

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Local Planning Panel will be held via teleconference on

WEDNESDAY 6 MAY 2020

Beginning at 1.00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Lesley Finn	Chair
Steve Kennedy	Urban Design Expert
Graham Brown	Town Planner
Nick Lawther	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.

**Agenda for a Meeting of the Northern Beaches Local Planning Panel
to be held on Wednesday 6 May 2020
Commencing at 1.00pm**

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 15 APRIL 2020

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 15 April 2020 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	DA2020/0085 - 14/108 BOWER STREET, MANLY - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING
AUTHORISING MANAGER	ANNA WILLIAMS
TRIM FILE REF	2020/238064
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations 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% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0085 for alterations and additions to a residential flat building at Lot 14 SP 4266, 14/108 Bower Street, Manly subject to the conditions and for the reasons set out in the Assessment Report.
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DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0085
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 14 SP 4266, 14 / 108 Bower Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a residential flat building
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:	Kim Lionel Jacobs
Applicant:	Gerald Gilchrist & Associates Pty Ltd
Application Lodged:	03/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/03/2020 to 24/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 88.2%
Recommendation:	Approval
Estimated Cost of Works:	\$ 58,157.00

Executive Summary

The application is for alterations and additions to an existing residential flat building and includes a variation of 88.2% to the height of buildings development standard. As the proposal relates to a residential flat building (Class 2) and the variation is greater than 10%, the application is referred to the Northern Beaches Local Planning Panel for determination.

The proposed works involve the replacement of an existing brick balustrade with glass, and increasing the size of window openings. There is also partial demolition of a brick furnace stack to lower the height below the new balustrade. Despite the non-compliance with the building height control, all works are contained generally within the existing building envelope, below the roof height, and do not result in any additional bulk.

No submissions were received and no further assessment issues are raised. The proposal is

recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes works as follows:

- New glass balustrade to replace existing
- New windows and doors
- Partial demolition of brick furnace stack to height below new balustrading

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
 Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

SITE DESCRIPTION

Property Description:	Lot 14 SP 4266 , 14 / 108 Bower Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one allotment located on the north-eastern side of Bower Street.</p> <p>The site is regular in shape with a frontage of 15.24m along Bower Street and a depth of 30.48m. The site has a</p>

	<p>surveyed area of 464.5m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing residential flat building.</p> <p>The site 4.27m from front-western corner to the rear-eastern corner.</p> <p>The site contains no significant vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a variety of residential uses included detached and semi-detached dwellings, and residential flat buildings.</p>
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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.

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	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration'	Comments
instrument	
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	The proposed development is within the declared habitat area for the endangered population of Long-nosed Bandicoots at North Head, as listed under the NSW Biodiversity Conservation Act 2016 (BC Act). As such, assessment of potential impacts in accordance with Section 7.3 of the BC Act is required. This assessment concluded that the proposal will not result in significant impact to the endangered population, subject to conditions to manage construction-related

Internal Referral Body	Comments
	impacts.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid with suitable conditions included.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A368903 dated 29 January 2020).

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 with suitable conditions included.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

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

Comment:

The proposed works are at level 5 of the existing building and will result in no unreasonable impacts in relation to the above.

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

Comment:

The proposal is for minor works within the footprint of the existing building.

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 minor works proposed are at the upper level of the building and will not unreasonably impact the coastal use area.

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

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

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

Comment:

The proposed development works are to level 5 of the building and will not increase the risk of coastal hazards on the site or adjoining land.

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	Works: 16m	88.2%	No (Existing)

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	16m (Existing building: 16.9m)
Percentage variation to requirement:	88.2%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings OR Clause development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

- *"The subject apartment is contained within an existing apartment block and no change to the building's height or bulk is proposed;*
- *The proposed works to the apartment do not include any additions or increase in building bulk;*
- *There will be no disruption to views from public spaces or from neighbouring properties. The replacement of masonry balustrading with glass will nominally improve available views;*
- *There will be no change in solar access to private and open spaces or loss of solar amenity to private open spaces or neighbouring properties;*
- *The bulk and scale of the building is unchanged and the proposed will have no negative impact on the desired future character of the area."*

The proposed new windows and glazed balustrading will improve the internal amenity of the subject unit and will not result in any unreasonable visual, privacy or overshadowing impact to adjoining properties/land.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

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

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

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

Comment:

The proposed works are located below the existing roof ridge.

b) to control the bulk and scale of buildings,

Comment:

The proposed works are to the existing building facade and do not result in any additional bulk.

c) to minimise disruption to the following:

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

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

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

Comment:

The proposal will not result in any impact to views to, from or between residential development or 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 does not increase building bulk and so will not cause any additional overshadowing.

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 works are to the existing structure and do not alter the building height.

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 are minor and maintain the existing residential use.

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

Comment:

The proposal will not unreasonably impact the above values.

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

Comment:

The proposal will not impact the tree canopy.

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

Comment:

The proposed development will not impact the nearby foreshores or natural environment.

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

Comment:

The works are separated from the immediate foreshore and will not result in increased hard surfaces or runoff.

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

Comment:

The works are to the existing structure and do not alter the building height.

Conclusion:

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

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

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

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

6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

The proposed works are located above ground level and include no excavation.

6.5 Terrestrial biodiversity

The proposed works are contained within the existing building footprint. Council's Biodiversity Officer has reviewed the application and concluded that the proposal will not unreasonably impact biodiversity values on the site, and included suitable construction-related conditions.

6.9 Foreshore scenic protection area

The proposal is for minor aesthetic works to an existing building and will result in no unreasonable impacts in relation to visual aesthetic amenity or views to and from the Manly Foreshore/Pacific Ocean.

Manly Development Control Plan

Built Form Controls

There are no Development Controls to under Part 4 of the Manly DCP to consider as part of this assessment.

Compliance Assessment

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
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposed works are generally contained within the existing building envelope and will not result in any material overshadowing.

