

AUSTRALIA / JUDGMENT

Devlin v Hunters Hill Council [2024] NSWLEC 1610

COURT

Land and Environment Court

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Source record**Land and Environment Court****New South Wales****Medium Neutral Citation:** Devlin v Hunters Hill Council [2024] NSWLEC 1610**Hearing dates:** Conciliation conference on 25-26 September 2024**Date of orders:** 26 September 2024**Decision date:** 26 September 2024**Jurisdiction:** Class 1**Before:** Dixon SC**Decision:** The Court orders:

(1) The appeal is upheld.

(2) Development Application DA/2023/0036 for the demolition of existing structures, removal of two trees and construction of a 2-storey dwelling house with a double garage, swimming pool and associated landscaping at 8B North Parade, Hunters Hill is determined by a grant of consent subject to conditions contained in Annexure 'A'.

Catchwords: APPEAL – development application – development consent sought for the demolition of existing structures, removal of two trees and construction of a 2-storey dwelling house with a double garage, swimming pool and associated landscaping – conciliation conference – agreement between the parties – orders

Legislation Cited: Environmental Planning and Assessment Act 1979, s 4.15

Fisheries Management Act 1994

Land and Environment Court Act 1979, ss 34, 34AA

Environmental Planning and Assessment Regulation 2021, s 38

Hunters Hill Local Environmental Plan 2012, cl 2.1, 2.7, 4.3, 4.4, 5.10, 6.1, 6.2, 6.3, 6.5, 6.6, 6.7, 6.9

State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chs 2, 6, ss 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.28, 6.32

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Resilience and Hazards) 2021, ss 2.8, 2.10, 2.11, 2.12, 2.13, 4.6

State Environmental Planning Policy (Sustainable Buildings) 2022

Texts Cited: Hunters Hill Development Control Plan 2013**Category:** Principal judgment

Parties: Keiron Devlin (Applicant)
Hunters Hill Council (Respondent)
Representation: Counsel:
M Sonter (Solicitor) (Applicant)
A Seton (Solicitor) (Respondent)

Solicitors: Mills Oakley (Applicant)
Marsdens Law Group (Respondent)
File Number(s): 2024/83387
Publication restriction: Nil

JUDGMENT

1. These proceedings arise following the Hunters Hill Council's refusal of a development application DA 2023/0036 (DA) for the demolition of an existing dwelling and other structures, removal of two trees and construction of a 2-storey dwelling house with a double garage, swimming pool and associated landscaping on land identified as Lot 3 in DP 220768, also known as 8B North Parade, Hunters Hill (the site).
2. The matter was listed for a mandatory conciliation and hearing on 25-26 September 2024, under s 34AA of the Land and Environment Court Act 1979 (LEC Act) and commenced onsite with a view. I presided over the conciliation conference.
3. At the site view, the Court heard oral evidence from several local objectors. Collectively, they raised concerns about the design and height of the building; privacy and amenity impacts arising from the use of balconies and the green roof area; deficiency of landscaping and removal of trees including a large jacaranda; and the management of the construction of the development having regard to the constrained local road network and the private access road.
4. During the s34 conciliation conference, the applicant amended its application in an effort to resolve the outstanding contentions and issues raised by the local objectors. As the Council accepted that the amendments to the DA have resolved the contentions the parties were able to reach an agreement as to the terms of a decision in the proceedings that would be acceptable to them. The decision involved the grant of a development consent subject to the conditions in Annexure A.
5. It is to be noted that Condition 5 of the consent requires the submission and approval of a comprehensive Construction Management Plan, before the issue of a construction certificate, with the following additional information, details and specifications:
 - (a) Truck numbers and frequency of truck movements for each stage of the development;
 - (b) Site worker numbers for each stage of the development
 - (c) A detailed hoarding plan for the site and access handle;

