

# AGENDA

## DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held on

**WEDNESDAY 10 FEBRUARY 2021**



**Ashleigh Sherry**  
**Manager Business Systems and Administration**





## **Agenda for a Meeting of the Development Determination Panel to be held on Wednesday 10 February 2021**

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

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 20 JANUARY 2021**

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#### **RECOMMENDATION**

That the Panel note that the Minutes of the Development Determination Panel held 16 December 2020 were approved by all Panel Members and have been posted on Council's website.

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### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

**ITEM 3.1**

**MOD2020/0498 - 70 LAUDERDALE AVENUE, FAIRLIGHT -  
MODIFICATION OF DEVELOPMENT CONSENT DA2020/0092  
GRANTED FOR DEMOLITION OF EXISTING STRUCTURES,  
CONSTRUCTION OF TWO (2) SEMI-DETACHED DWELLINGS  
AND TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO**

**REPORTING MANAGER**      **Anna Williams**

**TRIM FILE REF** **2021/064311**

**ATTACHMENTS**

**1 Assessment Report**

**2 Site Plan & Elevations**

## PURPOSE

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

## RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approves** Mod2020/0498 for Modification of Development Consent DA2020/0092 granted for demolition of existing structures, construction of two (2) semi-detached dwellings and Torrens title subdivision of one lot into two on land at Lot 1 DP 965132, 70 Lauderdale Avenue, Fairlight, subject to the conditions outlined in the Assessment Report.

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0498
<b>Responsible Officer:</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 1 DP 965132, 70 Lauderdale Avenue FAIRLIGHT NSW 2094
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0092 granted for demolition of existing structures, construction of two (2) semi-detached dwellings and Torrens title subdivision of one lot into two
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Jason Barry Warburton Idette Kristine Warburton Katherine Sarah Hadfield John Malcolm Boulton
<b>Applicant:</b>	Jason Barry Warburton
<b>Application Lodged:</b>	01/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	22/10/2020 to 05/11/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	4.4 Floor space ratio: 9.7%
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

The proposal is referred to the Development Determination Panel (DDP) as it is a 4.55(2) modification application to a development previously determined by the DDP and modification to a previous condition of the Panel is required. The modification application received one (1) submission that has been addressed with information supplied by the applicant and modified conditions as recommended. The proposed modification involves the re-planning (rationalisation) of the floor layouts of the approved semi-detached dwellings and a general lowering of the floor levels and roof elements, as detailed in the

revised architectural plans prepared by *Marston Architects*.

The modification is made pursuant to under Section 4.55(2) due to the variation to the FSR now proposed that is assessed on its merits whereby the mechanism of 'Clause 4.6' is not required to be employed for a "Section 4.55" modification application. However, a detailed assessment of the proposed variation has been provided pursuant to the relevant Manly LEP and Manly DCP objectives. Overall the proposal is considered to be 'substantially the same' and seeks to modify the approved development to reflect minor design changes to the approved semi-detached dwellings, which are largely within the envelope of the approved development form and will not see any increase in the overall height of the development or reduction in the principal setbacks to the existing site boundaries.

The proposed modification to building is considered to remain suitable and appropriate development for the site and is in context with the residential scale and intensity of the residential zone. Principal environmental impact considerations reviewed (including the original reasons for development consent) are views, bulk, landscaping, traffic and parking access, building height (including walls and envelope), privacy, overshadowing, urban character, construction impacts (during works) and stormwater management. The proposal maintains consistency with those considerations and with no unreasonable impact for the modification on the surrounding environment.

The public submission (1) received has been considered and addressed within this report and modified conditions have been applied where appropriate to address those concerns.

The modified proposal will not have an unreasonable impact in relation to view sharing considerations for properties in Rosedale Avenue and no change to engineering, traffic and landscape conditions is required. During the assessment period, no changes were made by the applicant that would require re-notification and some supplementary information was provided to further resolving submission issues raised from No.72 Lauderdale Avenue.

The planning controls under the Manly LEP and Manly DCP apply and in this regard matters relating to the change to FSR are addressed in accordance with the objectives and requirements of those considerations. Other considerations of setbacks, height, landscaping, privacy, amenity and the like have been considered and the modified proposal is considered to remain substantially the same as DA2020/0092

Subject to modified conditions (including the amended plans), no issues have been raised that warrant refusal of the modification application.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks to modify a recent approval granted for the demolition of existing structures and construction of a two (2) semi-detached dwelling houses with a two (2) car garage for each dwelling house on the subject land. Details of the changes proposed are summarised as follows for both approved dwellings (No.70A & 70B):

### **FL 34.395 Basement (modified)**

- Minor additional excavation within the footprint of the upper levels for each dwelling, to provide for additional area for water tank storage and an area for air-conditioning plant, in order to reduce potential acoustic issues for the neighbouring properties. The proposed floor level of the basement has been lowered from the approved RL 34.58 to a revised floor level of RL 34.395 (lowered by 185mm).

**FL 37.245 Lower Ground Floor Level (modified)**

- Re-planning of the lower ground floor level for each dwelling and the repositioning of the approved study and laundry facilities, with the enclosure of previously open undercroft space which was partially screened from the neighbouring view through external screening elements. With the re-planning of the floor plan layout, the external window openings to the eastern and western boundaries have been rationalised, such that each dwelling now only presents a small bathroom window in its side elevation at the lower ground floor level, significantly reducing any opportunity for overlooking of the neighbouring properties.
- The floor level of the lower ground floor level has been lowered from the approved RL 37.43 to a revised floor level of RL 37.245 (lowered by 185mm).
- The approved air-conditioning plant has been relocated to the basement level.

**FL40.395 Ground Floor Level (modified)**

- Re-planning of the ground floor level to provide for the extension of the dining area for each dwelling to remove an approved internal void space. No new external window openings are proposed and the approved louvre privacy screens to the eastern and western elevations will be maintained.
- The floor level of the ground floor level has been lowered from the approved RL 40.56 to a revised floor level of RL 40.395 (lowered by 165mm)

The proposed architectural modifications as outlined above, including the lowering of the floor levels results in the corresponding reduction in the overall height of the proposed roof, with the north-east facing clerestory roof element over the kitchen being lowered from RL 44.88 to **RL 44.695** (lowered by 185mm).

The maximum height of the proposed garage roof has been reduced from RL 44.64 to RL 44.39 (lowered by 250mm).

As a result of the reconfigured sections of floor space to enclose part of the side balcony and move the laundry under the entry area (adjacent the courtyard) the FSR increases for both dwellings (or the development as a whole. (Note: as a Modification of Consent 'clause 4.6' is not required to be addressed despite the variation to the LEP development standard. An assessment is provided on the merits only pursuant to the FSR control and not clause 4.6)

**Subdivision**

- 70B - Proposed Lot 10 (364.3sqm) No change
- 70A - Proposed Lot 11 (302.7sqm) No change



## 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 - 4.4 Floor space ratio

Manly Local Environmental Plan 2013 - 4.5 Calculation of floor space ratio and site area

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

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

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 965132 , 70 Lauderdale Avenue FAIRLIGHT NSW 2094
<b>Detailed Site Description:</b>	<p>The subject land has a dual road frontage to Lauderdale Avenue and Rosedale Avenue with an angled boundary along Rosedale Avenue. The site width varies from 21.1 metres (m) to 22.9m and has a depth that varies from 26.3m to 38.0m with a total area of 667.1 square metres (sqm). The land falls steeply toward Lauderdale Avenue, having a fall of 9.2m from north to south. The Lauderdale Avenue frontage has a 3.0m high embankment below the site and therefore only pedestrian access is available from this road. The site currently contains two storey dwelling house and garage with landscaped gardens presenting to Lauderdale Avenue, and using Rosedale Avenue as the secondary frontage.</p> <p>The area surrounding the site is predominantly represented by a mix of development comprising one, two and in some</p>

instances, three level detached single and multi-occupancy dwellings and residential flat buildings.

The adjoining property to the east is occupied by a residential flat development, with the adjoining properties to the west being developed with single dwellings.

Development in the vicinity has been designed with living areas and associated open space that are oriented to take advantage of the significant views to Reef Bay and to Sydney Harbour further to the south-east.

The site is not identified as containing any threatened species habitat or items of environmental heritage.

Map:





*height and substantial FSR non-compliance that would be created as a result of the subdivision of the land. The new lots proposed to be created are insufficient in providing a useable and reasonable area for built form and appropriate landscaping. An increase in landscape area at the front setback and details of change in street parking / access should be included with the proposal"*

**Development Application No.2020/0092** for the "demolition of existing structures, construction of two (2) semidetached dwellings and Torrens Title subdivision of one lot into two." was approved by Council on 12 August 2020.

## 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 DA2020/0092, 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	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/0092 in making that assessment the following assessment and analysis is made:</p> <p>Consideration of whether a development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted, Justice Bignold established the following test in the Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289 where His Honours states:</p> <p>"[54] The relevant satisfaction required by s96(2)(a) to</p>

Section 4.55 (2) - Other Modifications	Comments
	<p><i>be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.</i></p> <p><i>[55] The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development.</i></p> <p><i>[56] The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."</i></p> <p>The applicant has provided the following justification to support their argument that the modifications are substantially the same:</p> <ul style="list-style-type: none"> <li><i>"The works seek to provide for minor alterations to the approved form of the development and which do not substantially alter the building's bulk and scale. The proposed changes will introduce a minor lowering of the building and the predominant side rear and Street setbacks will be maintained.</i></li> <li><i>The changes do not introduce any significant issues for the neighbouring properties in terms of view loss or privacy.</i></li> <li><i>When viewed from the public domain or from the neighbouring properties, the building will largely present the same visual impact and appearance to that originally approved.</i></li> <li><i>Similarly, the application is substantially the same development when subjected to a "quantitative comparison", as the works provide for "Demolition of existing structures, construction of two (2) semi-detached dwellings and Torrens title subdivision of one lot into two" in a location and to a form which is consistent with the consent."</i></li> </ul>

Section 4.55 (2) - Other Modifications	Comments
	<p>Reviewing the above comments and the court judgement by Justice Bignold established in the <i>Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289</i> it is concurred that the proposed modification is consistent with the (original) consent and can be considered under Section 4.55 of the Act.</p> <ul style="list-style-type: none"> <li>• The proposed revisions will see an increase in the total gross floor area of 47.73sqm to a proposed FSR for the combined development of 0.548:1, which exceeds Council's maximum control of 0.5:1 under clause 4.4 of the Manly Local Environmental Plan 2013. The changes are limited to areas hidden from being readily perceived from the street view and do not expand the height, envelope or alter the primary outer setbacks for the building footprint.</li> <li>• The additional floor space is achieved by infill underneath the entrance hallway and infill of a void area to the side balconies. This enables a more rational and practical floor layout to the ground floor and improved internal living space without compromising the amenity, privacy, views, solar access or landscape setting of the building.</li> <li>• The modified development results in a minor reduction in height across the floor levels and roof levels of the dwelling.</li> </ul>
(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 DA2020/0092 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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Environmental Plan 2011 and Manly Development Control Plan.

Section 4.55 (2) - Other Modifications	Comments
(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	
(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 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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;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.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Following the completion of the notification period some additional plans and information was</p>



Section 4.15 'Matters for Consideration'	Comments
	<p>submitted of a minor nature (see drawings dated 2.11.2020 by Marston Architects) and was otherwise capable of being addressed by modification conditions to achieve the same outcome with the construction certificate. Renotification of the plans / information is therefore not required by the Community Participation Plan.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed modification of the development and review of the original DA file, assessment report and any submissions and relevant reports has been made to ensure consistency and consideration in the context of the modifications provided and the applicants reasons for modification as submitted with the documents received.
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 modification application in the public interest.

Section 4.15 'Matters for Consideration'	Comments

#### 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 from 22/10/2020 to 05/11/2020 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 Michelle Montgomery	72 Lauderdale Avenue FAIRLIGHT NSW 2094

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

- Visual privacy and noise

The matters raised within the submissions are addressed as follows:

- ***Concern that the changes to western wall will result in changes to the fixed louvres, bathroom window privacy and potential bathroom fan ventilation***  
Comment:

In considering and addressing the above matters the applicant has provided a resolution to the objection in that the fixed, angled louvres be installed at the western extremity of the southern/lower floor balcony, matching louvres to western extremity of upper floor southern balcony so as to provide privacy against overlooking 72 Lauderdale Avenue, which is consistent with the existing condition No.24 of the development consent which will remain. The bathroom window to the western external wall will be opaque glass as shown on the modification plans (dated 2.11.2020). The western bathroom fan to be internal with western external wall bathroom fan exhaust vent at its highest point to be not more than 1.6m above existing ground level (below dividing fence height) and covered by an external grille / hood directing exhausted air/ steam and noise downward.

Therefore these issues have been addressed by the applicant and included with a modified condition (that also reflects the same to minimal impact to the eastern boundary for consistency) and therefore do not warrant refusal of the modification application.

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Development Engineering has no objection to the application.  <u>Planning Comment</u> No modification to existing engineering conditions is required as engineer have previously considered parking, vehicle access safety and driveway areas.

## 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

The requirement of SEPP 55 (and Draft SEPP) have been considered and addressed under the original development assessment. No further assessment is required for the modification works.

#### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the modification application (see Certificate No's.1065658M\_03 dated 24 September 2020) for both dwellings.

The BASIX Certificate indicates that the development will achieve the following:

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

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

#### SEPP (Infrastructure) 2007

The requirement of SEPP (Infrastructure) 2007) were considered and addressed under the original development assessment. No further assessment issues pursuant to the SEPP are raised for the modification work.

### 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
Minimum subdivision lot size: (Site area 667.1sqm)	<b>300sqm</b>	<b>Lot 10 (70B)</b> 364 sqm	No change	N/A	Yes
		<b>Lot 11 (70A)</b> 303.1 sqm	No change	N/A	Yes
Height of Buildings: (EGL from existing floor level slab)	<b>8.5m</b>	<b>Dwelling 70B</b> 8.5m	8.315m	N/A	Yes
		<b>Dwelling 70A</b> 8.5m	8.315m	N/A	Yes
Floor Space Ratio (FSR)	<b>0.5:1</b> (333.55sqm)	0.477:1 (318.47sqm)	0.548:1 (366.2sqm)	9.7% (32.6sqm)	No*
	182sqm	Post subdivision Lot 10 / 70B	Post subdivision 0.45:1 (162sqm)	N/A	Yes
	151.55sqm	Lot 11 / 70A	0.516:1 (179.2sqm)	18.2%	No*

\*See discussion under the heading Floor Space Ratio within this report. A 'modification' of consent is not required to be assessed pursuant to Clause 4.6 (originating with *North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163*) whereby legal precedence established that Section 96 [now section 4.55] is a 'free-standing provision' [of the Act], meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". Meaning that Section 96 [Clause 4.55] does not rely upon having any SEPP 1 objection or Clause 4.6 variation in order to enliven or validate that power to assess and approve a variation to a development standard sought via a modification application.

Manly LEP Note: "*The site area is taken to be: if the proposed development is to be carried out on only one lot, the area of that lot*". Therefore, while the variation to proposed Lot 11 is 18.2% the variation to the site as a whole is 9.7% due to the differences in the balance of site areas between the two Lots.

### Compliance Assessment



Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.1 Minimum subdivision lot size	N/A
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	No
4.6 Exceptions to development standards	N/A
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes
6.15 Tourist and visitor accommodation	Yes

#### Detailed Assessment

#### **4.4 Floor space ratio**

A merit assessment pursuant to *Clause 4.4 Floor Space Ratio* in consideration of the modification proposed is provided as follows:

#### Merit Consideration

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

#### Comment

The modification maintains consistent building bulk with that approved and is consistent with the streetscape and character of the surrounding development. The proposal maintains compliance with the minimum lot area and a single storey appearance to Rosedale Avenue and part 2 storey appearance to Lauderdale Avenue with a wide landscape setting to this lower street. The changes proposed to the approved building maintain the principal outline of the building footprint with minor changes and no unreasonable impact on the DFC and without creating an adverse precedent with respect to residential bulk and scale for the semi-detached dwellings.

- *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 change to the FSR has been achieved by rationalising the approved floor plan to a more practical layout that is suitable for the different floor levels within the building. Landscaped areas are concentrated toward Lauderdale Avenue and the integration and distribution of landscaping around the building with the modifications proposed is consistent with the original development.

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

Comment:

While the proposal will incur a variation to the FSR the external appearance remains consistent with the approved development and compatible with the streetscape for the two proposed dwellings and the FSR variation does not create an inconsistent pattern against the existing pattern and rhythm of building form for surrounding development or character of the area within the subject residential zone.

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

Comment:

The proposal is consistent with the DCP objective to allow for the flexibility in the siting of buildings while allowing for view sharing and maintaining adequate space between buildings including views and vistas from private and public spaces. The proposal is consistent with maintaining local amenity by the design response to ensure no unreasonable impact on privacy (by windows, balconies, screens, landscaping and the like) and providing equitable access to natural light, direct sunlight and air circulation for the proposed dwellings and the surrounding environment. The FSR changes are generally hidden within the footprint of the building space and under the approved roof / hallway areas. In this regard the modification maintains consistency with the Rosedale Avenue is consistent with the pattern of existing garages also in Rosedale Avenue near the site and will maintain safe and adequate traffic conditions, including visibility for car egress and pedestrians.

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

Comment:

The proposal is not within business zone and does not contain any business activities.

#### 4.5 Calculation of floor space ratio and site area

MLEP Clause 4.5 (9) states that:

**"Covenants to prevent "double dipping"**

*When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot".*

In this case development consent has now been granted and the applicant is seeking an increase in FSR for both dwellings. In support of the proposal the FSR was taken against the whole of the site as the smaller proposed lot would have a much greater variation but the existing land area was sufficient to enable compliance. Infilling of sections in the lower ground floor level seeks to re-introduce elements that were taken out for the DA from the pre-lodgement consideration. The modification seeks to reconfigure elements with the floor area but they rely on previous concern of excavation / undercroft area dug into the front setback.

In addition to the above a modification of consent is a 'self contained' assessment and case law does not require the variation to the development standard of FSR to be subject to the rigorous formal

assessment considerations of Clause 4.6. In addition to this elements of the proposal that are not changing are not subject to further assessment or conditions in that the applicant has not sought to alter that specific element of the approval. The merits of the modification are considered in context of the details proposed for those changes only, and condition for "double dipping" is not warranted as the site is unsuitable to transfer FSR due to the development design being a "pair" of semi-detached dwellings.

### Manly Development Control Plan

#### Built Form Controls

Built Form Controls - Site Area:	Requirement	Approved	Proposed	Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	<b>Density:</b> 1 dwelling per 300sqm	D4 Residential Area	No change	N/A	Yes
		Dwelling 70B - proposed Lot 10: 364sqm	No change	N/A	Yes
		Dwelling 70A - proposed Lot 11: 303.1sqm	No change	N/A	Yes
4.1.2.1 Wall Height*	<b>Dwelling Size:</b> Minimum 90sqm	Dwelling 70B - 162 sqm	Dwelling 70B - 187 sqm	N/A	Yes
		Dwelling 70A - 156 sqm	Dwelling 70A - 179 sqm	N/A	Yes
4.1.2.2 Number of Storeys	2	4.0m	No change	N/A	Yes
		8.0m (based on site gradient 1:4)			
		8.2m	No change	As approved	No*
		8.0m (based on site gradient 1:4)			
4.1.2.2 Number of Storeys	2	8.3m	No change	As approved	No*
		8.0m (based site gradient 1:4)			
		8.3m	No change	N/A	No*
4.1.2.2 Number of Storeys	2	2* (*plus basement lift	No change	N/A	Yes*

		access / stairway and subfloor storage)			
4.1.2.3 Roof Height	Height: 2.5m	1.13m	No change	N/A	Yes
	Parapet Height: 0.6m	0.6m	No change	N/A	Yes
	Pitch: maximum 35 degrees	3 to 14 degrees	No change	N/A	Yes
4.1.4.1 Street Front Setbacks (Lauderdale Avenue)	Prevailing building line / 6m (Lauderdale Avenue)	Consistent with prevailing setback	No change	N/A	Yes*
4.1.4.2 Side Setbacks and Secondary Street Frontages (Rosedale Avenue)	<b>Windows:</b> 3.0m	3.2m to 5.2m (West)	2.1m to 5.2m	30%	No (Bathroom window)
	<b>Wall 1:3</b>	4.9m to 6.8m (East)	1.9m to 5.3m	36%	No (Bathroom window)
		2.1m to 5.2m (West)	No change	As approved	Yes
		1.3m to 5.3m (East)	No change		Yes
	Secondary street frontage: (Rosedale)	Consistent with prevailing setback 0.0m to 6.0m	No change	N/A	Yes
	Minimum frontage <50% for garage structures	>50% for garaged on Rosedale Avenue (11.4m Lot width)	No change	As approved	No
4.1.5.1 Minimum Residential Total Open Space Requirements	Open space 55% of site area (Total site area sqm)	423sqm Site total 63%	No change	N/A	Yes
Residential Open Space Area: OS3	Open space above ground <40% of total open space	45 sqm 14.8%	No change	N/A	Yes
4.1.5.2 Landscaped Area (500sqm to	Landscaped area 35% of open	258.8 sqm 38%	120.2sqm (70A)	N/A	Yes

800sqm site area) (Total site area 667.1sqm)	space		138.6sqm (70B) 258.8sqm (total LOS)	N/A	Yes
				N/A	Yes
	3 native trees	3 trees	No change	N/A	Yes
4.1.5.3 Private Open Space	18 sqm per dwelling	227 sqm Dwelling 70A	213sqm	N/A	Yes
		269 sqm Dwelling 70B	256sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas*	Maximum 50% of frontage up to maximum 6.2m	6.0m garage x 2 lots 12m / 22.9m frontage to Rosedale Ave (site has two frontages)	No change	As approved	No*
Schedule 3 Parking and Access	2 spaces per dwelling	2 spaces per dwelling	No change	N/A	Yes

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

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.1.2 Residential Land Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
4.4.8 Subdivision	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

#### Detailed Assessment

#### **3.4.2 Privacy and Security**

Specific privacy requirements and objectives, pursuant to *Clause 3.4.2 Privacy and Security*, are considered as follows for the modification:

#### Merit Assessment Comments:

- The modified proposal has been designed to ensure no unreasonable loss of privacy to adjacent and nearby development by the use of design responses including window size and placement, including use of narrow or translucent or obscured glass windows to maximise privacy and where necessary the use of screening devices, wall treatments and landscaping.
- Where walls are close to the adjacent boundaries of No. 68 Lauderdale or No. 72 Lauderdale windows are off-set where practicable or designed to ensure no unreasonable impact on the



adjacent dwellings with regard to viewing. The bathroom window location, size and glazing are acceptable for the surrounding residential living environment. The building separation and landscaping is also provided to mitigate impacts on privacy appropriate to residential living in the surrounding residential environment.

- The proposed modification to the approved dwellings of No. 70A and No. 70B have been designed with appropriate response to ensure no unreasonable impacts on privacy (both acoustical and visual) including the use of fixed screening between spaced buildings so that direct viewing is reduced. Submission issues have been addressed by existing conditions or details shown on the modification plans.
- Landscaping and privacy screening devices have been incorporated to mitigate direct viewing between windows and/or outdoor living areas of adjacent buildings. Overall the modified proposal provides an appropriate level of privacy in the context of the surrounding density of the residential living environment without unreasonably compromising access to light and air. Bedrooms areas, being normally occupied less during the day and used for sleeping at night will not be unreasonably impacted.

In summary, the design of the proposed new dwellings provided with the modification maintains a balanced outlook and views from habitable rooms, undercroft areas and private open space with appropriate security.

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

The DCP height requirements and objectives, pursuant to *Clause 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys and Roof Height)*, are addressed as follows for the modification:

##### Merit Assessment Comments:

- The proposal has been marginally lowered for the modification as detailed on the modification plans and the changes are consistent with the original development and not unreasonable or excessive such that they create any unreasonable impacts on view, amenity, overshadowing or building bulk and scale.
- The building presents the same for the modification as single storey when viewed from Rosedale Avenue and two storeys within a sub-floor entry when viewed from Lauderdale Avenue with a Ground Level access at grade.
- The requirements of this clause permit roof parapets to extend up to 0.6m above the actual wall height and the applicant has incorporated the lower height (RL43.5) as per condition No 7 "Amendments to the approved plans", of the development consent conditions, to maintain a minimal impact on views and amenity to adjacent land. The garage roof has also been reduced from RL 44.64 to RL 44.39 (lowered by 250mm).
- In summary, the modified proposal is considered to be of a satisfactory architectural design and built form which is substantially the same with regard to wall height considerations pursuant to the Manly DCP. The changes to selected elements of the external walls do not create any unreasonable impacts of overshadowing, views, bulk or general amenity to adjacent land.

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

#### 4.1.3 Floor Space Ratio (FSR)

Floor space requirements requirements and objectives, pursuant to *Clause 4.1.3 Floor Space Ratio*, are addressed as follows for the modification:

##### Merit Assessment Comments:

- The proposed building on the existing site area no longer complies with the FSR control of 0.5:1. The increased FSR is now 0.548:1 (9.7% variation), however when split between the two proposed lots, the FSR is non-compliant for proposed Lot 11 is 0.516:1 due to the narrower lot depth and irregular lot shape. In this regard, it is noted that the Manly LEP calculates FSR based on the whole of the site area. Overall, the scale of development as modified is substantially the same and does not unreasonably obscure important landscape features as the proposal maintains a single storey appearance from Rosedale Avenue and is compatible in height and scale to adjacent buildings when viewed from Lauderdale Avenue
- The non-compliance with the FSR for the modification proposed does not create an unreasonable disruption to views for adjacent and nearby development as the design of the building (being designed as semi-detached dwellings) maintains a low building roof profile and reasonable side setbacks. The modification maintains consistency with the surrounding bulk and scale of dwellings in the vicinity (visual catchment) of the site and maintains compliant landscape open space that is proportionate to the DCP requirements for lots sizes to be of sufficient dimensions and area to maintain a landscape setting for dwelling houses. The modification maintains consistency with this control.
- The modification to the FSR does not create any unreasonable impact on sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development. This is attributed to a minor lowering of the height of the building as detailed in the description of the proposal and modification plans.

In summary, the proposal is considered to maintain consistency with the FSR objectives pursuant to this clause.

Note: The objective of Manly LEP objectives at clause 4.4(1) have been also considered in context of the DCP requirements.

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

Setback requirements and objectives, pursuant to *Clause 4.1.4 Setbacks (front, side and rear) and Building Separation*, are addressed as follows:

##### Merit Assessment Comments:

- The modified proposal has maintained the existing streetscape, including the desired spatial residential proportions of the street, including the street edge and the landscape character of the



street for Lauderdale Avenue, to which the property is addressed, and will also have pedestrian access from Lauderdale Avenue (as approved).

- The modified proposal is consistent with maintaining local amenity by the design response to ensure no unreasonable impact on privacy (by windows, balconies, screens, landscaping and the like) and providing equitable access to natural light, direct sunlight and air circulation for the proposed dwellings and the surrounding environment. In this regard, setbacks of 1.9m to to 2.1m including recessed elements and breaks in the side walls, despite the new outer wall section maintains consistency with the approved bulk and scale. Building separation is 5.0m to 5.6m along the side setbacks or wider with the non-compliance to the side boundary envelope unchanged and limited to the upper corner of the side elevation (screen elements / parapet) at the southern end of the building (low side of these site fronting Lauderdale Avenue).
- The modification of the proposal does not alter the garage carparking area and minor changes are proposed to the subfloor storage only.
- Adequate side setbacks have been maintained with the modification including integrating stairs and natural features of landscaping including deep soil zones and appropriate planting subject to conditions already applied under the original consent. The setbacks will maintain requirements for *Building Code of Australia* considerations of access, drainage work and emergency requirements (fire safety). The modification does not detract from the context of the site and particularly in relation to street frontages and front and side setbacks including the context of neighbouring properties and the prevailing building lines in the immediate vicinity.
- The modification maintains consistency with the pattern of significant areas of landscaped open space despite the minor change and includes smaller elements of landscaping along side setbacks to provide visual interest and amenity and for the garage entry areas.

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

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

#### **POLICY CONTROLS**

##### **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

The modification work proposed to the approved semi-detached dwellings are considered to be suitable and appropriate and are in context with the residential scale and intensity of approved development in terms of the General Residential zone. Principal environmental impact considerations in the original application were views, bulk, landscaping, traffic and parking access, building height (including walls and envelope), privacy, overshadowing, urban character, construction impacts (during works) and stormwater management. The modification seeks to rationalize selected elements of the floor plan with minor changes to wall sections, undercroft areas and selected windows and roof elements for the building. The variation to the FSR has been considered on merit and is supported having been assessed in detail against the relevant LEP and DCP objectives.

The public submissions received in the original development application have been reviewed in the context of the modification and submissions received with this modification have been addressed. Amended conditions have been applied where appropriate to address those concerns, including; fan noise, glazing, privacy. Wider considerations of building bulk, streetscape, DFC, FSR, height, overshadowing, views, traffic safety, parking, access and stormwater have also been reviewed in the context of the modification.

The modification proposal will not have an unreasonable impact in relation to view sharing considerations from adjacent and nearby properties in Rosedale Avenue and Lauderdale Avenue as the proposal has incorporated minor changes to assist in lowering selected parts of the building. Additional amenity impacts such as may commonly arise during construction works are addressed by existing standard conditions (including dilapidation, dust, noise, site management and the like). No change is required to the existing conditions of consent for stormwater engineering, vehicle access or landscape related issues.

During the modification assessment period, no changes were made by the applicant that would require re-notification and some supplementary information was provided to further assist in addressing submission issues with No 72 Lauderdale Avenue. Modified conditions have included both the east and west elevations for consistency in addressing the same issues re privacy, noise as the two semi detached dwellings are near identical floor plans.

The requirements of the Manly LEP and Manly DCP apply and 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 in the original DA report and also under this modification assessment as relevant. In this case, the non-compliances with the FSR, setbacks and landscaping controls are addressed in accordance with the objectives and requirements of those considerations.

The proposed modification is justified and supported on the basis that:

- The proposed works are generally consistent with the application as approved and will not comprise the amenity of the subject or neighbouring properties.
- The proposal is "substantially" the same development, as defined by the Environmental Planning & Assessment Act 1979.

The modifications will result in a development which remains generally as approved, for the same purpose and with no substantive modifications to the physical appearance of the approved building.

