

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 8 MAY 2019



Ashleigh Sherry
Manager Business Systems and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 8 May 2019
in the Walamai Room, Civic Centre, Dee Why**

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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 24 APRIL 2019

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 24 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 **DA2018/1861 - 25 CRESCENT STREET, FAIRLIGHT -
ALTERATIONS AND ADDITIONS TO A SEMI-DETACHED
DWELLING**

REPORTING MANAGER **Rodney Piggott**

TRIM FILE REF **2019/237669**

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 floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/1861 for alterations and additions to a semi-detached dwelling on land at Lot A DP 33413, 25 Crescent Street, Fairlight subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1861
Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot A DP 33413, 25 Crescent Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to a semi-detached dwelling
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Robert Elly Begg Annemarie Helen Van Egmond
Applicant:	Robert Elly Begg Annemarie Helen Van Egmond
Application lodged:	23/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/03/2019 to 08/04/2019
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 700,000.00

ASSESSMENT INTRODUCTION

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

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



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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot A DP 33413 , 25 Crescent Street FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one (1) corner allotment located on the western side of Crescent Street and the southern side of Griffiths Street.</p> <p>The site is regular in shape with a frontage of 7m along Crescent Street and a depth of 30.4m to Griffiths Street. The site has a surveyed area of 210.7m².</p> <p>The site is located within the R1 General Residential zone and accommodates a single storey semi-detached dwelling.</p> <p>The site slopes from east to west and includes a crossfall of 1.5m.</p> <p>The site does not include any significant landscape features.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential accommodation including semi-detached dwellings, dwelling houses 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:

PLM2018/0215 - The development was subject to a pre-lodgement meeting. It was advised in the meeting that the development should provide a minimum 3m rear setback on the ground floor and 8m rear setback on the first floor.

The original application submitted followed similar rear setbacks to those originally submitted with the pre-lodgement meeting. Council advised the applicant that these setbacks would not be supported. Amended plans were received that provided setbacks consistent with the pre-lodgement advice.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes the following:

Lower Ground Floor Level

- Driveway from Griffiths street
- Excavation to provide for garage and storage area below existing dwelling
- Deep soil planter along the western boundary.

Ground Floor Level

- Alterations and additions to existing ground floor level to provide for laundry/bathroom, two bedrooms, open plan kitchen/living/dining area.
- Internal stair access to upper level
- New deck and terraced planters to the west and north of the new deck.

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First Floor Level

- Proposed first floor addition to provide for master bedroom, kids bedroom, bathroom/ensuite and storage area within the existing roof void

Other works

- Roofing
- Driveway and crossover
- Fencing to northern boundary
- Associated landscaping and retaining walls

Amended Plans

Amended plans were received on the 14 March 2019. The amended plans included an increased ground floor rear setback to 3m and an increased first floor setback to 8m. The amended plans were re-notified from the 21 March 2019 to the 8 April 2019. No submissions were received.

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	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental 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 of the application Council received no submissions.

MEDIATION

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to the protection of existing trees and vegetation, and the completion of landscaping.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.</p> <p><u>Planning Comments</u> Given the constrained nature of the site and the significant enhancement to landscaping proposed on the site, the recommendation of a condition requiring compliance with the required canopy tree planting was not incorporated.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent.
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of available documents and a site visit</p> <p>The site of proposed development is not heritage listed, however, it is in the vicinity of listed items, houses at 16-18 Crescent St, and the stone kerbs.</p> <p>Given the nature of the proposal, the separation between sites, setting across the road and the nature of significance of the item, it is assessed that impact on heritage values will be within acceptable limits.</p> <p>Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required.</p> <p>Kind Regards Zoran Popovic Heritage Adviser</p>

External Referral Body	Comments
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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. A333315_02, dated 15 March 2019).

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.15m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (126.42sqm)	FSR: 0.74:1 (156.1sqm)	23.3%	No



Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.6:1 (126.42sqm)
Proposed:	0.74:1 (156.1sqm)
Percentage variation to requirement:	23.3%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio 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 4.4 - Floor space ratio 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).

In this regard, the Applicant's written request has not 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 development will maintain a compatible scale relationship with existing residential development in the area. By presenting a well-modulated design with a modest roof form and increased perimeter screen planting, will not be overbearing when viewed from neighbouring properties.

The extent of the proposed new works, whilst not compliant with Council's maximum floor space control, do not present any significant impacts in terms of view loss for neighbours, loss of solar access or unreasonable bulk and scale.

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:

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In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

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

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

Comment:

The proposed first floor addition is below the existing ridge level and is compliant with the height of buildings development standard. The height of buildings development standard is designed to control building height ensuring the scale of development is consistent with that of the surrounding area. The proposal's compliance with this development standard demonstrates that the overall height of the development is consistent with the desired streetscape character of the locality. The proposed first floor incorporates an additional setback to the first floor. The increased setback will break up the development minimising the overall bulk and scale of the development. The proposed development is suitably designed to ensure the bulk and scale does not result in any unreasonable impact on the existing and desired streetscape character of the locality.

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

Comment:

As discussed above, it is not considered that the proposal will result in any unreasonable bulk or scale within the locality. Furthermore the proposal will not obscure any important landscape or townscape features.

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

Comment:

There are a number of recent first floor additions within Crescent Street. These first floor additions are set to the rear maintaining the existing street frontage while providing a low impact development. The proposal is consistent with this type of development. It is noted that the proposal is located on a corner lot resulting in it being more visible to the Griffiths Street streetscape. However, the proposal is a two storey development that could reasonably be envisaged within the character of this area. The proposal will also result in a significant enhancement of landscaping on the site. The proposal will maintain an appropriate relationship with new and existing character of the locality and the landscape character of the area.

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



Comment:

The proposal has been assessed below with regard to amenity impacts and has been found to maintain a reasonable level of amenity within the locality. The proposal will not result in any unreasonable adverse environmental impacts on the use or enjoyment of adjoining land and the public domain.

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

Comment:

Not applicable.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the Clause 4.4 Floor Space Ratio.

Zone objectives

The underlying objectives of the R1 General Residential zone are:

To provide for the housing needs of the community.

Comment:

The proposal will enhance the functionality of the site and continue to provide for the housing needs of the community.

To provide for a variety of housing types and densities.

Comment:

The proposal will maintain the existing housing type on the site.

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

Comment:

Not applicable.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General 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 Floor space ratio 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.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 210.7sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North: 6.8m (based on gradient 1:20)	7.06m - 7.75m	3.8% - 14.4%	No
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.9m	N/A	Yes
4.1.4.1 Street Front Setbacks	East (Primary Frontage) Prevailing building line 2.7m North (Secondary Street Frontage) See Clause 4.1.4.2	East (Primary Frontage) Existing 2.7m Proposed First Floor 9.7m North (Secondary Street Frontage) 0.86m	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	North (Secondary Street Frontage) Garage 1m-1.1m Ground 1.7m - 1.833m First 2.3m - 2.6m	North (Secondary Street Frontage) Garage Nil Ground 0.86m First 2.16m	Garage 100% Ground 53% First 6% - 20.3%	No
	South 2.6m	South Nil	100%	No
4.1.4.4 Rear Setbacks	West 8m	West Ground - 3m First - 8m	0% - 62.5%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (115.9sqm)	30.8% (65sqm)	43.9%	No
	Open space above ground 25% of total open space (16.25sqm)	14.9% (9.7sqm)		
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (22.75sqm)	57.8%(37.6sqm)	N/A	Yes
	1 native trees	Nil	100%	No
4.1.5.3 Private Open Space	12sqm per dwelling	9sqm	25%	No
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand	Maximum 50% of frontage up to maximum 6.2m	3.4m	N/A	Yes

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Areas				
Schedule 3 Parking and Access	Dwelling 2 spaces	Proposed 1 spaces Existing Nil	N/A	No
4.1.10 Fencing	1.5m Where 30% transparent above 1m	3.7m	100%	No, see assessment under Clause 3.1

***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
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	No	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

Description of Non-compliance

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The Manly DCP 2013 permits front fences to a maximum height of 1.5m where the area above 1m is 30% transparent. The existing development on the site includes a fence/wall up to 3.18m in height. The proposal includes the replacement of this fence/wall with one of a maximum height of 3.7m.

Merit Consideration

With Regard to the consideration of the variation, the development is considered under the relevant objectives of Clause 3.1 Streetscapes and Townscapes below:

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

Comment

The existing fence/wall is in poor condition and in need of replacement. The proposed replacement fence/wall is of a higher quality and will result in an enhanced presentation to the streetscape. Furthermore the proposed fence/wall is consistent with that of the property directly opposite on Griffiths Street. The proposal will not result in any unreasonable impacts on the streetscape of the locality.

The proposed garage is integrated into the design of the development and will not result in any unreasonable impacts on the streetscape of the locality.

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

Comment

The streetscape generally consists of one and two storey residential development. Directly opposite the development site on Griffiths Street is a fence/wall similar to that proposed within this application. The proposal will compliment the streetscape of the locality.

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

Comment

The proposal includes landscaping to the rear of the property. This will enhance the landscaping of the site and ensure suitable landscaping is incorporated into the design of the fence/wall.

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

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

Description of Non-compliance

The Manly DCP 2013 permits a maximum 6.8m wall height on a site with this gradient. The proposal includes a wall height of 7.06m - 7.75m, requiring a variation of 3.8%-14.4%.

Merit Consideration

The Manly DCP 2013 does not include objectives relevant to this control but refers to the objectives of Clause 4.3 Height of Buildings of the Manly LEP 2013 as having particular relevance. The proposal is assessed with regard to the relevant objectives 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:

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The proposed building height is consistent with the maximum permitted building height within the locality. The proposed roof form is of a low pitch that will minimise the overall bulk of the development. The proposal will maintain a development on the site that is consistent with the desired future streetscape character of the locality.

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

Comment

The proposed first floor steps back from the ground floor to provide articulation and minimise the bulk of the development. The proposal will not result in an unreasonable bulk or scale within the locality.

(c) to minimise disruption to the following:

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

Comment

The proposal will not result in any unreasonable loss of views within the locality.

(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 submitted shadow diagrams demonstrate that the proposed development will not result in unreasonable impacts on solar access to public and private open spaces and habitable rooms of adjacent dwellings.

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

Comment

Not applicable

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

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

Description of non-compliance

The Manly DCP 2013 requires walls to be setback the distance equal to 1/3 of the wall height. The proposal is not compliant with this control due to the garage, ground floor living, kitchen and dining area and the rear section of the first floor.

The Manly DCP 2013 also requires a rear setback of 8m. The proposal includes a rear setback of 3m to the ground floor deck 4.94m to the ground floor dwelling and 8m to the first floor. The existing development on the site includes a shed, paved area and seating on the rear boundary with the dwelling setback 4.94m from the rear boundary.

Merit consideration:

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



Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed first floor complies with the rear setback control and the ground floor will maintain the existing setback to the dwelling. The proposed deck will not be visually prominent from the street and is screened by vegetation.

The proposed garage is incorporated into the design of the retaining wall and will not dominate the streetscape. Furthermore there are a number of examples of single car parking on the street frontage.

The proposal will maintain the existing spatial proportions within the street. The incorporation of landscaping into the rear setback will enhance the landscape character of the site. The proposed setbacks provide adequate physical separation and articulation to ensure the development does not impose on the streetscape of the locality.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal is considered to ensure and enhance the local amenity for the following reasons:

- The proposed deck area is small in size and suitably setback to limit overlooking. Furthermore the area of the adjoining site to the rear is currently used for a parking area. The proposal will not overlook any private open spaces or windows to habitable rooms. The incorporation of landscaping within this setback area will provide screening to the property to the rear.
- The submitted shadow diagrams demonstrate that the proposed development will maintain an equitable access to light and sunshine within the locality.
- The proposal will not result in the unreasonable disruption of views.
- The proposal will enhance the streetscape character of the locality and maintain the existing pattern of spaces between buildings.
- The proposal will not impact on traffic conditions within the locality.

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

Comment:

The proposed flexibility is appropriate in this circumstance.

Objective 4) To enhance and maintain natural features by:



- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposed landscaping will enhance the natural features on the site and accommodate deep soil plantings.

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

Comment:

Not applicable.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The Manly DCP 2013 requires 55% of the site area to be provided as total open space. The proposal will provide 30.8% of the site area as total open space.

The Manly DCP 2013 also requires that one native tree, of the species specified, be planted on the site.

Merit consideration:

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

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

Comment:

The proposal will significantly enhance the vegetation on the site and does not include the removal of any significant landscape features.

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

Comment:

The proposal will result in an increase to the landscaped areas on the site and a reasonable area of above ground open space. The proposal also includes suitable tree plantings given the confined nature



of the site.

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

Comment:

The proposal is suitably designed and landscaped to maintain the amenity of the site, streetscape and surrounding area.

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

Comment:

The proposal will enhance water infiltration on the site. A condition has been recommended to ensure stormwater is suitably disposed.

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

Comment:

The proposed landscaping will minimise the spread of weeds within the locality.

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

Comment:

The proposal will enhance the wildlife habitat on the site.

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

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

The proposal will result in the provision of parking on the site where none had previously been provided. The proposal will result in a reduction in this non-compliance and will maintain the sites consistency with the objectives of the control.

4.4.5 Earthworks (Excavation and Filling)

Description of Non-compliance

The Manly DCP 2013 requires natural and undisturbed ground levels be maintained within 0.9m of the boundary. The proposal includes alteration to the existing retaining walls and additional filling on the site within 0.9m of the boundaries.

The Manly DCP 2013 limits the extent of excavation on sites to generally 1m, with the exception of basement parking. The proposal includes excavation up to 1.8m for the proposed garage, not basement.



Merit Consideration

With regard to the consideration of the variation the development is considered under the objectives of the control as follows:

Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:

- *Limiting excavation, "cut and fill" and other earthworks;*
- *Discouraging the alteration of the natural flow of ground and surface water;*
- *Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

Comment

The existing site has been subject to alterations to the landscape in the past. The proposal will generally retain this modified landscape character while still allowing the site to step down to the rear. The proposal will allow for earthworks to provide for parking and a landscaped and stepped rear yard providing a gradual transition of the site to the rear. The proposal will not result in any unreasonable impacts on the landscape character of the locality.

The development will not result in unreasonable impacts on the flow of ground and surface waters or result in sedimentation of drainage lines. The proposed retaining walls are considered to be satisfactory given the existing development on the site and that of nearby/adjoining properties.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1861 for Alterations and additions to a semi-detached dwelling on land at Lot A DP 33413, 25 Crescent Street, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 Demolition Plan - Issue E	13/03/2019	Watershed Design
DA03 Site and Roof Plan - Issue E	13/03/2019	Watershed Design
DA04 Ground Floor Plan - Issue E	13/03/2019	Watershed Design
DA05 First Floor Plan - Issue E	13/03/2019	Watershed Design
DA06 Lower Ground Floor Plan - Issue E	13/03/2019	Watershed Design
DA07 Section BB - Issue E	13/03/2019	Watershed Design
DA08 Section AA - Issue E	13/03/2019	Watershed Design

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DA09 Elevations North, East & West - Issue E	13/03/2019	Watershed Design
DA10 Elevations South & Schedule of Colours and Materials - Issue E	13/03/2019	Watershed Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Report on Geotechnical Assessment for proposed alterations and additions at 25 Crescent Avenue Fairlight - Issue 0	3 April 2018	Crozier Geotechnical Consultants

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan	19 March 2019	Watershed Design

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

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

2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and



- B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until



the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009



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

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$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

5. Stormwater Disposal

Plans indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments, shall be submitted prior to the issue of the Construction Certificate. Stormwater shall be conveyed from the site to Griffiths Street.

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Details demonstrating compliance 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 disposal and stormwater management arising from development.

6. 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.

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)

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. Dilapidation Survey

A photographic survey of adjoining property (being 23 Crescent Street Fairlight) detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.



If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent. In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible)

Reason: Proper management of records.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. 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.

11. 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.

12. Tree and vegetation protection

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

- i) all trees and vegetation within the site, nominated on the survey, excluding exempt trees under the relevant planning instruments of legislation,
- ii) all other trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation, excluding the nominated Bottlebrush required to be removed for the proposed driveway.

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) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of



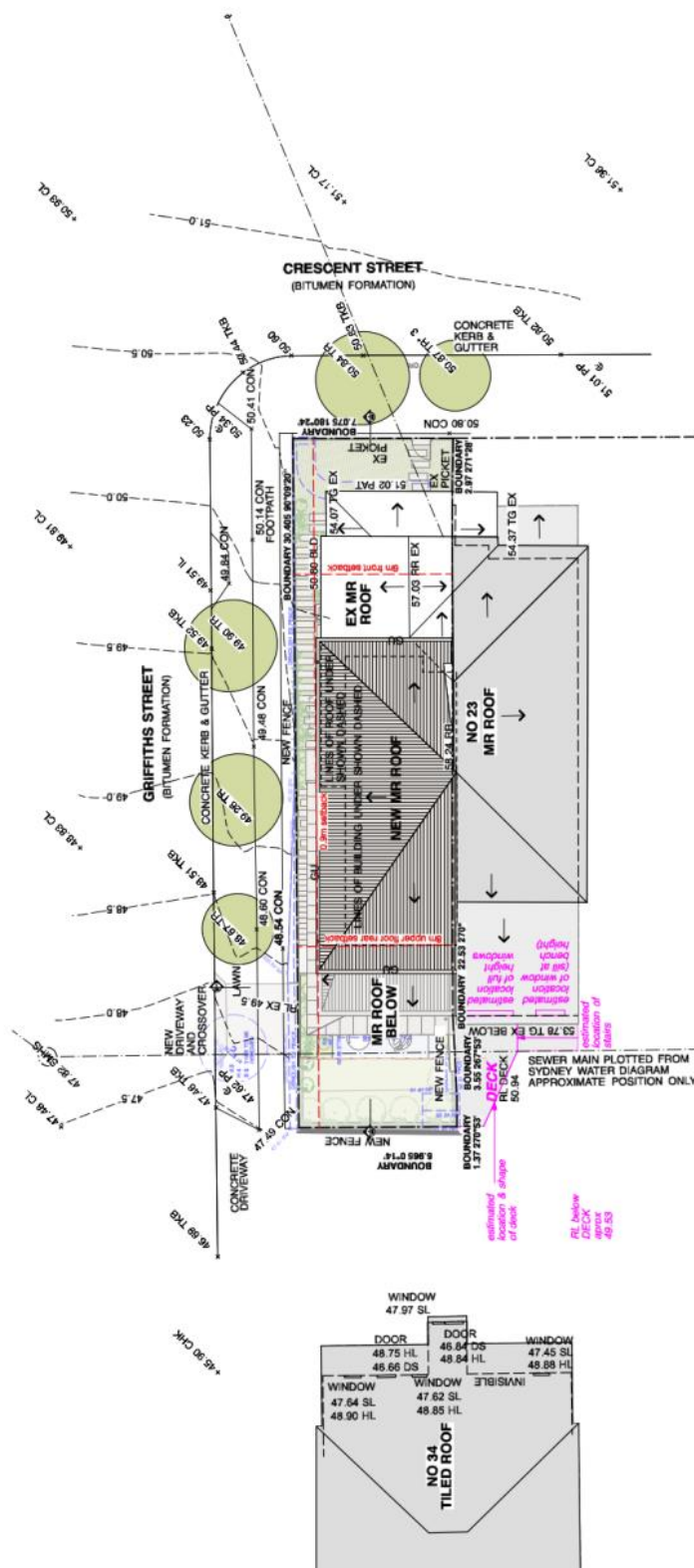
works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

- iv) 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,
- v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
- viii) should either or all of v) vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- ix) 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 works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

C) Tree protection shall be specifically undertaken to protect the existing street trees as follows:

- i) no site facilities, building materials, construction waste bins, excavated material, nor landscape materials are to be placed within the canopy dripline of street trees required to be retained.