- (d) Specifications of the construction methods including vibration impacts of the proposed rammed earth walls.
 - (e) Swept path diagrams prepared by an appropriately qualified traffic engineer demonstrating that a Standard Rigid Vehicle (SRV) as defined in Australian Standard AS2890.2 can enter and exit the driveway to and from the public road in a forward direction with sufficient clearances;
 - (f) Swept path diagrams demonstrating how trucks will navigate to and from the site along the nominated truck route in narrow and tight locations;
 - (g) Contact details for a person who can deal expeditiously with concerns, issues or complaints relating to demolition or construction activities associated with the development including a mobile phone number and email address.
 - (h) A Communication Strategy to inform surrounding residents of impending truck movements that may affect vehicular or pedestrian access. A minimum of 48 hours written notice is to be provided to those properties specifically on the Right of Way and within North Parade up to the western side of the D'Aram St intersection of North Parade (including No. 2 North Parade) of any truck movements that will affect vehicular or pedestrian access for a period of time exceeding 30 minutes to ensure residents have sufficient time to make alternative access arrangements during such truck movements, with the purpose being to facilitate construction and demolition activities and minimise disruption to residents and the potential for conflict."
1. Condition 42A onwards regulates the movement of construction vehicles associated with the development in North Parade.
 2. Condition 16 requires, before any site work, a dilapidation report to be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works on public land, to the satisfaction of the certifier. The dilapidation report must also assess the state of repair of the pavement and structures within the right of carriageway.
 3. The possible use of the green roof as a habitable space has been addressed by a condition requiring that area to be non-trafficable (see Drawing DA_08 – 8A and 39F (site lines)), and the privacy concerns raised by the neighbour at No. 8A North Parade have been addressed by the inclusion of a privacy screen on the planter box (see Drawing DA_08).
 4. The building wall height has been lowered to comply with the Hunters Hill Development Control Plan 2013 and conditions have been imposed to protect Ferdinand Reserve to ensure existing views will not be significantly obstructed and to minimise the visual impact of the development to or from the nearest waterway. The evidence is that the amended DA now provides landscaping in accordance with the requirements of cl 6.9 of the Hunters Hill Local Environmental Plan 2012 (LEP) (see Drawing DA_14), and delivers a considered and site sensitive system of stormwater management adjacent to the neighbouring watercourse, with

the quality of water disposal and stormwater runoff post development equivalent to, or better than, the existing scenario.

5. The parties have filed an executed s34 written agreement and request that I make the orders as proposed.
6. Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' signed agreement if the Court could have made that decision in the proper exercise of its functions.
7. The preconditions relevant to the exercise of the Court's power to make the proposed final orders are addressed in a joint jurisdictional submission annexed to the written agreement.
8. Having considered the parties' written submissions and the evidence before me, I am satisfied that there is no jurisdictional impediment to the grant of development consent as proposed.
9. In that regard, the preconditions of relevance are addressed in a summary form below:
10. Owner's consent was provided at the time of lodgement of the DA (Class 1 Application, Tab 1).

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP)

Chapter 2 – Vegetation in non-rural areas

1. The impact of the proposal on the trees to be removed has been considered in the Arboricultural Report prepared by Treeism Arboricultural Services (Class 1 Application, Tab 3). The assessment considers the removal of the two trees (Trees 3 and 4) to be appropriate, granted they are introduced exotic species (Jacaranda mimosfolia and Viburnum sp) and have a low retention value and given the reduced structural condition of the trees, removal is considered appropriate. Based on the Arboricultural Report, I am satisfied that the proposed development is consistent with Ch 2 of the BC SEPP.

Chapter 6 – Water catchments

1. The site is located within the Sydney Harbour Catchment (being a regulated catchment) and is subject to the general planning controls in Ch 6, Div 2 of the BC SEPP, to which the consent authority must consider the matters identified in this Division in deciding whether to grant development consent.
2. The applicant has prepared the following documentation to demonstrate that the proposed development will not result in an adverse impact on the Sydney Harbour Catchment:

* Amended Stormwater Plans prepared by Stellen Civil Engineering (s34 agreement bundle, Tab 3);

* Amended Stormwater Assessment Report prepared by Stellan Civil Engineering (Town Planning JER, Annexure J);

* Stormwater Management Plan Contentions Response prepared by Stellen Civil Engineering (Town Planning JER, Annexure J); and

* Ecological Assessment prepared by Cedar Ecology.