3.4.2 Privacy and Security

The proposed new windows are located significantly above the surrounding buildings and will not result in any unreasonable overlooking/direct viewing of adjoining properties.

5.4.2 Threatened Species and Critical Habitat Lands

Council's Biodiversity Officer raised no objection to the development, subject to recommended conditions of consent.

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 Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

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

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0085 for Alterations and additions to a residential flat building on land at Lot 14 SP 4266, 14 / 108 Bower Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Site Plan	18 November 2019	Gerald Gilchrist & Associates
DA02 Floor Plan & Section AA	18 November 2019	Gerald Gilchrist & Associates
DA03 Elevations	18 November 2019	Gerald Gilchrist & Associates

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

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon

- plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

3. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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.

4. **Ausgrid**

The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Reason: To ensure safety on site.

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition 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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

6. 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 endangered bandicoots 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.

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

7. Pre-clearance Survey Required – Bandicoot Habitat

A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal or relocation of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present within the area to be cleared. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to the Principal Certifying Authority.

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

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

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

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

9. **Protect Grassed Foraging Areas – Bandicoot Habitat**

There is to be no off-loading or storage of construction materials or debris on the grassed lawn or grassed road verge adjacent to the property. The integrity of the grass must be preserved at all times.

Reason: To prevent direct physical injury to Long-nosed Bandicoots and allow for foraging activity. This area is likely to be used by bandicoots for foraging.

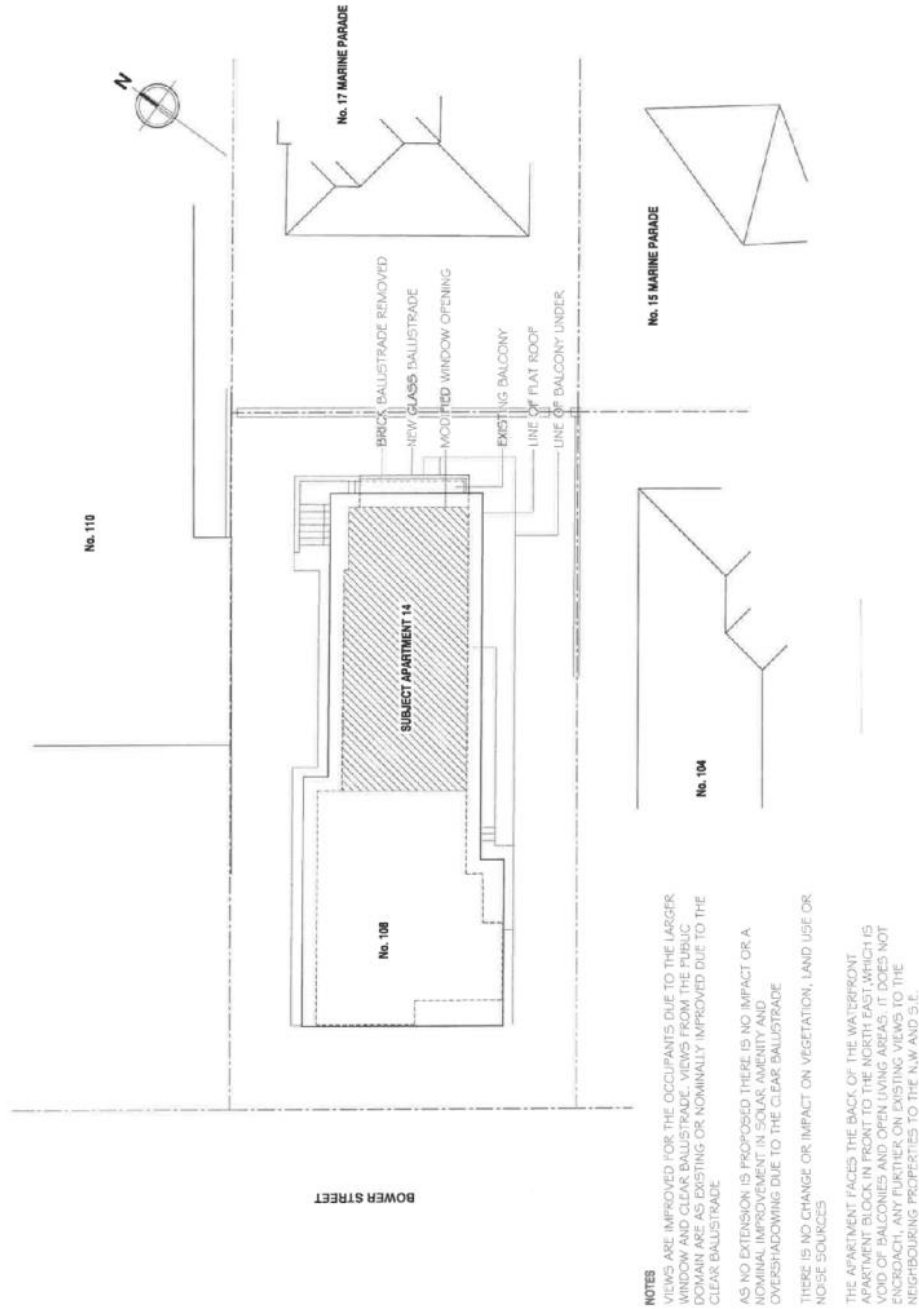
ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