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

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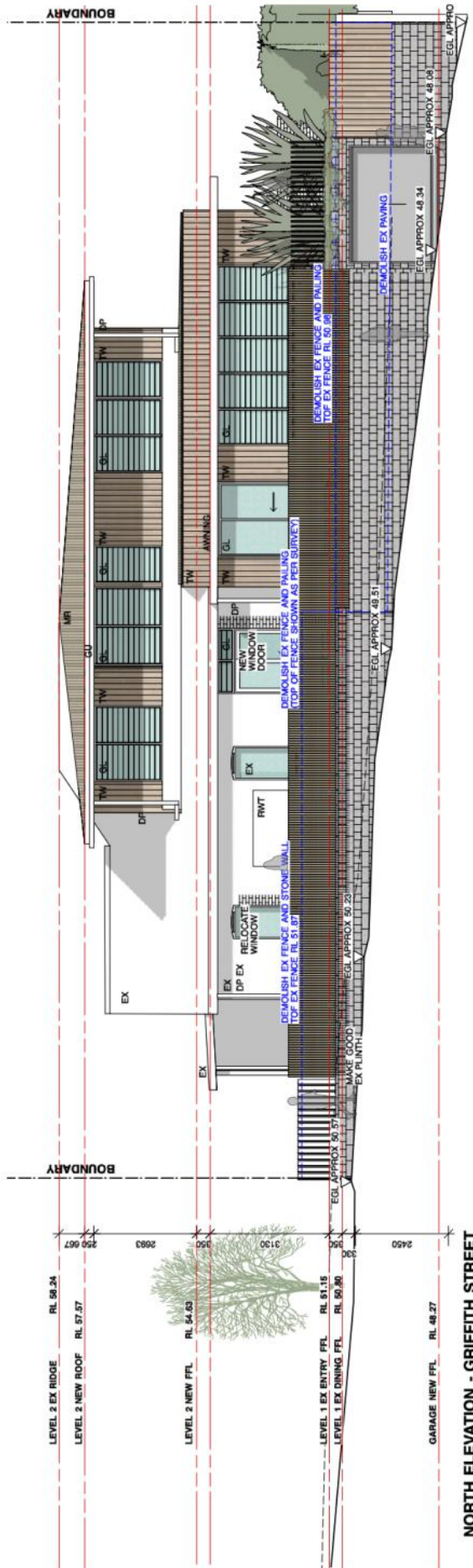
WATERSHED
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architecture
interiors
landscapes

Phone: 02 9977 0076 Fax: 02 9976 0025 info@watersheddesign.com.au

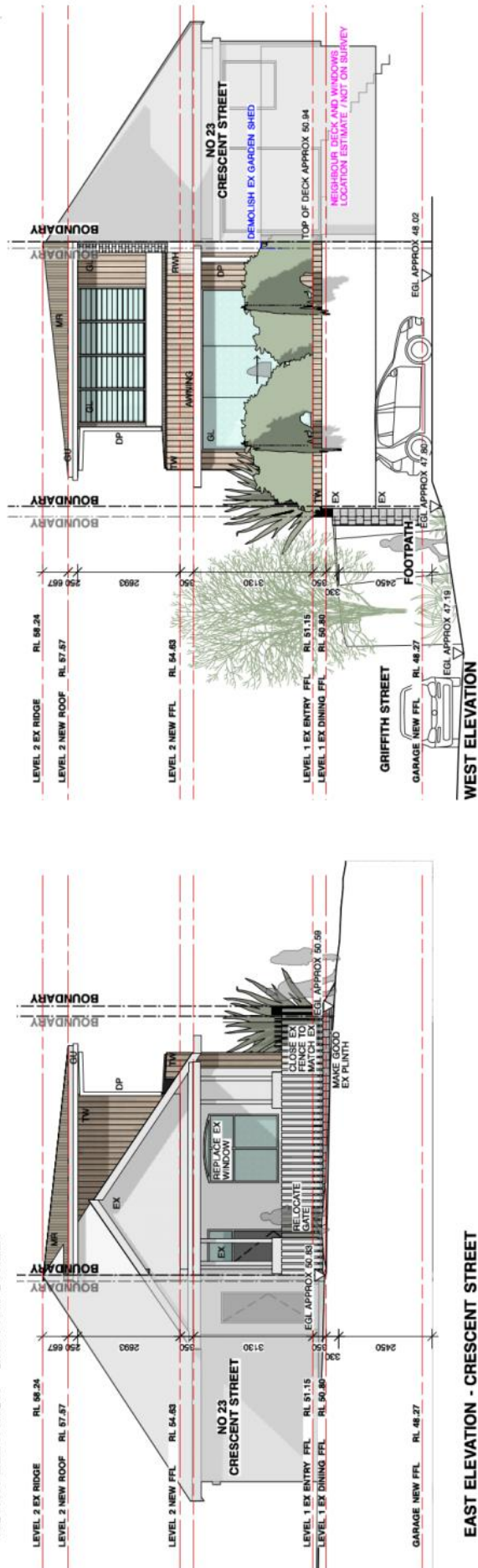
CLIENT	Robbie & Anna Begg
PROJECT	Alterations and Additions

ADDRESS	25 Crescent Street Fairlight
TITLE	Site & Roof Plan

JOB NO	18002	DRAWING NO	DA03
DRAWN	JK	ISSUE	E
CHECKED	MK		
SCALE	1:200		



NORTH ELEVATION - GRIFFITH STREET



EAST ELEVATION - CRESCENT STREET

NOTES

- Any discrepancies to be brought to the Architect's attention.
- Architect is responsible for the accuracy of the drawings.
- Client is responsible for the accuracy of the site information.
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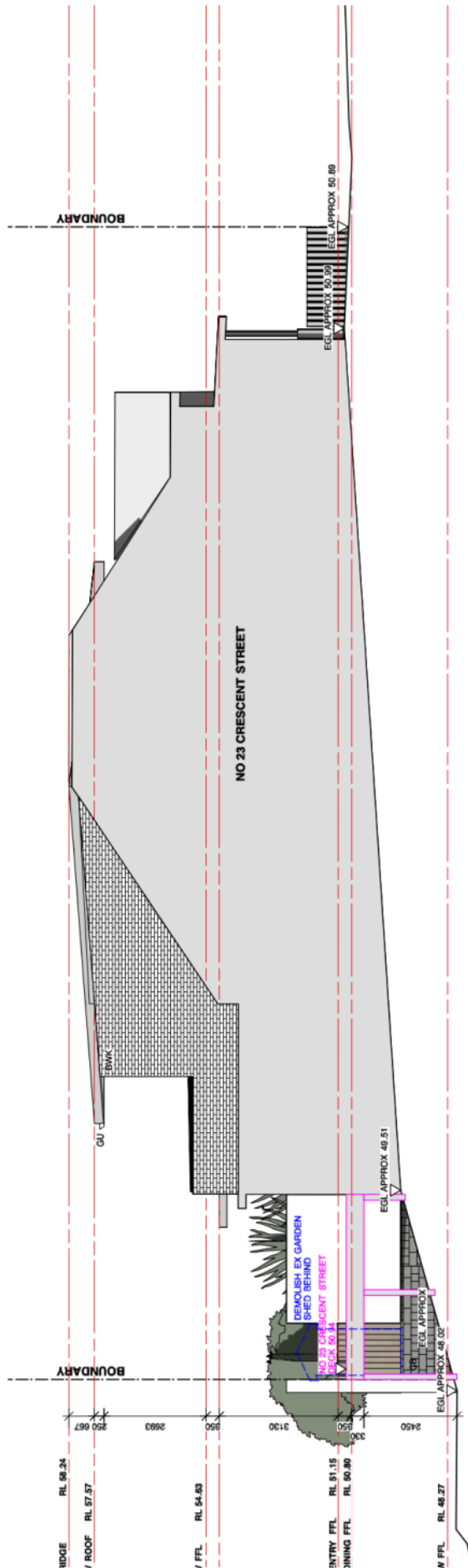
REVISIONS

NO.	DESCRIPTION	DATE
1	ISSUE	08.08.18
2	ISSUE	15.08.18
3	ISSUE FOR INFORMATION	25.10.18
4	ISSUE FOR INFORMATION	09.11.18
5	DA ISSUE	13.03.19

WATERSHED DESIGN architecture interiors landscapes

Phone: 02 9877 1076 Fax: 02 9879 0525 info@watersheddesign.com.au

CLIENT: Robbie & Anna Begg
PROJECT: Alterations and Additions
ADDRESS: 25 Crescent Street Fairlight
TITLE: Elevations, North, East & West
JOB NO: 18002
DRAWN: JK
CHECKED: MK
SCALE: 1:100
DRAWING NO: DA09
ISSUE: E



SOUTH ELEVATION - VIEW FROM 23 CRESCENT STREET

TV TIMBER CLADDING	GL GLAZING	BRW BRICK	CB BLOCKWORK	MR METAL ROOF
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SCHEDULE OF COLOURS AND MATERIALS

NO	REVISIONS	DATE
1	ISSUE	13.03.19
2	ISSUE	13.03.19
3	ISSUE	13.03.19
4	ISSUE	13.03.19
5	ISSUE	13.03.19

WATERSHED
DESIGN
architecture
interiors
landscapes

Phone: 02 9877 1076 Fax: 02 9878 0525 info@watersheddesign.com.au

CLIENT	Robbie & Anna Begg	ADDRESS	25 Crescent Street Fairlight	JOB NO	18002	DRAWING NO	DA10
PROJECT	Alterations and Additions	TITLE	Elevation, South & Schedule of Colours and Materials	DRAWN	JK	ISSUE	E
				CHECKED	MK	SCALE	1:100

ITEM 3.2 **DA2018/2058 - 3 BRUCE AVENUE, MANLY - ALTERATIONS
AND ADDITIONS TO AN EXISTING RESIDENTIAL FLAT
BUILDING**

REPORTING MANAGER **Anna Williams**

TRIM FILE REF **2019/237732**

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 floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/2058 for alterations and additions to an existing residential flat building on land at Lot CP SP 22407, 3 Bruce Avenue MANLY NSW 2095 subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2058
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot CP SP 22407, 3 Bruce Avenue MANLY NSW 2095
Proposed Development:	Alterations and Additions to an existing residential flat building
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 22407
Applicant:	Proprietors of Strata Plan 22407
Application lodged:	27/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/01/2019 to 29/01/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 67,430.00

ASSESSMENT INTRODUCTION

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

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



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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)
 Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area
 Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

SITE DESCRIPTION

Property Description:	Lot CP SP 22407 , 3 Bruce Avenue MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one allotment located on the southern side of Bruce Avenue.</p> <p>The site is irregular in shape with a frontage of 11.85m along Bruce Avenue and an average depth of 30m. The site has a surveyed area of 376.3m².</p> <p>The site is located within the R1 General Residential zone and accommodates a two-storey dual occupancy.</p> <p>The site slopes approximately 8m from front (north) to rear (south).</p> <p>The site slopes steeply at the rear and contains terraced garden and turfed areas.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwellings, dual occupancies and residential flat buildings. Little Manly Cove is located in close proximity to the south-east of the subject site.</p>

Map:



SITE HISTORY

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

DA0176/2017 - Alterations and additions to the existing dual occupancy - Approved 10 November 2017.

Mod2018/0201 for Modification of Development Consent DA0176/2017 granted for alterations and additions to the existing dual occupancy - Approved 16/07/2018.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes works as follows:

- Demolition of existing north-eastern common staircase
- New Ground Floor Storage room
- New First Floor Bathroom
- Refurbish existing Basement Laundry/Bathroom
- Changes to windows

The application also includes Strata re-subdivision to allocate and title the areas of work.

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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This 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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development</p>



Section 4.15 Matters for Consideration'	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental 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 1 submission/s from:

Name:	Address:
Mr Philippe Remond	23 Addison Road MANLY NSW 2095

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

- Proposed FSR and over-development
- Cost of works
- Relevance of Biodiversity Report and Assessment of Significance

The matters raised within the submissions are addressed as follows:



- Proposed FSR and over-development

Comment:

The Clause 4.6 written request submitted with the application is considered to adequately justify the proposed development. Further, the proposed increase to gross floor area on the site will result in no unreasonable visual or amenity impact on the adjoining properties or surrounding area. A full assessment of the development against the provisions of Clause 4.6 is completed as part of this report.

- Cost of works

Comment:

A revised cost of works estimate and Builder's quote has been provided to satisfy the DA lodgement requirements.

- Relevance of Biodiversity Report and Assessment of Significance

Comment:

Council's Biodiversity Officer commented that the flora and fauna report and seven-part tests satisfy the relevant requirements in relation to this application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following provisions:</p> <ul style="list-style-type: none"> - Manly LEP Clause 6.3 (Terrestrial Biodiversity) - Manly DCP Clause 5.4.2 (Threatened Species and Critical Habitat Lands) - NSW Biodiversity Conservation Act 2016 (BC Act) <p>The subject site is known habitat for the endangered populations of Long-nosed Bandicoots and Little Penguins, as declared under the BC Act. Accordingly, the flora and fauna report (Total Earth Care, July 2017) includes a seven-part test for these entities. It is noted that the flora and fauna report pre-dates the plans submitted in support of the DA and that the environmental assessment was undertaken in accordance with provisions of the now-repealed NSW Threatened Species Conservation Act 1995. However, given that the submitted plans are generally the same as those included in the flora and fauna report, it is considered that the conclusions of the flora and fauna report remain valid for the proposed development and that the seven-part tests satisfy the requirements of Section 7.3 of the BC Act.</p> <p>The flora and fauna report states that no evidence of penguin or</p>



Internal Referral Body	Comments
	bandicoot occupation was recorded during site surveys, and that existing habitat on the site is unlikely to be utilised by penguins or bandicoots due to the nature of the site terrain and access. This conclusion is supported. Furthermore, the proposed development is generally within the existing development footprint and is therefore unlikely to result in a notable loss of soft open space on the site. It is therefore considered that, subject to conditions of consent, the proposal is compliant with relevant controls, and that further assessment in the form of a Biodiversity Development Assessment Report (BDAR) is not required.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

SEPP (Coastal Management) 2018



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

13 Development on land within the coastal environment area

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

Comment:

The proposed works are generally within the approved building footprint and will not unreasonably impact the coastal environment area.

- (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 consistent with this Clause.

14 Development on land within the coastal use area

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*



- (iv) Aboriginal cultural heritage, practices and places,
- (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal will not unreasonably impact the coastal use area.

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

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

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

Comment:

The proposed works are generally minor and are not considered likely to cause increased risk of coastal hazards.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.35m	N/A	Yes
Floor Space Ratio	0.6:1 225.78m ²	0.7:1 265.6m ²	17.6%	No

Compliance Assessment

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

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.6:1 (225.78m ²)
Proposed:	0.7:1 (265.6m ²)
Percentage variation to requirement:	17.6%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio 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 4.4 - Floor space ratio 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 additional GFA for washroom facilities will enable the building to better meet contemporary living standards and supports the housing needs of the community in a manner that will have negligible impact.
- The site, being 376m², is small by contemporary standards. The proposed addition of 11m² is not large or excessive in extent but will significantly improve the functionality of the existing dwellings consistent with the zone objectives.
- The proposal will not result in any perceivable increase in the visual bulk or scale of the development on the property.
- There are no significant or unreasonable amenity impacts (for example, on overshadowing, privacy, noise, view loss etc) that are attributable to the FSR of the proposal. In other words the proposed design is appropriate, relative in scale to the area of the allotment, and does not result in what could be concluded to be an over-development of the site."

The proposed works will not materially alter the appearance of the existing building, but will improve the internal amenity for the occupants of both units. Notwithstanding the non-compliance, the proposal is not considered to result in any unreasonable visual or amenity impacts on the adjoining properties or surrounding area.

In this regard, the applicant's written request has demonstrated that the proposed development is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 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:

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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 Floor Space Ratio 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 4.4 – 'Floor space ratio' of the MLEP 2013 are:

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

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

Comment:

The proposal will not alter the appearance of the development as viewed from the street.

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

Comment:

The proposed works are contained within the existing building envelope and will not unreasonably obscure any landscape or townscape features.

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

Comment:

The proposal generally retains the existing visual appearance of the building, with the exception of proposed window/door changes.

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

Comment:

The proposal will not unreasonably impact the use or enjoyment of the adjoining properties or the public domain.

e) to provide for the viability of business zones and encourage the development, expansion and



diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

N/A

Zone objectives

The underlying objectives of the E4 Environmental Living zone are:

The underlying objectives of the E4 Environmental Living zone:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The proposed works are generally internal and are considered to be low impact.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The proposal will not unreasonably impact the ecological, scientific or aesthetic values of the site.

- *To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.*

Comment:

The proposed works will not impact the tree canopy or dominate the scenic qualities of the foreshore.

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

Comment:

The proposed works contained within the existing building footprint will not unreasonably impact the surrounding natural environment.

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

Comment:

The proposed works are sufficiently separated from the foreshore.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to*



existing vegetation, topography and surrounding land uses.

Comment:

The proposal does not contribute any significant bulk to the existing building.

Conclusion:

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

6.2 Earthworks

No excavation is proposed in this application.

6.5 Terrestrial biodiversity

Council's Biodiversity Officer commented that the proposed works are generally within the existing building footprint and will not result in substantial loss of landscaped area on the site.

6.9 Foreshore scenic protection area

The proposed works are wholly contained within the existing building footprint. Alterations to the external building fabric are limited to changes to window/glazing. As such, the proposal will result in no unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 376.3m²	Requirement	Proposed	Complies
4.1.2.1 Wall Height	NE: 7.7m	6.77m	Yes (Existing)
4.1.2.2 Number of Storeys	2	3	No (Existing)
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.25m	1.2m	No (Existing)
4.1.4.4 Rear Setbacks	8m	8.3m	Yes (Existing)

***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
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	N/A	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposal does not result in any additional building bulk or overshadowing impact.

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposal is appropriately designed to maintain the privacy of the adjoining properties. The proposed first floor bathroom windows incorporates louvered and frosted glazing. The proposed ground floor storage room and basement windows will not result in any unreasonable privacy impacts.

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

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Comment:

The proposal allows sufficient privacy and sunlight access to the subject site and adjoining property.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will not alter existing opportunities for passive surveillance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

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

The proposal retains the existing building height and number of storeys.

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

The proposed works are contained within the existing building envelope and result in no change to the existing setbacks.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

The proposal does not result in any increase to car parking requirements on the site.

4.4.5 Earthworks (Excavation and Filling)

No excavation is proposed in this application.

5.4.1 Foreshore Scenic Protection Area

The proposed works are wholly contained within the existing building footprint. Alterations to the external building fabric are limited to changes to window/glazing. As such, the proposal will result in no unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour.

5.4.2 Threatened Species and Critical Habitat Lands

Council's Biodiversity Officer commented that the proposed works are generally within the existing building footprint and will not result in substantial loss of landscaped area on the site. As such, no objection is raised to the proposal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN



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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/2058 for Alterations and Additions to an existing residential flat building on land at Lot CP SP 22407, 3 Bruce Avenue, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

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a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A101 Site Plan	26 November 2018	Blue Sky Building Designs
A102 Proposed Basement	26 November 2018	Blue Sky Building Designs
A103 Ground Floor	26 November 2018	Blue Sky Building Designs
A104 First Floor	26 November 2018	Blue Sky Building Designs
A105 NE Elevation	26 November 2018	Blue Sky Building Designs
A106 SW Elevation	26 November 2018	Blue Sky Building Designs
A107 NW & SE Elevations	26 November 2018	Blue Sky Building Designs
Sheet 1 of 2 Location Plan	20 April 2018	Warren L. Bee
Sheet 2 of 2 Level 1, Level 2, Level 3, Level 4	20 April 2018	Warren L. Bee

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Terrestrial Biodiversity Report and Assessment of Significance	July 2017	Total Earth Care

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:

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

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

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work,



subdivision work or demolition work is being carried out:

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

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

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

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

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

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

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

Reason: Legislative Requirement

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out



- v) For any work/s that is to be demolished

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

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,500 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).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition

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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. **Preparation of Environmental Management Checklist**

A Construction Environmental Management Checklist is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats during the construction phase. Measures specified in the checklist must include all requirements of conditions of this consent addressing construction-related impacts on biodiversity. The Checklist is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

6. **Construction Hours – Manly LEP Clause 6.5**

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:00am and 5:00pm.

Reason: Noise and vibration can disturb local native fauna (including threatened species) and prevent access to their natural habitats.

7. **Pre-clearance Survey Required – Penguin and Bandicoot Habitat**

A pre-clearance survey for Little Penguin and Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Little Penguins or Long-nosed Bandicoots are present within the area to be cleared or the immediate vicinity. All clearing must initially be carried out with hand tools to identify whether any penguins or bandicoots are sheltering within the area to be cleared (e.g. at the base of vegetation or under deep litter). Machinery may only be used once it has been confirmed that no penguins or bandicoots are sheltering within the area to be cleared. Clearing must be carried out at dusk and completed within one day so that penguins or bandicoots do not reoccupy partially cleared areas overnight. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to Principal Certifying Authority.

Reason: To avoid injury or death of Little Penguins or Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

8. **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

Reason: Management of wildlife corridors



9. **Report Dead or Injured Penguins or Bandicoots – Penguin and Bandicoot Habitat**
Any injured or dead Long-nosed Bandicoots or Little Penguins found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots and Little Penguins in accordance with the Biodiversity Conservation Act 2016.

