AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

WEDNESDAY 8 JULY 2020

Ashleigh Sherry
Manager Business System and Administration

northern
beaches
council

northern beaches council

Agenda for a Meeting of the Development Determination Panel to be held on Wednesday 8 July 2020

1.0 APOLOGIES & DECLARATIONS OF INTEREST

2.0 MINUTES OF PREVIOUS MEETING

2.1 Minutes of Development Determination Panel held 24 June 2020

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

3.1 Mod2019/0253 - 24 Lancaster Crescent, Collaroy - Modification of Development Consent DA2016/0963 granted for demolition works and the construction of a new dwelling and swimming pool 5

3.2 DA2020/0462 - 27 Quinton Road, Manly - Alterations and additions to a semi-detached dwelling house 35

3.3 Mod2020/0134 - 16 Carey Street, Manly - Modification of Development Consent DA149/2010 granted for demolition of existing and construction of a two (2) storey dwelling 62

3.4 DA2019/0860 - 24 Darley Street East, Mona Vale - Demolition and construction of a Residential Care Facility including basement parking 105

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 24 JUNE 2020

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 24 June 2020 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	**MOD2019/0253 - 24 LANCASTER CRESCENT, COLLAROY - MODIFICATION OF DEVELOPMENT CONSENT DA2016/0963 GRANTED FOR DEMOLITION WORKS AND THE CONSTRUCTION OF A NEW DWELLING HOUSE AND SWIMMING POOL**
REPORTING MANAGER	**Rod Piggott**
TRIM FILE REF	**2020/377081**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site Plan and Elevations**

PURPOSE

To refer the attached application for determination by the discretion of the Director Planning and Place.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Mod2019/0253 for Modification of Development Consent DA2016/0963 granted for demolition works and the construction of a new dwelling house and swimming pool on land at Lot 3 Sec 10 DP 11899, 24 Lancaster Crescent, Collaroy, subject to the conditions outlined in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0253

Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 3 DP 11899, 24 Lancaster Crescent COLLAROY NSW 2097
Proposed Development:	Modification of Development Consent DA2016/0963 granted for demolition works and the construction of a new dwelling house and swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	Yes
Owner:	Sarah Louise Genev
Applicant:	Sarah Louise Genev

Application Lodged:	30/05/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/05/2020 to 18/05/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Modification Application MOD2019/0253 for modification of Development Consent DA2016/0963 granted for demolition works and the construction of a new dwelling house and swimming pool at 24 Lancaster Crescent, Collaroy.

The proposed modifications introduce minor non-compliances in relation to the rear setback, and side and rear fences. However, these elements are acceptable on merit (as modified by conditions of consent) for the reasons detailed throughout this report.

The proposal received three objections works already constructed, bulk and scale, amenity (solar

access, visual privacy, view loss), previous Court orders, security cameras, and errors in the plans. These matters are addressed in this report.

Based on the detailed assessment contained in this report, it is recommended that the application be conditionally approved, with amendment to the proposed eastern pool privacy screen, windows, landscaping, and the northern and western wall fence, via conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following modifications to development consent DA2016/0963:

- Basement:
  - Relocation of water tanks
  - Removal of OSD tank room walls
  - Addition of comms/store room
- Ground Floor:
  - Amendment to landscaping adjacent to the pool and in the rear garden
  - Amendment of floor levels as follows:
    - Basement: RL 56.50 (unchanged)
    - Ground Floor: RL 59.50 raised to RL 59.845 (345mm)
    - First Floor: RL 63.00 lowered to RL 62.50 (500mm)
    - Second Floor: RL 66.10 raised to RL 66.15 (50mm) - Overall maximum height not altered.
  - Relocation of the entry
  - Deletion of the pergola over the entry
  - Addition of access gate from pool area to front yard
  - Reduction of the northern window and deletion of the western window in the cinema
  - Addition of a 1.5m privacy screen to the east of the pool, on the on the masonry wall adjacent to 22 Lancaster Crescent
- First Floor:
  - Amendment of floor levels
  - Construction of a wall adjacent to the northern and western boundaries next to 26 Lancaster Crescent
  - Revision of the bbq area roof
  - Reduction of the southern and western dining room windows
  - Reduction of two eastern sun room windows, and addition of a third eastern sunroom window
- Second Floor:
  - Amendment of floor levels
  - Revision of the walk in robe
  - Reduction of the master bedroom balcony
  - Reduction of the southern master bedroom glazing
  - Addition of frosting to eastern windows

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 - 6.4 Development on sloping land
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D15 Side and Rear Fences

SITE DESCRIPTION

Property Description:	Lot 3 DP 11899 , 24 Lancaster Crescent COLLAROY NSW 2097
Detailed Site Description:	The subject site consists of one allotment located on the northern side of Lanscaster Crescent . The site is irregular in shape with a frontage of 36.575m along Lancaster Crescent and a maximum depth of 51.31m. The site has a surveyed area of 704.5m². The site is located within the R2 Low Density Residential zone and accommodates a four-storey detached dwelling house under construction (as approved via DA2016/0963 and modified via MOD2017/0057. The site slopes approximately 7m from north to south, and landscaping is underway in accordance with the above approvals. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by multi-storey detached dwelling houses.

Map:

SITE HISTORY

Development application DA2016/0963 was granted deferred commencement approval on 23 December 2016 for demolition works and the construction of a new dwelling house and swimming pool as follows:

"1. Amended Plans to Retain Significant Rock Outcrop and Reduce Building Height
Amended plans are to be submitted to Council in accordance with the following:
a. The terrace component off the kitchen on the First Floor and equivalent area of Bedroom 3 and planters at the entry indicated on the Ground Floor are to be deleted.
In this regard, the natural rock in the area of the deleted components is to be maintained and protected. More detailed information on the requirement can be found in the Landscape Referral Response, dated 22 December 2016 (available on Council's E-Services - DA2016/0963).
Furthermore, the amendments are to include the retention of Tree 6 (Banksia integrifolia) located on the rock.
b. The roof over the front terrace (adjacent to the master bedroom) is to be reduced by 0.5m in length and/or modified to ensure compliance with the 8.5m Building Height control under Warringah Local Environmental Plan 2011.
Reason: In order to maintain visual integrity and context of the rock outcrop in the landscape and compliance with Warringah Local Environmental Plan
2011."

On 15 February 2017, the Applicant provided documentation to satisfy the above requirements, and operational consent was granted by Council on 21 February 2017.

Modification application MOD2017/0057 for modification of DA2016/0963 sought to undertake excavation up to the eastern boundary so to create a lightwell to enable light to bedroom 3 on the ground floor. MOD2017/0057 was approved by Council on 1 June 2017.

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 DA2016/0963, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	**Comments**
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	**Yes** The modification, as proposed in this application, is considered to be of minimal environmental impact, as the internal amendments relate to floor levels, relocation/addition of services, and revision of approved elements, and the external changes are not extensive, relating to entryways, windows, fences, and roof structures. While there area a number of individual modifications, the cumulative effect of these modifications remains minor, and does not significantly increase the development's overall impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2016/0963, as the proposed modifications do not materially change the development, and do not result in any unreasonable impact. Further, no works that change the classification of the development beyond a dwelling house are proposed.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council	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.

Section 4.55(1A) - Other Modifications	Comments
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	
(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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to survey of the boundary between No. 24 and No. 26 Lancaster Crescent which was received 28 January 2020.

Section 4.15 'Matters for Consideration'	Comments
	Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Dr Michael William Le Page	1 Lincoln Avenue COLLAROY NSW 2097
Mr Nicholas Richard Van Weeren	26 Lancaster Crescent COLLAROY NSW 2097
Addisons Lawyers Mr Richard Andrew Dinham Joanne Maree Jefferies	22 Lancaster Crescent COLLAROY NSW 2097

The following issues were raised in the submissions (paraphrased):

- Some works are already constructed:
  - Boundary fence was not shown on previous plans, is already constructed, does not comply with the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, is partially on adjoining land (26 Lancaster Crescent), and has not been agreed to by the adjoining landowner.
  - The proposed roof over the deck is already constructed.
- Bulk and scale:
  - The proposal increases floor to ceiling heights.
  - The height of the proposed pool privacy screen is unreasonable in relation to bulk.
  - The pool stairs result in an unreasonable presentation to the street.
  - The proposal breaches numerical controls relating to building height, wall height, and side boundary envelope.
  - The cumulative impact of amendments is unreasonable in relation to bulk and scale.

  Amenity:
  - The proposal impacts on solar access to 22 Lancaster Crescent in relation to the pool privacy screen, and to 26 Lancaster Crescent in relation to the rear boundary fence.
  - The proposal results in impacts to the visual privacy for 22 Lancaster Crescent in relation to the upper level eastern windows, and for 26 Lancaster Crescent in relation to the upper level northern ensuite window.
  - The proposal results in view loss to 22 Lancaster Crescent in relation to the proposed pool privacy screen.
- Contrary to Court Orders:
  - The proposed pool privacy screen breaches C2.1(c) the Court order limiting the wall to a height of RL 61.6125.
  - The proposed modifications to floor levels is in breach of Annexure C of the Court order limiting the ground floor level to RL 59.825.
  - The proposed landscaping is in breach of V.1 the Court order limiting the vegetation to a height of RL 62.00.
  - To amend the development consent without amendment to the Court orders issued under the civil proceedings would result in contempt of Court.
- Security cameras installed on the subject site point to adjoining properties at 22 and 26 Lancaster Crescent.
- Plan DA-11 contains an error, as it shows the floor level at 22 Lancaster Crescent as higher than the wall adjacent to the pool at 24 Lancaster Crescent.

The matters raised within the submissions are addressed as follows:

Works Already Constructed
Comment:
NSW Land and Environment caselaw finds that modification applications (such as this application) can be used to modify a development consent, even when the works that are the subject of the modification application have already been constructed. In this case, consent has been granted for the dwelling house, and the Applicant is seeking retrospective approval for some already-constructed works, via this modification application. The wall referred to in the submission as a boundary fence is not subject to the controls under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as consent for the works is being sought under the *Environmental Planning and Assessment Act 1979* and *Warringah Local Environmental Plan 2011* and the *Warringah Development Control Plan 2011.* The wall is demonstrated by survey to be wholly located on the subject site, thereby not requiring consent of any other landowner.

Bulk and Scale
Comment:
The change to floor levels results in internal changes only, and does not impact upon the overall bulk and scale of the development. The proposed pool privacy screen is acceptable in relation to bulk and scale as modified by recommended conditions of consent to reduce its impacts. The remaining proposed modifications are generally minor in nature, do not result in unreasonable bulk and scale (cumulatively or otherwise) and do not result in any additional non-compliance with numerical controls, including in relation to the approved building height, wall height or side boundary envelope controls.

Amenity - Solar Access / Visual Privacy / View Loss
Comment:
The proposed modifications are acceptable in relation amenity (as modified by conditions of consent) for the reasons detailed in the sections of this report relating to Clauses D6 Access to Sunlight, D7 Views, and D8 Privacy of the Warringah Development Control Plan 2011.

Court Orders
Comment:
The orders made by the NSW Land and Environment Court relate to civil proceedings to which Council was not a party. Council may modify the development consent as acceptable on merit and consistent with the Environmental Planning and Assessment Act 1979. Assessment of the modifications is detailed throughout this report, in relation to the relevant planning controls.

Security Cameras
Comment:
A condition of consent is recommended requiring any and all security cameras installed on the subject site to be angled such that they record the subject site only, and not any other adjoining property.

Plan Error
Comment:
The misrepresentation of levels shown by the 'Pool Privacy Screen Section' on DA-11 is noted and is not relied upon for assessment. The Assessing Officer relied upon the relative levels shown on the remaining plans, and observations on site, for assessment.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire	The application has been investigated with respect to aspects relevant

Internal Referral Body	Comments
and Disability upgrades	to the Building Certification and Fire Safety Department. There are no objections to approval of the development. Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.
Landscape Officer	Review of the amended plans indicate that no significant impacts on landscape features are proposed. If specific landscape issues are raised during the assessment process, additional assessment can be undertaken via re-referral. Existing conditions are considered adequate, save for updating plan numbers if the modification is to be approved.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 752424S_03 dated 24 May 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0003886496 dated 24 May 2019). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	40	41

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

SEPP (Infrastructure) 2007

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

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

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

SEPP (Coastal Management) 2018

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

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 modified development is designed and sited such that it is not likely to adversely impact upon the matters listed above. The proposed modifications are generally within the approved building footprint.

(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 modified development has been designed in such a way that it satisfies the relevant matters identified in this clause.

14 Development on land within the coastal use area

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

(b) is satisfied that:
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:
The modified development is designed and sited such that it is not likely to adversely impact upon the matters listed above. The proposed modifications are generally within the approved building footprint.

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

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

Comment:
The proposal is unlikely to cause increased risk of coastal hazards on that land or other land, due to its design and siting, and relevant reports indicating no unreasonable impacts.

Coastal Management Act 2016

The subject site identified as Coastal use area under the Coastal Management Act 2016. The

management objectives for the coastal use area are as follows:

(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:
(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
(v) the use of the surf zone is considered,
(b) to accommodate both urbanised and natural stretches of coastline.
Comment:
The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected. In addition, the surrounding area consists of examples of similar developments.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	No change	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 6 Additional Local Provisions	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and
Comment:
The Applicant submitted a Geotechnical Report prepared by a suitably qualified geotechnical expert. This report concludes that the development is acceptable from a geotechnical perspective. The original development application was assessed by Council's Development Engineer, who raised no objections to approval, subject to conditions. Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and
Comment:
The Applicant submitted a Geotechnical Report prepared by a suitably qualified geotechnical expert. This report concludes that the development is acceptable from a geotechnical perspective. The original development application was assessed by Council's Development Engineer, who raised no objections to approval, subject to conditions. Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.
Comment:
The Applicant submitted a Geotechnical Report prepared by a suitably qualified geotechnical expert. This report concludes that the development is acceptable from a geotechnical perspective. The original development application was assessed by Council's Development Engineer, who raised no objections to approval, subject to conditions. Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.9m	No change	As approved
B3 Side Boundary Envelope	East: 4m	300mm outside envelope	No change	As approved
	West: 4m	Within envelope	No change	As approved
B5 Side Boundary Setbacks	East: 900mm	Min. 1m to dwelling east	No change	As approved
	West: 900mm	Min. 1m to dwelling west	No change	As approved
B7 Front Boundary Setbacks	6.5m	3.465m to pool 4.726m to dwelling	No change	As approved
B9 Rear Boundary Setbacks	6m	Min. 3m to dwelling	No change	As approved
		0m to 1.9m fence	0m to 2.1m wall	No
D1 Landscaped Open Space and Bushland Setting	40%	40.3%	No change	As approved
D15 Side and Rear Fences	1.8m	West and north:	Max. 2.1m	No

		Max. 1.9m		
		East: 3.1m	Max. 4.1m	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	No	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

The proposed modifications seek retrospective consent for a constructed wall 0m from the northern rear boundary where a setback of 6m is required. A rear fence to a maximum height of 1.9m was approved under DA2019/0963. The proposed rear wall (in the same location) is shown to a maximum of 2.1m in height. The structure acts as a boundary fence, although is entirely located on the subject site.The development is considered against the underlying objectives of the control as follows:

To ensure opportunities for deep soil landscape areas are maintained.
Comment:
The location of the wall retains sufficient and sizeable areas for deep soil planting in the rear of the site, and does not affect the deep soil planting opportunities to the front of the site.

To create a sense of openness in rear yards.
Comment:
As above, the location of the wall is adjacent to the boundary, and acts as a boundary fence. In this way, the wall does not unreasonably encroach into the rear setback area and retains a suitable level of openness in the rear yard.

To preserve the amenity of adjacent land, particularly relating to privacy between buildings.
Comment:
The wall provides suitable amenity to the adjacent property, in that privacy to both the subject site and the adjacent site is provided, without unreasonable impacts on solar access.

To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.
Comment:
As the wall acts as a boundary fence, the wall does not interrupt the visual continuity and pattern of buildings, gardens and landscaped elements.

To provide opportunities to maintain privacy between dwellings.
Comment:
The wall provides suitable privacy to both the subject site and the adjacent site to the west and north, due to its 2.1m height and solid construction.

D6 Access to Sunlight

The proposed development, as modified by conditions of consent, remains acceptable and compliant with the requirements of this control.

D7 Views

An objection from No. 22 Lancaster Crescent raised concern regarding view loss resulting from the proposed pool fence between the subject site and 22 Lancaster Crescent. The proposed modifications to the approved development are considered against the underlying objectives of the control as follows:

To allow for the reasonable sharing of views.
Comment:
In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected
"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".
Comment to Principle 1:
The affected view from 22 Lancaster Crescent is predominantly of Dee Why Lagoon and Dee Why Beach, and their interface with the land, including Dee Why Headland. The view also includes the iconic Sydney city skyline in the distance, other nearby properties, and the suburb of Dee Why. The affected view is impacted upon by the proposed pool privacy fence (that also acts as the boundary pool barrier), and proposed amended landscaping in the front yard.

2. What part of the affected property are the views obtained
"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".
Comment to Principle 2:
The affected view is obtained across the western side boundary from the main living room, from standing and seated positions, though reduced from a seated position. The view is also obtained across the western side boundary from the dining room, from standing and seated positions, though in a lesser way than from the living room. The photographs below depict the view. In each photo, the Sydney city skyline is circled in yellow for clarity where it is visible, as it is clearer in person, and the string installed by the Applicant to depict a 1.2m height above the existing masonry wall is shown in red.

Above: The view from a standing position from the living room, across the side boundary to the west.

Above: The view from a standing position from the living room, across the side boundary to the south-west.

Above: The view from a seated position from the living room, across the side boundary to the west.

Above: The view from a standing position from the dining room, across the side boundary to the west.

Above: The view from a seated position from the dining room, across the side boundary to the west.

It is important to note that 22 Lancaster Crescent also benefits from views to the east, south, and south-west from the dining and living rooms and associated balcony, from standing and seated positions. These views are not affected by the proposed modifications. See photographs below.

Above: The views from a standing position from between the dining and living rooms looking to the east, south, and south-west.

3. Extent of impact

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

Comment to Principle 3:

Plans indicate a 1500mm privacy screen above the existing masonry wall, which is proposed for the purpose of providing privacy to the approved pool on the subject site. A string was installed on site by the Applicant depicts a height of 1.2m height above the existing masonry wall. While not accurate to proposed plans, the

string assists in assessing potential view loss. The impact of the proposed pool privacy screen as proposed (1500mm above the existing masonry wall) would be severe, in that a significant portion of the affected view (including water views) would be lost from a standing position, and completely obscured from a seated position, but that the remaining views to the east, south, and south-west would be unaffected. Affected views would be further impacted upon by proposed amended vegetation in the front yard, which includes some tall species.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposed pool privacy screen / boundary pool barrier does not demonstrate a skilful design, in that it is unnecessarily high (being non-compliant with Clause D15 Side and Rear Fences), and long (extending well beyond the required length for the pool). Australian Standard AS1926.1-2012 requires a boundary barrier used a pool barrier to be a minimum of 1800mm in height above the finished ground level within the pool area. The finished ground level of the pool area is RL 59.845, requiring the privacy screen / boundary pool barrier to be a height of RL 61.645. This height comes to 85mm above the existing masonry wall, which is surveyed as constructed to a height of RL 61.56. However, this does not provide adequate privacy to the pool on the subject site. The proposed pool privacy screen is 1500mm above the masonry wall. While this provides privacy to the pool area on the subject site, the screen results in unreasonable view loss (as detailed above). As such, a screen of a reduced height of 500mm above the existing masonry wall is considered appropriate in providing suitable privacy, while ensuring the structure's purpose as a boundary pool barrier is compliant, and reducing the impact to view loss to negligible or minor. Such a height retains all water, headland, interface and iconic views for 22 Lancaster Crescent, and only obscures view to the subject site and nearby properties. As such, a condition of consent to reduce the height (and length) of the privacy screen is included in the recommendation of this report.

Above: An approximation of a privacy screen 500mm above the existing masonry wall, shown in green, compared to the string installed at 1.2m above the masonry wall.

Additionally, the proposed modifications to the landscaping are not skilful in that the amended landscape plan includes species in the front yard of the subject site that grow 5-8m in height at maturity, and would impact upon views. A condition of consent limiting the height of proposed vegetation in the front yard is recommended, in order to provide a better response to the views enjoyed by 22 Lancaster Crescent.

To encourage innovative design solutions to improve the urban environment.
Comment:
As proposed, the pool privacy screen does not adequately demonstrate an innovative design solution. As above, a condition of consent has been recommended to limit the screen to 500mm above the existing masonry wall has been applied, in order to provide a more suitable design solution. Additionally, a condition of consent limiting the height of proposed vegetation in the front yard is recommended.

To ensure existing canopy trees have priority over views.
Comment:
The proposed modifications to the approved development do not involve removal of canopy trees.

D8 Privacy

Objections from Nos. 22 and 26 Lancaster Crescent raised concern regarding the existing and modified windows of the development, in relation to privacy. The owners of 22 Lancaster raised concern about the east-facing windows at the second (uppermost) floor), while the owner of 26 Lancaster raised concern about the north-facing ensuite windows at the same level. The proposed modifications to the approved development are considered against the underlying objectives of the control as follows:

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

Comment:
The second floor windows facing the east towards 22 Lancaster are proposed to be frosted to a height of 1500mm above finished floor level for the ensuite and walk-in-robe. The north-facing ensuite windows (towards 26 Lancaster Crescent) are also proposed to be frosted to a height of 1500mm above finished floor level. Submitted plans demonstrate inconsistency as to the level of frosting to the second floor east-facing daybed windows. DA-09 shows frosting to the daybed windows to 1650mm above finished floor level, while DA-06 notes the whole window is frosted. Given the level differences between the second floor of the subject site and both 22 and 26 Lancaster Crescent, the frosting heights stipulated on elevations are considered acceptable, as they restrict direct viewing between properties, while allowing sunlight to the subject site. A condition of consent is applied for clarity in this case.

To encourage innovative design solutions to improve the urban environment.
Comment:
The proposed modifications demonstrate innovative design in that the subject site is provided with suitable solar access to the upper level windows, without resulting in unreasonable visual privacy impacts to the adjacent sites, by way of minimised window dimensions and frosting.

To provide personal and property security for occupants and visitors.
Comment:
The proposed modifications are suitably designed so as to retain an adequate level pf personal and property security for the subject site and adjacent sites.

D15 Side and Rear Fences

The proposed modifications seek retrospective consent for masonry wall fence structures along the western and northern boundaries, reaching maximum heights of 2m and 2.1m respectively, where 1.8m is permitted. The proposed modifications also seek consent for a 1.5m privacy screen above the existing masonry wall to the east of the subject site, reaching a maximum overall height of 4.1m above ground, where 1.8m is permitted. The development is considered against the underlying objectives of the control as follows:

To encourage innovative design solutions to improve the urban environment.
Comment:
While the masonry wall structures to the west and north provide privacy to the subject site, the height of the wall results in some additional overshadowing to the property to the north-west, 26 Lancaster Crescent. Walls of maximum 1.8m height would provide suitable privacy to the subject site, while reducing solar access impacts to 26 Lancaster, providing compliance with this control, and demonstrating a more innovative design solution. A condition of consent reducing the height of the walls to the east and west is included in the recommendation of this report.

The height of the masonry wall and privacy screen to the east is intended to provide a suitable privacy response for the approved pool area. However, the height of the proposed privacy screen (1.5m) results in unreasonable view loss impacts for the property to the east, 22 Lancaster Crescent. A privacy screen of 500mm would provide suitable privacy for the pool area, while allowing for adequate view sharing, and demonstrating a more innovative design solution. A condition of consent reducing the privacy screen height is included in the recommendation of this report.

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.

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

In summary, a detailed assessment has been required in relation to:

- The wall adjacent to the northern and western boundaries;
- View loss from 22 Lancaster Crescent; and
- Privacy impacts to 22 and 26 Lancaster Crescent from modified windows.

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2019/0253 for Modification of Development Consent DA2016/0963 granted for demolition works and the construction of a new dwelling house and swimming pool on land at Lot 3 DP 11899,24 Lancaster Crescent, COLLAROY, subject to the conditions printed below:

A. Add Condition No. 2B - Modification of Consent - Approved Plans and Supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
DA-01 Plans Site Plan	April 2020	Gartner Trovato Architects
DA-03 Plans Basement	April 2020	Gartner Trovato Architects
DA-04 Plans Ground Floor	April 2020	Gartner Trovato Architects
DA-05 Plans First Floor	April 2020	Gartner Trovato Architects
DA-06 Plans Second Floor	April 2020	Gartner Trovato Architects
DA-07 Plans Roof Plan	April 2020	Gartner Trovato Architects
DA-08 Elevations South + West	April 2020	Gartner Trovato Architects
DA-09 Elevations North + East	April 2020	Gartner Trovato Architects
DA-10 Sections A + B + C	April 2020	Gartner Trovato Architects
DA-11 Sections D + E	April 2020	Gartner Trovato Architects
Colours and Finishes	Undated	Gartner Trovato Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
BASIX Certificate No. 752424S_03	24 May 2019	Gartner Trovato Architects
NatHERS Certificate No. 0003886496	24 May 2019	NatHERS & BASIX Solutions

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

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

Landscape Plans		
Drawing No.	**Dated**	**Prepared By**
Landscape Plan	17 May 2019	Selena Hannan Landscape Design

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

B. Add Condition 15A Amended Pool Privacy Screen / Boundary Pool Barrier to read as follows:

The proposed pool privacy screen above the existing masonry wall adjacent to the eastern boundary

shared with 22 Lancaster Crescent is to be 500mm in height above the wall on which it is erected (that is, to RL 62.06), and is to extend from a point 900mm north of the northernmost pool barrier to a point 900mm south of the southernmost pool barrier (i.e. to meet swimming pool safety standards).

As the screen also acts as a boundary pool barrier, the screen and the wall on which it is erected are to be constructed in accordance with Australian Standard AS1926.1-2012 Swimming Pool Safety, particularly (but not limited to) in relation to non-climbable zones and exclusion zones.

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

Reason: To ensure consistency with the relevant Australian Standard, while ensuring privacy for the subject site and reducing view loss to 22 Lancaster Crescent.

C. Add Condition 15B Frosting to Windows to read as follows:

The east-facing windows to the ensuite and walk-in-robe at the second floor are to be frosted to a minimum height of 1500mm above finished floor level. The north-facing windows to the second floor ensuite are to be frosted to a minimum height of 1500mm above finished floor level. The east-facing windows to the daybed at the second floor are to be frosted to a minimum height of 1500mm above finished floor level. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure visual privacy to adjoining properties.

D. Add Condition 15C Amended Landscape Plan to read as follows:

The approved Landscape Plan prepared by Selena Hannan Landscape Design dated 17 May 2019 is to be amended to limit vegetation in the south-eastern portion of the site (being the landscaped areas south of the pool terrace and pool, and east of the driveway) to species that achieve a maximum mature height that will not exceed RL 62.00. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect against unreasonable view loss to 22 Lancaster Avenue.

