

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Local Planning Panel will be held in the Council Chambers, Civic Centre, Dee Why on

WEDNESDAY 6 MARCH 2019

Beginning at 1:00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Paul Vergotis	Chair
Brian Kirk	Town Planner
Annelise Tuor	Town Planner
Nick Lawther	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 Local Planning Panel
to be held on Wednesday 6 March 2019
in the Council Chambers, Civic Centre, Dee Why
Commencing at 1:00pm**

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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 20 FEBRUARY 2019

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 20 February 2019 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1 **DA2018/1831 - 3/3 OYAMA AVENUE, MANLY - ALTERATIONS
AND ADDITIONS TO AN RESIDENTIAL FLAT BUILDING**

REPORTING OFFICER **Claire Ryan**

TRIM FILE REF **2019/110929**

ATTACHMENTS **1 Assessment Report**
 2 Plans
 3 Clause 4.6

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2018/1831 for alteration and additions to a residential flat building at Lot 3 DP 89509, 3/3 Oyama Avenue, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1831
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 3 SP 89509, 3 / 3 Oyama Avenue MANLY NSW 2095
Proposed Development:	Alterations and additions to a residential flat building
Zoning:	Manly LEP2013 - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Oyama Avenue Pty Ltd
Applicant:	Robert Clarke
Application lodged:	16/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	29/11/2018 to 17/12/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 11,000.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot 3 SP 89509 , 3 / 3 Oyama Avenue MANLY NSW 2095
Detailed Site Description:	<p>The subject property is known as 3 Oyama Avenue and legally known as SP89509.</p> <p>The site is located on the north-western side of Oyama Avenue.</p> <p>The property is irregular in shape and has a frontage of approximately 14m to Oyama Avenue, an average depth of 56m and an overall site area of 794.5m².</p> <p>The property currently contains a 4 storey building with vehicular access.</p> <p>The property slopes from south-east to north-west and includes a crossfall of 9m.</p> <p>Surrounding Development</p> <p>The surrounding area includes North Harbour which is directly to the rear of the subject site.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA204/2016- Additions to an existing residential flat building including construction of a retractable awning (Unit 1). (Approved 31 August 2016).

DA2018/1839- Construction of an awning in association with an existing dwelling in a residential flat building (Unit 2). (Approved 11 February 2019).

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions to a residential flat building. The works in detail include:

- Retractable awning to the third and forth floor north facing terrace (unit 3).

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of	Manly Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
any development control plan	
Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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. This clause is not relevant to this application.</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. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration'	Comments
	social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Ian Warwick Brown	3 / 5 Oyama Avenue MANLY NSW 2095

The following issues were raised in the submissions and each have been addressed below:

- No concern was raised particularly to the development, however, objection against reduced privacy screening, increased trafficable footprint of balconies and or any change in vision.

The matters raised within the submissions are addressed as follows:

- Reduced privacy screening, increased trafficable footprint, change in vision
Comment:
The proposal relates to the construction of a retractable awning only. Any further works will be subject to separate future assessment.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	No objections raised. No conditions of consent required.
NECC (Coast and Catchments)	No objections raised. No conditions of consent required.
NECC (Riparian Lands and Creeks)	No objections raised. No conditions of consent required.
Strategic and Place Planning (Heritage Officer)	Further to a review of available documents and a site visit The site of proposed development is not heritage listed, however, it is in the vicinity of listed item, the Harbour Wall. Given the nature of the proposal, the separation between sites, setting, and the nature of significance of the item, it is assessed that impact on heritage values will be within acceptable limits. Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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 (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

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

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:	8.5m	8.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Requirement:	8.5m
Proposed:	12.7m
Is the planning control in question a development standard?	Yes
If numerical enter a % variation to requirement	49.5%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

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

(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.*

Comment:

Clause 4.3 Height of Buildings development standard is not 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.

(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

(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, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6 (3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. The applicant's written request has demonstrated consistency with the objectives of the Building Height development standard as detailed below:

- The request puts forth that the proposal at 3 Oyama Avenue Manly sits comfortably amongst multi-level dwellings on similar gradient sites backing onto Sydney Harbour.
- The request submits buildings either side of 3 Oyama are of greater building height and roof form therefore the existing dwelling is consistent with the existing landscape and prevailing building heights.
- The request submits that the proposal is for development at the rear of the site and as a result is not considered to contravene the streetscape of the locality.
- The request states that the proposed installation of retractable awnings will not change or effect the bulk and scale of the existing building. The existing dwelling has been designed allowing for the gradient of the site with upper levels stepped back to follow the fall of the site thereby reducing the bulk and scale of the building.
- Views of the foreshore are from the north western aspect in this vicinity. This proposal is for alterations to the north western elevation and will have minimal impact on views to the Harbour from adjoining sites. Shadows cast by the awnings in an extended position will be in the direction of the existing dwelling on site.
- This proposal does not involve removal of any vegetation and will have no impact on surrounding bushland or the foreshore.
- The proposed retractable awnings will have no impact on hard surfaces.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. These are as follows:

- The proposed awnings would not affect or change the existing non-compliant building height.
- There is no discernible impact on the immediate locality in allowing these proposed works.
- The proposal does not involve removal of any vegetation and will have no impact on the surrounding bushland, topography or aesthetic value and is not considered to dominate the scenic qualities of the foreshore.

In doing so, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land and that the building is of a good design and will protect the amenity of the surrounding built environment therefore satisfying cl 1.3(c)(g) of the EPA Act. In this regard, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6(3)(b). Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Height of Building development standard and the objectives of the E4 Environmental Living zone. An assessment against these objectives is provided below.

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the MLEP 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 bulk and scale of the proposed dwelling house is appropriate when considering the height and overall bulk and scale of neighbouring properties. The proposal maintains an appropriate scale relationship with neighbouring properties so that built form outcomes are consistent or compatible with surrounding development. The development satisfies this objective.

b) to control the bulk and scale of buildings,

Comment:

The existing dwelling currently exceeds the 8.5m height control. This is primarily the result of the slope of the site on the southern side of Ogilvy Street. The proposal maintains the existing height of the house, which results in a continued non-compliance to the height limit. The proposed non-compliance is a result of the pergola for the proposed ground floor deck. The pergola is largely transparent and doesn't lead to unreasonable levels of bulk and scale. The development satisfies this objective.

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 proposal has been assessed against the view loss provisions under Clause 3.4.3 of the Manly DCP and Tenacity Consulting v Warringah [2004] NSWLEC 140 when considering the impacts on the views of adjoining properties in this report. In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces. The development satisfies this objective.

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 solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open spaces. The development satisfies this objective.

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:

The proposed development has regards to the existing vegetation and topography of the site and surrounding development. The works are not going to have any unreasonable impact on urban bushland or surrounding land uses. The development satisfies this objective.

Conclusion:

The proposed development satisfies the underlying objectives of the Height of Buildings development standard.

The underlying objectives of the E4 Environmental Living zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
Comment:
The proposed development is acceptable in terms of its impacts on the ecological and aesthetic values.
- *To ensure residential development does not have an adverse effect on those values.*
Comment:
The proposed works would not have an adverse effect on those values.
- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*
Comment:
The proposed works would have an unreasonable impact on tree canopies. The subject site is not in close vicinity of any important trees.
- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*
Comment:
The proposed awning will not have an unreasonable impact upon the foreshore.
- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*
Comment:
The proposal is not considered to have any negative impacts on the foreshore, subject to conditions.
- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*
Comment:

The height and bulk of the proposed building has had regard to the adjoining development and the existing landscaping and topography of the adjoining sites.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 Environmental Living

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary 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 Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Proposed	% Variation*	Complies
4.1.4.2 Side Setbacks and Secondary Street Frontages	3.3m (based on western wall height)	2.7m	18%	No
	4m (based on western wall height)	4.3m	-	Yes
	3m (based eastern wall height)	3.3m	-	Yes
	2.2m (based eastern wall height)	4.7m	-	Yes
4.1.4.3 Rear Setbacks	8m	18m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

This clause relies upon the objectives of Clause 4.3 under Manly LEP 2013. An assessment of the proposal against the objectives of Clause 4.3 has been provided within this report. This assessment has found the proposal to be consistent with the objectives of Clause 4.3.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires development be setback at 3.3m, based on the height of the development. The proposed awning is setback 2.7m, resulting in an 18% variation to the numeric control.

Merit consideration:

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

Comment:

The proposal will not be readily visible from the streetscape. As such, the proposed visual impact upon the streetscape is considered to be negligible.

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.*

Comment:

The proposed will not unreasonably compromise solar access or privacy to the existing property or adjoining properties.

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

Comment:

The awning is proposed for the existing terrace areas above ground. The siting is appropriate as it does not result in any unreasonable amenity or bulk and scale impacts.

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.*

Comment:

Not applicable.

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

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

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;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1831 for Alterations and additions to a residential flat building on land at Lot 3 SP 89509, 3 / 3 Oyama Avenue, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan	19 October 2018	Platform Architects
Third Floor	19 October 2018	Romeciti
Section AA	19 October 2018	Platform Architects
West Elevation	19 October 2018	Platform Architects
East Elevation	19 October 2018	Platform Architects
North and South Elevation	19 October 2018	Platform Architects

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

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.

2. **Prescribed Conditions**

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

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

completed.

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

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

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

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

Reason: Legislative Requirement

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) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature 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.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

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

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

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in 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.

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

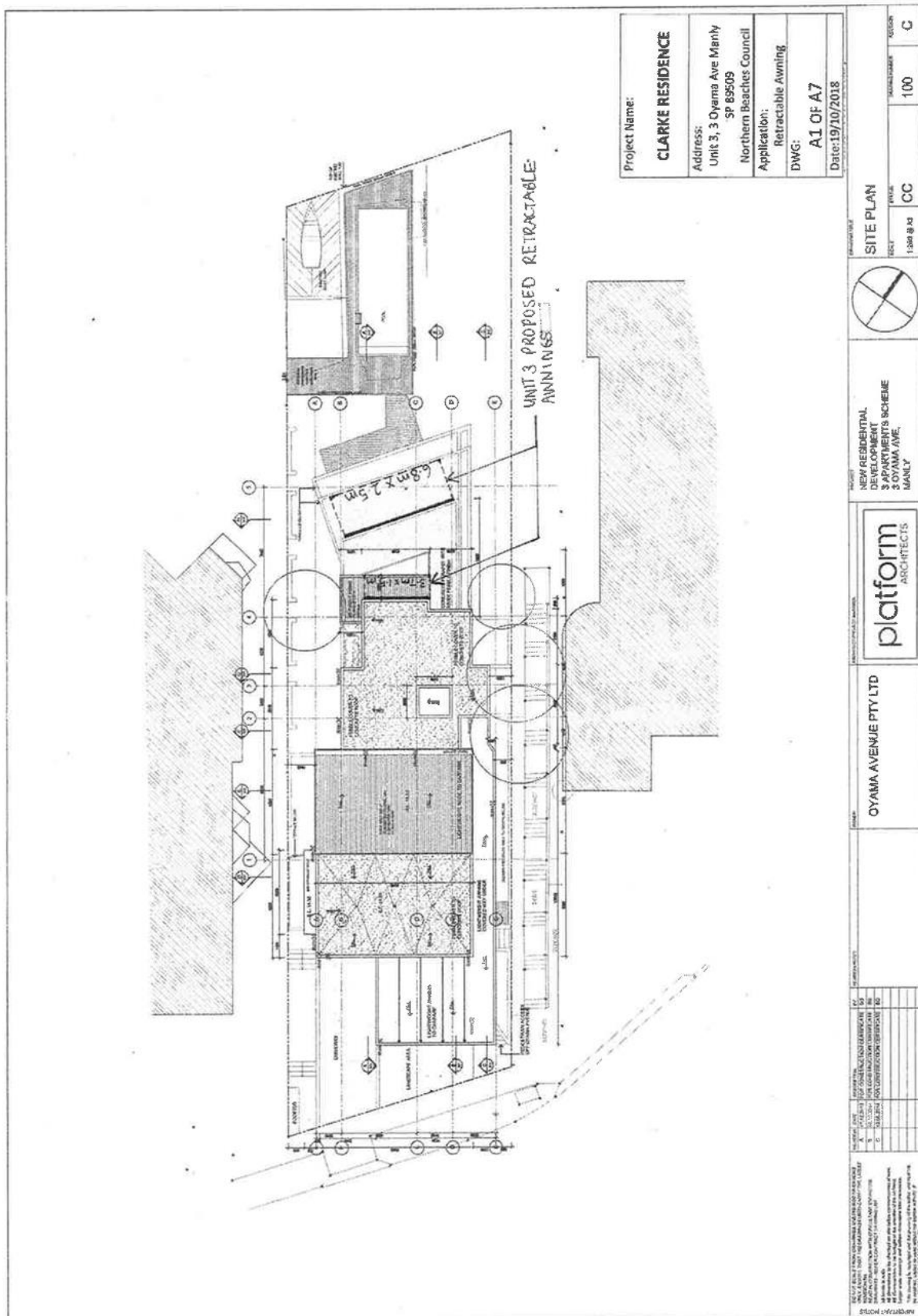
A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

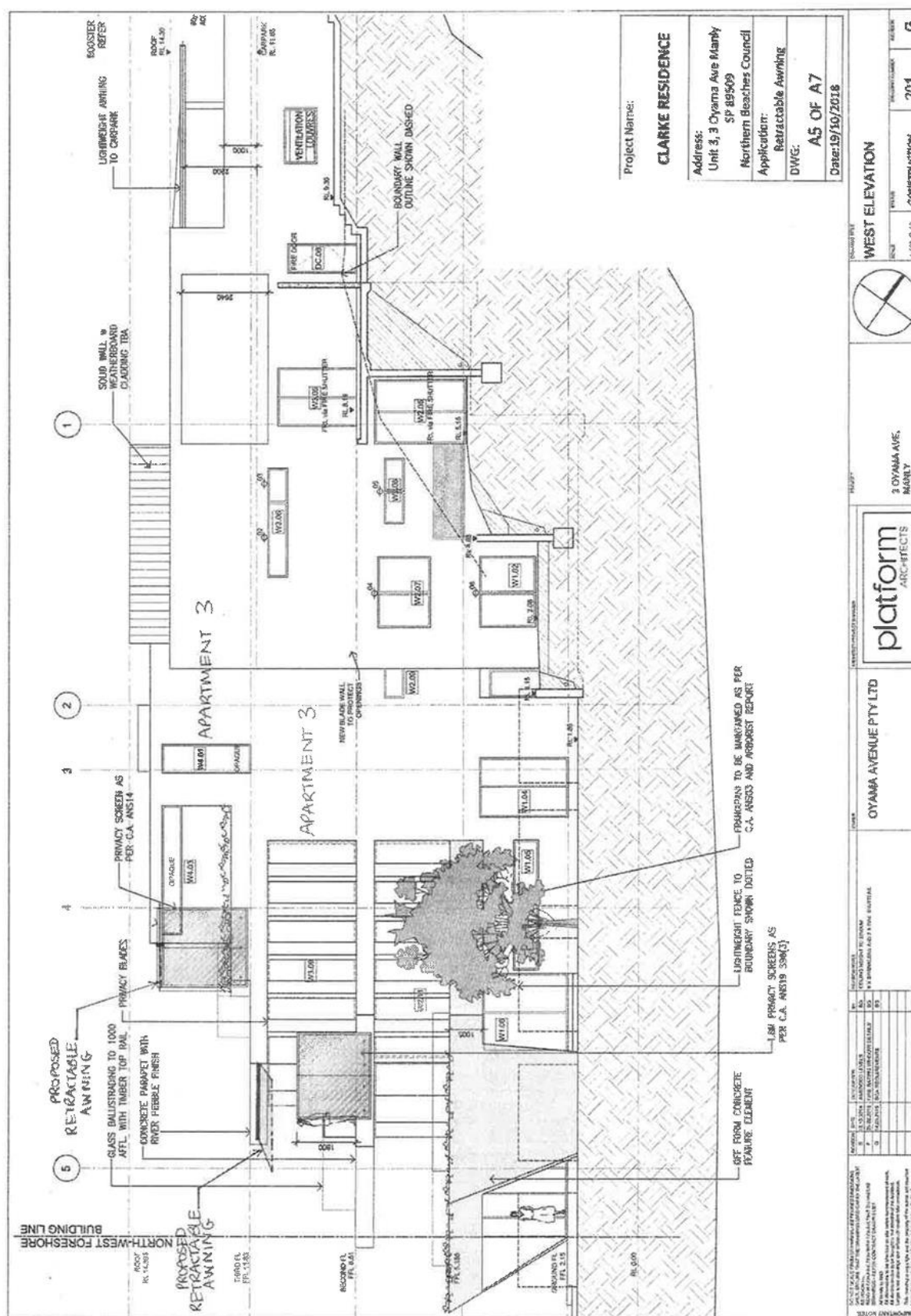
An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

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

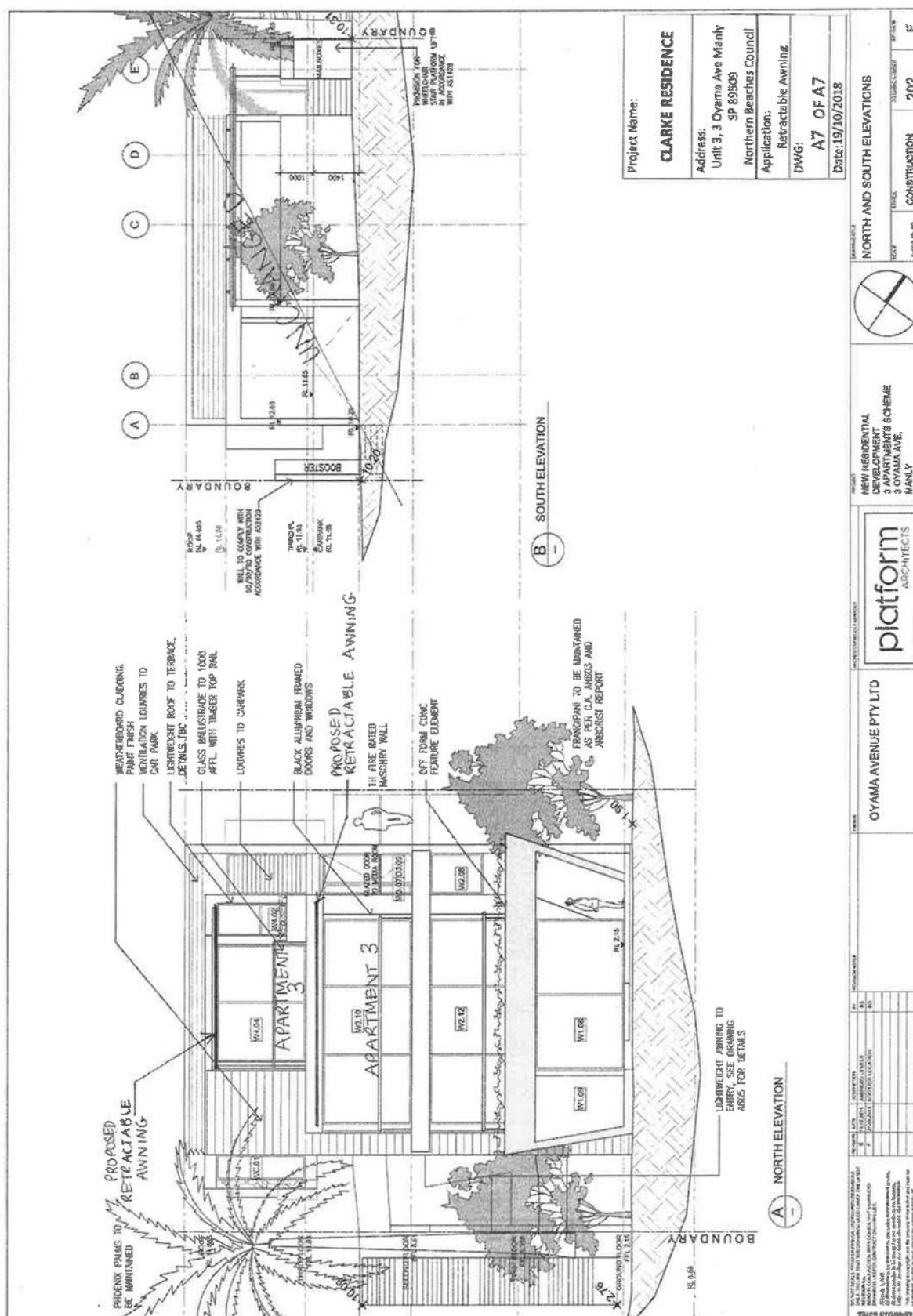
To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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









NORTHERN BEACHES COUNCIL

**PROPOSED ALTERATIONS
TO EXISTING DWELLING**

AT
LOT 3 SP 89509
3 / 3 OYAMA AVENUE MANLY NSW 2095

FOR

R. CLARKE

CLAUSE 4.6 VARIATION STATEMENT

AND NOTES IN SUPPORT OF DEVELOPMENT APPLICATION

SUZANNE TREICIS DIP ARCH TECH
PO BOX 4079
WAGSTAFFE NSW 2257
M: 0416 282 142
E: sue@treicis.com.au

FEBRUARY 2019

1. INTRODUCTION

- 1.1 This Statement together with the accompanying drawings & supporting documents, has been prepared on behalf of Mr R Clarke, owner of the subject property, pursuant to S.78A of the EP&A Act 1979 & EP&A Regulations 2000.
- 1.2 The author of this Statement is Suzanne Treicis Dip Arch Tech who prepared the sketch plans for the proposed works.
- 1.3 The Development Application refers to the owner's intention to install two retractable awnings to the northern western elevation of the existing dwelling on site.
- 1.4 This Statement should be read in conjunction with the sketch plan drawings A1 to A7, Application "Retractable Awning".

2. SITE

- 2.1 The subject land is described as Lot 3 SP 89509 and is known as 3 / 3 Oyama Avenue Manly NSW 2095.
- 2.2 Located on the north western side of Oyama Avenue. The property is irregularly shaped and has a frontage of approximately 14m to Oyama Avenue, an average depth of 56m and an overall site area of 794.5 sqm.
- 2.3 This allotment currently contains a four storey residential flat building with vehicle access. Apartment 3 occupies the second and third levels of the dwelling.
- 2.4 The site has a moderate steep slope from south east to north west of approximately 8 metres over the building footprint which equates to an average gradient of 22.3%. The site also has a cross fall of 9m.
- 2.5 A sewer line bisects the property at the rear of the site. There are no other burdens or constraints that would preclude the proposed development.
- 2.6 The site backs directly on to North Harbour.
- 2.7 The subject land is Zoned 'E4 Environmental Living', under Council's Local Environmental Plan 2013.

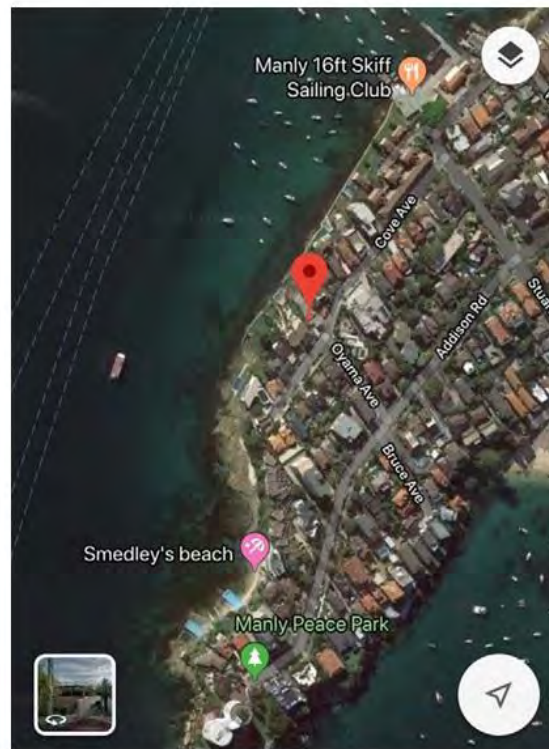


Fig 1. LOCATION PLAN



Fig. 2 VIEW OF EXISTING DWELLING FROM SOUTH EAST ELEVATION

3. EXISTING DEVELOPMENT

- 3.1 Currently the subject site has a four storey residential flat building approximately two years old, orientated toward the north western aspect providing Harbour views from the principal living areas.
- 3.2 A boat ramp at the rear boundary provides water access to the Harbour. Vehicle access directly to Oyama Avenue is via the south west boundary.
- 3.3 Site slope is accommodated in the overall design of the building by stepping back floor levels thereby reducing bulk and scale of the building.
- 3.4 The development retained several mature trees (as part of consent approval) and these enhance the buildings appeal.
- 3.5 The whole of the subject site is fully fenced.

4. DEVELOPMENT PROPOSAL

- 4.1 Under this Application it is proposed to install two retractable awnings to apartment three, located on the second and third levels of the building.
- 4.2 A retractable awning approximately 6.8m x 2.5m is proposed for the level two principal living area. A second retractable awning approximately 3.7m x 1.5m is proposed for the master bedroom on level three.
- 4.3 The retractable awnings consist of an aluminium prefabricated framework covered in fabric. In the retractable position the awning is housed in a cassette and mounted flush with the exterior wall.
- 4.4 The awnings are to be constructed in the same materials and colours as the awning recently installed at 1 / 3 Oyama Avenue so that the new work will be in total harmony with the character of the existing structures.

5. SECTION 79C(1) CONSIDERATIONS

5.1 Environmental Planning Instruments

Part 4 Principal Development Standards

4	Standards	Requirement	Proposed	Comment
4.3	Height of buildings	8.5m	NA	Proposed works will not alter existing building height

Clause 4.6 Variation Statement (Building Height)

Council have requested a Clause 4.6 Exception to Development Standards addressing the non compliance with 4.3 Building Height.

1) The objectives of Manly LEP 2013 4.3 Height of buildings 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.*
 - b) *to control the bulk and scale of buildings*
 - c) *to minimize 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 foreshore)*
 - 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*
 - 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.*
- 2) *The height of a building on any land is not to exceed the maximum height shown for the land on the height of Buildings Map.*

Comments

The dwelling erected at 3 Oyama Avenue Manly sits comfortably amongst multi level dwellings on similar gradient sites backing onto Sydney Harbour.

The buildings either side of 3 Oyama are of greater building height and roof form therefore the existing dwelling is consistent with the existing landscape and prevailing building heights.

This proposal is for development at the rear of the site and as a result is not considered to contravene the streetscape of the locality.

The installation of retractable awnings will not change or effect the bulk and scale of the existing building. The existing dwelling has been designed allowing for the gradient of the site with upper levels stepped back to follow the fall of the site thereby reducing the bulk and scale of the building.

The retractable awning proposed to level two is to be fixed to the concrete parapet of the level three balcony above.

The retractable awning proposed for level three, will be fixed to the roof fascia. The awning proposed for level 3, replaces the pergola approved during the residential flat dwelling application process. It will not increase the building height or bulk.

Views of the foreshore are from the north western aspect in this vicinity. This proposal is for alterations to the north western elevation and will have minimal impact on views to the Harbour from adjoining sites.

The shadows cast by the awnings in an extended position will be in the direction of the existing dwelling on site.

This proposal does not involve removal of any vegetation and will have no impact on surrounding bushland, topography or aesthetic value and is not considered to dominate the scenic qualities of the foreshore.

The proposed retractable awnings will have no impact on hard surfaces.

Additionally, this proposal is considered to be consistent with the objectives of limited development under Clause 6.10 of the Manly LEP as it is considered to be an extension, alterations or rebuilding wholly or partially in the Foreshore area.



6. CONCLUSION

Although the existing dwelling is non compliant with Manly LEP building height requirements, these proposed building works do not change or effect the existing height of the building.

By reason of the very minor nature of these proposed works, there is no discernible impact on the immediate locality in allowing these proposed works.

The proposed awnings would not affect or change the existing non compliant building height therefore this proposal is put forward in the confident belief that it is deserving of Council's favourable assessment.

A handwritten signature in blue ink, appearing to read 'S. Treicis'.