1. The parties submit, and I accept that, pursuant to s 6.6(2) of the BC SEPP, the development:

* incorporates sufficient stormwater capture and treatment measures through a bio-retention swale to ensure that the effect on the quality of water entering a natural waterbody will be neutral or beneficial (s 6.6(2)(a)); and

* the impact on water flow in a natural waterbody will be minimised due to the proposed capture of stormwater, retention in a 3000L rainwater tank and discharge of stormwater into the ground via a level spreader (s 6.6(2)(b)).

1. Section 6.7 of the BC SEPP requires consideration of the impact of the proposed development on various aspects of aquatic ecology. The proposed development has considered the direct, indirect and cumulative adverse impacts on terrestrial, aquatic or migratory animals or vegetation which are considered acceptable. The site is not located directly on the foreshore and as such will not result in any direct impacts on aquatic ecology. Indirect impacts from the proposal relate to stormwater, which has been appropriately managed and impacts mitigated through the stormwater management plan. Accordingly, the parties submit, and I accept that that the proposed development:

* will not result in direct, indirect or cumulative adverse impacts on terrestrial, aquatic or migratory animals or vegetation and aquatic reserves (s 6.7(2)(a)-(b));

* does not require a controlled activity approval or permit under the Fisheries Management Act 1994 in relation to the clearing of riparian vegetation (s 6.7(2)(c));

* will not cause erosion of land abutting a natural body or the sedimentation of a natural waterbody (s 6.7(2)(d)); and

* will not cause any adverse impacts on wetlands that are not in the coastal wetlands and littoral rainforests area (s 6.7(2)(e)).

1. The parties submit, and I accept that the proposed development is not located on flood affected land and, pursuant to s 6.8, will not affect public access to or from natural waterbodies for recreational purposes pursuant to s 6.9(2), as the site does not have direct frontage to the natural waterbody.

2. Pursuant to s 6.10 of the BC SEPP, the parties submit, and I accept that the proposed development will not have any adverse environmental impact on the adjacent or downstream local government area as the site is not located directly on the foreshore, and any indirect impacts from stormwater runoff have been appropriately managed and mitigated through the stormwater management plan and infrastructure.
3. The site is located within 100m of a natural waterbody in the Sydney Harbour Catchment, being the Lane Cove River. Accordingly, the proposed development is subject to s 6.11 of the BC SEPP. Pursuant to s 6.11(a)-(b), the site does not directly abut the natural waterbody and the development will minimise potential for land use conflicts, granted it seeks to retain the residential use, which is a permitted use on the site.
4. Pursuant to the Foreshores and Waterways Area Map, the site is identified as being within the Foreshores and Waterways Area. Section 6.28 of the BC SEPP specifies the matters that must be considered by the consent authority in deciding whether to grant development consent. Pursuant to s 6.28(2), the parties submit, and I accept that the development:
 - * will retain and maintain the character and functions of a working harbour on foreshore sites (s 6.28(2)(a));
 - * is not for, or adjacent to an industrial, commercial or maritime purpose (s 6.28(2)(b)-(c));
 - * is not located directly on the foreshore and will not result in excessive traffic congestion (s 6.28(2)(d)); and
 - * will maintain and enhance the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries through the provision of a contemporary, high-quality design that is compatible with the heritage character of the area and provides landscaping and mature canopy trees that complement and enhance the landscape character of the foreshore area (s 6.28(2)(e)).
1. Pursuant to the Rocky Foreshores and Significant Seagrasses Map, a small portion of the rear of the site (rear garden) is identified as being in proximity to mapped seagrasses. Accordingly, the proposed development is subject to s 6.32(3) of the BC SEPP. Having regard to the site's location, being approximately 40m from the water's edge, the only likely impacts arising from the development are related to stormwater runoff. As outlined above, the proposal manages stormwater runoff quality and quantity appropriately and results in an improvement in quality of stormwater and a reduction in volume compared to the existing site condition. Pursuant to s 6.32(3) of the BC SEPP the development will:
 - * preserve and enhance seagrass and rocky foreshore areas through the overall improvement in stormwater quality and reduction of stormwater volume (s 6.32(3)(a));
 - * facilitate the maintenance or increase in the connectivity of seagrass vegetation and natural landforms (s 6.32(3)(b));

