

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

WEDNESDAY 10 APRIL 2019



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 10 April 2019
in the Walamai Room, Civic Centre, Dee Why**

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Development Determination Panel held 27 March 2019	
3.0	DEVELOPMENT DETERMINATION PANEL REPORTS	5
3.1	DA2018/1571 - 55 Undercliff Road, Freshwater - alterations and additions to a dwelling house	5
3.2	Mod2018/0549 - 3 Mulgowrie Crescent, Balgowlah Heights - Modification of Development Consent DA45/2013 granted for alterations and additions to an existing dwelling.....	41
3.3	DA2018/1677 - 40 Starkey Street, Forestville - Demolition works and construction of a dwelling house	60

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 27 MARCH 2019

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 27 March 2019 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	DA2018/1571 - 55 UNDERCLIFF ROAD, FRESHWATER - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
REPORTING MANAGER	Steve Findlay
TRIM FILE REF	2019/187530
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/1571 for Alterations and additions to a dwelling house on land at Lot W DP 342619, 55 Undercliff Road, Freshwater subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1571
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot W DP 342619, 55 Undercliff Road FRESHWATER NSW 2096
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Anja Jamieson
Applicant:	Anja Jamieson Richard Jamieson
Application lodged:	24/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/10/2018 to 19/10/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,004,100.00

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 Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot W DP 342619 , 55 Undercliff Road FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Undercliff Road.</p> <p>The site is irregular in shape with a frontage of 12.19m along Undercliff Road and a depth of 54.24m. The site has a surveyed area of 632.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two storey brick dwelling with a tiled roof. Vehicular access currently is available to the site from Undercliff Road via a shared concrete driveway. Car parking is currently available on site within an existing hardstand car parking area located forward of the existing dwelling, and within the attached garage below the dwelling.</p> <p>The site has a large rock outcrop located at the rear of the allotment and the site is generally flat where the existing dwelling is located and then drops of quite steeply down to the street where the driveway widens up to No.55 and No. 57 Undercliff Road which share access to their respective dwellings.</p> <p>The site has limited plants, shrubs and trees located within the rear and front yard due to the topography of the site, rock outcrops and the driveway requirement to gain vehicular access to the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a number of two and three storey dwellings with associated</p>

DA2018/1571

Page 2 of 30



outbuildings/structures with landscaped gardens. Additionally there are a number of residential flat buildings which on top of the ridge which have vehicular access to Crown Road.

Map:



SITE HISTORY

DA2001/1303 - New upper level with alterations and additions approved 19 November 2001

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to an existing dwelling including a new first floor addition.

"Garage Level

➤ Alterations and additions to existing garage level to provide for demolition of existing stairs, extension of garage and construction of new access stairs and lift shaft.

Ground Floor

➤ Alterations and additions to existing ground floor level to provide for three bedrooms including master bedroom with ensuite and walk-in robe, refurbishment of existing north-eastern deck, store, rumpus, powder, lift shaft and internal access stairs.

First Floor

➤ First floor addition to provide for open plan lounge, dining and kitchen with butler's pantry, fireplace, front and rear decks, store, bathroom, study, second lounge, lift shaft and internal access stairs.

The new works will be constructed of a mixture of weatherboard and sandstone cladding, with metal roofing.

DA2018/1571

Page 3 of 30



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 (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><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 of 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 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>
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</p>



Section 4.15 Matters for Consideration'	Comments
	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 2 submission/s from:

Name:	Address:
Mr Reginald Thomas Ryan	57 Undercliff Road FRESHWATER NSW 2096
Mr Warren Langley	13 / 63 Crown Road QUEENSCLIFF NSW 2096

The following issues were raised in the submissions:

- Height;
- Views;
- Modified roof design; and
- Right of carriageway

The matters raised within the submissions are addressed as follows:

- **Height**

Comment: Issues were raised in relation to the height of the proposed alterations and additions
DA2018/1571

Page 5 of 30



to the existing dwelling house. It is noted that the application was lodged on the basis of it having a height of up to 11.47m above the existing excavated level of the site. This is evidenced by the fact that the architectural plans show the 8.5m height line following an excavated ground line and the Statement of Environmental Effects stating that the height of the proposal is 11.47m.

On this, it is noted that the site has a significant slope from rear to front, but has been noticeably excavated for a basement level garage in a previous development, thus exhibiting a vertical stepped profile towards the lower part of the site. However, when measured based on Australian Height Datum (applying interpolated levels for the site (as per the definition of Building Height under WLEP 2011), the maximum height of the building at the front of the site is 8.27m and maximum height of the building at the rear is 7.1m, which complies with the control.

Nevertheless, a formal Clause 4.6 Variation was submitted by the applicant. The commentary in the submission in relation to the height of the building was considered in the merit assessment of the proposed height and it is considered that the proposal is reasonable and consistent with adjoining and surrounding buildings within the vicinity.

Notwithstanding the application is not triggered to go to the DDP for reasons that it is found to comply with the building height control under WLEP 2011, the persons who made submissions were informed that the application would be reported to the Panel and that they would have the opportunity to address the Panel, the application was presented to Council as a non-compliant development (as notified) and that stated non-compliance would have triggered the need for it to go to DDP.

Given the above, it is considered this issue does not warrant refusal and/or amendment via condition, but should be reported to DDP.

- **Views**

Comment: In summary, views from 13/63 Crown Road, Queenscliff will be maintained and the proposal demonstrates compliance with Clause D7 Views and the view sharing principles of Tenacity vs Warringah Council. Please refer to the detailed assessment of views later in this report.

Given the above, it is considered this issue does not warrant refusal and/or amendment via condition.

- **Modified roof design**

Comment: A request from the objectors was put to the Applicant concerning a suggested lowering of the overall height by altering the roof design, however the owners responded that they are not agreeable to the change.

- **Right of carriageway**

Comment: Issues were raised about the possible works on the existing right of carriageway (DP451501) shared by 53, 55 and 57 Undercliff Road by the owner of 57 Undercliff Road. A review of the plans clearing demonstrates the right of carriageway on the plans and there are no works proposed within this carriageway.



Given the above, it is considered this issue does not warrant refusal and/or amendment via condition.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>No objection if the proposed fireplace that is gas and recommendation of approval no conditions.</p> <p>recommendation of refusal if the heater is a solid fuel heater due to lack of information</p> <p>There does not appears to be details provided with regards to the make and model of the heater and any installation details that will determine if the appropriate Australian Standards will be met.</p> <p>If the applicant wants to install a Solid fuel heater the following information is require with a new DA or Section 68 Local Government Act application:</p> <ol style="list-style-type: none"> 1. Provide evidence that the flue pipe will extend not less than 4.6m above the top of the floor protector. 2. If the flue is 3m or less in horizontal distance from the highest point of the roof, is the top of the flue at least 600mm above the highest point of the roof? 3. If the flue is over 3m metres in horizontal distance from the highest point of the roof, is the height of the flue at least 1000mm above the roof penetration? 4. Provide council evidence that the topography of the site or likely weather patterns or configuration of nearby dwelling/s indicate a potential to cause a smoke nuisance? (Include on site plan) 5. Provide evidence that there are not any significant trees or other environmental or structural factors in the immediate vicinity that may cause a smoke down draught? (Include on site plan) 6. The application must contain site, floor and elevation plans drawn to a scale of 1:100 or 1:200 clearly demonstrating the location of the proposed heater and the proposed flue in relation to the roof line of the dwelling and the closest neighbouring dwelling/building. 7. Provide detailed evidence to Council that the application contains specifications of the appliance to be installed indicating compliance with AS/NZS 2918:2001 and the Building Code of Australia?

DA2018/1571

Page 7 of 30



Internal Referral Body	Comments
	<p>8. provide evidence that the proposed heater will meet the emission control requirements of AS 4013.1999/AS 4013.2014?</p> <p>9. provide evidence that the installation will meet the requirements of AS/NZS 2918.2001</p> <p>Recommendation</p> <p>Approval (subject to heating via gas)</p>
NECC (Bushland and Biodiversity)	The proposal has been assessed against Warringah DCP E1, E2 and E6. No trees are proposed for removal. Biodiversity raises no further issues.
NECC (Coast and Catchments)	The proposed development is supported without condition and has been assessed to comply with the SEPP Coastal Management for an area potentially vulnerable to coastal hazards. It is not likely to alter coastal processes to the detriment of the environment or other land and is not likely to reduce public amenity or existing access to and use of the foreshore.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following conditions of consent.
NECC (Riparian Lands and Creeks)	No objection to the proposal with no additional conditions recommended.

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.
Aboriginal Heritage Office	Approval subject to recommendations.

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

DA2018/1571

Page 8 of 30



period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A327935 dated 13 September 2018).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

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:
Not applicable.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
 - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:
Not applicable.

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:
Not applicable.

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:

A site inspection with Council's Planner and the Aboriginal Heritage Officer was completed on 26 February 2019 and the following comments were:-

"No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. An area of possible Aboriginal heritage potential at the rear of the property was inspected by the Aboriginal Heritage Office and Council (Tuesday, February 26, 2019). No Aboriginal heritage sites or areas of potential were identified.

Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development."

It is considered that the proposed development will satisfy all the above objectives.



- (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:

It is considered that the proposed design and siting of the works will have minimal impact on the land and is deemed to satisfy this objective.

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:

It is considered that the proposed design and siting of the works will have minimal impact on the land and is deemed to satisfy the above objectives.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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:

It is considered that the proposed design and siting of the works will have minimal impact and is unlikely



to cause an increased risk of coastal hazards on the land and is deemed to satisfy the above objective.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.27m*	N/A	Yes*

* Based on interpolated ground levels (pre-excavation) and AHD levels in accordance with the definition under WLEP 2011

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
Part 6 Additional Local Provisions	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Determination of Building Height and Clause 4.6 of the WLEP 2011

As mentioned previously, the application was lodged on the basis that it does not comply with the Height of Buildings development standard under Clause 4.3 of the WLEP 2011 and a Clause 4.6 Variation request was submitted for Council's consideration. However, the review and assessment of the application has determined that the building height complies with the 8.5m height control. Therefore, a Clause 4.6 Variation is not required and so the Applicants Clause 4.6 Variation is not addressed in this report.

This is detailed in the table below and explained in more detail as follows.

