

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 Council Chambers, Civic Centre, Dee Why on

WEDNESDAY 13 SEPTEMBER 2017

Beginning at 11 a.m. for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Paul Vergotis	Lawyer
Chris Gee	Urban Design Expert
Sue Hobley	Environmental Expert
Phil Jacombs	Community Representative

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 13 September 2017

in the Council Chambers, Civic Centre, Dee Why

Commencing at 11 a.m.

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	Nil	
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	Nil	

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL HELD 9 AUGUST 2017

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Independent Assessment Panel held 9 August 2017 were adopted by the Chairperson and have been posted on Council's website.

3.0 NORTHERN BEACHES INDEPENDENT ASSESMENT PANEL REPORTS

ITEM 3.1 **49 WHITE STREET, BALGOWLAH – SECTION 96(1A)
APPLICATION TO MODIFY APPROVED ALTERATIONS AND
ADDITIONS TO THE EXISTING DWELLING INCLUDING
CONVERSION OF THE EXISTING GARAGE INTO A HABITABLE
ROOM (KITCHEN) , NEW WINDOWS AND SKYLIGHT, NEW FIRE
PLACE , NEW CAR**

REPORTING MANAGER **Rod Piggott**

TRIM FILE REF **2017/328113**

ATTACHMENTS **1 [↓](#) Assessment Report**
2 [↓](#) Site and Elevation Plans

PURPOSE

To refer the attached application for determination which has been forwarded by General Manager, Planning, Place & Community

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 203/2016 for approved alterations and additions to the existing dwelling – Part 2 on land at Lot 5 in DP 1027681, 49 White Street, Balgowlah be Approved for the reasons outlined in the report.

NORTHERN BEACHES COUNCIL

northernbeaches.nsw.gov.au

Northern Beaches Independent Assessment Panel Report

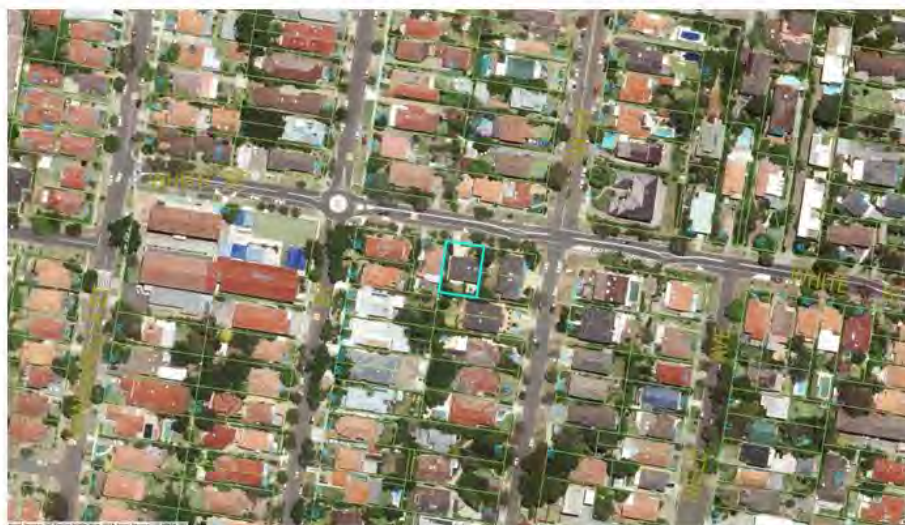
2017/292002

DA No.	203/2016; Lot 5 DP 1027681
Site Address	49 White Street, Balgowlah
Proposal	Section 96(1A) application to modify approved Alterations and additions to the existing dwelling – Part 2
Officer	R Shankar

SUMMARY:

<u>Application Lodged:</u>	22 May 2017
<u>Applicant:</u>	Tom Wadham
<u>Owner:</u>	E F Brodie
<u>Estimated Cost:</u>	\$48,000.00
<u>Zoning:</u>	MLEP, 2013 – R1- General Residential
<u>Heritage:</u>	N/A
<u>NSW LEC:</u>	N/A
<u>Notification:</u>	30/5/2017 to 15/6/2017
<u>Submissions received:</u>	Three (3)
<u>Site Inspected:</u>	5/7/2017
<u>LEP (4.6) Variations proposed:</u>	None
<u>DCP Variations proposed:</u>	None
<u>Recommendation:</u>	Approval

Subject Property and surrounding area



The subject property is commonly known as 49 White Street, Balgowlah and legally known as Lot 5 in DP 1027681. The site is located on the southern side of White Street. The property is fairly rectangular in shape and has a frontage of 18.67 m to White Street, an average depth of 25.38m and an overall site area of 475m². The property currently contains a two storey dwelling with vehicular access via an existing driveway from White Street to an existing double garage attached to the front of the existing dwelling. The property slopes from front to the rear of the dwelling.

The surrounding area includes predominantly residential dwelling houses and attached dwellings.



Property Burdens and Constraints

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

Site History/Background

DA203/2016 was lodged with Council on 29/7/2016 for Alterations and additions to the existing dwelling including conversion of the existing garage into a habitable room (kitchen), new windows and skylight, new fire place, new carport with a front roller door and changes to the front fence. The application was approved by Manly Independent Assessment Panel dated 20 October 2016 subject to conditions.

Description of proposed development

The proposal includes the following works:

- Alter carport to provide lower pitch roof and detached from existing dwelling
- Provide half roller door to height of 1.65m to match existing fence.
- Extend front fence from carport to western boundary
- Amend window on eastern ground floor elevation to provide opaque finish to the top half of the window and amendments to size of window.
- Request for deletion of the following approved Condition ANS01:

ANS01

Plans are to be suitably amended to include the following amendments prior to the issue of any Construction Certificate:

- (i) The proposed east facing bay windows located at ground floor level is to be opaque glazing to its full height and width and to be non-openable.
- (ii) The proposed carport is to be setback 1m from the front boundary. The proposed gate to the carport shall be of open form construction.

Reason: To ensure privacy and amenity of adjoining properties and reduce bulk of the addition.

Internal Referrals

Engineering Comments

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

"No further conditions required, previous conditions apply"

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 has commented on the proposal as follows:

"No further conditions"

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 has commented on the proposal as follows:

"No further conditions requested"

External Referrals

AUSGRID

The proposal was referred to the AUSGRID who raised no objections subject to conditions that are included in the Recommendation.

Planning Comments

Conditions are included in the recommendations.

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.

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 proposal will provide for housing needs within the community.

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

The proposed modification maintains the dwelling house and existing density.

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

Not applicable

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	Proposed	Complies	Comments
4.3	Height of buildings	8.5m	3.9m-carport	Yes	<i>Proposal complies with the clause</i>
4.4	Floor Space Ratio	0.50:1 237.25m ²	0.44:1 211.3m ²	Yes- As approved earlier	<i>Proposal complies with the clause</i>

Part 5 Miscellaneous Provisions

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

5.	Miscellaneous Provisions	Applies	Complies	Comments
5.4	Miscellaneous Permissible uses (1) Bed & Breakfast Accommodation (2) Home Businesses (3) Home Industries (6) Kiosks (7) Neighbourhood Shops (9) Secondary Dwellings	No	N/A	N/A
5.5	Development within the coastal zone	No	N/A	N/A
5.9	Preservation of trees or vegetation	No	N/A	N/A
5.10	Heritage Conservation	No	N/A	N/A

Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comments
6.1	Acid Sulphate Soils- Class 5	Yes	Yes	Proposal complies with this clause
6.2	Earthworks	Yes	Yes	Proposal complies with this clause
6.3	Flood Planning	No	N/A	N/A
6.4	Stormwater Management	Yes	Yes	Proposal complies with this clause
6.5	Terrestrial Biodiversity	No	N/A	N/A
6.6	Riparian land and watercourses	No	N/A	N/A
6.7	Wetlands	No	N/A	N/A
6.8	Landslide Risk	No	N/A	N/A
6.9	Foreshore Scenic Protection Area	No	N/A	N/A
6.10	Limited development on foreshore area	No	N/A	N/A
6.12	Essential services	No	N/A	N/A
6.15	Tourist and visitor accommodation	No	N/A	N/A
6.17	Health Consulting Rooms and secondary dwellings in Zones E3 and E4	No	N/A	N/A

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 controls
Streetscape	✓
Privacy and Security	✓

Comment:

3.1 Streetscapes and Townscapes:

Streetscape

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

The proposed changes to the approved carport and front fence will minimize the visual impact when viewed from the street. The proposed gate of the carport and the front fence will provide an open style of development and thus meet the intent of this clause

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

The proposed carport and fence is open styled and will complement the existing streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

The proposed changes to the approved fence and carport retain the existing approved landscaping on site.

3.4.2 Privacy and Security

The subject application requests deletion of condition ANS01 which requires the east facing window at ground floor level to be opaque and non-operable. It is noted that the currently on site the applicant has installed a window with opaque glass to the top two panels of the windows (which is located above approximately 1500mm from finished floor level). As noted in the Figure 1 below

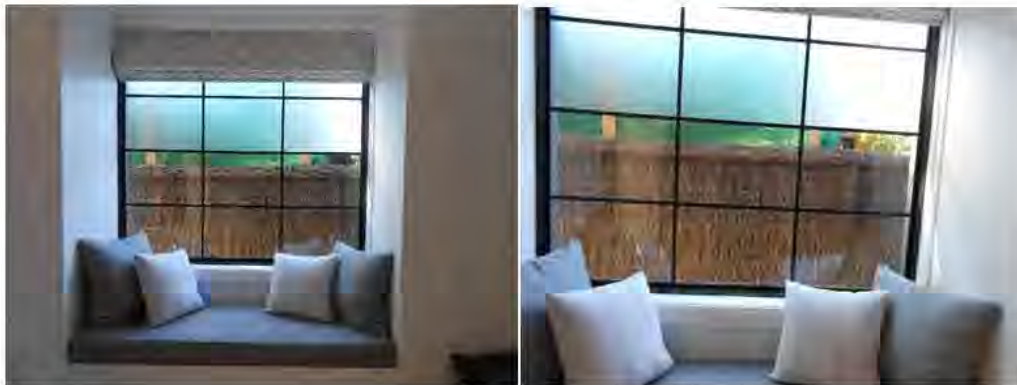


Figure 1- East facing window with opaque glass to top two panels

As evident in the photographs above the opaque panels mitigate direct overlooking of adjoining properties in a standing position, while the existing fence mitigates overlooking while in a seated position. Albeit this window is a side facing window, it is located 1.26m from the side setback which subject to addition of adequate screen landscaping (as per recommended condition) will provide buffer to mitigate any direct overlooking of private open spaces of the adjoining dwellings .

A further assessment of the proposal in response to the objectives of this clause is undertaken as follows:

- 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 modification provides opaque finish to the top panels of the approved side facing window. It is noted that the east facing window is located at ground level and the boundary fence will mitigate direct viewing between adjacent buildings. Supplementary planting is also required to potentially enhance privacy to an even greater extent.

- 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 opaque panels provided to the top panels of the east facing window will retain the amenity of the subject dwelling without compromising on access to light and air.

- Objective 3) To encourage awareness of neighbourhood security.*

The proposed modification to maintains casual surveillance opportunities to the side passage of the site.

Part 4 - Development Controls

Site Area: 474.7 m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Residential Density – Area D#	1/300m ² of site area per dwelling	1/475m ² of site area per dwelling	1/475m ² of site area per dwelling- As approved	Yes
Wall height East and West side	7.0m	Existing and unchanged	Existing and unchanged	Yes
Number of Storeys	2	2	Existing and unchanged	Yes
Setback Front	6.0m or streetscape	1m to carport (as per condition)	1.0m	See comments below
East setback side	2.2m	900mm	1.26m	No
Setback Rear	8.0m	Existing and unchanged	Existing and unchanged	Yes
Open space - total	55%-261m ²	53.7%-254.8sqm	No change-As approved	Yes
Open space - soft	35%-89.18m ²	Existing unchanged	Existing unchanged	Yes
Private Open Space	18m ²	>18sqm	Existing unchanged	Yes
Car Parking – Residents	2 spaces	2 spaces	2 spaces	Yes
Fence height	1.5m and 30% transparency	1.8m	1.8m and 30% transparency	Yes

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Comment:**4.1.4 Setbacks (front, side and rear) and Building Separation:**

The approved window provides no change to the existing side setback of the dwelling. It is noted that the subject application complies with the requirements of providing a 1.0m setback from the front boundary and retains the existing setbacks from side boundary to the window. It is noted further that an assessment of the proposal in response to the objectives of this clause are undertaken as follows:

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.

The proposed modifications will provide an open style gate for the carport and which will enhance the appearance of the carport from the street thus providing a more desirable outcome for the street from the previously approved frontage.

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 proposed modification will continue to provide improved amenity to the adjoining properties by provision of opaque panels to the top half of the side facing window and with introduction of suitable landscaping. It is noted that the current fence provides adequate separation between dwellings at ground level and provides a reasonable level of privacy and is considered satisfactory in this regards.

Objective 3) To promote flexibility in the siting of buildings.

In this situation, it is considered reasonable to provide flexibility in the siting of the proposed works which include provision of improve amenity for the site. This flexibility allows a positive outcome in terms of usability whilst not having an unreasonable impact on amenity or minimal visual impact on the streetscape.

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.*

Given the approved works on site, the proposed modification works will provide improved landscaping buffer on site, thus providing a more desirable outcome.

Objective 5) To assist in appropriate bush fire asset protection zones.

Not applicable.

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		✓

Comment:

Foreshore Scenic Protection Area- The proposed works will not detract from the visual amenity of the area and will satisfy the intent of this clause.

79C(1)(a)(iiia) - 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

There is no planning agreement under section 93F in relation to this site.

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

The application has been considered in terms of the regulations

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

There is no applicable Coastal Zone Management Plan.

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

It is considered that the proposed modification works will not have any adverse environmental impacts on the natural and built environment or any adverse social or economic impacts in the locality.

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

The wider public interest is served by the continued maintenance of the site and its ability to provide an appropriate land use within this locality.

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 Council's Development Control Plan 2013 Section 2.3 with Three (3) submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission	Comments on submission
1 Confidential submission	<p>Object to the installation of a window above the new kitchen area as any window would impact on privacy of the bedroom window. Extractor fan placement, where is the proposed outlet.</p> <p>New carport with front roller door- object as per previous. The carport provides parking for two cars, feel it has the potential to become fully enclosed space.</p> <p>Safety- Driveway seems to be too close to the pavement on White Street.</p> <p>Green space and access storage-Object to reduced green space ratio due to erection of an office and garden shed</p> <p>New windows-alerted by affected neighbors that privacy issues caused by complete disregard of previous ruling of NBIAP.</p>	<p>The subject application includes no changes to kitchen area.</p> <p>The original approval included a carport capable of providing parking spaces for 2 cars, which remains unchanged in the subject application.</p> <p>The application has been reviewed by Council's Engineers and considered satisfactory.</p> <p>The application includes no change to the approved landscape open space areas.</p> <p>The issues relating to privacy from window are discussed earlier in the report.</p>
2.Colco Consulting on behalf of A and S Murdock-49A West, Street, Balgowlah	<p>Window has been setup within 900m setback and dimensions larger than approved and partly clear glass, contrary to ANS01.</p> <p>Object to modification of condition and concerned that opaque glass will be replaced with clear glass after issue of Occupation Certificate.</p>	<p>The approved window and dimensions are subject of this modification application and issues relating to privacy and amenity and discussed earlier in this report.</p>

3. Confidential submission	<p>Object to the larger window installed with clear glass. This will impact on privacy in garden and throughout the house.</p> <p>Garage- the roof is much bigger than the profile of original approval and garage provide carparking for two cars. Concern remain that cars backing onto a busy footpath and close to Privacy School will provide anything but "safe and secure environment".</p>	<p>The issue relating to privacy are discussed earlier in the report.</p> <p>The earlier approved carport included a flat roof with a slop of 0.5 degrees as compared to the modified hip shaped roof with 15 degree slope. It is noted that the current carport remain below the existing ridge heights, and complaint with the building height control and is more in keeping with the existing building and streetscape thus supported on merit.</p>
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79C(1) (e) - the public interest.

