

AGENDA

NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Independent Assessment Panel will be held in the Manly Council Chambers, 1 Belgrave Street, Manly on

WEDNESDAY 26 JULY 2017

Beginning at 1.00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Lesley Finn	Chair (Environmental Law)
Steve Kennedy	Urban Design Expert
Brian Kirk	Town Planner

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

**Agenda for a Meeting of the Northern Beaches Independent
Assessment Panel**

to be held on Wednesday 26 July 2017

in the Manly Council Chambers, 1 Belgrave Street, Manly

Commencing at 1.00pm

1.0	APOLOGIES & DECLARATIONS OF PECUNIARY INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Northern Beaches Independent Assessment Panel held 19 July 2017	
3.0	NORTHERN BEACHES INDEPENDENT ASSESMENT PANEL REPORTS	2
3.1	112 Sydney Road, Fairlight - DA105/2013 - Section 96 Modification	2
3.2	Challenger Drive, Belrose - MOD2016/0335	42
3.3	59 Campbell Parade, Manly Vale - DA2017/0030	64
4.0	REVIEW OF DETERMINATIONS.....	134
4.1	3 Austin Street, Fairlight - DA159/2016 - Section 82A Review	134
5.0	PLANNING PROPOSALS	
	Nil	

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL HELD 19 JULY 2017

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Development Assessment Panel held on 19 July 2017 were adopted by the Chairperson and have been posted on Council's website.

3.0 NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL REPORTS

ITEM 3.1	112 SYDNEY ROAD, FAIRLIGHT - DA105/2013 - SECTION 96 MODIFICATION
REPORTING OFFICER	Claire Downie
TRIM FILE REF	2017/229714
ATTACHMENTS	1 ↓ Assessment Planners Report 2 ↓ Site and Elevation Plans

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That Council (Northern Beaches Independent Assessment Panel) as the consent authority approve Development Consent No. 105/2013 to modify approved Demolition of existing structures, construction of a boarding house, residential units and Stratum Subdivision – Part 3 on land at Lot 1 DP 62531, 112 Sydney Road, Fairlight, for the reasons outlined in the report.

NORTHERN BEACHES
COUNCIL

northernbeaches.nsw.gov.au

Development Assessment Report

MC/17/62665

DA No.	105/2013
Site Address	112 Sydney Road, Fairlight. Lot 1 DP 62531.
Proposal	Section 96 to modify approved Demolition of existing structures, construction of a boarding house, residential units and Stratum Subdivision – Part 3
Officer	Claire Downie

SUMMARY:**Application Lodged:**

8 March 2017

Applicant:

JVUrban Pty Ltd c/o Joe Vescio

Owner:

Stookats Pty Ltd

Estimated Cost:

\$2,450,000 (as per original application)

Zoning:

MLEP, 2013 – R1 General Residential

Heritage:

Adjacent to Item 2 Stone Kerbs

NSW LEC:

Not applicable

Notification:

14-30 March 2017; and

22 May-7 June 2017 (Re-notified – amended plans)

Submissions received:

16

Site Inspected:

2 June 2017

LEP (4.6) Variations proposed:

Nil

DCP Variations proposed:

Nil

Recommendation:

Approval

Subject Property and surrounding area

The subject property is commonly known as 112 Sydney Road, Fairlight and legally known as Lot 1 in DP 62531. The site is located on the northern side of Sydney Road. The property is irregular in shape, has a frontage of 28m to Sydney Road, 33.375m to Parkview Road and 26.6m to Parkview Lane, an average depth of 37m and an overall site area of 1005.7m².

The property currently contains a single storey dwelling with vehicular access via an existing driveway from Parkview Lane to an existing hardstand area to the rear of the existing dwelling. The property slopes approximately 3m from east to west.

The adjacent property to the east, at 116 Sydney Road, is developed with a single storey detached dwelling. Development in this area consists of detached dwellings and residential flat buildings.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

Recent relevant applications on site include:

DA267/2005: Demolition of existing dwelling house and garages and erection of a new three-storey residential flat building with basement parking, landscaping and swimming pools. Approved (deferred commencement) by DAU on 22 December 2005.

DA267/2005 – Part 2: Section 96 application seeking amendments to conditions of consent. Approved under delegation on 8 June 2006.

DA360/2006: Use of an approved air conditioning plant room to a gymnasium. Approved under delegation on 25 September 2006.

DA343/2010: Demolition of existing and construction of a two-storey Residential Flat Building consisting of four townhouses with basement garage. Approved by DAU on 14 July 2011.

DA48/2011: Land subdivision of one (1) lot into four (4) lots. Refused by DAU on 5 April 2011. Appeal to NSW LEC dismissed on 24 April 2012.

DA88/2011: Four lot Strata Subdivision of the proposed Townhouse Development (DA343/2010). Approved by DAU on 27 September 2011.

DA145/2012: Demolition of existing structures, construction of a four (4) storey residential building including two residential units and twenty-three boarding house rooms and eleven car parking spaces. Refused by MIAP on 18 April 2013.

DA105/2013: Demolition of existing structures, construction of a three (3) storey, 22 studio boarding house (including Managers Room) with 2 residential units on third level, basement car park with eleven (11) spaces, five (5) motorcycle space, bike storage, balconies and landscapes. Approved by MIAP 19 September 2013.

DA105/2013 – Part 2: Section 96 application involving the modification to the third level to include three one-bedroom units and deletion/modification of conditions of consent as follows:

Deleted:

- ANS01 relating to additional application fees
- ANS03 relating to amended plans
- ANS06 relating to a tree

Modified:

- ANS02 relating to Section 94 contributions
- ANS05 relating to Stratum Subdivision
- ANS10 relating to Dilapidation Report
- 6 (2DS01) relating to Stormwater Management Plan
- 7 (2DS02) relating to Onsite Detention

Approved by MIAP 16 October 2014. Appeal at NSW LEC to modify the application to increase floor space, convert two units into three and amend conditions of consent upheld on 19 May 2015.

Description of proposed development

The proposal seeks alterations and additions to DA105/2013 for an approved boarding house and residential apartment development, including:

- Reconfiguration of the basement level allowing for four additional parking spaces;
- Deletion of one set of fire stairs;
- Relocation of remaining fire stairs and lift;
- Relocation of the Manager's Flat and associated private open space;
- Reconfiguration of level 4 and subsequent relocation of privacy screens;
- Changes to level 4 balconies; and
- Installation of skylight.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Access Comments

Council's Access Officer has commented on the proposal as follows:

- *"There is no mention of accessibility or Access report provided, which we believe should be provided. We request the opportunity to make comment when this is submitted to Council.*
- *No units have been identified as accessible, particularly with regards to the ageing population. Some units show potential, however revision/enlargement of bathrooms would be required.*
- *Regarding accessibility, we would suggest that accessible units be provided on the ground floor with access to the individual landscaped garden areas since the balconies elsewhere would be too small. As well, accessible parking should be provided for residents as well as visitors.*

Adaptable units

The proposed S.96 modification of approved boarding house application raises the question why there is only one adaptable studio identified out of 22 boarding dwellings and 3 units.

Access in accordance with AS4299 – Adaptable Housing requires 25% adaptable dwellings for all residential accommodation of 4 or more dwellings (Clause 3.6.3.1 Manly DCP 2013).

In this case, at least 5 adaptable units are required. Accordingly, the same number of accessible parking spaces should be provided.

Insufficient floor space area

Studio 10, which is assumed to be the only one adaptable dwelling identified (as the bathroom layout suggest) is the smallest of all with a floor space area of only 17.6 m². All other studios have a floor space area between 22-25 m².

In adaptable housing dwellings, provisions should be made to allow 360° circulation space for a wheelchair turn after the furniture has been placed. In the living area alone, a space of 2250 mm minimum diameter after the furniture has been placed will satisfy this requirement. (AS4299, Cl.4.7.1)"

Assessing Officer's Comment

The boarding house and residential flat building development was approved under Development Consent No. 105/2013 without an accessibility report and without identification of adaptable units. This application relates only to the modifications detailed in the description of the proposed development. It is considered unreasonable to require amendments to the proposal not relating to the proposed modifications. As such, an accessibility report and the identification of adaptable units is not required.

Traffic Comments

Council's Traffic Engineer commented on the proposal as follows:

"While the increased level of offstreet parking is supported there is some concern about how the stacked parking spaces will be utilised. In order to ensure that an appropriate carpark use and management structure is in place a carpark management plan should be prepared. The site is also difficult in terms of construction access and a construction traffic management plan should be prepared."

Assessing Officer's Comments:

Suitable conditions have been applied.

Driveway Comments

Council's Driveway Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

External Referrals

No external referrals were considered necessary.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) **the provisions of:**
 - (i) **any environmental planning instrument, and**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

State Environmental Planning Policy (Affordable Rental Housing) 2009:

The proposed modifications are made in relation to an approved boarding house development. As such, Part 2 Division 3 Boarding Houses of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* applies. An assessment of the relevant clauses is as follows:

Clause	Requirement	Complies
26 Land to which Division applies	This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones: (a) Zone R1 General Residential, (b) Zone R2 Low Density Residential, (c) Zone R3 Medium Density Residential, (d) Zone R4 High Density Residential, (e) Zone B1 Neighbourhood Centre, (f) Zone B2 Local Centre, (g) Zone B4 Mixed Use.	Yes – The subject site is zoned R1 General Residential
27 Development to which Division applies	(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses. (2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. (3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Yes – (1) The proposed modifications apply to an approved boarding house development. (2) The subject site is zoned R1 General Residential. (3) As at (2) above.
28 Development may be carried out with consent	Development to which this Division applies may be carried out with consent.	Yes – Consent for the proposed modifications is sought through this Section 96 modification application.
29 Standards that cannot be used to refuse consent	(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than: (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or (b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	Yes – (1)(a) Does not apply. (1)(b) Does not apply. (1)(c)(i) Additional 0.5:1 floor space ratio (totalling 1.25:1) has been applied. The proposed modifications include an additional 66.65sqm of gross floor area. Total FSR is compliant. (1)(c)(ii) Does not apply.

	<p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <ul style="list-style-type: none"> i. 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or ii. 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1. <p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <ul style="list-style-type: none"> (a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land, (b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located, (c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter, (d) private open space if at least the following private open space areas are provided (other than the front setback area): <ul style="list-style-type: none"> i. one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, ii. if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation, (e) parking if: <ul style="list-style-type: none"> i. in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and 	<p>(2)(a) No change is proposed to the approved non-compliant building height.</p> <p>(2)(b) No change is proposed to the landscaped treatment of the front setback area.</p> <p>(2)(c) No change is proposed to solar access.</p> <p>(2)(d)(i) No change is proposed to communal private open space.</p> <p>(2)(d)(ii) Compliant private open space for the manager is retained.</p> <p>(2)(e)(i) A total of six car spaces are required. Thirteen car spaces are proposed, including one general visitor space and one disabled visitor space. 5 motorcycle spaces are also proposed.</p> <p>(2)(e)(ii) Does not apply.</p> <p>(2)(e)(iii) No parking spaces are specifically allocated to the manager of the boarding house.</p> <p>(2)(f) Rooms are 16sqm or greater. No change is proposed to room dimensions.</p> <p>(3) The approved development includes bathroom and kitchenette facilities in each room. No change is proposed to this arrangement.</p> <p>(4) The proposal complies with subclauses (1) and (2).</p>
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	<ul style="list-style-type: none"> ii. in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and iii. in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site, <p>(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <ul style="list-style-type: none"> i. 12 square metres in the case of a boarding room intended to be used by a single lodger, or ii. 16 square metres in any other case. <p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p> <p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	
30 Standards for boarding houses	<p>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</p> <ul style="list-style-type: none"> (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided, (b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres, (c) no boarding room will be occupied by more than 2 adult lodgers, (d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger, (e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager, (f) (Repealed) 	<p>Yes –</p> <p>(1)(a) The approved development of 22 boarding rooms (including Managers Room) includes two communal living rooms. No change is proposed to this arrangement.</p> <p>(1)(b) Maximum room size is 25sqm, including bathroom and kitchen facilities.</p> <p>(1)(c) No boarding room will be occupied by more than two adult lodgers.</p> <p>(1)(d) The approved development includes bathroom and kitchenette facilities in each room. No change is proposed to this arrangement.</p> <p>(1)(e) One room is allocated to the manager.</p> <p>(1)(f) Repealed.</p>

	<p>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,</p> <p>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</p> <p>(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.</p>	<p>(1)(g) The subject site is zoned R1 General Residential.</p> <p>(1)(h) Five motorcycle spaces are approved.</p> <p>(2) Approved boarding house has not yet been constructed.</p>
30A Character of local area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Yes – The design of the development is considered compatible with the character of the local area.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of State Environmental Planning Policy (Infrastructure) 2007 applies, as the subject site has frontage to a classified road (Sydney Road). Clause 101 is as follows:

- (1) *The objectives of this clause are:*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment: The proposed modifications do not affect the approved development's compliance with Clause 101 of the SEPP (Infrastructure) 2007.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)

SEPP 65 and the ADG do not apply in this case, as only three dwellings (as per the definition under the *Manly Local Environmental Plan 2013*) are approved within the residential flat building and no change to the number of dwellings is proposed.

Manly Local Environmental Plan 2013

The subject site is located in Zone R1 General Residential under the Manly LEP 2013. The proposed development is permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone R1 General Residential

Objectives of zone

- *To provide for the housing needs of the community.*

The proposed modifications to the approved development retain the residential use of the site.

- *To provide for a variety of housing types and densities.*

The proposed modifications to the approved development retain the variety of housing types and densities within the area.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Not applicable. The proposed modifications to the approved development retain the residential use of the site.

Part 4 Principal development standards

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

4.	Principal Development Standards	Requirement	Approved	Proposed	Complies Yes/No	Comments
4.3	Height of buildings	11m	10.6m	Unchanged	Yes	-
4.4	Floor Space Ratio	1.25:1 (0.75:1 plus 0.5:1 – as per Affordable Rental Housing SEPP) 1,257.12m ²	1.1:1 1,106m ²	1.16:1 1,172.65m ²	Yes	-

4.6 Exceptions to development standards

No variations to developments standards are proposed as part of this application.

Part 5 Miscellaneous Provisions

There are no relevant miscellaneous provisions under Part 5 of the MLEP 2013 to consider as part of this assessment.

Part 6 Local Provisions

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

6.	Local Provisions	Applies	Complies	Comment
6.1	Acid Sulphate Soils	Yes	Yes	The proposed modifications to the approved development do not impact upon the approved compliance with the objectives and provisions of Clause 6.1 of the Manly LEP 2013.
6.12	Essential services	Yes	Yes	The proposed modifications to the approved development do not impact upon the approved compliance with the objectives and provisions of Clause 6.12 of the Manly LEP 2013.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Mainly Development Control Plan 2013

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with Principle	Inconsistent with Principle
Streetscape	✓	✓
Heritage – In Vicinity	✓	✓
Landscaping Design	NA	
Landscape/Tree Preservation	NA	
Sunlight Access and Overshadowing	✓	✓
Privacy and Security	✓	✓
Maintenance of Views	✓	✓

Comment:

The Streetscape, Heritage, and Maintenance of Views objectives of the MDCP 2013 are not considered relevant in this case, as the proposed modifications to the approved development are not considered to result in any further impacts than that of the approved works.

3.4.1 Sunlight Access and Overshadowing

Objective 1) To provide equitable access to light and sunshine.

The proposed modifications make minor modifications to the balconies at level 4. These modification are on the eastern and southern sides of the development, so do not result in additional overshadowing impact to adjacent sites beyond that of the original development. As such, the proposed development provides equitable access to light and sunshine.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

The proposed modifications do not result in additional overshadowing impact to the private open spaces, living spaces and habitable rooms of the subject site or adjacent sites beyond that of the original development.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

The proposed modifications do not significantly or unreasonably alter the level of sunlight penetration of the approved development.

3.4.2 Privacy and Security

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

The proposed modifications to the approved development minimise the loss of privacy to adjacent and nearby development with the inclusion of privacy screening to the windows of the eastern windows of the boarding rooms (adjacent to No. 116 Sydney Road) where appropriate. In this way, the proposed development is appropriately designed for privacy and mitigates direct viewing between properties.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

The proposed modifications to the approved development provide adequate privacy without compromising access to light and air. The outlook and views from habitable rooms and private open space is balanced in that overlooking is minimised, but views from the subject site are still available.

Objective 3) To encourage awareness of neighbourhood security.

The proposed modifications to the approved development retain balconies on each street elevation of the building, thereby encouraging awareness of neighbourhood security through passive surveillance.

Part 4 - Development Controls

Clause 8 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* is as follows:

“8 Relationship with other environmental planning instruments

If there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.”

As such, the *State Environmental Planning Policy (Affordable Rental Housing) 2009* overrides any controls in the DCP. Notwithstanding this, the relevant provisions are considered below.

Site 1,005.7m ²	Area:	Permitted/ Required	Approved	Proposed	Complies Yes/No
Car Parking – Residents		1 space per dwelling, plus 0.2 spaces per 2-bed dwelling, plus 0.5 spaces per 3-bed dwelling (4 spaces)	7 spaces	11 spaces	Yes
- Visitors		0.25 spaces per dwelling (2 spaces)	2 spaces	2 spaces	Yes
Excavation		Generally 1m, except for basement car parking or pool Dilapidation or Geotechnical report	3m for the purpose of the basement car park	Depth unchanged	Yes

11 of 36

Comment:

The proposed modifications include the removal of one set of fire stairs. Subsequently, each level of the development has been reconfigured, including the basement. Further, a greater area of excavation (to the same depth as previously approved) is proposed to provide additional parking spaces. The majority of parking spaces are provided in a tandem manner. Condition No. ANS21 has been applied in this regard, requiring a car park management plan to detail how use of the tandem spaces will be managed.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Applicable	Not Applicable
Conservation Area		✓
Foreshore Scenic Protection Area		✓
Threatened Species and Critical Habitat		✓
Flood Control Lots		✓
Riparian Land and Watercourses		✓
Road Widening		✓
Gurney Crescent and Clavering Road, Seaforth		✓

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement has been entered into in relation to the proposed modifications to the approved development.

79C(1)(a) (iv) - the regulations

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed modifications to the approved development are not considered to have any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

79C(1) (c) - the suitability of the site for the development,

The proposed modifications to the approved development are considered to be suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Section 2.2 of Council's Development Control Plan 2013 with sixteen submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission
1. G. Lee Address Unknown	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • The development will impact on on-street parking. • The development will impact the value of my property.
2. M. Rakicic & R Mann 123 Sydney Road, Fairlight	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • The development will impact the value of my property. • The bulk of the development is excessive. • Parking is insufficient. • The development will impact on on-street parking. • The development will overshadow nearby properties. • The development will lead to traffic congestion. • The proposed colour of the development is inappropriate in the area.
3. Confidential	<ul style="list-style-type: none"> • What is the primary function of the development? • What is the definition of boarding house? • When will the development be constructed? • The development will impact on on-street parking. • The development will result in noise impacts.
4. J. Paton Crescent Street, Fairlight	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • The development will impact on on-street parking. • The development will lead to traffic congestion.
5. R. Kirk 6/1 Parkview Road, Fairlight	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • Parking is insufficient – the proposal reduces parking from 13 spaces to 9. • The proposal introduces a basement, increasing the overall height of the development. • The proposal introduces an extra apartment. • Ingress and egress to the site is unsatisfactory. • The height of the development is excessive. • The development will lead to negative social impacts. • The potential rental cost is excessive. • The density of the development is excessive. • The development will impact upon privacy. • The development will result in view loss. • The development will lead to traffic congestion. • The development will result in noise impacts. • Fire escape routes are reduced. • The proposed modifications do not result in substantially the same development as approved.
6. D. Flannery 100 Sydney Road, Manly	<ul style="list-style-type: none"> • Object to the development of a boarding house. • The development will impact on on-street parking.
7. M. Novakovic 5&9/100 Sydney Road, Manly	<ul style="list-style-type: none"> • Parking is insufficient. • A boarding house is not in keeping with the area. • The development will result in noise impacts. • The density of the development is excessive. • The development will impact on on-street parking.

8. M. Williams 5/1 Parkview Road, Fairlight	<ul style="list-style-type: none"> • The density of the development is excessive. • The bulk of the development is excessive. • The height of the development is excessive. • The development will result in view loss. • The development will impact upon privacy. • The development does not provide adequate open space. • Parking is insufficient. • Vehicular access to the site is unsatisfactory.
9. R. & G. Boswell 116 Sydney Road, Fairlight	<ul style="list-style-type: none"> • Bedrooms on the top level overlook our private open space. Privacy screening should be fixed.
10. Confidential	<ul style="list-style-type: none"> • Vehicular access to the site is unsatisfactory. • Parking is insufficient. • The development will impact on on-street parking. • A boarding house is not in keeping with the area. • The development will impact the value of my property.
11. S. Javorsky 1/1 Parkview Road, Fairlight	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • The development will impact the value of my property.
12. D. Nicholas 4/1 Parkview Road, Fairlight	<ul style="list-style-type: none"> • Ingress and egress to the site is unsatisfactory. • The development will lead to traffic congestion. • Parking is insufficient – the proposal reduces parking from 11 spaces to 9. • The proposal introduces a basement, increasing the overall height of the development. • The height of the development is excessive. • The density of the development is excessive. • The proposed modifications do not result in substantially the same development as approved.
13. K. & G. Bennet 3/3 Parkview Road, Fairlight	<ul style="list-style-type: none"> • The development will impact upon privacy. • The development will result in noise impacts. • The development will result in view loss. • The development will impact on on-street parking. • The development will lead to traffic congestion. • The development will lead to negative social impacts. • The construction phase will impact on local roads. • The density of the development is excessive.
14. A. Javorsky Address Unknown	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • The development will lead to negative social impacts. • The development will impact the value of my property. • The development will impact on on-street parking. • The development will lead to traffic congestion. • The development will result in view loss. • The development will impact upon privacy.
15. J. Harris Lee 11/123 Sydney Road, Fairlight	<ul style="list-style-type: none"> • Previous objections should apply to this application. • A boarding house is not in keeping with the area. • Parking is insufficient. • The height of the development is excessive. • The development will result in view loss. • The development will overshadow nearby properties.
16. A. Sail 15/123 Sydney Road, Fairlight	<ul style="list-style-type: none"> • A boarding house is not in keeping with the area. • The development will impact on on-street parking. • The height of the development is excessive.

