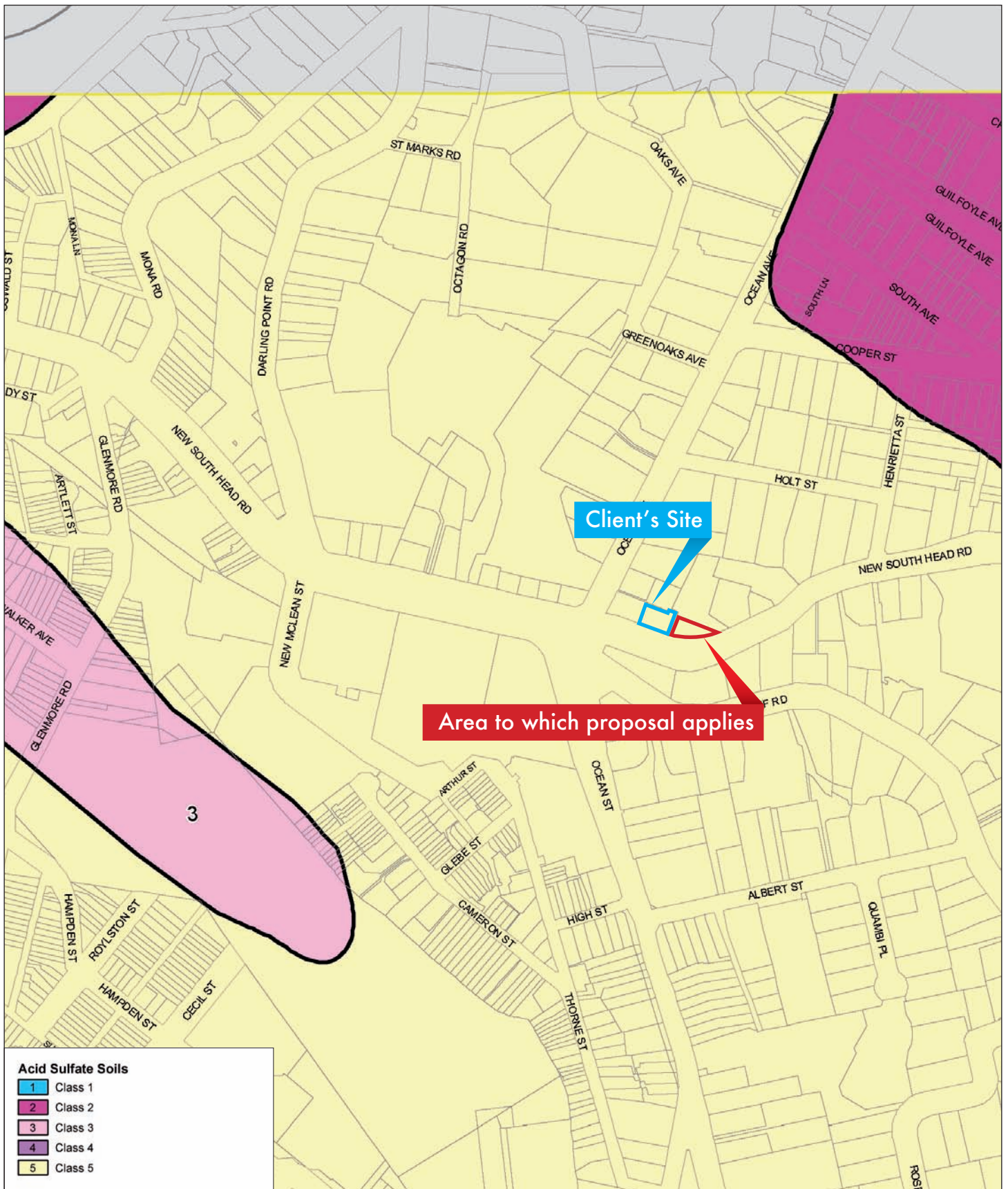
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 5C
Floor Space Ratio Map - Woollahra LEP Draft 2013