The proposed development as modified by the conditions of consent is not considered to have an adverse impact on 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 proposal does not increase the number of dwellings on site and therefore Section 94 contributions are not applicable.

Section 96(1A) of the Environmental Planning and Assessment Act 1979

(1) Modifications involving minor error, misdescription or miscalculation

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 a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5), (6) and (7) do not apply to such a modification.

(1A) Modifications involving minimal environmental impact

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 proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

(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.

(5) **Threatened species**

Development consent of the kind referred to in section 79B (3), or in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995, is not to be modified unless:

- (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
- (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).

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 Three (3) 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 and Section 96 of the Environmental Planning and Assessment Act 1979, the 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 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 203/2016 for approved alterations and additions to the existing dwelling – Part 2 at 49 White Street, Balgowlah be **Approved** subject to:

GENERAL CONDITIONS

The following Condition No. **ANS01** is to be deleted as per Section 96(1A) Application – Part 2:

ANS01
DELETED

ANS02

The height of the front fence is to remain unaltered from existing.

Reason: To preserve the streetscape.

The following Condition No. **DA1** is to be amended as per Section 96(1A) Application – Part 2

DA1

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. DA203/2016:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
A 101- Site Plan (Proposed)	Issue 2 dated 9/9/2016	12/9/2016
A 104- Elevations, East West	Issue 2 dated 9/9/2016	12/9/2016
A 105- Section 1-2	Issue 2 dated 9/9/2016	12/9/2016
A 107- Notification Plan	Issue 2 dated 9/9/2016	12/9/2016

Reference Documentation affixed with Council's stamp relating to Development Consent No. DA203/2016:

- Statement of Environmental Effects undated and received by Council on 29/7/2016.

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.

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 2:

Plan No. / Title	Issue/ Revision & Date	Prepared By
A 101- Site Plan	Rev 2 dated 27.06.2017	TT Architeck & Builder
A 102 - Floor Plan	Rev 2 dated 27.06.2017	TT Architeck & Builder
A 103 - Elevation North (Front)	Rev 1 dated 1.5.2017	TT Architeck & Builder
A 104 - Elevation- East West	Rev 2 dated 27.06.2017	TT Architeck & Builder
A 105 - Section 1-2	Rev 2 dated 27.06.2017	TT Architeck & Builder

Reference Documentation relating to relating to this Section 96(1A) Application – Part 2:

- Ausgrid Referral undated, Ausgrid Reference TRIM 2017/31/49

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.

GENERAL CONDITIONS RELATING TO APPROVAL

1 (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

The following Condition No.ANS03 is to be added as per Section 96(1A) Application – Part 2

ANS 03

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.ANS03 is to be added as per Section 96(1A) Application – Part 2

ANS 04

Suitable screen planting capable of reaching a mature height of 3.0m is to be provided along the side boundary adjacent to the east facing ground floor bay window.

Reason: To provide landscape buffer to ensure privacy for adjoining properties towards the eastern side.

2 (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.

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 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 applicant's 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 (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 (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.

7 (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.

8 (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.

9 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

10 (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.

11 (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.

12 (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.

13 (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.

14 (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.

15 (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 BUILDING WORK

16 (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.

17 (4BM01)

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

Reason: To enhance the visual quality of the development and the streetscape.

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 (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.

22 (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.

23 (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.

24 (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.

25 (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.

26 (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

27 (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.

28 (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 OR DEVELOPMENT

29 (6LP03)

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

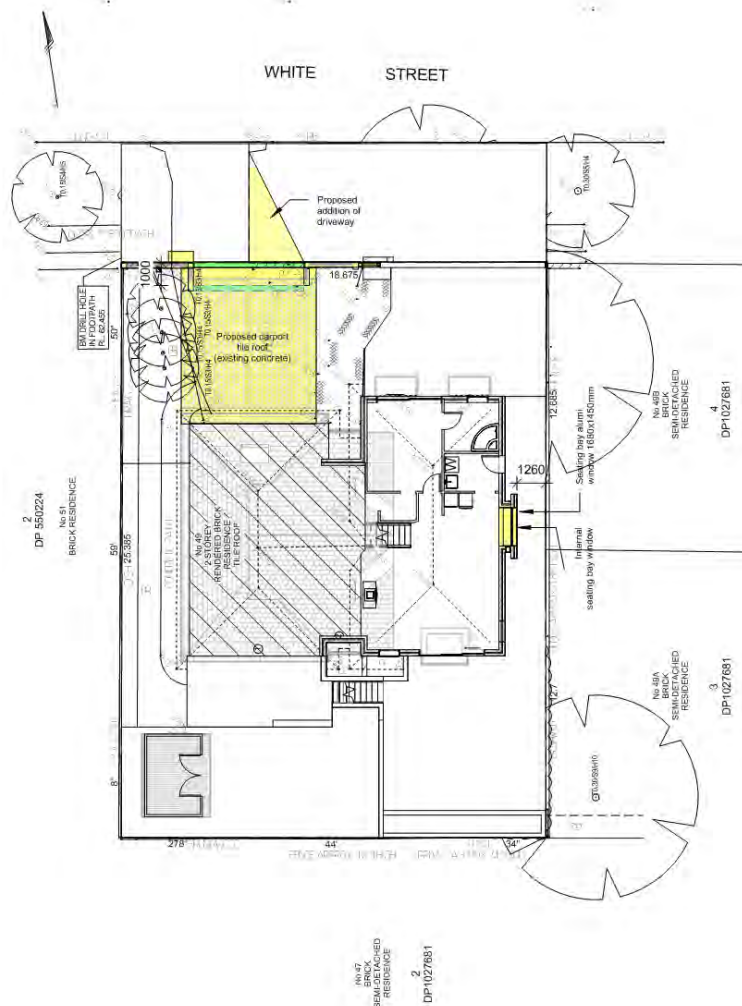
Reason: This is to ensure that landscaping is maintained appropriately.

30 (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.

Site Calculations	Area (m2)	%
Site area	474.7	100
Existing ground floor residence area	111.5	23.5
Existing first floor residence area	63.6	13.4
Existing garage area	35.7	7.5
Existing shed area	9.1	1.9
Approved kitchen area	35.7	7.5
Proposed carport area	40.2	8.5
Landscape/patio/hard surface area	254.8	53.7
FSR	0.44:1	



1 Site Plan (Proposed)
1 : 200

Site Plan (Proposed)

Owner: Elizabeth Fleur Brodie

Project address:
49 White Street, Balgowlah NSW 2093
Lot 5: DP 1027681

Project: Proposed Additions & Alterations

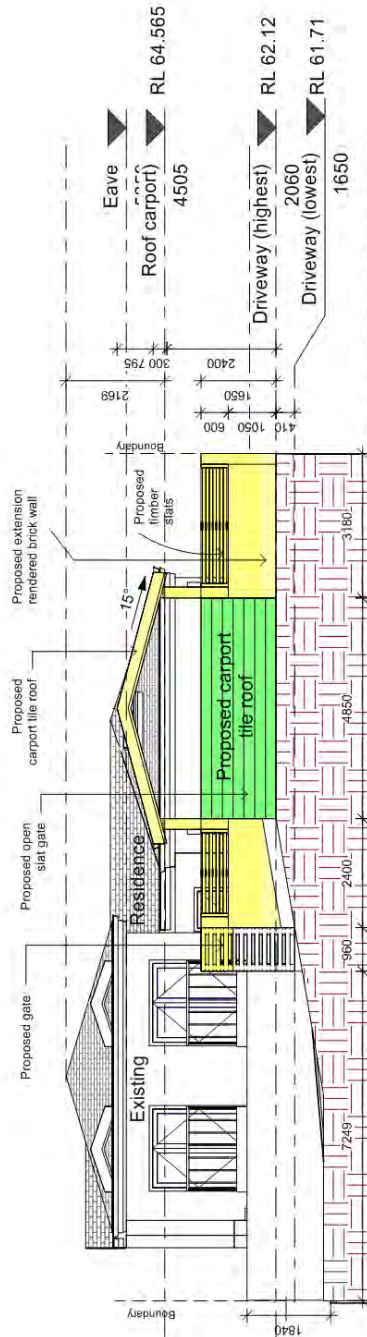
No.	Description	Date
1	Section 96 Modification Application	1.5.2017
2	Section 96: window & setback	27.6.2017

TT Architek & Builder
15 George Street,
Yagoona NSW 2199
mob: 0409 189 021;
email: thai@unsvalumni.com
web: www.ttarchitekbuilder.com



Project number
Manly: 316
Date
27.6.2017
Drawn by
T. Nguyen
Checked by
T. Nguyen
Scale
1 : 200

NOTE:
EXACT DIMENSIONS TO BE CHECKED ON SITE
PRIOR TO PURCHASING, ORDERING MATERIALS OR
CONSTRUCTIONS OF WORKS



North (Front)

1 : 100



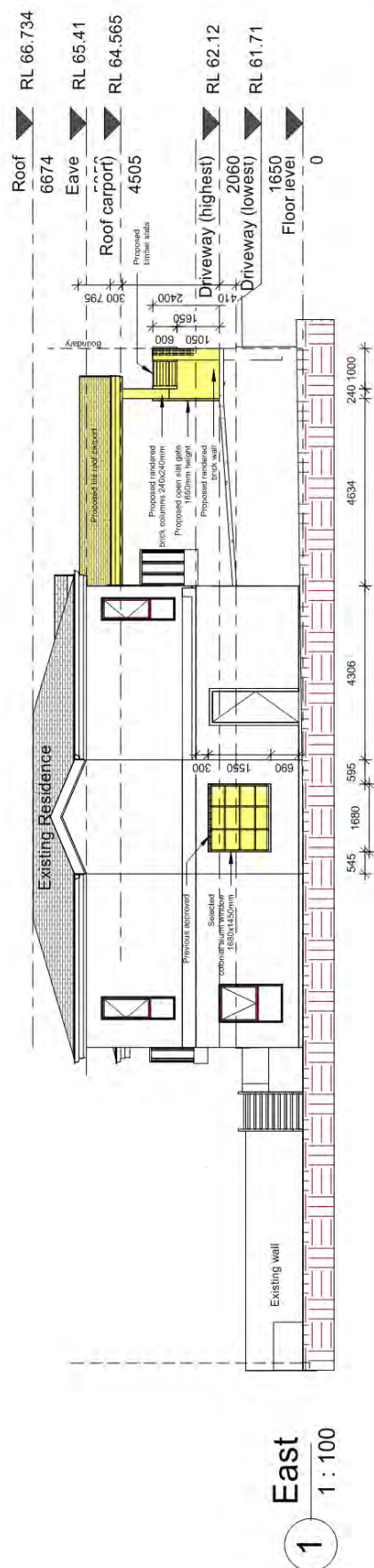
TT Architect & Builder
15 George Street,
Yagoona NSW 2199
mob: 0409 189 021;
email: thai@tunswalumni.com
web: www.ttarchitectbuilder.com

No. 1
Description Section 96 Modification Application
Date 1.5.2017

Owner: Elizabeth Fleur Brodie
Project address:
49 White Street, Balgowlah NSW 2093
Lot 5; DP: 1027681
Project: Proposed Additions & Alterations

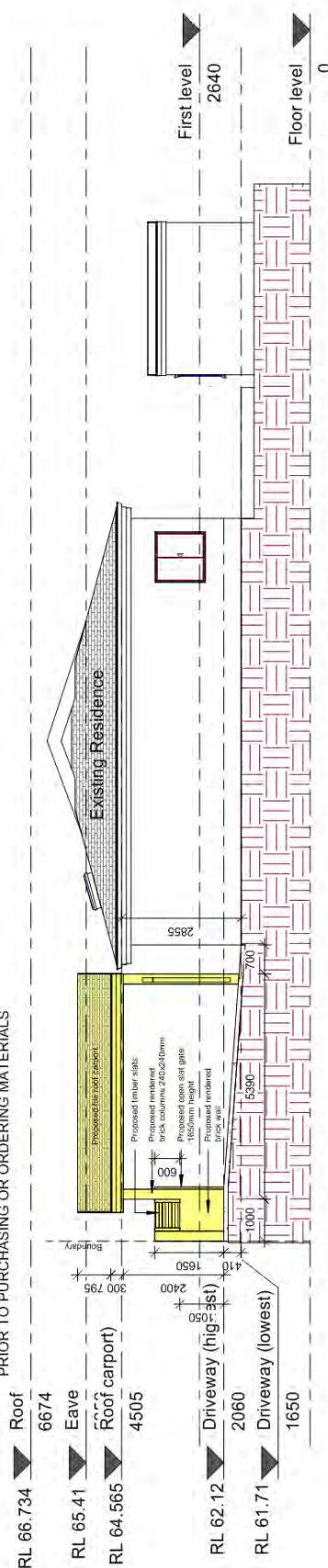
Elevations. North (Front)


Project number	Manly: 316
Date	1.5.2017
Drawn by	T. Nguyen
Checked by	T. Nguyen
Scale	1 : 100



West
2
1 : 100

NOTE: EXACT DIMENSIONS TO BE CHECKED ON SITE PRIOR TO PURCHASING OR ORDERING MATERIALS



 TT Architect & Builder 15 george street, yagoona nsw 2199 mob: 0409 189 021; email: tai@unsvalumni.com web: www.ttarchitekbuilder.com	No.	Description	Date
	1	Section 96 Modification Application	1.5.2017
	2	Section 96: window & setback	27.6.2017
Owner: Elizabeth Fleur Brodie			
Project address: 49 White Street, Balgowlah NSW 2093 Lot 5; DP: 1027681			
Project: Proposed Additions & Alterations			
Elevation. East West			
Project number		Manly, 316	
Date		27.6.2017	
Drawn by		T. Nguyen	
Checked by		T. Nguyen	
		Scale	
		1 : 100	

ITEM 3.2

**1 FAIRLIGHT CRESCENT, FAIRLIGHT – SECTION 96(2)
APPLICATION TO MODIFY APPROVED ALTERATIONS AND
ADDITIONS AND ADDITION TO EXISTING DUAL OCCUPANCY
(ATTACHED) INCLUDING A NEW THIRD LEVEL ADDITION WITH
TERRACE, SECOND LEVEL EXTENSION, A NEW ENCLOSED
STAIRWELL**

REPORTING MANAGER**Rod Piggott****TRIM FILE REF****2017/328193****ATTACHMENTS****1 [↓](#) Assessment 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 pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 129/2016 for approved alterations and addition to existing dual occupancy (attached) – Part 2 on the land at Lot A in DP 342163, 1 Fairlight Crescent, Fairlight be Approved for the reasons outlined in the report.

