AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

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

WEDNESDAY 26 JUNE 2019

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

Peter Robinson
Executive Manager Development Assessment

northern beaches council

Panel Members

Lesley Finn	Chair
Brian Kirk	Town Planner
Graham Brown	Town Planner
Peter Cotton	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

northern beaches council

Agenda for a Meeting of the Northern Beaches Local Planning Panel to be held on Wednesday 26 June 2019 in the Council Chambers, Civic Centre, Dee Why Commencing at 1:00pm

1.0 DECLARATIONS OF INTEREST

2.0 MINUTES OF PREVIOUS MEETING

2.1 Minutes of Northern Beaches Local Planning Panel held 19 June 2019

3.0 DEVELOPMENT APPLICATIONS 5

3.1 MOD2019/0159 - Stirgess Avenue, Curl Curl - Modification of Development Consent DA2018/1716 granted for construction of an electronic scoreboard 5

3.2 DA2018/2030 - Sturdee Parade, Dee Why - Signage - third party advertising displayed on a Telstra payphone located on Sturdee Parade adjacent to 834 Pittwater Road 20

3.3 DA2018/2031 - Sydney Road, Seaforth - Signage - third party advertising displayed on a Telstra payphone located on Sydney Road adjacent to 563 Sydney Road, Seaforth 41

3.4 DA2018/2032 - Pittwater Road, Brookvale - Signage - third party advertising displayed on a Telstra payphone located on Pittwater Road adjacent to 517 Pittwater Road 61

3.5 DA2018/2033 - Winbourne Road, Brookvale - Signage - third party advertising displayed on a Telstra payphone located on Winbourne Road adjacent to 698 Pittwater Road 81

3.6 DA2019/0275 - 53 Alexander Street, Manly - Demolition works, subdivision of 1 lot into 2 lots and construction of two semi-detached dwellings 102

3.7 DA2018/2027 - 15 Addison Road, Manly - Alterations and additions to an existing dwelling house 148

3.8 DA2018/0849 - 10 Naree Road, Frenchs Forest - demolition works and construction of a boarding house development 212

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 19 JUNE 2019

RECOMMENDATION

The Panel note that the Minutes of the Northern Beaches Local Planning Panel held 19 June 2019 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	**MOD2019/0159 - STIRGESS AVENUE, CURL CURL - MODIFICATION OF DEVELOPMENT CONSENT DA2018/1716 GRANTED FOR CONSTRUCTION OF AN ELECTRONIC SCOREBOARD**
REPORTING OFFICER	**Steve Findlay**
TRIM FILE REF	**2019/333078**
ATTACHMENTS	**1 Assessment Report** **2 Plans**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the Council and it is a modification of a determination made by a local planning panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. MOD2019/0159 for Modification of Development Consent DA2018/1716 granted for Construction of an electronic scoreboard at Lot 75 DP 456141, Stirgess Avenue, Curl Curl subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0159

Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 75 DP 456141, 70 / 0 Stirgess Avenue CURL CURL NSW 2096
Proposed Development:	Modification of Development Consent DA2018/1716 granted for construction of an electronic scoreboard
Zoning:	Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Manly Bombers Junior AFL Club

Application lodged:	11/04/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Community facility
Notified:	29/04/2019 to 13/05/2019
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

EXECUTIVE SUMMARY

This report is submitted to the Local Planning Panel for the consideration of Modification Application No. MOD2019/0159 to review Condition 20 - Hours of Operation at Weldon Oval.

Condition 20 "Hours of Operation" was recommended by Council's Planner in the assessment report on DA2018/1716 to read as follows:-

"The hours of operation of the scoreboard are to be restricted to when Weldon Oval is being used for organised sports purposes.

Reason: To ensure the amenity of the surrounding locality is maintained. (DACHPGOG1)"

At the Northern Beaches Local Planning Panel meeting on 6 February 2019, the panel amended the above condition to include the words "*and not later than 7pm*" such that it reads as follows:-

"20. Hours of Operation

The hours of operation of the scoreboard are to be restricted to when Weldon Oval is being used for organised sports purposes ***and not later than 7pm****.*

Reason: To ensure the amenity of the surrounding locality is maintained. (DACHPGOG1)"

Given some AFL games are played on Friday and Saturday nights (within the hours of use allocated by Council's Parks and Reserves section) the hours of operation conditioned by the NBLPP would not allow for the use of the scoreboard during these night games. The applicant has requested that the condition be amended as per the recommended condition by Council's Planner.

Weldon Oval is located on the southern side of Greendale Creek and is divided from the larger John Fisher Park Reserve.

The proposed amendment to Condition 20 has been assessed against the applicable planning requirements for the site including the relevant provisions of Warringah LEP 2011 and WDCP 2011 and is compliant and consistent with the relevant provisions.

The proposal was notified for a period of 14 days and no submissions were received.

The assessment report concludes that the proposed modification to Condition 20 is reasonable and consistent with similar developments/uses in the Northern Beaches LGA. This report recommends that the words "*and not later than 7pm*" be deleted from Condition 20 and the application approved in that manner.

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 75 DP 456141 , 70 / 0 Stirgess Avenue CURL CURL NSW 2096
Detailed Site Description:	Weldon Oval consists of four allotments located on the southern side of Greendale Creek which divides the Park into north and south within the larger John Fisher Park Reserve. Weldon Oval is accessed via Stirgess Avenue and the electronic scoreboard will be located at the south-western corner of the oval adjacent to the cricket nets, half court (basketball) and futsal courts. The site is relatively flat. The location of the electronic scoreboard will be clear of significant vegetation and there are no known threatened species within the immediate vicinity. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by residential dwellings and the Harbord Bowling Club to the south, futsal courts to the southwest, cricket nets and basketball court to the west and the extended John Fisher Park to the north, east and west.

Map:

SITE HISTORY

A search of Councils records has revealed the following relevant history for the site:

DA2018/1716 - Construction of an electronic scoreboard was approved by Northern Beaches Local Planning Panel on 6 February 2019 with the following condition added by the panel:-

Condition No. 20 to read as follows:

"Hours of Operation
The hours of operation of the scoreboard are to be restricted to when Weldon Oval is being used for organised sports purposes and not later than 7pm.

Reason: To ensure the amenity of the surrounding locality is maintained. (DACHPGOG1)"

PROPOSED DEVELOPMENT IN DETAIL

The modification application has been lodged seeking to modify Condition 20 - Hours of Operation.

Condition 20 was imposed on the original DA2018/1716 by the Northern Beaches Local Planning Panel (NBLPP) as follows:-

"20. Hours of Operation

The hours of operation of the scoreboard are to be restricted to when Weldon Oval is being used for organised sports purposes and not later than 7pm.
Reason: To ensure the amenity of the surrounding locality is maintained. (DACHPGOG1)"

Given some AFL games are played on Friday and Saturday nights (within the hours of use allocated by Council's Parks and Reserves section), the hours of operation conditioned by the Panel would not allow for the use of the scoreboard during these night games.

The applicant has requested that the condition be amended as per the recommended condition by Council's Planner in the original assessment report, which did not include the reference to the extinguishing of the electronic scoreboard by 7.00pm.

Hence, the applicant seeks the deletion of the 7.00pm curfew to allow the games to be completed as per the schedule for night use with Council.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given

by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2018/1716, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	**Comments**
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	**Yes** The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2018/1716.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

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

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

Section 4.15 'Matters for Consideration'	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 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)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 'Matters for Consideration'	Comments
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.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	**General Comments** The site is located in an area nominated as Class 4 Acid Sulfate soils. The development proposes a depth for the slab being no greater than 200mm and accordingly there will be no disturbance to the possible acid sulfate soils at lower levels. **Recommendation** APPROVAL - no conditions

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 19 - Bushland in Urban Areas

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

In this regard, consideration is given as follows:

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

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

(2) The specific aims of this policy are:

(a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,
(b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,
(c) to protect rare and endangered flora and fauna species,
(d) to protect habitats for native flora and fauna,
(e) to protect wildlife corridors and vegetation links with other nearby bushland,
(f) to protect bushland as a natural stabiliser of the soil surface,
(g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,
(h) to protect significant geological features,
(i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,
(j) to protect archaeological relics,
(k) to protect the recreational potential of bushland,
(l) to protect the educational potential of bushland,
(m) to maintain bushland in locations which are readily accessible to the community, and
(n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation."

Comment:
The use of the scoreboard to a later time than 7.00pm is unlikely to impact or disturb the adjoining bushland or surrounding public open space.

Based on the above, it is considered that the development would result in consistency with the aims of the plan.

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 use of the scoreboard to a later time in the evening is unlikely to cause an adverse impact upon the matters identified in this clause.

"(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 has been designed in such a way that it satisfies the relevant matters identified in 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 to increase the hours of use of the scoreboard will not significantly impact upon the visual or scenic amenity of the area.

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

Warringah Local Environmental Plan 2011

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

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 5 Miscellaneous provisions	Yes
5.5 Development within the coastal zone	Yes
Part 6 Additional Local Provisions	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part C Siting Factors	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D20 Safety and Security	Yes	Yes
Part E The Natural Environment	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Habitat		
E4 Wildlife Corridors	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Council Contributions Plan 2018

Section 7.12 contributions were levied on the Development 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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

The proposed amendment to Condition 20 "Hours of Operation" is supported on the basis that the increased time of use to accommodate Friday and Saturday nights games will not have a significant impact on nearby residential amenity or the visual and scenic amenity of the parkland setting.

It is noted that the proposal to delete the 7.00pm curfew attracted no community concern with no submissions made in relation to the formal notification.

Therefore, it is recommended that the modification proposal be approved.

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

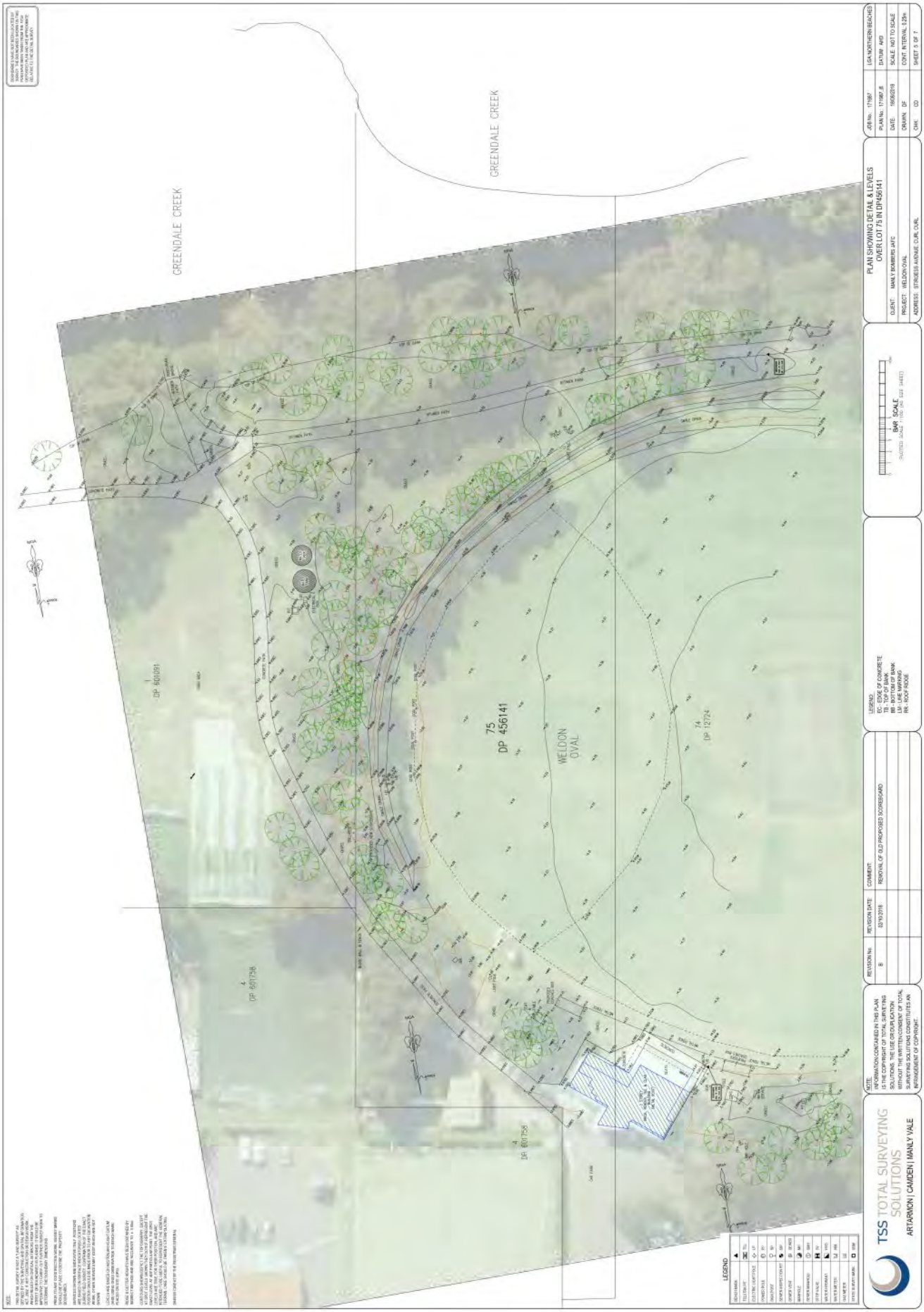
RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2019/0159 for Modification of Development Consent DA2018/1716 granted for construction of an electronic scoreboard on land at Lot 75 DP 456141,70 / 0 Stirgess Avenue, CURL CURL, subject to the conditions printed below:

A. Modify Condition 20 - Hours of Operation to read as follows:

The hours of operation of the scoreboard are to be restricted to when Weldon Oval is being used for organised sports purposes.

Reason: To ensure the amenity of the surrounding locality is maintained. (DACHPGOG1)


GREENDALE CREEK
GREENDALE CREEK
DP 601091
75
DP 456141
WELDON OVAL
74
DP 12724
4
DP 601758
4
DP 601758
PLAN SHOWING DETAIL & LEVELS
OVER LOT 75 IN DP456141
CLIENT: MANLY BOWBIRDS JAFC
PROJECT: WELDON OVAL
ADDRESS: STROGESS AVENUE CLIFF, OVAL
JOB No. 171987
PLAN No. 171987.B
DATE: 18/06/2019
DRAWN: DF
CHK: DD
LGA NORTHERN BEACHES
DATUM: AHD
SCALE: NOT TO SCALE
CONT. INTERVAL 0.25m
SHEET 5 OF 7
BAR SCALE
LEGEND
EC - EDGE OF CONCRETE
TB - TOP OF BANK
BB - BOTTOM OF BANK
LM - LAKE MARGIND
RR - ROOF RIDGE
REVISION No.
REVISION DATE
COMMENT
B
03/10/2018
REMOVAL OF OLD PROPOSED SCOREBOARD
NOTE:
INFORMATION CONTAINED IN THIS PLAN IS THE COPYRIGHT OF TOTAL SURVEYING SOLUTIONS. NO REPRODUCTION WITHOUT THE WRITTEN CONSENT OF TOTAL SURVEYING SOLUTIONS CONSTITUTES AN INFRINGEMENT OF COPYRIGHT.
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ARTARMON | CAMDEN | MANLY VALE
LEGEND

ITEM 3.2	**DA2018/2030 - STURDEE PARADE, DEE WHY - SIGNAGE - THIRD PARTY ADVERTISING DISPLAYED ON A TELSTRA PAYPHONE LOCATED ON STURDEE PARADE ADJACENT TO 834 PITTWATER ROAD**
REPORTING OFFICER	**Natalie Nolan**
TRIM FILE REF	**2019/333121**
ATTACHMENTS	**1 Assessment Report**
	2 Plans

PURPOSE

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

RECOMMENDATION OF INDEPENDENT PLANNING CONSULTANT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves via deferred commencement** Application No. DA2018/2030 for Signage - third party advertising displayed on a Telstra payphone located on Sturdee Parade adjacent to 834 Pittwater Road, Dee Why subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2030
Assessment by:	Natalie Nolan, Nolan Planning Consultants (External Consultant)
Land to be developed (Address):	Road Reserve adjacent to Lot 2 in DP 1146740, 834 Pittwater Road Dee Why
Proposed Development:	Third Party Signage on Exempt Telstra Payphone Structure
Zoning:	LEP - Land zoned B4 Mixed Use
Development Permissible:	No (see existing use rights and *Telecommunications Act, 1997* discussions)
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	JCDecaux Pty Ltd Australia
Application lodged:	20/12/18
Integrated Development	No
Designated Development	No
State Reporting Category	N/A
Notified:	23/01/2019 to 15/02/2019
Advertised:	Not Advertised
Submissions:	Nil
Recommendation:	Deferred Commencement Approval with conditions

EXECUTIVE SUMMARY

A pre-lodgement meeting was held between Council and the Applicant in relation to the proposal on 4 September 2018. Specific concerns raised at the time included permissibility, owner's consent and illumination.

There were no submissions in objection received.

Assessment of the architectural plans and associated documentation has addressed the issues raised in the pre-lodgement meeting. Existing use rights have been established and the proposal is permissible. A condition of consent is included in the recommendation in relation to the illumination of signage.

The application is recommended for approval.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

State Environmental Planning Policy 64 (Advertising and Signage)
Warringah Local Environmental Plan 2011 – Clause 2.1 Land Use Zones and Land Use Table
Warringah Development Control Plan – Clause D23 –Signs

SITE DESCRIPTION

Property Description:	Road Reserve adjacent to Lot 2 in DP 1146740
Detailed Site Description:	The site is on the road reserve in Sturdee Parade adjacent to land known as 834 Pittwater Road Dee Why. The site is a pedestrian pathway which extends the length of the property. This portion of the site is currently occupied by paving with an existing Telstra Phone Booth.

Map:

SITE HISTORY

DA2006/0369 was granted on 30 June 2006, prior to the commencement of the Warringah Local Environmental Plan 2011 for illuminated signage of a Telstra phone booth. The approved phone booth and third party advertising currently exists on site.

PROPOSED DEVELOPMENT IN DETAIL

Development approval is sought to allow third-party advertising arising from the upgrade to Telstra's payphone infrastructure and technology. The third-party advertising will be integrated into an exempt structure which will be installed under Schedule 3 of the Telecommunications Act 1997, and will replace an existing payphone with third-party advertising. The structure including static electronic display screens are not subject to assessment in this application.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	The Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 54 and 109 of the EP&A Regulation 2000, enables Council to request additional information. No additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. The proposal does not require any demolition works and therefore this is not applicable. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). The proposal does not incorporate any building works. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). The proposal does not incorporate any building works.
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	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.

Section 4.15 Matters for Consideration	Comments
	(iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	There have been no submissions received.
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 applicable to this application. Division 4.11 of the Environmental Planning & Assessment Act is applicable. The following provisions are applicable:

Clause 4.65 Definition of Existing Use

DA2006/0369 was granted on 30 June 2006, prior to the commencement of the Warringah Local Environmental Plan 2011. The approved works were carried out prior to the commencement of Warringah Local Environmental Plan 2011 and prior to the lapsing of the development consent, and therefore satisfy 4.65(b)(ii). This structure is still in place with third party advertising.

Clause 4.66 Continuance of and Limitations on Existing Use and Clause 4.68 Continuance of and limitations on other lawful uses

The existing payphone is currently in use with third party signage.

Clause 4.69 Uses Unlawfully Commenced

The use was lawfully commenced pursuant to development consent DA2006/0369, granted by Warringah Council on 30 June 2006, and remains lawfully approved development to date.

Part 5 of the Environmental Planning Assessment Regulation 2000 provides further requirements.

Clause 41 Certain Development Allowed

This clause permits:

> *An existing use may, subject to this Division:*
> *(a) be enlarged, expanded or intensified, or*
> *(b) be altered or extended, or*
> *(c) be rebuilt, or*

The advertising area is slightly increased with this proposal and this is permissible as an existing use.

Clause 42 Development consent required for enlargement, expansion and intensification of existing uses

and

43 Development consent required for alteration or extension of buildings and works

These clauses permit an enlargement or alteration/extension of buildings of an existing use subject to the existing use remaining unchanged and carried out on the same land. The proposed content change will result in an advertising area that is slightly larger than that on the existing approved structure and is therefore a minor enlargement of the existing use. The proposal is in the same location as the existing use.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Urban Design Officer	The overall footpath width at the proposed location is 3.4m wide. That will result in 1.5m clear footpath width. A minimum width of 2m clear will be required for footpath in the Dee Why town centre. Therefore, the proposal is not acceptable. Comment: This proposal does not seek approval for the structure. The application relates only to the content of the advertising within the exempt structure. Therefore, refusal on the above grounds is not supported.
Property Team	Property has no issues with the proposal as submitted, subject to: • An appropriate commercial Licence agreement (subject to formal Council approval) being entered into for such installations on Council road reserve with appropriate commercial terms.
Natural Environment	This application has been assessed under Warringah DCP Clause E6 Retaining existing environmental features. The proposal is limited to the third-party advertising content change only to an existing Telstra pay phone.

Internal Referral Body	Comments
	No impacts to native vegetation or existing biodiversity values. Council's Natural Environment – Biodiversity section raises no issues.

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.
RMS	Roads and Maritime is unsure for the reason for referral. Future DAs for similar development, mainly advertising attached to Telstra payphones, do not require referral to Roads and Maritime.

TELECOMMUNICATIONS ACT, 1997 (Commonwealth Legislation)

Telstra can install and operate the Smart City Payphones as a 'low impact facility' with immunity from State law and the powers and functions of local government, pursuant to Schedule 3 of the Telecommunications Act 1997. This statutory right includes the installation and use of an electronic screen (as a part of the Smart City Payphone) for the purposes of showing content related only to the supply of standard telephone services and display of information.

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 as a road reserve 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 use.

State Environmental Planning Policy No 64—Advertising and Signage

Clause 8 of the SEPP states that the consent authority must not grant development consent to an application for signage unless it is satisfied that the signage is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1.

The applicant in their Statement of Environmental Effects provided an assessment of the proposal under the provisions of Schedule 1 of the SEPP.

Comment:

Assessment Criteria	Comment
Character of Area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage replaces an existing illuminated third party signage in the same location within a new exempt structure. The immediate surrounding area is characterised by commercial land uses with a variety of signs, the majority of which are illuminated.
Special Areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is not identified as a 'special area' in terms of heritage, open space, waterways etc. The site is adjacent to a commercial precinct with some medium density residential uses. The signage is directed away from the residential uses and separated via a public road.
Views and Vistas • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers?	The signage is to be located within a separately approved structure and as such, the proposed signage content will not obscure any important views or vistas and does not dominate the skyline.
Streetscape, Setting or Landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage is proposed within a separately approved structure with this application only for the content. This does not detract from the streetscape, setting or landscape. There is no impact on vegetation.

• Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management?	
<u>Site and Building</u> • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is contained within an approved structure which replaces an existing phone booth.
<u>Associated Devices and Logos with Advertisements and Advertising Structures</u> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not applicable.
<u>Illumination</u> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew?	The illumination is part of the approved structure and not part of this application. Notwithstanding, the structure has in built light sensors and is appropriately separated from the surrounding residential properties. A condition of consent is suggested requiring compliance with the illumination requirements of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'
<u>Safety</u> Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists?	The signage replaces an existing sign. The structure is exempt and the actual content does not impact on safety for pedestrians or cyclists. Similarly, the signage will not obscure sight lines.

• Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

State Environmental Planning Policy (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

Clause 101 of the SEPP relates to 'Development with Frontage to Classified Road'. The proposed signage does not require vehicular access to the land and will not impact on the safety, efficiency and ongoing operation of the classified road. Further, the proposal is not sensitive to traffic noise or vehicle emissions.

Transport Corridor Outdoor Advertising And Signage Guideline 2017

The applicant in their Statement of Environmental Effects has provided an assessment of the proposal against the relevant provisions of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'. The proposal generally complies with the requirements of this Guideline with the exception of the illumination. A condition of consent is suggested requiring compliance with the illumination requirements of this guideline.

Warringah Local Environment Plan 2011

Is the development permissible?	No – Existing Use see discussion previously
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
There are no development standards applying to the proposal

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage Conservation	Yes
6.1 Acid Sulfate Soils	Yes
6.2 Earthworks	Yes

Detailed Assessment

Clause 2.3 Zone Objectives and Land Use Table

The subject site is zoned B4 Mixed Use. However, as discussed previously, the applicant is relying on 'existing use rights' which have been established.

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
D23 Signs	Yes	Yes
Part G Special Areas – Area 5 Sturdee Parade	Yes	Yes

D23 Signage

The following provides an assessment under the relevant provisions of D23 of the Warringah DCP:

- *Signs are to be sited and designed so that they do not adversely impact on the amenity of the streetscape and the surrounding locality. In particular, signs are not to dominate or obscure other signs or result in visual clutter.*

Comment:

This application proposes a change to the content of the advertising within an exempt structure on a site where there is an existing payphone structure with third party advertising. The proposed advertising will not further obstruct signs nor result in visual clutter.

- *Signs are to be compatible with the design, scale and architectural character of the building or site on which they are to be placed.*

Comment:

The proposed signage is integrated into an exempt structure. The signage is compatible with other signs within the precinct. There is a large variety of signage in this locality.

- *Signs are not to obscure views of vehicles, pedestrians or potentially hazardous road features or reduce the safety of all users of any public road (including pedestrians and cyclists).*

Comment:

The proposed signage is integrated into an exempt structure. The signage content itself will not obscure views of vehicles, pedestrians nor reduce the safety of the road.

- *Signs should not be capable of being confused with, or reduce the effectiveness of, traffic control devices.*

Comment:

The location of the sign is such that it is appropriately separated from the traffic control devices. It is noted that this application relates only to the content of the signage within an exempt structure.

- *Signs are not to emit excessive glare or cause excessive reflection.*

Comment:

A condition of consent is suggested requiring compliance with the illumination requirements of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'.

- *Signs should not obscure or compromise important views.*

Comment:

The proposal for change of content of advertising within an exempt structure and which replaces an existing payphone structure will not obscure or compromise any important views.

Part G1 Dee Why Mixed Use, Area 5 Sturdee Parade

The subject site is identified as being within Area 5 – Sturdee Parade. These controls relate to the construction of buildings and do not provide for any particular controls relating to advertising signage. However, the proposal is considered to be compatible with the objectives of the clause by maintaining appropriate pedestrian access. It is noted that this application is for the content of the advertising in an exempt structure.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94 Development Contribution 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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/2030 to allow for third party advertising on an exempt structure, on the road reserve adjacent to Lot 2 DP 1146740, No. 834 Pittwater Road, Dee Why, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Commercial Licence Agreement**
   An appropriate commercial Licence agreement (subject to formal Council approval) shall be entered into for such installations on Council road reserve with appropriate commercial terms.

   Reason: To ensure Council is adequately protected from risk and safety viewpoint, and Council receives appropriate remuneration for the structures displaying third-party advertising on council's road reserves.

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

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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**
NSW-NBC-015	25 May 2018	JCDecaux Australia Pty Ltd
TEL-001	7 June 2018	JCDecaux Australia Pty Ltd

   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. (DACPLB01)

3. **Illumination of Signage**
   The luminance of the signage must comply with the requirements of Section 3 of the *Transport Corridor Outdoor Advertising and Signage Guideline 2017*. Details are to be submitted to Council demonstrating compliance prior to any works commencing on site.

   Reason: Protection of amenity.

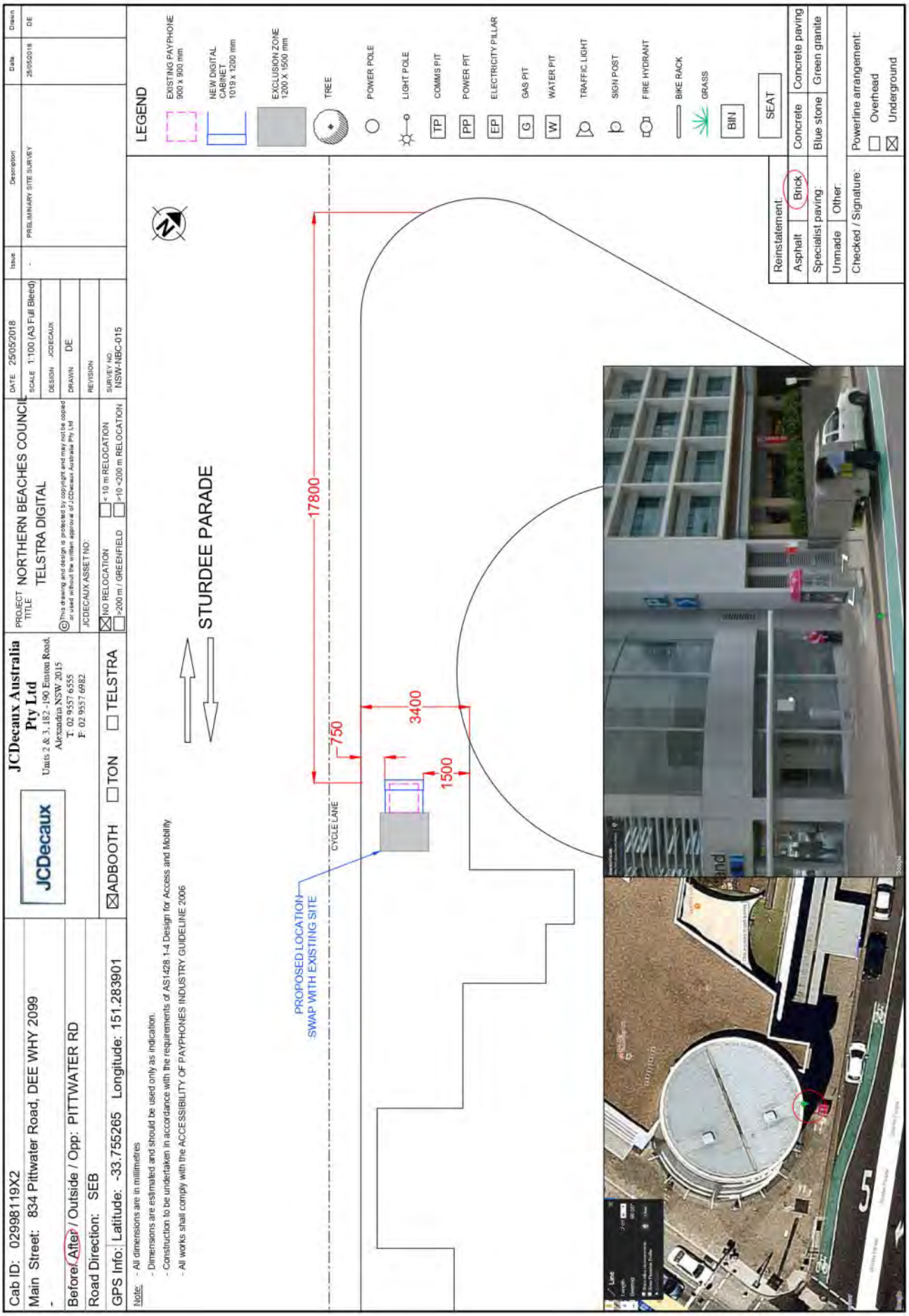
4. **Signage**
   This consent relates only to third party advertising on the areas shown on the approved plans. This consent does not grant approval to any construction works.

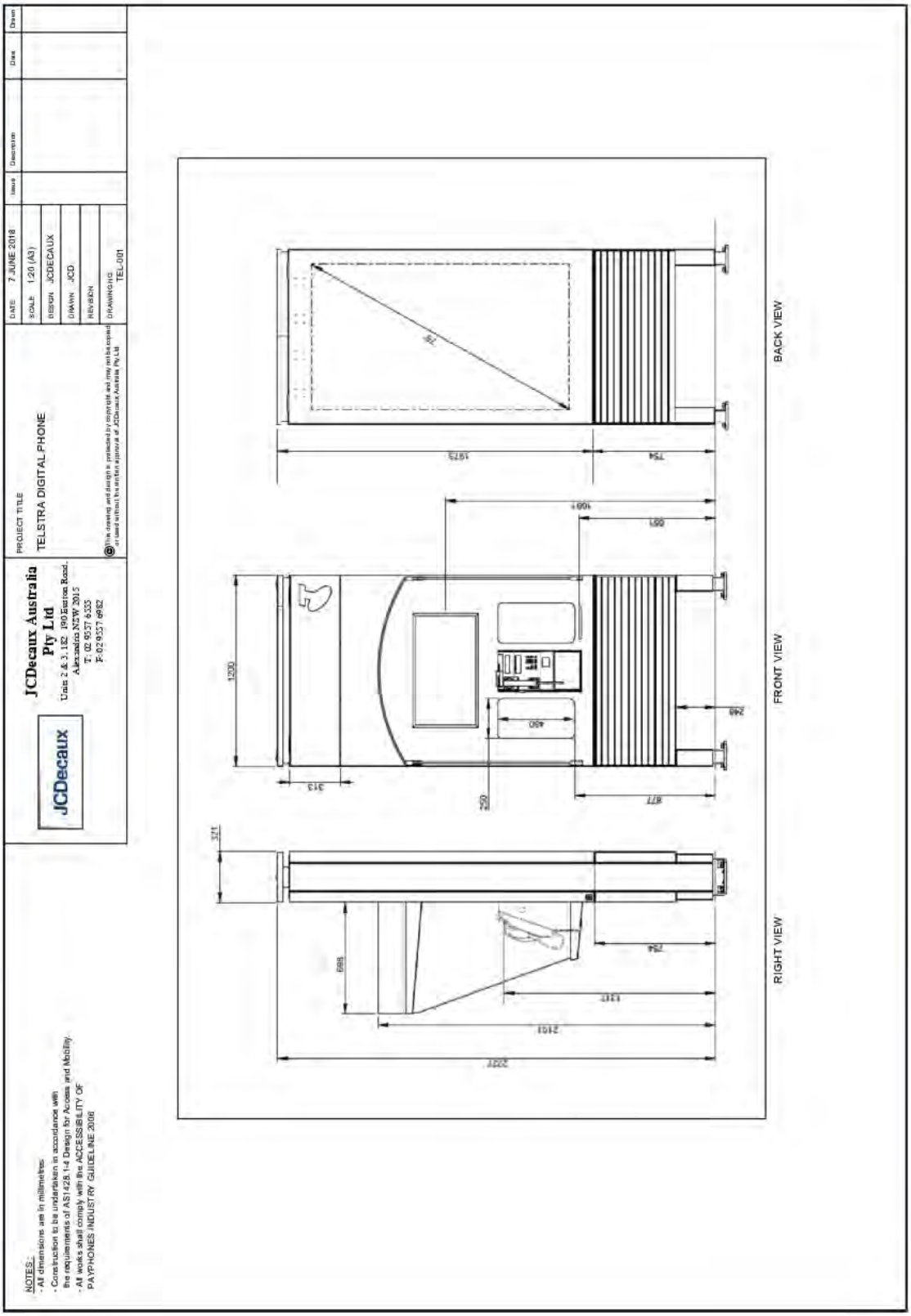
   Reason: Clarification of approval.

5. **Compliance with Standards**

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

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


Cab ID: 02998119X2
Main Street: 834 Pittwater Road, DEE WHY 2099
Before/After / Outside / Opp: PITTWATER RD
Road Direction: SEB
GPS Info: Latitude: -33.755265 Longitude: 151.283901
JCDecaux
JCDecaux Australia Pty Ltd
Units 2 & 3, 182 - 190 Euston Road, Alexandria NSW 2015
T: 02 9557 6555
F: 02 9557 6982
☒ADBOOTH ☐TON ☐TELSTRA
PROJECT TITLE NORTHERN BEACHES COUNCIL
TELSTRA DIGITAL
©This drawing and design is protected by copyright and may not be copied or used without the written approval of JCDecaux Australia Pty Ltd
JCDECAUX ASSET NO:
☒NO RELOCATION ☐<10 m RELOCATION
☐>200 m / GREENFIELD ☐>10 <200 m RELOCATION
DATE 25/05/2018
SCALE 1:100 (A3 Full Bleed)
DESIGN JCDECAUX
DRAWN DE
REVISION
SURVEY NO. NSW-NBC-015
Issue -
Description PRELIMINARY SITE SURVEY
Date 25/05/2018
Drawn DE
Note: - All dimensions are in millimetres
- Dimensions are estimated and should be used only as indication.
- Construction to be undertaken in accordance with the requirements of AS1428.1-4 Design for Access and Mobility
- All works shall comply with the ACCESSIBILITY OF PAYPHONES INDUSTRY GUIDELINE 2006
STURDEE PARADE
17800
750
3400
1500
CYCLE LANE
PROPOSED LOCATION
SWAP WITH EXISTING SITE
LEGEND
EXISTING PAYPHONE 900 x 900 mm
NEW DIGITAL CABINET 1019 x 1200 mm
EXCLUSION ZONE 1200 X 1500 mm
TREE
POWER POLE
LIGHT POLE
TP COMMS PIT
PP POWER PIT
EP ELECTRICITY PILLAR
G GAS PIT
W WATER PIT
TRAFFIC LIGHT
SIGN POST
FIRE HYDRANT
BIKE RACK
GRASS
BIN
SEAT
Reinstatement:
Asphalt Brick Concrete Concrete paving
Specialist paving: Blue stone Green granite
Unmade Other:
Checked / Signature:
Powerline arrangement:
☐ Overhead
☒ Underground



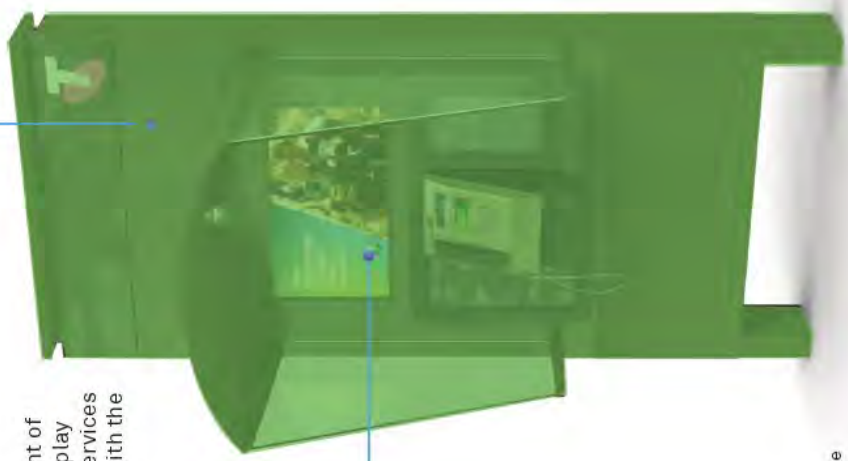
Commercial in Confidence

Payphone with STS content

Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.



Approved in accordance with the Telco Act.

Commercial in Confidence

Payphone with 3rd Party content

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.

Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

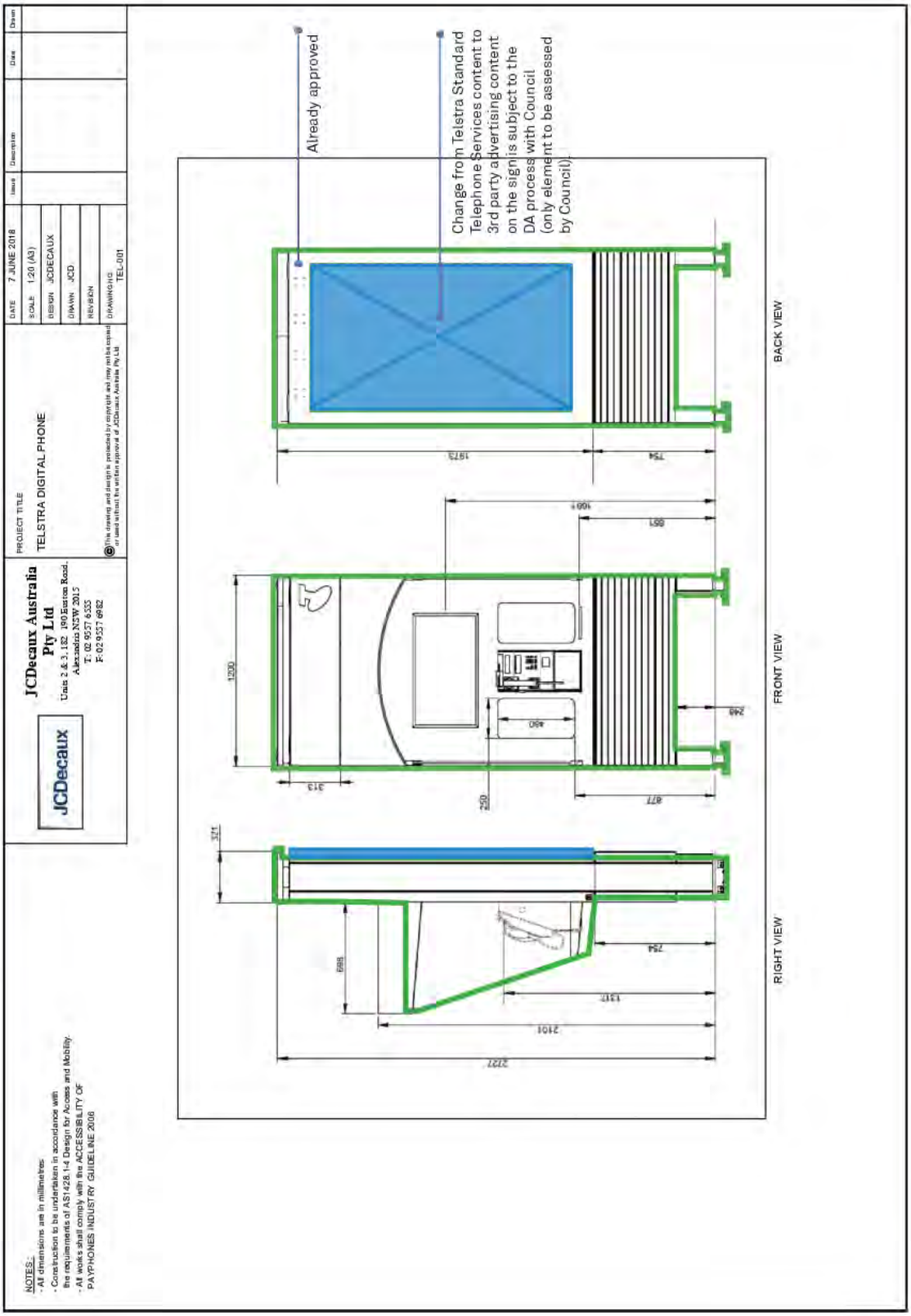
Change from Telstra Standard Telephone Services content to 3rd party advertising content on the sign is subject to the DA process with Council (only element to be assessed by Council).

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Approved in accordance with the Telco Act.