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

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

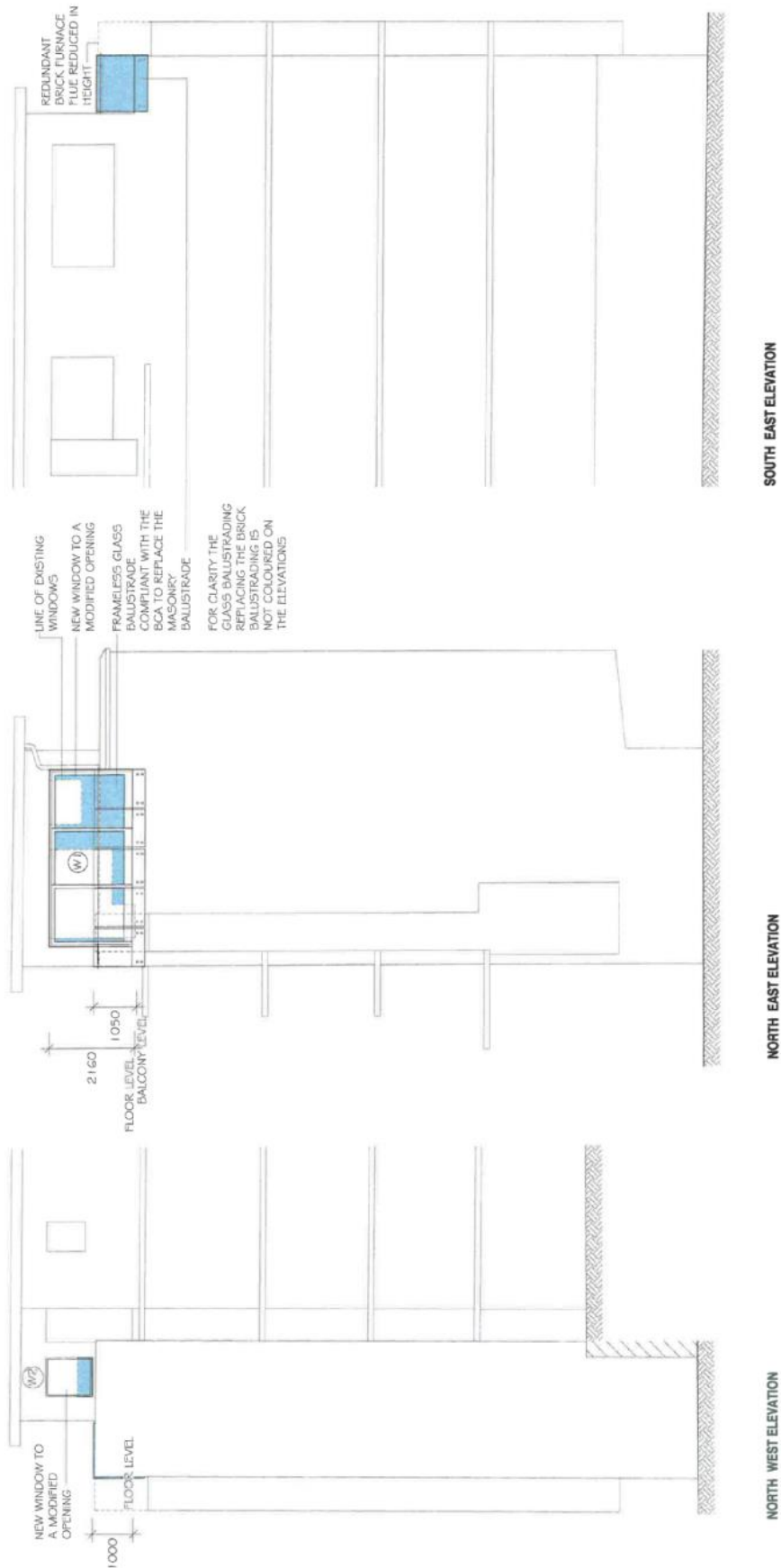
Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

SITE ANALYSIS PLAN



PROPOSED ALTERATIONS	DEVELOPMENT APPLICATION	DATE	SCALE
KIM JACOBS		30 Jan. 2020	1:200
14 / 108 Bower Street Manly		1908 / DA04	
Gerald Gilchrist + Associates Pty Ltd		PHONE 9969 5627	
		DO NOT SCALE OFF DRAWINGS	

ELEVATIONS



PROPOSED ALTERATIONS	DEVELOPMENT APPLICATION	DATE	SCALE
KIM JACOBS		18 Nov 2019	1:100
14 / 108 Bower Street Manly		1908 / DA03	
Gerald Gilchrist + Associates Pty Ltd		PHONE 9969 9527	DO NOT SCALE OFF DRAWINGS

Scanned 06-04-2020



31 March 2020

The General Manager
Northern Beaches Council
1 Belgrave Street
Manly NSW 2095



**APPLICATION FOR AN EXCEPTION TO A DEVELOPMENT STANDARD UNDER
CLAUSE 4.6 OF MANLY LOCAL ENVIRONMENTAL PLAN 2013 FOR DA 2020/0085**

The subject property, being 14/108 Bower Street Manly, as defined by the LEP has a height limit of 8.5m

The NSW planning system provides flexibility in planning controls by providing the ability for a Council to vary development standards in certain circumstances.

The relevant objectives of Part 4, clause 4.3 Height of buildings of buildings is as follows;

- (a) *To provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and the desired future streetscape character in the locality,*
- (b) *To control the bulk and scale of buildings,*
- (c) *To minimise disruption of 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 foreshores),*
 - (iii) *views between public spaces (including 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*

Compliance with part 4.3 Height of buildings would be unreasonable in this instance for the following reasons;

The subject apartment is contained within an existing apartment block and no change to the buildings height or bulk is proposed.

The proposed works to the apartment do not include any additions or increase in building bulk.

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P.2. Cont-

There will be no disruption to views from public spaces or from neighbouring properties. The replacement of masonry balustrading with glass will nominally improve available views.

There will be no change in solar access to private and open spaces or loss of solar amenity to private open spaces or neighbouring properties

The bulk and scale of the building is unchanged and the proposed will have no negative impact on the desired future character of the area

The objection to the building height standard is considered to be well founded.