NORTHERN BEACHES COUNCIL

northernbeaches.nsw.gov.au

Northern Beaches Independent Assessment Panel Report

2017/244568

DA No.	129/2016
Site Address	1 Fairlight Crescent, Fairlight; Lot A DP 342163
Proposal	Section 96(2) application to modify approved alterations and addition to existing dual occupancy (attached) – Part 2
Officer	Claire Downie

SUMMARY:

Application Lodged:

23 May 2017

Applicant:

Silvana Vescio

Owner:

Silvana Vescio

Estimated Cost:

\$264,000

Zoning:

MLEP, 2013 – R1 General Residential

Heritage:

Not applicable

NSW LEC:

Not applicable

Notification:

25 May – 12 June 2017 and 25 July – 10 August 2017 (due to error in original notification period)

Submissions received:

Three

Site Inspected:

21 July 2017

LEP (4.6) Variations proposed:

Height of Building

DCP Variations proposed:

Nil

Recommendation:

Approval

Subject Property and surrounding area



The subject property is commonly known as 1 Fairlight Crescent, Fairlight and legally known as Lot A in DP 342163. The site is located on the eastern side of Fairlight Crescent. The property is irregular in shape, has a frontage of 36.525m to Fairlight Crescent and an overall site area of 496.1m². The property currently contains a two-storey dual occupancy (with a third storey under construction) with vehicular access via an existing driveway from Fairlight Crescent to an existing hardstand area to the side of the existing dual occupancy. The property slopes approximately 3.5m from north to south.

The adjacent property to the east, at 21 Lauderdale Avenue, is developed with a two-storey residential flat building. The adjacent property to the south, at 3 Fairlight Crescent, is developed with a two-storey residential flat building. Development in this area consists of multi-storey residential flat buildings and a mix of one- and two-storey detached dwellings.

Property Burdens and Constraints

A sewer line bisects the property in the rear southern corner and the north eastern corner. The location of these sewer lines are not considered to be impacted by the proposed development. As such, there are no burdens or constraints that may preclude the proposed development.

Site History/Background

Recent relevant applications include:

DA95/2014: Alterations and additions to an existing Residential Flat Building including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2. Approved by DAU on 27 August 2014.

DA95/2014 – Part 2: Section 96 to modify approved Alterations and additions to an existing Dual Occupancy including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2 – involving alterations to approved terraces, balustrades and barbeque area, and conversion of family room to a bedroom with additions of non-habitable rooms at Unit 1. Approved by DAU on 26 November 2014.

DA142/2014: Alterations and additions to an existing dual occupancy including a front fence. Approved by DAU on 14 January 2015.

DA49/2015: Alterations and additions to an existing dual occupancy including additions to the first floor with roof over the existing terraces, new lift, internal alterations, changes to windows and doors. Approved by DAU on 29 July 2015.

DA272/2016: Two (2) lot Strata subdivision of an existing Dual Occupancy. Approved under delegation on 12 December 2016.

DA129/2016: Alteration and addition to existing dual occupancy (attached) including a new third level addition with front and rear terraces, second level extension, a new enclosed stairwell and lift, changes to windows and doors, internal alterations, demolition of existing carport, construction of a double garage with four car stacker and removal of trees. Approved by MIAP on 15 December 2016.

Description of proposed development

The proposal seeks consent for the modification of Development Consent No. 129/2016 for a second floor addition, which includes extending the approved second floor to the north, to more closely match the footprint of the first floor.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal, subject to the imposition of original 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 original 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 Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 25 (relating to foreshore and waterways scenic quality) and Clause 26 (relating to maintenance, protection and enhancement of views) 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.

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 modification to the approved development retains the existing residential use of the site.

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

The proposed modification to the approved development retains the existing variety of housing and density 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 modification to the approved 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	Approved	Proposed	Complies	Comments
4.3	Height of buildings	8.5m	9.8	8.7m to new works	No	See comment below.
4.4	Floor Space Ratio	0.6:1 297.66m ²	0.51:1 254m ²	0.56:1 279m ²	Yes	-

4.6 Exceptions to development standards

Height of Building

The following assessment of the variation to Clause 4.3 – Height of buildings development standard and is assessed taking into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement	8.5m
Proposed	8.7m
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	2.4%

The proposal must satisfy the objectives of Clause 4.3 – Height of buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the MELP 2013 are:

(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,*

Comment: The proposed second floor addition demonstrates a built form and roof consistent with the topographic landscape, prevailing building height and desired streetscape of the area. The proposed addition is set at a lower height than the approved overall building height.

- (b) *to control the bulk and scale of buildings,*

Comment: The proposed modification to the approved development does not result in a non-compliance with the floor space ratio development standard within the Manly LEP 2013, which controls bulk and scale.

- (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),*

Comment: The proposed modification adequately retains view to, from and between public spaces and residential development, as 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,*

Comment: The proposed modification provides adequate solar access, as 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.*

Comment: Not applicable. The subject site is zoned R1 General Residential.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R1 General Residential zone.

The underlying objectives of Zone R1 General Residential:

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

The proposed modification to the approved development retains the existing residential use of the site.

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

The proposed modification to the approved development retains the existing variety of housing and density 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 modification to the approved development retains the existing residential use of the site.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development.*

Comment: The proposed modification provides for an appropriate level of flexibility in applying the height of buildings development standard.

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment: The proposed modification provides a better outcome by allowing additional living space without breaching the floor space ratio development standard.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: Whilst the modification application will result in a building height that exceed the maximum permitted by Clause 4.3 of the MLEP 2013 respectively, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 96 of the Environmental Planning and Assessment (EP&A) Act 1979, which is a free-standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 96 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant s.79C matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application. Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 96 modification applications.

- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment: As above, a written request is not required in this case.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment: For reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

- (b) *the concurrence of the Director-General has been obtained*

Comment: Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of Buildings Development Standard is assumed.

Part 5 Miscellaneous Provisions

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

Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comments
6.4	Stormwater Management	Yes	Yes	The proposed modification to the approved development is consistent with the objectives and provisions of Clause 6.4 of the Manly LEP 2013.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposed modification to the approved development is consistent with the objectives and provisions of Clause 6.9 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 controls	Inconsistent with controls
Streetscape	✓	
Heritage – In Vicinity	NA	
Landscaping Design	NA	
Landscape/Tree Preservation	NA	
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 carparking on the street frontage.

The proposed modification makes no changed to the existing and approved fence and car parking.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

The proposed modification, while adding floor area, does not increase the overall height of the approved development and does not result in a non-compliant floor space ratio, so retains

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

No changes are proposed to the existing front fence as part of this application.

3.4.1 Sunlight Access and Overshadowing

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

The proposed modification does not result in any additional overshadowing to adjacent properties and only a minor increase to overshadowing to the first floor roof of the subject site in the afternoon. Therefore, the modification allows for 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 modification to the approved development does not impact upon private open spaces or windows to living spaces or habitable rooms on the subject site or adjacent sites.

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 modification to the approved development does not impact upon sunlight penetration to windows, living rooms or principal outdoor areas on the subject site or adjacent sites.

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 second floor addition is appropriately designed for privacy in that proposed windows to the addition are orientated towards the street, rather than adjacent 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 modification 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 second floor addition includes windows to the street frontage and retains the existing first floor terrace, which faces the street, so encourages 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.

As demonstrated by the view loss analysis submitted with the application, the proposed modifications to the approved development allow for view sharing for existing and proposed development and for existing and future residents.

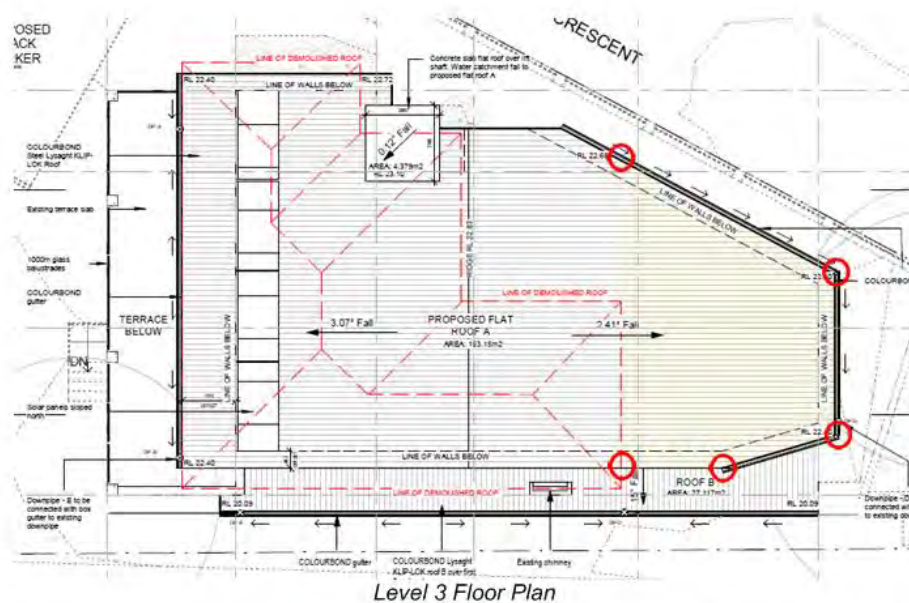
Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

As demonstrated by the view loss analysis submitted with the application, the proposed modifications to the approved development do not significantly or unreasonably result in disruption of views to and from public spaces and private property.

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.

As demonstrated by the view loss analysis submitted with the application, the proposed modifications to the approved development do not result in significant or unreasonable view creep.

Given the original application received a number of objections in relation to view loss, the Assessing Officer requested the applicant construct height poles to ascertain the full extent of view loss that would occur as a result of the proposed modifications. The height poles were constructed in the following locations. It should be noted that this modification application received only one submission that made reference to view loss on behalf of other residents. The previous assessment demonstrated that the development would not result in view loss for this objecting party.



Level 3 Floor Plan



Proposed Eastern Elevation



Constructed Height Poles

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 relevant views include small water views, including the interface between the water and headlands, interrupted by existing buildings, vegetation and power lines/poles. View contains a sight of iconic North Head.

"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."

Views are obtained from living rooms and balconies of properties to the north, along Lauderdale Avenue, from both standing and seated positions. The views are available across the front boundary.

"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 proposed modification to the approved development will result little to no discernable additional loss of view for the properties to the north. This is adequately demonstrated by the view loss analysis submitted as part of this application (see below). This view loss analysis was conducted for the property most affected by the original application. Further, only one submission received made reference to view loss on behalf of other residents.



Excerpt from submitted view loss photomontage

"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 proposed development is non-compliant in relation to the maximum height of building. This non-compliance is considered acceptable for the reasons detailed in the section of this report relating to Part 4 of the Manly LEP 2013 – Principal Development Standards. However, the proposed second floor addition demonstrates a built form and roof consistent with the topographic landscape, prevailing building height and desired streetscape of the area. Further, the proposed addition is set at a lower height than the approved overall building height. Finally, as demonstrated by the view loss analysis submitted with the application, the proposed modifications will result little to no discernable additional loss of view for the properties to the north. As such, to require amendments to the design in order to retain existing views is considered unreasonable and not in line with view-sharing principles.

Part 4 - Development Controls

Site Area:	496.1m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Wall height	North side	7.1m	8.3m	8m	Yes – Consistent with approval
Number of Storeys		2	3	3	Yes – Consistent with approval

Site Area:	496.1m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Roof height		2.5m	0.8m	0.8m	Yes – Existing and unchanged
Setback Front		6.0m or streetscape	No change to existing (1.8m)	No change to existing (1.8m)	Yes – Existing
North setback side		2.76m	3.9m	3.8m	Yes
Open space - total		Min. 55% of total site area (272.8m ²)	85% (422m ²)	80% (397m ²)	Yes
Open space - above ground		Max. 40% of total open space (158.4m ²)	31.37% (132.4m ²)	27% (107.4m ²)	Yes
Private Open Space		18m ² per dwelling	181.28m ²	Unit 1: 78m ² Unit 2: 106.4m ²	Yes

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		✓

Comment:

Foreshore Scenic Protection Area

The proposed modification to the approved development is not considered to unreasonably detract from the scenic amenity of the Foreshore Scenic Protection Area.

Development Control Plan for Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Harbour Foreshores & Waterways Areas:

The proposed modification to the approved development is consistent with the relevant controls of Clauses 5.3 and 5.4 of the Sydney Harbour Foreshores & Waterways Areas Development Control Plan for Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

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 modification 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 applicable Coastal Zone Management Plan.

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 modification to the approved development does not 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 modification to the approved development 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 Council's Development Control Plan 2013 Section 2.2 with three submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission
1. Confidential	<ul style="list-style-type: none"> The built area must not exceed the DCP requirement. The increase in height will impact upon neighbours' sunlight and views. The modifications will result in a reduction in property values. Objection to removal of trees.
2. S. Cullen, 5/3 Fairlight Crescent	<ul style="list-style-type: none"> Objection to removal of trees.
3. E. & J. Campbell 1/32 Lauderdale Avenue, Fairlight	<ul style="list-style-type: none"> The current construction works do not appear to comply with the consent in relation to building materials.

Comments

Bulk / Floor Space Ratio ('Built Area')

The proposed modification to the approved development does not result in a non-compliance with the floor space ratio development standard within the Manly LEP 2013, which controls bulk and scale.

Amenity – Sunlight Access and Overshadowing / Maintenance of Views

As demonstrated by the submitted shadow diagrams, the proposed modification to the approved development does not result in any additional overshadowing to adjacent properties. Additional overshadowing falls to the street and to the first floor roof on the subject site. The proposed modification will result in little to no discernible additional view loss, beyond that of the approved development. The overshadowing and view loss impacts of the proposed modification to the approved development are acceptable, as detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development.

Property Value

Property value is not a planning matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and is therefore beyond the scope of this assessment.

Removal of Trees

One tree along the south-eastern boundary of the subject site (adjoining No. 3) was proposed to be removed under the original application. Council's Landscape Officer reviewed the original application and raised no objections to the proposal. Council subsequently approved application on 15 December 2016, including the removal of the tree. No additional trees are proposed to be removed as part of this current modification application. The proposed modification works are limited to the extension of the second floor level towards Lauderdale Avenue

Construction Materials / Compliance with Consent

Compliance with consent documentation is not a planning matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and is therefore beyond the scope

of this assessment. However, this matter has been referred to Council's Compliance team for investigation.

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

The proposed modification to the approved development is consistent with the objectives of the R1 General Residential zone and are therefore 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 dedication of land free of cost and the payment of a monetary contribution are not required.