Suzanne Treicis
13 February 2019

ITEM 3.2**MOD2018/0482 - 3 OGILVY ROAD, CLONTARF - MODIFICATION
OF DEVELOPMENT CONSENT DA203/2013 GRANTED FOR
ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING****REPORTING OFFICER****Rodney Piggott****TRIM FILE REF****2019/110709****ATTACHMENTS**

- 1 Assessment Report**
- 2 Plans**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the original application was determined by an independent panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. MOD2018/0482 for modification of development consent DA203/2013 granted for alterations and additions to an existing dwelling at Lot 10 Sec J DP 2610, 3 Ogilvy Road, Clontarf subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0482
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 10 DP 2610, 3 Ogilvy Road CLONTARF NSW 2093 Lot 10 DP 2610, 3 Ogilvy Road CLONTARF NSW 2093
Proposed Development:	Modification of Development Consent DA203/2013 granted for alterations and additions to an existing dwelling
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Maxwell Stephen Polley Kim Cherie Polley
Applicant:	Maxwell Stephen Polley
Application lodged:	07/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	22/11/2018 to 10/12/2018
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval

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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S79C Assessment
 Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Local Environmental Plan 2013 - 6.4 Stormwater management
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.4.3 Maintenance of Views
 Manly Development Control Plan - 3.7 Stormwater Management
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 10 DP 2610 , 3 Ogilvy Road CLONTARF NSW 2093 Lot 10 DP 2610 , 3 Ogilvy Road CLONTARF NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Ogilvy Road.</p> <p>The site is regular in shape with a frontage of 10.695m along Ogilvy Road and a depth of 44.195m. The site has a surveyed area of 472.6m².</p> <p>The site is located within the E3 Environmental Management zone and accommodates a dwelling house.</p> <p>The site slopes from the northern side down to the southern eastern corner of the site.</p> <p>The site adjoins the E2 Environment Conversation Zone.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by multi storey dwelling houses.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA203/2013

Alterations and additions to an existing dwelling including first floor addition, rear extension with deck, garage extension, swimming pool and front fence with gates. (Approved by MIAP 15 May 2014)

Land and Environment Court Appeal- Case Number 14/10236

Appeal upheld pursuant to Section 34(3)(a) of the Land and Environment Court Act 1979 (23 July 2014).

DA203/2013- Part 2 (Section 96AA)

Alterations and additions to an existing dwelling including first floor addition, rear extension with deck, garage extension, swimming pool and front fence with gates. (Approved by DAU).

Proposed modification included:

- Amendment to RFS condition RFS12.
- Internal alterations.
- Additions
- External alteration.
- Deletion of swimming pool.

DA203/2013- Part 3 (Section S96(1))

Deletion of Conditions of consent Nos ANS02, ANS22, 16(2SP01), 17(2SP02), 18(2SP03), 19(2SP04) and 20(2SP05). (Approved 25 July 2016).

PROPOSED DEVELOPMENT IN DETAIL

This modification application lodged pursuant to Section 4.56 of the Environmental Planning and

Assessment Act 1979 seeks to modify the built form approved under Development Consent No. DA203/2013, Land and Environment Court S34 agreement and subsequent modification consents.

The changes sought are for modification to the approved ground which includes extensions to the rear of the site, new lower ground floor deck, internal alterations, external alterations and removal of Condition ANS01 which states:

ANS01

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 must also investigate, assess and propose controls in relation to any surface runoff from the street on to the property. The stormwater management plan must be prepared by a Chartered professional engineer. Any controls proposed in relation to the stormwater management plan must be met and certified off by a suitably qualified engineer prior to the issue of an occupation certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater which may impact the development and which will be generated by the development.

The ground floor decks are to be extended to the rear of the site.

Section 4.55 (previously Section 96) of the Environmental Planning and Assessment Act 1979 requires the consent authority to be satisfied that the proposal as modified is "substantially the same development".

The proposal increases the size and scale of the approved outdoor living areas. However, it is noted that the proposal does not propose a new use. Outdoor living areas have been a key element in the original consent and subsequent modification applications.

Based on this, the modified application is "substantially the same development" as the originally approved development and hence, may be considered.

AMENDED PLANS

Following a preliminary assessment of the application, Council wrote to the applicant on 9 November 2018 outlining issues that would not allow Council to support the application. The issues included unreasonable privacy impacts and wall height non-compliance. Following receipt of the letter, the applicant advised Council that they intended to amend the application. Council agreed to accept amendments to the application.

The applicant subsequently provided amended plans to address the concerns raised on 14 November 2018. Amendments to the proposal included the reduction in the size of the ground floor deck and reduction of the western wall (privacy screen).

The amendments proposed (received 14 November 2018) are minor in respect to the original plans lodged with Council, and do not result in a greater environmental impact. As such the amended application was not re-notified to adjoining properties. This is in accordance with clause 2.6 of the Manly DCP 2013.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and 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 given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA203/2013, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) 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	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA203/2013.
(b) 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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2013 and Manly Development Control Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA203/2013.

Section 4.56- Other Modifications	Comments
(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.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading</p>

Section 79C 'Matters for Consideration'	Comments
	<p>of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</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. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Matthew Willis, dated 12 August 2018). The report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Withheld Withheld	CLONTARF NSW 2093
Mr Peter Alexander Groch Mrs Darine Groch	5 Ogilvy Road CLONTARF NSW 2093
Withheld Withheld	CLONTARF NSW 2093

The following issues were raised in the submissions and each have been addressed below:

- **Privacy (visual and acoustic).**
- **Over development.**
- **View Loss.**
- **Visual Bulk.**
- **Overshadowing.**
- **Increased flood risk to adjoining property.**
- **Increased fire risk to adjoining property.**
- **Poor visual amenity by removal of native planting.**
- **Modification application is not 'substantially the same' development.**
- **Non-compliance with existing consent conditions.**
- **Non-compliance with side setback control.**
- **Non-compliance with open space control.**

The matters raised within the submissions are addressed as follows:

- **Privacy (visual and acoustic)**

Comment:

Concerns were raised about privacy impacts (acoustic and visual) from the lower ground and ground floor outdoor living areas. The proposal has been assessed against the privacy provisions under Clause 3.4.2 of the Manly DCP in this report. In summary, the proposal complies with the relevant provisions and underlying objectives under Clause 3.4.1 of the Manly DCP.

This matter does not warrant refusal of the application.

- **Over Development**

Comment:

Concern was raised that the proposed works would be an over development of the subject site.

While the proposal is inconsistent with the numerical controls for both the Floor Space Ratio and Height of Buildings development standard, it is considered that the proposed development is consistent with the level of development of existing dwelling houses to the west of the subject site. The level of development is not unreasonable. The increase in gross floor area and height of the building does not result in an unreasonable bulk and scale.

This matter does not warrant refusal of the application.

- **View Loss**

Comment:

Concern was raised in regards to view loss from private and public spaces to Middle Harbour. The proposal has been assessed against the view loss provisions under Clause 3.4.3 of the Manly DCP and the Land and Environment Court Case of *'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140'* in this report (refer to Cl. 3.4.3 Maintenance of Views under the MDCP 2013 section of this report). In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces.

This matter does not warrant refusal of the application.

- **Visual impact from public open space**

Comment:

Concern was raised that proposed development will have an adverse impact as viewed from the foreshore.

The visual impact of the dwelling house is consistent with that of other dwelling houses in the street and surrounding Sydney Harbour catchment area. The proposed bulk and scale of the house will not be offensive when viewed from any public domain.

This matter does not warrant refusal of the application.

- **Overshadowing**

Comment:

Concern is raised that the proposed development will result in unreasonable overshadowing of the adjoining properties and public open space.

This matter has been addressed in detail elsewhere within this report (refer to cl 3.4.1 Sunlight Access and Overshadowing under the Manly DCP 2013 section of this report). In summary, the development allows for a reasonable level of sunlight to be maintained to adjoining properties between 9am and 3pm on June 21 and public open space.

This matter does not warrant refusal of the application.

- **Increased flood risk from to adjoining properties.**

Comment:

Concern was raised in regards to potential flooding impacts onto adjoining properties.

The application was referred to Council's Flood Officer for comment (Stormwater and floodplain engineer). The proposal is considered to be reasonable, subject to conditions.

This matter does not warrant refusal of the application.

- **Fire risk to adjoining properties.**

Comment:

Concern was raised from adjoining property owners in regards to the proposed bush fire rating proposed within the applicants bushfire report. The objectors requested that the application be referred of to the NSW RFS for assessment under Section 79BA of the Environmental Planning and Assessment (EP&A) Act 1979.

The application was referred off to the NSW RFS on 27 September 2018 for comment. Council received a response from the NSW RFS on the 29 October 2018. The external referral included a number of conditions, which have been imposed as part of this recommendation.

This matter does not warrant refusal of the application.

- **Poor visual amenity by removal of native planting.**

Comment:

Concern was raised in regards to the removal of vegetation that adjoin the site to the rear along the unmade road.

The removal of vegetation to the rear of the site has been referred to Council's compliance department for investigation. Tree removal has not been proposed as part of this application.

This matter does not warrant refusal of the application.

- **Modification application is not 'substantially the same' development.**

Comment:

Objectors to the proposal have questioned the validity of the proposal being lodged and assessed under Clause 4.56 (formerly Section 96AA) as the works proposed are not considered to be 'substantially the same' development as originally approved, of particular concern is that of the proposed decks.

Council has considered the application against *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8, the threshold test of determining as to whether a proposed development is "substantially the same development". Given the original application (DA203/2013) and subsequent court appeal, the proposed decks were of a similar bulk and scale of that of this proposal, the application is considered to be substantially the same.

This matter does not warrant refusal of the application.

- **Non-compliance with existing consent conditions.**

Comment:

Concern was raised from neighbouring properties that the development had not been

undertaken in accordance with the conditions of consent under DA203/2013, Section 34 agreement and subsequent 4.55 approval (formerly section 96). Particular concern was raised in regards to condition ANS01. Condition ANS01 is proposed to be removed as part of this application. The application was referred to Council Development Engineer, who recommended that the condition be retained. As such, the condition is not granted for removal as part of the final recommendation.

Concerns relating to removal of vegetation within the urban bush land area have been forwarded to Council's compliance department.

This matter does not warrant refusal of the application.

- **Non-compliance with side setback control.**

Comment:

This matter is addressed in detail elsewhere within this report (refer to Cl. 4.1.4 Setbacks (front, side and rear) and Building Separation under the MDCP 2013 section of this report).

In summary, the siting of the building on the site, proposed building setbacks and resultant bulk and scale are considered to be appropriate in this context and satisfy the objectives of Cl. 4.1.4 Setbacks (front, side and rear) and Building Separation.

This matter does not warrant refusal of the application.

- **Non-compliance with the open space control.**

Comment:

This matter has been addressed in detail elsewhere within this report (refer to Clause 4.1.4 Open Space and Landscaping under the MDCP 2013 section of this report).

In summary, the level of landscaped open space and tree planting on site is appropriate in this context and consistent with the streetscape and surrounds. The proposal satisfies the objectives of Cl. 4.1.4 Open Space and Landscaping.

This matter does not warrant refusal of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	No landscape objection is raised to the modification proposal, as the Manly DCP2013 landscape outcomes are satisfied.
NECC (Bushland and Biodiversity)	The proposed modification has been assessed against the objectives of Clause 6.5 (Terrestrial Biodiversity) of the Manly LEP 2013. The modification is unlikely to result in a substantial additional impact to native vegetation or wildlife habitat and is therefore considered to be consistent with the control, subject to recommended conditions.

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The applicant proposes to delete condition ANS01 as the applicant is of the opinion that On-site Stormwater Detention (OSD) is not required for the development. Development Engineers note the development site is located at the lower end of the catchment and agree the application of an OSD system at this site would be of no benefit in reducing the adverse flooding impacts.</p> <p>However, the above condition (ANS01) and relevant stormwater design guidelines or specifications referred to in this condition also permit the use of other methods of stormwater disposal, including potentially stormwater discharging to the existing watercourse traversing the site as the development site naturally drains to this watercourse.</p> <p>In this regard, condition ANS01 is still relevant and applicable for this development. Therefore Development Engineers recommend condition ANS01 to be retained in the Development Consent.</p> <p><i>Planners comment:</i> Given the above, condition No. ANS01 will not be removed as part the final recommendation.</p>
NECC (Riparian Lands and Creeks)	<p>The property contains an unmapped watercourse and is flood affected - as mapped in the Manly to Seaforth Flood Study (2018).</p> <p>The modification has been assessed for impacts on riparian land and the adjoining watercourse including impacts on vegetation, biodiversity, bank stability and water quality.</p> <p>As part of the assessment, staff have considered the</p> <ul style="list-style-type: none"> * Plans - Master set revised * Statement of Environmental Effects * Manly LEP and DCP. <p>The proposed decks are elevated above the watercourse and the support structures are sufficiently set back from the top of bank in bedrock on the upslope bank. The only riparian vegetation to be impacted is lawn and biodiversity value of the impacted riparian zone is minimal. The banks are comprised of bedrock and therefore bank instability and water quality impacts will also be minimal.</p> <p>It has been determined no significant impact to the watercourse and riparian zone will result from the development subject to the conditions being applied.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The development is sited above the 1% AEP Flood Level, therefore is satisfactory for flood safety, provided it complies with the below conditions.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been</p>

External Referral Body	Comments
	received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Rural Fire Service – local branch (s79BA EPAA)	Recommended conditions have been included as part of this application.

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 19 - Bushland in Urban Areas

The provisions of the SEPP require that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent authority considering the aims and objectives of the SEPP.

In this regard, consideration is given as follows:

(1) The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:

- (a) its value to the community as part of the natural heritage,
- (b) its aesthetic value, and
- (c) its value as a recreational, educational and scientific resource.

Comment:

The subject property adjoins bushland zones land therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2 (aims of the SREP), Clause 6 (relating to consent to disturb bushland zones or reserved for public open space), Clause 8 (Plans of management), Clause 9 (Land adjoining land zoned or reserved for public open space) (see below). The proposal is consistent with the above provisions of the SEPP, subject to conditions.

An assessment against Clause 9 (Land adjoining land zoned or reserved for public open space) is provided of this policy is provided below:

(1) This clause applies to land which adjoins bushland zoned or reserved for public open space purposes.

(2) Where a public authority:

(a) proposes to carry out development on land to which this clause applies, or

(b) proposes to grant approval or development consent in relation to development on land to which this clause applies,

Comment:

Works are proposed on land that adjoins the urban bushland zone.

the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:

(c) the need to retain any bushland on the land,

Comment:

The proposed retains appropriate amounts of vegetation within the subject site and the adjoining bush land to the rear, subject to the conditions of consent.

(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and

Comment:

The proposed development will not have detrimental impact on the above. Reasonable measures have been undertaken to ensure that soils, streams and waterways are protected during and after construction, subject to conditions

(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

Comment:

Council's biodiversity and sustainability officers have recommend conditions of consent, to ensure the relevant protection and preservation of bushland.

Based on the above, it is considered that the development is consistent with this policy.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A17311_03).

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

SEPP (Infrastructure) 2007Ausgrid

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

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

Comment:

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

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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*

- (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
- (d) *any other development.*

Comment:

The proposed modification applies in this instance.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

The proposal is unlikely to result in any significant impact upon coastal amenity. The resulting impact is deemed to be negligible. The proposal will not compromise access to any beach, foreshore or rock

platform adjacent to the development.

The application was referred off to Council's floodplain and storm water management officer, natural environment officer as well as coast and catchment officer. The referrals raised no issues to the subject development, subject to conditions of consent.

Suitable conditions of consent have been included as part of the consent to ensure there are coastal processes and current and future coastal hazard are retained and mitigated appropriately.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposal has been assessed against the above. The application was referred to Council's Biodiversity and floodplain officer. No issues were raised subject to conditions being imposed in the consent.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The proposal is considered to have minimal or no impact in any of these areas.

14 Development on land within the coastal use area

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed works are primarily to the rear of the subject site, being that of the significant extension of the ground floor deck and new deck on the lower ground floor. The proposed decks while non-complaint with the numeric control for side and rear setbacks allows for sufficient physical separation between built form and adjoining bush land area and foreshore. There are no identified aboriginal sites on the subject site. The proposal will have no significant impact on cultural or environment heritage. The proposal takes is consistent with t the bulk and scale of adjoining properties and takes into account the surrounding coastal environment.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed works are considered to have a negligible impact on the surrounding environment and is unlikely to cause an increased risk of coastal hazards on the subject land or other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Manly Local Environmental Plan 2013

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	Approved	Proposed	%	Complies
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				Variation	
Height of Buildings:	8.5m	9.8m	9.9m	16.4%	No
Floor Space Ratio	FSR: 0.40:1 196.2m ²	FSR: 0.584:1 276m ² (Ratio based on calculation noted in the assessment report for modification application DA203/2013- Part 2)	FSR: 0.51 241.3m ² (New calculation based on plans provided for this application and a review of original and previous Mods) The modification proposes an additional 15.3m ² of gross floor area.	22.9%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	No
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes

Detailed Assessment

4.6 Exceptions to development standards

In accordance with the Land and Environment Court caselaw of *North Sydney Council v Michael Standley & Associates Pty Ltd* [1009] NSW 163 (Michael Standley & Associates) the Court determined that Section 96 (now Section 4.55) is a "free-standing provision" meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application." This means that Clause 4.6 of the MLEP 2013 does not strictly apply to the assessment of a modification application.

Notwithstanding the findings in *Michael Standley & Associates*, the Court later detailed in *Gann v Sutherland Shire Council* (2008) that consideration should still be given to the relevant standard objectives:

"This does not mean that development standards count for nothing. Section 96(3) still requires the consent authority to take into consideration the matters referred to in s 79C, which in turn include the provision of any environmental planning instrument. That is, any development standard in an environmental planning instrument must be taken into consideration by the

consent authority, but the absolute prohibition against the carrying out of development otherwise than in accordance with the instrument in s 76A(1) does not apply."

Accordingly, with consideration to the above caselaw, a merit assessment of the variation sought against the approved development is undertaken below to identify the developments consistency with the zone objectives and prevailing development standard objectives.

Requirement:	8.5m
Proposed:	9.9m
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	16.4%

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:

(1) The objectives of this Clause 4.3 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 bulk and scale of the proposed dwelling house is appropriate when considering the height and overall bulk and scale of neighbouring properties. The proposal maintains an appropriate scale relationship with neighbouring properties so that built form outcomes are consistent or compatible with surrounding development. The proposed modification increases the height of the building from 8.8m to 8.9m (0.1m increase). The proposed non-compliance related to the entire extension of the approved deck roof which is proposed to increase directly to the rear of the site 1.3m.

The development satisfies this objective.

b) to control the bulk and scale of buildings,

Comment:

The existing dwelling currently exceeds the 8.5m height control. This is primarily the result of the slope of the site on the southern side of Ogilvy Road. The proposal maintains the existing height of the house, which results in a continued non-compliance to the height limit. The proposed non-compliance is a result of the pergola for the proposed ground floor deck. The pergola is largely transparent and doesn't lead to unreasonable levels of bulk and scale.

The development satisfies this objective.

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 proposal has been assessed against the view loss provisions under Clause 3.4.3 of the Manly DCP and Tenacity Consulting v Warringah [2004] NSWLEC 140 when considering the impacts on the views of adjoining properties in this report. In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces.

The development satisfies this objective.

- 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 solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open spaces.

The development satisfies this objective.

- 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:

The proposed development has regards to the existing vegetation and topography of the site and surrounding development. The works are not going to have any unreasonable impact on urban bushland or surrounding land uses.

The development satisfies this objective.

Conclusion:

The proposed development satisfies the underlying objectives of the Height of Buildings development standard.

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 E3 Environmental Management zone.

The underlying objectives of the E3 Environmental Management zone

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

Comment:

The proposed development is acceptable in terms of its impacts on the ecological and aesthetic values. There are no known special ecological, scientific or aesthetic sites of value recorded on the subject site.

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

Comment:

The proposed works would not have an adverse effect on those values.

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

Comment:

The proposed works would have an unreasonable impact on tree canopies. The subject site is not in close vicinity of any important trees. The size and scale of the proposal means that it would not dominate scenic qualities of the foreshore. The proposed built form, as amended will fit comfortably within its surrounds.

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

Comment:

The proposed works are located near the foreshore however by design and as conditioned will have no impact on natural features. The generous setback proposed between the subject site and the foreshore will ensure that the development does not cause any unreasonable impact upon the harbour.

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

Comment:

The proposal is not considered to have any negative impacts on the foreshore, subject to conditions.

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

Comment:

The height and bulk of the proposed building has had regard to the adjoining development and the existing landscaping and topography of the adjoining sites.

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 subject modification application does not rely upon the flexibility that may be granted by Clause 4.6 for the reasons outlined in the first paragraph of this assessment.

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

Comment:

The development seeks a minor increase to the approved height of the development in order to provide a more equitable use of outdoor living space and the use of the dwelling. The proposal does increase the yield of the development and has a minor impact upon surrounding lands. It is found that the development as proposed achieves a better outcome than that of the approved development.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Requirement:	0.40:1 196.2m ²
Proposed:	0.51:1 241.3m ²
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	22.9%

The proposal must satisfy the objectives of Clause 4.4 – Floor Space Ratio, 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:

(1) The objectives of this clause 4.4 are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The increase in gross floor area is generally consistent with the existing landscape

character. The increase to the gross floor area is to the rear of the dwelling house and will not impact upon the appearance of the existing dwelling as viewed from the street. The proposal is consistent with the desired character of the streetscape.

The development satisfies this objective.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The watercourse to the rear of the site will not be unreasonably impacted or obscured by the proposed increase in gross floor area. The increase in gross floor is within the existing envelope of the dwelling house.

The development satisfies this objective.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The development overall is found to enhance the visual continuity of the existing character of the area and improve the aesthetics of the development on site.

The development satisfies this objective.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The increase in gross floor area will not significantly increase visual and aural impacts on adjoining development, not lead to unreasonable levels of overshadowing to adjoining properties. Views of the harbour and bush land are retained to a reasonable extent.

The development satisfies this objective.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

Not applicable.

Conclusion:

The proposed development satisfies the underlying objectives of the Floor Space Ratio development standard.

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 E3 Environmental Management zone.

The underlying objectives of the E3 Environmental Management zone

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

Comment:

The proposed development is acceptable in terms of its impacts on the ecological and aesthetic values. There are no known special ecological, scientific or aesthetic sites of value recorded on the subject site.

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

Comment:

The proposed works would not have an adverse effect on those values.

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

Comment:

The proposed works would have no impact on tree canopies. The subject site is not in close vicinity of any important trees. The size and scale of the proposal means that it would not dominate scenic qualities of the foreshore. The proposed built form, as amended will fit comfortably within its surrounds.

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

Comment:

The proposed works are located near the foreshore however by design and as conditioned will have no impact on natural features. The generous setback proposed between the subject site and the foreshore will ensure that the development does not cause any unreasonable impact upon the harbour.

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

Comment:

The proposal is not considered to have any negative impacts on the foreshore, subject to

conditions.

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

Comment:

The height and bulk of the proposed building has had regard to the adjoining development and the existing landscaping and topography of the adjoining sites.

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 subject modification application does not rely upon the flexibility that may be granted by Clause 4.6 for the reasons outlined in the first paragraph of this assessment.

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

Comment:

The proposed increase in gross floor area is minor (15.3m²) increase in gross floor area will have a negligible impact on adjoining properties in terms of amenity. The proposal will result in a greater outcome than the existing approved development without compromising adjoining properties.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Stormwater management

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed modifications to the stormwater management system is inconsistent with the provisions of Clause 6.4 Stormwater Management of the Manly Local Environmental Plan 2013.

As such, the existing stormwater conditions are to remain.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 472.6m²	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	East: 8m (based on gradient 1:4)	9m	8.9m	No
	West: 8m (based on gradient 1:4)	7.5m	7.5m	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.5m	0.4m	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.96m (based on eastern wall height)	0.9m	0.9m	No
	2.5m (based on eastern wall height)	0.9m	0.9m	No
	Windows: 3m	0.9m	3.35m	Yes
	Secondary street frontage: Prevailing setback	8.99m, consistent with prevailing setback	6.5- 8.9m, consistent with prevailing setback	No, consistent with the prevailing setback.
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	8m (rear boundary)	8.99m	6.5- 8.9m	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS1/2/3/4	Open space 60% (283.56m ²) of site area	57.6% (267.3m ²)	47.4% (224.1m ²)	No
	Open space above ground 25% of total open space	N/A (No calculation provided)	33% 74.4m ²	
4.1.5.2 Landscaped Area	Landscaped area 40% (89.6m ²) of open space	50.2% (142.31m ²)	40.1% 89.9m ²	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	In excess of 18m ²	In excess of 18m ²	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	No	No
3.8 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Merit consideration:

The development is considered against the underlying Objectives of the Control 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.

Comment:

The proposed modifications retain reasonable privacy to the subject site and adjoining development.

The decks on the lower ground floor and ground are proposed to be extended towards the rear boundary. The proposed lower ground floor deck is setback from the rear boundary 6.6m at the western edge increasing to a 8.8m setback along the eastern edge of the deck. The ground floor balcony is setback 6.5m from the rear boundary at the western edge increasing to a 8.8m rear setback at the eastern edge. Privacy screens are proposed along to the western side of the both the the lower ground and ground floor balconies.

No. 5 Ogilvy Road, Clontarf

The adjoining dwelling house to the west of the subject site (No. 5 Ogilvy Avenue) has existing decking on both the lower ground floor and ground floor deck of a similar bulk and scale to what is proposed on the subject site. The proposed decks has a minimum setback of 0.9m from the western boundary, to further mitigate privacy between outdoor living space screening has been proposed along the western edge of both the lower and ground floor balconies to a minimum height of 1.5m above finished floor level. The proposed decking is also setback further than the adjoining outdoor living area. This offset will ensure adequate physical separation between the outdoor living areas. This in conjunction with the proposed privacy screening will ensure that the development does not result in unreasonable overlooking or acoustic privacy impacts on the neighbouring property

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

Comment:

Privacy screens are proposed to the southern and eastern side of the deck areas to maximise privacy between properties, subject to conditions, while maintaining suitable sunlight access to outdoor living spaces.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal retains an open frontage to allow for passive surveillance of the street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.3 Maintenance of Views

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The proposed development will result in a negligible loss of views from the adjoining eastern property (No. 1 Ogilvy Road, Clontarf) to Middle Harbour. The loss of view is not unreasonable and will maintain adequate view sharing between properties.

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 proposal results in a disruption of views from neighbouring properties. The level of view loss is not unreasonable and has been assessed below with regards to the planning principle established by the NSW Land and Environment Court.

Council received one (1) submission from a neighbouring property in relation to view loss from the original and amended plans submitted. The Manly DCP refers to the planning principle within *Tenacity Consulting v Waringah [2004] NSWLEC 140* when considering the impacts on the views of the adjoining properties. This is provided below:

1. Nature of the view affected.

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.

Comment:

No. 1 Ogilvy Road, Clontarf

The nature of the views affected from this property would be beach and harbour (water) views to the south-west. The views would be filtered through existing development and vegetation shown below. a large portion of the existing views are side and over the top of existing development and vegetation.



Photo 1- Ground floor terrace (standing)



Photo 2- Ground floor terrace (sitting)



Photo 3- Ground floor living room (standing)



Photo 4- Ground floor living room (sitting)



Photo 5- Lower ground floor terrace (standing)



Photo 6- Landscaped open space (standing)

2. What part of the affected property are the views obtained.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from 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.

Comment:

No. 1 Ogilvy Road, Clontarf

The views affected from this property are obtained over the rear and side boundary. The views are over the top of the existing development and urban bushland. Views are obtained from a standing and sitting positions from living room and private open space, filtered through

vegetation of urban bushland.

3. Extent of Impact

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 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.

Comment:

No. 1 Ogilvy Road, Clontarf

No. 1 Ogilvy Road, currently has significant water views to the south and south-east. Views are enjoyed from the ground floor living room and adjoining terrace, the lower ground floor terrace and private open space to the rear of the site. Water views from the ground floor living room and terrace would be impacted to a negligible extent as a result of the proposed works., this area is the considered the principal private open space of this property. Water views from the lower floor terrace landscaped open space to the rear of the property would be impacted to a moderate extent as a result of the proposed works.

4. Reasonableness of the proposal causing the impact

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

Comment:

The proposal is inconsistent with the building height development standard under the Manly LEP. However, it is considered that a compliant proposal in this regards would not substantially improve access to harbour views.

The proposal responds appropriately to the available views through the provisions of views corridors over the top and to the rear of the subject property through building articulation and setback to ensure highly valued water views are retained to a satisfactory extent from adjoining properties (No. 1 Ogilvy Road, Clontarf) from principle private open space. The overall impact on No. 1 Ogilvy Road, Clontarf in terms of view loss is negligible to minor.