To be assessed by Council

Commercial in Confidence



Commercial in Confidence

ITEM 3.3	**DA2018/2031 - SYDNEY ROAD, SEAFORTH - SIGNAGE - THIRD PARTY ADVERTISING DISPLAYED ON A TELSTRA PAYPHONE LOCATED ON SYDNEY ROAD ADJACENT TO 563 SYDNEY ROAD, SEAFORTH**
REPORTING OFFICER	**Natalie Nolan**
TRIM FILE REF	**2019/333135**
ATTACHMENTS	**1 Assessment Report** **2 Plans**

PURPOSE

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

RECOMMENDATION OF INDEPENDENT PLANNING CONSULTANT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves via deferred commencement** Application No. DA2018/2031 for Signage - third party advertising displayed on a Telstra payphone located on Sydney Road adjacent to 563 Sydney Road, Seaforth subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2031
Assessment by:	Natalie Nolan, Nolan Planning Consultants (External Consultant)
Land to be developed (Address):	Road Reserve adjacent to Lot 101 in DP 738317, 561-563 Sydney Road, Seaforth
Proposed Development:	Third Party Signage on Exempt Telstra Payphone Structure
Zoning:	LEP - Land zoned SP2 Infrastructure Zone
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	JCDecaux Pty Ltd Australia
Application lodged:	20/12/18
Integrated Development	No
Designated Development	No
State Reporting Category	N/A
Notified:	23/01/2019 to 15/02/2019
Advertised:	Not Advertised
Submissions:	Nil
Recommendation:	Deferred Commencement Approval with conditions

EXECUTIVE SUMMARY

A pre-lodgement meeting was held between Council and the Applicant in relation to the proposal on 4 September 2018. Specific concerns raised at the time included permissibility, owner's consent and illumination.

There were no submissions in objection received.

Assessment of the architectural plans and associated documentation has addressed the issues raised in the pre-lodgement meeting. Permissibility has been established as the advertising is ancillary and ordinarily incidental to the infrastructure use, in that it is required to fund the infrastructure which is required. The advertising is ancillary to the infrastructure component.

A condition of consent is included in the recommendation in relation to the illumination of signage.

The application is recommended for approval.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

State Environmental Planning Policy 64 (Advertising and Signage)
Manly Local Environmental Plan 2013 – Clause 2.1 Land Use Zones and Land Use Table
Manly Development Control Plan – Clause 4.43 Signage

SITE DESCRIPTION

Property Description:	Road reserve adjacent to Lot 101 in DP 738317
Detailed Site Description:	The site is on the road reserve adjacent to land known as 561-563 Sydney Road Seaforth. The site is a highly trafficked pedestrian pathway which extends the length of the commercial precinct on Sydney Road. This portion of the site is currently occupied by paving, with a number of seats/benches, bin, bike racks and Council signage. An existing Telstra Phone Booth is located on site.

Map:

SITE HISTORY

The site currently comprises a Telstra payphone booth with third party advertising. There are no previous Development Applications.

PROPOSED DEVELOPMENT IN DETAIL

Development approval is sought to allow third-party advertising arising from the upgrade to Telstra's payphone infrastructure and technology. The third-party advertising will be integrated into an exempt structure which will be installed under Schedule 3 of the Telecommunications Act 1997, and will replace an existing payphone with third-party advertising. The structure including static electronic display screens are not subject to assessment in this application.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 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	The Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 54 and 109 of the EP&A Regulation 2000, enables Council to request additional information. No additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. The proposal does not require any demolition works and therefore this is not applicable. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). The proposal does not incorporate any building works. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). The proposal does not incorporate any building works.
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	(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. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality

Section 4.15 Matters for Consideration	Comments
	considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	There have been no submissions received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Urban Design Officer	The overall footpath width in the proposed location is 8.4m wide. That will result in 4.5m and 3.1m clear footpath width on both sides of the new phone booth. There is no objection to the existing phone booth to be replaced with a new 1.2m wide digital booth.
Property & Commercial Development Team	Property has no issues with the proposal as submitted, subject to: • An appropriate commercial Licence agreement (subject to formal Council approval) being entered into for such installations on Council road reserve with appropriate commercial terms.

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.
RMS	Roads and Maritime is unsure for the reason for referral. Future DAs for similar development, mainly advertising attached to Telstra payphones, do not require referral to Roads and Maritime.

TELECOMMUNICATIONS ACT, 1997 (Commonwealth Legislation)

Telstra can install and operate the Smart City Payphones as a 'low impact facility' with immunity from State law and the powers and functions of local government, pursuant to Schedule 3 of the Telecommunications Act 1997. This statutory right includes the installation and use of an electronic screen (as a part of the Smart City Payphone) for the purposes of showing content related only to the supply of standard telephone services and display of information.

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)

State Environmental Planning Policy No 64—Advertising and Signage

Clause 8 of the SEPP states that the consent authority must not grant development consent to an application for signage unless it is satisfied that the signage is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1.

The applicant in their Statement of Environmental Effects provided an assessment of the proposal under the provisions of Schedule 1 of the SEPP.

Comment:

Assessment Criteria	Comment
Character of Area	

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is located on a high use pedestrian pathway adjacent to the Seaforth Commercial precinct. The signage replaces an existing signage.
<u>Special Areas</u> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is not identified as a 'special area' in terms of heritage, open space, waterways etc. The site is adjacent to a commercial precinct with some medium density residential uses. The signage is directed away from the residential uses via either Sydney Road or the ground floor commercial premises.
<u>Views and Vistas</u> • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers?	The signage is to be located within a separately approved structure and as such, the proposed signage will not obscure any important views or vistas and does not dominate the skyline.
<u>Streetscape, Setting or Landscape</u> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management?	The signage is proposed within a separately approved structure with this application only for the content. This does not detract from the streetscape, setting or landscape. There is no impact on vegetation.
<u>Site and Building</u> • Is the proposal compatible with the scale, proportion and other characteristics of the	The signage is contained within an approved structure which replaces an existing phone booth.

site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both?	
Associated Devices and Logos with Advertisements and Advertising Structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not applicable.
Illumination • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew?	The illumination is part of the approved structure and not part of this application. Notwithstanding, the structure has in built light sensors and is appropriately separated from the surrounding residential properties. A condition of consent is suggested requiring compliance with the illumination requirements of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'
Safety Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage will not be prominent when viewed from the public road given the orientation of the signage and the surrounding built form. The structure is separately approved and not part of this DA. This application relates only to the content of the signage which will not reduce safety for pedestrians or cyclists. Similarly, the signage will not obscure sight lines.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of the SEPP relates to 'Development with Frontage to Classified Road'. The proposed signage does not require vehicular access to the land and will not impact on the safety, efficiency and ongoing operation of the classified road. Further the proposal is not sensitive to traffic noise or vehicle emissions.

Transport Corridor Outdoor Advertising And Signage Guideline 2017

The applicant in their Statement of Environmental Effects has provided an assessment of the proposal against the relevant provisions of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'. The proposal generally complies with the requirements of this

Guideline with the exception of the illumination. A condition of consent is suggested requiring compliance with the illumination requirements of this guideline.

Manly Local Environment Plan 2013

Is the development permissible?	Yes – Refer to discussion at end of table
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
No changes are proposed to the building envelope proposed.

Detailed Assessment

Clause 2.3 Zone Objectives and Land Use Table

The subject site is zoned SP2 Infrastructure Zone and the objectives of this zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To minimise loss of views to, from and within heritage items and minimising intrusion on the heritage landscape and visual curtilage of heritage items.*

Permissible uses in the SP2 Infrastructure include '*any development that is ordinarily incidental or ancillary to development for that purpose'*. The applicant in their submissions provides:

Accordingly, the exempt payphone structure, is important social infrastructure (public telephone) that seeks to satisfy the Federal Government's Universal Service Obligation to ensure standard telephone services, payphones and prescribed carriage services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry business. In this instance, the advertising funds the ability for Telstra to provide upgraded services to the local community. Therefore, advertising is permissible as an ancillary and incidental use in the SP2 infrastructure zone.

The submission is that the advertising is ancillary and ordinarily incidental in that it is required to fund the infrastructure which is required. The advertising is ancillary to the infrastructure component.

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.3 Signage	Yes	Yes

Detailed Assessment

4.4.3 Signage

The following provides an assessment under the relevant provisions of C4.4.3 of the Manly DCP:

- *Council must not grant consent for signage unless it is satisfied that the development is consistent and meets the objectives and assessment criteria of SEPP 64.*

Comment:

An assessment under the SEPP has been addressed previously in this report.

- *See also the provisions of the publication titled 'Transport Corridor Outdoor Advertising and Signage Guidelines approved by the Minister for the purposes of the State Environmental Planning Policy and as in force on the date of the publication of this policy.*

Comment:

The applicant in their Statement of Environmental Effects has provided an assessment of the proposal against the relevant provisions of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'. The proposal generally complies with the requirements of this Guideline with the exception of the illumination. A condition of consent is suggested requiring compliance with the illumination requirements of this guideline.

- *Excessive signage usually has an opposite effect to its original intention. The cluttering causes visual pollution and confusion to the observer. Having fewer, but clearer advertising assists not only the advertiser, but also the appearance of the building and the overall streetscape. Excessive signage tends to have a "domino effect", by competing with neighbouring premises in order to gain the advantage in exposure.*

Comment:

The proposal seeks approval for third party advertising displayed and integrated into an exempt structure. The proposal incorporates a single advertising element that will not result in clutter or visual pollution. '

- *Advertising content must relate to the building or goods sold on the premises to which it is attached. Any third party advertising of goods sold on the premises must not dominate the advertising of the building or premises.*

Comment:

The third party advertising will not dominate the advertising of the surrounding buildings or premises.

- *Signs must not have an adverse impact on the streetscape in terms of unobtrusive design, colour, height, size and scale in proportion to building and other urban elements. Not only should a sign be simple, clear and efficient (with a reasonable degree of visibility), but a well-designed sign inspires and promotes confidence in the business or product advertised without impacting on the streetscape.*

Comment:

The third-party advertising is integrated an exempt structure and replaces an existing structure with signage. As such does not contribute to visual clutter.

- *Signs should be located at a height which avoids impact from footpath maintenance vehicles and discourages vandalism.*

Comment:

This application is for third party advertising only with the exempt structure not being part of this assessment.

- *Council will give due attention to all applications with respect to possible distraction of motorists due to illumination, position, colours, design and proximity to traffic lights.*
- *Signs must be maintained in good and substantial repair and in a clean and tidy condition at all times*

Comment:

This has been discussed in response to SEPP 64 and Transport Corridor Outdoor Advertising and Signage Guidelines.

- *Depending on the location, and its relationship to residential premises, Council may require that illumination be controlled by automatic time clocks extinguishing illumination between 10pm and 6am, or as appropriate in the circumstances.*

Comment:

This application relates to third party advertising only, with the actual structure and advertising panel exempt. However, the applicant has indicated that:

> *The screen brightness outputs are designed in accordance with Australian Standard AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting. Screen brightness is summarised in Table 1 of section 3.1. The screen contains an in-built light sensor which enables it to gradually adjust the screen brightness based on the need for light. This assists in mitigating potential impacts on pedestrians and vehicles.*

Further the advertising is separated from nearby residential properties by Sydney Road or the ground floor commercial properties. A condition regarding illumination is included in the recommendations.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / Manly DCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance, subject to the recommended conditions.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contribution 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 DA2018/2031 to allow for third party advertising on an exempt structure, on road reserve adjacent Lot 101 DP 738317, No. 561-563 Sydney Road, Seaforth, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Commercial Licence Agreement**
   An appropriate commercial Licence agreement (subject to formal Council approval) shall be entered into for such installations on Council road reserve with appropriate commercial terms.

   Reason: To ensure Council is adequately protected from risk and safety viewpoint, and Council receives appropriate remuneration for the structures displaying third-party advertising on council's road reserves.

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

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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**
NSW-NBC-002	23 May 2018	JCDecaux Australia Pty Ltd
TEL-001	7 June 2018	JCDecaux Australia Pty Ltd

   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. (DACPLB01)

3. **Illumination of Signage**
   The luminance of the signage must comply with the requirements of Section 3 of the *Transport Corridor Outdoor Advertising and Signage Guideline 2017*. Details are to be submitted to Council demonstrating compliance prior to any works commencing on site.

   Reason: Protection of amenity.

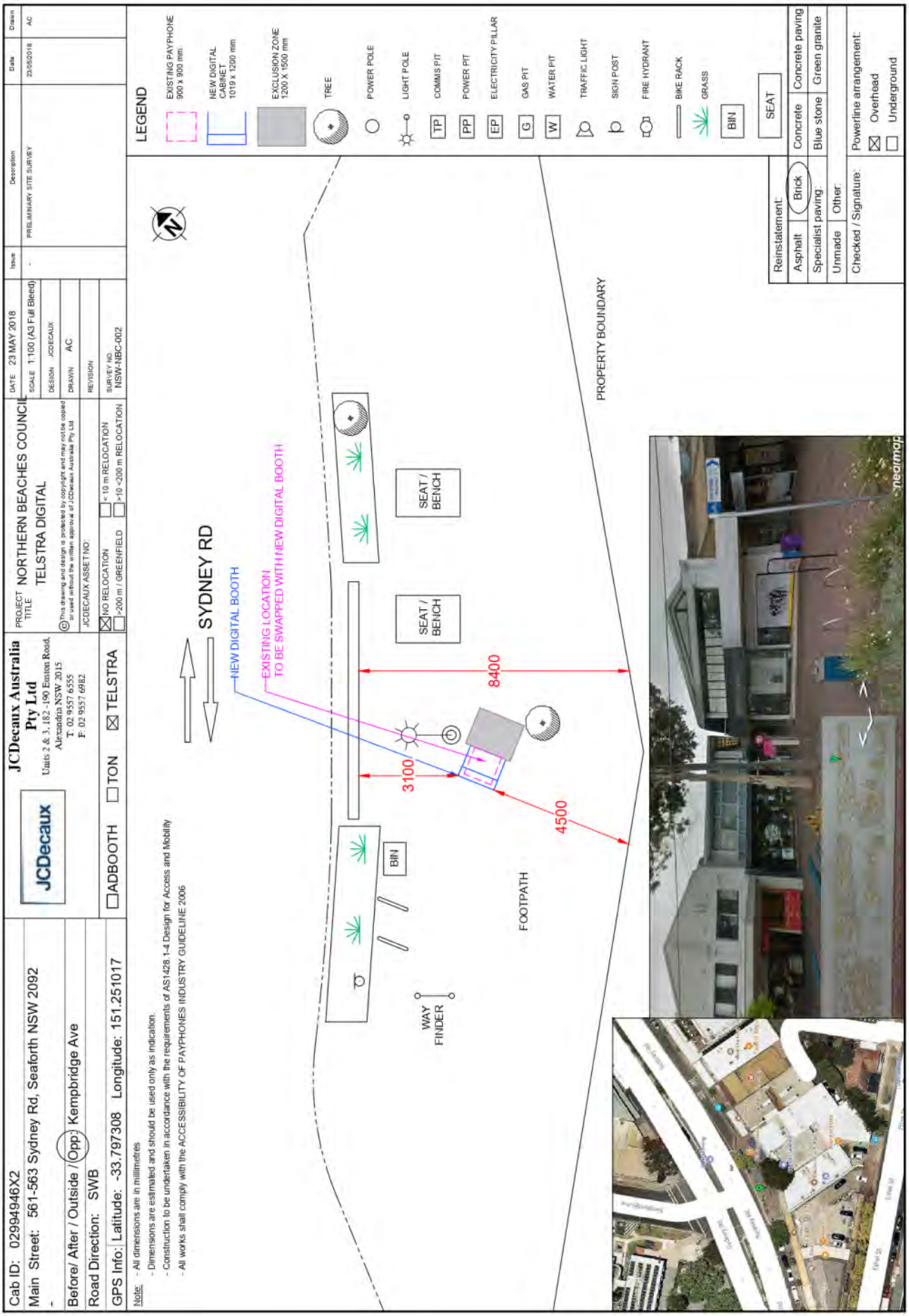
4. **Signage**
   This consent relates only to third party advertising on the areas shown on the approved plans. This consent does not grant approval to any construction works.

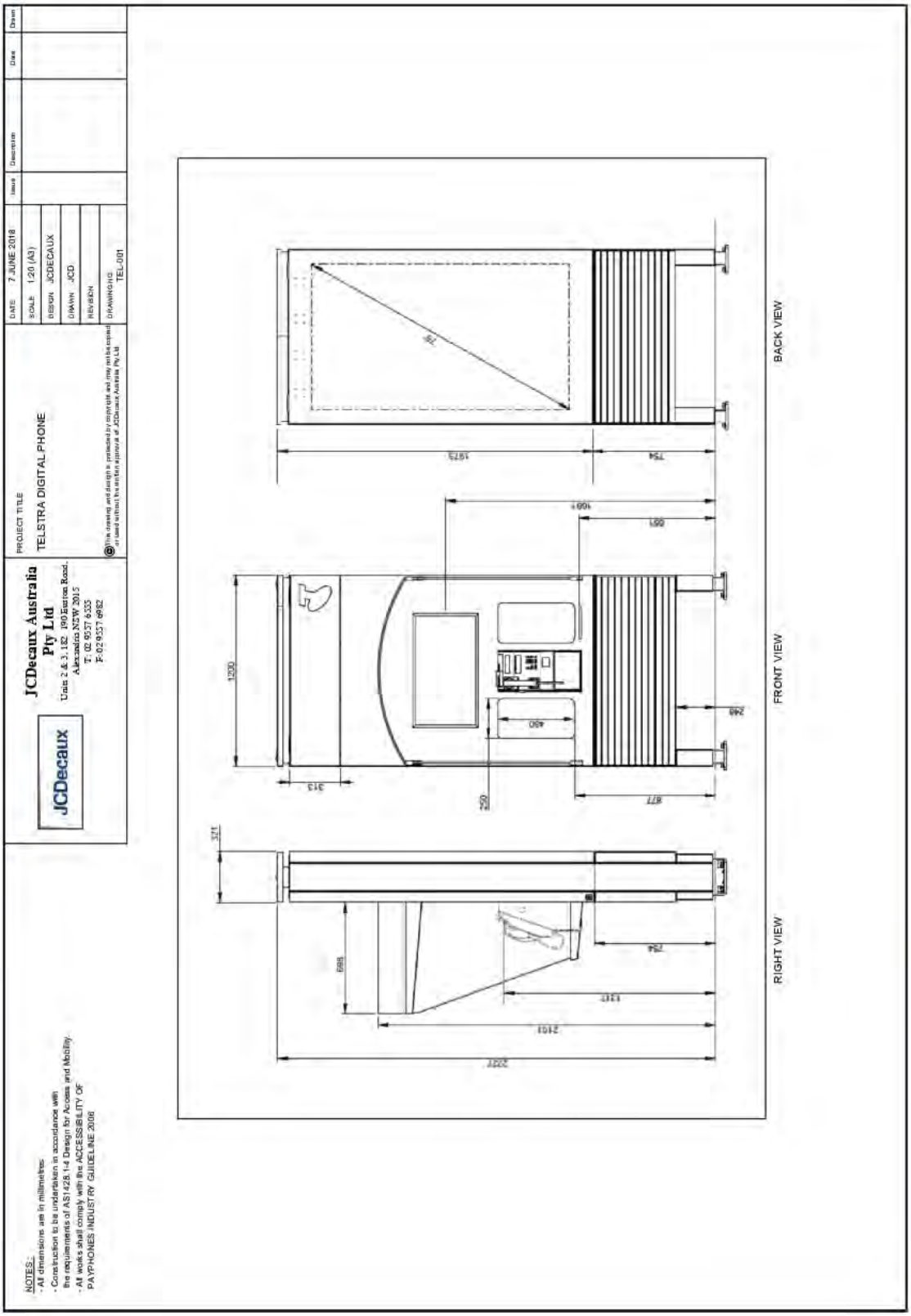
   Reason: Clarification of approval.

5. **Compliance with Standards**

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

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


Cab ID: 02994946X2
Main Street: 561-563 Sydney Rd, Seaforth NSW 2092
Before/ After / Outside / Opp: Kempbridge Ave
Road Direction: SWB
GPS Info: Latitude: -33.797308 Longitude: 151.251017
JCDecaux
JCDecaux Australia Pty Ltd
Units 2 & 3, 182 - 190 Euston Road, Alexandria NSW 2015
T: 02 9557 6555
F: 02 9557 6982
ADBOOTH
TON
TELSTRA
PROJECT TITLE NORTHERN BEACHES COUNCIL
TELSTRA DIGITAL
DATE 23 MAY 2018
SCALE 1:100 (A3 Full Bleed)
DESIGN JCDECAUX
DRAWN AC
REVISION
SURVEY NO. NSW-NBC-002
JCDECAUX ASSET NO:
NO RELOCATION
>200 m / GREENFIELD
< 10 m RELOCATION
>10 <200 m RELOCATION
Issue
Description
PRELIMINARY SITE SURVEY
Date
23/05/2018
Drawn
AC
Note: - All dimensions are in millimetres
- Dimensions are estimated and should be used only as indication.
- Construction to be undertaken in accordance with the requirements of AS1428.1-4 Design for Access and Mobility
- All works shall comply with the ACCESSIBILITY OF PAYPHONES INDUSTRY GUIDELINE 2006
SYDNEY RD
NEW DIGITAL BOOTH
EXISTING LOCATION TO BE SWAPPED WITH NEW DIGITAL BOOTH
SEAT / BENCH
SEAT / BENCH
BIN
WAY FINDER
3100
8400
4500
FOOTPATH
PROPERTY BOUNDARY
LEGEND
EXISTING PAYPHONE 900 x 900 mm
NEW DIGITAL CABINET 1019 x 1200 mm
EXCLUSION ZONE 1200 X 1500 mm
TREE
POWER POLE
LIGHT POLE
TP COMMS PIT
PP POWER PIT
EP ELECTRICITY PILLAR
G GAS PIT
W WATER PIT
TRAFFIC LIGHT
SIGN POST
FIRE HYDRANT
BIKE RACK
GRASS
BIN
SEAT
Reinstatement:
Asphalt
Brick
Specialist paving:
Unmade
Other:
Checked / Signature:
Concrete
Concrete paving
Blue stone
Green granite
Powerline arrangement:
Overhead
Underground



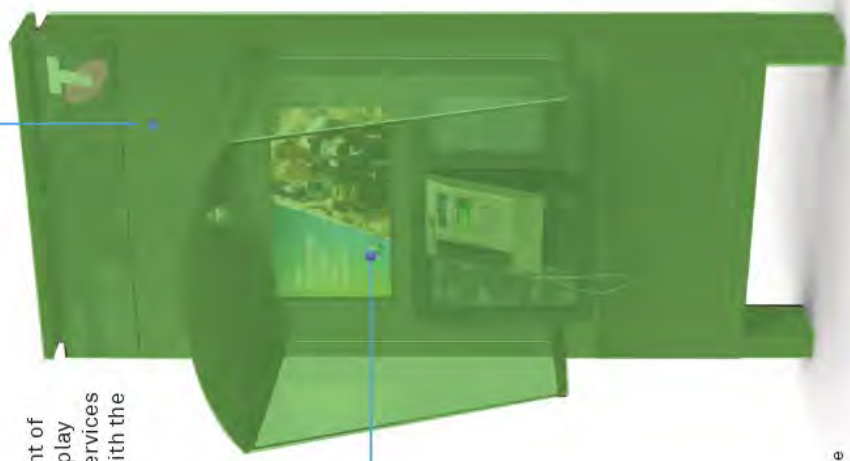
Commercial in Confidence

Payphone with STS content

Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.

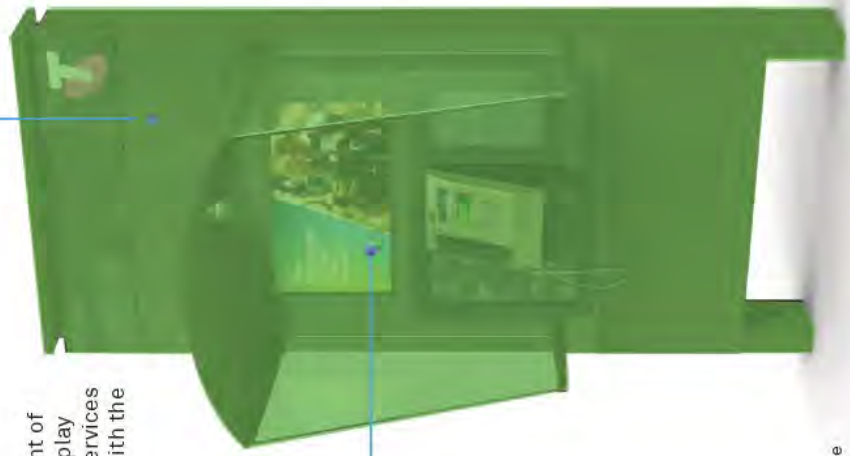


Approved in accordance with the Telco Act.

Commercial in Confidence

Payphone with 3rd Party content

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.



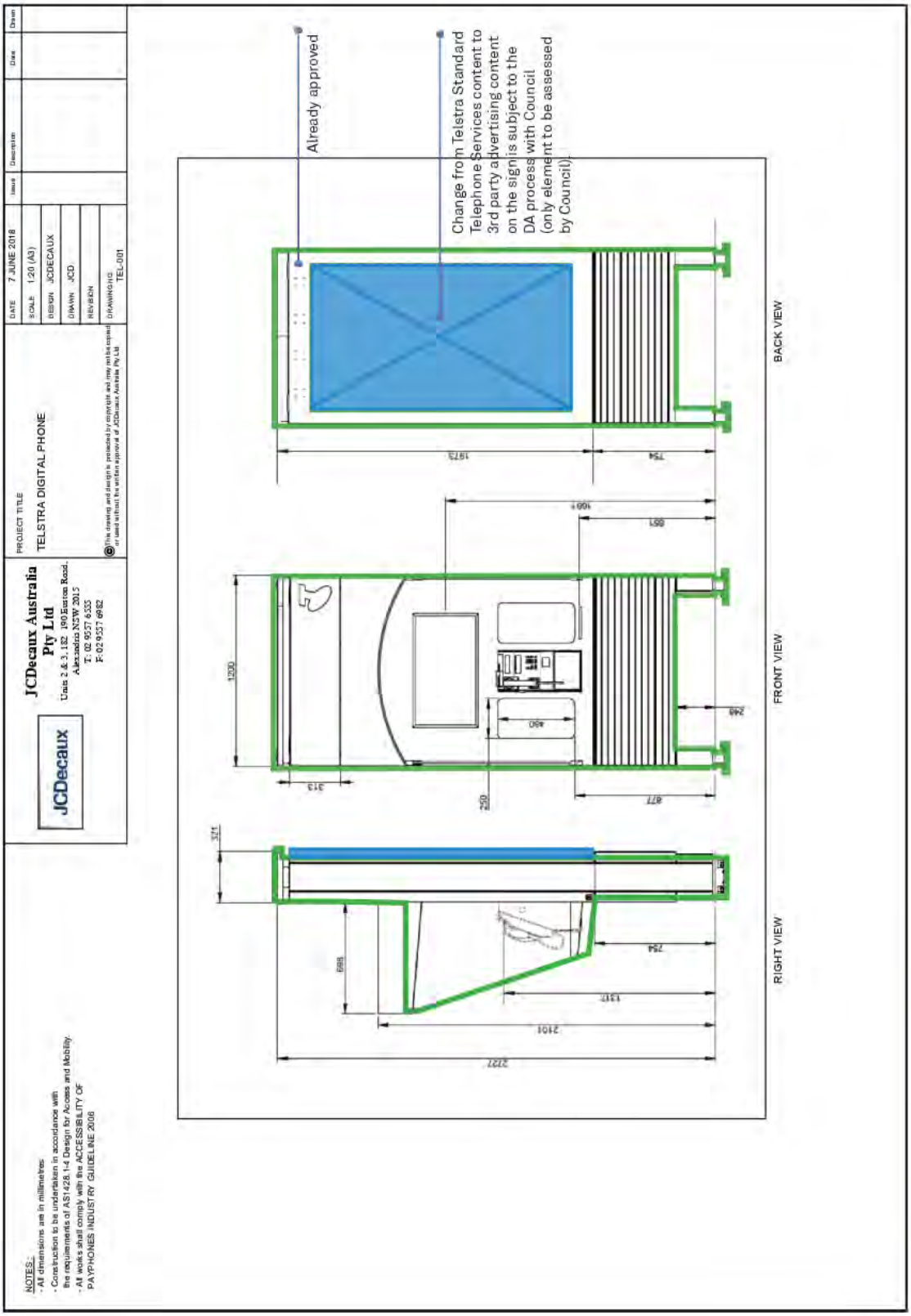
Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

Change from Telstra Standard Telephone Services content to 3rd party advertising content on the sign is subject to the DA process with Council (only element to be assessed by Council).

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

- Approved in accordance with the Telco Act.
- To be assessed by Council

Commercial in Confidence



Commercial in Confidence

ITEM 3.4	**DA2018/2032 - PITTWATER ROAD, BROOKVALE - SIGNAGE - THIRD PARTY ADVERTISING DISPLAYED ON A TELSTRA PAYPHONE LOCATED ON PITTWATER ROAD ADJACENT TO 517 PITTWATER ROAD**
REPORTING OFFICER	**Natalie Nolan**
TRIM FILE REF	**2019/333165**
ATTACHMENTS	**1 Assessment Report**
	2 Plans

PURPOSE

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

RECOMMENDATION OF INDEPENDENT PLANNING CONSULTANT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves via deferred commencement** Application No. DA2018/2032 for Signage - third party advertising displayed on a Telstra payphone located on Pittwater Road adjacent to 517 Pittwater Road, Brookvale subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2032
Assessment by:	Natalie Nolan, Nolan Planning Consultants (External Consultant)
Land to be developed (Address):	Road reserve adjacent to SP 85735, No. 517 Pittwater Road, Brookvale
Proposed Development:	Third Party Advertising
Zoning:	SP2 Infrastructure Zone
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	JCDecaux Australia Pty Ltd
Application lodged:	20/12/18
Integrated Development	No
Designated Development	No
State Reporting Category	N/A
Notified:	23/01/2019 to 15/02/2019
Advertised:	Not Advertised
Submissions:	0
Recommendation:	Deferred Commencement Approval with conditions

EXECUTIVE SUMMARY

A pre-lodgement meeting was held between Council and the Applicant in relation to the proposal on 4 September 2018. Specific concerns raised at the time included permissibility, owner's consent and illumination.

There were no submissions in objection received.

Assessment of the architectural plans and associated documentation has addressed the issues raised in the pre-lodgement meeting. Permissibility has been established as the advertising is ancillary and ordinarily incidental to the infrastructure use, in that it is required to fund the infrastructure which is required. The advertising is ancillary to the infrastructure component.

A condition of consent is included in the recommendation in relation to the illumination of signage.

The application is recommended for approval.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

State Environmental Planning Policy 64 (Advertising and Signage)
Warringah Local Environmental Plan – Clause 2.1 Land Use Zones and Land Use Table
Warringah Development Control Plan – Clause D23 –Signs

SITE DESCRIPTION

Property Description:	Road reserve adjacent to SP 85735, No. 517 Pittwater Road, Brookvale
Detailed Site Description:	The site is on the road reserve adjacent to land known as 517 Pittwater Road, Brookvale. The site is a highly trafficked pedestrian pathway which extends the length of the commercial precinct on Pittwater Road. This portion of the site is currently occupied by paving. The site currently accommodates a Telstra payphone with third-party advertising.

Map:

SITE HISTORY

The structure including the large digital screen including advertising relating to telephone services is approved under the *Telecommunication Act 1997*. This application seeks only to alter the content of the signage to permit third party signage.

PROPOSED DEVELOPMENT IN DETAIL

Development approval is sought to allow third-party advertising arising from the upgrade to Telstra's payphone infrastructure and technology. The third-party advertising will be integrated into an exempt structure which will be installed under Schedule 3 of the Telecommunications Act 1997, and will replace an existing payphone with third-party advertising. The structure including static electronic display screens are not subject to assessment in this application.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	The Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 54 and 109 of the EP&A Regulation 2000, enables Council to request additional information. No additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. The proposal does not require any demolition works and therefore this is not applicable. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process Council did not receive any submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Urban Design Officer	The overall footpath width at the proposed location is 3.4m wide. That will result in 1.6m clear footpath width. A minimum width of 2m clear will be required for footpath in the Brookvale town centre. Therefore, the proposal is not acceptable. <u>Comment</u>: This proposal does not seek approval for the structure. The application relates only to the content of the advertising within the exempt structure. Therefore, refusal on the above grounds is not supported.
Property Officer	Property has no issues with the proposal as submitted, subject to: • An appropriate commercial Licence agreement (subject to formal Council approval) being entered into for such installations on Council road reserve with appropriate commercial terms.

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.
RMS	Roads and Maritime is unsure for the reason for referral. Future DAs for similar development, mainly advertising attached to Telstra payphones, do not require referral to Roads and Maritime.

TELECOMMUNICATIONS ACT, 1997 (Commonwealth Legislation)

Telstra can install and operate the Smart City Payphones as a 'low impact facility' with immunity from State law and the powers and functions of local government, pursuant to Schedule 3 of the Telecommunications Act 1997. This statutory right includes the installation and use of an electronic screen (as a part of the Smart City Payphone) for the purposes of showing content related only to the supply of standard telephone services and display of information.

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 as a road reserve 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 use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Clause 101 of the SEPP relates to 'Development with Frontage to Classified Road'. The proposed signage does not require vehicular access to the land and will not impact on the safety, efficiency and ongoing operation of the classified road. Further the proposal is not sensitive to traffic noise or vehicle emissions.

SEPP 64 – Advertising and Signage

Clause 8 of the SEPP states that the consent authority must not grant development consent to an application for signage unless it is satisfied that the signage is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1.

The applicant in their Statement of Environmental Effects provided an assessment of the proposal under the provisions of Schedule 1 of the SEPP.

Comment:

Assessment Criteria	Comment
Character of Area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is located on a high use pedestrian pathway adjacent to the Brookvale Commercial precinct. The signage replaces an existing signage. the immediate surrounding area is characterised by commercial land uses and high levels of pedestrian movement, which is considered an appropriate location for the proposed content.
Special Areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is not identified as a 'special area' in terms of heritage, open space, waterways etc. The site is adjacent to a business/commercial precinct and is well separated from residential uses.

Views and Vistas • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers?	The signage is to be located within a separately approved structure and as such. the proposed signage will not obscure any important views or vistas and does not dominate the skyline.
Streetscape, Setting or Landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management?	The signage is proposed within a separately approved structure with this application only for the content. This does not detract from the streetscape, setting or landscape. There is no impact on vegetation.
Site and Building • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is contained within an approved structure which replaces an existing phone booth.
Associated Devices and Logos with Advertisements and Advertising Structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not applicable.

Illumination • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew?	The illumination is part of the approved structure and not part of this application. Not withstanding, the structure has in built light sensors and is appropriately separated from the residential properties
Safety Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage will not be prominent when viewed from the public road given the orientation of the signage and the surrounding built form. The structure is separately approved and not part of this DA. This application relates only to the content of the signage which will not reduce safety for pedestrians or cyclists. Similarly, the signage will not obscure sight lines

TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINE 2017

The applicant in their Statement of Environmental Effects has provided an assessment of the proposal against the relevant provisions of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'. The proposal generally complies with the requirements of this Guideline with the exception of the illumination. A condition of consent is suggested requiring compliance with the illumination requirements of this guideline.

Warringah Local Environment Plan 2011

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

Principal Development Standards

The site is zoned SP2 and there are no applicable development standards.

Detailed Assessment

Clause 2.3 Zone Objectives and Land Use Table

The subject site is zoned SP2 Infrastructure Zone and the objectives of this zone are:

- *To provide for infrastructure and related uses.*

- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Permissible uses in the SP2 Infrastructure include '*any development that is ordinarily incidental or ancillary to development for that purpose'.* The applicant in their submissions provides:

Accordingly, the exempt payphone structure, is important social infrastructure (public telephone) that seeks to satisfy the Federal Government's Universal Service Obligation to ensure standard telephone services, payphones and prescribed carriage services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry business. In this instance, the advertising funds the ability for Telstra to provide upgraded services to the local community. Therefore, advertising is permissible as an ancillary and incidental use in the SP2 infrastructure zone.

The submission is that the advertising is ancillary and ordinarily incidental in that it is required to fund the infrastructure which is required. The advertising is ancillary to the infrastructure component.

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage Conservation	Yes
6.1 Acid Sulfate Soils	Yes
6.2 Earthworks	Yes

Warringah Development Control Plan

Built Form Controls

There are no built form controls relevant to the proposal.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
D23 Signs	Yes	Yes

Detailed Assessment

D23 Signs

The following provides an assessment under the relevant provisions of D23 of the Warringah DCP:

- *Signs are to be sited and designed so that they do not adversely impact on the amenity of the streetscape and the surrounding locality. In particular, signs are not to dominate or obscure other signs or result in visual clutter.*

Comment:

This application proposes a change to the content of the advertising within an exempt structure on a site where there is an existing payphone structure with third party advertising. The proposed advertising will not further obstruct signs nor result in visual clutter.

- *Signs are to be compatible with the design, scale and architectural character of the building or site on which they are to be placed.*

Comment:

The proposed signage is integrated into an exempt structure. The signage is compatible with other signs within the precinct. There is a large variety of signage in this locality.

- *Signs are not to obscure views of vehicles, pedestrians or potentially hazardous road features or reduce the safety of all users of any public road (including pedestrians and cyclists).*

Comment:

The proposed signage is integrated into an exempt structure. The signage content itself will not obscure views of vehicles, pedestrians nor reduce the safety of the road.

- *Signs should not be capable of being confused with, or reduce the effectiveness of, traffic control devices.*

Comment:

The location of the sign is such that it is appropriately separated from the traffic control devices. It is noted that this application relates only to the content of the signage within an exempt structure.

- *Signs are not to emit excessive glare or cause excessive reflection.*

Comment:

A condition of consent is suggested requiring compliance with the illumination requirements of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'.

- *Signs should not obscure or compromise important views.*

Comment:

The proposal for change of content of advertising within an exempt structure and which replaces an existing payphone structure will not obscure or compromise any important views.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94 Development Contribution 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;
- Warringah Local Environment Plan 2011;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/2032 for third

party advertising, on road reserve adjacent to SP 85735, No. 517 Pittwater Road, Brookvale, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Commercial Licence Agreement**
   An appropriate commercial Licence agreement (subject to formal Council approval) shall be entered into for such installations on Council road reserve with appropriate commercial terms.

   Reason: To ensure Council is adequately protected from risk and safety viewpoint, and Council receives appropriate remuneration for the structures displaying third-party advertising on council's road reserves.

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

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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**
NSW-NBC-038 Preliminary Site Survey	28.05.18	JCDecaux Australia Pty Ltd
TEL-001 Telstra Digital Phone	7.06.18	JCDecaux Australia Pty Ltd

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

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

3. **Illumination of Signage**
   The luminance of the signage must comply with the requirements of Section 3 of the *Transport Corridor Outdoor Advertising and Signage Guideline 2017*. Details are to be submitted to Council demonstrating compliance prior to any works commencing on site.

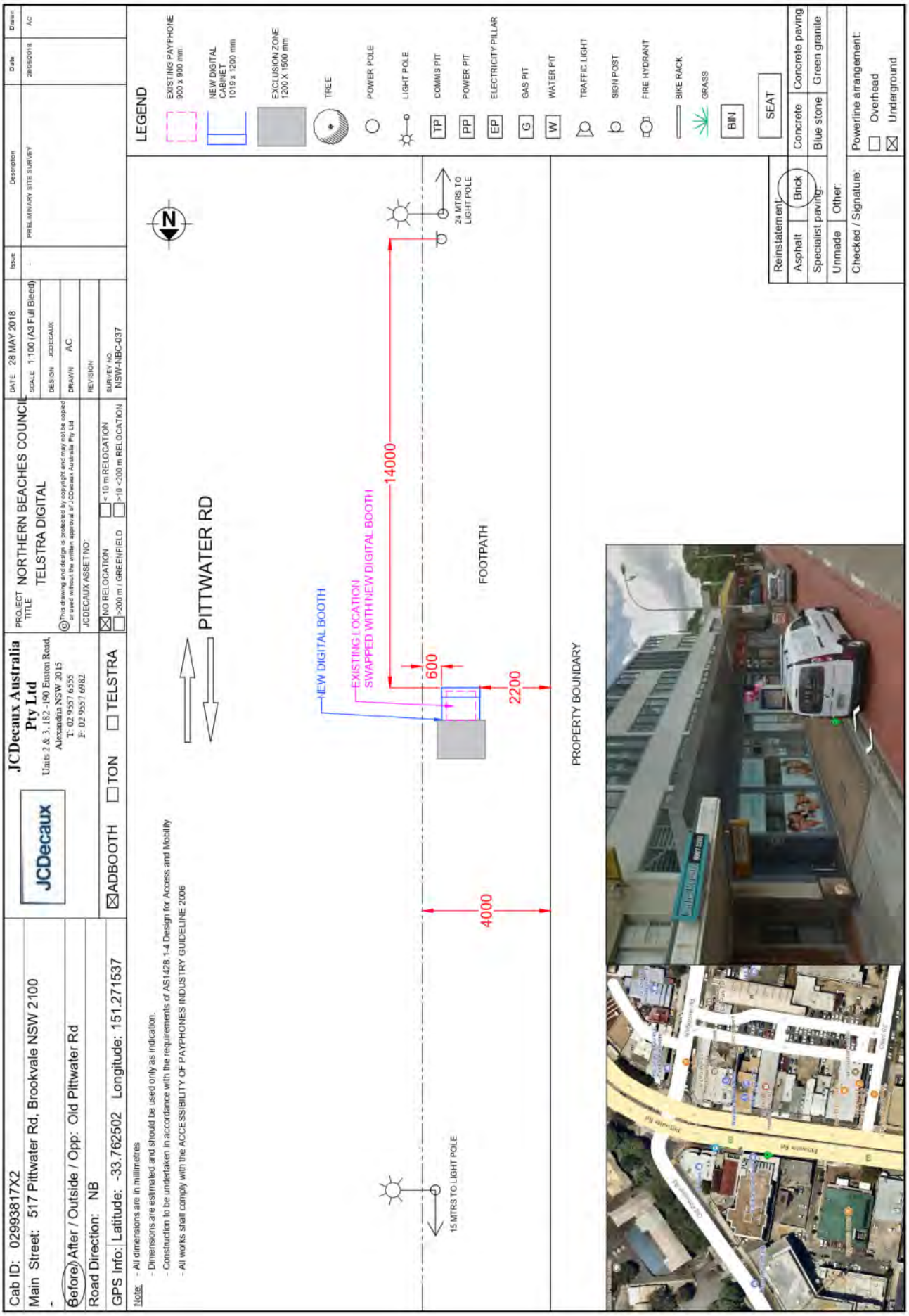
Reason: Protection of amenity.