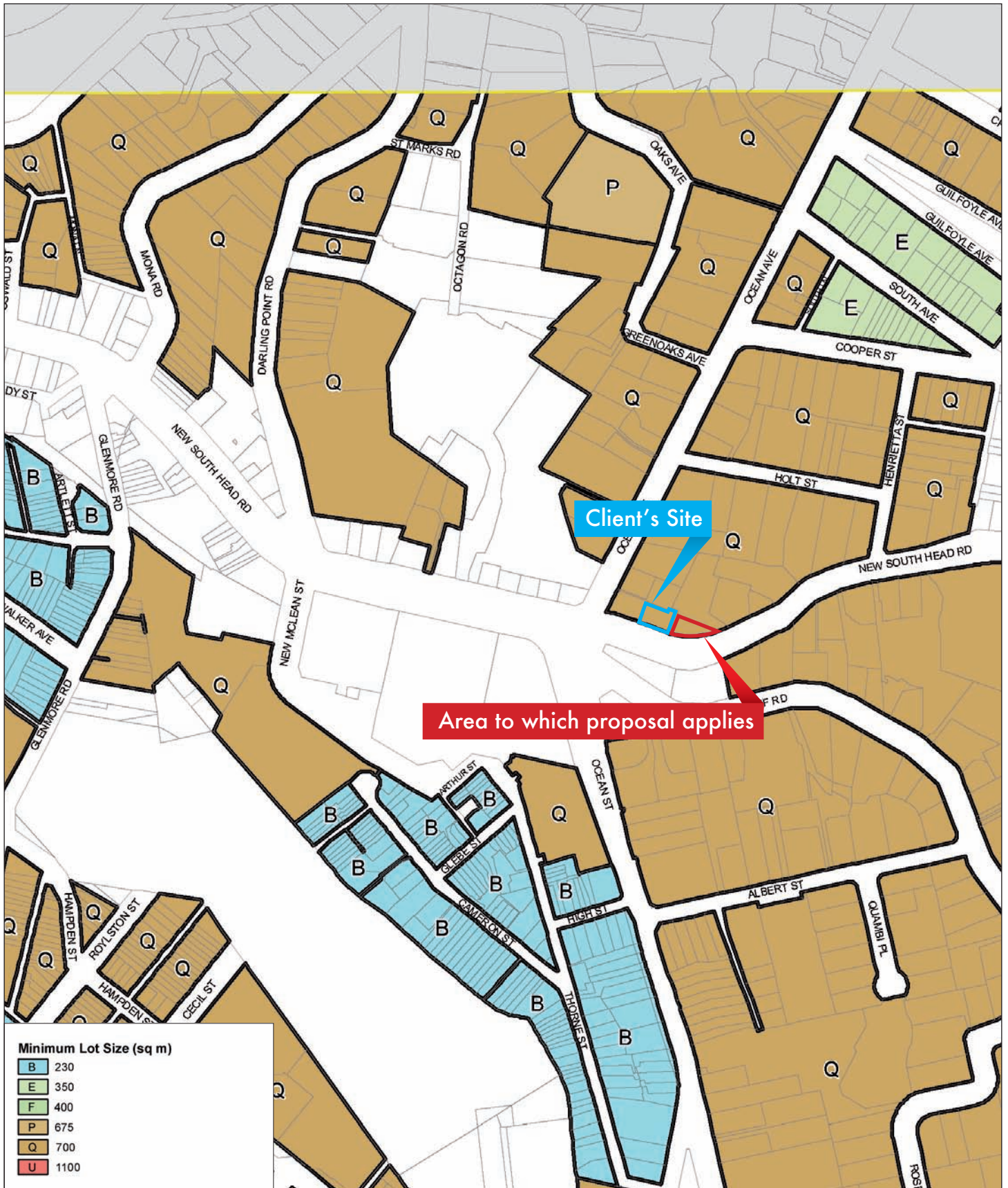
Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
 240-246 New South Road, Edgecliff

FIGURE 5D
 Acid Sulfate Soils Map - Woollahra LEP Draft 2013

Prepared For - SP86267 c/- Andrew Flitcroft



OBJECTION TO PLANNING PROPOSAL
240-246 New South Road, Edgecliff

FIGURE 5E
Lot Size Map - Woollahra LEP Draft 2013

Prepared For - SP86267 c/- Andrew Flitcroft



240-246 NEW SOUTH HEAD ROAD, EDGECLIFF

PROPERTY TITLE AND DEPOSITED PLANS

TITLE SEARCH

Title Reference: 4/431756

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 4/431756

SEARCH DATE	TIME	EDITION NO	DATE
24/7/2014	8:25 AM	6	5/9/2001

LAND

LOT 4 IN DEPOSITED PLAN 431756
 AT DOUBLE BAY
 LOCAL GOVERNMENT AREA WOOLLAHRA
 PARISH OF ALEXANDRIA COUNTY OF CUMBERLAND
 TITLE DIAGRAM DP431756

