

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 24 APRIL 2019



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 24 April 2019
in the Walamai Room, Civic Centre, Dee Why**

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2.0	MINUTES OF PREVIOUS MEETING	
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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 10 APRIL 2019

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 10 April 2019 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	DA2018/1725 - LOT 12 DP 839059, 319 HUDSON PARADE, CLAREVILLE - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE
REPORTING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2019/218385
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan & Elevations

PURPOSE

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 DA2018/1725 for demolition works and construction of a dwelling house on land at Lot 12 DP 839059, 319 Hudson Parade, Clareville, subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1725
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 12 DP 839059, 319 Hudson Parade CLAREVILLE NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Phillip Anthony Byrne
Applicant:	Haley Byrne Phillip Anthony Byrne
Application lodged:	22/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	30/10/2018 to 15/11/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 435,000.00

ASSESSMENT INTRODUCTION

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

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

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- 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

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - D3.6 Front building line

Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 12 DP 839059 , 319 Hudson Parade CLAREVILLE NSW 2107
Detailed Site Description:	<p>The subject site consists of an allotment located on the eastern side of Hudson Parade.</p> <p>The site is irregular in shape with a frontage of approximately 35m along Hudson Parade and a depth of 57.84m. The site has a surveyed area of 1830m².</p> <p>The site is located within the E4 Environmental Living zone zone and accommodates the remnants of a dwelling.</p> <p>The site has a steep slope from the front of the site up toward the rear, being approximately 30 degrees.</p> <p>The site has large rock features and extensive vegetation on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by dwelling houses and public open space.</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:

- NO644/99- A new single dwelling granted consent on 9 March 2000

PROPOSED DEVELOPMENT IN DETAIL

The proposal provides for the rebuilding of a dwelling.

In detail the proposal includes the following:

- Entry stairs and privacy wall to northern side of house
- Ground floor with bedrooms, rumpus, WC, Bathroom and Balcony
- First Floor including Lounge, Dining, Kitchen, Balcony, 2 Bedrooms, Bathroom, Ensuite, Laundry and TV room.
- Back outside area with Decking and Pergola
- Removal of structure from the rear of the garage.

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 DA2018/1725	See discussion on "Environmental Planning Instruments"



Section 4.15 Matters for Consideration'	Comments
environmental planning instrument	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	Pittwater 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>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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the 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 Pittwater 21 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>



Section 4.15 Matters for Consideration'	Comments
	(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 of the application Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of the proposal is acceptable subject to the protection of existing trees and vegetation, protection of the natural rock outcrops, and the completion of landscaping. Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees or Bushland Vegetation C1.1 Landscaping
NECC (Bushland and Biodiversity)	The application has been assessed against the NSW Biodiversity Conservation Act 2016, Pittwater LEP 7.6, and Pittwater 21 DCP Clause B4.4. The site is mapped as "Biodiversity" within the Pittwater LEP, as well as mapped as Pittwater Spotted Gum Endangered Ecological

Internal Referral Body	Comments
	<p>Community (PSG EEC) within the Sydney Metropolitan Catchment Management Authority v3 (OEH 2016).</p> <p>An Arboriculture Impact & Management Statement (Aura Tree Services December 2018) was provided to Council on 3 January 2019, and details measures to ensure the retention and protection of trees within 5m of the proposal.</p> <p>Council's Natural Environment – Biodiversity section supports the application, subject to conditions.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> 1. No flood concern. 2. The site is located within Geotechnical Hazard H1 Area. An "Acceptable Risk Management" level is achieved in the geotechnical report provided by Jack Hodgson Consultants, dated 27 March 2018. 3. The site drains to Hudson Parade. The site slope is very steep. 4. No proposed changes to the existing garage and driveway. 5. Theoretically, OSD is required as the impervious area increase is greater than 50 square meters in accordance with Pittwater DCP 21 2014 Clause B5.7. But the proposed dwelling is located within the existing footprint, OSD seems to be unnecessary. <p>No objections to approval, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>Approved subject to condition that sediment and erosion control measures are installed and maintained throughout the construction and landscaping phase. The site lies more than 100m from the waterway. There is no new significant excavation or landfill and existing footings and structural posts are being used for the rebuild. Impacts from sediment leaving the site are minimal as long as the sediment and erosion control measures are maintained. Proposal is approved with conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>
Aboriginal Heritage Office	<p>Council's Heritage officer provided the following comment regarding the application:</p> <p><i>"Reference is made to the proposed development at the above area and Aboriginal heritage.</i></p> <p><i>No sites are recorded in the current development area and some of the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. The lot is very steep and there does not appear to be any landscape features suitable for Aboriginal sites. It is understood that an Aboriginal heritage assessment in 2002 did not identify any Aboriginal heritage</i></p>



External Referral Body	Comments
	<p>items.</p> <p><i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i></p> <p><i>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted."</i></p>

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. 908548S_03).

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

Commitment	Required Target	Proposed
Water	40	40
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.

Pittwater Local Environmental Plan 2014

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	10.79m	26.9%	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes



Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	10.7m
Percentage variation to requirement:	26.9%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Building development standard, has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

Clause 4.3 - Height of Building development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*



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

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

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

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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



*health and safety of their occupants,
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
(j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

The subject site has a large slope and the dwelling has been designed to site above the rocks to avoid excavation which could compromise stability. Additionally, the rock escarpment above the roof line dominates the site.

It is accepted that on this site, a house situated above the the rocky terrain will avoid excavation and would not result in any unreasonable impact for the site.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

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

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

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

Comment:

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

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

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

a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

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The subject site is in an area that is heavily vegetated and has steep terrain. The proposed dwelling is on the high side of the street and would be screened by vegetation in the surrounding area. Additionally, the open nature of the decks that surround the proposed dwelling along with the modulation provided at each elevation would result in a presentation of visual bulk that is sufficiently minimised. the dwelling is also no more than two storeys at any one point to be consistent with the desired future character statement for the locality under the Pittwater DCP.

b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposal involves a dwelling that steps up the site so that the dwelling is part one storey, part two storey. This style of modulation along with the articulation and open style decks to the surround the dwelling, ensures that the proposal will have a compatible height and scale with surrounding development.

c) to minimise any overshadowing of neighbouring properties,

Comment:

As a result of the location of the proposed dwelling including the sufficient physical separation to the south (through a compliant building envelope), overshadowing to neighbouring properties is adequately minimised. This is shown by the compliance with the numerical controls under the Pittwater DCP.

d) to allow for the reasonable sharing of views,

Comment:

The proposed dwelling provides a compliant building envelope and steps with the topography of the site to ensure reasonable potential for view corridors both to the side of the site and over the site.

e) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment:

The proposal is part 1 and part 2 storeys and effectively steps with the topography of the land so as to appropriately respond to the steep terrain.

f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items,

Comment:

The proposed dwelling provides a bulk, scale and design that is subservient to the existing landscaped presentation from the street. This ensures that there would be no unreasonable visual impact of the proposed dwelling to the street.

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



cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by Councils DDP.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4.5m	30.7%	No (see comments)
Rear building line	6.5m	18m	N/A	Yes
Side building line	2.5m	2.5m	N/A	Yes
	1m	1m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes
Landscaped area	60%	52%	N/A	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
Management		
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	Yes
D3.7 Side and rear building line	Yes	Yes
D3.9 Building envelope	Yes	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D3.6 Front building line

Description of non-compliance

The proposal does not comply with the control front building line (6.5m). In this regard, the proposal involves a front building line of 4.5m.

Merit consideration:

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

Achieve the desired future character of the Locality.

Comment:

The proposal involves a dwelling that is no more than two storeys at any one point and has articulation of walls at each elevation. Along with the decks surrounding the proposed dwelling that are open in nature, this design ensures that the proposed dwelling would be consistent with the desired low density character within a landscaped setting.



Equitable preservation of views and vistas to and/or from public/private places. (S)

Comment:

As a result of the compliant building envelope and rear building line, the proposed dwelling maintains sufficient corridors for viewing through the side and rear of the site. This provides a reasonable outcome for the site given the natural feature in proximity and steep character of the site which prevents opportunity for viewing corridors through the front of the site despite any built structure in this area.

The amenity of residential development adjoining a main road is maintained. (S)

Comment:

The proposed dwelling has reasonable separation from the road given the potential traffic of this road.

Vegetation is retained and enhanced to visually reduce the built form. (En)

Comment:

The proposal involves vegetation at each front corner of the site and the road reserve will remain heavily vegetated. This provides an adequate outcome in terms of providing a screening of the built form and an appropriate visual presentation for the site.

Vehicle manoeuvring in a forward direction is facilitated. (S)

Comment:

N/A (the proposal does not involve new car parking)

To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

Comment:

The proposal will maintain a height which is below the general tree canopy in the area to ensure that the presentation of the dwelling would not be unreasonable in terms of bulk and scale.

To encourage attractive street frontages and improve pedestrian amenity. Comment: Given the desired landscaped and low density character of the area, the proposal provides for a street frontage that is suitable for the area. This includes a dwelling that is screened by existing and proposed vegetation to provide for reasonable presentation and amenity.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment. Comment: The proposal appropriately responds to topography so as to be complementary with surrounding dwellings by fitting within the landscaped and built character of the area. In particular, the proposed height of dwelling is similar to other dwellings on the high side of the street in this area, and the bulk and design of the dwelling is adequate so as to be sufficiently screened by the surrounding vegetation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the PDCP 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.



D3.11 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The proposal is non-compliant with the numerical control for landscaped area. The proposal is for a landscaped area of 44.4% and the requirement is 60%.

Merit assessment

With regard to this numerical non-compliance, the proposal is considered against the underlying outcomes of the control as follows:

To achieve the desired future character of the Locality. (S)

Comment:

The proposal provides for an appropriate presentation to the front of the site through a landscaped frontage, modulation in the design of the dwelling, and stepping with the topography of the site. This will appropriately ensure the bulk of the proposed development integrates in the desired character of the area.

The bulk and scale of the built form is minimised. (En, S)

Comment:

As a result of the proposed works being within the control for building envelope and being compliant with the side and rear building lines as well as having landscaped area to the front of the site, the development will maintain appropriate bulk, scale and visual presentation for the site. The existing vegetation and topography of the site will also ensure the presentation of bulk and scale for the development is minimised.

A reasonable level of amenity and solar access is provided and maintained. (En, S)

Comment:

The compliant side building lines and the location of the new works within the building envelope ensure that the proposed development meets the requirements for solar access under the Pittwater DCP.

Vegetation is retained and enhanced to visually reduce the built form. (En)

Comment:

The proposal maintains a landscaped area to the frontage and trees surrounding the front of the site are maintained. This provides for a reasonable retention of vegetation to reduce the presentation of the built form.

Conservation of natural vegetation and biodiversity. (En)

Comment:

As a result of the works being maintained within the existing building envelope and maintaining vegetation to the front of the site, the proposal reasonably maintains natural vegetation and biodiversity.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

Comment:

The proposal provides landscaping to the front and rear of the site and as such a reasonable situation for stormwater is provided for stormwater in this instance. This is confirmed by Council's stormwater engineer who has no objection to the proposal.

To preserve and enhance the rural and bushland character of the area. (En, S)

Comment:



As a result of the vegetation at the front of the site and the stepping of the built form with the slope, the proposal will not dominate the presentation of the site. As such, the rural and bushland character of the area is adequately preserved.

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.(En, S)

Comment:

Soft surface is provided to the front, rear and northern boundaries of the site. Given the rock outcrop on site and the surrounding landscaping, the provision of landscaping is reasonable having regard to the context of the site.

The proposal is consistent with the underlying outcomes of the clause and as such is reasonable in this instance.

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

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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

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- 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 DA2018/1725 for Demolition works and construction of a dwelling house on land at Lot 12 DP 839059, 319 Hudson Parade, CLAREVILLE, 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
A01- Proposed Dwelling- Site Plan	12/12/17	P.A Byrne
A02- Proposed Dwelling - Ground Floor Plan	12/12/17	P.A Byrne
A03- Proposed Dwelling- Floor Plan (RL43.000)	12/12/17	P.A Byrne
A04- Proposed Dwelling- Floor Plan (RL45.900)	12/12/17	P.A Byrne
A05- Proposed Dwelling- West Elevation	12/12/17	P.A Byrne
A06- Proposed Dwelling- North Elevation	12/12/17	P.A Byrne
A07- Proposed Dwelling- South Elevation	12/12/17	P.A Byrne
A08- Proposed Dwelling- South Elevation (Section A)	12/12/17	P.A Byrne
A09- Proposed Dwelling- Landscaping Plan	12/12/17	P.A Byrne

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Risk Analysis & Management for Proposed Rebuild of Residence	27th March 2018	Jack Hodgson Consultants Pty Limited
Arboriculture Impact & Management Statement	December 2018	Aura Tree Services



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

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

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

2. **Prescribed conditions (Demolition):**

- (a) 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 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
 - (ii) 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.

