

**DA NO:** DA-2023/101

**ADDRESS:** 61 SUGARLOAF CRESCENT, CASTLECRAG NSW 2068.

**PROPOSAL:** DEMOLITION OF EXISTING DWELLING AND CARPORT AND CONSTRUCTION OF NEW DWELLING HOUSE, SWIMMING POOL, OUTDOOR ENTERTAINING AREA, DOUBLE GARAGE, LANDSCAPING AND ASSOCIATED WORKS.

**RECOMMENDATION:** APPROVAL

**ATTACHMENTS:**

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SUBMISSIONS TABLE
4. VIEW SHARING ASSESSMENT
5. SECTION 4.15 (79C) ASSESSMENT
6. SCHEDULE OF CONDITIONS
7. NOTIFICATION MAP

**RESPONSIBLE OFFICER:** RITU SHANKAR - TEAM LEADER

**AUTHOR:** ERIC KIM – DEVELOPMENT ASSESSMENT OFFICER

**REPORT DATE:** 23 AUGUST 2023

**MEETING DATE FOR PUBLIC MEETING** 12 SEPTEMBER 2023

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## **1. PURPOSE OF REPORT**

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2023/101 for Demolition of existing dwelling and carport and construction of new dwelling house, swimming pool, outdoor entertaining area, double garage, landscaping and associated works at 61 Sugarloaf Crescent, Castlecrag.

The application is required to be referred to the WLPP for determination because the number of submissions exceed 10.

## **2. OFFICER'S RECOMMENDATION**

**THAT the Willoughby Local Planning Panel:**

**2.1 Approve Development Application DA-2023/101 for demolition of existing dwelling and carport and construction of new dwelling house, swimming pool, outdoor entertaining area, double garage, landscaping and associated works at 61 Sugarloaf Crescent, Castlecrag NSW 2068, subject to conditions contained in Attachment 6, for the following reasons:**

**2.1.1 The proposal is consistent with the objectives of C4 – Environmental Living zone and objectives of the development standards.**

**2.1.2 The proposed development is considered to be consistent with the objectives for dwelling houses contained in Part D.1 of the *Willoughby DCP*.**

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

### **3. BACKGROUND**

The subject development application was lodged on 14 April 2023.

Notification occurred between 3 May 2023 to 17 May 2023. 14 submissions have been received.

Additional information request was provided to the applicant on 10 July 2023, requesting changes to the lowering of the swimming pool and front fence, and increased setback for the garage.

Amended plans were provided 12 July 2023 and 15 August 2023, with a lowered swimming pool and front fence, increased setback for the garage, and a lowered height to comply with the *LEP*.

### **4. DISCUSSION**

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

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

A table of the issues raised in the submissions objecting to the proposal and the assessing officer's response is contained in **Attachment 3**.

A detailed view sharing assessment is provided in **Attachment 4**.

A detailed assessment of the proposal for approval is provided in **Attachment 5**.

Schedule of conditions is provided in **Attachment 6**.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=528128>

### **5. CONCLUSION**

The Development Application DA-2023/101 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 6.

**ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO**

The subject site is legally described as a Lot 282 DP 13613. The property is located on the western side of Sugarloaf Crescent and contains a 24.385m frontage. It is occupied by a one storey brick dwelling with a tiled roof. A detached garage is located adjacent to Sugarloaf Crescent, with access to the dwelling being provided via stairs. A rock outcrop is located at the rear of the site. The site steeply falls from the rear of the site to the front.

Development in the surrounding locality comprises a mix of part 2-storey and part 3-storey dwellings. Developments along Sugarloaf Creek follow a similar steep topography as 61 Sugarloaf Crescent, with garages located along the front boundary for safe vehicular access to the site. The site is in close proximity to Camps Creek and benefits from a land water interface view.



Figure 1: Rear rock outcrop



Figure 2: Photo of 63 Sugarloaf from existing front deck of 61 Sugarloaf



Figure 3: Photo of front of site

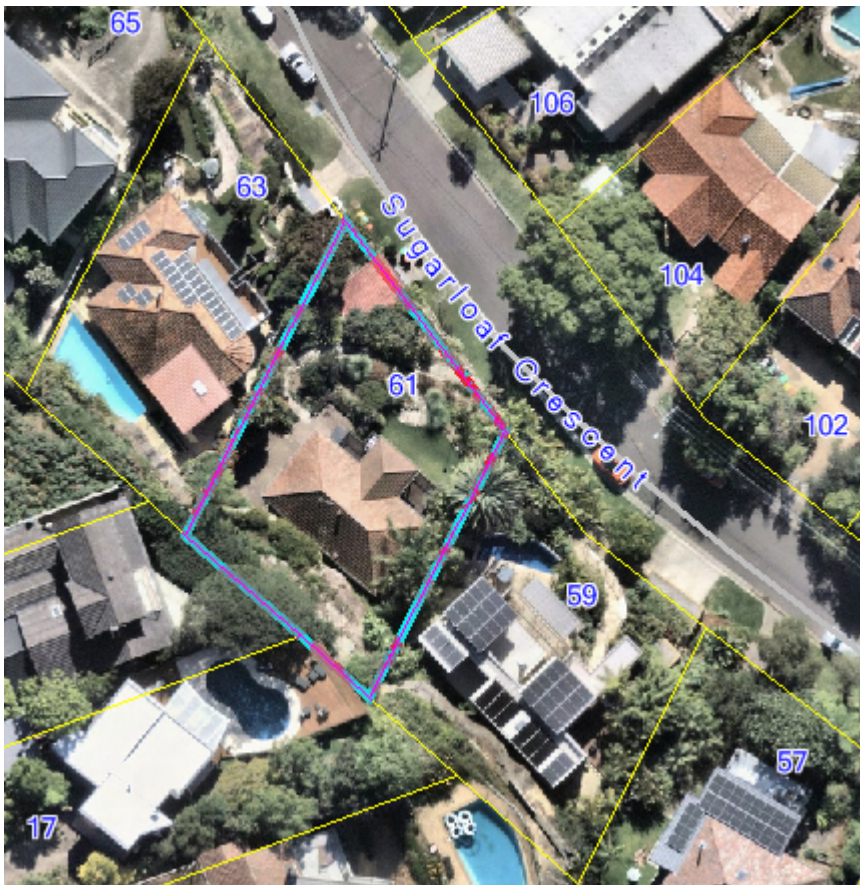


Figure 4: Aerial View

**ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS**

<b>Willoughby Local Environmental Plan 2012 Zoning:</b>	C4 Environmental Living
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	No
Aboriginal Heritage	No
Heritage Item	No
Vicinity of Heritage Item	No
Natural Heritage Register	No
Bushfire Prone Area	Yes– Vegetation Buffer
Flood related planning control	No
Adjacent to classified road	No
Road/lane widening	No
BASIX SEPP	Yes
Infrastructure SEPP - Rail	No
Infrastructure SEPP – Road	No
SEPP (Resilience and Hazards) 2021 Chapter 2 Coastal Management Chapter 2.	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	No
Other relevant SEPPS	N/A
Other relevant REPS	Sydney Regional Environmental Plan (Sydney Regional Harbour catchment)
Relevant policies and resolutions	WDCP