10. **Slurry and Concrete to be Removed – Penguin Habitat**
All slurry or spilt concrete associated with works (including drilling) is to be contained at the source and within the construction area. Spilt concrete is to be removed before it dries. Slurry and spilt concrete are to be removed offsite.

Reason: To prevent construction-related impacts to the Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat).

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

11. **Fire Safety Upgrade**
The Building Code of Australia works (and including recommended actions) and fire upgrading measures to upgrade the building as detailed in Part 4 of the BCA Fire Safety Report prepared by BCA Vision Pty Ltd, dated 26 October 2017, Report Ref No.P17167 (2) are to be carried out to the building.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety
12. **Building Code of Australia Upgrading works**
The Building Code of Australia works (and including recommended actions) and fire upgrading measures to upgrade the building as detailed in Part 4 of the BCA Fire Safety Report prepared by BCA Vision Pty Ltd, dated 26 October 2017, Report Ref No.P17167 (2) are to be carried out to the building.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety
13. **Implementation of Construction Environmental Management Checklist**
Construction is to be undertaken in accordance with the Constructional Environmental Management Checklist. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.
Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.(DACNEFPOC1)

14. **Fire Safety Matters**
At the completion of all works, a Fire Safety Certificate will need to be prepared which
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references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

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

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

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

15. **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.

16. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**

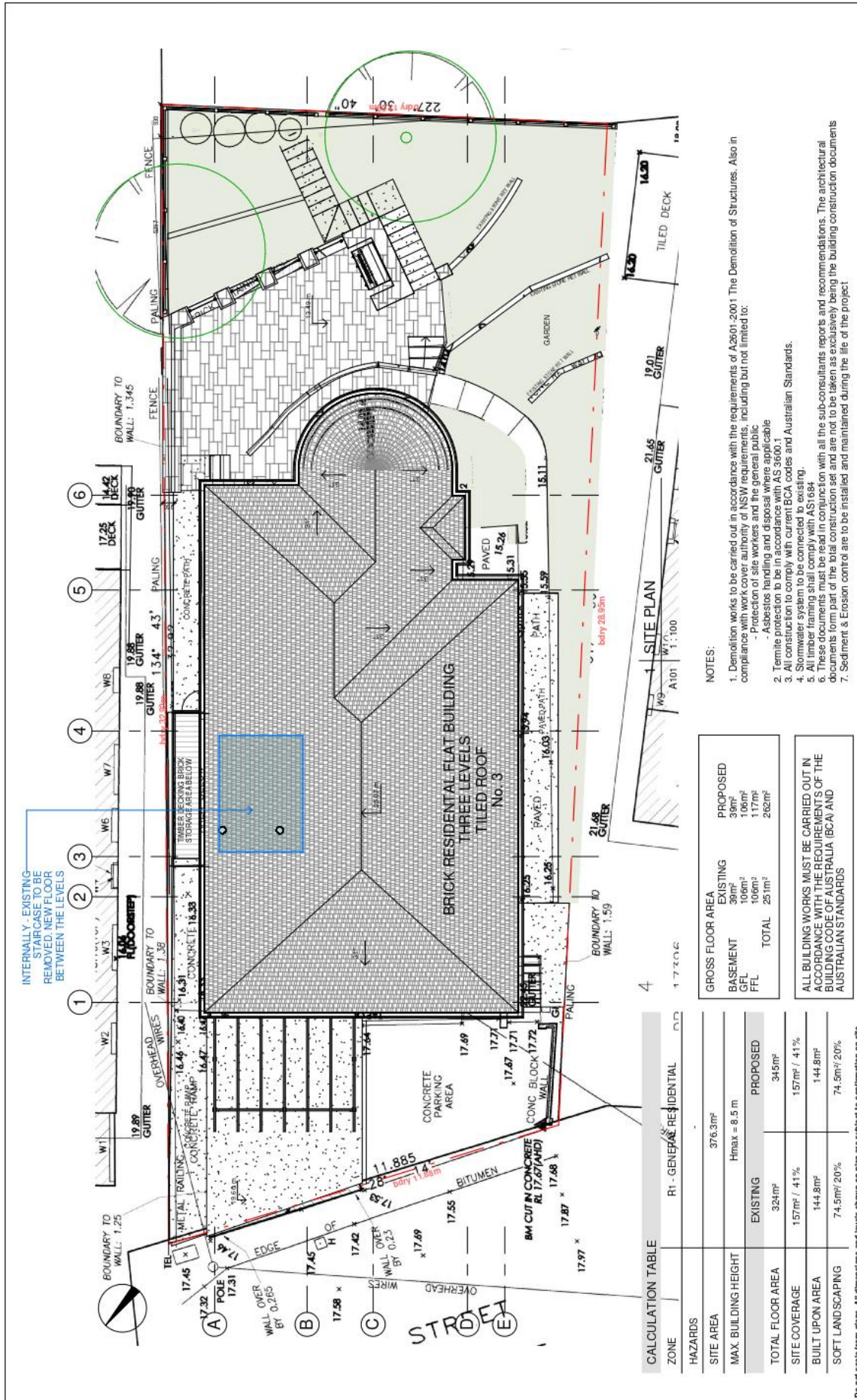
All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

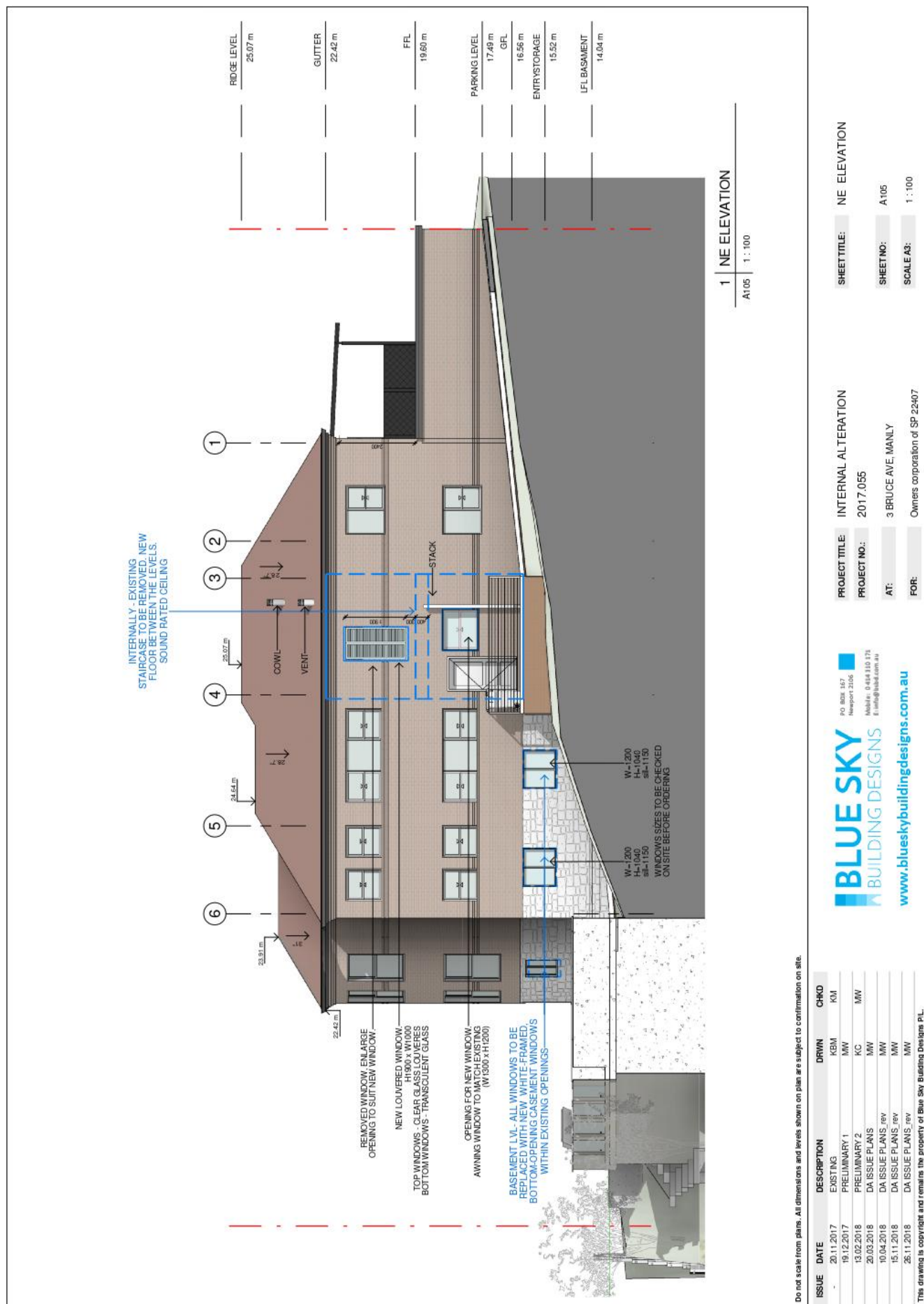
Reason: To maintain fauna access to existing and proposed habitat within and surrounding the site.

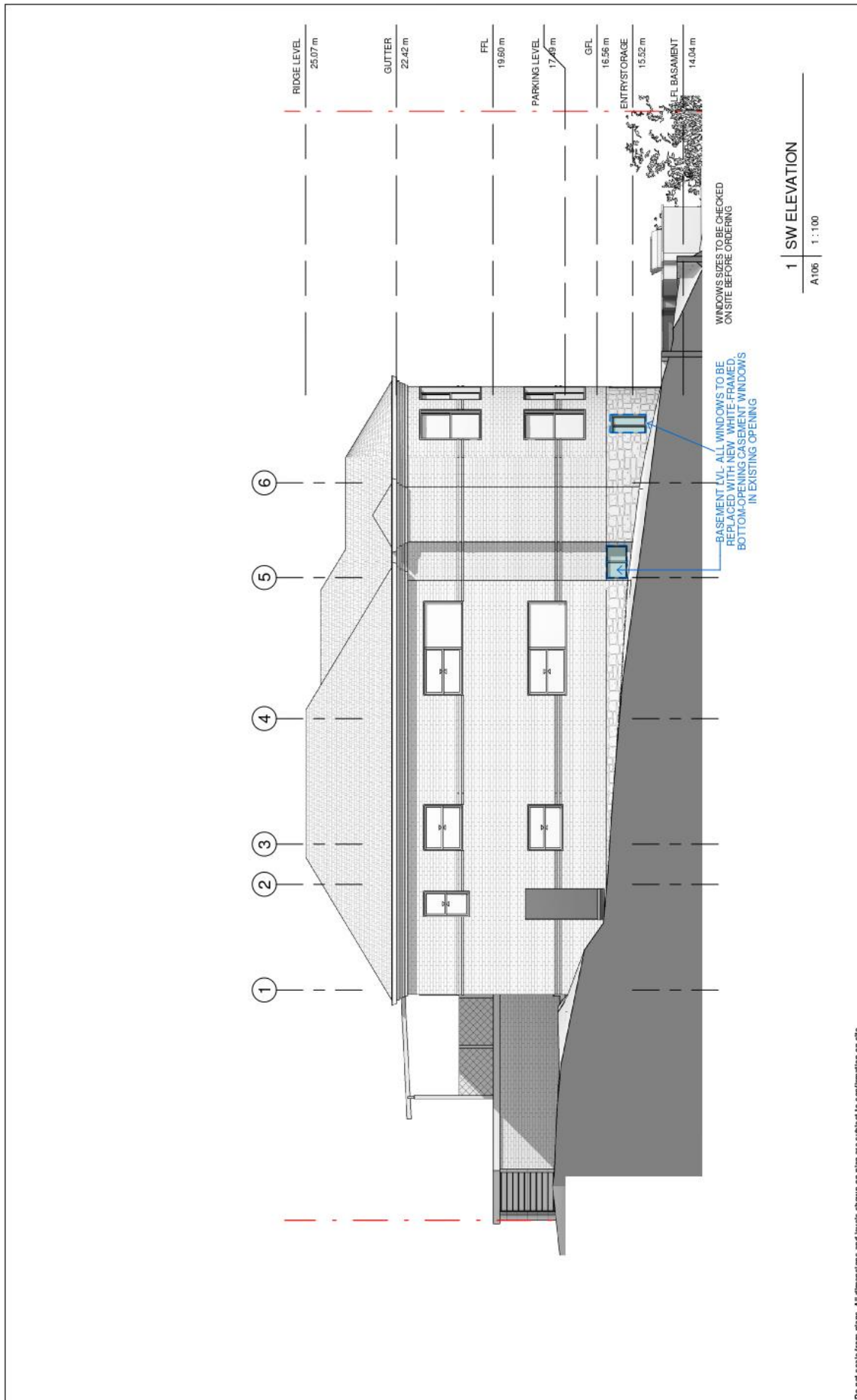
17. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

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.







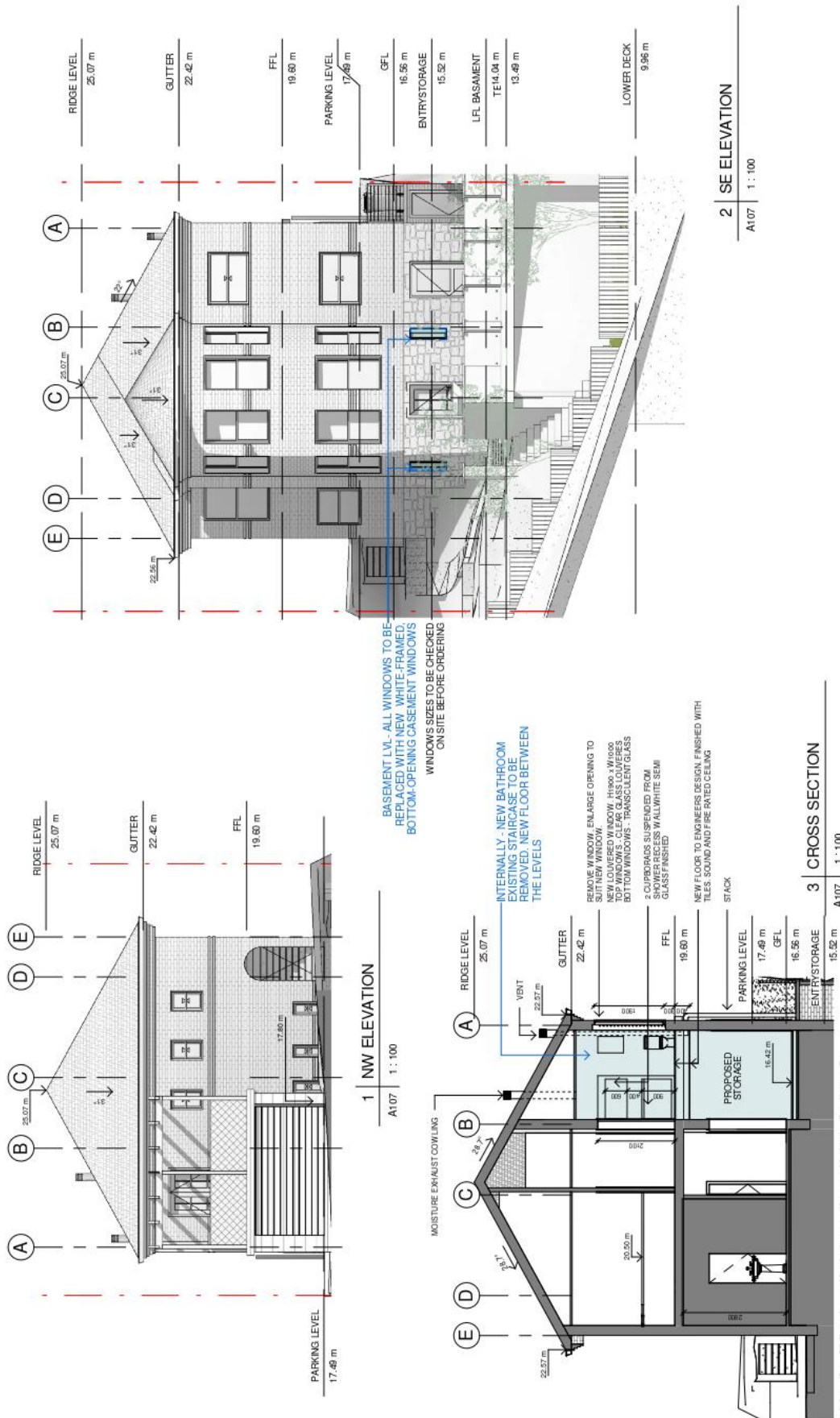
SHEET TITLE: SW ELEVATION
SHEET NO: A106
SCALE AS: 1:100

PROJECT TITLE: INTERNAL ALTERATION
PROJECT NO.: 2017.055
AT: 3 BRUCE AVE, MANLY
FOR: Owners corporation of SP 22407

BLUE SKY
BUILDING DESIGNS
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ISSUE	DATE	DESCRIPTION	DRWN	CHKD
-	20.11.2017	EXISTING	KBM	KJM
-	19.12.2017	PRELIMINARY 1	MW	
-	13.02.2018	PRELIMINARY 2	KC	MW
-	20.03.2018	DA ISSUE PLANS	MW	
-	10.04.2018	DA ISSUE PLANS rev	MW	
-	15.11.2018	DA ISSUE PLANS rev	MW	
-	28.11.2018	DA ISSUE PLANS rev	MW	

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PROJECT TITLE: INTERNAL ALTERATION
PROJECT NO.: 2017.055
AT: 3 BRUCE AVE. MANLY
FOR: Owners corporation of SP 22407

SHEET TITLE: NW AND SE ELEVATIONS
SHEET NO.: A107
SCALE AS: 1:100

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ITEM 3.3	DA2018/1820 - 74 BOWER STREET, MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
REPORTING MANAGER	Rodney Piggott
TRIM FILE REF	2019/237802
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 floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/1820 for alterations and additions to a dwelling house on land at Lot 9 DP 8075, 74 Bower Street, Manly subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1820
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 9 DP 8075, 74 Bower Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Trustees Roman Catholic Church Archdiocese Sydney Band Pty Ltd
Applicant:	Band Pty Ltd
Application lodged:	14/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/11/2018 to 07/12/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 270,000.00

ASSESSMENT INTRODUCTION

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

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



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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot 9 DP 8075 , 74 Bower Street MANLY NSW 2095
Detailed Site Description:	<p>The site has a generally rectangular shape, with the front and rear boundaries being angled to form a parallelogram. It has side boundaries 45.835m long, and front and rear boundaries of 16.365m. It has a surveyed area of 698.5sqm. The topography slopes down from front to rear (south to north). The site backs onto a cliff above the public walkway between Manly Beach and Shelley Beach.</p> <p>There is an existing three storey dwelling located in the approximate centre of the site. The dwelling has views out towards the ocean to the north, Manly Beach to the west, and Fairy Bower to the east.</p> <p>Surrounding development consists mainly of large detached dwellings of various heights and designs. The immediate neighbours to each side (east and west) have similar views to the north, east and west. The sites across the road to the south are significantly higher than the subject site.</p>

Map:



SITE HISTORY

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

Application 10.2006.250.1 for Alterations & Additions to the existing dwelling house was approved by Council on 19 January 2007.

Application 10.2005.56.1 for Demolition & Construction of a new multi-level dwelling with pool & landscaping was approved by Council on 11 May 2005.

PROPOSED DEVELOPMENT IN DETAIL

The proposed works include the following:

- Extending upper level Master Bedroom by 2 metres to the north
- Extending upper level Bed 2 by 1 metre to the north
- Extending roof and parapet above the rooms respective to the proposed extensions
- Demolishing existing roof under the rooms respective to the proposed extensions
- Replacing existing fixed windows with operable windows in the rooms and installing three additional windows to the Master Bedroom.

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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – 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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on</p>



Section 4.15 Matters for Consideration'	Comments
environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental 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 2 submission/s from:

Name:	Address:
Squillace Architects Vince Squillace & Associates	1/80 Albion Street SURRY HILLS NSW 2010
Symons Goodyer Pty Ltd Geoff Goodyer	PO Box 673 BALGOWLAH NSW 2093

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

- Privacy
- View loss
- Aesthetic appearance

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The matters raised within the submissions are addressed as follows:

- Privacy
Comment:
Concerns were raised by the neighbours on both sides regarding privacy. This issue is assessed in detail under clause 3.4.2 Privacy and Security in this report. In summary, the proposal is not considered to result in any unreasonable privacy impacts. No conditions are recommended in this regard, and the submissions are not supported.