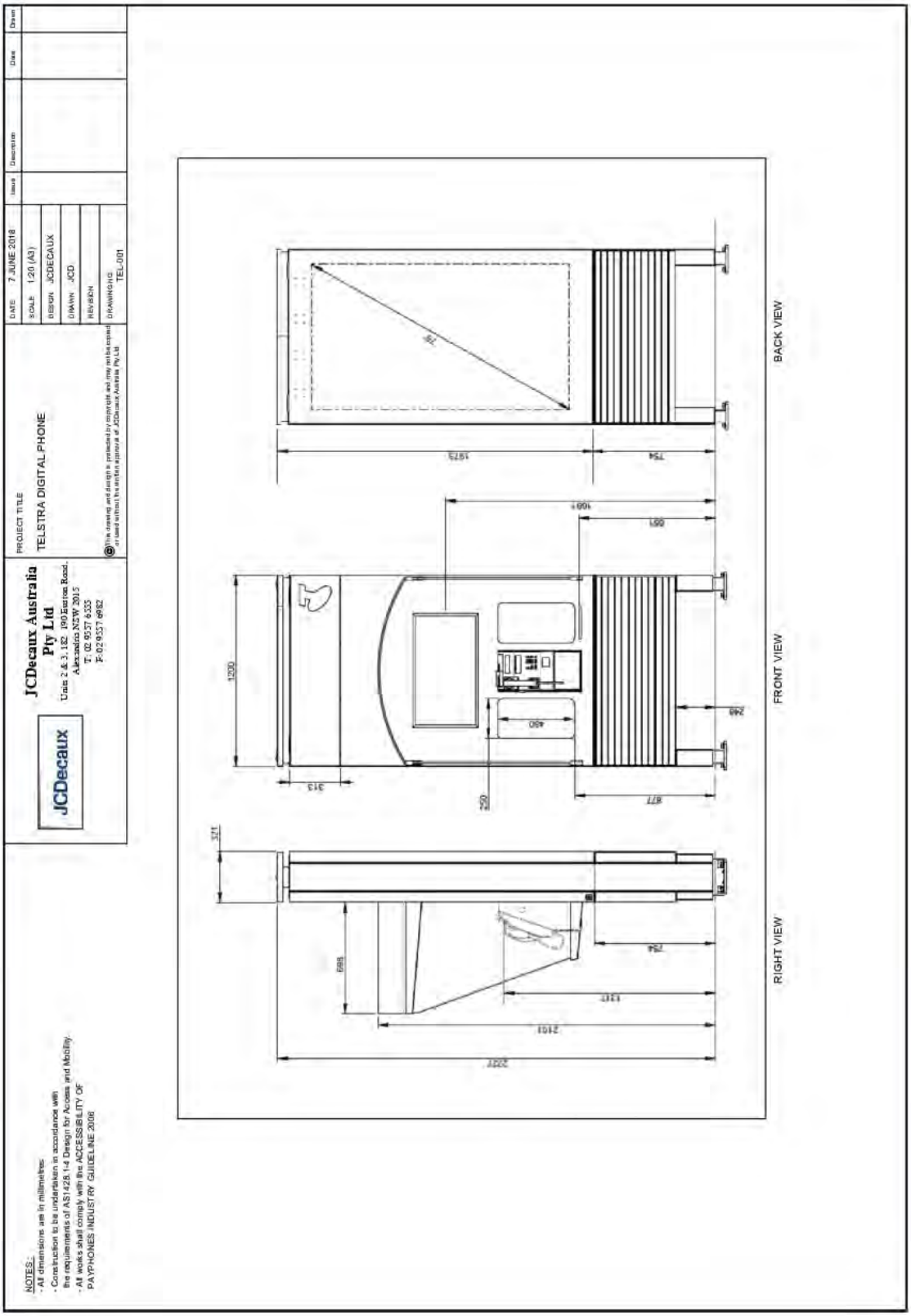
4. **Signage**
   This consent relates only to third party advertising on the areas shown on the approved plans. This consent does not grant approval to any construction works.

   Reason: Clarification of approval.

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

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


Cab ID: 029938 17X2
Main Street: 517 Pittwater Rd, Brookvale NSW 2100
Before / After / Outside / Opp: Old Pittwater Rd
Road Direction: NB
GPS Info: Latitude: -33.762502 Longitude: 151.271537
JCDecaux
JCDecaux Australia Pty Ltd
Units 2 & 3, 182 - 190 Euston Road, Alexandria NSW 2015
T: 02 9557 6555
F: 02 9557 6982
ADBOOTH
TON
TELSTRA
PROJECT TITLE NORTHERN BEACHES COUNCIL
TELSTRA DIGITAL
DATE 28 MAY 2018
SCALE 1:100 (A3 Full Bleed)
DESIGN JCDECAUX
DRAWN AC
REVISION
SURVEY NO. NSW-NBC-037
NO RELOCATION
>200 m / GREENFIELD
< 10 m RELOCATION
>10 <200 m RELOCATION
Issue
Description
PRELIMINARY SITE SURVEY
Date
28/05/2018
Drawn
AC
Note: - All dimensions are in millimetres
- Dimensions are estimated and should be used only as indication.
- Construction to be undertaken in accordance with the requirements of AS1428.1-4 Design for Access and Mobility
- All works shall comply with the ACCESSIBILITY OF PAYPHONES INDUSTRY GUIDELINE 2006
PITTWATER RD
NEW DIGITAL BOOTH
EXISTING LOCATION SWAPPED WITH NEW DIGITAL BOOTH
14000
600
2200
4000
FOOTPATH
PROPERTY BOUNDARY
24 MTRS TO LIGHT POLE
15 MTRS TO LIGHT POLE
LEGEND
EXISTING PAYPHONE 900 x 900 mm
NEW DIGITAL CABINET 1019 x 1200 mm
EXCLUSION ZONE 1200 X 1500 mm
TREE
POWER POLE
LIGHT POLE
TP COMMS PIT
PP POWER PIT
EP ELECTRICITY PILLAR
G GAS PIT
W WATER PIT
TRAFFIC LIGHT
SIGN POST
FIRE HYDRANT
BIKE RACK
GRASS
BIN
SEAT
Reinstatement
Asphalt
Brick
Concrete
Concrete paving
Specialist paving
Blue stone
Green granite
Unmade
Other
Checked / Signature
Powerline arrangement:
Overhead
Underground



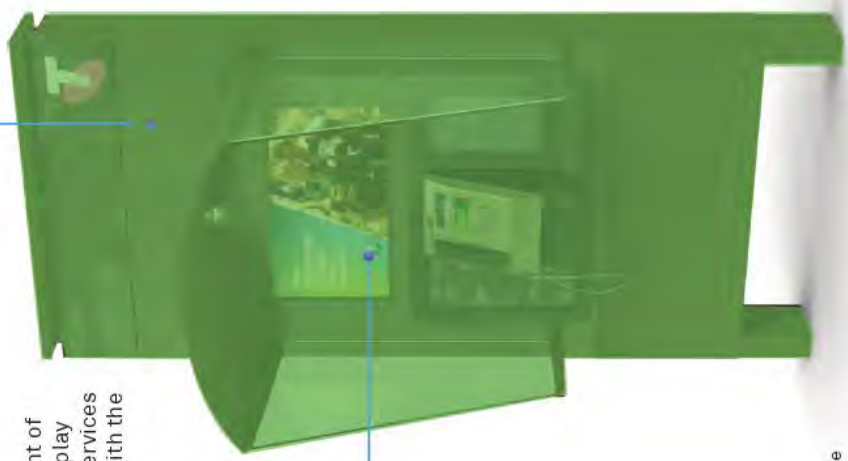
Commercial in Confidence

Payphone with STS content

Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.

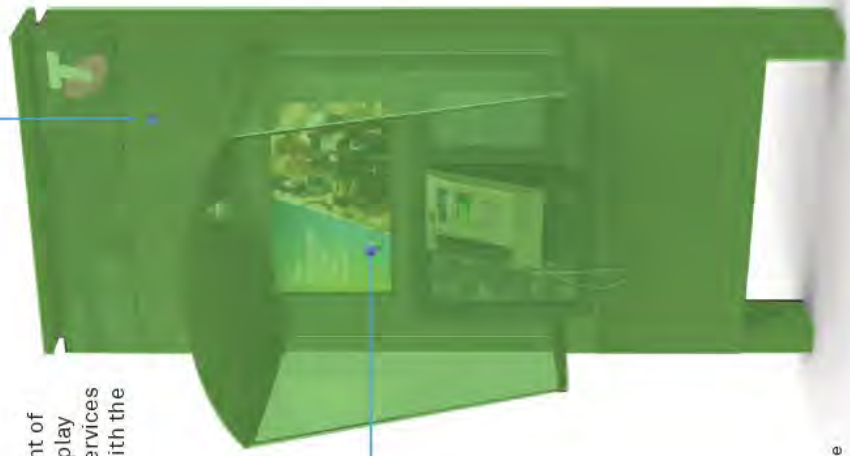


Approved in accordance with the Telco Act.

Commercial in Confidence

Payphone with 3rd Party content

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.



Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

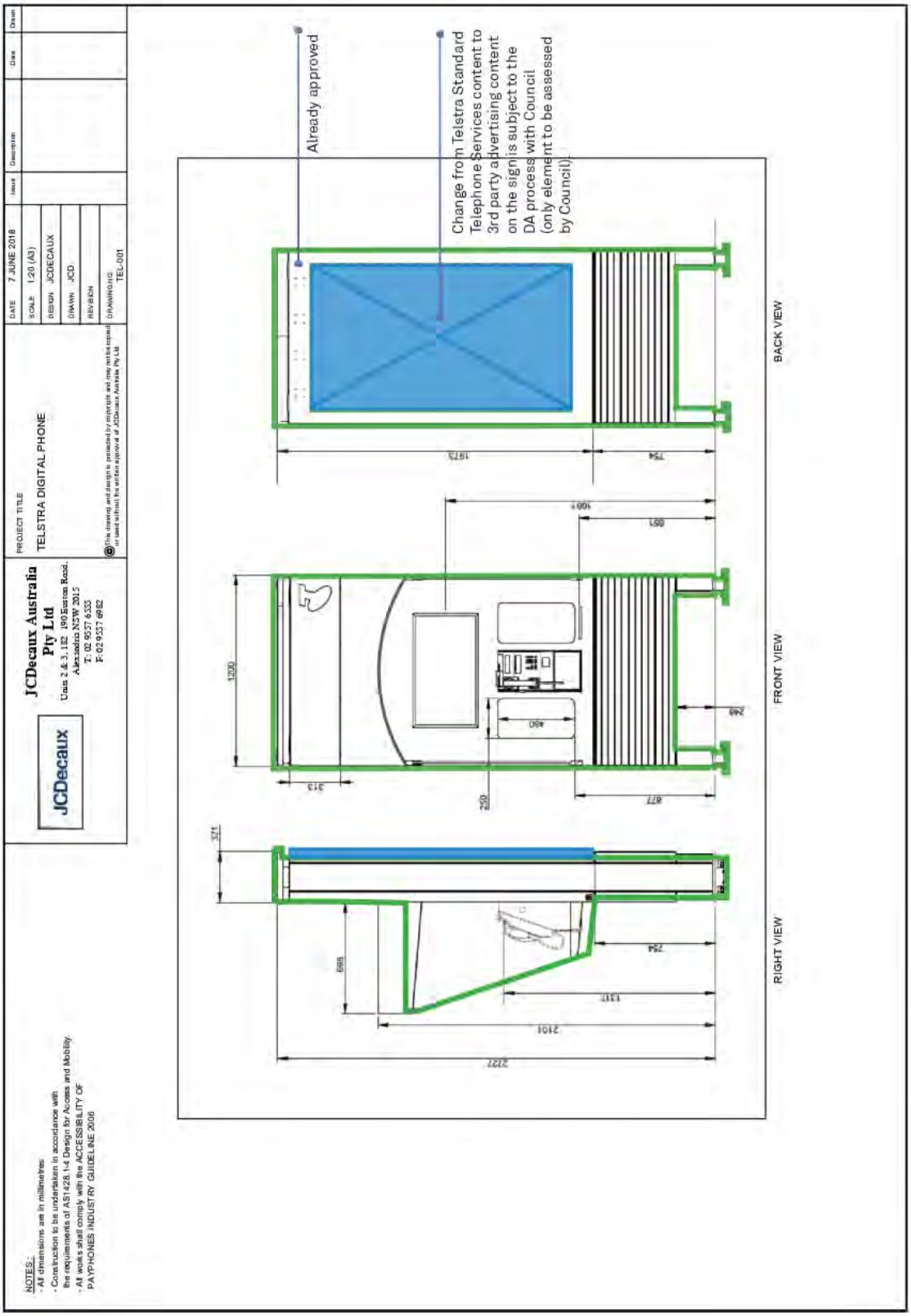
Change from Telstra Standard Telephone Services content to 3rd party advertising content on the sign is subject to the DA process with Council (only element to be assessed by Council).

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Approved in accordance with the Telco Act.

To be assessed by Council

Commercial in Confidence



Commercial in Confidence

ITEM 3.5	**DA2018/2033 - WINBOURNE ROAD, BROOKVALE - SIGNAGE - THIRD PARTY ADVERTISING DISPLAYED ON A TELSTRA PAYPHONE LOCATED ON WINBOURNE ROAD ADJACENT TO 698 PITTWATER ROAD**
REPORTING OFFICER	**Natalie Nolan**
TRIM FILE REF	**2019/333188**
ATTACHMENTS	**1 Assessment Report** **2 Plans**

PURPOSE

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

RECOMMENDATION OF INDEPENDENT PLANNING CONSULTANT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves via deferred commencement** Application No. DA2018/2033 for Signage - third party advertising displayed on a Telstra payphone located on Winbourne Road adjacent to 698 Pittwater Road, Brookvale subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2033
Assessment by:	Natalie Nolan, Nolan Planning Consultants (External Consultant)
Land to be developed (Address):	Road Reserve adjacent to Lot 2 in Deposited Plan 509819, No. 698 Pittwater Road, Brookvale
Proposed Development:	New Two Storey Dwelling with basement level parking
Zoning:	B5 Business Zone
Development Permissible:	No (see existing use rights and *Telecommunications Act, 1997* discussions)
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	JCDecaux Pty Ltd Australia
Application lodged:	20/12/2018
Integrated Development	No
Designated Development	No
State Reporting Category	N/A
Notified:	23/01/2019 to 15/02/2019
Advertised:	Not Advertised
Submissions:	0
Recommendation:	Deferred Commencement Approval with conditions

EXECUTIVE SUMMARY

A pre-lodgement meeting was held between Council and the Applicant in relation to the proposal on 4 September 2018. Specific concerns raised at the time included permissibility, owner's consent and illumination.

There were no submissions in objection received.

Assessment of the architectural plans and associated documentation has addressed the issues raised in the pre-lodgement meeting. Existing use rights have been established and the proposal is permissible. A condition of consent is included in the recommendation in relation to the illumination of signage.

The application is recommended for approval.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

State Environmental Planning Policy 64 (Advertising and Signage)
Warringah Local Environmental Plan 2011 – Clause 2.1 Land Use Zones and Land Use Table
Warringah Development Control Plan – Clause D23 –Signs

SITE DESCRIPTION

Property Description:	Road Reserve adjacent to Lot 2 in Deposited Plan 509819, No. 698 Pittwater Road, Brookvale
Detailed Site Description:	The site is on the road reserve in Winbourne Road adjacent to land known as 698 Pittwater Road, Brookvale. The site is a pedestrian pathway which extends the length of the property. This portion of the site is currently occupied by a concrete pedestrian pathway with an existing signage and a Telstra Phone Booth with third party advertising.

Map:

SITE HISTORY

DA2006/0390 was granted on 30 June 2006, prior to the commencement of the Warringah Local Environmental Plan 2011 for illuminated signage of a Telstra phone booth. The approved phone booth and third party advertising currently exists on site.

PROPOSED DEVELOPMENT IN DETAIL

Development approval is sought to allow third-party advertising arising from the upgrade to Telstra's payphone infrastructure and technology. The third-party advertising will be integrated into an exempt structure which will be installed under Schedule 3 of the Telecommunications Act 1997, and will replace an existing payphone with third-party advertising. The structure including static electronic display screens are not subject to assessment in this application.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	The Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 54 and 109 of the EP&A Regulation 2000, enables Council to request additional information. No additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. The proposal does not require any demolition works and therefore this is not applicable. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). The proposal does not incorporate any building works. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). The proposal does not incorporate any building works.
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	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.

Section 4.15 Matters for Consideration	Comments
	(ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	There have been no submissions received
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 applicable to this application. Division 4.11 of the Environmental Planning & Assessment Act is applicable. The following provisions are applicable:

Clause 4.65 Definition of Existing Use

DA2006/0390 was granted on 30 June 2006, prior to the commencement of the Warringah Local Environmental Plan 2011. The approved works were carried out prior to the commencement of Warringah Local Environmental Plan 2011 and prior to the lapsing of the development consent, and therefore satisfy 4.65(b)(ii). This structure is still in place with third party advertising.

Clause 4.66 Continuance of and Limitations on Existing Use and Clause 4.68 Continuance of and limitations on other lawful uses

The existing payphone is currently in use with third party signage.

Clause 4.69 Uses Unlawfully Commenced

The use was lawfully commenced pursuant to development consent DA2006/0369, granted by Warringah Council on 30 June 2006, and remains lawfully approved development to date.

Part 5 of the Environmental Planning Assessment Regulation 2000 provides further requirements.

Clause 41 Certain Development Allowed

This clause permits:

> *An existing use may, subject to this Division:*
> *(a) be enlarged, expanded or intensified, or*

(b) be altered or extended, or
(c) be rebuilt, or

The advertising area is slightly increased with this proposal and this is permissible as an existing use.

Clause 42 Development consent required for enlargement, expansion and intensification of existing uses

and

43 Development consent required for alteration or extension of buildings and works

These clauses permit an enlargement or alteration/extension of buildings of an existing use subject to the existing use remaining unchanged and carried out on the same land. The proposed content change will result in an advertising area that is slightly larger than that on the existing approved structure and is therefore a minor enlargement of the existing use. The proposal is in the same location as the existing use.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Urban Design Officer	The overall footpath width at the proposed location is 3.4m wide. That will result in 1.6m clear footpath width. A minimum width of 2m clear will be required for footpath in the Brookvale town centre. Therefore, the proposal is not acceptable. Comment: This proposal does not seek approval for the structure. The application relates only to the content of the advertising within the exempt structure. Therefore, refusal on the above grounds is not supported.
Property Team	The proposed works are on Council road reserve, Council's Transport & Civil Infrastructure Assets (TCIA) group should be consulted regarding the proposal prior to any determination being made, including providing owners consent for lodgement of such applications. A condition of consent has been included.

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.
RMS	The application was not required to be referred to the RMS. Further similar applications (including DA2018/2030, DA2018/2031 and DA2018/2032) had been referred to RMS with their response as follows: *Roads and Maritime is unsure for the reason for referral. Future DAs for similar development, mainly advertising attached to Telstra payphones, do not require referral to Roads and Maritime.*

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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 as a road reserve 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 use.

SEPP 64 – Advertising and Signage

Clause 8 of the SEPP states that the consent authority must not grant development consent to an application for signage unless it is satisfied that the signage is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1.

The applicant in their Statement of Environmental Effects provided an assessment of the proposal under the provisions of Schedule 1 of the SEPP.

Comment:

Assessment Criteria	Comment
Character of Area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is located on a high use pedestrian pathway adjacent to the Brookvale Industrial and Commercial precinct. The signage replaces an existing signage. The immediate surrounding area is characterised by commercial land uses and high levels of pedestrian movement, which is considered an appropriate location for the proposed content.
Special Areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is not identified as a 'special area' in terms of heritage, open space, waterways etc. The site is adjacent to a business/commercial and industrial precinct and is well separated from residential uses.
Views and Vistas • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers?	The signage is to be located within a separately approved structure and as such, the proposed signage will not obscure any important views or vistas and does not dominate the skyline.
Streetscape, Setting or Landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage is proposed within a separately approved structure with this application only for the content. This does not detract from the streetscape, setting or landscape. There is no impact on vegetation.

• Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management?	
<u>Site and Building</u> • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is contained within an approved structure which replaces an existing phone booth.
<u>Associated Devices and Logos with Advertisements and Advertising Structures</u> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not applicable.
<u>Illumination</u> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew?	The illumination is part of the approved structure and not part of this application. Not withstanding, the structure has in built light sensors and is appropriately separated from the residential properties
<u>Safety</u> Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists?	The structure is separately approved and not part of this DA. This application relates only to the content of the signage which will not reduce safety for pedestrians or cyclists. Similarly, the signage will not obscure sight lines

• Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

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

Clause 101 of the SEPP relates to 'Development with Frontage to Classified Road'. The proposed signage does not require vehicular access to the land and will not impact on the safety, efficiency and ongoing operation of the classified road. Further, the proposal is not sensitive to traffic noise or vehicle emissions.

TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINE 2017

The applicant in their Statement of Environmental Effects has provided an assessment of the proposal against the relevant provisions of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'. The proposal generally complies with the requirements of this Guideline with the exception of the illumination. A condition of consent is suggested requiring compliance with the illumination requirements of this guideline.

Warringah Local Environment Plan 2011

Is the development permissible?	No – Existing Use see discussion previously
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

There are no development standards applying to the proposal

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage Conservation	Yes
6.1 Acid Sulfate Soils	Yes
6.2 Earthworks	Yes

Detailed Assessment

Clause 2.3 Zone Objectives and Land Use Table

The subject site is zoned B4 Mixed Use. However, as discussed previously the applicant is relying on 'existing use rights' which have been established.

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
D23 Signs	Yes	Yes

Detailed Assessment

D23 Signage

The following provides an assessment under the relevant provisions of D23 of the Warringah DCP:

- *Signs are to be sited and designed so that they do not adversely impact on the amenity of the streetscape and the surrounding locality. In particular, signs are not to dominate or obscure other signs or result in visual clutter.*

Comment:

This application proposes a change to the content of the advertising within an exempt structure on a site where there is an existing payphone structure with third party advertising. The proposed advertising will not further obstruct signs nor result in visual clutter.

- *Signs are to be compatible with the design, scale and architectural character of the building or site on which they are to be placed.*

Comment:

The proposed signage is integrated into an exempt structure. The signage is compatible with other signs within the precinct. There is a large variety of signage in this locality.

- *Signs are not to obscure views of vehicles, pedestrians or potentially hazardous road features or reduce the safety of all users of any public road (including pedestrians and cyclists).*

Comment:

The proposed signage is integrated into an exempt structure. The signage content itself will not obscure views of vehicles, pedestrians nor reduce the safety of the road.

- *Signs should not be capable of being confused with, or reduce the effectiveness of, traffic control devices.*

Comment:

The location of the sign is such that it is appropriately separated from the traffic control devices. It is noted that this application relates only to the content of the signage within an exempt structure.

- *Signs are not to emit excessive glare or cause excessive reflection.*

Comment:

A condition of consent is suggested requiring compliance with the illumination requirements of the 'Transport Corridor Outdoor Advertising and Signage Guideline 2017'.

- *Signs should not obscure or compromise important views.*

Comment:

The proposal for change of content of advertising within an exempt structure and which replaces an existing payphone structure will not obscure or compromise any important views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of Warringah LEP 2011 / Warringah DCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance, subject to the recommended conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94 Development Contribution 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;
- Warringah Local Environment Plan 2011;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/2033 to allow for third party advertising on an exempt structure, on the road reserve adjacent to Lot 2 in Deposited Plan 509819, No. 698 Pittwater Road, Brookvale, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Commercial Licence Agreement**
   An appropriate commercial Licence agreement (subject to formal Council approval) shall be entered into for such installations on Council road reserve with appropriate commercial terms.

Reason: To ensure Council is adequately protected from risk and safety viewpoint, and Council receives appropriate remuneration for the structures displaying third-party advertising on council's road reserves.

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

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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**
NSW-NBC-015	25 May 2018	JCDecaux Australia Pty Ltd
TEL-001	7 June 2018	JCDecaux Australia Pty Ltd

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.

3. **Illumination of Signage**
The luminance of the signage must comply with the requirements of Section 3 of the *Transport Corridor Outdoor Advertising and Signage Guideline 2017*. Details are to be submitted to Council demonstrating compliance prior to any works commencing on site.

Reason: Protection of amenity.

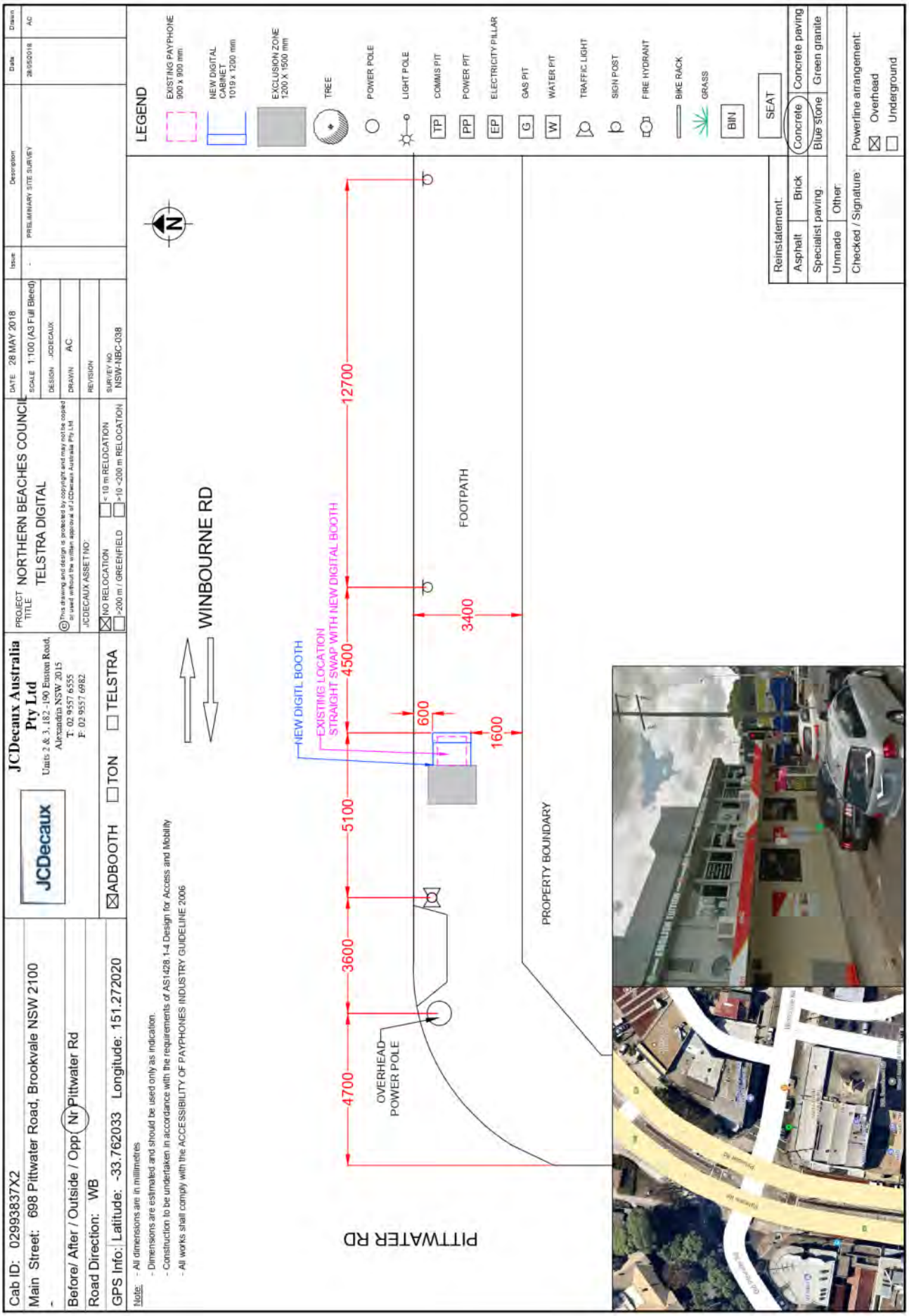
4. **Signage**
This consent relates only to third party advertising on the areas shown on the approved plans. This consent does not grant approval to any construction works.

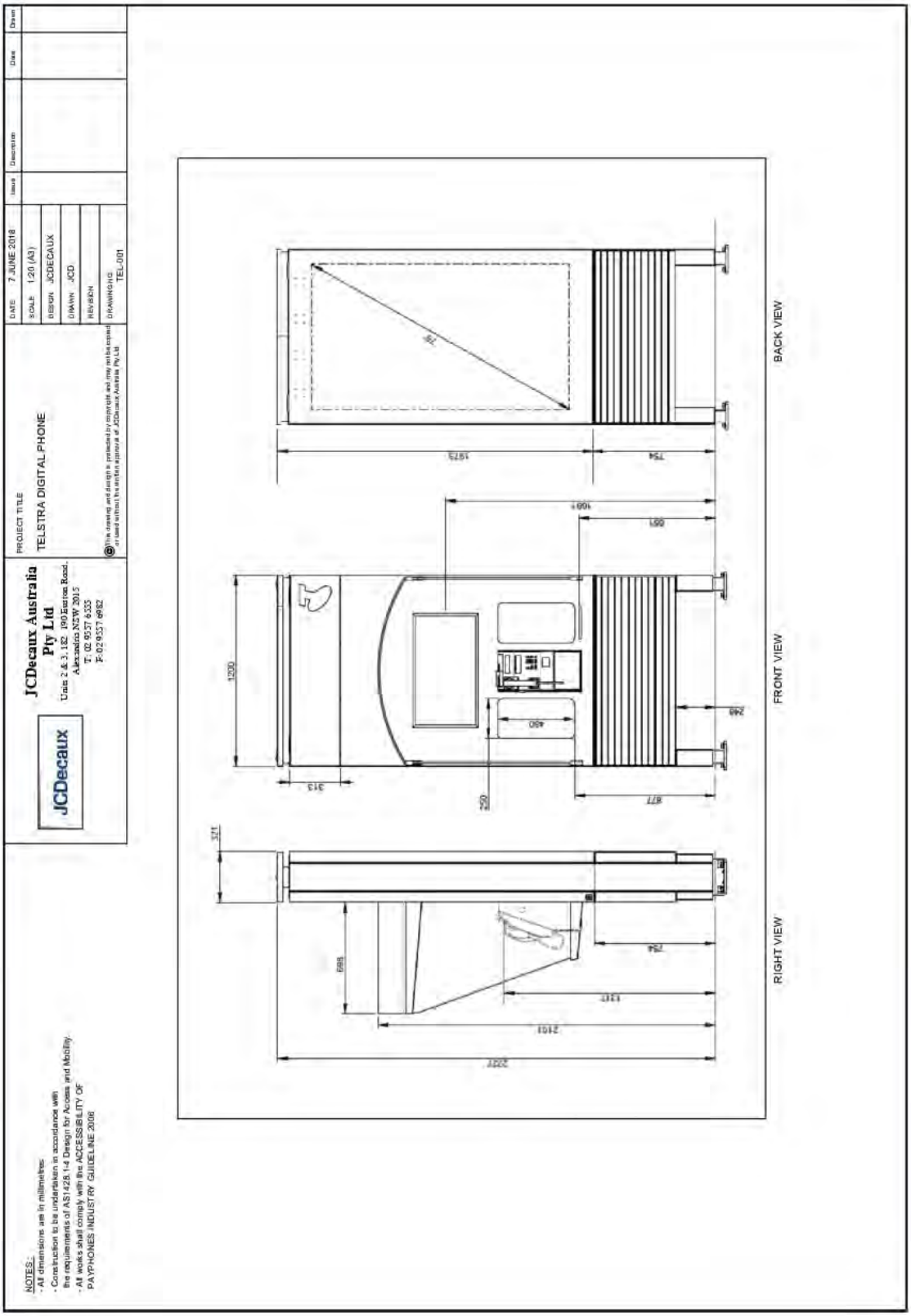
Reason: Clarification of approval.

5. **Compliance with Standards**

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

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


Cab ID: 02993837X2
Main Street: 698 Pittwater Road, Brookvale NSW 2100
Before/ After / Outside / Opp/ Nr Pittwater Rd
Road Direction: WB
GPS Info: Latitude: -33.762033 Longitude: 151.272020
JCDecaux
JCDecaux Australia Pty Ltd
Units 2 & 3, 182 - 190 Euston Road, Alexandria NSW 2015
T: 02 9557 6555
F: 02 9557 6982
ADBOOTH
TON
TELSTRA
PROJECT TITLE NORTHERN BEACHES COUNCIL
TELSTRA DIGITAL
DATE 28 MAY 2018
SCALE 1:100 (A3 Full Bleed)
DESIGN JCDECAUX
DRAWN AC
REVISION
SURVEY NO NSW-NBC-038
JCDECAUX ASSET NO:
NO RELOCATION
>200 m / GREENFIELD
< 10 m RELOCATION
>10 <200 m RELOCATION
Issue
Description
PRELIMINARY SITE SURVEY
Date
28/05/2018
Drawn
AC
LEGEND
EXISTING PAYPHONE 900 x 900 mm
NEW DIGITAL CABINET 1019 x 1200 mm
EXCLUSION ZONE 1200 X 1500 mm
TREE
POWER POLE
LIGHT POLE
COMMS PIT
POWER PIT
ELECTRICITY PILLAR
GAS PIT
WATER PIT
TRAFFIC LIGHT
SIGN POST
FIRE HYDRANT
BIKE RACK
GRASS
BIN
SEAT
Reinstatement:
Asphalt
Brick
Specialist paving:
Blue Stone
Unmade
Other:
Checked / Signature:
Concrete
Concrete paving
Green granite
Powerline arrangement:
Overhead
Underground
WINBOURNE RD
PITTWATER RD
FOOTPATH
PROPERTY BOUNDARY
OVERHEAD POWER POLE
NEW DIGITL BOOTH
EXISTIMG LOCATION STRAIGHT SWAP WITH NEW DIGITAL BOOTH
12700
3400
4500
600
1600
5100
3600
4700
Note: - All dimensions are in millimetres
- Dimensions are estimated and should be used only as indication.
- Construction to be undertaken in accordance with the requirements of AS1428.1-4 Design for Access and Mobility
- All works shall comply with the ACCESSIBILITY OF PAYPHONES INDUSTRY GUIDELINE 2006



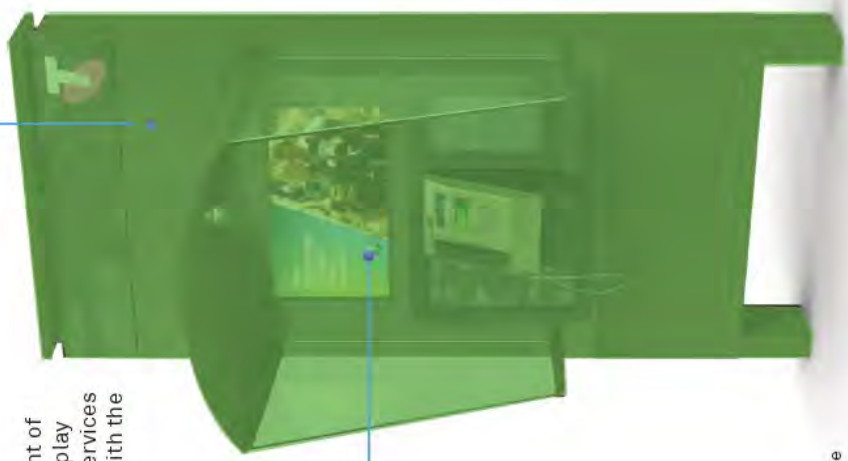
Commercial in Confidence

Payphone with STS content

Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.

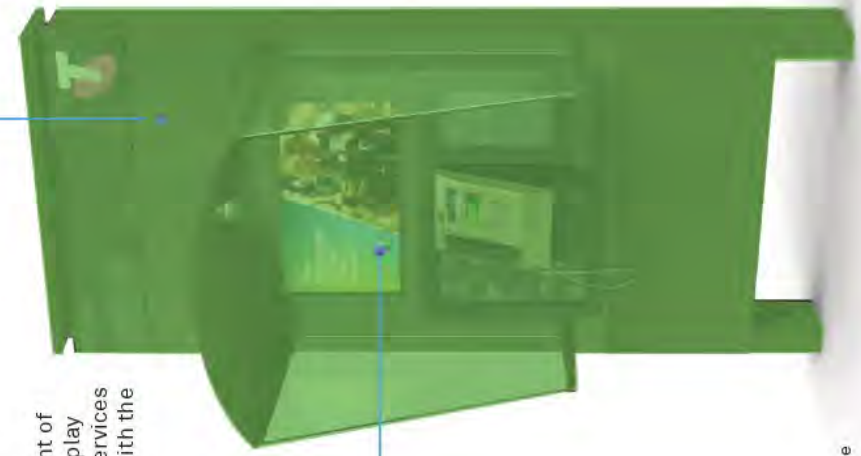


Approved in accordance with the Telco Act.

Commercial in Confidence

Payphone with 3rd Party content

Smaller screen on front of structure will only display standard telephone services (STS) in accordance with the Telco Act.



Structure (including large digital screen displaying Telstra Standard Telephone Services) is approved under Telco Act and not assessed in this DA.

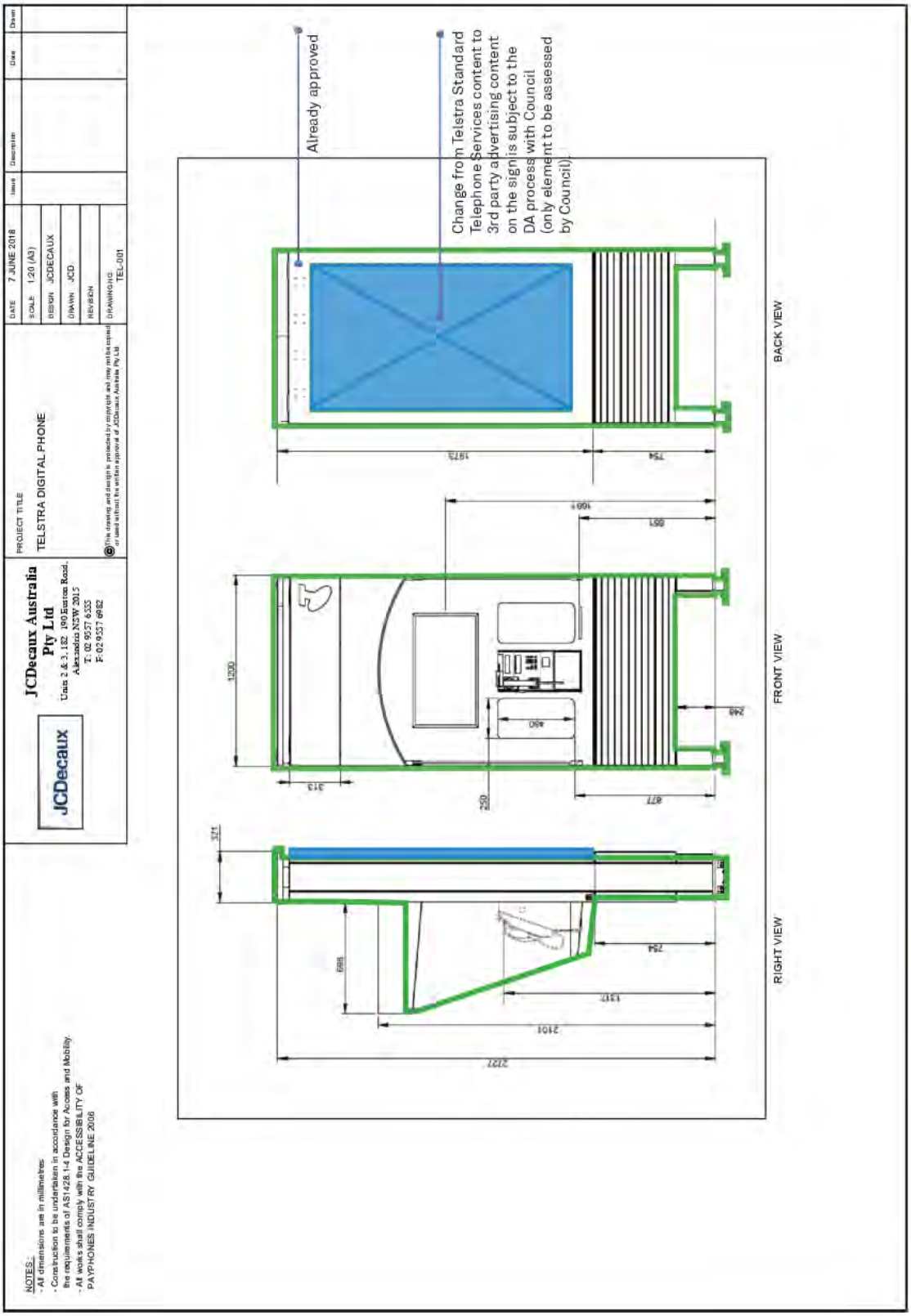
Change from Telstra Standard Telephone Services content to 3rd party advertising content on the sign is subject to the DA process with Council (only element to be assessed by Council).

Note: Under Telco Act Telstra can display digital advertising of standard telephone services with consistent transitions and dwell times as proposed for the 3rd party advertising.

Approved in accordance with the Telco Act.

To be assessed by Council

Commercial in Confidence



Commercial in Confidence

ITEM 3.6	**DA2019/0275 - 53 ALEXANDER STREET, MANLY - DEMOLITION WORKS, SUBDIVISION OF 1 LOT INTO 2 LOTS AND CONSTRUCTION OF TWO SEMI-DETACHED DWELLINGS**
REPORTING OFFICER	**Steve Findlay**
TRIM FILE REF	**2019/333214**
ATTACHMENTS	**1 Assessment Report**
	2 Plans
	3 Clause 4.6

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2019/0275 for Demolition works, subdivision of 1 lot into 2 lots and construction of two semi-detached dwellings at Lot 17 Sec 1 DP 4603, 53 Alexander Street, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0275

Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 17 DP 4603, 53 Alexander Street MANLY NSW 2095
Proposed Development:	Demolition Works, subdivision of 1 lot into 2 lots and construction of two semi-detached dwellings
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Adam Charles Achterstraat Rachel Ellen Achterstraat
Applicant:	Adam Charles Achterstraat Rachel Ellen Achterstraat

Application lodged:	21/03/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	03/04/2019 to 17/04/2019
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	$ 1,488,000.00

EXECUTIVE SUMMARY

This report is submitted to the Local Planning Panel for the consideration of Development Application No. DA2019/0275 for semi-detached dwellings at 53 Alexander Street, Manly.