(b) 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.

(c) 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.

Reason: Legislative Requirement (DACPLB09)

3. **General requirements (Demolition):**

- (a) Unless authorised by Council:

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Demolition and excavation works are restricted to:

- o 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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

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

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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

5. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Jack Hodgson Consultants dated 27 March 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

6. **Soil and Water Management Program**

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

7. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) 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. (DACPLC03)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT



8. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

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

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

10. 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

11. Tree and vegetation protection

A) Existing trees and vegetation shall be retained as follows:

- i) all trees and vegetation within the site, nominated for retention on the plans, shall be protected during all construction stages, excluding exempt trees under the relevant planning instruments or legislation,
- ii) all other trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, with particular attention to section 4,
- ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an Arborist,
- iii) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
- v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vi) should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations and shall report on the tree protection action undertaken, including photographic evidence,
- vii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009.



Reason: to retain and protect significant planting on development sites.

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

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

13. **Arborist Recommendations to be Implemented**

As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Aura Tree Services dated December 2018 are required to be complied with before and throughout the development period, particularly with regard to the following:

a) **New stair footings**

Final footing locations (supporting the stairs) must not damage any roots of significant diameter, in this situation defined as being greater than 50mm in diameter 'live woody tree root'. Photographic evidence of the footing sites as not damaging any significant diameter 'live woody tree root' is required. This evidence must be provided by the builder to the retained Project Authority for their paperwork trail.

In the event an exposed 'live woody tree root' cannot be avoided by relocating the footing site or bridging over it the sites retained Project Arborist must be summonsed to create, oversee & then document in writing with supporting photographic evidence of the strategy adopted.

b) No construction materials or stockpiling of any description at any time is allowed to be stored within the Tree Protection Zone radial distance of 6.60 m for Tree 1 & 4.20 m for Tree 2.

c) Tree Trunk Guards must be installed on both Tree 1 and Tree 2, and maintained during construction. Photographic evidence is to be provided to the retained Principle Certifying Authority for their paperwork trail relative to *AS4970-2009 Protection of trees on development sites* compliance requirements.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be investigated by the Project Arborist and reported to the Principal Certifying Authority prior to works recommencing.

Reason: To ensure the retention of the Urban Forest/Natural Environment and remain consistent with approved reports.



OCCUPATION CERTIFICATE

14. **Canopy tree planting**

Tree planting is to be installed in accordance with the Landscaping Plan A09, inclusive of the following requirements:

- i) all trees shall be planted at 75 litre minimum pot size.

Reason: to enhance the tree canopy of the locality.

15. **Stormwater Disposal**

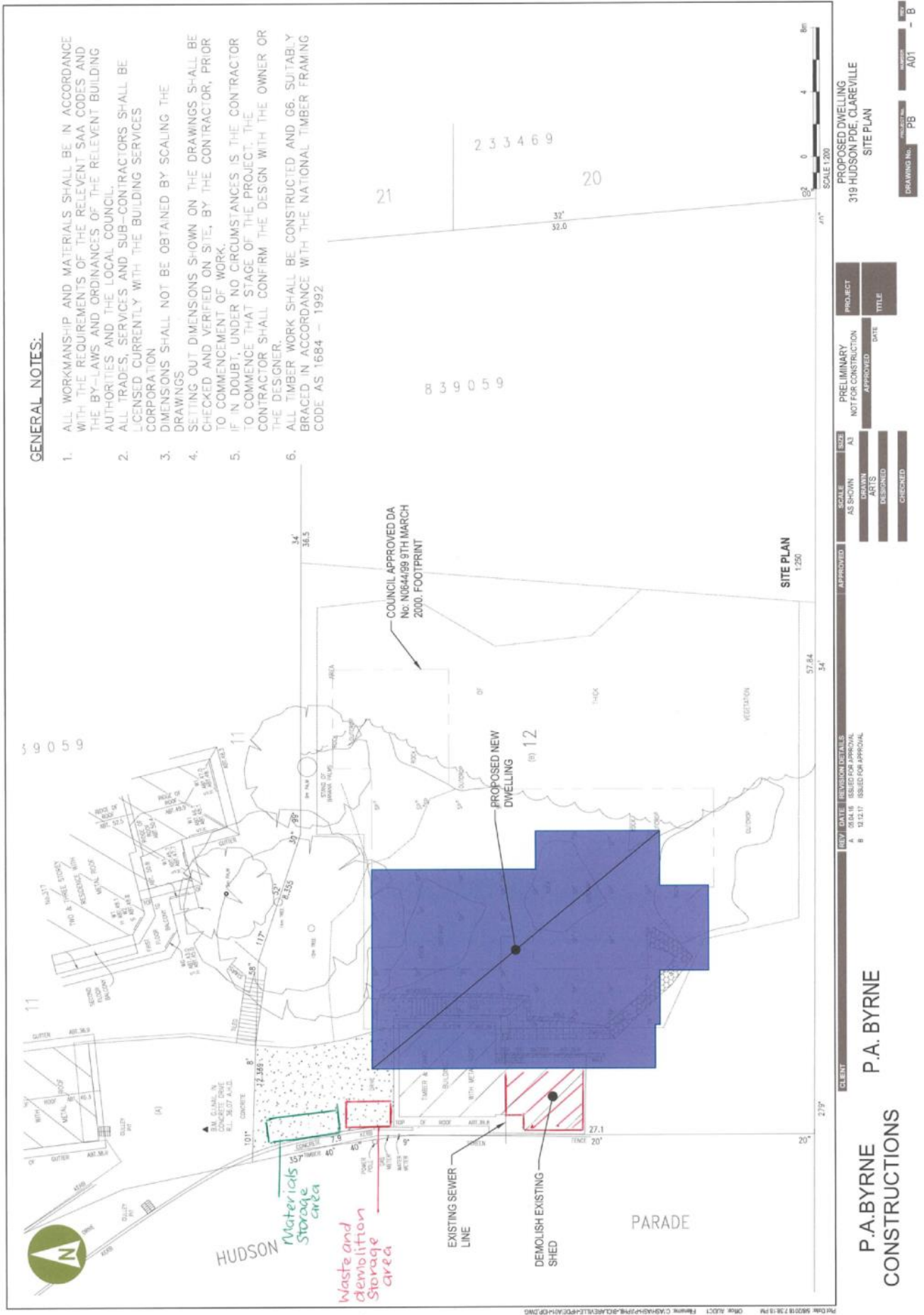
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

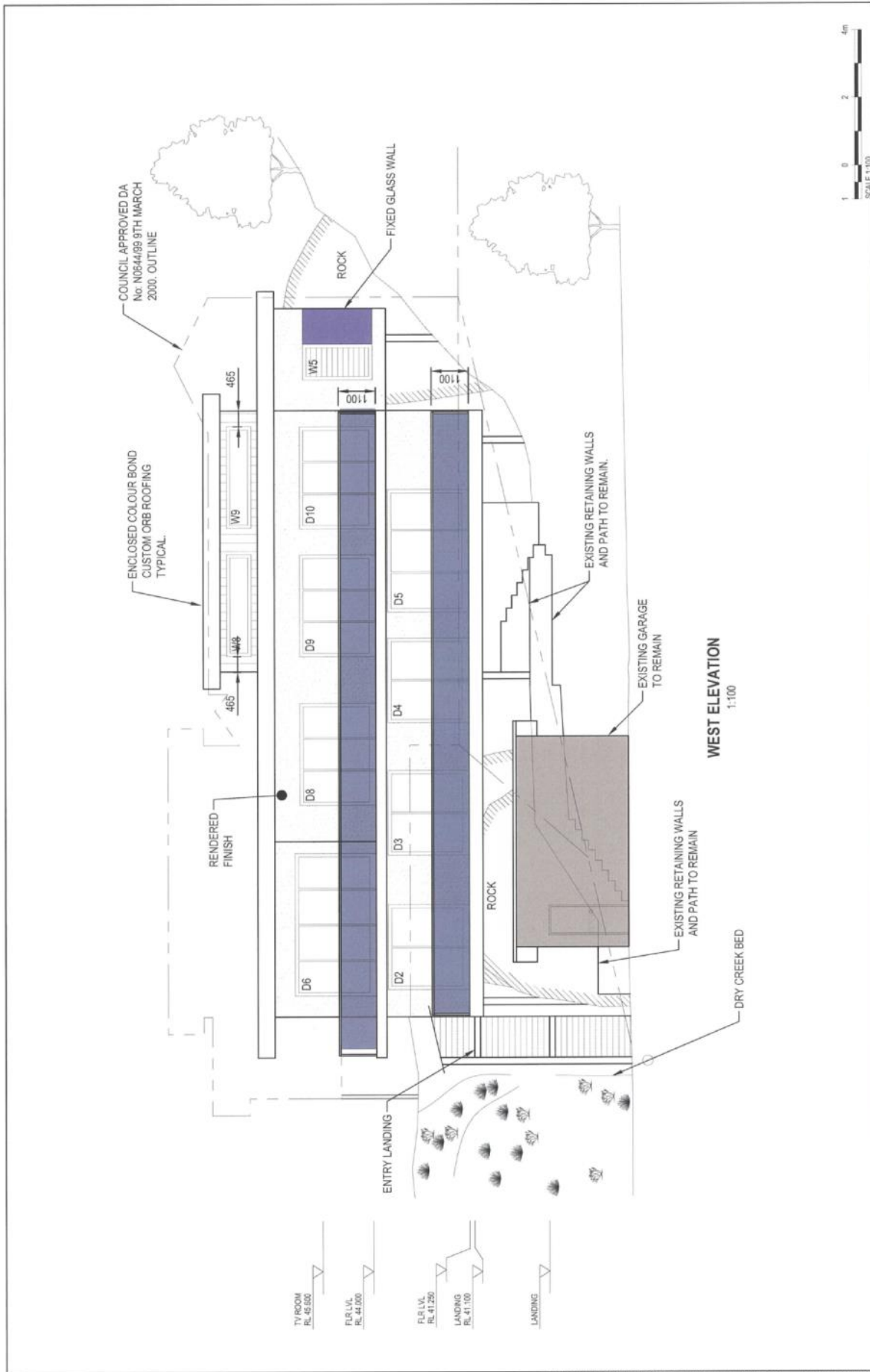
Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

16. **Geotechnical Certification Prior to Occupation Certificate**

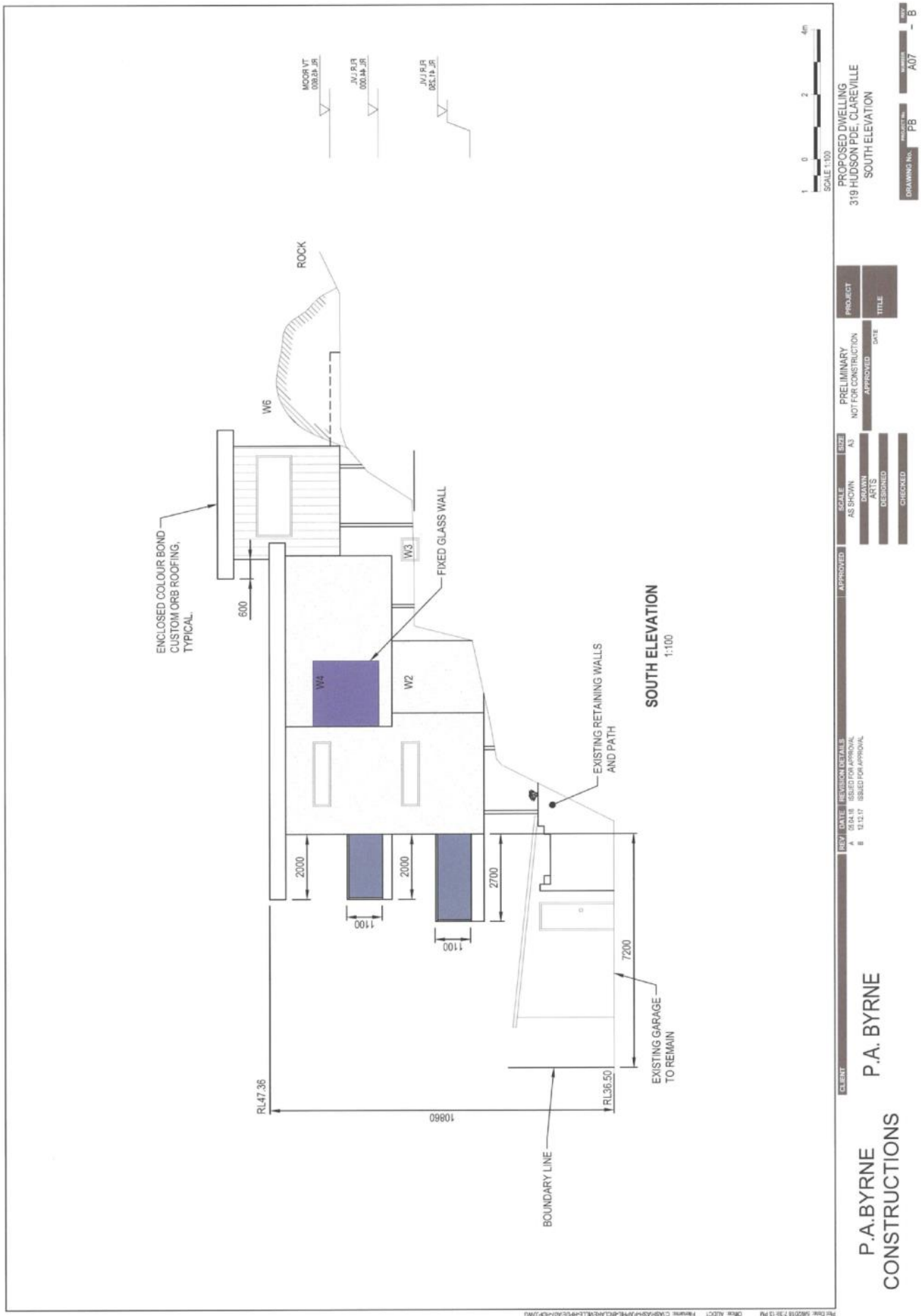
Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.