Given the above, it is considered that the proposal is acceptable and view sharing is achieved.

In regards to public open space, particularly that of the unmade road that is adjacent to subject site, the loss of views is negligible.

Given the above, it is considered that the proposal is acceptable and view sharing is achieved from public open space

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.

Comment:

The proposed works will not cause unreasonable loss of views. In regards to 'view creep' the proposal or neighbouring properties does include unreasonable bulk which could result in unreasonable future view loss.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.7 Stormwater Management

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.7 Stormwater Management of the Manly Development Control Plan.

As such, the approved conditions for stormwater management are to remain.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

This clause relies upon the objectives of Clause 4.3 under MLEP 2013. An assessment of the proposal against the objectives of Clause 4.3 has been provided within this report. This assessment has found the proposal to be consistent with the objectives of Clause 4.3.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires development be setback at least 2.96m from the eastern boundary and 2.5m from the western boundary.

Clause 4.1.4.6 of the Manly DCP requires development adjacent from LEP Zoned E2 be setback 8m from the rear boundary.

The development proposes the following:

East side setback- 0.9m (69.6% variation to the numeric control)

West side setback- 0.9m (54% variation to the numeric control)

Rear setback- 6.5-8.9m (18.75% variation to the numeric control)

Merit consideration:

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

Comment:

The proposed works will not readily visible from Ogilvy Road. Existing landscape features that adjoin the subject site on the Council reserve and urban bush land will be retained throughout the life of the development.

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.*

Comment:

Amenity considerations including privacy, solar access and maintenance of views are all maintained to a reasonable extent as part of this proposed development.

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

Comment:

Flexibility if provided in this circumstance as the proposed new dwelling house will not cause any unreasonable amenity impacts.

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.*

Comment:

The proposed development is consistent with the numeric control for landscaped open space. Important landscape features on site and immediately adjoining the subject site are to be retained.

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

Comment:

Suitable access to the adjoining bushland area is retained from the street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

Clause 4.1.5.2 of the Manly DCP requires at least 60% (283.56m²) of the site area be total open space. The proposed total open is 47.4% (267.3m²), non-compliant with the numeric control.

Clause 4.1.5.2 of the Manly DCP requires total open space above ground be no more than 25% of total open space. The proposed total open space above ground is equal to 33% (74.4m²), non-compliant with the numeric control.

Merit consideration:

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

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

Existing vegetation features to the rear of the site will be retained as part of this proposal.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

Substantial landscaping is retained on site at ground level, consistent with the numeric control. No trees on the subject site or surrounding private and public space are proposed to be removed.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

Amenity considerations including privacy and views are retained as part of these works to a reasonable extent. The works will not be readily visible from the street.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

The proposal retains reasonable levels of landscaped open space at ground level to the front and rear of the dwelling to minimise the stormwater runoff.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

The proposed private open space is compliant with the numerical requirements under the Manly DCP. The proposed works will not lead to an unreasonable spread of weeds across the site, adjoining properties or public open spaces including the foreshore and urban bush land to the rear of the property.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The application was referred to Council's Natural Environment Unit officers are required to consider the likely potential environmental impacts. The development was recommended for approval, subject to conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

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;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects,

all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0482 for Modification of Development Consent DA203/2013 granted for alterations and additions to an existing dwelling on land at Lot 10 DP 2610,3 Ogilvy Road, CLONTARF, Lot 10 DP 2610,3 Ogilvy Road, CLONTARF, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Dwg No. 2/ Lower Floor Plan/ Revision G	9 August 2018	Gartner Trovato
Dwg No. 3/ Ground Floor Plan/ Revision H	14 November 2018	Gartner Trovato
Dwg No. 4/ Garage and Upper Floor Plan/ Revision G	9 August 2018	Gartner Trovato
Dwg No. 5/ Elevations S & E/ Revision H	14 November 2018	Gartner Trovato
Dwg No. 6/ Elevations N & W/ Revision H	14 November 2018	Gartner Trovato
Dwg No. 7/ Sections/ Revision H	14 November 2018	Gartner Trovato

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A173311_03	6 September 2018	Gartner Trovato Architects
RFS External Referral Reference No. D15/3949	29 October 2018	New South Wales Rural Fire Service (NSW RFS)
Bushfire Risk Assessment	12 August 2018	Matthew Willis

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

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

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

B. Add Condition - 22A Flooding - to read as follows:

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

All new development below the Flood Planning Level of 26.7m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 26.7m AHD taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 26.7m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Floor Levels – F2

The underfloor area of the dwelling below the 1% AEP flood level of 26.2m AHD is to be designed and constructed to allow clear passage of floodwaters.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

C. Add Condition - 31A Installation and Maintenance of Sediment and Erosion Control- to read as follows:

Sediment and erosion controls must be installed along the creek top of bank in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the creek and surrounding environment from the effects of sedimentation and erosion from the site

D. Add Condition - 31B Geotechnical Report - to read as follows:

This development is on a sloping site and requires a geotechnical assessment to consider the stability of the slope and the suitability of the proposed design. A geotechnical report by a suitably qualified engineer is to be submitted specific to MOD2018/0482 assessing the suitability of the proposed design and the stability of the watercourse bank.

Reason: To ensure the geotechnical suitability of the site for the development

E. Add Condition- 47A Tree Protection During work- No Works within 5m/calculated Tree Protection Zone

The developer or contractor will take all measures to prevent damage to trees and root systems during

site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks or the calculated TPZ of trees to be retained are not permitted, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk or the calculated TPZ of a tree to be retained, is not permitted.

Reason: To protect and retain trees/the natural environment proposed for retention.

F. Add Condition - 62A General Watercourse and Riparian Areas Matters - to read as follows:.

Unless in accordance with the approved works the Consent holder must ensure that:

- a) No materials or cleared vegetation that may obstruct flow or cause damage to watercourse banks are left within the riparian zone.
- b) All drainage works must not obstruct flow of water within the watercourse. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any watercourse, bank instability or damage to native vegetation.
- c) The surfaces of watercourse banks are to be left intact to enable the unimpeded flow of water and result in a stable bank.
- d) Any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted.

Reason: To protect the bed and banks of adjoining watercourse.

G. Add Condition - 62B Building materials, sedimentation - to read as follows:

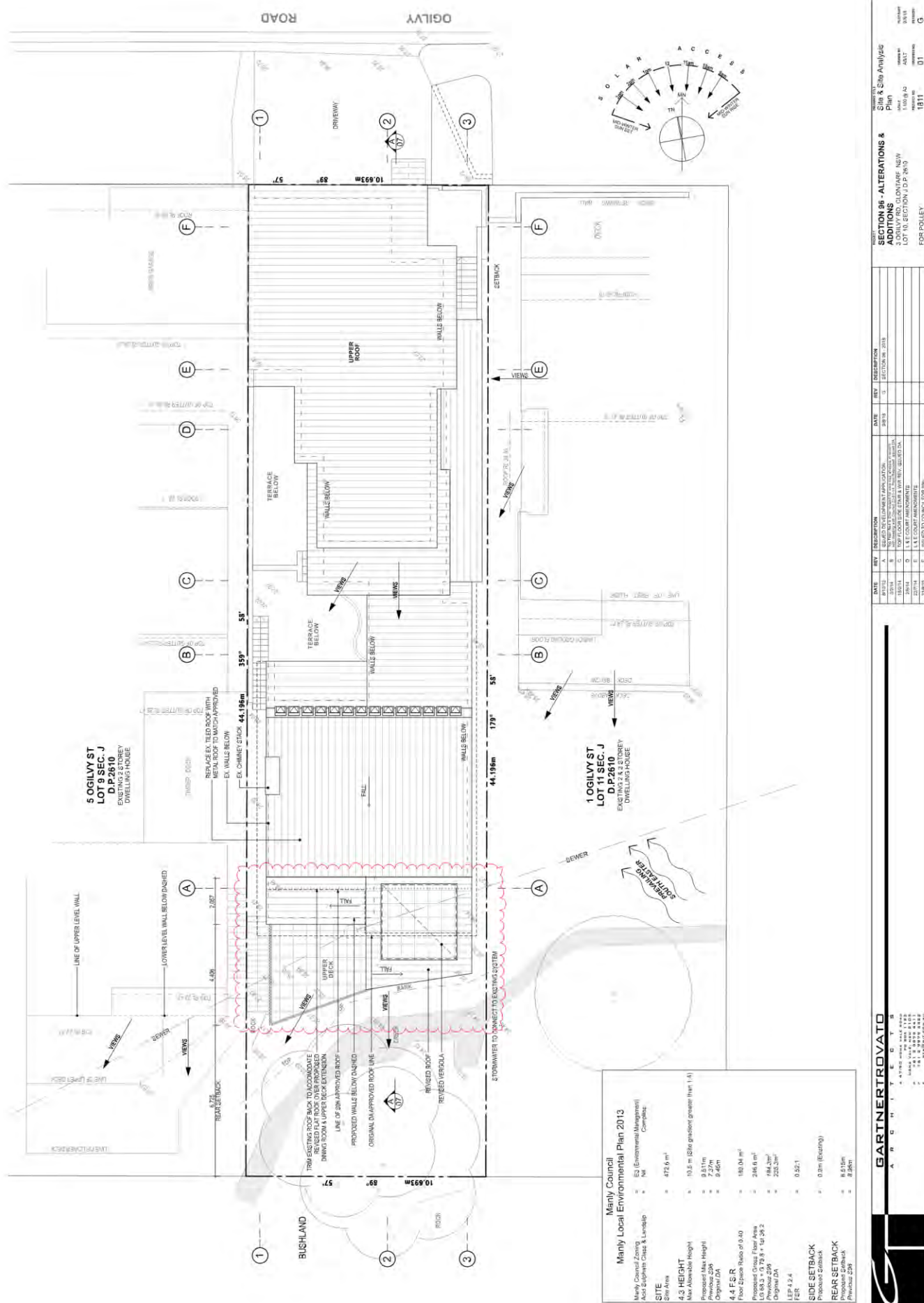
No building materials or other materials are to be placed on or enter areas of bushland vegetation. Appropriate sediment fencing is to be installed.

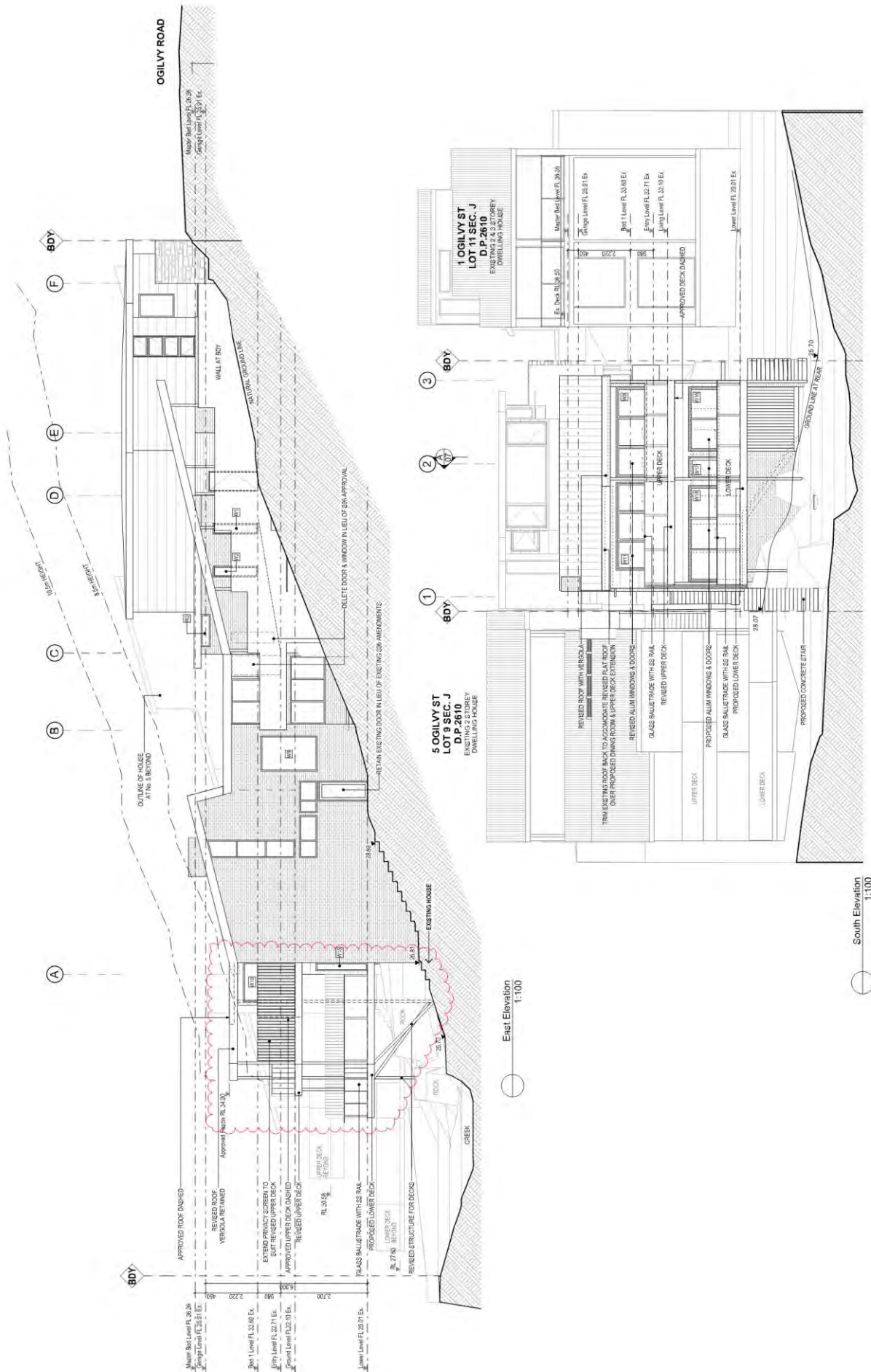
Reason: Environmental Protection.

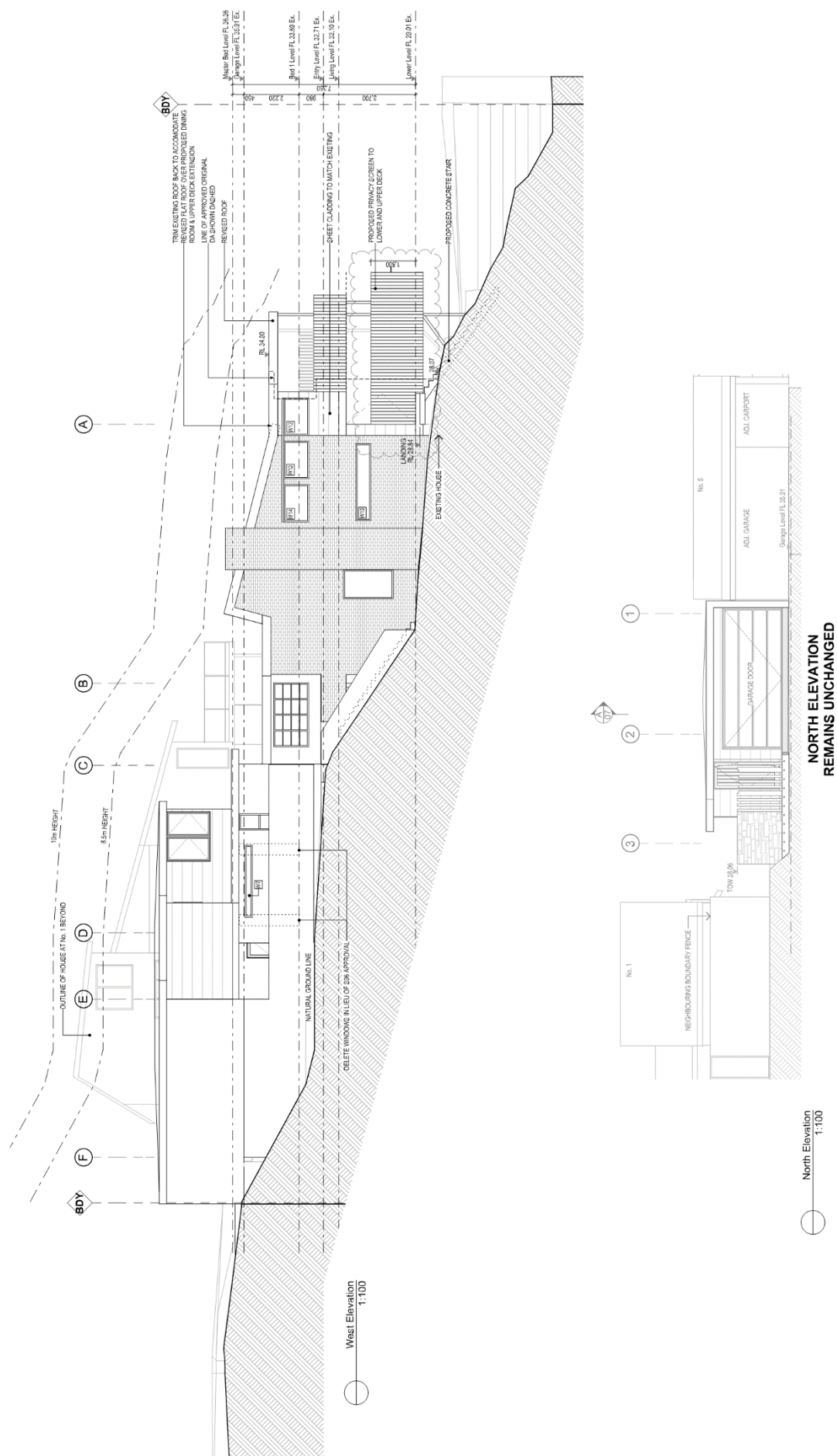
H. Add Condition - 62C No Planting Environmental Weeds - to read as follows:

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.





[illegible]

ITEM 3.3**DA2018/1289 - 1150-1168 PITTWATER ROAD, COLLAROY -
CONSTRUCTION OF COASTAL PROTECTION WORKS (SEA
WALL)****REPORTING OFFICER****Steve Findlay****TRIM FILE REF****2019/110988****ATTACHMENTS**

- 1 Assessment Report**
- 2 Plans**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2018/1289 for construction of coastal protection works (sea wall) at SP 2949, Lots A-C DP302895, Lots B and C DP 954998, Lots 71 and 72 DP 1011242, Lot 1 DP 970200 and Lot, 1150-1168 Pittwater Road, Collaroy subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1289
Responsible Officer:	Daniel Milliken
Land to be developed (Address):	<p>Lot B DP 954998, 1154 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 1 DP 313699, 1156 Pittwater Road COLLAROY NSW 2097</p> <p>Lot C DP 954998, 1156 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 1 DP 1016094, 1158 Pittwater Road COLLAROY NSW 2097</p> <p>Lot C DP 302895, 1160 Pittwater Road COLLAROY NSW 2097</p> <p>Lot B DP 302895, 1162 Pittwater Road COLLAROY NSW 2097</p> <p>Lot A DP 302895, 1164 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 1 DP 970200, 1168 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 71 DP 1011242, 1166 A Pittwater Road COLLAROY NSW 2097</p> <p>Lot 72 DP 1011242, 1166 B Pittwater Road COLLAROY NSW 2097</p> <p>Lot CP SP 2949, 1150 Pittwater Road COLLAROY NSW 2097</p>
Proposed Development:	Construction of coastal protection works (sea wall)
Zoning:	<p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p>

	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Coastal Management) 2018
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Charles Kirk Hoatson Kylie Suzanne Lambert Selena Conna The Owners of Strata Plan 2949 Kevin John Conna Tod Stephen McGrouther John Bronco Martin Estate Of The Late Joan Marie Martin Douglas John McGrath Neil James Esmond Gibson Joan Susanne Gibson Bruce Frederick William Clement Margot Clare Clement Dianne Dickson Verlie Pamela Hall Joanne Maree Hoatson
Applicant:	Horton Coastal Engineering Pty Ltd
Application lodged:	01/08/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Infrastructure
Notified:	15/08/2018 to 02/09/2018
Advertised:	18/08/2018
Submissions Received:	10
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,876,387.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 5.5 Development within the coastal zone
 Warringah Local Environmental Plan 2011 - 6.5 Coastline hazards
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - E7 Development on land adjoining public open space
 Warringah Development Control Plan - E9 Coastline Hazard

SITE DESCRIPTION

Property Description:	Lot B DP 954998 , 1154 Pittwater Road COLLAROY NSW 2097 Lot 1 DP 313699 , 1156 Pittwater Road COLLAROY NSW 2097 Lot C DP 954998 , 1156 Pittwater Road COLLAROY NSW 2097 Lot 1 DP 1016094 , 1158 Pittwater Road COLLAROY NSW 2097 Lot C DP 302895 , 1160 Pittwater Road COLLAROY NSW 2097 Lot B DP 302895 , 1162 Pittwater Road COLLAROY NSW 2097 Lot A DP 302895 , 1164 Pittwater Road COLLAROY NSW 2097 Lot 1 DP 970200 , 1168 Pittwater Road COLLAROY NSW 2097 Lot 71 DP 1011242 , 1166 A Pittwater Road COLLAROY NSW 2097 Lot 72 DP 1011242 , 1166 B Pittwater Road COLLAROY NSW 2097 Lot CP SP 2949 , 1150 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	The subject site consists of Nos. 1150, 1154, 1156, 1158, 1160, 1162, 1164, 1166A, 1166B and 1168 Pittwater Road. They have a combined area of approximately 6,950.48sqm and are generally flat (sloping down at the eastern end, towards the beach).

The site comprises an entire street block containing 10 properties (11 lots) located on the eastern side of Pittwater Road. The site is surrounded by Collaroy Beach to the east, a Council road reserve to the north (Wetherill Street), a Council road reserve to the south (Stuart Street) and Pittwater Road to the west.

Each of the residential lots, apart from No. 1150 Pittwater Road, contain a dwelling house and other ancillary structures. No. 1150 Pittwater Road contains a four storey residential flat building. All of the ten residential lots lost land and structures in some form to the ocean during the large storms in June 2016.

No. 1150 Pittwater Road obtains driveway access from Stuart Street, No. 1168 Pittwater Road obtains driveway access from Wetherill Street, all other properties have vehicular access from Pittwater Road.

The proposed development takes place across all 10 residential properties (11 lots), and will link to future coastal protection works along the eastern boundaries of the adjoining road reserves (Stuart and Wetherill Streets).

Map:



SITE HISTORY

In June 2016, a large storm caused severe coastal erosion to the eastern sides (i.e. the beach sides) of the subject sites and damage to some of the dwellings and ancillary structures.

For the subject sites, the following matters are relevant to the current application:

PLM2017/0029

A prelodgement meeting was held on 3 April 2017 to discuss the construction of coastal protection works.

Relevant comments provided in the minutes included:

"Council is supportive of the proposal in concept. Fully detailed plans and reports will need to be submitted for assessment.

This application may attract a large amount of public interest. As such, please ensure that all plans and supporting documentation include sufficient detail so that any member of the public can clearly understand the design and characteristics of the proposal (particularly as it relates to being designed as a predominantly sand covered structure) ."

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the construction of coastal protection works on the eastern side of the site. The works will be located entirely on private land.

In detail the proposal includes:

- Site preparation works.
- The construction of an engineered coastal protection wall on the eastern side of the sites.
 - The wall consists of a vertical element and a rock toe. This is known as a hybrid design (i.e. a combination of a rock revetment and a verticle wall).
 - The wall will contain seven sets of stairs giving the residents access to the beach.
- The back filling of the coastal protection wall to restore the subject properties to their natural ground level.
- The covering of the rock portion of the coastal protection wall with sand.
- Associated landscaping works on the remainder of the sites.

Note: The development is prohibited under the Warringah Local Environment Plan 2011 but is permitted with consent under the State Environmental Planning Policy (Coastal Management) 2018.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clauses 54 and 109 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.</p> <p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>These sites are located on the fore dune and suffered significant erosion during storms in June 2016. In order to protect the most vulnerable stretch of Collaroy and Narrabeen Beach (a stretch that includes these sites), a series of connected coastal protection walls will need to be constructed. This proposal will form part of this longer contiguous wall.</p> <p>The site is therefore considered suitable for the proposed development.</p>
Section 4.15 (1) (d) – any submissions	See discussion on "Public Exhibition" in this report.

Section 4.15 'Matters for Consideration'	Comments
made in accordance with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	<p>The proposed coastal protection works are permitted with consent under <i>State Environmental Planning Policy (Coastal Management) 2018</i>. Public access to the beach will not be impeded by the works and natural coastal processes will not be significantly adversely affected.</p> <p>The works will assist in the protection of public infrastructure and private property. This will be achieved by the construction of the proposal and it linking to other similar coastal protection works. The works will have an overall public benefit.</p> <p>In this regard, no matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

COASTAL MANAGEMENT ACT 2016

Section 27 of the *Coastal Management Act 2016* states:

(1) *Development consent must not be granted under the Environmental Planning and Assessment Act 1979 to development for the purpose of coastal protection works, unless the consent authority is satisfied that:*

(a) *the works will not, over the life of the works:*

(i) *unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or*

(ii) *pose or be likely to pose a threat to public safety, and*

(b) *satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works:*

(i) *the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works,*

(ii) *the maintenance of the works.*

(2) *The arrangements referred to in subsection (1) (b) are to secure adequate funding for the carrying out of any such restoration and maintenance, including by either or both of the following:*

(a) *by legally binding obligations (including by way of financial assurance or bond) of all or any of the following:*

(i) *the owner or owners from time to time of the land protected by the works,*

(ii) *if the coastal protection works are constructed by or on behalf of landowners or by landowners jointly with a council or public authority—the council or public authority,*

Note. Section 80A (6) of the *Environmental Planning and Assessment Act 1979* provides that a development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of making good any damage caused to any property of the consent authority as a consequence of the doing of anything to which the consent relates.

(b) *by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the Local Government Act 1993).*

(3) The funding obligations referred to in subsection (2) (a) are to include the percentage share of the total funding of each landowner, council or public authority concerned.

Comment:

The design, construction and proposed on-going maintenance of the coastal protection works will not unreasonably limit public access to, or the use of, the beach. The works will also not pose a threat to public safety.

Conditions of consent have been recommended to ensure the restoration of the beach and/or land adjacent to the beach if any increased erosion of the beach or adjacent land is caused by the presence of the works. Conditions have also been recommended to ensure the on-going maintenance of the works.

The recommended conditions can be viewed at the end of this report.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 10 submission/s from:

Name:	Address:
Mr Barry Raymond Grundy	1245 Pittwater Road NARRABEEN NSW 2101
Craig Jackson	Invalid Address NSW
Mr Daniel Lawrence Vidoni	13 / 1150 Pittwater Road COLLAROY NSW 2097
Mr Raymond John Cook	9 / 1 A Ramsay Street COLLAROY NSW 2097
Mr John Michael Comino	8 / 1150 Pittwater Road COLLAROY NSW 2097
Dr Robert Alexander Orth	9/1150 Pittwater Road COLLAROY BEACH NSW 2097
Mr Timothy Bruce Cormack	6 Kara Crescent BAYVIEW NSW 2104
Dr Nicholas Ian Krasner	132 Pitt Road NORTH CURL CURL NSW 2099
Mr Russell Farr	5/15 Warringah Road MOSMAN NSW 2088
Mr Peter Maxwell Jones	4 / 1172 Pittwater Road NARRABEEN NSW 2101

The proposal received 10 submissions. Of these 10 submissions, two objected to the proposal, one submission raised a question and seven were in support of the proposal.

The following issues were raised in the submissions and each have been addressed below:

- **Council should buy the affected properties**
- **Public access to the beach**
- **Scouring of the beach**
- **Timing of Council works on adjoining public land**

The matters raised within the submissions are addressed as follows:

- **Council should buy the affected properties**

The submissions recommended that Council buy the affected properties.

Comment:

Council's does not have a current policy to purchase these lots.

This matter does not warrant the refusal of the application.

- **Public access to the beach**

The submissions raised concerns that public access to the beach may be affected during high tides.

Comment:

The proposed works are entirely within privately owned land. Access to the public beach from public land to the north and south of the sites will be protected (and enhanced once Council's coastal protection works are built adjoining the proposed works), even during high tides.

This matter does not warrant the refusal of the application.

- **Scouring of the beach**

The submissions raised concerns that the works will result in scouring of the beach.