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. Mod2020/0498 for Modification of Development Consent DA2020/0092 granted for demolition of existing structures, construction of two (2) semi-detached dwellings and Torrens title subdivision of one lot into two on land at Lot 1 DP 965132,70 Lauderdale Avenue, FAIRLIGHT, subject to the conditions printed below:

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

"1A - Modification of Consent - 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) Modification Approved Plans**

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
S4.55 01 Site Plan	Sept 2020	Marston Architects
S4.55 02 Roof Plan	Sept 2020	Marston Architects

S4.55 03 Upper Ground Plan	Sept 2020	Marston Architects
S4.55 04A Lower Ground Floor Plan	2.11.2020	Marston Architects
S4.55 05 Basement Plan	Sept 2020	Marston Architects
S4.55 06 South Elevation	Sept 2020	Marston Architects
S4.55 07 North Elevation	Sept 2020	Marston Architects
S4.55 08A West Elevation	2.11.2020	Marston Architects
S4.55 09 East Elevation	Sept 2020	Marston Architects
S3.55 10 Section	Sept 2020	Marston Architects
Window / Door Schedule 70 Lauderdale Avenue	31.8.2020	Marston Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Report 2019-155.1	18.9.2020	Crozier Geotechnical Consultants
Basix Certificate 1065858M_03	24.9.2020	Brian Teplicanec Consultancy

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet 1 of 2 Landscape Planting Plan	11.9.2020	Woodside
Sheet 2 of 2 Landscape Planting Plan	11.9.2020	Woodside

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

**B. Modify Condition 7 Amendments to the approved plans, to read as follows:**

"7. Amendments to the approved plans

i) The maximum height of the building along the southern parapet edge and roof area for the living rooms and adjacent terraces of proposed dwelling 70A and 70B is to be RL43.50 in order to improve view impacts from dwellings overlooking the site in Rosedale Avenue.

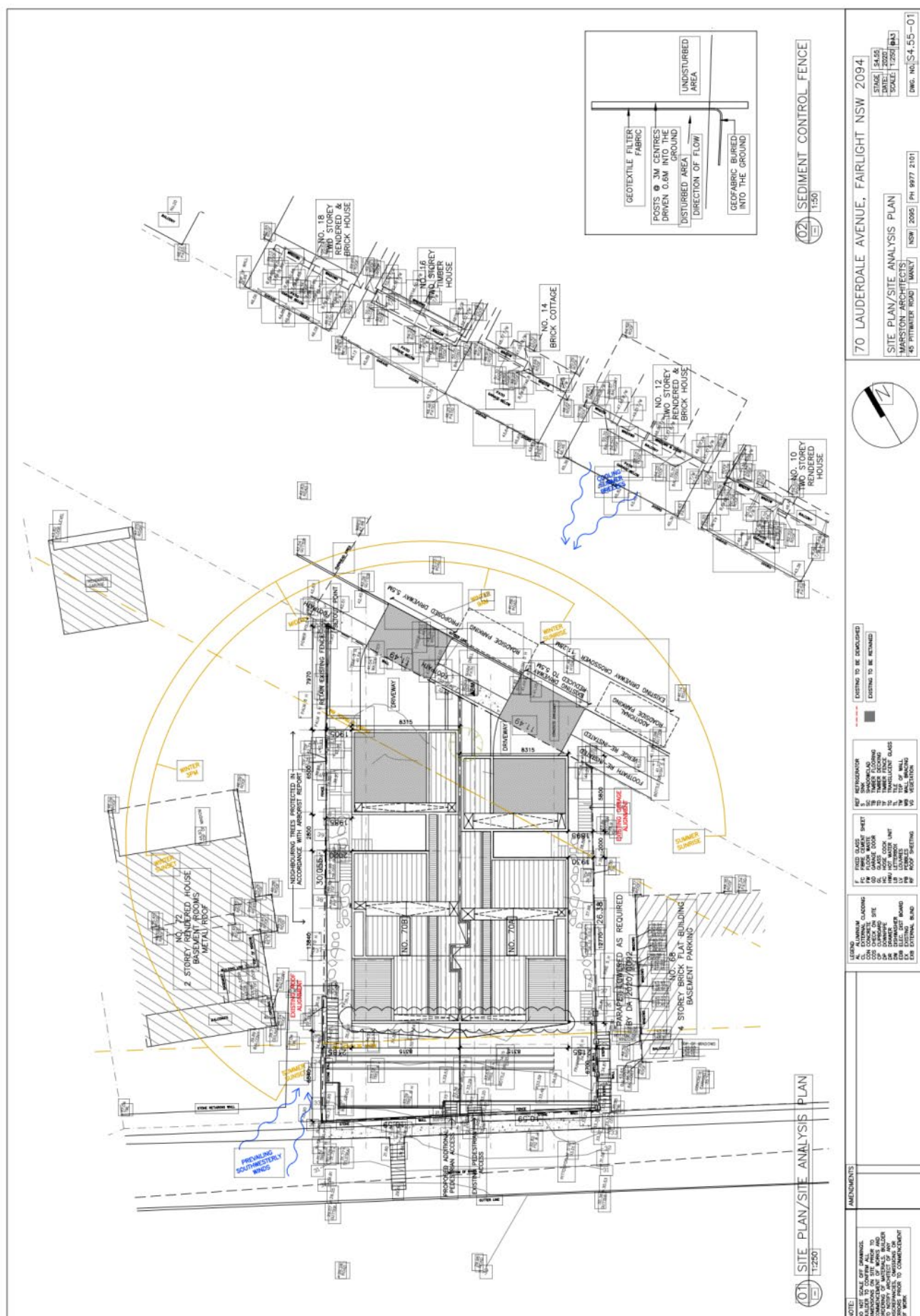
ii) Bathroom window "Bath 1" to the eastern and western external wall must be opaque glass.

iii) The eastern and western "bath 1" external fan exhaust vent shall be fitted at 1.6m (or lower) measured above finished ground level and externally shielded by a grille/ hood directing exhausted air and noise downward.

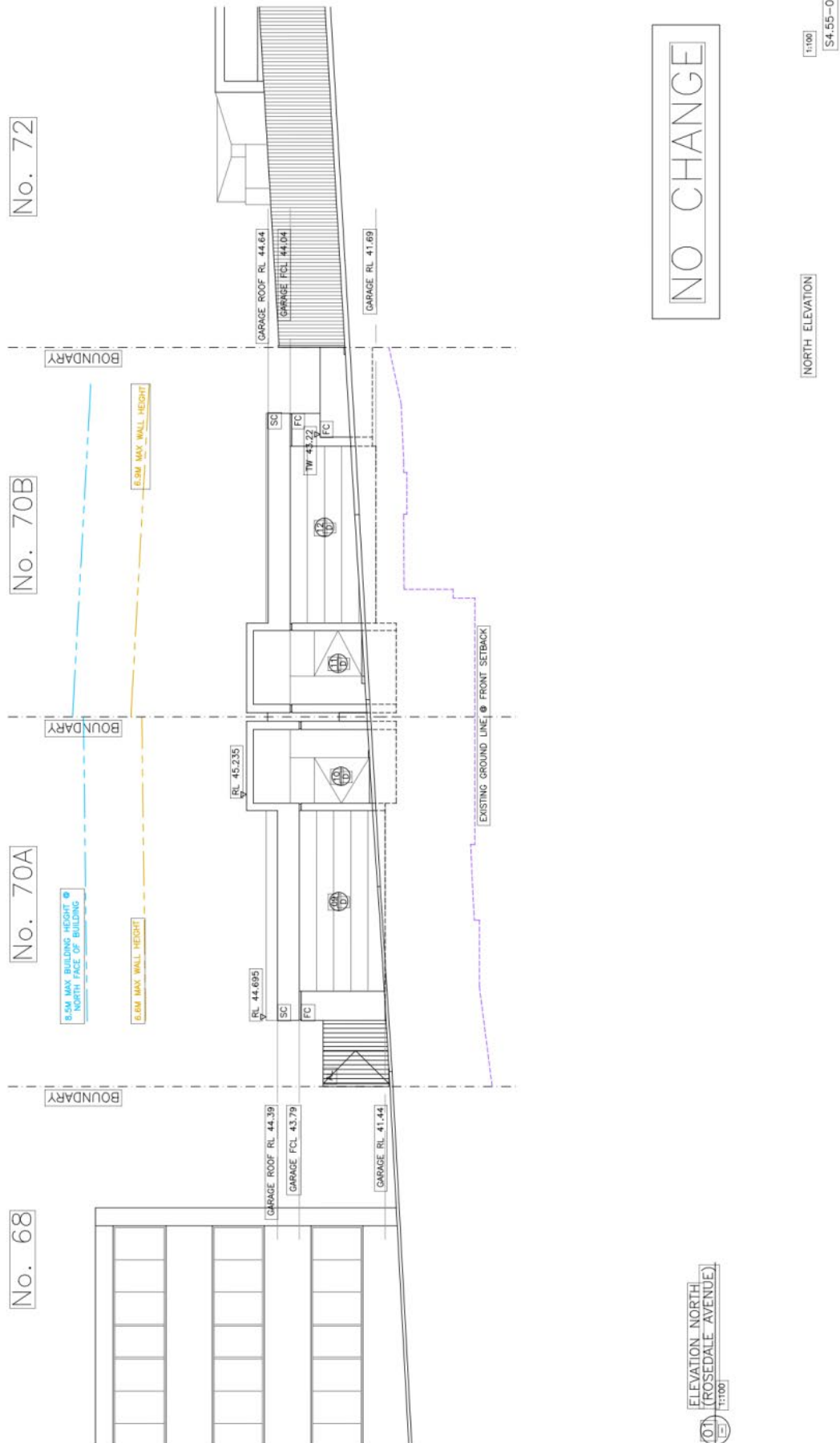
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: Residential amenity"

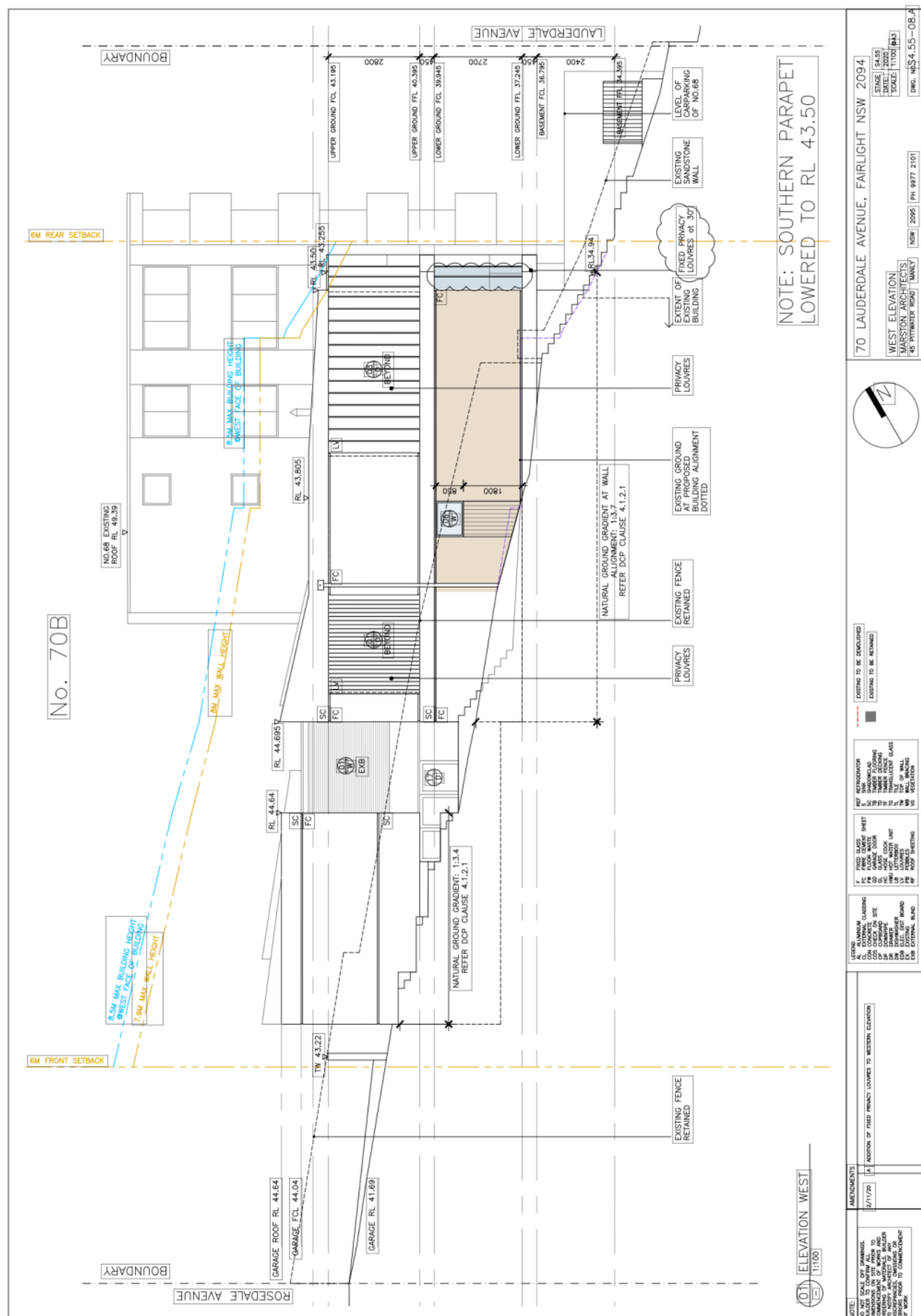














<b>ITEM 3.2</b>	<b>DA2020/1285 - 44 GREYCLIFFE STREET, QUEENSCLIFF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE AND CONSTRUCTION OF A SWIMMING POOL</b>
<b>REPORTING MANAGER</b>	<b>Matthew Edmonds</b>
<b>TRIM FILE REF</b>	<b>2021/064384</b>
<b>ATTACHMENTS</b>	<b>1 Assessment Report 2 Site Plan and Elevations 3 Clause 4.6</b>

### **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 building height standard.

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### **RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority **approves** Development Consent to DA2020/1285 for alterations and additions to a dwelling house and construction of a swimming pool on land at Lot 13 DP 8373, 44 Greycliffe Street, Queenscliff, subject to the conditions outlined in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1285
<b>Responsible Officer:</b>	Ashley Warnest
<b>Land to be developed (Address):</b>	Lot 13 DP 8373, 44 Greycliffe Street QUEENSCLIFF NSW 2096
<b>Proposed Development:</b>	Alterations and additions to a dwelling house and construction of a swimming pool
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Daniel Reed Armstrong Heather Lyndsay Armstrong
<b>Applicant:</b>	Heather Lyndsay Armstrong
<b>Application Lodged:</b>	13/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	22/10/2020 to 05/11/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 31.8%
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 928,816.32

The proposal is for the alterations and additions to the existing dwelling house of 44 Greycliffe Street. The works result in a variation to the Height of Buildings development standard of the Warringah Local Environmental Plan 2011 (WLEP 2011) of 31.8%. Despite the numeric noncompliance, the proposal is not considered to result in unreasonable bulk, scale or amenity impacts as viewed from the adjoining or surrounding properties.

The proposed development also results in technical non-compliance with the Wall Height, Building Envelope, Side Setback, Front Setback, and Landscaped Open Space control under the Warringah Development Control Plan (WDCP). However, this non-compliance does not result in adverse amenity impacts, is consistent with the objectives of the controls, and is predominately consistent with the

existing built form. The proposal is therefore supported.

The application is referred to the Development Determination Panel for determination due to the contravention of the Height of Buildings development standard exceeding 10%.

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

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is suitable and appropriate development for the subject site. Accordingly, it is recommended that the application be approved subject to conditions attached to this report.

### **PROPOSED DEVELOPMENT IN DETAIL**

Development consent is sought for the alterations and additions to the existing dwelling house. The proposed works are as follows:

- New external finished to dwelling house and garage
- Various internal changes to
- "Square off" rear ground floor and first floor decks
- Vergola over portion of first floor deck
- New upper level addition
- Replacement of roof over dwelling house and garage
- Swimming pool located within the front setback
- Various landscaping works

### **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 - 4.3 Height of buildings  
Warringah Development Control Plan - B1 Wall Heights  
Warringah Development Control Plan - B3 Side Boundary Envelope  
Warringah Development Control Plan - B5 Side Boundary Setbacks  
Warringah Development Control Plan - B7 Front Boundary Setbacks  
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

#### **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 13 DP 8373 , 44 Greycliffe Street QUEENSCLIFF NSW 2096
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the southern side of Greycliffe Street.</p> <p>The site is regular in shape with a frontage of 12.35m along Greycliffe Street. and a depth of 35.7m.</p> <p>The site has a surveyed area of 438.9m<sup>2</sup> and a slope of 47.6% falling from the north to the south.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates an existing three storey residential dwelling house.</p> <p>The rear of the site is heavily vegetated with a variety of canopy and low-lying vegetation.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar two to three storey residential dwelling houses. To the south the subject site adjoins Manly Lagoon Reserve.</p>

Map:





## SITE HISTORY

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

- Pre-Lodgement Meeting - PLM2020/0116

A pre-lodgement meeting was held on 18/06/2020 to discuss the alterations and additions to the existing dwelling house and construction of a swimming pool. Council raised concern with the proximity of the swimming pool to the front boundary and recommended a landscaping buffer of at least 1.2m.

The recommended adjustments to the design of the swimming pool have been incorporated into the current proposal. The advice provided within the PLM has been satisfied.

## 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) –	Warringah Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
Provisions of any development control plan	
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any	See discussion on "Notification & Submissions Received" in this

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	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 from 22/10/2020 to 05/11/2020 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:
Robert James Allcot	46 Greycliffe Street QUEENSCLIFF NSW 2096

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

- **Concerns that there is not sufficient support for the swimming pool**

#### Comment

It is agreed that the pool plans (DA26) indicate that there will be an overhang of the swimming pool. To ensure that sufficient structural support is provided to the swimming pool a condition of consent will be imposed for the supports and retaining walls to be designed by a Structural Engineer prior to the issue of the construction certificate.

- **Direction of overspill**

#### Comment

The swimming pool is to be connected to the existing waste water system. All overspill and water disposal in association with the swimming pool is to be collected as part of the waste water system. The solid wall along the western elevation will also aid in ensuring water is not splashed across the boundary.

- **Privacy from swimming pool**

#### Comment

The proposal includes a 1.8m tall solid wall positioned along the western boundary. The wall will act as a privacy screen and disrupt any direct views across the shared boundary. The wall will also aid in maintaining acoustic privacy.

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following provisions which apply to the subject site:</p> <ul style="list-style-type: none"> <li>• WDCP E2 Prescribed Vegetation</li> <li>• WDCP E4 Wildlife Corridors</li> <li>• WDCP E6 Retaining unique environmental features</li> </ul> <p>Council's Biodiversity Referral Body provided the following pre-lodgement advice to the applicant in June 2020: "The site is mapped as part of the Warringah Wildlife Corridors. The applicant should address the objectives and requirements of Warringah Development Control Plan E4 Wildlife Corridors. Any proposed landscaping works should aim to reconstruct habitat in non-vegetated areas of wildlife corridors using a combination of plant species and vegetation structure of the local vegetation community. A Native Plant Species Guide for the Curl Curl ward is available on Council's website".</p> <p>The Statement of Environmental Effects incorrectly states that the subject site is not within a wildlife corridor and that WDCP E4 does not apply. The applicant should be aware that applicable DCP controls must be addressed, as per pre-lodgement advice. Furthermore, the submitted landscape plan includes limited locally native species, contrary to pre-lodgement advice and the objectives of relevant controls. In order to achieve consistency with the controls, the landscape plan is to be amended. This will be conditioned.</p> <p>Subject to recommended conditions, the proposal is considered unlikely to impact upon native vegetation, wildlife habitat or unique environmental features.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p><u>Coastal Management Act 2016</u> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><u>State Environmental Planning Policy (Coastal Management) 2018</u> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental</p>



Internal Referral Body	Comments
	<p>Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as also assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated October 2020, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p><u>Warringah LEP 2011 and Warringah DCP 2011</u></p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.
NECC (Stormwater and Floodplain Engineering – Flood risk)	All proposed works are located above the residential Flood Planning Level for the site. No flood related development controls applied.
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 19 - Bushland in Urban Areas

For land adjoining land zoned or reserved for public open space, Council shall not grant development consent unless it has taken into account:

*(c) the need to retain any bushland on the land,*

#### Comment

The proposal does not require the removal of any bushland on the site.

*(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*

#### Comment

The proposal will not adversely impact the surrounding bushland area or public open space. Sediment erosion, stormwater management, and noxious weed removal conditions will be imposed as part of this application.

*(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

#### Comment

No further matters are raised. The proposed works are not likely to cause an adverse impact upon the bushland zoned or public open space areas.

Based on the above, it is considered that the development is consistent with the aims of the plan.

### 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. A389901, dated 15/09/2020).

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

### SEPP (Infrastructure) 2007

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 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.

#### **SEPP (Coastal Management) 2018**

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

#### **13 Development on land within the coastal environment area**

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

#### Comment

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed alterations and additions do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

- (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

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

#### 14 Development on land within the coastal use area

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

Comment

The proposal does 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 and the surrounding area consists of examples of similar developments.

The foreshore area is mapped as having a high likelihood of containing Aboriginal heritage sites. The foreshore area is heavily modified and no sites have been identified within the vicinity of the proposed development. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. A condition of consent has been imposed to stop works if any Aboriginal Engravings or Relics are unearthed.

#### 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

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards

on the subject land or other land.

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

#### 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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	11.2m	31.8%	No

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

#### Detailed Assessment

##### 4.6 Exceptions to development standards

##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	11.2m
Percentage variation to requirement:	31.8%



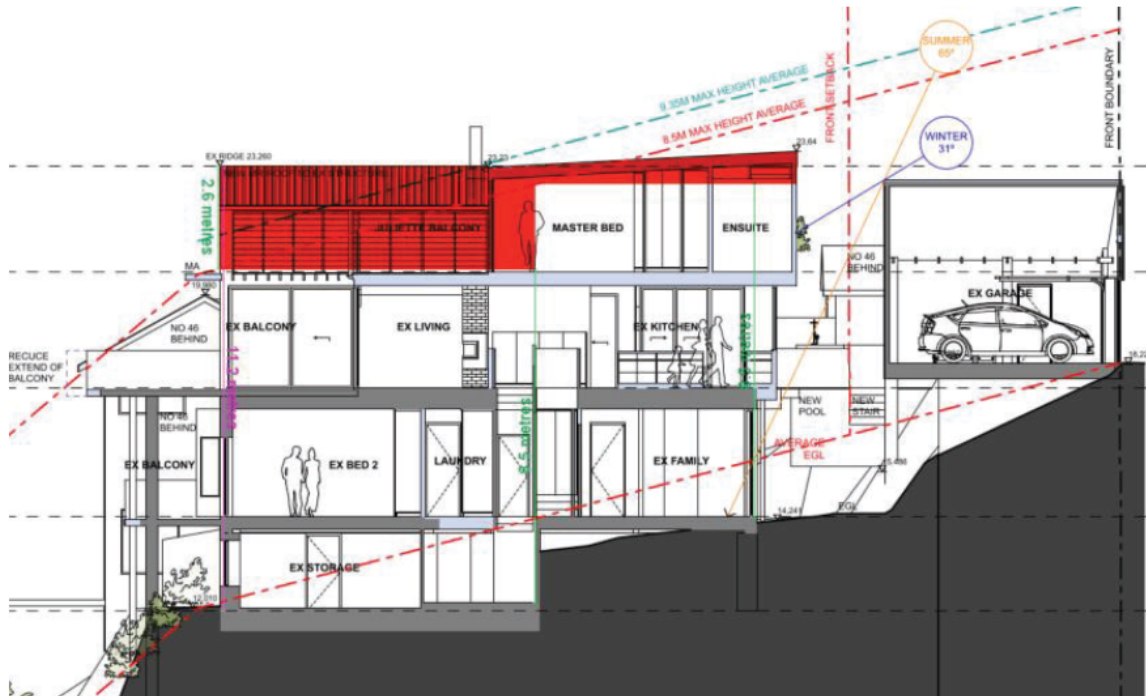


Figure 1: Height of Building Variation

Source: Annotated Architectural Plans, Watershed Design DA10 Issue G

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment

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



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

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

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

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

*(a) the consent authority is satisfied that:*

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

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

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

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

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

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

Comment

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

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

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

Comment

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

grounds to justify contravening the development standard:

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

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

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

The applicants written request argues, in part:

- The proposal does not increase the existing maximum building height, with the recladding of the roof replacing an existing structure of the same height.
- The proposed additions will not result in a building that is incompatible with the height and scale of nearby development.
- The proposal is for an upper level that is partly within the existing roof form and is sited away from Manly Lagoon to minimise its height, bulk and scale.
- Reasonable view sharing is maintained.
- Reasonable levels of privacy and solar access are maintained.
- The additions are on the northern end of the building, away from Manly Lagoon and, consequently, any visual impact is minimised and the additions will blend into the general urban backdrop.

It is agreed that the bulk of the noncompliance can be attributed to the recladding of the southern portion of the existing roof form. It is also agreed that the proposal is consistent in height and scale as surrounding dwellings with reasonable levels of view sharing, privacy and solar access maintained. The upper level has been appropriately designed to maintain the height of the existing structure and minimise visual impact on surrounding development and public places.

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 R2 Low Density Residential zone. An assessment against these objectives is provided below.

**Objectives of development standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

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

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

Comment

The proposal does not increase the existing maximum building height. The proposed roof over the upper floor level is to have a maximum RL 23,64 being 40cm above the ridgeline of the existing structure. The overall height of the dwelling will provide a finished RL which is 1.89m higher than No. 42A and 1.52m below No. 50 Greycliffe Street.

*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment

The proposal maintains a reasonable level of view sharing, privacy, and solar access.

*c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment

The proposed dwelling is not considered to create any adverse impacts on the scenic quality of Warringah's coastal and bush environments.

*d) to manage the visual impact of development when viewed from public places such as parks*

*and reserves, roads and community facilities,*

Comment

The proposal will improve the visual appearance of the dwelling house and the positioning of the upper floor addition to the north of the existing structure ensures any visual impact is minimised and the additions will blend into the general urban backdrop.

**Zone objectives**

The underlying objectives of the R2 Low Density Residential zone are:

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

Comment

The proposed upper floor addition will maximise the amenity of the dwelling to meet the needs of the occupants. The proposed alterations and additions to the dwelling are consistent with the housing needs of the community within a low density residential environment.

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

Comment

The proposed development maintains the permissible use of the structure as a dwelling house for the occupants of the site.

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

Comment

The proposed development seeks to maintain and enhance established gardens and landscaped open space. In addition, the proposal does not seek to removal of any significant vegetation onsite or surrounding canopy trees.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density 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, issued by the NSW Department of Planning & Infrastructure, 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 Height of building Development Standard associated with a single dwelling house (Class 1 building).

**Warringah Development Control Plan**



#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	9.3m	29.2%	No
B3 Side Boundary Envelope	5m (east)	Outside Envelope	16.9%	No
	5m (west)	Outside Envelope	31.6%	No
B5 Side Boundary Setbacks	0.9m (east)	1.7m	N/A	Yes
	0.9m (west)	nil to deck 1.1m to pool	100%	No
B7 Front Boundary Setbacks	6.5m	1.6m to pool 8.9m to dwelling	24.6%	No
B9 Rear Boundary Setbacks	6m	10.3m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	32.4%	19%	No

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

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

#### Detailed Assessment

#### **B1 Wall Heights**

The proposed 9.3m wall height does not comply with the 7.2m requirement. With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

##### Comment

The extent of the non-compliance is limited to the proposed upper floor level. Visual impact of the proposed upper floor level is minimised through articulation of the walls and the increased side setbacks of this level. The upper level has been positioned to the north of the existing dwelling house to predominantly maintain the existing ridgeline.

- *To ensure development is generally beneath the existing tree canopy level*

##### Comment

The onsite vegetation is limited to the rear (south) of the site. Due to the slope of the site and the limited canopy trees within the remainder of the site there are no trees to sit below. The height of the proposed development is considered to remain below the canopy level.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment

Views to and from public and private places are maintained.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment

The upper level addition is positioned to the northern end of the existing dwelling house and therefore, does not result in overlooking of neighbouring private open spaces or windows. The proposed Juliette balcony on the upper level is positioned so that it does not have direct sight lines into windows or the private open spaces of the neighbouring property. The adjoining properties will retain solar access in accordance with the DCP controls.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment

The development is sited to minimise excavation depth and the overall height of the dwelling. The dwelling responds appropriately to the topography given the steep gradient of the site.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment

The proposed upper level is positioned within the existing roof void to the north of the existing dwelling house. The proposed skillion roof over the upper floor level ensures the existing ridge line is predominantly maintained. A portion of the roof extends 40cm above the existing ridge line. The skillion roof limits the overall bulk and scale of the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **B3 Side Boundary Envelope**

The proposal does not comply with the building envelope requirements along the eastern and western elevations. The extent of the variation is demonstrated below in Figure 2 and Figure 3.



Figure 2: Eastern Building Envelope Variation  
Source: Annotated Architectural Plans, Watershed Design DA13 Issue G



Figure 3: Western Building Envelope Variation  
Source: Annotated Architectural Plans, Watershed Design DA14 Issue G

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

- To ensure that development does not become visually dominant by virtue of its height and bulk.

Comment

The proposed roof over the upper floor level is to have a maximum RL 23,64 being 40cm above the ridgeline of the existing structure. The overall height of the dwelling will provide a finished RL which is 1.89m higher than No. 42A and 1.52m below No. 50 Greycliffe Street. The bulk of the proposed upper floor level is minimised through articulation of the walls and the increased side setbacks of this level.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment

The proposal maintains a reasonable level of view sharing, privacy, and solar access.

- *To ensure that development responds to the topography of the site.*

Comment

The upper level has been positioned to the north of the existing dwelling house to predominantly maintain the existing ridgeline. The positioning of the upper level steps the dwelling down the site to have a maximum of three storeys in any one place.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B5 Side Boundary Setbacks**

The proposed deck and swimming pool access is situated at a nil setback from the western side boundary and therefore does not comply with the 90cm side setback requirement. With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment

The rear (south) of the site is heavily vegetated and is to be maintained as part of this proposal. The proposal also provides for additional opportunities for plantings within the front of the site. A landscaping plan accompanies the proposal incorporating a variety of landscaping elements at each level of the dwelling house.