Comment:

Boarding House Development - Inappropriate

The boarding house and residential apartment development was previously approved by the former Manly Independent Assessment Panel on 19 September 2013. In this way, consent for the development has already been granted. This application is for the modification of the approved development only.

The definition boarding house, as per the Manly LEP 2013, is as follows:

"a building that:

- (a) is wholly or partly let in lodgings, and*
 - (b) provides lodgers with a principal place of residence for 3 months or more, and*
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*
- but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment."*

Insufficient Parking

The proposed modifications under this application result in an increase to the approved number of parking spaces from 9 to 13, including 2 visitor spaces. This parking provision is compliant with the requirements of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the Manly DCP 2013.

Property Value

Property value is not a planning matter and is beyond the scope of this application.

Bulk – Floor Space Ratio

The proposed development is compliant with the floor space ratio as set by the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, which controls the bulk of development.

Height

The proposed development is compliant with the height of building development standard under Clause 4.3 of the Manly LEP 2013. The proposed modifications include the reconfiguration of the approved basement – no new basement is proposed.

Density

No change is proposed to the previously approved density of the development under this modification application. No additional boarding rooms or apartments are proposed as part of this application. All boarding rooms and apartments are subject to previous approvals.

Overshadowing

The additional overshadowing impact resulting from the proposed modifications is minor and acceptable for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development.

Traffic Congestion

The proposed modifications under the current application will not result in an increase to traffic beyond that of the approved development. Councils Traffic engineer raised no objections to the proposals subject to conditions that are included in the Recommendation.

Access – Ingress and Egress

The proposed modifications under the current application do not make any change to the access arrangements of the approved development.

Privacy

The proposed modifications to the approved development are acceptable in relation to privacy for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development.

Open Space

The proposed modifications under the current application do not make any change to the open space calculations of the approved development.

Rental Cost

The cost of renting a boarding room or apartment in this development once constructed is not a planning matter and is beyond the scope of this application.

Fire Escape Route Reduction

The application was referred to Council's Building Surveyor, who raised no objections to the application, subject to the application of recommended conditions of consent for the preparation of a BCA Assessment Report demonstrating compliance with the relevant BCA requirements. See Condition No. ANS19.

Construction

The applicant has 5 years from the date of determination of the application to physically commence construction of the proposed development. However, if the applicant has satisfactorily physically commenced works, the development consent is infinitely valid, until the issue of the final occupation certificate. As such, Council cannot specify when construction may occur.

Development Colour

The colour of the development is as approved in the Schedule of Finished submitted with the original application. No change is proposed to the colours and finishes of the approved development.

Substantially the Same Development

Council has the authority to modify a development consent, if it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all). The proposed modifications relate to the development originally approved and result in substantially the same development. As such, the proposed works may be considered under this modification application and no new development application is required for these works.

79C(1) (e) - the public interest.

The proposed modifications to the approved development are in the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
 - (b) *the payment of a monetary contribution,*
 - or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed modification to the proposed modification to the approved development will not require the provision of or increase the demand for public amenities and public services in the area. As such, the payment of a monetary contribution is not required.

Section 96 of the Environmental Planning and Assessment Act 1979

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

With regard to the above it is considered that the proposed modifications to the original consent, will result in substantially the same development for which consent was originally granted. The modifications requested were notified in accordance with Council's Manly DCP with sixteen submissions received. All matters relating to the proposed modifications in terms of impact on have been considered. On balance, the proposed modifications are considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **Approval**, subject to conditions.

RECOMMENDATION

That pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 105/2013 to modify approved Demolition of existing structures, construction of a boarding house, residential units and Stratum Subdivision – Part 3 at 112 Sydney Road, Fairlight be **Approved** subject to:

GENERAL CONDITIONS

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Plans affixed with Council's stamp relating to Development Consent No. 105/13

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA01 Site Plan/Roof Plan	Revision A dated 13/05/13	14 May 2013.
DA02 Site Analysis	Revision A dated 13/05/13	14 May 2013.
DA03 Shadow Diagrams	Revision A dated 13/05/13	14 May 2013.
DA04 Sediment Control & Demolition Plan	Revision A dated 13/05/13	14 May 2013.
DA05 Open Space & Landscape Calculation	Revision A dated 13/05/13	14 May 2013.
DA06 Nett Room Floor Areas for Studio (Levels 2-3)	Revision A dated 13/05/13	14 May 2013.
DA11 Plan - Level 1 &2	Revision A dated 13/05/13	14 May 2013.
DA12 Plan - Level 3&4	Revision A dated 13/05/13	14 May 2013.
DA21 East & West Elevations	Revision A dated 13/05/13	14 May 2013.
DA22 North & South Elevations	Revision A dated 13/05/13	14 May 2013.
DA31 Sections	Revision A dated 13/05/13	14 May 2013.
Landscape Planting Plan - Dwg No. LPP/01/A	Revision B dated 09/05/13	14 May 2013

Documentation affixed with Council's stamp relating to Development Consent No./105/13

- Statement of Environmental Effects by Provincial Planning dated May 2013 received by Council on 14 May 2013.
- Plan of Management dated 1 March 2013.
- Social Impact Report by Judith Stubbs received by Council on 14 May 2013.
- Survey Plan by Teca Pty. Ltd. Reference No.1868 dated 29/11/2004, received by Council on 14 May 2013.
- Basix Certificate No.435472M dated July 2012, received by Council on 14 May 2013.
- Waste Minimisation and Management Plan & Checklist dated 14/05/12 received by Council on 14 May 2013.
- Geotech report by Assett Geotechnical received by Council on 14 May 2013.
- Stormwater drainage Plan by Thomas Lau dated 07/12 received by Council on 14 May 2013.

Except as amended by:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA 01 Site Plan/Roof Plan	A Section 96 dated 31.01.14	19 02.14
DA 05 Open Space & Landscape Calculation	A Section 96 dated 31.01.14	19 02.14
DA 11 Plan Level 1 & 2 (to be amended to show correct property boundaries)	A Section 96 dated 07.02.14	19 02.14
DA 12 Plan Level 3 & 4	A Section 96 dated 31.01.14	19 02.14
DA 21 East & West Elevations	A Section 96 dated 31.01.14	19 02.14
DA 22 North & East Elevations	A Section 96 dated 31.01.14	19 02.14

Except as amended by:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA 01 Site Plan/Roof Plan	E dated 12.05.15	12.05.15
DA 11 Plan Level 1 & 2	E dated 12.05.15	12.05.15
DA 12 Plan Level 3 & 4	E dated 12.05.15	12.05.15
DA 21 East & West Elevations	E dated 12.05.15	12.05.15
DA 22 North & East Elevations	E dated 12.05.15	12.05.15
DA31 Sections	E dated 12.05.15	12.05.15

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(2) Application – Part 3:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA01 Site Plan / Roof Plan	Rev. G 16 May 2017	17 May 2017
DA11 Plan – Level 1 & 2	Rev. F 2 March 2017	8 March 2017
DA12 Plan – Level 3 & 4	Rev. G 16 May 2017	17 May 2017
DA21 East & West Elevations	Rev. G 16 May 2017	17 May 2017
DA22 North & South Elevations	Rev. G 16 May 2017	17 May 2017
DA31 Sections	Rev. F 2 March 2017	8 March 2017

Reference Documentation affixed with Council's stamp relating to this Section 96(2) Application – Part 3:

- Statement of Environmental Effects prepared by JVUrban Pty Ltd dated 16 May 2017 and received by Council on 17 May 2017

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

The following Condition No. ANS01 is to be deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS01
DELETED

The following Condition No. ANS02 is to be amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS02 (2US01)

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of demolition of existing structures , construction of a three (3) storey twenty one (21) studio boarding house with three (3) units on Level 4, basement with car parking for eleven (11) cars, five motorcycle spaces, bike storage, balconies and landscaping is \$130,727.75. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

ANS03

The top floor units be amended as shown in Plan No. DA 12 (Issue P6) and DA 21 (Issue P2) dated 24/07/13 and received by Council on 26/07/13. Plans to be amended for the Construction Certificate.

Reason: To reduce the bulk and scale of the development

ANS04

The proposed common room on the northern side of the ground floor be moved to the southern end to replace Studio 6. This common room on the northern side of the ground floor be converted to be an adaptable unit. Plans to be amended for the Construction Certificate.

Reason: To improve accessibility and to move common area from the residential flat building at No.1 Parkview Road.

The following Condition No. ANS05 is to be amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS05

The proposed Stratum Subdivision plans are to be amended to be consistent with the approved development consent plans and consent conditions. The statutory application fees of \$400 (\$330 plus \$70 for one additional Lot) is to be paid to Council prior to the issue of the Construction Certificate.

Reason: To ensure orderly development in accordance with Planning Legislation.

The following Condition No. ANS06 is to be deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS06
DELETED

ANS07

Stormwater Management Plan must be prepared and certified by a chartered professional engineer with NPER number, name and date of signature.

Reason: To protect the amenity of neighbouring properties and comply with local stormwater requirements.

ANS08

That when the boarding house is seeking tenants at the outset of its operations, and when a vacancy arises at the premises, the Owner/Manager must contact the Manly Community Centre or other suitable NGOs to establish if there are any local suitable tenants in need of accommodation that could be referred to them.

Reason: To improve the availability of affordable long term housing options for local people identified as being in need.

ANS09

The following health conditions are to apply:

1. Separate waste and recycling containers are to be included in the kitchen.

Reason: To facilitate source separation of waste and recycling.

2. Information regarding waste management system and materials to be recycled must be provided to all occupants as part of induction process.

Reason: To ensure the boarders are aware of the different bins and their correct use.

3. Only one standard set of domestic waste bins will be provided by Council. A private waste contractor must be engaged to provide and service additional waste bins and recycling bins.

Reason: To ensure adequate waste and recycling bin capacity is provided and to facilitate recycling at boarding houses.

4. This boarding house should investigate opportunities to recycle food waste through composting or worm farming: Compost bins and worm farms are available from Council's customer service.

Reason: To encourage recycling of food waste and minimise waste to landfill.

5. All boarding houses are to designate a non-paved area (min 80cm x 80cm) on site as space for communal or individual composting and worm farming.

Reason: To encourage recycling of food waste and minimise waste to landfill.

6. Signage on the correct usage of waste management system and materials to be recycled must be posted in the communal waste storage cupboard/room or bin bay prior to the receiving of Occupation Certificate.

Reason: To facilitate the correct use of bins.

7. Adequate provision for the disposal of cigarette butts must be provided.

Reason: To prevent litter from cigarette butts.

The following Condition No. ANS10 is to be amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS10

Pre – commencement dilapidation report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties No.116 Sydney Road and No.1 Parkview Road, Manly and public infrastructure (including roads, gutters footpaths, etc). A copy of the report must be provided to Council and any other owners of public infrastructure and owners of No.116 Sydney Road and No.1 Parkview Road, Manly.

Reason: To maintain proper records in relation to the proposed development.

ANS11

Post-construction dilapidation report:

The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

Reason: To maintain proper records in relation to the proposed development.

ANS12

The Plan of Management and House Rules must be easily made available to all lodgers and at least a copy must be in the common rooms at all times.

Reason: To ensure all boarders are familiar with the Plan of Management

ANS13

The plan of management be modified to include provision for any resident complaint to be made directly to the manager of the boarding house so that such complaints can be addressed promptly and appropriate responses can be made. This access shall be available on a 24 hour a day basis. The contact details of the manager shall be prominently displayed at the entry to the building. The Plan of Management should also provide a register of complaints be kept by the manager and this register shall be available to Council upon request.

Reason: To ensure that neighbouring residents can complain to the manager and their complaint will be actioned.

The following Condition No. ANS14 is to be added as per Section 96(2) Application – Part 2 – Determined 19 May 2015:

ANS14

At least three (3) car spaces shall be allocated to the residential units and at least six (6) car spaces being allocated to the boarding house.

Reason: To ensure orderly development in accordance with the relevant Planning legislation and Council's Development Control Plans.

The following Condition No. ANS15 is to be deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS15

DELETED

The following Condition No. ANS16 is to be added as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS16

DELETED

The following Condition No. ANS17 (3MS01) is to be amended as per Section 96(2) Application – Part 3:

ANS17 (3MS01)

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.

The following Condition No. ANS18 is to be added as per Section 96(2) Application – Part 3:

ANS18

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

The following Condition No. ANS19 is to be added as per Section 96(2) Application – Part 3:

ANS19

Prior to the issue of the Construction Certificate, a Building Code of Australia (BCA) Assessment Report is to be prepared, demonstrating compliance with the relevant requirements of the BCA.

Reason: To ensure compliance with the Building Code of Australia.

The following Condition No. ANS20 is to be added as per Section 96(2) Application – Part 3:

ANS20

Prior to the issue of a Construction Certificate, a construction traffic management plan is to be prepared and submitted to the satisfaction of the Certifying Authority.

Reason: To ensure construction traffic impacts are appropriately managed.

The following Condition No. ANS21 is to be added as per Section 96(2) Application – Part 3:

ANS21

Prior to the issue of the Occupation Certificate, a carpark management plan is to be prepared and submitted to the satisfaction of the Certifying Authority. This plan is to outline how use of the off street parking spaces will be managed.

Reason: To ensure use of the off street parking spaces is appropriately managed.

The following Condition No. ANS22 is to be added as per Section 96(2) Application – Part 3:

ANS22

The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Reason: To ensure compliance with this consent and Australian Standards relating to manoeuvring, access and parking of vehicles.

The following Condition No. ANS23 is to be added as per Section 96(2) Application – Part 3:

ANS23

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

The following Condition No. ANS24 is to be added as per Section 96(2) Application – Part 3:

ANS24

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$29,400. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

5 (2CD08)

A Geotechnical Survey, on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current Manly Development Control Plan 2013. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure structural integrity of the works maintained.

The following Condition No. 6 (2DS01) is to be amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

6 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for Stormwater Drainage for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

The following Condition No. 7 (2DS02) is to be amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

7 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

8 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, of 4.5m, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

Internal Note: This condition is to be imposed in conjunction with 3FP01, 4FP01 and 5FP01.

9 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

10 (2LD01)

Details must be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate indicating the proposed method of water proofing and drainage of the concrete slabs over which landscaping is being provided.

Reason: To ensure the appropriate type of water proofing is carried out and descriptive information about drainage is provided.

11 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

Internal Note: This condition is to be imposed in conjunction with 4MS04.

12 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

13 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

14 (2TC01)

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements must be submitted to the Council / Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard AS 3660.1 - 2000 Termite management – New building work, and to the Manly Code for the Protection of Buildings Against Termite Attack 1996.

Reason: To protect the building from possible termite damage.

15 (2WM01)

Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the Manly Development Control Plan 2013.

Reason: To ensure appropriate management of waste.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

16 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

17 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

18 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

19 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

20 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

Internal Note: This condition is to be imposed with 2FP02, 4FP01 AND 5FP01.

21 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 4LD02.

22 (3LD02)

All trees on the site clear of the building are to be retained, and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: 'This tree is the subject of a Tree Preservation Order by Manly Council'. This notice is to be in position prior to any work being commenced on the site. This does not include trees which have Council approval to be removed.

Reason: To ensure trees clear of the building are retained and those within 7.5m of the building are protected.

23 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the Tree Preservation Order 2001 criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

24 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

26 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.

- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

27 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

28 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

29 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

30 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Occupational Health and Safety Act 2000,
- The Occupational Health and Safety Regulation 2001,
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)],
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>, and
- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. Those involved with work to asbestos should be made aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

Reason: To ensure the health of site workers and the public.

31 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

Internal Note: This condition is to be imposed with 2FP02, 3FP01 and 5FP01.

32 (4FR01)

The building is to be erected in Type A construction for a Class A building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

33 (4LD01)

Landscaping is to be carried out in accordance with the approved Landscape Drawing No LPP/01/A Revision B dated 09/05/2013 prepared by ARTIVA architects and JCA Urban Designers Landscape Architects

Reason: To ensure appropriate landscaping is carried out on the development site.

Internal Note: This condition is to be imposed with 5LD01.

34 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

35 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

36 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

37 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

38 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

39 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

40 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspection/certification are required:

- Footing inspection - trench and steel,
- Framework inspection,
- Wet area moisture barrier,
- Final inspection.

The cost of these inspections by Council is \$1180. (being \$295 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$165.

Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.

41 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

Internal Note: This condition is to be imposed with 2MS02.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

42 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

43 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

44 (5DS03)

A restriction on the use of land and a positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

The detailed information for a restriction on the use of land and a positive covenant is shown in Council's Specification for On-site Storm Water Management 2003.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

45 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

Internal Note: This condition is to be imposed in conjunction with 2FP01, 3FP01 and 4FP01.

46 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

47 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

Internal Note: This condition is to be imposed in conjunction with 4LD01.

48 (5TC01)

Prior to issue of the Occupation Certificate, a durable termite protection notice must be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with the Manly Code for the protection of Buildings against Termite Attack.

Reason: To inform owners and future owners of the type of termite protection installed and of the need for regular inspections.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

49 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

50 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

51 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

52 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.

53 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

54 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

55 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

56 (6WM01)

Activities must not detrimentally affect impact existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.

Reason: To protect existing and future amenity of the adjoining occupations from excessive waste emissions.

57 (6WM02)

Waste collection from the premises must not occur between the hours of 10:00pm and 7:00am Monday to Sunday, without the prior approval of Council.

Reason: To minimise disruption to neighbouring properties.

58 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.

Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

59 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.

60 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

61 (6WM06)

Signage on the correct use of the waste management system and materials to be recycled must be posted in the communal waste storage cupboard/room or bin bay prior to receiving an occupation certificate. Signs are available from Manly Council's Customer Service.

Reason: To ensure all residents are aware of Council's waste and recycling system with regard to their dwelling.

62 (6WM08)

This commercial premises should investigate opportunities to compost food waste wherever practicable and recycle commonly recycled (non-putrescible) items such as paper and cardboard, steel and aluminium cans and recyclable plastic containers.

Reason: To promote waste minimisation in accordance with Manly Council's waste policies, the Waste Avoidance and Resource Recovery Act 2001 and the Manly Development Control Plan 2013.

63 (6WM09)

Cigarette butt receptacles are to be provided and maintained within these premises.

Reason: To ensure appropriate management of cigarette butt waste.

I am aware of the Council's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Claire Downie, Assessment Planner

Date: 12 July 2017

The application is referred to the Development NBIAP:

Rod Piggott, Manager Development Assessments

Date: 12 July 2017

Notes:
This drawing is copyright of ARTIVA ARCHITECTS
All work is to be in accordance with the BCA, relevant SAA
Codes, Conditions of Council and other relevant
Authority requirements.
DO NOT scale drawings and always refer to dimensions.
Check all dimensions on site before commencing work.
Always refer all discrepancies and enquiries to the
Architect.