Yours faithfully,
Gerald Gilchrist + Associates Pty Ltd



Gerald Gilchrist, Director

ITEM 3.2

**MOD2020/0111 - LOT 1/ VETERANS PARADE, NARRABEEN -
MODIFICATION OF DEVELOPMENT CONSENT DA2018/1481
GRANTED FOR CONSTRUCTION OF A
TELECOMMUNICATIONS FACILITY MONOPOLE TOWER AND
ASSOCIATED EQUIPMENT SHELTER**

AUTHORISING MANAGER **RODNEY PIGGOTT**

TRIM FILE REF **2020/238066**

ATTACHMENTS **1 [↓](#) Assessment Report**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination or decision 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. Mod2020/0111 for Modification of Development Consent DA2018/1481 granted for construction of a telecommunications facility Monopole tower and associated equipment shelter at Lot 2611 DP 752038, Lot 1/ Veterans Parade, Narrabeen subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0111
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 2611 DP 752038, 1 / 0 Veterans Parade NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent DA2018/1481 granted for construction of a telecommunications facility monopole tower and associated equipment shelter
Zoning:	Warringah LEP2011 - Land zoned SP1 Special Activities Warringah LEP2011 - Land zoned E2 Environmental Conservation
Development Permissible:	Yes, under State Environmental Planning Policy (Infrastructure) 2007
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	LPP
Land and Environment Court Action:	No
Owner:	RSL Life Care Limited
Applicant:	Telstra Corporation
Application Lodged:	17/03/2020
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Other
Notified:	28/03/2020 to 01/05/2020
Advertised:	28/03/2020
Submissions Received:	10
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

A 31 metre high telecommunications monopole was approved by the Local Planning Panel on 14 August 2019. Due to concerns with the height and visual prominence of the pole, the Panel applied a condition, which require the pole to be a recessive colour and specifically that the colouring be incorporated within the concrete material. The existing condition reads as follows:

8. Amendments to the approved plans

The concrete monopole is to be suitably finished in a recessive colour to minimise the visual impact. In this regard, the colouring is to be incorporated within the concrete material (i.e. dark grey oxide additive within the concrete).

Reason: To ensure the structure has minimal visual impact and maintains a durable finish.

The applicant has provided evidence from the manufacturer that the colour will not mix evenly throughout the concrete and therefore will not meet the intention of the condition.

This modification simply seeks to amend condition 8 to allow for a surface coating to the pole in order to provide the colouring.

The request to change to the condition 8 is supported.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification seeks to modify Condition 8 of the development consent (DA2018/1481). It is noted that condition 8 as it currently appears on the consent was imposed by the Northern Beaches Local Planning Panel (NBLPP) as follows:-

"8. Amendments to the approved plans

The concrete monopole is to be suitably finished in a recessive colour to minimise the visual impact. In this regard, the colouring is to be incorporated within the concrete material (i.e. dark grey oxide additive within the concrete).

Reason: To ensure the structure has minimal visual impact and maintains a durable finish."

The applicant has provided evidence from the manufacturer that the dark grey oxide will not consistently mix through the concrete properly and therefore would not meet the intention of condition 8. The manufacturer has stated:-

"The most reliable and consistent way to colour the pole is with a surface coating." Given the above the applicant is seeking to modify condition 8 as follows:

Condition 8. Amendments to the approved plans to read as follows:

The concrete monopole is to be suitably finished in a recessive colour to minimise the visual impact. In this regard, the colouring is to be a painted concrete monopole (i.e. dark grey colour).

Reason: To ensure the structure has minimal visual impact and maintains a durable finish.

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 - Warringah Local Environmental Plan 2011

Warringah Local Environmental Plan 2011 - Zone SP1 Special Activities

Warringah Local Environmental Plan 2011 - Zone E2 Environmental Conservation

SITE DESCRIPTION

Property Description:	Lot 2611 DP 752038 , 1 / 0 Veterans Parade NARRABEEN NSW 2101
Detailed Site Description:	<p>The site is described as Lot 1 Veterans Parade, Narrabeen being Lot 2611 within Deposited Plan 752038. The site is made up of a number of lots.</p> <p>The site is located within the SP1 – Special Activities: Seniors Housing Health Services Facility zone. The property also adjoins a E2 Environmental Conservation zone to the west.</p> <p>The site is currently used as a seniors housing complex, owned by RSL Lifecare Limited.</p> <p>The immediate area is characterised by the War Veterans RSL Retirement Village residential dwellings and buildings and amenities complex buildings.</p> <p>The adjoining and surrounding area is characterised by residential dwellings along Lantana Avenue, Ennerdale</p>

Crescent, Greystoke Street and Veterans Parade.

It is noted that State Environmental Planning Policy (Infrastructure 2007), contains a provision, Clause 115(1), that enables development, for the purpose of a telecommunication facility, to be carried out by any person on any land with consent from Council. Therefore, telecommunications facilities are permissible in all zones within the Northern Beaches Local Government Area with the consent of the Council as the State Planning Policy overrides Council's Local Environmental Plan (WLEP 2011) which prohibits such development as proposed.

Map:



SITE HISTORY

DA2018/1481 - Construction of a telecommunications facility (monopole tower and associated equipment shelter) was approved by the Northern Beaches Local Planning Panel (NBLPP) on 14 August 2019

The proposal involves the following:

- The construction of a 31.3m high mobile phone tower, comprising a monopole and six (6) panel antennas attached to a compact headframe;
- The construction of a Telstra equipment shelter with dimensions of 3.15 metres deep x 2.38 metres wide x 3.0 metres high to house electrical equipment associated with the facility New access to the facility from the existing driveway off Lakeshore Drive ;
- New underground optical fibre route via Lantana Avenue and underneath the existing amenities building to the east of the subject site (Therapy and Lifestyle Centre at No. 1 Lakeshore Drive) A new power supply route from the north of the property via the existing multi storey residential building (known as Villers-Bretonneux Building); and

- The construction of a 8m x 8m (64 sqm) fenced (compound) lease area to house the facility The construction of a 2.4 metres high standard security fence.