ITEM 3.2

DA2018/1857 - LOT 7, SECTION 57, DP4888, 187 OCEAN STREET, NARRABEEN - NEW TWO STOREY DWELLING WITH BASEMENT LEVEL PARKING

INDEPENDENT CONSULTANT NATALIE NOLAN

TRIM FILE REF 2019/218295

ATTACHMENTS
1 [↓](#) **Assessment Report**
2 [↓](#) **Site Plan & Elevations**

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/1857 for new two storey dwelling with basement level parking on land at Lot 7, Section 57 DP 4888, 187 Ocean Street, Narrabeen, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1857
Assessment by:	Natalie Nolan, Nolan Planning Consultants (External Consultant)
Land to be developed (Address):	Lot 7, Section 57 in Deposited Plan 4888, 187 Ocean Street, Narrabeen
Proposed Development:	New Two Storey Dwelling with basement level parking
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sandra Kay McQuillan
Applicant:	Aurora Design
Application lodged:	23/11/18
Integrated Development	No
Designated Development	No
State Reporting Category	N/A
Notified:	29/11/2018 to 17/12/2018
Advertised:	Not Advertised
Submissions:	2
Recommendation:	Approval with conditions

ASSESSMENT INTRODUCTION

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

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

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan – Clause B1 – Wall heights

Warringah Development Control Plan – Clause B3 – Side Boundary Envelope

Warringah Development Control Plan – Clause D7 – Views

SITE DESCRIPTION

Property Description:	Lot 7, Section 57 in Deposited Plan 4888, 189 Ocean Street, NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of a single parcel of land located on the western side of Ocean Street. The site is rectangular in shape with a frontage of 15.24m to Ocean Street and a maximum depth of 66.75m. The site has an area of 1017m². The site is located within the R2 Low Density Residential zone and is currently vacant. The site has a slight slope from the street frontage (RL10.0) towards the rear (RL9.28). There is no significant vegetation on site.</p> <p>Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by a mix of one and two storey detached residential dwellings on generally similar sized allotments to the subject site, interspersed with three and four storey residential flat buildings.</p>

Map:



SITE HISTORY

Development Consent (DA1999/1312) for the demolition of the existing structures on site was approved by Council on 05/02/1999.

Prior to demolition, the land has been used for residential purposes for an extended period of time

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks approval for the construction of a new two storey dwelling and basement parking, storage and cinema.

The new dwelling is to be constructed of precast concrete panels and stained timber cladding with flat concrete roof. The dwelling is to be provided with a setback to the street frontage which ranges from 14.89m. Setbacks of at least 1.0m and 1.7m are provided to the sites northern and southern boundaries, respectively.

The dwelling will comprise of study, guest bedroom (with ensuite), rumpus, living/dining areas, kitchen, laundry, and bathroom on the entry ground floor level. The upper level provides for 4 bedrooms each with its own bathroom and terrace. A basement area is provided and accommodates parking for four cars, wine cellar and home cinema.

Associated landscaping, retaining walls and stormwater drainage works are proposed as part of this application.

In consideration of the application a review of (but not limited to) documents as provided by the applicant in support of the application was taken into account

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	The 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>Clauses 54 and 109 of the EP&A Regulation 2000, enables Council to request additional information. No additional information was requested.</p> <p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. The proposal does not require any demolition works and therefore this is not applicable.</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,	(i) Environmental Impact

Section 4.15 Matters for Consideration	Comments
including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(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.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process Council received one submission.

Name:	Address
Details Withheld	Details Withheld
BJP Architects on behalf of the owners.	No. 185 Ocean Street, North Narrabeen

Submission – details withheld

The following issues were raised in the submission and each have been summarised and are addressed below:

- *We currently enjoy views of the ocean across the vacant block, which will be entirely lost as a result of the proposal.
The design approach appears to be at odds with the objectives and requirements of clause D7 (Views) of WDCP which encourage generous side setbacks to maximise views between buildings.
Furthermore the proposal appears to be inconsistent with diagrams of this clause which demonstrate greater side setbacks for second floors, and the need to minimise building bulk to achieve view sharing.*

Comment: A detailed consideration of the non-compliance with this standard is provided elsewhere in this report. In summary, the extent of the impact caused by the non-compliance is not considered to be unreasonable and the variation is supported in this instance, subject to the condition of consent to reduce the overall height. A consideration of the potential loss of views from the objectors property is provided elsewhere in this report. In summary, the extent of the view loss experienced is considered to be minor and not of a magnitude that would warrant the refusal of the application subject to the condition of consent to reduce the overall height.

- *Although the landscape plan is not available on Council's website, the architectural drawings also appear to propose the more significant landscaping along the side setbacks, maximising views for the occupants of the proposed dwelling and further impacting on views currently enjoyed from surrounding areas.*

Comment: A landscape plan has been prepared by Interlink which forms part of the submission to Council. This plan depicts generally shrubs/hedging vegetation adjacent to the boundaries of the site. There is one larger tree (*Banksia integrifolia*) proposed which can achieve heights of 10-12m. This tree is located adjacent to the northern boundary, however the view corridor along this boundary is already obscured by the existing pine on the rear of the adjoining northern property. It is not considered that the proposed planting will result in any view loss.

BJP Architects – 185 Ocean Street, North Narrabeen

A submission was received by Council on 2 April 2019 following erection of height poles as requested by Council. This submission raised the following concerns:

- View loss
- Side boundary setback

The height poles were removed prior to the submission being received. Height poles were then requested to be erected and certified by a surveyor. A meeting was held on site with both the applicant and BJP Architects. Following this meeting further correspondence was received by BJP Architects on 9 April 2019 which stated:

On behalf of our client we confirm are happy to withdraw our objection to the proposal. Having inspected the DA2018/1857 and PLM2018/0112 with you and the architect we are satisfied with the position of the building for setbacks, solar access and view share with 185 Ocean Road Narrabeen.

At the site inspection at No. 185 Ocean Road it was revealed that the proposal resulted in some view loss of North Narrabeen Headland and beach. To retain this view would require the deletion of the southern external wall of the upper rear balcony. However, BJP Architects requested that this external wall be retained to maintain privacy. There were no other views from No. 185 affected by the proposal.

Given that the submission was withdrawn it is not considered necessary to require any amendments and that the application as proposed is supported.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	No objections are raised to approval subject to conditions as recommended.
Development Engineer	The applicant proposed to use an "Atlantis" cell as a storage. However, Council does not permit to use "Atlantis". A condition has been placed to address the issue. As such, Development Engineer has no objection to the application subject to the following condition of consent.
Parks & Recreation	This application seeks consent for any application on land or land being adjoining or adjacent to any parks, reserves, beaches, or foreshore and as such, Council's Parks, Reserves and Foreshores officers are required to consider the likely impacts of the proposal. Approval - subject to conditions.
Natural Environment – Coastal	The proposed development has been assessed to comply with SEPP Coastal Management and is supported subject to condition. 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. To ensure the development complies with the Coastal Zone Management Plan for Collaroy-Narrabeen Beach and Fishermans Beach a suitably qualified engineer is to certify that the portion of the development seaward of the minimum setback for development on conventional foundations is built on piled foundations in accordance with requirements detailed in the Coastal Engineering advice provided by Horton Coastal Engineering (21 November 2018). Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the construction certificate.
Natural Environment - Biodiversity	The proposal has been assessed against Warringah DCP E4. Landscape Plan (L-01A, L-02A) and Planting Schedule (L-03A) were provided. The proposal is supported subject to the following conditions.
Natural Environment – Riparian	Approved, no objection to the proposal. No riparian land is affected by the development.
Environmental Health – Acid Sulfate Soils	Site classified Class 4 and 5 The Geotechnical Investigation & Preliminary Acid Sulfate Soil Assessment 25 Sept 2018 and testing has determined that excavation to 3.2m as proposed will not uncover acid sulphate/sulfate soils - based on testing to 3.5m

Internal Referral Body	Comments
	Recommendation APPROVAL - subject to conditions

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. 967619S) dated 8 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: The site is not within land identified as "coastal wetlands" or "littoral rainforest" area.

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: The site is not within land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest".

12 Development on land within the coastal vulnerability area

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

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

Comment: The site is not within land identified as “coastal vulnerability area”

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

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

Comment: The site is within land identified as “coastal environment area”. The proposal is for relatively minor alterations and additions to the existing dwelling, and will not have any significant impacts on any of the matters listed above. The works are generally above ground. There will be some minor excavation works involved for the creation of the laundry/entry on the lower ground level. Conditions of consent will ensure erosion and sediment controls are in place during works.

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

Comment: The proposal is generally sited and designed so as not to cause adverse impacts referred to in subclause (1). The works are within the footprint of the existing building, and generally involve enclosure of some areas and an upper level addition. No unreasonable impacts will be caused by the proposal.

14 Development on land within the coastal use area

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

Comment: The proposal is for relatively minor alterations and additions to an existing dwelling. It is not considered to result in any unreasonable impacts on any of the above matters for consideration. The bulk, scale and size of the proposed development is generally within expectations for development in the area, given the applicable built form controls, and existing development in the area.

Clause 15 Development in Coastal Zone Generally – Development Not to Increase Risks 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: A Coastal Hazard Assessment has been prepared by Horton Coastal Engineering which provides that the proposed dwelling development is unlikely to have a significant impact on coastal hazards or increase the risk of coastal hazards in relation to any other land, as it would be founded on piles well above typical wave action and beach erosion/accretion cycles for an acceptably rare storm and acceptably long design life, or founded landward of the Coastal Zone Management Plan minimum setback for development on conventional foundations. A Condition of consent has been recommended which requires compliance with the Coastal Hazard Assessment prepared by Horton Coastal Engineering.

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

Warringah Local Environment Plan 2014

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	7.854m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
4.3 Height of Buildings	Yes
Part 6 Additional Local Provisions	Yes
5.10 Heritage Conservation	Yes
6.1 Acid Sulfate Soils	Yes
6.2 Earthworks	Yes
6.4 Development on Sloping Land	Yes
6.5 Coastline Hazards	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	%Variation*	Compliance
B1 Wall Height	7.2m	7.3m (measured to underside of ceiling of upper level)	1.3%	No
B3 Side Boundary Envelope	4m	Approximately 0.9m encroachment to south;	N/A	No

B5 Side Boundary Setbacks	900mm	1.8m encroachment to north. 1.0m – north 1.0m – south	N/A	Yes
B7 Front Setbacks	6.5m	14.89m	N/A	Yes
B9 Rear Boundary Setbacks	6m	18.8m	N/A	Yes
D1 Landscaped Open Space	40%	50.9%	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic	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	Yes	Yes
C7 Excavation & Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D16 Swimming Pools and Spas	N/A	N/A
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining Unique Environmental Features	Yes	Yes
D7 Development on Land Adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Height

This clause specifies a maximum wall height of 7.2m as measured from existing ground level to the underside of the ceiling of the uppermost floor. The plans depict a very minor non-compliance at the rear south east corner of the building. The non-compliance is approximately 100mm. This report recommends a condition of consent that the proposed dwelling be lowered by 200mm to address the objectives of Clauses D7 Views and B3 Side Boundary Envelope. This reduction will ensure compliance with the wall height control of this clause.