E. Add Condition 15D Amended Western and Northern Walls to read as follows:

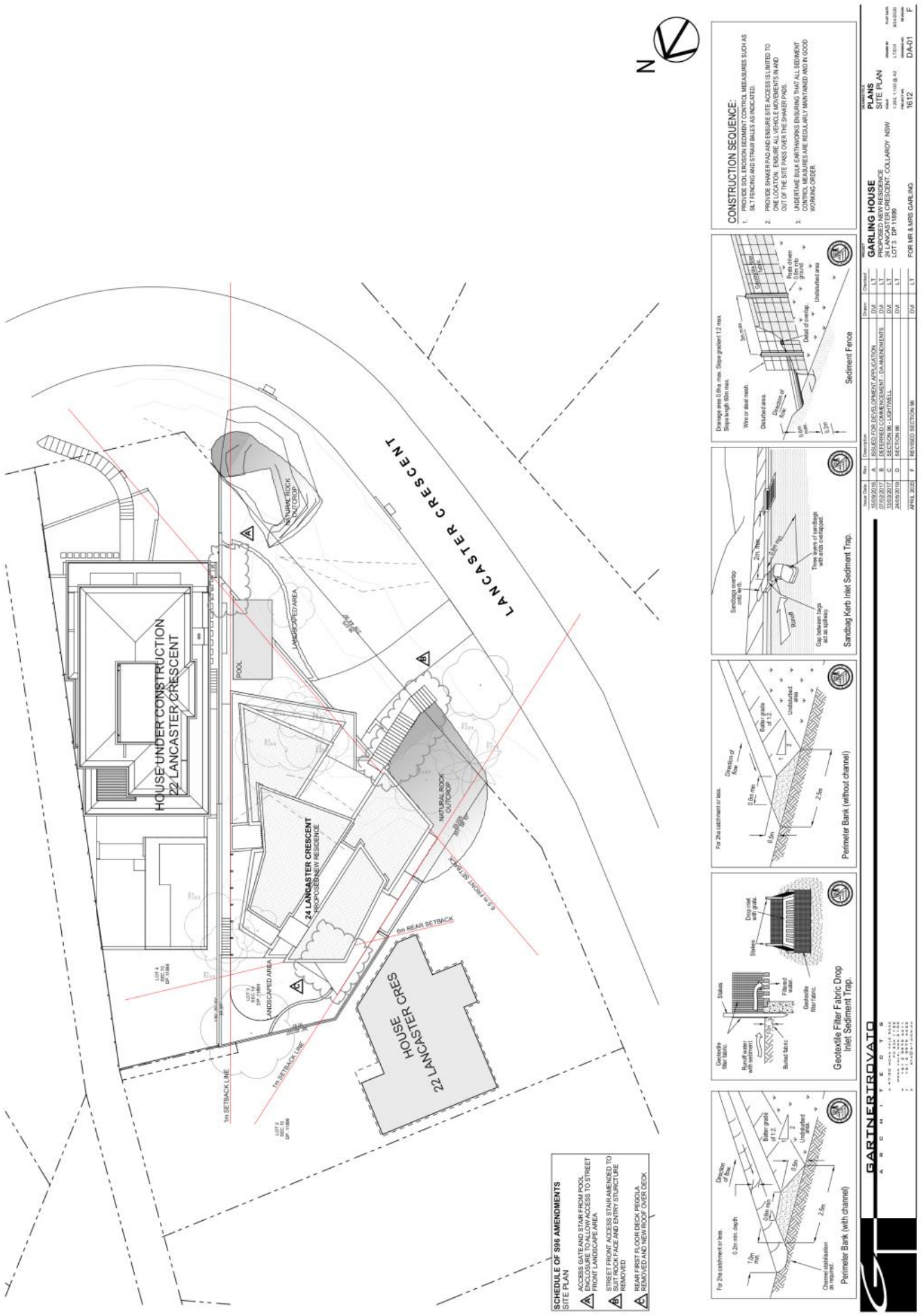
The western and northern masonry walls that act as side and rear fences are to be reduced to a height of maximum 1.8m above the level of ground at the surveyed boundary line. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

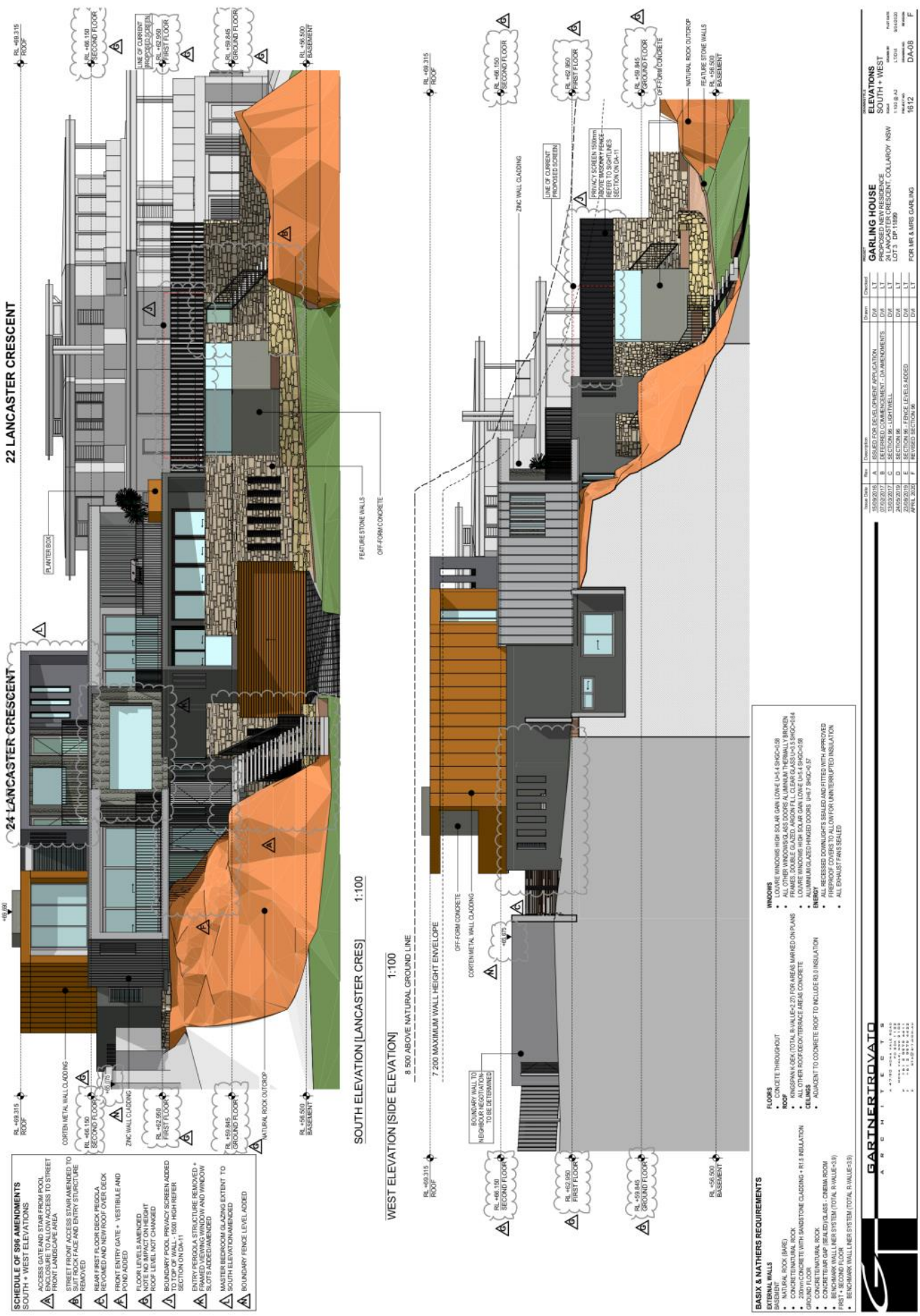
Reason: To reduce solar access impact to 26 Lancaster Crescent, while maintaining suitable privacy to the subject site.

F. Under a new heading 'ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES', add Condition 41 Security Cameras to read as follows:

Any and all security cameras installed on the subject site are to be installed such that they record the subject site only, and not any other adjoining property.

Reason: To ensure suitable privacy to adjoining private land.


LANCASTER CRESCENT
HOUSE UNDER CONSTRUCTION
22 LANCASTER CRESCENT
24 LANCASTER CRESCENT
PROPOSED NEW RESIDENCE
HOUSE
22 LANCASTER CRES
POOL
LANDSCAPED AREA
NATURAL ROCK OUTCROP
6m REAR SETBACK
6.5 m FRONT SETBACK
1m SETBACK LINE
SCHEDULE OF S96 AMENDMENTS
SITE PLAN
ACCESS GATE AND STAIR FROM POOL ENCLOSURE TO ALLOW ACCESS TO STREET FRONT LANDSCAPE AREA
STREET FRONT ACCESS STAIR AMENDED TO SUIT SITE FACE AND ENTRY STRUCTURE REMOVED
REAR FIRST FLOOR DECK PEGOLA REMOVED AND NEW ROOF OVER DECK
CONSTRUCTION SEQUENCE:
1. PROVIDE SOIL EROSION SEDIMENT CONTROL MEEASURES SUCH AS SILT FENCING AND STRAW BALES AS INDICATED.
2. PROVIDE SHAKER PAD AND ENSURE SITE ACCESS IS LIMITED TO ONE LOCATION. ENSURE ALL VEHICLE MOVEMENTS IN AND OUT OF THE SITE PASS OVER THE SHAKER PADS.
3. UNDERTAKE BULK EARTHWORKS ENSURING THAT ALL SEDIMENT CONTROL MEASURES ARE REGULARLY MAINTAINED AND IN GOOD WORKING ORDER.
Sediment Fence
Sandbag Kerb Inlet Sediment Trap.
Perimeter Bank (without channel)
Geotextile Filter Fabric Drop Inlet Sediment Trap.
Perimeter Bank (with channel)
GARTNER TROVATO ARCHITECTS
GARLING HOUSE
PROPOSED NEW RESIDENCE
24 LANCASTER CRESCENT, COLLAROY NSW
LOT 3 DP 11989
FOR MR & MRS GARLING
PLANS
SITE PLAN
1612
DA-01
F


22 LANCASTER CRESCENT
24 LANCASTER CRESCENT
SOUTH ELEVATION [LANCASTER CRES] 1:100
WEST ELEVATION [SIDE ELEVATION] 1:100
8 500 ABOVE NATURAL GROUND LINE
7 200 MAXIMUM WALL HEIGHT ENVELOPE
RL +69.315 ROOF
RL +66.150 SECOND FLOOR
RL +62.950 FIRST FLOOR
RL +59.845 GROUND FLOOR
RL +56.500 BASEMENT
PLANTER BOX
LINE OF CURRENT PROPOSED SCREEN
FEATURE STONE WALLS
OFF-FORM CONCRETE
NATURAL ROCK OUTCROP
CORTEN METAL WALL CLADDING
ZINC WALL CLADDING
PRIVACY SCREEN 1500mm ABOVE MASONRY FENCE - REFER TO SIGHTLINES SECTION DA-11
BOUNDARY WALL TO NEIGHBOUR REDEVELOPMENT TO BE DETERMINED
SCHEDULE OF S96 AMENDMENTS
SOUTH + WEST ELEVATIONS
ACCESS GATE AND STAIR FROM POOL ENCLOSURE TO ALLOW ACCESS TO STREET FRONT LANDSCAPE AREA
STREET FRONT ACCESS STAIR AMENDED TO SUIT ROCK FACE AND ENTRY STRUCTURE REMOVED
REAR FIRST FLOOR DECK PEGOLA REVOMED AND NEW ROOF OVER DECK
FRONT ENTRY GATE + VESTIBULE AND POND ADDED
FLOOR LEVELS AMENDED NOTE NO IMPACT ON HEIGHT ROOF LEVEL NOT CHANGED
BOUNDARY POOL PRIVACY SCREEN ADDED TO TOP OF WALL - 1500 HIGH REFER SECTION ON DA-11
ENTRY PERGOLA STRUCTURE REMOVED + FRAMED VIEWING WINDOW AND WINDOW SLOTS ADDED/AMENDED
MASTER BEDROOM GLAZING EXTENT TO SOUTH ELEVATION AMENDED
BOUNDARY FENCE LEVEL ADDED
BASIX & NATHERS REQUIREMENTS
EXTERNAL WALLS
BASEMENT
• NATURAL ROCK (BARE)
• CONCRETE/NATURAL ROCK
• ZONE 1 CONCRETE WITH SANDSTONE CLADDING + R1.5 INSULATION
GROUND FLOOR
• CONCRETE/NATURAL ROCK
• CONCRETE/AIR GAP (SEALED) GLASS - CINEMA ROOM
• BENCHMARK WALL LINER SYSTEM (TOTAL R-VALUE=3.9)
FIRST + SECOND FLOOR
• BENCHMARK WALL LINER SYSTEM (TOTAL R-VALUE=3.9)
FLOORS
• CONCRETE THROUGHOUT
ROOF
• KINGSPAN K-SICK (TOTAL R-VALUE=2.27) FOR AREAS MARKED ON PLANS
• ALL OTHER ROOF/DECK/TERRACE AREAS CONCRETE
CEILINGS
• ADJACENT TO CONCRETE ROOF TO INCLUDE R3.0 INSULATION
WINDOWS
• LOUVRE WINDOWS HIGH SOLAR GAIN LOWE U=5.4 SHGC=0.58
• ALL OTHER WINDOWS/GLASS DOORS ALUMINIUM THERMALLY BROKEN DOUBLE GLAZED LOW-E GLASS U=3.4 SHGC=0.57 SHGC=0.64
• LOUVRE DOORS HIGH SOLAR GAIN ALL CLEAR GLASS U=5.4 SHGC=0.58
• ALUMINIUM GLAZED HINGED DOORS U=4.7 SHGC=0.57
ENERGY
• ALL RECESSED DOWNLIGHTS SEALED AND FITTED WITH APPROVED FIREPROOF COVERS TO ALLOW FOR UNINTERRUPTED INSULATION
• ALL EXHAUST FANS SEALED
GARTNER TROVATO ARCHITECTS
GARLING HOUSE
PROPOSED NEW RESIDENCE
24 LANCASTER CRESCENT, COLLAROY NSW
LOT 3 DP 19399
FOR MR & MRS GARLING
ELEVATIONS
SOUTH + WEST
1:100 @ A2
1612
DA-08
F

22 LANCASTER CRESCENT
24 LANCASTER CRESCENT
26 LANCASTER CRESCENT
8 500 ABOVE NATURAL GROUND LINE
7 200 MAXIMUM WALL HEIGHT ENVELOPE
GLAZING FROSTED TO 1500 HIGH
OFF-FORM CONCRETE
ZINC WALL CLADDING
RL +69.315 ROOF
RL +66.150 SECOND FLOOR
RL +62.950 FIRST FLOOR
RL +59.845 GROUND FLOOR
RL +56.500 BASEMENT
NORTH ELEVATION [REAR ELEVATION] 1:100
EAST ELEVATION [SIDE ELEVATION] 1:100
APPROVED CLEAR GLAZING DA CONSENT 29/10/1963
CORTEN METAL WALL CLADDING
2.1m HIGH SCREEN + CLOTHES LINE
PRIVACY SCREEN 1500mm ABOVE MASONRY FENCE REFER TO DRAWINGS SECTION ON DA-11
SCHEDULE OF S96 AMENDMENTS
NORTH + EAST ELEVATIONS
REAR FIRST FLOOR DECK PEGOLA REVOMED AND NEW ROOF OVER DECK
FLOOR LEVELS AMENDED NOTE NO IMPACT ON HEIGHT ROOF LEVEL NOT CHANGED
BOUNDARY POOL PRIVACY SCREEN ADDED TO TOP OF WALL - 1500 HIGH REFER SECTION ON DA-11
MASTER BEDROOM DAY BED - OBSCURE GLASS TO 1650 HIGH WINDOW SLOTS ADDED EAST ELEVATION
BOUNDARY FENCE LEVELS ADDED
BASIX & NATHERS REQUIREMENTS
EXTERNAL WALLS
BASEMENT
NATURAL ROCK (BARE)
CONCRETE/NATURAL ROCK
ZONE/ CONCRETE WITH SANDSTONE CLADDING + R1.5 INSULATION
GROUND FLOOR
CONCRETE/NATURAL ROCK
CONCRETE/AIR GAP (SEALED) GLASS - CINEMA ROOM
BENCHMARK WALLINER SYSTEM (TOTAL R-VALUE=3.9)
FIRST + SECOND FLOOR
BENCHMARK WALLINER SYSTEM (TOTAL R-VALUE=3.9)
FLOORS
CONCETE THROUGHOUT
ROOF
KINGSPAN K-SEK (TOTAL R-VALUE=2.27) FOR AREAS MARKED ON PLANS
ALL OTHER ROOF/DECK/TERRACE AREAS CONCRETE
CEILINGS
ADJACENT TO CONCRETE ROOF TO INCLUDE R3.0 INSULATION
WINDOWS
LOUVRE WINDOWS HIGH SOLAR GAIN LOW-E U=5.4 SHGC=0.58
ALL OTHER WINDOWS/GLASS DOORS ALUMINIUM THERMALLY BROKEN
LOWE DOUBLE GLAZED ALUMINIUM FRAMED SLIDING U=3.9 SHGC=0.64
LOWE DOUBLE GLAZED ALUMINIUM FRAMED FIXED U=5.4 SHGC=0.58
ALUMINIUM GLAZED HINGED DOORS U=4.7 SHGC=0.57
ENERGY
ALL RECESSED DOWNLIGHTS SEALED AND FITTED WITH APPROVED FIREPROOF COVERS TO ALLOW FOR UNINTERRUPTED INSULATION
ALL EXHAUST FANS SEALED
GARTNER TROVATO ARCHITECTS
AMENDED DA
Issue Date | Rev | Description | Drawn | Checked
30/09/2015 | A | ISSUED FOR DEVELOPMENT APPLICATION | DVK | LT
07/03/2017 | B | DEFERRED COMMENCEMENT - DA AMENDMENTS | DVK | LT
24/09/2019 | D | SECTION 96 | DVK | LT
23/06/2019 | E | SECTION 96 - FENCE LEVELS ADDED | DVK | LT
APRIL 2020 | F | REVISED SECTION 96 | DVK | LT
GARLING HOUSE
PROPOSED NEW RESIDENCE
24 LANCASTER CRESCENT, COLLAROY NSW
LOT 3 DP 19399
FOR MR & MRS GARLING
ELEVATIONS
NORTH + EAST
1:100 @ A2
1612
DA-09
F

ITEM 3.2	**DA2020/0462 - 27 QUINTON ROAD, MANLY - ALTERATIONS AND ADDITIONS TO A SEMI-DETACHED DWELLING HOUSE**
REPORTING MANAGER	**Matt Edmonds**
TRIM FILE REF	**2020/377093**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site Plan and Elevations**

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2020/0462 for alterations and additions to a semi-detached dwelling house on land at Lot X DP 442867, 27 Quinton Road, Manly, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0462

Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot X DP 442867, 27 Quinton Road MANLY NSW 2095
Proposed Development:	Alterations and additions to a semi-detached dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Richard William John Keyte Louise Elizabeth Keyte
Applicant:	Concept Solutions Pty Ltd

Application Lodged:	11/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/05/2020 to 02/06/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.4 Floor space ratio: 10.9%
Recommendation:	Approval

Estimated Cost of Works:	$ 40,000.00

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to the existing semi-detached dwelling including the enclosure of the verandah on the northern elevation and incorporate it into the floor area of the dwelling.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)
Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot X DP 442867 , 27 Quinton Road MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Quinton Road and the southern side of Augusta Road. The site is regular in shape with a primary frontage of 9.45m along Quinton Road and a secondary frontage and depth of 30.485m along Augusta Road. The site has a surveyed area of 294m². The site is located within the R1 General Residential zone and accommodates two-storey semi-detached dwelling. The site falls approx. 2m from the western boundary towards the east. The site contains garden areas along the northern boundary, including a canopy tree. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by a mix of low density residential dwelling types, including detached dwellings, semi-detached dwelling and dual occupancies. Some medium density residential flat buildings are located to the north of the site.

Map:

SITE HISTORY

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

Application **DA0106/2004** for alterations and additions to dwelling including rear first floor additions was approved on 18/10/2004 by the Manly Development Assessment Unit.

Application **DA0106/2004/2** for modification of development consent DA0106/2004 was approved on 17/10/2005 by the Manly Development Assessment Unit.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	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)(iiia) –	None applicable.

Section 4.15 Matters for Consideration'	**Comments**
Provisions of any planning agreement	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact**

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS Discussion of reason for referral This application has been referred to Heritage as the site contains a heritage item, being ***Item I215 - Group of houses -*** 1–23, 25 and 27 Quinton Road and 1–7 Augusta Road. The site is also in the vicinity of the heritage item, ***Item 12 - All stone kerbs*** - Manly municipal area. Details of heritage items affected Details of the heritage item, as contained within the Manly Heritage Inventory are: ***Item I215 - Group of houses*** <u>Statement of significance:</u> The group of houses at 1-23, 25 and 27 Quinton Road are a

Internal Referral Body	Comments
	remarkably intact example of early Twentieth Century development, typical of the Manly area at that time. The street presents a cohesive representation of the changes occurring to the Manly community in the early 1900s, with regard to population increase and changes to typical dwelling types. The group's associations with various local identities over time further solidify this historical significance to Manly. The street's picturesque location and high architectural quality contribute to the group's aesthetic significance, as do the extant details such as fences, rooflines, materials, landscaping and setbacks. <u>Physical description:</u> The architectural style exhibited is predominantly Federation, including both Queen Anne and Arts and Crafts style elements, reflecting the first period of development in the street. Features include asymmetrical designs, face brickwork, use of ornamental timberwork on verandah and "flying" gables, tall chimneys with terracotta pots, the use of slate or Marseille terracotta tile roofing, bay windows and wall hung shingles. Due to the topography of the street, the houses on the western side of the road exhibit some interesting features, such as the substantial sandstone retaining walls, as well as symmetrical access stairways and picket fences at numbers 15-17, 19-21 and 23-25. Essentially, the streetscape remains little changed, with original setbacks, rooflines, architectural detailing and landscaping aspects such as fences still intact.

Other relevant heritage listings		
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
Australian Heritage Register	No	
NSW State Heritage Register	No	
National Trust of Aust (NSW) Register	No	
RAIA Register of 20th Century Buildings of Significance	No	
Other	No	

Consideration of Application
This application seeks consent for enclosure of the existing

Internal Referral Body	Comments
	verandah which is a late addition (approved DA 106/2004) to the original building. It is considered that the proposed materials and design of the enclosure is sympathetic to the original building, but there is a discrepancy between the existing/approved DA drawings and the proposal regarding the roof pitch and the roof appearance. The proposal suggests that the roof will be retained with a 450mm extension along Augusta Road, but on the elevation of proposed drawing 02001-06, the roof and the gutter level is a lot lower than the existing. A clarification is requested, as it is considered that the roof should be recessive not dominant. The proposed timber shingle cladding for the parapet wall is considered sympathetic to the character of the area and the streetscape. Details of the timber shingle (finish/colour) should also be provided to be able to assess the impact on the heritage item. Therefore, the proposal is acceptable on heritage grounds, subject to two conditions. Consider against the provisions of CL5.10 of MLEP. Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes

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. A375543_02, dated 28 April 2020). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

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	5.6m	N/A	Yes
Floor Space Ratio:	0.6:1 (176.4m^2)	0.665:1 (195.6m^2)	10.9% (19.2m^2)	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.6:1

Proposed:	0.665:1
Percentage variation to requirement:	10.9%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, 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 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

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

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)
The objects of this Act are as follows:
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
(c) to promote the orderly and economic use and development of land,
(d) to promote the delivery and maintenance of affordable housing,
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
(g) to promote good design and amenity of the built environment,
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

The proposed alteration is an enclosure of an existing verandah to the existing house. There is no new addition to the existing footprint or built area, only the enclosure of an existing area above the garages on the Augusta Road side of the house. The verandah is currently under-utilised due to its visual exposure to Augusta Road (being at the corner end of Quinton Road) and is very noisy to sit out on, due to traffic along Augusta and Quinton Roads. The owners of the property propose to enclose this verandah with windows and timber framing and shingles to make it a more usable room and improve its amenity.

The argument provided by the applicant is considered to be acceptable in varying the floor space ratio development standard as the proposed works will not result in a fundamental change to the existing building footprint or increase the bulk and scale of the overall dwelling.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

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

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

> *a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
>
> Comment:
>
> The proposed development is considered to be reasonable in terms of bulk and scale. The

existing overall height and setbacks of the dwelling are to be maintained.

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

Comment:

The proposed development will not result in a bulk and scale that threatens to obscure important landscape and townscape features.

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

Comment:

The proposed development is considered to be in keeping with the low density residential character of the locality and maintains existing landscape elements on the site.

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

Comment:

The proposed development is not expected to cause any unreasonable environmental impact on the use and enjoyment of nearby public open space.

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

Comment:

Not applicable.

Zone objectives

The underlying objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*

  Comment:

  The existing semi-detached dwelling is to remain.

  It is considered that the development satisfies this objective.

- *To provide for a variety of housing types and densities.*

  Comment:

  The proposed development does not alter the existing low density residential land use.

  It is considered that the development satisfies this objective.

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

  Comment:

  The use site is to remain as a residential dwelling.

  It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone.

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Floor space ratio Development Standard associated with a single dwelling house (Class 1 building).

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 294m^2	**Requirement**	**Proposed**	**% Variation***	**Complies**
4.1.2.1 Wall Height	N: 7.0m (based on gradient 1:12)	3.9m	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Secondary street frontage: Prevailing setback	1.7m, consistent with prevailing setback	N/A	Yes
4.1.4.4 Rear Setbacks	8m	As existing	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	41.5% (122.1m^2)	24.5% (39.6m^2)	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	30.5% (37.2m^2)	12.9% (5.5m^2)	Acceptable, as existing

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

variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes

Detailed Assessment

4.1.3 Floor Space Ratio (FSR)

The proposed development has a floor space ratio of 0.665:1 (195.6m^2), which represents a variation of 10.9% to the prescribed 0.6:1 (176.4m^2) FSR requirement.

Refer to Clause 4.6 Exceptions to Development Standards of MLEP 2013 for a detailed assessment.

4.1.5 Open Space and Landscaping

Description of non-compliance

4.1.5.1 Minimum Residential Total Open Space Requirements

The site is located in Area OS3, meaning a minimum total open space of 55% of site area.

The proposed development results in a reduction in the total open space through the enclosure of the existing verandah on the northern elevation. The total open space remaining on the site is approx. 41.5% of site area (122.1m^2).

Merit consideration:

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

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

Comment:

The proposed development does not result in a change to the existing landscaped elements of the site.

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

Comment:

As above, no change to the existing landscaped area is proposed.

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

Comment:

The proposed development is not expected to cause any unreasonable amenity impacts to adjacent dwellings or the streetscape. Existing levels of solar access, privacy and view impact are to remain.

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

Comment:

No change to the existing hard surface on the site is proposed.

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

Comment:

The proposal is not expected to lead to the spread of weeds or degradation of the adjacent public domain.

