



northern  
beaches  
council

# 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 22 MAY 2019**

A handwritten signature in black ink, appearing to read 'Ashleigh Sherry'.

**Ashleigh Sherry**  
**Manager Business System and Administration**



**Agenda for a Meeting of the Development Determination Panel  
to be held on Wednesday 22 May 2019  
in the Walamai Room, Civic Centre, Dee Why**

- 1.0 APOLOGIES & DECLARATIONS OF INTEREST**
- 2.0 MINUTES OF PREVIOUS MEETING**
  - 2.1 Minutes of Development Determination Panel held 8 May 2019
- 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS .....5**
  - 3.1 REV2019/0016 - 57-59 Northcott Road, Cromer - Review of Determination of Application DA2017/1140 for site clearing and construction of a dwelling house including a granny flat outbuilding driveway access and ancillary site works.....5

## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 8 MAY 2019**

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#### **RECOMMENDATION**

That the Panel note that the Minutes of the Development Determination Panel held 8 May 2019 were approved by all Panel Members and have been posted on Council's website.

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### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 REV2019/0016 - 57-59 NORTHCOTT ROAD, CROMER - REVIEW OF DETERMINATION OF APPLICATION DA2017/1140 FOR SITE CLEARING AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A GRANNY FLAT OUTBUILDING DRIVEWAY ACCESS AND ANCILLARY SITE WORKS

REPORTING MANAGER ANNA WILLIAMS

TRIM FILE REF 2019/254633

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

#### PURPOSE

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

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#### RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **refuses** Development Consent to REV2019/0016 for Review of Determination of Application DA2017/1140 for site clearing and construction of a dwelling house including a granny flat outbuilding driveway access and ancillary site works on land at Lot 835 DP 752038 & Lot 836 DP 752038, 57-59 Northcott Road, Cromer for the reasons outlined in the assessment report.

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## RESIDENTIAL DEVELOPMENT – DEVELOPMENT APPLICATION ASSESSMENT REVIEW REPORT

<b>Development Application Review Number:</b>	<b>REV2019/0016</b> (DA2017/1140)
<b>Reason for Referral to Development Determination Panel:</b>	A review of a determination by Council or a delegated person or Panel of Council is not to be made by a subordinate of whom made the original decision of determination.
<b>Assessment Officer:</b>	Alex Keller
<b>Property Address:</b>	Lots 835 and 836 DP752038 57-59 Northcott Road CROMER
<b>Proposal Description:</b>	Review of Determination of a Refusal of DA2017/1140, pursuant to Division 8.2 of the <i>Environmental Planning &amp; Assessment Act 1979</i>  Category 2 Development - "Housing" – B2 Oxford Falls Locality Warringah Local Environmental Plan 2000  Development application (DA) for site clearing and construction of a dwelling house including a granny flat, outbuilding, and driveway access with ancillary site works.
<b>Recommendation:</b>	<b>REFUSAL</b>
<b>Clause 20 Variation:</b>	No
<b>Proposal in Detail (including design changes for the Review of determination):</b>	<ul style="list-style-type: none"><li>• Construction of a two storey dwelling house (in a "Manor House" style) configured as:  <b>Lower Floor</b> RL 121.0 to 122.0 - Garage (3 car), home gym, water tank, studio room, granny flat (living / kitchen), stair access, bathroom, storage, terrace, deck (2). <b>Ground Floor</b> RL124.7 - Kitchen / living / dining area, bedrooms (2), granny flat bathroom &amp; bedrooms (2), study, storage, stair access, bathrooms (2) laundry, garden / rumpus, room, entry foyer. <b>First Floor</b> RL127.7 – Bedrooms (2), bathrooms (2), storage, lounge room, terrace, stair access</li><li>• Driveway (240 metre (m)) from Northcott Road.</li><li>• Excavation and site works to accommodate sewer line</li></ul>



connection (within the site) and drainage.

- Bushfire protection clearing (Asset protection zone).
- Landscaping, outbuilding and ancillary site works.

### Site Description

The subject land is currently two (2) lots that comprise an “existing parcel” with a single dwelling entitlement. The land is vacant bushland with some vegetation disturbance (within 50m of the urban fringe) along the eastern and northern boundary of Lot 836.

### History and Background:

**Development Application DA2017/1140** was refused by the Development Determination Panel on 14 November 2018 for the following reasons:

#### “ 1. General Principles of Development Control – Warringah Local Environmental Plan 2000

Pursuant to Section 79C(1) (a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the ‘General Principles of Development Control’. In particular, the proposal does not satisfy the information assessment requirements of:

- Clause 54 Provision and location of utility services
- Clause 58 Protection of existing flora;
- Clause 72 Traffic access and safety;
- Clause 76 Management of stormwater
- Schedule 5 – Bushland in urban areas;

#### 2. Public Interest under the Environmental Planning and Assessment Act 1979

Pursuant to Section 79C (1) (e) of the *Environmental Planning and Assessment Act 1979* the proposed development is not in the public interest. In particular, the proposal does not meet the provisions of the relevant local environmental planning instrument to fully address the General Principles of development control pursuant to *Warringah LEP 2000*.”

**Pre-lodgement meeting No. PLM2012/0063** was held with Council on 22 August 2012 details of the PLM are summarised in the DDP report for DA2017/1140.



Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes
Section 2 – Issues Assessment	No
Section 3 – Site Inspection	Yes

<b>Notification Required:</b>	Yes	14 Days
<b>Submissions Received:</b>	Yes	<b>Number of Submissions: 0 (Nil)</b> (original DA received 8 submissions)
<b>Cost of Works:</b>	<b>\$ 1,113,325</b>	Trade & construction summary report provided.
<b>Section 94A Applicable:</b>	Yes (Refer to Table below)	<b>TOTAL: \$11,133.25*</b>

\*Cost of work is unchanged as while the pool and on-site effluent disposal is deleted the proposal now connects to sewer infrastructure and grid electricity.

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of	\$	1,113,325
<b>Contribution - all parts Warringah</b>	<b>Levy Rate</b>	<b>Contribution Payable</b>
Total S94A Levy	0.95%	\$10,576.59
S94A Planning and Administration	0.05%	\$556.66
<b>Total</b>	<b>1.0%</b>	<b>\$11,133.25</b>



## SECTION 1 – CODE ASSESSMENT REPORT (Review of DA2017/1140)

### ENVIRONMENTAL PLANNING INSTRUMENTS

#### Warringah Local Environmental Plan 2000

<b>Locality:</b>	B2 Oxford Falls Valley
<b>Development Definition:</b>	“Housing”, and “Other buildings, works, places or land uses not prohibited or in Category 1 or 3”
<b>Category of Development:</b>	Category 2

#### Desired Future Character Statement (DFC):

*The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

*Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.*

**Is the development consistent with the Locality’s Desired Future Character Statement?** Yes – refer to detailed merit assessment below.

#### Category 2 Assessment against the Desired Future Character Statement

**DFC Requirement:** *Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.*

**Comment:**

The proposal remains consistent with housing density provisions, referenced in the DFC. The detailed assessment of DA2017/1140, considered that the proposal is consistent with the DFC statement for the B2 Oxford Falls Locality Statement, including the housing density standard, 'low intensity low impact' requirements, building and site works associate with building access, location, bushland disturbance, visual impact and access.

The house plans submitted with the review are consistent with the development application, however selected elements of the proposal have changed to further reduce site impacts. This includes deleting the proposed swimming pool, reducing the bushland clearing associated to only that required for the driveway and fire protection, connecting the dwelling to sewer and grid electricity. Driveway gradients have been adjusted to comply with firefighting vehicle guidelines and engineering design standards.