- View loss
Comment:
Concerns were raised by the owners of number 76 regarding loss of views. This issue has been assessed in detail under clause 3.4.3 Maintenance of Views in this report. In summary, the proposal is considered to minimise view loss in accordance with the clause, and maintain a reasonable sharing of views in accordance with the NSW Land and Environment Court Planning Principle. The submission is not supported in this regard.

- Aesthetic appearance
Comment:
The submission raised concerns with the colour of the drainpipes, as they are slightly lighter in colour than the rendering of the walls. This is considered by the objector to be unsightly and a condition has been requested should the development be approved requiring drainpipes to match the colour of the wall to which they are attached. The finishes are to match the existing building, and a slightly different colour of drain pipe compared to the wall is not considered to result in any unreasonable unsightliness. The submission is not supported in this regard.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following provisions:</p> <ul style="list-style-type: none"> - NSW Biodiversity Conservation Act 2016 (BC Act) - Manly DCP Clause 5.4.2 (Threatened Species and Critical Habitat Lands) - Manly LEP Clause 6.5 (Terrestrial Biodiversity) <p>The subject site is known habitat for the endangered population of long-nosed bandicoot at North Head. Accordingly, a five-part test is required to be prepared in accordance with the provisions of the NSW BC Act. Given that the proposal will have a minimal long-term impact on soft-open space, Council's Biodiversity Section has undertaken this assessment. The assessment concluded that, subject to conditions of consent, the proposal complies with the controls and is unlikely to</p>



Internal Referral Body	Comments
	result in a significant impact to the endangered population.
NECC (Coast and Catchments)	<p>The DA has been assessed for impacts to the coastal environment including impacts on Cabbage Tree Bay. The Statement of Environmental Effects did not address SEPP (Coastal Management) however an internal assessment has been undertaken. The application has been assessed in consideration of SEPP 2016 (Coastal Management), Manly LEP 2013 and Manly DCP 2013. Clause 6.8 Landslide Risk has been considered.</p> <p>The following reports have been assessed: Statement of Environmental Effects Plans - Master Set Geotechnical Report.</p> <p>The application is acceptable with conditions.</p>
NECC (Riparian Lands and Creeks)	No comments and no conditions recommended.
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of available documents and a site visit The site of proposed development is not heritage listed, however, it is in the vicinity of listed item, the Fairy Bower Pool (I167 in Manly LEP). Given the nature of the proposal, the separation between sites, setting at some distance and the nature of significance of the item, it is assessed that impact on heritage values will be within acceptable limits.</p> <p>Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required.</p> <p>Kind Regards Zoran Popovic Heritage Adviser</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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.

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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. A328195_02). 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,*

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- (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 on land identified as “coastal wetlands” or “littoral rainforest”.

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 on 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 on 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 identified as being within the coastal environment area. The proposal is for a minor extension to the rear of the upper level, which will remain entirely within the footprint of the building below. It will not have any significant or unreasonable adverse impacts on any of the matters for consideration above.

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



- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As discussed above, the proposal is for minor works over the existing building footprint. It will have no significant adverse impacts on any of the above matters for consideration. As such, it is considered to be consistent with clause 2(a) above, in that it is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1).

14 Development on land within the coastal use area

(1)

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

Comment:

The site is within the coastal use area. The proposal for a minor extension to the rear of the upper level, wholly over the existing building footprint, will not have any unreasonable impacts on any of the above matters for consideration.

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

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

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

Comment:

The proposal is for minor works to the rear of the upper level, entirely within the existing building footprint. It is not likely to cause any increased risk of coastal hazards on the subject site or other land.



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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes
Floor Space Ratio	FSR: 0.45:1	FSR: 0.51:1	11.8%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.45:1
Proposed:	0.51:1
Percentage variation to requirement:	11.8%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio 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 4.4 - Floor space ratio 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 variation is a minor extension of an existing non-compliance.
- There is almost no visible change to the building from the street.
- The existing building was approved under previous planning controls (MLEP 1988), which measured floor space differently, and would have meant the extent of variation would have been greater under the previous policy (0.56:1 compared to 0.51:1 under the current controls). The statement argues that the extent of variation now proposed is less than what was originally approved for the existing building under the old policy.
- The proposal has no noticeable impact on the building height, maximum wall height and maximum storeys.
- Only a small amount of additional overshadowing will be caused.
- No unreasonable view impacts will be caused.
- No other unreasonable impacts will be caused to the surrounding neighbours or general locality.
- The proposal is consistent with the objectives of the zone and the development standard.



These arguments are considered to be generally accurate and in their description of the alterations and additions (and resulting environmental impacts) as minor and not unreasonable. The proposal is also considered to be consistent with the objectives of the zone and development standard, as argued by the applicant. Little weight is given to the argument regarding the greater extent of non-compliance previously approved under the previous LEP as compared to the extent of non-compliance now proposed. There are no savings provisions applicable in this regard, and the current application is assessed wholly against the current planning controls under which it was lodged. However, the other arguments presented are considered to constitute sufficient environmental planning grounds to consider the proposed variation.

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 not unreasonably impact upon 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 Floor Space Ratio development standard and the objectives of the E3 Environmental Management zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

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

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

Comment:

The proposed alterations and additions are at the rear of the existing dwelling, and maintain the existing heights and setbacks of the building. The proposal will have a negligible impact on the streetscape character.



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

Comment:

The proposed works occur at the rear of the existing dwelling, over the existing footprint, and will not create any unreasonable impacts on views from any public place to any important features. The neighbours to the west have objected to view loss. However, as discussed within this report, the proposal is not considered to result in any significant view impacts, and is not considered to be unreasonable in this regard.

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

Comment:

The proposed works are a minor extension to the rear of the upper level, which will remain well within the building footprint below. They will not have any significant or unreasonable impacts on the visual relationship between the building and the character and landscape of the surrounding area.

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

Comment:

The proposed works are minor, and as assessed throughout this report are not considered to result in any unreasonable impacts to adjoining land or the public domain. In relation to the concerns raised by neighbours regarding views, privacy and visual amenity, the proposal is not considered to result in any unreasonable impacts.

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

Comment:

The proposed works will not impact on the viability of any business zones.

Zone objectives

The underlying objectives of the E3 Environmental Management zone are:

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

Comment:

The site is within the Foreshore Scenic Protection area and in an area of significance with regard to bandicoots. The proposed works are to the existing upper level, and will be wholly within the existing footprint of the building below. The works are minor, being a small extension of two bedrooms to the rear, and will not have any significant or unreasonable environmental impacts on the surrounding area.



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

Comment:

The proposal is a minor extension to an existing approved and permissible use - being a dwelling house - in the zone. It will not have any unreasonable adverse impacts on those values.

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

Comment:

No trees are proposed for removal. The works are a minor extension to the rear of the existing building, and will not cause the building to dominate the natural scenic qualities of the foreshore.

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

Comment:

The proposed works are a minor extension to two bedrooms at the upper level, and will remain well within the footprint of the existing building. The proposal will not have any significant negative impact on the nearby foreshore, or any significant geological features or bushland, and will not result in the loss of any natural vegetation.

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

Comment:

The proposed works are entirely within the existing building footprint, and will not cause any increased runoff.

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

Comment:

The proposed works maintain the existing height of the building, and comply with the built form controls in relation to height. The proposal is for a minor extension to the rear at the upper level, and will not cause the development to become unreasonably bulky. It will not cause any impacts to existing vegetation or topography, and as assessed throughout this report will not have any unreasonable environmental impacts to surrounding land.

Conclusion:

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



the E3 Environmental Management 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 Floor space ratio 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.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 698.5sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling/500sqm	1 existing and unchanged	N/A	Yes
	Dwelling Size: 90sqm	357sqm	N/A	Yes
4.1.2.1 Wall Height	E: 6.5m (based on gradient flat)	5.8m	N/A	Yes
	W: 6.5m (based on gradient flat)	8.3m (maintains existing heights)	N/A	Yes
4.1.2.2 Number of Storeys	2	3 (maintains existing heights)	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.5m	N/A	Yes
	Pitch: maximum 35 degrees	Less than 35 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Works at rear	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	E 1.9m (based on wall height) W 2.8m (based on wall height)	E 2.4m W 2.7m	N/A N/A	Yes Yes
	Windows: 3m	E 2.4m W 2.7m	20% 10%	No No
4.1.4.4 Rear Setbacks	8m	8.4m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS 3	Open space 55% of site area	Existing and unchanged	N/A	Yes
	Open space above ground 25% of total open space	Existing and unchanged		
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	Existing and unchanged	N/A	Yes
	3 native trees	Works over existing	N/A	Yes

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		footprint. No changes to landscaping		
4.1.5.3 Private Open Space	18sqm	Existing and unchanged	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	Existing and unchanged	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	Existing and unchanged	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
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

The neighbours to the east (number 72) and west (number 74) have both objected to the proposal on privacy grounds.

To the east number 72 has living room windows on the western side. Number 72 has objected to the reduced space between the new north facing windows from Bedroom 1 W03 and W04, and to the two east facing windows from Bedroom 1, W01 and W02. Conditions have been requested including fixed vertical external privacy louvres (300mm deep) to the north facing windows, and frosted glazing and overlapping louvres to W01 and W02.

The proposed north facing windows (W03 and W04) will replace the existing north facing windows, and remove an existing vertical projecting privacy screen, that does not currently offer any great privacy protection between the existing windows and the neighbouring windows. This privacy screen will be relocated to the east of the north facing windows, and may provide some small protection in that direction, though this is not relied upon in this assessment. The dwelling at number 72 is located to the north of the subject dwelling, and the proposed new north facing windows will only be able to view into the extreme north western corner of the adjacent living room window and out the other side. They will not offer views into the actual room beyond the extreme corner of this room. Given they are bedroom windows, with a relatively low privacy impact due to limited use of the room, and do not create any great increase to privacy impacts no conditions are recommended. There is not considered to be any unreasonable impacts caused by the proposal and it is therefore not considered necessary to restrict the views from the bedroom by the addition of fixed vertical louvres.

The east facing windows W01 and W02 are provided with louvres on the plans. These windows are to a walk in robe, and a small corner of the bedroom. These are low use areas, and it is likely that when they are in use by the occupants they will be wish to have windows shielded for dressing and the like. The louvres provided are considered sufficient in this regard. No further conditions are considered necessary.

Number 74 to the west has no east facing windows in this location at the same level, but has an upper level deck off a study/bedroom area facing to the north and wrapping around the eastern side of the building. To the west the proposal includes 4 new side facing windows. These are W09 and W10 from the Bedroom 2, and W05 and W06 from Bedroom 1. Number 74 has requested conditions requiring frosted glazing and opening limited to 125mm to W06 and W10, and frosted glazing and opening limited to 45 degrees to W05 and W09.

W06 and W10 are small windows with minimum sill heights of 1.7m. W09 and W05 are situated in the northern corners of their respective bedrooms, and replace existing similar west facing windows slightly,



moved slightly further north. Given their location the majority of views out of these windows during general bedroom use will be in an angled direction to the north west, and not directly west towards the upper level deck of number 74. Given that these windows are bedroom windows, located in the corner of the room, or with high sills, and that they do not look directly into a primary living area but will only impact on an upper level deck off a bedroom/study, they are not considered to result in any unreasonable privacy impacts. No conditions of consent are recommended in this regard.

3.4.3 Maintenance of Views

The owners of number 76 to the west have objected to the proposal based on view loss.

Merit consideration:

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

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

Comment:

The proposal is considered to maintain a reasonable sharing of views, as discussed below in relation to the planning principles established by the Land and Environment Court.

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

An assessment of view loss has also been undertaken with reference to the Views Principle established by the NSW Land and Environment Court as follows:

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

Comment:

The views available from number 76 are panoramic views of Manly and Manly Beach to the north west, Queenscliff Headland and the headlands beyond to the north, the ocean, and around to Fairy Bower headland to the north east. The views are considered to be highly valuable and iconic.

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:

The primary living area and master bedroom are situated at the northern end of the dwelling, and the views from these areas will be completely unaffected by the proposal. The dwelling includes two upper level bedrooms/studies situated towards the southern end of the building, with adjoining balconies. The



views from these areas are not 'whole' views, as they are broken by the northern portion of the dwelling at number 76. Relevantly to the current proposal, the view towards Fairy Bower headland is across two side boundaries from these areas, and is heavily filtered and broken by vegetation and the existing development at numbers 74 and 72, such that there are only glimpses of the headland currently available from the building at these locations. The view from these areas is considered much less valuable than the primary views in relation to the first step above.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

The proposed rear extension of the upper level bedrooms at number 74 will obscure a small portion of the top of the Fairy Bower headland that is currently visible through the glass balustrade of the upper level deck of number 72, when viewed from the balcony situated on the towards the southern end of number 76 on its western side, attached to a bedroom/study. It will also obscure a small portion of ocean from a similar balcony in a similar location but on the eastern side of the dwelling at number 76. The panoramic views from the main living areas, master bedroom, and upper level deck will be completely unaffected. For the whole of the property, the view loss is considered to be 'negligible'.

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

Comment:

The proposal generally maintains the heights of the existing dwelling, and is compliant with the overall height control. It also complies with the rear and side setback controls. It does not comply with the floor space ratio control as discussed in this report. However, this is a very minor rear extension to the upper level bedrooms, which has a negligible impact on the views of neighbours from bedroom/study areas situated towards the southern end of their dwelling. The views from the main living areas will remain completely unaffected. The proposal is not considered to result in any unreasonable view impacts, despite the non-compliance with the FSR control. A reasonable sharing of views is considered to be maintained. A 'more skilful design' is not considered necessary, and imposing amendments on the applicant is not considered reasonable in the circumstances.

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

Comment:

As discussed above, the proposal is considered to maintain reasonable view sharing. Therefore, although there will be some very small view impact to bedrooms/studies situate towards the southern



end of the dwelling at number 76, there will be no impacts on the views from the main living areas, and the proposal is not considered to result in any unreasonable 'view creep'.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.3 Floor Space Ratio (FSR)

The lot is not an 'undersized lot' as discussed within this clause. The proposal is non-compliant with the minimum floor space ratio requirement under clause 4.4 in the LEP (refer to discussion under clause 4.6 in this report). The proposal is considered to achieve the outcomes of this DCP clause as discussed below.

Merit Assessment

Objective 1) To ensure the scale of development does not obscure important landscape features.

Comment: The proposed works are very minor in scale compared to the existing dwelling, being a small extension to the rear of two upper level bedrooms. They are not considered to have any significant or unreasonable impacts on views to any important landscape features.

Objective 2) To minimise disruption to views to adjacent and nearby development.

Comment: The proposal is a minor rear extension to the upper level. The neighbour to the west has objected to the proposal based on view loss impacts. However, as discussed under clause 3.4.3 in this report, the proposal is not considered to result in any unreasonable view loss. The minor extension is therefore considered to be consistent with this objective.

Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.

Comment: The proposed works do not create a significant amount of additional overshadowing, and will not cause the development to become inconsistent with this objective. The adjoining dwellings have their primary living spaces orientated to the north, and these are not affected.

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

Description of non-compliance

Clause 4.1.4.2 requires that windows be setback 3m from the side boundaries. Proposed windows W02 to the east, and W09 to the west are located 2.4m and 2.7m from the side boundaries respectively.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:



The proposed works are at the rear of the existing dwelling and will have no significant or unreasonable impacts on the streetscape.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The neighbours to each side (east and west) have objected to the proposal on privacy grounds. The eastern neighbours have also raised view loss as a concern. These issues have been addressed in detail under clause 3.4.2 and 3.4.3 in this report. In summary, the proposal is considered to maintain a reasonable level of privacy, and does not have unreasonable impacts on views. The additions will not create any significant or unreasonable overshadowing. The proposal is considered to be consistent with this objective.

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

Comment:

The proposed alterations and additions are dictated in their location by the existing dwelling.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposed works are entirely over the existing building footprint, and will not affect the landscaped area on site, or have any unreasonable impacts in relation to any natural features in the surrounding area.

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

Comment:

The site is not identified as being bush fire prone.

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



with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1820 for Alterations and

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additions to a dwelling house on land at Lot 9 DP 8075, 74 Bower Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A001 A	August 2018	Mark Hurcum Design Practice
A103 A	August 2018	Mark Hurcum Design Practice
A104 A	August 2018	Mark Hurcum Design Practice
A201 A	August 2018	Mark Hurcum Design Practice
A202 A	August 2018	Mark Hurcum Design Practice
A204 A	August 2018	Mark Hurcum Design Practice
A221 A	August 2018	Mark Hurcum Design Practice

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report Project No.: 2018-182	December 2018	Crozier Geotechnical Consultants

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
74 Bower St Manly Waste Management Plan Issue: A	October 2018	Design Practice

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

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of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths,



roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

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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).

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. 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.

6. 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

7. 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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. **Pre-clearance Survey Required – Bandicoot Habitat**

A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present within the area to be cleared. All clearing must initially be carried out with hand tools to identify whether any bandicoots are sheltering within the area to be cleared (e.g. at the base of vegetation or under deep litter). Machinery may only be used once it has been confirmed that no bandicoots are sheltering within the area to be cleared. Clearing must be carried out at dusk and completed within one day so that bandicoots do not reoccupy partially cleared areas overnight. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to the Principal Certifying Authority.

Reason: To avoid injury or death of Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

9. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

10. **Report Dead or Injured Bandicoots – Bandicoot Habitat**

Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

11. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

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

12. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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



Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

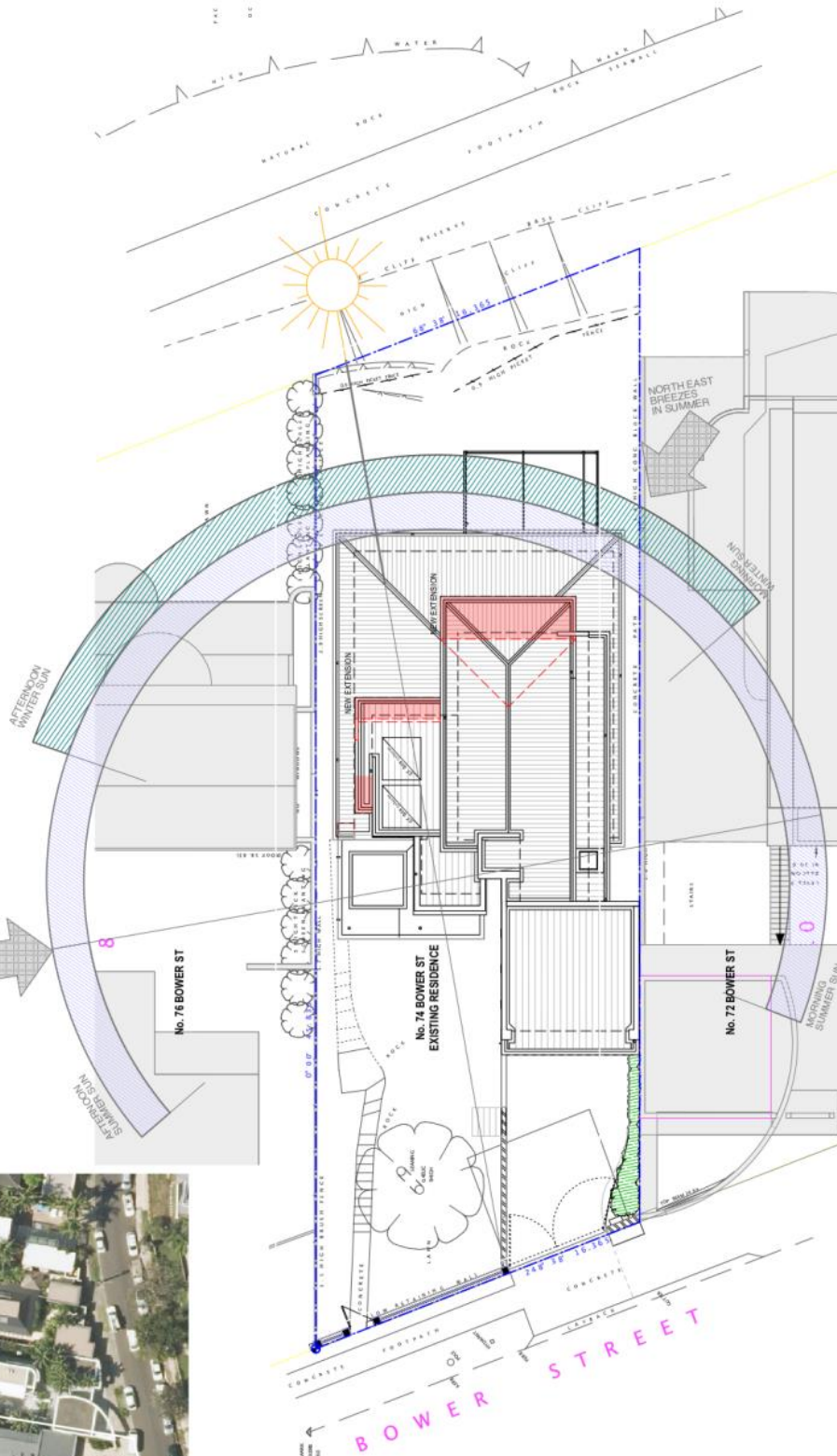
Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