B3 Side Boundary Envelope

The northern and southern elevations extend beyond the side boundary envelope.

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 dwelling is well setback from both Ocean Street and the adjoining public reserve to the east (rear). These ample setbacks ensure landscaping within both the front and rear yards and the separation ensures that the dwelling will not be unduly bulky. Both north and south (side) elevations are articulated through the use of varied setbacks and architectural design.

The subject site is located within an area that is characterised by a mix of large 2 storey dwellings and large 3 and 4 storey residential flat buildings. Therefore, the proposal will not visually dominant and achieves this objective.

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

Comment: The proposal maintains at least 50% of the adjoining properties private open space will continue to receive 3 hours of sunlight between 9am and 3pm on the winter solstice in accordance with clause B6 of the DCP. The proposal has been designed with all high use living areas on the ground floor with only bedrooms and bathrooms on the upper level which will not reduce privacy to the adjoining properties. The upper level balconies are orientated towards the water (rear) or street and similarly will ensure an appropriate level of privacy to the neighbours. The development is therefore consistent with this objective.

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

Comment: The proposal provides for excavation within the building footprint to provide for on site parking. However, this does not have any detrimental impact the streetscape or adjoining properties.

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

D7 Views

A submission was received a property owner (details withheld) in relation to potential for view loss. The property is located on Lagoon Street which runs parallel to Ocean Street.

This clause requires the 'Development shall provide for the reasonable sharing of views'. In assessing the proposal under the provisions of this clause 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: The view currently obtained is of the water to the east. The view is obtained over the rear boundary, another property, Ocean Road and the subject site. The views are distant and filtered by existing vegetation and surrounding development. The property also has water views to the northeast.

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

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2: The views to the northeast are from a sitting and standing view from the living room, balcony and bedroom. These views are not affected by the proposal.

The views to the east are described below:

2nd Bedroom: Views from this room are from standing and sitting. They are long distance views filtered by existing vegetation and buildings. This is a not a high use living room.

Study: The view from this room is from a standing position. The views are long distance and filtered by existing vegetation and buildings.

Bathroom: The view from this room is in the shower. It is a high sill window and views are only visible from a standing position. The view is long distance and filtered by existing vegetation and buildings. Further this window is obscured glazed and views are only available when the window is open.

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: The views to the north east from the living area and adjacent balcony as well as main bedroom are unaffected by the proposed development.

The impact on views from the bathroom, shower room and study will be 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 current proposal does not comply with the wall height provisions or the side building envelope. A condition of consent has been included in the recommendation which requires the proposal to be lowered by 200mm. This will ensure compliance with the wall height control and a reduction in the non-compliance with the side building envelope.

The non-compliance with the side building envelope on the northern elevation (which displays the greater non-compliance) does not result in any loss of water views. Existing vegetation and the adjoining dwelling currently obstruct views along this plane.

The non-compliance with the side building envelope on the southern elevation will be reduced as recommended in the proposed condition. The view loss along this corridor is negligible given the distance. It is not-considered that a development strictly complying with the height envelope on the southern side would have any discernible difference in terms of views from the objectors property. A view corridor is also maintained along the southern boundary.

It is noted that the surrounding properties (including the objector) currently enjoy a view over an undeveloped site. The proposal sits well below the maximum 8.5m height control.

The main views from the living area, kitchen and master bedroom are maintained and unaffected by this proposal. It is considered that the recommended condition of consent requiring a lowering of the whole building by 200mm will provide for an appropriate sharing of views.

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

Comment: The design of the proposal provides sufficient innovation to comply with this objective.

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

Comment: This objective is not relevant to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of Warringah LEP 2011 / Warringah DCP 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, subject to the recommended conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

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 Section 94 Development Contributions Plan Contribution based on a total development cost of \$2,598,654.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$24,687.21
Section 94A Planning and Administration	0.05%	\$1,299.33
Total	1%	\$25,986.54

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 2011;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1857 for the construction of a dwelling house, on land at Lot 7, Section 57 in DP 4888, No. 189 Ocean Street, Narrabeen, 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
A000 Cover Page & Legends	13.11.18	Aurora Design + Michael Banak Architecture
A050 Site Plan & Analysis	13.11.18	Aurora Design + Michael Banak Architecture
A070 Site/Demolition/Soil/Water Management Plan	13.11.18	Aurora Design + Michael Banak Architecture
A090 Bulk Excavation + Fill Plan	13.11.18	Aurora Design + Michael Banak Architecture
A100 Site Plan	13.11.18	Aurora Design + Michael Banak Architecture
A200 Basement Floor Plan	13.11.18	Aurora Design + Michael Banak Architecture
A201 Ground Floor Plan	13.11.18	Aurora Design + Michael Banak Architecture
A202 First Floor Plan	13.11.18	Aurora Design + Michael Banak Architecture
A203 Roof Plan	13.11.18	Aurora Design + Michael Banak Architecture
A490 Gross Floor Areas & Calculations	13.11.18	Aurora Design + Michael Banak Architecture
A500 Sections 01	13.11.18	Aurora Design + Michael Banak Architecture
A600 Elevations 01	13.11.18	Aurora Design + Michael Banak Architecture
A601 Elevations 02	13.11.18	Aurora Design + Michael Banak Architecture
A800 Glazing Schedule 01	13.11.18	Aurora Design + Michael Banak Architecture
A801 Glazing Schedule 02	13.11.18	Aurora Design + Michael Banak Architecture

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation & Preliminary Acid Sulfate Soil Assessment	25 September 2018	AssetGeo
BASIX Certificate No. 967619S	8 November 2018	The LC Trust Contigiani
Coastal Engineering	21 November 2018	Horton Coastal Engineering
Stormwater Management Plan	7 November 2018	Wehbe Consulting
Waste Management Plan	21 November 2018	Aurora Design + Michael Banak Architecture

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

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

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

In this clause, allotment of land includes a public road and any other public place.
Reason: Legislative Requirement (DACPLB09)

3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

4. Building materials, sedimentation

No building materials or other materials are to be placed on Narrabeen beachfront area or vegetation. Appropriate sediment fencing is to be installed.

Reason: Environmental Protection

FEES / CHARGES / CONTRIBUTIONS

5. 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.

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 Section 94 Development Contributions Plan Contribution based on a total development cost of \$2,598,654.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$24,687.21
Section 94A Planning and Administration	0.05%	\$1,299.33
Total	1%	\$25,986.54

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.

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

7. Amend Plans – Height of Building

The proposed dwelling shall be lowered by 200mm with the roof slab having a maximum RL 17.47 and the parapet to have a maximum RL 17.72. An amended plan detailing the proposed amendments shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain reasonable sharing of views.

8. 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.

9. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Asset Geotechnical dated 25 September 2018 are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. Coastal Report to be incorporated into Designs and Structural Plans

The recommendations identified in the Coastal Engineering Advice prepared by Horton Coastal Engineering dated 21 November 2018 are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure coastal hazard risk is mitigated appropriately.

11. On-site Stormwater Detention

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's current [WARRINGAH WATER MANAGEMENT POLICY PL850 and generally in accordance with the concept drainage plans prepared by Wehbe Consulting, Job Number 875, drawing number SW 875, dated 7/11/2018.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

12. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: To provide public and private safety.

13. 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.

14. 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.

15. 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.

16. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

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

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site. (DACHPCPCC1)

17. Protection from coastal processes

To ensure the development complies with the Coastal Zone Management Plan for Collaroy-Narrabeen Beach and Fishermans Beach a suitably qualified engineer is to certify that the portion of the development seaward of the minimum setback for development on conventional foundations is built on piled foundations in accordance with requirements detailed in the Coastal Engineering advice provided by Horton Coastal Engineering (21 November 2018).

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

Reason: Protection from coastal hazards (DACNECPCC4)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or 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.

19. Tree protection

(a) Existing trees which must be retained

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

(b) Tree protection

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

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

20. Protection Fencing

The site security fence must be suitably located to ensure no access to the construction site via the adjacent Narrabeen beachfront.

Reason: Natural environment protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. No Beachfront Access

Access to the site is not permitted via the adjacent Narrabeen beachfront.

Reason: Natural environment protection

22. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To maintain the existing profile of the nature strip/road reserve

23. 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.

24. 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.

25. 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

26. Site Fencing

The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height. Reason: To ensure public safety.

27. Tree and vegetation protection

- A) Existing trees and vegetation shall be retained as follows:
- i) all trees and vegetation within the site not impacted by the proposed development, shall be protected during all construction stages, excluding exempt trees under the relevant planning instruments or legislation,
 - ii) all other trees and vegetation located on adjoining properties,
- B) Tree protection shall be generally undertaken as follows:
- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
 - ii) to minimise the impact on the trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of vegetation.
 - iii) any roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an Arborist.
 - iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
 - v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
 - vi) should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures provided,
 - vii) Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority should either of the above events occur.

Reason: to retain and protect significant planting on development sites.

28. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

29. Acid Sulfate Soil Management

Any new information which comes to light during remediation, excavation or construction works which has the potential to alter previous conclusions about the uncovering of Acid Sulfate Soil must be notified to the Certifier as soon as reasonably practicable. This will also require an Acid Sulfate Soil Management Plan, including disposal of affected soil to an approved facility, to be submitted to the certifier, before work continues.

Reason: To ensure potential Acid Sulfate Soil is appropriately managed

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

30. Required Planting

Trees shall be planted in accordance with the following schedule:

No of Trees Required	Species	Location	Pot Size
All Trees	As indicated on the Landscape Plans prepared by Interlink Drawing numbers L-01, L-02, L-03, L-04, L-05 dated 18/10/2018	As indicated on Landscape Plans	As indicated on Landscape Plans

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

Reason: To maintain environmental amenity

31. Authorisation of Legal Documentation Required for Onsite Disposal System

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) and hydraulic engineers certification. 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.

32. Registration of Encumbrances for On-site Stormwater Disposal System

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water disposal system 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.

33. Reason: To identify encumbrances on land

On-Site Stormwater Disposal System Compliance Certification

Upon completion of the on-site stormwater disposal 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 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.

34. Positive Covenant and Restriction as to User for On-site Stormwater Disposal

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater Disposal 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 Disposal 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 Stormwater Disposal system is maintained to an appropriate operational standard.

35. Geotechnical Certification Prior to Occupation Certificate

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

36. Restoration of Damaged Public Infrastructure

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

Reason: To ensure public infrastructure is returned to the state it was in prior to development

37. Landscape works

Landscaping shall be installed in accordance with the Landscape Plan DA101, prepared by Rapid Plans, inclusive of the following requirements:

- i) where construction works removes existing street trees or damages the existing turf within the road reserve, the verge shall be re-turfed,
- ii) two (2) small native canopy street trees shall be installed to the road reserve verge, consisting of Callistemon 'Hannah Ray' planted at minimum 75 litre pot size and double-staked, into a prepared tree pit at least 600 x 600 x 500mm deep, backfilled with sandy loam soilmix,
- iii) two (2) medium canopy trees capable of attaining 8-12 metres in height at maturity shall be installed within the front setback, planted at a minimum pot size of 75 litre, and selected from the following species: Eucalyptus haemastoma, Backhousia myrtifolia, and Melaleuca linariifolia,
- iv) screen shrub planting capable of achieving 3 metres in height at maturity shall be planted along the northern boundary to the extent of the pool and terrace, planted at no more than 1 metre apart, and planted at minimum 200mm pot size.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

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

38. Landscape maintenance

All landscape components are to be maintained for the life of the development. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme of the landscape plan, and associated conditions.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

39. Environmental and priority weed control

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

40. 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.

41. 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.

42. 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.

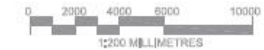
Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

In signing this report, declare that I do not have a Conflict of Interest.