<b>Development Statistics (R2 &amp; E4 – Dwelling House and/or ancillary development)</b>						
<b>Site Area (m<sup>2</sup>)</b>		654.3 m <sup>2</sup>				
<b><u>WLEP 2012</u></b>						
Clause	Control	Existing	Proposed by applicant	Calc. by Council	Standard	Numerical Compliance
CI.4.3	Height (m)		8.5m. Plan 3.05 displays the height of development against existing ground levels.		8.5m	Yes
CI.4.4 & CI. 4.4A	GFA (m <sup>2</sup> )		240.5 m <sup>2</sup>		242.091 m <sup>2</sup>	Yes
	FSR		0.367:1		0.37:1	
<b><u>WDCP</u></b>						
Part	Control	Existing	Proposed	Calc. by	Standard	Numerical

			by applicant	Council		Compliance
<b>C.4</b>	<b>Parking</b>		2		2	Yes
<b>C.5</b>	<b>Water management (%)</b>		Council development engineer has raised no objections to the proposal.		< 50%-N/A 50%-55% - 3000L tank >55% 10,000L tank	Yes
<b>C.9</b>	<b>Tree preservation</b>		N/A		Trees exceeding 4m, trunk girth 0.6m or crown exceeding 3 m subject to preservation controls	
<b>C.12</b>	<b>Fencing</b>		The fence contains a height of 1.1m.		Max. height 1.8 with 1m setback	Yes
<b>Part</b>	<b>Control</b>	<b>Existing</b>	<b>Proposed by applicant</b>	<b>Calc. by Council</b>	<b>Standard</b>	<b>Numerical Compliance</b>
<b>D1.4.2.4</b>	<b>Colours</b>	N/A	Appropriate colours utilised that complement the streetscape.		Sensitive to surroundings	Yes
<b>D1.4.3.2</b>	<b>Two storey wall length</b>		Appropriate articulation is utilised through progressively increasing the front setback with each floor.		6m max without articulation	Yes
<b>D1.7</b>	<b>Building Height Plane</b>		Noncompliance found on the first floor.		envelope 3.5 m high at boundary and 45 degree angle inwards over site	No, Acceptable upon merit.
<p>Discussion: The proposal contains a noncompliance to the building height plane control within the first floor elements. This is acceptable as the objectives of D.1.7 Building Envelopes and Setbacks is met.</p> <p>To ensure the siting of buildings provides adequate separation for the amenity of residents and adjoining properties – the proposal contains adequate setbacks to allow suitable building separation and respects the amenity of surrounding developments to accommodate to the solar access and visual privacy of neighbours. No active rooms are placed within the first floor with appropriate window designs being utilised to allow privacy for adjoining sites. Solar access diagrams have been provided displaying compliance.</p> <p>To provide adequate space for landscaping- Compliant landscaped area has been provided.</p> <p>To achieve equitable access to sunlight and views – Solar access diagrams have been provided displaying compliance with Council’s solar access requirements.</p> <p>To minimise overshadowing of adjoining properties - Solar access diagrams have been provided displaying compliance with Council’s solar access requirements.</p> <p>To provide setbacks that reinforce the established streetscape pattern and allow for landscaping and open space to complement the streetscape – Adequate setbacks have been provided for the proposal. 59 Sugarloaf Crescent contains an approximate front setback of 7m and 63 Sugarloaf Crescent contains an approximate front setback of 11m, thus displaying there is no consistency with front setbacks within the adjoining dwellings. The proposed development utilises a 7m front setback which respects the streetscape and does not result in an excessive bulk when viewed from the streetscape. A landscape plan that proposes a variety of plantings</p>						

	<p>is applied to complement the natural features of the site and reduce the apparent bulk of the proposal.</p> <p>To minimise excessive bulk and scale – The proposal progressively increases its front setback to reduce the apparent bulk of the proposal from the public domain. Suitable plantings within the front setback area are proposed to screen and not allow the development to visually intrude. Photomontages have been provided to display the built form from the public domain.</p>					
	<b>Front Setback (m)</b>		7m front setback is provided.	consistent with adjoining or 7m if no established building line	Yes	
	<b>Side Setback (m)</b>		1.5 m side setback provided	0.9 (1.5m on 1 side E4 only)	Yes	
	<b>Side Setback (m)</b>		1.5m side setback provided			
	<b>Rear Setback (m)</b>		6m rear setback is provided	6m for 2 storey dwelling and consistent with established line	Yes	
<b>D1.8</b>	<b>Soft Landscaped Area (m<sup>2</sup>)</b>		398.1	393.1	(275.3m <sup>2</sup> )	Yes
	Discussion: Discrepancy is due to areas with a dimension less than 1m were included.					
	<b>Land-scaping within front setback area (%)</b>		161.5sqm or 85%	70% where > 18m frontage.	Yes	
<b>D1.9</b>	<b>Private open space (&gt;400m<sup>2</sup>)</b>		169.5 m <sup>2</sup>	150m <sup>2</sup>	Yes	
	Discussion: A portion of the site's private open space is located within the pool area and alfresco of the proposal. Despite being at the front of the site, privacy measures such as fencing and appropriate vegetation planting have been provided. The alfresco and pool also contains ease of access from the living area of the dwelling and contains adequate solar access.					
<b>D1.10</b>	<b>Private Recreation Facilities</b>		The proposed pool is 2.235m from the western side boundary. The proposed pool is 1.6m above existing ground level. This is acceptable as adequate vegetative screening is provided, with the site also containing a steep topography. It is also noted that no visual privacy impacts will arise with the variation, and the proposal also containing adequate side and front setbacks.	Pools not to exceed 1.5m high setback min 1 m from boundary. Tennis courts min setback 2m from boundary	No, acceptable upon merit.	

<b>D1.11</b>	<b>Privacy</b>		No active rooms in first floor, and no rear balconies are proposed. Windows facing neighbouring sites on the first floor are appropriately designed to respect the visual privacy of neighbours. Proposed alfresco at the front of the site contains greater setback than necessary to facilitate privacy of adjoining properties.	Need for privacy protection	Yes
<b>D1.12</b>	<b>Solar access</b>		Solar access diagrams have been provided, displaying compliance	3 hours between 9am to 3pm on 22 June to private open space and living areas	Yes
<b>D.1.16.6</b>	<b>Front fence E4 zone (m)</b>		1.1m high fence is proposed	Max. 1.1m high	Yes

**Developer's Contribution Plans:**

<b>S7.11/7.12 Section 94A contribution:</b>	Yes
a. Applicable rate (%):	<b>1%</b>
b. The cost of development (Part A Cl 25J) (\$)	<b>\$1,587,278.00</b>
c. Date of accepted cost of development:	<b>17/04/2023</b>
d. The total contribution payable (\$)	<b>\$15,872.78</b>

**Referrals**

Building services	Conditions provided 16 August 2023.
Landscape	<p>Comments dated 7 August 2023 –</p> <p>The site contains a mix of plants, including palm trees, native Grass Trees (<i>Xanthorrhoea</i> sp.), Gynea Lillies (<i>Doryanthes</i> sp.) herbaceous plants and stone retaining walls at the frontage, with a significant rock escarpment running along the rear of the existing dwelling.</p> <p>The proposed works indicate that no excavation into the rock escarpment at the rear is proposed, which is supported. Conditions regarding protection of rock will be included if the proposal is to be supported.</p> <p>The Landscape Plans indicate that 4 trees are required to be removed as part of the works.</p> <p>The trees to be removed comprise two exempt species (Cocos Palms) and 2 non-exempt species. The non-exempt species comprise 1 x <i>Washingtonia robusta</i> (Mexican Fan Palm) 6m ht and 1 x <i>Agonis flexuosa</i> (WA Peppermint/Willow Myrtle) 5m ht. Neither</p>