- *To ensure that development does not become visually dominant.*

Comment

The elevation and nil setback to the deck will not become visually dominate as it is consistent with the scale of development along the southern side of Greycliff Street.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment

The proposed decking will not result in unreasonable building bulk.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*



Comment

A solid privacy screen has been incorporated along the western elevation of the deck and swimming pool to disrupt any direct overlooking. The provision of the solid screen will also aid in the provision of acoustic privacy.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment

Views to and from public and private places will be maintained by the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

**B7 Front Boundary Setbacks**

The proposed swimming pool is located 1.6m from the front boundary which does not comply with the 6.5m front setback requirement. With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment

The sense of openness within the front yard will not be limited by the proposed swimming pool. The swimming pool will function as effective outdoor recreational space. The existing front fence is a 1.8m tall solid masonry wall and therefore the proposal will not alter the existing openness when viewed from the street.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment

There are several examples of swimming pools located within the front setback along the southern side of Greycliffe Street. The streetscape is typified by double garages positioned at a nil setback with solid 1.8m tall fencing along the front boundary. The proposal maintains the existing pattern of development and streetscape along the southern side of Greycliffe Street.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment

The subject site is positioned off a slip road which provides vehicle access to Nos. 42A, 44, 46, 48 and 50 Greycliffe Street, it is noted that the slip road outside the site is around RL18.0 while Greycliffe Street has a finished level in proximity to the site of approximately RL19.6 (approx. 1.3m above the entry level into the garage).

The site currently has a double garage on the front boundary with a 1.8m high masonry fence. The positioning of the swimming pool behind the front fence and the provision of the landscaping buffer between the front fence and the swimming pool ensures the existing streetscape is enhanced.

- *To achieve reasonable view sharing.*

Comment



Views to and from public and private places will be maintained as part of this proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **D1 Landscaped Open Space and Bushland Setting**

The proposed 32.4% (142m<sup>2</sup>) LOS does not comply with the 40% (175.6m<sup>2</sup>) requirement. It is noted that the proposal seeks to increase the level of landscaping onsite through the provision of the swimming pool and associated landscaping.

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

- *To enable planting to maintain and enhance the streetscape.*

#### Comment

The proposal also provides for additional opportunities for plantings within the front of the site. A landscaping plan accompanies the proposal incorporating a variety of landscaping elements at each level of the dwelling house. The positioning of the swimming pool behind the front fence and the provision of the landscaping buffer between the front fence and the swimming pool ensures the existing streetscape is enhanced.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

#### Comment

No significant vegetation is proposed for removal as part of this application.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

#### Comment

The rear (south) of the site is heavily vegetated and is to be maintained as part of this proposal. The proposal also provides for additional opportunities for plantings within the front of the site.

- *To enhance privacy between buildings.*

#### Comment

The proposed privacy screening and vegetation along the western elevation of the swimming pool will ensure privacy is maintained and enhanced between buildings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

#### Comment

The proposed swimming pool will function as effective outdoor recreational space.

- *To provide space for service functions, including clothes drying.*

#### Comment

The existing space for service functions will remain unchanged by the proposal. The existing arrangement is considered reasonable.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment

The proposal does not significantly alter the existing level of hardsurfaced area onsite. The proposed works existing stormwater and wastewater disposal arrangement.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **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 \$9,288 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$928,816.

### **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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

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

In summary, as addressed within this assessment report, the proposed development does not comply with clause 4.3 Height of Buildings under WLEP 2011 and the formal request via clause 4.6 Exceptions to development standard has been assessed and considered acceptable in this instance.

The proposal also includes variations to clause B1 Wall height, B3 Side Boundary Envelope, B5 Side Boundary Setbacks, B7 Front Boundary Setbacks, and D1 Landscaped Open Space. This noncompliance has been assessed and considered acceptable in this instance.

The proposal does not give rise to any unreasonable amenity impact or visual impact, and is consistent with the objectives of the WLEP 2011 and WDCP. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. Therefore, the application is recommended for approval.

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

## RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 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 DA2020/1285 for Alterations and additions to a dwelling house and construction of a swimming pool on land at Lot 13 DP 8373, 44 Greycliffe Street, QUEENSCLIFF, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA04, DA05, DA06, DA07, DA08, DA09, DA10, DA11, DA12, DA13, DA14, DA22, DA23, DA24, and DA26 - Issue G	29/09/2020	Watershed Design

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Report - Ref. J2831	06/08/2020	White Geotechnical

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Planting Plan DA-14	28/07/2020	Landart

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	25/09/2020	Armstrong

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 2018
    - (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 sewerred areas or managed on-site in unsewerred 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. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,288.16 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 \$928,816.32.

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 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](http://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.

#### 5. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and 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](http://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**

#### 6. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern

Beaches Council's "Warringah Water Management Policy PL 850" 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 the development.

7. **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.

8. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

9. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended to include at least 60% (by number of plants) species listed in the 'Native Plant Guide' for the Manly and/or Curl Curl Wards available on Council's website. The amended Landscape Plan is to be certified by a qualified landscape architect prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

10. **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.

#### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Public Liability Insurance - Works on Public Land**

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

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

#### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **Traffic Control During 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 and to the satisfaction of the Roads 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.

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

13. **Stormwater Disposal**

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

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

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

14. **Certification of Landscape Works**

Landscaping is to undertaken in accordance with the amended landscape plan and these conditions of consent. Compliance with this condition is to be certified in writing by a Landscape Architect and provided to the Certifying Authority prior to issue of any Occupation Certificate.

Reason: To achieve consistency with WDCP E4 Wildlife Corridors.

15. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:



(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

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

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

Reason: To protect human life.

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

16. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

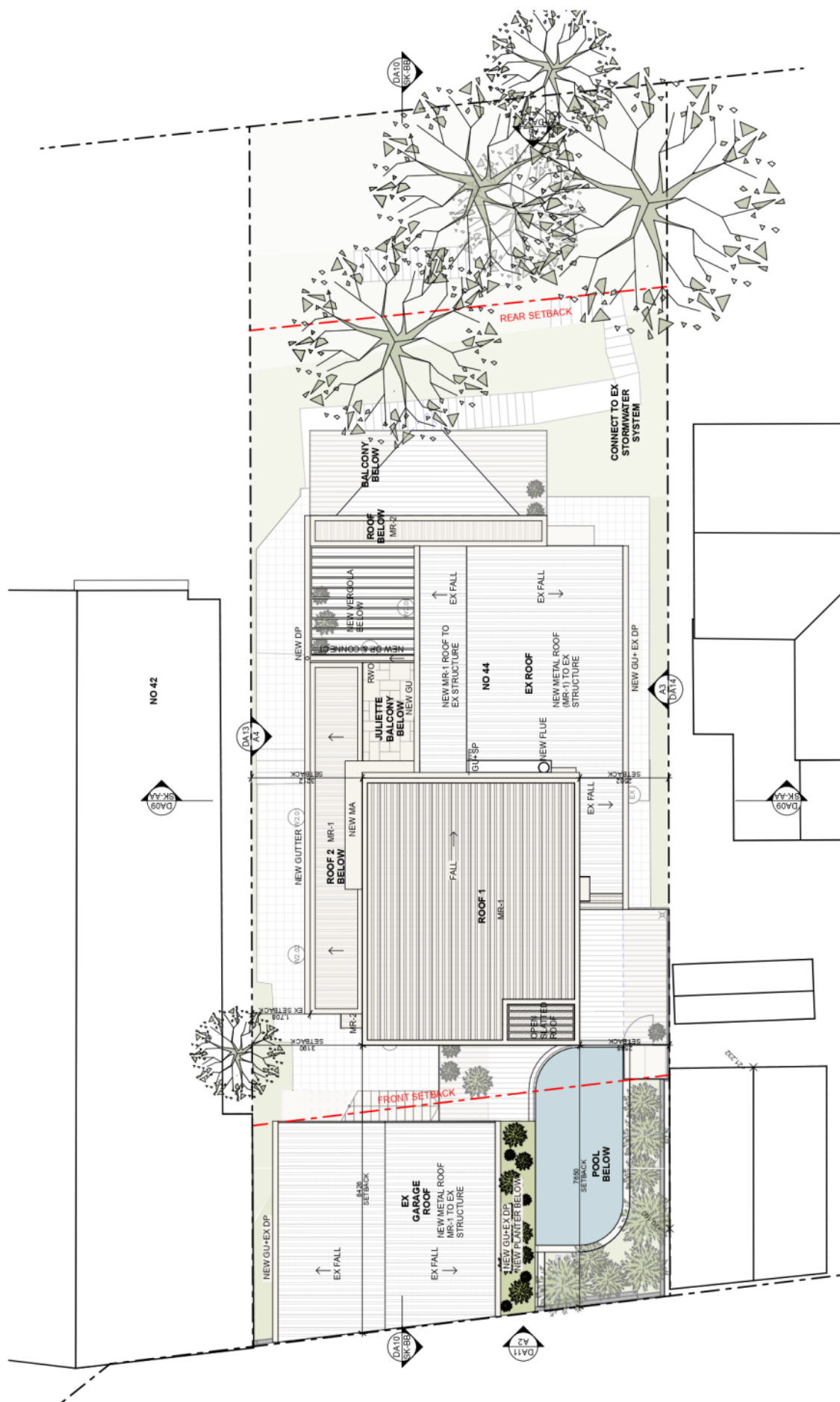
Reason: Weed management.

17. **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.



Issue ID	Issue Name	Issue Date
B	PRE DA MEETING	29/05/20
C	ISSUE FOR INFORMATION	30/05/20
D	ISSUE FOR INFORMATION	11/08/20
E	ISSUE FOR INFORMATION	19/08/20
F	ISSUE FOR BASIX	08/09/20
G	DA ISSUE	29/09/20

[illegible]

WATERSHED  
DESIGN  
architecture  
interiors  
landscape

REGISTERED ARCHITECT: MARK KORGUL  
PHONE: 0977 1070 FAX: 02 9978 0025 EMAIL: INFO@WATERSHEDDESIGN.COM  
ADDRESS: LEVEL 1, 160 PITTWATER ROAD, MANNY NSW 2095 AUSTRALIA  
REGISTRATION NUMBER: 6221

CLIENT:

HEATHER &  
DANIEL  
ARMSTRONG

ADDRESS:

44 GREYCLIFF ST  
QUEENSLAND 4059

**JOB NO.:**

19012

DRAWING NO.: DA04



ISSUE:

19012

**JOB NO.:**

44 GREYCLIFF ST  
QUEENSLAND 4059

ADDRESS:

HEATHER &  
DANIEL  
ARMSTRONG

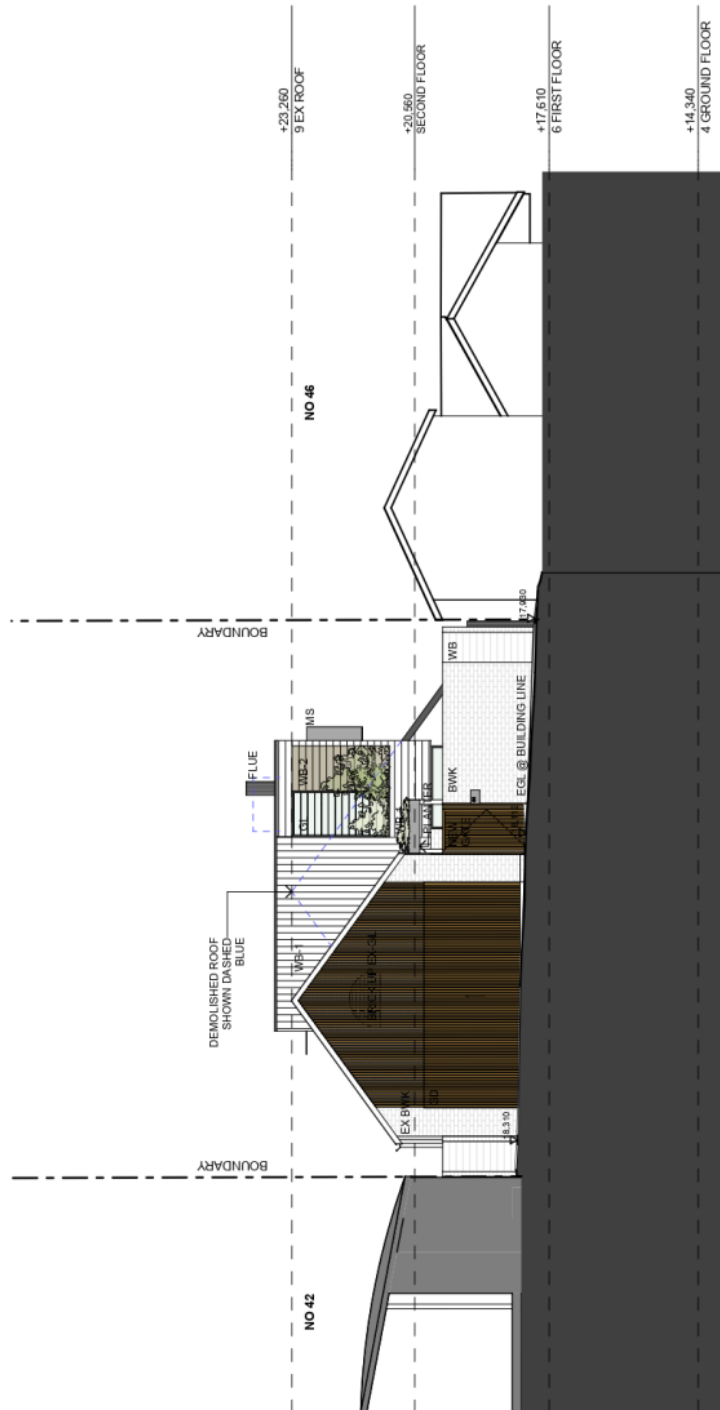
CLIENT:



WATERSHED  
DESIGN

architecture  
interiors  
landscape

REGISTERED ARCHITECT: MARK KORGUL  
PHONE: 0977 1070 FAX: 02 9978 0025 EMAIL: INFO@WATERSHEDDESIGN.COM  
ADDRESS: LEVEL 1, 160 PITTWATER ROAD, MANNY NSW 2065 AUSTRALIA  
REGISTRATION NUMBER: 6221



DRAWING NO:  
**DA11**

ISSUE:  
**G**

JOB NO: 19012  
DRAWN: JK  
CHECKED: MK  
SCALE: 1:100

ADDRESS: 44 GREYCLIFF ST  
QUEENSLIFF NSW  
2096  
DRAWING: **Elevation 01 Front North**

CLIENT: HEATHER & DANIEL ARMSTRONG  
PROJECT: 44 GREYCLIFF ST

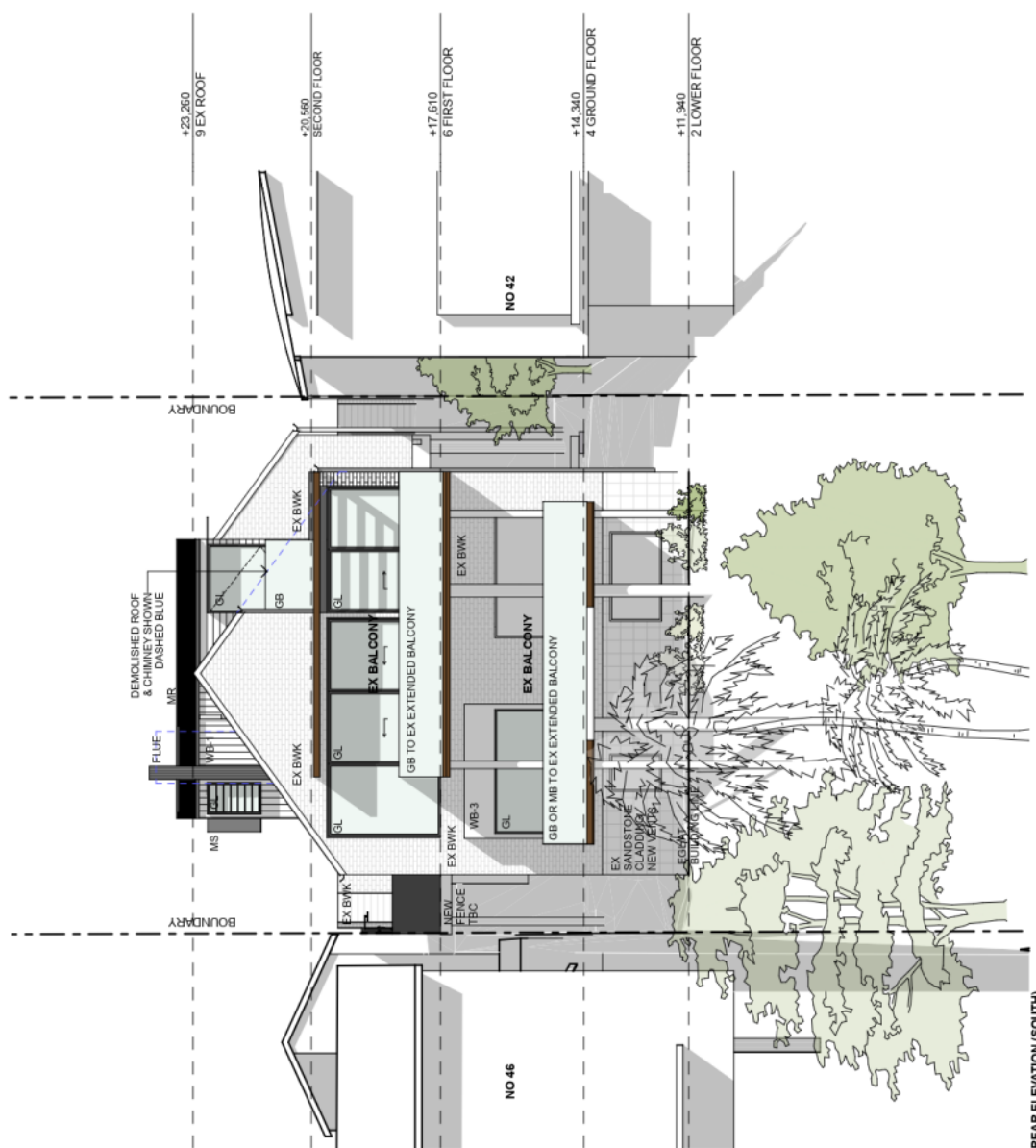
**WATERSHED DESIGN** architecture  
interiors  
interiors

REGISTERED ARCHITECT MARK KORGUL  
PHONE: 9077 1079 FAX: 02 9078 0825 EMAIL: INFO@WATERSHEDDESIGN.COM.AU  
ADDRESS: LEVEL 1, 107 PITTWATER ROAD MANLY NSW 2095 AUSTRALIA

Issue ID	Issue Name	Issue Date
B	PRE DA MEETING	29/05/20
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D	ISSUE FOR INFORMATION	11/08/20
E	ISSUE FOR INFORMATION	19/08/20
F	ISSUE FOR BASIX	06/09/20
G	DA ISSUE	29/09/20

**NOTES:**

- ANY DISCREPANCIES TO BE BROUGHT TO THE ARCHITECT'S ATTENTION.
- ONLY SCALE UNDER DIRECTION FROM ARCHITECT.
- THIS DRAWING REMAINS THE PROPERTY OF THE ARCHITECT.
- TRANSMISSION OF THE DRAWING TO ANY OTHER PARTY IS PROHIBITED.
- REPRODUCTION OF THE DRAWING IN WHOLE OR PART IS PROHIBITED.
- ANY LOSS OR DAMAGE TO THE DRAWING SHALL BE AT THE USER'S RISK.
- THE ARCHITECT'S LIABILITY FOR THE DRAWING IS LIMITED TO THE USE OF THE DRAWING FOR THE PURPOSES OF THE PROJECT.
- THE ARCHITECT'S LIABILITY FOR THE DRAWING IS NOT THE USER'S LIABILITY FOR THE DRAWING.
- THE ARCHITECT'S LIABILITY FOR THE DRAWING IS NOT THE USER'S LIABILITY FOR THE DRAWING.



REAR ELEVATION (SOUTH)

## NOTES:

- NOTES:**
- ANY DISCREPANCIES TO BE BROUGHT TO THE ARCHITECT'S ATTENTION.
- USE FIGURE DIMENSION IN PREFERENCE TO SCALING.
- THIS DRAWING IS TO BE USED FOR CONSTRUCTION PURPOSES ONLY. IT IS NOT TO BE USED TO OBTAIN MATERIALS, SPECIFICATIONS AND DIMENSIONS.
- THIS DRAWING REMAINS THE PROPERTY OF THE ARCHITECT.
- CLIENT IS GRANTED CONDITIONAL LICENCE TO USE DRAWINGS.
- THE ARCHITECT RESERVES THE RIGHT TO TERMINATE OR LICENCE.
- REPRODUCTION OF THE DRAWING IN WHOLE OR PART IS PROHIBITED.
- ELECTRONIC DATA TRANSFER SHOULD BE SCANNED FOR VIRUSES BEFORE USE.
- RECIPIENT OF ELECTRONIC DATA, BY ITS DIRECT OR INDIRECT USE, IS NOT THE LIABILITY OF THE ARCHITECT.
- THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF ELECTRONIC DATA.
- NO CONTRACT IS ENTERED BY THE ARCHITECT.

Issue ID	Issue Name	Issue Date
B	PRE DA MEETING	29/05/20
C	ISSUE FOR INFORMATION	30/05/20
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E	ISSUE FOR INFORMATION	19/08/20
F	ISSUE FOR BASIX	08/09/20
G	DA ISSUE	29/09/20



WATERSHED  
DESIGN  
architecture  
interiors  
landscapes

REGISTERED ARCHITECT: MARK KORCUL      REGISTRATION NUMBER: 6221  
PHONE: 02 9978 0825      FAX: 02 9978 0825      EMAIL: INFO@WATERSHEDDESIGN.COM.AU  
ADDRESS: LEVEL 1, 167 PITTSWATER ROAD MANLY NSW 2095 AUSTRALIA

CLIENT:	HEATHER & DANIEL ARMSTRONG	ADDRESS:	44 GREYCLIFF ST, QUEENSLIFF NSW 2036	JOB NO:	19012	DRAWING NO:	DA12
PROJECT:	44 GREYCLIFF ST	DRAWING:	Elevation 02 Rear South	DRAWN:	JK	ISSUE:	G
		CHECKED:			MK		





**NOTES:**

ANY DISCREPANCIES TO BE BROUGHT TO THE ARCHITECTS' ATTENTION BY THE CLIENT PRIOR TO THE COMMENCEMENT OF THE WORK. THE CLIENT SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED TO THE ARCHITECTS FOR THE PURPOSE OF THE WORK. THE ARCHITECTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED TO THE ARCHITECTS FOR THE PURPOSE OF THE WORK. THE ARCHITECTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED TO THE ARCHITECTS FOR THE PURPOSE OF THE WORK.

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REGISTERED ARCHITECT: MARK KOROUL  
REGISTRATION NUMBER: 6221  
PHONE: 0977 1078 FAX: 02 9978 0825 EMAIL: INFO@WATERSHEDDESIGN.COM.AU  
ADDRESS: LEVEL 1, 187 PITWATER ROAD MANLY NSW 2095 AUSTRALIA

CLIENT:	WEATHER & DAVID ARMSTRONG	ADDRESS:	44 GREYCLIFF ST GREYCLIFF NSW 2036	JOB NO:	13012	DRAWING NO:	DA13
PROJECT:	44 GREYCLIFF ST	DRAWING:	<b>Elevation 03 East</b>	DRAWN:	JK	CHECKED:	ISSUE:
							G

[illegible]

**Clause 4.6 request – building height control**

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Request for exception under clause 4.6 of Warringah Local Environmental Plan 2011  
to clause 4.3 of Warringah Local Environmental Plan 2011

**Premises:** No. 44 Greycliffe Street, Queenscliff

**Proposal:** Alterations and additions to an existing dwelling house and construction of a swimming pool.

**Control:** Building height

The control provides that the maximum building height for a building on the site is 8.5 metres. The following definitions from WLEP 2011 are relevant:

***building height (or height of building) means –***

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

*including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

***ground level (existing) means the existing level of a site at any point.***

The existing dwelling house has a maximum building height of 11.2 metres, measured to the ridge of the roof at its southern end. The proposal is to replace the existing roof cladding so these works breach the building height control. The recladding of the roof retains the existing building height of 11.2 metres.

The proposal also involves the addition of an upper level bedroom, robe and ensuite. These works partly exceed the building height control. The maximum height of these works is 9.35 metres at the southern end of the roof over the upper level on the western elevation.

An awning is proposed over a small part of the south-facing balcony appurtenant to the main living areas. The maximum building height of the awning is 9.0m.

The following diagrams show the elements of the proposal that exceed the building height control:



It is noted that the proposed flue is specifically excluded from the definition of building height in WLEP 2011 and is not a matter that requires a written variation under clause 4.6 of WLEP 2011.

#### Introduction:

Clause 4.6(1) of WLEP 2011 states:

(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.*

To utilise the flexibility provided by clause 4.6 of WLEP 2011 it is necessary for the applicant to demonstrate:

- (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.*

In addition, Council must 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.*

In exercising delegation from the Director-General of the Department of Planning, Council must consider:

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

This clause 4.6 request has been structured in accordance with the approach adopted by the Court in *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46 and also considers the ways in which a SEPP 1 objection can be sustained as listed in *Webhe v Pittwater Council* [2007] NSWLEC 827 at [26] and the judicial guidance provided in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

**1. Is the planning control in question a development standard?**

Clause 4.3 of WLEP 2011 is attached as Appendix 1

The definition of “development standards” in Section 4(1) of the *Environmental Planning and Assessment Act 1979* is attached as Appendix 2.

Clause 4.3 is a development standard as it fixes a requirement for the height of a building.

**2. What is the underlying object or purpose of the standard?**

The underlying objects of the standard are stated in clause 4.3(1) to be:

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



- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

**3. Is compliance with the development standard consistent with the objectives of clause 4.6?**

- Compliance would necessitate an inflexible application of the development standard in circumstances where the development otherwise satisfies the objectives of the control.
- Compliance would only be achievable by removing substantial parts of the existing building to lower the existing roof. This is impractical, would reduce residential amenity, and is contrary to principles of environmentally sustainable development.

**4. Does non-compliance with the development standard raises any matter of significance for State or regional environmental planning?**

No.

**5. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

Compliance with the development standard is unreasonable and unnecessary for the following reasons:

**5(a). Achievement of the underlying objectives of the standard**

- The proposal does not increase the existing maximum building height, with the recladding of the roof replacing an existing structure of the same height. The recladding will, however, improve the appearance of the building.
- The surrounding area comprises a mix of architectural styles and is interspersed with larger and taller residential flat buildings. The proposed additions will not result in a building that is incompatible with the height and scale of nearby development.
- The topography of all land on the lower side of Greycliffe Street in the vicinity of the site slopes steeply down towards Manly Lagoon and the typology of all the dwelling houses is to have access at street level and then provide accommodation that follows the topography of the land. Upper levels are not unusual. The proposal is for an upper level that is partly within the existing roof form and is sited away from Manly Lagoon to minimise its height, bulk and scale. The proposed additions will not result in a building that is incompatible with the height and scale of neighbouring development.

- Reasonable view sharing is maintained. This issue is discussed in detail in the Statement of Environmental Effects. Views of Manly Lagoon and glimpses of the Pacific Ocean are retained for neighbouring and nearby dwelling houses.
- Reasonable levels of privacy are maintained. The upper level Juliette balcony does not have sight lines to the eastern neighbour's private open space or windows. The "squaring off" of the main balcony replaces an existing structure and so does not lead to a change in privacy impacts.
- The proposal retains sunlight to neighbouring properties that is in excess of the requirements of *Warringah Development Control Plan 2011*. There is no impact on the principal private open space of neighbouring dwellings. Sunlight to the glazed surfaces living areas is maintained at reasonable levels, noting that this is not a matter that is required by WDCP 2011.
- The proposal will improve the appearance of the dwelling house by upgrading what is currently a somewhat dated (1980's) appearance. The development will enhance the scenic quality of the area.
- The proposal will improve the appearance of the dwelling house when viewed from Manly Lagoon and adjacent reserves by upgrading the building and finished surfaces. The additions are sited on the northern end of the building, away from Manly Lagoon and, consequently, any visual impact is minimised and the additions will blend into the general urban backdrop. The impact when viewed from Greycliffe Street is minimised and views over the building are maintained.

**5(b). Is the standard relevant to this development?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**5(c). Would the underlying objective be defeated or thwarted if compliance was required?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**5(d). Has the development standard been abandoned or destroyed by Council's own actions?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**5(e). Is the zoning of the particular land unreasonable or inappropriate?**

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

**6. Are there sufficient environmental planning grounds to justify varying the development standard?**

The following environmental planning grounds justify the proposal:

- (a) The proposal will improve the amenity of the dwelling house by providing additional accommodation and enhancing the liveability of the private open spaces and living areas. The breach of the building height control is required to enable this improved amenity to be achieved.
- (b) The proposal will improve the appearance of the building. In particular, it is necessary to breach the building height control in order to reclad the existing roof.
- (c) The proposal represents environmentally sustainable development by the extending the usable life of the building. This can only be achieved by maintaining the existing built elements including the existing roof. Recladding the existing roof, which will extend the life of the building, can only be achieved by breaching the building height control.
- (d) The proposal represents environmentally sustainable development by providing excellent natural cross ventilation and internal access to sunlight. This objective would be stymied by compliance with the building height control which would may reduce floor to ceiling heights or restrict the room reconfiguration necessary to provide natural cross ventilation and access to daylight.
- (e) The proposal represents environmentally sustainable development because the narrow awning over part of the southern deck appurtenant to the living area provides passive weather and sun protection.
- (f) The proposal has been designed to minimise the breaches of the building height control. The site slopes steeply from north to south and the additions are sited on the northern part of the building where the breach of the control can be minimised.
- (g) Providing additional accommodation under the existing building is not desirable from an environmental planning perspective because it would require additional excavation and the resulting accommodation would have poor amenity in terms of natural cross ventilation and access to daylight.
- (h) Providing additional accommodation outside the existing building footprint is not desirable from an environmental planning perspective as it would reduce the amount of landscaped area, resulting in a greater dominance of built form over landscape, a "hardening" of the appearance of the development, and a reduction in the ability of the site to permit the infiltration of rainwater.