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.27m

DA2018/1571

Page 13 of 30



	(Note : Application as lodged states height is 11.47m)
Percentage variation to requirement:	Nil (Note : 39.4% variation as stated by the Applicant)

* Based on interpolated ground levels for the site (pre-excavation) and AHD levels as per the Building Height definition under WLEP 2011

Comments:

The site is subject to an 8.5m height control which is the vertical distance from Australian Height Datum (AHD) to the highest point of the building pursuant to the definition of building height under Clause 4.3 WLEP 2011. In the circumstances of this assessment, it is important to note that the site has been excavated to a depth of up to approximately 3.5m below AHD.

In this regard, it is noted that the building height definition in the standard instrument states as follows:

building height (or height of building)

means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The definition was amended by in the Standard Instrument LEP by adding (b), as a result of caselaws in the LEC Court, including the case *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 and *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189 where it is made apparent that the measure of existing building height should relate to the levels and natural topography of the site, and not relate to artificially modified levels (such as those achieved through excavation).

Therefore, in measuring the "natural" ground level of the site (AHD levels), reliance must be placed on the Site Survey and upon known levels of the site which can be relied on to interpolate the natural slope of the land. In the circumstances of this case, it is evident that the natural landform in the front portion of the site would be naturally higher in the vicinity of the front of the building where the existing garage is located. This is further evidenced by the gradient and levels of the surrounding properties.

Therefore, for the purpose of this assessment, the relevant ground levels to accurately determine the height of the building are extrapolated from survey points around the perimeter of the site as detailed on the architectural plans accompanying the application. In measuring the building height using this methodology, the development would comply with the building height standard of 8.5m.



Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	7.05m*	N/A	Yes
B3 Side Boundary Envelope	5m (west)	Encroachment: Nil - 0.97m*	Nil - 19%	No
	5m (east)	Within envelope*	N/A	Yes
B5 Side Boundary Setbacks	0.9m (west)	1.08m	N/A	Yes
	0.9m (east)	2.51m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	17.42m	N/A	Yes
B9 Rear Boundary Setbacks	6m	9.49m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (252.9sqm)	40.5% (252.9sqm)	N/A	Yes

* Based on pre-excavation ground levels (AHD Levels)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Part C Siting Factors	Yes	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	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes

DA2018/1571

Page 15 of 30



Clause	Compliance with Requirements	Consistency Aims/Objectives
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B3 Side Boundary Envelope

Description of non-compliance

The proposal demonstrates compliance with eastern side boundary envelope. On the western side boundary envelope from compliance (nil) at the rear to a maximum 0.97m (19%) at the front northern edge of the proposed first floor based on the interpolated heights.

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 that development does not become visually dominant by virtue of its height and bulk.*

Comment: The proposal is fully compliant with the building height (overall) and it is considered that the resultant development is consistent with the surrounding and adjoining residential development within the vicinity. The design is well articulated and demonstrates good setbacks to all boundaries ensuring compliance with this merit consideration.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment: The proposed development will ensure reasonable light, solar access and privacy to adjoining properties. In addition the resultant dwelling has adequate spatial separation between



the adjoining and surrounding dwellings.

Given the above it is considered that the proposal is compliant with this merit consideration.

- *To ensure that development responds to the topography of the site.*

Comment: The proposed development has demonstrated adequate articulation and variation to the design to ensure that the resultant development responds to the topography of the site.

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 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D7 Views

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:

A site inspection was undertaken from 13/63 Crown Road, Queenscliff, the adjoining property located to the south of the subject property (55 Undercliff Road, Freshwater). It is noted that ground levels of 13/63 Crown Road are some 6m to 12 higher than the subject site (55 Undercliff Road).

The view from 13/63 Crown Road enjoys views of the ocean and beach to the east and north-east (Freshwater Beach). Views to the north are district views. A height pole assessment was completed on site (28 March 2019) by Councils Planners taking in the view vantage points from 13/63 Crown Road which identified that the proposal would have minimal impacts on the existing views. Views of Freshwater Beach including the interface between the land and water would be maintained.



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:

Views are obtained from the kitchen and living areas on the ground floor level of 13/63 Crown Road from both a sitting and standing position.

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:

View loss is assessed as negligible to 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:

The proposed height based on the recalutation would now demonstrate compliance with the Height of buildings (8.5m). It is considered that the height of the dwelling is consistent with adjoining and surrounding dwellings/buildings and views from 13/63 Crown Road are maintained in particularly that of Freshwater Beach. Therefore it is considered that the proposal is reasonable and warrant amendment by condition and/or refusal of the application.

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

Comment:



The proposed development demonstrates good innovation, articulation and has been planned to consider the privacy of the owner/occupants of the development and the adjoining residences/occupants. It is considered the development satisfies this merit consideration.

- *To ensure existing canopy trees have priority over views.*

Comment:

The proposed development will maintain all trees on site and therefore it is considered that the development maintains this merit consideration.

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 \$ 1,004,100		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 9,539
Section 7.12 Planning and Administration	0.05%	\$ 502
Total	1%	\$ 10,041

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;
DA2018/1571



- 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
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

In summary, the planning assessment was primarily focused on the following issues:

- Views;
- Height;
- Modified roof design; and
- Right of carriageway

The above issues have been addressed in detail within this report. The proposed height and roof design have minimal impacts on the adjoining properties in relation views and the properties to the south will maintain views of Freshwater Beach, ocean and headland views.

It is noted that the applicant lodged a formal Clause 4.6 Variation to address a non-compliance with the 8.5m height development standard (as determined by the Applicant) under Clause 4.3 "Height of Buildings" within the WLEP 2011. However, after reviewing the application, it is apparent that the levels at the front of the site were substantially excavated for a garage and hence there is a significant difference in levels, resulting in an artificially high front portion of the building. However, when measured in accordance with the building height definition (AHD levels, using survey information and interpolation of surrounding ground levels) under the WLEP 2011, the proposal is compliant with this control and does not require a consideration and support for a Clause 4.6 Variation to consent to the application.

Based on the circumstances of the case and to ensure the community has all reasonable opportunities to make representations to Council, the Executive Manager, Development Assessment has exercised discretion to report the application to the Development Determination Panel.

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 DA2018/1571 for Alterations and

DA2018/1571

Page 20 of 30



additions to a dwelling house on land at Lot W DP 342619, 55 Undercliff Road, FRESHWATER, 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
DA02	18 September 2018	Actions Plans
DA03	18 September 2018	Actions Plans
DA04	18 September 2018	Actions Plans
DA05	18 September 2018	Actions Plans
DA06	18 September 2018	Actions Plans
DA07	18 September 2018	Actions Plans
DA08	18 September 2018	Actions Plans
DA09	18 September 2018	Actions Plans
DA10	18 September 2018	Actions Plans
DA11	18 September 2018	Actions Plans
DA12	18 September 2018	Actions Plans
DA13	18 September 2018	Actions Plans
DA14	18 September 2018	Actions Plans
DA15	18 September 2018	Actions Plans
DA16	18 September 2018	Actions Plans
DA20	18 September 2018	Actions Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment	14 September 2018	Ascent Geotechnical Assessment

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan DA2018/1571	17 September	Anja & Richard

Page 21 of 30



	2018	Jamieson
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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. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- The proposed fireplace is gas and not solid fuel heater.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

3. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Aboriginal Heritage Office	Referral - Aboriginal Heritage Office	27 February 2019

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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.

4. 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

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.

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

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 \$ 1,004,100.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 9,538.95
Section 7.12 Planning and Administration	0.05%	\$ 502.05
Total	1%	\$ 10,041.00

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



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

Reason: To provide for contributions in accordance with Northern Beaches Council 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. **Stormwater Disposal**

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Undercliff Road.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development

9. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.



Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

10. **Compliance with Standards**

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

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

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

11. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

12. **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:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- 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.

13. **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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **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.
15. **Traffic Control During Works**
Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety
16. **Maintenance of Sediment**
Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective
17. **Protection of Adjoining Property - Excavation**
Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety
18. **Waste Management During Development**
The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.
19. **Aboriginal Heritage**
If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

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

Reason: Aboriginal Heritage Protection. (DACAHE01)
20. **Survey Certificate**
DA2018/1571



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

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

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

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

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

21. **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.

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

22. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

23. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

24. **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****25. Retention of Natural Features**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To ensure the retention of natural features.

26. No Planting Environmental Weeds

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.

27. Works to cease if item found

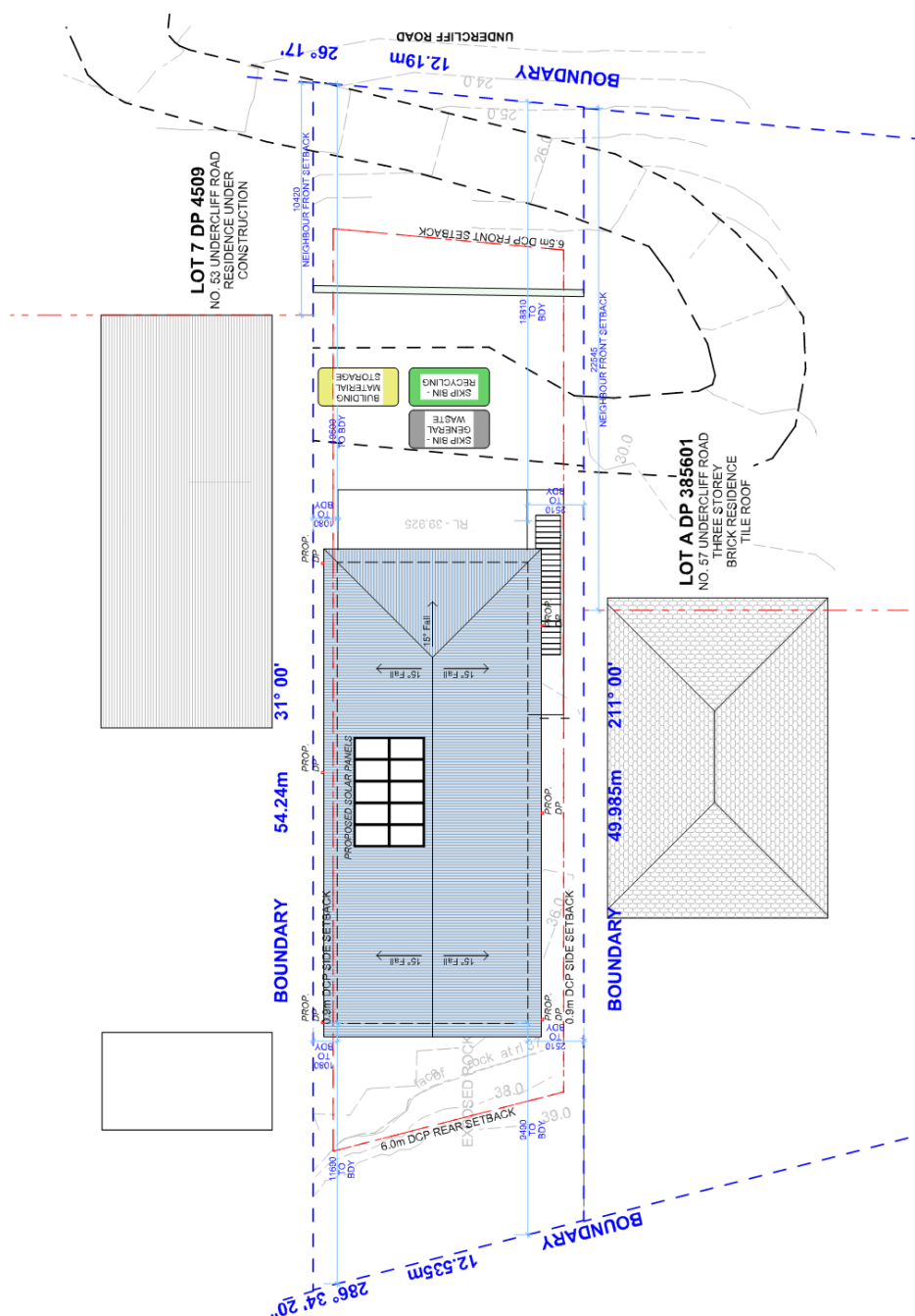
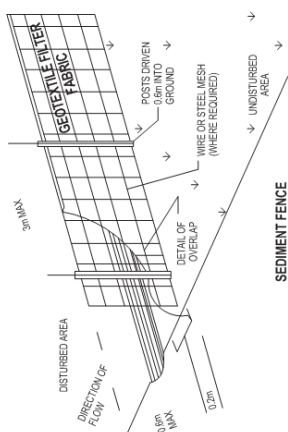
If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