BASIX NOTE

- [illegible]

G	REVISED SECTION 96 - SINGLE LIFT	RK	16.05.17
F	SECTION 96 - SINGLE LIFT CONE	RK	02.03.17
E	AMEND FLOOR PLAN AND ROOF PLAN	RK	12.05.15
D	NOT ISSUE	-	-
C	NOT ISSUE	-	-
B	AMEND FLOOR PLAN AND ROOF PLAN	PH	20.01.15
A	SECTION 96	PH	31.01.14
issue	description	by	date

ARTIVA

architects

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3 Harbourview Crescent
Sawder Bay NSW 2061

Tel: (02) 9460 0782
Fax: (02) 9460 1106

PROPOSED BOARDING

HOUSE

112 SYDNEY ROAD

job number client FAIRLIGHT

1240 N. FREEMAN

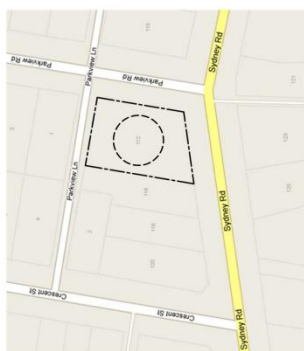
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SITE PLAN / ROOF PLAN

Drawn by: IF KLPH
Checked by: WC
scale 1:100 @A1

drawing number	issue
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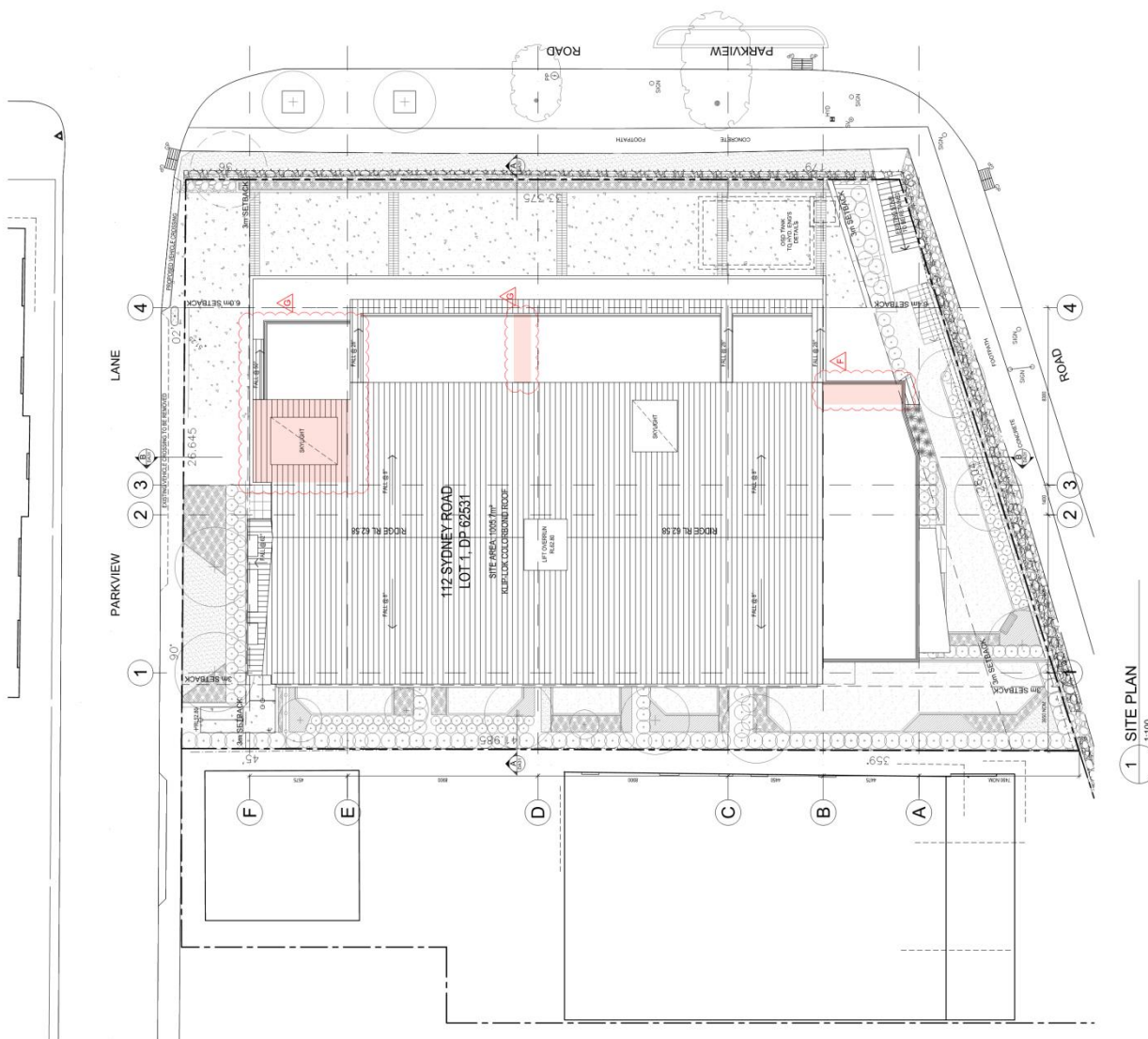


2 LOCATION PLAN

NTS

DRAWING LIST

DWG No.	ARCHITECTURAL DRAWINGS	SCALE
A01	SITE PLAN	1"=100' @ A1
A11	PLAN - LEVEL 1 & LEVEL 2	1"=100' @ A1
A12	PLAN - LEVEL 3 & LEVEL 4	1"=100' @ A1
A21	EAST & WEST ELEVATIONS	1"=100' @ A1
A22	NORTH & SOUTH ELEVATIONS	1"=100' @ A1
A31	SECTION A & B8	1"=100' @ A1





ITEM 3.2	CHALLENGER DRIVE, BELROSE - MOD2016/0335
REPORTING OFFICER	Nicholas England
TRIM FILE REF	2017/237268
ATTACHMENTS	1 ↓ Assessment Report

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That Council (Northern Beaches Independent Assessment Panel) as the consent authority approve Modification Consent No. Mod2016/0335 to modify approved Development Consent No. DA2001/0456 for the Processing and Recycling Facility for Construction and Demolition Waste and a Concrete Batching Plant on land at Lot 2 DP 1139826, Challenger Drive, Belrose, for the reasons outlined in the report.

S96(2) MODIFICATION APPLICATION ASSESSMENT REPORT

Planner:	Nick England
Address / Property Description:	Lot 2, DP 1139826 Challenger Drive, Belrose
Modification Application No:	Mod2016/0335
Approved Development:	Development Consent No. DA2001/0456 for the Processing and Recycling Facility for Construction and Demolition Waste and a Concrete Batching Plant
Development Consent Determination Date:	2001/0456DA 7 May 2002
Previous Modifications:	YES (MOD2009/0307 and MOD2011/0257)
Proposed Modifications:	Modification of Development Consent DA2001/0456 to amend Condition No.10 (hours of operation)
Application Lodged:	22/12/2016
Plans Reference:	Not applicable
Amended Plans:	Not applicable
Applicant:	Warringah Gravel & Stone Supplies Pty Ltd
Owner:	NSW Department of Lands
Locality:	C8 Belrose North
Category:	Two
Variations to Controls (CI.20/CI.18(3)):	Not applicable.
Referred to DDP:	No
Referred to NBIAP:	Yes
Land and Environment Court Action:	No
SUMMARY	
Submissions:	7

Submission Issues:	Noise impact; Air Pollution; Noise Assessment Report; Catchments /siltation impact on bushland & Garigal National Park ; Traffic impact; Owners consent; Validity of existing consent; Recommended conditions of consent.
Assessment Issues:	Noise; Traffic Access & Safety; Extractive Industry
Recommendation:	Approval
Attachments:	Officer Assessment Report - Original Consent IHAP Report & Recommendation - Original Consent Notice of Determination - Original Consent

LOCALITY PLAN (not to scale)



Subject Site: Lot 2/1139826 Challenger Drive, Belrose

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 106 adjoining land owners and occupiers and persons who made a submission to the original development application (notice was sent to last known address) for a period of 25 calendar days commencing on 10 February 2017

and being finalised on 7 March 2017.

Furthermore, the application has been advertised within the Manly Daily on 11 February 2017 and a notice was placed upon the site.

As a result of the public exhibition, a total of seven (7) submissions were received.

SITE DESCRIPTION

The site is known as, Lot 2 in DP 1139826 (formerly Lot 2822 in DP 727090) Challenger Drive, Belrose.

The site is irregular in shape and has a total area of 5.857 Ha. The facility is accessed via Crozier Road and Challenger Drive from Forest Way, via a right of carriageway over Metropolitan Local Aboriginal Land Council (MLALC) land from the entrance to the working areas of the site.

The area accommodating the facility is largely been cleared and includes building waste disposal areas, stockpiling areas which consists of crushed stone, builders material and bitumen. Crushing equipment is located at the centre of the site. An excavated area is located within the eastern half of the site. A weighbridge and site office is located within the eastern part of the site.

The site is surrounded by land owned by the MLALC, apart from a section of the northern boundary where it adjoins the Belrose Waste Management Centre. Fireclay Gully is located to the south and extends along the southern side of the site with a tributary extending towards the north along the eastern boundary. Various walking trails (including 'Heath Track') are located to the south of the site.

The areas to the west and south of the site fall steeply into the Garigal National Park. The Garigal National Park then continues to slope downwards to form valley systems associated with Bare Creek and Fireclay Gully.

Other significant development in the vicinity of the site is the Optus Belrose Satellite Facility which is located to the east of the site along Challenger Drive.

SITE HISTORY

Council records indicate that the site has been under continual use for the purposes of "Extraction Other than by Dredging" since approval was granted by the then Land Board Office on 1 October 1964 under Permissive Occupancy (PO) 1964/193.

PO1964/193 was followed by Licence No. 308608 for the same purposes from 12 February 1999. The current leased area is surveyed along the original boundaries of the former PO1964/193.

(i) APPROVED DEVELOPMENT

DA2001/0456: The original consent relates to a 'Processing and Recycling Facility for Construction and Demolition Waste and a Concrete Batching Plant' at Belrose Quarry (known on the consent as Lot 2822, DP 727090 Challenger Drive, Belrose) which was approved on 7

May 2002. The maximum amount of material to be processed is set at no more than 30,000 tones per annum as per Condition No.11.

(ii) PREVIOUS MODIFICATIONS

MOD2009/0307: An application lodged pursuant to Section 96(1) of the Act to modify consent DA2001/0456. The modification sought to correct errors relating to land parcel description and Condition Nos. 14, 15 and 18. The application was approved on 23 November 2009.

MOD2011/0257: An application lodged pursuant to Section 96(1A) of the Act to modify consent DA2001/0456. The application sought to modify conditions Nos. 11, 15 and 18 to increase the volume of waste processed on the site per annum. This application was refused on 9 July 2012.

(iii) PRELODGE MEETING

PLM2014/0081: A pre-lodgement meeting was held with Council on 26 August 2014 to discuss the possibility of extending the existing hours of operation. The applicant was advised to prepare a noise assessment report to detail the potential impact to adjoining residential properties.

(iv) EPA LICENSE

EPL 4504: NSW Environmental Protection Authority (EPA) license issued to undertake concrete works, landbased extractive industry, treatment of waste and waste storage. The License is valid until 26 May 2021. It should be noted that at the time that the original consent was issued, no license was required.

PROPOSED MODIFICATIONS

The subject application is made pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979 and seeks to modify condition No.10 of Development Consent No.DA2001/0456, which reads:

"The hours of operation of the proposal is to be confined to the following hours:

<i>Monday to Friday</i>	<i>7am to 4pm</i>
<i>Saturday</i>	<i>7am to 1pm</i>
<i>No work on Sunday and Public Holidays</i>	

No processing, recycling or concrete batching or deliveries and despatches or movement of machinery is to take place outside the approved hours."

The proposed modification seeks to increase the hours of the operation to:

- **Monday to Friday, 6.00am to 5.00pm** (1 extra hour in the AM and 1 extra hour in the PM).
- **Saturday, 6.00am to 3.00pm** (1 extra hour in the AM and 2 extra hours in the PM).

In effect, this will result in two (2) additional hours of operation between Monday to Friday and three (3) additional hours on Saturday, to permit vehicular access to the site for deliveries only.

The proposed modification does not seek to increase the existing hours for recycling, concrete batching, despatches or movement of machinery. This is outlined by Applicant in the proposed re-wording of the condition, as reproduced from the Statement of Environmental Effects lodged with the application:

Table 1 Proposed operating hours

Period	Processing, recycling or concrete batching or despatches or movement of machinery	Customer deliveries
Monday to Friday	7 am to 4 pm	6 am to 5 pm
Saturdays	7 am to 1 pm	6 am to 3 pm
Sundays and public holidays	No work	No deliveries

The reason for the proposed modification is to permit customer vehicles to access the site earlier and later than the current hours, to allow operational efficiencies on the other development sites that they service. Apparently a high number of vehicles are queuing on Challenger Drive prior to the current opening time of 7.00am.

The applicant's justification is that permitting the additional time in the morning and afternoon/evening periods, this will allow:

- a. Allow vehicles to drop-off materials earlier so that they can arrive at development sites empty in the morning.
- b. Allow vehicles to drop-off materials later in the day so that they can arrive at development sites empty the next day.

Whilst not explicitly stated in the application, it can be reasonably assumed that this is to allow the customers to undertake all demolition and construction works in a more timely and efficient manner.

STATUTORY CONTROLS

The following statutory controls are considered of relevance in the assessment of the application;

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979);
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007;
- d) State Environmental Planning Policy (Infrastructure) 2007; and
- e) Warringah Local Environment Plan 2000.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005).

As a result, the application was notified to 106 adjoining land owners and occupiers and persons who made a submission to the original development application (notice was sent to last known address) for a period of 25 calendar days commencing on 10 February 2017 and being finalised on 7 March 2017.

Furthermore, the application has been advertised within the Manly Daily on 11 February 2017 and a notice was placed upon the site.

As a result of the public exhibition process a total of seven (7) submissions were received from the following:

Name	Address
Cathy Meek	202 Forest Way BELROSE NSW 2085
Lauren Hosking	Online submission (Wyatt Avenue, Belrose)
Brandon Dick	Online submission (Wyatt Avenue, Belrose)
C Patton	19 Wyatt Avenue BELROSE NSW 2085
Belrose Rural Community Association	PO Box 75 BELROSE NSW 2085
John Holman	16 Wyatt Avenue BELROSE NSW 2085
<i>Confidential</i>	Online submission - no name and address supplied.

The issues raised in the submissions are summarised and addressed as follows:

1. *Advice is sought on the exact nature of the extended hours.*

Comment: The proposed modification, in relation to the operational hours, are adequately described in the information provided with the application.

2. *The proposed modification will have an adverse impact on adjoining properties at Wyatt Avenue in respect to noise and air pollution.*

Comment: The full extent of the potential impact on adjoining properties is described elsewhere in this report. Sound testing was undertaken from Wyatt Avenue as part of the Noise Assessment Report. In summary, the acoustic engineer concludes that no adverse impact in respect to noise or air pollution is likely to these residences.

3. *The proposed modification will adversely impact the adjoining Garigal National Park / bushland.*

Comment: No adverse impact is likely to occur to the Garigal National Park, which adjoins the subject site.

4. *The proposed modification will adversely impact schools in the locality.*

Comment: The nearest school to the adjoining land is approximately 700m to the north-east. No adverse impact on the schools operations is considered likely.

5. *The noise assessment report finding that there will be no effect on adjoining residents is inaccurate. Noise from the existing quarry is clearly audible.*

Comment: The subject land use is of a nature and type that inevitably will create a level of noise, which will be audible within the vicinity. The purpose of this assessment is to determine if that noise generated is acceptable, within the relevant criteria and guidelines. As detailed elsewhere in this report, the proposed extended operations will satisfy the relevant criteria for noise generation under the Industrial Noise Policy and so the proposal is considered acceptable in relation to noise.

6. *The noise assessment report did not measure sound from the nearest residential properties in Wyatt Avenue, but from Contentin Road, making the report irrelevant.*

Comment: Noise testing was conducted by the applicants Acoustic Engineer on Wyatt Avenue, however the testing was done from locations on the adjoining road reserve due to access constraints. Critical review of this information by Council's Environmental Health Officer and the NSW EPA has found the methods within the report to be sound and appropriate.

7. *The noise assessment report ignores the existing condition of consent no.12 which requires that all noise from the quarry not adversely affect these properties.*

Comment: The continued operation of this condition is not compromised by the proposed extension of access times, as adequate information has been provided to determine that the additional hours of operation will have no significant impact.

8. *The additional movement of vehicles will result in additional air pollution.*

Comment: This is an impact that is not readily measurable, given the variability in total vehicle movements and types of vehicles each day. Hence this could not be relied upon as a reasonable reason to refuse the proposed modification.

9. *The additional movement of vehicles will damage the existing road network.*

Comment: The existing road network is adequate to cater for the extended delivery hours as the overall intensity of the operations (set at no more than 30,000 tones per annum as per existing Condition No.11) will not be increased under by the proposed modification.

10. *The additional movement of vehicles will result in increased impact on the adjoining waterways and catchments.*

Comment: As stated previously, the maximum number of vehicles from the site is set from the existing capacity of the facility, which will not increase. Rthare, it will allow trucks to arrive earlier and later than is presently allowed, but it is not intended to increase the number of trucks visiting the site. Sufficient sediment management infrastructure exists on the local road to accommodate the extended operating hours.

11. *The application is flawed as access to the site for vehicles will not assist their customers, who will have to wait for operational hours to unload and load their vehicles.*

Comment: This is a matter of the operational management of the facility itself and not relevant in the assessment of the application.

12. *The additional movement of vehicles will result in an extension of the operations of the quarry itself.*

Comment: The documentation provided with the application clearly states that no increase in the hours of operation for the extractive / recycling facility are proposed. This will be addressed by a condition that restricts the extended hours to delivery and loading only (no quarrying activities).

13. *Part of the access road to the quarry is over land in the ownership of the Metropolitan Aboriginal Land Council and their consent is hence required for the application.*

Comment: The adjoining land to the facility, at Lot 1 in DP 1139826 (in the ownership of MLALC) has a right of carriageway that permits access from the subject land to Challenger Drive. The original development consent (as modified) only relates to Lot 2 in DP 1139826, not the adjoining land at Lot 1 in DP 1139826. As the proposed modification is not an application made on this adjoining land, the consent of the owner is not required.

14. The application is located on Crown land and consent from the Crown should be provided prior to the assessment of the application.

Comment: The Department of Lands have provided owners consent necessary for the lodgement of the application.

15. No quarrying is now undertaken from the premises, therefore Council should revoke the consent, in accordance with condition no.18 of the existing consent.

Comment: A license (issued by the NSW EPA) currently exists on the land for "landbased extractive activity" (quarrying), valid until May 2021. Hence, there is no valid reason to revoke the consent.

16. No objection is raised to the proposed modification subject to an additional conditions that require: no use of reversing beepers on vehicles between 5.00PM and 7.00AM; and the consent be conditional upon not receiving any noise complaints from adjoining residents.

Comment: A condition in respect to reversing beepers is considered valid and is recommended to be applied. However, making the consent conditional upon simply the receipt of any complaint is not reasonable.

As stated previously, the existing land use will generate some level of noise, however, if noise complaints are received, it must be verified and appropriate action taken if proven to be beyond the noise limits imposed under the consent. In the event that a complaint is received, the relevant authority can undertake any investigations and take action to restrict the activity, if an adverse impact is identified.

MEDIATION

Has mediation been requested by the objectors? NO

Has the applicant agreed to mediation? N/A

LAND AND ENVIRONMENT COURT ACTION

There is no Land and Environment Court action current or pending on this application.

REFERRALS

External Referrals

NSW Department of Lands

The application was referred to the NSW Department of Lands (DOL) for comment. As the owner of the land, the DOL (dated 22 December 2016) granted owners consent to the lodgement of the application. That owners consent remains valid until 22 December 2017.

No response was received from the DOL in response to Council's referral and in the context of the owner's consent having already been provided for the proposal it can be reasonably assumed that there is no objection to the application.

NSW Roads and Maritime Services

The NSW Roads and Maritime Services have advised that they have no objection to the proposed modification.

NSW Environmental Protection Authority

Whilst the proposed modification under existing Council policy does not trigger a requirement for a referral, comments were sought from the NSW Environmental Protection Authority (EPA).

In summary, the EPA has agreed in principle to vary the license in respect to the hours of operation, however the applicant will need to seek separate approval from the EPA to do so.

The commentary in the referral response specifies that the noise report provided with the application makes erroneous references to sleep disturbance and awakening. Nonetheless, it is stated: "*given that the (noise) levels predicted are below the criteria by a reasonable margin we consider it unlikely that these sources would result in predicted levels greater than the criteria* (for acceptable noise impacts). This matter is considered further in the General Principle section of this report.

Internal Referrals

Environmental Investigations

Council's Environmental Health Officer (EHO) has reviewed the application and advised that they have no objection to the proposed modification, subject to conditions.

The EHO has recommended two additional conditions, which are:

Noise Impact on Surrounding Areas

Any noise from the premise shall not exceed more than 5dB(A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise (DACHPGOG5); and

Amenity Impact on Surrounding Area

The implementation of this development shall not adversely affect the amenity of the surrounding properties or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other

harmful products.

Reason: To ensure the surrounding area and people within the neighborhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997. (DACHPGOG5)

The condition titled "Noise Impact on Surrounding Areas" is not recommended to be applied as Condition No.12 is already adequate to control all potential noise impacts on the existing approved use. However, the condition titled "Amenity Impact On Surrounding Area" is considered relevant to apply in the context of the extended operating hours and to reflect the broader potential levels of pollution generated by the proposed modification. This is recommended to be applied as a new condition, No.12(a).

Traffic Engineer

The application was referred to Council's Traffic Engineers for comment. No response was received. Hence it is assumed that the Council's Traffic Engineers have no objection to the proposed modification.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2)	Comments
Section 96(2) (a) – Would the consent as proposed to be modified be substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was previously modified?	<p>In summary, the proposed modification consists of 2 and 3 additional operational hours per day for the purpose of deliveries to the site only. The other activities on the site, relating to processing, recycling, concrete batching and despatches will remain unchanged in respect to their operational hours.</p> <p>In this regard, the delivery aspect of the approved use is not considered a dominant aspect of the existing approved use. Further, the additional hours required for the deliveries are in themselves not significantly different in contrast with the existing hours of operation.</p> <p>Therefore, the proposed modification will result in substantially the same development as the development originally approved, thus complying with the requirements of Section 96(2)(a).</p>
Section 96(2) (b) – Has consultation occurred between the consent authority and relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a	The development subject to the original consent was not Integrated Development, nor required concurrence from any Minister, public authority or approval body. Therefore, the provisions of Section 96(2)(b) do not apply to

Section 96(2)	Comments
concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent	this application.
Section 96(2) (c) & (d) – Public Exhibition of subject application / submission	See discussion on “Public Exhibition” in this report.
Section 96 (3) - Consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application	See discussion on “Matters for Consideration under Section 79C” in this report.
<p>Section 96 (5) Consideration of matters regarding Threatened species being development consent of the kind referred to in section 79B (3) of the EPA Act 1979, or in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995.</p> <p>Approval to modify shall not be given unless:</p> <p>(a) in the case of development referred to in section 79B (3)—the requirements of section 79B (3)–(7) have been complied with in relation to the proposed modification as if the application for the proposed modification were an application for development consent, or</p> <p>(b) in the case of development in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995—the applicant has made an application for modification of the biobanking statement in relation to the proposal and a new biobanking statement has been issued or the consent authority is satisfied that the modification will have no impact on biodiversity values (within the meaning of that Act).</p>	These matters are not applicable to the proposed modification.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Relevant provisions of the Regulations	Clause 7 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been addressed via a condition of the original consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report. In summary, the impacts of the proposed modification are minimal and acceptable.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed modification to the existing consent.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen that would justify the refusal of the application in the public interest.

The proposal has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties

subject to the proposal being conducted in accordance with the conditions contained within the Recommendation.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The SEPP was gazetted on 16 February 2007 and consolidates related planning provisions pertaining to mining, petroleum production and extractive industries. The SEPP introduces other provisions to ensure that potential environmental and social impacts are adequately addressed during the assessment and determination of development proposals.

Under the SEPP, 'extractive industry' means *the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, or quarrying, including the storing, stockpiling or processing of extractive materials such as recycling, washing, crushing, sawing or separating.*

Further, the SEPP defines 'extractive material' as *sand, gravel, clay, soil, rock, stone or similar substances but does not include turf.*

Whilst the SEPP applies to the land in principle within the context of the existing quarry, the proposed modification relates to vehicular access to the recycling/waste management facility only. Hence the provisions of the SEPP are not relevant to the assessment of this application.

State Environmental Planning Policy (Infrastructure) 2007

Ausgrid

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out as a result the application was referred to Ausgrid who raised no objection to the proposal subject to conditions.