The site is known as 53 Alexander Street, Manly and has a total area of 445.6m². The site is located toward the western end of Alexander Street. The site is relatively flat.

The proposed dwellings are "semi-detached dwellings" as defined under the Manly Local Environmental Plan (MLEP) 2013 and are permissible with consent in the R1 - General Residential zone. The proposed development has been assessed against the applicable planning controls for the site including the relevant provisions of the Manly LEP and DCP 2013.

The application does not comply with the minimum lot size standard of 250sqm. The applicant has lodged a request under Clause 4.6 for variation to this development standard.

The design maintains openness to the street, with the setback to the car parking and dwelling resulting in the proposed development providing a positive contribution to the character of the street. Additionally, the proposal provides modulation of the development including steeping-in of the top floor top ensure that there is an appropriate minimisation in the presentation and overall impact of building bulk.

In the circumstances, the development provides an appropriate modulation in which the additions provide appropriate levels of amenity and functionality for the semi-detached dwellings and result in a positive outcome for the streetscape and locality. Therefore, the variation to the lot size development standard pursuant to Clause 4.6 of the MLEP 2013 is not considered unreasonable and the variation does not result in any unreasonable impacts to adjoining and surrounding properties.

The application has also been assessed against the planning controls of the MDCP 2013, and whilst there are some minor variations to the built form controls, they are found to be consistent with the relevant objectives and requirements. In this regard, the built form will integrate into the landscape, streetscape and will relate positively to adjoining and surrounding residential buildings.

The proposed development was notified and no submissions were received.

The assessment concludes that the proposed design is a modern and contemporary redevelopment of the site that will provide for appropriate amenity for the subject site without having any unreasonable impacts on the streetscape or any unreasonable impacts on the amenity of neighbouring properties.

Therefore, it is recommended that the Clause 4.6 variation should be supported and consent be granted to this application in accordance with the attached draft conditions.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size
Manly Development Control Plan - 4.1.1.2 Residential Land Subdivision
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 17 DP 4603 , 53 Alexander Street MANLY NSW 2095
Detailed Site Description:	The subject site consists of an allotment located on the southern side of Alexander Street. The site is regular in shape with a frontage of 12.19m along Alexander Street and a depth of 36.575m. The site has a surveyed area of 445.6m². The site is located within the R1 - General Residential zone and accommodates a dwelling house on site. The site is relatively flat and has vegetation to the front and rear of the site. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by a mix of older style and modern 1 and 2 storey dwellings on each side of Alexander Street.

Map:

SITE HISTORY

Pre-Lodgement Meeting (PLM75/2017)

A Pre-lodgement meeting was held in relation to the following proposal:

"Demolition works, subdivision of 1 lot into 2 lots and the construction of 2 x semi-detached dwellings"

The Notes provided from this meeting stated that the proposal was not supported and required a redesign, including further details to show compliance with controls and setting back the proposed car parking from the street.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development involves the demolition of the existing dwelling house, construction of two new semi-detached dwellings and subdivision of the existing lot into two new lots.

In detail, the proposal involves the following:

Subdivision

- Existing Lot - 445.6m^2
- Proposed Lot A - 222.8m^2
- Proposed Lot B - 222.8m^2

Ground Floor Level (each dwelling)

- Entry porch
- New driveway and single garage
- Open plan kitchen, dining and living
- Stairs
- WC
- Covered terrace
- Rear garden area
- Dividing wall
- 2 x 1000L Water tanks

First Floor Level (each dwelling)

- Three bedrooms
- Ensuite to master bedroom
- Bathroom
- Front Balcony

2 Perspective - Northwest

4 Perspective South

Figure 1 and 2 : Perspectives from the front (Northwest) and rear (South) (***Source: Du Plessis Architects)***

Amended plans were provided by the applicant to include wall openings to address a **Flooding** issue raised by Council. These plans did not require re-notification in accordance with the Manly DCP 2013.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	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. Clause 50(1A) 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. Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 98 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. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of	(i) **Environmental Impact**

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application proposes a Torrens title subdivision of the existing single allotment into 2 allotments, and the construction of two new semidetached dwellings with associated landscaping works. Building Approvals/Certification Team has reviewed the proposal and considers that the proposal can readily comply with the BCA and associated legislation. Accordingly, no objections to the proposal and no special conditions applied.
Landscape Officer	The landscape component of the proposal is acceptable subject to the protection of nominated existing trees and vegetation, and the

Internal Referral Body	Comments
	completion of landscaping. Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types, and specifically: 3.3.1 Landscaping Design; 3.3.2 Preservation of Trees or Bushland Vegetation; and 4.1.5 Open Space and Landscaping. A Landscape Plan is provided with the development application, and this satisfies the requirements of Manly DCP2013, subject to conditions. A Arboricultural Impact Assessment is provided with the development application, and this satisfies the requirements of Manly DCP2013, subject to conditions. It is noted that items within the streetscape are listed in the Manly Local Environmental Plan 2013, Schedule 5 Environmental Heritage, including Part 1 Heritage item i2 - stone kerb and i77 street trees in Alexander Street. During construction of the proposed driveway crossover, removed stone kerbs are to be salvaged and delivered to Council's Balgowlah depot, for future re-use. All existing street trees shall be protected during construction materials delivery and the existing street tree fronting No. 55 Alexander St shall be protected during all stages of development works.
NECC (Bushland and Biodiversity)	The subject site is heavily modified with minimal remnant vegetation or threatened species habitat. The proposal is therefore unlikely to impact upon biodiversity values on the site or surrounding areas.
NECC (Coast and Catchments)	The application has been assessed under State Environmental Planning Policy (Coastal) 2018 and Coastal Management Act 2016. The application falls within the Environment Area and has been assessed as having acceptable impact.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.
NECC (Riparian Lands and Creeks)	No objection to the proposed development with no additional conditions.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposal is recommended for refusal for the following reasons: • Clause F2 states that the underfloor area of the dwelling below the 1% AEP flood level is to have a minimum of 50% open area below the 1% level • It is not clear in the plans how the underfloor area of the dwelling is open to allow passage of floodwaters which could make the flood storage calculations in the Flood Risk Management Report incorrect

Internal Referral Body	Comments
	• Clause G5 states that enclosed garages must be located at or above the 1% AEP level of 3.15m AHD **Assessing officer comment** Amended plans were submitted by the applicant to provide wall opening to allow for the flow of flood waters. Council's Flood officer stated that these plans were sufficient for approval.
Strategic and Place Planning (Heritage Officer)	Further to a review of the available documents and site visit, The site of proposed development is not a listed heritage item in its own right, however, it is located in vicinity of heritage items, including MLEP I77 (streetscape trees in Alexander Street). Given the nature of the proposal and the separation between sites, and given the favourable topography, the impact on heritage values is assessed as acceptable. Based on the above, I have no objections to this proposal from heritage perspective.

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 (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Manly Local Environmental Plan 2013

Is the development permissible?	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	250sqm	Lot 1 : 222.8sqm Lot 2 : 222.8sqm	10.88%	**No (see comments)**
Height of Buildings	8.5m	8.5m	N/A	Yes
Floor Space Ratio	FSR : 0.6:1 (133sqm)	FSR : 0.6:1 (133sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	No
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes

Clause	Compliance with Requirements
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Minimum Subdivision Lot Size

Description of non-compliance:

Development standard:	Minimum Subdivision Lot Size
Requirement:	250sqm
Proposed:	222.8sqm
Percentage variation to requirement:	10.88%

Assessment of Request to vary a Development Standard

The following assessment of the variation to Clause 4.1 - Minimum subdivision lot size 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 4.1 - Minimum subdivision lot size 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

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.

Applicants Written Request

The applicants written request argues, in part:

The proposed subdivision is consistent with the size and pattern of other lots in the area. Additionally, the resulting lots would allow for reasonable internal amenity, reasonable retention of amenity for neighbours and a presentation of bulk and scale that is compatible with the streetscape.

It is agreed that the streetscape consists of a number of similar undersized lots that contain semi-detached dwellings. It is also agreed that the proposed semi-detached dwellings would provide a reasonable outcome in terms of internal and external amenity due to its well modulated built form. As such, it is concluded that the size of the lots would be suitable and appropriate in the street and the locality.

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 proposal is a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

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

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

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the minimum subdivision lot size 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 4.1 – 'Minimum subdivision lot size' of the MLEP 2013 are:

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

> *(a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping.*
>
> Comment:
>
> The proposed lots provide a sufficient size to accommodate the proposed three bedroom semi-detached dwellings along with private open space, carparking and landscaping. Additionally, the proposal provides a lot shape that is consistent with other lots in the vicinity so as to ensure the lot will appropriately fit into the existing pattern.
>
> The subdivision would result in an increased density of one dwelling for the subject site and this is reasonable given that the use of semi-detached dwelling is permissible in the zone and that there are a number of other semi-detached dwellings within close proximity. Furthermore, it is considered that a dwelling can be provided on each new lot that responds appropriately to the built form controls.
>
> *(b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns.*
>
> Comment:
>
> The proposal provides for lots which are similar in shape to a number of other lots within close vicinity. As a result of this the proposal provides for a size of lot that will be complement that existing pattern and ensure that the character of the area can be maintained. It is further noted that this character includes a number of examples of semi-detached dwellings, similar to what is proposed in this application.

Figure 3: Subdivision pattern showing the Subject Site (as existing) highlighted in blue

(c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential.

Comment:

In this circumstances, there are no significant constraints in terms of topography, vegetation or natural features as the land is relatively flat and contains vegetation outside of the area in which a building envelope can be established. The only major constraint is the flood affectation which does not hinder the subdivision potential. In addition, the site is in a location that is not close to the foreshore and the subdivision would not result in any unreasonable outcome in terms of the protection of public views.

(d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.

Comment:

The proposal is within close proximity to a range of public transport options and would make use of existing infrastructure.

Objectives of the Zone

The underlying objectives of the R1 General Residential zone are:

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

  Comment:

  The proposal provides for two semi-detached dwellings on the site and this contributes to the housing needs of the community. It is considered that the development satisfies this objective.

  It is considered that the development satisfies this objective.

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

  Comment:

  The proposal provides for two semi-detached dwellings which contribute to the variety of housing types and densities in the area. It is considered that the development satisfies this objective.

  It is considered that the development satisfies this objective.

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

  Comment:

  Not applicable.

Conclusion on Objectives of the R1 Zone

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 Minimum Subdivision Lot Size Development Standard is assumed by the Local Planning Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 445.6m^2 or 222.8m^2 (per new lot)	Requirement	Proposed	% Variation*	Complies

4.1.1.1 Residential Density and Dwelling Size	1 dwelling/250sqm	1 dwelling/222.8sqm	10.88%	**No (see comments)**
4.1.2.1 Wall Height	East: 6.5m	6.5m	N/A	Yes
	West: 6.5m	6.5m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.0m	N/A	Yes
	Pitch: maximum 35 degrees	23 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line/6.0m	3.8m-4.0m (balconies) 5.8m-6.0m (front of dwelling)	Up to 36.6%	**No (see comments)**
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.17m (based on wall height)	0.9m-2.527m	Up to 54.5%	**No (see comments)**
	Windows: 3.0m	0.9m-2.527m	15.7%-70%	**No (see comments)**
4.1.4.4 Rear Setbacks	8.0m	8.0m (terrace) 12.0m (dwelling)	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (122.54sqm)	47.6% (106sqm)	N/A	**No (see comments)**
	Open space above ground 25% of total open space (max)	0.7% (7sqm)		
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	46.2% (49sqm)	N/A	Yes
4.1.5.3 Private Open Space	18sqm per lot	21sqm	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	50%	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces or 1 space where 2 spaces would adversely impact on the streetscape	1 spaces (2 spaces likely to adversely impact on the streetscape)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.1.2 Residential Land Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
4.4.8 Subdivision	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes

Detailed Assessment

4.1.1.1 Residential Density and Dwelling Size

Description of Non-compliance

The proposal would result in 2 allotments based on a site area of 445.6sqm which results in a residential density of 1 dwelling per 222.9sqm of site area, which does not comply with the numerical control of 1 dwelling per 250sqm of site area.

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 promote a variety of dwelling types, allotment sizes and residential environments in Manly.

Comment:

The proposal would result in two lots with two semi-detached dwellings. Given the appropriate subdivision pattern and lack of amenity associated with this proposal, the semi-detached dwelling type and allotment sizes will be a positive contribution to the residential environment.

Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.

Comment:
The proposal provides a compliant landscaped area in accordance with the Manly DCP as well as adequate front and rear setbacks to limit impact on existing vegetation, waterways, riparian land and the topography. Subject to conditions, Council's Stormwater Engineer and Landscape Officer have provided that the proposal is acceptable.

Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.

Comment:
The proposal complies with the control for minimum internal areas under Clause 4.1.1.1(d). This ensures there would be an acceptable level of amenity.

Objective 4) To maintain the character of the locality and streetscape.

Comment:
The proposed subdivision pattern, setback to development, setback to the car parking, and pitched roof style, provides a situation in which the character of the locality and streetscape will be maintained. This includes a similar pattern of lot sizes, dwelling types, roof types and subdivision pattern either side of the property as well as across the road to the south-west.

Objective 5) To maximise the use of existing infrastructure.

Comment:
The proposal will maintain the use of existing infrastructure where appropriate, subject to conditions.

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

4.1.1.2 Residential Land Subdivision

See assessment under Manly Local Environmental Plan 2013 section of this report.

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

Description of Non-compliance

The proposal does not comply with the side setback control (2.2m each side). In this regard, the proposal involves side setbacks of 0.9m to 2.527m on each side. It is noted that the wall of the top floor is 2.527m from the boundary and this complies with the control.

The proposal does not comply with the requirement for windows facing side boundaries to be setback 3.0m. In this regard, the proposal provides ground floor windows that are 0.9m from the 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 streetscape is characterised predominantly by frontages of sites which have landscaping, front fences and a setbacks to other built structures (including parking structures and dwellings) to provide an openness for the street. In close vicinity, this section of the streetscape is also partly characterised by semi-detached dwellings on narrow allotments. The proposed semi-detached dwellings provide a setback to the dwelling and parking, as well as an integration of landscaping to the front of the site, to ensure this character is adequately maintained and enhanced.

The proposed side setbacks include stepping in of the top floor from the lower floor to provide a top floor that complies with control. Along with the landscaped area that complies with the control and the openness at the front of the site, this maintains the desired spatial proportions of the street.

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 provides highlight windows to the living spaces such as dining areas and bedrooms. Along with the location of the windows being reasonably separated from neighbouring living spaces, this results in a design that reduces angles of overlooking to sufficiently minimise potential visual privacy impact. The compliant floor space ratio, compliant number of storeys and modulation in the design also provides a situation in which potential acoustic amenity impact.

Along with this, the proposal involves a design that provides new spaces that are sufficiently separated from private open space and living areas at adjoining properties. Additionally, the design of the upper level floor to have openings that does not face directly toward the boundary, provides a design that adequately minimises privacy loss.

As a result of the north-south orientation of the lot, the subject site and neighbouring sites receive sunlight from the front of the site. Along with the proposed side setbacks to the top floor wall complying with the control, this contributes to the proposal maintaining sunlight access that complies with the controls and requirements under the Manly DCP 2013.

Along with the appropriate location and design of windows, the modulation at the side elevation and the proposed landscaped buffer around the rear of the property, this ensures that the proposal would not result in any unreasonable amenity impact.

The proposal would also have no unreasonable impact on views, traffic or streetscape character.

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

Comment:
The proposal involves two new semi-detached dwellings, that comply with the controls for front and rear setback (to the dwellings). As a result of sufficient modulation at the side setbacks, including stepping-in of the top floor level, there is a lack of unreasonable impact on amenity and the lack of visual impact to the street or from neighbouring properties.

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 proposal provides landscaping to the front and rear of the dwellings. Given the character of the area with narrow allotments, the location of landscaping and natural features in this area is appropriate. In addition to this, the proposal provides a landscaped area that complies with the control under the Manly DCP 2013.

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 MLEP 2013/MDCP 2013and 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 proposal does not comply with the control for total open space (55%). In this regard, the proposal involves a total open space of 47.6% (106sqm).

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 involves gardens and planting to the front and rear of the semi-detached dwellings. Given the narrow nature of the allotment, this provides an appropriate provision of and area for landscape features and vegetation.

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 subject site is surrounded by planting and vegetation to contribute adequately to the presentation of the site and to provide soft landscaped area that complies with the control under Manly DCP 2013.

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

Comment:
Along with the landscaped area provided, the proposal provides modulation to the built form to ensure that the spacing between the proposed dwelling and surrounding dwellings that is sufficient to ensure that reasonable amenity is maintained.

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

Comment:
Subject to conditions provided by Council's Stormwater Engineer, the proposal will sufficiently minimise stormwater run-off. This is contributed to by the compliant amount of landscaped area on the site.

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

Comment:
The proposal does not provide for any noxious weeds and provides vegetation to surround the site to limit opportunity for weeds to access the site.

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

Comment:
The landscaping at the each boundary ensures a potential corridor to every open side of the semi-detached dwelling. This maximises opportunity for potential wildlife corridors.

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

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

'(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:

(a) the dedication of land free of cost, or

(b) the payment of a monetary contribution,

or both.

(2) A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'

Comments:
In this case, the proposed development is likely to increase the demand for public amenities and public services within the area. Accordingly, suitable conditions have been included within the recommendation requiring payment of a section 94 contribution of $20,000.00 in line with Manly Section 94 Contributions Plan.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- 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

Conclusions on the Assessment of the Application

The assessment of the proposed development against the provisions of MLEP 2013 found that the proposal does not comply with the 'Minimum Lot Size' Development Standard of 250sqm.

In this case, the two semi-detached dwellings provide a design that provides sufficient modulation and consistent style with existing form in the street. Furthermore, the applicant has provided sufficient

justification for the departure from the development standard.

In addition, the assessment of the proposed development against the provisions of the Manly DCP 2013 found that the proposal does not comply with a number of controls, including windows to boundary and side setbacks. Given the the character of the area and amenity outcome, assisted by good levels of modulation at the upper level, some flexibility in applying these controls is required. It is considered that the non-compliances will not have unreasonable amenity impacts for adjoining properties and are consistent with the streetscape character of the Locality.

There were no submissions made in response to the public notification.

Recommendation

In summary, the proposal should be approved as the design is reasonable for the site and locality by virtue of the supportable non-compliances that do not create any unreasonable amenity impacts. The proposed dwellings will integrate with the streetscape and landscape and be consistent with surrounding developments.

Based on the above detailed assessment, the Clause 4.6 variation to the lot size standard should be supported.

Therefore, the application is recommended for approval.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development constitutes the proper and orderly planning for the site or the locality.
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 DA2019/0275 for Demolition Works, subdivision of 1 lot into 2 lots and construction of two semi-detached dwellings on land at Lot 17 DP 4603, 53 Alexander 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**
DA01 - Plan - Site	11/03/2019	Du Plesis Architects
DA02 - Plan - Ground Floor	11/03/2019	Du Plesis Architects
DA03 - Plan - First Floor	11/03/2019	Du Plesis Architects
DA04 - Plan - Roof Plan	11/03/2019	Du Plesis Architects
DA05 - Elevation - North & Elevation - South	11/03/2019	Du Plesis Architects
DA06 - Elevation - East & Elevation -West	11/03/2019	Du Plesis Architects
DA07 - Sections	11/03/2019	Du Plesis Architects
DA10 -Demolition Plan	11/03/2019	Du Plesis Architects

Engineering Plans		
Drawing No.	**Dated**	**Prepared By**
17266Asubdivision 1	N/A	CMS Surveyors

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	20/12/2018	Space Landscape Designs

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

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

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

(a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(ii) stating that unauthorised entry to the work site is prohibited.

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

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

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

Reason: Legislative Requirement.

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

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

(a) Unless authorised by Council:

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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

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

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

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

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

5. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are

breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(j) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

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

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

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

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

Relevant legislative requirements and relevant Australian Standards (including

but not limited) to:

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2008

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. **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.

7. **Development Contribution - Residential**

A contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of demolition of the existing dwelling and two new semi-detached dwellings (with

one additional dwelling overall)) is $20,000.00, being $20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

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

8. **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. The plans must indicate the provision of a rainwater tank in accordance with the BASIX certificate. Stormwater shall be conveyed from the site to Alexander Street.

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.

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

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

Reason: To facilitate suitable vehicular access to private property.

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

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

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

11. **Tree root investigation**
A tree root investigation as recommended in the Arboricultural Impact Assessment report prepared by Complete Arborcare shall be undertaken to guide the engineering design and alignment of the proposed driveway crossover.

The investigation shall be undertaken by an Arborist with AQZ Level 5 qualification in arboriculture/horticulture. If roots >25mm ø are encountered, tree sensitive construction measures such as pier & beam, suspended slabs design shall be recommended. If roots are discovered that can be pruned (which are to be <40mm ø), all works must be undertaken in accordance with Section 9 (Root Pruning) of AS 4373-2007.

Details and design recommendations are to be provided to the driveway crossover Engineer. Tree protection measures during construction shall be recommended.

Certification of the driveway crossover engineering design by the Arborist shall be submitted to the Certifying Authority that the design will ensure retention of the street tree.

Reason: to ensure the protection and retention of the existing street tree.

12. **Flooding**
In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

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

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 3.65m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 3.65m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.65m AHD unless adequately protected from floodwaters in accordance with industry standards.

Flood Emergency Response – E2

Appropriate access to the shelter in place refuge should be available from all areas of the new development.

Floor Levels – F1

New floor levels within the development shall be set at or above the Flood Planning Level of 5.65m AHD.

Floor Levels – F7

New first floor levels within the development shall be set at or above the Probable Maximum Flood Level of 3.65m AHD.

Floor Levels – F2

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

dwelling is to have a minimum of 50% open area below the 1% level.

Car parking – G4

Vehicle barriers or restraints are to be installed to a minimum height of the Flood Planning Level of 3.65m AHD.

Perimeter walls/louvres installed as vehicle barriers or restraints are to be designed to allow flood waters to pass through and are to have a minimum of 50% open area below the 1% flood level.

Car parking – G5

The floor level of the proposed garage shall be set at or above the 1 in 100 year flood level of 5.65m AHD.

Car parking – G9

All access, ventilation and any other potential water entry points, including entry ramp crests to any enclosed car parking shall be at or above the Flood Planning Level of 5.65m AHD.

Fencing – H1

Fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open for passage of flood waters - All new fencing on the property must be design with a minimum of 50% open area between the 1% flood level and natural ground level, to allow flood waters to pass through.

Recommendations

The development must comply with all recommendations outlined in:

- The Flood Risk Management Report prepared by E2 Civil and Structural design dated 15th of March 2019.

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

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

13. **Sydney Water "Tap In"**

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

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

- "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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

15. **Tree protection measures**
A Project Arborist with AQZ Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing street tree nominated for retention and protection in the Arboricultural Impact Assessment report prepared by Complete Arborcare. The Project Aborist shall attend site during excavation and construction works for the driveway crossover near the existing street tree identified as T4 - Cedrus deodara in the report.

The tree protection measures as listed in 9. Recommendations/Conclusions of the report must:
i) be in place before work commences on the site, and
ii) be maintained in good condition during the construction period, and
iii) remain in place for the duration of the construction works.

The Project Arborist shall submit certification during all stages of the works (excavation and construction) and prior to Occupation Certificate to the Certifying Authority that all tree protection measures as listed above have been completed prior to the commencement of excavation and construction works, and have been appropriately maintained during the works.

Reason: to ensure tree protection is provided and maintained.

16. **Installation and Maintenance of Sediment and Erosion Control**
Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. **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.

18. **Vehicle Crossings**
The provision of two vehicle crossings 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.

19. **Existing stone kerb**
Existing stone kerbs removed for the construction of the proposed crossover and driveway shall be salvaged and delivered to Council's Balgowlah depot for future re-use.

20. **Tree and vegetation protection**
A) Existing trees and vegetation shall be retained and protected as follows:
i) all trees and vegetation within the site, excluding exempt trees and palms under the relevant planning instruments of legislation,
ii) all other trees and vegetation located on adjoining properties,
iii) all road reserve trees and vegetation,
B) Tree protection shall be generally undertaken as follows:
i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
v) 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,
vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
ix) should either or all of vi), vii) and viii) 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,
x) 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,
xi) 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.

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

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

21. **Landscape works**
Landscaping is to be implemented in accordance with the Landscape Plan L-01, prepared by Space Landscape Designs, inclusive of the following requirements:
i) the proposed native tree planting documented on L-01 shall be typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013,
ii) all tree planting is to be installed at 75 litre container size,
iii) all tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight as described in the clause, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views,
iv) all tree planting shall have a minimum individual area of 3 metres x 3 metres of soil area, and shall 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.

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 approved plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

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

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

23. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**
The units within the development are to be numbered in accordance with the Australia Post Address Guidelines
(https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

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

24. **Landscape maintenance**
All landscape components are to be maintained for the life of the development. A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme of the landscape plan.

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

25. **Environmental and priority weed control**
All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

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

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

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

27. **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

28. **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. 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

29. **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

30. **Easement for Services**
An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919

31. **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

32. **Title Encumbrances**
All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches Council as the sole authority empowered to release or modify. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: To ensure proper management of land

northern beaches council

LEGEND

- **PROPOSED NEW BLD WALLS** EXTERNAL WALLS BRICK AND/OR WEATHERBOARD WALLS INTERNAL FRAMED LIGHT WEIGHT PLASTERBOARD WALLS
- **DEMOLITION.** EXISTING SEMI WALLS & FIXTURES TO BE DEMOLISHED
- **ADJOINING NEIGHBOURING PROPERTIES** AS PER SITE SURVEY PLAN
- **CONCRETE** REINFORCED CONCRETE TO ENGINEER DETAILS
- **TIMBER FLOOR:** SELECTED HARDWOOD FLOOR
- **WET AREA TILING** SELECTED FLOOR TILES TO FALLS & SET OUT TO DETAIL
- **ROOFING** COLOURBOND METAL ROOFING TO FALLS

SYMBOLS

W# / Type	WINDOW LABEL	A1 / Sheet	PLAN SECTION REFERENCE
EW# / Type	EXISTING WINDOW	Sheet	PLAN ELEVATION REFERENCE
D# / Type	DOOR LABEL		RL (LEVELS)
	DCP/LEP WALL HEIGHT LINE		FLOOR LEVELS

DRAWING LIST

ARCHITECTURAL DRAWING SET - DA

DRAWING NO	ISSUE	ISSUE NO	DRAWING NAME	SCALE (PAGE SIZE)	DATE ISSUED
DA01	DA	A	Site Plan + Title Page	1/200	11/03/2019
DA02	DA	A	Ground Floor Plan	1/100	11/03/2019
DA03	DA	A	First Floor Plan	1/100	11/03/2019
DA04	DA	A	Roof Plan	1/100	11/03/2019
DA05	DA	A	Elevations	1/100	11/03/2019
DA06	DA	A	Elevations	1/100	11/03/2019
DA07	DA	A	Sections	1/100	11/03/2019
DA08	DA	A	Views	-	11/03/2019
DA09	DA	A	Door & Window Schedule		11/03/2019
DA10	DA	A	Demolition Plan	1/200	11/03/2019
DA12			Umbrella	Designer	

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MANLY CIVIC CENTRE
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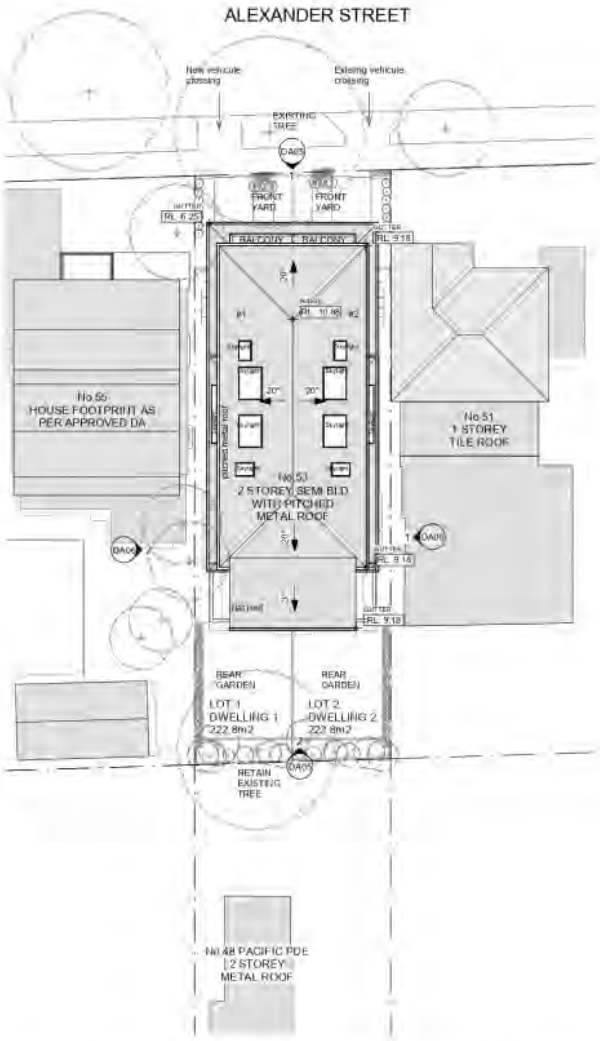
MANLY NSW 2095
PHONE: 99422111
EMAIL:
NICHOLAS.ENGLAND@NORTHERNBEACHES.NSW.GOV.AU
CONTACT: NICK ENGLAND

GENERAL

+ DA NOTICE OF DETERMINATION & DEVELOPMENT CONSENT:
THE DEVELOPMENT TO BE SUBSTANTIALLY IN ACCORDANCE WITH THE APPROVED CONSENT PLANS AND SUPPORTING INFORMATION SUBMITTED WITH THE DA or CDC.
THIS SET OF DRAWINGS HAVE TO BE READ IN CONJUNCTION WITH THE ISSUED CONSENT AND STAMPED APPROVED PLANS. PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION WORK ON SITE THE NECESSARY CDC or CC APPROVALS & NOTICE OF COMMENCEMENT PAPERS MUST BE SUBMITTED/OBTAINED FROM THE CERTIFYING AUTHORITY IN ACCORDANCE WITH THE ACT.
+ DRAWING INFORMATION.
THE BUILDING IS PRINCIPALLY THAT WHICH IS DEPICTED IN THE ARCHITECTURAL PLANS, DETAILS & SPECIFICATIONS PREPARED BY DU PLESSIS + DU PLESSIS ARCHITECTS TOGETHER WITH SUPPORTING CONSULTANT DOCUMENTATION.
+ SITE SURVEY INFORMATION.
THE SITE INFORMATION HEREIN HAS BEEN TRANSPOSED FROM THE CMS SURVEY PLAN #6373A. REFER TO THIS SURVEY DRAWING TO CONFIRM BOUNDARIES, EXISTING FEATURES, LEVELS & DATUM.
ALL LEVELS AND BOUNDARY SETBACKS TO BE CONFIRMED ON SITE. NOTE SEMI COMMON BOY WALL TO BE DETERMINED ACCURATELY
+ COORDINATION
REFER TO AND COORDINATE INFORMATION CONTAINED IN THE ARCHITECTURAL DRAWINGS AND THE DOCUMENTATION OF OTHER CONSULTANTS. REPORT DISCREPANCIES BETWEEN THE DOCUMENTS AND/OR WITH CONDITIONS ON SITE TO THE ARCHITECT FOR DIRECTION PRIOR TO PROCEEDING WITH THE WORKS
+ DETAIL DRAWINGS.
UNLESS NOTED OTHERWISE REFER TO DETAIL DRAWINGS FOR SET-OUT INFORMATION. DETAIL DRAWINGS AT LARGER SCALES TAKE PRECEDENCE OVER GENERAL ARRANGEMENT DRAWINGS AT SMALLER SCALES. IF IN DOUBT NOTIFY ARCHITECT FOR DIRECTION PRIOR TO PROCEEDING WITH THE WORKS
+ EXECUTION OF THE WORKS:
EXECUTE THE WORKS IN COMPLIANCE WITH THE CURRENT EDITION OF THE NCC NATIONAL CONSTRUCTION CODE, CURRENT EDITIONS OF RELEVENT AUSTRALIAN AND OTHER PUBLISHED STANDARDS (AS AMENDED) AND THE REQUIREMENTS OF OTHER AUTHORITIES RELEVENT TO THE EXECUTION OF THE WORKS.



1 Plan - Site
1 : 200

Residential Semi Detached CLASS 1a Building
53 ALEXANDER STREET, MANLY
LOT 17; SEC 1 - D.P. 4603
EXISTING SITE AREA 445.6m²

BASIX COMMITMENTS

BASIX NOTES
READ DRAWINGS IN CONJUNCTION WITH THE ATTACHED BASIX CERTIFICATES & ABSA NOTES/SPECIFICATIONS FOR BOTH SEMI-DETACHED DWELLINGS AS SUBMITTED WITH THE DEVELOPMENT APPLICATION
- PLANT INDIGENOUS or LOW WATER USE SPECIES VEGETATION THROUGHOUT 10m² OF THE SITE.
- INSTALL A RAINWATER TANK OF AT LEAST 2000L. CONFIGURE THE RAINWATER TANK TO COLLECT RAIN RUNOFF FROM AT LEAST 100m² OF THE ROOF AREA OF THE DWELLING. CONNECT THE RAINWATER TANK TO AT LEAST ONE OUTDOOR TAP IN THE DEVELOPMENT
- PROVIDE A/C HEATING/COOLING SYSTEM TO ACHIEVE THE REQUIRED STAR ENERGY RATING.
- A NEW GAS INSTANTANEOUS HOT WATER SYSTEM TO BE INSTALLED (POSITION T B C)
- A MINIMUM OF 40% OF NEW OR ALTERED LIGHT FIXTURES ARE TO BE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT, OR LIGHTEMITTING DIODE (LED) LAMPS
- ALL NEW or ALTERED SHOWERHEAD, TOILET & TAP FIXTURES TO ACHIEVE THE REQUIRED STAR WATER RATING.
- ADDITIONAL NEW FLOOR, WALL & ROOF CEILING INSULATION TO HAVE THE MINIMUM R-VALUES AS SPECIFIED IN THE CERTIFICATE
- ALL NEW WINDOWS & SKYLIGHTS TO HAVE U-VALUE AND & SOLAR HEAT GAIN COEFFICIENT NO GREATER THAN THAT LISTED IN THE BASIX TABLE REQUIREMENTS.
- THE NEW ROOF COLOUR TO BE OF MEDIUM SOLAR ABSORPTANCE
- ABSA THERMAL COMFORT COMMITMENTS: BOTH DWELLINGS MUST BE CONSTRUCTED IN ACCORDANCE WITH ALL THERMAL PERFORMANCE SPECIFICATIONS SET OUT IN THE ASSESSOR CERTIFICATE, AND IN ACCORDANCE WITH THOSE ASPECTS USED TO CALCULATE THOSE SPECIFICATIONS AS FOLLOWS -

Windows:
All timber frame with Low E
39.4 m² TIM-002-03 W DEFAULTS Uval & 30 SHGC 0.50 Glass High Solar Gain Low-E Frame TIM-002 Timber Group B SG
4.6 m² TIM-001-03 W DEFAULTS Uval & 30 SHGC 0.42 Glass High Solar Gain Low-E Frame TIM-001 Timber Group A SG
External Walls:
109.6 m² Weatherboard Cavity Panel Direct Fix BukaFoil, Reflective One side, Air gaps Offset R1.50
Internal Wall
114.4 m² Cavity wall, direct fix plasterboard, single gap No insulation
Intertenancy party wall:
109.4 m² Cavity Brick, multi plaster layers No Insulation
External Floor:
67.4 m² Suspended Timber Floor 19mm Cork Tiles or Parquetry 4mm Bulk insulation in Contact with Floor R 2.0
20.2 m² Concrete Slab on Ground 100mm Bare No insulation
External Ceiling:
6.2 m² Plasterboard Bulk Insulation R5.0 Unventilated roofspace
12.6 m² Plasterboard No Insulation Unventilated roofspace
52.4 m² Plasterboard Bulk Insulation R5.0 No roofspace cavity
Internal Floor/Ceiling:
66.9 m² Timber Above Plasterboard No Insulation
Roof (Horizontal area):
38.0 m² Corrugated Iron Bulk, Reflective Side Down, No Air Gap Above 6.9 20° slope Gable both ends roof
12.6 m² Corrugated Iron Bulk, Reflective Side Down, No Air Gap Above 6.9 7° slope Gable both ends roofv

ABBREVIATIONS

AC AIR CONDITIONED
AHD AUSTRALIAN HEIGHT DATUM
ADH ADHESIVE
AG AGGREGATE
AL ALUMINIUM
AW AWNING
B BALUSTRADE
BK BRICK WALL
BIT BITUMEN
BHD BULKHEAD
BOW BOTTOM OF WALL
BM BENCHMARK
BW BLOCKWORK WALL
C CONCRETE
CANT CANTILEVER
CJ CONSTRUCTION JOINT
CL CENTRE LINE
CW CONCRETE WALL
CLMN COLUMN
CPT CARPET
DIM DIMENSION
DP DOWNPIPE
DR DRAIN
EJ EXPANSION JOINT
ENG ENGINEER
EWS EXTERNAL WALL SYSTEM
EX EXISTING
EXH EXHAUST
F FALL TO SCREED
FG FIXED GLAZING
FIG FIGURE
FFL FINISHED FLOOR LEVEL
FE FIRE EXTINGUISHER
FR FIRE RESISTANT
FW FLOOR WASTE
G GLASS
GALV GALVANIZED
GP GAS POINT
H HYDRANT
HWS HOT WATER SYSTEM
HYD HYDRAULIC
LS LANDSCAPING
LV LOUVRE
MECH MECHANICAL
MDF MEDIUM DENSITY FIBRO BOARD
MOD MODIFICATION
MR METAL ROOFING
MS MILD STEEL
MV MECHANICAL VENTILATION
NGL NATURAL GROUND LEVEL
NTS NOT TO SCALE
OFC OFF FORM CONCRETE
OG OBSCURE GLAZING
OH OVER HEAD
P SELECTED PAVING
PB PLASTERBOARD
PFC PARALLEL FLANGE CHANNEL
PL PLANTER
PP POWER POLE
PS PRIVACY SCREEN
PW PLASTERBOARD WALL
QTY QUANTITY
REF REFERENCE
RW RENDERED & PAINTED WALL
RWH RAIN WATER HEAD
RWP RAIN WATER PIPE
RL REDUCED LEVEL
RC REINFORCED CONCRETE
SB MAIN ELECTRICAL SWITCH BOARD
SC STEEL COLUMN
SHR SHOWER
SLD SLIDING DOOR
SPEC SPECIFICATION
SS STAINLESS STEEL
SSL STRUCTURAL SLAB LEVEL
SW STONE WALL
STD STANDARD
SWP STORM WATER PIT
T TILE
TD TIMBER DECKING
TOW TOP OF WALL
TYP TYPICAL
UB UNIVERSAL BEAM
US UNDERSIDE
V VENTILATION
W WINDOW
WC WATER CLOSET
WM WATER MAIN
WT WASH TROUGH
WPM WATER PROOFING MEMBRANE

0m 2m 4m 6m 8m 10m
1:200 @ A2

NOTES

+ SITE SURVEY INFORMATION:
THE SITE INFORMATION HEREIN HAS BEEN TRANSPOSED FROM THE C.M.S. SURVEYORS PTY LTD SURVEY PLAN #6373A. REFER TO THIS DRAWING TO CONFIRM BOUNDARIES, EXISTING FEATURES, LEVELS & DATUM. EXISTING HOUSE FALL INFORMATION IS INTERNAL, BY OTHERS. SURVEYS AND ACCURACY TO BE ON SITE.
+ COORDINATION:
REFER TO AND COORDINATE INFORMATION CONTAINED IN THE ARCHITECTURAL DRAWINGS AND THE DOCUMENTATION OF OTHER CONSULTANTS WITH THE SPECIFICATION FOR BUILDING WORKS. REPORT DISCREPANCIES BETWEEN THE DOCUMENTS AND/OR WITH CONDITIONS ON SITE TO THE ARCHITECT FOR DIRECTION PRIOR TO PROCEEDING WITH THE WORKS.
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+ EXECUTION OF THE WORKS:
EXECUTE THE WORKS IN COMPLIANCE WITH THE CURRENT EDITION OF THE BUILDING CODE OF AUSTRALIA (AS AMENDED), CURRENT EDITIONS OF RELEVANT AUSTRALIAN AND OTHER PUBLISHED STANDARDS (AS AMENDED) AND THE REQUIREMENTS OF OTHER AUTHORITIES RELEVANT TO THE EXECUTION OF THE WORKS.

issue	date	description
A	11/03/2019	DEVELOPMENT APPLICATION

- CONTRACTORS TO VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK.
- FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING.
- ALL DIMENSIONS IN MILLIMETRES
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- ALL WORK TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF NSW BUILDING REGULATIONS

DU PLESSIS DU PLESSIS ARCHITECTS
info@droom.com.au
0403 400368
www.droom.com.au
NSW REGISTERED ARCHITECT #7435
NOMINATED ARCHITECT: EUGENE DU PLESSIS