28. Dead or Injured Wildlife

If construction activity 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 mitigate potential impacts to native wildlife resulting from construction activity.



<p>STOCKPILE CONTROL :</p> <p>1. TO REDUCE DUST GENERATED BY WIND ACTION, THE REMOVAL OF TOP SOILS IS TO BE MINIMISED TO PREVENT DUST GENERATED, WATERING DOWN OF THE SITE ESPECIALLY DURING THE MOVEMENT OF THE MACHINERY IS REQUIRED, WHERE EXCAVATING INTO ROCK, KEEP A SURFACE MOIST TO MINIMISE DUST. 2. CONSTRUCT A GRAVEL ENTRY/EXIT POINT USING BLUE METAL AND RESTRICT ALL VEHICLE MOVEMENTS WITHIN THE SITE TO A MINIMUM, ENSURE WIND BREAKS, SUCH AS EXISTING FENCES ARE MAINTAINED DURING THE CONSTRUCTION PHASE UNTIL NEW LANDSCAPING IS PROVIDED OR REINSTATED TO PREVENT DUST BY COVERING STOCKPILES</p> <p>SEEDING NOTE :</p> <p>1. ALL EROSION AND SEDIMENT CONTROL MEASURES ARE TO BE INSPECTED AND MAINTAINED DAILY BY THE SITE MANAGER.</p> <p>2. MINIMISE DISTURBED AREAS. REMOVE EXCESS SOIL FROM EXCAVATED AREAS AS SOON AS POSSIBLE.</p> <p>3. ALL MATERIAL STOCKPILE TO BE CLEAR FROM DRAINAGE, GUTTERS AND FOOTPATHS, OR WITHIN DRAINAGE TO BE CONNECTED TO STORMWATERS AS SOON AS POSSIBLE. IF STORED ON SITE, IT MUST BE FILTERED BEFORE RELEASING INTO STORMWATER.</p> <p>4. ROADS AND FOOTPATHS TO BE SWEEP DAILY.</p>	<p>STOCKPILES :</p> <p>ALL STOCKPILES ARE TO BE KEPT ON-SITE WHERE POSSIBLE. ANY MATERIALS PLACED ON THE PERIPHERY OF THE SITE OR ON NATURAL STRIPS REQUIRE COUNCILS PERMISSION.</p> <p>ALL STOCKPILES ARE TO BE PLACED AWAY FROM THE DRAINAGE LINES AND STREET GUTTERS. IT IS BEST TO LOCATE THESE ON THE HIGHEST PART OF THE SITE IF POSSIBLE. PLACE WATERPROOF COVERING OVER STOCKPILES.</p> <p>IF REQUIRED PROVIDE DIVERSION DRAIN & BANK AROUND STOCKPILES.</p>	<p>GUTTER PROTECTION :</p> <p>PROVIDE PROTECTION TO DOWNHILL GRAVE IN GUTTER BY MEANS OF SAND BAGS OR BLUE METAL WRAPPED IN GEOTEXTILE FABRIC. WHEN SOIL OR SAND BUILDS UP AROUND THIS SEDIMENT BARRIER, THE MATERIAL SHOULD BE RELOCATED BACK TO THE SITE FOR DISPOSAL.</p>	<p>NOTE: ALL PROPOSED STOCKWATER TO CONNECT WITH EXISTING</p>
--	---	---	--

DRAWING NAME
SITE / ROOF / SEDIMENT
EROSION / WASTE
MANAGEMENT / STORMWATER
CONCEPT PLAN

SCALE
1"=200' @ A3











CLIENT
ANJIA & RICHARD
QUAMIESON

PROJECT ADDRESS
165 UNDERCLIFF ROAD
FRESHWATER NSW

DRAWING NO.
DA02

DATE
Tuesday 18
September 2018

LEGEND

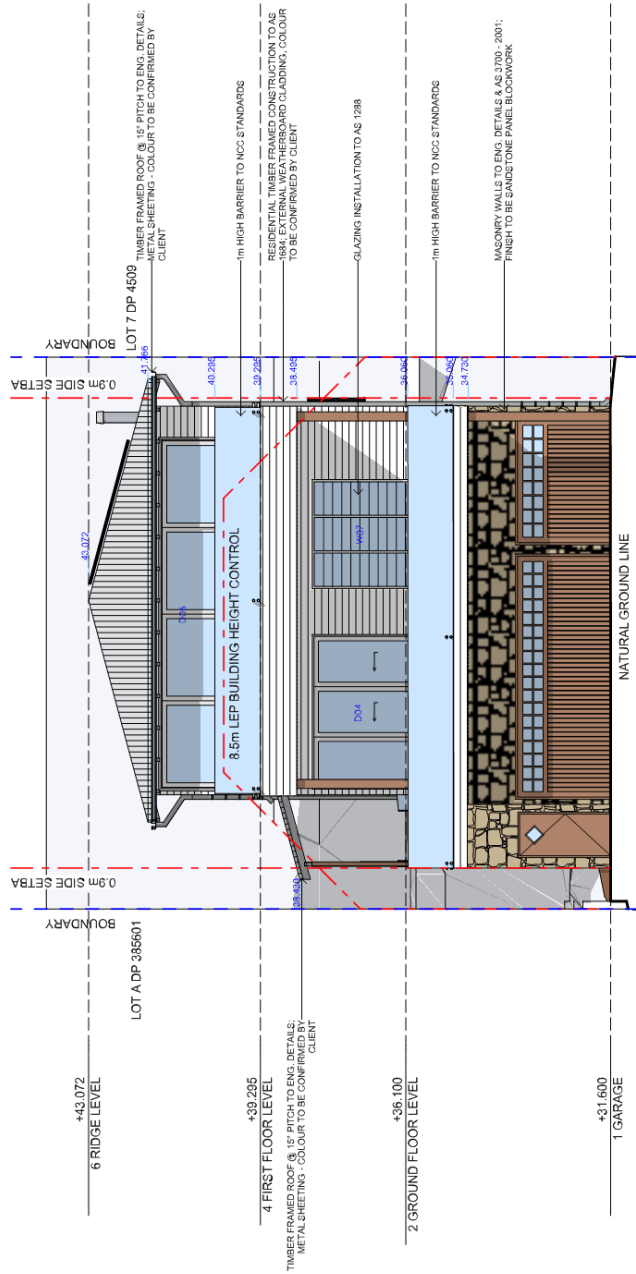
	NEW FLOOR AREA		CONCRETE
	NEW WET FLOOR AREA		BRICKWORK
	METAL ROOFING		METAL
	TILED ROOFING		EXISTING
	TIMBER		DEMOLISHED

REV.	DATE	COMMENTS	DRWN	NOTES
A	SM	INITIAL DESIGN PLAN	18/07/18	<p>This drawing is the copyright of Action Plans and no part of it may be reproduced in any form or by any means in part or in whole with the form of the drawing.</p> <p>All verifications and dimensions are to be checked and verified on site prior to commencement of any work. The contractor is to ensure that all dimensions are correct and that all components are correctly installed.</p> <p>Do not scale on drawings. Use "figured dimensions."</p>
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C	SM	SECOND DESIGN AMENDMENT	24/08/19	
D	SM	FINAL DESIGN PLAN	SM	



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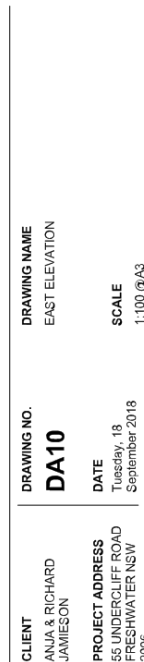






REV.	DATE	COMMENTS	DRWN
A	SM	INITIAL DESIGN PLAN	16/07/18
B	SM	FIRST DESIGN AMENDMENT	31/07/18
C	SM	SECOND DESIGN AMENDMENT	24/08/18
D	11/09/18	FINAL DESIGN PLAN	SM

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Do not scale on drawings. Use figured dimensions.