Regional Environment Plans (REPs)

There are no Regional Environmental Plans applicable to this development.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Deferred Matter

The site is located within the C8 Belrose North locality under Warringah Local Environmental Plan 2000, which is identified as a 'Deferred Matter' under Clause 1.3(1A) of Warringah Local Environmental Plan 2011. In this regard, the provisions of WLEP 2011 and WDCP 2011 do not apply to this application.

Desired Future Character (DFC)

The subject site is located in the C8 Belrose North locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for the locality states:

C8 Belrose North Locality

The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.

A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Middle Harbour.

The proposed modification relates to development that is defined in the WLEP 2000 dictionary as "waste management" which is a Category 2 landuse and means:

"a building or place used for the management of waste, including the transfer, disposal, recycling and processing of waste "

For clarification, the approved Concrete Batching operations on the site, which were also approved under DA2001/0456 and is a Category 3 Landuse, are not the subject of this application. The extended hours of operation for deliveries are for delivery the waste management facility only.

Clause 12(3)(b) of WLEP 2000 requires that the consent authority must be satisfied that Category 2 development is consistent with the localities DFC statement. The proposal is considered to be consistent with the DFC Statement for the following reasons:

- ***The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.***

Comment:

The application seeks to modify conditions which pertain to the operation of an existing waste management facility. Thereby, the application will not alter the present character of the locality.

- ***The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.***

Comment:

The application proposes no physical works or removal of vegetation. Therefore, the proposed modification is consistent with this requirement.

- ***Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.***

Comment:

The application does not include any proposal to construct detached style housing and will not in effect increase the intensity of the approved land use.

- ***A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.***

Comment:

The site is not located near Forest Way and will not have any visual impact upon the bushland established along the roadway. Hence, this requirement is not applicable to the proposed modification.

- ***Development in the locality will not create siltation or pollution of Middle Harbour.***

Comment:

The application proposes no physical works. Therefore, the proposed modification is consistent with this requirement.

In summary, the proposed modification is consistent with the Desired Future Character Statement for the locality.

Built Form Controls are not applicable to this application.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed modification:

General Principles	Requirements	Comment
CL43 Noise	<p><i>Development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants.</i></p> <p><i>In particular:</i></p> <ul style="list-style-type: none"> <i>noise from the combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise level by more than 5 dB (A) when measured in accordance with the Environment Protection Authority's Industrial Noise Policy at the receiving boundary of residential and other noise-sensitive land uses, and</i> <i>development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise, and</i> <i>waste collection and delivery vehicles are not to operate in the vicinity of residential uses between 10 pm and 6 am.</i> 	<p>The application has provided a Noise Assessment Report, which has been reviewed by Council's Environmental Health Officer.</p> <p>This documentation demonstrates that the proposed modification will be consistent with the specified noise standard in the 1st dot point of the Principle.</p> <p>The 2nd dot point does not apply to the application, as no new works are proposed.</p> <p>The proposed modification will result in delivery vehicles accessing the site from 6.00am and no later than 5.00pm at the latest. This is consistent with the 3rd dot point of this Principle.</p> <p>Based on the available information in regard to the noise impacts of the existing use, the generation of noise as a result of the proposed modification will not negatively impact on the amenity of adjoining or nearby properties. No compliance action in respect to noise has been undertaken by either Council or the NSW EPA, since the development consent was granted in May 2002.</p> <p>The commentary in the EPA referral response specifies that the noise report provided with the application makes erroneous references to sleep disturbance and awakening. Nonetheless, it is stated: "<i>given that the (noise) levels predicted are below the criteria by a reasonable margin we consider it unlikely that these sources would result in predicted levels greater than the criteria</i> (for acceptable noise impacts).</p> <p>Whilst the identification of these minor errors are helpful in the assessment of the application, the additional noise generated by the vehicles and the customer deliveries has been demonstrated to be within the accepted criteria for the generation of noise.</p> <p>The proposed modification is hence consistent with the requirements of Clause 43.</p>

General Principles	Requirements	Comment
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	<p><i>Development adjacent to parks, bushland reserves and other public open spaces, including land reserved for public open space, is to complement the landscape character and public use and enjoyment of that land.</i></p> <p><i>In particular:</i></p> <ul style="list-style-type: none"> • <i>where appropriate, housing is to front public open spaces,</i> • <i>public access to public open spaces is to be maximised,</i> • <i>buildings are to be located to provide an outlook to public open spaces, without appearing to privatise that space,</i> • <i>development is to provide a visual transition between open space and buildings including avoiding abutting public open spaces with back fences,</i> • <i>views to and from public open spaces are to be protected, and</i> • <i>buffers for bushfire protection are to be provided on private land and not on public land.</i> <p><i>If public open space or land reserved for public open space contains bushland, development on that land is not to threaten the protection or preservation of the bushland.</i></p> <p><i>Note. The protection or preservation of bushland may be threatened by a number of direct and indirect processes, including the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland.</i></p>	<p>The land adjoins the Garigal National Park to the south and west of the site. However, as no physical works are proposed as part of this application, the requirements of this Principle are directly relevant to the application.</p> <p>Nonetheless, the additional proposed operating hours will not in any way compromise the public use and enjoyment of the National Park.</p> <p>The application is therefore consistent with this General Principle.</p>
CL72 Traffic access & safety	<p><i>Vehicle access points for parking, servicing or deliveries, and pedestrian access, are to be located in such a way as to minimise:</i></p> <ul style="list-style-type: none"> • <i>traffic hazards, and</i> • <i>vehicles queuing on public roads, and</i> • <i>the number of crossing places to a street, and</i> 	<p>No amendment is proposed to the existing vehicular access path to the premises. The proposed extension to the existing operating hours will have the effect of taking vehicles off the adjoining public road and onto the site. This will have the benefit of providing greater efficiencies and safety on the adjoining road network.</p> <p>The proposed modification is therefore consistent with this General Principle.</p>

General Principles	Requirements	Comment
	<ul style="list-style-type: none"> • <i>traffic and pedestrian conflict, and</i> • <i>interference with public transport facilities.</i> <p><i>Where practical, vehicle access is to be obtained from minor streets and lanes.</i></p>	

Other Relevant WLEP 2000 Clauses

There are no other relevant clauses under WLEP 2000.

SCHEDULES

Schedule 5 - State Policies

Extractive Industries A consideration of the relevant State policy for extractive industries is provided elsewhere in this report.

OTHER MATTERS FOR CONSIDERATION

Garigal National Park Plan of Management

The *Garigal National Park Plan of Management* was adopted by the NSW National Parks and Wildlife Service in November 1998 and establishes the scheme of operations for the Garigal National Park.

As the site is bounded to the west and south by the Park it is considered important to acknowledge the Plan and to identify any areas where the development may impact upon the Park and, by implication, on the Plan.

The proposed modification only relates to the hours by which vehicles can access the site using existing public roads. No discernible detrimental environmental impact on the adjoining National Park can be established in this report, therefore the application is consistent with this Plan of Management.

CONCLUSION

The application satisfies the relevant tests of Section 96(2) of the Act.

In respect to the requirement for any modification to remain substantially the same development as that originally approved, this has been satisfied for the following reasons:

- The extent of the additional hours proposed vary between 2 hours per day in midweek and 3 hours on Saturdays. In the context of the existing approved

hours, this would not result in a use that is substantially different from the original consent.

- The additional hours would only relate to customer deliveries, which is an ancillary aspect of the existing consent. The core functions of the existing consent (quarry, recycling and concrete batching plant) will not be modified. In effect the intensity of the existing land use will remain the same.
- No physical works are proposed as part of the modification.

In regard to the relevant environmental planning instruments and policies that apply to the land, the proposed modification is consistent with the objectives and requirements of all relevant controls. In particular, the application has demonstrated compliance with the primary local planning instrument, being a Category 2 land use within the C8 Belrose North locality of WLEP 2000 and is consistent with Desired Future Character statement for this locality.

In respect to the potential environment impacts of the proposed modification, these have been identified as relating to noise pollution and traffic generation. Council's Traffic Engineer and Environmental Health Officer have reviewed the application. Council has also sought comments from the NSW Roads and Maritime Service and the NSW Environmental Protection Authority.

In summary, the impacts of the additional hours proposed will not result in any unreasonable impact to properties in the vicinity or the local and regional road network.

An additional condition with respect to the generation of noise is recommended, to more efficiently govern the extended hours of the operation.

Therefore, the proposed additional hours for deliveries only are considered suitable and appropriate and the application is recommended for approval.

RECOMMENDATION (APPROVAL)

THAT the Northern Beaches Independent Assessment Panel (NBIAP), as the consent authority, grant approval to modification application No. MOD2016/0335 to modify Development Consent No 2001/0456 on land at Lot 2, DP1139826, Challenger Drive, Belrose for the reasons detailed as follows:

A. Insert new Condition 1(a) to read as follows:

The development being undertaken in accordance with the "General Terms of Approval" issued by the NSW Environmental Protection Authority on 7 July 2017.

B. Amend Condition No.10 to read as follows:

The hours of operation are to be confined to the following hours for the specific activities:

Period	Processing, recycling or concrete batching or despatches or movement of machinery	Customer deliveries to the Waste Management Facility
Monday to Friday	7.00am to 4.00pm	6.00am to 5.00pm
Saturdays	7.00am to 1.00pm	6.00am to 3.00pm
Sundays and public holidays	No work	No deliveries

C. Insert new Condition No.12(a) to read as follows:

Amenity Impact on Surrounding Area

The implementation of this development shall not adversely affect the amenity of the surrounding properties or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.

D. Insert new Condition No.12(b) to read:

No reversing signal or alarms will be used on any vehicle on the site in between the hours of 6.00am and 7.00am, Monday to Saturday.

Adequate signage is to be erected at the entry of the premises for the information of all customers.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely

ITEM 3.3	59 CAMPBELL PARADE, MANLY VALE - DA2017/0030
REPORTING OFFICER	Nicholas England
TRIM FILE REF	2017/236732
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site and Elevation Plans 3 ↓ 20111012 - WDAP Minutes 20111012 Item 3.2

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That Council (Northern Beaches Independent Assessment Panel) as the consent authority approve Development Consent No. DA2017/0030 to approve Demolition works, construction of Multi Dwelling Housing and strata subdivision on land at Lot A DP 158527, 59 Campbell Parade Manly Vale, for the reasons outlined in the report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0030
Responsible Officer:	Nick England
Land to be developed (Address):	Lot A DP 158527, 59 Campbell Parade MANLY VALE NSW 2093
Proposed Development:	Demolition works, construction of Multi Dwelling Housing and strata subdivision
Zoning:	LEP - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Development Assessment Panel – Central
Land and Environment Court Action:	No
Owner:	Verge Developments Pty Ltd
Applicant:	Ray Fitz-Gibbon
Application lodged:	13/01/2017
Application Type:	Local
State Reporting Category:	Residential - New multi unit
Notified:	27/01/2017 to 14/02/2017
Advertised:	28/01/2017
Submissions:	4
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,500,000.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R3 Medium Density Residential
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D2 Private Open Space
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D19 Site Consolidation in the R3 and IN1 Zone

SITE DESCRIPTION

Property Description:	Lot A DP 158527 , 59 Campbell Parade MANLY VALE NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Campbell Parade, at the intersection with Condamine Street.</p> <p>The site is regular in shape with a frontage of 30m along its frontage of Campbell Parade and 16m along its frontage with Condamine Street. The site has a surveyed area of 534.1m².</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a single level residential dwelling house.</p> <p>Surrounding development consists of residential flat buildings to the north and south of the site. A multi-dwelling housing development adjoins the site to the east.</p> <p>The site has a flat topography, with a northerly aspect. No significant remnant vegetation exists on the site.</p>

Map:



SITE HISTORY

History of the site that is relevant to the proposal includes the following:

PLM2015/0043: Prelodgement meeting held on 3 June 2015, to discuss "Demolition works and construction of a town house development", which consisted of four attached, three level dwellings above a communal basement. The proposal was not supported for the following reasons:

1. Inconsistent with the Objectives of the R3 Medium Density Residential zone of WLEP 2011;
2. Non-compliance with Part B7 Front Boundary Setbacks of WDCP 2011; and
3. Inconsistent with Part D9 Building Bulk of WDCP 2011.

The applicant was advised to make the following amendments to the proposal:

1. Provide a 3.5m setback for all parts of the above ground structures to Condamine Street; and
2. Setback the access driveway a minimum distance of 1m from the eastern side boundary.

These suggestions have been incorporated into the design of the subject application.

DA2011/0155: Development application for "Demolition works and construction of a Residential Flat Building" approved by then Warringah Development Assessment Panel (WDAP) on 12 October 2011. The approved development relates to 4 x 3 bedroom dwellings, three stories in height, attached in a "terrace" style building. Parking for seven (7) vehicles is provided in a basement level beneath. When reported to WDAP on 10 August 2011, the assessment officer recommended refusal of the application, with the reasons for refusal including amongst other things, non-compliance with the requirements for landscaped open space. The application proposed 11.4% of the site area as landscaped open space, inconsistent with the minimum 50% requirement.

The Panel did not adopt the officer's recommendation and invited the applicant to submit amended plans, relating to the rear setback and privacy. The applicant undertook these amendments and when reported to the meeting of 12 October 2011, the assessment officer recommendation was for refusal, based on the various non-compliances with the Council controls including landscaped open space. In respect to the issue of landscaped open space, the minutes of the Panel elaborate on their justification to approve the application effectively based on:

- the shallow depth of the existing allotment;
- the particular "infill" situation;
- the existing character of Campbell Parade, which is predominated by residential flat buildings; and
- the appropriate design of the proposal.

The Panel decision was unanimous. The minutes of this meeting are provided in the Appendices of this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the demolition of an existing dwelling house and the construction of a 3 storey multi-dwelling housing development.

In detail, the proposed development consists of the following:

- Four (4) three storey "terrace" style dwellings, with ground floor pedestrian access to

- Campbell Parade;
- Each dwelling consists of 3 bedrooms and has private open space at the rear and front of the ground floor and balconies on the north elevation of the 1st and 2nd storeys;
- Basement level accessed from Campbell Parade for storage and parking with a total of 8 car spaces, consisting of 7 resident car spaces and 1 visitor space;
- Associated landscaping along the east, west, south and north boundaries; and
- Garbage storage area adjacent Campbell Parade frontage.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application, as the development relates to the "multi-dwelling housing" land use.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to request additional information, however no additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the</p>

Section 79C 'Matters for Consideration'	Comments
	<p>consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application, as the development relates to the "multi-dwelling housing" land use.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Public Exhibition" in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mrs Rose Hooppell	22 Lovett St MANLY VALE NSW 2093
Danielle Janine Shaw	8 / 56 - 58 Gordon Street MANLY VALE NSW 2093
Mrs Lisa Terrill	1 Woodbine Street NORTH BALGOWLAH NSW 2093

Name:	Address:
Patricia Muldoon	5 / 286 Condamine Street MANLY VALE NSW 2093

The matters raised within the submissions are summarized and addressed as follows:

- ***Insufficient detail is provided on whether the existing boundary fence between No.59 Campbell Parade and No.286 Condamine Street will be retained.***

Comment: No specific detail is provided in the application in respect to the existing boundary fence. Nonetheless, the demolition and erection of boundary fences (up to 1.8m in height) is generally development that is exempt from the requirement for consent. Hence, this information is not required for the proper assessment of the proposed development. Negotiations for the replacement of any existing boundary fence need to be initially undertaken between the affected property owners, prior to any construction.

- ***Any new boundary fence between No.59 Campbell Parade and No.286 Condamine Street will need to be designed in a manner to withstand a collision with a vehicle on No.286 Condamine Street.***

Comment: The primary purpose of a boundary fence is to demarcate private property from unrestricted access from person/s who do not own the land or have permission to access this land. There is no requirement to ensure a boundary fence can withstand a collision with a vehicle. However, as stated previously, this is a matter for negotiation between the affected property owners.

- ***Investigation is required on the geotechnical condition of the south-east corner of the site and whether the works will damage any structures on the adjoining land at No.286 Condamine Street.***

Comment: A geotechnical report was provided with the application. The report has determined that the proposed level of excavation is satisfactory, subject to specific recommendations, which includes that dilapidation reports be prepared on all adjoining properties and structures. The recommendations made in this report have been incorporated into the provisional conditions of development consent.

- ***Insufficient detail has been provided on the landscaped treatments along the south boundary of the site.***

Comment: A detailed landscaped plan has been provided with the application, sufficient to demonstrate that there will be landscape treatments along the southern boundary. Council's Landscape Officer has reviewed the plan as being satisfactory.

- ***Landscaping adjoining the southern boundary of the site should be of a scale to not disrupt views or require maintenance from adjoining properties.***

Comment: The landscape plan submitted with the application demonstrates that the 1.7m wide setback area adjacent the southern boundary will be planted with a number of species that will achieve a mature height varying between 2.5m to 7m. The subject site and adjoining properties do not have access to any significant landmark views, hence the provision of landscaping along the southern boundary is not likely to have an adverse impact in this respect. The amenity benefits of landscape planting, in particular mitigating the visual impact

of new development and embellishing visual privacy, are considered to far outweigh any concern with ongoing maintenance.

- ***Barrier fencing erected during construction should not effect vehicular access to the property at No.289 Condamine Street or effect any landscaped planting on this land.***

Comment: All works and construction activity associated with the development can only occur on the land subject to the development consent, with the exception of access to the site, which is obviously from the adjoining road reserves. Therefore, no vehicular access to adjoining properties or existing landscaping will be effected as a result of the proposed development.

- ***A condition is required to ensure that no construction works will occur on the adjoining land at No.289 Condamine Street.***

Comment: As stated previously, all works and construction activity associated with the development must be wholly contained within the boundaries of the site, unless expressly authorised (such as the driveway). It however must be noted that access to any adjoining property to undertake construction works is possible under the provisions of the *Access to Neighbouring Land Act 2000*, under orders granted in the Local Court, in extenuating circumstances. Therefore, a condition to restrict access by any person to another property to undertake the approved works is not legally enforceable.

- ***The maximum 50km/hr speed limit along Campbell Parade is never observed by motorists.***

Comment: This is not a valid matter for consideration in the assessment of this application. Any matters related to a breach of traffic regulations needs to be investigated by the relevant authority, which in this instance is NSW Police. However, the concern has been passed onto Council's Traffic section for investigation.

- ***The proposal will have an adverse impact on the efficiency of the local road network, specifically Campbell Parade.***

Comment: Council's Traffic Engineer has raised no objection to the proposed development, in the context of its potential adverse impact on the local road network.

- ***The development will have an adverse impact on the privacy and solar access to the apartment at No.5/286 Condamine Street.***

Comment: The apartment at No.5/286 Condamine Street adjoins the southern and eastern elevation of the proposed building. No adverse privacy impact is likely given the distance between the proposed building and the existing residential flat building at No.286 Condamine Street is approximately 10.5m. This exceeds the building separation requirement of WDCP 2011, which specifies a minimum requirement of 9.0m, where windows and openings face each other. The shadow diagrams provided with the application demonstrate that no sufficient solar access will be retained to the areas of private open space of individual units at No.286 Condamine Street.