FIRST SCHEDULE

PETER ALFRED THANE

SECOND SCHEDULE (5 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 A136465 RIGHT OF WAY APPURTENANT TO THE LAND ABOVE DESCRIBED AFFECTING THE PART BEING LOTS A & B IN DP334230
- 3 G896954 EASEMENT FOR SUPPORT 3 WIDE & VAR. WIDTH AFFECTING THE PART OF THE LAND ABOVE DESCRIBED SHOWN SO BURDENED IN PLAN WITH G896954
- 4 5235940 LEASE TO MARTIN & PUNCH PTY LIMITED OF GROUND FLOOR OFFICE AREA, 240 NEW SOUTH HEAD ROAD, EDGECLIFF. EXPIRES: 30/6/2000. OPTION OF RENEWAL: 2 YEARS.
- 5 5991767 LEASE TO SANDERSON EASTERN SUBURBS PTY LTD BEING BASEMENT AREA OF 240 NEW SOUTH HEAD RD, EDGECLIFF. EXPIRES: 30/6/2001. OPTION OF RENEWAL: THREE YEARS.

NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 24/7/2014

* ANY ENTRIES PRECEDED BY AN ASTERISK DO NOT APPEAR ON THE CURRENT EDITION OF THE CERTIFICATE OF TITLE.
 WARNING: THE INFORMATION APPEARING UNDER NOTATIONS HAS NOT BEEN FORMALLY RECORDED IN THE REGISTER.



G 896954 R.P. 13. No. New South Wales MEMORANDUM OF TRANSFER (REAL PROPERTY ACT, 1900) FEB 19 11 36 1958

(Trusts must not be disclosed in the transfer.) Typing or handwriting in this instrument should not extend into any margin.

I, JOHN DANGER THANE of Edgecliff in the State of New South Wales, Estate Agent, (with consent of judge) (herein called transferor)

being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject, however, to such encumbrances, liens and interests as are notified hereunder, in consideration of TEN SHILLINGS (£ 10/-) (the receipt whereof is hereby acknowledged) paid to me by THE COMMISSIONER FOR MAIN ROADS a body corporate constituted by the Transport (Division of Functions) Act 1932-1956

and grant (herein called transferee) do hereby transfer to the said transferee out of ALL such my Estate and Interest in ALL THE land mentioned in the schedule following:—

Table with columns: County, P.rish, Reference to Title (d) (Whole or Part, Vol., Fol.), Description of Land (If part only). Entry: CUMBERLAND, ALEXANDRIA, PART, 6592, 15, Being the land shown on the plan marked "A" annexed hereto and therein marked "Proposed easement for support 3' wide & var."

And the transferee covenants with the transferor FULL AND FREE RIGHT AND LIBERTY for the transferee at all times to have the surface and the subsoil or undersurface of the part or parts of New South Head Road adjoining or adjacent to the land shown as "Proposed easement for support 3' wide & var." (which land is hereinafter called "the servient tenement") supported held and maintained by the soil of the servient tenement and by the retaining wall erected thereon by the Transferor

ENCUMBRANCES, &c., REFERRED TO

Reservations and conditions in Crown Grant.

Signed at Edgecliff the fourteenth day of October 1957 / Signed in my presence by the transferor WHO IS PERSONALLY KNOWN TO ME [Signature] Transferor. Signed [Signature]

Signed in my presence for the transferee [Signature] WHO IS PERSONALLY KNOWN TO ME [Signature]

Accepted, and I hereby certify this Transfer to be correct for the purpose of the Real Property Act. [Signature]

THIS SPACE TO BE LEFT FREE FROM NOTATION.

NOT TO BE ALTERED BY ERASURE—see Foot Note.