Signed

Natalie Nolan, External Consultant

Rodney Piggott, Development Assessment Manager



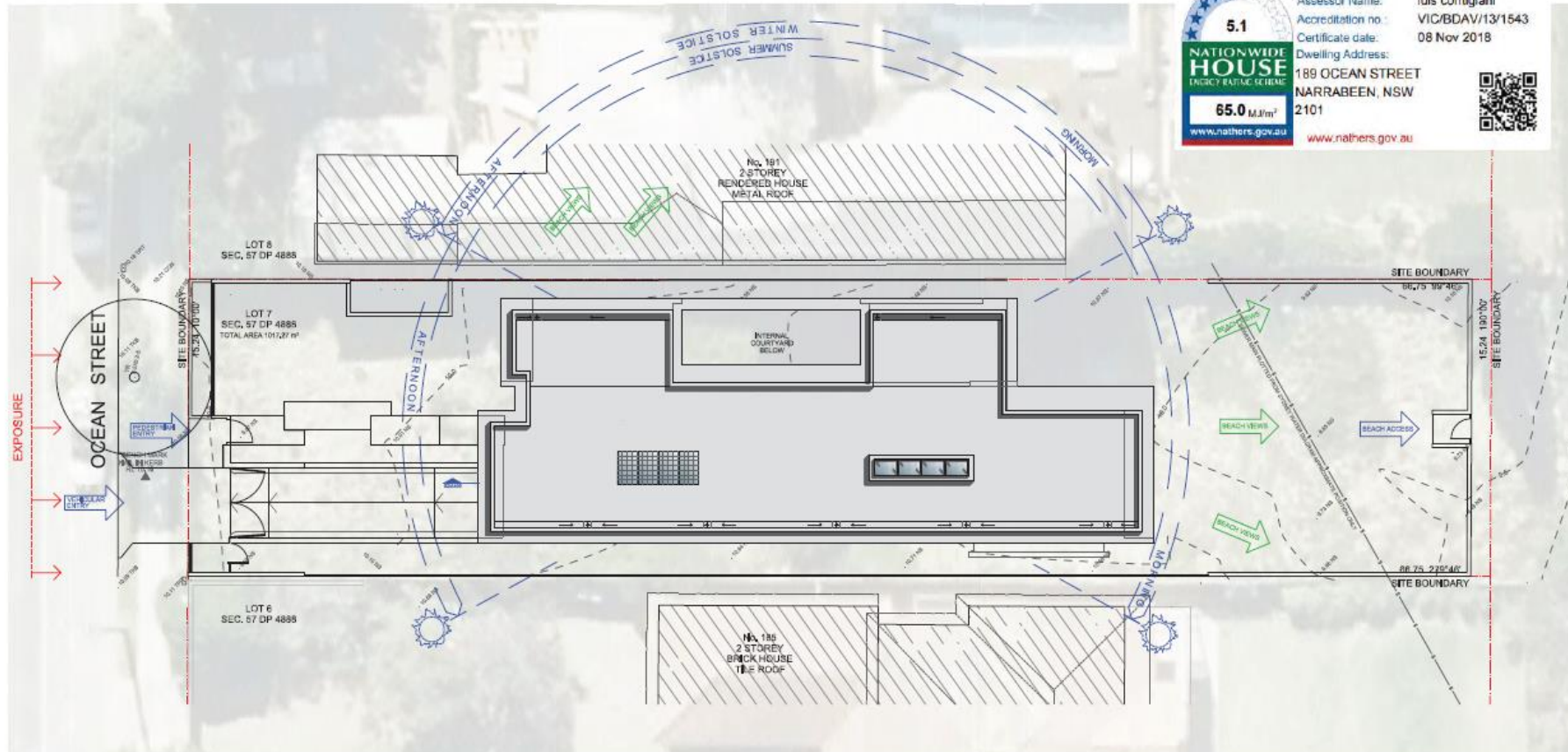
NOTES

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING No. A000.



Certificate no.: 000333804
Assessor Name: luis configiani
Accreditation no.: VIC/BDV/13/1543
Certificate date: 08 Nov 2018
Dwelling Address: 189 OCEAN STREET
NARRABEEN, NSW
2101

www.nathers.gov.au



PROJECT:
RESIDENCE
189 OCEAN STREET, NARRABEEN NSW 2101

CLIENT:
SANDRA McQUILLAN

D.A. ISSUE



SITE PLAN + ANALYSIS

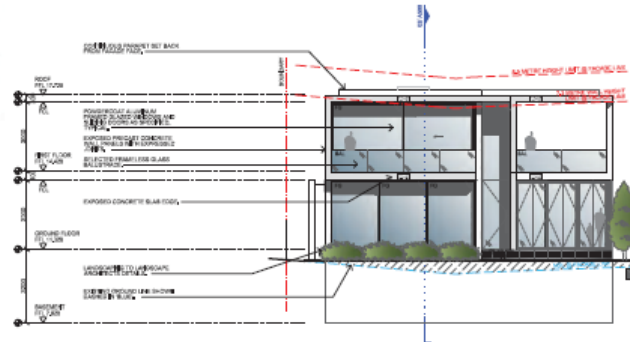
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15 92 9025 8958 15 92 9025 8178 WWW.AURORADESIGN.COM.AU

E	DEVELOPMENT APPLICATION	12.11.18
D	PRE D.A. CLIENT ISSUE	12.11.18
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SCALE:	1:200 @ A3	DRAWING NO:	REVISION:
PROJECT NO:	17-034	A050	E
DATE:	AUG 2018		



Certificate no.: 0003333804
Assessor Name: Luis Contigiani
Accreditation no.: VIC/BDAY/13/1543
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Dwelling Address: 189 OCEAN STREET
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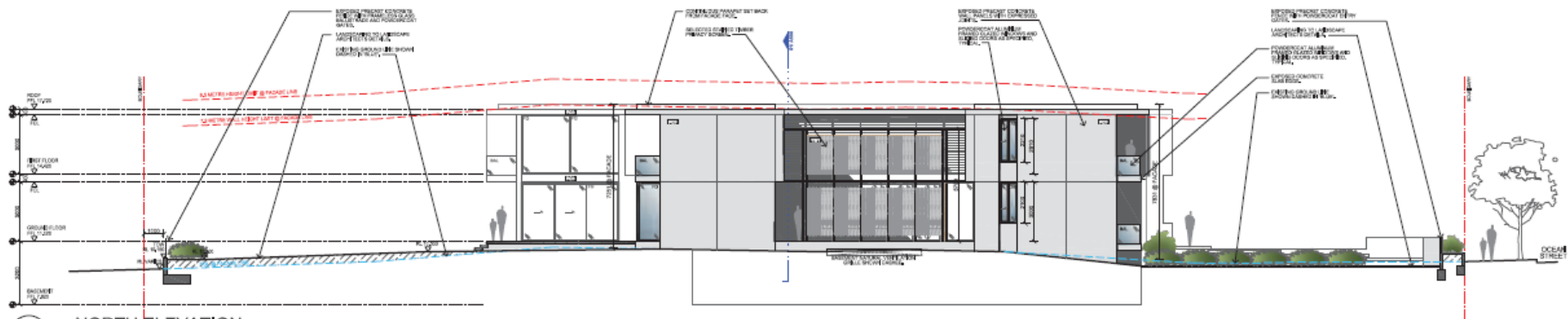
01 EAST ELEVATION (BEACHFRONT)
SCALE 1:200



NOTES
THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING N6, A600.

FINISHES SCHEDULE

01	PRECAST CONCRETE FACADE PANELS WITH EXPRESSED JOINTS COLOUR = WHITE GREY
02	ENTRY DOOR + SURROUND, GARAGE DOOR + SURROUND STAINED TIMBER
03	WINDOW FRAMES POWDERCOATED DULUX = BLACK RANGE = DURATED ZEUS
04	BOUNDARY FENCE PAINT FINISH DULUX = LONDON HALF
05	BOUNDARY ENTRY GATES POWDERCOATED DULUX = BLACK RANGE = DURATED ZEUS



02 NORTH ELEVATION
SCALE 1:200

PROJECT:
RESIDENCE
189 OCEAN STREET, NARRABEEN NSW 2101

CLIENT:
SANDRA McQUILLAN

D.A. ISSUE

F	DEVELOPMENT APPLICATION	13.11.18
E	PRE D.A. CLIENT ISSUE	12.11.18
D	PRE D.A. COORDINATION ISSUE	07.11.18
REVISION	DESCRIPTION	DATE
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ELEVATIONS 01

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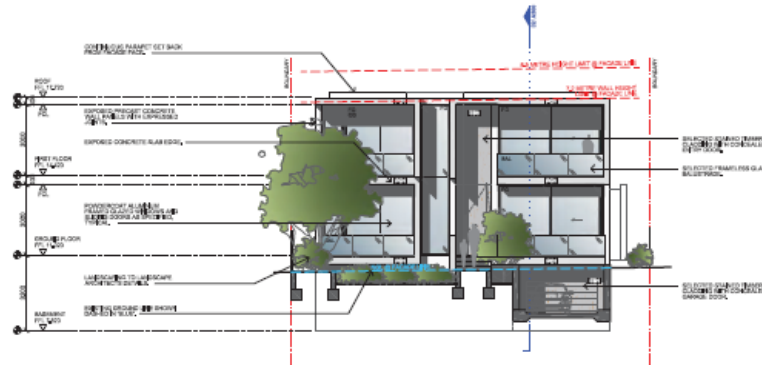
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SCALE: 1:200 @ A3
PROJECT: 17-034
DATE: AUG 2018

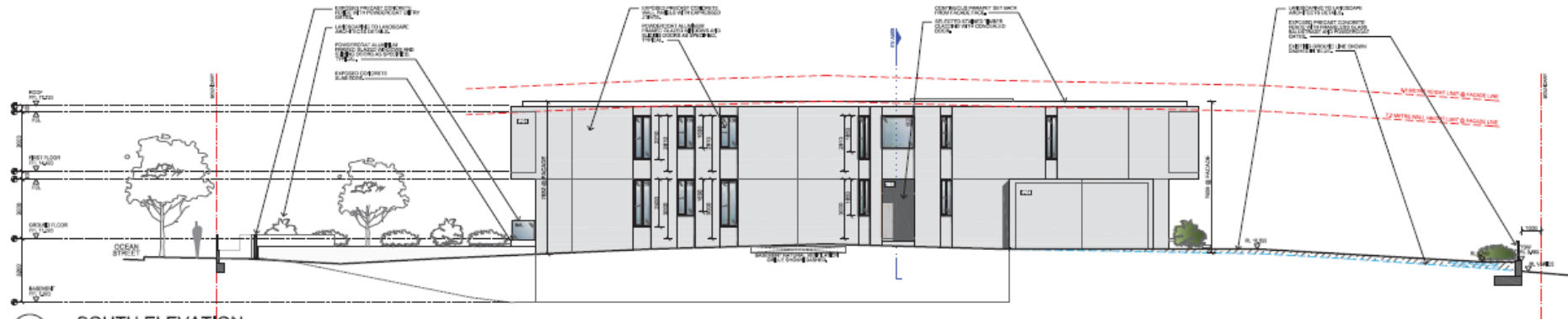
DRAWING NO: **A600**
REVISION: **F**



Certificate no.: 000333804
Assessor Name: Luis Contigiani
Accreditation no.: VIC/BDV/13/1543
Certificate date: 08 Nov 2018
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2101
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01 WEST ELEVATION (OCEAN STREET)
SCALE 1:200



02 SOUTH ELEVATION
SCALE 1:200

**ATTACHMENT 2
Site Plan & Elevations
ITEM NO. 3.2 - 24 APRIL 2019**



NOTES
THIS DRAWING IS TO BE READ IN
CONJUNCTION WITH 'GENERAL NOTES'
ON DRAWING NO. A600.