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

Comment:

The proposal is not expected to unreasonable impact upon wildlife habitat or corridors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in s1.3 of the Environmental Planning

and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches 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 4.4 Floor Space Ratio 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 4.4 Floor Space Ratio 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 Council as the consent authority grant Development Consent to DA2020/0462 for Alterations and additions to a semi-detached dwelling house on land at Lot X DP 442867, 27 Quinton Road, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
02001-01 Issue B	30 April 2020	Concept Solutions
02001-02 Issue B	30 April 2020	Concept Solutions
02001-03 Issue B	30 April 2020	Concept Solutions
02001-04 Issue B	30 April 2020	Concept Solutions
02001-05 Issue B	30 April 2020	Concept Solutions
02001-06 Issue B	30 April 2020	Concept Solutions
02001-07 Issue B	30 April 2020	Concept Solutions

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**

BASIX Certificate No. A375543_02	28 April 2020	BASIX Certificate Centre

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

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

Waste Management Plan		
Drawing No/Title.	**Dated**	**Prepared By**
Site Waste Minimisation and Management Plan	1 May 2020	R Keyte

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

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

2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

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

(i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

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

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

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

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

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

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

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

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

A. the name of the owner-builder, and

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must

not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

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

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

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

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

Reason: Legislative requirement.

3. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) 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) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

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

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

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2008

(iv) Australian Standard AS1926 Swimming Pool Safety

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

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

A bond (determined from cost of works) of $1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

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

5. **Boundary Identification Survey**
A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property

boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

6. **Existing roof to be retained**
The existing roof should be retained in terms of the height and pitch. The proposed eaves - extension of 450mm, along Augusta Road is acceptable. A clarification is required that the retained section of the roof correspondence the existing or approved DA 106/2004 drawings. The roof should be recessive not dominant to minimise the impact of the proposal on the original building and the streetscape. Details demonstrating compliance with this condition to be submitted to the Council's Heritage Advisor's satisfaction.

Reason: To preserve the significance of the heritage item and the conservation area.

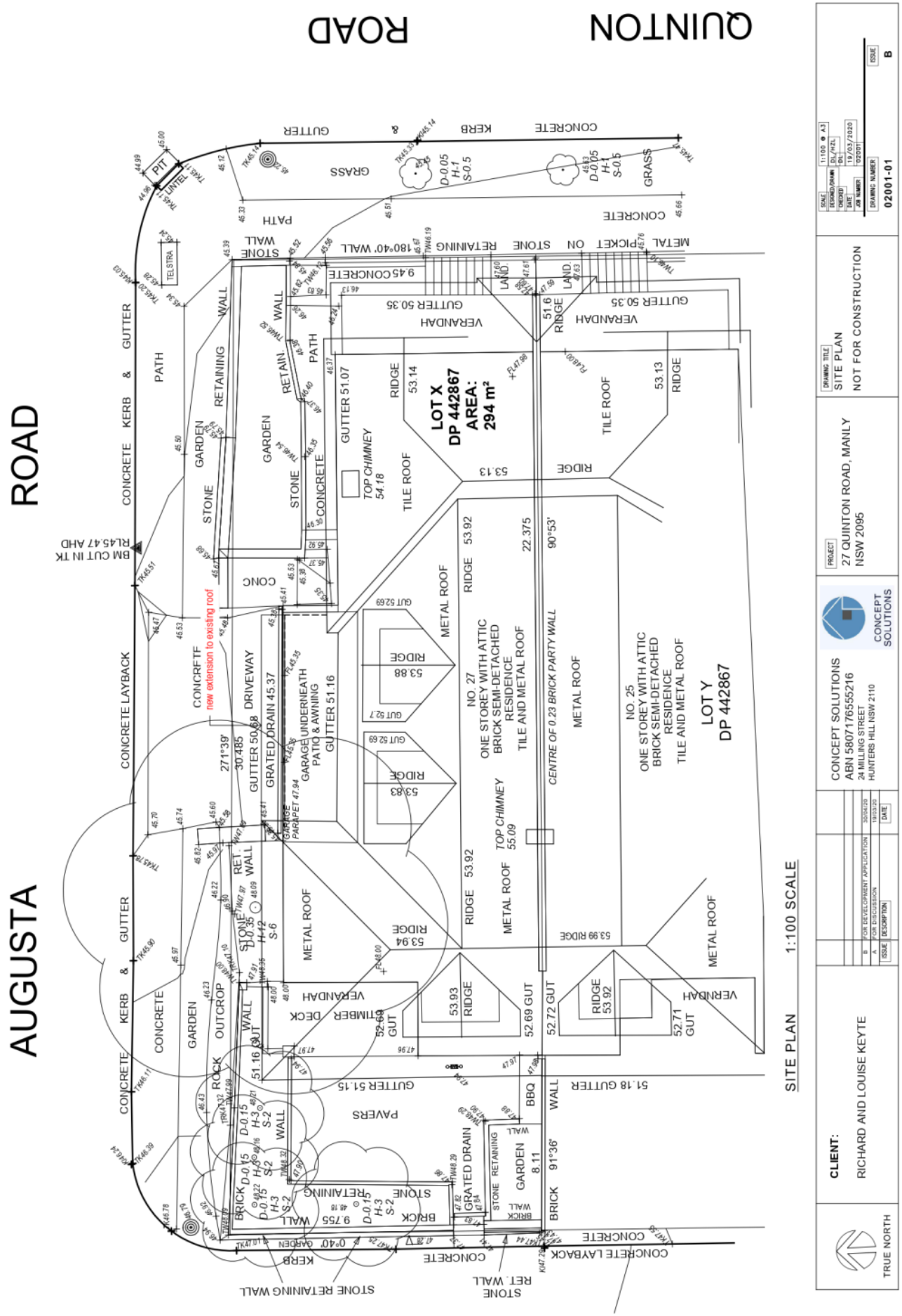
7. **Timber shingle details**
Details of the proposed timber shingle (finish/colour) to be submitted to the Council's Heritage Advisor's satisfaction.

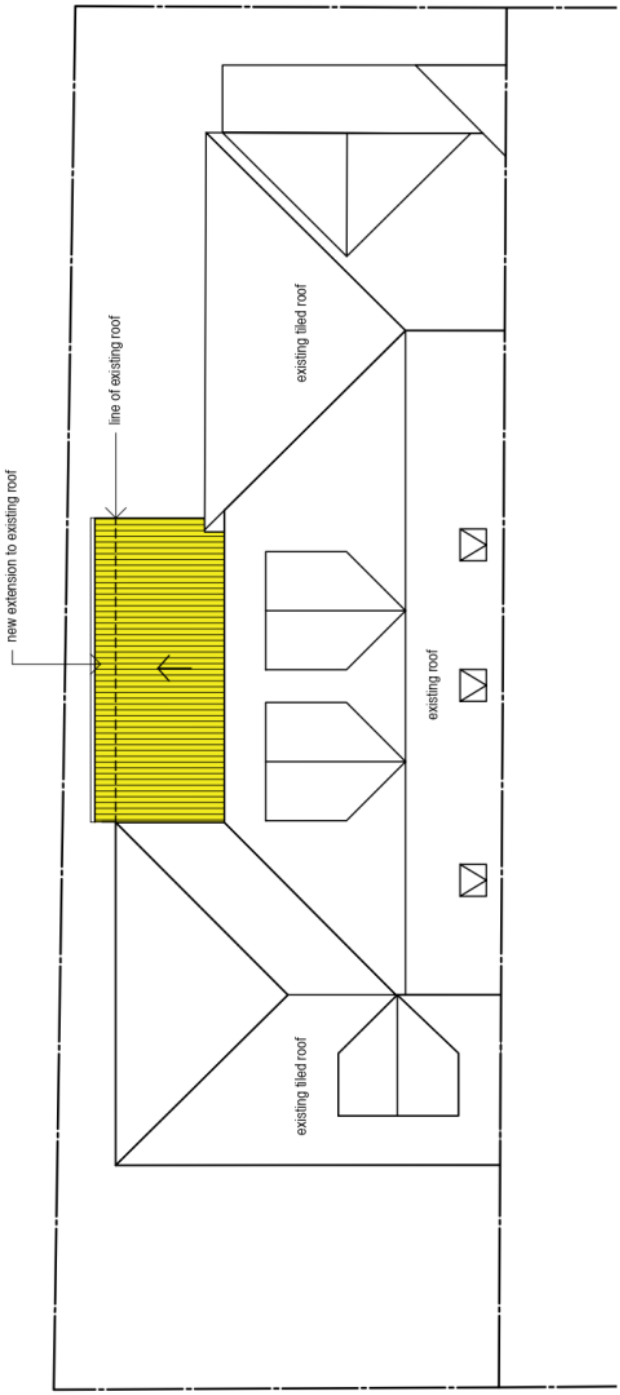
Reason: To preserve the heritage significance of the heritage item, the conservation area and the items within the vicinity.

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

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

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


AUGUSTA ROAD
QUINTON ROAD
LOT X
DP 442867
AREA:
294 m²
LOT Y
DP 442867
NO. 27
ONE STOREY WITH ATTIC
BRICK SEMI-DETACHED
RESIDENCE
TILE AND METAL ROOF
NO. 25
ONE STOREY WITH ATTIC
BRICK SEMI-DETACHED
RESIDENCE
TILE AND METAL ROOF
CENTRE OF 0.23 BRICK PARTY WALL
new extension to existing roof
SITE PLAN 1:100 SCALE
CLIENT:
RICHARD AND LOUISE KEYTE
TRUE NORTH
CONCEPT SOLUTIONS
ABN 58071765555216
24 MILLING STREET
HUNTERS HILL NSW 2110
PROJECT
27 QUINTON ROAD, MANLY
NSW 2095
DRAWING TITLE
SITE PLAN
NOT FOR CONSTRUCTION
DRAWING NUMBER
02001-01
ISSUE
B



ROOF PLAN 1:100 SCALE

TRUE NORTH

CLIENT:
RICHARD AND LOUISE KEYTE

ISSUE	DESCRIPTION	DATE
B	FOR DEVELOPMENT APPLICATION	30/04/20
A	FOR DISCUSSION	19/03/20

CONCEPT SOLUTIONS
ABN 58071765552 16
24 MILLING STREET
HUNTERS HILL NSW 2110

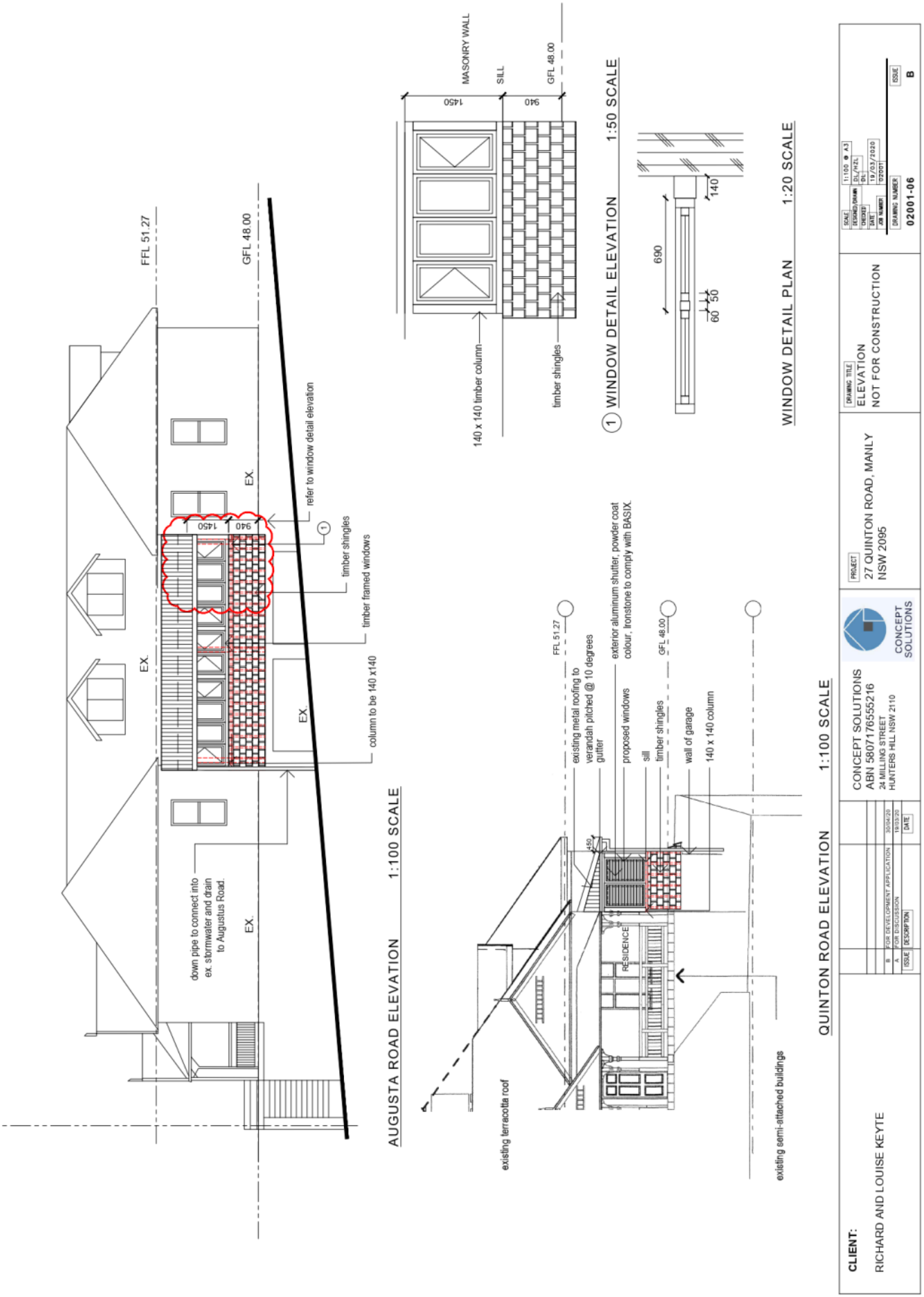
CONCEPT SOLUTIONS

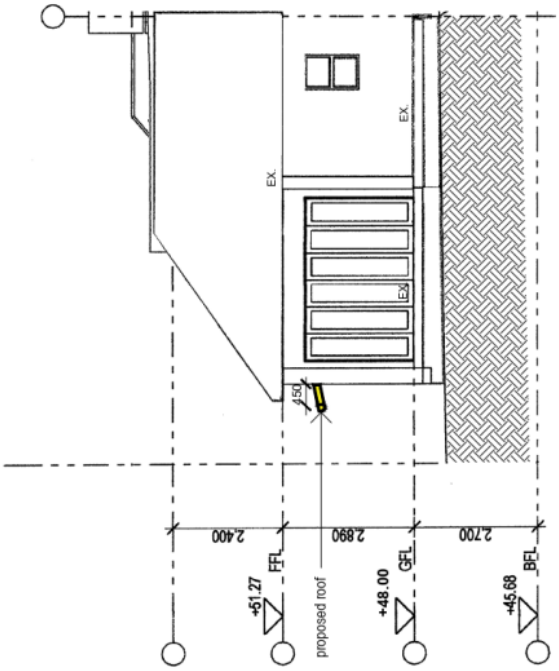
PROJECT
27 QUINTON ROAD, MANLY
NSW 2095

DRAWING TITLE
ROOF PLAN
NOT FOR CONSTRUCTION

SCALE 1:100 @ A3
DESIGNED/DRAWN DL/YZL
CHECKED DL
DATE 19/03/2020
JOB NUMBER 02001

DRAWING NUMBER 02001-05
ISSUE B


FFL 51.27
GFL 48.00
EX.
1450
940
refer to window detail elevation
timber shingles
timber framed windows
column to be 140 x140
down pipe to connect into ex. stormwater and drain to Augustus Road.
AUGUSTA ROAD ELEVATION 1:100 SCALE
MASONRY WALL
SILL
140 x 140 timber column
1 WINDOW DETAIL ELEVATION 1:50 SCALE
690
140
60
50
WINDOW DETAIL PLAN 1:20 SCALE
existing terracotta roof
existing metal roofing to verandah pitched @ 10 degrees
gutter
exterior aluminum shutter, powder coat colour, Ironstone to comply with BASIX.
proposed windows
sill
timber shingles
wall of garage
140 x 140 column
RESIDENCE
existing semi-attached buildings
QUINTON ROAD ELEVATION 1:100 SCALE
CONCEPT SOLUTIONS
ABN 58071765552 16
24 MILLING STREET
HUNTERS HILL NSW 2110
CONCEPT SOLUTIONS
PROJECT
27 QUINTON ROAD, MANLY
NSW 2095
DRAWING TITLE
ELEVATION
NOT FOR CONSTRUCTION
SCALE 1:100 @ A3
DESIGNED/DRAWN DL/KZL
CHECKED DL
DATE 19/03/2020
JOB NUMBER 02001
DRAWING NUMBER 02001-06
ISSUE B
B FOR DEVELOPMENT APPLICATION 30/04/20
A FOR DISCUSSION 19/03/20
ISSUE DESCRIPTION DATE
CLIENT:
RICHARD AND LOUISE KEYTE



WEST ELEVATION 1:100 SCALE

CLIENT:
RICHARD AND LOUISE KEYTE

ISSUE	DESCRIPTION	DATE
B	FOR DEVELOPMENT APPLICATION	30/04/20
A	FOR DISCUSSION	19/03/20

CONCEPT SOLUTIONS
ABN 58071765552 16
24 MILLING STREET
HUNTERS HILL NSW 2110

CONCEPT SOLUTIONS

PROJECT
27 QUINTON ROAD, MANLY
NSW 2095

DRAWING TITLE
WEST ELEVATION
NOT FOR CONSTRUCTION

SCALE 1:100 @ A3
DESIGNED/DRAWN DL/HZL
CHECKED DL
DATE 19/03/2020
JOB NUMBER 02001
DRAWING NUMBER 02001-07
ISSUE B

ITEM 3.3	**MOD2020/0134 - 16 CAREY STREET, MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA149/2010 GRANTED FOR DEMOLITION OF EXISTING AND CONSTRUCTION OF A TWO (2) STOREY DWELLING**
REPORTING MANAGER	**Anna Williams**
TRIM FILE REF	**2020/377133**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site and Elevation Plans**

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Mod2020/0134 for Modification of Development Consent DA149/2010 granted for demolition of existing and construction of a two (2) storey dwelling on land at Lot 1 DP 166526, 16 Carey Street, Manly, subject to the conditions outlined in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0134

Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 1 DP 166526, 16 Carey Street MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA149/2010 granted for demolition of existing and construction of a two (2) storey dwelling
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mitchell Duncan Arthur Corn Kerri Lillian Corn
Applicant:	Mka Consulting

Application Lodged:	09/04/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	24/04/2020 to 12/05/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.4 Floor space ratio: 22.5%
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification includes external changes and internal reconfiguration resulting in:

Lower ground floor

- Rumpus room
- Media room
- Bed with ensuite
- Bath
- Laundry & drying room
- Undercroft and bin store

Ground floor

- Kitchen, dining & lounge
- Guest bed
- Rear balcony / BBQ
- Double garage

First floor

- Master bed with ensuite, robe, front & rear balconies
- Two bedrooms
- Bath

External

- New driveway
- Landscaping/planting to front and rear yards
- Terracing to rear yard
- Front and side boundary fencing

Throughout the assessment process, the applicant has agreed to a number of amendments to attempt to satisfy the concerns raised by both Council and the adjoining property, No. 18 Carey Street. These changes are summarized below:

1. Additional 1.46m setback provided to the first floor bedroom at the rear (south-eastern) corner of the dwelling to regain views and reduce bulk as viewed from No. 18. This amendment also included minor internal reconfiguration of the first floor level.
2. Amended roof pitch to slope from south-west to north-east. This change lowers the roof height at the north-eastern boundary to approximately RL29.24 along the length of the side elevation of the dwelling.
3. Additional 500mm setback provided to the ground floor BBQ wall and lowered retractable balcony roof by 400mm to RL26.1.

<u>Validity of approved consent</u>

DA0149/2010 was approved by the former Manly Council on 15 December 2010 and was due to lapse on 15 December 2015. On 22 July 2015, the Applicant provided information to Council detailing the geotechnical and surveying works undertaken on the site in relation to the development as evidence of physical commencement of the development consent. On 27 September 2015, the Land Use Assessments Manager of the former Manly Council provided written confirmation of Council's satisfaction that, based on the information provided by the Applicant, the consent had been physically commenced.

Given the available records of Council's prior confirmation that the consent was physically commenced prior to the lapsing date, the consent is considered to remain valid and the modification application may be considered as proposed.

<u>Approved non-standard (ANS) conditions</u>

The approved consent includes a number of non-standard conditions imposed by the Assessing Officer and the Development Assessment Unit panel. The modified development requires the deletion of conditions ANS01 and ANS02, which were imposed/amended by the DAU panel. The modification includes changes to the approved built form of the dwelling to allow compliance with ANS04. Conditions ANS03 and ANS05 also remain relevant to the development.

ANS01
The proposed roof pitch is to be reduced to limit the maximum height of the roof over the living room to RL29.15 and the roof over the kitchen/dining room to RL29.44, plans being suitable amended prior to the issue of the Construction Certificate.
Reason: To reduce the height and scale of the development achieve closer to compliance with Council's Development Control Plan for the Residential Zone.

Comment: The modified roof form has been simplified to substantially reduce its pitch, height and resulting bulk. The proposed building height complies with the 8.5m control and the roof is not considered to result in any unreasonable bulk, visual or amenity impacts. As such, condition ANS01 is recommended to be deleted.

ANS02
The south east external wall of the proposed living room and bathroom at first floor level is to be repositioned 0.5m to the northwest and the roof/eave above repositioned accordingly, plans being suitably amended prior to the issue of the Construction Certificate.
Reason: To reduce the impact of the development on amenity of adjoining properties and reduce the visual bulk of the building.

Comment: The proposed rear setback to the first floor is assessed under Clause 4.1.4 Setbacks, and is recommended to be deleted.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 6.2 Earthworks
Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity
Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
Manly Development Control Plan - 3.3.1 Landscaping Design
Manly Development Control Plan - 3.3.2 Preservation of Trees or Bushland Vegetation
Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
Manly Development Control Plan - 3.4.2 Privacy and Security
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.5 Open Space and Landscaping
Manly Development Control Plan - 4.1.7 First Floor and Roof Additions
Manly Development Control Plan - 4.1.8 Development on Sloping Sites
Manly Development Control Plan - 4.1.10 Fencing
Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

SITE DESCRIPTION

Property Description:	Lot 1 DP 166526 , 16 Carey Street MANLY NSW 2095
Detailed Site Description:	The subject site consists of one allotment located on the south-eastern corner of Carey Street and Stuart Street. The site is regular in shape with a frontage of 13.26m along Carey Street and a secondary frontage of 30.48m to Stuart Street. The site has a surveyed area of 404.5m². The site is located within the R1 General Residential zone and accommodates an existing dwelling house. The site 3.2m diagonally from the northern corner to southern corner of the site. The site contains two significant trees within the front yard. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by detached dwelling and residental flat buildings. Little Manly Reserve is located across Stuart street to the west of the site.

Map:

SITE HISTORY

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

DA0149/2010 - Demolition of existing, construction of a two (2) storey dwelling with basement, garage, decks, front fence and landscaping - Approved 15 December 2010.

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 DA0149/2010, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - 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 development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA0149/2010 for the following reasons: *"(2) Other modifications 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 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"* <u>Comment:</u> • The proposed development retains a single residential use and does not alter the intent of the lot to be developed. • The resulting built form and general appearance of the development is materially the same as originally approved. The modifications are generally contained within the approved building footprint, with various minor reductions and additions to the approved building envelope. The most significant change to the approved built form is the new roof form, which has been lowered and simplified. • The modified development maintains compliance with the building height control and includes a minor reduction to the approved floor space ratio non-compliance. Despite some new works beyond the previously approved building envelope, specifically at the rear (south-eastern) corner of the ground and first floor levels, the modification is considered to result in an overall reduction to the bulk of the dwelling. This reduction is achieved through simplification of the approved roof form, and the redistribution of a greater proportion of gross floor area to the lower ground floor level. • The modified development will not result in any significant departures from the previous approval in relation to visual and amenity impacts. A full assessment of these impacts is completed in this report against Part 3 General Principles of Development.

Section 4.55 (2) - Other Modifications	Comments
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA0149/2010 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environmental Plan 2011 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	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 96 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation

Section 4.15 'Matters for Consideration'	Comments
environmental planning instrument	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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development,	(i) **Environmental Impact** The environmental impacts of the proposed development on the

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Kerrie Ann Baxter	18 Carey Street MANLY NSW 2095

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

- View, privacy and amenity impacts
- Increased wall height at rear of dwelling
- FSR non-compliance
- Roof height/pitch condition
- Side setback non-compliances

The matters raised within the submissions are addressed as follows:

- View, privacy and amenity impacts
  Comment:
  The proposed modification is considered to result in an improvement to the view impacts of the previously approved development application. The modification will not cause any unreasonable privacy impacts. It is acknowledged that the modification includes additions beyond the approved building envelope, but is considered to result in an overall reduction to the bulk of the approved dwelling. A full assessment of amenity impacts is completed under General Principles of Development.

- Increased wall height at rear of dwelling
  Comment:
  The wall height at the rear bedroom of the north-eastern elevation increases by a maximum of 400mm, while the side setback to that wall increases by 1.46m (to a total of 2.46m). The amended modification therefore results in a significant reduction to the approved side setback breach and provides additional physical separation to the adjoining property.

- FSR non-compliance
  Comment:
  The proposed modification includes a minor reduction to the approved FSR non-compliance. Further, a greater proportion of the gross floor area is now provided at the lower ground floor level, thus reducing the bulk and potential amenity impacts resulting from the upper levels. A full assessment of the proposed FSR is completed under Clause 4.6 Exceptions to Development Standards.

- Roof height/pitch condition
  Comment:
  The proposed simplified roof form significantly reduces the bulk of the dwelling overall and is supported. Based on the consideration of the benefit provided by the modified roof design, condition ANS01 is recommended to be deleted.

- Side setback non-compliances
  Comment:
  The proposed modification retains or reduces the extent of all approved setback non-compliances, with the exception of the first floor south-western setbacks to Stuart Street. A full assessment of setback is completed under Clause 4.1.4 Setbacks.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application to modify the approved development consent DA149/2010 consists of modification to the approved building and a redesign of the landscape proposal. Council's Landscape Referral section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types, and specifically: 3.3.1 Landscaping Design; and 4.1.5 Open Space and Landscaping.

Internal Referral Body	Comments
	Revised Landscape Plans are submitted in accordance with Council's DA Lodgement Requirements. The landscape component of the application is supported subject to the completion of landscape works as conditioned and in particular the DA149/2020 condition ANS03 to limit planting heights to no more than 4 metres, and the incorporation of condition 20 (2TS01) requiring the inclusion of native plant species to provide a low dense clumping habitat for the Long nosed Bandicoot population.
NECC (Bushland and Biodiversity)	The proposal has been assessed against the following provisions: - NSW Biodiversity Conservation Act 2016 - Manly LEP Clause 6.5 (Terrestrial Biodiversity) - Manly DCP Section 5.4.2 (Threatened Species and Critical Habitat Lands) - Manly DCP Section 3.3.1.a)iv) Landscaping The subject site is within the mapped 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, a Test of Significance or 'five-part test' for impacts to the endangered population has been prepared in accordance with Section 7.3 of the BC Act. It is noted that the previous ecological report for the original consent identified evidence of bandicoot occupation throughout the property. The modified proposal will result in the loss of a greater extent of potential bandicoot foraging habitat (soft open space) than previously approved. In order to partially compensate for this loss, the landscape plan is required to be amended in order to provide improved bandicoot nesting/sheltering habitat. Construction impacts are to be mitigated via recommended conditions of consent.
NECC (Development Engineering)	Development Engineering has no objection to the modification application. Some conditions shall be modified to reflect the current Council's practice as below: Condition 53, 54 and 55 can be combined into the following condition **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures** The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and

Internal Referral Body	Comments
	restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate. Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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. 1085839S dated 11 March 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 of consent included.