LEGEND	CLIENT	DRAWING NO.	DRAWING NAME
TIMBER	ANJA & RICHARD JAMESON	DA09	NORTH ELEVATION
WEATHERBOARD	PROJECT ADDRESS	DATE	SCALE
FACE BRICKWORK	55 UNDERCLIFF ROAD	Tuesday, 18	1:100 @A3
METAL	FRESHWATER NSW	September 2018	
CONCRETE	2006		

LEGEND	CLIENT	DRAWING NO.	DRAWING NAME
METAL ROOFING	ANJA & RICHARD JAMESON	DA09	NORTH ELEVATION
TILED ROOFING	PROJECT ADDRESS	DATE	SCALE
RENDER	55 UNDERCLIFF ROAD	Tuesday, 18	1:100 @A3
EXISTING	FRESHWATER NSW	September 2018	
	2006		



	METAL ROOFING
	TILED ROOFING
	RENDER
	EXISTING

LEGEND

	TIMBER
	WEATHERBOARD
	FACE BRICKWORK
	METAL
	CONCRETE

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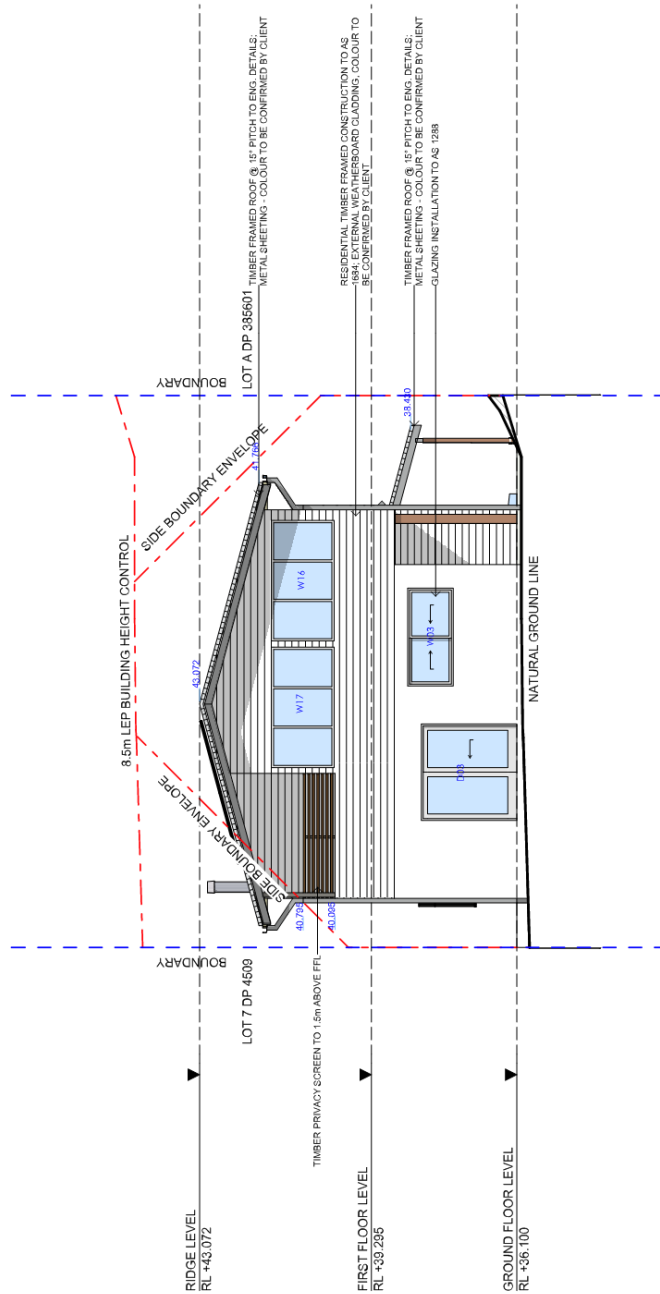
Do no scale on drawings. Use figured dimensions.

REV.	DATE	COMMENTS	DRWN
A	SM	INITIAL DESIGN PLAN	16/07/18
B	SM	FIRST DESIGN AMENDMENT	31/07/18
C	SM	SECOND DESIGN AMENDMENT	24/08/18
D	17/09/18	FINAL DESIGN PLAN	SM

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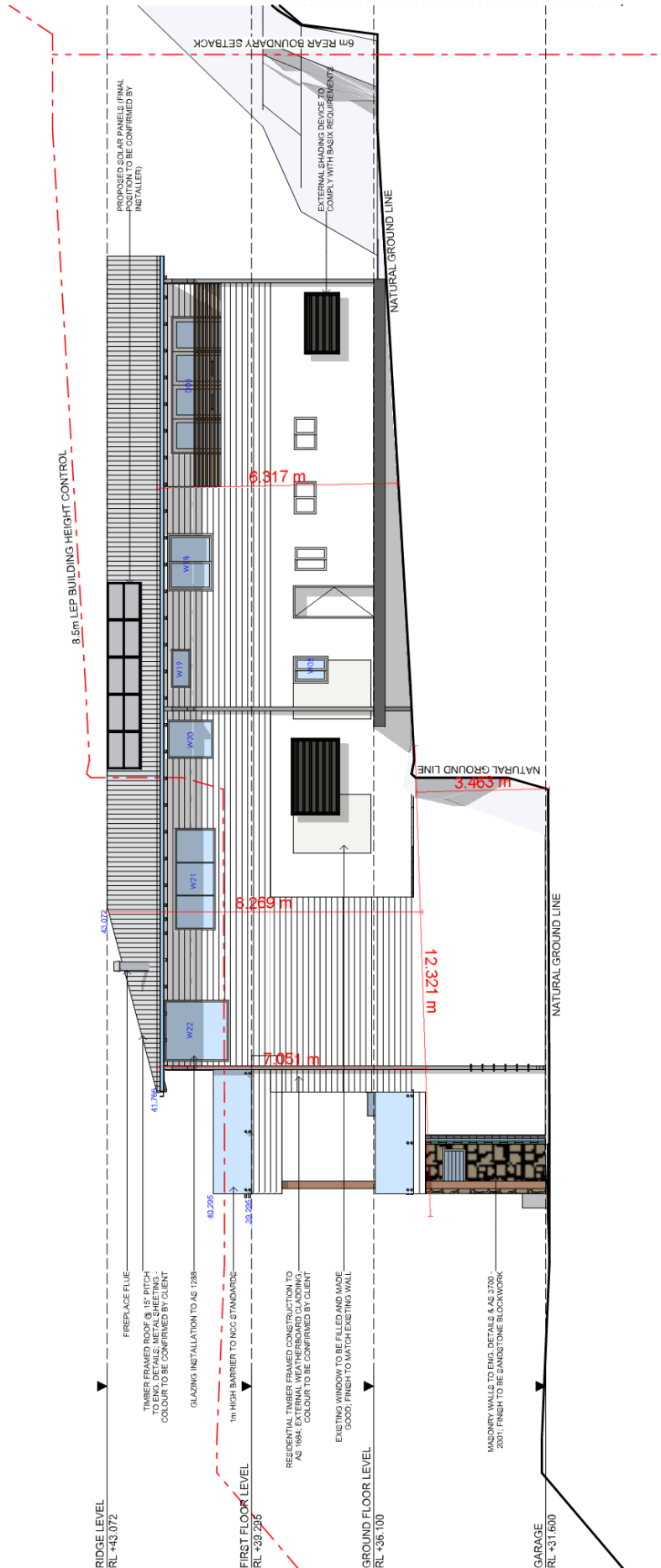


REV.	DATE	COMMENTS	DRWN
A	SM	INITIAL DESIGN PLAN	16/07/18
B	SM	FIRST DESIGN AMENDMENT	31/07/18
C	SM	SECOND DESIGN AMENDMENT	24/08/18
D	11/09/18	FINAL DESIGN PLAN	SM

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Components are to be checked and confirmed on site prior to construction.
Do not scale on drawings. Use figured dimensions.

LEGEND	
TIMBER	METAL ROOFING
WEATHERBOARD	TILED ROOFING
FACE BRICKWORK	RENDER
METAL	EXISTING
CONCRETE	

CLIENT ANJA & RICHARD JAMESON	DRAWING NO. DA11	DRAWING NAME SOUTH ELEVATION
PROJECT ADDRESS 55 UNDERCLIFF ROAD FRESHWATER NSW 2096	DATE Tuesday, 18 September 2018	SCALE 1:100 @A3



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A	2M	INITIAL DESIGN PLAN	16/07/18																										
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D	17/09/18	FINAL DESIGN PLAN	2M																										

ITEM 3.2

MOD2018/0549 - 3 MULGOWRIE CRESCENT, BALGOWLAH HEIGHTS - MODIFICATION OF DEVELOPMENT CONSENT DA45/2013 GRANTED FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING

REPORTING MANAGER

Anna Williams

TRIM FILE REF

2019/187562

ATTACHMENTS

- 1 Assessment Report**
- 2 Site Plan & Elevations**

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to MOD2018/0549 for Modification of Development Consent DA45/2013 granted for alterations and additions to an existing dwelling on land at Lot 8 Sec 58 DP 758044, 3 Mulgowrie Crescent, Balgowlah Heights subject to the conditions outlined in the Assessment Report.



APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0549
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 8 DP 758044, 3 Mulgowrie Crescent BALGOWLAH HEIGHTS NSW 2093
Proposed Development:	Modification of Development Consent DA45/2013 granted for alterations and additions to an existing dwelling
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Sally Myeela Beeton
Applicant:	Sally Myeela Beeton
Application lodged:	12/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	30/10/2018 to 15/11/2018
Advertised:	Not Advertised
Submissions Received:	1
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;

MOD2018/0549

Page 1 of 13



- 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 - 4.3 Height of buildings
 Manly Local Environmental Plan 2013 - 4.4 Floor space ratio
 Manly Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.4.3 Maintenance of Views
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)
 Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area

SITE DESCRIPTION

Property Description:	Lot 8 DP 758044 , 3 Mulgowrie Crescent BALGOWLAH HEIGHTS NSW 2093
Detailed Site Description:	<p>The subject site consists of one allotment located on the south-western side of Mulgowrie Crescent.</p> <p>The site is regular in shape with a frontage of 21.3m along Mulgowrie Crescent and a depth of 41.19m. The site has a surveyed area of 801m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates an existing dwelling.</p> <p>The site slopes 8.5m from front (north-east) to rear (south-west).</p> <p>The site contains existing vegetation and one significant tree within the rear yard. The adjoining public reserve to the north-west of the subject site is densely vegetated.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential development. A public reserve (RE1) adjoins the site directly to the north-west.</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:

DA0045/2013 - Part 1 - Alterations and additions to an existing dwelling including second floor addition, front and rear additions to the ground floor and first floor, double carport, driveway, rear deck, rear terraces, above ground swimming pool, pavilion with bathroom and kitchen facilities and landscaping - Approved by DAU 4 September 2013.