PROJECT TITLE:
RESIDENTIAL SEMI DETACHED BUILDING

CLIENT NAME:
RACHEL AND ADAM ACHTERSTRAAT

ADDRESS:
53 ALEXANDER ST MANLY NSW 2095

DRAWING TITLE:
Site Plan + Title Page

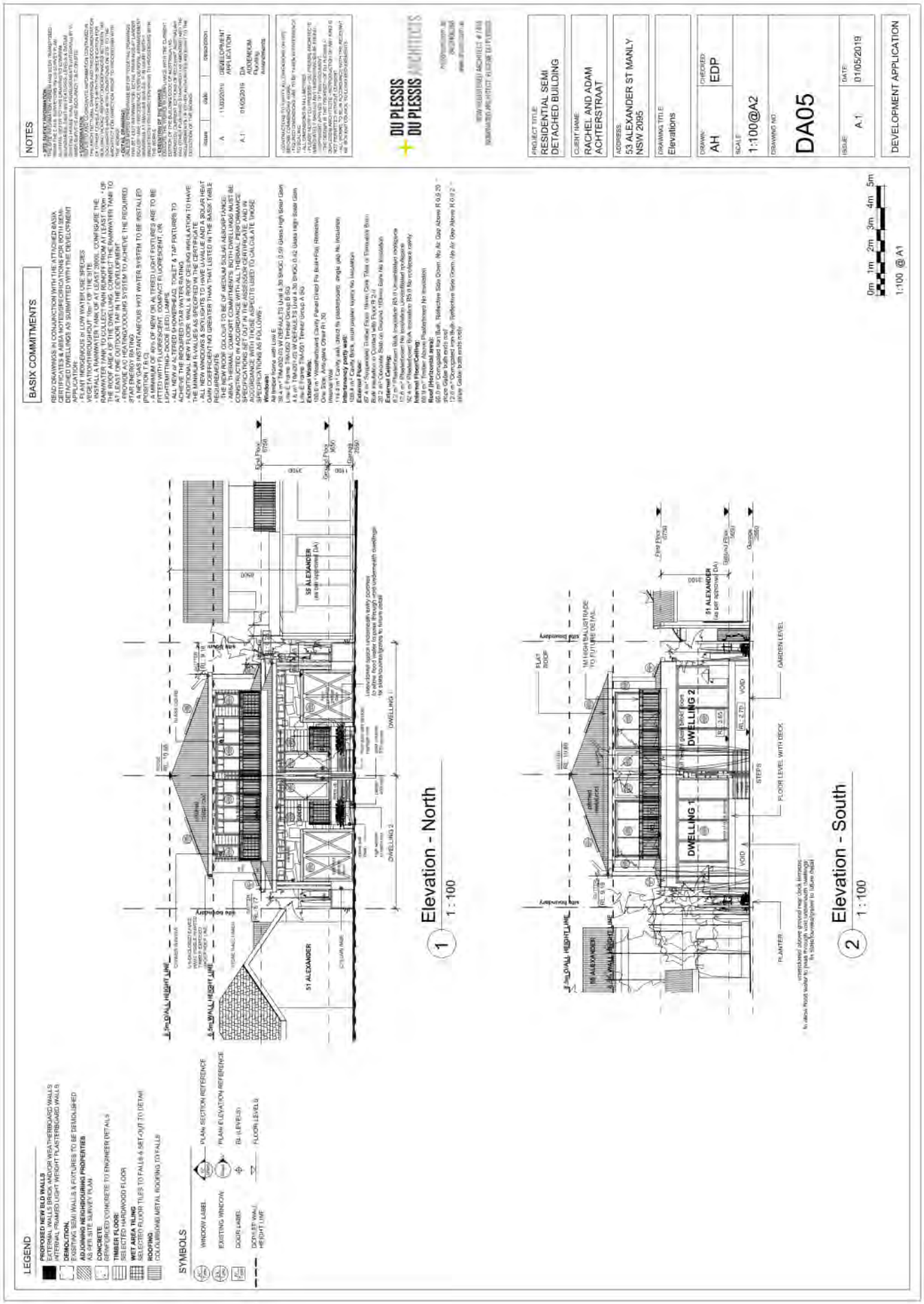
DRAWN:	CHECKED:
AH	EDP

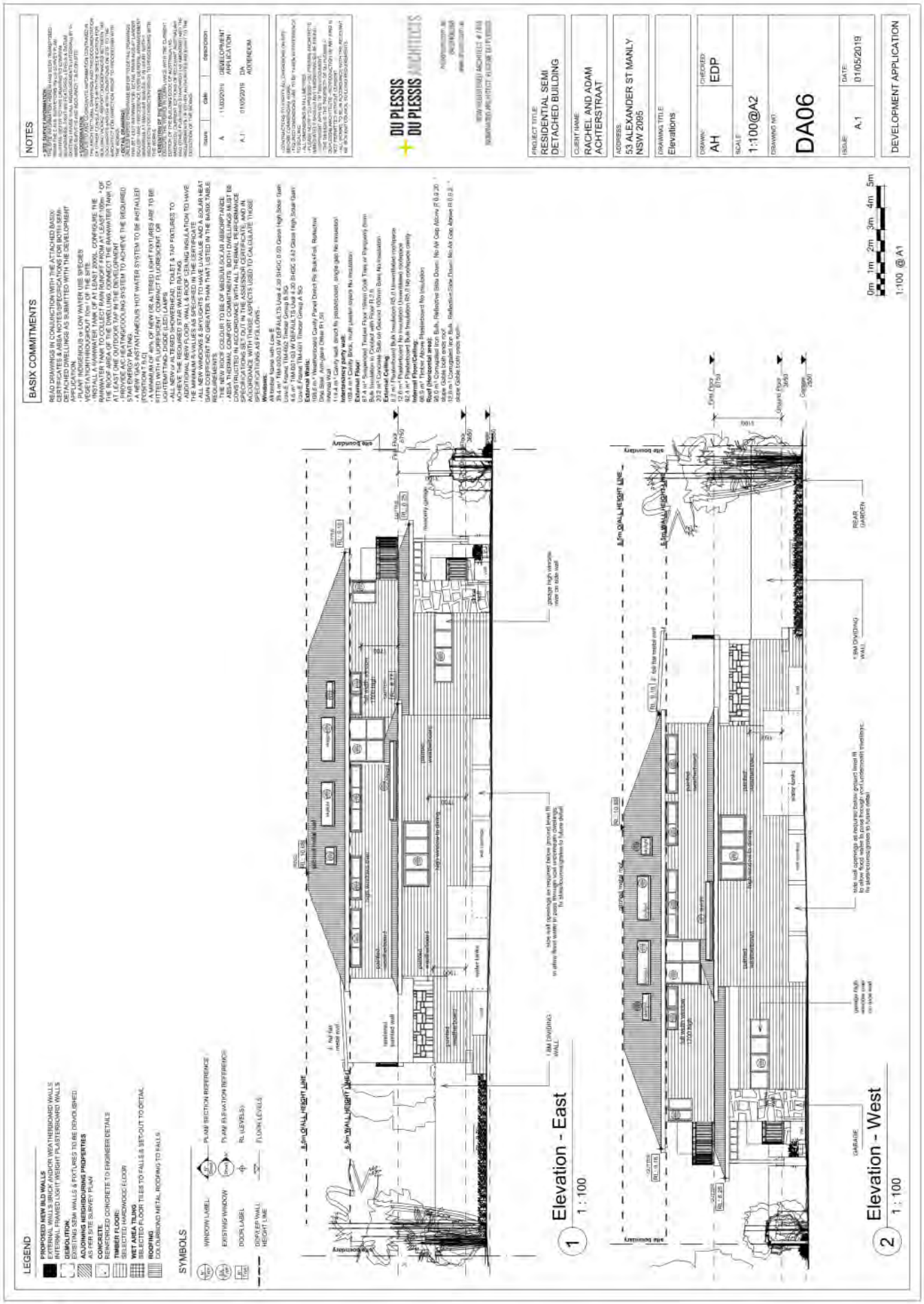
SCALE:
1:100@A2

DRAWING NO:
DA01

ISSUE:	DATE:
A	11/03/2019

DEVELOPMENT APPLICATION


LEGEND
SYMBOLS
BASIX COMMITMENTS
NOTES
Elevation - North
1 : 100
Elevation - South
1 : 100
51 ALEXANDER
53 ALEXANDER
DWELLING 1
DWELLING 2
GARDEN LEVEL
FLOOR LEVEL WITH DECK
PLANTER
STEPS
VOID
FLAT ROOF
1M HIGH BALUSTRADE TO FUTURE DETAIL
side boundary
rear boundary
0m 1m 2m 3m 4m 5m
1:100 @ A1
DU PLESSIS ARCHITECTS
PROJECT TITLE
RESIDENTIAL SEMI DETACHED BUILDING
CLIENT NAME
RACHEL AND ADAM ACHTERSTRAAT
ADDRESS
53 ALEXANDER ST MANLY NSW 2095
DRAWING TITLE
Elevations
DRAWN: AH
CHECKED: EDP
SCALE 1:100@A2
DRAWING NO. DA05
ISSUE A.1
DATE 01/05/2019
DEVELOPMENT APPLICATION


LEGEND
SYMBOLS
BASIX COMMITMENTS
NOTES
DU PLESSIS DU PLESSIS ARCHITECTS
PROJECT TITLE
RESIDENTIAL SEMI DETACHED BUILDING
CLIENT NAME
RACHEL AND ADAM ACHTERSTRAAT
ADDRESS
53 ALEXANDER ST MANLY NSW 2095
DRAWING TITLE
Elevations
DRAWN
AH
CHECKED
EDP
SCALE
1:100@A2
DRAWING NO.
DA06
ISSUE
A.1
DATE
01/05/2019
DEVELOPMENT APPLICATION
Elevation - East
1 : 100
Elevation - West
1 : 100
1:100 @ A1

The Gross Floor Area calculations for each dwelling is provided on Drawing AA.001, measured at 131sqm, which equates to an FSR of 0.59:1 in compliance with the development standard.

4.1.3 Height of Buildings

Pursuant to clause 4.3 in the LEP the maximum building height is stipulated at 8.5m. The objectives of the control are as follows:

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

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

c) *to 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),*

As indicted on the elevations and section drawings, the dwellings are compliant with the 8.5 metre height limit, with a maximum building height of 8.33 metres, which is compliant with the building height control.

4.1.4 Minimum Lot Size

Pursuant to clause 4.1 of the LEP the minimum lot size is measured at 250m². The objectives of the control are as follows:

a) *to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,*

b) *to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,*

c) *to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,*

d) *to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.*

The subdivision proposed 2 lots which measure 222.8m² which is under the minimum lot size development standard of 250m². This represents a shortfall of 27.2sqm or 11% variation to the control.

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

This Clause applies to the Clause 4.1 Minimum Subdivision Lot Size.

Clause 4.6(3) states that 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.*

Clause 4.6(4) states 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(5) states that in deciding whether to grant concurrence, the Secretary must consider:

> *(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
>
> *(b) the public benefit of maintaining the development standard, and*
>
> *(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Zone and Zone Objectives

The objectives of the R1 General Residential zone are outlined in section 4.1.1 of this report. The proposed semi-detached dwellings are permissible with consent in the zone. The proposed development will provide additional housing stock of a more modest and attainable size in a highly accessible and desirable location. The proposed design of the dwellings and resultant lot sizes are consistent with the style of semi-detached dwellings and size and pattern of subdivision which exists in the locality. The proposal meets the objectives of the zone.

Clause 4.6 Claim for Variation

Having regard to the stated objectives of the minimum lot size control and the zone objectives, it is considered that strict compliance is both unreasonable and unnecessary for the following reasons:

- The pre-lodgement minutes provided by Council indicate that the 11% variation to the control could be supported should the dwellings be able to comply with the planning controls. The proposed dwellings are compliant with FSR and building height development standards. The proposal is also primarily complaint with the built form standards for residential dwellings, with only one minor variation proposed to the side boundary set back control. The dwellings will afford good levels of amenity to the future occupants, with compliant areas of private and soft landscaped area. The proposal also provides for the retention of residential amenity for neighbours in terms of privacy, overshadowing and view sharing.

- The subdivision and proposed development are consistent with the existing streetscape and the pattern of subdivision in the locality. Several sites along Alexander Street and Pacific Parade have been subdivided in a similar fashion, creating smaller narrow lots (circa 200sqm-220sqm) with semi-detached dwellings. The bulk and scale of the development is consistent with the streetscape and would not be considered antipathic or jarring when viewed from the street.

- The proposal will add to the existing housing stock in the local area with the creation of the additional lot in a highly accessible area well serviced by public transport and in close proximity to a plethora of recreational areas. The proposed lot sizes and dwelling by being more modest size and more attainable to the public in a desirable location.

- The proposed subdivision is considered to be in the public interest when assessed against Clause 4.15 of the Environmental Planning and Assessment Act 1979 as it is consistent with the objectives of the controls as they reasonably apply. The environmental constraints have been adequately addressed, namely flooding and tree protection, and deemed to be suitable for the proposed development.

- Having regard to the matter of Veloshin v Randwick City Council [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design. The development is considered to be of exceptional design merit, particularly when considered in its context.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

a) *That the contextually responsive development is consistent with the zone objectives, and*

b) *That the contextually responsive development is consistent with the objectives of the Minimum Subdivision Lot Size, and*

c) *That there are sufficient environmental planning grounds to justify contravening the development standard, and*

d) *That having regard to (a), (b) and (c) above that compliance with the minimum lot size development standard is unreasonable or unnecessary in the circumstances of the case, and*

e) *That given the proposals ability to comply with the zone standard objectives that approval would not be antipathetic to the public interest, and*

f) *That contravention of the development standard does not raise any matter of significance for State or regional environmental planning.*

As such we have formed the considered opinion that there is no statutory or environmental planning impediment to the granting of a minimum lot size variation in this instance.

4.1.5 Acid Sulfate Soils

Pursuant to clause 6.1 of the LEP the objective is to ensure that development does not disturb expose or drain acid sulfate soils and cause environmental damage. The subject site is mapped as being within class 3 and 4acid sulfate soils. The proposed development does not require any significant excavation that would disturb or expose acid sulfate soils. It is considered that the proposed works will not adversely impact on the local environment.

4.1.6 Flood Planning

The subject site is located within the flood storage area of Manly Lagoon and is identified as being 100% affected by the medium flood risk precinct.

A flood risk assessment has been prepared by E2 Civil and Structural Design and accompanies this application. The report provides flood risk management procedures and structural requirements to minimise the risk to property and persons. The design of the development has incorporated these recommendations, in particular the finished floor level of the dwellings has been designed to a Finished Floor Level of 3.65 AHD to allow a minimum 500mm freeboard above the 100ARI flood level. The proposed garages are to be constructed at natural ground level. The garages will be constructed of stiffened raft slab with a masonry or concrete structure suitable to withstand potential flooding. It should be acknowledged that the proposed dwellings to be constructed at the new FFL is an improvement on the existing dwelling conditions.

ITEM 3.7	**DA2018/2027 - 15 ADDISON ROAD, MANLY - ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING HOUSE**
REPORTING OFFICER	**Anna Williams**
TRIM FILE REF	**2019/333314**
ATTACHMENTS	**1 Assessment Report**
	2 Plans
	3 Clause 4.6

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2018/2027 for alterations and additions to an existing dwelling house at Lot C DP 316879, 15 Addison Road, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2027

Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot C DP 316879, 15 Addison Road MANLY NSW 2095
Proposed Development:	Alterations and Additions to an existing dwelling house
Zoning:	Manly LEP2013 - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Michael Jeffrey Hunter Susanne Hunter
Applicant:	Hess Hoen

Application lodged:	20/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	27/04/2019 to 26/05/2019
Advertised:	27/04/2019
Submissions Received:	15
Recommendation:	Approval

Estimated Cost of Works:	$ 2,511,300.00

Executive Summary

The application is for alterations and additions to an existing dwelling house and includes a variation to the height of buildings development standard of 47%. Despite the numerical extent of the non-compliance, the breach occurs for only a small portion of the balcony and dwelling that extends over an existing cliff face on the site, and does not result in any significant building bulk.

The subject site is mapped as an *"Area of outstanding biodiversity value"* (AOBV) under the *NSW Biodiversity Conservation Act 2016.* As such, the application is classed as *"threatened species development"* and requires advertising for a period of 28 days under Clause 89 of the *EPA Regulation 2000.*

Fifteen (15) submissions were received by way of objection in response to the notification/advertising of the application. The submissions generally relate to the impact of the development on the Little Penguin

population of Manly, particularly in relation to the new proposed stone wall and the works to the existing boat shed. The application was referred to Council's Biodiversity Officer for comment, who concluded that the proposed works would not result in "significant or serious and irreversible impacts to threatened entities", subject to the recommended conditions of consent.

It should also be noted that some works proposed to the existing boat shed have been completed illegally and are conditioned to be specifically excluded from this consent.

No further assessment issues are raised and the proposal is recommended for approval.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
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 Local Environmental Plan 2013 - 6.10 Limited development on foreshore area
Manly Development Control Plan - 3.2 Heritage Considerations
Manly Development Control Plan - 3.3.1 Landscaping Design
Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
Manly Development Control Plan - 3.4.2 Privacy and Security
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 4.1.2 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)
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 C DP 316879 , 15 Addison Road MANLY NSW 2095
Detailed Site Description:	The subject site consists of one allotment located on the northern-western side of Addison Road. The site is a battle axe lot with an access handle 22.645m long from Addison Road. The site has a frontage of 5.18m along Addison Road and a depth of approximately 28m beyond the access handle. The site has a surveyed area of 518.5m². The site is located within the E4 Environmental Living zone and accommodates an existing dwelling house. The site slopes 13m from front (southeast) to rear (northwest). The site contains a variety of small trees and planted vegetation. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by detached dwellings, dual occupancies and residential flat buildings.

Map:

SITE HISTORY

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

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

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes alterations and additions to the existing dwelling resulting in:

Harbour/yard level:

- Repairs/refurbishment works to the existing boatshed structure
- New sandstone wall with elevator behind
- New staircase adjacent to boatshed

Lower level:

- Bar/wine room
- Bedrooms 3 with ensuite/steam and robe
- Bedroom 4 with ensuite
- Laundry and WC
- Extended harbour deck

Ground level:

- Kitchen/dining and living room
- Library
- Bedroom 1
- Bedroom 2 with ensuite
- Bathroom
- Extended harbour deck

Attic/roof level:

- Bedroom 5 with ensuite
- Store
- Balcony
- New roof and minor changes to roof form

Garage level:

- New roof and parapet
- New garage door
- New car stacker

Note: Some works proposed to the existing boat shed have been completed illegally and therefore these works are specifically excluded from this consent.

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)(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)	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. Clause 50(1A) 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. Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed

Section 4.15 Matters for Consideration'	Comments
	via a condition of consent. Clause 143A 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.
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	(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. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 15 submission/s from:

Name:	Address:
Mr Robert Thomas Tagg	28 / 11 Addison Road MANLY NSW 2095
Josie Hertner	115 / 637 - 641 Pittwater Road DEE WHY NSW 2099
Kathryn Elizabeth Ridge	16 Quinlan Parade MANLY VALE NSW 2093

Name:	Address:
Mr Hugh Burns	45 Bower Street MANLY NSW 2095
Mrs Antoinette Stevenson	2 / 21 Woods Parade FAIRLIGHT NSW 2094
Antony James Garman	9 Calder Street NORTH CURL CURL NSW 2099
Mrs Carole Elizabeth Rollings	3 / 6 Addison Road MANLY NSW 2095
Larry Shepherd	30 Aitken Avenue QUEENSCLIFF NSW 2096
Colleen Williams	17 / 24 Fairlight Street FAIRLIGHT NSW 2094
Mrs Beverley Jill Prior	64 Greycliffe Street QUEENSCLIFF NSW 2096
Mrs Sue Matthews	14 Cohen Street FAIRLIGHT NSW 2094
Mrs Judith Ann Reizes	154 Woodland Street BALGOWLAH NSW 2093
Jennie Minifie	46 Jeanette Street EAST RYDE NSW 2113
Mr Charles Murray Sharp	1 / 205 Woodland Street BALGOWLAH NSW 2093
Ms Judy Lambert	179 Sydney Road FAIRLIGHT NSW 2094

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

- Little Penguin Critical Habitat / Area of Outstanding Biodiversity Value
- New sandstone wall/heritage Item I1 - Harbour Foreshores
- Works to existing boat shed
- Consistency with E4 zone objectives

The matters raised within the submissions are addressed as follows:

- Little Penguin Critical Habitat / Area of Outstanding Biodiversity Value
  Comment:
  The proposal was referred to the relevant Council referral bodies and is assessed as resulting in no unreasonable ("significant or serious and irreversible") impacts on the Little Penguin population or biodiversity values of the site, subject to the inclusion of recommended conditions of consent. Council's Biodiversity Officer completed further referral comments directly in response to concerns raised following the Advertisement of the application.

- New sandstone wall/heritage Item I1 - Harbour Foreshores
  Comment:
  As detailed in the Biodiversity referral comments, "a lack of suitable breeding habitat is not considered to be a limiting factor for the population". Further, the proposed stone wall is not considered to be unreasonable in relation to heritage or visual impact, as detailed in this report.

- Works to existing boat shed
  Comment:
  Some of the proposed works to the existing boat shed have been undertaken illegally on the site and are recommended to be excluded from any consent granted.

- Consistency with E4 zone objectives
  Comment:
  The proposal is for alterations and additions to an existing dwelling within the E4 zone. The assessment of the proposed development has included referral to several internal Council

teams for comment and taken into consideration the relevant provisions of all applicable LEPs, DCPs and SEPPS. Based on the referral comments received and assessment undertaken, the proposal is considered to be consistent with the objectives of the zone and to result in no unreasonable environmental impacts.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	No landscape objection is raised for the proposed alterations and additions to the dwelling house, garage and boat shed, subject to the protection of existing trees and vegetation. Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.
NECC (Bushland and Biodiversity)	**Additional Biodiversity Comment (28 May 2019)** This Biodiversity assessment addresses matters arising from Threatened Species Development public exhibition. The assessment addresses relevant Biodiversity provisions and does not address visual impact, aesthetic considerations, compliance with SHREP or Waterways controls. Relevant Biodiversity provisions are: - NSW *Biodiversity Conservation Act 2016* (BC Act) - Manly LEP Clause 6.5 (Terrestrial Biodiversity) - Manly DCP Section 5.4.2 (Threatened Species and Critical Habitat Lands) - Manly DCP Section 3.3.1.a)iv) The assessment does not relate to boat shed repair works, which are to be deleted from the DA. The following documents and plans have been considered in the preparation of this and the initial Biodiversity assessment: - Biodiversity Development Assessment Report (Total Earth Care, December 2018) - Architectural Plans (Hess Hoen, 6 December 2018) - Statement of Environmental Effects (Mod Urban, December 2018) Relevant Biodiversity matters identified during the public exhibition stage include: **Matter:** Loss of potential penguin habitat associated with rock wall construction. **Response:** A lack of suitable breeding habitat is not considered to be a limiting factor for the population; rather, potential breeding habitat is currently under-utilised as the North Harbour penguin population is well below carrying capacity. It is therefore considered that this component is unlikely to impact the population through loss of potential breeding habitat.

Internal Referral Body	Comments
	Matter: Increased human occupation of the foreshore associated with lift installation. **Response:** Access to the foreshore is historically and currently serviced by the existing stairs adjoining the boatshed. It is considered that the new lift will largely replace use of the existing stairs and will direct human movement to a location that is further away (>10m) from known breeding habitat. It is therefore considered that installation of the lift will serve to reduce disturbance to any penguins utilising the known nest site. It is also noted that pecuniary penalties for interference with penguins and/or their habitat (i.e. approaching within 5m) continue to apply at the site, in accordance with Division 3.2 of the NSW Biodiversity Conservation Regulation 2017. **Matter:** Impact of boatshed works to known penguin nest site. **Response:** These works are to be deleted from this consent. **Matter:** Variability in penguins' patterns of nest use and behaviour and potential discrepancies with declared non-breeding season period. **Response:** The history of penguin utilisation of known breeding habitat at the site indicates that penguins at this site are unlikely to occupy the nest during the declared non-breeding season. Penguins are seabirds and only occupy nests during the non-breeding season in rare cases. Proposed conditions of consent will ensure works do not occur within the breeding and moulting season, when penguins are most vulnerable to disturbance. It is considered that, subject to conditions of consent including timing restrictions identified in the submitted BDAR, the proposal can be undertaken without significant or serious and irreversible impacts to threatened entities. **Biodiversity Comment (7 May 2019)** The proposed development has been assessed against the following provisions: - NSW *Biodiversity Conservation Act 2016* (BC Act) - Manly LEP Clause 6.5 (Terrestrial Biodiversity) - Manly DCP Section 5.4.2 (Threatened Species and Critical Habitat Lands) - Manly DCP Section 3.3.1.a)iv) The subject site is identified as an Area of Outstanding Biodiversity Value (AOBV; formerly Little Penguin Critical Habitat) under the NSW BC Act. Accordingly, the development triggers the requirement for a Biodiversity Development Assessment Report (BDAR). A BDAR has been prepared in accordance with Section 6.7 of the BC Act and submitted with the DA. The following proposed works have the potential to impact upon the AOBV and endangered population of Little Penguins: - Installation of elevator between harbour level and the formed backyard; - Construction of a new staircase adjacent the boatshed;

Internal Referral Body	Comments
	- Construction of a new stone wall along the cliff face. This referral response does not apply to the boatshed repair works, which have already been undertaken. The BDAR identifies a number of potential prescribed impacts as defined under Section 6.7 of the BC Act. Most of these relate to indirect construction-related impacts which have the potential to prevent penguin occupation and natural use of nest sites at the subject site and on adjoining properties. The BDAR identifies measures to avoid and minimise impacts on the biodiversity values of the site, particularly of known penguin and bandicoot habitat. Proposed measures generally focus around timing restrictions to limit high-risk construction activity to outside of the penguin breeding season. An assessment of potential noise associated with operation of the new elevator indicated that levels will not be substantially greater than background noise. In order to prevent disturbance to nesting penguins, the following activities are to be restricted to outside of the penguin breeding season: - installation and removal of scaffolding; - elevator construction (particularly footing/base installation); - construction of the new staircase adjacent the boatshed. It is considered that, subject to conditions of consent including timing restrictions identified in the submitted BDAR, the proposal can be undertaken without significant or serious and irreversible impacts to threatened entities.
NECC (Coast and Catchments)	The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP. **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,*

Internal Referral Body	Comments
	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.* <u>Comment:</u> The proposed development meets Clauses 12 and 15 of the Coastal Management SEPP (13 and 14 do not apply). As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018. The proposed development also meets the requirements of the Sydney Harbour REP and DCP, and relevant clauses of the Manly LEP and DCP. However, the subject property is identified under Manly Coastal Risk Planning map showing current and future hazard and inundation lines, hence, proposed development are designed, constructed in such a way to minimize the associated risks.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent.
Strategic and Place Planning (Heritage Officer)	Further to a review of the available documents, The site of proposed development is not a listed heritage item in its own right, however, it is located in the coastal protection area and in vicinity of heritage items, including stone kerbs in Addison Road. Given the nature of the proposal and the separation between sites, and given the favourable topography, the impact on heritage values is assessed as acceptable. Based on the above, I have no objections to this proposal from heritage perspective. **Zoran Popovic** Heritage Advisor

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 works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

SEPP (Coastal Management) 2018

The application was referred to Council's Coastal Officer, who commented that the development is consistent with the relevant Clauses contained within SEPP Coastal Management 2018.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Dwelling: 8m Balcony: 5.9m - 12.5m	47%	No
Floor Space Ratio	0.6:1 311.1m2	0.59:1 310.6m2	N/A	Yes

Compliance Assessment

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

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	12.5m
Percentage variation to requirement:	47%

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the

development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

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

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:
(a) the consent authority is satisfied that:
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
(b) the concurrence of the Secretary has been obtained.

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

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

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

Comment:

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

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

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ

provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that 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 applicant's written request argues, in part:

- *"The proposed building is consistent with the prevailing building height. Furthermore, the element of the proposal that represents its highest point is the ground floor living area and balcony structure with new roof which is a small structure which currently exists on site. The majority of the building has a lesser height. The portion of the building that exceeds the maximum height standard is set atop a cliff face which contributes to the numerical non-compliance.*
- *The proposed building envelope is consistent with the existing building envelope and other similar development.*
- *The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.*
- *The proposed building provides an appropriate height, bulk and scale to the site and is largely compliant with MLEP 2013 height provisions.*
- *The proposal will not have any impact on the existing streetscape or the foreshore character and appearance.*
- *The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population unique family dwellings to meet the changing population needs."*

The proposed height non-compliance largely relates to the extension of the existing balcony and new

glass lift. The extent of the proposed works that are non-compliant are indicated on drawing DA7.1 Building Height Plane / 3D Views. The existing balcony is splayed and the minor extension of this structure and assoicated lift serve to increase the amenity of the dwelling while resulting in minimal additional building bulk. The existing dwelling and proposed attic addition remain compliant with the height of buildings and floor space ratio development standards. Notwithstanding the non-compliant elements at the rear of the dwelling, the proposal is considered to maintain a consistent height and appearance with surrounding development.

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 will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

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) and has adequately addressed the matters required to be demonstrated by cl 4.6(3).

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

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

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

Comment:

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

Objectives of development standard

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

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

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

Comment:

The non-compliance is generally limited to the unenclosed south-western balcony and glass lift, in addition to a small portion of the roof over the library. The majority of the dwelling remains significantly below the maximum building height and ensures that the development is consistent with the topography, prevailing building height and desired streetscape.

b) to control the bulk and scale of buildings,

Comment:

As discussed above, the height non-compliance generally relates to an open balcony and

transparent lift structure, and therefore does not result in excessive bulk or scale.

c) to minimise disruption to the following:
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposed non-compliance does not result in any unreasonable disruption to views to, from or between residential development and public spaces. An assessment of view loss from surrounding properties is completed under Part 3 General Principles of Development.

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:

Notwithstanding the proposed height non-compliance, the development maintains adequate sunlight access to the subject site and adjacent properties/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:

The proposed overall building height non-compliance occurs for only a small proportion of the dwelling, and will not unreasonably impact existing vegetation or surrounding land uses.

Zone objectives

The underlying objectives of the E4 Environmental Living zone are:

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

  Comment:

  The proposed works, as conditioned, are considered to be low impact and suitable within the E4 zone.

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

  Comment:

  The proposed development will not adversely impact the ecological, scientific and 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 proposal is for works to a single dwelling house and will not impact tree canopies or 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 non-compliance will not unreasonably impact on nearby foreshores, geological features or bushland.

- *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 on the foreshore result in minor loss of landscaped area, however the majority of vegetation at harbour level in the rear yard is to be retained.

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

Comment:

Taking into the consideration the context and constraints of the site, the proposed development is not unreasonable in height or bulk in relation to existing vegetation, topography or surrounding land uses.

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 where the variation is not greater than 10%. Following the release of PS-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for a period of 30 months from 24 May 2019, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary a development standard by more than 10%.

Despite the ability of Council's Development Determination Panel to assume the concurrence of the Secretary for variations to development standards greater than 10%, the application is referred to the

Local Planning Panel due to the number of submissions received by way of objection.

5.10 Heritage conservation

Council's Heritage Officer raised no objection to the proposed development.

6.2 Earthworks

The Geotechnical Report submitted with the application concludes that the proposed excavation works are acceptable, subject to compliance with the recommendations.

The existing cliff face is largely obscured by existing vegetation. The proposed new stone wall is to be constructed of excavated site material and planted with the same climbing vegetation. These proposed finishes ensure that the proposed wall matches the existing cliff as closely as possible and will minimise the visual alteration of the site as viewed from the harbour.

6.5 Terrestrial biodiversity

Council's Biodiversity Officer concluded that the proposal can be undertaken without significant or serious and irreversible impacts to threatened entities, subject to recommended conditions of consent.

6.9 Foreshore scenic protection area

The proposed new stone wall is designed to match the existing cliff face as closely as possible. The wall is to be constructed of materials excavated from the site and will be planted with the same climbing fig as the existing. The remaining proposed works are relatively minor alterations and maintain consistency with the existing dwelling as viewed from the harbour frontage. As such, the proposal will result in no unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour.

6.10 Limited development on foreshore area

(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

(2) Development consent must not be granted to development on land in the foreshore area except for the following purposes:

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshor
(b) the erection of a building in the foreshore area, if the levels, depth or other exceptional feat
(c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimm

Comment:

The proposed development is for the purpose of extension/alterations to an existing building located partly within the foreshore area and therefore is permitted under *Clause 6.10(2).*

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that:
(a) the development will contribute to achieving the objectives for the zone in which the land is located, and

Comment:

The proposal is consistent with the objectives of the E4 Environmental Living zone.

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

Comment:

The proposal is for works to the existing dwelling and maintains a consistent appearance with the surrounding area.

(c) the development will not cause environmental harm such as:
(i) pollution or siltation of the waterway, or
(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora hab
(iii) an adverse effect on drainage patterns, and

Comment:

The proposal complies subject to the included conditions of consent.

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

Comment:

The proposed works are sufficiently separated from the immediate foreshore area and waterway and will not, being set back between 4.6m (stairs) and 9m (stone wall) from the property boundary.

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

Comment:

The proposed works will not compromise continuous access along the foreshore area or to the waterway.

(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

Comment:

The proposed development will not unreasonable impact any of the above values present on the site.

(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

Comment:

The proposed works are generally consistent with the existing dwelling and surrounding area, and are not considered to unreasonably alter or impact the amenity or aesthetic appearance of the foreshore.

(h) sea level rise or change of flooding patterns as a result of climate change has been considered.

Comment:

The nature and siting of the works is assessed as acceptable considering future climate impacts.

Conclusion:

Given the above Council is satisfied that the proposal is consistent with the relevant provisions of LEP Clause 6.10.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 518.5m2	**Requirement**	**Proposed**	**Complies**
4.1.2.1 Wall Height	NE: 6.5m	3.5m	Yes
	SW: 8m	Balustrade: 9.6m	No
		Dwelling: 5.7m	Yes
4.1.2.2 Number of Storeys	2	2 + habitable attic addition	No
4.1.2.3 Roof Height	Height: 2.5m	3.6m	No
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Garage: 0m	Existing
4.1.4.2 Side Setbacks and Secondary Street Frontages	NE: 1.17m	1.2m	Yes
	SW (Balustrade): 3.2m	0.9m	No
	SW (Dwelling): 1.9m	0.9m	No
4.1.4.4 Rear Setbacks	8m	9m	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area 285.2m2	51.7% 268.1m2	No
	Open space above ground 25% of total open space 67m2	24.6% 66m2	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space 93.8m2	36.1% 96.8m2	Yes
4.1.5.3 Private Open Space	18m2 per dwelling	> 18m2	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	3 spaces	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 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	**Compliance with Requirements**	**Consistency Aims/Objectives**
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	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

3.2 Heritage Considerations

Council's Heritage Officer raised no objection to the proposed development.

3.3.1 Landscaping Design

Council's Landscape Officer raised no objection to the proposal, subject to recommended conditions of consent.

3.4.1 Sunlight Access and Overshadowing

Compliance with controls:

The proposal will retain the minimum sunlight access requirements to the open spaces and living areas of adjoining properties in accordance with this Clause.

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 provide equitable access to light and sunshine.

Comment:

The proposal results in only minor additional overshadowing of the harbour frontage area of No. 11 Addison Road at 9am and 10am. There will also be minor overshadowing of the subject site throughout the day.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

The proposal allows adequate sunlight access to be retained to the subject site and adjoining properties.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The proposal results in minimal additional building bulk and is sufficiently modulated to maximise mid-winter sunlight access.

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

3.4.2 Privacy and Security

Compliance with controls:

The proposed new glazing and balcony works to the northwestern elevation are orientated towards the available harbour views. The proposed attic ensuite window WD-04 is obscured and windows WD-05.1 and WD-05.2 are to a staircase. The proposed new windows to the side elevations are replacements of existing windows only. As such, the proposal complies with the controls of the Clause.

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 mitigate any unreasonable privacy or direct viewing impacts between the subject site and adjoining properties. .

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

Comment:

The proposed development provides sufficient privacy and sunlight access to the subject site and adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

Opportunities for passive surveillance remain unchanged.

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

3.4.3 Maintenance of Views

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 provide for view sharing for both existing and proposed development and existing and future Manly residents.

Comment:

The proposal will provide for reasonable view sharing between existing and proposed developments. The applicant conducted a detailed assessment of view loss from adjoining properties prior to submission of the application.

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:

Views over the subject site are currently available from No. 13 and No. 17 Addison Road. The views are water views of Sydney Harbour and include land-water interface at Dobroyd Head, Balgowlah Heights and Fairlight. Some of the available views are partial views and some are whole views. The views from No. 13 Addison Road and views from some areas of No. 17 are obscured by the roof of the existing dwelling and are considered to be partial views. Despite this, significant water and land-water interface views are visible from these properties.

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 views from No. 13 Addison Road are obtained from the ground floor dining room/balcony and first floor sitting room/balcony, across a rear boundary. Views from No. 17 Addison Road are gained from the upper floor study, master bedroom balcony and bedroom 3, across a side boundary.

Figure 1. View from No. 13 Addison Road ground floor. The roof visible on the right hand side of the frame is that of the existing subject dwelling.

Figure 2. View from No. 13 Addison Road first floor over the subject site.

Figure 3. View from No. 17 Addison Road master bedroom balcony.

Figure 4. View from No. 17 Addison Road study.

Figure 5. View from No. 17 Addison Road bedroom 3.

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 new roof does not change significantly in form or scale from that of the existing dwelling, as viewed from the adjoining properties with access to views. The extent of the impact on views from No. 13 and No 17 Addison Road varies depending on the location within the properties, but is generally limited to a minor loss of water views. The impact on views from the ground floor of No. 13 Addison Road is negligible, while a minor loss of water views will occur at the ridge of the proposed new roof from the first floor. From No. 17 Addison Road, the proposed north-western attic dormer/balcony will cause a minor loss of water views towards Dobroyd Head. Based on the inspections completed and the view loss analysis submitted, it is concluded that the existing water views available from both No. 13 and No. 17 Addison Road are generally retained and it is unlikely that there will be any impact on land-

water interface.

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 proposed development is non-compliant in relation to building height, wall height, number of storeys, roof height, side setback and total open space. Regardless of these non-compliances, the view loss impact associated with the proposal results largely from the proposed attic dormer/balcony. This building element is compliant and is not excessive in bulk or scale, and provides significant amenity to the internal space within the attic addition. Taking into consideration the extent of views to be lost across a side boundary and the extent of views to be retained, the proposed view loss is considered to be minor and is acceptable.

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

Comment:

The proposal, as conditioned, is considered to be reasonable in relation to view loss and all other relevant provisions of the Manly DCP.

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)

Description of non-compliance

The south-western elevation to the proposed deck extension is non-compliant.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the LEP objectives for Clause 4.3 Height of Buildings:

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

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

Comment:

The proposed non-compliant wall height relates only to the extension of the existing upper floor deck,

which extends over the natural cliff face located under the rear dwelling facade. Notwithstanding this non-compliance, the proposed building height is generally consistent with the surrounding building heights and roof forms.

b) to control the bulk and scale of buildings,

Comment:

The wall height non-compliance to the open rear deck does not contribute excessive or unreasonable bulk to the development.

c) to minimise disruption to the following:
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposed non-compliance does not result in any disruption to views to, from or between residential development and public spaces.

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 proposal maintains adequate sunlight access to the subject site and adjacent properties/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:

The proposed overall building height non-compliance occurs for only a small proportion of the development, and will not unreasonably impact existing vegetation or surrounding land uses.

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.

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

Description of non-compliance

The proposed south-western balcony side-setback is non-compliant. The location/setbacks of the existing dwelling and garage are maintained.

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 works proposed to the dwelling are not visible within the streetscape and those to the garage maintain the siting and general appearance of the existing structure.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed development will result in no unreasonable impacts in relation to privacy, sunlight access, views, streetscape character or traffic conditions.

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

Comment:

The proposed extension of the balcony will result in no unreasonable visual or amenity impacts.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposed non-compliance occurs above ground level and does not impact landscaped area or vegetation on the site.

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

Comment:

N/A

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.

4.1.5 Open Space and Landscaping

The proposal results in a minor reduction to the existing total open space and landscaped area at ground level. However the landscaped are remains compliant and the reduction to total open space is largely offset by the proposed balcony extension.

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

The proposed works to the existing garage are limited to aesthetic changes to the roof parapet and a minor height increase and to provide additional clearance to accommodate the car stacker. The proposal retains the setbacks to the existing garage structure.

The garage also maintains the existing tandem car parking configuration, but also includes the provision of a car stacker to allow for an additional third car space. It is noted that the proposal complies with the minimum required number of spaces for a dwelling house regardless of the proposed stacker, and the internal dimensions of the structure are existing.

4.4.5 Earthworks (Excavation and Filling)

The Geotechnical Report submitted with the application confirms that the proposed excavation works are acceptable, subject to compliance with the recommendations.

The existing cliff face is largely obscured by existing vegetation. The proposed new stone wall is to be constructed of excavated site material and planted with the same climbing vegetation in order to minimise the visual impact of the works.

5.4.1 Foreshore Scenic Protection Area

The proposed new stone wall is designed to match the existing cliff face as closely as possible. The wall is to be constructed of materials excavated from the site and will be planted with the same climbing fig as the existing. The remaining proposed works are relatively minor alterations and maintain consistency with the existing dwelling as viewed from the harbour frontage. 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

The subject site is identified as an Area of Outstanding Biodiversity Value (AOBV; formerly Little Penguin Critical Habitat) under the NSW BC Act.

The application is classified as *threatened species development* and has been advertised for a 28 day period in accordance with Clause 89(3)(a) of the EPA Regulation 2000.

The application was also referred to Council's Biodiversity Officer to complete an assessment of the proposed works and the BDAR submitted by the applicant. The Officer concluded that the proposal can be undertaken without significant or serious and irreversible impacts to threatened entities, subject to compliance the recommended conditions of consent and the BDAR.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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 DA2018/2027 for Alterations and Additions to an existing dwelling house on land at Lot C DP 316879, 15 Addison Road, 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**
DA00 Site Plan	6 December 2018	Hess Hoen
DA121 Roof Plan	6 December 2018	Hess Hoen
DA122 Attic Level Plan	6 December 2018	Hess Hoen
DA123 Ground Level Plan	6 December 2018	Hess Hoen
DA124 Lower Level Plan	6 December 2018	Hess Hoen
DA125 Harbour Level Plan	6 December 2018	Hess Hoen
DA131 Garage Plan	6 December 2018	Hess Hoen
DA200 Section 01	6 December 2018	Hess Hoen
DA300 Northwest Elevation	6 December 2018	Hess Hoen
DA301 Southwest Elevation	6 December 2018	Hess Hoen
DA302 Southeast / Northeast Eelvation	6 December 2018	Hess Hoen

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
BASIX Certificate No. A323633	4 October 2018	Hess Hoen
Biodiversity Development Assessment Report	December 2018	Total Earth Care
Geotechnical Assessment Report	15 April 2018	Jack Hodgson Consultants

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 (Demolition):**
(a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
(i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
(ii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

3. **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

4. **General requirements (Demolition):**
(a) Unless authorised by Council:
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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

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

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

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

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

5. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(j) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

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

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

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

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

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

(i) Swimming Pools Act 1992
(ii) Swimming Pools Amendment Act 2009
(iii) Swimming Pools Regulation 2008
(iv) Australian Standard AS1926 Swimming Pool Safety
(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

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

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

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

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

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

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

7. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**
All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification).

A certification prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Council for approval prior to the issue of the Occupation Certification.

Reason: Protection of Council's infrastructure

8. **On-site Stormwater Detention Compliance**
Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 and the concept drawing by NY Civil Engineering, drawing number E180087 dated 15/11/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

9. **Structural Adequacy and Excavation Work**
Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:
(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

10. **Pre-Construction Stormwater Assets Dilapidation Report**
Survey a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.p

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure

11. **Preparation of CEMC**
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 certified by the project ecologist as complying with this condition and provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.
Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

12. **Project Ecologist**
A project ecologist is to be employed for the duration of works located below the cliff line to ensure compliance with Natural Environment conditions. The project ecologist must have one of the following memberships/accreditations:
- Practicing member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016.