	<p>tree is a local native species.</p> <p>2 trees on adjoining properties (1 x <i>Phoenix canariensis</i> 6m ht) and 1 x <i>Acer palmatum</i> 6m ht) are indicated for retention. It is considered that the trees can be retained with the preparation of a tree protection plan prior to issue of a construction certificate and supervision by a Project Arborist during works if the proposal is to be approved.</p> <p>The Landscape Plans indicate transplanting of 4 x <i>Xanthorrhoea</i> sp. (Native Grass trees) and 2 x <i>Doryanthes excelsia</i> (Gynea Lillies) within the front yard, which is supported.</p> <p>The Plans also indicate planting of 7 native trees within the front landscape setback. Under <i>WDCP</i>, trees approved for removal are to be replanted at a rate of 3:1. The proposed tree planting therefore addresses the replanting requirements for the 2 non-exempt trees to be removed.</p> <p>The Plans indicate replanting with a mix of trees, shrubs and groundcovers, comprising mostly native plants.</p> <p>No objections are raised with regard to landscape issues subject to conditions.</p>
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**ATTACHMENT 3: SUBMISSIONS TABLE**

Council was in receipt of fourteen (14) individual submissions from the following objectors:

1.	Lincoln Avenue, Castlecrag
2.	59 Sugarloaf Crescent, Castlecrag
3.	108 Sugarloaf Crescent, Castlecrag
4.	No address provided
5.	49 Sugarloaf Crescent, Castlecrag
6.	110 Sugarloaf Crescent, Castlecrag
7.	No address provided
8.	53 Sugarloaf Crescent, Castlecrag
9.	67 Sugarloaf Crescent, Castlecrag
10.	19 Lincoln Avenue, Castlecrag
11.	7 Jordan Avenue, Newington
12.	63 Sugarloaf Crescent, Castlecrag
13.	177 Woollooware Road, Burraneer
14.	17 Lincoln Avenue, Castlecrag

The below table provides the issues raised by the objectors and Council’s response.

<b>Issues Raised</b>	<b>Officer’s Response</b>
<b>Issues raised by objectors</b>	
Bulk and scale/inconsistent with streetscape	<p>Concerns were raised with the bulk and scale of the proposal. It is important to note that the proposal is compliant with the height and FSR limit, and is largely compliant with the numerical <i>DCP</i> controls except for the building height plane control.</p> <p>From the front elevation, the proposal may be conceived as being bulky or visually dominant, however, it is important to note that the proposal progressively increases the front setback to provide articulation and to reduce its apparent bulk. A landscape plan has also been provided to exhibit how the bulk and scale of the proposal will be screened through appropriate plantings and screenings.</p> <p>Concerns have also been raised by the increase in bulk with the location of the alfresco and pool. However, it is important to note that the site is restricted with a rear outcrop that does not allow adequate private open space at the rear. Thus, the alfresco and pool provide functional private open space for the site, whilst ensuring to not contribute excessively to the bulk of the proposal.</p>
Building height	<p>Concerns were raised that the building height was not provided accurately. Plan 3.05 was provided post lodgement to display the accurate height of the proposal, displaying compliance against the 8.5m height limit.</p> <p>The RL of the roof is 65.8 whilst the lowest existing ground level below the roof being 57.3. This is confirmed via overlay of the survey and site plan.</p>

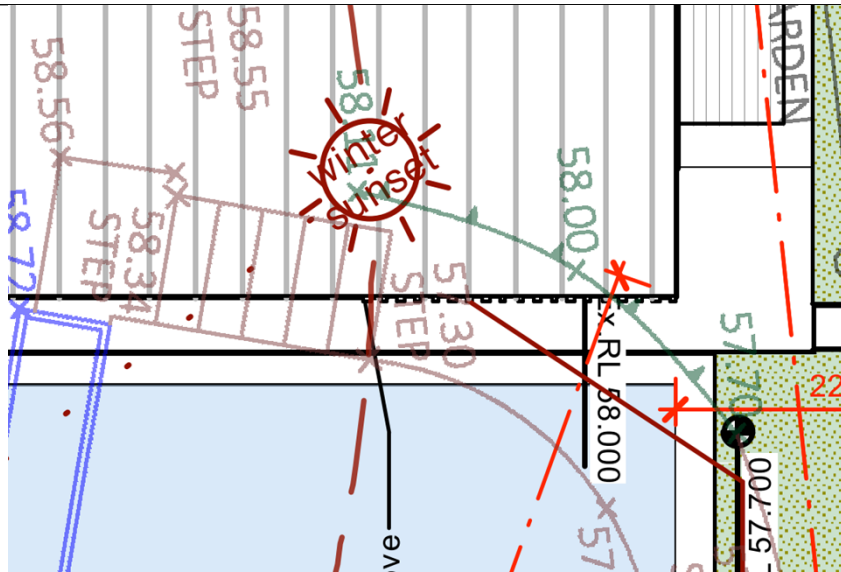


Figure 5: Overlay of survey and site plans

Inconsistent with zone objectives

The proposal satisfies the objectives of the C4 zone.

- provide for low-impact residential development in areas with special ecological, scientific or aesthetic values* – The proposal caters to the ecological, scientific or aesthetic values of the locality. The proposal retains the existing rear rock outcrop and significant landscape features of the site. An appropriate landscape plan has been provided that respects the ecological value of the site and locality with a large portion of plantings being native. The proposal contains an appropriate design that elevates the streetscape. The proposal is compliant with the FSR and height controls, and provides progressive front setbacks to alleviate and articulate the apparent bulk on site. Appropriate plantings are also provided to screen and allow the proposal to not visually dominate the streetscape.
- To ensure that residential development does not have an adverse effect on those values* – the proposal does not have an adverse effect on those values as explained above.
- To ensure that development preserves and enhances the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential* – the proposal respects the natural features of the site through retaining the rear outcrop and proposing suitable species for plantings. Although excavation is proposed due to the garage and lift, it is noted that the proposal utilises a stepped design through progressively increasing the front setback.
- To maintain the scale, character and streetscape of individual localities* – The proposal respects the scale, character and streetscape of the locality. Concerns have been raised with the location of the garage along the front boundary, however, it is noted that this is a common theme along Sugarloaf Crescent,

Similar scale developments are existent along Sugarloaf Crescent such as 57 and 59 Sugarloaf Crescent. A compliant FSR and height is applied to the proposal with adequate setbacks.



Figure 6: Front view of 57 Sugarloaf Crescent



Figure 7: Front view of 59 Sugarloaf Crescent

- *To retain and enhance residential amenity, including views, solar access, aural and visual privacy, foreshore setting, landscape quality and heritage values* – It has been noted within the submissions that the location of the pool is inappropriate as it may negatively impact the amenity of adjoining neighbours and the street. However, it is noted that due to the constraint of the rear rock outcrop, a portion of the private open space was provided at the front of the dwelling to allow adequate amenity for the site. Solar access diagrams have been provided displaying that the proposal will minimally impact the solar access of neighbours. The proposal has been designed to respect the visual privacy of neighbours through not allocating active rooms within the first floor. An appropriate landscape plan has been provided to elevate the landscape qualities of the site.