**7. Is the proposal consistent with the objectives of the zone?**

The site is zoned R2 Low Density Residential. The objectives of the zone are:

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

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposal is consistent with these objectives for the following reasons:

- ✓ It provides for the housing needs of the community within a low density residential environment.
- ✓ It increases the landscaped area and provides additional plantings to enhance the landscaped setting of the development. The part of the site adjacent to Manly Lagoon is retained as landscaped area to contribute to the harmony of the development with the natural environment.

**8. Is the exception request well founded?**

For the reasons given above the exception request is considered to be well founded.



Geoff Goodyer  
6 October 2020

## Appendix 1

Clause 4.3 of WLEP 2011

### 4.3 Height of buildings

- (1) The objectives of this clause are as follows—
  - (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
  - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
  - (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
  - (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2A) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.

## Appendix 2

Definition of "development standards"

*development standards* means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,



- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

### ITEM 3.3

**DA2020/1179 - 1793 PITTWATER ROAD MONA VALE -  
DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS  
HOUSING DEVELOPMENT WITH BASEMENT PARKING &  
ASSOCIATED LANDSCAPING.**

**REPORTING MANAGER**      **Matthew Edmonds**

**TRIM FILE REF** **2021/064418**

ATTACHMENTS	1
Assessment Report	

## 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 **approves** Development Consent to DA2020/1179 for demolition works and construction of a Seniors Housing development with basement parking & associated landscaping on land at Lot 1 DP 219265 & Lot 4 DP 76695 & Lot 5 DP 77493 & Lot 2 DP 219265, 1793 Pittwater Road Mona Vale, subject to the conditions outlined in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1179
<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 4 DP 76695, 1795 Pittwater Road MONA VALE NSW 2103 Lot 1 DP 219265, 1797 Pittwater Road MONA VALE NSW 2103 Lot 2 DP 219265, 38 Park Street MONA VALE NSW 2103 Lot 5 DP 77493, 1793 Pittwater Road MONA VALE NSW 2103
<b>Proposed Development:</b>	Demolition works and construction of a Seniors Housing development with basement parking & associated landscaping
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under State Environmental Planning Policy (Housing for Seniors or People with Disabilities) 2004
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Mona Vale 3 Pty Ltd
<b>Applicant:</b>	Mona Vale 3 Pty Ltd
<b>Application Lodged:</b>	28/09/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	09/10/2020 to 30/10/2020
<b>Advertised:</b>	09/10/2020
<b>Submissions Received:</b>	5
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 2,929,695.00

### PROPOSED DEVELOPMENT IN DETAIL

The application proposes the demolition of the existing dwelling-house (fronting Pittwater Road) and garage with secondary dwelling above (fronting Park Street) and the construction of a Seniors Living development containing a further six (6) self-contained dwellings and additional basement parking

connecting with the approved development on the adjoining lots (to be consolidated).

The proposal seeks to consolidate all 4 sites to link the additional six (6) seniors housing dwellings to that approved under DA2019/1072. In total, the four (4) lots will contain a total of twenty two (22) apartments and basement parking for an additional twelve (12) parking spaces. Access to the consolidated basement parking will be from a modified driveway from Park Street. The proposal will include some minor changes to the previously approved development to achieve a shared access driveway and basement ramp and refinements to the fenestration. In detail, the development consists of the following:

**Basement Level (RL8.45)**

The basement level incorporates changes to the previously approved driveway and basement ramp to facilitate shared access to a new basement located on No. 1793 Pittwater Road. The basement accommodates 12 car parking spaces, 76 bicycle spaces, WC and bulky goods storage area and internal lift access. A new consolidated service room, plant room, rainwater tank and OSD tank are also proposed.

**Ground Floor (RL 11.300)**

Three (3) x three (3) bedroom apartments (apartments 1 to 3) each providing an open plan living, dining and kitchen, three bedrooms the main with an ensuite, a media room, a bathroom and courtyards

Driveway access to basement from Park Street.

Secure entry from park Street.

Bin store area and pedestrian access to Pittwater Road.

**First Floor (RL 14.400)**

Three (3) x three (3) bedroom apartments (apartments 4 to 6) each providing an open plan living, dining and kitchen, three bedrooms the main with an ensuite, a media room, a bathroom and a balconies.

**Trees**

Six (6) trees are proposed to be removed (four) 4 are exempt species. Additional planting is proposed along the boundaries.

**Materials and colours**

Stone cladding textured render with paint finish equal to resene barley there\* (WHITE) and Resene  
Eigth Gravel  
Concrete walls natural finish  
Concrete shutter timber-board finish  
Timber look metal cladding  
Feature sandstone walls  
Metal deck roofing  
Vertical aluminium screens

**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**

Assessment - Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 104 Traffic-generating development)

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

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**

<b>Property Description:</b>	<p>Lot 4 DP 76695 , 1795 Pittwater Road MONA VALE NSW 2103</p> <p>Lot 1 DP 219265 , 1797 Pittwater Road MONA VALE NSW 2103</p> <p>Lot 2 DP 219265 , 38 Park Street MONA VALE NSW 2103</p> <p>Lot 5 DP 77493 , 1793 Pittwater Road MONA VALE NSW 2103</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of four (4) allotment located on the south-western side of Pittwater Road. The site is irregular in shape with a primary frontage of 64.2m along Pittwater Road and a secondary frontage of 63.9m along Park Street. The sites are legally described as:</p> <p>Lot 2, DP 219265 - No. 39 Park Street, Mona Vale</p> <p>Lot 1, DP 219265 - No. 1797 Pittwater Road, Mona Vale</p> <p>Lot 4, DP 76695 -No 1795 Pittwater Road, Mona Vale</p> <p>Lot 5, DP 77493, No. 1793 Pittwater Road, Mona Vale.</p> <p>The site has a depth of between 36.25m and 68.48m and a surveyed area of 3240.42m<sup>2</sup>. The site is located within the R2 Low Density Residential zone and single story dwellings are accommodated on each existing allotment. The site has a slope 5.8% that falls from the west to the east. The site</p>



contains several native and non-native canopy trees.

**Detailed Description of Adjoining/Surrounding Development**

Adjoining development is characterised by weatherboard dwelling houses to the northwest and south-east. The immediately adjoining neighbour to the south is Pittwater Medical Practice and a Health Space clinic.

Surrounding development to the west on the opposite side of Park Street includes The Sacred Heart Catholic Church and the Woolworths arcade connecting to the Mona Vale Town Centre further to the south-west. To the east, on the opposite side of Pittwater Road are a number of attached townhouse developments.

Map:



**SITE HISTORY**

**PLM2020/0128**

A pre-lodgement meeting (PLM 2020/0128) was held on 2 July 2020 in relation to the development of this site for seniors housing. The proposal sought to develop the site with a separate building containing six (6) dwellings and a shared driveway access to basement parking. The design as proposed at the PLM contained a height breach and substantial noncompliance with the basement setback to Pittwater Road. Based on the proposal as proffered, the scheme was not supported and required design amendments and the preference for site consolidation. Some of the advice provided in relation to design changes has been incorporated into the current proposal.

**DA2019/1072**

Development Application No. DA2019/1072 for demolition works and construction of a seniors housing development consisting of sixteen (16) units and thirty four (34) basement parking spaces at Nos. 1795 and 1797 Pittwater Road and No. 38 Park Street, Mona Vale was approved by Council on 9 July 2020.

**Design Advisory Review Panel (DSAP)**

On 26 November 2020, the subject application was briefed to the DSAP the Panel comments and Recommendations are detailed below:

*Overall the Panel considers the proposal has an appropriate scale and massing that would fit into the local context. The Panel was informed of various concerns but believes that these issues can be adequately addressed by relatively minor amendments to the design. The amendments are addressed in the recommendations.*

**Building envelope and massing**

*The Panel noted the minor non-compliance with the front setback requirements but considered the stepped form and articulation an acceptable and attractive response to the geometry of the site.*

**Internal amenity**

*Clerestory windows add to quality of spaces and allow for challenging ARHSEPP solar access requirements to be met.*

*The residential units have good internal amenity. However it was noted that window in bedroom 2 of apartments 02 and 04 is 3m from western boundary facing the adjoining medical suites parking area does not comply with SEPP 65 ADG setbacks. May create privacy issues in possible future development of doctor's lot.*

*Overlooking and building separation issues about southern boundary, particularly in the instance the site to the south were to be developed in a similar manner. - suggestion of slipping rooms past one another to allow views East and West in lieu of South.*

**Recommendations**

- 1. Alternative complying design for Bedroom 2 in apartment 06 resolution recommended;*
- 2. Bedroom 2 in apartments 02 and 04 should reconfigured, to have a skewed/bay window or swapped with the media room to avoid overlooking 1791 Pittwater Road.*
- 3. Bedroom 2 in apartments 03 and 06 should be setback from eastern interface with approved development to allow window in bedroom 3 of same apartment to be orientated to Park Street, avoiding current privacy problem with bedroom 3 window in apartments 04 and approved development.*

**Aesthetics and materials**

*The panel consider the materials and articulation appropriate for the area and commend the differentiation from the adjoining develop that already has approval.*

**Landscape**

*The panel commends the retention of street trees and notes that the consolidation of the car park entry will allow for additional kerbside/ verge planting in the future, but also notes the removal of trees from the middle of the site. The Panel noted that there is inadequate large tree planting to meet GANSW urban canopy targets. Excavation for the basement is likely to have an impact on the roots of the trees on 1791. Reconfiguration of the basement layout may minimise or avoid this.*

**Recommendations**

- 4. Ideally provide deep soil planters (1000mm) in central courtyards. Install a number of trees to increase canopy.*
- 5. Investigate redesign of the basement car park (bulk store, fire stair, WC) to minimise or avoid impacts on roots of trees on 1791. Consider relocation of fire egress to between units 02 and 03.*

**Sustainability**

*The Panel noted the extensive skylight over the foyer. This will cause excessive solar gain and cooling loads*

Recommendation

*6. The glazed roof over the foyer should be removed. A small skylight facing south be sufficient to provide indirect natural light.*

*7. The Panel encourages the maximization of onsite renewable energy generation and electrification of all appliances and services in anticipation of decarbonisation of the grid.*

*8. The panel would strongly suggest the inclusion of EV charging in the basement to encourage and support increased usage of electric vehicles. ('Level 2' electric vehicle charging points)*

PANEL CONCLUSION

*The Panel supports the proposal in its current form with the minor modifications noted in the recommendations.*

**Amended Plans / Response to DSAP**

On 27 January 2020, the applicant submitted amended plans in response to the DSAP recommendations which include the following changes and response to the DSPA recommendations:

Recommendations and Applicant's Response

Recommendation 1.

The applicant notes that an alternative complying development for bedroom 2 apartment 6 is not applicable as the issues with this bedroom is address in recommendation No 3.

Recommendation 2.

The location of the media room and bedroom 3 have been swapped and Bedroom 2 in units 2 and 4 have been redesigned to provide a recessed section of the southern façade between the media room and bedroom 2, to allow bedroom 2 a window that faces Park Street and not directly sideways towards 1791 Pittwater Road. The remaining narrow louvre window to bedroom 2 shall be 'white glass' or obscure glazing.

Recommendation 3.

Ground Floor Bedroom 3 in apartment 3 has been amended to provide a bay window with fixed obscure glazing that faces the approved development to the north and a louvre window that faces Park Street. First Floor bedroom 2 in apartment 6 has been recessed an additional 1.2m from the northern boundary and a skewed / bay window added to bedroom 3 that faces Park Street.

Recommendation 4.

Not applicable as the central courtyard is already approved under DA2019/1072.

Recommendation 5.

Alternate exit from the basement between garages 2 and 3 would require an exit stair between garages to retain the garage depth for parking. This exit would effectively cut in half the space of bedroom 1 in apartment 2 through the centre of the bed (as the stair requires head height in the floor above the garage). If bedroom 1 were relocated towards Park Street, it would rely on side boundary facing windows (unacceptable – see point 2 above). If bedroom 1 were relocated towards Pittwater Road, it would breach setbacks. This option does not function. The current layout of the basement exit adjacent garage 4 is the only exit that complies with BCA and retains the apartment layouts. The arborist report endorses the location of this exit in relation to the impact on trees within 1791. The current exit is maintained



Recommendation 6.

The glazed roof has been deleted and a small glazed access hatch provided to the first floor foyer as suggested by DSAP.

Recommendation 7.

The amended plans include the addition of 24 x photo-voltaic panels on the roof to provide the development with renewable energy. The panels are located away from the street facades.

Recommendation 8.

The amended plans have included the addition of 2 x Electric Vehicle charging points, the locations of which provide simple flexibility to increase these to 4 points at any time in the future.

### 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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to urban design matters raised by DSAP.</p> <p><u>Clause 92</u> of the EP&amp;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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.



## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/10/2020 to 30/10/2020 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 5 submission/s from:

Name:	Address:
Mrs Lynette Rosemary Gregory	PO Box 498 MONA VALE NSW 2103
Philippa Cecilia Wight	PO Box 435 CHURCH POINT NSW 2105
Mr David Wayne Small	21 / 2 Cerretti Crescent MANLY NSW 2095
Mr Dale Danilovic	4 Roseberry Street MANLY VALE NSW 2093
Mrs Lois Margaret Brooks	97 Annam Road BAYVIEW NSW 2104

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

- ***A new DA is required for the entire site;***
- ***Over-development and non-compliance with controls;***
- ***Out of character with the area;***
- ***Heritage Impacts;***
- ***Garbage collection will impact on Pittwater Road clearway;***
- ***Road and pedestrian safety and traffic issues;***
- ***Stormwater issues, and***
- ***Construction Impacts.***

The matters raised within the submissions are addressed as follows:

- ***The application should be a new DA for the whole site. DA2020/1179 does not clearly demonstrate that the development will be 22 townhouses.***

Comment:

Approval was granted on 9 July 2020 for 16 HSDP apartments and basement parking under DA2019/1072 and the consent remains valid. The subject application seeks consent for the details design of six (6) additional HSDP apartments and some modification to the basement design approved under DA2019/1072. The documentation submitted in support of the subject DA is sufficient to make a legal decision on the proposal and it is not reasonable or necessary to request a new DA for the entire site. The documents detail the 16 apartment that have been approved in plan and numerous reports.

- ***DA2020/1179 proposes 6 townhouses on a site that currently has 1 house. This is an overdevelopment of the site. The proposed development goes over all building boundaries required by council - north, south, Pittwater Road and Park Street. The parking provision is unworkable for elderly residents. There is no adequate provision for trees or green space. Concern is raised regarding the removal of existing mature trees.***

Comment:

The density of the development is similar to the HSDP scheme approved to the immediate north under DA2019/1072. The design has been peer reviewed by an independent Panel (DSAP)

who formed the opinion that the scale, density and massing of the development is contextually appropriate and consistent with the desired future character of the area. The minor breach in the setbacks have been assessed as acceptable and will not result in any unreasonable adverse visual impacts on the streetscape. Amended plans have been submitted which address concerns regarding potential impacts on the existing and future amenity in relation to visual and acoustic privacy. Refer to discussion elsewhere in this report.

The proposal provides 41% landscape open space and 35.7% deep spoil planting which exceeds the SEPP (Seniors Living) requirements. A total of six (6) trees are proposed to be removed from the site to which the six (6) additional apartments are being proposed. Four (4) of these trees which are exempt species and the remaining two (2) trees that are located within the footprint of the proposed development have been assessed by Council's Landscape Officer as being Existing landscaping is supplemented with additional planting comprising a total of 19 new canopy trees throughout the consolidated site and 21 smaller native trees for screen planting.

- ***DA2020/1179 would change the overall development to one which is not in keeping with the character of Mona Vale or the surrounding area. There are no other 22 townhouse developments on such a small site near the centre of Mona Vale. The Townhouse developments opposite on Pittwater road are 10 townhouses, 8 townhouses and 6 townhouses, all with much longer street frontage.***

Comment:

As discussed above and elsewhere within the report the proposal has been assessed as being in character with the desired future character of the Mona Vale locality. The site is located close to the Mona Vale town centre and is surrounded by a mixed use and density including detached dwellings to the north, a large Woolworths store diagonally across Park Street and a town house development across Pittwater Road.

- ***The proposed development is very close to 5 heritage listed sites. It would replace a very attractive cottage which looks like a heritage building and was previously a presbytery. It is an iconic Mona Vale cottage with historic significance even though it isn't heritage listed.***

Comment:

Given the physical separation from the heritage items to the subject site, the proposal is considered to not impact upon them or their significance. Refer to comments in the Heritage Referral section of this report.

- ***If approved and added to the new development, garbage collection would be on Pittwater Rd. The current garbage collection services 3 households. This would change to servicing 22 households. It would be impossible to manage this without having a clearway in force on Pittwater Rd.***

Comment:

The application was referred to Council Waste Officer who offered no objections subject to conditions. Refer to comments in the referral section of this report.

- ***The junction at Pittwater Road and Park Street is already a very dangerous crossing. School buses, trucks for Woolworths, school traffic as well as normal traffic use this junction. Adding another 22 households using this junction will only add to the problem.***

Comment:

The application was referred to Council's Transport Unit and Transport for NSW who offered no objections to the proposal on road safety grounds subject to conditions. Refer to comments in the referral section of this report.

- ***Having the largest senior housing development in Mona Vale adjacent to a road junction (Pittwater Road and Park Street), where there is no pedestrian crossing is complete madness. This is the only crossing point going into Mona Vale from north of Pittwater Road. It is already a very congested crossing and very difficult for pedestrians to navigate. The proposed development will add to the problem and will place the elderly residents at risk of harm.***

Comment:

The application is supported with an access report which confirms that the proposal meets the accessibility requirements of the SEPP including safe passage being available via Council footpaths and crossing to bus stops and local medical and other essential services. A condition requires compliance with the accessibility report. In addition, a condition requires a safety audit for the connection to the nearest bus stop to determine the suitability for elderly to access public transport.

- ***A number of issues were identified by council in the adjoining DA2019/1072 which was approved in July 2020, including a Water Management Referral response stating "It is disappointing that a development of this size has not made more effort to incorporate rainwater re-use, as this is by far the most effective way to reduce the impact of stormwater runoff." It is being proposed that the development be significantly increased in size. The problem of stormwater runoff has only been magnified, with no attempt to provide a solution. If the DA is approved, there are numerous issues that need to be addressed during the construction phase.***

Comment:

Council's Water Management Officer has confirmed that the development has met its water conservation targets as required by BASIX. Additionally they are using a Filterra device and this bio retention device satisfies the water quality targets whilst also contributing to further water conservation.

The installation of a rain water tank, while being a good initiative, is not a requirement of Pittwater DCP 21.

Council's Development Engineer has no objections to the proposal subject to conditions.

- ***The noise during construction will make it impossible for the adjoining medical practices to trade during normal business hours. This will cause chaos with traffic, noise pollution etc for years. At the very least, Truck movements should be restricted from 2.30pm due to the site location being an access point to a number of nearby schools. Traffic at the Pittwater Road to Park Street junction is at its peak from 2.30pm Monday to Friday.***

Comment:

Standard conditions are recommended relating to construction hours and noise. In addition, Council's Transport Unit have recommended a condition requiring the submission of a Construction Traffic Management Plan (CTMP) which includes a restriction in truck movement during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

- ***The 2 hour parking zone on Pittwater Road is essential for nearby medical businesses, schools and churches. If this is restricted to a construction zone or work zone there is no alternative parking available for residents and visitors.***

Comment:

The CTMP does not permit temporary truck standing or queuing in the a public road in the vicinity of the site without Council approval. In addition, the CTMP specifies that measures require the applicant to obtain prior approval of 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. The Plan will also require, wherever possible, mobile cranes should be located wholly within the site and staff and contractors to park onsite.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application proposes a three level SEPP Seniors Living building containing self contained sole occupancy units and carparking etc. The development consists of a basement level carpark with two (2) levels of residential apartments located above. It includes a connection at the basement level to the existing building adjacent as described on the plans. Due to the basement connection the new development will form a single United Building and has been assessed on this basis.</p> <p>The proposal will consist BCA Class 2 and 7a portions (assessed as residential sole occupancy units due to their use as 'independent living units' rather than Class 3), and therefore Type B Construction. No objections subject to conditions.</p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>The inclusion of chimneys in the plans has lead Environmental Health to believe that solid fuel heaters may be included in the design of the development. The proximity of the development to the town centre of Mona Vale is not appropriate for solid fuel heaters. A condition is to be imposed prevent the installation of solid fuel heaters.</p> <p>Air conditioning units located on the roof with no mention of acoustic controls are not appropriate on the acoustic amenity of the surrounding area. A condition is to be imposed only allowing installation of air conditioner units in the basement carpark.</p> <p>The geotechnical report advises that encountering Acid sulfate soils is unlikely based on the water table not being impacted and the site being mapped as class 5.</p> <p>Environmental Health are satisfied subject to the recommended conditions being imposed.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The application seeks approval of a seniors housing development at 1793-1797 Pittwater Road and 38 Park Street Mona Vale.</p> <p>Council's Landscape Referral staff have assessed the application against the following relevant landscape controls and policies:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004: clause 33 Neighbourhood amenity and</li> </ul>

Internal Referral Body	Comments
	<p>streetscape.</p> <ul style="list-style-type: none"> <li>• Seniors Living Policy: clause 2. Site Planning and Design; and clause 3. Impacts on Streetscape.</li> <li>• Pittwater 21 DCP Controls: B4.22 Preservation of Existing Trees and Bushland Vegetation; C1.1 Landscaping; C1.21 Seniors Housing; and C1.24 Public Road Reserve - Landscaping and infrastructure, and D9 - Mona Vale Locality.</li> </ul> <p>Development consent DA2019/1072 was granted for seniors housing upon No. 1795 and No. 1797 Pittwater Road and No. 38 Park Street Mona Vale. Subsequently No. 1793 Pittwater Road was acquired and now forms part of this development application. An updated Landscape Plan dated 21 September 2020, drawing number LA-01 incorporating all four lots is provided with the application. A Arboricultural Impact Assessment dated 17 September 2020 is provided for the additional portion of land (No. 1793) in addition to the previous Arboricultural Impact Assessment dated 25 September 2019 for the other portions of land. Conditions of consent shall refer to the updated Landscape Plan and to both the Arboricultural Impact Assessment reports.</p> <p>The landscape component of the proposal is acceptable, with the relevant landscape controls and policies satisfied by the proposal, subject to the protection of nominated existing trees, and the completion of landscape works</p>
NECC (Development Engineering)	<p><b>Updated response 28/01/2021</b></p> <p>Transport NSW has now provided concurrence and conditions for the proposed 300mm RCP outlet pipe located beneath Pittwater Road . No objections to the development subject to conditions.</p> <p><b>Previous comments</b></p> <p>The site stormwater drainage concept plan detailing the provision of On site stormwater detention is generally acceptable however the connection point in Pittwater Road is a kerb inlet pit on the opposite side of the street and it is proposed to install a 300mm Concrete pipe across Pittwater Road to achieve this.</p> <p>This proposed pipeline requires concurrence from RMS (Transport NSW ) as required also by the adjoining development approval at 795-797 Pittwater Road (DA2019/1072)</p> <p>Development Engineering will provide conditions and finalize the referral once the RMS has given concurrence for the proposed stormwater line across Pittwater Road and connection into the kerb inlet pit .</p>
NECC (Water Management)	<p>The stormwater treatment for the original part of the development was a compromise in that it didn't achieve many Water Sensitive Urban Design objectives, and it is disappointing to see a development of this size using proprietary devices instead of the much preferable natural vegetated devices. However, to allow for more efficient maintenance by having similar systems for both parts of the development, the installation of another Filterra device is allowed, and satisfies the</p>



Internal Referral Body	Comments
	water quality targets. Conditions apply.
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	This proposal has been referred to Heritage as the subject property is within the vicinity of two heritage items:
	<b>"Glenroy" (house)</b> 1789 Pittwater Road, Mona Vale
	<b>St John's Anglican Church and gravestones</b> - 1624 Pittwater Road, Mona Vale
	Details of heritage items affected
	Details of the items as contained within the Pittwater inventory are as follows:
	<b>Glenroy</b>
	<u>Statement of significance:</u> Glenroy at 1789 Pittwater Road in Mona Vale has historic and aesthetic significance as a good example of a Federation House associated with the early inhabitants of Pittwater, the Johnson family. It is one of the earliest surviving houses in the locality. It features simplified elements of the Federation House, including the use of weatherboard, the shady veranda, the corrugated iron roof and the plain or sparingly decorated timber posts.
	<u>Physical description:</u> Glenroy features simplified elements of the Federation House, including the use of weatherboard, a shady veranda, corrugated iron roof and plain or sparingly decorated timber posts.
	<b>St John's Anglican Church and gravestones</b>
	<u>Statement of significance:</u> St John's Anglican Church is historically significant as one of the earliest churches of Pittwater. It was built in 1871 and relocated to Bayview in 1888. It was demolished and rebuilt in 1907. It is socially significant due to its being one of the earliest Churches built by the Anglican community in the area. Group of three relocated headstones typical of the late nineteenth century design, removed from lost grave sites on Mona Vale Headland. The group includes a memorial to a worker killed during the erection of Barrenjoey Lighthouse.
	<u>Physical description:</u> St Johns Anglican Church is a sandstone one-storey church located on Pittwater Road with a later modern addition. It is built in a simple style featuring Victorian Rustic Gothic characteristics, including: a steep-pitch roof, prominent gable with wide bargeboard, two-centred pointed arched opening.

Internal Referral Body	Comments		
	<p>On the western elevation there are three sandstone gravestones. One commemorates the death of William F Stark and was "erected by his fellow workmen as a mark of respect" and inscribed "accidentally killed during the erection of the New Lighthouse at Barrenjoey, Wednesday 16th February 1881". (Blumer 197, Sparks 1992)). The other two headstones and are actually two pieces of a headstone for Priscilla Wilson, died aged 2, daughter of Frances and Thomas Wilson (Pauling, 12).</p>		
	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	n/a	
	Consideration of Application		
	<p>The proposal seeks consent for the construction of a seniors living development on the subject site. Glenroy is located to the south of the subject property with 1791 Pittwater Road in between. St John's is located to the east across Pittwater Road. Given the physical separation from the heritage items, the proposal is considered to not impact upon them or their significance.</p> <p>The subject property at 1793 Pittwater Road Mona Vale, is however of interest to Heritage as an example of a Federation style dwelling, although altered. Heritage will condition that a full photographic archival recording of the property be undertaken before any works on site begin.</p> <p>Therefore Heritage raises no objections and requires one condition.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		
	Further Comments		
	COMPLETED BY: Brendan Gavin, Principal Planner		
	DATE: 27 October 2020		

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	<p><b>Previous PLM Urban Design Comments:</b></p> <p>The proposal should address the visual and noise privacy issues to the windows of all bedrooms in unit 01 from the entry path.</p> <p>The proposal has addressed some but not all of the Urban Design issues identified in the Pre-Lodgement Meeting provided below:</p> <ol style="list-style-type: none"> <li>1. Applicant to confirm that the site will be amalgamated as the vehicle ramp to basement and entry path to the lift lobby at ground floor are straddling the north boundary. Building setback to north boundary as proposed is zero. <b>Response:</b> The four lots will be amalgamated.</li> <li>2. Front building setbacks of 6.5m to Parks Street and 10m to Pittwater Road to have similar breaches as the approved seniors living development to the north. <b>Response:</b> The proposed front setbacks could be increased further to reduce built form impact to the streets.</li> <li>3. South boundary side setback is not acceptable – suggest 3.5m to maintain adequate landscape buffer to southern neighbour. South elevation treatment should have a large indent( 4x2m) in the middle for additional landscape treatment to break down building bulk and scale. <b>Response:</b> The proposed south boundary setback has been amended to about 2.5 to 3 metre to provide additional green buffer but the basement setback is less than a metre wide to the southern boundary. There should be a new building section cut in the north-south direction to indicate that deep planters (one metre deep soil) can be incorporated.</li> <li>4. Vehicular ramp turning circle in basement looks really tight - refer to traffic officer's comment. <b>Response:</b> Traffic officer has approved basement layout subjected to conditions.</li> </ol> <p><b>Planners response:</b></p> <p>The DA was peer reviewed by DSAP who considered the issues raised by Council's Urban Design and concluded that breach in the front set back would not result in unreasonable impacts on the streetscape or the desired future character of the area. It is also noted that a variation of the front setback to Pitt Street was approved by DDP in the earlier HDSP scheme to the immediate north.</p> <p>DSAP generally considered that the bulk, scale and massing of the development to be acceptable and that amenity issues in relation to the setback of the development to the southern boundary could be addressed by amendments relating to window treatment. The</p>

Internal Referral Body	Comments
	<p>applicant has submitted amended plans which address the recommendations of the Panel and are considered to adequately address urban design issues. Refer to further discussion on these issues throughout this report.</p> <p><b>Final Urban Design Comment:</b> The amended proposal dated 27 Jan 2021 has addressed the urban design and DSAP issues satisfactorily. Privacy screens and planter boxes have been utilised to address the issues of visual privacy to the bedrooms in unit one from the entry path. The issue of noise from the entry path, which is a common concern with medium-density development, can be dealt with using strata by-laws if the issue becomes a problem for the residents in the future.</p>
Traffic Engineer	<p><u>Background:</u> A development consent DA2019/1072 has currently been granted for the construction of 16 seniors house dwellings with basement parking on No's 1795 and 1797 Pittwater Road and No. 38 Park Street, Mona Vale. The adjoining property at No. 1793 Pittwater Road has since been secured with the subject application seeking to consolidate all 4 sites to facilitate the construction of an additional 6 seniors housing dwellings with basement parking on the consolidated allotment. Such outcome necessitates minor modifications to the previously approved development to achieve a shared access driveway and basement ramp outcome with minor refinements also proposed to the approved fenestration where it adjoins the additional dwellings. The approved development is served by a single level basement carpark containing a total of 34 spaces comprising 32 resident spaces (2 spaces per dwelling) and 2 visitor spaces. Vehicular access to the approved development is off Park Street via a two-way 6.0m wide combined entry/exit driveway located adjacent to the eastern site boundary. The access narrows to a single lane ramp approximately 6m into the site.</p> <p><u>Proposed Development:</u> The development proposal will amalgamate 6 additional 3 bedroom dwellings to the approved Seniors Living development. The development site will therefore contain a total of 22 x 3 bedroom self contained dwellings.</p> <p><u>Car parking provision:</u> The development is proposed to be served by a single level basement carpark containing a total of 46 spaces comprising 44 resident spaces (2 spaces per dwelling) and 2 visitor spaces. Each unit will be served by a 3.8m wide adaptable space and a standard 2.4m wide parking space. The car parking provision satisfies the SEPP requirements.</p> <p><u>Bicycle parking:</u> In compliance with Pittwater DCP, 4 bicycle spaces is to be provided for the proposed additional 12 residential dwellings.</p> <p><u>Vehicular access and internal design:</u></p>

Internal Referral Body	Comments
	<p>The proposal includes the provision of 6m wide combined entry/exit access driveway off Park Street and two-way access ramp leading to separate ramps to two separate car parking areas. The proposal is supported subject to provision of priority Signage/linemarkings at the conflict point on the ramp.</p> <p><u>Pedestrian connection to bus stops:</u> Footpath connections to the nearest bus stops are already in place, however, the designated bus stops in front of No.1620 and 1785 Pittwater Road are to be upgraded to DDA compliant (accessible) bus stops.</p> <p><u>Traffic impact:</u> The projected additional traffic generation is considered minimal and is not considered to have adverse impact on the road network.</p> <p><u>Conclusion:</u> The proposal is supported subject to conditions.</p>
Waste Officer	<p>Waste Management Assessment The development application for 1793 Pittwater Road MONA VALE is supported subject to conditions.</p> <p>(This waste management approval does not apply to 1795 Pittwater Road MONA VALE, 1797 Pittwater Road MONA VALE and 38 Park Street MONA VALE)</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.</p> <p>The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p>

#### 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. 1134209M dated 14 September 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	48	45

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

#### 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 in-fill self care housing.

### 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 proposed development is considered consistent with the aims of the Policy as detailed below in the following ways:

- The development will increase the supply and diversity of residences that meet the needs of seniors or people with a disability
- The proposed development makes use of existing infrastructure and services as the site is

within approximately 120m of the bus service on Pittwater Road for local services and the B-Line which has a bus stop opposite the intersection of Pittwater Road and Park Street with connections to Warringah Mall and the CBD. The site is also within 150m walking distance to Mona Vale Shopping Precinct.