Lots 835 and 836 DP752038 are the original DP Parish lots that were held in the same ownership on 8 March 1974. As a result, the two lots together form an "existing parcel" being not less than 2 ha, and share a single dwelling entitlement, regardless of the present day ownership between the subject lots.

The applicant has not proposed to consolidate the two lots in order to rationalise the shared building entitlement. Lot 836 could therefore be sold into separate ownership at any time. However, the single dwelling entitlement from the existing parcel, under WLEP 2000, would deny the new owner the right to construct a dwelling that they may have presumed to have entitlement to. Therefore, it is recommended that without consolidation by the applicant, a "restriction to user" be applied by condition to the remainder of the site (west of the driveway and house clearing), to prevent the erection of a second detached dwelling within the "existing parcel". Council would be empowered to vary this restriction, if warranted, under existing or future land use planning instruments. Similarly any "outbuildings" must be subject to conditions to ensure they are not 'capable' of being used as a dwelling.

For the purpose of the Review the proposal remains consistent the LEP 2000 for the housing density provisions, including 'low intensity low impact' for a "Category 2" development within the B2 Oxford Falls Valley Locality.

***DFC Requirement: There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.***

**Comment:**

The applicant has removed the proposed tennis court and horse stables near the ridgetop from the proposal, which would have disrupted the skyline. This was previously addressed by a recommended condition with that area to now remain as bushland at the edge of outer-protection zone. The dwelling house remains in the same location with the pool structure deleted and water tanks will be provided for firefighting purposes. In summary, the dwelling location and visual impact remains consistent with the original DA.



***Requirement: The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services.***

**Comment:**

The revised proposal retains the original position of the dwelling high up on the site where there is a less steep area and sparser vegetation than the lower slopes near Northcott Road. The lower slopes are close to a small creek line that crosses the northern boundary of the site. The proposal seeks to ensure that the most prominent sandstone features and riparian vegetation are less impacted by locating the dwelling higher up, where the dwelling footprint requires less deep excavation.

The access has been revised to comply with gradient and firefighting access requirements, but the alignment still avoids major rock outcrops, significant canopy trees and natural water courses.

The revised proposal still requires a considerable amount of vegetation disturbance and tree removal for the asset protection zone around the house. The use of a graduated APZ clearing beyond the inner 30m setback from the dwelling is proposed to meet bushfire protection requirements. The proposed horse paddocks / sheds have been deleted from the proposal for the Review, which removes the impact of these elements on the site.

***Requirement: Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.***

**Comment:**

The dwelling remains as external masonry cladding for the walls (faux sandstone) and a hipped roof form with slate tiles, suitable for the natural surroundings and in accordance with this requirement of the DFC.

***Requirement: Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.***

**Comment:**

The revised proposal retains erosion and sediment controls which have been provided including a construction management plan with techniques used to minimise erosion and siltation risk to Narrabeen Lagoon. Appropriate conditions would ensure pollution risks are managed to ensure ecological values are maintained.

To reduce potential pollution risks and impacts on native vegetation the dwelling will be connected to the Sydney Water sewer line, near the eastern boundary.

In summary, the proposal is considered to be consistent with the Desired Future Character Statement for a Category 2 development.

### BUILT FORM CONTROLS

Built Form Compliance Table B2 Oxford Falls Valley Locality Statement					
Built Form Standard		Required	Revised Proposal	Comment (Review)	Compliance
Building Height	Ridge	8.5 metres (m)	Dwelling: 8.5m  Cabana 3.4m	Complies (No change) Refer to Section A and Section B plan.  See below** (relocated building)	Yes subject to conditions.
	Ceiling	7.2m	Dwelling: 7.0m (no change)	Complies. Refer to Elevations (Plan 6 and Section A and Section B) (No change)	Yes
Housing Density		1 dwelling per 20,000sqm and not less than 2ha for an "existing parcel".	1 dwelling per 5.46ha	Complies. (No change) Existing parcel comprised of Lots 835 and 836, totalling 5.46 ha. A dwelling house (including attached granny flat) is permitted as Category 2.	Yes  See detailed discussion under original report and summarised discussion under Desired Future Character Statement in this report. (Note**)
Front Setback (North boundary)		20m  (Landscaped and free of structures (driveway /	145m (dwelling)	Complies.	Yes

<b>Built Form Compliance Table B2 Oxford Falls Valley Locality Statement</b>				
<b>Built Form Standard</b>	<b>Required</b>	<b>Revised Proposal</b>	<b>Comment (Review)</b>	<b>Compliance</b>
	fencing excepted)			
Side Setback (East boundary)	10m	58m (dwelling)  12m (Driveway)	Complies.	Yes
Side Setback (West boundary)	10m	10m to Lot 836 boundary (dwelling and pool cabana)	Complies. (Lot 835 adjoins Wheeler Reserve)	Yes
Rear Building Setback (South boundary)	10m  Landsaped and free of structures (driveway / fencing excepted)	51m (Dwelling)  44m (Cabana)  36m (Pool)	Complies. (Tennis court and pool and stables deleted)	Yes
Landscape Open Space (Site area 5.46ha)	30%	98% (5.39ha)	Complies. (Tennis court deleted pool and stables deleted)	Yes

**\*\* Note:**

The review shows the relocation and redesign of the “cabana” which as previously adjacent the swimming pool. Subject to conditions the approval of this ancillary building would have required that no internal facilities are installed that would permit this outbuilding to be “capable of being used as a separate dwelling”. The new cabana is ‘capable’ of being used as a separate dwelling as it contains a kitchenette area, bathroom and satisfies the LEP definition of a dwelling. This issue can be addressed appropriately by conditions.

**GENERAL PRINCIPLES OF DEVELOPMENT CONTROL**

General Principles	Applies	Comments	Complies
<b>CL38 Glare &amp; reflections</b>	Yes	<p>The colours and materials chosen are of natural tones including (faux) sandstone and slate roof tiles. A landscape setting will also be maintained for the dwelling due to the site being a large rural property in a bushland environment. Any solar panels for the dwelling should be ground mounted to reduce potential glare or reflection from the roof area.</p> <p>Subject to conditions of approval the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes Subject to conditions.</p>
<b>CL42 Construction Sites</b>	Yes	<p>The access point for construction will be via the proposed driveway extending 240m from Northcott Road. The construction work has changed to include the sewer line connection thereby no longer requiring septic tanks, and the pool structure is deleted. The driveway design has been adjusted to ensure gradients are satisfactory for engineering standards and the drive remains on a similar (but shorter) alignment.</p> <p>Subject to conditions of approval construction of the house will be managed according to the requirements and recommendations of the submitted <i>Waterway Impact Statement, Flora and Fauna Report, Biodiversity Management Plan</i> and the <i>Construction Sedimentation control plan</i>.</p> <p>The revised proposal remains consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes Subject to conditions</p>

General Principles	Applies	Comments	Complies
<b>CL43 Noise</b>	Yes	<p>The location of the site and proposed rural residential use is unlikely to result in any unreasonable noise impacts from the land use.</p> <p>Subject to standard conditions of approval the revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes</p> <p>Subject to conditions</p>
<b>CL44 Pollutants</b>	Yes	<p>Council's Environmental Health and Protection Officer has provided conditions of consent and is satisfied the revised proposal will not create adverse pollutions risks. Suitable conditions may also be applied to address water pollution impacts from storwater runoff as per the <i>Water Management Plan</i> provide by the applicant. The revised dwelling proposal is to be connected to <i>Sydney Water</i> sewer assets, already available within the site.</p> <p>Subject to conditions of approval the revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes</p> <p>Subject to conditions</p>
<b>CL48 Potentially Contaminated Land</b>	Yes	<p>No evidence of potential existing contamination has been identified by site inspection.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle, without the need for special conditions.</p>	<p>Yes</p>
<b>CL50 Safety &amp; Security</b>	Yes	<p>The revised proposal is consistent with the objectives and assessment requirements of this general principle without the need for special conditions.</p>	<p>Yes</p>