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

13. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

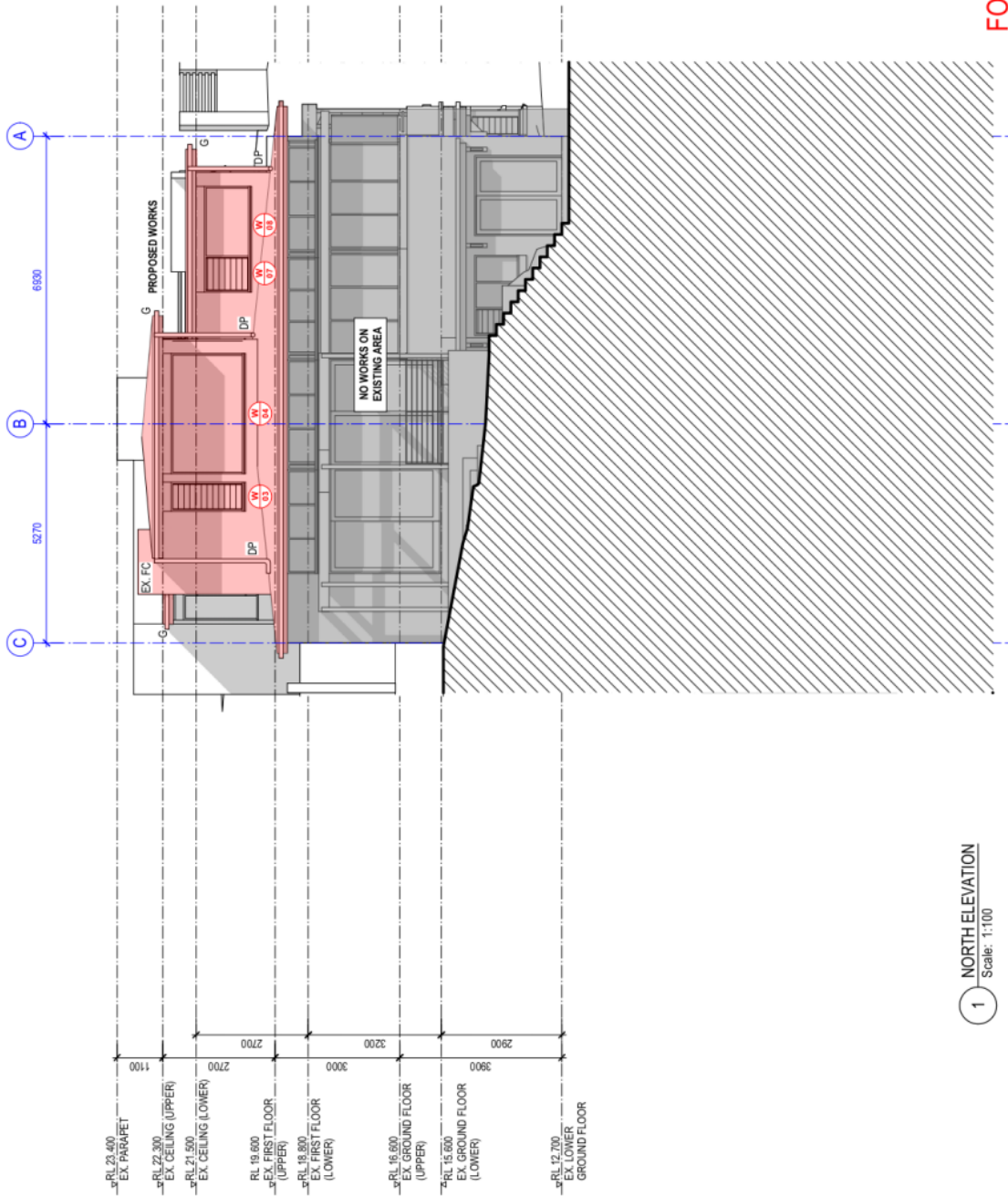
If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

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



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1 NORTH ELEVATION
Scale: 1:100

NORTH ELEVATION

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**EXTERNAL FINISHES SCHEDULE
(TO MATCH EXISTING)**



P1 (EX F1)
EXISTING RENDER WALL COLOUR
DULUX:
BERKSHIRE WHITE
SW1EB



P2
WALL COLOUR
DULUX:
APPARTION
S18B2



P3
TIMBERWORK AND WALL COLOUR
DULUX:
TEAHOUSE
GREY



P4
FEATURE COLOUR
DULUX:
NAMAQUI
SNA68



MR1
ROOF SHEET AND ACCESSORIES
COLOUR:
COLOURBOND
WOODLAND GREY



GL1
ALUMINIUM WINDOW FRAME
COLOUR:
POWDERCOAT
OFF WHITE

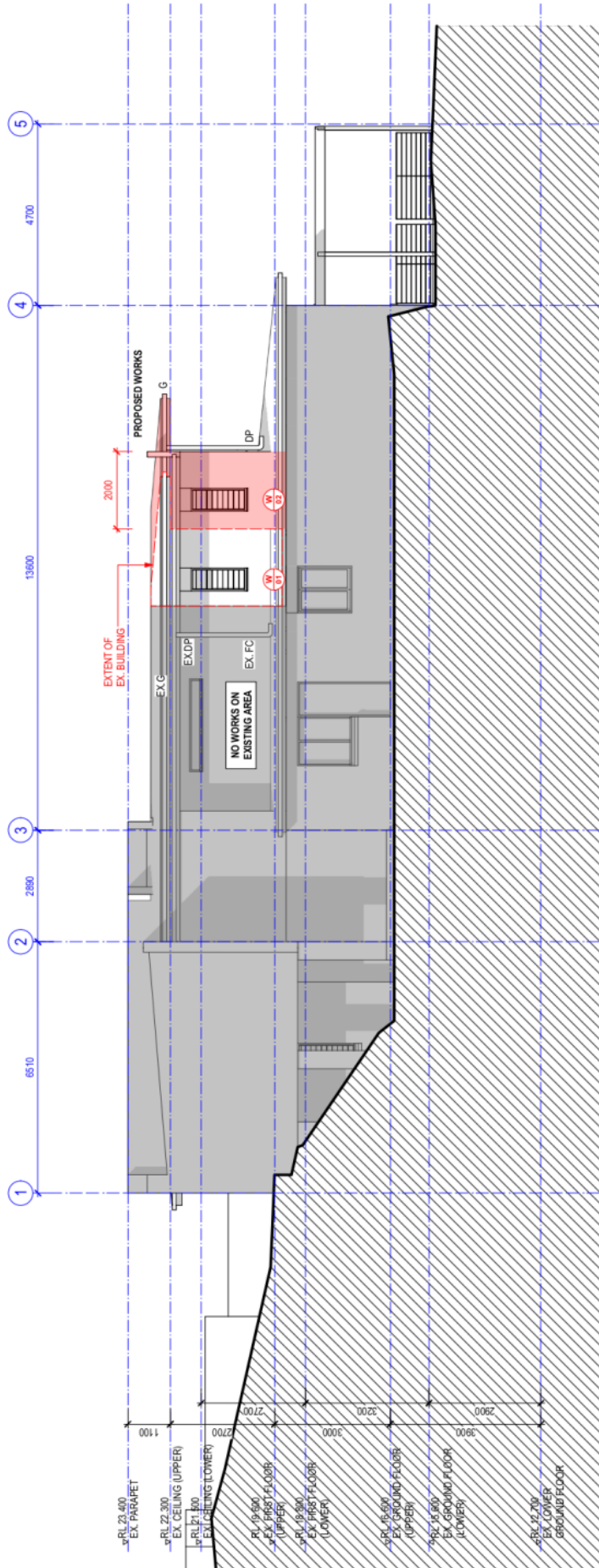
FOR DEVELOPMENT APPLICATION ONLY

A201 A

Scale - 1:100 @ A3
AUGUST 2018

**ALTERATIONS AND ADDITIONS
74 BOWER STREET MANLY**

DESIGN FOR DEVELOPMENT APPLICATION	DATE	TABLE
MARK HARCUM DESIGN PRACTICE		
LEVEL 2, 5/11 ALBERT STREET, MANLY, NSW 2095		
TEL: (02) 9555 5845		
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DESIGN PRACTICE		



1 EAST ELEVATION
Scale: 1:100

EAST ELEVATION

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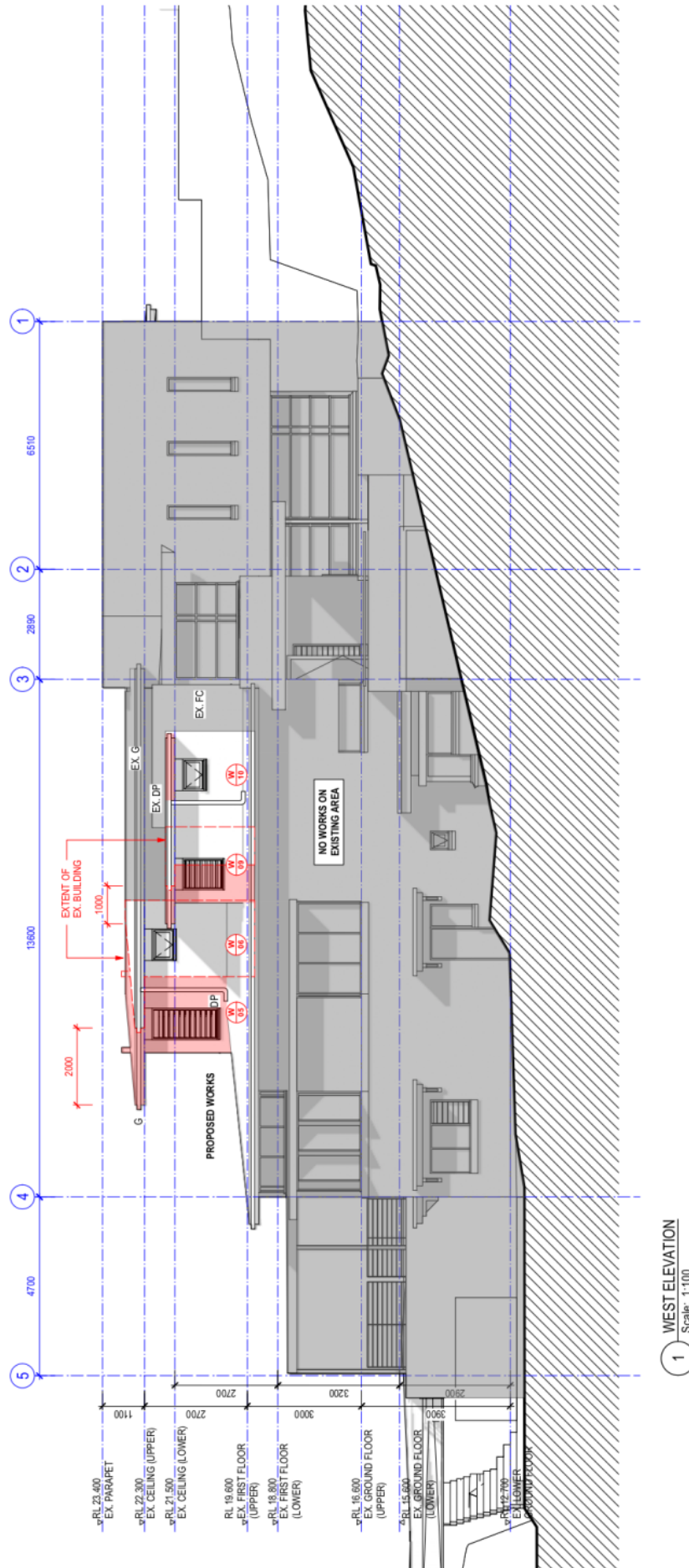
ALTERATIONS AND ADDITIONS 74 BOWER STREET MANLY

FOR DEVELOPMENT APPLICATION ONLY

A202 A

Scale - 1:100 @ A3
AUGUST 2018

MARK HARCUM DESIGN PRACTICE	DATE	REVISION
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1 WEST ELEVATION
Scale: 1:100

WEST ELEVATION

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ALTERATIONS AND ADDITIONS 74 BOWER STREET MANLY

FOR DEVELOPMENT APPLICATION ONLY

A204 A

Scale - 1:100 @ A3

AUGUST 2018

REVISION	DATE	BY	REASON FOR DEVELOPMENT APPLICATION AMENDMENT
1	01/08/2018	MARK HARCUM	DESIGN PRACTICE
2	01/08/2018	MARK HARCUM	DESIGN PRACTICE
3	01/08/2018	MARK HARCUM	DESIGN PRACTICE
4	01/08/2018	MARK HARCUM	DESIGN PRACTICE
5	01/08/2018	MARK HARCUM	DESIGN PRACTICE
6	01/08/2018	MARK HARCUM	DESIGN PRACTICE
7	01/08/2018	MARK HARCUM	DESIGN PRACTICE
8	01/08/2018	MARK HARCUM	DESIGN PRACTICE
9	01/08/2018	MARK HARCUM	DESIGN PRACTICE
10	01/08/2018	MARK HARCUM	DESIGN PRACTICE

ITEM 3.4

DA2018/0217 - 9 CALVERT PARADE, NEWPORT - DEMOLITION OF EXISTING DWELLING BOUNDARY ADJUSTMENT CONSTRUCTION OF ONE 1 NEW DWELLING HOUSE ON LOT 32 DP 6638 AND CONSTRUCTION OF ONE 1 NEW DWELLING HOUSE ON LOT 31 DP 455971

REPORTING MANAGER

Anna Williams

TRIM FILE REF

2019/238222

ATTACHMENTS

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

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0217 for Demolition of existing dwelling boundary adjustment construction of one 1 new dwelling house on Lot 32 DP 6638 and construction of one 1 new dwelling house on Lot 31 DP 455971 on land at 9 Calvert Parade, Newport subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0217
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 32 DP 6638, 9 Calvert Parade NEWPORT NSW 2106 Lot 31 DP 455971, 9 Calvert Parade NEWPORT NSW 2106
Proposed Development:	Demolition of existing dwelling boundary adjustment construction of one 1 new dwelling house on Lot 32 DP 6638 and construction of one 1 new dwelling house on Lot 31 DP 455971
Zoning:	E4 Environmental Living E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Gai Olga Cottee
Applicant:	Daniel Raymond Architect Pty Ltd
Application lodged:	15/02/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	18/12/2018 to 25/01/2019
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 3,830,000.00

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

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- 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

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - A4.10 Newport Locality
Pittwater 21 Development Control Plan - B2.2 Subdivision - Low Density Residential Areas
Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)
Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)
Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 32 DP 6638 , 9 Calvert Parade NEWPORT NSW 2106 Lot 31 DP 455971 , 9 Calvert Parade NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of two (2) allotments located on the eastern side of Calvert Parade, Newport. Lot 31 in DP 455971 is 461.6m² and Lot 32 in DP 6638 is 948.5m².</p> <p>The site (both lots) is regular in shape with a combined frontage of 23.01m along Calvert Parade and a depth of 59.91m on the northern boundary and 63.825m on the southern boundary. The site has a total surveyed area of 1416m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single split level dwelling with two garages on either side of the dwelling which has a zero setback to Calvert Parade.</p> <p>The site falls from the street toward the eastern frontage (mean high water mark) adjoining Newport Beach and has a total fall of approximately 10.64m or 15.2% across the whole site.</p> <p>The site is split by a steep dune escarpment and contains a large Norfolk Island Pine tree on the southern side of the eastern end of the lot .</p> <p>Detailed Description of Adjoining/Surrounding Development</p>



Adjoining and surrounding development is characterised by single dwelling houses exhibiting a range of sizes and architectural styles and eras.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for the subject sites.

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

Development Application DA2018/0217 was lodged with Council on 15 February 2018. The Application was internally referred to Council's Development Engineer, Landscape Officer, Natural Environment Officer, Coast and Estuary Officer and Section 94 Contributions Officer. The application was externally referred to Ausgrid and the Aboriginal Heritage Office.

Following notification of the proposal and an initial assessment of the application, a number of issues were identified with the design and siting of the proposal. The Applicant was given an opportunity to address the concerns raised and lodged amended plan on 13 December 2018. The application was re-notified to adjoining property owners from 18 December 2018 till 25 January 2019. There were no further submissions received in response to the amended plans.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for demolition of the existing dwelling, boundary adjustment to create two (2) equal sized lots measuring 708.6m² (Lot 1, No.9) and 708.2m² (Lot 2, No. 9A) and construction of two new dwellings containing the following:

Lot 1, No. 9

RL13.45 - Lower Ground Floor Plan

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- Double garage with storage
- Entry into Rumpus Room
- Laundry
- Bathroom
- Mudroom
- Internal lift
- Bedroom 3 and 4
- Terrace
- Swimming pool

RL16.35 - Ground Floor Plan

- Main entry
- Living room
- WC
- Kitchen with walk-in pantry
- Lounge with gas fire place on southern wall
- Dining room
- East facing balcony off lounge and dining room

RL 19.15 - First Floor Plan

- Master bedroom with ensuite
- Bedroom 2 with ensuite
- Study recess

Lot 2 - No. 9A

RL 12.02 - Lower Ground Floor Plan

- Double garage with storage
- Entry into Rumpus Room
- Laundry
- Bathroom
- Mudroom
- Internal lift
- Bedroom 3 and 4
- Terrace
- Swimming pool

RL 14.92 - Ground Floor Plan

- Main entry
- Living room
- WC
- Kitchen with walk-in pantry
- Lounge with gas fire place on southern wall
- Dining room
- East facing balcony off lounge and dining room



RL 19.15 - First Floor Plan

- Master bedroom with ensuite
- Bedroom 2 with ensuite
- Study recess

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	Pittwater 21 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 clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the</p>



Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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> <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 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:
Mr Roman Zwolenski	8 Calvert Parade NEWPORT NSW 2106
Mr Bodan Stebniki	12 Calvert Parade NEWPORT NSW 2106
Mr Stephen John Pinnell	10 Calvert Parade NEWPORT NSW 2106

The proposed development was originally notified from 5 March 2018 to 19 March 2018. The following issues were raised after the first notification to the neighbouring properties.

8 Calvert Parade

- Non-compliance with the building envelope and resultant bulk and scale.

Comment: The overall height and scale of the development was reduced with the amended plans including setting the dwelling behind the foreshore building line. The extent of non-compliance with the building envelope control is subsequently materially reduced. The non-compliance with the building envelope has been addressed in greater detail within Clause D10.11 of Pittwater 21 DCP. This issue does not warrant refusal of the application.

10 Calvert Parade

- Non-compliance with the maximum height.

Comment: As identified above, the building height, primarily with No. 9 has been reduced as a result of the amended plans and is considered satisfactory given the site constraints. The building height complies with the requirements of PLEP 2014. This issue does not warrant refusal of the application.

12 Calvert Parade

- Over-sized height of the development.

Comment: Refer to building height assessment under Clause 4.3 of PLEP 2014.

The matters raised within the submissions have been addressed with amended plans submitted. The application was subsequently re-notified from 18 December 2018 until 25 January 2019. There were no further submissions in relation to the amendments to the plans.