Section 96(2) 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 modification to the original consent, will result in substantially the same development for which consent was originally granted. The modification requested was notified in accordance with Council's Manly DCP with three submissions received. All matters relating to the proposed modification in terms of impact on have been considered. On balance, the proposed modification is considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C and Section 96 of the Environmental Planning and Assessment Act 1979, the 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. 129/2016 for approved alterations and addition to existing dual occupancy (attached) – Part 2 at 1 Fairlight Crescent, Fairlight be **Approved** subject to:

ANS01

DELETED

ANS02

DELETED

ANS03

A detailed Construction Traffic Management Plan (CTMP) for the proposed development is to be prepared and submitted to the satisfaction of Certifying Authority, prior to the issue of the Construction Certificate. The CTMP will address the overall management of the site and parking arrangements for all construction and trade vehicles. All construction and trade vehicles, and goods/deliveries are to be parked/stored within the site where practicable and are not to obstruct vehicular or pedestrian access along Fairlight Crescent.

Reason: To ensure equitable vehicular and pedestrian access and safety along Fairlight Crescent during the construction period.

The following Condition No. ANS04 is to be added as per Section 96(2) Application – Part 2:

ANS04

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. ANS05 (3MS01) is to be added as per Section 96(2) Application – Part 2:

ANS05 (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.

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(2) Application – Part 2:

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. 129/2016:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
D01/Site Plan	12 May 2016	27 May 2016
D02/Locality and Site Analysis	12 May 2016	27 May 2016
D10/Ground Floor Plan	12 May 2016	27 May 2016
D11/First Floor Plan	12 May 2016	27 May 2016
D12/Second Floor Level	Rev. A 16 November 2016	17 November 2016
D13/Roof Plan	Rev. A 16 November 2016	17 November 2016
D20/North & South Elevations	Rev. A 16 November 2016	17 November 2016
D21/West & East Elevations	Rev. A 16 November 2016	17 November 2016
D30/Sections	Rev. A 16 November 2016	17 November 2016
D50/Stacker Parker Details	March 2016	27 May 2016
D61/Landscape Area and Open Space Calculation	12 May 2016	27 May 2016
D62/Landscape Area and Open Space Calculation	12 May 2016	27 May 2016
D63/Landscape Area and Open Space Calculation	12 May 2016	27 May 2016
Landscape Plan: Proposed Additional Planting for Development Application	9 March 2016	27 May 2016

Reference Documentation affixed with Council's stamp relating to Development Consent No. 129/2016:

- Statement of Environmental Effects prepared by JV Urban dated 2016 and received by Council 27 May 2016
- BASIX Certificate No. A227797_02 dated 25 January 2016 and received by Council 27 May 2016
- Pre-Development and Impact Tree Assessment prepared by Margot Blues Consulting Arborist dated 28 June 2016 and received by Council 27 May 2016

Except as amended by:

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

Plan No. / Title	Issue/ Revision & Date	Prepared By
D01 Site Plan	Rev. C 4 April 2017	Woodhouse & Danks
D10 Ground Floor Plan	Rev. A 4 April 2017	Woodhouse & Danks
D11 First Floor Plan	Rev. A 4 April 2017	Woodhouse & Danks
D12 Second Floor Level	Rev. C 4 April 2017	Woodhouse & Danks
D13 Roof Plan	Rev. C 4 April 2017	Woodhouse & Danks
D20 North & South Elevations	Rev. C 4 April 2017	Woodhouse & Danks
D21 West & East Elevations	Rev. C 4 April 2017	Woodhouse & Danks
D30 Sections	Rev. C 4 April 2017	Woodhouse & Danks

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.

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)

GENERAL CONDITIONS RELATING TO APPROVAL

1 (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

2 (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.

3 (2BM02)

Roofing materials are to be factory pre-finished with a low glare surface and maximum reflectivity of 20% and be compatible with the colours of neighbouring buildings' roof colours. Colours listed as 'Very Light' in the BCA solar absorbance scale of colours in metal roofing cause glare issues therefore colours should be selected from 'Light' onwards. The applicant is to provide evidence with the Construction Certificate that the selected roofing material will not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties.

Reason: To ensure roofing material does not cause excessive glare or reflectivity nuisance to adjoining properties and those overlooking the site.

4 (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.

5 (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.

6 (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.

7 (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.

8 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

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.

9 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

10 (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.

11 (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.

12 (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.

13 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

14 (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.

15 (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.

16 (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.

17 (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.

18 (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.

19 (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.

20 (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 BUILDING WORK

21 (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.

22 (4BM01)

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

Reason: To enhance the visual quality of the development and the streetscape.

23 (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.

24 (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.

25 (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.

26 (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.

27 (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.

28 (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.

29 (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.

30 (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.

31 (4MS08)

At no time during the building works can any encroachment, temporary or permanent be made onto another property without prior written agreement being entered into with all persons to whom these encroachments affect and any persons whose land is subject to the encroachment.

Reason: To ensure adequate protection of property.

32 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

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 which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

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

33 (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.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

34 (6LP03)

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

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

35 (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.

36 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

BASIX NOTES

Glazing Requirements

Windows 25, 26, 27, 28, 29, 20, 21, 22, & Doors 21, 22 must have a projection/height above sill ratio ≥ 0.43 - specification - standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Windows W10 - must have a projection/height above sill ratio $>=0.29$ - specification - standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Windows 11, 12 – External louvre/bind (fixed) – specification – standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Windows 23, 24 - must have a projection/height above sill ratio >0.36 - specification - standard aluminium, single polyrylic low-e r, (or U-value: 5.7, SHGC: 0.47)

Lighting

The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps

Fixtures

The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating

The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.

The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

BASIX NOTES

Construction (insulation)

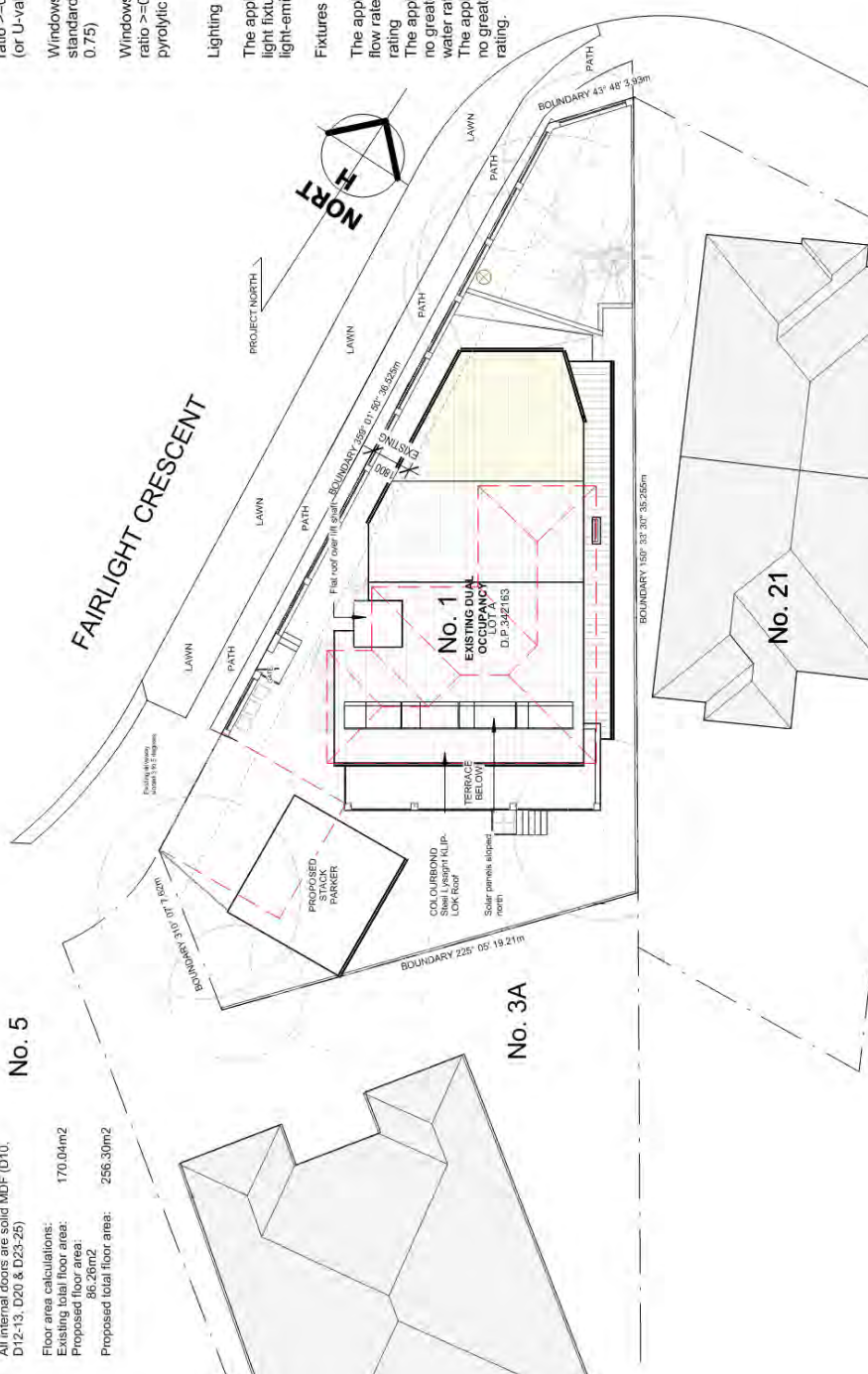
Construction Type
 floor above existing dwelling or building.
 external wall: cavity brick
 flat ceiling, pitched roof

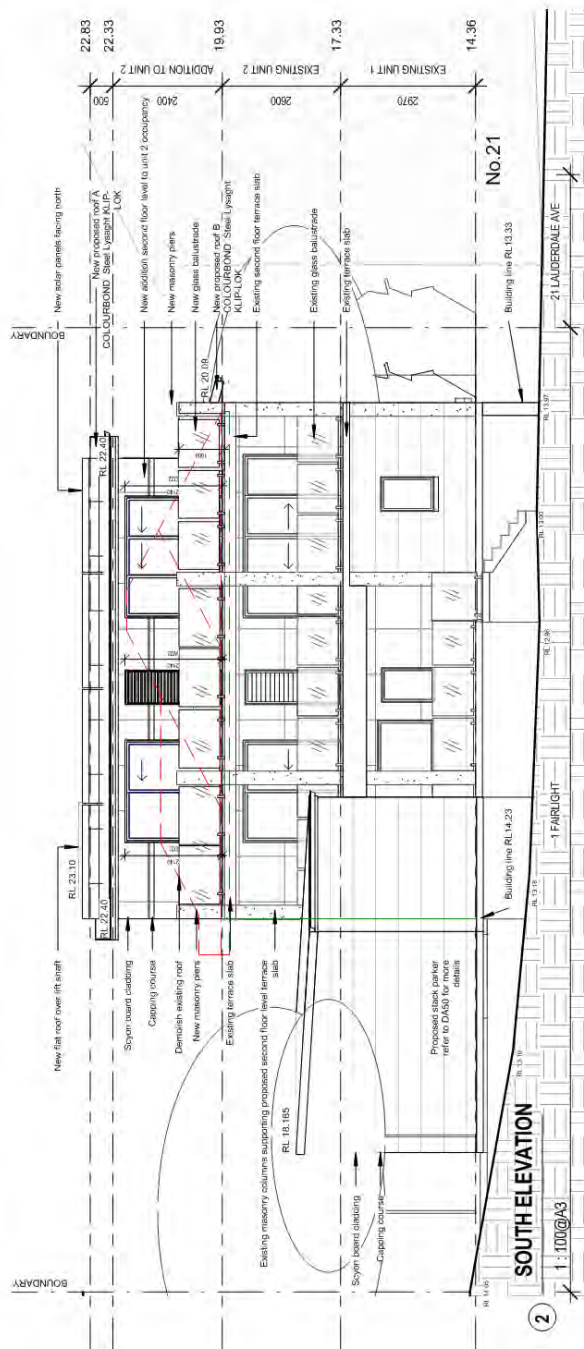
NOTE:

NOTE:
-New works shown in yellow hatching
-All new external walls are brick cavity
-All new windows are single glazed with
aluminium framing (W11, W12, W20-24 &
W26-290
-W10, W20 & W25 obscured glass
-W22 Louvers window

All external doors are single glazed with aluminium framing (D11, D21 & D22)

Floor area calculations:
Existing total floor area: 170.04m²
Proposed floor area: 86.26m²
Proposed total floor area: 256.30m²

[illegible]



NOTE: New window models shown in yellow highlighting

- W10 External walls are yellow bricking
- W11 All new external walls are brick cavity
- W12 All new windows are single glazed with aluminium framing
- W13, W14, W20-24 and W26-290 All internal doors are solid MDF (D10, D12-13, D20 and D23-25)
- W10, W20 & W25 obscured glass
- W22 Louvers window
- W23 All external doors are single glazed with aluminium framing (D11, D21 & D22)
- W24 All internal doors are solid MDF (D10, D12-13, D20 & D23-25)

UNIT 2 ALTERATIONS & ADDITIONS

1 FAIRLIGHT CRESCENT, FAIRLIGHT

WOODHOUSE & DANKS
ARCHITECTS
 2001
 Suite 207 - Level 2, 20 Oak Street, Brookvale, NSW 1510
 T: (02) 939 8100 F: (02) 939 8080
 E: info@woodhouseanddanks.com.au
www.woodhouseanddanks.com.au