* not contribute to the fragmentation of aquatic ecology (s 6.32(3)(c)); and

* not cause physical damage to aquatic ecology (s 6.32(3)(d)).

1. Furthermore, only a small portion of the rear of the site is identified as being within the mapped area; development in this part of the site comprises the garden and fence, which would reasonably have nil impact.

State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP)

Chapter 2 – Coastal management

1. The DA is subject to the provisions of the RH SEPP. The site is identified as being within the 'Coastal Environment Area' for the purposes of s 2.10 of the RH SEPP and 'Coastal Use Area' for the purposes of s 2.11. Pursuant to ss 2.11(2) and 2.10(3), ss 2.10 and 2.11 of the RH SEPP do not apply to the DA, as the site is identified as within the Foreshores and Waterways Area.

2. The site is identified in the Coastal Wetlands and Littoral Rainforests Area Map as being 'Proximity Area for Coastal Wetland'. Section 2.8(1)(a)-(b) of the RH SEPP provides that the consent authority must not grant consent to development on such land unless the consent authority is satisfied that the development will not impact on the following two matters:

* the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

* the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

1. As outlined above, the stormwater management measures for the site will result in an improvement in the quality of stormwater runoff and a reduction in volume, compared to the existing conditions. Stormwater discharge into the ground via the level spreader will not result in an adverse impact on groundwater or subsoil stability (refer to Stormwater Response to Contention Statement on p 2 at Annexure J of the Town Planning JER).
2. Given that there is no work proposed on any land identified as 'coastal wetlands' or 'littoral rainforest' and the distance between the site and the Coastal Wetland area, by way of the Ferdinand Reserve is approximately 40m, and having regard to the beneficial impacts on stormwater outlined above, the parties submit, and I accept that the proposed development includes sufficient measures to protect and where possible enhance the biophysical, hydrological and ecological integrity of the adjoining coastal wetland including through its stormwater management.
3. Section 2.12 of the RH SEPP require the consent authority to be satisfied that the proposed development is not likely to cause increased risk of coastal hazards. The parties submit, and I accept that the development is not likely to cause increased risk of coastal hazards on the basis that:

- * the design is contained within a similar footprint of the existing dwelling;
 - * there will be an overall reduction in stormwater volume and subsequent risk of coastal hazards; and
 - * the development will not have an adverse impact to the water quality and quantity on groundwater (see Geotechnical Response prepared by Crozier Geotechnical Consultants at Annexure K of the Town Planning JER).
1. Section 2.13 of the RH SEPP requires the consent authority to consider the relevant provisions of any certified coastal management program that applies to the land. There is no certified coastal management plan that applies to the site.

Chapter 4 – Remediation of land

1. Pursuant to s 4.6 of the RH SEPP, the consent authority must be satisfied that the site is suitable for the proposed use in terms of contamination.
2. The site is currently and has historically been used for residential purposes. Accordingly, no change of use is proposed as part of the proposed development and the site is not expected to pose a risk of contamination to its future occupation for residential purposes (see section 4.2.2 of the Statement of Environmental Effects prepared by GSA Planning at Tab 14 of the Class 1 Application).
3. The Council is satisfied, and I accept that contamination has been adequately considered and the site is suitable for the continued proposed use in accordance with s 4.6 of the RH SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)

1. The DA was lodged, but not finally determined prior to 1 October 2023. Hence, the now repealed BASIX SEPP applies to the application rather than State Environmental Planning Policy (Sustainable Buildings) 2022. In compliance with the relevant requirements under the BASIX SEPP, the applicant has prepared an updated BASIX certificate in respect of the final proposed architectural plans, included at Tab 2 of the s34 agreement bundle.