General Principles	Applies	Comments	Complies
<b>CL51 Front Fences and Walls</b>	Yes	<p>No front fencing is proposed along Northcott Road. Under the previous DA assessment it was recommended that any front fencing is to be of a wooden post and rail style, with “stock-tight” mesh if required.</p> <p>Therefore, subject to conditions of approval, the revised proposal is consistent with the objectives and assessment requirements of this general principle, subject to condition</p>	<p>Yes</p> <p>Subject to conditions</p>
<b>CL52 Development Near Parks, Bushland Reserves &amp; other public Open Spaces</b>	Yes	<p>No new development work is proposed close near the common boundary with Wheeler Reserve (south of the site).</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle with no special conditions.</p>	<p>Yes</p>
<b>CL54 Provision and Location of Utility Services</b>	Yes	<p>The revised development will be connected to <i>Sydney Water</i> services (sewer &amp; water) and <i>Ausgrid</i> electricity.</p> <p>The property Title includes a ROW to Pinduro Place (as shown on DP869612 &amp; Section 88 certificate) and town water and telecommunications will be provided through this right of way, or from an alternate point on Northcott Avenue. All costs will be borne by the property owner for these service connections.</p> <p>Sufficient revised information has been provided to address the requirements of this general principle.</p>	<p>Yes.</p> <p>Subject to conditions</p>
<b>CL56 Retaining Unique Environmental Features on Site</b>	Yes	<p>In order to avoid the larger rock features of the site as the dwelling is located between two linear bands of exposed rock outcrops. The road access has been located around the eastern side of</p>	<p>No.</p>

General Principles	Applies	Comments	Complies
		<p>the linear rock outcrops to avoid the terraced feature that they create on the site. Therefore, despite the length of the driveway and impact on some rock outcrops, road construction will avoid the majority of rock outcrops that are toward the central area of the site and west of the driveway alignment.</p> <p>Council's Landscape Officer Referral Response support the proposal subject to conditions of approval. However, Council's Natural Environment Unit regard the proposal as being inconsistent with the objectives and assessment requirements of this general principle. Therefore, the proposal cannot be supported pursuant to NEU assessment of retaining unique environmental features on site.</p>	
<b>CL57 Development on Sloping Land</b>	Yes	<p>The site broadly slopes from a ridge line near the southern boundary, then variously from 20% to 30% or greater in the steepest sections. The detail of the Council's <i>Slope Constraints Land Map</i> shows that the driveway and the building platform occupy the shallower slopes without encroaching on the ridgeline.</p> <p>The application includes a <i>Geotechnical Report</i>. The site conditions and slope does not pose any significant risk to the revised road construction stability or the dwelling house or relocated 'cabana'.</p> <p>Subject the recommendations within the <i>Geotechnical Report 2016-060</i>, prepared by <i>Crozier Geotechnical Consultants</i>, dated April 2016. The revised proposal is consistent with the objectives and assessment requirements of this general principle,</p>	Yes Subject to conditions
<b>CL58 Protection of</b>	Yes	The application includes a revised <i>Flora and Fauna Report</i> by <i>Abel Ecology</i> to	No Insufficient

General Principles	Applies	Comments	Complies
<p><b>Existing Flora</b></p>		<p>address this general principle.</p> <p>The report assesses the likely impacts of clearing of native vegetation for the construction of the residential dwelling and associated bushfire asset protection zone (APZ) on species present within the site, and whether there is likely to be any significant effect on any endangered ecological community, endangered population, threatened species or their habitats, as per the listings in the <i>Threatened Species Conservation Act 1995</i> (TSC Act 1995) (NSW), the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act 1999) (National) and other applicable local or regional policies. Over 4 Ha of remnant bushland will remain unaffected by the development. It is considered that this area may be conserved in situ by a "restriction on user" applied under a Section 88B instrument or limit development work on the remainder of the site.</p> <p>A weed control program is proposed to be undertaken to remove all weed species from Class 1 to Class 5 categories, consistent with the provisions of the <i>Noxious Weeds Act 1993</i>.</p> <p>Felled timber during clearing works will be distributed within the site to maintain ground level habitat. Similarly, surface bush rock in the site work areas will be relocated where practical, near the site work areas to maintain ground level habitat.</p> <p>Council's NEU – Biodiversity does not support the proposal due to insufficient information to satisfy the objectives and assessment requirements of this general principle. Notwithstanding, additional flora and fauna assessment</p>	<p>information and review does not satisfy Clause 58.</p>

General Principles	Applies	Comments	Complies
		<p>details submitted the applicant has not addressed the concerns and reasons for refusal previously raised by NEU – Biodiversity.</p> <p>See details provided within NEU Biodiversity Referral Response within this report.</p> <p>In summary, the impact on flora is not supported and is not consistent with the objectives and assessment requirements of this general principle.</p>	
<b>CL59 Koala Habitat Protection</b>	Yes	<p>No koala population has been identified on or adjacent the site pursuant to this clause.</p> <p>The revised proposal is consistent with this general principle with no special conditions recommended.</p>	Yes
<b>CL60 Watercourses &amp; Aquatic Habitats</b>	Yes	<p>The nearest watercourse to the subject site is situated along the road reserve of Northcott Road. As the driveway is within 40m of this watercourse (20m at closest), a <i>Waterway Impact Statement 568-REP-68</i>, prepared by <i>Abel Ecology</i>, dated 15 June 2016, has been submitted to address this general principle.</p> <p>Subject to conditions the proposal will not have any significant impact on the ecology of the open creek channel adjacent Northcott Road.</p> <p>Subject to approval, conditions are recommended that erosion and sediment control structures are installed prior to any earthworks. These structures must be maintained and remain in place until the completion of all building works and the re-establishment of any vegetation on disturbed areas on the site.</p>	Yes Subject to conditions

General Principles	Applies	Comments	Complies
		<p>Excess stormwater (not used for domestic rainwater supply) from the house area is intended to be dispersed by level spreader and infiltrated into the ground along the downslope edge of the <i>Asset Protection Zone</i>. The revised proposal shows that driveway runoff is directed to the side of the carriageway at regular intervals and dispersed as infiltration (natural overland flow).</p> <p>Subject to conditions of approval within Council's NEU Riparian Referral Response, the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	
<b>CL61 Views</b>	Yes	<p>The site at head of a small valley and as the proposed development is adjacent vacant bushland to the west and south, no potential view loss issues are raised.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle, with no special conditions recommended.</p>	Yes
<b>CL62 Access to sunlight</b>	Yes	<p>The revised proposal retains significant side boundary setbacks and will not overshadow any neighbouring land. No special conditions are recommended.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
<b>CL63 Landscaped Open Space</b>	Yes	<p>The site (Lot 835 &amp; 836) has had no previous development and is covered by remnant bushland. Approximately 1.5 Ha of vegetation will be modified or removed for the construction of the buildings and driveway. Therefore, 98% of the site will be retained as landscaped open space. This is either in</p>	Yes Subject to conditions