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 DA2018/1481, 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	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The proposed modification seeks only to alter the method of colouring the monopole by painting instead of adding the oxide to concrete.</p>

(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	<p>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 DA2018/1481 for the following reasons:</p> <p>The proposed modification only seeks to alter the method of colouring the monopole by painting instead of adding the oxide to concrete (as conditioned).</p> <p>The height and position of this proposed development remains the unaltered by this proposed modification.</p>
Section 4.55(1A) - Other Modifications	Comments
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations require, or</p> <p>(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</p>	<p>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.</p>
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

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

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

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

Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.
Section 4.15 'Matters for Consideration'	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land.

The previous application (DA2018/1481) was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included in the previous consent (DA2018/1481).

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 10 submission/s from:

Name:	Address:
Mr Bernard Crosweller	118/10 Lakeshore Drive NARRABEEN NSW 2101
David Allcroft	47/10 Lakeshore Drive NARRABEEN NSW 2101
Mr Les Hubble	Villa 9 10 Lakeshore Drive NARRABEEN NSW 2101
William Picknell	14/3 Lakeshore Drive NARRABEEN NSW 2101
Arthur James Skene	57/5 Endeavour Drive NARRABEEN NSW 2101
Barry Rose	17/4 Colooli Road NARRABEEN NSW 2101
John Graham Nihill	43/10 Lakeshore Drive NARRABEEN NSW 2101
Mr Horst Kuessner	Address Unknown
Mrs Janette Rachel Williams	44/10 Lakeshore Drive NARRABEEN NSW 2101
Ian Wells	Address Unknown

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

- The approval process; and
- Poor mobile and internet reception and improve the current level of service to the area.

The matters raised within the submissions are addressed as follows:

The approval process

Comment: DA2018/1481 - Construction of a telecommunications facility (monopole tower and associated equipment shelter) was approved the Northern Beaches Local Planning Panel (NBLPP) on 14 August 2019. At the meeting the LPP proposed changes to Condition 8 - Amendments to Approved Plans and the amended condition, as recommended by staff, and the final version of condition 8 as endorsed by the panel was:

"The concrete monopole is to be suitably finished in a recessive colour to minimise the visual impact. In this regard, the colouring is to be incorporated within the concrete material (i.e. dark grey oxide additive within the concrete).

Reason: To ensure the structure has minimal visual impact and maintains a durable finish."

The applicant (Telstra Corporation/Visionstream Australia Pty Ltd) have advised Council that the manufacturer (Rocla) who make the monopole(s) cannot guarantee the consistent mixing of colour within the concrete monopole and therefore would result in a structure that does not satisfy the requirements of condition 8 and would result in discolouration of the structure. The manufacturer has stated the following:-

"The most reliable and consistent way to colour the pole is with a surface coating."

As stated previously Condition 8 was imposed by the NBLPP, this means that the request to modify the panel endorsed condition must be referred back to the panel (NBLPP) for determination.

Poor mobile and internet reception and improve the current level of service to the area

Comment: Many comments made suggest that there will be a benefit to the community, residents, staff and visitors in relation to better reception within the area and that the development is required for this reason. The applicant contends that additional service is required and it is evident from the number of submissions made from residents within the RSL Village that the current level of service is considered to be average to poor within certain parts of the village.

Council acknowledges that this new telecommunication infrastructure will improve mobile and data services within the vicinity and surrounding areas.

Therefore, this does not warrant further amendment or refusal of the application.

REFERRALS

No referrals were sent in relation to this application.

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**Division 21 - Telecommunications Facilities**

Division 21 of SEPP (Infrastructure) permits the development of 'Telecommunication facilities' which are defined as;

- "(a) any part of the infrastructure of a telecommunications network, or*
- (b) any line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or*
- (c) any other thing used in or in connection with a telecommunications network."*

Clause 115 of the SEPP specifically permits development with consent as follows:

"(1) Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land."

Accordingly, the telecommunication facility proposed can be considered as a development permitted with consent, even though it is a prohibited use under the provision of the Warringah LEP.

As the determining Authority, Council must consider "any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette".

The principles of the Guideline are addressed below.

Principle 1: A Telecommunications Facility should be sited to minimize visual impact

Note the assessment considerations undertaken via the original assessment (DA2018/1481) remain unaltered by this proposed modification (MOD2020/0111)

Specific Principles	Comments within the Statement of Environmental Effects by the applicant (Visionstream)	Comments from Council	Consistent
(a) As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.	<i>"(a) to (c) These principles relate to facilities that are located on an existing building or structure and are not directly applicable to new freestanding monopole elements such as those</i>	(a) to (c) The applicant (Visionstream) noted three (3) different locations as follows: Candidate A - No. 10	Yes (a to c)
(b) The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings. (c) Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.	<i>proposed in this instance. As such, these elements are not applicable."</i>	Endeavour Drive - rooftop installation Candidate B - No. 3 Lakeshore Drive - rooftop installation (Villers-Bretonneux Building) Candidate C - No. 1 Lakeshore Drive - formerly 41.3m tower now 31.3m tower The approved site is located adjacent to the building at No. 1 Lakeshore Drive. Conclusion: - It is considered that the Candidate B could not deliver acceptable levels of coverage required.	