Hunters Hill Local Environmental Plan 2012 (LEP)

Clause 2.1 Land use zones

1. The site is zoned R2 Low Density Residential under LEP. Development for the purposes of 'dwelling house' is permitted with consent in the R2 Zone.

Clause 2.7 Demolition

1. Demolition is permitted with development consent under cl 2.7 of the LEP. The proposed development seeks consent for demolition (see Demolition Plan DA_03 at Tab 5 of the s34 agreement bundle).

Clause 4.3 Height of buildings

1. The site has a maximum building height development standard of 8.5m under cl 4.3 of the LEP. The DA complies with the building height control of 8.5m (see Drawing DA_12 at Tab 5 of the s34 agreement bundle).

Clause 4.4 Floor space ratio (FSR)

1. The maximum FSR permitted on the site is 0.5:1. The proposed development has a FSR of 0:43:1 and is compliant with cl 4.4 of the LEP (see Drawing DA_13 at Tab 5 of the s34 agreement bundle).

Clause 5.10 Heritage conservation

1. The site is located within the Hunters Hill Heritage Conservation Area No 1—The Peninsula and is in close proximity to several heritage items. Development consent is required pursuant to cl 5.10(2)(a)(iii) of the LEP for the demolition of the existing building, within a heritage conservation area (HCA). The Heritage JER confirms that the experts are satisfied that demolition of the existing building is appropriate as it does not contribute to the heritage character of the conservation area, it does not meet any of the NSW Heritage Manual criteria for identification as a place of local significance and notes that the house is a very modest and undistinguished example of the type and has no features of note (Heritage Assessment prepared by John Oultram Heritage & Design dated August 2024 pp 27-28).
2. Development consent is required for the erection of the dwelling in the HCA pursuant to cl 5.10(2)(e)(i) and the effect of the development on heritage significance is to be assessed under cl 5.10(4). The DA is accompanied by a Heritage Impact Statement prepared by Ruth Daniell (Class 1 Application, Tab 17) and a Heritage JER which confirms that the development:

* does not result in the loss of heritage fabric as the existing dwelling is not considered to be a contributory item;

* is considerate to the heritage character of the conservation area; and

* will be of minimal impact to the conservation area.

1. The proposed development for the purposes of a dwelling house does not result in an adverse impact on the adjoining landscape conservation areas.

Clause 6.1 Acid sulfate soils

1. The site is identified as potentially containing Class 5 acid sulfate soils. The site is not located within 500m of Class 1, 2, 3 or 4 land and accordingly development consent is not required under cl 6.1(2) of the LEP and an acid sulfate management plan is not required.

Clause 6.2 Earthworks

1. Clause 6.2 of the LEP sets out the matters that the consent authority is required to consider before granted development consent for earthworks. The consent authority must be satisfied that the proposed earthworks will not result in adverse impacts to the soil and vegetation on the site and adjoining properties. The DA is accompanied by:

* a Geotechnical statement on earthworks, prepared by Crozier Geotechnical Consultants (Town Planning JER, Annexure K); and

* amended stormwater plans, assessment reports and response statement prepared by Stellen Civil Engineering (s34 agreement bundle, Tab 3; and Town Planning JER, Annexure J)

which confirm that the proposed development is unlikely to disrupt or negatively impact on neighbouring land uses or structures with adequate measures proposed.