The project ecologist is to provide a statement in writing that they were engaged by the proponent for the duration of all works located below the cliff line. The statement is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

13. **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.

14. **Access Spaces – Bandicoot Habitat**
Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300m wide. This condition does not apply to pool fencing.

Plans are to be amended accordingly prior to issue of the Construction Certificate.

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

15. **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)

16. **Proposed boat shed works**
All works to the existing boat shed, including refurbishment/remediation, are excluded from this consent.

All references to these works are to be deleted from the plans prior to the issue of a Construction Certificate.
Reason: To ensure no consent is granted for works undertaken illegally on the site.

17. **Building Certificate**
A Building Certificate is to be obtained for all as-built works to the existing boatshed.
The Building Certificate is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.
Reason: To ensure that all illegal works completed on the site are resolved prior to the commencement of further construction works.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. **Site Induction Required – Penguin and Bandicoot Habitat**
All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

19. **Ecologist to Induct Site Manager – Penguin and Bandicoot Habitat**
Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

a) advise of conditions to be implemented for protection of relevant threatened species and endangered ecological communities;
b) ensure that all workers are appropriately briefed on required protective measures; and
c) inspect protective measures to confirm their adequacy and advise the proponent and site manager of the inspection results and their implications.

The project ecologist is to certify compliance with this condition in writing and provide this evidence to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. **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.

21. **Tree and vegetation protection**
A) Existing trees and vegetation shall be retained as follows:
i) all trees and vegetation within the site, excluding trees and vegetation nominated for removal on the plans, shall be protected during all construction stages, and excluding exempt trees under the relevant planning instruments or legislation,
ii) all trees and vegetation located on adjoining properties,
iii) all road reserve trees and vegetation,
B) Tree protection shall be generally undertaken as follows:
i) all tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, with particular attention to section 4,
ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an AQF Level 5 Arborist,
iii) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
vi) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
vii) should either or all of iv), v) and vi) 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,
viii) 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,
ix) 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.

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

22. **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. Written certification of compliance with this condition is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

23. **CEMC to be Implemented**
Construction is to be undertaken in accordance with the Constructional Environmental Management Checklist. Compliance is to be certified by the project ecologist and 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.

24. **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). Compliance with this condition is to be certified by the project ecologist in

writing and this evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

25. **Protect AOBV – Penguin Habitat**
The Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat), including rocky cliff and intertidal areas below the formed backyard, are to be fully protected for the duration of the works. There shall be no machinery use, storage of construction materials/waste, dumping, or clearing of vegetation, soil, rock or rubble within these areas.

The Project Manager is to certify compliance with this condition in writing and provide this evidence to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to Little Penguins and the adjoining Area of Outstanding Biodiversity Value.

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

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

Reason: To create encumbrances on the land.

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

Reason: To identify encumbrances on land.

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

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

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

29. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification).
Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Council for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure

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

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

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.
Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

31. **Post-Construction Dilapidation Survey**
A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure

32. **Scaffolding timing restrictions - Little Penguin habitat**
Erection and removal of scaffolding footed on the lower lawn level is only permitted to be carried out outside of the Little Penguin breeding season (i.e. only between 1 March and 31 May)

unless written approval of a representative of Council's Bushland & Biodiversity Team is obtained. The project ecologist is to notify Council's Bushland & Biodiversity Team of the proposed commencement date of these works prior to works commencing.

Compliance with this condition is to be certified by the project ecologist and evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent disturbance to nesting penguins during the breeding season. (DACNEFPOC1)

33. **No Artificial Lighting**
No artificial light is to be directed toward or illuminate the Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat) at any time during or post-construction. No bright lighting or motion detectors which illuminate the formed back yard or foreshore areas are to be installed. Low intensity lighting may be used in the formed back yard for safety purposes only.

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

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

34. **Construction and repair works timing restrictions - Little Penguin habitat**
Construction of the elevator and stone wall and repair of the staircase adjacent to the boatshed is only permitted to be carried out outside of the Little Penguin breeding season (i.e. only between 1 March and 31 May) unless written approval of a representative of Council's Bushland & Biodiversity Team is obtained. The project ecologist is to notify Council's Bushland & Biodiversity Team of the proposed commencement date of these works prior to works commencing. Compliance with this condition is to be certified by the project ecologist and evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To avoid disturbance to nesting penguins during the breeding season (DACNEFPOC2)

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

35. **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.

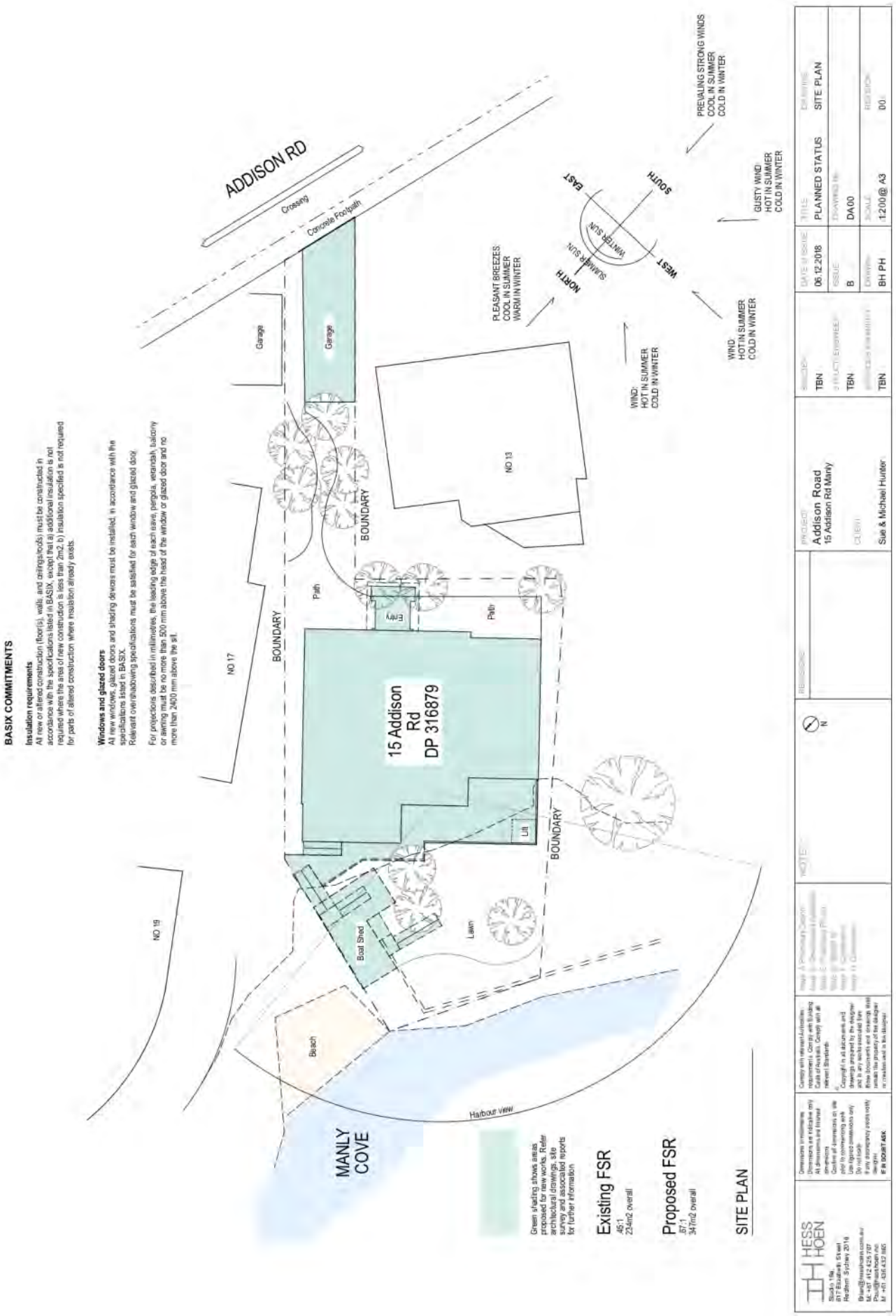
36. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**
All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

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

37. **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. A statement outlining any incidents of death or injury to native wildlife, or lack thereof, during the construction stage, is to be prepared by the project ecologist and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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


ADDISON RD
Crossing
Concrete Footpath
Garage
Garage
NO 13
BOUNDARY
BOUNDARY
BOUNDARY
Path
Entry
Path
NO 17
15 Addison Rd DP 316879
Lift
NO 19
Boat Shed
Lawn
Beach
Harbour view
MANLY COVE
Green shading shows areas proposed for new works. Refer architectural drawings, site survey and associated reports for further information
Existing FSR
.45:1
234m2 overall
Proposed FSR
.37:1
34 m2 overall
SITE PLAN
PLEASANT BREEZES COOL IN SUMMER WARM IN WINTER
WIND: HOT IN SUMMER COLD IN WINTER
PREVAILING STRONG WINDS COOL IN SUMMER COLD IN WINTER
GUSTY WIND: HOT IN SUMMER COLD IN WINTER
WIND: HOT IN SUMMER COLD IN WINTER
NORTH
SOUTH
EAST
WEST
SUMMER SUN
WINTER SUN
BASIX COMMITMENTS
Insulation requirements
All new or altered construction (floors), walls, and ceilings/roofs) must be constructed in accordance with the specifications listed in BASIX, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.
Windows and glazed doors
All new windows, glazed doors and shading devices must be installed, in accordance with the specifications listed in BASIX.
Relevant overshadowing specifications must be satisfied for each window and glazed door.
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.
HESS HOEN
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877 Pittwater Road
Neutral Bay NSW 2089
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NOTE:
REVISION:
PROJECT
Addison Road
15 Addison Rd Manly
CLIENT
Sue & Michael Hunter
TBN
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TBN
DATE OF ISSUE
06.12.2018
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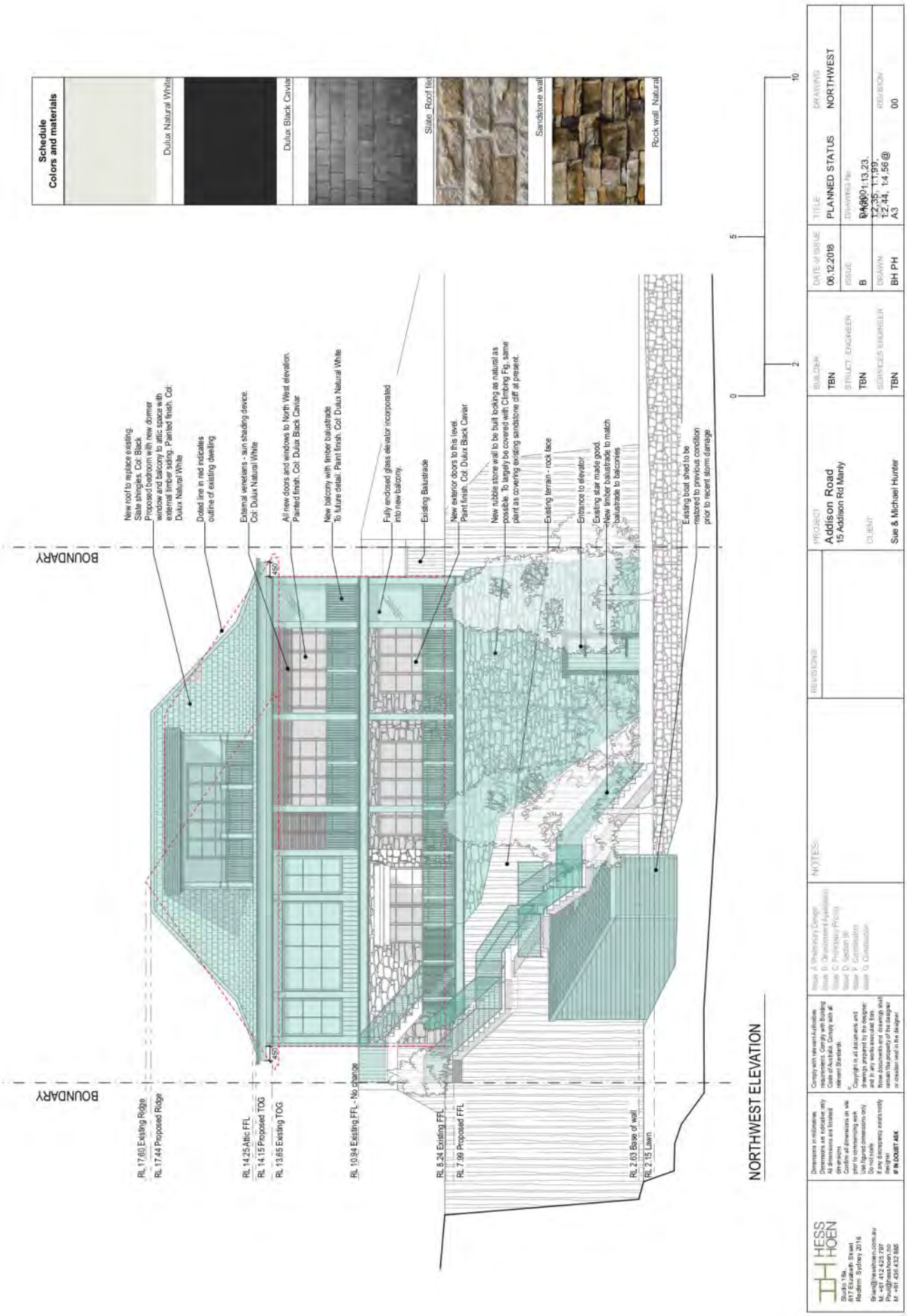
Schedule
Colors and materials
Dulux Natural White
Dulux Black Caviar
Slate_Roof tile
Sandstone wall
Rock wall_Natural
BOUNDARY
BOUNDARY
New roof to replace existing. Slate shingles. Col: Black
Proposed bedroom with new dormer window and balcony to attic space with external timber siding. Painted finish. Col: Dulux Natural White
Doted line in red indicates outline of existing dwelling
External venetians - sun shading device. Col: Dulux Natural White
All new doors and windows to North West elevation. Painted finish. Col: Dulux Black Caviar
New balcony with timber balustrade To future detail. Paint finish. Col: Dulux Natural White
Fully enclosed glass elevator incorporated into new balcony.
Existing Balustrade
New exterior doors to this level. Paint finish. Col: Dulux Black Caviar
New rubble stone wall to be built looking as natural as possible. To largely be covered with Climbing Fig, same plant as covering existing sandstone cliff at present.
Existing terrain - rock face
Entrance to elevator
Existing stair made good. New timber balustrade to match balustrade to balconies
Existing boat shed to be restored to previous condition prior to recent storm damage
450
450
RL 17.60 Existing Ridge
RL 17.44 Proposed Ridge
RL 14.25 Attic FFL
RL 14.15 Proposed TOG
RL 13.65 Existing TOG
RL 10.94 Existing FFL - No change
RL 8.24 Existing FFL
RL 7.99 Proposed FFL
RL 2.63 Base of wall
RL 2.15 Lawn
NORTHWEST ELEVATION
0
2
5
10
HESS HOEN
Studio 1.9a
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Issue B Development Application
Issue C Preliminary Pricing
Issue D Section 96
Issue F Construction
Issue G Construction
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BUILDER
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SERVICES ENGINEER
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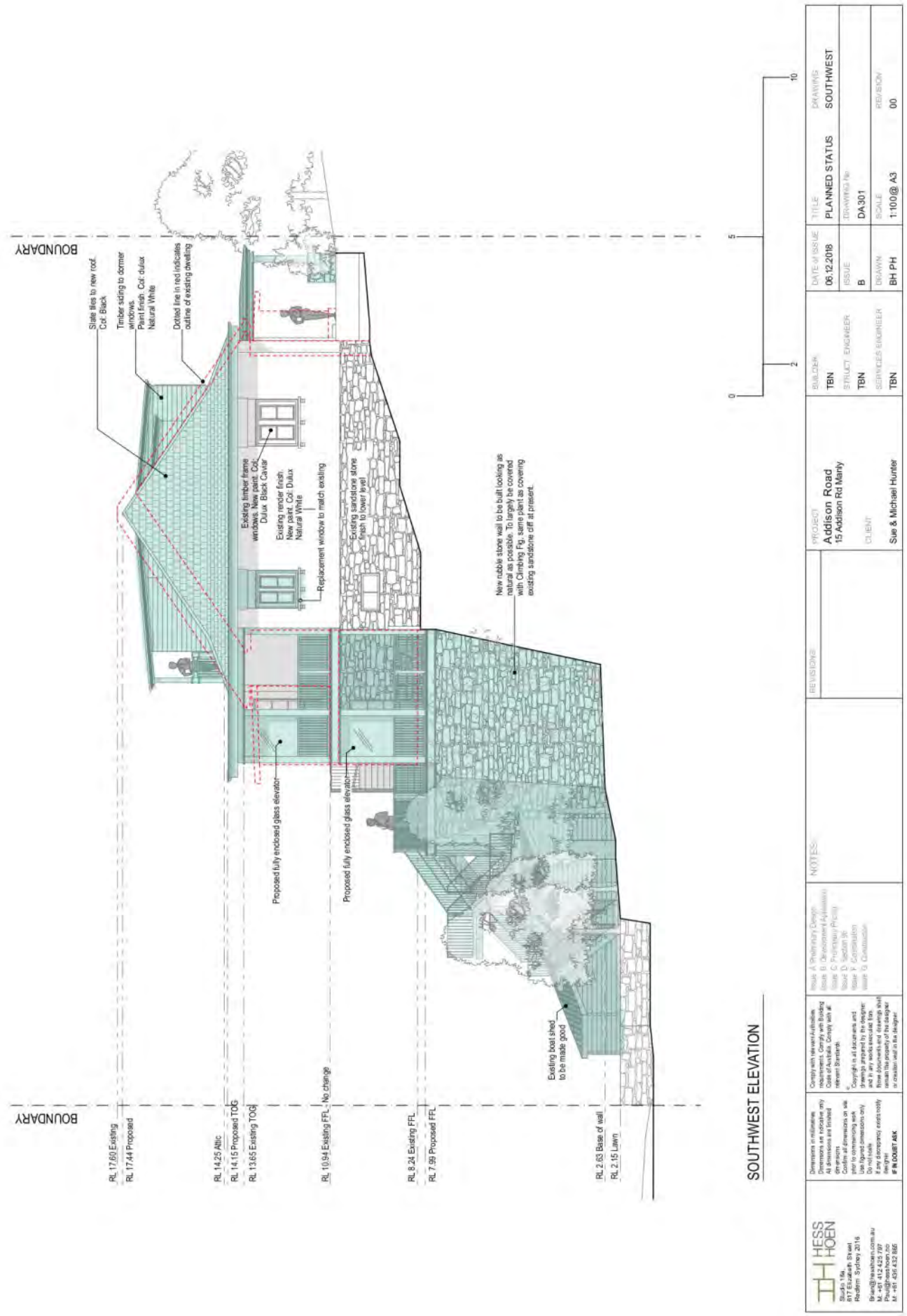
BOUNDARY
Slate tiles to new roof. Col: Black
Timber siding to dormer windows. Paint finish. Col: dulux Natural White
Dotted line in red indicates outline of existing dwelling
Existing timber frame windows. New paint. Col: Dulux Black Caviar
Existing render finish. New paint. Col: Dulux Natural White
Replacement window to match existing
Existing sandstone stone finish to lower level
New rubble stone wall to be built looking as natural as possible. To largely be covered with Climbing Fig, same plant as covering existing sandstone cliff at present.
Proposed fully enclosed glass elevator
Proposed fully enclosed glass elevator
Existing boat shed to be made good
RL 17.60 Existing
RL 17.44 Proposed
RL 14.25 Attic
RL 14.15 Proposed TOG
RL 13.65 Existing TOG
RL 10.94 Existing FFL - No change
RL 8.24 Existing FFL
RL 7.99 Proposed FFL
RL 2.63 Base of wall
RL 2.15 Lawn
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SOUTHWEST ELEVATION
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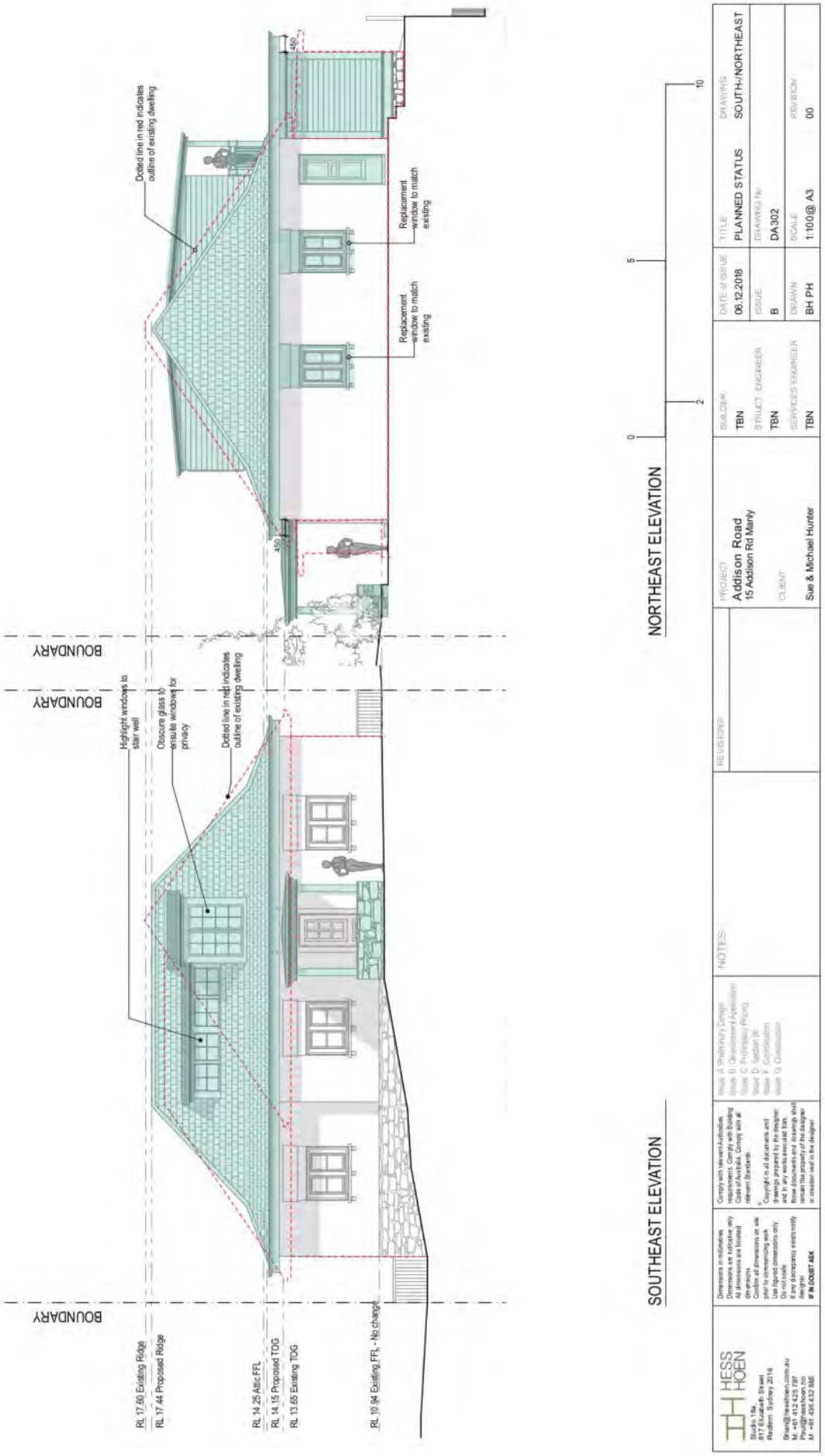
Dotted line in red indicates outline of existing dwelling
Replacement window to match existing
Replacement window to match existing
450
450
BOUNDARY
BOUNDARY
Highlight windows to stair well
Obscure glass to ensure windows for privacy
Dotted line in red indicates outline of existing dwelling
BOUNDARY
RL 17.60 Existing Ridge
RL 17.44 Proposed Ridge
RL 14.25 Attic FFL
RL 14.15 Proposed TOG
RL 13.65 Existing TOG
RL 10.94 Existing FFL - No change
SOUTHEAST ELEVATION
NORTHEAST ELEVATION
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SOUTH/NORTHEAST
REVISION
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MOD URBAN

15 Addison Road, Manly – Alterations and Additions to Dwelling house, garage and boatshed

Clause 4.6 Variation Statement – April 2019

MODURBAN.COM.AU

CONTENTS

CONTENTS 1

Introduction 1

The Standards Being Objected to 2

Proposed Variation to Clause 4.3 Height of Building 3

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INTRODUCTION

1. Overview

This Clause 4.6 Variation request has been prepared in support of the development application for the proposed alterations and additions to the dwelling house, boatshed and garage at 15 Addison Road, Manly

This Clause 4.6 Variation has been submitted in conjunction with the Statement of Environmental Effects (SEE) that assessed the proposed works as described above. The request for variation of the development standard has been prepared in accordance with the requirements of Clause 4.6 of the Manly LEP 2013 (MLEP 2013) which has the following aims and objectives:

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.*

The proposed variations to development standards for the proposed development are in relation to Clause 4.3 Height of Buildings of the MLEP 2013. In summary the following variations are proposed:

Manly LEP 2013 Clause	MLEP 2013 Development Standard	Proposed Development Non Compliance	% of Variation
Clause 4.3 Height of Buildings	Maximum Height 8.5m	The proposal results in a maximum Height of Building of 12.1m	29%

In accordance with Clause 4.6 of the MLEP 2013 Council is required to consider the following:

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.*

This Clause 4.6 Variation request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards.

THE STANDARDS BEING OBJECTED TO

2. Relevant Development Standards

The development standards being requested to be varied are Clause 4.3 Height of Buildings of the MLEP 2013.

2.1 The objectives/underlying purpose of the clause

A key determination of the appropriateness of a variation to a development standard is the proposal's compliance with the underlying objectives and purpose of the development standard. Therefore, while there is a specified numerical control for Clause 4.4 Height of Buildings, the objectives and underlying purpose behind each of the development standards are basic issues for consideration in the development assessment process.

Section 3 of this Clause 4.6 Variation addresses the proposed variation to Clause 4.3 Height of Building development standard.

2.2 Proposed Variation to Standards

The proposed variations to development standards for the proposed development are in relation to Clause 4.4 Height of Buildings of the MLEP 2013. In summary, the following variations to development standards are proposed:

Manly LEP 2013 Clause	MLEP 2013 Development Standard	Proposed Development Non Compliance	% of Variation
Clause 4.3 Height of Buildings	Maximum Height 8.5m	The proposal results in a maximum Height of Building of 12.1m	29%

PROPOSED VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDING

3. Overview

Pursuant to Clause 4.6 of MLEP 2013, we hereby seek exception to the 8.5m height of building standard applicable pursuant to Clause 4.3 of MLEP 2013. Clause 4.6(4)(ii) requires that such a request must establish that the proposed contravention is consistent with the objectives of the standard and the zone.

The proposed variation to the height of building standard is a result of the provision of the proposed alterations and additions. The proposed variation to the 8.5m height standard seeks an additional 3.6m for over the height standard to a very minor portion of the rear elevation, through the proposed alterations and additions to the buildings balcony and provision of a cantilevered roof over that portion of the balcony, the equivalent of a 29% increase to the maximum permitted height of building standard.

3.1 Objectives of the Standard

The objectives of the Clause 4.3 Height of Building standard of the MLEP 2013 are as follows:

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

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

(c) to 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),

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

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

Notwithstanding the proposed variation to the standard, the proposed development is nevertheless consistent with these objectives:

(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,

The proposed building is consistent with the prevailing building height. Furthermore, the element of the proposal that represents its highest point is the ground floor living area and balcony structure which is a small structure which currently exists on site. The majority of the building has a lesser height. The portion of the building that exceeds the maximum height standard is set atop a cliff face which contributes to the numerical non-compliance.

The proposed variation to the 8.5m height standard seeks an additional 3.6m for over the height standard to a very minor portion of the rear elevation, through the proposed alterations and additions to the buildings

balcony and provision of a cantilevered roof over that portion of the balcony, the equivalent of a 29% increase to the maximum permitted height of building standard.

The proposal reflects the topographic landscape, stepping down with the slope of the land.

The desired streetscape is maintained through the generous front setback and provision of landscaping.

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

- The proposal has a bulk that is commensurate with the expected outcomes of the planning controls and a scale that is less than its neighbours.
- The breaches of the building height relate to relatively minor elements of the building and the majority of the building is substantially below the building height control.
- The proposed building envelope is consistent with the existing building envelope and other similar development. The proposal results in a small scale roof addition through the provision of a dormer and some minor cutting into the existing footing of the building within the existing building envelope.
- The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.
- In light of the proposals contribution to achieving the desired future character of the area, a reduction of gross floor area would serve no material planning purpose, other than numerical compliance with a generic Council control.
- The proposal will not have any impact on the existing streetscape as the additional GFA is largely set away from the street.
- Other aspects of the design further reduce the bulk of the building, including a variety of finished surface materials and colours, and varying setbacks.

(c) to minimise disruption to the following:

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

- The proposed building forms part of the urban backdrop when viewed from the harbour and foreshores. The building will have no perceptible impact on views to nearby residential development from public places. This objective is achieved.

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

- The site is located on a ridgeline and a view analysis with the proposal indicates that no views are impacted. This objective is achieved.

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

- The proposal does not result in any disruption to views between public spaces. This objective is achieved.
- (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,
- The shadow diagrams provided at Appendix I of the SEE demonstrate no additional shadow from the proposed works, to both neighbouring properties. No adjoining habitable rooms will be impacted from the proposal. The proposed impacts are considered negligible.

(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.

- The proposal is considered to be consistent with this objective. The proposal will not impact upon the landscape character of the site or the area and is located at first floor level.
- The character and appearance of the harbour frontage will not be altered and will largely be improved as a result of the proposal.

3.2 Objectives of the Zone

The site is currently zoned E4 Environmental Living zone under the Manly LEP 2013. The proposed development results in alterations and additions to the existing dwelling house, and is therefore considered permissible within the E4 zone, as outlined in the accompanying SEE.

The proposed works are consistent with the E4 zone objectives in that:

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

The proposed development is acceptable in terms of its impacts on the ecological and aesthetic values.

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

The proposed development is acceptable in terms of its effects on values.

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

Not applicable.

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

The proposal is considered to be consistent with this objective. The proposal will not impact upon the landscape character of the site or the area and is located at ground floor level.

The character and appearance of the harbour frontage will not be altered and will largely be improved as a result of the proposal.

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

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

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

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

3.3 Establishing if the Development Standard is Unreasonable or Necessary

In *Wehbe v Pittwater Council [2007] NSWLEC 827* Preston CJ set-out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

1. *Establish that compliance with the development standard is unreasonable or unnecessary because* ***the objectives of the development standard are achieved notwithstanding non-compliance*** *with the standard.*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary".*

3.4 Establishing if the Development Standard is Unreasonable or Necessary

In applying the tests of **Wehbe v Pittwater Council** [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding the proposed variation, as demonstrated in Sections 3.1 and 3.2, the proposed development is consistent with the underlying objectives of the standard for Height of Building and the E4 zone of MLEP 2013.

3.5 Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The variation to the development standard for Height of Building is considered well founded because, notwithstanding the proposed non-compliance with Height of Building standards:

- The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated in **Section 3.1**.
- The proposed maximum height of building for the site is currently in exceedance of the height of building controls as existing and is appropriate for an E4 zone that primarily consists of residential development.
- The proposed building is consistent with the prevailing building height. Furthermore, the element of the proposal that represents its highest point is the ground floor living area and balcony structure with new roof which is a small structure which currently exists on site. The majority of the building has a lesser height. The portion of the building that exceeds the maximum height standard is set atop a cliff face which contributes to the numerical non-compliance.
- The proposed building envelope is consistent with the existing building envelope and other similar development.

- The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.
- The proposed building provides an appropriate height, bulk and scale to the site and is largely compliant with MLEP 2013 height provisions.
- The proposal will not have any impact on the existing streetscape or the foreshore character and appearance.
- In light of the proposals contribution to achieving the desired future character of the area, a reduction of building height would serve no material planning purpose, other than numerical compliance with a generic Council control.
- The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population unique family dwellings to meet the changing population needs.
- The proposed development will not significantly impact on the amenity of adjoining occupiers.
- The proposed development will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties.

3.6 Overview

This exception to the development standard demonstrates that the proposed variation to building height standard should be supported because:

- The proposed new alterations and addition to the residential building and its built form and character are consistent with the underlying objectives of the standard.
- The proposed variation to the 8.5m height standard seeks an additional 3.6m for over the height standard to a very minor portion of the rear elevation, through the proposed alterations and additions to the buildings balcony and provision of a cantilevered roof over that portion of the balcony, the equivalent of a 29% increase to the maximum permitted height of building standard.
- The proposed variation allows for the provision of improved residential accommodation, for family housing.
- The proposed variation does not result in any unreasonable privacy, sunlight, view loss or visual impacts.
- The proposed variation to the standard does not raise any matter of significance for State or regional environmental planning.
- There is no public benefit in maintaining strict compliance with the standard.
- Strict application of the standard is therefore unreasonable and unnecessary in the circumstances of the case.

Overall, it is considered that the proposed variation to the maximum height of building control (29%) is entirely appropriate and can be clearly justified having regard to the matters listed within MLEP Clause 4.6.

3.7 Conclusion

It is requested that council supports the proposed variation to Clause 4.3 of the MLEP 2013 for the following reasons:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

- There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposed variation allows for the provision of improved residential accommodation, for family housing.
- No unreasonable environmental impacts are introduced as a result of the proposal.
- There is no public benefit in maintaining strict compliance with the standards.

ITEM 3.8	**DA2018/0849 - 10 NAREE ROAD, FRENCHS FOREST - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE DEVELOPMENT**
REPORTING OFFICER	**Anna Williams**
TRIM FILE REF	**2019/333334**
ATTACHMENTS	**1 Assessment Report**
	2 Plans

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2018/0849 for demolition works and construction of a boarding house development at Lot 16 DP 23317, 10 Naree Road, Frenchs Forest subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0849

Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 16 DP 23317, 10 Naree Road FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works and construction of a Boarding House development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Tricon Property Group Pty Ltd
Applicant:	Michael William Williamson

Application lodged:	23/05/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	30/05/2018 to 24/06/2018
Advertised:	02/06/2018
Submissions Received:	27
Recommendation:	Refusal

Estimated Cost of Works:	$ 5,081,219.79

Executive Summary

The proposal is for a 39 room Boarding House with a basement parking area, located within the R2 Low Density Residential Zone, toward the western end of Naree Road, Frenchs Forest. The proposal is a permissible use on the site under the *Warringah Local Environmental Plan 2011* (WLEP). At this stage the site has been identified for future inclusion in the R3 Medium Density area that proposes an 11m height limit, as part of the *Northern Beaches Hospital Structure Plan (NBSP)*.

Notwithstanding this, the proposal is currently subject to *State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)*, the *Warringah LEP 2011* and the *Warringah Development Control Plan 2011 (WDCP)*.

This assessment reveals that the development is incompatible and inconsistent with the surrounding character of low density detached dwellings. The proposal does not respond well to the local planning controls of the WDCP 2011 in terms of objectives relating to wall height, building envelope, setbacks, building bulk, landscaping and privacy. Additional concerns are also raised with regard to matters for stormwater disposal and Building Code of Australia (BCA) compliance. Other matters of concern also relate to the location and design of private open space, solar access, inadequate details for emergency egress and parking arrangements. Based on these shortcomings, it is not in the public interest to support a development that does not satisfactorily respond to the built for controls and satisfy the objectives of the applicable planning controls.

The application was notified and 26 public submissions of objection to the proposal were received, requiring the matter to be referred to the Northern Beaches Local Planning Panel (NBLPP) for determination. The most common principal planning related issue raised in the submissions is that the proposal does not represent a "good fit" within the existing local character due is excessive scale, being symptomatic of an over-development. Additional concerns were also raised in relation to the suitability of boarding houses in the area, the impacts of traffic and parking, the impact of such a high occupancy use on local amenity.

This assessment report has taken into consideration all public submissions, Statement of Environmental Effects, plans and other documentation supporting the application. On balance, it is considered that the proposed development does not respond appropriately to the development controls and will result in an unfavourable development outcome pursuant to SEPP ARH, Warringah LEP 2011 and DCP 2011.

Accordingly, the application is recommended for refusal.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - A.5 Objectives
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C4 Stormwater
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D2 Private Open Space
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - D11 Roofs

SITE DESCRIPTION

Property Description:	Lot 16 DP 23317 , 10 Naree Road FRENCHS FOREST NSW 2086
Detailed Site Description:	The site is located on the northern side of Naree Road, within 140 metres of Frenchs Forest shopping centre. The site has an area of 975.5 square metres (sqm) with a width of 21.3 metres (m) and a depth of 45.7m. The land has a moderate slope toward the rear with a fall of 4.0m. Naree Road has been subject to significant road works in association with the Northern Beaches Hospital and for local traffic management. Traffic light signals are located at the intersection of Forest Way and Naree Road and a bus stop is situated 25m East of the site. The site currently contains a single storey detached dwelling house, shed and carport, with some medium to small trees and shrubs within the surrounding garden areas of the property. The site is not within a bushfire prone area or subject to flooding and is within "Area B" for landslip classification under the Warringah Development Control Plan 2011 ("DCP 2011"). There are no significant natural rock outcrops or threatened species habitat and the proposal does not contain (or adjacent too) any heritage items The site is located within the local area subject to the *Northern Beaches Hospital Precinct Structure Plan* (HPSP). Under the HPSP the site is within a proposed R3 Medium Density zone for a future 11m / 3 storey height control and 1.3:1 floor space ratio. Surrounding development to the east, north and south is dominated by single storey detached dwelling houses within landscaped settings. While there are numerous single storey buildings in the vicinity, the residential character of development visible from the site is characterised by low

	density detached dwellings that are mostly two-storey. To the south-west of the site is a church and a mix of commercial land uses, including Frenchs Forest Shopping Centre. Development to the East is comprised of low density detached housing with the Forest High School and Northern Beaches Hospital within 700m of the site. To the immediate North and South of the site is low density detached housing. The subject site is located within Phase 2 of the *Hospital Precinct Structure Plan* (HPSP) which envisions an area of medium density residential zoning to accommodate additional dwellings that will support the role of the Frenchs Forest Town Centre.

Map:

SITE HISTORY

Development Application No.2005/0764 for alterations and additions to a dwelling house was approved by Council on 17 September 2005.

Building Application No.BA5002/9910 for alterations and additions was approved by Council in 1995.

The proposal involves the complete demolition and removal of all building structures on the site and therefore no further issues are raised with regard to previous development on the land.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the construction of a three-storey Boarding House, (pursuant to SEPP Affordable Rental Housing (ARH) 2009), containing 38 lodger rooms plus the Boarding House Managers room, configured as:

• **Basement Floor** - Level RL131.6 - Car parking for 16 cars and 16 motorcycles, bicycle storage, stair and lift access, vehicle ramp, storage, communal laundry, bathroom and services room.

• **Ground Floor Level** – RL134.4 - 11 Lodger rooms, + (1) Building Managers room (each with internal bathroom and kitchenette and either a courtyard area or balcony), common laundry, facilities room, two communal rooms, storage, communal kitchen / dining room, entry area and rear private open space terrace / clothes drying area.

• **First Floor Level** – RL137.2 - 13 Lodger rooms (each with internal bathroom and kitchenette and balcony), lift and stair access, main entry, bin room, storage.

• **Second Floor Level** – RL 140.0 - 14 Lodger rooms (each with internal bathroom and kitchenette and balcony), lift and stair access. (Roof ridge RL143.46 to RL142.92).

Ancillary site work includes:
• Demolition of existing structures, excavation, site preparation and ancillary site works.
• Driveway and front entry structure with letter box's and raised planter box.
• On-site detention drainage system. An easement is proposed to be established to drain stormwater (north) through No.23 Wareham Crescent to Council stormwater system.
• Site landscaping

Determination of development applications
The proposal is required to be considered for determination by *Northern Beaches Local Planning Panel* as the development has received more than 10 relevant objections.

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. Including, *State Environmental Planning Policy (Affordable Rental Housing) 2009 ("SEPP ARH") and Warrigah Local Environmental Plan 2011 (WLEP 2011)*
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	During the period of assessment a draft amendments to SEPP ARH were gazetted (the 2018 and 2019 the relevant amendments in particular, are referred to as "parking for boarding houses", and "Boarding House Development" in the SEPP).
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan (DCP) 2011 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	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent.

Section 4.15 Matters for Consideration'	Comments
Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	These matters may be appropriately addressed via a condition of consent. Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. It was noted the landscaping plan was not included with the DA documents and the landscape plan was subsequently submitted on 3 August 2018. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. These matters may be appropriately addressed via a condition of consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). These matters may be appropriately addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters may be appropriately addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters may be appropriately addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the *Warringah Development Control Plan* section in this report. In summary, the proposal is considered to be inconsistent with the *State Environmental Planning Policy* (SEPP) for *Affordable Rental Housing* (ARH) 2009 and the *Warringah DCP 2011*. Details are provided within the relevant sections of this assessment report and summarised in the Recommendation. (ii) **Social Impact** Subject to conditions and the effective implementation of an Operational Plan of Management (OPM), the proposed development will not have a detrimental social impact in the locality. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed residential land use.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the type of land use proposed. However, there are concerns in relation to the suitability and appropriateness of the size, scale and intensity of the proposal for the site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant provisions of the WLEP 2011 and WDCP 2011. Particularly in relation to setbacks, building bulk, landscaping and privacy considerations. The proposal is also contrary to the provisions of SEPP ARH in relation to local character and will create an undesireable precedent and undermine the achievement of the desired future character of the area and is contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest Note: Amended plans are being considered under the current NSW LEC Appeal No.2018/332566 that is in progress using 'Section 34' proceedings. The applicant has not granted permission as yet for the use of those plans to be publicly notified and advertised, via the Proceedings, since the amended plans are still being revised and substantially changed. Additionally, no amended supporting documents (stormwater, Basix, landscape, solar, etc) have been prepared at the conclusion to this assessment report.