- When considering the development against the aims of achieving good design, the development must be considered in context with the other provisions of the SEPP. In this regard, in the context of the built environment, the development proposes the construction of a two storey development with basement parking.

The design of the development was peer reviewed by DSAP who considered that the proposal has an appropriate scale and massing that would fit into the local context. The stepped form and articulation was considered by the Panel as an acceptable and attractive response to the geometry of the site.

## Chapter 2 – Key Concepts

*Comment:* The proposed development is for the redevelopment of the site to accommodate "in-fill self-care housing" which is defined as "seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care". Accordingly, the proposed development is considered consistent with the provisions outlined in Chapter 2 of the SEPP.

## 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
<b>PART 2 - Site Related Requirements</b>			
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	Satisfactory access is available to these services from the site.	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	Access to Mona Vale shopping precinct is within 150m walking distance from the site. Further, the development is within 150m walking distance to the B-Line Bus route which provides services to Dee Why, Warringah Mall and the CBD,	Yes

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
	residents not more than 400 metres away.		
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not Bushfire prone land.	NA
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Given the existing residential use of the site, it is considered that there is suitable access to water and sewerage infrastructure.	Yes
29	<p>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):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>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,</p> <p>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.</p>	<p>The proposed development is considered compatible with the surrounding residential land uses and was not subject to the requirements of Clause 25 for the attainment of a Site Compatibility Certificate.</p> <p>The site is serviced by existing infrastructure (electricity, water and sewerage) that is capable of meeting the demands that will arise from the development.</p> <p>The proposed two storeys with basement built form demonstrates a suitable bulk and scale in this location and provides a human scale of development complimentary to the existing, approved and future uses on land in the vicinity.</p>	Yes
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	A detailed site analysis plan has been provided and further detail within the Statement of Environmental Effects which satisfactorily address this requirement.	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.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>As noted above, DSAP have reviewed the proposal and considered that the two storey townhouse style development responds appropriately to the context of the site. The Panel considered that the building mass is broken up with significant articulation of the facades. The proposed building form is considered to complement the extensive mix of development surrounding the site.</p> <p>The site is located within the Mona Vale Locality which states in part new development should:</p> <p><i>"To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment. The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation.</i></p> <p>In summary, the proposed built form has been assessed as suitable response to the character and built form of the locality.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise the impact of new development on neighbourhood character</li> <li>-Minimise the physical and visual dominance of car</li> </ul>	<p>The proposed development will present as attached style housing in a landscaped setting.</p> <p>All parking on the site is located within the basement and will not be visible from Pittwater Road or Park Street.</p>

Section	Requirements	Comment
	parking, garaging and vehicular circulation.	
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise impacts on the existing streetscape and enhance its desirable characteristics</li> <li>-Minimise dominance of driveways and car park entries in streetscape.</li> </ul>	<p>The proposed development provides a landscaped setback to both street frontages and includes adequate areas for deep soil landscape plantings. Council's Landscape Officer has no objections to the proposal subject to conditions.</p> <p>DSAP note that the facades are suitable articulated to reduce the mass and bulk of the building.</p> <p>The proposed basement structure will be accessed from a single driveway off Park Street and is not considered to present as a dominant feature.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	<p>The proposal, as amended, will not result in any unreasonable amenity impacts on neighbouring residents by virtue of loss of privacy or solar access.</p> <p>It is noted that the property to the immediate south is a medical practice. Bedroom windows in units 2 and 4 are positioned 3m from the to the southern boundary and concerns has been raised regarding the future re-development of 1791 Pittwater Road.</p> <p>Concern was also raised regarding potential privacy issues between the bedroom window to units 3 and 6 and the approved development to the north.</p> <p>In order to address this issue the proposal has been amended at the recommendation of DSAP to incorporate design measures to ensure privacy is maintained. These measures include skewed / bay window, recessed / cut out sections and white / obscure glazing.</p> <p>Issues relating to construction impacts and traffic which have been</p>



Section	Requirements	Comment
		raised in the submissions have been addressed via conditions of consent.
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>- Provide safe and distinct pedestrian routes to all dwellings and communal facilities.</li> <li>- Provide useable private and communal open space to all residents.</li> <li>- Provide dwellings that have distinct identity and safe entries.</li> <li>- Ensure solar access to living area and private open space.</li> <li>- Reduce the dominance of parking, garaging and vehicular circulation space.</li> </ul>	The proposal provides an accessible pedestrian link from the primary frontage on Pittwater Road. The site layout provides clear entrances to each dwelling. Quality useable private open space is provided for each unit. Sufficient solar access is provided to living area and areas of private open space. Parking is not visible from the street been located below ground in the basement.

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.

Control	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.	<p>The desirable elements of the locations current character consists of low density dwellings to the north-west and south-east, a church on the opposite side of Park Street, and medium density developments including Woolworths arcade further south-west and townhouse developments on the opposite side of Pittwater Road.</p> <p>The DSAP Panel consider that the proposal recognises the desirable elements of the current character with well articulated facades and it can be reasonably concluded that the proposal is compatible with its surroundings.</p>	Yes
	b. Retain, complement and sensitively harmonise	<p>The site is not located within a heritage conservation area but is within the proximity of two</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p>	<p>(2) local heritage items: <i>Glenroy House - 1789</i> <i>Pittwater Road</i> <i>Victory Tree (Holly Oak) - 1785</i> <i>Pittwater Road</i></p> <p>Given the spatial separation between the subject site and the heritage items it is not considered that the proposal will adversely impact on their significance.</p> <p>The development at the Pittwater Road frontage provides a staggered setbacks of between 8-11m to the building frontage / west elevation which is consistent with the approved connecting development to the north. Balconies and planter bed are sited approximately 7m from the frontage. The small sections of the development that does not comply with the 10m setback at this frontage will not read as non-compliant due to the variation of building form and landscaping and is consistent with the approved linking development to the north and the existing dwelling.</p> <p>The wall of the east elevation to Park Street complies with the 6.5m setback. However it is noted that sections of the building which fall within the 6.5m setback area including open balconies and roof lines which project beyond the front setback.</p> <p>Notwithstanding this numerical non-compliance the front set back provisions the proposal is considered compatible in scale with other developments in the streetscape and will not result in solar access issues to neighbouring residential properties.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>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,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>The proposal adopts a building height and street frontage that is compatible in scale with the linking HSPD to the north and other developments in the locality.</p> <p>As discussed above, despite the numerical non compliance with the front set back requirement the front building line is set back in sympathy with the adjoining linking approved HSPD development to the north.</p> <p>Further the proposed building lines provide a suitable transition between the adjoining single storey medical centre to the immediate south and other two storey residential developments and other multi unit housing within both Pittwater Road and Park Street.</p> <p>The proposed planting plan includes species which are acceptable to Council's Landscape Officer subject to conditions.</p> <p>The development seeks to retain a number of significant trees on the site.</p> <p>The site is not located within a riparian zone.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices	<p>The development has been designed with the primary outdoor living areas within each unit facing toward either Pittwater Road or Park Street.</p> <p>Concerns regarding the future development potential of the medical center site to the south. Issues relating to loss of privacy as a result of overlooking of bedroom</p>	Yes

Control	Requirement	Proposed	Compliance
	and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	windows has been addressed with amended plans which provides for offsetting windows and obscure glazing and additional screening.	
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 solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	Solar access and overshadowing from the development have been assessed as reasonable.	Yes
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	The proposed stormwater management on the site is considered acceptable.	Yes
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 and general	The development provides clear sight lines of the entry to the development and the front of the site and provides adequate casual surveillance of the street and the entry of the site.	Yes

Control	Requirement	Proposed	Compliance
	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.		
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.	The site is within 400m of bus services connecting to Manly, North Sydney, City and Chatswood. In addition, the site is within walking distance to the Mona Vale town centre.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The site provides adequate waste storage facilities.	Yes

**Part 4 - Development standards to be complied with**

**Clause 40 – Development standards – minimum sizes and building height**

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	The site (No.1797)	Yes



Control	Required	Proposed	Compliance
		provides an area of 1050m <sup>2</sup> , combined with the other three lots (Nos. 1793 and 1795 Pittwater Road and No. 38 Park Street) the total new site area will be 3240.42m <sup>2</sup>	
Site frontage	20 metres	40m to Pittwater Road 43m to Park Street	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	Max of 8m to the lift over run	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	2 storeys	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	The site has two street frontages, accordingly this requirement does not apply,	Yes

#### **Clause 41 Standards for hostels and self contained dwellings**

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site	The development is capable of complying with this requirement.	Yes, by condition

Control	Required	Proposed	Compliance
	that has a gradient of less than 1:10 or 50% whichever is the greater.		
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	The development is capable of meeting these requirements.	Yes, by condition.
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	The letterboxes are in the Pittwater Road entry pavilion in the blade wall on the right side of the entry gate.	Yes
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	The development provides compliant car parking.	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	The whole development has been designed to ensure accessibility is provided from the basement and the street frontage to the entrance of each dwelling.	Yes
Interior general	Widths of internal corridors and circulation at internal doorways	The proposed development has been identified as capable of complying.	Yes

Control	Required	Proposed	Compliance
	must comply with AS1428.1.		
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	The proposed development has been identified as capable of complying.	Yes
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	The proposed development has been identified as capable of complying.	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	The proposed development has been identified as capable of complying.	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	The proposed development has been identified as capable of complying.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	The proposed development has been identified as capable of complying.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	The proposed development has been identified as capable of complying.	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a	The proposed development has been identified as capable of complying.	Yes

Control	Required	Proposed	Compliance
	potential illumination level of at least 300 lux.		
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	The proposed development has been identified as capable of complying.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	The proposed development has been identified as capable of complying.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	The proposed development has been identified as capable of complying.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	The proposed development has been identified as capable of complying.	Yes
Garbage	A garbage storage area must be provided in an accessible location.	The proposed development has been identified as capable of complying.	Yes

**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.

**Part 7 Development standards that cannot be used as grounds to refuse consent**

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.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	The maximum height of the development as measured to the top of the lift shaft is 8m.	Yes
Density and scale	0.5:1	0.8:1 (2594.31sqm)	No

Control	Required	Proposed	Compliance
		<p>The consolidated proposal exceeds the 0.5:1 FSR by 974sqm (0.3:1).</p> <p>It is noted that the HSDP approved under DA2019/0172 was 0.78:1.</p> <p>Council's Urban Designer recommended that the set backs of the building be increased (density reduced) to better reflect the character of the area and reduce impact on neighbouring amenity.</p> <p>Conversely DSAP did not raise any issue with the density of the development and generally considered that the scale and massing would fit the local character. In terms of the building envelope and massing the Panel noted the minor non-compliance with the front setback but considered the stepped form and articulation an acceptable response. The Panel recommended minor design changes to address visual privacy concerns in relation to the setback of the building to the southern boundary i.e. privacy treatment to non-complying windows. These modifications are included, in part, in the amended drawings.</p> <p>The built form and land</p>	



Control	Required	Proposed	Compliance
		<p>use context of the site includes a large Woolworths supermarket located on the opposite side of Park Street, a townhouses development located on the opposite side of Pittwater Road and a medical centre directly to the south. In addition, the density proposed is consistent with that approved for the HSDP under DA2019/1072.</p> <p>In summary, given the advice from DSAP and the context of the site a variation of the numerical density control has been assessed as acceptable. Despite the numerical non-compliance with the GFA control the proposal is generally considered to reflect the desired future character of the area. The GFA has been appropriately distributed across the site with design modifications proposed to address potential amenity impacts.</p>	
Landscaped area	30% of the site area is to be landscaped	41.3% (1338.3sqm)	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	35.7% (1157.6sqm). The site provides in excess of 15% as deep soil area located within both street frontages and clear of the basement structure.	Yes
Solar access	Living rooms and private open spaces	Compliant solar access is provided to all 6	Yes

Control	Required	Proposed	Compliance
	for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	dwellings.	
Private open space	<p>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area</p>	<p>With the exception of unit one (1) all ground floor units have compliant areas of private open space (POS). Unit one (1) has a 11.58sqm balcony.</p> <p>The minor 3.5sqm breach in the POS requirement has been assessed as acceptable given that a suitable level of amenity is provided to of unit 1.</p> <p>All level one apartments provide compliant areas of private open space in the form of a balcony.</p>	<b>No</b>
Parking	0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or	Based on 18 bedrooms the proposal requires 12 car parking spaces. The proposal provides for a total of 12 resident spaces within an amended basement in compliance with this control.	Yes

Control	Required	Proposed	Compliance
	community housing provider.		
Visitor parking	None required if less than 8 dwellings	6 dwellings are proposed	NA

## 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. A response has been received which offers no objections to the development subject to conditions.

### Roads and Maritime Service (RMS)

#### **Clause 101 - Development with frontage to classified road states:**

*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

*(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*

*(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*

- (i) the design of the vehicular access to the land, or*
- (ii) the emission of smoke or dust from the development, or*
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

*(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

### Comment:

The application was referred to TfNSW who offered no objections to the proposal subject to conditions which are included in the recommendation.

#### Pittwater Local Environmental Plan 2014

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8m	N/A	Yes

#### Compliance Assessment

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
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

#### Detailed Assessment

##### 7.2 Earthworks

Clause 7.2 requires the consent authority must consider the following matters:

*the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*  
*the effect of the development on the likely future use or redevelopment of the land,*  
*the quality of the fill or the soil to be excavated, or both,*  
*the effect of the development on the existing and likely amenity of adjoining properties,*  
*the source of any fill material and the destination of any excavated material,*  
*the likelihood of disturbing relics,*  
*the proximity to, and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area,*  
*any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*  
*the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.*

#### Comment:

The proposal requires excavation of up to 3.70m depth to achieve the basement level with FFL7.73. The excavation will connect with the shared driveway to the basement approved under DA2019/1072

for a Senors Housing Development to the immediate north. The excavation will extend to within 0.9m of the southern boundary 4.7m to the west and 6.7m to the east. The geotechnical report provides a risk assessment of landslip to all boundaries and provides design and construction recommendations to ensure potential risk will be maintained within acceptable risk management criteria. the recommendations include the need for support measures and a need for additional testing.

Subject to compliance with the recommendations of the geotechnical report it is concluded that the proposed earthworks can be carried out to ensure soil stability and seepage is managed and impacts on neighbouring amenity and structures are minimised. Inspections are required throughout the construction and dilapidations surveys recommended for properties within 10m of the excavation perimeter.

### Pittwater 21 Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10m Pittwater Road	8m - 8.2m to building wall 6.8m-7m to balconies Nil to bin store	20-22% 32%-30%	No
Rear building line	6.5m Park Street	6.5m - 7.5m to building line 4m to balconies	N/A 38.5%	Yes No
Side building line	2.5m Southern boundary	3m	N/A	Yes
	1m Northern boundary	zero	100%	No
Building envelope	3.5m north-west	Outside envelope 1.4m in height for a length of 6.6m	Refer to details	No
	3.5m south-east	Within envelope	N/A	Yes
Landscaped area	50%	41%	9%	No

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

\*The built form controls assessed the proposed 6 units proposed at 1795 and not the consolidated total site.

#### 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
B1.3 Heritage Conservation - General	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
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
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
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	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	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9.2 Scenic protection - General	Yes	Yes
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		
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **A4.9 Mona Vale Locality**

Desired future character requires *"Existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.*

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment".*

#### Comment

The proposal maintains a two storey building height below the tree canopy in a landscaped setting consistent with the desired future character of the area. The contemporary design incorporates facade modulation in the form of shade elements and the colours and materials are considered to be appropriate.

#### **C1.1 Landscaping**

Clause C1.1 requires 50% of the site to be landscaped open space, 41% of the site is retained as landscape open space.

#### Comment:

Under SEPP Seniors Living, the proposal can not be refused if the development includes 30% landscape open space with 15% of that area as deep soil zone. The proposal is compliant with the landscaping controls of the SEPP HDPD and Council's Landscape Officer has no objections to the proposal subject to conditions.

#### **C1.5 Visual Privacy**

Clause C1.5 requires:

*Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout,*

landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

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.

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:

Bedroom windows to the south facing apartments No. 2 and 3 are located 3m from the southern boundary and concern has been raised by both Council's Urban Designer and the Panel regarding the potential future development potential of the adjoining property at No. 1791 Pittwater Road which is currently in use as a medical practice. In accordance with the recommendations from the Panel the apartments have been redesigned to swap the media room with bedroom 3 and provide a recesses section between the media room and bedroom 2 to allow the bedroom window to face towards Park Street and not towards the adjoining property to the south. It is noted that the current part of the adjoining site is a carpark to a medical practice, as such, the issue is therefore with the potential future redevelopment of No. 1791 Pittwater Road.

The remaining narrow louvre window to bedroom 2 shall be 'white glass' or obscure and provides amenity of cross ventilation to the bedroom whilst maintaining privacy glazing similar to the windows in bedroom 1 of the same apartment facing the same direction as accepted by the Panel, refer to plans below.

It is also noted that an existing fence provides a screen between the subject site and the property to the south and screen planting is proposed along the southern boundary to help reduce issues relating to visual privacy.



Original ground floor (source Gartner Trovato)





The window to bedroom 2 in apartments 3 and 6 are located 7.2m at an angle to the bedroom windows in the approved HSDP to the immediate north. The window to bedroom 3 in apartment 3 and 6 is located 6.2m directly opposite the bedroom window to the approved HSDP development. In accordance with the recommendations from the Panel the apartments have been redesigned to recess bedroom 2 apartment 3 (ground floor) and provide a bay window to bedroom 3 with a window to faces towards Park Street and white / obscure glazing in the north facing window. In addition, a privacy screen and planting help protect amenity between the proposed and approved and proposed development.

[illegible]

Council's Urban Designer had also recommended that the visual and noise privacy issues to the windows of all bedrooms in unit 01 from the entry path. The applicants justifies the design on the following grounds:

The justification has been assessed as acceptable. It is also noted that a privacy screen is proposed between the path and window to bedroom 3 and the windows to bedroom 2 are positioned on the sides

and do not result in direct overlooking. Furthermore, the development is reasonable low density (6 Seniors Housing apartments) and it is not anticipated that access to and from the development will result in unreasonable amenity issues to apartment 1.

In summary, the redesign of the windows provide light and ventilation to the apartments while maintaining visual and acoustic privacy to neighbouring sites in accordance with the recommendations of the Panel and Council's Urban Designer and in compliance with clause C1.5.

#### **D9.6 Front building line**

The proposal seeks a variation on the Park Street and Pittwater Road frontages. At Pittwater Road the front setback required is 10.0m and the proposed dwelling presents a staggered building line with sections of the building protruding from 8m to the front wall elevation. On the Park Street frontage, the building facade is again staggered, providing a setback to the main facade of the structure of 6.4m and elements of the front terraces and fin walls with a setback of 4m.

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

It is considered that the 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 type developments in the vicinity. The staggered building line provides a discreet transition from the adjoining single dwelling.

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.

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**

Clause D9.7 requires a 6.5m rear set back and a 2.5m and 1m side setback.

##### Comment

As the site has dual street frontages, the rear building setback does not apply in this instance. The development provides a compliant 3m setback of the facade and a 1.2m setback to the basement to the southern boundary.

The proposal seeks consent for a variation to the side setback control to allow a zero side setback to the northern boundary.

- Given that the site to the immediate north will form part of the final consolidated site and extended HSDP development the variation of the side setback control has been assessed as acceptable as there will be no adverse environmental impacts as a result of the breach.
- In general, the overall design, 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 R2 Low Density Residential Zone.



- The variation to the side setback to the north for the basement and staggered building facade does not create an unreasonable impact on surrounding amenity and is required to optimise basement access from Park Street.
- The outlook and views from adjacent private land is not affected by the basement or the building line and includes border landscaping to buffer and soften the appearance of the development including a landscaped setback to the retaining wall of the basement carpark.
- A reasonable level of privacy, amenity and solar access is provided to the side setback area by a design that responds to the site characteristics and existing constraints for the adjoining dwelling. The impact on balance is considered to be consistent with the pattern of development in the surrounding area. Refer to further discussion on visual privacy under Clause C1.5 of this report.

#### **D9.9 Building envelope**

The proposal seeks a variation of the 3.5m / 45 degree building envelope to the north of the site where the development has a zero setback to the connecting approved SPDH. Given that the four (4) lots will be amalgamated an exception to the variation is considered acceptable as the non-comply element will not affect any neighbouring site and will be contained in the combined final site.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

#### **POLICY CONTROLS**

##### **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 \$29,297 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,929,695.

#### **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2020/1179 for Demolition works and construction of a Seniors Housing development with basement parking & associated landscaping on land at Lot 4 DP 76695, 1795 Pittwater Road, MONA VALE, Lot 1 DP 219265, 1797 Pittwater Road, MONA VALE, Lot 2 DP 219265, 38 Park Street, MONA VALE, Lot 5 DP 77493, 1793 Pittwater Road, MONA VALE, 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**

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-01 Rev A Access to services, existing site plan and demolition plan	15/09/2020	Gartner Trovato Architects
DA-03 Rev B Basement and Car Park Plan	27/01/2021	Gartner Trovato Architects
DA-04 Rev B Ground Floor Plan	27/01/2021	Gartner Trovato Architects
DA-05 Rev B First Floor Plan	27/01/2021	Gartner Trovato Architects
DA-06 Rev B Roof Plan	27/01/2021	Gartner Trovato Architects
DA-07 Rev B North and East elevation	27/01/2021	Gartner Trovato

		Architects
DA-08 Rev B West Elevation A and B	27/01/2021	Gartner Trovato Architects
DA-09 Rev B South Elevation	27/01/2021	Gartner Trovato Architects
DA-10 Rev B Sections A and B	27/01/2021	Gartner Trovato Architects
DA-16 Rev A External Colours and Materials	15/09/2020	Gartner Trovato Architects
DA-17 Rev A Lower Roof Plan	15/09/2020	Gartner Trovato Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
DA01 Rev A Ground Floor and Basement Drainage and Site Stormwater Management Plan	September 2020	Istruct Pty Ltd
DA02 Rev A First Floor and Roof Drainage Plan and Ocean Project Detail	September 2020	Instruct Pty Ltd
DA03 Rev A Pittwater Road Long Section	September 2020	Instruct Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report Project No 2019-132.1 Section 5 page 8-15	September 2020	Crozier Geotechnical Consultants
Traffic and Parking Assessment Report Ref 19027	14 September 2020	Terraffic Pty Ltd
BCA Assessment Report Ref 111006-BCA-r3 Section 3 page 10	17 September 2020	BCA Logic
Arboricultural Impact Assessment Section 4 page 7	17 September 2020	Jackson Nature Works
Accessibility Report Version ADR_20281_v1.1	16 September 2020	ABE Consulting

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
LA-01 Rev A Landscape Plan	15 September 2020	Gartner Trovato Architecture

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By

Waste Management Plan	18 September 2020	Sean Gartner
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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	3/11/2020
Transport for NSW	TfNSW Ref SYD20/01453/01	27/01/2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://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. **Prescribed Conditions**

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

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

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

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

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

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

Reason: Legislative requirement.

#### 4. General Requirements

- (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 2018
  - (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.

**5. Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and / or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

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

Reason: Statutory requirements. (DACPLB11)

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$29,296.95 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 \$2,929,695.00.

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 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](http://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.

### 7. 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 are required 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, and 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](http://www.northernbeaches.nsw.gov.au)).

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

8. **Construction, Excavation and Associated Works Security Bond (Road reserve)**

The applicant is to lodge a bond with Council of \$15000 as security against any damage to existing road/footpath assets or failure to complete the reconstruction of any footpath or road pavement/shoulder reconstruction 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.

9. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$50000 as security against any damage or failure to complete the construction of stormwater drainage works in Pittwater Road required as part of this consent. The stormwater drainage works include construction of new inlet pits and connection of a RCP stormwater line the the existing inlet pit on the opposite side of Pittwater Road,

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**

10. **On slab planter works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters on slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- 300mm for lawn
- 600mm for shrubs
- 1m for small trees

Design certification shall be submitted to the Certifying Authority by a structural engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate and secure waterproofing and drainage is installed to direct water flow away from habitable areas.

11. **Geotechnical Report Recommendations have been 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 Crozier Geotechnical dated September 2020 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.

**12. 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.

**13. Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the IStruct Consulting Engineers and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment

**14. Soil and Water Management Plan**

A Soil and Water Management Plan (SWMP) shall be prepared by a suitably qualified Civil Engineer, who has membership to the Engineers Australia, National Engineers Register and implemented onsite prior to commencement. The SWMP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004) and Council's Water Management for Development Policy.

The SWMP must include the following as a minimum:-

- Site boundaries and contours;
- Vehicle access points, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Location of all drains, pits, downpipes and waterways on and nearby the site;
- Planned stages of excavation, site disturbance and building;
- Stormwater management and discharge points;
- Integration with onsite detention/infiltration;
- Sediment control basin locations and volume (if proposed);
- Proposed erosion and sediment controls and their locations;
- Location of washdown and stockpile areas including covering materials and methods;
- Vegetation management including removal and revegetation;
- A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- Inspection and maintenance program;
- North point and scale.



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

Reason: To promote the long-term sustainability of ecosystem functions.

**15. Photographic Archival Record**

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by Heritage NSW.

This record must be submitted and approved by the Certifying Authority prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- o Location of property, date of survey and author of survey;
- o A site plan at a scale of 1:200 showing all structures and major landscape elements;
- o Floor plans of any buildings at a scale of 1:100;
- o Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

**16. 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.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- o The proposed phases of construction works on the site, and the expected duration of each construction phase
- o 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
- o Make provision for all construction materials to be stored on site, at all times
- o The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- o The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes 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 access across public parks or reserves being allowed
- o 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

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.

#### 17. **On-site Stormwater Detention Details**

The Applicant is to submit the site stormwater 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 I Struct , drawing number D01,D02,D03, dated September 2020. 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 (NER) or Professionals Australia (RPENG) 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.

**18. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**19. Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

The Applicant is to submit Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) and is to be completed and submitted to the Accredited Certifier, prior to issue of the Construction Certificate.

Reason: To ensure geotechnical risk is managed appropriately.

**20. Tree Protection Plan**

In order to protect existing trees and vegetation the following existing trees shall be protected in accordance with a Tree Protection Plan, based on the recommendations of the Arboricultural impact Assessment reports dated 25 September 2019 and 17 September 2020:

i) 25 September 2019:

- T2 and T3 Melaleuca quinquernervia along Pittwater Road within the road reserve,
- T27 Corymbia maculata along Park Street within the road reserve,
- T4 Glochidion ferdinandi, T7 Michelia figo, T8 Magnolia grandiflora, T22 Jacaranda mimosifolia, and T24 Brachychiton acerifolius within the site,
- T25 Melaleuca quinquernervia and T26 Callistemon salignus within adjoining property.

ii) 17 September 2020:

- T10 Melaleuca quinquernervia along Pittwater Road within the road reserve,
- T1, T2, and T3 Waterhousia floribunda and T11 Tibouchina grandulosa within adjoining property.

a) A Tree Protection Plan prepared by a AQF Level 5 Arborist with qualifications in arboriculture/horticulture, in accordance with AS4970-2009 Protection of trees on development sites, and consistent with the recommendations of the Arboricultural Impact Assessment prepared by Jacksons Nature Works dated 25 September 2019 (section 4. Recommendations) and 17 September 2020 (section 4. Recommendations), demonstrating as a minimum, the following:

- Layout of the approved development,
- Extent of permitted basement,
- Location of trees including trunk, structural root zone and tree protection zone,
- Location of tree protection fencing / barriers,
- General tree protection measures, including ground and trunk protection.

b) A schedule of site inspections, hold points and related certification of construction works near

the existing trees the subject of the Tree Protection Plan.

c) The Tree Protection Plan is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate.

d) Tree protection measures identified on the plan 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

21. **Transplanting Methodology**

A Transplanting Methodology prepared by a AQF Level 5 Arborist with qualifications in arboriculture/horticulture, shall be prepared to demonstrate the requirement for transplanting the proposed T38 *Livistona australis* (Cabbage Tree Palm) as recommended in the Arboricultural Impact Assessment dated 25 September 2019, including:

- schedule of events, inspections, hold points and related certification
- preparation for trenching
- treatment of roots following trenching
- lifting technique
- sitting and planting
- post planting treatment of roots
- watering and fertilising regime
- maintenance program
- replacement strategy if transplanting fails in the long term

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate.

Reason: to ensure adequate planning, execution and on-going care is undertaken.