(d) Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.	<i>"(d) The associated equipment will be housed in a small equipment shelter which is metallic grey or green colour. Given the modest size of the housing units and the surroundings of the proposed site it is anticipated that a colour match of green would reduce the visual impact. Vegetation surrounding the facility's proposed location serves to reduce any visual impacts of the ancillary equipment."</i>	(d) It is considered that the equipment shelter will be adequately screened from the public.	Yes
(e) A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.	<i>"(e) The facility has been located and designed to respond to its surrounding urban and rural landscape context. This is discussed in detail in Section 8."</i>	e) The approved location and height for this telecommunications structure has now been considered to respond appropriately to the site,	Yes
		surroundings and landscape setting.	
(f) A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.	<i>"(f) The proposed site is not within any heritage conservation area and is not in close proximity to any heritage items identified in the Warringah LEP."</i>	(f) The proposal is considered to be adequately distant from the Anzac War Memorial Veterans Parade (I30) and Ruins of the Wheeler Homestead, War Veterans Home (I32). The development will have minimal impact on those heritage items (Warringah Local Environmental Plan 2011 - Schedule 5 Environmental Heritage).	Yes

(g) A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.	<i>"(g) The proposed facility is located on private property against the back drop of forestry vegetation. Minimising disruption to views of this landscape has been reduced through the design characteristics of a monopole. Refer Sections 7 and 8."</i>	(g) Given the approved height and distance from the heritage items it is considered that the proposal demonstrates compliance.	Yes
(h) The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.	<i>"(h) It is proposed that a single tree be removed to make provision for the base station. The tree is approximately 12m high with a diameter of 400mm. An additional nearby tree needs to be trimmed to provide for the mast structure. Furthermore, the plantation vegetation adjacent to the proposed facility would not be subject to a Tree Preservation Order. As per of the development consent, we require Council to grant us a permit for the removal of the tree as illustrated and listed under Section 11.3.8 of this document."</i>	(h) The proposal will see that some tree pruning would be required and considered to be satisfactorily addressed via the original conditions of consent.	Yes
(i) A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.	<i>"(i) This aspect could be implemented by a condition of consent if the Council considers it appropriate."</i>	(i) A suitable condition could be applied (if required).	Yes
(j) The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.	<i>"(j) The design and siting approach is discussed in detail in Sections 7 and 8."</i>	(j) The approved siting and design of this telecommunications facilities was in accordance with the relevant Industry Design Guides.	Yes

Principle 2: Telecommunications Facilities should be co-located wherever possible

Specific Principles	Comments within the Statement of Environmental Effects by the applicant (Visionstream)	Comments from Council	Consistent
(a) Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.	<i>"(a) N/A – The proposal does not involve the installation of new telecommunications lines."</i>	(a) The approved proposal requires the installation of new fibre optics underground running from Lantana Avenue under the building located at No. 1 Lakeshore Drive to the proposed monopole and ancillary shelter.	Yes
<p>(b) Overhead lines, antennas and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio communications equipment to minimise the proliferation of telecommunication facilities and unnecessary clutter,</p> <p>(c) Towers may be extended for the purposes of colocation.</p> <p>(d) The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.</p> <p>(e) If a facility is proposed not to be co-located the proponent must demonstrate that colocation is not practicable.</p>	<i>"(b)(c)(d)(e) There are currently no existing carrier telecommunications facilities located in the vicinity, with the required position and/or height and/or structural suitability that are potentially capable of providing the wireless radio services to the locality on which the proposed equipment can be co-located. (Refer to Section 5 and 6)."</i>	<p>(b),(c), (d) and (e) As Candidate B (rooftop installation on the Villers-Bretonneux Building) has now been discounted. Candidate C (the proposed monopole) is considered to satisfy these points.</p> <p>Co-location maybe still possible for other telecommunication carriers.</p>	Yes

(f) If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.	<i>"f) N/A – The proposal is not for co-location."</i>	f) The proposal is not for colocation.	Yes
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Principle 3: Health Standards for exposure to radio emissions will be met

Specific Principles	Comments within the Statement of Environmental Effects by the applicant (Visionstream)	Comments from Council	Consistent
(a) As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.	<i>"(a) The proposed installation will comply with Australian Communications and Media Authority (ACMA) regulatory arrangements with respect to electromagnetic radiation exposure levels."</i>	(a) It is considered that the proposed installation will comply with Australian Communications and Media Authority (ACMA) regulatory arrangements with respect to electromagnetic radiation exposure levels.	Yes
(b) An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic	<i>"(b) EME Exposure Levels from this site have been calculated in accordance with the ARPANSA prediction methodology and report format. This report has been provided in Appendix 4. Please also refer to Section 11.3.2 – Public Safety"</i>	(b) A Environmental EME Report was lodged with the application (DA2018/1481) dated 31 May 2018 which have calculated in accordance with the ARPANSA prediction methodology and report format.	Yes

energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.			
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Principle 4: Minimise disturbance and risk, and maximise compliance

Specific Principles	Comments within the Statement of Environmental Effects by the applicant (Visionstream)	Comments from Council	Consistent
(a) The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometers of the proposed development and reported to the Civil Aviation Safety Authority Australia.	(a) Sydney Airport is located approximately 25km southwest of the proposed facility. However, the facility is outside of the areas penetrated by the airport's OLS.	(a) The approved height of 31.3m is considered to satisfy this requirement.	Yes

(b) The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defense navigational or communications equipment, including the Morundah Communication	<i>"(b) The base station is designed to create no electrical interference problems with other radio based systems and complies with the requirements of relevant Australian standards in this regard (see Section 11.3.2)."</i>	(b) It is considered that the proposal will satisfy this requirement.	Yes
Facility, Riverina.			
(c) The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.	<i>"(c) The base station facilities are designed and will be installed in accordance with any relevant manufacturer specifications. The proposal will comply with the requirements of all relevant Australian Standards."</i>	(c) It is considered that the proposal will satisfy this requirement.	Yes
(d) The telecommunications facility is not to affect the structural integrity of any building on which it is erected.	<i>"(d) The facility is not being erected on any existing building or structure."</i>	(d) It is considered that the proposal will satisfy this requirement.	Yes
(e) The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.	<i>"(e) The location and layout of the facilities reflect discussions with the private landowner of Lot 2611 on DP752038, 1 Lakeshore Drive, Narrabeen NSW 2101."</i>	(e) The approved proposal is located wholly within the boundaries of Lot 2611 on DP752038 located adjacent to No. 1 Lakeshore Drive, Narrabeen (off Lantana Avenue).	Yes
(f) The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – 'Managing Urban Stormwater: Soils and Construction' (Landcom 2004), or its replacement.	<i>"(f) (h) (i) (j) These matters can be appropriately addressed through the imposition of conditions of development consent where relevant."</i>	(f) Suitable conditions were applied and approved.	Yes