General Principles	Applies	Comments	Complies
		<p>the form of remnant bushland, cleared areas for bushfire protection or landscaped gardens near the house.</p> <p>The tree canopy within the inner protection area near the house is to be reduced to 15% cover and maintained in perpetuity. The outer protection area (approximately 20m to 60m) from the house must be cleared of dense shrubs / small trees / ground fuel and selected larger trees removed / thinned to ensure no interlocking canopy.</p> <p>The revised APZ provides a direct benefit to the adjacent dwellings in Pinduro Place by reducing the bushfire threat to those properties. No use of the APZ for grazing is proposed.</p> <p>Subject to conditions of approval recommended within Council's Landscape Assessment Referral Response, the revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	
<b>CL63A Rear Building Setback</b>	Yes	<p>The rear of the site will remain landscaped and generally unaffected by the development. The proposal no longer includes a tennis court structure within the existing bushland along the ridge top area.</p> <p>Subject to conditions of approval, the revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes Subject to conditions.
<b>CL64 Private open space</b>	Yes	<p>The site and area around the dwelling has appropriate and usable private open space area for the dwelling.</p> <p>The proposal is consistent with the objectives and assessment</p>	Yes

General Principles	Applies	Comments	Complies
		requirements of this general principle.	
<b>CL65 Privacy</b>	Yes	<p>The development will not have any unreasonable privacy impacts given the rural location and wide separation distance to neighbouring dwellings.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
<b>CL66 Building bulk</b>	Yes	<p>The development complies with all built form controls. The dwelling house is a large two storey rural home designed in the "Manor house" style. The surrounding pattern rural residential development in the locality is dominated by large dwellings on properties of 2 Ha or more.</p> <p>While the dwelling is substantially larger than the adjacent dwellings in the urban zone to the east of the site, it is consistent with the size and scale of rural dwellings to the north and north west of the site and throughout the <i>B2 Oxford Falls Valley</i> locality.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
<b>CL67 Roofs</b>	Yes	<p>The proposed roofing is comprised of a hipped roof style that is compatible with the area. The slate tile roofing material is mid grey colour will not create unreasonable glare or visual impact on the surrounding landscape.</p> <p>The revised proposal is consistent with the objectives and requirements of this general principle.</p>	Yes Subject to conditions
<b>CL68 Conservation of Energy and</b>	Yes	<p>A BASIX certificate has been provided. Subject to approval a condition of</p>	Yes Subject to

<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>Water</b>		<p>consent will ensure that the requirements of the BASIX certificate are followed.</p> <p>The revised proposal is consistent with the objectives and requirements of this general principle.</p>	conditions
<b>CL70 Site facilities</b>	Yes	<p>There is ample room on site for necessary domestic site facilities to serve the occupants residential needs.</p> <p>The revised proposal is consistent with the objectives and requirements of this general principle.</p>	Yes
<b>CL71 Parking facilities (visual impact)</b>	Yes	<p>The proposed parking is set well back from the road and integrated into the dwelling at the ground floor and will not create any unreasonable visual impact of the parking area.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
<b>CL72 Traffic access &amp; safety</b>	Yes	<p>The property will be accessed from a new driveway from Northcott Road. Council's Development Engineers are satisfied with the driveway entry and design off Northcott Road.</p> <p>The revised proposal is consistent with the objectives requirements of this general principle.</p>	Yes Subject to conditions
<b>CL74 Provision of Carparking</b>	Yes	<p>Three carparking spaces are provided in the garage area and the forecourt provides adequate space for visitor parking.</p> <p>The revised proposal complies with Schedule 17 and is consistent with the objectives and requirements of this</p>	Yes

General Principles	Applies	Comments	Complies
		general principle.	
<b>CL75 Design of Carparking Areas</b>	Yes	<p>The triple garage provided within the dwelling footprint has adequate internal dimensions to comply with Australian Standards AS2890.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
<b>CL76 Management of Stormwater</b>	Yes	<p>Council's Development Engineers and NEU - Water Management section have assessed the application pursuant to this clause. Council's development engineers are satisfied with the stormwater engineering design.</p> <p>Council's NEU – Water Management section have assessed the proposal including the Water Management Plan to address stormwater disposal, infiltration and re-use.</p> <p>The revised proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes Subject to conditions.
<b>CL77 Landfill</b>	Yes	<p>Landfill will not be brought to the site since excavated material from the proposed site works will be used for batters and any re-formation / earthwork contouring. Excavated rock will be used on site for retaining walls where practicable.</p> <p>The revised proposal is consistent with the objectives and assessment requirement of this general principle.</p>	Yes
<b>CL78 Erosion &amp; Sedimentation</b>	Yes	<p>A <i>Sediment and Erosion Control Plan</i> has been provided with the application. A condition of consent will ensure these</p>	Yes Subject to conditions

General Principles	Applies	Comments	Complies
		<p>measures are put into practice during construction works.</p> <p>Subject to conditions of approval, the revised proposal is consistent with the objectives and assessment requirement of this general principle.</p>	
<b>CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service</b>	Yes	<p>The site does not contain any registered aboriginal heritage sites. Consultation was made with the MALC in preparation of the Archaeological assessment.</p> <p>The revised proposal is consistent with the objectives and assessment requirement of this general principle.</p>	Yes
<b>CL83 Development of Known or Potential Archaeological Sites</b>	Yes	<p>The application was referred to the <i>Aboriginal Heritage Office</i> to assess the proposal with respect to impact on any potential Aboriginal site or relics. No objection to approval is raised, subject to conditions ensuring appropriate action if any relics are found or uncovered during works.</p> <p>The revised proposal is consistent with the objectives and assessment requirement of this general principle.</p>	Yes Subject to conditions

#### SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	Yes	Yes
Schedule 6 Preservation of bushland	Yes	No
Schedule 7 Matters for consideration in a subdivision of land	N/A	N/A
Schedule 8 Site analysis	Yes	Yes

Schedule	Applicable	Compliant
Schedule 9 Notification requirements for remediation work	N/A	N/A
Schedule 10 Traffic generating development	N/A	N/A
Schedule 11 Koala feed tree species and plans of management	Yes	Yes
Schedule 12 Requirements for complying development	N/A	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	N/A	N/A
Schedule 14 Guiding principles for development near Middle Harbour	N/A	N/A
Schedule 15 Statement of environmental effects	N/A	N/A
Schedule 17 Carparking provision	Yes	Yes

**OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:**

STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS			
POLICY	ASSESSMENT	APPLICABLE?	COMPLIES
SEPP - BASIX	BASIX Certificate supplied?	Yes	Yes
SEPP – 55	Based on the previous land uses if the site likely to be contaminated?	No	Yes
	Is the site suitable for the proposed land use?	Yes	Yes
SEPP INFRASTRUCTURE	Is the proposal for a swimming pool, or	Yes	Yes – Ausgrid did not respond to the referral within the 21 day period. There are no objections and no special conditions of consent from Ausgrid.
	Within 30m of an overhead line support structure?	No	
	Within 5m of an overhead power line?	No	
SREP-Sydney Regional Environmental Plan –		No	N/A

**STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS**

<b>Sydney Harbour Catchment (If applicable)</b>		
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**EPA REGULATION CONSIDERATIONS (s8.2 Review):**

Regulation Clause	Applicable? Yes / No / N/A	Conditioned
Clause 54 & 109 (Stop the Clock)	No	N/A
Clause 92 (Demolition of Structures)	No	N/A
Clause 92 (Government Coastal Policy)	No	N/A
Clause 93 & 94 (Fire Safety)	N/A	N/A
Clause 94 (Upgrade of Building for Disability Access)	N/A	N/A
Clause 98 (BCA)	Yes	Yes