22. **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 property 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.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

23. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the



development. (DACPLC03)

24. **Requirements for Seniors Housing or Housing for Persons with a Disability**

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Schedule 3 - "*Standards concerning accessibility and useability for hostels and self-contained dwellings*".

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

Reason: To ensure public safety and equitable access for seniors or people with a disability. (DACPLC16)

25. **Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council. All costs associated with the works shall be borne by the applicant.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy(DACTRCPCC1).

26. **Provision of additional bicycle spaces**

In compliance with Pittwater DCP, 4 bicycle spaces is to be provided for the proposed additional 12 residential dwellings.

The plans demonstrating the above are to be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

Reason: To comply with Pittwater DCP (DACTRCPCC2)

27. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, 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.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

28. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures and certify compliance with the Tree Protection Plan and the recommendations of the Arboricultural impact Assessment reports dated 25 September 2019 and 17 September 2020, and in accordance with Australian Standard 4970-2009 Protection of



Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) section 4. recommendations of the Arboricultural impact Assessment dated 25 September 2019
- ii) section 4. recommendations of the Arboricultural impact Assessment dated 17 September 2020

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: tree protection.

29. **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.

1791 Pittwater Road, Mona Vale  
1799 Pittwater Road, Mona Vale and  
40 Park Street, Mona Vale.

The dilapidation report is to be prepared by a suitably qualified person. 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 arising 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.

30. **Public Liability Insurance - Works on Public Land**

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

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

31. **Tree removal within the property**

This consent approves the removal of the following trees within the property (as recommended in the Arboricultural Impact Assessment):

i) report dated 25 September 2019:

- tree 23 - *Acmena smithii*

ii) report dated 17 September 2020:

- tree 6 - Claret Ash, and tree 9 - Crepe Myrtle

The following Exempt Species do not require Council consent for removal:

i) report dated 25 September 2019:

- trees numbered 5, 6, 9, 10, 10A, 11 to 21 inclusive, 29, 31 to 34 inclusive, 37, 39 to 42 inclusive, and 44
- additional trees numbered 30, 35, 36, and 45

ii) report dated 17 September 2020:

- trees numbered 4, 5, 7, and 8

Reason: to enable authorised building works

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

32. **Tree removal within the road reserve**

The following tree is approved for removal within the public reserve based on the recommendations of the Arboricultural Impact Assessment prepared by Jacksons Nature Works dated 25 September 2019:

- Tree 1: *Grevillea robusta* (Silky Oak)
- Tree 28: *Corymbia maculata* (Spotted Gum)

Removal of these trees within public land shall only be undertaken by a Council approved Tree Contractor.

Details of currently approved Tree Contractors can be obtained from Northern Beaches Council's Tree Services section prior to removal.

Reason: Public liability.

#### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

33. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

34. **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.

35. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

36. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

37. **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 Roads 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.

38. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5.5m metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ **Normal** 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.

39. **Protection of existing street trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, excluding T1 and T28 approved for removal.

Existing street trees within the frontage of the development site shall be protected by tree protection measures as determined by an Arborist with minimum AQF Level 5 in arboriculture, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

Should any problems arise with regard to the existing or proposed trees on public land during



the construction or bond period, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: street tree protection.

40. **Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected in accordance with the approved Tree Protection Plan, the Arboricultural Impact Assessment prepared by Jacksons Nature Works dated 25 September 2019 and 17 September 2020, and AS 4970-2009

Protection of trees on development sites, with particular reference to Section 4, and as follows:

i) all trees and vegetation located within the property as listed in the report dated 25 September 2019: T4 (*Glochidion ferdinandi*), T7 (*Michelia figo*), T8 (*Magnolia grandiflora*), T22 (*Jacaranda mimosifolia*), T24 (*Brachychiton acerifolius*), and T43 (*Cedrus deodara*),

ii) all trees and vegetation located on adjoining properties as listed in the report dated 25 September 2019: T25 (*Melaleuca quinquenervia*) and T39 (*Jacaranda mimosifolia*), and as listed in the report dated 17 September 2020: T1, T2, T3 (all *Waterhousia floribunda*) and T11 (*Tibouchina granulosa*),

iii) all road reserve trees and vegetation as listed in the report dated 25 September 2019: T2 (*Melaleuca quinquenervia*), T3 (*Melaleuca quinquenervia*), and T27 (*Corymbia maculata*), and as listed in the report dated 17 September 2020: T10 (*Melaleuca quinquenervia*),

iv) the following palm recommended in the Arboricultural Impact Assessment for transplanting - T38 *Livistona australis* (Cabbage Tree Palm).

b) Tree protection shall be generally undertaken as follows:

i) all tree protection shall be in accordance with AS 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,

iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,

iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,

v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,

vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,

viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,

ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,

xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.



c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment prepared by Jacksons Nature Works dated 25 September 2019 and 17 September 2020.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

f) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect planting worthy of retention on development and adjoining sites.

41. **Substitution of Stormwater Treatment Measure**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must first be approved by the Principal Certifying Authority.

Details must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

42. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment

43. **Dewatering Management (Large sites/basements)**

Council proactively regulates construction sites for sediment management.

Where a one-off instance of dewatering of groundwater or tailwater is required during works, Council's Catchment Team must be notified of your intention to discharge. Discharges should meet the water quality requirements below. Notification must be via the Team's email address - [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au).

If continuous dewatering or dewatering on multiple events is expected, a dewatering permit is required from Council's Catchment Team at [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au).

To obtain a permit, the following information must be contained in a dewatering management plan and provided to Council's Catchment Team. The dewatering management plan must be certified by a suitably qualified civil engineer who has membership of Engineers Australia and appears on the National Engineering Register (NER).

1. Preliminary testing of groundwater/tailwater must be conducted by a NATA accredited laboratory to establish a correlation between NTU and TSS. This will allow the use of grab sampling at short notice prior to planned discharges.
2. Grab samples must be collected within 1 hour before planned discharge that comply with the parameters in the table below.
3. The groundwater/tailwater to be discharged must be compliant with the water quality requirements below, the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Water Quality (<one hour of planned discharge)

Oil and grease, not visible

pH, 6.5-8.5

Total Suspended Solids (TSS), <50mg/L NTU from a meter/grab sample

4. All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.
5. Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted. Where there is no stormwater pit within 100 metres of the site, Council's Catchment Team must be contacted to discuss alternative arrangements.

On receipt of a satisfactory dewatering management plan, Council's Catchment Team will issue a permit that will allow dewatering for up to one year. This permit should be provided to WaterNSW for their permit. Once a permit has been received from WaterNSW, dewatering may commence.

Reason: Protection of the receiving environment

44. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated 18 September 2020.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling

facilities are provided.

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.

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

46. **Landscape completion**

Landscaping shall implemented in accordance with the Landscape Plan LA-01 (issue A), prepared by Gartner Trovato Architects, inclusive of the following requirements:

- i) the planting scheme shall be installed in accordance with the design layout and schedule as shown on the Landscape Plan LA-01 (issue A),
- ii) all large and medium tree shall be planted at least 5 metres from existing and proposed buildings,
- iii) all small tree planting shall be planted at least 3 metres from existing and proposed buildings,
- iv) tree and palm planting in close proximity to walling shall be located centrally to the garden area,
- v) all edging groundcover planting to paths and the like must be at least 200mm from the edge,
- vi) all street tree planting shall be planted at 75 litre minimum container size, and installed with a tree guard consisting of 4 posts and top & mid rails, and installed into a prepared planting hole 1m x 1m x 0.7m deep backfilled with sandy loam soil, finished with 75mm compacted mulch, and installed centrally between the footpath and front boundary,
- vii) all tree and palm planting listed on the Landscape Plan schedule shall be planted at 75 litre minimum container size,
- viii) all screen shrub planting listed on the Landscape Plan schedule shall be planted at 300mm minimum container size, at no more than 1 metre apart,
- ix) all small shrub planting listed on the Landscape Plan schedule shall be planted at 200mm minimum container size,
- x) all groundcover and succulent planting listed on the Landscape Plan schedule shall be planted at 140mm minimum container size,
- xi) no planting is permitted within the road reserve, with the exception of street tree planting and turf.
- xii) hard landscape elements such as retaining walling, paving, fencing, and planters shall be located and finished in accordance with the approved plans prepared by Gartner Trovato Architects,
- xiii) all on slab planters shall include a dripline irrigation system.

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 plans, and any relevant condition of consent.

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 an Arborist with AQF Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the

following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

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

48. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with the approved stormwater drainage plans all relevant Australian Standards and Council Codes by the design engineer. Certification demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

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

49. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by iStruct Consulting Engineers. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment

50. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. 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 as to user is to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

51. **Stormwater Treatment Measures Operation and Maintenance Plan**



An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
  - a) Work as executed drawings
  - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  - c) Site detail showing catchment for each device
  - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
  - e) Impervious area restrictions to maintain the water balance for the site
  - f) Funding arrangements for the maintenance of all stormwater treatment measures
  - g) Identification of maintenance and management responsibilities
  - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure
  - a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

  - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
  - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing
  - a) Activity description, and duration and frequency of visits
  - b) Routine maintenance requirements
  - c) Work Health and Safety requirements
  - d) Waste management and disposal
  - e) Traffic control (if required)
  - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
  - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

**52. Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment

**53. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,



- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

54. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

55. **Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**

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 positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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 adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

56. **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.

57. **Strata Management Statement**

The Strata Management Statement must specifically list the stormwater treatment measures that will be maintained under strata title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

58. **Post-Construction Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

59. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

60. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Geotechnical Report Project No 2019-132.1 Section 5 page 8-15 dated September 2020 prepared by Crozier Geotechnical Consultants;
- (b) Traffic and Parking Assessment Report Ref 19027 dated 14 September 2020 prepared by Terraffic Pty Ltd;
- (c) BCA Assessment Report Ref 111006-BCA-r3 Section 3 page 10 dated 17 September 2020 prepared by BCA Logic;

(d) Arboricultural Impact Assessment Section 4 page 7 dated 17 September 2020, prepared by Jackson Nature Works, and  
(e) Accessibility Report Version ADR\_20281\_v1.1 dated 16 September 2020 prepared by ABE Consulting.

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

Reason: To ensure compliance with standards.

61. **Garbage and Recycling Facilities**

All internal walls of the waste rooms 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.  
Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

62. **House / Building Number**

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

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

Reason: Proper identification of buildings.

63. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines  
([https://auspost.com.au/content/dam/auspost\\_corp/media/documents/Appendix-01.pdf](https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf)).

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

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

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

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

Reason: To ensure consistent numbering for emergency services access.

64. **Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACPLF06)

65. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

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

Reason: Statutory requirements. (DACPLF11)

66. **Fire Safety Matters**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate (or where applicable, relating to the part of the building, being the subject of this Consent).

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire



Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

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

**67. Consolidation of lots**

The following lots must be consolidated as one (1) allotment and registered on a survey plan ((prepared and signed by a Registered Surveyor) with the NSW Land & Property Information Service (NSW Department of Lands).

- Lot 2, DP 219265, No. 39 Park Street, Mona Vale
- Lot 1, DP 219265, No. 1797 Pittwater Road, Mona Vale
- Lot 4, DP 76695, No. 1795 Pittwater Road, Mona Vale
- Lot 5, DP 77493, No. 1793 Pittwater Road, Mona Vale

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 development is not constructed over property boundaries

**68. Driveway crossing and internal ramps**

The driveway crossing and the access ramp shall be minimum 6.0 wide. Also priority Signage/linemarkings shall be implemented at the conflict point on the internal ramp where the two ramps leading to separate car parking areas join the access ramp.

Reason: To prevent vehicular conflict and ensure safety within the car park (DACTRFPOC1)

**69. Safety Audit and provision of accessible bus stops**

The connections from the site to the nearest Bus Stops are to be reviewed by a suitably qualified safety auditor to determine their suitability for elderly to access public transport. The report will need to address footpath condition, grades, widths and crossing points. Any outcomes identified in the report shall be addressed by the applicant prior to any consent becoming active. Also, the bus stops are to be upgraded to comply with disability standards for accessible public transport (DDA compliant) be upgraded to DDA compliant bus stops.

Reason: To ensure provision of accessible connection to bus stops and accessible bus stops (DACTRFPOC2)

**70. Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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.

**71. 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.

72. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), 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 covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

73. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

74. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment

75. **Ongoing Conditions for Waste Storage Area**

Any doors fitted on the Residential Waste Storage Area, pathway and access must be:

- a. A minimum opening width of 1200mm.
- b. Able to be latched in an open position
- c. Unobstructed by any locks and security devices

Reason: To ensure ongoing access for servicing of waste facilities.

76. **Solid fuel heaters**

Solid fuel heaters are not permitted within any part of this development.

Reason: To maintain the amenity of surrounding residents. (DACHPGOG5)

77. **Permitted location of air conditioning units**

No air conditioning unit or compressor shall be located on the roof of the building. Air conditioning units may only be installed within the basement carpark.

Reason: To protect the amenity of surrounding residents (DACHPGOG5)

78. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Newly planted street trees must be maintained, by a watering, fertilising and mulching program as a minimum, for a period of 12 months following the issue of an Occupation Certificate. Any failure due to lack of maintenance will require replacement tree planting with a further 12 months maintenance period applying.

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

<b>ITEM 3.4</b>	<b>MOD2020/0373 - LOT 101/1106750 MONA VALE ROAD TERREY HILLS - MODIFICATION OF DEVELOPMENT CONSENT DA2011/0305 GRANTED FOR CONSTRUCTION OF A RECREATION FACILITY SHOOTING RANGE CLUBHOUSE AND ANCILLARY WORKS.</b>
<b>REPORTING MANAGER</b>	<b>Matthew Edmonds</b>
<b>TRIM FILE REF</b>	<b>2021/064449</b>
<b>ATTACHMENTS</b>	<b>1 Assessment Report</b>

**PURPOSE**

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

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**RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority **approves** Mod2020/0373 for Modification of Development Consent DA2011/0305 granted for Construction of a recreation facility shooting range clubhouse and ancillary works on land at Lot 101 DP 1106750, Lot 101/1106750 Mona Vale Road Terrey Hills, subject to the conditions outlined in the Assessment Report.

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0373
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 101 DP 1106750, 101 / 1106750 Mona Vale Road TERREY HILLS NSW 2084
Proposed Development:	Modification of Development Consent DA2011/0305 granted for Construction of a recreation facility shooting range clubhouse and ancillary works
Zoning:	Warringah LEP2011 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Peninsular Firearm Academy Inc Department Of Lands
Applicant:	Peninsular Firearm Academy Inc

Application Lodged:	19/08/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	12/10/2020 to 26/10/2020
Advertised:	Not Advertised
Submissions Received:	32
Clause 4.6 Variation:	Nil
Recommendation:	Approval

### EXECUTIVE SUMMARY

The application seeks to modify conditions under DA2011/0305 as follows:

- Removal of a trial period to make the use of rim fire rifles permanent (subject to all other conditions and an updated Plan of management).
- Extension of operating hours to be 10am-6pm (one Sunday per month). The trial period currently allows operational hours of 12:30pm-4:30pm (one Sunday per month).
- Removal of the restriction requiring a maximum of 80 people to be permitted to participate in shooting activities.

Under DA2011/305, a requirement was provided that acoustic testing should be conducted in accordance with an established criteria on at least two occasions and at least 4 months apart.

Two Acoustic reports provided by a qualified consultant have been provided, being dated 5 months apart. These reports follow the noise testing procedure outlined under the conditions of consent granted for DA2011/0305. The conclusions of these reports have found that noise is in accordance with the requirements placed for noise generation under the consent. Further, Council's Environmental Health Officer has provided that the reports have been completed in accordance with the relevant standards and guidelines and show compliance with the modelling conducted as part of DA2011/0305.

Thirty submissions were raised in regard to the application. These submissions raised a number of issues but particularly related to the impact of noise on surroundings during operation of the facility.

An updated plan of management has been provided and conditions remain in order to provide noise attenuation measures.

Therefore, it is recommended that the application be approved.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal is for modification to the approved recreation facility shooting range clubhouse and ancillary works. In detail this involves a request to modify conditions of consent as follows:

- Deletion of trial period for rim fire rifles under Condition 5a, and modification of Condition 5b to allow for this permanency. Prior to the proposed modification, the condition is as follows:

### 5. Twelve Month Noise Trial Period

*This consent is granted for the approved shooting of rim fire rifles only for a limited period in accordance with the following:*

*(a) The Range usage for rim fire rifles shall be subject to a trial period of twelve (12) months from the date of issue of the interim occupation certificate.*

*(b) At the end of the 12 month period, if the applicant wishes to make the proposed rim fire weapon use permanent, the applicant must lodge a Section 96 Modification of Consent application with supporting documentation (including the noise monitoring details required in (c) below) on or before 2 months before the end of the 12 month trial period. The S96 can include deletion of this requirement for any further review, and any modification to relevant conditions.*

*(c) During the 12 month trial period, a noise monitoring review is to be undertaken by a qualified expert Noise Consultant with a minimum of two (2) noise test monitoring procedures, at least 4 months apart, to determine the ongoing noise impacts of the rim fire weapon use and noise impact on surrounding land uses. The monitoring review shall also include consideration of suitability of the continuation of Sunday use for the shooting range. Noise testing is to be conducted according to condition No.48 "Noise Testing Procedure". The monitoring survey and recommendations of the Noise Consultant are to be presented in a report to Council to accompany the Section 96 Application to be lodged at the end of 12 months from the date of issue of the Interim Occupation Certificate.*

*(d) The approved rim fire shooting operations can remain in place until the Section 96 application has been finally determined subject to:*

*(i) A Class 1 Appeal to the Land and Environment Court being commenced against any actual refusal of the S96 application by Council within 14 days from the date of that refusal; or*

*(ii) If the Council has not determined the S96 application within 40 days of the lodgement of that application, a Class 1 Appeal being commenced against the Council's deemed refusal of the application within 60 days of the date of the lodgement of the S96 application; or*



*(iii) In the event that the Section 96 is not lodged in accordance with the above, Council may commence a Class 4 Appeal against a breach of these conditions.*

*Reason: Management of noise amenity.*

- Extension of operating hours (under Condition 52(i)) and removal of restriction of 80 people per day under condition 52(ii). Prior to the proposed modification, the condition is as follows:

**52. Compliance with Operational Plan of Management**

*The operation of the Rifle Range is to be conducted in accordance with the Operational Plan of Management (OPM) subject to the additional requirements:*

*(i) Operating Hours: Use of the Shooting Range for live firing is limited to one (1) Sunday per month between 12:30pm to 4:30pm.*

*(ii) A maximum of 80 persons are permitted to participate in shooting activities on the range for any scheduled meeting day at the facility. A log book is to be maintained to record individual participation in shooting activities.*

*(iii) The OPM is to be reviewed every twelve (12) months from the operative date of Consent. A copy of the reviewed plan shall be submitted to Warringah Council for records.*

*(iv) The Shooting Range is not to be used for any night time shooting purposes and no floodlighting of the range target area is permitted.*

*(v) A copy of the OPM is to be kept on site at all times in conjunction with a Complaints Register. The OPM and Complaints Register is to be made available for inspection by Council's Environmental Health / Compliance Officer upon request.*

*Reason: Limit intensity of use and ensure management of noise amenity.*

## **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 Development Control Plan - D3 Noise

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 101 DP 1106750 , 101 / 1106750 Mona Vale Road TERREY HILLS NSW 2084
<b>Detailed Site Description:</b>	<p>The site is described as Lot 101, DP 1106750, Mona Vale Road, Terrey Hills. The site is located on the northern side of Mona Vale Road, approximately half way between St Ives Showground and the intersection of Forest Way, Myoora Road and Mona Vale Road. The site is not readily visible from Mona Vale Road and vehicle access is via a relatively inconspicuous unmade road that also leads to the existing St Ives Gun Club facility. The subject land is irregular in shape and has an area of 3.9 hectares.</p> <p>The site is owned by the Department of Lands, however is leased by the Peninsular Firearms Academy Inc ("the club") and land owners consent has been provided.</p> <p>The majority of the subject site is cleared land having previously been used as a quarry. The quarry area was then filled primarily with excavated fill and soil material. As a result, there are now two terraced/benched areas on the site, which are divided by a steep embankment. The previously disturbed areas are predominately covered by grasses and woody weeds. Undisturbed remnant woodland exists in the far west and south-western parts of the site.</p> <p>The site has been significantly modified by the previous land use as a quarry and landfill operations. In effect the land contains two large hard packed terraced areas with a steep embankment dividing the two terraces.</p> <p>The north-east boundary of the site adjoins the St Ives Pistol Club. The subject site and St Ives Pistol Club are surrounded by bushland and isolated from other urban areas. The site is adjoined by the Ku-ring-gai Chase National Park to the north.</p> <p>Non-residential uses within 1.0km of the subject site within Warringah include:</p> <ul style="list-style-type: none"> <li>• Greenwood Landfill and Waste Recovery Facility,</li> <li>• Austlink Business Park,</li> <li>• Bureau of Metrology Doppler Radar, and</li> <li>• Terrey Hills Par 3 Golf Sports; and</li> <li>• Cooyong regional multi-user recreational trail within Ku-ring-gai Chase NP.</li> </ul> <p>Non-residential uses within 1.0km of the subject site within Ku-ring-gai Council LGA include:</p>

- St Ives Showground,
- Honda Australia Road Craft Training Centre.

The nearest residential development from the shooting range firing point is as follows:

- 660m to the west/south-west (Lot 2816 Mona Vale Road) toward St Ives Show ground
- 440m to the south (Lot 2817 Mona Vale Road) on the opposite side of Mona Vale Road (but within the C10 Mona Vale Road West Locality)
- 1.1km to the west to the 'Managers residence' at St Ives Showground
- 1.5kms to the east/north-east, being rural residential dwellings in Myoora Road, Terrey Hills
- 1.2kms to the south-west, being rural residential dwellings in Bundaleer Street, Belrose
- 2.2km to 2.7km north, being rural residential dwellings in Duffys Forest and Terrey Hills
- 2.4km west-south west, being urban residential dwellings in St Ives

Map:



## **SITE HISTORY**

A search of Council's records reveals no previous development consents have been issued for the subject site (Prior to DA2011/0305). Furthermore, Council has no details of the former quarry licence and landfill operations which operated on this site, other than that they are understood to have been historically associated with the "Greenwood" quarry at Lot 7368 Mona Vale Road. Backfilling of the site was permitted by the Department of Lands which generally involved soil, stone material and crushed masonry/concrete used in the restoration of the quarry area.



The applicant has a Crown Lease over the site and in 2007 the lease was renewed for a further 20 year period. The applicant made previous site investigations and report preparations for a proposed range facility on the site in 2003 however no development application was lodged with Council. Any development proposal on the site for a new shooting range was held in abeyance until the submission of the current proposal.

### Permissibility

The proposed modification is permissible as there is an existing consent for the "Construction of a recreation facility - shooting range, clubhouse and ancillary works (DA2011/0305)" that has been lawfully commenced on the site. In this regard, a Notice of Commencement (NOC2016/0608) was issued for Construction Certificate CC2015/148.

In relation to the original development consent, the development was considered to be permissible due to the following circumstances:

The original development application was lodged with the Council on 10th March 2011. This was after the exhibition of the Draft WLEP 2009 and prior to the making of WLEP 2011 on 9th December 2011. As the development application was lodged prior to the operation of LEP 2010, Clause 1.8A (the transitional provision) was applicable and provides as follows:

"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced".

Outdoor recreation facilities are a prohibited development under the provisions of WLEP 2011.

However, as indicated above, given that the Development Application for the proposed development has already been lodged with Council prior to gazettal of WLEP 2011, the savings provision under Clause 1.8A is applicable to the proposed development.

Notwithstanding the above, reference is made to the Land and Environment court case, *Gelder Architecture v Ku – Ring – Gai Council* [2010] NSWLEC 1184, where the judgement summarizes the weight to be given to a draft LEP, particularly in the circumstance when the document was a draft when the application was lodged and has since been gazetted with a transitional provision.

"49 The fact that LEP 2010 has been made ensures that the plan is certain and imminent and accordingly, that plan must be given significant weight in the determination of the application. However, due to the savings provision, the inquiry does not stop there. In *Blackmore* at [30], Lloyd J states: 30. Whether one applies the test of "significant weight", or "some weight", or "considerable weight" or "due force" or "determining weight" to the later instrument is not, however, the end of the matter. The savings clause still has some work to do. The proposed development is a permissible development by dint of the savings clause. In giving the 2001 LEP the weight of being imminent and certain, that does not mean that there is no further inquiry. It is necessary to look at the aims and objectives of the later instrument and then see whether the proposed development is consistent therewith. Various expressions have been used to define this concept, but the approach which has been favoured in the Court of Appeal is to ask whether the proposal is "antipathetic" thereto (*Coffs Harbour Environment Centre Inc v Coffs Harbour City Council* [1991] 74 LGRA 185 at 193)."

The above judgement is relevant in relation to the role of the savings clause and the need to test the proposal against the aims and objectives of the zoning under the new LEP and whether the proposal is "antipathetic" thereto.

Therefore, an assessment of the proposed development against the objectives of E3 Environmental Management Zone was made as follows;

Objectives of the E3 Environmental Management Zone:

- i. To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- ii. To provide for a limited range of development that does not have an adverse effect on those values.
- iii. To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.
- iv. To protect and enhance the natural landscape by preserving remnant bushland and rock outcrops and by encouraging the spread of indigenous tree canopy.
- v. To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares.

The environmental impacts of the proposal have been tested for inconsistency against the above zone objectives to determine whether the proposal is not 'antipathetic' to the aims and objectives or the E3 Environmental Management Zone and its future desirable character. The following comments are made in relation to consistency with the overall objectives of WLEP 2011:

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

Comment: The facility is purposely designed for minimal usage and will be managed such that it will not have unreasonable impacts on the amenity of nearby residential properties, particularly in regard to noise attenuation and the low frequency of use (once per month). The additional special conditions will protect and manage the environmental impacts and ensure compliance with predicted noise levels affecting neighbouring private property, in accordance with the applicant's expert noise assessment, NSW noise guidelines and ensure no unreasonable loss of amenity.

The facility will not be viewable from Mona Vale Road and is set low on the site against the existing landform when viewed from distant vantage points within Ku-ring-gai Chase National Park, St Ives and Duffys Forest. The prior use of the site as a quarry and landfill has eliminated any significant natural ecological values in the location of the range footprint and carpark. Options for future alternative land use development of the site are limited by former quarry restoration work, contamination and the lack of available water supply, electricity and sewer. The site does not contain any locally significant ecological, cultural or aesthetic values. Therefore, the proposal is not inconsistent with the objective of this clause to protect and manage ecological, scientific, cultural and aesthetic values.

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

Comment: The proposed development is located within an area of the site that is highly disturbed and has been modified by past earthworks. The majority of the proposed building and range footprint is in a disturbed area covered by grasses and woody weeds and will be situated on an existing lower site terrace that will minimise visual impact of the constructed works including the landscaped mound, safety wall, carpark and clubhouse. No substantial tree removal is required for the works proposed. The range facility will be landscaped and external materials used that blend with the surrounding environment. The range facility will not be readily visible from any surrounding public vantage points within the adjacent National Park, Mona Vale Road, Duffys Forest, Terrey Hills or St Ives showground. The use of the shooting range is limited to one day per month and therefore noise disturbance is limited to a cumulative total of only 12 days per year, and not exceeding 4 hours per day. In addition, the range is designed to be a "no danger area range" to ensure no safety risk to other users in the vicinity. Noise attenuation and ongoing noise monitoring will ensure compliance with noise emission levels that are consistent with the existing noise emissions in the area from current land use activities. As such the proposal will cause minimal change and limit any adverse effects on the surrounding natural amenity of the environmental zone. Therefore, the proposal is not inconsistent with the objective of this clause to provide for a limited range of development that does not adversely affect ecological, scientific, cultural or aesthetic values.

"To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment"



and has minimal visual impact.”

Comment: The range facility has been purposely positioned on the existing lower terraced area within the site to integrate it into the existing landform backdrop created by the adjacent embankment. Supplementary landscaping and tree planting will be used to screen the facility from distant view impacts to the north-west within Ku-ring-gai Chase National Park and Duffys Forest. The facility will have adequate land area for the treatment of effluent waste and runoff from the site and will not adversely affect local water quality. External construction materials and colours will be sympathetic to integrate with the bushland surroundings of the site. The proposal will include substantial native tree planting and vegetation management to restore the native tree canopy and remove existing weed infestation. The proposal will have no adverse sediment or nutrient impact on local water quality of groundwater or runoff into Cowan Creek. Therefore, the proposal is not inconsistent with the objective of this clause in that the facility has been purposely located on the lower terrace to integrate it against the natural surroundings. External colours and materials will be used that blend with the natural landscape. In addition, the mound will be shaped with a low external incline and landscaped to ensure it compliments the natural topography.

“To protect and enhance the natural landscape by preserving remnant bushland and rock outcrops and by encouraging the spread of indigenous tree canopy.”

Comment: The previous use of the site as a quarry and landfill removed all significant endemic vegetation from the proposed range area. The area to be developed for the building footprint, carpark area and range area now only sustains grasses and woody weeds. The proposed landscaping for the facility includes the replacement of local native tree species, and will also require the ongoing management of noxious weeds to encourage the spread of indigenous trees. Erosion and sediment controls will be used during site preparations to preserve adjacent bushland from sediment runoff. There are no rock outcrops in the vicinity of the proposed works. Therefore, the proposal is not inconsistent with the objective of this clause to preserve remnant bushland in that the existing natural areas will be unchanged and new indigenous planting will be provided for the development to enhance the surrounding tree canopy.

“To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares”.

Comment: The proposed uses will not alter the existing bushland buffer along Mona Vale Road. The bushland buffer, combined with the additional landscaping proposed, ensures that the proposed development will not result in an adverse impact on remnant vegetation. Supplementary tree planting will be provided to complement and enhance the local tree canopy. The proposal will maintain the existing discreet, gated vehicular entry, with no advertising signage and traffic will not have an adverse impact on the major thoroughfare of Mona Vale Road. The subject land is not readily visible from Mona Vale Road. Therefore, the proposal is not inconsistent with the objective of this clause to protect and enhance visual quality in that it will not affect the existing bushland buffer between Mona Vale Road and will also provide landscape screening for the site buildings when viewed from the road.

Subject to conditions to control noise impacts, hours of operation, environmental issues and construction management, and having regard to the savings and transitional provisions of Clause 1.8A, the proposal is suitable for the site and the modification in the requirements and frequency of use remain consistent with the objectives of the E3 Environmental Management Zone as above.