Comment:

The proposal has been assessed by Council's Coastal Engineers and peer reviewed by an experienced external consultant Coastal Engineer. These assessments have found that the proposed works are the best option for these sites. The design is the best outcome to enable natural coastal processes to take place while still protecting private land and some public infrastructure.

The wall should not result in unreasonable scouring of the beach.

Therefore, this matter does not warrant the refusal of the application.

- **Timing of Council works on adjoining public land**

The submissions queried "*When will Council be undertaking works (as noted on plans) to protect public areas, i.e. end of Wetherill / Stuart St and Ramsay St (which has been left to deteriorate since the storm event).. to ensure these private works and public property aren't*

damaged in next storm event?"

Comment:

Council's works will be timed to occur mostly in conjunction with the works on private land. This way, both the private and public works will protect each other.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments		
Environmental Health (Acid Sulphate)	Environmental Health have no objections, acknowledging the detailed reports prepared by Horton Coastal Engineering Pty Ltd for SWNA Pty Ltd Issue A 1 August 2018 and JK Geotechnics 30444ZRpt Rev4 conditions are below.		
Environmental Health (Industrial)	Environmental Health have no objections, acknowledging the detailed reports prepared by Horton Coastal Engineering Pty Ltd for SWNA Pty Ltd Issue A 1 August 2018 and JK Geotechnics 30444ZRpt Rev4.		
Landscape Officer	The application is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.		
NECC (Coast and Catchments)	Matters for consideration		Comments
	Are the proposed works located in an area considered to be generally suitable for coastal protection as identified in:		
	The Coastal Zone Management Plan for Collaroy-Narrabeen Beach and Fishermen's Beach.	Yes	
	The Northern Beaches Coastal Erosion Policy.	Yes	
	Landowners Consent		
	Is Landowner's consent from the Department of Primary Industries required for any private protection works that extend onto or under Crown Land.	No	
	Has Landowner's consent from the Department of Primary Industries been granted for any private protection works that extend onto or under Crown Land.	N/A	All works to be contained within private property boundaries.

Internal Referral Body	Comments	
	Northern Beaches Coastal Erosion Policy Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979, the requirements of the Northern Beaches Coastal Erosion Policy are to be satisfied as follows: Supporting information: Is the application accompanied by sufficient information to address the requirements of this policy, the CZMP, the Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications and the Collaroy-Narrabeen Protection Works Assessment Checklist.	
	Survey identifying the location of all relevant property boundaries with respect to the proposed works including the location of the eastern boundary having regard to any erosion and accretion processes.	Yes Submitted with the application
	Certification that the works set out in the application are supported by appropriately experienced and qualified specialists in the field of coastal engineering.	Yes Submitted with the application
	In the case of an application dealing with multiple properties, that an enforceable agreement from all owners has been obtained to fund and construct the works as a single contiguous project.	No To be conditioned
	A mechanism to ensure appropriate protections for Council and the public in the event that the applicant cannot complete the works in a timely professional; manner (e.g. bank guarantee in favour of Council in the event of non-compliance or failure to complete the works).	No To be conditioned
	Appropriate mechanisms that allow for the efficient maintenance, funding of	No Will be conditioned to ensure compliance with the Northern Beaches

Internal Referral Body	Comments		
	offsets for any adverse impacts on adjacent properties and/or the public beach and any renewal of the works as required by or on behalf of the benefiting property owner/s.		Coastal Erosion Policy 27 of the Coastal Management Act 2016.
	An assessment demonstrating that the development does not have a long-term impact on coastal processes in the Collaroy-Narrabeen embayment.	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	An assessment demonstrating that the development does not have a long-term impact on public access to or along the beach.	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016) and additional assessment of this application by both the Manly Hydraulics Laboratory and UNSW Water Research Laboratory.
	An assessment of the impact of climate change and sea level rise on the development and the adjoining beach environment.	Yes subject to condition	Addressed and to be conditioned
	Demonstration that the works are consistent with the CZMP and the Northern Beaches Coastal Erosion Policy	Yes	No additional comments required
	Design and construction: Are the works designed and constructed:		
	To ensure the long-term coastal processes of the Collaroy-Narrabeen Beach embayment are maintained.	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	To ensure that the	Yes subject	Actions required to

Internal Referral Body	Comments		
	presence of the works will not adversely impact on adjoining private and public properties, or adversely affect the long-term amenity of the adjoining beach and surf zone.	to condition	coordinate protection with adjoining council land to be conditioned.
	Such that the works are only visible temporarily during and after significant erosion events.	Yes	Attempts to minimise visual impact have been incorporated into design. Potential impacts to visual amenity offset by reduced footprint of the works.
	To be contiguous, similar and integrated with adjoining protection works constructed in the embayment.	Yes subject to condition	Works consistent with Collaroy-Narrabeen Beach Coastal Protection Works Specifications. Interaction with adjoining public land to be addressed via condition.
	To a consistent design standard that provides an appropriate level of protection from coastal erosion for affected properties.	Yes	Works consistent with Collaroy-Narrabeen Beach Coastal Protection Works Specifications
	To ensure public access is not adversely impacted by any new protection works.	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	To ensure access for ongoing maintenance of the works.	Yes	Maintenance of ongoing access to be conditioned.
	In accordance with the minimum criteria outlined in the Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications.	Yes	No additional comments required
	Maintenance Coastal protection works are to be maintained in a manner that ensures the ongoing level of design performance. Have the following maintenance considerations been addressed in the application?		
	Undertaking a routine	Yes subject	To be conditioned

Internal Referral Body	Comments		
	series of inspections.	to condition	
	Ensuring works are renewed in a timely manner such that the design level of protection is not threatened.	Yes subject to condition	To be conditioned
	Ensuring works are upgraded as required in response to changes in impacts associated with frequency or intensity of storm events or sea level rise associated with climate change.	Yes subject to condition	To be conditioned
	Ensuring suitable access is retained to the works so that ongoing maintenance can be implemented by private and/or public owners.	Yes subject to condition	To be conditioned
	Existing protection works (e.g. loose rock or geobags) that are not incorporated into permanent protection works shall be removed by the Principal Asset Owner for the permanent works.	Not Applicable	No additional comments required
<p>WLEP 2011 requirements Clauses 5.5 and 6.5 Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979, the objectives of the Warringah Local Environmental Plan 2011 (WLEP 2011) relevant to coastal protection are considered as follows:</p>			
	Assessment Consideration	Assessment Acceptability	Further Assessment Comment
	Does the development maintain existing public access to and along the coastal foreshore?	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	Is the development suitable in relation to the surrounding area and its impact on the natural	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly

Internal Referral Body	Comments		
	scenic qualities?		Hydraulics Laboratory and UNSW Water Research Laboratory, 2016) and additional assessment of this application by both the Manly Hydraulics Laboratory and UNSW Water Research Laboratory.
	Is the development suitable in relation to the surrounding area and its impact on the amenity of the coastal foreshore?	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016) and additional assessment of this application by both the Manly Hydraulics Laboratory and UNSW Water Research Laboratory.
	Is the development suitable in relation to its cumulative impacts and other development in the coastal catchment?	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	Will the development adversely affect coastal process significantly?	No	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	Will the development increase the impacts of coastal hazards to other development or properties significantly?	No	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016) and additional assessment of this application by both the Manly Hydraulics Laboratory and UNSW Water Research Laboratory.
	Will the development	No	Findings consistent with

Internal Referral Body	Comments		
	increase the impacts of coastal hazards to the detriment of the environment?		Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	Does the development incorporate appropriate measures to minimise exposure to coastal hazards?	Yes	Works consistent with Collaroy-Narrabeen Beach Coastal Protection Works Specifications
	Does the development incorporate appropriate for modification in response to sea level rise?	Yes subject to condition	To be conditioned
	WDCP 2011 requirements Clause E9 – Coastline Hazard Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979, the Objectives of the Warringah Development Control Plan 2011 (WDCP 2011) are considered the following:		
	Assessment Consideration	Assessment Acceptability	Further Assessment Comment
	Does the proposal provide protection from coastal processes and coastline hazards for proposed buildings and works along Collaroy Beach, Narrabeen Beach and Fisherman's Beach?	Yes	No additional comments required
	Does the development mitigate any adverse impact on the scenic quality of Collaroy, Narrabeen and Fisherman's Beaches?	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	Does the development mitigate any adverse impact on the coastal processes affecting adjacent land?	Yes	Findings consistent with Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016)
	Does the development retain the area's regional role for public recreation and amenity?	Yes	No additional comments required

Internal Referral Body	Comments
	<p>NSW Coastal Management Act: Has section 27 of the Coastal Management been satisfied in the conditions of consent for the proposed coastal protection works?</p> <p>Conclusion / General Comments</p> <p>The proposed coastal protection works are consistent with the CZMP for Collaroy-Narrabeen Beach and Fisherman Beach as well as the Northern Beaches Coastal Erosion Policy. The proposal can be approved subject to condition.</p> <p>It is noted that this proposal integrates with existing informal coastal protection works that extend both north and south of this proposal for a distance of approximately 1.3 kilometres. The proposed works cover a distance of approximately 125 meters from Wetherill Street to Stuart Street.</p> <p>This has been taken into account in assessing the potential impact of these works and actions required to coordinate protection with adjoining properties.</p> <p>Recommendation</p> <p>Unlikely significant impact, no objections to approval, subject to conditions.</p>
NECC (Development Engineering)	No objections to the proposed coastal protection wall subject to conditions.
Parks, reserves, beaches, foreshore	It is noted that the proposed seawall will be constructed wholly on private property. Construction activities however will utilise public reserve for access, material storage and establishment of a protection bund for the works. Appropriate conditions designed to minimise impact on the reserve and users have been recommended.
Road Reserve	No impact on existing road assets. Development Engineering to apply normal conditions in relation to protection of public roads
Traffic Engineer	<p>The application is for Coastal Protection Works.</p> <p>There are no Traffic implications other than management of construction traffic.</p> <p>Traffic Team raise no objection subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Department of Lands - Lands and Property Management Authority	The application was referred to the NSW Department of Lands. No response has been received and as the works are entirely on private land, it is assumed that the department raises no objections to

External Referral Body	Comments
	approval.

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 and coastal protection land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed works have been assessed by Council's internal and external coastal experts.

The coastal protection works will link with other protection works to the north and south that, overall, run for approximately 1.3km along Collaroy/Narrabeen beach. The proposed works will fit with this overall alignment, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The design of the wall (a hybrid design with a vertical element and a rock toe) is the most appropriate for this site to both align with the adjoining coastal protection works, minimise the impact on coastal processes, and maximise the usable space for the private property owners.

Conditions have been imposed to protect public safety, access to the beach, and Aboriginal cultural heritage.

In this regard, the works, as assessed by Council's internal and external coastal experts will not have unreasonable impacts on:

- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- the coastal environmental values and natural coastal processes,
- the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- Aboriginal cultural heritage, practices and places,

- the use of the surf zone.
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As above, the proposed works are the best fit for the circumstances of the site and the overall alignment of works along Collaroy/Narrabeen Beach, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The impacts from the works will be managed by the conditions of consent, ensuring on-going maintenance and action in the event of a storm that causes any damage to the works.

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

(a) The proposed works are located entirely on private land and will not impact on the public access to the beach. The works are mostly at the height of the foredune and will not cause unreasonable impacts to the visual amenity and scenic qualities of the coast, or any unreasonable overshadowing, wind funnelling and the loss of views from public places to the foreshore. Conditions of consent have been included to protect public safety, access to the beach, and Aboriginal cultural heritage.

(b) The proposed works are the best fit for the circumstances of the site and the overall alignment of works along Collaroy/Narrabeen Beach, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The impacts from the works will be managed by the conditions of consent, ensuring on-going maintenance and action in the event of a storm that causes any damage to the works.

(c) The coastal protection works will link with other protection works to the north and south that, overall, run for approximately 1.3km along Collaroy/Narrabeen beach. The proposed works will fit with this overall alignment, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

As such, it is considered that the application meets the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
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	Complies
Height of Buildings:	8.5m	The top of the vertical element of the wall will be at 6.0m AHD. The current ground level below where the wall is proposed varies from 3.0m AHD to 5.0m AHD. The proposal therefore has a maximum height of 3.0m.	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.5 Development within the coastal zone	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

Detailed Assessment

5.5 Development within the coastal zone

Clause 5.5 of the Warringah Local Environmental Plan 2011 states:

(2) Development consent must not be granted to development on land that is wholly or partly within the

coastal zone unless the consent authority has considered:

(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:

- (i) maintaining existing public access and, where possible, improving that access, and*
- (ii) identifying opportunities for new public access, and*

Comment:

The proposal will not impede existing public access to the beach. By reinforcing the protection of private land, the public beach will more easily accessible for longer periods of time during the storm season.

(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:

- (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
- (ii) the location, and*
- (iii) the bulk, scale, size and overall built form design of any building or work involved, and*

Comment:

The proposed coastal protection works are suitable for the site and will be consistent with the network of coastal protection works along Collaroy and Narrabeen beaches.

The coastal protection works on the subject site are designed to be close to ground level and will be partially covered in sand. In this regard, some of the bulk of the works will be hidden and the development will not unreasonably impact the scenic quality of the beach front and will not impact on land uses and activities associated with the coast.

(c) the impact of the proposed development on the amenity of the coastal foreshore including:

- (i) any significant overshadowing of the coastal foreshore, and*
- (ii) any loss of views from a public place to the coastal foreshore, and*

Comment:

The coastal protection works on the subject site are designed to be close to the foredune level and will not result in any unreasonable overshadowing or loss of views to or from the coastal foreshore.

(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

Comment:

The visual amenity and the scenic quality of the coast will be reasonably protected due to the coastal protection works being close to the foredune level and partly covered in sand (the vertical element will be visible from the public beach).

(e) how biodiversity and ecosystems, including:

- (i) native coastal vegetation and existing wildlife corridors, and*
- (ii) rock platforms, and*
- (iii) water quality of coastal waterbodies, and*
- (iv) native fauna and native flora, and their habitats, can be conserved, and*

Comment:

The area that will be the location of the coastal protection wall was heavily damaged and eroded during the storms in June 2016. There are no rock platforms in the area and limited coastal vegetation or habitats for native fauna and flora remained after these storms.

(f) the cumulative impacts of the proposed development and other development on the coastal catchment.

Comment:

The proposed development individually and combined with the eventual line of future coastal protection walls along Collaroy and Narrabeen beaches are necessary to protect private land, public land and critical infrastructure. The nature and location of the proposal and other future similar proposals will not have unacceptable impacts on the coastal catchment.

(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and

Comment:

The proposed development is located entirely on private land. The works will strengthen coastal protection, particularly during large storms. By reinforcing the protection of private and public land, the public beach will more easily accessible for longer periods of time during the storm season. In this regard, the works will not unreasonably impede or diminish, the physical, land-based right of access of the public to or along the coastal foreshore.

(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

Comment:

The development does not involve the disposal of effluent.

(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

Comment:

The development does not involve the discharge of stormwater.

(d) the proposed development will not:

- (i) be significantly affected by coastal hazards, or*
- (ii) have a significant impact on coastal hazards, or*
- (iii) increase the risk of coastal hazards in relation to any other land.*

Comment:

The proposed coastal protection works will be affected by coastal hazards, however, the purpose of the development (in conjunction with other coastal protection works to the north and south) is to protect private land, public land and critical infrastructure.

Overall, the development will not have a significant impact on coastal hazards and, once constructed in conjunction with other neighbouring coastal protection works, will not increase the risk of coastal hazards on any other land.

6.5 Coastline hazards

The objectives of Clause 6.5 - 'Coastline Hazards' require development to:

- (a) avoid significant adverse impacts from coastal hazards, and
- (b) enable evacuation of coastal risk areas in an emergency, and
- (c) ensure uses are compatible with coastal risks, and
- (d) preserve and protect Collaroy Beach, Narrabeen Beach and Fishermans Beach as national assets for public recreation and amenity.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

Clause 6.5 - 'Matters for Consideration'	Comments
Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:	
(a) will not significantly adversely affect coastal hazards	Consistent with the findings of Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016), the proposal will not significantly adversely affect coastal hazards.
(b) will not result in significant detrimental increases in coastal risks to other development or properties.	Conditions to ensure appropriate integration with adjoining council land have been included in the recommendation. As such, the proposal will not result in significant detrimental increases in coastal risks to other development or properties.
(c) will not significantly alter coastal hazards to the detriment of the environment.	Consistent with the findings of Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016), the proposal will not significantly alter coastal hazards to the detriment of the environment.
(d) incorporates appropriate measures to manage risk to life from coastal risks.	The works are consistent with the Collaroy-Narrabeen Beach Coastal Protection Works Specifications and will therefore incorporate appropriate measures to manage risk to life from coastal risks.
(e) avoids or minimises exposure to coastal hazards.	The coastal protection works will minimise exposure to coastal hazards through the appropriate location and integration of the works with adjoining protection works. The wall is designed to only come into effect during large coastal storms.
(f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise	Actions required to retrofit works have been identified. These actions are recommended to be conditioned as part of a maintenance plan.

planning benchmarks.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Warringah Development Control Plan

Built Form Controls

The proposed coastal protection works will sit across Nos. 1150 to 1168 Pittwater Road. For the purposes of the built form control table below, the proposal has been assessed as a single structure.

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	Maximum of 3.0m	N/A	Yes
B3 Side Boundary Envelope	North - 4m	No encroachments	N/A	Yes
	South - 4m	No encroachments	N/A	Yes
B7 Front Boundary Setbacks	West - 6.5m	Pittwater Road - Minimum of approximately 50.5m	N/A	Yes
B7 Secondary Front Boundary Setback	North - 3.5m South - 3.5m	North (Wetherill Street) - Nil South (Stuart Street) - Nil	100% 100%	No No
B9 Rear Boundary Setbacks	East - 6m	Between Nil and 2.0m	100% - 66.67%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	Approximately 38.97% (2,708.67sqm)	2.58%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1 Landscaped Open Space and Bushland Setting	No	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
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E9 Coastline Hazard	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The coastal protection works have nil setbacks to both secondary front boundaries (Wetherill Street to the north and Stuart Street to the south).

The control allows secondary street setbacks to be a minimum of 3.5m.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The works must be located on the northern and southern boundaries as it needs to link up with adjacent Council coastal protection works (within the road reserves). As the wall is close to the foredune level and has been designed to be partly covered with sand, a reasonable sense of openness will be created.

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

Comment:

The eastern boundaries of all properties and Council land along this section of Collaroy Beach will eventually contain coastal protection works. In this regard, the proposal will be consistent with the future visual continuity and pattern of buildings and landscape elements in the area.

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

Comment:

The wall is located at (Nos. 1168 and 1166B Pittwater Road) or near (the remaining properties) the easternmost edge of the subject sites and will link up with future Council constructed walls protecting the Wetherill and Stuart Street road reserves. Public access to the beach will not be impeded by the proposal as it is entirely on private land, and the wall is designed to best fit the site to cause the least impact to coastal processes. In this regard, the visual quality of the public space will be protected.

- *To achieve reasonable view sharing.*

Comment:

The coastal protection wall will be close to the foredune level and will not result in any unreasonable impacts to views. Public access to the beach will not be affected by the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, WDCP and the objectives specified in section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B9 Rear Boundary Setbacks

Description of non-compliance

The coastal protection wall is located at (Nos. 1168 and 1166B Pittwater Road) or near (the remaining properties) the rear boundaries of the subject properties with a setback of between nil and 2.0m.

The control requires a minimum rear setback of 6.0m.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal will not result in a significant loss of landscaped open space on the subject sites due to the location of the works (at or near the boundary of the sites) and the relatively narrow design.

- *To create a sense of openness in rear yards.*

Comment:

The coastal protection wall will sit close to the foredune level and will be partly covered by sand. In this regard, a reasonable sense of openness will be created and maintained. In addition, public access to the beach will not be affected by the proposal.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

It is appropriate to locate the wall on or close to the eastern boundary due to the need to protect the subject sites and the requirement for the works to link up with adjacent Council walls on the road reserves to the north and south. As the wall is close to the foredune level and the land to the east consists of the beach and ocean, there will be no unreasonable privacy or amenity impacts caused by the development. Public access to the beach will not be affected by the proposal.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The proposed coastal protection wall will link up with adjacent Council walls on the road reserves to the north and south. The wall will also be consistent with likely future walls along the majority of the public and private land along Collaroy and Narrabeen beaches.

In this regard, the future visual continuity and pattern of buildings, rear gardens and landscape elements will be consistent with this proposal.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

As the wall is close to the foredune level and the land to the east consists of the beach and ocean, there will be no unreasonable privacy or amenity impacts as a result of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C9 Waste Management

A detailed waste management plan has not been submitted with the application. To ensure proper disposal of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a construction certificate.

D1 Landscaped Open Space and Bushland SettingDescription of non-compliance

The sites will provide approximately 38.97% landscaped open space across the combined area.

The control requires a minimum of 40%

Merit consideration

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

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

Comment:

The works are located at the rear of the site and will require no changes to the streetscape.

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

Comment:

The works are designed to be partly covered in sand post construction. Limited opportunities for plants will exist on the seaward side of the wall, however, sufficient space will be maintained and created behind the wall for indigenous vegetation and habitat for wildlife.

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

Comment:

The spaces created behind the wall will include areas with dimensions that are sufficient to enable the establishment of low lying and medium height shrubs. Given this coastal location, high shrubs and canopy trees are not appropriate.

- *To enhance privacy between buildings.*

Comment:

The works will have no unreasonable impacts on privacy and will not prevent vegetation being planted on other parts of the site to assist with privacy between the buildings.

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

Comment:

The works will help enhance the rear yards of the subject properties and will increase their outdoor recreational opportunities compared to the current situation.

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

Comment:

Sufficient space for service functions will remain.

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

Comment:

All water that falls on the works will drain to the beach. The remainder of the site will also continue to drain to the beach. As such, stormwater management will continue to be acceptable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

E7 Development on land adjoining public open space

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

- *To protect and preserve bushland adjoining parks, bushland reserves and other public open spaces.*

Comment:

The coastal protection works will assist in preserving the public beach and will link with other neighbouring public coastal protection works to form a network of coastal protection.

- *To ensure that development responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.*

Comment:

The coastal protection works will link with other neighbouring public coastal protection works. In totality, these works will form part of the foredune and will be partly covered in sand.

From a coastal engineering and processes perspective, this is the ideal outcome in these circumstances, given the demolition of all development on the foredune is not a reasonable proposition.

In this regard, the proposed works will be the best option to rebuild and enhance the natural qualities of this environment.

- *Development on land adjoining open space is to complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.*

Comment:

As previously discussed, the works will complement neighbouring protection works, help preserve private and public land and ensure the beach is usable for longer periods of time (due to less damage during large coastal storms).

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

E9 Coastline Hazard

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

- *To minimise the risk of damage from coastal processes and coastline hazards for proposed buildings and works along Collaroy Beach, Narrabeen Beach and Fisherman's Beach.*

Comment:

The coastal protection works will serve to minimise the risk of damage for the existing buildings on the subject sites. The works will form part of a longer contiguous protection wall along Collaroy and Narrabeen Beach.

Without these works, the 10 subject properties will have no suitable protection against erosion and storm damage and will eventually be washed into the sea. This will destabilise the neighbouring public land and road reserves, resulting in exponentially more damage.

To ensure that development does not have any adverse impact on the scenic quality of Collaroy, Narrabeen and Fisherman's Beaches.

Comment:

The structure is designed to be partly covered in sand post construction and post any storm that exposes the works. In this regard, the scenic quality of Collaroy and Narrabeen Beaches will be reasonably maintained.

- *To ensure that development does not adversely impact on the coastal processes affecting adjacent land.*

Comment:

When combined with the walls that will be constructed to the north and south of the site, the development will not adversely impact on coastal processes.

- *To retain the area's regional role for public recreation and amenity.*

Comment:

The works will not limit public access to the beach and will help maintain the beach after any storm so that it is usable for longer periods for public recreation and amenity.

- *To maximise the use of existing infrastructure.*

Comment:

The works will assist in the long term protection of Pittwater Road and will, in conjunction with neighbouring coastal protection works, protect public land, public infrastructure and private

properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 2,876,387		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 27,326
Section 7.12 Planning and Administration	0.05%	\$ 1,438
Total	1%	\$ 28,764

CONCLUSION

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

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

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

In consideration of the proposal and the merit consideration of the development, the proposal is

considered to be:

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

In June 2016, a large storm caused severe coastal erosion to Collaroy/Narrabeen Beach, as well as damage to properties fronting the beach, including the subject sites.

This development application seeks consent for coastal protection works, in the form of a seawall, to primarily provide protection for private properties. The works will have the added benefit of providing protection for public land to the north and south (once it links up with Council built works). The works will also provide indirect protection for critical infrastructure to the west (i.e. Pittwater Road).

A seawall to the south of these sites (on the 10 properties between Stuart Street and Ramsay Street) was approved by the panel on 5 September 2018.

The proposed coastal protection works are located entirely on private land and will link with other protection works to the north and south that, overall, will run for approximately 1.3km along Collaroy/Narrabeen beach. The proposed works will fit with this overall alignment, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The design of the wall (a hybrid design with a vertical element and a rock toe) is the most appropriate for this site to both align with the adjoining coastal protection works, minimise the impact on coastal processes, and maximise the usable space for the private property owners.

Conditions have been recommended to protect public safety, protect public access to the beach, and ensure the restoration of the beach and/or land adjacent to the beach if any increased erosion of the beach or adjacent land is caused by the presence of the works. Conditions have also been recommended to ensure the on-going maintenance of the works.

Overall, the proposal is acceptable from a coastal engineering perspective, and the conditions imposed will satisfy the relevant legislative requirements.

The application is therefore recommended for approval.

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 grant Development Consent to DA2018/1289 for Construction of coastal protection works (sea wall) on land at Lot B DP 954998, 1154 Pittwater Road, COLLAROY, Lot 1 DP 313699, 1156 Pittwater Road, COLLAROY, Lot C DP 954998, 1156 Pittwater Road, COLLAROY, Lot 1 DP 1016094, 1158 Pittwater Road, COLLAROY, Lot C DP 302895, 1160 Pittwater Road, COLLAROY, Lot B DP 302895, 1162 Pittwater Road, COLLAROY, Lot A DP 302895, 1164 Pittwater Road, COLLAROY, Lot 1 DP 970200, 1168 Pittwater Road, COLLAROY, Lot 71 DP 1011242, 1166 A Pittwater Road, COLLAROY, Lot 72 DP 1011242, 1166 B Pittwater Road, COLLAROY, Lot CP SP 2949, 1150 Pittwater Road, COLLAROY, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Demonstration of agreement between multiple properties**

The owners of the properties 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) Pittwater Road, Collaroy ('the owners') are to provide evidence to Council of an enforceable agreement that all owners will fund and construct the new coastal protection works as a single contiguous project to be completed within 12 months of the on-site commencement of the construction works. The agreement must restrain transfer, assignment or novation by any owner unless the transferee/assignee enters into an agreement in similar terms. If the owners create a trust or corporate entity for the purposes of construction of the works, such entity is to be bound by the terms of the agreement. The agreement may provide that it will cease to operate upon the issue of a final occupation certificate.

Reason: To ensure satisfactory completion of the coastal protection works.

2. **Easements for construction, support and maintenance**

a) An easement must be registered over so much of 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) as necessary for construction, support and maintenance in favour of each of the owners to allow each owner to carry out its obligations under this consent and otherwise burdening the owners of the properties and their successors in title to maintain the coastal protection works to the standard approved by the Development Consent, approved plans and specifications in the Consent. The easement may provide that it shall be released if the coastal protection works are removed.

b) The easement shall also provide that:

i. if reasonably required by Council by notice in writing, the coastal protection works shall be maintained to the standard approved by the Development Consent, approved plans and specifications in the Consent if any damage occurs that impacts the support or performance of the works; and

ii. the owners of the lot burdened must not place any improvements or structures that cannot be easily relocated or removed within the easement site or interfere with the coastal protection works or the support they offer.

Reason: To create long term (i.e. 60 years) support and maintenance of the coastal protection

works for the benefit of all owners (currently and in the future).

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

3. **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
S01 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S02 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S03 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S04 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S10 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S11 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S12 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S16 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd
S20 Revision F	27 July 2018	Horton Coastal Engineering Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Coastal Engineering Report for Construction of Upgraded Coastal Protection Works at 1150-1168 Pittwater Road Collaroy	1 August 2018	Horton Coastal Engineering Pty Ltd
Geotechnical Assessment	20 July 2018	JK Geotechnics

Additional Geotechnical Advice	18 October 2018	JK Geotechnics
Revegetation Report	6 June 2017	Diane Wiesner

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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.