DA0045/2013 - Part 2 - Section 96 to modify approved Alterations and additions to an existing dwelling including second floor addition, front and rear additions to the ground floor and first floor, double carport, driveway, rear deck, rear terraces, above ground swimming pool, pavilion with bathroom and kitchen facilities and landscaping – involving ground and first floor extensions, awning over ground floor terrace, relocation of outbuilding, relocation of pool and associated decks - Approved by DAU 30 September 2015.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification includes changes as follows:

- Lowered floor level of the approved rumpus room, external terrace and swimming pool
- Lower floor level of kitchen, living, dining
- Minor internal alteration to Lower Ground Floor
- Minor reconfiguration of approved pool/spa and deck
- Changes to windows and doors
- New juliette balconies to Rumpus Room and Bedroom 1
- New awning roof to Rumpus Room
- Pond deleted

Condition Nos. ANS05 and ANS10 have also been deleted as part of this modification as they are no longer applicable.



longer relevant to the proposed development based on the previous modification.

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 DA0045/2013, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - 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 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 DA0045/2013.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA0045/2013 did not require concurrence from the relevant Minister, public authority or approval body.
(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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environmental Plan 2011 and Manly Development Control Plan.

MOD2018/0549

Page 4 of 13



Section 4.55 (2) - Other Modifications	Comments
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	
(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 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 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	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 clause is not relevant to this application.</p>



Section 4.15 'Matters for Consideration'	Comments
	<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 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) 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	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 proposal was referred to the NSW RFS, with suitable conditions of consent included as
MOD2018/0549 Page 6 of 13



recommended.

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 Dennis Ravi	28 Tabalum Road BALGOWLAH HEIGHTS NSW 2093

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

- Addition of third storey

The matters raised within the submissions are addressed as follows:

- Addition of third storey

Comment:

The third storey addition was approved under DA0045/2013 and the proposed modification does not include the construction of any additional storeys. The proposed modifications are limited to those described under *Detailed Description of Development*.

MEDIATION

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

REFERRALS

External Referral Body	Comments
NSW Rural Fire Service – local branch (s79BA EPAA)	The NSW RFS raised no objection to the proposed development, subject to the included conditions of consent.

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

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	% Variation	Complies
Height of Buildings:	8.5m	10.75m	No proposed change	N/A	N/A
Floor Space Ratio	0.4:1 320.4m ²	0.4:1 323.4m ²	No proposed change	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.4 Floor space ratio	N/A
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

No change is proposed to the approved building height.

4.4 Floor space ratio

No change is proposed to the approved floor space ratio.

6.2 Earthworks

The excavation for the proposed swimming pool does not exceed 1m and will reduce the visual impact of the previously approved pool.

6.9 Foreshore scenic protection area

The proposed modifications are minor and will result in no unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour.



Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 801m ²	Requirement	Approved	Proposed	Complies
4.1.9 Swimming Pools, Spas and Water Features	1m curtilage side/rear setback	2.4	1m	Yes
Schedule 3 Parking and Access	1.5m water side/rear setback	3.65m	1.85m	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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
3.7 Stormwater Management	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposed modification will result in no material additional overshadowing.

3.4.2 Privacy and Security

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 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:

MOD2018/0549

Page 9 of 13



The proposed modifications are appropriately designed to minimise privacy and direct viewing impacts from the subject site. No change is proposed to the existing full height glazing to the rear (south-western) elevation. As such, the proposed juliet balconies to the Master Bedroom and Rumpus room will not create any further privacy impact.

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:

The proposal will provide sufficient privacy and sunlight access to the subject site and adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed modification will not impact opportunities for passive surveillance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / 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

The proposal includes a reduction to the height of a number of building elements and an overall reduction to building bulk on the site.

4.4.5 Earthworks (Excavation and Filling)

The excavation for the proposed swimming pool does not exceed 1m and will reduce the visual impact of the previously approved pool.

5.4.1 Foreshore Scenic Protection Area

The proposed modifications are minor and will result in no unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour.

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

Mainly Section 94 Development Contributions Plan

MOD2018/0549

Page 10 of 13



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. Mod2018/0549 for Modification of Development Consent DA45/2013 granted for alterations and additions to an existing dwelling on land at Lot 8 DP 758044,3 Mulgowrie Crescent, BALGOWLAH HEIGHTS, 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
S96_01 Site Plan	1 August 2018	Contemporary Pool Constructions
S96_02 Proposed Lower Ground Floor Plan	1 August 2018	Contemporary Pool Constructions
S96_03 Proposed Ground Floor Plan	1 August 2018	Contemporary Pool Constructions
S96_04 Proposed First Floor	1 August 2018	Contemporary Pool Constructions
S96_05 Proposed North-east Elevation	1 August 2018	Contemporary Pool Constructions
S96_06 Proposed South-east Elevation	1 August 2018	Contemporary Pool Constructions
S96_07 Proposed South-west Elevation	1 August 2018	Contemporary Pool Constructions
S96_08 Proposed North-west Elevation	1 August 2018	Contemporary Pool Constructions
S96_09 Proposed Section AA	1 August 2018	Contemporary Pool Constructions

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A331029	12 October 2018	Contemporary Pool Constructions
Bushfire Report	25 February 2019	Bushfire Code and Bushfire Hazard Solutions

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

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

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

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

B. Add Condition 1A Asset Protection Zones to read as follows:

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

C. Add Condition 1B Water and Utilities to read as follows:

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. Water, electricity and gas are to comply with the requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

D. Add Condition 1C Design and Construction to read as follows:



The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. New construction to the North Eastern, North Western and South Western elevations including any new roof structures shall comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

4. New construction to the South Eastern elevation shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

5. The existing structure is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

6. The proposed pool area shall be constructed from non-combustible materials.

E. Add Condition 1D Landscaping to read as follows:

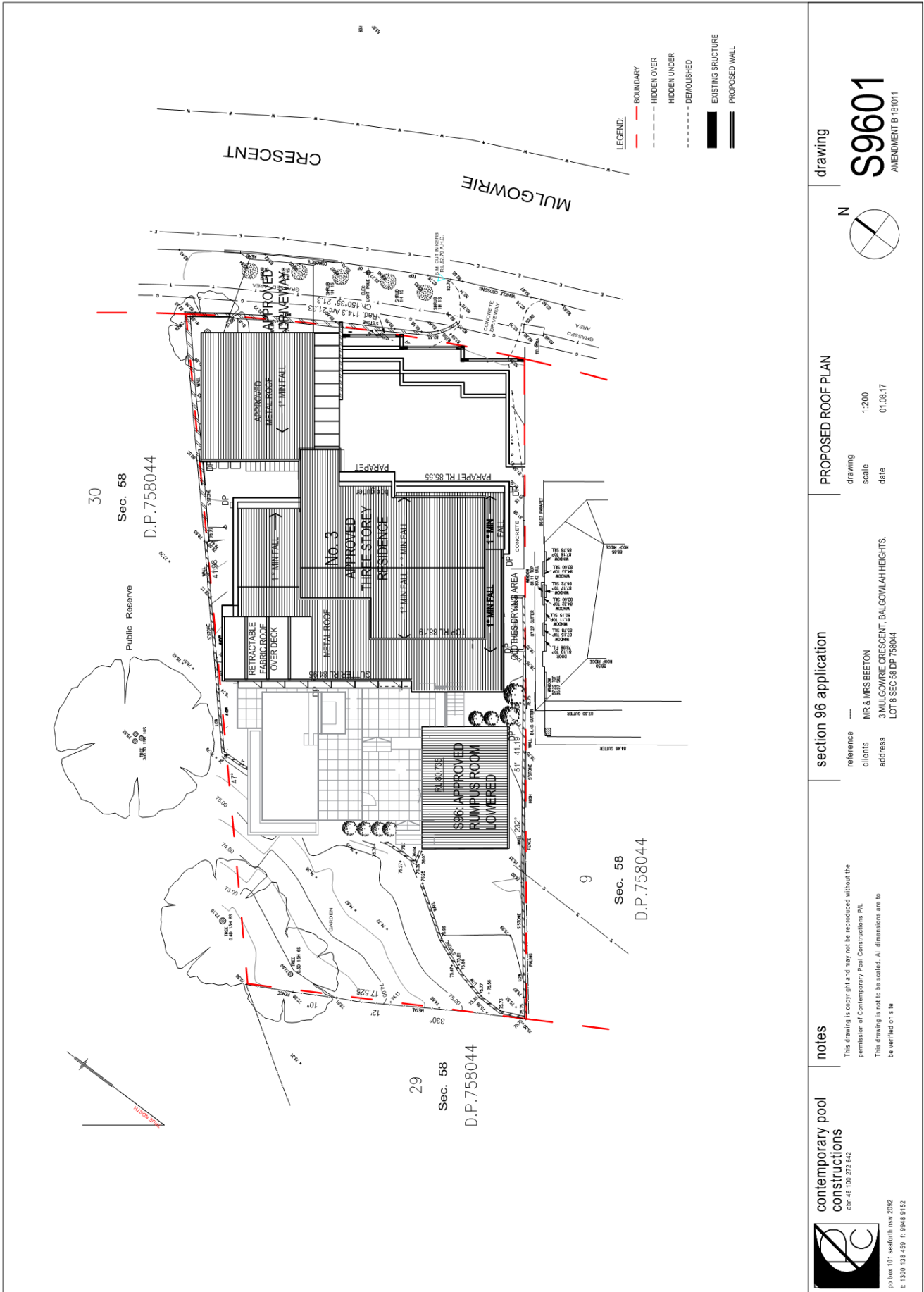
7. Landscaping to the site is to comply with the principles of Appendix 5 of "Planning for Bush Fire Protection 2006".