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 27 submission/s from:

Name:	Address:
Paul John Thistlethwaite	27 Wareham Crescent FRENCHS FOREST NSW 2086
Therese Webber	20 A Yarrabin Street BELROSE NSW 2085
Amy Kendall-Hewett	18 Naree Road FRENCHS FOREST NSW 2086
Christine Carter	1494 Oxford Falls Road OXFORD FALLS NSW 2100

Name:	Address:
Mrs Lauren Janice White	6 Ashdown Place FRENCHS FOREST NSW 2086
Mr Peter Cooper-Southam	21 Wareham Crescent FRENCHS FOREST NSW 2086
Mrs Rebecca Jane Schopen	71 Binalong Avenue ALLAMBIE HEIGHTS NSW 2100
Mr Grant Geoffrey Gordon	10 Woodside Grove FORESTVILLE NSW 2087
Mrs Lynne Wiblin	13 Moonbi Crescent FRENCHS FOREST NSW 2086
Mrs Sandra Elizabeth Young Mr Geoffrey Charles Young Deirdre Hatton	29 Aranda Drive DAVIDSON NSW 2085
Ms Jill Elaine Cordery	138 Blackbutts Road FRENCHS FOREST NSW 2086
Mrs Jill Lorraine Brutnell	111 McIntosh Road NARRAWEENA NSW 2099
Dennis Graham Brutnell	111 McIntosh Road NARRAWEENA NSW 2099
Ian Howe	Naree Road FRENCHS FOREST NSW 2086
Mr Paul Robert Warrington	23 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Eric Barry Jarvis	14 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Keith Rischmiller	19 Wareham Crescent FRENCHS FOREST NSW 2086
Jasbir Singh Dayal	23 Forest Way FRENCHS FOREST NSW 2086
Peter Evans	25 Wareham Crescent FRENCHS FOREST NSW 2086
Mrs Rosanne Knight	2 The Grove BELROSE NSW 2085
Mr David Paul Weir	21 Rabbett Street FRENCHS FOREST NSW 2086
Mrs Margaret Anne McCann	12 Wareham Crescent FRENCHS FOREST NSW 2086
David Crawford Caswell	10 Wareham Crescent FRENCHS FOREST NSW 2086
Karen Narelle Crouch	30 Rabbett Street FRENCHS FOREST NSW 2086
Mr Pierre Claude Clain Susan Clain	6 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Mauro Tamborini	16 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Peter Brent Evans	25 Wareham Crescent FRENCHS FOREST NSW 2086

The following key issues were raised in the submissions:

a) Traffic generation
b) Lack of street parking
c) Neighbourhood character
d) Occupancy
e) Housing design
f) Development precedent
g) Building bulk
h) Inadequate planning controls

The matters raised within the submissions are addressed as follows:

a) Concern that the traffic report does not address the changes to Naree Road from the Roads and Maritime Service works in the local area and the proposal will create increased traffic

impacts due to the intensity of use proposed.

Comment:
The proposal has been submitted with a Traffic Assessment report, which was prepared prior to the completion of works being undertaken by the *Roads and Maritime Service* (RMS) along Narree Road and Forest Way / Warringah Road, associated with the Northern Beaches Hospital development precinct. Council's Traffic Engineering section has considered traffic impact issues from the boarding house and determined that the proposal will not cause an unreasonable impact on the upgraded road infrastructure capacity in the surrounding area.

However, the carriageway along Naree Road has been recently widened to 4 lanes and upgraded footpaths along both sides of the road, as well as changes made to the bus stop, transit lanes and traffic signal approaches near the site. Due to the recent roadworks the proposal has not been provided with sufficient information to address the new site frontage levels resulting from RMS works to Naree Road that may affect egress from the site. In the absence of accurate engineering detail to address the transition between the road reserve and the basement carpark to the satisfaction of Council, the proposal cannot be supported.

Therefore, this issue has determining weight and warrants refusal of the application.

b) *Concern that the proposal will create increased parking demand in the surrounding streets due to inadequate public transport and need for carparking on site for the intensity (capacity) of use.*

Comment:
Parking is not convenient at the front of the site as there is a public bus stop located within 25m of the site. The site is also within easy walking distance to the bus interchange at Frenchs Forest shops. In terms of carparking, the proposal has been assessed by Council's Traffic Engineers in terms of potential parking impact on the adjacent available street parking. The site is not in a location that has convenient street parking due to the new transit lanes in Naree Road. Therefore, any lack of on-site parking would require those occupants or visitors to park in the surrounding streets. The proposal does not comply with the minimum requirement of the SEPP ARH and the location of any parking spaces within the side setback and front setback is not supported.

Therefore, it is considered that the proposal demonstrates an over-development of the site and would therefore contribute to increased parking pressure in the surrounding streets.

This issue is considered to carry determining weight and warrants refusal of the application.

c) *Concern that a boarding house of this scale for 39 boarding rooms is not suitable because of the current Low Density neighbourhood surroundings for family homes and boarding houses should only be in more densely populated zones.*

Comment:
The subject site for the proposed boarding house development is within the R2 Low Density Residential zone (R2 zone) and Boarding houses are "Permitted with Consent" in the R2 zone under the WLEP 2011. Boarding houses are also permissible in certain areas of the broader R2 zone under Clause 26 of the SEPP ARH and this site is within the area that permits the use. There is no inconsistency between the SEPP and the WLEP in this case.

With respect to site suitability, convenient access to local shops is generally considered an advantage for more intense residential land uses. Larger groups of local shops, such as those at Frenchs Forest shopping centre, offer convenience and greater choice for residents, and often ancillary services from

other service based businesses that may be co-located at a local shopping centre.

Proximity to schools and shops also affords opportunities for potential employment for occupants of the boarding house, which reduces dependency on transport services to access the employment and services further afield.

It it concurred that the proposal is symptomatic of an over-development of the site and is unsatisfactory in terms of the unsympathetic design that is out of character its setting, land of landscaping, excessive building bulk and general low design amenity.

Therefore the proposal is considered to be unsuitable for the site and the site which is too small and narrow for the size and scale of the proposal. This issue is considered to carry determining weight and warrants refusal of the application.

d) Concern that the boarding house occupancy is too high for the site to reasonably accommodate the building and the building will be used for transient occupants in an area predominantly used for permanent family residences.

Comment:

"Transient occupancy" is considered to be occupation of rooms for less than 3 months, as the definition of a boarding house includes a stipulation that it "*provides lodgers with a principal place of residence for 3 months or more*". In this case, the boarding house will require a minimum 3 month lease (*Occupancy Agreement*) and resident commitment in accordance with the requirements of the OPM.

The issue of transient occupancy is therefore addressed by the OPM and does not warrant refusal of the application.

e) Concern that the proposed density of housing for the boarding houses in the local area is unsuited to the streetscape location and is an inappropriate design for the site, including by amenity and privacy impacts.

Comment:
The density of the proposal in terms of the number of rooms within the building and the overall size of the building has been raised by the majority of respondents in public submissions. Concerns in relation to density, scale and bulk of the development have been raised with the applicant in terms of the visual impact on adjacent residential properties and the development "fitting-in" with the local character of surrounding residential development. The building bulk, scale, floor space and ratio of landscaping to building area are discussed in detail within this report under the *Part D1 Landscaped Open Space* and *Part D9 Building Bulk*. In summary, the proposed design with respect to building bulk and landscaped open space is considered to be unsatisfactory.

Consideration of the building bulk is also discussed in detail under the headings *SEPP ARH* within this report with respect to neighbourhood character. Overall an appropriate design response has not been proposed to ensure the development is in keeping with the existing character of the area in terms of the size and scale of the proposal, including building bulk.

Therefore, this issue has determining weight and warrants refusal of the application.

f) Concern that this boarding house will create an undesirable precedent due to design response proposed.

Comment:
Boarding house development is permissible with consent in the surrounding low density residential area under the NSW State Environmental Planning Policy (SEPP) for *Affordable Rental Housing (ARH) 2009* and the *Warringah Local Environmental Plan (LEP) 2011*. Notwithstanding that boarding house development is permissible in the R2 zone, it must also meet the requirements of the SEPP, WLEP and WDCP. This includes the zone objectives and development standards and other controls to ensure a suitable and appropriate character, design, scale and density. Of particular concern is the manner in which the proposal fails to satisfy design objectives for landscaped open space, front side and rear setbacks, including building envelope and wall height.

As the proposal is assessed as being unsatisfactory, this issue is considered to carry determining weight and warrants the refusal of the application.

g) Concern that the building bulk is excessive for the site and will adversely affect the streetscape amenity by being inconsistent with the pattern and scale of existing residential housing near the site.

Comment:
This issue is discussed in detail under the heading *Part D9 Building Bulk* of the WDCP and Clause 30 of the SEPP within this report. The bulk and scale of the proposed boarding house is considered to be inconsistent with the surrounding residential character along Naree Road (visual catchment near the site) and when viewed from properties adjacent in Wareham Crescent. It is considered that the proposal does not respond favourably to the SEPP and DCP design requirements including building bulk, landscaped open space and side and rear setbacks. In summary, the proposal has excessive building bulk and scale and does not protect the amenity of adjacent land and the streetscape.

This issue should be given determining weight and warrants the refusal of the application.

h) The boarding house proposed leads to poor planning outcomes due to non-compliances and gradual diminishing of the character of the area by more and more intensive boarding house development.

Comment:
The proposal is subject to the provisions of the SEPP which contains development standards and planning controls that override the WLEP and WDCP in relation to specific matters. Additionally, where there are inconsistencies between the SEPP and the local planning controls, the SEPP prevails.

The SEPP includes specific planning controls, which cannot be used as reasons for refusal where they are complied with. However, the proposal does not provide a satisfactory urban design outcome when assessed against the "*character test*" as prescribed in the SEPP and the relevant DCP controls. In this regard, the proposal does not satisfy DCP requirements for landscaped open space, building bulk, and privacy. Inconsistencies have also been identified against the SEPP in terms of solar access to communal living areas and carparking requirements to service the nature and scale of the proposal.

Therefore, the proposal has not been designed to satisfy the character controls under the SEPP, WLEP and WDCP. Accordingly, for these reasons, the proposed development is likely to diminish the character of the area and so this issue should be given determining weight and warrants the refusal of the application.

REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	*The application proposes to construct a boarding house with a total of 39 sole-occupanc units and associated car parking. The proposed development has an effective height of l than 12 mm, is required to be of "Type A" construction and contains 3 storeys of residen apartments situated on top of a basement car parking level.* *No objections subject to conditions.* Planning Comment: The implementation of fire safety and egress conditions will trigger further changes to the plans due to the unsatisfactory design of the building as proposed. In this regard, the proposal is not supported and is recommended for refusal.
Environmental Health (Industrial)	*No objection to approval subject to conditions to ensure compliance with Australian Stan as applicable.*
Landscape Officer	Landscape Assessment *There are a number of aspects of the proposal which are contrary to the local planning controls, the sum of which leads to a significantly different character in the locality than t envisaged by the controls, or indeed are currently evident in the vicinity of the site.* *Issues with which concern is raised include:* • *The quantum of compliant landscaped open space being well under the requirem the local controls* • *The lack of soft landscape along both side setback boundaries* • *Location of parking and communal room within the front setback* • *The quantity of hard landscape in the rear setback.* • *The resultant incompatibility with the character of the local area* *In view of the issues raised above, the proposal is not considered to be compatible with streetscape in which the building is located and the design of the development in relatior landscape issues is not considered to be compatible with the character of the local area.* *The proposal is not supported with regard to landscape issues.* Planning Comment: The assessment considerations and comments detailed within the landscape assessmei supported and warrant refusal of the application.
NECC (Development Engineering)	*Development Engineers have reviewed the proposal and advise the proposal cannot be supported due to the following reasons:* *Vehicle access* *1. Engineering longitudinal sections on both sides of the proposed driveway are to be submitted to Development Engineers for assessment. Longitudinal sections must include existing and proposed finished ground surface levels. The applicant is to incorporate one Council's standard driveway profiles between the kerb alignment and property boundary. applicant is to also incorporate an updated RMS Property Works drawing consistent with*

Internal Referral Body	Comments
	location of proposed vehicle crossing for the development. Development Engineers are r receipt of the above documentations. *2. The proposed vehicle crossing is located close to the existing light pole on the grass v and may need to be re-located provide sufficient clearance to the pole. Written approval/requirements from Ausgrid must be provided to comply with the above. Develop Engineers are not in receipt of the above documentations.* *<u>Stormwater drainage</u>* *3. Council is not in receipt of any evidence indicating that the downstream property owner is prepared to grant drainage easement for the development.* *4. Insufficient details are submitted to demonstrate stormwater disposal to Council's drainage infrastructure in Wareham Crescent complies with Council's requirements. In this regard, an engineering longitudinal section through the outlet pipe from the OSD system to the connecti into the Council system must be provided. This longsection is to show design invert levels, fi surface levels, pipes size, design flows, all utility services that may cross the line and a hydra grade line.* *Note: It is the responsibility of the Applicant to provide full details of all relevant services may conflict with the proposed OSD system(s) and stormwater lines. The exact location any crossings or connections are to be shown.* *5. In order for Council to adequately check the design of the OSD system, when the DR program is used, the input data and summary information including a copy of the model computer disc must be provided. Sufficient details must be submitted to demonstrate the discharge (controlled and un-controlled) off the development site is restricted to the 'stat nature' condition, as per section 4.3 of Council's On-site Stormwater Detention Technica Specification. Development Engineers are not in receipt* *Not supported for approval due to lack of information to address:* *• Stormwater drainage for the development in accordance with Part C4 Stormwater of th WDCP* *• Vehicle access for the development in accordance with Part C2 Traffic, Access and Sa* <u>Planning Comment:</u> The development engineering assessment and comments are supported and warrant re of the application.
Road Reserve	*The recent roadworks by the RMS have changed road levels and road carriageway aligr (by reducing lane widths) to avoid driveway adjustments to the existing properties. This require redesign of the driveway long-section to accommodate changes in road levels ar future realignment of the road carriageway to achieve acceptable geometric road design the future.* *Refusal recommended as the new driveway road reserve levels have not been confirme*

Internal Referral Body	Comments
	Planning Comment: Insufficient design detail has been provided by the applicant to ensure the design compli with the requirements of Councils Road Assets section to ensure finished levels within th road reserve are safe. This issue warrants refusal of the application.
Strategic and Place Planning	**Strategic Planning Comments** *This application has been referred as the subject site is identified within Phase 2 of the North Beaches Hospital Precinct Structure Plan (HPSP). The HPSP was adopted by Council on 1 2017.* *The subject site is currently zoned R2 Low Density Residential under WLEP 2011 and development consent is required for the demolition of the existing dwelling and construction three-storey building comprising a 39 room boarding house.* Northern Beaches Hospital Structure Plan *The HPSP provides the strategic land use planning framework for Frenchs Forest over the n years. The HPSP is not a statutory document. Under the HPSP, the site is proposed to be zo R3 Medium Density Residential. The HPSP also proposes a maximum building height of 11 and a maximum floor space ratio of 1.3:1.* *The subject site is identified within Phase 2 of the HPSP. Phase 2 is reliant on the delivery o significant regional road works, including the proposed Beaches Link Tunnel, and an east-we rapid transit system from Chatswood to Dee Why. Implementation of Phase 2 is identified in medium term (approximately 10 years). Council's priority is the implementation of Phase 1 w includes the future Frenchs Forest Town Centre site, the new Hospital, and some adjoining a nearby properties. Phase 1 will also include the provision of Affordable Rental Housing with t Town Centre providing 15%, and the adjoining and nearby properties providing 10% Affordai Rental Housing.* Detailed Consideration *The application was supported by a Statement of Environmental Effects which provided an assessment of the Proposal against the SEPP (Affordable Rental Housing) 2009.* *As noted, the Subject Site is located within Phase 2 of the HPSP which envisions an area of medium density residential zoning to accommodate additional dwellings that will support the the Frenchs Forest Town Centre. While the HPSP may not be a Statutory Document, it does with the objectives and goals of the North District Plan and Sydney Metropolitan Plan in desi Frenchs Forest as both a Collaboration area and a Strategic Centre within the Northern Bea LGA.* *In this regard, the subject Proposal is out of context with the vision for the HPSP and desired character of the area. The broader strategic objective for Strategic Centres is to provide serv employment, and housing to the Northern Beaches growing population - these matters have carefully considered through the ongoing collaboration between Council, the NSW Departme Planning & Environment, and other relevant State Agencies resulting in a Structure Plan that identifies the most appropriate areas and forms of growth, including housing and affordable housing.*

Internal Referral Body	Comments
	Additionally, the proposal has not addressed the impact of the existing 33kV overhead transmission and 11kV distribution Ausgrid assets that run along the northern side of Naree These power lines have specific setback requirements which have not been appropriately considered within the documents submitted by the Applicant. Undergrounding the powerlines encouraged and further advice from Ausgrid would be required. *The application should not be supported for the following reasons:* • *It is consistent with Council's adopted HPSP, which provides the strategic land u planning framework for Frenchs Forest over the next 20 years;* • *It proposes a form of development that is inconsistent with the objectives of the Strategic Centre and Collaborative area where dwelling densities and types have already been identified and located;* • *It will establish a precedent for the lodgement of applications for boarding house using SEPP (Affordable Housing) 2009 which could impact on the overall functio role of Frenchs Forest as a Strategic Centre for the Northern Beaches;* • *No consideration has been made to the impacts of the existing Ausgrid power lin along Naree Road on the development, including setback requirements on the s frontage.* Greater Sydney Region Plan *Inconsistent - Frenchs Forest has been designated as a Strategic Centre, Planned Preci and Collaboration Area capable of accommodating investment and growth. The subject proposal would undermine the objectives of the strategic centre by sterilising the site for growth and reducing its potential to accommodate additional dwellings.* North District Plan *Inconsistent - The North District Plan reinforces the role of Frenchs Forest as a Strategic Centre, Planned Precinct and Collaboration Area. The subject proposal will undermine the si ability to contribute to the objectives of the centre.* Northern Beaches Hospital Precinct Structure Plan *Inconsistent - the proposal is out of context with the vision for the Frenchs Forest area.* *In conclusion, the application is not acceptable and is recommended for refusal based on the broader strategic planning outcomes for the area and inconsistency with Council's adopted Structure Plan.* Planning Comment: Comments by Council's Strategic Planner are concurred with and the issues raised warrant r of the application.

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	The proposal in its current form cannot be supported for the following reasons: **<u>SEPP Affordable Rental Housing (ARH) 2009</u>** *Clause 29(2) Wall Height Maximum Storeys and Rear Setbacks* The following controls under the Affordable Rental Housing SEPP have not been compli with; a. Maximum wall height – 7.2m b. Rear setbacks – 6m c. Number of Storeys RESPONSE Wall heights exceed 7.2 metres in several locations on north eastern and south eastern of the building. Rear Setback zone has built structures encroaching in the setback zone. The number of storeys exceeds the 2 storey control-building height of 8.5m. *<u>Clause 30 A – Character of Local Area</u>* *RESPONSE* The proposal is not compatible with the character development in the local context. The proposal needs to be compatible with the architectural form and style of the established rise detached dwelling character. The proposal will have unacceptable impacts on the amenity of neighbouring properties. The impacts described above can be minimised with a considered modulation and articu of building form across the site in a well-considered landscape setting. Strict compliance with the built form controls is required. Deletion of the upper storey is required. Site Planning and apartment orientation is not optimised for solar amenity or in site amenity. Smaller scale development of pavilion style buildings stepping down the site in sympathy the contours along with internal courtyard landscaped open space zones between pavilic will result in a smaller development footprint addressing the locality of smaller detached dwellings. This may also assist to address solar and cross ventilation amenity with orient of apartments optimising the northerly aspect. The site topography is optimal for this type development. This strategy of a centralised courtyard will also address the landscape open space requirement of 40%. See comments below. ***Warringah LEP 2011*** **2. Built Form Controls:** *Aims of the LEP in relation to residential development, are to:* *(d) (i) protect and enhance the residential use and amenity of existing residential environments, and* *(ii) promote development that is compatible with neighbouring development in terms of b*

Internal Referral Body	Comments
	scale and appearance, and *(iii) increase the availability and variety of dwellings to enable population growth without adverse effects on the character and amenity of Warringah.* *(f) (i) achieve development outcomes of quality urban design, and* *(iv)ensure that development does not have an adverse effect on streetscapes and vistas public places, areas visible from navigable waters or the natural environment, . . .* RESPONSE The aims of the zone, to ensure residential environments are in harmony with the surrou single and double storey houses, have not been achieved. The proposed bulk and scale of the development needs to be broken up into similar bulk relief to be in sympathy with the neighbouring houses. A pavilion style development (3 x pavilions with landscape open courtyards between) will provide a less intense developm The elevation from the street has an overbearing impact on the immediately adjacent properties. Being the corner allotment with sloping topography the development will have the percei effect of over development and greater impacts on the streetscape, with a building bulk t not in keeping with the local character. A considered response to the site coverage and appropriately distributed open landscap open space to achieve a development that is more in sympathy with the surrounding neighbourhood and optimises orientation for internal amenity is required. ***Warringah DCP 2011*** *B1 – Wall Heights* *Requirements* *1. Walls are not to exceed 7.2 metres from ground level (existing to the underside of the on the uppermost floor of the building (excluding habitable areas wholly located within a roofspace).* RESPONSE Deletion of the upper storey will assist to address the non-compliance of the 7.2m wall h control. Almost all instances of common walls are between 8-12 metres high. A reductio height to bring the development within the 8.5m height control is required. *B3 – Side Boundary Envelope* *Requirements* *1. Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must b within a building envelope determined by projecting planes at 45 degrees from a height a ground level (existing) at the side boundaries of: 4 metres* RESPONSE The side boundary envelope is encroached in Section EE. Deletion of the upper storey w assist to comply with this control. *B7 Front Boundary Setbacks* *Objectives* • *To create a sense of openness.* • *To maintain the visual continuity and pattern of buildings and landscape elements.*

Internal Referral Body	Comments
	• To protect and enhance the visual quality of streetscapes and public spaces. *• To achieve reasonable view sharing.* *Requirements* *1. Development is to maintain a minimum setback to road frontages.* *2. The front boundary setback area is to be landscaped and generally free of any structu basements, carparking, site facilities other than driveways, letter boxes, garbage storage areas and fences.* RESPONSE Compliance with the front boundary setback requires the setback zone to be free of stru The proposed carpark structure under the front setback does not allow for application of deep soil planting zone. Planning of structures under this area should be deleted or have depth sufficient for deep soil planting zones above. Where deep soil zones are proposed side setbacks the same condition applies. *B9 – Rear Boundary Setbacks* *1 Objectives* *• To ensure opportunities for deep soil landscape areas are maintained.* *• To create a sense of openness in rear yards.* *• To preserve the amenity of adjacent land, particularly relating to privacy between buildi* *• To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.* *• To provide opportunities to maintain privacy between dwellings.* *Requirements* *. . . The rear setback area is to be landscaped and free of any above or below ground structures . . .* RESPONSE Clothes lines in this area are considered structures that would require hard landscaping/pavements for the use of the facility by the residents. This structure/area sh be relocated and not fall within the rear setback area. *D1 Landscaped open space and bushland setting* *2 Requirements* *1. The required minimum area of landscaped open space is shown on DCP Map Landsc Open Space and Bushland Setting. To measure the area of landscaped open space:* *a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres excluded from the calculation;* *b) The water surface of swimming pools and impervious surfaces which occur naturally s as rock outcrops are included in the calculation;* *c) Landscaped open space must be at ground level (finished); and* *d) The minimum soil depth of land that can be included as landscaped open space is 1 n* RESPONSE The required landscaped open space has not been achieved. Additional landscape oper space is required to comply with the control.

Internal Referral Body	Comments
	Built structures including hard surface paved areas are not to be included in the landscaı open space calculation. Planning Comment: The detailed strategic and urban design comments provided are concurred with and war refusal of the application as the proposal is symptomatic of an over development of the s with unsatisfactory urban design outcomes to integrate with the local character.
Traffic Engineer	The proposal is for construction of a boarding house development comprising 39 boardir rooms, including on site manager's accommodation. The proposed basement car park provides 16 car parking spaces and 16 motorbike and bicycle spaces. The design of the car park, driveway and the circulation areas are to be in compliance w Australian Standards AS2890.1:2004. In this regards, AS2890.1:2004 requires the drive longer than 20m (including the transitions) to be maximum of 1 in 5 (20%) steep with the of 1:8(12.5%) for the minimum length of 2m on both ends to prevent bottoming at the driveway. The applicant shall modify the design to reflect the above. Traffic generation resulting from the proposal is not considered to have significant impac the road network and is acceptable. The distance to the closest bus stop is within 50m from the site, which meets the SEPP requirement. In view of above, no objection is raised on the proposal subject to conditions. Planning Comment: There are unsatisfactory design elements to the proposal with respect to the carpark lay (encroachment within the side setbacks) and gradients. Therefore, these issues warrant refusal of the application, however this is discussed in detail under the planning assessm for the proposal.
Waste Officer	The waste services bin area has been assessed and is satisfactory subject to conditions Planning Comment: No detailed planning comments 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.
NSW Roads and Maritime Services (Traffic Generating Development)	The proposal was referred to the NSW *Roads and Maritime Service (RMS)* due to potential impact within the Northern Beaches Hospital Precinct where the RMS is carrying out extensive roadworks. The RMS responded on the 1 June 2018 with no comments and no objections raised and no requirement for RMS conditions.

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, subject to conditions to ensure appropriate safe handling of any lead paint or asbestos material that may be present / identified in the demolition process.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibly, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

<u>Clause 25: Definition</u>

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "*a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room*

or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	**Consistent** The site is located within the R2 Low Density Residential zone and, as such, the proposed use is permissible with consent under WLEP 2011, pursuant to the overriding powers of the ARH SEPP.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. **Note:** ***Accessible area*** means land that is within: (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	**Consistent** The site is located within the *R2 Low Density Residential zone* and is situated less than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday. Concrete footpaths are present along Naree Road that provide a continuous path of travel to the nearest bus stops. A *Traffic and Parking* report has been submitted by the applicant detailing access and details of available bus services to satisfy this clause.
(3) Despite subclause (1), this Division does not apply to development on land within *Zone R2 Low Density Residential*, or within a land use zone that is equivalent to that zone that is not in the Sydney region, unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.

Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development involves the construction of a "boarding house", as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applicable to the site under the WLEP 2011 or WDCP 2011.	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Not applicable	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing	The site is not within a zone that permits residential flat buildings and the site does not contain a heritage item and is not in a heritage conservation area. However, the land is subject to review for the Northern Beaches Hospital (NBH) precinct being considered for an R3 Medium density rezoning to permit residential flat buildings. No draft LEP has been exhibited for this at present. However, the proposal exceeds (i) were it to apply in the future as forecast in the	Not applicable.

	maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	Northern Beaches Hospital Precinct Structure plan.	
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The maximum building height complies with the 8.5m building height control under the WLEP 2011 (as per *existing ground level*).	Compliant: 8.5m
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The proposed landscaping is not compatible with the existing character of the local area. The front setback has limited opportunity for deep soil planting and would not provide a landscaping setting to soften the proposed built form. The majority of landscaping is not at natural ground level, instead occurring within an excavated level or within planter boxes.	Inconsistent Landscaping is inadequate and is incompatible with the existing streetscape (low density development with dense landscaping and wide front setbacks).
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	Communal living rooms "1"(G19) and "2" (G15) provided are partly below ground level and have a low standard of amenity / aspect. Communal room 3 (G07) is at the rear (north) and complies with solar access requirements.	**Consistent** for room communal room G07.
(d) private open space	if at least the following private open space areas are provided	(i) A private open space area of more than 20 sqm is provided with	Compliant (Usable terrace area of 3.4m x 9.4m)

	(other than the front setback area): (i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,	minimum dimensions of more than 3.0m within the rear setback. (ii) A private open space area of 2.1m x 4.3m is provided adjacent Room G06 for the Manager. The area of the open space terrace is 9.3sqm.	**Does not comply** (The minimum dimension of 2.5m is compromised to 2.1m by side setback structures and its excavated & walled location has poor amenity).
(e) parking	if: (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and (iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and (iii) in the case of any development—not more than 1 parking space is	The building contains 38 boarding rooms plus an on-site managers boarding room and is not being carried out by a social housing provider. Nineteen (19) car spaces are required for lodgers (+ 1 Manager car space)	**Does not comply** Note: The basement area significantly encroaches within the front and side setback areas which in order to comply with setbacks would reduce the parking spaces to 6 (including a manager car space.)

	provided for each person employed in connection with the development and who is resident on site,		
(f) accommodation size	if each boarding room has a Gross Floor Area (GFA) (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	**Ground Floor Level** Room G01 = 16.5 sqm (2) Room G02 = 16.5 sqm (2) Room G03 = 16.5 sqm (2) Room G04 = 16.5 sqm (2) Room G05 = 16.5 sqm (2) Room G06 = 16.5 sqm (2) Room G07 = 16.5 sqm (2) Manager Room G08 = 18.0 sqm (2) Accessible Room G09 = 18.0 sqm (2) Accessible Room G11 = 15.0 sqm (1) Room G12 = 15.0 sqm (1) Room G13 = 15.0 sqm (1) Room G14 = 15.0 sqm (1) **Level 1 Floor** Room 101 = 15.5 sqm (1) Room 102 = 15.5 sqm (1) Room 103 = 15.0 sqm (1) Room 104 = 15.0 sqm (1) Room 105 = 15.0 sqm (1) Room 106 = 15.0 sqm (1) Room 107 = 18.5 sqm (2) Room 108 = 18.5 sqm (2) Room 109 = 18.5 sqm (2) Room 110 = 18.0 sqm (2)	Consistent However, the plans submitted with the DA show double beds for each room, which indicates 2 lodgers per room and room areas shown on the plans include bathroom and kitchen space which cannot be included as room GFA. The applicants OPM indicates that the total number shall not exceed 77 persons. However a total 55 persons based on room floor space as per SEPP. (A room GFA must be 16 sqm to be counted for 2 persons) Based on room sizes, the application must be assessed against the highest occupation for each room.Therefore, there is a fundamental inconsistency in the documentation supporting the application under the Boarding House Management Plan (Section 4.0).

		Room 111 = 18.5 sqm (2) Room 112 = 18.5 sqm (2) Room 113 = 15.0 sqm (1) **Level 2 Floor** Room 201 = 15.5 sqm (1) Room 202 = 15.5 sqm (1) Room 203 = 15.0 sqm (1) Room 204 = 15.0 sqm (1) Room 205 = 15.0 sqm (1) Room 206 = 15.0 sqm (1) Room 207 = 15.0 sqm (1) Room 208 = 15.5 sqm (1) Room 209 = 15.0 sqm (1) Room 210 = 15.0 sqm (1) Room 211 = 15.0 sqm (1) Room 212 = 15.0 sqm (1) Room 213 = 15.0 sqm (1) Room 214 = 12.0 sqm (1)	
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	All rooms have a private kitchen and bathroom facilities.	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set	Not supported.	Consent authority does not consent to the development to which this Division applies due to low amenity and undesirable design response in the proposal

	out in subclause (1) or (2).		seeking compliance to the standards set out.

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A communal living room is located at the rear (ground floor level) of the building.	Compliant. The 3 communal rooms have a low standard of amenity or will impact on the amenity of neighbour's due to the narrow spatial separation, intensity of use, location within the building and orientation.
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 sqm,	No boarding rooms have an area, excluding the kitchen and bathroom facilities that exceed 25 sqm.	Compliant.
(c) no boarding room will be occupied by more than 2 adult lodgers,	This has been included in the BHMP that no rooms are to have more than 2 person occupancy.The GFA calculated allows for 55 persons, not 77 as per the BHMP	Compliant, subject to conditions to restrict occupancy.
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room has its own kitchen and bathroom facilities. There is a communal kitchen for the building. BCA requirement would require this to be an enclosed space for fire safety. This is not shown on the plans and the applicant has not addressed this requirement.	Compliant, subject to conditions.
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house 38 lodger rooms and Room G06 has been allocated for a manager occupancy.	Compliant
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes	Not applicable	Not applicable

unless another environmental planning instrument permits such a use,		
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	One (1) bicycle spaces and eight (8) motorcycle spaces are required.	Compliant. 16 bicycle spaces and 16 motorcycle spaces are proposed. The majority of these spaces are accessed through the disabled persons loading / parking space. (Note: The basement area significantly encroaches within the front and side setback areas, which in order to comply with setbacks, would reduce the motor bike parking to 4 spaces and pushbike to 1. This would make the development non-compliant.)
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable	Not applicable

Clause 30AA: Boarding houses in Zone R2 low Density Residential
A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Savings and transitional provisions of the SEPP ARH apply to this development application for this clause (ref.Clause 54C).

Clause 30: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. While the Planning Principle related to a Senior's Housing development it is relevant to boarding house development since the planning principle deals with "local character" and how new development should respond sympathetically to the "character of the local area".

Compatibly of the Proposal with Surrounding Development

The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- ***The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.***

Comment:

The majority of residential buildings in the vicinity of the site are either single storey or two storey detached dwellings in landscaped settings. This has established the predominant character of residential development in the area despite the prospect of a future rezoning to allow medium density development along Naree Road. Other development in the vicinity includes Forestville shopping centre, a church, business uses (such as consulting rooms), a boarding house (fronting Forest Way) and some independent "senior's living". On the whole the character of the area remains as low density residential within the visual catchment of the site.

The major development of the Northern Beaches hospital is visible from the site since it is located on a high point adjacent the Forest High School, only 600m East. The site is not within a heritage conservation area.

The proposal has a partly excavated ground floor level with a basement below. Excavation of the ground floor level which assists to enable a third storey level is inconsistent with the existing dwellings adjacent the site. Even thought the ground floor area will be substantially screened by boundary fencing the increase bulk and scale is obvious and jarring by comparison with adjacent houses surrounding the site. The proposal also is also distinctly out of character with the landscaped setting of surrounding residential development. There is a need to retain an effective landscape setback of 3.0m to 4.0m along both sides of the building to provide a sufficient deep soil screen landscape setting to soften the architectural character and assist with privacy and amenity. Such setbacks must incorporate trees and shrubs beside the driveway and pathway areas. Given that the character of the area is being considered for medium density the need for generous side setback and a residential design reflective of future medium density is critical. The proposal is fundamentally inconsistent with the medium density housing controls for apartment style development.

Currently the proposed boarding house is "jarring" in its streetscape appearance being out of context to surrounding houses creating an abrupt change in bulk and scale by virtue of its broad building footprint, 3 storey appearance and lack of landscaped setting. This is by comparison to the surrounding detached dwellings and includes consideration of the expected outcomes for future medium density development being considered along this section of the street.

In this regard, it is considered that the bulk, scale and massing of the development is incompatible with the streetscape and inconsistent with this principle.

- ***The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.***

Comment:

The proposal is substantially greater in size than surrounding dwelling houses and this is expected considering it is a boarding house building. However, the 25 metre long building is one continuous 3

storey built form and it is not broken-up with generous breaks or modulated for the ground or upper storey. Additionally, the narrow side setbacks without stepping-in or providing space to enable sufficient landscape space gives insufficient relief along the side elevations.

The design solution for the site lies in breaking the built form up into connected modules or pavilions and not excavating basement areas close to the boundaries. This will enable a landscape setback and bulk and massing of the ground and upper floor to be broken down (modulated / articulated). This is to generate a character that involves a landscape setting similar to adjacent land and a compatible ground floor footprint with less building bulk at the upper floor levels compared to the lower floor level. This includes relief to surrounding properties and the street to ensure a built form that is compatible with the character of the area, including future character.

Overall, the development is considered to be over-sized compared to the scale of surrounding development and fails to incorporate fundamental meaningful design measures to respect and respond to the context and built form of its surroundings. Additionally future development controls are likely to introduce apartment buildings with generous landscape setbacks and quality apartment design outcomes. On this basis, the proposal is inconsistent with this principle.

- ***The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.***

Comment:

The site has a few principal physical characteristics of slope, width and landscape setting to deal with. The most significant trees are situated toward the rear of the site and on adjoining land, particularly to the north. Hence, that vegetation should not be unnecessarily removed when it can be retained to screen the building in the long term. The building will be visually dominant when viewed from Naree Road and adjacent residential land on all sides without adequate screening. Insufficient landscaped area has been allocated in the form of side and rear setbacks to ensure generous and effective LOS is provided and commensurate with the scale of the building to ensure effective screening. The side terraces and terrace areas at the rear of the building will compromise the opportunity to retain landscape side setbacks that are characteristic of the surrounding land use pattern are likely to remain a desirable feature of any future medium density development near the site. Of relevance to considerations of the future local character is that the site is being considered for inclusion with a future zoning change along Naree Road to R3 Medium Density that will likely have a 50% LOS requirement. Therefore, the quantum of landscaping on the site should be reflective of this and distributed evenly around the building footprint providing a similar amount of LOS.

In this regard, it is considered that effective methods have not been employed in the design of the development to reduce its visual dominance and so the proposal is inconsistent with the third principle.

- ***The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.***

Comment:

The materials and building form is represented in the plans numbered "DA01 to DA150" including the

accompanying photomontage DA405, drawn by *Hames Sharley*. The building form uses a contemporary 'mansard' style design which is uncharacteristic of the local area. The introduction of balcony spaces along both side setbacks poses a significant change to privacy for adjacent properties. The practical utility of these balcony spaces is questionable considering the narrow dimensions and limited solar access.

In this regard, the development is considered to be consistent with this principle in terms of colours, materials and roof style.

The above Principals were further developed in *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties is assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

All land currently surrounding the site is established low density housing stock, and landscaping forms a major component of the existing character. Therefore, future development will be required to maintain a dominant landscape setting and spatial separation. The design of the proposal should therefore have regard to maintaining the neighbourhood character considering the urban design outcomes expected with any future changes as a result of the HPSP.

Privacy

The design of the proposed boarding house will create a considerable impact on adjacent dwellings due to the high capacity of occupancy. This includes the communal area at the rear of the site having inadequate landscape separation and the lack of landscape buffer along the side setbacks. The design response chosen to use high level windows and high balcony screens and high fencing create a "hardened" appearance to the building and unacceptable amenity impacts by comparison to the landscaped setting of the neighbourhood.

Overshadowing

Overshadowing details are shown on the plans, drawn by *Hames Sharley*, dated 5/4/2018, and demonstrate that the proposal will maintain 3 hours of sunlight to adjacent properties (existing private open space) between 9am and 3pm on 21 June. Within the proposed building the balcony spaces shown for the boarding rooms, including the ground level terraces have a low amenity standard due to overshadowing created by the high fencing, high screens and building design itself. Therefore, while the building complies with overshadowing requirements to adjacent land solar amenity within the building for its occupants is unacceptable particularly at the lower two residential levels.

Noise

The 38 room boarding house will have a significantly higher occupation compared to that of the adjacent and surrounding single dwellings and secondary dwellings, therefore potential noise disturbance between adjacent private open space areas should be managed by integrating or shielding these common areas from neighbouring dwellings. The outdoor terrace is particularly exposed to the

west and north with respect to potential noise impacts from occupants of the boarding house, if congregating or socialising within the outdoor terrace at the rear of the building.

While there is proposed to be an OPM in place for the management of the boarding house, there is no on-site manager to enable any immediate response to any noise disturbances. In this regard, it is considered the rear private open space and communal living area should have an improved integration with the building to buffer noise impacts from adjacent land, include acoustic walls and a much wider densely landscaped buffer to the rear setback. In addition to this, no details are provided as to air conditioning units that may be needed for each room and where they may be installed as many are single aspect.

Conclusions on Character Assessment

The above character assessment has found that, in the context of the *Land and Environment Court Planning Principles*, the proposal is unsatisfactory with respect to how it responds to the existing character of the local area and the public interest. The excessive bulk, inadequate landscaping, narrow setbacks and bulky built form does not ensure an acceptable design outcome.

In this regard, the proposal does not put forward a good design response to the requirements of the WDCP 2011 in terms of setbacks, privacy, landscaping, private open space and building bulk. While the SEPP permits a higher density and occupancy of use on the land, the proposal does not adequately respond to ensure a "good fit" within the low density residential surroundings and maintain a built form that is not "jarring" or an abrupt change in terms of its visual impact when viewed from surrounding land and how it sits within the streetscape.

The proposal will therefore create an unfavourable development precedent that is not in the public interest and so this matter warrants the refusal of the application.

Conclusion

The development is not supported for reasons of; inconsistency with the surrounding local character, excessive massing on the top floor and unsympathetic roof design, inadequate landscaped open space buffers, inadequate parking and side setbacks and potential noise disturbance likely from the communal open space.

SEPP (Building Sustainability Index: BASIX) 2004

The proposal is subject to SEPP Basix following the NSW LEC decision that a Boarding House may be considered as dwelling style housing relevant to SEPP Basix. A Basix report has not been submitted.

The proposal is also required to conform to Part J of the *Building Code of Australia* to demonstrate energy efficiency. A Section J BCA report has been submitted with the application demonstrating compliance.

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.

Other Service Infrastructure Authorities

The application was not required to be referred to the *Roads and Maritime Service* (RMS) and no other service authority referral issues are raised pursuant to the SEPP.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.32*m	N/A	Yes

*Height assessed from the submitted Survey plan and finished RLs shown on the architectural plans.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

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

Comment:

The proposed boarding house is a type of housing that is permitted within the *R2 Low Density Residential* environment. Boarding houses contribute to the variety of housing needs in the community, including for single persons or couples that may be seeking a more affordable accommodation option, or an alternative option to conventional apartments elsewhere, or detached low density housing in the locality. The scale and appearance of the building is inconsistent with the pattern of surrounding development and does not display a "good fit" to the existing or desired future character. This is due other built form controls that require a high standard of design and amenity considerations including landscaped open space, privacy, spatial separation, parking, building bulk, height and presentation to the streetscape to suit the character of the area and minimise impacts on adjacent land.

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

Comment:

The proposal is for housing only in a residential area, therefore this objective is not relevant to the application.

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

Comment:

The proposal does not demonstrate an acceptable response for the front setback area in terms of landscaping, including the side and rear setback areas. Considering the large scale of the building compared to conventional detached dwellings in the R2 zone, the overall design does not demonstrate a sufficient landscape setting that is in harmony with the low density residential environment. This extends to the basement excavation zones that extend into the front and side setbacks that would require significant modification of the natural site levels and create ineffective buffers for screening of building bulk, and low amenity of private open space area along the side of the building. The proposal is inconsistent with this objective.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.99m	10.9%	No
B3 Side Boundary Envelope	45 degrees at 4m (East)	Breach of envelope	18%	No
	45 degrees at 4m (West)	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m	0.0m	100%	No

	(East)	(Basement) 2.0m to 3.0m (Ground floor - primary wall plane) 3.0m (First floor - primary wall plane) 3.0m (Second floor - primary wall plane)	 N/A N/A N/A	 Yes Yes Yes
	0.9m (West)	0.0m (Basement) 0.0m to 4.0m (Ground floor - primary wall plane) 3.0m - 4.0m (First floor - primary wall plane) 4.0m (Second floor - primary wall plane)	100% 100% N/A N/A	No No Yes Yes
B7 Front Boundary Setbacks	6.5m	0.9m (Basement) 6.5m (Primary wall plane)	86% N/A	No Yes
B9 Rear Boundary Setbacks	6.0m	5.8m (Basement) 6.0m (Primary wall plane)	3% N/A	No Yes
D1 Landscaped Open Space (LOS) and Bushland Setting (Area 975.5sqm) 77.1 +21.8+10.3	390sqm 40%	120.2m (12.3%)	69%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1 Wall Heights	No	No
B3 Side Boundary Envelope	No	No
B5 Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	Yes	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	No	No
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	No	No
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

• *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood .*

Comment:

The predominant characteristics and pattern and scale of residential development in the surrounding neighbourhood is a critical element in the assessment of the boarding house proposal. The low density qualities of the surrounding neighbourhood have been raised in numerous public submissions including concerns regarding inconsistency of the boarding house design in terms of its building bulk, inadequate landscaping and high occupancy/intensity of use. While the site is being considered for potential change to R3 Medium density zone, the proposal has not sought to achieve a development that meets the desired characteristics and qualities expected by the controls applying that zone either.