#### **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 DA2011/0305, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>Conditions (including a Plan of Management) remain to restrict the times and intensity of use of the range to a level which results in substantial control on acoustic impact and other environmental impact . Council's Environmental Health officer has provided that he is satisfied the proposal is in accordance with the <i>NSW EPA document Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015)</i>, having regard to acoustic reports. Along with this, the usage of the range for live fire for one day a month between the hours of 10am and 6pm is a restriction on operational times which contributes to ensuring the span of time in which there is acoustic impact on the environment is minimal. As such, the proposal is considered to be of minimal environmental impact.</p>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2011/0305 for the following reasons:</p> <p>The proposal is for modification of requirements which have been enforced on an approved shooting range to minimise acoustic and environmental impacts.. The proposed modification will not result in any change to the use of the site as a shooting range, and does not involve any change to the built form of the site or number of people that can be shooting at the site at any one time. The proposal for is for a change to the hours of operation and types of gun that can be used at the site. As such, Council is satisfied that the works are substantially the same as those approved under DA2011/0305.</p>
(c) it has notified the	The application has been publicly exhibited in accordance with the

<b>Section 4.55(1A) - Other Modifications</b>	<b>Comments</b>
<p>application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification &amp; Submissions Received" in this report.</p>

#### **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:

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
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 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&amp;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.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The proposed modifications related to wording changes only and do not affect building works or setback areas and buffer zones. The premises currently has bushfire protection measures in place (water tanks, vehicle access, Stortz hose connections etc)

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 12/10/2020 to 26/10/2020 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 32 submission/s from:

Name:	Address:
Michael Henry Temple	2816 / 0 Mona Vale Road BELROSE NSW 2085
Mr Raymond James Kenny	2 / 0 Coonawarra Road TERREY HILLS NSW 2084
Anonymous	N/A
Mrs Helen Mary McLennan	9 Namba Road DUFFYS FOREST NSW 2084
Mr Scott James Barlow	30 The Greenway DUFFYS FOREST NSW 2084
Mr Paul Hermon Slade	304 / 0 Coonawarra Road TERREY HILLS NSW 2084
Barbara Rogleff	3 Kallaroo Street MOSMAN NSW 2088
Mrs Kirsten Andre	1 Yanada Road DUFFYS FOREST NSW 2084
Georgina Ward	27 Bundabah Avenue ST IVES NSW 2075
Mr Robert Lee	4 Anembo Road DUFFYS FOREST NSW 2084
Ms Rachel Jane Pines	2087 Oxford Falls Road OXFORD FALLS NSW 2100
Mrs Joanne Drewett	2 Kinka Road TERREY HILLS NSW 2084
Terrey Hills Progress Association	22 Myoora Road TERREY HILLS NSW 2084
Mrs Helen Louise Rowe	PO Box 495 TERREY HILLS NSW 2084
Mr Ronald John Patton	19 Wyatt Avenue BELROSE NSW 2085
Peninsular Firearm Academy Inc	PO Box 571 TERREY HILLS NSW 2084
Mr Matthew Arpad Kristaly	8 Estelle Place FRENCHS FOREST NSW 2086
Mrs Elizabeth Ann Barraclough	64 Myoora Road TERREY HILLS NSW 2084
Withheld	COLLARROY PLATEAU NSW 2097
St Ives Pistol Club Inc	437 / 41669 Mona Vale Road BELROSE NSW 2085
Shaun Garland	818 Pacific Highway GORDON NSW 2072
Belrose Rural Community Association Inc	Po Box 224 BELROSE WEST NSW 2085
Mrs Catherine Alice Temple	2816 / 0 Mona Vale Road BELROSE NSW 2085
Wendy May Smallwood	311 / 0 Weemala Road TERREY HILLS NSW 2084
Ms Mandy Beaumont	147A Wirreanda Road INGLESIDE NSW 2101
Ms Sally C White	207 Tooronga Road TERREY HILLS NSW 2084
Duffys Forest Residents Association	PO Box 567 TERREY HILLS NSW 2084
Mr David Charles Hamlyn Harris	313 Weemala Road DUFFYS FOREST NSW 2084
Judith Louise Lynas	4 Wanari Road TERREY HILLS NSW 2084
Gordon Lynas	4 Wanari Road TERREY HILLS NSW 2084
Mrs Jennifer Leigh Harris	11/140 North Steyne MANLY NSW 2095
Mrs Michelle Leanne Worthley	21 Glengariff Avenue KILLARNEY HEIGHTS NSW 2087



The matters raised within the submissions are addressed as follows:

- **Noise impact/Environmental Impact**

**The submissions raised with noise in regard to issues such as residential amenity, impact on wildlife, and cumulative impact of surrounding uses.**

Comment:

Council has received acoustic reports that have been reviewed by Council's Environmental Health officer. Upon review of these reports and consideration of the proposal, Council's Environmental Health officer has provided that the proposal will be appropriate subject to conditions of consent and the Plan of Management. Further, it has been determined that the proposal is generally in accordance with the current best practice for shooting ranges under *NSW EPA document Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015)*. The restriction on the use of live fire to one day per month (along with other conditions) also reasonably limits the cumulative impact of noise.

- **Claim that the modification of consent is not minor or of minimal environmental impact; claim that the proposal should be low intensity and low impact**

Comment:

Conditions (including a Plan of Management) remain to restrict the times and intensity of use of the range to a level which results in substantial control on acoustic impact and other environmental impact. Council's Environmental Health officer has provided that he is satisfied the proposal is in accordance with the *NSW EPA document Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015)*, having regard to acoustic reports. Along with this, the usage of the range for live fire for one day a month between the hours of 10am and 6pm is a restriction on operational times which contributes to ensuring the span of time in which there is acoustic impact on the environment is minimal. As such, the proposal is considered to be of minimal environmental impact.

- **Hours of operation**

Comment:

The proposed hours of operation are limited to one day per month and do not include night shooting. Any night shooting would be subject to a further application. The limitation to day time operation and to one day per month ensures that the proposal is consistent with the requirements under the *NSW EPA document Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015)*.

- **Existing breaches of consent including conditions of consent**

Comment:

Existing alleged breaches of consent that are being investigated do not relate directly to the proposal. As such, these will be dealt with independently. Any alleged further breach of consent should be sent to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au).

- **Concern with times, locations and permissibility of acoustic testing**

Comment:

Council's Environmental Health officer has provided that the times and locations for acoustic testing were appropriate for determining impact. In particular, it has been provided that the time is not particularly important in consideration as background noise does not have an impact on the significant acoustic parameter which is the peak noise of the shots. Further, the original consent provided a condition (no. 48) which made provision for acoustic testing.

- **Impact on property values**  
Comment:  
This is not a valid consideration under the *Environmental Planning and Assessment Act 1979*.
- **Increase to participants**  
Comment:  
There is not increase to the number of participants that can shoot at any one time as there are not proposed works to the shooting facility.
- **Concern with trial period (including that it was undertaken during COVID)**  
Comment:  
It has been determined that the trial period lasted 12 months as required by the condition, and that despite any disruption provided that the period gave a reasonable opportunity for the impact of the facility (including potential noise impact of rim fire rifles) to be understood.
- **Lack of letter or Statement of Modification**  
Comment:  
The proposed statement of modification was listed under a report which was labelled as "noise testing". This report has since been labelled "Noise testing and Statement of Modification."
- **Traffic impact; Concern for greater amounts of ammunition and guns/ concern of intensification of use as a result of this modification.**  
Comment:  
The proposal does not involve a change to the number of people that can be shooting at the facility at any one time. This number is 20 shooters "per detail". This provides sufficient control on traffic and intensification of site usage, subject to conditions which remain on the original consent.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the proposed modification of consent and how it relates to noise generated from the activities on-site.</p> <p>The applicant has provided two acoustic reports in support of the modification. The acoustic reports have been completed in accordance with the relevant standards and guidelines and show compliance with the modelling conducted as part of DA2011/0305.</p> <p>A noise report covering letter written by Peninsular Firearm Academy INC provides recommendations for altering of conditions of consents. The covering letter requests to alter condition 5 &amp; 52 as part of this modification.</p>

Internal Referral Body	Comments
	<p>Condition 5 relates to a trial period of noise generated from the actives onsite and limits the range to rim fire. the proposal is to remove the trial period and impose a limit on rim fire and centre fire with a maximum caliber of .308 Winchester (7.62mm).</p> <p>Condition 52 relates to an Operational plan of management submitted a part of DA2011/0305. (2011/126985) The modification proposes to alter the condition of consent. Based on the plan of management being submitted to Council in mid 2011 and alterations to the proposed operation it is reasonable to request an updated plan of management with this modification. Plans of Management are often requested for developments where high noise activities are undertaken.</p> <p>Environmental Health support the proposal and recommend the following;</p> <p>Amending Condition 5 of consent for DA2011/0305 - See proposed condition below</p> <p>Amending Condition 52 of consent for DA2011/0305 - Compliance with Operational Plan of Management- See proposed draft condition below. <b>This will require an additional referral to Environmental Health</b> to provide the updated wording for the condition of consent. Ideally the operational plan of management should represent the current state of the operation and should address the proposed changes in the acoustic report covering letter to condition 52 (i) &amp; (ii), and include all existing conditions imposed on the original plan of management;</p> <ul style="list-style-type: none"> <li>(i) <b>Operating Hours:</b> Use of the Shooting Range for live firing is limited to one (1) Sunday per month between 12:30pm to 4:30pm.</li> <li>(ii) A maximum of 80 persons are permitted to participate in shooting activities on the range for any scheduled meeting day at the facility. A log book is to be maintained to record individual participation in shooting activities.</li> <li>(iii) The OPM is to be reviewed every twelve (12) months from the operative date of Consent. A copy of the reviewed plan shall be submitted to Warringah Council for records.</li> <li>(iv) The Shooting Range is not to be used for any night time shooting purposes and no floodlighting of the range target area is permitted.</li> <li>(v) A copy of the OPM is to be kept on site at all times in conjunction with a Complaints Register. The OPM and Complaints Register is to be made available for inspection by Council's Environmental Health / Compliance Officer upon request.</li> </ul>

Internal Referral Body	Comments
	<p><b>Amended Comments 23/09/2020</b></p> <p>An amended Plan of management has been submitted with the development. Environmental Health have reviewed it and amended the proposed condition relating to compliance with the plan of management.</p> <p><b>Amended Comments 24/11/2020</b></p> <p>Environmental Health have been requested to provide amended comments on the proposed modification of consent based on the submission of a peer review of the two (2) noise reports prepared by Pulse Acoustics (PA) dated October 2019 and March 2020. The peer review by Atkins Acoustics referenced as 50.6694.L4:GA/DT/2020 and dated 12 October 2020 proposes that a number of methodologies employed by Pulse for their acoustic assessment were either incorrect, likely to result in favorable results or were not in accordance with conditions of consent on the initial DA. A follow up response by Pulse Acoustic on the comments made by Atkins Acoustic has also been submitted. As part of this referral I have reviewed all submitted acoustic report submissions and note that there are no changes to conclusions drawn from the initial referral.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>

#### **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.

### Warringah Local Environmental Plan 2011

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

#### Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	N/A

### Warringah Development Control Plan

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	N/A	N/A
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

#### Detailed Assessment

#### D3 Noise

Council's Environmental Health officer has reviewed acoustic reports that have been submitted, and has also considered the proposal in accordance with the current best practice for shooting ranges, NSW EPA document *Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015)*. It is noted that this document did not exist when the original consent was granted, however, Council's Health officer is satisfied that this is now an existing range and that the guidelines in



this document are therefore relevant to the assessment of this modification. Updated conditions have been also provided to provide a restriction on the type of guns used, and the Plan of Management has been updated to provide appropriate mitigation measures of noise impact.

An Incidents/Complaints register has been submitted with this application and this shows that there have not been any complaints during the trial period which began in March 2019.

The proposal has also provided satisfactory information to satisfy condition 5 (c) which reads as follows:

*"(c) During the 12 month trial period, a noise monitoring review is to be undertaken by a qualified expert Noise Consultant with a minimum of two (2) noise test monitoring procedures, at least 4 months apart, to determine the ongoing noise impacts of the rim fire weapon use and noise impact on surrounding land uses. The monitoring review shall also include consideration of suitability of the continuation of Sunday use for the shooting range. Noise testing is to be conducted according to condition No.48 "Noise Testing Procedure". The monitoring survey and recommendations of the Noise Consultant are to be presented in a report to Council to accompany the Section 96 Application to be lodged at the end of 12 months from the date of issue of the Interim Occupation Certificate."*

Comment:

A qualified Noise consultant, Pulse Acoustic Consultancy, undertook two noise monitoring procedures that were 6 months apart (16th October 2019 and 19th of March 2020). An acoustic report was submitted for each of these testing procedures, and each report concluded that noise testing was conducted in accordance with the established noise testing procedure (under Condition 48), and that the "noise impacts from the 22 Magnum and the Winchester 308 are assessed as meeting the 85 db criteria associated with firing over 2000 rounds per meeting." This is consistent with the the following noise generation requirement under Condition 46:

*"Noise from the rifle range during shooting activities, when measured at the noise monitoring locations, shall not exceed 90dB(L) for up to 1000 rounds per meeting, or 87dB(L) for up to 2000 rounds per meeting, or 85dB(L) otherwise."*

*Noise emissions from the St Ives Pistol Club are to be addressed separately where relevant and a "Z" frequency weighted peak hold level measure used to assess noise from the both ranges at the affected residential boundaries for Lot 2816 Mona Vale Road and St Ives Showground Managers/Caretaker residence."*

Under condition 52, a limitation was provided to restrict a maximum of 80 persons permitted to participate in shooting activities with the intention of managing intensity of use and noise amenity. The range does not involve any new works which means that there is a natural restriction of 20 shooters per detail. Due to the success of the trial period and the natural limitation provided by number of details and hours of operation, it is reasonable to remove the the requirement for number of shooters per day.

Overall, Council's Environmental Health officer is satisfied that the testing meets the requirements under conditions of consent, the frequency of activity remains low (being during the day for on day per month), and there will be sufficient mitigation measures to ensure control on noise through conditions of consent and an updated Plan of Management.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **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

## **Conclusion Assessment of the Application**

In the assessment of the application, it has been found that the trial period has been successful as confirmed by the qualified acoustic consultant and Council's Environmental Health officer.

This has been shown by fulfillment of the requirements provided for the trial period under Condition 5 of the consent.

The Plan of Management and conditions have been appropriately update, and will continue to provide suitable noise attenuation measures.

Therefore, the application is recommended for approval.

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. Mod2020/0373 for Modification of Development Consent DA2011/0305 granted for Construction of a recreation facility shooting range clubhouse and ancillary works on land at Lot 101 DP 1106750,101 / 1106750 Mona Vale Road, TERREY HILLS, subject to the conditions printed below:

**A. Delete Condition No. - 5 - Twelve Month Trial Period which read as follows:**

This consent is granted for the approved shooting of rim fire rifles only for a limited period in accordance with the following:

- (a) The Range usage for rim fire rifles shall be subject to a trial period of twelve (12) months from the date of issue of the interim occupation certificate.
- (b) At the end of the 12 month period, if the applicant wishes to make the proposed rim fire weapon use permanent, the applicant must lodge a Section 96 Modification of Consent application with supporting documentation (including the noise monitoring details required in (c) below) on or before 2 months before the end of the 12 month trial period. The S96 can include deletion of this requirement for any further review, and any modification to relevant conditions.
- (c) During the 12 month trial period, a noise monitoring review is to be undertaken by a qualified expert Noise Consultant with a minimum of two (2) noise test monitoring procedures, at least 4 months apart, to determine the ongoing noise impacts of the rim fire weapon use and noise impact on surrounding land uses. The monitoring review shall also include consideration of suitability of the continuation of Sunday use for the shooting range. Noise testing is to be conducted according to condition No.48 "Noise Testing Procedure". The monitoring survey and recommendations of the Noise Consultant are to be presented in a report to Council to accompany the Section 96 Application to be lodged at the end of 12 months from the date of issue of the Interim Occupation Certificate.
- (d) The approved rim fire shooting operations can remain in place until the Section 96 application has been finally determined subject to:
  - (i) A Class 1 Appeal to the Land and Environment Court being commenced against any actual refusal of the S96 application by Council within 14 days from the date of that refusal; or
  - (ii) If the Council has not determined the S96 application within 40 days of the lodgement of that application, a Class 1 Appeal being commenced against the Council's deemed refusal of the application within 60 days of the date of the lodgement of the S96 application; or
  - (iii) In the event that the Section 96 is not lodged in accordance with the above, Council may commence a Class 4 Appeal against a breach of these conditions.

**B. Modify Condition 52- Compliance with Operational Plan of Management to read as follows:**

**52. Compliance with Operational Plan of Management**

The operation of the Rifle Range is to be conducted in accordance with the Operational Plan of Management (OPM) subject to the additional requirements:

- (i) Operating Hours: Use of the Shooting Range for live firing is limited to one (1) Sunday per month between 10am to 5pm AEST, and 10am-6pm AEDT.
- (ii) A log book is to be maintained to record individual participation in shooting activities.
- (iii) The OPM is to be reviewed every twelve (12) months from the operative date of Consent. A copy of the reviewed plan shall be submitted to Northern Beaches Council for records every 12 months.
- (iv) The Shooting Range is not to be used for any night time shooting purposes and no floodlighting of the range target area is permitted.
- (v) A copy of the OPM is to be kept on site at all times in conjunction with a Complaints Register. The

OPM and Complaints Register is to be made available for inspection by Council's Environmental Health / Compliance Officer upon request.

Reason: Limit intensity of use and ensure management of noise amenity.

**C. Add Condition 52A- Compliance with Operational Plan of Management to read as follows:**

The operation of the Rifle Range is to be conducted in accordance with the Operational Plan of Management (OPM) prepared by Peninsular Firearm Academy Inc referenced as PFAOPMv1.2 and dated September 2020.

Reason: Limit intensity of use and ensure management of noise amenity.

**D. Add Condition 52B - Rifle and ammunition types permitted for noise control to read as follows:**

This consent is granted for the approved shooting of rim fire rifles and centre fire rifles, only up to and including the ballistic capabilities of .308 Winchester (7.62mm) ammunition.

Reason: Management of noise amenity.

### ITEM 3.5

**MOD2020/0494 - 1A RUSSELL STREET CLONTARF -  
MODIFICATION OF DEVELOPMENT CONSENT DA2019/1457  
GRANTED FOR ALTERATIONS AND ADDITIONS TO AN  
EXISTING DWELLING HOUSE.**

**REPORTING MANAGER**      **Rodney Piggott**

**TRIM FILE REF** **2021/064505**

**ATTACHMENTS**

**1 Assessment Report**

**2 Site Plan and Elevations**

## PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

## RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approves** Mod2020/0494 for Modification of Development Consent DA2019/1457 granted for alterations and additions to an existing dwelling house on land at Lot 15 DP 29355, 1A Russell Street Clontarf, subject to the conditions outlined in the Assessment Report.



## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0494
<b>Responsible Officer:</b>	Phil Lane
<b>Land to be developed (Address):</b>	Lot 15 DP 29355, 1 A Russell Street CLONTARF NSW 2093
<b>Proposed Development:</b>	Modification of Development Consent DA2019/1457 granted for alterations and additions to an existing dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Daniel James Harrison Susanna Squillace
<b>Applicant:</b>	Daniel James Harrison
<b>Application Lodged:</b>	01/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	12/10/2020 to 26/10/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	7
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

The submitted Section 4.55 (1A) seeks to make amendments to consent DA2019/1457 at 1a Russell Street Clontarf approved by the Development Determination Panel (DDP) on the 13 May 2020. The modification seeks to make amendments to the dwelling house, lift location, upper terracing, swimming pool/spa and driveway.

The design (as modified) maintains the approved Building Height and Floor Space Ratio (FSR).

The application has been referred to the Development Determination Panel due to the number of submissions submitted.

The notification of the modification resulted in seven (7) submissions each objecting to the amended

design. Concerns raised include Floor Space Ratio (FSR), Building Height, bulk and scale, proposed use of a 40m crane, excavation, vegetation clearance, dilapidation reports, traffic mirror sign, traffic management, driveway concerns (including location, direction, steepness, safety and restrictions), the Russell Street existing driveway crossing and survey identification of the subject site (1A Russell Street).

The issues raised in the submission have been addressed in the "Public Notification" section of this report and in summary they do not warrant refusal or re-design of the proposal. Suitable conditions have been imposed where required.

This assessment has found that the proposed development is satisfactory in relation to built form, character, streetscape, and internal and external residential amenity.

Accordingly, the application is referred back to the Development Determination Panel with a re-affirmed recommended for approval subject to conditions attached to this report.

## PROPOSED DEVELOPMENT IN DETAIL

The modification seeks the Development Determination Panels approval for design changes to DA2019/1457 for alterations and additions to an existing dwelling house.

The proposed works are as follows:

- **Relocate lift shaft to outside of the approved building footprint**

*"The proposed lift location is at the south eastern corner of the building. This will have a glass lift shaft on the Lower Ground and Ground Floor levels to maximise views internally and create a seamless glazed southern façade. The lift will extend from the Garage Level to Ground Floor only."*

- **Revise driveway gradients and garage floor level**

*"To further minimise the extent of excavation, the garage level RL is proposed to be amended from RL40.400 to RL41.130. This is achieved via relocating the garage and boat store towards the western boundary, and revising the driveway gradients."*

- **Bedrooms reconfigured on Lower Ground Level**

*"Due to the relocation of the lift, the Rumpus and Bed 4 locations has been swapped so lift access on this level is via the Rumpus room. The second bathroom on this level has also been deleted."*

- **Reduced extent of Master Bedroom Ensuite**

*"The size of the Master Bedroom ensuite has been reduced to minimise excavation to the existing rock outcrop."*

- **Reduced extent of First Floor Study / Entry / Terrace**

*"As the lift has been deleted on the First Floor, the extent of the Study and Entry can be reduced. This will reduce the approved height breach impact. In addition, the trafficable extent of the southern Terrace has been reduced."*

- **Relocate Bin Store**

*"Relocate the bin store along the Peronne Ave driveway. The clients intend to formally change the site's address to 60 Peronne Ave, as pedestrian and vehicular access is now via 60 Peronne Ave. The revised bin store location is in line with the new address."*

- **Undercroft Level**

Revised pool and outdoor area layout, lift and swim spa relocation (reducing the building bulk by 1.45m), reconfigure side access stairs and new internal stairs leading up lower ground floor level.

- **Revised Terraced Landscape Garden and raised courtyard**

Upper terraced landscape garden and courtyard modified to reduce further excavation and match existing levels.

Section 8.3(3) of the EP&A Act, 1979 provides that the applicant may amend the proposal, however the consent authority must be satisfied that the amended proposal remains substantially the same as that considered in the original development application.

Council is satisfied that the amended proposal is substantially the same, and as such the application is referred to the Development Determination Panel for determination.

## **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 - 4.3 Height of buildings  
Manly Local Environmental Plan 2013 - 4.4 Floor space ratio  
Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)  
 Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)  
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping  
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 15 DP 29355 , 1 A Russell Street CLONTARF NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Russell Street and northern side of Peronne Avenue.</p> <p>The site is irregular in shape with a frontage of 49.885m along Russell Street (road reserve) and a frontage of 29.71m along Peronne Avenue and a depth of 36.09m the western boundary. The site has a surveyed area of 599.1m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two storey brick dwelling with a tiled roof with a large undercroft area under the dwelling. Vehicular is currently off Russell Street to a garage and elevated driveway.</p> <p>The site is steep slope from Russell Street frontage (north) down to the Peronne Avenue frontage (south) with a fall of over 16m (44.7% sloping grade).</p> <p>The site has a mix of native and exotic species of plants, shrubs and trees with a number of stone retaining walls and rock outcrops throughout the site.</p> <p>Works have commenced on site via DA2019/1457 - Alterations and additions to an existing dwelling house.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a mix of single, two and three storey dwellings with associated outbuildings/structures and landscaping. It is notable that more recent constructions comprising large modern multi storey dwellings with associated outbuilding/structures and landscaping.</p>

Map:





## SITE HISTORY

A search of Councils records revealed the following relevant development applications:

- **DA2019/1457** - Alterations and additions to an existing dwelling house approved 13 May 2020 (under delegation of Development Determination Panel).
- **CDC2019/0700** - Complying Development Certificate for alterations and additions to an existing double storey dwelling and construction of external stairs approved pursuant to State Environmental Planning Policy (Exempt and Complying Development) 2008 on 16 September 2019.
- **PLM2019/0177** - Alterations and additions to a dwelling house - The proposed development is consistent with the pre-lodgement notes provide to the applicant on 5 September 2019.

Development application **DA2019/1457** was approved as "alterations and additions to an existing dwelling house". The modification works continue to represent "alterations and additions" as per the Planning Principals of the Land and Environment Court case *Edgar Allen Planning Pty Limited v Woollahra Municipal Council 2006 LGERA 1* and *Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187*.

The modified works as part of this application do not result in the increase in overall Building Height nor FSR, rather the design amendments are changes that do not represent a complete transformation of the character, design and external appearance of the approved dwelling.

Using the Planning Principals, Council agrees that the application is for alterations and additions existing dwelling as the approved development remains, in its modified state, a development which will continue to relate to its surrounds and adjoining development in the same fashion to that originally approved.

## 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 DA2019/1457, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> <li>• The previously approved building height, FSR, setbacks and envelope are otherwise unaltered. The approved residential amenity outcomes in terms of solar access, privacy and view sharing are not compromised with the design quality of the development maintained.</li> </ul>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/1457 for the following reasons:</p> <p>The previously approved building height, FSR, and envelope are unaltered with the residential amenity outcomes in terms of solar access, privacy and view sharing not compromised. Further, outcomes achieved through approval of the original application as it relates to the spatial relationship of the proposal have also not been compromised.</p> <p>In this regard, the approved development remains, in its modified state, a development which will continue to relate to its surrounds and adjoining development in the same fashion to that originally approved.</p>

<b>Section 4.55(1A) - Other Modifications</b>	<b>Comments</b>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2011 and Manly Development Control Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification &amp; Submissions Received" in this report.</p>

#### **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:

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development

Section 4.15 'Matters for Consideration'	Comments
Assessment Regulation 2000 (EP&A Regulation 2000)	<p>consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 12/10/2020 to 26/10/2020 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 7 submission/s from:

Name:	Address:
Mr Kym George Dracopoulos	45 Peronne Avenue CLONTARF NSW 2093
Mr Ajoy Ghosh Ms Maryam Zoljalali	41 Peronne Avenue CLONTARF NSW 2093
Mr Manfred Fahr Miss Carla Gail Heindl	2 A Russell Street CLONTARF NSW 2093
Sabiene Heindl	2 A Russell Street CLONTARF NSW 2093
Mrs Margaret Ellen Freimann	64 Peronne Avenue CLONTARF NSW 2093
Mr Phillip Young	32 Amiens Road CLONTARF NSW 2093
Mrs Lynne Marie Young	8 Linkmead Avenue CLONTARF NSW 2093

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

- **Floor Space Ratio**
- **Building Height**
- **Bulk and scale**
- **Approved Driveway (location and direction, steepness, safety and restrictions on adjoining properties)**
- **Proposed use of a 40m crane**
- **Excavation (potential to cause structural damage to adjoining and surrounding properties)**
- **Vegetation clearance accelerating soil and ground erosion**
- **Further Dilapidation Inspection Reports including retaining walls**
- **Mirror sign**
- **Traffic Management plan**
- **Russell Street existing driveway crossing (reinstatement of the existing driveway for 1A Russell Street impacting access for 2A Russell Street)**
- **Survey clearly identifying the location of the property boundaries of 1A Russell Street**

The matters raised within the submissions are addressed as follows:

- **Floor Space Ratio**

Comment: Concern was raised that the proposed works included an increase in the approved floor space ratio (FSR: 0.62:1 (371sqm). Development Application (DA2019/1457), approved the Development Determination Panel (DDP) on 13 May 2020, included a written request under Clause 4.6 of the Manly Local Environmental Plan 2013 to justify the contravention of Clause 4.4 Floor Space Ratio development standard. The written request under Clause 4.6 was

considered and the DDP approved the proposed Floor Space Ratio.

The submitted modification maintains the approved FSR (FSR: 0.62:1 (371sqm) as depicted in the submitted plan (DA-501 Issue B dated 23 September 2020 by Squillace Architects).

Therefore, it is considered that this issue does not warrant refusal and/or further amendment via condition(s).

- **Building Height**

Comment: Concern was raised that the proposed works included increasing approved building height (Height: 10.1m). Development Application (DA2019/1457), approved the Development Determination Panel (DDP) on 13 May 2020, included a written request under Clause 4.6 of the Manly Local Environmental Plan 2013 to justify the contravention of Clause 4.3 Height of buildings development standard. The written request under Clause 4.6 was considered and the DDP approved the proposed building height of 10.1m.

The submitted modification maintains the approved building height (Height: 10.1m) as depicted in the submitted plan (DA-300 Issue B dated 23 September 2020 by Squillace Architects).

It is considered that this issue does not warrant refusal and/or further amendment via condition (s).

- **Bulk and scale**

Comment: The design of the modified proposal maintains the character of the site and consistency with surrounding development. The proposed development will continue to sit appropriately within the residential setting in a manner that is consistent with the character and landscape of the area. Changes to the undercroft area and upper level addition are mostly contained within the existing approved footprint. The resultant dwelling provides for a more articulated and modulated development. As a result, the resultant development is considered to be consistent and the bulk and scale of development within the vicinity.

It is considered that this issue does not warrant refusal and/or further amendment via condition (s).



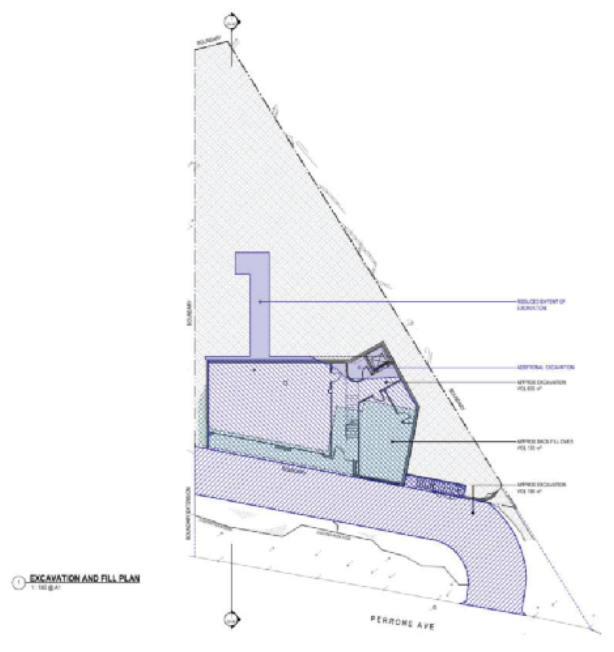


Houses along Peronne Avenue (Nos. 52, 54 & 56 Peronne Avenue)

- **Approved driveway (location and direction, steepness, safety and restrictions on adjoining properties)**

Comment: Council's Traffic Network Team and Development Engineers assessed consider the adjusted levels of the driveway acceptable and raised no issues subject to condition(s).