<p>Inconsistent with desired future character</p>	<p>The proposal satisfies with the desired future character of the Castlecrag locality.</p> <ul style="list-style-type: none"> <li>• <i>Minimising the impact of the built environment by siting buildings sensitively, integrating the built form with the natural landscape, with the built form subservient to the landscape and the predominance of natural landscaped areas on the site – A suitable landscape scheme is provided that allows the proposal to be subservient to the natural landscape. The high usage of native plantings within the front setback allows the built form to not dominate the streetscape.</i></li> <li>• <i>Encouragement of a variety of <u>building</u> designs with the built form relating to the topography of the site by following the contours of the land – The proposed design creates visual interest, and relates to the topography of the site through a stepped design.</i></li> <li>• <i>Siting of the <u>building</u> to <u>enhance amenity</u> and <u>privacy</u> of the <u>dwelling</u> and of adjacent dwellings by using a variety of setbacks to create a varied rather than regular composition within the street – Appropriate setbacks have been applied to the proposal that allows the amenity and privacy of neighbouring sites to be preserved. Adequate solar access diagrams have been provided and no active rooms have been provided in the first floor to allow excessive overlooking.</i></li> <li>• <i>Avoidance of <u>dwelling</u> heights which break the <u>tree</u> canopy of the ridgeline of the peninsula areas – A compliant height has been provided.</i></li> <li>• <i>The predominance of a landscape of <u>native vegetation</u> and <u>tree</u> cover with informally landscaped private gardens merging into one another. There are minimal fences and walls, in particular addressing the street; - the proposed landscape scheme utilises a large range of native species to elevate the site, and a compliant fence height is provided.</i></li> <li>• <i>Use of stone edging, low retaining walls and rockeries and a variety of native and exotic ground covers to landscaped gardens; - Gabion walls are proposed to complement the proposed landscaped area within the front setback area. A mix of native and exotic ground covers are utilised.</i></li> <li>• <i>Retention of significant trees and stands of significant natural vegetation. Planting of locally indigenous trees and dense vegetation, both within the site and to the street frontage, to maintain the natural landscape characteristics of the locality; - It is noted that 4 trees are proposed to be removed with 2 being exempt. 7 native trees are proposed to be planted, satisfying Councils 3:1 replacement planting policy.</i></li> <li>• <i>Avoiding loss of vegetation between and around dwellings to reduce the prominence of the built form when viewed from Middle Harbour and other vantages; - the proposed landscape scheme</i></li> </ul>
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	<p>includes 7 trees that will obtain a mature height of 5m or higher. The proposed landscape scheme ensures to reduce any prominence of the built form when viewed from the street.</p> <ul style="list-style-type: none"> <li>• <i>Avoidance of: imposing <u>building</u> forms with high wall facades, particularly in close proximity to the streetscape; high fencing to the street; or shallow setbacks having little ability to ameliorate the built form with dense planting and tall trees</i> – The use of progressive front setbacks results in the front façade to be articulated. The proposal contains a maximum of two storey high walls when viewed from neighbouring properties. Appropriate fence height is proposed with dense planting in the front setback area.</li> <li>• <i>Minimising areas of driveways and paved surfaces at the street frontage. Avoid the use of unbroken double garages facing the street;</i> - extensive paved areas are not utilised within the street frontage. Double car space garages along the front boundary is a common theme within Sugarloaf Crescent</li> <li>• <i>The siting and design of dwellings to minimise the obstruction of views from neighbouring dwellings and vistas from roadways or public open spaces by sensitive placement of dwellings on the low side of the street, provision of good setbacks from side boundaries, and consideration of overall <u>height</u> and roof pitch; and</i> – A view sharing assessment has been provided within this report, stating that any potential view loss is of a reasonable nature</li> <li>• <i>Ensuring the <u>preservation</u> of remnant <u>bushland</u> and encouraging revegetation of foreshore properties to protect the visual <u>amenity</u> of the natural foreshore areas</i> – The proposal preserves the significant landscape features on such as the rear rock outcrop.</li> </ul>
Works located outside the property boundaries	Concerns raised from 63 Sugarloaf Crescent that the works would encroach the property boundary. The provided survey has been prepared by a registered surveyor. The survey has also been compared with the appropriate DP plan.
Location and noise issues from pool and pool equipment	Due to the site constraints at the rear, a portion of the private open space would be allocated at the front of the site. To ensure adequate amenity for the site, the alfresco and pool would serve as private open spaces for the dwelling. It is noted that due to the finished level of the pool being approximately 1.3m below the FFL of the dwelling on 63 Sugarloaf Crescent, overlooking into the dwelling from the pool would not occur. Conditions will be placed regarding the noise level of the pool. Council's DCP requires only a 1m setback for pool to adjoining properties, however, a 2.235m setback has been provided.
Windows and privacy	Concerns were raised by 63 Sugarloaf crescent of W06 and W13. W06 belongs to the ground floor living room. 3m high screening is proposed for any potential overlooking. W13 belongs to the master bedroom robe which is not an active space.
Solar Panel Reflection	Solar panels are positioned in a manner to not direct excessive glare onto neighbouring sites.
Dilapidation Report	A geotech report and dilapidation reports will be conditioned.

Noise during demolition and construction process	Appropriate conditions will be placed for during demolition and construction.
Traffic issues during demolition and construction process	Appropriate conditions will be placed for during demolition and construction.
Excessive Stormwater run off	Conditions have been placed by Council's development engineer
Local Ecology and loss of significant trees	4 trees are proposed to be removed with 2 being exempt. Adequate tree plantings are proposed that satisfy Council's 3:1 replacement tree planting policy.

## **ATTACHMENT 4: View Assessment**

The proposed development and its impact on view sharing for the surrounding residences was assessed in accordance with the four-step process as utilised by the Commissioner within *Tenacity v Warringah* which is considered a planning principle for view loss assessment. The four steps are the following:

- 1) The first step is the assessment of views to be affected;
- 2) The second step is to consider what part of the property the views are obtained;
- 3) The third step is to assess the extent of the impact;
- 4) The fourth step is to assess the reasonableness of the proposal causing the impact.

Council has received submissions from 15 Lincoln Avenue, Castlecrag and 63 Sugarloaf Crescent, Castlecrag raising concerns regarding view loss as a result of the proposed development. During a site inspection of the affected properties, it was believed that 15 Lincoln Avenue would not be impacted by view loss as evidenced within the photos below. The proposed new roof will contain a RL of 65.8 at the highest point and 65.48 at the lowest point. The existing roof ridge contains an RL of 64.77 with the proposed roof being 0.7m higher at the point of the existing ridge. A view loss analysis is prepared regarding the potential view loss affecting 63 Sugarloaf Crescent, Castlecrag.





Figure 8: Aerial View



Figure 9: View from rear balcony of 15 Lincoln Avenue from a sitting position



Figure 10: Views to the Sugarloaf Creek from bedroom from 63 Sugarloaf Crescent from a standing position



Figure 11: Outlook and Sugarloaf Creek views from bedroom of 63 Sugarloaf Crescent from a standing position.

1. The assessment of the views affected

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Assessment:

The existing views of 63 Sugarloaf Crescent which may be affected are views of natural vegetation and Sugarloaf Creek from the bedroom.

The above views are best described as land and water views. Land views are not considered to be high value views, whilst the water view of Sugarloaf Creek is highly obscured by existing vegetation.

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

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Assessment: The views affected are obtained diagonally across the eastern side boundary of 63 Sugarloaf Crescent from a bedroom, looking in an eastern direction. All are viewed from a standing position in the dwelling.