- a If a less estate, strike out "in fee simple" and interline the required alteration. b Full postal address of transferee must be shown. c If to two or more, state whether "as joint tenants" or "as tenants in common." d If all the references cannot be conveniently inserted, a form of annexure (obtainable at L.T.O.) may be added. e If part only of the land comprised in a Certificate or Certificates of Title is to be transferred add "and being lot sec. D.P. ..." f Strike out if unnecessary, or suitably adjust. g Covenants should comply with the provisions of Section 86 of the Conveyancing Act, 1919-1953. h A very short note will suffice. i Execution in New South Wales may be proved if this instrument is signed or acknowledged before the Registrar-General, or a Notary Public, a J.P., or Commissioner for Affidavits, to whom the Transferor is known, otherwise the attesting witness should appear before one of the above functionaries who having questioned the witness should sign the certificate on the back of this form. As to instruments executed elsewhere, see back of form. j Repeat attestation if necessary. k If the Transferor or Transferee signs by a mark, the attestation must state that the instrument was read over and explained to him, and that he appeared fully to understand the same.

* If signed by virtue of any power of attorney, the original power must be registered in the Miscellaneous Register, and produced with each dealing, and the memorandum of non-revocation on back of form signed by the attorney before a witness.

† N.B.—Section 117 requires that the above Certificate be signed by each Transferee or his Solicitor or Conveyancer, and renders any person falsely or negligently certifying liable to a penalty of £50; also to damages recoverable by parties injured. Acceptance by the Solicitor or Conveyancer (who must sign his own name, and not that of his firm) is permitted only when the signature of the Transferee cannot be obtained without difficulty, and when the instrument does not impose a liability on the party taking under it. When the instrument contains some special covenant by the Transferee or is subject to a mortgage, encumbrance or lease, the Transferee must accept personally.

No alterations should be made by erasure. The words rejected should be scored through with the pen, and those substituted written over them, the alteration

No. **1 G 896954**

LODGED BY State

CONSENT OF MORTGAGEE

(N.B.—Before execution read marginal note.)

f, BANK OF NEW SOUTH WALES

mortgagee under Mortgage No. G766212
 release and discharge the land comprised in the within transfer from such mortgage and all claims thereunder but without prejudice to my rights and remedies as regards the balance of the land comprised in such mortgage, consents to the within Grant of Easement but without prejudice to its rights powers and remedies under such mortgage against the Mortgagor personally and as regards the balance of the lands comprised therein.

This consent is appropriate to a transfer of part of the land in the Mortgage. The mortgage should execute a formal discharge where the land transferred is the whole of or the residue of the land in the Certificate of Title or Crown Grant or is the whole of the land in the mortgage.

signed for and on behalf of the Bank of South Wales at this Sydney in the first day of November, 1957,
 Signed in my presence by Leonard Robert Kendall and LIONEL VAUGHAN WILSON its duly constituted Attorneys who are personally known to me

Bank of New South Wales
 day of Nov 1957 by Mr. Kendall Acting Asst. Chief Security Officer and Inspector Mortgages

MEMORANDUM AS TO NON-REVOCATION OF POWER OF ATTORNEY.

(To be signed at the time of executing the within instrument.)

Memorandum whereby the undersigned states that ~~he has~~ ^{they have} no notice of the revocation of the Power of Attorney registered No. 30446 Miscellaneous Register under the authority of which ~~he has~~ ^{they have} just executed the within transfer consent.

Signed at Sydney ----- the first --- day of November -- 1957.
 Signed in the presence of Rh. Montgomerie J.P.

Strike out unnecessary words. Add any other matter necessary to show that the power is effective.

CERTIFICATE OF J.P., &c., TAKING DECLARATION OF ATTESTING WITNESS.

Appeared before me at _____, the _____ day of _____, one thousand _____ and declared that he personally knew the attesting witness to this instrument signing the same, and whose signature thereto he has attested; and that the name purporting to be such signature of the said _____ is _____ the person _____ own handwriting, and that he was of sound mind and freely and voluntarily signed the same.

To be signed by Registrar-General, Deputy Registrar-General, & Notary Public, J.P., Commissioner for Affidavits, or other functionary before whom the attesting witness appears. Not required if the instrument itself be signed or acknowledged before one of these parties.

INDEXED	MEMORANDUM OF TRANSFER	DOCUMENTS LODGED HEREWITH.
	<u>& pt of easement for support</u>	To be filled in by person lodging dealing.
Checked by	Particulars entered in Register Book, Volume <u>6592</u> Folio <u>15</u>	Received Docs. Nos. 1-4, 2-5, 3-6
Passed (in S.D.B.) by	<u>M.P.D.</u>	Receiving Clerk.
Signed by	the <u>13th</u> day of <u>November</u> 19 <u>58</u> at _____ o'clock in the <u>after</u> noon.	REFUND of <u>10/-</u> approved.
	<u>J. J. J. J.</u> Registrar-General	<u>Deputy Registrar-General</u> 17 NOV 1958

LEAVE THESE SPACES FOR DEPARTMENTAL USE.