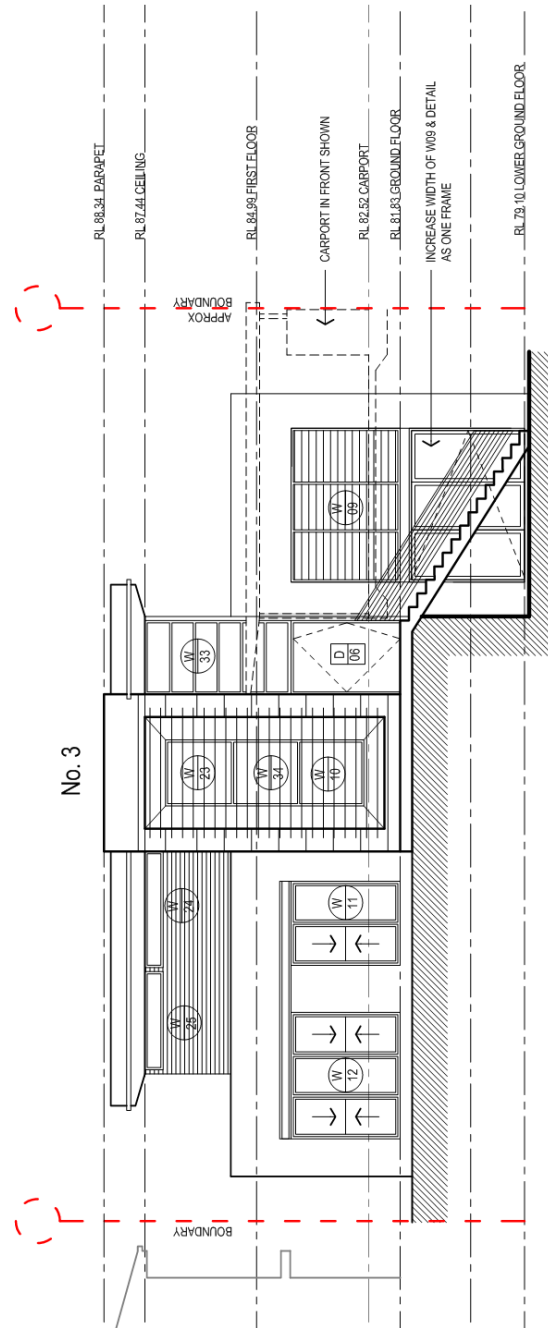
F. Delete Condition ANS05 to read as follows:

ANS05
DELETED

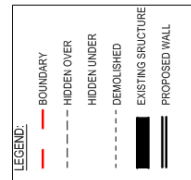
G. Delete Condition ANS10 to read as follows:

ANS10
DELETED





- BASIC COMMITMENTS**
1. ALL DESIGN, CONSTRUCTION WORKS IN ACCORDANCE WITH BASIC CERTIFICATE
 2. ALL EXTERNAL WALLS WILL BE INSULATED WITH AT LEAST R1.7 INCLUDING CONSTRUCTION
 3. ALL CEILINGS WILL BE INSULATED WITH AT LEAST R1.75
 4. ALL WINDOWS, SKYLIGHTS AND DOORS WILL BE INSTALLED AS PER BASIC CLADDING REQUIREMENTS
 5. NEW HOT WATER SYSTEM TO BE INSTANTANEOUS GAS



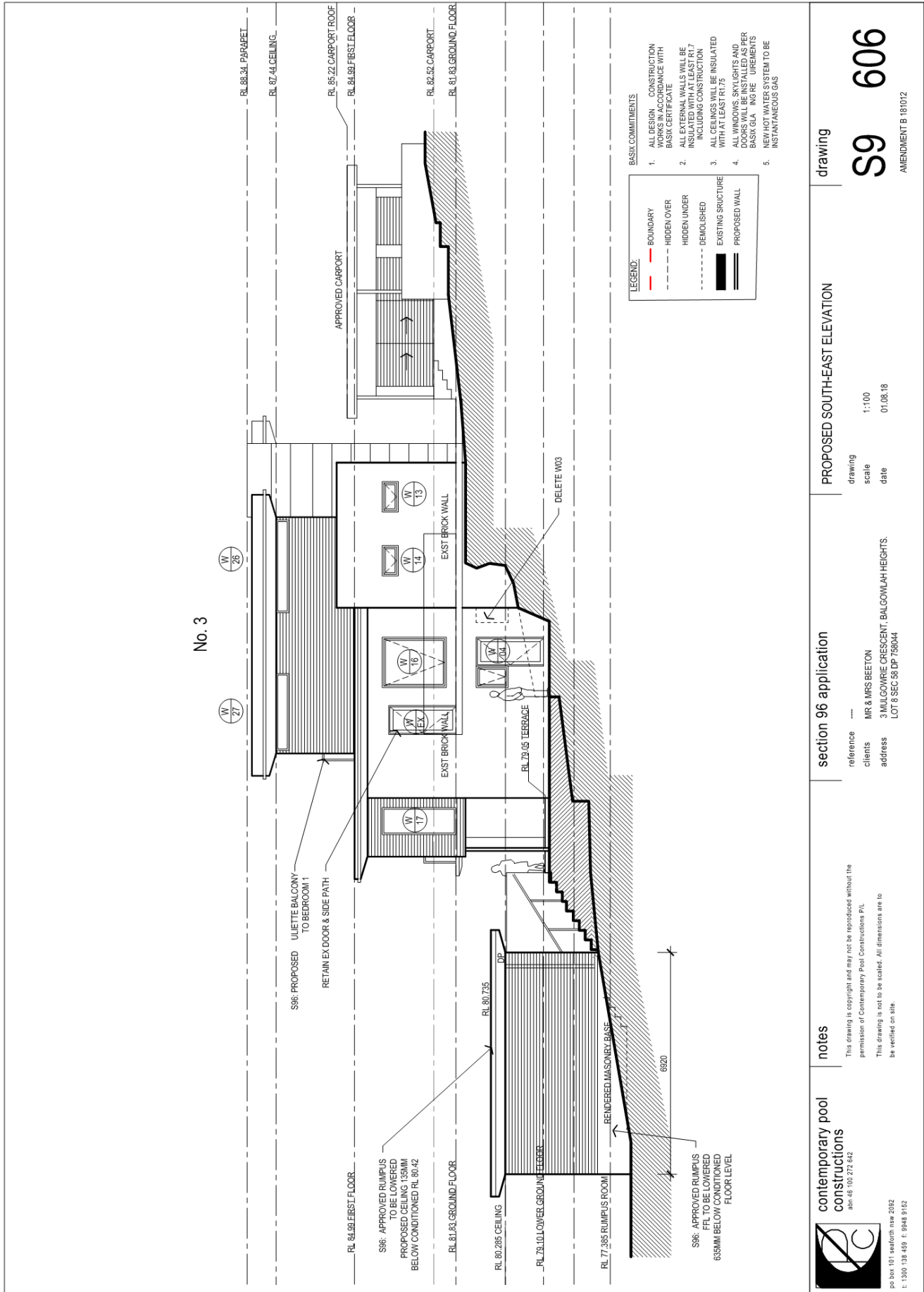
drawing
S9 605
AMENDMENT A 180725

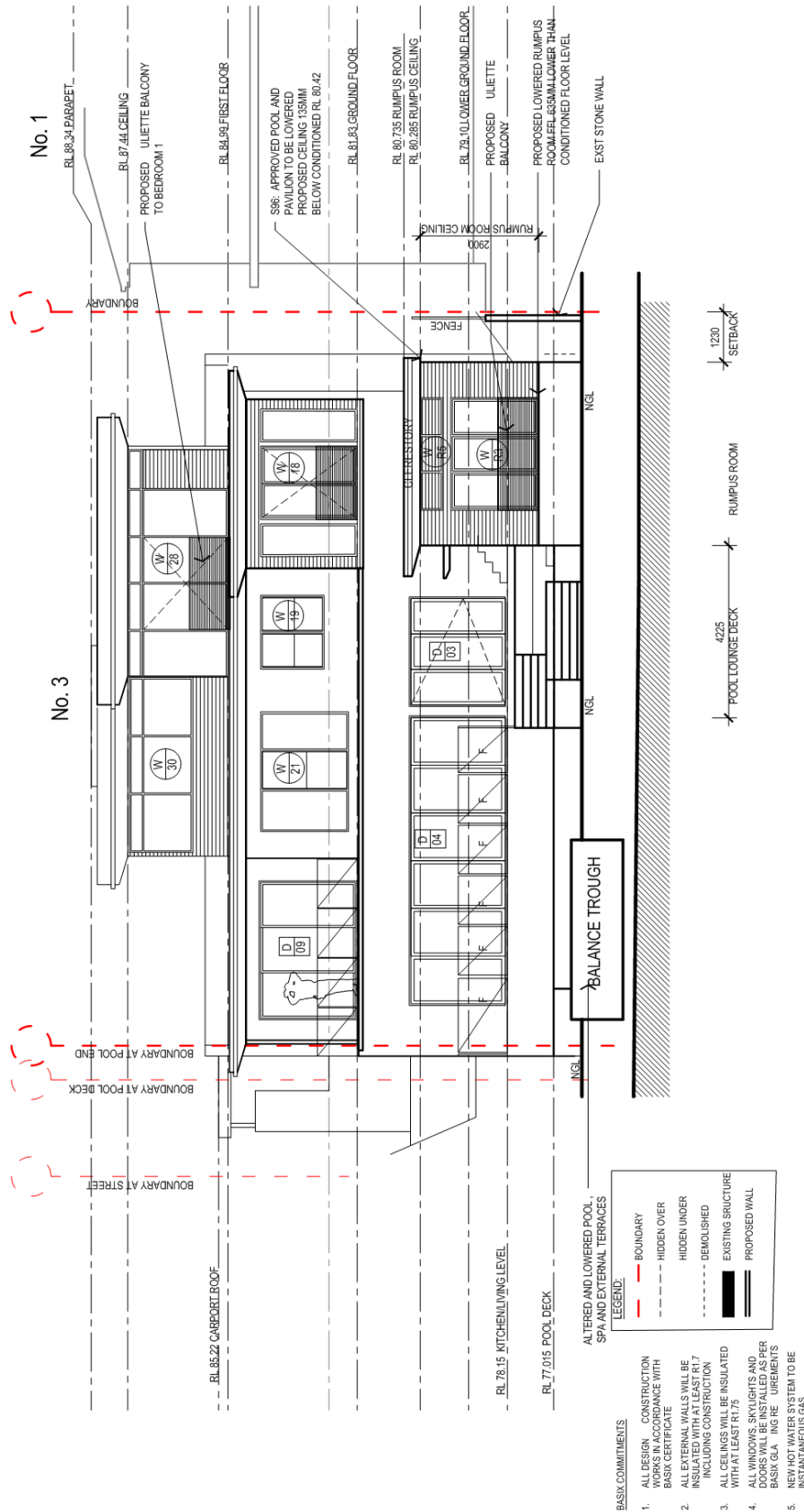
PROPOSED NORTH-EAST ELEVATION
drawing
scale 1:100
date 01.08.18

section 96 application
reference ---
clients MR & MRS BEETON
address 3 MILGOWRIE CRESCENT, BALGOWLAH HEIGHTS, LOT 5 SEC 58 DP 758044