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	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.1m (as per condition ANS01)	8.2m	N/A	Yes
Floor Space Ratio	0.6:1 242.7m2	0.74:1 297.5m2 (as per conditions ANS02 & ANS04)	0.735:1 297.4m2	22.5%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.6:1 (242.7m2)
Proposed:	0.735:1 (297.4m2)
Percentage variation to requirement:	22.5%

Assessment of request to vary a development standard:

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the Pittwater LEP, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.55 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorizes the development to be approved notwithstanding any breach of development standards. Section 4.55 is subject to its own stand-alone tests (such as the substantially the same test and consideration of all relevant Section 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.55 modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not apply to Section 4.55 modification applications, the merits of the variation have been assessed with regard to the objectives of the height of buildings development standard and the underlying objectives of the E4 Environmental Living zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Comment:

Compliance with the floor space ratio development standard is considered unnecessary in this case for

the following reasons:

- The proposal modification results in a minor reduction to the non-compliant floor space ratio previously approved under DA0149/2010.
- The modification includes a substantial redistribution of floor space and bulk to the lower ground level.
- The internal living areas and rear balcony are relocated from the first floor to ground floor, and the first floor balcony areas are significantly reduced, minimising the potential amenity impact resulting from the development.

Given the improvements to the approved dwelling design, and the minor overall reduction to FSR, compliance with the development standard is considered to be unnecessary in this case.

There are sufficient environmental planning grounds to justify contravening the development standard,

Comment:

An assessment of the proposed modification has concluded that there are sufficient environmental planning grounds for the variation:

- The approved development exceeded the FSR control for the site and the modification includes a minor reduction to the gross floor area of the dwelling.
- In addition to the reduced FSR, the further modifications to the development result in improved design outcomes for the occupants of the site and adjoining properties.

Given the above, there is considered to be sufficient environmental planning grounds to justify the proposed FSR breach.

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.

4.4 floor space ratio

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

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

Comment:

The proposed modification results in an overall reduction to building bulk and will improve the development in relation to the streetscape.

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

Comment:

The development is not excessive in bulk and will not unreasonably obscure any important landscape of townscape features.

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

Comment:

The modified development is appropriately designed in relation to the existing character of the area. The dwelling is sufficiently articulated, particularly at the first floor level, which incorporates a planter box extending along the facades to the primary and secondary frontages to further reduce the bulk and visual impact.

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

Comment:

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

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

Comment:

N/A

Zone objectives

The underlying objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*

  Comment:

  The proposed development retains the existing/approved residential use.

  It is considered that the development satisfies this objective.

- *To provide for a variety of housing types and densities.*

  Comment:

  The proposed development retains the existing single dwelling use.

  It is considered that the development satisfies this objective.

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

  Comment:

  N/A

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the standard and the R1 General Residential zone.

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

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

Comment:

The subject application is made under Section 4.55 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

6.2 Earthworks

The proposed modification includes additional excavation beyond the footprint of the approved basement. The excavation is not excessive and a geotechnical assessment of the modified development has been provided.

6.5 Terrestrial biodiversity

Council's Biodiversity Officer raised no objection to the proposed modification, subject to conditions. Appropriate conditions are included to compensate for the loss of bandicoot foraging habitat and mitigate construction impacts.

6.9 Foreshore scenic protection area

The proposed modification retains the existing single residential use of the site and is largely consistent with the previously approved building envelope. As such, the development will result in no unreasonable impacts in relation to visual aesthetic amenity or views to and from Sydney Harbour.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 404.5m2	**Requirement**	**Approved**	**Proposed**	**Complies**
4.1.2.1 Wall Height	NE: 6.9m	1F Balcony: 4.8m	GF BBQ: 4.4m	Yes
		GF Garage: 3.9m - 4.5m	GF Garage: 3.3m - 4.3m	Yes
		1F Kitchen: 5.1m - 5.8m	1F Bed / Lift: 6.4m - 6.9m	Yes
		1F Stair: 6.1m - 7.1m	1F Bed: 7m - 7.5m	No
	SW: 6.9m	GF Dwelling / 1F Balcony: 5m - 5.6m	GF Dwelling / Balcony: 4.5m - 5.7m	Yes
		1F Dwelling: 7.7m - 8m	1F Dwelling / Balcony: 6.8m - 7.7m	No (as approved)

4.1.2.2 Number of Storeys	2	3	3	No (as approved)
4.1.2.3 Roof Height	Height: 2.5m	0.2m	0.8m	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Deck: 4.5	4.9m	No (as approved)
		Dwelling: 6	6m	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	GF BBQ: 1.47m	4.3m	1.5m	Yes
	GF Garage: 1.1m - 1.43m	0m	0.2m	No (as approved)
	1F Bed / Lift: 2.1m - 2.3m	1m	1m	No (as approved)
	1F Bed: 2.33m - 2.5m	1m	2.46m	No (as approved)
	GF Dwelling / Balcony: 1.5m - 1.9m	1.2m (ANS04)	1.2m	No (as approved)
	1F Dwelling / Balcony: 2.33m - 2.57m	2.26m - 4.56m	2.2m	No
4.1.4.4 Rear Setbacks	8m	GF / FF Balcony: 8.08m	Basement / GF: 8m	Yes
		FF Dwelling: 12.48m (ANS02)	11.8m - 11.9m	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area 222.475m2	52% 210.29m2	51.3% 207.6m2	No
	Open space above ground 25% of total open space 51.9m2	36.8% 77.42m2	22.1% 45.9m2	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space 72.66m2	> 35%	39.5% 82.1m2	Yes
4.1.5.3 Private Open Space	18m2 per dwelling	> 18m2	> 18m2	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	4.2m	6m	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 space	2 spaces	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.3.1 Landscaping Design

Council's Landscape Officer raised no objection to the modification. The approved landscaping conditions remain relevant and no significant changes are proposed to landscaping on the site.

3.3.2 Preservation of Trees or Bushland Vegetation

The previous approval included the removal of several trees from the site. The modification includes no further tree removal.

3.4.1 Sunlight Access and Overshadowing

Merit consideration:

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

Objective 1) To provide equitable access to light and sunshine.
Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The shadow diagrams provided demonstrate a significant reduction to overshadowing of adjoining properties and public spaces throughout the day, particularly through the morning and early afternoon. The reduced overshadowing results in a net benefit to all the adjoining/surrounding properties, and is supported.

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposed modification will not result in any unreasonable privacy impacts, and the relocation of living areas and the rear balcony from the first floor to the ground floor will significantly reduce the potential for privacy impacts in comparison to the approved development. A small first floor rear balcony is retained to the master bedroom, however a sufficient rear setback is provided to this balcony and the rear glazing line. The proposed north-eastern first floor window is located at the landing of the stair and lift and the ground floor windows are to the powder room and stair/lift landing.

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

Comment:

The proposed modification provides for improved privacy and sunlight access to the site and adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The development retains sufficient opportunities for passive surveillance.

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

3.4.3 Maintenance of Views

Merit consideration:

The development is considered against the Objectives of the Control:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.
Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).
Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

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

Comment:

Views over the subject site are currently available from No. 18 Carey Street. The views include water views of Sydney Habour including land-water interface at Store Beach and Little Manly Beach. Other available views include vegetation at Little Manly Reserve and distant city skyline views. Council requested that the applicant erect height poles on the site in order to determine the extent of the impact to available views as a result of the previously approved development (DA0149/2010), as well as the proposed modification. The below photographs were taken from various locations at No. 18 Carey Street, with the blues pole indicating the extent of the approved development, and the red poles indicating the proposed modifications.

The below photos from No. 18 Carey Street demonstrate the impacts of the previously approved development:

- From the ground floor rear terrace all but the top of the canopy of the vegetation in Little Manly Reserve will be blocked (Photo 1). A portion of the water and land-water interface at Store Beach will also be blocked from this location (Photo 2).
- From the first floor front/side terrace the entire water view and land-water interface at Store Beach will be blocked by the stair/bathroom wall and sloping roof (Photo 4).
- All available views to the city skyline over the centre of the site are also blocked by the approved first floor (Partially visible on the right hand side of Photo 5).
- The available views to Little Manly Beach from the front/side terrace are generally retained (Photo 3).
- The available views to Store Beach from the first floor rear terrace are unaffected (Photo 5).

Photo 1. View of Little Manly Reserve from ground floor rear terrace.

Photo 2. View of Store Beach from ground floor rear terrace.

Photo 3. View of Little Manly Beach from first floor front/side terrace.

Photo 4. View of Store Beach from first floor front/side terrace.

Photo 5. View of Store Beach and Little Manly Reserve from first floor rear terrace.

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

Comment:

The affected views of Little Manly Reserve are obtained across a side boundary from a sitting and

standing position. The affected views of Store Beach based are gained across the north-eastern side and rear boundaries of the subject site from a sitting and standing position. The first floor front/side terrace is particularly vulnerable to view loss as it looks from front to rear across the middle portion of the subject site.

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

Comment:

The height pole locations reflect the development and view loss impacts of the modification as it was originally submitted. These impacts were generally loss of escarpment and vegetation above Store Beach, and the remaining visible vegetation on Little Manly Reserve.

It should be noted that the modification has been amended following the erection of the height poles in the locations shown.

Photo 2 indicates that a small section of lost water view at Store Beach is regained from the ground floor rear terrace, and this section is widened further as a result of the amendment increasing the BBQ wall side setback by 500mm.

Further views are regained from the first floor front/side terrace (Photo 4). The blue height pole indicating the approved location of the first floor bathroom wall at the rear corner of the dwelling is at RL27.87. Based on the final amendment of the modification, the comparable wall location is now the rear corner of the ground floor pantry (RL26.1), while the first floor bedroom wall (red height pole) has been set back by a further 1.46m from the side boundary. This change results in the ground floor wall being 1.77m lower than the blue pole location, and the first floor wall being 1.46m to the right of the red pole location. It is anticipated that the amendment will regain water and land-water interface views to Store Beach form the first floor front/side terrace that were lost via the previous approval, as indicated by the modelling in Photo 6 below.

The proposed modification will not materially impact the available views of Little Manly Beach across the front of the subject site (Photo 3) or the views of Store Beach from the first floor rear terrace (Photo 5).

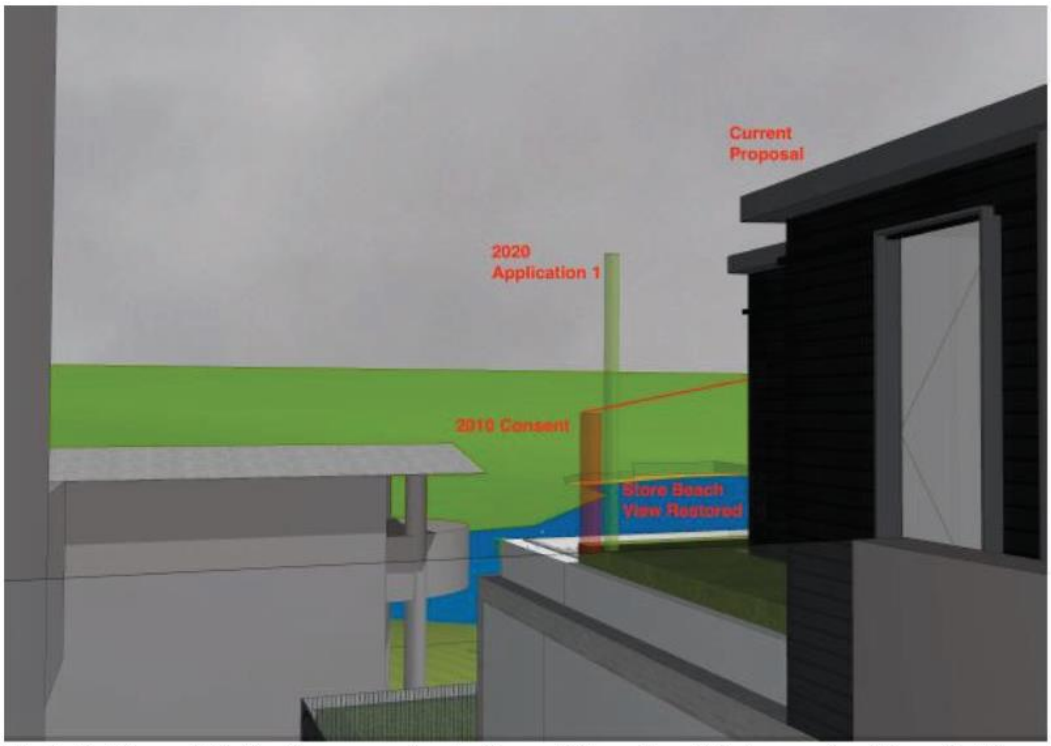


Photo 6. 3D model indicating approximate views of Store Beach to be regained from first floor front/side terrace.

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

Comment:

The proposed modification is non-compliant in relation to floor space ratio, wall height, setbacks (front and side) and total open space. The non-compliances relevant to view loss in this case are wall the north-eastern wall height and setbacks, specifically at the rear of the first floor. It is noted that the first floor rear bedroom (NE) wall height of 7m-7.5m is non-compliant and the side setback of 2.46m is partially non-compliant with the resulting requirement of 2.33m-2.5m. However, the previously approved 1m side setback was a more significant breach of the 2.03m-2.37m setback requirement (based on the approved wall height of 6.1m-7.1m). Despite the increased height of this wall, the extent of the setback non-compliance is reduced and a part of the Store Beach view is to be regained (Photos 4 & 6).

Given that the additional view loss is limited to tree canopy on Little Manly Reserve and potentially a small portion of escarpment above Store Beach, while water and land-water interface is regained, the overall impact to views is considered to be an improvement on the approved development and is supported.

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

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

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

Description of non-compliance

The proposed wall height of the north-eastern first floor bedroom exceeds the 6.9m control by up to 600mm. The height of the first floor south-western dwelling wall and balcony is non-compliant by up to 800mm, but is lower over the entire length of the wall than the approved first floor wall. The development retains the approved three-storey built form.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control 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 dwelling comfortably maintains compliance with the building height control, and is consistent with the surrounding topography and prevailing building height.

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

Comment:

The proposed wall height breaches do not result in excessive or unreasonable bulk and scale, and the modified development maintains appropriate articulation.

(c) to minimise disruption to the following:

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

Comment:

The proposal will not result in unreasonable view loss between residential developments and public spaces. A full assessment of views is completed under Part 3 General Principles of Development.

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

Comment:

The proposed modification maintains sufficient solar access to adjoining properties and public open spaces.

(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:

N/A

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

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

Description of non-compliance

The proposed modification retains the approved front setbacks of 4.5m (deck) and 6m (dwelling).

The proposed south-western facade setback of 2.2m to Stuart Street is non-compliant with the requirement of 2.33m-2.57m. The proposed garage side setback is increased from 0m to 0.2m and the approved 1m setback to the north-eastern first floor bedroom and lift is retained. While the north-eastern wall to the first floor rear bedroom (previously staircase and bathroom) is increased in height by approximately 1.9m, the side setback is also increased from 1m to 2.46m (which is now partially compliant with the required setback of 2.33m-2.57m).

The proposed ground and first floor rear setbacks are compliant with the 8m control. Condition ANS02 of the previous consent required a rear setback of 12.48m to the rear wall of the first floor. Given the minimal level of visual/amenity/view resulting from the rear setback, the proposed 11.8m setback is considered to be acceptable and is supported. As such, condition ANS02 is recommended to be deleted from the consent.

Merit consideration:

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

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

Comment:

The existing streetscape of the secondary frontage is to Stuart Street, which to the south-east of the site presents as a consistent streetscape of well-maintained and proportioned heritage-listed dwellings (Nos. 87-97). No.85 is a more contemporary development and provides a visual transition and physical separation between the subject site and the group of heritage listed dwellings. Notwithstanding the proposed secondary frontage setback breaches, the proposed modification provides improved overall setbacks and modulation of bulk, particularly in relation to the revised roof form that significantly reduces the wall height to Stuart Street. The balconies to the Stuart Street facade are also retained and provide additional articulation.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*

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

Comment:

The proposed setback non-compliances will not contribute to any unreasonable impacts in relation to privacy, overshadowing, view loss, streetscape or traffic conditions.

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

Comment:

The proposed modification generally provides for improvements to the previously approved setback non-compliances.

Objective 4) To enhance and maintain natural features by:

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

Comment:

There is negligible change to setbacks at ground floor level and the proposed landscaped area remains compliant. Suitable conditions are included in relation to planting.

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

Comment:

N/A

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The proposed total open space area results in a minor non-compliance of 14.9m2.

Merit consideration:

The proposed modification results in negligible reduction to the approved total open space area and the landscaped area remains compliant. The TOS area is considered to be sufficient and the TOS above ground area is significantly lower, reducing the potential for amenity impacts to the adjoining properties.

4.1.7 First Floor and Roof Additions

The proposed dwelling design provides adequate articulation to the first floor and will not unreasonably degrade the amenity or aesthetic quality of the surrounding residences/area.

4.1.8 Development on Sloping Sites

The modified development maintains consistency with the topography and an updated geotechnical letter has been provided in relation to the works.

4.1.10 Fencing

Compliance with control

The proposed partially transparent front fencing to Carey Street exceeds the 1.5m height control up to a maximum of 2.1m The fencing to the secondary frontage of Stuart Street is also non-compliant up to a maximum height of 2.6m at the rear of the dwelling and 2.9m at the rear boundary.

Merit consideration

Further to the maximum fence height under this control, Clause 3.1.1.2 Front Fences and Gates provides that boundary fences should reflect the fencing characteristics of the locality, particularly those of adjacent properties. An inspection of the surrounding area revealed that the streetscape consists of a variety of low masonry, picket, and contemporary pier-infill fence styles. Of particular importance in this case is minimising the visual impact of the proposed fencing on the streetscape and heritage listed dwellings on Stuart Street.

While the proposed fence style is appropriate in this context, the fencing is excessive in height and is inconsistent with the surrounding streetscape. It is noted that the fence design incorporates landscaping and terracing/articulation, particularly towards the rear of the site, to minimise the visual impact of the structure and this is taken into consideration in determining an appropriate variation to the fence height control. The conditioned fence heights are considered to provide adequate privacy to the rear yard and private open space areas given the topography of the road reserve.

Based on the above, the proposed fencing is conditioned as follows:

- The fencing to the Carey Street frontage is to be a maximum of 1.5m at any point, measured at the street side of the fence;
- The fencing to the Stuart Street frontage above the retaining wall, and the adjacent entry gate, is to be a maximum of RL22.4;
- The fencing to the Stuart Street frontage to the front (north-west) of the entry gate is to be stepped/averaged to be a maximum of 1.9m above ground level at any point, measured at the street side of the fence.

5.4.2 Threatened Species and Critical Habitat Lands

Suitable conditions are included in relation to this control.

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.

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

Notwithstanding the proposed variation to the floor space ratio development standard, the requirements of Clause 4.6 do not strictly apply to the application as it is a modification made under Section 4.55 of the EP&A Act. As Clause 4.6 does not apply, the applicant is not required to make a written request.

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0134 for Modification of Development Consent DA149/2010 granted for demolition of existing and construction of a two (2) storey dwelling on land at Lot 1 DP 166526,16 Carey Street, MANLY, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
100:01 Site Plan	Rev. D, 11 June 2020	Saturday Studio
110:02 Lower Ground Floor Plan	Rev. B, 20 March 2020	Saturday Studio
110:03 Ground Floor Plan	Rev. D, 11 June 2020	Saturday Studio
110:04 First Floor Plan	Rev. D, 11 June 2020	Saturday Studio
110:05 East & West Elevation	Rev. D, 11 June 2020	Saturday Studio
110:06 South Elevation	Rev. D, 11 June 2020	Saturday Studio
110:07 Sections - A-A & B-B	Rev. D, 11 June 2020	Saturday Studio
110:08 North Elevation	Rev. D, 11 June 2020	Saturday Studio
300:02 Sections - Driveway & Backyard	Rev. D, 11 June 2020	Saturday Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Terrestrial Biodiversity Report	March 2020	ACS Environmental
Geotechnical Report	4 June 2020	White Geotechnical Group

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	**Dated**	**Prepared By**
L.SK.01 Landscape Plan - GF & LG	5 March 2020	Scape Design
L.SK.02 Landscape Plan - First Floor	5 March 2020	Scape Design

L.SK.03 Landscape Planting Plan	5 March 2020	Scape Design

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

B. Delete Condition ANS01 to read as follows:

ANS01
DELETED

C. Delete Condition ANS02 to read as follows:

ANS02
DELETED

D. Delete Condition 54 (5DS02) to read as follows:

54 (5DS02)
DELETED

E. Delete Condition 55 (5DS03) to read as follows:

55 (5DS03)
DELETED

F. Amend Condition 53 (5DS01) to read as follows:

53. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures
The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.
A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard

G. Add Condition ANS06. Ausgrid to read as follows:

ANS06. Ausgrid
Overhead Powerlines
Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum

safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

Underground Cables
Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.
Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Reason: To maintain safety on site.

H. Add Condition 23a. Boundary Identification Survey to read as follows:

23a. Boundary Identification Survey
A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

iH. Add Condition 23b. Front Fencing to read as follows:

23b. Front Fencing
The maximum heights of the proposed front fencing to Carey and Stuart Streets is to be in accordance with the following:
i. The fencing to the Carey Street frontage is to a maximum of 1.5m, measured at the street side of the

fence;
ii. The fencing (and entry gate) to the Stuart Street frontage above the retaining wall to the Stuart Street frontage is to a maximum of RL22.4;
iii. The fencing to the Stuart Street frontage to the front of the gate is to be stepped/averaged to be a maximum of 1.9m above ground level at any point, measured at the street side of the fence.

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

Reason: To maintain consistency with the fencing characteristics of the locality and minimise visual impact to the streetscape.

J. Add Condition 23c. Bandicoot Habitat to read as follows:

23c. Bandicoot Habitat
i. No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas. A modest amount of low lighting may be used for safety purposes only.
ii. Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony), gaps are to be established to allow Long-nosed Bandicoot access. Gaps are to be at least 150mm high and 300m wide.

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

Reason: To minimise disruption to normal bandicoot activity and maintain access to existing and proposed habitat within and surrounding the site.

K. Add Condition 50a. Driveway Crossings to read as follows:

50a. Driveway Crossings
The Applicant is to construct one vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/2 NH and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

L. Add Condition 50b. Report Dead or Injured Bandicoots – Bandicoot Habitat to read as follows:

50b. 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.

M. Add Condition 50c. Protect Grassed Foraging Areas – Bandicoot Habitat to read as follows:

50c. 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.

N. Add Condition 70a. Dead or Injured Wildlife to read as follows:

70a. Dead or Injured Wildlife
If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

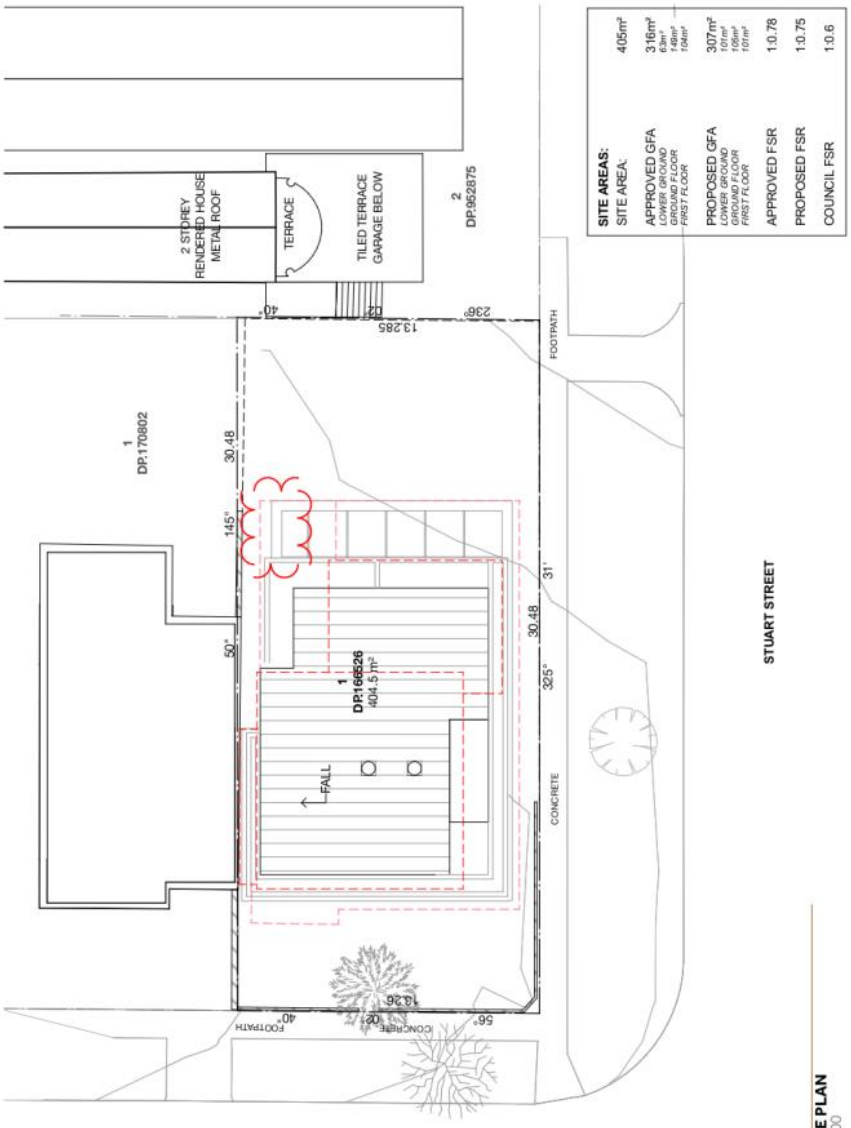
Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

O. Add Condition 60a. Landscape Works Completion to read as follows:

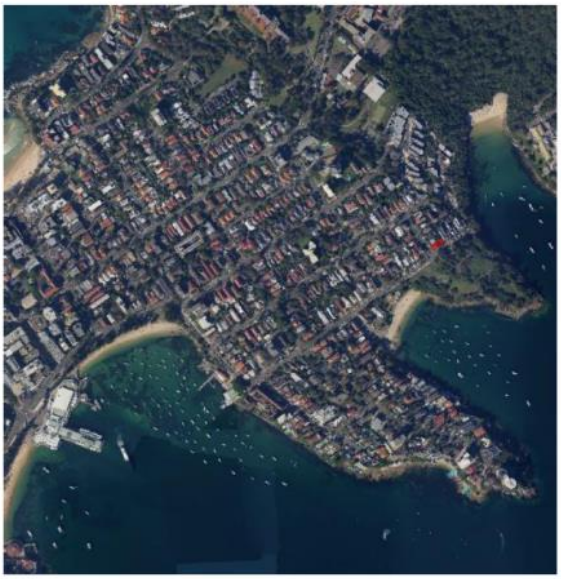
60a. Landscape Works Completion
Landscape works are to be implemented in accordance with the Landscape Plans numbered L.SK.01, L.SK.02, L.SK.03, L.SK.04, prepared by Scape Design, inclusive of the following requirements:
a) all tree and bamboo planting shall be installed as scheduled on the plans and shall be limited in mature height to no more than 4 metres to satisfy Manly DCP clause 3.3.1 Landscaping Design, item b) iii) trees should be positioned in locations that minimise significant impacts on neighbours in terms of blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views,
b) at least three (3) small native trees or tall native shrubs shall be incorporated into the planting scheme,
c) the planting scheme shall include native plant species to provide a low dense clumping habitat for the Long nosed Bandicoot population, as listed in the Manly DCP such as Lomandra. Dianella, Banksia spinulosa, Isolepis, Juncus, Callistemon and Grevillea species.