4. Prescribed Conditions

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

- (d) 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

5. **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.

Sand excavation is permitted from:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday

Other demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1

per 20 persons.

- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature 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.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018	
Contribution based on a total development cost of \$ 2,876,387.00	

Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 27,325.68
Section 7.12 Planning and Administration	0.05%	\$ 1,438.19
Total	1%	\$ 28,763.87

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 Contributions Plan 2018.

7. Security Bond

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

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

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

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

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

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

8. Construction Management Program

A Construction Management Program shall be prepared. The Plan should include the following:

- (a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council owned or managed land and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed without Council's Consent being granted;

(b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;

(c) The location and operation of any on site crane.

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

Parks, Reserves and Foreshores business unit must be notified of start date of works as soon as possible and within a reasonable time prior to the start of works

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

9. Pre-commencement Dilapidation Report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council and any other owners of public infrastructure.

Reason: Protection of Council's and Infrastructure during construction.

10. Design Drawings

The following changes relevant to the drawings submitted with the application be made prior to issue of the construction certificate:

- Additional detail and notes be added to Drawing S02 to confirm the actions required to ensure the works provide the appropriate level of protection and are structurally independent of any council works on the adjoining land at Stuart Street.
- Additional detail and notes be added to Drawing S02 to articulate the actions required should the works not be coordinated with any council works at Wetherill Street.
- Additional detail and notes be added to Drawing S02 to articulate the actions required should the works be coordinated with any council works at Wetherill Street.
- Drawing S02 Be amended to clearly show the basis for set out of the coastal protection works, relative to property boundaries.

Reason: To ensure sufficient information is provided with the design drawings

11. Access for construction and maintenance of works

The works are to be designed and constructed in accordance with the access requirements outlined in the Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications 2016. Details demonstrating compliance with this requirement are to be prepared by a suitably qualified coastal engineer and submitted to the certifying authority for approval prior to issue of the Construction Certificate.

Reason: To ensure suitable access for construction and maintenance of coastal protection works.

12. 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.

13. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

14. Maintenance Management Plan for Coastal Protection Works

A management plan is to be prepared for the maintenance of the coastal protection works and adaptation of the works to changed conditions which may occur as a result of future climate change. The maintenance management plan is to be prepared by a suitably qualified coastal engineer and is to be approved by Council in writing prior to issue of the construction certificate. The maintenance management plan must be complied with at all times.

Reason: To ensure a plan is in place for the on-going maintenance and adaptation of the works prior to the start of construction.

15. Maintenance Obligations and Public Safety

The owners of 1168 (Lot 1 DP 970200), 1166A (Lot 71 DP 1011242), 1166B (Lot 72 DP 1011242), 1164 (Lot A DP 302895), 1162 (Lot B DP 302895), 1160 (Lot C DP 302895), 1158 (Lot 1 DP 1016094), 1156 (Lot 1 DP 313699, Lot C DP 954998), 1154 (Lot B DP 954998), 1150 (Lot CP SP 2949) Pittwater Road, Collaroy must provide an irrevocable bank guarantee (or other suitable legally binding obligation) to Council prior to the issue of any construction certificate in the amount of \$1000 per lineal metre of work (based on the length of the seaward property boundary) to undertake maintenance of the coastal protection works in the event that they are damaged as a result of coastal storm, including to undertake any works required to remove any threat to public safety arising from the coastal protection works including the removal of rocks or debris, that have become dislodged from the coastal protection works approved under this consent, from the public beach and adjacent public land.

In this condition "maintenance" means the restoration of the works to a standard in accordance with the approved plans and specifications following any damage caused by a coastal storm.

The bank guarantee (or other suitable legally binding obligation) is to be replenished if drawn upon and increased to allow for Consumer Price Index (CPI) every 10 years from the date of establishment.

The bank guarantee (or other suitable legally binding obligation) is to be in the favour of Council. The funds may be accessed by one or more owners, for the undertaking of works referred to in this condition, with the written consent of Council.

Reason: To satisfy the requirements of 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

16. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the certifying authority prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the

duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.

- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

17. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. 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 land under Council’s care, control and management, 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.

19. 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.

20. **Working on and Access to Reserves Permit**

A Working on and Access to Reserves Permit is required for vehicular access over land under Council care, control and management for the delivery and/or removal of materials, waste or equipment where there is no other reasonable route of access and activities are carried out without direct Council supervision. Applications can be obtained from Council's website or Parks and Recreation business unit.

Reason: Public Safety and the protection of Council infrastructure.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **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.

22. **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.

23. **Requirement to notify about new contamination evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination (acid sulphates) or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

24. **Damage**

Any damage or injury caused to a public road, beach, council reserve or associated structures including footpaths, drains, kerb and gutter utility services as a consequence of the development works is to be made good at the cost of the landowners.

Reason: To make good any damage to public roads and other public assets.

25. Historic Artefacts and Aboriginal relics

If any World War Two era tank traps or any Aboriginal objects (or other historic artefacts) are uncovered during the works, Council is to be notified immediately. In the event of any Aboriginal object being uncovered, all requirements (including the duty to notify) under the National Parks and Wildlife Act 1974 must be met.

Reason: To protect historic heritage and ensure any artefacts and Aboriginal objects are safely removed/dealt with.

26. Site fencing requirements

Construction site safety fencing and/or hoarding is to be provided in accordance with Workcover requirements. Such fencing and/or hoarding is to be erected wholly within the works area unless prior approval from Council is obtained.

Reason: For safety purposes.

27. Completion of Construction Works

All construction works must be completed within 12 months of the on-site commencement of the construction works.

Reason: To ensure the works are completed in a timely manner.

28. 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 Council's 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.

29. Safety requirements under storm conditions

Works are not to be placed during storm conditions unless the owner/s obtains a written opinion from a suitably qualified coastal engineer that the placement of the works under these conditions does not present a significant safety risk to any person or will result in damage to the beach. This opinion is to be kept by the landowner until the works are completed. If adverse weather conditions are forecast, the works site is to be made safe (where practical) to avoid the dispersal of equipment and debris onto the beach and into the surf zone.

Reason: To ensure the safety of workers and the public during construction.

30. Removal of unsuitable material

Any existing rock or material encountered in the works area during construction of the works not incorporated into permanent protection works shall be removed by the owner/s, or used as backfill consistent with Item 3(g) of the Development Consent Operational Conditions herein and consistent with Council's Coastal Erosion Policy Section 9(d). This shall include the area excavated within a line extending from either longitudinal property boundary to the mean low water mark. Confirmation of this requirement is to be provided to Council by the engineer

supervising the works.

Reason: To ensure that all unsuitable material is removed from the beach.

31. **Sand**

No sand excavated from the beach seaward of the subject properties to construct the works is to be placed landward of or buried under the protection works before, during or after construction. All such sand shall be placed seaward of or over the works. The sand shall be screened to remove unsuitable material as required.

Reason: To avoid damage to the beach.

32. **Site Supervision**

A suitably qualified coastal engineer is to be employed to supervise construction for the duration of the approved works.

Reason: To ensure appropriate construction of the coastal protection works.

33. **Implementation of Construction Traffic Management Plan.**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent rather than any secondary approval.

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

34. **Post-Construction Dilapidation Report**

The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of Councils road and footpath infrastructure that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure .

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

35. **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 foreshore amenity is restored post works.

36. **Certification of works**

The constructed coastal protection works are to be certified by a suitably qualified coastal

engineer as being constructed in accordance with the approved design and performance criteria. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to approval of an occupation certificate. This certification is to be provided to Council on issue of the Occupation Certificate.

Reason: To ensure appropriate design and construction of coastal protection works.

37. **Surveys During Works and Post completion survey**

A declaration by a registered surveyor is required as evidence that all construction has been effected in accordance with the Development Consent, approved plans and specifications in the Consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to approval of an occupation certificate. Survey plans and a declaration are to be provided to Council on issue of the Occupation Certificate.

Reason: To ensure accurate location of coastal protection works.

38. **Restoration of sand**

The rock component of the coastal protection works is to be covered in sand upon completion of the works. Sand from the public beach may be used for this purpose, with sand shaped to a natural profile prior to the completion of the works.

Details are to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate. These details are to be provided to Council on issue of the Occupation Certificate.

Reason: To limit the impact of the works on the visual quality of the beach.

39. **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.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

40. **Approved Landscape Works**

Landscaping is to be implemented in accordance with the approved Landscape Plan, Re-vegetation Report and any associated conditions. The new landscaping is to be approved as completed by the Certifying Authority upon the issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed.

This landscaping is to then be maintained for the life of the development.

Reason: To ensure the built form is softened and complemented by landscaping and erosion potential minimised.

41. **Ongoing maintenance of the Coastal Protection Works and beach amenity**

The coastal protection works must be maintained in accordance with the Development Consent, conditions, approved plans and specifications as outlined in this consent. The maintenance must be to a standard that does not compromise the protection or integrity of the adjoining land.

Sufficient access for the maintenance of the coastal protection works is to be maintained landward of the coastal protection works in accordance with the easement for construction, support and maintenance identified in Deferred Commencement Condition 2.

Any debris on the beach resulting from damage or failure of the coastal protection works must be rectified by the owner or owners of the works that are the source of the damage, as part of maintaining the works as per condition 43 of this consent. If required the financial arrangements established in condition 15 of this consent may be utilised in accordance with any written consent that may be issued by Council.

Reason: To satisfy the requirements of Section 55M of the Coastal Protection Act 1979 and to ensure that the coastal protection works will not pose any significant threat to public safety.

42. Post storm inspection

After any storm event that exposes any part of the coastal protection works to damage, that impacts the support or performance on the works (including if directed by Council in writing that such an event has occurred), the owners are to procure, at their cost, inspections by a suitably qualified coastal engineer of the coastal protection works. A detailed report is to be provided by this coastal engineer and any recommendations within the report are to be undertaken as soon as reasonably practicable after necessary approvals are obtained.

Reason: To ensure the coastal protection works are maintained after a storm event.

43. Removal of debris

The owners must obtain all necessary approvals and then remove debris from any adjoining public land if part of the coastal protection works is dispersed onto that land, with such removal to be done as soon as reasonably practicable to the satisfaction of Council and, if necessary, the Crown, at no cost to Council. If required the financial arrangements established in condition 15 of this consent may be utilised in accordance with any written consent that may be issued by Council.

Note: Debris will be taken to have been deposited from the coastal protection works seaward of Lot 1 DP 970200, Lot 71 DP 1011242, Lot 72 DP 1011242, Lot A DP 302895, Lot B DP 302895, Lot C DP 302895, Lot 1 DP 1016094, Lot 1 DP 313699, Lot C DP 954998, Lot B DP 954998, Lot CP SP 2949, if rocks of the same type and dimensions as those on the coastal protection works at and seaward of Lot 1 DP 970200, Lot 71 DP 1011242, Lot 72 DP 1011242, Lot A DP 302895, Lot B DP 302895, Lot C DP 302895, Lot 1 DP 1016094, Lot 1 DP 313699, Lot C DP 954998, Lot B DP 954998, Lot CP SP 2949 are found on public land within a line extending from either longitudinal boundary to the mean low water mark.

Reason: To ensure the safety of the public beach.

44. Time limited consent

The consent operates for 60 calendar years from the date of the issue of the occupation certificate and such other period as may be extended with the written approval of Council in accordance with the following.

A minimum of three (3) years prior to the date of 60 years after the issue of the occupation certificate for the works, the owners shall, jointly and severally procure, at no cost to Council, a report, by a suitably qualified independent coastal engineer, which reviews the performance of the works to ensure it provides the necessary protection ('Review Report').

The Review Report shall be submitted to the Council for consideration not later than twelve (12)

months prior to the date of 60 years after the issue of the occupation certificate.

If appropriate, the Review Report may recommend an extension to the 60 year design life for an extra period of time consistent with evidence and coastal hazard predictions at that time. Similarly, if appropriate, the Review Report may recommend actions to upgrade the works to extend the design life for an extra period of time consistent with evidence and coastal hazard predictions at that time.

If the Review Report recommends demolition and removal of the coastal protection works in the interest of public safety, such removal will be undertaken by the owners at their expense.

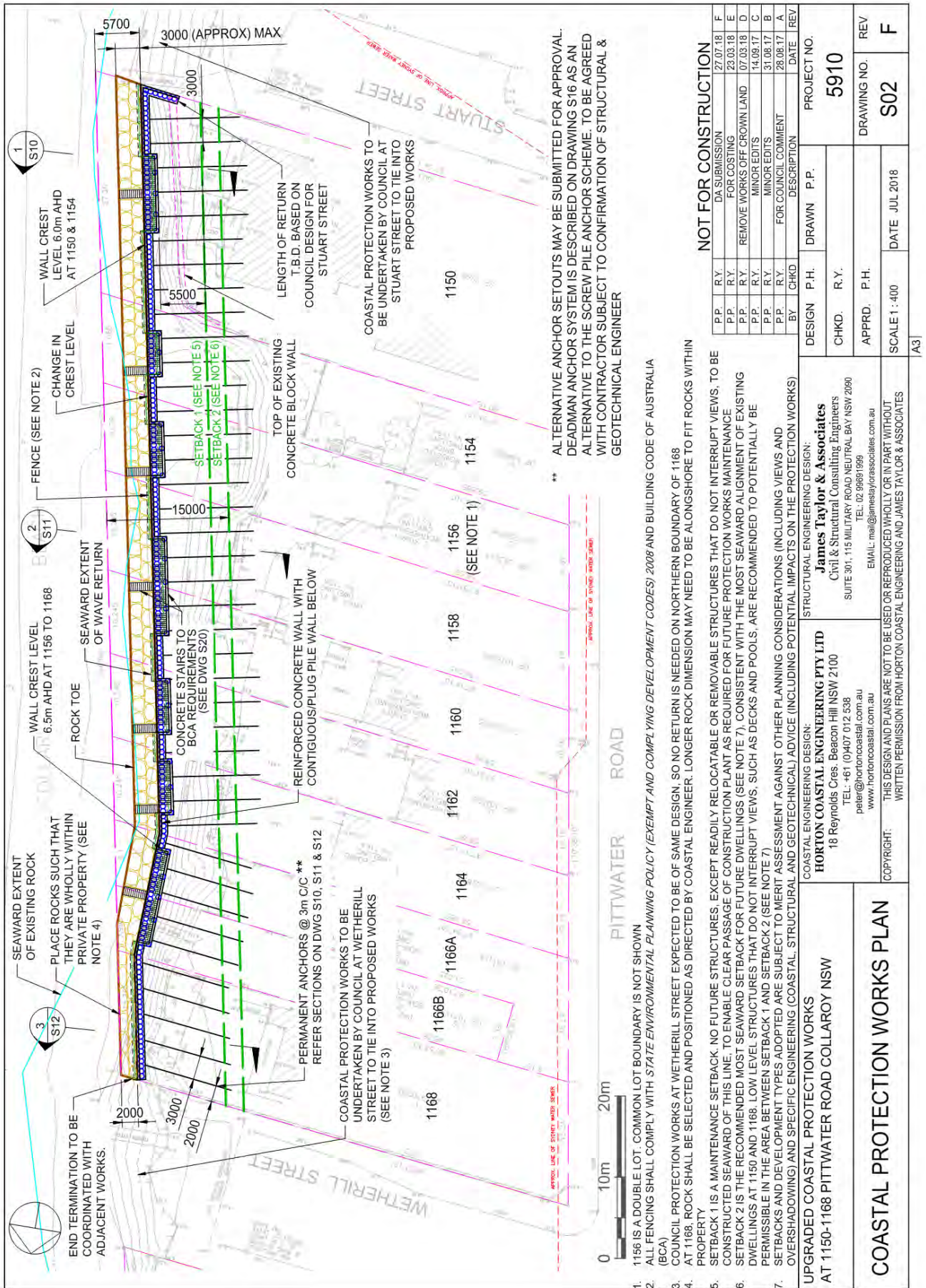
If the Review Report recommends removal and replacement of the structure with an alternative design, the replacement structure will be the subject of a further development application for consent to Council.

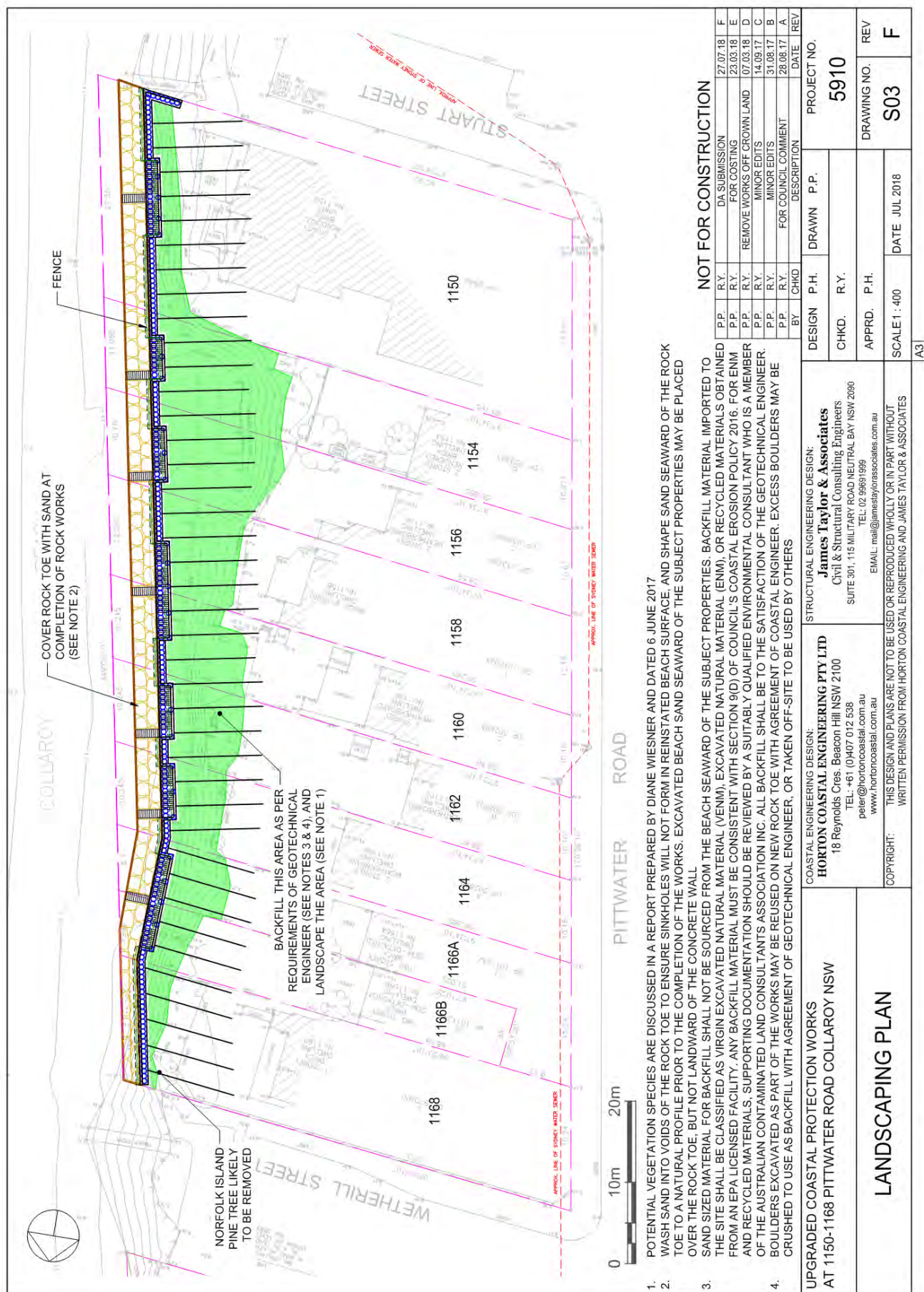
If the Review report concludes that the structure is satisfactory (or is capable of being rendered satisfactory) the Council may, in writing, approve an extension of the term of the development consent for the period recommended in the report, or such lesser time as the Council considers appropriate.

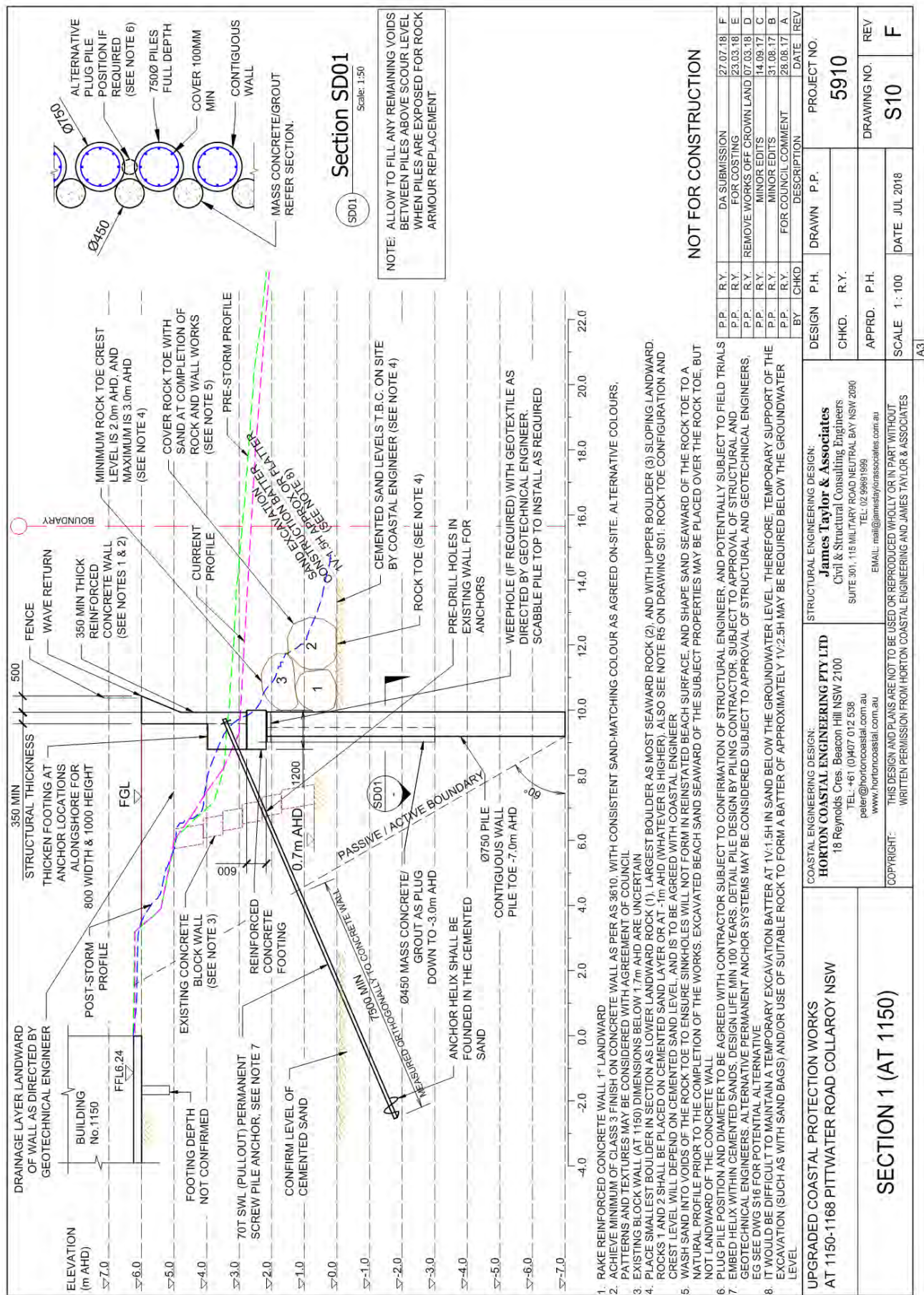
Any written approval from the Council extending the consent is to be recorded on the 10.7 Certificate for the land and Council's register of development consents.

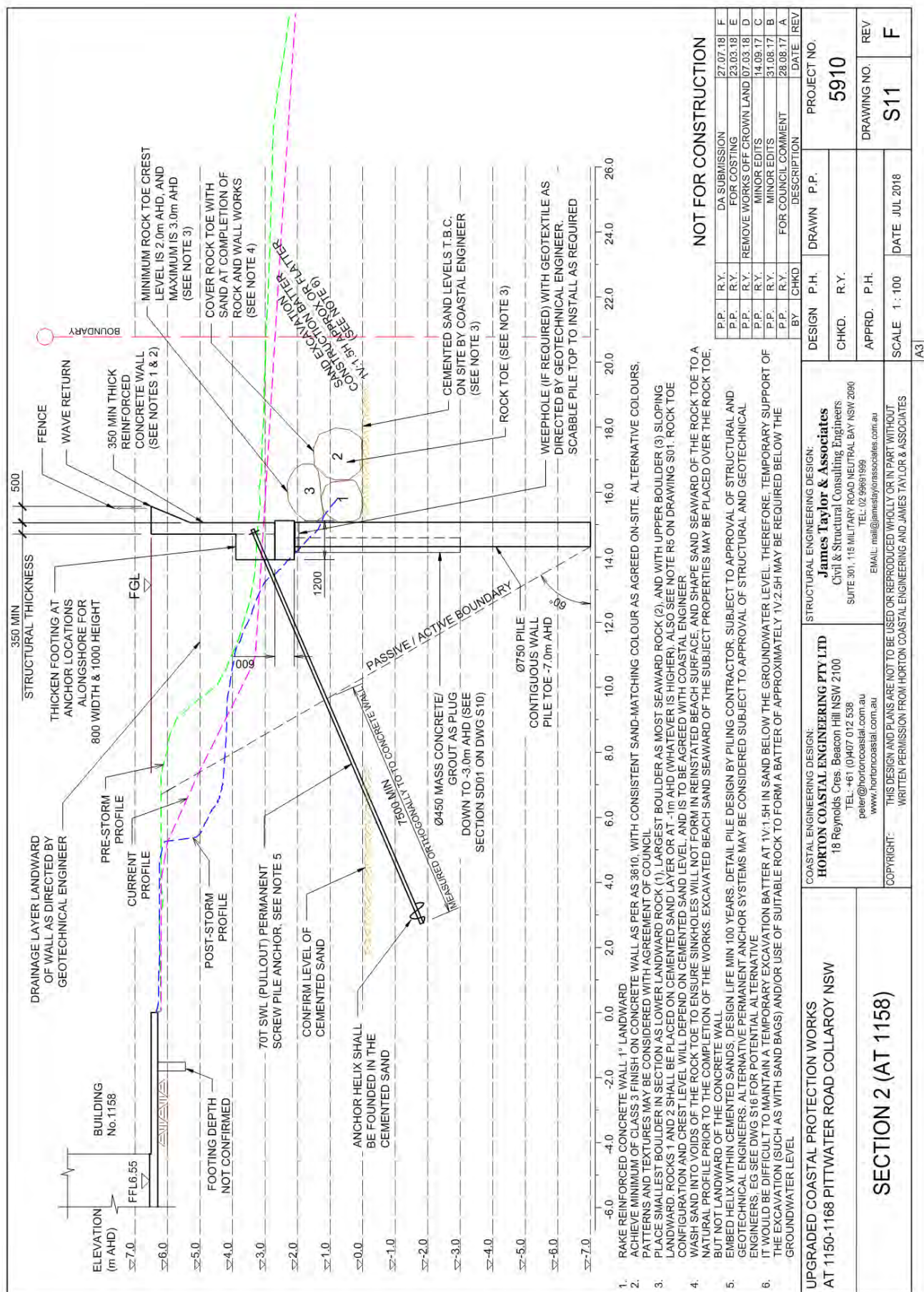
A further Review Report will be provided a minimum of twelve (12) months prior to the end of the extended design life, on each extension.