1. The parties submit, and I accept that the development is consistent with the matters to be addressed pursuant to cl 6.2(3), as outlined below:

* the Stormwater Plans demonstrate that the development will not result in the disruption of or have a detrimental impact on the existing drainage patterns or soil stability on the site. An erosion and sediment control plan has also been prepared for the construction phase of the development (Plan SD-100 at Tab 3 of the s34 agreement bundle);

* the earthworks will facilitate the proposed efficient use of the site to accommodate the building footprint on the sloping site and facilitate the residential use of the site. The proposed development will not result in any detrimental impact on any other future uses of the site;

* the fill to be excavated is not expected to contain contaminated material. Any fill to be imported onto the site will be clean fill;

* the proposed excavation will be managed in accordance with the requirements outlined in the Geotechnical Assessment (Class 1 Application, Tab 18) and the construction management plan (Class 1 Application, Tab 20). Accordingly, the development is not expected to result in any significant adverse impacts on the amenity or structural integrity of adjoining properties;

* excavated material will be disposed of at an appropriate off-site facility or reused on site where possible;

* the site is not identified as a heritage item or within an area of high archaeological heritage significance and therefore the likelihood of relics on the site is considered to be low. In any case, the discovery of relics on site will be treated with an unexpected finds protocol; and

* the development and stormwater management system are designed to capture and treat water via a filtration system before discharging into a level spreader to return water to the soil as outlined in the Stormwater Plans prepared by Stellen Civil Engineering (s34 agreement Bundle, Tab 3).

Clause 6.3 Stormwater management

1. Pursuant to cl 6.3 of the LEP, the consent authority must be satisfied that the development will not result in adverse impacts of stormwater runoff on the adjoining properties, native bushland and receiving waters. The amended Stormwater Plans and Stormwater Assessment prepared by Stellen Civil Engineering demonstrate how the stormwater runoff will be managed to minimise the impact on the adjoining properties and surroundings of the site. Pursuant to cl 6.3(3), the parties submit, and I accept that the development:

* is designed to maximise the use of water permeable surfaces (see Drawing DR-004 in the amended Stormwater Plans);

* includes on-site stormwater retention through a 3000L rainwater tank; and

* avoids any significant impacts of stormwater runoff on adjoining properties, native bushland and receiving waters by the capture, filtration and discharge of stormwater in a way that will reduce the pre-development volume and improve the predevelopment quality (see Stormwater Assessment at Annexure J of the Town Planning JER).

Clause 6.5 Riparian land and adjoining waterways

1. The site is partially mapped as 'Riparian Land' on the Riparian Land and Waterways Map (LEP cl 6.5). Pursuant to cl 6.7(3), the consent authority must consider whether the development will have an adverse effect on the matters as outlined in subcll 6.3(a)-(c).
2. In satisfaction of the relevant matters of which the Court must consider, the applicant has prepared Amended Stormwater Plans and an Amended Stormwater Assessment (see Tab 3 of the s34 agreement bundle and Town Planning JER, Annexure J) which, as noted earlier, demonstrates that the proposed development delivers a considered and site-sensitive system of stormwater management adjacent to the neighbouring watercourse.
3. The development is designed and will be managed to avoid any significant environmental impacts as it provides stormwater capture and treatment measures that will improve stormwater quality and reduce stormwater quantity compared to the existing site condition (cl 6.5(4)).

Clause 6.6 Limited development on foreshore areas

1. The site is not mapped as within the Foreshore Area or within the Foreshore Building Line, and accordingly is not subject to cl 6.6 of the LEP.

Clause 6.7 Development on river front areas

1. The site is mapped as 'River Front Area' on the River Front Area Map. Pursuant to cl 6.7(3), the parties submit and I accept that:

* measures have been taken in the location, design and appearance of the development to minimise its visual impact from the waterway through the retention and planting of large canopy trees, the location of the dwelling within the existing dwelling footprint and the design of the development to respect and enhance the scenic qualities of the site, as viewed from the water;

* the development will maintain the historic, natural and aesthetic significance of the site through the high quality and respectful design of the dwelling and the retention and provision of significant landscaping; and

* the dwelling is located generally within the footprint of the existing dwelling and is set into the site slope and as such will not result in an impact on existing views towards the waterway from adjoining public roads and reserves.