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

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



1 SITE PLAN
1:200



3 LOCATION PLAN

Saturday Studio

Suite 6, 36 East Esplanade
MANLY NSW 2095
PO BOX 1171
MANLY NSW 2095
T + 61 2 9512 9322
nick@saturdaystudio.com.au

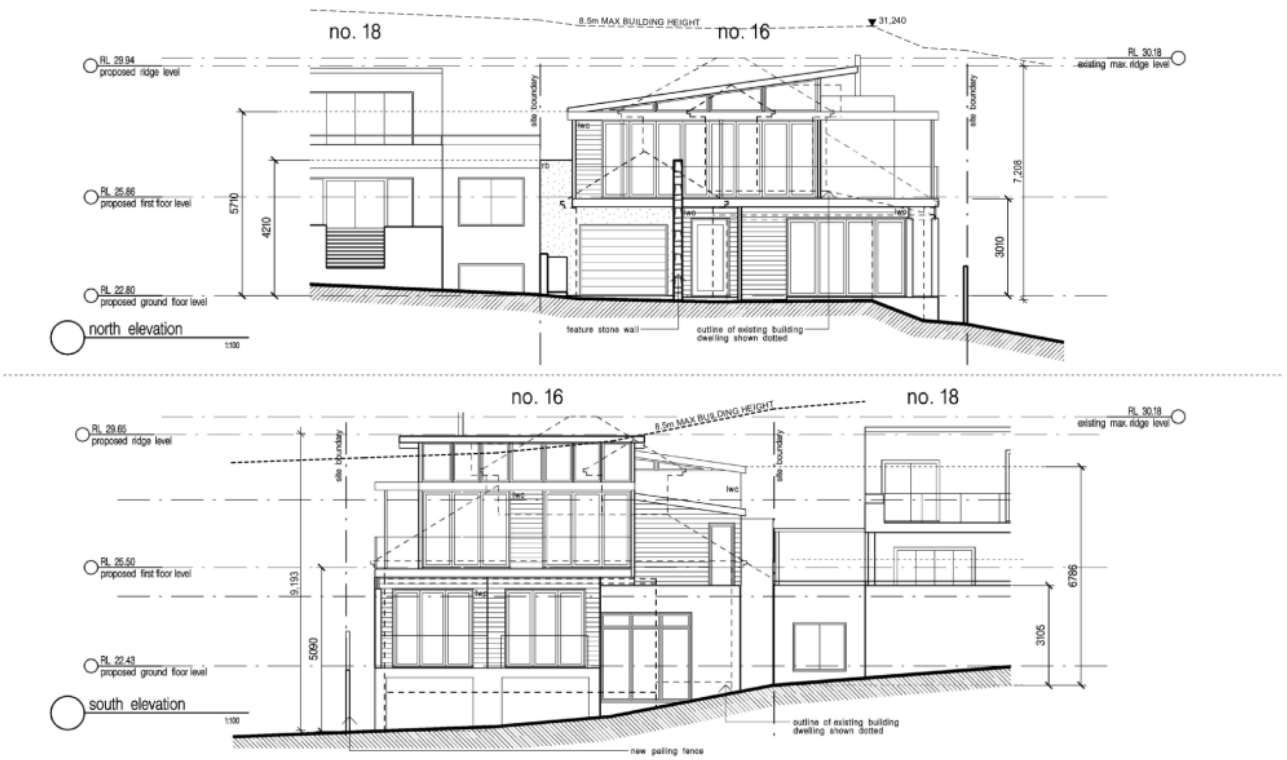
SATURDAY STUDIO PTY LTD
ABN 85 107 789 022
Urban Design | Architecture
NOMINATED ARCHITECT NICOLAS KARL RICHTER
NSW ARB REGISTRATION NO# 6676

Member Australian Institute of Architects

NOTE
Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings should be used for construction purposes until issued for construction.
All documents here within are subject to Australian Copyright Laws.

ISSUE	REVISION	DESCRIPTION	DATE
S4.55	A	FOR PRE-DA MEETING	21.01.20
S4.55	B	FOR S4.55 APPLICATION	20.03.20
S4.55	C	S4.55 MODIFICATIONS	01.06.20
S4.55	D	S4.55 MODIFICATIONS	11.06.20

SCALE: 1:100
PRINT SIZE: A3
PRINT DATE: 11/6/20
CLIENT:
SITE:
PROJECT NO. 19038
MKA CONSULTING
16 CAREY ST MANLY
DRAWING TITLE: LOCALITY PLAN
PROJECT NAME: CORN HOUSE
ISSUE: S4.55
DRAWING NO. 100:01
REVISION NO. D



contemporary pool constructions
abn 46 100 272 642
box 101 seaforth nsw 2092
300 138 409 t: 9948 9152

notes

This drawing is copyright and may not be reproduced without the permission of Contemporary Pool Constructions P/L

This drawing is not to be scaled. All dimensions are to be verified on site.

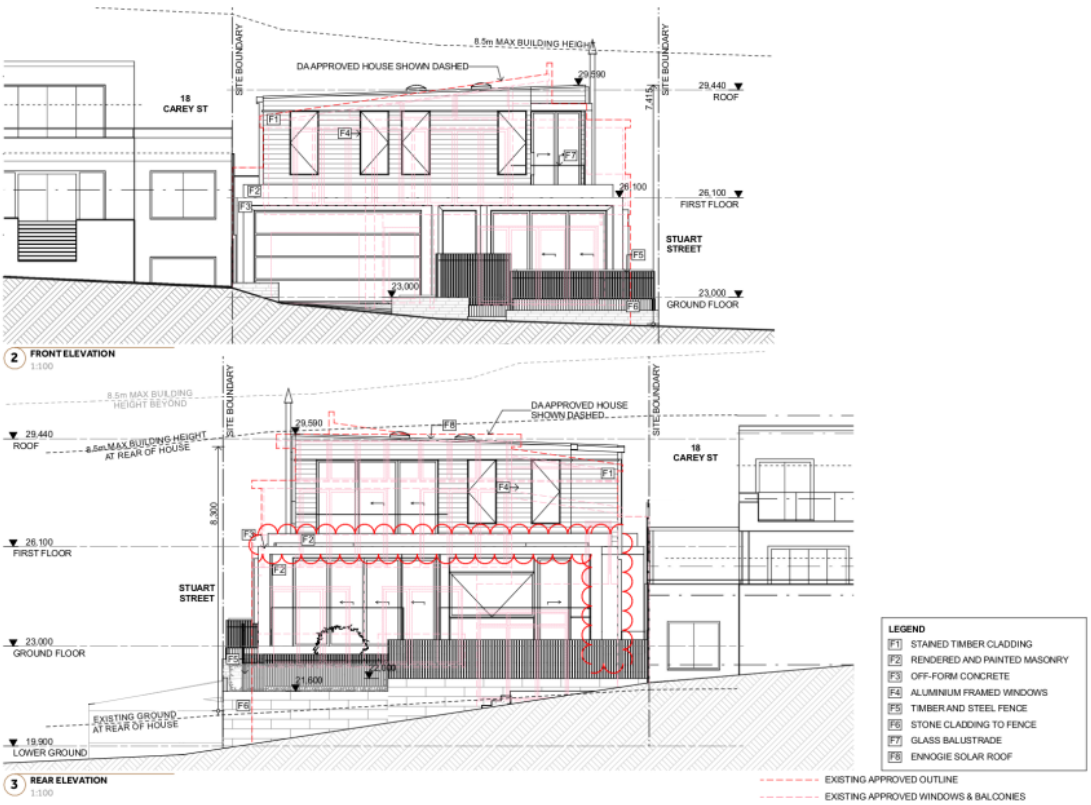
development application – amend A

reference	carey street
clients	
address	16 carey st manly

elevations

drawing	north + south elevation
scale	1:100
date	october 2010

drawing
DA–04



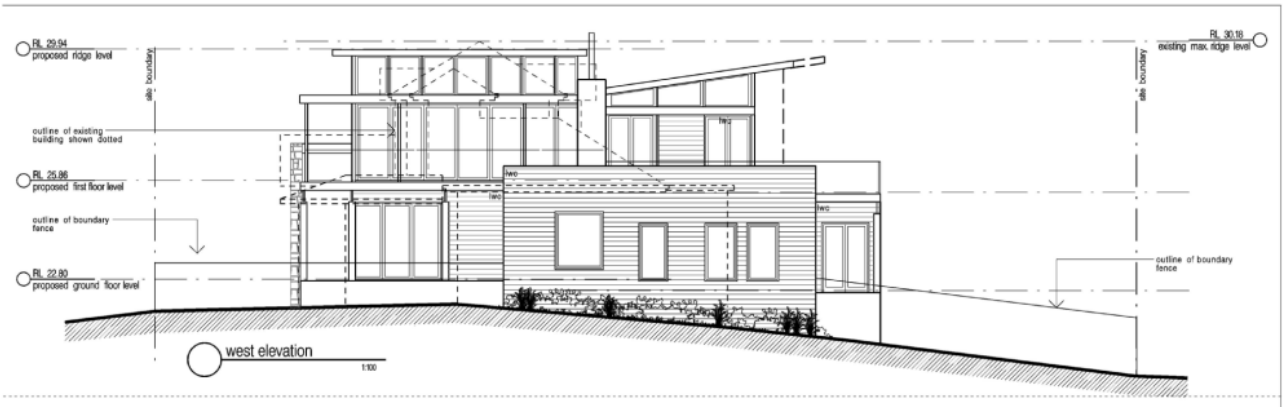
Saturday Studio

SATURDAY STUDIO PTY LTD
ABN 89 107 799 022
Urban Design / Architecture
NOMINATED ARCHITECT: NICOLAS KARL RICHTER
NSW ARB REGISTRATION NCM 8676

NOTE
Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction.
All documents here within are subject to Australian Copyright Laws.

ISSUE	REVISION	DESCRIPTION	DATE
S4.55	A	FOR PRE APPLICATION MEETING	21.01.20
S4.55	B	FOR S4.55 APPLICATION	20.03.20
S4.55	C	S4.55 MODIFICATIONS	01.06.20
S4.55	D	S4.55 MODIFICATIONS	11.06.20

SCALE: 1:100
PRINT SIZE: A2
PRINT DATE: 11/6/20
PROJECT NO. 19038
CLIENT: MKA CONSULTING
SITE: 16 CAREY ST MANLY
DRAWING TITLE: EAST & WEST ELEVATION
PROJECT NAME: CORN HOUSE
ISSUE: S4.55
DRAWING NO. 110:05
REVISION NO. D



contemporary pool constructions
abn 46 100 272 942
box 101 avalon nsw 2107
02 138 459 f: 9948 9152

notes

This drawing is copyright and may not be reproduced without the permission of Contemporary Pool Constructions P/L.

This drawing is not to be scaled. All dimensions are to be verified on site.

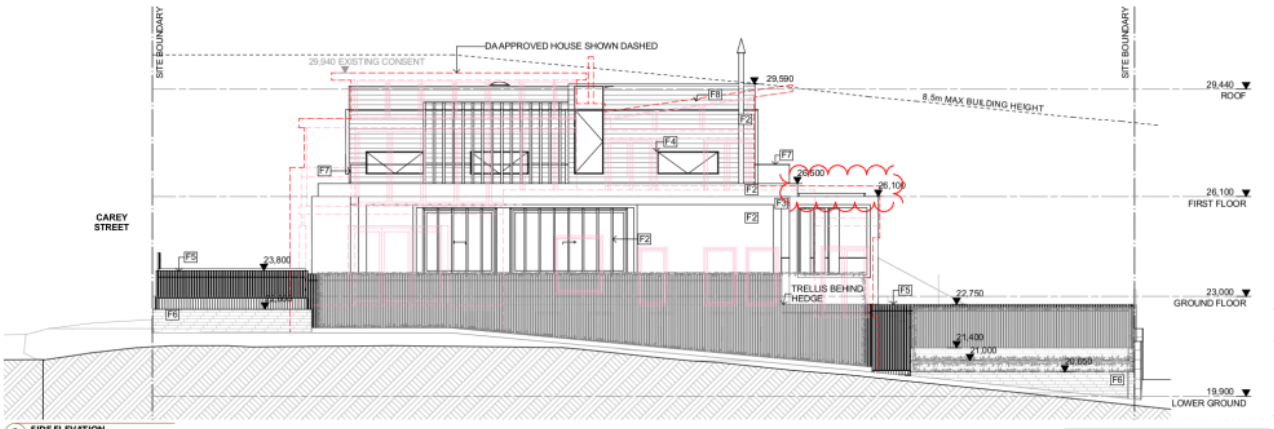
development application – amend A

reference	carey street
clients	
address	16 carey st manly

elevation + section

drawing	west elevation + section aa
scale	1:100
date	october 2010

drawing
DA–05



2 SIDE ELEVATION
1:100

LEGEND

F1	STAINED TIMBER CLADDING
F2	RENDERED AND PAINTED MASONRY
F3	OFF-FORM CONCRETE
F4	ALUMINIUM FRAMED WINDOWS
F5	TIMBER AND STEEL FENCE
F6	STONE CLADDING TO FENCE
F7	GLASS BALUSTRADE
F8	ENNOGIE SOLAR ROOF

EXISTING APPROVED OUTLINE
EXISTING APPROVED WINDOWS & BALCONIES

Saturday Studio
Suite 6, 96 East Esplanade MANLY NSW 2095
PO BOX 1171 MANLY NSW 2095
T: +61 2 9012 5002
nick@saturdaystudio.com.au

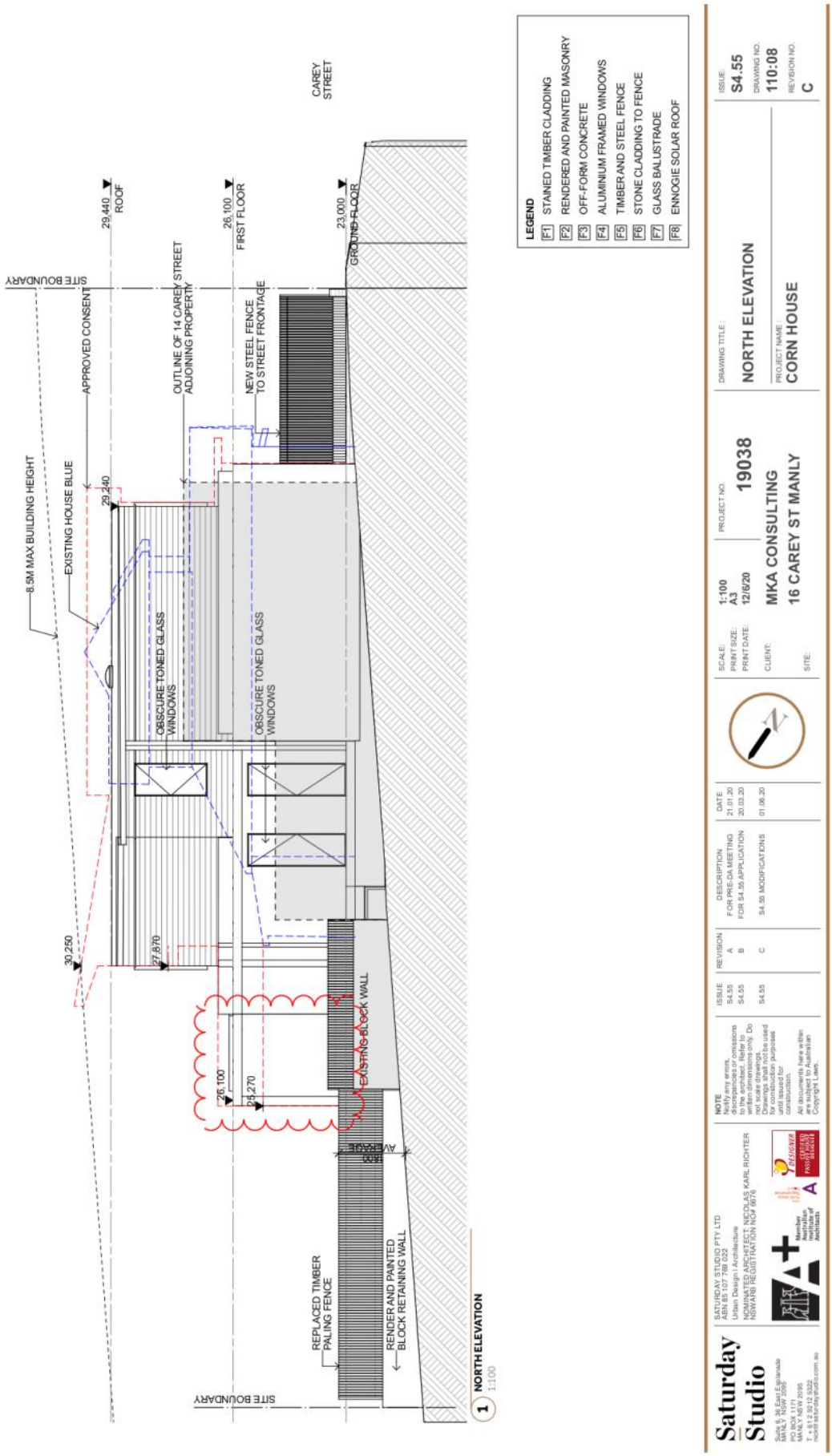
SATURDAY STUDIO PTY LTD
ABN 85 157 799 022
Urban Design / Architecture
NOMINATED ARCHITECT: NICOLAS KARL RICHTER
NSW ARB REGISTRATION NCM 6676

Member Australian Institute of Architects
DESIGNER
DESIGN PROFESSIONALS AUSTRALIA

NOTE
Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction.
All documents here within are subject to Australian Copyright Laws.

ISSUE	REVISION	DESCRIPTION	DATE
S4.55	A	FOR PRE APPLICATION MEETING	21.01.20
S4.55	B	FOR S4.55 APPLICATION	20.03.20
S4.55	C	S4.55 MODIFICATIONS	01.06.20
S4.55	D	S4.55 MODIFICATIONS	11.08.20

SCALE: 1:100
PRINT SIZE: A2
PRINT DATE: 11/6/20
PROJECT NO. 19038
CLIENT: MKA CONSULTING
SITE: 16 CAREY ST MANLY
DRAWING TITLE: SOUTH ELEVATION
PROJECT NAME: CORN HOUSE
ISSUE: S4.55
DRAWING NO. 110:06
REVISION NO. D


CAREY STREET
29.440 ROOF
26.100 FIRST FLOOR
23.000 GROUND FLOOR
SITE BOUNDARY
APPROVED CONSENT
OUTLINE OF 14 CAREY STREET ADJOINING PROPERTY
NEW STEEL FENCE TO STREET FRONTAGE
8.5M MAX BUILDING HEIGHT
EXISTING HOUSE BLUE
29.240
OBSCURE TONED GLASS WINDOWS
OBSCURE TONED GLASS WINDOWS
30.250
27.870
26.100
25.270
EXISTING BLOCK WALL
1400 AVERAGE
REPLACED TIMBER PALING FENCE
RENDER AND PAINTED BLOCK RETAINING WALL
SITE BOUNDARY
1 NORTH ELEVATION
1:100
LEGEND
F1 STAINED TIMBER CLADDING
F2 RENDERED AND PAINTED MASONRY
F3 OFF-FORM CONCRETE
F4 ALUMINIUM FRAMED WINDOWS
F5 TIMBER AND STEEL FENCE
F6 STONE CLADDING TO FENCE
F7 GLASS BALUSTRADE
F8 ENNOGIE SOLAR ROOF
Saturday Studio
Suite 6, 36 East Esplanade
MANLY NSW 2095
PO BOX 1171
MANLY NSW 2095
T + 61 2 9512 9322
nick@saturdaystudio.com.au
SATURDAY STUDIO PTY LTD
ABN 85 107 789 022
Urban Design | Architecture
LICENSED ARCHITECT NICOLAS KARL RICHTER
NSW ARB REGISTRATION NO# 6676
Member Australian Institute of Architects
NOTE
Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction.
All documents here within are subject to Australian Copyright Laws.
ISSUE
S4.55
S4.55
S4.55
S4.55
REVISION
A
B
C
DESCRIPTION
FOR PRE-DA MEETING
FOR S4.55 APPLICATION
S4.55 MODIFICATIONS
DATE
21.01.20
20.03.20
01.06.20
SCALE: 1:100
PRINT SIZE: A3
PRINT DATE: 12/6/20
CLIENT:
SITE:
PROJECT NO. 19038
MKA CONSULTING
16 CAREY ST MANLY
DRAWING TITLE:
NORTH ELEVATION
PROJECT NAME:
CORN HOUSE
ISSUE: S4.55
DRAWING NO. 110:08
REVISION NO. C

ITEM 3.4	**DA2019/0860 - 24 DARLEY STREET EAST, MONA VALE - DEMOLITION AND CONSTRUCTION OF A RESIDENTIAL CARE FACILITY INCLUDING BASEMENT PARKING**
REPORTING MANAGER	**Steve Findlay**
TRIM FILE REF	**2020/377155**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site and Elevation Plans

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2019/0860 for demolition and construction of a Residential Care Facility including basement parking on land at Lot 52 DP 881594, 24 Darley Street East, Mona Vale, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0860

Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 52 DP 881594, 24 Darley Street East MONA VALE NSW 2103
Proposed Development:	Demolition and construction of a Residential Care Facility including basement parking
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Thompson Health Care Pty Ltd
Applicant:	Thompson Health Care Pty Ltd

Application Lodged:	12/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	09/03/2020 to 23/03/2020
Advertised:	31/08/2019
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 11,949,289.00

EXECUTIVE SUMMARY

The proposed development is referred to the Development Determination Panel as it is an application of more than $1 million and having more than three (3) objections and is not required to go to the Local Planning Panel. The proposal has been assessed as an "Aged Care Facility" (ACF), which is a permissible use pursuant to the *SEPP (Housing for Seniors or People with a Disability) 2004*. The ACF will replace an existing nursing home with a new multi-storey, purpose built modern facility, to increase the supply of aged care for seniors in the area.

The proposed building is considered to be suitable and appropriate development for the site and is in context with the residential scale and intensity of the medium density residential zone. Principal environmental impact considerations are traffic and parking access, relocation of an existing right of way,

northern beaches council

privacy, overshadowing, urban character, landscaping, setbacks, views, construction impacts (during works) and stormwater management.

The public submissions received have been considered and addressed within this report and conditions have been applied where appropriate to address those concerns; including, construction impacts (dust, noise, excavation, and the like), privacy, overshadowing, views, traffic safety, parking, access, waste, sub-station relocation, stormwater and property impacts. Suitable conditions are recommended to address engineering, traffic and landscape referral responses. The proposal will not have an adverse impact on the adjacent heritage item at No.22 Darley Street East. Other internal referral considerations from Environmental Health, Waste Services, Building Assessment, Traffic and Development Engineering have been addressed by conditions as provided. No objection to approval of the ACF has been raised by the External Referrals for Ausgrid or NSW Police.

During the assessment period, some design changes were made by the applicant to address issues relating to driveway safety, waste services, building bulk and external appearance. As a result, the proposal was reduced from 51 to 50 rooms in order to improve building articulation and address the urban design assessment, including general amenity, vehicle access, landscaping, privacy, bulk and streetscape.

The requirements of the Pittwater LEP and DCP apply in-so-far as particular considerations that the SEPP does not include those equivalent considerations. In this regard matters relating to desired future character, setbacks, building envelope, bulk and scale, external materials, overshadowing, privacy, views, stormwater and traffic have been addressed. The provisions of SEPP HSPD prevail over the Pittwater LEP and DCP and in this case the non-compliances with the FSR and landscaping controls are standards that "*cannot be used to refuse development consen*t", pursuant to the SEPP, and therefore are addressed in accordance with Clause 48 of the SEPP.

The proposal is considered to satisfy the objectives of the SEPP and Pittwater LEP and is consistent with the Design Principles as well as site related requirements such as building height, carparking, accessibility, support services and infrastructure.

Subject to conditions, no issues have been raised that warrant refusal of the application.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development application is for demolition work and construction of a Aged Care Facility including ancillary site works. A detailed summary of works is as follows:

- Demolition of a single storey Nursing Home facility;
- Excavation and site preparation and drainage works;
- Relocating a through access driveway (right-of-way) from the eastern boundary to the western boundary to maintain access to the existing carparking access at the rear of No.1 Seabeach Avenue. The new driveway area includes a covered ambulance / vehicle space and a passing bay adjacent the main front entry area. Right-of-way access is also maintained to the existing parking spaces abutting the north-eastern corner of the site that are located on No.1 Seabeach Avenue.
- Construction of a 3 storey Aged Car Facility with basement carpark configured as:

  RL7.30 Basement and Carpark - Staff parking, loading and visitor parking, storerooms, staff bathrooms, lift and stair access, staff office, staff kitchen, foyer areas, services / plant rooms, laundry facilities, kitchen facilities, bin storage, staff courtyard area, vehicle ramp access.

northern beaches council

RL10.50 Ground Floor Level - Kitchen facilities, nurse station, resident living / lounge and dining areas, resident kitchen areas, services rooms, storage areas, lift and stair access, communal terrace areas, 14 aged care bedrooms for residents (including ensuite and storage).

RL13.50 Floor Level 1 - Kitchen facilities, staff offices / nurse station / reception area, resident living / lounge and dining areas, resident kitchen areas, hair salon (for residents), services rooms, storage areas, lift and stair access, communal balcony areas, 19 aged care bedrooms for residents (including ensuite and storage).

RL13.50 Floor Level 2 - Kitchen facilities, staff offices / nurse station / reception area, resident living / lounge and dining areas, resident kitchen areas, hair salon (for residents), services rooms, storage areas, lift and stair access, communal balcony areas, 17 aged care bedrooms for residents (including ensuite and storage).

- Landscaping works, stormwater drainage, pedestrian pathways, fencing and ancillary site works.
- Registration of new easement / access right of way for the property Title (by private arrangement).