(Note: The provision of SEPP 65 - Design Quality of Residential Apartment Development and the associated Apartment Design Guide do not apply to this development)

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. The BCA classification for this development is class 2 and class7a. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</i></p>
Development Engineers	<p>The proposed drainage design including OSD has been assessed and is satisfactory.</p> <p>The proposed driveway crossing width is satisfactory however a condition has been provided to widen it at the kerb to improve access. The internal driveway grade is not in accordance with AS/NZS2890.1:2004 in terms of the required 1 in 20 grade for the first 6 metres of the driveway into the property however a check of the grades using this requirement has found that the internal grades can be achieved and as such a condition for this requirement has been provided.</p> <p>The existing footpath around the site does not comply with Council's current standards and conditions to reconstruct the footpath have also been included.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Landscape Officer	<p>Council's Landscape Officer comments (in part) are provided below:</p> <p><i>"Concern is raised regarding the quantum of soft landscape provided throughout the proposed development.</i></p> <p><i>The plans indicate that the LOS provided is well below that required in the LEP (DCP). The resultant spaces indicated for soft landscape are considered to be too small to provide reasonable amenity and inadequate to address building bulk.</i></p> <p><i>The eastern boundary provides a 1 metre wide soft landscape strip. The majority of the southern boundary provides a 1.7 metre wide landscape strip. The western boundary provides a landscape area varying from nil to 3 metres. The frontage of the site provides 3 small areas of 3.15 metres from the boundary, one of which is only indicated to be 0.35m deep to accommodate an OSD tank, and 3 small planters 2 x 0.95 metres.</i></p> <p><i>The SEE indicates that the provision of Landscaped Open Space is 20%</i></p>

Internal Referral Body	Comments
	<p><i>of the site area, the control requiring 50%. The deficiency is technically higher as areas included in the calculation are either less than 2 metres in width or less than 1m in depth.</i></p> <p><i>Particular concern is raised with regard to the proposal to provide adequate deep soil planting to support trees commensurate with the bulk and scale of the built form to achieve the required landscape setting and streetscape amenity. The majority of the front setback is occupied by stairs and paved terraces. The terraces are raised between 1.6 and 1.2 metres above the street verge levels makes the provision of adequate deep soil landscape areas important in this instance.</i></p> <p><i>Some attempt a(t) ameliorating the built form impacts on the streetscape is provided via the addition of landscaping within the road reserve, however, it is considered that the development should address the fundamental landscape and streetscape issues within the boundaries of the site, not relying on land adjoining the site.</i></p> <p><i>The proposal is located on a prominent site, being a corner allotment with one side adjacent to an arterial road. As such, the provision of adequate landscaping as envisaged by the controls is of particular importance in this case and, based on the observations above, is considered inadequate in this instance.</i></p> <p><i>At this stage, the proposal is not supported with regard to Landscape issue.</i></p> <p><i>...</i></p> <p><i>If, however, the proposal is to be approved in its current state, recommended without prejudice conditions have been provided."</i></p> <p><i>(Note: the referral response in its original form is available online)</i></p> <p><u>Planner's Comment:</u> With all respect to the Landscape Officer comments, these comments do not reasonably consider the circumstances of the existing land, which is constrained by its small size and relatively shallow depth. The land is also isolated from the potential to be amalgamated into adjoining land for the purposes of development consistent with the objectives of the R3 Medium Density Residential zone. The context of the recently constructed multi-dwelling housing on the adjoining land at No.59 Campbell Parade, is important in considering the reasonableness of the non-compliance. This adjoining development was approved at a significant variation to the standard for landscaped open space, and it should be noted that the subject application provides more landscaped open space than this development. Therefore, the Landscape Officer's comments are not matters that would warrant the refusal of the application.</p>
Traffic Engineer	

Internal Referral Body	Comments																
	<p>Traffic Comments provided on additional information provided by applicant:</p> <p>As part of the traffic assessment undertaken by Council, applicant was required to provide additional information on the following: <i>"The Applicant is required to demonstrate how a vehicle entering the basement in a forward direction, finding all spaces occupied, can turn around and exit in a forward direction. Alternatively the applicant is to provide details on an appropriate management strategy."</i></p> <p>The swept path analysis provided by the applicant does not address the concern and therefore is not supported.</p> <p>Original Traffic Comments:</p> <p>Table 1: Summary of DA Traffic Assessment</p> <table><tr><th>Item</th><th>Details</th><th>Assessment</th><th>Outcome/Action</th></tr><tr><td>LEP Zoning</td><td>R3 Medium Density Residential</td><td>No Issues</td><td>Satisfactory</td></tr><tr><td>Current Approvals and Site Use</td><td>Single dwelling</td><td>4 x townhouses proposed</td><td>Satisfactory</td></tr><tr><td>Car Parking Rates Warringah DCP – Appendix 1 Car Parking Requirements</td><td>Multi-dwelling housing, Residential flat buildings, Serviced apartments (including holiday flats), Shop-top housing (residential component) · 1 space per 1 bedroom dwelling · 1.2 spaces per 2 bedroom dwelling · 1.5 spaces per 3 bedroom dwelling · 1 visitor space per 5 units or part of dwellings</td><td>Terrace 1: 2 bedrooms and 2 studies. The two studies have windows, doors and are large enough to cater for a double bed (137cm x 187cm). As such Terrace 1 is considered a 3 bedroom dwelling. Terrace 2, 3 and 4 are all 3 bedroom dwellings. 4 x 1.5 = 6 resident spaces 4/5 = 0.8 visitor spaces required. Total of 7 spaces</td><td>Satisfactory</td></tr></table>	Item	Details	Assessment	Outcome/Action	LEP Zoning	R3 Medium Density Residential	No Issues	Satisfactory	Current Approvals and Site Use	Single dwelling	4 x townhouses proposed	Satisfactory	Car Parking Rates Warringah DCP – Appendix 1 Car Parking Requirements	Multi-dwelling housing, Residential flat buildings, Serviced apartments (including holiday flats), Shop-top housing (residential component) · 1 space per 1 bedroom dwelling · 1.2 spaces per 2 bedroom dwelling · 1.5 spaces per 3 bedroom dwelling · 1 visitor space per 5 units or part of dwellings	Terrace 1: 2 bedrooms and 2 studies. The two studies have windows, doors and are large enough to cater for a double bed (137cm x 187cm). As such Terrace 1 is considered a 3 bedroom dwelling. Terrace 2, 3 and 4 are all 3 bedroom dwellings. 4 x 1.5 = 6 resident spaces 4/5 = 0.8 visitor spaces required. Total of 7 spaces	Satisfactory
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Waste Officer	Council's Waste Officer has no objection to the proposed development.								

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Dept of Transport (Roads and Maritime)	The NSW Roads and Maritime Service has advised they have no objection to the proposed development, subject to condition.

External Referral Body	Comments
Services) (Dev. On Classified Roads)	

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 788521M dated 6 January 2017).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	46
Thermal Comfort	Pass	Pass
Energy	40	54

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment: The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	10.1m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires consent	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
Part 6 Additional Local Provisions	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R3 Medium Density Residential

Multi-dwelling housing

It is important to outline the difference between "multi-dwelling housing" and other forms of residential development permitted in this zone, specifically "residential flat buildings". The definition of "multi-dwelling housing" in WLEP 2011 refers to development which:

"means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building."

The proposed development clearly provides separate access at ground level to each of the four dwellings, consistent with this definition. The definition of "residential flat building" excludes multi-dwelling housing from the operation of this definition.

Hence, the proposed development falls within the definition of "multi-dwelling housing" so the provisions of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide do not apply to this proposal.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	3	N/A	Yes
B3 Side Boundary Envelope	<u>East</u> 4m	No breach	N/A	Yes
	<u>South</u> 4M	No breach	N/A	Yes
B5 Side Boundary Setbacks	<u>East</u> 4.5m (building) 2m (basements on narrow sites)	4.6m (building)	N/A	Yes
		0.9m (basement)	80	No
	<u>South</u> 4.5m (building) 2m (basements on narrow sites)	4.5m (building)	N/A	Yes
		2m-3m (basement)		Yes
B7 Front Boundary Setbacks	6.5m (Primary frontage to Campbell Parade)	4.35m (building)	33	No
		Nil-3.3m (basement and OSD tank)	100	No
	3.5m (Secondary frontage to Condamine Street)	3.5m (building)	N/A	Yes
		0.4m-1.4m (basement)	88	No
B9 Rear Boundary Setbacks	N/A (corner allotment)	N/A	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40% or 213.6m ²	19.3% or 102.9m ²	61	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B2 Number of Storeys	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
R3 Side Boundary Envelope Exceptions	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R3	Yes	Yes
Side Setback Exceptions - R3	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
Front Boundary Setbacks - R3	No	Yes
Front Boundary Exceptions - R3	Yes	Yes
Rear Boundary Exceptions on Corner Allotments - R3	Yes	Yes
Part C Siting Factors	Yes	Yes
C1 Subdivision	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D19 Site Consolidation in the R3 and IN1 Zone	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of Non-compliance

The non-compliances with the front setback control can be described in the following manner:

Above Ground Structures: A setback of 4.35m is proposed on the Campbell Parade frontage. This represents a 33% variation with the minimum 6.5m primary frontage setback and relates to the balconies of the dwellings. The facade or primary wall of the dwellings are located 6m from this frontage.

Below Ground Structures: The basement for the development is located as close as 0.4m from the Condamine Street frontage and 3.3m from the Campbell Parade frontage. An on-site detention tank will have a nil setback from the Campbell Parade frontage. This represents a variation of between 50 to 100% with the primary and secondary front setbacks.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To create a sense of openness***

Comment:

In regard to the below ground structures, the non-compliance will not have the effect of compromising this objective.

With respect to the above-ground structure, the non-compliance relates specifically to the balconies on the northern elevation of the buildings to Campbell Parade. The balconies are ancillary structures to the main building, which incorporate glass balustrades and louvers that serve to minimize their overall visual impact and in turn provide an adequate sense of openness.

- ***To maintain the visual continuity and pattern of buildings and landscape elements***

Comment:

In regard to the below ground structures, the non-compliance will not have the effect of compromising this objective.

With respect to the above-ground structures, the proposed dwellings will have a similar front setback to the existing multi-dwelling housing development which adjoins the site to the east,

at No.57 Campbell Parade. This existing development is considered to have the most relevance in the consideration of this objective, as it is the same type of development which occupies a similar sized allotment and directly adjoins the land subject to the proposal. Under these circumstances, the development will comply with this objective.

- ***To protect and enhance the visual quality of streetscapes and public spaces***

Comment:

As stated previously, the setback of the proposed development to the Campbell Parade frontage is consistent with the continuity and pattern of existing buildings. The proposal will comply with the secondary frontage on Condamine Street. Based on these circumstances, the proposed development will be consistent with this objective.

- ***To achieve reasonable view sharing***

Comment:

No existing views enjoyed from adjoining properties are likely to be adversely effected as a direct result of the proposed non-compliance with the front setback control. The development is therefore consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

The WDCP 2011 requires parking for multi-dwelling housing at the following rates:

- 1.5 spaces per 3 bedroom dwelling; and
- 1 visitor space per 5 units or part of dwellings.

Based on the four (4) x 3-bedroom dwellings proposed, 6 resident and 1 visitor space is required, being a total of 7 spaces needed to comply.

A total of eight (8) spaces are proposed, which complies with the requirements of Part C3.

D1 Landscaped Open Space and Bushland Setting

Description of Non-compliance

The proposal consists of 103m² of landscaped open space or 19.3% of the site area. This represents a 61% variation with the minimum requirement.

For comparison purposes, it is noted that the landscaped open space on the recently constructed multi-dwelling housing development at No.57 Campbell Parade is 11.4% of the site area (Consent No.DA2011/0155 granted on 12 October 2011).

Site Constraints

The site consists of a relatively small allotment (534m²), with a shallow depth of approximately 16m. All

adjoining land has been developed for the purposes of either multi-dwelling housing or residential flat buildings. The site cannot be amalgamated with other adjoining land for the purposes of new development, precluding the opportunity to provide a larger development area. This results in a constrained site where it is difficult to achieve compliance with the numerical development standards and controls.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control.

- ***To enable planting to maintain and enhance the streetscape***

Comment:

The proposed landscaping theme on the site provides sufficient areas of landscaped open space on the Campbell Parade and Condamine Street frontages to demonstrate that the proposal will achieve this objective. The planting areas and themes presented in the landscape plan are similar to that presented at the adjoining multi-dwelling housing development at No.59 Campbell Parade, which will result in a unified landscaping scheme along Campbell Parade.

- ***To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife***

Comment:

The site contains no significant area of remnant or native vegetation. Nonetheless, the proposed scheme will make an adequate rehabilitation of the site and proposes a native themed landscaping scheme, which will provide opportunities for limited habitat on the site. The development therefore achieves this objectives.

- ***To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building***

Comment:

Despite the non-compliance, sufficient areas of landscaped open space are provided on all boundaries of the site, to encourage the propagation of adequate vegetation. Based on the landscaped plan provided with the application, mature species on the site will be able to achieve a mature height of up to 7m. These landscaping heights will serve to adequately achieve this objective.

- ***To enhance privacy between buildings***

Comment:

A sufficient area of landscaped open space is provided on the southern boundary, with the proposed landscaping plan demonstrating the planting of vegetation species that could achieve between 2.5m and 7.0m, when mature. This will therefore achieve compliance with this objective.

- ***To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants***

Comment:

Sufficient area is provided in the individual dwellings to comply with this objective.

- ***To provide space for service functions, including clothes drying***

Comment:

Sufficient area is provided on the site to achieve this objective.

- ***To facilitate water management, including on-site detention and infiltration of stormwater***

Comment:

Despite the non-compliance with the minimum landscaping requirement, sufficient engineering measures are in place to manage stormwater from the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Given the significantly constrained nature of the site, the consideration of the objectives takes primacy over compliance with the numerical control. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D2 Private Open Space

The WDCP 2011 requires private open space for multi-dwelling housing to be provided at the following rate:

- A total of 10m² with minimum dimensions of 2.5 metres.

Each dwelling is provided with private open space in the form of ground floor terraces and upper level balconies, such that each dwelling provided with private open space, varying between 43 and 63m² in area and all with dimensions exceeding 2.5m. The development therefore complies with this control.

D6 Access to Sunlight

The shadow diagrams submitted with the application demonstrate that the extent of the shadow cast by the proposed development will not result in any adjoining residential dwelling being unable to achieve the solar access requirements and objectives of WDCP 2011.

D19 Site Consolidation in the R3 and IN1 Zone

The subject land is a relatively small allotment of land (534m²) within an R3 Medium Density Residential zone. The development is considered against the underlying Objectives of the Control as follows:

- ***To encourage lot consolidation to allow efficient use of land***

Comment:

The subject land adjoins two allotments of land, No.286 Condamine Street to the south and No.57 Campbell Parade to the east. Both of these allotments are already developed for the purposes of medium density forms of housing. Hence, there is no realistic possibility of the subject land being consolidated with another lot for future development, therefore and this objective is not relevant to the proposed development.

- **To encourage innovative design solutions to improve the urban environment**

Comment:

Despite the subject land not being available for lot consolidation and development for the purposes of residential flat buildings, the proposed multi-dwelling housing is an appropriate form of development that responds to the limited size and narrow width/depth of the allotment. By opting for a "terrace" style of development, this clearly defines the four dwellings within the building, such that each has streetscape relationship with Campbell Parade and also presents a highly articulated and adequately landscaped elevation to the prominent secondary frontage to Condamine Street. The proposal therefore complies with this objective.

- **To avoid lot sterilization**

Comment:

As stated previously, all adjoining land to the subject site has been developed for the purposes of both residential flat buildings and multi dwelling housing. In this regard, there is no realistic possibility for the site to be consolidated with other land, hence this objective is not applicable to the land.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 2,500,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 23,750
Section 94A Planning and Administration	0.05%	\$ 1,250
Total	1%	\$ 25,000

The application is located on land that is subject to significant constraints, particularly:

- a relatively small and shallow allotment; and
- being adjacent land that has been already been developed for the purposes of medium-density housing.

Under these circumstances, any new development on the land will challenge any numerical standard in the existing policies. It has been identified that the development results in non-compliances with the following standards of WDCP 2011:

- Side Boundary Setbacks;
- Front Boundary Setbacks; and
- Landscaped Open Space.

With regard to the Side and Front Boundary Setbacks, the extent of the variations are relatively minor and the design of the proposal will satisfy all the relevant objectives of the proposal. In regard to the Landscaped Open Space control, despite the significant variation with the minimum requirement, sufficient area is provided to comply with the objectives of this control. There is also sufficient context from the adjoining multi-dwelling housing development at No.57 Campbell Parade, which provides in effect less landscaped open space than the proposal, to further justify the variation.

It is therefore recommended that Council as the consent authority grant approval, as detailed within the "Recommendation" section of this report.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Northern Beaches Development Assessment Panel – Central as the consent authority grant Development Consent to DA2017/0030 for Demolition works, construction of Multi Dwelling Housing and strata subdivision on land at Lot A DP 158527, 59 Campbell Parade, MANLY VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA00	12/01/2017	RF Architects
DA01A	15/06/2017	RF Architects
DA02	12/01/2017	RF Architects
DA03	12/01/2017	RF Architects
DA04	12/01/2017	RF Architects
DA05	12/01/2017	RF Architects
DA06	12/01/2017	RF Architects
DA07	12/01/2017	RF Architects
DA08	12/01/2017	RF Architects
DA09	12/01/2017	RF Architects
DA10	12/01/2017	RF Architects
DA11	12/01/2017	RF Architects
DA12	12/01/2017	RF Architects
DA50	12/01/2017	RF Architects
DA60	12/01/2017	RF Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
SW-000 Issue B	06.12.16	ADCAR
SW-100 Issue C	06.12.16	ADCAR
SW-101 Issue D	06.12.16	ADCAR
SW-102 Issue B	06.12.16	ADCAR
SW-103 Issue B	06.12.16	ADCAR
SW-104 Issue B	06.12.16	ADCAR
SW-200 Issue D	06.12.16	ADCAR
SW-300 Issue B	06.12.16	ADCAR

Reports / Documentation – All recommendations and requirements contained within:		
Report Name / No.	Dated	Prepared By
BASIX Certificate No.788521M	6 January 2017	Dartecha Design
Geotechnical Investigation No.29996Zrpt	9 December 2016	JK Geotechnics
Stormwater Report Revision A	6 December 2016	ADCAR
Carpark, Ramp and Driveway Certification No.N16156763A	December 2016	Motion Traffic Engineers Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
1618/DA-L01	14.12.16	Trish Dobson

Waste Management Plan		
Name / No.	Dated	Prepared By
N/A	25 October 2016	Ray Fitzgibbon & Associates

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	eServices Reference	Dated
NSW Roads and Maritime Services	Referral Response - NSW RMS	15 February 2017

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

3. Prescribed Conditions

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

5. Car Parking and Access

The development shall make provision for a total of 8 (7 resident and 1 visitor) car parking spaces, and 5 bicycle parking spaces (4 resident and 1 visitor). This requirement shall be reflected on the Construction Certificate plans. Any change in the stated parking numbers above shall be dealt with via a modification to the development consent. The approved parking spaces shall be maintained to the satisfaction of Council, at all times.

Reason: To ensure parking provision is maintained. (DACTRBOC1)

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 2,500,000.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 23,750.00
Section 94A Planning and Administration	0.05%	\$ 1,250.00
Total	1%	\$ 25,000.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

7. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.warringah.nsw.gov.au/your-council/forms).

Reason: To ensure adequate protection of Council's infrastructure.

8. Works Bonds

(a) Construction, Excavation and Associated Works Bond (Crossing/Kerb) A Bond of \$10,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

(b) Construction, Excavation and Associated Works Bond (Pollution)
A Bond of \$5,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

(c) Construction, Excavation and Associated Works Bond (Failure to Remove Waste)
A bond of \$5,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.warringah.nsw.gov.au/your-council/forms).

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

9. On-site Stormwater Detention Compliance Certification

Drainage plans are to be submitted for approval detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by ADCAR, drawing number ADC-161108 SW-000 Issue B, SW-100 Issue C, SW-101 Issue D, SW-102 Issue B, SW-103 Issue B, SW-104 Issue B and SW-200 Issue D dated 06.12.16.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

10. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with Council's Stormwater Drainage Policy. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACENC04)

11. Application for Works to be Approved within Councils Roadway

An application for works to be approved within Councils roadway under Sections 138 & 139 of the Roads Act 1993 is to be submitted to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the driveway crossing, layback and footpath along the frontage of the site which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure compliance with Council's specification for engineering works. (DACENC08)

12. Vehicle Driveway Gradients

Driveway gradients within the private property are to be designed in accordance with AS/NZS 2890.1:2004 and are to include a transition gradient of 1 in 20 (5%) for the first 6 metres into the property and are not to exceed a gradient of 1 in 4 (25%). Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified traffic engineer are to be submitted for approval prior to the issue of the Construction Certificate.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property. (DACENC13)

13. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Safety. (DACENC19)

14. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENCO5)

15. Tree protection

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land
- (b) Tree protection
 - i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
 - ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by the Project Arborist on site.
 - iii) All tree protection to be in accordance with the Arboricultural Development Impact Assessment report dated 15.12.16 prepared by Trish Dobson and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
 - iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

16. Amended Landscape Plan

The Landscape Plan is to be amended to substitute 1 x *Cupaniopsis anacardioides* located on the northwestern corner of the site with 1 x *Angophora costata*, minimum pot size 75 litre

Reason: Environmental amenity(DACLAPCC1)

17. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS 4970 - 2009 'Protection of trees on development sites'***
- (c) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (d) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (e) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (f) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

18. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

19. General Car Parking Area

The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890 series, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

Reason: To ensure the parking area in general complies with AS2890 parking series. (DACTRCPC1)

20. Visitor Spaces Located Behind Security Shutter/Door

The installation of any security roller shutter for the basement car parking area shall not restrict access to any designated visitor car parking space. In the event that the approved visitor car parking spaces are located behind any proposed security roller shutter, an intercom system is required to be installed to enable visitor access into the basement car parking area. This requirement is to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure visitor car parking is accessible to visitors. (DACTRCPC2)

21. Waste and Recycling Requirements

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

23. Project Arborist

- i) A Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Development Impact Assessment

Report dated 15.12.2016 prepared by Trish Dobson.

iii) The Project Arborist is to familiarize themselves with and ensure compliance as relevant with, any other environmental requirements conditioned under this consent.

Reason: Environmental protection (DACLADPC1)

24. Site Management, Construction Traffic Management Plan

The submission, as part of an application for a permit under Section 138 of the Roads Act 1993, of a Site Management, Pedestrian and Traffic Management Plan to Council's Development Engineering section for approval is required, prior to works commencing on the site. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS1742 - Traffic Control Devices for Works on Roads and the RMS Traffic Control at Worksites Manual.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a) proposed ingress and egress points for vehicles to/from the construction site;
- b) proposed protection of pedestrians, adjacent to the construction site;
- c) proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e) proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;
- f) proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- g) proposed traffic control plans (TCPs) such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed where works are in progress in any road reserve and shall be in accordance the latest versions of the NSW Roads and Maritime Services Specification - "Traffic Control at Work Sites Manual" and the Australian Standard AS1742. - "Manual of Uniform Traffic Control Devices" and accompanying field handbooks (SAA HB81);
- h) proposed method of support of any excavation, adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering; and
- i) proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway.

The approved plan shall be implemented, prior to the commencement of any works upon the construction site.

Note: Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

Reason: <insert reason - make sure you LEAVE the code to the right> (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. Progress Certification (Road Work)

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
- (b) Sub-grade trimmed and compacted **

- (c) Base-course laid and compacted **
- (d) Layback, crossing and footpath construction
- (e) Pavement
- (f) Landscaping and vegetation
- (g) Clean-up of site, and of adjoining Council roadway and drainage system.

(**To be tested by a recognised N.A.T.A. approved laboratory).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works (see www.warringah.nsw.gov.au). (DACENE02)

26. Vehicle Crossings

The provision of one vehicle crossing 3.6 metres wide at the boundary to 4.6 metres wide at the kerb in accordance with Warringah Council Drawing No A4-3330/2 NH and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

27. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

28. Footpath Construction

The applicant shall construct a 1.5 metres wide concrete footpath along the entire frontage of the site i.e. both Campbell Pde and Condamine St. The existing pram ramp at the intersection is to be reconstructed to suit the new footpath. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's minor works policy.
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works. (DACENE07)

29. Layback Construction

A layback 4.6 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

30. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

31. **Notification of Inspections**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to pouring of layback and driveway crossing
- (c) Prior to pouring of footpath slabs
- (d) Sealing road pavement adjacent to layback

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements. (DACENE10)

32. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

33. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

34. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.

- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

35. Removal of All Temporary Structures/Material and Construction Rubbish (crown land only)

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to Council.