Clause 6.9 Landscaped area for dwelling houses and secondary dwellings

1. In accordance with cl 6.9 of the LEP, the landscaped area of any site for which development for a dwelling is sought, must not be less than 50% of the site area. However, pursuant to cl 6.9(4), the minimum requirement may be reduced by up to 33% for the purposes of accommodating a pathway, patio, terrace or pool if the development is consistent with the objectives of the cl 6.9. The parties submit, and I accept that the development provides landscaping in accordance with the requirements of cl 6.9 (see Drawing DA_14).
2. In conclusion, in determining this matter, I am not required to make, and have not made, any assessment of the merits of the DA against the discretionary matters that arise pursuant to an assessment under s 4.15 of the EPA Act.

Notations and orders

1. As the parties' decision is within power as required by s 34(3) of the LEC Act, I now dispose of the proceedings in accordance with their agreement.
2. The Court notes:
 1. That Hunters Hill Council has approved, pursuant to s 38(1) of the Environmental Planning and Assessment Regulation 2021, the applicant amending the DA in accordance with the following amended plans and documents:

Drawing No. Issue Plan Title Dated

Amended Architectural Plans

DA_00 F Cover Page 26/09/2024

DA_02 F Site Plan 26/09/2024

DA_03 F Demolition Plan 26/09/2024

DA_04 F Upper Ground Floor Plan 26/09/2024

DA_05 F Lower Ground Floor Plan 26/09/2024

DA_06 F Level 1 Plan 26/09/2024

DA_07 F Roof Plan 26/09/2024

DA_08 F Elevations West 26/09/2024

DA_09 F Elevations North 26/09/2024

DA_10 G Elevations East 26/09/2024

DA_11 F Elevations South 26/09/2024

DA_12 F Section AA 26/09/2024

DA_13 F GFA Diagram 26/09/2024

DA_14.1 F Landscape Plan 26/09/2024

DA_17 F Shadow diagrams (21st June) - 9AM 26/09/2024

DA_18 F Shadow diagrams (21st June) - 12PM 26/09/2024

DA_19 F Shadow diagrams (21st June) - 3PM 26/09/2024

DA_20 F Finishes Schedule 26/09/2024

DA_23 F Cut and Fill Plan 26/09/2024

DA_39 F Sightline Diagram 1 26/09/2024

DA_40 F Sightline Diagram 2 26/09/2024

SK_20 G External wall height Diagram 26/09/2024

Amended Landscape plans

LP01-D00223 G DA Cover Page 23/08/2024

LP02-D00223 G Upper Ground Floor Plan 23/08/2024

LP03-D00223 G Lower Ground Floor Plan 23/08/2024

LP04-D00223 G First Floor Plan 23/08/2024

Amended Stormwater plans

DR-000 4 Legend 11/09/2024

DR-001 3 Pipe Layouts & Details – Sheet 1 11/09/2024

DR-002 3 Pipe Layouts & Details – Sheet 2 27/06/2024

DR-003 3 Roof Layout & Details 27/06/2024

DR-004 2 Site Areas 27/06/2024

SD-100 0 Sediment & Erosion Control Plan 31/07/2024

Reports

Amended Construction Management plan prepared by BRP Consulting dated 26 September 2024

Amended BASIX Certificate and stamped plans prepared by Taylor Smith Consulting dated 26 September 2024

1. The applicant filed the amended DA in Court on 26 September 2024.
1. Accordingly, the Court orders:
 1. The appeal is upheld.
 2. Development Application DA/2023/0036 for the demolition of existing structures, removal of two trees and construction of a 2-storey dwelling house with a double garage, swimming pool and associated landscaping at 8B North Parade, Hunters Hill is determined by a grant of consent subject to conditions contained in Annexure 'A'.

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S Dixon

Senior Commissioner of the Court

Annexure A (470966, pdf)

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Decision last updated: 03 October 2024

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CASE PAGE <https://chat.esheria.ai/case-law/australia/devlin-v-hunters-hill-council-2024-nswlec-1610-2024>

Prepared on 27 October 2026 · Esheria