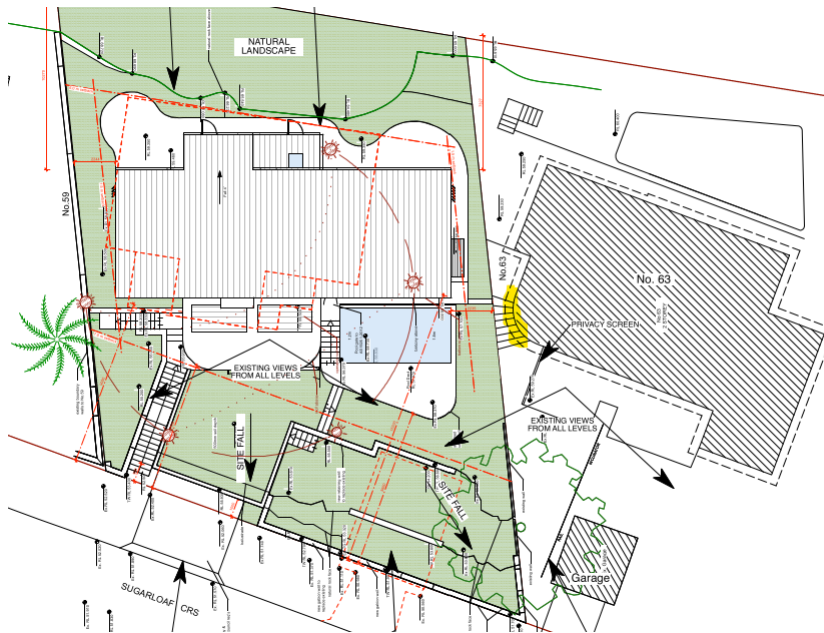


Figure 12 : Location of bedroom highlighted in yellow

### 3. The extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

#### Assessment:

The potential view loss is deemed to be of a negligible manner. Obstruction to views from bedrooms are not deemed to be of the same value as active spaces. It is noted that 63 Sugarloaf Crescent contains a large alfresco area at the front of the dwelling which obtains views of natural vegetation of Harold Reid Reserve.

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

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The Court poses two questions in *Tenacity Consulting vs Warringah* (2004) NSWLEC 140.

The first question relates to whether a non-compliance with one or more planning controls results in view loss.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

Assessment: The subject site is severely constrained by its irregular shape and steep slope. Despite this, the proposal contains a compliant FSR and height, and is largely compliant with the *DCP* numerical controls for dwellings except for the building height plane control. It is also noted that the proposed ground and first floor of the development is located behind the subject bedroom window, with the proposal pool and deck being located below the FFL of the bedroom.

As such, it is concluded that the impact to the views from the adjoining property at 63 Sugarloaf Crescent is considered to be minor and acceptable.

**ATTACHMENT 5 - SECTION 4.15 (79C) ASSESSMENT**

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

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

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

<b>(a)(i)</b>	<b>The provisions of any environmental planning instrument (EPI)</b>	
	<i>State Environmental Planning Policies (SEPP)</i>	✓
	<i>Regional Environmental Plans (REP)</i>	✓
	<i>Local Environmental Plans (LEP)</i>	✓
	<p><b>Comment:</b> The proposal does not contravene any relevant matters for consideration under the provisions of any SEPPs, REPs or development standards under WLEP 2012. The proposal considers the new amendment to the WLEP and the new WDCP 2023</p> <p><b>WLEP 2012 Amendment 34</b></p> <p>The proposal complies with the height and FSR limit within the new amendment to the WLEP 2012.</p> <p><b>WDCP 2023</b></p> <p>Landscaping – 70% of the front setback area is required to be deep soiled area. Under the previous WDCP, 70% of the front setback area was at least be soft landscaping. The proposal involves 65% of the front setback area to be deep soil. The site is rather restricted in complying with 70% being deep soil to the need of the garage being within the front setback area for safe vehicular access on a sloping site.</p> <p>Basement Storage – Basement storage is not to exceed 5% of allowable GFA. A max 12sqm applies to the subject proposal for basement storage, only 7.3sqm is proposed.</p> <p>Setbacks – Front setback is in compliance. WDCP 2023 requires side setbacks of 2.5m. 1.5m setbacks are applied for the dwelling as required under the previous WDCP. It is noted that the site is restricted with the rear outcrop to the rear, as well as containing an irregular shape. However, the proposed 1.5m side setbacks are acceptable as adequate solar access and visual privacy is provided to neighbouring sites. Adequate landscaping is allowed, with an appropriate design that is not viewed to contain an excessive bulk to its stepped design.</p>	
<b>(a)(ii)</b>	<b>The provision of any draft environmental planning instrument (EPI)</b>	
	<i>Draft State Environmental Planning Policies (SEPP)</i>	N/A
	<i>Draft Regional Environmental Plans (REP)</i>	N/A
	<i>Draft Local Environmental Plans (LEP)</i>	✓
	<p><b>Comment:</b> There are no draft SEPPs that apply to the subject land.</p>	

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

<b>(a)(iii)</b>	<b>Any development control plans</b>	
	<i>Willoughby Development Control Plan (WDCP)</i>	✓
	<b>Comment:</b> See assessment section	
<b>(a)(iii)(a)</b>	<b>Planning Agreements</b>	
	Any planning agreements including drafts that have been entered into or offered to enter into under section 7.4	<b>N/A</b>
	<b>Comment:</b> No Planning agreements affect the site	
<b>(a)(iv)</b>	<b>Any matters prescribed by the regulations</b>	
	Clause 92 EP&A Regulation-Demolition of a building to AS2061	✓
	Clause 93 EP & A Regulation-Fire Safety Considerations	✓
	Clause 94 EP & A Regulation-Fire Upgrade of Existing Buildings	✓
	<b>Comment:</b> here are no prescribed matters that affect the application.	
<b>(b)</b>	<b>The likely impacts of the development</b>	
	Context & setting	✓
	Access, transport & traffic, parking	✓
	Public domain	✓
	Utilities	✓
	Heritage (including cl 5.10 <i>WLEP</i> – Development near Heritage item/Conservation area)	<b>N/A</b>
	Privacy	✓
	Views	✓
	Solar Access	✓
	Water and draining	✓
	Soils	✓
	Air & microclimate	✓
	Flora & fauna	✓
	Waste	✓
	Energy	✓
	Noise & vibration	✓
	Natural hazards	✓
	Safety, security crime prevention	✓
	Social impact in the locality	<b>N/A</b>
	Economic impact in the locality	<b>N/A</b>
	Site design and internal design	✓
	Construction	✓
	Cumulative impacts	✓
	<b>Comment:</b> The proposal will not result in any significant adverse impacts on adjoining or nearby properties	
<b>(c)</b>	<b>The suitability of the site for the development</b>	
	Does the proposal fit in the locality?	✓
	Are the site attributes conducive to this development?	✓
	<b>Comment:</b> The proposal does not adversely alter the character of the locality or impact on the streetscape.	
<b>(d)</b>	<b>Any submissions made in accordance with this Act or the regulations</b>	
	Public submissions	✓
	Submissions from public authorities	✓
	<b>Comment:</b> 14 submissions were received.	

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

<b>(e)</b>	<b>The public interest</b>	
	Federal, State and Local Government interests and Community interests	✓
	<b>Comment:</b> The proposal will not compromise the character of the locality and therefore approval of the application is in the public interest.	

**ATTACHMENT 6: SCHEDULE OF CONDITIONS**

**SCHEDULE**

**Conditions of Consent:** (Including reasons for such conditions)

**CONSENT IDENTIFICATION**

The following condition provides information on what forms part of the Consent.