Reason: To ensure bushland management. (DACPLE01)

36. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

37. On-street Work Zone

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Warringah Traffic Committee and the Roads and maritime Services. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares. (DACTREDW1)

38. Redundant Crossings

Any existing vehicular crossings rendered unnecessary by this development must be removed and the footpath and normal kerbing and guttering must be restored. This work

shall be carried out by a Council recognised concrete contractor at the developer's expense.

Reason: To ensure redundant crossings are restored to kerb and gutter. (DACTREDW2)

39. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

40. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land. (DACENF01)

41. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF02)

42. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

43. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried

without Council's approval. (DACENF04)

44. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

45. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

46. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed.

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)

47. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's

standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)

48. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

49. Certification Civil Works

The Civil Engineer responsible for the supervision of the civil works shall certify that the completed works have been constructed in accordance with this consent and the approved Roads Act approval by Council. A "work as executed" (WAE) plan certified by a registered surveyor and overdrawn in red on a copy of the approved civil works plans are to be provided to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim/final Occupation Certificate.

Reason: To ensure compliance of civil works with Councils specification for engineering works. (DACENFPO1)

50. Required Planting

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
All trees	As indicated on Landscape Plan Dwg No. DA-L01 dated 14.12.16 prepared by Trish Dobson and as amended by this consent.	As indicated on the Landscape Plan	As indicated on the Landscape Plan

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

51. Garbage and Recycling Facilities

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)

52. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

53. Waste and Recycling Facilities Certificate of Compliance

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

54. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

55. Positive Covenant for Waste Services

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

56. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACWTF04)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

57. **Oversized Transportation**

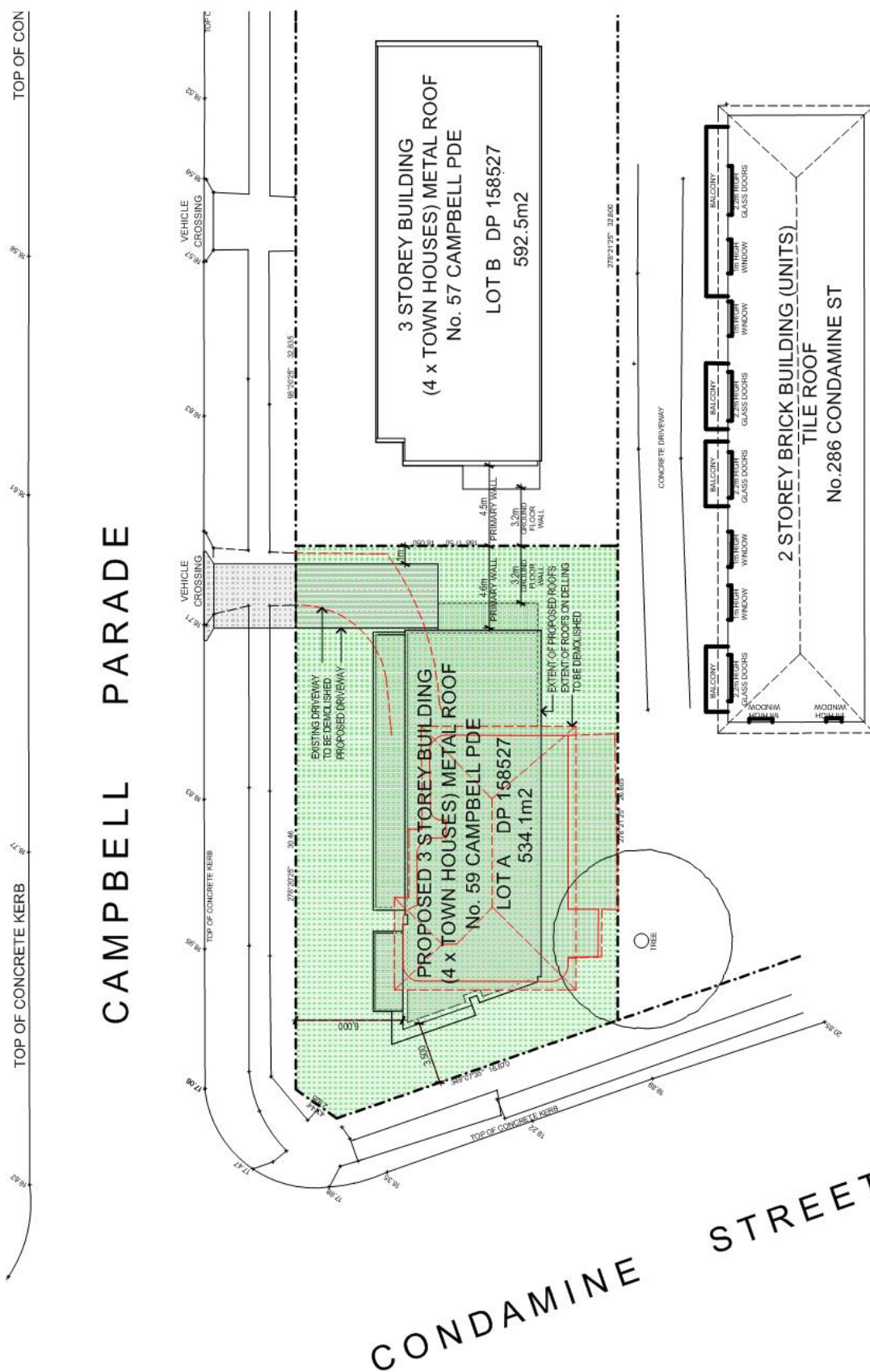
If transportation of oversized or over mass materials or machinery is required, the applicant shall obtain a permit for an oversized and over mass load from the Roads and Traffic Authority Special Permits Unit in Glen Innes. The contact number is 1300 656 371.

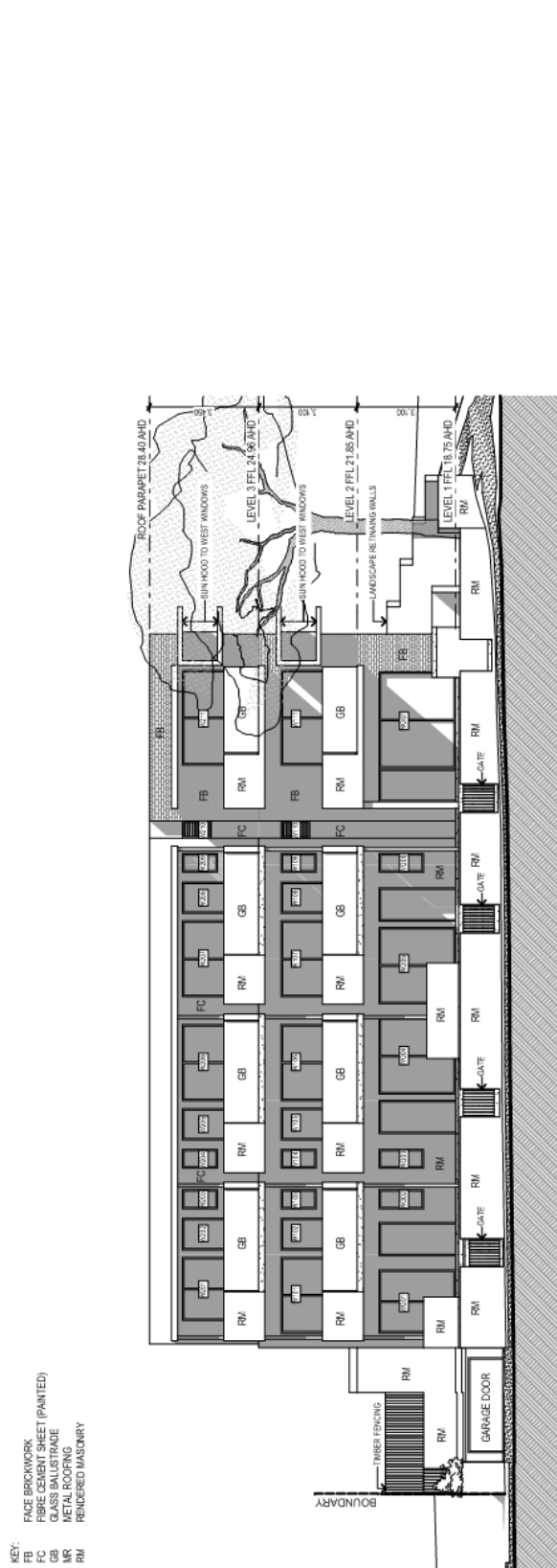
Reason: To ensure oversized vehicles have relevant permit/s from the relevant roads authority. (DACTRGOG1)

58. **Manoeuvring Area**

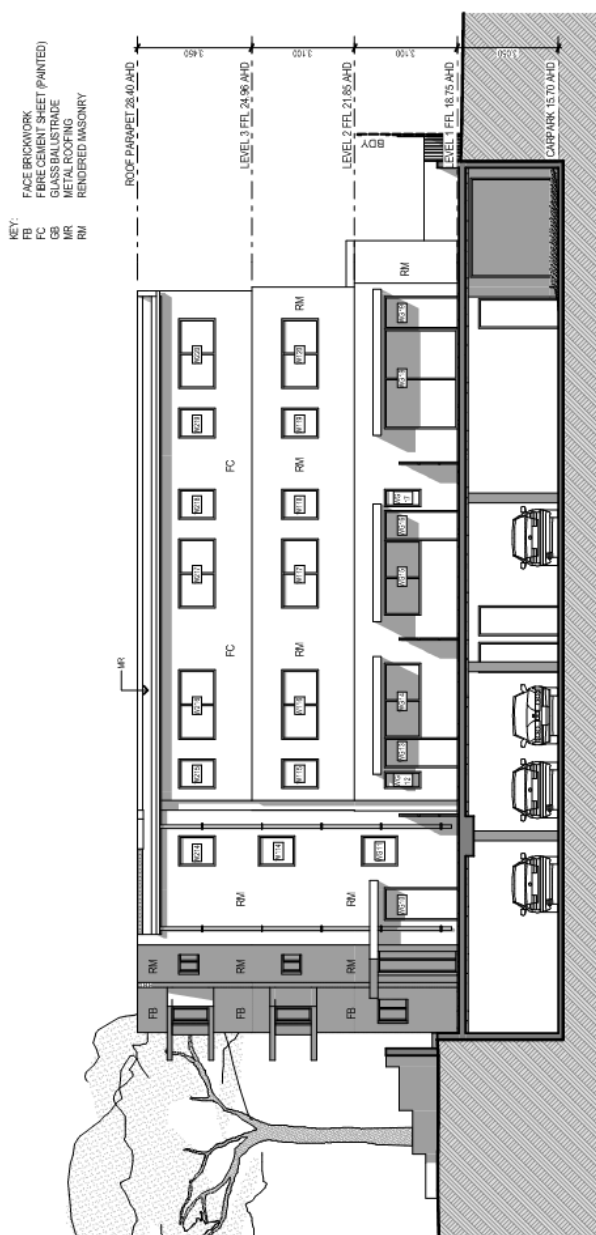
The designated manoeuvring area access aisle shall be kept clear for that purpose at all times.

Reason: To ensure manoeuvring area is not used for other purposes. (DACTRGOG2)

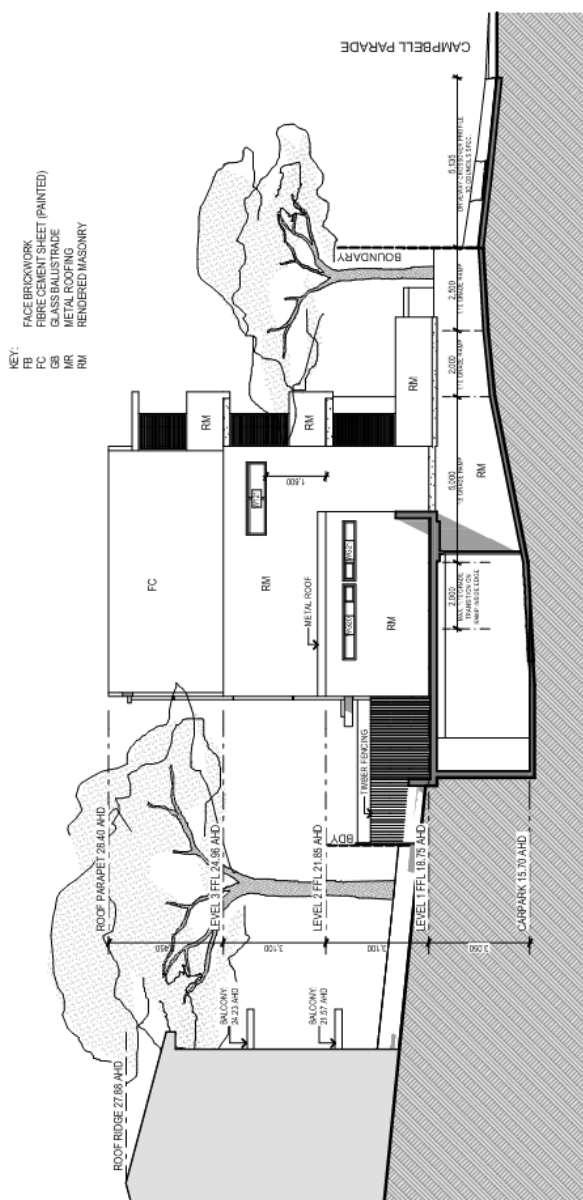
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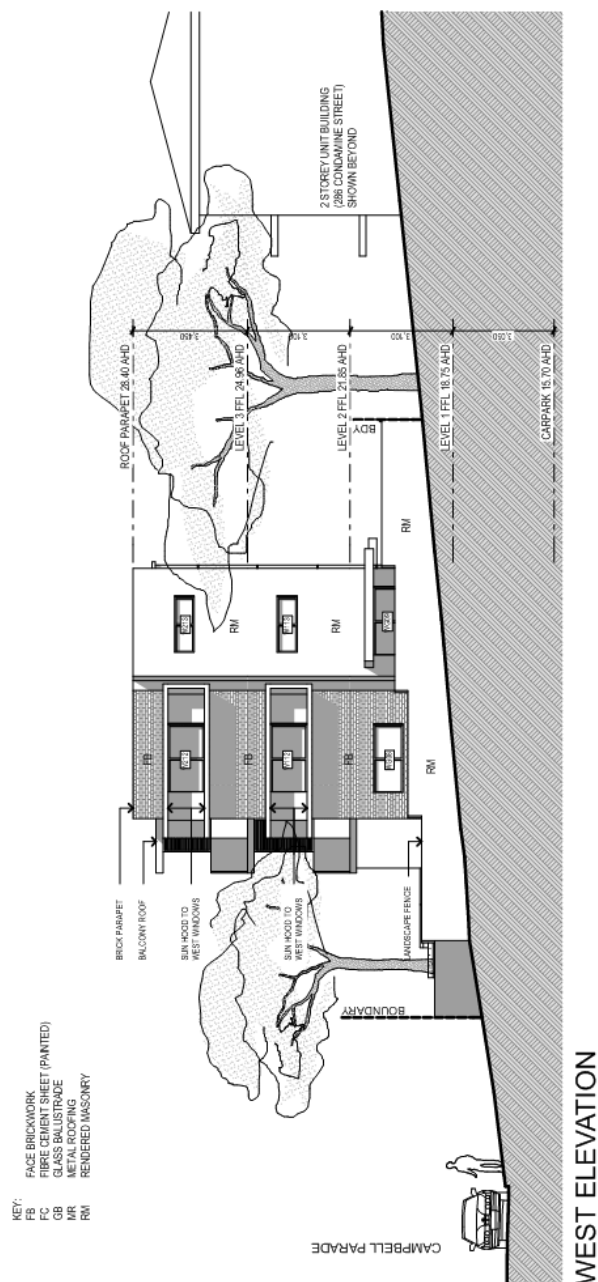
NORTH ELEVATION



SOUTH ELEVATION

[illegible]

EAST ELEVATION



WEST ELEVATION

WARRINGAH DEVELOPMENT ASSESSMENT PANEL MEETING

3.2	57 Campbell Parade, Manly Vale – Construction of a Residential Flat Building
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DA2011/0155

Panel Members

Mary-Lynne Taylor, Chair (Environmental Law)

Steve Kennedy, Urban Design Expert

Marcus Sainsbury, Environmental Expert

Alan Linnell, Community Representative

DA2011/0155

Application Details

Demolition works and construction of a Residential Flat Building

Site Description

Lot B, DP 158527, No. 57 Campbell Parade, Manly Vale

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the WDAP Meeting. A copy of all the objection letters was provided to the Panel who considered the objections on the site visit.

Proceedings in Brief

This is an application for a Residential Flat Building on land in Manly Vale which is Category One Housing; and under the draft WLEP permissible because it is R3 medium density. The application has been before the Panel on a previous occasion when the applicant was asked to submit amended plans and make certain changes.

There were six submissions that were objecting to the application previously and some of the objectors spoke at the previous WDAP meeting. At the more recent meeting, the Panel was addressed by two objectors from the residential flat building at the rear. In one case the objector believed that only a house should be allowed on this site despite its medium density zoning because of the site dimensions; the second speaker was concerned that the plans did not appear to show what work was being carried out on the common boundary particularly in the vicinity of a Cheese tree presently existing. The concern is that the plans did not show the way in which the existing driveway to the Residential Flat Building would be maintained and not undermined.

The applicant and the planning advisor were present to answer questions and discussed with the objectors and the Panel what works were being done at the rear to retain the soil and to provide a dividing fence and to maintain levels. It is noted that it is intended to retain the Cheese Tree situated on the boundary and the applicant had an Arborist's report saying the manner in which it should be retained. The Panel believe that the conditions in the Arborist's report should be included in the conditions of any approval that might be given.

The Council Assessment Report confirmed that the specific changes required by the Panel previously had been carried out on the plans now before the Panel. The Assessment Report,

however, finds the application unsatisfactory because of the number of non-compliances with the Council controls and in particular a concern for the non-compliance with the landscaping standard.

Whilst the Panel notes that the provision of landscaping is deficient in numerical terms of the standard, the Panel was of the opinion that it was landscaped in a manner similar to the landscaping for Residential Flat Buildings in the area approved under the same controls. The applicant advised the Panel that the difficulty in complying with its standards related to the fact that the dimensions of the site were such that the site was not deep enough to comply.

In relation to the Landscaped Open Space provided, the standard requires 50% of the site area to be landscaped in accordance with the definition in the control and under Council's strict calculation of the provisions only 11.4% of the site is landscaped appropriately. One of the reasons for non compliance relates to the manner in which the landscaped area is provided at the front of the site. Areas which have been proposed to be landscaped and which are clearly capable of being landscaped in accordance with the standard fail the test because there is a fence placed midway between the spaces, resulting in one complying space being strictly defined as two non complying spaces.

Were these areas able to be counted as part of the Landscaped Open Space standard, then, in accordance with the applicant's figures, landscaping of 46.7% would be achieved. [The Panel notes that the council planners do not agree with this calculation, believing it to be more like 32.4%]. The applicant's calculation includes areas that are not counted in the council control because they are either too small, are terraced areas, or areas that do not have deep soil landscaping. So, whilst providing the facility and amenity of a landscaped open space, some of these areas do not technically meet the controls.

The Desired Future Character Statement for this locality (G7 Innes Road Locality) requires medium density areas to be characterised by landscaped front gardens with consistent front building setbacks. In that regard, this application meets that part of the statement. The Panel has observed that the manner in which the landscaping is provided in this application meets similar developments in the area that have been approved under the current Local Environmental Plan. Accordingly, the Panel finds that in terms of the landscaped setting required under the Desired Future Character Statement, this application is satisfactory.

Despite the recommendation from the staff and the objections of the neighbours, the Panel finds that the Residential Flat Building as designed is suitable for the area and is suitable for the site. Clearly the provision of a Residential Flat Building on a site in this medium density area is an appropriate style of housing. Despite the fact that neighbours suggest that only a dual occupancy could be accommodated, the Panel believes that a Residential Flat Building of four (4) units provides reasonable amenity for the incoming residents, and provides no significant impacts on adjoining properties in terms of overshadowing and overlooking. The reason for the non-compliance with the standards is the lack of depth in the site. Nevertheless, this particular design provides a suitable streetscape presentation; the use is consistent with the Desired Future Character and with neighbouring development which are largely, developed as Residential Flat Buildings, and, in the circumstances of this site, to reduce the yield by 1 or 2 units, would mean that the site would not be feasible and would not comply with the objects of the Environmental Planning and Assessment Act 1979, Section 5 (a) (ii) *the promotion and co-ordination of the orderly and economic use and development of land*.

The Panel does not find that the local controls are unsatisfactory and should not be imposed; but finds that in this particular infill situation with the unique circumstances of the site and its constraints, this development is more appropriately presented as a Residential Flat Building as has been designed, than by a smaller development.

With the amended plans, the Panel finds the distance between the subject site and the adjoining Residential Flat Building at the rear to be satisfactory in terms of appropriate separation for privacy reasons. This separation will be enhanced by the retention of the Cheese Tree and provision of

additional screen planting along the southern boundary which will achieve a height similar to the existing tree.

The Panel unanimously approves the application, despite the non compliances with Council's controls because of the specific circumstances of the dimensions of the site in that it is uncharacteristically lacking in depth but nevertheless presents an appropriate streetscape appearance and is contextually appropriate.

DECISION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL

- A. That Council prepare draft conditions for approval by the Panel including the following standard conditions and the following special conditions
- a. Condition requiring the applicant to provide a detailed plan showing the manner in which the development at the rear boundary is to occur in a manner that would not undermine the driveway of the neighbouring property.
 - b. Condition for the manner in which the Cheese Tree is to be maintained as outlined in the Arborist report.
 - c. Conditions relating to stabilisation of the rock wall on the rear boundary, and adoption of the plans as amended and as reported to this panel meeting.
 - d. Condition requiring the applicant to provide details in plan and section showing the manner in which screen planting along the southern boundary will achieve a height similar to the existing Cheese Tree.
- B. That the application be approved subject to the draft conditions being adopted by the Panel.