**REFERRALS (s8.2 Review)**

Referral Body Internal	Comments	Consent Recommended
<b>Natural Environment Unit – Water Management</b>	<p><i>This application is recommended for approval.</i></p> <p><i>Sediment and erosion controls must be implemented prior to any work on site and maintained until work is complete and groundcover re-established.</i></p> <p><i>Stormwater plan to be updated with vegetated swale locations.</i></p> <p><i>Stormwater runoff generated by the proposed driveway must be managed by suitably spaced and designed flow spreaders to mitigate transport of sediment to the creek as per Report-Water Management Plan.</i></p> <p><i>No objection to approval subject to conditions.</i></p> <p><u>Planning Comment:</u> The revised proposal has been submitted with a BASIX certificate (that includes water efficiency performance measures) and a Water Management Plan addressing the objectives of water sensitive design. The plans show</p>	<p>Yes</p> <p>Subject to conditions.</p>

Referral Body Internal	Comments	Consent Recommended
	that the design incorporates rainwater storage, environmental rainwater use / reuse and dispersal infiltration areas (driveway & house) to minimise water runoff impacts.	
<b>Natural Environment Unit – Riparian</b>	<i>No objection to the proposal with conditions recommended including sediment control, riparian protection, weed control and submission of a works environmental protection plan (WEPP).</i>	Yes. Subject to conditions.
<b>Natural Environment Unit – Coastal</b>	<i>No objection to approval and no conditions are recommended.</i>	Yes
<b>Natural Environment Unit - Biodiversity</b>	<p><i>Council's Natural Environment – Biodiversity section cannot support the application due to non-compliances with the Warringah LEP Clauses 56 and 58.</i></p> <p><i>This Review Application, REV2019/0016, has been assessed against Warringah LEP 2000 clauses 56 Retaining unique environmental features and 58 Protection of existing flora. The associated DA2017/1140 was refused, in part, due to non-compliances with biodiversity clauses within Warringah LEP 2000 as well as insufficient information.</i></p> <p><i>The subject site, "the site" comprises two lots (lot 835 and lot 836 DP752038) totalling 5.43 ha which are currently vacant intact remnant bushland with some vegetation disturbance within 50m of the northern boundary of Lot 836. The site is steeply sloping and contain a high density of rocky outcrops, boulders and cliffs. The site is bounded by a large area of remnant bushland/core habitat to the south and west, and low density residential to the north and east.</i></p> <p><i>The Flora and Fauna Assessment Report (Abel Ecology 2019) recorded two threatened species onsite during surveys (2013-2015), including the Red-crowned Toadlet, and identified a further thirty (30) threatened species (21 threatened fauna, 9 threatened flora) which have "suitable natural habitat [that] occurs on the site". No further threatened fauna targeted surveys have been carried out since 2015.</i></p> <p><i>Proposal changes since the DA refusal consist of:</i></p>	No. Insufficient information.

Referral Body Internal	Comments	Consent Recommended
	<ul style="list-style-type: none"> <li>• Removal of the pool;</li> <li>• Widening of the full length of the driveway from originally 3m to 5.5m width,</li> <li>• Connection to sewer, and;</li> <li>• Re-location of the detached Cabana building.</li> </ul> <p><i>This proposed development, in its current form, will still require removal of at least 1.54 ha of remnant bushland for only a single dwelling. The proposal is for a “Manor House” with approximate dimensions of 43m by 15m, Cabana, lawn and driveway (footprint only, no construction impacts) comprise 0.316 ha of clearing, and 1.23 ha of clearing for the Asset Protection Zone maintained as to Inner Protection Area standards (which includes 0.21 ha of “Raised vegetable gardens, Fruit and nut trees, chicken coop”, 0.12 ha of “gardens”, and the remaining area, 0.89 ha being “mown native grasses, with stands of gardens and trees to IPA standard”). This is considered excessive clearing for a single dwelling in this particular location due to the sensitivity of the bushland environment.</i></p> <p><i>There are also likely unquantified vegetation / trees / bushrock impacts due to significant cut and fill earthworks and associated battered slopes required, construction impacts (including two 20’ shipping containers), connection trenches for utilities, “ground mounted” solar panels and changes to hydrology due to stormwater dispersal along the driveway and from the buildings, which have not been assessed. Furthermore, additional potential impacts were identified by the owners, “Downslope of any gardens or lawns there is also the potential for nutrient runoff and weed invasion. These indirect impacts could increase the area of the site that will be impacted by the proposal.” and “the downslope edge of APZ will be defined by a constructed swale”. These unquantified impacts are estimated to bring the impacts to approximately 2 ha of bushland.</i></p> <p><i>The Statement of Environmental Effects (Simpfendorfer, 14 April 2019) state that thirty-one (31) trees will be removed due to the driveway and “Manor House”. More trees will require removal within the APZ to achieve bushfire requirements which have not yet been quantified. No Arboricultural Impact Assessment was provided to support the application. There are many trees on the site survey and plans within 5m of the works that have not been assessed.</i></p>	

Referral Body Internal	Comments	Consent Recommended
	<p><i>The Biodiversity Management Plan (Simpfendorfer &amp; Abel Ecology 2019) states, "An additional area of approximately 1 – 2 m on each side of the driveway will be cleared during the construction works". The site survey, proposal plans and civil plans are all inconsistent in terms of existing trees and their locations. The site was observed to be well-treed during the inspection, suggesting that the total tree removal required is likely to be significantly higher than estimated.</i></p> <p><i>The following feedback/advice was provided by Council's Natural Environment – Biodiversity section as part of the Pre-Lodgement Meeting (PLM2012/0063, 22 August 2012) advice, "Biodiversity is of the opinion that the cumulative environmental impacts associated with the house, asset protection zone, tennis court, landscaping and clearing for horses/agricultural use may be substantial and likely to be greater than that depicted in the Pre-Lodgement Application. On this basis the proposal may not be supported pending further information on the extent and nature of clearing impacts associated with the proposal."</i></p> <p><i>Throughout the assessment process, Council's Natural Environment – Biodiversity section has provided feedback and feasible alternatives to encourage the applicant to reconsider alternatives to ensure the proposal is designed and sited to avoid and minimise impact to biodiversity in accordance with the LEP and mitigation hierarchy. The most substantial impacts to biodiversity are resulting from the 220m driveway and the APZ. These impacts could be reasonably avoided by locating the house further north, i.e. down the slope, closer to already managed land and reducing vegetation clearing for access requirements. The north-eastern corner is also the disturbed part of the site.</i></p> <p><i>Further alternatives to minimise impacts include the removal of the "garden cabana", opting to increase the BAL level to reduce the APZ requirements, and a reduction in the area used for agricultural purposes or relocation to the parts of the site which are already disturbed.</i></p> <p><i>The proposed development does not put in place feasible avoidance measures to reduce the scale and intensity of impacts on components of biological diversity. Council (and the applicant) also notes the likely additional impacts to biodiversity which are currently unquantified and not assessed. Therefore, the biodiversity impacts resulting from this proposal are not considered "residual" for the purposes of offsetting.</i></p>	

Referral Body Internal	Comments	Consent Recommended
	<p><i>Council has previously noted that the only option to go ahead with the current design and location is to establish secure conservation of the remaining bushland on the site in perpetuity. None of the plans or reports submitted to date provide for the ongoing secure protection or conservation of the residual bushland on the site. Effort to avoid and minimise must first be considered by the applicant.</i></p> <p><i>The development application is non-compliant with the following LEP 2000 clauses:</i></p> <p><b>56 Retaining distinctive environmental features on sites.</b> <i>Development is to be designed to retain and complement any distinctive environmental features of its site and on adjoining and nearby land. In particular, development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses.</i></p> <p><i>The proposed development has not been designed to adequately retain and complement environmental features including the remnant bushland and rock outcrops. The proposed development will result in the removal of 1.5 ha of remnant bushland, with indirect impacts the removal/disturbance is estimated at 2 ha of bushland. The proposed design will require extensive cut and battered fill slopes, and will destroy/disturb many rock outcrops. This is considered excessive clearing for a single dwelling in this particular location due to the sensitivity of the bushland environment. There are ample opportunities (discussed above) to avoid and minimise impacts at this site to ensure the design is sympathetic to environmental features. Any residual impacts of the development must be adequately offset as per the mitigation hierarchy.</i></p> <p><b>58 Protection of existing flora.</b> <i>Development is to be sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.</i></p> <p><i>It is considered that the proposed development has not been sited and designed to minimise impact on remnant indigenous flora. The "Manor House" is located in the centre of lot 836, high up on the slope within and adjoining high quality remnant bushland. As a result of the bulk and</i></p>	