MEDIATION

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape proposal is generally acceptable, subject to existing tree protection and provision of adequate landscaping.
NECC	The Aboriginal Heritage Office has provided the following preliminary comments:

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Internal Referral Body	Comments
(Bushland and Biodiversity)	<p><i>There are known Aboriginal sites in this area and an Aboriginal site is recorded within the current development area. The area of the proposed development is considered as having high potential for impacting the recorded Aboriginal site.</i></p> <p><i>Given the high potential, the Aboriginal Heritage Office has recommended an Aboriginal heritage assessment be carried out for the land and development application by a qualified Aboriginal heritage professional, including consideration for subsurface archaeological test pits. This would provide an assessment of any extent of the recorded Aboriginal archaeological sites, and any unrecorded or potential Aboriginal sites within the allotment, and advice on potential (direct or indirect) impacts to the recorded Aboriginal site.</i></p> <p>The proposal is supported, subject to any conditions of consent recommended by the Aboriginal heritage assessment, and those recommended in this Biodiversity referral.</p>
NECC (Coast and Catchments)	<p>An independent review of the foundation piling has been prepared by Council's coastal engineering consultant. Relevant conditions have been included as recommended and it should be noted that executed Forms 1 and 1(a) of P21DCP, Appendix 6, have been signed and are lodged in support of the DA.</p> <p>The Coastal Risk Management Report concludes correctly that:</p> <ul style="list-style-type: none"> • The proposed dwellings will need to be founded on pile foundations in order to retain stability in the event of erosion during a very severe future storm. The Geotechnical investigation has indicated that a low strength shale stratum underlies the property and the foundations may be socketed into this rock where appropriate. • The coastal planning level for the property has been calculated as 7.0 m AHD. The proposed developments will be situated entirely above this level. <p>In respect of the foundation design, there are no specific coastal engineering requirements other than the piles be founded in by being socketed into the underlying rock. The piles shall be designed in the conventional manner to satisfy the requirements of an adequate Factor of Safety against geotechnical failure (i.e., failure of the supporting soil/substrate), an adequate Factor of Safety against structural failure of the piles themselves and acceptable settlement under the design load in accordance with the Australian Standard Piling Code (AS2159-2000).</p> <p>It is recommended that the applicant's coastal engineer be requested to submit Form 1 of the Pittwater 21 Development Control Plan Appendix 6 to fulfill the requirements of the DA submission.</p>
NECC (Development Engineering)	<p><u>Original assessment</u></p> <p>The proposed garage floor level for unit 9A is about 1.63 meters below the existing front boundary ground level. A suitable vehicular crossing in compliance with Council's profile AS/NZS 2890.1:2004 may not be achievable. In this regard the driveway must be designed to the following requirements:-</p> <ul style="list-style-type: none"> • A normal standard vehicular profile 3330/1 is to be designed for the proposed garages. https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/geotechnical-information/specification-documents/normalstandardvehiclecrossingprofile.pdf • Detail longitudinal cross section with levels for the both sides of driveway are to be



Internal Referral Body	Comments
	<p>submitted for Council assessment.</p> <ul style="list-style-type: none"> The vehicular crossing within the public road must be perpendicular the kerb alignme <p>The submitted Geotechnical Engineer has required the stormwater drainage to be conne to the street drainage system, however the proposed drainage plans show that the storm as being discharged to the rear of the site. A revised comments from the Geotechnical Engineer is requested.</p> <p>Prior to full assessment of the application, the above additional information are requested</p> <p><u>18/04/2019</u></p> <p>The proposed development does not require OSD. The proposed stormwater managemen satisfactory and should be assessed by Coast & Estuary. The geotechnical Engineer cer that an acceptable risk can be achieved for the development. No objection to approval, s to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	The application was referred to the Aboriginal Heritage Office who have not raised any objections to the proposed development.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application in relation to the two (2) proposed dwellings (see Certificate No. 885571S_02, dated 07 February 2018 and Certificate No. 885732S, dated 20 December 2017).

The BASIX Certificates indicate that the development will achieve the following:

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9A Calvert Parade

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	59

9 Calvert Parade

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

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

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
Minimum subdivision lot size:	700sqm	Lot 1 (no.9): 708.6m2	N/A	Yes
		Lot 2 (no. 9A): 708.2m2		
Height of Buildings:	8.5m (and 10.0m)	Lot 1: 8.543m	N/A	Yes, subject to clause 4.3 (2D)
		Lot 2: 9.322m		

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes



Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	N/A
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	No
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

Both dwellings will result in a breach of the 8.5m building height standard. The applicant has relied on the exception contained within Clause 4.3 (2D) to satisfy the height proposed for each dwelling. The application has demonstrated that in exceeding the 8.5m height limit it has satisfied the criteria for work up to 10m as follows:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and***

Comment: The building forms on both lots provide a maximum height of 8.543m on Lot 1 and 9.322m on Lot 2. This represents a height 0.5% over the 8.5m height for Lot 1 and 9.7% for Lot 2. Both height non-compliances are less than 10% and are considered minor in the context of where they are situated.

- (b) the objectives of this clause are achieved, and***

Comment: The objectives of this clause are addressed as follows:

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

The proposed development has been considered in terms of the desired character for the Newport Locality and is considered to contribute a consistent low density form of development.

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

The proposed development is presents a scale that is commensurate with surrounding development.



c) to minimise any overshadowing of neighbouring properties,

The site is oriented in an east-west direction. While some additional overshadowing impacts on the adjoining southern property at No. 11 Calvert Parade will result from the new dwelling on proposed Lot 1, these are primarily due to the site's direct southern location to the subject site. The overshadowing has been assessed as reasonable in this context and

d) to allow for the reasonable sharing of views,

There are no views identified that will be unacceptably impacted by the proposed development.

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

The proposed dwellings provide a footprint which is clear of the Foreshore Building Line which essentially sterilizes approximately 62% (440m²) of the eastern end of the site. The built form on each dwelling incorporates a stepped integration with the eastern part of the site providing terraces and pool structures to connect sensitively with the natural land form.

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

The proposed development maintains the Foreshore Building Line which is a setback from Newport Beach of between 36m and 38m. The development provides an acceptable form of development in this location and is considered to result in minimal visual impact on the natural environment.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

Comment: The building footprint for each dwelling is situated on a slope of more than 30% being 32.7% for No. 9A (Lot 2) and 21.7% for No. 9 (Lot 1) satisfying this requirement.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment: Due to the substantial setback required by the Foreshore Building Line, these sites have restricted building areas within the western half of the site.

7.8 Limited development on foreshore area

The proposed development is consistent with Clause 7.8. Specifically, sub-clause (2) as development within the foreshore area is restricted to the swimming pool structures forming part of the application. The development is considered consistent with the objectives of the E4 Environmental Living zone and does not change the existing public access arrangements to the beach front available approximately 70m to the north of the site from Calvert Parade.

Further, the application is considered consistent with sub clause (3) which states:

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

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

Due to the steep topography at the eastern end of the site where the foreshore building line intersects, the development provides a retaining wall to support the pool structure. This retaining wall is faced in



sandstone cladding to provide a natural building interface with the foreshore and additional landscape planting in front to enhance the natural transition to the dunes. The development is considered acceptable in terms of addressing the clause.

Pittwater 21 Development Control Plan

Built Form Controls

9 CALVERT PARADE

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4.415m - 5.633m	32.1% - 13.3%	No
Rear building line	Foreshore Building Line	Swimming pool and pool coping/surround within FBL	N/A	Yes, refer to Clause 7.8 PLEP 2014
Side building line	2.5m (north)	2.5m to Ground and First Floor level 1.1m to dwelling (lower ground floor) 0.7m to pool Nil setback to terrace, access stair and planter box	Nil 56% 72% 100%	Yes No No No
	1m (south)	1m to dwelling 0.851m to fireplace nil setback to access stairs	Nil 20% 100%	Yes No
Building envelope	3.5m (north)	Outside envelope (up to 2.15m)	N/A	No
	3.5m (south)	Outside envelope (up to 1.656m)	N/A	No
Landscaped area	60%	59.3%	N/A	No

9A CALVERT PARADE

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4.534m - 5.379m	30.2% - 17.2%	No
Rear building line	Foreshore Building Line	Swimming pool and pool coping/surround within FBL	N/A	Yes, refer to Clause 7.8 PLEP 2014
Side building line	2.5m (north)	4.4m to First Floor Level 2.5m to Ground Floor level 1.186m to dwelling (Lower Ground Floor Level) 1.5m to pool Nil setback to terrace, access stair and planter box	Nil Nil 52.6% 40% 100%	Yes Yes No No No
	1m (south)	1.0m to Lower Ground and Ground Floor Level of dwelling	Nil Nil	Yes Yes

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		2.092m to First Floor Level nil setback to access stairs	100%	No
Building envelope	3.5m (north)	Outside envelope (up to 0.042m)	N/A	No
	3.5m (south)	Outside envelope (up to 2.325m)	N/A	No
Landscaped area	60%	60%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	No	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.3 Coastline (Beach) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
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
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Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.10 Newport Locality

The proposed development is considered against the desired future character for the Newport Locality:

The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary Dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational



facilities will serve the community.

Comment:

The proposed development proposes a boundary adjustment subdivision to create two (2) compliant sized allotments and construction of two (2) free standing dwellings (one on each lot). The proposed dwellings are considered low density development integrated within a natural landscaped setting. While both dwellings technically provide for three (3) storeys within parts of the building footprint, this is considered acceptable in this instance as the site is significantly constrained by the foreshore building line and the natural dune escarpment which essentially cuts the site in half.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

Comment:

The site is located within an established subdivision serviced by existing infrastructure. While some additional connections will be required to service the second dwelling, adequate access is available to facilitate this. At the eastern end of the development, the designs satisfactorily terrace down the site in response to the escarpment.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

Comment:

The site contains a natural dune escarpment which practically cuts the site in half. At the eastern end of the site there is a large Norfolk Island Pine (approx. 30m tall) which will be retained within the proposed Lot 1. The existing native vegetation within this foreshore building line will be maintained and complemented by new planting in front of the swimming pool retaining wall to provide natural screening of the development. There are no known items of Aboriginal Heritage on the site. Appropriate conditions will ensure that correct procedures are followed should any items be discovered during excavation of the site.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

Newport's coastal setting is what contributes most to the distinctive character of the commercial centre. Responsive, energy efficient buildings will support and enhance this relaxed, beachfront character and its outdoor lifestyle, contributing to a unique sense of place. Contemporary design solutions within the commercial centre will respond to Newport's climate and setting, including providing shade and shelter to streets and entries, generous private outdoor spaces, openings that capture ocean breezes, and



shade elements.

Comment:

The proposed works will not adversely impact on existing access through the locality either along the streets or to the beach front. The subject site is not located within the commercial centre.

On balance, the proposal is considered consistent with the desired future character of the locality.

B2.2 Subdivision - Low Density Residential Areas

Requirement	Proposed	Compliant
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27 metres.	The proposed new lots will both provide a minimum depth of at least 59.9m.	Yes
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of 16 metres.	The proposed Lot 1 will have a boundary width of 11.51m and Lot 2 a width of 11.50m	No - Refer to discussion below this table
All roads, rights of carriageway, drainage design and construction is to be in accordance with Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering Works, Development Engineering Minor Works Specification, On Site Stormwater Detention (OSD) Technical Specification and Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards. Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.	The subdivision does not include any internal roads. Drainage and construction has been reviewed by Council's Development Engineer as acceptable.	Yes
Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.	N/A	N/A
Any easement, right-of-carriageway, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.	N/A	N/A



In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is minimised, is to be provided within an allotment. Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.	The site is affected by the foreshore building line and a natural dune escarpment. The proposed works are located west of this building line and locates only the swimming pool structures within this area.	Yes
Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within the property boundaries of the new subdivision.	The site is not bushfire prone.	Yes

Description of non-compliance

The proposed development is located with Area 1 on the Landscaped Area Map and does not provide a minimum lot width of 16m.

Merit consideration

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

- *To regulate the density of development.*

Comment:

The proposed subdivision provides two (2) lots with compliant depth and site area. Each site has demonstrated a suitable building platform which on merit satisfies the requirements of PLEP 2014 and Pittwater 21DCP.

- *To limit the impact of new development and to protect the natural landscape and topography.*

Comment:

The proposed development is not considered to result in unacceptable adverse impacts and is complimentary to this sensitive location.

- *To ensure that any new lot created has sufficient area for landscaping, private open space, drainage, utility services and vehicular access to and from the site.*

Comment:

Each site has demonstrated adequate provision of landscaping, private open space, drainage and utility services which improve the existing situation.

- *To maximise and protect solar access for each dwelling.*

Comment:



Each lot is oriented east-west and subsequently results in some overshadowing the property located to the south. Notwithstanding, solar access is adequately maintained to the primary open space for each site and is considered acceptable.

- *To maximise the use of existing infrastructure.*

Comment:

The site is currently serviced with utilities infrastructure. The inclusion of an additional dwelling connecting into the available infrastructure is not considered to result in additional burden on this infrastructure and is considered acceptable.

- *To protect the amenity of adjoining properties.*

Comment:

The amenity of the adjoining properties is considered to be adequately addressed with the design of the dwellings.

- *To minimise the risk from potential hazards including bushfires, land slip and flooding.*

Comment:

The site is affected by the Foreshore Building Line restrictions and the main building form is sited to the west of this line.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / consistent with the relevant objectives of PLEP 2014 / PDCP 21 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.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

The application includes some minor non-compliances with the side building line requirement of 2.5m and 1.0m as detailed within the built form controls table and summarised below (non-compliances italicized):

No 9

2.5m (north) 2.5m to face of dwelling at Ground and First Floor level
1.1m to dwelling (lower ground floor)
0.7m to pool
Nil setback to terrace, access stair and planter box

1m (south) 1m to dwelling
0.851m to fireplace
nil setback to access stairs

No 9A

2.5m (north) 4.4m to First Floor Level
2.5m to Ground Floor level
1.186m to dwelling (Lower Ground Floor Level)
1.5m to pool

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Nil setback to terrace, access stair and planter box

1m (south) 1.0m to Lower Ground and Ground Floor Level of dwelling

2.092m to First Floor Level
nil setback to access stairs

Due to the non-compliances with the numeric requirements of this control, the application is considered on its merits against the following outcomes of the control:

To achieve the desired future character of the Locality.

The proposed subdivision and new dwellings are considered to satisfactorily achieve the desired future character of the locality. this has been discussed in detail within Section A4.10.

The bulk and scale of the built form is minimised.

Given the constraints on this site with topography, foreshore building line and the sensitive nature of the location, the non-compliance's identified are not considered to result in adverse bulk and scale with the built form.

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

There are no views across the site identified which require preservation.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

The replacement of the existing dwelling with two narrower dwellings creates a corridor between the two structures providing new sight lines across the site toward Newport Beach. The height of the dwellings at the streetscape have been minimised providing a discreet scale toward Calvert Parade.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

The dwellings have been designed and placed to ensure privacy between the sites and the neighbouring properties is adequately maintained.

Substantial landscaping, a mature tree canopy and an attractive streetscape.

The development maintains a substantial portion of each site as natural landscaped area with No.9 providing 358m² and No.9A providing 364m² of landscaping east of the dwelling adjoining Newport Beach. With the setback of No. 9 (southern lot) there is a mature Norfolk Island Pine with a height estimated at 30m. This tree is being retained amongst the dune escarpment providing a mature tree canopy. The proposal's interaction within the streetscape is considered significantly improved replacing the existing dwelling located with a nil setback to the street with two new dwellings providing a landscaped setback which is consistent within the streetscape.

Flexibility in the siting of buildings and access.

Given the constraints imposed site by virtue of the natural dune escarpment and the location of the foreshore building line so deep within the site, some flexibility in applying the required setbacks is considered suitable in this instance and provides for a new development that will preserve the natural beauty of the eastern portion of the site while providing new residential accommodation suited to modern living expectations. The proposal will result in minor non-compliance with the front and side building lines which have individually been assessed as acceptable.

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

As indicated, the site retains a significant Norfolk Island Pine tree located with the the eastern portion of No. 9. In conjunction with the new planting proposed by the application around the site, the visual



presence of the built form will be adequately filtered by vegetation.

To ensure a landscaped buffer between commercial and residential zones is established.

The site does not adjoin a commercial zone, this outcome does not apply to this site.

D10.11 Building envelope (excluding Newport Commercial Centre)

Both dwellings result in non-compliance with the side building envelope requirements. For No. 9, the maximum protrusion is up to 2.15m on the northern facade and up to 1.656m on the southern facade.

For No. 9A, the extent of non-compliance is confined primarily to the eave overhang up to 0.042m and on the southern facade up to 2.325m.

In both instances, the non-compliances reflect the transitions within the existing ground line. The resulting built form is not considered unreasonably bulky or dominant and will be suitably scaled by the large Norfolk Island Pine that dominates the site. The development has conformed to a restricted building platform due to the location of the foreshore building line and notwithstanding some minor non-compliance's is considered to satisfactorily achieve the outcomes of the building envelope control.

D10.13 Landscaped Area - Environmentally Sensitive Land

The proposed dwelling for Lot 2 (No.9A) will result in a landscaped open space provision of approximately 59.3% which represents a deficit of 5.2m². While this site will have a minor non-compliance with the 60% numerical requirement, the development adequately meets the outcomes of the control ensuring existing vegetation (30m Norfolk Island Pine) within the eastern setback is retained to provide vegetation for visual relief of the built form. Further the siting of the development west of the foreshore building line retains more than 360m² of the site for natural vegetation and stormwater runoff. The development is considered acceptable notwithstanding the minor numerical non-compliance.

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

The subject site comprises Lot 31 DP 455971 being approximately 462m² and Lot 32 DP 6638 being approximately 957m². The Applicant's Statement of Environmental Effects advises that Lot 31 contains the residue of former Lot 31 DP 6638 that was divided and transferred to the owners of adjoining Lots 30 and 32 DP 6638 respectively in 1913. The DA proposes the demolition of the existing dwelling, a boundary adjustment to create two allotments 708m² in size and the construction of a new dwelling on each allotment.

The Pittwater Section 94 Contributions Plan for Residential Development applies to development which would result in the creation of additional residential lots/dwellings and a commensurate new increase in



demand for infrastructure. This DA proposes the construction of an additional dwelling which is facilitated by a boundary adjustment to create an allotment that is of sufficient size and dimensions to accommodate a dwelling. The boundary adjustment and construction of an additional dwelling on Lot 31 will increase demand for public infrastructure and services. A development contribution has been calculated in accordance with the Pittwater Section 94 Contributions Plan for Residential Development and is provided below.

A contribution of \$20,000 is payable to Northern Beaches Council for the provision of public infrastructure and services pursuant to the Pittwater Section 94 Contributions Plan for Residential Development.

The contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate (whichever occurs first) or prior to the issue of the Subdivision Certificate where no Construction Certificate is required.

The proponent may negotiate with Council for the direct provision of facilities and services specified in the Section 94 Plan, the dedication of land or another material public benefit in lieu of full or partial payment of the monetary contribution. Any agreement shall be in accordance with the Pittwater Section 94 Contributions Plan for Residential Development. The agreement must be finalised, formally signed and in place prior to payment being due.

The Pittwater Section 94 Contributions Plan for Residential Development may be inspected at Council's Mona Vale office, 1 Park Street Mona Vale or on Council's website.

Cashier Codes:
SOPS – \$8,000
SLEL – \$2,000
SCSF – \$3,500
SVSS – \$6,500

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;
- 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
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- 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 DA2018/0217 for Demolition of existing dwelling boundary adjustment construction of one 1 new dwelling house on Lot 32 DP 6638 and construction of one 1 new dwelling house on Lot 31 DP 455971 on land at Lot 32 DP 6638, 9 Calvert Parade, NEWPORT, Lot 31 DP 455971, 9 Calvert Parade, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Building materials, sedimentation

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

Reason: Environmental Protection

2. 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
9-DA-000 - Cover Page and Schedules	16.11.2018	Daniel Raymond Architect
9-DA-001 - Site Plan	12.11.2018	Daniel Raymond Architect
9-DA-100 - Lower Ground Floor Plan	12.11.2018	Daniel Raymond Architect
9-DA-101 - Ground Floor Plan	12.11.2018	Daniel Raymond Architect
9-DA-102 - First Floor Plan	12.11.2018	Daniel Raymond Architect
9-DA-300 - Elevation Sheet 01	12.11.2018	Daniel Raymond Architect
9-DA-301 - Elevation Sheet 02	12.11.2018	Daniel Raymond Architect
9-DA-302 - Elevation Sheet 03	12.11.2018	Daniel Raymond Architect
9-DA-400 - Sections Sheet 01	16.11.2018	Daniel Raymond Architect

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9-DA-401 - Sections Sheet 03	12.11.2018	Daniel Raymond Architect
9-DA-500 - Landscape Concept Plan	16.11.2018	Daniel Raymond Architect
9A-DA-001 - Site Plan	16.11.2018	Daniel Raymond Architect
9A-DA-100 - Lower Ground Floor Plan	12.11.2018	Daniel Raymond Architect
9A-DA-101 - Ground Floor Plan	12.11.2018	Daniel Raymond Architect
9A-DA-102 - First Floor Plan	12.11.2018	Daniel Raymond Architect
9A-DA-300 - Elevation Sheet 01	12.11.2018	Daniel Raymond Architect
9A-DA-301 - Elevation Sheet 02	12.11.2018	Daniel Raymond Architect
9A-DA-302 - Elevation Sheet 03	12.11.2018	Daniel Raymond Architect
9A-DA-400 - Sections Sheet 01	16.11.2018	Daniel Raymond Architect
9A-DA-401 - Sections Sheet 02	16.11.2018	Daniel Raymond Architect
9A-DA-500 - Landscape Concept Plan	16.11.2018	Daniel Raymond Architect
DA-000 - Subdivision Plan	12.12.2017	Daniel Raymond Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Coastal Risk Management Report	20 December 2017	Cardno
Geotechnical Report	18 December 2017	White Geotechnical Group Pty Ltd
BASIX Certificate No. 885732S	20 December 2017	Dan Raymond Freelance
BASIX Certificate No. 885571S_02	7 February 2018	Dan Raymond Freelance

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:

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

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

3. **Prescribed Conditions**

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

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

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars



- of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature 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

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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)

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. Section 94 Contributions

A contribution of \$20,000 is payable to Northern Beaches Council for the provision of public infrastructure and services pursuant to the *Pittwater Section 94 Contributions Plan for Residential Development*.

The contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate (whichever occurs first) or prior to the issue of the Subdivision Certificate where no Construction Certificate is required.

The proponent may negotiate with Council for the direct provision of facilities and services specified in the Section 94 Plan, the dedication of land or another material public benefit in lieu of full or partial payment of the monetary contribution. Any agreement shall be in accordance with the *Pittwater Section 94 Contributions Plan for Residential Development*. The agreement must be finalised, formally signed and in place prior to payment being due.

The *Pittwater Section 94 Contributions Plan for Residential Development* may be inspected at Council's Mona Vale office, 1 Park Street Mona Vale or on Council's website.

Cashier Codes:
SOPS – \$8,000
SLEL – \$2,000
SCSF – \$3,500
SVSS – \$6,500

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

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

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

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The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group 18th December, 2017 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.

8. Vehicular Crossing Application for Lot 2

An application for Driveway levels shall be made with Council for proposed Lot 2 (No 9A) and subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Approval 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. On-site Stormwater Detention Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's – PITTWATER DCP21 and the concept drawing by GZ Consulting Engineer, drawing number DR 000, DR 001 and DR 002 dated 20/12/2017. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

10. Vehicle Crossings Application for Lot 1

An application for Driveway levels shall be made with Council for proposed Lot 1 (No 9) and subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Approval 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

11. Flood Compatible Materials

All structural elements below the coastline planning level of 7.0m AHD as defined in the approved Coastal Risk Management Report shall be comprised of flood compatible materials.

Reason: To ensure potential impact of coastal inundation is minimised

12. Impervious Surfaces Restrictions

The area seaward of and bounded by the dwelling and the property boundaries shall not be paved except for minor pathways to allow for absorption of any overtopping water.

Reason: To reduce potential coastal inundation impacts

13. Engineers Certification of Plans

The structural design shall be prepared by and each plan/sheet signed by, a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an



appropriate level of professional indemnity insurance and shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

14. Coastal Design Considerations

Piling for the proposed development shall be designed and constructed in accordance with the recommendations given in the approved Coastal Risk Management Report (59918079) prepared by Cardno dated 20 December 2017 and in addition the piles shall be founded in by being socketed into the underlying rock. The piles should be designed in the conventional manner to satisfy the requirements of an adequate Factor of Safety against geotechnical failure (i.e., failure of the supporting soil/substrate), an adequate Factor of Safety against structural failure of the piles themselves and acceptable settlements under the design load in accordance with the Australian Standard Piling Code (AS2159-2009).

Reason: To ensure risk associated with coastal hazards is addressed appropriately.

15. Compliance and Certification of Piling Design

Certification that the piling works have been designed in accordance with the approved Coastal Risk Management Report (59918079) prepared by Cardno, dated 20 December 2017, shall be provided to the Principal Certifying Authority (Form No. 2 of the Coastline Risk Management Policy for Development in Pittwater – Appendix 6 of P21 DCP) and shall be prepared and signed by a structural engineer who is a registered professional engineer with chartered professional status (CP Eng) and who has an appropriate level of professional indemnity insurance.

Reason: To ensure deep foundation piling is designed in accordance with the Coastal Risk Management Report and by an appropriately qualified professional

16. Provision of Landscape Working Drawings

Detailed landscape working drawings and specification, which comply in all respects with the conditions of development consent, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be certified by a qualified landscape architect, landscape designer/environmental designer or horticulturist, confirming that the plans/details for the works to be carried out will achieve the relevant conditions of the development consent. In particular, the landscape working drawing is to provide full details of the following:

- a) The usage of the dominant native species growing in the area or locally indigenous species for understorey planting and with provision of at least two (2) trees in the front yard and one (1) tree to the rear yard which will meet a minimum mature height of 8.5m;
- b) Clear indication of the location of all existing trees and vegetation to be retained, removed and/or proposed. This should incorporate the TPZ and SRZ as stated within the associated arborist report if applicable;
- c) A planting schedule including stratum, species/common names, species quantities, pot sizes and staking details;
- d) The proposed finished treatment of garden areas, including soil depth and retaining walls and the location of underground services.

Reason: To ensure adequate and appropriate landscaping is carried out to retain the Urban Forest/Natural Environment.



17. Compliance with Coastal Risk Management Report

The development is to comply with all recommendations of the approved Coastal Risk Management Report - 9 and 9A Calvert Pde Newport (59918097) prepared by Cardno, dated 20 December 2017, and these recommendations are to be incorporated into construction plans and maintained over the life of the development.

Reason: To ensure coastal risk is addressed appropriately

18. Low Level Coastal Inundation Risk Design

All development must be designed and constructed to achieve a low risk of damage and instability due to coastal inundation, wave impact and foreshore erosion hazards.

Reason: To ensure risk associated with coastal hazards is addressed appropriately.

19. Design Impact on Coastal Processes and Public/Private Amenity

All development and/or activities must be designed and constructed so that they will not adversely impact on surrounding properties, coastal processes or the amenity of public foreshore lands.

Reason: To ensure the development does not impact the coastal process and public/private

20. Compliance with Standards

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

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

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

21. Sewer / Water Quickcheck

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. Tree protection

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

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i) all trees and vegetation within the site, nominated on the plans for retention, 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

iv) specifically, the following vegetation shall be retained and protected to satisfy B4.22, C1.1, and C1.5:

-the existing Paperbark located within Calvert Parade road verge

-the existing Norfolk Island Pine located within the rear of the proposed No. 9 property

b) Tree protection shall be 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. A Project Arborist with minimum qualification equivalent to AQF Level 5 shall be engaged to provide recommendations for tree protection measures to the existing Paperbark and Norfolk Island Pine. Details shall be submitted by the Arborist to the Certifying Authority prior to the commencement of any construction work.

ii) any tree roots exposed during excavation with a diameter greater than 50mm within the TPZ must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority

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 50mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.

v) all structures are to bridge tree roots greater than 50mm diameter unless directed by the Project Arborist on site

vi) should either or both iv) and v) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures provided. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites, and protect the existing amenity that trees and/or bushland vegetation provide. (*Control B4.22*)

23. **Approval of Works in Public Beach Reserve**

No works are to be carried out from or within the public beach reserve without the written approval of Northern Beaches Council.



Reason: To ensure no damage is done to the public beach reserve

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. 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.

25. Vehicle Crossings

The provision of a vehicle crossing metres 3 wide in accordance with Northern Beaches Council Drawing No A4-3330/1 for proposed Lot 1 (No 9) and Northern Beaches Council Drawing No A4-3330/5 for proposed Lot 2(No 9A) 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

26. Removal of sand

The applicant/owner is to minimise the amount of sand removed from the property during construction. If sand is removed from the site during construction, it may be placed on the beach reserve in accordance with the direction of the Council's Environmental Officers.

Prior to any sand being placed on the beach reserve the following is to be provided:

- (a) Certification from an appropriately qualified person, that the sand is clear of any contaminants including but not limited to asbestos, building materials, soil contaminants etc.
- (b) Details of transportation from the donor site to the beach reserve.
- (c) Written approval from Northern Beaches Council for the placement of the sand on the beach reserve.

Reason: Protection of coastal environment. (DACNEE08)

27. Coastal Erosion

This property is on land located in an area where there is likely to be a risk of coastal erosion and wave impact during severe storms. The risk to the property may increase with time due to long-term beach recession caused by greenhouse induced sea level rise or natural coastal processes. To reduce the potential impact to your property, the Council strongly recommends that effective precautions be taken to ensure adequate volumes of sand are maintained within the eastern (seaward) boundary of your property. The Council requires that only free-draining, clean, yellow sand be used to fill allotments.

Reason: Protection of coastal environment. (DACNEE09)

28. Tree Protection during work - No Works within 5m/calculated Tree Protection Zone (TPZ)

The developer or contractor will take all measures to prevent damage to trees and root systems during site works and construction activities including provision of water, sewerage and



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

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

29. **Signage – No work / storage within dripline**

The project manager is to erect signs advising all contractors and visitors to the site that no works or storage are to take place within the Tree Protection Zone of existing trees.

Reason: To protect and retain trees proposed for retention.

30. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

31. **Required Tree Planting**

For property No. 9, at least two (2) canopy trees in the front yard, as documented on the landscape concept plan 9-DA-500 are to be provided on site to satisfy C1.1.

For property No. 9A, at least two (2) canopy trees in the front yard and one (1) canopy tree in the rear yard are to be provided on site to satisfy C1.1.

These shall be locally native species planted at minimum 75 litre size. Each tree planted is to have a minimum area of 3 metres x 3 metres and a minimum 8m³ within this area to ensure growth is not restricted. Canopy trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.

Tree planting is to be maintained and replaced as necessary for the life of the development.

Reason: To enable the long term retention of Pittwater's locally native tree canopy. (Control C1.1)

32. **Screen Planting**

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To ensure that landscaping along the side boundaries containing the proposed pools provide privacy for adjoining neighbours, the planting as documented on the landscape concept plans 9-DA-500 and 9A-DA-500 shall be capable of attaining a mature height of at least 3 metres.

Reason: Preservation of landscape amenity and visual privacy to satisfy C1.5, and soften the built form to satisfy C1.1.

33. Landscaping to be in accordance with the Landscape Plan

Landscaping is to be implemented in accordance with the landscape concept plan prepared by Daniel Raymond Architect, drawing numbers 9-DA-500 and 9A-DA-500, and as required by any associated condition.

a) 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 the landscape concept plan and inclusive of any conditions of consent.

b) 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 established and maintained in accordance with the landscape concept plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity. (Control C1.1)

34. Post Construction Coastal Certificate

1. Prior to the issue of the Occupation Certificate, a Post Construction Coastal Certificate shall be submitted to the Principal Certifying Authority (Form No. 3 of the Coastline Risk Management Policy for Development in Pittwater - Appendix 6 of P21 DCP) that has been prepared and signed by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and coastal engineering as a core competency and who has an appropriate level of professional indemnity insurance.

Reason: To ensure construction has been undertaken in accordance with the approved Coastal Risk Management Report (DACNEFPOC1)

35. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

36. Sydney Water
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A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

37. **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)

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

38. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: Preservation of environmental amenity.

39. **Landscape maintenance**

Landscape works shall be maintained for a minimum period of 12 months following practical completion.

a) A maintenance program is to be established for the ongoing maintenance of landscaping for the life of the development.

b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the landscape concept plan, and associated conditions.

Reason: To maintain local 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. **Recorded sites to be protected**

Recorded sites are to be protected from all works and activities in accordance with recommendations of the Aboriginal Heritage Assessment.

Reason: To protect Aboriginal Heritage.

42. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

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.

43. **Vegetated Sand Dune Preservation**

All vegetated dunes, whether existing or created as a part of coastal protection measures shall be managed and maintained so as to protect the dune system from damage both during



construction of the development and as a result of subsequent use during the life of the development.

Reason: To ensure preservation of the coastal environment

44. Fencing for Wildlife Passage

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

Reason: Management of wildlife corridors

45. Landscape Plan to be Implemented

Landscaping is to be implemented in accordance with the approved Landscape Plan. The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.

Reason: To ensure the site is landscaped.

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

46. Provision of Services for Subdivision

The applicant is to ensure all services including, water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots

47. Services

All utilities/services is to be installed by the applicant/developer. Certification is to be provided to Council stating the above requirement has been complied with. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Public safety and to ensure services have been provided for the newly created lots

48. Survey Plan - Construction Identification

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure accurate location of buildings, access and services

49. Sydney Water Compliance Certification

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

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www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

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

50. **Certification of Utility Services**

The provision of all utilities/services and/or street lighting are to be certified by the relevant authority(s) and/or authorised contractor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure services have been provided in accordance with the relevant authorities requirements

51. **Subdivision Certificate Application**

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges

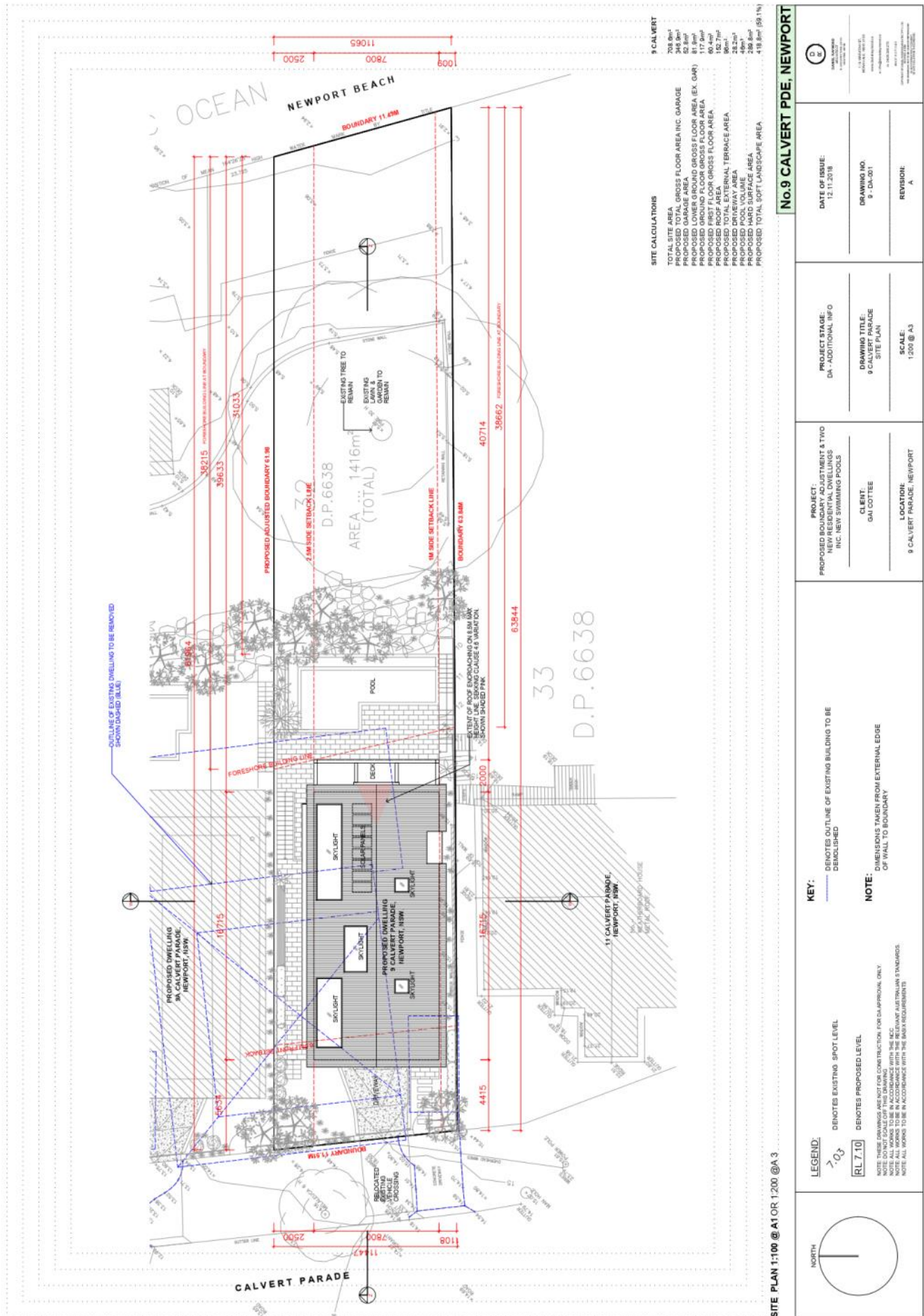
Reason: Statutory requirement of the Conveyancing Act 1919

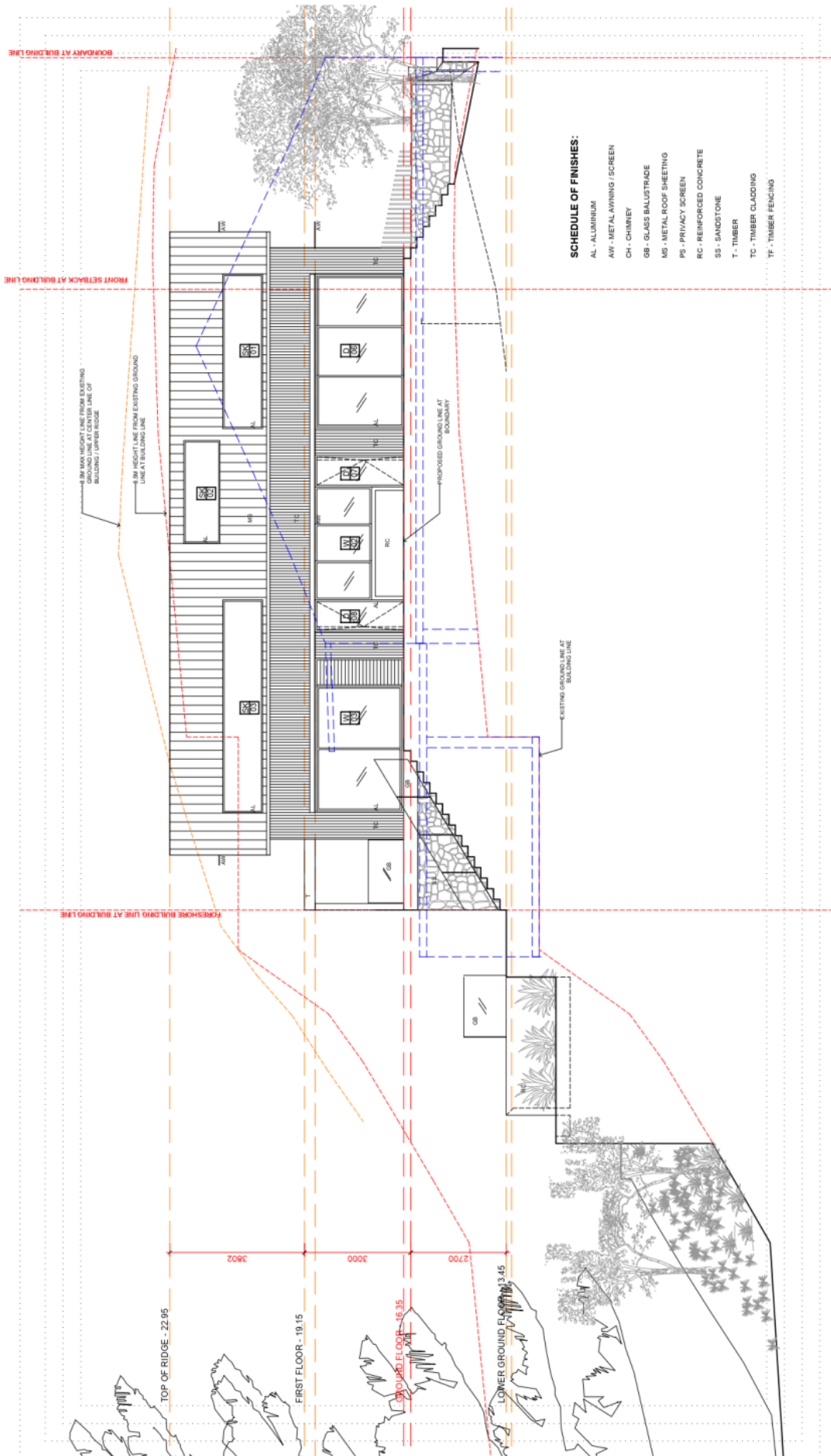
52. **Demolish all structures on both purposed lots**

The existing dwelling and structures that encroaches on any boundaries must be demolished prior to the issue of subdivision certificate. All structures demolished must be undertaken in accordance with this consent.