(g) Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.	<i>"(g) The proposed facility is to be sited on a private lot and is secured by a fenced compound area to avoid access to the public. The proposal is therefore unlikely to put pedestrians or vehicles at risk."</i>	g) Suitable conditions were applied and approved to ensure safety during construction, materials used for construction and location.	Yes
(h) Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with	<i>"(h) Work will be carried out in accordance with the standard hours of work as recommended by council."</i>	(h) Suitable conditions were applied and approved.	Yes
no work on Sundays and public holidays.			
(i) Traffic control measures are to be taken during construction in accordance with Australian Standard S1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.	<i>"(i) These matters can be appropriately addressed through the imposition of conditions of development consent where relevant."</i>	Suitable conditions were applied and approved.	Yes
(j) Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.	<i>"(j) These matters can be appropriately addressed through the imposition of conditions of development consent where relevant."</i>	Suitable conditions were applied and approved.	Yes

<p>(k) Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.</p> <p>(l) <i>The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.</i></p>	<p><i>"(k)(l) Minimal disturbance to flora and fauna has been achieved by siting the proposed facility on an already predominantly cleared area of land that features the lowest density of vegetation in the immediate area. Vegetation clearance has been assessed and is not considered significant, with only one tree to be removed to accommodate the base station."</i></p>	<p>(k)(l) Amended relocation of services such as the electricity are now directly from the Villers-Bretonneux Building and the fibre optics from Lantana Avenue along Lakeshore Drive and under the building at No. 1 Lakeshore Drive for the fibre optics therefore minimising the disturbance to flora and fauna. Suitable conditions were applied and approved.</p>	<p>Yes</p>
<p>(m) The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.</p>	<p><i>"(m) A search of the AHIMS data base has been completed and it indicates that there are no items of Aboriginal archaeological heritage known to be located on, or in the vicinity of, the site."</i></p>	<p>(m) The Aboriginal Heritage Office completed a site inspection and provided the following comments: "There are no objections to the proposal subject to imposed conditions".</p>	<p>Yes</p>
<p>(n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.</p>	<p><i>"(n) This is unlikely to occur given the nature of the works, however can be addressed through the imposition of conditions of development consent where relevant."</i></p>	<p>n) Suitable conditions were applied and approved.</p>	<p>Yes</p>

SEPP (Coastal Management) 2018

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

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,(d) any other development.*

Comment:

Not applicable.

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

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

Comment:

Not applicable.

12 Development on land within the coastal vulnerability area

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

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

*appropriate
responses
to, and
management
of,
anticipated
coastal
processes
and current
and future
coastal
hazards.*

Comment:

The subject land has not been included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

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

13 Development on land within the coastal environment area

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

Comment:

A site inspection by Aboriginal Heritage Officer and Coast and Catchments Officer have been completed and the following comments were:-

Aboriginal Heritage Officer

"Reference is made to the proposed development at the above area and Aboriginal heritage.

There are known sites nearby, however, no sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.

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

Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted."

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

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

Comment:

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

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

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

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

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

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

Comment:

It is considered that the proposed design and siting of the works will have minimal impact and is unlikely to cause an increased risk of coastal hazards on the land and is deemed to satisfy the above objective.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	Not Specified	30m (top of monopole) 31.3m (overall height)	30m (top of monopole) 31.3m (overall height)	N/A	N/A

Note: The building height definition excludes communications devices/structures which are not permissible under the Local Environmental Planning (Warringah Local Environmental Plan 2011) and permissible via State Environmental Planning Policy (infrastructure) 2007.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 5 Miscellaneous provisions	Yes
5.10 Heritage conservation	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
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Warringah Local Environmental Plan 2011

Is the development
permissible under
WLEP
2011?

No

A Telecommunications Facility is a prohibited land use in the SP1 Seniors Housing Health Services Facility zone. However, this use is permissible with consent under Clause 115 of State Environmental Planning Policy (Infrastructure) 2007.

After consideration of the
merits of the proposal, is
the development
consistent with:

Aims of the LEP?

Yes

The development satisfies the Aims specifically (clause 1.2(f) of the WLEP) which requires:

in relation to environmental quality, to:

- (i) achieve development outcomes of quality urban design, and (ii) encourage development that demonstrates efficient and sustainable use of energy and resources, and
- (iii) achieve land use relationships that promote the efficient use of infrastructure, 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, and

- (v) protect, conserve and manage biodiversity and the natural environment, and

- (vi) manage environmental constraints to development including acid sulfate soils, land slip risk, flood and tidal inundation, coastal erosion and biodiversity.

The amended development will now create a visually acceptable structure within the area. The residential, environmental and public spaces will be impacted to a minor extent given the reduced height, relocated position, rerouting of services, and conditioned universal compact headframe and accordingly, the modified development is considered satisfy the aims of the LEP.

Zone objectives of the LEP? **Yes**

Zone SP1 Special Activities

Proposed Use	Permitted or Prohibited
<p><i>Telecommunications facility means:</i></p> <p>(a) any part of the infrastructure of a telecommunications network, or</p> <p>(b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or</p> <p>(c) any other thing used in or in connection with a telecommunications network.</p>	Prohibited

The underlying objections of the SP1 Special Activities zone

To provide for special land uses that are not provided for in other zones.

Comment: The proposed installation would provide improved telecommunications services to the zone and RSL Village. It is considered that the proposal satisfies this merit consideration.

To provide for sites with special natural characteristics that are not provided for in other zones.

Comment: The site will maintain natural characteristics which are provided in other surrounding zones ensure consistency with this merit consideration.