It is considered that the proposal has not responded to the predominant character of the surrounding neighbourhood and does not satisfy this objective.

• *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.*

Comment:

The building bulk, size and intensity of use (based on the number and size of rooms) and ratio of landscaping to built form creates an abrupt change compared to neighbouring residential development. While the proposed use of the site is not considered to be inherently in contrast surrounding residential land, the building bulk is visibly exposed along all boundaries of the site. The building bulk is in stark contrast to the low density residential development surrounding site whereby there is a predominance of part one and part two-storey detached housing.

While it is accepted that existing development will gradually transition over time to a higher density, the proposed full 4 storey design within a single massed structure is not in keeping with the existing pattern of development. By comparison to the scale of surrounding residential properties the proposal represents a generally poor planning outcome and sets an undesirable precedent of urban form. Additionally, no effective landscape buffers are available along the side and rear setbacks. Therefore the proposal has not properly addressed the built form controls in a manner that will maximise landscaping and provide a positive contribution to the street or neighbours amenity.

• *To inspire design innovation for residential, commercial and industrial development.*

Comment:

The important controls which go to achieving design innovation are; building bulk (use of articulation and modulation), colours and materials (harmonise with the landscaped setting) and roof form (complements the buildings design and provides an attractive and interesting appearance within the street). In this regard, the proposal is unsatisfactory in terms of the bulk and massing of the ground and first floor levels and the unbroken wall and roof lines. Therefore, the proposal does not exhibit design innovation to an acceptable degree.

An appropriate series of innovative solutions for the site would be to:

- incorporate single storey elements (particularly at the rear and eastern side of the site).
- break the building into connected modules or pavilions.
- incorporate private open space / balcony elements within the central or front portions of the site.
- break up the roof into distinct and separate sections (and respect the continuity of traditional roof forms).
- accommodate carparking underneath the building (without extending close to any boundaries).
- increase side setbacks and provide pockets of substantial green space in deep recesses (in

association with creating module or pavilion-style design / effect).

• *To provide a high level of access to and within development.*

Comment:

The proposal demonstrates adequate access to the front of the development from the street. However the plans show inconsistencies with practical access from the rear of the building via the side access. A high level of safe access is required due to the intensity of residential use, however the plans provide insufficient and inconsistent information to address this requirement.

• *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.*

Comment:

The site is not within an "environmentally sensitive area" under WLEP 2011. Additionally, the land is not identified as having intrinsic scenic and visual qualities in the area and the site is not situated on a prominent hillside or ridgetop. The site does not contain any significant biological or ecological values such as remnant natural bushland or habitat.

• *To achieve environmentally, economically and socially sustainable development for the community of Warringah.*

Comment:

The proposal raises issues in relation to the lack of a suitable landscape setting for the development, and does not provide for well designed communal spaces which protect the amenity of adjacent land. Hence, the proposal is not considered to be an environmentally sustainable development. It is noted that the community have raised a significant level of concern in relation to the social impacts of the development. However, suitable conditions including a OPM will regulate the occupant impacts on the community. There are no issues in relation to economic sustainability.

B1 Wall Heights

Description of non-compliance

The proposal has a wall height of 7.99m which is breach of the wall height control by 0.79m (10.9%).

Merit consideration:

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

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

  Comment:
  The building exceeds the wall height control toward the northern end of the building which has a visual impact on adjoining properties to the north as well as toward the rear along eastern and western side setbacks. In particular, the height of the wall would also be visible from the street

when looking down the side boundaries and in particular along the driveway access side. The non-compliance is principally created by the inclusion of a third storey element at the upper level when the current planning controls for the zone are intended to encourage a maximum two-storey built form, as reflected by the existing streetscape.

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

  Comment:

  The proposal has not been designed to retain any substantial landscape areas that would allow large canopy trees to grow along the front, side and rear setbacks. Therefore, the proposal relies on trees within neighbouring land to compensate for the inadequate retention of deep soil zone available within the site. As such the proposal is inconsistent with this objective.

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

  Comment:

  The site is not in a location that affords any coastal or district views. Therefore, no further consideration of this objective is required.

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

  Comment:

  Compliance with the wall height control would reduce overshadowing to adjacent land, reduce visual building bulk and require a built form that has a reduced scale and massing. The proposal is inconsistent with this objective and demonstrates over development of the site which is symptomatic of a design approach that is not minimising impacts of development on adjoining properties.

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

  Comment:

  This objective favours buildings stepping down a site and using the natural slope to maintain consistent cross boundary levels, minimal excavation, changes in wall planes. The proposal includes significant excavation of the site for the basement level which extends across the full width of the site, and substantially into the front setback area. Excavation of the ground floor area also means that part of the building is below ground level resulting in a number of the boarding rooms at this level having low amenity. Since the building is set on an excavated footprint the finished wall height from RL134.4 to the roof eaves is much higher than 7.2m. Therefore, the proposal has not responded sympathetically the intent of this objective which is to discourage excavation of the natural slope.

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

  Comment:

The proposal includes a "mansard" style roof edge with a flat central roof area. The streetscape is dominated by traditional pitched roof forms and the visible roof area therefore may contribute to about 30% of the building form. The proposal is in contrast to this and therefore appears "jarring", unsympathetic and out of character within the low density residential streetscape. The building form is also out of context with the usual residential form of medium density apartments expected, in that the integrated massing of the wall and roof shows a "hardened" appearance. This is at odds by comparison with the softer landscape setting of housing along Naree Road and the broader residential development pattern nearby.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

The proposal breaches the side boundary envelope, by up to 1.3m, along the upper eastern wall plane / roof edge toward the northern end of the building.

Merit consideration

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

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

  Comment:

  The side elevations are not progressively stepped-in as wall height increases to respond to the side boundary envelope thereby reducing the visual dominance of the building. The building design does not demonstrate adequate recessed elements and stepping-in along the upper storey's to provide articulation and a compatible residential appearance that reduces visual bulk when viewed from adjacent land.

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

  Comment:

  The proposal does not provide an appropriate design response to ensure reasonable privacy is maintained to adjacent land imposing constraints on adjacent future redevelopment potential due to inadequate spatial separation. The proposed development would significantly reduce levels of residential amenity enjoyed on adjoining and nearby properties. The development does not orientate living rooms to the street, and would locate windows within 9.0m of windows of adjoining dwellings. Non-compliant elements with the side boundary envelope contribute to unnecessary overshadowing of adjacent land that would also impact opportunities to receive direct sunlight with any future redevelopment of adjacent private property for a similar purpose.

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

  Comment:
  The proposal includes significant excavation and modifies the natural landform with abrupt changes at the boundary lines toward the southern half of the site. This is contrary to the intent of this objective to follow the topography of the land and respond to the natural slope of the land, including the retention of existing site levels to support landscaping and natural drainage around the perimeter of the building.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of non-compliance

The minimum side setback for the site is 0.9m and the proposal includes basement structures at a 0.0m setback and above ground walls setback 2.0m to 3.0m

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

  Comment:
  The proposed development will not be surrounded by landscaping to soften and reduce the visual bulk when viewed along the side setbacks since the basement level and driveway is built to side boundaries leaving no opportunity for deep soil landscaping, including canopy screen trees.

- *To ensure that development does not become visually dominant.*

  Comment:

  The building height, width and overall scale is commensurate with that of a medium density apartment block, and is an obviously dominating structure by comparison to the adjacent dwelling houses. This imposes constraints on adjacent land and places unreasonable impacts on future re-development opportunities to overcome the lack of spatial separation, inadequate landscaped setbacks and imposing building scale along the side setbacks.

- *To ensure that the scale and bulk of buildings is minimised.*

  Comment:

  The side and rear setbacks are not progressively increased as wall height increases. The building design does not demonstrate adequate recessed elements and stepping-in along the upper storey to provide articulation and a compatible residential appearance that reduces visual

bulk when viewed from adjacent land

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

  Comment:

  Narrow side setbacks and building height contribute to reduce solar access to adjacent land. The inadequate deep soil zones and high levels of occupancy reduce the residential amenity of the building. The numerous balconies along the side setbacks have limited functional purpose due to their enclosed design and therefore further detract from the spatial amenity between neighboring buildings as have limited utility and do not serve to enhance the residential appearance if the building when viewed from the public domain or private property.

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

  Comment:

  The site is not in a location that affords any coastal or district views therefore not further consideration of this objective is required.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The DCP requires a setback of 6.5m and the proposal has a front setback of 0.9m for the basement structure.

Merit consideration:

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

- *To create a sense of openness.*

  Comment:
  The excavation of the front setback extends the building structures up to 0.9m from the street boundary. This requires a significant modification to the existing natural ground levels for concrete structures including planter boxes to create an unnatural setback area. The unsympathetic treatment of the front setback reduces the sense of openness to Naree Road and sets an undesirable precedent for the treatment of the front setback area.

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

  Comment:

Within part of the front setback an underground common room has been located that is forward of the 6.5m building line. This significantly reduces the opportunity for any substantial tree planting for canopy trees that would assist to maintain the desired landscape visual continuity of natural soil levels and deep soil planting in the front setback area. The landscape treatment of the front setback area is not compatible with the Naree Road streetscape. This streetscape is characterised by single and double storey dwellings situated in garden settings, with minimal structures forward of the front building line. Landscaping within front setback areas is situated at or near natural ground level and the fall in topography is evident in front gardens.

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

  Comment:

  The proposed development is incompatible with the current R2 Low Density Residential character of Frenchs Forest in the vicinity of the site. In particular the development involves the removal of all existing landscaping from the front setback and the construction of a basement level that extends within 1.0m from the front boundary and adjoins the side boundary. The front setback area is also dominated by structures for the driveway, pedestrian path and a raised planter box within the excavated area. This also sets an undesirable precedent against the HPSP for consistency in landscaping settings and streetscapes to be commensurate with future residential redevelopment in the area.

- *To achieve reasonable view sharing.*

  Comment:

  The site is not in a location that affords any coastal or district views and therefore no further consideration of this objective is required.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is is not supported, in this particular circumstance.

B9 Rear Boundary Setbacks

Description of non-compliance

the proposal has a minor encroachment for the basement element (0.2m). However, the design outcomes for the rear setback above ground level do not meet the secondary control that 50% of the rear setback area is to remain landscaped. Therefore, the proposal is not consistent with maintaining the objectives of this built form control.

Merit consideration:

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

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

Comment:

The majority of the rear setback is dominated by hard paved areas for the communal open space, the clothes drying area and on-site detention structure (below the clothes drying area). This results in more than 50% of the rear setback not having deep soil areas that are capable of supporting medium to large canopy trees to enhance the landscaped setting of the building when viewed from adjacent private open space and houses.

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

Comment:

The building complies with the rear setback distance of 6.0m and there are no ancillary outbuildings in the rear setback therefore the proposal is consistent with maintaining an open rear setback that does not have secondary buildings that encroach into this area.

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

Comment:

The redevelopment of the site for a boarding house will intensify the use of the rear setback area where communal open space will be available and other site facilities (such and clothes drying) are frequently used. Therefore, the privacy of adjacent land should be protected by ensuring a wide landscaped buffer is provided. Ideally this should be 3m to 4m wide (commensurate with the side setbacks) to buffer any communal areas and enable deep soil screen tree planting that provide effective privacy within the rear setback area and does not solely rely on adjacent private open space. The proposed boarding house does not have a sufficient landscape buffer within the rear setback and the use of the communal area is likely to impact on the amenity and privacy of adjacent land. Therefore, the proposal is inconsistent with this objective.

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

Comment:

The depth of the building extends to the limit of the rear setback area which is not consistent with the existing continuity and pattern of building, rear gardens and landscaping. In addition to this the rear setback is dominated by paved areas that prevent any substantial landscape elements and reduces the overall landscaping within the rear setback to less than 50% of the area. Therefore, the proposal is inconsistent with this objective.

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

Comment:
At ground level privacy can be partly addressed by high boundary fencing however this does not reduce overlooking from the upper storeys of the building or create a spatial separation between adjacent usable open space. The proposal does not provide adequate deep soil space for effective landscape screening to maintain privacy to adjacent dwellings.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C2 Traffic, Access and Safety

Merit consideration

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

- *To minimise traffic hazards.*

  Comment:

  The driveway exit is likely to require the relocation of a power pole, drainage pit and possible underground services. The applicant has not provided information from the relevant service infrastructure providers (Ausgrid, RMS, Telstra, Sydney Water) that those infrastructure elements can be suitably relocated / protected to allow for the new driveway entry / exit point. In this regard the proposal has not provided satisfactory information with the development application.

- *To minimise vehicles queuing on public roads.*

  Comment:

  The driveway access includes a lay-by area so that vehicles exiting and entering at the same time can pass, in order to ensure minimal queing on Naree Road.

- *To minimise the number of vehicle crossings in a street.*

  Comment:

  The proposal includes one vehicle crossing. The existing (new) vehicle crossing will be removed and kerb / footpath reinstated.

- *To minimise traffic, pedestrian and cyclist conflict.*

  Comment:

  The access drive will require adjustment to the design to ensure compliance with gradients and sight distances so that visibility between pedestrians and vehicles existing the site is safe enough to meet Australian Standards. Insufficient information has been provided to demonstrate compliance with this objective.

- *To minimise interference with public transport facilities.*

  Comment:

  Relevant requirements are considered in terms of the State Transit's 'Bus Infrastructure Guide"

Issue 2 dated July 2011. In particular, Section 3.7 of the Guide provides details on transit considerations. The proposal has suitable access to public transport since there is a bus stop located within 50m of the site. The building will not require any change to the bus stop.

- *To minimise the loss of "on street" kerbside parking.*

  Comment:

  Due to recent and significant changes to Naree Road by the RMS a transit lane is situated in front of the site. Therefore, visitor parking or additional cars owned by Lodgers within the proposed boarding house, that cannot park in the basement, would be displaced to other local roads near the site, such as Rabbett Street.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal s not supported, in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

The basement carpark is not designed appropriately to comply with the built form controls or provide a convenient parking layout for occupants of the building.

Merit consideration

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

- *To provide adequate off street carparking.*

  Comment:

  The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Boarding house	Comparisons must be drawn with developments for a similar purpose*.	0.5 parking spaces per boarding room as per the SEPP ARH with 1 for a Manager +	16 spaces (incl. Mgr car space) + 16 motorbike spaces + 16 pushbike spaces	- 4 car spaces + 8 motorbike spaces + 15 pushbike spaces.

		1 pushbike space + 1 motorbike space per 5 boarding rooms.		

*In order to make an appropriate genuine comparison the proposal must rely on other "new generation" boarding houses approved or constructed in the Warringah area and not other styles of boarding houses that are configured differently. Comparisons must be "like for like" and within the Warringah LEP/DCP 2011 area.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

  Comment:

  The basement parking area and driveway access encroaches into the side setbacks (up to a 0.0m setback) and into the 6.5m front setback area. This has a significant impact on building appearance since the existing deep soils zones and visible natural ground levels are not being kept in situ, that would otherwise allow for deep soil tree planting and a buffer between adjacent land. The design and location of the basement parking area therefore contributes on an unacceptable visual impact on the street frontage by preventing deep soil landscped setbacks for the building, when viewed from the public domain.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

  Comment:

  The basement parking area encroaches into the 6.5m front setback which prevents any deep soil (tree) landscape planting above the basement. In addition to this the deep excavation has a significant impact on the street frontage appearance since the visible natural ground levels are not being maintained. The design and location of the basement parking area therefore contributes on an unacceptable visual impact on the street frontage when viewed from the public domain.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is is not supported, in this particular circumstance.

C4 Stormwater

Merit consideration

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

- *To ensure the appropriate management of stormwater.*

Comment:

The applicant has shown intent to drain through private property to Wareham Crescent but Council is not in receipt of any evidence indicating that the downstream property owner is prepared to grant drainage easement for the development. It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact locations of any crossings or connections are to be shown and appropriate detail has not been provided.This would include engineering longitudinal section through the outlet pipe from the OSD system to the connection design invert levels, finished surface levels, pipes size, design flows, all utility services that may cross the line and a hydraulic grade line. Insufficient details are submitted to demonstrate stormwater disposal to Council's drainage infrastructure in Wareham Crescent complies with Council's requirements.

- *To minimise the quantity of stormwater run-off.*

Comment:

The proposal demonstrates a significant lack of landscaped open space which would minimise stormwater runoff by enabling the natural infiltration of water into existing deep soil landscape zones.

- *To incorporate Water Sensitive Urban Design techniques (WSUD) and On-Site Stormwater Detention (OSD) Technical Specification into all new developments.*

Comment:

Insufficient information has been provided to demonstrate WSUD techniques and compliance with Council OSD Technical specification.

- *To ensure the peak discharge rate of stormwater flow from new development is no greater than the Permitted Site Discharge (PSD).*

Comment:

In order for Council to adequately check the design of the OSD system, when the DRAINS program is used, the input data and summary information including a copy of the model on computer disc must be provided. Sufficient details must be submitted to demonstrate the total discharge (controlled and uncontrolled) off the development site is restricted to the 'state of nature' condition, as per section 4.3 of Council's On-site Stormwater Detention Technical Specification. Council's Development Engineers are not in receipt of this information and therefore cannot ensure the peak discharge rate is acceptable.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal has a landscaped open space (LOS) area of 120.2 sqm (12.3%), which represents a

deficiency of 69% from the required landscaping area of 390sqm (40%).

Merit consideration

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

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

  Comment:

  The proposal has provided some landscaping within the front setback between the access driveway and the western boundary, which should serve to maintain and enhance the streetscape. However, below part of this area is a basement structure that extend to 0.9m from the front boundary. Therefore, preventing the opportunity for any medium to large screen tree planting in the front setback area.

  In addition to the lack of deep soil zones within the front setback the side setbacks have no substantial landscaping zones. This is due to the basement structures and driveway having a 0.0m setback to the side boundaries which results in unsatisfactory natural deep soil zones being retained for screen planting to enhance the buildings amenity and provide a buffer to the adjoining properties.

  As such the proposal is inconsistent with this objective and results in a low standard of LOS consideration that prevents medium to large planting distributed around the building that would enhance the appearance of the development appropriate for the locality.

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

  Comment:

  The proposal does not provide adequate LOS due to the excessive building footprint, including boundary to boundary basement excavation and extensive hard paved areas around the building perimeter. The shortfall in LOS represents a significant variation from the 40% landscaping built form control. The lack of LOS does not enable sufficient area/buffers for substantial indigenous vegetation to complement the landscaped area on surrounding land and provide habitat for wildlife.

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

  Comment:

  The proposal does not provide an adequate width of landscaping within the eastern setback as it is compromised by excavated open space areas, basement structures and the likely need for a side pathway BCA requirement (not shown on the plans). Overall, the minimal landscape screen planting will not provide effective mitigation of the bulk and scale of the development and is inappropriate to meet this objective.

- *To enhance privacy between buildings.*

  Comment:

The building has narrow side setbacks with basement elements that extend to the side boundaries. Therefore no appropriate area buffer is retained establish screen tree planting to enhance privacy protection and also screen the building. There should be no structures below this buffer area to be retained around the perimeter of the building.

In addition to this, the proposal includes numerous balconies along the east and west elevations that increase the need for effective LOS screen planting. Overall, due to the size and high occupancy of the building, landscaping will not satisfactorily address privacy loss concerns unless at least 3.0 to 4.0m of deep soil, at natural ground level, where practicable.

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

  Comment:

  The subject development has limited outdoor open space to meet the needs of the occupants, especially considering the accommodation capacity of the building exceeds 50 persons. Despite the rear terrace area being compliant with the minimum dimensions under the SEPP ARH it is an area where lodgers can congregate within 3.0m of the adjoining property to the north. The placement of the communal private open space/terrace within the rear setback also will diminish the opportunities for effective screen landscaping and places the main outdoor area in a location that will disturb adjacent dwellings north of the site. Therefore, the potential amenity disturbance is high and is not satisfactory for a low density residential area.

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

  Comment:

  The proposal includes an internal laundry and open air clothes drying outside the building (ground level, northern wall).

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

  Comment:

  The proposal includes an on-site detention (OSD) tank in the north-eastern corner of the site (rear setback), which reduces landscape area within the rear setback. In addition, the area above the OSD tank is shown as a clothes drying area that prevents landscape screening in this area of the rear setback.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D2 Private Open Space

Description of non-compliance

Communal private open space is located within the rear 6.0m setback of 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:

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

  Comment:

  The communal outdoor private open space is located at the rear of the site and has the potential to negatively impact the amenity of neighbouring properties. This is because it is not shielded by the building itself, or significantly separated by a wide landscape buffer from adjacent land. It is considered that the private open space area is not well located / adequately buffered to minimise noise intrusion to neighbours, including potential overlooking of an adjacent swimming pool.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

  Comment:

  The communal private open space for the boarding house is directly accessible from the communal living room and located at ground floor level at the rear of the building. Therefore, the proposal satisfies this objective.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

  Comment:

  The private open space area is wholly within the rear setback area. The paved terrace is likely to be used quite frequently and by multiple lodgers. While the 1.5m to 2.0m northern setback is landscaped and open to view from No.21 to No.25 Wareham Crescent. This includes noise from persons socializing within the boarding house rear terrace area being likely to be readily apparent from adjacent properties to north. The building does not provide well located screened/integrated private open space that will protect neighbours from noise and other activity at the rear of the boarding house and no details are provided regarding any replacement fencing by the applicant to protect viewing / noise toward neighbours.

- *To ensure that private open space receives sufficient solar access and privacy.*

  Comment:

  The communal private open space area at the rear of the site receives sufficient solar access to comply with the WDCP on the 21 June, as demonstrated in the solar access diagrams prepared by *Hames Sharley* dated, 5-4-2018.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 and the objectives specified in section 5(a) of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is is not supported, in this particular circumstance.

D8 Privacy

Merit consideration

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

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

  Comment:

  The proposal includes the location of ground floor private open space within the side setback areas. The basement area being excavated to the boundary prevents any landscape buffer to assist screen planting along the side setbacks. Therefore, the proposal only relies on high fencing at ground level however insufficient detail is provided regarding the potential change to fencing and adjacent site levels. For the upper floors there are up to 10 balconies facing the neighbours on either side of the building, and while the balconies have screens the design is not a sympathetic response to the existing privacy enjoyed by adjacent dwellings. Therefore, the proposal is inconsistent with this objective.

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

  Comment:

  The design of the building includes high light windows along the side boundaries for the upper two levels and high fencing at ground floor level. While this intends to achieve visual and acoustic privacy to neighbours it results in a low standard of internal amenity. The balcony spaces for the lodger rooms along the eastern and western elevation are also enclosed by high screens that afford no outlook and would remain largely in shadow during the day. It is therefore considered that the resultant design solutions are not innovative and do not provide a positive contribution to the urban environment. The small and narrow window fenestration adds to the building bulk and contributed to a "hardened" appearance of the building when viewed from surrounding land and the street, setting and undesirable precedent for future development.

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

  Comment:

  The proposal has only the driveway (basement) and front entry area that are the principal access to the building. Therefore, privacy access is restricted for the security of occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

  Comment:

  The design of the building includes extensive three storey wall planes along the eastern, western and northern elevations. This is symptomatic of the high number of boarding rooms within the boarding house compared to the available site area and site width. The high number of rooms for the site area translates into excessive visual building bulk that is incompatible and inconsistent with the surrounding predominant pattern and scale of housing. The building bulk is unsatisfactory, despite the use of small balcony recesses and approval of this application would create an undesirable precedent for similar design responses for future development, including apartment buildings since the site is within the Northern Beaches Hospital Precinct.

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

  Comment:

  The development has insufficient building articulation and modulation along the side walls and a distinct absence of any single storey elements. The resultant built form does not appropriately respond to the local character of the existing residential area. This issue also extends to appropriate design considerations given the potential transition in the long term to R3 Medium Density within the Northern Beaches Hospital Precinct. Therefore, landscaping (up to half the site area), wide building setbacks of 4.5m to 6.5m, building articulation, use of window fenestration, sympathetic use of materials and colours is required to reduce the building bulk and minimise the visual impact of the development when viewed from adjoining properties and the street.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D11 Roofs

Merit consideration

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

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

  Comment:

  The proposed 'mansard' style roof design out of character with the pattern and style of existing

roof that dominate residential development in the surrounding urban environment. The roof form contributes to the overall bulkiness of the buildings appearance and therefore does not provide an innovative solution to improve the urban streetscape. It is considered that massing and scale of the building has not been adequately reduced by using variation in roof pitch and design and therefore sets and undesirable visual precedent for future development.

- *Roofs are to be designed to complement the local skyline.*

  Comment:

  The proposed roof design is not consistent with the dominant pattern and style of residential roofs surrounding the site. This is inconsistent with maintaining some elements of continuity in the urban form and local character by ensuring some similarity between roofs. The roof style selected is not consistent with this objective.

- *Roofs are to be designed to conceal plant and equipment.*

  Comment:

  The proposal does not show any plant or equipment on the roof for the development application diagrams, with the exception of a low lift overrun, setback from the edge of the building.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is is not 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.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

The development application assessment revealed that the proposal is incompatible and inconsistent with the surrounding character of detached dwelling houses. The proposal does not respond well to the local planning controls in the WDCP 2011 in terms of planning objectives relating to wall height, building envelope, setbacks, building bulk, inadequate LOS and privacy treatment. Additional concerns are also raised with regard to engineering matters for stormwater disposal and BCA compliance. More site specific assessment issues include concerns relating to the location and design of the private open space terrace, communal areas, inadequate details for emergency egress and parking arrangements. Based on these shortcomings, it is not in the public interest to support a development that does not satisfactorily address and satisfy the applicable planning controls.

The application was notified and advertised. More than 10 public submissions of objection to the proposal were received which demonstrates that there is a significant amount of public interest in the proposal for the matter to be referred to the NBLPP. The principal planning related issue raised in the submissions is whether the development demonstrates a "good fit" within the existing local character due to the scale of the proposal. Additional concerns were also raised in relation to the suitability of boarding houses in the area, the impact of traffic and parking and the impact of such a high occupancy use on local amenity setting an undesirable precedent for future development.

Based on the preliminary assessment, discussions were held with the applicant to encourage withdrawal of the DA to allow an opportunity to redesign the building. The applicant decided to maintain the current development application. As such the proposal is currently subject to a NSW LEC Appeal ('deemed refusal'). The LEC Proceedings No.2018/332566 so far have highlighted particular concerns in relation to built form, streetscape and residential amenity, including building bulk, amenity issues, site landscaping, setbacks, access and privacy. In this regard, it is being sought that the building scale and footprint be reduced to address the principal contentions.

Amended plans are not available for consideration by the NBLPP since the applicant has selected to concentrate on the LEC Appeal process and the 'without prejudice' discretion that is available under appeal rights. However, any redevelopment considerations for the proposal involves a significant redesign to break up the building platform, incorporate recesses/indents in the side walls of the building, incorporate larger areas of deep soil landscaping within setbacks areas, break up the building bulk, reduce overlooking and have communal areas better designed. The proposal is also lacking particular information to comply with Council's engineering requirements.

This assessment report has taken into consideration all public submissions, Statement of Environmental Effects, plans and other documentation supporting the application, including details of the NBSP. On balance, it is considered that the proposed development does not respond appropriately to the development controls and will result in an unfavourable development outcome pursuant to SEPP ARH, and the Warringah DCP 2011.

Accordingly, the application is recommended for refusal.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2018/0849 for the Demolition works and construction of a Boarding House development on land at Lot 16 DP 23317,10 Naree Road, FRENCHS FOREST, for the reasons outlined as follows:

1. 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 *State Environmental Planning Policy (Affordable Rental Housing) 2009 ("SEPP ARH 2009").* In particular, the proposal does not provide a satisfactory urban design response to the character of the local area, carparking, landscaping, solar access, amenity and built form requirements.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.

3. 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 objectives for the *Zone R2 Low Density Residential* of the *Warringah Local Environmental Plan 2011.* In particular, the overall design does not demonstrate a sufficient landscape setting that is in harmony with the low density residential environment, including the effective screening of building bulk, wide and well landscaped setbacks or a high standard of amenity for occupants and adjoining land.

4. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the Objectives of the *Warringah Development Control Plan 2011.* In particular in relation to design considerations to relating to streetscape, setbacks, landscaping, building bulk and form to maintain and enhance residential amenity.

5. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions and objectives of *Clause B1 Wall Heights* of the *Warringah Development Control Plan 2011.*

6. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions and objectives of *Clause B3 Side Boundary Envelope* of the *Warringah Development Control Plan 2011.*

7. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause B7 Front Boundary Setbacks* of the *Warringah Development Control Plan.*

8. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of *Clause B9 Rear Boundary Setbacks* of the *Warringah Development Control Plan 2011.*

9. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause C2 Traffic, Access and Safety* of the *Warringah Development Control Plan 2011.* In particular sufficient information detailing safe egress and impacts on existing service infrastructure located at driveway interface with Naree Road.

10. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause C3 Parking Facilities* of the *Warringah Development Control Plan 2011.*

11. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause C4 Stormwater* of the *Warringah Development Control Plan 2011*. In particular insufficient details are submitted to demonstrate stormwater disposal in compliance with Council's drainage policy and Council infrastructure.

12. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Part D1 Landscaped Open Space and Bushland Setting* of the *Warringah Development Control Plan 2011*.

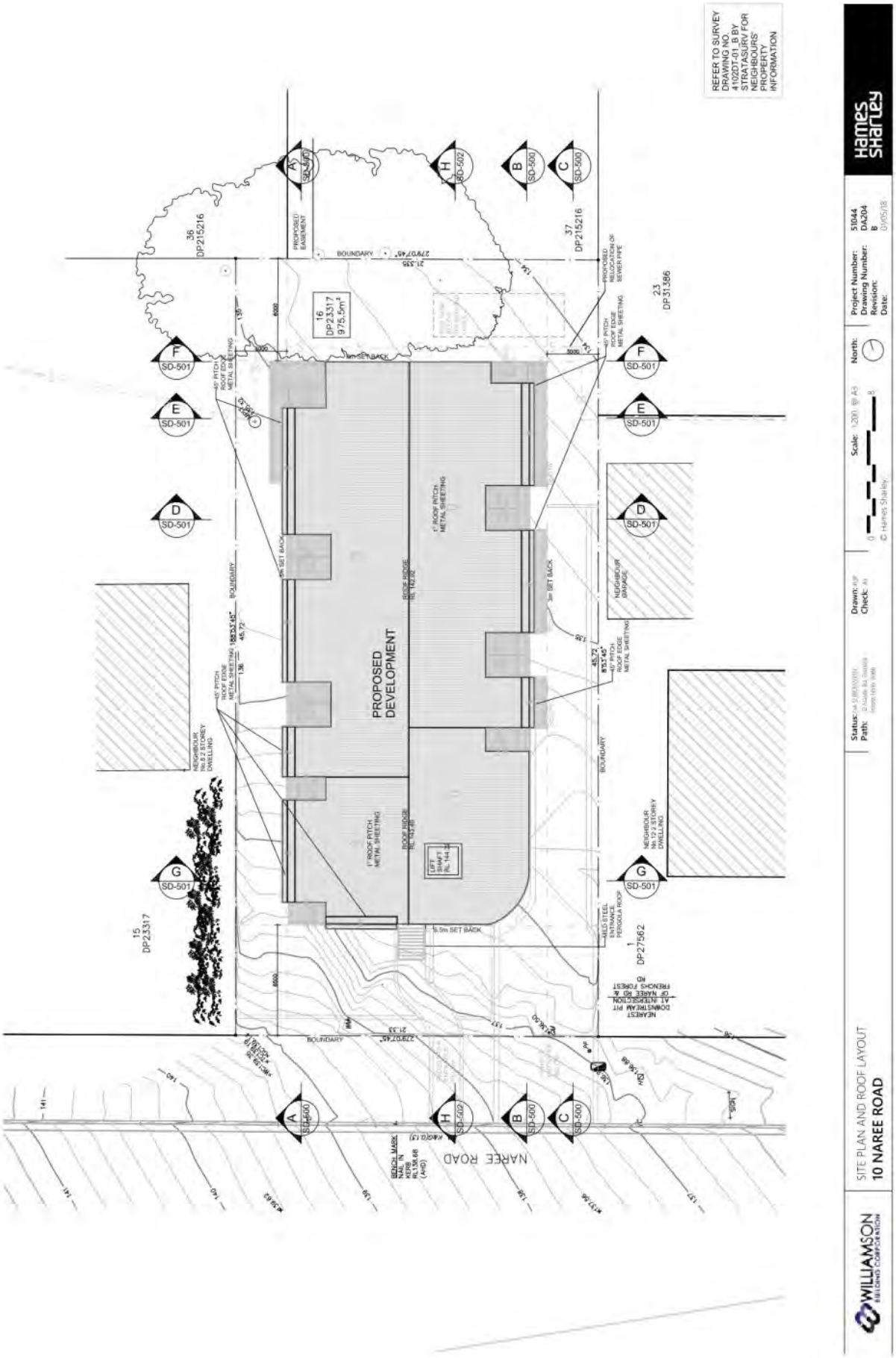
13. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause D2 Private Open Space* of the *Warringah Development Control Plan 2011*.

14. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause D8 Privacy* of the *Warringah Development Control Plan 2011*.

15. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause D9 Building Bulk* of the *Warringah Development Control Plan 2011*.

16. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause D11 Roofs* of the *Warringah Development Control Plan 2011*.

17. For the above reasons and pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest due to inconsistencies with applicable planning controls intended to achieved desirable built form outcomes expected by community in managing local development.


REFER TO SURVEY DRAWING NO. 41022DT-01_B BY STRATASURV FOR NEIGHBOURS' PROPERTY INFORMATION
PROPOSED DEVELOPMENT
NARREE ROAD
BOUNDARY
3m SET BACK
5.5m SET BACK
16 DP23317 975.5m²
36 DP215216
37 DP215216
23 DP31386
15 DP23317
1 DP27562
NEIGHBOUR DWELLING
NEIGHBOUR GARAGE
LIFT SHAFT RL 14.43
ROOF RIDGE RL 14.28
ROOF RIDGE RL 14.32
1° ROOF PITCH METAL SHEETING
45° PITCH ROOF EDGE METAL SHEETING
PROPOSED EASEMENT
PROPOSED RELOCATION OF SEWER PIPE
NEAREST DOWNSTREAM PIT AT INTERSECTION OF NAREE RD & FRENCHS FOREST RD
BENCH MARK NAIL IN KERB RL 136.68 (AHD)
Hames Sharley
Project Number: 51044
Drawing Number: DA204
Revision: B
Date: 01/05/18
Scale: 1:200 @ A3
North:
Drawn: KP
Check: AJ
Status: DA SUBMISSION
Path: J:\51044 - 10 Naree Rd\Revit\51044 - 10 Naree Rd.rvt
© Hames Sharley
WILLIAMSON BUILDING CORPORATION
SITE PLAN AND ROOF LAYOUT
10 NAREE ROAD

ELEVATION NORTH
N.T.S.

Status : DA - SUBMISSION
Path : 10 NAREE ROAD BENCHS
FOREST NSW 2086

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Project Number: 51044
Drawing Number: DA400
Revision: A
Date: 29/03/19

Hames Sharley

WILLIAMSON BUILDING CORPORATION

ELEVATIONS
10 NAREE ROAD

1500mm HIGH OPAQUE GLASS BALUSTRADE
45 DEGREE PITCH RIBBED METAL SHEETING ROOF -DARK CHARCOAL
EQUITONE CONCRETE FACADE CLADDING
HORISONTAL FC BOARD CLADDING WITH PAINT FINISH -DARK CHARCOAL
HORISONTAL FC BOARD CLADDING WITH PAINT FINISH -SAND
NATURAL ROCK CLADDING
ELEVATION EAST
N.T.S.
LEVEL 2 UPPER RL 140.54
LEVEL 1 UPPER RL 137.74
GROUND FLOOR RL 134.40
WILLIAMSON BUILDING CORPORATION
ELEVATIONS
10 NAREE ROAD
Status : DA - SUBMISSION
Path : 10 NAREE ROAD, FRENCHS FOREST NSW 2086.
© Hames Sharley
Project Number: 51044
Drawing Number: DA401
Revision: A
Date: 29/03/18
Hames Sharley

EQUITONE CONCRETE FACADE CLADDING
VERTICAL FC BOARD CLADDING WITH PAINT FINISH -DARK CHARCOAL
1500mm HIGH OPAQUE GLASS BALUSTRADE
NATURAL ROCK CLADDING
MILD STEEL ENTRANCE PERGOLA
LEVEL 2 UPPER RL 140.54
LEVEL 1 UPPER RL 137.74
ELEVATION SOUTH
N.T.S.
WILLIAMSON BUILDING CORPORATION
ELEVATIONS
10 NAREE ROAD
Status : DA - SUBMISSION
Path : 10 NAREE ROAD, FRENCHS FOREST NSW 2086
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Project Number: 51044
Drawing Number: DA402
Revision: A
Date: 29/03/18
Hames Sharley

1500mm HIGH OPAQUE GLASS BALUSTRADE
45 DEGREE PITCH RIBBED METAL SHEETING ROOF -DARK CHARCOAL
EQUITONE CONCRETE FACADE CLADDING
LEVEL 2 LOWER RL 140.00
LEVEL 1 LOWER RL 137.20
GROUND FLOOR RL 134.40
ELEVATION WEST
N.T.S.
VERTICAL FC BOARD CLADDING WITH PAINT FINISH -DARK CHARCOAL
HORISONTAL FC BOARD CLADDING WITH PAINT FINISH -SAND
OPAQUE GLASS DIVIDERS BETWEEN COURTYARD/ GARDNES
NATURAL ROCK CLADDING
Hames Sharley
Project Number: 51044
Drawing Number: DA403
Revision: A
Date: 29/03/18
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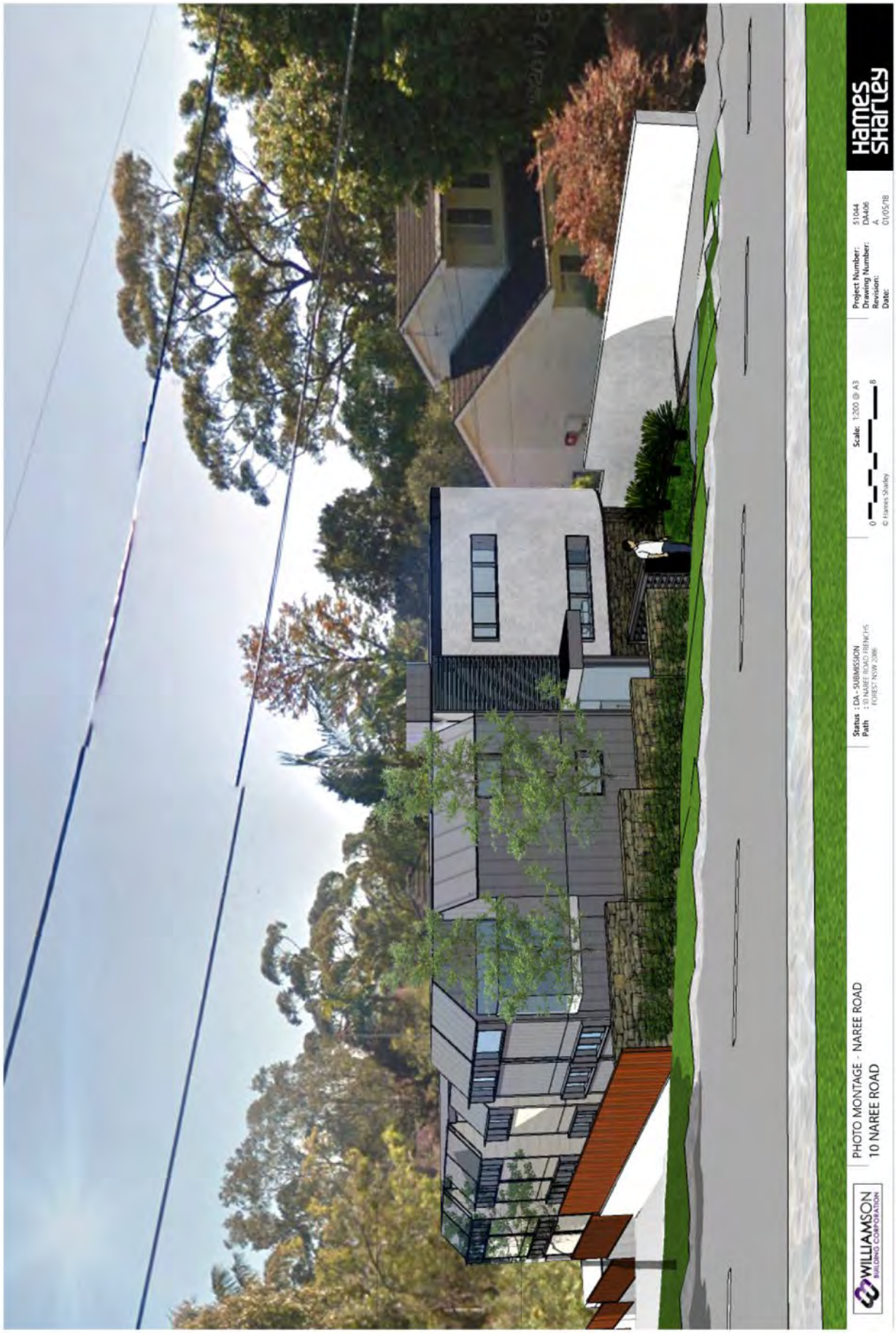
Status : DA - SUBMISSION
Path : 10 NAREE ROAD FRENCHS FOREST NSW 2086
WILLIAMSON BUILDING CORPORATION
ELEVATIONS
10 NAREE ROAD


WILLIAMSON BUILDING CORPORATION
PHOTO MONTAGE - NAREE ROAD
10 NAREE ROAD
Status : DA - SUBMISSION
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