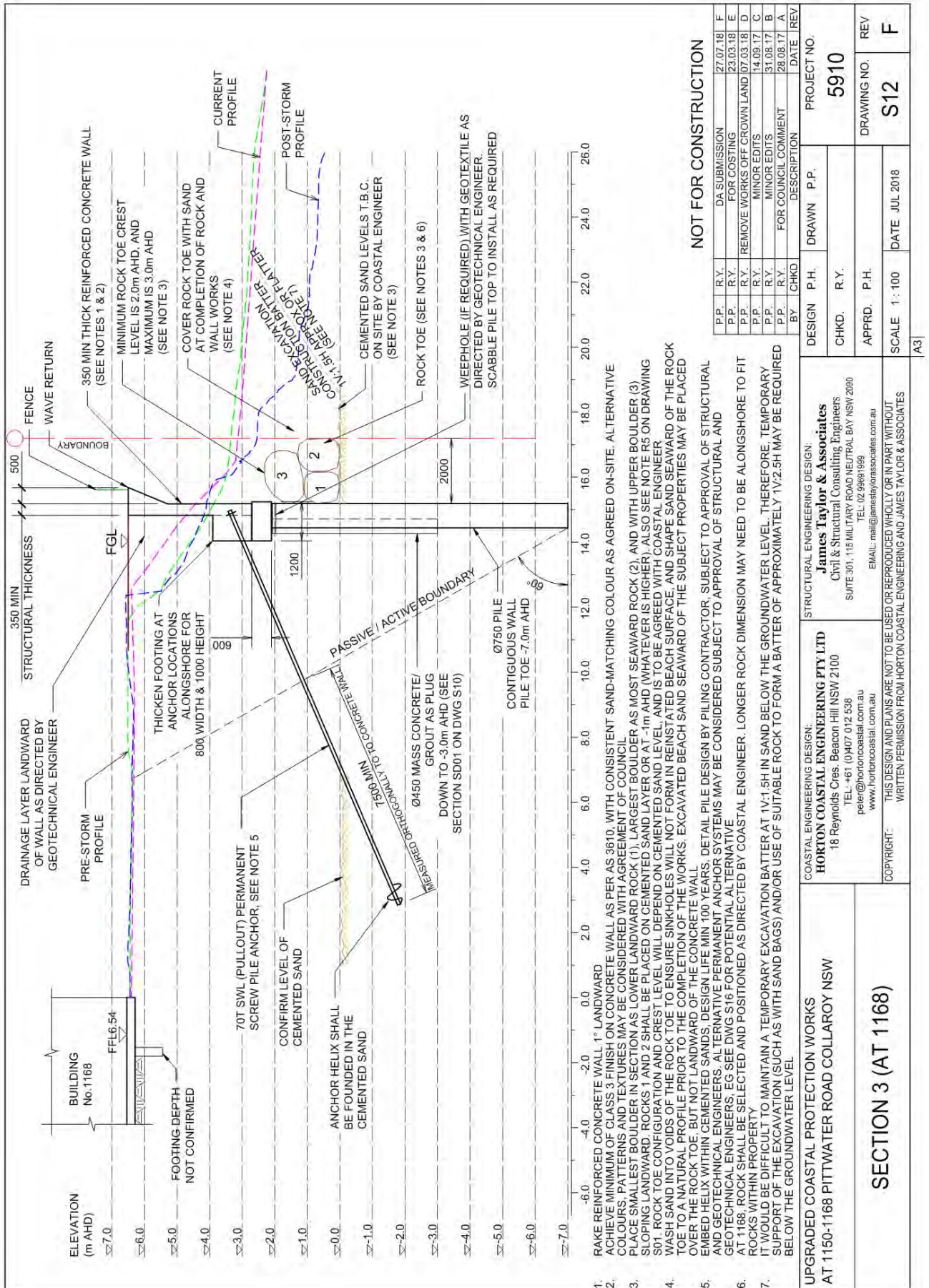
Reason: The development application indicates that the coastal protection works have a design life of 60 years.











ITEM 3.4

MOD2018/0432 - 12A –12L MCDONALD STREET AND 25-27 COLES ROAD, FRESHWATER - MODIFICATION OF DEVELOPMENT CONSENT DA2016/0550 GRANTED FOR ATTACHED DWELLINGS TO INSTALL AIR CONDITIONING UNITS TO EACH DWELLING

REPORTING OFFICER

Steve Findlay

TRIM FILE REF

2019/111499

ATTACHMENTS

1 Assessment Report

2 Plans

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the original application was determined by an independent panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. MOD2018/0432 for modification of development consent DA2016/0550 granted for attached dwellings to install air conditioning units to each dwelling at Lots 1-14 DP 1226906, 12A–12L McDonald Street and 25-27 Coles Road, Freshwater subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0432
Responsible Officer:	Daniel Milliken
Land to be developed (Address):	<p>Lot 2 DP 1226906, 12 K McDonald Street FRESHWATER NSW 2096</p> <p>Lot 3 DP 1226906, 12 J McDonald Street FRESHWATER NSW 2096</p> <p>Lot 4 DP 1226906, 12 I McDonald Street FRESHWATER NSW 2096</p> <p>Lot 5 DP 1226906, 12 H McDonald Street FRESHWATER NSW 2096</p> <p>Lot 6 DP 1226906, 12 G McDonald Street FRESHWATER NSW 2096</p> <p>Lot 7 DP 1226906, 12 F McDonald Street FRESHWATER NSW 2096</p> <p>Lot 8 DP 1226906, 12 E McDonald Street FRESHWATER NSW 2096</p> <p>Lot 9 DP 1226906, 12 D McDonald Street FRESHWATER NSW 2096</p> <p>Lot 10 DP 1226906, 12 C McDonald Street FRESHWATER NSW 2096</p> <p>Lot 11 DP 1226906, 12 B McDonald Street FRESHWATER NSW 2096</p> <p>Lot 12 DP 1226906, 12 A McDonald Street FRESHWATER NSW 2096</p> <p>Lot 13 DP 1226906, 27 Coles Road FRESHWATER NSW 2096</p> <p>Lot 14 DP 1226906, 25 Coles Road FRESHWATER NSW 2096</p> <p>Lot 1 DP 1226906, 12 L McDonald Street FRESHWATER NSW 2096</p>
Proposed Development:	Modification of Development Consent DA2016/0550 granted for attached dwellings to install air conditioning units to each dwelling
Zoning:	<p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p>

	<p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>Warringah LEP2011 - Land zoned R2 Low Density Residential</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p> <p>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011</p>
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Peninsular 1 Pty Ltd
Applicant:	I P M Holdings Pty Ltd

Application lodged:	15/08/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	20/08/2018 to 05/09/2018
Advertised:	Not Advertised
Submissions Received:	10
Recommendation:	Refusal

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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 2 DP 1226906 , 12 K McDonald Street FRESHWATER NSW 2096 Lot 3 DP 1226906 , 12 J McDonald Street FRESHWATER NSW 2096 Lot 4 DP 1226906 , 12 I McDonald Street FRESHWATER NSW 2096 Lot 5 DP 1226906 , 12 H McDonald Street FRESHWATER NSW 2096
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	<p>Lot 6 DP 1226906 , 12 G McDonald Street FRESHWATER NSW 2096</p> <p>Lot 7 DP 1226906 , 12 F McDonald Street FRESHWATER NSW 2096</p> <p>Lot 8 DP 1226906 , 12 E McDonald Street FRESHWATER NSW 2096</p> <p>Lot 9 DP 1226906 , 12 D McDonald Street FRESHWATER NSW 2096</p> <p>Lot 10 DP 1226906 , 12 C McDonald Street FRESHWATER NSW 2096</p> <p>Lot 11 DP 1226906 , 12 B McDonald Street FRESHWATER NSW 2096</p> <p>Lot 12 DP 1226906 , 12 A McDonald Street FRESHWATER NSW 2096</p> <p>Lot 13 DP 1226906 , 27 Coles Road FRESHWATER NSW 2096</p> <p>Lot 14 DP 1226906 , 25 Coles Road FRESHWATER NSW 2096</p> <p>Lot 1 DP 1226906 , 12 L McDonald Street FRESHWATER NSW 2096</p>
Detailed Site Description:	<p>The site currently consists of 14 separate lots. Lots 1 - 14 in DP 1226906. The development is stratum subdivided.</p> <p>The site has three street frontages and is located on the southern side of Wyndora Avenue, the eastern side of McDonald Street and the northern side of Coles Road.</p> <p>The land is generally rectangular in shape and has a frontage of:</p> <ul style="list-style-type: none"> • 24.38m to Wyndora Avenue; • 90.53m to McDonald Street; • 36.57m to Coles Road and; • an area of 2,759sqm. <p>Existing on the site are 14 two storey attached dwellings. The site previously contained the Peninsula Private Hospital. Lots 1 - 12 front McDonald Street and Lots 13 and 14 front Coles Road.</p> <p>The surrounding development consists of detached residential dwellings in a low density residential environment.</p>

Map:



SITE HISTORY

PEX2014/0005

This application was a Planning Proposal submitted to Council to add an additional permitted use on the land to allow the development of 14 townhouses with a common basement car park. The Planning Proposal was reported to the Warringah Development Assessment Panel who recommended the proposal proceed to a gateway determination. The Planning Proposal was also reported to an Ordinary Council Meeting.

The Planning Proposal was made on 13 May 2016 to amend Schedule 1 to permit subdivision of the site into no more than 14 lots but only in conjunction with the erection of no more than 14 attached dwellings and basement car parking. The Planning Proposal was accompanied by a Voluntary Planning Agreement that set out a series of planning controls and "Site Development Plans" to guide the future detailed development of the site.

DA2016/0550

This application was for demolition works, construction of attached dwellings and subdivision of land (i.e. the construction of the 14 dwellings and basement carpark). The application was approved on 12 October 2016. The development has been constructed, including air conditioning units on the roof of each dwelling and a ventilation stack. These items did not form part of the original proposal and are the subject of this modification.

PROPOSED DEVELOPMENT IN DETAIL

The modification seeks retrospective approval for 14 air conditioning units and a single ventilation shaft from the basement projecting above the roof line.

The air conditioning units have been installed on the roof of each of the 14 attached dwellings.

The ventilation shaft has been installed between dwellings six and seven and extends above the roof level of dwelling six.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and 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 given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2016/0550, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact. This is not to say that these impacts are reasonable. This will be discussed in detail below in this report.
(b) 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	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2016/0550.
(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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan 2011.

Section 4.55(1A) - Other Modifications	Comments
(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.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original 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. This matter has been addressed via a condition in the original 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 matter has been addressed via a condition in the original consent.</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. This matter has been</p>

Section 4.15 'Matters for Consideration'	Comments
	addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found that the modifications will result in unreasonable view loss to multiple nearby properties. In this regard, approval of this modification is not in the public interest and the application is recommended for refusal.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 10 submission/s from:

Name:	Address:
Mr Guy Brandon Richards Mrs Jessica Ryan Richards	2 / 17 McDonald Street FRESHWATER NSW 2096

Name:	Address:
Mrs Caryn Jane Harrington	21 Coles Road FRESHWATER NSW 2096
Mr David Guy Flay	178 Wyndora Avenue FRESHWATER NSW 2096
Jill Phillis Hall Susan Jill Hall	82 Federal Parade BROOKVALE NSW 2100
Ms Kerrie Louise Hall	59 / 8 Koorala Street MANLY VALE NSW 2093
Mr Geoffrey William Andrews	2 / 15 McDonald Street FRESHWATER NSW 2096
David James Robert Snodgrass	1 / 15 McDonald Street FRESHWATER NSW 2096
Mr Frederick George Brain Mrs Pamela Hanna Brain	177 Wyndora Avenue FRESHWATER NSW 2096
Mrs Nancy Elizabeth-Jean Davis	3 / 15 McDonald Street FRESHWATER NSW 2096
Jonathan Alexander Martin Julia Lynda Martin	29 McDonald Street FRESHWATER NSW 2096

The following issues were raised in the submissions and each have been addressed below:

- **View loss, height and visual impact**
- **Retrospective application**
- **Noise**
- **Damage in high winds**

The matters raised within the submissions are addressed as follows:

- **View loss, height and visual impact**

The submissions raised concerns that the AC units and ventilation stack exceed the height limit, result in an unreasonable visual impact and cause unreasonable view loss.

Comment:

This matter is discussed in detail in Part D7 Views, below in this report.

In summary, seven of the AC units and the ventilation stack exceed the height limit. All the AC units (except for the unit above dwelling 12) and the ventilation stack result in unreasonable visual impacts and view loss.

As such, AC units 1 to 11, 13 and 14 need to be removed from the roof and the ventilation stack needs to be removed from the view corridor.

The application is therefore recommended for refusal on the grounds of views, height and visual impact.

- **Retrospective application**

The submissions raised concerns that the applicant constructed the AC units and the ventilation stack without approval and are applying for permission retrospectively.

Comment:

Section 4.55 of the Environmental Planning and Assessment Act 1979 does allow for modifications to be applied for and approved retrospectively. This allows for minor changes during any build to not require construction to halt while an assessment is undertaken.

In this particular case, the AC units and ventilation stack could have been foreseen and added to the original application, or applied for prior to them being installed.

This assessment has found that, apart from the AC unit on dwelling 12, the structures are unacceptable and should be removed. Therefore, the concern is concurred with due to the impact of the unauthorised AC units and so the application is recommended for refusal.

- **Noise**

The submissions raised concerns that the AC units result in unreasonable noise levels.

Comment:

The AC units do include acoustic screens, are fairly well set back from the boundaries and as such, it is unlikely that they result in unreasonable noise levels into surrounding properties.

Notwithstanding, the removal of 13 of the 14 units to below the level of the roof would reduce any noise heard in surrounding properties.

The application is not recommended for refusal on the grounds of noise impact.

- **Damage in high winds**

The submissions raised concerns that the AC units could be dislodged in high winds and cause damage to nearby properties.

Comment:

If the AC units and their respective panels have been constructed to current building standards, there should be no danger to surrounding properties.

However, the removal of 13 of the 14 units would reduce the small risk of these units and panels being damaged and blown off in high winds.

The application is not recommended for refusal on the grounds of potential damage in high winds

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Environmental Compliance	No objections raised.

Internal Referral Body	Comments
(Building Control)	
Environmental Health (Industrial)	<p>General Comments</p> <p>Approval is sought to formalise existing air conditioning condenser units located on the roof of the residential development.</p> <p>No acoustic assessment has been carried out however these assessments are not required for all applications. Accordingly, conditions will be added in regard to potential issues.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>

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)

Nil

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Buildings - maximum of 8.5m	Air conditioning units: Unit 1 - maximum of 9.2m Unit 2 - maximum of 9.0m	8.2% 5.9% 7.1% N/A N/A	No No No Yes Yes

			Unit 3 - maximum of 9.1m	N/A	Yes
			Unit 4 - maximum of 8.5m	N/A	Yes
			Unit 5 - maximum of 8.5m	N/A	Yes
			Unit 6 - maximum of 8.5m	2.4%	No
			Unit 7 - maximum of 7.54m	5.9%	No
			Unit 8 - maximum of 8.29m	10.6%	No
			Unit 9 - maximum of 8.5m	12.9%	No
			Unit 10 - maximum of 7.64m	0.8%	No
			Unit 11 - maximum of 8.7m		
			Unit 12 - maximum of 9.0m		
			Unit 13 - maximum of 9.4m		
			Unit 14 - maximum of 9.6m		
			Ventilation stack - 8.57m		

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	N/A

Detailed Assessment

4.6 Exceptions to development standards

This application has been made under Clause 4.55 of the Environmental Planning and Assessment Act 1979. As such, a Clause 4.6 request is not required for Council to be able to consider a variation to the height of buildings development standard. A full assessment of the impacts of the air conditioning units and the ventilation stack is in Part D7 Views, below in this report.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	Maximum of 7.8m	Maximum of 7.8m	No change
B3 Side Boundary	East (only side	Two encroachments of 1.43m	No new	No

Envelope	boundary) - 5m	and 0.84m in height for lengths of 12.1m and 3.785m respectively.	encroachments	change
B5 Side Boundary Setbacks	East - 0.9m	Retaining walls - nil Unit 14 - 1.19m Terraces of Units 1 to 6 - 3.0m	AC units for units 1 - 6: 9.07m AC units for unit 14: 2.84m	Yes Yes
B7 Front Boundary Setbacks	North - 6.5m West - 6.5m South - 6.5m	Unit 1 - 6.5m, Waste storage - 3.66m 4.5m 6.5m	AC units - 9.07m AC units - 14.17m AC units - 9.04m	Yes Yes Yes
D1 Landscaped Open Space and Bushland Setting	40%	28.96% (799sqm of LOS) 37.11% (1024sqm of deep soil plus planter boxes)	28.96% (799sqm of LOS) 37.11% (1024sqm of deep soil plus planter boxes)	No change

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes

Detailed Assessment

D7 Views

History and background

As a result of the development of the site from a hospital to 14 attached dwellings, views from the following properties were affected:

- No. 15 McDonald Street
- No. 17 McDonald Street
- No. 19 McDonald Street
- No. 21 McDonald Street
- No. 23 McDonald Street
- No. 25 McDonald Street

All the above properties are located on the western side of McDonald Street and enjoyed views over the subject site.

The view loss assessment in DA2016/0550 found that while important and valued views would be lost, the development reasonably met the controls set for the site as part of the planning proposal that allowed this development. Importantly, the original development was designed with a flat roof specifically to preserve views from the above listed properties.

During construction, air conditioning units (AC units) were installed on the roof of each dwelling and a ventilation stack was built between dwellings 6 and 7.

The AC units and the ventilation stack all protrude above the original roof line, were not part of the original proposal and result in additional view loss from the following properties:

- No. 15 McDonald Street
- No. 17 McDonald Street
- No. 19 McDonald Street
- No. 21 McDonald Street
- No. 25 McDonald Street

No. 23 McDonald Street is single storey and cannot readily see the AC units or ventilation stack.

The below assessment will only cover the impact of the AC units and the ventilation stack that form part of this modification application.

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the 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".

Comment to Principle 1:

All the above properties enjoy district and ocean views in an arc from the north-east (towards and over Curl Curl Headland) to the south-east (towards North Head).

The views that will be affected are those obtained over the roof of the development, where the

AC units and ventilation hood protrude, and the view corridor between dwellings 6 and 7, where the ventilation stack has been built. These affected views consist of district views of the suburbs of Freshwater and Curl Curl, and views of the ocean and the horizon.

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from 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".

Comment to Principle 2:

The views are all obtained from the upper level front rooms and balconies and over the front boundaries of the properties listed above. The views to either side of the attached dwellings are obtained from sitting and standing positions. The views over the top of the development are only obtained from standing positions and mainly include the views of the ocean and the horizon.

3. Extent of impact

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

Comment to Principle 3:

Views of the ocean and horizon between the AC units, from Nos. 15, 17, 19, 21 and 25 McDonald Street, will be retained. All other district and ocean views to each side of the subject site will be unaffected. The view corridor between dwellings 6 and 7 has been mostly blocked by the ventilation stack.

The views are all obtained over the front boundaries of the affected properties, from balconies and front facing rooms (including living areas).

The views that are being affected consist of some of the remaining ocean and horizon views obtained from Nos. 15, 17, 19, 21 and 25 McDonald Street, as well as some district views. The majority of the views that these properties previously enjoyed were lost as a result of the original development. As such, these remaining views are clearly important to the residents.

While the AC units are relatively small structures, they break up and interrupt what would otherwise be clear and intact views of the ocean and the horizon. These interruptions give the impression of view loss greater than a simple percentage calculation.

The ventilation stack is a relatively bulky structure that has been positioned within the view corridor between dwellings 6 and 7. This blocks most of this corridor when viewed from No. 15 and 17 McDonald Street.

Quantitatively, the view loss is assessed on each property as follows:

No. 15 McDonald Street - Moderate
No. 17 McDonald Street - Moderate
No. 19 McDonald Street - Minor/Moderate
No. 21 McDonald Street - Minor/Moderate
No. 23 McDonald Street - Negligible/Minor
No. 25 McDonald Street - Minor

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

It is important to note, at this point, that the AC units and ventilation stack do not have to go on the roof or within the view corridor, this has been done for the convenience of the occupants of the development. As such, there is clearly a more skilful design that could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. This point alone would indicate that all the AC units and the ventilation stack should be removed from their current locations and placed below the level of the roof, in the case of the AC units (eg: on the balconies of the dwellings), and not within any view corridors, in the case of the ventilation stack.

However, some units may be considered acceptable to stay on the roof and as such, the following assessment of all units and the stack is provided.

The key development standard that impacts on view loss for the affected properties in this particular case is the height of the AC units and ventilation hood (on top of the stack). The height limit for this site is 8.5m. The heights of the AC units and ventilation stack are as follows:

Air conditioning units

Dwelling 1 - maximum of 9.2m
Dwelling 2 - maximum of 9.0m
Dwelling 3 - maximum of 9.1m
Dwelling 4 - maximum of 8.5m
Dwelling 5 - maximum of 8.5m
Dwelling 6 - maximum of 8.5m
Dwelling 7 - maximum of 7.54m
Dwelling 8 - maximum of 8.29m
Dwelling 9 - maximum of 8.5m
Dwelling 10 - maximum of 7.64m
Dwelling 11 - maximum of 8.7m
Dwelling 12 - maximum of 9.0m
Dwelling 13 - maximum of 9.4m
Dwelling 14 - maximum of 9.6m
Ventilation stack - 8.57m

Seven of the units are under the 8.5m height limit and seven exceed the limit. The ventilation stack exceeds the height limit.

The non-compliant AC units on dwellings 1, 2 and 3, as well as the compliant units on dwellings 4, 5 and 6, cause the greatest view loss as they sit on the highest parts of the development and cause the loss of the horizon and ocean views from all affected properties. None of these six AC units are considered to be reasonable in this context, especially as there is a more skilful design (i.e. moving the units off the roof to the terraces of each dwelling) that could still allow the dwellings to have air conditioning while preserving the remaining views.

The non-compliant ventilation stack has been constructed within the view corridor between dwellings 6 and 7 and also causes the loss of some horizon and ocean views. This structure is also considered to be unreasonable and should be removed.

The compliant AC units on dwellings 7, 8 and 9 cause the loss of district views from most of the affected properties as well as a section of ocean views from No. 17 McDonald Street. The district views are not as valuable as ocean views, however, again, there is a more skilful design possible. In this regard, these three AC units are considered to be unreasonable and should be removed.

The compliant AC unit on dwelling 10 and the non-compliant units on dwellings 11 and 12 cause the following view loss:

- From No. 17 McDonald Street - loss of views of some vegetation and some views of dwellings 13 and 14,
- From the upper level of No. 15 McDonald Street - loss of views of some vegetation and some views of dwellings 13 and 14, and
- From the ground floor of No. 15 McDonald Street - loss of some ocean and views of some vegetation.

This view loss from No. 17 McDonald Street and the upper level of No. 15 McDonald Street is considered to be minor/negligible, despite the breach of the height limit. However, the ground floor of No. 15 McDonald Street loses views of the ocean from the AC units on dwellings 10 and 11. Given that there is a more skilful design possible, it has to be recommended that these two AC units (on dwellings 10 and 11) also be removed. The units on dwelling 12 can remain.

The non-compliant AC units on dwellings 13 and 14 cause the following view loss:

- From No. 17 McDonald Street - no view loss,
- From the upper level of No. 15 McDonald Street - loss of views of some district views, and
- From the ground floor of No. 15 McDonald Street - loss of some ocean and views of some vegetation.

This view loss from the upper level of No. 15 McDonald Street is not considered to be unreasonable, despite the breach of the height limit. However, the ground floor of No. 15 McDonald Street loses views of the ocean from the AC units on dwellings 13 and 14. Given that there is a more skilful design possible, it has to be recommended that these two AC units (on dwellings 13 and 14) also be removed.

Overall, the AC units do not have to be placed on the roof and the ventilation stack does not have to block most of the view corridor between dwellings 6 and 7. Only the AC unit on dwelling 12 does not cause unreasonable view loss. There is clearly a more skilful design that could

provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. In this regard, it is recommended that the AC units above dwellings 1 to 11, 13 and 14 be removed, and the ventilation stack be removed from the view corridor.

This recommendation would result in a development that is substantially different to that which was applied for and therefore the modification should be refused.

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

Comment:

The proposal, as submitted, is not an innovative design solution and will not improve the urban environment. In this regard, a condition is recommended to remove the AC units above dwellings 1 to 11, 13 and 14, and remove the ventilation stack from the view corridor.

- *To ensure existing canopy trees have priority over views.*

Comment:

No existing canopy trees are impacted by the modification.

Having regard to the above assessment, it is concluded that the modification, as submitted, is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the modification cannot be supported.

D9 Building Bulk

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*
- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The AC units and the ventilation stack have been assessed in detail above (Part D7 Views). The removal of AC units 1 to 11, 13 and 14, and the removal of the ventilation stack would result in a development that is acceptable from the perspective of building bulk. However, the development as proposed, does not result in an acceptable building bulk and is therefore recommended for refusal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

This modification seeks retrospective approval for the installation of 14 air conditioning units and a ventilation stack on a development for 14 attached dwellings.

The modification received 10 submissions, all objecting to the proposal. Concerns raised included, noise, danger in high winds, view loss and the retrospective nature of the application.

View loss is the key issue with this modification, as it relates to the breach of the height limit and the bulk of the structures.

A thorough assessment has found that 13 of the 14 AC units result in unreasonable view loss and should be removed from the roof. This assessment also found that the ventilation stack, built blocking most of the view corridor between dwellings 6 and 7, should be removed.

If the AC units recommended for removal are agreed to by the panel, these changes would result in a modification approval substantially different to what was applied for. Therefore, it is recommended that the application be refused and the applicant remove all the AC units from the roof and move the ventilation stack out of the view corridor.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Modification Application No. Mod2018/0432 for Modification of Development Consent DA2016/0550 granted for attached dwellings to install air conditioning units to each dwelling on land at Lot 2 DP 1226906, 12 K McDonald Street, FRESHWATER, Lot 3 DP 1226906, 12 J McDonald Street, FRESHWATER, Lot 4 DP 1226906, 12 I McDonald Street, FRESHWATER, Lot 5 DP 1226906, 12 H McDonald Street, FRESHWATER, Lot 6 DP 1226906, 12 G McDonald Street, FRESHWATER, Lot 7 DP 1226906, 12 F McDonald Street, FRESHWATER, Lot 8 DP 1226906, 12 E McDonald Street, FRESHWATER, Lot 9 DP 1226906, 12 D McDonald Street, FRESHWATER, Lot 10 DP 1226906, 12 C McDonald Street, FRESHWATER, Lot 11 DP 1226906, 12 B McDonald Street, FRESHWATER, Lot 12 DP 1226906, 12 A McDonald Street, FRESHWATER, Lot 13 DP 1226906, 27 Coles Road, FRESHWATER, Lot 14 DP 1226906, 25 Coles Road, FRESHWATER, Lot 1 DP 1226906, 12 L McDonald Street, FRESHWATER, subject to the reasons outlined as follows:

1. Pursuant to Section 4.15(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 2011, in that:
 - 13 of the 14 air conditioning units result in the unreasonable loss of views from multiple nearby properties,
 - The ventilation stack blocks a view corridor between dwellings 6 and 7 and results in unreasonable view loss,
 - There is a more skilful design that could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.
2. Pursuant to Section 4.15(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 2011, in that:
 - The air conditioning units and the ventilation shaft add an additional unreasonable bulk to the 14 attached dwellings,
 - This additional bulk results in the unreasonable loss of views from multiple neighbouring properties.