FINISHES SCHEDULE

01	PRECAST CONCRETE FACADE PANELS WITH EXPRESSED JOINTS. COLOUR = WHITE GREY
02	ENTRY DOOR + SURROUND, GARAGE DOOR + SURROUND & COURTYARD PRIMARY SCREEN. STAINED TIMBER
03	WINDOW FRAMES POWDERCOATED DULUX = BLACK RANGE = CURATED ZEUS
04	BOUNDARY FENCE PAINT FINISH DULUX = LINDOGG HALF
05	BOUNDARY ENTRY GATES POWDERCOATED DULUX = BLACK RANGE = CURATED ZEUS

PROJECT:
RESIDENCE
189 OCEAN STREET, NARRABEEN NSW 2101

CLIENT:
SANDRA McQUILLAN

D.A. ISSUE

F	DEVELOPMENT APPLICATION	13.11.18
E	PRE D.A. CLIENT ISSUE	12.11.18
D	PRE D.A. COORDINATION ISSUE	07.11.18
REVISION	DESCRIPTION	DATE

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ELEVATIONS 02

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SCALE: 1:200 @ A3 DRAWING NO: **A601** revision: **F**
PROJECT NO: 17-034
DATE: AUG 2018

ITEM 3.3

**DA2018/1894 - LOT 46 DP 10571, 27 BELLEVUE PARADE,
NORTH CURL CURL - DEMOLITION WORKS AND
CONSTRUCTION OF A DWELLING HOUSE INCLUDING A
SWIMMING POOL**

REPORTING MANAGER

STEVE FINDLAY

TRIM FILE REF

2019/218418

ATTACHMENTS

- 1 [↓ Assessment Report](#)
- 2 [↓ Site Plan & Elevations](#)

PURPOSE

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 DA2018/1894 for demolition works and construction of a dwelling house including a swimming pool on land at Lot 46 DP 10571, 27 Bellevue Parade, North Curl Curl, subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1894
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 46 DP 10571, 27 Bellevue Parade NORTH CURL CURL NSW 2099
Proposed Development:	Demolition works and construction of a dwelling house including a swimming pool
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:	Kerry Patrick Moore Pamela Joan Moore
Applicant:	Kerry Patrick Moore Pamela Joan Moore
Application lodged:	29/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	05/12/2018 to 11/01/2019
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 850,000.00

ASSESSMENT INTRODUCTION

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

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



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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 46 DP 10571 , 27 Bellevue Parade NORTH CURL CURL NSW 2099
Detailed Site Description:	<p>The subject site consists of an allotment located on the southern side of Bellevue Parade.</p> <p>The site is irregular in shape with a frontage of 12.2m along Bellevue Parade and a depth of 47.815m-49.15m. The site has a surveyed area of 581.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house and detached garage structure on site.</p> <p>The site has a slope from Bellevue Parade down to the rear of the property, with a crossfall of approximately 5.0m.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses with outbuildings and occasional swimming pools on either side of Bellevue Parade.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

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

PROPOSED DEVELOPMENT IN DETAIL

The proposed development involves demolition of the existing dwelling and detached garage and construction of a new dwelling and swimming pool as follows:

Lower Ground Floor Plan

- Studio/office, rumpus and two bathrooms
- Storage

Ground Floor Plan

- Double garage and storage with driveway access
- Three bedrooms, music., laundry, powder room, WC and bathroom
- Rear balcony

First Floor Level Plan

- Entry and mudroom area
- Open plan living/kitchen/lounge
- Master bedroom with ensuite
- Rear balcony
-

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External

- Swimming pool
- Soft landscaping
- Boardwalk access

The applicant provided amended plans on 20 March 2019. The amended plans involved changes to the "Balcony 2" at the rear to provide a greater setback at the west and screening at each side elevation.

These plans did not require re-notification, which is consistent with the requirements of Part A.7 of the Warringah DCP 2011.

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)(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 of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This 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</p>



Section 4.15 Matters for Consideration'	Comments
	Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	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 3 submission/s from:

Name:	Address:
Jerry Andrew Nestlerode	2 / 29 Bellevue Parade NORTH CURL CURL NSW 2099
Symons Goodyer Pty Ltd	PO Box 673 BALGOWLAH NSW 2093
Alethea Margaret Carrigan Emily Carrigan	1 / 29 Bellevue Parade NORTH CURL CURL NSW 2099

It is noted that of the four submissions received above, 3 submissions were from 1/29 Bellevue Parade,



North Curl Curl, and one submission was from 2/29 Bellevue Parade, North Curl Curl. As such, the total number of submissions is considered as 2 in accordance with the Warringah DCP (all submissions received by or on behalf of the same dwelling will be considered as a single submission).

The following issues were raised in the submissions:

- Building height
- Loss of privacy
- Inadequate landscaped area
- Future use of office/studio as a dwelling
- Excessive filling and height of boundary fence
- Note that there are errors on plans
- Views from neighbouring property
- Impact on light and sea breeze to neighbouring ground floor window
- Impact on sunlight to common area and clothesline of neighbouring property
- Overlooking from balcony

The matters raised within the submissions are addressed as follows:

- **Building height**

Comment:

The proposal does not comply with the development standard for building height under the Manly LEP 2013. Despite this, a merit assessment of the application has found that this non-compliance would not have any unreasonable visual impact or any unreasonable amenity impact. Additionally, a written request to vary the standard has been provided in accordance with Clause 4.6 of the WLEP, which has sufficiently justified that compliance would be unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is also consistent with the objectives for Height of building as addressed under Clause 4.6 below. The location down slope from the street, the modulation in design of the dwelling and the lack of unreasonable amenity impact caused by the section of the dwelling that does not comply with the standard form the basis of this conclusion.

- **Loss of privacy**

Comment:

An assessment of privacy has been completed under D8 - Privacy has found that the amended plans provided would sufficiently minimise impact on privacy through sufficient physical separation to the rear balconies and appropriate screening. It is noted that this is based on the amended plans submitted to Council on 20 March 2019.

- **Inadequate landscaped area**

Comment:

The proposal does not comply with the numerical control for landscaped area under the Warringah DCP 2011. An assessment of the landscaping was carried out and the proposal was found to be reasonable due to being consistent with the clause for landscaping D1 - Landscape Open Space and Bushland Setting. In summary, the landscaping is provided to the front and rear of the site and ensures



an appropriate outcome in terms of visual presentation, vegetation, and neighbourhood amenity.

- **Future use of office/studio as a dwelling**

Comment:

A condition has been imposed to ensure that this consent only allows for the approved use of a dwelling house.

- **Excessive filling and height of boundary fence**

Comment:

A condition has been imposed to reduce the fill and the associated height of the fence from existing ground level.

- **Note that there are errors on plans**

Comment:

A condition has been applied to correct the errors on the plans prior to the issue of a Construction Certificate.

- **Views from neighbouring property**

Comment:

An assessment under D7- Views in this report has found that the proposal is consistent with the NSW Land and Environment Court established planning principle for View Sharing. In particular, the maintenance of views to the rear of the site and the nature of the views lost (obscured distant views over a side boundary) provide a situation in which the impact on views from the neighbouring property is not unreasonable. It is noted that this is based on the amended plans submitted to Council on 20 March 2019.

- **Impact on light and sea breeze to neighbouring ground floor window**

Comment:

The compliant rear setback and building envelope and the associated compliance with the controls for access to sunlight, provide a situation in which the amenity impact to the ground floor windows of the neighbouring property (including impact on light and breeze) is not unreasonable.

- **Impact on sunlight to common area and clothesline of neighbouring property**

Comment:

The compliant rear setback and side boundary envelope will result in reasonable opportunity for sunlight access to the rear of the property including clothes drying and common areas.

- **Overlooking from balcony**



Comment:

The amended plans submitted on 20 March 2019 provided a physical separation and design (including screening) that would provide a sufficient mitigation of privacy impact. This is further assessed in the Part D8 - Privacy section of this report.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.
NECC (Bushland and Biodiversity)	The site is not mapped as native vegetation or as occurring within a wildlife corridor. The replacement of the street tree is recommended by the Arborist, and this will be addressed in Landscape Officer comments.
NECC (Coast and Catchments)	The proposed development is supported without condition and has been assessed to comply with SEPP Coastal Management. 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)	<p>2nd engineering referral Development Engineering has no objection to the application subject to the following conditions of consent.</p> <p>1 st referral Development Engineering has assessed the application. However, we cannot support the application as below:</p> <p>1) Stormwater disposal method: If the applicant wants to use the level spreader of discharge stormwater, some steps must follow to explore the alternative disposal methods. The information can be found as Council's Warringah Policy: Stormwater Drainage from Low Level Properties. The applicant shall provide the evidence to demonstrate these steps have been following.</p> <p>2) stormwater Plan: The proposed swimming pool has been plotted on different locations on the submitted stormwater plan. The applicant shall clarify the location of the swimming pool.</p> <p>3) Level Spreader Design: The total discharge of the post - development is 27 l/s in the 100 years ARI storm which exceeds the total discharge of Pre- development in 5 year ARI storm. The consultant must ensure the total discharge including by pass flows and controlled flows through the level spreader must not exceed the 5 years ARI.</p>



Internal Referral Body	Comments
	As the above, Development Engineering cannot support the application <u>Assessing Officer comment</u> Additional information was submitted on 19 February 2019.
NECC (Riparian Lands and Creeks)	No objection to the proposed development with no additional condition 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.

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. 957956S_04).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass



Energy	50	50
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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	% Variation	Complies
Height of Buildings:	8.5m	9.67m	13.8%	No, see detailed assessment below

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes



Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.67m
Percentage variation to requirement:	13.8%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and



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

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

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*



- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

The proposed dwelling involves a non-compliance toward the rear of the dwelling that allows for glazing within the gable to provide additional sunlight access to living space. It is also stated that the proposal is compatible with the area and would provide an appropriate level of amenity.

It is accepted that the non-compliance at the rear of the property would provide additional opportunity for sunlight to the rear of the dwelling and that this design would not result in any other unreasonable impact.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

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

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a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposed dwelling steps down the site so that the presentation of the dwelling in the street is of 1 to 2 storeys, and the presentation of the dwelling from the rear is 2 to 3 storeys. The dwelling also involves a height of building that complies with the development standard at the frontage and steps down to also comply at the rear of the building. This compliant presentation in the streetscape and appropriate response to the topography of the land ensures that the dwelling would be compatible with the height and scale of the surrounding development.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The proposal minimises visual impact and impact on amenity to a reasonable extent by providing modulation to the dwelling including an envelope and side setbacks that are compliant with the relevant controls under the WDCP 2011. The subject site and neighbouring property at 29 Bellevue Parade, North Curl Curl have access to views toward the ocean. As further assessed under Part D7 - Views, the nature of these views and the views to be retained provide an outcome in which the impact on the views is not unreasonable. In particular, the views that will be affected are partially obscured distant views over a side boundary (which has a compliant side boundary setback and side boundary envelope). The proposed design also complies with the relevant controls for sunlight under the WDCP 2011 and involves a design with screening and physical separation to sufficiently minimise privacy loss.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposed dwelling provides a two storey presentation in the streetscape and allows for soft landscaped area at the front and rear of the dwelling. This provides a situation in which the scenic quality of the area will be suitably maintained. Additionally, the maintenance of compliant rear setback allows for views to be reasonably maintained to the coast and the vegetation maintained on site adds to the scenic quality of the bush environment.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The proposed dwelling steps down with the topography of the site (toward the rear) and provides a two storey presentation from the street at Bellevue Parade. Along with the modulation in design at the side setback, this provides a presentation of bulk that presents from the public in a suitably recessive way. As such, the proposed dwelling would not cause any unreasonable visual impact when viewed from public places.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

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The underlying objectives of the R2 Low Density Residential zone:

- ***To provide for the housing needs of the community within a low density residential environment.***

Comment:

The proposal maintains the use of the site as a dwelling house, continuing to contribute to the housing needs within a low density environment.

It is considered that the development satisfies this objective.

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

Comment:

Not applicable.

- ***To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.***

Comment:

The proposal maintains landscaped area to the front and rear of the site. Additionally, the proposal maintains vegetation on site so as to ensure that site contributes to the landscape setting of the area.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent / inconsistent with the objectives of the R2 Low Density Residential zone.

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

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Minimum Subdivision Lot Size / Minimum subdivision lot size for community title schemes / Rural subdivision / Height of buildings Development Standard is assumed by the Local Planning Panel, for which Council has an exemption for dwelling houses that can be determined by the Development Determination Panel.

Warringah Development Control Plan

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Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8m	11.11%	No (see comments)
B3 Side Boundary Envelope	5m	Within	N/A	Yes
	5m	Within	N/A	Yes
B5 Side Boundary Setbacks	0.9m	1.486m	N/A	Yes
	0.9m	1.14m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	4.816m	25.9%	No (see comments)
B9 Rear Boundary Setbacks	6m	18.7m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	37% (216m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	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		
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views		
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection		

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Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposal does not comply with the control for wall height (7.2m). The proposal involves a maximum wall height of 8m.

Merit consideration:

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

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

Comment:

The proposed dwelling steps down the site, responding adequately to the topography of the site in a way that reduces the presentation of bulk when viewed from the front, sides and rear of the site. Additionally, the proposal is within the building envelope to further minimise the presentation of bulk. As a result, the proposal provides a reasonable outcome in terms of visual presentation, despite the fact that a section of the wall toward the rear of the site does not comply with the numerical control for wall height.

- To ensure development is generally beneath the existing tree canopy level*

Comment:

The proposed development is generally below the tree canopy that is formed in Bellevue Parade and surrounds.

- To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The compliant rear setback and modulation of the side elevations provide a situation in which

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the views toward the ocean will be maintained so that the view sharing between the subject site and neighbouring property is reasonable. In addition, the section of wall height non-compliance at the rear of the dwelling will not result in any unreasonable loss of views as the main access to ocean views from the neighbouring property is to the rear of the proposed dwelling rather than over the top of the site.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

Despite the wall height non-compliance, the proposal provides a design including a compliant rear setback and compliant building height to involve a modulation in design and minimisation of bulk that ensures there would be no unreasonable visual or amenity impact. The proposal is also compliant with the controls for access to sunlight and involves suitable physical separation and screening to minimise privacy impact.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The proposal generally steps down with the topography of the site to the rear. This ensures that excavation is sufficiently minimised.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposal provides a roof pitch that is a similar angle to other examples in close vicinity. This complementary nature along with the compliant height at the front of the dwelling shows that sufficient scope has been allowed for roof design.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP 2011 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.