PROGRESS RECORD.

	Initia.	Date.
Sent to Survey Branch		
Received from Records		
Draft written ...		
Draft examined		
Diagram prepared ...		
Diagram examined ...		
Draft forwarded		
Supt. of Engrossers		
Cancellation Clerk		

EXECUTION OUTSIDE NEW SOUTH WALES.
 Execution may be proved where the parties are resident —
 (a) in any part of the British dominions outside the State of New South Wales by signing or acknowledging before the Registrar-General or Recorder of Titles of such Possession, or before any Judge, Notary Public, Justice of the Peace for New South Wales, or Commissioner for taking affidavits for New South Wales, or Mayor or Chief Officer of any municipal or local government corporation of such part, or Justice of the Peace for such part, or the Governor, Government Resident, or Chief Secretary of such part or such other person as the Chief Justice of New South Wales may appoint.
 (b) in the United Kingdom by signing or acknowledging before the Mayor or Chief Officer of any corporation or a Notary Public.
 (c) in any foreign place by signing or acknowledging before (i) a British Consular Officer (which includes a British Ambassador, Envoy, Minister, Chargé d'Affaires, Secretary of Embassy or Legation, Consul-General, Acting Consul-General, Consul, Acting Consul, Vice-Consul, Acting Vice-Consul, Pro-Consul, Consular Agent and Acting Consular Agent), (ii) an Australian Consular Officer (which includes an Ambassador, High Commissioner, Minister, Head of Mission, Commissioner, Chargé d'Affaires, Counsellor or Secretary at an Embassy, High Commissioner's Office or Legation, Consul-General, Consul, Vice-Consul, Trade Commissioner and Consular Agent), who should affix his seal of office, or the attesting witness may make a declaration of the due execution thereof before one of such persons (who should sign and affix his seal to such declaration), or such other person as the said Chief Justice may appoint.

The fees are:—Upon lodgment (a) £1-10-0, if accompanied by the relevant title or evidence of production thereof, (b) £1-15-0 otherwise. This fee includes endorsement on the first Certificate. In addition the following fees are payable:—(a) 3/- for each additional Certificate included in the Transfer, (b) £2 for each new Certificate of Title issued, (c) 10/- where the Transfer contains covenant purporting to affect the user of any land, (d) 10/- where the Transfer is expressed to be made together with an easement or expressed to reserve an easement or in any way creates an easement, (e) 10/- where partial discharge of a mortgage is endorsed on the Transfer, (f) 2/6 for each additional folio where the Certificate exceeds fifteen folios, (g) as approved, in cases involving more than one simple diagram or any diagram other than a simple diagram.
 Tenants in common must receive separate Certificates.
 If part only of the land is transferred a new Certificate must issue for that part, and the old Certificate will be retained in the Office. A new Certificate may be taken out for the residue if desired.

9896954

Plan Form N°7 (for compilations)

Municipality of Woollehra
Shire of

T.A.M.
PLAN

of part of Lot 8, Dep. Plan 5529

Parish of Alexandria, County of Cumberland.

Scale - 30 feet to an inch.

BEARINGS
AGREE WITH
D125161 W821925
23/10/57

PLAN NOT VALID

5529

RIGHT OF WAY 121' WIDE
in
2533652

2
Main Road
Purchased for Main Road
purposes
Plan

D125161

Henrietta St.

NEW
Aligned

SOUTH
MAIN ROAD
Variable
HEAD
No 173

ROAD

This margin to be left free from notation

The land delineated hereon has been
acquired for road purposes and there is
no objection to the land being shown as a
road on Certificates of Title for adjoining lands

K. Davarough
Asst. Principal Land Surveyor
Department of Main Roads

Not sworn by me

I certify that this plan has been compiled from the information in

Plans D125161 and W821925 and is accurate.

J. Hansen

Surveyor Registered under Surveyors Act, 1929-46.
15th March 1957

173 & 179

D.M.R. 433 173A

Plus 50' Street
Signature of parties to be made in this margin
Dated 22/11/57
W. W. W. W. W.
W. W. W. W. W.
W. W. W. W. W.

Handwritten signatures and stamps at the bottom right of the plan.