As demonstrated in figure 1 below the driveway does not prevent any future driveway/access from Peronne Avenue from property 2A Russell Street (which has current access off Russell Street), nor interfere with the existing driveway access for 64 Peronne Avenue or potential access to the current vacant site at 62 Peronne Avenue.



**Figure 1: Driveway access**

It is considered that this issue does not warrant refusal and/or further amendment via condition (s).

- **Proposed use of a 40m crane**

Comment: Council has not received an application for a fixed crane.

As a result, it is considered that this issue does not warrant refusal of the application.

- **Excavation (potential to cause structural damage to adjoining and surrounding properties)**

Comment: Development Application (DA2019/1457) included specific recommendations and conditions in regards to excavation as follows:

#### *"14. Structural Adequacy and Excavation Work*

*Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:*

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and*
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.*

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

*Reason: To provide public and private safety.*

#### *20. 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.*

*Properties: 62/64 Peronne Avenue, Clontarf and 2A Russell Street Clontarf  
The driveway (only within the road reserve) at 41 Peronne Avenue, Clontarf is also to be included.*

*The dilapidation report is to be prepared by a suitably qualified person. 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.*

#### *29. Civil Works Supervision*

*The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Consulting Engineer.*

*Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.*



*Reason: To ensure compliance of civil works with Council's specification for engineering works.*

#### **34. Post-Construction Dilapidation Report**

*Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:*

*Compare the post-construction report with the pre-construction report,  
Clearly identify any recent damage and whether or not it is likely to be the result of  
the development works,  
Should any damage have occurred, suggested remediation methods.*

*Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.*

*Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.*

*Reason: To maintain proper records in relation to the proposed development."*

In addition two (2) Geotechnical Assessment Reports have been submitted for the development. These being Preliminary Geotechnical Assessment by Asset Geo Enviro dated 23 September 2020 and Geotechnical Assessment by JK Geotechnics dated 8 October 2020.

Given the above it is considered the Geotechnical Assessment Reports, including their recommendations, with applied conditions adequately addressed this matter and that this issue does not warrant refusal and/or further amendments via condition(s).

- **Vegetation clearance accelerating soil and ground erosion**

*"Will accelerate soil and ground erosion on our property through the expected vegetation clearing on the steep incline on Peronne Avenue in front of our property to accommodate the proposed driveway and potentially create health and safety and traffic hazards on Peronne Avenue."*

Comment: The current construction works are located within the subject site and not in front of 2A Russell Street. Additionally, the following conditions have been included with the approved Development Application: -

#### **"31. Installation and Maintenance of Sediment Control**

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

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

#### **32. Civil Works Supervision**

*The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Consulting Engineer.*

*Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.*

*Reason: To ensure compliance of civil works with Council's specification for engineering works."*

Given the above it is considered the applied conditions as part of the Development Application have adequately addressed this matter and that this issue does not warrant refusal and/or further amendments via condition(s).

- **Further Dilapidation Inspection Reports including retaining walls**

Comment: Concerns were raised by the owners of 2A Russell Street about the potential damage of the private retaining walls adjoining the Russell Street Reserve at the bottom of their property and that the developer was yet to submit details or conditions of this existing retaining walls or any actions to remediate if any damage occurs.

It is noted that Council received a copy of the dilapidation report for 2A Russell Street, Clontarf on 20 November 2020 from Lexpol Group. The dilapidation report was completed by Dunnings Consulting Engineers dated 19 November 2020 and included photos of the existing retaining walls at 2A Russell Street. Council conditioned via the original approval (DA2019/1457) that a "Post-Construction Dilapidation Report" be completed as follows:

*"34. Post-Construction Dilapidation Report*

*Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:*

*Compare the post-construction report with the pre-construction report,  
Clearly identify any recent damage and whether or not it is likely to be the result of  
the development works,  
Should any damage have occurred, suggested remediation methods.*

*Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.*

*Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.*

*Reason: To maintain proper records in relation to the proposed development."*

Given the above it is considered that matter has been suitable addressed by condition(s) via DA2019/1457 Development Consent.

- **Mirror sign**

*"We object to any interference with the mirror sign and request that NB Council impose conditions that the mirror sign is maintained in its current position and is not to be visually blocked at any time during this development."*





The convex mirror is located within the unmade road reserve of Russell Street (northern side of Peronne Avenue) which services 41 Peronne Avenue. A site inspection was completed on 15 January 2021 by Council's Planner which clearly demonstrated that the convex mirror was unobstructed and clear of the current works for the driveway. Concerns raised are acknowledged and a condition will be included to ensure that the convex mirror is not to be visually blocked during demolition/construction of this development.

It is considered that this issue does not warrant refusal subject to the inclusion of the above condition.

- **Traffic management plan**

*"The original DA proposal included a Traffic Management Plan showing the impact upon traffic during various phases of this development. Given the proposed introduction of a 40-meter crane on 1A Peronne Avenue, the phases of the development and duration of each phase is expected to change significantly according to the communication received from the developer."*

Comment: Council has yet to receive a Stand Plant Application for any type of crane including a

fixed crane. A Construction Traffic Management Plan was submitted and approved as apart of the approved consent (DA2019/1457). Any future Stand Plant Application(s) will require amended/revised traffic management plan(s) to be submitted to Council for approval.

Given the above it is considered the issue does not warrant refusal and/or further amendments via condition(s).

- **Russell Street existing driveway crossing (reinstatement of the existing driveway for 1A Russell Street impacting access for 2A Russell Street)**

Comment: Concern is raised by the owners of 2A Russell Street who share the existing driveway with 1A Russell Street via "Condition 13 - Submission Roads Act Application for Civil Works in the Public Road" be modified and delete the reinstatement of the driveway crossing in Russell Street due to the impact on access to 2A Russell Street.

Given the above it is considered the issue does not warrant refusal subject to the above modification (deletion of this part of Condition 13 - reinstatement).

- **Privacy from the relocation of the lift to the southeast corner of the building**

Comment: Concern was raised by the adjoining property owner to the west of the subject (No. 62 Peronne - vacant allotment and No. 64 Peronne Avenue) of possible privacy impacts as a result of the new lift location. The lift for this dwelling has relocated from the rear of the building (Russell Street frontage) and now will be located at the front in the southeast corner of the dwelling, fronting Peronne Avenue. The lift will commence at the garage level running up to undercroft level (located behind the sauna), to the lower ground floor level (fitted within the rumpus room), then to the ground floor (located behind the bbq).

It has been concluded that after planning assessment and a site inspection that the substantial spatial separation (over 35m from the lift to the western side of No. 64 Peronne Avenue) is considered sufficient to maintain reasonable levels of privacy.

As a result, this issues does not refusal and/or amendment via condition(s).

- **Survey clearly identifying the location of the property boundaries of 1A Russell Street**

Comment: Issues were raised about the a survey for the property boundaries (specifically in relation to the current excavation adjacent to the unmade road reserve (Russell Street). Council's Compliance Department investigated this matter and the following comments were made:-

*"On 22 January 2021, Council's Building Compliance team also undertook a site inspection of the property to verify the information provided by the Certifier. At the time of the inspection, Officers observed survey pegs adjacent to the excavated area. These pegs were consistent with the plans provided by the Certifier which would indicate that the excavation has not extended into the road reserve area."*

Given the above it is considered that no further action(s) are required at this stage and the current development is been constructed in accordance with the approval granted via DA2019/1457.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>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.</p>
Landscape Officer	<p>The Modification Plans provided indicate that no significant landscape features are to be affected by the works. No objections are raised to the Modification and existing conditions are considered adequate.</p>
NECC (Development Engineering)	<p>The applicant proposed to amend the condition 13 in regards the maximum gradient of the driveway. A detailed design plan, CK engineering service and Job no 19994, was submitted.</p> <p>Development Engineering has no objection to amend the condition as listed below:</p> <p><b>Submission Roads Act Application for Civil Works in the Public Road</b></p> <p>The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are 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 driveway crossing off Peronne Ave, reinstatement of the existing driveway crossing off Russell St and the stormwater outlet connection in Peronne Ave which are to be generally in accordance with the approved plans in this consent and Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Consulting Engineer. The design must include the following information:</p> <ol style="list-style-type: none"> <li>1. A 5 metre wide driveway crossing a minimum of 1 metre from the existing mirror sign post in Peronne Ave.</li> <li>2. Details of the reinstatement of the driveway crossing in Russell St.</li> <li>3. Structural details for all structures located within the road reserve.</li> <li>4. Landscaping details for the proposal within the road reserve.</li> <li>5. All services are to be shown and where there is any conflict, concurrence from the relevant service authority for the proposed works.</li> <li>6. Stormwater connection details for the site to the kerb in Peronne Ave.</li> <li>7. Geotechnical report for the proposed works including an assessment of any existing retaining walls that are to remain in the road reserve. Any recommendations in the report are to be addressed by the Consulting Engineer with details provided for approval.</li> <li>8. Barrier details as required by AS/NZS2890.1:2004 for any portions of the driveway that are elevated.</li> </ol>

Internal Referral Body	Comments
	<p>The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.</p> <p>An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.</p>

#### **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**

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.

##### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1025182\_03 dated 17 September 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
<b>Water</b>	40	41
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	51

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	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.4m - 10.1m	10.1m	Complies - 18.8%	Unchanged
Floor Space Ratio	FSR: 0.4:1 (239.6sqm)	FSR: 0.62:1 (371sqm) Existing FSR 0.35:1 (208.3sqm) DCP Undersized allotment FSR 0.5:1 (299.6sqm)	FSR: 0.62:1 (371sqm)	54.8%	Unchanged Yes No

### Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
Part 6 Additional local provisions	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

### Detailed Assessment

#### 4.3 Height of buildings

The proposal (as modified) does not change the building height approved under consent DA2019/1457. Therefore, no further consideration of this clause is required for the purpose of this assessment.

#### 4.4 Floor space ratio

The proposal (as modified) does not change the Floor Space Ratio approved under consent

DA2019/1457. Therefore, no further consideration of this clause is required for the purpose of this assessment.

## 6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,
- (b) measures to protect and improve scenic qualities of the coastline,
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.

Comment: The proposed modified development shall have no unreasonable impact on the visual aesthetic amenity of the area. The modified works do not unreasonably impact upon views, is suitably designed to protect and impact the scenic quality of the coastline, its relationship to the foreshore and does not result in any conflict between land-based and water-based coastal activities.

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: 559.1sqm	Requirement	Approved	Proposed	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling	1	1	Yes
	Dwelling Size: 460sqm (minimum)	371sqm	371sqm	Unchanged
4.1.2.1 Wall Height	E: 8m (based on gradient > 1:4)	3.7m - 8.8m	3.7m - 8.8m	Unchanged
	W: 8m (based on gradient > 1:4)	5.6m - 9.7m	5.6m - 9.7m	Unchanged
4.1.2.2 Number of Storeys	2	3	3	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.6m	1.6m	Yes
	Parapet Height: 0.6m	0.4m	0.4m	Yes
	Pitch: maximum 35 degrees	16.4 degrees	16.4 degrees	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Nil, consistent with prevailing setback	Nil, consistent with prevailing setback	Unchanged
4.1.4.2 Side Setbacks and Secondary Street Frontages	E: 2.93m (based on wall height)	2.26m	2.26m	Unchanged
	W: 3.23m (based on wall height)	0.9m	0.9m	Unchanged

	Windows: 3m	0.9m	0.9m	Unchanged
	Secondary street frontage: Prevailing setback	Consistent with prevailing setback	Consistent with prevailing setback	Yes
4.1.4.4 Rear Setbacks	8m	7.7m	7.7m	Unchanged
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% (359.5sqm) of site area	60.2% (361sqm)	60% (359.5sqm) *	Yes
	Open space above ground 25% (90sqm) of total open space	60.9% (219sqm)	60.9% (219sqm)	
4.1.5.2 Landscaped Area	Landscaped area 40% (144sqm) of open space	Landscaped area 40% (144sqm) of open space	Landscaped area 40% (149sqm) of open space	Yes
4.1.5.3 Private Open Space	18m per dwelling	59sqm	59sqm	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	5.9m	5.9	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	2.2m	2.2m	Unchanged
	1m curtilage/1.5m water side/rear setback	1.6m, 4.7m	2m, 2.4m	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	2 spaces	Yes

\* Conditioned to comply Open Space Requirements.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part 3	Yes	Yes
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3 Landscaping	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
Part 4	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
Part 5	Yes	Yes
5.4 Environmentally Sensitive Lands	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

#### Detailed Assessment

##### **4.1.1.1 Residential Density and Dwelling Size**

Clause 4.1.1.1 of the MDCP 2013 requires one (1) dwelling to be provided per 1150sqm of land for allotments located within the Residential Density Areas - 1. The subject site is 599.1sqm, therefore does not meet the above-mentioned requirement. However, the application proposes alterations and additions to an dwelling house on an undersized allotment (599.1sqm). As such, the proposed modified works are considered consistent with approved consent DA2019/1457) and acceptable in this regard.



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

Clause 4.1.2 relies upon the objectives of Clause 4.3 under MLEP 2013. Development Application (DA2019/1457), approved by the Development Determination Panel (DDP) on 13 May 2020, included a written request under Clause 4.6 of the Manly Local Environmental Plan 2013 to justify the contravention of Clause 4.3 Height of buildings development standard. The written request under Clause 4.6 was considered and the DDP approved the proposed building height of 10.1m.

The submitted modification maintains the approved building height (Height: 10.1m) as depicted in the submitted plan (DA-300 Issue B dated 23 September 2020 by Squillace Architects), and as such continues to satisfy the objectives of the clause.

#### 4.1.3 Floor Space Ratio (FSR)

This Clause relies upon the objectives of Clause 4.4 under MLEP 2013. Development Application (DA2019/1457), approved by the Development Determination Panel (DDP) on 13 May 2020, included a written request under Clause 4.6 of the Manly Local Environmental Plan 2013 to justify the contravention of Clause 4.4 Floor Space Ratio development standard. The written request under Clause 4.6 was considered and the DDP approved the proposed Floor Space Ratio.

The submitted modification maintains the approved FSR (FSR: 0.62:1 (371sqm) as depicted in the submitted plan (DA-501 Issue B dated 23 September 2020 by Squillace Architects) and as such, and as such continues to satisfy the objectives of the clause.

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

##### Description of non-compliance

The proposal, as modified, continues to exhibit reasonable bulk, scale and mass as viewed from both the street and the neighbouring properties, and provides sufficient space to alleviate amenity impacts such as privacy.

The setbacks continue to respond to the local character by providing appropriate spatial separation.

Therefore, the proposal (as amended) continues to be consistent with the objectives of clause 4.1.4 of MDCP 2013, which aim to *"ensure and enhance local amenity by facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public places"*.

This assessment found the amended proposal continues to be consistent with the objectives of the clause.

#### 4.1.5 Open Space and Landscaping

Total Open Space is to be increased to 359.5sqm (60%) via condition from the proposal 359sqm (59.9%) under this modification to ensure compliance with this clause.

#### 4.1.8 Development on Sloping Sites

It is considered that the modified dwelling house design continues to respond appropriately to the sloping site, stepping down at each level to reduce the visual bulk and scale of the dwelling house.

Two Geotechnical Assessment Reports have been submitted for the development, Preliminary Geotechnical Assessment by Asset Geo Enviro dated 23 September 2020 and Geotechnical Assessment by JK Geotechnics dated 8 October 2020.

These reports and their recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposal on sloping land.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **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

## Conclusion

This assessment has taken into consideration the revised plans, revised Statement of Environmental Effects, and other documentation supporting the application and public submissions.

The amendments to the proposal and new documentation continue to demonstrate consistency with the previously approved built form, character and site suitability issues forming the basis of the reasons for approval of the Development Application.

The previously approved building height, FSR, setbacks and envelope are otherwise unaltered. The approved residential amenity outcomes in terms of solar access, and privacy are not compromised with the design quality of the development maintained. Further, outcomes achieved through approval of the original application as it relates to the spatial relationship of the proposal have also not been compromised.

The recommended condition to increase the provision of Total Open Space to 359.5sqm will ensure the dwelling house design continues to create acceptable and reasonable privacy, spatial separation and amenity impacts to the adjoining properties.

Seven (7) submissions were received in response to the notification of the review application. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report and do not warrant further amendment or refusal of the application.

The proposal as modified displays reasonable scale and density compatible with the surrounding development. On balance, the proposal should be approved (subject to standard and specific conditions) as the design is reasonable for the site and locality by virtue of a presentation which is consistent with characteristics of the area and also provides sufficient spacing and modulation to reduce any unreasonable impact caused by building bulk.

Amendment to Condition 13 relating to the reinstatement of the driveway (currently a shared driveway off Russell Street - 1A Russell Street & 2A Russell Street) is recommended to ensure access to 2A Russell Street is maintained. Additionally, Condition 47 - Swimming pool filter, lift and air conditioning unit(s) (noise) will ensure reasonable acoustic amenity and Condition 48 - Convex mirror will ensure vehicular visible for No. 41 Peronne Avenue.

Therefore, proposed amendments made under this modification are reasonable and consistent with the issues identified in the previous assessment, and satisfy the reasons for approval.

Accordingly, the application is referred back to the Development Determination Panel with a recommendation for approval.

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. Mod2020/0494 for Modification of Development Consent DA2019/1457 granted for alterations and additions to an existing dwelling house on land at Lot 15 DP 29355, 1 A Russell Street, CLONTARF, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-021 (Rev B)	23 September 2020	Squillace Architects
DA-022 (Rev B)	23 September 2020	Squillace Architects
DA-023 (Rev B)	23 September 2020	Squillace Architects
DA-024 (Rev B)	23 September 2020	Squillace Architects
DA-025 (Rev B)	23 September 2020	Squillace Architects
DA-100 (Rev B)	23 September 2020	Squillace Architects
DA-101 (Rev B)	23 September 2020	Squillace Architects
DA-102 (Rev B)	23 September 2020	Squillace Architects
DA-103 (Rev B)	23 September 2020	Squillace Architects
DA-104 (Rev B)	23 September 2020	Squillace Architects
DA-110 (Rev B)	23 September 2020	Squillace Architects
DA-201 (Rev B)	23 September 2020	Squillace Architects
DA-202 (Rev B)	23 September 2020	Squillace Architects
DA-203 (Rev B)	23 September 2020	Squillace Architects
DA-204 (Rev B)	23 September 2020	Squillace Architects
DA-300 (Rev B)	23 September 2020	Squillace Architects
DA-350 (Rev B)	23 September 2020	Squillace Architects
DA-521 (Rev B)	23 September 2020	Squillace Architects
DA-531 (Rev B)	23 September 2020	Squillace Architects

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

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

**B. Modify Condition 13 - Submission Roads Act Application for Civil Works in the Public Road to read as follows:**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are 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 driveway crossing off Peronne Ave, reinstatement of the existing driveway crossing off Russell St and the stormwater outlet connection in Peronne Ave which are to be generally in



accordance with the approved plans in this consent and Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Consulting Engineer. The design must include the following information:

1. A 5 metre wide driveway crossing a minimum of 1 metre from the existing mirror sign post in Peronne Ave.
2. Structural details for all structures located within the road reserve.
3. Landscaping details for the proposal within the road reserve.
4. All services are to be shown and where there is any conflict, concurrence from the relevant service authority for the proposed works.
5. Stormwater connection details for the site to the kerb in Peronne Ave.
6. Geotechnical report for the proposed works including an assessment of any existing retaining walls that are to remain in the road reserve. Any recommendations in the report are to be addressed by the Consulting Engineer with details provided for approval.
8. Barrier details as required by AS/NZS2890.1:2004 for any portions of the driveway that are elevated.

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 Certifying Authority prior to the issue of the Construction Certificate.

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

#### **C. Add Condition No. 21A - Amendment to the approved plans**

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

- Total Open Space is to be increased to 359.5sqm.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

#### **D. Add Condition 47 - Swimming pool filter, lift and air conditioning unit(s) (noise) to read as follows:**

The swimming pool filter is not create any noise which exceeds over 5dB(A) above the ambient background noise levels when measured from any property boundary.

Reason: Ensure reasonable acoustic amenity.

#### **E. Add Condition 48 - Convex mirror to read as follows:**

The convex mirror is to remain within the unmade road reserve of Russell Street (Peronne Avenue) and not to be obstructed/obscured during the demolition/construction of this development.

Reason: To maintain vehicular visible for No. 41 Peronne Avenue.

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# SECTION 4.55

Notes:  
1. The site is located at the intersection of Russell Street and Perone Avenue.  
2. The site is currently zoned for residential use.  
3. The site is currently occupied by a residential building.  
4. The site is currently occupied by a residential building.  
5. The site is currently occupied by a residential building.



6. The site is currently occupied by a residential building.  
7. The site is currently occupied by a residential building.  
8. The site is currently occupied by a residential building.

CLIENT  
**DANIEL HARRISON AND SUE  
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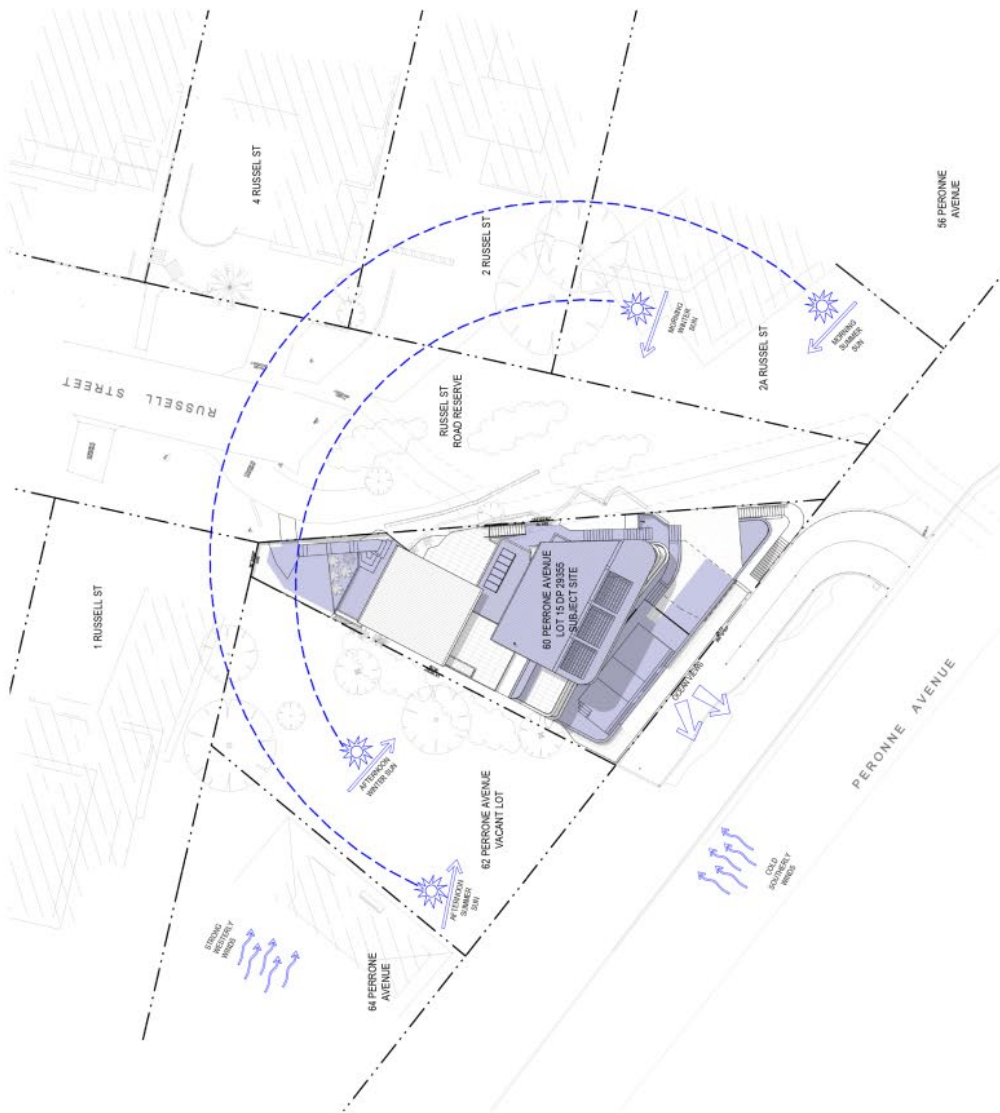
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**1 SITE ANALYSIS PLAN**  
1:200 @ A1

1 NORTH ELEVATION  
1 : 100 @ A1







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## SECTION 4.55

Notes: 1. This section is a cross-section of the building and is not to be used for construction purposes. 2. The section is a cross-section of the building and is not to be used for construction purposes. 3. The section is a cross-section of the building and is not to be used for construction purposes.

NOTES  
1:20 @ A1  
1:20 @ A1

EXISTING STRUCTURE  
TO BE RETAINED  
PROPOSED S4.55  
WORKS

6. 22/09/20 10:58 AM S4.55  
S4.55 DATE: 22/09/20  
PURPOSE: OF FILE

CLIENT  
DANIEL HARRISON AND SUE  
SQUILLACE

**squillace**

ARCHITECTS  
INTERIOR DESIGNERS

LOCATION  
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PROJECT NO.  
PH: 02 9554 3333

DATE  
22/09/20

REVISIONS  
1. Rev 2. 22/09/20 10:58 AM S4.55  
2. Rev 1. 22/09/20 10:58 AM S4.55

WORKS  
Work Squillace and the other works shown  
22/09/20 10:58 AM S4.55

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PROJECT  
HARRISON-SQUILLACE  
1000 AVENUE 9, KURNELL NSW 2535  
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DATE  
22/09/20

SCALE  
As indicated

PROJECT NO.  
DA-204 B

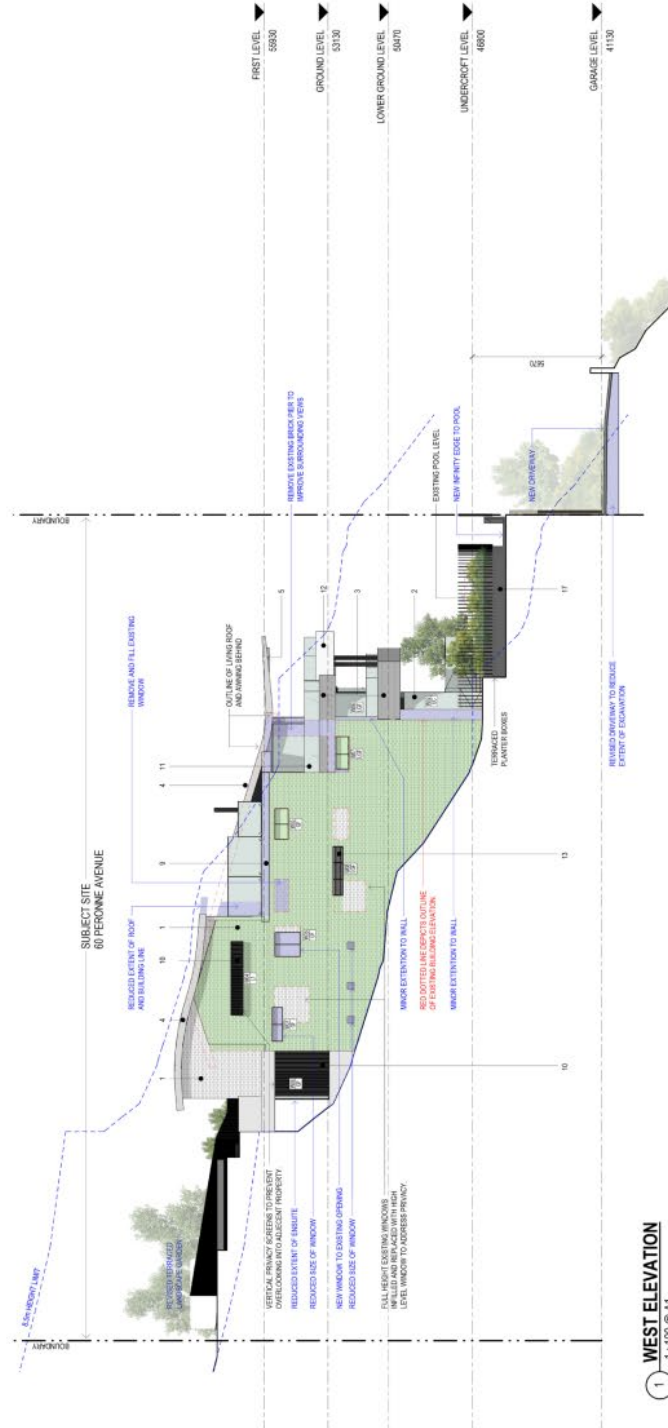
PROJECT NO.  
DA-204 B

PROJECT NO.  
DA-204 B

PROJECT NO.  
DA-204 B

PROJECT NO.  
DA-204 B

- 1. LIGHT PAINT FINISH TO BRICK WALLS
- 2. DARK METAL FRAMES + CLEAR GLAZING TO ALL WINDOWS AND DOORS
- 3. CONCRETE PAINT FINISH
- 4. FEATURE LIGHTWEIGHT METAL ROOF IN LIGHT COLOUR
- 5. OPERABLE LOUVERED AWNING
- 6. DARK METAL FENCE
- 7. TIMBER CLADDING
- 8. SANDSTONE CLADDING
- 9. LIGHT PAINT FINISH
- 10. CHARCOAL VERTICAL PRIVACY SCREENS
- 11. GLASS BALUSTRADE
- 12. LIGHT PAINT FINISH TO BALCONY BANDS
- 13. LOUVERED GLASS
- 14. METAL GARAGE DOOR
- 15. METAL PLANT LOUVERES
- 16. DARK PAINT FINISH
- 17. DARK GREY PAINT FINISH



1 WEST ELEVATION  
1:100 @ A1