Reason: To ensure proper management of land

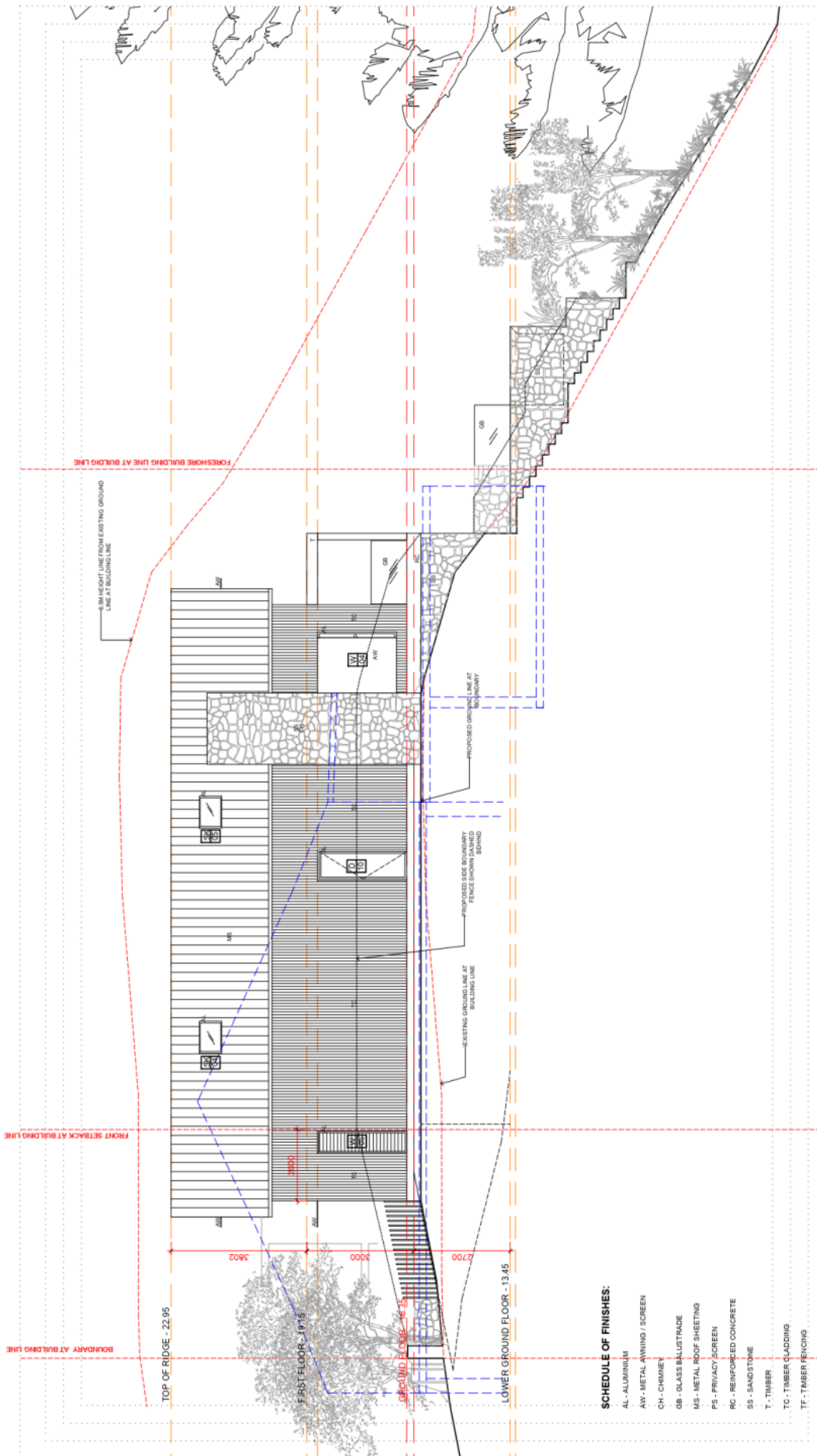






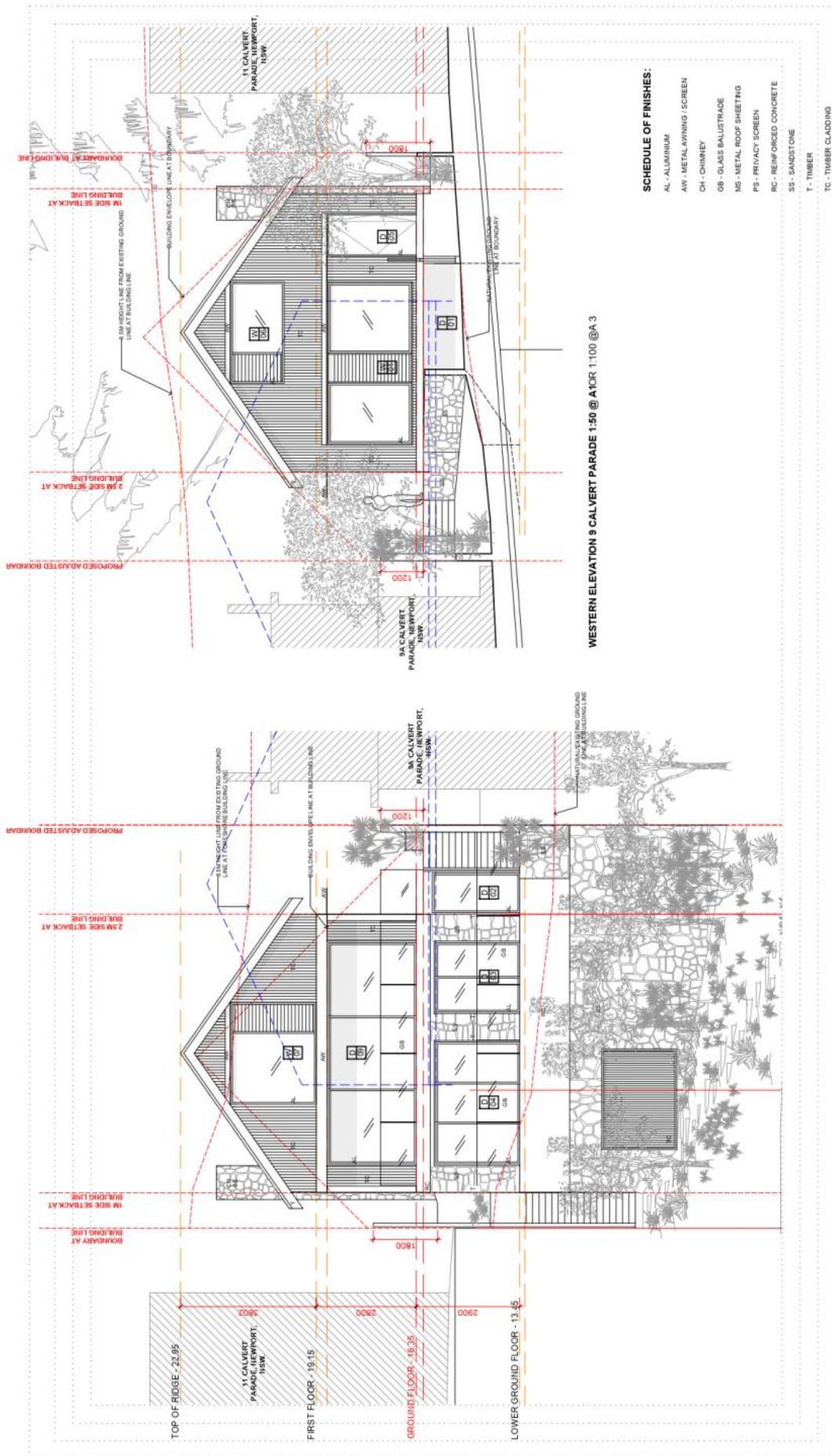
NORTHERN ELEVATION 9 CALVERT PARADE 1:50 @ ADR 1:100 @ A 3

No.9 CALVERT PDE, NEWPORT		PROJECT: PROPOSED BOUNDARY ADJUSTMENT & TWO NEW SWIMMING POOLS INC. NEW SWIMMING POOLS		DATE OF ISSUE: 12/1/2018	
CLIENT: GAI COTTEE		DRAWING TITLE: 9 CALVERT PARADE ELEVATION SHEET 01		DRAWING NO. 9 - DA-300	
LOCATION: 9 CALVERT PARADE, NEWPORT		SCALE: 1:100 @ A3		REVISION: A	



SOUTHERN ELEVATION 9 CALVERT PARADE 1:50 @ A/D 1:100 @ A 3

No.9 CALVERT PDE, NEWPORT		DATE OF ISSUE: 12.11.2018		PROJECT STAGE: DA - ADDITIONAL INFO		PROPOSED BOUNDARY ADJUSTMENT & TWO NEW SWIMMING POOLS		CLIENT: GAI COTTEE		LOCATION: 9 CALVERT PARADE, NEWPORT	
DRAWING NO. 9 - DA-301		REVISION: A		DRAWING TITLE: 9 CALVERT PARADE ELEVATION SHEET 02		SCALE: 1:100 @ A3		PROJECT: 9 CALVERT PARADE, NEWPORT		CLIENT: GAI COTTEE	
DATE OF ISSUE: 12.11.2018		PROJECT STAGE: DA - ADDITIONAL INFO		PROPOSED BOUNDARY ADJUSTMENT & TWO NEW SWIMMING POOLS		CLIENT: GAI COTTEE		LOCATION: 9 CALVERT PARADE, NEWPORT		CLIENT: GAI COTTEE	



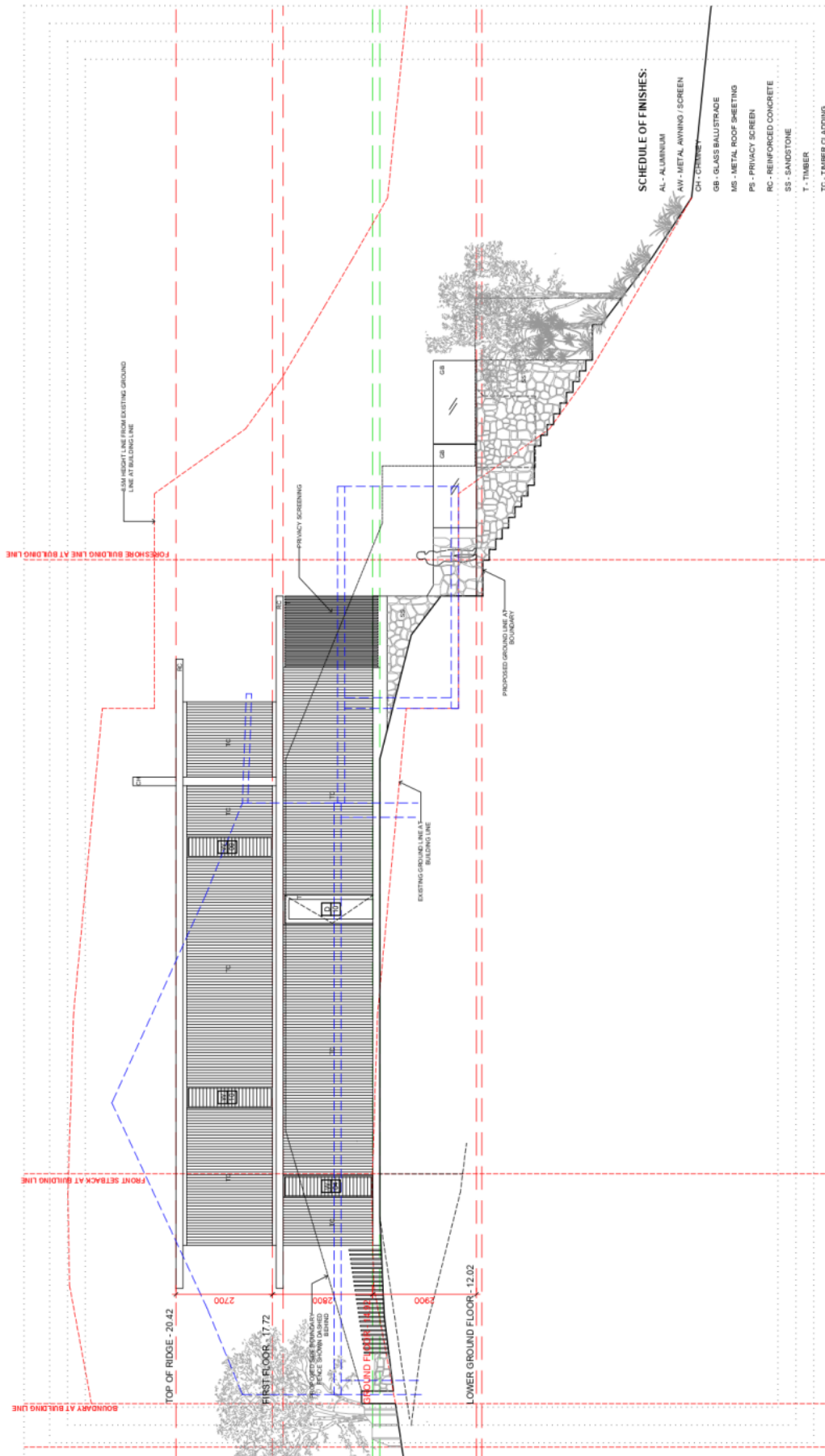
EASTERN ELEVATION 9 CALVERT PARADE 1:50 @ A/D 1:100 @ A.3

No.9 CALVERT PDE, NEWPORT			
<p>PROJECT: PROPOSED BOUNDARY ADJUSTMENT & TWO NEW SWIMMING POOLS INC. NEW SWIMMING POOLS</p> <p>CLIENT: GALCOTTEE</p> <p>LOCATION: 9 CALVERT PARADE, NEWPORT</p>	<p>DATE OF ISSUE: 12/11/2018</p> <p>DRAWING NO.: 9 - DA-302</p> <p>REVISION: A</p>	<p>PROJECT STAGE: DA - ADDITIONAL INFO</p> <p>DRAWING TITLE: 9 CALVERT PARADE ELEVATION SHEET 03</p> <p>SCALE: 1:100 @ A3</p>	<p>DATE OF ISSUE: 12/11/2018</p> <p>DRAWING NO.: 9 - DA-302</p> <p>REVISION: A</p>



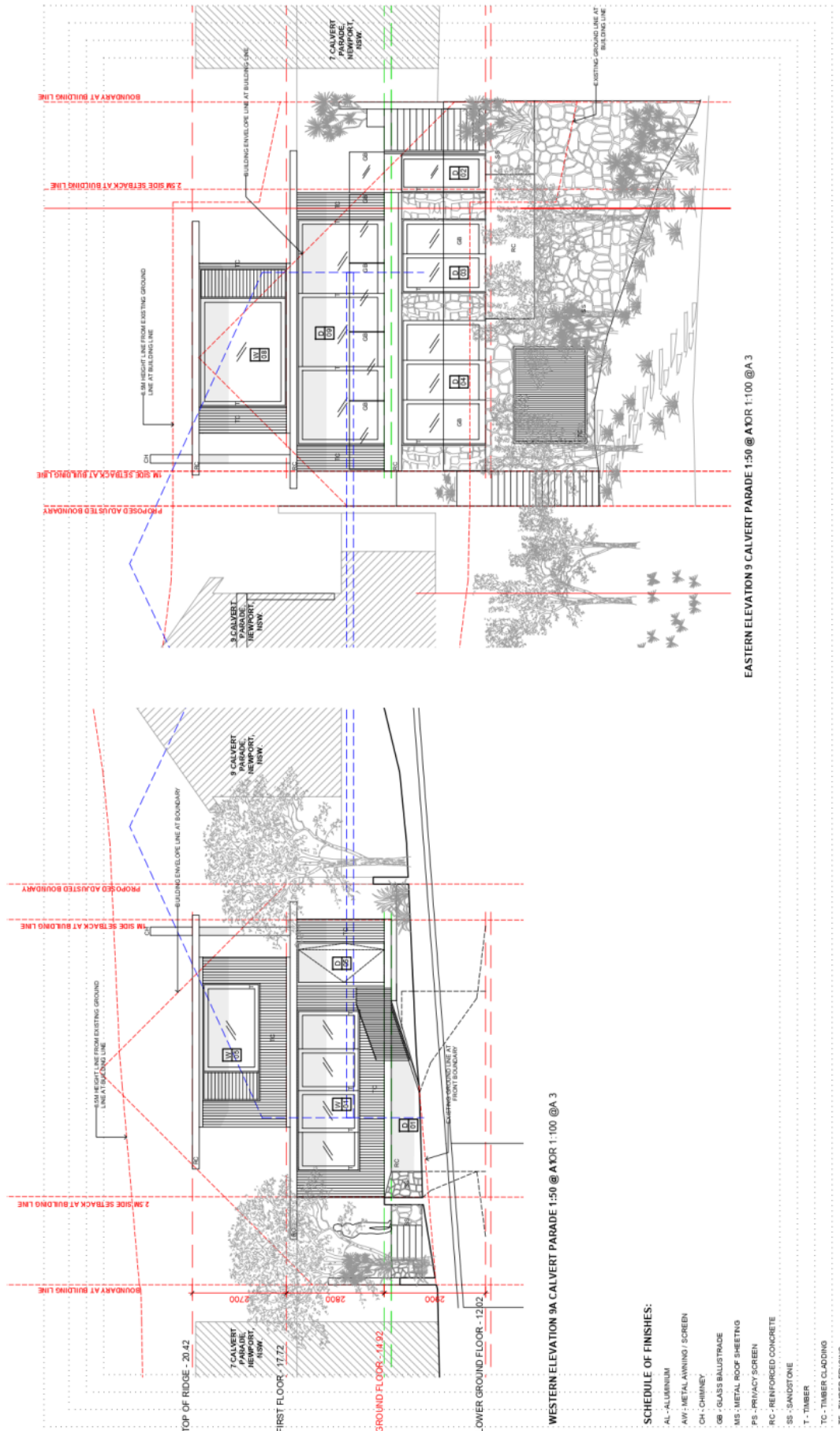


No.9A CALVERT PDE, NEWPORT



SOUTHERN ELEVATION 9A CALVERT PARADE 1:50 @ A/D 1:100 @ A 3

<p>No. 9A CALVERT PDE, NEWPORT</p>	<p>PROJECT: PROPOSED BOUNDARY ADJUSTMENT & TWO NEW SWIMMING POOLS INC. NEW SWIMMING POOLS</p>	<p>CLIENT: GA COTTAGE</p>	<p>LOCATION: 9 CALVERT PARADE, NEWPORT</p>	<p>DATE OF ISSUE: 12.11.2018</p>	<p>DRAWING NO.: 9A - DA-301</p>	<p>REVISION: A</p>
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No.9A CALVERT PDE, NEWPORT							
<div>LEGEND:</div> <div><div><div><div><div></div><div></div></div><div>7.03</div><div>DEMOTES EXISTING SPOT LEVEL</div></div><div><div><div><div></div><div></div></div><div>RL 7.10</div><div>DEMOTES PROPOSED LEVEL</div></div></div><div><div>NOTE: THESE DRAWINGS ARE NOT FOR CONSTRUCTION, FOR DA APPROVAL ONLY.</div><div>NOTE: DO NOT SCALE OFF THIS DRAWING</div><div>NOTE: ALL DIMENSIONS ARE TO FACE UNLESS SPECIFIED OTHERWISE</div><div>NOTE: ALL WORKS TO BE IN ACCORDANCE WITH THE RELEVANT AUSTRALIAN STANDARDS.</div><div>NOTE: ALL WORKS TO BE IN ACCORDANCE WITH THE BASIX REQUIREMENTS</div></div></div></div>	<div>KEY:</div> <div>DEMOTES OUTLINE OF EXISTING BUILDING TO BE DEMOLISHED</div>		<div>PROJECT:</div> <div>PROPOSED BOUNDARY ADJUSTMENT & TWO NEW RESIDENTIAL DWELLINGS INC. NEW SWIMMING POOLS</div>	<div>PROJECT STAGE:</div> <div>DA - ADDITIONAL INFO</div>	<div>DATE OF ISSUE:</div> <div>12.11.2018</div>	<div><div><div></div><div></div></div><div>DATE OF ISSUE:</div><div>12.11.2018</div><div>DRAWING NO.</div><div>9A - DA-302</div><div>REVISION:</div><div>A</div></div>	
			<div>CLIENT:</div> <div>GA COTTAGE</div>	<div>DRAWING TITLE:</div> <div>9A CALVERT PARADE ELEVATION SHEET 03</div>			
			<div>LOCATION:</div> <div>9 CALVERT PARADE, NEWPORT</div>				