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

Pittwater Local Environmental Plan 2014 - 1.9A Suspension of covenants, agreements and instruments
Pittwater Local Environmental Plan 2014 - 4.5A Density controls for certain residential accomodation
Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation
Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
Pittwater 21 Development Control Plan - C1.7 Private Open Space
Pittwater 21 Development Control Plan - C1.21 Seniors Housing
Pittwater 21 Development Control Plan - C5.1 Landscaping
Pittwater 21 Development Control Plan - D9.6 Front building line
Pittwater 21 Development Control Plan - D9.7 Side and rear building line
Pittwater 21 Development Control Plan - D9.9 Building envelope

SITE DESCRIPTION

Property Description:	Lot 52 DP 881594 , 24 Darley Street East MONA VALE NSW 2103
Detailed Site Description:	The allotment is generally rectangular in shape having a frontage of 34.515 metres (m), depth of 37.39m and an area of 1,749 square metres (sqm). The property is located on the northern side of Darley Street East, approximately 130m east of Barrenjoey Road. The property does not contain any significant trees or vegetation and has a cross fall of approximately 2m in its width toward the west. The property is occupied by a single storey 33 bed nursing home known as *Seabeach Gardens Nursing Home*.The existing facility has no off-street staff or visitor carparking or loading facilities, however provision has been made on-site for an ambulance which parks along the single lane driveway (Right of Carriageway) located adjacent to the eastern site boundary. The driveway serves 13 parking spaces at the rear of site that belong to the neighbouring *Baldwin Living Seabeach Gardens* retirement village addressed as No.1 Seabeach Avenue. An electrical substation and associated access easement are located in the south eastern corner of the site. The property to the west, No. 28 Darley Street East, is occupied by a 4 storey residential flat building with ground level garage accommodation access via driveways down both side boundaries of the property. The property to the east is a listed heritage item of Local significance pursuant to Schedule 5 of Pittwater Local Environmental Plan 2014. Baldwin Living Seabeach Gardens retirement village to the north has primary frontage to Seabeach Avenue. This development occupies a large sprawling site extending from Seabeach Avenue and along Barrenjoey Road to Darley Street East. The subject site formed part of this land holding before the nursing home was subdivided from the previous land holding. The properties to the south are occupied by 2, 3 and 4 storey residential flat and townhouse style development reflecting the R3 Medium Density zoning of the precinct.

	The subject property is within short walking distance of Mona Vale Town Centre, Mona Vale Golf Course and a range of foreshore recreational areas.

Map:

SITE HISTORY

Building Application No.A415/67 for a convalescent home was approved by Council in 1967.

Building Application No.1670/86 for alterations and additions to a nursing home was approved by Council in 1986.

All structures on the site are to be demolished and removed as part of the development proposal that include part excavation of the land. Therefore, no further consideration of the site history is required except conditions relevant to the safe handling and disposal / recycling of demolition material.

Pre-lodgment Meeting No.PLM2019/0089 was held with Council on 21 May 2019 for proposed demolition and construction of an aged care facility on the site, including relocation of the right of way, landscaping and ancillary site works. The submitted proposal (as amended) is consistent with the PLM notes.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

northern beaches council

Section 4.15 Matters for Consideration'	Comments
Provisions of any draft environmental planning instrument	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 as a nursing home for aged and disabled persons for extended period of time. The proposed development retains the residential use of the site, consistent with the current use, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application, however design considerations have been made to provide a building that achieves good design outcomes consistent with the general design principles of SEPP 65 due to the medium density residential surroundings. Overall the proposal provides a landscape setting and a building is consistent with the streetscape of nearby development and does not cause unreasonable impacts in terms of scale, bulk, amenity, parking, access, privacy, overshadowing, views and visual appearance. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to engineering and urban design concerns raised. Amended plans were provided that provided improved building articulation, reduced bulk and an appropriate roof form, reduced shadowing and a more sympathetic streetscape presentation. Re-notification of amended plans (24.2.2020) occurred on 3.3.2020. Some further minor amendments were required (24.4.2020) by Council for further address Council's engineering technical requirements for driveway access from Darley Street. Changes included improved driveway design, including landscaping, better vehicle access and relocation of the (commercial) bin area to the basement.

northern beaches council

Section 4.15 Matters for Consideration'	Comments
	All submissions have been considered inclusive in the context of those originally made and any subsequent submissions. Conditions are recommended to address any submission issues where appropriate. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. The construction of an Aged Care Facility on the site is considered to have a positive contribution to the demand for modern and improved (aged care nursing home facilities (replacement facility in this case) needed to cater for the local aging demographic that require assisted nursing / specialist care. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development considering the land is currently developed as a nursing home. Additionally the through access will be relocated to maintain vehicle access to the existing parking area at No.1 Seabeach Avenue.
Section 4.15 (1) (d) – any	See discussion on “Notification & Submissions Received” in this

northern beaches council

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	report.
Section 4.15 (1) (e) – the public interest	Consideration of issues have been made in the public interest in the context of any submissions pursuant to the Act, Pittwater DCP, Pittwater LEP and SEPP's. Conditions and / or amended plans have addressed issues. No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Paul Burkett	Address Unknown
Ms Betty Margaret Alexander	22 Darley Street East MONA VALE NSW 2103
Gary Francis Coble	10 Whitty Crescent ISAACS NSW 2607
Ms Narelle Jane Reynolds	8 / 28 Darley Street East MONA VALE NSW 2103
Mrs Jennifer Anne Bibb	5 / 41 - 49 Darley Street East MONA VALE NSW 2103
Thomas Reid	Address Unknown
Mr Ivan Alexander Roberts	14 / 41 - 49 Darley Street East MONA VALE NSW 2103
Michael Henry Temple	2816 / 0 Mona Vale Road BELROSE NSW 2085

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

1. Solar access
2. View impacts
3. Traffic and Carparking
4. Noise, dust, air and amenity
5. Waste materials and management
6. Building plan amendments
7. Electricity substation
8. Dilapidation risk
9. Stormwater
10. Property value

northern beaches council

In addition to considerations under the DCP, LEP and SEPP the submission issues have been considered and addressed as follows:

1. Concerns with regard to overshadowing impacts created by the proposal toward adjacent land including No.28 Darley Street East and No.22A Darley Street East.

Comment:
Detailed shadow diagrams (DA-10 drawn by *Gartner Trovato*) for 21 June have been provided by the applicant and detailed consideration of this issue is provided within this report under the heading Part C1.4 Solar Access and SEPP HSPD. The diagrams demonstrate the ACF building will be consistent with the objectives of the Pittwater DCP control and the SEPP HSPD to maintain reasonable solar access to adjacent land.

In summary, this objection issue is not considered to warrant refusal of the application and no special conditions are recommended.

2. Concerns with regard to view impacts created by the proposal for properties overlooking the site from No.28 Darley Street East

Comment:
The subject site and surrounding lands were inspected to consider view sharing. Where direct access was not available, a direct view line, or on the same view line or considered in reasonable proximity to ensure a comparative appreciation of views taking into account particular submission issues regarding views corridors and the amenity of the outlook.

A detailed consideration of this view sharing is provided within this report under the heading Part C1.3 Views. The proposal will not create an unseasonable view impact on coastal views from adjacent or surrounding properties and is consistent with the objectives of the Pittwater DCP control and the LEC Planning Principle on views.

In summary, this objection issue is not considered to warrant refusal of the application and no special conditions are recommended.

3. Concern that the proposal will affect traffic and parking including the driveway position to Darley Street East.

Comment:
The proposal includes compliant with parking requirements for the ACF including for staff, visitors and loading facilities pursuant to SEPP HSPD and the Pittwater DCP. A detailed traffic and parking report has been provided and Council's Traffic Engineers are satisfied with the design and layout of the driveway access and parking area including safety with no change to parking spaces within adjacent land. Sufficient space and right of access will also be retained for the existing parking spaces abutting the north-eastern corner of the site.

Further details are provided under the heading 'Internal Referral Responses' within this report and in summary the proposed access and driveway will comply with safety and design requirements under Australian Standards. Appropriate private arrangements will be made during works to maintain practical and legal access, including any associated conveyancing and pursuant to Clause 1.9A of Pitttwater LEP 2014 is addressed by the provisions of that clause for the purposes of enabling development on the subject land.

The inclusion of additional 'no stopping' or other changes to the traffic or parking control measures in

northern beaches council

the Darley Street East, including line marking would require detailed assessment and consideration by Council Traffic Committee as a separate representation. Council's Traffic Engineer has not required that the subject DA be referred to the Traffic Committee for the new driveway position and the proposal provides an appropriate driveway design to comply with Australian Standards for sight distances, gradients, safe passing widths including traffic control devices for the basement access.

This issue has been considered in detail under *Part B6 Access and Parking*. In summary, this objection issue is not considered to warrant refusal of the application.

4. Concern that the construction phase will create amenity impact of dust, air, noise, asbestos material, pollution and traffic impacts with the length of time for construction being uncertain.

Comment:
Issues of site management for dust and noise control, including access and the length of time for works is subject to construction industry standards and legislation applicable, including occupational health and safety laws. Conditions of consent are included under General Requirements and Prescribed Conditions including compliance with Australian Standards. Asbestos material if present / uncovered during demolition is subject to safe handling procedures in compliance with Australian Standards and occupation health and safety laws.

Overall amenity issues of dust, noise, work hours, pollution control, safety and the like are required to be managed on site during demolition and construction works by the site manager and as supervised by the Principal Certifying Authority. The duration of time required for demolition and construction is subject to various factors, however an Applicant has 5 years to commence works from the date of development consent. Once lawfully commenced a development consent remains 'active' unless formally surrendered therefore a length of time to 'hasten' or minimize the timeline for works to be completed cannot be imposed by Council.

A detailed traffic management plan during demolition and construction is addressed by conditions as recommended by Council's Traffic Engineer.

In summary, this objection issue is not considered to warrant refusal of the application and appropriate conditions are applied to address noise, dust, work hours, traffic management and the like in accordance with Council requirements and industry standards.

5. C*oncern that waste management for the garbage collection bins adjacent the entry will disturb neighbours on collection days.*

Comment:
The proposal has been amended to relocate garbage bin storage in the basement and replace the front bin area with landscaping. Bins will be collected by private contractor and waste material including medical waste is managed by separate (private) commercial waste services from within the basement and therefore there will be no unreasonable noise impact on adjacent land.

In summary, this objection issue is not considered to warrant refusal of the application and appropriate conditions are applied to address waste issues.

6. *Concern that it is unclear what the amendments to the building plans were required to address bulk, solar access, amenity and driveway issues.*

Comment:
A number of minor amendments have been made by the applicant during the course of the assessment

northern beaches council

to address design issues, principally raised by Council. Notably the ACF proposal has been reduced in scale from 51 to 50 accommodation rooms. In addressed issues raised by Council the bulk and scale of the building has been reduced by changes to the roof form and incorporating recesses and articulation features for the front and rear setbacks.

Minor driveway changes were required at the entry area to Darley Street East to relocate the passing bay away from the entry crossover for Council's Development Engineering requirements. This included relocating the bin area to the basement and minor landscaping inclusions near the entry area as well as allowance for ambulance parking and a passing bay half-way along the driveway. The existing parking spaces at the rear of No.1 Seabeach Avenue will remain unchanged by the proposal.

Council's development engineers have recommended conditions to ensure the existing retaining wall along the western boundary (with No.28 Darley Street East) is adequately supported / protected during excavation and construction works.

Overall the amendment to the plan have been sought by Council to improve streetscape and address building bulk considerations including improved solar access, maintaining amenity, privacy and visual quality of the development when viewed from the street and adjacent land.

In summary, this objection issue is not considered to warrant refusal of the application and is has been addressed by the design response required by Council, including recommended conditions.

7. Concern regarding the location of the electricity box toward the rear of the site.

Comment:
The electrical substation is to be moved closer to the road and the south east corner of the site. This adjacent an existing masonry boundary wall and subject to *Ausgrid* requirements. Referal details from *Ausgrid* are provided under the heading 'External Referrals' within this report.

In summary, this objection issue is not considered to warrant refusal of the application and is addressed by conditions.

8. Concern that excavation and demolition may lead to dilapidation of adjacent property assets.

Comment:
The proposal has been submitted with a Geotechnical Risk Assessment prepared by *White Geotechnical Group Pty Ltd*. The report provides consideration with regard to the development work in relation to site suitability, support requirements, stormwater, excavations, vibrations, retaining walls, foundation support, mechanical / machinery use and inspections. Through implementation of the advice provided in the geotechnical report and conditions of consent the development can be achieved with no unreasonable risk to adjacent properties or structures.

This issue is addressed by conditions to ensure the recommendations of the Geotechnical report are adhered to and a detailed dilapidation report is prepared for all adjoining private property.

Specific conditions and bonds are also applied to protect Council assets within the road reserve.

Therefore, subject to development conditions and management during Construction Certificate stage, this issue does not warrant refusal of the application.

9. *Concern that the existing drainage connections may change or pits within the rear of the site used to dispose builders waste.*

Comment:
The proposed ACF building will require a new stormwater system, including on-site detention that will drain to a new street kerb outlet at the south-western corner of the site. Details of the stormwater management plan are provided on plans SW1 and SW2 drawn by *Barrenjoey Consulting Engineers*. Standard industry requirements for compliance with Australian standards for drainage and erosion control as well as the disposal of waste materials are to be complied with in accordance with conditions. This includes the Waste Management Plan provided by the applicant and conditions that require compliance with pollution control laws.

Therefore, this issue is addressed by the design of the proposal, including conditions and does not warrant refusal of the application.

10. Concern is raised that the proposal will cause a loss in adjacent property value due to the scale of the proposal and amenity impacts.

Comment:
The proposal has been designed to be consistent with the R3 Medium Density zone and the objectives of the relevant development controls in order to minimise unreasonable impacts on adjacent land. Subject to merit considerations where applied the development maintains appropriate landscaped setbacks that are consistent with similar apartment buildings that have been developed in the locality pursuant to Pittwater LEP, Pittwater DCP and SEPP HSPD.

Issues of amenity have been addressed by design and conditions to ensure reasonable privacy, solar access, noise amenity, view outlook and spatial separation consistent with the medium density urban environment. The proposal does not cause any unreasonable impact on coastal views and solar access or isolate adjacent land from other re-development options.

No supporting evidence has been provided to substantiate any localised and sustained decline in surrounding land values that would be present at a future date upon completion of the proposed development. This issue is not a matter that can be assessed pursuant to the EP&A Act 1979.

Therefore, this issue does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department, including the statement of Compliance by *Accessible Building Solutions* dated 17 July 2019 and Building Code of Australia (BCA) 2019 Capability Statement by *Philip Chun* dated 31 July 2019. There are no objections to approval of the development. *Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however are to be determined at Construction Certificate stage.* Planning Comment: Building Assessment comments are concurred with and conditions

northern beaches council

Internal Referral Body	Comments
	are included with the recommended conditions.
Environmental Health (Industrial)	**General Comments** Proposal to demolish the existing 33 bed residential care facility and replace it with a 50 bed residential care facility. Environmental Health has considered acid sulphate soils, noise impacts and food regulation and provides the following comments: <u>Acid sulphate soils</u> There are Class 4 and 5 acid sulphate soils associated with this Lot. That means "*Works beyond 2 metres below natural ground surface; Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface*." require some assessment and/or management. From the plans, we approximate 4 m of excavation below natural ground surface level, however the Northern corner (Class 4) of the Lot is not part of the basement. Therefore we recommend a general condition about notifying Council if acid sulphate soils are exposed during excavation. <u>Noise</u> The Statement of Environmental Effects states there is an 'acoustic report' provided with the application, but we found no such report on file. Despite this, we can make conclusions about the noise created by operations -same as current occupation -residential care facility -low impact on amenity. Further to that, the plans tell us that the plant room is situated in the basement and exhaust stack contained within the centre of the building -requiring no further investigation. Of further interest is the noise created by excavation of "extremely low strength shale" that can allegedly be done by excavator and bucket. If rock-breaking is to occur, the surrounding residents must be given formal notice of the activity prior to it occurring. This is addressed by condition as recommended. <u>Food</u> Food will be supplied to the occupants of this building and cooked in kitchens on-site. The appropriate regulatory authority must be made aware of this prior to occupation certificate being released. <u>Recommendation</u> APPROVAL - subject to conditions <u>Planning Comment:</u> Environmental Health (Industrial) comments are concurred with and conditions are included with the recommended conditions.
Environmental Health (Food Premises, Skin Pen.)	**General Comments** The conditions associated with this development application (DA) are attached to the Environmental Health (Industrial) referral, please refer to that referral response. <u>Recommendation</u>

northern beaches council

Internal Referral Body	Comments
	APPROVAL - subject to conditions Planning Comment: Environmental Health (Food Premises) comments are concurred with and conditions are included with the recommended conditions
Landscape Officer	**General Comments** The Arborist's Report and *Landscape Plan* submitted with the application are noted. The amended plans do not alter the landscape outcomes. Recommendation: Subject to conditions as recommended, no objections are raised to approval with regard to landscape issues. Planning Comment: Landscape Assessment comments are concurred with and conditions are included with the recommended conditions
NECC (Development Engineering)	**Revised Development Engineering Assessment Comments 8 May 2020:** No objections to the residential aged care facility subject to conditions. **Previous Development Engineering Comments 21 April 2020:** Driveway The development is not supported for the following reasons. • The driveway entry and vehicle crossing details are inconsistent. The maximum width of the vehicle crossing is to be 4m from the side boundary and the driveway extent is to be clearly shown on the site plan which also is to include the location of the passing bay . A passing bay on the front boundary will not be permitted . • Additionally any proposed boundary retaining walls to support the access driveway are to be detailed on the plan. The bin storage area doors cannot open onto the access driveway. • The architectural plans detail a vehicle passing bay on Council's footpath area which needs to be fully located within the development site. Stormwater The stormwater drainage concept plan which details the provision of On-site stormwater detention (OSD) is satisfactory. Planning Comment: Development Engineering raised a number of technical concerns with

northern beaches council

Internal Referral Body	Comments
	the proposal which the applicant has been able to address on with some minor design changes to the plans to address safety and part of the driveway width. The revised comments dated 8 May 2020 are concurred with and conditions are included with the recommended conditions.
Strategic and Place Planning (Heritage Officer)	**General Heritage Comments:** The proposal has been referred to Heritage as it adjoins a heritage item - "House - 22 Darley Street, East" Details of the item, as contained in the Pittwater heritage inventory are as follows: <u>Statement of Significance:</u> The House at 22 Darley Street, called "La Corniche" or Brock's Folly, was built as a grand mansion by a Newtown builder, George Sydney Brock. The house was a significant landmark in the early Mona Vale panorama and is historically significant for the agricultural settlement and development of Mona Vale. <u>Physical Description:</u> Remnants of an earlier structure, Brock's Folly is on the original Mona Vale Farm. It is a single storey large pavilion with a central tower on the north facade. It features brick walls, terracotta tiled roof (not original), possibly re-using of the original capping. Decorative pressed metal roof on the tower. Interior details and joinery largely intact in 1991. <u>Other relevant heritage listings:</u> Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 - No Australian Heritage Register - No NSW State Heritage Register - No National Trust of Aust (NSW) Register - No RAIA Register of 20th Century Buildings of Significance - No Other - N/A <u>Consideration of Application:</u> The proposal seeks consent for the construction of a three storey residential aged care facility, with a basement car park level. The heritage item is located to the east of the site. Due to the rise in elevation across the property, the proposal includes significant excavation on the eastern boundary of the site which adjoins the heritage item. However this allows for an adequate landscaped buffer area to the heritage item, and lowers the overall appearance of height in this section. These elements help to minimise the impact of the new development on the heritage item to an acceptable level. <u>Considerations against the provisions of CL5.10 of Pittwater LEP:</u> Is a Conservation Management Plan (CMP) Required? - No Has a CMP been provided? - No Is a Heritage Impact Statement required? - Yes

northern beaches council

Internal Referral Body	Comments
	Has a Heritage Impact Statement been provided? - Yes Recommendation: Therefore Heritage raises no objections and requires no conditions. Planning Comment: Heritage assessment comments are concurred with and conditions are included with the recommended conditions for a dilapidation survey and engineering conditions to ensure adjacent property assets are not adversely affected by civil works.
Strategic and Place Planning (Urban Design)	**Revised Urban Design comments on Amended Design 24 March 2020:** The proposed design is now a two to three storey articulated built form which steps down to two storey in the most visible corners. As such it has minimised the built form impact to the surrounding developments and is more contextually fitting. **Previous Urban Design Comments:** Allowing for a built form control consideration in an R3 Medium Density Zone, the proposed built form is top heavy with the extensive roof overhangs proposed. Some of the soffits to the roof structures have very low height clearance over the middle concrete roof that construction and maintenance will be an issue. Nevertheless, the 8.5m building height calls for a two storey building with a roof form to fit in contextually with the streetscape. The top floor should be well set back from the lower storeys to create a less visible floor that will not be obvious from the surrounding streets and next door developments, ideally within the form of a roof structure. Planning Comment: The Revised Urban Design comments are concurred with and the amendments to the plans reduced the impacts of the development to provide a more sensitive design response including less overshadowing, improved spatial separation (at corners of the building), improved wall articulation and streetscape presentation, reduced building scale from 51 to 50 rooms, increased landscaping and address some minor safety access considerations.
Traffic Engineer	**General Comments:** A standard traffic light system is proposed to control entering traffic and vehicles exiting the basement and ground level carpark serving the neighbouring retirement village. The locations of the traffic lights, line marked waiting bay and signage locations shall be included in an amended plan prior to construction. Recommendation: The proposal is acceptable, subject to conditions as recommended. Planning Comment:

northern beaches council

Internal Referral Body	Comments
	Traffic Engineering raised a technical concerns with the proposal which the applicant has been able to address on with supplementary information (dated 18 November 2020) on the basement access (signal system). Traffic Engineering comments are concurred with and conditions are included with the recommended conditions.
Waste Officer	**General comments:** As this development is a commercial premises and the property will be serviced by a private contractor only. However, we provide the following recommendations: <u>Bin room design and location:</u> The applicant is to ensure there is a bin room at street level to facilitate a wheel out and return service by private contractor. Ideally the bin room is to be located within 6500 millimetres (mm) of the front property boundary. The pathway and access between the Waste Storage Area and Collection Point will be: a) Solid, concrete, continuous, non-slip and clear of any obstructions and steps. b) A maximum ramp gradient of 1 in 8. c) Hazard free and not via a pathway with vehicular traffic. d) A minimum width of 1200mm. Any doors fitted on the Waste Storage Area, pathway and access will be: a) A minimum width of 1200mm. b) Able to be latched in an open position. c) Unobstructed by any locks and security devices. d) Openable in an outward direction. <u>Recommendation</u> Approval subject to conditions. <u>Planning Comment:</u> Waste referral comments and conditions are concurred with and included with the recommended conditions, with the notation that the proposal originally had a bin holding structure at the driveway entry however this was deleted to address engineering requirements for driveway safety. The street frontage bin holding point was replaced with landscaping as the street bin holding point was also not essential since private contractors (not a Council service) will use the commercial bin room in the basement (for all waste service) with the basement loading loading dock.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to *Ausgrid* and a referral response was provided on 21 September 2019 with comments and requirements in relation to existing electricity assets (which includes the proposed repositioning of the substation electricity kiosk.

northern beaches council

External Referral Body	Comments
	Requirements for *Ausgrid* are included in the recommended conditions of consent.
NSW Police – Crime Prevention Office (Local Command matters)	The proposal was referred to Local Command for comments from the NSW Police regarding CPTED considerations. No comments or recommendations were provided with in the 21 day statutory period. The proposal is considered to have a satisfactory design with regard to CPTED considerations.

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 (aged care) 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 for aged care. Matters relating to safe handling of and potentially hazardous materials, if present and identified during demolition, (such as asbestos, lead paint etc) are addressed by conditions. The site is not located adjacent any industrial style land uses that may have caused potential contamination of the site such petroleum or chemical storage.

SEPP (Housing for Seniors or People with a Disability) 2004

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for an Residential Care Facility.

> *In this Policy, a* ***residential care facility*** *is residential accommodation for seniors or people with a disability that includes—*
>
> *(a) meals and cleaning services, and*

northern beaches council

(b) personal care or nursing care, or both, and

(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:
(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
(b) make efficient use of existing infrastructure and services, and
(c) be of good design.

Comment:

- The site is currently occupied by a Nursing home (aged care facility) with 33 beds and normally has staff of 12 employees. The new ACF will provide and increase in the supply of aged care services with 50 new accommodation rooms in a 3 storey building with nursing, living and communal areas on each accommodation floor. The building is accessible with lifts, stairs, reception areas, service rooms and car parking to meet the aged care needs of residents with the new facility.

- The proposal has been designed to make more efficient use of the site and associated infrastructure by base carparking, connection to essential services infrastructure and utilities. Access is provided for off street parking with the new through driveway design.

- The building has achieved a good design with open plan central areas for cross ventilation and light. Ease of access internally for occupants and staff, including service areas, such as laundry, commercial kitchen and deliveries are integrated into the design from the basement parking area. The building bulk and scale has been appropriately articulated to create a modern residential appearance that is consistent with adjacent building height and scale including setbacks. A landscape setting is maintained for the external amenity of the building and no unreasonable impact is created in terms of views, overshadowing, privacy for the medium density environment. Each of the 50 aged care accommodation bedrooms has a bathroom, storage and good internal amenity to meet the needs of occupants in terms of aged and disabled persons care, including access on each residential floor to living areas for social interaction and nursing staff. Appropriate access is provided for and ambulance.