**1. Approved Plan/Details**

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

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Site Analysis Plan	S.00	C	12/07/2023	Third Wave Design
Garage Plan	1.01	B		
Entry Level Plan	1.02			
Ground Level Plan	1.03			
First Level Plan	1.04	A	16/03/2023	
Roof Plan	1.05	B	15/08/2023	
Section A	2.01	D		
Section B	2.04			
North Elevation	3.01			
East Elevation	3.02			
South Elevation	3.03	C		
West Elevation	3.04	D		
Materials & Colours	F.01	A	16/03/2023	
Landscape Area	LP130323 Sheet 2	1	30/03/2023	
Landscape Layout	LP130323 Sheet 3			
Plant Schedule	LP130323 Sheet 4			
Details	LP130323 Sheet 5			
Notes	LP130323 Sheet 6			

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.  
(Reason: Information and ensure compliance)



## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**The following conditions of consent must be complied with prior to the issue of a construction certificate.**

### **2. S7.12 Contribution**

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of \$15,872.78 for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 1% of the estimated cost of development, being \$1,587,278.00 at 17 April 2023 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

#### Indexation

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_o \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

$\$C_o$  = the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan

Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment

Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

Prior to payment Council can provide the value of the indexed levy.

Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at [www.willoughby.nsw.gov.au](http://www.willoughby.nsw.gov.au)  
(Reason: Statutory requirement)

### **3. Bushfire Protection**

The design and construction of the proposal shall comply with the requirements of the *Planning for Bushfire Protection* and Australian Standards 3959-2009. Details of

compliance are to be included in plans/specifications prior to the release of the Construction Certificate.

(Reason: Safety and protection of property)

#### **4. Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$15,000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$250** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

**Total Payable = \$15,000 + \$250 = \$15,250**

(Reason: Protection of public asset)

#### **5. Stormwater Conveyed to Street Drainage**

Stormwater runoff from the site shall be collected and conveyed to the street drainage system in accordance with Council's specifications. Any new drainage pipe connections to street kerb shall be made using a 125mm wide x 75mm high x 4mm thick hot dip galvanised Rectangular Hollow Section (RHS) with a grated drainage pit of minimum 450mm x 450mm provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. All drainage works shall comply with the requirements described in Part C.5 of Council's *DCP*, Technical Standards and AS 3500.3. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.

(Reason: Stormwater control)

#### **6. Detailed Stormwater Management Plan Including Rainwater Tank (SWMP)**

Prior to the issue of the Construction Certificate, submit for approval by the Certifier, detailed stormwater management plans for collection of stormwater drainage from the site and connection to the kerb and gutter. The plans shall include a rainwater re-use tank(s) system with a minimum storage volume of 10m<sup>3</sup>, in accordance with Sydney Water's requirements and Part C.5 of the *Willoughby DCP* and Technical Standard No. 1. Runoff from all roof areas shall be directed to the tank(s). The rainwater reuse tank system shall be connected to supply non-potable use including flushing of toilets, laundry use, landscape irrigation and car washing. Overflow from the rainwater tank(s) shall be directed to the receiving stormwater system by gravity. Any above ground rainwater re-use tank shall be located behind the front alignment of the building to which the tank is connected.

The construction drawings and specifications shall be prepared by a qualified and experienced civil engineer or suitably qualified stormwater drainage consultant and shall be in accordance with Engineering Studio drawings C02.01/A, C2.02/A, C2.03/A and C2.04/A. All drawings shall comply with Part C.5 of the *Willoughby DCP* and Technical Standards, AS/NZS 3500.3 – Plumbing and Drainage Code, Sydney Water's requirements and the National Construction Code.

(Reason: Ensure compliance)

## **7. Driveway Longsection**

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

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

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

The new crossing is to be 4.8 metres wide with no splays and be constructed at right angle to street kerb. The footpath zone which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. For the design levels of the vehicular crossing at the property boundary, the following shall be complied with, unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At 2.4m from face of kerb – 440mm above and parallel to the gutter invert
- (c) At property boundary – 500mm above and parallel to the gutter invert.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

(Reason: Safe vehicular access)

## **8. Amended Plans**

Prior to the issue of a Construction Certificate, submit to the Certifying Authority for approval amended plans with the following alternations:

- Detailed levels in the garage to confirm grades on the garage floor are 1:20 maximum along the parking space and 1:16 in any other direction, in compliance with AS/NZS2890.1.

(Reason: Ensure compliance)

## **9. Tree Protection Plan**

- (a) Submit to the registered certifier a Tree Protection Plan for approval prior to issue of a construction certificate.
- (b) The Tree Protection Plan is to be prepared by a qualified Arborist with minimum qualification AQF Level 5.
- (c) Tree Protection Plan shall address tree protection and management of all trees not approved for removal, and shall specifically address protection of 1 x *Phoenix canariensis* located in the front yard of the adjoining property at No. 59 Sunnyside Crescent and 1 x *Acer palmatum* located in the front yard of the

adjoining property at No. 63 Sunnyside Crescent, in accordance with AS 4970-2009 'Protection of trees on development sites' and clearly mark tree protection zones as well as tree protection measures and fencing.

(Reason: Tree protection)

#### **10. Footing Design near Trees to be Retained**

- (a) Footing structural layout plans for works adjacent to 1 x *Phoenix canariensis* located in the front yard of the adjoining property at No. 59 Sunnyside Crescent and 1 x *Acer palmatum* located in the front yard of the adjoining property at No. 63 Sunnyside Crescent shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a tree root investigation near the above mentioned trees to locate critical tree roots and recommend footing design and locations for the construction works.
- (b) The Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.
- (c) The Arborist shall submit certification to the Certifier, that the locations of the footings are accepted.
- (d) The agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

(Reason: Tree protection)

### **PRIOR TO COMMENCEMENT**

**The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site.**

#### **11. Licensee Details**

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

(Reason: Information)

#### **12. Dilapidation Report of Adjoining Properties**

Prior to commencement of work, submit a photographic survey and report of the adjoining properties 59 Sugarloaf Crescent, 63 Sugarloaf Crescent to the Certifier and all owners of these adjoining properties. Such photographic survey and report shall be prepared by a suitably qualified person, detailing the physical condition of these properties, both internal and external including items as walls, ceilings, roof, structural members and other items as necessary.

In the event of a property owner refusing to allow access to carry out the photographic survey, the proponent must demonstrate in writing to the Certifier, and

provide a copy to Council, that the purpose of the survey was made clear to the property owner and that reasonable attempts to obtain access were made.  
(Reason: Protection of adjoining owners)

### **13. Geotechnical Report**

The site and adjoining sites (including the road reserve or other public space) are to be inspected by an independent Geotechnical Engineer and a comprehensive report shall be submitted to the registered certifier prior to commencement of work. The report should indicate how the work is to be undertaken safely and with maximum protection for neighbouring amenity, with particular regard to acoustic and vibration impacts. The report should identify the stages at which the engineers' personal supervision is to occur during the works. The report should recommend when and where further study and investigation are to take place during construction.

All construction plans are to be referenced at the conclusions and recommendations of the report, including for further investigation, are to be followed during the works. The report shall be submitted to Council for record purposes.

In the event of the geotechnical conditions of the site results in instability during the excavation phase and more area than approved being excavated, all excavation work is to cease and Council to be contacted to allow the matter to be reviewed.  
(Reason: Protection of adjoining properties and ensure compliance)

### **14. Report Existing Damages on Council's Property**

Prior to commencement of any works on site, submit to Council and the Principal Certifier a report with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

### **15. Permits and Approvals Required**

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate:-

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW (RMS). A separate written application to work outside normal hours must be submitted for approval.  
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include

- current fees. (Minimum one (1) weeks' notice required.)
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
  - (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
  - (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
  - (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.
  - (h) Permit to install temporary ground anchors under public roads, including footpaths and naturestrip. (Minimum two (2) weeks' notice required.)