DATE: 15/03/2016

SCALE: 1/100@A3

PROJECT: 15005

DATE: 15/03/2016

NORTH & SOUTH ELEVATIONS

VIEW	DESCRIPTION	DATE	BY	CHECK
C	15/04/17			
B	22/01/17			
A	15/11/16			
1	15/03/16			

VIEW	DATE	BY	CHECK
1	15/03/16		

GENERAL NOTES

1. CONTRACTORS MUST VERIFY ALL DIMENSIONS ON SITE PRIOR TO THE COMMENCEMENT OF WORK.

2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

3. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

4. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

5. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

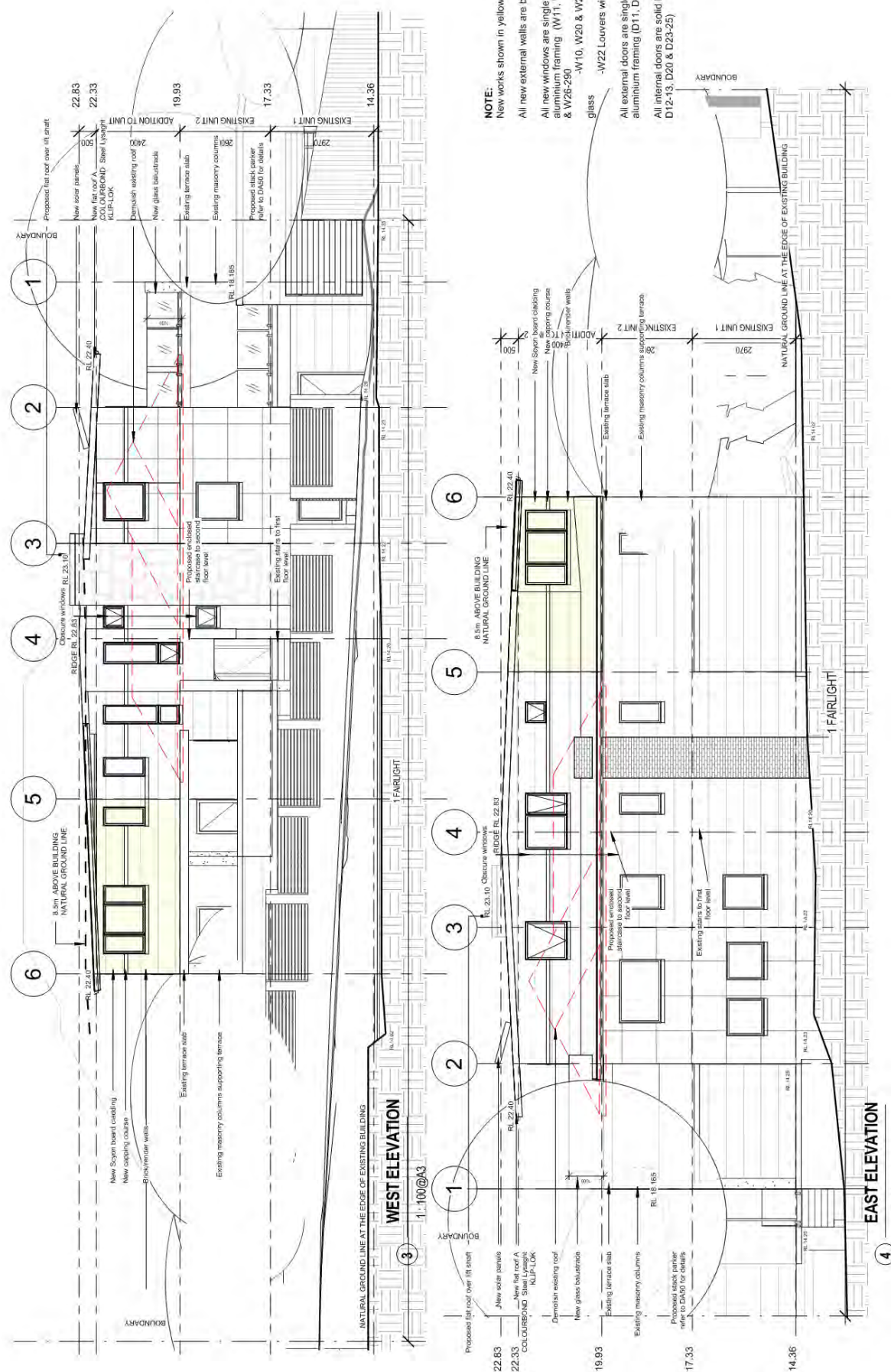
6. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

7. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

8. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

9. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.

10. ALL DIMENSIONS ARE TO BE GIVEN IN REFERENCE TO SCALED DIMENSIONS.





1 : 100 @A3

GENERAL NOTES

1. CONTRACTORS MUST VERIFY ALL DIMENSIONS ON SITE PRIOR TO THE COMMENCEMENT OF WORK.

2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

3. FILLER DIMENSIONS TO BE USED IN REFERENCE TO SCALED DIMENSIONS.

4. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

5. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

6. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

7. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

8. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

9. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

10. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.

UNIT 2 ALTERATIONS & ADDITIONS

1 FAIRLIGHT CRESCENT, FAIRLIGHT

WEST & EAST ELEVATIONS

DATE: 15/03/2016

TIME: 10:00 AM

BY: J. DANKS

FOR: WOODHOUSE & DANKS LTD

PROJECT: FAIRLIGHT CRESCENT

ADDRESS: 20 Oak Street, Brookvale, NSW 1510

PHONE: (02) 9393 8100, (02) 9393 8000

FAX: (02) 9393 8101

EMAIL: info@woodhouseanddanks.com.au

WEBSITE: www.woodhouseanddanks.com.au

SCALE: 1 : 100 @A3

DATE: 15/03/2016

TIME: 10:00 AM

BY: J. DANKS

FOR: WOODHOUSE & DANKS LTD

PROJECT: FAIRLIGHT CRESCENT

ADDRESS: 20 Oak Street, Brookvale, NSW 1510

PHONE: (02) 9393 8100, (02) 9393 8000

FAX: (02) 9393 8101

EMAIL: info@woodhouseanddanks.com.au

WEBSITE: www.woodhouseanddanks.com.au

ITEM 3.3**28 CAREW STREET, DEE WHY – ALTERATIONS AND
ADDITIONS TO A DWELLING HOUSE AND CONSTRUCTION OF
A SECONDARY DWELLING****REPORTING MANAGER**

Steve Findlay

TRIM FILE REF

2017/328727

ATTACHMENTS

- 1 [↓](#) Assessment Report
- 2 [↓](#) Draft Conditions
- 3 [↓](#) Site and Elevation Plans

PURPOSE

To refer the attached application for determination which has been forwarded by General Manager, Planning, Place & Community

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

THAT the Development Consent to DA2017/0630 for Alterations and Additions to an Existing Dwelling House and the Construction of an Attached Two Storey Secondary Dwelling on the land at Lot 98 in DP 8139, 28 Carew Street, Dee Why, be Approved for the reasons outlined in the report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0630
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Responsible Officer	Sarah McNeilly (Consultant Planner)
Land to be developed (address)	Lot 28 in DP8139 No. 28 Carew Street, Dee Why
Proposed Development	Alterations and Additions to an Existing Dwelling House and the Construction of an Attached Two Storey Secondary Dwelling
Zoning:	R2 Low Density Residential (WLEP2011)
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Patricia Anne Newton Paul Vincent Newton
Applicant:	Patricia Anne Newton Paul Vincent Newton

Application lodged:	27 June 2017
Application Type:	Local
State Reporting category:	Residential – Alterations and Additions
Notified:	29/06/2017 to 17/07/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	1
Recommendation:	Approval

Estimated Cost of Works:	\$320,640
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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 (up to 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 Development Control Plan – B7 Front Boundary Setbacks (secondary)
Warringah Development Control Plan – D7 Views

SITE DESCRIPTION

Property Description:	Lot 98 in DP8139 No. 28 Carew Street, Dee Why
Detailed Site Description:	<p>The subject site is located is located at the north western corner of the intersection of Carew Street and Quirk Road in Dee Why. The site is irregularly shaped with a splayed frontage to Quirk Street of 29.050m plus 20.585m and the primary frontage of 14.09m facing Carew Street. The unusually shaped lot is constrained in its potential narrowing to the west of the lot with a western boundary of only 6.25m. The lot has an area of 587.5m².</p> <p>The site is zoned R2 Low Density Residential and is currently developed with a one-two storey dwelling constructed with brick, fibrous cement and a tiled roof. A single garage is provided on the ground floor with access from Quirk Road. The rear yard of the dwelling is located on the western side of the site, also fronting Quirk Road. It is made up of a clothes line and informal level garden space.</p> <p>The Carew Street frontage of the lot has a large rock outcrop. The existing dwelling is sited above this natural feature. The survey details further rock under the dwelling. Another small outcrop is located on the south western boundary of the property on Quirk Street.</p>



SITE HISTORY

Development Application DA2015/0967

A Development Application for alterations and additions to an existing dwelling and associated 2 storey secondary dwelling was lodged with Council on 9 October 2015. The proposal was similar to the current proposal, with the key exception that the secondary dwelling was detached and located in closer proximity to the western boundary of the site. Council wrote to and met with the applicant to discuss the application. Amended plans were received which were not adequate to address the issues facing the proposal. The application was refused on for reasons including:

1. *Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.*
2. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.*
3. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B7 Front Boundary Setbacks of the Warringah Development Control Plan.*
4. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan.*

5. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D7 Views of the Warringah Development Control Plan*
6. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan.*

Development Application DA2017/0028

A Development Application for alterations and additions and the construction of an attached secondary dwelling and workshop/storeroom was lodged with Council on 13 January 2017. The proposal was again similar to the current proposal, with the key exception that the secondary dwelling included a storeroom/garage and the height of the original dwelling was greater. The application was refused on for reasons including:

1. *Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.*
2. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Division 2 of State Environmental Planning Policy (Affordable Rental Housing) 2008 and the proposed use is prohibited.*
3. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.*
4. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is a prohibited use in the R2 – Low Density residential zone under the provisions of the Warringah Local Environmental Plan 2011.*
5. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B7 Front Boundary Setbacks of the Warringah Development Control Plan.*
6. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C3 parking facilities.*
7. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D7 Views of the Warringah Development Control Plan.*
8. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan.*

PROPOSED DEVELOPMENT IN DETAIL

The Development Application seeks consent for alterations and additions to the existing dwelling including a second garage and an attached two storey secondary dwelling. The development proposes cladding board finishes with a colorbond roof.

The details of the proposal include:

Alterations and additions to the existing dwelling

Foundation level

- New brick foundation walls are proposed to support the upper levels
- Internal access stairs from the garage to ground floor proposed
- Install second attached garage with pedestrian door to existing garage 1.
- Alterations to existing laundry and WC including new doors
- The RLs vary greatly at this level due to the rock outcrop over which the dwelling is built. This is detailed on the accompanying survey.

Ground level

- New kitchen/dining rooms on the eastern side of the dwelling
- New wrap around covered balcony on the eastern and southern side of the dwelling
- Internal and external alterations and fit out to create 3 bedrooms, living area, bathroom and entrance area.
- Bedroom 4 is proposed to be extended to fill out the northern wall of the dwelling.

First Floor

- A new floor is proposed including a master bedroom, ensuite, walk in robe
- A balcony on the eastern elevation

Secondary dwelling

Ground Floor

- Entry/ hallway and stairs
- Laundry
- Bedroom 2
- Workshop/ store (garage)
- Covered patio facing Quirk Street
- Rainwater tank (3500l)

First Floor

- Bedroom 1
- Kitchen
- Living room
- Balcony on southern elevation

Driveway access will be provided for the garages, one existing and one proposed, both of which are allocated to the principal dwelling. A landscaped rear yard will be maintained with a lilly pilly hedge which we note can grow to a maximum height of 2-3 metres, bounding this area for part of the length of the northern boundary, the western boundary and a small area of the southern boundary.

No works are proposed which will impact the existing rock outcrops on the eastern frontage of the site or adjacent the south western corner of the site.

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	Not 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 regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. Should the Development Application be approved, these matters will be addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. 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. Should the Development Application be approved, this matter will be addressed via a condition of</p>

Section 79C 'Matters for Consideration'	Comments
	<p>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 consent authority to consider insurance requirements under the Home Building Act 1989. Should the Development Application be approved, this matter will be 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). Should the Development Application be approved, this matter will be addressed via a condition of consent.</p>
<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>	<p>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>The proposed development will not have a detrimental impact on the built environment.</p> <p>The proposed development will not have a detrimental social impact on the locality.</p> <p>The proposed development will not have a detrimental economic impact on the locality.</p>
<p>Section 79C (1) (c) – the suitability of the site for the development</p>	<p>The site is very constrained in what additional development can be built due to both the narrow western side and, the large rock formation on the eastern side. The development as proposed is well designed to take into consideration the site constraints. The scale and siting is appropriate and the application presents as a positive addition to the Quirk Road streetscape.</p>
<p>Section 79C (1) (d) – any submissions</p>	<p>The application was notified for a period of 14</p>

Section 79C 'Matters for Consideration'	Comments
made in accordance with the EPA Act or EPA Regs	days from 29/06/2017 to 17/07/2017. The public exhibition resulted in one objection from the property to the west, No. 72 Quirk Street, Dee Why.
Section 79C (1) (e) – the public interest	The current DA proposes a design which addresses the public street and neighbouring properties. The application is a positive contribution to Quirk Street and the development is not at odds with the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject 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 of the application Council has received one submission. See below:

Name	Address
Brendan and Andrea O'Connor	No. 72 Quirk Street, Dee Why

The following issues were raised in the submission:

Primary Dwelling Height

- Non-complaint height by 0.2m
- Council to be independently satisfied of existing foundations
- Possible that high point of rock used as average
- Roof height far greater than neighbouring property
- Roof design exacerbates height issue

Secondary Dwelling

- Council has previously recommended the site maintain a single storey secondary dwelling
- No floor plans provided to allow areas to be assessed
- Secondary dwelling must not exceed 60m² - top level alone appears to be this

View loss

- Inadequate measures taken in redesign from last DA to alleviate concerns
- Roof form exacerbates height and view loss

The individual matters raised within the submission are addressed below, as follows:

Height

- Non-compliant height by 0.2m

Comment:

The height complies with Council's controls. We do note that the rock outcrop under the dwelling makes for the height to appear greater, but based on the survey and sections the development is compliant with the 8.5m development standard.

- Council to be independently satisfied of existing foundations

Comment:

During the previous application (2015/0967) Council officers further investigated the rock location and found the survey to be appropriate in its details of the rock location and levels. As this data is replicated in the current DA, we are satisfied that the survey details adequately represent the rock and the height as shown on the architectural plans is accurate.

- Possible that high point of rock used as average

Comment:

An average has rock high point has not been used, with the level of the rocks varying as demonstrated on the plans. It is agreed that an average is not an appropriate means for assessment. However this is not believed to be the case in this instance.

- Roof height far greater than neighbouring property

Comment:

The lot is unusual and different to neighbouring sites due to the rock formation below. The height, which is reduced from the previous DA2017/0028 by 200mm is considered appropriate within the context of surrounding dwellings.

- Roof design exacerbates height issue

Comment:

The roof pitch of the dwelling is low and the height is compliant as proposed. The development is considered appropriate in its current form.

Secondary Dwelling:

- Council has previously recommended the site maintain a single storey secondary dwelling.

Comment:

The development as proposed is considered an appropriate addition to the site. This application is considered on its merits alone.

- No floor plans provided to allow areas to be assessed

Comment

Council does not exhibit the internal floor plans online via Council's website, however a full set of plans including the internal floor plans are available during the notification period and are available to the public at Council until the determination of the application.

- Secondary dwelling must not exceed 60m² - top level alone appears to be this

Comment

The secondary dwelling component of the development has a gross floor area of 60m².

View loss

- Inadequate measures taken in redesign from last DA to alleviate concerns

Comment:

The development has been moved away from the boundary of the neighbour's site and the roof pitch reduced by 200mm. These measures are appropriate to satisfy Council's previous concerns.

- Roof form exacerbates height and view loss

Comment

The view loss is supportable and the roof form is not considered to be excessive or out of character.