Voting 4/0

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

Drawing No.	Rev	Job No.	Drawing Title	Drawn By	Date
01b	b	070904	Roof and Site Plan	Urban Style Design Pty Ltd	29.08.2011
02b	b	070904	Basement Floor Plan	Urban Style Design Pty Ltd	29.08.2011
03b	b	070904	Ground Floor Plan	Urban Style Design Pty Ltd	29.08.2011
04b	b	070904	First Floor	Urban Style Design Pty Ltd	29.08.2011
05b	b	070904	Second Floor	Urban Style Design Pty Ltd	29.08.2011
06b	b	070904	Elevations	Urban Style Design Pty Ltd	29.08.2011
07b	b	070904	Elevations	Urban Style Design Pty Ltd	29.08.2011
08b	b	070904	Sections	Urban Style Design Pty Ltd	29.08.2011
L01/1-R15719	A	-	Landscape Planting Plan	Michael Siu Landscape Architects	05.09.2011
10MB4326/D01 Sheet 1 of 2	C	-	Site and Roof Drainage Plan	United Consulting Engineers Pty Ltd	05.09.2011

Report	Dated	Prepared By
Arboricultural Assessment Report	23 May 2011	TALC Tree and Landscape Consultants

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
Ausgrid	Response Energy Aust Referral	14 February 2011

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (DACPLB02)

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement. (DACPLB09)

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:
7.00 am to 5.00 pm inclusive Monday to Friday
8.00 am to 1.00 pm inclusive on Saturday,
No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:
8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (g) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. Section 94A Contributions

The Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

<i>Warringah Section 94A Development Contributions Plan</i>		
Contribution based on total development cost of \$		1,261,211.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	11,981.50
S94A Planning and Administration	0.05%	630.61
Total	1.0%	\$12,612

Details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)

6. Detailed Construction Management Plan

A report shall be prepared by a suitably qualified and practising Structural Engineer detailing the proposed methods of demolition and construction along the rear, southern boundary which demonstrates how the structural integrity of the existing structures including the adjoining driveway will be maintained during all works on site.

A photographic record is to be made of the condition of these elements and included as part of the Construction Management Plan. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate.

Reason: To ensure the development is constructed in a way which protects the existing rock retaining wall and the adjoining driveway structure.

7. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

***Note:** The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

****Note:** the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

8. External Colours and Materials (Dwellings)

External Roofing

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC03)

9. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

10. Construction Management Program

A Construction Management Program shall be prepared which includes the following:

- (a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (c) The location and operation of any on site crane; and

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that

respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. (DACPLC13)

11. Bonds

Security Bond

A bond (determined from cost of works) of \$2000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Council infrastructure. (DACENC01)

12. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

13. On-site Stormwater Detention

An On-site Stormwater Detention system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification, and generally in accordance with the concept drainage plans prepared by United Consulting Engineers Pty Ltd, drawing number 10MB4326/D02, Rev B, dated Dec 2011.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

Any blockage on the overland flow path is to be removed.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Detention Technical Specification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (Special condition) (DACENC20)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. Application for Works Zone and temporary relocation of bus zone

The bus zone to the east of the site is to be temporary relocated during construction. In addition, a "Works Zone" will need to be provided adjoining the site. Details of this work and an application for a "Works Zone" will be required to be submitted to Council for approval by Warringah Traffic Committee. Details demonstrating compliance are to be provided prior to the commencement of any works on the site.

Reason: To ensure that adequate and safe provision is made for construction traffic accessing the site.

15. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

17. Vehicle Crossings

The provision of one vehicle crossing 3.5 metres wide in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

18. Layback Construction

A layback 3.5 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

19. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

20. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION
CERTIFICATE**

21. Garbage and Recycling Facilities

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)

22. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings. (DACPLF04)

23. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

24. Intercom

An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure convenient access is available for visitors to the building. (DACPLF05)

25. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

26. Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since

building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

27. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land. (DACENF01)

28. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF02)

29. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

30. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

31. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

32. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed.

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)

33. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and

endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)

34. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

35. Visitor Car parking

Visitor car parking must be permanently available, freely accessible and clearly marked / signposted. The visitor car parking spaces area not to be allocated to individual units / tenancies.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure visitor carparking is available at all times and is clearly identified. (DACPLG02)

36. Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to come to a complete stop before proceeding onto the public way.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure pedestrian safety. (DACPLG03)

37. Visitors Sign

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

4.0 REVIEW OF DETERMINATIONS

ITEM 4.1	3 AUSTIN STREET, FAIRLIGHT - DA159/2016 - SECTION 82A REVIEW
REPORTING OFFICER	Claire Downie
TRIM FILE REF	2017/229754
ATTACHMENTS	1 ↓ Assessment Planners Report 2 ↓ Site and Elevation Plans

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That Council (Northern Beaches Independent Assessment Panel) as the consent authority approve Development Consent No. 159/2016 for Section 82A Review of Determination of refused alterations and additions to an existing dwelling house – Part 2 on land at Lot B DP 311413, 3 Austin Street, Fairlight, for the reasons outlined in the report.

NORTHERN BEACHES COUNCIL

northernbeaches.nsw.gov.au

Development Assessment Report

MC/17/60604

DA No.	159/2016
Site Address	3 Austin Street, Fairlight. Lot B DP 311413.
Proposal	Section 82A Review of Determination of alterations and additions to an existing dwelling house – Part 2
Officer	Claire Downie

SUMMARY:

Application Lodged:	29 May 2017
Applicant:	Ms S Ferrario
Owner:	Denise Ferrario
Estimated Cost:	\$211,200
Zoning:	MLEP, 2013 – R1 General Residential
Heritage:	Not applicable
NSW LEC:	Not applicable.
Notification:	1-19 June 2017
Submissions received:	Four
Site Inspected:	22 June 2017
LEP (4.6) Variations proposed:	Nil
DCP Variations proposed:	Wall Height, Side Setbacks, and Total Open Space
Recommendation:	Approval

Subject Property and surrounding area



The subject property is commonly known as 3 Austin Street, Fairlight and legally known as Lot B in DP 311413. The site is located on the western side of Austin Street. The property is rectangular in shape, has a frontage of 10.06m to Austin Street, an average depth of 38.12m and an overall site area of 383.4m². The property currently contains a single-storey dwelling with vehicular access via an existing driveway from Austin Street to an existing carport to the front of the existing dwelling. The property slopes approximately 3m from northwest to southeast.

The adjacent dwelling to the north, at 5 Austin Street, is developed with a single-storey detached dwelling. The adjacent dwellings to the south, at 228, 230 and 232 Sydney Road, are developed with one- and two-storey detached dwellings. Development in this area of Austin Street consists of a mix of one- and two-storey detached dwellings and multi-storey residential flat buildings.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

Recent relevant applications on site include:

DA159/2016: Alterations and additions to an existing dwelling including first floor addition with balcony, ground floor rear extension, internal alterations, removal of trees, demolition and construction of a new carport. The application was refused by MIAP on 16 February 2017 for the following reasons:

- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development exceeds the wall height control and is in breach of Clause 4.1.2 of the Manly DCP 2013.
- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development in breach of the side setback control in Clause 4.1.4 of the Manly DCP 2013.
- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development results in unreasonable view loss to adjacent properties in breach of Clause 3.4.3 of the Manly DCP 2013.
- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the development is unsatisfactory in regard to its character, design, visual impacts and streetscape contained within Clause 3.1.1.1, Clause 4.1, objectives (2) and (3) and Clause 4.1.7 of the Manly DCP 2013.
- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development does not comply with reasonable solar access with respect to the adjacent properties in breach of Clause 3.4.1 of the Manly DCP 2013.
- Pursuant to Section 79C (1) (d) and (e) of the Environmental Planning and Assessment Act 1979; the proposed development is not considered to be in the public interest.

Description of proposed development

The current application seeks a review of the determination (refusal) pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979*. The proposal again involves alterations and additions to an existing dwelling, including:

- First floor addition with balcony;
- Ground floor rear extension;
- Internal alterations;
- Removal of trees;
- Demolition of existing carport; and
- Construction of a new carport

The Section 82A application has provided amendments to the proposal in an attempt to address the reasons for refusal and the amendments maintain substantially the same development as the development described in the original application.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Landscaping Comments

No comments were received by Council's Landscape Officer.

Assessing Officer's Comment:

Council's Landscape Officer commented on the original proposal as follows:

"The proposed removal of the Jacaranda seems to be unnecessary this tree is 10m in height and established."

It is considered unreasonable to require the retention of the *Jacaranda mimosifolia* tree, as the Arboricultural Impact Assessment report submitted with the original application deems the tree suitable for removal. Further, suitable conditions have been applied in relation to the proposed landscaping, in order to protect and retain existing vegetation not impacted by the proposed development, including Condition No. ANS02, which requires the planting of an additional tree to balance the loss of the *Jacaranda mimosifolia* tree.

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Traffic Comments

Council's Traffic Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Driveway Comments

Council's Driveway Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

External Referrals

AUSGRID

The proposal was referred to the AUSGRID on 5 June 2017. No comments had been received by Council at the time of writing this report therefore concurrence is assumed.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) ***the provisions of:***
 - (i) ***any environmental planning instrument, and***

Manly Local Environmental Plan 2013

The subject site is located in Zone R1 General Residential under the Manly LEP 2013. The proposed development is permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone R1 General Residential

Objectives of zone

- To provide for the housing needs of the community.

The proposed development retains the existing residential use of the site.

- To provide for a variety of housing types and densities.

The proposed development maintains the existing variety of housing types and densities.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Not applicable. The proposed development retains the existing residential use of the site.

Part 4 Principal development standards

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

4.	Principal Development Standards	Requirement	Original Proposal	Current Proposal	Complies Yes/No	Comment
4.3	Height of buildings	8.5m	7.2m	8.2m	Yes	-
4.4	Floor Space Ratio	0.6:1 230.04m ²	0.58:1 224m ²	0.58:1 223m ²	Yes	-

4.6 Exceptions to development standards

No variations to development standards are proposed.

Part 5 Miscellaneous Provisions

There are no relevant miscellaneous provisions under Part 5 of the Manly LEP 2013 to taken into consideration as part of this assessment.

Part 6 Local Provisions

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

6.	Local Provisions	Applies	Complies	Comment
6.1	Acid Sulphate Soils	Yes	Yes	The subject site is classified Class 5 Acid Sulfate Soils. The proposed development complies with the objective and provisions of Clause 6.1 of the Manly LEP 2013.
6.4	Stormwater Management	Yes	Yes	The proposed development complies with the objective and provisions of Clause 6.4 of the Manly LEP 2013.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with Principle	Inconsistent with Principle
Streetscape	✓	
Heritage – In Vicinity	NA	
Landscaping Design	✓	
Landscape/Tree Preservation	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	

Comment:

3.1 Streetscapes and Townscapes

Streetscape

Objective 1) To minimise any negative visual impact of walls, fences and car parking on the street frontage.

No new walls or fences are proposed along the street frontage. The proposed carport replaces an existing carport, so does not result in any additional unreasonable visual impacts beyond the existing development. The visual impact of the first floor addition is minimised by setting the works back from the street frontage.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

The existing streetscape consists of varying architectural styles. While the proposed development is of a more modern architectural style to the majority of the existing development in the street, it is of a comparable bulk and scale, so is complementary to the streetscape. The proposed development provides side setbacks (and therefore building separation) complementary to the existing streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

No new fence is proposed. The existing development includes a hedge to indicate the front boundary of the property.

3.3.1 Landscaping Design

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.

The proposed development retains extensive planting, proposes additional planting, and is compliant with the required landscaped (soft) open space under Clause 4.1.5 of the Manly DCP 2013.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.

The proposed development does not unreasonably alter important landscape features and vegetation.

3.3.2 Landscape/Tree Preservation

Objective 1) To ensure that development protects and conserves the natural environment.

The proposed development satisfactorily protects and conserves significant vegetation on the subject site.

Objective 2) To protect and preserve urban bushland areas in recognition of their:

- value as part of the natural heritage;
- aesthetic value; and
- value as a recreational, educational and scientific resource.

The subject site does not contain any urban bushland.

Objective 3) To protect and prevent clearing of remnant and or rehabilitated riparian land value as a recreational, educational and scientific resource.

The subject site does not contain any riparian land.

3.4.1 Sunlight Access and Overshadowing

Objective 1) To provide equitable access to light and sunshine.

The proposed development provides equitable access to light and sunshine in that the first floor addition does not unreasonably impact upon the windows/doors to living rooms of adjacent dwellings to the south.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

The proposed development is not compliant with the relevant controls as per Clause 3.4.1.1 of the MDCP 2013, in that the proposal results in the loss of light to more than one third of the existing sunlight to the private open space of two adjacent properties to the south (Nos. 228 and 230 Sydney Road) between 9am and 3pm at the winter solstice. However, it is not unreasonable to develop a single-storey dwelling into a two-storey dwelling such as in this case, especially considering the height and bulk of the proposed works are compliant with the relevant development standards. Further, the current proposal allows greater sunlight access to these properties than the original proposal.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

The proposed amendments to the original proposal modulate the bulk of the development by increasing southern side setbacks to the rear portion of the addition to be compliant, and by reducing the length and bulk of the addition. Each of these modifications allow for greater sunlight access to the south. Further, the proposed skillion roof is pitched towards the north, in order to reduce the overshadowing impact of the roof while creating architectural interest.

3.4.2 Privacy and Security

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

The proposed development minimises the loss of privacy to adjacent and nearby development with the inclusion of privacy screening, opaque glazing and highlight windows where appropriate. In this way, the proposed development is appropriately designed for privacy and mitigates direct viewing between properties.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

The proposed development provides adequate privacy without compromising access to light and air. The outlook and views from habitable rooms and private open space is balanced in that overlooking is minimised, but views from the subject site are still available.

Objective 3) To encourage awareness of neighbourhood security.

The proposed first floor addition includes a balcony on the front (eastern) elevation of the first floor addition, encouraging awareness of neighbourhood security through passive surveillance.

3.4.3 Maintenance of Views

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

The proposed development does not unreasonably impact upon views to, from or across the subject site or adjacent sites.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

The proposed development does not unreasonably impact upon views from adjacent and nearby development, and to and from public spaces, including to icons, landmarks and buildings. Further, the rear setback to the first floor addition has been increased in the current proposal, thereby providing a greater outlook for the properties to the south than the original proposal.

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

The proposed development does not result in unreasonable view creep.

In this case, the Planning Principle relating to view loss has been considered as per Clause 3.4.3 Maintenance of Views of the Manly DCP 2013. The four steps of assessment of view loss as established by the NSW Land and Environment Court planning principle are addressed as follows:

"The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example 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, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."

The affected property is 230 Sydney Road, Fairlight. The affected property has a general outlook across No. 3 Austin Street to the sky. The outlook does not contain water, the interface between water and land, or any icons. Photographs of the outlook indicating the approximate location of the current proposed addition (outlined in red), compared with the previous application (in shaded orange), provided below.

Views from the rear garden (ground level) of 230 Sydney Road, Fairlight towards the subject site:



Views from the rear first floor verandah of 230 Sydney Road, Fairlight towards the subject site:



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

The outlook is accessed from the rear garden (ground level) and the rear first floor verandah, across the rear boundary. The outlook is accessed from both seated and standing positions.

“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 percent 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.”

The loss of outlook is considered minor, as the view is only a view to the sky is lost as a result of the proposed development. The outlook is not considered to be significant.

“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 amended development is compliant with both the Height of Building and Floor Space Ratio development standards within the MLEP 2013. The proposed development is non-compliant with the development controls relating to wall height (north), side setbacks and total open space. The section of this report relating to Part 4 of the MDCP 2013 – Development Controls demonstrates that the wall height to the south (adjacent to No. 230 Sydney Road) and the south side setback to the rear portion of the first floor addition (which contributes mostly to the loss of outlook for No. 230 Sydney Road) are compliant with their respective controls within the MDCP 2013.

Finally, the length of the first floor addition has been reduced by 1.5m to the rear, reducing the loss of outlook. Given the above, and the affected outlook is general only and not a significant view, to further amend the application or refuse the proposed first floor addition is considered unreasonable.

Part 4 - Development Controls

Site Area:	383.4m ²	Permitted/ Required	Original Proposal	Current Proposal	Complies Yes/No
Residential Density – Area D3		250m ² of site area per dwelling	383.4m ² of site area per dwelling	383.4m ² of site area per dwelling	Yes
Wall height North side		6.9m	7.7m	7.5m	No. See comment below.
South side		6.9m	6.9m	6.3m	Yes
Number of Storeys		2	2	2	Yes
Roof height		2.5m	Flat roof	1.5m (skillion roof)	Yes
Setback Front		6.0m or streetscape	0.5m to carport 4.6m to dwelling	0.5m to carport 4.6m to dwelling	Yes – Consistent with existing development
North setback side		2.5m	1m	1m to ground floor 2.25m to first floor	Yes – Existing No. See comment below.
South setback side		2.1m	900mm	900mm to ground floor 1.1m to first floor (front portion) 2.3m to first floor (rear portion)	Yes – Existing No. See comment below.
Wall on boundary height		3m	No walls on boundary proposed	No walls on boundary proposed	NA
Wall on boundary length		35% of boundary length			
Setback Rear		8.0m	11.1m	13.91m	Yes.
Setback to RE1, RE2, E1 and E2		6.0 / 8.0m	No works are proposed adjacent to RE1, RE2, E1 or E2 land.	No works are proposed adjacent to RE1, RE2, E1 or E2 land.	NA
Open space - total		Min. 55% of Site Area (210.87m ²)	48.9% (187.78m ²)	42.7% (164m ²)	No. See comment below.
Open space - landscaped		Min. 35% of total open space (65.72m ²)	60.9% (114.5m ²)	100% (164m ²)	Yes
Open space - above ground		Max. 25% of Total Open Space	0% (0m ²)	0% (0m ²)	Yes

Site Area:	383.4m ²	Permitted/ Required	Original Proposal	Current Proposal	Complies Yes/No
		(49.95m ²)			
Number of Endemic Trees	1	1	1	1	Yes
Private Open Space	18m ²	164m ²	140m ²	140m ²	Yes
Car Parking – Residents	2 spaces	1 space (existing)	1 space (existing)	1 space (existing)	Yes
Fence height	1m solid / 1.5 with transparency	No new fence proposed.	No new fence proposed.		
Excavation	Generally 1m Dilapidation or Geotechnical report	Minor excavation for the purpose of footings.	Minor excavation for the purpose of footings.		Yes

Comment:

LEP Clause 4.3 Height of buildings

Clause 4.1.2.1 of the MDCP 2013 provides that the maximum wall height for the proposed development is 6.9m. The proposed development seeks a maximum wall height of 7.5m to the north. Clause 4.1.2.1 relies on the objectives of Clause 4.3 Height of Buildings of the MLEP 2013. The objectives are addressed in relation to the non-compliant wall height as follows:

- (1) The objectives of this clause are as follows:

- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

The proposed development is compliant with the maximum height of building development standard within Clause 4.3 of the MLEP 2013. While the proposed development is of a more modern architectural style than the majority of the existing developments in the street, the building and roof are of a comparable bulk and scale, so are complementary in the streetscape. Further, the roof form is compliant with Clause 4.1.2.3 of the MDCP 2013 in relation to roof height. The proposed non-compliant north wall height is a result of the topography of the land, which slopes down towards the north. The proposed northern wall height has been reduced by 200mm from the original proposal.

- (b) *to control the bulk and scale of buildings,*

The proposed modifications to the original development reduce the bulk of the first floor addition by increasing the southern side setbacks to be compliant for the rear portion of the addition, and by reducing the length of the addition by 1.5m. Further, the proposed development is compliant with the floor space ratio development standard within the Manly LEP 2013, which controls bulk.

- (c) *to minimise disruption to the following:*

- (i) *views to nearby residential development from public spaces (including the harbour and foreshores),*
(ii) *views from nearby residential development to public spaces (including the harbour and foreshores),*
(iii) *views between public spaces (including the harbour and foreshores),*

The proposed development is acceptable in relation to maintenance of views for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development – Maintenance of Views.

- (d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

The proposed development is acceptable in relation to solar access for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development – Sunlight Access and Overshadowing.

- (e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Not applicable. The subject site is zoned R2 Low Density Residential.

4.1.4 Setbacks (front, side and rear) and Building Separation

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Clause 4.1.4.2 of the MDCP 2013 requires that setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building. The proposed development seeks a non-compliant north side setback to the first floor of 2.25m (2.5m required) and a non-compliant south side setback to the front portion of the first floor of 1.1m (2.3m required – 2.3m provided to rear portion of southern side of first floor addition). However, the proposed development demonstrates an improvement on the original proposal, which proposed a northern side setback of 1m and a southern side setback of 900mm, to the first floor addition. Further, the proposed side setbacks are consistent with and complementary to the existing developments within the immediate vicinity, thereby maintaining the desired spatial proportions of the street, the street edge and the landscape character of the street.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

The sunlight access, privacy, maintenance of view and streetscape character impacts resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development. The proposed development does not impact upon traffic conditions.

Objective 3) To promote flexibility in the siting of buildings.

The proposed development is adequately sited in order to provide an appropriate level of amenity to the subject site, as well as adjacent sites.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

The proposed development provides adequate landscaping and planting and does not unduly detract from the context of the site. This is detailed further in the section of this report relating to Part 4 of the Manly DCP 2013 – Development Controls. The subject site does not contain urban bushland.

Objective 5) To assist in appropriate bush fire asset protection zones.
The subject site is not within an area of bushfire prone land.

4.1.5 Open Space and Landscaping

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Clause 4.1.5.1 of the MDCP 2013 requires that the subject site provide a minimum of 55% of the site area as open space (total) and 35% of the total open space as landscaped area. The proposed development provides 42.7% of the site as total open space. However, the proposed development does not unreasonably impact upon important landscape features and vegetation, as demonstrated by the landscape plan.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Clause 4.1.5.1 of the MDCP 2013 requires that the subject site provide a minimum of 35% of the total open space as landscaped area. The proposed development provides 100% of the total open space as landscaped (soft) area. As such, the proposal maximises soft landscaped area at the ground level and encourages tree planting and maintenance of existing vegetation.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

The amenity impacts (sunlight, privacy, and views) resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

As above, the soft landscaped area of the site is maximised, so encourages water infiltration on site.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

The proposed development is adequately landscaped so as not encourage the spread of weeds.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

The proposed development is adequately landscaped so as to maximise wildlife habitat and corridors.