Referral Body Internal	Comments	Consent Recommended
	<p><i>size of the buildings and their proposed location, extensive vegetation will require permanent modification due to bushfire requirements for the APZ. In addition to the direct impacts of clearing, construction activities and excavation, the proposal will have considerable ongoing direct and indirect impacts to the adjoining high quality bushland including changes to hydrology, edge effects, weed invasion, and increased nutrients as a result of agricultural activities. The mitigation measures proposed are considered inadequate as the applicant has not first sort to site and design the development to avoid and minimise impacts to flora.</i></p> <p><u>Planning Comment:</u> The applicant is not prepared to enter into a stewardship or bio-banking offset arrangement for the proposal and is of the opinion it is inappropriate for the development. A suitable mechanism to conserve the remaining bushland in-situ is to apply an "s88B restriction as to use" which only Council would be empowered to vary. In addition, the relocation of the dwelling house cannot be conditioned as such a radical design change is not consistent with the applicant's proposal, as lodged.</p> <p>The revised details of development application are not supportable by Council's NEU - Biodiversity section. This warrants refusal of the development application for reasons of inconsistency with the objectives and requirements of <i>Clause 58 Protection of Existing Flora</i>.</p>	
<b>Traffic Engineer</b>	<p><i>The revised driveway is satisfactory with appropriate width of 5.5m being sufficient to allow for two vehicles to pass each other safely. Northcott Road capable of accommodating the increased traffic from the dwelling house and granny flat.</i></p> <p><i>The alignment is now more direct which allows appropriate sight distance on the driveway is within acceptable limits outlined in AS2890.1 clause 2.6. The amended plans are satisfactory for development approval, subject to conditions.</i></p>	<p>Yes. Subject to conditions.</p>
<b>Development Engineers</b>	<p><i>Reference is made to Development Engineering Referral Response dated 27/11/18 for DA2017/1140 and additional information provided by the Applicant for Review.</i></p>	<p>Yes. Subject to conditions.</p>

Referral Body Internal	Comments	Consent Recommended
	<p><i>Note to Planning:</i></p> <p><i>The proposed access driveway is to include a 5.5m wide carriageway, the provision of kerb and associated batters. Please consider this impact in Planning assessment.</i></p> <p><i>No objections are raised to the proposed development, subject to conditions.</i></p> <p><u>Planning Comment:</u> The width of the driveway including batters and kerb have been considered in the design including site inspection, including walking the line of the driveway.</p>	
<p><b>Landscape Officer</b></p>	<p><i>Comments have been required on the Review of determination of the above site.</i></p> <p><i>It is noted in the package of information provided that the tennis court and cabana have been removed from the application and some minor amendments to the dwelling are noted.</i></p> <p><i>It is also noted that the site is proposed to be serviced by sewer and water along the eastern boundary and then extending across the dwelling. The driveway configuration is slightly amended with additional trees to be retained.</i></p> <p><i>The site is currently undeveloped and construction of a residential dwelling will fundamentally change its current nature. Numerous small trees and other native vegetation not indicated on the Survey Plan will be required to be removed to address access, building works, Asset Protection Zones for bushfire and the installation of utility services to the buildings. As the site is large, opportunities are available to maintain the natural environment outside of the areas required to be disturbed. Large and significant rock outcrops are to be retained.</i></p> <p><i>It is considered that with addition of conditions, the proposed works are acceptable with regard to landscape issues with regard to the relevant planning controls. Refer to Bushland and Biodiversity comments for matters of environmental impact.</i></p> <p><i>Recommended for approval, subject to conditions</i></p>	<p>Yes. Subject to conditions</p>
<p><b>Waste Services</b></p>	<p><i>No objection to approval subject to conditions.</i></p>	<p>Yes. Subject to</p>

Referral Body Internal	Comments	Consent Recommended
		conditions.
<b>Environmental Health and Protection – Unsewered Land</b>	<p><i>Environmental Health reviewed this revision of a previous determination to refuse DA2017/1140.</i></p> <p><i>No objection to the proposed development and maintain the same decision to approve with appropriate conditions on unsewered lands.</i></p> <p><u>Planning Comment:</u> The site will be connected to Sydney Water infrastructure for town water supply and sewer service.</p>	<p>Yes. Subject to conditions.</p>
<b>Environmental Health and Protection – Solid Fuel Heaters</b>	<p><i>Environmental Health reviewed this revision of a previous determination to refuse DA2017/1140. No objection to the proposed development and decide to approve with appropriate conditions for solid fuel heater installation.</i></p>	<p>Yes. Subject to conditions.</p>
<b>Building Assessment</b>	<p><i>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department.</i></p> <p><i>There are no objections to approval of the development.</i></p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as fire separation between the Coach House and the Manor House may be determined at Construction Certificate stage.</i></p>	<p>Yes. Subject to conditions.</p>

Referral Body External	Comments	Consent Recommended
<b>Aboriginal Heritage Office</b>	<p>The revised proposal was referred to the Aboriginal Heritage Office and a referral response was received on the 1 May 2017 with the following requirements / advice:</p> <p><i>Given the changes for the Review (REV2019/0016 - 57 - 59 Northcott Road CROMER NSW 2099), the Aboriginal Heritage Office supports the recommendations from the Abel Archaeology Due Diligence report, and does not see any issues for Aboriginal heritage in the current development area.</i></p> <p><i>However, should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.</i></p>	<p>Yes. Subject to conditions.</p>
<b>Ausgrid</b>	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period. Therefore, it is assumed that no objections are raised and no conditions are recommended. The proposal has suitable proximity to connect to <i>Ausgrid</i> infrastructure adjacent the site.</p>	<p>Yes. Subject to separate requirements under the authority of the service provider.</p>
<b>NSW Rural Fire Service</b>	<p>The NSW RFS provided a referral response on 18 January 2018. No objection to approval was raised by the RFS, subject to the conditions, pursuant to Section 79BA of the EP&amp;A Act 1979.</p> <p>The subject Review does not alter the RFS requirements as the house is in the same location, emergency water supply is proposed, and the driveway redesigned to satisfy <i>Planning for Bushfire Protection 2006</i> as appropriate for the rural setting.</p> <p>Conditions of consent relate to:</p> <ul style="list-style-type: none"> <li>• Asset Protection Zones (clearance distances),</li> <li>• Water and Utilites (supply and fittings),</li> <li>• Access (road design),</li> <li>• Design and Construction (dwelling),</li> <li>• Landscaping (maintenance).</li> </ul>	<p>Yes Subject to conditions.</p>