B7 Front Boundary Setbacks

Description of non-compliance

The proposal involves a front setback of 4.816m which does not comply with the minimum requirement of 6.5m.

Merit consideration:

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

- *To create a sense of openness.*

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Comment:

The proposed dwelling provides a two storey presentation at the front of the dwelling and is compliant with the control for building envelope under the WDCP 2011. This provides a minimisation in the presentation of bulk on the site so as to create a sense of openness for the site.

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

Comment:

The proposed dwelling steps down with the topography of the site so as to be similar in form as the buildings on this side of the street. Along with the landscaping to the front of the property, this provides a presentation that is complementary with the existing form and character of the street.

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

Comment:

The two storey presentation of the dwelling at the front of the site along with the compliant building envelope provides an outcome in which the visual quality of the street will be sufficiently maintained.

- *To achieve reasonable view sharing.*

Comment:

The proposal is compliant with the control for rear setback where views are available through this setback from neighbouring properties. As a result of these ocean views being available to the rear, the non-compliant front setback would not cause any unreasonable impact on views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/WDCP 2011 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.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal does not comply with the requirement for landscaped open space (40%). The proposal provides for a landscaped open space of 37% (216m²).

Merit consideration

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



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

Comment:

The proposal maintains landscaping to the front of the site and this provides reasonable opportunity for planting to maintain and enhance the streetscape.

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

Comment:

The proposal provides landscaping to the front and rear of the site and vegetation, topographical features and habitat for wildlife

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

Comment:

The proposal provides landscaping to the front of the site and also has a landscaped road reserve to ensure the presentation of the building is sufficiently screened by vegetation.

- *To enhance privacy between buildings.*

Comment:

The proposal provides a landscaped buffer at the eastern and southern boundaries to ensure that there is a separation and screening that adequately contributes to the privacy between buildings.

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

Comment:

The proposal involves a large area of open space to the rear of the dwelling, accessible off living areas, that is available for outdoor recreational use. This includes a pool area as well as lawn areas to sufficiently provide for the needs of occupants.

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

Comment:

There is adequate space to the rear of the property for services functions including clothes drying.

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

Comment:

Council's Stormwater officer provided conditions so that an adequate outcome could be provided for the stormwater on site. In addition to this, the soft landscaped area to the front and



rear of the site allows for sufficient water infiltration on 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 s1.3 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

Assessment of Views in relation to 29 Bellevue Parade

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:

The neighbouring property at 29 Bellevue Parade has access to ocean views to the rear of the property, over the side boundary of the subject site. These water views are partially obscured by palm trees and built form which interrupt the extent of the horizon view.

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

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

The views are obtained from living spaces including kitchen and living area at the top level of the building. The views are obtained from the rear of the property over the side boundary of the subject site. The views can be obtained from standing and sitting 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:

As a result of the views to be affected being over a side boundary and being partially obscured, along with the retention of some ocean views from the rear of the property, the overall impact is assessed as being 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 proposal complies with the controls for rear setback, side boundary envelope and side boundary setback. As the views are available through the rear of the site, these are the most applicable controls as opposed to building height and wall height. As such, the compliance with these particularly applicable controls in regard to the view loss, provides a situation in which the negligible to minor overall impact on views is reasonable.

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

Comment:

The proposal provides modulation and stepping to the side and rear setbacks to provide a situation in which view sharing is encouraged and reasonably provided. This is an appropriate design solution for the site.

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

Comment:

The proposal will have no unreasonable impact on existing canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/WDCP 2011 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.

D8 Privacy

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Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposed dwelling involves windows and balconies that have been sufficiently set back and located away from neighbouring living spaces so as to provide a high level of visual and acoustic privacy for neighbours. In particular, the windows are within a compliant building envelope and are off-set from neighbouring windows so as to prevent overlooking. Additionally, the balconies are orientated away from neighbouring private open space and buffers to the most usable areas of the balconies are provided by access ways.

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

Comment:

The modulation of the dwelling including setback of the balcony from the side setback of the house at the western elevation, provides a situation in which the presentation and amenity impact of the proposed dwelling is sufficiently minimised. This is an innovative design to improve the urban environment.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal provides doors, walls and screening to provide sufficient opportunity for the security of occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/ WDCP 2011 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 \$ 850,000		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 8,075
Section 7.12 Planning and Administration	0.05%	\$ 425
Total	1%	\$ 8,500

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1894 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 46 DP 10571, 27 Bellevue Parade, NORTH CURL CURL, 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
DA-BM-01 - Issue A- Site Analysis/ Site plan	19/03/2019	Moore Residence
DA-BM-02 - Issue A- Lower Ground Floor Plan	19/03/2019	Moore Residence
DA-BM-03 - Issue A- Ground level Plan	19/03/2019	Moore Residence
DA-BM-04 - Issue A-First Floor Level	19/03/2019	Moore Residence
DA-BM-05 - Issue A-Roof Plan	19/03/2019	Moore Residence
DA-BM-06 - Issue A-West Elevation	19/03/2019	Moore Residence
DA-BM-07 - Issue A- East Elevation	19/03/2019	Moore Residence
DA-BM-08 - Issue A- North Elevation	19/03/2019	Moore Residence
DA-BM-09 - Issue A- South Elevation	19/03/2019	Moore Residence
DA-BM-10 - Issue A- Section A	19/03/2019	Moore Residence
DA-BM-11 - Issue A- Section B	19/03/2019	Moore Residence
DA-BM-12 - Issue A- Section C	19/03/2019	Moore Residence
DA-BM-13 - Issue A- Section D	19/03/2019	Moore Residence

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment	27 November 2018	White geotechnical group
Arboricultural Impact Assessment	1/11/2018	William Dunlop of <i>Temporal Tree Management Pty Ltd.</i>

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
DA2018/1894		



Waste Management Plan	3/9//18	Vaughan Milligan
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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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Dwelling house.

A Dwelling house is defined as:

"a building containing only one dwelling"

(development is defined by the 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.

3. **Prescribed conditions (Demolition):**

(a) 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 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
- (ii) 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.

(b) 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.

(c) 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.

Reason: Legislative Requirement (DACPLB09)

4. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

Reason: To ensure that works do not interfere with reasonable amenity expectations of



residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

5. **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 \$ 850,000.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 8,075.00
Section 7.12 Planning and Administration	0.05%	\$ 425.00
Total	1%	\$ 8,500.00

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.

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 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

7. On-site Stormwater Detention

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's current WARRINGAH WATER MANAGEMENT POLICY PL850 and generally in accordance with the concept drainage plans prepared by GZ Consulting Engineers, drawing number DR 000-0003, dated 3/10/2018.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer. The drainage plans must address the following:

- i) The total discharge including by pass flows and controlled flows through the level spreader must not exceed the 5 years ARI stat of nature storm event for all storm events up to and including the 1 in 100 year ARI Storm event.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate. Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

8. 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.

9. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) 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.

10. Deletion of wet bar

The proposed wet bar at the Lower Ground Level is to be deleted from the plans. Details notating compliance are to be provided prior to the issue of a Construction Certificate.

Reason: To ensure this consent does not give inappropriate opportunity to establish an



additional dwelling (given that the consent is for a single dwelling only). (DACPLCPCC1)

11. **Fill on south-western boundary**

The proposed fill to the south and south-west of the deck area is to be reduced to be no greater than RL19.635.

Reason: To ensure there would be no unreasonable impact on the adjoining private open space. (DACPLCPCC2)

12. **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

13. **Public Liability Insurance - Works on Public Land**

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

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

14. **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.

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15. Tree removal within the road reserve

i) This consent includes approval to remove the following trees located within the road reserve:

Species	Location
Corymbia maculata	Bellevue Parade, North Curl Curl road forward of the property

ii) Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council (Central) Public Trees Section prior to removal.

Reason: Public liability

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 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/5 EL 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.

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

19. Authorisation of Legal Documentation Required for Onsite Detention

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.

20. 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.

21. 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

22. 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)

23. 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.

24. Required Planting

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
2	Trees species capable of attaining a minimum height of 5 metres at maturity.	1 x Front Yard 1 x Rear Yard	200mm

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

Reason: To maintain environmental amenity.

25. 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.

26. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.



- (e) Signage showing resuscitation methods and emergency contact
- (f) All signage shall be located in a prominent position within the pool area.
- (g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

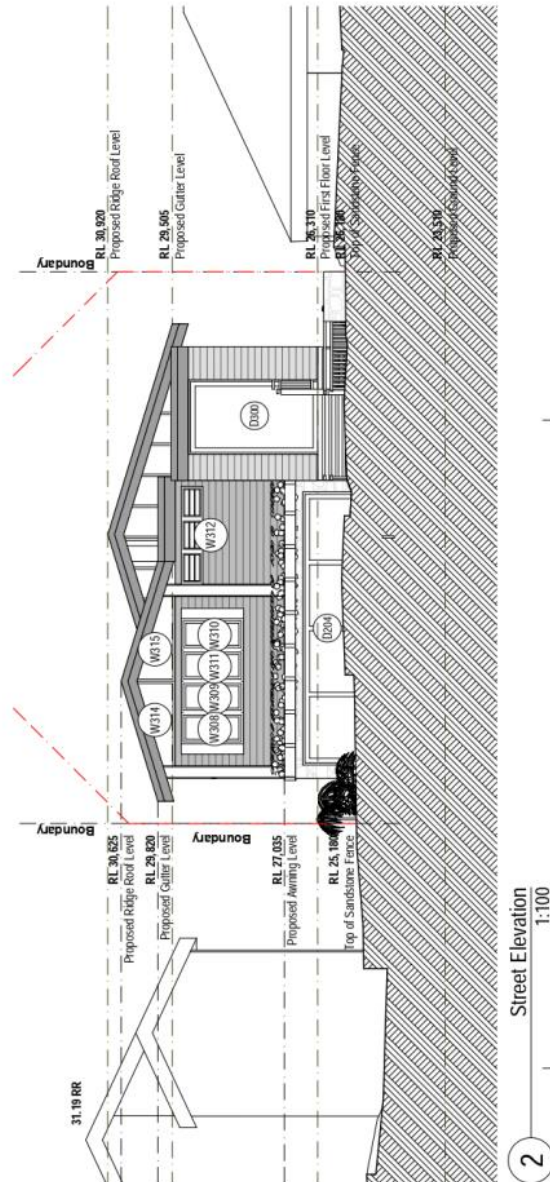
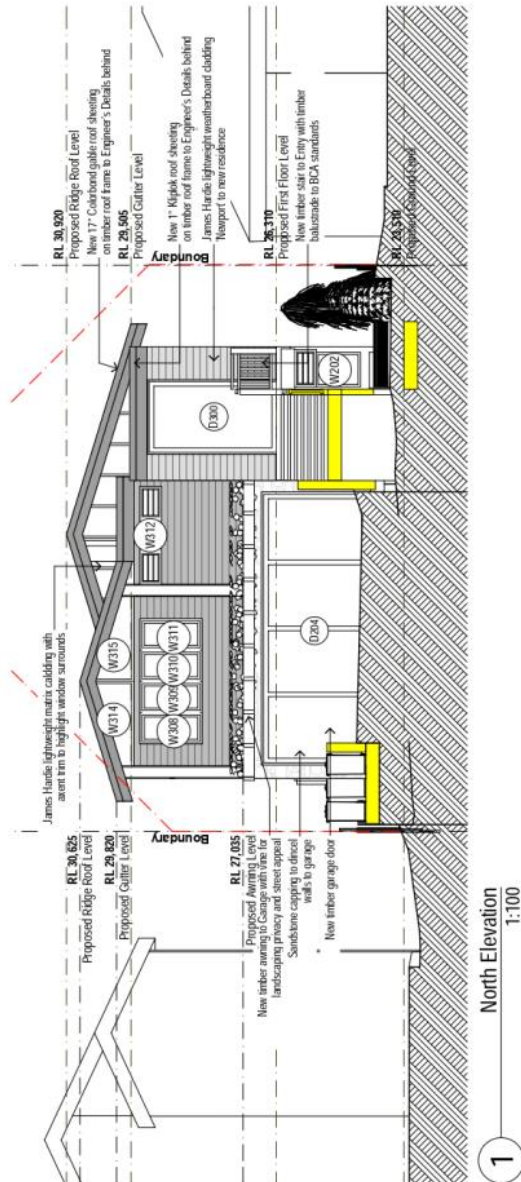
Reason: To protect human life (DACPLF09)