C493682 **F.P. 334230** C493682

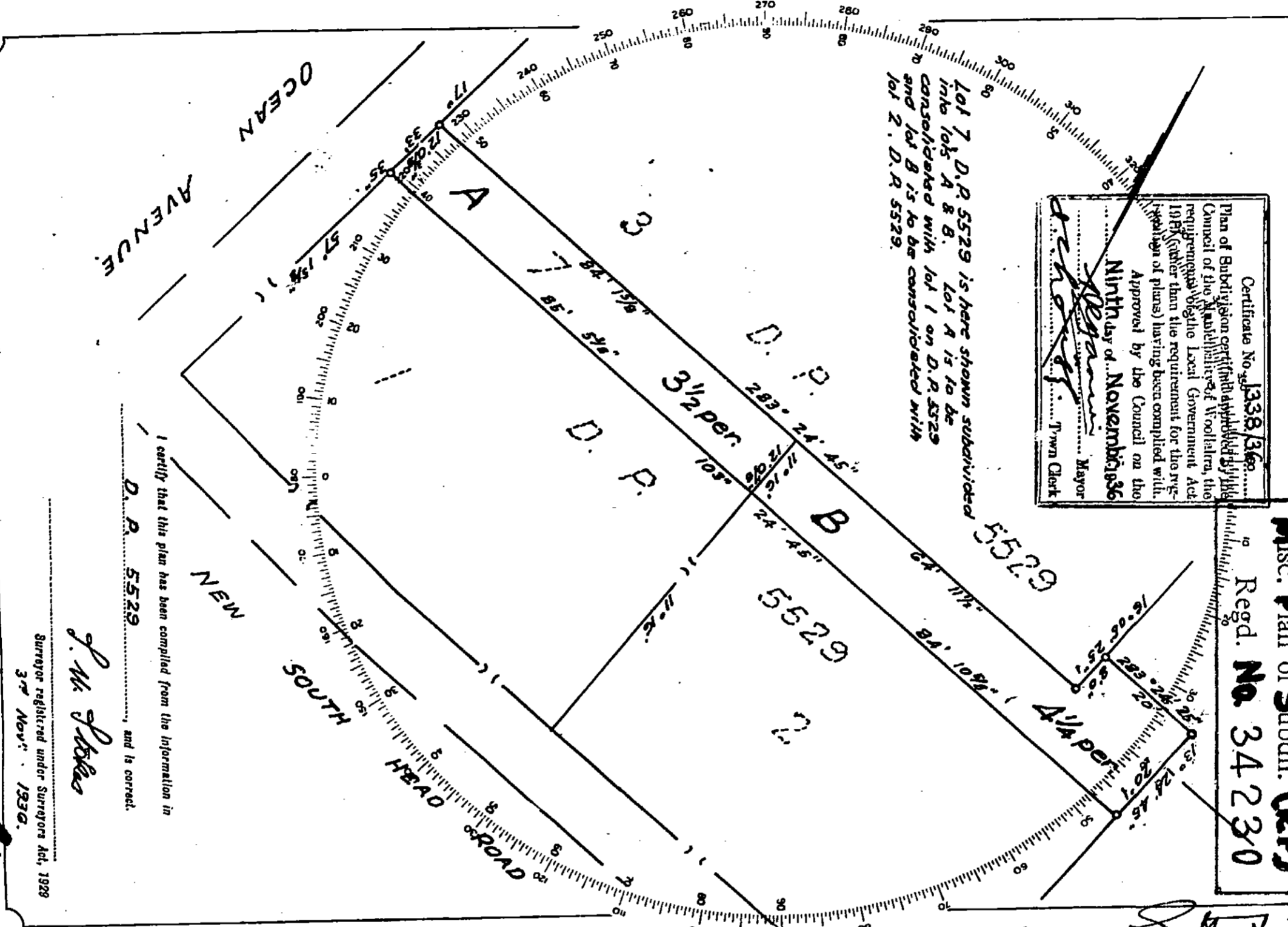
Plan Form No. 1 (for compilations)
 Municipality of Woolfara
 Share of
 Parish of Alexandria County of Cumberland,
 of a subdivision of lot 7, D.P. 5529

Scale 20 feet to an inch

Misc. Plan of Subdn. (C.P.)
 Regd. No. 34230

Certificate No. 338, 369
 Plan of Subdivision certified by the Council of the Municipality of Woolfara, the required Local Government Act 1978 (other than the requirement for the specification of plans) having been complied with.
 Approved by the Council on the 11th day of November 1986
 Mayor
 Town Clerk