Case	Description	Date
1	Shirts, pants, jacket	03/27/02
2	Shirts, pants, jacket	03/27/02
3	Shirts, pants, jacket	03/27/02
4	Shirts, pants, jacket	03/27/02

[illegible]

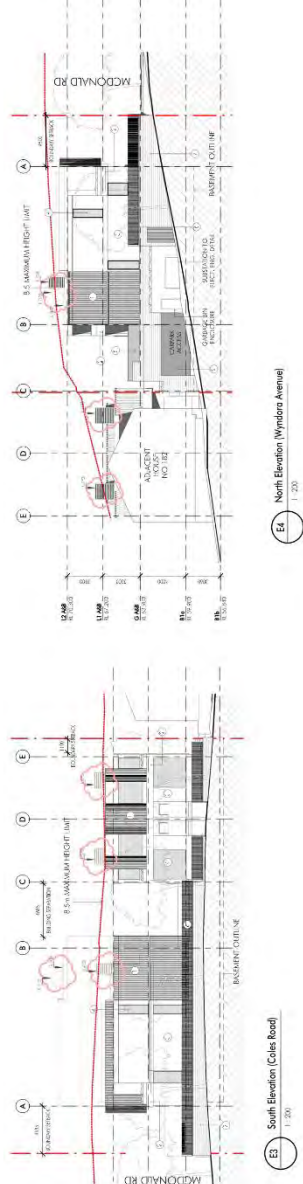
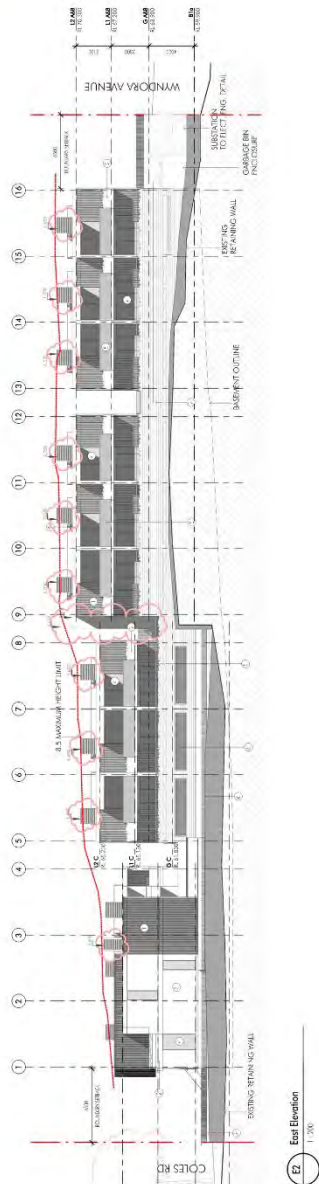
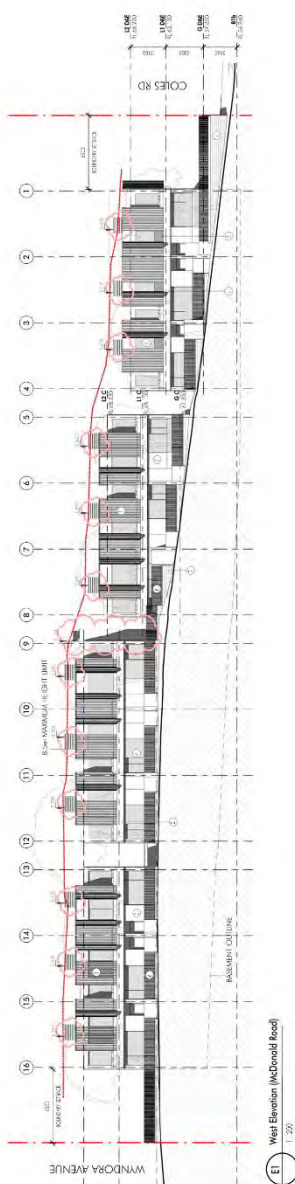
Project:
Freshwater Outfalls
184 Wyndol Avenue Freshwater

ipm
PMA
PMA 1, 800-TIMING-IT
PMA 1, 800-TIMING-IT
PMA 1, 800-TIMING-IT



EXTERNAL FINISHES LEGEND

1. VERTICAL TIMBER SCREEN
2. EXPOSED CONCRETE
3. WHITE PAINTED WALL
4. GLASS WINDOW
5. SANDSTONE MASONRY WALL
6. VERTICAL METAL SLAT FENCING
7. METAL LOUVER
8. GARAGE ENTRY DOOR
9. GARAGE ENTRY DOOR



Project Information	
Project Name	1500 Windsor Avenue
Client	1500 Windsor Avenue Pty Ltd
Address	1500 Windsor Avenue, Sydney NSW 1500
Scale	1:200
Drawn By	10000_10000
Checked By	10000_10000
Approved By	10000_10000
Date	10/03/2019
Drawn By	10000_10000
Checked By	10000_10000
Approved By	10000_10000
Date	10/03/2019

ITEM 3.5	DA2019/0054 - PITTWATER ROAD, MANLY - OUTDOOR CONCERT ENTERTAINMENT FACILITY
REPORTING OFFICER	Steve Findlay
TRIM FILE REF	2019/110365
ATTACHMENTS	1 Assessment Report 2 Plans

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the Council and as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2019/0054 for outdoor concert entertainment facility at Lots 8-20 Sec 6 DP 1177, Lot 1 DP 177459, Lot 1 DP 535058 and Lots 7328 and 7329 DP 1151520, Pittwater Road, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer:	External Consultant – Geoff Goodyer, Symons Goodyer Pty Ltd
Address:	Keirle Park, Pittwater Road, Manly
Proposal:	Use of land for a music event including temporary installation of a stage, fencing, toilets, bar and markets.
Development Application No:	DA2019/0054
Plans Reference:	DA00A3 (Revision 5), SS-STDDDET-FOH-01 (Revision B), SS-DROP18-01-1 (Revision A), SS-DROP18-01-2 (Revision A), SS-DROP10-01-3 (Revision A), SS-DROP10-01-4 (Revision A), SS-DROP10-01-5 (Revision A).
Applicant:	The Drop Music Festival Pty Ltd
Owner:	Northern Beaches Council
Application Lodged:	23 January 2019
Zone:	RE1 Public Recreation
Permissible Development:	Recreation Facility (Major)
Land and Environment Court Action:	No
Referred to NBLPP:	Yes (Over 10 submissions and Council owned land)

SUMMARY

Submissions:	30
Submission Issues:	<ul style="list-style-type: none"> Noise; Traffic; Parking; Patron behaviour; Security; Impact on playing fields; and Impact on wildlife and lagoon;
Assessment Issues:	<ul style="list-style-type: none"> Noise; Use of community land; Traffic and parking; and Security.
Recommendation:	APPROVAL



LOCALITY PLAN (not to scale)



Figure 1 – Location of Site

SITE DESCRIPTION

Keirle Park is located on the western side of Pittwater Road. It is a grassed area used as playing fields and various recreational and community facilities (tennis courts, senior citizens centre, croquet fields, etc.). It adjoins Manly Lagoon to the north, Manly Golf Course to the west and south.

Keirle Park has an area of 4.647 hectares (source: Keirle Park Plan of Management). It comprises the following allotments: Lots 5 - 20 Section 6 DP 1177, Lot 1 DP 1079502, Lot 2 DP 537807, Lot 1 DP 535058, Lot 1 DP 971708 and Lot 2 DP 928762.

Keirle Park is owned by Northern Beaches Council and is classified as Community Land under the Local Government Act 1993.

The music event is proposed to occupy that part of the site used for playing fields and does not involve the use of the tennis courts, croquet fields, senior citizens centre or other buildings and facilities within Keirle Park.

The following photographs show the playing fields that are proposed to be occupied by the music event:

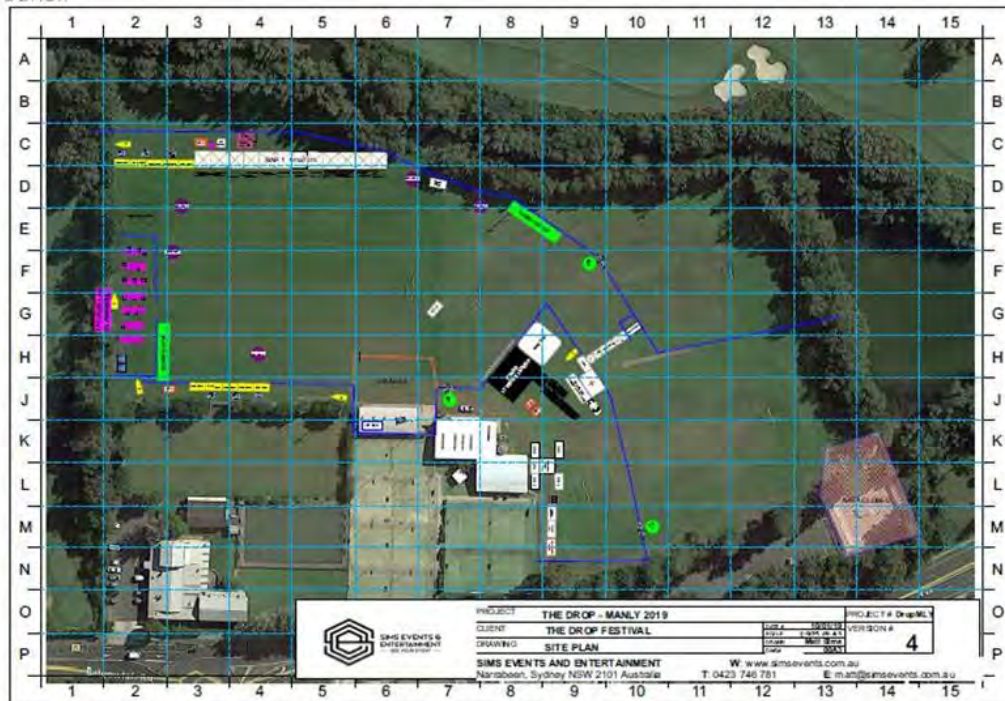


Figure 2 – Layout of Drop Festival Music Event at Keirle Park



Figure 3 and 4 – Photos of the proposed area for the Drop Festival and existing buildings

RELEVANT BACKGROUND

On 23 May 2003 Council approved DA 185/2002 for alterations and/or additions to an existing Club at the site.

On 8 July 2008 Council approved DA 496/2007 for the construction of a single storey sports facility building at the site.

On 13 December 2018 a pre-lodgement meeting (PLM2018/0300) was undertaken by The Drop Festival with Northern Beaches Council for the proposed music festival at Keirle Park.



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The current development application was lodged on 23 January 2019 and was notified from 25 January to 11 February 2019 and advertised in the Manly Daily on 26 January 2019.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the use of the playing fields area of Keirle Park for a music event called "The Drop Festival" on 23 March 2019. The music event will commence at 3.00pm and finish before 10.00pm. The music event has a capacity of 10,000 patrons. Attendance at the event is limited to persons aged 18 years and older.

Works will be carried out in preparation for the event from 19 March to 23 March. These works include setting up the various structures associated with the music event, such as the stage, the installation of toilets, the marquees for the markets area, construction of a bar and food service areas, positioning of food trucks, provision of free water stations, and erection of temporary structures for medical services, box office and back stage rooms. 1.8m high fencing will be erected around the site of the music event. During this period the site will be "locked down" to create a designated safe work zone.

Intermittent sound checking will occur from 2pm to 6pm on 22 March. A final sound check will occur from 10am to 2pm on the day of the music event. No rehearsals longer than 15 minutes are scheduled. Any rehearsals will only occur during the sound check times and will be monitored and set to 5 dB lower than the festival level limit. The Noise Guide for Local Government gives the example of a limit of L_{max} 75 dB (A) being suitable for a one-off music festival. A limit of L_{max} 75 dB (A) will be adopted for this event.

Works will be carried out to remove all structures from 24 March to 26 March. During this period the site will be "locked down" to create a designated safe work zone.

The proposal includes a Traffic Management Plan, Security Management Plan, Event Medical Plan, Fire Safety Plan, Grass Management Plan, Noise Management Plan, Event Management Plan, Waste Management Plan, Flood Management Plan and Emergency Management Plan.

STATUTORY CONTROLS

- a) **Environmental Planning and Assessment Act 1979**
- b) **Environmental Planning and Assessment Regulation 2000**
- c) **Local Government Act 1993**
- d) **SEPP 19 - Bushland in Urban Areas**
- e) **SEPP (Coastal Management) 2018**
- f) **SEPP (Infrastructure) 2007**
- g) **Manly Local Environmental Plan 2013**
- h) **Manly Development Control Plan 2013**

REFERRALS

Internal Referrals

Referral Body	Comments	Consent Recommended
Internal		
Building Assessment	No objections subject to conditions.	Yes
Engineering	No objections and no conditions.	Yes



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Referral Body Internal	Comments	Consent Recommended
Environmental Health – Commercial Use	No objection subject to conditions.	Yes
Environmental Health – Industrial Use	No objections subject to conditions.	Yes
Landscape	No objections subject to conditions.	Yes
Natural Environment – Biodiversity	No objections subject to conditions.	Yes
Natural Environment - Coastal	No objections and no conditions.	Yes
Natural Environment – Flood	Recommended for refusal at this stage due to inadequate information. Further information sought from the applicant prior to determination.	No (additional information required) (*)
Natural Environment – Riparian	No objections subject to conditions.	Yes
Parks, Reserves and Foreshores	No objections subject to conditions.	Yes
Property and Commercial Development	No objections subject to conditions.	Yes
Traffic Engineer	In principle, the proposal is supported by the Traffic Engineer, subject minor amendments and approval of the Traffic Committee at its meeting on 5 March 2019.	Yes
Waste Management	Awaiting further information from the applicant to address issues raised by Waste Management.	No (additional information required) (**)

(*) Council's Flooding Section have reviewed the submitted Flood Risk Management Report prepared by Northern Beaches Consulting Engineers and do not support the proposal based on concerns in relation to deficiencies in the flood analysis and are seeking additional information. The final outcome of this assessment will be reported to the Panel under a Supplementary Report which will be placed on Council's website prior to the meeting.

(**) Council's Waste Officer has sought information from the Applicant in relation to the use of "single-use containers". The final outcome of this assessment will be reported to the Panel under a Supplementary Report which will be placed on Council's website prior to the meeting.



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External Referrals

Referral Body External	Comments	Consent Recommended
Ausgrid	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.	N/A
NSW Police	In principle, the proposal is supported by the NSW Police, subject to conditions which will be imposed on the consent.	Yes (Draft Conditions at this stage, final set of conditions to be provided) (***)
Roads and Maritime Services	No objections subject to conditions.	Yes

(***) The NSW Police has provided its draft conditions to be imposed on the consent. The final set of conditions will be addressed in the Supplementary Report to the Panel which will be placed on Councils website prior to the meeting.

NOTIFICATION & SUBMISSIONS

The subject application was notified to 1,202 surrounding and nearby properties and advertised in accordance with the EPA Regulation 2000 and Manly Development Control Plan 2013.

Council received 30 submissions in response. One submission supported the proposal. Twenty-nine submissions raised objections. The issues raised in the letters of objection are summarised as follows:

Noise Impacts

Concerns were raised regarding noise nuisance from the proposed music event.

Comment: A Noise Management Plan by Noise Consulting and Management Pty Ltd is included in the proposal. The location of the stage and the height and direction of the speakers have been designed to minimise noise nuisance and the existing buildings at Keirle Park will assist in providing a noise barrier to the nearest dwellings to the east of the site. Noise monitoring will be undertaken during the event and the system checks on the morning of the event and the previous day and an acoustic consultant will be in direct contact with the sound engineers, etc., in the event that noise levels exceeds the adopted criteria. A complaints system will be implemented to respond to resident complaints for duration of the event.

Council's Environmental Health Officer has reviewed the Noise Management Plan and raises no objections subject to conditions including strict compliance with the Noise Management Plan.

It is acknowledged that the proposal will create noise. However, it is a temporary use that provides a social benefit in the form of public entertainment to a significantly large part of the



community and; in balancing these considerations, it is considered that the noise generated by the proposal, managed as proposed, does not warrant refusal of the application.

Traffic Impacts

Comment: In principle the proposal is supported by the Traffic Engineer subject minor amendments and approval of the Local Traffic Committee on 5 March 2019. Additionally, it is noted that the RMS raises no objections subject to the approval from the Local Traffic Committee.

Parking

Comment: In principle, the proposal is supported by Council's Traffic Section subject to minor amendments and approval of the Local Traffic Committee at its meeting on 5 March 2019. Additionally, it is noted that the RMS raises no objections, subject to the approval from the Local Traffic Committee.

This objection does not warrant refusal of the application

Patron behaviour

Comment: In principle, the proposal is supported by the NSW Police subject to conditions and issuing of appropriate license(s). The event will have adequate levels of security, staff and police (including user pay officers) to ensure patron behaviour is maintained to a reasonable level.

This objection does not warrant refusal of the application.

Late notification of the application

Concerns were raised that the music event has been in the planning stages for a considerable time, that a website exists and that ticket sales were occurring before notification of the DA.

Comment: Council advised the applicant that the application should be lodged as soon as possible after the pre-lodgement meeting that was held on 13 December 2018, however, the DA was only received on 23 January 2019. It was notified two (2) days later on 25 January 2019 and advertised in the Manly Daily on 26 January 2019.

Consequently, the DA was notified to residents in a short time frame and this matter does not warrant refusal of the application.

Precedent

Concern is raised that approval of this music event would create a precedent for other music events.

Comment: In this regard, each proposal would be assessed on its own merits. If, in the future, multiple music events are being proposed then Council could consider the cumulative impacts of those events. At the moment, however, the proposal is a one-of event and this objection does not warrant refusal of the application.



Rubbish and Pollution

Concern is raised that the scale of the event, with 10,000 attendees, will result in a significant amount of rubbish and pollution.

Comment: In this regard the proposal includes a Waste Management Plan to minimise the impacts of waste and rubbish including the provision of waste and recycling bins throughout the site during the event. Council's Natural Environment Officers have reviewed the proposal and raised no objections subject to conditions.

This objection does not warrant refusal of the application.

Impact on wildlife

Concern is raised that waste, light, noise and pedestrian traffic will have a negative impact on wildlife in the vicinity of the site.

Comment: In this regard, the proposal includes measures to manage waste and prevent it entering the lagoon. Light and noise will have a temporary impact on local wildlife which is not considered be significant, but it is noted that the site is in an urban area where there is a constant impact on the natural environment and the event is a temporary use only. The site will be fenced to prevent foot traffic in the riparian area. Council's Natural Environment Officers have reviewed the proposal and raised no objections.

This objection does not warrant refusal of the application.

Damage to playing fields

Concern is raised that the proposal will damage the playing fields.

Comment: The proposal includes a Grass Management Plan. Ground protection will be provided in key areas of high vehicle and pedestrian traffic and sensitive turf areas during the event and during the bump in / bump out phases. Council's Parks, Reserves and Foreshores Officer has reviewed the proposal and raised no objections subject to conditions.

This objection does not warrant refusal of the application.

Flooding

Comment: Keirle Park is flood affected lands and the Applicant was requested to address this critical matter as part of the Pre-lodgement Meeting advice. A report by NBC Consulting Engineers was submitted with the DA, which was reviewed by Council's Stormwater and Floodplain Engineering (Flood Risk).

The review identified concerns in relation to deficiencies in the flood analysis and the flooding officers are seeking additional information. The final outcome of this assessment will be reported to the Panel under a Supplementary Report which will be placed on Council's website prior to the meeting.

Council has requested further additional information to address this issue prior to completion of the flooding assessment and eventual determination of this application.



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Emergency services access

Concern is raised that congestion around the site during the event will prevent access by emergency services.

Comment: In this regard, the Event Management Plan identifies that the Event Command Centre will be in contact via two-way radio with emergency services. The Event Management Plan identifies an Emergency Access Gate for access by emergency services. It is considered that will adequate provision for emergency services

As discussed above, Council's Traffic Section are satisfied in principle with the proposed traffic management plan and it is their advice that, subject to conditions, the outcome of the Traffic Committee Meeting on 5 March 2019 and the NSW Police, that adequate access to emergency services will be available.

This objection does not warrant refusal of the proposal

Police / Security / medical staff

In principle, the proposal is supported by the NSW Police subject to conditions which have been provided in draft form. The event will have adequate levels of security, medical staff and police (including user pay) to cater for patrons at this event.

This objection does not warrant refusal of the proposal.

Availability of free water

The submission requests that free water be available to attendees at the event.

Comment: The proposal includes the provision of free water to attendees. Details are provided in the Event Medical Plan by EMS Event Medical.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the EPAA are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	See discussion on "Manly Development Control Plan 2013" in this report.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 54 and 109 of the EP&A Regulation 2000, relates to whether Council requested additional

Section 4.15 'Matters for Consideration'	Comments
	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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is zoned for the proposed purpose. The assessment of this application has concluded that the site is suitable for the proposed purpose, subject to resolution of the flooding issues.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Public Exhibition" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest, subject to resolution of the flooding issues.

LOCAL GOVERNMENT ACT 1993

The site is classified as "*community land*", Section 36 of the LG Act requires the preparation of a Plan of Management for all community land. The Keirle Park Plan of Management applies to the subject site.

Section 35 of the LG Act requires that the land be used and managed in accordance with the Plan of Management.

The Keirle Park Plan of Management includes a number of Objectives and then describes the means of achieving the Objective. Objective 14 is to:

"Retain opportunities to use open space for special events or projects and for future activities if need becomes apparent."

The proposed music event is considered to be consistent with this Objective.

The means of achieving this Objective are:

- "1. Consider the making or renewal of leases, licences or any other estate or permit, as appropriate.*
- 2. At each lease, licence or permit renewal consider the need to continue the activity."*

It is considered that the proposed music event is consistent with these broadly-worded means of achieving the Objective.



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The proposal is not inconsistent with other provisions of the Keirle Park Plan of Management such that this development application for a music event would be prevented from being approved.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies (SEPP's)

SEPP 19 – Bushland in Urban Areas

Clause 6(1) of SEPP 19 provides that a person shall not disturb bushland on land zoned for public open space purposes except with the consent of Council. The proposal is to only use the areas of playing fields at Keirle Park and fences will be erected to prevent access to areas other than the playing fields. Consequently, the proposal will not disturb any bushland on land zoned for open space purposes.

Clause 9 of SEPP 19 provides that where land adjoins bushland zoned for public open space purposes, Council must consider the effect of the proposed development on that bushland and any other matters relevant to the protection or preservation of that bushland. Due to the temporary nature of the music event and because the event is restricted to the playing fields only, it is considered that there will not be any adverse impact on bushland on adjoining land zoned for public open space purposes.

Council's Natural Environment Unit have assessed the potential impacts on the surrounding bushland and are satisfied the impacts can be managed/mitigated through conditions of consent.

SEPP (Coastal Management) 2018

The site is located within the Coastal Environment Area as identified in SEPP (Coastal Management) 2018. Clause 13(1) requires Council to consider whether the proposed development is likely to cause an adverse impact on the following:

Clause 13(1)	Comments
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment	The music event is a temporary use and is unlikely to cause an adverse impact.
(b) coastal environmental values and natural coastal processes	The music event is a temporary use and is unlikely to cause an adverse impact.
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1	The music event is a temporary use and is unlikely to cause an adverse impact. Waste management is included in the proposal.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms	The music event is a temporary use and is unlikely to cause an adverse impact.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability	The music event is a temporary use and is unlikely to cause an adverse impact. There will be a temporary restriction on public access to the playing fields during the event and in the period leading up to and after the event.
(f) Aboriginal cultural heritage, practices and places	The music event is a temporary use and is unlikely to cause an adverse impact. The historical use of



Clause 13(1)	Comments
	the playing fields make it extremely unlikely that there are any artefacts on the site.
(g) the use of the surf zone	The site is not in the vicinity of the surf zone so no adverse impacts are anticipated.

Under clause 13(2) consent cannot be granted to the proposal unless Council is satisfied that:

Clause 13(2)	Comments
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The music event is designed to avoid adverse impacts by restricting activities to the playing fields area only and providing fencing to prevent use of other areas. The music event is a temporary use that is unlikely to result in adverse impacts.
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Not relevant.
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Not relevant.

Part of the site (the northern portions) is located within the Coastal Use Area as identified in SEPP (Coastal Management) 2018. Clause 14(1) (a) requires Council to consider whether the proposed development is likely to cause an adverse impact on the following:

Clause 14(1)(a)	Comments
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability	The music event is a temporary use and is unlikely to cause an adverse impact. There will be a temporary restriction on public access to the playing fields during the event and in the period leading up to and after the event.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores	The proposal will not cause any adverse impacts with regards to overshadowing, wind funnelling or loss of views.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands	The music event is a temporary use and is unlikely to cause an adverse impact.
(iv) Aboriginal cultural heritage, practices and places	The music event is a temporary use and is unlikely to cause an adverse impact. The historical use of the playing fields makes it extremely unlikely that there are any artefacts on the site.
(v) cultural and built environment heritage	The music event is a temporary use and is unlikely to cause an adverse impact. The site does not contain a heritage item and is not within a conservation area.

Under clause 14(1)(b) consent cannot be granted to the proposal unless Council is satisfied that:

Clause 14(1)(b)	Comments
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The music event is designed to avoid adverse impacts by restricting activities to the playing fields area only and providing fencing to prevent use of



Clause 14(1)(b)	Comments
	other areas. The music event is a temporary use that is unlikely to result in adverse impacts.
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Not relevant.
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Not relevant.

Under clause 14(1)(c), Council must take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. In this regard the proposed music event is a temporary use and the proposed structures are of an appropriate bulk, scale and size for the proposed use.

SEPP (Infrastructure) 2007

Clause 104 and Schedule 3 of the SEPP provide that certain development must be referred to NSW Roads and Maritime Services (RMS) for consultation. RMS was consulted and raised no objections to the proposal.

Local Environment Plans (LEP's)

Manly Local Environmental Plan 2013 (MLEP 2013)

Consideration of proposal against Manly Local Environment Plan 2013:

Definition of proposed development: (ref. MLEP 2013 Dictionary)	Recreation facility (major)
Zone:	RE1 Public Recreation
Permitted with Consent or Prohibited:	Permissible with consent

Objectives of the Zone

- To enable land to be used for public open space or recreational purposes.
 - To provide a range of recreational settings and activities and compatible land uses.
 - To protect and enhance the natural environment for recreational purposes.
 - To protect, manage and restore areas visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek and the Pacific Ocean.
 - To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.
- The development is considered to be consistent with the objectives of the zone for the following reasons:
- The proposal represents the recreational use of public open space.
 - The proposal complements the range of recreational activities available in public open spaces.
 - By restricting the music event to the playing fields area, and because the use is a one-off music event, the natural environment will be protected.
 - The playing fields will be restored after the music event with the removal of all structures.
 - The height and bulk of the proposed structures are appropriate for a music event of this scale and will be removed following the completion of the music event.



Principal Development Standards:

There are no development standards applicable to the site.

Relevant Miscellaneous Provisions

Provision	Comment
Heritage conservation	The site does not contain a heritage item and is not within a heritage conservation area. There are three heritage items in the vicinity of the site, being the former tram depot complex and associated building on the corner of Pittwater Road and Balgowlah Road (I214), the group of 2 storey residential flat buildings on the northern side of Eurobin Avenue (I154) and the row of Norfolk Island Pine trees in Lagoon Park (I166). The proposal, being a temporary land use, will have no impact on the heritage significance of those heritage items.

Relevant Additional Local Provisions

Provision	Comment
Acid Sulfate Soils	The site is shown on the Acid Sulfate Soils map as being partly within Class 1, partly within Class 3, and partly unaffected. The proposal does not involve the disturbance of more than 1 tonne of soil and is unlikely to lower the water table as no excavation is proposed and no further investigation is required pursuant to clause 6.1(6) of MLEP 2013.
Flood Planning	Councils Flooding Section have reviewed the submitted Flood Risk Management Report prepared by Northern Beaches Consulting Engineers and do not support the proposal based on concerns in relation to deficiencies in the flood analysis and are seeking additional information. The final outcome of this assessment will be reported to the Panel under a Supplementary Report which will be placed on Councils website prior to the meeting.
Essential services	The proposal involves the use of generators for electricity which is appropriate given the temporary nature of the use.
Noise impacts – licensed premises	Clause 6.21 of MLEP 2013 requires that Council consider the impact of any noise nuisance likely to be generated by the development on residential accommodation in the vicinity of the site. In this regard, the proposal includes a Noise Management Plan, which has been reviewed by Council's Environmental Health Officers and is considered to be satisfactory. To control noise to the specified limit (75 dB(A) with a maximum 95 dB(C) to control low frequency noise), noise monitors will be positioned at the most affected residential premises with readings provided to the sound engineers to adjust the sound levels accordingly. Sound level meters indicating the actual and allowed music levels will be displayed at the stage. Speakers will be positioned at least 2m below the height of the existing tennis centre buildings, which will form an acoustic barrier.



Relevant Additional Local Provisions	
	A condition of consent will require a report, containing the results of the monitoring, any complaints, the effectiveness of the noise control measures and recommendations on how to better manage/mitigate/avoid such impacts for future events is to be presented to Council within 30 days of the event.

Manly Development Control Plan 2013 (MDCP 2013)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.2 Privacy and Security	Yes	Yes
3.4.2.3 Acoustic Privacy (Noise Nuisance)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.8 Waste Management	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
5.4.4 Riparian Land and Watercourses	Yes	Yes

Detailed Assessment

3.4.2.3 Acoustic Privacy (Noise Nuisance)

The proposal includes a Noise Management Plan prepared by a qualified Acoustic Consultant. The Noise Management Plan identifies that the proposal will generate noise during the event (3.00pm to 10.00pm), and for system checks from 12.00pm to 6.00pm the day before the event and 10.00am to 2.00pm on the day of the event.