MEDIATION

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

REFERRALS

Internal Referrals

Referral Body Internal	Comments	Consent Recommended
Landscape	<p>The application was referred to Council's landscape officer. The following comments were made:</p> <p><i>"The site is prominently located and contain significant rock outcrops at the front and side which are to be retained.</i></p> <p><i>The plans indicate that the extension to the existing dwelling will extend over the rock on piers. As excavation is therefore minimised, no objections are raised to approval of the extensions to the existing dwelling.</i></p> <p><i>The deck extension should remain open underneath to expose the rock outcrop. It is recommended that, if approved, plans be amended to enable this rather than enclose the sub</i></p>	Yes

	<p><i>deck as indicated on the plans.</i></p> <p><i>The secondary dwelling requires vehicular access. It is noted that a rock outcrop is located in the road reserve which will require some excavation to construct the crossover, subject to conditions.</i></p> <p><i>Providing excavations are minimised and no issues are raised by the AHO, no objections are raised.</i></p> <p><i>Generally, no objections to approval subject to conditions as recommended."</i></p> <p>We note that no objections were received from the Aboriginal Heritage Office.</p>	
Engineer	<p>The application was referred to Council's development engineer. The following response was provided:</p> <p><i>"From a stormwater drainage perspective, Development Engineers have assessed the proposal as alterations and additions to the existing dwelling. In this regard, onsite stormwater detention system is not required.</i></p> <p><i>Given the above assessment, Development Engineers raise no objections to the proposal subject to conditions."</i></p>	Yes
Building Assessment	<p>Council's Building Assessment Officer provided the following comments:</p> <p><i>"The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</i></p> <p>Notes:</p> <ul style="list-style-type: none"> <i>The proposed development may not comply with some requirements of the BCA.</i> <i>The laundry will probably require a separate washtub.</i> <i>The certifying authority will need to determine if the proposed development is class 2 or if the development is class 1a with Garage Top Dwelling fire safety requirements in accordance with BCA.</i> <p><i>Issues such as this however may be determined at Construction Certificate stage."</i></p>	Yes
Referral Body External	Comments	Consent Recommended

Ausgrid	The proposal was referred to Ausgrid. No response has been received within the 21 day period and it is therefore assumed that no objections are raised and no conditions recommended.	Yes
Aboriginal Heritage Office	<p>The proposal was referred to the Aboriginal Heritage Office and the following comments were received:</p> <p><i>“Reference is made to the proposed development at the above area and Aboriginal heritage.</i></p> <p><i>No sites are recorded in the current development area. The Aboriginal Heritage Office previously inspected this lot for unrecorded sites (Nov 2015) and no Aboriginal heritage sites or areas of potential were identified.</i></p> <p><i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i></p> <p><i>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.”</i></p>	Yes

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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and mitigate and loss of existing affordable rental housing by providing a consistent state wide planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: definition

Development for the purposes of a secondary dwelling includes the following:

- (a) The erection of, or alterations to, a secondary dwelling,
- (b) Alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The SEPP and the standard instrument defines secondary dwelling as:

“secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”*

Comment

The proposed use is defined under the WLEP 2011 as a Secondary Dwelling, subject to meeting the relevant standards.

Clause 20: land to which this division applies:

Requirement	Comment
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, but only if development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Development, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential	Yes The site is located in the R2 Low Density Residential zone and accordingly a secondary dwelling is a permissible use with consistent under the WLEP 2011.

Clause 21: Development to which this Division applies:

Requirement	Comment
This division applies to development on land to which this division applies for the purposes of a secondary dwelling.	Yes

Clause 22: Development may be carried out with consent:

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land any dwelling other than the principal dwelling and	Yes The site is currently occupied by only the principal dwelling.

the secondary dwelling.	
<p>(3) A consent authority must not consent to development to which this division applies unless:</p> <p>(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land another environmental planning instrument ; and</p> <p>(b) the total floor area of the secondary dwelling is no more than 60m² or, if a greater floor area is permitted in respect of a secondary dwelling in the land under another environmental planning instrument, that greater floor area.</p>	<p>Yes</p> <p>(a) As there is no adopted FSR under the provisions of the WLEP2011, the maximum total floor area is calculated using a combination of the landscaped open space requirement and the building envelope controls. The floor area as proposed would be no more than the maximum floor area allowed for a dwelling house.</p> <p>(b) The total gross floor area is 60m² and compliant.</p>
<p>(4) A consent authority must not refuse to development to which this Division applies on either of the following grounds:</p> <p>(a) site area if:</p> <p>(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or</p> <p>(ii) the site area is at least 450 square metres.</p> <p>(c) Parking if no additional parking is to be provided on the site.</p>	<p>Yes</p> <p>(a)(i) The secondary dwelling is attached to the principal dwelling</p> <p>(a)(ii) The site area is 587.5m²</p> <p>(b) A garage is existing on the site. An additional garage is proposed, to be allocated to the principal dwelling.</p>

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in sub-clause (4)

Clause 24: No subdivision:

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	<p>Yes</p> <p>The site does not propose any subdivision of the existing allotment.</p>

Conclusion

The above assessment finds that the development of the secondary dwelling is consistent with the controls of Division 2 in the SEPP (ARH), and accordingly the proposal is supported and worthy of development consent.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate 2017 number A229694_03 dated 15 June 2016 has been submitted for the alterations and additions to the principal dwelling.

A Basix Certificate 666103S_06 dated 15 June 2017 has been provided for development of the secondary dwelling. The Basix Certificates indicate that the secondary dwelling development will achieve the following:

Commitment	Required target	Proposed
Water	40	Target Pass
Thermal Comfort	Pass	Target Pass
Energy	47	Target Pass

The certificates indicate compliance with the state government's requirements for sustainability.

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 was referred to Ausgrid on 28 June 2017. No response has been received within the 21 days and it is accordingly assumed there are no issues or objection to the proposal proceeding.

Warringah Local Environmental 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	8.5 metres	Dwelling – 7.7m Secondary dwelling – 7.2m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A

5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Development Residential

Land use definition: WLEP 2011	Permitted or Prohibited
Dwelling house Secondary Dwelling	Permitted with consent Permissible with consent subject to the provision of SEPP (ARH) 2009.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall Height	7.2m	Dwelling 7.39m	2.6%	No
		Secondary Dwelling 6.04m		Yes
B3 Side Boundary Envelope	North: 5m x 45°	Dwelling Inside envelope	N/A	Yes
	West: 5m x 45°	Secondary Dwelling Inside envelope		
B5 Side Boundary Setbacks	North: 0.9m	Dwelling Foundation level - 1.752 – 5.804m	N/A	Yes
		Ground floor – 1.752 – 5.804m		Yes
		First floor – 3.7m (measured from plans)		Yes
		Secondary Dwelling Ground floor – 1.8m – 2.362m		Yes
		First Floor – 1.6 – 2.362 (measured from		Yes

		plans)		
	West: 0.9m	Secondary Dwelling Ground level- 6.4m – 7m First floor- 9.5m – 10m		Yes Yes
B7 Front Boundary Setbacks	Carew Street- 6.5m (primary)	Dwelling Foundation level – 18.6-20.2m Ground floor – 14.8 – 16.4m First floor 17.6 – 19.2m	N/A	Yes Yes Yes
		Dwelling Foundation level – (piers) 0.2 – 2.1m Ground floor – (balcony) 0.2m (building) 3m (garage) – 3m First floor (balcony) 2.3m Building) 3.5m	94.3%	No
		Secondary Dwelling Ground floor (porch) – 2.6m Ground floor structure – 3.5m First Floor (balcony) – 2.529m First floor structure- 3.5m	94.3% 14.28% 34.2% 25.7% N/A 28.5% N/A	No No No No Yes No Yes
	Quirk Street – 3.5m (secondary)			
D1 Landscaped Open Space and Bushland setting	40% (235m ²)	60.81% (357.3m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes

R2 Side boundary envelope exceptions	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side setbacks - R2	Yes	Yes
Side Setback Exceptions – R2	N/A	N/A
R2 – All other land in R2 zone	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 – all other land in R2	Yes	Yes
Front Boundary Setbacks exemptions - R2	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking 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
D1 Landscaped open space and bushland setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	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
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree management	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Height

Description of Non-compliance

The DCP requires a wall height of 7.2m. The existing dwelling has a maximum wall height of 7.39m for a portion of the dwelling.

Merit consideration

With regard to this minor non-compliance, the variation is not significant and the height of the dwelling overall is lesser than the permitted height. The impact of the variation does not have a discernible impact of the scale of the development and is in line with the existing structure.

B7 Front Boundary Setback

Description of Non-compliance

The DCP requires a setback to the secondary front setback (Quirk Street) of 3.5 metres. Variations to this setback are proposed as follows:

Dwelling

Foundation level – (piers) 0.2 – 2.1m

Ground floor – (balcony) 0.2m
(building) 3m
(garage) 3m

First floor - (balcony) 2.3m
(Building) 3.5m

Secondary Dwelling

Ground floor (porch) – 2.6m
Ground floor structure – 3.5m
First Floor (balcony) – 2.529m
First floor structure- 3.5m

We note that the original dwelling has historical variations to this street frontage which are non-compliant. Due to the land at the front of the site being raised, this has not created an issue to date. The minor alterations to the setbacks to Quirk Street proposed for the original dwelling and associated garage are considered reasonable based on the siting of the existing dwelling and the visual impact resulting. Accordingly this dwelling is excluded from the merit assessment below.

The proposed secondary dwelling is considered in greater detail below.

Merit consideration

With regard to the proposed variations to the secondary frontage setback to Quirk Street for the secondary dwelling, the underlying objectives of the control are considered below.

- **To create a sense of openness**

The breaching of the setback controls along the Quirk Road frontage is considered appropriate as the length of the building is comparable with the streetscape and allows for ample separation.

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

Visual continuity is acceptable within the context of surrounding buildings with ample side setbacks ensuring the overall impact of the development is consistent for the corner lot development.

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

The secondary setback requirement of 3.5m is minimally breached by the proposed secondary dwelling addition. We note that the breach maintains the setback of the existing dwelling and has been designed to ensure adequate side setbacks and private open space. The overall impact is a continuation of the existing dwelling and is consistent with the surrounding development and appropriate to the unusual lot.

- **To achieve reasonable view sharing**

The front setback does not have an unreasonable effect on view loss or sharing.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D7 Views

Description of Non-compliance

In determining the extent of potential view loss to adjoining properties, the 4 planning principles outlined within land and Environment Court case of tenacity Consulting Pty Ltd V Warringah Council (2004) NSWLEC 140, are applied to the proposal.

A site inspection of the neighbouring property the west, no.72 Quirk Street has previously been undertaken.

Comment

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

The existing views from 72 Quirk Street which will be affected are valuable views of the water and land interface and Curl Curl Beach.

Additional views are available to the east beyond No. 28 Carew Street which will be unaffected.

Comment

"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 views are over the existing rear/side yard of 28 Carew Street. The views are obtained from two south facing bedrooms and to a more limited extent the upstairs living area. Views are obtained from both a standing and sitting position over the rear of the subject site from the bedrooms and standing views are available in the upper level living room.

Comment

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more

significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."

The key view loss of concern is from the bedrooms. Greater significance is placed on these view areas as the views are only available from the upper level of the dwelling. It appears that the land/ water interface view will be lost to some extent. However it is also noted that more than half of the existing views will be retained.

"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."

Comment

The overall view loss is not so great as to refuse the development. The design as proposed incorporates adequate setbacks and allows for some view to be retained over the rear portion of the site. The impact is considered reasonable.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

A contribution would be payable for the proposed development subject to Warringah Section 94A Development Contributions Plan should the application be approved.

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;
- State Environmental planning Policy (Affordable Rental Housing) (2008)
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

The proposal has been assessed 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 does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2011, Warringah Development Control Plan and the relevant codes and policies of Council. In consideration of the proposal and the merit consideration 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 of the relevant EPI's
- Consistent with the objects specified in S.5(a)(i) and (ii) 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 Council as the consent authority APPROVE Development Consent to DA2017/0630 for Alterations and Additions to an Existing Dwelling House and the Construction of an Attached Two Storey Secondary Dwelling at Lot 98 in DP 8139, No. 28 Carew Street, Dee Why, subject to the conditions printed below:

(See separately attached conditions)

NORTHERN BEACHES COUNCIL

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
DA 03 (Rev B)	20 June 2017	LKS Design & Drafting
DA 05 (Rev B)	20 June 2017	LKS Design & Drafting
DA 06 (Rev B)	20 June 2017	LKS Design & Drafting
DA 07 (Rev B)	20 June 2017	LKS Design & Drafting
DA 08 (Rev B)	20 June 2017	LKS Design & Drafting
DA 09 (Rev B)	20 June 2017	LKS Design & Drafting
DA 10 (Rev B)	20 June 2017	LKS Design & Drafting
DA 11 (Rev B)	20 June 2017	LKS Design & Drafting
DA 12 (Rev B)	20 June 2017	LKS Design & Drafting
DA 13 (Rev B)	20 June 2017	LKS Design & Drafting
DA 14 (Rev B)	20 June 2017	LKS Design & Drafting
DA 15 (Rev B)	20 June 2017	LKS Design & Drafting
DA 24 (Rev B)	20 June 2017	LKS Design & Drafting

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
DA 04 (Rev B)	20 June 2017	LKS Design & Drafting

Waste Management Plan		
Drawing No.	Dated	Prepared By
DA 23 (Rev B)	20 June 2017	LKS Design & Drafting

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. **Prescribed Conditions**

NORTHERN BEACHES COUNCIL

(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)

NORTHERN BEACHES COUNCIL

3. 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.

NORTHERN BEACHES COUNCIL

(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

NORTHERN BEACHES COUNCIL

In sewered areas or managed on-site in unsewered 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)

FEES / CHARGES / CONTRIBUTIONS

4. 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 \$ 320,640.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 3,046.08
Section 94A Planning and Administration	0.05%	\$ 160.32
Total	1%	\$ 3,206.40

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.

5. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that

NORTHERN BEACHES COUNCIL

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.

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

6. **Stormwater Disposal**

Plans indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments, shall be submitted prior to the issue of the Construction Certificate. The plans must indicate the provision of a rainwater tank in accordance with the BASIX certificate. Stormwater shall be conveyed from the site to the street drainage system.

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 disposal and stormwater management and compliance with the BASIX requirements, arising from the development. (DACENC07)

7. **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)

8. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

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)

NORTHERN BEACHES COUNCIL

9. 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 a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
 - iii) All tree protection to be in accordance with 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)

10. 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**
- (n) AS 4674 Design, construction and fit out of food premises

NORTHERN BEACHES COUNCIL

(o) AS1668 The use of mechanical ventilation

*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)

11. External Finishes to Roof

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 does not occur as a result of the development. (DACPLC03)

12. 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)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. 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)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Vehicle Crossings

The provision of one vehicle crossing 4 metres wide in accordance with Warringah Council Drawing No A4-3330/4 Extra High 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.

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Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

15. **Layback Construction**

A layback four 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)

16. **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)

17. **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)

18. **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.

19. **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.

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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. (DACLAEO3)

20. **Protection of rock and sites of significance**

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features (DACLAEOG1)

21. **Aboriginal Heritage**

If in undertaking excavations or works, any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

22. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans. (DACPLE01)

23. **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)

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

NORTHERN BEACHES COUNCIL

24. **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)
25. **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.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)
26. **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 ensure bushland management. (DACPLF01)
27. **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)
28. **Waste Management Confirmation**
Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.