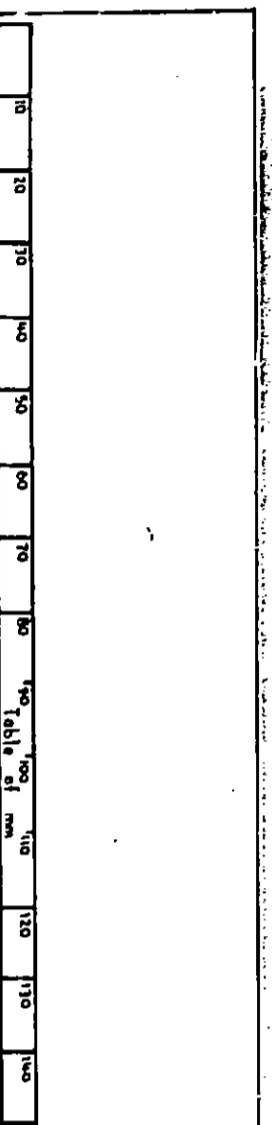
Lot 7, D.P. 5529 is here shown subdivided into lots A & B. Lot A is to be consolidated with lot 1 on D.P. 5529 and lot B is to be consolidated with lot 2, D.P. 5529.



I certify that this plan has been compiled from the information in D.P. 5529 and is correct.
 J. M. Stokes
 Surveyor registered under Surrogate Act, 1928
 3rd Nov. 1986

This is the plan marked "X" referred to in Memorandum of 7. and 8. dated 16th November 1936. B913 with No Stone

Given under the hand of the Mayor of the Municipality of Woolfara on the 11th day of November 1986.
 Mayor
 Town Clerk



I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 12th day of June, 1978

CONVERSION TABLE ADDED IN DEPARTMENT OF LANDS

DP 334230		CONVERSION TABLE ADDED IN DEPARTMENT OF LANDS	
FEET INCHES	METRES	AC RD P	SQ M
8 - 0 1/8	2.438	- - 3 1/2	88.5
12 0 3/8	3.661	- - 4 1/4	107.5
20 - 0 3/8	6.096		
57 1 5/8	17.415		
64 11 1/2	19.799		
84 1 5/8	25.644		
84 10 5/8	25.873		
85 5 3/8	26.045		

Catherine Bishop

25th July, 2014

The General Manager
Woollahra Council
536 New South Head Road
Double Bay NSW 2028

By Hand

WOOLLAHRA COUNCIL RECORDS DEPT.

29 JUL 2014

Doc No 05712.14
File 1064.G PLAN PROP
Action..... B. METCALFE

Dear Sir,

**RE: SUBMISSION ON 1064.G PLAN PROP
240-246 NEW SOUTH HEAD ROAD, DBLE BAY - THANE BLDG**

I am the owner of 6/250 New South Head Road and write to express my concern about the planned development of the above mentioned building. I am aware that the Body Corporate has made a submission on behalf of the owners however I am so concerned I wanted to add my voice individually.

My concerns are as follows:

1. Increased height/bulk of building
I think that the increased height will have a huge and negative impact on the entrance to Templeton given that the building is "hard up" against our upper parking level and the front of the building. We will have balconies from all the flats overlooking this area. I can only imagine it will be akin to having a canyon wall opposite - quite out of keeping with the area.
2. Parking
It is not clear to me where the parking is intended and how the entry/exit is intended to the building especially vehicular.

We have terrible problems with parking at our property due to people NOT in the building parking on site and on New South Head Road. It is a precarious entry/exit to New South Head Road from our property and increased density could make it much worse. We have our "Right of Way" entry from Ocean Avenue constantly blocked by present tenants of the Thane Building, making use of it impossible.

3. Geological impacts

We have had considerable problems with the lower level car park and water ingress. I am extremely concerned about safety and the effect of building so close to our property geologically.

While I understand and support the push for higher density, I feel that the irregular land shape and size precludes the development as proposed as it will result in unacceptable overlooking both visually and audibly. Increase access difficulties and possibly compromise the geology.

I strongly suggest that the size of the building proposed and its design is too large for the area and position and should not be accepted unless reduced and further impact studies have been completed.

Thank you for your serious consideration of this.

Yours faithfully,


Catherine Bishop

Political Donations – matters to be considered by Councillors at Meetings