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constructions
adv 48 103 272 642
po box 101 seaforth nsw 2032
t: 1300 138 459 f: 9948 9142





drawing
S96
07
AMENDMENT B 181011

PROPOSED SOUTH-WEST ELEVATION

section 96 application
reference ---
clients MR & MRS BEETON
address 3 MILLCREEP CRESCENT, BALGOWLAH HEIGHTS,
LOT 5 SEC 58 DP 758044

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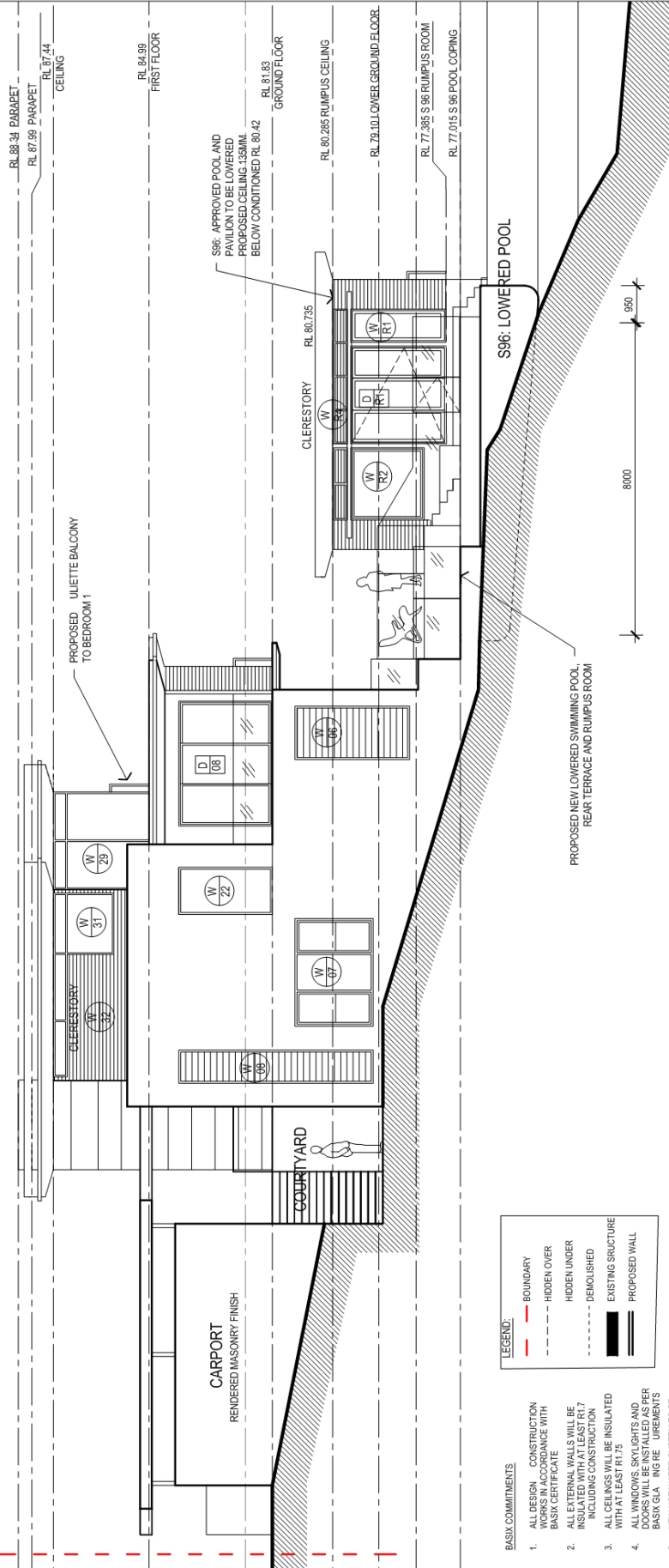
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02 9448 9122
02 9448 9123



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No. 3



drawing
S96
08
AMENDMENT B 181011

PROPOSED NORTH-WEST ELEVATION

drawing
scale
1:100
date
01.08.18

section 96 application

reference
clients
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address
3 MILLICORP CRESCENT, BALGOVLAH HEIGHTS,
LOT 5 SEC 58 DP 758044

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ITEM 3.3**DA2018/1677 - 40 STARKEY STREET, FORESTVILLE -
DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING
HOUSE****REPORTING MANAGER****Anna Williams****TRIM FILE REF****2019/169114****ATTACHMENTS**

- 1 Assessment Report**
- 2 Site Plan & Elevations**

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/1677 for demolition works and construction of a dwelling house on land at Lot B DP 369969, 40 Starkey Street, Forestville subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1677
Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot B DP 369969, 40 Starkey Street FORESTVILLE NSW 2087
Proposed Development:	Demolition works, construction of a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Liuhai Sheng Jing Liu
Applicant:	Homestead Home Building Pty Ltd
Application lodged:	12/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	18/10/2018 to 05/11/2018
Advertised:	Not Advertised
Submissions Received:	4
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,481,024.00

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

DA2018/1677

Page 1 of 25



- 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 Development Control Plan - B9 Rear Boundary Setbacks

Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot B DP 369969 , 40 Starkey Street FORESTVILLE NSW 2087
Detailed Site Description:	<p>The subject site consists of one allotment located on the western side of Starkey Street.</p> <p>The site is not a tradition shaped allotment as it is wider than it is deep with a frontage of 30.48m along Starkey Street and a depth of 24.42m. The site has a surveyed area of 739.8m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates single storey dwelling and detached carport.</p> <p>The site is relatively flat.</p> <p>The site has lawn area at the front and rear and trees and shrubs along the boundaries. There are no known threatened species on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one to two storey residential dwellings of varying architectural styles.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following:

307/81

Alterations and additions
Approved - 02/02/1981

The land has been used for residential purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is seeking approval for demolition of the existing dwelling and construction of a new dwelling with the following:

Ground floor:

- Entry foyer,
- Bedroom,
- Powder room,
- Kitchen, scullery, laundry, dinning area,
- Living room, bar, cellar, storage room, games room and cinema, and
- Double garage.

First floor:

- Six bedrooms (Bed 1 and 2 with ensuite and walk-in-robe),
- Two bathrooms, and
- Parents retreat and rumpus room.



External:

- Construction of a 1.2m high front fence,
- Two patios, and
- Landscaping.

Note: The application, as lodged, was deficient in landscaped open space, did not demonstrate sufficient spatial separation to comply with part B3 Side Boundary Envelope and part D9 Building Bulk of the WDCP. The application also proposed a dual access driveway crossing which is prohibited under Council's current policy for a new dwelling house.

The applicant was requested to withdraw the application on 27 October 2018. The applicant provided amended plans addressing Council concerns by increasing the landscaped open space from 31% to 50%, increasing the setback to the side boundaries and removing the dual access driveway to the site.

The amended plans were not re-notified as the development was substantially the same and provided a reduced environmental impact as per the requirements of the WDCP. However, the amended plans were provided to the adjoining property at no. 44 Starkey Street for further comment on 7 December 2018.

The assessment of the application is based on the above works relating to the amended plans from Fyffe Design Services dated 12.11.18.

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 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council



Section 4.15 Matters for Consideration'	Comments
	<p>requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. The applicant provided amendment plans to assist in addressing some development assessment issues. The amended plans were received 12 December 2018 and did not warrant renotification under the WDCP 2011.</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>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) 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	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 4 submission/s from:

Name:	Address:
Mr James Roland Brennan	44 Starkey Street FORESTVILLE NSW 2087
Mr Simon Mills Robson	46 Starkey Street FORESTVILLE NSW 2087
Mr John Maxwell Gercken	48 Starkey Street FORESTVILLE NSW 2087
Ms Rose Mary Loughnane	108 Cook Street FORESTVILLE NSW 2087

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

- Size of dwelling, bulk and scale and inconsistent with development in the area,
- Dual occupancy/multi dwelling,
- Parking,
- Side setbacks and measurements,
- Privacy,
- Side boundary fence,
- BASIX Certificate,
- Overshadowing,
- Stormwater details,
- Cost of works.

The matters raised within the submissions are addressed as follows:

- **Size of dwelling, bulk and scale and inconsistent with development in the area**
The submissions raised concern that the overall size of the dwelling was inconsistent with development in the area.

Comment:

This matter is addressed in more detail under Part D9 - Building Bulk of the WDCP in this report. In summary, the site is wider than it is deep and this allows for a much larger looking dwelling to the street frontage than on a more traditional site which is deeper than it is wide. The proposal is not considered unreasonable as it meets the objectives and requirements of the built form control of the WDCP. The proposal is adequately articulated with the use of set backs and different heights of the structure to prevent long sections of blank wall and steps down with the slope of the site minimising the need for excavation. Landscaping and screen planting along side and rear elevations will screen, soften and minimise the building bulk when viewed from the adjoining properties. In addition to this, the proposal ensures adequate levels of sunlight, solar access and privacy is achieved on site and maintained on adjoining sites.

Development in the area is characterised by detached one to three storey residential dwellings of varying architectural styles, landscaping and varying set backs to all boundaries. In this regard, there is no distinct character in the immediate area surrounding the site, other

DA2018/1677

Page 6 of 25



than residential dwellings and the proposal will be consistent with other modernised dwellings in the area.

- **Dual occupancy/multidwelling**

The submissions raised concern that proposal will be used as a dual occupancy 'the symmetrical internal layout leads to a strong likelihood of a future conversion to an attached dual occupancy'.

Comment:

The proposal has been designed as a single residential dwelling, while the internal design may look like it can be converted to a dual occupancy, Council can not presume this will occur. A condition will be included in the consent requiring the dwelling to not be used as a dual occupancy.

- **Parking**

The submissions raised concern that a two car garage was not sufficient for a seven bedroom dwelling and that there was limited street parking.

Comment:

The Appendix 1 Car Parking Requirements of the WDCP requires only two car parking spaces per dwelling. There is no requirement for additional car parking based on the number of bedrooms. The proposal is providing two covered car parking spaces which meets the WDCP requirements.

- **Side setbacks and measurements**

The submissions raised the following concern 'The proposal has failed to adequately consider the site topography that slopes significantly away to the southern boundary. As a result, the proposed dwelling will result in a visual dominated northern outlook for the adjoining property to the south'. A earlier submission raised an issue with the plans as they did not provide 'measurements to determine the distance between the external walls and the boundary'.