<b>APPLICABLE LEGISLATION/ EPI'S /POLICIES:</b>	
<p><b><u>Environmental Planning and Assessment Regulations 2000</u></b></p> <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters may be suitably addressed via conditions of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council has not requested any additional information. Council has considered the number of days taken in this assessment in light of the time limitations specified for the Review.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider <i>AS 2601 - 1991: The Demolition of Structures</i>. The site contains no buildings or other structures to be demolished.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). The site contains no buildings or other structures to be upgraded.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the <i>Home Building Act 1989</i>. Subject to approval, this matter may be appropriately addressed by conditions.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the <i>Building Code of Australia (BCA)</i>. Subject to approval, this matter may be appropriately addressed by conditions.</p>	Yes
<p><b>EPA&amp;A Act 1979</b></p> <p>4.15 Evaluation - Matters for consideration – (cf previous s 79C)</p> <p>Division 8.2 Reviews (see section below)</p>	Yes  Yes
<p><b>Local Government Act 1993</b></p> <p><i>Section 68 – Installation of solid fuel heater.</i></p>	Yes
<p><b>Roads Act 1993</b></p> <p>Driveway access to Northcott Road reserve.</p>	Yes
<p><b>Swimming Pools Act 1992</b></p> <p>No longer applicable under the Review</p>	Yes



<b>APPLICABLE LEGISLATION/ EPI'S /POLICIES:</b>	
<b>SEPP No. 55 – Remediation of Land</b> No further investigations required.	Yes
<b>SEPP BASIX</b> Subject to approval – standard conditions.	Yes
<b>WLEP 2000</b> <i>B2 Oxford Fall Valley Locality.</i>	Yes
<b>WDCP</b> Notification procedures only	Yes
S94A Development Contributions Plan	Yes

<b>Section 4.15 “Matters for Consideration”</b>	
Section 4.15 (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	N/A
Section 4.15 (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 4.15 (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	N/A
Section 4.15 (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 4.15 (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	No Refer to reasons for refusal
Section 4.15 (1) (c) – Is the site suitable for the development?	Yes
Section 4.15 (1) (d) – Have you considered any	Yes

<b>Section 4.15 “Matters for Consideration”</b>	
submissions made in accordance with the EPA Act or EPA Regs?	
Section 4.15 (1) (e) – Is the proposal in the public interest?	Yes  (One public submission of support received following notification of the Review)

<b>Section 8.3 “Application for and Conduct of Review” (cf previous ss82A (2)-(4) (6), 82B (2)-(4))</b>	
(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.	The Applicant has made application to request Northern Beaches Council review the refusal of DA2017/1140 issued on 30 November 2108
(2) A determination or decision cannot be reviewed under this Division: (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or (b) after the Court has disposed of an appeal against the determination or decision.	The review application was acknowledged by Council in the proper form on 15 April 2019.  DA2017/1140 was determined by Council on 16 November 2018. However, the <i>Notice of Determination</i> was not issued by Council until the date of 28 November 2018. Therefore, the 6 month review period is calculated to end on the 28 May 2019.  This fairly and properly accommodates the Applicant’s legal right, to the full 6 months allowed under the Regulations for the review after the having determination having been actually issued by Council to the Applicant.
(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially	The revised proposal (REV2019/0016) is considered to be substantially the same as development application DA2017/1140, and on the whole is of a lesser environmental impact.



the same development.	
(4) The review of a determination or decision made by a delegate of a council is to be conducted: (a) by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or (b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision.	The review of the determination is to be made the by Council's <i>Development Determination Panel (DDP)</i> . The preparation of the report has not been conducted by a subordinate to the original assessment. The Division 8.2 Review report has been considered by a Manager, prior to referral to the Panel.
(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.	The Review of the proposal is referred to the DDP, as per DA2017/01140 which was previously determined by the Panel.

#### NOTIFICATION AND PUBLIC SUBMISSIONS

The application (being REV2019/0016) was notified pursuant to the EP&A Regulations 2000 and WDP to 24 adjoining land owners and occupiers. The notification period commenced on 24 April 2019 and ended on 16 May 2019. The proposal is not integrated development and does not require advertising pursuant to WLEP 2000.

In response to the notification of the Review of Determination application two submissions were received.

A summary of submission issues of objection raised in the original application were:

1. Traffic access (ROW from Pinduro Place)
2. Waste water pollution
3. Clearing & flora removal
4. Canopy trees and unique rock outcrops
5. Impact on fauna and threatened species
6. Resort style development for subdivision
7. Keeping of livestock
8. Inconsistency with the DFC
9. Impact on riparian land
10. Unsuitable visual impact from site works.

These issues have been reconsidered in the context of the Review, with the potential impact on flora and rock outcrops remaining, pursuant to the *General Principles of Development Control* discussed within this report.

Two (2) public submissions were received for the Review of Determination application, which included the following statements of consideration:



*Submission 1. "We feel that the applicants, in designing this development, have made great efforts in ensuring a stylish and aesthetically pleasing outcome whilst taking into consideration the very important need to ensure harmony with the surrounding natural environment."*

*We are particularly pleased with intended works relating to the private driveway. Commencing from Northcott Rd and leading up to the proposed residence, the driveway construction will in effect be greatly beneficial towards better stormwater and drainage management. As this development site adjoins our property on the western boundary, and our property is on the lower side, we feel the driveway and associated guttering will greatly reduce natural water runoff, thus protecting our property from any future inundation and soil erosion."*

*Submission 2. I understand there will be no construction access from the private road in Pinduro Place; that is both critical and pleasing. The development proposal, while "huge", will potentially create a safer environment, in terms of fire safety, for the surrounding neighbourhood in Pinduro Place. As such, I have no objection to the proposed development".*

**Planning Comment:**

The submissions received following the Review notification demonstrate an alternative public perception from the previous objections received in the original development application.



### SECTION 3 – SITE INSPECTION ANALYSIS



**SITE AREA:** 5.46 hectares (Ha) comprising Lot 835 and Lot 836 DP752038

**Detail existing building structures:** None (Undeveloped bushland)

**Site Features:**

The site has trapezoid shape (2 lots together) with a 230 metres (m) frontage to Northcott Road, Cromer along the northern boundary. The site also has legal access to a ROW extending from Pinduro Place along the eastern boundary. There is no constructed vehicle access within the property at present. To the west and south is vacant bushland that is densely vegetated – *Sydney Coastal Dry Sclerophyll Forest* and *Sydney Coastal Heath*.

To the north of the site are a number of rural residential properties on 2Ha or larger lots. The site has been partly disturbed within 50m of the eastern boundary where it adjoins the urban area (R2 Low Density Residential zone - WLEP 2011). A Sydney Water sewer line is located within the north-eastern corner of Lot 836.

The site has the following maximum dimensions:

- East – West 226 metres
- North – South 276 metres

The site drains toward South Creek, Narrabeen and a 40m riparian buffer zone extends



across the northern frontage of the site along Northcott Road. The site is not heritage listed but may contain (unrecorded) potential aboriginal relics or threatened species within the undisturbed bushland areas.

#### Site constraints and other considerations

Bushfire Prone? NSW RFS Referral response provided for Bushfire Attack Level 19 APZ: North 78m, South 24m, East 60m (to boundary), West 35m.	Yes
Flood Prone?	No
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	Yes. Driveway access.
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?	No. 1.45km from South Creek, Narrabeen.
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	No
Located within an area identified as potential land slip? A Geotechnical assessment has been provided for the Review.	No
Is the development Integrated?	No
Does the development require concurrence?	No
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No



**SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY:** (Referral Groups and Assessing Officer)

Does the site inspection (Section 3) confirm the assessment undertaken against the relevant EPI's (Section's 1 & 2) within this report?

Yes

Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?

Yes – See  
NEU Referral  
comments.

Are there any existing unauthorised works on site?

No

If YES has the application been referred to compliance section for comments?

N/A

Declaration of any Conflict of Interest?

Nil



## SECTION 4 – APPLICATION DETERMINATION

### Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 4.15 and Division 8.2 of the EP&A Act 1979. This assessment has taken into consideration the submitted Revision plans, revised Statement of Environmental Effects, all other revised documentation supporting the application and public submissions.