SITE & SITE ANALYSIS PLAN

THE BUILDING SHALL CHECK ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO CONSTRUCTION. NOTIFY ANY ERRORS, DISCREPANCIES OR OMISSIONS TO THE BUILDING DESIGNER IMMEDIATELY. ANY CHANGES MUST BE USED FOR CONSTRUCTION PURPOSES. ISSUED FOR CONSTRUCTION. DO NOT SCALE THE DRAWINGS. ALL DIMENSIONS AND CONTENTS SUBJECT TO SURVEY.

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QUIRK

1:250



606320	B	DEVELOPMENT APPLICATIONS
61-232	A	DEVELOPMENT APPLICATIONS DATA SYSTEM
		Added to collection

SK DESIGN & DRAFTING

PROJECT:
PROPOSED ALTERATIONS &
ADDITIONS & SECONDARY

CLIENT:
Mr. & Mrs. P.V. & P.A. NEWTON

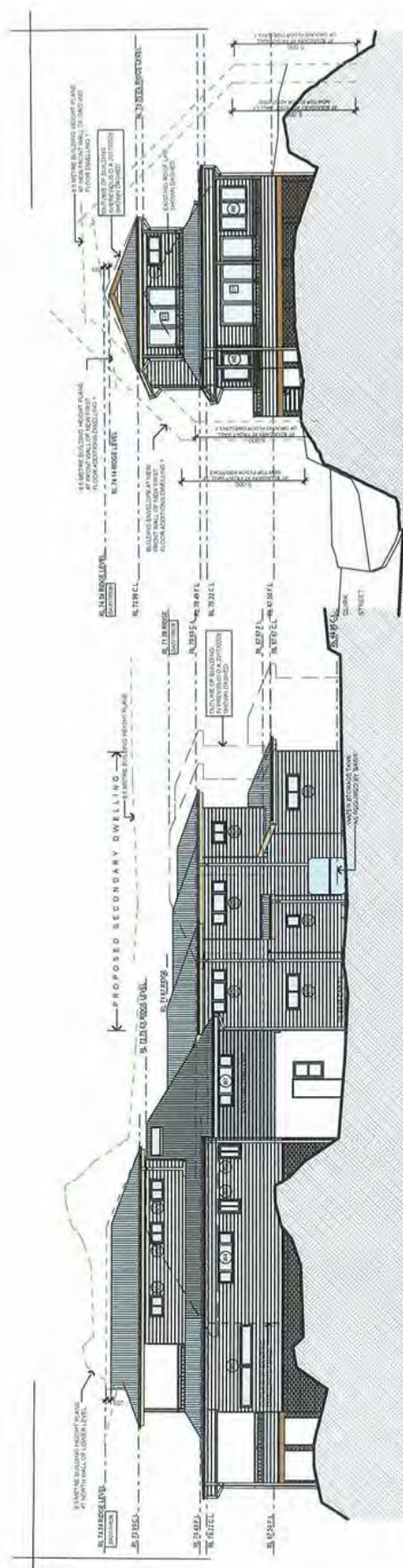
DRAWING TITLE:
SITE & SITE ANALYSIS
PLAN, & SITE INFORMATION

DATE: 12th January, 2017

SCALE: As Shown

DRAWN: LKS.

ORG No.: 1603 DA 03

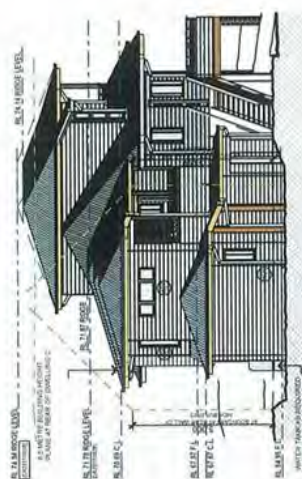


NORTH ELEVATION - Dwelling 1 & 2

EAST ELEVATION - Dwelling 1



SOUTH ELEVATION - Dwelling 1 & 2



WEST ELEVATION - Dwelling 2

THE BUILDER SHALL CHECK ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO CONSTRUCTION AND NOTIFY ANY ERRORS, DISCREPANCIES OR OMISSIONS TO THE BUILDING DESIGNER. DIMENSIONS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS FOR CONSTRUCTION. DO NOT SCALE OF THE DRAWINGS. ALL BUILDINGS AND COMPONENTS SUBJECT TO SURVEY

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CHARTERED MEMBER
BUILDING DESIGNERS



DATE	2/1/2012	DEVELOPMENT APPLICATION ISSUE D-12-1022A
TIME	10:02	AMENDED/REVISED

DESIGN & DRAFTING

PROJECT:
PROPOSED ALTERATIONS &
ADDITIONS & SECONDARY

CLIENT: Mr. & Mrs. P. V. & P. A. NEWTON
DRAWING TITLE: NOTIFICATION ELEVATIONS
DWELLING 1 & 2

DATE: 12th January, 2017

SCALE: AS SHOWN

DRAWN: L.K.S.

ORG No.: 1603 DA 25 Rev. B

ITEM 3.4	9 NORTH HARBOUR STREET BALGOWLAH – SECTION 96(1A) APPLICATION TO MODIFY APPROVED ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE - PART 2
REPORTING MANAGER	Rod Piggott
TRIM FILE REF	2017/328889
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site and Elevation Plans

PURPOSE

To refer the attached application for determination which has been forwarded by General Manager, Planning, Place & Community

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 337/2016 for alterations and additions to the existing dwelling house on the land at Lot 1 DP 723910, 9 North Harbour Street, Balgowlah be **approved** for the reasons outlined in the report.

NORTHERN BEACHES COUNCIL

northernbeaches.nsw.gov.au

Northern Beaches Independent Assessment Panel Report

2017/292228

DA No.	337/2016
Site Address	9 North Harbour Street, Balgowlah; Lot 1 DP 723910
Proposal	Section 96(1A) application to modify approved alterations and additions to the existing dwelling house - Part 2
Officer	Ben Price

SUMMARY:

Application Lodged:	26 June 2017
Applicant:	Red Rock Design
Owner:	Liliane Benti
Estimated Cost:	\$563,200
Zoning:	MLEP, 2013 – E3 Environmental Management
Heritage:	I1 Harbour Foreshores
NSW LEC:	Not applicable
Notification:	27 June 2017 – 13 July 2017
Submissions received:	1
Site Inspected:	17 February 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 9 North Harbour Street, Balgowlah and legally known as Lot 1 in DP 723910. The site is located on the eastern side of North Harbour Street. The property is rectangular in shape and has a frontage of 15.5 m to North Harbour Street, an average depth of 30.9m and an overall site area of 474.2m². The property currently contains a 3 storey dwelling with vehicular access via an existing driveway from North Harbour Street to an existing garage to the front of the existing dwelling. The property slopes from west to east and includes a crossfall of 11.5m.

The surrounding area includes 1 and 2 storey dwelling houses.

Property Burdens and Constraints

The original application was appropriately conditioned to ensure no impacts to the sewer line.

Site History/Background

The original development application 337/2016 included:

1 of 26

R1, R2, R3, E3 & E4 Zones – S96

Lower Ground Level

- Internal alterations
- Reposition existing timber stair adjacent southern boundary
- Enclose balcony on north east edge and extend rumpus
- Balcony off east side
- Living, dining with deck off to the north
- Create bay window on north side

Ground Level

- Convert existing tiled patio in to bathroom (west side)
- Door changes onto balcony from lounge room (west side)
- Internal wall and room configuration changes (as shown); create open plan living space
- Construct new balcony on eastern side with BBQ, benchtop, obscure balustrade, and privacy screen along southern side

First Floor

- Internal alterations (as shown)
- Enclose balcony on south east edge and extend bedroom 3
- Ensuite bathroom and walk in robe to main bedroom
- Juliet style balcony off proposed Bedroom 3

The original application was determined by the Northern Beaches Independent Assessment Panel (NBIAP). The NBIAP determined to approve the development as modified by the following condition:

ANS02A

The applicant is to submit amended plans with respect to the proposed Ground Floor balcony. This balcony, which measures 4.0 x 7.1 metres, as shown on drawing 04, shall be reduced in depth to 3 metres. The proposed clad wall and louvered privacy screen on the southern edge of this balcony shall be deleted.

Reason: To provide adequate view sharing as provided by the Manly DCP.

Description of proposed development

The proposal includes:

- Deletion of condition ANS02A:

“ANS02A

The applicant is to submit amended plans with respect to the proposed Ground Floor balcony. This balcony, which measures 4.0 x 7.1 metres, as shown on drawing 04, shall be reduced in depth to 3 metres. The proposed clad wall and louvered privacy screen on the southern edge of this balcony shall be deleted.

Reason: To provide adequate view sharing as provided by the Manly DCP.”

- Extension of the ground floor balcony to 4.0 x 7.1 metres
- Provision of a privacy screen to the southern elevation for the first 2.665 metres of the balcony.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal.

Building Comments

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

Landscaping Comments

Council's Landscape Officer offered no objections to the proposal.

Waste Comments

Council's Waste Officer offered no objections to the proposal.

Coastal Management Comments

Council's Coastal Management Officer offered no objections to the proposal.

Natural Resources Comments

Council's Natural Resources Officer offered no objections to the proposal.

External Referrals**Aboriginal Heritage**

The proposal was referred to the Aboriginal Heritage Office. The Aboriginal Heritage Office offered no objections to the proposal.

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*

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

The proposal will not alter the original BASIX Certificate.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) 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.

Manly Local Environmental Plan 2013

The subject site is located in Zone E3 Environmental Management under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone E3 Environmental Management

Objectives of zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

The proposed development compliments the existing built form on the site and ensures the maintenance of the areas special ecological, scientific, cultural and aesthetic values.

- *To provide for a limited range of development that does not have an adverse effect on those values.*

The proposed modification is appropriately designed to ensure it does not adversely affect the areas special ecological, scientific, cultural or aesthetic values

- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

The proposal does not include the removal of significant vegetation and is below the existing ridge level of the dwelling. The proposal will not dominate the natural scenic qualities of the foreshore.

- *To ensure that development does not negatively impact on nearby, foreshores, significant geological features and bushland, including loss of natural vegetation.*

The proposed modifications are located within the foreshore building line area. The proposal is appropriately designed to ensure no impacts on nearby foreshores, significant geological features and bushland.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate and minimise the impact of hard surfaces and associated pollutants in storm water run-off on the ecological characteristics of the locality, including water quality.*

The proposal includes adequate landscaping on the site to minimise stormwater run-off.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

The proposal is appropriately designed to ensure it is consistent with the existing built form on the site and has appropriate regard to the topography and surrounding land uses. The proposal does not require the removal of significant vegetation and includes adequate landscaping.

Part 4 Principal development standards

There are no relevant development standards within part 4 of the Manly LEP 2013 to consider as part of the assessment.

Part 5 Miscellaneous Provisions

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

5.	Miscellaneous Provisions	Applies	Complies	Comments
5.9	Preservation of trees or vegetation	Yes	Yes	The proposal complies with this clause.
5.10	Heritage Conservation	Yes	Yes	The proposal complies with this clause.

Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comments
6.1	Acid Sulphate Soils	Yes	Yes	The proposal complies with this clause.
6.2	Earthworks	Yes	Yes	The proposal complies with this clause.
6.5	Terrestrial Biodiversity	Yes	Yes	The proposal complies with this clause.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposal complies with this clause.
6.10	Limited development on foreshore area	Yes	Yes	See comments below.

Limited development on foreshore area

The proposal lies within the foreshore building line. An assessment with regards to the objectives of the control has been conducted below.

- (1) *The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.*

The proposed development and the recommended conditions of consent are suitable to ensure the development does not impact on the natural foreshore processes or affect the significance and amenity of the area.

- (2) *Development consent must not be granted to development on land in the foreshore area except for the following purposes:*

- (a) *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- (b) *the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- (c) *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

The proposal includes the extension of an approved deck within the foreshore area. The proposed works are consistent with the existing development on the site and in the surrounding area.

- (3) *Development consent must not be granted under this clause unless the consent authority is satisfied that:*

- (a) *the development will contribute to achieving the objectives for the zone in which the land is located, and*

The proposal adequately achieves the objectives of the zone.

- (b) *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

The proposal complements the existing built form on the site and will not result in an appearance that is not compatible with the surrounding area.

- (c) *the development will not cause environmental harm such as:*

- (i) *pollution or siltation of the waterway, or*
- (ii) *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
- (iii) *an adverse effect on drainage patterns, and*

The proposal has been assessed by Councils Coastal Management Officer and found to be satisfactory. The proposal is designed appropriately and conditions of consent will ensure that the proposal will not cause environmental harm.

- (d) *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*

The proposed development will not cause congestion or generate conflict between people using open space areas or the waterway.

- (e) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

The proposal will not result in the obstruction of public access.

- (f) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*

The proposal has been assessed by Coastal Management Officer and was found to be satisfactory. Due to the existing development on the site the proposal is not likely to result in any unreasonable impacts on any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out on or the surrounding land.

- (g) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*

The proposed development is appropriately designed to ensure no unreasonable impacts to the amenity or aesthetic appearance of the foreshore area.

- (h) *sea level rise or change of flooding patterns as a result of climate change has been considered.*

The proposed modifications are reasonable when considering sea level rise or change of flooding patterns as a result of climate change.

- (4) In satisfying itself about a matter mentioned in subclause (3) (e), the consent authority must give consideration to the following:

- (a) *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- (b) *public access to link with existing or proposed open space,*
- (c) *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- (d) *public access to be located above mean high water mark,*
- (e) *reinforcing the foreshore character and respect for existing environmental conditions.*

The proposal will not result in the obstruction of public access.

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

Comment:

3.4.1 Sunlight Access and Overshadowing

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

The proposed modification will result in a minor increase in overshadowing of the private open space of the neighbouring property. The increase to overshadowing will not result in any unreasonable impacts and will maintain an equitable access to light and sunshine within the locality.

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 modification will result in a minor increase in overshadowing of the private open space of the neighbouring property. The proposal will not eliminate more than one third of the existing sunlight accessing the neighbouring properties private open space. The proposal will allow adequate sunlight to penetrate the development site and the neighbouring properties windows and private open spaces.

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 development will not result in any unreasonable overshadowing of windows to living rooms and principal outdoor areas.

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 approved deck was 3m with no privacy screen to mitigate overlooking. The proposed modification increases the size of the deck but will incorporate a 1.8m privacy screen on the southern elevation for the first 2.665m. This leaves a length of deck with no privacy screen of 1.335m. The proposed privacy screen is sufficient to mitigate any direct viewing of the neighbouring property. The proposal is of an adequate design to ensure no unreasonable impacts to the privacy of the neighbouring 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 proposal is of an appropriate design to ensure privacy without compromising access to light and air. The proposal will maintain a balanced outlook from the private open space and habitable rooms.

Objective 3) To encourage awareness of neighbourhood security.

The proposal will maintain the sites passive surveillance of the street and the public land within the vicinity.

3.4.3 Maintenance of Views

The proposed modification will result in a loss of views from 7 North Harbour Street Balgowlah. A view loss assessment has been conducted below in accordance with the Views Planning Principle established by the NSW Land and Environment Court.

"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 view loss will be of the water and the interface between land and water and does not include any icons.