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

#### **16. Application for Vehicle Crossing**

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.

(Reason: Protection of public asset)

#### **17. Underground Utility Services**

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

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

(Reason: Protection of utilities)

#### **18. Project Arborist**

- (a) A Project Arborist is to be appointed prior to commencement of works on site;
- (b) The Project Arborist is to have a minimum qualification AQF Level 5;
- (c) The Project Arborist is to oversee and authorise all tree protection works detailed in the approved Tree Protection Plan, AS4970-2009 *Protection of trees on development sites* and relevant conditions of consent;
- (d) The Project Arborist is to certify that all tree protection measures have been installed prior to commencement of works.

(Reason: Safety, environmental protection, landscape amenity)

## **DURING DEMOLITION, EXCAVATION AND CONSTRUCTION**

**The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.**

### **19. Swimming Pool Notice**

During construction and in perpetuity following completion, a notice shall be displayed showing:

- (a) Appropriate instructions of artificial resuscitation methods.
- (b) A warning stating
  - (i) "YOUNG CHILDREN SHOULD BE ACTIVELY SUPERVISED WHEN USING THIS SWIMMING POOL",
  - (ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
  - (iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES CLEAR OF THE POOL FENCE AT ALL TIMES"

NB: This notice shall be kept in a legible condition and at the pool side.

(Reason: Safety)

### **20. Hours of Work**

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.

(Reason: Ensure compliance and amenity)

### **21. Building Site Fencing**

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

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m). Temporary

fences are to have a minimum height of 1.8m and be constructed of cyclone wire or similar with fabric attached to the inside of the fence to provide dust control.

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

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

(Reason: Safety)

**22. Provide Erosion and Sediment Control**

Where work involves excavation or stockpiling of raw or loose materials, erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

**23. Suitable Screens**

In the event of likely emission of dust, noise, waste water or other matter, suitable screens shall be erected during demolition and building work to prevent their emission from the site.

(Reason: Maintain amenity to adjoining properties)

**24. Demolition Work AS 2601-2001**

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

(Reason: Safety)

**25. Access to Site**

During Demolition, Excavation and Construction, access to the site is to be available in all weather conditions, and stabilised to prevent vehicles tracking soil materials onto public roads.

(Reason: Environmental protection)

**26. Survey Certificate**

Certification of the following shall be submitted to the Certifier by a registered surveyor:

- (a) Prior to the construction of footings or first completed floor slab (i.e. prior to pouring of concrete) showing the area of the land, building under construction and boundary setbacks;
- (b) At completion indicating the relation of the building and any projections



to the boundaries, and that the building has been erected to the levels approved in the Development Application.

(Reason: Ensure compliance)

**27. Road and Footpath**

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

(Reason: Maintain public safety)

**28. No Storage or Parking on Footway/Nature Strip**

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

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

(Reason: Safety)

**29. Skips and Bins**

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.

(Reason: Safety)

**30. Excavations and Backfilling**

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

(Reason: Safety)

**31. Temporary Toilet Facilities**

Temporary toilet facilities shall be provided to the satisfaction of the Certifier.

The provision of toilet facilities must be completed before any other work is commenced on site. NOTE: Portable toilet facilities are not permitted to be placed on public areas without prior approval having been obtained from Council.

(Reason: Health and amenity)

**32. Erection Wholly within the Boundaries**

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

(Reason: Ensure compliance)

**33. Sweep & Clean Pavement**

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

(Reason: Legal requirement)

**34. Street Signs**

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

(Reason: Protection of public assets)

**35. Existing Landscaped Gardens**

The existing gardens and landscaped areas are to be retained and protected from any construction damage. All areas adjacent to the approved building works are to be reinstated to have the same character and style. The existing, soft landscaped areas are not to be substituted for paving, unless shown in the approved plans.

(Reason: Landscape protection)

**36. Storage of Materials on Council Land Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

**37. Protection of Rock and Sites of Significance**

(a) All existing rock outcrops outside and below the approved construction footprint are to be maintained and preserved during the works;

(b) Should any Aboriginal sites be uncovered during works, works are to cease and the Council, the NSW Office of Environment and Heritage and the Metropolitan Local Aboriginal Land Council are to be contacted.

(Reason: Protection of significant environmental features)

**38. Tree Trunk, Branch and Root Protection**

(a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on the approved plans unless exempt under relevant planning instruments or legislation.

(b) The above protected trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.

(c) Tree protection measures must comply with the approved Tree Protection Plan and AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures.

(d) Tree protection measures in accordance with (c) above are to be certified by the Project Arborist prior to commencement of works.

(e) Tree roots greater than 25mm diameter are not to be removed unless

approved by The Project Arborist on site.

- (f) All structures are to bridge roots unless directed by The Project Arborist on site.

(Reason: Tree management)

## **PRIOR TO OCCUPATION OF THE DEVELOPMENT**

**The following conditions of consent must be complied with prior to the issue of an occupation certificate.**

### **39. Swimming Pool Registration**

The Swimming Pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at

[www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) or in person at Willoughby City Council (Fee applies when registering at Council)

(Reason: Statutory Compliance)

### **40. Static Water Supply Symbol**

Prior to the issue of the Occupation Certificate for the swimming pool and in perpetuity, a SWS (static water supply) symbol shall be placed in a conspicuous position at the front of the property.

(Reason: Safety)

### **41. Swimming Pool – Heating and Cover**

Prior to the issue of the Occupation Certificate and in perpetuity, the swimming pool is to be fitted with a cover to maintain temperatures and minimise evaporation of water. Any heating shall be of energy efficient means.

(Reason: Ensure compliance/ sustainable development)

### **42. Swimming Pool - Access**

Prior to the issue of the Occupation Certificate for the swimming pool, access to the swimming pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the *Swimming Pools Act 1992*.

- (a) The pool shall not be filled with water, or be allowed to collect stormwater, until the installation of the child resistant barrier is completed to the Certifier's satisfaction.

- (b) The barrier is to conform to the requirements of AS 1926 –  
Part 1 – “Safety Barriers for Swimming Pools”  
Part 2 – “Location of Safety Barriers for Swimming Pools”

(Reason: Safety)

### **43. Emitted Noise – Swimming Pool/Spa**

Prior to the issue of the Occupation Certificate and in perpetuity, the noise emitted by the swimming pool/spa pump and filter equipment shall be not more than 5dBA above the background noise level measured at the boundaries in accordance with

the current Environment Protection Authority (EPA) guidelines for noise assessment. Further, in accordance with the *Protection of the Environment Operations (Noise Control) Regulation 2017*, the equipment is not to operate between 8pm to 7am weekdays and 8pm to 8am on weekends and public holidays if noise can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open. A time switch is to be installed on the power source for the above equipment to ensure that the non-permitted hours are observed.

(Reason: Amenity)

#### **44. Automatic Fire Detection**

Prior to the issue of any relevant Occupation Certificate, an automatic fire detection and alarm system complying with Part 3.7.2 of the Housing Provisions or smoke alarms complying with AS 3786 connected to the mains electricity and having a stand by power supply shall be provided to the dwelling. Smoke alarms must be interconnected and installed in a Class 1 building on or near the ceiling in:

- (a) any storey containing bedrooms
  - (i) between each part of the dwelling containing bedrooms and the remainder of the dwelling;
  - (ii) where the bedrooms are served by a hallway, in the hallway.
- (b) any other storey not containing bedrooms.