Chapter 2 – Key Concepts

Comment:

- The proposal satisfies the key concepts for a Residential Care Facility pursuant to the SEPP being that the proposed facility will provide meals and cleaning services, personal care and nursing care, appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care.

northern beaches council

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	Mona Vale Town Centre is situated 440 metres walking distance from the subject site toward the west. The Mona Vale town centre also has community facilities, recreational areas and medical practices. Bus links are available from Mona Vale Road to other regional centres of Dee Why, Manly and the City.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	An accessible path of travel along Darley Road East is available for appropiate access to the north and south bound bus stops on Barrenjoey Road. The distance to these bus stops is approximately 140 metres to the south bound bus stop and 190 metres to the north bound bus stop. The bus stops provide the minimum servicing requirements of the SEPP including access to the services such as banks, shops, retain and commercial uses located within the Mona Vale Town Centre.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	Not applicable
28	Consideration is given to the suitability of the site with regard to the	Water and sewerage infrastructre connections are available from Sydney Water assets.	Yes

northern beaches council

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
	availability of reticulated water and sewerage infrastructure.		
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25 (5)(b)(v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	• The site has been used as a Nursing home facility for many years and is adjacent other medium density style housing, including a multi-storey retirement village to the north, a four storey apartment building to the west and other multi-storey apartments to the south and east of the site. The land to the immediate east is occupied by a dwelling house. • A landscape setting will be provided for the new ACF in the form of new ground level deep soil areas within the setbacks to provide a buffer that will contain a mix of small, medium and large trees to enhance the natural environment within the urban streetscape setting. • Service and infrastructure will be provided for the building, including basement parking, electricity, sewer, water and telecommunications. The site is in close proximity to the Mona Vale Town centre that has financial services, including banking and associated uses. • The proposed ACF has been designed to have an articulated building form that is consistent with the pattern of surrounding medium density development. Some minor design refinement were made during the assessments to selected parts of the building to improve roof form, reduce building bulk and enhance the visual amenity of the building in context of the pattern of surrounding development and streetscape. The external colours and materials are appropriate for the urban setting. The proposal is compatible with adjacent land uses and, subject to conditions will not unreasonably impact the adjacent residential uses in terms of parking, access, noise, privacy, overshadowing, views, and residential amenity.	Yes

northern beaches council

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis plan has been provided (DA-02) including written summary considerations within the Statement of Environmental Effects.	Yes

Clause 31 Design of in-fill self-care housing

Pursuant to Cause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

Clause 32 Design of residential development In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD for the Design Principles:

Design Principles	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The site is within the Mona Vale locality that is described within the Pittwater 21 DCP. The proposal is consistent with the key elements relevant to building in the context of the character statement. The design quality of development provides an appropriate fit within the visual catchment around the site and identity of the area, including residential presentation to the street, use of landscaping, driveway location, pedestrian access, external colours and materials.	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified	The proposal provides an appropriate landscape buffer and spatial separation toward No.22 Darley Street. See detailed comments provided within the 'Heritage	Yes

northern beaches council

Design Principles	Requirement	Proposed	Compliance
	in a local environmental plan.	referral response' within this report. In summary, the heritage assessment raises no objections and no special conditions.	
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.	The height, bulk and setbacks of the 3 storey ACF is compatible with the height and scale of surrounding and nearby development noting that SEPP HSPD does not impose the same restrictions on building form for a medium density zone as opposed to low density areas. The height and design of the building achieves acceptable outcomes for solar access and spatial amenity. The building form has utilised the constraints and opportunities of the land from to position the building with floor levels that do not create excessive height when viewed from the street or surrounding land. Relief is provided by variable setbacks along each elevation and landscaped setbacks. The height of the development does not give rise to any unacceptable residential amenity impacts in terms of views, privacy or solar access. The proposed building is not positioned on the boundary, however works near the boundary line such as excavation, driveway reconstruction, substation, fencing and the like are addressed by conditions. Similarly there are minor structures on adjacent land such as driveways and	Yes

northern beaches council

Design Principles	Requirement	Proposed	Compliance
		retaining walls that are addressed by conditions to ensure no unreasonable impacts such as by dilapidation assessment and support during construction work.	
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The building has a front setback that is consistent with adjacent multi-storey buildings along Darley Street East that are near the site, in terms of the surrounding visual catchment.	Yes
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	A landscape setting is proposed for the development including courtyard and some minor roof landscaping (foyer entry area). The landscaping will embody local species and a landscape quality outcome that is consistent with the desired future character of the Mona Vale locality.	Yes
	f. retain , wherever reasonable, major existing trees, and	Tree removal for 3 existing trees is required for the proposed construction work. New landscaping and new native trees will appropriately compensate for the long term landscape setting for the site, including various plantings commensurate with the building height and available space. The proposed landscape regime is depicted on the plans prepared by *Trish Dobson Landscape Architect.*	Yes
	g. be designed so that no building is constructed in a riparian zone.	The site is not within a riparian zone.	Not applicable
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents	The design of the ACF includes privacy attenuation measures are provided where necessary to prevent direct overlooking opportunities to adjoining residential	Yes

northern beaches council

Design Principles	Requirement	Proposed	Compliance
	by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	properties, including minor landscape planters on selected balcony areas for amenity. The proposal includes basement parking for cars, including a delivery loading dock and internal stair and lift access. The basement opening is toward the rear and links to an existing driveway and parking area. The site is burdened by an existing through access to the adjacent Seaview apartments however a new driveway and ROW will be provided and the main reception area is covered by a roof top area to buffer noise. Therefore, the new bedroom areas of the building are adequately protected from noise of the basement parking areas and as traffic volumes are considered low for the ACF there will be no unreasonable noise levels for new bedroom areas.	
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation	The impact of overshadowing is demonstrated on the plans DA-10 and shows that the principal shadow impact on No.28 Darley Street East (flat building) occurs before 9am on 21 June. After 9am the shadow falls into the driveway area and ground floor garages of that adjacent building with increasing sunlight until the eastern side of No.28 Darley Street is self shadowed after midday. During the afternoon period the property of 22Darley Street will be affected by increasing shadow on the western side of the rear yard, front yard and western	Yes

northern beaches council

Design Principles	Requirement	Proposed	Compliance
	solar heating and lighting by locating the windows of living ad dining areas in a northerly direction.	elevation between 1pm and 3pm on 21 June. This property is not affected during the 3 hour morning period and up to 1pm and therefore the proposal satisfies the DCP criteria for No.22 Darley Street East. Therefore, in summary the proposed building is able to maintain a reasonable level of solar access pursuant to this objective of the SEPP. The proposal has been site planned to utilise cross ventilation and capitalise on the solar aspect of the northern elevation. The wide setbacks also allow screen tree planting near bedroom window areas. The communal areas will receive winter sun from the northern common area and wide eaves are included as part of the building design to provide shade in summer.	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Subject to conditions, the engineering and landscape plans provided are satisfactory to address stormwater management, including retaining deep soil zones for infiltration, new stormwater connections and on-site detention.	Yes, subject to conditions.
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling	The proposal has been designed to address the street in terms of the building facade and the entry area is easily identifiable. The reception area has appropriate at grade access for cars and pedestrians including high visibility. The basement parking area will have security and staff areas in the basement also	Yes

northern beaches council

Design Principles	Requirement	Proposed	Compliance
	and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	have a foyer area to access service and administrative areas. The principal shared entry at ground level has a reception desk adjacent to serve the building. The main entry at ground level and the basement carpark provide appropriate security and safety for the ACF residents. A reception area is provided at the main ground floor front entry.	
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Darley Street East has existing footpath links that meet safe access requirements including links to signal crossings for Mona Vale Road. The ACF building has been design to achieve compliance with AS1428 for and AS2890 for traffic, parking and pedestrian accessibility requirements.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Waste management will be required to be services by private contractor and not council since the building includes medical waste and of a commercial nature. The building contains a basement bin room and loading dock for private contractors.	Yes

Part 4 - Development standards to be complied with Clause 40 – Development standards – minimum sizes and building height

northern beaches council

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1,749 sqm (shared right of way area	Yes
Site frontage	20 metres	34.5m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8.0m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Not adjacent to a boundary. Setbacks comply with setback requirements for R3 Medium Density zone.	Not applicable
	A building located in the rear 25% of the site must not exceed 1 storey in height.	Not applicable in R3 Medium Density zones where residential flat buildings are permitted.	Not applicable

Division 2 - Residential care facilities - standards concerning accessibility and usability.
Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the *Building Code of Australia*. The applicant has provided a BCA capability assessment (Report No.19-213367_Cap_Stat_Report_R02 dated 31 July 2019) to demonstrate that requirements under the BCA are achievable, subject to conditions and construction certificate details.

Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities
A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds -

(a) **Building Height:** if all proposed buildings 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)

Comment:
This building height standard has been similarly addressed in Clause 40. In summary, the building complies with the 8.0m height control measured to the underside of the ceiling from existing ground level, as per the SEPP.

(b) **Density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less

Comment:
The proposed ACF has an FSR of 1.16:1 and therefore exceeds this development standard.

northern beaches council

A detailed merit assessment of the variation is provided as follows:

- The proposal had an FSR of 1:26:1 however some minor amendments have resulted in one less room and a reduction in the bulk of the upper floor level. The 1:1 standard applies to both low density and medium density sites and allowing no disparate or proportional FSR for higher density areas. The subject is adjacent other multi-storey buildings and does not demonstrate a visual bulk and scale that is disproportionate to the *Baldwin Living Seabeach Gardens retirement village* to the north or No.28 Darley Street East or No.20 Darley Street East.

- A wide landscape setback is provided to No.22 Darley Street East (immediately adjacent) including variations in the wall lines and external materials to ameliorate building bulk and scale and distribute the floor space of the building.

- In summary, the variation to the FSR of 1.16:1 proposed in variation to the development standard (1:1) is not considered to give rise to an unreasonable impact on surrounding land in terms of streetscape, landscaping, privacy, solar access, views, and general amenity consideration. The ACF is of a satisfactory design response in accordance with the Design Principles required to be addressed under the SEPP and its objectives.

Note:In the case of a residential care facility the SEPP excludes any floor space below ground level (basement area) that is used for service activities provided by the facility.

(c) **Landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided

The proposed ACF has 50 beds and therefore requires 1,250 sqm. Total landscaped area is 585 sqm which does not comply with the development standard.

Comment:
A detailed merit assessment of the variation is provided as follows:

- A significant area of landscaping is taken up by the need to retain the legal right of way to Seabeach Apartments carpark at the rear of the site, and in this regard the basement access ramp would normally go directly below the building from the street frontage. Notwithstanding this, the through driveway is a longstanding constraint on the site that currently limits landscaping on the eastern side of the property. The transfer of the driveway access to the western side will enable wide landscape buffer along the eastern setback and co-locate the new driveway adjacent the driveway of No.28 Darley Street East, which has its garaged on the ground floor level. A new landscape buffer however will be provided along the boundary between No.28 Darley Street and the ACF as well as 1.8m 'lapped and capped' fencing.

- On the western side of the building landscaped planting has also been provided close to the edge of the building to soften the side view from No.28 Darley Street and by using a 'green roof' for the 'porte cochere' entry area. On the eastern side of the building a wide deep soil zone is provided including space for medium sized canopy trees and mixed planting for a landscaped setback facing the dwelling at No.22 Darley Street East. The Landscape Design concept is shown on plans No.DA-L01, DA-L02 and DA-L03 drawn by *Trish Dobson*, dated 9.8.2019.

- A landscape setback is provided for the front and rear of the building, including trees, shrubs and ground covers to provide a landscaped setting for the building, screening and enhance the amenity of the building.

northern beaches council

- In summary, the variation to the landscape open space requirement is not considered to give rise to an unreasonable impact on surrounding land in terms of the amenity provided for the occupants of the ACF. The deep soil setback areas include a mix of native plants and trees to enhance the streetscape, privacy and general amenity in relation to surrounding land. The ACF provides and appropriate Design Principles for the site in terms of quality landscaping design to meet the objectives under the SEPP despite the numerical non-compliance.

(d) **Parking for residents and visitors:** if at least the following is provided—

(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and

(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and

(iii) 1 parking space suitable for an ambulance.

Comment:

- 5 car parking spaces are provided for the 50 beds in the residential care facility which complies with this standard.
- 10 employee parking spaces are provided for the 19 full time equivalent staff which complies with this standard.
- 1 suitable ambulance parking space is provided which complies with this standard.
- A loading / service delivery dock and visitor spaces (including a disabled persons parking space) are also provided in the basement carpark.

  (A total of 16 car spaces are provided, plus a courier / loading bay and and ambulance bay are provided. The driveway also includes a passing bay along the driveway for cars coming from / to the basement or Seabeach apartments at the rear)

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3. This has been addressed above under the heading "Design Principles".

Part 5 Development on land adjoining land zoned primarily for urban purposes
This part is not applicable to the subject site.

Part 6 Development for vertical villages
This part is not applicable to the proposed development.

Chapter 4 – Miscellaneous
Comment:
The residential care facility must include a fire sprinkler system which addressed within the BCA Report and recommended conditions.

SEPP (Infrastructure) 2007

northern beaches council

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* and a referral response was provided on 21 September 2019 with comments and requirements in relation to existing electricity assets. The substation is indicatively shown on the architectural plans at a setback proposed of less than 0.9m to the side boundary. However, as this electrical kiosk infrastructure facility is an asset under the care and control of *Ausgrid* the Service Authority will dictate the final position subject to infrastructure requirements as provided in the *Ausgrid* referral response.

Other Service Infrastructure Authorities

The proposal was not required to be referred to the *Roads and Maritime Service* and no other Service Authority referral requirements are raised pursuant tot he SEPP.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings*: (measured from EGL survey level)	8.5m	8.5m	N/A	Yes
Density controls for certain residential accommodation*	1 dwelling per 200sqm	No self contained dwellings	N/A	Yes

* Provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, prevails over Pittwater LEP 2014 development standards.

Note: Under the Pittwater WLEP map the land is also identified as "SEPP5 Seniors Living" as well as "R3 Medium Density".

Compliance Assessment

northern beaches council

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.5A Density controls for certain residential accomodation	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

The site contains easements for driveway access that will need to be altered for the new access along the western boundary for land to the rear. This will be managed under separate private arrangement to suit the new driveway access, parking, landscaping and building works.

4.5A Density controls for certain residential accomodation

While this clause applies to dwellings for seniors housing, the development is not for independent living units (ILU) in the form of separate dwellings. Therefore, the density controls are not applicable to an Aged Care Facility in the building form of a nursing home where by accommodation is provided in bedrooms that share common areas for social interaction, staff and nursing care, meals, services, visitation and daily living.

Kitchen and living areas are provided for each of the 3 floors, however no kitchen facilities are provided in any resident bedrooms. Effectively each of the 3 residential floors only is a separate dwelling unit adapted for the special design needs and layout required for an Aged Care Facility.

5.10 Heritage conservation

See details provided under the section Internal Referrals - Heritage within this report. In summary, the proposal is considered to be acceptable in the context of the wide landscape buffers provided, architectural design and objectives of the R3 Medium Density Residential zone.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (or established building line)	5.75m to 7.8m Above ground Building 6.1m Basement	13% 6%	No* No*

northern beaches council

Rear building line	6.5m	3.4m Basement ramp 7.0m Basement 7.0m to 11.4m Western Boundary building	43% N/A N/A	No* Yes Yes
Side building line	2.5m	4.2m Basement 4.2m to 6.2m Eastern Boundary building	N/A	Yes
	1.0m	4.7m Basement 5.2m to 8.6m Western Boundary building	N/A N/A	Yes Yes
Building envelope	3.5m	Outside envelope (eaves for shading permitted)	N/A	Yes
	3.5m	Outside envelope (eaves for shading permitted	N/A	Yes
Landscaped area (Site area 1,749sqm)	50% 875.5 sqm	33.4% 585 sqm	33%	No*

*Refer to detailed merit assessment under the heading 'Built Form Controls' within this Report.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes

northern beaches council

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	No	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C5.19 Food Premises Design Standards	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes

northern beaches council

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	Yes	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.9 Mona Vale Locality

Consistency with the desired future character (DFC) of the Mona Vale Locality is addressed as follows:

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale.
Comment:

- The DFC is emphasises that building height limit is a development control measure to ensure the landscape setting is dominant over local trees in this urban zone and the proposal has maintained compliance and allowed landscape space for the amenity provided by canopy trees adjacent the building. In addition some minor design refinements have been during the assessment to better respond to the DFC and reduce impacts associated with building bulk which is satisfactory.

Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like.
Comment:

- The proposal has incorporated appropriate façade modulation to provide visual interest and amenity including a contemporary roof form. This includes the recess sections and window treatment along the side elevations to minimise privacy impacts and incorporate balcony elements and screens where appropriated. A balance of shade elements for windows and screens assist to provide facade modulation and include use of some lightweight materials to add to the visual interest of the building and reduce building bulk, including some stepping in at the upper corners of the building.

Building colours and materials will harmonise with the natural environment.
Comment:

- The DFC seeks that external colours and materials should include colours and material in a palette style that is in harmony with the natural environment. The colours and materials selected are represented on the plans (DA-08) which is consistent with the DFC to include sandstone, masony, rendered walls and wall panel materials that provides visual interest and suitable for the urban setting.

northern beaches council

In summary, the design of the ACF appropriately responds to the topography and site constraints including the streetscape and context of adjacent land uses. The proposal maintains appropriate separation to the adjacent heritage building which has local historical significance and there are no natural hazards present on the site such as flooding, slope or soil conditions that are prohibitive to the redevelopment of the site. A landscape setting is provided for the building and the size and scale of the building warrants the use of a basement carparking to provides off street parking for visitors, staff and service deliveries without an unreasonable amenity impact on the surrounding medium density urban environment.

C1.3 View Sharing

All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.
Comment:

- The proposal has been considered in the context of surrounding views and adjacent development, in particular potential views toward Mona Vale beach and a detailed consideration of view sharing is provided below. The surrounding and nearby properties have been visited (where access is available) or appropriate nearby vantage points used to consider views.

The proposal must demonstrate that view sharing is achieved though the application of the Land and Environment Court's planning principles for view sharing.
Comment:

- The four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal as follows:

1. Nature of the views affected:
Comment:

- A site visit of the subject property, adjacent building of No.28 Darley Street East and investigating potential view lines from the vicinity revealed that the 3 storey flat buildings and dense canopy trees at No.16, No.18 and No.20 Darley Street East substantially blocks views from No.28 Darley Street East toward the coastline. In addition, the road corridor rises to a ridgeline that also restricts the view lines (including street trees) at a lower level (first floor / ground floor). Therefore, the nature of the views are substantially obstructed by existing urban development (including trees) and are not readily obtainable as broad vistas of ocean water or the beach interface across the building envelope.

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

- Views from No.28 Darley Street East are across the side boundary but immediately interrupted by development and canopy growth on properties to the east of the site beginning at No.20 Darley Street East. Due the the similarity of front setbacks building alignments eastern view

northern beaches council

lines across adjacent front setbacks is restricted to the narrow road corridor, but even this is reduced by street trees and topography 100 metres East of the site. From the rear setback (looking east) views are also heavily obstructed due to the greater length (depth) of No.16 to No.20 Darley Street East. There are no distinct coastal or district view lines due north or due south across the site from surrounding development.

3. Extent of impact
Comment:

- There are no iconic elements in the view corridor toward the east (such as a Headland feature or the like) and the impact of the construction of the proposed ACF building is considered to be negligible due to the pattern of surrounding development to the east, existing tree canopy and higher ground means existing development in the vicinity of No.18 Darley Street obstructs views across these properties east of the site. the extent of view impact is therefore quantitatively assessed as negligible.

4. Reasonableness of the proposal that is causing the impact
Comment:

- In final consideration of the view assessment criteria pursuant to the Land and Environment Court's planning principles for view sharing the development complies with the height and front setback controls and provides reduced bulk an the upper level for the corners. Overall the ACF is considered to be of a skillful design to provide a reasonable development for the medium density location that is compatible in terms of amenity, views, building bulk, spatial separation and landscaping. In this regard, view sharing impacts are reasonable in context of the surrounding urban environment and location.

Pittwater DCP Merit Assessment
Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.
Comment:

- The building has been setback on an appropriate alignment to retain views along the road corridor toward the east. Due to larger existing residential apartment buildings at No.16, No.18 and No.20 Darley Street East obstruct views directly east due to the higher ground (low ridge) and the proposal does not create any unreasonable view impact between dwellings. Generally the view and vistas from roads and public places is not impacted by the proposal.

Views are not to be obtained at the expense of native vegetation.
Comment:

- The proposal has included landscaping and around the periphery of the building and the DCP gives priority to canopy trees in terms of views. Notwithstanding the tree planting proposed is appropriate within the setback areas including the street frontage whereby open canopy native trees have been selected to provide filtered views of the building and along the street.

Conclusion
The proposal is considered satisfactory in terms of view sharing issues and no design changes are

northern beaches council

recommended by conditions pursuant to this DCP clause.

C1.4 Solar Access

Residential development is sited and designed to maximise solar access during mid-winter.
Comment:

- The proposal has been designed with appropriate window spaces to the north, east and west to maintain adequate internal solar amenity during mid-winter. This includes communal areas and balcony spaces that are north facing at the residential levels of the building. The ACF building also includes a courtyard at ground level for amenity of the staff room area, at the northern end of the basement level, and design considerations to regulate cross ventilation.

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.
Comment:

- The impact of overshadowing is demonstrated on the plans DA-10 and shows that the principal shadow impact on No.28 Darley Street East (flat building) occurs before 9am on 21 June. After 9am the shadow falls into the driveway area and ground floor garages of that adjacent building with increasing sunlight until self shadowing of the eastern side of No.28 Darley Street after midday.

- During the afternoon period the property of 22A Darley Street will be affected by increasing shadow on the western side of the rear yard, front yard and western elevation between 1pm and 3pm on 21 June. This property is not affected during the 3 hour morning period and up to 1pm and therefore the proposal satisfies the DCP criteria for 22A Darley Street.

Therefore, in summary the proposed building is able to maintain a reasonable level of solar access pursuant to this objective of the DCP.

Reduce usage and/dependence for artificial lighting.
Comment:
Consideration has been made within the site or external to the site for the surrounding residential development in terms of designing the ACF building to utilise natural light from generous window spaces, balconies and clerestory window elements. These features of the building will reduce the depended for artificial lighting. In addition, the spatial separation between the proposed ACF building and adjacent dwelling is adequate to allow natural light amenity due to the wide open setbacks and articulation including stepped eaves / roof line of the ACF.

C1.5 Visual Privacy

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.
Comment:

- The proposal has been designed to ensure balanced privacy for the design by the use of landscaping, window screens, balcony spaces and building separation of 8.5m or more (up to 18m) to adjacent building windows. The habitable rooms include 'hooded' style screens direct selected views in order to optimize privacy by design and fenestration.

northern beaches council

A sense of territory and safety is provided for residents.
Comment:

- The proposed ACF building has a high level of definition between the public domain and the interior of the building including appropriate use of landscaping, fencing, staff facilities and reception areas to ensure a sense of territory, safety and security for occupants.

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.
Comment:

- The proposal maintains appropriate levels of both visual privacy through design elements integrated to balcony areas (such as dimensions and planter boxes) and orientation of internal living and screen angles relative to adjoining living and open space areas. Integrated privacy attenuation measures have been implemented along the side elevations, particularly for the upper floors.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.
Comment:

- The proposed building, due to it being a specialist aged care facility with single bedrooms designed for aged care supported by nursing care and meals with communal areas means that limiting the entire building to 50% overlooking from all levels and all windows collectively is not readily achievable above the ground floor. Fixed privacy attenuation measures are provided where necessary to appropriately direct overlooking and angle view lines to ensure no unreasonable privacy impacts to adjoining residential properties.

C1.6 Acoustic Privacy

Acoustic privacy and noise impacts are considered to satisfy the objectives of DCP control as follows:
Comment:

- Noise is substantially contained within the building due to the positioning of bedrooms at the outer surrounding and maintaining communal areas (kitchen / dining) in the central or core areas. The commercial kitchen and laundry service rooms, including loading dock and staff areas are located in the basement to minimise operational noise and associated activity from adjacent (neighboring) private open space. The ACF is a form of residential use that requires 24 hour supervision of residents to be available and therefore audible noise is able to be managed by staff where incidents of residential noise may occur for short periods (e.g social events and the like).

- No unreasonable offensive, as defined by the *Protection of the Environment Operations Act 1997*, is able to be appropriately managed by conditions for elements such as plant rooms, air conditioning motors and the like. The building is generally 'enclosed' being that there are not large open areas along the side elevations and windows gap openings (such as casement style windows) can be limited to buffer noise within the building.

northern beaches council

C1.7 Private Open Space

The ACF building does not include any private open space (allocated to individual private occupants). This is addressed as follows:
Comment:
Merit consideration of the private open space control is addressed and satisfied as follows:

- While private open space is not the proposal include common opens space ares in form of balconies and ground level areas the provide appropriate amenity and are well-located to compliment the use other areas in the building (such as living spaces or dining amenities) and with enhance the quality of life for occupants of the ACF.

- The common open space areas are integrated directly accessible from the living areas of dwellings and close to bedrooms also for ease of access for aged or disabled persons. This includes external areas and pathways as spaces for amenity and enjoyment of the occupants as illustrated on the landscape design plan.

- The communal open space area will receives sufficient solar access and privacy, along the northern and eastern side of the building. Open space areas facing the street assist to enhance the presentation of the building to the street in terms of its connection to passing activity and maintaining a a link or outlook toward community and character of Mona Vale.

C1.21 Seniors Housing

The proposal satisfies the requirements of this part of the DCP for the following reasons:
Comment:

- Visual bulk and scale of development is appropriate for the medium density zone and the visual bulk and scale of the development fits in with surrounding development. The footprint of development strikes an acceptable balance with landscaping planting to achieve the outcomes of the desired future character of the locality.

- The use of the land for an ACF is consistent with the current use of the land and contributes to the social mix of residents in the neighbourhood while maintaining consistency with the objectives of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2000 to cater for the demand for aged care facilities in the community.

- The proposal has been considered in term of cumulative impacts such as carparking, noise, streetscape, built form and general amenity. On balance the proposal will not have an unreasonable adverse cumulative impact and such impacts have been minimised, subject to conditions. The application has been provided with appropriate reports prepared by suitably qualified professionals to address the design requirements for the ACF in accordance with the Pittwater LEP, Pittwater DCP and SEPP HSPD.

C5.1 Landscaping

The proposal has 585 sqm of landscaping that is a 33% shortfall of landscape open space

northern beaches council

requirements of the DCP for 50% of the site area.

Merit consideration of the variation to landscaped open space is addressed as follows:

Comment:

- The proposed ACF building includes a built form that is screened and softened by landscaping which includes canopy trees as well as small, medium plantings within the setback areas to compliment the amenity of the building. Landscaping planting is commensurate with the scale and form of development inclusive of the allows to use ground level open space areas as common open space for the enjoyment of residents and visitors to the ACF.

- An arboricultural assessment report provides a detailed assessment of trees to be retained that those to be removed within the site. The landscape plan prepared by *Trish Dobson Architecture* includes a mix of native landscape planting that used screening plants, massed planting where appropriate and lawn areas with canopy trees to provide a landscape setting for the building. Edge planting is also used along the driveway and against the side of the building where appropriate to provide a buffer to adjacent property or the edge of the building to soften the appearance of hard surface areas.

- The landscaping proposed will not unreasonably obstruct driver or pedestrian visibility and provides visual interest to the building when viewed from street. Landscaping elements are integrated in to the building design by the use of wide setbacks and building modulation, including planter boxes on balcony spaces at the front and rear elevations.

- Overall a landscape setting is maintained for the building despite the offset or loss of space taken up by right of way area at the north eastern corner (adjacent carpark access) and the through access driveway required for the rear of No.1 Seabeach Avenue.

(Note: In addition, to the above merit assessment see further comments within this report under the heading "SEPP (Housing for Seniors or People with a Disability) 2004" regarding non-compliance with the SEPP provisions for landscape open space)

D9.6 Front building line

The proposal has a partial non-compliance for two protruding sections of the front wall elevation that is on a front setback alignment of 5.7m, rather than the minimum required *6.5m or greater corresponding building alignment*.

-
Comment:
Merit consideration of the non-compliance with the front setback control is addressed as follows:

- It is considered that the ACF building proposed satisfies the objectives of the front setback control by a design appearance that is consistent with the desired future character of the Locality that is consistent with other medium density development nearby and the building is in keeping with the height of the natural environment.

- The proposal does not have an unreasonable impact on views and vistas to and/or from public/private places and the setback reinforces and appropriately relates to the spatial characteristics of the existing urban environment.

northern beaches council

- The setback does not unreasonably impact on the amenity of residential development adjoining, including pedestrian safety, landscaping and vehicle access / egress, subject to conditions.

D9.7 Side and rear building line

The proposal includes a variation to the rear setback for the basement ramp that is setback 1.2m (at 1m deep) to 3.4m (midway along the ramp) until it curves back under the building at the 6.0m rear setback.

Merit consideration of the variation to the rear setback is addressed as follows:

Comment:

- The overall design of the bulk and scale of the building, landscaping setting and spatial separation to adjacent development is considered to be consistent with the desired future character of the Locality in the context of the objectives for the R3 Medium Density Zone. The variation to the rear setback for the basement ramp does not create an unreasonable impact on surrounding amenity and is required to optimise access in connection with the adjacent driveway right of way required that connects to the rear parking area within No.1 Seabeach Avenue.

- The outlook and views from adjacent adjacent private land is not affected by the basement ramp within the rear setback and the ramp structure includes border landscaping to buffer and soften the appearance of the structural walls where the ramp descends through the rear landscaped setback into the basement carpark. Selected new screening plants (as shown on the landscape plan drawn by *Trish Dobson*) will be provided to soften the appearance of the ACF and provide border planting, when viewed from adjacent land at the rear.