"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 views lost are obtained from the deck and lounge room of 7 North Harbour Street. The views are obtained from overlooking the side boundary of 9 North Harbour Street. The views from the lounge room are obtained from a standing position while the views from the deck are obtained from both a sitting and standing position.

"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 views lost make up a small portion of the total views obtained from 7 North Harbour Street. The lounge room of 7 North Harbour Street will maintain access to water views to the north-east and the east. Furthermore the proposed 1.8m privacy screen is located 1.1m below the ground floor level of 7 North Harbour Street. The proposed privacy screen will not be visually prominent from the lounge room of 7 North Harbour Street and will result in a negligible impact to views. The deck of 7 North Harbour Street will also retain access to water views and the interface between land and water to the north east and the east. The proposed privacy screen will result in the loss of some of these views however the impact is most appropriately characterised as negligible. Figure 2 shows the area of concern from the lounge room and deck of 7 North Harbour Street.



Figure 1 Views obtained from the lounge room of 7 North Harbour Street looking towards 9 North Harbour Street



Figure 2 Views obtained from the Deck of 7 North Harbour Street looking towards 9 North Harbour Street

"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 proposal is not compliant with Clause 4.1.4 Setbacks (front, side and rear) of the Manly DCP 2013 and Clause 6.10 Limited Development on the Foreshore Area of the Manly LEP 2013. All areas of non-compliance have been found to meet the objectives of the control. Furthermore a more skilful design is not likely to be able to achieve this development potential while minimising the view loss. The proposal will result in a negligible impact to the views of the neighbouring properties. For these reasons the development is considered to be reasonable and the view sharing acceptable.

An assessment of the proposed modifications in accordance with the objectives of Clause 3.4.3 Maintenance of Views has been conducted below.

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

The proposed development maintains adequate view sharing for both existing and proposed development and existing and future Manly Residents. The view loss assessment conducted in accordance the Views Planning Principle established by the NSW Land and Environment Court found the development to be reasonable and the view sharing acceptable.

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 development is designed to minimise the disruption of views, an assessment of the Views planning principle found the development to be reasonable and the view sharing acceptable.

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 proposal will not result in any unreasonable impact to views or view loss creep.

Part 4 - Development Controls

Site Area:	474.2m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Wall height	South side	6.5	4.1m	4.9m	Yes
South setback side		1.63m	1.5m	1.5m	No
Setback Rear		8.0m	9.2m	8.2mm	Yes
Open space	OS3	55%	50.2%	51%	No further non- compliance
Open space	- total	260.8m ²	238m ²	245m ²	No further non- compliance
Open space	- soft	35% of total open space (85.75m ²)	52.8% (125.7m ²)	51.3% (125.7m ²)	No proposed change
Open space	- above ground	25% of total open space (61.25m ²)	12% (29.1m ²)	14.7% (36.1m ²)	Yes

Comment:

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.

The proposed modifications are located to the rear of the property. The proposed setbacks are in line with the side setbacks of the existing dwelling and will maintain the existing spatial proportions of the street, street edge and 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 proposed development is designed to maintain the local amenity.

The proposed privacy screen on the deck is adequate to ensure no unreasonable overlooking of the neighbouring property.

The proposal will result in a minor increase to overshadowing of 7 North Harbour Street however, this proposal will maintain adequate access to light and sunshine.

The proposal has been assessed above with regard to the Views planning principle established by the NSW Land and Environment Court. The assessment found the development to be reasonable and the view sharing acceptable. The proposal facilitates view sharing and maintains adequate spacing between buildings to limit impacts on views, vistas and will not cause any unreasonable impacts on the rhythm or pattern of spaces within the locality.

Objective 3) To promote flexibility in the siting of buildings.

The proposed modifications are setback in line with the existing southern side setback. The proposed works will not significantly alter the siting of the building. In this circumstance the flexibility requested is appropriate as the area of non-compliance is minor and it does not result in any unreasonable impacts to the locality.

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 incorporates adequate landscaped area to accommodate planting and deep soil zones. The proposal is appropriately designed to ensure it does not unduly detract from the context of the site. The proposal will not impact any bushland in urban areas.

Objective 5) To assist in appropriate bush fire asset protection zones.

The proposal is consistent with this clause.

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		✓

Comment:

The proposal complies with the additional matters for consideration identified in Clause 5.4.1 Foreshore Scenic Protection Area of the Manly DCP 2013.

Development Control Plan for Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Harbour Foreshores & Waterways Areas:

Councils Coastal Management officers conducted an assessment of the application in accordance with the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and the Sydney Harbour Foreshores & Waterways Area DCP 2005 and found the development to be satisfactory subject to the recommended conditions of consent.

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 applicable planning agreements.

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

The proposal is consistent with the applicable regulations.

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

There is no applicable Coastal Zone Management Plan.

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 proposal will not result in any unreasonable impacts on the natural or built environments. The proposal will not result in any unreasonable social or economic impacts within the locality.

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

The proposal 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 Council's Development Control Plan 2013 Section 2 with 1 submission received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission	Comments on submission
1. Confidential	<ul style="list-style-type: none"> Loss of privacy Loss of views Loss of sunlight access Condition ANS02A is reasonable and appropriate Non-compliance with the Manly LEP 2013 and the Manly DCP 2013 	<ul style="list-style-type: none"> The proposal has been assessed above in accordance with the objectives of Clause 3.4.2 Privacy and Security of the Manly DCP 2013. In summary the modifications were found to be consistent with the objectives and will result in an increase to the privacy to the neighbouring property. The proposal has been assessed above with regard to the Views Planning Principle established by the NSW Land and Environment Court and the objectives of Clause 3.4.3 Maintenance of Views of the Manly DCP 2013. In summary the proposed

		<p>modifications were found to be satisfactory. The photos and modelling submitted with this objection were considered in this assessment. The Photo-Montage prepared by BBF Town Planners was not relied upon to complete this assessment.</p> <ul style="list-style-type: none"> • The proposal has been assessed above in accordance with the objectives of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013. In summary the modifications were found to be consistent with the objectives • The assessment above has found the proposed modifications to be satisfactory. • The proposed non-compliances have been assessed above with regards to the objectives and have been found to be satisfactory.
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79C(1) (e) - the public interest.

The proposal is consistent with 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, no S94 contributions are applicable.

Section 96(1A) of the Environmental Planning and Assessment Act 1979**(1A) Modifications involving minimal environmental impact**

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 proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

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 1 submission 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 and Section 96 of the Environmental Planning and Assessment Act 1979, the 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 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 337/2016 for alterations and additions to the existing dwelling house at 9 North Harbour Street, Balgowlah be **approved** subject to:

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(1A) Application – Part 2:

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. 337/2016:

	Issue/ Revision & Date	Date Received by Council
Drwg01 Site Plan	Issue A, dated November 2016	7 December 2016
Drwg04 Proposed Plans	Issue A, dated November 2016	7 December 2016
Drwg05 Proposed Floor Plans	Issue A, dated November 2016	7 December 2016
Drwg06 Proposed Elevations	Issue A, dated November 2016	7 December 2016
Drwg07 Proposed Elevations	Issue A, dated November 2016	7 December 2016
Drwg08 Proposed Elevations	Issue A, dated November 2016	7 December 2016
DrwgL/01 Proposed Landscape Plan	Revision A, dated 26 July 2016	7 December 2016

Reference Documentation affixed with Council's stamp relating to Development Consent No. 337/2016:

- Statement of Environmental Effects prepared by BBF Town Planners dated December 2016 and received by Council on 7 December 2016.
- BASIX Certificate No. A244275, dated 6 December 2016 and submitted to Council
- Bushfire Risk Assessment, prepared by Bushfire Planning and Design, dated 22 December 2016 and received by Council on 28 December 2016.
- Terrestrial Biodiversity Report and Ecological Assessment at 9 North Harbour St Balgowlah, NSW, dated 1 February 2017 and received by Council on 3 February 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

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 2:

Plan No. / Title	Issue/ Revision & Date	Prepared By
Drwg01 Site Plan	Issue B, dated June 2017	Red Rock Design
Drwg04 Proposed Plans	Issue B, dated June 2017	Red Rock Design
Drwg06 Proposed Elevations	Issue B, dated June 2017	Red Rock Design
Drwg07 Proposed Elevations	Issue B, dated June 2017	Red Rock Design

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

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

ANS01

The recommendations within the Terrestrial Biodiversity Report and Ecological Assessment at 9 North Harbour St Balgowlah, NSW, dated 1 February 2017 and received by Council on 3 February 2017 are to be complied with.

Reason: To ensure compliance with the Terrestrial Biodiversity Report and Ecological Assessment at 9 North Harbour St Balgowlah, NSW, dated 1 February 2017 and received by Council on 3 February 2017.

ANS02

The recommendations outlined within the Bushfire Risk Assessment, prepared by Bushfire Planning and Design, dated 22 December 2016 and received by Council on 28 December 2016 are to be complied with.

Reason: To ensure compliance with the Bushfire Risk Assessment, prepared by Bushfire Planning and Design, dated 22 December 2016 and received by Council on 28 December 2016.

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

The following Condition No. **ANS02A** is to be deleted as per Section 96(1A) Application – Part 2:

ANS02A DELETED

ANS03

The two proposed *Syzygium paniculatum* identified on the drawing 'L/01 Proposed Landscape Plan' as 2-SP on the southern boundary are to be deleted. The plans are to be amended to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To minimise the disruption of views and provide for view sharing.

ANS04

The proposed alterations are to be built from materials with non-reflective qualities, be of a medium to dark colour that blends with the prevailing natural environment in the locality and that will not impact the visual qualities of the site and Sydney Harbour. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect the visual aesthetic amenity and views both to and from Sydney Harbour of land within the designated Foreshore Scenic Protection Area.

ANS05

The approved plans must be submitted to Sydney Water and approved. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

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 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.

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 (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.

6 (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.

7 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

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 (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.

9 (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.

10 (2NL02)

Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997. Domestic air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.

Details of the acoustic measures to be employed to achieve compliance with this condition must be prior to the issue of the Construction Certificate.

Reason: To ensure compliance with legislation and to protect public health and safety.

11 (2NL04)

Prior to the issue of the Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to Council or the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report that itemises equipment to be used for excavation works. The Plan shall address, but not limited to, the following matters:

- Identification of activities carried out and associated noise sources
- Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- Determination of appropriate noise and vibration objectives for each identified sensitive receiver
- Noise and vibration monitoring, reporting and response procedures
- Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction

- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration
- Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

Reason: To protect acoustic amenity of surrounding properties and the public.

12 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable.

It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

ANS06

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. Fencing is to be maintained for the duration of works. The fencing is to be designed to be minimise the possibility of ground-dwelling native fauna accessing the works areas and sheltering in cavities or voids.

Reason: To prevent direct impacts to ground-dwelling native fauna which may access the construction site and attempt to shelter in/under cavities, stockpiles or machinery.

13 (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.

14 (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.

15 (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.

16 (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.

The following Condition No. ANS06A (3MS01) is to be added as per Section 96(1A) Application – Part 2:

ANS06A (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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

ANS07

During construction, the foreshore area is to be kept clean and any building debris removed as a minimum daily or as frequently as required to ensure no debris enters the harbour/wetland protected area.

Reason: To mitigate environmental impact resulting from site disturbance

ANS08

During construction, soil erosion and siltation controls must be adequately established along seawall/foreshore area to ensure sediment does not enter Wetland Protected Area under Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005 (Harbour REP).

Reason: To prevent sediment and silt entering wetland protected areas and retain aquatic habitats and biota within North Harbour.

ANS09

If an injured native animal enters the work site, one or both of the following registered wildlife rescue and rehabilitation organisations must be contacted for advice and/or assistance:

- Sydney Wildlife Services (9413 4300); or
- WIRES Rescue Office (1300 094 737).

Reason: To ensure that any native fauna utilising the worksite are safely relocated by an appropriately trained person, and that injured fauna receive expert care so that they can be returned to the wild where possible.

ANS10

Before any vegetation/material/debris stockpiles are removed, a pre-clearance survey for native fauna presence is required. All clearing must initially be carried out with hand tools to identify whether any native fauna are sheltering within the area to be cleared (e.g. at the base of vegetation or under deep litter). Machinery may only be used once it has been confirmed that no native fauna are sheltering within the area to be cleared.

Reason: To avoid injury or death of native fauna which may be sheltering within stockpiles of vegetation, materials or debris.

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 (4BM01)

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

Reason: To enhance the visual quality of the development and the streetscape.

19 (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.

20 (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.

21 (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.

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 Safely 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 (4CD10)

Noise arising from the works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To ensure compliance with legislation and to prevent disturbance to the surrounding community.

24 (4CD11)

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:

- 9.00 AM – 5.00 PM on weekdays (Monday – Friday) only.

Rock-breaking activities must not occur on weekends or public holidays.

Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

25 (4DS01)

A suitable sub-surface drainage system is to be provided adjacent to all excavated areas and such drains being connected to an approved disposal system. The details of this drainage system should be shown in a plan and submitted to Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To prevent uncontrolled seepage entering excavated areas.

26 (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.

27 (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.

28 (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.

29 (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.

30 (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.

31 (4NL01)

Noise arising from demolition and construction works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To prevent disturbance to the surrounding community during construction.

32 (4TS01)

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:30am and 4:30pm.

Reason: Noise and vibration may disturb local native fauna (including species and populations listed as threatened under State or Federal legislation) and discourage their use of adjoining areas.

33 (4WM01)

The only waste derived material which may be received at the development site is:

- 1) Virgin excavated material (within the meaning of the Protection of the Environment Operations Act 1997), and
- 2) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any (b)-type material received at the development site must be accompanied by documentation certifying the materials compliance with the exemption conditions; and this documentation must be provided to the Principal Certifying Authority on request.

Reason: To ensure imported fill is of an acceptable standard for environmental protection purposes.

34 (4WM02)

Removal of trackable wastes from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and compliance with the provisions of the Protection of the Environment and Operations Act 1997.

Reason: To ensure compliance with legislation.

35 (4WM03)

Hazardous waste must be contained, managed and disposed of in a responsible manner in accordance with the Protection of Environment and Operations Act 1997.

Reason: Compliance with the provisions of the Protection of the Environment and Operations Act 1997.

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

36 (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.

37 (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 OR DEVELOPMENT

38 (6AQ01)

The use of the premises must not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and must be controlled in accordance with the requirements of this Act.

Reason: To ensure compliance with legislation and to protect public health and amenity.

39 (6LP03)

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

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

40 (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.

41 (6NL02)

All lights used to illuminate the exterior of the buildings or site must be positioned and/or fitted with cut off luminaires (baffles) so as to prevent the emission of direct light onto adjoining roadways, adjoining land, dwellings and waterways.

Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

42 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

43 (6NL06)

Any air conditioning unit on the site must be installed and operated at all times so as not to cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997. Domestic air-conditioners must not be audible in nearby dwellings between 10:00PM to 7:00AM Monday to Friday, and 10:00PM to 8:00AM on Saturdays, Sundays and public holidays.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

45 (6NL10)

The construction and ongoing use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to air pollution. All works shall ensure air quality controls are in place and all activity is in accordance with the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Clean Air) Regulation 2002.

Reason: To ensure compliance with legislation and to protect public health and amenity.

46 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