Part 5 - Special Character Areas and Sites

There are no Special Character Areas and Sites under Part 5 of the Manly LEP 2013 to consider as part of this assessment.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement has been entered into in relation to the proposed development.

79C(1)(a) (iv) - the regulations

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed development as modified by the conditions of consent is not considered to have any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

79C(1) (c) - the suitability of the site for the development,

The proposed development as modified by the conditions of consent is suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Section 2.2 of Council's Development Control Plan 2013 with three submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission
1. N. & V Ruffles 230 Sydney Road, Fairlight	<ul style="list-style-type: none"> The bulk of the proposed addition is too large compared to the land size The side setbacks are non-compliant The proposed development will overshadow our property and reduce light The proposed development will impact on our privacy The proposed development will result in view loss from our property
2. S. and R. Leslie 2/2 Austin Street, Fairlight	<ul style="list-style-type: none"> The property has been solely used as a business premises since at least September 2011. The proposed development will result in additional cars parking on-street, which is already at a shortage.
3. N. & L. Wall 5 Austin Street, Fairlight	<ul style="list-style-type: none"> The property is intended to be used as a business premises, but this is not stated in the development application. The use of the property as a business premises is inconsistent with the property zoning. The proposed development will result in additional cars parking on-street, which is already at a shortage. The proposal includes a setback of 11m, which is not consistent with the rear setback of our property and will result in privacy impacts on our property.
4. CONFIDENTIAL	<ul style="list-style-type: none"> The proposal still has six non-compliances. The development is too close to our property. The development is too large for the site. The proposed development results in overshadowing of our property. The proposed development impacts on our privacy. The proposed development will reduce our property value.

Floor Space Ratio / Bulk

The proposed development is compliant with the floor space ratio development standard within Clause 4.4 of the Manly LEP 2013, which controls bulk. This is detailed in the section of this report relating to Part 4 of the Manly LEP 2013 – Principal Development Standards.

Height of Building

The proposed development is compliant with the height of buildings development standard within Clause 4.3 of the Manly LEP 2013. This is detailed in the section of this report relating to Part 4 of the Manly LEP 2013 – Principal Development Standards.

Side Setbacks

The proposed side setbacks are acceptable for the reasons detailed in the section of this report relating to Part 4 of the Manly DCP 2013 – Development Controls.

Overshadowing / Sunlight Access

The overshadowing impacts resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development – Sunlight Access and Overshadowing.

Privacy

The privacy impacts resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development – Privacy and Security.

View Loss

The view impacts resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development – Maintenance of Views.

Use of Premises

The subject site is zoned R1 General Residential. The proposal indicates the subject property will be used as a single residential dwelling. The lawfulness of any alleged unauthorized use of the premises is a compliance matter, beyond the scope of this development application. This matter has been referred to Council's Compliance Department.

Parking

The proposed development involves alterations and additions to an existing single detached dwelling house. The Manly DCP 2013 requires two off-street parking spaces. The existing property includes one off-street parking space. The proposed development retains the existing single parking space. As the proposed development retains the use of the site as a single detached dwelling and the density of the site is not proposed to increase, the existing off-street parking is considered acceptable. As above, the alleged use of the site as a business premises is a compliance matter and is beyond the scope of this development application. The management of on-street parking is not a statutory planning matter, also beyond the scope of this development application.

Rear Setback

The proposal demonstrates a compliant rear setback of 13.91m. The first floor addition has been reduced in length to the rear from the original proposal. The rear setback is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development – Privacy and Security.

Non-Compliances

The proposed development is non-compliant with the wall height, side setbacks and open space development controls within the Manly DCP 2013. Non-compliances with DCP provisions may be allowed on merit, subject to the non-compliance being consistent with the objectives of the relevant development control. The non-compliances in this case are compliant with the relevant objectives, as detailed in the section of this report relating to Part 4 of the Manly DCP 2013 – Development Controls.

Property Value

Property value is not a planning matter and is beyond the scope of this application.

79C(1) (e) - the public interest.

The proposed development has demonstrated consistency with the relevant objectives and provisions of the Manly LEP 2013 and the Manly DCP 2013, and has incorporated design changes that address the reasons for refusal of the original application, as follows:

- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development exceeds the wall height control and is in breach of Clause 4.1.2 of the Manly DCP 2013.

Comment: The original application sought a 7.7m northern wall height. The current proposal indicates a reduction in the non-compliant northern wall height of 200mm to 7.5m.

- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development in breach of the side setback control in Clause 4.1.4 of the Manly DCP 2013.

Comment: The original application sought side setbacks of 1m to the north and 900mm to the south at both ground and first floors. The current proposal indicates an increased side setbacks and the first floor level of 2.25m to the north side and 1.1m-2.3m to the south side.

- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development results in unreasonable view loss to adjacent properties in breach of Clause 3.4.3 of the Manly DCP 2013.

Comment: The current proposal reduces the length of the first floor addition to the rear by 1.5m, reducing the loss of outlook for the adjacent affected property to the south (No. 230 Sydney Road, Fairlight)

- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the development is unsatisfactory in regard to its character, design, visual impacts and streetscape contained within Clause 3.1.1.1, Clause 4.1, objectives (2) and (3) and Clause 4.1.7 of the Manly DCP 2013.

Comment: The proposed development incorporates a skillion roof form and increased side setbacks at the first floor level, thereby reducing the bulk of the original proposal. This provides more architectural interest for the subject site in the streetscape and results in a design that is complementary to the existing developments in the street.

- Pursuant to Section 79C (1) (a) (iii) (b) of the Environmental Planning and Assessment Act 1979; the proposed development does not comply with reasonable solar access with respect to the adjacent properties in breach of Clause 3.4.1 of the Manly DCP 2013.

Comment: The current proposal reduces the length of the first floor addition to the rear by 1.5m and increases the southern side setback to the rear portion of the first floor addition in order to be compliant, thereby reducing the overshadowing impact on the properties to the south.

- Pursuant to Section 79C (1) (d) and (e) of the Environmental Planning and Assessment Act 1979; the proposed development is not considered to be in the public interest.

Comment: Given the above amendments made to address the reasons for refusal of the original application, the current proposed development is in the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:

- (a) the dedication of land free of cost, or
- (b) the payment of a monetary contribution, or both.

- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed development will not require the provision of or increase the demand for public amenities and public services in the area. As such, the payment of a monetary contribution is not required.

CONCLUSION:

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 (Amendment 8) and is considered to be satisfactory for **Approval**, subject to conditions.

RECOMMENDATION

That Development Application No. 159/2016 for Section 82A Review of Determination of refused alterations and additions to an existing dwelling house – Part 2 at 3 Austin Street be **Approved** subject to the following conditions:-

GENERAL CONDITIONS

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 159/2016:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
S1 Site Analysis Plan	Rev. D 10 May 2017	29 May 2017
A1 Roof Plan	Rev. D 10 May 2017	29 May 2017
A2 Upper Floor Plan	Rev. D 10 May 2017	29 May 2017
A3 Lower Floor Plan	Rev. D 10 May 2017	29 May 2017
A4 Elevation – North	Rev. D 10 May 2017	29 May 2017
A5 Elevation – East	Rev. D 10 May 2017	29 May 2017
A6 Elevation – South	Rev. D 10 May 2017	29 May 2017
A7 Elevation – West	Rev. D 10 May 2017	29 May 2017
A8 A-A Cross Section	Rev. D 10 May 2017	29 May 2017
A9 B-B Cross Section	Rev. D 10 May 2017	29 May 2017
A10 C-C Long Section	Rev. D 10 May 2017	29 May 2017
LPCC 16 – 466/1 Landscape Plan	Rev. B 21 June 2017	21 June 2017

Reference Documentation affixed with Council's stamp relating to Development Consent No. 159/2016:

- Statement of Modification prepared by Nolan Planning Consultants dated 17 May 2017 and received by Council on 29 May 2017
- BASIX Certificate No. A238323_02 dated 10 May 2017
- Arboricultural Impact Assessment prepared by Colin Curtis Complete Arborcare dated 30 September 2015 and received by Council 10 August 2016

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

1A (1AP04)

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

ANS01

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

ANS02

Prior to issue of the Construction Certificate, LPCC 16 – 466/1 Landscape Plan (Revision B 21 June 2017) is to be amended to include the planting of one additional tree. The additional tree is to be of a species selected from the list at Schedule 4 Part B Native Tree Selection of the Manly Development Control Plan 2013.

Reason: To balance the loss of the Jacaranda mimosifolia tree.

2 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

3 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

4 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

5 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

6 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

7 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

8 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

9 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

10 (2PT04)

The carport is not to be enclosed on any elevation (including enclosure by the installation of garage door/s or gates) without separate development consent.

Reason: To maintain the open nature of the streetscape and ensure compliance with this consent.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT

11 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

12 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

13 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

14 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

15 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

16 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND CONSTRUCTION

17 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

18 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.

- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

19 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

20 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person

or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

21 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

22 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safety Remove Asbestos Code of Practice – WorkCover 2011.

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

23 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

24 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

25 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

26 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

27 (4LD08)

Retain and protect trees and planting on council's Road Reserve during construction.

Reason: To maintain the number of street trees and preserve the amenity of the local area.

28 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 2, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

29 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

30 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OF DEVELOPMENT

31 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

I am aware of the Council's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

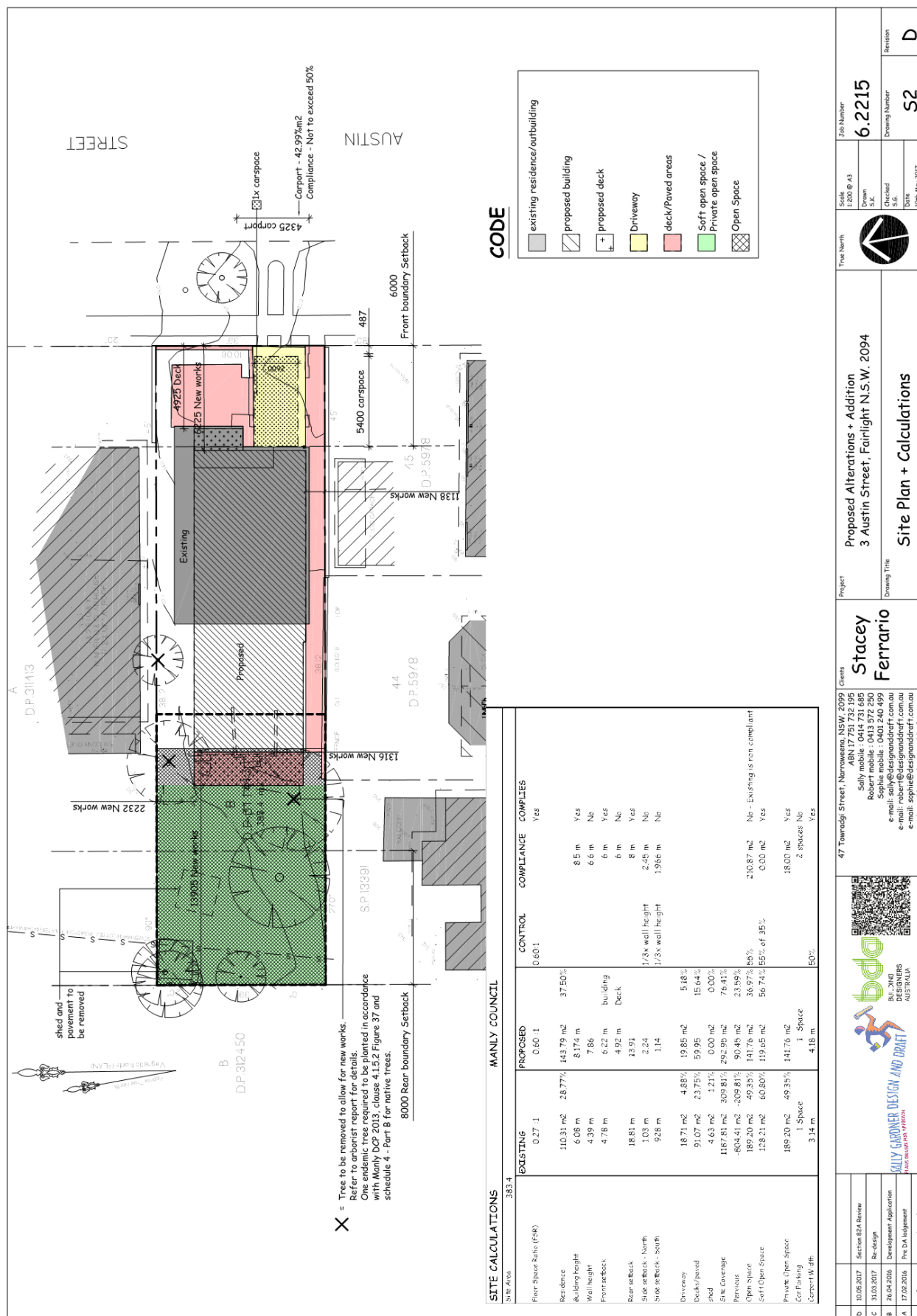
Claire Downie, Assessment Planner

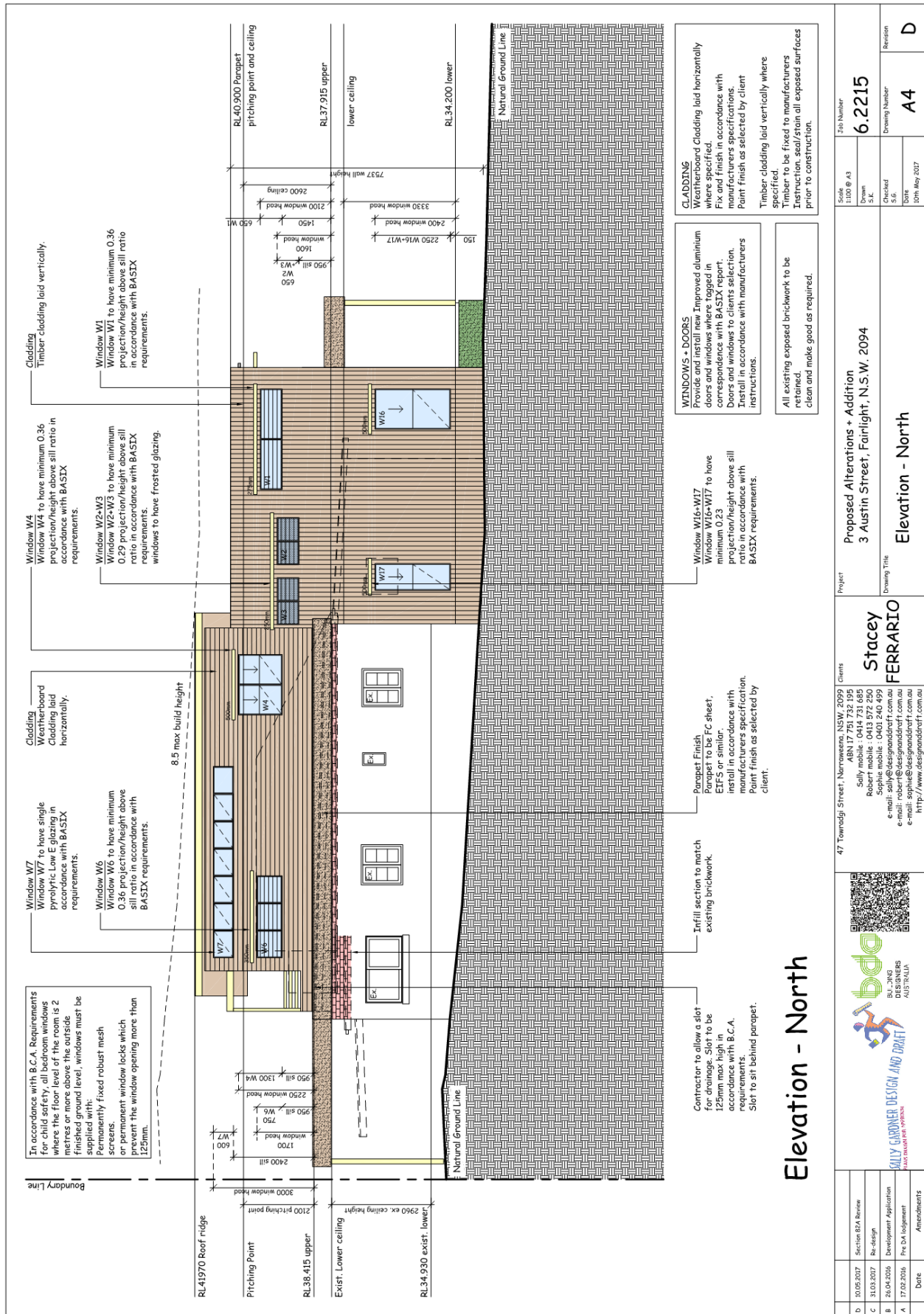
Date: 3 July 2017

The application is referred to the NBIAP:

Rod Piggott, Manager Development Assessments

Date: 3 July 2017

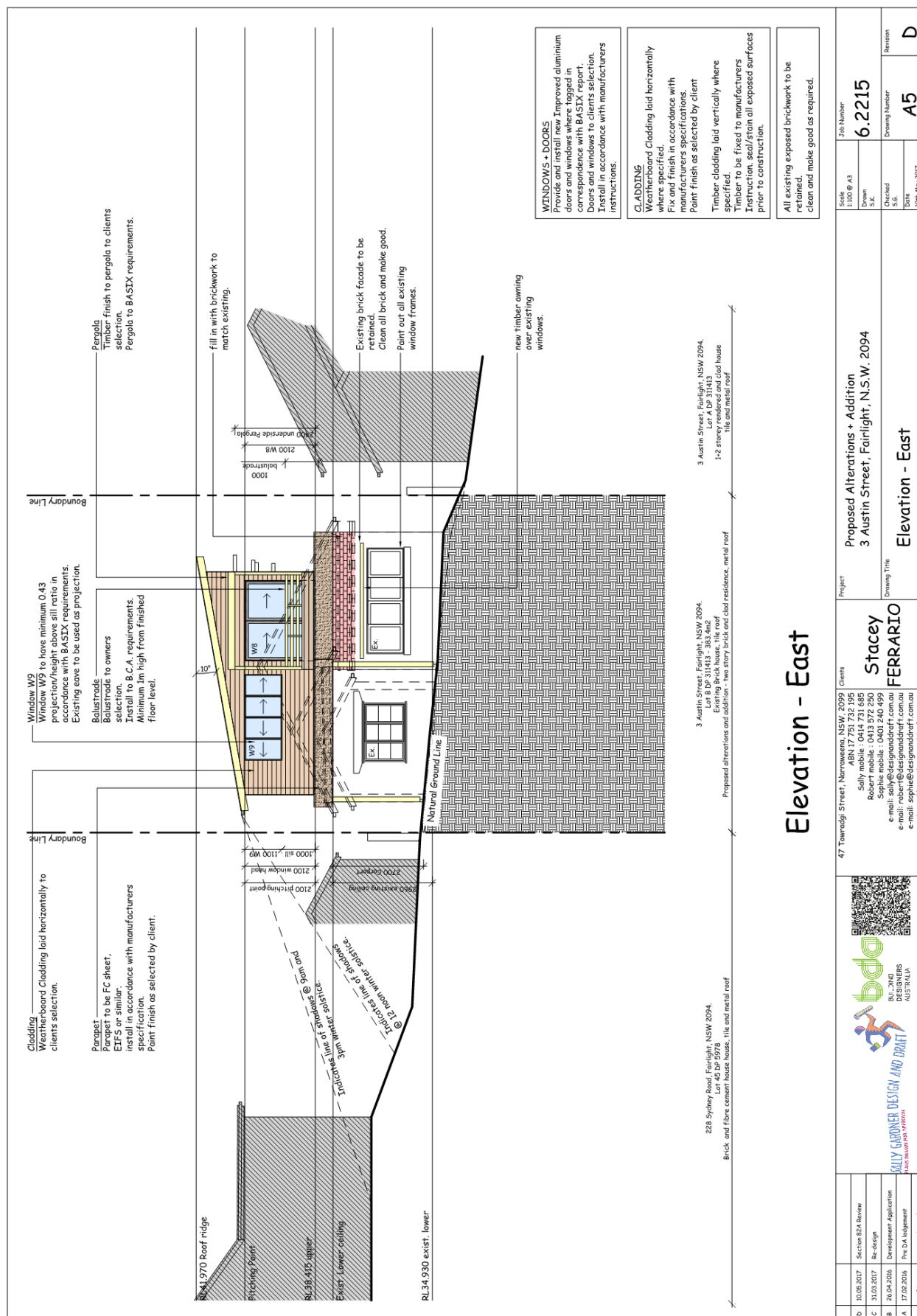




Elevation - North

10.05.2017	Section B2A Review	Client	47 Townsend Street, Narrabeen NSW 2099	Project	Proposed Alterations + Addition	Site Number	6.2215	Revision	D
31.03.2017	Re-design	Design	ABN 17 731 732 195	Project	3 Austin Street, Fairlight, N.S.W. 2094	Design	6.2215	Revision	
26.04.2016	Development Application	Checked	Sally mobile: 0414 731 685	Project	Elevation - North	Checked	6.2215	Revision	
17.02.2016	Pre DA lodgement	Done	Robert mobile: 0413 572 250	Project	Elevation - North	Done	6.2215	Revision	
	Amendments	Done	Sophie mobile: 0401 240 499	Project	Elevation - North	Done	6.2215	Revision	
			e-mail: sally@designanddraft.com.au	Project	Elevation - North	Done	6.2215	Revision	
			e-mail: robert@designanddraft.com.au	Project	Elevation - North	Done	6.2215	Revision	
			e-mail: sophie@designanddraft.com.au	Project	Elevation - North	Done	6.2215	Revision	
			http://www.designanddraft.com.au	Project	Elevation - North	Done	6.2215	Revision	

Elevation - East



Elevation - South