The Noise Management Plan adopts a maximum noise level of L_{max} of 75 dB (A) which has been adopted from the NSW Noise Guide for Local Government (NSW EPA, 2013). To address concerns over long periods of low frequency music noise the Noise Management Plan uses a level of L_{max} 95 dB(C) as an upper limit.

Noise will be monitored throughout the event at three nearby residential properties (1 Eurobin Avenue Manly, 1 Lakeside Crescent North Manly and 5 Addiscombe Road Manly Vale).

The Noise Management Plan includes a number of Noise Abatement Measures, including a complaints mechanism and the ability to provide additional noise monitoring in response to any complaints received during the event. An accredited Acoustic Consultant will monitor the event and be in two-way radio communication with the sound desk staff, production manager, sound engineers, event organiser and hotline staff. Council's Environmental Health Officer has reviewed the proposal and has raised no objections subject to conditions that are included in the recommendation of this report.

Additionally, a Council Environmental Health Officer (EHO) will be attending the event (23 March) to ensure noise monitoring/abatement is completed in accordance with the recommended standards and conditions are adhered to ensure amenity of the surrounding residential properties.



3.8 Waste Management

The proposal includes a Waste Management Plan that details the methods in which waste will be collected, stored and disposed of with an emphasis on maximising recycling. Waste Management contractors have been engaged for the event.

Council is awaiting further information from the applicant to address issues raised by Council's Waste Management Officer and it is considered that subject to this information being submitted, suitable conditions can be included to address this clause.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

POLICY CONTROLS

Manly Section 94 Development Contribution Plan

The proposal is not subject to the application of Council's Section 94 Development Contributions Plan,

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;
- Local Government Act 1993;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan 2013;
- Manly Development Control Plan 2013; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

Flooding Issues

As discussed in the relevant sections of this report, the flooding hazard has not been fully assessed and resolved and the time of finalising this assessment report. Council's Flooding Engineers reviewed the Applicants Flood Risk Management Report and that review identified concerns in relation to deficiencies in the flood analysis. The flooding officers are seeking additional information to address these concerns.



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The final outcome of the flooding assessment will be reported to the Panel under a Supplementary Report/Memo which will also be placed on Council's website prior to the meeting.

Noise and Traffic Impacts and Public Benefit

The proposal will result in impacts from noise and disruption to traffic. In assessing the proposal, these impacts need to be balanced with the public benefits that arise from a music event as a means of providing public entertainment.

In balancing the impacts versus the benefits of the proposal, consideration must also be given to the one-off nature of the event and that the impacts will be experienced over a relatively short period of time. In balancing the impacts and the benefits it is considered that the proposal merits approval.

Subject to satisfactory resolution of the flooding issues, it is considered that the site is suitable for the proposed use, the proposed use is consistent with the applicable planning controls and is recommended for approval.

RECOMMENDATION (DRAFT)

- Part 1 That the assessment of the outstanding flooding issues is to be completed and reported to the Northern Beaches Planning Panel in the form of a Supplementary Report. Any conditions provided by Council's Flooding Section are to be imposed on the consent, including the new or updated flooding report(s).
- Part 2. That the conditions from the NSW Police, Council's Waste Officer and the Traffic Committee be reported to the Northern Beaches Planning Panel in the form of a Supplementary Report and be imposed on the consent.
- Part 3 Subject to the requirements in Part 1 and 2 being satisfied, Council as the consent authority grant Development Consent to DA2019/0054 for the use of land for a music event including temporary installation of a stage, fencing, toilets, bar and markets at Keirle Park, Manly, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA00A3 (Revision 5)	21.1.2019	Sims Events and Entertainment
SS-STDDDET-FOH-01 (Revision B)	14.8.2016	Stageset
SS-DROP18-01-1 (Revision A)	21.3.2018	Stageset
SS-DROP18-01-2 (Revision A)	21.3.2018	Stageset



SS-DROP10-01-3 (Revision A)	21.3.2018	Stageset
SS-DROP10-01-4 (Revision A)	21.3.2018	Stageset
SS-DROP10-01-5 (Revision A)	21.3.2018	Stageset

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Event Management Plan	12.12.2018	Matt Simms
Event Medical Plan	21.1.2019	EMS Event Medical
Fire Safety Plan v.1	Undated	Sims Events and Entertainment
Grass Protection Plan v. 2	Undated	Sims Events and Entertainment
Noise Management Plan	21.1.2019	Noise Consulting and Management Pty Ltd
Risk Management Plan	Undated	Matt Simms
Security Plan v. 1	4.12.2018	ISEC
Statement of Environmental Effects	Undated	Sims Events and Entertainment
Traffic Management Plan v. 2	21.11.2018	Traffic Plan Professionals
Waste Management Plan	16.11.2018	Clean Vibes

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.

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.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

Other Department, Authority or Service	eServices Reference	Dated
Roads and Maritime Services	Referral Response – RMS	15.2.2019

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

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



3. Prescribed Conditions

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

Reason: Legislative Requirement

4. General Requirements

- (a) Unless authorised by Council:
 - Building construction and delivery of material hours are restricted to:
 - o 7 am to 10.00 pm
 - Demolition and removal of materials/buildings/structures works are restricted to:
 - o 7.00 am to 8.00 pm.
- (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) Onsite toilet facilities for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.

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

5. Sale of food and drink

All food vendors of any food and drink for sale (or given away as promotion) shall apply in advance (14 days' min) of the event for food vending approval from Councils Environmental Health Team. Application forms are available on line at Councils Web site. "Temporary Food Stalls" Any packaged foods must be appropriately labelled- see NSW Food Authority web site for requirements.

Reason: To comply with Food Legislation

6. Building materials, sedimentation, waste

No building materials or other materials and waste are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or riparian vegetation. Appropriate sediment fencing is to be installed.

Reason: Environmental Protection

7. Community Notification of Event

The event organisers are required to notify all residents, businesses and relevant sporting clubs within a 500 metre radius of the event (from the main stage) of the upcoming event. The notification is to be in writing and is to include the following:

- Bump-in (start to end of set-up) dates and times (19 to 21 March from 7am to 7pm) & (22 March from 7am to 10pm)
- Event date and times (23 March from 7am to 10pm)
- Bump-out (finish, removal of all structures and departure) dates and times (24 to 26 March from 7am to 7pm)
- A contact number of the organiser that is accessible for the duration of the event from bump-in to bump-out.

Reason: To ensure clear public communication and notification of the event.

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



8. 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.

9. Structure Footings

Any structures that require footings are to utilise the weight plate and ballast footing solution as outlined in the 'Structures fixing solutions' plan. Details to be incorporated in the plans prior to issue of Construction Certificate.

Reason: To protect existing irrigation infrastructure from damage.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

10. Tree protection

- (a) Existing trees which must be retained
 - i) All trees located on the subject site
 - ii) All 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.

11. Bushland Protection Fencing

Prior to the commencement of any onsite building works, the boundary between the natural bushland zone and the festival construction area as shown on the submitted plans - is to be surveyed and marked clearly on the ground.



A temporary 1.8 metre steel mesh fence is to be erected between the natural bushland zone and the construction area for the duration of festival works. The fencing must be a minimum of 5m from the dripline (canopy) of existing trees along the northern, western and southern boundaries of the festival grounds.

Details demonstrating compliance, including photographic evidence, is to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction.

12. Physical Barrier to be placed at Landward Edge of Riparian Zones

Prior to commencement, temporary fencing must be provided to the rear of the portable toilets along the waterway, a minimum distance of 5m from vegetation. The physical barrier shall be constructed of non-combustible materials and shall not be less than 1.8 metres in height in order to prevent entry into environmentally sensitive areas.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to commencement.

Reason: To promote the long-term sustainability of ecosystem functions.

13. Bunding or relocation of portable toilet area adjacent to waterway

A bunded area must be provided to the downstream area of the portable toilets adjacent to the waterway in order to prevent any waste entering the environment, particularly.

Alternatively, the portable toilets are to be located a minimum of 20m from any waterway/drainage line.

Reason: Protection of waterways from the impacts of pollution.

14. Disposal of waste from catering outlets

All catering outlets must dispose of their waste (including liquid) in accordance with approved waste management practices. Rinsing out of any items, sink drainage and the like must not be allowed to drain to the environment. In the event waste is being disposed of to the environment, the event organisers must order this to cease immediately and to contact Council for further investigation.

Reason: To ensure protection of waterways from the impacts of pollution.

15. Working on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public Safety and the protection of Council infrastructure.



16. 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 land under Council's care, control and management, 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. Restricted Hours of Set-Up Operations

Event set up work on Friday 22nd March is to conclude by 10pm, with no power tools to be used after 8pm. All other times as stated in the Event Management Plan are to be complied with.

Reason: To ensure the amenity of the surrounding locality is maintained.

18. Removal of All Temporary Structures/Material and Rubbish Post Event

At the conclusion of the event, during the bump out timeframe of Sunday 24th March - Tuesday 26th March, all temporary fencing, signage, structures, sediment controls and rubbish are to be removed from the site.

Reason: To preserve amenity and maintain public safety.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

19. Fire Safety Matters and Emergency Egress

1. The event organisers are to provide suitable fire extinguishers and fire blankets (and where required, other firefighting essential services), on site for the duration of each event day. Such fire safety provisions are to be located in key areas around the outdoor event space (i.e. Stages, Screens, Bars, Offices, Generators, and Mobile Food Stalls etc), and be placed in all high risk areas, be well signposted, and in key locations as per the applicants Fire Safety Plan.
2. All exits and pathways to exits are to be clearly marked, accessible at all times and 'site wardens' are to be engaged to ensure clear pathways are maintained in the event of an emergency occurring.
3. A back-up emergency lighting system should be made available to ensure lighting is provided to the degree necessary, for all required 'egress pathways and exits'.

Reason: To protect persons using/attending the event and to facilitate their egress from the site in the event of an emergency or fire, and to restrict the spread of fire.

20. Cleaning and maintenance of toilets during the event



A dedicated cleaner shall be allocated to ensure continual service, cleaning and maintenance of the event toilets to minimise, blockages and spills, and ensure adequate water supply, toilet paper and liquid soap at all times.

Reason: To provide hygienic sanitary services and protect public health.

21. Noise Management

1. Compliance with all recommendations contained within the Acoustic Assessment and Noise Management Plan by Noise Consulting & Management Pty Ltd ref 3520 21 Jan 2019 and the Statement of Environmental Effects (SEE) undated submitted with the DA.
2. A Council allocated officer is to be provided with a contact name phone number to the sound management staff/contractor on the day to ensure direct communication to deal with any complaints or issues that may arise during the event and after the event until 12 midnight.
3. A report containing the results of the noise monitoring, any complaints, the effectiveness of the noise control measures and recommendations on how to better manage/mitigate/avoid such impacts for future events is to be presented to Council within 30 days of the event.

Reason: To minimise the noise impact on residential receivers.

22. Dead or Injured Wildlife – Manly LEP Clause 6.5

If construction activity or event activities associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To manage/mitigate potential impacts to native wildlife.

23. Access to site for lessees and licence's

Access to the site should be maintained for the lessees and licences of the buildings on the site at all times during operation, set up and take down of the music festival.

Reason: To ensure regular users of the buildings are not unduly inconvenienced by the festival.

24. Traffic Management

Traffic, parking and pedestrian safety is to be managed in accordance with the Traffic Management Plan submitted by Traffic Plan Professionals Pty Ltd, recommendations of the Local Traffic Committee, Councils Traffic Engineer(s) and directions from NSW Police.

Reason: To ensure safety and safe movement of vehicles and pedestrians.

25. Extinguishment of flood-lighting



Flood-lighting is to cease within 30mins of the work(s)/setup/setdown hours. On the event night (23 March) flood-lighting is to cease within 1 hour of the conclusion of the concert (11pm). Flood-lighting is to be provided from Keirle Park to Queenscliff Bridge (via the pedestrian pathway through Lagoon Reserve).

Reason: Pedestrian safety and amenity of surrounding residential properties.

26. Post Event Performance Report

A post event performance report is to be produced within two (2) weeks after the conclusion of the event and is to be submitted to Northern Beaches Council and NSW Police by 8 April 2019. A briefing by the applicant, security and event management is to be completed with the Northern Beaches Council and NSW Police within four (4) weeks after the event (22 April 2019).

Reason: To improve on future event(s) and address issues/concerns raised during the event.

27. Limitation on this Consent – One Event Only

This consent is for a one off event, being The Drop Festival to be held during the following dates:

- (a) Bump-in (start to end of set-up) from 19 to 22 March 2019
- (b) Event date - 23 March 2019
- (c) Bump-out (finish, removal of all structures and departure) from 24 to 26 March 2019

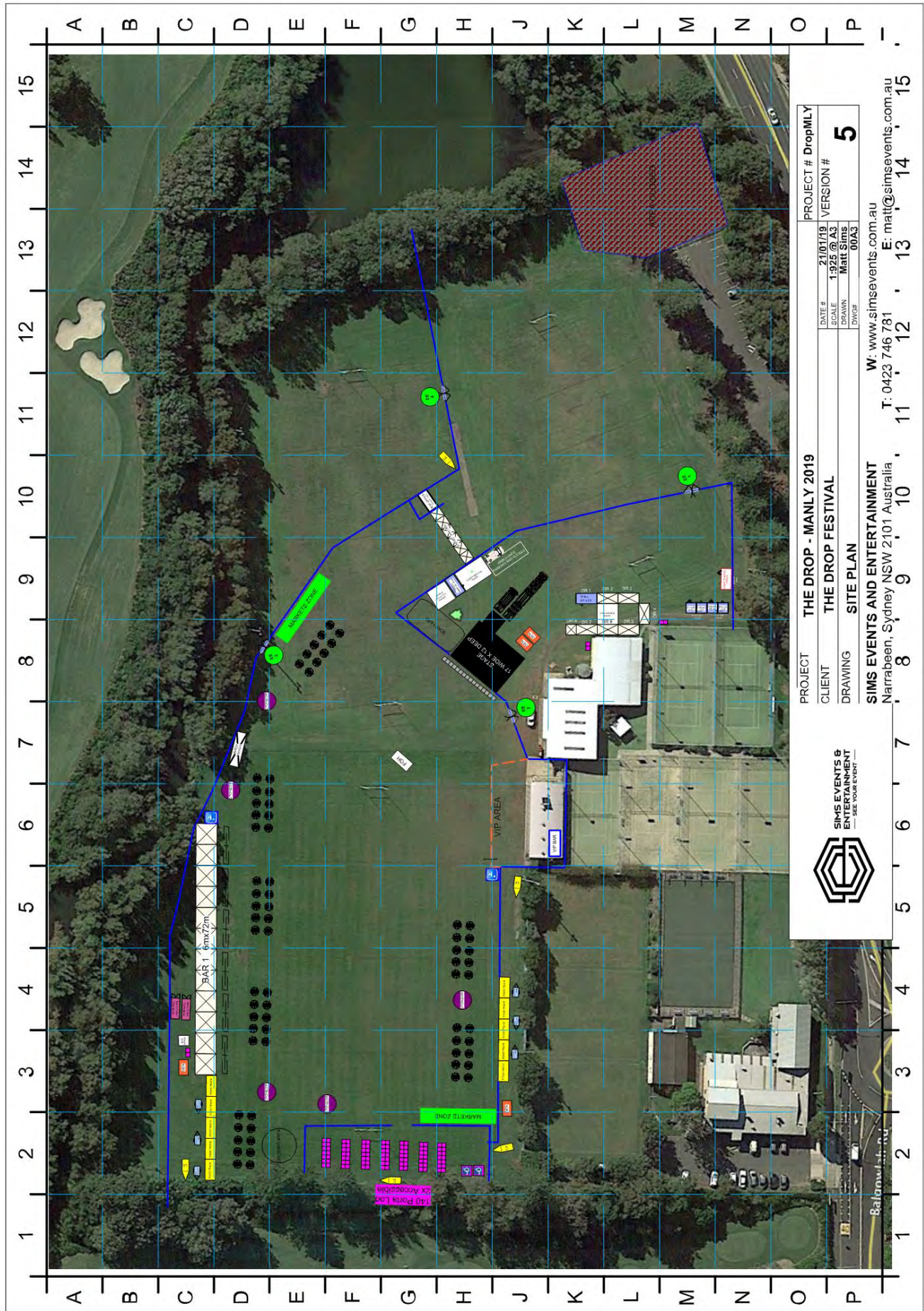
Any future event will need to be the subject of a separate development application.

Reason: To ensure compliance with the terms of this consent.

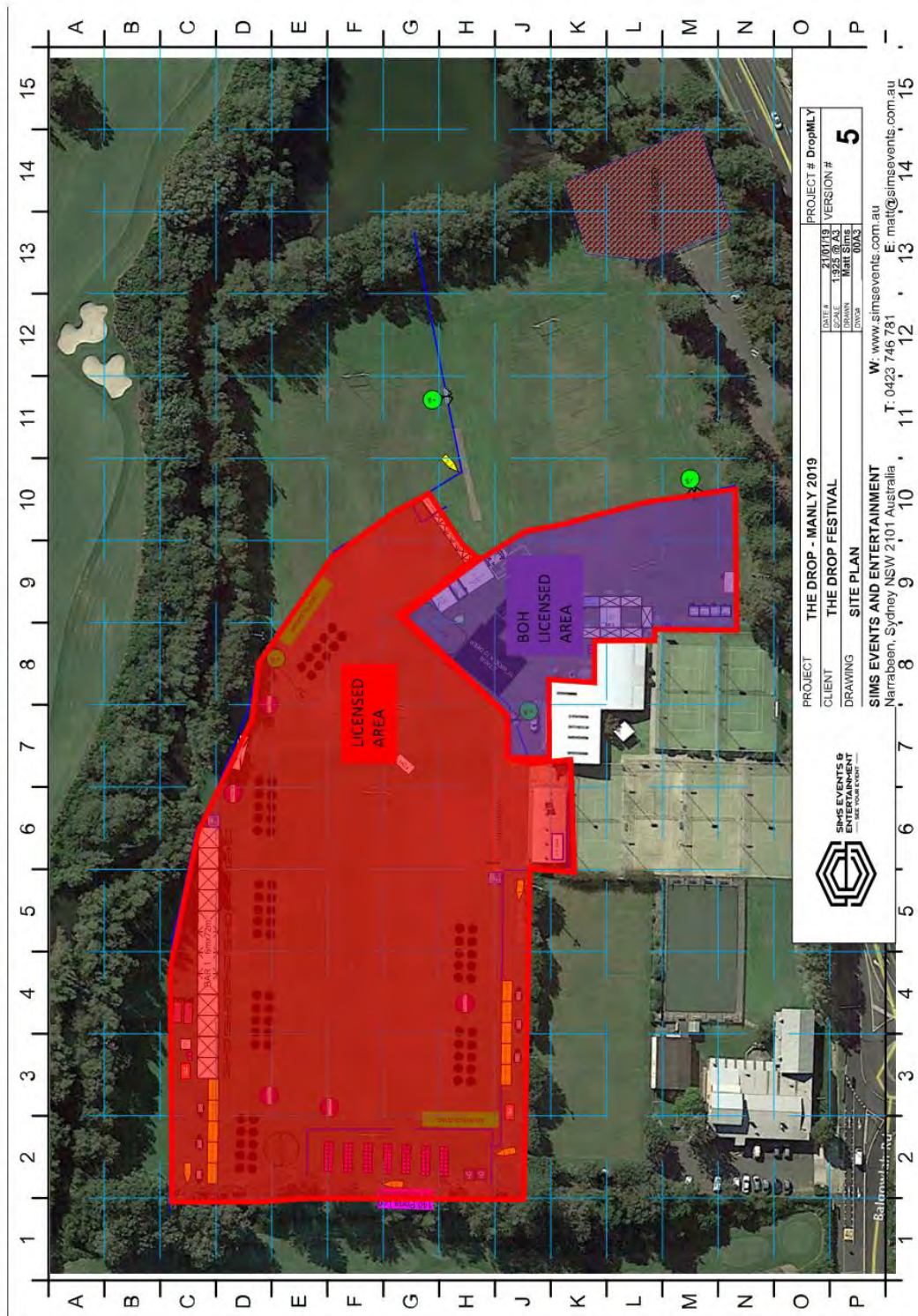
28. Compliance with Police Requirements

The event organisers are to comply with the requirements of NSW Police as outlined in their letter (date to be confirmed when final set of conditions are provided) at all times during the music event and for the period from bump-in to bump-out as specified.

Reason: To ensure compliance with the requirements of NSW Police.









Rev	Description	Date	By
11	FIRST ISSUE	21/03/18	GJT
A	GENERAL REVS	22/03/18	GJT

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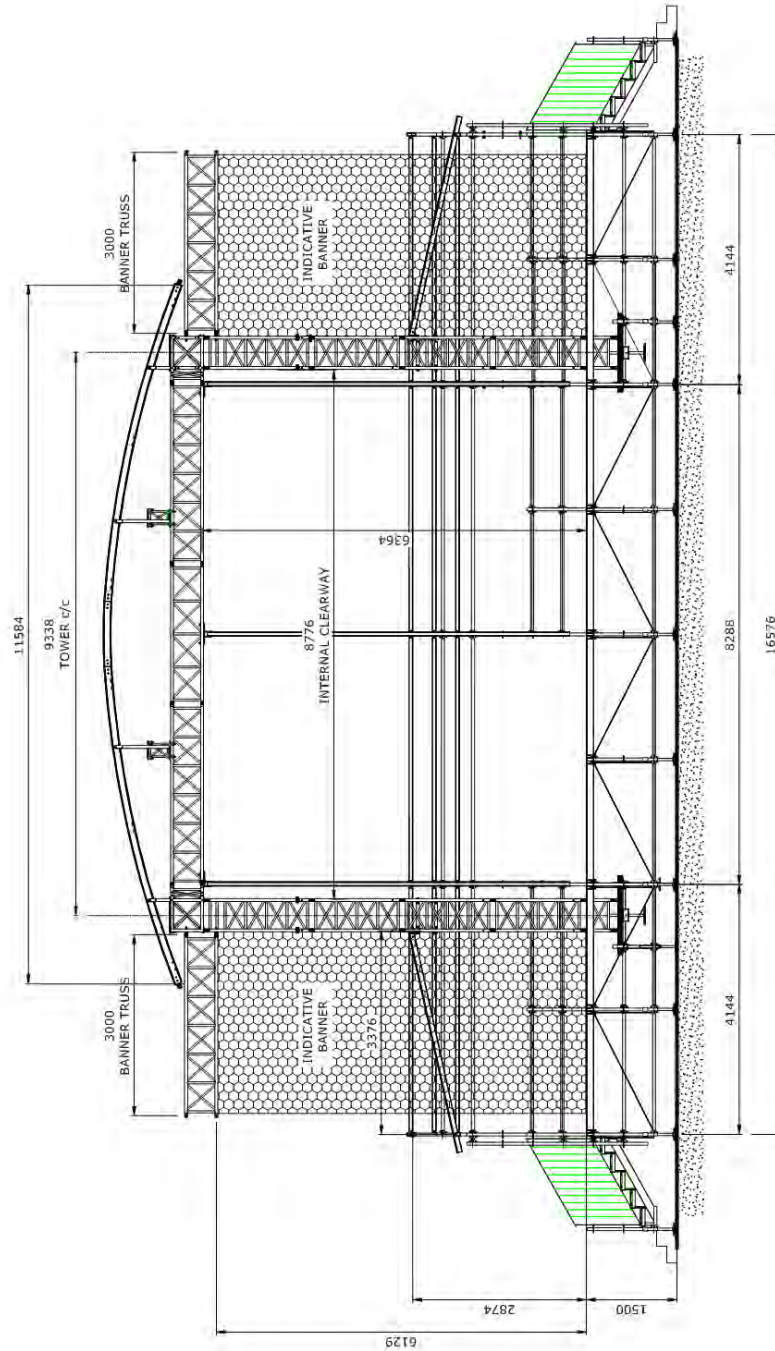
Project: DROP FESTIVAL 2018
TORQUAY

Drawing Title:

MAIN STAGE
FRONT VIEW

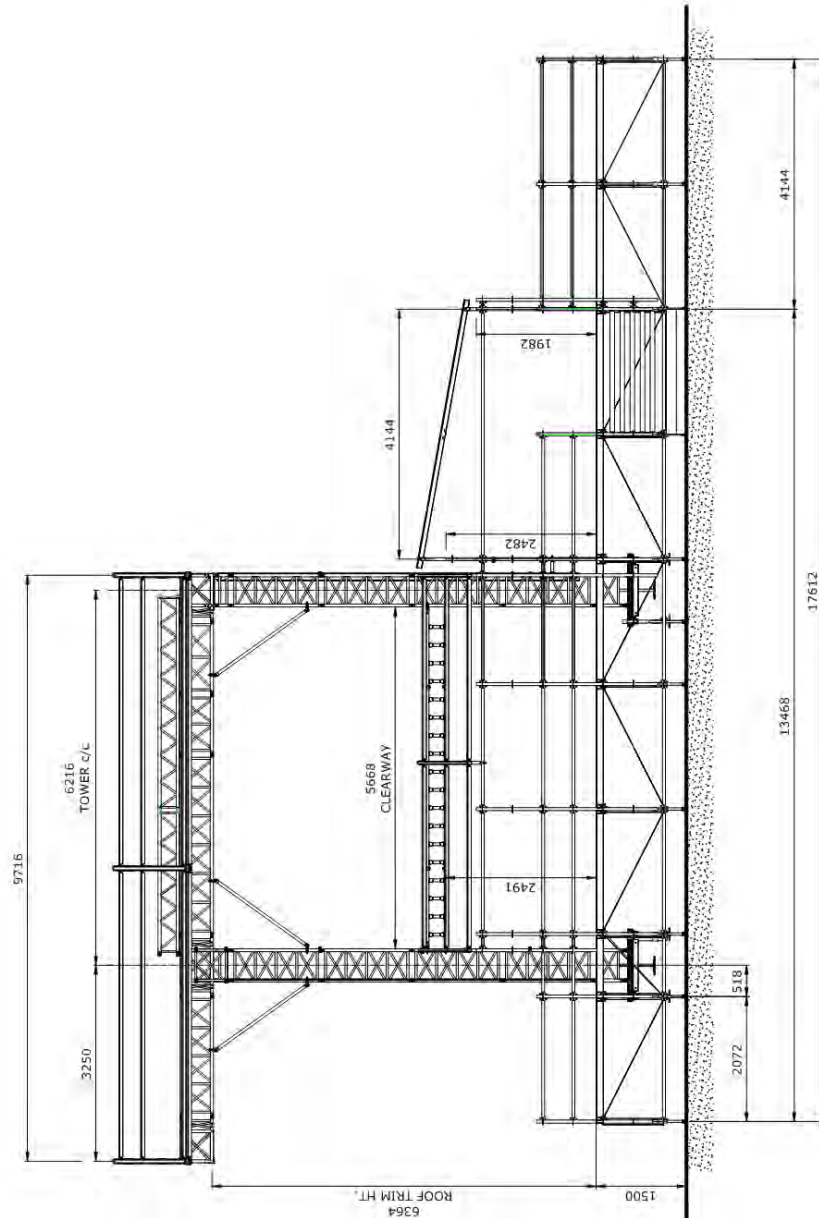
Drawn: GJT	Checked: CB
Scale @ A3: 1:75	Date: 21/03/18
Drawing No: SS-DROP18-01-3	Rev: A

All dimensions to be verified on the ground by the contractor.
All dimensions to be confirmed by the contractor.
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Rev	Description	Date	By
0	FIRST ISSUE	21/03/18	GJT
A	GENERAL REVS	22/03/18	GJT



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Project: DROP FESTIVAL 2018
TORQUAY

Drawing Title: MAIN STAGE
SIDE VIEW

Drawn: GJT Checked: CB
Scale @ A3: 1:75 Date: 21/03/18
Drawing No: SS-DROP18-01-4 Rev: A

All dimensions to be verified on the ground by the contractor.
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Rev	Description	By	Date
0	FIRST ISSUE	GJT	21.03.18
A	GENERAL REVS	GJT	22.03.18

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Project: DROP FESTIVAL 2018
TORQUAY

Drawing Title: MAIN STAGE
PERSPECTIVE VIEW

Drawn: GJT Checked: CB

Scale @ A3: NTS Date: 21.03.18

Drawing No: SS-DROP18-01-5 Rev: A

All dimensions to be verified on site prior to commencing work.
All dimensions in millimetres, to nearest millimetre, unless stated.
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