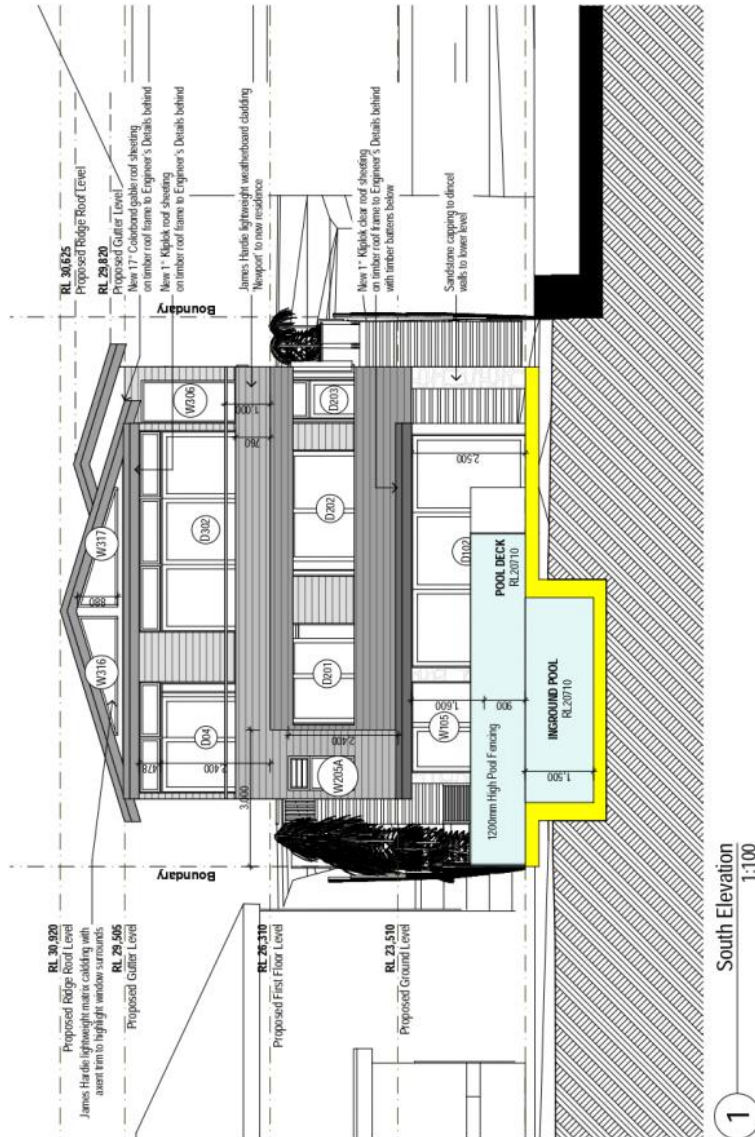
brianna emily DESIGN B ARCHITECTURE USYD m. 0412 701 120 e. brianna.bhu@hotmail.com ABN 51633562940	MOORE RESIDENCE Proposed Alterations and Additions 27 BELLEVUE PARADE NORTH CURL CURL NSW 2059	DA-BM-05 19032019 A 1:100 @ A3	Road Plan







	brianna emily DESIGN B ARCHITECTURE USYD m. 0412 701 120 e. brianni_blu@hotmail.com ABN 51653562940		MOORE RESIDENCE Proposed Alterations and Additions		DA-BM-08	North Elevation
			27 BELLEVUE PARADE NORTH CURL NSW 2059		19032019	
					DATE	
					SCALE	



MOORE RESIDENCE
Proposed Alterations and Additions

27 BELLEVUE PARADE NORTH CURL CURL
NSW 2059

South Elevation

DA-BM/09

DATE: 20/03/2019
DRAWN: A
SCALE: 1:100 @ A3

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brianna emily DESIGN
B ARCHITECTURE USYD

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ABN 51633562440



ITEM 3.4

**MOD2019/0013 - 31 VICTORIA PARADE, MANLY -
ALTERATIONS AND ADDITIONS TO AN EXISTING FOUR 4
STOREY RESIDENTIAL FLAT BUILDING INCLUDING TWO 2
ADDITIONAL STOREYS COMPRISING OF FOUR 4 NEW UNITS**

REPORTING MANAGER

MATTHEW EDMONDS

TRIM FILE REF

2019/169078

ATTACHMENTS

- 1 [↓](#) **Assessment Report**
- 2 [↓](#) **Site Plan and Elevations**

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to Mod2019/0013 for alterations and additions to an existing four 4 storey Residential Flat Building including two 2 additional storeys comprising of four 4 new units on land at Lot CP SP 11799, 31 Victoria Parade, Manly subject to the conditions outlined in the Assessment Report.



APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0013
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot CP SP 11799, 31 Victoria Parade MANLY NSW 2095
Proposed Development:	Alterations and additions to an existing four 4 storey Residential Flat Building including two 2 additional storeys comprising of four 4 new units
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Isabel Brenda Koutsos Cecil George Koutsos
Applicant:	Platform Architects Pty Ltd
Application lodged:	16/01/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	21/01/2019 to 06/02/2019
Advertised:	Not Advertised
Submissions Received:	7
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;

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 3.4.2 Privacy and Security

SITE DESCRIPTION

Property Description:	Lot CP SP 11799 , 31 Victoria Parade MANLY NSW 2095
Detailed Site Description:	<p>The subject property is commonly known as 31 Victoria Parade and legally known as SP 11799. The site is located on the northern side of Victoria Parade. The property is rectangular in shape and has a frontage of 19.42m to Victoria Parade, an average depth of 15.85m and an overall site area of 303.5m². The property currently contains a three-storey residential flat building. The property is level.</p> <p>The adjacent property to the northeast, at 15-16 South Steyne, is developed with a two-storey commercial premises. The adjacent property to the southwest, at 29 Victoria Parade, is developed with a three-storey residential flat building. Development in this area consists of commercial premises and residential flat buildings.</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:

- DA384/2009: Alterations and additions to an existing four (4) storey Residential Flat Building including two (2) additional storeys comprising of four (4) new units. Approved by MIAP on 19 August 2010.
- DA384/2009 – Part 2: Section 96 to modify approved Alterations and additions to an existing four (4) storey Residential Flat Building including two (2) additional storeys comprising of four (4) units. Approved by DAU on 8 March 2012.
- DA384/2009 – Part 3: Section 96 to modify approved Alterations and additions to an existing four (4) storey Residential Flat Building including two (2) additional storeys comprising of four (4) units - involving new lobby, relocate lift, change to layout of units, new facade, changes to roof of the upper two (2) levels, new terraces and modification to building height. Approved by DAU on 20 February 2013.
- DA384/2009 – Part 4: Section 96 to modify approved Alterations and additions to an existing four (4) storey Residential Flat Building including two (2) additional storeys comprising of four (4) units – involving deletion of condition of consent ANS06 regarding terraces to Units 9 and 10, changes to internal layouts, modifications windows, doors, external façade and roof of the additional floors. Approved by MIAP 21 April 2016.
- DA384/2009 – Part 5: Section 96(2) to modify approved alterations and additions to the existing residential flat building. Approved by DDP on 28 March 2018.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to modify Development Consent No. 384/2009 as follows:

- Changes to approved privacy screens; and
- Changes to approved windows.

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

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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 DA384/2009, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA384/2009.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2013 and Manly Development Control Plan 2013.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

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

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



Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 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>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>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 documentation was submitted with the original application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading 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 matter has been addressed via a condition</p>



Section 4.15 'Matters for Consideration'	Comments
	in the original consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 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 7 submission/s from:

Name:	Address:
Mr Clive Owen Gestern Williams	3 Arthur Circuit FORREST NSW 2603
Mr Martin Nielson Schmidt	4 / 42 Victoria Parade MANLY NSW 2095
Mr Graham John Butson Mrs Peta Vivienne Butson	5 / 42 Victoria Parade MANLY NSW 2095
Mr Matthew Bryce	14 / 28 Victoria Parade MANLY NSW 2095

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Name:	Address:
Cumberworth	
Mr John Richard Warren Price Mrs Susan Elizabeth Price	4 / 40 Victoria Parade MANLY NSW 2095
Mr Trevor Glen Tyne	15 / 29 Victoria Parade MANLY NSW 2095
Mr Jeffrey David Schaffer	5 / 25 - 27 Victoria Parade MANLY NSW 2095

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

- Details of modification not online.
- Objections to previously approved works:
 - Four more units with no additional parking is excessive
 - Roof extension is too prominent
 - Overshadowing impacts
 - Bulk and scale of the additional units is excessive / setbacks are inadequate
 - Terraces will lead to unreasonable noise impacts
 - Works are not consistent with the heritage character of the building and area

The matters raised within the submissions are addressed as follows:

- Modification Details Not Online
Comment:
 All relevant documentation has been placed online since 18 January 2019, so were available for viewing during the notification period.
- Previously Approved Works
Comment:
 The additional units and building bulk are all as approved under the original application and subsequent modification applications.

MEDIATION

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

REFERRALS

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
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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 65 - Design Quality of Residential Apartment Development

The proposed modifications do not alter the development's approved compliance with the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide. The assessment and conclusions reached as part of the assessment of the original application and subsequent modifications remain.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 284219M_07 dated 11 January 2019). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	30	31

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.

Manly Local Environmental Plan 2013

Is the development permissible?	
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:	13m	18.7m	New works up to 16.8m	29.23%	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.9 Foreshore scenic protection area	Yes

Detailed Assessment

4.6 Exceptions to development standards

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the PLEP 2014, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 4.55 of the Environmental Planning and Assessment (EP&A) Act 1979, which is a free-standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.55 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant s.4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application. Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.55 modification applications. Nevertheless, an assessment of the variation is as follows:

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Description of non-compliance:

Development standard:	Height of Buildings
Requirement:	13m
Proposed:	16.8m
Percentage variation to requirement:	29.23% (0% to approved HOB)

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

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



contained within Clause 4.6(3) and these are addressed as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

As detailed above, a written request is not required.

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R3 Medium Density Residential zone. An assessment against these objectives is provided below.

Objectives of Development Standard

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

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

- a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment:

The proposed modifications do not alter the overall height or roof form of the approved development.

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

Comment:

The proposed modifications do not result in any alteration to the overall building bulk or scale.

- c) to minimise disruption to the following:*

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*

- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*

- (iii) views between public spaces (including the harbour and foreshores),*

Comment:

The proposed modifications do not alter the approved building envelope and therefore do not result in any additional disruption to views.

- d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment:

The proposed modifications do not alter the approved building envelope and therefore do not



result in any additional solar access impacts.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

Not applicable. The subject site is zoned R3 Medium Density Residential.

Zone objectives

The underlying objectives of the R3 Medium Density Residential zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
Comment:
The proposal retains the residential use of the site to service the housing needs of the community in the medium density residential environment.
- *To provide a variety of housing types within a medium density residential environment.*
Comment:
The proposal retains the approved housing types and densities in the locality.
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
Comment:
Not applicable. The proposal retains the residential use of the site.
- *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*
Comment:
The proposal seeks to modify the approved development, which provides suitable redevelopment of the site.
- *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.*
Comment:
Not applicable. The proposal retains the residential use of the site.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone.

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

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Development Determination Panel.

Manly Development Control Plan

Built Form Controls

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The proposed modifications do not alter the development's approved compliance with the built form controls under Part 4 of the Manly DCP 2013.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

The proposed development is considered to remain consistent with the objectives and controls of Clause 3.4.2 Privacy and Security of the MDCP. The proposal seeks to increase the size of windows W02 through W05 at Levels 3 and 4, W18 at Level 3, and W19 at Level 4. Additionally, the proposal seeks to alter the approved privacy screening to Terrace 2 of Unit 8 (Level 3) and the south-western balcony of Unit 10 (Level 4). The windows proposed to be modified are located so as not to create direct overlooking. The increased window sizes provide better access to light and ventilation to the units, while retaining an adequate level of privacy for the subject site and adjacent sites. The proposed modification to the approved privacy screening retain an adequate level of privacy for the subject site and adjacent sites, as the proposed louvres are angled to prevent overlooking.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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



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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2019/0013 for Alterations and additions to an existing four 4 storey Residential Flat Building including two 2 additional storeys comprising of four 4 new units on land at Lot CP SP 11799,31 Victoria Parade, MANLY, 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
A1.04 Level 3 Plan	9 January 2019	Platform Architects
A1.05 Level 4 Plan	9 January 2019	Platform Architects
A2.02 South West Elevation	9 January 2019	Platform Architects
A2.03 North East Elevation	9 January 2019	Platform Architects

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A2.04 North West Elevation	9 January 2019	Platform Architects
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 284219M_07	11 January 2019	Efficient Living Pty Ltd
NatHERS Certificate No. 0003530540	11 January 2019	Efficient Living Pty Ltd

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