To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

Comment: The amended structure ensures that development is in keeping with the special characteristics and generally consistent with the buildings of the site. Given the central location of the monopole, distance from the surrounding residential properties, topography and existing vegetation it is considered that impacts on the surround lands are minimised.

It is considered that the proposal satisfies this merit consideration.

Zone E2 Environmental Conservation

Proposed Use	Permitted or Prohibited
<p><i>Telecommunications facility means:</i></p> <p>(a) any part of the infrastructure of a telecommunications network, or</p> <p>(b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or</p> <p>(c) any other thing used in or in connection with a telecommunications network.</p>	Prohibited

The underlying objectives of the E2 Environmental Conservation zone

To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.

Comment: Given the proximity of the development to the E2 zone (abutting it) it is considered that the modified proposal (painting the concrete monopole a recessive dark grey colour) in addition to the other amendments that were amended during the original assessment of the development application which included the relocation of the monopole, reduction in overall height (from 41.3m to 31.3m), conditioned with a compact universal headframe and re-routing of services will protect or manage the cultural and aesthetic values of the adjoining land/zone.

Given the above the proposal satisfies this merit consideration.

To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Comment: Given the proximity of the development to the E2 zone (abutting it) it is considered that the modified proposal (painting the concrete monopole a recessive dark grey colour) in addition to the other amendments that were amended during the original assessment of the development application which included the relocation of the monopole, reduction in overall height (from 41.3m to 31.3m), conditioned with a compact universal headframe and re-routing of services will prevent destroying, damaging or reducing the effect on those values.

Given the above the proposal satisfies this merit consideration.

To protect and enhance the quality and character of visually sensitive areas and preserve significant natural landforms in their natural state.

Comment: Given the proximity of the development to the E2 zone (abutting it) it is considered that the modified proposal (painting the concrete monopole a recessive dark grey colour) in addition to the other amendments that were amended during the original assessment of the

development application which included the relocation of the monopole, reduction in overall height (from 41.3m to 31.3m), conditioned with a compact universal headframe and re-routing of services will protect or enhance the quality and character area of manage the cultural and aesthetic values of the adjoining land/zone.

Given the above the proposal satisfies this merit consideration.

To manage development in areas having steep sloping topography or that are subject to any potential landslip.

Comment: Suitable conditions (if approved) would ensure that the development would demonstrate consistency with this merit consideration.

To manage water quality in significant water catchment areas.

Comment: Suitable conditions (if approved) would ensure that the water quality within this catchment would be protect ensuring consistency with this merit consideration.

To ensure that development, by way of its type, design and location, complements and enhances the natural environment in environmentally sensitive areas.

Comment: Given the proximity of the development to the E2 zone (abutting it) it is considered that the modified proposal (painting the concrete monopole a recessive dark grey colour) in addition to the other amendments that were amended during the original assessment of the development application which included the relocation of the monopole, reduction in overall height (from 41.3m to 31.3m), conditioned with a compact universal headframe and re-routing of services will ensure that the development will complement and enhance the natural environment within this area.

It is considered that the proposal satisfies this merit consideration.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B5 Side Boundary Setbacks	Merit Assessment (east)	107m	107m	Yes
	Merit Assessment (west)	390m	390m	Yes
B7 Front Boundary Setbacks	Nil (Lantana Avenue)	85m	85m	Yes
B9 Rear Boundary Setbacks	Merit Assessment (north)	340m	340m	Yes
D1 Landscaped Open Space and Bushland Setting	40% (82,961.3sqm)	63% 130,667.2sqm	63% 130,667.2sqm	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
Part C Siting Factors	Yes	Yes
C8 Demolition and Construction	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D7 Views	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
Part F Zones and Sensitive Areas	Yes	Yes
F3 SP1 Special Activities	Yes	Yes
War Veterans Village, Narrabeen	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 Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application and no amendments are proposed to that relevant condition.

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

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 amended:-

"Condition 8 - Amendments to the approved plans" contained within this recommendation.

The amended colour is considered compatible with other buildings and structures within the vicinity. The proposal is of similar size and scale as the monopoles located within Plateau Park and Narrabeen Fitness Camp. Therefore, it is considered the proposal will be reasonably screened from the majority of the public domain due to its central location, and the screening provided by the surrounding buildings and mature vegetation. It is considered that the visual impacts are reasonable for the surrounding community from nearby and afar.

The approved installation will provide a much needed and reliable telecommunication service to the residents, visitors and emergency services within this current area and therefore it is considered overall that the public interest is served.

Additionally, it is noted that the NBLPP had altered Condition 8 contained within the original assessment report prepared by Council's Planner:-

"8. Amendments to the approved plans

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

The monopole is to be fitted with a Universal Compact Headframe.

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

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

The approved plans submitted by the applicant had the monopole fitted with a traditional headframe and it is considered that a universal compact headframe would minimise the visual impact of the structure overall.

Accordingly the application is recommended for approval (subject to condition) as follows:-

'Condition 8. Amendments to the approved plans

The concrete monopole is to be suitably finished in a recessive colour to minimise the visual impact. In this regard, the colouring is to be a painted concrete monopole (i.e. dark grey colour).

The monopole is to be fitted with a Universal Compact Headframe.

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

Reason: To ensure the structure has minimal visual impact'

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of this assessment is detailed within this report.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0111 for Modification of Development Consent DA2018/1481 granted for construction of a telecommunications facility monopole tower and associated equipment shelter on land at Lot 2611 DP 752038,1 / 0 Veterans Parade, NARRABEEN, subject to the conditions printed below:

A. Modify Condition 8. Amendments to the approved plans to read as follows:

Condition 8. Amendments to the approved plans

The concrete monopole is to be suitably finished in a recessive colour to minimise the visual impact. In this regard, the colouring is to be a painted concrete monopole (i.e. dark grey colour).

The monopole is to be fitted with a Universal Compact Headframe.

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

Reason: To ensure the structure has minimal visual impact.