Comment:

This matter is addressed in more further under Part D9 - Building Bulk of the WDCP in this report. In summary, the site is wider than it is deep and this allows for a much larger looking dwelling to the street frontage than on a more traditional site which is deeper than it is wide. The proposal is not considered to be visually dominate as it complies with the front and side setbacks, side boundary envelope, wall height and landscaped open space requirements of the WDCP. The two patios located off the ground floor living areas of the proposal do not meet the rear setback requirements, however, the remainder of the proposal does and the non-compliance meets the objectives of the control. The applicant provided amended plans increasing the setbacks to the side boundary to reduce the visual impact of the proposal to the adjoining properties to the north and south. The proposal is also well beneath the 8.5m height requirement of the WLEP and is adequately articulated with the use of set backs and different heights of the structure to prevent long sections of blank wall. The proposal has been designed to address the slope of the land by stepping down with the slope of the site which minimises the need for excavation and reduces excess height of the roof and walls. The landscaping and screen planting along side and rear elevations will screen, soften and minimise the building bulk when viewed from the adjoining properties.

The amended plans included measurements to the boundaries on the site plan which was made available to the objector at no. 44 Starkey Street.



- **Privacy**

The submission raised concern that 'the south elevation window AS1012 will provide a line of site into our backyard' being no. 44 Starkey Street.

Comment:

Window AS1012 is located off a bathroom and as a condition of consent will be required to be frosted/opaque glass to limit the potential for overlooking of the rear yard of no. 44 Starkey Street.

- **Side Boundary Fence**

The submission raised the following concern 'There is no indication as to the height of the paling fence to maximise privacy'.

Comment:

The proposal does not include a side boundary fence. The mention of the paling fence on landscaping plans refers to the existing boundary fence. Any changes to the side boundary fence is for discussion between the affected owners.

- **BASIX Certificate**

a submission raised concerns with the accuracy of the BASIX Certificate submitted with the application as 'there is two references to garages, the first indicating 'bare' floor coverings and the latter indication dual use and carpet floor covering'.

Comment:

The references to the floor coverings are located in the NATHERS Certificate which is attached to BASIX Certificate. The first mention of 'Garage 1' is relating to the garage floor and the second 'Retreat/ Garage 1' where it mentions carpet is talking about the ceiling/floor for the parents retreat which is located directly above the garage on the first floor. The certificate is correct and is not talking about two separate garages.

- **Overshadowing**

The submission raised concern that the proposal would result in excessive overshadowing to the outdoor living space of no.44 Starkey Street.

Comment:

The location and the height of the development will not result in unreasonable overshadowing to the adjoining property at No. 44 Starkey Street. While the proposal will result in additional overshadowing to the rear yard of no. 44 Starkey Street, the orientation of the site's and the location and design of the proposal, will not result in overshadowing to the principle private open space for more than three hours between 9am and 3pm on June 21. The development meets the requirements of Part D6 - Access to Sunlight of the WDCP.

- **Insufficient Stormwater details**

The submissions raised concern that the proposal did not adequately address stormwater management for the site.

Comment:

The application was referred to Councils Development Engineers, who have reviewed the proposal and stormwater management plans and have no objections, subject to conditions.

- **Cost and duration of works**

The submission raised concern that the cost and duration of the works seems insufficient for the work required.



Comment:

The applicant provided a Cost Summary Report signed by a suitable qualified person. The Cost Summary Report satisfies Councils requirements.

The amount of time it will take to complete the project is not a planning consideration and does not form part of the assessment of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	No objections to the proposal subject to conditions.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following conditions of consent.

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 55 - Remediation of Land

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



SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 964185S dated 24 September 2018). The BASIX Certificate is supported by an NatHERS Certificate (see Certificate No. 0003200771 and dated 24 Sep 2018).

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

Commitment	Required Target	Proposed
Water	40	54
Thermal Comfort	Pass	Pass
Energy	40	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	7.8m	Yes



Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed
B1 Wall height	7.2m	7m
B3 Side Boundary Envelope	North - 4m	No encroachment
	South - 4m	No encroachment
B5 Side Boundary Setbacks	North - 0.9m	2m
	South - 0.9m	2m
B7 Front Boundary Setbacks	6.5m	6.5m
B9 Rear Boundary Setbacks	6m	Dwelling Patio -
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	372.5m ²

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
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	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
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes

DA2018/1677

Page 11 of 25



Clause	Compliance with Requirements	Consistency Aims/Objectives
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed patios located off the ground floor dining and living area have a 4.3m set back to the rear boundary. The remainder of the dwelling is setback 6.1m to the rear boundary.

The control requires a 6m rear boundary setback.

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 proposed development provides 50% Landscaped Open Space on the site. It is considered that opportunities for deep soil landscaped areas will be maintained on the site.

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

Comment:

The existing dwelling on the site had a 0.9m setback to the rear boundary. The the proposed patios are located directly off the dwelling and the remainder of the rear yard is free of structures and provide a greater sense of openness on the site than is currently provided.



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

Comment:

The proposed development ensures adequate light, solar access and privacy is obtained between dwellings. The proposal provides sufficient and compliant side and front setbacks to the boundaries. The proposal complies with the requirements of the D6 - Access to Sunlight control and has been designed so that there are no unreasonable impacts on the adjoining neighbours. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

The immediate area surrounding the site has varying subdivision patterns, which has resulted in an inconsistent pattern of buildings, rear gardens and landscape elements. The existing dwelling on the site has a 0.9m setback to the rear boundary and many of the adjoining properties have structures located towards the rear of the blocks. The location of the proposed patios will be fairly consistent with the visual continuity and pattern of buildings found on the adjoining properties on Starkey Street and the rear adjoining properties.

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

Comment:

Privacy between the the proposal and adjoining properties will be maintained. The encroachment into the rear setback is for ground floor patios. The proposed landscaping along the boundaries will screen the patios and will provide additional privacy to the site and adjoining properties. The proposal will maintain privacy between buildings.

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

D9 Building Bulk

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.*

Comment:

The site is wider than it is deep which allows for a much wider designed dwelling to the street frontage. The proposal meets the built for requirements and objectives of the WDCP 2011 and is adequately articulated with the use of set backs and different heights of the structure to prevent long sections of blank wall. The proposal also steps down with the slope of the site minimising the need for excavation.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

DA2018/1677

Page 13 of 25



The proposal is adequately articulated with the use of set backs and different heights of the structure to prevent long sections of blank wall. The proposal also steps down with the slope of the site minimising the need for excavation. The proposal sits well below the wall height control of the WDCP 2011 and the 8.5m height requirement of the WLEP. Landscaping and screen planting along side and rear elevations will screen, soften and minimise the building bulk when viewed from the adjoining properties, streets, waterways and land zoned for public recreation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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 \$ 1,481,024		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 14,070
Section 7.12 Planning and Administration	0.05%	\$ 741
Total	1%	\$ 14,810

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,
DA2018/1677

Page 14 of 25



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 DA2018/1677 for Demolition works, construction of a dwelling house on land at Lot B DP 369969, 40 Starkey Street, FORESTVILLE, 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
02/09 - Issue: F - Site Plan	12.11.18	Fyffe Design Services
03/09 - Issue: F - Ground Floor	12.11.18	Fyffe Design Services
04/09 - Issue: F - First Floor Plan	12.11.18	Fyffe Design Services
05/09 - Issue: F - Roof Plan	12.11.18	Fyffe Design Services
06/09 - Issue: F - Elevations	12.11.18	Fyffe Design Services
07/09 - Issue: F - Elevations	12.11.18	Fyffe Design Services
08/09 - Issue: F - Sections	12.11.18	Fyffe Design Services
01/01 - Demolition Plan	19/07/18	Fyffe Design Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate Certificate number: 964185S	24 September 2018	Energy Ratings Australia Pty Ltd

DA2018/1677

Page 15 of 25



Nathers Certificate Certificate number: 0003200771	24 September 2018	Energy Ratings Australia Pty Ltd
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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.

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-01 of 7 - Rev: C - Site Plan / Landscape Area Calculations	09/08/18	Edwards Landscapes Pty Ltd
L-02 of 7 - Rev: C - Zone A Detail Plan	09/08/18	Edwards Landscapes Pty Ltd
L-03 of 7 - Rev: C - Zone B Detail Plan	09/08/18	Edwards Landscapes Pty Ltd
L-04 of 7 - Rev: C - Zone A Planting Plan	09/08/18	Edwards Landscapes Pty Ltd
L-05 of 7 - Rev: C - Zone B Planting Plan	09/08/18	Edwards Landscapes Pty Ltd
L-06 of 7 - Rev: C - Sectional Elevations	09/08/18	Edwards Landscapes Pty Ltd

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Work Statement and Waste Management Plan: 40 Starkey St, Forestville	No date	Dhilas Excavation & Demolition Pty Ltd

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. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- Window AS1012 located on the south elevation is to be of frosted glass.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

3. **Approved Land Use**

No consent is given or implied for the use of the premises for anything other than a Dwelling
DA2018/1677

Page 16 of 25



House as defined by the WLEP 2011.

A Dwelling House is defined as:

"dwelling house means a building containing only one dwelling.

Note. Dwelling houses are a type of residential accommodation—see the definition of that term in this Dictionary."

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. 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

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.

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 sewerred 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

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 \$ 1,481,024.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 14,069.73
Section 7.12 Planning and Administration	0.05%	\$ 740.51
Total	1%	\$ 14,810.24

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. **On-site Stormwater Detention Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850 and the concept drawing by StormCivil, Job Number 303036, drawing number D1-2 dated 15/8/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

9. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **Compliance with Standards**

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

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

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

11. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the



development.

12. 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.

13. 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

14. Public Liability Insurance - Works on Public Land

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

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

15. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm 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 25mm 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **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.
17. **Vehicle Crossings**
The provision of one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.
18. **Waste Management During Development**
The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.
19. **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.

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

20. **Authorisation of Legal Documentation Required for Onsite Detention**

DA2018/1677

Page 23 of 25



The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

21. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

22. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces

23. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

24. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.



Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

25. **Required Planting**

Trees, shrubs and groundcovers shall be planted generally in accordance with the Landscape Plans drawing numbers L-04 and L-05 prepared by Edwards Landscapes Pty Ltd Revision C 9/08/2018.

Reason: To maintain environmental amenity.

26. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

27. **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.