(Reason: Safety)

#### **45. Surface Water Runoff**

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

(Reason: Health and amenity)

#### **46. BASIX Certificate**

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

(Reason: Environmental sustainability)

#### **47. Bushfire Construction**

No Occupation Certificate is to be issued until the building works have been constructed in accordance with the appropriate Bushfire Attack level (BAL) determined by the Bushfire Assessment Report and/or Consent Conditions.

(Reason: Bushfire safety)

#### **48. On-site Water Management System**

Prior to the issue of any Occupation Certificate pertaining to any works other than internal renovations, the stormwater runoff from the site shall be collected and disposed of to the kerb and gutter in accordance with Sydney Water's requirements AS/NZS3500.3, Council's *DCP* and Technical Standards. All runoff from roof areas shall drain to the required rainwater tank. The construction of the stormwater

drainage system of the proposed development shall be generally in accordance with the approved detailed stormwater management drawings required under this development consent and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

**49. Rainwater Re-use – 10kL tank**

Prior to the issue of any Occupation Certificate, and in perpetuity, the applicant shall supply and install rainwater re-use tanks with a minimum storage volume of 10m<sup>3</sup> in accordance with the approved stormwater management plans, Sydney Water's requirements and Council's *DCP* and Technical Standards. The rainwater reuse system shall be connected to supply non-potable use including, but not limited to laundry use, toilet flushing, washing of vehicles and landscape irrigation. Any above ground rainwater tanks shall be located behind the front alignment of the building to which the tank is connected. Runoff from all roof areas shall drain to the rainwater tank(s).

(Reason: Ensure compliance and stormwater management)

**50. Sign for Rainwater System**

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system, an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the rainwater tank/s.

The wording for the plaque shall state *"This is the rainwater retention and reuse system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris"*.

(Reason: Prevent unlawful alteration)

**51. Certification of Rainwater Reuse System**

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system and upon completion of the Rainwater Retention and Reuse System, a licensed plumber shall certify that the rainwater retention and reuse system has been constructed in accordance with the approved stormwater management plans and that the as-built system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushing, laundry and landscape irrigation. All plumbing/drainage works shall be carried out which comply with the current plumbing requirements of Sydney Water and the National Construction Code Volume 3.

(Reason: Record of works)

**52. Works-As-Executed Plans – Rainwater Reuse**

Prior to the issue of any Occupation Certificate pertaining to any works requiring a Rainwater Reuse system and upon completion of the Rainwater Reuse System, the following shall be submitted to the Certifier:

- (a) Work-as-executed plans based on the approved stormwater plans from a registered surveyor to verify that the volume of storage, invert levels of inlet, overflow pipes and discharge outlet are constructed in accordance with design requirements. Any minor changes or variations to the approved plans

should be highlighted in red on the approved stormwater plans.

- (b) Plumber's certification that the Rainwater Reuse system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushing, laundry and landscape irrigation. The Certificate shall detail the number and type of fixtures connected to the tank. All works completed shall comply with the current plumbing requirements of Sydney Water and the National Construction Code Volume 3.

(Reason: Record of works)

### **53. Vehicular Crossing**

Construct a new vehicular crossing including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be 4.8 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The centreline of the new crossing shall be "in-line" with the centreline of the parking space(s).

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At 2.4m from face of kerb – 440 mm above and parallel to the gutter invert.
- (c) At property boundary – 500 mm above and parallel to the gutter invert.

The footpath zone which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. The nature strip and footpath is to be adjusted for a minimum distance of 2.0 metres on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.

(Reason: Public amenity)

**54. Removal of Redundant Crossings**

Remove all redundant crossings together with any necessary works and reinstate the footpath, nature strip and kerb and gutter accordingly. Such work shall be carried out in accordance with Council's specification.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.  
(Reason: Public amenity)

**55. Vehicular Access and Garaging**

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles. In all respects, prior to the issue of any Occupation Certificate, the proposed vehicle access, including any parking spaces, shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification. Any columns shall be located in positions that comply with AS/NZS 2890.1.  
(Reason: Vehicular access)

**56. Public Infrastructure Restoration**

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.  
(Reason: Protection of public assets)

**57. Completion of Landscape Works**

(a) Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design and planting plans, completed to a professional standard, consistent with industry best practice and published standards, and certified in writing by a qualified horticulturalist, landscape architect or landscape designer.

(b) Planting is to include a minimum of 6 trees capable of attaining a minimum height of 4 metres at maturity.

(Reason: Landscape amenity)

**58. Project Arborist Certification**

Prior to the issue of any Occupation Certificate, the Project Arborist is to certify in writing that all tree protection measures and remediation works have been complied with as per conditions of consent.

(Reason: Protection of trees required to be retained)

## **ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

### **59. Ground Levels**

The finished ground levels external to the building are to be consistent with the development consent and are not to be raised.  
(Reason: Ensure compliance)

### **60. Retaining Walls and Drainage**

If the soil conditions require it:

- (a) retaining walls, complying with the National Construction Code and associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

(Reason: Safety)

### **61. Bushfire Control**

The Asset Protection zones (APZ) being maintained in accordance with the principles contained in the NSW Rural Fire Service's '*Planning for Bushfire Protection*'.  
(Reason: Bushfire safety)

### **62. Stormwater Kerb Outlet**

New stormwater connection outlets at the street kerb shall be made using 125mm wide x 75mm high x 4mm thick hot dip galvanised Rectangular Hollow Section (RHS). Where there are multiple outlets required, a minimum distance of 100mm shall separate these outlets. A grated drainage pit (min. 450mm x 450mm) shall be provided within and adjacent to the property boundary prior to discharging to the Council's drainage system.  
(Reason: Protection of public asset)

### **63. Rainwater Retention and Re-Use Tank(s) System – Ongoing Maintenance**

The registered proprietor of the land shall take full responsibility for the ongoing maintenance of the Rainwater Retention and Re-Use Tank(s) system constructed on the land, in accordance with the conditions of this consent, the certified constructed system and the Registered Surveyor's Work As Executed plans. The registered proprietor shall not carry out any alterations to this system and shall carry out regular maintenance to tanks, pipelines, walls and other structures, plumbing fixtures, first flush apparatus, gutters, leaf gutter guards, downpipes, pumps, pipe connections and any associated devices relevant to the system, to keep the system clean, in good working order and to ensure efficient and on-going operation of the system  
(Reason: Ensure compliance)



**64. Trees on Adjoining Properties**

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

(Reason: Environmental protection)

**65. Noise Control – Offensive Noise and Vibration**

To minimise the noise and vibration impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

(Reason: Amenity)

**PRESCRIBED CONDITIONS**

**The following conditions are prescribed by Section 4.17 of the Environmental Planning & Assessment Act for developments involving building work.**

**66. Compliance with National Construction Code**

All building works must be carried out in accordance with the performance requirements of the National Construction Code.

(Reason: Compliance)

**67. Construction Information Sign**

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

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

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

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

(Reason: Ensure compliance)

## **STATUTORY REQUIREMENTS**

**The following advisory notes are statutory requirements of the Environmental Planning & Assessment Act and the Environmental Planning & Assessment Regulations and are provided to assist applicants.**

### **68. Construction Certificate**

This consent IS NOT an approval to carry out any building works. A Construction Certificate may be required PRIOR TO ANY WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

### **69. Notify Council of Intention to Commence Works**

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days' notice to Council, in writing, of the person's intention to commence the erection of the building.

(Reason: Information and ensure compliance)

### **70. Occupation Certificate**

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

(Reason: Safety)

ATTACHMENT 7: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2023/101

At: 61 Sugarloaf Crescent, CASTLECRAG NSW 2068