- A reasonable level of privacy, amenity and solar access is provided for the rear setback area by a design the responds to the site characteristics and existing constraints for access to the adjacent carparking area. The above ground elements of the building comply with the rear setback and the proposal is considered to be consistent with the pattern of medium density development in the surrounding area.

(Note: Requirements under SEPP HSPD for 25% of the rear setback to be single storey apply to Low Density Residential zones)

D9.9 Building envelope

A merit assessment of the *side boundary envelope* control is addressed as follows:

Comment:

- The proposal achieves compliant setback to meet the building envelope projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries, with only a minor encroachment for the eaves for part of the roof projection. Eaves are permissible to encroach within the envelope and provide shade, water protection and visual interest to the building form.

- The spatial separation of and design of the building is consistent with the desired future character of the Locality by providing a built form that, while modern in style and

northern beaches council

appearance, responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment. The side boundary envelope setbacks proposed to not have an unreasonable impact on views and vistas to and/or from public/private places. In unison with the mix of landscape screen planting and landscape design proposed for the setback areas the building will provide a suitable fit to the existing medium density streetscape and promote a building scale and density that is comparable to the height of the canopy trees to be replanted and the trees that exist on adjacent land.

- The bulk and scale of the built form has been appropriately addressed by a incorporating recessed elements, balconies, landscape planters and window elements including variation in colours and materials. The building design is considered to maintain a reasonable level of privacy, amenity and solar access within the development site and similarly no unreasonable amenity impact to adjacent residential properties.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of $119,493 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $11,949,289.

CONCLUSION

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

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

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

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

northern beaches council

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

The proposal has been assessed as an Aged Care Facility (ACF) which is a permissible use pursuant to the SEPP (*Housing for Seniors or People with a Disability*) 2004. The principal assessment concerns raised during the assessment period are related to traffic and parking access, relocation of an existing right of way, privacy, overshadowing, urban character, landscaping, setbacks, views, construction impacts (during works) and stormwater.

The provisions of SEPP HSPD prevail over the Pittwater LEP and DCP and in this case the non-compliances with the FSR and landscaping controls are standards that "*cannot be used to refuse development consent*" pursuant to the SEPP, and therefore are addressed in accordance with Clause 48 of the SEPP. The proposal is considered to satisfy the objectives of the SEPP and is consistent with the Design Principles as well as site related requirements such as building height, carparking, accessibility, support services and infrastructure.

The requirements of Pittwater LEP and DCP apply in-so-far as particular considerations that the SEPP does not include those relevant considerations. In this regard matters relating to desired future character, setbacks, building envelope, bulk and scale, external materials, overshadowing, privacy, stormwater, views and traffic have been addressed. Suitable conditions are recommended to address assessment considerations detailed in the engineering, traffic and landscape referral responses and the proposal will not have an adverse impact on the adjacent heritage item of No.22 Darley Street East. Other internal referral considerations from Environmental Health, Waste Services, Building Assessment, Traffic and Development Engineering have been addressed by conditions as recommended.

Public submissions received have been considered and addressed within this report and conditions applied where appropriate to address those concerns. During the assessment period some design changes were made by the applicant to address issues relating to driveway safety, waste services, building bulk and external appearance. As a result, the proposal was reduced from 51 to 50 rooms in order to improve building articulation and address urban design considerations including of general amenity, landscaping, privacy, bulk and streetscape.

In summary, the proposal will replace an existing nursing home with a new multi-storey aged care facility and is considered to be satisfactory development for the zone and in context with the residential scale and intensity of the medium density residential zone.

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0860 for Demolition and construction of a Residential Care Facility including basement parking on land at Lot 52 DP 881594, 24 Darley Street East, MONA VALE, subject to the conditions printed below:

northern beaches council

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
DA-02 D Site Plan	24.4.2020	Gartner Trovato Architects
DA-03 D Basement and Carpark Plan	24.2.2020	Gartner Trovato Architects
DA-04 F Ground Floor Plan	24.4.2020	Gartner Trovato Architects
DA-05 D Level 01 Floor Plan	24.2.2020	Gartner Trovato Architects
DA-06 D Level 02 Floor Plan	24.2.2020	Gartner Trovato Architects
DA-07 D Elevations North East and North West (including External Finishes)	24.2.2020	Gartner Trovato Architects
DA-08 D Elevations South East and South West (including External Finishes)	5.12.2019	Gartner Trovato Architects
DA-09 B Sections A+B+C	24.7.2019	Gartner Trovato Architects

Engineering Plans		
Drawing No.	**Dated**	**Prepared By**
SW1 Stormwater Management Plan	24.6.2019	Barrenjoey Consulting Engineers
SW2 Stormwater Management Detailing 1	24.6.2019	Barrenjoey Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Access for People with a Disability Compliance Report 219153	17.7.2019	Accessible Building Solutions
Building Code of Australia Report 19-213367	21.7.2019	Philip Chun Building Code Consulting
Arboricultural Impact Assessment	June 2019	Urban Forestry Australia
Geotechnical Investigation Report J2256	26.7.2019	White Geotechnical Group Pty Ltd

northern beaches council

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent. For the purpose of conditions "interim / final" allows for the Principal Certifying Authority to select suitable timing or phase to achieve satisfactory completion and practical co-ordination of works.

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

Landscape Plans		
Drawing No.	**Dated**	**Prepared By**
DA-L01 Landscape Plan	9.8.2019	Trish Dobson Landscape Architecture
DA-L02 Planting Schedule + Tree Retention	9.8.2019	Trish Dobson Landscape Architecture
DA-L03 Front Elevation + Specifications	9.8.2019	Trish Dobson Landscape Architecture

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

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

2. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	**EDMS Reference**	**Dated**
Ausgrid	Response Ausgrid Referral	21.9.2019

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Approved Land Use**
Nothing in this consent shall authorise the use of site / building structures as detailed on the approved plans for any land use of the site beyond the definition of a residential care facility.

*"**residential care facility** is residential accommodation for seniors or people with a disability that includes—*

(a) meals and cleaning services, and

(b) personal care or nursing care, or both, and

(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility."

(as defined by *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*)

northern beaches council

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) Where applicable,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) Where applicable, 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

northern beaches council

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.

5. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) 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.

northern beaches council

(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) All sound producing plant, equipment, machinery or fittings that are permanent fixtures for the building and their ongoing use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room (s) consistent with the Environment Protection Authority's NSW *Industrial Noise Policy* and/or *Protection of the Environment Operations Act 1997*.

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

6. **Staff and Contractor Parking**
The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure minimum impact of construction activity on local parking amenity (DACTRBOC1)

7. **Demolition Traffic Management Plan**
As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to

northern beaches council

and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-
• Make provision for all construction materials to be stored on site, at all times.
• The DTMP is to be adhered to at all times during the project.
• Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
• Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
• Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
• Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
• Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
• Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
• Specify spoil management process and facilities to be used on site.
• Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site (DACTRBOC2)

FEES / CHARGES / CONTRIBUTIONS

8. **Policy Controls**
Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of $119,492.89 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of $11,949,289.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate

northern beaches council

where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

9. **Security Bond**

A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works Bond (Drainage works)**
The applicant is to lodge a bond of $40,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

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

northern beaches council

11. **Stormwater Disposal**
The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's PITTWATER DCP21, MANAGEMENT 2003.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows and the compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

12. **Geotechnical Report Recommendations Incorporated into Designs and Structural Plans**
The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical dated 26/7/19 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Traffic Management and Control**
The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

14. **Boundary Fencing**
Any replacement boundary fencing, if required shall be at the applicants expense and 'lapped and capped' timber palings or a similar standard, and in consultation with the adjacent affected property owner where required by the *Dividing Fences Act 1991*.

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

Reason: To ensure maintain privacy and minimize impacts upon adjoining land.

15. **Boundary Identification Survey**
A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

northern beaches council

issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

16. **On-site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's PITTWATER DCP21, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineers, drawing number SW1DA and SW2DA, dated 24/6/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

17. **Submission of Roads Act Application for Civil Works in the Public Road**
An Application for the stormwater drainage works to be approved within Darley Street East Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the retaining walls through the nature strip and driveway crossing which are to be generally in accordance with the Development Application, Concept Drainage Plan by Barrenjoey Consulting Engineers(SW1DA, SW2DA) and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy. The plan shall be prepared by a qualified civil engineer.

The design must include the following information: The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

18. **Shoring of Adjoining Property**
Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

northern beaches council

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

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

Reason: To facilitate suitable vehicular access to private property.

20. **Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**
Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

Reason: To ensure geotechnical risk is managed appropriately.

21. **Pre-commencement Dilapidation Report**
The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

Reason: Protection of Council's and Private Party's Infrastructure during construction.

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

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

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

23. **Construction Traffic Management Plan**
As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:-
• The proposed phases of construction works on the site, and the expected duration of each construction phase;
• The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
• Make provision for all construction materials to be stored on site, at all times;
• The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
• The proposed method of access to and egress from the site for construction vehicles, including access routes and truck rates through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no

northern beaches council

access across public parks or reserves being allowed;
• The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
• Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
• Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
• Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
• The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
• Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
• Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
• The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
• Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
• The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
• Proposed protection for Council and adjoining properties;
• The location and operation of any on site crane; and

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site. (DACTRCPCC1)

24. **Waste and Recycling Requirements**
Details demonstrating compliance with Northern Beaches Council Development Control Plan -

northern beaches council

Waste Management requirements, including a Waste Management Plan, to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Council Development Control Plan requirements causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

25. **Pre-Construction Dilapidation Report**
Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items. Including but not limited to, subject to the direction of the Certifying Authority:

- No.22 Darley Road East;
- No.28 Darley Road East; and
- No.1 Seabeach Avenue.

The dilapidation report is to be prepared by a suitably qualified person and the extent of detail should be appropriate to the scope of works required potentially affecting adjacent land. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

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

northern beaches council

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

27. **Tree trunk, branch and root protection**

(a) Existing trees which must be retained

i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
iii) All tree protection to be in accordance with the recommendations of the Arboriculture Impact Assessment dated June 2019 prepared by Urban Forestry Australia and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
iv) All tree pruning within the subject site is to be in accordance with relevant local planning requirements and AS 4373 Pruning of amenity trees
v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

28. **Project Arborist**

The following tree management / landscape requirements apply:

i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboriculture Impact Assessment dated June 2019 prepared by Urban Forestry Australia and AS4970-2009 Protection of trees on development sites.
iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

29. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30. **Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at

northern beaches council

all times during the course of the work.

Reason: Public Safety.

31. **Removing, Handling and Disposing of Asbestos**
Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:
   - Work Health and Safety Act;
   - Work Health and Safety Regulation;
   - Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
   - Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
   - Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
   - The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

32. **Notification of Inspections**
Council's Development Engineer is to be given 48 hours notice when the works reach the following stages: (a) Installation of Silt and Sediment control devices
(b) Prior to backfilling of pipelines
(c) Prior to pouring of stormwater gully pits
(d) Prior to pouring of kerb and gutter
(e) Subgrade level / basecourse level / subbase
(f) Sealing road pavement
NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

33. **Traffic Control During Road Works**
Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual *(http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf*) and to the satisfaction of the Principal Certifying Authority.

Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

34. **Vehicle Crossings**
The provision of one vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal High and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete.

northern beaches council

All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

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

Reason: Public Safety.

36. **Temporary Sediment**
Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Reason: To reduce erosion and prevent sediment runoff into public assets

37. **Site Entry Access way**
An all-weather access way at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.

Reason: To reduce sediment being taken offsite

38. **Cleaning of Vehicles Leaving Site**
Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

Reason: To reduce sediment being taken offsite

39. **Stormwater Pipeline Construction**
Where connection to Council's nearest stormwater drainage system is required, being Darley Street East, the applicant shall construct the pipeline in accordance with AUSPEC specification for engineering works (see www.northernbeaches.nsw.gov.au) and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels.

All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

40. **Requirement to notify about new Acid Sulfate Soils evidence**
Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

northern beaches council

An Acid Sulfate Soils Management Plan is to be prepared by a suitably qualified geotechnical engineer and in accordance with the Acid Sulfate Soils Manual (ASSMAC, 1998) and submitted to the Council for review.

Reason: To protect the environment and private & public infrastructure (DACHPEDW5)

41. **Notification about rock-breaking**

If rock-breaking is associated with the development of the site, it must only occur between the hours of:

- 9.00 AM – 5.00 PM on weekdays (Monday – Friday).

Rock-breaking activities must not occur on weekends or public holidays. Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public. (DACHPEDW6)

42. **Implementation of Demolition Traffic Management Plan**
All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project. (DACTREDW1)

43. **Implementation of Construction Traffic Management Plan**
All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

northern beaches council

(DACTREDW2)

44. **Waste/Recycling Requirements**
During demolition and/or construction the proposal/works shall implemented and generally consistent with the submitted Waste Management Plan, to the satisfaction of the Principal Certifying Authority.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

45. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible. (DACWTE02)

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

46. **Landscape completion certification**
a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.
b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

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

47. **Condition of retained vegetation**
Prior to the issue of an Occupation Certificate a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

a) Compliance to Arborist recommendations for tree protection and excavation works.
b) Extent of damage sustained by vegetation as a result of the construction works.
c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.

48. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**
A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's

standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Works as executed drawings and the design engineers certification of the On site stormwater detention system is to be provided with the submission of the :egal Documents approval to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.
Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

50. **Regulating Authority of food operations notification**
Prior to the issue of the Occupation Certificate, the proprietor of the food business must notify the relevant regulatory authority of their business operations. Registration with that authority must be completed and submitted prior to commencement of trade.

Reason: To ensure compliance with legislation and the Australia and New Zealand Food Standards Code.

51. **Garbage and Recycling Facilities**
All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

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

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)

52. **House / Building Number**
The building street address number is to be affixed to the fence / pedestrian entry to be readily visible from the public domain.

northern beaches council

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

Reason: Proper identification of buildings.

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

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

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

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

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

54. **Traffic Signal System**
To prevent conflicting vehicle flows on the internal driveways and basement garage ramp, a traffic signal system must be installed at each vehicle entry point, designed to warn drivers about to enter the road, ramp or driveway of any conflicting vehicle approaching.

The signal system must;
• be clearly visible from entrances,
• is to clearly indicate to an approaching driver, by way of red light or wording, that an opposing vehicle has entered the driveway or ramp,
• Incorporate linemarking to delineate traffic flow and nominate waiting bay locations to allow vehicles to overtake another.

Details of the system, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Accredited Certifier that the system has been installed and operating as designed, in accordance with the requirements of this condition, prior to the issue of any Occupation Certificate issued for the development.

Reason: To ensure no vehicle conflicts within the basement carpark. (DACTRFPOC1)

55. **Accessible Parking Spaces**
Where accessible parking spaces are provided they must be in accordance with AS2890.6:2009

Reason: To ensure compliance with Australian Standards. (DACTRFPOC2)

56. **Waste and Recycling Facilities Certificate of Compliance**
The proposal shall be constructed in accordance with Northern Beaches Development Control Plan – Waste Management

northern beaches council

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

57. **Waste/Recycling Compliance Documentation**
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

58. **Landscape maintenance**
i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

59. **Commercial Waste Collection**
Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

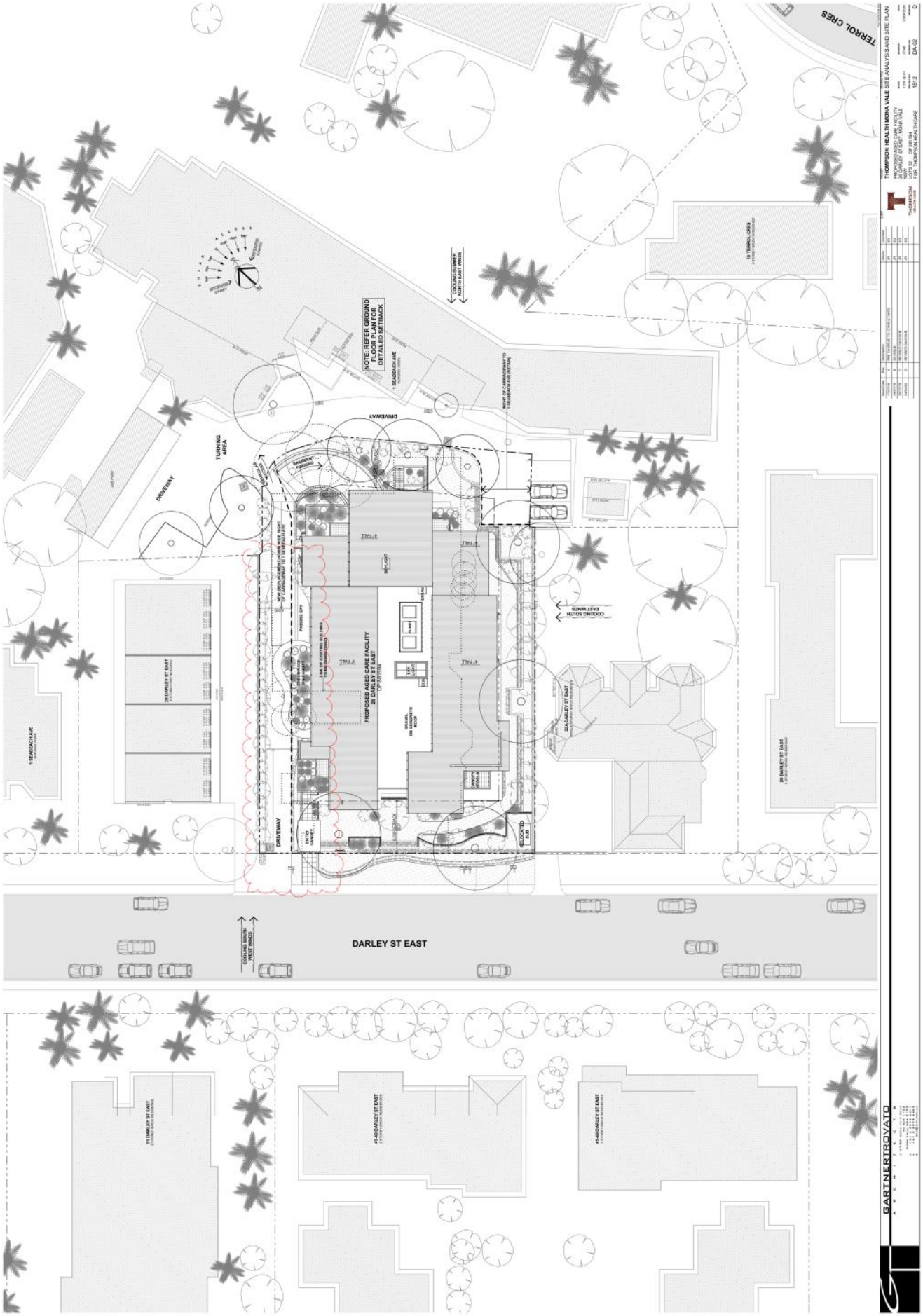
In signing this report, I declare that I do not have a Conflict of Interest.

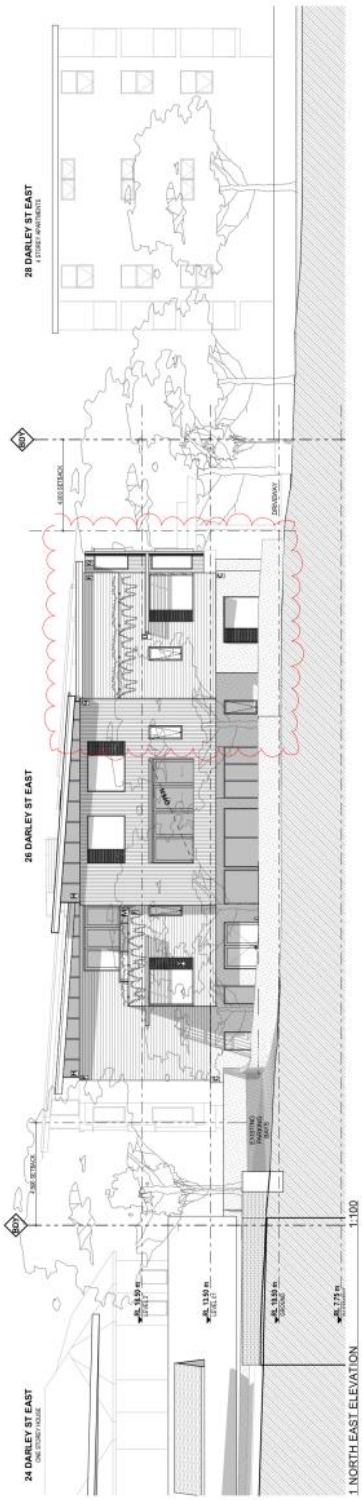
Signed

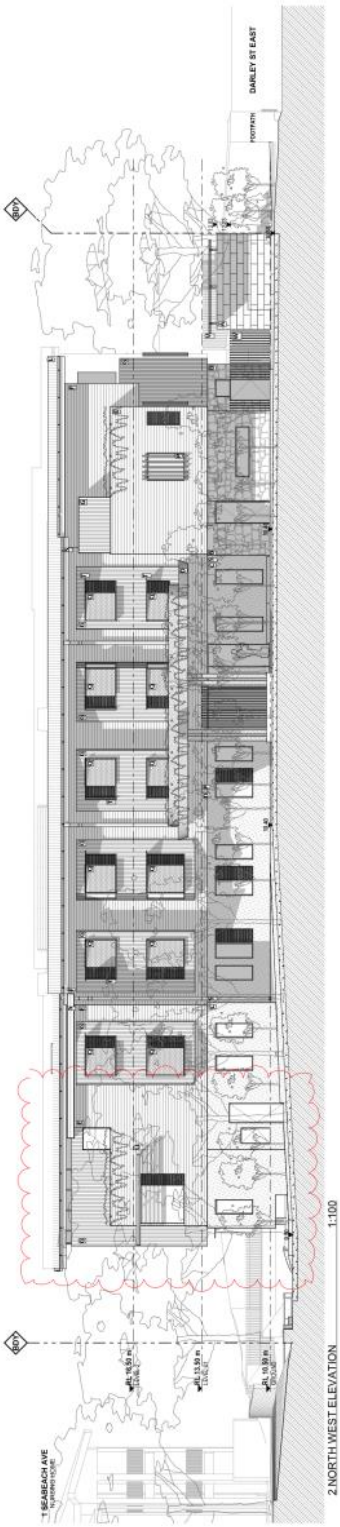
Steven Findlay, Manager Development Assessments

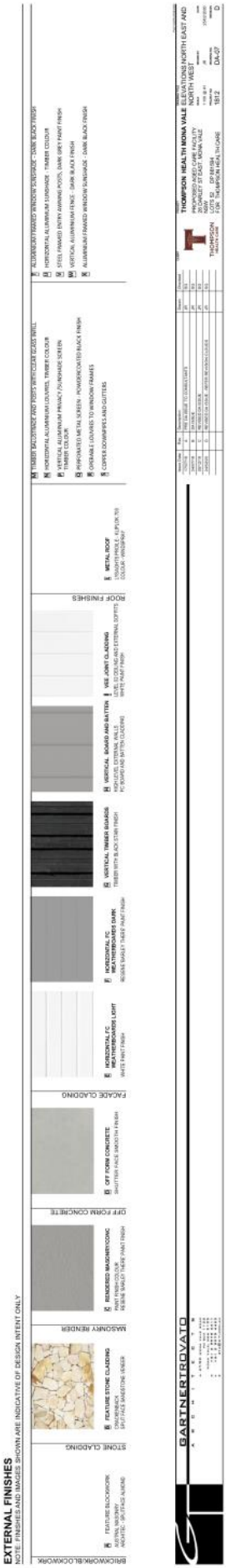
The application is determined on //, under the delegated authority of:

Steven Findlay, Manager Development Assessments

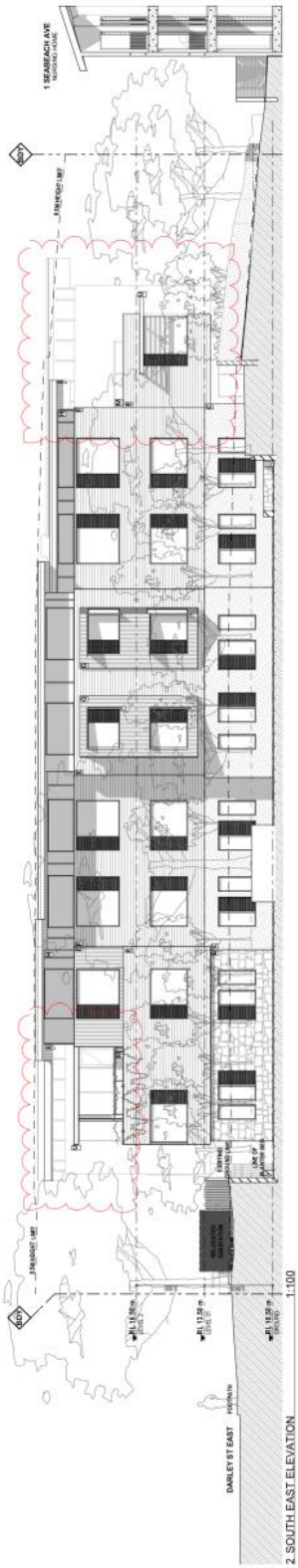

TERROL CRES
DARLEY ST EAST
DRIVEWAY
TURNING AREA
PROPOSED AGED CARE FACILITY
20 DARLEY ST EAST
NOTE: REFER GROUND FLOOR PLAN FOR DETAILED SETBACK
COOLING SOUTH WEST WINDS
COOLING SOUTH EAST WINDS
COOLING SUNNY NORTH EAST WINDS
THOMPSON HEALTH MONA VALE
BARTNER TROVATO

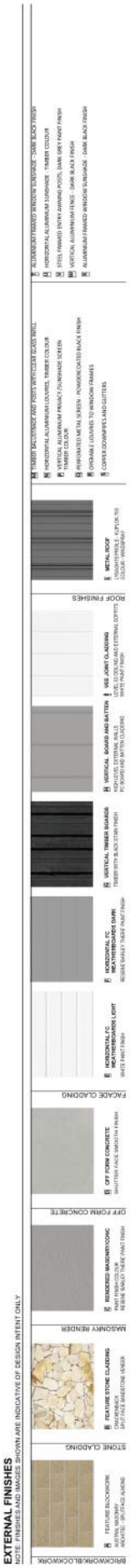

28 DARLEY ST EAST
26 DARLEY ST EAST
24 DARLEY ST EAST
1:100
1 NORTH EAST ELEVATION


DARLEY ST EAST
SEABEACH AVE
1:100
2 NORTH WEST ELEVATION


EXTERNAL FINISHES
BRICKWORK/BLOCKWORK
STONE CLADDING
MASONRY RENDER
OFF FORM CONCRETE
FACADE CLADDING
ROOF FINISHES
THOMPSON HEALTH MONA VALE
BARTNERTROVATO

24 DARLEY ST EAST
26 DARLEY ST EAST
28 DARLEY ST EAST
1:100
1 SOUTH WEST ELEVATION


1 SEABEACH AVE
DARLEY ST EAST
1:100
2 SOUTH EAST ELEVATION


EXTERNAL FINISHES
BRICKWORK/BLOCKWORK
STONE CLADDING
MASONRY RENDER
OFF FORM CONCRETE
FACADE CLADDING
ROOF FINISHES
THOMPSON HEALTH MONA VALE
BARTNERTROVATO