The proposal is Category 2 development and complies with all relevant built form controls and the requirements of the Desired Future Character (DFC) Statement. The proposal has demonstrated consistency with a “low intensity low impact” development. For the Review of determination sufficient information has now been provided to fully satisfy previous concerns relating to the:

- Provision of Utility Services
- Traffic, Safety and Access
- Stormwater Management.

Council's Development Engineering section, Waste services, Traffic Engineering section, Environmental Health section support approval of the proposal as detailed in the referral responses provided, subject to conditions.

No new public submissions of objection were received following notification of the application for review. However, two submissions of support were received. Therefore, it is considered that the revised application (REV2019/0019), has addressed previous concerns raised in submissions to DA2017/1140. In summary, these issues included protection of selected canopy trees during construction (where practicable), ROW access, waste water disposal, construction access and utility connections.

Notwithstanding the above, the revised proposal submitted pursuant to Division 8.2 of the EP&A Act 1979 and is recommended for refusal, subject to revised reasons. This is due to the applicant having been able to address a number of the original reasons for refusal. However, the proposal remains inconsistent with some specific matters, relating to natural environment impacts and the *General Principles of Development Control*, as identified in the referral responses that do not support approval of the development.

### RECOMMENDATION - REFUSAL

That the development determination panel of Council, as the Consent Authority in re-considering the determination of development application DA2017/1140, under REV2019/0019 upholds its decision to **refuse** the application for site clearing and construction of a dwelling house, including a granny flat, outbuilding, driveway access and ancillary building works, on Lots 835 and 836 DP752038 at 57-59 Northcott Road, Cromer, subject to revised reasons detailed below.



**Revised Reasons for Refusal:**

**1. General Principles of Development Control – Warringah Local Environmental Plan 2000**

Pursuant to Section 4.15(1) (a) (i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the 'General Principles of Development Control'. In particular, the proposal does not satisfy the information assessment requirements of:

- *Clause 58 Protection of existing flora;*
- *Clause 56 Retaining distinctive environmental features on sites.*

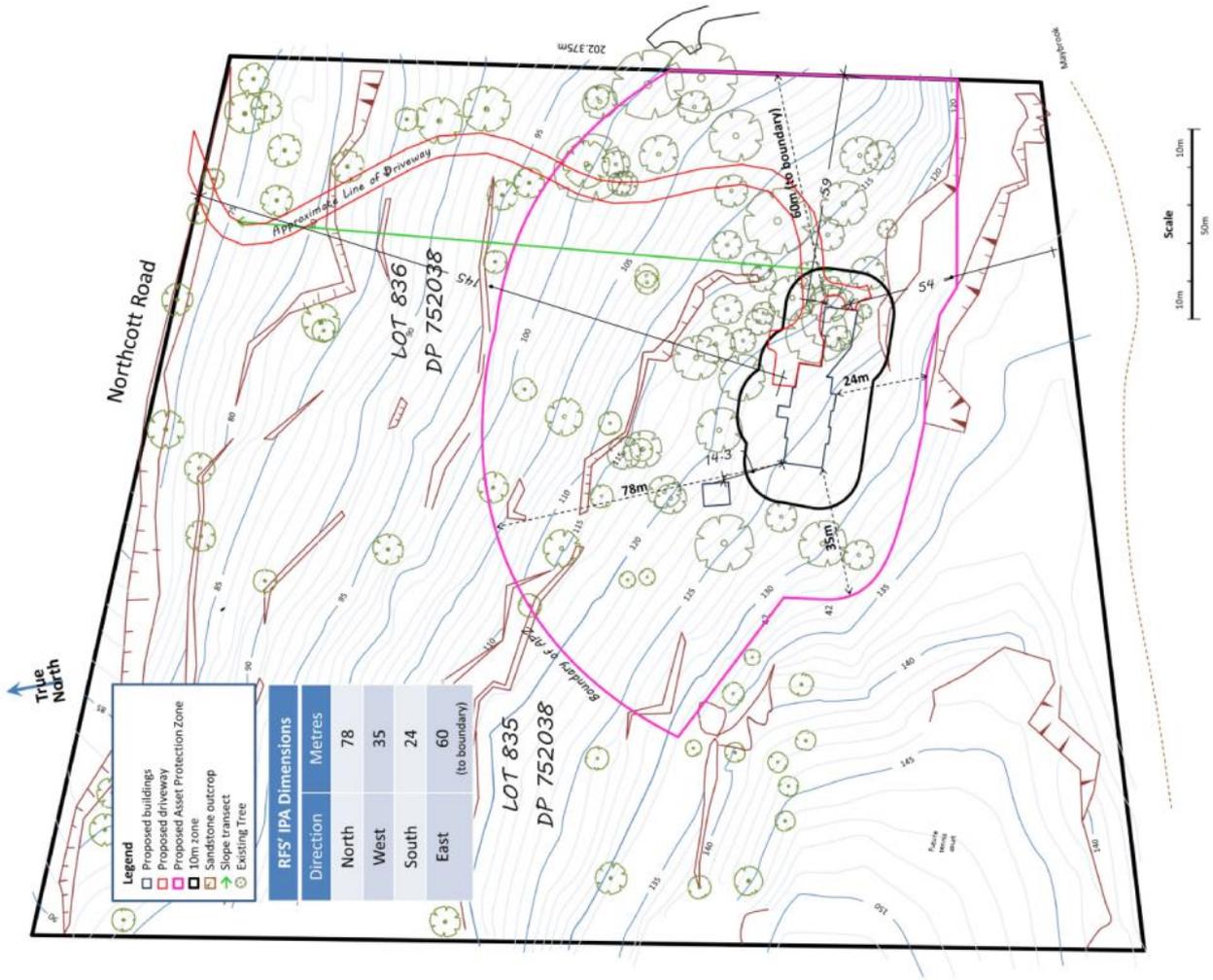
**2. Public Interest under the Environmental Planning and Assessment Act 1979**

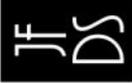
Pursuant to Section 4.15 (1) (e) of the *Environmental Planning and Assessment Act 1979* the proposed development is not in the public interest. In particular, the proposal does not meet the provisions of the relevant local environmental planning instrument to fully address the General Principles of development control pursuant to *Warringah LEP 2000*.

**3. Inconsistent with the Objects of the Environmental Planning and Assessment Act 1979**

Pursuant to *Section 1.5 Objects of Act* under the *Environmental Planning and Assessment Act 1979* the proposal is inconsistent with object to protect the environment including species of native animals and plants in a manner that is consistent with the applicable local planning controls.

	<b>A</b>	<b>05</b>
	DRAWN BY DS DESIGNATION Siting	PROJECT Manor House SCALE: A3 AS SHOWN
CLIENT Jenny & David Sempendorfer Lots 835 & 836 DP 752038 57-59 Northcott Road Cromer Heights, NSW	ISSUE April 2019 VERSION 6.2	





CLIENT  
Jenny & David Simpfendorfer  
Lots 835 & 836 DP 752038  
57-59 Northcott Road  
Cromer Heights, NSW

ISSUE  
April 2019  
VERSION  
6.2

PROJECT  
Manor House  
SCALE A3  
1:200

DRAWN BY  
DS  
DESCRIPTION  
Elevations

**A**  
**06**



<b>JF DS</b>	CLIENT Jenny & David Sempendorfer Lots 835 & 836 DP 752038 57-59 Northcott Road Cromer Heights, NSW	ISSUE April 2019 VERSION 6.2	PROJECT Manor House SCALE: A3 1:200	DESIGN DS Side Elevations	<b>A</b>	<b>007</b>
	DRAWN BY					

